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CONGRESSIONAL RECORD:

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CONTAINING

THE PROCEEDINGS AND DEBATES

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OF THE

FORTY-SIXTH CONGRESS, SECOND SESSION.

VOLUME X.

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CONGRESSIONAL RECORD AND APPENDIX,

FORTY-SIXTH CONGRESS, SECOND SESSION.

I was struck with this while listening some time ago to the gentleman from Iowa, [Mr. GILLETTE.] One would gather from his statements the impression that the people of his district and State were on the verge of starvation; were just about ready for open mutiny. He certainly ought to know the condition of that country and the people much better than I do. I am simply knowing to the fact that the soil in that section is rich and fertile almost beyond calculation. Indeed, if there is one State in this Union whose lands surpass those of every other for strength and productiveness, that State is Iowa. Nor do I believe that the picture drawn by the gentleman of the want and suffering of her people can be a true one. Did such a state of things actually exist within her borders she would soon become depopulated. No, no; I must believe that his statements do the people of that Commonwealth great injustice; for I have not the slightest doubt that, taking the entire people of that State, you will find among them as much intelligence, as much real happiness and genuine prosperity, as can be found in any State in this Union. Of course, many of them suffer the hardships and privations incident to all pioneer life; yet I venture to say that you will find among them no such poverty, no such discontent, no such whining, complaining masses as he would have us believe.

But the gentleman from Indiana, [Mr. DE LA MATYR,] judging from his speech recently published in the RECORD, would like us to believe that such is the real condition of the great bulk of our entire population. To listen to him you would conclude that the very foundation of our social, political, and financial fabric rests, as it were, upon the crater of a yawning volcano, and that he is looking daily for a terrible eruption; that the voice of the masses may be just now smothered, but that a fearful rumbling can already be heard in the near distance, and that at some future day not far off the pent-up terrors will burst forth; and then woe be to the men who have managed to save anything, or who loan money in this world!

Again, I would enter my solemn protest against what seems to me to be an untruthful and slanderous imputation upon the people of this fair land. Indeed, I claim that the facts are directly the reverse of what these gentlemen state. I maintain that in no country in the wide world are men so well paid for their labor as in this. No nation on the face of the earth has so large a proportion of its working people who are so well to do in the world, has so many small yet comfortable homes. Nowhere do the laboring classes have so many luxuries, or enjoy so many privileges. The poor of this country are everywhere protected by our laws. Their children are educated at public expense, and their aged and decrepit ones are cared for from the public Treasury. The common statement that the laws of this country discriminate in favor of the rich and against the poor is not and never has been true. It is the plea of the charlatan, the cry of the demagogue. I know it has become popular to cry out against all men who organize labor and build up great business enterprises in this country, and yet these are the very men, more than all others, to whom the laboring classes are under lasting obligations, for these are the men who keep business alive, and create a necessity for the work, not only of our own industrious poor, but of the thousands upon thousands that are weekly coming to us from the Old World.

To hear some men talk, one would think that to become a banker is almost a crime, and to be connected with a national bank is past all power of forgiveness. While the fact is the bankers of this country do as much for the people as the people do for the banks. They not only supply the means for carrying on business and facilitate the exchanges of the commercial world, but they do the vast collecting of this country at much less than cost. And how is it with the railroads? Take out perhaps a dozen roads, and there is hardly a line that has ever paid its builders a single cent of dividends. Men of means have pushed these great highways across streams and over mountains, have opened up communication with the outside world for frontiersmen and for the inhabitants of the wilderness, and almost none of them have ever received so much as 1 per cent. on their investment. Then why this hue and cry—this everlasting snarling and growling about these men? I will tell you why. It is simply because men seek to ride into place and power by thus maligning and traducing people, on account of their thrift and business success, and they do it, well knowing that it is all for buncombe.

I was not a little surprised to hear the two gentlemen from Texas [Mr. MILLS and Mr. REAGAN] join in this detraction of the condition of the masses of our people. Men who represent such a growing State as Texas should not be caught by such clap-trap—a State which has already caught the spirit of immigration, and which is now on the high road to immediate prosperity. All she needs from this on is pluck and perseverance, and that her affairs be in the hands of men who are up with the times, men who are not afraid of progress and public improvements.

Is it not singular that this despondent, doleful outlook should come almost entirely from men who believe in the new gospel of finance; men who teach that the Government by its own fiat can create wealth, can speak into existence money? It seems to be necessary, in order to prepare the way for the trial of this new financial theory, to first establish the existence of widespread suffering and want, and in that way furnish ample excuse for the exercise of this newly-discovered power of the General Government. Hence on all occasions, in season and out of season, we have thrust upon us the wild vagaries of these devotees of inflation, of cheap money, as they call it.

You have all heard the old, old story of the doctor, who, lacking knowledge of his profession and being little versed in the mysteries of *materia medica*, was in the habit of striving to throw all his patients into convulsions on the simple plea that while he had little skill in management of diseases generally he knew one thing sure, he was hell on fits! So with these apostles of inflation from one end of the country to the other. It matters not how ignorant they may be of political economy, or how little they may know of international law or the science of government, of one thing they seem to be dead sure, they are hell on this financial question!

I know, Mr. Chairman, I am now treading on dangerous ground. I am aware that there are some among us here who insist that the rag-baby is already dead and buried. If this be so, then let us tread lightly over its ashes! Because it passed away so young, and yet so small, is no reason why we should treat it irreverently. No child ever had a brighter beginning. I well remember the immense lung-power of its earliest days. Alas, that it should so soon come to grief! Its lot never did seem to be cast in very pleasant places. You all remember how it suffered from an attack of the cholera infantum induced by the summer heat of the extra session. Then followed the cold sweats and congestive chills of the last fall elections. Poor darling! it could not stand everything. Then, why wonder if, wrapping the drapery of its little couch about it, it did lay itself down, let us hope, to pleasant dreams. Delusions of this kind have their day, if it is hard at times to discover their uses. And right here one thing is very strange to me, that men on the democratic side of this House, men who take pride in calling themselves Jacksonian democrats, that such men should adopt this wild financial theory. I cannot forget that these same democrats found fault with us when we first issued the greenback; they also kept up a terrible howl from year to year because we did not sooner redeem them; and then they added volume and intensity to their complaint when we took them at their word and did redeem them. The most difficult animal any way on the face of the earth to please is a soft-money democrat. Yet, who is there among us to-day who does not rejoice that resumption is a fixed fact?

Ever since I can remember, if a man had a bill on the Bank of England in his pocket, no matter in what part of the world he might be, save a little exchange, he could use it at par. That was a fact of which every Englishman was justly proud. So it is now with us. Thanks to the perseverance and honesty of the republican party, and to the courage and patriotism of our business men, our sailors, no matter where in the wide world they may roam, can be just as proud of the greenback in their pocket as of the flag that floats over their head; both are emblems of a country whose credit is unimpaired and whose honor is untarnished! Then let me beg of you, gentlemen, to stop this incessant scolding, this constant defamation of our country's institutions and business undertakings. The spirit of the day is one of progress. You cannot stop the march of human events if you will. The great problem of human development is being worked out on this continent, and the solution will go on whether you join in the work or not. The civilization of the New World, made up as it is by blending together the peculiarities of Saxon and Celt, of Teuton and Scandinavian, of Magyar and Sclavonian, is not to be impeded in its onward march by the snarl of the misanthrope or the uncertain wail of the demagogue. The business men of this day are practical, earnest, competent. They have determined to develop this country and place it in commercial importance, in political eminence, in educational advantages second to no country on the face of the earth, and I believe they are masters of the situation. This is the work of no section. It should be the aim and desire of all parties.

At the extra session, I remember the gentleman from Iowa, [Mr. WEAVER,] speaking of the greenback party, said that its representatives knew no North, no South, no East, no West. I was sorry that he did not tell us just what point of compass a greenbacker does know. But the sense in which he used the expression was all right, was quite proper. There is a sense, however, in which it is not so well; for I say to you, that what our country needs to-day is a class of statesmen who do know the North, with all its vast enterprises, its teeming millions of active population, its long chain of inland seas and navigable rivers, and who know its wants and its needs; statesmen who do know the South, with its sunny hill-sides and balmy climate, its undeveloped mines and unemployed water-courses, its vast resources and grand possibilities, and who know its wants and its needs; statesmen who do know the East, with its immense wealth, its vast commerce, its gigantic manufacturing establishments and great money centers, and who know its wants and its needs; statesmen who do know the West, with its rich prairies, its mountains of precious metals, its unlimited acreage of pasture, and its vast expanse of uncultivated lands, and who know its wants and its needs; statesmen, Mr. Chairman, who can box the entire compass, in their search for new enterprises to sustain, for new industries to develop, for waste-places to build up, for human rights to protect and human suffering to alleviate; men who have some adequate conception of the future that is in store for this great Republic, and who have the heart and courage and brain to devise plans and originate sensible methods for shaping her grand destiny.

Then away with this generation of croaking, fault-finding dyspeptics, and let us usher in a new generation of men, who have hope and faith and courage, practical business men, whose brains are act-

ive and whose hands are willing; men who eschew evil and love righteousness. In view of all these facts, in view of all these great needs of the country, is it not singular that the majority of the democrats in this House should array themselves against the business interests of our people? Nearly six years ago the democratic party came into power in this branch of the General Government; came in with flying banners and sounding trumpets, and what have they accomplished? What great measure have they originated, what plan have they devised for the good of our people? They have attacked our industries by threatened legislation, thereby disturbing values and causing great loss to our producers; but they have built up nothing. They have preached loudly of retrenchment, but have actually increased expenditures. They made loud protestations of reform, but in every instance where they have had the power they have debauched the civil service. They have proclaimed from the house-tops that they are in favor of purity of elections; and yet they bring in the great appropriation bills and leave out all pay for United States special deputy marshals for fear that these marshals will prevent outrages and intimidation at the polls and thereby secure a fair election. It is not enough that you have already starved them for nearly a year; you now propose to still refuse them food and raiment. It matters not that they have served the Government faithfully, and that their just wages are and have been so long due; you still refuse to pay them.

Why, then, wonder that business men all over the country are tired of your methods and disgusted with your management. And just think, this is done in the name of fair elections, by a party that has seated members here by the dozen, many of whose constituents dared not go to the polls! Have you ever examined the returns as shown by the Congressional Directory? Look at them and you will discover many curious facts. For example, you will find that there are three members who hold a seat in this House from districts whose entire vote did not aggregate 3,000 each; there are five members where the entire vote was less than 4,000 each, and eight members where it was less than 5,000 in each district. Just think for a moment of such an election. Why, sir, there are eleven members here whose entire districts did not cast as many votes as were polled in the one district represented by my friend [Mr. ANDERSON] from Kansas. Indeed the young State of Kansas alone, with its three Representatives, cast just about as many votes as the old States of Alabama and Mississippi, with their fourteen members; and the new State of Michigan cast more votes than the three States of Alabama, Mississippi, and Georgia combined. We have nine members; they have twenty-three.

Thus I might go on repeating figures, but I have given enough for my purpose. Talk about free and fair elections! I would like to ask what has become of the voters in those districts. Why were they not at the polls? If there was no reign of terror, no intimidation down there, why did they not vote? What ailed them? Do you tell me there was no contest; that want of interest in the result caused such apathy? What gave them this lack of interest? How came it about that they so suddenly ceased to care for the result? I think Æsop tells us in one of his fables that once upon a time the animals had an election. Suppose they were to do so again, and it was agreed that all the animals in this country, wild and domestic, should have a free and fair ballot. Then suppose in one precinct you should locate the polling place in a den of wolves; how many lambs think you would attend that election? Cannot you see how suddenly they would all lose their interest in politics? Or suppose another voting place was located in a jungle of grizzly bears; how many cows and oxen, think you, would go there to vote? Do you not think all the cattle thereabout would lose their interest in the result? Then suppose you were to ask the wolves and the bears whether they had a quiet election in those precincts or not. How demure and how wise they would look as they informed you that there was not the least disturbance in the world; that the quiet was almost painful. Still, do you not think that the meager returns from those precincts would be sufficient evidence that the animals in that vicinity were not all represented?

I do not say that such is the exact condition of these districts that I have mentioned, but I do say that no satisfactory reason for the paucity of their votes has yet been given upon any other theory. Just think of the cheek it requires for a party with such a record staring it in the face to boast about being in favor of a pure ballot, in favor of free and fair elections. Then why wonder that the people of this country are already tired of such a party? They cannot forget how great was your promise and how little has been your performance. Is it not strange that we cannot have even an appropriation bill made out on business principles? Of course, I understand full well that you will go on as you began. But let me say to you, here and now, the day of your reckoning draweth near. The people of this broad land are not asleep. They will soon call on each party for an account of its stewardship. When that day comes it will be well for that party which can say, "You trusted us with power and we have not abused it; we have used it only for our country's good." But what will be said of that party which has been now for two sessions in power in both branches of Congress and yet has done absolutely nothing—a party which stands before the world afraid of its own shadow, having no settled policy, no fixed principles, no trusted leaders, which is simply an incongruous, unorganized mass, floating about without chart or compass, without helm or rudder, on its way to certain disintegration and destruction?

How can you expect the people to trust you when you dare not trust yourselves? Just glance back over the two sessions of this Forty-sixth Congress and tell me, if you can, what has been the great object of the democratic party of this country—what grand, consuming principle has animated its leaders? The extra session was spent in a vain attempt to coerce the Executive of the nation, and during the stormy debates of that session many of the members here ventured to speak their real sentiments. The debate was exhaustive, though often heated. We went to the people on the issues then formed, and in every State where there was an election the decision was emphatic. All those States which sympathized with rebellion and which are daily laboring to make treason respectable decided in favor of those revolutionary schemes, while every single State that stood by the old flag during that memorable contest put its seal of condemnation upon those ill-advised measures.

What is the result? It is this, that the same party which came here at the extra session full of brag and bluster, stubborn, insolent, defiant, is here at this session quiet, lamb-like, peaceable, persuasive, gentle. No heathen Chinee was ever more "childlike and bland." True, now and then some fiery genius, some restless soul, has for a moment kicked out of the traces; but the soothing, quieting manipulations of party discipline have no sooner been applied than those mouths which have been heretofore wont to overflow with sonorous, resounding eloquence have suddenly become as dumb as oysters, as silent as the grave. To an outsider this mollifying process is truly wonderful. Nothing more strikingly illustrates the immense power of democratic tactics.

But let me suggest for a moment that this scheme of unbroken silence may not work. It comes too late. The die is already cast. It is useless to try to mask your batteries after the firing has ceased. The country knows their location and already has its guns trained on the position. Your real intention is already well understood. Your status is well defined. Your object is fully comprehended. The numerous threats and distinct utterances of the extra session will not soon be forgotten. The cloven foot then uncovered cannot now be concealed by tact or hidden by diplomacy. Your aims and intentions were well settled at that time, and silence will not lead to forgetfulness. You made your own bed then, and now you must and will be made to lie therein. You cannot shake off the spell if you will. You cannot dodge the issue if you try. The people of this country think they understand your motives, and hence they are determined to avoid the paths in which you would lead them. They know too well the virtues of that great party in the country which saved the nation in those terrible times of civil war, and which has since led the same country safely through great financial distress, until to-day no nation on the face of the earth has better credit. Our great manufacturing industries are once more in full operation, our people are once more employed. The laborer is once more paid for his toil. The abundant crops have found ready and remunerative sale. Hope and happiness are once more abroad in the land. Progress and improvement is the watchword of the day.

The time for winning a political victory on the calamities of our people is past, and the result of the coming contest will show to the world that the people of this great country know exactly the issue that is presented and understand full well the meaning of this forced silence and these honeyed phrases of our opponents. The people of the North do not intend to be intolerant, they do not wish to be unnecessarily alarmed. At the same time there is a feeling widespread in that section that the General Government is safer in the hands of those persons who have always loved and sustained it. And what are you gentlemen doing to cause any change in that sentiment? I know you all claim to have come back into the Union in good faith. You talk well. I remember the distinguished gentleman from Virginia, [Mr. TUCKER,] during the extra session, claimed that he is now true to the Union and the Constitution. I single him out simply because there is no man here for whom I have greater respect. But as I now recollect he was very careful to state that he had no regrets for the past, no excuses to offer for his participation in the rebellion. I think he stated that when he went into the rebellion he acted in good faith, and he added that under similar circumstances he would do precisely the same thing again. Now, that is plain and satisfactory, so far as it goes.

But it does not exactly reach the case which causes alarm at the North. What the people would like to know is the state of mind in which you gentlemen are to-day. I mean those of you who engaged in the confederate service. Do you gentlemen wish *now* that you had succeeded then? Are you to-day sorry because you failed at that time to accomplish what you so stubbornly fought for? This question you will perceive goes directly to the "state of your hearts" now. The idea is quite prevalent among us that you gentlemen, with hardly an exception, wish in your heart of hearts that you had destroyed this Government when you tried so hard to do it, and that you are still sorry that you did not destroy it. Believing this you can readily see why our people become alarmed when they see an attempt to place the safety and protection of our Government under the control of men who now to-day wish there was no such government, feeling as they do that it is impossible for men in such a state of mind to have just the same love and affection for the Government that men

do who have never been estranged. It is just that feeling that caused such an uprising among the people of the North during the late elections, and that will cause the same uprising again.

Let me give you a homely illustration. Most of you have seen mules with their stifle-joint out. You will all agree that while the stifle is out the animal is worthless; but you will say it can be reset, can be put back in its place again; certainly it can, but with this peculiarity: you may heal it up never so well; may make it look even as good as new; still whenever you come to a tough pull, to a critical place in your road, out will come that stifle-joint. So while you gentlemen look all right, and many of you talk all right, the fear still lingers in the northern mind that come to a tight place you are not entitled to that full confidence which would and should be accorded to you if you had never been stifled.

You call this feeling intolerant and say it is sectional, and you try to cry it down by shouting "bloody shirt." Let me say to you that it is a ghost that will not down by that kind of bidding. The feeling is too deep-seated. The late elections should teach you that lesson. The voice of the people has just been heard upon that subject, and heard with no uncertain sound. Now I am not a disciple of that school who teach that the voice of the people is always the voice of God. "*Vox populi, vox Dei*" has by no means always been true in the past. The voice of the people is the voice of God only when the voice of the people is in favor of the right. When the people are composed mainly of the rabble, they seldom voice the will of Deity. The "*vox populi*" in Jerusalem, over eighteen hundred years ago, cried out "Crucify him! crucify him!" and thought to silence the *vox Dei* by nailing the carpenter of Nazareth to the cross! but the voice of God, uttered amid human agony, "Father forgive them, for they know not what they do" has come down to us full of pathos and grandeur through all the centuries!

The voice of the people joined with that of Calvin in directing the fagots to be lighted about the quivering flesh of Servetus, but the voice from the skies has since been heard, and the verdict is well-nigh universal that the best man in that vast throng was the one they burned at the stake. Again, in our own day, the *vox populi* was loud and clamorous, demanding the execution of the erratic hero of Harper's Ferry; and those people thought they had silenced the *vox Dei* when, on the 2d day of December, 1859, at Charlestown, Virginia, they strangled to death poor old John Brown. How short is the vision of man! How far-seeing the sight of the Almighty! Call the old man crazy if you will; still, I say it fearlessly, ay, with deliberation to-day, I would rather have his place in history than that of the great leader of the "lost cause;" for, blink at it as you may, Jefferson Davis will go down in history as a man who lived and struggled that he might make slaves of his fellow-men, while John Brown will be written down as a man who lived and struggled and died that he might give freedom to a race! There can be no doubt as to which of these men God will select when He makes up His jewels.

Hence it is that the voice of the people is to be heeded only when it utters the aspirations of the best men. It is only the highest thoughts, the holiest feelings of humanity that approach the divine. That genuine voice once heard can be followed with unwavering confidence. As I have been in the past so I expect to be found in the future cherishing the principles of the republican party and fighting under its banner, because I believe that party embraces within itself more truth, more patriotism, more intelligence, more practical ability, more genuine statesmanship, more of the divine voice than any other party of modern times.

In conclusion, let me say to my friends on this side of the House that another great contest is at hand. The forces are already marshaling for the battle. The boom of the cannon and the clash of arms can already be heard in the near distance. Then, let us close up our ranks and gird on our armor once again. Who our leader shall be makes little difference. This is a contest not of men but of principles. As we have been in the past so we must be in the future, a party of advanced ideas. To stand still has never been our motto. As new issues arise and new necessities are created, it must always be our aim to keep pace with the times. Our banner must always be planted on the outer wall. The country again calls for our best thoughts, our sublimest devotion. Let us, then, strike together as of yore. Let the same patriotism, the same self-sacrifice animate us now that has inspired us for twenty years past, and the victory is already won.

Mr. HORR, in the delivery of the foregoing remarks, was interrupted by the following proceedings:

The CHAIRMAN. The time set apart by the House for general debate has now expired.

Mr. PAGE. I move the gentleman from Michigan [Mr. HORR] have unanimous consent to finish his remarks.

The CHAIRMAN. The time for general debate under the order of the House has expired, and the committee cannot extend it.

Mr. PAGE. The committee can extend it by unanimous consent.

Mr. DE LA MATYR. Allow me a single word.

Mr. COBB. I cannot allow further debate, and ask that the Clerk read the bill by paragraph for amendment.

Mr. DE LA MATYR. I wish to make a single remark, and not to reply to the gentleman from Michigan. He has attacked me personally, and several times. I wish to call attention to the low, contemptible plane on which he argued, and I only say that I would not consent to go down on that plane to meet him. [Laughter.]

Mr. COBB. I move the first reading of the bill for information be dispensed with.

There was no objection, and it was ordered accordingly.

Mr. ATKINS. I ask, Mr. Chairman, that the report of the Committee on Appropriations accompanying the bill be read.

The Clerk read as follows:

In presenting to the House the bill making appropriations for the annual deficiencies in the appropriations for the service of the Government, the Committee on Appropriations herewith make the following report:

The bill is mainly based on the requirements of the letter of the Secretary of the Treasury of January 14, 1880, covering deficiency estimates for the service of the fiscal year ending June 30, 1880, amounting to $1,108,237.73, being printed Executive Document No. 24 of the present session, and upon the letter of the Secretary of the Treasury of January 16, 1880, transmitting, in compliance with section 4 of the act of June 14, 1878, schedules of claims certified to be due by certain accounting officers of the Government, amounting to $804,561.82, (printed House Executive Document 29, present session.) Also upon various matters from the dockets of the committee, being deficiency requisitions from various Departments, among them letters from the Attorney-General calling for $791,000 for expenses of courts of the United States for the years 1878, 1879, and 1880; from the Postmaster-General, amounting to $392,000, for deficiency in the postal service; for an advance appropriation to the Cherokee Indians, $500,000; for the Miami Indians of Indiana, under treaty stipulations, $223,257.86; under letters of the Secretary of the Treasury for repayment to importers for excess of duties, or other moneys paid under protest, $200,000; under letter of Secretary asking money to pay "charges and commissions cases," $100,000, and under various other requisitions of less amount, which will probably, in the aggregate, amount to more than $5,000,000. The total amount recommended by the bill is $4,302,380.

The Clerk then read as follows:

Executive office:

For contingent expenses of the executive office, including stationery therefor, $1,000.

Mr. HORR moved to strike out "$1,000" and insert "$900," in line 8, and resumed his remarks, but had not concluded when the hammer fell.

Mr. VAN VOORHIS obtained the floor and yielded his time to Mr. HORR.

Mr. ATKINS. I object to that. [Cries of "Free debate!"]

Mr. ATKINS. I object to the gentleman yielding his time, and call for a ruling of the Chair. I make the point of order against it.

The CHAIRMAN. The gentleman will state his point of order.

Mr. ATKINS. My point of order is, that no gentleman can make two speeches on the same amendment until all the rest of the House desiring to be heard upon it shall have an opportunity of discussing the matter. Each side should be heard.

Mr. BAKER. The gentleman from Tennessee does not know what is to be said by the gentleman from Michigan or what side of the question he may discuss.

Mr. WARNER. It is doubtful whether we can tell after he has finished.

The CHAIRMAN. The Chair thinks that the gentleman from Michigan is entitled to the floor.

Mr. ATKINS. I object. I do not think we ought to have political speeches on appropriation bills. What do I understand to be the ruling of the Chair?

The CHAIRMAN. In response to the question of the gentleman from Tennessee the Chair will state that the very first remark made by the gentleman from Michigan was that he was "disgusted with the present state of things," from which the Chair infers that he alludes to the present Administration, and therefore the Chair thinks he is in order.

Mr. ATKINS. Does the Chair decide that the gentleman from New York has the right to yield his time to the gentleman from Michigan?

The CHAIRMAN. The Chair must so decide, such a practice being the custom of the House and Committee of the Whole.

Mr. ATKINS. Suppose some other gentleman desires to speak?

The CHAIRMAN. Then, the two gentlemen having exhausted debate upon this amendment, no other debate could be had upon it or upon this section until a new amendment was before the committee. The gentleman from Michigan will proceed.

Mr. HORR continued his remarks, but before concluding the hammer fell.

The CHAIRMAN. The question is on the amendment of the gentleman from Michigan, to strike out "$1,000" and insert "$900."

Mr. HORR. I withdraw the amendment.

Mr. ATKINS. I desire to have read in this connection clause 6 of Rule XIV.

The CHAIRMAN. The Chair will cause the rule to be read.

The Clerk read as follows:

6. No member shall speak more than once to the same question without leave of the House, unless he be the mover, proposer, or introducer of the matter pending, in which case he shall be permitted to speak in reply, but not until every member choosing to speak shall have spoken.

Mr. ATKINS. I did not desire to interrupt the gentleman from Michigan to have that rule read; but I have asked that it be read now with a view to giving notice that hereafter I shall insist upon its enforcement in all cases and with reference to either side of the House.

Mr. TUCKER. I move an amendment, to come in after line 8.

The Clerk read as follows:

That the Secretary of the Treasury pay, out of any money in the Treasury not otherwise appropriated, to Mrs. Bettie Taylor Dandridge and Mrs. Sarah Knox Wood, daughter and granddaughter of General Zachary Taylor, late President of

the United States, the sum of $25,000: *Provided always*, That any sum of money which shall have been paid to President Taylor or the personal representatives of said Zachary Taylor since his death on account of his salary as President of the United States for the year from March 4, 1850, to March 4, 1851, shall be deducted from the said sum of $25,000.

Mr. TUCKER. Mr. Chairman, in explanation of that amendment I will make a simple statement.

Mr. BREWER. I make the point of order upon that amendment.

Mr. TUCKER. I hope the gentleman from Michigan will not make the point of order. The gentlemen in charge of this bill do not desire to make the point of order upon this amendment.

Mr. BREWER. I must make the point of order; I have some people who pay taxes.

Mr. TUCKER. I presume the gentleman has; I presume we all represent people who pay taxes. But the people are willing that justice be done by the Government with the money derived from taxation.

The CHAIRMAN. The gentleman will state his point of order.

Mr. BREWER. I make the point of order that it is not in order for the reason that there is no law authorizing the payment of such sum of money, and also for the reason that this does not retrench expenditures.

Mr. TUCKER. Will the gentleman withdraw his point of order for a moment in order to allow me to make a statement?

Mr. BREWER. I have no objection to that, reserving, however, the right to make the point hereafter.

Mr. TUCKER. It will be remembered that General Zachary Taylor, then President of the United States, died I think on the 9th July, 1850. At the time of his death there was a precedent for paying the year's salary of the deceased President to his widow. It had been done in the case of President Harrison and was repeated in the case of President Lincoln.

Mr. BREWER. Is this to pay the salary, or amount due as salary, to President Taylor?

Mr. TUCKER. Yes, sir.

Mr. BREWER. I did not so understand it. I withdraw the point of order.

Mr. TUCKER. And when General Zachary Taylor died his family declined——

Mr. ATKINS. I suggest to the gentleman that the point of order has been withdrawn.

Mr. TUCKER. Well, I am willing to have a vote without saying anything further.

Mr. EWING. I hope the gentleman will continue his explanation.

Mr. TUCKER. Very well. At the time of the death of General Zachary Taylor his family, who were then wealthy, declined a proposition that was suggested to introduce a bill to pay to the family the remainder of the year's salary. I know one of the parties named in the amendment, who was the widow of Colonel Bliss, who followed General Zachary Taylor in that great war in which so much was won for the glory of the Union and a territory was acquired that has enriched every part of the country with its wonderful resources. This amendment is in favor of the widow of Colonel Bliss and of the granddaughter of General Taylor, who is a daughter of Surgeon Wood. There is no appropriation to any male member of the family. It is only to those ladies who need it, although they did not need it at the time of the death of their father and grandfather.

Mr. BAKER. Are they the only heirs now?

Mr. ELLIS. If the gentleman from Virginia will permit me I will state that the male heirs of General Taylor have all renounced in favor of these ladies, who are in the most necessitous circumstances.

Mr. TUCKER. General Richard Taylor, before he died, declined to have any part of this money, and said the female members of the family should have all the benefit of it.

Mr. HARRIS, of Virginia. Did General Richard Taylor leave no children?

Mr. TUCKER. He did, but he renounced all claim for himself and his children, and they make no claim.

The question being taken on Mr. TUCKER's amendment, it was agreed to.

The Clerk read the following paragraph:

To refund to W. M. Patterson, managing owner of the American schooner Jefferson Borden, the amount of wages and extra wages erroneously collected from said vessel by the collector of customs at Boston, October 18, 1878, and covered into the Treasury April 16, 1879, $397.67.

Mr. HUBBELL. I move to strike out the last word for the purpose of asking that my colleague from Michigan [Mr. HORR] have leave to print the remainder of his remarks.

Mr. ATKINS. I am not willing to hear any gentleman make political speeches on appropriation bills, and I hope my colleague on the committee, the gentleman from Michigan, [Mr. HUBBELL,] will not be a party to anything of that sort.

Mr. BAKER. The gentleman from Michigan [Mr. HUBBELL] only asks that his colleague have leave to print.

Mr. HUBBELL. If I am entitled to the floor I ask that my colleague [Mr. HORR] have leave to print the remainder of his remarks.

Mr. SAMFORD. I object.

Mr. HUBBELL. Then I yield my time to my colleague.

Mr. HORR rose.

Mr. SAMFORD. I shall object to the discussion of any matter not pertinent to this appropriation bill.

Mr. HUBBELL. I believe my colleague [Mr. HORR] is entitled to the floor.

Mr. ATKINS. I object to the gentleman from Michigan [Mr. HORR] proceeding. I call for the enforcement of the rule which has just been read.

Mr. HUBBELL. I ask the gentleman from Alabama [Mr. SAMFORD] to withdraw his objection that my colleague have leave to print the remainder of his remarks.

Mr. ATKINS. I hope the gentleman from Alabama will agree to withdraw his objection.

Mr. SAMFORD. I will if I am allowed five minutes to reply to the gentleman from Michigan, [Mr. HORR.]

Mr. ATKINS. We do not want to convert the Committee of the Whole, which is engaged in the business transaction of considering this appropriation bill, into a political debating society. We want to get on with this bill.

Mr. HUBBELL. Then let the gentleman from Alabama withdraw his objection.

Mr. SAMFORD. I will not withdraw my objection when my own State has been attacked and I have no opportunity to reply. I insist on my objection.

Mr. HUBBELL. I have yielded to my colleague and I understand he is entitled to the floor.

The CHAIRMAN. The question of order is raised by the gentleman from Tennessee [Mr. ATKINS] that the gentleman from Michigan [Mr. HORR] cannot speak the second time under clause 6 of Rule XIV, which provides that—

No member shall speak more than once to the same question without leave of the House, unless he be the mover, proposer, or introducer of the matter pending, in which case he shall be permitted to speak in reply, but not until every member choosing to speak shall have spoken.

The question now pending before the committee is on the amendment proposed by the gentleman from Michigan, [Mr. HUBBELL,] to strike out the last word, on which his colleague [Mr. HORR] has not yet spoken.

Mr. ATKINS. I move that the committee rise.

Mr. BAKER. I think the gentleman will gain nothing by that procedure.

Mr. ATKINS. I will say to my colleague on the committee that he will find I am as good an obstructionist as anybody else when gentlemen begin that kind of work.

The CHAIRMAN. The gentleman from Tennessee [Mr. ATKINS] will understand that the Chair has overruled the point of order and the gentleman from Michigan [Mr. HUBBELL] has the floor; and the gentleman from Tennessee cannot take the gentleman from Michigan off the floor for the purpose of moving that the committee rise.

Mr. HUBBELL. I yield my time to my colleague, [Mr. HORR.]

Mr. HORR. I do not care to occupy the time of the committee if the gentleman from Alabama will withdraw his objection.

Mr. ATKINS. I hope the gentleman from Alabama will do so.

Mr. SAMFORD. I am willing to do so if I may have three minutes in which to reply to the statements the gentleman from Michigan has made.

Mr. ATKINS. The gentleman can get his five minutes in the same way that the gentleman from Michigan got his.

The CHAIRMAN. The gentleman from Michigan [Mr. HORR] will proceed or yield the floor.

Mr. HORR resumed his remarks.

Mr. SAMFORD, (interrupting.) I rise to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SAMFORD. Did the Chair overrule the point of order made by the gentleman from Tennessee, [Mr. ATKINS?]

The CHAIRMAN. The Chair certainly did. The gentleman from Michigan [Mr. HORR] will proceed.

Mr. HORR then resumed and concluded his remarks as they appear in a previous part of the proceedings—page 4032.

Mr. SAMFORD. I rise to oppose the amendment. I understood the gentleman from Michigan [Mr. HORR] to make some strictures with reference to the small number of votes cast in some of the congressional districts of the South, referring particularly to some of the districts of Alabama, and he argued therefrom unlawful methods. Such strictures have repeatedly been made in this Chamber, as well as at the other end of the Capitol. I think it will take but a mere statement of facts to convince any reasonable mind, any candid man, that there is no force in such an argument as that—that it is the merest claptrap, the merest *ad captandum* argument. I do not desire to enter into any sort of discussion here that will provoke any political bitterness or harshness of debate.

Mr. HARRIS, of Virginia. Is that line of debate in order, Mr. Chairman?

Many MEMBERS. Do not object.

Mr. HARRIS, of Virginia. I will not object in this case; but I will reserve the right to make a point of order against any attempt hereafter to turn this Committee of the Whole into a political debating society.

Mr. SAMFORD. I say I do not intend (and my course upon this floor during the short time I have been here will warrant me in making such an assertion) to say anything that will provoke harshness of debate. I am restrained from doing so by political associates.

But I feel it incumbent upon me, and I think it is incumbent upon every Representative on this floor, when an attack is made either by directness, insinuation, or innuendo against his people, to resent it at once. I will not do so by mere denunciation or personal recrimination, but, as well as I can in five minutes, by a calm, dispassionate statement of facts, from which fair and honest men may see the hollowness of the charge.

I say that the argument, or what was intended as an argument, that unlawful means and methods are resorted to in the Southern States for the purpose of preventing a fair and free ballot has no force in it at all, as will be seen by reference to the number of votes which various Representatives on this floor have received. The isolated fact that in certain districts a small vote was cast for a member of Congress furnishes no argument to sustain a charge of unlawful and criminal conduct in reference thereto.

As an illustration of such an argument I will ask gentlemen how it can be said when in this body of two hundred and ninety or three hundred members a matter is declared to be carried by unanimous consent when perhaps not more than two or three votes are given for it? I ask the gentleman from Michigan, who professed in a part of his remarks to be desirous of making a fair statement, what argument it would be to say that because a measure on this floor against which there was no objection received really but a half dozen votes therefore the balance of the House had been bulldozed in regard to that measure, therefore an outrage was perpetrated? There being no opposition of course very few members vote.

In the district which I represent, and in many of the districts to which the gentleman referred in his remarks awhile ago, there was really no opposition. All men were content with the one candidate. The gentleman may ask why there was no opposition? I will say to him that the reason was because those who professed to represent his party and who were leading that party in that section of the country had so outraged every principle of good government, decency, and honesty while they had control of that section that the people were unanimously against their further rule, and had lost all respect for them. They did not desire any more of such rule as that. The people were unanimous in reference to that matter; they had had enough of that class of people. There being no opposition either in regard to State affairs or national affairs, as a matter of course a full vote was not brought out at the congressional election, as it was all one way.

I could take the argument of the gentleman from Michigan [Mr. HORR] and prove that unlawful methods were resorted to in other States, even in Northern States, in the State of Rhode Island for instance. In the first district of that State my friend, Mr. ALDRICH, received 5,968 votes, against 1,332 votes for Thomas Davis, democrat, and 627 votes for Mr. Searles, national; amounting, in all, to 7,927 votes. Now, will the gentleman pretend to say that unlawful methods were resorted to in Rhode Island? In that stronghold of republicanism, in a Northern State, the vote is very light, and according to his argument grizzly bears and wolves intimidated the timid lambs. In the second Rhode Island district the aggregate vote polled was about 10,000. In the third district of loyal Vermont the aggregate vote was 13,000 in round numbers. It was but 18,000 in the third Illinois district—I have not time to mention others—while in one Texas district the vote was over 50,000.

Now, turning to my own State, the State of Alabama, to which the gentleman referred, we will find that where there was opposition a strong vote was polled, refuting the charge of terrorizing, so freely charged on every occasion in this Hall by republicans.

There was a sharp contest in the eighth Alabama district, and the vote polled amounted to 18,602; in the fourth the vote was over 15,000, and in the second district, which adjoins mine, there were cast about 15,000 votes. My district adjoins this latter one, and although there were but about 7,000 votes polled therein it was because there was no opposition ticket in the field brought out by any political party. There never has been a quieter or fairer election held on earth than was held in the third district.

I ask the gentleman whether, as a fair man, his argument would not equally apply as to intimidation to the adjoining district as well as to mine; and if there was no bulldozing or grizzly bears in the second district of Alabama, why should he argue that there were things of that sort in the third district? I have listened to such arguments on this floor——

[Here the hammer fell.]

Mr. HUBBELL. I withdraw the formal amendment.

The Clerk read as follows:

TREASURY DEPARTMENT.

Independent Treasury:

To reimburse the Treasurer of the United States for loss on recoinage of silver at the mint at San Francisco, California, being on account of the service of the fiscal year 1876, $90.94.

Mr. COBB. I move, by instructions of the Committee on Appropriations, an amendment to come in after the paragraph just read.

The Clerk read as follows:

To reimburse the Treasurer of the United States for loss on worn and uncurrent coin coined at the Mint of the United States at Philadelphia in July, 1879, being a deficiency for the fiscal year 1880, $499.49.

The amendment was agreed to.

Mr. McLANE. I ask consent of the committee to offer an amendment, to come in at the end of that portion of the bill which has been read relating to the State Department.

Mr. BAKER. I reserve the point of order against going back.

Mr. McLANE. Let the amendment be read.

The amendment was read, as follows:

To pay the claims of our fishermen for loss and injury sustained by and from the interruption of their exercise of the liberty of the inshore fishery at Fortune Bay, January, 1878, and their expulsion from said fishery, $100,000, to be paid and distributed to them under the direction of the Secretary of State, who shall examine into and audit the said claims.

Mr. COBB. I must make a point of order on that amendment.

The CHAIRMAN. The amendment can be received only by unanimous consent.

Mr. McLANE. Wait a moment.

Mr. ATKINS. I reserve the point of order on that amendment.

Mr. COBB. I have already done that.

Mr. McLANE. The point of order has been made by the Chairman.

The CHAIRMAN. The point of order was made by the gentleman from Indiana, and it was, as the Chair understood, that the Committee of the Whole could not go back to a paragraph which has been passed.

Mr. McLANE. Whether the point of order be made by the gentleman from Indiana or some other gentleman, I trust I may be indulged in a word of explanation on the point of order. This is a bill of deficiencies for the last year and prior years. When the appropriations for the year 1878 were made, appropriating $5,500,000 to carry out the treaty of Washington and to secure these parties in their right of fishing, the outrage at Fortune Bay had been committed, and these claims for about $100,000 were not taken out of the $5,500,000. It would have been entirely proper if that item had been in the appropriation bill, leaving the Government to claim it from Great Britain.

The CHAIRMAN. The gentleman from Maryland will excuse the Chair a moment. The objection, as the Chair understood, was to going back.

Mr. McLANE. That was done by unanimous consent. I could not have presented the amendment without unanimous consent.

Mr. BAKER. I objected to going back. I object further that this proposition cannot go into this bill at all. It is true that this is a bill to supply deficiencies in the service; but it is for such deficiencies as have accrued from time to time under the law of the land or under the action of departments which exist under the law of the land. This amendment proposes to appropriate money for a new and entirely independent object, unknown to any statute.

The CHAIRMAN. In the opinion of the Chair the point of order, so far as concerns going back, is well taken.

Mr. McLANE. I submit to the gentleman from Indiana that the amendment is not open to that point of order, because unanimous consent was given.

Mr. BAKER. I objected at the time. The point of order I reserved was against going back. [Cries of "Read!" "Read!"]

Mr. McLANE. I desire to inquire of the gentleman from Indiana——

Mr. HAYES. I insist that discussion is out of order. The point of order has been decided.

The CHAIRMAN. It has been decided, and from the decision of the Chair no appeal has been taken. The Clerk will read.

Mr. McLANE. I do not understand that any point of order was made. The objection to the introduction of my amendment comes from the gentleman from Indiana now. He made no such objection before; and nobody else objected.

The CHAIRMAN. The gentleman from Maryland [Mr. McLANE] is out of order.

Mr. BAKER. I desire to say——

The CHAIRMAN. The gentleman from Indiana [Mr. BAKER] is out of order.

Mr. BAKER. I ask leave to say one word.

The CHAIRMAN. There is nothing before the committee.

Mr. BAKER. I ask permission to say one word in response to what the gentleman from Maryland has said. I did reserve the point of order expressly, and the point, as I stated, was against going back. [Cries of "Read!" "Read!"]

The Clerk read as follows:

For fuel for life-saving and life-boat stations, and houses of refuge; repairs and outfits for the same; supplies and provisions for houses of refuge and for shipwrecked persons succored at stations; traveling expenses of officers under orders from the Treasury Department; and contingent expenses, including freight, storage, repairs to apparatus, medals, labor, stationery, advertising, and miscellaneous expenses that cannot be included under any other head of life-saving stations on the coasts of the United States, being a deficiency for the fiscal year 1880, $2,000.

Mr. COX. I move to amend by inserting after the clause just read what I send to the desk.

The Clerk read as follows:

Provided, That whenever the interests of commerce and humanity no longer require the existence of any life-saving or life-boat station, or house of refuge, the Secretary of the Treasury is hereby authorized to discontinue such station or house of refuge: *And provided*, That the district superintendent and the inspector of life-saving stations shall first certify that in their opinion such station or house of refuge is no longer needed, and the General Superintendent of the Life-Saving Service shall concur.

That the General Superintendent may transfer the apparatus, appliances, equip-

ments, and supplies of any discontinued station to such other stations as may need them, and may also transfer any portion of the apparatus, appliances, equipments, and supplies of one station to another whenever in his judgment the interests of the service require it.

That the Secretary of the Treasury is hereby authorized, upon the recommendation of the General Superintendent, to fix the annual compensation of the keeper of any station at which a crew is not employed during any portion of the year at such rate below the rate now authorized by law as may in his judgment be just and proper.

That whenever any keeper of a life-saving station or any member of the crew thereof shall have died, or shall hereafter die, by reason of any wound or injury received or disease contracted in the line of his duty in the Life-Saving Service, his widow, or, if there be no widow, or in case of her death, his child or children under sixteen years of age, shall be entitled to receive a pension of $15 per month if the husband or father were a keeper of a station, and $12 per month if he were a member of a crew; said pension to commence from the death of the husband or father, to continue to the widow during her widowhood, and to his child or children until they severally attain the age of sixteen years, and no longer; and if the widow remarry or die the child or children shall be entitled, from the date of her remarriage or death until they severally attain the said age of sixteen years.

Mr. COBB. I must raise a point of order on that amendment.

Mr. COX. One word, Mr. Chairman; I knew very well that somebody would make this point of order.

The CHAIRMAN. Does the gentleman from Indiana [Mr. COBB] yield, or reserve the point of order?

Mr. COX. I simply want to say that the operation of this amendment will save enough to furnish the little sum necessary to make provision for these twelve or thirteen families whose protectors have been lost in saving human life under the orders of the Government.

This amendment is obnoxious to one point of order. It is a part of a bill of mine now pending before the Committee on Commerce, which I cannot get reported, and on which I cannot get action by the Senate at this session. Only recently five heads of families, while endeavoring to rescue the passengers on a distressed ship, were lost on Lake Huron. Their families are now literally crying for bread.

I submit, Mr. Chairman, that if we can, without points of order being raised, pass amendments here providing for our house-cleaners, for our barbers, for our employés of different kinds, we might do something for those who peril their lives to save the lives of others. This amendment merely provides a pension for the support of a few families whose husbands or fathers were the heroes of the sea—who went through the tempestuous surf to save human life.

I do trust (although you may smile, Mr. Chairman) that there will be decency enough, humanity enough in this House not to make a point of order on this amendment when no points of order have been raised on amendments trifling and frivolous compared with this.

The CHAIRMAN. It is apparent from the remarks of the gentleman that the proposed amendment is out of order.

Mr. COX. Who made the point of order?

The CHAIRMAN. The gentleman from Indiana [Mr. COBB] made the point of order.

Mr. COX. The gentleman rose and yielded the floor to me. Does he insist on his point of order? This does not take money out of the Treasury.

Mr. COBB. I think it does, and must insist on my point of order.

The CHAIRMAN. The Chair sustains the point of order, and the amendment is not before the committee.

The Clerk read as follows:

For the repayment to importers the excess of deposits for unascertained duties, or duties or other moneys paid under protest, including interest and costs in judgment cases, $200,000, which sum is hereby made available for the payment of all claims to which the appropriation is applicable which are not payable from the permanent annual appropriation provided for in section 3689, Revised Statutes: *Provided*, That no portion of this appropriation shall be expended for the payment of claims known as "charges and commissions cases."

Mr. MORSE. I move to strike out "$200,000" and insert "$350,000." I understand the Secretary of the Treasury has informed the committee that claims of a similar nature to those for which the appropriation of $200,000 has been reported in this bill have come in since.

Mr. COBB. I do not hear anything the gentleman from Massachusetts is saying.

Mr. MORSE. I understand the chairman of the Committee on Appropriations has been informed by the Secretary of the Treasury that claims of a similar nature to those for which appropriation has been made in this bill have since come in, and ought also to be provided for as well as the others. I know, from the personal experience of some of my constituents in Boston, as well as of my friends in New York, in times past they have paid more to the Government than the law warranted the Government in collecting from them. The Government, however, collected the money from these parties, and they went into court and prosecuted their rights, and now, having obtained judgment against the Government, provision should be promptly made for the purpose of returning to them the money which was unjustly taken from them by the Government. To do that it is necessary this appropriation should be increased, as I have suggested.

Mr. HISCOCK. Does the gentleman from Massachusetts say that a letter has come to the committee asking that this appropriation should be increased.

Mr. MORSE. Yes, sir.

Mr. HISCOCK. I have not heard of any such letter, and I would inquire of the gentleman in charge of the bill whether he has heard of any such letter.

Mr. MORSE. I will send to the Clerk's desk to be read the copy of that letter which has been sent to me.

The Clerk read as follows:

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., April 21, 1880.

SIR: Referring to the letter of the Department addressed to you under date of the 7th of February last, recommending an appropriation of $200,000 for refunding excess of duty in customs cases, not payable from the permanent annual appropriation made by section 3689 of the Revised Statutes, I have to state that by decisions of the Supreme Court, rendered since the above recommendation was made, it is likely that the amount required to pay excess of duties in cases not payable from the permanent annual appropriations will be very largely increased beyond the estimate above made.

It is believed that the sum of $350,000 will be necessary to pay the claims of the character named, and it is therefore recommended that the appropriation requested be increased to the amount specified.

Very respectfully,

H. F. FRENCH,
Acting Secretary.

Hon. J. D. C. ATKINS,
Chairman Committee on Appropriations,
House of Representatives.

Mr. COBB. I have this to say in reference to that amendment: The Committee on Appropriations investigated this whole matter. We had before us the Secretary of the Treasury, and when this paragraph was inserted into the bill it was the understanding it was all the Treasury Department required for this purpose. If any information has been received since that time, I have not heard of it; and I presume the committee having the matter in charge has not heard of it. It is the first suggestion coming to me that this appropriation should be increased. I trust, therefore, the committee will not increase it without giving opportunity to further consider the matter. We have the letter of the Secretary of the Treasury before us, and this appropriation is in accordance with that letter.

Mr. MORSE. If the gentleman from Indiana will allow me, I will suggest that the committee take a vote on my amendment; and if afterward the Committee on Appropriations shall be satisfied this increase of appropriation should not be made, then I shall be perfectly willing to withdraw it.

Mr. ATKINS. I suggest that we pass over this paragraph for the present, and after the matter has been looked into the committee can again recur to it.

Mr. COBB. I should like to pass the bill as we go along. We have given this paragraph careful consideration, and it is in accordance with the request of the Secretary of the Treasury. My colleagues on the sub-committee will bear me out in what I say.

Mr. HISCOCK. There is only one suggestion I desire to make in reference to this item and this amendment. As has been said by the gentleman from Indiana, this is the first notice we have had that an increase was necessary. But there is no sort of doubt that whatever amount is necessary should be paid promptly by Congress. And for the reason that this money does not belong to the Government, as it is not in payment of any debt due to the United States, but in fact it is money which has been deposited by the importers for the purpose of relieving the merchandise which belonged to them, and after they have tested their rights in the courts and obtained judgment the money should be refunded to them out of the Treasury. Therefore it is I say that legislation of this kind should be prompt, and ample funds should be put into the hands of the Secretary of the Treasury to enable him to reimburse these importers the funds which they were compelled to deposit for the purpose of relieving their goods. I deem it worth while to make this statement so the real question may be understood by the House.

Mr. ATKINS. I am willing to yield to the suggestion of the gentleman having charge of the bill; but, in view of the letter from the Secretary of the Treasury which has been read to the House, dated April 21, 1880, it does seem a larger sum is necessary than is provided for in the bill. I think the best way would be to pass over the matter informally for the present, so the gentleman having charge of the bill can look a little more into the matter, and then the committee can decide better.

Mr. COBB. I desire to make this statement: We had Mr. Curtis, the gentleman in charge of this matter, before us, and he stated to the sub-committee that $200,000 was all that would be required for this purpose; that it was enough; and we put that amount in.

Mr. HISCOCK. If my friend from Indiana will yield to me for a moment, I will say that my understanding was that the claims Mr. Curtis represented were not of this character.

Mr. ATKINS. They refer to charges and commissions.

Mr. HISCOCK. Yes; not the character of claims contemplated by this section. This is for repayment to importers the excess for deposits of duties. The claims to which Mr. Curtis referred are in litigation, many of them, at the present time, and the Government prefers to continue the litigation, in reference to a part of them at all events. But these cases to which reference is made here, and for which this appropriation is contemplated, are not in litigation. Some may be, a few of them are, to settle a principle, but the real purpose of this appropriation is to enable the Government to pay back to these men funds that they were required to deposit in bond in order that they might take their goods out of bond.

Mr. BLOUNT. Have there been decisions in connection with these cases?

Mr. HISCOCK. There is no decision necessary. Before they can get their goods out of bond they have to deposit a certain sum of money. Afterward, when it is ascertained that the sum deposited

is in excess of the duty required, this is to enable repayment to be made. The Government ought to supply a sufficient sum of money to enable these payments to be made in all cases, and not require importers to wait until special appropriations to cover particular cases are made.

Mr. COBB. With all due deference to my colleague on the committee, I think I am right in my recollection of this matter, and if the gentleman will refresh his recollection I think he will agree with me. This provides for the repayment to importers the excess of deposits for unascertained duties, or duties or other moneys paid under protest, including interest and costs in judgment cases.

Mr. HISCOCK. Look at line 241, and you will find the very provision covering the case for which Mr. Curtis was before the committee. That is, for the payment of claims known as charges and commission cases.

Mr. ATKINS. I think we had better let this matter go over for the present. I think the gentleman from Indiana is mistaken.

Mr. COBB. I have a distinct recollection that this was all that was said to be required by the gentleman in charge of this matter.

Mr. ATKINS. May I ask the gentleman from Indiana to what General Curtis referred. Did he not refer to charges and commission cases?

Mr. COBB. I think he referred to the very item for which this appropriation in this paragraph is contemplated. That is my recollection of it. I may be mistaken, but I am under the impression that that was to what he referred.

Mr. BLOUNT. If there is any doubt about this matter it had better be laid aside temporarily and called up hereafter when information may be had upon the subject.

Mr. HISCOCK. There is no doubt that the sub-committee, and every member of the sub-committee, intended to give every single dollar that was asked for by the Secretary of the Treasury for this purpose, and I now suggest that the proposition made by the chairman of the committee be acted upon and that the matter be passed over until the sub-committee can have an opportunity to examine the matter more fully.

The CHAIRMAN. The suggestion of the gentleman from Tennessee is that it be passed over informally. Is there objection to that?

Mr. MORSE. I prefer to have immediate action upon it.

Mr. YOUNG, of Tennessee. Before it is decided, if it be decided to permit it to go over, I wish to say to the gentleman from Indiana [Mr. COBB] in charge of this bill, that I have a case identical with that which is referred to here by the gentleman from Massachusetts, a case of a similar character, on which I would like to be heard or have an opportunity of presenting the matter to the sub-committee. If I cannot have that opportunity I shall ask to present it now. It is a case involving the same principle as that to which the gentleman from Massachusetts refers.

Mr. HAYES. I submit, Mr. Chairman, it is not going to do to let every gentleman who has a claim of that kind refer it to the sub-committee and let the bill go back to the committee for consideration.

Mr. YOUNG, of Tennessee. This is not a matter for the decision of the gentleman from Illinois. My question was addressed to the gentleman from Indiana, in charge of this bill.

Mr. HAYES. This is a matter for the House to determine.

Mr. YOUNG, of Tennessee. Very well, the gentleman is not the House, but only a member of it.

Mr. HISCOCK. If the gentleman from Massachusetts will permit, I will ask him to let the matter go over and be disposed of after the bill is completed. In the mean time information can be obtained upon this point. This additional sum, if found necessary, can be put in after the bill goes to the Senate.

Mr. ATKINS. Very good; I have no objection to that.

Mr. YOUNG, of Tennessee. I request permission to add also to the bill a case presenting the same features as that proposed by the gentleman from Massachusetts.

Mr. MORSE. My objection to the arrangement suggested is, that I propose to take charge of this part of the appropriation myself. I have no control over it, of course, after it leaves the House.

Mr. ATKINS. We want to know more about this amendment before we can safely incorporate it in the bill.

The CHAIRMAN. The question is on the amendment of the gentleman from Massachusetts.

The committee divided; and there were—ayes 19, noes 30.

So the amendment was not agreed to.

The Clerk read as follows:

To enable the Secretary of the Treasury to provide storage for silver coin, $20,000.

Mr. BLAND. I move to strike out that paragraph. I ask the Clerk to read, on page 4 of the document I send to the desk, the evidence of the Secretary of the Treasury, to show what he is doing with this coin.

The Clerk read as follows:

Mr. WARNER. Do I understand the Secretary of the Treasury to hold that, as a member of the Clearing-House Association, this resolution of the association does not affect the United States as a party to the clearing-house? I refer to the clause prohibiting payment of balances to the clearing-house in silver or in silver certificates.

Secretary SHERMAN. Under the arrangement made with us on the 9th of November, we agree to pay balances in United States notes. All our transactions with the clearing-house are conducted on the basis of United States notes.

Mr. WARNER. Then the Government has not the option to pay balances to the New York clearing-house in silver?

Secretary SHERMAN. No; we have not.

Mr. WARNER. That right the Government has abdicated, so far as the clearing-house is concerned?

Secretary SHERMAN. No; we say that so long as the agreement continues we will pay our balances in United States notes.

Mr. BLAND. I now ask the Clerk to turn to page 22 and read what is marked.

The Clerk read as follows:

Mr. WARNER. But if there had been no increase of national-bank notes there might have been an increase of silver circulation to the same extent, without altering the volume of the currency.

Secretary SHERMAN. If silver dollars were redeemable in gold dollars and did not simply take the place of paper money as a representative of money, and not as a standard of money, your reasoning would be correct; but the silver dollar is itself irredeemable. It is a standard of money; and the very moment that the Government is compelled to pay its debts in silver, then the value of the silver dollar is the intrinsic worth of 412½ grains of silver.

Mr. BLAND. Was not that the reason why the Clearing-House Association has excluded silver, and is not that one of the reasons why the Government acceded to that rule of the Clearing-House Association—that is, for the purpose of holding the silver and preventing its circulation?

Secretary SHERMAN. I would not state it in exactly that way. I would state it in this way: That as gold and silver are both standards of money, I would seek to maintain gold as the standard of money, and therefore I would seek, by holding the silver, to prevent its depreciation below the gold standard. Perhaps that answers your question substantially.

Mr. BLAND. Then it is as much the act of the Government that silver is not in circulation as it is the act of the people?

Secretary SHERMAN. Yes. We do not issue it unless we can issue it at par with gold. Whenever Congress desires it, it can (by making free coinage of silver, and by simply saying that silver shall be the standard of value to the exclusion of the gold standard) do it very quickly.

Mr. BLAND. Mr. Chairman, that is all I desire to have read. I wanted that read to show in the first place that the Secretary of the Treasury had entered into an agreement with the syndicate of bankers constituting the clearing-house by which he refused to pay Government balances in silver dollars, and for the purpose of showing further that he stated before our committee, the Committee on Coinage, Weights, and Measures, that he had not paid out and would not pay out silver money except in such quantities as he could pay out without disturbing the gold standard. And he comes here and asks Congress to back him up in his determination to maintain the gold standard by hoarding coin and asking an appropriation for its storage.

Now, Mr. Chairman, when the Secretary of the Treasury does his duty in paying out this money and it comes back to the Treasury by the issue of silver certificates, when he does his duty under the law, it will be time enough then for him to ask for vaults to contain the silver received in lieu of silver certificates. But when he comes here confessing that he is acting in violation of the law of Congress and that he has set himself up as arbiter of the money standards of this Government, I hope the House will not agree to the request he here makes.

Mr. DWIGHT. Is it in order to move to amend the paragraph?

The CHAIRMAN. The motion of the gentleman from Missouri [Mr. BLAND] is to strike out the paragraph. Before the question is taken on striking it out it is in order to move to amend the paragraph so as to perfect it.

Mr. DWIGHT. Then I offer the amendment which I send to the desk.

The Clerk read as follows:

Strike out "$20,000," and insert in lieu thereof "$75,000;" so that it will read:

"To enable the Secretary of the Treasury to provide storage for silver coin, $75,000."

Mr. DWIGHT. Mr. Chairman, in 1792 there was an act passed providing for the coinage of silver dollars. At the time that act was passed silver was worth 103.9 cents; I mean relatively as compared with gold. Silver was coined for the period of twelve years, up to 1805. During those twelve years the average value of silver as compared with gold was a fraction over par; I think 100.7. From 1805 to 1835 not one single silver dollar was coined. For five years of that period the average relative value of the silver dollar was more than par. Its exact average value was 104.7. During the remainder of that period (twenty-five years) it was 95.2.

These facts show what the value of silver was, and what the silver-dollar coin of the fathers which has been so much talked about was worth, not only in their estimation, but in the markets of the world. Not one silver dollar, as I have said, was coined between 1805 and 1835. But in 1834 Congress and the country, apparently appreciating the fact that silver coin could not be made to pass successfully while it was overvalued, made a new provision, and changed the relations of the two metals from 1 to 15 to 1 to 16, and from that period down to 1873 silver coin was constantly at a premium above gold coin, which clearly establishes that the uniform policy of the Government was, from the time it coined the first silver dollar to the 28th day of February, 1878, when the mischievous Bland bill, so called, was passed, to make it of equal value with gold. Though it was as valuable as and even more so than gold, it was not regarded with favor by the people, as appears by the small amount called for; and it should be remembered that by the provisions of the law the Mint was open to all persons who desired to have standard silver dollars coined. When we consider that every hundred dollars of this coin weighs six pounds, we shall appreciate why it cannot be a favorite coin for extensive circulation, even when it is of full value.

What were the results? Down to 1805 there had been $1,439,517

coined. From that period to 1860 there were coined $3,658,670. Down to 1873 all the silver dollars that had ever been coined in this country amounted to $8,045,838.

Under these circumstances, we did not require any storage for silver dollars. But under the act of 1878 you have coined $2,000,000 a month, and have aggregated since that period almost eight times as much as you coined from the organization of the Mint down to that day, which was a period of eighty-six years.

What, then, are the results? You have got, as is conceded, something like $64,000,000 in silver that the Government owns. It would take one hundred and ninety-two railroad cars, with ten tons in each car, to store your coin. And yet the gentleman from Missouri [Mr. BLAND] and those who act with him say that the fault is with the Treasury Department that the silver is not paid out.

Why is it not paid out? You have provided by congressional enactment that your bullion shall be paid for in silver dollars. It is paid for in silver dollars. But not one dollar is taken out of the Government Departments. It is deposited as soon as it is counted out and silver certificates are taken for it. And you have by law compelled the Treasury Department to issue silver certificates for any sum, from $10 or more, to any and all persons who may present the standard dollars for that purpose. You have also provided that such certificates shall be received in payment by the Government for impost and all other dues owing to it from individuals.

It is impossible while such laws remain upon your statute-book for the Secretary of the Treasury to pay out and keep in circulation large amounts of silver dollars. As we have seen, but comparatively small amounts were called for when the dollar of the fathers, worth as much and frequently more than gold, were accessible to all. And now, when your mistaken policy has put into the Government vaults sixty-four millions of silver coin, worth but eighty-eight cents on the dollar, which shows that you have overvalued it $7,680,000, you complain of the Secretary of the Treasury because he asks you to provide the means to enable him to keep safely the silver you have commanded him to coin. Why, sir, if he did not tell you as he has what his necessities are as your agent you would have just cause to ask for his removal from office for not properly caring for the property you have intrusted to his keeping.

I was perhaps as anxious as any gentleman here to defeat the legislation which has created this large amount of overvalued silver dollars that you already have, and said and did what I could to keep it from becoming a law. I do not, however, regard that as a reason why proper provision should not now be made for taking reasonable care of the products resulting from that legislation. Unless this legislation is materially amended or repealed you will soon have double and quadruple what you now have invested in silver dollars, requiring still more vault-room and subjecting you to a constantly increasing loss on this unproductive dormant capital invested in coining cheap silver dollars.

I see the Chairman is raising his hammer. I should be glad to have a little more time.

[Here the hammer fell.]

Mr. DAVIS, of North Carolina, rose.

Mr. BLAND. I desire to offer a substitute for the paragraph.

Mr. WHITE. I rise to oppose the amendment, and yield my time to the gentleman from New York, [Mr. DWIGHT.]

The CHAIRMAN. The Chair has recognized the gentleman from North Carolina, [Mr. DAVIS.]

Mr. DAVIS, of North Carolina. This is an appropriation to enable the Secretary of the Treasury to provide storage for silver coin, the amount recommended being $20,000. The gentleman from New York [Mr. DWIGHT] proposes to amend that by making the amount $75,000. I desire to inquire of the gentleman who has charge of this bill whether this is to meet a deficiency now existing, or whether it is to provide for a future contingency? The clause itself seems to be prospective to enable the Secretary of the Treasury to provide accommodation hereafter for the storage. Now this bill, as I understand it, is a bill making appropriations to supply deficiencies for the fiscal year ending June 30, 1880.

Mr. HISCOCK. If the gentleman will yield to me a moment I will explain that point.

Mr. DAVIS, of North Carolina. I yield to the gentleman.

Mr. HISCOCK. For the purpose of having the question fairly understood I will state the object of this appropriation. It is simply and solely for the purpose of strengthening the vaults of the subtreasury in New York City. They are not filled to their capacity, but are in so weakened a condition that it is necessary this money be expended for the proper strengthening of them. It is thought to be much better to expend this money for that purpose than to remove the coin from the place where it is stored. The vaults are not filled to their capacity; but this appropriation is for the purpose of making them stronger and more perfect for the holding of this coin.

Mr. DAVIS, of North Carolina. It is, then, to meet a future contingency?

Mr. HISCOCK. They desire it immediately for repairs, not for the purpose of erecting any new building, or anything of that kind, but simply for the purpose of perfecting and strengthening the structure already erected.

Mr. DAVIS, of North Carolina. Is this a deficiency or not? That is my question.

Mr. HISCOCK. I would say yes, for the reason——

Mr. DAVIS, of North Carolina. I desire to know of my friend——

Mr. HISCOCK. Allow me to answer the question. I would say yes, for the reason that Congress is accustomed annually to make appropriations to maintain and keep in repair public buildings. This amount doubtless would have been used for this purpose if the appropriation had not been exhausted.

Mr. DAVIS, of North Carolina. The gentleman says this is a deficiency.

Mr. HISCOCK. Yes, sir.

Mr. DAVIS, of North Carolina. Is it a deficiency of $20,000, as the Committee on Appropriations find, or is it a deficiency of $75,000, as his colleague [Mr. DWIGHT] proposes to make it?

Mr. HISCOCK. I would say that this is to meet a present emergency, $20,000 to be used for a special purpose.

Mr. BRAGG. Will the gentleman allow me to ask him a question?

Mr. HISCOCK. Certainly.

Mr. BRAGG. If the purpose of this clause of the bill is to repair the vault of the sub-treasury building in New York, why did not the committee say so?

Mr. HISCOCK. I will say to the gentleman——

Mr. BRAGG. Why did the committee adopt the phraseology "to enable the Secretary of the Treasury to provide storage for silver coin" when you meant "to repair defective vaults in the sub-treasury building at New York?"

Mr. HISCOCK. I will say to my friend from Wisconsin [Mr. BRAGG] that so far as I am concerned I did not intend to cheat him. I have not the remotest idea in the world that I could cheat if I tried to do so. This is simply the language employed by the clerk of the committee, and it was not intended as a trap for the very astute gentleman from Wisconsin.

Mr. CHITTENDEN. I am opposed to the amendment of my colleague, [Mr. DWIGHT.] I am opposed to any further appropriation for buildings in which to store silver dollars. They are either good or they are bad; and the way to find out whether the silver-dollar law is good is to *execute* it. I would have voted yesterday that the Secretary of the Treasury should pay all the appropriations of the last appropriation bill in silver dollars if I could have had an opportunity to explain to my constituents the reasons for so doing.

I say again, as I have said before, that for the Government to invest its capital in silver dollars and store them is as reasonable and sensible as it would be for a man to invest his capital in silver dollars and put them in a hole in the ground or sink them in a well. They are of no use; nobody wants them. It is time for the Government of the United States to come to its senses on this subject, to arrive at the truth. If the silver dollars are good, we shall find that out when they are paid out in bulk, when the people are forced to take them by hundreds and thousands, if we can make them do so. When I buy your house or your horse, Mr. Chairman, and pay you all in silver dollars, you will then find out whether it is convenient to have them or necessary to build a vault to put them in or to dig a hole to hide them in. With practical experience we can soon determine the real merits of this question.

I say to gentlemen, moreover, that the time is coming, I will not predict how soon, but the time is coming when the coinage of short-weight silver dollars will be stopped, or there will not be a gold dollar to be had in the country; every one of them will be exported or hoarded, and the people for whose benefit it was claimed this silver-dollar law was passed will be taught the difference between a dollar worth eighty-eight cents and a dollar worth one hundred cents. I think that we should not appropriate another dollar to provide means for storing silver coin, not one. And we should strike out this appropriation of $20,000 and make the Secretary of the Treasury pay out the silver dollar and see what the people will say about them. The people will soon discover who is cheated and swindled by the fiat which declares that eighty-eight cents' worth of silver is an honest dollar. I have no fear of meeting this question on the solid basis of truth. If eighty-eight cents can be made a dollar, eight cents can be made just as honest a dollar as eigty-eight cents, and I want that demonstrated.

If you will stop hoarding silver dollars and deny to the Secretary of the Treasury the means of storing them, you will soon settle the question. And it will be so settled that Congress can no more unsettle it than it can resist and still the waves of the ocean. I tell gentlemen who have talked wildly on this subject for years that the day of reckoning is coming, is not far off. Pay out your silver dollars in bulk, and you will quickly reach the day of reckoning!

Mr. BLAND. I withdraw my motion to strike out the paragraph simply, and move to strike it out and substitute therefor that which I send to the Clerk's desk.

The Clerk read as follows:

To relieve the vaults of the Treasury Department of hoarded coin, the Secretary of the Treasury is hereby authorized and directed to pay in standard silver dollars the amounts appropriated in this act; and the sum of $10,000 is hereby appropriated for the storage of so much of such coin as may be returned to the Treasury, and certificates issued therefor as provided by law.

Mr. BLAND. I say again, as I said in the beginning, that inasmuch as the Secretary of the Treasury has declared over and over again, as he stated before our committee, that he would not pay out the silver dollars, and had not done so except in so far as he could do so and maintain them at the gold standard, if he will only execute the law

of Congress in good faith and pay out these dollars we are ready to provide him all necessary facilities to store the silver dollars that may come back and for which certificates may be issued. In that I take issue with the gentleman from New York. The silver bill authorizes the issue of certificates for so many of these dollars as may be deposited; and when the Secretary of the Treasury has issued this currency, and shown a disposition to carry out the law by issuing certificates in lieu of silver dollars which may be returned to the Treasury, then it is our duty to provide for the storage of silver dollars thus returned. Hence the amendment which I have offered appropriating $10,000 for this purpose.

But the vaults of the Treasury are now overflowing with silver. Why? Simply because the Secretary of the Treasury, according to the language read in the hearing of the House, is determined not to pay out this money. It is probably true that one-half of this money will remain in circulation and another half will go back to the Treasury in exchange for certificates. That matter can be determined hereafter; provision can be made for the safe-keeping of so much of this money as may return upon the issue of certificates. This is as far as the law authorizes the Secretary of the Treasury to go.

Mr. CLAFLIN. I move to amend the substitute by adding thereto the following:

And hereafter no more than one million standard silver dollars shall be coined per month.

Mr. BLAND. I raise a point of order on that amendment.

Mr. CLAFLIN. Then I raise a point of order on the gentleman's amendment. [Cries of "Too late!"]

Mr. BLAND. My amendment has been discussed.

Mr. CLAFLIN. The amendment I have offered reduces expenses, and on its face is in the interest of economy.

The CHAIRMAN. The gentleman from Massachusetts will suspend; the gentleman from Missouri will state his point of order.

Mr. BLAND. My point is that the amendment is a repeal of a solemn enactment of Congress. It changes existing law, and is not in the line of retrenchment or reform, but is in the line of the destruction of the interests of the country.

Mr. CLAFLIN. I maintain that my amendment does not repeal existing law, it simply modifies it; and it reduces expenses.

Mr. TOWNSHEND, of Illinois. But it changes existing law.

Mr. CLAFLIN. Now, I am neither a prophet nor the son of a prophet; but I wish to come down on this question to the actual facts of the case. It is known to most gentlemen in this House that when this silver law was passed the idea was to coin two million standard silver dollars per month, and no more. But for the last year the Director of the Mint has coined about $2,300,000 per month. As he understood the law he was to purchase two million dollars' worth of silver every month to be coined, and by reason of the difference between the value of the bullion and the denominational value of the coin the amount coined has been about $2,300,000 per month. This is one source of the increase of the silver coinage over what, as I believe, was the amount intended by the law to be coined.

Your mints to day are working day and night, and you are asked to provide extra accommodations for the purpose of coining silver in accordance with the law. The Committee on Coinage, Weights, and Measures have recently been over to Philadelphia to see what should be done in extending the Mint to make it sufficiently large to allow the law to be complied with.

As has been stated by the gentleman from New York [Mr. CHITTENDEN] we have $64,000,000 of silver in the Treasury, a large proportion being standard silver dollars. Now, everybody who has looked into the matter knows that the standard silver dollar is not what the people want, even if they want silver at all. The Treasurer has sent up here silver dollars to meet the requisitions of the Sergeant-at-Arms, who is thus obliged to pay out silver dollars to those receiving payments of salary at his hands.

Mr. PHILIPS. I rise to a question of order.

The CHAIRMAN. The gentleman from Massachusetts [Mr. CLAFLIN] is hardly in order.

Mr. PHILIPS. The gentleman is not debating the question of order, but covering the whole field of the merits of the proposition.

Mr. CLAFLIN. I supposed that I was discussing the amendment. I have stated the point of view in which I believe my amendment is in order. If the gentleman on the other side invokes the decision of the Chair, I await that decision.

The CHAIRMAN. In the opinion of the Chair the amendment of the gentleman from Massachusetts is not in order, upon the ground that it is not germane.

Mr. HAYES. Let the amendment of the gentleman from Missouri [Mr. BLAND] be read.

The amendment of Mr. BLAND was again read.

Mr. HAYES. I wish to offer a proviso to the amendment.

Mr. HISCOCK. I hope the gentleman will allow me to have read at the Clerk's desk a letter on this subject from Mr. Hillhouse, assistant treasurer at New York.

Mr. HAYES. I hope the gentleman from Missouri will give his attention while my proviso is read.

Mr. CLAFLIN. I move to amend the amendment of the gentleman from Missouri by striking out "$10,000" and inserting "$5,000." I suppose that will be in order.

The CHAIRMAN. The gentleman from Missouri proposed a substitute for the paragraph, and to the substitute the gentleman from Massachusetts [Mr. CLAFLIN] proposes an amendment.

Mr. HAYES. Let the proviso I offer be read.

The CHAIRMAN. The amendment of the gentleman from Illinois [Mr. HAYES] cannot now be in order.

Mr. HAYES. Can it not be received as an amendment to the substitute?

The CHAIRMAN. The gentleman from Massachusetts has moved to amend the substitute.

Mr. HAYES. I had the floor before the gentleman from Massachusetts.

The CHAIRMAN. The Chair understood the gentleman to yield.

Mr. HAYES. No, sir.

The CHAIRMAN. Then the Chair does not recognize the gentleman from Massachusetts at present.

Mr. CLAFLIN. I ask that my amendment may be received whenever it is in order.

The Clerk read the amendment of Mr. HAYES, as follows:

Add to the amendment of Mr. BLAND the following:

"*Provided*, That the Secretary of the Treasury be directed to pay members of Congress hereafter the full amount of their salaries in standard silver dollars."

Mr. HAYES. Now, Mr. Chairman, I wish to state my reason for offering this proviso. There has been a great amount of talk recently on this floor in regard to getting the silver dollar into circulation. Now, here is one method by which you can put the silver dollars in circulation, and I hope the gentlemen on this side of the House who have been talking in favor of keeping these silver dollars in circulation will come up and support this amendment. We ought to be willing, if we advocate this idea, to take our share of the silver dollars, and I offer this amendment to test the sincerity of gentlemen on this side of the House in regard to the ideas they have advocated here so many times.

Mr. BLOUNT. It is good enough, and we will take it.

Mr. EWING. Mr. Chairman, I concur entirely in what the gentleman who has just taken his seat says. I think silver dollars ought to be paid out for the general expenses of the Government and in discharge of its debts. As a matter of fact we members of Congress have been paid in the silver certificate which is the equivalent of the silver dollar.

Mr. McMILLIN. And in the silver itself.

Mr. EWING. The Secretary of the Treasury, while sedulously seeking to prevent the issue of silver certificates to the people generally, has been paying them out to members of Congress. I find over the country generally one of those certificates is a curiosity, while when we go to the Sergeant-at-Arms's office to get our pay a large part of the money we get is in silver certificates.

I intend to vote, Mr. Chairman, to give the Secretary of the Treasury ample and safe coffers to store the silver dollar in. But I would like to see the power of this Congress brought to bear to make him pay out the silver money. He does not mean to pay it out. He means to hold it there and keep the people from getting the silver certificates, which, if he paid the silver money out, the people would get, because whenever he offers a thousand dollars of silver money, the person to whom he offers it would naturally say, "I prefer silver certificates." This does not suit the purposes of the Secretary. He wants to pile up the silver as if it were wholly useless, in the hope that the people will soon consent to stop coining it.

Mr. HISCOCK. Does he refuse silver to any one who calls for it?

Mr. EWING. He pays scarcely any out. He hoards it. The total amount of silver certificates issued falls short of $12,000,000, while the amount of silver hoarded in the Treasury is about $33,000,000. The pretense is that the silver is hoarded because the people do not want it. I say the silver money is just as good and acceptable to the people of this country to-day as the gold money. It is true that when the silver dollars are paid out a large part of them return in exchange for silver certificates. But the people prefer greenbacks to gold just as decidedly as they prefer silver certificates to silver dollars. The people keep the greenbacks and do not take your gold. What does that argue? It argues they would rather have Government paper money than any form of metallic money for the ordinary uses of their business. [Applause.]

So with the silver certificates. They pass current as money wherever offered—just as current as the greenbacks, except at the counters of the banks of the great eastern cities, which are combined to break down the silver law by excluding both the silver dollar and the silver certificate from the current uses of business.

Mr. HAYES. The gentleman says the Secretary of the Treasury does not pay out silver dollars. I can remind him when I drew my pay here when I went home before the holidays I was paid one-tenth of my salary in standard silver dollars, and I took at that time no less than $70 of silver money, and took it willingly.

Mr. EWING. It is paid to members of Congress, but I say generally it has not been, as is shown by the fact that the total issue of silver certificates is but about $12,000,000 in more than a year after the law has been in operation, while the great bulk of silver dollars which has been coined has never left the Treasury. If these new coined dollars were paid out as fast as coined to meet the public debts and expenses they would be to a very large extent substituted by silver certificates, which would form a paper currency just as accept-

able to the people generally as greenbacks, and greatly more convenient and useful than either silver or gold.

Mr. HISCOCK. By way of partial answer to the remarks of the gentleman from Ohio I send to the Clerk's desk to be read a letter which has suggestions in it from Mr. Hillhouse how we can, if we desire, force this silver into circulation, and I have no doubt the gentleman will concur with us in some of those measures. I ask to have the letter read.

The Clerk read as follows:

OFFICE OF ASSISTANT TREASURER UNITED STATES,
New York, May 26, 1880.

SIR: I notice in the morning papers that the proposition to appropriate $100,000 for increasing the present facilities for the storage of silver was defeated yesterday in the House, Mr. ATKINS, (chairman of the Committee on Appropriations,) as is reported, taking the ground that the coin, instead of being allowed to accumulate, should be used in payment of current expenses and the funded debt.

It is rather remarkable that no one seems to have put in the obvious and conclusive reply to the proposition that as a remedial measure against the accumulation it would amount to nothing, in face of the provision of law under which the holders of silver coin are entitled to the privilege of exchanging it for certificates at their option.

If silver were paid out in the manner suggested by Mr. ATKINS it would immediately be presented again in payment of dues to the Government, and the balance, if any, left in the hands of the public would be presented for certificates. Thus the coin paid out one day would be returned to the Government depositories the next; a fact so well supported by our experience so far that to avoid the labor and risk of repeatedly handling and recounting the coin we have paid out the certificates instead whenever preferred, as they are in ninety-nine cases out of a hundred.

If the advocates of silver really desire to place it in actual circulation, they have only to conform to a principle recognized by all other civilized governments, whose coined money is never, I believe, redeemed except when it has become so abraded by use as to fall below the legal standard of weight.

A repeal of so much of the act of February 28, 1878, as authorizes the exchange of the standard dollar for certificates, coupled with an order for the gradual withdrawal of all United States notes below the denomination of $5, would at once force the standard dollars into the circulation and keep them there, whether the public desire them or not. The problem is by no means difficult to solve in this way. In fact it is so easy that the failure of the advocates of silver to suggest and demand it fairly raises a doubt as to the sincerity of their belief that it is a popular money.

Very respectfully,

THOS. HILLHOUSE,
Assistant Treasurer United States.

Hon. JOHN SHERMAN, *Secretary.*

Mr. WARNER. I move to strike out the last word.

The CHAIRMAN. Debate on every possible amendment is exhausted.

Mr. HISCOCK. May I ask if further amendments are in order?

The CHAIRMAN. Nothing is in order but a vote upon the pending amendments.

Mr. HISCOCK. If other amendments can be offered I move to strike out so much of chapter 20——

The CHAIRMAN. No further amendments are in order at this time.

Mr. HISCOCK. Then I offer it as a substitute for the pending amendment.

The CHAIRMAN. There is a substitute now pending.

Mr. SPRINGER. Let us vote awhile, then.

The CHAIRMAN. The question is on the amendment proposed by the gentleman from New York, to strike out, in line 240, "$20,000" and insert "$75,000."

The amendment was not agreed to.

Mr. HISCOCK. Then I offer an amendment to strike out so much of section 3 of chapter 20 as relates to the issuing of coin certificates.

The CHAIRMAN. The gentleman from New York will please submit his motion in writing.

Mr. BRAGG. I make the point of order on the proposed amendment of the gentleman from New York that it changes existing law by the repeal of a statute and also that it is not germane to the bill.

Mr. BLAND. I supplement that with a further point of order.

Mr. HISCOCK. Do I understand that the point of order is now to be discussed?

Mr. BRAGG. The point of order that I made is that it is not germane to the bill and that it changes existing law by the repeal of a statute.

Mr. HISCOCK. But it is germane.

Mr. BLAND. And further it is not in the line of retrenchment.

The CHAIRMAN. The gentleman from New York will submit his amendment in writing.

Mr. HISCOCK. I propose to strike out all that portion of section 3 of chapter 20 in the following words:

That the holder of the coin authorized by this act may deposit the same with the Treasurer or any assistant treasurer of the United States in sums not less than $10, and receive therefor certificates of not less than $10 each, corresponding with the denominations of the United States notes. The coin deposited for or representing these certificates shall be retained in the Treasury for the payment of the same on demand.

Mr. BLAND. I raise the further point of order that it changes existing law, and that upon its face it does not retrench expenditures.

The CHAIRMAN. The point of order raised by the gentleman from Wisconsin the Chair decides is well taken and sustains the point of order. The question is now on the substitute for the pending amendment.

Mr. HAYES. The amendment I offered comes first. It is in the nature of a proviso.

Mr. BLAND. Is that in addition to the substitute which I offered?

Mr. HAYES. It is an amendment to the substitute.

Mr. BLAND. I have no objection to that amendment and am willing to accept it.

The CHAIRMAN. The proposed amendment of the gentleman from Illinois will be read.

The Clerk read as follows:

Provided, That the Secretary of the Treasury be directed to pay members of Congress hereafter the full amount of their salaries in standard silver dollars.

Mr. WARNER. Is that question debatable?

The CHAIRMAN. Debate is exhausted.

Mr. CANNON, of Illinois. I move to strike out the last word.

The CHAIRMAN. Debate is not in order on this. The question is upon the amendment of the gentleman from Illinois, in the shape of a proviso.

Mr. TOWNSHEND, of Illinois. I hope that will be adopted.

The committee divided; and there were—ayes 59, noes 37.

Mr. STEELE. I make the point of order that no quorum has voted.

The CHAIRMAN. No quorum having voted, the Chair will order tellers, and appoints the gentleman from Tennessee, Mr. ATKINS, and the gentleman from Illinois, Mr. HAYES, to act as tellers.

The committee again divided; and the tellers reported—ayes 62, noes 42.

So the amendment was agreed to.

Mr. CANNON, of Illinois. I move to strike out the last word.

Mr. TOWNSHEND, of Illinois. I desire to offer a further amendment.

The CHAIRMAN. The gentleman from Illinois on my left [Mr. CANNON] has been recognized.

Mr. TOWNSHEND, of Illinois. I hope the gentleman will yield to me to offer an amendment before he proceeds.

Mr. CANNON, of Illinois. After I get through.

Mr. Chairman, to my mind much that has been said by the gentleman from New York, representing one extreme, and other gentlemen, representing the other extreme on this question, is in my opinion foolishness, and strange to say the extreme single-standard gold interest and the extreme fiat interest meet and shake hands upon this proposition and agree not to provide storage for coin. Now, I understand that every dollar of silver is worth as much as every dollar of gold or every dollar of greenbacks for circulation. How long that condition of things will continue at the present rate of coinage I cannot tell. Better judges than I am believe we can take into the circulation of this country from one hundred to one hundred and fifty millions of silver, and that it will circulate by certificate or otherwise side by side with gold or paper, redeemable in either gold or silver coin. When the time comes, if it ever does come, when the relative value between silver and gold does not change, and the money from either gold or silver or paper will not circulate side by side, then the time has come when we may trouble ourselves to get it in better shape. But I fail to see either the propriety or good taste of gentlemen standing here and disputing as to the value of gold, silver, or paper, when in the market everywhere in this country one purchases as much as the other.

Much has been said about the silver piled up in the Treasury. I would ask my friend from New York [Mr. CHITTENDEN] why should he fret his uneasy soul about that when there are three dollars in gold in the Treasury to one of silver? And why is my silver-tongued friend from Missouri [Mr. BLAND] not anxious to get the gold into circulation when there are over three dollars of gold to one of silver in the Treasury? Why does not my friend from Illinois [Mr. HAYES] seek to pay out the gold to members of Congress as well as silver when there are three dollars of gold in the Treasury to one of silver?

I am a believer in allowing this coin to accumulate, and allowing the certificates to be issued to represent it. I remember when the gentleman from Ohio [Mr. EWING] stood in his place two years ago in this House and prophesied for almost an hour the evils that were to arise from resumption. Then he was unhappy because he was sure the coin would not stay in the Treasury; now he is unhappy because it does stay in the Treasury. But, thank God, resumption has come, and I am thankful the coin does not go out of the Treasury, but that the certificate goes out in lieu of it. When there is a demand for the coin it will go out, and I am willing to store it and take care of it till it does go out.

Mr. LOWE. Does the gentleman not know that silver certificates are not legal tender?

Mr. CANNON, of Illinois. They are redeemable in legal tender, and nobody makes any objection to them on that account. Nobody has ever had a silver certificate refused because it was not a legal tender.

[Here the hammer fell.]

The *pro forma* amendment was withdrawn.

Mr. TOWNSHEND, of Illinois. I offer the following amendment:

That the salaries of all the officers of the United States be paid in standard silver dollars.

I have no speech to make. The amendment speaks for itself.

Mr. WARNER rose.

Mr. ATKINS. I hope the gentleman will include all United States bonds also.

Mr. TOWNSHEND, of Illinois. That will be offered as a subsequent amendment. I yield my time to the gentleman from New York, [Mr. COX.]

The CHAIRMAN. The gentleman from Ohio [Mr. WARNER] has been recognized.

Mr. WARNER. I shall not undertake to discuss the whole silver question in five minutes; but I must express my regret that on a matter of so much importance amendments should be introduced merely for buncombe and as clap-trap to catch votes, for certainly that is what the last amendment means. Gold and silver are and have been money from the foundation of our Government down, and gold and silver coins equally are money now throughout the United States. There is not an obligation on this continent to-day that is not legally and equitably payable in either gold or silver coin of standard weight at the option of the payer. In Government obligations the option rests in all cases with the Government. The option to say what kind of money he will take does not rest with the creditor; and it is a wrong principle to enact here that one kind of coin shall be paid out for one class of obligations and the other kind for another class. It is in the option now of the Secretary of the Treasury to pay every obligation of this Government in silver coin; but he shrinks from his plain duty under the law when he refuses to exercise that option and gives it up to the creditor. When that is done it is sham to talk about not being able to get silver out. The Secretary, as the executive officer of the Government, may exercise its option in all the transactions of the Government, but he has no right to surrender it for an hour. If he may surrender it for an hour, he may for a day, or a week, or a month, or absolutely.

I am in favor, Mr. Chairman, of providing fit and secure vaults for the storage of gold and silver coin and bullion—so much as it may be desirable to keep on hand. And I am in favor of the issue of silver certificates instead of requiring the coin to be transported about the country. It is economy to do so. It saves wear and tear of the metal. It is a convenience too to have the paper. I would like to see certificates issued on bullion and save to some extent coining. I would like to see them issued on both silver and gold. There is this difference between certificates and bank-notes: The certificate can only be issued on deposit of the metal, and is simply a title to the metal. There can be no inflation in that way. And I say to my friend from New York, who is afraid silver will drive out gold, but at the same time insists that silver will not circulate, that a hundred millions of silver or silver certificates will fill no more space in circulation than a hundred millions of bank-notes, and if a hundred millions in silver or silver certificates will tend to displace gold it will only be necessary to withdraw a hundred millions of bank-notes. There will be no inflation then. I dissent in part from the views of Mr. Hillhouse which have just been read. I say it is economy to have silver certificates circulate in place of the coin. When certificates are issued on deposit of coin we do not redeem the coin as Mr. Hillhouse supposes. The object of certificates is convenience and economy, preserving at the same time the full effect and value of silver in commerce and as a money factor. Nor is it necessary in order to have the certificates or the coin either go into circulation to withdraw the small greenback notes.

There are two principles on which silver coin or certificates may be put in circulation in any denominations. You may withdraw the small notes or you may limit the total volume of purely credit or national-bank currency. We could withdraw, for instance, one hundred millions of bank notes, and make room for so much silver coin, without altering the volume by a single unit or the value of the whole or of a unit of the whole. In other words, coin will circulate together with small notes, provided the whole volume of paper be sufficiently limited. The real question that all the time faces us is, shall the United States abandon silver and adopt the single gold standard? It is nonsense to talk of "eighty-cent" dollars. We might as well talk of "one-hundred-and-twenty-cent" dollars. To abandon one metal is to double the value of the other. As the monetary use of one metal is lessened the other is increased and its value increased in proportion. I am unalterably opposed to such a policy. We have large debts to pay, and they are all payable in coin of either metal. We have a large volume of paper to maintain at the point of convertibility, and I tell you the permanency of resumption depends upon retaining the two metals. You cannot maintain resumption on gold alone.

[Here the hammer fell.]

Mr. COX. Evidently the amendment offered by the gentleman who proposes to pay members of Congress in silver coin only was intended to tickle little minds only too effusive to microscopic demagogism.

Mr. HAYES. Is that why the gentleman from New York is so badly affected?

Mr. COX. It is impossible under the insectivorous arrangements of nature for me to be affected by anything of that kind. I am using unabridged dictionary language at present. [Laughter.]

I had the honor of bringing into a former Congress the bill for a subsidiary silver coinage. We desired to be rid of that old, worn, ugly, small, fractional currency that was as full of small-pox as of inconveniencies. I was happy to be the organ when I was the chairman of the Committee on Banking and Currency of such a silver initiation. It gave the people a taste of the old white coin of the ages. It was a forerunner of the hard silver—the hardest because alloyed by chemistry to make it most durable.

Yet, sir, when that bill passed this House members on the other side, and a few on this side, prophesied disaster. They said it was the beginning of an era of ruin; that the silver age of paralysis to business was coming; that gold monarch would be dethroned; the greenback dishonored, and silver would be paramount; and then all the vials of wrath!

Yet since that time we have seen much progress made not only in this country, but in other countries, and silver has been its adjutant. Many prophesies made here have been disproven by the facts as they have transpired. France has held to her bimetallic policy. Germany itself has come forward and partially remonetized the old white coinage, so indispensable to them as to us.

Now at this time, after so many efforts here at prophesy; after we have had so many Jeremiahs, who have sung their mournful *vaticinations;* after so many weeping willows have drooped over the country—weeping over the possible troubles that were to follow the introduction and rehabilitation of the silver coin, we find that no one of these prophesies have been fulfilled. They were as futile as the "speculation" which inspired them.

When the bill was passed remonetizing silver one of my colleagues who had also prophesied ruin and disaster when my subsidiary coinage bill was passed, speaking upon the veto message of the President of the bill authorizing the free coinage of the standard silver dollar and restoring its legal-tender quality, one of my colleagues said:

No man who is in debt can survive it, and the business of the country will find itself in the relentless grasp of a passionless machine, which, like the iron woman of Nuremberg in the vaults of the Inquisition, will literally crush the victim in the ever-contracting embrace of death.

Mr. TOWNSHEND, of Illinois. Who was it!

Mr. COX. That was our friend, Mr. Hewitt, of New York.

The operation of this bill will therefore be certain ruin to all business, will close up our factories, will throw a vast laboring population out of work from the inability of the employers any longer to command the means necessary to keep the machinery of production in motion. A wail of distress, irrepressible and irresistible, will come up from every quarter of the land, and we shall be forced to undo the unhappy work of this day with a celerity which will put to shame the shameless manner in which this legislation has been enacted without debate or consideration such as its transcendent importance imperatively demands. But the representatives of the people no longer discuss, and therefore the people suffer and will continue to suffer until this Hall is filled with men who are willing to submit their opinions to the test of fair and open discussion.

Not one of those prophesies—and they were countless and from both sides—have been fulfilled. Gentlemen may say that our surplus produce, our great productions, our markets abroad, have saved us from this great disaster of silver money. No, sir; we would have had still more and more progress had we only had a free current of silver from the Treasury as the people and Congress demanded.

[Here the hammer fell.]

Mr. KELLEY. I desire to say a few words on this question.

The CHAIRMAN. The Chair has been notified by the gentleman from Indiana [Mr. COBB] that he desires to take the floor for a certain purpose.

Mr. KELLEY. The gentleman from Indiana [Mr. COBB] kindly consents to my being recognized by the Chair.

The CHAIRMAN. The gentleman will proceed.

Mr. KELLEY. I believe, Mr. Chairman, that I can state to the House as authoritatively as any man in the country can do, information of the most important character upon the question now pending. Allow me to say in passing that I believe the attempt to demonetize silver if persisted in will, by the suffering it will inflict upon the people, bring revolution to every country in Europe; and that this opinion is growing upon the governing classes of the Continent, and finding constantly increasing adherents among the thinkers of Great Britain.

I was probably the first private citizen of any country to hear as I did on the 6th of July last the authoritative statement that the demonetization of silver in Germany had been a blunder; that sales of the government silver had been stopped; and that the coins not yet melted should go into circulation immediately to meet the monetary requirements of the people. In France, at more than one city besides Paris, in West Germany as well as at Berlin, I discussed this question and heard it discussed, and as a consequence came home believing that the United States held the key to the situation.

Haughty England cannot bring herself to confess that for seventy years she has been living under mistaken and unwise financial legislation. The Parliament that decreed that gold alone should be money in England also decreed that gold should not be money in India, but that silver should be the sole legal tender. That was bimetallism; for the forty millions or less of commercial Britons, there was to be gold money; for the one hundred and ninety millions of sluggish Anglo-Indians, there was to be silver money.

Germany demonetized silver by what Prince Bismarck admits to have been a blunder; which he explains by saying that no man can make a special study of every subject, and that a man can only comprehend subjects to which he has given special study—and that this great subject was remitted to a man of eminent repute at home and abroad, who, notwithstanding his reputation, as bitter experience had demonstrated, "carried only water in his kettle"—a German figure of speech implying utter poverty. The peasant carries to the field his little kettle of broth, whether it contains meat or not. If he be too poor to have either meat or broth, he still carries his kettle freighted with water. And in my own hearing the ruler of Germany applied that illustration to the financier to whom the silver question had been committed by the German Empire.

I said, sir, that I believe we hold the key to the situation. We can in a few months compel England to beg us to unite with her in determining what shall be the fixed relation of value between silver and gold throughout the world—fixed because it will be accepted by the commercial nations of the world. We alone stand between the consummation of that great desideratum and the people who suffer from the want of it. [Here the hammer fell.] I hope some gentleman will take the floor and yield me five minutes in which to conclude my remarks.

Mr. COBB. I move that the committee rise.

Mr. KELLEY. I ask five minutes.

Mr. TOWNSHEND, of Illinois, I hope the gentleman will be allowed five minutes more.

Mr. BLAND. If I can have three minutes to reply, I will consent.

The CHAIRMAN. The gentleman from Missouri objects.

Mr. KELLEY. I beg the gentleman from Missouri to withdraw his objection. He has had fifteen or twenty minutes.

Mr. BLAND. I want simply three minutes to reply; that is all.

Mr. KELLEY. I do not care if you take three hours; you cannot gainsay the facts I am presenting.

Mr. COBB. I move that the committee rise.

Mr. KELLEY. I ask the gentleman from Missouri, [Mr. BLAND,] in courtesy to him who is the author of the bill re-establishing the silver dollar, but which bears the name of the gentleman from Missouri, to let me speak three minutes more for the Bland bill, as the Kelley bill was called when reported from the committee of which, I believe, the gentleman was chairman.

The CHAIRMAN. The motion of the gentleman from Indiana [Mr. COBB] is that the committee rise.

Mr. KELLEY. I ask the gentleman to withdraw his motion.

The question being put on the motion of Mr. COBB, it was declared agreed to.

Mr. KELLEY. Allow me to acknowledge the courtesy of the gentleman from Missouri, [Mr. BLAND,] which I do profoundly.

Mr. BLAND. I do not object to the gentleman from Pennsylvania going on.

Mr. KELLEY. Then I ask three minutes.

The CHAIRMAN. The committee has determined to rise.

Mr. KELLEY. Then I return my thanks to the gentleman from Indiana. [Cries of "Divide!"]

The question being again taken on the motion of Mr. COBB, there were—ayes 35, noes 53.

So the motion that the committee rise was not agreed to.

Mr. KELLEY. I now ask consent to proceed.

The CHAIRMAN. Without objection the gentleman from Pennsylvania will continue for five minutes.

Mr. KELLEY. In Germany, in France, in Switzerland, thinking men all agree that if, while maintaining silver as money, the United States consent to coin but $100 or $1,000 a year, silver as a commercial commodity would fall so low in price that England could not trade with India, and would become a suppliant to Germany, France, and the United States to meet British delegates for the purpose of determining an international basis upon which the free coinage of both gold and silver should be established. I am at this time supervising the printing of a translation of a pamphlet by Baron Kardorff, Bismarck's leader in the Reichstag, appealing to the people of the United States to restrict their coinage of silver, but to maintain the money character of the metal. Kardorff agrees with Cernuschi, the distinguished French bimetallist, that this action on our part will force haughty Britain to sue at the feet of Germany, France, and America for permission to restore commerce between the great sections of the British Empire, one of which knows only gold and the other only silver as money.

As soon—

Said Mr. Cernuschi in his Monetary Diplomacy—

as the United States shall cease to spend the millions they are spending every month in purchases of silver the price of that metal will undergo so terrible a crisis at London, the rupee will be so debased, that, tired of war and to rescue the value of silver, England will ask to negotiate on the basis of international bimetallism. Meanwhile the monometallists have nothing to complain of; they will have everything they want given them. Are we not laboring for the triumph of their cause? Do we not ask that all the mints be closed against the coinage of silver? Irony of reason! On the day when no particle of silver shall be coined either in Europe or the United States monometallism will fall powerless, and it will be in its own cradle on the banks of the Thames that it will draw its last breath. * * * These are not oracular prophecies; they are mathematical predictions, like those of astronomy. People either accept them or demonstrate that the calculations are unsound. If in England or elsewhere there is a statesman, a savant, an economist, a banker, a merchant who will attempt that demonstration, let him stand up!

Promising to send every member of the House a copy of Baron Kardorff's instructive pamphlet to which I have referred, I thank the House for having given me an opportunity to place on record opinions that a gentleman upon the floor said to me but yesterday I would not dare to utter publicly.

Mr. BLAND. Mr. Chairman, I desire to reply to the gentleman from Pennsylvania, [Mr. KELLEY.] I understand the position of the gentleman to be that we can have the co-operation of foreign countries if the United States will repeal the silver law.

Mr. KELLEY. No; if we retain it, but limit the coinage.

Mr. BLAND. It is the same thing. Mr. Chairman, this Government is able to take care of itself. It is not to our interest for England or Germany to unite with us on this silver question. I maintain that in so far as Germany and other countries are demonetizing silver and banishing that metal from their shores, thus far are they driving their people also away. I maintain further that in so far as this Government remonetizes silver and thereby revives business here, we draw to our shores the people of Germany and of Great Britain, where silver is not money, because our laws are in harmony with their ideas of justice and right. We know that there is a large immigration now pouring into this country. Why? Where does it come from? From those very countries that have demonetized silver and brought about such a state of affairs that starvation is staring their people in the face. From this source increased immigration will soon flow into our country, giving room for all the silver and all the gold that Europe can spare. We can well afford to allow foreign countries to demonetize silver and thereby banish their working population. Let them come here where silver is money and where their rights are recognized. Mr. Chairman, it is not to our interest to ask England or Germany to interfere with this silver question, but it is to our interest to give unlimited coinage to silver and unlimited invitation to the poverty-stricken people of Europe and of the civilized world to come here and enjoy the rights of a free constitution and the unlimited coinage of silver and gold. This will give us a population to absorb all the discarded silver of Europe.

Mr. COBB. We have gone far enough in the debate on this paragraph, and I therefore move the committee rise for the purpose of limiting debate.

Mr. DWIGHT. I wish to have a single moment. [Cries of "Object!"] I should like to inquire why it is gentlemen over there have spoken three or four times while I could not get three or four minutes of additional time so as to close my remarks.

Mr. TOWNSHEND, of Illinois. The gentleman from Pennsylvania [Mr. KELLEY] had eight minutes.

Mr. DWIGHT. That is nothing to me. It is rarely I desire to occupy the floor.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. WHITTHORNE reported that the Committee of the Whole House on the state of the Union had, according to order, had under consideration the bill (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and for prior years, and for those certified as due by the accounting officers of the Treasury in accordance with section 4 of the act of June 14, 1878, heretofore paid from permanent appropriations, and for other purposes, and had come to no resolution thereon.

LEGISLATIVE APPROPRIATION BILL.

Mr. ATKINS. I move by unanimous consent to take from the Speaker's table the message from the Senate in reference to the legislative, executive, and judicial appropriation bill.

The SPEAKER. The Chair hears no objection.

Mr. ATKINS. I move, Mr. Speaker, that the House still further insist upon its disagreement to the amendments of the Senate to the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, and still further insist on its amendments to the amendments of the Senate disagreed to by the Senate, and agree to the conference asked for by the Senate on the disagreeing votes of the two Houses.

The motion was agreed to.

Mr. ATKINS moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. MILLS. I offer the following resolution:

Resolved, That the conferees on the part of the House on the legislative, executive, and judicial appropriation bill be, and are hereby, instructed to fix the salaries of the employés of the House so that the employés of the Senate and House of the same grade shall receive the same salary.

Mr. ATKINS. I make the point of order that if the House adopts that resolution there will not be "a full and free conference." I have no objection, I will say to the gentleman from Texas, to the spirit of that amendment so far as I understand it. I am in favor of equalizing these salaries; I think they ought to be equalized.

Mr. SPRINGER. I make the point of order that it is not in order to move to instruct this committee at this time.

The SPEAKER. The Chair thinks the point of order made by the gentleman from Illinois [Mr. SPRINGER] is well taken according to the past practice. The point of order made by the gentleman from Tennessee [Mr. ATKINS] the Chair would like to take a little time to reflect over.

Mr. MILLS. What is that?

The SPEAKER. The committee of conference on the part of the House has not yet been appointed, and of course have not yet disagreed.

Mr. MILLS. The Chair does not decide the committee of conference cannot be instructed.

The SPEAKER. The Chair has not so decided, but it is usual in the opinion of the Chair for the conferees to have an opportunity to sit and make an effort to agree before they are instructed. This course has been the practice in the past whenever instructions have been attempted.

Mr. SPRINGER. My point is that it is not in order at this time to

instruct the committee of conference. You cannot do so until that committee has come to the House and said they could not agree. Then you can tell them to agree to whatever the House may think is just and right. Before any conference is had or any effort toward an agreement it is unparalleled to instruct the conferees to agree.

Mr. MILLS. I refer to the Manual.

The SPEAKER. The Chair has always doubted the propriety, in fact the power, to instruct, because it is an interference with the full and free conference of the two Houses. But the Chair admits there have been occasions when after various conferences the House has asserted the right to instruct its conferees.

Mr. ATKINS. That was after a failure to agree.

The SPEAKER. The Chair has stated that he thought it was after they had failed to agree.

Mr. MILLS. But the jurisdiction of this House must be the same at one time as another when the subject-matter is before it. As far as the power of the House is concerned, it is not lessened at the present time or increased at a future time.

The SPEAKER. The House can reject the report of the conference and order another.

Mr. MILLS. But the rules state the committee on conference may be instructed.

The SPEAKER. The Chair is aware that the Manual so states.

Mr. COX. The committee of conference is evidently the organ of the House. They represent the House in the conference, and if the House adopts an instruction to them they will carry it out. It does not disturb the fullness and freeness of their representing the House.

Mr. MILLS. We are only instructing our own conferees not to take less for our officers' salaries than the corresponding salaries allowed to employés of the Senate.

May I be permitted to consume the time of the House for a few minutes in this connection? The House has been engaged in an effort for a number of years to reduce the salaries both of the House and Senate officers. The Senate persistently refused to have the salaries of their officers reduced. The House has consented now for the last four or five years, I believe, to the Senate's retaining the salaries of their officers, while we have been willing and consented to allow the salaries of corresponding officers in the House to be lowered. That has been kept up with a hope when the partisan character of the Senate should change and correspond with the House that they would act in accord with the members of the House and bring about a general reduction of salaries, making them correspond in both branches of the National Legislature. But the democratic Senators have as persistently refused as did the republican Senators to allow a reduction.

Now, the House is presented with this question: Do we intend permanently to make the House employés performing the same character of work receive a less salary than the Senate employés, and thus place the House in the position of an inferior branch of the National Legislature? We must do that if we intend to pay either the members of the House themselves or the employés of the House less than is received by the corresponding officers or employés in the Senate.

Now, there is nothing that presents itself to the eyes of our people that so fixes the superiority or inferiority of official place as the amount of pay to which it is entitled, and this has been purposely fixed in the organization of the Government. Take the Supreme Court of the United States, for instance. We see its associate justices all on terms of perfect equality in rank and station, all receiving a salary of $10,000 per annum. But we see one man elevated as its presiding officer, who receives a salary of $10,500, a distinguishing mark of title or rank. We see the same system prevailing in every department of the Government. We see the President of the United States, the Vice-President, the Senators, all of the officers and employés of the Departments——

Mr. TOWNSHEND, of Illinois. And the Speaker of the House of Representatives.

Mr. MILLS. Yes, and the Speaker of the House of Representatives, who is elevated above his peers and receives an increase of salary, indicating an increase of rank, and appropriately so. Now we have come to a point when we must meet this question and decide at once whether the salaries of the officers in the two branches of the National Legislature are to be the same or not. Will we teach the American people that the House of Representatives, which in the origin of the Government was the strong branch of the National Legislature, the branch in which the great talents and ability of the Government rested for years—I say, shall we teach them by a law of this character that the popular prestige which surrounded the House and gave it its distinguishing characteristic is to be taken away from it, and that it is hereafter to be regarded as an inferior branch of the General Government? Are we to teach them that the Senate (by admitting this prerogative which it arrogates to itself and allowing it without question to retain this additional compensation for its employés) is to be regarded as the superior branch of the General Government? That is what the American people will assume if we take the course this appropriation bill provides. I think it is time to stop and fix the two branches of the Government upon a perfect equality.

The SPEAKER. The Chair thinks that the question is surrounded with difficulties as to whether the House should instruct its conferees at this time in the way indicated. The House has heretofore instructed its conferees after failure to agree; now it is proposed to anticipate any meeting and any action of the conferees on the appropriation bill by instructions.

The Chair wants to state another difficulty that arises in this case, and that is as to how far the conferees may go touching this question of the salaries of the officers of the two Houses. The Chair is advised that the House salaries are not now in controversy; that the Senate and House have agreed on the paragraph in relation to House salaries. The Chair thinks the House conferees might take the position by consent, and equitably do so, that the whole subject was before them for consideration. It is a matter, however, for the conferees themselves to determine, how far they can go. The salaries of the House officers, as far as the Chair is advised, have actually been agreed upon by the two Houses.

Mr. MILLS. I have no doubt of that. I have no doubt that the Senate will agree, and they always have done it, that the House may have its officers serve without pay if they want to.

The SPEAKER. The gentleman from Texas does not take up the point the Chair has just presented.

Mr. MILLS. And I think the Chair does not take up my point.

The SPEAKER. The point which the Chair presents is whether the conferees have any control at all over what has passed both Houses; in other words, whether they have the power to take up paragraphs in this bill on which the two Houses have agreed. The Chair does not propose to anticipate their action. The whole scope of this controversy warrants the judgment, the Chair thinks, that the conferees ought not to be instructed until they first have the opportunity of reconciling matters. The Chair will cause to be read from the Journal the action taken by the House under one of his own decisions.

The Clerk read as follows:

Mr. ATKINS, from the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House (H. R. No. 4104) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes, reported that the committee, after full and free conference, were unable to agree.

Mr. BEEBE submitted the following resolution and demanded the previous question thereon, namely:

"*Resolved*, It is the opinion of this House that its conferees on the legislative, executive, and judicial appropriation bill should under the circumstances yield to the conferees on the part of the Senate the claim of the Senate in said bill as to the compensation of its own officers and employés."

The previous question was seconded and the main question ordered; and being put, namely:

Will the House agree to the said resolution?

And it was decided in the affirmative—yeas 116, nays 92, not voting 83.

The SPEAKER. The House will observe this instruction was not given until the fact was reported to the House that the conferees of the House could not agree with the conferees of the Senate. The Chair thinks there ought in some way to be an equitable adjustment, and thinks in all probability the conferees on the part of the House and on the part of the Senate might by consent take up the subject of the salaries. But technically the Chair would not agree that clauses relating to the salaries of officers of the Government on which both Houses have agreed as to amount can be considered by the conferees and changed, because the exercise of such a power might be carried to a vicious extent and lead to abuse. The Chair supposes the House would, by unanimous consent, permit the conferees in this case to deal with the entire subject of salaries of the officers of the two Houses.

Mr. BLOUNT. I desire to say a word on this matter. It does seem to me that the suggestion made by the Speaker is a very grave one, namely, that so far as the salaries of employés of this House are concerned the two Houses have agreed upon that question. That is not a matter of difference between them. There is a difference as to the employés of the Senate. That I apprehend is the status of the question.

The SPEAKER. It seems to be.

Mr. BLOUNT. I know that with reference to conference committees the doctrine has been laid down by a gentleman eminent as a parliamentarian, [Mr. BLAINE,] and notably on one occasion, that it was not a right and proper thing for a conference committee to do to undertake to consider anything but the specific differences between the two Houses. If that is a correct position, then the only question of difference in this case would be, what the rates of salary of the Senate employés should be.

If it is true that the conferees are not permitted under the rules to consider anything except the immediate specific differences between the two Houses, then it does appear to me that it would be well for the House to relieve the House conferees from any trouble of that sort by instruction or permission to concur with the Senate conferees as to employés of this House. I do not think it will embarrass the conferees at all. I do not think it is proper to instruct the conference committee specifically, but I think it well to instruct them to the extent of directing them to consider the matter of salaries of the employés of the House in connection with the salaries of employés of the Senate.

The SPEAKER. The House will observe that if the conferees have a right to enter upon any part of the bill upon which the two Houses have agreed, they might enter upon the whole bill.

Mr. ATKINS. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ATKINS. The point I wish to suggest to the House and to the

Chair is this: Is not the whole question of the adjustment of the salaries of the employés of the two Houses at issue; and has it not been at issue between the two Houses? and is not that the question now between the two Houses? Even although the House may have fixed the salaries of its own employés and the Senate has concurred, the House also passed its judgment as to the salaries of the Senate; and it would be a little in the nature of sharp practice, of which I will not accuse the Senate of being guilty, to close down upon the House as to the salaries of the House employés and not leave the question open as to the salaries of the Senate employés. Now, such a ruling as the gentleman from Georgia [Mr. BLOUNT] has indicated would deprive the House of the opportunity of opening the question of the salaries of the House employés at all.

The SPEAKER. The gentleman should bear in mind this fact, that the House has fixed the salaries of its own employés, and the Senate has concurred in that action of the House.

Mr. ATKINS. Well.

The SPEAKER. So far as the House employés are concerned they are not now in controversy.

Mr. ATKINS. But is not the whole question of the adjustment of these salaries pending before the two Houses?

The SPEAKER. That will be a question for the conferees to determine, subject to the permission allowed them by the House.

Mr. ATKINS. I think, if I may be allowed to say so, that the conferees appointed by the House should take into consideration, with the conferees of the Senate, the whole question of the salaries of the two Houses of Congress.

Mr. SPRINGER. How can that be done?

Mr. ATKINS. I think it would be better not to trammel the conferees at this time with the resolution of the gentleman from Texas. It is true that we have been obliged to yield on this subject for three years past. But I say now, that when this bill shall be submitted to the conference, so far as I am concerned, I will not object, if it shall be found that the conferees of the two Houses disagree, that the gentleman from Texas shall then submit his proposition.

Mr. BLOUNT. Allow me to make a suggestion. There may be a difference of opinion as to whether or not there has been any sharp practice, because of the fact that the subject of the salaries of the House employés has been passed upon and concurred in by the Senate——

Mr. ATKINS. I do not accuse any one of sharp practice.

Mr. BLOUNT. I understand that; that was simply the gentleman's way of stating it. I do not care to embarrass the conferees at all. I think there is a question as to whether the conferees can take up and consider the subject of the House employés again, the two Houses having agreed upon the provisions of the bill relating to them. I would therefore ask if there is any objection, in order to avoid that difficulty, to instructing the conferees on the part of the House to consider that subject?

Mr. TOWNSHEND, of Illinois. Let the resolution be adopted.

The SPEAKER. The Senate has not asked any conference upon anything, except that upon which there is a disagreement between the two Houses.

Mr. EWING. Allow me to inquire what is the question before the House?

The SPEAKER. The Chair does not understand whether the gentleman from Texas [Mr. MILLS] insists upon his resolution at this time or not.

Mr. EWING. I desire to be heard upon that resolution before a vote is taken.

Mr. SPRINGER. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. SPRINGER. My point of order is that this is not the time to consider that resolution. And I make the further point of order that the portion of the bill which the resolution proposes shall be open to consideration in the conference has already been settled by the action of the two Houses.

Mr. MILLS. Justice to myself requires me to say that when these amendments were reported back to the House from the Committee on Appropriations for action, I was standing by the gentleman from Tennessee [Mr. ATKINS] with this resolution in my hand, and I then understood, and I am satisfied this House understood, that the whole question of salaries which had been in dispute between the two Houses for three or four years past was left to the committee of conference.

Mr. ATKINS. That is my opinion as to the construction that was given.

The SPEAKER. The Chair thinks a wise way to settle this controversy would be by some agreement. But if the Chair is required to give a decision upon the technical rights of the committee of conference to change any clauses in the bill upon which the two Houses have united, and in regard to which there is no disagreement, then the Chair would say that a different question would be presented, and one which the Chair is ready to pass upon.

Mr. BLOUNT. I hope the gentleman from Texas [Mr. MILLS] will modify his resolution so as to authorize the committee of conference to consider the whole subject.

Mr. MILLS. In answer to the gentleman from Georgia [Mr. BLOUNT] I will say that a literal construction of my resolution does not contemplate a change of anything which has been agreed upon by the two Houses. Suppose that the Senate agrees to bring the salaries of its employés down to the amounts agreed upon by the House for the House employés, that would not be a change of any portion of the bill which has been agreed upon by the two Houses.

Mr. BLOUNT. I am not arguing the question at all. I merely ask that the proposition be agreed upon to allow the conferees to consider the whole subject of salaries of the employés of the two Houses, without giving them any instructions at all.

Mr. ATKINS. I think the gentleman from Texas will accomplish the end he desires to obtain by allowing the conference between the two Houses to be held, and then when the conferees submit their report he can offer his resolution.

Mr. TOWNSHEND, of Illinois. Will that be in order?

The SPEAKER. There have been instances where there was an inability on the part of the conferees to agree, when the the House has instructed its conferees; but the Chair thinks the House has never done so primarily, that is, before any report from the conference.

Mr. TOWNSHEND, of Illinois. Would it be in order for the gentleman from Texas to offer his proposition after the conferees had reported?

The SPEAKER. It is not now necessary that the Chair should decide that point.

Mr. TOWNSHEND, of Illinois. I would like the Chair to decide it.

The SPEAKER. There is already one point of order before the House.

Mr. SPARKS. Has a committee of conference ever been instructed until a report from the committee had been made?

The SPEAKER. The Chair does not recollect any such case, but there may have been such.

Mr. SPARKS. Ought not the conference first to meet? When there has been a failure to agree and that disagreement has been reported to the House, then, of course, we all concede the conferees can be instructed.

The SPEAKER. That, so far as the knowledge of the Chair extends, has generally been the practice.

Mr. TOWNSHEND, of Illinois. Then after they have reported we can instruct them?

Mr. SPARKS. Of course; everybody understands that.

Mr. BLOUNT. I desire to make a statement. The gentleman from Texas is willing to accept a modification of his proposition.

Mr. SPARKS. I object to that.

Mr. BLOUNT. Allow me to state it. The gentleman from Texas is willing to modify his proposition so as merely to authorize the committee of conference to consider the subject of the salaries of House employés in connection with the salaries of Senate employés. I make that proposition.

Mr. SPRINGER. I object.

Mr. EWING. Mr. Speaker, I have a word or two to say on the amendment last proposed. I have listened for twenty minutes with a good deal of astonishment to gentlemen who I believe generally want economy in the public service, yet who deliberately lay down or assent to the proposition that inasmuch as this House has been unable to obtain a reduction of salaries in the Senate, salaries which we believe to be excessive, therefore the dignity of the House demands that we shall place the salaries of our employés at the same excessive rates.

I am not disposed to cut down the pay of employés of the House. I think I would be among the most liberal on either side in acting upon such a question. But I protest that it does not add to the dignity of this House to increase the salaries of its employés beyond what we have deliberately declared over and over again to be fair compensation. On the contrary, I say it is unbecoming the dignity of the House, after it has been trying year after year to bring about a reduction of the salaries of the Senate employés, to now declare that in order to put ourselves upon an equally elevated plane with the Senate we will take back all that we have said or done in favor of economy in the current expenses of Congress, and forthwith increase enormously the pay of our own employés. That is poor talk; I hope it will not prevail. We can preserve our dignity by insisting on economy in both branches of Congress better than by turning spendthrift.

Mr. ATKINS. I desire to repudiate that construction of my position, if the gentleman intends his remarks for me.

Mr. MILLS. Would the gentleman from Ohio [Mr. EWING] be willing to accept less salary than Senators receive? If the Senate should place their salaries higher than members of the House, would the gentleman be willing to submit?

Mr. EWING. If I were an employé of the House——

Mr. MILLS. No, a member of the House.

Mr. EWING. Very well. I would have the pay of members of the House of Representatives fixed at a fair compensation, and if the Senate insisted upon fixing their pay at double what I considered a fair compensation, I would not be willing to go with them.

Mr. MILLS. Would you be willing that Senators should receive double the pay allowed to members of the House?

Mr. EWING. Of course not; but the democratic House, in 1875, reduced the pay of the House employés. The republican Senate refused to reduce the pay of the Senate employés. We have tried for years to equalize these compensations by having the Senate reduce what we believed to be the excesssive compensation of its employés. We have failed because the Senate has not taken the same view as

ourselves. Let the Senate, then, take the responsibility, and let us give to our House employés fair, full, and liberal compensation according to our own judgment of what their services are worth.

Mr. SPRINGER. I ask for a ruling on my point of order.

The SPEAKER. The gentleman from Illinois raises a point of order against the proposed instructions to the committee of conference. The gentleman will please state his point again.

Mr. SPRINGER. I make the point that before a disagreement a committee of conference cannot be instructed, because such instruction would prevent that "free and full conference" which is required by the rules. My second point is that the proposed instruction relates to a part of the bill which has already been agreed to between the two Houses, and is now beyond our reach.

Mr. BLOUNT. The motion of the gentleman from Texas [Mr. MILLS] has been modified so as to contain no instructions at all except simply that the committee of conference be authorized to consider the whole subject.

Mr. McMILLIN. But it is not modified.

Mr. BLOUNT. The gentleman accepts the modification.

The SPEAKER. The resolution will be again read.

Mr. TOWNSHEND, of Illinois. As modified.

The SPEAKER. There has been no modification of the resolution sent up to the Clerk's desk, as the Chair is informed.

Mr. MILLS. I accepted the modification.

Mr. SPARKS. Is it competent to instruct these conferees at all? It is proposed to instruct them in some way. Now, is it competent to instruct them at all?

The SPEAKER. The Chair does not like to decide a question which has not arisen. These conferees as yet have not even been appointed on the part of the House, and they have not entered, therefore, upon their duties, and consequently have not in any manner attempted to change or interfere with any provision of the bill which the two Houses have agreed to. The Chair cannot decide they have done wrong when they have not met. He is willing, however, to express his opinion, that it is not competent for a committee of conference to enter upon any other part of a bill except what is actually in controversy. Any other course might run to an abuse which would result in injury.

Mr. HAWK. I ask the Clerk to read the twenty-ninth rule, on page 17. I think it will throw some little light on the subject; possibly not directly, but by inference at least.

The SPEAKER. The Chair will cause the Clerk to read Rule XXIX.

The Clerk read as follows:

The presentation of reports of committees of conference shall always be in order, except when the Journal is being read, while the roll is being called, or the House is dividing on any proposition. And there shall accompany every such report a detailed statement sufficiently explicit to inform the House what effect such amendments or propositions will have upon the measures to which they relate.

The SPEAKER. That latter part of the rule read was perhaps intended to detect any instance in which conferees have changed the language of a bill where the two Houses have agreed on the exact language.

Mr. SINGLETON, of Mississippi. Mr. Speaker, I regard these questions of salaries of the employés of the two Houses as a unit, and whenever the Senate has thought proper to accept the question or to consider the question of salaries it has been with an amendment declaring they will accept what we have done provided we will allow them to change the salaries of the employés of the Senate in like manner. They have always taken it with an amendment, and, in my judgment, it leaves the whole matter open to be considered by the committee of conference when they shall meet. I do not regard the door as closed at all, and that is the ground I understand the chairman of the committee to take, to wit, that this has been accepted only with an amendment. It leaves it open to the action of both Houses to determine the salaries of the House and Senate.

The SPEAKER. They are entirely different paragraphs and in a different part of the bill and under different headings, one being under the heading of the "Senate" and the other under the heading of the "House."

Mr. SINGLETON, of Mississippi. Therefore when they undertake to say, "We will accept what you have done; we will take your bill if you will allow us to amend it in this respect, that we shall regulate the salaries of our own employés," I think we take it with that amendment.

Mr. PAGE. I understand the Chair sustains the point of order of the gentleman from Illinois, and consequently there is nothing before the House.

The SPEAKER. The Chair is not willing to suppose that a conference committee would alter the effect of a provision by a change of any language agreed to by both Houses.

Mr. PAGE. But the gentleman from Illinois made the point of order that this was not a matter in dispute between the two Houses.

The SPEAKER. The Chair states, if he were called upon to decide, he would decide that when a paragraph fixing the salary of a public officer was agreed to by both Houses it was not then in the power of a conference committee to change it. The very words of the message between the two Houses by which a conference is agreed to are that a conference is asked on "the disagreeing votes of the two Houses." Therefore, the conference being asked on "the disagreeing votes of the two Houses," nothing that the two Houses have agreed to can come under the jurisdiction of the conference committee. The paragraphs in reference to the salaries of the employés of the House have been agreed to by both Houses, and therefore they are not any part of the disagreeing votes of the two Houses on which the Senate have asked for a conference and which the House has granted.

Mr. HAYES. The gentleman, then, had better withdraw his resolution.

Mr. COX. I call for a vote.

Mr. GOODE. I wish to call up for action at this time the amendment of the Senate to the bill providing for the monument at Yorktown.

Mr. MILLS. What disposition has the Chair made of my resolution?

The SPEAKER. The Chair has only given his opinion. He has not presented any decision, as the point of order has not yet arisen. The Chair states distinctly that it is not in the power of a committee of conference to change any paragraph which has been agreed to by both Houses. The conference is on "the disagreeing votes of the two Houses," and that excludes of itself everything on which the two Houses have agreed. What has been agreed to cannot be changed.

Mr. MILLS. My resolution does not contemplate any such thing.

The SPEAKER. The Chair has not as yet ruled on the gentleman's resolution.

Mr. TOWNSHEND, of Illinois. Let the resolution be again read.

Mr. BAKER. There is one suggestion I wish to make. Suppose the committee of conference changed a salary as fixed by the House and agreed to by the Senate, is not that still a matter that the House can determine upon when the conference report is made?

The SPEAKER. That supposes the conference may exceed their power. If the conference did so the House could correct.

Mr. BAKER. In other words, is the whole subject to be left to the conference committee?

The SPEAKER. The Chair has stated that he does not wish to assume that the conferees would do anything under the rules they had not the power to do; but the Chair was asked by the gentleman from Illinois to give his opinion, which he gave, and he believes that opinion is in the direction of good and economical legislation; and the Chair further states that it is not in his opinion in the power of committees of conference to change what the two Houses have agreed to.

Mr. BLOUNT. Let the resolution be again read as modified.

The Clerk read as follows:

Resolved, That the House conferees are authorized to propose to the Senate conferees a modification of the salaries of the House employés in connection with the differences in the salaries of the Senate employés.

Mr. ROBINSON. I make the point of order on that that it proposes to instruct the conferees to change what the two Houses have agreed to.

The SPEAKER. The Chair sustains the point of order.

The Chair will now appoint the conferees on the part of the House, and appoints Mr. ATKINS, Mr. CLYMER, and Mr. BAKER.

YORKTOWN CENTENNIAL CELEBRATION.

Mr. GOODE. I ask unanimous consent to take from the Speaker's table the bill (H. R. No. 3966) in reference to the Yorktown celebration, to carry into effect a resolution of Congress adopted on the 29th day of October, 1781, in regard to the monumental column at Yorktown, Virginia, and for other purposes, with a view to concurring in the Senate amendments thereto.

The SPEAKER. The Senate amendments will be read, there being no objection to the request of the gentleman from Virginia.

The Clerk read as follows:

In line 8 of section 2, after the word "Speaker," insert the words "of the House of Representatives."

After "79," in line 9 of section 2, insert "and for thirteen Senators, to be appointed by the presiding officer of the Senate."

In line 6, after the word "said," insert "joint;" and in line 16, after the word "said," insert "joint."

Mr. GOODE. I move to concur in the Senate amendments.

The Senate amendments were concurred in.

Mr. GOODE moved to reconsider the vote by which the Senate amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE TO PRINT.

On motion of Mr. MORSE, by unanimous consent, leave was granted to Mr. BOWMAN to print remarks on the reciprocity bill. [See Appendix.]

By unanimous consent, leave was granted to Mr. PHILIPS to print remarks upon the pending appropriation bill and the tariff bill. [See Appendix.]

By unanimous consent, leave was granted to Mr. KING to print remarks on the Mississippi River improvements. [See Appendix.]

MINT CAPACITY AND ADDITIONAL ASSAY OFFICES.

Mr. STEPHENS, from the Committee on Coinage, Weights, and Measures, submitted a report in reference to increasing the mint power of the United States by the establishment of a branch mint in the valley of the Mississippi, the enlargement of the Mint in Philadelphia, and the establishment of three assay offices; which, with

accompanying papers, was ordered to be printed for the use and information of the House of Representatives.

IMPROVEMENT OF THE RED AND OUACHITA RIVERS.

Mr. KING, by unanimous consent, submitted a resolution providing for the appointment of a select committee of five to investigate the expenditures of appropriations on the Red and Ouachita Rivers for the last ten years; which was referred to the Committee on Commerce.

ETHNOLOGICAL REPORT.

Mr. KING also, by unanimous consent, submitted a resolution providing for the printing of 15,000 copies of the annual report of the Director of the Bureau of Ethnology of the Smithsonian Institution; which was referred to the Committee on Printing.

IMPROVEMENTS AT THE MOUTH OF THE RED RIVER.

Mr. KING also, by unanimous consent, introduced a bill (H. R. No. 6361) to authorize the Secretary of War to enter into contract with certain citizens of the State of Louisiana to open and keep open the mouth of the Red River, in Louisiana, for a period of five years, at an expenditure of $95,000; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

WILLIAM G. COLEMAN.

Mr. KING also, by unanimous consent, introduced a bill (H. R. No. 6362) granting a pension to William G. Coleman; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ROBERT CARTER.

Mr. KING also, by unanimous consent, introduced a bill (H. R. No. 6363) for the relief of Robert Carter; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

DAVID SINGLETON.

Mr. KING also, by unanimous consent, introduced a bill (H. R. No. 6364) for the relief of David Singleton; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

BRIDGE AT WARSAW, MISSOURI.

Mr. PHILIPS, by unanimous consent, introduced a bill (H. R. No. 6365) to provide for the construction of a bridge over the Osage River at Warsaw, Missouri; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

THOMAS MATTHEWS AND OTHERS.

Mr. PHILIPS also, by unanimous consent, introduced a bill (H. R. No. 6366) for the relief of Thomas Matthews, William Shepherd, George W. Matthews, James K. Donaldson, and James Poole, of Jackson County, Missouri; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

ENROLLED BILLS SIGNED.

Mr. WARD, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution of the following title; when the Speaker signed the same:

Joint resolution (H. R. No. 280) authorizing and empowering the Secretary of War to deliver arms and accouterments, ammunition and tents to the soldiers' reunion committee of the Northwest.

Mr. KENNA, from the same committee, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 5896) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1881, and for other purposes.

Mr. THOMPSON, of Iowa, from the same committee, reported that the committee had examined and found truly enrolled bills and a joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 966) to permit Elias C. Boudinot, of the Cherokee Nation, to sue in the Court of Claims;

An act (H. R. No. 5526) providing the times and places of holding the circuit court of the United States in the district of Iowa, and for other purposes; and

Joint resolution (H. R. No. 314) granting the use of artillery, muskets, and tents at the soldiers' reunion in Northeast Missouri.

WITHDRAWAL OF PAPERS.

On motion of Mr. WAIT, by unanimous consent, leave was given to withdraw from the files of the House papers in the case of Alexander C. Twining.

On motion of Mr. POEHLER, by unanimous consent, leave was given to withdraw from the files of the House papers in the case of Adolph Von Haacke, reported adversely in the Forty-fifth Congress.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. HULL, from the 3d instant to the 18th, inclusive, on account of business; and

To Mr. MARTIN, of West Virginia, for two days, on account of business.

MISSISSIPPI RIVER COMMISSION.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, recommending that the estimate for surveys and expenses of the Mississippi River commission be increased to $300,000; which was referred to the Committee on Appropriations.

Mr. BRAGG. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at five o'clock and fifteen minutes, p. m.) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. CALDWELL: The petition of citizens of Todd County, Kentucky, for the establishment of a post-route from Elkton to Oakdale and Guthrie, Kentucky—to the Committee on the Post-Office and Post-Roads.

By Mr. GEORGE Q. CANNON: The petition of O. P. Rockwell, for compensation for carrying United States mails from 1862 to 1866—to the Committee on Claims.

By Mr. CASWELL: The petition of John F. Smith, of Ironton, Wisconsin, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. CHITTENDEN: The petition of citizens of New York, for the passage of a bankrupt law—to the Committee on the Judiciary.

By Mr. DEERING: The petition of citizens of Iowa, for the passage of a law to prevent the accumulation of large amounts of the cereal products of the country for speculative purposes—to the Committee on Agriculture.

By Mr. DE LA MATYR: The petition of C. W. Brown and 36 others, for the passage of the Weaver soldier bill—to the Committee on Military Affairs.

By Mr. HARMER: The petition of citizens of Pennsylvania, that land titles be granted to Indians in severalty on their reservations—to the Committee on Indian Affairs.

By Mr. HISCOCK: The petition of William L. Huggins and others, against the passage of the sixty-surgeon pension bill—to the Committee on Invalid Pensions.

By Mr. HUMPHREY: The petition of E. Wakefield and others, citizens of Wisconsin, for the equalization of bounties—to the Committee on Military Affairs.

By Mr. PHISTER: The petition of A. Haws and 118 others, citizens of Lawrence County, Kentucky, that a pension be granted Morgan Martin—to the Committee on Invalid Pensions.

Also, the petition of H. Adams and others, citizens of Carter County, Kentucky, that a pension be granted Elender Adams—to the same committee.

By Mr. VAN VOORHIS: The petition of James McKenzie, on behalf of certain persons, for relief from special assessments on property in the District of Columbia, exhibiting cases of alleged confiscation—to the Committee on the District of Columbia.

Also, the petition of property-owners of the District of Columbia, for a suspension of the sale of private property in said District for non-payment of special assessments until it is known whether such special taxes amount to confiscation—to the same committee.

IN SENATE.

WEDNESDAY, *June* 2, 1880.

The Senate met at eleven o'clock a. m. Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the engineer secretary of the Light-House Board, recommending an increase of the appropriation over the estimates for the service on the Mississippi, Missouri, and Ohio Rivers for the ensuing year, with the indorsement of the Department; which was referred to the Committee on Appropriations, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting a letter from the Chief of Engineers and accompanying copy of a report of Major F. Harwood, of the Corps of Engineers, upon the resurvey of Clinton River, Michigan, made in compliance with the requirements of the river and harbor act of March 3, 1879; which was referred to the Committee on Commerce, and ordered to be printed.

PETITION.

Mr. GROOME presented a petition of residents of Baltimore County, Maryland, praying for the passage of a bill granting to the Indians titles in severalty to the lands on their reservations; which was referred to the Committee on Indian Affairs.

REPORTS OF COMMITTEES.

Mr. PADDOCK. The Committee on Public Lands have directed me to report favorably, with an amendment, the bill (S. No. 1804) to

provide for the reappraisement and sale of the buildings and grounds known as the Detroit arsenal, in the State of Michigan, and I ask its present consideration. It is a mere formal bill and will take no time.

Mr. BALDWIN. This is a public matter, a matter of no private interest, and it will take not more than one moment to pass the bill.

The PRESIDENT *pro tempore*. Is there unanimous consent for the present consideration of the bill?

Mr. COCKRELL. There is no quorum present. I shall not object whenever there is a quorum here. I am satisfied there is not a quorum. If there is a quorum I will not object.

The PRESIDENT *pro tempore*. That is in the nature of an objection.

Mr. COKE, from the Committee on Indian Affairs, to whom the subject was referred, reported a bill (S. No. 1812) to prevent depredations upon timber on Indian reservations; which was read twice by its title.

Mr. COKE. I am instructed to ask that the letter of the Secretary of the Interior addressed to myself, with the accompanying correspondence relating to this bill, be printed for the use of the Senate.

The PRESIDENT *pro tempore*. The papers will be printed.

Mr. HARRIS, from the Committee on Claims, to whom was referred the joint resolution (H. R. No. 255) for the relief of Robert L. Martin, reported it without amendment.

Mr. KIRKWOOD. A few days since the Senator from Massachusetts [Mr. DAWES] submitted a report in writing from the special committee to whom was referred the removal of the Ponca Indians from their former home in Dakota Territory to their present home in the Indian Territory. I unfortunately was not able to agree with the majority of the committee, and the Senator from Massachusetts at that time stated that the minority would submit their views separately. I do that this morning, and ask that the views of the minority be printed with the report of the majority.

The PRESIDENT *pro tempore*. That order will be made.

Mr. GROOME, from the Committee on Pensions, to whom was referred the petition of Margaret Longshaw, mother of William Longshaw, jr., praying for the passage of an act granting her a pension, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

Mr. MORRILL, from the Committee on Public Buildings and Grounds, to whom was referred the bill (S. No. 1636) to authorize the Secretary of the Treasury to purchase a site and to enlarge the present Government building in the city of Detroit, Michigan, or for the purchase of a site and the erection of a Government building in said city, reported it with amendments.

BILL INTRODUCED.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1813) for the relief of Mrs. Jane H. Kennedy; which was read twice by its title, and, with the accompanying affidavit, referred to the Committee on Pensions.

CONSULAR COURTS IN THE EAST.

Mr. PENDLETON. I offer a resolution, and as it is a resolution of instructions to a committee to make inquiry I ask for its immediate consideration.

The resolution was read, as follows:

Resolved, That the Committee on the Judiciary be instructed to inquire, first, whether the sections of title 52, "foreign relations," of the Revised Statutes, from section 4084 to section 4128, both included, are, each and all of them, authorized by the Constitution of the United States; second, whether the administration of justice under the provisions of said sections and the decrees and regulations established thereto are in conformity with the provisions of the Constitution which were intended to secure the rights of person and property; and that said committee may report by bill or otherwise.

The PRESIDENT *pro tempore*. The Senator from Ohio asks unanimous consent for the present consideration of this resolution. Is there objection?

Mr. CAMERON, of Wisconsin. It may as well go over until we see what those sections are. I object.

The PRESIDENT *pro tempore*. Objection is made.

Mr. PENDLETON. I trust the gentleman will allow the present consideration of this resolution. I intended to ask the Senate to give me five minutes to explain the sections, which I desire shall be considered by the Judiciary Committee. They relate entirely to the consular courts which exist in the Asiatic and Egyptian countries. I may say that my attention was particularly called to the case by a telegraphic dispatch which has appeared in all the papers saying that a minister of the United States was exercising jurisdiction which it seems to me is very extensive, very extraordinary, if not entirely unwarranted. As the resolution only proposes that the Committee on the Judiciary of the Senate shall inquire into the constitutionality of those sections of the law I trust there will be no objection to its consideration.

Mr. CAMERON, of Wisconsin. I will waive my objection for the present if the Senator from Ohio desires to explain the resolution.

Mr. PENDLETON. I desire to occupy the attention of the Senate for a few moments.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the resolution? The Chair hears none, and it is before the Senate.

Mr. PENDLETON. The provisions of the Revised Statutes to which I have called attention relate to the consular courts existing in the Asiatic and eastern countries, and in order that there may be no misunderstanding of my meaning or of the provisions of the statutes I desire to read section 4083:

SEC. 4083. To carry into full effect the provisions of the treaties of the United States with China, Japan, Siam, Egypt, and Madagascar, respectively, the minister and the consuls of the United States, duly appointed to reside in each of those countries, shall, in addition to other powers and duties imposed upon them, respectively, by the provisions of such treaties, respectively, be invested with the judicial authority herein described, which shall appertain to the office of minister and consul, and be a part of the duties belonging thereto, wherein, and so far as, the same is allowed by treaty.

In order to show what is the criminal jurisdiction confided to these officers I read section 4084:

SEC. 4084. The officers mentioned in the preceding section are fully empowered to arraign and try, in the manner herein provided, all citizens of the United States charged with offenses against law, committed in such countries, respectively, and to sentence such offenders in the manner herein authorized; and each of them is authorized to issue all such processes as are suitable and necessary to carry this authority into execution.

The section conferring civil jurisdiction upon these officers is section 4085, in these words:

SEC. 4085. Such officers are also invested with all the judicial authority necessary to execute the provisions of such treaties, respectively, in regard to civil rights, whether of property or person; and they shall entertain jurisdiction in matters of contract, at the port where, or nearest to which, the contract was made, or at the port at which, or nearest to which, it was to be executed, and in all other matters, at the port where, or nearest to which, the cause of controversy arose, or at the port where, or nearest to which, the damage complained of was sustained, provided such port be one of the ports at which the United States are represented by consuls. Such jurisdiction shall embrace all controversies between citizens of the United States, or others, provided for by such treaties, respectively.

In order to show the means whereby the officers are to execute the jurisdiction and powers thus granted to them I read section 4086:

SEC. 4086. Jurisdiction in both criminal and civil matters shall, in all cases, be exercised and enforced in conformity with the laws of the United States, which are hereby, so far as is necessary to execute such treaties, respectively, and so far as they are suitable to carry the same into effect, extended over all citizens of the United States in those countries, and over all others to the extent that the terms of the treaties, respectively, justify or require. But in all cases where such laws are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies, the common law and the law of equity and admiralty shall be extended in like manner over such citizens and others in those countries; and if neither the common law, nor the law of equity or admiralty, nor the statutes of the United States, furnish appropriate and sufficient remedies, the ministers in those countries, respectively, shall, by decrees and regulations which shall have the force of law, supply such defects and deficiencies.

These sections, taken together, constitute an amazing grant of power to ministers and consuls in the countries to which they are accredited. They shall have power of conviction and punishment in criminal matters over citizens of the United States "charged with offenses against law." They shall have jurisdiction in civil matters over "all controversies between citizens of the United States or others" in regard to civil rights, whether of persons or property, whether of tort or contract. And in order to exercise these powers and jurisdiction they may apply the statutes of the United States, and if these are not sufficient the law of equity and admiralty, and if these do not suffice, the decrees and regulations which the ministers, *sua sponte*, of their own sweet will and pleasure, may adopt, and to which, by the words of the statute, the ministers may give the force and effect of law.

The limitations on the power thus granted are very slight. Punishment of all offenses not capital is by fine or imprisonment, or both, at the discretion of the officer trying the case, and the officer is enjoined to award punishment in proportion to the magnitude and aggravation of the offense. Punishment for insurrection against the Government or murder is death.

A consul sitting alone may impose a fine of $500 and imprisonment for ninety days. If the fine does not exceed $100 and the imprisonment does not exceed sixty days the judgment is final; otherwise an appeal is allowed to the minister. If, however, the consul chooses to take to himself associates on the trial, their judgment, if they are unanimous, imposing any fine or any term of imprisonment, is final.

In capital cases the consul must associate with himself not less than four persons, and if they concur in the sentence of death, and the minister approve, the sentence shall be executed. There is no appeal or writ of error, though the minister may, if he sees fit, submit the case to the President for his pardon.

In civil cases the consul sitting alone may render judgment in all cases where the demand does not exceed $500. If the demand exceeds $500 the consul must call in on the trial associates, not more than three nor less than two, and their judgment in any sum, if unanimous, is final.

In cases arising in China and Japan the provisions are somewhat, but not essentially, different. Appeals in certain civil and criminal cases may be had from the courts in China to the district court of California, but such appeal does not operate as a supersedeas, even in criminal cases, unless with the approval of the minister. This indeed is—

> Jedwood law,
> Whereby at morn they hang and draw,
> And sit in judgment after.

Mr. President, where does the Congress find authority for these extra-territorial courts and for this extension of its laws beyond the limits of the country? In order to extend the jurisdiction of the Government over the Territories or the District of Columbia or the

forts, arsenals, and dock-yards a special power was inserted in the Constitution. There is no express provision for courts or cases of this kind. The Constitution provides that when offenses "are not committed within any State the trial shall be at such place or places as the Congress may by law have directed." But, obviously, this referred to the crimes of piracies on the high seas and offenses against the laws of nations. I do not aver that the power of establishing these courts does not exist. Possibly such power may be claimed to arise under the law of nations. Possibly it may be claimed that such power inheres in every sovereignty *quoad* other sovereignties. But it is a little difficult to see how a government whose powers as to its own citizens are limited by a written constitution can derive from the law of nations or other extraneous source any power as to its citizens which the Constitution has denied or even not granted. I do not say that the power does not exist, but I do say that I have found no express authority for these courts. I think the power should be located and defined or that we should declare it does not exist.

But, Mr. President, assuming for the sake of argument that the power to organize these consular courts does exist, and that they may be vested with criminal and civil jurisdiction, is it not absolutely certain that they must observe the provisions of the Constitution which were intended to guard and protect the rights of the citizen? Can they be vested with a power over citizens abroad which cannot be conferred on the courts at home over citizens at home?

The Constitution provides that—

The trial of all crimes except in case of impeachment shall be by jury.

The fifth amendment provides that—

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger.

The sixth amendment provides that—

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district where the crime shall have been committed.

The seventh amendment provides that—

In suits at common law, where the value in controversy shall exceed $20, the right of trial by jury shall be preserved.

In these consular courts there is no grand jury, no presentment, no indictment, no petit jury. A consul sitting alone, or with associates, and a minister sitting alone assesses damages and arraigns, tries, convicts, sentences to fine and imprisonment and death. This cannot be constitutional. Whatever other power the Government may by expression or implication possess, it certainly does not possess the power to deprive its citizens who may happen to be abroad of those rights and immunities and safeguards of which the Constitution expressly declares the citizens shall never, anywhere, at any time be deprived, and of these the most valuable, the dearest is trial by jury. Even at this hour a minister sitting alone in Cairo, in Egypt, is trying a man for an offense punishable with death, and he arrogates to himself, and under these provisions of the statutes he is right, the power to try, convict, and execute that man without any power of review and reversal in any tribunal whatever and without any duty on his part to submit his proceedings even to the President of the United States.

I hope, sir, that the resolution will be adopted.

The resolution was agreed to.

ORDER OF BUSINESS.

Mr. RANSOM. May I inquire if the morning business is through with?

The PRESIDENT *pro tempore*. It is not yet through.

Mr. PADDOCK. I made a report from the Committee on Public Lands, which was laid aside on the objection that there was no quorum present. I should like to have it taken up.

The PRESIDENT *pro tempore*. The Senator from Nebraska asks unanimous consent to proceed to the consideration of the following bill——

Mr. RANSOM. The Senator from Nebraska knows what pain it gives me to object to any proposition from him, but when I was out of the Senate, unconsciously to him though, my friend from Ohio took up his matter or I should have objected to that. There was no quorum, either, when he got up his resolution. I must object and insist on the river and harbor bill to-day.

The PRESIDENT *pro tempore*. Resolutions are still in order.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House insisted upon its disagreement to certain amendments of the Senate to the bill (H. R. No. 6185) making appropriation for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, insisted upon its amendments to other amendments of the Senate, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. J. D. C. ATKINS of Tennessee, Mr. HIESTER CLYMER of Pennsylvania, and Mr. JOHN H. BAKER of Indiana, managers at the conference on the part of the House.

The message also announced that the House had concurred in the amendments of the Senate to the bill (H. R. No. 3966) to carry into effect the resolution of Congress adopted on the 29th day of October, 1781, in regard to the monumental column at Yorktown, Virginia, and for other purposes.

The message further announced that the House had passed the joint resolution (H. R. No. 213) regarding the printing and distribution of CONGRESSIONAL RECORDS to certain libraries; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore:*

A bill (H. R. No. 966) to permit Elias C. Boudinot, of the Cherokee Nation, to sue in the Court of Claims;

A bill (H. R. No. 5526) providing the times and places of holding the circuit court of the United States in the district of Iowa, and for other purposes;

A bill (H. R. No. 5896) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1881, and for other purposes;

A joint resolution (H. R. No. 280) authorizing and empowering the Secretary of War to deliver arms and accouterments, ammunition, and tents to the soldiers' reunion committee of the Northwest; and

A joint resolution (H. R. No. 314) granting the use of artillery, muskets, and tents at the soldiers' reunion in Northeast Missouri.

POSTAL CONTRACTS OF BENJAMIN HOLLADAY.

Mr. DAVIS, of West Virginia. I submit the following resolution of inquiry, and I ask for its present consideration:

Resolved, That the Postmaster-General be, and hereby is, directed to furnish to the Senate copies of any and all contracts entered into between the United States, and amount paid on each contract through the Postmaster-General, and Benjamin Holladay, and any and all firms and companies of which said Holladay was a member, from July 1, 1859, to January 1, 1866, for carrying the mails.

Mr. PADDOCK. I am constrained to object to that, after having been shut off from the consideration of my report.

The PRESIDENT *pro tempore*. The consideration of the resolution is objected to, and it will go on the Calendar.

HOUSE BILL REFERRED.

The joint resolution (H. R. No. 213) regarding the printing and distribution of CONGRESSIONAL RECORDS to certain libraries was read twice by its title, and referred to the Committee on Printing.

RIVER AND HARBOR BILL.

Several Senators addressed the Chair.

The PRESIDENT *pro tempore*. If there are no other resolutions the routine business of the morning hour is at an end.

Mr. RANSOM. I move that all prior orders be laid aside temporarily so that the river and harbor bill may be taken up.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from North Carolina.

Mr. MORGAN. I hope that the Senator from North Carolina will not compel us again to consume the morning hour in the consideration of this bill. We passed through the heat and burden of the day yesterday upon the bill, and must be now nearly ready to take a vote upon it.

There is a great deal of business on the Calendar that I think ought to have a chance at least to be called one time during the session. I have no personal interest in any bill on the Calendar, but there are a great many Senators here who have, and there are persons in the country who are really suffering for want of the attention of Congress to their bills. We shall have plenty of time to dispose of this bill to-day after the morning hour; and I have not heretofore observed that appropriation bills have been taken up in the morning hour and forced on the attention of the Senate, even those that provide for carrying on the ordinary operations of the Government. I think we should be allowed time to have the Calendar considered.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from North Carolina, to postpone all orders prior to the river and harbor bill.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Senator from North Carolina now moves that the Senate proceed to the consideration of the river and harbor bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes, the pending question being on the amendment proposed by Mr. BROWN, in section 1, line 93, after the word "improvement," to strike out "sixty-five" and insert "one hundred;" so as to make the clause read:

Improving harbor at Savannah and Savannah River, Georgia: continuing improvement, $100,000.

The PRESIDENT *pro tempore*. The yeas and nays have been ordered on the amendment. Is the Senate ready for the question?

Mr. KERNAN. Mr. President, I am very reluctant to take even five minutes' time, and I do it on this amendment because I think that Savannah is a meritorious harbor. I should be willing to do all that properly could be done to put it in good condition and keep it so; but I want to call the attention of the Senate to the bill now before us in order to see where we stand.

I have in my hand a list of the appropriations made for the year

ending June 30, 1870, and each year thereafter for rivers and harbors, prepared by a gentleman who was called away unexpectedly last night. I wish to state what these appropriations amount to and to ask the Senate whether it can afford to pass this bill as it is now in amount, and if it can be remedied what we should do to remedy it, so that the harbors that are important for the commerce of the country now shall be taken care of, so that the rivers that are really commercial rivers running to the sea shall have that done which ought to be done for the commerce of the country, and to inquire whether we cannot do that by a very largely reduced amount from this bill, and for the present at least leave internal rivers without appropriation unless there is some very special reason for some one or more of them to be improved.

As stated to me by a very accurate gentleman who prepared this statement—and I am sorry he is not here—for the year ending June 30, 1870, the appropriation was in round numbers $2,000,000; for the year 1871, $3,945,900; for the year 1872, $4,407,500; for the year 1873, $5,588,000. It will be observed that those three years, 1870, 1871, and 1872, were years of great apparent prosperity, and I have stated the amounts that were appropriated then. I have also stated that for 1873, which was a year of prosperity until September.

Mr. FERRY. The Senator must be mistaken; the year 1873 was the year of the panic.

Mr. KERNAN. The panic did not come until September. I am stating the appropriation made in 1872, for the year ending June 30, 1873. I say that was a prosperous year, and then the appropriation was only $5,588,000. For the year ending June 30, 1874, the appropriation was $6,102,900; for the year ending June 30, 1875, $5,218,000; for the year ending June 30, 1876, $6,643,517; for the year ending June 30, 1877, $5,015,000. It will be remembered that that year the appropriations as made by the Senate ran up, and the bill was sent back to the committee with the direction that they should report a bill not exceeding $5,000,000, and they reported one at $5,015,000.

Mr. RANSOM. What year was that?

Mr. KERNAN. The year ending June 30, 1877, the appropriation of 1876. In 1877 there was no appropriation for the year ending June 30, 1878, and I have never heard much complaint about that. For the year 1879, being the next year after the year when no appropriation had been made, the amount was $8,201,700. For this year, the year ending June 30, 1880, the appropriation was $7,846,600. The bill comes here now for eight millions six hundred and odd thousand dollars, and it has been increased, as I am informed, to about $9,000,000 already.

Mr. President, it seems to me that especially the Senators who are, politically speaking, said to be responsible for legislation here should do something to prevent this enormous expenditure of money.

Mr. FERRY. I should like to ask the Senator from New York if in his judgment he considers that it would be an excessive increase in the amounts that he has stated between 1879 and the proposed bill, taking into consideration the increased population and the increase of the interests of the country?

Mr. KERNAN. Not being on the committee, my information is not very accurate; but the information I get at home and here is that last year the appropriation was $3,000,000 more than the real commerce of the country and the good of it required. Seven million eight hundred and forty-six thousand six hundred dollars was a very enormous appropriation, in my judgment.

Mr. President, I am in favor of doing all that is necessary, all that the Federal Government should do, to promote and aid the commerce of the country; but I think any gentleman who will look over this bill will see—I speak it without blaming any one—that we are expending money on streams that are purely local and which should be left to the State. In the case of the Mohawk River in my State, the State of New York in 1792 incorporated a company and aided it to make a river which could be navigated from the Hudson clear up to Rome, over one hundred miles, with boats, by locks and dams. That was a State work, and it should have been a State work. We then supplemented that river by our State (which alone will do these things the wisest) building a canal from Buffalo to Albany; we built one from Oswego to the Erie Canal at Syracuse; we built one from Lake Champlain at Whitehall to Troy. All this was done by the State. Now, if we here enter upon a system of expending money to improve rivers and streams which are proper to be improved, but which should be done by the States, that are not in my view within the purview of the Federal Government, there cannot be got from the people after a few years money enough to fulfill the requirements of the engineers and the estimates they will make to do the work which we set them at.

I call attention this morning to these matters, because I ask Senators to reflect whether we can afford to pass a bill with nine millions in it or even eight millions. The amount should be reduced. We should in some manner provide for doing that work which is within the jurisdiction of the Federal Government and is not within the jurisdiction fairly of the States. Now and then an exceptional case may be presented; but let us put a stop to our proceeding, as the State Legislatures alone should proceed to improve the inland streams of the States. The people have been satisfied with much smaller appropriations in other years; they really were satisfied and gratified when the President assumed the authority of not expending the money—no complaint was made, but there was approbation; not that the people do not want the harbors and the mouths of rivers and great streams like the Mississippi and parts of the Ohio aided, but because they are dissatisfied with our appropriating money for streams that are really not within the fair jurisdiction of the Federal Government, and which, if they are to be improved, should be improved by the States themselves.

Mr. FERRY. I should like to call the attention of the Senator from New York to the fact that we on this side—at least I can speak for myself—have always been ready to vote to meet all the appropriations that the Senators from New York have asked for that great State, and I find by looking at the bill that over half a million dollars is appropriated for the State of New York, and we are gratified to do it. But for the Senator from New York to speak against a bill which covers so largely the interests of his State while it distributes to others at the same time is not really in good taste.

Mr. KERNAN. Responsible to my State, and always meaning to do what its intelligence deems best, I will not vote for this bill although the Senator says that it has half a million in it for New York. I voted against some of these other large bills, and always met the approval of the people, who said the bills ought to have been defeated. But that is not the way to argue this question, perhaps.

If there is anything in this bill that you do not think essential to the commerce of the country in its broad sense, strike it out, call attention to it and I will aid in striking it out. The large amount said to be in it for New York is for works like that at Hell Gate, for the Hudson River, for the harbors where the State has no jurisdiction, and where the Federal Government has jurisdiction to protect national commerce, or for harbors on the lakes, some large and some small. The latter are not essential to the commerce of my State as much as they are for the commerce of the West, which comes down Lake Superior and Lake Michigan and Lake Erie, and through the Welland Canal and Lake Ontario. That commerce seeks Oswego and other harbors on Lake Ontario. But my answer is, and I say it with all respect, and I am glad to have the question put, that I will scrutinize the appropriations for New York with a more rigid view to keep within what I think right than I will those for the States of other gentlemen.

Mr. FERRY. Will the Senator allow me just one minute? I think yesterday we, at the instance of the Senator himself, voted $20,000 more than the committee reported for one improvement in the State of New York. I am reminded by the remarks of the Senator of the fact that it seems to be the good fortune of the Senators from New York to get voted in all the appropriations for the State of New York during the pendency of the progress of the bill, and on the final passage the Senators vote against the bill, knowing that it is going to pass.

Mr. KERNAN. The remark is unworthy of my friend. I at the request of the member from that district introduced an amendment for an appropriation in relation to Little Sodus Bay and sent it to the committee; they were informed of the facts, and they put it in the bill, I sending it there. When it was under consideration I rose to read the report of the engineer in charge, Mr. McFarland, General Wright sending it here, showing that it was not estimated for because the report of the local engineer did not get here in time, and I read the facts. If gentlemen on the facts want to strike out that item, I shall not struggle. I persuaded no one to vote for it. I believe it to be within the purview of this bill. That is an important port; its commerce is growing. The railroads recently constructed from the coal-fields of Pennsylvania make it an important point, and the duties received there are running up.

Once before when I modestly, as I thought, urged that we were going too far, I was asked how much was appropriated for New York. I said then, and say now, if any gentleman will point out an appropriation in the bill for New York that is not for a harbor of importance to national commerce I will join in voting it out. I have not sat here refusing to try to stop amendments and then voting against the bill. I have every time I have voted against such a bill hoped we would reject it, to the end that we should put a stop to the very large and increasing expenditure on interior rivers.

As far as I know, the harbors provided for in this bill, the harbors on the sea-coast, and for aught I know on the lakes—certainly it is so as to those in my own State—are important to the commerce of the whole country. I entirely repudiate the idea that I do not deal fairly. I got up this morning when another gentleman meant to do this, and I meant to say something following him, to call the attention of the Senate that we ought to remedy this trouble now, so that we could all vote for this bill fairly, and not have it in amount so large.

I have said this because I myself desire to see proper appropriations, not in a spirit of how much goes to one State and how much to another. If some of the harbors in other States need three times what is necessary for a harbor in New York, let them have it. We must take care of the national commerce, the harbors of the country, the inlets and outlets of the trade of our people; but we ought to discriminate, and not appropriate money for inland streams of no considerable importance in reference to other than the mere commerce of a single State.

In the State that gentlemen are so ready to talk about we built water-ways for our commerce before the days of railroads all through the State at our own expense to take the commerce of our own people and of the people of other States through. True we charge tolls,

but there is a body of men who have always from the beginning striven to reduce the tolls so that they should be merely sufficient to keep the works which we built in repair. I do not object to every State fixing its own internal modes of tolls. There can be no objection to our doing it; and other people have paid only the same tolls as our own people have paid—not a cent more. We never made discrimination against the great volume of commerce which we welcome from Lake Erie into our State that it might go to the seaboard through it and be sold there or sent abroad.

I do not want to get into any dispute with gentlemen. I have made no invidious remark. I appeal to everybody to do, what if I know myself I will try to help do, reduce this bill to what it ought to be, and make the great reduction by taking off this bill what really should be State works.

Mr. HEREFORD. Mr. President, I am a little surprised at my friend from New York. He says that he will not vote for this bill with this amount in it; yet he has asked that the appropriations for the State of New York shall be increased.

Mr. KERNAN. No, sir; they have been decreased, $40,000 stricken out with my approval.

Mr. HEREFORD. One item alone was increased from $1,000 to $25,000.

Mr. KERNAN. And $40,000 stricken out.

Mr. HEREFORD. For the Harlem River improvement, which is to cost a million dollars, and they have $400,000 for that already unexpended. The Senator says he will not vote for this bill because it is too large, but he does not get up and say "strike out this from the State of New York."

Mr. KERNAN. These are national harbors.

Mr. HEREFORD. National! Mr. President, without intending to be offensive, I am tired of this talk about national works. Nothing in the idea of the gentleman is national unless it is a little river which happens to enter into a gulf or into a bay; in other words, there should be nothing in a river and harbor bill except it be the rivers of those States that are upon the coast. The Senator from New York must learn that that day has passed when the great East is to have all the appropriations. The mighty West, with its commerce, has grown up. He talks about the great commerce of certain localities. I have often heard it said by people of the North that we in the interior have no rivers and no streams. Why, sir, I hold before me a report made to this body by a committee, of which the present Secretary of the Treasury was a member. Senator CONKLING, of New York; Mr. WINDOM, the Senator from Minnesota; the Senator from Virginia, in my rear, [Mr. JOHNSTON;] my colleague, on my left, [Mr. DAVIS, of West Virginia,] and others, were upon that committee. That report shows that the Ohio River alone, that skirts my State and the States of Ohio, Indiana, and Kentucky, the single river Ohio alone has more commerce than all the foreign commerce of the United States. It has more commerce floating upon it than all the foreign commerce that goes out of New York and Boston and Baltimore and Philadelphia and New Orleans, all combined.

Mr. KERNAN. Will my friend allow me? I said expressly that we should appropriate for rivers like the Mississippi and the Ohio and some others.

Mr. HEREFORD. "Some parts of the Ohio," the Senator said.

Mr. KERNAN. I suppose the appropriations should be for improvements only where they are needed.

Mr. HEREFORD. This is the report of the Senate Committee on Transportation Routes to the Seaboard. It shows that the commerce of the Ohio River is $716,000,000 in one year, whereas the whole foreign commerce of the United States for the years 1872-'73 was only $663,000,000, fifty million dollars more upon the Ohio River alone than all the foreign commerce of the United States. Will it be said you must improve the Ohio River and not its tributaries? Take the Mississippi and other streams and their tributaries; what would the Mississippi be, what would the Ohio be, if it were not for the tributaries? Dry up the tributaries and you dry up the main streams. Cease to appropriate for the tributaries and the main streams are worthless. The people that are living in the great interior who desire their commerce increased desire that their rivers shall be improved.

The Senator from New York says nothing is national or comes within the purview of the Constitution of the United States unless it be some stream emptying into the Gulf or into the ocean. That is an old notion, coming to us from England, where they scarcely have a stream one hundred miles in length. The Supreme Court of the United States has said that that doctrine does not pertain to the United States. I could read any number of decisions. I read now from some authorities that I cited when the river and harbor bill was up before as to what the Supreme Court says as to those streams over which the Government of the United States has control, and with which the States have no right to interfere; and if the States cannot interfere, if the States cannot improve them without the consent of the General Government, then I hold that it is the duty of the General Government to improve them.

Here is what the court said in the case of Daniel Ball, the opinion rendered by Justice Field. I shall not read the whole opinion; I will read sufficient to point my remarks:

> And they constitute navigable waters of the United States—
>
> Not the navigable waters of the State, but the navigable waters of the United States—
>
> within the meaning of the acts of Congress, in contradistinction from the navigable waters of the States, when they form in their ordinary condition by themselves, or by uniting with other waters, a continued highway over which commerce is or may be carried on with other States or foreign countries in the customary modes in which such commerce is conducted by water.

In another decision which I have before me the court refer to the doctrine maintained in England, and say that the doctrine maintained there that rivers are not navigable streams unless they enter into the ocean does not obtain in this country of ours.

But furthermore the Senator asks are you going to appropriate $9,000,000 by this bill? Why, sir, here is a bill appropriating $9,000,000 for all the rivers and harbors in the United States. The Congress of the United States has appropriated about nine millions of money to erect one building alone in the city of New York. The original limit was $3,000,000. We hear no protest from the Senator from New York when an appropriation is asked to complete that building—more for one building in his city than is in the whole river and harbor bill to-day.

Mr. KERNAN. As a matter of justice the Senator will allow me to say that that building was commenced and occupied before I came into the Senate; and I appeal to Senators if I have not in my humble way been opposed to this mode of expending extravagantly the money of the people. My vote and my protest have been against it. Not a building has been commenced or a site purchased in the State of New York since I came into the Senate. Some were authorized before.

Mr. HEREFORD. The Senator says he is opposed to that way of putting up public buildings, but you have never seen his vote cast against the appropriations for the completion of that building; yet for that one building in his city there has been as much money expended as there is in this whole river and harbor bill for the entire United States. The Senator says it is a great outrage. Why did he not vote against the appropriation and stop it?

Mr. KERNAN. When you have a building occupied, and the committee report that there must be so much appropriated to finish it, of course I cannot vote against it.

Mr. HEREFORD. Again he says this is too much; $9,000,000 is a very extravagant appropriation. Let us go back a moment. I hold in my hand a work entitled History of Congress, Biographical and Political, volume 2, by Mr. H. G. Wheeler, in which he shows that in the year 1818 over $2,000,000 was appropriated for this purpose in one year when Mr. Madison was President, and he signed the bills, too. Gentlemen say these appropriations are undemocratic. Mr. Madison was then President and signed the various bills. In the year 1818 there was appropriated for like purposes $2,087,044.16, when we only had a population of nine million. To-day we have a population of fifty million. We have a population nearly six times as great as it was in the year 1818, when we appropriated over $2,000,000, and James Madison, President of the United States, signed the bills. Mr. President, I have read the principles of the democracy in vain if these measures are undemocratic. I undertake to say that the democratic party is the father of the internal-improvement system of the United States, as is shown by the bills signed by the various Presidents of the United States. I shall not take the time of this body this morning to read them over. I will only state a few, and very few. For instance, in 1836 there was a bill improving Pamlico River below Washington, North Carolina, signed by President Jackson; a bill for improving New River, the same river that is in this bill to-day, signed by President Jackson. That was in the year 1836 also. Here is another for deepening the channel through the Pass-au-Heron, Alabama, signed by John Quincy Adams; one improving the navigation of Red River, Louisiana, $20,000, in 1832, signed by President Jackson; one improving the navigation of the Cumberland River, Kentucky and Tennessee—a like provision is in this bill—signed by President Jackson. In 1832 $20,000 was appropriated for that improvement, signed by Jackson; in 1834 $30,000, signed by Jackson; in 1836 $20,000, signed by Jackson; in 1837 $65,000, signed by President Jackson. An appropriation for the Cumberland road in Indiana was signed by President Jackson. Eight times did a bill for the Cumberland road in Indiana receive the approbation of President Jackson by the signing of the bill. Then a bill for improving the navigation of Conneaut Creek, in the State of Ohio, was signed by President Jackson, for which $6,135.35 was appropriated.

I could occupy the attention of the body for two hours reading similar appropriations signed by every democratic President of the United States from the first down to the last; and yet we are told they are undemocratic, unconstitutional. Here is the decision of the Supreme Court declaring what are navigable rivers, what rivers are within the jurisdiction of the United States, and if they are under the jurisdiction of the United States then the States have not the authority to improve them as they see fit, because if the Congress of the United States should decide that a certain improvement was an impediment to navigation Congress would have the power to take it out, and if these are navigable streams of the United States and if Congress has power over them it is the duty of Congress to improve them.

So I say, Mr. President, that this bill is not too large. These bills will continue to increase and there is no way in which the money of the people is spent more judiciously, more economically, and to do more good than in the improvement of these various rivers through-

out the United States; and certainly, as my friend from South Carolina [Mr. BUTLER] suggests, more honestly expended. It is by means of the improvement of these various rivers that the people of the United States are enabled to get away from under the control of the great railroad monopolies of the country, and can get their corn, lumber, flour, their bacon, their wheat, their potatoes down to the main streams and get them into market at a cheaper rate than they could if they were dependent on the railroad system alone. This appropriation is eminently the people's appropriation, eminently an appropriation in favor of the people of the interior, in favor of the farmers, in favor of the producers, and I say the bill is not too large. You expend as much on one building alone, as I said a moment ago. It is not too much. I expect it to go on in its increases, and similar appropriations have been made from the foundation of the Government to the present time; similar appropriation bills have been signed by every democratic President from the foundation of this Government to the present day.

Mr. HILL, of Georgia. Mr. President, the Senate will bear me witness that I never discuss any question in the world when I get up here except the question before the body. The only question before the Senate now is whether the amendment offered by my colleague should be adopted, and that ought to be determined solely on its own merits.

After the very able presentation of the reasons given by my colleague yesterday, it is scarcely necessary for me to state the reasons for the amendment, because I notice that every man who has addressed the Senate since the able argument of my colleague has admitted that the port of Savannah ought to have this money. No man has controverted it. Even my excellent friend from Kentucky [Mr. BECK] has admitted it; the Senator from New York [Mr. KERNAN] this morning has admitted it, and I think both of them have intimated that they will vote for the amendment. That is all very well. I hope everybody will vote for it.

The only remark that has been made which indicates a purpose to vote against this particular amendment is based on objections to other features of the bill. If a Senator votes against a proper amendment, an amendment that ought to be made, because something else in the bill is not right, he does two wrongs. In the first place he fails to put an amendment on the bill that ought to be adopted; and in the second place he gives a reason for it which is not a good one; that is, that something else is wrong.

I hope Senators will simply confine themselves to the question whether this amendment ought to be adopted. It is certainly constitutional, it is certainly national. That is certainly a grand port. The whole West is becoming largely interested in that port. It is not an appropriation for the State of Georgia. It is an appropriation for every Western State and for every Southern State as well, for the commerce of the whole nation. On this subject I wish to read one remark made by the mayor of the city of Savannah in a letter addressed to my colleague in the House, Hon. JOHN C. NICHOLLS. He says:

The work to be done—

On the harbor of Savannah—

is all so connected with that which has been done recently that any failure of funds now would be a serious loss of time and money.

And that is the testimony of the engineers, and that is the united testimony of everybody acquainted with the facts, that the failure to give at least $100,000 now will render in a large measure useless the money which has been already expended on that work, because it will prevent the completion of certain operations, and if those operations are left incomplete they will largely be damaged and the result destroyed. This little increase of $35,000 is necessary to enable us to save what has already been done, so as to put the work in such a state of completion as to prevent the injury that would result by a failure to complete it. I hope, therefore, that everybody will vote for this amendment; and voting for this amendment, which is right in itself, and which everybody admits is right in itself, can furnish no reason for voting for some other amendment that would not be right in itself. I trust the Senate will not put themselves in that condition.

Now, the honorable committee say that if these appropriations are to be increased there is no telling where we shall end. That kind of argument should not be offered against an amendment right in itself. If that argument is worth anything, I would reply that the increase has already begun. Our honored Senator from Ohio [Mr. THURMAN] on his motion yesterday had an increase of $50,000 at one time. We only ask an increase of $35,000 for Savannah; that is all; and that is not only necessary in itself, necessary to complete the work, but it is necessary, as I say, also to save the value of the work already completed.

I say to these gentlemen who evince so much anxiety about the rivers that I hope they will vote for this amendment, for unquestionably this is an improvement that ought to be made, and they ought not to vote against this amendment because somebody makes remarks against certain appropriations for rivers, because the country will not tolerate the idea that its great harbors are to be neglected so that the money may be appropriated to rivers.

As to the great evil to which the Senator from New York alludes, I see but one remedy for it, and that is to adopt a system that requires each appropriation on this subject to be passed in a separate bill. This thing of having a thousand or five thousand rivers, harbors, creeks, and other things incorporated into one bill is very dangerous, I admit, and I do not see any remedy for it but to adopt some plan in the future that will require separate bills for each separate measure, and let each work stand on its own merits; or if you would, you might adopt an amendment to the Constitution empowering the President in approving an appropriation bill to approve of some appropriations and disapprove of others. That would work an effective remedy. That was a provision in what was called the confederate constitution, and it worked admirably, too.

Mr. MCMILLAN. The Senator from Georgia will permit me to say that there is an amendment before the Judiciary Committee at present on that subject.

Mr. HILL, of Georgia. I should be glad to vote at any time for a constitutional amendment giving the President the right to approve of some items in an appropriation bill and to disapprove of others.

Mr. MCMILLAN. I offered a resolution at the last session of Congress on that subject.

Mr. HILL, of Georgia. I know it worked well in the confederate congress. We had that provision in the confederate constitution.

Mr. ALLISON. It did not work very long.

Mr. HILL, of Georgia. But long enough to give proof of what it would do.

Mr. EATON. It is in many State constitutions.

Mr. HILL, of Georgia. It is now in my State constitution. There is another remedy, too, which is generally adopted by the States, that no bill of any character shall relate to more than one subject, and that subject shall be expressed in the title. Those are provisions which all the States are generally adopting, which I think wise in themselves.

I trust, Mr. President, that as this amendment is conceded on all hands to be a correct amendment, just in its merits, gentlemen will not give reasons outside of the amendment itself for voting against it, but let us all vote for it.

Mr. WITHERS. Mr. President, I wish to state that every argument which has been adduced by the Senator from Georgia in favor of increasing the appropriation made for the harbor of Savannah would apply *a fortiori* to an increase for the harbor of Norfolk. I want to call the attention of the Senators from Georgia to the fact that the appropriation which they have received by this bill for the harbor of Savannah is greater in proportion than that received by the harbor of Norfolk, where we have a United States navy-yard and where we have every reason to demand and expect from the Senate liberal appropriations for the protection and improvement of that harbor.

I call attention also to the fact that in no instance has one single appropriation which is made for the improvements in the State of Virginia been increased either by the committee or by the Senate beyond the point fixed by the House. I think possibly it is the only State of which that can be said.

Now, I admit fully that all the arguments in favor of the increase of this appropriation are sound and valid arguments; and yet I do not think it safe for the friends of this bill to vote for the amendment, because it will inevitably result in such an increase of the bill as will endanger its final passage, for we cannot refuse to other harbors of equal importance and where the reports of the engineers are equally strong an increase similar in proportion to that which is granted to this harbor if this amendment should prevail.

In regard to the harbor of Norfolk especially, it is exceptional in the character of the report of the engineer, exceptional in the fact that the estimates did not cut it down one dollar from the engineer's report, and that cannot be said except of very few other harbors in this bill.

I have now submitted very briefly the suggestion which I have thrown out to the consideration of those who are friendly to this bill, because there is no doubt that it is confronted by a great danger, that of being lost in consequence of the magnitude of the appropriations which it embodies.

Mr. BROWN. I wish to submit only one or two remarks before the vote is taken on my amendment. I admit there is much force in the suggestion that the appropriations in the bill are large, that the amounts are larger than have been appropriated for years. The country is growing, however, every year in population, importance, wealth, energy, and commerce; the influx of population from abroad is very large, and as population goes further west and the Territories are settled up we may expect that larger and larger appropriations will become necessary each year; but the wealth of the country will increase as the population increases, and it will be as easy to pay the amounts appropriated hereafter as it is to pay the amount asked for now. The simple fact that the amount is larger than in previous years is not a sufficient reason why we should not vote for it.

As I have already stated, the harbor of Savannah is one of national importance. It is not only one of national importance, but it is one where a very large section of the Union sends its productions out to market.

But there is another consideration in favor of it. At the end of the war we had no representatives here. And let me say to the Senator from Kentucky [Mr. BECK] that we are greatly obliged to him for the kindness he showed us in our distress. He then stood by us and our interests and was our representative to some extent, and he has

the gratitude and the affection of the people of Georgia on account of his stand at that period when we were not able to help ourselves. At that dark period the city of Savannah made large appropriations from her own treasury, issued her own bonds, and has almost bankrupted herself in the debt she incurred in dredging and cleaning out her own harbor. The military operations of the civil war had closed the harbor, and as we could not get appropriations from the General Government, and the State was not in a condition to help us at that time, Savannah herself stepped forward and did all in her power to open her own harbor to the commerce of the world. I think this is a consideration entitled to be weighed in the decision of this question. I am glad Charleston got the appropriation she did; I am glad Mobile got hers—one on each side of us—Charleston $170,000, Mobile $125,000. But Savannah is surely entitled to more than $65,000, and I do not think it is fair to limit her to that amount.

Taking into consideration all that is to be done and all that we need for the improvement of our coast, I respectfully ask Senators to waive the objection and vote for this amendment, which they admit ought to be made, and which they say they would be willing to make if it were not for the fact that it will increase the bill above the estimates of the committee. It is said there may be other amendments offered to the bill which ought not to be made. Are we not competent to decide between them? Are we not competent to say which ought to pass and which ought not to pass? I think every Senator on this floor will act upon his best judgment in such matters, and will vote for what he thinks right.

Why should not this amendment be adopted? Should my amendment of admitted merit be rejected because somebody else may offer an amendment that ought not to be made? I think not. I ask Senators to discriminate carefully in this matter, to vote for that which ought to be passed, and vote against that which ought not to be passed. If something else has actual merit besides the bill as reported by the committee, vote for it. If there is something offered that I do not think has merit in it I will not vote for it. I am aware of the great difficulty of attempting to pass an amendment over the opposition of the Committee on Commerce, who have the bill in charge. But the merits of this amendment are so obvious I trust the Senate will sustain it notwithstanding the opposition of the committee, for whose opinions I have the most profound respect. I deeply regret that I had no opportunity to carry this matter before the committee before they made their report. As I was not here at the time it is my misfortune, but not my fault.

Mr. MAXEY. Mr. President, I fully sympathize with the Senators from Georgia in their application for the increase of the appropriation for the harbor of Savannah; but I must bear in mind that there is danger of re-enacting the old fable of the dog that had the meat and left it to grasp at the shadow. If we make this bill too large we lose all that we have got in it, and the Senators from Georgia have enough in the bill now to run their work on until Congress meets again. Then, when Congress does meet again, it will be much more wise, in my judgment, for them, after having seen the Chief of Engineers, the War Department, and their local engineer, to come forward with their papers in such condition as to show the necessity for further appropriations for Savannah Harbor; and in that way they will save what they get now and they will then get a sufficient amount. That is the better policy, and I speak in their own interest.

I could have asked with great propriety for a very much larger increase for Galveston Harbor, which is the most important harbor today in our State. Three thousand miles of railway empty into that harbor and nearly a million bales of cotton go out of it annually. But I contented myself with getting less than the estimates call for; and the Chief of Engineers says in his estimates he could wisely and economically expend much more on that important work than the amount which he has estimated. Believing that it was best and wisest to make no amendment in the Senate, I have contented myself with what we have got. I think that would be wise on the part of the Senators from Georgia.

Mr. VOORHEES. Mr. President, the policy of appropriating money to improve rivers and harbors is not an open one. If it were, much that has been said might have been said with propriety; but as things are it might as well have been left unsaid.

As I propose to vote for the amendment offered by the Senator from Georgia, I have thought perhaps that it was best to say a few words prior to giving that vote, for I have found that whenever a vote is to be given which is likely afterward to be questioned the best way is to take time to give the explanation before the vote is cast.

I listened yesterday evening to the scolding we got from the Senator from Kentucky, [Mr. BECK,] and when what he said as to the action of the democratic party shall be quoted in Indiana this summer I shall have to say, as I have said heretofore, that it is a way he has of scolding now and then, but after all it passes away without leaving any dire or fearful consequences.

In regard to the lecture we have received from the Senator from New York, [Mr. KERNAN,] we all received it in a becoming spirit, knowing that we live in a new country and that he lives in one pretty well fixed up.

The Senator from Texas [Mr. MAXEY] quotes the fable of the dog that lost the piece of meat crossing a stream on a log; thinking the shadow was bigger he let go the piece in his mouth to grab at the shadow, and lost his dinner. There is another fable about the dog that got in the manger; he had a comfortable place on the hay, he staid there and would not let anybody in, and he would not let the ox have any hay, and I am afraid there are some dogs in the manger that have got their little fixings all to suit themselves and they do not want our friends in Georgia to come in. They want to come in and get shelter in that same place.

Now, Mr. President, my mind has undergone a considerable modification on the subject of these improvements. I voted against the first river and harbor bill that passed this body after I became a member, and I had more trouble in reconciling the people of my State to that vote against that bill than I think I ever shall have in reconciling them to a vote that I shall give for such a bill. I found then that the money expended in this way travels out in a thousand channels, from little rivulets into larger streams, into many communities and towns and harbors. This kind of legislation is more liked by the people than anything else. After all, they say, "This is our money, and if it comes back to us and does us good we would rather have it than to see large appropriations go somewhere out of our sight." It is about the only money that is appropriated out of the taxes gathered from them that the people find helps them. At this moment there are millions of people who will be directly and indirectly, immediately and remotely, in a thousand undefined and undefinable ways, helped and benefited by an appropriation of this kind.

Why, sir, the presiding officer of this body [Mr. THURMAN] yesterday from his place as a Senator on this floor urged us to complete the ice-harbor at the mouth of the Muskingum River, and I aided him in doing it by voice and vote. Doing that carries advantage, assistance, comfort, and satisfaction to the whole steamboat interest from Pittsburgh to New Orleans, for no boat knows whether it may not be caught in an ice-storm and have to take shelter at some point, and the news of provision for that shelter is to-day carried on the wings of the telegraph to every boatman, every owner of a steamboat in the western waters, and it is glad tidings to him.

The money thus appropriated, further, goes among the laboring people; it gives them employment; helps to build up trade, reviving standard channels of business. It goes to the laboring-man and pays him something and insures him employment.

The Senator from Kentucky yesterday warned us that we had promised to reduce taxation and appropriations, and he thought by the tone of the New York press that we had not done it. Very well; there is far too much money in the Treasury at this time. Our taxes have been too great. That is true. There is so much idle money lying there, lawful money, good money, the money of the fathers, silver money, that I understand the Secretary of the Treasury is asking an appropriation of $100,000 to build a crib to put it in, to build a house to store it away. Sir, I would take great pleasure—and I believe some Senator here desires to introduce an amendment on that subject—to give to the laboring people on the western rivers the benefit of the silver thus stored away. My economical friend from West Virginia would hardly go against anything in a river and harbor appropriation bill; and going a little further out to the streams in Kentucky, where the Senator from Kentucky says they have got but little, there along the Kentucky River and the Green River I venture to say a great many people of Kentucky might be found to accept some of this silver money in payment for their work in opening up those channels of navigation. I know I can speak for the people of Indiana. They would like to see this silver stream come pouring down their rivers that are authorized to be improved by this bill. Let us scatter this money out; and as has been said, and well said, it is really the only money ever authorized by appropriation bills that are passed in this Capitol that is honestly expended. I have never yet heard of a defalcation in the expenditure of money on your harbors or on the improvement of your rivers. Long as I have been in public life, either in the other House or here, I have never heard of an Army officer, an Army engineer, who had charge of public works being suspected of a misuse of the public funds intrusted to his care.

No, Mr. President, I am not at all alarmed in voting a liberal appropriation that goes out in a thousand ways and benefits everybody somewhat. The Senator from West Virginia [Mr. HEREFORD] made a powerful argument when he showed us that James Madison, certainly almost as much the father and founder of the democracy as Jefferson himself, had signed appropriations much larger at that time in proportion to our population than this bill is now for improvements of this kind.

As to the specific work under discussion, the Senator from Georgia [Mr. BROWN] last evening presented it so ably, so clearly, and so enticingly to my mind, for I learnt something from his talk, that I made up my mind then that, if for no other reason, as a compliment to that able Senator, I should vote for his proposition. I do not know that I shall vote for any other proposed amendment; I am inclined to think I shall not; but it does seem to me that the showing the Senator from Georgia made of the great interests converging at Savannah and its great importance as a shipping port, thoroughly justified him in asking that an exception be made in favor of the amendment which he offers.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Georgia, [Mr. BROWN,] upon which the yeas and nays have been ordered.

Mr. RANSOM. Mr. President, perhaps it is due to myself that I should say that for some years upon the Committee on Commerce it

has been my duty and my pleasure, a great duty as I conceive it and a still greater pleasure, to do whatever I could to have appropriations made for improvements all over the country, but especially in that part of it from which I come. I use the language of sincerity when I speak of the pain it gives me to suggest even opposition to the amendment proposed by the Senator from Georgia. It would be a great personal gratification to me to vote for it; but as chairman of the Committee on Commerce I cannot consent to it.

How should the Senate act if the deliberations and conclusions of a committee on a question of this character are to have any weight with them? The Senator from Virginia [Mr. WITHERS] has already said that the estimate for the harbor of Norfolk, Virginia, is double what we have voted for that harbor. The Senator from South Carolina [Mr. BUTLER] has stated to us that Charleston receives only one-third, under the amendment of the Senate committee, of what the estimate is, the estimate being for $500,000 and the Senate giving but $170,000. Yesterday evening the two Senators from Alabama made vigorous and able efforts to have the appropriation for Mobile Harbor increased, and the estimate there is much larger than that for Savannah. So with New Orleans, so with New York, so with all the other harbors in this country except, perhaps, the harbor of Baltimore.

Mr. President, if I could do so I would vote for this proposed increase. How can I do it? I did think of suggesting that it was a new light to the Senate to hear the Senator from Georgia [Mr. HILL] advocating an appropriation for the improvement of the harbor of Savannah; but that does not become me or him either, and he would not care for it if I were to say it.

The Senate Committee on Commerce adopted the appropriations for the State of Georgia exactly as they came from the House without amendment. It is not improper for me to say that at that time the distinguished predecessor of the Senator from Georgia who offers this amendment was on that committee. And now, sir, when the Senator from Virginia proposes an increase for the harbor of Norfolk, how can I, as chairman of the committee, resist it? When the Senator from South Carolina insists that Charleston shall go up, how can I resist that? When the Senator from Alabama shall induce some of us to move a reconsideration of his amendment for the harbor of Mobile, after this precedent shall have been set in the case of Georgia, how can the Committee on Commerce resist that? And then what becomes of the river and harbor bill? Gentlemen tell us it is already in excess of any such bill before. They tell us it is immensely large. There are suggestions from all sides of the Chamber about the excessive amounts given by it. It is a liberal bill. The committee, although trying to keep it down, have still been inspired with great liberality toward the different improvements of the country, and that is manifested here more eminently than in any other bill ever reported to this body or to the other House. If the door is opened here, will some gentleman tell me why that door shall be closed?

I appreciate the noble, generous sentiment of the Senator from Indiana, [Mr. VOORHEES.] He does his heart great credit, and perhaps in his situation I might have the same sentiments; but as the chairman of this commiteee how can I yield to this suggestion, doing justice to all the other improvements? How can I ask the Senate to reduce the appropriation for any other improvement if upon a question of feeling we open the door and put the bill at sea without any limit at all to the amount of appropriations in it? Sir, I cannot express the pleasure that it would give me to-day to vote for $500,000 for Savannah and to vote for $500,000 for Mobile. I hardly know how to express my own feelings when I have to resist an increase of appropriation for either harbor. As chairman of the committee I feel it to be my duty to do so. Senators may tell me that New York has received millions. I know it. The estimate for her is perhaps $1,000,000 or $1,200,000. The estimate for every other harbor we have not been able, except in the case of Baltimore and one or two others perhaps, to reach. I regret to have to say this, but I feel it my duty to say it.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Georgia, [Mr. BROWN,] to increase the appropriation for Savannah Harbor from $65,000 to $100,000, on which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. RANSOM, (when Mr. BOOTH's name was called.) I was requested by my colleague, [Mr. VANCE,] and by the Senator from California, [Mr. BOOTH,] to say that they are absent to-day as Visitors to the Naval Academy at Annapolis, and they are paired upon all questions before the body.

Mr. CALL, (when his name was called.) I am paired with the Senator from California, [Mr. FARLEY.] If he were present, I should vote "yea."

The roll-call was concluded.

Mr. DAVIS, of West Virginia. The Senator from Pennsylvania [Mr. WALLACE] was obliged to leave the city, owing to the death of a near relative, and he asked me to announce to the Senate that he would not be here to-day.

The result was announced—yeas 16, nays 28; as follows:

YEAS—16.

Allison,	Eaton,	Lamar,	Platt,
Brown,	Hampton,	McPherson,	Saunders,
Cockrell,	Hill of Georgia,	Morgan,	Thurman,
Davis of Illinois,	Ingalls,	Morrill,	Voorhees.

NAYS—28.

Anthony,	Davis of W. Va.,	Jones of Florida,	Rollins,
Bailey,	Ferry,	Kernan,	Slater,
Baldwin,	Groome,	McDonald,	Vest,
Beck,	Harris,	McMillan,	Walker,
Burnside,	Hereford,	Maxey,	Williams,
Cameron of Wis.,	Johnston,	Pryor,	Windom,
Coke,	Jonas,	Ransom,	Withers.

ABSENT—32.

Bayard,	Carpenter,	Hill of Colorado,	Plumb,
Blaine,	Conkling,	Hoar,	Randolph,
Blair,	Dawes,	Jones of Nevada,	Saulsbury,
Booth,	Edmunds,	Kellogg,	Sharon,
Bruce,	Farley,	Kirkwood,	Teller,
Butler,	Garland,	Logan,	Vance,
Call,	Grover,	Paddock,	Wallace,
Cameron of Pa.,	Hamlin,	Pendleton,	Whyte.

So the amendment was rejected.

Mr. SLATER. On page 27, section 1, line 640, after the word "sea," I move to insert:

Including the harbor at the mouth of the Columbia River.

This amendment does not increase any appropriation; it simply extends the scope of the appropriation.

Mr. RANSOM. I see no objection to that amendment.

The amendment was agreed to.

Mr. SLATER. On page 48, after line 201 of section 2, I move to insert:

Suislaw Bay, Oregon.

This does not increase any appropriation; it is simply an additional place to be examined and surveyed.

The PRESIDING OFFICER, (Mr. INGALLS in the chair.) The Chair is informed that amendments have already been offered at that line, and this should come in after those already agreed to.

Mr. SLATER. Very well.

The amendment was agreed to.

Mr. SLATER. After line 641 of section 1, page 27, I offer an amendment which is for an increase of appropriation, and to that I desire to ask the attention of the Senate for a few moments.

The PRESIDING OFFICER. The amendment will be reported.

The CHIEF CLERK. After line 641 of section 1, it is proposed to insert:

For continuing improvements at Coos Bay, Oregon, $30,000.

Mr. RANSOM. I ask the Senator from Oregon if that has been reported from any standing committee of the Senate?

Mr. SLATER. This is one of the amendments offered by me in the Senate and sent to the Committee on Commerce. It is estimated for and recommended.

Mr. RANSOM. It is estimated for, I understand?

Mr. SLATER. Yes, sir; on page 141 of the Book of Estimates:

Improving entrance to Coos Bay and Harbor, Oregon: continuing operations, $60,000.

The appropriation last year was $40,000. This bay is the most important bay between the mouth of the Columbia River and San Francisco. Its commerce is larger than any other. It is an important point for ship-building. Within the last ten years a very large number of vessels has been built there. The reason why the committee of the House, as I understand it, failed to include this item in the bill was because there appeared in the reports of the Department an appropriation of $40,000 standing to its credit, which was true enough, but it must be borne in mind that that being the first appropriation it was not available until after the 1st of July last, and that in consequence of that fact at the time of the report coming into the War Department in October the work had not progressed, and therefore it was not known what proportion had been expended. To cut this out this year will simply leave the works constructed by the expenditure of $40,000 to go into decay and loss.

I ask only $30,000, one-half of the amount recommended. I hope the Senate will grant me this favor. I have not been troublesome to the Senate, and this is certainly a meritorious work. It seems to me the Senate ought not to reject the amendment. I regret that the bill is so large, but I think each amendment should stand upon its own merits. If the Senate rejects this amendment it must understand that it says in effect that this work shall stop; that notwithstanding the last Senate had agreed that this work should be commenced and made an appropriation for it the Senate now says it must stand and be of no avail.

I trust the Senate will allow the amendment to be attached to the bill.

Mr. HEREFORD. At the request of the chairman, who has the bill in charge, I desire to say to the Senate that I hope the amendment will not be agreed to. I agree with the Senator from Oregon that this is a very meritorious work, but there are a great many equally meritorious works that have been recommended that do not and cannot get the full amount. If we were to go on in the same proportion this bill would be a great deal larger than it is. The Senator is certainly mistaken when he says that the first appropriation will be of no avail if this be not made. If any Senator will take the time to read the report on this subject, he will soon see that while a good deal more may be done by the amount asked for by the Senator, yet the amount already appropriated can be profitably expended.

The Senator will recognize the fact that the committee has acted very liberally with the State of Oregon. That State has already in this bill over $200,000. As the bill stands now, the State of Oregon has about $222,000 in it. As the Senator from North Carolina who has charge of the bill has so well said heretofore, we must stop somewhere. I do not agree with the Senator from Oregon in regretting that the bill is so large. The bill is a large bill, but not larger in proportion than we have had in former years; but I do hope that the bill will not be increased and that the Senate will stand by the committee. If those who have provisions in this bill for the improvement of their rivers and harbors want the bill carried out and want those rivers and harbors improved, they must stand by the committee and must stop this increase somewhere. There are plenty of Senators whose States have not been dealt with as well in proportion to the estimates as the State of Oregon, yet those Senators are not complaining. I hope the Senator from Oregon who has so ably represented his State in this bill—and his work is shown in the bill and it is an honor to his State that he has devoted so much to it—will withdraw the amendment. He cannot get all these improvements in one year. If he will not withdraw the amendment, I hope the Senate will vote down it and other amendments increasing the appropriations.

Mr. SLATER. I have not complained of the action of the committee. I am very well aware that the committee has had a laborious task on its hands, and I do not complain. They have done what in their judgment seemed to them to be correct and proper, yet I would not be doing my duty if I were to withdraw the amendment at the request of the Senator from West Virginia. I must be the judge of what is my duty, and not allow him to stake out the lines that I shall follow.

It is true that there is some $222,000 in this bill that is credited to Oregon. There is an appropriation, however, that ought not to be credited fully to Oregon. It is of that character that is much broader and affects a much wider scope of country than Oregon alone. I refer now to the Cascades of the Columbia, for which I shall ask an increase of the appropriation. I would not feel that I was doing my duty to my people if I did not do so.

The Senator from West Virginia has said that our amount is already large. I answer that is because our necessities are large. Our State is large and it is growing in importance each successive year. While the amount may be large as compared with that for some other States, it will be recollected by referring to the Book of Estimates that the estimates for the various improvements in Oregon are over $700,000. These are the recommendations made in the Book of Estimates, to wit: $500,000 for the canal at the Cascades of the Columbia; $150,000 for the Lower Columbia, for which the committee has given us $45,000, and for which I ask no increase; $50,000 for the Upper Willamette, for which the bill appropriates $12,000, and I ask no increase; $60,000 for Coos Bay, of which I only ask 50 per cent., and I think that is not an unreasonable amount. If the committee had given us anything at that point, perhaps I should have felt disposed to accept it; but as the committee has seen proper to ignore it entirely, I should not be doing justice to my State, I should not be a proper representative of Oregon, and particularly of this locality, which is a very important one, if I do not ask the Senate to give this amount of $30,000 for Coos Bay.

Mr. HEREFORD. If the Senator from Oregon has said all he desires to say, I move to lay the amendment on the table.

Mr. SLATER. I call for the yeas and nays.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. BURNSIDE. The Senator from Ohio [Mr. THURMAN] and the Senator from Rhode Island [Mr. ANTHONY] are paired on this question. The Senator from Ohio would vote "nay" and the Senator from Rhode Island would vote "yea."

The result was announced—yeas 29, nays 14; as follows:

YEAS—29.

Allison,	Davis of Illinois,	Jonas,	Ransom,
Baldwin,	Davis of W. Va.,	Kernan,	Rollins,
Bayard,	Dawes,	Kirkwood,	Walker,
Beck,	Ferry,	McMillan,	Windom,
Burnside,	Hampton,	Maxey,	Withers.
Butler,	Harris,	Morrill,	
Cameron of Wis.,	Hereford,	Platt,	
Coke,	Johnston,	Pryor,	

NAYS—14.

Bailey,	Groome,	Morgan,	Vest,
Call,	Hill of Georgia,	Pendleton,	Voorhees.
Cockrell,	Ingalls,	Saunders,	
Eaton,	McPherson,	Slater,	

ABSENT—33.

Anthony,	Edmunds,	Kellogg,	Teller,
Blaine,	Farley,	Lamar,	Thurman,
Blair,	Garland,	Logan,	Vance,
Booth,	Grover,	McDonald,	Wallace,
Brown,	Hamlin,	Paddock,	Whyte,
Bruce,	Hill of Colorado,	Plumb,	Williams.
Cameron of Pa.,	Hoar,	Randolph,	
Carpenter,	Jones of Florida,	Saulsbury,	
Conkling,	Jones of Nevada,	Sharon,	

So the amendment was laid on the table.

Mr. SLATER. I have another amendment that I desire to offer. In line 634 of section 1, page 27, after the word "hundred," I move to insert "and fifty;" so as to read:

Constructing canal around Cascades of Columbia River: continuing operations, $150,000.

This work is probably not less important than any work now in progress in the United States. If Senators will look at any time at a map of the United States, they will see that the passage of the Columbia through the Cascade Mountains is the only commercial route from the Central Pacific to British Columbia; it is the only place where the commerce of that whole interior country ever passes east or west, except to drive stock or something of that kind. One company, by the natural condition of the river in the way of obstructions and portages, sit there and control the navigation and take toll of every ton of freight and every passenger that goes up or down that river.

The importance of this improvement cannot be overestimated. It is estimated that it will cost when completed near $2,000,000. Two hundred and ninety thousand dollars have already been appropriated. The work is now in progress. Giving $100,000 per annum, every Senator can estimate how long it will be before the work can be completed. Last year, when the crop of wheat east of the Cascade Mountains was ready to be moved, this company which transports every pound of freight and every passenger that goes up and down this river were totally unable to meet the demands of commerce or to transport the freight that was needed to be transported during the period of moving the wheat crop of 1879. The coming year there will be two tons of wheat, or nearly that, to one there was last year, and in five years from the present time a capacity to move two thousand tons a day down that river will be needed to meet the requirements of transporting the wheat crop alone. All this is to pass through one company's hands, it is all to be tolled by one company, and every passenger is in a like situation. The engineers in charge recommend $500,000 this year for that work. The pitiful sum of $100,000 is allowed for it, a work that is national in its character, if there is a work of this kind that can be called national. I think that this improvement is not chargeable to Oregon alone, but is of as much interest almost to Washington Territory, to Northern Idaho, and even to Montana, as it is to Oregon.

I think this statement is all I need to make. I leave it to the judgment of the Senate whether or not this appropriation ought now to be increased. I want to leave it stand upon its merits—not to be rejected because there are $9,000,000 appropriated by the bill; not to be rejected because in that $9,000,000 there may be two or three million dollars appropriated for little trout streams or to make navigable streams where there never was more than a simple spring branch. This work is upon the second river in the United States, if it be not the first river, and it is one of the grandest rivers in the world.

Mr. MORGAN. I desire to ask the Senator from Oregon what length of navigable water there is in the Columbia River above the rapids?

Mr. SLATER. Three or four hundred miles.

Mr. McMILLAN. That is not without interruption, I understand.

Mr. SLATER. It is not all without interruption—of course not; but boats are now running to Eastern Washington, the whole length of Northern Oregon to Lewiston, in Eastern Idaho; how far up the other branch of the Columbia I do not know.

Mr. BALDWIN. I move to lay the amendment on the table.

The motion was agreed to.

Mr. ALLISON. On page 32, after line 756 of section 1, I wish to insert an amendment. I do not propose to increase the appropriation, but to authorize the Secretary of War in his discretion to use it a little differently from what is provided. I send the amendment to the desk.

The PRESIDING OFFICER. The amendment will be reported.

The CHIEF CLERK. After the word "dollars," in line 756, it is proposed to add:

Of which sum $5,000 may be used in the discretion of the Secretary of War in protecting the work done on said river at or near Sioux City, Iowa.

So as to read:

Survey of Missouri River, from its mouth to Sioux City, Iowa, $30,000, of which sum $5,000 may be used, &c.

Mr. RANSOM. I see no objection to that amendment. It does not add to the appropriation at all.

The amendment was agreed to.

Mr. SAUNDERS. A few days ago I gave notice of an amendment that I should propose to this bill. Inasmuch as it increases the appropriation, and I am aware now that it would not receive the favor of the Senate, I shall not trouble the Senate with offering the amendment in that shape, but will simply ask, at the end of section 2, to add:

The Missouri River at Niobrara, Nebraska.

The first part of the section reads:

That the Secretary of War is hereby directed, at his discretion, to cause examinations or surveys, or both, and estimates of cost of improvements proper, to be made at the following points, namely.

This will not increase the appropriation.

Mr. HEREFORD. I suggest to the Senator from Nebraska to let his amendment come in just before line 202; it will be more appropriate. It will then come in right after the other amendments.

Mr. SAUNDERS. Then I will let it come in at that point. I move to add before line 202 of section 2:

The Missouri River at Niobrara, Nebraska.

The amendment was agreed to.

Mr. COCKRELL. After line 121 of section 2 I move to insert:

Mississippi River at Louisiana, Missouri.

This is simply for a survey under the proper head.

The amendment was agreed to.

Mr. COCKRELL. While I am on the floor I will state that I submitted several amendments to the bill, one increasing the appropriation made for the Missouri River at or near Saint Joseph by the amount of $40,000. The Senator from Kansas, [Mr. PLUMB,] now absent, offered an amendment increasing the appropriation for the Missouri River at Kansas City and at Wyandotte. I also offered an amendment making an appropriation of $25,000 for the improvement of the Mississippi River at Louisiana, Missouri. I appeared before the Committee on Commerce, and I thought that I had persuaded them to increase the appropriations for Kansas City and Saint Jo, and left with that impression. I regret exceedingly that for some cause or other they seem to have changed their conclusions or to have forgotten what actually took place.

There was no regular survey of the river at Louisiana made for the purpose of determining the character and cost of the work, and the committee advised me that under their rules they could not make an appropriation where there had been no survey and no estimate. It is an important point on the river, and it is important to the people there and their interests that the landing should be protected.

Mr. President, in view of the action that the Senate has taken in regard to increasing different appropriations, I do not feel that I would be justified in consuming the time of the Senate by insisting upon a vote by the Senate upon each one of these amendments. I am satisfied that the amendments would not be agreed to in the Senate under the rule acted upon in the Senate. I regret that they have not been made. There was a great necessity for the increases at Kansas City and Saint Jo, and an absolute necessity for the appropriation at Louisiana. I believe there is no objection to the amendment ordering a survey of the Mississippi at Louisiana.

Mr. RANSOM. The committee agree to that.

The PRESIDING OFFICER. If there be no objection, the amendment will be considered agreed to. It is agreed to.

Mr. CALL. There are some merely formal amendments which I wish to offer now. I will state that they do not increase the appropriations, and they are merely intended to confine the appropriations to the particular plans and estimates reported by the Secretary of War. In line 397 of section 1, after the word "dollars," I move to add:

For deepening and improving the communication from the inland channel into the Saint John's River at such point as may be selected by the Chief Engineer and approved by the Secretary of War.

Mr. RANSOM. I have no objection to that amendment.

The amendment was agreed to.

Mr. CALL. In line 915 of section 1, after the word "dollars," I move to add:

According to the report of the Chief Engineer made to the Secretary of War and reported to this Congress.

Mr. RANSOM. I have no objection.

The amendment was agreed to.

Mr. CALL. I move to strike out lines 911 and 912 of section 1, in the following words:

Improving the entrance to Cumberland Sound, Florida and Georgia, $30,000.

And in lieu thereof to insert:

Improving the entrance to Cumberland Sound, between Amelia and Cumberland Island, in the States of Florida and Georgia, according to the plans and estimates of General Gillmore, the Chief Engineer, reported to this Congress, $50,000.

The PRESIDING OFFICER. Is there objection to this amendment?

Mr. RANSOM. Yes, sir; there is.

Mr. CALL. There is no objection except to the increase to $50,000.

Mr. RANSOM. There is no objection to it except to the increase of appropriation, and the Senator will withdraw that.

Mr. McMILLAN. Is this for a survey?

Mr. RANSOM. It is simply limiting the application of the appropriation.

The PRESIDING OFFICER. Is it the intention of the Senator from North Carolina that the appropriation of $30,000 shall stand?

Mr. RANSOM. Yes, sir.

The PRESIDING OFFICER. The Clerk will report the amendment as modified.

The Chief Clerk read as follows:

Improving the entrance to Cumberland Sound between Amelia and Cumberland Island, in the States of Florida and Georgia, according to the plans and estimates of General Gillmore, Chief Engineer, reported to this Congress, $30,000.

The amendment was agreed to.

Mr. MORGAN. After the word "named," in line 8 of section 1, I move to insert:

Provided, That the entire sum available under the first section of this act during the fiscal year ending June 30, 1881, shall not exceed $5,015,000, which sum shall be ratably apportioned by the Secretary of War to the works of improvement designated in the first section of this act in the proportion that the amount therein specified for each work of improvement shall bear to the sum of $5,015,000.

Mr. EATON. If my friend will suspend his remarks for one moment, under the apprehension that there may have been some misunderstanding as to what was the regular order of the day I desire now to make a motion to take up the bill that was under consideration, known as the tariff-commission bill, so that it may be the regular order of the day. I then will ask that it be laid aside informally so that this bill may be proceeded with.

The PRESIDING OFFICER. Is there objection to the suggestion made by the Senator from Connecticut?

Mr. RANSOM. There is no objection to that arrangement. It is very thoughtful on the part of the Senator from Connecticut.

TARIFF COMMISSION.

The PRESIDING OFFICER. The Senate resumes, as in Committee of the Whole, the consideration of the unfinished business, which is Senate bill No. 900.

Mr. EATON. I now ask that the bill be temporarily laid aside without prejudice, even if there should be an adjournment, and be the order of business after the river and harbor bill is disposed of.

The PRESIDING OFFICER. The Chair hears no objection. The bill being before the Senate, is temporarily laid aside to retain its place on the Calendar, not to be affected by an adjournment.

AMENDMENTS TO BILLS.

Mr. VOORHEES. I give notice that I shall at the proper time offer an amendment to the sundry civil appropriation bill. I move its reference to the Committee on Appropriations, together with the estimate made by the Secretary of the Interior asking for the proposed appropriation.

The motion was agreed to.

Mr. JONAS, Mr. VOORHEES, Mr. BURNSIDE, Mr. McDONALD, Mr. EATON, Mr. KERNAN, Mr. LAMAR, and Mr. COKE submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 6266) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes; which were referred to the Committee on Appropriations, and ordered to be printed.

Mr. DAVIS, of Illinois, submitted an amendment intended to be proposed by him to the bill (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and for prior years, and for those certified as due by the accounting officers of the Treasury, in accordance with section 4 of the act of June 14, 1878, heretofore paid from permanent appropriations, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

RIVER AND HARBOR BILL.

The PRESIDING OFFICER, (Mr. INGALLS.) The river and harbor bill is again before the Senate.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Alabama, [Mr. MORGAN.]

Mr. MORGAN. Mr. President, in offering this amendment it will be perceived by the friends of the bill that I am not trying to antagonize the measure. I am trying to bring the expenditure for the next fiscal year within what the administration of the Government has conceived to be the proper sum of money to be applied to this purpose. It was given out in the public newspapers at the time, and I dare say with entire correctness, that the Cabinet took into consideration every estimate of appropriations for the support of the Government, including that for internal improvements, and they brought the estimates down to as close a figure as the Government were satisfied they could get along with. I am not precisely advised as to the amount of money that is included in the various appropriation bills which have already been passed, nor, of course, can I conjecture very accurately the amount of money that may be necessary to be provided in the general deficiency bill that has not yet been reported, and one special deficiency bill, I think, that has not yet become a law; but it is evident, I believe, that the general appropriations for the year ending June 30, 1881, must very considerably exceed the appropriations for the current year.

I am also informed (but I am not able to give the Senate an accurate statement in regard to the figures on the subject) that a very large amount of money remains in the Treasury of the United States already appropriated for works of internal improvement not yet expended. Many of these works have been delayed from one cause or another, so that there is quite a considerable amount of money now remaining in the Treasury appropriated which has not been used, but will be available in future for the benefit of public works. That amount of money must reach several millions of dollars in the aggregate.

In the bill which is presented by the Committee on Commerce, as I count it, there are three hundred and fifty-three distinct propositions for public improvements to which appropriations are made, and one hundred and seventeen, increased to one hundred and thirty-five since the count was made, of projected improvements in reference to which surveys are ordered. These projected improvements are the pioneers, so to speak, of measures that are hereafter to come

before the Congress of the United States, and are to be subjected to the Secretary of War and the Secretary of the Treasury for their investigation in reference to future estimates of appropriations. At the rate we are increasing the subjects of appropriations we shall very soon run them up very far above the four hundred and seventy subjects now under consideration, and they probably will reach six or seven or eight hundred different subjects of public improvement, thereby opening the door to enormous appropriations.

Apprehension has been expressed on the floor of the Senate by the friends of this bill that it was getting to be entirely too heavy, that it was too large, and those apprehensions have been so earnestly stated here by the friends of the bill that they have voted down various amendments the entire propriety of which, in themselves, has been admitted on all hands. Senators who avow themselves in favor of almost unlimited appropriations, who believe that this is the best method of expending the public money, who believe that the people get more benefit from this line of appropriation than from any other and believe that the money expended under this bill is more honestly applied than any other, still proclaim against an increase of the amount of appropriations in the bill, they being apprehensive of what, Mr. President? Apprehensive that the people of the United States—the tax-payers—are not prepared at this moment of time to stand any heavier burden. That is the apprehension that is troubling Senators who have opposed the introduction into this bill of any additional appropriations.

I have no remark to make about such apprehensions or how sincerely they may be entertained. I give to every Senator on this floor due credit for patriotism in every vote that he has given and in every suggestion that he has made with regard to this internal-improvement bill. But yet it is an acknowledged fact that there is a state of alarm in the Senate to-day in reference to the enormous amount of money that is involved in this bill. I appreciate the necessity for that alarm, not merely in reference to its political bearings in the coming presidential canvass, but also in reference to the approbation the people of the United States are expected to give to this measure.

It has been suggested here that the silver in the Treasury should be drawn out and paid for these works of internal improvement. It has been further suggested that we have a large surplus of money in the Treasury of the United States. That is very true, and it is a surplus which I am gratified to say has been increasing regularly for several years past. The country is evidently growing richer so far as its revenues are concerned; but the people who contribute these revenues are not themselves growing rich. The Government is getting greater and grander; its coffers abound with gold and silver, so much so that the Secretary of the Treasury requires, as one Senator has remarked, that a crib should be built, a vault constructed, for the purpose of massing and holding that money. I do not discern that the people themselves, these laboring people, these agricultural people, these manufacturing people, the great masses of the country, are growing any richer because the Government is growing richer. On the contrary, inasmuch as the Government gets no money except from the pockets of the people, I can very well understand and comprehend how it is that while the Government grows richer the people continue to grow poorer. I do not think that a worse condition of affairs could exist financially in the United States than to have enormous masses of money dragged by taxation out of the pockets of the people to be treasured up in the Treasury of the United States, or to be expended upon pet measures that may happen to be popular with members of Congress.

I think my own State is an illustration. There we have about a million of population. We have two very large and very valuable works of internal improvement in that State: the bay of Mobile and the Muscle Shoals Canal, the latter not properly chargeable to the State of Alabama, but so assigned ordinarily because the shoals happen to be there about midway in a river that has several hundred miles of navigation, and that passes through one of the most splendid countries in the United States. It runs for about seven hundred miles north and pours its waters into the broad bosom and center of the great agricultural regions of the West.

Of the million of people in Alabama who are supposed to receive appropriations, or some assistance in the way of appropriations under this bill, there are probably not four thousand—no, sir, there are not three thousand in that entire State—who will ever receive personally any advantage from the appropriation. They pay the taxes, they raise the money; but when you come to divide the benefits of the appropriation among them there are not more, perhaps, than three thousand that will receive personally any actual benefit from the appropriation. Take the bay of Mobile for instance; take the property-owners in the city of Mobile; of course, their property is benefited by such an improvement as this; but they are only rendered, by this benefit conferred upon them, more able to pay taxes, whereas there are very many other persons, a large number of the people of my State, who have to contribute through tariffs and through internal revenue, through the payment of taxes on tobacco and on whisky and the payment of tariff duties on imported goods, to the aggregation of this large sum of money, who are only impoverished to the extent that the taxes are taken out of their pockets and are not benefited in any respect whatever, except perhaps by the general stimulus that may be afforded to commercial transactions and the interchange of products between the State and foreign countries.

So while I have a very patriotic disposition to do all that can be done for the advantage of international commerce, and I think an equally patriotic disposition to do all that I can for the benefit of interstate commerce, I must recollect all the time—I cannot get the impression off my mind—that the money we are using for these purposes is not made by the Government of the United States; it is not made by Congress; it is not earned by the officers of the United States Government or the officers of the State government; but this money comes from the hard toil of the people, from whom it is taken by the duties and taxation to which I have just referred. In dealing with this subject, I feel as if I was dealing with somebody else's money and not my own, and while I would draw upon that fund for the general benefit of the whole mass, I must ascertain to my own satisfaction that the people are to be benefited at large by the improvement before I can get my consent to vote for it. Here is the State of Kansas, which the honorable Senator now presiding [Mr. INGALLS] so well represents in the Senate, that gets not a dollar under this bill, and yet the people of Kansas are taxed to pay the money; so of Colorado; so of Nevada; and so of other States and parts of States. There is that immense northern boundary of the splendid, magnificent empire represented by my friend who sits in front of me from Texas. The people in the northern part of Texas I should think get only a small benefit from the improvement of Galveston Harbor or Corpus Christi.

Mr. MAXEY. Will the Senator permit me to interrupt him there?

Mr. MORGAN. Certainly.

Mr. MAXEY. To show that the people of Northern Texas, in the district in which I live, feel that the improvement of Galveston Harbor is a great State enterprise, benefiting the whole people of Texas, I may mention that the congressional district convention instructed its immediate Representative and requested all the other Representatives and Senators to vote in favor of the improvement of Galveston Harbor, because it is our outlet to the commerce of the world.

Mr. MORGAN. What did they do about the rivers in Texas? Did they pass a resolution to improve them? I understand perfectly well that the people of Kansas, the people of Colorado, the people of Nevada, the people of all the interior States are entirely willing to have money appropriated and appropriated liberally to improve the harbors and inlets at the sea.

Mr. BAYARD. Let me suggest to my friend from Alabama whether the advantage to the farmers in Kansas derived directly from the jetties at the mouth of the Mississippi River is not as palpable as though the improvement of the jetties were located in that State? In other words, where you take the great currents of trade, the great outlets and arteries of the nation's commerce, and improve them, do you not thereby benefit the whole productive power of the country and assist in the demonstration of the great problem of our own day, which is the distribution of excessive local production?

It seems to me in considering the outlays oftentimes made that it would be taking a very short-sighted view to suppose that the locality where the money is directly spent is the locality even immediately to be affected by the expenditure; and I was very much struck by the question of the honorable Senator from Alabama as to what interest the farmers of Kansas had in the improvement of these seaports and thoroughfares of commerce. It seems to me it is direct and immediate; and in that most wise expenditure that opened the mouth of the Mississippi River for transportation at all seasons and at all stages of the waters in that river of the products of the entire Mississippi Valley the farmers of Kansas and Nebraska were just as much benefited as were the planters of sugar on the borders of the Mississippi.

Mr. MORGAN. I hope Senators will not misunderstand me——

Mr. MAXEY. One word, if the Senator from Alabama will allow me.

Mr. MORGAN. Very well.

Mr. MAXEY. I want to add to the illustration made by the Senator from Delaware what the present presiding officer representing the State of Kansas [Mr. INGALLS] so well knows, that the foremost business men of the State of Kansas understand well and have had their delegations down at Galveston favoring the improvement of that harbor, because that is the direct air-line route to the commerce of the world of the State of Kansas; and thus that State is benefited by that improvement in like manner as Texas.

Mr. MORGAN. There can be no Senator on this floor who will vote more liberally than I will for the opening of every avenue of commerce to the seaboard where it can be considered as in any sense an international or interstate enterprise. But I was remarking upon the fact that in the expenditure of money I could not divest myself of the conviction that the money we were spending was money that was taxed out of the people of the United States at large, and that in the expenditure we should be very discreet and very just in trying to have it appropriated to those subjects which really do benefit the people at large. I do not deny that the people of Kansas have an interest in the jetties at the mouth of the Mississippi River. They have an equal interest, as I believe, in the lakes, and perhaps a greater one, because their enormous grain crops now, as I understand, take that direction and go chiefly in the direction of Saint Louis and Chicago, and from thence by rail or by the northern lake route to the seaboard. I regret very much indeed that not more of the commerce of Kansas and Colorado goes to New Orleans.

Mr. President, the Senator from Indiana, in the goodness and magnanimity of his heart, for he has a great and good heart and deals with his own as liberally as he does with that which belongs to other people, for which I respect and honor him, seems to have been suddenly impressed with an idea that it was very much better for the country that there should be a large expenditure of money for works of internal improvement, and that it was rather treating the people badly to crib, cabin, and confine their money in the Treasury of the United States, and the honorable Senator wanted to see the silver dollars wending themselves liberally along the avenues and streams of the country. That would be a beautiful as well as picturesque sight, particularly in my part of the country. I should prefer to have this money paid in silver, so far as I am concerned, to any other money you can name, but I cannot repress the question in my own mind whether, when we have this large amount of money to expend, to shove on a wheelbarrow about the country, we had not better commence paying the national debt. That is a burden that I want to see reduced. I would like to see that burden off the shoulders of the people, who have been taught and are being taught continually that they have the same interest in this country that a yoke of oxen have in the yoke; that is, to keep their heads out of it as much as possible for the sake of comfort and for the sake of enjoyment and prosperity. We forget whose Government this is; we forget who supplies the money to it; we forget to whom we are responsible when we make appropriations in money; we forget we have a stewardship here, and that we have a master to whom we have to account for all this.

I say, Mr. President, that instead of overburdening the people of the United States with the payment of the enormous taxes which are dragged out of them through internal-revenue laws and through unjust tariffs, when we find ourselves in the possession of a surplus in the Treasury our first duty ought to be to pay it on the public debt and reduce that burden on the people and let them have a chance to live. Why, sir, if we take an honest common laboring-man in this country, who is not considered intelligent in matters of finance and political economy, and should sit down with him and make him understand the amount of taxation which he has to pay to the Government of the United States in tariffs and internal-revenue collections, he would hardly credit the figures after you had proven them to his eyes. If we wish to contribute to the prosperity of this country, do not let us increase the burdens of the people. Every dollar of money that is taken out of the Treasury of the United States for the purpose of applying it to a work of internal improvement is so much money taken away from the people which should be applied to the extinguishment of the public debt. It is that amount of additional tax on them, because they have got the public debt and the interest on it to pay anyhow. No doubt about our taxing the money out of them to pay that. Yes, sir, we will tax everything, from the coffin to the quilt that covers their children in bed, in order to pay the public debt. I do not object to that, but I do object to losing sight of this important fact, that all the money we tax out of the people of the United States for the purpose of paying to works of internal improvement is literally a tax upon them, and reduces their ability to that extent to pay the public debt and to relieve themselves of the burden.

Understanding that, I am willing to be liberal about it, but I am not willing to be thriftless, extravagant, wild, and foolish about it. I am not willing to lay a tax upon the people of the United States, as we are doing here, at a time when the burdens of the Government are so heavy as they are to-day, for the purpose of contriving new inventions, not useful to the people in a general sense, but useful only to particular men and particular localities.

There is where the ground of my objection comes in to this bill. I want a bill to pass, but I want it to be a moderate bill; I want it to be a just bill; a bill just to the whole body of the people and not for the advantage of selected favorites in different parts of the country who have had the opportunity to have money expended among them because they have streams of water that run through their territories through which they are to be benefited, while the toiling masses of the country are thereby to be the losers.

I propose by the amendment which I have had the honor to offer to do two things; first, to bring the actual expenditure under this bill for the fiscal year ending June 30, 1881, within the estimates of the Government; and, second, to withhold from Mr. Hayes an opportunity of making his administration glorious in its wind-up by vetoing a bill like this. I do not say that in any spirit of disparagement or spite toward the Administration; yet I cannot help understanding that an Administration which has recommended $5,015,000 after due debate and consideration in the entire Cabinet as the amount of money that the people of the United States can afford to spend in the next fiscal year for works of internal improvement, finding that the bill is run up to between nine and ten millions would avail itself of the opportunity of admonishing Congress that they were wasteful and extravagant in the expenditure of the money of the people. This Cabinet met together, considered everything very maturely; they took all the public works on which reports had been made, all that had been recommended by the United States Engineer Corps into consideration; they considered every work; they had the engineers' estimates, which amounted to $14,000,000 and upward; and they reduced them for the purpose of bringing the expenditure of the Government in that department within the ability of the people so as not to increase the burden of the people, and they put down the amount that ought to be expended at $5,015,000.

Mr. President, I consider that a very liberal allowance. Other Senators may disagree with me about that. Some Senators have said that they would like to see the bill run up to $20,000,000. Well, sir, it is that class of Senators, I think, who are returning to the hive loaded with honey and not those who are going out to seek sustentation for an hour or two; it is that portion of the hive who have already loaded themselves with the richness of this sward and are flying back to the hive and feel happy who dreamily talk in this way; but the balance who are standing out do not feel quite so well, and the people who are to furnish the honey do not feel well at all. They feel as if they were being impoverished by this course, and they do not want $20,000,000 taxed upon them for the purpose of improving rivers and harbors throughout the United States.

The Administration concluded that $5,015,000 was all that the Government could afford to expend this fiscal year. I do not propose to recommit this bill and to require the committee under instructions to reduce the bill to $5,015,000. We have had the benefit of the labors of this honorable committee in the Senate and another like committee in the House of Representatives; we have had the vote of the House upon the bill, and they have determined that in their wisdom the measures mentioned in this bill, together with those placed in it by the amendments of the Senate, should receive a certain amount of money for the purpose of improving certain harbors and rivers and inlets, &c. I do not propose invidiously to discriminate in favor of one against another.

I do not say that the Kanawha River shall have its $15,000 stricken out or be reduced to five thousand. I do not say that North Carolina should give up $102,000 which were put on the bill in committee. I do not say that Texas should lose the $50,000 she got in the bill from the committee. I do not pretend to say that New York shall yield the $24,000 she got, or that Michigan shall yield that beautiful sum of money which is distributed around the whole peninsula of Michigan by the amendments of the committee—nothing of that kind. I do not make any invidious discrimination or find fault with gentlemen for either the ability or the capacity or the opportunity of serving their States in this patriotic manner; but what I propose is that during the next fiscal year not more than $5,015,000 of this appropriation shall be available. Five million and fifteen thousand dollars will not be spent during the next year under this bill by the Secretary of War. It is his duty, because the first section of the bill in the fifth and sixth lines provides that the money shall "be expended under the direction of the Secretary of War." Suppose the Secretary of War should refuse to expend one dollar in the bay of Mobile as he did refuse to expend a dollar in the bay of Mobile during the last year because he had not finally determined what the plan of improvement at that very important bay should be, how could I go upon him to compel him to make the expenditure? Could I impeach him for not making it after you have given him the discretion in the bill? Not by any means. Could I go to a court and ask for a writ of mandamus to him that he should proceed with the work? You would not find a court in the United States that had jurisdiction to take charge of the subject. So you leave it in the discretion, in your own bill, of the Secretary of War how he will expend the money. I propose now to put one further restriction upon him, and that is that he shall not spend in the next fiscal year for these works more than $5,015,000, that being the amount of the estimates which he said he wanted for these public works at the beginning of this session of Congress. That is what I want to do. I want to restrain him.

Now, what effect does that have upon these appropriations? None whatever, except that the amount available is reduced to $5,015,000; and before the close of the fiscal year, if we find that works have been neglected or are likely to be neglected, Congress will be in session during that fiscal year, and if we find a work is likely to be neglected for want of the application of more money out of this appropriation to it we have nothing to do then but to appropriate the sum needed to that particular work, and then we shall be making an appropriation to carry into effect the existing law.

I beg leave to remind the Senate again that when we pass the bill in the form in which it is now we establish by law that these are works of internal improvement to be conducted at public expense, and that so much money is due to them according to our judgment of the most economical and wise plan of conducting the improvements. That is all established by law when this bill is passed; but we say by my amendment these overburdened people are not able in one fiscal year to spend the amount of money that is required by the bill, but (at least the Government is responsible for that statement) they can spend $5,015,000 during the next fiscal year, and we will limit the Secretary of War to that sum in the expenditure of the money. There is no difficulty about that. If I find that the bay of Mobile, which will be cut down by the amendment I have offered here, or the Muscle Shoals Canal improvement needs more money, I have nothing to do but to bring the engineer's estimate before the Congress of the United States and say to them, "This amendment of the bill which reduced the amount of available money to be expended under it has cramped the work, and it is therefore only necessary that you should allow me to have a little more of the appropriation already fixed by law."

I do not see, Mr. President, how any Senator can object to this proposition, unless indeed it is meant to take the money out of the Treasury the moment the law passes. I find that the Senate of the United States, to say the least of it, is not divided by party lines on this question. I find there is neither a democratic principle nor a republican principle in this bill, but an amalgamation of both; and I must be allowed to say that I think it is an amalgamation of the very worst policies of both parties in this bill. When I shall ask a division of the Senate upon this amendment I shall find republicans voting against it and republicans voting for it, and so I shall find democrats voting for it and democrats voting against it; but, Mr. President, that will only prove that this appropriation bill is not a party measure; it will only prove that the democrats in the Senate are not willing to be held down by the Government estimates, and it will in like manner prove that the republicans also have no respect for the estimates of the President of the United States.

Sir, if we had a man in the presidential chair like old Andrew Jackson or like James K. Polk, and they enjoyed as much of my reverence in my old age as they did when I was a boy, I should feel extreme reluctance at voting $9,000,000 for public improvements when they said that $5,015,000 was all that the people were able to stand. It would take a very severe goad to push me on to a vote against a President of that sort and such Cabinets as they were surrounded by at the time they were in authority in this land. It does not seem to take much of a rope, however, even of gossamer thread, to lead the opposition—I mean by "the opposition" the republican side of the Senate—to disregard totally the estimates made by the President and his Cabinet. Here is the republican party in power; and the Cabinet after due consideration and serious debate, looking at the general interests of the country, trying to comprehend its entire welfare in this great subject of making appropriations for the support of the Government, say that the people can bear a burden of $5,015,000, and no more, for these works; and here are republicans, stalwart republicans, voting continually for $9,000,000 or even $10,000,000, and some of them lamenting that they have not got an opportunity to vote for $20,000,000. And yet, when they get into the canvass not more than a month hence, it will be hurled at the democratic party of the United States that, in the Senate, the democracy in charge of the Committee on Commerce actually brought in a bill here of about nine and a half millions, I believe it is, in place of the estimate of $5,015,000.

That committee have done right, Mr. President, in making these estimates for works that I believe, as I know they do, are important public improvements, and they each require this amount of money in order to facilitate the economical doing of the work; but the committee have not considered the other proposition, whether or not the people at large can bear a burden higher than $5,015,000. The Administration say they cannot do it. It is unjust to them to put a heavier burden upon them than that, and I propose to ask these Senators now to relieve the people of this burden, and not compel the expenditure of the money, at least until it has been demonstrated by experience that more of it is necessary than the Cabinet think is necessary. While Mr. Hayes and his Cabinet can teach the democratic party a lesson of harmony and economy in this matter, I feel hardly disposed to depart from it except in the direction of reducing it. I cannot give my consent unnecessarily and without some more compelling cause to increase an estimate by 100 per cent. or at least by 75 per cent. I must see a better reason for it; I must know that there is some public necessity for it; I must know that the general welfare of the people demand it, and not merely that it is agreeable to Senators or their constituents in different parts of the country. I hope that the republican party in this Senate will at least show respect enough for the Cabinet on this occasion not to force this bill upon the country unless it shall contain a clause something like that which I have introduced here for the purpose of limiting the expenditure of this money within the next fiscal year, that will remand the question back to Congress, and let them determine during the year whether there is any more money than that required for the execution of these public works.

Mr. BAYARD. Mr. President, a great deal of what has been said by the Senator from Alabama meets my concurrence, and before he had sought to address the Senate in support of the amendment he offered to this bill, I had proposed to suggest a restriction upon the amount to be expended during the coming fiscal year under the appropriations in the bill.

I regret that in the discussion of a measure of this importance the seats of the Senate should be so palpably vacant. The Senator from Alabama has not given one whit too much importance to the fact that we are dealing with vast sums of money, every dollar of which is the result of human toil, and that it is public money to be given only for public uses and public results, that we are trustees of power in the distribution of public revenues, and that we are held to or should be governed by a sense of the high discretion belonging to such a power, that is to dispose of the hard earnings of other people only for public uses.

Now, sir, this bill is in my judgment open to many criticisms. The first that occurs to me, and it is the chief one, is that the appropriation is in excessive proportions. The bill proceeds upon too large a scale of expenditure. I do not deny the usefulness of any or of every proposition in the bill. I do not say all are national, because I do not believe it; but that many are of a truly national character and will benefit every portion of this country I have not the least doubt; and I think it would be proved by an examination of the items that as to those great inland seas, those great highways of traffic that run for thousands of miles throughout the territory of the United States uniting the various States of the Union and tending to that free trade among them which is so essential for their strength, it is impossible to say that you shall make an expenditure for the improvement of such great arteries of communication without benefiting the entire body-politic. Others, again, are local and are too strictly local to merit the name of national appropriations. I do not hold that such appropriations are within the true spirit and intent of the Constitution of the United States, which places rivers and harbors under the control of Congress.

The principle on which this bill has been built up is a dangerous one in a popular government. We all witness and we all feel that it appeals too strongly to that spirit of local self-aggrandizement which scarcely permits independent action by a local representative, because of the fear lest his personal popularity may be affected by the exercise of his independent judgment upon each item which we are called upon to vote in a bill like this. It is made up of items; not only made up of items, but items which are separate and distinct. The bill is thoroughly articulated, no two items scarcely having a direct relation to each other, and therefore it is difficult for a man coming from a locality, or a section, or a State to resist the fact that the enlarging the appropriation of his own district will be peculiarly satisfactory to the local population of that district. It is that which makes it difficult to frame a bill of that kind by the vote of representatives even in a council chamber. The system, therefore, of what is known as log-rolling is inseparably connected with a measure constructed as this one is upon the separate demands of local representatives, each man being eager to gain the largest possible share of this public fund for the use of the locality whose interests he best understands and in whose welfare he is most warmly interested.

I say, then, in such a state of things, the principle upon which the appropriation is founded is of itself exceedingly dangerous and almost certainly liable to abuse; and although I do not propose to-day to offer a substitute for this kind of bill, I do not see how Congress can divest itself of the responsibility that accompanies its power over this subject by transferring it to any executive board and blindly following the recommendations they may give, but a bad law or a law based on a bad principle may yet be remedied by wise, by moderate, and by conservative administration. I think much of that can accompany this bill; and therefore I shall be glad to see the whole frame and scale of this bill submitted to a system of ratable diminution. I have suggested to the Senator from Alabama and he has assented to the incorporation of the word "ratable" in his amendment as to the expenditure of these moneys by the Secretary of War. It does not take from the ultimate appropriation or the ultimate expenditure which the wisdom or what passes for the wisdom of the Senate and House of Representatives had suggested as necessary for this purpose; it does not take from them the ultimate expenditure of one dollar; it simply provides for distributing the burden over the present as well as over future years with consideration to the convenience of the public; not that this sum of nine million and some odd hundred thousand dollars shall not be expended for the purposes designated by the bill, but that it shall all not be expended within the next twelve months, that it shall be expended at what would seem to be at the rate of something about 60 per cent. of these various sums during the next twelve months, leaving it to the succeeding session of Congress to finish the appropriation which we have proceeded with so far.

I do not suppose the time will ever come when there will be unanimity in Congress as to the direction of these various appropriations, and that you ever can suppose that such a bill will be voted on by any member of the Senate that shall not contain items which his judgment tells him ought not to be in it. It never will be otherwise; and we must take measures of this kind for better or for worse. There always will be expenditures which in the separate judgment of Senators will be improper.

Now, sir, it is not worth while for us at this stage to undertake to stop all appropriations for these national purposes, because others have crept in that do not deserve that name; but I hold that it would be a matter of wisdom to restrain the aggregate of the expenditure, because, as I said in opening my remarks, the bill palpably has outgrown its strength; the bill has become unwieldy and cumbersome. The bill appropriates more money to be expended during a single twelvemonth than it is convenient, economical, or proper that the people of this country should be called upon to pay. The scale of the bill is too large, and I shall vote with pleasure for this amendment of the Senator from Alabama, who proposes to diminish that scale and allow the judgment of the Senate as to the objects to be benefited by this bill to be retained, but a ratable diminution to follow upon all. That is justice and right; and I submit to the Senate it is wiser in every respect that we should at least temper this power and the defects that are inevitable to a bill created and constructed as this bill is upon the struggle of sections and of localities each to gain more than its share, or its full share as it may regard it, of these public benefits, that we should regulate them and temper them by moderate administration, by restraining the aggregate amount.

I have seen a great deal of money spent under public authority. I

mean by that that I have seen works erected by public authority; and appealing to the knowledge and the practical sense of every man who hears me, even where the money has been honestly expended, I would ask, does not everything done by the Government for itself cost at least three times what a private citizen could have it done for? Perhaps such things are unavoidable; perhaps in a Government like our own, so popular in form, what is everybody's business may turn out, according to the proverb, to be nobody's business, and that where the public Treasury bleeds no individual feels the draught. It may be that, but still the fact that it is so inclines me always to look critically at large sums appropriated for public expenditure except where the demand and the exigency is so great that promptness is required and none but the Government can deal properly with such subjects.

I recognize as fully as any man the growth of this country, the growth of the demand for commercial facilities. Works have been accomplished at public expense which to-day are bearing incalculable benefits to the entire country. I mentioned that great work, that wonderful piece of modern engineering and science in opening the mouth of the great river Mississippi. The results of such a work, if maintained according to present promise and to all reasonable hope, are magnificent and incalculable in their benefit, not simply to a State, but to the entire Union, and not simply to the entire Union, but you may say the benefits are world-wide. It is making food cheaper for this world that the Mississippi River can perform its great carrying functions to bring the vast crops of products of the wheat lands and the granary of this country and of the world into the use of mankind in general. That is a case in which money was expended. I am most happy to think that I gave by my vote in every case aid to such an undertaking. In some degree I have sustained also the appropriation of the vast sums which have been expended on the great channels about the city of New York. The sums have been large; but who shall say they have not been wisely expended in blowing up those vast reefs and rocks which obstructed the channel? Benefit has been done to every State, to every man in every State of this Union, for that is the great gateway of our foreign commerce. And so of other works locally visible to but a few, but the benefits of which extend like the dew of heaven over the entire land.

Then let me be understood in speaking of these excessive amounts and criticising this defective machinery by which the Government proceeds, we may go too far in condemning a bill of this kind; but while we are compelled perhaps for the present to retain this machinery of raising the money, let us curb it by limiting the aggregate of our expenditure. It is perfectly competent, it is perfectly just to compare each item of the expenditures of this bill with the aggregate, and to give it its ratable percentage of the sum so appropriated. The result of the distribution will fall equitably and equally upon all. If any man believing that a particular work which from his individual knowledge he thinks is essential should be supported, shall find its amount lessened, he will look to its neighbor and see that the same diminution has been applied there.

I hope I have made clear to the Senate the reasons why I consider that this bill should be restricted to the amount or something like the amount named by the honorable Senator from Alabama in his amendment. He proposes something over $5,000,000. In an amendment which I had drawn I had proposed that the sum should be six million and a half. The amount which was appropriated, exclusive of the Eads jetties, for the year 1879–'80 was $6,519,000. That was appropriated by a Congress controlled as to its two branches by variant parties, one party having control of the House, the other of the Senate, and the bill framed by them and agreed to by them, exclusive of the Eads jetties, appropriated the sum of $6,519,000. That was one year ago. I should be willing and am now willing to see that same amount expended, and expended ratably among all the objects for the improvement of which this bill contains appropriations. I do not know that the Senator from Alabama would desire to retain the amount as stated by him at $5,015,000 or whether he will allow it to be increased to the amount of six and a half millions.

Mr. MORGAN. I will say to the Senator from Delaware that I put the amount in my amendment at $5,015,000, because that was the amount estimated for by the Government, and I supposed that would be about as just an amount as could be fixed. I would suggest that as Congress will sit during the next fiscal year it will be quite possible for any Senator who finds that any work is falling behind to ask that the amount now appropriated shall be applied. Then the restriction can be removed and the Treasury be opened and the work continued, so as to allow the amount the bill fixes to be paid out. That is the proposition. I desire to keep in harmony with the Administration on this subject in order that we may hereafter not have it said in political circles that this was a political measure, or that any party was more responsible for it than another.

Mr. BAYARD. The amount I find of the appropriations for the year ending June 30, 1880, was $6,516,000.

Mr. MORGAN. The estimate for this year is $5,015,000.

Mr. BAYARD. I am not speaking of the estimates, but of the amount appropriated by the bill of last year. The Eads jetties were exceptional in their character, and they were considered separately. But the amount I think which I have stated is correct.

I would suggest to the honorable Senator one other consideration. While I think the estimates of the Department are certainly not only to be accepted but to have great influence in our legislation, yet it is obvious that the estimates of the Department can only apply to matters continuing under their charge. There must be original measures which the Department have not yet had committed to their care; and it therefore is not a safe guide to confine your appropriations to the items embraced in the estimates of the Department, because not only is our judgment an independent one and to be exercised upon our independent responsibility, but there are many items perfectly proper and right originating since the estimates were framed, and if we confine ourselves only to what was in existence a year ago we never make an advance at all.

Mr. MORGAN. The Senator will allow me to suggest that I understood no money had been appropriated in this bill by the committee except on surveys and estimates.

Mr. HEREFORD. They are not included in the Book of Estimates.

Mr. RANSOM. I am informed that there are in the table of estimates submitted to us but two estimates for new works and both very small; one is Susquehanna River, and the other for removing wrecks at the Delaware breakwater. Those are the only new works estimated for in the regular estimates.

Mr. BAYARD. The Delaware breakwater is one of the oldest works in the United States.

Mr. RANSOM. I know that. It is "new" now in the item of removal of wrecks; it figures here as a new work on that account.

Mr. BAYARD. That is an illustration of what I mean. Between the time the estimates are formed and the time Congress is called upon to make the appropriation exigencies may arise which require appropriations of which no mention can be found in the estimates. Therefore it will not do to accept the estimates of the Department as the be-all and the end-all of the subject on which we are to appropriate. Constantly new matters arise after the estimates have been formed; probably some things were not in existence at the time the estimates were formed of which Congress has knowledge and would be delinquent if they failed to remedy and make proper provision for.

I do not know whether the sum of six million and a half, which was appropriated for the year 1880, exceeded the estimates for the last year or not; I know that it does not exceed the amount of the appropriation of last year, and I am willing for one to make that the scale of our present expenditure, and if the Senator from Alabama has no objection I will move to amend his amendment by inserting the sum of six million and a half in lieu of the sum of $5,015,000, which his amendment contains, and I do it for the reasons which I have stated. If the Senator will accept it, I shall be glad.

Mr. MORGAN. I fixed the sum named in my amendment $5,015,000 because that is the estimate of the Administration, and I have a natural desire to preserve harmony between the executive and legislative departments. I prefer to have a vote taken on my proposition first, and then afterward we can vote on the other amendment.

Mr. BAYARD. If I move to amend the amendment, that comes first.

The PRESIDING OFFICER. The question would first be on the amendment offered by the Senator from Delaware.

Mr. VOORHEES. On the ground of the accord with the present Administration, as the Senator from Alabama thinks, it will no doubt be unanimously accepted here.

Mr. MORGAN. I am disposed to indorse the Administration as far as the Administration is worthy of being indorsed, and always in the line of economy I am entirely willing that the Administration shall have full credit for every economical suggestion it makes.

Mr. McDONALD. Mr. President, the subject of the bill under consideration is no new one in the legislation of this country. I have had very grave doubts whether I could support this bill or not on account of the amount involved in the appropriations it contains. That the Government of the United States has a right to make public improvements for the general good has never been questioned. That it has no right to enter into a system of internal improvement has not been insisted upon since the veto of the Maysville road bill by General Jackson.

There are many objects of appropriation in the bill now under consideration which I do not think are of national importance, although I have not been able to find any that I do not think national in character. The tendency to increase appropriations in bills of this kind has been well illustrated in what has been said by some of the Senators in recurring to the history of the past. It has become manifest I think to us all that we have not heretofore utilized our water communications to the extent that we might. I think it is quite apparent also that the utilization of that class of communication every year becomes more important and more apparent. It really presents the only mode of keeping down high rates of charges for transportation. It may be that the amount embraced in this bill is not more than is requisite to meet the proper improvements in the different works therein specified for this year.

I cannot support the amendment proposed by the Senator from Alabama for a very important reason, at least to me. That proposition is that there shall be a ratable reduction in the amount embraced in this bill so as to bring down the entire amount of the expenditures for the year to the exact sum estimated and contained in the Book of Estimates of the Secretary of the Treasury upon the tables of Senators. That sum aggregates according to that book $5,015,000. When

you come to look at the different items and compare them with the bill under consideration you will find that in most of the cases to which my attention has been called the sum appropriated in the bill is less than the amount contained in the estimates, and the excess that runs this bill up now to something like $9,000,000 is to be found in the expenditures for new works. In appropriations for works referred to in the Secretary's statement and report there has been no uniform rule observed by the committee or by the Senate in the consideration of this bill with reference to those estimates. In some instances the amounts contained in the estimates have been cut down less than one-fourth; in others the amounts appropriated come up almost to the estimates; and in some instances the appropriations exceed the estimates. If we make an amendment to this bill by which the entire $9,000,000, if that is the sum, is to be compressed into $5,015,000, and provide that this compression is to come off each of these appropriations ratably, it will appear to any one, I think, that in many instances appropriations that have been cut down very greatly below the estimates will be made to suffer for the benefit of those that have been placed up to the amount of the estimates or above them.

If I thought that by any further recommittal of this bill there could be a more equitable provision made in it for the appropriation of funds for the works most essential to the general welfare of the country I should be willing to vote for it; but I feel that the best we can do now, and it may not be a very good thing, is to sustain the bill as we have thus far perfected it, and I shall vote accordingly.

Mr. RANSOM. Mr. President, I had not designed to say anything on the river and harbor bill; it has been so often discussed here that it is an old tale to the Senate; but a suggestion thrown out by the Senator from Delaware, [Mr. BAYARD,] to whom I always listen with respect, for I know that what he says ought to be considered, induces me to ask the Senate to bear with me a few moments on this bill.

In the first place, in consequence of the character of the debates in this body since I have been a member of it, and perhaps for years before that, a very serious misapprehension prevails in reference to river and harbor bills. They present a powerful illustration of the force of ridicule. I know in all history no better illustration of the force of that wonderful mental power called ridicule than the impression that has been made in the Senate and over the country by speeches made in this body. Take up a river and harbor bill of one hundred or five hundred items. After a minute investigation of that bill, going over it from the beginning to the end, there will be one, two, three, four, certainly not to exceed half a dozen, objectionable or questionable items, of very trifling amount, so trifling that in a pension bill or in a bill for a public building or in the sundry civil bill they would hardly be noticed. These items will be taken up by Senators and made the subject of grave objection and debate here. A little river in my own State, by the way a large stream, though it has been called a small one, has become actually proverbial in the country. Those items are spoken of as indicating the character of the bill, when they are the small and trifling exceptions to a bill of great good to the whole country.

Take up the present bill with its forty-odd pages. The present appropriations are over $8,000,000, nearly $9,000,000, and yet with all the hostility to that bill in this Chamber, with able Senators here who have constitutional convictions against the measure, with able Senators representing States that cannot possibly receive one dollar under the bill, brought under all the scrutiny of the Senate, and brought under all the scrutiny of the House, and brought still more under the scrutiny of the great press of this country, that hundred-eyed Argus that very properly watches our every action here and gives it to the world—under all this scrutiny there have not been found in this bill half a dozen objectionable items, and those items do not amount to $100,000 or $200,000. Still that small shadow on the mirror, that smirch upon the face of the bill raises a prejudice against it here, and gentlemen hesitate as to how they shall vote.

I have asked the gentleman acting as clerk for the committee, since this debate has been going on, to make me a hasty memorandum (I wish I had time to have had it made more complete) to illustrate the idea that I am just suggesting. I take three rivers appropriated for in this bill. Will my friend from Delaware, will the Senator from Alabama, will my distinguished friend, the Senator from Vermont, who has some eccentric ideas, if I may say so, upon this question, who is now in my eye, say that those improvements are not right? Here are the Mississippi, the Missouri, and the Ohio Rivers. They are the great channels of commerce through this country. They bear upon their bosoms the food, not to say the clothing, of almost half the world. There is appropriated to these three rivers $1,454,000. Is that too much? Will any Senator get up and say that he would strike one dollar from the appropriations to those streams?

Then I have a little statement here made by the kindness of the same clerk a moment ago, not full, by no means complete, simply culled from the bill as it lies before him. Here are thirteen rivers, the Schuylkill, the Hudson, the Delaware, the Raritan, the Potomac, the James, the Detroit, the Columbia, the Tennessee, the Cumberland, the Kentucky, the Illinois, and the Fox and Wisconsin, and to those thirteen rivers are appropriated $1,423,000. In the same line, simply as the clerk could catch up the items from the bill in the last twenty minutes, to harbors alone in this bill is appropriated $4,754,000. Nobody says a word about a harbor. I never heard an objection raised in the Senate or in this country to an appropriation for a harbor; and yet the sum appropriated in this bill to harbors is $4,754,000.

I have shown you, Mr. President, that for the harbors of the country and for thirteen rivers over $6,000,000 are appropriated by this bill. Senators say that is all right. The Senator from Alabama says it is right, the Senator from Delaware says it is right, and all the world says it is right. Then you have $1,500,000 or $2,000,000 appropriated for all the other streams of this great country. If you give to these rivers and harbors over $6,000,000, ought you not to allow $2,000,000 to the other countless rivers and streams in this great Republic?

Gentlemen permit their minds to be diverted, if I may say so with great respect, from their real duty in this cause by the miserable, contemptible little bug-bear that is raised up about the French Broad, or the Wissahickon, or some other named stream. It is, perhaps, unbecoming in me, it may be considered sophomoric, to ask representative Senators here to look at this country. The Senator from West Virginia [Mr. HEREFORD] this morning, and I thank him for the information given to the Senate, said that a river and harbor bill of $2,000,000 was passed during Madison's administration.

Mr. MORGAN. I beg leave of the honorable Senator to be allowed to say that I have had very diligent search made through the enactments of Mr. Madison's administration, and there was no river and harbor bill that was passed during that administration which contained more than $200,000 or $300,000.

Mr. HEREFORD. The items were in separate bills; I did not say that amount was appropriated in any one bill.

Mr. RANSOM. It is only within a few years that a general river and harbor bill has been devised and passed as such; but the Senator from West Virginia means, as I do, the sum of money appropriated under all the bills for river and harbor improvements.

Mr. President, let us go back to the fathers. During Madison's administration $2,000,000 was voted in one year for these great works. Then steam was practically unknown as a material agent in the world; there was no steamboat, and a sailing-vessel of course could do nothing upon our ordinary navigable rivers. What will Senators say when the idea of extravagance is held up before them if they are told that in Madison's administration this country had the enterprise, the energy, the patriotism, the sense of duty to vote $2,000,000, one-fourth of what this bill now proposes? How was the country then? I will not take the time of the Senate to describe it. As yet west of the great Mississippi River there were only a few paltry settlements, a few huts. Now we have gone to the Pacific Ocean, and we have acquired Texas and New Mexico. Then there were perhaps sixteen or seventeen States. Now there are thirty-eight States and eight Territories, not including the District of Columbia. Here is this mighty sweep of coast line upon the Atlantic Ocean; here is the coast line upon the Gulf; and then you cross around and strike the coast line upon the Pacific. A few days ago I was surprised, I was a little mortified, to find out how little I knew about the country when I learned that the coast line of Alaska even was as long as the coast line of the whole Atlantic on our shores.

Mr. BUTLER. As long as the Atlantic and Pacific both.

Mr. RANSOM. I did not wish to be extravagant, and I did not wish to commit any error of statement; so I kept myself within bounds.

Mr. President, this whole system is wrong or this bill is substantially right. As the Senator from Delaware has so well said, and as General Jackson I think once said better than anybody else, human ingenuity cannot frame a general law embracing subjects of taxation or subjects of expenditure with perfection. It will certainly be obnoxious to some objection; you cannot have it otherwise. If an appropriation of $2,000,000 was right in Madison's day, is an appropriation of $8,000,000 excessive now? Suppose I had the census list here and should undertake to show what we produced then and what we produce now. Suppose I should speak of the population then and of what the population will be by the next census. At the very lowest calculation we shall number fifty million people, stretching from ocean to ocean, from the Gulf to the lakes, with the Mississippi River alone over four thousand miles long, and the Missouri, really a part of it, still longer, and the Columbia, as my friend from Oregon [Mr. SLATER] to-day said, the second river on the continent. We forget that we are the first country upon the face of the globe in everything which goes to make a great people. Instead of being too fast and too extravagant on this question, we are too slow on it. The French and English have the Suez Canal. They are already coming down to the Central American isthmus and propose to build a canal there. They have the shipping of this country now in their hands and are doing our carrying trade. They are sending their commerce and their business everywhere. Are we to stand here like children and not send our commerce over our own country?

The Senator from Delaware has said that the improvement of the mouth of the Mississippi was a noble improvement and he was proud of the part he had in accomplishing it. I agree with him. I shall always be proud that I had a hand in it, but if I voted $5,000,000 to the Mississippi at its mouth, I shall be just as proud that I voted $1,000, or $10,000, or $20,000 to a stream up in Iowa that carries its commerce there. If it be right to vote $5,000,000 for the Mississippi at its mouth, why should it not be right to vote $1,000 or $10,000 at its head, when the very commerce that makes the mouth of the Mis-

sissippi necessary and great must come from its tributaries? No, sir, you must not stop up the spring, the head, the fountain of our people. If you stop that, your Hell Gates, your Baltimores, your Charlestons, and your Savannahs will be worth nothing.

The speech of my friend from Georgia [Mr. BROWN] yesterday had its force here, because he showed the lines of communication with the beautiful metropolis of his State. It was not because its harbor was fine; it was not because its scenery was lovely; it was not because its people were noble and patriotic that the proposition recommended itself here, but it was because the Senator showed that city was destined to have great communications with the country elsewhere. Just as these little streams rising in the mountains of Virginia, in the mountains of North Carolina, in the mountains of Pennsylvania, descending down and coming away from the mountains beyond the Mississippi, make up that great stream, so you must take care of the tributaries to it. I ask the Senator from Maine [Mr. BLAINE] now sitting before me what would have been thought of him or of my friend from Delaware if in due care of his health he said, "I only take care of the heart, I only take care of the head, I only take care of the great centers of my life; my hands, my feet, all the smaller blood-vessels may be cut off and perish, but I will take care of the heart?" That system has always failed. It was always ridiculous. It has been laughed at since the day that the old Roman went out and told the fable and brought back the seceding Romans to the city.

I know, as the Senator from Delaware well said, that the money that pays for these improvements is the result of work and toil, that it comes from taxation; but is it not wholesome taxation? It is said that the improvement at the mouth of the Mississippi River has reduced the price of freight upon corn five cents on the bushel, 50 per cent., from the upper waters of the Mississippi. I do not vouch for the statement, but every newspaper almost in the country has given it, and I believe it to be true. What was that to the millions who eat the bread and wheat that are made in the valleys? What was that to the millions who raised that bread and wheat and corn? How little does the $5,000,000 of taxation for the Eads jetties seem when the freight on every bushel of corn and every bushel of wheat and every pound of meat and every plank that goes down that stream is lessened 50 per cent.

Mr. President, this river and harbor bill stands vindicated to-day before the country more distinctly than any measure that has been before us. Why not pass this bill? Gentlemen have declared that it comes here each year and, like the daughters of the horse-leech, hallooes for more. I ask the gentleman why is this bill increased each year? One reason is because the country increases and the demands for it increase, but the great reason is that the people demand it. If these improvements had been found disastrous, if the improvement of these little streams which gentlemen laugh about here had become odious among the people, you would not find the House of Representatives, with its members fresh from the people, coming here to the doors of the Senate crowding and pressing us for these appropriations. You would not find the Senate session after session, under the fire of guns from able men, voting these large appropriations. A paper here or a paper there may denounce it to the country; the judgment of the country, the experience of the country, is with the measure.

Mr. President, I ask pardon of the Senate for having detained it so long. I did not intend to make a speech upon this question. I admit that there are objectionable features in this bill. There are features in it that in committee I tried to reform. Perhaps I was wrong in that effort; I had to defer my judgment to other gentlemen. I believe that while there is a little in the bill that is objectionable, there has been no measure of more general beneficence presented to this Congress at any time than this one.

Mr. MORRILL. Mr. President, I have opened my mouth but once in relation to this bill, and then it was for the purpose of uttering a little badinage in reply to the Senator from North Carolina [Mr. RANSOM] who objected to an amendment proposed by the Senator from Illinois, [Mr. DAVIS,] which I thought was a very proper one and I voted for it. I confess there are many features in the bill as it came to us from the House that seem to me objectionable. In one instance there is an appropriation I believe of $25,000 for a river in Pennsylvania one hundred and fifty miles above navigation. The amendments that have been presented here I think are much less objectionable than many of the features of the bill as it came to us from the House, and to which I think the Committee on Commerce of the Senate ought to have proposed more amendments.

I voted in favor of the amendment moved by the junior Senator from Georgia. I thought that Savannah had a beautiful harbor; I know it is a beautiful city, where they are doing a large amount of business, and I did not think that it was unreasonable that they should ask for an increase of the appropriation from $65,000 to $100,000. Especially did I not consider it unreasonable when I found that in the State of the Senator having charge of this bill the appropriation for Cape Fear River had been increased from $40,000 to $70,000, and then again the appropriation for the Neuse River from $15,000 to $45,000. It struck me that if there could be an increase upon those two rivers there might very well have been an increase in the appropriation for the harbor of Savannah.

Mr. RANSOM. Will my friend from Vermont allow me to say one word just there.

Mr. MORRILL. Certainly.

Mr. RANSOM. I did not intend to allude to it, but I thank the Senator for giving me an opportunity of doing so. I ought to have alluded to it when I explained the bill. The bill came from the House to the Senate with $96,000 appropriated for North Carolina. I will not speak of her extent, her water lines, her streams, or anything of that sort, but the whole appropriation for the State of North Carolina as the bill came from the House was only $96,000.

Mr. MORRILL. I do not find any fault with the increase there, but I think the Senate ought to have allowed an increase of the appropriation for Savannah Harbor.

Mr. President, the truth is that these bills are constantly growing. One of the chief faults in this bill is to be found near the end of it where there are eight closely printed pages providing for further new surveys, which if made now will next year result in estimates being here for appropriations increasing the amount unquestionably, doubling up the entire sum that is appropriated this year. I think that the geography of the country does not change much from year to year. We have the same rivers and the same harbors. Therefore the expense should be regularly limited to a reasonable sum.

It struck me that the amount of this bill as it came from the House was too large. I am ready to appropriate a liberal sum. I think five or six million annually is enough, and I should be glad to vote for a bill that would not exceed about that amount.

Mr. CALL. Mr. President, it seems to me that if the theory of the Senator from Alabama [Mr. MORGAN] as to the effect of the appropriations for river and harbor improvements is correct, there ought not to be any money voted. I shall never so long as I have a seat in the Senate of the United States vote for a river or harbor improvement if it is local in the benefits that it confers. But the theory is not true; it is essentially wrong. A proper and a wise expenditure of money for the improvement of great thoroughfares of commerce, of trade and travel, benefits not alone the particular locality, but every person within the country. The theory that these improvements are local in their benefits in transporting the productions of the country to the great marts of commerce, and that they have no influence upon all the articles of consumption which are consumed throughout the country, that the increase of the tax-paying capacity of the country does not lessen the burden of taxation upon the individual tax-payer, has no foundation in a sound political economy. The safety or dangers, the ease or difficulty, the cost of transportation on the great tributaries which bear the commerce of the country to the ocean, increase or diminish the value of every bushel of corn, and every pound of cotton, and of every article of inland trade. Every increase of the tax-paying capacity of the country diminishes the burden of the taxes upon the individual tax-payer.

This is the theory upon which a river and harbor bill can alone be defended as a measure of general and national importance. There is no stream, no highway, which bears the productions of the country to the ocean the improvement of which does not diminish the burden of taxation upon the individual tax-payer.

I wish to illustrate this principle by a reference to the appropriation in this bill for the improvement of two of the ports in the widely extended sea-shore of my own State. In the city of Jacksonville, according to the statistics furnished to me by a committee of merchants of that city, the annual payment of extra rates of insurance and of extra rates of freight above those in the adjacent harbors amounts to $283,000 upon the lumber exported from that city. This is consumed throughout the United States. In this bill there is an appropriation of only $125,000 for the Saint John's River; yet the people of all the Northern States are annually paying $283,000 more than is necessary—more than is paid by adjacent harbors—upon the lumber that is exported from that city and consumed by them. Here, then, would be an actual saving of largely over $100,000 annually to the tax-payers of this country, the consumers of this lumber, from that single appropriation.

Such, sir, must be the effect of every wise and judicious appropriation of public money for the improvement of rivers and harbors. For myself I desire to repudiate the idea of the learned Senator from Alabama, who is so often and so generally correct in his analysis and investigation of every subject that comes within his observation, but upon this subject his theory, in my opinion, is entirely indefensible, and if correct ought to prohibit the expenditure of a single dollar of public money for this purpose. I concur in the idea that there is no more beneficent object of legislation on the part of Congress than the improvement of the great highways and of every water-way that connects with them throughout the country.

The objection of the learned Senator from Vermont [Mr. MORRILL] that there is a large number of new surveys to be made which will become new objects of appropriation ought not to carry any weight with it. The country is settling up; its population is increasing every year; its agricultural production is increasing, and as the people form new settlements upon the streams that lead to the ocean, on the great highways of commerce, shall they not have the care of the National Legislature to enable them to carry their productions to market and to import the articles of consumption? The country is increasing, and as it increases, under a wise system of legislation it must increase the amount of its appropriations.

I have no objection to a limit, if it be the sense of the Senate to put some limit upon these expenditures. I do not care for that, but

I wish to say that there must be a more enlarged and a wider idea of the beneficent effects of this legislation than has been exhibited in the argument of the learned Senator from Alabama on this subject. In my own State the enterprise of people from the North and from the West is settling up its wild and heretofore uninhabited lands, and their productions are increasing every year largely. They are seeking health and employment there and find it, and are building up the country. We have fifteen hundred miles of sea-coast; we have vast forests of timber yet uncut; we have great capacities for new objects of culture heretofore unknown in the country, which are consumed throughout the length and breadth of the States, South, West, and North. Shall not our rivers and harbors be improved? The great commerce of the Mississippi River amounts to hundreds, almost thousands, of millions of dollars, and when the aggregate production of the valley of the great West traverses around this wide extent of fifteen hundred miles of coast, shall it not be protected by the care of the Government? Every year new objects and new opportunities of improvement and protection to life and property upon the ocean, and of conveyance to the high seas, are being opened to the settlement and occupation of the country.

Mr. EATON. Before the Senator sits down I should be glad to ask him a question. I understood my friend to say that at one port in Florida there can be a saving of $280,000 by making certain improvements.

Mr. CALL. Two hundred and eighty-three thousand dollars according to the statement furnished to me.

Mr. EATON. Can be saved to the people of the country?

Mr. CALL. Yes, sir; saved to the people of the country.

Mr. EATON. I understood the Senator to say further that at another port in Florida the lumber was shipped at reasonable, proper prices.

Mr. CALL. Not in Florida.

Mr. EATON. I want to ask my friend, to see whether his argument is sound, if there is a loss of $280,000 or $180,000 at any one point in Florida is it not a loss to the shipper there and not to the people of the country at large?

Mr. CALL. Not at all, sir. My honorable friend from Connecticut is very wise and very correct in his opinions always, and he will observe that, although it very frequently happens that in particular localities their productions may be forced to a lower price by lower rates elsewhere, where they have the means of greater cheapness of production and of exportation, except in the one article of high rates of freight, such is the case in my own State, and the loss is not borne by my people, but the loss is borne by the people of the North and the West, who consume the great quantities of lumber furnished. We should be able to furnish it that much cheaper, and would furnish it that much cheaper if we had the same rates of freight transportation. We pay the higher rates and we make up the loss on our articles; we charge you for it.

Mr. ALLISON. Mr. President, the Senator from Alabama who makes the motion for a reduction of this appropriation seems to base his motion upon the idea that it is important and necessary to come within the estimates of the Secretary of the Treasury. Therefore, in his original amendment, as it stands without the modification suggested by the Senator from Delaware, he proposed that this appropriation should be limited to $5,015,000. To show the Senator from Alabama the importance and value to be attached to that estimate I want to call attention briefly to the history of that specific sum.

It was my fortune in the year 1876 to have charge of a river and harbor appropriation bill. After struggling here through several hot days, I remember that on the motion of the Senator from Vermont, [Mr. EDMUNDS,] not now in his seat, the bill was recommitted to the Committee on Appropriations, with instructions to report back the bill containing a total appropriation of $5,000,000.

Mr. DAVIS, of West Virginia. My recollection is somewhat similar to my friend's, but I think the bill had first come from the Committee on Commerce, and was a much larger bill than $5,000,000, nearly $10,000,000, and it was sent to the Committee on Appropriations with instructions.

Mr. ALLISON. My mind is very clear with reference to that bill. The bill was referred to the Committee on Commerce; but owing to the fact that our southern friends were then in some trouble (we had two or three special committees making investigations in the Southern States) it so happened that a majority of the Committee on Commerce were out of the city. Without considering the bill at all, the Committee on Commerce reported it back to the Senate with a request that it should be referred to the Committee on Appropriations. The Committee on Appropriations took up the bill as it came from the House of Representatives, which I think amounted to about $6,000,000, and added $100,000 or $200,000 to it. Then, on motion of the Senator from Vermont, the bill was recommitted to the Committee on Appropriations with instructions to modify it, and razee it, and scissor it off, so that the total appropriation should be $5,000,000.

Mr. MAXEY. That is the correct history of it.

Mr. ALLISON. That was done; but in the computation made by the clerk of the committee at the time, instead of razeeing it to $5,000,000, by an error we made it $5,015,000, thus exceeding the resolution of the Senate $15,000; and that error was not discovered until the bill passed the Senate.

Mr. MORGAN. Then I suppose the honorable Senator intends to state that the Administration plainly adopted those figures without any consideration of what the requirements of the country were.

Mr. ALLISON. The Senator from Alabama need not be in a great hurry to anticipate what I am about to state; although I am about to state substantially that thing.

Mr. MORGAN. I supposed you were.

Mr. ALLISON. The next year the Engineer Department made an estimate for rivers and harbors covering, I think, about $15,000,000 or $18,000,000, and the Secretary of the Treasury did cut down that estimate so as to bring it within the resolution of the Senate with reference to the river and harbor bill of 1876; and so on from that time to the present each Secretary of the Treasury has taken the estimates of the Engineer Bureau of the War Department and has reduced them to $5,015,000. Take the estimates not of this year but those submitted for 1878–'79, and you will find that the Engineer Bureau of the War Department estimated for rivers and harbors $15,019,000. At the foot of this total of estimates I find the following:

Reduction by Secretary of War to make this aggregate correspond with the aggregate of his estimate for rivers and harbors as submitted in the Estimate Book for 1878–'79, $10,004,008.

The estimate was still further reduced to $5,015,000 by the Secretary of the Treasury. What I wish to call attention to is the fact that these estimates from the Departments, with reference to the total amount that shall be appropriated for rivers and harbors, are simply reductions of amounts to correspond with the Senate resolution of 1876. In making up our judgment as to the amount that we shall appropriate from year to year for rivers and harbors I do not think we are required to run closely side by side with the reduced estimates of the Secretary of the Treasury or of the Secretary of War upon this subject.

I find by turning to the estimates for this year that the Secretary of the Treasury reduces the estimate $9,311,650, and refers to the old estimate of last year as the reason why he reduces it, and thus brings again the estimate to $5,015,000, although the total estimate of the War Department for this year is over $14,000,000.

Mr. President, I regret, as does the Senator from Alabama, that this appropriation bill has reached the sum of $9,000,000. I would rather have it $8,500,000 as it came from the House, but I sat here yesterday and I listened patiently and carefully to every item that was considered in this bill. I listened to the Senator from New York [Mr. KERNAN] who insisted that the appropriation for Little Sodus Bay, estimated at $2,000 in the Book of Estimates, in the total of $14,000,000 should be increased to $25,000. The estimates in the Book of Estimates, the total of which is $14,000,000, only put down $2,000 for Little Sodus Bay. That was all the Engineer Bureau of the War Department thought, when their estimate was made, would be necessary for Little Sodus Bay. Yet the Senator from New York convinced the Senate, as he convinced me certainly, that owing to the completion of a railroad at Little Sodus Bay, the commerce of that particular locality had largely increased; that the coal of Pennsylvania and the other products of the States of Pennsylvania and New York were going thither by the new line of railway opened up, and therefore it was necessary to give this bay $25,000 in order to complete its improvement.

I listened also with pleasure to the Senator from Alabama when he in glowing words pictured the great progress of the State of Alabama in its material interests and the necessity of furnishing the great Northwest with a new outlet to the sea by opening up the port of Mobile, Alabama, to sea-going vessels, in order that the products of our region might go in that direction and find an outlet to other countries. I voted with him to increase that appropriation, because I thought he made a very good case for it.

I listened with pleasure also to the Senator from Georgia, who insisted upon an increase of appropriation for the port of Savannah, and I voted with him this morning, believing that he had made out a fair case for an increase of appropriation there in order to open up a new field of competition for the great products of the South and the West and the Northwest. I welcomed him as an ally in favor of "the old flag and an appropriation;" and I shall expect him to continue in the good work. Although unfortunately he and I were not able to secure an increase of appropriation for the harbor at Savannah, I can assure him that when another year comes I have no doubt the appropriation requisite to make that harbor what it ought to be will be given by Congress.

So I might run over all these different appropriations and show that wherever we have had a discussion on any single item of appropriation the argument has been in favor of an increase rather than in favor of a diminution of the appropriation. I have yet to see a single instance, and I would be glad if Senators could call my attention to a single instance, where an appropriation in this bill, even now swelled as it is to $9,000,000, is excessive.

We voted down the proposed amendment of the Senator from Oregon [Mr. SLATER] for the improvement of the Dalles in the Columbia River, when he showed to us clearly that that narrow gorge there is exclusively and wholly in the hands of a single corporate monopoly in the State of Oregon; that hundreds of thousands of tons of produce are yearly passing down through the great region beyond these Dalles, and that it is important to the people who have sought their homes and their fortunes in the great Northwest of our continent that at the earliest possible moment this water-way should be completed

in order that they may get rid of this monopoly. Yet in the interest of economy and because we were not willing to swell the appropriation beyond what it is now, we voted down that as I believe necessary appropriation for the Dalles in Oregon. Does any one doubt that in the near future we shall open up that water-way to the people of Oregon who are thus struggling to gain an independence for themselves? If we are to do it, is it not economy that it should be done at the earliest moment?

In 1817, when De Witt Clinton first presented his memorial to the State of New York asking that it open up a water-way between tide-water on the Hudson River and the great lakes of the Northwest, he was laughed at by the people of New York as one having a Utopian scheme and theory, yet he lived to receive the plaudits of the State of New York, nay, the plaudits of his countrymen from one end of the country to the other, for opening up a water-way which now furnishes cheap transportation to millions of people far beyond the northwestern lakes. So it seems to me that it is not wise for us to cripple these appropriations looking to the improvement of the means of transportation of the great products of our country.

Mr. President, our internal commerce is almost incalculable in its amount and in its extent. The single port of Saint Louis alone last year, if I remember rightly, as shown by the statistics of the statistical bureau, had a tonnage of more than three million tons. The port of Chicago has a still greater amount of tonnage; and so these great interior regions of the country must have these new avenues for the purpose of transporting their products to and from market.

In this bill there may be here and there an item of appropriation unnecessary. I doubt not there are such, but I agree with the Senator from North Carolina, who has examined this bill carefully and who has charge of it on this floor, that of all these appropriations a careful estimate would not disclose half a million dollars of unnecessary appropriation. When I had charge of a similar bill to this in 1876 I remember perfectly well that the French Broad and the little streams in Virginia were subjects of ridicule on this floor, but when we came to examine the several provisions in the committee-room we were unable to recommend striking out very many of those appropriations at that time. When you look at the little rivers that are running along into the Potomac or into Chesapeake Bay, running through Virginia or North Carolina or other States of this Union bordering upon the ocean, you find that they are little centers of trade and commerce, and that a few thousand dollars expended upon them will be expended beneficially.

Mr. MAXEY. I will ask the Senator from Iowa if the practical effect of opening up these water lines to commerce will not be to bring them into competition with the railway lines of transportation and thus reduce transportation and be a measure directly in the interest of the people?

Mr. ALLISON. I have no doubt of that, and I thank the Senator from Texas for calling my attention to that fact. The Erie Canal, enlarged as it has been by the State of New York, stands to-day as a power holding in the hollow of its hand the rates of freight from the State in which I live on the Mississippi River to the ocean at New York. The rates of tolls upon the canal control the New York Central Railway in its rates of toll, and the price charged on that railway controls all the trunk lines that thread themselves from the Mississippi River to the ocean at New York and Philadelphia.

Although this appropriation may be a little in excess of what we ought to appropriate this year, I submit to Senators that it is not largely in excess. Is it because we are at the approach of a presidential election that we are to limit this bill to a specific sum in order that the appropriations may not be swelled? I hold here a statement of the appropriations for the year 1879. I find that the total appropriation then for rivers and harbors was $8,322,700, or within a small fraction of the amount proposed to be appropriated by this bill. Has there been any great complaint about these appropriations; or is it that gentlemen, who have in other days and in other forums and at other places charged upon the republican party that we have been extravagant, now, in order to make some pretense that that charge was true, seek to reduce these appropriations beyond the proper limits required by the great internal trade of this country? No, Mr. President, in the language of our distinguished presiding officer, "that won't do." It is true that in the past you have said your opponents were extravagant in appropriations. You have had several years in which to reduce the appropriations for the general purposes of the Government. You have most signally failed, and why? You have failed because this is a great country; it has great needs and wants, and it requires a large sum of money each year to carry on its great operations.

I shall vote for this bill although it contains in it items, as I say, which I think might well have been omitted; but I will not cripple the great internal commerce of this country, I will not cripple the material interests of this country, merely for the sake of saying that I have cut down two or three million dollars from the necessary and essential appropriations for the government of the country.

Mr. President, I have said all I intend to say. I trust the amendment proposed by the Senator from Alabama will not prevail, not even with the amendment suggested by the Senator from Delaware.

Mr. EATON. Mr. President——

Mr. BUTLER. I merely want to make a remark; I have no idea of making a speech, and my friend from Connecticut can have the floor in a moment. As I shall vote against the amendment of the Senator from Alabama and the amendment to his amendment proposed by the Senator from Delaware, I desire to say briefly that I do not like to vote against an amendment which appears to be intended to reduce expenses in appropriations. That is the appearance of these amendments upon their face, and it puts us rather in the attitude of voting against an amendment which has that tendency. I do not desire to be put in that position, and hence it is that I want to explain that I shall vote against the amendments upon this ground.

As I undertook to state yesterday, I do not believe that the Secretary of the Treasury has anything whatever to do with matters of this kind. He sends his estimate here of $5,015,000, as the Senator from Iowa has explained. It seems to me that the representatives of the people in the other branch of Congress are very much better judges of what the requirements of their immediate localities are and of what the requirements of the whole country are than any one Secretary of the Treasury.

I do not myself believe that this bill is too large. I should vote for it without the slightest hesitation if it appropriated $10,000,000. I believe that these are the most judicious appropriations made by Congress. It is the only money that I vote for that I feel is absolutely honestly expended. I do not mean to say that a great many of the appropriations are not honestly expended, but about this I have no sort of doubt. I cannot understand how the country is to suffer by making appropriations of nine, ten, fifteen, or twenty million dollars for such objects. If the engineer officers of the Army cannot find a place to expend it they are not going to expend it, it remains in the Treasury; therefore there is no loss.

I concur entirely in what was so eloquently and well said by my friend from North Carolina, [Mr. RANSOM.] Whatever contributes to facilitate the interchange of the commodities and products of this country in my judgment it is wise to appropriate money for the purpose of aiding. I believe that the improvement of the navigation of the smallest river in the United States which can be improved is of service to the whole country.

Entertaining these views about this bill generally, I shall vote against both the amendment and the amendment to the amendment, and I trust they will not be adopted.

Mr. EATON. Mr. President, I do not desire to detain the Senate by any lengthy remarks on this subject. I shall vote for the amendment of the Senator from Alabama because I think it is in the right direction. I do not believe in what my friend from Florida [Mr. CALL] calls a parental government. I do not believe that it is the duty of the Congress of the United States to appropriate the money of the people for the purpose of digging out every little river that there is within the United States. Right here let me say that I was very sorry to hear my friend from Iowa endeavor to get up a political boom here on this question.

Mr. ALLISON. I trust the Senator——

Mr. EATON. The RECORD will show.

Mr. ALLISON. I certainly made no such attempt.

Mr. EATON. The RECORD will show. Now, sir, as a democrat, I do not oppose this matter. I oppose it as a Senator of the United States from the State of Connecticut, not as a democrat at all. I desire no party feeling in this matter, not the slightest in the world, any more than I would on that great overshadowing question about which I propose to be heard in a day or two, the tariff of the United States. There should be in this matter no political bias and no political power.

Sir, there was an estimate made for my own State of $330,000 for the purpose of improving the navigation of the Connecticut River; but I refused to offer an amendment and have it referred to the committee because I did not believe the appropriation would be just or right. I do not want any money spent in the State of Connecticut on the rivers of my State or for its harbors unless it is legitimate and right and proper—not a dollar, not a cent. If the committee are not perfectly satisfied that every dollar that has been required by the representatives of Connecticut is of national importance and benefit, in God's name, let them strike it out; they will have my hearty assent at once to do it. I want no trout streams improved or ruined in the State of Connecticut. If there be harbors there, if there be rivers there that have a reputation, called and of right called national—I do not like the word very well——

Mr. ALLISON. Federal.

Mr. EATON. "Federal" I should like a great deal better. That reminds me to go back. I like it better because Oliver Ellsworth and Roger Sherman, from the State of Connecticut, in the convention that framed the Constitution, on six different occasions moved to strike out the word "national," because they said this was not a national, it was a federal government. Therefore I thank my friend for using for me the old Connecticut term of "federal." If there be a river or if there be a harbor in Connecticut that has a federal character, then let appropriations be made for that river or that harbor. If there be none such, strike them all from this list.

Mr. BUTLER. Will my friend permit me just there to interrupt him?

Mr. EATON. Certainly.

Mr. BUTLER. How are we to determine what rivers are federal or national in their character?

Mr. EATON. I can determine for myself and so can my friend. I

voted for the appropriation for the harbor of Charleston with great pleasure. I would have voted for $100,000 more for the harbor of Charleston as I would for the harbor of Mobile, and of Savannah also, because they are Federal or national, and therefore it is proper and right and just that the money that is taken from the tax-payers of Connecticut should pay the bill in order to improve those harbors because they are Federal harbors.

Mr. JONAS. Will the Senator permit me to ask him a question? Is not the Senator in voting for the amendment offered by the honorable Senator from Alabama voting for all these appropriations?

Mr. EATON. I am very sorry to say I am, but I will get them down as low as possible, and then I shall not vote for the bill at all. You may be very certain of that, Mr. President. I have been five years in the Senate, and if I remember aright I have voted against every one of these steals, for I call them steals. I use the expression that I believe is right and just. You may apply as much of it as you like to Connecticut and as little as you please to North Carolina.

Mr. RANSOM. The Senator may have all of it.

Mr. EATON. Very well, we will take it all; only we do not want all the money. I cannot vote for a bill of this kind because, in my judgment, it is not right. My friend from West Virginia said that the Ohio River carried more freight—I do not know that I can use his exact language—but he said the commerce of the Ohio River was more than the commerce of the United States.

Mr. HEREFORD. Oh, no.

Mr. EATON. Than the foreign commerce.

Mr. HEREFORD. The foreign commerce.

Mr. EATON. My dear sir, does not my friend know that the commerce of the Hudson River is more than $8,000,000,000?

Mr. HEREFORD. I do not know any such thing.

Mr. EATON. Then you ought to know it.

Mr. HEREFORD. The Senator does not know it either.

Mr. EATON. I do know it.

Mr. HEREFORD. I read from a report made to this body showing that the commerce of the Ohio River was one-fifth more than the whole foreign commerce.

Mr. EATON. The commerce of the Connecticut River, that little stream, is $250,000,000 a year. The internal commerce of the State of New York that comes down the Hudson River is more than $8,000,000,000. My friend from West Virginia should go into the history of this country before he talks about the Ohio River, great and noble as it is. He ought to know that the city of New York, with its surroundings, New York, Brooklyn, and Jersey City, with two million people, pay more into the Treasury of the United States than any State of the Union. Take West Virginia and old Virginia, honoring them and loving them as I do, and the State of my friend from Tennessee, [Mr. BAILEY,] and the State of Kentucky, all combined, and they do not pay as much into the Federal Treasury as the city of New York alone.

Mr. BAILEY. How does it pay it?

Mr. EATON. Because it consumes it.

Mr. HEREFORD. The Senator from Connecticut is very far out of the way, if he will permit me to say so.

Mr. EATON. I will permit you to say so.

Mr. HEREFORD. The statistics do not show that.

Mr. EATON. My friend's statistics do not show it; mine do.

Mr. HEREFORD. I read from a report made to this body.

Mr. EATON. My friend reads from a report in regard to the commerce of the Ohio River. He does not read from any report that tells what the commerce is that I speak of, what the commerce of the North River is, the Hudson River.

Mr. BAILEY. What does the Senator say?

Mr. EATON. What I say is that the city of New York and its surroundings, covering a million and a half of people, consume more of the dutiable goods that pay into the Treasury of the United States the very money that you take here to build up your rivers and harbors all over the country than all the States I have named. That is what I mean; that is what I intend to have go out to the country as saying—that the million and a half of people belonging to the city of New York consume more dutiable goods and pay more into the Treasury of the United States than the States of Tennessee, Kentucky, Virginia, and Connecticut combined. I have put my own State in with the State of my friend from Tennessee. Whenever the honorable Senator from West Virginia will investigate the statistics, he will ascertain that I am correct.

Therefore the people of New York have an interest in this bill; the people of Connecticut, the tax-payers of the country have an interest in this bill; and it hurt my feelings to hear my friend from West Virginia say that such a State had so much. I want to know what that has to do with the question. If the harbor of Pensacola requires $100,000 or $200,000, if the harbor of Charleston requires $100,000 or $200,000, or of Savannah, or of Mobile, Connecticut votes that money, no matter whether there is one dollar expended in Connecticut; that is not the question. The remark of my friend from West Virginia, and I like to call him my friend, shows that there is something rotten not only in Denmark, but in this bill.

When you say that Connecticut has got more than her share, that Oregon has got more than her share, that New York has got half a million dollars, and West Virginia has got but $100,000 or $300,000, whatever it may be, what has that to do with this question before the Senate of the United States? Nothing on earth. To use a good expression, as we are all fond of using a good thing, "That won't do." Whenever anything is required that is Federal in its character—I will use the term national in its character—I will be found always ready to vote for it at all times and for any amount.

Let me say a word here in regard to another matter. I see every day bills introduced for the purpose of erecting public buildings in various States. Sir, we have got a little instance of it in my city. We have got a post-office building. They began it before I came here. I would not have voted one dollar for it if I had been here. It is $50,000 last year, and $75,000 this year, and $50,000 next year, and when it will be done the Lord only knows. Since they commenced this little post-office in my city of Hartford, Connecticut, a State-house that cost two millions and a half of dollars has been erected by that State. Within the sum contemplated, not without but within it, and what did Hartford do? Sir, you may come here with your bills asking $100,000 to buy land; the city of Hartford gave the United States three hundred thousand dollars' worth of land; she did not take a dollar for it. She gave it right in the heart of the capital of the State. She gave a part of a park for the purposes of a post-office. They have been trifling along year after year with $50,000 and $75,000 and $40,000. Oh, Mr. President, I wish they would take every stone of it down and carry it away and give us back the park which we have given to the United States.

Mr. President, I shall vote with great pleasure for the amendment of my friend from Alabama, not because I want to vote for any part of this bill, but because it is a step in the right direction, because it says to the tax-payers of this country there shall be an end to this expenditure of money; it shall not be $8,000,000, or $9,000,000, or $10,000,000; we will hold you down to the estimate of the Department and give you that; we will hold you there. Bad enough it is, Mr. President, to give them that sum.

Mr. RANSOM. Now, Mr. President, I hope we can get a vote on the pending question.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Delaware [Mr. BAYARD] to the amendment of the Senator from Alabama, [Mr. MORGAN.]

Mr. MORGAN. Upon that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MORRILL. Let the amendment to the amendment be read.

The CHIEF CLERK. It is proposed to strike out "$5,015,000" and insert "$6,500,000."

The Secretary proceeded to call the roll.

Mr. JONAS, (when his name was called.) On this question I am paired with the Senator from Georgia, [Mr. HILL.] If he were present, I should vote "nay."

The result was announced—yeas 17, nays 34; as follows:

YEAS—17.

Anthony,	Davis of Illinois,	McPherson,	Saunders,
Bailey,	Davis of W. Va.,	Morgan,	Thurman.
Bayard,	Groome,	Morrill,	
Beck,	Kernan,	Pendleton,	
Blaine,	Lamar,	Saulsbury,	

NAYS—34.

Allison,	Dawes,	Jones of Florida,	Slater,
Baldwin,	Eaton,	Kirkwood,	Vest,
Brown,	Farley,	McDonald,	Voorhees,
Burnside,	Ferry,	McMillan,	Walker,
Butler,	Hampton,	Maxey,	Williams,
Call,	Harris,	Platt,	Windom,
Cameron of Wis.,	Hereford,	Pryor,	Withers.
Cockrell,	Ingalls,	Ransom,	
Coke,	Johnston,	Rollins,	

ABSENT—25.

Blair,	Garland,	Jones of Nevada,	Teller,
Booth,	Grover,	Kellogg,	Vance,
Bruce,	Hamlin,	Logan,	Wallace,
Cameron of Pa.,	Hill of Colorado,	Paddock,	Whyte.
Carpenter,	Hill of Georgia,	Plumb,	
Conkling,	Hoar,	Randolph,	
Edmunds,	Jonas,	Sharon,	

So the amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question now is on the amendment offered by the Senator from Alabama, [Mr. MORGAN.]

Mr. DAWES. Let the amendment be reported again.

The PRESIDENT *pro tempore*. The amendment will be read.

The CHIEF CLERK. After the word "named," in line 8 of section 1, it is moved to insert:

Provided, That the entire sum available under the first section of this act during the fiscal year ending June 30, 1881, shall not exceed $5,015,000; which sum shall be ratably apportioned by the Secretary of War to the works of improvement designated in the first section of this act, in the proportion that the amount therein specified for each work of improvement shall bear to the sum of $5,015,000.

Mr. MORGAN. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. BLAINE. I do not intend to detain the Senate; but I voted for the amendment of the honorable Senator from Delaware on the ground that it might present an average basis for the bill, and I wish to make now a single remark touching the amendment of the Senator from Alabama.

It is defended upon the ground that it has the basis of the estimates made by the Department. It ought to be remembered in that connection that those estimates were made at a time when the rev-

ennes of the Government and the resources applicable to this service were much less than they have turned out by the events of the fiscal year to be, and it is probably a matter of fair inference that when the estimates were put in they were adjusted to a then anticipated condition of the Treasury of the United States, which condition has so greatly changed that the fiscal year now near its close will show a reduction of the public debt probably reaching somewhere near $90,000,000. Therefore the condition of the Government for liberality, if you choose, certainly for sufficiency in this direction, was never greater than it is to-day.

I do not pretend to be acquainted with all the details of this bill; but I have uniformly voted for river and harbor bills since I have been in Congress with a single exception, and I see no reason to vary from my rule in this case. As was forcibly impressed upon the Senate by the honorable Senator from Indiana [Mr. VOORHEES] it is among the only appropriations of public money that are enduring. We feed a large Army, and the money is gone; we maintain a Navy, and the money is gone. All the departments of public expense go with the year, and leave no sign behind. What goes for the permanent improvement of rivers and harbors I will say to my honorable friend from Connecticut, whether it be on the Connecticut River or in New Haven Harbor or on the coast of Maine or at the mouth of the Mississippi, remains with greater or less benefit to the whole country, from ocean to ocean and from lakes to gulf.

I shall vote against the amendment of the Senator from Alabama for the reason I have given.

The question being taken by yeas and nays, resulted—yeas 18, nays 33; as follows:

YEAS—18.

Bailey,	Davis of W. Va.,	Kernan,	Pendleton,
Bayard,	Dawes,	Lamar,	Platt,
Beck,	Eaton,	McPherson,	Saulsbury.
Brown,	Harris,	Morgan,	
Davis of Illinois,	Ingalls,	Morrill,	

NAYS—33.

Allison,	Coke,	McMillan,	Vest,
Anthony,	Farley,	Maxey,	Voorhees,
Baldwin,	Ferry,	Paddock,	Walker,
Blaine,	Hampton,	Pryor,	Williams,
Burnside,	Hereford,	Ransom,	Windom,
Butler,	Johnston,	Rollins,	Withers.
Call,	Jones of Florida,	Saunders,	
Cameron of Wis.,	Kirkwood,	Slater,	
Cockrell,	McDonald,	Thurman,	

ABSENT—25.

Blair,	Garland,	Jonas,	Teller,
Booth,	Groome,	Jones of Nevada,	Vance,
Bruce,	Grover,	Kellogg,	Wallace,
Cameron of Pa.,	Hamlin,	Logan,	Whyte.
Carpenter,	Hill of Colorado,	Plumb,	
Conkling,	Hill of Georgia,	Randolph,	
Edmunds,	Hoar,	Sharon,	

So the amendment was rejected.

The bill was reported to the Senate as amended.

Mr. RANSOM. I gave notice that I would reserve in the Senate the amendment in reference to Brunswick Harbor, in Georgia; but I now say to the Senators from Georgia that I will not do so.

The PRESIDENT *pro tempore*. The question is on concurring in the amendments made as in Committee of the Whole. If a separate vote is not demanded on any amendment the vote will be taken on the amendments in gross.

Mr. DAVIS, of Illinois. I want a separate vote on the provision as to improving the Illinois River, on page 22.

The PRESIDENT *pro tempore*. A separate vote will be taken on that amendment.

Mr. DAVIS, of Illinois. I think I stated good reasons yesterday why the provision in relation to this improvement should be left as it was put in the House bill. I was replied to by the chairman of the committee that there had been an estimate of only $75,000 by the Secretary of War. I could not understand——

Mr. RANSOM. May I make one suggestion to the Senator from Illinois? Let the vote be taken on all the other amendments, and then let us have a vote on his. This is the only reserved amendment. Let the others be disposed of before we act on this.

The PRESIDENT *pro tempore*. The amendment mentioned by the Senator from Illinois will be reserved for a separate vote, and the Chair will put the question on concurring in all the other amendments made as in Committee of the Whole.

The amendments were concurred in.

The PRESIDENT *pro tempore*. The question now is on the amendment reserved by the Senator from Illinois.

Mr. RANSOM. Now, with the consent of the Senator from Illinois, I should like to say one word. When that amendment was made by the committee and when it was before the Senate, neither the Senate nor the committee had the report of the Secretary of War and the engineer in reference to this matter which the Senator from Illinois now has. Had that report been before us, this amendment to the bill would not have been reported.

The PRESIDENT *pro tempore*. The amendment will be stated.

The CHIEF CLERK. The amendment was, in line 513, to strike out "110" and insert "85," and in line 514 to strike out "100" and insert "75;" so as to make the clause read:

Improving Illinois River: continuing improvement, $85,000, of which sum $75,000 shall be expended on locks and dams, and $10,000 for dredging.

The PRESIDENT *pro tempore*. The question is on concurring in this amendment.

The amendment was not concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

Mr. KERNAN. I ask for the yeas and nays on the final passage of the bill.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. DAVIS, of West Virginia, (when his name was called.) On the passage of the bill I am paired with the Senator from New York, [Mr. CONKLING.] He, if present, would vote "nay" and I should vote "yea."

Mr. JOHNSTON, (when his name was called.) On this question I am paired with the Senator from Pennsylvania, [Mr. WALLACE,] reserving the right, however, to vote if it should be necessary to make a quorum. If the Senator from Pennsylvania was here, I should vote "yea."

Mr. JONAS, (when his name was called.) On this question I am paired with the Senator from Georgia, [Mr. HILL.] If he were here, I should vote "yea."

The roll-call was concluded and the result announced—yeas 36, nays 13; as follows:

YEAS—36.

Allison,	Cameron of Wis.,	Jones of Florida,	Saunders,
Anthony,	Cockrell,	Kirkwood,	Slater,
Baldwin,	Coke,	Lamar,	Thurman,
Beck,	Dawes,	McMillan,	Vest,
Blaine,	Farley,	Maxey,	Voorhees,
Brown,	Ferry,	Paddock,	Walker,
Burnside,	Groome,	Pryor,	Williams,
Butler,	Hampton,	Ransom,	Windom,
Call,	Hereford,	Rollins,	Withers.

NAYS—13.

Bailey,	Harris,	Morgan,	Saulsbury.
Bayard,	Ingalls,	Morrill,	
Davis of Ill.,	Kernan,	Pendleton,	
Eaton,	McPherson,	Platt,	

ABSENT—27.

Blair,	Edmunds,	Johnston,	Randolph,
Booth,	Garland,	Jonas,	Sharon,
Bruce,	Grover,	Jones of Nevada,	Teller,
Cameron of Pa.,	Hamlin,	Kellogg,	Vance,
Carpenter,	Hill of Colorado,	Logan,	Wallace,
Conkling,	Hill of Georgia,	McDonald,	Whyte.
Davis of W. Va.,	Hoar,	Plumb,	

So the bill was passed.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. FARLEY, Mr. BURNSIDE, and Mr. WALKER submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 6266) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes; which were referred to the Committee on Appropriations, and ordered to be printed.

Mr. McDONALD submitted an amendment intended to be proposed by him to the bill (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and for prior years, and for those certified as due by the accounting officers of the Treasury in accordance with section 4 of the act of June 14, 1878, heretofore paid from permanent appropriations, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting a letter from the Quartermaster-General, recommending the appropriation of $400,000 to continue payments to land-grant railroads under the act of March 3, 1879; which was referred to the Committee on Appropriations, and ordered to be printed.

ORDER OF BUSINESS.

Mr. DAVIS, of Illinois. If the Senator from Connecticut [Mr. EATON] does not wish to go on with the tariff-commission bill, I should like to call up a joint resolution from the House allowing the Geological Survey to go into the States with their consent. I should like very much to get a vote on that subject if possible. I have troubled the Senate very little.

Mr. ROLLINS. I ask the Senator from Illinois to yield for two minutes to let me get up a bill from the Judiciary Committee to which there will be no objection.

Mr. COCKRELL. No; the Senator from Illinois cannot distribute the floor out in that way. Either let him proceed or I shall claim the floor.

The PRESIDENT *pro tempore*. Does the Senator from Illinois move to postpone the previous orders?

Mr. DAVIS, of Illinois. Yes, sir; if the Senator from Connecticut does not wish to go on now.

Mr. ANTHONY. Let the pending order be laid aside informally.

Mr. EATON. Without prejudice by adjournment.

Mr. DAVIS, of Illinois. Certainly. I do not wish to antagonize the regular order.

Mr. BECK. Does that require unanimous consent?

The PRESIDENT *pro tempore*. It does not; but the Chair would state to the Senator from Connecticut that the tariff-commission bill is not up now. It was displaced.

Mr. INGALLS. It was taken up at half past one and informally laid aside.

The PRESIDENT *pro tempore*. The Chair was not aware of that. The Chair was out at the time. Then it requires unanimous consent. The Senator from Illinois asks unanimous consent that the pending order be laid aside informally and without prejudice by an adjournment, in order to take up the joint resolution that he has named in reference to the Geological Survey.

Mr. McMILLAN. Let it be reported.

The PRESIDENT *pro tempore*. The joint resolution will be reported.

The Chief Clerk read the joint resolution (H. R. No. 116) to amend the act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes."

Mr. PADDOCK. I apprehend it may take some time to consider this measure. It is rather late in the day to take up so important a measure.

The PRESIDENT *pro tempore*. The Senator from Illinois asks unanimous consent that the pending order be laid aside informally without prejudice by an adjournment, in order to consider the resolution just read. Is there objection?

Mr. BECK. I object. I am willing that the Senate may take it up by a vote, if it chooses, but it cannot come up by unanimous consent.

Mr. ROLLINS. I ask the Senate——

Mr. DAVIS, of West Virginia. Then I understood the Senator from Illinois to move to lay aside the pending order.

Mr. DAVIS, of Illinois. I proposed to ask for a vote of the Senate, if there was objection to unanimous consent. I do not know what the rule is, but I want to get up the resolution if I can.

The PRESIDENT *pro tempore*. The Chair understood the Senator from Illinois to ask unanimous consent.

Mr. DAVIS, of Illinois. Yes; but now I move to lay aside the regular order.

Mr. McMILLAN. Will not that displace the tariff-commission bill?

The PRESIDENT *pro tempore*. Undoubtedly, if it carries.

Mr. DAVIS, of West Virginia. The tariff-commission bill can come up to-morrow, if the Senate wish.

The PRESIDENT *pro tempore*. The Senator from Illinois moves to postpone all orders previous to the joint resolution just reported, in order that he may move to proceed to the consideration of that joint resolution.

Mr. EATON. I should like to know if the motion as now worded would leave the tariff-commission bill the unfinished business for to-morrow?

The PRESIDENT *pro tempore*. It would not unless it were taken up again.

Mr. COCKRELL. That bill will be just like any other bill on the Calendar.

The PRESIDENT *pro tempore*. Certainly.

Mr. BURNSIDE. Would it not be in order to lay it aside temporarily?

The PRESIDENT *pro tempore*. That requires unanimous consent, and unanimous consent has been refused.

Mr. DAWES. If this motion prevails, in order to get up the now pending bill it would take a majority to lay aside other measures and bring it forward, would it not?

The PRESIDENT *pro tempore*. Undoubtedly.

Mr. DAWES. Therefore the now pending measure is referred back to its place on the Calendar?

The PRESIDENT *pro tempore*. Undoubtedly, if this motion prevails.

Mr. DAWES. The Senator from Connecticut will observe that if this motion prevails his bill goes back upon the Calendar.

Mr. EATON. I will trust to the courtesy of the Senate. The bill is now in my hands, and I can call it up at this moment. I request the courtesy of the Senate to permit me to take it up at half past one o'clock to-morrow. I have no doubt they will do it.

The PRESIDENT *pro tempore*. The Senator from Illinois moves to postpone all orders previous to the joint resolution which has just been read. Is the Senate ready for the question?

Mr. BECK. Is that debatable?

The PRESIDENT *pro tempore*. It is, but not on the merits of the resolution.

Mr. BECK. Being opposed to that resolution and to the extension of this geological survey into the States as being the establishment of one of the most expensive bureaus in this Government——

Mr. DAVIS, of West Virginia. I hope my friend will not go into the merits.

Mr. BECK. When I am out of order the Chair will call me to order.

The PRESIDENT *pro tempore*. The Chair has stated the rule. The rule is express that debate is in order, but not on the merits of the measure proposed to be taken up.

Mr. BECK. We have now before us a bill known as the tariff-commission bill. It has been claimed by its friends to be a matter of very great importance. We all have before us measures of equally great importance. I have called attention time and again and have endeavored to obtain the ear of the Chair to lay before the Senate a bill from the Committee on Finance relative to the immediate transportation of goods in bond from the seaboard. I have other bills, and so have we all. The Senator from Connecticut [Mr. EATON] has the floor on the tariff-commission bill. If he yields it now I hope and trust, important as that measure is, that he will not be allowed to take it up any more until other bills have had an equally fair chance. It is his right now to go on and it is his right now to hold his bill in its place; but to allow a bill of that importance to be laid aside to take up another which I regard as highly objectionable, and then to claim its place again to the exclusion of all other business on the ground of courtesy, I shall protest against.

For that reason I shall vote against this bill being brought up, if for no other reason, so that the bill now regularly before the Senate may be disposed of, and then others of us who have equally important public measures may have an equal chance to have them heard.

Mr. DAVIS, of Illinois. I think this is a very important public measure. I do not agree with the Senator from Kentucky in that regard. I certainly was courteous to my friend from Connecticut, because I told him if he wanted to go on I would not seek to get this measure up now. I cannot see any reason why this measure should not be taken up.

Mr. ANTHONY. I agree with the Senator from Kentucky that business is better dispatched by sticking to a bill when it is up until it is disposed of, and then taking up something else. Laying aside one bill to take up another produces embarrassment and confusion daily. I move that the Senate proceed to the consideration of executive business.

The PRESIDENT *pro tempore*. The Senator from Rhode Island moves that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After one hour and thirty-six minutes spent in executive session the doors were reopened, and (at six o'clock and eight minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *June* 2, 1880.

The House met at eleven o'clock a.m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

SHIP-CANAL IN WASHINGTON TERRITORY.

Mr. WILSON. I rise to make a privileged report from the Committee on Printing. I am instructed to report back, with an adverse recommendation, the concurrent resolution to print 1,000 copies of the report of Lieutenant-Colonel Alexander's survey of Lakes Union and Washington, in Washington Territory, for a ship-canal from the latter lake to Elliott Bay.

The concurrent resolution was laid upon the table, and the accompanying report ordered to be printed.

MEDICAL AND SURGICAL HISTORY OF THE WAR.

Mr. WILSON also, from the Committee on Printing, reported back, with an adverse recommendation, the concurrent resolution for printing and binding 4,000 copies of the Medical and Surgical History of the War; 1,000 copies for the use of the Senate, and 3,000 for the use of the House.

The concurrent resolution was laid upon the table, and the accompanying report ordered to be printed.

DISTRIBUTION OF CONGRESSIONAL RECORDS TO LIBRARIES.

Mr. WILSON also, from the same committee, reported back, with an amendment, the joint resolution (H. R. No. 213) regarding the printing and distribution of CONGRESSIONAL RECORDS to certain libraries.

The joint resolution was read, as follows:

Resolved, &c., That the Secretary of the Interior be directed to ascertain what volumes of the Congressional Globe and RECORD are necessary to complete the sets in the several State and territorial libraries and in the depository of public documents authorized by law in each congressional district of the United States.

SEC. 2. That upon notification the Public Printer shall deliver, bound, to the Secretary of the Interior, from the volumes of the Congressional Globe purchased from Messrs. Rives, and from other Globes and RECORDS in his possession, the number, if any, required to complete the sets in the libraries named in section 1 of this resolution; and he shall reprint from the stereotype plates such additional number as may be necessary.

SEC. 3. That the Secretary of the Interior shall transmit through the mail, which is hereby authorized to convey them free, to the institutions named in section 1 the volumes delivered to him under the provisions of this resolution, and shall report to Congress the institutions to which they are forwarded and the number of volumes delivered to each.

The amendment reported by the Committee on Printing was read, as follows:

In section 2, line 6, strike out the words "and he shall reprint from the stereotype plates such additional number as may be necessary."

Mr. WILSON. The object of this joint resolution is simply to let these old volumes be sent out to libraries that are calling for them. It involves no cost to the Government. These volumes are lying where they are now molding and spoiling, and libraries are anxious

to get them. The committee recommend that the resolution be amended by striking out the provision which looks to the printing of additional books.

The amendment was agreed to.

The joint resolution, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WILSON moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. WILSON. I now ask consent that there be taken from the Speaker's table and referred to the Committee on Printing——

Mr. DIBRELL. I ask consent to take from the Speaker's table a House bill which has been returned from the Senate with amendments, for the purpose of concurring in the Senate amendments.

Mr. ROBINSON. I call for the regular order.

The SPEAKER. The regular order is called for, which is equivalent to an objection. The Chair has received a communication in relation to the monument to mark the birth-place of Washington, which he thinks should be laid before the House. As the House is not very full now the Chair will take the opportunity later in the day to lay the communication before the House.

Mr. WILSON. Have the bills which I asked to be taken from the Speaker's table been referred to the Committee on Printing?

The SPEAKER. They have not been.

Mr. WILSON. I understand the law says that they shall be so referred at once.

The SPEAKER. The Chair would like to see that law.

Mr. WILSON. I will show it to the Speaker.

The SPEAKER. The rule of the House requires that unanimous consent shall be obtained in order to take business from the Speaker's table at this time; and the regular order being called for, the Chair has no right to discriminate.

Mr. O'NEILL. I do not think the gentleman from Massachusetts [Mr. ROBINSON] is in earnest in calling for the regular order.

Mr. ROBINSON. There is no doubt about my being in earnest.

Mr. O'NEILL. I ask unanimous consent to take a Senate bill from the Speaker's table.

The SPEAKER. The Chair cannot entertain that request now. Whenever the motion is in order the Chair will entertain a motion to proceed to business on the Speaker's table. The regular order being called for, the first thing in order is the morning hour for the call of committees for reports.

Mr. COBB. I move to dispense with the morning hour for to-day.

The motion was agreed to, two-thirds voting in favor thereof.

Mr. COBB. I now move that the House resolve itself into Committee of the Whole on the state of the Union; and pending that motion I move that all debate upon the pending paragraph of the general deficiency bill and upon all amendments thereto be limited to ten minutes.

The motion to limit debate was agreed to.

The motion to go into Committee of the Whole was agreed to.

The House accordingly resolved itself into Committee of the Whole, Mr. WHITTHORNE in the chair.

GENERAL DEFICIENCY APPROPRIATION BILL.

The CHAIRMAN. The House is now in Committee of the Whole, and resumes the consideration of the general deficiency appropriation bill. The Clerk will report the pending paragraph of the bill, and the amendments pending thereto.

The pending paragraph of the bill was read, as follows:

To enable the Secretary of the Treasury to provide storage for silver coin, $20,000.

The substitute for the paragraph moved by Mr. BLAND, and amended on motion of Mr. HAYES, was read, as follows:

To relieve the vaults of the Treasury Department of hoarded coin the Secretary of the Treasury is hereby authorized and directed to pay in standard silver dollars the amounts appropriated in this act; and the sum of $10,000 is hereby appropriated for the storage of so much of such coin as may be returned to the Treasury for certificates issued therefor as provided by law: *Provided*, That the Secretary of the Treasury be directed to pay members of Congress hereafter the full amount of their salaries in standard silver dollars.

The CHAIRMAN. The pending question is upon an amendment moved by the gentleman from Illinois [Mr. TOWNSHEND] to the substitute of the gentleman from Missouri [Mr. BLAND] which has just been read. The amendment of the gentleman from Illinois will be read.

The amendment was to add to the substitute, as amended, the following:

And that the salaries of all officers of the United States be paid in standard silver dollars.

The CHAIRMAN. By order of the House all debate upon the pending paragraph and amendments thereto has been limited to ten minutes. The question is upon the amendment of the gentleman from Illinois.

Mr. TOWNSHEND, of Illinois. Is not my amendment really an amendment to the amendment offered by the gentleman from Illinois, [Mr. HAYES,] which provides that the salaries of members of Congress shall be paid in silver dollars?

The CHAIRMAN. That was an amendment to the substitute offered by the gentleman from Missouri, and it being adopted, the amendment of the gentleman from Illinois [Mr. TOWNSHEND] is an amendment to the substitute as amended.

The question was taken upon agreeing to the amendment of Mr. TOWNSHEND, of Illinois; and upon a division there were—ayes 24, noes 42.

Mr. TOWNSHEND, of Illinois. I call for tellers.

Tellers were ordered; and Mr. COBB, and Mr. TOWNSHEND of Illinois, were appointed.

The committee again divided; and the tellers reported that there were—ayes 27, noes 58.

No further count being called for, the amendment of Mr. TOWNSHEND, of Illinois, was not agreed to.

The question recurred upon agreeing to the substitute as amended.

Mr. WARNER. I move to amend the substitute by striking out all after the word "to," in the first line, and inserting in lieu thereof that which I send to the Clerk's desk.

The Clerk read as follows:

Enable the Secretary of the Treasury to provide more secure, and, if need be, additional vault-room for coin and bullion, $20,000: *Provided*, That in exercising on behalf of the Government the option to pay out either gold or silver coin in the payment of Government expenses and obligations, the Secretary of the Treasury or the Treasurer of the United States, or any assistant treasurer, shall not discriminate in favor of or against the coin of either metal for the benefit of any particular person or creditor; nor shall it be lawful for the Secretary of the Treasury, or any other officer of the Government, to waive for or on behalf of the Government its right of option in the payment of money from the Treasury of the United States. And the Secretary of the Treasury is hereby required to recede from his arrangement with the New York clearing-house, unless the rules of said clearing-house prohibiting the tender of silver in the settlement of balances, so far as pertains to the United States, be abrogated.

Mr. HISCOCK. I make the point of order on that amendment.

Mr. WARNER. That covers the whole ground.

Mr. PAGE. It covers too much ground.

Mr. HISCOCK. I make the point of order that the amendment changes existing law and does not retrench expenditures.

Mr. WARNER. What law does it change?

Mr. HISCOCK. I might say further, in the light of the decision made by the Chair yesterday ruling out an amendment which I offered, to repeal section 3 of the silver bill, that the proposed amendment is not germane to the bill.

Mr. WARNER. A word on the point of order. There is no law, I think, which this amendment changes. It simply prevents the officers of the Government from violating any law in exercising the option of the Government in paying out coin.

Mr. PAGE. It proposes to make a new law.

Mr. WARNER. It is certainly germane to this paragraph of the bill, and would be in the line of retrenchment. If the paragraph of the bill be in order, I think my amendment is certainly in order.

The CHAIRMAN. In the opinion of the Chair the proposed amendment is not in order.

Mr. GILLETTE. I offer the amendment which I send to the desk.

The Clerk read as follows:

Strike out of the substitute all after the words "to relieve the wants of the Treasury Department" and insert the following:

"The Secretary of the Treasury shall pay out for principal and interest upon the public debt all surplus silver coin now in, or that shall come into, the Treasury of the United States."

Mr. HISCOCK. I make the same point of order on this amendment that I have already made.

Mr. GILLETTE. I would like to have the gentleman cite any law which this changes.

The CHAIRMAN. The gentleman from New York [Mr. HISCOCK] will state his point of order.

Mr. HISCOCK. The point of order that I make is that the amendment contemplates a change of existing law, that it does not decrease expenditures, and that it is not germane to the bill. I may say in this connection that new legislation is always a change of existing law. This has been ruled by yourself as Chairman.

Mr. WARNER. The amendment I offered is not new legislation.

Mr. GILLETTE. I wish to say just a word. The gentleman does not state what law this changes, nor can he. Furthermore, this amendment is in perfect sympathy with the expression of both Houses of Congress as embodied in the Matthews resolution, which was designed practically to make the law precisely what this amendment would make it. I think, therefore, that the point of order cannot be sustained.

The CHAIRMAN. The Chair sympathizes with the views of the gentleman from Iowa, [Mr. GILLETTE;] but acting as Chairman he must hold that the proposed amendment is not in order.

Mr. BRAGG. Is it in order now to move a substitute for this whole thing?

The CHAIRMAN. There is now pending a substitute for the whole clause. An amendment to that substitute is in order, but two substitutes cannot be pending before the committee at the same time.

Mr. WARNER. I rise to a parliamentary inquiry. Has the Chair ruled upon the amendment I offered?

The CHAIRMAN. He has.

Mr. WARNER. It has been ruled out of order?

Mr. BLAND. I desire to move an amendment to the substitute.

The CHAIRMAN. That would be in order.

The Clerk read as follows:

Strike out of the proviso all after the words "members of Congress" and insert "interest on the public debt and other expenditures of the Government in standard silver dollars;" so as to read as follows:

"To relieve the vaults of the Treasury Department of hoarded coin, the Secretary of the Treasury is hereby authorized and directed to pay in standard silver dollars the amounts appropriated in this act; and the sum of $10,000 is hereby appropriated for the storage of so much of such coin as may be returned to the Treasury and certificates issued therefor as provided by law: *Provided*, That the Secretary of the Treasury be directed to pay members of Congress, interest on the public debt, and other expenditures of the Government in standard silver dollars."

Mr. HISCOCK. I make the same point of order upon this amendment.

Mr. BLAND. On that point I want to be heard.

Mr. HISCOCK. Does the Chair desire that I shall state anew the point of order? The point I make is that the proposed amendment is not germane to the bill, that it changes existing law, and that it does not reduce expenditures by such change.

Upon the question of its being germane I might say (so that the gentleman may have the benefit of the suggestion) that the only ground upon which the amendment I offered yesterday could be ruled out was that we cannot make law with reference to the currency of the country upon an appropriation bill containing simply a provision for the storage of currency or coin. The subjects are entirely dissimilar.

Mr. BLAND rose.

Mr. HARRIS, of Virginia. I make the point that by order of the House all debate on the pending paragraph and amendments thereto was limited to ten minutes, which time has expired.

The CHAIRMAN. This is a point of order upon an amendment, and on such a question the limitation upon debate does not, in the opinion of the Chair, apply. The Chair, however, suggests to the gentleman from Missouri [Mr. BLAND] to be as brief as possible.

Mr. BLAND. I submit that the point of order is not well taken. In the first place, the proposed amendment does not change any existing law. The illustration given by the gentleman is the case of an effort to repeal or modify a law of Congress. This proposition does not repeal, modify, or change any law, because the law authorizing the coinage of the standard silver dollar makes it a tender for all dues public and private, and that is all that this amendment does.

Mr. HARRIS, of Virginia. Will my friend allow me a question? I sympathize with him very much in all this silver business; but unless this amendment changes existing law, what does it amount to? If it is new legislation it changes existing law.

Mr. BLAND. I am glad the gentleman has asked me that question, because it gives me the opportunity to make a statement I had wished to make. The Secretary of the Treasury drives Congress into the position that it now assumes. He will not pay out this money in conformity to law. He defies the law, and thus it becomes necessary for Congress to give him direction.

Mr. CLAFLIN. I rise to a question of order.

The CHAIRMAN. The gentleman from Missouri must confine himself to the question of order.

Mr. BLAND. Certainly. I answer the point of order by saying that it is competent for Congress to direct the Secretary of the Treasury to perform these duties; and unless Congress gives such direction he will not perform them.

Mr. HARRIS, of Virginia. If this is the law now, why duplicate existing law? If it is not now the law, this is a change of existing law.

Mr. BLAND. No; this does not change any existing law; and it is germane to the bill in view of the amendment already adopted. It may be true that as an original proposition this might not under certain circumstances be germane to this bill; but since a provision was adopted that this money should be paid out for the objects appropriated for in the bill, the amendment is certainly germane as connected with that provision. At any rate the amendment to the substitute has been adopted and no point of order has been made on the substitute or that amendment. This is germane to the pending substitute and amendment for it reduces the expenditures under the bill. I will have clause 3 of Rule XXI read to show the amendment reduces expenditures.

Mr. PAGE. Will the gentleman from Missouri allow me to ask him a question? Is there anything in the law now which provides that the Secretary of the Treasury shall pay members of Congress in silver dollars or that he shall pay the interest upon the public debt in silver dollars? Is there anything in the law now providing that shall be done?

Mr. BLAND. Certainly. It provides that he may pay all expenditures in silver dollars.

Mr. PAGE. But that is not it. I ask where there is any law which provides specially that members of Congress shall be paid in silver dollars, and also that the interest on the public debt shall be paid in silver dollars? If there is no such law, then this evidently changes existing law, and is therefore not in order.

Mr. BLAND. I wish to state one thing further.

The CHAIRMAN. The Chair would suggest to the gentleman from Missouri that the Chair and the committee are familiar with clause 3 of Rule XXI; and therefore it is not worth while to read it.

Mr. BLAND. Very well, then; I say inasmuch as this substitute is now before the House to be acted on and amended, so as to pay every appropriation in the bill in silver dollars, and to pay members of Congress in silver dollars, this amendment is germane. No one can get out of that or deny it.

Mr. HUTCHINS. If I understand the amendment of the gentleman from Missouri, or the substitute, his proposition would provide that all the expenditures of the Government shall be paid in silver dollars. That would restrict the Secretary of the Treasury from paying out anything else; and, as we have not silver dollars enough to pay all the expenditures for one month hardly, how can we pay all the expenditures in silver dollars?

Mr. BLAND. Pay them as far as they go.

Mr. HUTCHINS. That shows the effect of such crude legislation as this, when Congress goes before the country with such attempts to amend the deficiency bill! It is all for buncombe, and I hope it will be stopped and that we will strike the whole thing out and go on with the bill.

Mr. FERNANDO WOOD. I desire to hear the amendment read, as I have just come into the Hall and wish to say a word on the point of order.

The amendment was again read.

Mr. FERNANDO WOOD. I wish to call the attention of the Chair before deciding the point of order to one or two questions which necessarily arise in considering this amendment. There is a very great difference, sir, between the interest on the public debt and voting an appropriation for contracts or services yet to be performed or rendered. The interest on the public debt is fixed by law authorizing the Secretary of the Treasury to issue bonds. That interest is a matter of contract.

Mr. BRAGG. I rise to a point of order. The gentleman is discussing the merits of the proposition.

Mr. FERNANDO WOOD. I am discussing the point of order. The gentleman from Wisconsin will exercise his patience for a few moments. I am speaking to the question under consideration, which is the point of order raised against the amendment of the gentleman from Missouri. I hold that we cannot violate existing contracts, that the interest of the public debt is provided for under contract, and that in an appropriation bill you cannot violate a contract any more than anywhere else.

Again, sir, the interest on the public debt is provided for by permanent appropriation. We are not called upon in any appropriation bill to provide for the payment of that interest. When the bonds were issued the contract was made as to the payment of interest, and you cannot by this process avoid the just and honorable obligation of your Government. I therefore hold under these circumstances the amendment cannot be entertained.

Mr. MILLS. Does the gentleman from New York say the bonds cannot be paid in coin of the standard value of 1870?

Mr. FERNANDO WOOD. I have said the interest and principal of the public debt must be paid according to the contract under which the bonds were issued.

Mr. MILLS. The contract under which they were issued said they should be paid in coin of standard value. This is in strict accordance with that contract.

Mr. HAYES. Let us have a decision.

The CHAIRMAN. The Chair has no difficulty in his own mind in ruling the amendment out of order.

Mr. FIELD. I offer the following amendment:

Strike out the words "twenty thousand dollars," in line 243, and insert in place thereof the following:

"Fifteen thousand dollars; and the third section of the act passed February 28, 1878, entitled 'An act to authorize the coinage of the standard silver dollar and to restore its legal-tender character' is hereby repealed: *Provided*, That all silver certificates heretofore issued shall be paid in standard silver dollars on demand, and canceled under such regulations as the Secretary of the Treasury may make."

Mr. WARNER. I make the point of order upon that, that it is not germane and changes existing law.

Mr. FIELD. Mr. Chairman, in reference to the point of order raised by the gentleman from Ohio I wish to say, in the first place, that it is germane in part to the bill under consideration, and an amendment which is germane in part and an amendment which cannot be divided is germane in whole to the bill. This strikes out $20,000 and inserts $15,000. That is undoubtedly germane to the subject-matter of the bill.

The CHAIRMAN. Will the gentleman from Massachusetts suspend a moment and the Chair will direct his attention to the question of order as it strikes the Chair at this time. In the opinion of the Chair the text of the bill in lines 242 and 243 was fully considered by the committee and perfected by amendments offered and rejected. After that was done the committee took up a substitute, which is the pending amendment, for the section. Now, the point of order which is in the mind of the Chair, and one which the Chair does not remember to have ever heard decided, is whether after the committee has gone through and perfected the text of the section it is in order now to recur to the text and consider the amendments to it again after it has been passed.

Mr. FIELD. With due deference to the opinion of the Chair I beg leave to state that in my judgment what is done and is being done now is still in reference to perfecting the text of the original section. Everything done here is in reference to that.

Mr. COBB. I rise to a point of order. I understand that the Chair has decided the question of order, and that debate is consequently out of order now.

The CHAIRMAN. The Chair has not decided the point of order, but simply called the attention of the gentleman from Massachusetts to what the Chair regards as the first question in this connection, and that is whether upon the pending substitute, after having perfected the original text, we can go back, as this amendment proposes, to the original text again.

Mr. PAGE. I ask that the amendment be read.

The amendment was again read.

Mr. PAGE. That is clearly out of order.

Mr. FIELD. I do not know to how many points of order I am speaking, but I understood the Chair, as the Chair understood itself, that while I was speaking to the point of order a gentleman rose upon the other side and made the point that it was not germane. To that I had begun to address myself when the Chair suggested another consideration, and that was as to the action of the committee in perfecting the text of the original bill and with reference to the propriety of going back to it after it had been perfected. I will now address myself to the consideration of the point of order suggested by the Chair.

The clause was read, as is common, and as the rule requires before any amendment to it can be proposed; various amendments had been proposed to that clause—so far as I now remember all in the nature of additions to it—but we did not proceed to the next clause. We did not finish our consideration of the subject-matter contained in this clause. But it is a question of form and not a question of substance whether we can change the clause by adding something to it or striking something out of it and adding something in place of that which is stricken out, because we can easily prepare amendments to accomplish the same thing in either way. The point is that we have not passed all of it as yet. The text was read. We were considering the matter of amendments to the text and had entered upon nothing else, and that question is the question that is still before the committee. So much in regard to the suggestion made by the Chair.

The second suggestion to which I was about to address myself when the Chair called my attention to the other point is, that it is not germane to the subject-matter of the bill. Now, Mr. Chairman, we do not divide this amendment, and if a part of it is germane the whole of it is. It proposes to strike out "$20,000" and insert "$15,000." That is germane, unquestionably.

Again as to the subject. The subject of the clause under consideration is the storage of silver coin. We have existing a law by direction of which the Treasury of the United States is the depositary of the silver coin held by individuals. Any man having coin—silver dollars—can leave them there and take up certificates which are redeemable in this coin, and the coin is held there for the payment of the certificates. The result of this arrangement is that as silver dollars are inconvenient they all go into the Treasury and silver certificates are issued therefor, and this will be the case so long——

Mr. WARNER. I must rise to a question of order. The gentleman from Massachusetts is discussing the merits of the question and not the point of order.

Mr. FIELD. I am explaining that it is germane to the bill under consideration.

Mr. WARNER. It may be germane, but it changes existing law.

The CHAIRMAN. The gentleman from Massachusetts will proceed upon the point of order.

Mr. FIELD. I was about saying that this silver will go there so long as silver certificates are required to be issued, and so long as the Treasury is required to keep coin and other certificates in lieu thereof. Now, if gentlemen want silver dollars to go abroad into the country and to be used in the commercial affairs of the country, they must abolish the certificates. If you take away the necessity for the storage of silver, then you take away the necessity for making an appropriation to provide for that storage, reducing expenditures to that extent; and upon that ground also this amendment is germane to the bill. It also retrenches expenditures to that extent.

The CHAIRMAN. In the opinion of the Chair this amendment is out of order, for the reason that the committee upon yesterday, having perfected the text, passed from the consideration of the text to the consideration of a substitute and amendments offered therefor after the text was perfected. Any amendment to the text the Chair thinks, therefore, will be out of order, and upon that point, as well as upon the point that it changes existing law, the Chair regards the amendment as out of order.

Mr. SPRINGER. I desire to offer an amendment to the substitute.

The Clerk read as follows:

Strike out all after the word "department" in the substitute and insert the following:

"That gold, silver, and United States Treasury notes be paid to all public creditors in such relative amounts as will suit the convenience of the Government, without discrimination against either gold, silver, or paper, but observing all existing contracts."

Mr. HISCOCK. I make the same point of order on that amendment or substitute. It is not germane to the bill; it changes existing law, and it does not by such change of existing law propose to reduce expenditures. It is certainly in the same direction as every other amendment that has been ruled out.

Mr. SPRINGER. Does the gentleman from New York say that this amendment changes existing law?

Mr. HISCOCK. I say if it is an enactment of a law, it changes existing law. I say, further, that any enactment which proposes to regulate the currency, which provides the manner in which it shall be paid out, is not germane to a bill which simply has for its purpose, in the pending paragraph, the repair of the vaults of the sub-treasury of New York for the keeping of the funds of the Government.

Mr. SINGLETON, of Illinois. I desire to inquire what is the present state of the question? We are all in the fog here, and would like to know what is the question.

The CHAIRMAN. The pending question is in regard to the point of order made upon the amendment proposed by the gentleman's colleague [Mr. SPRINGER] to the substitute offered by the gentleman from Missouri, [Mr. BLAND.]

Mr. SINGLETON, of Illinois. Then I call the attention of the Chair to Rule XIX. I believe that one substitute has already been offered, and that that substitute has already been amended. I now inquire of the Chair whether a substitute having been offered, and one amendment made to it, it is subject to any further amendment. I submit that it cannot be amended in the third degree.

The CHAIRMAN. If an amendment in the third degree was pending the Chair would concur with the gentleman from Illinois. But he holds that not to be the fact. The question of order is raised by the gentleman from New York [Mr. HISCOCK] upon the proposed amendment. Does the gentleman from Illinois [Mr. SPRINGER] desire to be heard upon the point of order?

Mr. HISCOCK. I wish to add to what I have already said on the point of order that I believe this amendment is substantially the same as an amendment or substitute which has already been ruled out by the Chair.

Mr. SPRINGER. I did not hear the ruling of the Chair upon any similar proposition; and I do not know, having just come into the Hall, whether or not a similar proposition has been offered. But I offer this amendment because it announces, in my judgment, the proper rule to be observed by the Government in reference to paying public creditors; that they should be paid according to the convenience of the Government in either gold, silver, or United States legal-tender Treasury notes. I believe that is the law now and this is simply a direction to the Secretary of the Treasury to observe the law. The proposition in the bill is to furnish him means to hoard one class of the Government money so that he will not be required to pay it out, and that he may thereby evade the law to that extent. This is a direction to him to observe the law by paying gold, silver, or Treasury notes, according as it may suit the convenience of the Government, at the same time observing the contracts which the Government has made.

Mr. WEAVER. I ask the gentleman from Illinois if his amendment does not allow the Secretary of the Treasury to determine what is best for the convenience of the Government? It provides a convenient hole for John Sherman to get out of.

Mr. SPRINGER. In answer to the question of the gentleman from Iowa, I will say there is no mode provided for construing the law for any ministerial officer. He must do it himself.

Mr. WEAVER. Say he "shall" do so and so.

Mr. SPRINGER. The amendment says he shall pay out to the public creditors gold, silver, and United States Treasury notes to suit the convenience of the Government. This does not change existing law, and is not subject to the point of order which has been made.

Mr. FERNANDO WOOD. I would like to ask the gentleman from Illinois whether in the exception he makes of existing contracts he includes the interest on the public debt?

Mr. SPRINGER. I understand, according to the actual contract, the interest on the public debt is to be paid in coin of the then standard value; and as regards silver, that means a dollar of 412½ grains. I think the Secretary should be instructed to pay in that coin the interest on the public debt.

Mr. WEAVER. Say he "shall" do it.

The CHAIRMAN. The Chair sustains the point of order made on the amendment of the gentleman from Illinois.

Mr. BRAGG. I offer the following amendment to the substitute:

Strike out all after the word "to" and insert "enable the Secretary of the Treasury to repair the vaults of the sub-treasury at New York, $20,000."

I think that will meet the suggestion made by the gentleman from New York [Mr. HISCOCK] yesterday as to what was desired by the Committee on Appropriations.

Mr. HUTCHINS. In 1878, when the silver law, so called, was passed, there was appropriated $75,000 for the repair of the vaults. That money was placed in the hands of the Secretary of the Treasury, and we have no report showing any portion of that appropriation has been expended.

The CHAIRMAN. Debate is not in order.

Mr. HISCOCK. I desire to make a suggestion to my friend from Wisconsin, [Mr. BRAGG.] I think I can satisfy him that his amendment should not be in that form. I desire to reach the same object as he does.

Mr. BRAGG. I prepared the amendment in accordance with the suggestion the gentleman made yesterday.

The question being taken on Mr. BRAGG'S amendment, there were—ayes 12, noes not counted.

So the amendment was not agreed to.

The CHAIRMAN. The question is on the adoption of the substitute of the gentleman from Missouri [Mr. BLAND] as amended. It will be again read.

The Clerk read as follows:

To relieve the vaults of the Treasury Department of hoarded coin the Secretary of the Treasury is hereby authorized and directed to pay in standard silver dollars the amounts appropriated in this act, and the sum of $10,000 is hereby appropriated for the storage of so much of such coin as may be returned to the Treasury for certificates issued therefor as provided by law: *Provided*, That the Secretary of the Treasury be directed to pay members of Congress hereafter the full amount of their salaries in standard silver dollars.

The question was put on agreeing to the substitute as amended.

Mr. CONVERSE. I desire to make an inquiry of the gentleman who has this bill in charge. I understood the gentleman from New York [Mr. HUTCHINS] to say a moment ago that $75,000 had been appropriated for the repair of the vaults in the city of New York and that that sum of $75,000 never has been expended and is still subject to the order of the Treasurer for that purpose. If that be so, I would like to inquire what is the necessity of appropriating in this bill $10,000 for the same purpose?

Mr. COBB. I will answer the question of the gentleman.

Mr. HUTCHINS. I would like to correct the gentleman from Ohio, [Mr. CONVERSE.] He does not state quite correctly what I said. I said that the law had appropriated $75,000 for repairs of vaults and had placed that money in the hands of the Secretary of the Treasury, and that we had no report from any quarter showing that any portion of that money had been expended.

Mr. COBB. In answer to the question of the gentleman from Ohio, [Mr. CONVERSE,] I desire to state that the Secretary of the Treasury has recommended that an appropriation of $20,000 be made for this purpose. The sub-treasurer in New York City, Mr. Hillhouse, in a letter which is now before the Committee on Appropriations, states that this sum is necessary. It is not for the purpose of repairing a vault or vaults, but for the purpose of making such additions as may be necessary to keep safely the silver coin of the Government. In that letter Mr. Hillhouse states that this is absolutely necessary, that if we go on coining silver at the present rate there will soon not be room enough to store the silver. It is necessary to make additions in order to have room in which to put the silver coin of the United States. That is the information which we have.

Mr. CONVERSE. I would like to ask my friend whether the $75,000 appropriated for the repair of these vaults in view of the increased amount of silver coin has been expended; and if it has not been, then why is this appropriation recommended?

Mr. COBB. I will say this: my understanding is that it has been expended, that there is no money on hand for the purpose of meeting this requirement. I take it that when the Secretary of the Treasury and the sub-treasurer ask for an appropriation for a certain purpose it means that they have no money on hand for that purpose. I do not know that we have it in so many words from the Secretary of the Treasury that there is no money on hand.

Mr. HUTCHINS. Will the gentleman allow me to ask him a question?

Mr. COBB. Certainly.

Mr. HUTCHINS. Has the Committee on Appropriations any other information on the subject than the mere fact that the Secretary of the Treasury asks for this appropriation?

Mr. COBB. We have it from the sub-treasurer as well as from the Secretary of the Treasury that there is no money by which these additions can be made to the vaults, and that this money is necessary in order to meet the demand for more room.

Mr. HAYES. I rise to a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. HAYES. Is this discussion in order?

The CHAIRMAN. In the opinion of the Chair——

Mr. HISCOCK. Let me answer the question of the gentleman from New York, [Mr. HUTCHINS.]

The CHAIRMAN. In the opinion of the Chair, the committee being now engaged in dividing upon an amendment, debate is not in order.

Mr. HUTCHINS. The answer to the question of the gentleman from Ohio is——

Mr. LOWE. I object to debate.

Mr. HISCOCK. I do not want to debate the amendment; only to answer a question.

Mr. LOWE. I do not want any answer.

The CHAIRMAN. The committee is dividing on the substitute of the gentleman from Missouri, [Mr. BLAND.]

Mr. BROWNE. What is that substitute?

The CHAIRMAN. It has been read a great many times; but inasmuch as the committee seem to be disinclined to vote, the Chair will direct the substitute to be read again for the last time.

The substitute was again read.

The question was taken upon agreeing to the substitute as amended; and upon a division there were—ayes 12, noes 57.

No further count being called for, the substitute was not agreed to.

Mr. LOWE. I move to strike out the words "standard silver dollars" and insert in lieu thereof the words "legal-tender notes."

The CHAIRMAN. There are no such words in the pending paragraph.

Mr. LOWE. There are in the substitute.

The CHAIRMAN. But the substitute has been voted down.

Mr. CLAFLIN. I move to amend the pending paragraph by adding thereto that which I send to the Clerk's desk.

The Clerk read as follows:

And the Secretary of the Treasury is hereby authorized to transport through the mails sums of fractional silver not exceeding four pounds to any person who sends to the Treasury legal-tender notes or silver certificates at the cost of the Treasury; and said fractional silver shall be sent in registered letters at the owners' risk.

Mr. GILLETTE. I make the point of order on that amendment that it changes existing law.

Mr. WEAVER. It changes existing law. The idea of sending seven hundred wagon-loads of silver through the mails——

The CHAIRMAN. What is the point of order?

Mr. GILLETTE. It changes existing law, or makes a new law, under which seven hundred wagon-loads of silver are put into the mails of the United States, thereby increasing expenditures.

Mr. CLAFLIN. The amendment does not increase expenditures. It takes from the care of the United States the fractional silver which is now in the Treasury and which is demanded by the people of the country. It is a measure which, if adopted, will relieve the Treasury. There are now some $20,000,000 of fractional silver in the Treasury, which is very much wanted in other parts of the country. The people do not know now that they can send to the Treasury and obtain this fractional silver.

Mr. COBB. I rise to a question of order, that the gentleman from Massachusetts [Mr. CLAFLIN] is not discussing the point of order.

Mr. WEAVER. I desire to be heard on the point of order.

Mr. COBB. I trust gentlemen will allow us to proceed with the consideration of this bill. It is very evident that it is the determination of the committee not to make any amendment to this portion of the bill.

Mr. CLAFLIN. It saves interest by paying out this money, and this saving will more than cover any expense in the transportation through the mails. The provision is for the benefit of the people all over the country, and it saves expense.

Mr. GILLETTE. How does it save interest? The Secretary of the Treasury gets a dollar for every dollar sent out.

Mr. CLAFLIN. But he does not get the dollar if this money be retained in the Treasury.

The CHAIRMAN. In the opinion of the Chair the point of order is well taken, and the Chair rules out the amendment.

Mr. OSCAR TURNER. I offer the amendment which I send to the desk.

The Clerk read as follows:

Strike out lines 242 and 243 and insert "that the surplus of silver coin in the Treasury shall be paid out in redemption of United States bonds bearing interest, and that all such surplus silver that may hereafter accumulate shall be paid out for same purpose."

Mr. HISCOCK. I make a point of order on that amendment.

The CHAIRMAN. The Chair has already ruled out a similar proposition.

Mr. OSCAR TURNER. That was ruled out when it was simply offered as an amendment to the substitute.

The CHAIRMAN. For the same reasons the Chair rules this out.

Mr. OSCAR TURNER. I rise to a question of order. If I understand the question, the substitutes and amendments offered have now all been acted upon and voted down, and the bill stands as it came from the committee, with these two lines, so far as this question is concerned:

To enable the Secretary of the Treasury to provide storage for silver coin, $20,000.

This brings us back to the bill as first reported from the committee. If so, the reasons which the Chair stated as applicable to the former amendment as similar to this do not apply now. I offer the amendment to strike out these two lines and insert what has been read, and not as an amendment to any other amendment offered. This amendment, if adopted, would be of substantial benefit to the country and is not offered for mere buncombe. It would put the sixty millions of silver coin, said to be now hoarded in the Treasury, into circulation and stop the interest on that amount of bonds; and I do not think the point of order is applicable or ought to be insisted upon. Let us have a vote upon this proposition.

The CHAIRMAN. The Chair will repeat his own words as used a few moments ago in ruling upon another proposition. The Chair sympathizes with the object of the gentleman from Kentucky, but in his position as Chairman he must hold the amendment not to be in order.

Mr. WARNER. I move to amend by striking out line 243 and inserting the words "more secure and, if need be, additional vault-room for coin and bullion, $20,000;" making it read:

To enable the Secretary of the Treasury to provide more secure and, if need be, additional vault-room for coin and bullion, $20,000.

This is only a verbal change.

The amendment was adopted.

Mr. TOWNSHEND, of Illinois. I move to strike out the pending clause embraced in lines 242 and 243 of the bill; and I desire to have read an article from the National Republican, the organ of the republican party, showing there is no truth in the statement that there is not sufficient vault-room for the storage of silver.

Mr. ROBINSON and others objected to debate.

The CHAIRMAN. Debate is not in order.

Mr. TOWNSHEND, of Illinois. This is the statement of a republican organ, and it shows there is no need for additional vault-room.

The CHAIRMAN. No debate is in order. Does the gentleman withdraw the amendment?

Mr. TOWNSHEND, of Illinois. No, sir; if it is in order I want a vote on it.

The question being taken on the amendment of Mr. TOWNSHEND, of Illinois, there were ayes 43. Before the negative vote was counted,

Mr. HISCOCK said: I desire to make a parliamentary inquiry. Is not this a motion to strike out precisely the same matter which a moment ago was voted in?

The CHAIRMAN. After completing the count the Chair will answer the inquiry.

The negative vote being counted,

The CHAIRMAN said: On agreeing to the amendment, there are—ayes 43, noes 58.

Mr. TOWNSHEND, of Illinois. I call for tellers.

Tellers were ordered; and Mr. HISCOCK, and Mr. TOWNSHEND of Illinois, were appointed.

The committee divided; and the tellers reported—ayes 46, noes 69.

Mr. BLAND and others. No quorum.

Mr. TOWNSHEND, of Illinois. In order to avoid the question of a quorum, I suggest that a vote be taken on this amendment in the House.

Mr. COBB. I object.

The CHAIRMAN. The tellers will resume their places.

Mr. WEAVER. If consent be given to a yea-and-nay vote in the House, we will withdraw the demand for a quorum.

The tellers resumed their places.

Mr. TOWNSHEND, of Illinois. It is agreed, I understand, that we shall have a yea-and-nay vote in the House; therefore the point of order on the absence of a quorum is withdrawn.

The CHAIRMAN. It is agreed by unanimous consent that upon the pending amendment a yea-and-nay vote may be had in the House. That being the agreement, the Chair directs the Clerk to proceed with the reading.

The Clerk read as follows:

To enable the Secretary of the Treasury, in his discretion, to pay judgments in "charges and commissions cases," obtained since January, 1879, and which may be hereafter obtained, or to settle any of said cases, in his discretion, by compromise, $75,000, or so much thereof as may be necessary.

Mr. CHITTENDEN. I move to amend by striking out the last word. I have some facts of interest which I wish to state for the benefit of the gentleman from Illinois [Mr. CANNON] who made light of the few remarks which I submitted here yesterday, and intimated that I was here to trifle with serious questions without real convictions and purpose. I have taken the trouble to find from the books of the Treasury Department the answer to various inquiries which have been made here within two or three days in respect to the workings of the gold balance of the Treasury. Gentlemen ask, "Why not complain that the gold will not circulate but must also be stored with silver at great cost?" It is upon this point that I have some facts to communicate.

The amount of gold coin and bullion in the Treasury of the United States on the 1st day of March last, was $146,750,000; on the 1st day of April, one month later, the amount of gold coin and bullion was $144,000,000, on the 1st of May, one month later, it was $138,750,000; on yesterday, the 1st of June, it was $128,750,000, fractions omitted in each case. These figures show a shrinkage of gold coin and gold bullion in the Treasury of the United States of $18,000,000 in three months. Of that $18,000,000 of shrinkage $10,000,000 disappeared in the month of May.

I ask gentlemen to accept these facts. They are facts of record and confirm every word I uttered yesterday in regard to the drift of our gold and silver coin.

During these three months the increase of silver in the Treasury has been $8,200,000. The increase of silver in the Treasury in the month of May is little more than the coinage; I mean the increase of the standard silver dollars in the Treasury for the month of May is more than were coined. We not only hoarded all the standard dollars coined in May, but gathered some more. In addition to that, $900,000 of fractional silver currency has come back into the Treasury since the 1st of May.

Now, where has the gold gone? It has not been exported, but it has been hoarded by the people, who know that water always descends to the sea, and that the difference in the value of the silver and gold dollar is about to appear and express itself so forcibly to the American people that no foolish talking in Congress can arrest it. This gold has been hoarded by the people and institutions on the eve of exportation. Before the month of June is ended we will see more or less gold exported; and if it is exported as rapidly as it was imported last summer, then, within a few months—mind you, let me not be misunderstood or misrepresented; I do not say it will be exported so rapidly; but if it is exported as rapidly, then within a few months there will not be a gold dollar, not one, as currency, in this country; every one will be hoarded and held as merchandise.

[Here the hammer fell.]

Mr. TOWNSHEND, of Illinois. I ask the Clerk to read the paragraph I have marked. It is from the National Republican, which, as I understand, is the organ of the Administration and of the republican party in the city of Washington.

The Clerk read as follows:

The New York Commercial Advertiser exposes the untruthfulness of the pretense that the vaults of the sub-treasury in New York are likely to be burst asunder by the five hundred tons of silver on hand in that city. In the first place, the single vault used at the sub-treasury is not more than quarter full; then the Government has the use of the whole fire-proof custom-house, only a few steps from the sub-treasury. There are vaults in Washington, in San Francisco, Carson City, Philadelphia, and Baltimore. In the vaults of a single Government establishment in France over $250,000,000 silver coin and bullion, in addition to $150,000,000 gold coin and bullion, are securely kept. The talk about bursting vaults was a shallow and silly device, quite on a par with the other devices by which Mr. Sherman has sought to defeat the will of Congress. He has steadily resisted the force of an act of Congress which is absolutely mandatory as to a bimetallic standard, and has done everything in his power to retard the circulation of silver and to render it unpopular. Then he quotes the effects of his own acts as a reason why a bimetallic standard should be abandoned. We hope the provision now a part of the sundry civil service bill will be made so specific in its directions that the Secretary will have no chance to evade it.

Mr. TOWNSHEND, of Illinois. I have nothing to add to the force of what I have had read from the National Republican.

Mr. HISCOCK. I desire to have read a letter of Mr. Hillhouse on this subject.

The CHAIRMAN. Debate is exhausted on the pending amendment.

Mr. HISCOCK. I will move, then, to strike out the last two words; and I will send up to the Clerk's desk to be read a letter from Mr. Hillhouse, assistant treasurer of the United States.

The Clerk read as follows:

OFFICE OF ASSISTANT TREASURER UNITED STATES,
New York, May 8, 1880.

SIR: After a personal inspection of our silver vault, I am satisfied that the additional amount we can safely receive will not exceed the estimate given in my dispatch of February 28, namely, $10,000,000, making, with what we now have on hand, say, $28,000,000, though this is much less than the nominal capacity of the vault

There are two objections to filling up all the available space:

First. The lateral pressure, which cannot be prevented by the most careful stowing, would force out the lattice-work partitions and precipitate the whole mass of coin into the passage-way, or the adjoining compartment, if empty.

Second. It would not be possible to make a count of the coin with even approximate correctness without handling nearly every bag. How much time and expense this would involve may be judged of from the fact that the present stock of silver weighs over five hundred tons.

To avoid these difficulties the coin has been stowed away in courses, commencing at the back of each compartment, each succeeding course containing a less number of tiers than the preceding one. The number of courses and the number of bags in each course can thus be determined with tolerable accuracy, while the pressure on the partitions is partially, if not wholly, removed. If we adhere to this plan, it will limit the silver we can receive to an amount much less than was anticipated when the vault was constructed, but it is the only one consistent with safety and convenience.

I take the liberty of calling your attention to the matter at this time, as there seems to be no disposition in Congress to stop the further coinage of silver. If it is to go on at the rate of $2,000,000 a month, the question of how we are to dispose of it with our present facilities, will soon be a pressing one.

Very respectfully,

THOMAS HILLHOUSE,
Assistant Treasurer United States.

Hon. JOHN SHERMAN, *Secretary.*

Mr. WEAVER. I will take the floor, and as the gentleman from New York [Mr. CHITTENDEN] is making an admirable speech against the sham resumption we have in this country, I will yield the remainder of my time to him.

Mr. CHITTENDEN. Mr. Chairman, I have but a word to add to what I have already said. I have really nothing new to say. The facts I have stated are as important and as common to every other member of the House as they are to me. It is not because I claim more intelligence or a greater disposition to deal with this question faithfully according to the facts, that I speak so earnestly about it, but it is simply because I believe Congress has been under a delusion. Many members—and I recognize some among them to whom I am most sincerely attached—are under a delusion in regard to this question unless my whole life has been an illusion.

The facts I brought to the attention of the House a few moments ago, which show a shrinkage of $18,000,000 of gold in the Treasury of the United States in three months, certainly are new to most of the gentlemen present and of great significance. When I went to the Treasury books this morning, I knew perfectly well there had been a shrinkage, but I was not aware there had been a shrinkage which pointed with such unerring certainty to a swift and conclusive demonstration of the end. I ask no member of this House, no responsible representative of the people here to take any opinion of mine, but I do ask members, I ask the lawyers of this House who are in the habit of regarding and acting upon evidence presented, to take the facts to be found in the Treasury, with the facts of history, and say whence we are going.

I predict nothing, but it is quite possible that before next December we will have nothing but silver coin, and that the people of this country will measure all their labor and products by the short-weight silver dollar while the merchant who exports the products of the country will get his pay in gold. We exported from this country in the month of May last about $80,000,000 of value. Every dollar of that $80,000,000 is to be paid for in the equivalent of gold. Now, I ask the gentleman from Ohio, [Mr. EWING,] whose great intelligence and eloquence have long been devoted to this question, why not have an international currency? What will he say when the time comes that his people are obliged to accept a depreciated silver dollar for the product sold to the New York merchant and the merchants of other

great exporting cities who receive gold for it and can receive nothing else? Is that a state of things which his constituents will enjoy? Is that a condition of things which the people of this country are willing to endure? I say, no; the people will—I believe, Mr. Chairman, I quoted Scripture once before in a two-minute speech before this House, and I think it appropriate in this connection—I say that the projectors of this silver delusion will sooner or later call upon the rocks and mountains to hide them from the wrath of the people.

[Here the hammer fell.]

Mr. HISCOCK. May I ask what is the amendment pending?

The CHAIRMAN. The amendment is the *pro forma* amendment of the gentleman from New York, [Mr. CHITTENDEN.]

Mr. CHITTENDEN. I withdraw the amendment.

Mr. WARNER. I renew it.

The CHAIRMAN. The gentleman from New York made an amendment to strike out the last word. The Chair then recognized the junior gentleman from New York to make an amendment to strike out the last two words. These amendments are yet pending.

Mr. HISCOCK. If I have the floor, I will yield to the gentleman from Ohio.

The CHAIRMAN. Debate on all the amendments has been exhausted.

Mr. CHITTENDEN. I withdraw the amendment.

The CHAIRMAN. That can only be done by unanimous consent.

Several members objected.

Mr. BUCKNER. I move to strike out the last clause.

The CHAIRMAN. It is not in order to make that motion while the pending amendments are before the committee. The question is on the amendment to strike out the last two words.

The amendment was not agreed to.

The next *pro forma* amendment, to strike out the last word, was not agreed to.

Mr. BUCKNER. I move to strike out the last three words. Mr. Chairman, I am very anxious to get along with this bill, and certainly I should not have said a word here but for the fact that my friend from New York attempts to play a new *rôle* in this House, and that is the *rôle* of alarmist. He attempts to alarm the country as to the facts which he has quoted in reference to the gold contained in the Treasury—facts which nobody disputes, although his inferences are delusive. Suppose we concede as a matter of fact that $18,000,000 in gold coin has been withdrawn from the Treasury; what does it amount to so far as the great, the vital interests of this country are concerned? I imagine if the gentleman from New York would examine the report of the Comptroller of Currency he would find where these $18,000,000 have gone—that they have gone into the vaults of the banks, not only into the vaults of public but of private banks. They are still in the country. They have not left it. There has been no withdrawal of that amount for exportation abroad, nor is that a demonstration of the fact that our withdrawal for transmission abroad is greater than our receipts. On the contrary, the exports for the last ten months show an excess of exports over imports of $175,000,000; in other words, that the difference between our exports and imports in round numbers for the last ten months reaches the sum of $175,000,000.

And in addition to that fact, we are raising from seventy-five to a hundred millions of gold and silver in this country; but if our exports and imports were equal I do not believe the time has come when either the silver dollar, of which my friend has such a horror, or any other coin is going to have any very considerable influence upon the great business of this country.

Mr. WEAVER. Will my friend permit me to ask him a question?

Mr. BUCKNER. Yes, sir.

Mr. WEAVER. The gentleman has stated that during the last ten months our exports exceeded our imports by about $175,000,000. I wish to ask him if he does not know of the fact that in the last month our imports exceeded our exports near $4,000,000?

Mr. BUCKNER. I admit that; but I spoke of the last ten months. At this season of the year our exports are never so great. The great bulk of our exports has already gone abroad. The cotton which forms a very large part of our exports has nearly all gone there. At this season our exports will not greatly exceed, and may not reach, the amount of our imports; but I spoke of the aggregate for several months past.

Mr. CRAPO. How was it a year ago?

Mr. BUCKNER. I admit that there has been a gradual change and that the imports are increasing, but our exports are also increasing, and the difference now is largely in our favor notwithstanding the increase of our imports.

Now, as to my friend's fear of the silver dollar, he has been very much exercised as to the amount of silver in circulation and its influence upon gold and the business interests of this country. He apprehends that the silver dollar is going to ruin the country, but yet we find that in proportion to the gold of France we have not one dollar to ten, and yet there is no fear about silver in France, none whatever. We have not anything like our share; and I tell my friend he is utterly mistaken in supposing that the silver dollar is going to play any part at present in the driving out of gold. That time may come, but it is a long time ahead.

[Here the hammer fell.]

The *pro forma* amendment was withdrawn.

The Clerk read as follows:

To pay the sums due to collectors of customs for commissions, at 2½ per cent. on disbursements made by them in their capacity as superintendents of lights during the fiscal years 1875, 1876, 1877, and 1878, $31,574.96.

Mr. FERNANDO WOOD. I would like to hear the gentleman in charge of the bill explain the necessity for this appropriation.

Mr. COBB. It is asked for by the Secretary of the Treasury and is in pursuance of law.

Mr. FERNANDO WOOD. Why has it not been provided for before?

Mr. COBB. It has been from year to year, as I understand, until last year; and there are some little balances over that were not paid in previous years, I suppose from want of sufficient appropriations. Under the law these officers are entitled to this per cent.; and there is this deficiency, as we are informed by the Secretary of the Treasury. It is required by the regular estimate which I have before me.

Mr. FERNANDO WOOD. I have no doubt that is correct; but it seems to be a novel appropriation.

Mr. COBB. Oh, no; I beg the gentleman's pardon, it is old.

Mr. FERNANDO WOOD. It is not old, when three years have elapsed without any money being appropriated for this purpose.

Mr. HISCOCK. If the gentleman will allow me, I will make a somewhat fuller explanation of this matter. For two or three years Congress failed to make an appropriation to pay this expense; this is a deficiency for those years. It consists of trivial amounts due to officers who have limited salaries. Congress omitted to make the appropriation, and this estimate comes to us as a claim against the Government which has its foundation in a regular statute. The amounts are small, ranging from a dollar upward; none of them are higher, I believe, than $200.

The Clerk read as follows:

To pay James G. Blunt, for Army supplies furnished in 1862 and 1863, $253.95, being claim No. 44962 in House Executive Document No. 30, Forty-fifth Congress, third session.

Mr. DIBRELL. I offer the amendment which I send to the desk, to come in after the paragraph just read.

The Clerk read as follows:

To pay Augustin Evans, of Tennessee, $200, awarded to him by the Quartermaster-General, Third Auditor, and Second Comptroller of the Treasury, on claim No. 39647, certified by the Second Comptroller on the 11th of May, 1880, as due and owing him for two horses taken and used by the United States Army.

Mr. DIBRELL. I have here a statement of the Second Comptroller, and will in a single minute explain the nature of this claim. This man had a claim for eleven hundred and odd bushels of corn and two horses. His claim was allowed by the Quartermaster-General, was passed by the Third Auditor, and was certified by the Second Comptroller. The Second Comptroller happened to leave out the two horses, and merely certified the corn, and that was paid for by an act of the Forty-fifth Congress. Now the Second Comptroller sends a corrected statement for the two horses, which was filed before the Committee on Appropriations; but for some reason, I know not what, they have left it out of this bill. The amendment is germane to the bill, it is just and proper, and I hope it will be adopted.

Mr. HISCOCK. The Appropriations Committee, in reference to the claims against the Government which have gone through the regular departmental audit, had to adopt some period of time, and exclude claims this side of it from this bill. They found some such rule to be necessary. They took for the basis of their appropriations the schedules which were submitted by the Secretary of the Treasury to Congress, and with the view I have indicated did not go outside of those schedules in recommending appropriations for the payment of claims.

I suppose there is anywhere from half a million to a million of dollars of this class of claims which have been audited by the Department that are just and ought to be paid. I suppose there are at least fifty members of this House who have in their desks claims of this kind which they would like to have incorporated in this bill. And the only question for the committee to settle is whether they will put them in the bill or have them sent to the proper committee to be examined before being provided for by law.

I am not on my feet for the purpose of antagonizing this claim or any of the claims of this kind, but I am up for the purpose of stating precisely what the position of the matter is, that the House may fully understand what it has before it if it attempts to provide for all these claims in this bill.

Mr. DUNNELL rose.

Mr. DIBRELL. I desire to have read the statement of the Second Comptroller explaining how this was left out.

The CHAIRMAN. The gentleman from Minnesota rose for some purpose.

Mr. DUNNELL. I wish to ask the gentleman from New York [Mr. HISCOCK] what good argument he has to give why those claims should not be put in the bill. Such claims as the gentleman from Tennessee [Mr. DIBRELL] has presented have been audited and allowed. The committee is aware they are just claims, and they have been really adjudicated.

Mr. HISCOCK. I have no argument to make against it. I am indifferent whether such claims go into the bill or not. It is merely a question for the committee to settle whether these demands against the Government should go to the committee to be examined and

inspected by that committee before provision for their payment shall be made.

Mr. BRAGG. I hope, Mr. Chairman, that this amendment will not be adopted. These are claims that are audited under what is known as the 4th of July act of 1864, which took away the jurisdiction of the Court of Claims and conferred upon the Quartermaster's Department the authority to examine the evidence and to report such claims to the Third Auditor, and provided that they should from him go to the Second Comptroller and then that they be reported to Congress. Those claims all come according to the rules of this House under the supervision of the Committee on War Claims, and are subject to their report and the action of the House upon it before bills shall pass, or ought to pass, which will make them payable out of the Treasury of the United States.

If this precedent be now established, there are already more than a thousand claims which have been considered under that act and which are ready to be reported to Congress. By law the Secretary of the Treasury is required to make report of that class of claims on the first day of the session of Congress in each year. He has made his report to the present Congress, and this claim is not included in the number so reported.

Hearing that there were a large number of claims ready for consideration, I addressed a letter to the Secretary of the Treasury asking him whether he would forward those claims to this Congress for our consideration. In his reply he referred us to the law which required him to make his report at the commencement of each session of Congress, holding that the report can be made but once a year, and having made his report he declines to make a further report at this session.

Now, if we establish the precedent by adopting this amendment, there is no reason why any member who represents any person who has a claim which has been partially audited may not come in here and ask to have that claim placed in this deficiency bill. In that way we would cut off entirely any supervision or consideration by this House or its committee of the testimony on which these claims are allowed.

Mr. DIBRELL. This claim was adjudicated and report made to the last Congress. It was simply a mistake of the Second Comptroller leaving out $200 for the two horses. That mistake has now been corrected. The claim stands in a different light from those to which the gentleman from Wisconsin [Mr. BRAGG] refers.

Mr. COBB. I desire to call attention to the statute under which these claims are audited and are reported to Congress for appropriation. It is the fourth section of the act of June 14, 1878. In some remarks which I made when this bill was first taken up for consideration I called attention to that section. I now propose to read it for the information of the committee:

SEC. 4. That so much of section 5 of the act approved June 20, 1874, as directs the Secretary of the Treasury at the beginning of each session to report to Congress with his annual estimates any balances of appropriations for specific objects affected by said section that may need to be reappropriated, be, and hereby is, repealed. And it shall be the duty of the several accounting officers of the Treasury to continue to receive, examine, and consider the justice and validity of all claims under appropriations the balances of which have been exhausted or carried to the surplus fund under the provisions of said section that may be brought before them within a period of five years. And the Secretary of the Treasury shall report the amount due each claimant, at the commencement of each session, to the Speaker of the House of Representatives, who shall lay the same before Congress for consideration: *Provided*, That nothing in this act shall be construed to authorize the re-examination and payment of any claim or account which has been once examined and rejected unless reopened in accordance with existing law.

The Committee on Appropriations was controlled by the provisions of this section. The Secretary of the Treasury, in pursuance of the provisions of the section which I have just read, at the commencement of this session sent to the Speaker of the House of Representatives two executive documents, No. 24 and No. 29, in which are contained all the claims which had been audited up to that time. Since that time the auditing officers have gone on and audited a large number of claims, amounting, two weeks ago, as I am informed, to some sixteen or seventeen hundred.

The Committee on Appropriations had to adopt some rule in making up this bill. In my judgment a technical construction of the statute which I have read requires that the claims which have been audited since the executive documents to which I have referred were sent to this House shall not be put into this appropriation bill. They are not properly before Congress, although the Secretary of the Treasury and other officers may report that the claims have been properly audited. They are not here in pursuance of law, technically speaking, because they have not been sent here under the provisions of this fourth section of the act of June 14, 1878.

The committee adopted the rule of excluding all accounts which have been audited since these documents were sent to Congress. Should the Committee of the Whole now break over that rule, the consequence will be that perhaps sixteen hundred or seventeen hundred claims will be presented here, and if any are allowed all ought to be.

I will say to the gentleman from Tennessee [Mr. DIBRELL] that I regret exceedingly being compelled to oppose his amendment, for it seems to be an equitable account; but it does not come here in the regular way. There are probably fifty members on this floor who have insisted before the Committee on Appropriations upon the allowance of just such claims as these, and we had to adopt some rule.

Mr. DIBRELL. This is only the balance of a claim. The other portion of it was paid in March, 1878, and this was left out by mistake.

Mr. COBB. Still it seems to me that the claim has not been properly brought before the House for action. That portion of the claim relating to the corn was reported and allowed; that portion relating to the horses was left out. It stands upon just the same basis as these other claims about which I have been speaking. I trust the committee will not break over the rule adopted by the Committee on Appropriations, when by so doing it will bring in sixteen hundred or seventeen hundred claims of a like character. They can come up next year; they will be reported to the next session of Congress in December, and they can be appropriated for then as we are now appropriating for those which were reported at the beginning of the present session.

Mr. BRIGHT. I move to strike out the last word. The primary act upon the subject of the payment of these claims was the act of 1864. The act of 1878 was directory to the accounting officers of the Treasury Department.

This claim was acted upon or rather the claim of this individual was submitted to the proper accounting officer of the Treasury, and in acting upon it there was an omission made by the accounting officer. He reported a part of the claim, leaving a part unreported.

The proposition now comes before the Committee of the Whole in regard to this particular claim, shall we do now what was intended to be done then? So far as that proposition is concerned I can see no propriety in any rule of the House which will shut the door against such a claim as this.

Mr. BRAGG. Will the gentleman allow me a single remark? When the original report came from the Secretary of the Treasury it did not go to the Committee on Appropriations, but to another committee.

Mr. BRIGHT. I understand that.

Mr. BRAGG. Then should not this, being a balance of the same claim, take the same course?

Mr. BRIGHT. Mr. Chairman, these annual reports have been made. There has been a compliance with law in every particular, so far as that is concerned. The question comes before the House whether in the exercise of its discretion it ought to send this claim to a committee or ought to consider it. I would like any gentleman to show any good reason why this should not be incorporated into this deficiency bill. Is there anything to be gained by postponing action? It is a just claim and ought to be paid. There is a law providing for the payment of such claims. Why insist on rejecting this just claim and sending this individual away without the amount due to him? I can see no propriety in that; and I can see no reason why technicalities of our rules or of the law should be invoked for the purpose of striking down the right of an individual or withholding payment from him simply because he is an individual. Let justice be done. If there are other claims of a similar nature which are to follow, I say the just debts of the Government ought to be met as promptly in relation to the individual who is weak as the individual who is powerful and who has, it seems, some control with the Government.

Mr. HISCOCK. May I inquire of the gentleman from Tennessee [Mr. DIBRELL] by whom this claim is certified?

Mr. DIBRELL. By W. W. Upton, Second Comptroller of the Treasury.

Mr. HISCOCK. Mr. Chairman, there is this suggestion to be made in reference to all this class of claims: in the first place they have to be subjected to the examination of three tribunals; first, the Auditor——

Mr. DIBRELL. First, the Quartermaster-General.

Mr. HISCOCK. First, the Auditor; secondly, the Comptroller; thirdly, the Secretary of the Teasury. Now, these claims coming from different bureaus of the Treasury Department are like autumn leaves. The Committee on Appropriations have deemed it their duty to reject all claims unless they come here approved by the Secretary of the Treasury. Under the law he is to submit them to Congress.

Mr. DIBRELL. If the gentleman will allow me a moment, I will read what the Second Comptroller says in regard to this claim:

There can be no doubt that the two horses of the claimant were taken and used by the United States Army, and should be paid for as recommended by the Quartermaster-General and Auditor.

The corn has been paid for on requisition No. 5689 of March 28, 1878—founded on act of March 11, 1878—20 Stats., 505. I have therefore added to the Auditor's original recommendation a supplemental concurrence in the recommendation to pay for the two horses at $100 each, amounting to $200 in addition to what has been already paid.

That is signed by W. W. Upton, Second Comptroller.

Mr. HISCOCK. The committee deemed it their duty not to provide for claims unless they were approved by these three officers: first, the Auditor, who is charged with the primary investigation; second, the Comptroller, who reviews the action of the Auditor; and third, the Secretary of the Treasury, who communicates directly to Congress. Some of the claims rejected by the committee had been approved by the Auditor and Comptroller, but not by the Secretary of the Treasury.

The suggestion I desire to make to the Committee of the Whole is whether it is proper and wise for us to make an appropriation to pay in this promiscuous manner any claim which has not received the approval of all three of these auditing officers.

Mr. HARRIS, of Virginia. Is not debate on the amendment exhausted?

The CHAIRMAN. It is.

Mr. BRIGHT. I withdraw the *pro forma* amendment.

The question being taken on the amendment of Mr. DIBRELL, it was not agreed to; there being—ayes 25, noes 33.

The CHAIRMAN. In order to avoid future complications the Chair begs leave to state that if a point of order had been made on this amendment he would have ruled it out of order.

The Clerk read as follows:

To pay James G. Blunt for Army supplies furnished in 1862 and 1863, $253.95, being claim No. 44962, in House Executive Document No. 30, Forty-fifth Congress, third session.

Mr. RYAN, of Kansas. I send to the desk an amendment to come in at the end of the clause just read.

Mr. COBB. I reserve all points of order on the amendment.

The Clerk read the amendment, as follows:

To pay the legal representatives of R. Seely for services as scout and guide in 1861, the sum of $272.

Mr. RYAN, of Kansas. In support of this amendment I desire to have the Clerk read a letter from the Secretary of the Treasury. This is a claim which has been audited and allowed.

Mr. COBB. I reserved points of order on this amendment; I think it very clear that the amendment is subject to a point of order.

Mr. RYAN, of Kansas. I think it very clear that it is not. Upon the question of order I ask to have read the letter which I have sent to the Clerk's desk.

The Clerk read as follows:

TREASURY DEPARTMENT, *March* 5, 1880.

SIR: In reply to your communication of the 28th ultimo, asking to be informed of the status of the claim of R. Seely for services as a scout and guide in 1861, I have to state that the claim has been allowed for $272, and will be reported to Congress for an appropriation to pay the same at the commencement of next session under section 4 of the act of June 14, 1878.

Very respectfully,

JOHN SHERMAN,
Secretary.

Hon. THOMAS RYAN,
House of Representatives.

Mr. COBB. The letter just read sustains the point of order. It shows that this claim has not been reported to Congress in pursuance of law, but will be at the next session.

The CHAIRMAN. The Chair will hear the gentleman from Kansas a moment on the question of order, directing his attention to a point which is in the mind of the Chair that all these propositions coming in this shape are no more than claims against the Government, not having been finally adjudicated by the tribunal which in contemplation of law must adjucate them, and until this is done the claim is not a deficiency within the meaning of the law or of this bill. This is the point on which the Chair would like to hear the gentleman briefly.

Mr. RYAN, of Kansas. If the Chair has irrevocably decided this case, then I do not care to occupy the time of the House; but I do think the Chair is in error. The only question for the Chair to determine whether this is in order or not is whether the law allows this claim, whether it is authorized by law; and that fact cannot be questioned. It is not only authorized by law, but the fact is it has been adjudicated by the Department, and the Secretary of the Treasury says nothing remains to be done in regard to it, so far as he is concerned, except the empty formality of reporting to Congress under the act of 1878. So that here is a case where it is judicially determined that the Government of the United States owes to a soldier for his service since 1861 the sum of $272 and some odd cents, and, therefore, no point of order can be raised against it.

I would like, if it were proper, to say something on the merits of the case. I would like to refer to the fact that the soldier himself is dead; that he has left a widow and children in indigent circumstances, absolutely suffering for the need of this money which the Government has withheld, and of which the Secretary of the Treasury says, in substance, the only question remaining is whether it shall be paid now or at the next session of Congress.

Mr. BRAGG. I make the point of order that the merits of the question are not debatable.

Mr. RYAN, of Kansas. I do not think the Chair can well and properly hold this is subject to the point of order.

The CHAIRMAN. The Chair adheres to the intimation he gave to the gentleman and the committee, adding only that while a jury or auditor may return to a court that a claim should be paid or allowed, until the decree or judgment is made it cannot be allowed. Therefore, holding these views already announced to the committee, the Chair sustains the point of order.

The Clerk read as follows:

That the sum of $24.60 be reappropriated from the lapsed appropriations "for compensation and expenses of agents of the southern claims commission," prior to July 1, 1879, to settle the account of Isaac C. Baldwin, of Manassas, Virginia.

Mr. HUNTON. I desire to call the attention of the gentleman having this bill in charge to what I suppose to be a clerical mistake. The name is printed Isaac C. Baldwin; and it should be Isaac P. Baldwin.

Mr. BLOUNT. Does the gentleman take the responsibility of changing the name?

Mr. HUNTON. Yes; it should be "P" instead of "C."

Mr. COBB. There is no objection, if that is the name.

The amendment was agreed to.

The Clerk read as follows:

WAR DEPARTMENT.

Quartermaster's Department:

For payment of accounts certified to be due by the accounting officers of the Treasury Department for incidental expenses of the Army, being for the service of the fiscal year 1878, $21,298.92.

Mr. COBB. I am instructed by the Committee on Appropriations to move the following amendment, to come in after "War Department:"

Engineer's Office:

For preparation and completion, under the direction of the Secretary of War, of reports and maps, and such other illustrations as may be necessary in completing the work of the geographical and topographical survey of the territory of the United States west of the one hundredth meridian, including cost of engraving and printing, $30,000: *Provided*, That the above sum shall be so applied as to close the work.

Mr. WARNER. Is that an amendment from the committee?

Mr. HISCOCK. It is.

The amendment was adopted.

Mr. WHITE. I move the following amendment:

To pay Andrew Ivory, late second lieutenant of the Eleventh Regiment Pennsylvania Reserves, as authorized by act of March 1, 1879, entitled "An act for the relief of Andrew Ivory," the sum of $306.67, the amount allowed him by accounting officers of the Treasury Department in pursuance of the act aforesaid.

Mr. COBB. I rise to a question of order on that amendment.

Mr. SPARKS. Is there not a bill pending on that same subject?

Mr. WHITE. I hope the gentleman will not insist on his point of order.

Mr. COBB. I must do it.

Mr. WHITE. One word on the point of order. I assume, Mr. Chairman, the point of order is predicated on the first few lines of clause 3 of Rule XXI, "that no appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress." This amendment is not obnoxious, I submit, with all deference to the judgment of my friend from Indiana, to the point of order raised, for this reason: I hold in my hand the act of Congress authorizing the settlement of the claim of Andrew Ivory. The Paymaster-General of the United States Army is authorized and directed to pay to Andrew Ivory, late of company ——, Eleventh Pennsylvania Regiment, the full pay and emoluments of second lieutenant from the date he was commissioned as such by the governor of Pennsylvania to the date of his discharge, deducting all pay received by him, &c. There, sir, is an act of Congress which is the law authorizing the payment of this citizen. Now, I hold in my hand the letter of the Second Auditor of the Treasury, which states:

In reply to your verbal inquiry of this date, I have the honor to inform you in regard to Andrew Ivory, late second lieutenant of the Eleventh Pennsylvania Infantry, the amount found to be due to him under the act of Congress passed for his relief, approved March, 1879, has been settled in this office and was confirmed by the Second Auditor March 2, 1880. It cannot be paid until the money is reappropriated by Congress.

My amendment, therefore, which I have offered to this bill merely proposes to reappropriate money now authorized to be paid by law. Then, it has been settled. The integrity of the claim cannot be questioned. It is trusted to the discretion of this House because it has been already settled. Now, I submit this claim, for the reasons which I have stated, is not obnoxious to the point of order made by the gentleman from Indiana. It is an appropriation in pursuance of law, and is merely offered as an amendment here; but if it had been reported by the Committee on Appropriations for the action of the House it would have been strictly in order, and no point of order could have been made upon it, because it is kindred in character to the claim of James G. Blunt, contained in a preceding paragraph, and also to the $24.60 in the clause immediately preceding, to be paid Isaac P. Baldwin.

The CHAIRMAN. Does the Chair understand the gentleman from Pennsylvania to state in the letter which he has read the term "reappropriated" is used in connection with this amount?

Mr. WHITE. Yes, sir; reappropriated.

Mr. COBB. Mr. Chairman, I desire to say that most of these claims come exactly within the class of claims on which the Chair has recently ruled. I allude to the one presented by the gentleman from Tennessee, [Mr. DIBRELL.] Appropriations have been made heretofore to pay claims of this character, but they have either been exhausted or covered into the Treasury. This comes up now as a legal claim, but there is no appropriation to meet it, and before an appropriation can be made to meet such cases they must be audited and sent forward to the Committee on Appropriations in the estimates, in order that provision may be made to meet them. I think his letter so states, that the claim will be sent forward.

Mr. WHITE. No, sir; it states that it has been audited already.

Mr. COBB. Well, it has been audited, but it has not been sent to the committee. It will stand precisely in the same light as the case which the gentleman from Tennessee [Mr. DIBRELL] has presented and seventeen or eighteen other cases on which the point of order has been made, and if we allow this claim to come in—I do not doubt the justice of the claim—but I say that if the point of order is not made

against it and it is allowed to come in, then in justice to the other claims they ought not to be ruled out, but on the contrary all of them ought to be admitted because they stand on the same footing. I insist, therefore, that the point of order is well taken. The case stands precisely, under the law, on the footing as the others to which I have referred. This was audited under the law, but since the meeting of Congress it has not been sent forward in pursuance of law to be acted upon by Congress.

Mr. WHITE. If my friend from Indiana will permit me a moment there is the greatest distinction in the world existing between these cases. [Cries of "Regular Order!"] I trust my friend will not be captious about a meritorious case of this kind. I have not been so with him. The proposition here is not obnoxious to the criticism made by my friend from Indiana. He refers to a class of cases authorized by the sixth section of the act of the 20th of June, 1874, which was supplemented by the further act of the 17th of June, 1878, which requires a report to be made by the Secretary of the Treasury to Congress on or before the 1st of January in every year.

This claim to which I refer now is, so to speak, *sui generis*. There is no other like it, and it has no reference to the character of cases to which the gentleman from Indiana now refers. Here is a special individual act providing positively for the payment of this man. Here is the law to which I have referred; an estimate and appropriation were made under it. The claim was settled by the Second Auditor of the Treasury. The money was there to pay it; but before the money could be paid the sum was covered into the Treasury. Now, he says, it must be reappropriated before payment can be made. It is not a special provision to meet a new case, but simply a reappropriation of money which has been already appropriated, but which was covered into the Treasury before payment was made.

Mr. HUMPHREY. Mr. Chairman, I would like to say just a word upon the point of order. I desire to say that if this claim is allowed to go into this bill, we have some sixty or seventy-five thousand of bounty claims which have been allowed since the act of June 17, 1878. Now, if this claim comes in, all the others ought to go in. They have not been paid, although they have been allowed. All that is necessary is to provide the money to pay them. They all stand upon the same footing with the claim that is here presented by the gentleman from Pennsylvania, and I maintain that if this claim is allowed to go in all these others ought to also.

The CHAIRMAN. The Chair sustains the point of order.

Mr. WHITE. I am so satisfied of the justice of this claim, and the propriety of incorporating it here, that I feel like testing the sense of the committee upon that ruling.

The CHAIRMAN. Does the gentleman appeal from the decision of the Chair?

Mr. WHITE. I do.

The CHAIRMAN. The question is, Shall the opinion of the Chair stand as the judgment of the committee?

The committee divided; and there were—ayes 68, noes 10.

So (no further count being demanded) the decision of the Chair was sustained.

The Clerk read as follows:

For the payment of Alonzo A. Noon and W. J. Alfred for improvements embraced in the military reservation at Fort Cameron, Utah Territory, as awarded by a board of military officers, $1,120.

Mr. COBB. I desire to make a verbal amendment to the text of the section just read, to strike out the name of W. J. Alfred.

The amendment was agreed to.

Mr. DE LA MATYR. I offer the following amendment to come in after the clause just read. This claim has been audited and properly reported to Congress, and is contained in the Book of Estimates from the Department:

Add after line 350, "to pay Henry C. Roney for work done on United States arsenal grounds in Indianapolis, Indiana, $1,118.43, audited and reported to Congress in the Book of Estimates."

Mr. COBB. I make the point of order upon that amendment.

Mr. DE LA MATYR. I ask to have read a letter from the Chief of Ordnance in connection with this claim.

The Clerk read as follows:

ORDNANCE OFFICE, WAR DEPARTMENT,
Washington, June 2, 1880.

SIR: In response to your verbal request of this morning, I have the honor to inform you that the original papers in this office show:

First. The grading and bowidering the south gutter to a width of seven feet, and curbing the outside edges of the south sidewalk of Clifford avenue between the west line of the United States arsenal grounds and Woodruff Place, was ordered to be done by a city ordinance of Indianapolis of the 12th of June, 1876.

Second. The amount estimated as being due contractor by the United States for this work by the city civil engineer is $1,118.43.

Third. On the 5th of January, 1877, the city clerk certifies that the contract for this work was awarded by the common council to Henry C. Roney on the 17th of July, 1876, and that the common council concurred in the estimate above of the city engineer.

Fourth. The commanding officer of the Indianapolis arsenal certifies to the correctness of the account, $1,118.43.

An estimate for this amount was submitted, (see Book of Estimates, page 132,) and in my opinion the money should be appropriated this session.

Respectfully, your obedient servant,

S. V. BENÉT,
Brigadier-General, Chief of Ordnance.

Hon. G. DE LA MATYR,
House of Representatives, Washington, D. C.

Mr. COBB. I think that is subject to the point of order. The letter which has just been read shows upon its face this was a contract between this party and the city of Indianapolis not binding the Government of the United States in any particular. It may be that equitably the Government of the United States ought to pay something for the improvement in front of its property; but there is no contract for it and no law authorizing it, and the amendment is certainly subject to the point of order I have made.

Mr. BLOUNT. If my colleague on the committee will allow me, I will add this is a similar instance to the one from San Francisco which was ruled out when an amendment was offered to the sundry civil appropriation bill. This work was done by the city authorities, the Government of the United States not being cognizant of it and not being a party to it. It is done in the neighborhood of the Government building, it is true; but the Government has nothing to do with the making of any contract. This is simply sent up as the Government's proportion without the sanction of the Government or any authority of law being shown for binding the Government in the contract. As stated by my colleague on the committee, it may be right the Government should pay for improvements around its property; but certainly the Government ought to be consulted before any indebtedness of this sort is incurred.

Mr. DE LA MATYR. It is very evident the Government has been consulted. The proper officers of the Government have admitted the claim. It has gone through the Department. It has been there for two years, and has been twice presented here by the Government. It has been properly audited, adjudicated, estimated, and presented here to be paid. It is a claim that is just and right. There can be no question of it whatever.

Mr. BLOUNT. It is submitted to the House in the Book of Estimates, but it is not placed on the ground of an obligation of the Government at all. The letter itself which has been read shows the auditing comes from the authorities of that city.

The CHAIRMAN. The Chair sustains the point of order.

Mr. WELLS. I offer the amendment which I send to the desk, to come in after the paragraph last read.

The Clerk read as follows:

For detecting and bringing to trial and punishment persons guilty of violating the revenue laws or conniving at such crime, including payments for information and detection, being a deficiency for the year 1878, $7,547.35.

Mr. WELLS. This is an account audited and allowed by the Department, as shown in the executive document on which this bill is mainly based.

The amendment was agreed to.

The Clerk read as follows:

For the expenses of the commission on the codification of existing laws relating to the survey and disposition of the public domain, and for the completion of such codification, the sum of $15,000, or so much thereof as may be necessary for that purpose: *Provided*, That said commission shall complete the same and make their final report on all the public lands in the United States on or before February 1, 1881.

Mr. PAGE. I offer the following amendment:

Strike out the words "February 1, 1881," and insert in lieu thereof "December 1, 1880."

I hope there will be no objection to that amendment.

Mr. CONVERSE. Mr. Chairman——

Mr. PAGE. The clause is subject to the point of order. I will reserve the point of order till after the gentleman from Ohio [Mr. CONVERSE] makes his speech.

Mr. CONVERSE. I hope the amendment of the gentleman from California will not prevail.

Mr. PAGE. Then I will make the point of order on the clause.

The CHAIRMAN. On what ground?

Mr. PAGE. On the ground that it changes existing law. The law under which this commission is created provides they shall report within one year. I send the law to the Clerk's desk, and ask that it be read.

The Clerk read as follows:

It shall be the duty of this commission to report to Congress within one year from the time of its organization, first, a codification of the present laws relating to the survey and disposition of the public domain; second, a system and standard of classification of public lands, as arable, irrigable, timber, pasturage, swamp, coal, mineral lands and such other classes as may be deemed proper, having due regard to humidity of climate, supply of water for irrrigation, and other physical characteristics; third, a system of land-parceling surveys adapted to the economic uses of the several classes of lands; and, fourth, such recommendations as they may deem wise in relation to the best method of disposing of the public lands of the western portion of the United States to actual settlers.

Mr. PAGE. I have had that read in order to show that the law creating this commission provided they should report within one year. This clause proposes to extend the time for making their report till February 1, 1881. I wish to strike that out and insert December 1, 1880. If that shall be adopted, I withdraw my point of order. Otherwise I must insist upon it. I am willing to make it January 1, 1881. I want the report to be made before the close of the Forty-sixth Congress. I do not want it to come in here a few days before the close of the Congress.

Mr. CONVERSE. Let the point of order be first disposed of.

Mr. PAGE. I am willing to make it January 1, 1881.

Mr. CONVERSE. I suggest the clause is not amendable until the point of order is decided. Let the gentleman either make the point of order or withdraw it.

Mr. PAGE. It seems to me the gentleman from Ohio is standing in

his own light. If I make the point of order, it goes against the whole paragraph.

Mr. CONVERSE. Certainly. That is what I want the gentleman to do.

Mr. PAGE. I do not want to do that; but I want to change the time within which the report shall be made. The clause is subject to the point of order. But I will withdraw the point of order if the gentleman will consent that the time shall be January 1, 1881.

Mr. CONVERSE. I insist if the gentleman wants to make the point of order against the whole paragraph he shall make it now. It is not subject to amendment while the point of order is pending. Let the gentleman make his point of order, and if it is not sustained we will talk about the amendment afterward.

Mr. PAGE. I will not make the point of order, but I will move to strike out "February 1" and insert "January 1."

Mr. BERRY. I have just come into the House, and I call for the reading of the amendment.

The Clerk read as follows:

Strike out "February 1" and insert "January 1."

Mr. PAGE. I will state to my colleague my object in offering the amendment, to require the commissioners to make their report on or before the 1st of January. It is known this Congress dies by its own limitation on the 4th of March, 1881. I think we should have this report at least two months before the close of this Congress, because it may be necessary to take some action on the report.

Mr. CONVERSE. So far as I am concerned I have no objection to the amendment making the date the 1st of January, although I believe it would be better to leave it the 1st of February, as it is in the bill.

The question being taken on Mr. PAGE'S amendment, it was agreed to.

The Clerk read as follows:

For the work of the United States entomological commission in the special investigation of the cotton-worm, being a deficiency for the fiscal years 1879 and 1880, $412.46.

Mr. STEELE. I would be very much obliged if the gentleman from Indiana [Mr. COBB] in charge of this bill would favor the House with an explanation of the reasons for this clause of the bill. In 1877 the sum of $18,000 was appropriated for the entomological commission; in 1878 $10,000 more was appropriated, and in 1879 $10,000 more for the purpose of continuing and completing that investigation; and at the extra session of this Congress another $5,000 was appropriated for the cotton-worm investigation. And here is another appropriation for the work of the entomological commission. I would ask the gentleman to give some explanation for this clause; and my inquiry would apply equally to the succeeding clause in relation to the Rocky Mountain locust and grasshopper.

Mr. FORNEY. I ask the Clerk to read a letter from Mr. Riley, the chief of the United States entomological commission, which will answer the question of the gentleman.

The Clerk read as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE UNITED STATES ENTOMOLOGICAL COMMISSION,
Washington, D. C., October 4, 1879.

SIR: I have the honor to beg of you to include the following sums, amounting in the aggregate to $1,012.46, in the deficiency estimates for appropriations to be asked of Congress for the coming fiscal year:

1. Expenses of E. A. Schwarz, May, 1879	$35 75
2. Expenses of E. A. Schwarz, June, 1879	41 50
3. Expenses of E. A. Schwarz, June, 1879	20 00
4. Salary of E. A. Schwarz from May 10 to June 1, 1879	69 93
5. Salary of E. A. Schwarz for June, 1879	100 00
6. Expenses of C. V. Riley for June, 1879	112 78
7. Amount paid W. H. Henry, June, 1879	32 50
8. Amount paid Th. Pergande during the year ending June 30, 1879	135 00
9. Rent of office for six months	240 00
10. Salary of Nettie Middleton for nine months	225 00

These sums represent expenses incurred in excess of the appropriation for the fiscal year ending June 30, 1879, and as it has been the desire of the commission to avoid such excesses, I will briefly explain the reason for them.

Nos. 1–5 represent money paid to Mr. E. A. Schwarz during the months of May and June. The language of the clause in the sundry civil bill passed at the regular session of the Forty-fifth Congress required the commission to investigate the insects affecting the cotton plant, and at the extra session of the Forty-sixth Congress an appropriation was made to the commission for this purpose. In order to do justice to the subject and to ascertain important facts, it was absolutely necessary to study the first appearance of the worm and the phenomena connected therewith. Not to have taken advantage of the opportunity this year would have delayed that part of the inquiry till 1880 and laid the commission open to the charge of indifference by southern planters not familiar with the details of the law. I therefore deemed it expedient to commence operations as soon as there was assurance of the appropriation being made, and not to wait till July 1, when it would become available. Mr. E. A. Schwarz was consequently appointed a special agent of the commission on the 10th of May, at a salary of $100 per month, and sent with instructions to South Texas.

No. 6 represents expenses incurred by me in the same work prior to June 30.

No. 7, salary paid to W. H. Henry prior to that date in performance of same work.

No. 8 represents an amount paid to Mr. Th. Pergande for work done for the commission during the year ending June 30, 1879, but the vouchers were rejected from the accounts, because Mr. Pergande was at the same time receiving salary as an employé of the Department of Agriculture. His salary there was but $60 per month, and what he earned from the commission was by work after his office hours there.

* * * * * * *

No. 9 represents a sum paid for office-rent before the commission was aware of the law preventing rent of office in Washington, and excluded upon learning the law.

No. 10 represents amount paid to clerk hired by the disbursing agent, and excluded because in excess of appropriation.

The vouchers for these expenditures are all in the hands either of our own disbursing agent or of the disbursing agent of the Department.

Hoping that I have made sufficiently clear the reasons for these expenses in excess of the appropriation, and believing that with better knowledge of the laws that has come from experience we shall have no further occasion to present a deficiency account,

I am, respectfully, yours,

C. V. RILEY,
Chief United States Entomological Commission.

Hon. CARL SCHURZ,
Secretary of the Interior.

The CHAIRMAN. Does the gentleman from North Carolina [Mr. STEELE] make any motion?

Mr. STEELE. I move to strike out the paragraph. If I understand the letter just read from the Clerk's desk, it amounts simply to this: the entomological commission has exceeded the requirements of the law, and has incurred expenditures not authorized by law. It now comes in and asks Congress to reimburse the commission for what it has spent in violation of the law; that is the whole of it. When this is connected with the fact that one or two appropriations which have been made on account of this commission were made for the express purpose of completing its work, it seems to me that a further appropriation is absolutely absurd, to characterize it by no more emphatic term.

Mr. PERSONS. I rise to bear my testimony to the fact that it was absolutely necessary for this commission to begin its work before the 1st day of July. The fly which produces these worms upon the cotton-plant begins its work in May and June, and they are the two months during the whole season for this investigation. I think Professor Riley acted well in anticipating the time for commencing his work. I hope this money will be voted to him.

Mr. SINGLETON, of Mississippi. I hope the paragraph will not be stricken out. The people in the cotton-growing region are more interested in this work than in almost any other matter that has come before Congress for years. I have every reason to believe that the gentleman intrusted with the management of this work has done all he could with the appropriations which have heretofore been made.

Annually we in the South lose millions of dollars by the destruction effected by the cotton-worm. If there can be any means devised by which this loss can be prevented, certainly such means should be employed.

The gentleman from North Carolina [Mr. STEELE] speaks of Professor Riley having anticipated the appropriation. Allow me to say that it was necessary for him to do so, because there is only a certain season of the year when this investigation can properly be made; that is, about this time or a little earlier. Had he waited until July it would have been too late for him to have done anything practical in that direction.

I hope the Committee of the Whole will not for a moment think of striking out this paragraph. The gentleman engaged in this work is an able man, and the work is one of exceedingly great importance to that portion of the country engaged in the culture of cotton.

Mr. STEELE. Only one word, made necessary by the remarks of the gentleman from Mississippi, [Mr. SINGLETON.] His remarks would seem to involve the idea that I am opposed to investigating the insects injurious to the cotton-plant. Not at all; I am as much in favor of that as the gentleman himself. What I protest against is that a deficiency should exist for which there is no justification.

The question was taken upon the motion to strike out the paragraph, and it was not agreed to.

The Clerk read the following:

To meet a deficiency in the appropriations for the Government Hospital for the Insane for the fiscal year 1880, $13,075.88, of which one-fourth part shall be paid from the revenues of the District of Columbia.

Mr. NEAL. I move to strike out all of the paragraph just read after "$13,075.88," being the words "of which one-fourth part shall be paid from the revenues of the District of Columbia."

This hospital is a Government hospital. The authorities of the District of Columbia have no control over it, and have nothing to do with it. The District has never been charged heretofore with any portion of the expense of maintaining this hospital. While in point of fact there are admitted to it some patients who perhaps may properly be called citizens of the District of Columbia, yet the great majority of the patients come from all over the United States and from the Army and the Navy. I do not know that there are any persons in there now who can be properly charged to the District of Columbia. At any rate, as is known to every member here, many of the citizens of this District are transient: they come here and serve the Government in an official capacity, and remain here but a short time; or if they remain any length of time they receive but small salaries. It is not right that any portion of the expenses of this institution should be charged to the District of Columbia. I hope that my motion will prevail, for it is in accordance with the rule which the House has already adopted in regard to other Government institutions situated in this District.

Mr. COBB. This asylum for the insane is an institution controlled by the Government; but the District of Columbia under the law has the right to send its indigent insane there to be cared for. On the 18th of September last, the year in which this deficiency was created,

the District of Columbia had in the institution three hundred and fifty-two patients out of eight hundred and fourteen. The proportion is much greater than one-fourth; yet by this provision we do not make the District of Columbia bear even one-fourth of the running expenses of the institution, to say nothing of the improvements. We regard the provision as very liberal. Some members of the committee were in favor, I believe, of making a much larger requirement from the District. This deficiency has been created while the District of Columbia had nearly one-half of the patients in that institution; yet we require the District to pay only one-fourth of the deficiency, as against one-third which it ought to pay.

Mr. HAYES. Under what terms are these patients admitted?

Mr. COBB. They are admitted under the law.

Mr. HAYES. I mean, what is the difference between those admitted from the District of Columbia and those from the States?

Mr. COBB. Patients from the District of Columbia are admitted upon the certificate of a justice of the peace who has inquired into the competency of the patient, and also the certificate of two reputable householders of the District who are required to make inquiry and report to the superintendent of the institution. The patient is then admitted upon the authority of the District of Columbia.

Mr. HAYES. How is it in regard to their support after going into the asylum?

Mr. COBB. They are supported by the funds appropriated by Congress. In the District bill, as passed by the House, the amount appropriated was $45,000. The Senate struck down the amount to $32,000, and in the conference committee it was fixed at $37,000, which is the amount to be paid during the next fiscal year as the proportion of the District of Columbia. I think the provision of the bill altogether equitable.

The question being taken on the amendment of Mr. NEAL, it was not agreed to, there being—ayes 27, noes 31.

The Clerk read as follows:

To enable the Secretary of the Interior to pay the claim of C. C. O'Keeffe for value of threshing-machine, $800.

Mr. WARNER. I move to amend so as to make this amount $400 instead of $800. Eight hundred dollars for a threshing-machine seems to me a very high price.

Mr. MAGINNIS. This is in accordance with the judgment of the Court of Claims.

Mr. WARNER. If it is the judgment of a court I withdraw the amendment, though the amount seems to me strangely high.

The Clerk read as follows:

For repairs to the court-house building in the city of Washington, District of Columbia, $500, or so much thereof as may be necessary.

Indian Bureau:

Mr. HASKELL. I move to amend by inserting after the line last read the following:

To indemnify the Wyandotte tribe of Indians for loss on sale of bonds May, 1859, $11,592; for loss on sale of bonds March, 1869, $8,130.

Mr. COBB. I wish to make a point of order on that amendment.

Mr. HASKELL. I desire to have the point of order stated. There is more than one law authorizing this. There is a solemn treaty obligation between the Indians and the Government of the United States, ratified by the Senate in due form. There is also the action of a board of commissioners appointed under law to adjudicate the differences between the Wyandotte Indians and the United States. The claim has also been certified to the House in the regular estimates of the Department and in official letters from the Secretary of the Interior at this session. There is no possible point of order that can be successfully urged against this amendment. It is a payment provided for by law—doubly so. It is one of the legitimate items of a deficiency bill, an item of the same character having been put into a bill of this sort in a preceding session. So that no point of order can be sustained upon this amendment as not being in conformity with existing law.

I have here, if proof is needed, the official letters of the Secretary of the Interior reciting the provisions of the treaty; reciting the acts of the commissions; reciting letters from the Department, and all the proof necessary to satisfy the Committee of the Whole that the facts are as I have stated them.

The CHAIRMAN, (Mr. HUNTON in the chair.) Is there any bill pending before the House for the payment of this claim?

Mr. HASKELL. There is a bill pending, but it covers a great deal more ground than this. I purposely omitted from the amendment a number of items included in the bill in order to avoid the technical point of order that an amendment must not embrace the substance of a pending bill. This does not embrace the substance of any pending bill. To enable the Chairman to weigh correctly the question whether this is the substance of any bill, I would point him to this method of solution: If the bill pending before this House, out of which items have been taken to form an amendment, has still remaining in it a substantial set of items or provisions which the author of the bill would still urge to have passed by Congress, then I insist that the amendment does not, in the sense of the rule, embrace the substance of the bill. That is the case here. This is not the substance of any pending bill. The items that I move as an amendment are a part of the items of a pending bill, but do not constitute the substance of that bill.

Mr. COBB. I have but a single word to say. I know of no law by which these Indians are entitled to pay for loss on sale of bonds. I have been unable to find any such law. I do not think any such law exists. If the gentleman can point to the law I should be glad to have him do so. It would remove that point of order.

But the other point of order suggested by the Chair is certainly a good one. If this amendment is in another bill it occurs to me that is sufficient, and it does not matter whether that bill contains other subject-matters or not. If the whole subject-matter of this amendment is in another bill, then it comes within the rule, and I think the point of order is well taken.

Mr. HASKELL. I have the authority to show it is authorized by law, in my hand, in the copy of a letter from the Secretary of the Interior reciting the provisions of the law which covers this case. There is no doubt about that. The statutes of the United States show that.

Mr. WARNER. But the gentleman from Kansas admits himself this matter is embraced in another bill now pending before the House.

Mr. HASKELL. I desire to call the attention of the Chair to this point: that the rule says that an amendment to a pending bill shall not contain the substance of any bill pending before the House. This does not contain the substance of any other bill before the House. If this amendment is adopted that bill will be just as essential, just as necessary, and just as much a bill as it is now. I simply take out a single item and move it in this amendment.

Mr. WARNER. Then this amendment is the substance of another bill.

Mr. HASKELL. It says it must not contain the substance of a bill before the House.

Mr. HAYES. That is section 4 of Rule XXI.

The CHAIRMAN. It is averred by the gentleman from Kansas the amendment is authorized by existing law, and that is denied by the gentleman from Indiana. Without attempting to decide between the two gentlemen, the Chair sustains the point of order on the ground that the substance of the amendment is in a bill now pending before the House.

The Clerk read as follows:

That the Secretary of the Interior be, and hereby is, authorized to cause to be paid to Alfred N. Marion, in charge of the Tulalip Indian agency, Washington Territory, from the appropriation and at the rate provided for the salary of agent at said agency, for services from July 1, 1878, to the date when he shall be relieved of his duties by his successor in office.

Mr. RYAN, of Kansas. I move to strike out that paragraph, and do so for the purpose of making an opportunity to refer to some remarks which were made by the gentleman from Ohio [Mr. FINLEY] a few days ago when the Indian appropriation bill was under consideration. That gentleman at that time sought an opportunity to make some remarks to the House reflecting on the integrity of the administration of General Dexter E. Clapp while he was the agent of the Crow Indians. He also caused to be inserted in the RECORD the report of an Army officer, reflecting severely on the administration of that gentleman. I want to say now with respect to that matter that the charges contained in that report were thoroughly investigated by a grand jury and found to be utterly without foundation. I wish to say further, those charges were thoroughly investigated by the Department of the Interior and found to be destitute of truth.

Mr. DICKEY. I wish to call the attention of the gentleman from Kansas to the fact that my colleague is not present.

Mr. RYAN, of Kansas. I am making no reflection on him. I am sorry he is not in his seat. I wish to say further that I do not think the gentleman from Ohio intended to do General Clapp any injustice, and I am now only trying to place a private citizen whose character has been unjustly assailed right before the country, and to give his defense the same publicity that was given to the charges made against him.

In regard to this matter I wish to remark further that the administration of General Clapp was characterized by economy. With the usual annual appropriation he constructed valuable buildings at the Crow agency for the benefit of the agency, several buildings for the Indians themselves, and fed the Indians better than they were ever fed before, and left $20,000 and upward of that appropriation unexpended.

I have in my hand a report which was made by the Indian inspector upon this subject, and also a letter from General Clapp himself, which I ask to have read as part of my remarks.

The papers are as follows:

WASHINGTON, D. C., *November* 6, 1875.

SIR: Having learned that it is contemplated to change Agent Clapp from the Crow agency to Fort Peck, Montana Territory, and having but recently made an inspection of both those agencies, I desire to say that General Clapp has successfully constructed the new agency buildings, at a central point on the Crow reservation, in the face of dangers and oppositions that would have appalled a less resolute and determined man. He has defended himself from the frequent attacks of hostile Sioux, secured unbounded control over the Indians under his charge, and inaugurated many much-needed reforms in their management and education. His expenditures have been made with good judgment and economy. He has endeavored to suppress the whisky traffic among his Indians, and in so doing has naturally incurred the animosity of the men engaged in that business, and a fight has been made against him by that class of men. If now he is transferred, it will be regarded as a triumph for the whisky men and bitterest opposers of the present Indian policy throughout the Territory of Montana.

General Clapp has been a faithful officer; has worked untiringly since his appointment at the Crow agency; has endured the hardships incident to the construction of new buildings at a distance from civilization and moving into them;

has his family just comfortably settled there; has made several changes in employés, teachers, &c.; and now, just as he is ready to reap the reward of his labors, in the advancement of his Indians toward civilization, in the success of his plans for an Indian school, to remove him seems like ingratitude to a faithful public officer, and cannot but work injury to the service.

The same attacks that have been made on General Clapp will also naturally be made on his successor, unless he bows to the dictation of these men. Their claimed success in securing the removal of General Clapp will but incite them to greater efforts against any other agent whom they cannot control.

I am satisfied General Clapp is under the influence of no contractor or set of contractors, and have full faith in his honesty and ability.

For these reasons, as well as many others that might be given, I hope Agent Clapp may be retained at the Crow agency.

Very respectfully, your obedient servant,

E. C. WATKINS,
United States Indian Inspector.

Hon. E. P. SMITH,
Commissioner Indian Affairs, Washington, D. C.

OFFICE OF INDIAN AFFAIRS, *January* 18, 1877.

A true copy:

W. B. WAUGH, *Acting Chief Clerk.*

TOPEKA, KANSAS, *April* 28, 1880.

SIR: I have just seen in the Leavenworth Times a speech of Hon. E. B. FINLEY, in which he charges me with attempting to bribe Captain Ed. Ball, of the Second Cavalry, while I was agent for the Crow Indians. He caused to be read in support of said charge a report made by Ball, dated February 18, 1876, of which he says: "The report has never appeared in print. I learned of it through an officer of the Army, and had the good fortune to obtain a certified copy of it."

This report has been printed several times. During the spring of 1876 it was furnished by some convenient "Army officer" to a Congressman, who had it read and printed in the CONGRESSIONAL RECORD. President Seelye, of Amherst College, then a member of the House, immediately rose and said that "this matter had been already investigated." It has been investigated repeatedly and most thoroughly—first by a United States grand jury, of which Walter Cooper, of Bozeman, Montana, was foreman. This jury spent twenty-two days on it, sitting at Virginia City, Montana. It was again investigated by an officer of the Interior Department, then referred to a board of officers sitting at Washington, and finally referred to the Attorney-General's Department and reported on by an assistant attorney-general. The result was that the official report of Captain Ed. Ball and his testimony before the grand jury were utterly discredited; that no cause of action against Contractor Nelson Story was found, and his accounts, which had been suspended, were re-examined and paid in full.

There is ample official evidence of these facts on record. I have made this statement not because that even the report of Ball justifies the assumptions made by Mr. FINLEY against me in his speech. Ball's allegation against me is only an inference. He does not profess to have any personal knowledge on which to base his charge. I have stated the above facts because the utter discrediting or impeachment of Ball's official report and of his oath before the grand jury destroys whatever weight his inference against me might have been entitled to.

If Captain Ball's friends object to this view of the case, I think it will be in order to show from the records of the War Department that his oath before a military court in the case of Quartermaster Forsythe was virtually impeached.

I protest against the repeated injection of this report into the CONGRESSIONAL RECORD by some "Army officer," who, judging from the interest he takes in it, must have known that it had been thoroughly investigated and discredited. The imposing of such a report by an "Army officer" on Hon. Mr. FINLEY as a paper that had never been printed or investigated or discredited is "conduct unbecoming an officer and a gentleman."

Mr. FINLEY says in his speech: "But I find in the report made in 1877 on the Crow Indians Mr. Clapp signs himself as agent, and talks about what good Christian Indians they were, winding up his report by asking the Commissioner of Indian Affairs that the contractor may be allowed personally to deal out the sugar to Indians." This is an entire fabrication. If Mr. FINLEY has any report over my signature containing those words or anything that can be tortured into such nonsense it is a forgery. I defy the production of any such report made by me or of any evidence that will sustain the charge against me made in the speech of Mr. FINLEY. The report of Captain Ed. Ball, so far as it implicates me, is an absolute and outrageous falsehood.

Very respectfully, yours,

DEXTER E. CLAPP.

Hon. THOMAS RYAN,
House of Representatives, Washington, D. C.

Mr. MAGINNIS. Mr. Chairman, I wish to say one word in reply to the gentleman from Kansas. The issue between this Indian agent and this Army officer is plain. Captain Ball specifically charged under oath that he has been approached by this agent and contractor and a bribe pledged him to wrongfully pass certain flour and beef for the Indian agency. Captain Ball is one of the ranking captains of the Army, a man who has served in the United States Army and risen from the ranks to be one of the senior captains of cavalry, having been nearly thirty-four years in the service. He is one of the bravest, most intelligent, and one of the most honest and capable officers in the United States Army; and no man who knows him will believe for a single instant that under any circumstances he would ever voluntarily declare that he had been so approached unless it was the truth. He is not a man capable of making a statement at variance with facts. I simply make this statement in justice to this officer for the reason that I observed the gentleman from Ohio was not in his seat at the time the gentleman from Kansas rose.

Mr. RYAN, of Kansas. I want to say in response to what has been said by the gentleman from Montana that no man who knows General Dexter E. Clapp can ever be made to believe, except by the most positive evidence, that he is a man capable of committing such an offense.

Mr. MAGINNIS. Then let the declaration of Captain Ball stand against the declaration of Mr. Clapp, and let that go. I simply rose to say that much.

Mr. RYAN, of Kansas. I am willing that the statement of General Clapp shall be put against that of any man. I withdraw the amendment.

Mr. FINLEY. I renew the amendment for the purpose of saying a word. I was not present when the gentleman from Kansas made his statement, nor do I know what he has said; but the report I had read in this House with respect to the Crow Indian agency I received from an official source—from the War Department. I know nothing about Mr. Clapp or the transaction therein referred to further than as I received from that report. I caused it to be read, believing and having implicit confidence that it was true. I know nothing to the contrary, further than what the gentleman from Kansas states. Personally I have no knowledge whatever of the matter. I certainly had no motive in making a charge against General Clapp or any one else. I simply gave the information as I had received it from the Department, taking it for granted, of course, that it was true. I withdraw the amendment.

The Clerk read as follows:

JUDICIAL.

United States courts:

For defraying the expenses of the Supreme Court, and of the circuit and district courts of the United States for the deficiencies, as follows: For 1878, $26,000; for 1879, for fees of clerks, United States attorneys, United States commissioners, rent of court-rooms, support of convicts, miscellaneous accounts, and balances due on marshals' accounts, $325,000; and for 1880, for fees of jurors, support of prisoners, miscellaneous expenses of United States courts, and for fees of witnesses, $250,000: *Provided*, That no part of this appropriation shall be used in the payment of general or special deputy marshals for services rendered at any election.

Mr. HISCOCK. I move to strike out the proviso—the following words:

Provided, That no part of this appropriation shall be used in the payment of general or special deputy marshals for services rendered at any election.

Mr. Chairman, I suppose that this proviso is entirely unnecessary in this bill. It is very likely the case that if it was not there at all no part of the money appropriated by this bill could be used for the purposes indicated in the proviso. But I desire to go one step further and call attention to other facts in connection with this matter. The Supreme Court of the United States have declared that the Federal election laws are constitutional. This House by its vote has recognized the doctrine of that decision as correct. The Senate, the other branch of Congress, has recognized the validity of that decision.

Now, Mr. Chairman, if this decision is correct, if the election laws are constitutional—and they are the foundation for certain claims against the United States—why should not we pay them? The auditing officers of the Government will be compelled to audit the claims, and they will come to us in the schedule from the Department for which we are required to make provision.

The appointment of these officers has been made under warrant of law. There is no defense to their claims whatever. However much we may quarrel with the law, however much you upon the other side of the House may quarrel with the provisions of these statutes, still Congress has recognized the validity of the statutes and the Federal courts have recognized their validity, and it is no more nor less than repudiation, nothing short of it, for us to refuse to make appropriations to pay claims of this character against the General Government.

I might go one step further, Mr. Chairman, and say with reference to this—and I desire to call the attention of my friends on the other side to it; I alluded to it a moment ago—that doubtless if this proviso was stricken out none of the money herein appropriated could be applied to the purposes named. Is it the purpose of the other side to put upon record by advertisement that they will not pay the claims against the Government which are legal and the validity of which have been recognized by the other side of the House, have been recognized by the Senate, and recognized by the judicial department of the Government? Allow me to say to my friends, since you are united with us for legislation to perfect the election laws, since the Federal courts have decided that they are constitutional, is it wise, is it seemly, to stand now in the position of repudiators any longer with reference to this just class of claims against the Government? [Cries of "Question!"]

The committee divided; and there were—ayes 34, noes 61.

Mr. HAWLEY demanded tellers.

Tellers were ordered; and Mr. HISCOCK and Mr. COBB were appointed.

The committee again divided; and the tellers reported—ayes 60, noes 76.

Mr. WHITE. No quorum has voted.

Mr. PAGE. Will the gentleman in charge of this bill consent that we have a yea-and-nay vote in the House on this proposition?

Mr. HISCOCK. If we can have a yea-and-nay vote in the House, this side of the House will not make the point of order that no quorum has voted.

Mr. COBB. I have no objection to that arrangement.

Mr. WARNER. Let that be the understanding of the committee.

The CHAIRMAN, (Mr. WHITTHORNE in the chair.) There being no objection to the arrangement specified by the gentleman from New York, that a yea-and-nay vote shall be taken on this amendment in the House, the Chair understands that the point of order that no quorum has voted is withdrawn.

Mr. COBB. I offer the following amendment:

After the word "accounts" insert "and requisitions of marshals;" and strike out "$325,000" and insert in lieu thereof "$375,000;" so that it will read:

"Balances due on marshals' accounts and requisitions of marshals, $375,000."

The amendment was agreed to.

Mr. PAGE. I offer the following amendment:

At the end of the paragraph add the following:

"To pay deputy marshals for services in the State of California at the election of September last, $7,000, or so much of said sum as may be necessary."

I do not want to make any speech on the amendment. I will only say that these marshals were appointed in accordance with law; that they have not been paid; and that it is a just demand by these parties upon the Government of the United States. I ask the committee to adopt the amendment.

Mr. FINLEY. Will the gentleman allow me to ask him one question?

Mr. PAGE. Certainly.

Mr. FINLEY. What was the reason these deputy marshals were not paid?

Mr. PAGE. It was because no money was appropriated by Congress to pay them.

Mr. FINLEY. Did we not appropriate money to pay them, and was it not vetoed by the President?

Mr. HISCOCK. Oh, no. You did not appropriate money to pay them. It was not included in the bill.

Mr. PAGE. It was included in the bill, but was incorporated with another provision that was offensive to the President, who, in the exercise of his constitutional prerogative, vetoed the bill. I wish to give the committee an opportunity to repudiate this just claim, if they will, but I hope they will not.

Mr. McMILLIN. I desire to ask the gentleman from California a question. Under what provision of law can the executive department run the Government in debt before there is an appropriation?

Mr. PAGE. I will say in answer to the question of the gentleman from Tennessee that the appointment of these men was under the provision of law. And I will say further there was no appropriation for any marshal for any purpose, and yet the marshals' offices have been running all the time.

The question being taken on Mr. PAGE's amendment, there were—ayes 45, noes 71.

Mr. PAGE. Mr. Chairman, if the gentleman who has charge of this bill will agree I may have a yea-and-nay vote on this amendment in the House, I have no disposition to raise the point of order that a quorum has not voted. I am anxious to get through the bill. But I would like to have the members of the House go upon record upon this proposition. That is all. I presume the gentleman from Indiana will have no objection to agreeing to my request.

Mr. COBB. None at all.

Mr. HISCOCK. I propose to offer an amendment to the next paragraph, to insert after the word "general" the words "and special;" so that it will read "United States marshals and their general and special deputies." I will ask that in the House we may have a yea-and-nay vote on one or other of these propositions, as we may desire.

Mr. COBB. I consent to that.

Mr. HISCOCK. We will ask it on only one of the amendments.

Mr. McKENZIE. I suggest to the gentleman from New York that he should now select the amendment on which a vote will be desired.

Mr. HISCOCK. We will have a consultation as to that among ourselves.

So (further count not being called for) the amendment offered by Mr. PAGE was not agreed to.

The Clerk read as follows:

For the payment of the fees and expenses of United States marshals and their general deputies, earned during the fiscal year ending June 30, A. D. 1880, $600,000.

Mr. COBB. I offer the following amendment:

At the end of the paragraph, insert as follows:

"*Provided*, That no part of this appropriation shall be used in the payment of general or special deputy marshals for services rendered at any election."

This is the same proviso as is attached to the preceding paragraph.

The amendment was agreed to.

Mr. HISCOCK. I offer the following amendment:

After the word "general," insert the words "and special."

I understand we can call for a yea-and-nay vote on either one or other of the amendments in the House.

Mr. COBB. Yes, sir.

The amendment offered by Mr. HISCOCK was not agreed to.

The Clerk read as follows:

To pay the United States marshal of Idaho for salary due him from June 8 to June 30, 1878, being a deficiency for the fiscal year 1878, $12.63.

Mr. DAVIS, of North Carolina. I offer the amendment which I send to the desk.

The Clerk read as follows:

After the paragraph just read add the following:

"To pay to Rufus H. Jones, executor of Wesley Jones, deceased, former United States marshal, the sum of $103.69, balance due from the United States upon an adjusted account for expenses of courts incurred prior to the year 1862."

Mr. COBB. I shall have to reserve the point of order on that amendment. It occupies the same position as others which have been ruled out.

Mr. DAVIS, of North Carolina. Will the gentleman before pressing the point of order hear me a single moment?

Mr. COBB. Yes, sir.

Mr. DAVIS, of North Carolina. I would not in view of what has transpired move this amendment but for the fact that Mr. Jones, the late marshal, has been dead for some time and his executor desires to close up his estate. The executor was not aware of the existence of this balance until he was informed of it by the Treasury Department. When made aware of it and when his application was made he was informed there was no fund now available to meet it.

A MEMBER. Why was it not put in the estimates?

Mr. DAVIS, of North Carolina. Because the estimates came in December last and this cannot go into the estimates now until next December. In view of the fact that it is desirable the estate should be closed up I hope the point of order will not be made on the amendment.

Mr. COBB. I shall have to insist on the point of order. There are many such claims just as urgent as this.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read as follows:

HOUSE OF REPRESENTATIVES.

For furniture and repairs of same, $1,500.

Mr. DICKEY. I offer the amendment which I send to the desk.

The Clerk read as follows:

After the paragraph just read add the following:

"To pay Isaac R. Hill for services rendered to the House of Representatives as messenger during the first session of the Forty-sixth Congress, $150."

Mr. McKENZIE. I do not make the point of order, but I would like to know what the services are for which this appropriation is to be made.

Mr. COBB. I will make a point of order upon the amendment.

Mr. DICKEY. I want to say that this claim has been unanimously reported by the Committee on Claims, and is for services rendered as messenger in the first session of this Congress, the extra session.

Mr. WHITE. I desire to see if the Committee of the Whole will be consistent. The point of order was made against a soldier awhile ago, and I want to see if this committee will be consistent in this matter.

Mr. COBB. I shall have to make a point of order upon it.

Mr. TOWNSHEND, of Illinois. This service has been rendered.

Mr. WHITE. So they were rendered by my soldier.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read the following:

To pay James M. Hall, laborer in House water-closet, from November 2, 1877, until April 4, 1878, at $60 per month, $300.

Mr. DUNN. I move to insert after the paragraph just read that which I send to the Clerk's desk.

The Clerk read as follows:

To pay F. W. Lynn for services as a messenger of the House under the Doorkeeper, from December 15, 1877, to February 1, 1878, $121.98.

Mr. COBB. I reserve the point of order on that amendment.

Mr. HISCOCK. You had better make it now.

Mr. COBB. Very well, I will make it now.

Mr. DUNN. I do not think it is subject to the point of order. I desire to make an explanation which I think will be satisfactory to the committee. This messenger was sworn in on the 29th day of November——

Mr. HAYES. I insist upon the point of order.

The CHAIRMAN. The Chair sustains the point of order, it being insisted upon.

Mr. DUNN. I desire to speak to the point of order.

The CHAIRMAN. The Chair has made his decision.

The Clerk read the following:

To pay John D. O'Connor for reporting and transcribing testimony taken before the Committee on Foreign Affairs in the matter of the charges against J. H. ACKLEN, referred to said committee for investigation by the House, $165.

Mr. ACKLEN. I move to amend the paragraph just read by striking out "$165" and inserting "$80." I desire to say this: I have no wish that the Government shall pay more than is proper and correct for reporting the evidence taken in the case against me. By examining the record of the testimony taken by the Committee on Foreign Affairs, which I hold in my hand, I find that it covers but thirty-eight pages of small pica. According to the regular charges for such reporting this would be paid for at $2 a page, which for the thirty-eight pages would make $76. I would ask the gentleman in charge of this bill how it is that the Committee on Appropriations propose to pay, for thirty-eight pages of testimony at $2 a page, the sum of $165?

Mr. COX. I will answer that question. This is a very small matter. If the gentleman had advised me before I would have rectified the bill if it was wrong.

Mr. McKENZIE. Rectify it now.

Mr. COX. I cannot do that.

Mr. ACKLEN. The regulation price is the price which I have indicated, $2 a page; which I do not think should be exceeded. I trust that the amendment which I have offered will be adopted. The sum of $80 is full compensation for this work, and $165 would be an outrage.

Mr. COX. This stenographer not merely charged the ordinary rates for reporting, but in order to hurry up the matter he wrote all night long so that the facts might be brought before the House as soon as possible and the matter ended. But that is not the point; the point is that this is the regular pay.

The question was taken upon the amendment of Mr. ACKLEN; and it was agreed to, upon a division—ayes 52, noes 12.

Mr. COX. I rise for the purpose of saying that I will pay the balance of the bill myself. [Laughter.]

Many MEMBERS. All right.

Mr. COX. I think that this is a very small business for an American Congress.

The Clerk read the following:

To pay James Reily, administrator upon the estate of J. M. Tomeny, amount due said Tomeny as witness before the Committee on Expenditures in the Treasury Department, in April and May, 1878, $90.

Mr. COX. I move to insert after the paragraph just read that which I send to the Clerk's desk.

The Clerk read as follows:

To enable the Clerk to pay Watson Boyle, messenger to the Speaker, the difference between the amount appropriated for his payment in the legislative, judicial, and executive appropriation act for the current fiscal year and the amount appropriated therefor in the bill of the same title which was vetoed—$200.

Mr. COBB. I raise the point of order on that amendment.

Mr. COX. This is an amendment of the same character as that which was adopted for the employés of the House.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read the following:

For stationery for members of the Senate and House of Representatives for the first session of the Forty-sixth Congress, $47,125.

Mr. THOMPSON, of Kentucky. I move to strike out that paragraph.

The motion was not agreed to.

The Clerk read the following:

To pay J. B. Holloway, clerk to Committee on Reform in the Civil Service, Forty-fifth Congress, for sixty-eight days, at $6 per day, $408.

Mr. VANCE. I move to amend by inserting after the paragraph just read that which I send to the Clerk's desk.

The Clerk read the following:

To pay Robert P. Blaylock $77.50 for one month's services as page for the House of Representatives in the Forty-fifth Congress.

Mr. HISCOCK. I make the point of order on that amendment.

Mr. COBB. I raise the point of order on it.

The CHAIRMAN. The Chair sustains the point of order.

Mr. VANCE. I would like my friend from Indiana [Mr. COBB] to withhold his point of order until I can make a brief statement.

Mr. COBB. I am willing to do that.

The CHAIRMAN. The gentleman from New York [Mr. HISCOCK] made the point of order, and the Chair has sustained it.

Mr. KING. I move to amend by inserting that which I send to the Clerk's desk.

The Clerk read as follows:

To pay L. Q. Washington for services as clerk to the Committee on the Interoceanic Canal, from January 23 to March 1, 1880, both inclusive, thirty-nine days, at $6 per day, $234.

Mr. COBB. I raise a point of order on that amendment.

The CHAIRMAN. The Chair sustains the point of order.

Mr. MYERS. I move to amend by inserting what I send to the desk.

The Clerk read as follows:

To pay to H. P. Burrows for his services as assistant clerk and messenger of the select committee appointed under the resolution of the House of January 12, 1880, to investigate the payment of pensions, bounty, and back pay from February 7, 1880, to May 21, 1880, the sum of $555.

Mr. HISCOCK. I make a point of order on that amendment.

The CHAIRMAN. Which the Chair sustains.

Mr. BUCKNER. I move to amend by inserting the following:

To pay Silas Carr one month's pay from the date of his discharge from the messenger's roll of the House, $100.

Mr. HISCOCK. On that amendment I make a point of order.

The CHAIRMAN. And the Chair sustains it.

The Clerk read as follows:

For rental of telephone and telephonic connections in Government Printing Office for fiscal year ending June 30, 1880, $37.50.

Mr. MONROE. I desire to offer an amendment to come in immediately after the paragraph last read. I offer it with the approval of the gentleman who has charge of the bill. It is understood to be for labor honestly performed. The amount is small. For some reason the item escaped consideration in committee when the bill was being agreed upon.

The Clerk read the amendment, as follows:

To pay Joseph J. Gilbert, A. Johns, E. W. Grant, and C. J. Hayes, for reporting testimony before committees of the House of Representatives during the present session, (at times when the official stenographers were engaged with other committees,) $450, or so much thereof as may be necessary, on accounts to be rendered by them respectively, certified by the official stenographers for committees of the House, and approved by the chairmen of the several committees for which the work was done, and by the Committee on Accounts.

Mr. McKENZIE. I make a point of order on this amendment, that it is not in the line of economy and is new legislation.

The CHAIRMAN. The Chair sustains the point of order.

Mr. MONROE. What is the point of order?

Mr. McKENZIE. That the amendment is new legislation and does not tend to retrench expenditures.

Mr. MONROE. There is legislation exactly like it in previous appropriation bills.

Mr. McKENZIE. Then I rely upon the fact that it does not retrench expenditures.

The CHAIRMAN. The Chair has decided the question.

Mr. DOWNEY. I move to amend by inserting the following:

For mileage for members of the Senate and House of Representatives for the first session of the Forty-sixth Congress, $133,000.

Mr. HISCOCK. On that I make a point of order.

The CHAIRMAN. Which the Chair sustains.

The Clerk read as follows:

COURT OF CLAIMS.

For payment of judgments of the United States Court of Claims which will mature and become due within the present fiscal year, $185,803.54.

Mr. COBB. I move to amend by striking out all of the clause just read except the heading, and inserting the following:

For payment of judgments of the United States Court of Claims, $185,803.54, or so much thereof as may be necessary: *Provided*, That no judgment shall be paid until the right of appeal has expired.

Mr. McKENZIE. I make the point of order that this is new legislation and does not retrench expenditures.

The CHAIRMAN. Which point of order the Chair overrules.

The amendment was adopted.

The Clerk read as follows:

For the payment of a judgment of the United States circuit court for the district of Connecticut in favor of William H. and George W. Miller and against Colonel James G. Benton, United States Army, commanding the Springfield arsenal, $18,792.52, for the use of the said Millers' patent cartridge-extractor: *Provided*, That the said Millers, upon the payment of said judgment, deliver in exchange a free license to use said patent hereafter.

Mr. ATKINS. I offer the amendment which I send to the desk.

The Clerk read as follows:

Insert the following:

"To enable the Clerk of the House to pay Charles Christian for services as laborer in the office of the Sergeant-at-Arms from March 5, 1879, to June 30, 1879, at $50 per month, $191.50."

Mr. COBB. I raise a point of order on that amendment.

Mr. ATKINS. I hardly think a point of order will lie against the amendment, for this reason: this laborer was paid out of the contingent fund for many years consecutively until last year when his compensation was provided for in the sundry civil appropriation bill, therefore this is in the nature of a continuing appropriation. My judgment is that the point of order does not lie. This laborer has been employed in the office of the Sergeant-at-Arms for many years—long before Mr. Thompson became Sergeant-at-Arms—and ever since the election of that gentleman. I think that this laborer ought to be paid.

Mr. SPRINGER. "The laborer is worthy of his hire."

The CHAIRMAN. Is the point of order insisted upon?

Mr. HAYES. It is.

The CHAIRMAN. The Chair sustains the point of order.

Mr. DUNNELL. I move to amend by inserting what I send to the desk.

The Clerk read as follows:

To pay certain judgment and costs against Captain John C. Bates and Lieutenant Jonathan A. Yeckley, United States Army, rendered by the supreme court of Dakota Territory and affirmed by the Supreme Court of the United States, $7,000, or so much as may be necessary.

Mr. COBB. I make the point of order against that amendment.

Mr. McKENZIE. Why was not that incorporated in the bill?

Mr. DUNNELL. The gentleman can reserve his point of order and I will answer the question of the gentleman from Kentucky. This judgment was appealed from the supreme court of Dakota Territory to the Supreme Court of the United States against Captain Bates and Lieutenant Yeckley, because of an arrest they made of persons who were selling liquor to the Indians. It turned out on trial that the liquor was sold upon an Indian reservation and the parties were not subject to arrest. These persons brought suit against Captain Bates and Lieutenant Yeckley and obtained judgment, and the judgment in all with the costs amounted to $4,200. The affirmation of the Supreme Court was not received until the beginning of 1878. Secretary McCrary brought the attention of the Committee on Appropriations of the last Congress to this judgment. I hold in my hand the letter of the present Secretary of War asking Congress to appropriate this money.

One word further, and I think the gentleman from Indiana will not insist on his point of order. On the 15th of March this letter of the Secretary of War containing the transcript of the judgment and all the papers in the case came to this House, but by mistake was sent to the Committee on Military Affairs. I sought the papers in the middle of May and found them in the Committee on Military Affairs, and obtained an order of the House to have them sent to the Committee on Appropriations, but they did not reach there until yesterday. They were some fifteen days making the transit from the room of the Committee on Military Affairs to the room of the Committee on Appropriations. I ask that the two letters be read, because in a single page or two they state the case. Not knowing any of the parties, I have been asked to have this matter presented at this time. But for the mistake in the reference of this case, I have no doubt it would have been inserted by the Committee on Appropriations in this bill. I ask the letters be read.

Mr. BRAGG. I object to the reading of the letters and insist on the point of order.

Mr. COBB. I make the point against the equity of this claim. It is well known to the committee for reasons presented to it that these points of order must be insisted on. I therefore must insist on my point of order in this case.

Mr. DUNNELL. Let those two letters be read, and if the gentleman wishes to insist on his point of order then, let him do so.

Mr. BRAGG. I object.

The CHAIRMAN. The point of order being insisted on, the Chair sustains it.

Mr. DUNNELL. Let those letters be printed with my remarks.

Mr. BRAGG. I object.

The Clerk read as follows:

District of Columbia:

For the following deficiencies on account of the government of the District of Columbia: For the health office, $1,183.34; for the removal of garbage, $219.30; for salary of sealer of weights and measures, $6.67; for interest and sinking fund, outstanding coupons upon the city of Washington ten-year six-per-cent. loan under act of Congress approved July 27, 1868, $90; for fire-alarm telegraph operators, two at $200 each, $400; for judicial expenses, extraordinary expenses on account of Strong *vs.* the District of Columbia, $3,500, one-half to be paid from the revenues of the District.

Mr. NEAL. I move to strike out the last word, and I make that motion for the purpose of submitting some remarks in regard to the indebtedness of the General Government to the District of Columbia, in reference to which I propose hereafter to offer an amendment making appropriation for the payment of the same.

Under laws passed prior to the present——

Mr. COBB. Is there any question before the committee?

Mr. NEAL. Yes; I have moved to strike out the last word. Under laws which have been passed by Congress and the Legislative Assembly special assessments were made upon the property of the Government of the United States as well as upon the property of citizens of this District for improvements authorized by law. I hold in my hand a statement prepared from the books of the commissioners of the District of Columbia, showing there is now due from the Government of the United States to the people of this District the sum of $1,040,151.54. That is the debt which the Government of the United States honestly owes this District. The property has been improved. The streets and avenues abutting or bordering on the property of the United States have been improved by assessments made on that property and on the property of the citizens of this District. The citizens have been compelled to pay while the Government of the United States has not paid those assessments. There is now due this sum. I ask to print, as part of my remarks, this report from the District commissioners:

OFFICE OF THE COMMISSIONERS DISTRICT OF COLUMBIA,
SPECIAL ASSESSMENT DIVISION,
Washington, February 12, 1880.

GENTLEMEN: I have the honor to report the following amounts charged to the United States on the records of this division:

Board of public works' assessments, revised		$1,121,380 19
Commissioners' assessments, revised		1,136,102 66
Commissioners' assessments, not yet revised		1,085,226 10
Work done, chargeable to United States, not included in above assessments:		
Filling canal	$125,666 64	
Stanton Square	32,242 98	
Twelfth street west, from B to B	72,104 50	
Botanical Gardens, Third street to Maryland avenue	15,945 38	
		245,959 50
Total		3,588,668 45
The following appropriations have been made by the United States:		
June 10, 1872	$192,620 00	
June 10, 1872, filling canal	68,365 00	
January 8, 1873	1,241,920 92	
March 3, 1873	106,533 00	
March 3, 1873	913,497 26	
March 3, 1873	1,000,000 00	
		3,522,936 18
Excess over appropriations		65,732 27
Cost of work done on the great main sewers, not assessed:		
Slash Run sewer	$240,451 90	
Tiber sewer	1,259,448 44	
Boundary sewer	448,938 21	
	1,948,838 55	
Of which one-half should be charged to the United States		974,419 27
Total deficit of United States on work since 1871		1,040,151 54

Very respectfully,

WM. OSCAR ROOME,
Chief of Special Assessment Division.

To the honorable THE COMMISSIONERS OF THE DISTRICT OF COLUMBIA.

I withdraw that amendment and now offer the following:

For the payment of special assessments made against the property of the United States by the legal constituted authorities of the District of Columbia, by authority of law, $1,040,151.54.

Mr. COBB. I make the point of order against that amendment.

The CHAIRMAN. The Chair sustains the point of order, and the amendment is ruled out.

The Clerk read as follows:

SOUTHERN CLAIMS COMMISSION.

That the sum of $800, or so much thereof as may be necessary, is hereby authorized to be transferred from the appropriation for contingent expenses of the southern claims commission, made under act of June 21, 1879, to be available for paying the salaries and traveling expenses of the agents of said commission. And the sum of $1,200, or so much thereof as may be necessary, is hereby appropriated for the payment of a clerk, who may be appointed by the Secretary of the Treasury, at the rate of $100 per month, to complete the records of the said commission and care for the same under the supervision of the Treasury Department.

SEC. 2. For the payment of claims certified to be due by the several accounting officers of the Treasury Department under appropriations the balances of which have been exhausted or carried to the surplus fund under the provisions of section 5 of the act of June 20, 1874, and under appropriations heretofore treated as permanent, being for the service of the fiscal year 1877 and prior years, and which have been certified to Congress under section 4 of the act of June 14, 1878, as fully set forth in House Executive Document No. 29, Forty-sixth Congress, second session, and for other items, as follows:

Mr. CONVERSE. I would like to know how that language has been incorporated in the bill. That first section which has been read by the Clerk is not incorporated in this bill at all, and I desire to know how it happens to be presented now for the action of the committee? It has never been reported to the House so far as I am aware, although it has been read by the Clerk.

The CHAIRMAN. The explanation will be found in the fact that the Clerk reads from the bill which was reported from the Committee on Appropriations—the appropriation bill which they asked the House to print, but which the House declined to print.

Mr. BRAGG. The point of order will lie upon that provision.

The CHAIRMAN. It is the identical bill, the Chair understands, which was reported to the House by the Committee on Appropriations, but a different print from the first bill printed.

Mr. BRAGG. I make the point of order on the provision which has just been read.

The CHAIRMAN. The gentleman will state the point of order.

Mr. BRAGG. My point of order is that this is a deficiency bill. One of the sections read by the Clerk provides for the employment of a clerk not authorized by law. It authorizes the employment of a clerk and fixes his pay. It is not in the bill which I have before me, but as read from the Clerk's desk it provides for the employment of a clerk.

Mr. HAYES. That is in the first section of the bill. I maintain that it is now too late to make the point of order upon that.

Mr. BRAGG. In the printed bill which I have in my hand nothing of the kind is contained. I made the point of order as soon as I could get the attention of the Chair and as soon as the paragraph was read.

Mr. COBB. We have passed that; we are now at the second section of the bill.

The CHAIRMAN. The Chair thinks the gentleman from Wisconsin makes the point too late in view of the facts stated.

Mr. BRAGG. If the Chair will permit me, I wish to state that I insist I am not too late in making the point of order. When a bill is distributed and placed upon the desks of members of the House and another bill is sent to the Clerk's desk containing provisions different from that on which we are called upon to vote, when I come to make the point of order upon what is read from the Clerk's desk, not having the bill before me, I make the point of order as soon as I am aware from the reading what it is. Not having the bill before me, of course I cannot do it before. I insist, however, that this provision contained in this bill is subject to the point of order, and that the point of order is not too late. I desire to make the point of order more particularly, however, to show that the gentlemen representing this bill upon the floor are themselves subject to the point of order as well as other members of the House.

Mr. COBB. I desire to state for the benefit of the gentleman from Wisconsin and of the House that this bill was reported to the House by the Committee on Appropriations. It was recommitted to the committee, and the committee made certain amendments or changes in it, which they had authority to do. I brought in the new bill and reported it again to the House, and suggested the propriety of having the amendments printed, stating to the House that if they wanted the amendments printed it could be done; but the House refused to have the amendments printed. Therefore the bill comes before the House in the shape it is in.

Mr. BRAGG. I understand that; but the point of order is that the section to which I have referred creates a new officer, provides for his salary, and all this in a deficiency bill.

Mr. HISCOCK. I desire to say a word on the point of order. There is no rule against there being in a deficiency bill an appropriation for the expenses of the next current year. The Appropriations Committee can report a bill containing items for the coming year.

Mr. BRAGG. The point of order I make is that this provides for the employment of a clerk not authorized by law.

Mr. HAYES. Has not the point of order been made too late?

The CHAIRMAN. The Chair will state to the gentleman from Wisconsin that, in view of his statement and his own belief that some confusion exists in reference to these bills, he will not make any ruling which will allow a deception to be practiced upon a member of the House, and therefore he entertains the point of order.

Mr. BRAGG. I do not wish to appear as charging any deception. I was watching the bill and noticed that the part which was read by the Clerk was not contained in the text of the bill which I had, and therefore I came down to listen to the reading of it, and made the point of order as soon as I supposed the paragraph was concluded.

Mr. ATKINS. The gentleman from Wisconsin, I presume, was not in the House when the gentleman from Indiana, who reported the bill, made a statement in regard to the amendments which the committee had concluded to incorporate in it after the bill had been recommitted.

The CHAIRMAN. The Chair desires to state that he himself has been somewhat deceived in reference to this matter and the apparent conflict which arises from having two bills distributed in this way, containing provisions at variance with each other; and if gentlemen are misled because of that fact, the Chair is willing to allow the fullest latitude for points of order to be raised on amendments and sections of the bill when they are read.

It is a mere matter of justice, the Chair thinks, to entertain points of order, even though, as in the case now before the committee, the claim is made that it is too late.

Will the gentleman from Wisconsin now designate the specific point of order that he makes upon this paragraph?

Mr. BRAGG. If any gentleman will furnish me a copy of the bill containing the provision which the Clerk has read I will point out the provision which I regard as subject to the point of order.

Mr. ATKINS. I ask to have the amendment again reported.

The CHAIRMAN. The Clerk will read the first section to which attention has been called.

The Clerk proceeded to read as follows:

That the sum of $800, or so much thereof as may be necessary, is hereby authorized——

Mr. HAYES. I rise to a point of order, Mr. Chairman, that we have passed that section, and it is too late now to make the point of order upon it.

The CHAIRMAN. The gentleman from Wisconsin having made a statement as to how he was deceived, and also that he rose for the purpose of calling attention to this clause as soon as the paragraph was read, and because of the confusion in reference to this new bill, the Chair thinks in justice to all members that it is not right to allow what might seem to be a deception to be practiced upon them, and therefore overrules the point of order. The Clerk will continue the reading.

The paragraph was again read.

Mr. BRAGG. It is upon the last paragraph of the section that I make the point of order:

And the sum of $1,200, or so much thereof as may be necessary, is hereby appropriated for the payment of a clerk, who may be appointed, &c.

That is the authority to create a clerkship which does not now exist, and is new legislation.

Mr. COBB. I will state to the gentleman from Wisconsin that that provision of the bill was in the vetoed bill that passed both Houses, and for that reason the Committee on Appropriations felt it was their duty to take that provision and incorporate it in this bill. It has had the favorable action of both Houses.

Mr. BRAGG. I would inquire of the gentleman from Indiana if the veto of the President to a bill, which ordinarily would be supposed to nullify it, makes it binding on this Congress to pass it.

Mr. COBB. The gentleman cannot suppose I am so foolish as that. We in Hoosierdom have some knowledge and sense as well as the people in the great Northwest. I merely state a fact which the gentleman from Wisconsin ought to have understood. This provision was in the vetoed bill, and for that reason, both Houses having adopted it, the Committee on Appropriations inserted it in this bill.

Mr. LAPHAM. I wish to inquire if it requires a vote of two-thirds to pass this over the veto.

The CHAIRMAN. The Chair sustains the point of order made by the gentleman from Wisconsin.

The Clerk read as follows:

TREASURY DEPARTMENT.

For expenses of collecting the revenue from customs as certified to by the Commissioner of Customs under section 4, act of June 14, 1878, for 1877 and prior years, $47,369.79.

Mr. TOWNSHEND, of Illinois. I ask the gentleman who is in charge of the bill to explain the reason for the appropriation in the paragraph which has just been read.

Mr. COBB. The amounts here are audited accounts that have passed through the Treasury Department, having been duly audited under the law.

Mr. TOWNSHEND, of Illinois. I move to strike out the paragraph. I am sorry the explanation of the gentleman from Indiana is not as full and as satisfactory as I desire.

Mr. COBB. I am willing to give the gentleman all the satisfaction he can desire by referring him to the estimates.

Mr. TOWNSHEND, of Illinois. I do not care about the details. I merely want the reason showing the necessity for this appropriation.

Not at all intending any of the remarks which I shall now make for the gentleman from Indiana, I desire to say this: that during my experience on this floor I have found a very large number of members who, it would seem, consider their duties as being confined mainly to laying burdens on the people; and the same class of gentlemen stubbornly resist every effort that is made here to reduce taxation or to lighten the burdens of the people.

Now, Mr. Chairman, I find, on examination of the reports of the Department, that expensive customs officers are maintained at a number of ports in the New England States where the amounts of revenue received are but a mere trifle in comparison with the expenditures of the Government to maintain them. Looking into the outlay for the customs service in Maine I find that at one point, Frenchman's Bay, the amount of customs duties collected last year was but $49.78. Turning to the report of the Register of the Treasury I find that we expended at that port $4,422 for the purpose of collecting $49.78 of duties.

I have used this but as an illustration for a number of others, for I have no time now to go into details with regard to other ports in New England. One, however, I will allude to before I sit down. It is at Bristol, in Rhode Island. At that port $31.80 was collected last year, and I found from the report of the Register of the Treasury that we expended there $1,700. It strikes me that economy requires that we should at least curtail expenditures at such ports. Now, for what purpose is this sum and millions of dollars annually appropriated? For the purpose of enforcing the collection of customs duties. In the five minutes allowed me I cannot go into the details of our tariff monstrosities. They are legion. But I will allude to one item in the tariff which is familiar because of considerable agitation here during this session. It is the tax on paper-pulp and printing-paper. The report of the Treasury shows that the amounts collected on those articles during the past year did not exceed $214.38 on printing-paper or $128.60 on paper-pulp, while the paper monopolies realized 25 per cent. on the one and 20 per cent. on the other, aggregating millions taken from the people. The taxes upon those two articles—and I use them but as an illustration of hundreds of others that I might mention if I had time—is nearly prohibitory. And we are expending at one point over $4,500 to collect $49.78 of revenue in customs duties. Millions every year of the people's money used to defray the expenses of officers to guard our ports against imports, while protectionists may extort from the same people an average of 45 per cent. on manufactured articles and necessaries of life. [Here the hammer fell.] I should be glad if I were permitted to go on for a few moments longer.

Mr. COBB. So far as the remark of the gentleman from Illinois is concerned, that gentlemen on this floor conclude they have nothing to do here but to appropriate the people's money without trying to save it, that does not apply to me.

Mr. TOWNSHEND, of Illinois. I so stated.

Mr. COBB. And I do not think it applies to very many members of this House. If the gentleman from Illinois would take the time to inform himself about the objects for which this appropriation is proposed to be made, his speech, he would find, has no more to do with it than the day has to do with the night.

I will explain to the gentleman the reason this appropriation is made. If he will turn to Executive Document 29 and read the names and the great number of items that make up this appropriation, extending from page 14 to page 18, and if he will then turn to and read the sections of the law under which these accounts are allowed, sections 2733 and 2738, he will find his speech amounts to nothing; that it does not touch the question involved at all. The accounting officers, proceeding under the law, have audited these accounts. They have found that, under the law and the facts in the case, these individuals, perhaps a hundred in number, are entitled to small sums for services which they have rendered in pursuance of the law.

Mr. TOWNSHEND, of Illinois. At what ports?

Mr. COBB. It does not matter at what ports. They have earned the money under the law and in pursuance of their contracts. The gentleman ought to pay his debts and be willing to do it. I pay my individual debts, and I propose that the Government shall pay its debts if by my vote I can make it do so. These items are the differences between the amounts due these parties under the law and their contracts which have been paid them.

The CHAIRMAN. Debate has been exhausted on the pending amendment.

Mr. TOWNSHEND, of Illinois. I move to strike out the last word, for the purpose of saying that I distinctly stated that none of my remarks concerning the revenue were intended for my friend from Indiana, [Mr. COBB,] who I know agrees with me fully on this subject. He has misunderstood my purpose. My object was mainly to call the attention of the House to the fact that we are here making large expenditures for the purpose of enforcing an oppressive and in many respects a prohibitory tariff.

My friend says that he pays his private debts, of which I have no doubt, and that the Government should do likewise, and that he looks upon these claims against the Government as debts which should be paid. I will not take issue with him on that matter, because I am not sufficiently advised, but I desire to call his attention to the fact that the debts of the Government are mainly paid by the people of the country who are most heavily burdened with taxation. Over $19,000,000, in the way of internal revenue, was collected from the State of Illinois during last year, while the whole six New England States paid but $3,500,000. Yea, the State of Illinois pays more than five times as much as the entire New England States.

Mr. NEAL. What does she pay it on?

Mr. TOWNSHEND, of Illinois. I do not want to be interrupted.

The Commonwealth of Kentucky paid last year into the Treasury of the United States over $7,000,000 in internal revenue, and the whole of New England paid less than half that amount. The old "Mother of Presidents," Virginia, paid more than $6,000,000 of internal revenue, while the State of Vermont paid but $50,000. Now, I insist that the section which pays the largest portion of taxes have a right to demand of this House that there shall be reduction of the expenditures of the Government wherever this can be done consistent with the efficiency of the public service.

Mr. HAWLEY. If the State of Illinois drinks all the whisky upon which it pays taxes, the Lord help that State. [Laughter.] And if the State of Virginia chews all the tobacco upon which it pays taxes, the Lord help it. [Laughter.] Now, how childish it is to tell us here that all the taxes on that whisky are paid in the State of Illinois, and that the people of that State do not know enough to get back the money which they pay as internal revenue when they sell that whisky

out of the State. If they do not they ought to quit the business. Why does not some man get up here and tell us that the city of New York pays a third of all the money necessary for the support of this Government because, say, two-thirds of the duties collected are paid in that city? That is enough for that argument.

One thing more. The gentleman from Illinois [Mr. TOWNSHEND] talks about the expenses of some of these little ports where perhaps a thousand dollars are paid out for expenses and fifty collected, or two thousand expended for five hundred collected. The gentleman may, perhaps, at some future time, be reduced to the necessity of running a circus. [Laughter.] If he should act then upon his own principles as announced here and station no men around his tent except at the one door where he takes in the money, he would run it but a night or two before he would find out that all the boys in town had crawled in under the curtain upon the other side. [Great laughter.] And then he would know better than to make such a speech as he has made here to-day. [Renewed laughter.]

Mr. TOWNSHEND, of Illinois. Mr. Chairman, [cries of "Vote!" "Vote!"] I have risen simply for the purpose of withdrawing my formal amendment and demanding a vote on my motion to strike out the paragraph.

The motion to strike out was not agreed to.

The Clerk read the following:

For the medical and hospital department for 1877 and prior years, $1,029.46.

Mr. CONVERSE. I move to amend by inserting after the paragraph just read that which I send to the Clerk's desk.

The Clerk read as follows:

To enable the Secretary of War to continue the tests of iron and steel, $20,000.

Mr. COBB. I make a point of order on that amendment.

Mr. CONVERSE. I desire the gentleman to state particularly his point of order.

Mr. COBB. My point of order is that the amendment is not in pursuance of law, and involves an increase of expenditures. If it belongs to any appropriation bill at all it might come in the sundry civil appropriation bill; it certainly does not belong to this one. Besides, it is not germane to the paragraph under consideration.

The CHAIRMAN. The Chair will hear the gentleman from Ohio [Mr. CONVERSE] on the point of order.

Mr. CONVERSE. As to its being germane to this paragraph, I have to say that the paragraph last read contains an appropriation for the War Department, and the amendment I have offered contains an appropriation for the same Department. Therefore it is germane to this paragraph.

As to the other question, the rule contains an exception in favor of propositions "in continuation of appropriations for such public works and objects as are already in progress." I claim that this is an appropriation for an object already in progress. In 1875 the Government purchased what is to-day the finest machinery in the world for the testing of iron and steel. It made appropriations for a year or two for carrying forward those tests, which are of very great value to the Government.

Mr. HAYES. I call the gentleman to order; he is not confining himself to the point of order.

Mr. CONVERSE. The gentleman is mistaken; he did not listen to my last remarks. I was stating that this is an object already provided for by law and which is being carried forward by the Government.

Mr. ATKINS. Do you want this appropriation made as a deficiency?

Mr. CONVERSE. Yes, sir; because the appropriation already made has run out. There is involved in this a question of humanity; because upon these experiments depends the safety of human life in crossing bridges. As a question of economy it is important; for every civil or mechanical engineer or architect in the employ of the Government is now obliged, in making his estimates, to allow for the sake of safety a large margin in regard to the strength of the iron and steel used. This is costing the Government to-day thousands of dollars which would be saved if these experiments were carried forward so that accurate rules of calculation and measurement could be reached. This being an object already provided for by law and being of such public interest, I hope that the amendment may be declared in order and voted into the bill. The appropriation is a small one, and it ought to be continued from year to year for this benevolent object and in the interest of science.

Mr. SPARKS. This is a deficiency bill; and this amendment shows on its face that it is not a deficiency.

Mr. ATKINS. The amendment would be appropriate in the sundry civil bill, but it is not in this.

Mr. CONVERSE. I desire to be heard on that proposition. The point of order which these gentlemen suggest is not made under the rule. The rule simply says that an amendment shall not be in order except in pursuance of law to a "general appropriation bill." This is a general appropriation bill. The point of order has been made that the amendment is not germane. I have shown that it is germane to an appropriation bill. It is immaterial whether it is a deficiency appropriation bill or an appropriation bill for some other purpose; it is an appropriation bill all the same; and there is no legislative distinction between a deficiency bill and any other appropriation bill.

Mr. SPARKS. This is a deficiency bill, and the gentleman's amendment upon its very face is not for a deficiency.

Mr. CONVERSE. But, Mr. Chairman, there is no such thing as a deficiency bill recognized by the rules of this House; the rule speaks of "general appropriation bills." The gentleman's distinction is finer than the rule.

The CHAIRMAN. Without detaining the committee with any statement of reason, the Chair sustains the point of order.

The Clerk read as follows:

For relief of persons for damages sustained by certain bands of Sioux Indians for 1873 and prior years, $128.

Mr. SPARKS. I make a point of order upon the clause last read. There is no law existing for the payment of any such damages; no gentleman can show such a law.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read as follows:

WAR DEPARTMENT.

For transportation of the Army during the year 1877, and for prior years, $45,228.28: *Provided*, That the claim numbered 52514 for $2,090; the claim numbered 52342 for $7,998.95; the claim numbered 52454 for $5,550, included in the schedule upon which this appropriation is made, shall not be paid.

Mr. MARTIN, of Delaware. I move to amend the clause just read by striking out "$45,228.28" and inserting in lieu thereof "$60,867.23;" and also by striking out all of the proviso.

The question being taken on the amendment, it was declared not agreed to.

Pending a call for a division,

Mr. MARTIN, of Delaware, said: I ask unanimous consent to make an explanation.

The CHAIRMAN. The Chair will state that he misapprehended the gentleman from Delaware, and as an act of justice to him desires that he shall be heard by the committee in explanation of the amendment.

There was no objection.

Mr. MARTIN, of Delaware. I will occupy but a moment. In Executive Document No. 29 I find three claims growing out of a contract made by a citizen of Delaware with the Government of the United States for the transportation of troops during the war. These claims are of a class most of which have heretofore been paid; but, by some oversight on the part of the claimant or his agents, these particular claims have not been paid. They have been audited by the Treasury Department; they are certified to by the Secretary of the Treasury; they are legal in every sense of the word. This money is due from the Government to this citizen; and he is to-day badly in need of it. I hope, therefore, that the House will adopt the amendment so as to include in this paragraph some $15,000 due to this citizen upon these claims.

Mr. COBB. These claims are for vessels hired by the Government under contract. The Government paid for every day's service the vessels rendered, but they became disabled and had to go into port for repair; and while in port for repair the Quartermaster-General refused to allow them any pay. This is for withheld pay during that time. There is a question of law involved whether the owner of the vessels, Mr. Reybold, is entitled to pay for his vessels when they were unemployed and in port for repair or not.

Mr. HUNTON. What was the contract?

Mr. COBB. There was no contract.

Mr. MARTIN, of Delaware. There was a written contract.

Mr. COBB. There was a written contract, but it did not cover the time these vessels were under repair. The question arises whether Mr. Reybold, the owner of these vessels, is entitled to pay at the same rate the Government agreed to pay while they were lying in port undergoing repair. It is a question of law. The committee came to the conclusion it was safer these claims should be postponed until that question of law had been investigated and decided. Therefore it was we omitted them from this bill. There is no equity in it. I can state to the committee there is no equity in paying these claims for services of vessels which were in port undergoing repair. It is a naked legal question, and if the law is on the side of Mr. Reybold I am in favor of paying, but if it is not I am opposed to paying him.

Mr. MARTIN, of Delaware. On that same question of law, as stated by the Treasury Department, Mr. Reybold has received pay for two other vessels under precisely similar circumstances. In other words, Mr. Chairman, two vessels owned by Mr. Reybold under precisely similar circumstances as these vessels for which claim is now made in the amendment I have offered were paid. Claim was made for them, and it was allowed and paid by the Treasury Department.

The committee divided; and there were—ayes 26, noes 55.

Mr. MARTIN, of Delaware. No quorum has voted, and I demand tellers.

Tellers were ordered; and Mr. MARTIN, of Delaware, and Mr. COBB were appointed.

The committee again divided; and the tellers reported—ayes 44, noes 28.

So the amendment was adopted.

Mr. SPARKS. If we can have a yea-and-nay vote in the House on this amendment I shall not make the point that no quorum has voted.

The CHAIRMAN. It is the gentleman's right to demand the yeas and nays on any question in the House.

Mr. SPARKS. Very well, I shall demand the yeas and nays on this amendment.

The Clerk read as follows:

For pay, transportation, services, and supplies of Oregon and Washington volunteers in 1855 and 1856, $8,275.56.

Mr. CONVERSE. I should like to have some explanation of that appropriation for service rendered some twenty-five years ago. Has that gone through the Committee on Claims in the House?

Mr. HISCOCK. The gentleman refers to the claim for pay, transportation services, and supplies of Oregon and Washington volunteers in 1855?

Mr. CONVERSE. Yes, sir.

Mr. HISCOCK. There has been a general statute passed a long time ago that those claims should be passed, but there have been certain delays in their being audited, and, having been only recently audited, we have made provision for their payment.

Mr. CONVERSE. Twenty-five years is a long while ago.

Mr. HISCOCK. The sub-committee having the matter in charge picked out three or four of the claims and investigated them with reference to whether the delay was excusable or not, and came to the conclusion that it was.

The Clerk read as follows:

Post-Office Department:

For deficiency in the postal revenues for 1877 and for prior years, $96,653.03: *Provided*, That the claims of Irvin and Hawkins for $1,064.17, of the Southern Steamship Company for $4,583.33, of Charles Morgan for $2,094.17, of C. B. Payne for $7,500, of the Memphis and New Orleans Steam Packet Company for $3,538.59, and of John D. Adams for $2,280.91, included in the schedule upon which this appropriation is made, shall not be paid: *Provided further*, That no part of this sum shall be paid for the claim of the Pacific Mail Steamship Company.

Mr. COBB. I move to strike out, in lines 341 and 342, "$96,653.03," and in lieu thereof to insert "$97,717.20;" and in line 343, to strike out all after the word "that," down to and including the word "of," in line 344.

Mr. ATKINS. I move to amend that so as to provide, in line 343, to strike out after the word "claims" instead of after the word "that," as that is evidently the way in which the amendment is intended to read.

The amendment to the amendment was agreed to.

Mr. HISCOCK. I send up to the Clerk's desk to have read the letter of the Secretary of the Treasury.

The Clerk read as follows:

TREASURY DEPARTMENT,
January 16, 1880.

SIR: I have the honor to transmit herewith, in compliance with section 4 of the act of June 14, 1878, (20 Stat., 130,) schedules of claims certified to be due by the several accounting officers of the Treasury Department under appropriations, the balances of which have been exhausted or carried to the surplus fund under the provisions of section 5 of the act of June 20, 1874, amounting to $804,561.82.

Attention is called to the claims of Irvin & Hawkins, the Southern Steamship Company, Charles Morgan, C. B. Payne, the Memphis and New Orleans Steam Packet Company, and John D. Adams, incident to services on mail-routes in Southern States prior to the late war, certified by the Sixth Auditor, which do not receive my approval.

Very respectfully,

JOHN SHERMAN,
Secretary Treasury.

Hon. SAMUEL J. RANDALL,
Speaker House of Representatives.

The amendment, as amended, was adopted.

Mr. YOUNG, of Tennessee. I move to strike out all after the word "dollars," in line 349, to and including the word "cents," in line 351, as follows:

Of the Memphis and New Orleans Steam-Packet Company for $3,538.59.

Mr. HISCOCK. I understand this amendment is proposed by the committee on account of some late letter received from the Secretary of the Treasury on this subject. I trust, if there is any such correspondence or late letter as that, it may be read for the information of the House. So far as I am concerned, I have predicated my action entirely upon the letter which has been read from the Clerk's desk.

Mr. BLACKBURN. I ask to be allowed to file the letter of the Secretary just here in order it may get into print.

Mr. HAWLEY. Let it be read.

Mr. HISCOCK. Does it apply to this claim?

Mr. BLACKBURN. It applies only to the first claim in this clause.

Mr. HAWLEY. Explain it.

Mr. YOUNG, of Tennessee. Mr. Chairman——

Mr. BLACKBURN. Will the gentleman from Tennessee yield to me for a moment?

Mr. YOUNG, of Tennessee. Yes, sir.

Mr. BLACKBURN. I understood the gentleman from New York to state that he predicated his action in this case upon the letter of the Secretary of the Treasury.

Mr. HISCOCK. I did, upon the letter which was read from the Clerk's desk and which is included in the Book of Estimates.

Mr. BLACKBURN. That is not the letter to which I refer and which I am sending now to the Clerk's desk to be read.

Mr. HAWLEY. This matter is simply as plain as A, B, C. The Secretary of the Treasury disapproved of the provision for the payment of these parties; but on investigation he wishes to withhold from that provision this claim of Irvin & Hawkins. That is all there is about it. He simply wanted to strike that out from his former disapproval.

Mr. BLACKBURN. The letter will show that to be the case.

Mr. WHITE. Does the Secretary of the Treasury make that statement now?

Mr. BLACKBURN. The Secretary of the Treasury states in his letter, which I have sent to the desk, that the objection urged to these claims does not apply to the cases of Irvin & Hawkins.

Mr. WHITE. It is all right, then.

Mr. BLACKBURN. I ask, in vindication of the action of the committee in striking out that portion of the clause, that the letter of the Secretary of the Treasury be printed in the RECORD.

There was no objection.

The letter is as follows:

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., February 28, 1880.

SIR: I am in receipt of your letter of the 21st instant, inclosing a letter from T. H. Irvin, of Lexington, Kentucky, in regard to his claim for allowance of one month's extra pay for carrying the mails under contract discontinued by reason of the rebellion, and in reply to your request to be informed of the reasons upon which the refusal to approve said claim was based I have the honor to state that it was certified to the Secretary of the Treasury by the Sixth Auditor, with five other claims of a similar nature, under section 4, act June 14, 1878, with an explanatory note, as follows:

"These six items are incident to service on mail-routes in Southern States discontinued because of the rebellion, being in the nature of damages by reason of such discontinuance. The accounts for the original service are suspended in this office, waiting additional legislation. A doubt has arisen as to the propriety of reporting these allowances, but as they have been certified to this office since the date of the act approved June 14, 1878, they are submitted herewith."

Under these circumstances the Secretary felt justified in withholding his approval in these cases.

I inclose copy of a report made by the Sixth Auditor since the date of the Secretary's report to Congress, in which he states that so much of his previous report as refers to accounts for original service being suspended in his office will not apply to the case of Irvin & Hawkins, as they were paid October 13, 1866, in full to October 18, 1861.

Very respectfully,

JOHN SHERMAN,
Secretary.

Hon. J. C. S. BLACKBURN,
House of Representatives.

Mr. YOUNG, of Tennessee. I now ask that the amendment which I have sent to the desk be read.

The Clerk read as follows:

Strike out all after the word "dollars," in line 349, to and including the word "cents," in line 351; and after the word "paid," in line 354, insert the following, namely: "but the sum of $3,538.50 shall be paid to the Memphis and New Orleans Steam Packet Company for transporting the United States mails during the year 1861: *Provided*, That the Secretary of the Treasury shall first be satisfied that said sum has not already been paid by the United States Government or by the confederate government."

Mr. YOUNG, of Tennessee. If the House will indulge me for a moment I will give a brief history of the origin of this claim, and I am satisfied——

Mr. COBB. I desire to reserve the point of order upon that amendment.

Mr. YOUNG, of Tennessee. Very well, I am quite satisfied that no gentleman will object to the adoption of the amendment when he hears the grounds on which it is presented. This claim was presented before the sub-committee of the Committee on Appropriations having charge of this bill now being considered when my attention was called to that clause in the letter of the Secretary of the Treasury which has just been read, in which he withheld his approval from the claims designated. I supposed his objection was based upon some substantial reasons, and I therefore withdrew the matter from the committee and addressed a communication to the Secretary of the Treasury to know his reason for disapproving the particular claims which he excepted, and I have his reply here which I will send to the desk and have read as soon as I have concluded my statement.

In 1861, and for some time previous to that time, there was on the Mississippi River a line of steamers belonging to the New Orleans and Memphis Steam Packet Company, the main office of which was located in Cincinnati. The president was a Mr. James Goslee, I think. Only two members of the company, I believe, resided in Memphis. One of them was Mr. Rawlings, a man then about sixty-five years old, and now the only surviving member of the company. He was, of course, then too old to take any part in the war. The other members were known for their loyalty to the Government at the breaking out of the war and continued so until its close.

Immediately on the commencement of hostilities General Pillow, who was then in command at Memphis, seized the boats of this company and used them for the transportation of his troops to Columbus and afterward across the river to the battle of Belmont. I am not aware that any persons interested in this matter have ever received a single dollar of money for the loss of three large and costly steamboats which were, I learn, seized by the confederate authorities; and the owners to this day, so far as I am advised, have received no compensation whatever for them.

This company had for some years before the war a contract with the United States Government to carry the mail from New Orleans to Memphis, but when it was seen that a conflict was inevitable the contract was annulled, and by existing law the contractors became entitled to one month's additional pay, amounting to the sum here claimed.

I now send up a letter from the Secretary of the Treasury which I desire to have read.

The Clerk read as follows:

TREASURY DEPARTMENT, *June* 2, 1880.

SIR: I am in receipt of your letter of this date requesting to be informed of the reasons upon which the refusal to approve the claim of the Memphis and New Orleans Packet Company for $3,538.59, contained in House Executive Document No. 29, present session, page 100, was based; and in reply I have the honor to state that it was certified to the Secretary of the Treasury by the Sixth Auditor, with five other claims of a similar nature, under section 4 of the act of June 14, 1878, with an explanatory note, as follows:

"These six items are incident to service on mail-routes in Southern States discontinued because of the rebellion, being in the nature of damages by reason of such discontinuance. The accounts for the original service are suspended in this office, waiting additional legislation. A doubt has arisen as to the propriety of reporting these allowances, but as they have been certified to this office since the date of the act approved June 14, 1878, they are submitted herewith."

Under these circumstances the Secretary felt justified in withholding his approval in these cases.

Very respectfully,

JOHN SHERMAN,
Secretary.

Hon. CASEY YOUNG,
House of Representatives.

Mr. YOUNG, of Tennessee. Now, I do not perceive that any reason is given by the Secretary of the Treasury in his letter that ought to have influenced his judgment in disapproving this claim. I had supposed his action was based upon the supposition that this might have been paid by the confederate government, and therefore I provided in my amendment, which was draughted before I received the letter, that the money should not be paid until the Secretary of the Treasury was satisfied payment had not been received from either of the governments.

Mr. BLOUNT. Does this stand on the same basis as all other mail contracts before the war?

Mr. YOUNG, of Tennessee. The contract was discontinued under an order of the Post-Office Department; and by existing laws, which were the same then as now, the parties were entitled to one month's pay. And I had also supposed that perhaps the loyalty of the claimants would come in question as well as the doubt as to the payment by the confederate government. And upon that point I want to say this: I do not know what the views of Mr. Rawlings were individually. He was too old a man then to take an active part in the war. But I know that every other member of the company remained loyal to the Government during the war.

Mr. HISCOCK. We have devoted a good deal of the day to ruling out a class of claims which have not received the approval of the Auditor, the Comptroller, and the Secretary of the Treasury. There is a large amount of claims for which we might wisely make an appropriation. This Congress might wisely make an appropriation to pay bounties to soldiers. There are $250,000 of those claims for bounties that have been audited. What this amendment proposes is to make an appropriation in advance of that auditing. Therefore I object to it. Whenever this claim comes in with the indorsement of the Auditor, the Comptroller, and the Secretary of the Treasury, it will be time enough for us to make an appropriation to pay it. But I object to passing this law to allow any Secretary of the Treasury in the next two years to approve of this claim and pay the money upon it.

The CHAIRMAN. The question is upon the amendment of the gentleman from Tennessee.

Mr. WHITE. I make the point of order on that amendment.

The CHAIRMAN. The point of order is made too late.

Mr. WHITE. I made the point of order before.

Mr. HISCOCK. Certainly, a point of order is pending. It was made by the gentleman from Indiana.

Mr. COBB. Yes; I reserved the point of order. The gentleman from Tennessee [Mr. YOUNG] will remember that.

Mr. YOUNG, of Tennessee. Before the Chair decides the point of order I want to say a word in reply to the gentleman from New York, [Mr. HISCOCK.] It is a mistake when he assumes this claim has not been found due by any officer of the Government. It has been found due by every officer of the Government who has investigated it.

Mr. HISCOCK. I did not say that. I said we had exacted that these claims should come here approved by the Auditor and the Comptroller and indorsed by the Secretary of the Treasury. This claim as it comes here is not indorsed by the Secretary of the Treasury. On the contrary he says to us "at the present time do not pay it; I disapprove of it." I say we should not make hot haste to pay claims of this kind when to-day there are $250,000 of bounties audited and not paid.

Mr. YOUNG, of Tennessee. If due, it should be paid at any time. I desire to have read the letter which I hold in my hand.

The CHAIRMAN. Is the point of order insisted on?

Mr. COBB. It is.

Mr. YOUNG, of Tennessee. What is the point of order?

Mr. COBB. That the Secretary of the Treasury has not approved the claim.

Mr. YOUNG, of Tennessee. I would like to have the rule read which requires the approval of the Secretary of the Treasury.

Mr. COBB. His approval is required by law.

The CHAIRMAN. If this were an amendment making an original appropriation, the Chair considers it would be liable to the point of order. The effect in the opinion of the Chair is the same when the amendment is offered to provide for a deficiency. So considering, the Chair sustains the point of order.

Mr. YOUNG, of Tennessee. If the Chair will permit me, I would like to say a word on the point of order. The Chair, it seems to me, has decided on a supposed state of facts which do not exist. There is a law authorizing this; and if the Chair sustains the point of order on the ground that there is no law authorizing it, he has decided wrong.

The Clerk read as follows:

SEC. 3. That the sum of $221,257.86 be, and the same is hereby, appropriated, out of any money in the Treasury of the United States not otherwise appropriated, to pay the Miami Indians of Indiana the principal sum to become due them on the 1st day of July, 1880, in accordance with the amended fourth article of the treaty concluded with said Indians on the 5th day of June, 1854, and ratified on the 4th day of August, 1854.

That the Secretary of the Interior shall appoint a competent and proper person to take a census of the Miami Indians residing in Indiana or elsewhere who are entitled to participate in the distribution of said principal sum, which enumeration shall be submitted to Gabrael Godfray, Samuel McClure of Marion, Alvah Taylor of Wabash, and James B. White of Fort Wayne, Indiana, who shall correct and approve a census-roll of said Indians, and attest the same by affixing their signatures thereto. And in case any of the persons herein named for the approval of said census-roll shall neglect or refuse to act, then those who do approve said roll shall be sufficient for that purpose. When said census shall be so made and approved, it shall be the duty of the person so appointed to make such enumeration and list to report the same to the Secretary of the Interior, distinguishing in his report between males and females, and between those over twenty-one years of age and those under twenty-one years of age, which list so made, when approved by the Secretary of the Interior, shall stand as the true list of the persons entitled to share in the payments provided for in this act; and each person named in said list shall be entitled to receive the same amount, irrespective of age or sex, payments for minors to be made to the guardians legally appointed, as hereinafter provided, under the laws of the State or Territory in which said minors reside. The person appointed to make such enumeration and list shall, before entering on such duty, take and subscribe an oath that he will make a true and correct enumeration and report of said Indians according to the best information he can obtain, said oath to be administered and certified to by a United States commissioner or a clerk of a court of record, and he shall receive as his compensation therefor the sum of $5 per day, and his actual and necessary traveling and other expenses while engaged in said duty, not to exceed $300.

Mr. COLERICK. I offer the amendment which I send to the desk.

The Clerk read as follows:

Strike out from the words "that the Secretary of the Interior," in line 11, down to "not to exceed $300," in line 45, inclusive, and insert in lieu thereof the following:

"That the Secretary of the Interior shall appoint a competent and proper person to take a census and make a list of the Miami Indians residing in Indiana or elsewhere who are entitled to participate in the distribution of said principal sum, as provided by article 4 of the treaty that was made between the United States and the Miami Indians, on the 5th day of June, 1854, as amended by the Senate. When said census shall be so made, it shall be the duty of the person so appointed to make such enumeration and list to report the same to the Secretary of the Interior, distinguishing in his report between males and females, and between those over twenty-one years of age and those under twenty-one years of age, which list so made, when approved by the Secretary of the Interior, shall stand as the true list of the persons entitled to share in the payments provided for in this act; and each person named in said list shall be entitled to receive the same amount, irrespective of age or sex, payments for minors to be made to the guardians legally appointed, as hereinafter provided, under the laws of the State or Territory in which said minors reside. The person appointed to make such enumeration and list shall, before entering on such duty, take and subscribe an oath that he will make a true and correct enumeration and report of said Indians according to the best information he can obtain, said oath to be administered and certified to by a United States commissioner or a clerk of a court of record, and he shall receive as his compensation therefor the sum of $5 per day, and his actual and necessary traveling and other expenses while engaged in said duty, not to exceed $300: *Provided*, That no person other than those embraced in the corrected list agreed upon by the Miami Indians of Indiana, in the presence of the Commissioner of Indian Affairs in June, 1854, comprising three hundred and two names as Miami Indians of Indiana, and the increase of families of the persons indicated in said corrected list, shall be recipients of the money hereby appropriated."

Mr. COBB. That substitute is all right, and I accept it if I am authorized to do it under the rule.

Mr. HASKELL. I want to ask what the effect of the proviso is?

Mr. BAKER. I will answer by stating that the proviso is to carry out the terms of the amended fourth article of the treaty. That amended article provides that the sum of money stipulated to be paid on the 1st day of July, 1880, to the Miami Indians shall be paid to the three hundred and two Indians named on the list referred to in the treaty and their increase. The proviso simply covers that.

The amendment of Mr. COLERICK was agreed to.

The Clerk read the following:

That the Secretary of the Interior is hereby authorized and directed to examine the claim of Isaac Vandeventer and James F. McDowell, attorneys-at-law, partners under the name of Vandeventer and McDowell, for services rendered in the defense of certain suits in the courts of the State of Indiana in relation to the taxation and partition of the lands of the band of Meshingomesia, in said State, and for alleged services rendered said band in and about legislation by Congress affecting their said lands and the partition of their lands pursuant thereto, and allow and pay to said attorneys such reasonable compensation as he may find legally due them for said services, out of the moneys due to said band, or out of the money due to any of said band, as he may deem just. And to enable the Secretary to properly examine said accounts, he may cause or permit testimony to be taken by said claimants and by said band, or by any individual or individuals of said band, under such rules as he may prescribe: *Provided*, That, in making any such payment, no part of the same shall be deducted from the share of any member of said band who received no part of the land so partitioned, nor shall any part of any such payment be deducted from the share of any member of said band whose membership was contested, and who was required by proof to establish such membership to entitle him or her to share in the partition of said land.

Mr. YOUNG, of Tennessee. I have an amendment which I desire to offer, to come in after the paragraph just read.

Mr. SINGLETON, of Illinois. I have a point of order to make on this section.

The CHAIRMAN. The gentleman will state it.

Mr. SINGLETON, of Illinois. My point of order is that it is origi-

nal legislation. It seems to me that it is beyond all precedent, providing as it does for taking testimony and distributing a fund which has not heretofore been the subject of legislation by Congress. And beyond that, it authorizes the payment of money for lobbying; it encourages lobbying by authorizing the Secretary of the Treasury to pay lobbyists for coming around the Halls of Congress to influence our action. That, it is true, is not an argument in favor of the point of order; but if the Chair overrules the point of order I will move to strike out the section and state my reasons for that motion.

Mr. BAKER. The point of order is not tenable. A bill was introduced for the purpose of appropriating this sum of money for the payment of these Indians. By the order of the House that bill was referred to the Committee on Appropriations, and that committee, after considering the bill, incorporated it into this bill and made it a part of this bill, as the committee had a right to do under the rules of the House. The Committee on Appropriations acted under the order of the House in that respect.

In reference to the danger to be incurred by this House or any other House in consequence of lobbying, that has nothing to do with the point of order.

Mr. ATKINS. I make the point that the gentleman from Illinois [Mr. SINGLETON] cannot now raise a point of order against this section. If he had designed to make such a point of order, he should have made it upon each paragraph of the section as it was read.

The CHAIRMAN. The Chair understood the gentleman from Illinois [Mr. SINGLETON] to make the point of order simply upon the last paragraph of the section.

Mr. SINGLETON, of Illinois. The point of order is to the whole section; the different paragraphs of it relate to the same subject.

Mr. ATKINS. It is too late to make that point of order.

Mr. SINGLETON, of Illinois. I made it as soon as the reading of the section was concluded; I could not make it before. This section does not provide for a deficiency at all. It is original legislation, providing the manner of collecting and distributing a certain fund. In every aspect of the case it is new legislation, and therefore not within the power of the Committee on Appropriations.

Mr. FINLEY. I want to express my surprise that any gentleman on the other side of the House should advocate putting a rider on an appropriation bill.

Mr. BAKER. I do not doubt that the gentleman from Ohio [Mr. FINLEY] has said something wise and witty, but I did not hear it.

The CHAIRMAN. The Chair would hold that the gentleman from Illinois [Mr. SINGLETON] is too late in making a point of order against the entire section.

Mr. ATKINS. I did not say that the gentleman from Illinois could not raise a point of order on the last paragraph; but I said he could not make the point of order on the entire section.

Mr. SINGLETON, of Illinois. Was this bill read by sections or by paragraphs?

Mr. HUTCHINS. All points of order were reserved on the bill.

The CHAIRMAN. The gentleman from New York [Mr. HUTCHINS] and the gentleman from Illinois [Mr. SINGLETON] will bear in mind that one of the paragraphs of this section has been amended on motion of the gentleman from Indiana, [Mr. COLERICK.]

Mr. BRAGG. The Chair, I think, misapprehends the point of order. It is not upon the entire section, but upon the last paragraph.

The CHAIRMAN. If the point of order applies to the last paragraph, the Chair would hold that the gentleman made it in time.

Mr. SINGLETON, of Illinois. That is my point of order.

The CHAIRMAN. The Chair sustains the point of order and rules out the paragraph.

Mr. YOUNG, of Tennessee. I desire to offer an amendment.

Mr. WHITE. I have an amendment to offer.

Mr. YOUNG, of Tennessee. I will yield to the gentleman from Pennsylvania, [Mr. WHITE,] as he so seldom obtains the floor. [Laughter.]

Mr. WHITE. I thank the gentleman. I offer as an independent paragraph that which I send to the Clerk's desk.

The Clerk read as follows:

For the payment of Hon. John M. Read, late chargé d'affaires from the United States to Greece, of the amount of his salary remaining unpaid, $5,000.

Mr. COBB. I make the point of order on that amendment.

The CHAIRMAN. Will the gentleman state his point of order? If the facts are as they appear on the face of the amendment, the Chair would like to know wherein a point of order would lie against the amendment.

Mr. COBB. I understand that this amendment is not in pursuance of law; there is no law authorizing this appropriation.

Mr. WILSON. We want to make a law for it.

Mr. COBB. This claim has never been adjudicated; it is not in pursuance of any law.

Mr. WHITE. That was his regular salary.

Mr. COBB. I do not know whether it was or not. If it was, the claim should come here, under the act of June 14, 1878, through the auditing officers of the Government. It has not been sent here by the Secretary of the Treasury, and is not included in either of the executive documents to which reference has been made so often. I submit that it is subject to the same point of order that has been made and sustained on fifteen or twenty other amendments to-day.

Mr. WHITE. As I understand, my friend from Indiana raises the point of order that this is not a claim against the Government incurred in pursuance of law. That I believe is an epitome of his point of order.

Mr. COBB. No, sir; the gentleman misunderstands me. I make that as one of my points; but the point which I mainly press is that this claim has not been audited and sent forward for the action of Congress. Upon this point I understand that the Chair has ruled fifteen or twenty times to-day. This, I understand, is a balance claimed as due upon a salary under the law. If that is so, it must come under the rule laid down in the fourth section of the act of June 14, 1878, which requires such claims to be audited and sent forward to Congress for its action. This claim is not authenticated, and cannot be until transmitted to us in that manner.

Mr. WHITE. As I understand, the gentleman now, in addition to the point which he stated before, urges that this amendment is obnoxious to the point of order for the reason that under the act of June 18, 1878, this claim has not been reported to Congress by the Secretary of the Treasury. But I submit that this does not belong to the class of claims contemplated by the act of 1878, and consequently the point urged by the gentleman fails. On referring to the class of claims indicated in the fourth section of the act of July 18, 1878, it will be found that the claims included are for quartermaster's stores and matters of that kind, authorized by existing law to be settled by some of the Departments; and it is provided that such claims must be passed on and reported to Congress. But this does not belong to that class of claims. This is a definite, fixed, substantial claim against the Government for the salary of a chargé to a foreign country. It is for salary of a regularly appointed embassador or representative of our Government. Hence it does not require it to be passed upon like the class of claims I have indicated.

The appointment of this officer was made in pursuance of law; he served in pursuance of that appointment. I hold in my hand the Constitution of the United States, which, in reciting the authority of the President of the United States, provides that—

He shall nominate, and, by and with the advice and consent of the Senate shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law.

This appointment was made in pursuance of the constitutional authority thus vested in the President of the United States; and this officer has entered upon and performed his duty in pursuance of that appointment. [Cries of "Vote!" "Vote!"] I say that this amendment is in pursuance of law for a regular fixed salary. It is a legitimate claim and not subject to the point of order.

Mr. BRAGG. Why has it not been paid?

Mr. WHITE. Because no money was appropriated to pay it; that is just what we want to do now. This is a deficiency.

The CHAIRMAN. The Chair begs leave to say (and this remark applies generally to his action to-day) that he has endeavored to follow this rule: unless a claim is clear and unquestioned, admitted to be so by all of the appropriate officers of the Government, it should be ruled out of order; and in a question of doubt, the benefit of the doubt ought to be given to the Government. The Chair therefore sustains the point of order.

Mr. COX. I move to amend by inserting the following as an additional section:

SEC. 4. That there shall be, and is hereby, appropriated for the relief of the widows and orphans of the surfmen who recently perished at Aux Barques, Lake Huron, under orders of the Life-Saving Service, in the effort to save life and property, the sum of $1,000, to be distributed under the direction of the Superintendent of the Life-Saving Service.

Mr. Chairman, under the rulings which have been made I would not offer this amendment but for the fact that this bill contains appropriations of the same character. For instance, on page 45 is an appropriation "for the relief of the widows and orphans of the United States steamer Levant, lost at sea," a claim running back to 1860 and 1861. The matter which I present is a very fresh transaction which occurred in February last. The men for whose families I propose this small provision saved nearly three hundred human lives upon the lakes during the past winter. [Cries of "All right!"]

The amendment was adopted.

Mr. COFFROTH. I move to amend by inserting the following:

To enable the Clerk of the House to pay to H. T. Burrows for his services as messenger of the select committee appointed under the resolution of the House of January 12, 1880, to investigate the payment of pensions, bounty, and back pay, from February 7, 1880, to May 31, 1880, the sum of $555.

Mr. HISCOCK. That has been ruled out once already, I believe, has it not?

Mr. COFFROTH. I desire to say a word.

Mr. BAKER. I make the point of order that there is no existing law for this expenditure.

The CHAIRMAN. The Chair is under the impression that this same amendment was presented heretofore and ruled out of order. The point of order is sustained.

Mr. TOWNSHEND, of Illinois. I move to amend by adding the following:

To enable the Clerk of the House of Representatives to pay Shepard S. Everett for clerical services rendered the Committee on War Claims, second session Forty-fifth Congress, on account of reports of Commissioners of Claims, $368.

Mr. HISCOCK. I make the point of order on that.

Mr. TOWNSHEND, of Illinois. Allow me to make a statement. [Cries of "Vote!"]

The CHAIRMAN. The point of order being made, the Chair sustains it.

Mr. TOWNSHEND, of Illinois. I have not heard the point of order made against it.

Mr. HISCOCK. There is no law which authorizes it.

Mr. TOWNSHEND, of Illinois. I desire to say this on the point of order. [Cries of "Regular order!"] This is the regular order. I desire to debate the point of order.

Mr. HISCOCK. The point of order has been decided.

Mr. TOWNSHEND, of Illinois. This is for services rendered in the Forty-fifth Congress. This man has performed his duty.

Mr. HAYES. The Chair has decided the point of order, and the amendment is not before the committee.

Mr. TOWNSHEND, of Illinois. There is no point of order pending.

The CHAIRMAN. The Chair has decided it.

Mr. TOWNSHEND, of Illinois. This clerk rendered services.

The CHAIRMAN. Does the gentleman appeal?

Mr. TOWNSHEND, of Illinois. I do not desire to appeal from the decision of the Chair, but I desire to state my reasons.

Mr. YOUNG, of Tennessee. Mr. Chairman, in the confusion in the committee a moment ago, and by the prompt decision of the Chairman, I was prevented from saying what I intended on the point of order. I offer this amendment to give me that opportunity now:

And the sum of $2,280.20 shall be paid to John D. Adams for transporting the United States mails during the year 1861.

I suppose the same point of order will be made to this amendment that was made to the other, but let it be stated this time, so I may present my views on it.

Mr. HISCOCK. I make the point of order.

Mr. BAKER. I make the further point of order that the Committee of the Whole has already passed on that item and rejected it. I call for a decision.

The CHAIRMAN. The committee will come to order for a moment, as the Chair desires to indulge his colleague from Tennessee on the question of order.

Mr. YOUNG, of Tennessee. I wish to know what the question of order is. It was decided once, before I could know what it was. This time I should like to be informed. The gentleman from Indiana will be kind enough to state what it is.

Mr. BAKER. I make the additional point of order that, on page 47, the Committee of the Whole House on the state of the Union has already decided not to pay this, and after the committee has so decided it is too late to go back.

Mr. YOUNG, of Tennessee. I wish to say a word on the point of order.

Mr. SPARKS. Was not that decided?

Mr. YOUNG, of Tennessee. My character for veracity requires I should say something before the point of order is decided. I have stated this was authorized by law; and I wish to repeat that it is authorized by law and has been certified to by every accounting officer of the Treasury. Therefore to my mind there is no good reason why it should have been ruled out.

Mr. HUMPHREY rose.

Mr. YOUNG, of Tennessee. Take your seat; wait until I get through.

Mr. HUMPHREY. The Chair should command silence on pain of imprisonment. [Laughter.]

Mr. HISCOCK. I say it changes existing law in this respect: it must be approved by the Auditor, it must be approved by the Comptroller, and it must be approved by the Secretary of the Treasury, and it comes here without the approval of the Secretary of the Treasury. It comes here, on the contrary, with his disapproval.

Mr. YOUNG, of Tennessee. If the Chair will keep the Committee on Appropriations silent for a little while, I may be able to complete the statement which I took the floor to make.

The CHAIRMAN. The Chair hopes the committee will keep silence for at least five minutes, so that the gentleman from Tennessee may be heard.

Mr. YOUNG, of Tennessee. Mr. Chairman, this has been approved by every accounting officer of the Treasury, and the only reason in the world, it seems, why the Committee on Appropriations would not report in favor of the appropriation to pay this claim is because the Secretary of the Treasury told them not to do it. I would suggest for the benefit of that committee, if the Secretary of the Treasury in every instance is to tell them what they are to do, then he should be brought here and every question in the first place should be argued before him. [Laughter.]

I have a letter from the Auditor of the Treasury Department which states this claim is a just one and ought to be paid. If there is any rule requiring the approval of the Secretary of the Treasury before an amendment can be offered in this House to an appropriation bill, then I want to have that rule read. If there is no such rule, I wish to know on what the Chairman of this committee has based his decision in favor of the point of order a few minutes ago.

The CHAIRMAN. On the general rule it is the duty of the Chairman to protect the public interest.

Mr. YOUNG, of Tennessee. If there is any such rule as the Chair suggests, let it be read.

Mr. COBB. I move the committee rise and report the bill and amendments to the House.

Mr. ATKINS. I desire to say, in reply to my colleague from Tennessee, that a letter was read which is a full and sufficient answer to the stricture he has made on the Committee on Appropriations, and I call the attention of the committee to that letter.

Mr. COBB's motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. WHITTHORNE reported that the Committee of the Whole House on the state of the Union had, according to order, had under consideration the bill (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and for prior years, and for those certified as due by the accounting officers of the Treasury in accordance with section 4 of the act of June 14, 1878, heretofore paid from permanent appropriations, and for other purposes, and had directed him to report the same back to the House with sundry amendments.

Mr. COBB. I now demand the previous question upon the amendments reported from the Committee of the Whole, and upon the bill to its engrossment and third reading.

The previous question was seconded and the main question ordered.

Mr. COBB moved to reconsider the vote by which the previous question was seconded and the main question ordered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CONFEREES ON THE AGRICULTURAL APPROPRIATION BILL.

Mr. COVERT. Mr. Speaker, I ask that House bill No. 6207 making appropriation for the Agricultural Department of the Government for the fiscal year ending June 30, 1881, and for other purposes, returned from the Senate with amendments, be taken up with a view to moving the appointment of a committee of conference in accordance with the request of the Senate.

There being no objection, the bill, with the amendments of the Senate, was taken from the Speaker's table.

Mr. COVERT. I move that the House insist upon its disagreement to the amendments of the Senate and agree to the conference asked thereon.

The motion was agreed to.

The Speaker appointed as conferees on the part of the House Mr. COVERT, Mr. DIBRELL, and Mr. ANDERSON.

And then, on motion of Mr. BOUCK, the House (at five o'clock and fifteen minutes p. m.) adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. JOHN T. HARRIS: The petition of A. M. Bowman and others, of Augusta County, Virginia, for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. HAWK: The petition of John A. McRae and 7 other soldiers of the late war, against the passage of the sixty-surgeon pension bill—to the Committee on Invalid Pensions.

By Mr. JOYCE: Two petitions of citizens of Vermont engaged in sheep-husbandry and wool-growing, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. KING: The petition of Raban & Trimble, publishers of the Gazette, Farmerville, Louisiana, for the abolition of the duty on type—to the same committee.

By Mr. MAGINNIS: Two petitions of citizens of Montana Territory, against the proposed change in the mining laws—to the Committee on Mines and Mining.

By Mr. SHALLENBERGER: The petition of Colonel A. L. Hawkins and 23 others, citizens of Western Pennsylvania engaged in wool-growing and sheep-husbandry, for the passage of the Eaton bill providing for a tariff commission—to the Committee on Ways and Means.

By Mr. TALBOTT: The petitions of Thomas H. Matthews and 40 others and of R. A. Remare and 20 others, citizens of Baltimore County, Maryland, for the passage of a law granting titles to lands to Indians in severalty—to the Committee on Indian Affairs.

By Mr. THOMAS: The petitions of 77 citizens of Pennsylvania and of 28 citizens of other States, for the enactment of a law taxing oleomargarine—to the committee on Ways and Means.

IN SENATE.

THURSDAY, *June 3*, 1880.

The Senate met at eleven o'clock a. m. Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of the Interior, requesting additional appropriations for the payment of rent for rooms occupied by the Court of Claims in the Freedman's Bank; which was referred to the Committee on Appropriations, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Treasury, transmitting, in further compliance with a res-

olution of February 19, 1880, a list comprising the names of the clerks and other persons employed in the Bureau of Engraving and Printing, Treasury Department, during the calendar year ended December 31, 1879, and showing the time each person was actually employed, and the sums paid to each.

The PRESIDENT *pro tempore*. The communication, with the accompanying exhibits, will be referred to the Committee on Printing. No order to print will be made unless a motion to that effect is offered. The committee can decide whether the papers should be printed or not.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. T. F. KING, one of its clerks, announced that the House insisted on its disagreement to the amendments of the Senate to the bill (H. R. No. 6207) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1881, and for other purposes, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. JAMES W. COVERT of New York, Mr. GEORGE G. DIBRELL of Tennessee, and Mr. JOHN A. ANDERSON of Kansas, managers at the conference on the part of the House.

PETITIONS AND MEMORIALS.

Mr. MORRILL presented the memorial of Redfield Proctor and others, remonstrating against an extension of the patent of the American Diamond Rock-Boring Company and the Pennsylvania Diamond Drill Company, granted to Rudolphe Leschot for diamond drills; which was referred to the Committee on Patents.

Mr. MORGAN presented additional papers to accompany the bill (S. No. 1775) for the relief of Amanda A. Sterling; which were referred to the Committee on the Judiciary.

ORDER OF BUSINESS.

The PRESIDENT *pro tempore*. If there are no reports, no bills, and no concurrent or other resolutions, the morning business is at an end.

Mr. GROOME. I move to postpone all prior orders with a view of asking the Senate to take up Senate bill No. 1346. It is a mere private bill.

Mr. BUTLER. Before the Senate proceeds to consider that bill I ask the Senator from Maryland to yield to me for one moment to call up a resolution which I introduced three or four days ago and asked to have put on its passage, but it was objected to and went over. It is a mere resolution of inquiry which I submitted. It is entirely proper for the Senate to consider it and pass it, being a simple resolution of inquiry directed to the Secretary of the Treasury. I can see no possible objection to it.

Mr. GROOME. If it will not prejudice my right to the floor, I shall not object.

The PRESIDENT *pro tempore*. If the Senator yields the floor, he yields it absolutely.

Mr. BUTLER. I will give way if the resolution causes any discussion.

Mr. GROOME. The bill I move will not take five minutes.

Mr. COCKRELL. I have no objection to the bill of the Senator from Maryland, and no objection to the resolution of the Senator from South Carolina, but I call attention to the clause of the Constitution which requires a quorum of the Senate to be present to do business, and I object to any business being done until there is a quorum present.

Mr. GROOME. I ask for a call of the Senate.

Mr. FERRY. I suppose a quorum is presumed to be present until it is known that there is not. There has been no vote or anything to show that a quorum is not present.

The PRESIDENT *pro tempore*. The rules require that on the suggestion of any Senator that there is not a quorum present there shall be a call of the Senate.

Mr. BUTLER. I inquire of the Secretary whether my resolution is on the desk? I see no objection to its passage.

The PRESIDENT *pro tempore*. The Secretary will call the roll of the Senate.

The Secretary called the roll, and thirty-two Senators answered to their names.

Mr. KERNAN. I wish to say in justice to the Senator from Pennsylvania [Mr. WALLACE] that he was called away night before last by the death of a brother-in-law, and is necessarily absent.

Mr. SLATER. I desire to say that my colleague [Mr. GROVER] is detained from the Senate by illness.

The PRESIDENT *pro tempore*. The Secretary will call the absentees.

The absentees were called, and six additional Senators responded to their names.

The PRESIDENT *pro tempore*. Thirty-eight Senators have answered; not a quorum. What is the pleasure of the Senate?

Mr. ALLISON. Wait a few moments until another Senator comes in.

Mr. DAVIS, of Illinois, entered the Chamber and answered to his name.

The PRESIDENT *pro tempore*. A quorum is now present. The question is on the motion of the Senator from Maryland [Mr. GROOME] that the Senate postpone all orders prior to No. 314, being Senate bill No. 1346, for the relief of Charles Collins.

The motion was agreed to.

CHARLES COLLINS.

The PRESIDENT *pro tempore*. The question now is on proceeding to the consideration of the bill named by the Senator from Maryland.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1346) for the relief of Charles Collins. It appropriates $337.36 to reimburse Charles Collins, postmaster at Berlin, Worcester County, Maryland, for stamps stolen from the post-office at that place on the night of November 23, 1877.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

COURTS IN NEW HAMPSHIRE.

Mr. ROLLINS. I ask the Senate to take up for consideration Senate bill No. 1292, and for that purpose I move that all prior orders be laid aside. It is a bill of only six lines, and it will not take three minutes to pass it. There is no objection whatever to it. It has been reported from the Committee on the Judiciary.

Mr. BUTLER. While the Senator from Maryland [Mr. GROOME] had the floor I asked the Chair to permit me to call up a resolution of inquiry calling on the Secretary of the Treasury for certain information. It seems to me that it is my right to call up the resolution. I introduced the resolution, and it went over on one objection.

The PRESIDENT *pro tempore*. But one Senator can have the floor at a time, and when the business that Senator calls up is through the Chair is compelled to recognize the Senator who rises next.

Mr. BUTLER. I was on my feet and addressed the Chair as soon as the bill was passed.

The PRESIDENT *pro tempore*. The Senator who rose first was the Senator from New Hampshire, [Mr. ROLLINS.] The Chair has been held to very strict accountability in reference to this matter of late, and he proposes to recognize the one who speaks first.

Mr. BUTLER. It will not take a moment to pass my resolution, and if I cannot get it up I must object to anybody else getting up anything.

Mr. MCDONALD. The bill moved by the Senator from New Hampshire is a report from the Judiciary Committee.

Mr. ROLLINS. This bill was reported from the Judiciary Committee. It is a bill to which there will be no sort of objection. It could have been passed while we were discussing what we would take up.

Mr. MCDONALD. It ought to become a law at this session, and it will be necessary for it to pass the House.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from New Hampshire to postpone all orders prior to order No. 693, which is the bill (S. No. 1292) to provide for the removal of the terms of the United States circuit and district courts now held at Exeter, for and within the district of New Hampshire, to the city of Concord.

The motion was agreed to.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from New Hampshire to proceed to the consideration of the bill indicated.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1292) to provide for the removal of the terms of the United States circuit and district courts now held at Exeter, for and within the district of New Hampshire, to the city of Concord.

Mr. MCDONALD. I move to amend on the sixth line at the end of the bill, after the word "Concord," by adding "on the last Tuesday of November annually. All acts or parts of acts inconsistent herewith are hereby repealed;" so as to make the bill read:

That the terms of the United States circuit and district courts now held at Exeter, for and within the district of New Hampshire, be, and the same hereafter shall be, held in the city of Concord on the last Tuesday of November. All acts or parts of acts inconsistent herewith are hereby repealed.

Mr. ROLLINS. There is no objection to that amendment.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

NEW YORK CENTRAL RAILROAD DIVIDEND TAX.

Mr. BUTLER. I ask that the resolution which I submitted the other day be taken up. It is a mere resolution of inquiry directed to the Secretary of the Treasury.

The PRESIDENT *pro tempore*. The Senator from South Carolina moves to postpone all prior orders and proceed to the consideration of the resolution named by him. The question is on that motion.

The motion was agreed to.

The PRESIDENT *pro tempore*. The question now is on proceeding to the consideration of the resolution.

The motion was agreed to; and the Senate proceeded to consider the following resolution, submitted by Mr. BUTLER May 28, 1880:

Whereas the claim of the United States named in the following resolution remains unsettled, and the interests involved therein are subjects of great public importance: Therefore,

Be it resolved, That the Secretary of the Treasury be, and he hereby is, directed to report to this body within ten days from the passage of this resolution true copies of all papers, figures, decisions, opinions, with all other records of interest in his Department, relating to the claim of the United States against the New York Central and Hudson River Railroad Company for 5 per cent. tax on the scrip div-

idend of 80 per cent. declared by the New York Central Railroad Company in 1869 on its stock capital, and that the Commissioner of Internal Revenue suspend all action thereon until instructed by Congress as to the manner of its settlement.

The resolution was agreed to.

MONUMENT TO GENERAL HERKIMER.

Mr. KERNAN. I ask the Senate to proceed to the consideration of House bill No. 165, being a bill appropriating $4,100 to carry out the resolution of the Continental Congress to aid in constructing the monument to General Herkimer, who was killed at the battle of Oriskany. The bill has been reported favorably.

The PRESIDENT *pro tempore*. The Senator from New York moves to postpone all previous orders to order of business No. 733, with a view to take up House bill No. 165.

The motion was agreed to.

The PRESIDENT *pro tempore*. The question now is, Will the Senate proceed to the consideration of the bill?

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 165) to consummate the resolution of the Continental Congress of October 4, 1777, and erect a monument to the memory of Brigadier-General Herkimer, as therein directed.

Mr. COCKRELL. I simply desire to record my judgment and my voice against the passage of bills of this kind. I presume that the democratic party is exceedingly liberal and generous, and can afford to take the people's money and distribute it in this way; but not according to my judgment should that be its policy.

The bill was reported to the Senate without amendment, and ordered to a third reading.

The PRESIDENT *pro tempore*. In the print of the bill the word "of," after "battle," in line 12, is left out. It should read "battle of Oriskany."

Mr. MORRILL. It is probably a misprint.

Mr. KERNAN. I think it is all right. I do not ask any amendment.

The bill was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bill and joint resolution; in which it requested the concurrence of the Senate:

A bill (H. R. No. 4714) amending an act approved June 23, 1874, extending the jurisdiction of the Light-House Board; and

A joint resolution (H. R. No. 315) amending and re-enacting joint resolution approved June 14, 1879, directing a monument to mark the birth-place of George Washington.

The message also announced that the House had passed a concurrent resolution providing that the President of the Senate and the Speaker of the House of Representatives declare their respective Houses adjourned *sine die* at twelve o'clock m. Thursday, the 10th of June instant.

IMMEDIATE TRANSPORTATION OF DUTIABLE GOODS.

Mr. BECK. Mr. President——

Mr. MORGAN. I call for the regular order.

The PRESIDENT *pro tempore*. The regular order is the Calendar, but any Senator can move to postpone it.

Mr. MORGAN. I wish to know the particular measure on the Calendar which is the first in order.

The PRESIDENT *pro tempore*. The Secretary will inform the Senator from Alabama what is the first bill on the Calendar.

The CHIEF CLERK. A bill (S. No. 33) to ascertain the amount of the claim of Joseph R. Shannon, of Louisiana.

Mr. BECK. I rise for the purpose of moving that the Senate postpone all orders prior to the bill (H. R. No. 4911) to amend the statutes in relation to immediate transportation of dutiable goods, reported from the Committee on Finance.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Kentucky, to postpone all orders prior to order of business No. 705.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Senator from Kentucky now moves to proceed to the consideration of House bill No. 4911.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 4911) to amend the statutes in relation to immediate transportation of dutiable goods.

The bill was reported from the Committee on Finance with amendments.

The first amendment of the committee was, in section 1, line 7, to insert, after the word "New Orleans," the words "Norfolk, Charleston, Savannah, Galveston;" so as to make the section read:

That when any merchandise, other than explosive articles and articles in bulk not provided for in section 4 of this act, imported at the ports of New York, Philadelphia, Boston, Baltimore, Portland and Bath, in Maine, Chicago, Port Huron, Detroit, New Orleans, Norfolk, Charleston, Savannah, Galveston, Cleveland, Toledo, and San Francisco, shall appear by the invoice or bill of lading and manifest of the importing vessel to be consigned to and destined for either of the ports specified in the sixth section of this act, the collector at the port of arrival shall allow the said merchandise to be shipped immediately after the entry prescribed in section 2 of this act has been made.

Mr. BECK. I am instructed by the committee to move to insert after "Savannah" the word "Mobile;" so as to read: "Norfolk, Charleston, Savannah, Mobile, Galveston." It was left out by mistake.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The next amendment of the Committee on Finance was, after section 3, to insert as a new section the following:

SEC. 4. That sections 2853 and 2855 of the Revised Statutes of the United States be, and the same are hereby, so amended as to require that all invoices of merchandise imported from any foreign country and intended to be transported without appraisement to any of the ports mentioned in the sixth section of this act, shall be made in quadruplicate; and that the consul, vice-consul, or commercial agent, to whom the same shall be produced, shall certify each of such quadruplicates under his hand and official seal in the manner required by section 2855 of the Revised Statutes, and shall then deliver to the person producing the same, two of the quadruplicates, one to be used in making entry at the port of first arrival of the merchandise in the United States, and one to be used in making entry at the port of destination, file another in his office, there to be carefully preserved, and as soon as practicable transmit the remaining one to the collector or surveyor of the port of final destination of the merchandise: *Provided, however*, That no additional fee shall be collected on account of any service performed under the requirements of this section.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The Secretary will report the next amendment.

Mr. BECK. Before that is done I desire to lay before the Senate, to be made part of the RECORD, so that the House can see it, a letter from the Secretary of the Treasury to the chairman of the Committee on Finance explaining the necessity for the section which has been added to the bill. It may be useful in conference, and I desire to have the letter inserted in the RECORD; it need not be read.

The letter referred to is as follows:

TREASURY DEPARTMENT, *April* 24, 1880.

SIR: I have the honor to acknowledge the receipt of a letter from your committee, dated the 20th instant, transmitting Senate bill No. 1153, entitled "A bill to amend the statutes in relation to immediate transportation of dutiable goods," and an amendment thereto; also, House bill No. 4911, entitled "An act to amend the statutes in relation to immediate transportation of dutiable goods," with a request for the opinion of this Department thereon.

In reply I have to inform you that this Department, in a letter dated the 27th of February last, in answer to a request from Hon. FERNANDO WOOD, chairman of the Committee on Ways and Means, submitted its views on House bill No. 870, then pending in said committee, the provisions of which bill were identical with those contained in Senate bill No. 1153, above mentioned.

The suggestions of that letter, with one exception, were embodied in House bill No. 4911, introduced as a substitute for bill No. 870, and passed by the House of Representatives on the 5th instant.

The exception mentioned had reference to invoices, the Department in its letter having suggested as follows:

"To avoid embarrassment to merchants at interior ports on account of the present practice of certifying consular invoices in triplicate only, consuls should be required by law to certify all invoices of merchandise intended for immediate transportation in quadruplicate, two copies to be delivered to the shipper instead of one as is required by section 2855 Revised Statutes. One of these invoices could then be filed with the collector at the port of first arrival, and one sent to the importer at the port of destination."

This suggestion is deemed important, and recommendation is made that it be incorporated in the pending bill, which, thus modified, would appear to afford all needed facilities to merchants without detriment to the revenue.

Very respectfully,

H. F. FRENCH,
Acting Secretary.

Hon. THOMAS F. BAYARD,
Chairman of the Committee on Finance,
United States Senate.

Mr. JONES, of Florida. I move to insert after the word "Galveston," in section 1, line 8, the words "Pensacola, Florida."

Mr. BECK. The committee is willing for that amendment to be made.

The amendment was agreed to.

Mr. COKE. I desire to amend the committee's amendment in line 15, section [6] 7.

Mr. BECK. We have not got quite that far yet.

The PRESIDENT *pro tempore*. That point has not yet been reached. The next amendment of the Committee on Finance will be reported.

The next amendment of the Committee on Finance was, in section [6] 7, line 3, after the word "New York," to insert "Burlington, in Vermont;" so as to read:

That the privilege of immediate transportation shall extend to the ports of New York and Buffalo, in New York; Burlington, in Vermont, &c.

The amendment was agreed to.

The next amendment was, in section [6] 7, line 6, after the word "Maryland," to insert, "Georgetown, in the District of Columbia."

The amendment was agreed to.

The next amendment was, in section [6] 7, line 15, after "Indiana," to insert "and Galveston and Brownsville, in Texas."

Mr. COKE. I move in line 15, after the word "Galveston," to insert "Corpus Christi and Indianola;" so as to read.

Mobile, in Alabama, and Evansville, in Indiana, and Galveston, Brownsville, Corpus Christi, and Indianola, in Texas.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

Mr. BAILEY. I move, after the word "Memphis," in line 14 of the same section, to insert "Nashville and Knoxville;" so as to read:

Memphis, Nashville, and Knoxville, in Tennessee.

The amendment was agreed to.

Mr. PADDOCK. In line 16 of the same section, after the word "Texas," I move to insert "Omaha, in Nebraska."

Mr. BECK. That is right. That is a large and important point on a railroad.

The amendment was agreed to.

Mr. ALLISON. Immediately after the words just inserted I move to insert "Dubuque and Burlington, in Iowa."

Mr. FERRY. As an amendment to that I move to insert "Grand Haven."

Mr. ALLISON. Allow me to have my amendment acted on first.

The PRESIDENT *pro tempore*. The Senator from Michigan moves to amend the amendment of the Senator from Iowa by adding "Grand Haven."

Mr. ALLISON. Let my amendment be acted on first.

The PRESIDENT *pro tempore*. The Senator from Michigan has a right to move an amendment to the amendment.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

Mr. FERRY. I ask that my amendment be transposed and placed in line 10 of the same section, after the words "Port Huron;" so as to read:

Detroit, Port Huron, and Grand Haven, in Michigan.

The PRESIDENT *pro tempore*. If there is no objection the transposition will be made. The Chair hears none, and it is so ordered.

Mr. DAVIS, of Illinois. In line 9 of the same section, after the word "Chicago" and before the words "in Illinois," I move to insert "Peoria and Quincy;" so as to read:

Chicago, Peoria, and Quincy, in Illinois.

Mr. BECK. Are those ports of delivery now?

Mr. DAVIS, of Illinois. I think Peoria and Quincy both are. Peoria I know is, and I am pretty certain that Quincy is.

Mr. KERNAN. Allow me to ask the Senator, are goods imported there in bond as they are at Chicago? You have to get railroads to give bond and send sealed cars or you will not get the benefit of the provision, and it is not required unless there is a large import trade.

Mr. DAVIS, of Illinois. Burlington, Iowa, and Dubuque, Iowa, and Grand Haven, Michigan, have been inserted, and these two places are larger than all three put together.

Mr. BECK. They are on the lakes where they are in direct communication with foreign nations.

Mr. DAVIS, of Illinois. Burlington and Dubuque are not on the lakes, they are on the Mississippi River above Quincy.

Mr. BECK. The committee did not insert them in the bill.

Mr. DAVIS, of Illinois. But they have been added.

Mr. BECK. If they are ports of delivery there is no objection to them if the railroad cars can carry goods there, the object being to have immediate transportation.

Mr. DAVIS, of Illinois. I think they are ports of delivery; but I will guarantee that Peoria and Quincy are as much ports of delivery as Burlington and Dubuque.

Mr. BECK. I do not see any objection to the amendment.

The PRESIDENT *pro tempore*. The amendment will be reported.

The CHIEF CLERK. In section [6] 7, line 9, after the word "Chicago," it is proposed to insert "Peoria and Quincy."

The amendment was agreed to.

Mr. CAMERON, of Wisconsin. In section [6] 7, line 12, after the word "Milwaukee," I move to insert "and La Crosse;" so as to read "Milwaukee and La Crosse, in Wisconsin." It is a port of delivery now.

Mr. KIRKWOOD. I am not about to offer an amendment, but I want to say a word. I should like to know from gentlemen who understand this matter much better than I do, because I do not understand it at all——

Mr. BECK. If the Senator will allow me to say a word I will explain it in a moment. The whole object of this bill——

Mr. KIRKWOOD. Let me ask my question first, and then I shall get an explanation of it perhaps. The Senator might explain something else, you know. What I want to learn is this: Will it be possible to execute the provisions of this bill at all these places unless you have at each of them a collector of customs?

Mr. BECK. No.

Mr. KIRKWOOD. Now, are there collectors of customs at each of these points?

Mr. BECK. All that the committee inserted have collectors of customs. We examined it carefully; there are custom-houses established and bonded railroads running to them; the object of the bill being——

Mr. KIRKWOOD. Let me get my question in. Have all these places that have been added by way of amendment collectors of customs?

Mr. BECK. The committee did not examine that carefully but Senators in proposing to add a point have said "it is a port of delivery;" and if so it has a custom-house and a collector of customs. If any have been inserted that are not ports of delivery the insertion will be of no avail.

Mr. DAVIS, of Illinois. I do not say that Peoria and Quincy are ports of delivery, but I say that they are as much so as Omaha, in Nebraska, or Burlington and Dubuque, in Iowa.

Mr. PADDOCK. I desire to state to the Senator from Illinois that he is entirely mistaken in regard to Omaha. It has not only a public building which is a custom-house, but it has a collector of customs; it has an inspector of customs, and is the most important point west of Chicago, between Chicago and San Francisco. It is a port of delivery and entry both.

Mr. KIRKWOOD. I merely want to know what we are doing. It seems to me an important thing always to know what we are doing.

Mr. McDONALD. What is the question pending before the Senate?

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Wisconsin, [Mr. CAMERON.]

Mr. KIRKWOOD. I merely wish to direct the attention of the Senate to the point I make. I understand that it will be impossible to execute this proposed law at the points where there are not collectors of customs. If that be so, then every Senator who offers an amendment ought to be able to say to the Senate whether or not the point named by him has a collector of customs.

Mr. FERRY. In reply to that suggestion, I will state that the port of Grand Haven, for which I offered an amendment, is a port of delivery and has a custom-house officer there. Therefore I offered the amendment. I will state that I sent the amendment to the committee, but for reasons best known to the committee I declined to offer it then, but as other amendments were offered in the Senate I felt it to be my duty to offer it. The Senate have agreed to the amendment and it is verified by the requisition demanded by the Senator from Iowa.

Mr. MAXEY. I wish to place upon record that the two ports added upon the motion of my colleague, Corpus Christi and Indianola, are both ports of delivery, and there are deputy collectors at each of these ports.

Mr. BUTLER. The Senator will allow me a moment. I wish to amend by adding after the word "Charleston," in line 7, section [6] 7, the words "and Port Royal."

The PRESIDENT *pro tempore*. There is an amendment already pending.

Mr. CAMERON, of Wisconsin. I desire to state that La Crosse, Wisconsin, is a port of delivery and has a deputy collector, and has had for quite a number of years.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Wisconsin.

The amendment was agreed to.

Mr. BUTLER. I move now to add, after the word "Charleston," in line 7, of section [6] 7, the words "and Port Royal." Port Royal is a port of delivery, having a deputy collector.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from South Carolina.

The amendment was agreed to.

Mr. ROLLINS. I move to amend in line 9 of the same section by inserting after "Maine" the words "Portsmouth, in New Hampshire." Portsmouth is a port of entry and has a collector.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from New Hampshire.

Mr. BAYARD. There is no question that these constant amendments illustrate the defective character of the whole bill. The Constitution of the United States provides in express terms that "no preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another," and yet we have a bill singling out by name half a dozen States or more with a couple of ports in each State to which and through which the commerce of the country is to be diverted by a revenue regulation. It shows how impossible it is to frame a bill of this kind upon such a scheme of nominating certain ports in certain States. It certainly is without warrant.

I hope all these amendments will be assented to, although the result is that you find your bill becoming a mere recital of geographical names. If it be the practical policy of this Government to have inland ports of destination to which imported merchandise shall be transported over carefully guarded routes under customs supervision for the purpose of making the port of final destination in effect the port of entry, so be it; but I believe difficulties will be found in it. Many of the commercial centers of the great West and of the South, remote from the seaboard, asked us to remedy the present condition of things by giving certain named ports advantages not accorded to others. That we cannot do. It is directly in the teeth of the constitutional provision. All these amendments putting in ports of entry or delivery are each and all strictly in order, and each as much entitled to consideration as the other.

Mr. BECK. Mr. President, the Senator from Delaware had some trouble about the constitutional provision on the ground that this bill was perhaps giving a preference to the ports of one State over those of another, but it did not so occur to me, nor has it so occurred to Congress. The Revised Statutes of the United States, section 2990, make precisely the same provision with regard to certain ports therein named where certain rights are given, and section 2997 extends the privilege of transportation in bond to some of the cities named in the seventh section of this bill. That has been the condition of things for years, so that this is no innovation upon and no great change of existing conditions.

If gentlemen will turn to sections 2990 and 2997 it will be seen that ever since the Revised Statutes were passed and for years before—because the first act was passed July 14, 1870, nearly ten years ago—this condition of things has existed without any sort of trouble or dispute. Now, what is the object of this bill? It is that instead

of persons who import goods for Chicago, for Saint Louis, for Saint Paul, for Louisville, for Omaha, and other points in the interior, being obliged to go to New York or to keep their agents there, and renew their bonds, and have great delay by the goods being put into the custom-house or into houses to be furnished for their care, the articles shall be transhipped at once on board the cars of the bonded railroads of the country or by other means of communication, as the Secretary of the Treasury may direct, to go direct to the point of destination. Great delay, great cost, great annoyance is suffered by all the people in the interior cities by the present system, and the idea of the committee was, and the idea of the House was, and the idea of the Treasury Department—because the bill is drawn by them—to get clear of the inconveniences which have been experienced. Then, instead of a cargo of oranges landing in New York and lying there until men come from Chicago and have them all examined, the invoice looked over, and then the oranges reshipped, they can go at once on cars of the Erie Railroad or of the New York Central, which are bonded railroads, giving bonds for millions of dollars, which have been accepted by the Treasury Department, and the cars will run alongside the vessel and take on board these perishable goods and land them at Chicago at once, when they might all be spoiled perhaps in three days. The whole purpose of this bill is to carry out the provisions of sections 2990 to 2997 of the Revised Statutes, and get clear of the cost, annoyance, delay, and trouble that are suffered under existing regulations.

Now, to show the views of the Department, I will read the letter of the Secretary of the Treasury to the chairman of the Committee on Ways and Means of the House, where this bill was first brought up. After a great deal of trouble and after careful examination Mr. Sherman says he has ascertained that this bill will be beneficial to the commerce of the country. He says it can be carried out safely, that it violates no principle, that it is only extending to ports of entry and ports of delivery in the interior the condition of things which exists at the seaboard ports and to carry out existing law. This is the letter:

TREASURY DEPARTMENT, *February* 27, 1880.

SIR: I have the honor to acknowledge the receipt of your letter of the 23d instant, inclosing House bill No. 870, "to amend the statutes in relation to the immediate transportation of dutiable goods, with an amendment thereto," and requesting my views thereon.

The bill referred to proposes several changes in the present law respecting the transportation of merchandise without appraisement. The more important of these changes may be stated briefly as follows:

First. The bill makes no exception of any class of merchendise from the privileges of such transportation, while under the present law wines, distilled spirits, articles in bulk, and perishable or explosive articles are excepted.

Second. It provides that when any merchandise imported at the designated ports appears by the manifest of the importing vessel to be consigned to and destined for either of the ports of destination specified in the sixth section, the same shall be immediately forwarded by the collector to the port of destination, while the present law requires that the destination shall appear by the invoice or bill of lading and by the manifest, and an entry is required to be made and a special bond to be given for each shipment of such merchandise before the collector is authorized to deliver the same for transportation to the port of destination.

That is one of the evils complained of.

Third. Section 3 of said bill provides that the common carrier shall be responsible to the United States for the safe delivery of the merchandise to the port of destination, and no provision is made for the additional bond now required from the shipper.

In regard to these changes the views of the Department are herewith submitted, as requested:

First. There is no objection to the extension of the privilege of immediate transportation to wine, distilled spirits, and perishable articles. Articles in bulk and explosive articles should still be excepted—

And they are in this bill—

for the reason that merchandise not inclosed in packages cannot be easily identified and is liable to loss *en route*, and explosive articles cannot, under the present laws regulating the transportation of merchandise by steam-vessels, (section 4472 Revised Statutes,) be transported in such vessels, which now form part of the means used for transportation without appraisement.

Second. The words used in the present law, "invoice or bill of lading and manifest," should be retained, for the reason that a proper record of the merchandise delivered for transportation cannot be made without the information furnished by these papers. To obviate embarrassment to merchants at interior ports, on account of the present practice of certifying consular invoices in triplicate only, consuls should be required by law to certify all invoices of merchandise intended for immediate transportation, in quadruplicate—

And the fourth section makes that provision, and the letter of the Secretary in regard to it was handed to the reporter a few moments ago—

two copies to be delivered to the shipper, instead of one as is required by section 2853 Revised Statutes. One of these invoices could then be filed with the collector at the port of first arrival, and one sent to the importer at the port of destination.

The invoice should also be accompanied by a formal entry in triplicate, as is now the practice, so that one copy may be kept in the collector's office, one in the naval office, and one sent forward to the port of destination. This is an orderly mode of procedure, and cannot be dispensed with without deranging the records. The usual oaths to these entries are merely formal and might be omitted. If such entries are not prepared by the shipper it would be necessary that the customs officers prepare them in order to complete the record as above stated. This would cause delay to the shippers, whose interests would be best subserved by retaining the present practice of preparing their own entries.

It is essential that a bill of lading shall be presented by the consignee at the port of arrival, as his authority to take possession of the goods, for shipment to the port of destination, and as a protection to the collector delivering the goods to the carrier.

All these things are provided for in the bill.

Third. There is no objection to dispensing with the special bond now given on each shipment and holding the carriers liable under their bonds for the safe delivery of the goods.

That we have done.

The Department sees no objection to the amendment authorizing the transportation of merchandise by express companies on passenger trains in safes, trunks, and compartments of cars, under customs locks and seals.

That, too, is provided for.

The bill omits the provision contained in section 2996 Revised Statutes, relating to the establishment of bonded warehouses specially and exclusively appropriated for storage of such merchandise and the limitation of the time within which entry may be made for immediate transportation without appraisement. Since the date of the enactment of the original law in 1870 no warehouses have been specially established for the storage of goods intended for immediate transportation and the provision therefore is not considered important. It is, however, recommended that a clause be inserted in the bill requiring shipment to be made within ten days from the time of the landing of the goods—

That, too, is done in the bill—

and that merchandise not shipped within such time shall be sent to a bonded warehouse by the collector as unclaimed and held until regularly entered and appraised.

Referring to the cases in which transshipment *en route* is allowed by section 4 of the bill, it is recommended that authority be given to transfer the contents of cars, when necessary, under proper supervision of customs officers in cases where by reason of the length of the route, as in shipments between Atlantic and Pacific ports, after due inspection by customs officers, the cars are considered unsafe or unsuitable to proceed further.

That is also provided for.

In considering the proposed changes in the manner of transporting goods without appraisement, it is suggested that the bill might be amended so as to allow the transportation of railroad iron, pig-iron, spiegel-iron, scrap-iron, iron-ore, and similar articles, upon platform or flat cars, the weight to be ascertained in all cases before shipment, a proceeding which involves but slight delay, as railroad scales may be used for such purpose.

The Senate will observe that that is also provided for.

The present restrictions upon this class of goods prove, in many instances, a hardship, and I think they may be removed in the manner indicated without detriment to the public interests.

The records of this Department show that since the passage of the law, nearly ten years ago, authorizing the immediate transportation of imported merchandise without appraisement from ports of first arrival to interior ports, goods aggregating in value about $100,000,000 have been transported to, and the duties thereon ascertained and collected at, interior ports without loss to the revenue, so far as is known.

Believing that the revenue laws should be so framed and administered as to facilitate in every possible way the interests of commerce, so far as may be consistent with due protection to the Government, and that all unnecessary restrictions should be removed, I recommend the favorable consideration of the proposed bill, with the modifications above suggested.

The bill and amendment are herewith returned.

Very respectfully,

JOHN SHERMAN,
Secretary.

Hon. FERNANDO WOOD,
Chairman of the Committee on Ways and Means,
House of Representatives.

All the recommendations of the Treasury Department have been carefully carried out in the bill as reported; so that it is in fact a Treasury bill in aid of commerce and to relieve against embarrassments that exist under existing laws.

Mr. McDONALD. Why not extend the phraseology of the bill to all ports of entry and delivery by simply amending the first section, in line 5, after the word "at," by inserting "any port of entry and delivery," and then in regard to the privilege of immediate transportation use the same terms in the seventh section.

Mr. EATON. I suppose it is very obvious why. There are ports of delivery that are not ports of entry.

Mr. McDONALD. "Ports of entry and delivery."

Mr. BECK. Another difficulty arises there. There are many ports of entry where there are no bonded lines of cars, no means of having the goods carried forward immediately under such regulations as the Treasury Department has already prescribed. For instance, Mr. Vanderbilt, of the New York Central road, gives a bond of over a million dollars, I think; so do all the large roads, and it is only at points where there are lines of transportation to the interior that are safe, that are under bond, and that can carry the goods forward, that these provisions can properly be made. So they can only be carried to points in the interior where there are already custom-houses and proper means of collecting the revenue at the ports where the goods are to be delivered.

Mr. McDONALD. Are there not custom-houses and collectors at all ports of entry?

Mr. BECK. I do not think there are. There are very many ports of entry along the New England coast and elsewhere where there are no custom-houses, as I understand, but merely inspectors and men to guard and watch.

Mr. KERNAN. So it is on the lakes.

Mr. BECK. So on the lakes, as I understand. Therefore it was thought better to limit the privileges of the first section of this bill to those ports of entry from which there are either steamboat lines or railroad lines going into the interior that can give bonds to secure the Government; and hereafter, if it turns out that there are ports left out which ought to have been inserted, they can be added at any moment. The sole object is to enable any persons living in the interior getting goods from abroad to have them shipped to the port of destination wherever it is a port of delivery, and it can be done safely over such roads as are under bond, so that the thing can be done with security to the Government.

Mr. McDONALD. As I understand this bill, it is only goods that are received at one of the ports named in the first section that are entitled to what is termed the privilege of immediate transportation,

and they can only be transported to some one of the ports named in the seventh section.

Mr. BECK. If the Senator will observe section 2990 of the Revised Statutes he will see that the ports where merchandise is received are very much more limited than they are in this bill, and the ports of delivery are extended by this bill very much beyond section 2997. In other words we have extended it by this bill as far as we had any information that it could be done safely; and when information comes showing that there are other ports which should have these facilities, it can be extended again.

Mr. McDONALD. What harm would arise from making this bill general in its terms?

Mr. BECK. Take one case already added to the seventh section, Port Royal. I presume there is no railroad communication from Port Royal to western cities?

Mr. McDONALD. I have not given the subject a careful examination; but I desire to know what harm would arise from making this bill general, applying to all ports of entry and delivery, both in the first section and in the seventh?

Mr. BECK. In answer I would say that there is first a constitutional question. We are not creating any new law. We are improving the law as it now exists in the Revised Statutes, and whatever there is of unconstitutionality is there and has been for ten years upon the country without complaint, and in extending the provisions of the existing law we are certainly not making them any more unconstitutional by extension and by liberalizing the provisions of them.

Mr. BAYARD. I will state the answer to the Senator from Indiana. There is no doubt at all that the law as it now stands and has been operating for the last ten years has proved of very great convenience. It has permitted the transportation of goods and their delivery to the port of destination as if it were the port of original entry, greatly to the convenience of the inland ports; but I raise a constitutional objection to the whole scheme. The fact that it has existed on the statute-book for ten years does not cure it. Suppose the law stands as it is, or suppose it is thought better by the Senate to increase the facilities for this so-called immediate transportation by increasing the number of these ports. I beg the Senate to carry with them always this consideration: that unless you shall reasonably restrict these privileges of transportation to the chief cities inland of the country you will require a multiplicity of minor custom-house officials that will be utterly useless and utterly cumbersome for the great portion of the year. You will have to have appraisers, surveyors, gaugers, weighers for all this merchandise. You cannot have a corps of such officials at every little port and at every little place of entry that you can put on the statute-book.

These goods when received on the sea-coast are placed in the hands of railroad companies, who give bond in large amount for the safe delivery of the goods at the point of destination, where they are to be appraised and the duties are to be paid. All this involves large official machinery. You cannot have an equipped custom-house at every small port. Therefore if you shall say that every inland port of entry, so called—if that term be not a bull—every port where customs duties are paid is to have the privilege of this bill, the consequence will be to require an enormous increase in your official force.

While this bill proposes to extend and enlarge facilities which have been found extremely convenient, I hope the Senate will not load down the bill by innumerable ports of entry, because if you do you must run the risk of a large increase of the official force. Remember that our tariff duties are levied according to value; that that requires skilled inspection, skilled survey, skilled appraisement; that these goods must be carefully guarded from the port of inspection on the seaboard to the port of destination in the interior. They must be received under custom-house supervision; they must be kept under custom-house authority; and when they finally come to have their duties paid they must be inspected and appraised according to law, and that requires skill and requires the presence of officials. Therefore it will be seen that, taking into consideration practical efficiency, you must not increase the number of roads over which goods must be carried, and you must not increase the number of places at which they shall be delivered.

Mr. MORRILL. Mr. President, I do not know that the Senate is paying any attention to this bill, but it is of so much importance that I think it may well call for some attention. I believe that it will be impossible to make a sea-port of an inland city, and therefore that the rule of collecting duties on imports must mainly be confined to the boundaries of the Atlantic and Pacific coasts; and yet the direct transportation to some of the larger inland cities has proved a very great success. But as the bill has progressed I have no idea that it would receive the sanction of the Treasury Department. If it shall become a law, as the Senator from Delaware has suggested, it will create a necessity for a large additional staff of officers at all these places. Take the practical operation of this bill. Any man can send goods from one part of the country to another, no matter how large the parcel or how small, by express or by railroad, and when it arrives at its destination it may require to be appraised, and by a man who would, if he was competent to discharge the duties, receive a compensation greater than all the salaries of those stationed at the port of delivery or port of entry. I have heard Mr. Stewart say he would willingly pay $10,000 a year for a competent appraiser; and yet it is proposed to send these importations of goods of all descriptions, except explosive articles, to any port of delivery, even as already passed, where there are no competent officers, no appraisers, no gaugers, no weighers, no inspectors, but simply some deputy collector or deputy weigher.

I only desire to call the attention of the Senate to the fact that you will break down the system of inland transportation by increasing the cost of collection of the revenue to double the present amount, and you will diminish the revenue by any amount of evasions and by any amount of erroneous appraisements.

I think myself that the Senator from Delaware and the Senator from Indiana are perfectly correct in saying that this bill and the law on the statute-book now is entirely unconstitutional. If we do anything, we ought to make this a general law, applicable to all ports of entry and delivery. We cannot discriminate in favor of one port above another without a flagrant violation of the Constitution.

But, Mr. President, this system has been acquiesced in with regard to the chief cities of the western country; and so far as I am concerned I should be disposed to continue to acquiesce in that; but when you come to scatter these privileges all over the country you are going to completely cripple the power of the Treasury about collecting the revenue or about having any proper appraisement, measurement, or gauging, or anything that relates to the thorough collection of the revenue.

Mr. CALL. Mr. President, I offer the following amendment——

The PRESIDENT *pro tempore*. There is an amendment pending.

Mr. BECK. Mr. President, I desire to say only a word in answer to the question of the Senator from Indiana. The Senator from Delaware stated very well the objections to his proposition. In order to answer the question I sent to the document-room for Miscellaneous Document No. 46, first session Forty-sixth Congress, being a compilation of import duties and many other things, made by Mr. Charles H. Evans, of the Statistical Bureau, and I find that there are one hundred and thirty-three ports of entry, at many of which there are less than $500 collected, where there is only a single officer in charge. Indeed, I find a number where less than $100 is collected. The general provision now suggested would require a corps of officers at all these ports. I find this fact to exist also, that with the exception of six ports the cost of collection already is up to about 20 per cent. of the amount collected. We felt it our duty, and the Department desired that we should only go to this extent, to allow these goods to be sent to the interior from the larger ports, where we have all the machinery and where no additional expense will be incurred, and from which there are steamboat lines running, or from which there are railroads running that give all the bonds required by the Secretary. The suggestion of the Senator from Indiana would not only add enormously to the number of officers, but if he will take the book I hold in my hand and look over it he himself would not desire that such a corps of officers should be kept at each of the ports of entry now authorized by law as would enable the system to be carried into effect.

The same evil does not apply to ports of delivery. The places now being added by Senators, as I understand, are all ports of delivery. Now, if goods are shipped from Liverpool to New York, Philadelphia, Baltimore, Savannah, New Orleans, or Boston, or any of the great ports where all this machinery is now organized, a man living at certain ports of delivery has a right to have them taken to his home, it being a port of delivery and where there is a custom-house. Therefore the number of these ports added to the seventh section does not increase the expense.

Mr. FARLEY. Will this bill not have the effect of providing for a large increase of custom-house officers on the transportation routes over which goods are transported?

Mr. BECK. Not at all.

Mr. FARLEY. Let us see: "And inspectors shall be stationed at proper points along the designated routes" over which these goods are transported.

Mr. BECK. The Revised Statutes make the same provision.

Mr. FARLEY. Here is your bill as it stands.

Mr. BECK. It is the provision of the Revised Statutes now. That is the law to-day.

Mr. McDONALD. I do not think the objection stated by the Senator from Kentucky would apply to the amendment I suggested. The language that I suggested is "any port of entry and delivery."

Mr. ALLISON. All ports of entry are ports of delivery as well, but all ports of delivery are not ports of entry.

Mr. McDONALD. I understand; but in order to give effect to this provision the port must be both a port of entry and a port of delivery under my amendment.

Mr. ALLISON. That is the first section.

Mr. McDONALD. Yes, my suggestion as to the first section in the general clause is to say "port of entry and delivery."

Mr. ALLISON. I think the Senator will see on a little reflection that it would be unsafe to make this apply to all ports of entry. Take for example the State of Maine where they have a long land boundary and numerous collection districts and collectors. If the words proposed by the Senator from Indiana were inserted in this first section all goods, say, that should be landed on the Aroostook could be shipped from there in bond to Chicago. Probably that would not occur; it may be an extreme case; but it would not be a wise thing to do to allow goods to be imported into the small ports of entry all

along our sea-coast and to be transported from there in bond to another port.

It would not be wise for two reasons. First, there might be no means of transportation from the one port to the other——

Mr. McDONALD. Then it would not apply.

Mr. ALLISON. There might be small boats plying on these waters. The Secretary of the Treasury must take bonds for the safe delivery of all these goods.

You may take the State of Maryland for another illustration. There, I believe, they have four or five ports of entry. Annapolis is a port of entry. It would not be a wise thing, it seems to me, to bond the little railroad running from Annapolis to Baltimore and have goods from there go to Dubuque, Iowa, for example. It seems to me that would not be a wise thing to do.

Mr. McDONALD. Now, if the Senator from Iowa will allow me to ask him a question, how would it do, then, to limit this privilege to ports of delivery?

Mr. ALLISON. The ports of delivery are much more numerous than the ports of entry. For example, take the collection district of New Orleans. The collection district of New Orleans to-day includes all the Upper Mississippi River country. Saint Louis, and Cincinnati, and Dubuque, and La Crosse, and Saint Paul are all ports of delivery within the collection district of New Orleans. It seems to me it would not be a wise thing, and on reflection I am in exceeding doubt whether the amendments we have already inserted ought to remain in the bill. I think the safest way is to confine this delivery to the leading ports in the several States.

Mr. McDONALD. You have extended the operations of the bill to that very class of ports you now condemn.

Mr. ALLISON. I know we have; but I saw the Senator from Nebraska inserting Omaha, which is a mere port of delivery, having not a collector, but having only a surveyor of the port; and of course I wanted to extend the same thing to the State of Iowa at ports that have a surveyor and have the same facilities and the same corps of officials as there are at Omaha.

Mr. PADDOCK. I must ask the Senator to allow me to correct him as I did the Senator from Illinois a while ago in a similar statement. Omaha is not only a port of delivery but a port of entry, has a collector, regularly appointed, and has a surveyor of the port.

Mr. ALLISON. If the Senator from Nebraska will point me to any law that makes Omaha, Nebraska, a port of entry, I shall be exceedingly obliged to him.

Mr. McDONALD. Inasmuch as there seems to be objection to extending this privilege not only to ports of entry but also to ports of delivery, and as this bill has already been extended by the amendments that have been adopted to a class of ports which seem to be subject to all the objections which have been stated, it seems to me we ought to do one of two things: either not pass this bill at all or comply with the Constitution by extending the same privileges precisely to every port of the same class in every State. If it is to be confined to ports of entry, very well; but let them be all ports of entry in any State. If it is to extend to ports of delivery, let it be as universal in that respect. If to ports of entry and delivery, then there ought to be no discrimination.

I do not think there has been any satisfactory answer yet given to the objection stated by the Senator from Delaware in the beginning, that the Constitution does not clothe us with this power. On the contrary, it expressly inhibits it as a protection to the States and perhaps for a very good reason, so that the States that lie immediately on the seaboard and that therefore would naturally be most favored in regard to our foreign commerce and to our regulations in reference to that commerce, should not have all the rights and privileges that might be extended to ports of entry and delivery, but that the interior, wherever it was right and proper that ports of this kind should be established, should be regarded as being in the same kind of contact with our foreign commerce that ports on the seaboard are and should have all the privileges that are extended to the seaboard ports. That may have been the purpose of the Constitution. It certainly is no argument in favor of the constitutionality of this bill that a similar law has been enacted and not questioned. That is, it is true, a legislative construction to a certain extent of the powers of Congress over the subject of commerce as connected with these ports, but it does not amend the Constitution; it cannot abrogate its provisions; nor can the Constitution be complied with by extending this privilege to a very large number of ports while any others are left out.

I think, therefore, that we ought to amend this bill so as to give these privileges, whatever they are, to every port in any State that is a port of the same class to which it is proposed to extend them in the specific designation of ports. I admit that a law is sufficiently universal when it embraces a class, a whole class. It is not discriminating when we extend the like privileges to all persons or ports or places of the same class; but it is discriminating when it gives special privileges to ports of one class over others of the same class.

Mr. BECK. What is the argument of the Senator from Indiana? There is a law on the statute-books now, and has been for ten years, requiring every man who desires to carry imported goods to the interior to go to New York and give bonds and subjecting him to all sorts of inconveniences. If he has perishable articles, such as fruits, they are to lie there until they rot, half the time, before they can be sent away. To all that condition of things for ten years the Senator from Indiana has made no sort of objection, and he has seen no sort of constitutional difficulty. Now, when we are proposing by law to alleviate that, he says, "Do not pass the law; defeat the bill." What is the meaning of that? Let the old law stand as it does without an attempt to repeal it, and let all these evils remain; do not alleviate them because he does not propose to repeal the existing law; he only seeks to prevent us from getting the benefit of this act.

Mr. McDONALD. I know very little about the old law.

Mr. BECK. The effect of the defeat of this bill clearly is to allow the present condition of things to remain; is it not? Is not the present condition of things worse than the proposed condition? When we are trying to improve a bad law, why not let us improve it? Why defeat the improvement and leave the bad condition existing? When the Secretary of the Treasury comes before us and says that great embarrassments have grown up under the existing law, though he can carry goods with perfect security along bonded railroad and steamboat lines, and a hundred millions have been so carried even under all these embarrassments, and when the people of the West are seeking to get this benefit, I am amazed that the Senator from Indiana should call on the Senate to defeat the bill. In the face of the almost unanimous action of the House, in the face of the demand of all the men from his own section, in the face of the demand of the Treasury Department, he proposes to allow a bad condition of things to remain because the original law had some constitutional difficulties. We are not adding to them; we are not adding embarrassments any further; but we propose to make the existing law as good as we can.

What does the Secretary say in his letter? "I have certain ports now along the seaboard at which I have organized corps of officials, collectors, appraisers, naval officers, all the machinery whereby without additional expense, if invoices are sent from Liverpool or Calcutta to Chicago or to Saint Louis or to Louisville or Cincinnati, if they are consigned in quadruplicate, I can have one retained by my collector here, one forwarded to the collector there, one given to the shipper, and I can send those goods over bonded roads without costing an additional dollar and without a moment's delay, without oaths, without as now signing certificates or having agents stationed in New York, without detaining a cargo of oranges on the banks of the North River until they rot, for they can be shipped on cars the moment they land and be in Chicago as soon as the man can go from Chicago there." He says, "I have that machinery at New York; I have it at Philadelphia; I have it at Boston, Baltimore, Portland, Bath, New Orleans, and other points, and from these points I propose to do this. Lines of railroad are running out, steamboat lines are running from these points; I can do this for you." Now the Senator from Indiana says, "why not extend it to Annapolis, why not extend it to Bangor, why not extend it to each of the one hundred and thirty-three other ports?" Simply because it would take twenty thousand more officials. There are no appraisers, no naval officers, none of the machinery necessary to give security for the forwarding of these goods at nine-tenths of the ports of entry, as shown by the book I hold in my hand. Many simply have collectors at $500. Many of them have simply an inspector who takes care of the goods until they are forwarded somewhere else. Because the Secretary says, "I can forward them from certain ports where I have this machinery," the Senator from Indiana says it is an unconstitutional discrimination against Bath, Maine, against Annapolis, Maryland, and against other points where there are none of these things, and you shall either give no assistance at all by providing for this transportation where you can with perfect safety without additional expense, or you shall put that machinery at every other little port that you make a port of entry, because it would be unconstitutional to allow a cargo to go from New York to Louisville, where it can go with perfect convenience, unless you make all the little ports able to do the same thing.

We have not added—except Mobile which was left out by mistake and ought to have been added—a port on the seaboard to the list in the House bill. Mobile is a port to which many fruits and other things come, and which can be transported by railroad immediately. As to the ports of delivery, wherever there was a collector, wherever there was anybody who could take charge of the goods and collect the customs, I had no objection to allowing gentlemen to put on the names of such towns. The man who lives in Omaha, the man who lives in Saint Paul, the man who lives in Sacramento or in Louisville should have the right to buy his goods abroad and have them carried in bonded cars to his home. I do not care how many ports of delivery you put in the seventh section, but there ought to be none inserted unless there is a custom-house officer there. However, no great harm can follow, because if there is no railroad line to such a port that can be bonded, if there is no custom-house officer at the point mentioned, the goods cannot be sent there. No great harm can follow that, and if the number of ports named in the first section of the bill is not materially changed, the addition of ports in the seventh section will create but very little inconvenience.

I desire now to say a word in answer to the Senator from California, [Mr. FARLEY,] who said we were appointing new officers as guards all along these roads. We have followed precisely the language of the present law in that regard without adding to or changing the language of the Revised Statutes. Along all the bonded lines at proper places there are men to watch these goods now. We have merely repeated that language, no more no less, adding nothing as I said to him before, and the statutes bear me out.

Mr. KIRKWOOD. I wish the Senator from Kentucky to understand me distinctly. I am not opposed to the policy that this bill adopts and seeks to extend. I am and have been earnestly in favor of that for years. The inquiry suggested by me to the Senator some time ago was as to whether or not this scramble for amendments by inserting new places might not tend to defeat the whole project.

I have great confidence in the Senator's intimate acquaintance with this subject and with his judgment, and accepting what he says, that no difficulty will follow from the insertion of these interior ports, I take it that he is entirely correct, and shall at the proper time move to insert another point in my own State that I think should be accommodated in this way. I am earnestly in favor of the policy originated some years ago and that this bill seeks to extend. I agree with the Senator fully that there is no reason in the world, if the revenue can be collected properly, why the system should not be extended as this bill seeks to extend it.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from New Hampshire, [Mr. ROLLINS.]

The amendment was agreed to.

Mr. KIRKWOOD. I move to amend section 7 by inserting, after the last amendment that has been adopted, the words "Keokuk, in Iowa." My colleague, in the scramble going on, inadvertently omitted it.

The PRESIDENT *pro tempore*. The Chair would suggest that that be inserted after "Burlington," in the Iowa list.

Mr. KIRKWOOD. I move to insert "and Keokuk" after "Burlington."

The amendment was agreed to.

Mr. KIRKWOOD. I wish to ask the Senator from Kentucky, will not this require an amendment in the first section striking out "six" and inserting "seven?"

Mr. BECK. That will have to be done.

Mr. McDONALD. I have not been convinced by the very able argument of my friend from Kentucky that this bill is free from constitutional objections; but I wish to apply the logic of his argument to the seventh section. I therefore move to amend the seventh section as follows: Strike out all after the word "the," in line 2, and insert "all ports of delivery;" so as to extend the privilege of immediate transportation to all ports of delivery.

I understand there is no objection to the right of immediate transportation being extended to ports of delivery, because as I understand there are officers there who can take charge of these goods.

Mr. BAYARD. I submit to my friend from Indiana that there is no such descriptive phrase known to the law. There are ports of entry known to the commercial law of the United States which are declared by law and at which duties are paid; but there is no such term as "ports of delivery" under our customs laws. The phrase used in this statute is "port of destination," which is coupled with the port of entry; that is to say, you enter your goods at the port of New York and may deliver them at the port of Chicago, or you enter them at the port of New York and may deliver them at Burlington, Vermont. If you say "all ports of delivery," it means any place at which goods can be delivered. You must signify your ports of destination because at those ports of destination you resolve that your duties shall be paid. Of course if you intend to legislate sensibly you will provide that there shall be officials ready to ascertain those duties at the ports where they are to be paid. Otherwise you will have "confusion worse confounded."

Mr. COCKRELL. The statute expressly calls them "ports of delivery." Those are the exact words used in the statute.

Mr. DAVIS, of Illinois. Ports of delivery in certain collection districts. Section 2568 says:

> There shall be in the State of Louisiana two collection districts, as follows:
> * * * And the ports of delivery shall be as follows.

Quincy, Illinois, and Keokuk, Iowa, are in the collection district of New Orleans, and they are ports of delivery.

Mr. ALLISON. I think the Senator from Indiana will find that there will be great practical difficulty in enforcing his proposition; indeed I think there will be practical difficulty in enforcing the bill as it is now amended. Ports of delivery heretofore have been ports where goods could be delivered in bond; for example, Chicago being a port of entry the goods could be appraised at Chicago, the amount of duties ascertained carefully, and then the shipper or importer could give a bond that he would pay the amount of these duties at Dubuque, Iowa, and therefore the goods were sent to him in bond at this port of delivery, and he could pay the duties at the port of delivery without an appraisement, the appraisement having been made at the port of entry and the amount of duties clearly ascertained.

Now if this bill shall pass as it is amended, the result will be that at these ports of delivery the goods must be appraised, and there must be an appraiser appointed for each port of delivery. I doubt very much whether there are appraisers at many of the ports that have been inserted this morning in this bill. Of course appraisers can be appointed.

Mr. BAYARD. May I ask my honorable friend whether the term "port of delivery" under our laws signifies a port at which duties are to be paid?

Mr. ALLISON. It does; but the duties are paid there after an appraisal and an ascertainment of the amount of the duties at a port of entry, the goods being sent from a port of entry to a port of delivery in bond merely for the purpose of collecting the duties already ascertained.

Mr. McDONALD. If I understand the purpose of this bill it is to enable perishable goods that may be received at the ports of New York, Philadelphia, Boston, Baltimore, Portland and Bath in Maine, Chicago, Port Huron, Detroit, New Orleans, Norfolk, Charleston, Savannah, Galveston, Cleveland, Toledo, and San Francisco, to be at once sent forward under what is called the privilege of immediate transportation.

My friend from Kentucky has said that without some such privilege as this, perishable goods, tropical fruits, &c., may rot at the ports at which they are received, and therefore it is necessary to have a provision like this. That is a privilege he is particularly desirous of preserving for goods that it is desired shall go to their destination as speedily as possible. That is an important consideration undoubtedly. Goods that are received at one of these named ports of entry should not be kept there in warehouse or detained, but by the privilege of immediate transportation, as this bill terms it, they should be sent forward to certain ports in the interior, and the seventh section undertakes to enumerate a certain class of ports, that are understood to be of the class of ports of delivery, where these goods are finally destined to go and be from there put into the market.

The Senate has been engaged and various Senators have aided in selecting out in different localities such ports as they desire placed in the bill, and the mass of them belong to the second class embraced within these privileges. I have heard no argument on this question that would authorize this for any one of these interior ports that would deny it to any other port of delivery in the interior. If the importer has purchased his goods to be shipped to any other port than one herein named, I do not see why he should be compelled to change the destination to one of these named ports in order to get the benefit of this immediate delivery.

Mr. ALLISON. The Senator from Indiana will see that under existing law, if a merchant at Evansville, Indiana, for example, shall import his goods, those goods must be appraised at some port of entry and the amount due for duties clearly ascertained. Then the goods can be sent for delivery to the port of Evansville where the duties are paid. But now we change the whole system by providing that these goods landed in New York, for example, shall pass immediately through the city of New York without being opened, without being appraised, without being surveyed, or the invoices verified in any manner, and we extend that to all ports of delivery. Therefore it will be necessary to have an appraiser at each of these ports of delivery. Is it a wise thing to take all the little ports everywhere in the United States and establish appraisers there? The points inserted in the seventh section by the committee have been inserted on the theory that there will be a sufficient amount of importations at these ports of delivery to justify the appointment of appraisers.

Mr. McDONALD. Would it be wise to leave this subject to the favor or memory of the Senators here in making their amendments and suggestions? There ought to be some principle on which this is to be established. My friend may recollect the most favored ports of delivery in his State on the moment and have them embraced here. Some other Senator may not be so fortunate. Therefore this bill in its present form runs into simple favoritism.

Mr. BURNSIDE. This bill does not hasten the transportation of goods at all. Goods can be transported now just as hastily as if we pass this bill. The only difference made by the bill is that the owners or importers do not have to give security. The people at Evansville can hasten their goods along in bulk just as fast now as they can under this bill; but now before they leave the port of New York or Boston security has to be given. That is provided for by the merchants. The effect of this bill is to do away with the necessity of furnishing security at the port of delivery. That is the only thing this bill changes as I understand. It makes it a mere transportation under the direction of custom-house officers to the port of delivery without any security being given. That is the only change it makes in the law.

Mr. BECK. The Senator from Indiana is not showing his usual amiability to-day when he suggests that this seventh section is simply running into favoritism. The seventh section extends the existing law far beyond what section 2997 of the Revised Statutes provides, because under the existing law, unless this seventh section is passed, the goods can only go to the very few ports named in section 2997. We are extending that privilege far beyond the existing law; and if this bill is defeated there are a dozen ports of delivery provided for in this seventh section to which goods cannot go at all. Therefore while we may not go to the full extent the Senator from Indiana thinks we ought to go, we are extending this privilege far beyond the present system of favoritism and making it much less objectionable than it is now. That is clearly the effect.

The Senator will observe further that in the list of names furnished by the Treasury Department this was kept in view: There are bonded roads running from these ports of entry on the Atlantic and Pacific seaboards and the lakes to each of the places named. There may be ports of delivery to which there are no bonded roads running, so that there will be no chance to carry the goods from the ports of entry to those ports of delivery. If Senators have added others to which the goods cannot be carried, their amendments will have no effect. If

now the Senator from Indiana succeeds by his amendment in extending this to every port of delivery, it may mean the placing of officers there who are not there now and are not needed and perhaps never will be wanted.

I hope the Senator from Indiana will see that we are extending the privilege now given, instead of narrowing it, by the bill, and perhaps extending it, with the amendments already made in the Senate, quite as far as the Treasury Department will be able to carry it, and the striking out of all these names and inserting the words proposed may require the placing of a number of officers at places for which there is no sort of necessity for them.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Indiana, [Mr. MCDONALD.]

Mr. EATON. Mr. President, I hope my friend from Indiana will, on reflection, conclude not to press this amendment. I am not troubled myself about the constitutionality of this matter at all. I do not believe with my friend from Delaware on this subject. Because New York has a port and Nevada has none, we are not giving New York an advantage; it is one which New York has by nature itself. Let us do what is just and proper by all. If there be in Connecticut, if there be in Indiana, if there be in Maryland or in any other State, a proper location for a port of the United States, make it; if not, not. That is not a spirit of favoritism. If you say that all goods coming from the East Indies shall land at the port of New York, that would be favoritism; that would be against the constitutional provision that was read by my friend from Delaware. If you undertake to say that the merchants of Boston, of Wilmington, of Charleston shall be subject to the merchants of New York, and that ships shall not land their cargoes at the different ports of the different States, then I grant you it would be against the Constitution.

Mr. MORRILL. Let me remind the Senator from Connecticut that that is precisely what Great Britain does with her ports. She only permits articles of certain descriptions to be imported at particular ports. That is for the purpose of guarding the revenue, as it has been considered bad policy by Great Britain to multiply the number of ports at which importations shall be admitted.

Mr. EATON. Great Britain undoubtedly will be governed by her unwritten constitution, and we will try to be governed by our written instrument. I do not think that this is against the Constitution at all. I wish to move an amendment, and I may as well state it now. I propose to add "Hartford" in Connecticut to "New Haven and Middletown," and for this reason: there is the largest importing house in Hartford that there is in the United States, in one certain line; that is, chemicals and dye-stuffs. They have a monopoly of several articles of dye-stuffs that they import entirely themselves. They import through New York; they import through Boston; they import through Providence; they import through various of the ports of the United States, but they cannot sell from their own counter in the city of Hartford at all except they go to New York and are harnessed there sometimes for a month in order to get their goods into the city of Hartford. There is a port of delivery; there is a surveyor but no collector at Hartford. Hartford is in the collection district of Middletown, only thirty minutes from Middletown by rail, so that the collector of the port of Middletown would attend to all the necessary business of the collector while the surveyor and the inspector of the port of delivery of Hartford would attend to all his matters.

I certainly think my friend from Indiana is wrong in the amendment which he proposes. I think it will work great inconvenience to the business of the country.

Mr. PADDOCK. Mr. President, I desire simply to state that on an examination of the statutes I find that my statement of the description of the port of Omaha was incorrect. It is a port of delivery and a very important port, the most important of any of the towns west of the Mississippi River and between it and the Pacific Ocean, the most important of any outside Chicago and Saint Louis in that whole region of country. There are four bonded railroads for which it is the terminal point, and the distribution there is immense. I desired simply to make that statement.

Mr. MCDONALD. Mr. President, after hearing my friend from Connecticut, [Mr. EATON,] as he has confidence in the constitutionality of this measure, perhaps I have been a little too hasty on the subject, and I therefore withdraw my amendment.

The PRESIDENT *pro tempore*. The amendment is withdrawn.

Mr. DAVIS, of Illinois. In line 9 of section 7, on my motion, Quincy and Peoria, Illinois, were inserted. I wish unanimous consent that Peoria be omitted and that Alton and Cairo, in Illinois, be inserted. They are ports of delivery; Cairo has a custom-house and a custom-house officer.

The PRESIDENT *pro tempore*. The Senator from Illinois asks unanimous consent that the amendment inserting Peoria may be reconsidered and that that may be omitted. Is there objection? The Chair hears none.

Mr. DAVIS, of Illinois. Now, in place of Peoria I move to insert "Cairo and Alton," in Illinois, which are ports of delivery.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Illinois.

The amendment was agreed to.

Mr. MAXEY. In line 15 of section 7, after the word "Galveston," I move to insert "Houston." Section 2578 of the Revised Statutes shows that Houston is in the Galveston collection district and is a port of delivery. Section 2579 shows that it has a surveyor. It is a place of thirty thousand inhabitants. There are nine roads centering there. It now has direct trade by water with the city of New York. It is one of the leading ports of our State. I move that it be added.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Texas.

The amendment was agreed to.

Mr. WITHERS. In line 7 of the section under consideration, section 7, after the word "Richmond," I move to insert "Petersburgh and Lynchburgh."

Mr. ALLISON. Is Lynchburgh a port of delivery?

Mr. JONES, of Florida. Do I understand that all these ports designated in section 7 are already ports of delivery?

Mr. ALLISON. Thus far.

Mr. BECK. I have asked the question each time and have been assured that they are.

Mr. JONES, of Florida. I do not understand it to be the purpose of this bill to create any new ports of delivery.

Mr. BECK. It is not.

Mr. JONES, of Florida. But to superadd these privileges to ports of that description already in existence.

Mr. BECK. That is all.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Virginia.

Mr. EATON. I ask my friend from Virginia if there is an inspector of customs or a surveyor at Lynchburgh or Petersburgh?

Mr. WITHERS. I know there is at Petersburgh, and my impression is that Lynchburgh was made a port of delivery a year ago.

Mr. EATON. I have no objection if the machinery is there.

Mr. WITHERS. That is my impression, but I have not the Revised Statutes before me. Petersburgh has a custom-house, with a regular corps of custom-house officers.

Mr. ALLISON. Petersburgh is a port of delivery, but I think Lynchburgh is not.

Mr. WITHERS. I think it is.

Mr. ALLISON. I hope the Senator will omit Lynchburgh until he ascertains.

Mr. WITHERS. I have no objection to withdrawing that part of the amendment for the present.

The PRESIDENT *pro tempore*. The amendment will be modified by striking out Lynchburgh. The question is on the amendment as modified.

The amendment was agreed to.

Mr. EATON. I move to amend, in section 7, line 4, by striking out the word "and" between "New Haven" and "Middletown," and inserting "and Hartford;" so as to read, "New Haven, Middletown, and Hartford, in Connecticut." I have said all I care to say in regard to this amendment. The machinery is there, a surveyor and inspector, and Hartford is in the collection district of Middletown, only thirty minutes distant from the collector himself.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Connecticut.

The amendment was agreed to.

Mr. ANTHONY. I think I am the only Senator who has not offered an amendment to this bill. I move, in line 4 of section 7 as amended, after the word "Providence," to insert "and Newport." Newport is a port of entry and delivery.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Rhode Island.

The amendment was agreed to.

Mr. JONES, of Florida. I should like to know from the Senator from Kentucky whether or not any additional machinery is required to be added to a port of delivery at the present time to make effective the provisions of this bill.

Mr. BECK. We were assured that at the ports mentioned in section 7 as reported by the committee there would be no necessity for the employment of any additional force and that all the proper machinery was already there. I have put the question to each Senator when he has offered an amendment if the place he named was now a port of delivery, with those officers there, and they have generally thought that was the fact.

I desire only to say that when this bill passes, as I hope it will, I shall at once go to the Treasury Department with the bill as it passes the Senate and cause a careful examination to be made whether or not all the facts Senators believe are verified, and I hope before the bill is finally disposed of, if any place has been added unfortunately where it would cause additional machinery to be employed, we shall be able to strike it out with the consent of the Senator who offered it, the object being not to increase the number of ports of delivery, not to increase the machinery, but to furnish the facilities wherever the machinery now exists.

Mr. JONES, of Florida. I understand this bill to relate to foreign commerce entirely, and not to interstate commerce. There is possibly some little confusion here with respect to the extent to which this bill goes. It must be borne in mind that it relates exclusively to foreign commerce and it contemplates two descriptions of ports. It contemplates importations in the first instance from abroad to a port of entry, the machinery of which under the rules and regulations of the Treasury Department and the laws of the United States is adapted to a very complicated and important business wholly dis-

connected with the ports of delivery. There you have naval officers, there you have a system of appraisers, there you have all the machinery by which frauds against the revenue can be detected and the amount due to the Government can be accurately ascertained. These, I say, are the appendages of ports of entry, and those are specified in the first section of this bill.

Now, I do not understand it to be the purpose of this bill to carry its provisions beyond those ports where this machinery exists, or to superadd any additional expensive machinery not required for the collection of the public revenue. Then the ports of destination in the seventh section are what are called ports of delivery, where the machinery is not adapted to the appraisement of goods or to the collection of revenue, and in all cases arising under this bill it must be ascertained at the port of entry what the duties are, I understand, so that they may be collected at the ports of delivery mentioned in the seventh section.

Mr. ALLISON. No, if the Senator will allow me, I will say that under this bill it is not intended that the amount of duties shall be ascertained at the port of entry, but that they shall pass through that port of entry and under the immediate-transportation privilege go to the port of delivery for the ascertainment of the amount of duties.

Mr. JONES, of Florida. Where, I ask, is the appraisement to be made?

Mr. ALLISON. If this bill shall pass, it must be made at the port of delivery.

Mr. JONES, of Florida. According to the statement of the Senator from Iowa, who seems to be very well informed about this bill, the duties are to be collected at the port of delivery and ascertained there. Then, according to that argument, every port of delivery must have the machinery which is now attached to a port of entry to accomplish the same end. I do not understand that every port of delivery has a board of appraisers, naval officers, and all the machinery which belongs to a regular port of entry. Does the Senator from Kentucky so understand?

Mr. BECK. I do not. I understand that some of them have. The Senator will observe that there are places in the seventh section that are ports of entry as well as ports of delivery.

Mr. JONES, of Florida. I understand that.

Mr. BECK. For example, a merchant in Boston desires his goods brought from Liverpool. He gets freight cheaper by way of New York. Therefore he has the right to have the goods, although intended for Boston, a port of entry, brought by way of New York, and immediately transported to Boston, he paying the duties there, Boston being a port of entry.

Mr. JONES, of Florida. I understand that; but I find provision here to add little ports of entry that have nothing, I suppose, but mere collectors of customs. Some ports of delivery in the United States to-day have nothing but an inspector of customs and no facilities for anything but the clearance of vessels. They cannot collect a dollar on imported goods or do any extensive business whatever. There are some little ports of delivery where a collector is stationed for the purpose of watching the revenue and who merely clears a little vessel now and then. If a port of that description should be included in this bill, it would clearly be necessary to superadd to it the machinery necessary at a regular port of entry, or a port of entry and delivery, to collect duties, a collector, and an appraising board and all the machinery requisite to guard and protect the public revenue. If we are going into that extensive business it becomes a pretty serious matter.

There are certain ports of the United States which to name is to indicate their importance—New York, Boston, Mobile, New Orleans, and ports of that description, which the whole country understands to be ports of entry that have all the paraphernalia necessary to the collection of the revenue; but I could name some little ports in the interior on some of the little streams that run through the country where there is nothing but a watchman of the Treasury, and if you make that port a port of delivery within this bill where the duties are to be collected you must necessarily add to that port some additional machinery in order to make this effective.

Now, with respect to the ports of entry on the Atlantic and the Gulf that are designated here there is no trouble because they are ports of entry where there are surveyors, naval officers, and collectors, where duties are ordinarily collected. That is their chief business, to collect duties and to clear ships. But when you go beyond them, after you pass the outer circle and enter into the interior to deliver goods at the various points in the country, you must necessarily have there some, if not all, of the machinery which is to be found at regular ports of entry, which would increase greatly the expense; and if no advantage would come from it we ought to hesitate before adding this great expense.

I am in favor of facilitating commerce, and the general purpose of this bill I conceive to be very wise, especially the first section of it, which extends the privilege that has been enjoyed hitherto by a few great cities on the North Atlantic to some of the important commercial points in the South. For instance, the point at which I live, although not a very large place, still has a railroad system directly connected with the great West, and a system which runs through Alabama, Tennessee, Kentucky, all the way to the Ohio River, and it would be very reasonable and just to permit that port to stand upon an equal footing with the port even of New York or Philadelphia, because a shipper at Louisville might want to make a consignment of goods through that port from Liverpool, and to obtain his goods in bond the same as a citizen of the West can do through New York.

But that is not the chief point my mind has been directed to; it is the adding of all these little ports of delivery, where you are going to have revenue collected without having the machinery necessary to effect the purposes of the bill.

Mr. INGALLS. Mr. President, the Senator from Iowa [Mr. ALLISON] presented several very cogent and convincing reasons why there should not be immediate transportation of dutiable goods to any point except to great centers of distribution. After having done this he proceeded to move certain amendments to include points in his own State, admitting that he thought they ought not to be adopted, and he gave as his reasons that the Senator from Nebraska had succeeded in obtaining an amendment including the point of Omaha. I do not like to seem to be lacking in agility in these matters, and as the port of Leavenworth, Kansas, is named in the statutes as a port of delivery in the New Orleans collection district, I move, for the same reason, that it be included as an amendment to section 7.

The PRESIDENT *pro tempore*. The amendment of the Senator from Kansas will be reported. Where shall it come in?

Mr. ALLISON. It had better come in immediately after "Iowa," as the Senator from Kansas is following my example, and for the same reason.

Mr. INGALLS. Immediately after Iowa.

The CHIEF CLERK. After the amendment for Dubuque, Keokuk, and Burlington, Iowa, it is proposed to add "and Leavenworth, in Kansas."

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Kansas.

The amendment was agreed to.

Mr. MORRILL. Mr. President, I offer an amendment, to come in as a new section:

SECTION —. That it shall be lawful to appoint and employ such additional officers of customs and employés as may be actually necessary to carry this act into practical effect.

Mr. President, although I am rather lukewarm in support of this bill, I offer this amendment in perfect good faith, believing it to be absolutely necessary. In the first place we are going into a sort of peddling business all over the country, and to allow orders to be sent out for goods in any direction, for a box of cigars to Cuba, for a dozen of claret to Bordeaux, for a basket of champagne to Havre, for a silk dress or bonnet to Paris; and it is to be carried by express to any of the places that are here named.

It is indispensable, if you want to give any effect to the law, that the Treasury Department should be authorized to employ sufficient officers to carry it into operation. If Senators will examine the general statutes they will see that while the President may have power to appoint a collector, and the collector may have power to employ temporarily a surveyor, there is not, so far as I can ascertain, any authority by which an appraiser, an inspector, or a gauger or weigher can be employed. I therefore present this amendment; and if Senators mean after passing a law to have the power conferred to give it any effect they will vote in favor of it.

The PRESIDENT *pro tempore*. The morning hour has expired, and the Chair will lay before the Senate the regular order, which is the tariff-commission bill.

Mr. BECK. I ask that the unfinished business may be laid aside informally for a little while. I think we can pass the bill in ten or fifteen minutes.

Mr. EATON. If my friend from Kentucky thinks the bill can be passed in fifteen minutes, I certainly shall have no objection to letting the matter I have in hand be laid aside informally.

Mr. BECK. I desire to say to the Senator from Connecticut that he can stop it whenever he desires. I have nothing further to say about it.

The PRESIDENT *pro tempore*. The Senator from Kentucky asks unanimous consent that the pending order may be laid aside informally subject to call, in order that the Senate may proceed with the bill under consideration at the expiration of the morning hour. Is there objection? The Chair hears none, and it is so ordered. House bill No. 4911 continues before the body.

Mr. COCKRELL. In line 10 of section 7, after the word "Saint Louis," I move to insert "Kansas City and Saint Joseph." They are ports of delivery according to the Revised Statutes.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) The question is on the amendment of the Senator from Vermont, [Mr. MORRILL.]

Mr. BECK. I hope that will be voted down, and that we shall make no additional expenses.

The amendment was rejected.

The PRESIDING OFFICER. The Senator from Missouri [Mr. COCKRELL] moves in line 10 of section 7, after "Saint Louis," to insert "Kansas City and Saint Joseph."

The amendment was agreed to.

Mr. RANSOM. I beg leave to offer an amendment. In section 7, line 7, after the word "Virginia," I move to insert "Wilmington and New Berne, in North Carolina."

The amendment was agreed to.

Mr. GROOME. I wish to offer an amendment. In section 7, line 6,

after the word "Baltimore," I move to insert "Crisfield and Annapolis."

Mr. BECK. Is Crisfield a port of delivery?

Mr. GROOME. Crisfield is a port of entry with a collector. Annapolis is also a port of entry with a collector.

Mr. BECK. I know that Annapolis is.

The amendment was agreed to.

Mr. SAULSBURY. In section 7, line 6, I move to insert, after "Maryland," "Wilmington, in Delaware." There is all the machinery there that is requisite for the collection.

The amendment was agreed to.

Mr. BROWN. In section 7, line 8, after the word "Savannah," I move to insert "and Brunswick."

The amendment was agreed to.

Mr. BURNSIDE. I move to add at the end of section 7:

Provided, That if the Secretary of the Treasury deems it for the public interests he can withhold the privilege from any one of said ports, if in his opinion the amount of foreign trade at said port will not warrant the expense of the service.

Mr. BECK. I hope that will not be inserted. The Secretary of the Treasury will do that at any rate, beyond all doubt.

Mr. BURNSIDE. Without some such check on this bill it will die of its own weight; it will be an expensive thing which the Department never would adopt. The larger ports, where the trade is sufficient to adopt a system of this kind, would be deprived of the privilege which this bill would give to them.

As I said before, the bill was framed in the interest of merchants who did not care to give bonds from day to day for goods as they were imported. They can import goods with no greater speed under this bill than they can under the old law, but it avoids the necessity of a merchant in the city of Providence going to two or three of his neighbors to join in a bond before his goods can start from New York or Boston to the city of Providence. The goods can come to the city of Providence in precisely the same condition under this bill. They can come from New York or Boston in charge of the Treasury Department and the duties can be paid immediately in Providence without giving bond. They can come there under seal. As I understand it, the only effect of this bill is to do away with the necessity of giving those bonds. That is what the bill originated for. It was originated in the interest of merchants of that kind, the merchants of the city of Providence, the merchants of the city of Pensacola, or whatever are the ports of entry originally named in the bill; but by putting on all these different ports, in my opinion, the effect of the bill will be annulled and none of the ports named in the bill originally will be benefited by it.

Mr. JONES, of Florida. I suggest to the Senator from Rhode Island that the provisions of the bill in my judgment extend a great deal further than he thinks. I have no doubt that the bill, as to the original purpose of it, is what the Senator states it to be, but this bill will go a great deal further than that.

Mr. BURNSIDE. Do I understand the Senator to say that this bill goes a great deal further than that?

Mr. JONES, of Florida. The Senator spoke of it being a matter of convenience to local merchants.

Mr. BURNSIDE. I grant that the bill goes further than that. I am speaking of what the original intention of the bill was.

Mr. JONES, of Florida. A foreign exporter not connected with the country at all, sending his goods here on commission for sale, can avail himself of the provisions of this bill and send his goods to any point in the country.

Mr. BURNSIDE. That is why I say it would be well, if the Secretary of the Treasury deems it wise and for the best interest of the public service, to give him the authority to deprive any of these ports of that privilege, in other words to withhold the privilege. I think the amendment wise, and one that ought to be adopted.

Mr. McPHERSON. May I ask the Senator from Rhode Island a question?

Mr. BURNSIDE. Certainly.

Mr. McPHERSON. Who is to deliver the goods to the different points of delivery? Does it require an additional customs officer at each point of delivery to make delivery of these goods?

Mr. BURNSIDE. I have no doubt it will require a very large force to deliver the goods at all the ports named in this bill. As I understand it, the force will have to be very largely increased. In the first place, you cannot deliver these goods at any port where there is not an authorized customs officer to receive the money. He must be a collector or a deputy collector or some one authorized to receive public money. A great many ports have no deputy collector. Therefore you have to constitute somebody who will get fees of some kind or other, and these fees must come from the duties paid to the Government.

Mr. McPHERSON. I should judge from the bill as it appears at present, with the multiplication of ports of delivery, that there must be a large increase in the number of officers necessary to the proper workings of the bill.

Mr. BURNSIDE. In my opinion, there would have to be a very great increase.

Mr. McPHERSON. It seems to me the bill has already become very top-heavy, as though we were going to multiply the Government officers and agents to an extent that the necessities of the case would scarcely warrant.

I confess there are certain points of delivery, especially in the great West, where it is of great importance to people engaged in trade at those points to be able to make their importations directly from abroad, and especially of goods in bond, to wit, the cities of Cincinnati, Chicago, Saint Louis, and other great cities of the West. It would not only be a great convenience to them, but at the same time it would save a vast expenditure of money. It would enable them, of course, when they take their goods from bond to pay the duty upon them, and to leave them in bond until such time as they desire to dispose of them, and then pay the duties directly. But if this is to go on, and every place of importance all over the country is to be added to this bill, it seems to me as though we shall require several hundred more custom officers than we have at present.

I will give an additional reason. A few years ago, perhaps not more than two years ago, under the so-called general-order system adopted by the customs department in the city of New York by which imported goods destined direct for Chicago were forced to be taken from the vessel in the port of New York, carried to the warehouse and stored, upon which warehouse fees had to be paid, upon which insurance had to be paid, upon which cartage had to be paid from the vessel to the warehouse and from the warehouse back to the cars, the cost in the port of New York that had aggregated upon such a bill of goods was greater than the freight upon the goods from Liverpool to Jersey City and from Jersey City to Chicago.

I say it is important that some of the great distributing points in the West should have these advantages. For instance, take the merchants in the city of Chicago, or Cincinnati, or Saint Louis, or other cities that might be mentioned, perhaps also a city in the South that has become a great point of distribution to other and smaller places beyond. I say it is important and it has become to-day absolutely necessary that such cities should have these advantages. The capital of the country is moving West. We have men engaged in business in the Western States and cities of large capital who are themselves able to import and supply the demands not only of their own localities, but of points of distribution in the extreme West. I would gladly vote for any bill that would extend to them these facilities, but it is proposed to add to the bill an innumerable quantity of small points located all over the country that can just as readily and as easily go to these great points of distribution and receive all the benefits that can possibly flow to them the same as we in New Jersey go to the city of New York and there make our purchases.

The Senator from Delaware [Mr. SAULSBURY] proposes to offer an amendment to the bill which it seems to me would cover the point. What I wish to avoid as much as possible is an increase over what is absolutely necessary for the proper carrying out of the purpose of this bill in the form and shape of office-holders.

Mr. SAULSBURY. I move to amend the amendment of the Senator from Rhode Island [Mr. BURNSIDE] by striking out all after the word "provided" and inserting:

That the privileges of transportation herein conferred shall not extend to any place at which there are not now the necessary officers for the appraisement of merchandise and the collection of duties.

Mr. McMILLAN. I suggest to the Senator to say "places where there are not now provision for such officers." I move to amend the substitute of the Senator from Delaware.

Mr. McPHERSON. I should like to ask the Senator from Minnesota if there is a general provision of law which permits the Secretary of the Treasury to appoint as many officers as he pleases with respect to the collection of the revenue?

The PRESIDING OFFICER. The amendment of the Senator from Minnesota is not now in order. The pending question is upon the amendment of the Senator from Delaware [Mr. SAULSBURY] to the amendment of the Senator from Rhode Island, [Mr. BURNSIDE.]

Mr. McMILLAN. I submit to the Senator from Delaware whether he had not better modify his amendment so as to provide for places where the law now authorizes the appointment of these officers?

Mr. SAULSBURY. I do not suppose there is a point in the United States where the law authorizes the appointment of officers that they have not been already appointed.

Mr. McMILLAN. The Senator may be mistaken in that regard, and I think he is.

Mr. BURNSIDE. There are such points.

The PRESIDING OFFICER. The question is on the adoption of the amendment to the amendment.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question is on the amendment as amended.

Mr. McMILLAN. I wish to offer an amendment to the amendment as amended. I wish to modify the amendment so as to provide for places where the law now authorizes the appointment of such officers.

Mr. JONES, of Florida. What places are those, may I ask the Senator?

Mr. McMILLAN. I am not able to specify more than one. I know there is a place.

Mr. BECK. Will the Senator allow me to interrupt him?

Mr. McMILLAN. Yes, sir.

Mr. BECK. The object of this whole bill was not to increase the expense. The Secretary of the Treasury said it would not do it. The committee does not desire to do it in this form. If any other thing is needed anywhere else the Secretary would have full power to see

that it was done; but the object was to do just what the bill provides, to give facilities without increasing the expense. The Senator from Connecticut [Mr. EATON] is about to take us off the floor by calling for the regular order. I hope unless there is some serious reason for amending the bill the Senate will not do it.

Mr. McMILLAN. I withdraw the amendment I suggested.

Mr. McPHERSON. I wish to ask the Senator from Kentucky a question. Does not the bill authorize the Secretary of the Treasury to appoint an officer at the expense of a company?

Mr. BECK. Yes, at the expense of the railroad companies that do the transporting.

Mr. SAULSBURY. Not at the expense of the Government?

Mr. BECK. Not at the expense of the Government.

The PRESIDING OFFICER. The question is on the adoption of the amendment as amended.

The amendment, as amended, was agreed to.

Mr. CALL. In section 1, line 8, after the words "San Francisco," I move to add "Fernandina, Jacksonville, Key West, Cedar Keys, and Pensacola." I hope there will be no objection to that amendment. These are all ports of entry and ports of delivery, having a direct trade with the West Indies and with Europe.

Mr. BECK. I object to that. That is an amendment proposed to the first section.

Mr. CALL. If the Senator will hear me a moment I think he will not object. All these ports deal largely in lumber and deal more or less with the West Indies and with South America by direct trade. They import fruits, coffee, and all productions of the West Indies and of South America. They are far distant from New York. I ask why should they not be allowed the privilege of cultivating the interior trade by the shipment of their imports direct? They are small communities, but hold a large intercourse with foreign countries, exporting lumber and returning with these imports. I say there is no reason why in a commercial State, a State that has a large seaboard, that is in direct communication with foreign countries, the same facilities should not be granted as to New York, Charleston, Savannah, or other places. The trade of Pensacola is large, the trade of Fernandina is large, and the trade of Jacksonville is a large foreign trade.

For these reasons I ask the Senator from Kentucky who has the bill in charge to allow this amendment to be made. None of the objections that are urged to other places being inserted in this section apply to these ports. We are far off; we have a direct trade; and why should we not be allowed to transport directly to the interior? We have railroads. The Secretary of the Treasury has a discretion in requiring the security. The bill provides that from New York, from Philadelphia, from Portland, from Chicago, from Port Huron, from Detroit, from New Orleans, from Norfolk, from Cleveland, from Toledo, and from San Francisco goods in packages may be sent to any part of the country in the interior where there is a port of delivery and the proper officer. Why should not the same privilege be given to us, who have a large foreign trade and in articles that are perishable and that need particularly this provision? We have Fernandina, Jacksonville, Key West, Cedar Keys, and Pensacola. I will state that we have in the city of Jacksonville a considerable manufacture of cigars; in Key West we have a large manufacture of cigars, which pays a large duty to the Government, one of the largest in that section of the country. The manufacturers of tobacco in Jacksonville import their tobacco to a large extent from Cuba. It is frequently desirable that it should be entered at Key West, because there are frequent opportunities of intercourse with the island from which the tobacco is obtained.

Mr. EATON. I should like to say to my friend from Florida that this bill will not affect any cigars that are made. They are domestic articles entirely, and the bill has no reference to them.

Mr. CALL. My friend is a little too fast. It does affect the cigars made in Key West from tobacco imported from Cuba. It is important to the manufacturer in Jacksonville who imports his tobacco at Key West that he should be allowed to receive it direct, without delay. Jacksonville is a place of collection. So of Fernandina. Fernandina has a considerable trade growing up, a large, direct trade in lumber, in cotton, in turpentine, and in naval stores. Why should they not be allowed to cultivate a trade in the interior with these people?

Mr. BECK. This is an amendment different from all the others. This is an amendment which in the first section of the bill, among the great ports from which the merchandise is to start, in which all the machinery is, seeks to insert these little towns. Fernandina, the town about which so much has been said, only brings goods into the country to the value of $9,000, and 43 per cent. being the average rate of duty, $4,063 is every dollar of customs collected at Fernandina. In 1877 it was $2,000; in 1876 it was $1,914. Four thousand dollars is the largest amount of duties ever collected there. Why should that place be singled out? We have put in the port of Pensacola in Florida; we have inserted Norfolk, Virginia, and one or two other points. The city of Jacksonville is not down at all as a port of entry on the list of ports of entry that I have here.

Mr. CALL. It is.

Mr. BECK. I beg pardon; it is not in this book furnished by the Secretary of the Treasury.

Mr. CALL. I undertake to say that it is a port of entry, having a collector by the name of General Hopkins, and it has got all the machinery. I undertake furthermore to say that it has a considerable exportation of lumber, and with the facilities furnished by this bill it would have a large importation from foreign countries in return.

Mr. BECK. At one of these places the amount of duties is $4,000; the other is not known in the Secretary's official report. Jacksonville is not in the book. That is all I know.

Mr. CALL. Then the book is wrong; that is all.

Mr. BECK. At Key West it is less than a quarter of a million dollars.

Mr. JONES, of Florida. There is no doubt about Jacksonville being a port of entry.

Mr. BECK. I did not say that it was not, but it is of such insignificance that it is unknown in the book furnished us officially by the Treasury Department. It may be like Annapolis, which does not pay a dollar, an amendment for which was put into the bill a little while ago. Now, the other two—I forget the names——

Mr. CALL. Cedar Keys.

Mr. BECK. I find that not a dollar comes in from Cedar Keys, or else the book from the Treasury Department is wrong. I do hope and trust that the bill will not be destroyed.

Mr. CALL. I ask the Senator from Kentucky how much they export from those places? That is the test. Does the Senator desire, by reason of prohibiting to us the facilities that belong to these other places, that we shall never bring back anything for our lumber and our productions that we send abroad? What harm can it do? Does it hurt the Government any? We have got the collectors, we have got the surveyors, we have got all the officers, and what harm can it do to allow us the privilege of trying to get a foreign trade in return for our exportations which we send direct?

Mr. BECK. I will not argue it. If the Senate sees fit to put in the amendment and defeat the bill, very well.

The PRESIDING OFFICER put the question on the amendment, and declared that the noes appeared to prevail.

Mr. CALL. I ask for a division.

Mr. EATON. It is evident that there is not a quorum here, and if a division is called for I think I shall have to ask for the regular order, so that the Senate will not have to adjourn.

Mr. CALL. I withdraw the call.

The PRESIDING OFFICER. The call is withdrawn, and the amendment is rejected.

Mr. SAULSBURY. I hope the Senator from Connecticut will allow me to modify an amendment which was adopted awhile ago. I desire to modify the amendment which I offered, and which was adopted by striking out the word "now." I hope that can be done by general consent.

The PRESIDING OFFICER. Is there unanimous consent that the amendment of the Senator from Delaware, adopted some time since, be modified as he suggests? The Chair hears no objection, and the modification is made. Did the Chair understand the Senator from Connecticut to demand the regular order?

Mr. BECK. No; he does not yet.

Mr. EATON. The Senator from California [Mr. FARLEY] is appealing to me not to do so.

Mr. CALL. I wish to move an amendment, to which I suppose the Senator from Kentucky will not object. I move at the end of section 7 to add:

Tampa Bay, Fernandina, Jacksonville, Cedar Keys, Key West, and Appalachicola, in Florida.

The amendment was agreed to.

Mr. FARLEY. I move to amend the bill in section 7, line 13, by inserting after "San Francisco" the words "San Diego and Wilmington." Both of those are ports of entry and delivery. San Diego is a harbor and a port at which a custom-house has been established for a number of years. Wilmington is a harbor that is used now as a port of delivery. There is the machinery for the collection of customs and inspection at both places. I have a bill before the Senate, which I hope will become a law, making Wilmington a port of entry. It is the depot for that region of the State, being four hundred miles from San Francisco, at which large quantities of goods are delivered to be transported to Arizona and in that region of country along the line of the Southern Pacific Road. I hope there will be no objection to this amendment, because the necessary machinery, the officers who are to carry out the provisions of this bill, are at each one of these points, San Diego and Wilmington.

The PRESIDING OFFICER. The question is on the amendment of the Senator from California, [Mr. FARLEY.]

The amendment was agreed to.

Mr. FARLEY. In section 5, line 32, after the word "by," I move to insert "the car inspectors of the railroad company, approved by the." I will state the reason why I offer that amendment. The bill now reads, beginning in line 26:

Such merchandise shall not be unladen or transshipped between the ports of first arrival and final destination, unless authorized by the regulations of the Secretary of the Treasury in cases which may arise from a difference in the gauge of railroads, or from accidents, or from legal intervention, or when by reason of the length of the route the cars, after due inspection by customs officers.

I propose to make it read "after due inspection by the car inspectors of the railroad company, approved by the customs officers." That would save not only the expense of the customs officers, the employment of inspectors, but if the inspection is had by the inspector of the railroad company, then that inspection shall be approved

under this bill by the customs officer before the merchandise is unloaded. As it is under the bill the customs officer would have the right to employ an inspector, which would be charged against the company owning the road, and that much additional expense would be attached, whereas by this amendment it would be saved. The inspection of the car inspector of the railroad company is to be approved by the customs officer. It strikes me that that is a just amendment and one that ought to be adopted.

Mr. BECK. My attention was called to that some days ago, and when I first looked at it it struck me as being a proper amendment; but after submitting it to gentlemen at the other end of the Capitol, and to a gentleman who had charge of this bill, Mr. Aldrich, from the Treasury Department, their objections were pronounced against it, and I am satisfied that it now ought not to be adopted. The Secretary in a letter which I read some time ago used this language:

Referring to the cases in which transshipment *en route* is allowed by section 4 of the bill, it is recommended that authority be given to transfer the contents of cars, when necessary, under proper supervision of customs officers, in cases where by reason of the length of the route, as in shipments between Atlantic and Pacific ports, after due inspection by customs officers, the cars are considered unsafe or unsuitable to proceed further.

The objection of the Treasury Department as I understand it, and the Senator from California saw Mr. Aldrich as well, was that if the inspectors of railroad companies were allowed to take any part in this matter or to have any charge over it the control over the goods would be lost by their own customs officers, and they were unwilling that anything should be done except where it was done by the officers of the Government, and when the goods were *en route* any interference by the inspectors of the railroad would be detrimental to the safety of the Government and to the security of seeing that the goods went from point to point. That is the substance of their objection. They were unwilling that their own customs officers should be kept clear of responsibility by transferring that duty to any employés of the railroad company, and they protested against it so earnestly that I shall have to ask the Senate to disagree to the amendment.

Mr. FARLEY. I wish to say in reply to the point made by the Senator from Kentucky that the same objections were made by the gentleman he refers to and some of the custom-house officers to myself, but the objections seem to me to fail for the reason that the inspection that may be had by the car inspector must still undergo the supervision of the customs officer. I ask what customs officers know about the condition of cars for a long route when goods are transported eight hundred or one thousand miles? They have got to employ some expert, some person who understands something about the condition of a railroad-car, in the case of the transportation of these goods. The customs officers I have no doubt desire to retain this power. They do retain by my amendment the power of approval after the inspection has been made by the inspector of the cars of the company.

I see no reason why the amendment should not be adopted. I admit that the customs officers as a rule are jealous of their power, and they have in this case additional powers given to them that I think ought to be curtailed. I should like to know the difference when after an inspector of the cars has made the inspection it then has to undergo the supervision of the customs officers themselves before the goods can be unloaded or before they can be transported.

I will say that this is a saving of expense, and it is right that it should be done. I therefore hope the amendment will be adopted notwithstanding the objection made by the customs officers.

The PRESIDING OFFICER. The question is on the amendment of the Senator from California, [Mr. FARLEY.]

The amendment was rejected.

Mr. BECK. There are two other amendments of the committee to be acted on.

The PRESIDING OFFICER. The amendments will be reported.

The CHIEF CLERK. In section 10, line 4, after the word "notified," the Committee on Finance report to insert "in writing;" so as to read:

That whenever the proper officer of the customs shall be duly notified in writing of the existence of a lien for freight upon imported goods, &c.

The amendment was agreed to.

The CHIEF CLERK. In section 10, line 10, after the word "lien," the committee report to insert "under such regulations as the Secretary of the Treasury may prescribe;" so as to read:

And the possession by the officers of customs shall not affect the discharge of such lien under such regulations as the Secretary of the Treasury may prescribe.

The amendment was agreed to.

Mr. KIRKWOOD. Let me ask the Senator from Kentucky if he has amended the word "sixth," before "section," in line 11 of section 1?

Mr. BECK. The word "sixth" ought to be stricken out and the word "seventh" inserted, in consequence of the change of sections. I thank the Senator from Iowa for the suggestion. I move that amendment.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read: "A bill to amend the statutes in relation to immediate transportation of dutiable goods, and for other purposes."

FINAL ADJOURNMENT.

The following concurrent resolution of the House of Representatives was laid before the Senate, read, and referred to the Committee on Appropriations:

Resolved by the House of Representatives, (the Senate concurring,) That the President of the Senate and the Speaker of the House of Representatives declare their respective Houses adjourned *sine die* at twelve o'clock m., Thursday, the 10th of June instant.

HOUSE BILLS REFERRED.

The bill (H. R. No. 4714) amending an act approved June 23, 1874, extending the jurisdiction of the Light-House Board, was read twice by its title, and referred to the Committee on Commerce.

The joint resolution (H. R. No. 315) amending and re-enacting joint resolution, approved June 14, 1879, directing a monument to mark the birthplace of George Washington, was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had, on the 1st instant, approved and signed the following acts and joint resolutions:

An act (S. No. 56) for the relief of Edward Braden and J. W. Angus;

An act (S. No. 1484) for the relief of Ernst Hein;

An act (S. No. 1702) for the erection of a bronze statue of Joseph Henry, late Secretary of the Smithsonian Institution;

A joint resolution (S. R. No. 15) authorizing the settlement of the accounts of Thomas Worthington, late colonel Forty-sixth Regiment, Ohio Volunteer Infantry;

A joint resolution (S. R. No. 100) to print extra copies of the report of the Commissioner of Fish and Fisheries for the year 1879; and

A joint resolution (S. R. No. 114) authorizing the Secretary of War to loan certain tents, flags, and camp equipage for the use of the soldiers' reunion at Muscatine, in the State of Iowa, in September or October, 1880.

COMMITTEE SERVICE.

Mr. WITHERS. I move that the vacancy upon the Committee on Pensions of the Senate caused by the resignation of the Senator from California [Mr. FARLEY] be filled by the appointment of the Senator from Georgia, [Mr. BROWN.]

The motion was agreed to.

CONDEMNED CANNON FOR MARION ARTILLERY.

Mr. HAMPTON. I ask the indulgence of the Senator from Connecticut, [Mr. EATON,] who has been so good-natured, to allow me two or three minutes to call up the bill (H. R. No. 5041) to authorize the Secretary of War to turn over to the governor of South Carolina four pieces of condemned cannon for the use of the Marion Artillery.

Mr. EATON. Very well.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

NEGRO EXODUS.

Mr. VOORHEES. I desire to announce, in order to avoid any conflict with the Appropriations Committee or anything of the kind, that at the end of the morning hour to-morrow I shall ask the Senate to allow me to address it upon the subject of the exodus investigation and the report which has been made within the last few days. I give that notice now so that it may not conflict with other business.

Mr. MORRILL. I notice that the Senator from Minnesota [Mr. WINDOM] is not present. I suppose that if leave is given for the Senator from Indiana to occupy the floor, an equal amount of time will be given to the Senator from Minnesota.

Mr. VOORHEES. The Senator from Minnesota has been fully apprised of my purpose upon this subject.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. MAXEY, Mr. EATON, Mr. KERNAN, Mr. VOORHEES, Mr. MORGAN, Mr. JONES of Florida, Mr. GROOME, Mr. SLATER, Mr. BUTLER, Mr. McPHERSON, Mr. CAMERON of Wisconsin, (by request,) and Mr. CALL submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 6266) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes; which were referred to the Committee on Appropriations, and ordered to be printed.

Mr. BUTLER submitted an amendment intended to be proposed by him to the bill (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and for prior years, and for those certified as due by the accounting officers of the Treasury in accordance with section 4 of the act of June 14, 1878, heretofore paid from permanent appropriations, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

REPORTS OF COMMITTEES.

Mr. McPHERSON. I am instructed by the Committee on Naval

Affairs, to whom was referred the bill (H. R. No. 2788) to authorize the President to appoint an officer of the Navy or the Marine Corps to perform the duties of solicitor and judge-advocate, &c., and to fix the rank and pay of such officer, to report it, with an amendment, as a substitute for the bill (S. No. 1033) to authorize the President to detail an officer of the Navy or the Marine Corps to perform the duties of solicitor and judge-advocate-general, &c., and to fix the rank and pay of such officer. With the consent of the Senate, I ask for the indefinite postponement of Senate bill No. 1033 and the substitution of this House bill.

The PRESIDING OFFICER. Is there objection to the request made by the Senator from New Jersey? The Chair hears none, and that order will be made. Senate bill No. 1033 is indefinitely postponed, and House bill No. 2788 will be placed on the Calendar.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the bill (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and for prior years, and for those certified as due by the accounting officers of the Treasury in accordance with section 4 of the act of June 14, 1878, heretofore paid from permanent appropriations, and for other purposes; in which it requested the concurrence of the Senate.

TARIFF COMMISSION.

Mr. EATON. I now call for the regular order.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 900) to provide for the appointment of a commission to investigate the question of the tariff.

Mr. KERNAN. Mr. President, I am in favor of the appointment of a commission to investigate the question of the tariff and report to Congress. Our present tariff laws were enacted at a time when the Government required large revenue and required it at once. They were enacted at a time when the money and currency of the country and the business of the country were in an exceptional condition. In my judgment the tariff laws require revision and change for the best interests of the entire country. More than one-half of the large revenue now collected by the Government by taxation arises from duties imposed upon goods imported into the country. Of the more than a million a day which we see reported as received into the Treasury nearly two-thirds recently has been from customs duties. They are a heavy burden upon the country, and the laws should be so revised and adjusted, in my opinion, that that burden shall be as light as is proper, answering the demands of the Government for revenue, and they should bear with justice and equitable fairness upon all interests and all classes of the country. I believe that now these laws are needlessly expensive in their execution. I believe that their effect is to favor some classes and industries without benefit to the revenue, at the expense of other classes and interests. I believe that, with the requisite information on which to base the action of Congress, they can be advantageously changed and revised.

I recognize the fact that to establish a system of imposts which shall approximate to fairness and justice toward all classes and all industries and give the requisite revenue requires great familiarity with economic laws and with the practical business workings of the country. I do not think that Congress should act upon the subject without the aid of men who have made this subject a study, men who have made political economy and the subject of taxation by imposts a study, based as their information is upon the careful gathering together and examining of statistics. I do not think we can wisely act upon the subject without the benefits of this information, these figures, and the views of men who have made this subject a study, as well as of practical men engaged in the business industries of the country. I wish to express my opinion very strongly that it is wise to have this commission appointed, and that it should be appointed now, or at least there should be provision made by law for appointing it now.

It would not be profitable to say a word about the details of the tariff now in speaking in favor of this commission. The only question is whether it shall be as proposed by the bill introduced by the Senator from Connecticut, or in some other manner. The other mode of appointing it, which is before the Senate, is that proposed by the substitute of the Senator from Arkansas, [Mr. GARLAND.] I wish to say in a very brief space of time that I concurred with the majority of the Committee on Finance in reporting back favorably the bill introduced by the distinguished Senator from Connecticut rather than the bill introduced by the Senator from Arkansas, which was also before the committee, and I can suggest very briefly the reasons that influenced me then and will influence me now in voting for the bill introduced by the Senator from Connecticut and reported with some slight amendments by the committee.

The bill reported provides for the appointment by the President of the United States, by and with the advice and consent of the Senate, of nine commissioners from private life—from civil life as the bill says—who are to make this investigation and report from time to time to Congress, making their final report not later than December, 1881. The other bill introduced and referred to the Committee on Finance provides that there shall be a commission of three Senators to be appointed by the Senate, three members of the House of Representatives to be appointed by the Speaker of the House, and three others not members of either House to be selected by and associated with them. I have great respect and full appreciation of the ability that there is in the House and in the Senate, but in my judgment we shall have the information better, more fully, more thoroughly collected and matured by a commission of persons selected from civil life rather than by members of the two Houses, with three selected from civil life.

First, we all know that members sitting here many months each year will not have the time to devote exclusively to this subject which is requisite to get the information in order that there may be timely action by Congress upon the question. Secondly, I prefer to get the facts, the figures, the views of men not in Congress from this commission, that we may have them before us and examine them before we get to debating or examining the subject. I think it is better that these facts, figures, and information should come from men not on the floor of either House, because if any of us on the floor of either House be upon the commission we shall be disposed naturally to seek to carry out the preconceived views we have on the various phases and sides of this question; but a commission of experts who are not here will represent all views of the tariff, the free-traders, the protectionists, and men who think it should be only for revenue without protection. I presume we shall have on this commission appointed by the President and the Senate men who will represent fairly the intelligence and the experience of experts on all these subjects, and when their report comes to the two Houses we shall all start to examine and make up our minds on the subject without being committed by having been on the commission and engaged in the struggle there.

Human nature is human nature everywhere. Suppose we appoint men from the two Houses representing different views. They will struggle on the commission. They are intelligent men, but each will be seeking rather to carry out the preconceived views that he has on the subject; whereas if we take these experts, these political economists, these business men, representatives of all these interests, from private life, and let them examine, argue, call out the facts making for the one theory or the other, they will doubtless be committed in favor of the one view or the other; but the two Houses will have their facts, their figures, their arguments, their recommendations, to commence the argument with, and I think, therefore, it will be more useful.

The information they will give us, the views they will send us, the recommendations they may make, the facts and figures they will lay before us derived from experience of our own and other countries, will aid us and will assist us in making up our opinions at the outset by examination, and we shall not get a little of the partisan on the one side or the other before we come into an examination of the question for ourselves in the two Houses.

For that reason I think it better to have these representatives of the various views on the tariff question selected from civil life, and let them send their majority and their minority or their individual views to us, giving us the facts and the figures and the information which they gather upon which they base their recommendations.

I think that the practice and experience of the British Parliament on great questions of this kind is strongly in support of the bill reported by the committee, and which was introduced by the Senator from Connecticut. You will have observed that usually when there is to be a question of currency, of money, of trade, of tariff laws to be acted on in Parliament they appoint a commission, as they did when they had the famous bullion report, and men of intelligence are charged with this duty to investigate and give their recommendations, and give the facts, figures, and experience on which they base them.

I submit, therefore, that the result of my reflection and examination is (my examination has been very slight, but my reflection considerable) that it is best for Congress in reference to a wise system of tariff laws, it is best for the country, that we shall not send members of these bodies to be the champions outside of the two Houses of one theory or the other, but have a commission selected from private life, men of skill, men of large information from study and examination and from controverting each other on this subject, upon such a commission. I think we shall have a valuable body of facts and figures and suggestions from them to enable us, not to make a temporary tariff, but to revise our tariff with such care and guided by the facts and experience so that it will be a system that will not be temporary, but which we can build on in the future by our own experience, and thus we shall have a tariff, in my judgment, that will be free from the serious objections which there are to the tariff now in force in this country.

I hope the Senate will pass the bill reported by the committee. We have in this country a large number of political economists, a large number of men of practical knowledge on the subject of trade and the effect of customs duties; and we shall be able to do what I think this country requires—have a tariff system from their information which will bear fairly upon all classes and all industries and will not favor some at the expense of others; and we shall be enabled to put upon the free list a very large amount of imports which our prosperity in manufactures requires should come in free. We shall be able thus to have a system that we can build upon, changing where experience shows it does not work well, and not have a crude system that will take such great time to revise as the present system will if attempted without information, without the aid of that knowledge which experience can give us.

I suggest, therefore, that in every view it is better for Congress to have this commission appointed from civil life. Let us get the information and then sit down together and agree, in the light of all that they collect and what we may possess by our own knowledge, on a system of import duties, which I think will be greatly beneficial to the industries and a great relief to a large body of the people of this country.

Mr. COKE. Mr. President, it is not my intention to make a speech upon the tariff question, but simply and very briefly to give the reasons for the vote that I shall give upon the measure now before the Senate. I shall vote against the bill known as the Eaton bill and in favor of the substitute proposed by the Senator from Arkansas, [Mr. GARLAND.] I would vote against any measure looking to a tariff commission at all if it were not that we are now at the conclusion of the session of Congress. If these bills had been before the Senate at the beginning of the session I should have opposed the passage of either of them. I prefer the bill of the honorable Senator from Arkansas for one reason above all others, that it proposes that the commission shall report to the next session of Congress, and I particularly oppose the Eaton bill because the commission provided for under it is not to report until December, 1881, jumping over the next session of Congress.

This question is one which I think demands immediate action. There is a sufficient number of enormities in the existing tariff to call for action at once without information, without light from anybody. We all know that there are many items in the existing tariff laws upon which duties have been placed that should be removed, because prohibitory and destructive of revenue, which tax the people heavily, put nothing in the public Treasury, but enrich enormously a few manufacturers. We want no information from any source as to the propriety of putting an end to this spoliation of the great body of the people for the benefit of a privileged class. I believe that if the commission is created as contemplated by the Eaton bill there will be no action at the next session of Congress upon such items as I speak of. There will be no action at all on the subject until this commission reports, and we will pass over the next session of Congress, as we have passed by this, without giving any such relief as is demanded by the interests of the country.

We find upon the files of the Senate a great number of petitions; I have not counted them, but there is a very great number, praying for the passage of the Eaton bill. Four-fifths of these petitions are sent by firms and parties engaged in the manufacture of iron and steel in the various shapes in which these metals are manufactured. The remainder are gotten up by persons and firms engaged in the manufacture of wool. There may be a few engaged in the manufacture of cotton, but manufacturers of iron and steel and the manufacturers of wool have inundated the files of the Senate with petitions praying for the passage of the Eaton bill.

Mr. EATON. If my friend will permit me, as he said there might be some petitions with regard to cotton, let me say that there is one petition here representing men who consume fifteen hundred thousand bales of cotton, operating ten million spindles with $300,000,000 capital, employing one hundred thousand hands and giving food to five hundred thousand souls, and that on the one item of cotton.

Mr. COKE. I stand corrected. I knew that some of these petitions were from cotton manufacturers; I did not know how many. When I turn to the tariff I find one hundred and sixty-two items upon which there is a duty of more than 50 per cent., the duty running sometimes as high as 200 per cent. I find the various products made of iron and steel, I find the products made of wool, included in this list of one hundred and sixty-two articles. Then this case is presented: Here is a bill known as the Eaton bill proposing a revision of the tariff; it is advocated by a combination of manufacturers who are the most heavily protected of all the classes who are protected at all under the tariff. I find these heavily-protected manufacturers evidently by concert between themselves combined to produce an impression upon the Senate in order to effect the passage of the Eaton bill.

It is not the part which human nature generally performs to do that which shall militate against its own interests; and certainly you never find combinations of men engaged in making money pursuing an object which they believe will reduce their profits. The entire iron interest, the entire wool interest, the most highly protected interests under this abominable tariff, come here *en masse* and demand of Congress the passage of the bill introduced by the Senator from Connecticut. I have this to say about it: the existence of this combination does not create in my mind a very strong presumption in favor of that bill. I do not believe that these manufacturers would besiege the Halls of Congress for the passage of this bill if they believed that they could not control the commission which it proposes to create. I believe they expect to do that, and that they know they can do it.

The Eaton bill leaves to the President of the United States the appointment of the commissioners by and with the advice and consent of the Senate. Who is responsible for the existing tariff, a species of class legislation which enriches a few at the expense of the great body of the people? Who is responsible for it? The republican party. Who is the chief, the official head of the republican party? The President of the United States. He is to be given the appointment of commissioners to revise and modify a tariff imposed upon the people of the country by his own party, and here we are surrounded by the chief beneficiaries of this most odious class legislation vociferously demanding that this power be granted to the President. What do they expect? They expect him to uphold the policy and action of his party evidently. They expect beneficial results to themselves. As I remarked before, they expect to control the commission, and will do it. Instead of tariff reform, we can expect from such a body of men nothing else than a report whitewashing the present tariff.

It is said that the democratic Senate must advise and consent to these nominations. It is very well understood here that any set of commissioners the President will nominate will be confirmed; nobody doubts that. The reasons for it are not necessary to be stated, but could be given if it were necessary. The President's nominees will be confirmed. What will be the state of the case then, suppose the Eaton bill passes? We will have nine commissioners appointed by the President in harmony with the views of the party which created this tariff, who are to sit and to collect testimony throughout the country and present their views together with this testimony in 1881 to Congress for action.

Sir, this is a contest between the people on one side and the monopolies on the other; between equal rights on one side and privilege on the other; and in this contest if you allow the defendants, the monopolists, the privileged classes, to prepare the testimony, to take the depositions and to get up the case, it will not be their fault if they should lose it when the trial comes on. The plaintiff who would bring a suit and allow the defendant to dictate what testimony should be introduced, what points should be made, who would allow the defendant to prepare the points, prepare the case, prepare the testimony and submit it, would be regarded among lawyers in ordinary litigation between individuals as a very foolish person, one who would be very certain to lose his case before the court and jury. Yet this is the very thing which in this great contest between the people and manufacturing privilege it is proposed by the Eaton bill shall be done. It is proposed to place in the hands of the President a power which the manufacturers of the country demand shall be placed there by their petitions on file. I am opposed to that, sir.

The people who are taxed demand relief. Out of more than $1,000,000,000 paid annually by the people under the tariff laws, only about $150,000,000 go into the National Treasury; the remainder goes into the pockets of the parties to whom it is proposed by the Eaton bill to hand over the subject of reducing their own profits—the manufacturers. I protest, sir, against this surrender; the lamb can as safely be committed to the care of the wolf. Sir, it is unheard of, that a measure of great and vital importance like this should be committed to its enemies to be perfected and consummated. The republican party created the existing tariff, and the democracy have always denounced it, as it has every other than a strictly revenue tariff; yet the Eaton bill surrenders to the republican party and the manufacturers the care of a measure said to be intended to destroy the great evil. Will the parent turn upon its own progeny?

The question of the tariff has been discussed from the foundation of this Government until now. No question has been discussed more universally and more widely than that has been. We do not need experts to tell us about the operation of tariff laws. When the aggregate representation of the country in the two Houses get together they bring practical as well as theoretical knowledge upon the whole subject with them. They are the only experts in harmony with the people who demand the reformation of the tariff. As was remarked by the Senator from Kentucky, [Mr. BECK,] there are learned men known as experts, the business of whose lives has been to maintain and uphold tariffs and privilege and class legislation, and these are the men in whose keeping it is proposed to place this subject by the Eaton bill. I prefer the substitute of the Senator from Arkansas. That proposes to leave the subject in the Halls of Congress, among the experts sent here by the people, and not to place it, as the Eaton bill would do, in the hands of men outside of Congress, to make up a case in the interest of the manufacturers and the tariff. The bill offered by the Senator from Arkansas proposes to retain the subject in Congress among the representatives of the people, adding three outsiders representing three great interests. The very gentlemen whom the Eaton bill would empower to examine this question and report upon it can be called as witnesses before the representatives of the people composing the commission under the Garland bill. We do not lose the benefit of their services simply because they are not permitted to prepare the testimony and make up the case. They can be called as witnesses, and if they are experts they can tell all they know as witnesses to the congressional commission. Sir, the sworn and trusted representatives of the people should never surrender to any body of men the high duty devolved upon them of acting upon this great question.

Mr. MCPHERSON. May I ask the Senator from Texas a question?

Mr. COKE. Certainly.

Mr. MCPHERSON. What is the reason why there has not been a revision of the tariff at an earlier day than this? If it is so exceedingly necessary, as the Senator from Texas has urged, why has there not been a revision of the tariff by Congress?

Mr. COKE. I am not able to tell you. That is a very hard question.

Mr. MCPHERSON. The simple fact that there has been no revision of the tariff by Congress is to me sufficient evidence that Congress could scarcely form a committee of Congress that could agree upon and present a proper revision of the tariff for the action of Congress.

Mr. COKE. If that be true, we will never have a revision of the tariff, because Congress is the only legislative power that has jurisdiction over the question.

Mr. McPHERSON. I do not wish to interrupt the Senator, but he is quite right; Congress is the only power that can revise and amend the tariff. However, the Senator will not dispute the fact that this Congress and every preceding Congress, as every Congress which will succeed this one, has been governed and controlled largely by local influences, by local wants, and by local interests, and if Congress should undertake to form a committee of the Senate and of the House of Representatives they would be controlled by the same interests and by the same influences necessarily.

Mr. COKE. There is an unfortunate termination to the argument of the Senator from New Jersey. How a commission, unless it is taken all on one side or the other, is going to harmonize these differences between members of Congress I guess it would puzzle the Senator from New Jersey to tell. How would such a commission harmonize differences? If they are all selected on the tariff side, they would make the high protective tariff men stronger; if they are selected on the other side, they would make the free-trade party stronger; if they are equally divided, they would simply intensify the division that now exists.

I say here that I have noticed these commissions and I have never seen but one commission yet, and that was the silver commission, which resulted in any practical benefit. I remember a few years ago a well-matured bill was brought here from the other House, providing for the transfer of the Indian Bureau to the War Department. That was made the subject of examination by a commission. Who has ever heard of that commission since? What has been the effect of it; what the result of it? The whole country has been demanding that transfer, yet when the House had prepared and perfected a bill and sent it here and it was about to pass the Senate a flank movement was made upon it by the appointment of a commission, and that was the end of it. When I see a commission about to be organized on the tariff, to report in 1881, so arranged as to prevent action on the question at the next session of Congress, as this is, I am suspicious of it, especially am I suspicious when I see all the advocates of a high tariff urging it, and all the most highly protected manufacturers besieging the Halls of Congress and demanding its passage.

If I were going to answer the honorable Senator from New Jersey and give him a reason why the tariff has not been modified, why it has not been revised and cut down, and be perfectly frank, as I will be whenever I answer a question, I would say that the committees of the Senate and House have been organized in the interest of these privileged classes, and that every effort the people of this country who produce have made through their representatives to undo this tariff iniquity has been frustrated and throttled through the action of these committees. The members of the democratic party as a body have been ready and willing and anxious to go into this work all the time. Every effort they have made, and they have made many, has been checkmated and nullified by committee organizations. If you will place men upon a committee who are honestly in favor of tariff reform you will have no trouble in getting a tariff bill; and it is because we have not had such men on the committees that we have had no tariff-reform bill reported. That is my opinion and judgment in reply to the question of the Senator from New Jersey.

The bill of the Senator from Arkansas proposes to leave this matter in the hands of a committee of Congress aided by three outside experts. They can call in all the experts they want. The very experts whom the President of the United States would appoint under the Eaton bill can be called in to testify as witnesses, and Congress would retain control over a subject legitimately pertaining to the duties of Congress, over a trust with which Congress has been charged by the people, as it ought to do, and as it will do if the Garland bill is passed.

The objection that members of Congress cannot give this question the consideration it deserves and should have is not a tenable one. I have known of no commission or committee of Congress which has consented to serve and failed to discharge its duties. I venture the assertion that three Senators who might be selected in this body would not fail to discharge the duties under the Garland bill. I will venture to say that the number of members of the House of Representatives provided for in that bill could be gotten, and that the committee would go diligently to work and discharge the duties devolved on it under the bill. It is an assumption, in my judgment, unwarranted in fact for gentlemen to say that the Senators and Representatives would fail to do the work required of them by the Garland bill if it should be enacted, and that is the principal argument made against it. For all the other arguments, and especially that the commissioners provided for in the Eaton bill are experts, learned, philosophical men, and all that sort of thing, I have no regard. Members of Congress who cannot discuss the questions involved in the subject of adjusting a proper revenue tariff, after a century of discussion by the ablest minds in Europe and America, ought to resign and go home. Their constituents supposed them able to do it, else they would not have been here. I believe they are. I know they are the men who ought to do it if able, and am, for one, not willing to call in third persons to do it for them until convinced they are unable to do it themselves.

I believe there are men as well qualified in the two Houses of Congress as any that can be selected, and I believe the men who would be selected in the two Houses of Congress are greatly more in sympathy and in harmony with the people of this country and their demand for reform than would be the experts who are proposed to be appointed by the President of the United States.

If the Eaton bill is passed the manufacturing monopolists, who are growing rich, who have the people of this vast country working, as our western phrase goes, for their "victuals and clothes," will have their own way at least two years longer. They will have their subsidies continued, their high duties continued at least two years longer. These people who petition for the passage of the Eaton bill are taxing the producers of this country from 50 to 100 per cent. upon everything from a sack of salt and a wool hat and a trace-chain to a cloth coat. The laborer's coffee, his sugar, his tea, his salt is taxed under this tariff enormously.

Mr. EATON. What is the tax on coffee and tea?

Mr. COKE. On coffee and tea? There was a duty of 25 per cent. on coffee and tea.

Mr. EATON. That was twenty-five years ago.

Mr. COKE. Oh, no. It was taken off in 1874, and I stand corrected since the Senator reminds me; but will the Senator correct me as to woolen and iron and steel manufactures?

Mr. EATON. I will show the Senator from Texas before I get through that but for the tariff the manufacturers of woolen blankets and cloths have to pay for the clip of four million of sheep in Texas, Connecticut, and Massachusetts we could make the blankets cheaper than Great Britain can to-day.

Mr. COKE. And if you will strike down to a strictly revenue basis the duties on iron and steel and on the nearly four thousand other articles now standing on the tariff list, hundreds of them under absolutely prohibitory duties, yielding not one dollar to the Government, but millions to the few manufacturers, I as one of the representatives of Texas will vote to strike down the duty on sugar, rice, and wool, the only articles standing on the tariff list in the interest of the South, in exactly the proportion and to the same basis. But I will say to the Senator from Connecticut that I do not propose to vote for a reduction of the duty on these three articles and leave untouched the vast array of articles, thousands in number, entering into the every-day consumption of the people embraced in the present tariff.

As I was proceeding to say, the producing people of this country are taxed from the soles of their feet to the crowns of their heads, from their hats to their shoes, and from their shoes to their hats. Everything they wear, nearly everything they eat, every utensil they work with is taxed. You cannot name an article entering into consumption among the producing classes of our people that is not heavily taxed under the tariff, and yet we must wait until 1881 before we can be permitted to see the report and the testimony which these learned experts are going to present to Congress upon this subject. I am opposed to it, sir. I am opposed to the bill, and would be if no other reason existed than that for my opposition to it. I am opposed to it because it puts in the hands of the President of the United States a power to thwart the demand of the people for tariff reform by appointing a commission which will make a case against it. I am opposed to it because it takes out of the hands of Congress, where it legitimately belongs, the tariff question, and places it in the hands of those who may be, and I believe will be, enemies of the people's interests. I favor the bill of the Senator from Arkansas because it keeps the question in Congress, the people's representatives; because it proposes that the commission shall report at the next session of Congress so that it may be acted on then.

Now, Mr. President, with reference to the general question of the tariff, all that I have to say is that I am in favor of a tariff strictly for revenue, and for no other purpose. I deny the constitutional power of Congress to build up a class of manufacturers at the expense of other classes further than it can be legitimately done in raising revenue for support of the Government. The present tariff confessedly, in hundreds of articles on the list, gives the Government not one cent of revenue, but taxes the people most onerously. Every consideration of justice and public policy requires its immediate and radical modification.

Mr. President, I offer the amendment to the substitute of the Senator from Arkansas which I now send to the Clerk, and, if in order, ask that it be reported.

The PRESIDING OFFICER, (Mr. INGALLS in the chair.) The Senator will send his amendment in writing to the desk, so that it can be reported to the Senate.

Mr. COKE. I send the amendment to the Chair.

The CHIEF CLERK. At the end of the amendment of the Senator from Arkansas it is proposed to add "not later than the first Monday in December next."

The PRESIDING OFFICER. The Chair would state to the Senator from Texas that two amendments are now pending, and the question before the Senate is on the amendment proposed by the Senator from Iowa [Mr. KIRKWOOD] to the text of the original bill. The amendment of the Senator from Texas is not now in order, but will lie on the table to be brought up hereafter.

Mr. COKE. Let it lie on the table, to be taken up at the proper time.

Mr. McPHERSON. Let the amendment of the Senator from Iowa be reported.

The PRESIDING OFFICER. The amendment of the Senator from Iowa will be read.

The CHIEF CLERK. In section 3, line 7, of the original bill, after the word "tariff," the amendment is to insert "and the existing system of internal-revenue laws."

Mr. MORRILL. Mr. President, it is not my purpose to make a tariff speech or a speech on the tariff, and but for some of the very extraordinary statements made here I should not have entered into this debate at all.

I feel a great indifference as to what shall become of the subject. The political majority have the responsibility. My anxiety in the committee, however, was to adopt what seemed to me to be the best proposition for obtaining information suitable for Congress to act upon. I have no idea that this year, a presidential year, after this long session of Congress, you can induce any number of men belonging to either House to spend a sufficient amount of time to acquire any great additional information touching tariff matters upon the assembling of Congress at the next session, and I know that this information cannot be obtained without a great deal of time and labor.

We have arrived at a period when less taxation is required for the support of the Government. We have also arrived at a season of prosperity. It is reasonable and proper that our taxation, external and internal, should all be revised and adjusted to the change of circumstances, and I desire to say to Senators on the opposite side of the Chamber that it will be impossible for them to devise any bill and pass it that will have any degree of symmetry unless they can give it the prestige of some previous examination by a commission of this kind. I know that it is impossible in the House of Representatives, from my own experience there, to get a bill into proper shape and pass it without its containing a great many incongruities, arising from both friendly and hostile amendments; and let me say that there have been but two acts in the statutes, the act of 1846 and that of 1861, which have any remarkable degree of symmetry. The first was accepted, as I have always understood, as having been prepared by a clerk in the custom-house of New York; but that produced a revolution in our industrial affairs, and we were compelled at an early day to get rid of it. The tariff of 1861, by a combination of circumstances not necessary now to explain, was passed pretty nearly at the last moment as it was intended to be by the committee which originally reported it.

And now, Mr. President, let me say that this commission, if it shall be organized as proposed by the bill reported from the Finance Committee, only gives us information upon which to act, information that will be desired by both Houses of Congress. It does not bind anybody to accept of their conclusions. They will only make recommendations.

I was somewhat surprised by some of the statements of the Senator from Texas, [Mr. COKE.] He stated that we were taxed in this country from the crown of our heads to the sole of our feet, and instanced tea and coffee. He seems to have a considerable amount of misinformation on that subject, as both those articles are free. And let me say to him that, in relation to cotton goods, our country can and does produce them cheaper than they can be produced anywhere in the world up to a certain degree of fineness. All of the ordinary cotton goods that are consumed or worn in this country are delivered to the consumer at a lower rate than they are to any people on the earth. The woman who buys a calico dress buys it at a less price than it can be obtained for in any other country.

There is another thing to be considered in relation to this matter. There is no other country on the globe where the farmer obtains a richer reward for his industry than in the United States. You may take the census as it was taken yesterday and will be taken to-day, and it will be found that there has been more wealth created and held by the farming industry of this country than by any other farming industry in the world.

Mr. PLATT. And under our present tariff, too.

Mr. MORRILL. And it is done under this tariff that is encountered here with so many rough objections. I suppose that in no other country will it be found that the general wealth of the people has increased to any such extent as it has in this country. I suppose that we may say, comparing with the most prosperous peoples on the earth, that the wealth of this country has increased twice or thrice as fast as it has anywhere else.

Under such a state of affairs it is not wonderful that the people of this country who are engaged in manufactures or in any other industry should feel some solicitude about what shall be done with our mode of taxation. It is an error to suppose, as the Senator from Texas has supposed, that it is solely the manufacturers of iron, of steel, and of woolens that have come here. Nearly every large railroad establishment for the consumption of Bessemer steel has presented petitions here against a reduction of the duties upon Bessemer steel, for the reason that if we were left to the tender mercies of production abroad the price would go up, as it certainly went down, and went down to a very low figure, after the production was commenced and continued in this country.

But, Mr. President, it is not for me here to defend democratic committees of Congress. I have heard the democratic committees condemned by the Senator from Kentucky, [Mr. BECK,] who first opened this debate. He belabored them right smartly, and I do not know but that he had sufficient reason. I have here a bill reported from the Ways and Means Committee of the House, where it is provided that "books, periodicals, pamphlets, and all printed matter, engravings, bound or unbound, illustrated books and papers, maps and charts, and music, printed with lines, bound or unbound," shall be exempt from duty.

Then on another page I find it is provided:

> Upon paper sized or glued, suitable only for printing paper, 20 per cent. *ad valorem*; printing, unsized, used for books and newspapers exclusively, 15 per cent. *ad valorem*; manufactures of, or of which paper is a component material, not otherwise provided for, 25 per cent. *ad valorem*.

Does not every one see that here is a provision by which books may come in free and the materials of which they are made are to be subjected to a tax? Of course that would throw all of our immense business of book-making, now so prosperous in every part of the country, into the hands of foreigners. I could mention other subjects; for instance, wool. I suppose the Senator from Texas would be no more anxious to have the price of wool, in which interest his State is engaged as much as my own, and more, reduced to the price of wool brought from Australia, where wool of equal quality can be purchased for ninepence a pound. I hardly think he would be willing to have wool brought down to the price for which it is sold in Van Dieman's Land and in Victoria and in New South Wales and various other places.

But the Senator from Kentucky—and I am sorry not to see him in his seat—seemed to denounce us because we did not follow the platform of the democratic party in 1876, and he read this paragraph from it:

> We denounce the present tariff levied upon nearly four thousand articles as a masterpiece of injustice, inequality, and false pretense. It yields a dwindling, not a yearly rising revenue. It has impoverished many industries to subsidize a few. It prohibits imports that might purchase the products of American labor. It has degraded American commerce from the first to an inferior rank on the high seas. It has cut down the sales of American manufactures at home and abroad, and depleted the returns of American agriculture, an industry followed by half our people. It costs the people five times more than it produces to the Treasury, obstructs the processes of production, and wastes the fruits of labor. It promotes fraud, fosters smuggling, enriches dishonest officials, and bankrupts honest merchants. We demand that all custom-house taxation shall be only for revenue.

Mr. President, the Senator from Kentucky does not seem to understand that these democratic platforms are only made for the time being, and are to be discarded as soon as the election is over. Now I desire to call the attention of the Senate, as the Senator from Kentucky is not present, to the platform of the democratic party in 1872, which declares:

> We demand a system of Federal taxation which shall not unnecessarily interfere with the industry of the people, and which shall provide the means necessary to pay the expenses of the Government, economically administered, the pensions, the interest on the public debt, and a moderate reduction annually of the principal thereof; and recognizing that there are in our midst honest but irreconcilable differences of opinion with regard to the respective systems of protection and free trade, we remit the discussion of the subject to the people in their congressional districts and to the decision of the Congress thereon, wholly free from executive interference or dictation.

Under which king do we serve, the democratic party of 1872 or of 1876? In 1872 we were to leave this question to the respective congressional districts, and we had Horace Greeley for the presidential candidate.

Mr. CAMERON, of Wisconsin. What were the views of the democratic candidate in 1872 on the subject of the tariff?

Mr. MORRILL. I believe it is known that Horace Greeley was the candidate, and he made known his views through the Tribune.

Mr. KIRKWOOD. As I understand, in 1872 our democratic friends were in favor of the congressional-district plan, and now they are in favor of the unit rule.

Mr. MORRILL. That seems to be it. The Senator from Kentucky introduced some long tables. I will not weary the Senate by making comments, but desire to state most emphatically that all of his tables can be used with as much effect against his proposition or his main argument as for it.

One other thing the Senator from Kentucky seemed to comment upon at considerable length, and that was the loss of our carrying trade. I desire to say that the carrying trade of this country on the coast has been almost entirely superseded by railroads, and never can be restored. The carrying trade abroad, unfortunately for us, was seized upon and subsidized by England, France, and Germany; and although I have most generally felt bound to vote against subsidies, I am ready to confess that I know of no way in which the foreign carrying trade can be recovered except by subsidies. One of these large four or five thousand ton steamers has superseded twenty of the former splendid Balitmore clipper ships that we were in the habit of employing in the eastern and foreign trade. But at the present time the Suez Canal and our railroads across to the Pacific have cut down immensely the trade of ships, and I know of no way in which it can be restored, except we should do as other nations have done, and subsidize some of these large steamers to and from our principal ports.

Mr. President, I desire to say here now, as I have had occasion to say many a time, that I represent only an agricultural people, with a small sprinkling of manufacturers; and I do not desire to make this country a great manufacturing country, but I do desire to give a sufficient amount of diversion from the agricultural employment so as to make that a remunerative industry. Unless we can have some portion of our people employed in manufactures, of course we are to produce our agricultural products at the lowest possible profit, all being producers. I do not desire that we shall become a great

exporting country of manufactures for another and a very sufficient reason, and that is, that it cannot be done until we grind down the wages of labor to a lower point than is paid elsewhere. I must say that at the present time our laboring people, all classes, are better fed and better clothed than any other people on the face of the globe.

Mr. President, I was delighted when the President *pro tempore* stepped down from the chair to plunge into this debate. I am sorry that he is not present now. I saw that he was determined to conciliate Pennsylvania and New Jersey, and, possibly, the Empire State of the South, Georgia, perhaps South Carolina, and he went into the debate very much as a chief-justice in Vermont did on one occasion. Having been employed before his appointment in a certain case, he left the bench and occupied the same position at the bar that he did before he was appointed to the bench. Some person present, going out to the hotel, was inquired of how that case was going. Said he: "I think it is going for the plaintiff, for the chief-justice has come down and charged like thunder and lightning for him." [Laughter.] So it was with this case. I felt that he was charging like thunder and lightning for the plaintiff in this case. That was very different from my friend from Illinois, [Mr. DAVIS,] who, I see, has published his platform, and he says that you would not expect him to express any opinion on measures pending in Congress.

Mr. President ,the Senator from Kentucky is very anxious to have such a man as he mentions, who I believe is a clerk in the custom-house, prepare this bill, a prolific writer for one of the free-trade papers of New York, or another man who writes free-trade pamphlets for the edification of our mother country, Great Britain; but I have felt that such persons, like myself, if I were to be placed upon such a commission as this, would feel compelled to bring such arguments as would support their previous position. I have therefore honestly desired that we might have some information from outside sources. My own judgment is that if you appoint members of the House and Senate it will amount to nothing, that they will do no work, or, if they do work at all, they will come here only to support their previously formed opinions. If we are to have anything that will be of any service at all for the benefit of the country it seems to me that the bill reported by the Committee on Finance is the best calculated to serve that purpose.

Mr. MCPHERSON. Mr. President, I do not rise for the purpose of making any extended remarks upon this bill, and I would not rise at present even to say a word on the question were it not for some remarks that fell from the Senator from Texas, [Mr. COKE.]

This to my mind is a question of great magnitude. It is one of the most important, if not the most important, question before the American people to-day, and I do not think entirely as the Senator from Texas declares he thinks. I do not think that there is any committee of this Congress who would undertake by any process of any kind or character to prevent the people of the country from having justice and fairness accorded to them. I do not believe that there is any intention on the part of any committee of Congress to prevent a revision of the tariff in such a way as will add to the wealth and to the industries of the country.

The State which I have the honor in part to represent upon this floor stands to-day, I think, the third State in the Union in point of extent and variety of manufacturing industries. While I am specially commissioned by and owe a duty to that State, I have a higher and holier duty to perform, and that is a duty and a responsibility I owe to the whole people of this country. In the discharge of that duty I will vote for any revision of the tariff which to my mind presents the subject fairly, properly, and equitably, and which does not tend to strangle the industries of the country.

The bill introduced by the honorable Senator from Connecticut and reported by the honorable Senator from Delaware does what? It simply appoints a commission, whose duty shall be to inquire into the nature, the character, the extent of our various industries and how they will be affected by tariff legislation. It gives them a sufficient amount of time and no longer than is needed for the purpose of determining and presenting an intelligent opinion to Congress. The idea that a committee of Congress taken from the Senate and House of Representatives at this time, and privileged to sit during the recess of Congress, for the purpose of presenting facts to the two Houses, can be able to present such a state of facts as will enable the Senate and House of Representatives to act intelligently on any given point, is to my mind absolutely absurd. It requires the most intelligent men in this country, it requires men who have given a long life-time of study and devotion to this question, in order to enable them to judge and to properly classify these various industries. And in proof of what I have said I simply wish to cite a few industries in my own State.

For instance, here is the silk industry. Ten years ago there was not a single silk manufactory in the United States of America, I think. To-day we are manufacturing better silks in the city of Paterson than are made in the city of Lyons in France. We are exporting silks to France and selling them in the French markets in competition with French goods. We are manufacturing in the New England States a better article of cutlery than is manufactured at Sheffield to-day.

Mr. BAILEY. Will the Senator permit me to ask a question?

Mr. MCPHERSON. Certainly.

Mr. BAILEY. If his people can make silks more cheaply in New Jersey than in France, and can export them to France and sell them in competition with the French silks, why do they need any tariff to protect them against those very silks at home?

Mr. MCPHERSON. I am very glad that the Senator asked me that question. I was courting a question of that kind, and I was really afraid some one would not ask it.

Mr. BAILEY. The question is asked. Let it be answered.

Mr. MCPHERSON. Let me explain to the Senator. A few years ago there could not be found in the American Union a single silk industry. It was a youthful industry. It required protection; it required that measure of protection till it could afford by a long series of years of strife with the most active competition to stand alone, and it is to-day standing alone and able to compete with foreign industries. Now we have a multiplicity of that kind of industries in our State as I say, and we simply ask that the protection of the Government may be accorded to them until they can afford not only to the American people a product at less price than it can be imported, but also furnish competition to the foreign article as the silk industry does at this time. Although a high duty is imposed upon foreign silk, competition at home so regulates the price of the product to the consumer here that the tariff does not enter into the computation at all. The operation of tariff is simply to protect the home market to home competition—to the benefit of home labor.

Mr. BAILEY. Now, will the Senator permit me to ask if he is willing and if the manufacturers of these articles are willing—for he says the silk industry is able now to stand alone; I understand that to mean without protection—is he willing to repeal the statutes giving protection to that industry that he says is now able to stand alone?

Mr. MCPHERSON. I am willing to revise the tariff to this extent: I am anxious that the capital of the Old World shall come here to engage in this kind of manufacturing industry. I want capital to come here and make competition here. I want the products of the great State the Senator from Tennessee represents to be consumed by the laborers of my own country, either in the city of Paterson or in his own city of Memphis. I want the agricultural products of this whole country to be fed out to the laborers of this country to support and to supply labor. I want to protect the products of the country, and I want to protect the sales of the products of this country to labor in the country, and we do not need an extravagant duty to do this. A moderate one is all we need, but it must be an intelligent one in respect of discrimination.

Mr. BAILEY. But the Senator does not answer the question. I understand the Senator to say that this industry in his own State is now able to exist without protection, without protective duties. Is he willing that the statute which imposes the protective duties shall now be repealed? You say you can do without them.

Mr. MCPHERSON. I am willing the tariff shall be revised; I am willing to have a tariff to secure a sufficient revenue for the country, and I want an intelligent commission who will present to the Congress of the United States such a tariff. While I have as much confidence perhaps in the integrity and ability of the individual members of the Senate as any other Senator on the floor, I do aver that there is no member of the Senate as competent to deal with this great question as a man who has given a whole life-time of study to it. I do not underrate the intelligence of the Senate. When the report is made to you, you will have it to consider; you will have the whole question brought before you, and if you can present a better system of revision than that presented by the commission, you can do so. I will join the honorable Senator in any revision that will seem proper and necessary. But the idea that a committee of this Congress can in the very short time allotted to them secure a revision of the tariff that will commend itself to the gentlemen of the Senate and to the whole people is to my mind positively absurd.

Another thing, and I suppose on this point the honorable Senator from Texas will think perhaps that I am very much at sea, but I remember a remark made by the honorable Senator who now occupies the chair [Mr. INGALLS] in an able speech he made about a year ago on the silver bill. Speaking of the State he in part represents, and of the people of the great West, he made this remark: "We desire neither sympathy nor charity; what we want is a market for our surplus products." What the people of the great State of Texas want is a market for their surplus products. They want a market for their corn, for their wheat, for their wool, for their cattle—for all the products of that State. Where do they want the market? Not by transporting the products of that State across the ocean to feed the laborers of a foreign land, but they want it at our own doors to feed the laborer at home. They want the capital of the world to come here and engage in manufacturing industries. They want to bring here the labor of the world, if necessary, to manufacture the goods to supply the world. It is far more to the interest of that Senator and that State to supply the labor at home than it is to ship the products across the ocean to feed foreign labor. Is it to the interest of Texas to ship to a foreign port her cotton to be made into fabrics and returned here for our use; also to ship abroad the corn and cattle upon which foreign labor subsists while making the goods? Go ask the intelligent people of Texas what they would gain by erecting cotton and woolen mills to consume the staple while the laborer consumed the corn and cattle at their own door. To this there can be but one answer.

Sir, I was remarking upon the article of cutlery. There was sold

last year by one cutlery establishment in New England over two hundred and fifty thousand dollars' worth of cutlery that went to the Sheffield works in England to supply Sheffield. Upon inquiry of the agent under whose orders it had been manufactured and by whose direction it was made, I ascertained the fact that they could purchase that article at the New England manufactory 10 per cent. cheaper than they could make it in Sheffield. They can deliver it at the manufacturing works, the Sheffield works in England, 10 per cent. cheaper than they can make it themselves, and in addition to that he said that the article was a great deal better than they could make it, was more uniform in quality, it was more merchantable, and therefore it was more desirable. Under a wise policy, from a very small plant this has become a gigantic industry. A few years ago to ship cutlery to Sheffield would have been considered like carrying coals to Newcastle; but American ingenuity and enterprise coupled with wise legislation has marked out a way.

But, says the Senator from Texas, "my cutlery is taxed, my boots are taxed, my shoes are taxed, my clothing is taxed, iron is taxed, everything that is manufactured in this country is taxed." Now, what are the facts? Here was the agent of the Sheffield works certifying to the fact that he was purchasing in New England cutlery and taking it to his own market and delivering it in his own factory 10 per cent. cheaper than he could make it there, and that was the price that the New England works proposed to charge the Senator from Texas. The competition in our own country has so reduced the value of the article that the Senator from Texas can buy it 10 per cent. cheaper than the foreign manufacturer can make it.

Mr. COKE. How is it about steel rails?

Mr. McPHERSON. I will answer that question. I will say that during the time when the great industries of this country were strangled as it were from 1873 up to 1876 there was made in this country more iron and more steel than the country required or demanded at a less price than it could be made in England. I say—and I say it without fear of successful contradiction—that the iron and steel of this country from 1873 to 1876, before the active demand had arisen, could be bought, more than could be used, for $5 a ton cheaper than it could be imported, even had there been no duty at all.

Mr. COKE. Why, then, keep $28 a ton duty on steel rails?

Mr. McPHERSON. I will illustrate it in this way: I, too, have been like the Senator on this question of tariffs. It has been but a very short time since I was one of the most rabid free-traders in the country, but I confess that I have been in a measure converted from what I now see to have been the error of my ways.

About two years ago I had the pleasure of crossing the ocean from Liverpool to New York in company with one of the largest iron manufacturers of England. He was inveighing against the American people, and particularly against the American Congress, of which somebody told him I was a member, against the unwise, the unfair policy pursued by the American people with respect to tariff by which they had prevented him from selling his goods in the American market. Said I, "My friend, what would you sell to me ten thousand tons of iron of a certain quality for, laid down in the city of New York?" Remember on that iron there is a duty of about 50 per cent. After he had taken time to figure up he reported to me that he would deliver me the iron at $42 a ton. His reply was, "I can send that iron from Liverpool to New York in ballast. The ship which crosses the ocean and brings the products of your country has to go back empty to the port of New York. I can ship my railroad iron in ballast, and therefore instead of paying freight I receive compensation for the privilege of carrying it. Forty-two dollars a ton represents absolutely the cost of production of that iron." I then called up two gentlemen who were also on board the same ship, extensive iron manufacturers of the United States. Said I, "What can you sell me ten thousand tons of iron for delivered in the city of New York of the same quality?" One made the price $37.50 a ton, and the other $38 a ton. In other words, the competition of home industry, of home capital, which has been supplying work to the home laborers was able to roll the iron from the tops of the hills down into the valleys at a cheaper rate than it could be lifted out of the bowels of the earth in England and delivered on our docks.

Mr. COKE. Then why protect it?

Mr. McPHERSON. I want to protect the home market for the home product. I want it so that the manufacturer of England, of the old country, shall not compete against our own industry; but I do not want to do it by a tariff solely for protection; I want to do it by a liberal tariff, which will yield a revenue sufficient to support the Government—and such a tariff never oppressed anybody—and by such a system our prosperity is assured.

Mr. COKE. Can we not raise revenue sufficient to support the Government without that tax?

Mr. McPHERSON. If the honorable Senator from Texas wants to resort to direct taxes upon the people in some form to support the Government, well and good.

Mr. COKE. I am in favor of a tariff for revenue without protection.

Mr. McPHERSON. Mr. President, I did not intend to say one-half that I have said on this subject when I arose, but it does seem to me as though if there were any subject in the world that is misapprehended, upon which the public are misinformed, upon which they have the most vague, indefinite, and impracticable ideas, it is this question of tariff revenue. I believe it to be for the interest of this country that those industries which to-day are not able to compete with foreign industries of like class, should be protected by a tariff greater than that imposed on those which have assumed proportions and power able and ready to take care of themselves. I wish a proper revision by the most intelligent system that can be devised, and I certainly know of none more intelligent, I know of none more proper, than that presented by the honorable Senator from Connecticut. By this bill it remains with the President of the United States, with the concurrence of this Senate, to select from the citizens of the whole country nine individuals who are specially commended to do the work on account of their intelligence, their experience, and their knowledge of the whole subject under consideration.

I will not prolong my remarks further, Mr. President.

Mr. EATON. Mr. President——

Mr. HILL, of Georgia. Does the Senator from Connecticut prefer to go on this evening?

Mr. EATON. I prefer to finish the bill to-night. I shall be very brief.

Mr. HILL, of Georgia. I thought perhaps the Senator would prefer to speak to-morrow.

Mr. EATON. Mr. President, it is not my purpose to discuss the question of the tariff. That is not the object, as I understand it, of the bill which I had the honor to introduce. In the first place this discussion has taken a wide range, almost a personal range. I have heard my honorable friend the Senator from Kentucky [Mr. BECK] address himself to the Chair, my friend from Missouri [Mr. COCKRELL] being then in the chair, and say, "Reform must come from such men as you, sir, and I, men who were sent here to act for the best interests of the people." Why, sir, I thought we were all sent here to act for the best interests of the people; not only the Senators from Missouri, and Kentucky, and Delaware, and Tennessee, but even from Georgia and Connecticut. My own position has been attacked by inference; it has been said that the bill which I had the honor to introduce was introduced in the interest of monopolies, in the interest of overgrown manufacturers. That will be astonishing news to carry back to my native State and the State which I have the honor in part to represent on this floor. I began a revenue-tariff man early, and I am a revenue-tariff man to-day. The object of all duties, the object of all imposts should be revenue. The principle of protection is incidental entirely. Therefore I am in favor of a revenue tariff. If there be an incidental protection attached to the tariff, all the better; and even my friend from Kentucky and my friend from Texas [Mr. COKE] will say amen to that doctrine, because—let me read—my friend from Kentucky said this:

> I only desire to say in addition that while I want to see taxes as low as possible I would not deal harshly with any industry. If it has been nurtured or fostered up to a point where it needs still further support I would give it, but I would give it in such a form as to make it content with a reasonable profit; make it self-sustaining as soon as possible.

That is precisely my doctrine; I have had none other for forty years. Living in a manufacturing State, living in a State where hundreds of millions of dollars are invested in manufacturing industries, yet I have a right to say as one of the representatives of that State that what they desire is a revenue tariff. Danton said in the French convention, speaking of what was necessary to carry on the revolution—I anglicize his words, not being a French scholar—that there were three things wanted, audacity, audacity, audacity. Now, Mr. President, there are three things wanted in a tariff, stability, stability, stability; all summed up in the word "permanence." Right here to illustrate, I may mention that a friend of mine of great wealth, of great inherited wealth, one of the finest mechanical minds in the world, said to me, "I would put to-day half a million dollars in a machine-shop in my city if they would give me a tariff to-day for ten years, though thereby I would lose 10 per cent. on my sales to-day; only let me have something that is permanent, something that is stable; and the industry, the inventive talent of the country will bring us out certain." That was his remark; and I know it is true.

Let me illustrate. Within fifteen minutes' ride of my house there is a cutlery establishment, the largest in America, with half a million dollars capital, employing hundreds of hands and giving sustenance to more than a thousand people, and that monster corporation has not made one dollar in ten years. Not a farthing of division of profits has been made in ten years, and they have driven the English out of the South American markets and sold their cutlery right under their very noses in Sheffield and Birmingham. And what was done here a few years ago? Just after they had got well a-going so that they could compete with the English manufacturers in the South American market, what was done? You put an impost duty on steel, thus crippling in a minute an industry of that character.

The difficulty with this whole question is that the Congress of the United States—and I have a right to say it, for I am one of them—have not the intelligent knowledge to make the proper recommendations with regard to a tariff. I have a right to illustrate it by myself. Born in a manufacturing State, residing nearly all my life there, probably as familiar with that great interest as any man on this floor, I am very frank to say that I cannot see and report, as my friend from Texas will, in six weeks, with regard to all the wants of the manufacturing interests of the country.

Mr. President, before I come to the bill I want to say a word with

regard to a remark or two that fell from my distinguished friend the Senator from Ohio and also the Senator from Kentucky. Those two gentlemen were in great error when they undertook to characterize all the petitions that have been sent to the Senate and the House of Representatives in favor of this bill as "machine petitions." My friend from Texas made pretty nearly the same remark. I corrected him. There is one petition here that represents an industry that consumes 1,500,000 bales of the great southern staple, that runs 10,000,000 spindles, with a capital of more than $300,000,000, employing 100,000 hands, and giving bread and clothing to half a million people; and in that petition they say that they represent all shades of the tariff question; and I know they do, because I know several of them are what are called free-trade men; that is, revenue-tariff men. The fact is so.

Why, Mr. President, who wants a duty on Lonsdale, or on York Mills, or on Cocheco prints? Do you want a tariff on cottons? Can cottons be imported and sold here? Certainly not. We have driven the English out of their own market, and to-day in London and Liverpool the Merrimac prints undersell the English prints. The fact is world-wide, and everybody ought to know it, that the English manufacturer trades upon the trade-mark of the United States in his own dominions in the East Indies. They cannot make up to a certain fineness, (the number I forget,) and compete with the American manufacturer at all; and yet there is what is called a tariff duty placed on those very cotton goods. You might as well put a tariff upon the pork that is raised in Ohio and say you can bring it from Liverpool. It is of no advantage. This thing must be looked at. I want nine intelligent men to examine this question with great thoroughness and make their reports to Congress so that Congress may act intelligently.

There is but one idea, I believe, in regard to the importance of this legislation. We simply differ as to the details of the measure. My honorable friend from Arkansas has introduced a bill. He says if he cannot get the support of the Senate for his bill he will vote for the one reported by the majority of the Finance Committee. I recognize a true patriot in a man who says that. I say while I shall undertake to show that it is impossible that a congressional committee shall intelligently report on all the facts in this great case, that if the bill I had the honor to introduce cannot be passed let the other be passed; let us do something. The House of Representatives has refused to act, and now let the Senate take the initiatory step.

This question should be met fairly, kindly. What is the difference between the two bills? Now, let me give a little history, and I know the Senate will not think I am egotistical. I drew the pending bill without consultation with a single man in the world save one friend in Connecticut. I said to my friend, the Senator from Delaware, [Mr. BAYARD,] three years ago that something ought to be done, and if the House would not move in this matter it was the duty of the Senate to do it; but years passed by, and I determined that if nothing was done this year I would introduce a bill and send it to the committee to be perfected, and then let us see if we cannot do justice to all the people of this broad land. I do not want a tariff bill passed for the purpose of enriching the State of Connecticut. I desire no such thing. I shall be found not voting for any such thing. I may be mistaken, but I believe that there is not a Senator on this floor who can give his time to this question. That is the first thing. Can my distinguished friend from Delaware, the head of this committee, give six months' time, a year's time, to this work? No. Can my friend from Georgia? No. Can my friend from South Carolina? No. Can my friend from Missouri? No; not one man of you can do it. It is impossible. One would suppose to hear my distinguished friend from Texas that all that was needed was a little jaunt, to go to Saratoga or Long Branch or somewhere else and eat dinners, and that would be all. That does not help to discriminate between all the great interests of the country. It relates to consumption as my friend from Delaware suggests. The gentlemen who have this matter in charge have got to take up and examine four thousand different articles; have got to see what enters into the manufacture of every great thing in this country.

Here are dye-stuffs, with a high tax upon them. In the British market they are purchased free, brought here and a high tax imposed, and these dye-stuffs used to color the fabrics produced by American industry, and yet you expect those fabrics to be produced just as low as they could be if there was no tax whatever on the raw material.

I have a history about wool that I wish right here to direct the attention of the Senate to. One of the great agricultural subjects, nearly the greatest subject, is sheep industry, dependent entirely upon manufacturing industry, whether the commission be established under my bill or under the bill of the Senator from Arkansas—dependent upon it entirely to the last clipping of the last sheep. In the United States there are to-day forty million sheep. The clip this year is estimated to be two hundred and twenty million pounds. It was two hundred and eleven million pounds in 1878.

Of this the State so ably represented by my friend from California [Mr. FARLEY] has 6,561,000 sheep, with a clip of more than 50,000,000 pounds, dependent entirely upon the manufacturing industries of the country. Texas has 3,674,700 sheep, with a clip of over 30,000,000 pounds. Well might my honorable friend say, "Oh, no, I will not take the tax off wool unless you take it off iron." New York has 1,518,600 sheep, with a clip of 10,000,000 pounds. Ohio has 4,000,000 sheep, with a clip of 35,000,000 pounds, dependent entirely upon the great manufacturing industries of the country. Pennsylvania has 1,600,000 sheep, with a clip of 10,000,000 pounds. Indiana has 1,100,000 sheep, with a clip of 7,000,000 pounds. Illinois has 1,260,000 sheep, with a clip of 7,000,000 pounds. Oregon has 1,100,000 sheep, with a clip of 7,000,000 pounds. Wisconsin has 1,300,000 sheep, with a clip of 8,000,000 pounds. Iowa has 600,000 sheep, with a clip of 4,000,000 pounds. Colorado has 700,000 sheep, with a clip of 4,000,000 pounds. It will be next to Texas, the great sheep-walk of the world. I do not except Australia. I say Texas, New Mexico, and Colorado will be the great sheep-walk of the world, all dependent upon manufacturing industry, all dependent upon a proper revenue tariff. Michigan has 2,000,000 sheep, with a clip of 12,000,000 pounds. North Carolina has 500,000 sheep, with a clip of 3,000,000 pounds. Georgia has 400,000 sheep, with a clip of 2,000,000 pounds. Alabama has 300,000 sheep, with a clip of 1,000,000 pounds. Mississippi has 300,000 sheep, with a clip of 1,000,000 pounds. Tennessee has 1,000,000 sheep, with a clip of 5,000,000 pounds. West Virginia has 600,000 sheep, with a clip of 4,000,000 pounds. Virginia has 500,000 sheep, with a clip of 3,000,000 pounds. Vermont has 500,000 sheep, with a clip of 3,000,000 pounds. Arkansas has 300,000 sheep, with a clip of 1,000,000 pounds. New Hampshire has 250,000 sheep, with a clip of 1,000,000 pounds. Maine has 550,000 sheep, with a clip of 3,000,000 pounds. There are very few in some of the States, very few in my own little State.

Let it be understood I am not arguing for taking the tariff duties off, no matter what my views may be upon that subject; but the Senator from Kentucky in the close of his speech goes one step further than I have ever been willing to go, and I only want to take this very illustration of wool. The clip this year will be nearly two hundred and twenty million pounds. This great industry, covering the whole country, is dependent entirely upon the manufacturing industries of the country. Now, when these commissioners assemble, whether they be under my bill or the bill of the Senator from Arkansas, they have got to take into consideration—what? How little duty can be put upon this great agricultural industry of the country. There are forty million sheep, with a clip of two hundred and twenty million pounds to be taken care of, because the wool of continental Europe can be brought here and sold cheaper than we can raise it; and therefore there would be an utter destruction of forty million sheep except for butchering purposes unless a tariff were put upon wool.

How little can it be? My friend said there was 104 per cent. duty on blankets. The honorable Senator from Kentucky has not examined that question. There is nominally 104 per cent. duty, but there is not really 50 per cent. duty. Why is there not? Because the blanket that is produced in the State of Massachusetts and in the State of Connecticut that can be bought for $5 is a great deal better than the English blanket which is produced for $3.50. No matter what the tariff is; I am speaking of the quality. I will state another fact right here, and defy contradiction anywhere by anybody. Take your duty off wool and we can undersell Great Britain in the Liverpool market with blankets to-morrow. It will not do, sir, to simply pick up the tariff law and say here is 104 per cent. duty on a woolen fabric without knowing how much difference there is in the price of the article abroad and here. There was a duty two years ago and is now, perhaps, I do not remember of how much, on pig-iron, and you could buy it in the United States and in the State of Pennsylvania for less money than the duty. My former colleague, so long known and so highly respected here, carried millions of pounds of pig-iron, when he would have had to sell it for less than the duty if he had sold. No, Mr. President, what we want is absolute intelligence on all these questions.

I will not speak now of iron and steel, though I am somewhat acquainted with the product, because all I want is a commission of intelligent gentlemen, experts. I drew the bill with a meaning. I put in nine with a meaning. There are six great industries in the country, and but six. The ramifications of those six may be sixty. I would, if I had the power, appoint thoroughly educated experts in every one of those six industries. I would then take the two ablest statisticians in the United States, and, as my friend from Kentucky said, such men as David A. Wells, of Connecticut, and R. M. T. Hunter, of Virginia, and I would, if I had the power, place at the head of the commission one of the great governing minds of the country, not an expert in anything except in all that makes men great. To go back to another generation, I may say I would place a man as near as possible to such men as Calhoun, Clay, and Webster, at the head of this commission, so that all this broad land would know that all these experts and all these statisticians were under the guiding power of a great governing mind.

Thus I would constitute this commission if I had the power. But then we are met at once by my friend from Kentucky and my friend from Texas, who say they will not give this power to the hands of a republican Executive. Sir, I was a democrat before the Senator from Kentucky was, because I am older than he; I was a democrat earlier than the Senator from Texas, because I am older than he. Now, I leave this appointment in the hands of the Executive. I know his administration, I know the men he has called around him, and I have a right to say here that I believe if this power is left where the finance bill leaves it there will be the names of nine intelligent gentlemen presented here, not belonging all to one political party nor to one shade of opinion on the tariff question. I think I have a right to say

it. The confirmation of these gentlemen rests with us. Let us have faith in one another.

I do not want to read the platform of the Greeley democratic party, for I never did take very much stock in that, [laughter;] nor the platform of 1876, nor the platform which may be reading to-day, or the one that will be reading twenty days hence. I would, so far as I could, divorce this whole question from politics. It is a great economic question; it is a question upon which hinges the welfare of all our people, agriculturalists as well as manufacturers.

Where does Kentucky, where does Tennessee, where does Texas find the great market for agricultural products except such as go abroad? Here. There are seven hundred thousand people in my State, and the hundreds of thousands of beeves and of sheep that come to us from the agricultural States of the Union, the hundreds of millions of pounds of wool, and the thousands and hundreds of thousands of bales of cotton that come from your sunny land [turning to Mr. HAMPTON] find a market in New England and New York. There are consumed in this country, as I before said, one million five hundred thousand bales of cotton, and that great industry is not to be whistled down the wind by anybody. The manufacturing industries of the United States give employment to-day to more than three million people; the manufacturing interests of the United States give food and raiment to more than ten million souls; and, sir, you dare not strike a blow at an industry of that character. I say "dare not," because the honest, upright, thinking, patriotic man dare not do wrong. What was the amount of products last year? As near as it can be ascertained, the amount of products of the various manufacturing industries of the United States was over six thousand million dollars. It is estimated this year that they will be over eight thousand million dollars. I have no doubt that they will be more than that. And are we, Senators of the United States, to strike a mortal blow at these great industries? We are not. The Senator from Kentucky says that he will nourish them if they require it. More than three-quarters of them do not want any dandling on the knee of the nurse. They can go alone. If you take your impost duties off that you put on the raw material more than seven-eighths of them can go alone.

But the great expenditure that was forced upon the country by reason of the terrible civil conflict through which we have gone has imposed a tariff upon the country that is greater than it ought to have. Therefore revise it, therefore cut it down where you can and as you best can. If I am here I shall be found in the front line of the foremost men in this body to do it. I do not belong to that party that my friend calls the introducers of machine petitions. I have my own well-grounded convictions upon this great subject. I have given it forty years of patient, careful thought, and I believe I know something about it. I know enough to know this, Mr. President, that I do not know enough about it to undertake to make a report between this and the 1st day of next December, so that if that provision passes I beg to be considered out of the line of promotion.

Again, nobody knows better than my friend from South Carolina [Mr. HAMPTON] that wherever a great manufacturing industry has been built up in a State, it has brought wealth to its people, whether it be in Alabama or South Carolina or Georgia, not always enriching them immediately; for, take the great industries of my State, and as nearly as they could be classified last year, my friend and colleague will join me when I say to the Senate that those industries did not pay 3 per cent. last year on the investment. "Bloated corporations!" We have in our State some pretty large "bloated corporations." We have the celebrated establishment that Colonel Colt left, and it paid 3 per cent. for the last year. We have there one of the largest machine industries in the country, and it has paid, because it has built in the last two years more than four hundred thousand dollars' worth of machinery for Europe, competing with Great Britain and beating her on her own ground.

Mr. President, let us say as members of this body that we desire, all of us I hope, a revenue tariff with its protection as an incident, as it must have; it cannot be any other way. If it is necessary to raise 20 per cent. for revenue, that is an incidental protection, and in that much and no further am I in favor of a protective tariff. I go no further than my friend from Kentucky, not one step—hardly as far. Let us do what is just and right. I put this question then to the intelligence of the Senate, and I would that every Senator were here to answer to his own judgment: Can you point me to one single member of the Senate that can give the time to report upon this great question by the 1st of December? Is there one man here who would dare to do it? Sir, there is a year's work here. I know whereof I speak. There is a year's work before you can complete it, and the amendments placed on the bill by the Committee on Finance are eminently judicious and proper in this regard, that this commission shall report from time to time. Oh, that means, says my friend from Texas, not at all! Oh, no, they do not mean to do any such thing!

Why, Mr. President, I am sorry that my friend from Texas thinks the bill does not mean what it says when by it this Congress authorizes the President of the United States to appoint nine men of character and ability to investigate this matter, to report from time to time, and finally, not in 1881, but not later than 1881, so that they shall complete the whole business within a little over a year, but report from time to time. If they find that in justice to the woolen interest of the country they can reduce the tariff on wool from 50 or 60 or 70 per cent. down to 20 per cent., and then take the tariff off cloths in a corresponding degree, they will so report, they will so advise the Congress of the United States, they will give their reasons for their advice, and then Congress from time to time can act upon that advice. These nine gentlemen, if the bill of the Finance Committee should pass, I trust, I believe, will be men of character, of intelligence, of great ability in all the varied lines of industry that they will be called upon to examine, and they will report from time to time and not later in the whole than the meeting of Congress in 1881.

Now, constitute a commission under the other bill, and what will the result be? My friend from Texas will offer an amendment that they shall report by the 1st day of December, 1880, and the report if that commission should be instituted that it will give on the 1st day of December, 1880, will be "we have not examined this question at all and have no report to make." This year is the presidential election year.

Mr. COKE. If the Senator will excuse me, I will remark that all the Senators and Representatives are not candidates for President.

Mr. EATON. I thought they were. [Laughter.] They nearly all are. [Laughter.] I am very glad that the Senator from Texas reminded me of that great fact that he is not a candidate, as I understand from his remark. So he can judge well enough to go on the commission; but when it comes to finding three gentlemen of the Senate and three of the House of Representatives, they will pretty nearly all of them be candidates for re-election, and they will be down there, if not clipping wool, pulling wool over the people's eyes. [Laughter.]

Mr. COKE. I have not informed the Senator that I am not a candidate, like a good many others. [Laughter.]

Mr. EATON. My friend from South Carolina whispers to me that my friend from Texas may be "the dark horse." There are a great many dark horses that I see all around here, [laughter,] more on the other side, I believe, than on this. [Laughter.]

But I was about to observe that this is the presidential year, and while we are not all candidates for the Presidency some of us are for re-election, perhaps, and on the whole I submit to the good sense which lies at the bottom of my friend from Texas that it will be impossible to get members of the two Houses to devote the necessary time to this subject durng the coming vacation. Here is my friend from New Jersey, [Mr. MCPHERSON,] a practical business man, thoroughly understanding these great questions as a man can who is not an expert. Ask him if he can take this subject within his hands and give a report upon it by the first Monday in December? No, Mr. President.

Mr. MCPHERSON. May I just here make a reply? I will state that any commission, whether from the Senate or the House, would find enough in one city of my State to occupy it from now until the next session of Congress in examining the manifold industries of that one city.

Mr. EATON. Another argument which has been used is that Congress should not debar itself from its power. Mr. President, I do not understand the force of that argument. Congress will not debar itself from any power. We seek information; we seek it as the French Chambers seek it; we seek it as the British Parliament seek it. Again and again on great overshadowing questions that have been brought before the British Parliament they have been sent to an outside commission to report to Parliament.

Mr. JONES, of Florida. Always appointed by Parliament itself.

Mr. EATON. No matter about "by itself." I presume my friend is right on that point, but they are composed of outside men. I do not know whether the Lord Chancellor ever appoints as the Speaker of the House, or whether it is done by Parliament as a body, but no matter about that. We debar ourselves from no power; all we do is to institute a commission that will bring us intelligence, and upon that intelligence we are to exercise our constitutional power as legislators.

Mr. President, I have said more than I intended when I rose, and have talked much longer than I intended. I hope the bill that the committee reported will pass. I believe it is the better bill of the two; I believe it is the true way to arrive at the information which Congress desires. I have no other wish except that which every man on this floor has, and that is to act for the best interests of our common country, nothing else; not for the interest of Georgia or South Carolina or Maine or Ohio or Connecticut, but to get a mass of valuable information for the best interests of our common country; and believing, as I do, that the true course is to institute a commission outside of Congress, I ask the Senate to pass the bill that the Committee on Finance has reported.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Iowa [Mr. KIRKWOOD] to the text of the original bill, to insert in line 7 of section 3 the words "and the existing system of internal-revenue laws" after the word "tariff."

Mr. KIRKWOOD. Is there any objection to the amendment?

Mr. BAYARD. I think not at all.

Mr. KIRKWOOD. If there is no objection, I have nothing to say.

Mr. BAYARD. Indeed I do not see how one can be considered without the other.

Mr. KIRKWOOD. That is my own judgment.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Iowa.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The question now is on the amendment of the Senator from Iowa [Mr. KIRKWOOD] to the amendment offered by the Senator from Arkansas, [Mr. GARLAND,] which will be reported.

Mr. SAULSBURY. I do not intend to make any speech on this question; I am desirous to have a vote upon it; but I wish to say that I shall vote for the substitute rather than the bill. I concur in what was said by the Senator from Texas [Mr. COKE] that the intervention of a commission to advise Congress about what is best and proper to be done will not meet with my concurrence.

I believe that there are many articles now taxed under our tariff laws which should be placed upon the free list; there are many other articles that are now subject to taxation under the tariff laws that we should modify so as to relieve the people of the country from the burdens which are oppressive upon them under the laws as they exist. That we may not have the full information necessary to complete a proper tariff law, I admit; but I cannot conceive that a commission such as is provided for in this bill will put us in possession of any more information on the subject of the tariff question than we could obtain by applying ourselves to the subject without their intervention.

The system of tariffs has been adopted in this country for many, many years, and upon our statute-books are various enactments regulating the tariff. We have reports in both Houses of Congress, reports from the Treasury Department, as to the operations of these laws, and if we address ourselves to an inquiry into our tariff system we can arrive at a very satisfactory conclusion as to what is necessary and proper to be done with the question. My fear is that the intervention of the commission provided for by the one bill or the other will have a tendency to delay any attempt on the part of Congress to modify the tariff laws of this country; at any rate I cannot conceive that under two or three years we shall reach any conclusion about the tariff laws. Under the bill known as the Eaton bill the commission provided for will necessarily consume two or three years, and perhaps come here with a partial report and ask an extension of time before they give us the information which will enable us to act on the subject.

Sir, I believe the people of this country desire a modification of our tariff, that certain articles now subject to tariff taxation should be placed on the free list, and that others which are enormously assessed by the tariff laws shall be so modified that the tariff will be reduced. That we can do without any commission whatever; and if after having accomplished that there are other improvements in the tariff system deemed necessary and proper, then it will be time enough for Congress to ask for the intervention of a commission.

As I believe the substitute offered by the Senator from Arkansas will to a certain extent put us in possession of the information sought by the commission at an earlier day than we can obtain it by what is known as the Eaton bill, I shall vote for the substitute of the Senator from Arkansas, at the same time saying that I believe the whole thing unnecessary, that we could, if we would apply ourselves to it, make a proper modification of the tariff without the intervention of any commission at all, and I vote reluctantly for either of the propositions. I vote for the proposition of the Senator from Arkansas only because it is better than that of the Senator from Connecticut.

Mr. President, I think there would be no difficulty in a few months, if members of Congress would apply themselves to it, in so adjusting our tariff system as to give satisfaction to the people of the country. At any rate, I do not wish to vote to place in the hands of a commission to be appointed by the executive department of this Government this whole question. There are men in both Houses of Congress capable of considering this subject, capable of considering any subject that comes before Congress. They can deal with the most abstruse questions of constitutional law, and I cannot see why they cannot possess themselves of the proper information to legislate on the tariff question and present a bill in a proper form. At any rate I am unwilling to place the entire power in the hands of the Executive of the country. If we must have a commission, appoint three members of the Senate and three members of the House of Representatives to be aided, if it is thought proper, by three outside gentlemen, and I think we shall get as much information and as proper information on the subject in that way as by a commission constituted entirely by the President of the United States. I shall vote, therefore, though reluctantly, for the substitute of the Senator from Arkansas.

Mr. JONES, of Florida. Mr. President, I am not going to make a speech, but I am going to say a few words in reply to what was said by the Senator from Connecticut.

It is asserted here that the President of the United States should be invested with some authority over this commission. I observed to the Senator from Connecticut a while ago that we were departing from parliamentary usage in this particular, for after all we are only a great prototype of that country from which we have borrowed the principles of our parliamentary system, and I do not remember a single instance in the history of Great Britain in which the monarch was called to participate in the designation of a commission necessary to inform either house of Parliament.

One of the most celebrated reports in all English history is Mr. Harner's report on the money question, and it was the work of an intelligent and able member of Parliament; and if there was any outsider on that commission I do not remember it. It stands to-day a monument of learning, of wisdom, that has received the highest compliments; and still it was the work of a member of the House of Commons. That committee had experts before it, no doubt, whose opinions were taken, but that Harner report on the money question to-day embodies, in my judgment, the soundest principles of finance, and has been referred to time and again in this body by learned Senators who have derived information from it.

It is a poor compliment to the Senate of the United States or to the body at the other end of the Capitol to say to the American people that they have not got time to do anything which may be required at their hands as public servants. The Senator from Connecticut said a while ago that a presidential election is coming on, as though we were all candidates. I trust it will not go out to the country that there is not intelligence enough or energy enough or disposition enough in this body and in the other House to do anything that may be necessary to inform us in respect to a matter upon which we may be called to act for the benefit of the whole people.

Mr. HILL, of Georgia. I do not see the force of the argument and remarks made by the Senator from Florida. He says the appointment of a commission of outsiders discredits the intelligence of this body.

Mr. JONES, of Florida. I did not say that, with all due deference to my friend from Georgia. I do not object to the appointment of outsiders, but I do not see the necessity of the President of the United States being brought into this business. I think this inquiry can be conducted just as it was in other cases where a commission of both Houses of Congress was appointed. They can call before them experts and receive their opinions, and I do not think it necessary at all to make them a part of the commission, although I do not object to it, but still I do think that Congress ought to keep the subject within its own control.

Mr. HILL, of Georgia. I was going to say that if you appoint a commission of members of Congress, they have to depend on experts for information, and I am sure that would be no reflection on members of Congress. No members of Congress can take up this subject and master it themselves. They have to go outside to get information. Why do they go outside to get information? Because there are others who have devoted more attention to the subject than they have. There are men outside who are experts in the various branches of industry. They have made it the business of their lives and they know all about it. So I do not think the fact of calling in outsiders to give Congress information is at all improper or unusual or unsafe.

Further, the Senator says an objection is that the Executive should be brought into this matter. The Constitution places in the Executive of this country a part in all legislation. If the President should have nothing to do with this matter, then objection could be made to allowing the Executive to have anything to do with any other matter; it would be unwise to allow the Executive to appoint embassadors and other public ministers, and to appoint the other thousands of officers who are managing the business of this country. There is a check upon the Executive and we can apply it. This bill requires that the commissioners shall be nominated by the President and appointed by and with the advice and consent of the Senate.

Mr. JONES, of Florida. I will say to the Senator that there is a great difference between the character of this commission and an ordinary officer who is selected or appointed to discharge executive duties. The Constitution, it is true, gives the President the power of appointment and the Senate the power to confirm; but when Congress seeks to inform itself in respect to any great public matter, I do not think it ought to bring the Executive into the business at all. They ought to do as is done usually in that great body from which we have copied our system of parliamentary life and existence, take it within themselves. The King never was known to appoint a commission to inform Parliament about anything.

Mr. HILL, of Georgia. I cannot see the objection to information derived in any manner from any source. My own judgment is that an outside commission is frequently better, because I believe what the Senator from Connecticut says; with my short experience as a member of Congress I do not believe that the members have the time to devote to this subject that is necessary for its proper understanding. But where is the danger in any view? We are not appointing a commission to enact a law. If this was a proposition to appoint a commission of nine gentlemen outside to enact a law which they could report to the President and the President approve I would appreciate the force of the objection made by the Senator from Florida. But we are simply adopting this as a method of getting information for the action of Congress. Congress reserves absolute control of the whole matter. Congress can use this information in its legislation as it pleases. It is the only power that can use it, as my friend from Delaware says. Why on earth there should be an objection to a system of this kind to get information to enable Congress to act the more intelligently and more efficiently I confess I cannot see for my life. If it shall be so that the President shall appoint a commission who are incapable to do this work, of course we are not bound to confirm them. It would be a mistake, and it would be a mistake on our part as well as the President's, for I presume the Senate will not confirm men unless it is satisfied that they are competent to do this work; and when we get this information then Congress may take the information and enact a law.

We get information every day. Do we not use the works of all

great writers on every subject that comes before us? Are we not every day using the works of Story and Cooley and the works of many others on great constitutional questions, availing ourselves of the information they give us? I do not see any impropriety in it.

I did not rise to discuss this question. I think that this is a very important movement. I think if we adopt the amendment offered by the Senator from Arkansas constituting a congressional commission it will prove a failure. I believe if we adopt the other, although time will be taken, it will be a great success. That is my opinion, and I think we ought to adopt the bill.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Iowa [Mr. KIRKWOOD] to the amendment of the Senator from Arkansas, [Mr. GARLAND.]

Mr. KIRKWOOD. A single word. The discussion that has been going on this day has been so much upon the general question that perhaps the particular point upon which Senators are about to be called on to vote has entirely escaped their attention.

The proposed amendment is to increase the number of outsiders, so to speak, to act with the members appointed from the two Houses, from three to five. I have already assigned the reasons why I think that should be done if this substitute is to pass. The number should be increased to five to enable the producing portions of our country, if I may speak in that way, to be represented among those outsiders, as well as the special interests to be more immediately affected. That is all. It is an increase of number of the outside portion of the commission from three to five.

The PRESIDENT *pro tempore*. The Chair would call the attention of the Senator from Iowa to the fact that the printed amendment which the Chair has before him has no reference to the number.

Mr. KIRKWOOD. I offered two amendments. Which amendment is under consideration?

The PRESIDENT *pro tempore*. The amendment will be reported.

The CHIEF CLERK. In line 6 strike out the word "three" and insert "five."

Mr. KIRKWOOD. That was the first amendment offered by me.

The PRESIDENT *pro tempore*. Was that to the amendment of the Senator from Arkansas?

Mr. KIRKWOOD. Yes, sir.

The PRESIDENT *pro tempore*. The question is on the amendment just read, offered by the Senator from Iowa to the amendment of the Senator from Arkansas.

Mr. ALLISON. Mr. President, I see a practical difficulty in the amendment suggested by my colleague. Indeed I see a practical difficulty in the amendment proposed by the Senator from Arkansas.

Now, what is this joint committee to do? It is required to report to Congress. It must report by bill. That is the only way in which it can bring before Congress a revision of the tariff. If my colleague's amendment shall prevail, it will turn out that five experts and one member of Congress can direct what measures shall be proposed to both Houses of Congress, because this commission will then consist of eleven persons, five of them to be experts outside of Congress and six members of Congress. Of course six will form a majority, and these five outside people and one member of Congress having an opportunity to vote in reference to this general question of the tariff or with reference to the details of the duties that shall be imposed on different articles can present a bill to the House of Representatives looking to the revision of the tariff. It seems to me such a commission will be impracticable.

Mr. ANTHONY. The amendment does not state how the five experts are to be selected.

The PRESIDENT *pro tempore*. The amendment of the Senator from Arkansas settles that matter.

Mr. KIRKWOOD. My amendment is only as to the number. The manner of appointment is provided for in the original amendment itself. In answer to the remark of my colleague, I will say that I admit the full force of what he says, and yet that strikes at the entire substitute fully as much as it does at the amendment offered by me.

Mr. ALLISON. I agree to that.

Mr. KIRKWOOD. If the amendment offered by myself shall be adopted it will certainly be in the power of five outsiders, experts, or what you choose to call them, and one member of Congress, to report a bill. If the number is left at three, then it will be in the power of three outsiders with two members of Congress to report a bill. The members of Congress consisting of three from each House, six in all, and the commission consisting of nine, the three outsiders and two members of Congress will make a majority of that number.

Mr. JONES, of Florida. Do I understand that the Senator from Iowa desires a simple division of labor in respect of this matter?

Mr. KIRKWOOD. I was unfortunate in not having the attention of the Senator from Florida when I first proposed this amendment. I thought that in selecting outsiders it would be eminently proper, if not necessary, to have one man well acquainted with the commercial affairs of our country, having more knowledge as to our foreign commerce than perhaps any member of the Senate possesses. I thought it would be proper also to have a man that had more knowledge of the manufacturing interests of the country than perhaps any member of Congress possesses. And so I thought as the interstate traffic of our country, the transportation of our country, is greatly interested in that matter, it would be well that that interest should be represented. And as those interests can concentrate and act directly I thought it more than likely that the three outsiders would be selected from those three classes, and that being so, I thought it perhaps desirable that the great agricultural interest of the country, of the Northwest and the Southwest, the men whose interests are affected by these tariff bills and other bills because they pay a large portion of the duties laid by our tariff, should have a chance to be heard. I thought it would be well to increase the number to five, so that from the Northwest and the Southwest we might have a member who understood the agricultural interests of those sections, so that when men came before this commission to give information there might be men on it who would ask information touching these points.

At this hour I dislike very much to detain the Senate, and yet I will illustrate now what I mean at the expense of being tedious, which I certainly never desire to be. When the question of acting on the tariff came before the other House of Congress, in anticipation that possibly something from there might reach the Senate at this session I began to look into the matter. I noticed that there it was proposed to repeal the duty on salt; and, looking into the existing law on that subject, I found some things that struck me rather singularly. There is a duty of eight to twelve cents per hundred pounds upon salt imported. I do not say that that is too high a duty; but I found that persons of our country who were engaged in curing fish are permitted to use foreign salt for that purpose without paying any duty.

Mr. COCKRELL. Why is that?

Mr. KIRKWOOD. I was not here when the bill was passed, and cannot say. Looking further I found this: I wrote to a meat-packing firm in the county adjoining the one in which I live, and inquired whether or not foreign salt was used to any considerable extent in curing meats; and I found to my utter surprise—I ought to be ashamed to-day to admit that I was surprised—that that single establishment in my own State had in thirteen months, covering the twelve months of 1879 and January of 1880, consumed two hundred and forty-five car-loads of foreign salt in curing meat. So, taking advantage of the Senator from Vermont, [Mr. MORRILL,] who has a bill here for admitting ancient statuary free of duty, I proposed an amendment to that bill when it should come in, not to take away the duty on salt, but to enable the man who cures the meat of our country with foreign salt to draw back or have refunded to him when he exports meats so cured the amount of duty paid by him on that salt. It does not affect at all the consumption of salt, because packers find that in the foreign market their meats cured with foreign salt are sold to better advantage than meats cured with salt of our own manufacture, but it gave the man who produced the hogs and the cattle and the man who packed the meat, or both, a chance to add some little to their profit.

Again, in looking through the tariff bill I found that hides are admitted free of duty. Our country produces a great many hides and they have a very large money value. They are produced by men that we do not call manufacturers. A moderate duty upon hides would benefit the men who raise cattle in Texas and on the plains and in Iowa and Ohio and elsewhere.

Mr. JONES, of Florida. At whose expense?

Mr. KIRKWOOD. At the expense of the same persons who pay duties on all other imported articles, I suppose; and the query with me has been, and a matter worthy of examination is, whether or not the men who produce these things should not have some advantage from our customs duties as well as the men who make cotton cloths. If upon investigation it shall be found that a moderate duty upon hides will prevent the exportation of manufactured leather and goods manufactured from leather, then we can do with that as we do with other things, allow the duty to be refunded to the same extent that it is paid upon the raw material imported.

Again, some few years ago in the county in which I live there were two of what we call flax factories, establishments in which flax straw, after the seed had been taken from it to manufacture into oil and oil-cake, was taken into these mills, manufactured into tow, and sold for manufacturing purposes. I do not know where and how. Again, I say I am ashamed to admit that I do not know where or how; but there was a large quantity of flax straw manufactured into tow in the two establishments in the county in which I live, and all through our State, and sent to Saint Louis or elsewhere to be manufactured into some commodity that the country needed. I do not know that I am right about it, but as I am informed a change was made in the tariff upon jute and jute-butts, and the result has been that those two establishments have ever since stood idle, and to-day hundreds of tons of flax straw through Iowa rot upon the ground or are burned up to be taken out of the way.

Mr. BUTLER. What was the change on jute?

Mr. KIRKWOOD. I do not know.

Mr. BUTLER. Was it admitted free?

Mr. KIRKWOOD. I do not know whether it was admitted free or whether the duty was lessened.

I say, Mr. President, that my object in introducing this amendment was, if this step were carried, to provide that some man may be upon the commission who knows something about the condition of affairs in the country where I live.

Mr. JONES, of Florida. Does not the Senator know all about it?

Mr. KIRKWOOD. I shall not be on the commission.

Mr. JONES, of Florida. How does the Senator know that?

Mr. KIRKWOOD. I know that very well. I am finding fault with

nobody about this matter, but I do say that to make this system of tariff duties bearable there must be in it something approaching to equality so far as it can be done. There may be other interests in the portion of the country where I live about which I know nothing to-day, concerning which an intelligent man, understanding those things much better than I do, could give valuable information to this committee. That is the object I have had in view in submitting this amendment. What may be its fate, I cannot say; but I have submitted it, and have given the reasons that induced me to offer it.

Mr. JONES, of Florida. Let me ask the Senator how his amendment would operate in regard to another subject. I see nothing in the bill that would make it compulsory upon the President to act at all.

Mr. KIRKWOOD. Just talk about my amendment.

Mr. JONES, of Florida. I will talk about the whole subject.

Mr. KIRKWOOD. Well, I give up.

Mr. JONES, of Florida. I do not think that the two Houses of Congress ought to make their action in a matter of this kind dependent upon the volition of the Executive. Here is a subject that falls within the exclusive legislative power of the two Houses of Congress. Nobody will deny that. I do not forget the residuary veto power of the Executive, which he may exercise upon a measure which does not happen to please him; but I say that all legislative power by the Constitution is vested in the two Houses of Congress. Here is a matter which falls within their peculiar and appropriate jurisdiction.

In order that they may act wisely, intelligently, properly, they go in search of light, and what do they do? They authorize the President to designate a number of commissioners, who are to be confirmed in the manner provided for the confirmation of officers who are to discharge executive duties. There is nothing under the law that compels the Executive to do this thing at all. It is making the action of Congress depend upon the volition of the President, thus bringing him into a sphere where he has no proper duties. We ought to act in a matter of this kind independent of the President. If we are seeking information to guide us we ought to designate our own commission, to say of how many outsiders it shall be composed, and how many members of our own body. I am opposed on principle to giving to the Executive any authority upon this subject at all. I do not think it can be defended. I do not see what he has to do with it. The President has the power to veto anything that may be ultimately done under the Constitution. He ought to be left free to exercise that power. He ought to be left free to do in the last resort what his own independent and free judgment may suggest to him, and he ought not to be trammeled by the action of any number of men whom he has designated to co-operate with the two Houses of Congress upon this subject. I know the infirmities of human nature, and they are to be found in the Executive Mansion as well as outside of it.

Mr. BUTLER. Will my friend pardon me if I interrupt him just there?

Mr. JONES, of Florida. Certainly.

Mr. BUTLER. By what authority did the President of the United States appoint the silver commission, as it was called?

Mr. JONES, of Florida. I am not now speaking of precedents.

Mr. BUTLER. That was for the purpose of procuring information for the guidance of Congress, as I understand.

Mr. JONES, of Florida. Yes, but I am opposed to its further continuance, especially upon a matter like this upon which there is so much feeling in the country.

Mr. KIRKWOOD. Then the Senator is opposed to both the original bill and the substitute?

Mr. JONES, of Florida. I am in favor of the substitute.

Mr. KIRKWOOD. Does not the Garland bill authorize the President to appoint these three outside persons?

Mr. JONES, of Florida. I am in favor of Congress appointing the whole commission.

Mr. KIRKWOOD. Then if you make the number five they will be appointed just in the same way as three, so that there is no difference in principle between the Senator and me on this amendment.

Mr. JONES, of Florida. I do not quarrel with the Senator about the number that ought to be selected from outside, but I am speaking in respect of the interposition of the Executive. I say that he holds over this subject the ultimate power of veto. As the Senator from Iowa said awhile ago, if the commission are expected to report by bill, at the next session of Congress we may have a bill here reforming the tariff, the material changes in which may be brought about by the very gentlemen whom the Executive has designated to participate in this great business. I do not think he ought to have anything to do with it. I think we have got sufficient wisdom within ourselves to select a proper commission, taking from outside and inside just as many men as ought to be upon it, but I see no necessity for giving the President any power on the subject at all.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Iowa [Mr. KIRKWOOD] to the amendment offered by the Senator from Arkansas, [Mr. GARLAND.] The amendment to the amendment will be again reported.

The CHIEF CLERK. It is proposed to strike out "three" and insert "five;" so as to read:

That a commission is hereby authorized and constituted, to consist of three Senators to be appointed by the Senate, three members of the House of Representatives to be appointed as the House may direct, and five others, not members of either House, to be selected by such Senators and Representatives and associated with them, with authority to determine the times and places of meeting, to employ a stenographer, and to take evidence, and whose duty it shall be to inquire.

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question now is upon the amendment in the nature of a substitute offered by the Senator from Arkansas, [Mr. GARLAND.]

Mr. KIRKWOOD. I have another amendment.

The PRESIDENT *pro tempore*. The Chair was in error. The Chair finds there is another amendment offered by the Senator from Iowa, which will be reported.

The CHIEF CLERK. In line 26 of the amendment to the original bill, after the word "existing," it is proposed to strike out "and seventh" and insert:

Seventh, the system of charges and fees of all kinds required to be paid at the principal ports of entry in the United States for the lading, unlading, clearance, and pilotage of vessels engaged in foreign commerce; and eighth.

Mr. BECK. That is right, I think.

Mr. KIRKWOOD. I understood the Senator from Arkansas to say that there was no objection to putting this upon his substitute.

The amendment to the amendment was agreed to.

Mr. KIRKWOOD. Now, a single other amendment and I will relieve the Senate so far as I am concerned. In line 11 of the substitute of the Senator from Arkansas I move to amend so as to produce precisely the same effect as was produced in the original bill by the amendment I offered to that. After the word "the," in the eleventh line, where it occurs for the second time, I move to strike out all of that line and all of line 12 and insert "existing tariff and internal-revenue laws upon the different interests of the country;" so as to read:

First, into the relative effects of the existing tariff and internal-revenue laws upon the different interests of the country.

Mr. JONES, of Florida. I think the tariff system is big enough for this commission without dragging in the internal-revenue laws.

Mr. KIRKWOOD. The chairman of the Committee on Finance did me the honor to accept without objection this amendment to the original bill.

Mr. DAVIS, of Illinois. I do sincerely hope that two such great subjects as the tariff and the internal revenue will not be confided to the same committee.

Mr. ALLISON. I can see no objection to the amendment of my colleague, [Mr. KIRKWOOD.] Indeed I do not see how the commission can consider the tariff question without at the same time considering the question of internal revenue. The primary object of a tariff under our Constitution is to raise revenue. Of course they must ascertain how much revenue is required for all the various purposes. If so, they must find out in some way how much ought to be raised by internal-revenue taxation and how much by tariff.

Mr. KIRKWOOD. That is just the reason why I offered the amendment. For instance, we need, say, $300,000,000 of revenue. We will suppose this commission in some way to be organized. They go to work to consider the question submitted to them. If their deliberations are to be confined to the customs revenue only, then they will ascertain by examination what has been the income from the internal revenue for the last year, and estimate from that what will be the income from the internal revenue for the succeeding years to come, and they will thus have the balance of the $300,000,000 to raise by customs, and something to apply to the payment of our debt. But there is a continual effort being made here, and it will continue to be made, to change our internal-revenue system. They thus could react upon each other. If the amount of revenue raised from the internal-revenue system is reduced, the amount to be raised by customs must be increased. If the amount raised from internal revenue is increased, the amount which should be raised by customs will be diminished unquestionably.

There has been once or twice since I have been here a strenuous effort made to take off the tax upon matches, an internal-revenue tax. If it shall be taken off, your whole revenue is diminished by that much. An effort is being made all the time to take off the internal-revenue tax upon patent medicines and perfumery. If you take that off, you diminish by so much your internal revenue, and the customs revenue would have to be increased. A great complaint is made here, and I think justly, that our banks pay too much tax in proportion to other industries of the country, a tax upon deposits, a tax upon checks. Whether those who favor a reduction will be able to succeed in having that reduced I cannot tell; but if they shall, it will make quite a diminution of your revenue that must be supplied from customs. So, as the Senator from Delaware says and as my colleague says, I do not see how you can consider one of these questions without considering the other.

Mr. BUTLER. They are cognate subjects.

Mr. KIRKWOOD. Indeed, the Senator from Delaware said to me, and perhaps with absolute accuracy, that my amendment to the original bill was not needed because of the necessity of the case.

Mr. BAYARD. I said that was my view.

Mr. KIRKWOOD. However, I thought it better to have it expressed, both in the original bill and in the substitute, so that the commission, whichever it may be, may not feel hampered.

Mr. BECK. Every internal-revenue report not only shows the

precise amount of internal revenue received, but the amount received from each article taxed from each State and every collection district in each State, from the beginning of the internal-revenue system down to the present time. Every person knows that less what it costs for collection every dollar of the amount thus collected gets into the Treasury; so that there is no trouble about that. But we all know very well that of the immense tariff duties upon iron, if you please, upon steel rails and other things, not every dollar goes into the Treasury. So with the thousand subjects of tariff taxation about to be inquired of; and it is big enough for any commission. Indeed, the argument has been made all the time that we should give the commission until December, 1881, because nobody can before next December have time to ascertain what changes should be made; and the further argument made by the Senator from Connecticut is that there is not any member of this body or of the other House who would be willing to undertake it, was fit to be there if he attempted to report before next December.

Mr. EATON. What does the Senator mean by saying I made that remark? I made no such remark as that. I said no man could do it, and I say so now.

Mr. BECK. Very well; the Senator said that no man could do it.

Mr. EATON. I did not say that no man was fit to be there who would try to do it.

Mr. BECK. My recollection is not very accurate about it; but the Senator said no man could do it. Then why add any additional load unless it is to allow the present condition of things to remain for a year longer from the 1st of next December? Why not allow somebody to try? The whole argument of the Senator from Connecticut and of gentlemen of the Finance Committee is based upon the assumption that the House and the Senate either will not do it or that they cannot do it; that they have not got the education, the information, the ability, the will, or something else. If the internal revenue is to be added to the subject of inquiry it will be that much additional load put upon the shoulders of the men who have to do the work.

Mr. KIRKWOOD. Will the Senator allow me to interrupt him?

Mr. BECK. Certainly.

Mr. KIRKWOOD. I have been exceedingly unfortunate in making myself understood. See if I can make my meaning clear. Suppose one of these two commissions has been appointed and is organized. The members meet together and go to work. What is the first thing for them to do? It is to ascertain as nearly as they can how much revenue is to be raised from customs. I think there cannot be any misunderstanding about that.

Mr. BECK. We know to an absolute certainty that $125,000,000 of internal revenue are raised in the present condition of things.

Mr. KIRKWOOD. Let me get through with explaining myself, and perhaps——

Mr. BECK. Where we pay $10 for customs we pay $1 for internal revenue.

Mr. KIRKWOOD. I may be able to make myself understood by the Senator and perhaps I may not. These gentlemen first inquire how much are we to raise from customs. To ascertain that they must know how much is needed altogether, and then how much will be raised by internal revenue. Does the Senator from Kentucky mean to say that the internal-revenue system is to remain precisely as it is without any change in the future? If he means to say that, and if that is accepted as a fact, then my amendment is wholly unnecessary; but if that is a quantity liable to change, if that may be increased or diminished by legislation as well as the amount raised by the tariff, then it seems to me that in determining how you will raise the whole amount the same commission that determine how much shall be raised from one part of it should determine how much shall be raised from another part of it. If it is an accepted fact that the internal-revenue system is to remain unchanged, then I admit, I say, that there is no use for this amendment; but if changes are to be made, either increasing or diminishing the amount, that question should be considered by the same commission.

If I have not made myself understood I am unable to do so.

Mr. BECK. All I meant to say was not that internal-revenue taxation was not to be changed, but that the exact amount of revenue necessary to pay the expenses of the Government is well known substantially, that the amount received from internal revenue is also well known, and the report shows it all in the utmost details; that the complaint was that this commission had too much to do now, and that to add anything else on to its labors is only to embarrass it. That is what I said.

Mr. JONES, of Florida. Let me ask the Senator a question. Does a reformation of the tariff necessarily involve a question of revenue?

Mr. BECK. I do not think it touches it at all in any shape or form. I suppose there is not an intelligent man in this Chamber who does not know that the tariff taxation of this country—for that is what it is—can be reduced one-half and the revenue doubled. I suppose there is no intelligent man in the country who does not know that for every dollar that goes into the Treasury for tariff taxation to-day it costs the people of this country $5. I think I can show that from the statisticians of the republican party, some of them high officials of the Government. The object of raising this commission is to see if that condition of things cannot be stopped. The object of the Garland bill is to see if members of the Senate and House cannot, by the aid of such experts as they can call in, ascertain whether that alleged fact is true.

It is proposed to empower the President of the United States, the chief of the party that brought about this condition of things, to select a body of men to whitewash all that has been done and to write out a report to make it all appear good. The President knows he can have anybody confirmed. He had a Postmaster-General confirmed yesterday, and after that he can have anybody confirmed. He will put men there who will make all appear right that has been done. These men can neither be cross-questioned nor examined as to any report they may make, but it will be delayed until December, 1881. The present condition of things will be allowed to exist from now until then without relief, and then written reports will be made which these men cannot be questioned about. They are to be appointed by the President, who has nothing to do with the legislation. They are to be appointed without the consent of the House, which has under the Constitution the right and the only right to act in the first place upon that information; and if they dare to run counter to the information thus furnished by their enemies they will be denounced as going against the best interests of the country. The evidence of experts selected to furnish evidence against them will have been provided in advance; and, as I say, they can neither cross-question nor examine them on the floor of either House or require them to give a reason for what they have done.

The simple proposition presented by the two measures is, shall the House of Representatives be ignored and all the information they have to act upon be transferred to a department of this Government that has nothing to do with the raising of revenue except by the interposition of a veto to stop anything that he may not approve? This body we know will confirm anybody the President sends here, and the question is shall he appoint nine men to tell us what he and his men thus selected want to have done, selected, if you please, in the very interest of the men who are now receiving the taxes instead of the Government receiving them? The House is to be taunted and charged with being against the best interests of the country if it dares to do anything contrary to the report that these men thus picked submit, against its will and against its interests, and against the interests of the great mass of the people it represents, because in the interest of a few protected monopolists the commission may report against the people, and the House cannot even question the men who make the report. I say it is an insult to the House of Representatives to tender to them such a proposition. As a member of that House, if I were there, I would return it to the Senate. If I were a member of that House, and it was to be ignored in ascertaining the information necessary for the House to act upon, the measure should never enter that House longer than to have it sent back to the body whence it originated, and to tell that body that the President of the United States should not select and pick men to tell them what to do; that they should have something to say about it themselves.

Mr. MORRILL. Mr. President, I hope the House will hear the Senator from Kentucky. After his rather fierce tirade against the President the other day, I saw by the papers that the Senator called at the Executive Mansion the next morning. I fear that he met with a rebuff and did not get the men that he wanted on this commission promised to him.

Mr. BECK. Mr. President, I want to say that that is as mean a fling as ever was made by one Senator against another. I went to the White House with some distinguished gentlemen who were visiting this country, who brought letters of introduction to me from my old friend, Alexander Mitchell, of Milwaukee, who asked me to introduce them to gentlemen here, because they were his kinsmen and his friends. I did that and nothing more. I have asked no favors. I am not a beggar at the feet of power, nor is my tongue ever silent when I think I ought to speak for fear that I may lose favor by speaking. I doubt whether any man on this floor has used his privilege more freely, has taken more risks, under General Grant's administration, under Hayes's administration, under all administrations, to denounce whatever I thought was wrong. There is not a human being in all the Departments of this Government to-day placed there at my request. I never fawned nor bowed to power, nor cringed, nor met rebuff.

Mr. MORRILL. I do not doubt that the Senator tells what is true, and I am sorry that he takes so much to heart the idea that I suggested. I hope he will not consider it the meanest fling, for he ought to look over some of the flings that he has made at the tariff. I see by the report of his remarks the other day exactly what kind of a commission he would desire to appoint. He states here:

> I would, if I had my way, name a man as one of the experts, who was dismissed by the republican party from place because he told them the truth, David A. Wells, of Connecticut.

And then he mentioned also R. M. T. Hunter, of Virginia, and Mr. Moore, of New York, a clerk in the custom-house, I believe. I desire to know of the Senator from Kentucky if he does not think those gentlemen would be as fierce partisans as any that could be named by the President? I know that the Senator has suggested that the only chance of obtaining any relief is to have such men as himself and the Senator from Missouri, [Mr. COCKRELL.] I do not know but that we had better appoint the Senator from Kentucky alone as the only impartial man. He is so mild and impartial in the considera-

tion of the subject of the tariff that possibly he might be the best qualified of any man in the Senate.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Iowa [Mr. KIRKWOOD] to the amendment of the Senator from Arkansas, [Mr. GARLAND.]

Mr. KIRKWOOD. Lest it should be forgotten what it is during the late discussion, I ask that it be reported again.

The PRESIDENT *pro tempore*. The amendment to the amendment will be reported.

The CHIEF CLERK. In line 11 of the proposed substitute, after the word "the," where it occurs in the second place in line 11, it is moved to strike out all down to and including the word "country," in line 12, and to insert "existing tariff and internal-revenue laws upon the different interests of the country;" so as to read:

First, into the relative effects of the existing tariff and internal-revenue laws upon the different interests of the country.

The amendment to the amendment was rejected.

Mr. COKE. I ask that the amendment which I send to the Clerk's desk be read.

The CHIEF CLERK. At the end of the substitute it is proposed to strike out the words "of the next session" and insert "not later than the first Monday in December, 1880;" so as to make the paragraph read:

Eighth, the said commissioners to report the results of their examination into the subject above referred to, with such suggestions and recommendations as to them may seem proper, to Congress at the earliest day practicable, not later than the first Monday in December, 1880.

The PRESIDENT *pro tempore* put the question upon the amendment to the amendment, and declared that the noes appeared to prevail.

Mr. COKE. I call for a division.

Mr. BROWN. I want to understand exactly what I am doing here. If I comprehend this matter we are now perfecting the substitute offered by the Senator from Arkansas to the bill introduced by the Senator from Connecticut. The amendment of the Senator from Texas is a motion requiring the commission, as it is to be made up under the substitute of the Senator from Arkansas, to report upon the first Monday in December. I would prefer the bill of the Senator from Connecticut, but I do not agree with him as to the time. I think a commission appointed as he proposes, of experts outside of the Senate and House, would accomplish more and be likely to make a report that would be of more value to Congress than a committee appointed mostly of members of Congress, with the other duties they have on their hands, would be able to do. I simply ask, therefore, if it would not be in order as soon as the substitute is disposed of, in case it is not adopted, to perfect the bill of the Senator from Connecticut by offering my amendment there that was read here the other day?

The PRESIDENT *pro tempore*. The text of the bill can always be amended before a question is taken on adopting a substitute. All such amendments have precedence.

Mr. BROWN. Then I shall vote against the substitute of the Senator from Arkansas, and I shall move to amend the bill of the Senator from Connecticut, when we reach the proper point, by striking out "December" and inserting "January" in the fifth line of section 4. I give notice of that amendment now.

The PRESIDENT *pro tempore*. The Senator can move that amendment before the question is put on any other amendment.

Mr. BROWN. Then if in order now, I move in the last line of the fourth section of the bill of the Senator from Connecticut that the word "December" be stricken out and the word "January" inserted; so that it will read:

Make their final report not later than the first Monday in January, 1881.

The PRESIDENT *pro tempore*. The Chair thinks that the amendment of the Senator from Texas [Mr. COKE] having been submitted and a division demanded, the vote should be first taken on that; and then, no matter how that vote is decided, the amendment of the Senator from Georgia will be in order. The question is on the amendment of the Senator from Texas [Mr. COKE] to the amendment of the Senator from Arkansas, [Mr. GARLAND,] on which a division is asked.

The amendment to the amendment was rejected; there being on a division—ayes 19, noes 26.

The PRESIDENT *pro tempore*. Now the amendment of the Senator from Georgia [Mr. BROWN] will be in order.

Mr. BROWN. I move to strike out the word "December," in the last line of the bill of the Senator from Connecticut, and insert the word "January." My opinion is that a commission appointed as proposed by the substitute of the Senator from Arkansas could not report by the first Monday in December next. With all the other duties they have upon them I think it would be out of their power to do so; but if we appoint a commission outside, composed of experts, of gentlemen who can give their whole time to the subject, I have no doubt they can make a proper report in seven months; and it is now about seven months until the first Monday in January next. A commission of members of Congress could not do that on account of their other duties. An outside commission of experts can do it and have ample time. I therefore hope that December will be stricken out and January inserted. I see no reason for giving an outside commission, if we adopt that policy, eighteen or nineteen months within which to make up their report and submit it to Congress. The tariff question certainly requires attention. The people everywhere demand that there shall be some modification made in the present tariff laws, and I am unwilling that it should be eighteen months before the two Houses of Congress commence to investigate that subject. I therefore move to amend the original bill.

Mr. ALLISON. Would it disturb the Senator from Georgia if I should ask him a question?

Mr. BROWN. Not at all.

Mr. ALLISON. I desire to ask the Senator from Georgia if he thinks that Congress, in the brief period of a three months' session, with the necessary work of passing the appropriations to carry on the Government, can conduct legislation looking to a general revision of the tariff?

Mr. BROWN. I will answer the Senator by stating that I do not know whether Congress will be able to pass upon a tariff bill or not in that period, but we shall certainly be able to introduce one, and make some progress in the matter, and we should be in a better condition probably to take up the question in the December following, if we do not get through with it in the mean time, than we would if it had not been discussed and considered by Congress until the next session of Congress. I hope we may get through with it at the next session; if not, let us make all the progress we can, doing that much in the right direction.

Mr. BECK. Mr. President——

The PRESIDENT *pro tempore*. The Chair will ask the Senator to suspend for a moment. When the Chair stated that the amendment of the Senator from Georgia would be in order the Chair was not aware of the fact that the matter sought to be amended had been inserted by the Senate. It was one of the amendments reported by the Committee on Finance and adopted by the Senate. It is not in order in committee to move to strike out any part of that which the Senate ordered to be inserted; but when the bill is reported to the Senate, then it will be in order to amend it.

Mr. BROWN. I give notice, then, that I shall offer the amendment I suggested when it is in order to do so in the Senate.

The PRESIDENT *pro tempore*. The Chair was not aware at the time that the Chair stated to the Senator it was in order, that his amendment was to amend matter that had been inserted by a vote of the Senate.

When it is proposed to amend—

Says the Manual—

by inserting a paragraph, or part of one, the friends of the paragraph may make it as perfect as they can by amendments before the question is put for inserting it. If it be received, it cannot be amended afterward, in the same stage, because the House has, on a vote, agreed to it in that form.

But when we get to the next stage, that is when the bill is in the Senate, it can be amended.

Mr. BAYARD. Mr. President——

The PRESIDENT *pro tempore*. The Chair had recognized the Senator from Kentucky, [Mr. BECK.]

Mr. BAYARD. Without desiring to displace the Senator from Kentucky from the floor, it seems to me that the amendment offered by the Senator from Georgia is to the original proposition, and we are still discussing and seeking to perfect the substitute. The amendment offered by the Senator from Georgia touches the time at which this report shall be made by the nine independent commissioners, that is, under the original proposition of the committee; but the Senate is still discussing the substitute offered by the honorable Senator from Arkansas to which the amendment of the Senator from Georgia is not offered.

The PRESIDENT *pro tempore*. The rule is precise that the text may be amended before the question is put upon striking out and adopting a substitute. The right to amend the text has not been lost, but this particular amendment cannot be moved because it is to strike out part of that which the Senate, as in Committee of the Whole, have inserted.

Mr. BECK. Is it in order now to perfect the substitute offered by the Senator from Arkansas?

The PRESIDENT *pro tempore*. It is, or to perfect the text of the original bill; either.

Mr. BECK. If so, I desire to add to the substitute offered by the Senator from Arkansas the following section——

Mr. MORGAN. Before the Senator from Kentucky has his amendment acted upon I should like to have an amendment offered to the text——

The PRESIDENT *pro tempore*. That takes precedence.

Mr. MORGAN. To the text of the substitute offered by the Senator from Arkansas.

The PRESIDENT *pro tempore*. The Chair is not aware that that takes precedence, because the amendment of the Senator from Kentucky is not to strike out, but to add. The question is on the amendment offered by the Senator from Kentucky, which will be reported.

The CHIEF CLERK. It is proposed to add at the end of the amendment of Mr. GARLAND:

SEC. —. That said commission shall have power to send for persons and papers, examine witnesses under oath, and may divide itself into subdivisions for the examination of particular subjects; and each of such subdivisions shall have the power of the full commission, and such commission shall have the power to employ the necessary clerks and stenographers, and may have the testimony taken by it, and the statements submitted to it, printed from time to time at the Government Printing Office, and report to Congress on or before the third Monday in December, 1880.

SEC. —. That, to defray the expenses of the commission hereinbefore authorized, the sum of $20,000 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, which sum shall be added to the contingent fund of the Senate, and disbursed therefrom on vouchers approved by the chairman of the commission.

The amendment to the amendment was agreed to.

Mr. MORGAN. I move to amend the substitute offered by the Senator from Arkansas. In line 4 I move to strike out the word "three" before "Senators" and insert the word "four," and after the word "Senate," in the same line, I move to strike out "three" and insert "and five"——

The PRESIDENT *pro tempore*. The word "three" occurs twice in line 4, before "Senators" and at the end of the line.

Mr. MORGAN. I move to strike it out wherever it occurs in that line in both places. I will read my amendment so that the Clerk can comprehend what I propose to offer. I propose to make the first part of the amendment of the Senator from Arkansas read:

That a commission is hereby authorized and constituted to consist of four Senators to be appointed by the Senate, and five members of the House of Representatives to be appointed by the House, with authority to determine the times and places of meeting, &c.

Mr. WILLIAMS. I ask the Senator from Alabama if that strikes out the outsiders?

Mr. MORGAN. Yes. The purpose of my amendment is to get rid of a mixed commission, and to have a commission entirely consisting of members of the Senate and members of the House; the members of the Senate to be appointed by the Senate according to the language of the original substitute, and the members of the House to be appointed by the House instead of the Speaker of the House. I propose to let the members of the House determine for themselves how they will make the appointment. They may appoint them in their own way.

I have no sort of suspicion of the purpose of the bill of the committee. I am satisfied it is a bill offered in entirely good faith. I think that it would be a wise and prudent measure for us to adopt, and I would vote for it with cheerfulness were it not for the fact that I am satisfied the House will never pass it. I want something done. I feel quite sure that the House will not permit itself to be ignored by legislation of this kind and allow a matter which relates to the raising of revenue to be originated in the Senate, to be completed here, and the commission to be organized entirely by the joint action of the President of the United States and the Senate. If I could feel satisfied that the House would accept the proposition of the committee, I would most cheerfully vote for it, for I really believe that to transfer this question into the hands of non-partisan men, such a commission as could be selected by the joint action of the Senate and of the House, would lead to stripping it of all party complexion; it would lead, in my opinion, to a better adjustment than almost any other plan we could possibly adopt. But I see the impracticability of getting that through; I see the impossibility, I think, of doing that; and so I propose now in this amendment to present the two ideas squarely so that they will confront each other, the one a commission to consist of members of the House and of the Senate alone, and the other to consist entirely of outsiders.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Alabama, to strike out the word "three" where it first occurs in line 4 and insert "four," so as to read "four Senators;" and to strike out the word "three" at the end of the line and insert "and five," so as to read "and five members of the House of Representatives;" and to strike out the words "and three others, not members of either House, to be selected by such Senators and Representatives and associated with them."

The amendment to the amendment was rejected; there being on a division—ayes 16, noes 29.

The PRESIDENT *pro tempore*. The question now is upon the amendment by way of substitute offered by the Senator from Arkansas [Mr. GARLAND] to the original bill.

Mr. BAYARD. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. BAYARD, (when his name was called.) On this subject I am paired with the Senator from Arkansas, [Mr. GARLAND.] Were he here, he would vote "yea" and I should vote "nay."

Mr. MORRILL. I desire to say to the Senator from Delaware that I understand my colleague [Mr. EDMUNDS] is paired with the Senator from Arkansas, [Mr. GARLAND,] and I am very sure that my colleague would vote "nay."

Mr. MAXEY, (when his name was called.) The Senator from Pennsylvania [Mr. WALLACE] was called home by a family affliction, and I agreed to pair with him. If he were present, I should vote "yea" and he would vote "nay."

Mr. PENDLETON, (when his name was called.) On this particular question I am paired with the Senator from Indiana, [Mr. VOORHEES.] If he were here, he would vote "yea" and I should vote "nay."

Mr. RANSOM, (when Mr. VANCE's name was called.) My colleague [Mr. VANCE] is paired with the Senator from California, [Mr. BOOTH.] They are both absent as Visitors to the Naval Academy at Annapolis.

Mr. GROOME, (when Mr. WHYTE's name was called.) I desire to say that I have received information that my colleague [Mr. WHYTE] is detained at his home by sickness.

Mr. ALLISON. And I should like to say further that the Senator from Maryland [Mr. WHYTE] is paired with the Senator from Illinois [Mr. LOGAN] on political questions. I do not know how they would vote on this measure.

Mr. WINDOM, (when his name was called.) I am paired with the Senator from West Virginia, [Mr. DAVIS.] I do not know how he would vote, and therefore I refrain from voting unless my vote is necessary to make a quorum.

The roll-call was concluded.

Mr. HEREFORD, (after having voted in the affirmative.) I am paired with the Senator from Colorado, [Mr. TELLER.] There was nothing said about our pair on this subject, but inasmuch as my vote is not necessary to make a quorum, I shall ask that my name be not recorded.

The result was announced—yeas 21, nays 25; as follows:

YEAS—21.

Bailey,	Farley,	Pryor,	Walker,
Beck,	Harris,	Ransom,	Williams,
Call,	Johnston,	Saulsbury,	Withers.
Cockrell,	Jonas,	Slater,	
Coke,	Jones of Florida,	Thurman,	
Davis of Illinois,	McDonald,	Vest,	

NAYS—25.

Allison,	Cameron of Wis.,	Ingalls,	Paddock,
Anthony,	Dawes,	Kernan,	Platt,
Baldwin,	Eaton,	Kirkwood,	Rollins,
Blaine,	Ferry,	McMillan,	Saunders.
Brown,	Groome,	McPherson,	
Burnside,	Hampton,	Morgan,	
Butler,	Hill of Georgia,	Morrill,	

ABSENT—30.

Bayard,	Edmunds,	Kellogg,	Teller,
Blair,	Garland,	Lamar,	Vance,
Booth,	Grover,	Logan,	Voorhees,
Bruce,	Hamlin,	Maxey,	Wallace,
Cameron of Pa.,	Hereford,	Pendleton,	Whyte,
Carpenter,	Hill of Colorado,	Plumb,	Windom.
Conkling,	Hoar,	Randolph,	
Davis of W. Va.,	Jones of Nevada,	Sharon,	

So the amendment was rejected.

Mr. COKE, (at six o'clock and twenty minutes p. m.) I move that the Senate adjourn.

The PRESIDENT *pro tempore*. The Senator from Texas moves that the Senate adjourn.

The motion was not agreed to.

The bill was reported to the Senate as amended.

Mr. MORGAN. I will offer the same amendment in effect to the bill that I offered to the substitute of the Senator from Arkansas. Instead of appointing nine commissioners from civil life, &c., I propose to make the bill read "That a commission is hereby constituted to consist of four Senators, to be appointed by the Senate, and five members of the House of Representatives, to be appointed by the House," in lieu of so much of the second section as reads as follows:

The President of the United States shall, by and with the advice and consent of the Senate, appoint nine commissioners from civil life, one of whom, the first named, shall be the president of the commission.

Of course that may need further amendment; but I will offer this amendment in this form now.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Alabama.

Mr. FERRY. Is not the question first on concurring? As I understand the Senator from Alabama, he proposes a substitute. The question now is on concurring in the amendments made as in Committee of the Whole.

The PRESIDENT *pro tempore*. Undoubtedly that is the first question.

Mr. FERRY. The mode of reaching the section the Senator from Georgia [Mr. BROWN] desires to amend would be by concurring in that amendment with an amendment.

The PRESIDENT *pro tempore*. The amendment of the Senator from Alabama [Mr. MORGAN] does not touch any amendment adopted in Committee of the Whole, and the Senator from Michigan [Mr. FERRY] is quite right in saying that the more regular course is to put the question first on concurring in the amendments made as in Committee of the Whole.

Mr. MORGAN. I supposed when I took the floor that the Senate was still in committee upon the bill; and I think it is yet.

Several SENATORS. No; it has been reported to the Senate.

Mr. MORGAN. I was not aware of that.

The PRESIDENT *pro tempore*. Upon reflection the Chair is of opinion that the amendment of the Senator from Alabama is now in order, because, if adopted, it would make it necessary to disagree to several of the amendments that have been made in committee, whereas if those amendments were concurred in the bill would be incongruous if it were amended as the Senator from Alabama proposes.

Mr. FERRY. I should like to ask if the amendment proposed by the Senator from Alabama is not in the nature of a substitute?

The PRESIDENT *pro tempore*. It is for a part of the bill only.

Mr. FERRY. He is not shut out of the privilege of making his amendment after the amendments made in committee to the text are concurred in. The question now is on concurring in the amendments to the text. If they are concurred in, or non-concurred in, it does

not shut off the Senator from Alabama from proposing his amendment.

The PRESIDENT *pro tempore*. It seems to the Chair that it is immaterial which motion is put first. If the amendments made in committee are concurred in, they become a part of the text of the bill, and according to the usage of the Senate the bill is still open to amendment; but the Chair is not aware of any rule that requires that vote to be put first, and unless the opinion of the Senate is otherwise the Chair will put the question on the amendment moved by the Senator from Alabama. Will the Senator send his amendment to the desk?

Mr. MORGAN. I send the amendment to the desk as I have prepared it.

The CHIEF CLERK. It is proposed to strike out all after the enacting clause down to and including the word "commission," in line 4 of section 2, and insert in lieu thereof:

That a commission is hereby authorized and constituted to consist of five Senators, to be appointed by the Senate, and five members of the House of Representatives, to be appointed by the House.

Mr. MORGAN. I have inserted five Senators and five members of the House in order to preserve the equality between the two bodies. Inasmuch as this is to be a joint commission, the two bodies ought to be equally represented, and it would be somewhat a yielding (which I understand is contrary to the practice of the Senate) of the dignity of the body to put in a less number of Senators than there are members of the House on such a commission as this. I have therefore put the number at five Senators and five members of the House.

Mr. ALLISON. Let me say to the Senator from Alabama that the usual mode of appointing members of commissions and committees of the House is by the Speaker of the House, and I suggest to him that he say "five Senators to be appointed by the presiding officer of the Senate, and five members of the House to be appointed by the Speaker of the House."

Mr. MORGAN. I followed the other course because the bill followed a different course, and in reference to the Senate it is provided that the Senate shall appoint, and in reference to the House that the House shall appoint. I supposed it would be better to leave it to both bodies to make the appointment in their own way. If the House, after the bill shall get there, shall conclude that it is according to their practice to appoint through the Speaker, they can easily adopt that method. We are not prescribing a method for the House at all in this bill, but we leave them free to adopt such method of appointment as they shall see proper.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Alabama.

Mr. BECK called for the yeas and nays, and they were ordered.

The Secretary proceeded to call the roll.

Mr. MAXEY, (when his name was called.) I am paired with the Senator from Pennsylvania, [Mr. WALLACE.] Were he present, I should vote "yea" and he would vote "nay."

The roll-call was concluded; and the result announced—yeas 21, nays 25; as follows:

YEAS—21.

Allison,	Farley,	McDonald,	Walker,
Bailey,	Harris,	Morgan,	Williams,
Beck,	Hereford,	Pryor,	Withers.
Call,	Johnston,	Saulsbury,	
Cockrell,	Jonas,	Slater.	
Coke,	Jones of Florida,	Thurman,	

NAYS—25.

Anthony,	Cameron of Wis.,	Ingalls,	Platt,
Baldwin,	Dawes,	Kernan,	Rollins,
Bayard,	Eaton,	Kirkwood,	Saunders,
Blaine,	Ferry,	Lamar,	Vest.
Brown,	Groome,	McMillan,	
Burnside,	Hampton,	McPherson,	
Butler,	Hill of Georgia,	Morrill,	

ABSENT—30.

Blair,	Edmunds,	Logan,	Teller,
Booth,	Garland,	Maxey,	Vance,
Bruce,	Grover,	Paddock,	Voorhees,
Cameron of Pa.,	Hamlin,	Pendleton,	Wallace,
Carpenter,	Hill of Colorado,	Plumb,	Whyte,
Conkling,	Hoar,	Randolph,	Windom.
Davis of Illinois,	Jones of Nevada,	Ransom,	
Davis of W. Va.,	Kellogg,	Sharon,	

So the amendment was rejected.

The PRESIDENT *pro tempore*. The question now is on concurring in the amendments made to the bill as in Committee of the Whole.

The amendments were concurred in.

Mr. BROWN. Now, Mr. President, I move to strike out the word "December" and insert "January," in section 4, line 5.

Mr. CAMERON, of Wisconsin. Has not that section been agreed to in the Senate as an amendment?

The PRESIDENT *pro tempore*. The amendments were concurred in, but then they become the text of the bill, and under the usage of the Senate that text is all open to amendment. It would be perhaps more proper to have taken a separate vote on this section as amended, and have moved to amend it.

Mr. CAMERON, of Wisconsin. I think it would be; and with all respect to the Chair, I think he is mistaken, but I will not insist upon the point.

Mr. BECK. What is the motion of the Senator from Georgia?

The PRESIDENT *pro tempore*. It is to strike out "December," in the last line but one of the bill, and insert "January."

Mr. BECK. That means a report in January, 1881, instead of December, 1881.

Mr. BROWN. Exactly.

Mr. BAYARD. I will merely remark to the Senator from Georgia that he will find this commission can report, as the bill now is, from time to time. It simply requires that their final report shall not be later than December, 1881.

Mr. BROWN. The reason I desire a final report by January, 1881, is that I fear they will not make reports from time to time, nor until the end of the time given. If we have these experts they can make their report by the time I have named, I think.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Georgia.

Mr. BECK called for the yeas and nays, and they were ordered.

The Secretary proceeded to call the roll.

Mr. HEREFORD, (when his name was called.) I am paired with the Senator from Colorado, [Mr. TELLER.] If he were here, I should vote "yea."

Mr. MAXEY, (when his name was called.) I am paired with the Senator from Pennsylvania, [Mr. WALLACE.] If he were present, I should vote "yea" and he would vote "nay."

The roll having been concluded, the result was announced—yeas 25, nays 24; as follows:

YEAS—25.

Bailey,	Davis of Illinois,	McDonald,	Thurman,
Beck,	Farley,	Morgan,	Walker,
Brown,	Harris,	Pendleton,	Williams,
Butler,	Johnston,	Pryor,	Withers.
Call,	Jonas,	Ransom,	
Cockrell,	Jones of Florida,	Saulsbury,	
Coke,	Lamar,	Slater,	

NAYS—24.

Allison,	Cameron of Wis.,	Hill of Georgia,	Morrill,
Anthony,	Dawes,	Ingalls,	Paddock,
Baldwin,	Eaton,	Kernan,	Platt,
Bayard,	Ferry,	Kirkwood,	Rollins,
Blaine,	Groome,	McMillan,	Saunders,
Burnside,	Hampton,	McPherson,	Vest.

ABSENT—27.

Blair,	Edmunds,	Jones of Nevada,	Teller,
Booth,	Garland,	Kellogg,	Vance,
Bruce,	Grover,	Logan,	Voorhees,
Cameron of Pa.,	Hamlin,	Maxey,	Wallace,
Carpenter,	Hereford,	Plumb,	Whyte,
Conkling,	Hill of Colorado,	Randolph,	Windom.
Davis of W. Va.,	Hoar,	Sharon,	

So the amendment was agreed to.

The bill was ordered to be engrossed for a third reading, and read the third time.

Mr. BECK. I ask for the yeas and nays on the passage of the bill?

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. HEREFORD, (when his name was called.) I am paired with the Senator from Colorado, [Mr. TELLER.] If he were present, I should vote "nay."

Mr. MAXEY, (when his name was called.) I am paired with the Senator from Pennsylvania, [Mr. WALLACE.] Were he present, I should vote "nay" and he would vote "yea."

Mr. WINDOM, (when his name was called.) I am paired with the Senator from West Virginia, [Mr. DAVIS.] I do not know how he would vote. If he were present, I should vote "yea."

The roll-call was concluded.

Mr. ROLLINS. My colleague [Mr. BLAIR] I understand is paired with some gentleman on the other side, I do not know whom.

The result was announced—yeas 31, nays 15; as follows:

YEAS—31.

Anthony,	Cameron of Wis.,	Kernan,	Platt,
Bailey,	Dawes,	Kirkwood,	Ransom,
Baldwin,	Eaton,	McMillan,	Rollins,
Bayard,	Ferry,	McPherson,	Saunders,
Blaine,	Groome,	Morgan,	Slater,
Brown,	Hampton,	Morrill,	Vest,
Burnside,	Hill of Georgia,	Paddock,	Withers.
Butler,	Ingalls,	Pendleton,	

NAYS—15.

Beck,	Davis of Illinois,	Jones of Florida,	Thurman,
Call,	Harris,	McDonald,	Walker,
Cockrell,	Johnston,	Pryor,	Williams.
Coke,	Jonas,	Saulsbury,	

ABSENT—30.

Allison,	Edmunds,	Jones of Nevada,	Teller,
Blair,	Farley,	Kellogg,	Vance,
Booth,	Garland,	Lamar,	Voorhees,
Bruce,	Grover,	Logan,	Wallace,
Cameron of Pa.,	Hamlin,	Maxey,	Whyte,
Carpenter,	Hereford,	Plumb,	Windom.
Conkling,	Hill of Colorado,	Randolph,	
Davis of W. Va.,	Hoar,	Sharon,	

So the bill was passed.

HOUSE BILL REFERRED.

The bill (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and

for prior years, and for those certified as due by the accounting officers of the Treasury in accordance with section 4 of the act of June 14, 1878, heretofore paid from permanent appropriations, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

BILL INTRODUCED.

Mr. BROWN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1814) to authorize the construction of a fixed bridge over the Saint Mary's River, and for other purposes; which was read twice by its title, and referred to the Committee on Commerce.

IMMEDIATE TRANSPORTATION OF DUTIABLE GOODS.

Mr. BECK. Mr. President, in the passage this morning of the bill (H. R. No. 4911) to amend the statutes in relation to immediate transportation of dutiable goods, and for other purposes, there was a mistake made in this respect: In printing the bill, as it came from the House signed by the Clerk, section No. 10 appears as a section adopted by the House and amended by the Senate, the amendment of the Senate being a few words in italics. Therefore section No. 10 was not adopted as a whole as an amendment, as it should have been, for it was not passed by the House. I move that the bill be reconsidered, so that that section can be again adopted to remedy the mistake which was made in the printing.

The PRESIDENT *pro tempore*. The Senator from Kentucky moves that the vote by which House bill No. 4911 was passed be reconsidered.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Senator next moves that the vote by which the bill was ordered to a third reading be reconsidered.

The motion was agreed to.

The PRESIDENT *pro tempore*. The bill can now be amended.

Mr. BECK. Section No. 10 was not adopted except the portions which are printed in italics. I desire the section now to be adopted.

The PRESIDENT *pro tempore*. The Chair understands the whole section was an amendment.

Mr. BECK. That whole section is an amendment of the Senate Committee on Finance.

The PRESIDENT *pro tempore*. The question is on adopting the amendment known as section 10; which will be reported.

The Chief Clerk read the section, as follows:

SEC. 10. That section 2981 of the Revised Statutes be amended so as to read as follows:

"That whenever the proper officer of the customs shall be duly notified in writing of the existence of a lien for freight upon imported goods, wares, or merchandise in his custody, he shall, before delivering such goods, wares, or merchandise to the importer, owner, or consignee thereof, give seasonable notice to the party or parties claiming the lien; and the possession by the officers of customs shall not affect the discharge of such lien, under such regulations as the Secretary of the Treasury may prescribe; and such officer may refuse the delivery of such merchandise from any public or bonded warehouse or other place in which the same shall be deposited, until proof to his satisfaction shall be produced that the freight thereon has been paid or secured; but the rights of the United States shall not be prejudiced thereby, nor shall the United States or its officers be in any manner liable for losses consequent upon such refusal to deliver. If merchandise so subject to a lien, regarding which notice has been filed, shall be forfeited to the United States and sold, the freight due thereon shall be paid from the proceeds of such sale in the same manner as other charges and expenses authorized by law to be paid therefrom are paid."

The amendment was agreed to.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

CLAIMS AGAINST THE DISTRICT.

Mr. HARRIS. I move to postpone all orders prior to order of business No. 336, for the purpose of asking the Senate to proceed to the consideration of House bill No. 2328.

Mr. CAMERON, of Wisconsin. What is the bill?

Mr. HARRIS. It is a bill for the settlement of claims against the District of Columbia.

The PRESIDENT *pro tempore*. The Senator from Tennessee moves to postpone all orders prior to order of business No. 336, being the bill (H. R. No. 2328) to provide for the settlement of all outstanding claims against the District of Columbia, and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes.

Mr. PENDLETON. I do not desire to antagonize the motion of the Senator from Tennessee, but the Senator from Indiana [Mr. VOORHEES] desires at half past one o'clock to-morrow to take the floor in order to make some remarks upon a report which he has just made from the committee on the exodus. If it will be agreeable to the Senator from Tennessee to give way at that time, I shall not antagonize his motion at all.

Mr. HARRIS. If I can have the bill taken up so that it will be the unfinished business for to-morrow, and then can have the consent of the Senate to lay it aside informally, so that the Senator from Indiana can proceed, I shall interpose no objection to such an arrangement.

Mr. PENDLETON. I ask that that arrangement be made by unanimous consent.

Mr. SAULSBURY. I desire to give notice that I shall to-morrow, after the morning hour, ask the Senate to take up the resolutions in reference to the seat of the Senator from Louisiana, [Mr. KELLOGG.] There are four or five gentlemen who desire to speak on that question. The Senator from New York [Mr. KERNAN] has the floor. He has waited in order that other measures might be brought before the Senate, and I think now, in justice to the Senator who has the floor, I am compelled to ask that that question be taken up so that he may make the speech which he had risen to make when the matter was laid aside.

The PRESIDENT *pro tempore*. The statement of the Senator from Delaware is in the nature of an objection to an agreement by unanimous consent. The question now is on the motion of the Senator from Tennessee to postpone all orders prior to order of business No. 336.

Mr. FERRY. I desire to understand, if this bill be taken up, whether it will interfere with the morning hour up to half past one to-morrow.

The PRESIDENT *pro tempore*. Certainly not.

Mr. FERRY. I want that understood.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Tennessee.

The motion was agreed to.

Mr. HARRIS. I move now that the Senate proceed to the consideration of House bill No. 2328.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. MAXEY. I move that the Senate do now adjourn.

The motion was agreed to; and (at six o'clock and fifty-two minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *June* 3, 1880.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

RAILROAD AND TELEGRAPH—MISSISSIPPI RIVER TO PACIFIC OCEAN.

Mr. ELLIS, from the Committee on Pacific Railroads, by unanimous consent introduced a bill (H. R. No. 6367) as a substitute for House bill No. 500, to provide for the speedy completion of a line of railroad and telegraph between the ports on the lower Mississippi River, the Gulf of Mexico, and the Pacific Ocean, along or near the southwestern frontier of the United States, to aid in the construction of the same, and for other purposes; which was read a first and second time, ordered to be printed, and recommitted to the said committee.

MONUMENT—BIRTHPLACE OF GEORGE WASHINGTON.

The SPEAKER. The Chair desires by unanimous consent at this time to lay before the House a communication from the Secretary of State, in reference to a monument to mark the birthplace of George Washington, which, without objection, will be read and printed in the RECORD.

There being no objection, the communication was read, as follows:

DEPARTMENT OF STATE,
Washington, May 24, 1880.

SIR: I have the honor to invite your attention to the subject of the erection of a monument to mark the birthplace of Washington, for which an appropriation of $3,000 was made by a joint resolution of Congress, approved June 14, 1879. By the terms of this resolution the expenditure of the appropriation and the control of the erection of a suitable monument were intrusted to the Secretary of State.

This action by Congress in taking measures to mark by an appropriate and durable monument a spot so worthy of our veneration was received by the country with universal approval, and I consider myself happy in being charged with the execution of so grateful a duty. In order to be able to carry into effect more intelligently the desires of Congress, I made at the earliest practicable moment a visit to the birthplace of Washington, in Westmoreland County, in the State of Virginia. I found that all which now remains of the house in which Washington was born is a ruined hearth-stone and chimney, a considerable portion of which still maintains its form.

The selection of a proper design for the structure has since received my most careful and thoughtful consideration. Monuments commemorative of great and good men have, in the history of art, been of either a triumphal or sepulchral character. In the present case, the occasion and the object of the monument preclude any imitation of such examples, and indicate that the designation of the parental home in which Washington was born, and the preservation of all that time has spared of it, should shape the architecture of the monument.

The neglected burial-place of the immediate ancestry of Washington, close to the homestead, suggested the protection of their remains from further exposure and dishonor, as in harmony with the reverential spirit of the proposed monument; and this purpose is included in my choice of the plans of the structure.

I am so fortunate as to have received in this matter the advice and assistance of a gentleman accomplished in art and learned in the history of art, under whose supervision careful drawings have been made for such a commemorative building. These plans (which I have the honor to submit herewith for your consideration) contemplate a building of granite, with a tiled roof, and a bronze tablet bearing an inscription, bronze doors and windows so arranged with bronze screens that the interior of the building may be plainly seen from the outside. The ancient tablets and head-stones, in their broken condition, to be taken from the neighboring burial-ground, can be carefully secured in the outer walls of the structure.

The proposed building would require no care or attention, would be in dimensions and proportions dignified and graceful, and would be so constructed as to stand for centuries. By careful and competent estimates, an amount not exceeding $30,000 would be sufficient for this structure.

The unanimity with which the appropriation of last year was made has already shown the favorable disposition of Congress, and gives assurance of its willingness to furnish whatever means may be required for a monument which would in dignity and sentiment comport with the feelings of our people toward the birthplace of the soldier and statesman whose heroic and civic virtues and example are ever

present in their minds as an inseparable part of the glory and strength of the Republic.

I have the honor to be, sir, your obedient servant,

WM. M. EVARTS.

To Hon. SAMUEL J. RANDALL,
Speaker of the House of Representatives.

[Accompanying this letter is a portfolio containing five architectural drawings of the proposed commemorative structure.]

Mr. HARRIS, of Virginia. Mr. Speaker, in obedience to the recommendation of the Secretary of State, I ask for the consideration at this time of the joint resolution which I send to the Clerk's desk. I hope there will be no objection to its immediate consideration and adoption.

The SPEAKER. This will require unanimous consent. The Chair will cause the resolution to be read, after which objections will be asked for.

The Clerk read as follows:

Joint Resolution, H. R. 315.

Be it resolved by the Senate and House of Representatives of the United States in Congress assembled, That joint resolution entitled "Joint resolution directing a monument to be erected to mark the birthplace of George Washington," approved June 14, 1879, be amended and re-enacted so as to read as follows:

That the sum of $30,000 be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of erecting a monument at, and to mark, the birthplace of George Washington, which sum shall be expended under the direction of the Secretary of State, who shall have the management and control of the erection of said monument: *Provided*, No part of the sum hereby appropriated shall be expended until the Secretary of State shall be satisfied with the title to the lands to be occupied by the monument, and the securement of a public right of way thereto.

The SPEAKER. The joint resolution will be considered as read a first and second time, if there be no objection, and the question is on the engrossment and third reading.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

IMPROVEMENT OF THE COLUMBIA RIVER.

Mr. WHITEAKER. I ask unanimous consent to offer a resolution for reference to the Committee on Commerce, and ask that the same be read and printed in the RECORD.

There being no objection the resolution was read at length, and referred to the Committee on Commerce. It is as follows:

Whereas the Columbia River and its tributaries drain an area of country, embracing Oregon, Washington, Idaho, Western Montana, and portions of British Columbia, equal in extent to all New England, New York, Pennsylvania, Ohio, and Indiana, the vast products of which find outlet to the sea through the mouth of this great river; and

Whereas the commerce of the country named has grown to an extent to engage the service of fleets of steamboats upon its rivers, as well as lines of railroads in the interior, a commerce reaching abroad to England, Germany, Scotland, China, Japan, Australia, and the islands of the Pacific, as well as to different parts of the United States, employing lines of steamers and great numbers of sail-vessels, the easy and safe entrance and departure through the mouth of the Columbia can but be an object of interest to the United States second only to that of the great Mississippi; and

Whereas it is understood that there are obstructions to the entrance of the Columbia which at times render it unsafe for large and heavily laden vessels, and which it is believed may be removed at an expense comparatively small considering the immense benefits it would confer upon the great and rapidly increasing commerce of the Pacific Northwest: Therefore,

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of ascertaining the nature and extent of obstructions to easy and safe navigation in entering the Columbia River, and the practicability, best plan, and probable expense of removing such obstructions, or otherwise improving the entrance to said river; and that said committee report by bill or otherwise as the circumstances seem to require, and that the Secretary of War furnish to the House all the information in the possession of his Department bearing upon the inquiry herein directed.

FINAL ADJOURNMENT.

Mr. FERNANDO WOOD. I rise to make a privileged report. I report from the Committee on Ways and Means a concurrent resolution fixing a day for the final adjournment of both Houses of Congress.

The Clerk read as follows:

Resolved by the House of Representatives, (the Senate concurring,) That the President of the Senate and the Speaker of the House of Representatives declare their respective Houses adjourned *sine die* at twelve o'clock on Thursday, 10th of June instant.

The SPEAKER. What action does the gentleman desire?

Mr. FERNANDO WOOD. I ask the consideration of the resolution at this time, and move the previous question.

The previous question was seconded, and the main question ordered.

Mr. FERNANDO WOOD moved to reconsider the vote by which the main question was ordered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The question being put on the adoption of the resolution, there were—ayes 75, noes 34.

Mr. MCMILLIN. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 106, nays 68, not voting 118; as follows:

YEAS—106.

Aiken,	Barber,	Bouck,	Buckner,
Aldrich, William	Bayne,	Boyd,	Cannon,
Atherton,	Beltzhoover,	Bragg,	Carpenter,
Bailey,	Blake,	Brewer,	Caswell,
Baker,	Bland,	Briggs,	Chittenden,
Ballou,	Bliss,	Browne,	Clardy,
Coffroth,	Hawley,	Miles,	Sherwin,
Converse,	Hayes,	Miller,	Singleton, J. W.
Cowgill,	Hazelton,	Mitchell,	Smith, A. Herr
Crapo,	Hill,	Monroe,	Sparks,
Cravens,	Hiscock,	Neal,	Thomas,
Deering,	Horr,	Norcross,	Thompson, W. G.
Dickey,	Hubbell,	O'Connor,	Tillman,
Dunnell,	Hull,	O'Reilly,	Valentine,
Dwight,	Humphrey,	Osmer,	Van Aernam,
Errett,	Joyce,	Overton,	Waddill,
Evins,	Kelley,	Pacheco,	Wait,
Ferdon,	Kenna,	Page,	Warner,
Field,	Ketcham,	Prescott,	Wells,
Fisher,	Klotz,	Rice,	White,
Gibson,	Ladd,	Richardson, D. P.	Whiteaker,
Hall,	Lapham,	Robeson,	Williams, C. G.
Hammond, John	Le Fevre,	Robinson,	Willits,
Harmer,	Loring,	Ross,	Wood, Fernando
Harris, Benj. W.	Marsh,	Ryan, Thomas	Wright.
Haskell,	Martin, Edward L.	Ryon, John W.	
Hawk,	Mason,	Shallenberger,	

NAYS—68.

Acklen,	Dibrell,	Jones,	Smith, William E.
Anderson,	Dunn,	Lowe,	Speer,
Atkins,	Elam,	McKenzie,	Springer,
Berry,	Ewing,	McLane,	Steele,
Bicknell,	Goode,	McMillin,	Stephens,
Blackburn,	Hammond, N. J.	Money,	Stevenson,
Blount,	Harris, John T.	Morrison,	Thompson, P. B.
Bright,	Hatch,	New,	Townshend, R. W.
Cabell,	Henkle,	Nicholls,	Turner, Oscar
Caldwell,	Henry,	Phelps,	Updegraff, Thomas
Clark, John B.	Herbert,	Poehler,	Urner,
Cobb,	Hooker,	Reagan,	Vance,
Colerick,	House,	Samford,	Weaver,
Cook,	Hunton,	Sawyer,	Wellborn,
Davis, Joseph J.	Hurd,	Scales,	Whitthorne,
De La Matyr,	Hutchins,	Singleton, O. R.	Wilson,
Deuster,	Johnston,	Slemons,	Young, Casey.

NOT VOTING—118.

Aldrich, N. W.	Ellis,	Lounsbery,	Rothwell,
Armfield,	Farr,	Manning,	Russell, Daniel L.
Bachman,	Felton,	Martin, Benj. F.	Russell, W. A.
Barlow,	Finley,	Martin, Joseph J.	Sapp,
Beale,	Ford,	McCoid,	Shelley,
Belford,	Forney,	McCook,	Simonton,
Bingham,	Forsythe,	McGowan,	Smith, Hezekiah B.
Bowman,	Fort,	McKinley,	Starin,
Brigham,	Frost,	McMahon,	Stone,
Burrows,	Frye,	Mills,	Talbott,
Butterworth,	Garfield,	Morse,	Taylor,
Calkins,	Geddes,	Morton,	Townsend, Amos
Camp,	Gillette,	Muldrow,	Tucker,
Carlisle,	Godshalk,	Muller,	Turner, Thomas
Chalmers,	Gunter,	Murch,	Tyler.
Claflin,	Heilman,	Myers,	Updegraff, J. T.
Clark, Alvah A.	Henderson,	Newberry,	Upson.
Clymer,	Herndon,	O'Brien,	Van Voorhis,
Conger,	Hostetler,	O'Neill,	Voorhis,
Covert,	Houk,	Orth,	Ward,
Cox,	James,	Persons,	Washburn,
Crowley,	Jorgensen,	Philips,	Wilber,
Culberson,	Keifer,	Phister,	Williams, Thomas
Daggett,	Killinger,	Pierce,	Willis,
Davidson,	Kimmel,	Pound,	Wise,
Davis, George R.	King,	Price,	Wood, Walter A.
Davis, Horace	Kitchin,	Reed,	Yocum,
Davis, Lowndes H.	Knott,	Richardson, J. S.	Young, Thomas L.
Dick,	Lewis,	Richmond,	
Einstein,	Lindsey,	Robertson,	

So the resolution was agreed to.

The following pairs were announced:

Mr. SIMONTON with Mr. CLAFLIN.

Mr. VAN VOORHIS with Mr. CHALMERS.

Mr. NEWBERRY with Mr. ELLIS, for the remainder of the session, but either may vote to make a quorum where no quorum is officially declared.

Mr. PHILIPS with Mr. BOWMAN.

Mr. GARFIELD with Mr. TUCKER.

Mr. WILLIS with Mr. CONGER.

Mr. WILBER with Mr. BACHMAN.

Mr. KING with Mr. RICE on all political questions, and with Mr. MULDROW on all tariff questions.

Mr. TAYLOR with Mr. HOUK.

Mr. RUSSELL, of Massachusetts, with Mr. UPSON.

Mr. FELTON with Mr. KILLINGER.

Mr. COX with Mr. MORTON.

Mr. YOUNG, of Ohio, with Mr. COVERT.

Mr. STARIN with Mr. RICHMOND.

Mr. BURROWS with Mr. GUNTER.

Mr. HOSTETLER with Mr. DAVIS, of Illinois.

Mr. MCCOID with Mr. WISE.

Mr. STONE with Mr. SHELLEY.

Mr. ROTHWELL with Mr. REED.

Mr. JOHNSTON with Mr. CROWLEY.

Mr. JAMES with Mr. O'BRIEN.

Mr. HEILMAN with Mr. SMITH, of New Jersey.

Mr. KITCHIN with Mr. MARTIN, of North Carolina.

Mr. WASHBURN with Mr. WILLIAMS, of Alabama.

Mr. EINSTEIN with Mr. ARMFIELD.

Mr. MULLER with Mr. WALTER A. WOOD.

Mr. SAPP with Mr. GEDDES.

Mr. DAVIDSON with Mr. BINGHAM.
Mr. SLEMONS with Mr. ALDRICH, of Rhode Island.
Mr. ORTH with Mr. MYERS, on political questions.
Mr. KNOTT with Mr. FRYE.
Mr. KEIFER with Mr. MANNING.
Mr. PHISTER with Mr. CALKINS.
Mr. MCKINLEY with Mr. HURD.
Mr. DICK with Mr. MARTIN, of West Virginia.
Mr. LADD with Mr. LINDSEY.
Mr. THOMAS TURNER with Mr. MCGOWAN.
Mr. TOWNSEND, of Ohio, with Mr. BLAND.
Mr. UPDEGRAFF, of Ohio, with Mr. HULL.
Mr. BEALE with Mr. JORGENSEN.
Mr. DAVIS, of California, with Mr. MILLS, on this vote.
Mr. HERNDON with Mr. CAMP.

The Clerk also announced that Mr. RICHARDSON, of South Carolina, was absent by reason of sickness.

Mr. HULL. I am paired with Mr. UPDEGRAFF, of Ohio; but I have voted "ay," having learned that on this question he would vote as I do.

Mr. SHELLEY. My colleague from Alabama [Mr. FORNEY] is detained at home by sickness.

Mr. COX. My pair with Mr. MORTON is on political questions. He would vote for the final adjournment. Having voted "no," I withdraw my vote.

The result of the vote was then announced as above recorded.

Mr. FERNANDO WOOD moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate had passed the bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes, with amendments in which the concurrence of the House was requested.

REFERENCES TO COMMITTEE ON PRINTING.

Mr. WILSON. I rise to a parliamentary question.

The SPEAKER. The gentleman will state it.

Mr. WILSON. It is in reference to taking business from the Speaker's table and referring it to the Committee on Printing. I hold in my hand the act of Congress on that subject, and I desire to inquire whether under that act it is not proper for the Speaker to refer such business to the Committee on Printing without action by the House.

The SPEAKER. The Chair thinks not; it has never been done.

Mr. WILSON. I desire to call the attention of the Chair to the section of the Revised Statutes upon the subject, and to have it read by the Clerk.

The SPEAKER. The section will be read.

The Clerk read as follows:

SEC. 3795. All propositions in either House of Congress for printing extra copies of documents, the cost of which exceeds $500, shall be by concurrent resolution, which shall, upon its transmission from either House, be immediately referred to the Committee on Printing of the House to which it is sent.

The SPEAKER. The law says that such propositions "shall be referred;" but it does not say when or how.

Mr. WILSON. It says, "shall be *immediately* referred."

The SPEAKER. The rule provides when and how the reference shall be made.

Mr. WILSON. The reason why I asked——

The SPEAKER. In case the law differed from the rule, the rule would be vacated, for the law is binding upon the House over a rule.

Mr. WILSON. The law says that whenever a proposition in regard to printing comes from the Senate to the House it "shall be immediately referred to the Committee on Printing;" that is the language of the law.

The SPEAKER. That has not been the practice of the House.

Mr. WILSON. According to my construction of the law it is competent for the Speaker to immediately refer such propositions to the Committee on Printing without action of the House.

The SPEAKER. The Chair would hold that the law overrides any rule of the House. If the law is as the gentleman claims, it has been a dead letter up to this time in the practice of the House. The Chair, however, will examine carefully the law and also the rule.

Mr. WILSON. There are several matters on the Speaker's table which I desire to have sent to the Committee on Printing as soon as possible, for they are of great importance.

The SPEAKER. The Chair will examine the subject.

JURISDICTION OF THE LIGHT-HOUSE BOARD.

Mr. HULL. As I may be compelled to leave the city in a day or two, and perhaps will be absent for the remainder of the session, I ask unanimous consent that the Committee of the Whole on the state of the Union be discharged from the further consideration of a bill (H. R. No. 4714) amending an act approved June 23, 1874, extending the jurisdiction of the Light-House Board.

The SPEAKER. The bill will be read.

The bill was read, as follows:

Be it enacted, &c., That an act extending the jurisdiction of the Light-House Board, approved June 23, 1874, be, and the same is hereby, amended so as to include and extend over the Saint John's River, Florida, for the establishment of such beacon-lights, day-beacons, and buoys, as may be necessary for the use of vessels navigating that stream. And for this purpose $5,000, or so much as may be necessary, be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

Mr. WHITE. Is there any report accompanying this bill?

Mr. HULL. There is a unanimous report of the committee.

Mr. WHITE. Let it be read.

Mr. HULL. The law already gives power to the Light-House Board to establish temporary lights on rivers in the West, and this bill simply gives it the same jurisdiction in regard to the Saint John's River, Florida.

Mr. WILSON. That is all right.

Mr. WHITE. I would like to hear the report read.

The report was read, as follows:

Your committee, to whom was referred House bill No. 4714, have examined the same, and report that they find no objection to granting the extension of the provisions of the law as it now stands to the Saint John's River. It is at once the most speedy, useful, and economical method of meeting the needs of commercial intercourse upon the rivers, in providing that class of lights which involve small expenditures, and which, each in its place, is too small to justify the expense and delay of special bills. They therefore recommend the passage of the bill.

There being no objection, the Committee of the Whole was discharged from the further consideration of the bill, and the same was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

STORER COLLEGE, HARPER'S FERRY.

Mr. HULL, by unanimous consent, from the Committee on the Public Lands, reported, as a substitute for House bill No. 4867, a bill (H. R. No. 6368) granting about three acres of land to Storer College, at Harper's Ferry, West Virginia; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

RIVER AND HARBOR APPROPRIATION BILL.

Mr. REAGAN. I ask consent to have taken from the Speaker's table the bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes, returned from the Senate with amendments; and that the same be referred to the Committee on Commerce, and printed with the amendments of the Senate.

There was no objection, and it was so ordered.

GENERAL DEFICIENCY BILL.

Mr. COBB. I call for the regular order.

The SPEAKER. The regular order is the unfinished business coming over from yesterday, under the operation of the previous question, being the bill (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and for prior years, and for those certified as due by the accounting officers of the Treasury in accordance with section 4 of the act of June 14, 1878, heretofore paid from permanent appropriations, and for other purposes.

There are some twelve or fifteen amendments reported from the Committee of the Whole, and they will be read in their order and those to which no objection is made will be regarded as agreed to.

The first amendment upon which a separate vote was asked was in regard to the following paragraph:

To enable the Secretary of the Treasury to provide storage for silver coin, $20,000.

The amendment reported from the Committee of the Whole was to strike out the words "storage for silver coin" and to insert in lieu thereof the words "more secure and if need be additional vault-room for coin and bullion."

The amendment was agreed to.

Mr. BLAND. It was agreed by unanimous consent in Committee of the Whole yesterday that a vote by yeas and nays should be taken in the House upon the motion to strike out this clause as amended.

Mr. WHITTHORNE. It was agreed in Committee of the Whole that a yea-and-nay vote should be taken on striking out this paragraph. After the paragraph had been amended as now reported by the Clerk, the gentleman from Illinois [Mr. TOWNSHEND] moved to strike it out. Upon a division no quorum voted; and it was then agreed unanimously that a yea-and-nay vote should be taken in the House upon striking out the paragraph as amended.

Mr. TOWNSHEND, of Illinois. And the RECORD of this morning so shows.

The SPEAKER. The Chair understands that the amendment on which a yea-and-nay vote is now asked did not prevail in the Committee of the Whole; and under the rule of course no such amendment was reported from the Committee of the Whole to the House. By unanimous consent, however, it can be entertained now and voted upon.

Mr. HISCOCK. It was also agreed in the committee that by consent a vote should be taken upon another amendment—the amendment offered by the gentleman from California, [Mr. PAGE.]

The SPEAKER. Then in each case the amendment had better be resubmitted in the House by unanimous consent, so that the record may show exactly what the House votes upon.

Mr. TOWNSHEND, of Illinois. That will be satisfactory.

Mr. HISCOCK. Then I understand——

The SPEAKER. The same action will be had in reference to the other amendment.

Mr. TOWNSHEND, of Illinois. The question, I understand, will be on the motion to strike out the clause in regard to storage of silver, as amended on motion of the gentleman from Ohio, [Mr. WARNER.]

Mr. WARNER. The motion to strike out was to strike out the paragraph as amended.

The SPEAKER. And that failed?

Mr. WARNER. That failed.

The SPEAKER. And now by unanimous consent that proposition is to be voted on in the House.

Mr. TOWNSHEND, of Illinois. That is correct.

The SPEAKER. The Chair will now have read, so as to be made a part of the record, the amendment rejected in committee, which is now to be voted upon.

Mr. TOWNSHEND, of Illinois. The clause as amended by the gentleman from Ohio.

The SPEAKER. Whatever the committee rejected will be read as the proposition now to be voted upon.

Mr. TOWNSHEND, of Illinois. If it is in order I offer the amendment so that it may be before the House.

The SPEAKER. The gentleman can make that motion by consent.

Mr. CONVERSE. I think there is a mistake about this. I believe the Committee of the Whole agreed to the amendment offered by my colleague, [Mr. WARNER]——

The SPEAKER. That is the fact.

Mr. CONVERSE. But with the understanding that a vote should be taken by yeas and nays either upon the amendment or the motion to strike out.

The SPEAKER. The Chair is advised that the question to be taken is on the motion to strike out, which did not prevail in the Committee of the Whole, and therefore must now be renewed in the House. To relieve the difficulty, the gentleman from Illinois [Mr. TOWNSHEND] now moves to strike out—what?

Mr. TOWNSHEND, of Illinois. The two lines in regard to storage of silver, as amended upon motion of the gentleman from Ohio.

Several MEMBERS. That is right.

The SPEAKER. That motion is entertained by consent.

Mr. WARNER. If the motion now to be submitted, to strike out the paragraph, be rejected, then I presume the paragraph remains in the bill as amended.

The SPEAKER. The Clerk will read the paragraph which the gentleman from Illinois [Mr. TOWNSHEND] moves to strike out.

The Clerk read as follows:

To enable the Secretary of the Treasury to provide more secure, and, if need be, additional vault-room for coin and bullion, $20,000.

The SPEAKER. The motion of the gentleman from Illinois is to strike out the words just read.

Mr. TOWNSHEND, of Illinois. That is the paragraph as amended.

The SPEAKER. The paragraph just read is the original clause of the bill as amended on motion of the gentleman from Ohio. On this question, according to the understanding already had, the vote is to be taken by yeas and nays.

The question was taken; and there were—yeas 78, nays 87, not voting 127; as follows:

YEAS—78.

Acklen,	Culberson,	Kelley,	Singleton, O. R.
Aiken,	Davis, Joseph J.	Kenna,	Smith, William E.
Berry,	De La Matyr,	Klotz,	Sparks,
Blackburn,	Dibrell,	Ladd,	Speer,
Bland,	Dickey,	Le Fevre,	Springer,
Bouck,	Dunn,	Lowe,	Steele,
Bragg,	Elam,	McKenzie,	Stevenson,
Bright,	Evins,	McMillin,	Thompson, P. B.
Buckner,	Finley,	Money,	Tillman,
Cabell,	Gillette,	Muldrow,	Townshend, R. W.
Caldwell,	Hammond, N. J.	Nicholls,	Turner, Oscar
Carlisle,	Harris, John T.	O'Connor,	Vance,
Clardy,	Hatch,	O'Reilly,	Waddill,
Clark, John B.	Herbert,	Phelps,	Weaver,
Cobb,	Hooker,	Poehler,	Wellborn,
Coffroth,	House,	Reagan,	Whiteaker,
Colerick,	Hunton,	Ryon, John W.	Whitthorne,
Converse,	Hutchins,	Samford,	Wright.
Cook,	Johnston,	Sawyer,	
Cravens,	Jones,	Scales,	

NAYS—87.

Aldrich, William	Crapo,	Humphrey,	Robinson,
Anderson,	Davis, Horace	Hurd,	Ross,
Atherton,	Deering,	Joyce,	Ryan, Thomas
Atkins,	Dunnell,	Ketcham,	Shallenberger,
Baker,	Dwight,	Lapham,	Sherwin,
Ballou,	Errett,	Loring,	Smith, A. Herr
Barber,	Ewing,	Marsh,	Stephens,
Bayne,	Ferdon,	Martin, Edward L.	Talbott,
Beltzhoover,	Fisher,	Mason,	Thomas,
Bicknell,	Godshalk,	McCook,	Thompson, W. G.
Blake,	Hall,	McLane,	Updegraff, Thomas
Bliss,	Hammond, John	Miller,	Urner,
Boyd,	Harmer,	Monroe,	Valentine,
Brewer,	Harris, Benj. W.	Neal,	Van Aernam,
Briggs,	Haskell,	Norcross,	Ward,
Brigham,	Hawk,	O'Neill,	Warner,
Browne,	Hawley,	Osmer,	Wells,
Cannon,	Hayes,	Overton,	White,
Carpenter,	Hazelton,	Pacheco,	Williams, C. G.
Caswell,	Henry,	Page,	Willits,
Claflin,	Hiscock,	Prescott,	Wilson.
Cowgill,	Horr,	Robeson,	

NOT VOTING—127.

Aldrich, Nelson W.	Field,	Manning,	Rothwell,
Armfield,	Ford,	Martin, Benj. F.	Russell, Daniel L.
Bachman,	Forney,	Martin, Joseph J.	Russell, W. A.
Bailey,	Forsythe,	McCoid,	Sapp,
Barlow,	Fort,	McGowan,	Shelley,
Beale,	Frost,	McKinley,	Simonton,
Belford,	Frye,	McMahon,	Singleton, J. W.
Bingham,	Garfield,	Miles,	Slemons,
Blount,	Geddes,	Mills,	Smith, Hezekiah B.
Bowman,	Gibson,	Mitchell,	Starin,
Burrows,	Goode,	Morrison,	Stone,
Butterworth,	Gunter,	Morse,	Taylor,
Calkins,	Heilman,	Morton,	Townsend, Amos
Camp,	Henderson,	Muller,	Tucker,
Chalmers,	Henkle,	Murch,	Turner, Thomas
Chittenden,	Herndon,	Myers,	Tyler,
Clark, Alvah A.	Hill,	New,	Updegraff, J. T.
Clymer,	Hostetler,	Newberry,	Upson,
Conger,	Houk,	O'Brien,	Van Voorhis,
Covert,	Hubbell,	Orth,	Voorhis,
Cox,	Hull,	Persons,	Wait,
Crowley,	James,	Philips,	Washburn,
Daggett,	Jorgensen,	Phister,	Wilber,
Davidson,	Keifer,	Pierce,	Williams, Thomas
Davis, George R.	Killinger,	Pound,	Willis,
Davis, Lowndes H.	Kimmel,	Price,	Wise,
Deuster,	King,	Reed,	Wood, Fernando
Dick,	Kitchin,	Rice,	Wood, Walter A.
Einstein,	Knott,	Richardson, D. P.	Yocum,
Ellis,	Lewis,	Richardson, J. S.	Young, Casey
Farr,	Lindsey,	Richmond,	Young, Thomas L.
Felton,	Lounsbery,	Robertson,	

So the motion of Mr. TOWNSHEND, of Illinois, to strike out was disagreed to.

The following additional pairs were announced from the Clerk's desk:

Mr. RICHARDSON, of South Carolina, with Mr. RICHARDSON, of New York, on account of sickness of both.

Mr. WAIT, for the rest of the day, on political questions, with Mr. FORNEY, who is absent on account of sickness.

Mr. COX with Mr. MORTON.

Mr. HENDERSON, being absent on Department business, is paired until his return with his colleague, Mr. SINGLETON.

Mr. FORSYTHE, on this vote, with Mr. MORRISON.

The vote was then announced as above recorded.

The SPEAKER. The amendment reported from the Committee of the Whole on the state of the Union will be considered as agreed to.

The next amendment on which a division was asked was read, as follows:

Page 29, line 684, after the word "dollars," insert:

"*Provided*, That no part of this appropriation shall be used for the payment of general or special deputy marshals for services rendered at any election."

Mr. HISCOCK. The amendment of the gentleman from California [Mr. PAGE] comes in previous to that, and on that amendment it was agreed in committee there should be a yea-and-nay vote in the House.

Mr. COBB. On which amendment do gentlemen on the other side desire to vote?

Mr. HISCOCK. There were three amendments offered in committee, all of which were rejected. It was agreed, however, we should have a yea-and-nay vote on the amendment of the gentleman from California. We are entitled, as a matter of right, to a division and a yea-and-nay vote on the amendments of the Committee of the Whole on the state of the Union.

The SPEAKER. There are two amendments, then, to be voted on.

Mr. COBB. Yes, sir; that is the understanding.

The SPEAKER. The amendment of the gentleman from California, then, will come first.

Mr. PAGE. I ask my amendment be read.

The Clerk read as follows:

After tine 780 insert:

"To pay deputy marshals for services in the State of California at the election of September last, $7,000, or so much of said sum as may be necessary."

The SPEAKER. That amendment was rejected in committee, but under agreement the gentleman from California again submits it in the House, and the question now is on its adoption or rejection, on which, by consent, the yeas and nays have been ordered.

Mr. HISCOCK. I ask that the word "deputy" be changed to "special," the latter being the designation known to the law.

Mr. PAGE. I accept that as a modification of my amendment.

The question was taken; and it was decided in the negative—yeas 78, nays 91, not voting 123; as follows:

YEAS—78.

Aldrich, William	Claflin,	Hawk,	McCook,
Anderson,	Cowgill,	Hawley,	Miles,
Bailey,	Crapo,	Hayes,	Miller,
Baker,	Davis, Horace	Hazelton,	Mitchell,
Ballou,	Deering,	Hiscock,	Monroe,
Barber,	Dunnell,	Hubbell,	Neal,
Bayne,	Dwight,	Humphrey,	Norcross,
Blake,	Errett,	Jones,	O'Neill,
Boyd,	Ferdon,	Joyce,	Overton,
Brewer,	Field,	Kelley,	Pacheco,
Briggs,	Fisher,	Ketcham,	Page,
Brigham,	Gillette,	Lapham,	Prescott,
Browne,	Hall,	Loring,	Robeson,
Cannon,	Hammond, John	Lowe,	Robinson,
Carpenter,	Harmer,	Marsh,	Ryan, Thomas
Caswell,	Harris, Benj. W.	Mason,	Sherwin,

Smith, A. Herr	Urner,	Ward,	Willits,
Thomas,	Valentine,	Weaver,	Yocum.
Thompson, W. G.	Van Aernam,	White,	
Updegraff, Thomas	Voorhis,	Williams, C. G.	

NAYS—91.

Acklen,	Converse,	Kenna,	Singleton, O. R.
Aiken,	Cook,	Klotz,	Smith, William E.
Atherton,	Cravens,	Le Fevre,	Sparks,
Atkins,	Culberson,	Martin, Edward L.	Springer,
Beltzhoover,	Davis, Joseph J.	McKenzie,	Steele,
Berry,	Dibrell,	McLane,	Stephens,
Bicknell,	Dickey,	McMillin,	Stevenson,
Blackburn,	Dunn,	Money,	Talbott,
Bliss,	Elam,	Morrison,	Thompson, P. B.
Blount,	Evins,	Muldrow,	Tillman,
Bouck,	Ewing,	New,	Townshend, R. W.
Bragg,	Finley,	Nicholls,	Turner, Oscar
Bright,	Goode,	O'Connor,	Vance,
Buckner,	Hammond, N. J.	O'Reilly,	Waddill,
Cabell,	Harris, John T.	Phelps,	Warner,
Caldwell,	Hatch,	Poehler,	Wellborn,
Carlisle,	Henry,	Reagan,	Wells,
Clardy,	Herbert,	Robertson,	Whiteaker,
Clark, John B.	Hooker,	Ross,	Whitthorne,
Clymer,	House,	Ryon, John W.	Wilson,
Cobb,	Hunton,	Samford,	Wood, Fernando
Coffroth,	Hutchins,	Sawyer,	Wright.
Colerick,	Johnston,	Scales,	

NOT VOTING—123.

Aldrich, N. W.	Ford,	Lewis,	Rothwell,
Armfield,	Forney,	Lindsey,	Russell, Daniel L.
Bachman,	Forsythe,	Lounsbery,	Russell, W. A.
Barlow,	Fort,	Manning,	Sapp,
Beale,	Frost,	Martin, Benj. F.	Shallenberger,
Belford,	Frye,	Martin, Joseph J.	Shelley,
Bingham,	Garfield,	McCoid,	Simonton,
Bland,	Geddes,	McGowan,	Singleton, J. W.
Bowman,	Gibson,	McKinley,	Slemons,
Burrows,	Godshalk,	McMahon,	Smith, Hezekiah B.
Butterworth,	Gunter,	Mills,	Speer,
Calkins,	Haskell,	Morse,	Starin,
Camp,	Heilman,	Morton,	Stone,
Chalmers,	Henderson,	Muller,	Taylor,
Chittenden,	Henkle,	Murch,	Townsend, Amos
Clark, Alvah A.	Herndon,	Myers,	Tucker,
Conger,	Hill,	Newberry,	Turner, Thomas
Covert,	Horr,	O'Brien,	Tyler,
Cox,	Hostetler,	Orth,	Updegraff, J. T.
Crowley,	Houk,	Osmer,	Upson,
Daggett,	Hull,	Persons,	Van Voorhis,
Davidson,	Hurd,	Philips,	Wait,
Davis, George R.	James,	Phister,	Washburn,
Davis, Lowndes H.	Jorgensen,	Pierce,	Wilber,
De La Matyr,	Keifer,	Pound,	Williams, Thomas
Deuster,	Killinger,	Price,	Willis,
Dick,	Kimmel,	Reed,	Wise,
Einstein,	King,	Rice,	Wood, Walter A.
Ellis,	Kitchin,	Richardson, D. P.	Young, Casey
Farr,	Knott,	Richardson, J. S.	Young, Thomas L.
Felton,	Ladd,	Richmond,	

So Mr. PAGE's amendment was rejected.

The following additional pairs were announced from the Clerk's desk:

Mr. LADD with Mr. LINDSEY.

Mr. SHALLENBERGER with Mr. YOUNG, of Tennessee, on all political questions until further notice.

Mr. GODSHALK with Mr. FROST, indefinitely.

Mr. HILL, on this bill, with Mr. BUTTERWORTH.

The vote was then announced as above recorded.

The SPEAKER. The question now recurs on the amendment of the Committee of the Whole House on the state of the Union.

Mr. HISCOCK. I demand the yeas and nays on that amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 95, nays 79, not voting 118; as follows:

YEAS—95.

Acklen,	Culberson,	Klotz,	Singleton, O. R.
Aiken,	Davis, Joseph J.	Le Fevre,	Smith, William E.
Atherton,	Deuster,	Martin, Edward L.	Sparks,
Atkins,	Dibrell,	McKenzie,	Speer,
Beltzhoover,	Dunn,	McLane,	Springer,
Berry,	Elam,	McMillin,	Steele,
Bicknell,	Evins,	Money,	Stephens,
Blackburn,	Ewing,	Morrison,	Stevenson,
Bliss,	Finley,	Morse,	Talbott,
Bouck,	Gibson,	Muldrow,	Thompson, P. B.
Bragg,	Goode,	New,	Tillman,
Bright,	Hammond, N. J.	Nicholls,	Townshend, R. W.
Buckner,	Harris, John T.	O'Connor,	Turner, Oscar
Cabell,	Hatch,	O'Reilly,	Vance,
Caldwell,	Henkle,	Persons,	Waddill,
Carlisle,	Henry,	Phelps,	Warner,
Clardy,	Herbert,	Poehler,	Wellborn,
Clymer,	Hooker,	Reagan,	Wells,
Cobb,	House,	Robertson,	Whiteaker,
Coffroth,	Hunton,	Ross,	Whitthorne,
Colerick,	Hutchins,	Ryon, John W.	Wilson,
Converse,	Johnston,	Samford,	Wood, Fernando
Cook,	Kenna,	Sawyer,	Wright.
Cravens,	Kimmel,	Scales,	

NAYS—79.

Aldrich, William	Ballou,	Boyd,	Cannon,
Anderson,	Barber,	Brewer,	Carpenter,
Bailey,	Bayne,	Briggs,	Caswell,
Baker,	Blake,	Browne,	Chittenden,
Claflin,	Haskell,	Mason,	Ryan, Thomas
Cowgill,	Hawk,	McCook,	Sherwin,
Crapo,	Hawley,	Miles,	Smith, A. Herr
Daggett,	Hayes,	Miller,	Thomas,
Davis, Horace	Hazelton,	Mitchell,	Thompson, W. G.
Deering,	Horr,	Monroe,	Updegraff, Thomas
Dwight,	Hubbell,	Neal,	Urner,
Errett,	Humphrey,	Norcross,	Valentine,
Ferdon,	Jones,	O'Neill,	Van Aernam,
Field,	Joyce,	Osmer,	Voorhis,
Fisher,	Kelley,	Overton,	Ward,
Gillette,	Ketcham,	Pacheco,	White,
Hall,	Lapham,	Page,	Williams, C. G.
Hammond, John	Loring,	Prescott,	Willits,
Harmer,	Lowe,	Robeson,	Yocum.
Harris, Benj. W.	Marsh,	Robinson,	

NOT VOTING—118.

Aldrich, N. W.	Ellis,	Lewis,	Russell, W. A.
Armfield,	Farr,	Lindsey,	Sapp,
Bachman,	Felton,	Lounsbery,	Shallenberger,
Barlow,	Ford,	Manning,	Shelley,
Beale,	Forney,	Martin, Benj. F.	Simonton,
Belford,	Forsythe,	Martin, Joseph J.	Singleton, J. W.
Bingham,	Fort,	McCoid,	Slemons,
Bland,	Frost,	McGowan,	Smith, Hezekiah B.
Blount,	Frye,	McKinley,	Starin,
Bowman,	Garfield,	McMahon,	Stone,
Brigham,	Geddes,	Mills,	Taylor,
Burrows,	Godshalk,	Morton,	Townsend, Amos
Butterworth,	Gunter,	Muller,	Tucker,
Calkins,	Heilman,	Murch,	Turner, Thomas
Camp,	Henderson,	Myers,	Tyler,
Chalmers,	Herndon,	Newberry,	Updegraff, J. T.
Clark, Alvah A.	Hill,	O'Brien,	Upson,
Clark, John B.	Hiscock,	Orth,	Van Voorhis,
Conger,	Hostetler,	Philips,	Wait,
Covert,	Houk,	Phister,	Washburn,
Cox,	Hull,	Pierce,	Weaver,
Crowley,	Hurd,	Pound,	Wilber,
Davidson,	James,	Price,	Williams, Thomas
Davis, George R.	Jorgensen,	Reed,	Willis,
Davis, Lowndes H.	Keifer,	Rice,	Wise,
De La Matyr,	Killinger,	Richardson, D. P.	Wood, Walter A.
Dick,	King,	Richardson, J. S.	Young, Casey
Dickey,	Kitchin,	Richmond,	Young, Thomas L.
Dunnell,	Knott,	Rothwell,	
Einstein,	Ladd,	Russell, Daniel L.	

So the amendment was agreed to.

On motion of Mr. SPRINGER, by unanimous consent, the reading of the names was dispensed with.

The following additional pairs were announced:

Mr. DUNNELL with Mr. MILLS, on this vote.

Mr. BRIGHAM with Mr. CLARK, of Missouri, for this day.

Mr. BLOUNT with Mr. HISCOCK, for this day on this amendment. Mr. BLOUNT would vote "ay" and Mr. HISCOCK "no."

The result of the vote was then announced as above recorded.

The remaining amendments, on which no separate vote was demanded, were then severally agreed to.

Mr. COBB. I now demand the previous question on the engrossment and third reading of the bill, and yield to the gentleman from Maryland, [Mr. MCLANE.]

Mr. MCLANE. I am very much obliged to the gentleman from Indiana for his courtesy, but I cannot avail myself of it in the House. When I asked the kindness of the gentleman from Indiana, it was under the impression that I would be enabled to take the time for the discussion of the question to which I wished to refer in the Committee of the Whole on the state of the Union. It was my intention to have trespassed upon the committee, as the gentleman from Texas [Mr. REAGAN] or the gentleman from Illinois [Mr. HENDERSON] were permitted to do, in the discussion of the interstate-commerce bill and the substitute for it which were reported from that committee, and one of which was reported by the gentleman from Texas and the other by myself.

I desired specially to reply to the gentleman from Texas in order that I might make clear to the House that the board of supervisors created to inquire into all of the alleged abuses and evils of railway management in the United States was indispensable to enable Congress to correct such abuses. With the objects of the substitute presented by the gentleman from Texas I entirely sympathized; that the particular evils it was sought to remedy were evils that I was myself quite anxious to remedy. But every country in the world that had by legislation sought to remedy such abuses had found it necessary to have one or more boards of commission to make preliminary inquiry. The substitute presented by the gentleman from Texas would not, in my opinion, remedy these evils or prevent the abuses. It was besides crude in its details, and created evils of a new character more serious than those which it proposed to remedy, owing to the fact that some of the roads connected with interstate commerce were beyond the reach of this bill, and were left free by the provisions of the bill to defeat its main object; and, furthermore, many of the evils in question grew out of the abuse rather than the use of acknowledged rights and privileges of railroad corporations. But I know it is not in order to proceed with such a discussion in the House, and therefore, with many thanks to the gentleman from Indiana for his courtesy, I shall reserve what I have to say until the bill comes regularly before the House for consideration.

Mr. COBB. I now demand the previous question on the final passage of the bill.

The previous question was seconded and the main question ordered,

and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question recurred on the passage of the bill.

The SPEAKER. The rule provides that the yeas and nays shall be called upon all general appropriation bills. The Chair has not decided yet as to whether a deficiency bill was a general appropriation bill or not. Such bills are passed in every session in late years, and the way the issue was avoided in the pension deficiency bill was that the yeas and nays were demanded by some member of the House.

Mr. CLAFLIN. I ask the yeas and nays on the passage of the present bill.

Mr. HISCOCK. I suggest that we might make provision by unanimous consent to pass this bill without consuming the time in calling the yeas and nays.

Mr. CLAFLIN. I demand the yeas and nays.

Mr. CANNON, of Illinois. I make the point that one-fifth is necessary to demand the yeas and nays.

Mr. FINLEY. Would it be in order to move to suspend the rule and pass the bill?

The SPEAKER. The Chair thinks not. The Clerk will call the roll.

The question was taken; and there were—yeas 83, nays 78, not voting 131; as follows:

YEAS—83.

Acklen,	Cox,	Hutchins,	Ryon, John W.
Aiken,	Cravens,	Johnston,	Sawyer,
Atherton,	Davis, Joseph J.	Kimmel,	Singleton, O. R.
Atkins,	De La Matyr,	Klotz,	Smith, A. Herr
Beltzhoover,	Dibrell,	Ladd,	Smith, William E.
Bicknell,	Dickey,	Le Fevre,	Sparks,
Blackburn,	Dunn,	Lowe,	Springer,
Bliss,	Elam,	Martin, Edward L.	Steele,
Bouck,	Evins,	McLane,	Stevenson,
Bragg,	Ewing,	Money,	Talbott,
Bright,	Field,	Morrison,	Thompson, P. B.
Buckner,	Finley,	Morse,	Tillman,
Caldwell,	Gillette,	New,	Vance,
Carlisle,	Goode,	Nicholls,	Waddill,
Clardy,	Hammond, N. J.	O'Connor,	Warner,
Clymer,	Harris, John T.	O'Reilly,	Wells,
Cobb,	Hatch,	Phelps,	Whiteaker,
Coffroth,	Henry,	Poehler,	Whitthorne,
Colerick,	Herbert,	Reagan,	Wilson,
Converse,	Hooker,	Robertson,	Wright.
Cook,	Hunton,	Ross,	

NAYS—78.

Aldrich, William	Dunnell,	Marsh,	Sherwin,
Anderson,	Dwight,	McCook,	Speer,
Baker,	Errett,	McMillin,	Thomas,
Ballou,	Ferdon,	Miles,	Thompson, W. G.
Barber,	Fisher,	Miller,	Townshend, R. W.
Bayne,	Hall,	Mitchell,	Turner, Oscar
Boyd,	Hammond, John	Monroe,	Tyler,
Brewer,	Harmer,	Muldrow,	Updegraff, Thomas
Briggs,	Harris, Benj. W.	Neal,	Urner,
Browne,	Hawk,	Norcross,	Valentine,
Cannon,	Hawley,	O'Neill,	Van Aernam,
Carpenter,	Hayes,	Overton,	Voorhis,
Caswell,	Hazelton,	Pacheco,	Ward,
Claflin,	Horr,	Page,	Wellborn,
Cowgill,	Humphrey,	Persons,	White,
Crapo,	Jones,	Prescott,	Williams, C. G.
Culberson,	Joyce,	Robeson,	Willits,
Daggett,	Kelley,	Robinson,	Yocum.
Davis, Horace	Lapham,	Samford,	
Deering,	Loring,	Scales,	

NOT VOTING—131.

Aldrich, N. W.	Farr,	Kitchin,	Rothwell,
Armfield,	Felton,	Knott,	Russell, Daniel L.
Bachman,	Ford,	Lewis,	Russell, W. A.
Bailey,	Forney,	Lindsey,	Ryan, Thomas
Barlow,	Forsythe,	Lounsbery,	Sapp,
Beale,	Fort,	Manning,	Shallenberger,
Belford,	Frost,	Martin, Benj. F.	Shelley,
Berry,	Frye,	Martin, Joseph J.	Simonton,
Bingham,	Garfield,	Mason,	Singleton, J. W.
Blake,	Geddes,	McCoid,	Slemons,
Bland,	Gibson,	McGowan,	Smith, Hezekiah B.
Blount,	Godshalk,	McKenzie,	Starin,
Bowman,	Gunter,	McKinley,	Stephens,
Brigham,	Haskell,	McMahon,	Stone,
Burrows,	Heilman,	Mills,	Taylor,
Butterworth,	Henderson,	Morton,	Townsend, Amos
Cabell,	Henkle,	Muller,	Tucker,
Calkins,	Herndon,	Murch,	Turner, Thomas
Camp,	Hill,	Myers,	Updegraff, J. T.
Chalmers,	Hiscock,	Newberry,	Upson,
Chittenden,	Hostetler,	O'Brien,	Van Voorhis,
Clark, Alvah A.	Houk,	Orth,	Wait,
Clark, John B.	House,	Osmer,	Washburn,
Conger,	Hubbell,	Philips,	Weaver,
Covert,	Hull,	Phister,	Wilber,
Crowley,	Hurd,	Pierce,	Williams, Thomas
Davidson,	James,	Pound,	Willis,
Davis, George R.	Jorgensen,	Price,	Wise,
Davis, Lowndes H.	Keifer,	Reed,	Wood, Fernando
Deuster,	Kenna,	Rice,	Wood, Walter A.
Dick,	Ketcham,	Richardson, D. P.	Young, Casey
Einstein,	Killinger,	Richardson, J. S.	Young, Thomas L.
Ellis,	King,	Richmond,	

So the bill was passed.

The following additional pairs were announced:

Mr. BLAKE with Mr. CABELL, on this vote.

Mr. BLOUNT with Mr. HISCOCK, on this vote. Mr. BLOUNT would vote "ay" and Mr. HISCOCK would vote "no."

The result of the vote was then announced as above recorded.

Mr. COBB moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

APPROVAL OF BILLS.

A message from the President, by Mr. PRUDEN, one of his secretaries, announced that the President had approved the following bills and joint resolutions:

A bill (H. R. No. 4214) to amend and re-enact sections 2552 and 2553 of the Revised Statutes;

A bill (H. R. No. 580) to construe and define an act to cede to the State of Ohio the unsold lands in the Virginia military district in said State, approved February 18, 1871, and for other purposes;

A joint resolution (H. R. No. 310) to authorize the Secretary of the Navy to loan flags to the Grand Army of the Republic of the District of Columbia;

A bill (H. R. No. 4812) to amend the laws in relation to internal revenue;

A bill (H. R. No. 2326) for the relief of settlers upon the Osage trust and diminished-reserve lands in Kansas, and for other purposes;

A bill (H. R. No. 740) granting a pension to Martha J. Robinson;

A joint resolution (H. R. No. 283) authorizing the Secretary of War to furnish for use at the soldiers and sailors' reunion at Columbus, Ohio, to be held in August, 1880, certain artillery, tents, and muskets;

A bill (H. R. No. 1460) granting an increase of pension to James P. Sayer;

A bill (H. R. No. 1463) granting a pension to Edward H. Leib;

A bill (H. R. No. 2643) granting a pension to Mary Meighan;

A joint resolution (H. R. No. 312) touching payment of employés of the Government in the city of Washington;

A bill (H. R. No. 6239) making appropriations for a deficiency in the appropriations for the payment of pensions for the fiscal year ending June 30, 1880, and for other purposes;

A bill (H. R. No. 4264) to authorize the payment of $66.09 to Judith Brown, one-seventh of the pension of Margaret Duncan;

A bill (H. R. No. 3015) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1880, and for other purposes; and

A bill (H. R. No. 5203) providing for the reapportionment of the members of the Legislatures in the Territories of Montana and Wyoming.

CHARGES AGAINST HON. J. H. ACKLEN.

Mr. KNOTT. I rise to make a privileged report from the Committee on the Judiciary.

The SPEAKER. Does the gentleman from Kentucky desire that the report shall be read in full?

Mr. KNOTT. I have no preference as to that. It is not of great length.

Mr. ACKLEN. I desire that the report be read in full.

The Clerk read the report, as follows:

The Committee on the Judiciary, in pursuance of the resolution referring to it the report of the Committee on Foreign Affairs, touching certain charges against Hon. J. H. ACKLEN, with instructions to make further investigation thereof if necessary, and to report what action, if any, the House should take thereon, having had the same under consideration, would respectfully submit the following, together with the testimony taken in relation thereto:

On the 6th day of February, 1879, the Committee on Foreign Affairs, through Mr. ACKLEN, submitted to the House a report in reference to the memorials of Woolsey Teller and Eliza Livingston, praying redress for certain injuries alleged to have been suffered by them, respectively, through the action of the government of Nicaraugua, which was recommitted to that committee and printed as "Report No. 96, House of Representatives, Forty-fifth Congress, third session."

No further action having been taken thereon, Mr. ACKLEN, early in the first session of the present Congress, had the memorials of the claimants, Teller and Livingston, referred to the Committee on Foreign Affairs through the petition-box in the usual manner, and also introduced into the House a resolution relating to the same subject, which on the 30th of June, 1879, was referred to the Committee of the Whole House, and placed on the Public Calendar.

The memorials having in the mean time been referred to Mr. KING, of Louisiana, as a sub-committee of the Committee on Foreign Affairs, Mr. ACKLEN caused his clerk to prepare a paper in the form of a report to be submitted by Mr. KING to that committee, embodying a printed copy of the Report No. 96, Forty-fifth Congress, above mentioned, which he handed to Mr. KING who some time in the following December returned it to Mr. ACKLEN at his request.

In the CONGRESSIONAL RECORD of January 14, 1880, Mr. ACKLEN was reported as having used the following language in the House on the preceding day:

"I ask unanimous consent that the report of the Committee on Foreign Affairs in relation to the claims of certain citizens against the government of Nicaragua be referred to the Committee of the Whole House and printed."

And a paper, purporting to have been submitted by Mr. KING as such a report, was subsequently printed as "No 86, House of Representatives, Forty-sixth Congress, second session," although neither the Committee on Foreign Affairs nor Mr. KING had authorized any such report to be made.

This fact having been called to Mr. ACKLEN's attention by Mr. KING, the following statement, with the consent of Mr. ACKLEN, appeared in the CONGRESSIONAL RECORD of January 21, 1880, as having been made by him on the floor of the House on the preceding day:

"Mr. ACKLEN. On January the 13th instant, during the absence of my colleague, Mr. KING, I asked unanimous consent of the House to have printed a manuscript designated 'Report No. 86, House of Representatives, Forty-sixth Congress, second session,' which I had myself prepared and placed in his hands, and which he had subsequently returned to me at my request. I ask that it be withdrawn, as it was submitted by me without authority from Mr. KING or from the Committee on

Foreign Affairs, it having taken no action on the matter. This was done through a mistake of mine."

The minute of Mr. ACKLEN's remarks on that occasion, as made by Mr. Lord, the reporter on duty at the time, being as follows:

"I ask consent to withdraw the report No. 86, which, during the absence of my colleague, I asked to have printed, presuming that the manuscript of the report and the bill which he had left with me had been acted upon by the committee. As it was solely my error, I ask that it be withdrawn."

The facts thus stated suggest the only question which your committee has been called upon to determine, namely: Was it the intention of Mr. ACKLEN, when he submitted his request to the House on the 18th of January, to procure under a pretended authority from Mr. KING, or otherwise, the printing of a document as a report from the Committee on Foreign Affairs, when in fact that committee had not agreed to any such report or authorized the same to be made?

His own statements made under oath in explanation of the matter may be substantially summarized as follows: That having been placed in charge of the subject while a member of the Forty-fifth Congress; having made a report in relation to it in which he took some pride; having been prevented by sickness from securing action upon it in the House; naturally feeling an interest in it as he would in any other business intrusted to him, and actuated perhaps by a sort of ambition to be made chairman of a select committee which might give him some political prominence, but with no personal interest in the subject-matter whatever, he introduced the resolution which had been agreed upon by the Committee on Foreign Affairs in the Forty-fifth Congress during the "morning hour," and finding it improbable that the resolution could be gotten out of the "morning hour" during the extra session, he had it, together with the papers relating to it, referred through the petition-box to the Committee on Foreign Affairs, where it was referred to Mr. KING as a sub-committee; that on the 30th of June the resolution was placed on the Public Calendar, but that in the mean time he had caused his clerk to prepare a report, embodying a copy of his printed report made to the preceding Congress, which he handed to Mr. KING, and which shows upon its face that it was intended as a report to be submitted by Mr. KING to the committee; that the resolution having been referred to the Committee of the Whole and placed on the Calendar, and therefore having no further interest in having it reported from the Committee on Foreign Affairs, he some time in December last requested Mr. KING to return him the report, which he did; that he threw it with other papers in his desk, with no other intention with regard to it than merely to use it as a convenience in his argument on the resolution in case it should be reached; that on the morning of the 13th of January, apprehending that the resolution was liable to be called up at any time when the House might go into Committee of the Whole, he sent a page to the document-room for a number of copies of his old report, who returned with the information that the edition had been exhausted; that his impulse at once was to have its place supplied, and, without really thinking carefully, in the hurry of the moment he requested in substance that a report be printed in a couple of cases already on the Public Calendar, took the bundle of papers from his desk, and without examining them handed them to a page, who took them to the Clerk's desk; that his only intention or idea at the time was to have his old report reprinted for use in case the resolution should be reached, or if he had an idea beyond that it was that it was merely that the loose papers accompanying it might be printed as addenda or "miscellaneous papers," and he could not say that even that thought occurred to him; that the intention of having it printed as a report from the Committee on Foreign Affairs was entirely foreign to his thoughts and never entered his mind; that he did not know at the time that Mr. KING's name was on the papers at all, and did not see the document printed as Report No. 86, or the remark attributed to him in the RECORD of January 14 until his attention was called to them by Mr. KING; that the statement which appears in the RECORD of January 21 as having been made by him was prepared by Mr. KING; that he desired and offered to add to it a fuller explanation of the manner in which the mistake had occurred, but that Mr. KING objected to any alteration or addition being made thereto, assuring him that the Committee on Foreign Affairs desired it to be just that way; that feeling that he had unintentionally placed them in a false position, and being willing and anxious to do anything that would vindicate his colleague, Mr. KING, fully and forever, and not anticipating any future attack or trouble with regard to the matter, or that he would be charged with having attempted to make a report from the Committee on Foreign Affairs, he was not even ordinarily guarded in his action but took the statement as it had been prepared by Mr. KING, and, as he understood, was insisted upon by the Committee on Foreign Affairs; that having agreed with Mr. KING that this statement should appear in the RECORD as his own, he was not careful as to the language used by him in asking that the paper designated as Report No. 86 should be withdrawn, but thinks that minute made by Mr. Lord of his remark at that time does not correctly represent what he actually said, though he could not say positively whether Mr. Lord had taken down the exact words used by him or not, as he was at the time holding in his hand the written statement prepared by Mr. KING, and which he intended to have printed in the RECORD in lieu of what he was then saying, and did immediately hand it to the reporter for that purpose, and therefore was neither careful nor particular as to his exact words; but that if he did use the words attributed to him, namely, "Presuming that the manuscript of the report and bill which he had left with me had been acted upon by the committee," he could only have meant that the matter had been disposed of by the committee, and that they did not intend to report it to the House. And it would seem singular indeed that Mr. ACKLEN should under any circumstances employ language so totally inconsistent with facts so well understood by himself and not disputed by any one; that Mr. KING had merely returned to him at his own request a report which he had himself caused to be prepared, and that there was no bill in any manner connected with the matter which the committee could have acted on or which Mr. KING could have left with him.

In order that there might be no pretext on the part of any one for any complaint or even suspicion of partiality or intentional injustice, whatever its conclusion might be, your committee permitted the investigation to take the widest possible range. Every witness within reach of the process of the House who was supposed to be able to throw the least light whatever upon the subject was summoned and the utmost latitude allowed in the examination of each of them; and, deeming it unnecessary to encumber this report by referring to the large mass of totally irrelevant statements thus naturally elicited, it is the opinion of your committee that the foregoing summary of facts as stated by Mr. ACKLEN is not only consistent with reason, but corroborated by the evidence herewith submitted.

Harry Blacklock testifies that he was sent by Mr. ACKLEN to the document-room for his report, was informed by the clerk that the edition was exhausted, and that he immediately returned and informed Mr. ACKLEN of that fact. And Mr. Brown, the official reporter on duty when Mr. ACKLEN made his request on the 15th of January, says that at the time there was a pressure of requests for unanimous consent and considerable confusion on the floor, and that business was being transacted hurriedly; that the minute actually made by him of Mr. ACKLEN's remark at the time was: "I ask to have a report printed in a couple of cases already on the Public Calendar," which not being sufficient to enable him to make an intelligent report, he consulted the paper submitted by Mr. ACKLEN, and from it made up the version of Mr. ACKLEN's request as it appeared in the RECORD of January 14; that Mr. ACKLEN's seat was somewhat remote from the reporter's desk, and that in consequence of the confusion and rush of business at the time other language might have been used by Mr. ACKLEN which escaped him. Mr. HOSTETLER, who occupies a seat very near Mr. ACKLEN, states that Mr. ACKLEN asked to have a report which was made or had been prepared for the last Congress "printed" or "reprinted," he could not say positively which, but that the idea of having a report which had been prepared for a former Congress printed in the RECORD of the present Congress struck him as singular, and thus made an impression upon his memory. And Mr. BICKNELL says that his attention was attracted to Mr. ACKLEN's remark by hearing the words "Committee on Foreign Affairs," which, as he was himself a member of that committee, caused him to take some interest in the matter at the time, but he could remember nothing further of what was said.

These statements taken together would seem to indicate that the whole of Mr. ACKLEN's remark when he made his request was not heard by Mr. Brown, and that he not only referred to his own report in a former Congress, but referred to it as a report which had been made from the Committee on Foreign Affairs, and it is probable that had all he said on that occasion been clearly understood and accurately reported, or if he had been more careful in the hurried interview which soon afterward occurred between himself and the journal clerk, much if not the whole of the difficulty which subsequently ensued with regard to the matter might have been obviated.

It is in evidence, moreover, that several members of the Committee on Foreign Affairs were on the floor at the time, and the idea that any sane man would rise in their presence and boldly attempt to palm off or ask to have printed as their report a paper to which they had never agreed, when any or all of them might have instantly confronted him with a denial of its authenticity and exposed the falsehood in the face of the House and the country, seems to your committee too preposterous to be entertained for a moment. And it is equally incredible, without the most convincing proof, that such an attempt could have been made even had every member of the committee been absent at the time, for it must have been obvious to any rational mind that a paper thus surreptitiously published as the report of a committee could not possibly have been used or referred to as such without leading to the exposure of the fraud and the inevitable disgrace of its perpetrator.

Nor have your committee been able to discover in the evidence the slightest trace of any rational motive which could have tempted Mr. ACKLEN to a proceeding so unnecessary in itself and so hazardous to his own reputation either for personal integrity or common sense. Mr. ACKLEN not only denies it upon his oath, but a patient and careful examination of every available source of information has failed to show that he ever had the slightest pecuniary interest in any claim whatever against the government of Nicaragua or that he ever saw or communicated in any manner with any person, either directly or indirectly, in any such claim. But supposing him to have had a direct pecuniary interest in the success of the resolution he had proposed, as a rational being he could not have hoped to promote its success by a fatuous attempt to palm upon the House a false report.

A young man but recently embarked in public life, he may have been, and no doubt was, inspired to some extent in the advocacy of his resolution in reference to the alleged claims against the government of Nicaragua by an ambition to achieve for himself some little distinction as the head of a select committee charged with the investigation of questions of more or less international interest and importance; but as a sensible man he can scarcely be supposed to have deliberately intended to practice an unnecessary and disgraceful fraud, the natural and inevitable effect of which would be not only to defeat the very object he had in view but insure his own political ruin and personal degradation.

In view, therefore, of all the pertinent facts and circumstances disclosed by the evidence herewith submitted, it is the opinion of your committee that it was not the intention of Mr. ACKLEN in making his request on the 13th of January last to have the document referred to by him printed or imposed upon the House as a report from the present Committee on Foreign Affairs, but that the printing thereof as "Report No. 86, House of Representatives, Forty-sixth Congress, second session," was merely the result of a want of proper care on his part.

Your committee would therefore respectfully recommend that the matter be laid on the table and no further action taken therein.

Mr. KNOTT. I call the previous question on the adoption of the report.

Mr. GIBSON. I suggest to the gentleman from Kentucky that we have a separate vote upon the report of the committee and upon the printing of the testimony. As the report itself says, much of the testimony was irrelevant and did not bear upon the case. I think there is no occasion whatever for the printing of the testimony.

Mr. KNOTT. I have not asked for the printing of the testimony at all.

Mr. GIBSON. If the gentleman will permit me, I desire to say further that I am very glad the committee have exonerated the gentleman who represents the third district of Louisiana.

Mr. KNOTT. I have not asked for the printing of the testimony, but have called the previous question on the adoption of the report.

The previous question was seconded, and the main question ordered; and under the operation thereof the report was adopted by a unanimous vote.

POST-OFFICE APPROPRIATION BILL.

Mr. BLACKBURN. I am directed by the Committee on Appropriations to report back the bill (H. R. No. 6036) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1881, and for other purposes, with the amendments made thereto by the Senate; and I submit a report of the Committee on Appropriations recommending concurrence on the part of the House in certain of the amendments, non-concurrence in other amendments, and concurrence in one of the amendments with an amendment.

The SPEAKER. Is it the intention of the gentleman from Kentucky that the amendments shall be taken up *seriatim?*

Mr. BLACKBURN. Yes, sir; let the report of the committee be read.

The report was read, as follows:

The Committee on Appropriations, to whom was referred the bill of the House No. 6036, making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1881, and for other purposes, together with the amendments of the Senate thereto, having considered the same, beg leave to report as follows:

They recommend concurrence in the amendments of the Senate numbered 1, 2, and 4. They recommend non-concurrence in the amendments numbered 3, 5, 6, and 8. They recommend concurrence in the amendment numbered 7 with an amendment, as follows: At the end of the amended paragraph add the following:

"*Provided*, That the proposals for contracts for furnishing such mail-locks and keys shall be readvertised for."

The SPEAKER. The amendments will first be read in which the committee recommend concurrence.

The Clerk read Senate amendment numbered 1, as follows:

Page 2, line 18, strike out the words "inspectors of mails" and insert in lieu thereof the words "post-office inspectors."

The amendment was concurred in.

The Clerk read Senate amendment numbered 2, as follows:

Page 3, after the following clause:
"For the purchase of card-canceling and post-marking machines, $6,000; and the proper officers of the Post-Office Department may purchase such machines as in their judgment may best answer the purpose."
Insert as follows:
"But no patented machine shall be so purchased until the proper officers shall have fully secured and protected the Government and its officers against the payment of royalty thereon otherwise than in the contract for its use, and against all suits for infringement of any alleged patent for similar machines"

The amendment of the Senate was concurred in.

The Clerk read Senate amendment numbered 4, as follows:

Page 598, strike out "$850,000" and insert "$900,000."

Mr. BLACKBURN. That is an increase of $50,000 for the steamboat service.

The amendment of the Senate was concurred in.

The SPEAKER. The amendments in which non-concurrence is recommended will now be read.

Mr. BLACKBURN. I suggest that we first dispose of amendment numbered 7, in which concurrence with an amendment is recommended. After that is disposed of, only those amendments will be left in which the Committee on Appropriations recommend non-concurrence.

The Clerk read Senate amendment numbered 7, as follows:

Page 6, line 122, strike out "$25,000" and insert "$100,000;" so that it will read:
"For mail-locks and keys, $100,000."

The Committee on Appropriations recommended concurrence, with the following amendment:

At the end of the amended paragraph add the following:
"*Provided*, That the proposals for contracts for furnishing said mail-locks and keys shall be readvertised for."

Mr. HAWLEY. I understand the gentleman from Kentucky to say the committee recommended concurrence in the amendment of the Senate which increases the appropriation with the proviso which has just been read.

The Postmaster-General has already advertised for the locks in question and received proposals. If he should advertise again it is quite probable that the increased cost of material, which is 50 or 60 per cent. upon the iron, and would be something upon the brass and other material, would lead to an increased bid; so that this would not be a measure of economy. Holding the Postmaster-General had an entire right to advertise as he did, I move, as an amendment to the proviso, the addition of the words "if it shall be deemed by the Postmaster-General necessary to the public service;" so that he may have discretion to readvertise or not, as he pleases. The proviso as it now stands commands it.

Mr. BLACKBURN. I have but a word to say. It was stated to the House when this bill was under consideration and upon its passage that the sum of $15,000 had been appropriated annually for the past three years for mail-locks and keys for the Post-Office Department, and that that amount of money had not been expended in either one of those years, the largest sum having been expended during the last year, amounting to some fourteen thousand and odd hundred dollars.

This year the Committee on Appropriations recommended to the House and the House passed an appropriation of $25,000, instead of $15,000 as heretofore, for this purpose. The Senate has amended that by striking out "$25,000" and inserting "$100,000." The Committee on Appropriations now recommend that the amendment of the Senate be concurred in, with an amendment requiring the Post-Office Department to readvertise for proposals and bids for these locks and keys.

I have but one point which I wish to state to the House, and then I will be perfectly content to have a vote. That point is this: the representative of the Post-Office Department came before the Committee on Appropriations and said that the Department had no power to make a contract for the purchase of locks and keys, their contract having expired in 1878, running for four years; and that it was without any power to enter into a contract with any lock and key establishment in the country. Now if they had no such power it was because no appropriation for that purpose had been made, which is true. And if the Department had no power to make a contract, because of the want of an appropriation for the purpose, I hold that it follows inevitably that the Post-Office Department had no authority of law to advertise for proposals for such a contract. There had been no appropriation made for the purpose; none has been made to-day. The Department came before the Committee on Appropriations and urged us to grant it $150,000 for this purpose, because it stated it had no earthly legal authority or warrant to enter into any contract at all. Yet in the absence of any such warrant or authority, it seems that the Post-Office Department has advertised for proposals and certain bids have been made. The purpose of the Committee on Appropriations in recommending the amendment which they do recommend is simply to require that there shall be a readvertisement for proposals, that this contract shall be open to the broadest possible competition; that no bidder upon a proposal for which no appropriation was made, and therefore for which there was no authority of law, shall become the beneficiary of such contract to the exclusion of the broadest system and practice of competitive bidding.

Now, I do not see who can be hurt by this. If there is a bid already made and now on file in the Post-Office Department that is the lowest and best bid that can be obtained, the man making that bid will not be injured by the incorporation of this provision into this bill. But if there is any bid on file in the Department which is not the lowest nor the best which can be obtained, then I can see very readily how such bidder would be opposed to the amendment which the Committee on Appropriations now reports. That amendment is simply in the interest of open, unrestricted, fair competitive bidding for a contract for which an appropriation shall have been made, and for which there shall be some warrant of law.

Mr. ATKINS. Will the gentleman allow me to ask him a question?

Mr. BLACKBURN. Yes, sir.

Mr. ATKINS. I want to ask the gentleman if it is not likely that there would have been more bidders for the original contract if it had been understood that it was for $100,000 than if it had been for only $15,000 or $25,000?

Mr. BLACKBURN. The House will see at once that as there never has been for three years past more than $15,000 appropriated for this purpose, I answer the gentleman affirmatively; certainly there would have been more bidders.

Mr. HAWLEY. A question.

Mr. BLACKBURN. Wait a moment; let me answer this question first. There never has been more than $15,000 appropriated for this purpose in any one year for three years past. Now, if the Postmaster-General has gone forward, as it is said he has done, and made advertisement for proposals to furnish these locks and keys in anticipation of an appropriation for the purpose, he certainly could not have advertised for contracts to exceed $15,000. He had no appropriation or warrant of law to advertise for even that amount; but he could not have advertised for a contract larger than $15,000, because that is all that has been appropriated in any one year for three years past. This bill as amended by the Senate proposes to give $100,000 for the purchase of mail-locks and keys for the use of the Post-Office Department. The Committee on Appropriations of the House says, "Very well, take the $100,000; but when you do so you must advertise for proposals so as to give every lock and key establishment in the country an open, fair, honest, even-handed chance to put in its bids, and in that way protect the Treasury of the Government." That is all there is of it. If the Postmaster-General had advertised for a contract amounting to $100,000, does not every man know that the bidding would have been greater? That is, there would have been a larger number of competitive bidders, and the price at which the contract would be taken would necessarily be more advantageous to the Government? Does not every man know that a contract for $100,000 could be let upon more favorable terms than a contract for $15,000?

If this appropriation is to be increased from $15,000 to $100,000 the Committee on Appropriations recommend that the Post-Office Department be required to readvertise for proposals so as to give every man a chance. Who is there who would object to that? Why should any man object to it, unless it be one or more of that very small number who have put in their bids for a fifteen-thousand-dollar contract when there was no appropriation of a dollar for such purpose, and no law authorizing either a contract or an advertisement for proposals?

Mr. HAWLEY. Mr. Speaker, in the first place, the gentleman from Kentucky [Mr. BLACKBURN] says that there was no authority on the part of the Department to advertise for these bids. I hold that there was. That Department is every year asking for bids in order that it may make estimates. In no other way can it make estimates to Congress of what is needed for the public service.

In the next place, the gentleman says that there would have been more bidders if it had been known that $100,000 would be expended for this purpose. Now the contract which expired a year or two ago for the furnishing of locks to the Government had been in existence eight years. Every bidder in the country knew that the Post-Office Department was asking for bids for the supply of locks for the next eight years, the Department desiring to change the character of its old locks. The bidding was done precisely as the gentleman says it might have been done. It was done in view of an estimate. Bidders knew that an estimate would have to be made by the Department, as it did make it, for $150,000. This is the amount the Department now asks, basing that estimate upon bids which it has received from some of the best lock-makers in the country.

Every condition which the gentleman states as necessary has been practically fulfilled. The Department pursued its usual course in asking for bids, that it might know on what to base its estimates. Lock-makers made their bids in view of a contract for a series of years. The bids are in. I do not say and do not know who would get the contract under those bids. But I ask that the Postmaster-General shall be allowed to exercise his discretion as to whether or not he shall advertise again. Now, I ask, as the gentleman has asked, "Who can object?" I will tell you who can object to my proposition. Men who desire to have the Postmaster-General compelled to open the matter again for bids because their bids vary a cent or two from those of the lowest bidder.

The gentleman says that the Post-Office Department had no au-

thority to make contracts. It did not make any contracts. It asked for bids; and those bids are now before the Department for its action. I wish the Postmaster-General to have a discretion as to whether he shall advertise anew or not. Thus far he has proceeded in accordance with law and precedent and wisdom. Those men who find they are a little behind in their bids desire to reopen the bidding now, in the face of the fact that the cost of material has increased within a year from 30 to 50 per cent.

Mr. WARNER. When were these bids made? It may be very material whether they were made six months ago or twelve months ago.

Mr. HAWLEY. They were made during the extra session of this Congress—perhaps in April of last year.

Mr. BLACKBURN. If it be true as the gentleman has said (and I doubt not it is true) that everybody who has been a bidder is anxious to have a new advertisement made for these proposals, because some of the bids already put in are not quite as low as those of another bidder who is about to become the recipient of the contract, then if this amendment be put upon the bill will it not necessarily result in giving out the contract at lower rates than the bids now in the Department?

Mr. HAWLEY. I am obliged to the gentleman for the question. The new bids will be all relatively upon the same scale; every man may have to bid 20 or 30 or 40 per cent. higher. There will be a new scramble. It is not probable that anybody will be able to bid as low as he did before without loss or without being content with a very small profit, if any. It is perfectly fair that the Department should have the discretion to decide whether to advertise or not—whether it will break up the old bids entirely.

Mr. BLACKBURN. Does anybody know what the bids are?

Mr. HAWLEY. I presume not.

Mr. BLACKBURN. I do not.

Mr. HISCOCK. The argument urged here that new proposals will be higher than the bids already received is sufficiently answered by the fact that these people who suppose they have the inside track are insisting that this matter shall not be reopened to competition. They would not stand here struggling against a new advertisement for proposals, if they thought they had any chance of getting a better contract under new proposals. I say there is nothing in the idea that the proposals to be received under a new advertisement will be higher. If these bidders are not bound to enter into the contract under their former bids, and if the contract will not be valuable to them at the bids they have put in, why do they insist that the Government shall enter into this contract which they say it stands ready to award to them? I insist that the bids will be put in upon as low a basis in the future as they have been in the past; and I draw that conclusion from the fact that these men come here and insist that the Government shall stand upon the old proposals.

There is this reason why we should require new proposals to be received: We want the best contrivances that can be invented for the protection of the mails. If, with the experience of the last six or twelve months, with the progress of invention in that time, mechanics can present to the Department a better instrument for protecting the mail-bags of the country, the Government should have the benefit of that. It should have the benefit of the best talent which could be offered at the very latest moment it is in the power of the Government to advertise for proposals. If the machine which has been offered by the old bidders is the best, and it can be furnished at those prices, they will come in and take the contract under the new proposals. If a better machine can be offered the committee, if a better lock can be offered the Government, then let the Government have the chance of using it.

I say with reference to this there was no power on the part of the Post-Office Department to make these proposals. It was done without any appropriation to carry the contract into effect, and I say the suggestion which has been made by the chairman of the Committee on Appropriations is a good one. It was scarcely believed by the lock-makers anywhere that without any appropriation being made to enable the Government to enter into a contract the Government would be able to do it.

Mr. HAWLEY. There is no evidence of that in the world.

Mr. HISCOCK. Common sense, to me at least, teaches that would be the result. They understood the temper of the House.

I think, Mr. Speaker, at the very time when these proposals were being advertised for the Committee on Appropriations of this House was in session, and the temper of that committee was known at the time that they were not going to make any appropriation for the purpose. None had been made. It was very easy to have canvassed the Committee on Appropriations to know exactly what was the temper of that committee on the subject.

I say now, Mr. Speaker, that the very broadest latitude should be had with reference to this matter; that this subject should be opened to the trade everywhere, East, West, North, and South, so the Government may have the benefit of the very highest skill before they enter into a contract for a lock which is to protect their mails for the series of years which is to follow.

Mr. HAWLEY. I wish to add a word in reply to the gentleman. Those who failed or thought they had failed under the bidding——

Mr. HISCOCK. Mr. Speaker, I wish to interrupt the gentleman from Connecticut right here. We have been told that these contracts had not been awarded, that the Government had made no determination, and still we hear statements constantly reiterated here on the floor in reference to those who failed. I protest against the making of any appropriation to carry out any contract made in violation of law.

Mr. HAWLEY. No contract has been made but bids have been put in. I repeat that those who think they have fallen behind in that bidding are not only trying to put this into this bill, but have been opposed to any appropriations whatever, because the Post-Office Department, in the absence of any appropriation for new locks, has been obliged to continue the old contract now two years expired. The Government has been buying of the old contractors. They have been, and are to-day, opposed to any appropriation whatever, and they are seeking to put in this clause to compel a reletting. I ask the House, if they have any confidence in the Department—and I do not know what it will do on this proposition; I make it as a fair one—I ask to put in the words, "provided the Postmaster-General shall deem it just to the public service."

Mr. BLACKBURN. Vote!

Mr. HAWLEY. I move to put in that amendment.

Mr. HAYES. I wish to ask the gentleman in charge of this bill one question.

Mr. HAWLEY. I do not want him compelled——

Mr. HAYES. When before the House before we discussed this point at considerable length, and it was the judgment of the House that $25,000 was amply sufficient for this purpose. I wish to know what new light the Committee on Appropriations has received that they should recommend here an increase of that appropriation to $100,000?

Mr. HAWLEY. I will answer the gentleman.

Mr. HAYES. It does seem to me $25,000 is amply sufficient for this purpose.

Mr. BLACKBURN. I fully concur in that conclusion.

Mr. HAWLEY. If the gentleman does not wish to explain I will answer.

Mr. BLACKBURN. You can go on.

Mr. HAWLEY. I wish to say why the Senate, in my opinion—I can guess from what I know of the facts myself—has increased the appropriation from $25,000 to $100,000. It is because the time has arrived when the Post-Office Department asserts, through all its agents, that there must be a new lock, as the old ones are worn out and thousands of them in use are unfit for service.

It was testified that a man took a light-wood knot and struck one of these locks and it became unlocked; that he struck it again with the same knot and it became locked again. These locks are old and worn out, and it is absolutely necessary that they shall be replaced. The life-time of these locks is limited, and the Department has ascertained by long experience that after eight or nine years they require renewal. Besides that there are thousands of keys scattered all over the country, and it is necessary to have a new style of lock because these keys will open any of the old ones.

Mr. HAYES. Will the gentleman permit me to interrupt him, to ask why this increase is recommended?

Mr. HAWLEY. In a moment. The testimony shows that we must have new locks, and make a contract for a series of years. In order to do that Congress has to do what it did about nine years ago, when it ordered a new set of locks, complete. It appropriated $95,000 in one year for that purpose. In the mean time the number of post-offices has gone from twenty-seven thousand up to forty-two thousand, and the business correspondingly increased. The Department estimated for $150,000 for this purpose.

Mr. HISCOCK. And if there is anything in that argument, it goes to this extent, that the country should have the benefit of the improvements and skill in the manufacture of locks if they are better than those which were furnished some years ago.

Mr. BLACKBURN. I desire to dissent from the answer made by the gentleman from Connecticut as to the necessity for this increase in the amount of expenditure. I do not believe that there is any necessity whatever for it, and I opposed it in committee in the first instance and I opposed it in the House. The amount was first fixed at $25,000. My deliberate judgment is and was that it ought not to exceed $25,000 now, and that that amount is amply sufficient.

Mr. HAWLEY. Does not the gentleman think it necessary to have any new locks in place of these old and damaged ones?

Mr. BLACKBURN. Well, the gentleman from Connecticut need not go back over that ground of discussion again. That has been very fully considered already. I do not believe that there is any necessity for a new style of locks or for a new supply for the mail service, nor do I believe that there is any necessity for $100,000 in this item. I do not believe, indeed, that there is a necessity for $25,000. They spent only fourteen thousand seven hundred and odd dollars last year, and that was the ninth year that the locks were all falling to pieces and nearly all worn out and their usefulness gone, as the gentleman from Connecticut would have us understand. Last year $15,000 was given, and that was enough wherever the locks were found to be faulty or defective. I say I do not believe that there is any necessity for $25,000 even, but that amount is undoubtedly enough; and so far as I am concerned I would be willing to reduce that amount. But we are trying to accommodate ourselves with the Senate, in order to agree upon the passage of a Post-Office appropriation bill, and I

was willing by way of compromise to allow them to have $100,000, the amount they incorporated in the bill, but not to be used in advance of any law upon the subject. The committee insist if this $100,000 is to be expended for this purpose it shall be after fair and due notice is given to this enterprise throughout the country, that the best skill in this business may come to the front and take part in the bids for the contracts, with legal notice and advertisement made and proposals called for, and then let the contract to the lowest and best bidder.

Mr. HAYES. Then the only reason, I understand, why the Committee on Appropriations recommend this $100,000 is simply because the Senate has put it into the bill.

Mr. BLACKBURN. They put it into the bill and insist upon it.

Mr. HAYES. No new argument has been given for it, as I understand?

Mr. BLACKBURN. None whatever.

Mr. HAYES. Then I hope the House will insist on reducing it to $25,000, the original amount.

Mr. BLACKBURN. I say further, that from then until now there has not been before the sub-committee a semblance of an argument in support of the necessity for this increase.

Mr. HAWLEY. A word upon that point——

Mr. STEELE. If the gentleman from Kentucky will permit me, I want to ask him a question.

Mr. HAWLEY. Will the gentleman yield to me for a moment?

Mr. STEELE. After I ask a question I will yield to the gentleman for ten minutes, if he wants it.

I would like to inquire of the gentleman from Kentucky, inasmuch as the matter seems to have taken a wide range, and as there is some discretion given to the Postmaster-General in the letting of these contracts, who has this contract now?

Mr. BLACKBURN. The contract expired in 1878.

Mr. STEELE. But who has the new contract?

Mr. BLACKBURN. I cannot answer the gentleman from North Carolina. The bids are in the Post-Office Department, but the rate of bidding is not published and I cannot tell what it is. Who the bidders are I do not know, but of this I am satisfied, that there is but a limited number of bidders there connected with this work in the Department. Where they come from I cannot tell. I do not know the name of a single man connected with it, or who is a bidder for this contract; nor can I tell what rate the bids are made at. They put in sealed bids, of course. I am simply speaking for the Committee on Appropriations, insisting that if this $100,000 is to be given the contract shall be open to competition again. We know something about what the discretion of the Post-Office Department is. The gentleman from Connecticut himself has been heard on this floor, more than once during this session, criticising the exercise of discretion in that Department truthfully and fairly, but mercilessly and scathingly. I have had enough of the discretion of that Department, and want strict laws to hamper it in order that we may protect the people's Treasury from the pillage to which this Department's discretion exposes it. I do not want any discretion vested in a public officer in so open a case as this. I want a public servant to receive instructions from the body that makes the law and appropriates the money. I want it made his imperative duty that not one dollar of this $100,000 or of this $25,000, or whatever sum the House shall agree to give, shall be expended on any contract that has not been openly bid for with fair opportunity for competition given to every locksmith and keysmith in this land.

Mr. STEELE. It all resolves itself, so far as I can see, into this: that if there are bids in the Post-Office Department, the contract is given to the man or the firm who makes the lowest bid; and the question is whether or not the Congress of the United States shall confer the contract on one man or give a chance to the whole country to go into it. So far as I am concerned I do not hesitate upon that question at all.

Mr. HAWLEY. The Department have invited the whole country into it once, and I am willing to give the Postmaster-General the discretion to do that again if he thinks it will be for the benefit of the public service. The gentleman from Kentucky used the expression "speaking for the Committee on Appropriations;" it would have been more correct if he had said that he spoke for the majority of the Committee on Appropriations.

The gentleman from Illinois [Mr. HAYES] wants to defeat the appropriation of $100,000 and continue the small appropriation of $25,000 or $15,000 as they have had it for a number of years. The effect of that would be equivalent to saying that the Department shall not make a new contract for a new supply. That is exactly what the old firm would want you to do, so that the Department shall be unable to contract for a new supply of locks and keys, but shall be compelled to continue the old contract at higher prices than these articles can be got for to-day. They have been obliged for the past two years to buy the old locks at higher prices than they could get good new locks for.

Mr. HAYES. I desire to make a parliamentary inquiry. I wish to know how we can bring this appropriation back to the amount fixed by the House so as to give only $25,000.

Mr. HAWLEY. I think my amendment comes in first.

The SPEAKER. The gentleman from Illinois asks how the House shall proceed to bring back the appropriation to $25,000 instead of $100,000, as fixed by the Senate. The Chair will state that in the case of amendments made by one House to a bill originating in the other House, the first motion in order is to concur with the other body. That finishes legislation more quickly.

Mr. ATKINS. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ATKINS. If the House should vote to concur, would that exclude the amendment reported by the Committee on Appropriations?

The SPEAKER. It would.

Mr. ATKINS. Then if the House desires to concur with the amendment recommended by the committee it will be necessary to vote down the simple concurrence.

The SPEAKER. The Chair was stating the order of motions in a case of this kind. The first motion is to concur; the second to concur with an amendment; the third to non-concur. The last motion is the one which if it can be reached will accomplish the object desired by the gentleman from Illinois.

Mr. HOOKER. Is not the pending motion the motion of the gentleman from Kentucky [Mr. BLACKBURN] to concur in the Senate amendment, coupled with an amendment recommended by the House Committee on Appropriations?

The SPEAKER. The motion of the gentleman from Kentucky, made under instructions from the Committee on Appropriations, is to concur with an amendment.

Mr. HOOKER. It is, as I understand, to concur in the amendment of the Senate, coupled with the proviso that this contract shall be relet.

The SPEAKER. And the gentleman from Connecticut [Mr. HAWLEY] desires further to amend by adding another proviso, which will be read.

The Clerk read as follows:

Amend the amendment recommended by the Committee on Appropriations by inserting as follows:

"*And provided*, The Postmaster-General shall deem it just to the public service."

The question being taken on Mr. HAWLEY'S amendment to the amendment of the committee, it was not agreed to.

The SPEAKER. The question recurs on concurring in the amendment of the Senate with the amendment recommended by the Committee on Appropriations.

The question being taken, the recommendation of the Committee on Appropriations was agreed to.

The SPEAKER. The amendments in which the Committee on Appropriations recommend non-concurrence will now be read.

The Clerk read Senate amendment numbered 3, as follows:

Page 4, line 73, strike out "$9,490,000" and insert "$9,840,000;" so that it will read:

"For transportation on railroads, $9,840,000."

The amendment of the Senate was non-concurred in.

The Clerk read Senate amendment numbered 5, as follows:

Page 5, line 100, after the words "for inland transportation by star routes, $7,375,000," strike out the following proviso:

"*Provided*, That all star routes shall be relet, after thirty days' advertisement, as now provided by law, on the 1st day of October, 1880, on which the pay for expedition of schedule ordered during the fiscal years ending June 30, 1879, or June 30, 1880, shall exceed 50 per cent. of the contract price before such expedition: *Provided*, That this proviso shall not prevail when the present contractor desires to continue the contract as reduced."

Mr. EWING. I move to concur in the amendment of the Senate, and on that motion I demand the previous question.

The SPEAKER. The Committee on Appropriations recommend non-concurrence, but the gentleman from Ohio moves to concur. Voting down concurrence is equivalent to non-concurrence; and voting down non-concurrence would be equivalent to concurrence, so that the vote either way would be a test vote. The rule requires the motion to concur to be first submitted.

Mr. EWING. I have demanded the previous question with a view to limiting the debate to half an hour, supposing the representative of the committee on the floor would desire to state to the House why he moves to non-concur in the Senate amendment.

Mr. BLACKBURN. I believe that under the rule where the previous question is ordered before any debate is had upon a proposition fifteen minutes' debate is allowed on either side. Now, this proposition has been twice elaborately discussed before the House, and I am sure the Committee on Appropriations would be perfectly willing to have a vote upon it now without any further discussion.

Mr. EWING. This proposition has not been discussed before the House at all. An amendment was voted into this bill upon the motion of the gentleman from Mississippi, [Mr. MONEY.] It was offered in Committee of the Whole after the House had ordered that debate be terminated on the paragraph, so that there was no debate whatever on the amendment. I think it was not understood, and therefore it seems to me that it is desirable that the representative of the Committee on Appropriations should state his views upon the subject, and then a reply can be made to him.

Mr. BLACKBURN. I have no objection to debating this proposition for one hour or one week, if it is thought desirable. I simply meant that the House had already listened to two elaborate discussions upon the only point involved in this amendment, which is the restriction of the discretion of the Post-Office Department in the matter of expediting service on the star-routes. That subject was discussed twice before this House, once on the immediate deficiency bill, and again

on the general Post-Office appropriation bill. If the House prefers it, I am ready that the vote shall be taken now without further discussion. [Cries of "Vote!" "Vote!"]

Mr. EWING. I cannot allow the statement of the gentleman to pass——

Mr. BLACKBURN. I will state that this morning I went to several gentlemen, who have not heretofore agreed with the Committee on Appropriations on this star-service question, and asked them what their purpose was, indicating as I now do my perfect readiness and the willingness of the Committee on Appropriations to have a vote taken without further discussion; or to have fifteen minutes on either side; or to have unlimited discussion, just as they pleased. Those to whom I spoke, and they were the gentlemen heretofore the most prominent advocates on the other side of the question, agreed that the previous question should be ordered and fifteen minutes allowed on either side. And I state to the House now that that is perfectly agreeable to me.

Mr. EWING. Very well; let it go at that.

The SPEAKER. The question is upon seconding the demand for the previous question upon concurring in the amendment of the Senate, which has been read.

The previous question was seconded and the main question ordered.

Mr. BLACKBURN. Now let the gentleman from Ohio [Mr. EWING] proceed.

Mr. EWING. The gentleman from Kentucky, who represents on this question the Committee on Appropriations, is mistaken in stating that this question has already been twice discussed in the House. This provision which the Senate has stricken out is a provision to terminate absolutely, upon the passage of this bill, all those star-route contracts on which there has been allowed an increase of more than 50 per cent. of the original contract price on account of expedition of service. That provision, if enacted into law, will strike down, after the 1st of October next, seventy contracts let by the Government two years ago, for a term of four years, for the great star service west of the Missouri River. Those are the trunk postal lines of that region; and they have in almost every instance become trunk lines by reason of the fact that, although let originally as merely once-a-week lines and at a speed of two miles an hour, the growth of population along the lines has compelled the Department to increase the service to three times a week, and finally to six and seven times a week, and to increase the expedition from two to four miles, and finally to six miles an hour. That increase has been the result of the increased demand for prompt, expeditious, and daily mail service. Those recently insignificant but now great and important routes are the only ones the contracts on which it is proposed to strike down by legislative action.

The House inserted this provision in this bill as an amendment after all debate upon the paragraph had been terminated, and when no one had an opportunity to explain at all what would be the effect of the amendment. It went to the Senate, where it was carefully considered and thoroughly discussed, and was there stricken out by a large majority. My motion is now that the House concur in this well-considered action of the Senate. I make the motion feeling and believing that it would be bad economy and bad faith for the Government by legislative act to abruptly terminate seventy great mail contracts. It would be gross injustice, too, to the great communities that are growing up along these lines, whose mail service will inevitably be greatly disturbed by reletting these contracts.

The newly let contracts will run for only eighteen months. Mind you, under this provision you do not diminish the expedition at all, you do not diminish the number of trips; you only require the Postmaster-General to relet these seventy contracts for a term of eighteen months with just the same expedition and number of trips as now. What would be the effect? Take one of these great through lines which costs one hundred, two hundred, or three hundred thousand dollars to stock it. Take the stage line from the Rio Grande to Fort Yuma. Who would put adequate service on that line for an eighteen months' contract? How will any contractor know, after he has spent fifty, a hundred, or two hundred thousand dollars to stock the line for an eighteen months' contract, that at the next session of Congress his contract may not be stricken down, and the whole of his stock thrown on his hands? Will not the new contractors increase their bids largely because of the danger of dealing with the Government, of which this sweeping legislative abrogation of seventy contracts will give fresh and solemn warning? Is there in fact any certainty that the new and successful bidders will be able at that late season, the 1st of October, to adequately equip and establish their lines before winter cuts them off from necessary preparation? As the Postmaster-General predicts in a letter to the Senate, the result will be that, from fear of bad faith on the part of the Government, and from the lateness of the season for reletting and the short term of the new contracts, the communities all through the West will be made to suffer great inconvenience and loss by the interruption of their ordinary and necessary postal service.

I say, moreover, that the provision which the Senate has stricken out is a measure of bad economy. The letting of a contract for eighteen months under this provision is not limited as to amount. The committee propose to send these seventy contracts back to the Post-Office Department canceled, and to authorize the Postmaster-General, without any limit of expense, to make new contracts for the remaining eighteen months. At what prices will they be let? At prices to be determined by his discretion and the disposition of bidders. He will almost surely have to pay a great deal more than is now being paid for this service. It has been stated on this floor and in the Senate repeatedly that the star service, as a whole, west of the Missouri River is now being done cheaper than it has ever been done since the war, except perhaps during one or two years. The arraignment of that whole service because of some supposed extravagance on some particular routes is unjust; and for Congress to strike down seventy contracts because one or two or three are excessive is both bad economy and bad faith.

Every contractor whose contract is taken from him by this proposed provision of law will have, as I believe, a good cause of action against the United States in the Court of Claims for all the damages which he may suffer. Gentlemen say that the Post-Office regulations permit a termination of all these contracts at the discretion of the Postmaster-General, provided he pays each contractor one month's extra compensation. That is true; the provision is in section 621 of the regulations of the Department. But that rescission of contracts can only be made by the Postmaster-General at his discretion. It was a provision necessary to be inserted in all contracts for the star service because of the constant and rapid changes in the needs of the frontier; because a contract for a weekly service to-day may have to be changed within six months to a contract for tri-weekly or daily service, and a contract now made for a speed of twenty-five miles per day may in six months have to be expedited to seventy-five miles a day. Then, again, railroads come along and wholly sweep away the star service on certain routes. To provide for such exigencies it is stipulated in all the star-route contracts that the Postmaster-General may terminate the contracts, in his discretion, upon paying one month's extra compensation. But to assert that this discretion extends to Congress, to assert that this necessary provision reposing in the Postmaster-General a discretion to terminate contracts for these general administrative reasons allows Congress by a peremptory act to strike down all contracts, is in my opinion bad as a proposition of law. The result will therefore be that if these contracts are terminated by act of Congress, every contractor injured may refuse to take his one month's extra allowance, and may go into the Court of Claims and recover damages for the full amount he loses by reason of his contract being broken and his equipment thrown, depreciated or worthless, on his hands.

Before sitting down, Mr. Speaker, I call attention to the peculiarly loose and reckless character of the arraignment of the star service that we have heard on this floor. My friend from Texas, [Mr. REAGAN,] who is ordinarily very careful in his statements, took up these contracts and showed how they began at a small sum of money for weekly service, were increased in compensation for tri-weekly and then for daily service; again increased for expedition from two miles an hour to three, and four, and five, and six miles an hour; so that thus a contract would be swelled from $2,350 to $70,000 in the course of one or two years. He brought forward several instances of that kind and presented them to the House as conclusive proof that such contracts were gross swindles. Now, my friend, the Delegate from Montana, [Mr. MAGINNIS,] took up that subject——

Mr. REAGAN. I called especial attention to the brief period in which this increase was made—not that it was done in a number of years.

Mr. EWING. Well, it was done in some instances in six months, sometimes in one year and sometimes in two. My friend from Montana, in answer to the gentleman from Texas, showed that one of these great routes complained of, that from Bismarck to Fort Keogh, a distance of about three hundred miles, which was let about two years ago at $2,350, and since successively increased to the large sum of $70,000, had so grown in business importance that the railroad would be completed this year upon the entire length of that route, it being under construction this day at the rate of a mile every twelve hours. So with another route, that from Fort Keogh to Bozeman, about three hundred and thirty miles in length. A contract for the construction of a railroad over two hundred miles of that route is about to be let. Take, again, the route from Rock Creek to Fort Custer, a distance of between two hundred and three hundred miles. On this route the business has so grown that a railroad is about being constructed, one county alone contributing $400,000 to the cost of construction. These are great communities that are being supplied by this star-route service. They have grown up suddenly, it is true, because of the almost lightning speed of the movements of immigration and business on our frontiers. But I say that this House would act rashly if this prompt increase from weekly to daily service and from a speed of two to six miles an hour should be accepted without other evidence as proof of fraud, whereas in fact it is in almost every instance evidence merely of the abounding energies and progress of that great region, the business of which it is now proposed to interrupt and injure by the reckless legislative abrogation of all their mail contracts.

Mr. BLACKBURN. I yield five minutes out of my fifteen to the gentleman from Georgia.

Mr. HAMMOND, of Georgia. Mr. Speaker, I desire to reply to the remark of the gentleman from Ohio [Mr. EWING] as to the bad faith implied in his understanding of the proposed action of the House. He has admitted that under the Post-Office regulations the Post-

master-General may discontinue these routes or change these contracts as he sees proper. That being true, I cannot understand where there is bad faith. It is like those cases which are reported in 13 and 15 Wallace; I mean the Pennsylvania College case and Holyoke *vs.* Lyman, where there being a general law authorizing interference with a contract between a State and a corporation, that becomes a part of the contract, and no good faith does imply the continuance of the law, but the Legislature may change it as it sees proper.

Mr. EWING. My point is, if the gentleman will allow me——

Mr. HAMMOND, of Georgia. My time is too short to yield.

Mr. EWING. The contractor submits to the discretion of the Postmaster-General, but not to the discretion of Congress.

Mr. HAMMOND, of Georgia. A moment as to that; and I wish to bring this matter closely home. It is not only in the general law, but in the contract itself, for it uses this language:

> It is hereby stipulated and agreed by the said contractor and his sureties that the Postmaster-General may discontinue or extend this contract, change the schedule and termini of the route, and alter, increase, decrease, or extend the service, in accordance with law, he allowing a *pro rata* increase of compensation for any additional service thereby required, or for increased speed, if the employment of additional stock or carriers is rendered necessary; and in case of decrease, curtailment, or discontinuance of service, as a full indemnity to said contractor, one month's extra pay on the amount of service dispensed with and a *pro rata* compensation for the service retained: *Provided, however*, That in case of increased expedition the contractor may, upon timely notice, relinquish the contract.

But the gentleman says that the Postmaster-General alone may do it. I do not know what principle he invokes; certainly not the maxim, *Delegata potestas, non potest delegari*—that is, the agent cannot delegate his authority. But the principal can at any time instruct his agent; he can at any time change the law for the agent.

Now, I have before me a case in the Supreme Court of the United States, 4 Wallace, 633, Ware *vs.* United States, which was this: A certain postmaster, appointed by the President, was taken out of office by the Postmaster-General abolishing his post-office entirely. The question arose whether the Postmaster-General could do it. The Supreme Court declared he could do it; that under the general law which allowed him to abolish post-offices he could destroy a contract made with the postmaster over whose appointment he had no control whatever. I will read the language of the court:

> Possessing that power it was lawful for the Postmaster-General to exercise it, notwithstanding the postmaster had been appointed by the President, by and with the advice and consent of the Senate, because the incumbent accepted the appointment subject to the legal contingency that the post-office might be discontinued. Congress, therefore, by necessary implication, authorized the Postmaster-General to discontinue any such post-office whenever it should appear to him to be expedient and proper; and having exercised that discretion, it is not possible to hold that the discontinuance was unlawful.

The gentleman says that the Postmaster-General might do it, but Congress cannot. The Supreme Court differ with the gentleman. They use this language:

> Learned counsel will hardly contend that Congress might not have discontinued that office, and our conclusion is that the same effects flow from the discontinuance in this case as if it had been directly declared by an act of Congress.

Mr. UPSON. That was continuance in office and not in reference to a contract.

Mr. HAMMOND, of Georgia. It is the same; it is a change of contract. They have as much right to discontinue the office as to alter the contract. The difference simply is the case cited says one and the law and this contract both say this other.

Mr. UPSON. Does the gentleman say the law authorizes the discontinuance of the contract?

Mr. HAMMOND, of Georgia. Why, it is in the contract itself.

Mr. UPSON. That is a provision put in by the Postmaster-General.

Mr. HAMMOND, of Georgia. The contract is not made a contract by the Postmaster-General, but under section 403 of the code it is a contract made by the United States acting through the Postmaster-General, and the United States is signed to it, and the United States, like any other principal, may direct its agent what to do.

Mr. UPSON. Will the gentleman from Georgia point out the law which authorizes Congress to set aside these contracts?

Mr. HAMMOND, of Georgia. The Postmaster-General gets all his authority from the law; he gets all of his power from acts of Congress, and it is folly to tell me that Congress can abolish any postal route and thereby destroy all contracts upon it, abolish a post-office and thereby destroy all contracts, and yet cannot tell the country that he can modify these contracts. How can it be bad faith to fix the liquidated damages? If you discontinue you must pay one month's damages. (See Reeside *vs.* United States, 8 Wallace.) If you modify by increasing the service you pay more; if you modify by decreasing you must pay less. There can be no bad faith where we conform to the law or the form of the contract.

[Here the hammer fell.]

Mr. UPSON. The gentleman has not yet answered my question. There is no law authorizing it, I repeat.

Mr. BLACKBURN. I yield five minutes to the gentleman from Illinois, [Mr. CANNON.]

Mr. CANNON, of Illinois. Mr. Speaker, I will not speak of the power of Congress to discontinue these contracts. I indorse what has been said by the gentleman from Georgia who has just spoken. I will only speak for five minutes as to the propriety of discontinuing these contracts. The law says that contracts of this kind shall be let at public competition after advertisement. The general law also says that the Postmaster-General shall have power to expedite the schedule and increase the trips during the contract term, so as to accommodate the machinery of the Department to the wants of the country. But it was not contemplated by that provision that contracts should be so inordinately increased as to expedition and increase of trips as to practically make them by private instead of public lettings.

Now, what are the facts? Eighteen months ago these contracts on these routes, eighty-three in number, were let at $600,000 per annum in round numbers. Now, by an increase of expedition and trips, that cost on these routes is $2,200,000 per annum, an increase of nearly 400 per cent.—$600,000 by competition and public bidding and $1,400,000, not by competition, but by the mere order of the Department. Then the question arises, was that additional $1,400,000 just or right? Let the largest contractor in the United States, Mr. Salisbury, speak, as he did under oath, on that point. He swore that in eighteen months past, since these contracts were let at $600,000, the increase in the development of the country and necessity for increased postal facilities where they were being operated was 25 per cent. and not more. Adding, therefore, the 25 per cent. increase to the $600,000, the original contract price, it would be an additional sum of $150,000 more, making a total cost of $750,000 to meet the legitimate demands of the country; and yet what do we find it? Nearly three times as much, amounting to over $2,200,000.

Now, the gentleman from Ohio [Mr. EWING] says he does not want the mail facilities of the West interfered with. This amendment does not interfere with the mail facilities of the West, in any way, shape, or form, in any event whatever. Whether you advertise or not, or whether you relet the routes or not, the mail facilities remain ample. They are curtailed in no way; so that the only question here and now is whether these contractors, with an increase of the business of the country of 25 per cent. and an increase in their compensation and the cost of this service to the Government of 400 per cent., whether in right or equity they shall be allowed to hold these contracts two and a half years yet to run.

Mr. Speaker, I say they have no such right and no such equity under the law or under the contract. In the name of good administration of the Department, I say that their contracts ought to be canceled, paying them the liquidated damages stipulated in the contract; and therefore I shall vote against the motion of the gentleman from Ohio to concur in the Senate amendment.

Mr. BLACKBURN. Mr. Speaker, the gentleman from Ohio has sought to impress upon the House that this increase of compensation for expedited service has only kept pace with the growth of population and the development of the country. If the gentleman had given to this question one tithe of that examination and study that the Committee on Appropriations have bestowed upon it he would have found many instances in which the growth of population in our extreme Western Territories must have been marvelous—marvelous beyond description—for he would have found from the testimony the committee had before it many instances in which the contract prices on these mail-routes was more than doubled in less than forty days after the contracts were taken. He tells us further that if this provision be retained in the bill as recommended it is going to strike down the star service and the contractors.

Mr. Speaker, it will do nothing of the kind. It will not strike down the star service, for it does not discontinue a single trip upon the star-service routes of this country. It does not strike down the rate of pay at present received by the contractors. The only effect of it is simply to require that the Postmaster-General shall relet, by advertisement, these routes on which extra compensation for expedition of schedule has been over 50 per cent. of the original contract rates. That is all that it does. It does not contemplate anything more. I say that it does not in any way interfere with the service as at present existing, whether as to number of trips or the schedule of time on the routes as at present existing. It does not strike down the contractor. Will not the contractor come in under the open competitive system of bidding with advantages over every other man? Has he not already his equipments and stock? Is he not in a better fix to come before the Department as a bidder for the service than anybody else? It strikes down no star service. It strikes down no contractor. It simply strikes down an inordinate allowance of pay extorted from the Department in the exercise of a discretion that has been rebuked by this House. You are now asked to reverse that action. The gentleman from Ohio complains of this amendment. Does he not know this is his own amendment?

Mr. EWING. No sir.

Mr. BLACKBURN. Did not the gentleman from Mississippi [Mr. MONEY] draft this amendment? Was it not the friends of the measure the gentleman from Ohio advocates who offered this amendment? Did not they support it?

Mr. EWING. No, sir.

Mr. BLACKBURN. Who offered it?

Mr. EWING. Mr. MONEY offered it.

Mr. BLACKBURN. I will prove what I have said by the record. The House put in that amendment by a vote of 118 to 54. And now it pains me no less than it surprises me to see my friend from Ohio championing a demand which requires this House to reverse its deliberate action, taken by a vote of 118 as against 54, in the interests of fair contracting, in the interests of the public service, and in an effort to guard the public Treasury from pillage and from plunder. That is

the demand that is made on this House, and that is the demand which the gentleman from Ohio now makes.

Now I want to know what new light has dawned upon this House that will induce it to reverse its action and to give a majority in favor of striking out this amendment when 118 as against 54 of you deliberately incorporated it into the bill?

I do not intend to employ invective. I will not stop to talk about the methods that have been employed by persons not members of this House to secure the passage of this act. I know that there is scarcely a man here who has not seen the rule violated; who has not seen the men who by reason of former service on this floor were entitled to come upon it absolutely engaged day after day and week after week and month after month trying to thwart the effort of this House to require such readvertisements, such biddings, such contracts as will protect the Treasury Department from the robbery to which it is now subjected.

The question is fairly put, and I am ready to have the House vote upon it. But I want to know what it is that brought about the change of mind upon the part of any man here present that will induce him to strike out this amendment after it was deliberately put upon the bill by a vote of more than two to one.

Mr. EWING. It was not deliberately put on the bill. There was not one moment's discussion of it, and the House did not understand the amendment when it was put on.

The SPEAKER. The time for debate has expired.

Mr. BLACKBURN. I ask to have section 3958 of the Revised Statutes read.

Mr. EWING. I object.

Mr. SPARKS. It is only four lines.

Mr. BLACKBURN. Those gentlemen called for the law, and I ask to have it read.

Mr. EWING. I object unless we have further time for discussion.

Mr. BLACKBURN. They asked for the law of this case, and now they do not want to hear it read. I challenge them to let it be read.

The SPEAKER. The question is on the motion of the gentleman from Ohio, [Mr. EWING,] to concur in the amendments of the Senate.

Mr. PAGE. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 84, nays 79, not voting 129; as follows:

YEAS—84.

Acklen,	Dunn,	Ladd,	Sherwin,
Aiken,	Dunnell,	Le Fevre,	Slemons,
Aldrich, William	Elam,	McLane,	Smith, William E.
Atherton,	Ellis,	Miles,	Speer,
Bailey,	Evins,	Miller,	Talbott,
Belford,	Ewing,	Myers,	Thompson, W. G.
Berry,	Ferdon,	Norcross,	Tillman,
Blake,	Gunter,	O'Connor,	Updegraff, Thomas
Bragg,	Harris, Benj. W.	O'Reilly,	Upson,
Briggs,	Haskell,	Osmer,	Urner,
Browne,	Hatch,	Pacheco,	Valentine,
Carpenter,	Hawk,	Page,	Vance,
Caswell,	Hazelton,	Persons,	Van Voorhis,
Coffroth,	Henderson,	Robertson,	Waddill,
Converse,	Henkle,	Robeson,	Ward,
Cook,	Hill,	Robinson,	Warner,
Cowgill,	Hooker,	Ryan, Thomas	Whiteaker,
Cravens,	Horr,	Ryon, John W.	Willits,
Daggett,	Humphrey,	Sapp,	Wilson,
Deering,	Hurd,	Shallenberger,	Wright,
De La Matyr,	Jones,	Shelley,	Yocum.

NAYS—79.

Anderson,	Davis, Horace,	Ketcham,	Sawyer,
Atkins,	Davis, Joseph J.	Kimmel,	Scales,
Baker,	Dibrell,	Klotz,	Singleton, J. W.
Ballou,	Dwight,	Loring,	Singleton, O. R.
Bayne,	Field,	McKenzie,	Smith, A. Herr
Bicknell,	Gillette,	McMillin,	Sparks,
Blackburn,	Goode,	Mitchell,	Springer,
Bland,	Hall,	Money,	Steele,
Blount,	Hammond, N. J.	Monroe,	Stevenson,
Brewer,	Harris, John T.	Morrison,	Taylor,
Bright,	Hawley,	Muldrow,	Thomas,
Buckner,	Henry,	Neal,	Thompson, P. B.
Cabell,	Hiscock,	New,	Turner, Oscar
Caldwell,	House,	O'Neill,	Voorhis,
Cannon,	Hubbell,	Overton,	Wellborn,
Carlisle,	Hunton,	Phelps,	Wells,
Clymer,	Hutchins,	Poehler,	White,
Colerick,	Johnston,	Prescott,	Whitthorne,
Crapo,	Joyce,	Reagan,	Wood, Fernando
Culberson,	Kenna,	Ross,	

NOT VOTING—129.

Aldrich, N. W.	Chalmers,	Einstein,	Harmer,
Armfield,	Chittenden,	Errett,	Hayes,
Bachman,	Claflin,	Farr,	Heilman,
Barber,	Clardy,	Felton,	Herbert,
Barlow,	Clark, Alvah A.	Finley,	Herndon,
Beale,	Clark, John B.	Fisher,	Hostetler,
Beltzhoover,	Cobb,	Ford,	Houk,
Bingham,	Conger,	Forney,	Hull,
Bliss,	Covert,	Forsythe,	James,
Bouck,	Cox,	Fort,	Jorgensen,
Bowman,	Crowley,	Frost,	Keifer,
Boyd,	Davidson,	Frye,	Kelley,
Brigham,	Davis, George R.	Garfield,	Killinger,
Burrows,	Davis, Lowndes H.	Geddes,	King,
Butterworth,	Deuster,	Gibson,	Kitchin,
Calkins,	Dick,	Godshalk,	Knott,
Camp,	Dickey,	Hammond, John	Lapham,
Lewis,	Morse,	Richardson, J. S.	Updegraff, J. T.
Lindsey,	Morton,	Richmond,	Van Aernam,
Lounsbery,	Muller,	Rothwell,	Wait,
Lowe,	Murch,	Russell, Daniel L.	Washburn,
Manning,	Newberry,	Russell, W. A.	Weaver,
Marsh,	Nicholls,	Samford,	Wilber,
Martin, Benj. F.	O'Brien,	Simonton,	Williams, C. G.
Martin, Edward L.	Orth,	Smith, Hezekiah B.	Williams, Thomas
Martin, Joseph J.	Philips,	Starin,	Willis,
Mason,	Phister,	Stephens,	Wise,
McCoid,	Pierce,	Stone,	Wood, Walter A.
McCook,	Pound,	Townsend, Amos	Young, Casey
McGowan,	Price,	Townshend, R. W.	Young, Thomas L.
McKinley,	Reed,	Tucker,	
McMahon,	Rice,	Turner, Thomas	
Mills,	Richardson, D. P.	Tyler,	

So the amendment of the Senate was concurred in.

The following additional pairs were announced:

Mr. GEDDES with Mr. BOYD.

Mr. FINLEY with Mr. MCCOOK.

Mr. MCMAHON with Mr. DICKEY.

Mr. KING with Mr. BOUCK, on this question. If present, Mr. BOUCK would vote "no" and Mr. KING "ay."

Mr. HOUK with Mr. MORSE.

Mr. MURCH with Mr. LOWE.

Mr. WEAVER with Mr. FORD.

Mr. HAMMOND, of New York, with Mr. BLISS, for to-day.

Mr. CHITTENDEN with Mr. HEILMAN.

Mr. STONE with Mr. SAMFORD.

Mr. BARBER with Mr. CLARDY.

Mr. LAPHAM with Mr. HERBERT, for the remainder of the day, except to make a quorum.

Mr. BARLOW with Mr. NICHOLLS.

Mr. FARR with Mr. TOWNSHEND, of Illinois, for the day.

Mr. BELTZHOOVER with Mr. FISHER, for the day.

Mr. UPSON with Mr. RUSSELL, of Massachusetts, on all questions except the Post-Office appropriation bill, until Monday next.

Mr. VAN VOORHIS. I am paired with Mr. CHALMERS generally; but I reserved the right to vote on this question.

Mr. GUNTER. I am paired with Mr. BURROWS, of Michigan, on all political questions; but I reserved the right to vote on this question.

Mr. WELLBORN. My colleague, Mr. MILLS, is detained from the House in consequence of sickness in his family.

The result of the vote was then announced as above stated

Mr. EWING moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

Mr. BRAGG moved to reconsider the vote just taken.

The SPEAKER. The Chair recognizes the gentleman who moved to concur in the Senate amendment to make the motion to reconsider and table.

Mr. BLACKBURN. And I call for the yeas and nays on the motion to lay on the table the motion to reconsider.

Mr. ATKINS. Pending that I move that the House now adjourn.

The question was taken; and upon a division there were—ayes 62, noes 67.

Before the result of this vote was announced,

Mr. ATKINS called for the yeas and nays.

Mr. HAZELTON. Do not filibuster.

Mr. ATKINS. It is nearly four o'clock, and about time that the House should adjourn.

The question was taken upon ordering the yeas and nays; and there were 34 in the affirmative.

So (the affirmative being more than one-fifth of the last vote) the yeas and nays were ordered.

The question was taken; and there were—yeas 71, nays 82, not voting 139; as follows:

YEAS—71.

Atkins,	Davis, Horace	Kenna,	Singleton, O. R.
Baker,	Davis, Joseph J.	Ketcham,	Smith, A. Herr
Ballou,	Dibrell,	Le Fevre,	Sparks,
Bayne,	Dickey,	Loring,	Springer,
Blackburn,	Field,	Martin, Edward L.	Steele,
Blount,	Goode,	McMillin,	Stevenson,
Boyd,	Hammond, N. J.	Monroe,	Taylor,
Bragg,	Harris, John T.	Myers,	Thomas,
Bright,	Henderson,	Neal,	Thompson, P. B.
Buckner,	Henry,	New,	Turner, Oscar
Cabell,	Hiscock,	O'Neill,	Vance,
Caldwell,	Hooker,	Phelps,	Voorhis,
Cannon,	House,	Poehler,	Ward,
Carlisle,	Hubbell,	Reagan,	Wellborn,
Clymer,	Hunton,	Ross,	White,
Cobb,	Hutchins,	Sawyer,	Whitthorne,
Colerick,	Johnston,	Scales,	Wood, Fernando.
Crapo,	Joyce,	Singleton, J. W.	

NAYS—82.

Acklen,	Caswell,	Dunnell,	Hawley,
Aiken,	Claflin,	Dwight,	Hayes,
Aldrich, William	Coffroth,	Elam,	Hazelton,
Anderson,	Converse,	Evins,	Humphrey,
Bailey,	Cook,	Ewing,	Hurd,
Belford,	Cowgill,	Gunter,	Jones,
Blake,	Cravens,	Hall,	Ladd,
Brewer,	Daggett,	Harris, Benj. W.	Lowe,
Briggs,	Deering,	Haskell,	Mason,
Browne,	De La Matyr,	Hatch,	Miller,
Carpenter,	Dunn,	Hawk,	Mitchell,

Money,	Prescott,	Smith, William E.	Van Voorhis,
Muldrow,	Robertson,	Speer,	Waddill,
Norcross,	Robinson,	Stephens,	Warner,
O'Connor,	Ryan, Thomas	Thompson, W. G.	Weaver,
O'Reilly,	Ryon, John W.	Tillman,	Whiteaker,
Osmer,	Sapp,	Updegraff, Thomas	Willits,
Overton,	Shallenberger,	Upson,	Wright,
Pacheco,	Shelley,	Urner,	Yocum.
Page,	Sherwin,	Valentine,	
Persons,	Slemons,	Van Aernam,	

NOT VOTING—139.

Aldrich, N. W.	Einstein,	Kimmel,	Price,
Armfield,	Ellis,	King,	Reed,
Atherton,	Errett,	Kitchin,	Rice,
Bachman,	Farr,	Klotz,	Richardson, D. P.
Barber,	Felton,	Knott,	Richardson, J. S.
Barlow,	Ferdon,	Lapham,	Richmond,
Beale,	Finley,	Lewis,	Robeson,
Beltzhoover,	Fisher,	Lindsey,	Rothwell,
Berry,	Ford,	Lounsbery,	Russell, Daniel L.
Bicknell,	Forney,	Manning,	Russell, W. A.
Bingham,	Forsythe,	Marsh,	Samford,
Bland,	Fort,	Martin, Benj. F.	Simonton,
Bliss,	Frost,	Martin, Joseph J.	Smith, Hezekiah B.
Bouck,	Frye,	McCoid,	Starin,
Bowman,	Garfield,	McCook,	Stone,
Brigham,	Geddes,	McGowan,	Talbott,
Burrows,	Gibson,	McKenzie,	Townsend, Amos
Butterworth,	Gillette,	McKinley,	Townshend, R. W.
Calkins,	Godshalk,	McLane,	Tucker,
Camp,	Hammond, John	McMahon,	Turner, Thomas
Chalmers,	Harmer,	Miles,	Tyler,
Chittenden,	Heilman,	Mills,	Updegraff, J. T.
Clardy,	Henkle,	Morrison,	Wait,
Clark, Alvah A.	Herbert,	Morse,	Washburn,
Clark, John B.	Herndon,	Morton,	Wells,
Conger,	Hill,	Muller,	Wilber,
Covert,	Horr,	Murch,	Williams, C. G.
Cox,	Hostetler,	Newberry,	Williams, Thomas
Crowley,	Houk,	Nicholls,	Willis,
Culberson,	Hull,	O'Brien,	Wilson,
Davidson,	James,	Orth,	Wise,
Davis, George R.	Jorgensen,	Philips,	Wood, Walter A.
Davis, Lowndes H.	Keifer,	Phister,	Young, Casey
Deuster,	Kelley,	Pierce,	Young, Thomas L.
Dick,	Killinger,	Pound,	

So the motion to adjourn was not agreed to.

The following pair was announced:

Mr. MCLANE with Mr. HARMER, for the remainder of to-day and for Friday, Saturday, and Monday.

The result of the vote was announced as above stated.

Mr. BLACKBURN. I now move that the House take a recess until half past ten o'clock to-morrow morning.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, announced that the Senate had passed, without amendment, bills of the following titles:

An act (H. R. No. 5041) to authorize the Secretary of War to turn over to the governor of South Carolina four pieces of condemned cannon for the use of the Marion Artillery; and

An act (H. R. No. 165) to consummate the resolution of the Continental Congress of October 4, 1777, and erect a monument to the memory of Brigadier-General Herkimer, as therein directed.

The message also announced that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

An act (S. No. 1292) to provide for the removal of the terms of the United States circuit and district courts now held at Exeter, for and within the district of New Hampshire, to the city of Concord; and

An act (S. No. 1346) for the relief of Charles Collins.

ENROLLED BILL SIGNED.

Mr. ALDRICH, of Illinois, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 3966) to carry into effect the resolution of Congress, adopted on the 29th day of October, 1781, in regard to a monumental column at Yorktown, Virginia, and for other purposes.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted—

To Mr. YOUNG, of Tennessee, for ten days, to attend to important business; and

To Mr. KING, for ten days.

LEAVE TO PRINT.

By unanimous consent, leave was granted to Mr. CABELL to print remarks on the revenue bill; to Mr. BEALE, on the bill for the distribution of the proceeds of the public lands for educational purposes, and the bill to prevent the adulteration of food; and to Mr. GIBSON, Mr. DUNN, and Mr. ROBERTSON, on the bill (H. R. No. 6326) making appropriations for the improvement of the Mississippi River. [See Appendix.]

PAYMENTS TO LAND-GRANT RAILROADS.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, relative to payments to land-grant railroads; which was referred to the Committee on the Public Lands.

THOMAS H. REYNOLDS.

Mr. WHITE, by unanimous consent, introduced a bill (H. R. No. 6369) for the relief of the estate of Captain Thomas H. Reynolds, late of the Seventy-eighth Regiment Pennsylvania Volunteers; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

SARAH A. ROCK.

Mr. HAWK, by unanimous consent, introduced a bill (H. R. No. 6370) granting a balance of pension to Sarah A. Rock; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

TIMBER DEPREDATIONS ON INDIAN RESERVATIONS.

Mr. HOOKER, by unanimous consent, introduced a bill (H. R. No. 6371) to prevent depredations upon timber on Indian reservations; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

CLAIMS UNDER EIGHT-HOUR LAW.

Mr. BARBER, by unanimous consent, reported back from the Committee on Claims, without recommendation, bills of the following titles; which were referred to the Committee of the Whole on the state of the Union:

A bill (H. R. No. 364) to amend an act making appropriations for the service of the Government for the fiscal year ending June 30, 1872, and for former years, and for other purposes, approved May 18, 1872; and

A bill (H. R. No. 5996) to secure the enforcement of the act of June 25, 1868, regulating the hours of labor.

FISH-HATCHING.

Mr. VAN VOORHIS, by unanimous consent, introduced a bill (H. R. No. 6372) to extinguish Seth Green's patent relating to fish-hatching, for the benefit of the people of the United States; which was read a first and second time, referred to the Committee on Patents, and ordered to be printed.

ALBERT H. EMERY.

Mr. ROBINSON. On behalf of my colleague, [Mr. BOWMAN,] who was sick when his committee was called, I ask leave that a bill (H. R. No. 6373) for the relief of Albert H. Emery (a substitute for House bill No. 5990) may now be received as reported from the Committee on Claims, referred to the Committee of the Whole on the Private Calender, and, with the accompanying report, ordered to be printed.

There being no objection, it was ordered accordingly.

ADJOURNMENT.

Mr. BLACKBURN. I am satisfied that the House will now agree without objection to adjourn until the regular hour of meeting to-morrow, eleven o'clock. I therefore withdraw my motion for a recess, and move that the House adjourn.

The motion was agreed to; and accordingly (at four o'clock and thirty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. BRAGG: Memorial of the Legislature of Wisconsin, praying relief for William Hodson from an improper revenue assessment—to the Committee on the Judiciary.

By Mr. CAMPBELL: The petition of Joseph A. Bayers and others, citizens of Arizona Territory, against the passage of the proposed mining law—to the Committee on Mines and Mining.

By Mr. DICKEY: The petition of W. H. C. Davis and 52 other ex-soldiers of Highland County, Ohio, for the passage of a bill granting one hundred and sixty acres of land to ex soldiers and sailors—to the Committee on the Public Lands.

By Mr. GILLETTE: The petition of J. S. Simpson and 202 others, citizens of Manistee, Michigan, against the passage of the Wood refunding bill and for the passage of the bill providing for the payment of the public debt—to the Committee on Ways and Means.

By Mr. JOYCE: The petition of Ira Holmes, for the removal of the charge of desertion—to the Committee on Military Affairs.

By Mr. O'NEILL: The petition of citizens of Pennsylvania, for the passage of the bill to grant titles to lands to Indians in severalty on their reservations—to the Committee on Indian Affairs.

By Mr. SCALES: The petition of the heirs of Watt Grayson, a Creek Indian, to be indemnified for the value of property taken from said Grayson—to the Committee on Indian Affairs.

By Mr. STEPHENS: The petition of the faculty of Baylor University, California, and several thousand other scientists and scholars in various parts of the United States, for the establishment of the metric system of weights and measures, and especially for the passage of the bill reported by the Committee on Coinage, Weights, and Measures, now pending in the House—to the Committee on Coinage, Weights, and Measures.

By Mr. STEVENSON: The petition of soldiers of Illinois, for the passage of the bill establishing a court of pensions—to the Committee on Invalid Pensions.

By Mr. WHITTHORNE: The petition of J. H. Fillmore and others, midshipmen in the United States Navy, to have defined rank—to the Committee on Naval Affairs.

IN SENATE.

FRIDAY, *June* 4, 1880.

The Senate met at eleven o'clock a. m. Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

REPORTS OF COMMITTEES.

Mr. WITHERS, from the Committee on Pensions, to whom was referred the bill (S. No. 1521) granting a pension to David W. Combs, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. CALL, from the Committee on Pensions, to whom was referred the petition of Cecil Clay, praying to be allowed an increase of pension, submitted a report thereon, accompanied by a bill (S. No. 1815) granting a pension to Cecil Clay.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. WILLIAMS, from the Committee on Indian Affairs, to whom was referred the bill (S. No. 648) to enforce the ninth article of a treaty made and concluded by and between the Government of the United States and the Cherokee Nation of Indians on the 19th day of July, A. D. 1866, and proclaimed by the President of the United States on the 11th day of August, A. D. 1866, reported it with an amendment.

Mr. KIRKWOOD, from the Committee on Pensions, to whom was referred the bill (H. R. No. 2407) granting a pension to Belinda Curtis, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

SENATE LIBRARY.

Mr. VOORHEES. On the 2d of April a resolution was passed by the Senate directing the Committee on the Library "to inquire into the condition of the Senate library, and the force which has been in charge of the same for the past six years and now, and whether any increase of force is necessary, and if so, to what extent; and to report to the Senate the result of their investigation." The committee have had that resolution under consideration, and having made a full examination, report that the Senate library is composed of four rooms and of from twenty to twenty-five thousand volumes. There are nineteen thousand volumes in those four rooms, besides the reserve in the basement. There is but one person in charge of the library; while in the House library there are a librarian, two assistants, and two messengers, making a force of five for about the same work.

After a personal examination myself, going through the building and examining its situation, I feel impelled by a sense of duty to report that the Senate librarian needs an assistant. On that subject I ask the Secretary to read a letter which at my request the librarian addressed to me on this subject.

The Chief Clerk read as follows:

UNITED STATES SENATE LIBRARY,
Washington, June 3, 1880.

DEAR SIR: In reply to your inquiry in regard to the force employed in the Senate library during the last six years I would state that it consisted of one librarian and one laborer.

The Senate library is now composed of four rooms, and contains about nineteen thousand volumes, not including the reserve which is kept in the file-room in the basement of the Capitol. In order to a proper disposition of the constantly increasing number of books published by authority of Congress an additional room should be provided. During my incumbency, about thirteen months, over twenty-five hundred volumes have been received and placed upon the shelves and a proper distribution made to the committee-rooms.

The only assistance I have had and now get is the laborer assigned to the rooms. The rapid growth of the library and the increased demands made upon it render it essential, in order to meet the calls made upon it promptly and satisfactorily, that an assistant be granted.

Respectfully,

P. J. PIERCE,
Librarian United States Senate.

Hon. D. W. VOORHEES,
Chairman Joint Committee on Library.

Mr. VOORHEES. It is proper for me to state that the Senator from Vermont [Mr. EDMUNDS] differs in opinion with the majority of the committee on this subject, and is opposed to granting this assistance. I regret that I feel it my duty to call up the subject while he is absent, but I think he would throw no further light on the subject than is thrown on it by the statement of the librarian himself, assisted by my own personal knowledge. I hope that the resolution offered by the Senator from Georgia, [Mr. HILL,] and I believe once adopted, but on which the Senator from Missouri [Mr. COCKRELL] entered a motion to reconsider, and which authorizes the Secretary of the Senate to appoint an assistant librarian, may now be adopted finally by the Senate.

The PRESIDENT *pro tempore*. The report can only be considered now by unanimous consent.

Mr. COCKRELL. Let the report lie over; it is not in writing; and we can see it in the RECORD in the morning. I object to its present consideration. In connection with the report I offer a resolution for information to get at a point not developed in the report of the committee.

The PRESIDENT *pro tempore*. The resolution offered by the Senator from Missouri [Mr. COCKRELL] will be read.

The resolution was read, as follows:

Resolved, That the Secretary of the Senate furnish to the Senate in writing a report showing the number, names, and salaries or compensation of all persons employed in or about or in charge of the Senate library from June 1, 1879 to June 1, 1880, and the term of service or employment of each person.

Mr. COCKRELL. I ask that the resolution be passed now. It is simply a matter of form.

Mr. VOORHEES. Yes, let it be agreed to.

Mr. HILL, of Georgia. We do not want to delay the matter.

The PRESIDENT *pro tempore*. If there is no objection the Chair will put the question on agreeing to the resolution submitted by the Senator from Missouri, [Mr. COCKRELL.]

The resolution was agreed to.

BILL INTRODUCED.

Mr. BROWN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1816) to authorize the Secretary of War to deliver to the governor of the State of Georgia, as a loan, one hundred and fifty stand of light breech-loading rifles, with equipments therefor, for the use of the Middle Georgia Military and Agricultural College, at Milledgeville, Georgia; which was read twice by its title, and referred to the Committee on Military Affairs.

ADDITIONAL POST-ROUTE BILL.

Mr. MAXEY. The bill (S. No. 1771) to establish a post-route in Missouri is pending before the Committee on Post-Offices and Post-Roads. I desire to report that bill some day this week and put it on its passage. I give this notice in order that Senators who are interested in having routes established may give the proper information to the committee so that their amendments may be appended to the bill.

THORNTON SMITH.

Mr. WALLACE. Several days since I introduced a resolution asking the recall of the bill (S. No. 562) granting an increase of pension to Thornton Smith from the House of Representatives. It was sent there by error. I now move to reconsider the vote on the final passage of the bill.

The PRESIDENT *pro tempore*. The motion to reconsider will be entered.

ELECTION INVESTIGATION.

Mr. WALLACE. I call up the resolution I introduced on Tuesday last, and ask that it may be considered.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania asks unanimous consent for the consideration of a resolution submitted by him, which will be read for information.

The Chief Clerk read the following resolution, submitted by Mr. WALLACE on the 1st instant:

Resolved, That the select committee to inquire into alleged frauds in the late elections be continued, with power to report at the next session of the Senate, and to file the reports of the majority and minority in the office of the Secretary of the Senate during vacation, when the same with the testimony taken shall be printed, and the said committee shall have authority to sit during the recess of the Senate, and shall possess during said recess all the powers and authority heretofore conferred on it.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the resolution?

Mr. INGALLS. There are two members of that committee, the Senator from New Hampshire [Mr. BLAIR] and the Senator from Massachusetts, [Mr. HOAR,] absent. I understood the Senator from Pennsylvania the other day to say that this resolution met with their approbation. If that is the case, of course I have no right to object. I asked that the resolution might lie over the other day, not knowing whether it would be agreeable to the minority of the committee; but understanding from the Senator that it is, I have no objection to the consideration of the resolution.

Mr. WALLACE. The reason for the continuance of the committee is that the minority have not completed the examination of certain witnesses who are now before them, and it is desired that the committee may be continued. I submitted this resolution in the terms in which it is now to both the Senator from Massachusetts and the Senator from New Hampshire, and it met their approbation.

The PRESIDENT *pro tempore*. Is there objection to the consideration of the resolution? The Chair hears none, and it is before the Senate. The question is on agreeing to the resolution.

The resolution was agreed to.

POSTAL CONTRACTS OF BENJAMIN HOLLADAY.

Mr. DAVIS, of West Virginia. I ask to have passed a resolution of inquiry, which is on the table, in reference to the Holladay claim.

The PRESIDENT *pro tempore*. Is there objection to the consideration of the resolution? The Chair hears none, and the resolution will be reported.

The Chief Clerk read the following resolution, submitted by Mr. DAVIS, of West Virginia, June 1, 1880:

Resolved, That the Postmaster-General be, and hereby is, directed to furnish to the Senate copies of any and all contracts entered into between the United States, and amount paid on each contract, through the Postmaster-General and Benjamin Holladay, and any and all firms and companies of which said Holladay was a member, from July 1, 1859, to January 1, 1866, for carrying mails.

The resolution was agreed to.

CHURCH LANDS IN CALIFORNIA.

Mr. FARLEY. I ask the Senate to postpone all orders before order

of business No. 652 temporarily for the purpose of considering Senate bill No. 1749, a bill that has been reported unanimously by the Committee on the Judiciary, and it is important to the interests of California that the bill should pass. It will not take five minutes to dispose of it.

The PRESIDENT *pro tempore*. If there are no other resolutions the routine business of the morning hour is closed, and the Senator from California moves to postpone all orders prior to order of business No. 652, which is the bill (S. No. 1749) to authorize the Roman Catholic bishops in California to sell certain church lands. The question is on the motion of the Senator from California.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Senator from California now moves that the Senate proceed to the consideration of the bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1749) to authorize the Roman Catholic bishops in California to sell certain church lands.

The bill was reported from the Committee on the Judiciary with an amendment, in line 4, after the word "successors," to insert "in such trust;" so as to read:

That the said lands or any part or parts thereof may be sold and conveyed by said grantee or his successors in such trust.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. INGALLS. I wish the Senator from California would make some statement as to the object of this bill. I should like also to know the value of the property, and why it is necessary to obtain the assent of Congress to the sale of this property.

Mr. FARLEY. The Senator from New York [Mr. KERNAN] is familiar with the facts.

Mr. KERNAN. I hold in my hand the report of the board confirming claims to the lands in question, to which the United States were bound to give title according to their treaty with Mexico. The bishops had title from Mexico; and the land commission found in favor of the ranch being patented by the United States, in pursuance of the grant of Mexico, when California was ceded to us, to the bishops of California, they being corporations sole by the law of California. Mr. Fisher is the commissioner making the report, and the Secretary of the Interior forwarded a certified copy.

Mr. EATON. What was the nature of the Mexican trust?

Mr. KERNAN. That is what I am coming to. The trust was that they should establish a seminary on these lands and they should be used for that purpose. The papers which the Senator from California [Mr. FARLEY] had before the committee show that these lands are so located that the locality is not a convenient or advantageous place for a seminary. All the bishops, there being several of them, united in asking that the bishop holding the title may be authorized to sell the land and appropriate the proceeds to buying other lands and executing the trust on them.

Mr. INGALLS. What committee reported the bill?

Mr. KERNAN. The Judiciary Committee reported it. I never went before the committee in relation to the matter, but I understood their report was unanimous.

Mr. FARLEY. The committee reported a necessary amendment, which made the bill acceptable.

Mr. KERNAN. The Senator from California had charge of it, but I was asked to go before them with these facts.

Mr. FARLEY. There will be no injustice done to anybody. The bill simply gives the bishops full authority to apply the funds that may be realized from the sale of these lands for the purpose of transferring the school to another locality in the State.

Mr. KERNAN. This bill authorizes them to execute the same trust with the fund at another place.

Mr. INGALLS. I still am unable to understand why it is necessary to obtain the consent of Congress to enable these bishops to alienate a tract of land that they received by grant from Mexico.

Mr. KERNAN. The chairman of the Judiciary Committee will state the case much better than I can. They hold it in trust from Mexico, and the United States succeeds to the trust from Mexico.

Mr. THURMAN, (Mr. JOHNSTON in the chair.) This matter was fully investigated by the Judiciary Committee, and I think the committee was unanimous. The legal question is simply this: the government of Mexico made this cession of land to the Roman Catholic bishops upon a certain trust, that they should keep up a certain seminary of learning. That was a trust that nobody could enforce but the government of Mexico. There were no specific beneficiaries who had any interests which would enable them to have a standing in court to enforce the trust. It was a trust that could be enforced by the government alone. All the rights of sovereignty of Mexico over the territory of California were ceded to the United States; the United States became the successor, and is the only power in the world that could enforce the execution of that trust.

For reasons that are perfectly valid and sound the bishops desire to sell that property in order that the institutions may be located in other places, which are better for them as institutions of learning and which are better in a sanitary point of view. There is no question whatever of the wisdom of allowing them to sell the property, requiring them to appropriate the proceeds of the property upon precisely the same trusts in their substance that were required by the government of Mexico. The Government of the United States being the only power in the world that could enforce that trust or has any right to enforce it, is also the power that has the right to waive it.

Mr. INGALLS. Of course there can be no objection to the alienation of this land, if the Catholics desire to do so; but what I am unable to understand is how the Judiciary Committee could decide that the United States Government, as the successor of the Mexican government, should undertake to enforce this trust. I do not know whether the Judiciary Committee was unanimous or not. Of course I am bound to suppose that it was, as the chairman says so; but it seems to me to be establishing a very dangerous precedent to say that the Government shall assume to enforce trusts of a religious character like this. It may be all right; I dare say it is; but I cannot see what the necessity of it is.

Mr. THURMAN. The Government is waiving its right to enforce the trust because, if the bishops were to disregard the trust and sell the land, then it would be a question whether the land did not revert to the United States. It probably would. The object of the bill is simply to prevent that reversion to the United States. I think there can be no objection to the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

HENRY WARREN.

Mr. PENDLETON. I ask the postponement of all prior orders that the Senate may take up for consideration Senate bill No. 1254, order of business No. 589.

The PRESIDENT *pro tempore*. The Senator from Ohio moves to postpone all orders prior to order of business No. 589, being the bill (S. No. 1254) for the relief of Henry Warren. The question is on that motion.

The motion was agreed to.

The PRESIDENT *pro tempore*. Will the Senate proceed to the consideration of this bill?

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1254) for the relief of Henry Warren. It directs the Secretary of the Treasury to pay Henry Warren, of Weatherford, Texas, $15,867.50, in full satisfaction for damages sustained by reason of capture of trains and destruction of property by Comanche, Kiowa, and Cheyenne Indians in 1871, while he was in the employ of the Government, supplying the troops at Fort Griffin, Texas; and the sum is to be retained out of any annuities due or to become due the Comanche and Kiowa and Cheyenne Indians.

Mr. DAVIS, of Illinois. Is there a report?

Mr. PENDLETON. There is, and I will have it read. I ask that the Secretary read the report of the Committee on Indian Affairs in this case.

The PRESIDENT *pro tempore*. The report will be read.

Mr. MAXEY. I suggest to the Senator to simply state the substance of it.

Mr. PENDLETON. The report is brief. The accompanying papers attached to the report are quite long, and Senators can examine those for themselves.

Mr. MAXEY. The Senator only wants the report proper read?

Mr. PENDLETON. Only the report proper, and the supplemental report also afterward. They are both brief.

The Chief Clerk read the following report, submitted by Mr. PENDLETON April 30, 1880:

The Committee on Indian Affairs, to whom was referred the bill (S. No. 1254) for the relief of Henry Warren, have had the same under consideration, and submit the following report:

Under a contract awarded in June, 1870, by the proper authority, Henry Warren was engaged in furnishing corn to the Quartermaster's Department at Fort Griffin, Texas. Having to pass over a stretch of ninety miles of wild, uninhabited country, which was frequently raided by marauding Indians, it was difficult for him to procure transportation, as men would not risk their lives and property in such service except at very high wages. To avoid paying these heavy rates, and make sure of promptly filling his contract, the claimant purchased his own wagon and mules in Saint Louis, and was proceeding in the execution of his contract to the entire satisfaction of the Government.

Rumors of Indian raids having reached him, he applied to the commander at Fort Griffin for an infantry escort, for which he offered to furnish transportation, but soldiers could not be spared for such service. The commander, however, supplied arms sufficient to arm each teamster.

On the 18th day of May, 1871, while on the road to Fort Griffin in execution of his contract, his train was suddenly attacked in the open prairie by about one hundred and fifty Indians of the Kiowa tribe, under San-tan-ta, their principal chief; the wagon-master and six of the teamsters were murdered. One of them, falling alive into the hands of his savage captors, was barbarously tied to a wagon-wheel and burned; the train was pillaged, the animals killed or driven off, to the number of thirty-six, the corn scattered over the ground, where it was so injured by a heavy rain that it was sold for $20, and the harness and wagon furniture carried away or so damaged that with the broken and disabled wagons the whole was sold for $500.

His wagons being thus left in a disabled condition sixty-five miles from Fort Griffin the claimant alleges that he was put to great expense in replacing his teams and obtaining corn to fill his contract, and heavy consequential damages were sustained by him on account of the interruption of his business and the heavy rates he was compelled to pay for transportation.

The marauding Indians went with their pillaged property directly to Fort Sill, and openly boasted of their deed in the presence of General Sherman, who happened to be there, and of their agent. By Sherman's orders three of the ringleaders, including San-tan-ta, were arrested. They were subsequently delivered to the civil authorities of Texas, and two of them were indicted for murder, convicted, and sentenced to be hung, which sentence was subsequently commuted to imprisonment for life. On the 25th day of August, 1871, within ten miles of the scene of his former disaster, the train of Henry Warren was attacked by a band of Cheyenne Indians, who drove off twenty-one mules and one horse, seriously damaging

him, aside from the loss of his stock, by the injury sustained by the corn and detention of the train. By reason of these losses Mr. Warren was reduced from a condition of independence, his profitable business was broken up, and he was forced to take service at a small salary.

The treaty between the United States and the Kiowa and Comanche tribes of Indians, proclaimed August 25, 1868, declared that—

"If bad men among the Indians shall commit a wrong or depredation upon the person or property of any one, white, black, or Indians, subject to the authority of the United States and at peace therewith, the tribes herein named solemnly agree that they will, on proof made to their agent and notice by him, deliver up the wrongdoer to the United States, to be tried and punished according to its laws, and in case they willfully refuse so to do the person injured shall be reimbursed for his loss from the annuities or other moneys due or to become due to them under this or other treaties made with the United States. And the President, on advising with the Commissioner of Indian Affairs, shall prescribe such rules and regulations for ascertaining damages under the provisions of this article, as in his judgment may be proper; but no such damages shall be adjusted and paid until thoroughly examined and passed upon by the Commissioner of Indian Affairs and the Secretary of the Interior; and no one sustaining loss while violating, or because of his violating, the provisions of this treaty or the laws of the United States, shall be reimbursed therefor."

Precisely the same provision is contained in the treaty between the United States and the Cheyenne and Arapahoe tribes of Indians, concluded October 28, 1867.

The proof of Mr. Warren's claim under the rules and regulations prescribed is of the most complete and ample description, and after examination the Secretary of the Interior allowed it to an amount, with subsequent accrued interest, corresponding to that named in this bill, and recommended its payment. The Indians charged with the robberies admitted them fully, and made partial restitution by returning a number of the animals taken, but in a broken-down condition, and a few others stolen from other sources and subsequently reclaimed from Warren by their true owners. Allowance for their value was duly made in the examination of the claim by the Interior Department. Besides the punishment of the Kiowas as above cited, twenty of the Cheyennes, for complicity in that and other crimes, were arrested and confined at Fort Marion, Florida, until 1878. None of these captives were voluntarily surrendered by their tribes under the treaties, nor were any others either captured or surrendered, nor was any further restitution made for the loss.

The committee therefore recommend the passage of the bill.

Mr. PENDLETON. Under the statements made in the report I think there can be no doubt in the mind of any Senator as to the liability of these Indians to make good out of their annuities the losses that have been sustained by Mr. Warren. The claims were presented to the Department and very closely scrutinized, in accordance with the provisions of the treaty which have just been read. In order that the Senate may understand the rigid rule applied in scaling this claim, I ask that the Secretary may read a portion of the supplemental report in this case which was made on the 28th day of May, 1880, which will give to the Senate the information as to the mode by which the amount ascertained in the bill has been reached by the Department of the Interior under the regulations adopted by the President in conformity with the provisions of the treaty.

The PRESIDENT *pro tempore*. What portion does the Senator wish to have read?

Mr. PENDLETON. I wish to have the supplemental report read which I send to the desk.

The PRESIDENT *pro tempore*. The whole supplemental report?

Mr. PENDLETON. No, the first page of it. The statements from the Interior Department fortifying the conclusions of the committee are appended to the report, but I do not ask that they shall be read unless some Senator asks that that be done.

The Chief Clerk read the following supplemental report, submitted by Mr. PENDLETON from the Committee on Indian Affairs May 28, 1880:

On pages 5 and 6 of the report of the Committee on Indian Affairs upon bill S. No. 1254 will be found an itemized statement of the loss alleged by claimant to have been inflicted by the Comanche and Kiowa Indians, amounting to $29,732.50.

On page 6 of the report there is an itemized statement of the loss alleged to have been inflicted by the Cheyenne Indians, making an aggregate of $10,352.50.

On the 30th of April, 1874, the House of Representatives, by resolution, called upon the Secretary of the Interior for a list of all claims for losses through depredations committed by Indians presented to the Department for ten years past.

In answer to that resolution the Secretary of the Interior, in a letter dated January 9, 1875, found in Executive Document No. 65, Forty-fifth Congress, second session, transmitted a list of such claims, with the action of the Department thereon where action had been taken.

By reference to pages 34 and 35 of that document, (No. 138,) it will be found that the claim of Henry Warren against the Comanches and Kiowas for $29,732.50 was allowed for $11,852.50, and his claim against the Cheyennes for $10,352.50 was allowed for $4,015.

By reference to the report of the Commissioner of Indian Affairs, Edward P. Smith, upon this case, it will be found that the amount awarded was reached in this way:

Claim against Comanches and Kiowas		$29,732 50
Reject amount claimed for damages by detention, loss of business, &c	$15,000 00	
Deduct for stock recovered	2,880 00	
		17,880 00
Leaving amount awarded		11,852 50

By report of the same Commissioner it will be found that the amount awarded in the Cheyenne claim was reached as follows:

Amount of loss claimed	$10,352 00
Amount allowed for stock driven off and killed (page 6 of report)	4,375 00
For loss of corn and general damage	600 00
Making total of	4,975 00
Deduct for stock recovered	960 00
Leaving amount awarded	4,015 00
The amount of award in Comanche and Kiowa claim	11,852 50
And amount allowed on Cheyenne claim	4,015 00
Making total of	15,867 50

This is the amount named in the bill.

Although the evidence in this case was, to use the language of the Commissioner in his report, "clear and positive," the claim of Warren for consequential damages was wholly disallowed, and only that for actual loss incurred nearly nine years ago taken into account.

The claim has also been favorably reported upon four times by the Committee on Indian Affairs of the House of Representatives, as shown by the printed reports of that body, but further action was never obtained, owing to adjournment before it could be reached.

The committee also submit various other papers which throw light on the subject.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JOHN ADAMS AND OTHERS.

Mr. CAMERON, of Wisconsin. I move to postpone all orders prior to order of business No. 356, for the purpose of taking up Senate bill No. 89.

Mr. DAVIS, of West Virginia. What bill is that?

Mr. CAMERON, of Wisconsin. It is a bill for the relief of John Adams, William B. Clift, and others.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Wisconsin, to postpone all orders prior to order of business No. 356.

The motion was agreed to.

The PRESIDENT *pro tempore*. Will the Senate proceed to the consideration of the bill named by the Senator from Wisconsin?

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 89) for the relief of John Adams, William B. Clift, David Dunseath, William Killinger, J. F. Scott, administrator of the estate of Obediah Scott, deceased, Davis C. Peak, Charles Linderman, James Linnane, Patrick Carey, John McMahon, and James Gorman, administrator of the estate of Patrick Gorman, deceased.

The bill was reported from the Committee on Claims with amendments.

The first amendment was, in line 5, after the word "persons," to insert "or their legal representatives;" so as to read:

That the Secretary of the Treasury be, and he is hereby, authorized to pay, out of any money in the Treasury not otherwise appropriated, to the following persons, or their legal representatives, the following sums in full for services in the United States naval service during the late war.

The amendment was agreed to.

The next amendment was, in line 19, before "Peak," to strike out "C;" so as to read "Davis Peak."

Mr. CAMERON, of Wisconsin. Davis Peak is the name of the man.

The PRESIDENT *pro tempore*. That is a clerical amendment, which will be made, if there be no objection.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended by striking out the letter "C" between "Davis" and "Peak."

NAVAL SOLICITOR AND JUDGE-ADVOCATE-GENERAL.

Mr. MCPHERSON. I move to postpone all orders prior to order of business No. 753, in order to proceed to the consideration of House bill No. 2788.

The motion was agreed to.

The PRESIDENT *pro tempore*. Will the Senate proceed to the consideration of the bill?

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 2788) to authorize the President to appoint an officer of the Navy or the Marine Corps to perform the duties of solicitor and judge-advocate-general, &c., and to fix the rank and pay of such officer.

Mr. COCKRELL. Is there a report with this bill?

The PRESIDENT *pro tempore*. There is no report, as the Chair is informed.

Mr. MCPHERSON. I will say to the Senator that there is a letter from the Secretary of the Navy on the whole question, and I ask permission to have the letter read, if the Senator from Missouri desires.

Mr. COCKRELL. I desire to hear it.

The PRESIDENT *pro tempore*. The amendment of the committee will first be reported.

The CHIEF CLERK. In line 4, after the word "appoint," the Committee on Naval Affairs propose to insert "for the term of four years."

The amendment was agreed to.

The PRESIDENT *pro tempore*. The paper will be read, if there be no objection.

The Chief Clerk read as follows:

NAVY DEPARTMENT,
Washington, January 7, 1880.

SIR: I have the honor to inclose herewith House bill No. 2788, which was introduced at my request by Mr. WHITTHORNE, chairman of the Committee on Naval Affairs of the House, and to ask that a similar bill may be introduced in the Senate.

In anticipation of such introduction I take the liberty of expressing my views on the subject as follows:

This bill (H. R. No. 2788) proposes to authorize the President to appoint, by and with the advice and consent of the Senate, from the officers of the Navy or the Marine Corps, a judge-advocate-general of the Navy, with the rank, pay, and allowances of a captain in the Navy, or a colonel in the Marine Corps, as the case

may be; that the office of the judge-advocate-general shall be in the Navy Department, where he shall, under the direction of the Secretary of the Navy, receive, revise, and have recorded the proceedings of all courts-martial, courts of inquiry, and boards for the examination of officers for retirement and promotion in the Navy and Marine Corps, and examine all questions of law, regulations, and practice arising therein, and report the same with recommendations to the Secretary; and also examine matters generally involving questions of law or regulations, and claims presented to the Navy Department for investigation, and submit reports and recommendations thereon for the information and action of the Secretary of the Navy.

The object of this bill is to provide for the appointment by authority of law of a competent officer of the Navy or Marine Corps to discharge the important duties of judge-advocate-general of the Navy as well as the duties which were formerly performed by the naval solicitor. But it is not proposed to revive the office of naval solicitor, which, as it existed in connection with the Department of Justice up to the year 1878, when it was abolished, was not suited to the requirements of the military or naval service.

The necessity of having an officer familiar with the practice of courts-martial, the rules, regulations, and customs of the Navy, of practical experience in the naval service, and with proper legal attainments to discharge the duties of judge-advocate-general, has been recognized by preceding administrations of this Department; and in the absence of a provision of law for that office such as is contemplated by this bill the difficulty has been partially met by the temporary detail of a suitable officer by the Secretary of the Navy to act in that capacity.

In view of the changes to which such office is subjected by these temporary assignments, it is important and necessary to the best interests of this branch of the public service that Congress should fix a status for such officer by a provision for said office for the Navy analogous to that which has long been established in the Army. There can be no question as to the propriety of such a measure as is presented in this bill, and the necessity for such an officer to systematize the details of administration of law and justice in the Navy is regarded as equally urgent with that of a similar position already established for the military service under the War Department. Public business of the same character devolving upon the War Department is discharged by an officer of the Army under the direction of the Secretary of War, who holds the position of Judge-Advocate-General, with the rank and pay of a higher relative grade than that proposed by this bill for the officer who may be appointed to discharge similar duties as judge-advocate-general of the Navy, under the direction of the Secretary of the Navy.

The peculiar nature of the duties pertaining to that office in the Navy Department requires of the officer appointed to it an acquaintance with the practical application of the law and regulations to the rank, grades, ratings, &c., of the various classes of officers and enlisted men of the naval service, and renders it eminently proper and advisable that provision be thus made for the appointment of such an officer to aid the Secretary in transacting this branch of the public business devolving upon the Department, and to which he, in the midst of other varied and important duties, cannot be expected to give the attention that its importance demands.

Impressed with the necessity of the proposed legislation in relation to the office of judge-advocate-general of the Navy, I respectfully commend the provisions of the bill in its present form to the favorable consideration of the Committee on Naval Affairs, and earnestly recommend its passage by Congress.

Very respectfully,

R. W. THOMPSON,
Secretary of the Navy.

Hon. J. R. MCPHERSON,
Chairman of the Committee on Naval Affairs,
United States Senate.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. KERNAN. I desire to understand this bill. As I understand now there can be assigned to the duties of this office a captain of the Navy. He would be familiar with the proceedings of courts-martial, and receive the same pay he now gets; but this bill allows also an officer to be taken from the Marine Corps. I have been told that the officer now doing the duty gets $2,200, and this bill would allow $1,800 more. It is thus adding $1,800 to the expense for which the business can be done by assigning a captain in the Navy. I ask the Senator from New Jersey if I am right in that view?

Mr. MCPHERSON. I understand that under this proposed statute the Secretary of the Navy can appoint an officer of the Navy or Marine Corps to this position. At present the Secretary assigns some one to this duty as if it were simply a clerkship in the Department under the Secretary of the Navy. Prior to the act of June 19, 1878, he had an officer called a naval solicitor, but the appropriation bill of that year failed to make an appropriation for the payment of that officer, and in fact the office was abolished by the appropriation bill of that year.

The purpose of this bill is to allow the Secretary to take an officer of the Marine Corps or of the Navy for the position of naval judge-advocate-general, and there can be found in both the Marine Corps and the Navy officers who are entirely competent to perform this service that is required by the Secretary of the Navy. It authorizes him to detail an officer for that purpose. It makes that officer a bureau officer in the same sense as the heads of the other bureaus of the Navy Department are to-day. For instance, the head of the Bureau of Equipment and Recruiting, the head of the Bureau of Ordnance, and the heads of the other bureaus are taken from the body of the Navy. This officer is to be taken in the same way, and serve in that capacity for a term of four years, at which time he goes back again into his corps and takes the same rank he held when he was appointed to this position.

The pay proposed here is the pay of colonel in the Marine Corps or of a captain in the Navy. If a colonel in the Marine Corps is taken it will not increase his pay one single dollar; it will not add to the expense of the Department as it would if you took a man from civil life with a salary, I suppose, of $4,000 or $5,000 a year, and you would not secure the necessary talent at a much less sum. There are in the Navy and Marine Corps officers well fitted for this service. Let one of them be appointed for this limited term, and at the end of four years he goes back again into the ranks.

Mr. SAULSBURY. Is it not now in the power of the Secretary of the Navy to detail officers to act as judge-advocates before naval courts-martial? I happen to be personally acquainted with a lieutenant in the Navy who has been so detailed.

Mr. MCPHERSON. The Senator from Delaware cites the case of an officer low down on the list who receives a very small compensation. If such an officer were chosen for this place I admit the bill would increase his pay; but if that officer is competent to perform the duty which would devolve on an officer of this character, I think he should be entitled to some additional pay for that service; and the bill does not increase the pay one-half of what it would be necessary to allow in case a person was taken from civil life. We have officers entirely competent to perform this service; in fact they have been performing this service and have been receiving no additional pay. I think they are entitled to additional pay; and I know of no way in which economy can be carried into practice more than by taking an officer from the Marine Corps or Navy, wherever he may be found, who is fully competent to perform these duties. The pay the bill proposes to give is as little as could be given to an officer of this responsibility.

Mr. JONES, of Florida. I have had occasion to look into this subject a little; and I am very well convinced that there is a great necessity for an officer of this rank in the Navy Department at the present time, a man who can bring to that position something beyond the average ability; and some discretion ought to be given to the Secretary of the Navy to make a proper selection. It is not every man who can fill this position. On the Naval Committee we have occasion every week to refer matters to the Department for its opinion; and it requires some skill on the part of the incumbent of that office and experience to enable him to discharge his duties. Our committee find constant occasion to call on the Department in regard to applications, through which we have to spell our way if we can, looking into the merits of applications for restoration to the naval service and involving nice questions of law; and we have not the time to go into all those things. It is necessary that there should be an officer there to prepare the cases and send them to the committee with the opinion of the Department in regard to them, so that we may act intelligently.

If the Secretary of the Navy can find in the Marine Corps an officer of sufficient capacity to fill this place properly, I am for one willing that he shall do it. If not, he can go to the Navy list. If you go outside of the Navy and Marine Corps and go to civil life, you would have to provide for the officer a distinct salary of four or five thousand dollars a year. The little increase that would be required in this case would not be much considering the great advantages resulting from the appointment.

I would add, moreover, that this bill has impressed itself on the House, and they have passed the bill that has been recommended by the Naval Committee of the Senate.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

P. P. POWELL.

Mr. BURNSIDE I move to lay aside all prior orders with a view of taking up order of business No. 404, being House bill No. 4439.

The PRESIDENT *pro tempore*. The Senator from Rhode Island moves to postpone all orders prior to order of business No. 404.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Senator from Rhode Island now moves that the Senate proceed to the consideration of House bill No. 4439.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 4439) to remove the disabilities of Sergeant P. P. Powell, Sixth Regiment United States Cavalry.

The preamble recites that Sergeant P. P. Powell, Sixth Regiment United States Cavalry, has served faithfully as a private soldier and non-commissioned officer in the Army of the United States since October 27, 1875, and that he is debarred from all hope of promotion by the provisions of section 1218 of the Revised Statutes, therefore the bill removes his disabilities under that section.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

W. F. NELSON.

Mr. SAULSBURY. I desire to call up Senate bill No. 281, order of business No. 309.

The PRESIDENT *pro tempore*. The Senator from Delaware moves to postpone all orders prior to order of business No. 309.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Senator from Delaware now moves to proceed to the consideration of Senate bill No. 281.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 281) for the relief of Emma G. Nelson, executrix, and Aaron H. Nelson, executor, of the estate of W. F. Nelson, deceased. It proposes to pay to Emma G. Nelson, executrix, and Aaron H. Nelson, executor, of the estate of W. F. Nelson, deceased, late chaplain United States Army, $500.26, in full payment for rent of quarters hired by him while stationed at Washington Park United States general hospital, Cincinnati, Ohio, between the 9th of April, 1864, and the 28th of July, 1865.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

OMAHA INDIAN RESERVATION.

Mr. SAUNDERS. I move to laid aside all orders prior to order of business No. 188, which is Senate bill No. 1136.

Mr. CALL. I ask the Senate not to agree to the motion of my friend from Nebraska to take up that bill, owing to the fact that there is upon the Calendar of the Senate a House bill of very great importance to the people of my State which has been pending here for a long time, and which will take but a very few minutes to pass.

Mr. SAUNDERS. I will state to the Senator from Florida that this bill has been considered in the Senate and was laid aside informally.

Mr. CALL. If the bill will take no time I shall not interpose.

Mr. SAUNDERS. It can be passed in five minutes.

Mr. CALL. Very well.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Nebraska, to postpone all orders prior to order of business No. 188.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Senator from Nebraska now moves to take up for consideration Senate bill No. 1136.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 1136) to provide for the sale of a portion of the reservation of the Omaha tribe of Indians.

Mr. COCKRELL. I should like to hear some explanation of this bill. There are some wonderful features in it. Here is a proposition to sell a whole Indian reservation for cash in one body.

Mr. SAUNDERS. The bill was before the Senate some time ago, and was laid aside at the time because one Senator rose and wanted to know what the Indian Department said about it. I have letters from the Secretary of the Interior and the Commissioner of Indian Affairs stating that this bill is proper and ought to be passed with one amendment, which I will state. The bill provides for a survey and sale of fifty thousand acres. There was a bill passed some eight years ago authorizing the sale of this land, and only about three hundred acres of land were sold under it. The Secretary now recommends that we deduct that from this bill so that the survey may stand as it is, 49,461.71 acres instead of fifty thousand acres. With this amendment the Secretary recommends the passage of the bill.

Mr. ALLISON. I ask the Senator from Nebraska to have the letter of the Secretary of the Interior approving this mode of sale sent up and read at the desk.

Mr. McDONALD. What committee does this bill come from?

Mr. SAUNDERS. The Committee on Indian Affairs. Here are the letters that came from the Interior Department, and I send them to the desk and ask that they be read.

The Chief Clerk read as follows:

DEPARTMENT OF THE INTERIOR,
Washington, April 5, 1880.

SIR: I have the honor to acknowledge receipt of your letter dated March 8, 1880, inclosing S. No. 1136, "to provide for the sale of a portion of the reservation of the Omaha tribe of Indians," and requesting the views of this Department as to its passage.

Inclosed please find letters from the Commissioner of Indian Affairs, (dated the 2d instant,) to whom the subject was referred. The Department concurs in the views of the Commissioner on the bill in question.

Very respectfully,

C. SCHURZ, *Secretary*.

Hon. A. SAUNDERS,
United States Senate.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, April 2, 1880.

SIR: I have the honor to acknowledge the receipt, by your reference, of a letter dated the 8th ultimo from Hon. A. SAUNDERS, United States Senate, in which he incloses Senate bill No. 1136, providing for the sale of a portion of the Omaha Indian reservation in Nebraska, and requests the opinion of the Department as to the propriety of its passage.

In reply, I have to state that the provisions of this bill are the same, with one or two inconsiderable exceptions, as that portion of the act of Congress approved June 10, 1872, (17 Statutes, page 391,) which relates to the Omaha Indians.

The bill contains the following sentence, commencing on line 20 and ending on line 26, which is not found in the act, viz: "In making offers for the entire body they may be made either for all cash in hand or with time as a condition; that is, a proposition may be received to purchase the whole tract and to pay one-sixth part at the time of purchase, and the balance in five equal annual payments, the deferred payments to bear interest at the rate of 6 per cent., which shall be paid annually." In lines 31 and 32 of the bill the words "aggregate appraised value of the same" are inserted in lieu of the "appraised value of such tract;" and the following clause, after the words "twenty-five cents per acre," is in the act but not in the bill, viz: "Or for the entire tract which shall be less than the aggregate appraised value of the same, nor less than $1.25 per acre."

The proceeds of the sale of the land were, by the provisions of the act, to be placed to the credit of the Indians on the books of the Treasury and bear interest at the rate of 5 per cent. per annum. The bill reduces the interest to 4 per cent. per annum.

The wording of the last proviso in the first section of the bill is a little different from the corresponding proviso in the act, but both are substantially the same. These proposed changes in the old law appear to be proper and necessary.

The lands in question were surveyed in 1866 and 1867, and I am not now aware of any reason for resurveying them, but as the bill merely authorizes the Secretary of the Interior to cause the lands "to be surveyed if necessary," I see no objection to it on this account.

The portion of the Omaha reservation which was set off to be sold under the act of June 10, 1872, contained 49,762.43 acres, and only 300.72 acres thereof were sold. I therefore respectfully recommend that the words "fifty thousand" in the seventh section of the bill be stricken out, and the words "forty-nine thousand four hundred and sixty-one and seventy-one hundredths" be inserted in lieu thereof, so that the bill will merely authorize the sale of the land which was authorized to be sold by the act of June 10, 1872.

I am of the opinion that such a bill as the one under consideration, amended as above suggested, should be passed.

The letter of Senator SAUNDERS and inclosure are herewith returned.

Very respectfully, your obedient servant,

R. E. TROWBRIDGE,
Commissioner.

The honorable the SECRETARY OF THE INTERIOR.

Mr. COCKRELL. Why was not the bill amended as recommended in the letter?

Mr. SAUNDERS. The proposition I make to the Senate is to change the figures as suggested. I offer that amendment. With that amendment the Department recommend it. In place of 50,000 acres the amount should be 49,461.71. That is the recommendation of the Interior Department.

Mr. COCKRELL. Why not insert in the bill the amendment recommended by the Secretary? He says that the land should be offered for sale under the former act. Let that be put in, and then there will be no trouble about it.

Mr. SAUNDERS. They state some changes which should be made in the other bill, and approve of the changes. They only ask that this change shall be made in the figures in the amount to be surveyed under this bill. That is all they ask, and that is the amendment I present to the Senate, that the amount be changed from fifty thousand acres to conform to what the Interior Department have recommended, 49,461.71 acres. That has already been surveyed. With that amendment they recommend the passage of the bill.

Mr. KIRKWOOD. I should be glad to have the Senator from Nebraska explain the necessity or the propriety of offering this land for sale in one body?

Mr. SAUNDERS. It is offered to be sold in either way. It can be sold in smaller tracts or can be sold in one body——

Mr. McDONALD. Fifty thousand acres in one body?

Mr. KIRKWOOD. I cannot give my consent to such a proposition.

Mr. SAUNDERS. Let me state the reason for it. A bill was passed some seven or eight years ago authorizing it to be sold in smaller tracts, but people would not go and settle around the Indians when they could get lands as cheap or cheaper off a distance from them. The object now is that we may get, if possible, persons to emigrate in colonies and go and make their own settlements where they will not be isolated from society. The land was offered at that time and only three hundred acres were sold at the very same figures we put in this bill now, because people would not go there and settle; they would not buy at two dollars and a half an acre as a matter of speculation, and they would not to-day; but if they could settle on it together they would.

We put into this bill first that it may be taken up in smaller tracts if the people desire to do so, but if they do not, then it can be sold as a body so that the land can be settled and the money put out on interest for the Indians. The Indians want the land sold. We know that these Indians now are taking an advance step in civilization. They are raising large crops of wheat and corn, and they want this money put out at interest so that they can have the interest to use in improving their farms. They are very desirous to have the land sold. They even would have it sold at a lower figure than this bill names if it cannot be sold at that. But it is limited here to $2.50 an acre on an average. The only reason for this is just what I have stated to the Senate, that if they cannot sell it in smaller tracts, they want to have a colony take it and settle it up. It is a very large tract of country without any settlements, and we want it settled and the Indians want the land sold and want the money on interest.

Mr. ALLISON. Mr. President, I think there ought to be an amendment. In lines 30 and 31 I move to strike out the words "for separate tracts." This bill provides that if this land shall be sold in separate tracts it shall not be sold at less than the aggregate appraised value nor less than $1.25 an acre. I think if it is sold in a body it ought to bring at least $1.25 an acre, as I am told that a railway is about to be built in the neighborhood of this reservation, and possibly across this fifty thousand acres of land in a very short time, and I think it will be easy to get at least $1.25 an acre for it if it should be sold in a lump of fifty thousand acres.

Mr. DAVIS, of Illinois. I am utterly opposed to selling in a single body fifty thousand acres of land. Who can buy fifty thousand acres of land but a rich man? Plenty of people can buy a quarter section of land, but very few people can buy fifty thousand acres of land. Nobody will buy this fifty thousand acres of land unless he is a speculator and wants to sell to individuals who may purchase forty, eighty, or one hundred and sixty acres. I think the policy wrong entirely. Besides that, the Indians will not realize as much for it if it is sold in a body as if it were sold in quarter sections.

Mr. SAUNDERS. The Senator is very much mistaken; he has not read the bill carefully. The same amount is to be paid in the one case as in the other.

Mr. DAVIS, of Illinois. If this tract is divided into forty, eighty, and one-hundred-and-sixty acre parcels and it is known that there is a railroad going within the vicinity it will bring double a dollar and a quarter an acre. The Government when it grants lands to railroads sells those which it reserves at two and a half dollars an acre— —

Mr. SAUNDERS. Right there let me say it must bring a dollar and a half an acre. The land cannot be sold for less than a dollar and a quarter and the average must be the appraisement, two dollars and a half an acre.

Mr. DAVIS, of Illinois. I do not want any one person to have a chance to get hold of fifty thousand acres of land.

Mr. INGALLS. The policy of the Government with reference to the public domain is too well established by an unbroken series of precedents, now running through many years, to admit such a departure as is proposed by this bill. In every other measure of this kind that has been before the Senate since I have been a member it has uniformly been provided that where Indian reservations are to be relinquished, surveyed, and sold the land should be disposed of to actual settlers under the homestead or pre-emption laws in tracts of one hundred and sixty acres each.

This reservation lies in the most fertile and most densely populated portion of Nebraska. If it is not already, it is certain to be in the immediate future, immensely valuable; and to permit of its disposition under terms that will allow the whole tract to go into the possession of a single person or corporation would be a violent departure from the well-recognized and long-established policy of the Government.

I did not concur with this bill when it was before the committee. I shall oppose it in every form so long as it is before the Senate in its present position, and I trust the Senator from Nebraska will strike out this obnoxious provision and allow the land to be sold (because I think it ought to be sold for the benefit of the Indians and the whites) in accordance with the terms that have been employed in regard to the sale of all other Indian reservations. If he will make that amendment, I will consent to it. If he insists upon the passage of the bill in its present form, I shall move that it be recommitted to the Committee on Indian Affairs.

Mr. SAUNDERS. I am not tenacious, I will say, in regard to this provision. I want the land sold; that is, I know the Indians want it sold. I thought this bill met with the approbation of every member of the Committee on Indian Affairs. I see now that I was mistaken in that. I am sorry that I have presented the bill as one which came from the committee unanimously, as I thought, with a recommendation that it pass in that form; but I suppose some change has come over the minds of some of the Senators on this subject, and probably for the better. I do not care about that.

The bill provides:

> After the survey and appraisement of said lands as herein provided, the Secretary of the Interior shall be, and hereby is, authorized to offer the same for sale for cash in hand; and sealed proposals, duly invited by public advertisements, shall be received for the same for tracts not exceeding one hundred and sixty acres each, and also for the entire body offered.

If it be the mind of the Senate to strike out these last words, I do not care to retain them. I want simply a bill passed that will give an opportunity to sell these lands, so that they may be improved. The Indians want the money, and the people want the land; and the terms of the bill are such that no possible advantage can be taken of the Indians as to the value of the land. Appraisers are to be sworn before they act on this matter; they are to give their opinion as to the value of the land, but it is not to be sold for less, on the average, than $2.50 an acre.

I care very little about this myself, for I had hoped a settlement might be made in some other way; still I think it can be made in this way quicker than in any other. I am willing, however, to yield something to satisfy gentlemen who think possibly this land may fall into the hands of one individual under this bill. I have no fear of it myself; but because they fear it I am willing to strike out the provision as to selling in an entire body and provide that bids shall be received for tracts not exceeding one hundred and sixty acres. We are willing to try it at that, and if it does not succeed we can only come back to Congress at some other time and ask for an amended bill. I am willing myself to strike out the words "and also for the entire body offered," and leave only the provision that bids shall be received for tracts not exceeding one hundred and sixty acres.

Mr. INGALLS. Will the Senator indicate the portion he desires to have stricken out?

Mr. SAUNDERS. On page 2, line 20, the words "and also for the entire body offered." Let those words be stricken out.

Mr. PADDOCK. I should like to inquire of my colleague if there is any provision in the bill requiring that the sales of separate tracts or small tracts shall be to actual settlers. I have not had an opportunity to examine the bill latterly; but it is my impression that the principle which has obtained more recently in the disposition of Indian reservations, notably in the case of the Otoe reservation in the southern part of our State, should be applied to this bill; that is, if the land is to be sold, and certainly it ought to be sold for the benefit of the Indians and the State as well. If it is to be sold, I think the preemptive principle or something kindred to it should be adopted in regard to the land.

Mr. SAUNDERS. I will state to my colleague that there is no such provision. There are few people who want to go and settle near these Indians.

Mr. PADDOCK. I desire to state in reference to the Otoe reservation, the sale of a part of which was authorized by an act passed a few years ago, that in the case of that reservation, a part of which is in my own county, the best settled district of the county now is upon that reservation, and those settlements run along that part of the tract which is occupied by the Otoe Indians themselves.

Mr. SAUNDERS. I do not know how one can go on a reservation and become a homesteader; we prevent that by law. It can only be by an application of some kind that it could be done. No man has a right to go on a reserve and settle; and consequently it cannot be sold to an actual settler.

Mr. PADDOCK. The law under which the Otoe reservation was disposed of required that it should be turned over by the Indian Office to the General Land Office, and the local land officers were authorized to sell it to actual settlers only who should make a filing upon the particular tract that they proposed to settle on, and a probationary period of six months was allowed to them in which to perfect their filing and make their first payment. I think such a practice as that is a very safe one and a very correct one. I am very anxious for the sale of this reservation. I think it to be a very important matter, but I desire to have it done in such a way as will be most conducive to the interests of the settlers of the State and of the Indians as well.

Mr. SAUNDERS. I fully agree with my colleague on the principle he alludes to.

Mr. KERNAN. I do not think we are able to act on this bill intelligently; and if I can have the assent of the gentleman in charge, I move that the bill be recommitted to the Committee on Indian Affairs that they may examine it further and make a report.

Mr. McDONALD. I think that it had better be referred to the Committee on Public Lands.

Mr. KERNAN. Very well.

The PRESIDING OFFICER, (Mr. FERRY in the chair.) It is moved that the bill be referred to the Committee on Public Lands.

Mr. PADDOCK. I hope the bill will not be recommitted. It strikes me it can be amended very readily in the Senate.

Mr. SAUNDERS. I am willing to strike out all that part of the bill which alludes to the sale of the land in one body, and there is certainly no objection to any other part; there has been none in committee; there has been none here expressed. I am willing to strike out that part providing for the sale of it in one body. If the Senator from New York will withdraw his motion, I will move that amendment.

Mr. KERNAN. I withdraw it.

Mr. SAUNDERS. I move to strike out all that part which alludes to the sale of the land in one body.

Mr. INGALLS. The Senator from Nebraska undoubtedly means well; but the bill cannot be amended in that way. That is altogether too indefinite. The Senator from Nebraska must indicate the lines and words and language he desires to omit from the bill, so that we can ascertain what shape it will be in after his amendment has been agreed to.

Mr. SAUNDERS. In line 20 of section 1 begins this clause:

> And also for the entire body offered. In making offers for the entire body they may be made either for all cash in hand or with time as a condition; that is, a proposition may be received to purchase the whole tract and to pay one-sixth part at the time of purchase, and the balance in five equal annual payments, the deferred payments to bear interest at the rate of 6 per cent., which shall be paid annually. The Secretary of the Interior shall be, and hereby is, authorized to accept the proposal for the entire tract, or the highest bid for separate tracts, whichever shall be deemed best for the interest of the Indians.

I move to strike out all that, and also—

> *Provided*, That no bid for separate tracts shall be accepted which may be less than the aggregate appraised value of the same, nor less than $1.25 per acre.

I move to strike out all after the word "each," in line 20, down to and including the word "acre," in line 33.

Mr. McDONALD. I move that the bill and pending amendments be referred to the Committee on Public Lands.

Mr. INGALLS. This bill did not emanate from the Committee on Public Lands, and I think if the Senator from Indiana will deliberate for one moment he will not be willing to take this bill away from the Committee on Indian Affairs and submit it to another committee.

Mr. McDONALD. I will modify my motion. I move to recommit the bill to the Committee on Indian Affairs.

Mr. BOOTH. I shall vote for this motion. I am very unwilling to see the general policy of this Government in regard to the public lands violated in any degree, and to do so in my mind would require an overriding necessity. I think the true policy that should be adopted in this bill would be that the Government of the United States should buy this land at what it is worth, and then offer it to actual settlers under the pre-emption law, and I know of no other way in which the rights of settlers can be so well established and the rights of the Indians also. In fact, I know of no other way in which it can be done at all, and I hope the Committee on Indian Affairs will embody this suggestion in the bill they shall report.

The PRESIDENT *pro tempore*. The Senator from Indiana moves that the bill and all pending amendments be recommitted to the Committee on Indian Affairs.

Mr. COCKRELL. I hope the motion of the Senator from Indiana will prevail, and I now desire to call the attention of the committee, when this bill shall be recommitted, to the law of June 10, 1872. There is an act for the relief of certain tribes of Indians in the northern superintendency; that act is in full force, and why this exceptional legislation? That act has not ceased to exist. The Secretary of the Interior recommends that this bill shall be made to conform to that act which is now a law.

The PRESIDENT *pro tempore*. The question is on the motion to recommit the bill, with the pending amendments, to the Committee on Indian Affairs.

The motion was agreed to.

SAMUEL I. GUSTIN.

Mr. HILL, of Georgia. I move to postpone all prior orders and take up order of business No. 285, being Senate bill No. 549.

The PRESIDENT *pro tempore*. The Senator from Georgia moves to postpone all orders prior to order of business No. 285.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Senator from Georgia now moves that the Senate proceed to the consideration of Senate bill No. 549.

The motion was agreed to; and the bill (S. No. 549) for the relief of Samuel I. Gustin was considered as in Committee of the Whole.

The bill was read.

Mr. COCKRELL. The Committee on Claims report an amendment in the nature of a substitute.

The PRESIDENT *pro tempore*. The amendment will be reported.

The CHIEF CLERK. It is proposed to strike out all after the enacting clause and to insert:

That the Seretary of the Treasury be, and he is hereby, authorized and directed to pay to S. I. Gustin the sum of $1,129 for supplies furnished by him under contract made with Government officials to the Army of the United States.

Mr. ALLISON. What was the amount of the original bill? I did not quite catch that.

Mr. HILL, of Georgia. Sixty-nine thousand dollars. The amendment only proposes to allow $1,129.

Mr. ALLISON. A great falling off.

Mr. CAMERON, of Wisconsin. There were two bills for the relief of Mr. Gustin pending in this body. This bill for $69,000 was by mistake considered by the committee in the first place, and we discovered that that was not the bill that was really referred to us but a bill providing for the payment of $1,100. For that reason, the sixty-nine-thousand-dollar bill being the bill before us, we moved to amend by striking out all after the enacting clause and inserting the bill which was intended to be referred to us, the bill for the payment of the smaller sum.

The PRESIDENT *pro tempore*. The question is on the amendment reported by the Committee on Claims.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

GEORGE G. SNYDER.

Mr. FERRY. I move the postponement of all present orders for the purpose of taking up Senate bill No. 1352, being order of business No. 346.

The PRESIDENT *pro tempore*. The Senator from Michigan moves to postpone all orders prior to order of business No. 346.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Senator from Michigan now moves that the Senate proceed to the consideration of Senate bill No. 1352.

The motion was agreed to; and the bill (S. No. 1352) for the relief of George G. Snyder was considered as in Committee of the Whole.

The bill was reported from the Committee on Public Lands with an amendment, which was, in line 9, after the word "therefor," to strike out "and that the State hereafter to be erected out of said Territory shall be entitled to receive other lands in equal amount in lieu thereof," and to insert in lieu thereof "and thereupon other lands in equal amount in lieu thereof shall be selected under the direction of the Secretary of the Interior for the uses and purposes expressed in said section 15 of the act of Congress approved September 9, 1850;" so as to make the bill read:

That the said George G. Snyder be, and he hereby is, authorized to enter the east half of northwest quarter and west half of northeast quarter of section 16, township 2 south, range 4 east, Utah Territory, as a homestead, under the provisions of the homestead law; and upon showing full compliance with the provisions of said law the said Snyder shall be entitled to have and receive a patent therefor, and thereupon other lands in equal amount in lieu thereof shall be selected under the direction of the Secretary of the Interior for the uses and purposes expressed in said section 15 of the act of Congress approved September 9, 1850.

Mr. DAVIS, of Illinois. Is there any report in this case?

Mr. PADDOCK. There is no written report. Snyder went upon unsurveyed lands. Afterward when they were surveyed it was discovered that Snyder was upon a school section. He might have selected other land, but he was misled by the local land officers and abandoned his claim. This bill is to enable Snyder to retain the quarter section upon which he located originally before the land was surveyed. It is a very proper and equitable bill. It is proper and right that the Territory should select other land in lieu of it. It certainly would be a very wrong principle that Snyder, who had made valuable improvements in view of the law as it then stood, should be compelled to lose them and take other lands further away, perhaps nothing like so valuable as those he first settled on.

The PRESIDENT *pro tempore*. The question is on the amendment reported by the Committee on Public Lands

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PRISCILLA WATSON.

Mr. SLATER. I move to lay aside all orders prior to order of business No. 509, being Senate bill No. 452.

The PRESIDENT *pro tempore*. The Senator from Oregon moves to postpone all orders prior to order of business No. 509.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Senator from Oregon now moves that the Senate proceed to the consideration of Senate bill No. 452.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 452) for the relief of Priscilla Watson. It authorizes Priscilla Watson, at any time within one year from and after the date at which the body of the land embraced in the Fort Dalles military reservation in Oregon shall be offered for sale pursuant to the act of Congress of March 3, 1877, to become the purchaser of that portion of the land embraced within the limits of the reservation upon which she has made improvements, in consequence of an error of survey, and believing the same to be outside of the reservation and within the limits of her own land, at such a price as the register and receiver of the land district within which the land is situated shall determine, subject to the approval of the Commissioner of the General Land Office.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SETTLERS IN FORT KEARNEY RESERVATION.

Mr. PADDOCK. I ask the Senate to proceed to the consideration of Senate bill No. 1608, order of business No. 567. This is a local bill, which will take but a moment, I think.

The PRESIDENT *pro tempore*. The Senator from Nebraska moves that all orders prior to order of business No. 567 be postponed.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Senator from Nebraska now moves to proceed to the consideration of Senate bill No. 1608.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1608) for the relief of certain settlers within the late Fort Kearney military reservation in Nebraska.

It proposes to confirm the homestead entries numbered 7182, 7226, 7233, 7587, 7920 and 7921, made at Grand Island, Nebraska, under the act of Congress of July 21, 1876, by Morgan T. Martin, Samuel H. McNutt, Allan D. Randall, John J. Brown, Joseph B. Long, and Matthew O. Riley, as actual settlers, in section 36, township 9 north, of range 15 west, and section 36, township 9 north, of range 13 west, within the late Fort Kearney military reservation; but the State of Nebraska is, by legislative act, to assent thereto, and thereafter the State shall be entitled to select other lands of equal area for school purposes as indemnity for the lands embraced in these entries, in like manner as by existing law may be done in cases where lands in sections 16 and 36, appropriated for schools in Nebraska, have been sold or otherwise disposed of by any act of Congress.

Mr. COCKRELL. Is there a report?

The PRESIDENT *pro tempore*. There is no report.

Mr. COCKRELL. I should like to hear an explanation.

Mr. PADDOCK. There is no report, but there is a letter from the Commissioner of the General Land Office recommending the passage of the bill. It is simply authorizing the State to take other lands in lieu of these lands which were settled upon.

Mr. COCKRELL. Let the Commissioner's letter be read.

Mr. PADDOCK. I send the letter to the Clerk's desk.

The Chief Clerk read as follows:

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., March 31, 1880.

SIR: I have the honor to acknowledge the receipt, by reference from you, of a letter from F. M. Davis, commissioner of public lands for the State of Nebraska, dated Lincoln, Nebraska, the 22d instant, relative to the sixteenth and thirty-sixth sections within the limits of what was formerly know as the Fort Kearney military reservation.

It appears that at the date of the survey of said reservation there were settlers upon certain tracts in the sixteenth and thirty-sixth section who after survey made homestead entries for the tracts so occupied. That said entries were held for cancellation for the reason that said section inured to the State at date of survey, under the act of Congress of April 19, 1864, for common schools, excepting such tracts as may have been occupied by settlers, with a view to pre-emption prior to survey, and that for any tracts so excepted the State will be entitled to select an equal quantity as indemnity, and said parties were advised that they must look to the State, the owner of the legal title, for relief.

The question is now asked: Cannot the State relinquish its claim to the land occupied by said homesteaders and be permitted to select indemnity for the lands so relinquished without further authority through an act of Congress?

In reply I have to state that the act of Congress approved February 26, 1859, entitled "An act to authorize settlers upon sixteenth and thirty-sixth sections who settled before the surveys of the public lands to pre-empt their settlements," provides "that where settlements with a view to pre-emption have been made before the survey of the lands in the field which shall be found to have been made on sections 16 or 36, said sections shall be subject to the pre-emption claim of such settler, and if they or either of them shall have been or shall be reserved or pledged for the use of schools or colleges in the State or Territory in which the lands lie, other lands of like quantity are hereby appropriated in lieu of such as may be patented by pre-emption." * * *

It will be observed that provision is made for indemnity only where lands have been lost to the State by reason of settlements with a view to pre-emption. No pro-

vision being made in case of settlements with a view of securing title under the homestead laws, the State will not be permitted to select indemnity for the lands covered by said homestead entries without the authority of Congress to that end.

Mr. Davis's letter is herewith inclosed.

Very respectfully,

J. A. WILLIAMSON,
Commissioner.

Hon. A. S. PADDOCK,
United States Senate.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ARMS ACCOUNT WITH SOUTH CAROLINA.

Mr. BUTLER. I ask the Senate to postpone all prior orders and proceed to the consideration of Senate bill No. 1135, order of business No. 471.

The PRESIDENT *pro tempore*. The Senator from South Carolina moves to postpone all orders prior to order of business No. 471.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Senator from South Carolina now moves that the Senate proceed to the consideration of Senate bill No. 1135.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to the consideration of the bill (S. No. 1135) authorizing the Secretary of War to adjust and settle the account for arms between the State of South Carolina and the Government of the United States. It authorizes the Secretary of War to adjust the account for arms between the State of South Carolina and the Government of the United States, and balance the same by so reducing the overcharge made against the State in 1869, under the act approved April 23, 1808, and the several acts amendatory thereof, as that the amounts paid on that account by the State for the ten years last past be taken in full satisfaction of the same.

Mr. KIRKWOOD. Is there a report in that case?

The PRESIDENT *pro tempore*. There is.

Mr. KIRKWOOD. I do not understand the bill, and I ask that the report be read.

The Chief Clerk read the following report, submitted by Mr. HAMPTON March 30, 1880:

The Committee on Military Affairs, to whom was referred the bill (S. No. 1135) "authorizing the Secretary of War to adjust and settle accounts for arms with the State of South Carolina," beg leave to report:

That it appears from the papers in the case that Governor Scott, in 1869, sent the adjutant and inspector general of the State, F. J. Moses, jr., to Washington, "to make requisition upon the United States Government for the quota of arms due this State, and to receive and receipt for the same;" that in pursuance of the order of Governor Scott, Moses made a requisition and was notified by Colonel T. J. Treadwell, in charge of the Ordnance Office, that there was due to the State on account of the quota the sum of $8,798.78. Upon receipt of this information Moses wrote to General Dyer, Chief of Ordnance, that "the number of arms embraced in such quota would be entirely inadequate to the purposes for which the arms are desired by the governor," and he asked that ten thousand Springfield muskets and the like number of sets of infantry accouterments should be issued to the State. This request was approved by the Secretary of War, Hon. John A. Rawlins, and the arms were issued.

The State was charged for these arms $124,000. Since that time the State has been credited with the amount of her annual quota, reducing the balance still due to $20,596.08.

In view of the fact that the act of April 23, 1808, provides for an annual distribution of arms to the several States, and in consideration of the circumstances attending the extraordinary requisition of Governor Scott, by which the State has been deprived of her quota of arms during the last eleven years, and will be for twenty years to come, it seems but an act of equity that she should be relieved from the debt charged against her by the General Government. Your committee therefore recommend the passage of the accompanying bill.

Mr. KIRKWOOD. I do not understand the equity of that. If I understand it, in 1869 the State received a much larger quantity of arms than she was entitled to, and by reason of that receipt of a larger quantity than she was entitled to she has not received since her annual quota.

Mr. BUTLER. She has not received one since.

Mr. KIRKWOOD. The annual quota has not yet made up the extra amount that she received at that particular time. The proposition now is to wipe out the balance standing against her and let the new distribution commence from this time.

Mr. BUTLER. I do not know whether it will result in wiping it out or not. That is somewhat discretionary with the Secretary of War. It is to allow him to adjust the accounts, and if it be ascertained that the amount due South Carolina annually should wipe out that account to let it be closed. In the opinion of this Secretary's predecessor the amounts charged were out of all proportion to the value of the arms; but that is a matter in his discretion very much. This is simply to authorize him to adjust the account. It seems to me equitable and proper that the entire account should be wiped out, for under the present arrangement the State will never get for her National Guards a single arm for the next twenty years.

Mr. KIRKWOOD. I understand it is something like this: If an individual is entitled to receive $10,000 a year and he applies to the source from which the money is to come and gets $100,000 at one time with the expectation that the annual installments will eventually wipe it out, and after $50,000 of the $100,000 advanced has thus been wiped out, the proposition is then to sponge over the other $50,000.

Mr. BUTLER. I do not think that is a fair comparison. I think if an individual were entitled to get five thousand wagons a year at a certain price and he gets one hundred thousand wagons for which he is charged three times that price, it would be nothing but fair that what he had agreed for each individual wagon should be charged and that the balance should go to his credit in the settlement of his account. That is what we propose here.

Mr. DAVIS, of West Virginia. I once inquired into this case in looking up the question of the distribution of arms, and my recollection is that from some cause or other since the war a large amount of arms was given upon the requisition of some one of the governors of South Carolina, and they were sent to New York and actually sold, and the money applied for some purpose that was not very creditable, as I remember, having looked into it.

Mr. BUTLER. There can be no doubt of that fact. They were sold, and the State never got the benefit of it.

Mr. HAMPTON. I have some papers bearing upon the matter.

Mr. KIRKWOOD. I have but a single word further to say. In looking at the language of this bill there is no question in my mind that if the bill passes it wipes out entirely whatever is charged against the State. There may be good cause for doing so, but that is the effect of the bill.

Mr. HAMPTON. It is left to the discretion of the Secretary of War.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

REFUNDING OF TAX TO CITIZENS OF LYNCHBURGH.

Mr. JOHNSTON. I move that all orders prior to order of business No. 512 be postponed in order to consider House bill No. 2797.

The PRESIDENT *pro tempore*. The Senator from Virginia moves to postpone all orders prior to order of business No. 512.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Senator from Virginia now moves to proceed to the consideration of House bill No. 2797.

The motion was agreed to; and the bill (H. R. No. 2797) for the relief of certain citizens of Lynchburgh, Virginia, and refunding to them taxes improperly collected from them on manufactured tobacco, was considered as in Committee of the Whole.

Mr. CAMERON, of Wisconsin. I see that there is a report in this case. I ask that it be read.

The Chief Clerk read the following report, submitted by Mr. BAYARD April 13, 1880:

The Committee on Finance, to whom was referred the bill (H. R. No. 2797) for the relief of certain citizens of Lynchburgh, Virginia, and refunding to them taxes improperly collected from them on manufactured tobacco, having had the same under consideration, submit the following report:

The petitioners were licensed manufacturers of tobacco, resident in Lynchburgh, Virginia, and had carried on that business for some time previous to May, 1868.

Lynchburgh is a well-known center of tobacco manufacture, and the attention of the revenue officials of the United States Government is especially drawn to the transactions of that locality.

In 1868 there was a tax of thirty-two cents per pound upon the manufacture in which these parties were engaged. By law this tax was to be assessed upon and paid by the manufacturer; but a practice grew up that attained the force of custom to allow a sale of tobacco by the manufacturer unassessed, and, with the assent of the United States assessor, a delivery of the tobacco with the tax unpaid to the vendee, who assumed the payment of the tax in his contract, and who was then assessed and the tax collected from him.

Conspicuous among the tobacco manufacturers at Lynchburgh was one Seisfield, who was always—until August, 1868—regarded as a man of excellent character and high pecuniary responsibility. He was not only a manufacturer of tobacco himself, but an extensive dealer in the article; and these facts were well known to the United States revenue officials and to the public. It was a usual and customary thing for Seisfield, himself a manufacturer, to buy tobacco from other manufacturers, who sold and delivered the same to him without any precedent assessment or payment of tax, which was afterward assessed to him; although it was known to the Government officials that he was not the manufacturer, but the purchaser of the tobacco in question.

Such was the condition of business under the supervision and approval of the United States Treasury officials, and in the month of May, 1868, the petitioners sold and delivered to Seisfield, unassessed and tax unpaid, the tobacco for which taxes were subsequently exacted from them, and after such sale and delivery, both being well known to the United States officials, the legal tax was assessed upon Seisfield, who was then the owner, (and was also a manufacturer,) by the United States assessor, Wood, and the tax list delivered to Pendleton, the collector. But the collector had the statute before him, and declined to receive these particular assessments made against Seisfield, on the express ground that he was not the manufacturer thereof, but that the petitioners were. His objection was made known to Seisfield and to the petitioners, and the question was referred to the Commissioner of Internal Revenue at Washington, and the result was an order to Collector Pendleton to accept the assessments against Seisfield and proceed in the collection.

Thus the petitioners were lulled into a false security. Had the revenue officials executed the laws promptly and regularly the tobacco would have been duly assessed to the proper persons and the tax thereon paid; but as a result of the action of the Commissioner of Internal Revenue and his subordinates Seisfield was suffered to remain in possession of the tobacco under the assessment to him.

In August, 1868, Seisfield absconded, and suspicions against him were then first raised, and after he had fled, and by collusion with certain subordinate revenue officials, the tobacco in question had been fraudulently removed from the warehouses; then a second and new assessment was made, in September, on the petitioners, which should have been made months before, when they could and certainly would have secured the payment.

It is not stating the fact too strongly to say that it was not in the power of the petitioners to have caused themselves to be assessed instead of Seisfield. The condition of the excise laws gave practically an absolute and arbitrary power to the revenue officials.

If an erroneous assessment was made, the courts, both of the United States and of the States, were prohibited by statute from the exercise of the usual equitable and discretionary powers of injunction and restraint, in order to prevent irremediable injury to the citizen. The courts were compelled to say, in response to the plainest case of error or injustice:

"We can give you no relief. You must pay the tax under protest and then sue the officer, either to recover the tax improperly assessed and collected or for damages as a trespasser."

This was the case all over the Union, and many instances of great hardship and irremediable wrong resulted. In Virginia, excluded in 1868 from representation in Congress, the hardships of this nature were necessarily greater and more frequent.

The power of assessment was thus uncontrollable; the power of collection was summary and unavoidable, and in the cases of these petitioners it was promptly executed, and their houses and lands were immediately levied upon and threatened with forced and speedy sale at prices ruinous to the debtor.

It may be said there was "a compromise" and an abatement of the amount of tax at first demanded under the new and totally unexpected assessment, but to this committee it seems to have been a partial release and mitigation of a very harsh and inequitable collection.

If the legality of the tax had been in doubt, then a payment in accord and satisfaction would have been in settlement and a compromise; but the legality was not disputed, the facts were all well known and admitted by both parties, and on what grounds the amount of tax at first assessed and demanded was reduced does not appear. But the present application is not to readjust a settlement once made of legal rights, but an appeal to the equitable power in Congress, *ex æquo et bono*, to restore moneys which the harsh letter of the law made payable, but which the circumstances of the case, as stated, call upon Congress to restore.

In the present case the good faith and honesty of the petitioners is fully attested by the depositions of the United States revenue agents, who made a thorough examination of the facts at the time. They have paid all taxes duly assessed to them, and would have promptly paid the taxes in question if the action of the officers of the Government had not virtually prevented them, as we have above stated.

For these reasons your committee recommend the passage of House bill No. 2797.

Mr. CAMERON, of Wisconsin. I desire to inquire if this claim has been submitted to the Commissioner of Internal Revenue, and whether or not he has made any report upon the claim, whether or not he recommends this legislation.

Mr. BAYARD. There were very voluminous communications from the Commissioner of Internal Revenue. This report was the result of a very long examination and a great deal of debate in the committee. The papers in the case are very voluminous. In the report which was drawn by me under the direction of the committee I have endeavored to give all the points and to give the judgment that we arrived at upon those points. There is not, I think, a doubtful fact stated in the report upon which our conclusions are predicated.

There is no doubt that the practice of assessing manufactured tobacco to the vendee, instead of the manufacturer, was permitted constantly at that center of tobacco manufacture. That fact is not denied but admitted by the letters of the Department.

Mr. CAMERON, of Wisconsin. That was not in accordance with law.

Mr. BAYARD. Let me go a little further, and then I will answer any question the Senator chooses to put. The assessments in this particular case were made in accordance with the custom of the Department there. Finally, when a question was raised by the collector as to whether he should receive assessments made to parties who he knew were not the manufacturers but were the vendees of the manufacturers, he demurred to receiving such collection lists from the assessor and he applied to headquarters to know what he should do and whether he should or should not accept those collection lists and proceed in the collection of the taxes from the parties to whom the taxes had been assessed by the assessor. This led to a long correspondence, all of which we have had before us, which is in existence now in the committee-room, and can be sent for should the Senate desire to inspect it. The answer came to that from the Commissioner of Internal Revenue, "Go on with the collection according to the assessment which you have received." He went on, accepting that assessment as the proper one. The fact was made known to the original manufacturers as well as to the vendees that the collector was acting, after notice to the Commissioner of Internal Revenue, under his permission, or under his orders.

This was the state of affairs in the month of May, 1868. The manufacturers of the tobacco, the parties who were under law liable for the tax and liable to be assessed, were therefore made fully aware that after they had sold the tobacco their tobacco had been assessed to their vendees and not to themselves, and that the officers of the Government had been ordered to proceed and enforce that assessment upon those persons. So they staid until the following August.

Then the vendee who had been selected by the Government officers as the person to be charged with this tax (without the connivance, without the knowledge of the parties now sought to be relieved, the original manufacturers) was discovered to be in default. He ran away, in consequence of his own fraud, and by collusion with the Government storekeepers. Then they turned around and made a second assessment upon the parties who originally had been liable for the tax, but who had been kept lulled, as this report truly says into a false security on this subject. They then turned upon them and said, "We now will assess you in August for the taxes we should have assessed against you in May, but which we did assess to another person, and having given you reason to suppose that you were not liable for it we now call on you to pay it."

Those are the facts, ascertained by a long correspondence, in regard to which there is no doubt. The strict letter of the law would have enforced the assessment thereon when made. The agents of the Government did not execute that law, but they assessed these taxes to other than the persons to whom they should have been assessed and who had no control over that assessment.

The Senator perhaps may have had knowledge himself in his own State and in his own profession as I in mine that wherever there was an irregular and inaccurate and erroneous assessment the courts were not at liberty to relieve from it. Probably the experience of all who hear me, who are engaged in the legal profession, would accord with mine. I have attempted in a manifest case of error and mistake, where a man was included in a business with which he had no relation whatever, to go to the courts and endeavor to have the assessment and collection stayed, to have it enjoined until the circumstances could be examined into; and the courts would say: "We are powerless, for here stands a statute of the United States which forbids the issue of injunctive process by any court to delay an assessment."

These parties were wholly in the hands of the collection officers, and by them they were misled; by them they were wronged. It is a question appealing to the equitable sense of Congress. It is a case where a man has striven fairly and steadily to pay his tax, and where there never has been a suggestion that he meant to evade the honest payment of any tax, but by the acts of the officers of the United States he has been put in such a position that he could not compel the assessment and collection of the tax upon himself, but which they chose voluntarily and without his request to put upon his vendee. Then it becomes a question whether the Government through its agents having induced the man to occupy a position which, if it had been a case between private parties, there would not be a word of question——

The PRESIDENT *pro tempore*. The morning hour having expired——

Mr. BAYARD. I will ask the Senate to allow this matter to be concluded. I hope it will not take long.

Mr. HARRIS. If there be unanimous consent that the regular order be laid aside informally——

Mr. BAYARD. Let it be informally laid aside; that is all I ask.

Mr. HARRIS. If it be made subject to call, I would have no objection to a continuation of this bill to its conclusion, unless it shall stretch out to an undue amount of time.

The PRESIDENT *pro tempore*. The Senator from Delaware asks unanimous consent that the pending order may be laid aside informally, subject to call, for the purpose of continuing the consideration of this bill.

Mr. INGALLS. Not to be affected by an adjournment.

Mr. BAYARD. No.

The PRESIDENT *pro tempore*. Is there objection? The Chair hears none, and it is so ordered. The Senator from Delaware will proceed.

Mr. KIRKWOOD. Will the Senator allow me to interrupt him very briefly?

Mr. BAYARD. Certainly.

Mr. KIRKWOOD. I understand that after this irregular or illegal mode of assessment had been continued for some time it was brought to the notice of the Commissioner, and that he assented to it?

Mr. BAYARD. He did not check it; on the contrary, he told the collector to go on.

Mr. KIRKWOOD. Did he then say that that should apply to what had been done already, but should not be done again?

Mr. BAYARD. He did not make any such general declaration.

Mr. WITHERS. His full assent was given to the arrangement.

Mr. BAYARD. The Senator from Wisconsin [Mr. CAMERON] rose to ask me a question and I requested him to let me get through with my statement. I will merely say that I shall be glad to answer any question that the Senator desires to ask.

Mr. CAMERON, of Wisconsin. The Senator from Delaware stated that a practice had grown up in that particular locality, and perhaps in other localities, which I understood was contrary to the statute, which is that the party who should have been assessed was not assessed, but the vendee or some other party.

Mr. BAYARD. The vendee.

Mr. CAMERON, of Wisconsin. It is conceded that that was not in accordance with the law.

Mr. BAYARD. That is so; but I say it was tolerated by the Department. They had done it so often that their officers naturally followed it, and in this case it was done by the assessors. The lists were handed to the collector, they were returned to the Commissioner of Internal Revenue under the collector's demurrer, and the Commissioner told him to go on with those lists although he knew they were made out in violation of law.

Mr. MORRILL. It is very rare that I have occasion to differ with the Committee on Finance on a claim that has been reported favorably or adversely from it, but I do not think that this claim has been subjected to the usual scrutiny of that committee. The facts presented by the chairman of the Committee on Finance I believe are very much as he has stated, but he does not bring out in such strong light as I think should be done the fact that this is an old, stale claim, brought here a dozen years after the transaction, after a compromise has been made by the Department and a settlement with the Government at a much less sum than the original amount of taxes due upon the tobacco; nor does he bring the fact out that is suggested by the Commissioner of Internal Revenue of a suspicion of fraud on the part of the revenue officer, and a collusion possibly with the parties concerned.

Mr. WITHERS. With what parties, I will ask? To what parties concerned does the Senator refer?

Mr. MORRILL. The party who ran away.

Mr. WITHERS. Not the manufacturers.

Mr. BAYARD. Not the parties mentioned in the bill.

Mr. MORRILL. But I do understand that there is a very strong suspicion on the part of the Government officers here of fraud of their man intrusted with the collection of this revenue.

Mr. JOHNSTON. Not with the collusion, however, of any of these parties.

Mr. WITHERS. These parties had no connection with it.

Mr. MORRILL. These parties knew the law. They knew that they were violating the law as much as the officer himself. The Government cannot condone the offense either of the parties themselves or of the officers.

The report of the Commissioner of Internal Revenue would show, if it were read, the amount of tax levied. I do not ask to consume the time by its reading, nor do I expect to prevent the passage of this bill; but I desire that the fact shall be known. The amount of tax that was levied was something like $41,000, I think.

Mr. BAYARD. Forty thousand dollars, about.

Mr. MORRILL. A compromise was effected at $25,000. Under these circumstances I think it would be wrong for Congress to interfere.

Mr. WITHERS. Will the Senator state the circumstances under which the compromise was made?

Mr. MORRILL. The Senator from Virginia may state such circumstances as he chooses. I state them according to the representations made to the Committee on Finance.

Under these circumstances I think it would establish a very wrong precedent for us to take up cases that have been compromised by the officers of the Government. It would give us an endless amount of duty. If there is not to be an end of these settlements on the part of the Government, either by the Secretary of the Treasury or by the Commissioner of Internal Revenue, there is to be no end of our business here. It strikes me that this is emphatically a case that ought not to receive the sanction of the Senate.

The bill was reported to the Senate without amendment, ordered to a third reading, and it was read the third time.

The PRESIDENT *pro tempore*. Shall the bill pass?

Mr. MORRILL. I must ask for the yeas and nays on the passage of the bill, because I desire to record my vote against it.

The yeas and nays were ordered, and the Secretary called the roll.

Mr. PADDOCK. I wish to announce that the Senator from Iowa [Mr. ALLISON] is paired with the Senator from Tennessee, [Mr. BAILEY.]

The result was announced—yeas 33, nays 10; as follows:

YEAS—33.

Bayard,	Groome,	McDonald,	Vance,
Beck,	Harris,	Maxey,	Voorhees,
Brown,	Hereford,	Morgan,	Walker,
Butler,	Hill of Georgia,	Pendleton,	Wallace,
Call,	Ingalls,	Pryor,	Williams,
Coke,	Johnston,	Ransom,	Withers.
Davis of W. Va.,	Jones of Florida,	Saulsbury,	
Eaton,	Kernan,	Slater,	
Farley,	Kirkwood,	Thurman,	

NAYS—10.

Anthony,	Cameron of Wis.,	Morrill,	Windom.
Baldwin,	Ferry,	Platt,	
Burnside,	McMillan,	Rollins,	

ABSENT—33.

Allison,	Conkling,	Hoar,	Randolph,
Bailey,	Davis of Illinois,	Jonas,	Saunders,
Blaine,	Dawes,	Jones of Nevada,	Sharon,
Blair,	Edmunds,	Kellogg,	Teller,
Booth,	Garland,	Lamar,	Vest,
Bruce,	Grover,	Logan,	Whyte.
Cameron of Pa.,	Hamlin,	McPherson,	
Carpenter,	Hampton,	Paddock,	
Cockrell,	Hill of Colorado,	Plumb,	

So the bill was passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. T. F. KING, one of its clerks, announced that the House had concurred in the amendments of the Senate to the bill (H. R. No. 3347) to authorize the Secretary of War to furnish four pieces of condemned ordnance for the soldiers' monument at Marietta, Ohio.

The message also announced that the House had concurred in some and non-concurred in other amendments of the Senate to the bill (H. R. No. 6036) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1881, and for other purposes, and had concurred in the seventh amendment of the Senate, with an amendment in which it requested the concurrence of the Senate.

The message further announced that the House had concurred in the amendments of the Senate to the bill (H. R. No. 2440) to authorize the Secretary of War to transfer to the Fairmount Park Art Association thirty condemned or captured bronze cannon, to be used in the erection of an equestrian statue to the late Major-General George Gordon Meade, with amendments in which it requested the concurrence of the Senate.

The message also announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the joint resolution (S. R. No. 19) to provide for the publication and distribution of a supplement to the Revised Statutes.

The message further announced that the House had passed the joint resolution (S. R. No. 117) authorizing the Secretary of War to loan to the governor of North Carolina one hundred and forty-five tents for the use of the State Guards, to enable them to participate in the centennial celebration at King's Mountain in October next.

The message also announced that the House had passed the bill (S. No. 194) to provide for the disposal of the Fort Harker military reservation, with amendments in which it requested the concurrence of the Senate.

The message further announced that the House had passed the following bill and joint resolution; in which it requested the concurrence of the Senate:

A bill (H. R. No. 3151) for the relief of Francis W. Maxwell; and

A joint resolution (H. R. No. 316) granting the use of artillery, muskets, and tents at the soldiers' reunion at Decatur, Illinois.

The message also announced that the House had non-concurred in the amendments of the Senate to the bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the enrolled bill (H. R. No. 3966) to carry into effect the resolution of Congress adopted on the 29th day of October, 1781, in regard to a monumental column at Yorktown, Virginia, and for other purposes; and it was thereupon signed by the President *pro tempore*.

CLAIMS AGAINST THE DISTRICT.

Mr. HARRIS. Mr. President——

The PRESIDENT *pro tempore*. The Senate resumes the consideration of the unfinished business, which is House bill No. 2328, the District of Columbia claims bill. Did the Senator from Tennessee address the Chair?

Mr. HARRIS. I addressed the Chair for the purpose of calling up the unfinished business which the Chair has already laid before the Senate.

The PRESIDENT *pro tempore*. That comes up without a call by a Senator.

Mr. HARRIS. The Senator from Indiana [Mr. VOORHEES] desires to proceed this morning. If, by unanimous consent, the consideration of this bill can be laid aside informally to be taken up on call, and not be prejudiced by an adjournment if an adjournment should take place, I have no objection to that arrangement. It was partially so agreed yesterday evening, and I therefore announce it to the Senate.

Mr. SAULSBURY. I gave notice yesterday that I should immediately at the conclusion of the morning hour to-day ask to take up the resolutions in reference to the seat of the Senator from Louisiana. As I understand the Senator from Indiana [Mr. VOORHEES] has given notice that he desires to speak to-day I shall not call up the resolutions now, but at the conclusion of his speech I shall ask to take them up, so that gentleman who desire to make speeches upon the subject may have an opportunity to do so. In deferring action upon the resolutions we have waited some ten days, and one Senator, the Senator from New York, [Mr. KERNAN,] was on the floor for the purpose of addressing the Senate at the time the resolutions were laid aside for other business.

Mr. HARRIS. I very much hope the Senator from Delaware will not insist upon proceeding to the consideration of the Louisiana resolutions until the bill that I have mentioned is considered. It ought not to take more than an hour to dispose of the bill which is now under consideration, and I shall certainly resist any effort to displace it for the purpose of making speeches in the Kellogg case or in any other case.

Mr. ROLLINS. I supposed it was understood that the Kellogg case was not to come up during the present week, at any rate not until the return of Senators who are delegates at Chicago.

The PRESIDENT *pro tempore*. The Chair will state what is the matter before the Senate. The Senator from Tennessee [Mr. HARRIS] asks unanimous consent that the pending order may be laid aside informally without being prejudiced by an adjournment, in order to permit the Senator from Indiana [Mr. VOORHEES] to address the Senate upon the question which he has indicated. Is there objection?

Mr. WINDOM. I do not desire to interpose any objection, but wish to give my consent to the arrangement, with the notice, and if possible the understanding on the part of the Senate, that at some convenient time before the close of the session I may have an opportunity to address the Senate also upon the subject on which the Senator from Indiana now proposes to speak.

The PRESIDENT *pro tempore*. Is there objection to the agreement? The Chair hears none. The pending order is informally laid aside, and now the Senator from Indiana asks to consider——

Mr. VOORHEES. I ask to consider the report which has been made from the select committee to investigate the cause of the emigration of negroes from the Southern to the Northern States.

The PRESIDENT *pro tempore*. It is so agreed.

RIVER AND HARBOR BILL.

The Senate proceeded to consider its amendments to the bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes.

On motion of Mr. RANSOM, it was

Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and ask a conference with the House on the disagreeing votes of the two Houses thereon.

By unanimous consent, it was

Ordered, That the committee on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. RANSOM, Mr. HEREFORD, and Mr. MCMILLAN.

EMIGRATION OF NEGROES TO NORTHERN STATES.

Mr. VOORHEES. Mr. President, on the 15th day of December last I had the honor to introduce into this body the following resolution, which was afterward adopted:

Whereas large numbers of negroes from the Southern States, and especially from the State of North Carolina, are emigrating to the Northern States, and especially to the State of Indiana; and

Whereas it is currently alleged that they are induced to do so by the unjust and cruel conduct of their white fellow-citizens toward them in the South: Therefore,

Be it resolved, That a committee of five members of this body be appointed by its presiding officer, whose duty it shall be to investigate the causes which have led to the aforesaid emigration and to report the same to the Senate; and said committee shall have power to send for persons and papers, compel the attendance of witnesses, and to sit at any time.

A tone of bitter assault upon me as the author of the proposed investigation soon pervaded the republican press of the country. It was assumed that I was solely responsible for it, and thereupon it and its author were denounced accordingly. It seems strange in view of this fact to find that every republican Senator present and voting, except one, voted for the resolution on its passage, and on a call of the ayes and noes. I do not recall this circumstance in order to shield my head from hostile blows, but simply to illustrate what degree of fairness may be expected in the political warfare of the republican party. I shrink from no responsibility on this subject. I embrace all the consequences of the course I have pursued, and I have a right to expect others to respond to the same rule of conduct.

It has been assumed also by a partisan press, overlooking the attitude of republican Senators, that the investigation contemplated by the resolution, and which is now concluded, was not only a novel, but a most unwarranted proceeding, and called for the general condemnation of the public. Is this assumption true? On the contrary, there have been many investigations since the close of the war into the alleged condition of the colored race in the Southern States. They have been on a scale so extensive that the one now under consideration is dwarfed in the comparison. But as they were organized in the interest of the republican party, and so conducted as to insure political capital for that party in the Northern States, it would be unreasonable to expect them to receive anything but plaudits and praise from party organs and party leaders. The present investigation is the first departure from that rule, and it has been fiercely resented as an innovation, a democratic innovation, upon the monopoly of the republican party, an infringement of an old patent for the manufacture of southern outrages, and for the construction of an exciting, sensational, harrowing campaign document on the approach of an important election. I think I may concede that the republican party has a right to complain that one of its immemorial customs and most sacred privileges, the privilege of deceiving the public mind, has been greatly interfered with during the session of Congress now drawing to a close. An investigation has taken place into the alleged causes of the discontent and the migratory movements of the negro race in the South, during which both parties and both races have been fully and equally examined and heard.

Sir, there has been much inquiry and speculation in the public mind as to the real origin of what has come to be styled the exodus of the negroes from their southern homes. All party or northern responsibility for it has been most strenuously denied. It has been vehemently insisted that no suggestion from any political quarter, or indeed from any quarter whatever, was ever made to the negro on the subject; that the thought to migrate originated entirely within himself, inspired by a sense of intolerable oppression and injustice. There are abundant facts of record which show this to be not true. I here assert that the first dawning of the idea of a negro exodus into the Northern States and Territories, the first conception and the first announcement of such a purpose, occurred in the North, and was originated by leaders of the republican party. I assert that it was a lesson taught to the negro, not by his sufferings or misfortunes in the South, but by political partisan leaders in the North. I shall not dwell on the well-known and well-proven fact that as early as the autumn of 1878 republican newspapers in Indiana, edited by republican Federal officials, were openly and systematically engaged in encouraging negroes to come and settle in that State, avowedly for political ends. A democratic State ticket had just been elected by 13,000 majority, a democratic Legislature by a majority still larger, and the camp of the republican party was desolate, its colors were in the dust, its haughty pride was broken, and it cried out piteously for the negro to come, and to come in large numbers, to its aid. Passionate appeals were made editorially, and circulars were printed of the most enticing character for distribution in the South. The Banner, a very prominent republican paper, published at Greencastle, Indiana, and edited by Mr. Langsdale, the postmaster at that large and important town, appears to have been selected to do most of this work, while the whole republican press of the State and all the leaders of that party stood by either in silent or outspoken approval of its course. Not a whisper had been heard from the negroes themselves on this subject up to that time. The thought of emigrating in large bodies from their homes in the South had not until then occurred to them. But in seeking the origin of the negro exodus I am not confined to the republican papers and postmasters of Indiana. There is high authority in this body for the assertion that it was conceived in the brain of a northern white man and not in that of a southern black man.

Sir, I have known the Senator from Minnesota [Mr. WINDOM] many years, and I hold him in the most perfect respect and esteem. In assigning to him, therefore, the principal authorship of the colored exodus, with all its consequences, he will understand that I do so in the spirit of absolute personal good-will and friendship. On the 16th of January, 1879, he introduced into this body the following resolution:

Resolved, That with a view to the peaceful adjustment of all questions relating to suffrage, to the effective enforcement of constitutional and natural rights, and to the promotion of the best interests of the whole country, by the elimination of sectionalism from politics, a committee of seven Senators be appointed by the Chair, and charged with the duty of inquiring as to the expediency and practicability of encouraging and promoting by all just and proper methods the partial migration of colored persons from those States and congressional districts where they are not allowed to freely and peacefully exercise and enjoy their constitutional rights as American citizens into such States as may desire to receive them and will protect them in said rights, or into such Territory or Territories of the United States as may be provided for their use and occupation; and if said committee shall deem such migration expedient and practicable that they report by bill or otherwise what in their judgment is the most effective method of accomplishing that object; and that said committee have leave to sit during the recess.

Here was a direct proposition for an investigating committee, to be composed of seven Senators, with a view of encouraging and promoting the migration of colored persons into the Northern States and Territories. It was the first ever made in either branch of Congress, and was regarded at the time as a harmless novelty. On the 7th of February, less than a month later, however, the Senator from Minnesota addressed the Senate in support of his resolution, making a very elaborate and carefully prepared speech. In this remarkable speech he deplored what he styled the shameful failure of the Government to vindicate our citizenship within our own borders, and assuming that the negro was deprived of his constitutional rights in the Southern States advised him to go elsewhere. A new Canaan, in the rich language of the Bible, was proclaimed by the Senator from Minnesota to the fervid imagination of the negroes if they would arise and leave their present habitations. A Moses was also promised them in express words by the Senator to lead them by thousands to the new Canaan which he described. He lures them into his scheme by saying that the privilege of taking from forty to eighty acres of good land should be extended to millions of colored people, and that they should have their land in a locality suited to their wants. As to the expense of such a movement the Senator treats it lightly. He says:

If it should cost a few millions to provide the territory for them, who would weigh that fact in the balance against a solution of the most perplexing and dangerous problem that menaces our future as a nation, the performance of partial but tardy justice to a race, and the permanent pacification of the country?

Again, the Senator exclaims:

Let it be understood that such a place is ready for them, and the bishops and ministers of their various churches will head the exodus to the promised land, with songs of praise and devout thanksgiving to God for this mighty deliverance. Do you say they are too poor to pay the expenses of the proposed journey? Doubtless the great majority are so, but the enterprising, the intelligent, and the ambitious will find some means of getting there; and should any difficulty occur at this point, the patriotism and philanthropy of the people may be confidently relied upon to organize and provide the needed funds.

It will be seen from this passage of the Senator's speech of February 7, 1879, that he not only proposed a select committee to encourage the exodus of the negro, but that he likewise suggested the very plan by which it could be best promoted. He declared that "the patriotism and philanthropy of the people," meaning of course the people of the North, "could be confidently relied on to organize and provide the needed funds." This was the first suggestion, as far as I know, of the organization of emigrant aid societies which sprung up so rapidly almost immediately afterward. "Organize and provide the needed funds!" These are the words of the Senator from Minnesota, spoken with reference to the action of the Northern people in their efforts to promote the negro exodus from the Southern to the Northern States, and they were acted upon at various points without delay. The voice of the Senator was heeded, as it ought to be, by his party followers. His counsels were accepted by his party associates, both white and black, and societies were at once organized to "provide the needed funds." One was formed in this city and one in Saint Louis. It is a circumstance to be noted and remembered that between Washington City and Saint Louis the only other emigrant aid societies were established in Indiana. Captain O. S. B. Wall, a republican, a colored man, and president of the emigrant aid society at this place, testified on the point in question as follows:

Question. Where was this emigrant aid society organized of which you are the president?

Answer. At the house of Mr. Adams, the secretary.

Q. Where was that?

A. At the corner of Fourteenth and V streets.

Q. In this city?

A. Yes, sir.

Q. Is this the parent society, or are there branches of this emigrant aid society?

A. This is the parent society and the only one.

Q. You mean there are no branches?

A. None that I know of. There are no auxiliaries that I know of excepting in this sense, that we were organized first and that others which were organized after-

ward showed a deference to us, being first organized and being located at the national capital. We have never given authority to any other society in any other State.

Q. Are there any other similar societies, to your knowledge, in the United States?
A. I learn by the papers and by hearsay that there are a number of them.
Q. State where they are, as far as you know.
A. There are one or two in Kansas, I have heard. * * * Then I have read or heard, I do not know which, that there were some in Indiana and some in Pennsylvania, New York, and other places which I cannot now recall. I have heard this in a general sort of way.
Q. There are several in Indiana, you say?
A. I have heard so or read so, or both.
Q. Where are those located that are in Indiana?
A. I think I have heard there is an organization at Greencastle. I understand there is one at Indianapolis. I think I have read of another at some other place in Indiana, but as to that I will not undertake to be explicit.

This republican witness, a zealous friend of the exodus and of his party, here proves as plainly as human testimony can prove any fact that there were two and perhaps three emigrant aid societies organized in Indiana to encourage negro emigration to that State, and to provide the needed funds. One was at Indianapolis, one at Greencastle, and the other most likely, though not so stated by the witness, at Terre Haute. These societies were secret so far as the general public was concerned. Their existence was unknown except to those connected with them until the present investigation exposed them. The great body of the people of Indiana did not know that secret organizations were at work in their midst, pursuant to the suggestion of the Senator from Minnesota, to induce negroes in large numbers to come into the State, and to provide means for the transportation of such as were paupers. It was at first a hidden conspiracy, so far as Indiana was concerned, to stock the State with a worthless black population. The conspirators—of course I do not use that word in connection with the Senator from Minnesota—moved about for a time in the dark and fancied themselves secure from exposure. That the object of the conspiracy was to assist the republican party and to secure its ascendency in Indiana, if possible, is a matter of the clearest demonstration under the proof.

Mr. WINDOM. Would it interrupt the Senator if I should ask him where those secret societies were organized, and what class of people composed them?

Mr. VOORHEES. The Senator can answer that from the evidence, just as well as I can.

Mr. WINDOM. I should like to have the Senator answer.

Mr. VOORHEES. I will discuss that with the Senator at another time.

Mr. WINDOM. I will state here, then, that there was no such thing in the proof.

Mr. VOORHEES. I say there was, and I will show there was by the proof.

Mr. WINDOM. Then it stands between the Senator's assertion and mine.

Mr. VOORHEES. It does not stand upon our say-so, for I shall show it by the evidence here, and will submit it to the country, in the clearest possible manner.

Mr. WINDOM. I feel myself at liberty to ask leave of the Senator to correct him at that point, when, although speaking respectfully of myself, he says that there was a secret conspiracy of which I was a part.

Mr. VOORHEES. I said the Senator was not a part, distinctly.

Mr. WINDOM. I deny that there was any conspiracy of any kind, or that the proof shows there was any secret society in Indiana to encourage a single colored man to come into that State.

Mr. VOORHEES. If the Senator thinks he can inject that sort of a denial into my speech, we shall see about that hereafter. If he will sit and listen until I get through, if I do not demonstrate to him the truth of what I have said, and to the satisfaction of every man of every color and of every shade of politics, I will agree that what I say to-day goes for naught.

Mr. WINDOM. I shall certainly listen with great——

Mr. VOORHEES. I decline to yield. The Senator knows that this is not the kind of a speech which is usually interrupted.

The PRESIDING OFFICER, (Mr. GROOME in the chair.) The Senator from Indiana declines to yield, and cannot be interrupted without his consent.

Mr. VOORHEES. Other results, however, besides the formation of secret emigrant aid societies immediately followed the speech of the Senator from Minnesota. In the course of that speech the Senator quoted from and complimented Rev. General Thomas W. Conway, who seems from his mixed title to have handled the weapons of both spiritual and temporal warfare. And who is General Conway? The Senator, not content with quoting him as high authority here in the Senate, called him as a witness before the exodus committee. We there learned the history of his connection with the affairs of the negro race. I read from his testimony before the committee:

Question. Will you please state what your connection has been with the education of the colored race, or your opportunities for knowing its condition generally?
Answer. I was commissioner of the Freedmen's Bureau by appointment of the President. I was superintendent for the Department of the Gulf, under General Banks, in 1864; and when the bureau was organized in 1865 I was appointed commissioner for Louisiana, and also Alabama until General Swayne was appointed for that State; then I remained commissioner for Louisiana until 1866. Subsequently I was State superintendent of education for that State.
Q. For how long a time?
A. For five years; up to 1872.
Q. Did you live there in 1872?
A. I lived there in 1872. I was there from 1863 to 1873, ten years. I went there as an officer of the Army. I became identified with the interests of the colored people in that way, and am now, and expect to be for some time to come.

In point of fact General Conway is recognized as one of the most prominent men in the country connected with the agitation and promotion of negro emigration. When before the committee he stated that he was then on his way "to New Mexico to pioneer for about one hundred thousand of these people who are coming out of the South this spring and summer, with means to buy land in their own behalf." Bearing General Conway's conspicuous position on this subject in mind, let us next see what his movements were almost immediately upon the delivery of the speech of February 7, 1879, by the Senator from Minnesota. Within less than a month afterward General Conway reached this city for consultation with the leaders of the republican party in regard to the negro exodus. He states in his testimony that he especially consulted the late Senator Chandler, who was at that time the very able chairman of the republican national committee. No one will dispute that Mr. Chandler, when alive, and in that position, dictated and shaped the policy and political management of his party more than any other man in it. General Conway says that he warmly and enthusiastically embraced the exodus movement, thus giving it the full and cordial approval and support of the official head of the republican party. Thus equipped and strengthened in his faith and purposes General Conway tells us that he started South by way of the West. Let it be remembered that this was in March, 1879, at least six months before negroes commenced to arrive in Indiana, and then the following testimony of the General's before the committee becomes luminous with meaning:

Question. You visited Indiana on that trip, did you not?
Answer. I stopped at Indianapolis on my way.
Q. You made some pleasant acquaintances there, I hope?
A. I did, sir.
Q. Whom did you meet?
A. A number of the citizens; I knew some parties there; and some whom I did not know I made the acquaintance of while I was there.
Q. How long did you remain there?
A. I think three days.
Q. During that time you saw Mr. Martindale, the editor of the Journal?
A. I believe I did.
Q. You saw Mr. New, the chairman of the republican State committee?
A. I saw Mr. New; I didn't know whether he was the chairman of the republican State committee or not.
Q. Did you know Colonel Dudley?
A. The name is familiar to me, but I do not remember meeting him.
Q. Do you know Colonel Holloway, the postmaster?
A. Yes, sir.
Q. Do you know Colonel Straight, a candidate for governor there?
A. No, sir; I knew him by name, but not personally.
Q. Well, General Conway, you know we have a prying curiosity in this committee. I want to know of you now why you staid there these three days?
A. Well, sir, I was tired, and the journey was a tiresome one, and Indianapolis is a pleasant city, and I wished to see what could be done regarding these laborers, as to getting employment for them, and I thought these gentlemen would know about that as well as anybody I could find.
Q. Did you meet with reasonable encouragement?
A. Yes, sir; a good deal of it. I was told, and information came in there, that five or ten thousand could find employment in Indiana.
Q. Was that the opinion of these gentlemen?
A. Yes, sir; I think it was. I also met two or three Quakers there, and one of them said he had been through the State, and he showed me a long list of names of farmers who would give them employment.
Q. Then it was not disguised between you and these gentlemen that it would be of political advantage to the State, as well as to these negroes themselves, to bring them there, was it?
A. Not at all, sir; I so regarded it, and I think so still.
Q. And so did they?
A. Yes, sir.
Q. From your party stand-point, you think it is desirable to carry Indiana for the republicans?
A. Undoubtedly so, sir.
Q. And they looked upon it in the same light, did they?
A. I think they would be great fools if they did not; I think they did.
Q. You spoke of going to Saint Louis and Indianapolis, and then returning here?
A. I returned to Indianapolis.
Q. Where from?
A. I returned from Kansas to Quincy, Illinois, and to Chicago, and then came back to Indianapolis.
Q. How long were you there the second time?
A. About a day.
Q. Did you meet some of the same gentlemen?
A. Yes, sir.
Q. Did you find the negroes arriving at Saint Louis when you got there?
A. Yes, sir; they were arriving before I started.
Q. And you tried to divert them to Indiana?
A. Yes, sir; I told the committee I thought it advisable not to send any more to Kansas—that many of them were wanted in Indiana, Illinois, and other States, and I thought it would be better for them to go there.
Q. Did you report to these gentlemen in Indianapolis that you had met and encouraged these people to come to Indiana; in other words, did you inform them of what you said to that committee at Saint Louis?
A. I think I did give them a general idea of what I had done.
Q. Then did you return further east—come back here?
A. Yes, sir; I did.

Sir, it has been iterated and reiterated until the very air is weary of the falsehood that no proof has been made before the committee inculpating the leaders of the republican party of Indiana as conspirators to overthrow the democratic majority in that State by an importation of negro voters. Men have been hung and justly hung on evidence far less conclusive of crime than is here submitted against the most prominent men of the republican party of Indiana, implicating them in an attempt to rescue their broken political fortunes by colonizing the African element of the South. I challenge and defy con-

tradiction on this point. I have no desire to assail anybody; very far from it; but General Conway is the peer in character, position, and influence in the republican party of any man in Indiana mentioned by him in his testimony, or met by him while in that State on the exodus business. I do no injustice to Mr. New, Mr. Martindale, Colonel Dudley, Colonel Holloway, or General Straight, or any one else, in making this statement. Yet General Conway, with no possible motive to injure his brethren, but rather with a strong motive to shield them, swears directly and explicitly that he halted three days at Indianapolis on his trip South to aid the exodus in order to ascertain what encouragement, if any, there was for negro emigration to Indiana; that he there met the chairman of the republican State central committee, the editor of the recognized State organ of the republican party, the postmaster of the city of Indianapolis, and many others, and that he was assured by them that from five to ten thousand negroes could find employment in that State.

The numbers here spoken of were to be voters, not encumbered by women and children, for when General Conway was asked whether the gentlemen with whom he was in consultation at Indianapolis understood that the emigration of the negroes was to be of political advantage to the State, and for the purpose of carrying the State for the republicans, he answered that they understood the whole thing and gave it great encouragement. Thus again assured of political co-operation in his efforts, General Conway journeyed on from Indianapolis to Saint Louis and thence to Kansas City. His mission to those cities was a most natural one in the light of his stay at Indianapolis. He says that he found negroes arriving there from the South, and tried to divert them to Indiana. Of course he did; it was so arranged, so stipulated in secret political conclave. Conway's movements and labors were the result of no vague, uncertain, ill-defined plan of action. He moved from the national headquarters of the republican party in this city to the headquarters of that party in Indiana, and from there under instructions to Missouri and Kansas. He even returned to Indianapolis to report his proceedings further west. He testifies that on his return east he stopped over and reported to his friends in Indianapolis that he had met and encouraged emigrating negroes to come to Indiana, thus putting them in entire possession of every detail of this scheme of colored colonization for political purposes. He had advised with the leading men of Kansas, and it had been agreed that the heavy stream of colored emigration should be diverted, if possible, from that State into Indiana, and all this he faithfully communicated to his political coadjutors at Indianapolis. Hear him, in the following passage of refreshing frankness:

Question. Recurring to the point, whom did you principally see at Indianapolis?
Answer. I saw a number of gentlemen there who were interested in the matter—some who were purely philanthropic, and some who were distinguished politicians.
Q. Name some of those distinguished politicians.
A. I do not think I could name any except those whom you mentioned—Messrs. New and Martindale, and others.
Q. They knew what your purposes were?
A. Yes, sir; distinctly, sir; and the whole country knew it.
Q. And as you understood them, they were willing to co-operate with you in turning a portion of this emigration into Indiana?
A. Yes, sir.
Q. With whom did you principally talk in Kansas upon this subject?
A. I talked with a great many everywhere I went. There were probably fifteen thousand people at Lawrence, where I made a speech on the subject, and that attracted a good deal of attention to me.
Q. Apart from that, did you talk with prominent men there about the desirability of diverting a portion of these people from their State to other Northern and Western States?
A. Yes, sir; I talked to Governor St. John, Rev. Mr. Munjoe, and others.
Q. The sentiment in Kansas among prominent men like Governor St. John was that there was some dread they would get more of these people than was good for the State or the colored people, and one feature of the plan was then to divert a good deal of it elsewhere?
A. Yes, sir; that was the sentiment.
Q. When you came back to Indianapolis, did you make known to Mr. New and Mr. Martindale that you had conversed with prominent men in Kansas, and that an effort would be made to divert some of these people to Indiana?
A. I believe I did. I desire just here to make this further statement: In regard to the inquiries made of me as to whether I had any political objects in view in connection with Indiana, or any other State, I wish to interpolate this: I believe that the negro is a useful man; that he is a law-abiding man, naturally; and I deem it a great wrong to him to express the opinion that he would be a detriment to any Northern State. He served us faithfully in the war, as he had previously worked faithfully in time of peace. There are fewer dependents, and paupers, and vagabonds, in proportion to their number, among them than among the whites. I have had as much to do with their education and their care as any white man in this country, and I have generally found them willing to work; willing to abide by the laws, even though they are oppressive; willing to go to school and get an education to whatever extent is possible. I should not hesitate to advise any community to welcome them, or hesitate to advise them to go to any community or any State, Indiana included. Of course they vote the republican ticket; I am very glad they do; I hope they always will; I have, and I always expect to. To whatever part of the country they may go, I hope they will continue to vote the republican ticket, because it is in the interests of their race, and in the interests of the country at large—in the interests of a higher civilization. Hence I have no hesitation in saying that I should advise the negro to go to Indiana, both on the ground of his usefulness and his merits.
Q. Both as a laborer and as a voter?
A. Yes, sir.

And still further, when this most conspicuous and active evangelist of the exodus was under examination by the Senator from Minnesota, he testified in regard to the plot against the people of Indiana in the following explicit terms:

Question. Do you know of any effort to colonize any State with negro voters?
Answer. There has been some talk about it, and I have been trying to help carry Indiana by their aid.
Q. What have you done in that direction?
A. I encouraged as many of them to go there as I could—first, because I believed they could get good wages, and second, to help out the republican cause and raise the negro to a higher civilization. I think he is a good republican and a good loyal citizen, and should be allowed to vote; therefore I have not liked the idea to exclude politics from the exodus. I think the negro ought to go where he can do the most good for himself and the republican party.
Q. Hasn't it been something of a failure rather—your trying to get them to go to Indiana?
A. Yes, sir; I think so. I have been desirous to see a good many of them go in there. I wanted to see the democrats beaten, and I wanted the negroes to go in there and help do it.
Q. How many voters do you suppose have gone in there?
A. If all had gone whom I advised to go there would have been fifteen or twenty thousand.

Must I pause to dwell upon and enforce the conclusive character of such testimony as this? Who now will prate of the absence of proof that the emigration of negroes into Indiana was a political scheme known, planned, fostered, and carried on by the leaders of the republican party? General Conway was not my witness; he is a republican of stalwart proportions, a prime mover in the exodus agitation, following closely in the wake of the speech of the Senator from Minnesota. Out of the mouths of their own political friends and associates the now revealed conspirators against the right, the sovereign right of the people of Indiana to govern themselves without the assistance of imported pauper negroes, stand naked and condemned. What answer has been made or can be made? General Conway says that the plan so far as Indiana is concerned has been a failure; he says he wanted enough negroes there to defeat the democratic party; he wanted and advised that fifteen or twenty thousand should be colonized in that great State, and in the absence of something like that number he concedes that his missionary labors for the republican party in the matter of negro importation has not been a success. The failure of this unworthy undertaking, however, is not due to any want of zeal or unscrupulous industry on the part of its authors. It has failed as a political conspiracy because it has been exposed by an honest, active, aggressive investigation. It was only dangerous while it was comparatively in the dark. A scheme so unnatural and nefarious perishes when dragged to the light of day. Those engaged in it are crippled and rendered powerless by the scorn and contempt of the public as soon as they are disclosed by reliable evidence.

But leaving at this point the overwhelming, crushing testimony of General Conway, I proceed to other facts which establish the existence of an infamous political plot to subvert the will of the people of Indiana by the procurement of an objectionable negro population. Among the earliest witnesses called before the committee was H. W. Mendenhall, of Wayne County, Indiana, and now in Government employment in this city. He was a member of the original emigrant aid society founded in this city, and was placed on the committee to audit its accounts. It was understood that he had made a significant speech at the first or second meeting of the society, and the following is a portion of his testimony when called before the exodus committee:

Question. Have you ever been in the South?
Answer. No, sir.
Q. And you knew nothing of the condition of the people there?
A. No, sir; except what is a part of the history of the country.
Q. That is, what you have read in the newspapers?
A. I have read something in the newspapers, and I generally read and believe what I see in a newspaper, if it is a republican newspaper.
Q. What kind of a newspaper did you read it in?
A. I only take the best papers.
Q. Do you read any democratic paper?
A. I do not know that I do particularly, but I have seen some things from the Southern Okalona States.
Q. But you believe all that you read in a republican paper?
A. Yes, sir; I think I would.
Q. Then you read something in these newspapers to the effect that the negroes were in bad condition?
A. Yes, sir; I think the report I read was in a republican paper.
Q. Didn't you state in your speech that the negroes would do better by going to Indiana?
A. No, sir.
Q. What inducement did you state would be held out to them in Indiana?
A. None.
Q. Did you say anything on the subject?
A. I had never seen or heard at that time anything about people coming from the South to Indiana.
Q. Did you say anything about it yourself in your speech?
A. Yes, sir; I did.
Q. What did you say?
A. I will tell you exactly; or rather give you the substance, as I cannot tell the language precisely. I stated that their persecution was as much as they could bear, and that if Indiana could offer inducements to these people I felt like a great number of them would go there; and I stick right there now.
Q. Didn't you state in your speech that as these negroes were going to emigrate you would like to have a large number of them come to Indiana?
A. Yes, sir; I knew that a great number of them, if not all, voted the republican ticket, and I would like amazingly to see them come there, just the same as you to see the Irish coming in there because they generally vote the democratic ticket.
Q. You were in favor of their going there to vote?
A. Yes, sir; I was.

Here we find a representative man of the republican party of Indiana, holding office under the present Administration, striking out at once at the earliest possible moment for political advantages arising out of the transportation of negroes from the South to the North. If it is claimed that he spoke simply for himself alone, his testimony contradicts such a statement. He testified that he had been in correspondence with Colonel Dudley, United States marshal of Indiana, and others on this subject. He said that Colonel Dudley disclaimed

the negro emigration into Indiana as a republican party measure, but hoped nevertheless the negroes would come. The following is the interesting colloquy which took place in committee between Mr. Mendenhall and the chairman in regard to the position of Colonel Dudley, the United States marshal for Indiana:

Question. Did he seem to think he would like to have them there to vote us down?
Answer. Yes, sir; I think he did.
Q. Then he disclaimed the act but was willing to take the fruits?
A. Yes, sir; that is about it.

I hope the exposure of this coy prudence of Colonel Dudley here so graphically described—a prudence as old as the world—which simpers and halts somewhat in the face of temptation, but always at last accepts the profits of crime while washing its hands of the blood of criminal commission; I hope that its exposure by Mr. Mendenhall will not be attributed by the marshal and his friends to any other than its true source—a republican source.

In regard to Mr. Mendenhall, and in corroboration of his own statement, I read a brief extract from the testimony of Charles N. Otey, a colored man of ability, a graduate of Howard University both in literature and law, and now the editor of the Argus, a weekly paper in this city devoted to the interests of his race. I will have occasion to again refer to his testimony, but for the present I submit the following:

So far as I know, no member of the society appeared to hold any other view until Mr. Mendenhall, at the second or perhaps the first meeting, made a speech in which he suggested the advisability of diverting the emigrants from Kansas, which seemed to be the objective point of all of them, and in his speech said that it would be a good thing to send about five thousand into Indiana, as that was a doubtful State in the coming election. No one at the time objected to this suggestion save myself.

Otey and Mendenhall were both members of the emigrant aid society at this place, but Otey, with higher principle than his white associates, withdrew from the organization when its political purposes were disclosed. Another witness, a member of the same society, bears similar testimony to that of Otey and Mendenhall as to the intention of parties guiding the movement to put the bulk of black emigration into Indiana. J. W. Cromwell, a clerk in the Treasury Department, in speaking of two well-known agents of the exodus movement from North Carolina, testified as follows:

Question. You say that when those two men, Perry and Williams, first came here last fall in connection with this matter it was their purpose to lead this emigration right through Kansas?
Answer. It was.
Q. But they changed their purpose, and decided to settle their emigrants in Indiana?
A. They did.
Q. What was the reason of that change?
A. So far as I understood, it was this: Kansas is a new State——
Q. Are you giving now your own reasons, or the reasons you got from Perry and Williams?
A. I am giving what was told them.
Q. Told them by whom?
A. By different members of the aid society.
Q. Who were they that told Perry and Williams and the rest to go to Indiana instead of Kansas?
A. I think the secretary of the association.
Q. Who is he?
A. I think Mr. Adams.
Q. Who else?
A. Well, I told them myself.
Q. Who else?
A. I do not know of any other person who told them.
Q. You think their original purpose was changed by this emigrant aid society, of which you are a member?
A. Yes, sir.
Q. What reason did Mr. Adams give for changing the tide of emigration to Indiana instead of Kansas?
A. That they could get work in Indiana, and not in Kansas.
Q. Why could they get work in Indiana, and not in Kansas?
A. Because Kansas is a new State; the people there are making their first struggles, and are not in a condition to employ as largely as in an old State like Indiana.
Q. Were you ever in Indiana?
A. I was not.
Q. Then you did not know whether they want any laborers in Indiana in the winter-time or not?
A. I will give you my reason for telling them to go to Indiana instead of Kansas.
Q. You have already given one reason.
A. Well, there was another reason; I had received a circular from Indiana.
Q. By whom was that circular issued?
A. By J. H. Walker, of Terre Haute, Indiana.
Q. What did Mr. Walker say in that circular?
A. He stated that there was a great demand in Indiana for laborers; he said he was born in Virginia; he said it had been said that the climate of Indiana was too cold for colored men, but that it was not too cold for him; and that as many people as would come there could find good homes, and be paid for their work, and their children would have an opportunity to go to school.
Q. Had you this circular when you talked with Perry and Williams?
A. I had.
Q. Did you show it to them?
A. I did.

Sir, every particle of this evidence, great and small, indicates the State of Indiana as an objective point for the movement of the colored people in their emigration northward. There is no exception or qualification to this statement. In every ramification of the exodus scheme its long and repulsive arms are found reaching out to embrace the only Western State which is reliably democratic. Every thought and every circumstance connected with the negro emigration movement takes hold upon Indiana as a cardinal feature and condition of the whole affair. There is no other reason why that State should have such an unsought and degrading association except that a desperate and unscrupulous political party, defeated over and over again by her people, have determined to win a victory within her borders by the basest means ever yet known in American politics.

The efforts to change the current of colored emigration from Kansas to Indiana not meeting with desired success, a new field was entered upon. All of a sudden, with only here and there a symptom of the conspiracy apparent, a tide of negro emigrants broke loose from the State of North Carolina and came rushing pell-mell through this city on their way to the State of Indiana, filling the country with their charges of bad treatment in the South, and their visions of a negro paradise in the North. It was a strange spectacle, and struck the country with amazement. The emigration was composed of the most worthless, thriftless, and indigent portion of the colored population, and they appealed for charity at every step, and talked loudly about being fugitives from a house of oppression and virtual bondage. The sympathy of the country was aroused, and the groundwork of the approaching presidential campaign was being rapidly laid on a fresh and enormous supply of alleged southern outrages. There were two strong and controlling circumstances, however, which inclined me to suspect, even in the absence of further proof, that the movement was a fraud, and that the real object of it was not disclosed. The first of these two circumstances was the fact, which I personally knew, that the people of Indiana, not the republican politicians, but the honest, industrious masses of both parties, had no inducements to offer for such a class of emigrants to settle in their midst.

I knew that Indiana had never courted the presence of a large negro population in her borders, and that she especially did not encourage the advent of the pauper element of that population in the South. I knew further that the negroes themselves, if left to their own minds, uninfluenced by political emissaries and glowing circulars describing a country of ease, high wages, and abundance, would never have chosen Indiana as their New Canaan, their promised land, filled with corn and wine and flowing with milk and honey. It was plain to my mind that they were not guided in their selection of that State by any instinct or judgment of their own, nor did they follow a cloud by day, or a pillar of fire by night, or any other lofty agency in their journeyings thither. No Moses, with the light of the burning bush in his face and the oracles of God on his tongue, called them forth to go up out of Egypt, beyond Jordan, into a land set apart for them and their posterity forever. The book of Israel's exodus and the book of the negro exodus do not read alike. For the one there was the inspiration of the Almighty; for the other the inspiration of political ambition. For the one the Almighty spoke and commanded; for the other ambitious politicians conspired in the dark, and schemed together to dethrone the sovereignty of a State. Upon the exodus of Israel depended the fulfillment of the decrees of Heaven, while upon the exodus of the negro depended the election of a republican President, which cannot take place without the subversion of the will of the majority in Indiana. The one was led by him who from the top of Pisgah, with an undimmed eye, overlooked all the land of Gilead, and there died and was buried by the angels; the other was led by the furtive, hurrying, false-tongued agents of a corrupt conspiracy against the purity and integrity of American suffrage.

Sir, knowing that Indiana did not want the negro population which was on its way there, knowing that there was no natural demand for the negro in that State and no call for his labor, and knowing also that the negro himself would have so decided but for a wholesale deception practiced on him, I next took into consideration the State of North Carolina, the second circumstance of the two I have just mentioned. I did not believe that the kindly-tempered and conservative people of North Carolina had made fugitives of large bodies of their colored countrymen by injustice and cruelty. No such bad reputation, or even the taint of it, clung to that old and honored State. On the contrary, she has been known as perhaps the most considerate, thoughtful, and benevolent of all the Southern States in her care and provision for the colored race. Why, therefore, a rush of negroes should be made from her humane borders, and from her climate and soil so adapted to their temperament and habits, was a mystery which could only be solved fairly to the colored people and fairly to the white race of North Carolina by a thorough investigation. Let us now see what that investigation still further established as to the real motives which governed the origin and the conduct of the negro exodus.

In connection with the movement after it was fully launched and under way the evidence of a political plot thickens and deepens on all sides. Take the testimony of William B. Tinney, the passenger agent of the Baltimore and Ohio Railroad at Indianapolis. A party of colored emigrants had reached Washington City and were here stranded for the want of money to carry them farther. Mr. Tinney swears that thereupon he received a telegraphic dispatch from Mr. Koontz, the passenger agent of the same road at this point, instructing him to collect the sum of $625 to pay for the transportation of these negroes from Washington to Indianapolis. He was instructed to call on three active republican colored politicians in order to obtain this money. He did so. They did not have the money that evening, but it was promptly raised the next day, placed to the credit of negro transportation, and the negroes were promptly landed in Indiana. There is not an intelligent person in Indianapolis who for a moment believes that the colored people of that city raised this very considerable contribution among themselves. Their slender resources were

already sorely taxed for charity in behalf of the destitute of their own race. They were in no condition to promptly pay down $625, nor does any one pretend they did. Every circumstance goes to show that it was paid by the republican State central committee.

Mr. WINDOM. Is the Senator willing to have the fact stated?

Mr. VOORHEES. I am not willing to be interrupted.

Mr. WINDOM. I have an affidavit——

Mr. VOORHEES. I decline to yield.

Mr. WINDOM. The Senator's statement——

Mr. VOORHEES. If the Senator thinks he can force himself into this debate against my will, he is mistaken. He will have his time to answer.

Mr. WINDOM. I do not wish to interrupt——

Mr. VOORHEES. I decline to yield.

Mr. WINDOM. The Senator from Indiana——

Mr. VOORHEES. I call the Senator from Minnesota to order.

The PRESIDING OFFICER. The Senator from Indiana cannot be interrupted without his consent.

Mr. WINDOM. The Senator is very much afraid of the truth.

Mr. VOORHEES. I am not at all afraid of the truth. I see that the Senator is nervous to-day.

In proof of what I have been stating I invite attention to the testimony of L. C. Morris, of Indianapolis. After describing himself as a railroad-passenger agent to solicit emigration business, he furnishes the following piece of interesting information:

Question. Mr. Morris, state to us what you know of money being raised to send negroes to Greencastle by Mr. Reynolds.

Answer. I learned that there was a party coming through, and I was interested in having them come over the Vandalia road. I found that Reynolds had something to do with it, and I said to him that I wanted them to go that way. I wanted him to give me the numbers of the tickets. He said he would give them to me, and he did so.

Q. How many tickets did he give you the numbers of?

A. Of twenty-seven tickets.

Q. He gave you the numbers and he gave you the tickets?

A. No, sir; I asked him to give me the tickets and their numbers. It was necessary to show up the business over the lines of road; and that was the only way in which we could do it.

Q. Do you think you were instrumental in getting them to go over that road?

A. I hoped to be so.

Q. I mean did you get them to go, or did Reynolds get them?

A. Well, sir, I was talking to Perry and others to go over that road, and Reynolds did not seem to care which way they went. I tried to influence them to go over that road, and they went.

Q. Mr. Morris, what number of tickets did he furnish you?

A. He did not furnish me the tickets; he furnished me the numbers of twenty-seven full tickets.

Q. Where did he get those tickets?

A. He purchased them there at the Union depot.

Q. He bought them?

A. Yes, sir.

Q. With his own money?

A. I do not know, sir, where the money came from. I saw him at the window, and afterward he came and gave me the numbers.

Q. He is the railroad transfer mail agent there, is he not?

A. Yes, sir.

Q. Employed under the Government?

A. Yes, sir.

Q. And you don't know whether he was buying those tickets with his own money or somebody else's?

A. No, sir.

Here we witness the local mail agent at Indianapolis, an office-holder, and of course a republican, engaged in buying tickets for the transportation of the constantly arriving colored voters to different parts of the State. Twenty-seven tickets, which Morris saw him purchase at that time from Indianapolis to Greencastle, would cost about $42. Who furnished Reynolds with that money? It is not pretended that it was his own. Where did he get it? But before answering that question I will read a portion of the testimony of Thomas P. Mills relating to another transaction similar to that described by Morris. His testimony on that point is as follows:

Question. Is there any other financial transaction in reference to this matter with which you are acquainted?

Answer. Yes, sir. There was money raised to send them to Greencastle.

Q. Do you know how much?

A. I don't know exactly how many went, but I know it was a grand day in the business.

Q. It was a pretty good day in the business?

A. Yes, sir.

Q. Do you know who raised that money to take them to Greencastle?

A. Well, I went down to see in reference to it, because, as Mr. Morris has told you, we wanted to get the number of the tickets, and I heard there was quite a number of them down there, and I went to see how many of them there were and where they were going. I went down there and saw about it, and I spoke to Mr. Reynolds about it.

Q. What occurred between you and Reynolds?

A. He reached me the tickets and I took the numbers; and I asked if they were fixed, and he said: "I have sent a man up town to get the money and fix them."

Q. Do you remember how many tickets there were?

A. There were from fifty to seventy-five.

Q. Are you personally acquainted with Mr. Reynolds?

A. Yes, sir.

Q. What position does he hold?

A. He is mail agent.

Q. Where?

A. At the Union depot at Indianapolis.

Q. If you understand it, what is his duty? To see that the mail is transferred from the depot to the office, and from the office to the depot?

A. Yes, sir.

Q. It is a very important office, then?

A. Yes, sir; I believe so.

Q. Is it an office of appointment by the Government or by the postmaster?

A. Yes, sir; I think it is by appointment from the Government.

Q. Do you know Mr. Reynolds's politics?

A. Yes, sir.

Q. Is he a republican?

A. Yes, sir.

Q. Do you know how he came possessed of those fifty or sixty tickets?

A. Well, sir, he bought them. I saw him buy them, but I don't know where the money came from. He said to me that he sent up town for the money.

Q. And you saw him buy the tickets?

A. Yes, sir. I saw him inside the office; and he came out and gave me the tickets, and I took the numbers of them.

Q. Do you remember what the fare is from Indianapolis to Greencastle?

A. It is something over a dollar.

Q. A dollar and fifty-five cents?

A. Yes, sir; a dollar and fifty-five cents exactly.

Q. And he had money enough to purchase fifty or sixty tickets at that rate?

A. Yes, sir.

In this instance the amount of money required by Reynolds would be something like a hundred dollars, and he told Mills he had "sent up town" for it. He knew where to send; he knew where the money provided for this business was to be promptly had. There was no delay in running around with a subscription list. The money was all ready and dedicated to the scheme then on foot. It was subject to Reynolds's order as depot-master of negro distribution throughout Indiana. Now, recurring again to the testimony of L. C. Morris, who is a republican, I think an explanation of Reynolds's unfailing financial resources will be found:

Question. State whether you ever had any communication with or from any member of the State central republican committee or anybody employed by them on the subject of this emigration business.

Answer. I do not know certainly. I believe there was a gentleman who clerks there who came down and inquired of me how much it would cost to send these people to Greencastle and Terre Haute.

Q. What was his name?

A. G. W. Horton.

Q. You say he clerks for the State central republican committee?

A. Yes, sir.

Q. Is he a full clerk there?

A. I think he is a deputy clerk.

Q. Well, he is employed there any way?

A. Yes, sir.

Q. And he made inquiry to know what it would cost to send these people to Greencastle and Terre Haute?

A. Yes, sir.

Q. Was that before or after this lot was sent?

A. It was before.

Q. Did you tell him?

A. Yes, sir; I gave him the rate.

Q. Did he make a memorandum of it?

A. No, sir; I think not.

Q. Did the conversation between you stop there?

A. No, sir; we talked on in a general way as to the number that were coming, and all that.

Q. What did he say?

A. He asked how many I thought had gone out, and how many would come. That was about the substance of it.

The clerk of the State central committee of the republican party of Indiana is here discovered making special inquiries of a railroad passenger agent as to the cost of sending negroes from Indianapolis to Greencastle and to Terre Haute. It was no casual or accidental meeting between Morris and Horton, as men meet on the street. Morris says he "came down and inquired of me how much it would cost to send these people to Greencastle and Terre Haute." A general talk on the subject ensued; the number already arrived and the probable number yet to come were discussed. Will it be presumed that Horton was doing all this on individual account? On the contrary, when General Conway's testimony is remembered, implicating Mr. New, the chairman of the republican State central committee, the inference is irresistible that the clerk of his committee was acting under his instructions in ascertaining how much money was likely to be needed in locating these people after their arrival at Indianapolis in the close or doubtful democratic counties of the State. In the light of all the proof no candid mind can doubt that Reynolds, the mail-carrier, relied upon the republican State central committee for the means to carry out the work he was instructed to do; and there is just as little doubt that the prompt response to the demand for $625, transportation funds, came from the same source.

What next, however, do we find as evidence of a political scheme to colonize negroes in Indiana in the interest of the republican party? Almost every Federal official in the State has taken an active interest in it. The Post-Office Department and the postal service generally seem to have been placed at its disposal. This was most natural. That Department has agents on every railroad and officials at almost every station in the United States. Its means for promoting and facilitating an immigration like the one under consideration are vast and widespread, and they have not been idle in this instance. The postmaster at Indianapolis, Colonel William R. Holloway, one of the most efficient republicans in the State, put his hand to the work. A colored man by the name of A. W. Heath, from Lenoir County, North Carolina, reached Indianapolis, and after sojourning there a few days was seized with a desire to visit Greencastle. When he arrived at Greencastle he met Moses T. Lewman, the sheriff of the county, and in speaking of the kindness extended to him told Lewman that he had come over in the mail-car free of charge. This was a criminal violation of law on the part of the mail agent in that car, but it appears that Heath had equipped himself before starting with high authority for all his movements. Colonel Holloway had given him two small slips of paper full of meaning. They will be found on page 189 of the first volume of the evidence. On one was written, "Union depot,

mail office, Reynolds." This was a direction to the negro, who could both read and write, to call on Reynolds at the mail office in the Union depot for a start. On the other paper was written the following:

Postmaster Langsdale, and Mr. Clay, colored, at Greencastle, Putnam County, on the Terre Haute Railroad. Private. Tell these gentlemen more are coming.

And on the back of this paper is written, in a well-known hand, "Holloway, P. M." Heath was thus commended by Holloway, postmaster, to his brother postmaster, Langsdale, and to Mr. Clay, a colored preacher, engaged in sending false and sensational circulars to the South to induce colored emigration to Indiana. Heath was also instructed to tell Langsdale and Clay that more were coming, and the whole thing was then marked "private." "Tell these gentlemen more are coming." Yes; more were coming, and Colonel Holloway and all his prominent political associates at Indianapolis not only knew the fact, as he here states, but they were engaged in bringing them. Do these papers, given by Holloway to the negro, Heath, appear to have emanated from one who was ignorant of the colored emigration to Indiana or opposed to its success? The very reverse is true. They prove conclusively that there was a plan arranged, a conspiracy organized, whose future operations were known to the writer, and that he was engaged with others in laboring to advance the cause. They show that Langsdale, in his open and shameless avowal in his paper that negro colonization was necessary and proper in order to defeat the democratic party in Indiana, had the full confidence and zealous co-operation of the most prominent leaders of his party. Instead of their condemnation, he received confidential words of warm encouragement. "Private. Tell those gentlemen more are coming."

Let these watchwords of a nefarious conspiracy to outrage the people of Indiana, debauch her ballot-box, and degrade her laboring men and women by an association with the pauper blacks of the South, be remembered whenever that conspiracy is denied. The secrets of such plots as this are always kept with the utmost care, but here and there a fact or a circumstance will escape concealment, in the light of which everything is at once made clear.

But to proceed. At the fair and beautiful city of Terre Haute, my own home, my neighbors and friends are blessed with a United States mail agent whose duties are the same as those performed by Reynolds at Indianapolis. He transfers the mail between the post-office and depot. He has found it consistent with his Government duties and with the instructions of his superiors to engage very extensively in the business of negro importation into Vigo and surrounding counties. Being of that race himself, he has been used as a decoy to induce others in large numbers to light down in that part of Indiana. The postal service appears to have received general orders on this subject throughout the State. Early in the investigation we overtook Walker, the Terre Haute mail agent, working with a zeal which blinded him to the truth, and showed him so intent on the scheme that he cared but little for the correctness of his representations. On page 92 of the first part of the printed testimony will be found three letters from him, obtained in the examination of Captain Wall, the president of the Washington Emigrant Aid Society.

In one of these letters, addressed to Mr. Adams, former secretary of the society, and written in November last, Walker holds out bewildering inducements to the colored emigrant. He makes and repeats the statement that "there never was such a demand for farm-hands and laborers of all classes" as prevailed at that time in Indiana. He says that farmers were paying from $15 to $20 per month and board. Speaking of the great coal mines of Western Indiana, he says that within the last few days, prior to writing this letter, he had received applications for at least five hundred miners, and that at one mine alone, at that time, two hundred men could get work. The miner, he said, could make from $2.50 to $4 per day. With an enticing reference to the equality of the races in the schools of Indiana this letter concludes.

In another brief note Walker makes the following important statement:

I am going to Saint Louis, Missouri, which is one hundred and sixty-five miles from here, and make arrangements to get refugees to come this way, but this is a private matter.

Under the laws and regulations of the postal service a United States mail agent has no right to leave his post of duty without official leave granted. I presume Walker had no difficulty in obtaining such leave when he made known the object of his errand. Whether carrying the mail from day to day, and almost from hour to hour, at Terre Haute, or absent in Saint Louis arranging for negroes "to come this way," he was still in the employ of a republican administration, and under pay out of the public Treasury.

The third of these epistles from Walker reads as follows:

TERRE HAUTE, INDIANA, *January* 5, 1880.

MY DEAR SIR: I am directed to write you concerning the colored refugees leaving Washington for Indiana. I was directed by Mr. Perry to write you. Now, what I want is this: The first time you have any of those people on hand, and wanting to come to this State, please send me about fifteen families. I have places for them as soon as they can get here; and if such should be the case, telegraph me at my expense what day they will leave Washington for Terre Haute.

Please oblige yours, &c.,

J. H. WALKER,
Terre Haute, Indiana.

Captain WALL.

It would be curious to ascertain who furnished not only Walker's traveling expenses to Saint Louis and other distant points, but also who contributed to assist in defraying his telegraphic correspondence. Whatever may be his zeal and energy in the cause, he was not doing all this himself.

But there is still another exploit of Walker's which calls for passing attention. He obtained leave of absence to attend a colored convention, during the summer of 1879, at Nashville, Tennessee. Upon his return he issued his circular, not for publication in the newspapers, but for distribution in quarters where they "would do the most good." As it has, however, been widely published during the progress of this investigation, I will not read it here in full. In it he announced that he had demands from different localities in Indiana for the presence of eighteen hundred negro families in the State. He cried to the negro population of the South to come—come one, come all; that the laborers were few in Indiana and the harvest was great. Eighteen hundred families! Whether Walker exaggerated the number he was to look after or not, this statement shows on what a vast scale he understood the importation to have been arranged by those above him. It was no light shower that Walker had been taught to expect. He anticipated a flood. He was jubilant at the prospect for the republican party. Paul K. McCoskey, a republican and one of the oldest, most reliable, and respected citizens of Terre Haute, speaking of Walker in his testimony before the committee, says:

A day or two after he came back from that convention down South he saw me, and ran over to meet me on the street. He seemed to be in a very good way, and I think he had liquor in him. I asked him what was the matter, and he said he had made a good thing out of his trip. He said he had made arrangements to turn the negro emigrants into Indiana so as to get ten thousand in there and carry the State.

Walker states in the letter I have just quoted that he was going to Saint Louis to turn the negro emigrants into Indiana, and yet, when McCoskey swears that he told him he had been in the same business exactly at Nashville, the truth of McCoskey's statement, I see, has been questioned. Walker convicts himself absolutely, and beyond a word of doubt, by his letter to Adams of the same thing testified to by McCoskey, and his tongue being a little loosened he imparted to his republican friend that it would enable them to carry the State. Mr. McCoskey needs no corroboration where he is known. If he did he would have it most amply in the letter of Walker to Adams. He would also have it in the testimony of Charles H. Stoddard, another republican citizen of Terre Haute, who made the following statement on this point before the committee:

Question. Do you know Paul McCoskey, who was examined here as a witness from Terre Haute?

Answer. I do, sir.

Q. State whether you were present when Mr. McCoskey and Mr. Walker, the colored mail agent at Terre Haute, who carries the mail from the post-office to the depot, had a conversation on the subject of the Nashville convention of colored people and also on the subject of bringing negroes into the State of Indiana for political purposes.

A. I did hear a conversation in regard to something on that question.

Q. Just state what it was that you heard.

A. Coming up Main street going west Mr. Walker called to Mr. McCoskey, and I wished to see him myself, and came up about the same time; he was a little before me, and I waited; and he spoke about the Nashville convention being a good one.

Q. Who spoke of that?

A. Mr. Walker, the mail agent, spoke of it.

Q. Yes?

A. And said that he had made arrangements to bring some colored men into the State, and he also stated the number, but I have forgotten how many thousands he said.

Q. It was thousands, was it?

A. Yes; from ten to twelve thousand, I think, (I could not say the exact number,) to carry the State at the election.

Q. For what party?

A. The republican.

Q. What further conversation took place between them?

A. That was about all the conversation that took place, I believe, as near as I can remember.

* * * * * * *

Q. Mr. Stoddard, what are your politics?

A. I am a republican, sir.

It is only necessary to add, so far as Walker is concerned, that with all his conduct fully known he is still in office and enjoys in a high degree the favor and confidence of the leaders of his party; that he has received no word of rebuke or condemnation for his course, either from the Republican press of Terre Haute or of any place else, but, on the contrary, has been warmly defended in everything he has done or tried to do.

Allow me to turn now to another objective point of negro importation into Indiana. The county of Shelby is held in high appreciation by the democratic party of the State because of her reliable democratic majority, and for the same reason she is an object of hatred and evil machinations on the part of the leaders of the republican party. As a consequence of this a column of colored importation was headed across her borders. In the language of Pharisaical republican cant she was to be redeemed and her civilization raised to a higher plane. To show that the villainous plot was fully understood by the leading men of the republican party in Shelby County I have simply to read from the testimony of Scott Ray, esq., one of the most gifted and respected men of the State, on page 322 of part 1 of the evidence. His testimony is as follows:

Question. Mr. Ray, have you ever had any conversation with or heard him say anything about this matter—I mean the chairman of the republican county committee of Shelby County?

Answer. Yes, sir; I had a conversation with Captain Byers. He has been the chairman of the republican county committee until within the last few days.
Q. What is his name?
A. Captain Henry S. Byers.
Q. You say he has been, up to within a few days, the chairman of the republican county committee?
A. Yes, sir.
Q. State what conversation you had with him on the subject.
A. I had a conversation with him that day, which I reduced afterward to writing that same evening.
Q. Have you it with you?
A. I believe I have.
Q. Will you please produce it?
[The witness produced a paper.]
The CHAIRMAN. If you wish it, you can give it to the committee in the form as you have it there. Was he at that time the chairman of the county republican committee?
The WITNESS. I think they had appointed his successor on the Friday previous, and this was on the following Sunday evening.
Q. Captain Byers is a man of character and respectability, is he not?
A. Yes; he is one of the leading republicans of our county, and very generally esteemed.
Q. What is his age?
A. I suppose thirty-eight years.
Q. Did he ever hold any official position in your county?
A. No, sir; not in our county.
Q. It is rather difficult for a republican to hold office in your county, is it not?
A. Yes, sir; our county is pretty solidly democratic.
Q. Now, will you please read that paper?
The witness read the paper, as follows:
"I had a conversation with Captain Henry S. Byers, ex-chairman of the republican central committee of Shelby County, Indiana, on Sunday night, January 25, 1880, in the city of Shelbyville, in the presence of Edward Small and George M. Goulding, two of the leading merchants of the city, in which Mr. Byers said: 'There is no disguising the fact, Ray, the exodus movement of the colored men to Indiana is a political movement of the republican party, as I know it to be a fact. We intend to carry Indiana with the aid of the negro vote, and if the republican party had taken my advice six years ago they would have set the movement on foot and brought them here long ago. We intend to bring eight thousand of them into the State in time for them to vote this fall, and will place them in the close congressional districts and into the close counties of Indiana. While it is rather expensive, it is cheaper for the party than to be compelled to buy votes on the day of election, as we have always had to do.' I asked him if he was in a position to know whether it was an organized effort on the part of the republican managers to bring them into the State for political purposes, and he said he was, and then produced a letter with the heading of the republican State central committee printed upon it, but refused to read its contents. I asked him if he had contributed any money for the purpose of bringing the negroes who had lately come into Shelby County, and he replied: 'Yes; I contributed all I was able to contribute.' Mr. Byers for several years has been one of the leading republicans in Shelby County, and for several years has been its chairman."
Q. Who was that made in the presence of, what parties?
A. Mr. George W. Goulding, a leading clothing merchant in our town, and Mr. Edward Small.
Q. What is Small's occupation?
A. He is a confectioner, and sells newspapers and cigars, and has been there for a number of years. Both of them are men of high character and standing.
Q. You say that Captain Byers produced a paper with the State central committee's printed heading on it?
A. Yes, sir.
Q. How much of the letter did you see?
A. No more than the heading. When I asked him if he was in a position to know whether this was a republican movement or not, he pulled the letter out and showed it to me, but he did not let me see the contents of it.
Q. But he was thereby making the impression upon you that he was in communication with headquarters upon this subject?
A. That was the impression I thought he intended to convey.

When it is reflected that Captain Byers and Mr. Goulding and Mr. Small could all have been called by the minority of the committee to contradict Mr. Ray, and that such a call was not made, it is at once evident that no contradiction was possible. The truth of his statement stands confessed by those most deeply interested in throwing discredit upon it if they could do so. This is a well-known rule of law, and it never applied with greater force than in this instance.

Sir, in view of this long mountain range of evidence, convicting at every turn and development the republican party managers in Indiana and elsewhere of a detestable political plot to obtain political victory by imported voters, the frank and truthful testimony of Thomas P. Mills, of Indianapolis, becomes simply a very natural and harmonious feature of a case already made out. His testimony is found on page 201, part 1, of the printed evidence:

THOMAS P. MILLS sworn and examined.

By the CHAIRMAN:

Question. Where do you reside?
Answer. Indianapolis.
Q. What do you do there?
A. Mr. Morris and I are partners in the real-estate and railroading business, &c., and dealing in western lands.
Q. What do you know about the immigration of negroes into Indianapolis and Indiana?
A. I don't know as I know much about it. I know there have been a good many people go there.
Q. How many?
A. I could not tell you. After they once pass there I lose sight of them.
Q. Have you taken some interest in this matter?
A. Yes, sir.
Q. You have been in favor of emigration?
A. Yes, sir; I was very much in favor of it. I told the boys when they first came there that we wanted twenty thousand "bucks," buck niggers, in Indiana this year.
Q. You mean to say that you wanted twenty thousand men?
A. Yes, sir.
Q. You had no use for women?
A. No, sir; we had no special use for them.
Q. You had no idea of labor connected with this matter?
A. No, sir; I had no idea of labor. I was looking for votes.
Q. You wanted these twenty thousand "bucks" to vote?
A. I wanted them to vote, of course.
Q. Are you a republican?
A. Yes, sir; I am.
Q. And you thought if you could get twenty thousand "bucks" you would slay us?
A. I thought we would get away with you everlastingly.
Q. Have you mixed with them much since they came here?
A. The colored folks?
Q. Yes.
A. No, sir; except at the depot. We have one office near the depot, and when a gang was coming in I would go down there and see them.
Q. Have they come in as fast as you desired?
A. They have not come in as I wanted them to.
Q. There have been rather more women and children than you wanted?
A. Yes, sir; they have rather overdone the thing in the women and children.
Q. Have you noticed, Mr. Mills, whether any considerable party of them have to be taken care of by charity?
A. Well, I could not tell you, Mr. Senator. I have not been at their headquarters much.
Q. Have you been called upon to contribute to their support?
A. Not largely.
Q. Were you raised on a farm as well as your partner?
A. Yes, sir.
Q. Of course you think these twenty thousand "bucks" could be scattered around and get employment throughout the State?
A. Yes, sir; I thought we could get employment for them if we scattered them pretty thin.
Q. You mean in close counties?
A. Yes, sir; in close counties and where there are cheap lands.
Q. Then you mean to scatter them in close counties where there are cheap lands?
A. Yes, sir.
* * * * * * *
Q. You are pretty well read, Mr. Mills, in the newspapers of the State?
A. Yes, sir; I read them pretty generally.
Q. Now, will you tell this committee whether you have ever seen an article in a republican newspaper opposing or condemning this movement of the negroes?
A. I have not.
Q. Do you read the democratic papers, too?
A. Yes, sir; and they everlastingly go for it.
Q. Then I am to understand that the republican papers approve of it?
A. I should think they did, from their tone.
* * * * * * *
Q. You say, so far as you know, you think your views are substantially shared in by the republicans of your State.
A. I think they are as individuals.
* * * * * * *
Q. Did you ever talk with Mr. Martindale about this matter?
A. Yes, sir; several times.
Q. His paper is not disapproving of the movement?
A. No, sir.
Q. Rather encouraging it, is he not?
A. Yes, sir; I should say he was.
Q. He has always announced that there was plenty of room in Indiana for negroes?
A. Yes, sir.
Q. That they could get employment?
A. Yes, sir.
Q. And that there were good times there?
A. Yes, sir.
Q. And that they ought to get out of Egypt?
A. Yes, sir.

Thomas P. Mills is a man of as much character and respectability as any examined by the committee, and that he revealed the true purposes of his party associates is conclusively proven, not only by his own testimony, but also by all the powerful corroborating facts brought to light in the course of the investigation. John C. New, the chairman of the republican State central committee, indorses him as a consistent republican for the last twenty-five or thirty years, and in point of fact corroborates his testimony. While Mr. New was seeking to deny the political motives of the negro emigration to Indiana, the following examination took place:

Question. Has it not been something like this: that you must steer clear of it as a political issue, but if these people wanted to come, to let them come?
Answer. We certainly never intended to set up a barrier on the border of the State against whites or blacks or anybody else who seek to better their condition by coming into the State. We have a large and prosperous State, demanding development, and all of us are anxious that the State should be developed, and everything that tends to promote its material wealth we are anxious to encourage.
Q. Did you think that it would tend to the material wealth of the State to encourage these people to come into it, taking all the circumstances under which they come?
A. I think that an influx of labor upon our farms and into our workshops would certainly tend to the material prosperity of the State.
Q. Well, I am trying to get at the fact whether you thought that an influx of this kind of labor—these people from North Carolina, coming in the condition that they are in, and as they do come into our State—would be to the material advantage of the State. If so, just say so.
A. If these people come—or rather, I would say, that the trouble with this population coming there, as has been reported to me, and as I have found by the investigation I have made upon the subject, is that about 90 per cent. of the influx has been women and children. In that proportion I do not think it would add to the material wealth of the State. If they were operatives, if the proportion was as one-half or one-third operatives, then I think it would add to the material prosperity of the State. If, however, the percentage is as reported to me, and as the investigation that I have made upon it tends to show, 90 per cent. women and children, and they not operatives, then I think it is not to the material interest of the State to come; that is, not in that proportion.
Q. In other words, without adopting Mills's language, there are too many women and children coming; there ought to be more men and fewer women and children, you think?
A. I mean that if they were producers, as these women and children are not, looking at it as a matter of political economy, I do. Is that the stand-point from which you ask me the question?
Q. Yes; but I am not asking you reasons. I want to know if in point of fact there were more men and fewer women and children it would help the State to have them come into it, in your opinion?
A. Yes, sir; I think it would; I have no doubt that it would.
Q. But as it is, with so few men and so many more women and children, you have your doubts?
A. I do not think it would be for the material wealth of the State to have them come in that proportion. They are consumers rather than producers.

Q. You would be disposed, then, to advise them to stop coming in the way in which they are coming?

A. I am looking at it from an Indiana stand-point.

Q. O, yes; we are all looking at it from an Indiana stand-point; as an Indianian, I ask you whether, if these people who are coming were to change the proportion a little, you would advise them to come on?

A. Answering the question as you ask it, as a citizen of Indiana, from that stand-point I say yes.

Q. You may answer as you choose; I am not cutting out the answers for you. I simply want to get at your views. You are a representative man in your party, and I want your views; so I will repeat the question, whether in the proportion in which these people are coming you would advise against it, and if that proportion were adjusted so that there were more men and fewer women and children you would advise them to come, for the material wealth and prosperity of Indiana?

A. Yes, sir.

Here is the same complaint made by Mills of not enough men in the movement and too many women. Here is an indorsement of negro emigration to Indiana on the condition that the men will come and the women remain away. It is true that Mr. New assigns as a reason for approving such a masculine emigration that it would improve the material prosperity of the State. Doubtless, however, he and his party colaborers are fully persuaded that the surest way to achieve that material prosperity is to overcome the democratic majority in Indiana, and as the most certain means to that end the presence at the ballot-box of that State of the black male population of the South is extremely desirable.

Sir, I might appropriately pause here to show from the proof that outside of Mr. New and a few controlling republican leaders nobody of any party in Indiana believes or pretends to believe that a negro emigration and settlement there, either of men, women, or children, separately or all combined, would advance the material wealth, prosperity, and well-being of that great and progressive Commonwealth. The evidence on this point before the committee came from every shade of party politics, and the laboring-man of the republican party and the representative man of the greenback labor party were as emphatic in their denial of Mr. New's statement as the most pronounced democrat in the State. Mr. New says:

We have a large and prosperous State, demanding development, and all of us are anxious that the State should be developed, and everything that tends to promote its material wealth we are anxious to encourage.

He and his fellow-managers of politics affect to believe that this "material wealth" would be promoted by a voting, not a non-voting, black population in the State; by a male, not a female, population of that race; by an adult male population, entitled to wield the ballot, not by women and children, denied as yet the elective franchise. This opinion is not shared in Indiana beyond the narrow circle of the republican State central committee, the Federal office-holders, and a few shallow folks who think that anything, even the ruin of the State, is justifiable in order to defeat the democratic party.

Indiana is indeed a large and prosperous State, and is susceptible of still greater development; but she prefers to rely in the future upon the same agencies which have pressed her forward so rapidly and so grandly in the past. In a galaxy of thirty-eight States she stands in many respects the fourth, and in all respects, taken together, the fifth State in this mighty Union. When New York, Pennsylvania, Ohio, and Illinois have been named, Indiana answers next on the roll-call of American States. Her railroad development is the marvel of modern progress, and her school system surpasses that of any other known Commonwealth of equal population. Her lands, her timber, and her mineral resources constitute her an empire of physical wealth. Her people, too, are a strong race, the next generation immediately descended from the brave, devoted, and aggressive pioneers who a little while ago subdued the wilderness, and nearly all of whom now sleep in their honored graves.

The laws of Indiana are liberal, just, and equal. The decisions of her highest court are quoted as authority at Westminster, and the names of her jurists are mentioned with respect at every English-speaking court in the world. She has been a State the brief space of sixty-four years, but in that time she has swept far up to the front in every department of thought and action. She has outstripped her elder sisters, seated on the eastern seaboard, as a swift-sailing modern vessel on the ocean would pass an ancient craft built in the infancy of navigation. In all her bright career, however, Indiana has not depended for anything upon the negro, either as a slave or as a freedman, and she does not propose to do so now. She has as much kindness, as much shelter and protection under the law for the black man and for his household who seek a home within her borders in the ordinary and natural way of moving from one place to another as she has for people of any other color; but when a rush is made to convert her into a mere miserable colony for colored voters for political ends, under the pretense of aiding the development of her material wealth, she will resent and resist the base defilement and inflict punishment on all who have conspired against her honor and good fame.

Mr. New, in speaking of the coming of the male negro into Indiana, says:

I think that an influx of labor upon our farms and into our workshops would certainly tend to the material prosperity of the State.

Every witness examined, except republican office-holders and politicians, testified that such an influx would be the abomination of the people of the State; that the supply of laborers was greater far than the demand, and had been for many years, especially since 1873; and that the negroes already imported there had fallen on hard lines, many of them not employed at all, objects of daily charity, and others obtaining a precarious subsistence from temporary and uncertain engagements. Mr. New says that if the proportion between the males and females was changed, so that negro men constituted the influx of which he speaks upon our farms and into our workshops, he would encourage them to come. The testimony of farmers and mechanics is voluminous and overwhelming on this point in the printed evidence, and it is all one way. It is a book within itself, and I cannot read it here. It condemns in every line, page, and chapter, furnished by republicans in greater numbers than by democrats, and with equal emphasis, the position of the chairman of the State central republican committee of Indiana.

There is no demand for the labor of the negro in Indiana, and every intelligent person in that State knows it. There is no call for his assistance to develop the future of the State; no outcry for his influx upon our farms or into our workshops, and on that issue I am willing to be judged by the people whom I represent when they next approach the ballot-box. It is not an issue made by me. It is made by the chairman of the republican State central committee of Indiana, and accepted by the gallant and faithful democracy. The people of Indiana will make answer that it was a libel on them to declare that they were calling upon the pauper Africans of the South, or on any other element of that race, to come to Indiana, to swarm upon her farms, to raid her workshops, in order to develop her resources and to increase her material wealth. And in that answer will be found a verdict upon the evidence that a political conspiracy, and not the wishes of her citizens, has inflicted upon Indiana the attempted outrage and pollution which she has undergone. It will be a verdict which will relieve the people of Indiana of the odium of having in any way solicited the headlong, senseless, and most unnatural movement of the blacks into their midst.

But, turning from Indiana to the other end of the line of exodus operations, let us have a little closer look, in the light of the evidence, at North Carolina than we have yet taken. If Indiana did not invite the negro, I am prepared to show by the proof that still less, if possible, did North Carolina drive him away. I am prepared to show by an unbroken chain of testimony, in which there is neither conflict nor contradiction, that there is not one single right or privilege ever known to a citizen of the United States which is not now enjoyed, without the slightest molestation, let, or hinderance, by the negro of North Carolina. Instead of being denied the natural rights of man, instead of being defrauded, oppressed, and discriminated against in all his efforts in the great eternal race of life, liberty, and the pursuit of happiness, the negro of North Carolina has been nurtured and cared for with a kindness on the part of his white fellow-citizens hitherto unknown in the history of the human race under similar circumstances. He has not been thrust out into colder and harsher climes from his warm and ancient home, and the testimony before the committee so completely exploded that calumny that not the slightest effort was finally made to sustain it.

The Senator from North Carolina, [Mr. VANCE,] my colleague on the committee, made a call upon the negroes themselves of his State to describe before the country and before the civilized world the manner in which they were treated in that proud, historic Commonwealth. Their response was absolutely imposing. Their strong and masterful testimony will not be lost; it will not perish. It will be found by the historian of the future and cited as an evidence that the truth may exist in the broad light of the sun and yet be obscured by the dark and baleful vapors of party hatred. I will read no evidence in regard to North Carolina, so cruelly impeached by the exodus, except such as was given by her colored citizens. It is difficult to select, where the abundance is so great, but I will submit first an extract from the testimony of Charles N. Otey, whom I have already mentioned, an educated colored man, and a native of North Carolina. He says:

In North Carolina the most kindly relations exist between the white and colored people. At the last celebration of the day of the emancipation proclamation the whites, all of whom had owned slaves, paid three-fourths of the expenses necessary for making it a success. They not only did this in Raleigh, but in other places where the day was celebrated.

The colored people as a mass are more intelligent than in any other State in the South. They always had more opportunities for acquiring an education. There are at least five schools in the State where they can get a scholastic education, and almost every town has a graded school.

They have what no other State in the South possesses—an asylum for the deaf, dumb, and blind. A democratic Legislature has appropriated money for the erection of an insane asylum; at present the colored insane are in the white asylum, than which there is no finer in this country.

The free schools are open for all, and colored teachers are always employed in preference to whites.

There are numbers of colored lawyers who have made a name at the bar; doctors who have successful practice; farmers who own their farms and carry their own cotton to market. Why, Raleigh, a city of about thirteen thousand inhabitants, half whose population is colored, has grown within the past five years to such extent that I could scarcely recognize my native city. There are more colored people who own their own houses than there are in the city of Washington. Their beautiful cottages are to be seen everywhere.

As I beheld this sight I said to myself, why does not the emigration begin at Washington?

In one word I say that the cause of the exodus from North Carolina can be found in the purses of the men who furnished Perry and Williams with the means.

In my opinion, the time will come when those who have encouraged this movement will repent in sackcloth and ashes.

In my humble judgment, in December, 1880, many colored men who are now feasting on the lamb in Indiana will be begging for money to pay their way back to old North Carolina.

Another colored man of a different type, W. W. Arrington, of Nash County, North Carolina, was examined by the Senator from that State. The impression made by him on the committee will not soon be forgotten. A splendid specimen of his race, physically as well as in other respects, he quietly spoke as follows:

Question. Can you give us a statement of the condition of the colored people in your section?

Answer. In the northern part of the county, where I live, they are in a good condition, and many own land. It is rather thickly settled, and mostly with colored people. Only once in a while you will come across a white man; but the colored people own the country through there.

Q. How much do they own?

A. There are four or five thousand acres right in my own county owned by them.

Q. How much is owned by them in Nash County?

A. I reckon twenty thousand acres; all of that.

Q. How is it distributed? How much was to a man?

A. I think the smallest farm I know is seventy acres, and from that up to a thousand.

Q. Does any colored man there own a thousand acres?

A. Yes, sir; one.

Q. Who is it?

A. That is myself.

Q. Were you formerly a slave?

A. Yes, sir. I belonged to A. H. Arrington.

Q. Baldi?

A. Yes, sir; and a perfect gentleman, if there ever was one.

This man, who had been a slave to the close of the war, stood before the committee illustrating the justice and the equality of the laws of North Carolina, himself the owner of a thousand acres of her land, acquired by his own industry in the last fifteen years, and speaking in such terms of his former master as are wholly incomprehensible to the general northern mind. On the questions of free suffrage and education his testimony was equally clear:

Question. Is there any interference down there with the right of the colored people to vote?

Answer. No, sir; I have been a poll-holder for a long time in my township, and both sides vote as free as they please, and we have no disturbance and no unfair means used.

Q. Nash is a democratic county by a very small majority, is it not?

A. Yes, sir; but we beat you last time, governor, by taking your own means, and running an independent democrat. But there is about three hundred majority of whites in the county.

Q. Have you many colored men in your section who are skilled mechanics, brick-masons, house-carpenters, blacksmiths, and so on?

A. I don't think many of them are brick-masons. There may be at Nashville; but there are carpenters up there. But I don't know what the saw-mill man is paying them. He takes a contract to do the building, and pays them by the month.

Q. What chances have you to teach and learn your children?

A. We have good chances now. I am one of the school trustees in my township. And we have a treasurer, and the money is paid out by the township.

Q. How long do your schools run?

A. About four months.

Q. Is there a good attendance of the children?

A. Yes, sir; I believe ours has an attendance of seventy-nine.

Q. That is your township?

A. Yes, sir; the one I am trustee for.

Will any man fit to be out of an insane asylum or a penitentiary contend that the State in which this witness resides, and from which he was summoned here to testify, is an unjust and cruel one in its policy toward the colored race? A system of laws by virtue of which a man just emerged from penniless bondage can speedily become one of the large land-owners of the State, and one of the trustees of her public schools, cannot be assailed as a system of oppression to him or to his people.

Another colored witness, of great intelligence and fairness, was James E. O'Hara, of Halifax County, North Carolina. The opportunities of his race may be judged from the following question and answer:

Question. State what positions you have held in North Carolina.

Answer. I have been five years chairman of the board of county commissioners of Halifax County, engrossing clerk of the constitutional convention in 1868, and member of the constitutional convention in 1875, and I was in the last election nominated as elector on the presidential ticket, and nominated for Congress from the second district.

In regard to the general condition of his people and their ownership of land in North Carolina, Mr. O'Hara testified as follows:

Question. Well, now, considering the black people as a general rule as laborers without land, what is their condition as a class, and what proportion of freedom do they enjoy with the white laborers?

Answer. They are in equally as good a condition. If the committee will allow me, I will show how that thing is. A great deal of this talk about the negro is erroneous, because his condition is largely a local matter. Not long ago we had a State fair in North Carolina held by the colored people, and in speaking I followed Governor Jarvis, who made the opening address, and I stated in that address that the prosperity of the colored people could not be very well seen at that fair, while it was one of the most creditable that had ever been held, and was acknowledged to be such by the press of the country. I mentioned one fact in my own county, where the colored people have acquired thirteen thousand acres of land. That statement was doubted. One of our papers, the Roanoke News, doubted this statement of mine, and in order to be more certain I went to the records of the county and referred back a year. I took the records for 1878 instead of 1879, and the record showed that the colored people of that county had 16,601 acres in fee-simple title, and in proportion that is equally true for the counties of Warren, Nash, and Lenoir.

Q. You mean they have lands in the same proportion in each county?

A. Yes, sir; in each county. I suppose it would be no exaggeration to say that in my county, which is the next largest negro county in the State—Edgecombe is the largest—the colored people own there in fee-simple title twenty thousand acres of land.

* * * * * * *

Q. What is the condition of the land in your county?

A. Our land is just as good as any other in the State. It is what we call swamp land and river-bottom.

Q. What could an industrious colored man down there with a mule, &c., make in a year?

A. I do not know as I could answer that question definitely. I will say this, that they make as much there as their white neighbors do, and I have been more surprised to notice this fall where white men who own land have been compelled to sell every lock of cotton to pay their debts, when I knew several instances where colored men have taken their cotton to market and brought it back home before they would sell it.

Q. They were not compelled to sell their cotton?

A. No, sir; they were not compelled to sell it.

Q. And they refused to sell it at the prices offered?

A. Yes, sir; because they did not need the money.

Q. Will you explain what you know of the renting system, and whether there is any disadvantage to the colored people in renting land over the same disadvantages experienced by the whites?

A. There can be no disadvantages to the colored people that will not apply to the whites of the same class.

The spectacle of a State agricultural fair held under the auspices of the colored people and addressed from the same stand by Mr. O'Hara and Governor Jarvis, the democratic governor of the State, is not quite in harmony with the theory that the Ku Klux rages in North Carolina, and that the black man is hiding in her swamps or fleeing from her borders for safety.

Mr. O'Hara was the republican candidate for Congress in his district at the last election, the district being largely republican in its politics. The attempt has been made to show that great bitterness prevailed there between the two races, and that Mr. O'Hara was defrauded out of his seat by bulldozing and false counting on the part of the democrats of the district. I commend the following statement of Mr. O'Hara himself on that point to a wide reading, and I deeply regret that it cannot be framed and hung up in every republican precinct and headquarters in the United States:

Question. I will ask you if the asperities and harsh feelings between the two races have not been disappearing, notably since 1876, and gradually giving way to a better feeling?

Answer. I do not know of any State in the American Union where there is a better feeling between the white and colored people than in North Carolina. It is a very usual thing to see on the day of election the landlord and the tenant, the employer and the employé, going to town in the same buggy and voting different ways. I have even wondered why it was that the employer could influence his tenant or employé on every other subject except voting. I think I ought to say with regard to Captain Wall's testimony, as it will all come before the House in due time, that in my defeat, or rather my being counted out, the republicans had more to do with it than the democrats, and I say that the colored republicans of the South have more to fear from the white republicans than from the democrats. And there is always a combination between the white republicans against any intelligent colored republican who seeks to aspire to office.

Q. You mean that they want to keep all the offices?

A. Yes, sir; and when we say to them that they must divide, they say, hold on; and when we fight them they count us out. Now, in my own county the republicans had the appointment of commissioners, and because I opposed a certain white man who ran for sheriff his friends made a combination and counted me out. That was the reason why Mr. Kitchen went on his bond, and the result was to give us a democratic sheriff on the republican ticket and to count me out in consequence of this combination.

Behold here the love of the white republican of the South for his black brother! This is an interesting theme for reflection. What a generous division of political rights the white republican makes with his colored colaborer? He concedes to the negro the right to vote, and takes for his own share the right to hold the offices. The negro has at last opened wide his eyes to the fact that this arrangement is admirable for one side but not so good for the other; that while the white republican has political turkey the African is compelled to put up with political buzzard, and he is disposed to resent the injustice.

Question. You mean that they want to keep all the offices?

Answer. Yes, sir—

Exclaims Mr. O'Hara—

and when we say to them that they must divide, they say, "Hold on;" and when we fight them they count us out.

Of course they do. The art of counting out by the leaders of the republican party has been brought to perfection; it has become one of the branches of skilled labor; and to keep themselves in constant practice they count out a colored candidate for office whenever he is in their way or will not do their unclean work. Well may Mr. O'Hara say:

That the colored republicans of the South have more to fear from the white republicans than from the democrats.

Speaking of the educational and benevolent institutions for the colored people of North Carolina, Mr. O'Hara paid the following tribute to the wisdom and high Christian conduct of that State:

Question. Has not your State appropriated money for the establishment of a normal school for the education of teachers?

Answer. We had a normal school at one time. It was at first only temporary, but I think our Legislature has made it permanent. As we advance and get a little more money we will have more schools of all kinds.

Q. Has not the State also provided asylums for the unfortunate of your race?

A. Yes, sir; the same facilities are offered the black and white alike in that respect. We have a deaf and dumb school for the colored people, under the same rules and government as that for white people; they are taught, fed, and clothed under the same system as the whites. In fact, it is not very long ago since I went through both institutions—the one on one side of our city, the other on the other. They have the same kind of provisions, meats, vegetables, and fruits; the same bedding and furniture, carpets, pianos, &c., all the same in both institutions, without any discrimination at all.

Q. What provision has been made for the insane?

A. Owing to the crowded condition of our present insane asylum, it has been found necessary to build two others; one for the whites at Morgantown, and one at Greensborough, in what is called the "negro belt," exclusively for colored people—an institution that will compare favorably with institutions of the same kind in any part of that country; as good as the one they are building for the whites at Morgantown.

Q. It is not as large?

A. No, it is not as large; it is not necessary that it should be as large, because our percentage of insane is not as large as it is among whites; and the negro population is only one-third that of the whites.

The same advantages in the public schools for colored people as for white; a normal school for the education of their teachers; a separate school for the education of their deaf and dumb; and a separate asylum for their insane, furnished, provisioned, and conducted the same as those for the white race, proclaim in trumpet tones the honor, the dignity, and the good faith of the old North State, and overwhelm her slanderers with confusion.

Wiley Lowrey, a colored man, living in Kinston, Lenoir County, North Carolina, the owner of real estate yielding him a rent of between four and five hundred dollars a year, a republican in politics, as were all the colored men called before the committee from that State, testified that he had for eight years been county commissioner of Lenoir County; that the duties of his office embraced the selection of jurors for the courts, the construction and repair of roads and bridges, the support of the poor-house, and the valuation of property for the assessment of taxes. He declared that no discrimination whatever existed against the colored people in the selection of jurors, that they got their fair proportion in the jury box, and were treated as fairly as white people in the courts. In regard to the schools and the state of feeling between the two races he made the following statement:

Question. I want to ask you something about the education of the colored people—about their children. What chances have they in your county to educate them?
Answer. I think we have good schools going on, and had them all the time.
Q. As good as the whites?
A. I reckon they are.
Q. And as many of them?
A. We have a great deal more in our schools.
Q. You have more schools than the whites?
A. Not more schools, but more children in them. We have a good school that runs five or six months in the year.
Q. That is a free school?
A. Yes, sir.
Q. What are the chances for the higher education of your children? Are there any colleges for colored people in reach of your town?
A. None in our county.
Q. I mean in your end of the State. Are there any schools for the education of teachers?
A. Yes, sir.
Q. And a very fine school at Greensborough, where the colored people are educated in the higher branches free?
A. Yes, sir.
Q. What is the state of feeling in that section between the whites and the blacks?
A. I think it is very friendly.
Q. You have no disturbances on public days, such as election days?
A. No, sir; I believe everybody votes to suit himself.
Q. What are your politics?
A. I am a republican.
Q. Do you vote that ticket every time?
A. Yes, sir.

Sir, I might stand here days instead of hours, piling one statement on top of another, made by colored witnesses, all of the same purport, and all utterly disproving every charge of unfair or unjust treatment on the part of the whites toward the blacks of North Carolina. John O. Kelley, a slave at the close of the war, now the proprietor of all the livery business and omnibus lines in Raleigh; Napoleon Higgins, a farmer with four hundred and eighty-five acres of good land for cotton, which he has worked and paid for since the war; Lewis H. Fisher, formerly a slave, now a merchant at Kinston, North Carolina, and the owner of farming lands and town lots besides his merchandise; Ellis Dickson, a mechanic from Greene County, a millwright by trade, employing from ten to eighteen workmen, both black and white under him; Hilliard Ellis, a farmer with upward of two hundred acres of productive land in Wilson county; all these, and many others of the colored race, and republicans in politics, bear the same unqualified testimony to the equality of the two races before the law, and to their equal protection in all the callings and pursuits of life. In the face of proof like this who will care for the driveling, mercenary talk of Perry, Williams, and other hired agents, flitting to and fro between Washington and Indianapolis with the money of the republican leaders of Indiana in their pockets? Even Perry himself recanted before the committee and admitted that the negro emigration to Indiana was a fraud, induced by systematic falsehood, and declared, speaking as a negro:

I wrote to the old gentleman, Bergen, that if I owned a lot in Indiana and one in hell, I would rent out the one in Indiana and live in hell before I would live there.

Perry, however, was not the only North Carolina negro who experienced a violent conversion on the subject of a new Canaan in Indiana for the colored race. We saw Mingo Simmons hobbling back on frozen feet from the corn-fields of prominent republicans in Putnam County, Indiana, without a cent in his pocket, seeking again his comfortable home in Greene County, North Carolina. We heard his description of the canting hypocrisy practiced on him and his deluded fellow-emigrants by those who care much for the negro vote in Indiana and nothing for the negro himself. We also heard the story of old Green Ruffin, a good old preacher among his people in Wilson County, North Carolina. We listened to the recital of his toilsome efforts to get work in Indiana, of his repeated failures, and of his final determination to return:

Question. Did you tell the white people out there you were going home?
Answer. Yes, sir; I declared I wouldn't live in their State.
Q. Did any of them advise you to stay?
A. Yes, sir; they said they did not blame you immigrants for wanting to go home, but said, you try and stay until after the presidential election, and then we think it is best for you to go home; and I said all right, and I went on my way and come here.

How sweet and precious was the love for the negro of those who advised Green Ruffin and "you immigrants" to "try and stay until after the presidential election," and then to go home! He describes his experience at Indianapolis:

Question. Did you find much demand there for work?
Answer. There was mighty few people there were looking for workmen.
Q. Were there a few or many who were looking for work?
A. There were a great many of them looking for work, for there are plenty of people there as bad off as we were.
Q. How much wages were you to get out there?
A. Fifteen dollars a month on a farm, and house to live in, firewood furnished, and a cow and calf to milk extra for each family.
Q. Did you find any truth in such statements?
A. None at all, sir.

Then with his face towards his old kindly home, and this far on the way, he makes a most instructive and pathetic revelation:

Question. Are you on your way back to North Carolina?
Answer. Yes, sir.
Q. Do you expect to stay there?
A. I'm aiming to get back home and die there.
Q. You are going to stay when you get there?
A. I am going to stay right at home and advise all the rest to stay.
Q. What kind of advice are you going to give them?
A. I am going to tell them, "You have got a home, and you stay there;" for it's an abomination to go where you have got none.
Q. You speak in the church at home sometimes, don't you?
A. Yes, sir; sometimes in the prayer-meetings and round about.
Q. Do you expect to speak to them about this thing?
A. Yes, sir; if I live I expect to tell them about these things.
Q. You think it is a great outrage on your race?
A. Yes, sir; it is a regular abomination.
Q. You belonged to Mr. Ruffin, who was once in Congress, did you not?
A. Yes, sir.
Q. How have you been treated since the war down there?
A. As good as I want to be. Nobody has ever bothered me, and when I worked for them they paid me.
Q. Did you vote down there?
A. Yes, sir; at every election. I have never missed any one that I know of.
Q. What ticket did you vote?
A. The republican ticket.
Q. Did anybody ever keep you from voting it?
A. No, sir.
Q. Did you go to court during court week?
A. Yes, sir; I go to see how court goes on and the cases there.
Q. Did you live there on the old plantation?
A. Yes, sir; I have a piece of ground there yet.
Q. Do you rent it?
A. Yes, sir; I rent from a landholder.
Q. What sort of terms do you get?
A. Well, sir, if you tend the lands and they furnish the teams and all the utensils and seed, and I do the labor and board myself, I get a half.
Q. Do you make a living for yourself and family in that way?
A. Yes, sir.
Q. When you heard of those big wages you thought you could do better out there than at home?
A. Yes, sir; it's a man's duty to do better if he can, but if you don't like it, why then don't take up with it.
Q. You don't like it, and you are going back?
A. Yes, sir.
Q. How many of your people out there would go back from Indiana if they could?
A. I know of two families, and I think they have something of the rise of eight or ten children, who asked me to do something to get them back, and I said I would do my best.
Q. Are you going to try to get them back?
A. Yes, sir.
Q. How did you get back?
A. I had worked and got $7 that I saved; and the man that I was with wrote for money, and they sent him $35, and he lent me seven, and, with the seven I had, it brought me here; and when I got here I had nothing to eat, but I was this nigh home.

"And when I got here I had nothing to eat, but I was this nigh home." What a commentary on the calumnies in circulation to the effect that the old man and his race have no security, peace, or comfort in their homes in the South! Struggling back, reaching here without money to go farther, and without food, he derived a strong compensation in the thought that he "was this nigh home." Do you think, Mr. President, that such a home thus sought was environed by midnight terrors, daily alarms, and the fierce animosities and race conflicts retailed by republican politicians to the northern mind? To suppose so would be to burlesque human nature and outrage common sense.

Sir, the committee was charged by the resolution of the Senate to investigate the causes which led to the emigration of negroes from the Southern to the Northern States, and more especially from the State of North Carolina to the State of Indiana. I have thus far discussed the proof relating to the movement between the two States named. The absence of every other motive than a political one for the transportation of negroes from North Carolina to Indiana has been made as clear as the sun on a cloudless day, while on the other hand the evidence not only establishes the fact of a political conspiracy to carry the State of Indiana for the republican party by the importation of colored voters, but it discloses many of the details and points out the most prominent conspirators. In the whole range and history of criminal trials an indictment for conspiracy was never more fully sustained by the proof, nor were the conspirators themselves ever more completely identified and overwhelmed with guilt than in this case.

At this point, however, another branch of the investigation claims some attention. Leaving Indiana and North Carolina to stand as placed by the evidence on this great subject, the committee, at the request of its able and courteous minority, called witnesses from Louisiana, Texas, Mississippi, Arkansas, and Kansas. The evidence from these States was far more conflicting, touching the causes of negro emigration, than that which related to North Carolina. The committee found here and there the traces and the memories of former troubles, growing out of the suddenly reversed relations of the two races by the results of the war and the radical reconstruction legislation which followed. The testimony taken in former investigations was to some extent overhauled and reproduced by black and white political agitators who appeared as witnesses. It was admitted on all hands, however, that no disturbances, riots, or violence of political origin now existed in the Southwest or had existed for a number of years in that section of the country.

It appears conclusively from the evidence that whatever injustice or brutality has been inflicted on the colored man in the past, arising from the ambitious and plundering machinations of the northern carpet-bagger on the one hand and the resentful spirit of lawless people in the South on the other, such a condition of things has totally disappeared and can no longer be found anywhere. In Louisiana, it is true, an attempt was made to show that a state of insecurity now existed, but the weight of the evidence was overwhelmingly the other way. A colored editor from New Orleans by the name of Ruby; a colored politician giving his name as J. Henri Burch, evidently with some faith in himself; a traveling agent for a secret colored emigrating society, by the name of Henry Adams, describing himself also as "a faith doctor;" these, and a man by the name of Horne, a white man, who made a speech at Shreveport in the interest of J. Madison Wells in 1878, and thereupon became needlessly alarmed for his safety and came back to Washington and took a Treasury clerkship, constitute the principal witnesses against the peace, dignity, and honor of the State of Louisiana. Their accusations have been met by the testimony of the most substantial men of both colors and of both political parties in that State. From the parishes of Caddo, Bossier, and Natchitoches, the parishes principally assailed, came sober, industrious men, without regard to their color or their politics, and rebutted every calumny sought to be fastened upon their localities. Of the negroes themselves, several were examined who had shared in the Kansas delusion and who had returned again to their old homes. As the experience of one was substantially the experience of the others, I will submit the testimony of Henderson Alexander, a thrifty and respectable colored man, living in the parish of Bossier:

Question. Now, if you thought you would better your condition by going to Kansas tell us why and all about it.

Answer. Well, I always heard talk of Kansas as being a good place to go to, and I always 'cluded I would go there, I heard so much talk of it; they said it was a good place, a good country, and I 'cluded to go there, too.

Q. Yes; what family have you?

A. Wife and children.

Q. How many children?

A. Two.

Q. How much stuff had you when you went to Kansas?

A. I had a good lot of sheep—twenty head of sheep, and about twenty head of cattle and two mules and a wagon.

Q. Had you any money?

A. Yes, sir.

Q. How much money had you?

A. About $750.

Q. About $750 in cash?

A. Yes, sir; just about that.

Q. Who gave you these glowing accounts about Kansas, as to its being such a good country?

A. Well, papers came from Kansas; then we 'cluded we would make up some money and send a man there—a delegate they called him—and we sent a man there, and he writ back it was a fine country.

Q. Yes.

A. And for all to come on; it was a good country to live in, a good, law-abiding country, and all.

Q. Yes.

A. And me and a good lot of us then held a meeting to make up some money to support that man. And he kept on writing letters, and they was read to us—I am not a reading man—about the country that it was so fine, and so I went on, and it didn't suit me nohow.

Q. Tell me first how you went. Did you go by boat?

A. No; on the steam-cars.

Q. Where did you take the cars?

A. I took the cars at Shreveport, me and my family.

Q. Where did you strike Kansas, at Parsons?

A. We struck Texarkana, Cherry Valley, Independence, and Montgomery County, Kansas.

Q. How many were in the party that went with you?

A. Little and big, children and all, about eighty head.

Q. And you landed there with $750; or how much had you when you got there?

A. Not that much after I got there.

Q. How much had you when you got there?

A. I had $650 and a little over.

Q. Did you take your team with you?

A. Yes, sir; I took my team with me.

Q. And you landed with $650 in your pocket and a pair of mules and a wagon?

A. I had a little more money than that when I got there; I had that much, I know.

Q. When did you reach there?

A. About Christmas or a little afterward.

Q. This last Christmas?

A. Yes.

Q. What did you do when you got there?

A. Well, I got there, and the man we sent there, he writ before we left Louisiana, and wanted to make up $12.80, I believe; that was what he spoke of, and if we didn't have it we could not get the benefit of the land; so about six of us made up over $12 and sent it to him; we put it in the post-office on Monday morning and sent it on. And when we got there—well, I axed him about the land, and he could not give any account of the land he had bought at all.

Q. That was the delegate you sent up there, was it?

A. Yes, sir.

Q. What is his name?

A. Henry Tanner.

Q. Well, go on and tell us what you did when you got there.

A. They had no houses for us. They had one house there, and every one of us had to get in that one house. We was all lyin' round there in a jam, and was in an awful fix there; my mother-in-law was sick.

Q. Did you have your mother-in-law with you besides your wife and two children?

A. Yes; and she was old and sick and I got dishearted. And I went round there and tried to rent houses around town, and every time I was goin' to rent a house the white people wanted to sell; they didn't want to rent. Well, we didn't know what to do; we was lyin' there all in a huddle and my mother-in-law she died.

Q. Your mother-in-law died there?

A. Yes; and after she died I jus' got dishearted and said I was going back to Louisiana.

Q. She had never been in such a climate before and it was colder than where she had lived?

A. O, yes, and me too.

Q. It was colder to you, too?

A. Yes; I couldn't keep warm; and I got talkin' to 'em—the white men there—and I axed 'em how much money could a man make here in a year. Some of 'em told me he could make a hundred and fifty dollars; and they axed me how much I made in Louisiana; I say, some years I cleared five or six hundred dollars, some years four hundred, and I told 'em I cleared seven hundred and fifty dollars this year. "Well, then," they would say, "old man, you had better staid in Louisiana where you was; what did you come here for?" and I say, "A man is free now to go where he please;" and he say, "Well, you ain't goin' to make that much money here." Well, I got talkin' to 'em about rentin' land, and I said I would rent in Cherry Valley where I was—that's the way the white folks talked. Then they axed me what was the rent for land in Louisiana. Well, I say, some years I pay ten dollars, some years eight dollars, and some years seven dollars and fifty cents, and some years I worked on a fourth. Then they say, "Old man, what you come here for," and I say, "Well, a man is free to go where he please;" and they say, "Well, you ain't goin' to make that much money here." Then I kept lyin' round; I wanted to rent a place, but nobody wanted to rent; they wanted to sell their land—every man I talked to. "Then I'm gwine back to Louisiana," I said; some say, "O, you had better not go back there." I say, "Why?" and one man he told me if I went back to Louisiana I would have to lie around in an old holler log for six months. I say, "What for?" They say, "O, the fellers there will kill you." Then I say, "I'm gwine back." "No, you had better stay here and buy land here," they told me, and I said, "No, I can't stay here, I don't like this country; I don't like it at all; I'm gwine back where I can raise cotton, in the cotton country where I was raised, and am used to, and I always had a good deal; I'm gwine back."

This man lost his money and property by his trip to Kansas, but feels that he can make it all up again on the plantation at home. At another point in his testimony he says:

Question. How did the other colored people, so far as you talked with them, like the country up there?

Answer. I tell you the truth; them colored people in talkin' to me (some of 'em) said they wanted to get back, but they had nothing to get back with, they didn't have no means to get back. I said to me and myself, "Now, I have got a little money and I had better get back when I can get back;" and that's what I told 'em. One old gentleman wanted me then—he axed me how I was going to get back to Louisiana. "Well," I said, "I am going to take a train and go back so as to get back in time to make part of a crop, and make up my money I had spent." I 'cluded I would go back in my wagon first, me and another man, Wash Walker; I knowed I couldn't get back in time to make a crop, but I knowed I would get back to make four bales of cotton, and that would be more'n I could make in Kansas, because cotton sells for ten cents, and that will be $200.

He further testifies to the full enjoyment of all his political rights in Louisiana, his rights of property, personal security, educational and church privileges. Others like him tell the same story, and it is impossible to believe that the colored people of Louisiana are treated by their white fellow-citizens with cruelty and outrage when such facts are related by the laboring colored men themselves. To show still further that neither the laws, nor the social customs, nor the political prejudices of the white people of that State operate injuriously to the advancement of the negro, I will read the following extract from the testimony of Gilbert Myers, a colored planter of Caddo Parish:

Question. Mr. Myers, where do you live?

Answer. In the State of Louisiana.

Q. Whereabouts in Louisiana?

A. Caddo Parish.

Q. On what plantation?

A. A place of my own.

Q. You live upon a place that you own?

A. Yes, sir.

Q. How long have you lived there?

A. I have been living on the place, sir, ten years last Christmas; but I have only owned it—it has been six years since I bought that place.

Q. Are you a native of Louisiana?

A. No, sir; I was bred and born and raised in Georgia.

Q. How long has it been since you came to Louisiana?

A. I came to Louisiana the first year of the war.

Q. And on the place where you have lived ten years?

A. Yes, sir; I have lived ten years on that place.

Q. How far is it from Shreveport?

A. We call it twenty-one miles.

Q. How much real estate have you, Mr. Myers?

A. I have between five and six hundred acres of land, six head of mules, one little old chunk of a pony, about seventy-five head of cattle, and I reckon seventy-five to eighty head of hogs; somewheres close to that.

Q. When did you buy five or six hundred acres of land in Caddo Parish?

A. I bought by my first purchase five years ago two hundred and eighty acres; that was my first purchase. Last June I bought one hundred and sixty acres more. Last January past I bought one hundred and twelve acres more.

Q. How much does that land stand you per acre?

A. For the first purchase of two hundred and eighty acres I paid $10 an acre;

for the second purchase I paid $5 an acre; and the last purchase of one hundred and twelve acres I paid $3 an acre for it, sir.

Q. What kind of land is it; cotton land?

A. Yes, sir, cotton land; the hill land and a little on the creek bottom, &c.

Q. You cultivate cotton?

A. Yes.

Q. And hire help?

A. No, sir, I don't hire no help; I work my own children.

Q. What help have you in that way?

A. I have got a good many children; I have two sons living with me, both grown, and their families, and the balance of them; the younger part of them are females.

Q. Were you a free man before the war?

A. No, sir; I never was free till the 'mancipation.

Q. Did you have anything in the way of property when the war closed?

A. No, sir; I didn't have two bits to save my life.

Q. And you have accumulated enough to get five or six hundred acres of land and horses, and nearly one hundred head of cattle, &c.?

A. Yes, sir.

Q. Could any other sober, industrious, intelligent colored man do the same if he were to try as hard as you have?

A. Yes. There is a good many in my neighborhood right around me; there is a colored settlement around me doing very well. They have bought land and paid for it.

Q. How many of your neighbors have bought land and paid for it?

A. Right in my own neighborhood some dozen of us right around within five or six miles square have.

Sir, a country in which a man who was a destitute slave fifteen or sixteen years ago, and who now owns a well-stocked plantation of between five and six hundred acres, cannot be malignant or unfriendly in its policy of government toward him and his race.

I might, if time permitted, dwell on the testimony of Abner Hall, R. L. Faulkner, and other excellent colored men, who have long been school directors in their various parishes, and who state in explicit terms that there is no denial whatever to the children of colored folks of any of the rights or advantages which the children of white folks enjoy in the schools.

I might also dwell at length on the testimony of many of the foremost and most intelligent men of the white race, of both political parties from Louisiana, showing that neither in the laws themselves nor in the mode of their execution is there any discrimination against the colored people of that State. I must, however, content myself with earnestly commending their published evidence to a candid, reading public.

When the State of Mississippi was reached it was supposed by many that a condition of affairs between the two races would be revealed the slightest word of which would harrow up the souls of northern people and furnish material for an entire political campaign. Some strange developments did indeed take place before the committee, not in the quality or the quantity of the evidence, for everything was as usual the flimsiest hearsay, nor in its novelty, for it was all a tale that had been told a thousand times before, but in the character of the witnesses and in their attitude toward the people and the interests of that State. The principal and leading witness in making an assault on Mississippi was a very remarkable character by the name of R. B. Avery, a white man, now living at Bay Saint Louis. His testimony will be found commencing on page 255 of part 2 of the published evidence. It appears that he went to Mississippi in 1865, either from Illinois or Indiana, a most violent and active democrat. He declares that he made red-hot democratic speeches as soon as he landed in Mississippi; that he was bitterly opposed to the whole plan of reconstruction; that he denounced negro suffrage, and still denounces it, except as limited by education; that he ran for the State senate on these principles in 1868; that for the same reasons he opposed with all his strength the adoption of the new constitution of Mississippi in 1869; that he became very angry with his party because in 1869 it took up Judge Louis Dent, the brother-in-law of General Grant, as its candidate for governor; that he made a canvass in that campaign and voted for Dent, but "honestly went into it to defeat the Dent ticket;" that while pretending to support Dent he put the "knife under his fifth rib every time;" that he took this course because he conceived that the democratic platform was no better on the subject of reconstruction and negro suffrage than that of the republican party, and further, that he was opposed to a northern carpet-bagger for office, although one himself; that he voted for Greeley in 1872, remained a democrat until 1873, then helped to elect Ames governor, moved from Eastport to Bay Saint Louis in 1874, commenced the publication of a republican newspaper, and in April, 1877, was appointed to the lucrative position of agent of the southern claims commission under the last one of Grant's administrations.

Sir, if this man does not possess a record sufficient to qualify him as one of the stereotyped witnesses on the subject of southern outrages, I am at a loss to know what further degree he could possibly take. Eight years a Bourbon democrat, as he styles himself, disgusted with his party for being too conservative; then seven years a persecuting republican, winding up as an agent to travel through the South in the examination of war claims, owned, as he states, by republicans, and to be presented to a republican board of southern claims commissioners, composed of Messrs. Aldis, Ferris, and Howell; with such rare qualifications as these how reliable must be his recital of facts, and how candid and unprejudiced his opinions on the situation of affairs in the South! And yet on his testimony, and the testimony of others no more entitled to consideration, it is sought to blacken the reputation of communities and States. Allow me, in refutation of the calumnies heaped upon Mississippi, to submit the testimony of an honest, upright negro, one who is entitled to speak of the condition and the treatment of himself and his race.

Louis Stubblefield (colored) sworn and examined.

By the CHAIRMAN:

Question. Where do you live, Mr. Stubblefield?

Answer. In Bolivar County, Mississippi.

Q. How long have you lived there?

A. I have live there for fourteen years, sir.

Q. Where were you born?

A. In Alabama, sir; in Wilcox County, Alabama.

Q. What do you follow for a living, Mr. Stubblefield?

A. Farming, sir, is my occupation.

Q. Do you hold any position or office in your county?

A. Yes, sir; I have a position.

Q. What is it?

A. I am a member of the board of supervisors in my county.

Q. How long have you held that position?

A. For the last eight years, and turned into nine.

Q. State, Mr. Stubblefield, whether you have been able to acquire some property since the war.

A. Yes, sir; I have been able to gather in some little property.

Q. About how much?

A. I am to-day in possession of one hundred and sixty acres of very good land, and also nine head of horses and mules, 'twixt thirty-five and forty head of cattle, between fifty and sixty head of hogs—is about the property that I own myself and my family.

Q. Did you own anything at the close of the war?

A. No, sir; nothing whatever.

Q. Were you a free man before the war?

A. No, sir; I was a slave before the war.

Q. And this property you have acquired since you got your freedom, and after the war closed?

A. Yes, sir; I have gained it all since 1870.

Q. Where did you live in Mississippi before you went to Bolivar County?

A. I lived in Yazoo County.

Q. And you were born in Alabama?

A. Yes, sir; I was born in Alabama, but I just consider that I was raised in Yazoo County, Mississippi; for I left Alabama when I was only five years old, and I am now in my fifty-third year. With the exception of the five years in Alabama I have been in Mississippi, and for fourteen years I have been in Bolivar County. I came there right after the close of the war.

Q. In carrying on your farming, do you hire any help?

A. Yes, sir; I have hired help.

Q. How much do laborers' wages amount to down there—what do you pay?

A. The general wages range from $12 to $15 a month and board in addition.

Q. Is there any difficulty in laboring people down there getting employment?

A. No, sir.

Q. It's the other way, isn't it?

A. Yes, sir; the great trouble is they can get more employment than you can employ them.

Q. You mean there is greater demand for labor than supply of it?

A. Yes, sir.

* * * * * * *

Q. Mr. Stubblefield, is there any political trouble down there in Bolivar County, Mississippi, now?

A. Not with us; I am happy to say that we got along as well as could be expected.

Q. What ticket do you vote?

A. I vote the republican ticket, sir.

Q. You are not molested in voting it?

A. Not at all, sir; I advocate my rights, and speak my political opinions as boldly as anybody.

Q. And you have held office for seven or eight years?

A. Yes; going on nine years—my fifth term on the board of supervisors; I have served eight years, and turned into nine since January last.

Q. Why don't others do as well as you do if there is plenty of employment for all who will work?

A. Well, others, I suppose, probably have not taken the same stand I have taken. I have always thought that I must look to myself and work myself up, and so I have never waited a moment for any person to pick me up and carry me and make something outen me; I have always thought it was my duty to make something of myself and respect myself, and I thought I would then be respected by respectable persons.

Q. Are there other people of your race around you who have got along as well as you have?

A. Yes, sir.

Q. Any considerable number?

A. Yes, sir. There is a section there in my immediate neighborhood, about four miles throughout, that was taken up on a little stream there known as Bayou Fabayos, where the colored people own all the land with the exception of two lots of seventy-five acres in one and a hundred in another, and I am agent of these two lots to sell.

* * * * * * *

Q. Mr. Stubblefield, how is it about opportunities for schooling your children in your country?

A. Well, sir, our people in Bolivar has the same chance that the whites does for schooling their children; there is no exception made in the schools at all.

Q. The schools are kept up by the taxation of the people, are they?

A. Yes, sir.

Q. Where the colored man has property he pays the school taxes the same as the white man does?

A. Yes, sir; it is all equal as to that.

Q. And all share alike in the privileges of the schools?

A. Yes, sir; that portion of the business has been passing through my hands for the last eight years; I am identified with that sort of work.

Here we have the statement of a colored man from the very heart of that portion of Mississippi where the greatest wrongs to his race are alleged to exist. He was raised in the county of Yazoo, and now lives in the county of Bolivar, composing part of the district represented by General CHALMERS in the other branch of Congress. Starting but a few years ago, an emancipated slave, with nothing to aid him except his own industry and a fair chance under the laws, he appeared before the committee a self-possessed, intelligent, and comparatively wealthy man. Voting the republican ticket without the slightest molestation, he has also held one of the most important offices in his county during the last eight or nine years. The school laws, and in fact the whole system of laws, have been equal and just,

to him and to his people. Nor is his condition an exceptional one; he describes whole communities of colored people as prosperous as himself.

Sir, one such witness as Lewis Stubblefield is a vindication of the policy of Mississippi toward the colored people. His testimony consists not merely in his words, but also in himself. He is a great fact which could not have existed in his prosperous condition and honorable station but for the protection of equal and just laws. The fact that such a man, situated as he is, comes here from that region of Mississippi is in itself a proclamation to the world that the people of his race have not been denied their equal right with the white race to life, liberty, and the pursuit of happiness.

The condition of the two races in Mississippi in their kindly relations with each other at this time was also most clearly shown in the comprehensive testimony of Colonel Yerger, the superintendent of education for Bolivar County. It is to be found on page 506 of part 3 of the printed evidence, and will amply repay a careful reading.

There was yet another circumstance which, however slight in itself, spoke volumes in refutation of the charges of cruelty and oppression inflicted by the whites upon the blacks in that or any other part of Mississippi. There came before the committee one Philip Brookings, a black man who had made a pilgrimage to Kansas and was on his way home. His testimony is on page 107, part 3, of the evidence:

Question. Mr. Brookings, tell us where you live.
Answer. I live in the State of Mississippi, in Yazoo City, Yazoo County.
Q. Where have you been living, or staying, for some time past?
A. I have been in Kansas for about three months.
Q. You have come here from Kansas?
A. Yes, sir.
Q. Have you a wife and children?
A. I have no children; I have a wife.
Q. Where is your wife?
A. I think she is at home by this time.
Q. Where do you call "home?"
A. Mississippi.
Q. What is the county town of Yazoo County?
A. Yazoo City.
Q. How long have you lived down there?
A. All my life, except the last three months.
Q. Were you born there?
A. Yes, sir.

He then proceeds in a vein of humor and pathos to give a lengthy account of his delusive journey to Kansas, his hard, suffering experience while there, and his determination to return home to Yazoo. The spectacle of a negro fleeing from want and exposure in Kansas to the plenty and protection of Yazoo, Mississippi, conveys a most instructive lesson on the subject of the exodus.

Question. And now you believe, if you go back home and take care of yourself, you will get plenty of work to do while there?
Answer. I do not believe it, I know it.
Q. What pay can you get for work in Yazoo County?
A. Fifteen dollars a month and my board, regular.
Q. Do you have to go and hunt around much to get work down there?
A. No, sir; if somebody knows that you want to be hired you can just sit still and hire yourself.
Q. You are not afraid to go back down there, then?
A. Not a bit; no more than I am afraid to go and get a drink of water.
* * * * * * *
Q. What are you going to say to the people down there about going to Kansas?
A. If I see any of them that wants to break up and go to Kansas I am going to use the best means in my power to coax them off from that notion; I will tell them that they might as well be in the middle of the Mississippi River when they could not swim a lick. I will tell them it will be a race which they will do first, starve to death or freeze to death.

Will any sane man pretend to believe that the country to which this negro was hastening, the place of his birth, where he had always lived, where he could get constant work at $15 a month and board, and where he had no more fear to return than he had "to go and get a drink of water"—will any sane man, I repeat, pretend to believe that such a country was, or ever had been, a region of terror to Philip Brookings or to his race? Such a supposition would simply be a libel on common sense and a contradiction of every instinct of human nature.

Sir, the causes of negro emigration from the Southern to the Northern States are not to be found in the treatment received by the colored people at the hands of the white race. The movement to Kansas was inspired by different causes. One undoubtedly was to reduce the basis of representation in the South and increase it at the North under the approaching census. Another motive for inducing this transfer of population was to revive sectional agitation and bitterness by impressing the northern mind with a fresh horror on the subject of supposed southern outrages. Agencies, amply endowed with means, have been established at various points to accomplish this object, and to that end these agencies, and notably the one at Saint Louis and the one at Topeka, Kansas, have engaged largely in the manufacture of false testimony of a hearsay and wholly unreliable character. The evidence conclusively shows that the recitals of wrongs and injuries by the so-called refugees were made under instructions and manufactured to order. In the testimony of H. H. Stanton, of Topeka, Kansas, the following disclosure on that point was made:

Question. Did they tell you that they themselves were badly treated, or did they only tell you that they had heard of others who had been badly treated?
Answer. Nobody could be found that had been badly treated themselves. I have noticed that particularly. I was considerably amused one day at a conversation that I overheard. Between my laundry and ice-house and the high fence in the rear of my hotel there is a little vacant space. I happened to be out in the back yard, when I heard a couple of these colored people talking; there was quite a crowd of them out there, sitting on some old trucks and standing around there. I heard one of these, who was evidently a woman, saying, "I am not going to tell this story any longer; it is all wrong, and it does not do a bit of good; there is nobody cares for us here; here we are, sitting on these old trucks, and may stay here till we starve to death, and nobody would care; you know very well that nobody ill-treated us down there, and I am not going to tell this story any longer."
Q. Who was she talking to?
A. Her husband, I judged, from the style of her conversation.
Q. What did he say?
A. Nothing. I think they started back home the next day.
Q. Have a considerable number gone back home?
A. Yes, sir; a great many. They are applying at the railroad offices there every day to find out how much it will cost.

Again, Mr. Stanton, in speaking of the delusion of the negroes in their rush for Kansas, described the following instrument of fraud, one of thousands similar in kind which I have no doubt were scattered among the more ignorant classes of the colored race in the South:

Question. Do you know anything about any pictures, chromos, or anything of that sort being sent down South by anybody?
Answer. Yes, sir; I saw one picture, I think, last July or August, possibly September; I would not say exactly what month it was. I saw a chromo perhaps the size of that atlas, perhaps not as wide; it had a nice little cottage-house, a one-story house, with a porch and awning in front, situated on one of our green mounds in Kansas; in front of the house stood a mule, harnessed to a cart; an old gentleman and lady, colored, were standing on the porch, and little children were playing about in the shadow of four or five green trees. And the man that showed me that picture said that that was what got him here—forty acres, and a mule and cart, and the like of that.
Q. Where was he from?
A. From Mississippi.
Q. What part of Mississippi?
A. I could not tell you. I saw so many of these people that I do not remember all the particulars concerning each one, and I did not then suppose that I would ever be asked down here to tell about it.
Q. When these colored people got to Kansas, did they find that farm ready for them, that neat little cottage, and that mule and cart, and those green trees and things?
A. No, sir.
Q. Did the man that showed you that picture go back?
A. Yes, sir; he went back, very indignant.
Q. He expressed himself as being disgusted?
A. Yes, sir. I have known men, when they came there and found there was nothing for them, to go back the next day. They would go to the barracks, take a look at the condition of things there, and turn around and go home.

To those who could read circulars filled with sensational falsehoods were sent, while to others were given glowing pictures of easy and plentiful homes on the prairies of Kansas. A more stupendous imposition than the entire exodus scheme, whether relating to Kansas, to Indiana, or to any other State or Territory, was never practiced by unscrupulous adventurers on a credulous, ignorant people. It is a fraud of vast proportions, and is not mitigated by a single feature of merit. By the laws of his physical being the South is the natural and beneficent home of the negro. He is the offspring of warm lands, and prospers under the vertical rays of hot suns. Cotton-fields, rice-swamps, and sugar plantations are sources of more remunerative employment to him than can be obtained by any other laboring class to-day in the world.

The colored race in the South also holds a guarantee for fair and liberal treatment in the necessities of the southern planter. The employer is restrained by self-interest, if by no higher or better motive, from dealing unjustly with the laborer on whom all his productions depend. The negro is a free man; he knows that fact, and he will not remain with an employer who defrauds or inflicts cruelty upon him. In the mean time education is going on; the children are improving on their parents; the industrious, as I have shown, are acquiring an interest in the soil; the two races are growing more and more useful and necessary to each other; the traces of slavery and the rancors of the reconstruction period have almost entirely disappeared, and all that is requisite for continued and increasing peace, prosperity, and happiness throughout the South is for natural causes to be left to dictate the results of the future, and for meddlesome schemers to let the people of both races alone.

Mr. WINDOM. Mr. President, it is not my purpose to interfere with the wishes of the Senator from Tennessee [Mr. HARRIS] this afternoon, and I shall not address the Senate upon the subject on which the Senator from Indiana [Mr. VOORHEES] has spoken, but I hope to before the close of the session. The evidence taken by the committee was not printed so that I was able to obtain a copy of it until the day before yesterday, and I have not had an opportunity to read it. There is one point, however, to which I do wish to refer at this time, as I think it illustrates very fully the character of this whole investigation, and of this very labored and elaborate effort to which we have just listened.

The committee made a desperate effort to convict the republican State central committee of Indiana of having induced the emigration to go into that State for political purposes, and the Senator from Indiana has to-day occupied nearly half an hour in trying to prove that fact, and particularly the fact that said committee had sent a certain large sum of money, amounting to $600, to the agent of the Baltimore and Ohio Railroad in this city to pay the transportation of colored emigrants to Indiana. I was not willing to believe that the honorable Senator wished to state what was not true. I know he did not intend to do so. I was not willing to believe that he wished to mislead his own constituents or the country; and therefore I arose and asked permission to interrupt him for the purpose of stating what was the fact with reference to the $600 which he says the republican

committee of Indiana sent here in order to import some two or three hundred colored people into Indiana. The Chair and the Senate witnessed the excitement of the honorable Senator when I tried to correct him upon that point, and his determination that no word of mine should be thrust into that part of his speech. I now desire to read the affidavit of the Baltimore and Ohio Railroad agent upon that point:

WASHINGTON,
District of Columbia, ss:

George S. Koontz, of Washington, District of Columbia, general agent of the Baltimore and Ohio Railroad Company, being duly sworn, deposes and says:

On the 3d day of December, 1879, there was a large lot of colored persons here who had come from North Carolina to Washington *en route* to Indianapolis, Indiana. They had been in the depot of the Baltimore and Ohio Railroad Company for several days. I called on a colored man, S. L. Perry, who had them in charge, and urged him to do something to have them forwarded from Washington. He said to me that if he could get word to Professors Bagby, Brayles, and Elbert, at Indianapolis, they would deposit the money to pay their fare from Washington to Indianapolis. I suggested that he should telegraph them. He said he had no money, and asked me to telegraph for him. At his dictation I prepared and sent our agent at Indianapolis a telegram, of which the following is a copy:

WASHINGTON, D. C., *December* 3, 1879.

To W. B. TINNEY,
Agent Baltimore and Ohio Railroad, Indianapolis, Indiana:

Call on Professors Bagby, Brayles, and Elbert, and say that S. L. Perry and Williams want them to deposit with you $600, for a party they have here from the South for Indianapolis. Answer.

GEO. S. KOONTZ,
General Agent Baltimore and Ohio Railroad Company.

Koontz goes on to swear:

To this dispatch I received no response. In a few days afterward the fares of this party were paid by Mr. Wall, a colored man, of Washington, District of Columbia. The greater part of this money was paid in pennies, in three, five, and ten cent pieces, done up in packages of from fifty cents to $5. Wall informed me that the sum of money was made up from contributions by Sunday schools, churches, and other organizations, as well as from charitable persons. No part of this money, to my knowledge, came from Indianapolis. No money to my knowledge ever came from Indianapolis, or elsewhere outside of Washington City, to pay transportation of these people.

GEO. S. KOONTZ.

Subscribed and sworn to before me this 4th day of June, A. D. 1880.

R. B. NIXON,
Notary Public.

During the investigation a request was made to have Mr. Koontz brought before the committee; and it was understood that he should be examined. I think the statement was then and there made as to what he would swear to on this subject. I know that when the report was agreed to be made the other day I stated that I desired to have Mr. Koontz sworn, and it was understood that his affidavit might be included in the testimony.

Now, I will not assert that the honorable Senator knew the character of that affidavit when he was spending half an hour before the Senate trying to prove to the country that the republican committee of Indiana had forwarded $600 here for that purpose; and yet I was very much surprised when that good-hearted Senator—for we all concede to him that quality—became so intensely excited the moment I arose and asked him if he wanted the facts with reference to where that money came from. Now, one other word as to the character of this investigation, and that is all I desire to say to-day. So far as the honorable chairman of the committee is concerned and the majority of the committee in the examination of witnesses who were before them I have no complaint to make. They acted with fairness and honor in the examination of the witnesses. But I also want to add this fact, that so far as a fair and thorough examination of this question is concerned there has been none made, and I will state why. One hundred and fifty-nine witnesses have been examined, as near as I can count them from the index. Of that number the minority of the committee summoned outside of this city but nineteen witnesses. From $31,000 to $35,000 have been expended in the investigation, and there have been expended at the instance of the minority of that committee not to exceed $2,500 to bring witnesses from places outside of this city. I state what I believe to be the fact, and I think the honorable chairman of the committee will not deny it, that a deputy sergeant-at-arms was sent out by the chairman of the committee with a blank subpœna to interview anybody that he could find, and to put such names in that summons as he chose to bring before the committee for investigation. Traveling with that authority over Kansas, Louisiana, North Carolina, and elsewhere, he succeeded in picking up a large number of witnesses who thought there was no cause whatever for the exodus; and where men were found who were willing to swear that it had no cause they were brought before the committee, where they crowded the committee-room for nearly two mortal months.

There never has been a denial, so far as the chairman or the majority are concerned, to the minority of the committee of the right to bring witnesses, but after we had summoned some seventeen to nineteen, we found the committee-room overrun with the importations brought here upon the blank subpœnas issued to the Sergeant-at-Arms, and not desiring to make any greater expense than was necessary we waited and waited week after week and month after month until there could be a little chance to get our witnesses examined, without adding unnecessarily to the crowd in attendance; but when that time came, the contingent fund was exhausted and there was no money to pay for witnesses, and consequently we have not been able to bring that number of witnesses before the committee that we desired to make this investigation thorough and full. I repeat what I said, that the fact is that there never has been any formal denial of our right to bring them; there has simply been the fact that there was no room for them, no time to examine them, and finally by the large number of witnesses summoned by the majority, no money to pay for any more, and consequently we were not able to get them.

I know, as has been read by the honorable Senator to-day, there have been colored men brought here from several States who have sworn that their condition was happy and prosperous. Wherever a colored man could be found who had made a little money in the South, who had a few hundred acres of land, and who was happy and contented, he had a very good chance to be brought before the committee to swear to it. That is all I want to say to-day. I will review the testimony in a few days, when I will endeavor to show some of the real causes of the exodus.

Mr. EATON. Does my friend remember that several weeks ago I made a report from the Committee on Appropriations, a resolution adding $15,000 to the contingent fund, for the very reason that the contingent fund of the Senate was exhausted, and that the money was required to pay witnesses for this very committee and other committees, and it was laid upon the table and held over day after day until there could be a long letter printed from the Secretary of the Senate, at the instance of my honorable friend the Senator from Vermont, [Mr. EDMUNDS?] I just wish to say that to show the honorable Senator from Minnesota [Mr. WINDOM] that if there was any lack of money it did not come from the democratic members of the Senate.

Mr. WINDOM. I am aware that the democratic members of the Senate never denied the money.

Mr. EATON. We did not desire to deny it, either.

Mr. WINDOM. I do not think they did; but when we came to consider whom we should send for we were informed that the money was gone; the Sergeant-at-Arms so informed me, and I certainly did not desire that we should have our witnesses brought here to peddle their certificates on the street, and consequently we did not summon them. I do not say this for the purpose of excusing the character of this testimony. When I come to examine it, as I shall within a day or two, I think it will be found that notwithstanding we summoned outside of this town but nineteen of the one hundred and fifty-five witnesses, there is a very good cause shown for this exodus which I will present to the Senate and to the country as soon as there is a favorable opportunity.

Mr. PENDLETON. Mr. President, I desire to ask the Senator from Minnesota whether or not any single witness has not been brought here whom he desired to subpœna by reason of an absence of funds or want of funds to bring him?

Mr. WINDOM. I have had letters from hundreds of people stating important testimony that could be given, who have not been summoned simply because of the enormous expense incurred.

Mr. PENDLETON. I am not asking the Senator whether he has had letters or not; I am asking him whether a single subpœna for a witness has been asked for that has not been granted, and whether a single witness that he has subpœnaed has not been brought here?

Mr. WINDOM. I have already answered that I have stated that no demand was made for summoning a witness that was not responded to affirmatively; but I stated at the same time that for weeks and months the committee-room was thronged with the witnesses brought here by the majority, and that we waited until we could get an opportunity to examine them, and when that opportunity came there was no money in the Treasury to pay them.

Mr. PENDLETON. Now, going to the last statement first, the gentleman says there was no money to bring them. Does he mean to say that any single witness that he desired to have brought was not brought by reason of a non-appropriation of money?

Mr. WINDOM. I do mean to say that if there had been money in the contingent fund I should have summoned at least twenty more.

Mr. PENDLETON. Why did you not summon them and allow an appropriation to be made for that purpose?

Mr. WINDOM. I did not summon them because the witnesses from Kansas, from Louisiana, and all over the country were peddling their certificates on the street and selling them at a discount.

Mr. PENDLETON. Did you communicate to the committee in a single instance a desire to examine witnesses who were not brought here for the lack of funds?

Mr. WINDOM. At the very last meeting of the committee I said to the chairman—whether the Senator from Ohio was present I do not know—and the Senator from New Hampshire [Mr. BLAIR] said the same thing, that we must have at least ten more witnesses; that we needed many more than that number, but we would try to compromise on ten if we could have them, and there has not been a meeting of the committee since that time, and there has been no opportunity to summon them, and no money to pay them if summoned.

Mr. PENDLETON. That is all very well to say. There has not been a meeting of the committee since that time, and probably the Senator knows as well as I or any other member of the committee why there has not been a meeting within the last three or four days when it was intended to submit the report and when it was intended to submit to the whole committee the reports of both the minority and the majority.

Mr. WINDOM. I find no fault with that. I agreed that the report should be made without a meeting. It was not that of which I complained. It was the fact that we had no opportunity on account of the flood of witnesses which the Senator's side of the committee had here. That was the point I made.

Mr. PENDLETON. Oh! because there was a flood of witnesses you did not subpœna the witnesses on your side that you desired to examine. I understand that to be the complaint.

Mr. WINDOM. I did not because there was neither time to examine them nor money to pay them in the contingent fund.

Mr. PENDLETON. On the contrary, there was money to pay them, because the majority of this Senate was ready to appropriate the money, whatever might have been necessary for that purpose. On the other hand, the Senator has already said that not a single subpœna that he demanded was refused by reason either of the intention of the majority of the committee to suppress testimony or their intention not to aid the minority in bringing before the Senate and the country every item of testimony that they desired should be brought.

Mr. WINDOM. I have not said that the majority of the committee designed to suppress the testimony.

Mr. PENDLETON. No, sir.

Mr. WINDOM. I have intimated no such thing. I have simply said that the majority of the committee flooded the committee-room with their witnesses, and thereby crowded us out until the money was gone—not intentionally crowded us out, but in effect crowded us out until the money was gone and there was no opportunity for us.

Mr. PENDLETON. I desire to ask the Senator from Minnesota whether on the other hand it was not notorious that the committee-room was crowded day after day, and week after week, by gentlemen who were there either under the subpœna or by the invitation of the minority; whether they were not there sitting in that committee-room. I ask the Senator whether I cannot name half-a-dozen or a dozen men, notably this same gentleman of whom he speaks, Mr. Burch, and another person whose name has escaped me for the moment, whose name I am sure he will remember, who were there for several weeks in attendance without the least possibility of their being called to give their testimony?

Mr. WINDOM. There were a few witnesses there on our behalf who remained several days and weeks.

Mr. PENDLETON. "Several days" was not several weeks?

Mr. WINDOM. I said "weeks."

Mr. PENDLETON. If several witnesses of the minority were there several days and weeks, how can the Senator know that the majority of the committee crowded the room so that the witnesses whom he desired could not find opportunity?

Mr. WINDOM. I simply say this, that out of the one hundred and fifty-five witnesses summoned, but nineteen were summoned by us outside of this city.

Mr. PENDLETON. But still our committee-room was small, and nineteen being there all the time would crowd it very much.

Mr. WINDOM. The Senate will see readily that nineteen could not crowd it as much as the difference between nineteen and one hundred and fifty-five could.

Mr. PENDLETON. Nineteen all the time would crowd it much more that one hundred and fifty-five spread over two or three months.

Mr. WINDOM. I have not said that they were all there. I have said some few witnesses remained two or three weeks. I repeat, that so far as the examination of witnesses was concerned, so far as a response to requests to summon them was concerned, I make no complaint; but I do say, and I repeat, that the witnesses who were summoned were brought here by the Sergeant-at-Arms scouring the country, and wherever he could find a man who would swear there was nothing in the exodus he would bring him, and by reason of the large number of such witnesses called we were unable to get our chance.

Mr. PENDLETON. Witnesses were brought in by the Sergeant-at-Arms, and he was the proper custodian of the process of the Senate to bring them here. He was the person who was intrusted, either by himself or his deputies, with the service of the subpœnas, the process of the Senate; and he brought the witnesses here, and he brought every witness that you had here, except the volunteers, who may have come in some other way.

Mr. WINDOM. I said that the Sergeant-at-Arms, as I was informed and believed, and the Senator has not denied that, brought them here on blank subpœnas that he was sent out with to hunt up witnesses.

Mr. PENDLETON. I do not know whether he brought them on blank subpœnas. If he did, it was only that there might not be brought here a mass of witnesses whose testimony we did not know would be valuable, and thus we saved in that way in the expenses of the committee. I must say—and I make the remark in the kindest and most proper spirit in the world—that the whole suggestion that there has not been the fairest possible examination by this committee, that it has been more elaborate, more expensive, or taken up more time, or consumed more money than was necessary, I think is entirely unwarranted as it comes from the gentlemen on the other side.

Mr. WINDOM. There is one point I wish to call the Senator's attention to especially, that the minority of the committee did not, according to my recollection, summon one witness from the State of North Carolina.

Mr. PENDLETON. Then, was it because you had no witnesses to bring from that State?

Mr. WINDOM. Not by any manner of means; but we had urgent requests for more than twenty——

Mr. PENDLETON. Very well; if the Senator for any reason, whether because he was acting upon his responsibility as a Senator or because he did not think the information that he received was worthy of credence, refused to bring those witnesses from North Carolina, is it to be attributed to us as a fault?

Mr. WINDOM. Two of these witnesses were among the ten that the Senator from New Hampshire [Mr. BLAIR] and myself spoke of at the last meeting as desiring to have brought here before we found that we could not have the money for them, and because we found that there was no other meeting of the committee.

Mr. PENDLETON. That you could not have the money for them? I desire to bring this point to a test. I ask the Senator now whether he means to say to the Senate and to the country, as far as the country shall pay any attention to this discussion, that there was one single witness he desired to have who was not brought here because the committee was not prepared to defray the expense of bringing him?

Mr. WINDOM. I say again, Mr. President, what I said before, that the witnesses who were here were paid by sharpers who had to——

Mr. PENDLETON. No, sir; no, sir.

Mr. WINDOM. Will the Senator allow me to answer?

Mr. PENDLETON. I deny the proposition that any witness who was brought here was paid by sharpers.

Mr. WINDOM. I do not know what the Senator calls them; but he asked me a question and I hope he will allow me to answer.

Mr. PENDLETON. Certainly.

Mr. WINDOM. I say it is a fact that a large number of witnesses had to peddle their certificates and have them shaved.

Mr. PENDLETON. That is another question. The Senator said the witnesses who were brought here were paid by sharpers. I say that not a single certificate of a witness need to have been peddled upon the streets of this city to be shaved by sharpers, not because I say there was always money at the very moment to pay them, as there ought to have been, and as the Senator with myself was willing that there should have been, but because we could not always get through the Senate a resolution authorizing the payment. But the suggestion that any witnesses who came here to attend upon this committee were paid by sharpers, or paid in any interest of that kind, I beg leave to say to the Senator, is a suggestion that is entirely without foundation.

Mr. WINDOM. The Senator finds a good deal of fault with the word "sharper," and I will not use it. I simply say that a large number of witnesses were compelled to have their certificates shaved. They could not get the money from the contingent fund of the Senate.

Mr. PENDLETON. The Senator knows as well as I do that the majority and the minority of the committee were willing instantly to correct that difficulty, but the expense had exceeded for the moment the contingent fund of the Senate, and these men could not wait, and did not wait; and yet he and I both aided, as far as we could, to supply the deficiency.

Mr. WINDOM. Certainly; but the money was not here to pay the witnesses.

Mr. PENDLETON. The money was not here; but I again come back to the Senator and ask him whether he can stand before the Senate and say that any single witness that he desired to have brought here for the purpose of giving testimony in this case was not brought because there was not the money to pay him?

Mr. WINDOM. I repeat what I said before, that a very large number were not asked for, for the reason that there was no time to examine them on account of the crowd of witnesses brought here by the majority, and because the minority were not willing to send for witnesses until the money was provided for to pay them.

Mr. PENDLETON. On the contrary, it has been three weeks since we examined a single witness in that committee, and we have been ready to examine any witnesses that might be produced since that time.

Mr. HARRIS. Mr. President, I feel constrained to call for the regular order. Having yielded to the Senator from Indiana, I felt bound to yield to the Senator from Minnesota; but I did not feel justified or at liberty to yield further.

The PRESIDENT *pro tempore*. The Senator from Tennessee demands the consideration of the regular order.

Mr. VOORHEES. I hope the Senator will allow me to make a single statement which will not lead to any discussion between the Senator from Minnesota and myself. I desire to say that my relations have been very cordial and kind with the Senator from Minnesota during this examination; and if in the excitement of speaking—for that was all I was conscious of—I betrayed any irritation toward him now or in what I said when I was making my speech it was quite unintentional.

In regard to the affidavit of Mr. Koontz let me say that Mr. Koontz is the railroad agent at the Baltimore and Ohio depot here, and he was about the committee-room from the first to the last, and why he was not examined I do not know. I know that it was no fault or purpose of the Senator from Minnesota or his associate, the Senator from New Hampshire; but he was not examined, and the other day—I am sure the Senator will pardon me for the liberty I take—the other day talking to him about the report he said he had desired to get Mr. Koontz's statement on the subject of that transportation to Indian-

apolis, and as it was too late to call the committee together again he suggested an affidavit. I told him to get it; I would not object to it at all. And to-day is the first time I have ever heard a word of Mr. Koontz's affidavit. I never saw it. At the same time I do not think it materially changes the weight of the statement which I made based on the testimony of Tinney, Morris, and one or two others. That, however, is a matter of argument.

Now, in regard to the spirit in which this investigation took place, I know that I tried to be fair; and I think the record will bear me out. There were, I think, one hundred and fifty-nine witnesses examined. Of these fifty-four were democrats and ninety-four were republicans; and fifty were negroes out of the one hundred and fifty-nine. Ninety-four were republicans, fifty-four democrats, and two or three greenback friends, and others of less prominent political affiliations. I think that was a pretty "fair divide." I have no doubt that if the session were to last longer and we had not been so crowded the Senator from Minnesota would have desired to take more testimony. There were circumstances connected with my own family matters last winter calling me to Indiana which took me away for some time, and toward the last there was a rush of hard work before the committee; but I must say in all kindness to the Senator from Minnesota that this is the first time I ever knew a lawyer to decline calling witnesses because the other side had a great many in attendance. This is the first time I have ever known anything of that kind.

In regard to the expense of this committee a single word. We have spent some money, I think in the neighborhood of $30,000. I was a member of an investigating committee within the last ten years which went to the South, traveled over the country; and an inspection of the records will show that $89,000 was expended in that examination. The Senator from South Carolina [Mr. HAMPTON] suggests to me that it was $95,000. I thought I was correct; but perhaps he is. At any rate it was a very large sum, and I do not know of anything that grew out of that republican investigation except some political capital. I am willing to submit this examination in all its bearings, as to the expense, as to the spirit in which it has been conducted, as to the number of witnesses called by the republican minority, to a comparison for fairness with any investigation that ever took place.

That, I believe, is all I desire to say.

BRONZE CANNON FOR MEADE STATUE.

The PRESIDENT *pro tempore*. The consideration of the regular order is resumed, being House bill No. 2328. Before the reading of the bill commences the Chair will lay before the Senate a message from the House of Representatives and call the attention of the Senator from Rhode Island [Mr. BURNSIDE] to it.

The Chief Clerk read as follows:

IN THE HOUSE OF REPRESENTATIVES,
June 4, 1880.

Resolved, That the House concur in the amendments of the Senate to the bill (H. R. No. 2440) to authorize the Secretary of War to transfer to the Fairmount Park Art Association eighty condemned or captured bronze cannon, to be used in the erection of an equestrian statue to the late Major-General George Gordon Meade, with amendments, as follows:

In line 3 of the bill strike out the word "or."

Amend the title so as to read as follows: "An act to authorize the Secretary of War to transfer to the Fairmount Park Art Association thirty condemned bronze cannon, to be used in the erection of an equestrian statue to the late Major-General George Gordon Meade."

Mr. BURNSIDE. I move that the Senate concur in the amendments of the House of Representatives to the amendments of the Senate.

The motion was agreed to.

SENATE LIBRARY.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Senate, transmitting, in reply to a resolution of the Senate of this day, the number, names, and salaries of employés of the Senate library; which, on motion of Mr. COCKRELL, was ordered to lie on the table and be printed.

REPORT OF A COMMITTEE.

Mr. PLATT, from the Committee on Pensions, to whom was referred the bill (S. No. 365) for the relief of Hardie Hogan Helper, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

BILL INTRODUCED.

Mr. BAILEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1817) for the relief of William G. Ford, administrator of John G. Robinson, deceased; which was read twice by its title, and referred to the Committee on Claims.

AMENDMENTS TO BILLS.

Mr. VOORHEES, Mr. BAILEY, Mr. HEREFORD, and Mr. KERNAN submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 6266) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes; which were referred to the Committee on Appropriations, and ordered to be printed.

Mr. PLATT, Mr. KERNAN, and Mr. PADDOCK submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and for prior years, and for those certified as due by the accounting officers of the Treasury in accordance with section 4 of the act of June 14, 1878, heretofore paid from permanent appropriations, and for other purposes; which were referred to the Committee on Appropriations, and ordered to be printed.

Mr. JONAS submitted an amendment intended to be proposed by him to the bill (S. No. 1771) to establish a post-route in Missouri; which was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

HOUSE BILLS REFERRED.

The following bill and joint resolution received from the House of Representatives were severally read twice by their titles, and referred to the Committee on Military Affairs:

A bill (H. R. No. 3151) for the relief of Francis W. Maxwell; and

A joint resolution (H. R. No. 316) granting the use of artillery, muskets, and tents at the soldiers' reunion at Decatur, Illinois.

POST-OFFICE APPROPRIATION BILL.

The Senate proceeded to consider the action of the House of Representatives on the amendments of the Senate to the bill (H. R. No. 6036) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1881, and for other purposes, disagreed to by the House of Representatives.

On motion of Mr. BOOTH, it was

Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and disagree to the amendment of the House to the seventh amendment of the Senate, and ask a conference with the House on the disagreeing votes of the two Houses thereon.

By unanimous consent, it was

Ordered, That the committee on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. WALLACE, Mr. BECK, and Mr. BOOTH.

CLAIMS AGAINST THE DISTRICT.

Mr. HARRIS. I insist now on the regular order.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 2328) to provide for the settlement of all outstanding claims against the District of Columbia, and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes.

The bill was reported from the Committee on the District of Columbia with amendments.

The first amendment was in section 1, line 6, after the word "contracts," to strike out the following words:

And not barred by any act of Congress or failure to comply with the requirements of any act of Congress, including certificates of auditor and of board of audit, sewer certificates, sewer taxes, measurements, covered by contracts made since February 21, 1871: *Provided*, That said Court of Claims shall not take jurisdiction of any claim against the District of Columbia which was not presented to the board of audit under the provisions of the act of June 20, 1874, and of March 3, 1875, excepting such claims as have arisen out of contracts made by the District commissioners since the passage of the said act of June 20, 1874.

And in lieu thereof to insert:

Made by the late board of public works, and extensions thereof made by the commissioners of the District of Columbia, and such claims as have arisen out of contracts made by the district commissioners since the passage of the act of June 20, 1874; and all certificates of the auditor of said board of public works, all certificates issued by the board of audit, all certificates issued by the auditor and comptroller of the District of Columbia, all sewer certificates, all sewer taxes not heretofore converted into 3.65 bonds, all measurements made by the engineers of said District of work done under contracts made since February 21, 1871, for which no certificates have been issued to and received by the contractor or his assignee, all claims based upon contracts made by the board of public works for which no evidence of indebtedness has been issued.

Mr. HARRIS. Before action is taken upon the amendment, I am instructed by the Committee on the District of Columbia to move to strike out, in line 25, after the word "works," the language "all certificates issued by the board of audit."

The committee instruct me to move to strike those words out of the amendment for this reason: There was a large amount of indebtedness at the time that the board of public works and the territorial government of the District of Columbia were abolished, amounting to $15,000,000 or $16,000,000. The board of audit was created. It has audited about fourteen and a half million dollars of indebtedness, has issued certificates to the extent of thirteen million five hundred and forty-three thousand and some odd dollars; their certificates have been funded in the 3.65 bonds. The committee entertain the opinion that it is improper to send the holders of these certificates that are yet outstanding, amounting to about $758,000, to the Court of Claims, but propose to fund their certificates in 3.65 bonds.

I therefore move to strike out, in line 25, "all certificates issued by the board of audit;" and I have prepared an amendment as an additional section to the bill authorizing the sinking-fund commissioner to fund the outstanding certificates of the board of audit.

The PRESIDING OFFICER, (Mr. CAMERON, of Wisconsin, in the chair.) The question is on the amendment of the Senator from Tennessee [Mr. HARRIS] to the amendment reported from the Committee on the District of Columbia.

Mr. MCMILLAN. Mr. President, I do not rise at this time to speak directly with reference to the amendment proposed by the Senator

from Tennessee, but rather to call the attention of the Senate to this bill. I regret that as a member of the Committee on the District of Columbia I was unable to agree with the committee in reporting the bill. I think it is wrong from its enacting clause to the last word, and to no part of it can I assent.

This bill deals with claims against the District of Columbia. They arise out of transactions which occurred long since, connected with which were innumerable irregularities, to characterize them in the mildest terms. The bill deals with claims which have been outstanding for a long time; many of them have no basis in equity; many of them have originated in illegalities; and large proportions of them are in the hands of persons who have no other claim than that they purchased them, perhaps for an inadequate sum of money.

The bill removes all the statutes of limitations which have run against all these stale claims. It revives all these claims which have been floating about in the community, which have been the subject of barter, and which have been dealt in by, I may correctly say, sharpers; so that the claims have been transferred for considerations which have been but trifling in their character, owing to the nature of the claims themselves.

Mr. JONES, of Florida. May I ask the Senator a question for information?

Mr. McMILLAN. Yes, sir.

Mr. JONES, of Florida. What is the amount of the aggregate of these claims?

Mr. McMILLAN. I cannot approximate the amount, because it is indefinite. I cannot give the Senator information on that subject.

Mr. INGALLS. The amounts are just as well ascertained as the simplest proposition in mathematics.

Mr. McMILLAN. Then the Senator from Kansas can give the Senator from Florida the information he desires.

Mr. President, not only does the bill propose to do what I have stated, but it proposes to transfer from a jurisdiction which already exists rights of action to a tribunal which has no jurisdiction whatever of cases of this kind. The courts of the District of Columbia are regularly organized; they are courts that are administered by the judiciary of this District. The laws that govern them are laws well known to the Senate and to the profession of the law. If the suitors who hold these claims have any cause of action, they can go into the courts of the District of Columbia and have justice administered to them, at law or in equity.

We have recently added to the judges of the supreme court of the District a number sufficient to meet all the wants of the administration of justice here. Why do these parties not go into the tribunals of justice already provided, where the laws of contracts can be administered, where juries of their countrymen can pass upon questions of fact? Why remove all these things from the courts of law in this District and transfer them to a court of limited jurisdiction, a court established by the statutes of the United States for the single purpose of determining claims against the Government of the United States in the hands of her citizens?

The Court of Claims was established in order that a citizen of the Government of the United States might go into it and establish a claim against the General Government which was not otherwise subject to action. That tribunal was provided for that purpose. These citizens of the District of Columbia, with all the rights existing here, to which I have referred, not content to embrace the privilege of the administration of the law in the regular tribunals, come in now and by this measure ask the Congress of the United States to remove all the statutes of limitation which have run against their stale claims, and to give them a right of action in the Court of Claims where no question of fact can be examined by a jury, where witnesses are examined by deposition, and where the opportunities for investigation are not to be compared with those in the tribunals already in existence in this District.

Not only does the bill do this, but it provides for the issuance of a large number of 3.65 bonds to pay any judgment which may in any event be rendered in favor of these persons, and it provides that they shall be compelled to take those bonds in payment of their judgments. Perhaps the suitors may be very glad to take the amounts of their judgments in such bonds, but it would not seem to be a very proper way for the Government of the United States to pass a compulsory law compelling these suitors to take these bonds in the payment of their judgments, if the Government can do so.

Mr. JONES, of Florida. I should like to ask the Senator a question. These parties, the Senator says, have a remedy in the courts of the District of Columbia.

Mr. McMILLAN. Wherever their action is not barred they have their remedy in the courts of the District of Columbia.

Mr. JONES, of Florida. Are not these claims against the United States?

Mr. McMILLAN. No, sir; they are not claims against the United States; they are claims against the District of Columbia. I am not very familiar with the claims which are in existence now. I only know that large amounts of them have passed from the hands of the original claimants; that they have been bought up for very trifling sums, and are in the hands of assignees; and the bill provides that suit may be brought in the name of the original claimant or his assignee. I am not able at this time to give specific information with reference to these classes of claims.

I call the attention of the Senate, however, to the amendment reported from the Committee on the District of Columbia. The bill as it came from the House provided:

That the jurisdiction of the Court of Claims is hereby extended to, and it shall have exclusive original, legal, and equitable jurisdiction of, all claims now existing against the District of Columbia, arising out of contracts, and not barred by any act of Congress or failure to comply with the requirements of any act of Congress, including certificates of auditor and of board of audit, sewer certificates, sewer taxes, measurements, covered by contracts made since February 21, 1871: *Provided*, That said Court of Claims shall not take jurisdiction of any claim against the District of Columbia which was not presented to the board of audit under the provisions of the act of June 20, 1874, and of March 3, 1875, excepting such claims as have arisen out of contracts made by the District commissioners since the passage of the said act of June 20, 1874.

That part of the bill the Committee on the District of Columbia propose to strike out and to amend the section by inserting in lieu of it what has been read. You will observe that the effect of striking out this provision is expressly to relieve all these contracts from any bar of the statute which has run against them.

I have nothing further to say upon this question. I think the bill is one that will be very bad in its operation. I call the attention of the Senate to it, and I shall not trouble myself further than at this time to present the matter as it suggests itself to me. To all these amendments to the bill and to the bill itself I am opposed, and I shall vote against them.

Mr. HARRIS. Mr. President, I was aware that the Senator from Minnesota [Mr. McMILLAN] was opposed to the bill. He chances to be the only member of the Committee on the District of Columbia, however, who is opposed to it. I do not think the reasons that moved the Senator are altogether satisfactory, and indeed to me they are not satisfactory at all.

The bill settles nothing except to give the Court of Claims jurisdiction in respect to all claims based upon contracts made by the board of public works and the commissioners of the District of Columbia. It is not fair to presume that any recovery can or will be had unless the claim can be shown by competent testimony to be just. But the Senator complains that a particular court is given jurisdiction, and he wants to know the reason for it. I will state the reason.

The dockets of the supreme court of the District of Columbia are to-day so crowded that if you were to bring a suit there to-day there is not a remote probability that you would get a trial in two or three years. These people have been long delayed. These claims, as the Senator remarks, are becoming somewhat hoary with age. They originated from 1871 to 1874, and possibly some of them subsequent to 1874. The Court of Claims happens to have a docket bare of cases; it is ready to hear and determine these cases at once, and may dispose of them very promptly if the jurisdiction is given to that court. There is no reason why that court should not have the jurisdiction to hear and determine these claims as well as the supreme court of the District of Columbia that I can see or that any member of the committee except the honorable Senator from Minnesota could see.

As to the statute of limitations, I suppose that in a great majority of the cases, if not, indeed, in all of them, if the statute of limitations were pleaded it would be a bar to action in these cases; yet it would be not only unjust and improper, but a gross wrong under the circumstances, in my judgment, for the Government to rely upon the statute of limitations in respect to these claims. When the territorial government was abolished in 1874, the very act that abolished it created a board of audit and gave that board jurisdiction to sit upon and audit all of these claims and to issue its certificates for the claims that it allowed, and those certificates were to be converted or funded into 3.65 bonds. To the extent of thirteen and three-quarter million dollars they did audit, they did issue certificates, and they were funded into 3.65 bonds. There are outstanding to-day $758,000 of the certificates of the board of audit. There are other claims that the board of audit did not determine, did not audit, that are still outstanding, claims that were filed before them, but which they had no time to audit. The board was abolished by the act of 1876, before they could audit them, and from the very day the board of audit was abolished down to this day there has not been a session of Congress that has not had a bill pending in one or in both Houses of Congress providing a means of settling these claims. So far as the introduction and the constant urging and the passage in the one House or the other of bills session by session goes the claimants have been induced to believe that Congress would provide a simple and easy method of adjusting these claims.

I can see no possible harm that can result to the District of Columbia, to the Government of the United States, or to any one by giving to the Court of Claims jurisdiction to examine and determine whether these claims are just or unjust, and where they find them just to determine the amount of them, and then let them be funded, as kindred claims have been funded, in the 3.65 bonds. That is the object of this bill.

Mr. KIRKWOOD. I should like to ask the Senator from Tennessee if there has been any obstacle in the way of holders of these claims bringing suits in the ordinary courts of the District of Columbia since the abolition of the board of audit?

Mr. HARRIS. None whatever.

Mr. KIRKWOOD. If they have lain upon their rights, then, from the abolition of the board of audit until now, and in this way have become barred, what ground is there for their coming in and asking for this relief?

Mr. HARRIS. The only excuse is that by the introduction of bills and by the passage of bills in the one House or the other, but which have never chanced to become a law by passing both Houses in the same Congress, Congress has constantly held out the hope to them of an easier method of adjusting their claims than by litigating them in the supreme court of the District of Columbia, whose dockets have been so crowded that they could have no hope of obtaining a hearing in that court for two or three years from the time of bringing their suits.

Mr. KIRKWOOD. And yet those persons have waited how many years?

Mr. HARRIS. The board of audit was abolished in 1876.

Mr. KIRKWOOD. Four years ago. It looks to me to be a rather slim ground upon which to remove the bar of the statutes of limitation.

Mr. PLATT. May I ask the chairman of the committee the question which was asked of the Senator from Minnesota, what is the approximate amount of the claims?

Mr. HARRIS. The probable amount of the outstanding claims I should say would approximate a million and a quarter dollars. As to what proportion of that amount can be shown to be just, it is impossible for the committee to tell; but that is about the aggregate amount of outstanding claims, in gross.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Tennessee [Mr. HARRIS] to the amendment reported from the Committee on the District of Columbia.

Mr. KIRKWOOD. That includes striking out so much as removes the bar of the statute of limitations, I understand.

Mr. HARRIS. No, sir. The amendment I propose to the amendment is in line 25, after the word "works," to strike out "all certificates issued by the board of audit." The reason why I make that proposition is that all the certificates issued by the board of audit have been funded in 3.65 bonds except these that are outstanding, and the committee could see no reason why the holders of this little balance of board of audit certificates should be driven to go into court upon those certificates when thirteen and three-quarter million dollars of exactly the same character of paper has already been funded in 3.65 bonds.

Mr. KIRKWOOD. Why were not bonds issued for those certificates?

Mr. HARRIS. They had not been funded in 1876 when the board of audit was abolished, and when the further issue of 3.65 bonds was prohibited by the joint resolution which abolished the board of audit. They could not be funded since that time, because the board of audit was abolished.

Mr. KIRKWOOD. I am wholly ignorant about this matter. Is the Senator aware whether there were allegations of fraud in regard to the action of the board of audit?

Mr. HARRIS. I am not aware of any allegation of fraud or any suspicion of fraud in respect to the board of audit. I have heard no such allegation, and I am wholly ignorant if there be any such suspicion.

Mr. INGALLS. In response to the inquiry of the Senator from Iowa, I beg to say that he has evidently confounded the board of audit with the board of public works.

Mr. KIRKWOOD. I do not know anything about any of them.

Mr. INGALLS. The certificates that were issued by the board of audit, to which the Senator from Tennessee has referred, were not only examined and allowed by the District authorities, but they have also been examined and allowed under authority of law by the First Auditor and the First Comptroller of the United States Treasury, and bear their signatures to-day.

I wish to say a single word in response to what the Senator from Minnesota [Mr. MCMILLAN] said. He bears the reputation of being a just man; he is a lawyer by profession, and has adorned the bench of the State which he represents; and yet I venture to say that if under his jurisdiction any private debtor had endeavored to act toward his creditors as he asks this District and the United States Government to act toward these creditors he would have done all in his power to have thrown them into involuntary bankruptcy and to have their effects disposed of under the hammer of the marshal within ninety days.

There has been a great deal said about the doings of the board of public works in this District. A vast amount of scandal and a vast amount of unjustifiable stigma has been cast upon the authorities who had charge of the improvements made while that board existed. I am not the advocate, nor the apologist, nor the defender of Mr. Shepherd or anybody else. The expenditures that were made here may have been extravagant; they may have imposed a burden that the people were ill-qualified to bear; but I say that there is no city in the world in my judgment where there is so much to show for the money that has been expended as is visible here in the city of Washington; and the time will come when the people of this District will appreciate that better than they do now.

In 1876, when the great cyclone struck Congress in regard to reform not only here but everywhere else, action on the funding of these certificates into bonds was suspended by direct act of Congress. A prohibition was placed upon the funding of the certificates that had not only been audited by the District authorities but that had been audited by the authorities of the United States Government. Of those certificates that bear the signature and imprimatur of the Government there were issued $14,501,476.15. At the time when that arbitrary and despotic prohibition was imposed by Congress there had been funded into these bonds $13,743,250, leaving outstanding of certificates of precisely the same character and validity as those that had been funded $758,226.15. There they have remained up to this day; they have so remained by act of Congress; and the Senator from Minnesota says that it is wrong to remove the burden of limitation. We have ourselves postponed these claims, we have prevented their payment, prevented their recognition, prevented them from drawing interest; and then the Senator from Minnesota comes in here and says they are outlawed and they ought not again to be allowed recognition in the courts or anywhere else.

How the Senator from Minnesota, who is a lawyer and has a judicial mind, can justify himself by making that argument before the Senate is past my comprehension. There never has been an intimation that those outstanding certificates, $758,226.15, were not absolutely valid, binding, and satisfactory in their proof and in their authentication; but of the $13,700,000 of bonds that have been issued in behalf of the District authorities that have been countersigned by the United States Government, to which the faith of the Government has been pledged for the payment of a sinking fund and of interest, between eight and nine million dollars are to-day registered in the Treasury of the United States, and are held in trust all over this country as deposits for the protection of holders of insurance, for savings purposes, and in various trust companies. Between eight and nine millions are registered and are held, and the interest is paid by the United States Treasury every year exactly the same as on 4 and 5 per cent. bonds of the United States.

What is asked in this case is simply that the prohibition that was placed without reason and without warrant upon the funding of this ascertained amount of indebtedness shall be removed, and that all classes of creditors who occupy the same position shall have exactly the same rights and the same remedies. If there is anything unjust in that or anything wrong in that I should like to have the Senator from Minnesota or some one else point it out. It is idle to talk about the irregularity and wrong-doings of the District government. Here is an ascertained, defined, authenticated amount of actual indebtedness that has been recognized for the last six or eight years.

Mr. SAULSBURY. Will the Senator from Kansas allow me to ask, for information, if these certificates are in the hands of the original holders or are they in the hands of persons who have bought them up at a considerable discount? I want to know, as I have no information on that subject.

Mr. INGALLS. Well, Mr. President, I am bound to say to the Senator from Delaware that I have heard that question many times asked, and that I do not really know anything about it. I do not know whether they are in the hands of the persons to whom they were originally issued or whether they have been assigned from time to time and are now held by second or third parties. But will the Senator from Delaware allow me in response to ask him, supposing they had passed by indefinite assignment and transfer from hand to hand until they were indefinitely removed from the persons to whom they had been sued, how does that affect the obligation of the Government to recognize them, the same as it recognizes the $13,000,000 that have been funded?

Mr. SAULSBURY. I do not know that their simple transfer would of itself lessen the obligation of the Government to pay them; but if there had been in the auditing of the securities any fraud or imposition upon the Government, then when we came to adjust them in the hands of an assignee perhaps we might inquire into the original validity of the security. I have a vague impression that something of that kind was developed at the time to which the Senator refers, when a large class of these securities were funded, and that the funding had taken place before that question was prominently brought to our attention. Still it has been some years since, and I would not speak definitely on that point. I have the impression resting on my mind that at the time the funding process was going on and when it was stopped as the Senator from Kansas says there had been discoveries that a portion of these certificates were thought to have been in some way not exactly fairly issued; a portion of them had been funded, and because of the discovery of that fact the funding system was stopped.

Mr. KERNAN. Allow me to make a remark. I was a new member here when we stopped the funding of these certificates into 3.65 bonds. At that time it was urged that there were certificates of the board of public works out that were fraudulent, and it was asked that we should stop the funding because if these fraudulent certificates were funded into negotiable bonds they would pass into the hands of *bona fide* holders, and of course they would recover notwithstanding the fraud.

I do not think there was anything said as to its not being right to send the holder of the certificate, whether he was the original holder or a transferee, into court to see if he could not recover.

While the discussion about stopping the funding was going on, a citizen, who then gave me his card, came down from the galleries and handed me a small certificate issued, as I inferred, by this board of public works for the taking of some property or injury done to some property of his here, and he said to me that that property was never taken; the certificate came to him accidentally as the owner,

he believing that somebody else had put in a claim and had the certificate issued, but he had received notice to go for it and get it, and he did go. I remember that I suggested that case in private to Mr. Sherman, who was then a Senator, who was interested in the matter, as a reason why we ought to put a stop to the issue of negotiable certificates which might get into the hands of *bona fide* holders, and hence be recoverable, when the original holder or his assignee if they were not negotiable could not recover.

Mr. KIRKWOOD. Of course, Mr. President, with what little knowledge of law I have I should have to agree with the Senator from Kansas that if these claims are valid, honest claims in the hands of an assignee, they are to be paid as well as if they were in the hands of the original holder; but when these gentlemen come here and ask us to take out of their way a bar that has grown up by their own negligence, and which, if it be not removed, prevents them from entering into "the promised land," then it seems to me we have the right to impose such reasonable, equitable conditions as we may see fit. Now I cannot yet learn that there has been anything in the way at any time of the holder of these obligations of any one of these varieties, from prosecuting his claim in the ordinary way in the courts of justice, just precisely as a citizen of any other town in the United States would prosecute a claim, unpaid, against the municipal authorities of that town. If it were true that action by Congress had prevented the prosecution of these claims in court; if it were true that by the action of Congress these men had been prevented and kept out of court, then it certainly would be very unjust to allow a bar of limitation that had grown up by reason of that condition of things to operate against them. But if, instead of pursuing the ordinary mode of recovery open to all citizens in all places, the courts of the country, they voluntarily stood by and saw that remedy that everybody else had depart away from them; if instead of taking that course which is the course that all men have to take in procuring a settlement of their claims, by their own neglect, by their own laches, by their preference to submit these things to the investigation of Congress instead of submitting them to a court and jury—if by reason of that a bar has grown up, then I have very serious doubts whether it is wise for us to remove it.

Mr. INGALLS. Will the Senator allow me one moment?

Mr. KIRKWOOD. Certainly.

Mr. INGALLS. Take the holders of the certificates amounting to $758,000 that have not been funded, what object would they have in going into any court for the purpose of establishing their claim? They have already been fully recognized in the method pointed out by Congress. Congress had passed a law agreeing that the holders of these claims should have them funded at a certain period. Congress imposed a prohibition upon further funding, leaving this balance outstanding. What should they go into court for? What was there to be determined? The amount due was already ascertained.

Mr. KIRKWOOD. I will try to answer. Just precisely the same as would the holder of one of these 3.65 bonds which had become due but the principal and interest of which was unpaid—the amount that is ascertained. It is the non-payment that gives the right of action—the non-payment according to the terms of the contract.

Mr. INGALLS. The Senator does not seem to appreciate that Congress took this whole matter in hand. Congress, finding that the District authorities were involved beyond their power to adjust and pay, assumed practically this entire amount of indebtedness, and inasmuch as it could not be liquidated at once by taxation, said it should be satisfied by the issue of a 3.65 bond in the name of the District that was to be indorsed by the Government, interest and sinking fund payable by the Government.

Mr. KIRKWOOD. I understand that.

Mr. INGALLS. What is there to be ascertained? What is there to go into court about? Congress has assumed the entire authority over the whole subject.

Mr. KIRKWOOD. But that did not deprive the men who held these certificates of their right of action against the District of Columbia in the courts of the District, and if they had brought their actions and had recovered judgments upon them, then the same mode of satisfying those judgments was open to the men in whose favor those judgments had been rendered as would be open to the holder of a judgment against the town in which the Senator lives—a writ of mandamus from the court to compel payment.

There is nothing that has been stated thus far to distinguish this class of cases from the cases against any city anywhere. Take the city in which I live. A person has made a contract with it on which he claims that a sum of money is due him, and the authorities will not pay it. That is the substance of what is alleged here. What is the remedy?

Mr. HARRIS. Allow me to ask the Senator a question. If he is satisfied that a claimant having a just and honest claim against the District of Columbia has, hoping from year to year that Congress would provide means for adjusting it, failed to bring suit when he had a right to bring it until the statute has made a bar, is the Senator prepared to avail himself of the bar of the statute of limitations and turn the man away?

Mr. KIRKWOOD. That brings up the whole question of the healthiness or unhealthiness of the doctrine of limitation, and the wisdom of the world for a great many years has held that our limitation laws are healthy laws. It holds so yet. I will say as readily as any man can say, I think, that if the action of the Government deprived these men of any right they had of recovery, if the Government interposed any bar that prevented them going into court and bringing their suits, then the bar that has grown up in that way should be removed. But here you say these men stood by in the hope that Congress would pay them; they failed to go into the courts to submit their claims to adjudication, and now they come in and ask that the bar which has grown up by their own negligence shall be removed, and that their cases shall be tried in a court in which a jury cannot be organized to determine whether the claim is a just one or not.

Mr. BUTLER. May I ask the honorable Senator does it not come within his knowledge that the bar of the statute has been very frequently removed by Congress?

Mr. KIRKWOOD. Against the Government itself for various reasons, and we are in the habit of doing it, and we very often do a great deal of wrong in doing it.

Mr. BUTLER. Since I have been in the Senate, I remember several instances where it has been done.

Mr. KIRKWOOD. I think we very often do a great wrong in removing it.

Mr. BUTLER. Just exactly why these people have not availed themselves of the right to bring their actions, I do not know.

Mr. KIRKWOOD. While I am up, I will call attention to another provision of this bill. Let me repeat again that I am in total ignorance about this whole thing; I know nothing about it. I heard the rumors about corruption here years ago, and I gave them perhaps as much credit as they were entitled to. It was an era when the making of charges appeared to be a regularly organized industry in the country.

But I find this provision on page 5, commencing at line 8 of section 4:

And provided further, That in the trial of such cases no person shall be excluded as a witness because he or she is a party to or interested in the same.

Is that the existing law in the District in all cases?

Mr. HARRIS. I am inclined to think it is. Is it not the law in the Federal courts everywhere?

Mr. KIRKWOOD. I am not able to say. I supposed from finding this provision in the bill that it was changing the existing law, because if it were not there would be no necessity for it here. It seemed to me a little strange, in addition, that after taking away the bar of the statute of limitations we should then take away the right of the District to be heard before a jury, and then should give to the parties a right that they do not have now of testifying in their own behalf when the District cannot testify in its behalf. Whether that is the law or not I do not know. The Senator from Minnesota [Mr. McMILLAN] can tell, perhaps. That is all I have to say about the case.

Mr. JONES, of Florida. I do not think that is the law in the Court of Claims. I think in the Federal courts, in controversies between citizens of different States, the law is that either party can testify, all objections to his competency being removed, the objections going to credibility; but I do not think that that rule prevails in the Court of Claims in a suit instituted by a citizen against the Government because the reason of the thing, it can be readily seen, would not apply. In the other cases both parties can testify; but in the case of the Government there would be a party only on one side competent to testify.

Mr. KIRKWOOD. I supposed I was right about that. That leaves the cases just precisely this way: We are asked to go forward here and remove in behalf of these men a bar of the statute of limitations that has grown up by their own laches. We are asked to transfer the trial of the cases, that bar being removed, to a court in which a jury cannot be organized. And then we are further asked to give to these parties a privilege they do not have as against the General Government to which we seek to assimilate these claims, by giving to the claimant here a right to testify in his own behalf when the adversary party cannot testify in its behalf.

Mr. BUTLER. I confess I am not informed as to that rule of evidence in the District, but I have just been informed by the Senator from Louisiana [Mr. JONAS] that in the Federal courts all over the United States that is the rule of evidence.

Mr. KIRKWOOD. Yes, as between individuals; but the Government does not allow that rule, as I understand, against itself.

Mr. HARRIS. The claim is against a corporation in this case.

Mr. KIRKWOOD. It cannot testify.

Mr. JONAS. The Senator will permit me to suggest that in every suit where a public corporation is a party, where the Government is a party, or a State is a party, the opposite party cannot necessarily testify in his own behalf; but in the Federal courts any citizen can testify in his own behalf, whether testifying against the interests of a public corporation or not.

Mr. INGALLS. Not only in civil, but criminal cases also. It is the uniform tendency of the law everywhere.

Mr. KIRKWOOD. Why is this put in here then?

Mr. INGALLS. The bill came here from the House. I do not know why it was put in.

Mr. McMILLAN. The rule is I think that the United States courts will follow the practice in the State courts in which the United States court is held; and if sitting in a State where the parties are not permitted to be witnesses the United States court observes the State practice.

Mr. JONES, of Florida. I think there is a special act of Congress on that subject regulating the competency of parties to testify in their own behalf in the Federal courts, removing all objection to their competency; but, as I said awhile ago, it proceeds on the idea that where the plaintiff is permitted to testify the defendant may do so against him; and therefore, where from the nature of the case there is but one side to testify, I doubt very much whether that principle would apply.

Mr. INGALLS. It applies in criminal cases where the State appears as prosecutor. The defendant is uniformly allowed to testify in his own behalf.

Mr. JONES, of Florida. In some States he makes a statement which goes for what it is worth to the jury, but it is not regular evidence.

Mr. McMILLAN. Mr. President, I do not understand that there was any legal inhibition upon these parties in regard to their rights of action upon the claims which they held against the District of Columbia. If they slept upon their rights, if they neglected to appeal to the courts for the enforcement of their rights under contracts with the District of Columbia, they stand in the same position that any individual holding a claim against a fellow-citizen stands in if he permits a claim to remain unprosecuted until the statute of limitations bars his right of action. He has no person to blame but himself. If these parties sleeping upon their rights neglected to avail themselves of the privileges afforded them by the existing law to prosecute their claims against the District of Columbia in the tribunals of the District provided for that purpose, there is no injustice in not removing the bar. It is the settled policy of the law that this principle of repose be enforced, and there is no injustice in enforcing it. These parties are citizens of the District of Columbia, and here is an organization provided for their government. Their laws are well defined, their courts fully instituted. In any other district suitors having claims of action arising out of contract, when they bring their suits are required to submit them, so far as any facts are concerned, to the settlement of a trial by jury.

Mr. JONAS. Will the Senator from Minnesota permit me to interrupt one moment?

Mr. McMILLAN. Yes, sir.

Mr. JONAS. I desire to refer to section 858 of the Revised Statutes, which provides:

> In the courts of the United States no witness shall be excluded in any action on account of color, or in any civil action because he is a party to or interested in the issue tried.

Mr. McMILLAN. Our attention has been called to that statute, and of course that would be so. In any other jurisdiction, in any Territory of the United States where courts are provided for the trial of actions, the citizens going into those courts have their causes submitted to trial by jury. These are citizens of the District of Columbia. Courts are here. They attempt to prosecute the authorities of the District of Columbia, and by this act of Congress they ask to go into a tribunal where all the questions of fact are not to be determined by a jury and cannot be.

It is said that the business of the courts of the District of Columbia is so great that these parties would be necessarily detained there so long as to amount to a defeat of justice. Why, Mr. President, we have already increased the number of the judges of the supreme court of the District of Columbia for the very purpose of enabling them to dispose of the business of this District; and if the present number of judges of the supreme court of the District of Columbia are unable to dispose of the business that comes before that court, I think the court is inefficient; but I do not believe that parties cannot have their action disposed of in a reasonable time in that court. Certainly, with its increase, they can.

There is no reason in fact why these parties should ask to have their claims prosecuted in the Court of Claims. Let them take the place that any other suitor having a cause of action upon contract is required to take in this and in all other portions of the country. If there are any questions of fact which have arisen out of these matters here, the juries of this District will be able to pass upon those facts fairly and impartially, and there is no reason why an exception should be made in favor of these particular claims.

Mr. EATON. Mr. President, as I understand the bill there is about a million and a quarter of dollars of claims that this action of the District Committee is aimed at. Am I right?

Mr. HARRIS. About a million and a quarter.

Mr. EATON. And I understand that $758,226.15 of claims have been audited by the Government officers, and that there are sewer certificates of about $100,000 in addition.

I want to say that four gentlemen called upon me the other night, men that I had never in my life seen before, though one was a citizen originally of my own State, who came here to the city of Washington about eight years ago with $80,000 in cash in his pocket and went into the District work here, and has got his certificates allowed him, and he has been sold out of his house that he lived in because the District has not paid him what it owes him. There were four men who hold certificates of the District, men who came here with money in hand and entered into the work of the District in good faith. They have sunk their money, and they ought to be paid.

I see no reason why all these holders should not be permitted to go into the Court of Claims and show whether they have a good and just claim against the District. If they have one, it should be paid; and if the Government of the United States ought to pay its proportion, it should pay it without any grumbling. There is an appeal from the action of the Court of Claims. I think my friend from Iowa is very much alarmed because the statute of limitations ought to run as well here, he says, as in Iowa or Connecticut. I want to say to my honorable friend that the Government of the United States does not permit the statute to run against it. General Mansfield, an officer of the United States——

Mr. KIRKWOOD. This is not against the United States.

Mr. EATON. It is pretty near being against the Government of the United States. We own half the property in the District. Do not let us smudge ourselves here.

Mr. ALLISON. We have assumed the entire indebtedness.

Mr. EATON. Let us meet this question fairly and manfully.

I was saying that General Mansfield, a gallant officer of the United States and a citizen of Connecticut, a man who had served his country for forty years, who was killed, I think, at Antietam, went on a little bond twenty years ago for a paymaster; he supposed everything was settled, he had never heard of it, but last year the little estate that he left to his widow was proceeded against. Nineteen years had elapsed, and yet the Government of the United States enforced a bond of $2,000 against that estate. I think we had better pay our debts when we enforce claims of that character against citizens of the United States.

Mr. McMILLAN. The Senator from Connecticut referred to the fact that there is a right of appeal from the Court of Claims. There is a provision for an appeal in the law establishing the Court of Claims. In the bill now before the Senate this provision is contained:

> In any case in which the amount in controversy exceeds $5,000, if before trial either party requests in writing a finding of facts by the court, there shall be the same right of appeal, either by the District of Columbia or by the claimant, and subject to the same rules and regulations as are prescribed by law for appeals on behalf of the United States or claimants against the United States from the judgments of the Court of Claims.

That the Senator will perceive limits the right of appeal to judgments of $5,000 and upward, and it imposes a further condition that the party must before the trial request a finding in writing.

Mr. EATON. The fact that it requires a finding in writing does not trouble me at all, because I apprehend counsel who is conducting the cause for the District of Columbia would see to it, if it was necessary that there should be a finding in writing. The fact that where it is less than $5,000 there is no appeal may be matter of moment; the other is not.

Mr. McMILLAN. An appeal is prohibited if the judgment is under $5,000.

Mr. EATON. As a matter of course all intelligent counsel would see to it that their duty was done, and I apprehend that the generality of these claims is larger than $5,000.

Mr. McMILLAN. I do not so understand the fact to be.

Mr. EATON. The number of claims under $5,000 may be a good many, but the amount of the claims is really very small. On the whole I am very much inclined to vote for this bill.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Tennessee to the amendment proposed by the Committee on the District of Columbia.

The amendment to the amendment was agreed to.

Mr. KERNAN. I wish to amend the amendment, and I have shown this to the Senator from Tennessee, and I think he will not object to this amendment. It is after "1874," in line 24, to insert:

> And of all claims for work done by the order or direction of the said commissioners and accepted by them for the uses, purposes, or benefit of the said District of Columbia.

Mr. HARRIS. I see no objection to that amendment, because I think the bill covers exactly that class of cases already.

The amendment to the amendment was agreed to.

Mr. HARRIS. In line 27, after the word "Columbia," I am instructed by the Committee on the District of Columbia to move to insert "all claims based on contracts made by the levy court." There are a few outstanding claims of that kind.

The amendment to the amendment was agreed to.

Mr. HARRIS. There is still another amendment I am instructed by the committee to offer. After the word "assignee," in line 32, I move to insert "which certificates shall be *prima facie* evidence of the amount of work done."

Mr. McMILLAN. I certainly think that should not meet with the approbation of the Senate. It is giving these parties special privileges to which it seems to me they are not entitled, and then throwing the burden of proof in all these cases upon the mere production of a certificate upon the District of Columbia.

Mr. HARRIS. I beg to say that I recommended to the committee this amendment because I thought it probable that if it was not inserted the certificate would be regarded as conclusive. My object was to make it simply *prima facie*.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question is on the amendment of the committee as amended.

The amendment, as amended, was agreed to.

The next amendment reported from the Committee on the District

of Columbia was, in section 1, line 39, after "United States," to insert:

Provided, Said court may make such additional rules as may be necessary to save costs and prevent delays in the prosecution of such claims.

The amendment was agreed to.

The next amendment was, in section 1, after the word "be," in line 53, to strike out "paid on the order of the court in money" and insert "taxed as part of the costs in each case;" so as to read:

And any such referee shall be allowed such compensation for his services as the court may determine, not exceeding $10 per day for time actually employed, to be taxed as part of the costs in each case.

Mr. HARRIS. In line 53, after the word "be," I move to insert—I am instructed by the committee to offer this amendment:

Paid on the order of the court by the Secretary of the Treasury and charged to the account of the District of Columbia.

The reason for this amendment is found in the fact that there are no costs taxed in the Court of Claims.

The amendment to the amendment was agreed to.

Mr. HARRIS. Now all of line 54 should be stricken out and the amendment first reported by the committee, what I have just had inserted being in lieu of it.

The CHIEF CLERK. It is proposed, after line 53, to strike out the remainder of the section and insert:

Paid on the order of the court by the Secretary of the Treasury and charged to the account of the District of Columbia.

The PRESIDING OFFICER. The amendment will be considered as agreed to in that form.

The Chief Clerk read the next amendment of the Committee on the District of Columbia, which was, in section 2, line 3, after the word "claims," to insert "by the contractor or his assignee;" and in line 4, after the word "rules," to insert "so far as applicable;" so as to read:

All such claims against the District of Columbia shall, in the first instance, be prosecuted before the Court of Claims by the contractor or his assignee in the same manner and subject to the same rules, as far as applicable, as claims against the United States are prosecuted therein, or to such other rules as the court shall prescribe.

Mr. COCKRELL. Has the same law been in force prohibiting the assignment of claims against the District which is in force in regard to claims against the United States?

Mr. HARRIS. No, sir; it has not been; but as these claims were not negotiable, this provision was put in to allow the assignee to sue. In many instances the parties have been compelled to assign their claims, and the committee thought it proper to allow suit to be brought by the assignee.

Mr. COCKRELL. In the general statutes there is a provision against the assignment of claims against the United States; that is, the assignment of claims against the United States is invalid. If that law applied to claims against the District of Columbia I should not be in favor of allowing these assignees to bring suit.

The amendment was agreed to.

Mr. HARRIS. Before any other committee amendments are reached, I move, in line 7 of section 3, to insert after the word "claims," "and defense of fraud practiced or attempted, and all other legal defenses."

The amendment was agreed to.

The Chief Clerk read the next amendment reported by the Committee on the District of Columbia, which was, in section 6, line 11, after the word "date," to strike out "January" and insert "August;" so as to read:

And said sinking-fund commissioner is hereby directed to issue and deliver to the Secretary of the Treasury the amount of 3.65 bonds required to satisfy the judgments; which bonds shall be received by said claimants at par in payment of such judgments, and shall bear date August 1.

The amendment was agreed to.

The next amendment was, in section 6, line 12, after the word "and," to strike out "75" and insert "74;" so as to read:

Which bonds shall be received by said claimants at par in payment of such judgments, and shall bear date August 1, 1874, and mature at the same time as other bonds of this issue.

Mr. COCKRELL. Why is that?

Mr. HARRIS. There is a mistake as to the date of the original bill. The issue was on the day specified by the amendment, and not on the day named in the House bill.

The amendment was agreed to.

The next amendment of the Committee on the District of Columbia was, in section 6, after the word "issue," in line 13, to strike out "and for the amount found by the court to be due upon any such claim, interest shall be allowed from the maturity of the same, at the rate of 3.65 per cent. per annum," and to insert in lieu thereof:

Provided, That before the delivery of such bonds as are issued in payment of claims based on contracts and extensions of contracts made by the commissioners of the District of Columbia subsequent to the passage of the act of June 20, 1874, the coupons shall be detached therefrom from the date of said bonds to the day upon which such claims were due and payable.

The amendment was agreed to.

The next amendment was, in section 8, line 3, after the word "was," to insert "after a hearing upon its merits;" so as to make the section read:

SEC. 8. No claim shall be presented to, or considered by, the Court of Claims under the provisions of this act which was after a hearing upon its merits rejected by the board of audit.

Mr. ALLISON. May I ask the Senator in charge of the bill whether claims that were presented to the board of audit so called and allowed in part are to be resubmitted to the Court of Claims?

Mr. HARRIS. Under this bill, yes; unless the allowance was evidenced by the issue of a certificate of the board of audit.

Mr. ALLISON. If an allowance is evidenced by a certificate of the board of audit, and 3.65 bonds have been issued under that allowance, no claimant dissatisfied with the amount audited can come now before the Court of Claims and have his account readjusted, or can he do so?

Mr. HARRIS. Section 8, to which the committee reported an amendment, forbids the Court of Claims to take jurisdiction of any claim that has been heard by the board of audit upon its merits and rejected.

Mr. ALLISON. But suppose it has not been rejected? Suppose, for example, that an individual had a claim against the Government for $100,000; upon its examination by the board of audit the sum of $50,000 was allowed; in other words, it was not rejected, but agreed to in part. Now, can this person, thus having his claim in part allowed, come before the Court of Claims and ask for a readjustment and have the whole claim reopened?

Mr. HARRIS. As the Senator states the case, I should take it for granted that that part of the claim disallowed was a judgment against the claimant to that extent, and he is barred.

Mr. ALLISON. Then I ask the Senator to allow me to suggest an amendment to say "rejected in whole or in part." What would be the objection to that?

Mr. HARRIS. I do not see any objection. That is allowed in part and rejected in part.

Mr. ALLISON. Would it not be more correct to say "rejected in whole or in part?"

Mr. HARRIS. I do not see the necessity for the amendment of the Senator from Iowa. I do not see that it is particularly objectionable, but under this bill as it stands, if the Senator from Iowa had presented a claim for $100,000 which had been approved for $75,000, had received the board of audit's certificate for that amount, the balance of his claim having been rejected, the legal effect of the transaction is unmistakable that the claim is rejected to that extent, and that the Court of Claims will have no jurisdiction to review it. Hence I see no necessity for such an amendment, but I shall not insist upon an objection to it.

Mr. ALLISON. I will not press it.

Mr. MCMILLAN. I wish to ask the Senator from Tennessee a question. If a claim arises out of a contract against the District of Columbia for $100,000, and it has been audited by the board of audit and $50,000 of it rejected, under that state of fact and the language of this bill would not the holder of that contract have a right to go into the Court of Claims and bring suit for the whole amount claimed under his contract?

Mr. HARRIS. I will suggest to the Senators from Minnesota and Iowa that perhaps striking out the word "rejected" and inserting the word "adjudicated" would answer.

Mr. ALLISON. I think that would do.

The PRESIDING OFFICER. There is an amendment pending which has not been acted upon; that is, the proposed amendment in line 3, section 8, to insert after the word "was" the words "after a hearing upon its merits." The question is upon agreeing to that amendment.

The amendment was agreed to.

Mr. HARRIS. In the same line, after the word "merits," I move to strike out "rejected" and insert "adjudicated;" so as to read "adjudicated by the board of audit."

The amendment was agreed to.

The PRESIDING OFFICER. The next amendment of the Committee on the District of Columbia will be reported.

The CHIEF CLERK. It is proposed to add as an additional section at the end of the bill:

SEC. —. No suit now pending for the collection of any claim based upon a contract or extension of contract hereinbefore mentioned in the supreme court of the District of Columbia shall be in any manner prejudiced by the provisions of this act.

The amendment was agreed to.

Mr. HARRIS. The reported amendments having been acted on, I now move to insert, as an additional section, to come in before the section just adopted:

SEC. —. That the Treasurer of the United States, as *ex-officio* sinking-fund commissioner of the District of Columbia, is hereby authorized and directed to redeem the outstanding certificates of the late board of audit created by the act approved June 20, 1874, with the interest accrued on said certificates, by issuing and delivering to the owners or holders of such certificates bonds of the District of Columbia, as provided in section 7 of the act approved June 20, 1874, entitled "An act for the government of the District of Columbia, and for other purposes," and acts amendatory thereof; said bonds to bear the same date, the same rate of interest, and interest and principal be payable at the same time and subject to all the conditions, pledges of faith, and exemptions as the bonds authorized to be issued by the said seventh section of said act, and shall be signed by the said Treasurer, as *ex-officio* sinking-fund commissioner of the District of Columbia, and numbered, countersigned, sealed, and registered as the said seventh section of said act prescribes, detaching all coupons from said bonds up to date of such delivery.

The PRESIDING OFFICER. Is there objection to this amendment?

Mr. ALLISON. I do not desire to object, but I should like to have the amount of outstanding certificates stated.

Mr. HARRIS. Seven hundred and fifty-eight thousand and some odd hundred dollars.

Mr. ALLISON. Let me see if I understand the character of the certificates. Are they certificates issued by the board of audit?

Mr. HARRIS. Regularly issued by the board of audit, not funded.

Mr. ALLISON. Not funded into 3.65 bonds?

Mr. HARRIS. Not funded. They had not been funded when the joint resolution of 1876 abolished the board and forbade the further issuance of 3.65 bonds.

Mr. MCMILLAN. I shall not call for the yeas and nays on this amendment, but I desire to note my own objection to it, and I ask for a vote upon it.

Mr. COCKRELL. Let the amendment be reported again.

Mr. HARRIS. The amendment is a page and a half of manuscript, and if the Senator will allow me I can perhaps explain it in less time than it would take to read the amendment. The amendment simply authorizes the issuance of 3.65 bonds bearing the same date, the same rate of interest, payable at the same time and place as the other 3.65 bonds, for the purpose of redeeming the outstanding certificates of the board of audit. Thirteen and three-quarter million dollars of such certificates have been funded in the 3.65 bonds, and the committee can see no reason why the $758,000 of outstanding certificates shall not also be funded in the same character of bonds.

Mr. COCKRELL. Then, why was that not reported by the committee, or is this amendment from the committee?

Mr. HARRIS. This is an amendment of the committee.

Mr. PLATT. We have been told here that when this funding ceased the statement was made that some of these claims were fraudulent. If they were fraudulent then, there must be fraudulent claims now. I know nothing as to whether the claims are fraudulent or not; but ought there not to be some provision to determine before 3.65 bonds are issued for these certificates whether they are open to that objection?

Mr. HARRIS. I know of no evidence of any fraud, real or suspected, in respect to any certificate issued by the board of audit. The board of audit was composed of the First and Second Comptrollers of the Treasury of the United States. These certificates had the approval not only of that board, but of the commissioners and auditing officers of the District of Columbia. We have already funded thirteen and three-quarter million dollars of these certificates. There are outstanding only $758,000 of them. The question is will you fund those as you have funded the others, or will you send the holders of these certificates into court to readjudicate the matter and reinvestigate it and redetermine it? The committee thought it was not only wise but just and proper to allow these certificates to be funded.

Mr. PLATT. I never supposed that there was any charge of fraud which reached the officers of the Treasury, and, indeed, I know very little about the charge except as Senators have stated here that the charge was made at the time the funding was stopped. For one, I think it would be very much better to allow these claims to be adjudicated in the Court of Claims with the other claims which parties have against the District.

Mr. HARRIS. I will state to the Senator from Connecticut, as the Senator may not remember the explanation which I made on the very first amendment I offered, that the certificates of the board of audit were classified among those claims that were to go to the Court of Claims in the House bill. The first amendment that I offered was to strike them out of that classification, giving notice to the Senate at that time that I had prepared an amendment authorizing the sinking-fund commissioner, who is the Treasurer of the United States, to fund those outstanding certificates of the board of audit by the issue of 3.65 bonds. It is for the Senate to determine whether those certificates shall be funded, or whether the balance of the certificates shall be sent to the Court of Claims. I shall ask the Senate to reconsider the first amendment that was adopted, striking them from the class of claims to be sent to the Court of Claims, if the Senate fails to adopt this amendment authorizing the funding of the certificates in the 3.65 bonds. It is for the Senate to determine which they will do. We have already funded $13,750,000, or thereabout.

Mr. COCKRELL. Why were not these funded?

Mr. HARRIS. Because before they could be funded the joint resolution of 1876 abolished the board of audit and prohibited the further issue of 3.65 bonds. That is the reason why they could not be funded.

Mr. MCMILLAN. May I ask the Senator from Tennessee, in order to avoid the consumption of time in reading the amendment, whether the amendment requires the claimants obtaining judgment to receive payment of their judgments in 3.65 bonds, whether it is compulsory in that view?

Mr. HARRIS. I did not catch the question of the Senator.

Mr. MCMILLAN. I ask whether the amendment now proposed compels by its terms the claimants obtaining judgment in the Court of Claims to receive these bonds in payment of their judgments?

Mr. HARRIS. The bill requires that every judgment rendered by the Court of Claims under the authority given by the bill shall be paid in 3.65 bonds.

Mr. MCMILLAN. I should like, then, to ask the Senator by what authority Congress can pass a law of that kind, requiring a suitor in one of the courts to take pay for a judgment in money in the bonds of the United States?

Mr. HARRIS. My answer to the Senator is, that if this bill passes and becomes a law the claimant will go into the Court of Claims under it or not at his own election. We give him the right to do so, and if he declines to do so I am sure that neither I nor any authority of the District of Columbia will complain of him for standing out and allowing the Senator from Minnesota to plead the statute of limitations on him.

Mr. MCMILLAN. Does the Senator claim that Congress can authorize a judgment in any court and then say that it shall be paid in anything but money? If he does, then I want to find the constitutional authority for any such provision.

Mr. HARRIS. The Senator from Minnesota wants to find authority for a great many things in respect to this bill for which I have no disposition to find the authorities for him.

Mr. MCMILLAN. I think the Senator does feel indisposed to furnish the authority for many provisions in this bill, and I think it would be very difficult for him to do it. The question I propose to the Senator is one of law, and is one to which I should be glad to have an answer.

Mr. HARRIS. The Senator is a member of the committee and has had all the opportunities that every other member of the committee has had to investigate and satisfy himself about these questions of law. I should be very happy to give the fullest information in my power to any Senator who sought information because he wanted it, but where he captiously seeks it I have no disposition to give it.

Mr. MCMILLAN. I asked for information for myself and for the Senate, and I presumed that the Senator, as the organ of the committee, would be prepared to give it. I think the question is rather a difficult one for the Senator to answer in the affirmative, and I shall not press it. However, before I take my seat I will offer, as the amendments of the committee are through——

The PRESIDING OFFICER. They are not disposed of yet.

Mr. MCMILLAN. Then I will wait.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Tennessee, [Mr. HARRIS.]

The amendment was agreed to.

Mr. HARRIS. The amendment just agreed to will stand as section 9 in the bill.

Mr. ALLISON. In section 6, line 23, I move to strike out all after the word "payable" down to and including "1874," in line 30, in the following words:

> And the gross amount of such bonds heretofore and hereafter issued shall not exceed in the aggregate $15,000,000: *Provided*, The bonds issued by authority of this act shall be of no more binding force, as to their payment, on the Government of the United States than the 3.65 bonds issued under authority of the act of June 20, 1874.

We have just adopted an amendment which provides that over $700,000 of the certificates of the board of audit shall be converted into 3.65 bonds without further action on the part of the Court of Claims. The total amount of these bonds I think in round numbers now is $14,000,000.

Mr. INGALLS. Thirteen millions seven hundred and forty-three thousand dollars.

Mr. ALLISON. I thank the Senator from Kansas for his accurate information.

Mr. HARRIS. The outstanding bonds at this time amount to $13,594,900, but the amount of bonds actually issued under the act of 1847 is $13,743,250.

Mr. ALLISON. We have provided for their redemption on the assumption that the amount outstanding is thirteen million and a half dollars; of course a portion of them has been redeemed under the authority to create a sinking fund. We have just provided for $750,000 more; so that the total amount of these bonds now is $14,250,000. The bill limits the total issue to $15,000,000. Unless I am very much mistaken, and I have not had time carefully to examine this bill, I think I make a low estimate when I say it will require $3,000,000 to comply with these provisions.

Mr. HARRIS. If the Senator will allow me, of course I cannot assume to be accurate, but the best information that the committee could obtain estimates the outstanding claims at about a million and a quarter of dollars.

Mr. ALLISON. Very well. I remember when the joint committee of the two Houses made the investigation in 1874 of which the distinguished Senator from Ohio [Mr. THURMAN] was primal chief we were told that all the claims that could possibly be funded into 3.65 bonds would be about $8,000,000, or, perhaps, $9,000,000.

Mr. THURMAN. That is my recollection, between eight and nine millions.

Mr. ALLISON. These claims were referred to the board of audit; they amounted to thirteen millions and more, and a vast number of claims are still pending, as we all know, with reference to these old questions arising out of contracts.

Mr. HARRIS. I have no objection to striking out the limit; I think it perhaps proper to do so; but I do not think the claims will exceed it.

Mr. ALLISON. I think it is not only proper that we should do so, but I think it essential that we should do so, because this proceeding is based upon the idea that the persons who have claims against the government of the District of Columbia shall stand in no better relation to the District than those who had their claims audited in 1874 and received 3.65 bonds when those bonds were only worth sixty-five

cents on the dollar, and they have now advanced to the value of ninety-four or ninety-five cents on the dollar. If judgments are rendered against the District of Columbia these people ought to be required to receive their pay in these 3.65 bonds, but if we limit the amount of the issue of 3.65 bonds all those who cannot take them under the limit of $15,000,000 will at once present their claims here for payment in money, as we pay the judgments of the Court of Claims in money. So much, then, for striking out the limitation of the total issue to $15,000,000, to which I understand the Senator from Tennessee to agree.

Mr. HARRIS. I have no objection to it, sir.

Mr. ALLISON. Now, a word in regard to the proviso which I propose to strike from the bill. Why is it that in every bill that comes here having reference to these 3.65 bonds there must be cast over them a shadow and a shade looking to their repudiation or an interference in some manner by legislation hereafter? The Government of the United States under the law of 1874 is pledged absolutely, its faith is pledged, that either by appropriations or by taxation imposed by Congress upon the property of this District the interest upon these bonds shall be paid and a sinking fund shall be created for the payment of the principal at maturity. We find a proviso here endeavoring to cast a shadow upon these bonds which may have been issued and the bonds to be hereafter issued. The bill provides that these bonds shall be issued under the act of 1874, whatever that act is, and let it stand in that way without the proviso. The proviso adds nothing to, and takes nothing from it in fact, except to cast some shade upon the validity of these bonds. If they are to be paid, and if we are to issue more of them so that the amount may reach to $20,000,000, as it probably will, inasmuch as the Government of the United States is pledged to pay the interest upon them and to provide a sinking fund for the payment of the principal, let us not cast a shadow over them. Therefore I move to strike out the words I have indicated.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Iowa.

Mr. THURMAN. Let it be reported.

The Chief Clerk read the amendment of Mr. ALLISON.

Mr. THURMAN. I suppose that the object of my friend from Iowa in removing the limitation of $15,000,000 is to make any judgments that may be recovered payable in 3.65 bonds.

Mr. ALLISON. That is what the bill provides.

Mr. THURMAN. Where does the bill provide that?

Mr. ALLISON. The bill provides in section 6 that—

The Secretary of the Treasury is hereby authorized to demand of the sinking-fund commissioner of the District of Columbia so many of the 3.65 bonds authorized by act of Congress approved June 20, 1874, and acts amendatory thereof, as may be necessary for the payment of the judgments; and said sinking-fund commissioner is hereby directed to issue and deliver to the Secretary of the Treasury the amount of 3.65 bonds required to satisfy the judgments; which bonds shall be received by said claimants at par in payment of such judgments, and shall bear date, &c.

Mr. McMILLAN. That is the provision about which I inquired as to its constitutionality.

Mr. THURMAN. I have not been in the Senate since the consideration of this bill was commenced, and I ought to be rather diffident about speaking upon it, because I had not read it until within the last few minutes, and I have not completed the reading of it yet; but there is one difficulty in my mind about voting for the amendment offered by the Senator from Iowa; in fact, there is a difficulty I find as far as I have read in this whole bill. In the first place, in the first section it provides:

That the jurisdiction of the Court of Claims is hereby extended to, and it shall have exclusive—

Mark that word, "exclusive"—

original, legal, and equitable jurisdiction of, all claims now existing against the District of Columbia, arising out of contracts made by the late board of public works, and extensions thereof made by the commissioners of the District of Columbia, and such claims as have arisen out of contracts made by the District commissioners since the passage of the act of June 20, 1874; and all certificates of the auditor of said board of public works, all certificates issued by the board of audit, all certificates issued by the auditor and comptroller of the District of Columbia, all sewer certificates, all sewer taxes not heretofore converted into 3.65 bonds, all measurements made by the engineers of said District of work done under contracts made since February 21, 1871, for which no certificates have been issued to and received by the contractor or his assignee, all claims based upon contracts made by the board of public works for which no evidence of indebtedness has been issued.

The first thing to which I wish to call the attention of the Senate is, that if this amendment has been adopted, and I inquire if it has been——

Mr. McMILLAN. All the amendments of the committee have been adopted.

Mr. THURMAN. Then it applies to all claims that have arisen out of contracts made by the District commissioners since the passage of the act of June 20, 1874.

The investigating committee, of which the Senator from Iowa was chairman and I was a member, and which sat for two or three months, and sat during the sessions of the Senate daily, and performed one of the most disagreeable and onerous duties that has ever devolved on me, reported in favor of paying claimants or giving them the option—that is what it was—of receiving payment of their claims in 3.65 bonds. The reason for that was stated, I think, in the report of the committee. It certainly was stated again and again in the debate on that bill; it was very clearly stated by the chairman of that committee, the Senator from Iowa, and by others. What was that reason? It was because the board of public works had, as the testimony before that committee abundantly showed, allowed 20 per cent. in addition to the fair cash value of the work to be done because of the medium of payment that the contractors would be compelled to receive. There were all sorts of paper certificates issued by the District territorial government before it was abolished by the act of 1874, and those certificates—yellow, red, green, blue—were at such a discount that the board of public works, in letting its contracts, allowed 20 per cent. additional because of the depreciated currency, if you can call it currency, or evidences of indebtedness in which contractors would be paid. That is the reason why they were compelled to take the 3.65 bonds.

That committee did not suppose that the 3.65 bonds would be at par at once, but they said it was not unfair to those contractors who had received 20 per cent. more than the fair cash value of the work they were to do to provide that they should be paid in 3.65 bonds if they saw fit to take them. They were not required to take them; the option was given to them to take them or to bring suit against the District and recover judgments, and get their money when they could. The reason which induced that committee to recommend to Congress and which induced Congress to pass the bill giving to the contractors the option to take 3.65 bonds or to sue the District, recover judgments, and obtain satisfaction when they could, has no existence whatever in reference to contracts made since the passage of the act of 1874. Since the passage of that act there has been no expectation on the part of any contractor that he was to receive payment in depreciated evidences of debt.

Therefore, Mr. President, there is no reason for saying, as I understand this bill to say, if I have not been mistaken in my cursory reading of it, in positive and mandatory language that the payment of contracts made, for instance, in the year 1880, shall be in 3.65 bonds instead of in money. I do not see how you can do it. I do not see how you can compel a man to take payment in 3.65 bonds if he has a valid claim against the District, nor do I quite understand, although it may be right, (I do not say that it is wrong,) why it is that the Court of Claims is to have exclusive jurisdiction of all these various claims against the District.

Mr. HARRIS. Will the Senator from Ohio allow me to call his attention to the language of the section? If he will look at it critically he will find that the section he is criticising provides for giving the Court of Claims jurisdiction of claims based on contracts made by the board of public works and extensions of those contracts made by the District of Columbia.

Mr. THURMAN. It goes beyond that, undoubtedly.

Mr. ALLISON. It goes clearly beyond that.

Mr. THURMAN. The language is:

All claims now existing against the District of Columbia arising out of contracts made by the late board of public works—

That is clear enough—

and extensions thereof made by the commissioners of the District of Columbia.

That we all understand perfectly well, because in the act of 1874 there was a provision for carrying out contracts that were already made and which were valid contracts and which had not been completely executed. That is covered by the provision "extensions thereof made by the commissioners of the District of Columbia;" but then comes this sweeping clause, coming down to this very date:

And such claims as have arisen out of contracts made by the District commissioners since the passage of the act of June 20, 1874.

That includes contracts made upon this very day upon which I am speaking.

Mr. President, I am not prepared to give advice upon this bill now, although this subject is one that I was once very familiar with, and upon which I performed more labor than I hope ever to be required to perform again. The Senator from Iowa is perfectly correct; there never was either through mistake, or design, such an imposition practiced upon a committee in the world as was practiced upon us. We had the official statements that the claims that would be converted into 3.65 bonds would not reach $9,000,000. They have reached $13,000,000, and now we are to have a further extension! We thought we guarded that law as well as it could possibly be guarded against the completion of any illegal contracts. We put in words that, in my judgment, are as significant and clear and precise as any words in the English language to prevent the extension or continuance of illegal contracts. How we have been disappointed this bill shows.

Mr. President, I do not wish to discuss a bill, much less to criticise a bill with which I am so little familiar as I am with this bill and which has received the sanction of the House of Representatives and the sanction of the very able Committee on the District of Columbia of this body, but I would like to look into it further, and I therefore move that the Senate proceed to the consideration of executive business.

The motion was agreed to.

WILLIAM W. BREWER.

Mr. BAILEY. Before the doors are closed, I ask that House bill No. 5053 be taken up and passed. It will have to go back to the House for action on an amendment. It is recommended by the Committee on Finance, and I ask that it be taken up and acted on. It is simply the case of a lost check, the bill directing the issue of another upon

the execution of a bond in accordance with the usual form. The chairman of the committee has the bill in his hand. It is order of business No. 545.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 5053) granting relief to William Turman, guardian of William W. Brewer. It proposes to direct the Secretary of the Interior to issue a duplicate of check No. 144989, drawn by D. T. Boynton, pension agent, dated October 13, 1879, for $1,646.83, in favor of William Turman, guardian of William W. Brewer, the check having been lost in the mails.

The bill was reported from the Committee on Finance with an amendment to add the following proviso:

Provided, That said William Turman shall first execute a bond with good and sufficient security, to be approved by the Secretary of the Treasury, to hold the United States harmless against the double payment of said check.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

EXECUTIVE SESSION.

The Senate proceeded to the consideration of executive business. After six minutes spent in executive session, the doors were reopened; and (at seven o'clock p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *June* 4, 1880.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

SOLDIERS' REUNION, DECATUR, ILLINOIS.

Mr. CANNON, of Illinois, by unanimous consent, introduced a joint resolution (H. R. No. 316) authorizing the Secretary of War to deliver arms, artillery, and tents to the soldiers' reunion at Decatur, Illinois; which was read a first and second time.

The joint resolution, which was read, authorizes the Secretary of War to send for use at the soldiers' reunion at Decatur, Illinois, one light battery and equipments, six hundred stand of arms and accouterments, and five hundred tents, if not incompatible with public interest, to be used at a reunion of the soldiers of Illinois to be held at Decatur, Illinois, during the fall of 1880, the Secretary of War first taking a suitable bond for the return of said artillery, arms, and tents, free of cost to the Government, in as good order as when received, ordinary wear and tear excepted; also that he deliver for use of said light battery during said reunion blank cartridges at the actual cost of the same.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. CANNON, of Illinois, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CONDEMNED CANNON FOR MONUMENTS.

The SPEAKER. The Chair desires to state there is great pressure for recognition in reference to bills of a like character, and also in reference to the donation of condemned cannon for the erection of monuments to distinguished citizens of the country. If the House will give its consent the Chair will recognize gentlemen having such bills in charge.

Mr. SCALES. I hope that will be done.

The SPEAKER. The Chair hears no objection, and gentlemen having such bills will be recognized by the Chair in their order.

Mr. ROBINSON. I wish to say in regard to bills donating condemned cannon, this unanimous consent does not apply to that class lately sent to the Committee on Military Affairs.

The SPEAKER. The Chair is not able to answer in reference to that point.

Mr. ROBINSON. During the absence of the Speaker from the House and after consideration the whole matter was recommitted to the Committee on Military Affairs.

The SPEAKER. That bill is not in the House.

Mr. SPARKS. That bill has not yet been reported back to the House.

The SPEAKER. It can only be reached, then, by unanimous consent, discharging that committee from its further consideration.

Mr. SPARKS. It was recommitted to the committee with amendments.

KING'S MOUNTAIN CENTENNIAL CELEBRATION.

On motion of Mr. SCALES, by unanimous consent, Senate joint resolution No. 117, authorizing the Secretary of War to deliver to the governor of North Carolina one hundred and forty-five tents for the use of the State Guards, to enable them to participate in the centennial celebration at King's Mountain in October next, was taken from the Speaker's table and read a first and second time.

The joint resolution, which was read, authorizes the Secretary of War, upon the request of the governor of North Carolina, to furnish to the State Guards of North Carolina one hundred and twenty A tents and twenty-five wall tents, with the necessary poles and pins, if so many can be spared from the service, provided the same be taken without expense to the Government, to enable the said State Guards to attend and participate in the centennial celebration of the battle of King's Mountain in October, 1880, provided the governor of said State shall receipt for and return the same at the close of said celebration.

The joint resolution was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. SCALES moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SOLDIERS' MONUMENT, MARIETTA, OHIO.

On motion of Mr. WARNER, by unanimous consent, the Senate amendments to the bill (H. R. No. 3347) to authorize the Secretary of War to furnish four pieces of condemned ordnance for the soldiers' monument at Marietta, Ohio, were taken from the Speaker's table and read, as follows:

After the word "of," where it occurs the second time in said bill, insert "cast-iron;" and amend the title so as to read: "An act to authorize the Secretary of War to furnish four pieces of cast-iron condemned ordnance for the soldiers' monument at Marietta, Ohio."

Mr. WARNER. I move to concur in those amendments of the Senate.

The amendments were concurred in.

Mr. WARNER moved to reconsider the vote by which the amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MONUMENT TO GENERAL MEADE.

On motion of Mr. JOHNSTON, by unanimous consent, the amendments of the Senate to the bill (H. R. No. 2440) to authorize the Secretary of War to transfer to Fairmount Park Art Association thirty condemned or captured bronze cannon to be used in the erection of an equestrian statue to the late Major-General George Gordon Meade were taken from the Speaker's table and read, as follows:

In line 4, strike out the word "captured," and amend the title by striking out the word "captured."

Mr. JOHNSTON. I move to concur in the amendments of the Senate.

The SPEAKER. Perhaps it will make no difference, but the word "or" should go out with the word "captured." It means, of course, condemned bronze cannon; but as it now stands, with the Senate amendment, it reads "condemned or bronze cannon." Any amendment in the House would necessitate the bill going back to the Senate, however.

Mr. JOHNSTON. The word "or" undoubtedly should go out with the word "captured."

Mr. VOORHIS. I move, then, to strike out the word "or."

Mr. SPARKS. There is no doubt about it.

Mr. ROBESON. I do not think we have any bronze cannon except those which are condemned.

Mr. BRAGG. We have not any which are condemned.

Mr. ROBESON. We have not any bronze cannon in use.

Mr. SPARKS. The word "or" should be stricken out.

Mr. BRAGG. The Senate struck out the word "captured" to compel them to take condemned cannon instead of serviceable guns.

The SPEAKER. It is undoubtedly a clerical error; but the House might correct it, and any amendment in the House will send the bill back to the Senate. What is the wish of the gentleman from Virginia?

Mr. SPARKS. If the language is allowed to stand as it is it would grant any cannon, condemned cannon or bronze cannon.

Mr. JOHNSTON. I move to concur in the Senate amendments.

Mr. McMILLIN. I wish to make an inquiry whether the effect of the bill will not be to authorize the turning over of bronze cannon, whether condemned or uncondemned?

The SPEAKER. It seems so.

Mr. McMILLIN. I ask for a division, then, on the vote just taken agreeing to those amendments of the Senate. We are about to give efficient cannon for monument purposes. We ought to restrict the donation to condemned cannon. Such has been the practice heretofore and I do not think we should depart from it. I hope the gentleman in charge of the bill will consent to such an amendment.

Mr. JOHNSTON. I move, then, Mr. Speaker, to concur in the Senate amendments, with an amendment striking out the word "or" in the body of the bill and in the title.

Mr. McMILLIN. That will have the effect to restrict it.

The amendment was agreed to; and then the Senate amendments, as amended, were concurred in.

Mr. JOHNSTON moved to reconsider the vote by which the amend-

ments of the Senate, as amended, were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FORT HARKER MILITARY RESERVATION.

Mr. ANDERSON. I ask unanimous consent to take from the Speaker's table Senate bill No. 194 and put it upon its passage.

The SPEAKER. The bill will be read, after which the Chair will ask for objections.

The Clerk read as follows:

A bill (S. No. 194) to provide for the disposal of the Fort Harker military reservation.

Be it enacted, &c., That the Secretary of War is hereby authorized to turn over to the Secretary of the Interior the Fort Harker military reservation in Kansas for sale, as hereinafter provided.

SEC. 2. The Secretary of the Interior shall cause said reservation to be appraised as early as practicable, in tracts not exceeding one hundred and sixty acres each, by three competent disinterested persons; and upon the approval of such appraisement by the Secretary, he shall offer said reservation for sale by giving such notice as is now required for the sale of public lands. The persons who may have, at the date of the passage of this act, settled upon and improved said lands, shall have the prior right to purchase the lands so settled upon at the appraised value thereof, not to exceed one hundred and sixty acres, except in the case of a fractional quarter section, to each person, and shall have such reasonable time in which to make payment therefor as the Secretary of the Interior may prescribe. Such portion of said reservation as shall not have been settled upon and improved at the date of the passage of this act shall be sold by the Secretary of the Interior to actual settlers, under such regulations as he may prescribe: *Provided*, That no land shall be sold under the provisions of this act for less than one dollar and a quarter per acre, nor at a less price than the appraisal thereof. All sales of land herein provided for shall be made as nearly as practicable under the rules and regulations now existing for disposing of the public lands of the United States: *Provided*, That the provisions of this act shall not be construed to impair in any way any rights which may heretofore have been granted to the Kansas Pacific Railway Company, nor have the effect to confer any right to any part of said reservation.

Mr. SPARKS. That ought to go to the Committee on Military Affairs.

Mr. MARSH. If the gentleman will permit me, I will state that the bill has been already before the Committee on Military Affairs, and I was directed to report it with an amendment.

Mr. SPARKS. I beg pardon. I did not recognize the bill at the moment.

Mr. MARSH. I am directed by the Committee on Military Affairs to report the following amendments to that bill:

In line 4, section 2, insert after the word "persons" the words "who shall be appointed by the Secretary of the Interior, and who shall make said appraisement under oath."

Also amend by striking out the proviso beginning at line 18, the following words:

"*Provided*, That the provisions of this act shall not be construed to impair in any way any rights which may heretofore have been granted to the Kansas Pacific Railroad Company, nor have the effect to confer any right to any part of said reservation."

The SPEAKER. The question is upon the amendments reported from the committee.

The amendments were agreed to.

The bill, as amended, was ordered to be read a third time; and being read the third time, it was passed.

Mr. ANDERSON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FRANCIS W. MAXWELL.

Mr. SMITH, of Georgia. Mr. Speaker, I am directed by the Committee on Military Affairs to ask unanimous consent to take up House bill No. 3151, and ask for its immediate consideration.

The SPEAKER. The bill will be read, after which objection will be asked for.

The bill was read, as follows:

A bill (H. R. No. 3151) for the relief of Francis W. Maxwell.

Be it enacted, &c., That the proper accounting officer of the Treasury Department be, and he is hereby, authorized to pay to Francis W. Maxwell, late first sergeant of Company I, Eightieth Regiment Illinois Infantry Volunteers, out of money not otherwise appropriated, the full pay and allowance of second lieutenant of infantry commanding company, from the 19th day of April, 1863, until the 15th day of May, 1865, after deducting all pay and allowance received by the said Francis W. Maxwell for that time.

The SPEAKER. The question is on the engrossment and third reading of the bill.

Mr. HAYES. Has that bill been considered by a committee?

Mr. SMITH, of Georgia. Yes, sir; it is unanimously reported from the committee, and I am directed to ask for its immediate consideration.

There being no objection, the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SMITH, of Georgia, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

POST-OFFICE APPROPRIATION BILL.

Mr. BRIGHT. I demand the regular order of business.

The SPEAKER. The regular order is the motion of the gentleman from Ohio, which was pending when the House adjourned yesterday, which is the motion to lay on the table the motion to reconsider the vote by which the Senate amendment to the Post-Office appropriation bill was concurred in, on which the previous question is prevailing.

Mr. BLACKBURN. I rise to a parliamentary inquiry. I wish to ask, in order that the House may act and vote intelligently upon the question now pending, that the Chair will state what the question is upon which the yeas and nays are demanded, as well as the effect of the vote, so that the House may understand precisely upon what it is called upon to act.

The SPEAKER. The pending motion is to lay upon the table the motion to reconsider the vote by which the House concurred in the amendment of the Senate relating to the star service of the Post-Office appropriation bill. The yeas and nays have not been ordered upon that motion.

Mr. BLACKBURN. Then I ask for the yeas and nays upon the motion now pending, which is to lay upon the table the motion to reconsider the vote by which the House concurred in the Senate amendment. I ask unanimous consent to be allowed to state that it is not the purpose of the committee, by insisting upon retaining this amendment stricken out by the Senate, to reduce the schedule upon any single route——

Mr. EWING. I object.

The SPEAKER. Objection being made debate is not in order.

Mr. BLACKBURN. I have asked consent to make a brief statement.

Mr. EWING. I object to debate.

Mr. HOOKER. May I ask if the question pending now is on the motion of the gentleman from Ohio submitted just preceding the adjournment yesterday?

The SPEAKER. The motion is to lay on the table the motion to reconsider the vote by which the Senate amendment was concurred in.

Mr. BLACKBURN. If the motion to lay on the table be not adopted, as I understand it, the question recurs on the motion to reconsider.

The SPEAKER. If the motion to reconsider prevails it opens up the question again.

The question now is upon the demand for the yeas and nays upon the motion to lay on the table the motion to reconsider the vote by which the Senate amendment was concurred in.

The yeas and nays were ordered.

The question was taken; and there were—yeas 87, nays 73, not voting 132; as follows:

YEAS—87.

Acklen,	Dunnell,	Kelley,	Slemons,
Aiken,	Elam,	Ladd,	Smith, William E.
Aldrich, William	Ellis,	Lapham,	Speer,
Atherton,	Errett,	Le Fevre,	Stephens,
Bailey,	Evins,	Mason,	Talbott,
Barber,	Ewing,	Miller,	Thompson, W. G.
Blake,	Ferdon,	Norcross,	Tillman,
Briggs,	Gunter,	O'Connor,	Updegraff, Thomas
Browne,	Hammond, John	O'Reilly,	Upson,
Carpenter,	Harris, Benj. W.	Osmer,	Urner,
Clardy,	Haskell,	Pacheco,	Valentine,
Clark, John B.	Hatch,	Page,	Van Aernam,
Coffroth,	Hawk,	Phelps,	Vance,
Converse,	Hayes,	Prescott,	Van Voorhis,
Cook,	Henderson,	Richardson, J. S.	Waddill,
Cowgill,	Herbert,	Robeson,	Ward,
Cravens,	Hill,	Ryan, Thomas	Whiteaker,
Daggett,	Hooker,	Ryon, John W.	Willits,
Deering,	Horr,	Samford,	Wilson,
De La Matyr,	Humphrey,	Sapp,	Wright,
Dickey,	Hurd,	Shelley,	Yocum.
Dunn,	Jones,	Sherwin,	

NAYS—73.

Anderson,	Culberson,	Ketcham,	Smith, A. Herr
Atkins,	Davis, Joseph J.	Lewis,	Sparks,
Baker,	Deuster,	Marsh,	Springer,
Ballou,	Dibrell,	Martin, Edward L.	Steele,
Bayne,	Dwight,	McCook,	Stevenson,
Bicknell,	Field,	McMillin,	Taylor,
Blackburn,	Goode,	Miles,	Thomas,
Blount,	Hall,	Mills,	Thompson, P. B.
Bragg,	Hammond, N. J.	Mitchell,	Townshend, R. W.
Brigham,	Harris, John T.	Monroe,	Turner, Oscar
Bright,	Hawley,	Muldrow,	Voorhis,
Buckner,	Henry,	New,	Wait,
Cabell,	Hiscock,	Persons,	Wellborn,
Caldwell,	House,	Reagan,	Wells,
Cannon,	Hubbell,	Ross,	Whitthorne,
Carlisle,	Hutchins,	Sawyer,	Wood, Fernando.
Clymer,	Johnston,	Scales,	
Cobb,	Joyce,	Singleton, J. W.	
Colerick,	Kenna,	Singleton, O. R.	

NOT VOTING—132.

Aldrich, N. W.	Brewer,	Crowley,	Fort,
Armfield,	Burrows,	Davidson,	Frost,
Bachman,	Butterworth,	Davis, George R.	Frye,
Barlow,	Calkins,	Davis, Horace,	Garfield,
Beale,	Camp,	Davis, Lowndes H.	Geddes,
Belford,	Caswell,	Dick,	Gibson,
Beltzhoover,	Chalmers,	Einstein,	Gillette,
Berry,	Chittenden,	Farr,	Godshalk,
Bingham,	Claflin,	Felton,	Harmer,
Bland,	Clark, Alvah A.	Finley,	Hazelton,
Bliss,	Conger,	Fisher,	Heilman,
Bouck,	Covert,	Ford,	Henkle,
Bowman,	Cox,	Forney,	Herndon,
Boyd,	Crapo,	Forsythe,	Hostetler,

Houk,	McCoid,	Overton,	Starin,
Hull,	McGowan,	Philips,	Stone,
Hunton,	McKenzie,	Phister,	Townsend, Amos
James,	McKinley,	Pierce,	Tucker,
Jorgensen,	McLane,	Poehler,	Turner, Thomas
Keifer,	McMahon,	Pound,	Tyler,
Killinger,	Money,	Price,	Updegraff, J. T.
Kimmel,	Morrison,	Reed,	Warner,
King,	Morse,	Rice,	Washburn,
Kitchin,	Morton,	Richardson, D. P.	Weaver,
Klotz,	Muller,	Richmond,	White,
Knott,	Murch,	Robertson,	Wilber,
Lindsey,	Myers,	Robinson,	Williams, C. G.
Loring,	Neal,	Rothwell,	Williams, Thomas
Lounsbery,	Newberry,	Russell, Daniel L.	Willis,
Lowe,	Nicholls,	Russell, Wm. A.	Wise,
Manning,	O'Brien,	Shallenberger,	Wood, Walter A.
Martin, Benj. F.	O'Neill,	Simonton,	Young, Casey
Martin, Joseph J.	Orth,	Smith, Hezekiah B.	Young, Thomas L.

So the motion to reconsider the vote by which the House concurred in the Senate amendment was laid upon the table.

The following pairs were announced:

Mr. POUND with Mr. POEHLER, for this day, but not on questions of tariff or quorum.

Mr. CLAFLIN with Mr. CRAPO, on this question.

Mr. BINGHAM with Mr. DAVIDSON, on all political questions and all measures relating to the revenue, from May 29 to June 5, inclusive.

Mr. CHITTENDEN with Mr. HEILMAN.

Mr. DAVIS, of California, with Mr. BERRY, on this question.

Mr. HENKLE with Mr. NEAL.

Mr. ORTH with Mr. LORING, on this vote.

Mr. KLOTZ with Mr. OVERTON, on this vote.

Mr. MCKENZIE with Mr. GIBSON, on the question of concurrence in the Senate amendment to the Post-Office bill in regard to star routes.

Mr. ROBINSON with Mr. HUNTON, on this question.

Mr. KING with Mr. BOUCK, on this question. Mr. KING would vote "ay" and Mr. BOUCK would vote "no."

Mr. O'NEILL with Mr. HAZELTON, on this vote.

Mr. MONEY with Mr. ROBERTSON, on the fifth Senate amendment to Post-Office appropriation bill.

Mr. WAIT with Mr. FORNEY, for this day, on all questions of a political character, Mr. FORNEY being absent on account of illness.

Mr. RUSSELL, of Massachusetts, with Mr. UPSON, on all questions except Post-Office appropriation bill, until Monday, June 7.

Mr. MULLER with Mr. WALTER A. WOOD.

Mr. EINSTEIN with Mr. ARMFIELD.

Mr. WASHBURN with Mr. WILLIAMS, of Alabama.

Mr. KITCHIN with Mr. MARTIN, of North Carolina.

Mr. JAMES with Mr. O'BRIEN.

Mr. JOHNSTON with Mr. CROWLEY.

Mr. ROTHWELL with Mr. REED.

Mr. HOSTETLER with Mr. DAVIS, of Illinois.

Mr. GUNTER with Mr. BURROWS, on political questions.

Mr. STARIN with Mr. RICHMOND.

Mr. COVERT with Mr. YOUNG, of Ohio.

Mr. MCCOID with Mr. WISE.

Mr. PHILIPS with Mr. BOWMAN.

Mr. WILBER with Mr. BACHMAN, on political questions.

Mr. FELTON with Mr. KILLINGER.

Mr. MCLANE with Mr. HARMER.

Mr. SHALLENBERGER with Mr. YOUNG, of Tennessee.

Mr. WEAVER with Mr. FORD.

Mr. COX with Mr. MORTON.

Mr. HERNDON with Mr. CAMP.

Mr. GODSHALK with Mr. FROST.

Mr. TAYLOR with Mr. HOUK.

Mr. TUCKER with Mr. GARFIELD.

Mr. KING with Mr. RICE, on political questions.

Mr. NEWBERRY with Mr. ELLIS.

Mr. BEALE with Mr. JORGENSEN.

Mr. UPDEGRAFF, of Ohio, with Mr. HULL.

Mr. TOWNSEND, of Ohio, with Mr. BLAND.

Mr. THOMAS TURNER with Mr. MCGOWAN.

Mr. MCKINLEY with Mr. HURD.

Mr. KEIFER with Mr. MANNING.

Mr. DICK with Mr. MARTIN, of West Virginia.

Mr. PHISTER with Mr. CALKINS.

Mr. LADD with Mr. LINDSEY.

Mr. KNOTT with Mr. FRYE.

Mr. MYERS with Mr. ORTH, on political questions.

Mr. ALDRICH, of Rhode Island, with Mr. SLEMONS.

Mr. CONGER with Mr. WILLIS.

Mr. GEDDES with Mr. BOYD.

Mr. BELTZHOOVER with Mr. FISHER.

Mr. HAMMOND, of New York, with Mr. BLISS.

Mr. SHALLENBERGER. I am paired with Mr. YOUNG, of Tennessee, on all political questions. Understanding that Mr. YOUNG desires the pair to cover this question, I withdraw my vote.

Mr. TAYLOR. My pair with my colleague from Tennessee has been announced. I reserved the right to vote on the Post-Office bill.

The result of the vote was then announced as above recorded.

ORDER OF BUSINESS.

Mr. BRIGHT. I call for the regular order.

The SPEAKER. This being Friday, the regular order is the morning hour for reports from committees of a private nature.

Mr. BLACKBURN. I will say to the gentleman from Tennessee that there is left to be considered but one amendment of the Senate to this bill, and that is simply an addition of $25,000. I ask that the House, by unanimous consent, shall now act upon this one amendment.

There was no objection.

POST-OFFICE APPROPRIATION BILL.

The Clerk read the amendment of the Senate numbered 6, in which the Committee on Appropriations recommended non-concurrence, as follows:

On page 6, line 120, after "hundred," insert "and twenty-five;" so that it will read:

"For mail messengers, $725,000."

The amendment was non-concurred in.

The Clerk read amendment numbered 8 of the Senate, in which the Committee on Appropriations recommended non-concurrence, as follows:

Section 2, line 3, strike out "$3,552,420" and insert "$4,058,420."

Mr. BLACKBURN. The House having non-concurred in other amendments it is absolutely necessary to non-concur in this, which is merely a footing up of the bill.

The amendment was non-concurred in.

Mr. BLACKBURN moved to reconsider the various votes of concurrence and non-concurrence in the amendments of the Senate; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate had passed, with amendments in which the concurrence of the House was requested, the bill (H. R. No. 4911) to amend the statute in relation to immediate transportation of dutiable goods.

The message further announced that the Senate had passed a bill (S. No. 900) to provide for the appointment of a commission to investigate the question of the tariff; in which the concurrence of the House was requested.

SUPPLEMENTAL REVISED STATUTES.

Mr. HARRIS, of Virginia, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the joint resolution of the Senate No. 19, to provide for the publication and distribution of a supplement to the Revised Statutes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate to the amendments of the House numbered as follows, 1, 5, and 7; and that the Senate agree to said amendments of the House as amended by the Senate.

JOHN T. HARRIS,
GODLOVE S. ORTH,
JOHN B. CLARK, JR.,
Managers on the part of the House.
WM. A. WALLACE,
FRANCIS KERNAN,
D. DAVIS,
Managers on the part of the Senate.

The accompanying statement required by the rules was read, as follows:

The committee of conference on S. R. No. 19 submit the following statement, showing the effect of the adoption of the conference report on the joint resolution (S. R. No. 19) to provide for the publication and distribution of a supplement to the Revised Statutes:

The first amendment of the House to said joint resolution provides that the supplement to the Revised Statutes and general index shall, when stereotyped, together with plates thereof, belong to the United States for its exclusive use. The amendments of the Senate to this amendment of the House are merely verbal and have little significance.

The fifth amendment of the House to said joint resolution provides that the compensation paid for preparing and editing the supplement shall include the labor of preparing the index and all clerical work necessary to fully complete said work and fixes the compensation of the editor at $3,500. The amendments of the Senate to the fifth amendment of the House include the legislation of the Forty-sixth Congress in said supplement and change the compensation of the editor from $3,500 to $5,000, and also provide that each Senator and Member of the present Congress who would not receive copies under a joint resolution providing for their distribution shall receive the same number of copies as other Senators and Members receive under said resolution.

The seventh amendment of the House to said joint resolution provides that the publication of this supplement shall be taken as *prima facie* evidence of the law therein contained in all the courts of the several States and Territories as well as the United States courts, but shall not preclude reference, in case of discrepancy, to the original acts as passed by Congress since December 1, 1873.

The amendment of the Senate to this amendment of the House strikes out the date of December 1, 1873, leaving said amendment so that it provides that nothing shall preclude reference, in case of discrepancy, to the original act as passed by Congress and included in this publication.

The question was upon agreeing to the report of the committee of conference.

Mr. DUNNELL. I desire to ask the gentleman from Virginia [Mr. HARRIS] whether the publication of this supplement is to be delayed until after the close of the present Congress?

Mr. HARRIS, of Virginia. That was an amendment of the Senate on which the Senate placed great stress, and the House yielded to the demand of the Senate; and therefore the supplement will embrace the laws of the present Congress. It is also provided that the members of this Congress shall have the usual number of copies, whether

they are in Congress or not at the time of the publication. I call the previous question on agreeing to the report.

The previous question was seconded and the main question ordered; and under the operation thereof the report was agreed to.

Mr. HARRIS, of Virginia, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. ATKINS. I rise to make a privileged report.

The SPEAKER. Of what character?

Mr. ATKINS. From the committee of conference on the legislative appropriation bill.

The SPEAKER. The report will be read.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House No. 6185, making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, having met, after full and free conference have been unable to agree.

J. D. C. ATKINS,
HIESTER CLYMER,
JOHN H. BAKER,
Managers on the part of the House.

H. G. DAVIS,
W. A. WALLACE,
WM. WINDOM,
Managers on the part of the Senate.

Mr. DUNNELL. Should there not be an accompanying paper to that report?

The SPEAKER. The rule requires it, if it is demanded.

Mr. SPRINGER. I think this is not the kind of report which is contemplated in the rule as requiring an accompanying statement. The report contemplated by the rule is a report which agrees or disagrees to certain amendments. This report is simply one stating that the committee of conference cannot agree.

Mr. ATKINS. My impression was that it was not necessary under the rule to accompany such report as this with a written statement.

Mr. SPRINGER. I think the gentleman is right in that.

The SPEAKER. The rule will be read.

The rule was read, as follows:

The presentation of reports of committees of conference shall always be in order, except when the Journal is being read, while the roll is being called, or the House is dividing on any proposition. And there shall accompany every such report a detailed statement sufficiently explicit to inform the House what effect such amendments or propositions will have upon the measures to which they relate.

Mr. ATKINS. I was under the impression that the detailed statement required by the rule was necessary only where the committee on conference reported an agreement. In this case, where there is a disagreement, I did not think that such a detailed statement was necessary.

The SPEAKER. The rule says "there shall accompany every such report a detailed statement," &c.

Mr. ATKINS. Very well; I will withdraw the report, if the gentleman insists upon the written statement.

Mr. DUNNELL. I do.

Mr. ATKINS. Very good; you will get it next week.

The report was accordingly withdrawn.

ORDER OF BUSINESS.

Mr. BRIGHT. I demand the regular order.

The SPEAKER. The regular order is the morning hour for reports of committees of a private nature, this being Friday. The morning hour begins at eighteen minutes past twelve o'clock, and reports are in order from the Committee on Claims.

HELLEN WATTS.

Mr. DICKEY, from the Committee on Claims, reported back, with a favorable recommendation, the bill (H. R. No. 2065) for the relief of Hellen Watts; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

JONES C. BOONE.

Mr. DICKEY, from the same committee, also reported back, with a favorable recommendation, the bill (H. R. No. 2103) for the relief of Jones C. Boone, postmaster at South Pittsburgh, Tennessee; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

JAMES DEVINE.

Mr. O'CONNOR, from the Committee on Claims, reported back, with a favorable recommendation, the bill (H. R. No. 1150) for the relief of James Devine; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

R. D. WHITE.

Mr. O'CONNOR, from the same committee, also reported back, with a favorable recommendation, the bill (H. R. No. 5180) for the relief of R. D. White; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

M. F. CLARK.

Mr. SAMFORD, from the Committee on Claims, reported back, with a favorable recommendation, the bill (S. No. 76) for the relief of M. F. Clark; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

MASTEN & LE VERT.

Mr. SAMFORD, from the same committee, also reported back, with a favorable recommendation, the bill (S. No. 1088) for the relief of Claude H. Masten, surviving partner of Le Vert & Masten, of Mobile, Alabama, and the children of Octavia Le Vert, deceased; which was referred to the Committee of the Whole on the Private Calendar, and leave granted for the filing of a report hereafter.

CITY DISTILLING COMPANY, PEKIN, ILLINOIS.

Mr. COVERT, from the Committee on Claims, reported back, with a favorable recommendation, the bill (H. R. No. 3150) for the relief of the City Distilling Company, of Pekin, Illinois; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

GEORGE S. TRAMEL.

Mr. COLERICK, from the Committee on Claims, reported back, with a favorable recommendation, the bill (H. R. No. 4545) for the relief of George S. Tramel; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

JAMES AND WILLIAM VANCE.

Mr. COLERICK also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 5495) for the relief of James Vance and William Vance; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

C. C. SHAW.

Mr. COLERICK also, from the same committee, reported back adversely the petition of J. B. Croger and others, citizens of Saline County, Kansas, asking for an appropriation of $6,000 for the widow of C. C. Shaw, who was killed by being run over by a stage carrying the United States mail; which was laid upon the table, and the accompanying report ordered to be printed.

CHANGES OF REFERENCE.

Mr. COLERICK also, from the same committee, reported back bill and petition of the following titles; and moved that the committee be discharged from the further consideration of the same, and that they be referred to the Committee on Military Affairs; which motion was agreed to:

A bill (H. R. No. 5271) for the relief of Aaron Doty; and

Petition of Richard Moloney, of Saint Joseph, Buchanan County, Missouri, for relief.

CLAIMS FAVORABLY REPORTED.

Mr. BARBER, from the Committee on Claims, reported back, with a favorable recommendation, bills of the following titles; which were referred to the Committee of the Whole on the Private Calendar, and, with the accompanying reports, ordered to be printed:

A bill (H. R. No. 1609) for the relief of Mollie B. Waldo;

A bill (H. R. No. 1650) for the relief of Edward T. Brownell;

A bill (H. R. No. 3931) for the relief of Morris Appel, of Colorado;

A bill (H. R. No. 1151) for the relief of Albert Freitag;

A bill (H. R. No. 4030) for the relief of George W. Flood; and

A bill (H. R. No. 171) for the relief of Franklin Lee and Charles F. Dunbar.

Mr. BARBER also, from the same committee, reported a bill (H. R. No. 6374) for the relief of Robert C. Murphy; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

Mr. UPDEGRAFF, of Iowa, from the Committee on Claims, reported back, with a favorable recommendation, the bill (H. R. No. 5748) for the relief of Herbert Joyce; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

WAR CLAIMS.

Mr. ATHERTON, from the Committee on War Claims, reported back adversely the petition of Samuel J. Gustin, of Macon, Georgia; which, on motion of Mr. SAMFORD, was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

Mr. ATHERTON also, from the same committee, reported back adversely the petition of Matthew Allison, asking the refunding of money unlawfully taken from him by military officers of the United States and transmitted to the Secretary of the Treasury; which was laid on the table, and the accompanying report ordered to be printed.

Mr. ATHERTON also, from the same committee, reported a bill (H. R. No. 6375) for the relief of Vidal Hernandez, of Texas; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

Mr. TYLER, from the Committee on War Claims, reported a bill (H. R. No. 6376) for the relief of Warren Hall; which was read a first and second time, referred to the Committee of the Whole on the Pri-

vate Calendar, and, with the accompanying report, ordered to be printed.

Mr. THOMPSON, of Kentucky, from the Committee on War Claims, reported back, with a favorable recommendation, bills of the following titles; which were referred to the Committee of the Whole on the Private Calendar, and, with the accompanying reports, ordered to be printed:

A bill (H. R. No. 4708) for the relief of Theresa Summers; and

A bill (S. No. 103) for the relief of Rosa Vertner Jeffreys.

Mr. THOMPSON, of Kentucky, also, from the same committee, reported back adversely bills of the following titles; which were laid on the table, and the accompanying reports ordered to be printed:

A bill (H. R. No. 3250) granting relief to E. and W. Buder, of Cairo, Illinois; and

A bill (H. R. No. 2235) for the relief of the trustees of Maryville College, Tennessee.

Mr. THOMPSON, of Kentucky, also, from the same committee, reported bills of the following titles; which were read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying reports, ordered to be printed:

A bill (H. R. No. 6377) for the relief of Archibald B. Rue, late second lieutenant Company F, Nineteenth Kentucky Infantry; and

A bill (H. R. No. 6378) for the relief of Benjamin Gratz, of Lexington, Kentucky.

PRIVATE LAND CLAIMS.

Mr. STEVENSON, from the Committee on Private Land Claims, reported, as a substitute for House bill No. 478, a bill (H. R. No. 6379) for the relief of Thomas Green Davidson, of the State of Louisiana; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

Mr. VOORHIS, from the Committee on Private Land Claims, reported back, with a favorable recommendation, the bill (H. R. No. 480) for the relief of Elizabeth Burriss; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

PENNY-LUNCH HOUSE, WASHINGTON, DISTRICT OF COLUMBIA.

Mr. KLOTZ, from the Committee on the District of Columbia, reported a joint resolution (H. R. No. 317) making an appropriation for the benefit of the Penny-Lunch House of Washington, District of Columbia; which was read a first and second time.

Mr. KLOTZ. Cannot this joint resolution be passed now by unanimous consent?

The SPEAKER. It cannot. The Chair will recognize the gentleman hereafter, though he cannot bind himself by saying when.

The joint resolution was referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

PRIVATE BILLS FROM WAYS AND MEANS COMMITTEE.

Mr. PHELPS, from the Committee on Ways and Means, reported back, with a favorable recommendation, bills of the following titles; which were referred to the Committee of the Whole on the Private Calendar and, with the accompanying reports, ordered to be printed:

A bill (H. R. No. 6) to refund a duplicate tax to Boehm Brothers, New York; and

A bill (H. R. No. 3711) for the relief of Gustave Elsberg, of Santa Fé, New Mexico.

Mr. CARLISLE, from the Committee on Ways and Means, reported back, with a favorable recommendation, bills of the following titles; which were referred to the Committee of the Whole on the Private Calendar, and, with the accompanying reports, ordered to be printed:

A bill (S. No. 1004) for the relief of the sureties of Henry L. Norvell;

A bill (S. No. 244) releasing Frank Soule, late collector of internal revenue for the first district of California, and his sureties, from liability on his official bond; and

A bill (H. R. No. 688) for the relief of the sureties of Franklin Travis.

Mr. CARLISLE also, from the same committee, reported a bill (H. R. No. 6380) for the relief of the sureties of John P. Hall, deceased, late collector of internal revenue for the first collection district of the State of Kentucky; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

Mr. CARLISLE also, from the same committee, reported back, by unanimous consent, with a favorable recommendation, the bill (H. R. No. 4663) to admit free of duty one of the bells of St. Michael's chimes, Charleston, South Carolina, which has been sent to England to be recast; which was referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

DISINFECTION OF VESSELS, ETC.

Mr. GOODE, from the Committee on Epidemic Diseases, reported back, by unanimous consent, with a favorable recommendation, bill (H. R. No. 2875) to carry into effect the act of Congress, approved April 18, 1879, entitled "An act to authorize the Secretary of the Treasury to contract for the purchase or construction of a refrigerating ship for the disinfection of vessels and cargoes, and for other purposes; which was referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

REMOVAL OF POLITICAL DISABILITIES.

Mr. KNOTT, from the Committee on the Judiciary, reported bills of the following titles; which were read a first and second time, referred to the Committee of the Whole on the Private Calender, and, with the accompanying reports, ordered to be printed:

A bill (H. R. No. 6381) to remove the political disabilities of Edward S. Ruggles, of Virginia; and

A bill (H. R. No. 6382) to remove the political disabilities of J. H. Overton, of Louisiana.

Mr. KNOTT also, from the same committee, reported back, with a favorable recommendation, bills of the following titles; which were referred to the Committee of the Whole on the Private Calendar, and, with the accompanying reports, ordered to be printed:

A bill (H. R. No. 6241) for the removal of the political disabilities of John H. Forney; and

A bill (H. R. No. 6296) to remove the political disabilities of Charles Spalding.

GREEN CLAY SMITH.

Mr. ROBINSON, from the Committee on the Judiciary, reported back adversely a bill (H. R. No. 4069) providing for the relief of Green Clay Smith, and for other purposes; which was laid on the table, and the accompanying report ordered to be printed.

EXTENSION OF PHILADELPHIA MINT.

Mr. WARNER, by unanimous consent, from the Committee on Coinage, Weights, and Measures, reported a bill (H. R. No. 6383) for the extension of the area of the mint at Philadelphia, Pennsylvania, and for greater security to the same; which was read a first and second time, recommitted, and, with the accompanying report, ordered to be printed.

RIVER BELLE.

Mr. BLISS, from the Committee on Commerce, reported back favorably a bill (H. R. No. 5153) to change the name of the steamboat L. Boardman to River Belle; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

SLOOP-YACHT AMERICA.

Mr. BLISS also, from the same committee, reported back favorably a bill (H. R. No. 5304) authorizing the changing the name of the sloop-yacht America; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

THOMAS B. STRING.

Mr. DIBRELL, from the Committee on Military Affairs, reported back favorably a bill (H. R. No. 4075) for the relief of Thomas B. String, late captain Company L, Eleventh Kentucky Cavalry; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

CAPTAIN R. F. BERNARD.

Mr. DIBRELL also, from the same committee, reported a bill (H. R. No. 6384) for the relief of Captain R. F. Bernard, of the First Regiment of Cavalry, formerly second lieutenant of cavalry; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

WALKER A. NEWTON.

Mr. DIBRELL also, from the same committee, reported back adversely the bill (H. R. No. 3491) for the relief of Walker A. Newton, of Philadelphia, Pennsylvania; which was laid on the table, and the accompanying report ordered to be printed.

INDIGENT SOLDIERS AND SAILORS' HOME.

Mr. DIBRELL also, by unanimous consent, from the same committee, reported back favorably the bill (H. R. No. 5093) to authorize the Government of the United States to accept title to certain lands in the city of Erie, Pennsylvania, and to establish a home for indigent soldiers and sailors.

Mr. DIBRELL. That bill, I suppose, goes to the Public Calendar.

The SPEAKER. It will be referred to the Committee of the Whole House on the state of the Union.

Mr. DIBRELL. It does not provide for granting away any land of the United States, but merely provides that the Government of the United States shall accept title to land.

Mr. WHITE. It creates a private corporation and grants to that corporation the right to accept title to land belonging to the State of Pennsylvania.

Mr. DIBRELL. It authorizes the Government of the United States to accept title to certain lands in Pennsylvania for the establishment of a home for indigent soldiers and sailors.

Mr. WHITE. The Chair understands it is to authorize the United States to accept title from the State of Pennsylvania.

The SPEAKER. It is a public bill and will go to the Public Calendar.

Mr. WHITE. Is it more likely to be reached there than anywhere else?

The SPEAKER. The Chair cannot decide any such question.

Mr. WHITE. The Chair can give an opinion.

The SPEAKER. The Chair declines to give an opinion and leaves it to the good sense of the gentleman from Pennsylvania.

Mr. WHITE. I defer to the Chair, who is an old member while I am a young one.

The SPEAKER. But the gentleman learns fast. [Laughter.]

The bill was referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

SURVEY OF GETTYSBURGH BATTLE-FIELD.

Mr. JOHNSTON, by unanimous consent, from the Committee on Military Affairs, reported back favorably the bill (H. R. No. 5479) to complete the survey of the Gettysburgh battle-field and to provide for the compilation and preservation of data showing the various positions of troops at that battle, illustrated by diagrams; which was referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

RELEASE OF RIGHT OF WAY, GROTON, CONNECTICUT.

Mr. JOHNSTON also, from the same committee, by unanimous consent, reported back favorably the bill (H. R. No. 6099) authorizing the Secretary of War to release a right of way to land in Groton, Connecticut; which was referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

JAMES H. CONLEY.

Mr. WHITTHORNE, from the Committee on Naval Affairs, reported back adversely the bill (H. R. No. 5012) for the relief of James H. Conley; which was laid on the table, and the accompanying report ordered to be printed.

MARE ISLAND, CALIFORNIA.

Mr. WHITTHORNE also, from the same committee, by unanimous consent, reported back the letter of the Secretary of the Navy in answer to resolution of the House of January 21, 1880, for any and all information in possession of his Department relating to the formation of bars and deposits of mud, sand, and gravel at or near Mare Island, California, &c.; which, with the accompanying report, was ordered to be printed, and referred to the Committee of the Whole House on the state of the Union.

ALBEMARLE AND CHESAPEAKE CANAL COMPANY.

Mr. GOODE, from the Committee on Naval Affairs, reported back favorably the bill (H. R. No. 5957) for the relief of the Albemarle and Chesapeake Canal Company; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

E. W. RAYMOND AND OTHERS.

Mr. DEERING, from the Committee on Indian Affairs, reported, as a substitute for House bill No. 4303, for the relief of E. W. Raymond; House bill No. 4302, for the relief of Tod Randall; House bill No. 1282, for the relief of Frank Yates; and a petition for the relief of Sylvester Estes, a bill (H. R. No. 6385) for the relief of Frank D. Yates and others; which was read a first and second time, and, with the accompanying report, ordered to be printed, and recommitted to the Committee on Indian Affairs.

W. L. RILEY.

Mr. COOK, from the Committee on Public Buildings and Grounds, reported back, with an adverse recommendation, the petition and accompanying claim of W. L. Riley for payment for depositing earth on the public lands; which was laid on the table, and the accompanying report ordered to be printed.

HENRY VOELTER.

Mr. VANCE, from the Committee on Patents, reported back, with an adverse recommendation, the bill (H. R. No. 883) to repeal an act entitled "An act for the relief of Henry Voelter," approved March 3, 1877; which was laid on the table, and the accompanying report ordered to be printed.

JOHN P. REYNOLDS.

Mr. AIKEN, from the Committee on Patents, reported back, with an adverse recommendation, the petition of John P. Reynolds asking for the issue of a patent; which was laid upon the table, and the accompanying report ordered to be printed.

MARY ANN MURPHY.

Mr. FIELD, from the Committee on Invalid Pensions, reported a bill (H. R. No. 6386) granting a pension to Mary Ann Murphy; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

PENSION BILLS.

Mr. COFFROTH, from the Committee on Invalid Pensions, reported back favorably the following Senate bills; which, with accompanying reports, (except in such cases as have heretofore been ordered to be printed by the Senate,) were ordered to be printed, and referred to the Committee of the Whole on the Private Calendar:

The bill (S. No. 148) granting an increase of pension to J. J. Purman;

The bill (S. No. 139) granting a pension to Henry A. Armstrong;

The bill (S. No. 1231) granting a pension to Charlotte T. Alderman;

The bill (S. No. 1384) granting a pension to Reese Lammey;

The bill (S. No. 1576) for the relief of Benedict J. O. Driscoll;

The bill (S. No. 235) granting an increase of pension to Egbert Olcott;

The bill (S. No. 338) granting a pension to Dederick Blanck;

The bill (S. No. 637) granting an increase of pension to Lucien Kilbourne;

The bill (S. No. 602) for the relief of Thomas W. McAffrey;

The bill (S. No. 870) granting a pension to Louis Christopher Tiedemann;

The bill (S. No. 873) granting a pension to George W. Wickwire;

The bill (S. No. 898) granting a pension to Mary A. Davis;

The bill (S. No. 963) granting a pension to Theodore Rauthe;

The bill (S. No. 1193) granting a pension to Milton L. Sparr;

The bill (S. No. 1070) granting a pension to Jacob H. Eppler;

The bill (S. No. 1051) granting an increase of pension to Stephen D. Smith;

The bill (S. No. 1045) granting a pension to Susan Jeffords;

The bill (S. No. 1072) granting a pension to Arthur W. Irving; and

The bill (S. No. 1233) granting a pension to Frederick Weller.

Mr. COFFROTH also, from the same committee, reported back, with favorable recommendation, bills of the following titles; which were referred to the Committee of the Whole on the Private Calendar, and, with the accompanying reports, ordered to be printed:

The bill (H. R. No. 1146) for the relief of Richard Devitt; and

The bill (H. R. No. 4467) granting an increase of pension to Francis Little.

On motion of Mr. COFFROTH, by unanimous consent, the Committee on Invalid Pensions was discharged from the further consideration of a bill and petition of the following titles; which were severally referred to the Committee on Pensions:

The bill (H. R. No. 6362) granting a pension to William G. Coleman; and

The petition of John Hogan.

Mr. CALDWELL, from the Committee on Invalid Pensions, reported a bill (H. R. No. 6387) granting an increase of pension to Jane W. McKee; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

Mr. CALDWELL also, from the same committee, reported, as a substitute for House bill No. 1578, a bill (H. R. No. 6388) granting a pension to Gilbert A. Philips; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

Mr. TAYLOR, from the Committee on Invalid Pensions, reported a bill (H. R. No. 6389) granting a pension to Margaret S. Heintzelman; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

Mr. TAYLOR also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 1605) for the relief of the widow and children of George N. Barber; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

Mr. EWING, from the Committee on Invalid Pensions, reported bills of the following titles; which were severally read a first and second time, referred to the Committee of the Whole on the Private Calendar, and ordered to be printed:

A bill (H. R. No. 6390) granting a pension to Samuel D. Stiles, late an employed teamster in the Thirty-sixth Regiment Ohio Volunteer Infantry;

A bill (H. R. No. 6391) granting a pension to John Q. White;

A bill (H. R. No. 6392) granting a pension to S. J. Hathaway, guardian of Susan Walter and Frank Phemester; and

A bill (H. R. No. 6393) granting a pension to Sylvador Jackson.

Mr. HOSTETLER, from the Committee on Invalid Pensions, reported back, with favorable recommendations, bills of the following titles; which were referred to the Committee of the Whole on the Private Calendar, and the accompanying reports ordered to be printed:

The bill (S. No. 1305) granting a pension to Mrs. Emma Schell; and

The bill (H. R. No. 2242) for the relief of William C. Fim.

Mr. HOSTETLER also, from the same committee, reported bills of the following titles; which were read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying reports, ordered to be printed:

A bill (H. R. No. 6394) granting a pension to Peter J. Welschbillig; and

A bill (H. R. No. 6395) granting a pension to Joel R. Carter.

Mr. HOSTETLER also, from the same committee, reported back, with adverse recommendations, bills of the following titles; which were laid on the table, and the accompanying reports ordered to be printed:

The bill (H. R. No. 3880) granting a pension to Sidney Hamilton;

The bill (H. R. No. 747) granting a pension to Calvin D. Huff; and

The bill (H. R. No. 3398) granting a pension to Thomas Ferguson.

Mr. HOSTETLER also, from the same committee, reported back the bill (H. R. No. 3399) granting a pension to Benjamin F. Richardson, and moved that the committee be discharged from the further consideration of the same, the claimant having died.

The motion was agreed to; and the bill was laid on the table, and the accompanying report ordered to be printed.

Mr. HOSTETLER also, from the same committee, reported back the bill (H. R. No. 5301) granting a pension to Elizabeth Hearsey, and moved that the committee be discharged from the further consideration of the same, and that it be referred to the Committee on Pensions.

The motion was agreed to.

Mr. COFFROTH, by unanimous consent, from the Committee on Invalid Pensions, reported back, with a favorable recommendation, the bill (H. R. No. 5936) to amend article 3 of section 4693 of the Revised Statutes; which was referred to the House Calendar, and, with the accompanying report, ordered to be printed.

Mr. MASON, from the Committee on Invalid Pensions, reported back, with favorable recommendation, bills of the following titles; and the same were referred to the Committee of the Whole on the Private Calendar, and, with the accompanying reports, ordered to be printed:

The bill (H. R. No. 5452) granting a pension to Mary Tarbell;

The bill (H. R. No. 840) granting a pension to Joseph H. Crow;

The bill (H. R. No. 2492) granting an increase of pension to Mrs. Sophia A. Morgan, widow of Brevet Brigadier-General Charles H. Morgan, late of the United States Army;

The bill (H. R. No. 2375) granting a pension to Richard Dillon;

The bill (H. R. No. 5810) granting an increase of pension to Joseph Dempsey;

The bill (H. R. No. 135) granting a pension to Eleanor K. Fillis;

The bill (H. R. No. 4778) granting a pension to Dorothea Bothner;

The bill (H. R. No. 5576) granting a pension to La Grange F. More;

The bill (H. R. No. 4535) granting a pension to Philip Shull;

The bill (H. R. No. 892) granting an increase of pension to William F. Johnson;

The bill (H. R. No. 3772) granting a pension to Samuel Burwell;

The bill (H. R. No. 2945) granting a pension to the heirs of Aaron A. Sheridan;

The bill (H. R. No. 2650) granting a pension to Miriam V. Kinney; and

The bill (H. R. No. 886) granting a pension to Captain J. R. Madison.

Mr. MASON also, from the same committee, reported bills of the following titles; which were read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying reports, ordered to be printed.

A bill (H. R. No. 6396) granting a pension to Ann J. Mackey;

A bill (H. R. No. 6397) granting a pension to Ruhanna Nelson, widow of Aaron Nelson, of Captain Ketcham's company, United States Infantry, war of 1812;

A bill (H. R. No. 6398) granting a pension to Joseph McHenry, of the District of Columbia;

A bill (H. R. No. 6399) granting arrears of pension to Belinda MacDonald;

A bill (H. R. No. 6400) granting a pension to James F. Rose;

A bill (H. R. No. 6401) granting a pension to Calvin H. French; and

A bill (H. R. No. 6402) granting a pension to Mary Ann May.

Mr. MASON also, from the same committee, reported back with adverse recommendations the following bills and petition; and the same were laid on the table, and the accompanying reports ordered to be printed:

The bill (H. R. No. 5570) for the relief of Stephen Manchester;

The bill (H. R. No. 5152) granting a pension to Mary Van Gordon;

The bill (H. R. No. 3103) for the relief of Abraham Alstead;

The bill (H. R. No. 5454) granting an increase of pension to James H. Stevens;

The bill (H. R. No. 3071) granting a pension to Louis Magnus;

The bill (H. R. No. 1441) granting a pension to John Hopper;

The bill (H. R. No. 5229) granting a pensionto Catharine Dempsey;

The bill (H. R. No. 2285) for the relief of George W. Walker;

The bill (H. R. No. 3571) granting a pension to Hamilton Boughton;

The bill (H. R. No. 131) granting a pension to Ann Smart; and

The petition of Robert W. Livingston.

ORDER OF BUSINESS.

Mr. BRIGHT. Has the morning hour expired?

The SPEAKER. It has.

Mr. FERNANDO WOOD. I ask the gentlemanfrom Tennessee [Mr. BRIGHT] to yield to me for a moment that I may make a statement to the House in reference to the funding bill.

Mr. BRIGHT. I will yield for that purpose.

Mr. FERNANDO WOOD. The Committee on Ways and Means in February last reported to the House a bill to facilitate the refunding of the public debt. It is a bill of considerable importance, and one upon which this Congress, we thought, should certainly act at the earliest practicable period.

The bill has been considered in Committee of the Whole for a portion of two days. Several speeches have been made upon it, and I am informed that there are some fifteen members of the House in addition to several members of the committee who desire to make speeches before the bill is voted upon.

In view of the probable duration of this session, not likely to exceed a week or ten days, I regard it as impossible to pass the bill through both Houses of Congress during this session while so many gentlemen intend to discuss it.

As the bonds which will mature in 1881 can be provided for early next winter, after the reconvening of Congress, I desire to state to the House that I will not call up that bill during this session, but will ask that it maintain its position on the Calendar, and be made a special order in Committee of the Whole on the first Wednesday of December next.

Mr. REAGAN. If that change of order is to affect existing special orders, I shall be obliged to object, for I do not desire to have anything interfere with the prompt consideration of the bill regulating interstate commerce.

The SPEAKER. It will not affect the bill to which the gentleman from Texas [Mr. REAGAN] alludes. The refunding bill is in Committee of the Whole on the state of the Union, and under the rules a motion to go into Committee of the Whole on the refunding bill would take precedence of a motion to go into Committee of the Whole on the bill of the gentleman from Texas.

Mr. CARLISLE. And under the rules it has precedence even over appropriation bills.

The SPEAKER. It has.

Mr. WEAVER. Does it require unanimous consent to make the bill the special order on a certain day?

The SPEAKER. It does.

Mr. WEAVER. Then I object.

Mr. FERNANDO WOOD. I then give notice that, leaving the bill to occupy its present position, I will, on the day I have indicated, ask the House to go into the Committee of the Whole to consider it.

The SPEAKER. The gentleman loses nothing by the objection to his bill being made the special order on the day indicated, because a motion to go into Committee of the Whole to consider that bill is always in order.

Mr. WHITE. I desire to ask the gentleman from New York [Mr. FERNANDO WOOD] why he does not press the consideration of the refunding bill at this time?

Mr. FERNANDO WOOD. I have already informed the House why I do not. It is because I consider it impossible to pass the bill through both Houses of Congress during the present session.

Mr. WHITE. I think it can be passed.

Mr. WEAVER. I do not think it ever will pass.

Mr. FERNANDO WOOD. There are several members of the Committee on Ways and Means who desire to speak upon the bill, and quite a number of other members of the House who desire to be heard. The remaining days of this session are too few to make the passage of the bill at all possible at this time.

RIVER AND HARBOR APPROPRIATION BILL.

Mr. REAGAN, from the Committee on Commerce, reported back, with the Senate amendments thereto, the bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes, and moved that the amendments of the Senate be non-concurred in.

The motion to non-concur was agreed to.

Mr. COX. Would it be in order at this time to move to lay that bill on the table?

Mr. O'NEILL. That does not come with good grace from the gentleman from New York, [Mr. COX.]

The SPEAKER. That motion would have been in order had the gentleman made it in time.

ORDER OF BUSINESS.

Mr. ATKINS. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ATKINS. Is it not the privilege of the chairman of the Committee on Appropriations to make a report at this time upon the subject of the disagreeing votes of the two Houses on the legislative appropriation bill?

The SPEAKER. Is it a conference report?

Mr. ATKINS. It is.

The SPEAKER. That is always in order. A conference report is in order pending a motion to adjourn.

Mr. ATKINS. That is my impression, but I understood the Chair this morning to ask unanimous consent.

The SPEAKER. If the Chair asked unanimous consent for the gentleman it was on the supposition that it was a report of another character. The conference report which the gentleman desired to make this morning was objected to by the gentleman from Minnesota [Mr. DUNNELL] because there was not submitted with it the accompanying statement required by the rule.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. ATKINS. I submit a report from the committee of conference.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House No. 6185, making appropriations

for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, having met, after full and free conference have been unable to agree.

J. D. C. ATKINS,
HIESTER CLYMER,
JOHN H. BAKER,
Managers on the part of the House.

H. G. DAVIS,
W. A. WALLACE,
WM. WINDOM,
Managers on the part of the Senate.

The accompanying statement required by the rule was read, as follows:

The effect of the report herewith submitted leaves the legislative, executive, and judicial appropriation bill with the Senate amendments thereto in the same attitude as when last considered by the House, no agreement on the same having been reached by the conference committee.

J. D. C. ATKINS,
HIESTER CLYMER,
JOHN H. BAKER,
Conferees upon the part of the House.

Mr. ATKINS. I believe we have complied with the rule. We have given a detailed statement of the disagreement. [Laughter.] The conferees on the part of the Senate and on the part of the House have disagreed upon the Senate amendments to the legislative, executive, and judicial appropriation bill. In other words, there is no agreement at all. I might, if members desired, make an oral statement with regard to this matter, which perhaps would be entertaining to the House. [Cries of "Go on!"]

Mr. Speaker, I believe it would be within the power of the conference committee to agree very readily upon every amendment of the Senate, exclusive of those touching salaries of Senate employés. Apart from that question I believe we could very easily reach a conclusion. But the salaries of the employés of the Senate are the stumbling-block in the way of an agreement. Hence we have come to no agreement at all.

The difficulty in agreeing upon the amendments of the Senate with regard to the salaries of the employés of that body is the fact that the House has already fixed the salaries of the House employés and the Senate has agreed to them; so that under the ruling which was indicated the other day by the Chair the conferees on the part of the House did not feel at liberty to open up the subject of the salaries of employés of the House. The Senate has made two amendments touching salaries of House employés, in which the House has non-concurred. These refer only to the salaries of messengers; and that subject is open.

It is the desire of the conference committee on the part of the Senate and the House to come to an equitable conclusion if possible. If it be not improper for me to make the statement, I may say that the intimation was thrown out by the conferees on the part of the Senate that they were more disposed to come to an adjustment of these salaries than the power that was behind them. They did not impress the conferees on the part of the House with the idea that it is altogether impossible to reach an equitable adjustment of these salaries, provided the question of the salaries of the House should be an open one in the conference committee; but they did impress us with the view that there is no possible chance for us to reduce the salaries of the Senate employés to the standard fixed in the House bill.

Mr. HOOKER. Could not the difficulty between the two Houses in regard to salaries of Senate employés and House employés be reconciled by the conference committee, provided we would open up the question of the salaries of House employés and agree to put them upon an equal footing with the Senate employés?

Mr. ATKINS. As I have just intimated, I think there is a chance to reach just that conclusion.

A MEMBER. If you had the authority.

Mr. ATKINS. If we had the authority to do so. But the conferees on the part of the House being hampered as they felt by the ruling of the Chair the other day—although the Chair did not by any means volunteer such a ruling, but it was demanded of him by gentlemen on the floor—feeling hampered by that ruling, the conferees on the part of the House did not feel at liberty to open up the whole question.

The SPEAKER. In view of the statement of the gentleman that the committee were hampered by the opinion of the Chair, the Chair desires to state that if there is any "hampering" the House has hampered itself by making rules which the Chair must enforce. There is not a doubt in the mind of the Chair that it is beyond the power of a conference committee to interfere with any part of a bill which is not in dispute between the two Houses. It is not the Chair that "hampers" the committee; it is the action of the two Houses and the rules of the House.

Mr. ROBINSON. A committee of conference ought never to have power to interfere with a part of a bill on which both Houses have agreed.

Mr. TOWNSHEND, of Illinois. But has not the House power to instruct the committee of conference?

The SPEAKER. The Chair has ruled on that point. As he has stated, he doubts the propriety of the House instructing in any case; though it has been done. The Chair, upon the point of order raised at a former sitting by the gentleman from Massachusetts, did rule that the power does not exist in the House to instruct a conference committee to reopen and review any part of a bill which the two Houses have agreed upon.

Mr. TOWNSHEND, of Illinois. But has not the House the power to authorize its conferees to open up this whole question?

The SPEAKER. It has not, in the opinion of the Chair.

Mr. ATKINS. I did not intend, Mr. Speaker, to question the soundness of the ruling of the Chair——

The SPEAKER. The Chair understood that.

Mr. ATKINS. Nor to throw any blame at all upon the Chair.

The SPEAKER. The Chair did not construe the gentleman's remark as any reflection whatever.

Mr. ATKINS. I simply stated the fact. It is true, as the Chair stated, that the House has tied its own hands. But we are nevertheless tied, and being tied by the House, and it being so ruled by the Chair, the committee could do nothing else.

Mr. TOWNSHEND, of Illinois. Where is the rule which hampers the committee in that regard?

The SPEAKER. It has been the practice in all legislative bodies in this country from the organization of the Government down to the present day.

Mr. TOWNSHEND, of Illinois. Then, if it is tradition the House has not hampered itself.

Mr. ROBINSON. Nothing is plainer. It is laid down in Jefferson's Manual.

The SPEAKER. It is laid down in all legislative manuals. Any other course of proceeding would be of a most dangerous character, in the judgment of the Chair; that is, that a committee of conference had the right to take up and act upon subject-matters which had been agreed to by both Houses.

Mr. WARNER. I desire to ask whether the decision goes to the extent of preventing instructions to the committee of conference on the part of the House?

The SPEAKER. The Chair has ruled that it is not competent to instruct the conferees on the part of the House to take jurisdiction of legislation assented to by both Houses. Such matters are entirely outside of the jurisdiction of a conference committee, and it is confined by the very terms of its creation to the disagreeing votes between the two Houses.

Mr. HAYES. Is it not competent to instruct the conferees on the part of the House to accede to the Senate amendments?

The SPEAKER. It has been done, although the Chair thinks the true and proper avenue would be by the agency of another conference, and by a test vote expressing its judgment, so as to bind the Chair in the appointment of another conference committee, and not in the mode of instructing, for that does in fact interfere with a full and free conference. In addition, another way would be for the House to recede. There are instances in English history where the House of Lords refused to proceed in the committee of conference because the Commons attempted to instruct a conference between those two legislative bodies.

Mr. BAKER. I desire to say, Mr. Speaker, that I did not understand the difference between the Senate conferees and the House conferees went as far as my colleague from Tennessee has stated.

Mr. ATKINS. I did not hear what the gentleman said.

Mr. BAKER. I was saying that I did not understand the difference between the House and Senate conferees on the subject of the salary issue between the two bodies to go as far as I understood the chairman on the part of the House, on that committee, to say it went. I understand there would be no difficulty in reaching an adjustment of salaries between the Senate and House if the question of considering the House salaries in that conference were open, by increasing to some extent the salaries of the House employés and by decreasing to some extent the salaries of the employés of the Senate. That is my understanding. If the conference committee were free and untrammeled in considering that question, a mutual adjustment could be reached without increasing perhaps to any considerable extent the amount now paid for salaries to the employés of the two bodies.

Mr. ATKINS. Will the gentleman allow me a moment?

Mr. BAKER. Certainly.

Mr. ATKINS. I substantially said what the gentleman has just now stated, but I did state moreover that the Senate conferees assured the House conferees that they would not agree to fix the salaries of the Senate employés at the standard fixed in the House bill.

Mr. BAKER. That is in accordance with my own understanding.

Mr. ROBINSON. Would they agree to lower their own standard?

Mr. TOWNSHEND, of Illinois. Why should not authority be given to this committee to arrange it?

Mr. BUCKNER. For the obvious reason that the House has hampered itself.

Mr. TOWNSHEND, of Illinois. The House has not hampered itself. The Speaker says it is the practice.

Mr. BUCKNER. I say there is but one way by which this difficulty can be avoided.

Mr. BAKER. I have not yielded the floor. I wish to say, in response to the suggestion of the gentleman from Massachusetts, that I distinctly understand there would be no serious difficulty in reaching an adjustment that would equalize the salaries of the two bodies by reducing in some instances the salaries of Senate employés, provided

the whole question were opened so we could adjust by raising, to some extent, the salaries of the House.

Mr. TOWNSHEND, of Illinois. Make the motion.

Mr. BAKER. I understood, further, that those representing the House thought they had no power under the rules to enter into that consideration, and we so advised the conferees on the part of the Senate.

Mr. TOWNSHEND, of Illinois. Is it understood the House has no such power to direct its conferees?

Mr. BAKER. I do not speak about that. I merely state the House conferees understood, under the rules of the House, they had no power to make any such effort as I have indicated; that is, by taking the ground they had authority to go into the consideration of raising salaries in the House.

Mr. BUCKNER. The Chair has recognized me, and I hope I will be allowed to go on.

Mr. TOWNSHEND, of Illinois. Before the gentleman from Indiana takes his seat, I want to state I do not understand the Speaker has decided we have no power to authorize this committee.

Mr. BAKER. The committee coincided with the views of those gentlemen who disclaimed they possessed any such power to act upon matters agreed to by the two Houses.

Mr. TOWNSHEND, of Illinois. That is not the question I put to the gentleman. Does not the House have power?

Mr. BAKER. Appeal to the Speaker, and not to me.

Mr. TOWNSHEND, of Illinois. I ask the Speaker whether he will rule upon the question as to the power of the House to direct the conference committee.

The SPEAKER. The Chair has already ruled upon that question when it was presented to the House in another form. There was an effort made before on a similar occasion to instruct the committee, and the Chair ruled upon it at that time against the power of the House to instruct a conference committee to review matters not in dispute.

Mr. TOWNSHEND, of Illinois. Then I move, if it be not within the power of the House to instruct its conferees, to reconsider the vote of the House by which the salaries of the House employés was fixed.

Mr. COX. The only way by which this question can be reached under the rules to reconsider is in the Senate. They must reconsider their action. We have already placed it out of the power of the House to reconsider our action in the premises.

Mr. BUCKNER. Mr. Speaker, it seems to me that we can get out of this in another way.

Mr. TOWNSHEND, of Illinois. I have moved to reconsider——

Mr. BUCKNER. I have the floor, I believe. I do not doubt that the decision of the Chair is correct, and while there is an obvious desire on the part of the House to have the conferees come to an understanding in this matter that both sides will agree to, yet there is an obstruction which cannot be reached excepting in a different way from that suggested here.

Mr. TOWNSHEND, of Illinois. We can reconsider the action of the House.

Mr. BUCKNER. But, although there is an obstruction, I do say that there is one way by which we can arrange this matter, and that is for the conferees of the House to come in and report to this House what the Senate have agreed to, whether to reduce the salaries of their employés or to place the House salaries upon equal terms with them, and after an arrangement of the terms between the conferees on this matter is arrived at, then that the Committee on Appropriations will at some time, by consent, introduce a supplemental bill to this appropriation bill, thereby ratifying the agreement which the conferees may make. That seems to me the proper and the only practicable mode of getting at this matter.

Mr. BAKER. But how can the conferees of the House accomplish that when they go under the ruling of the Speaker that they have no jurisdiction to consider that question at all?

Mr. BUCKNER. It can be done by agreement. There can be an understanding by which the House will agree if the Senate come to an agreement that the House will pass a supplemental bill to this, and this matter can be agreed upon by the conferees as to the rates of salaries to be fixed. If that is done it will be an effective and easy mode of settling this question.

Mr. ATKINS. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ATKINS. I wish to know how that could be arrived at except by unanimous consent?

Mr. BUCKNER. I presume unanimous consent would be given to that arrangement.

The SPEAKER. The gentleman from Tennessee will please repeat his question.

Mr. ATKINS. I ask the question whether such an arrangement as that suggested by the gentleman from Missouri would not require unanimous consent?

Mr. BUCKNER. You can certainly introduce a supplemental bill.

Mr. ATKINS. Would it be in order for the conference committee to introduce a supplemental bill?

The SPEAKER. It would not.

Mr. ATKINS. I supposed that it would not be in order or could only be done by unanimous consent.

The SPEAKER. It might be introduced in the House as any other bill is introduced, and take its fate with other bills.

Mr. WARNER. That is the only way in which it could come in.

Mr. ROBESON. Would it not be in order for the Appropriations Committee to introduce a bill repealing and changing this law if they can get consent? That is what the gentleman from Missouri wants in effect. Undoubtedly the conference committee has jurisdiction only in reference to disagreeing votes. They are not appointed upon agreeing votes of the two Houses. This jurisdiction extends only to questions of disagreement.

The SPEAKER. The gentleman from New Jersey has stated the matter in a nut-shell. The House salaries are not in controversy, and the conference committee can only act upon questions of actual disagreement between the two Houses.

Mr. ROBESON. We passed the star-service bill and laid on the table a motion to reconsider in opposition to the report of the conference committee, and the committee of conference cannot restore that provision so stricken out. Of course now all that can be done, as the gentleman from Missouri suggests, is to pass a supplemental bill repealing or modifying what has already been done by the House in reference to these salaries.

Mr. TOWNSHEND, of Illinois. Why not proceed by reconsidering the action of the House?

Mr. ROBESON. Because it is too late. That action has already been reconsidered and the motion laid upon the table.

Mr. HAWLEY. Mr. Speaker, I have but a word to say on this question. I think it would be a serious error on the part of the House to allow the whole legislative appropriation bill to be reopened by a committee of conference, no matter how much importance we may attach to any matter on which there is a disagreement. That bill has already passed from the consideration of the House. I need not repeat what has been already so well stated, that these conferees are appointed only upon disagreeing matters. I think the House would establish a dangerous precedent to permit a bill of fifty pages, involving a large amount of money like this, or any bill of great importance, to be entirely reopened by a committee of conference for the consideration of the House.

Mr. TOWNSHEND, of Illinois. But the House may give the committee of conference authority on special matters connected with the bill.

Mr. HAWLEY. And another thing: if that be true, and if objection shall be made to such a step—for it cannot be done except by unanimous consent—if objection shall be made, we have passed beyond the point when we can compel an adjustment of the salaries of both Houses. The House has established many salaries, all the salaries, in fact, of House employés and the Senate has concurred. The House has raised some salaries in which the Senate has concurred. All these are beyond reach. This matter should have been begun before the House acted at all on the question of salaries, if necessary by formal request to the Senate before the bill was reported. But I hold that it is now too late to attempt it. The time has passed for this session when this adjustment can be made, and I shall make a motion, if necessary, that the conference committee be instructed to yield to the Senate demands for an adjustment of its own salaries.

The SPEAKER. To allow the conferees to take up matters which the two Houses have agreed to would give to those conferees, three members on the part of each House, a greater power than either House possesses.

Mr. CLYMER. I desire to say, having been a member of the committee of conference, that I went to the conference for a certain purpose, which was if possible to effect an agreement upon the disagreeing votes of the two Houses, and for no other purpose. The House had fixed the salaries of its employés at certain sums in particular cases. In every instance the Senate had agreed to the action of the House in that regard, and that was a closed book. So it is held in all parliamentary law, and so, at least informally, it was decided by the Speaker.

It is true the suggestion came from the conferees on the part of the Senate that if the whole question were open we might possibly with them as conferees arrive at an agreement. Yet they never held out the least hope that even if the whole question were open they could change the minds of the Senate whom they represented. Therefore I see nothing before me but this: The salaries of the House employés being agreed upon we may not touch them; and if the Senate will not recede from the amounts of the salaries fixed for their employés, and if we cannot agree to those amounts we have nothing to do but report to this House a permanent, lasting, and final disagreement, and then let the House send men who will represent another judgment of this House.

Mr. ROBINSON. And let the House vote on the question.

Mr. COX rose.

Mr. CLYMER. I yield for a moment to the gentleman from Minnesota, [Mr. DUNNELL,] who desires to ask me a question.

Mr. DUNNELL. If the House conferees desired to keep the question of the salaries of the officers of the two branches open for adjustment between the two Houses, why did the House conferees yield the House salaries?

Mr. CLYMER. We never did yield the House salaries.

Mr. DUNNELL. The first conference report asked the House to concur in the salaries fixed by the House.

Mr. CLYMER. The gentleman is entirely mistaken.

Mr. DUNNELL. It appears as if the conferees on the part of the House had given away the whole case.

The SPEAKER. The subject of the salaries of the House employés was not before the conference; and the House conferees could not have given anything away in that respect.

Mr. TOWNSHEND, of Illinois. I rise to a question of order.

The SPEAKER. The gentleman will state it.

Mr. TOWNSHEND, of Illinois. It has been stated by the gentleman from Pennsylvania [Mr. CLYMER] that the Senate has concurred in the action of the House upon the House salaries. I deny that. The Senate has raised the salaries of a number of the messengers of the House $50. Therefore there is not concurrence in the House salaries; and I maintain it is in the power of the House to instruct the committee of conference on the question of the House salaries.

The SPEAKER. That has already been stated, and was duly considered by the Chair before his decision was given.

Mr. COX. It does not matter as regards this question how far the Senate have agreed to the action taken by the House. In so far as the Senate have already agreed to what we have enacted we are precluded from reopening in the committee of conference what has thus been agreed upon.

Mr. TOWNSHEND, of Illinois. Will the gentleman allow me——

Mr. COX. I cannot yield. I want to appeal to the simpler members of the House, and not to my venerable friend from Illinois. A committee of conference appointed on the part of this House meets a committee of the Senate. They get together. They ask, "Wherein have we agreed?" The answer is, "We have agreed as to such and such matters." Then they ask, "Wherein do we disagree?" The answer is, "In such and such matters." And on those disagreements, and those alone, can they confer. That is the universal practice. It was the practice when my friend from Illinois was a page here twenty-five years ago. He must remember it.

Mr. TOWNSHEND, of Illinois. It is too long ago.

Mr. COX. The practice has never been changed. Why? Because the Speaker said if this practice were not adhered to power would be given to a few men to override both Houses. Our great worry and trouble for a quarter of a century has been with committees of conference having been too powerful, overriding the best judgment of the two Houses. When the two Houses have once agreed that should be an end of it, as far as the question of their agreement is concerned.

Mr. TOWNSHEND, of Illinois. I still insist on the question of order I have raised. The gentleman from New York [Mr. COX] has not answered that question at all. I submit that the question of the House salaries is still undisposed of by the conference, and that we have the authority to instruct them.

The SPEAKER. The Chair has ruled upon that subject.

Mr. TOWNSHEND, of Illinois. I think not upon the question I have raised.

The SPEAKER. The Chair decides that committees of conference have only to do with matters about which the two Houses have disagreed.

Mr. TOWNSHEND, of Illinois. The two Houses do disagree with regard to the salaries of some of the House employés.

The SPEAKER. Those only are in the conference.

Mr. TOWNSHEND, of Illinois. Then I maintain the committee of conference can review the whole subject.

The SPEAKER. The Chair does not agree with the gentleman.

Mr. ROBINSON. This is a very practical question and there is no difficulty about it which cannot be got over. It is not a new question. We have had it debated here and in conference in former sessions. The simple question is how to get out of this difficulty.

We cannot on sound principles of legislation interfere with the action of the two branches already concluded. I think we all agree to that. It would be dangerous to depart from that principle not only of parliamentary law but good common sense.

The conferees of the Senate have indicated, I understand, that they are willing to concede something if the House meets them part of the way. But we cannot do that. What, then, is open to us? The chairman of the Committee on Appropriations indicates there will be no difficulty in arriving at an agreement between the two branches except on the salaries of the Senate employés. I suggest that the committee of conference first report the things they can agree upon and dispose of those matters, and not hold anything back on which there is no difference. And when that has been done let the committee of conference then come and place before the two Houses the single question they disagreed about, namely, as to the amount of the pay of the Senate employés. Then let the House determine whether they will agree to that or not, and in that way we can cut this dead-lock. This is a practical, common-sense question for business men. When the House comes to that stage of the proceedings we will be able to dispose of the whole matter one way or the other in a short time. I do not now propose to indicate what my view is. But the report, as I have indicated, can be brought in here and the whole question decided in a short time. When this bill has been passed and become a law, if the House wants to raise the salaries of its employés so that they will be equal to those of the Senate employés it can do it by a supplemental act, which it would not take twenty-four hours to pass, for there is no doubt that the Senate will agree to it at once.

Mr. SINGLETON, of Mississippi. I desire to ask a question of the Chair for information. Can we not get out of this difficulty in this way: Let the committee of conference make their report; then let some gentleman prepare a bill, or let the Committee on Appropriations, by leave of the House, prepare a bill, to be offered as a substitute for the report of the committee of conference. In that bill the salaries of the employés of the two Houses can be adjusted. Is there any difficulty about that?

Mr. ROBINSON. No such bill as that can come from a conference committee.

Mr. SINGLETON, of Mississippi. I do not propose that it shall come from a conference committee. But I ask the Chair if it would not be competent to offer such a bill as a substitute for the report of the committee of conference?

The SPEAKER. It is in the power of any member of the House to introduce such a bill; but the committee of conference has nothing to do with such a bill.

Mr. SINGLETON, of Mississippi. That is what I mean.

The SPEAKER. The committee of conference is charged with one matter only; that is, the disagreement of the two Houses upon a certain bill.

Mr. SINGLETON, of Mississippi. If we can agree on all other points——

The SPEAKER. The gentleman from Massachusetts [Mr. ROBINSON] suggests that the committee of conference shall report their agreement upon everything on which they can agree, and then submit to the House the matters upon which they cannot agree, instead of reporting an entire disagreement, when the fact is, as stated, that the disagreement is only upon a single matter.

Mr. CONVERSE. What is the question before the House?

The SPEAKER. The question before the House is upon adopting the report of the committee of conference, that they cannot agree. That report might be adopted and then a further conference asked.

Mr. ROBESON. As I understand it, these gentlemen have come in here, not exactly with a report of disagreement, but rather with a suggestion for instructions from the House. They say that they can agree upon most of the matters referred to them, but that they cannot agree upon some of those matters. Now, why should all their labors be wasted? Let us instruct them to agree upon those things which they can agree upon, and to report to the House those matters upon which there is a disagreement.

The SPEAKER. That is what the gentleman from Massachusetts [Mr. ROBINSON] suggests. The question is upon agreeing to the report of the committee on conference.

The report was agreed to.

Mr. ATKINS. I now move that the House further insist upon its disagreement to the amendments of the Senate to the legislative appropriation bill, and request a further conference thereon.

The motion was agreed to.

Mr. ATKINS moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER subsequently announced the reappointment of Mr. ATKINS, Mr. CLYMER, and Mr. BAKER as the conferees on the part of the House.

ORDER OF BUSINESS.

Mr. BRIGHT. I now move that the House resolve itself in Committee of the Whole for the purpose of considering business on the Private Calendar.

Mr. WILLIS. Mr. Speaker, in behalf of the Committee on Education and Labor I desire to submit to the House a request, prefacing it with a brief statement. That committee during the last session and this one have had before it three subjects of importance to the whole country. One is a resolution introduced by Mr. COX construing the eight-hour law, the second is a bill regulating Chinese immigration, and the third is a bill for the distribution of the proceeds of the public land. I need hardly remind the House of the nature and importance of these bills. The first rectifies a great wrong that is now done to the employés of the Government by the neglect or refusal of the Executive Department to enforce the plain and unmistakable provisions of a law now upon our statute-book. It simply asks that the Government shall not set the example of nullifying or evading the laws of the land.

The bill regulating Chinese immigration is equally familiar to all of us. It proposes to check the immigration of an alien race who have no sympathy with our institutions and whose groveling habits enable them to subject our American workmen to a competition under which the denizens and appliances of civilized life are impossible.

The third bill, distributing the proceeds of the public land for educational purposes, is one of especial importance to the colored race, as it places within their reach the means of education, of citizenship, and of usefulness. We have imposed grave duties and responsibilities upon that race, and I hold and our committee holds that by this act the Government, the people of the whole country, have imposed upon themselves the duty of preparing and fitting these new citizens for the faithful and intelligent discharge of the duties incumbent upon them.

Urgent petitions are now on file before our committee signed by thousands of our best citizens urging prompt action upon these measures. Our committee, recognizing the justice, propriety, and neces-

sity of the legislation proposed in these bills, have given them careful attention, and long ago has made favorable reports. After several efforts we secured unanimous consent for the setting apart of Saturday, May 15, for the consideration of these three bills. When that carried the adjourning resolution of Mr. WOOD was called up, and, having precedence under our rules, consumed the day.

Having thus been frustrated in the effort to secure action, our committee now asks unanimous consent that next Tuesday night be set apart for the same purpose. The committee promises, if this consent is given, that no vote shall be taken upon any of the bills until the following day.

As our committe is well known—next to the Committee on Appropriations—to be the most modest one on the floor of the House, I hope this request will be granted.

Mr. WHITE. Does that require unanimous consent?

The SPEAKER. It does.

Mr. WHITE. Then I object.

Mr. WILLIS. I hope the gentleman will not object.

Mr. WHITE. I must insist upon my objection, for I am opposed to some of those bills.

Mr. GUNTER. I ask unanimous consent to make two reports to go upon the Calendar.

Mr. HARRIS, of Virginia. I desire to give notice——

Many MEMBERS. Regular order.

The SPEAKER. The regular order is the motion to go into Committee of the Whole on the Private Calendar.

Mr. TOWNSHEND, of Illinois. I have a resolution to which I think there will be no objection, to facilitate the public business.

The SPEAKER. The regular order is called for, and the question is upon the motion to go into Committee of the Whole on the Private Calendar.

Mr. HARRIS, of Virginia. I desire to give notice that to-morrow immediately after the morning hour I will endeavor to call up the bill (H. R. No. 2272) directing the Secretary of the Treasury to examine and settle the accounts of certain States and the city of Baltimore growing out of moneys expended by said States and the city of Baltimore for military purposes during the war of 1812.

Mr. WHITE. I ask unanimous consent to submit two reports from the Committee on Military Affairs. I was not in my seat when that committee was called this morning.

Many MEMBERS. Regular order.

The SPEAKER. The regular order is called for, and the Chair must submit the question to the House upon the motion of the gentleman from Tennessee, [Mr. BRIGHT,] that the House now resolve itself into Committee of the Whole on the Private Calendar.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, (Mr. NICHOLLS in the chair,) and proceeded to the consideration of business on the Private Calendar.

ALBERT L. JACK.

The unfinished business on the Private Calendar was the bill (H. R. No. 2123) granting a pension to Albert L. Jack.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Albert L. Jack, late a private in Company B, Eleventh Indiana Cavalry, and to pay him a pension from the 2d day of June, 1865, being the date of his discharge from the service.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 2123) granting a pension to Albert L. Jack, late a private in Company B, Eleventh Indiana Cavalry, having had the same under consideration, make the following report:

That the said Albert L. Jack was enrolled on the 21st day of November, 1863, at Portland, Indiana, in Company B, Eleventh Regiment of Indiana Cavalry Volunteers, to serve three years or during the war, and was mustered into the service on the 9th day of December, 1863, at Indianapolis, Indiana, as a private, for said period of time, and was, on the 2d day of June, 1865, and before his term of enlistment expired, honorably discharged from said service, by reason of his disability to serve longer, as hereinafter stated; that while he was in the service aforesaid, and in the line of his duty, at a place called Camp Smith, at or near Nashville, Tennessee, on the 22d day of November, 1864, his horse stumbled and fell upon him, badly crushing his breast and ribs, from which he has not recovered; that his disease is beyond medical aid, and totally incapacitates him for manual labor, and that his lungs are incurably affected, being the result of said violent external injury, which injury and disease caused thereby rendered him unfit for service, and by reason thereof he was discharged from the Army; that he afterward applied to the Commissioner of Pensions for a pension, but his claim was rejected by reason of his inability to procure and furnish the evidence of the surgeon of his regiment as to the injury so received; that said inability to furnish said evidence was caused by the fact that said surgeon was then dead, rendering it impossible to procure said evidence; that he did furnish the affidavits of the second lieutenant of his company and the major of his regiment, reciting the facts above set forth, both of whom were personally acquainted with the facts, as they were present when the injury occurred, and also furnished the affidavits of reputable physicians as to the nature and extent of his injury and disease; that his claim for a pension from the time of his discharge is meritorious and just, and should be allowed.

We therefore report back the bill so referred to us and recommend its passage.

The pending amendment was read, as follows:

In lines 7, 8, and 9, strike out the words "the 2d day of June, 1865, being the date of his discharge from the service" and insert "and after the passage of this act."

The amendment was agreed to.

Mr. COLERICK. I understand that the amendment has been agreed to. I did not at the time understand that the amendment was being voted upon. I desire to ask a vote in the House on that amendment.

The CHAIRMAN. The gentleman will be entitled to such a vote.

The bill, as amended, was laid aside to be reported favorably to the House.

HENRY C. GROOMES.

The next business on the Private Calendar was the bill (H. R. No. 1953) for the relief of Henry C. Groomes.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed, subject to the provisions and limitations of the pension laws, to increase the pension of Henry C. Groomes, a private in Company D, Thirteenth Regiment of Indiana Volunteers, to a full pension.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 1953) granting an increase of pension to Henry C. Groomes, have had the same under consideration, and respectfully report:

That Henry C. Groomes, late a private in Company D, Thirteenth Regiment Indiana Volunteers, enlisted in the United States service 22d January, 1864; that before he enlisted he was a sound, able-bodied man. That on the 10th day of May, at Chester Station, Virginia, he was taken prisoner and conveyed to Andersonville, Georgia, where he was held as a prisoner of war until the 30th day of April, 1865. That on or about July, 1864, while in prison, he contracted rheumatism and scurvy. That at date of release he was suffering severely with said disease, and has suffered continuously ever since. These statements are verified by Joseph Biddle, Company H, Sixteenth Indiana Cavalry, and James Eller, of Company I, Twenty-second Indiana Infantry, who were prisoners at Andersonville (Georgia) prison at the same time with said Henry C. Groomes, and speak from their own personal knowledge.

Lieutenant James C. Boyd testifies to the same fact, of the claimant's having contracted rheumatism and scurvy while in Andersonville prison.

February 18, 1878, Dr. N. D. Cox, M. D., and W. V. Wills testify to claimant's suffering more or less from rheumatism and scurvy for the past seven years.

The records in the Adjutant-General's Office corroborate the fact of Henry C. Groomes's capture and imprisonment in Andersonville (Georgia) prison.

From the foregoing facts the said Henry C. Groomes was pensioned at the rate of $4 per month, commencing February 18, 1878.

On May 6, 1879, the neighbors, consisting of seven attorneys, eight doctors, together with quite a number of business men and other citizens, united in recommending him as being entitled to a full pension in consequence of disability to perform manual labor.

This petition is supported by the sworn affidavit of Dr. Nathaniel Cox, M. D., and Dr. M. M. Gordon. The former testifies that he has been the family physician for the last past ten years, and that he has treated said Henry C. Groomes at intervals during said time for rheumatism and scurvy, and that in consequence of said disease he is wholly incapacitated for the performance of manual labor, and that he has no interest in the prosecution of this claim.

Dr. M. M. Gordon, M. D., late lieutenant Company E, Thirteenth Regiment Indiana Volunteers, testifies, under oath, that he recruited said Henry C. Groomes, and knew him to have been a sound, able-bodied man when he entered the service of the United States, and continued so up to his imprisonment in Andersonville (Georgia) prison; and that since his release from said prison he has suffered continuously with rheumatism and scurvy, incapacitating him from performing manual labor, and that he has no interest in the prosecution of this claim.

Your committee therefore report back the bill and recommend that it do pass.

Mr. WHITE. I see that this bill speaks of a "full pension." It may be ignorance on my part; but I would like to know what is meant by this phrase. Under the pension laws, as I understand, the Commissioner in granting pensions has a discretion in the matter of rates. Of course the rates of pension differ as between officers and privates. May I ask the gentleman in charge of this bill what is meant by a "full pension?"

Mr. HOSTETLER. I presume that the object of the bill is to place this man on the pension-roll at the rate allowed by law for a person suffering under his disability, and one who held his standing in the Army. Perhaps it would have been better to have said "subject to the provisions and limitations of the pension laws."

Mr. WHITE. I suggest that the bill be amended so as to make it a little more definite, so as to permit the Commissioner of Pensions to allow this man a pension at such a rate as is allowed to soldiers suffering similar disabilities.

Mr. HOSTETLER. I am willing the bill shall be amended by adding the phrase "subject to the provisions and limitations of the pension laws."

Mr. WHITE. Very well; I move that amendment.

The amendment was adopted.

The bill, as amended, was ordered to be laid aside to be reported favorably to the House.

CHARLOTTE M. COWARD.

The next business on the Private Calendar was the bill (H. R. No. 3558) for the relief of Charlotte M. Coward, widow of Joel M. Coward.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of Charlotte M. Coward, widow of Joel M. Coward, late captain of Company D, Thirty-fourth Regiment Kentucky Infantry Volunteers, and to pay her a pension of $20 a month from the 26th day of August, 1873, so long as she remains such widow.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the petition of Charlotte M. Coward, widow of Joel M. Coward, late captain of Company D, Thirty-fourth Regiment Kentucky Infantry Volunteers, for a pension, have had the same under consideration, and they respectfully report:

That the husband of said petitioner had a pension of $10 a month for chronic bronchitis, incurred in the line of his duty; that his pension was afterward increased to $20 a month because his disease had terminated in consumption of the lungs; that he died of said disease on the 26th day of August, 1873; that the widow's claim for a pension was rejected by the Pension Office on account of alleged inconsistencies in the statements as to the cause of her husband's death, made by the physi-

cian who attended him in his last illness. But said physician stated positively that the cause of the death was consumption of the lungs, and all the evidence shows that such was the fact.

Your committee are therefore of opinion that said widow is entitled to the same pension her husband had so long as she remains his widow. They therefore report back said petition and the accompanying bill, with the recommendation that the same be passed.

Mr. WHITE. I desire to move an amendment to this bill. By common consent we have been amending bills of this kind so as to leave the amount of pension to the discretion of the Commissioner. I observe that this bill fixes the rate of pension at $20 a month. I move to amend by striking out the words "and pay her a pension of $20 a month."

Mr. HOSTETLER. I have no objection to that amendment.

The amendment was agreed to.

The bill, as amended, was laid aside to be reported favorably to the House.

WILLIAM A. AND ADELICIA CHEATHAM.

The next business on the Private Calendar was the bill (H. R. No. 3561) for the relief of William A. and Adelicia Cheatham.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to William A. and Adelicia Cheatham, or their attorney, for the use and benefit of said Adelicia Cheatham and her four children, the sum of $32,074, with interest from October 29, 1868, in full discharge of all claims for money illegally assessed on the 10th of May, 1867, and again on the 15th of March, 1868, by the assessor for the fifth collection district of the State of Tennessee, under the internal-revenue law of 30th June, 1864, chapter 173, on crops of cotton raised in Louisiana during the years 1861 and 1862.

The Clerk proceeded to read the report.

Mr. CARLISLE, (interrupting.) I am informed that the gentleman who reported this bill, [Mr. O'CONNOR,] and who is not now in his seat, desires to have it passed over without action, to retain its place on the Calendar.

The CHAIRMAN. If there be no objection the bill will be passed over, retaining its place.

Mr. WHITE. I do not know about that.

Mr. BRAGG. I think, Mr. Chairman, that if this bill be passed over it ought to go where bills which have been passed over would go under the rules. It is likely to provoke discussion which may delay the consideration of other bills.

Mr. CARLISLE. The chairman of the committee from which the bill is reported, and also the gentleman who has charge of it, are absent just now from the House. I am informed that they desire to have the bill passed over.

Mr. BRAGG. I have no objection to its being passed over; but I do not want it to stand at the head of the Calendar.

Mr. WHITE. I object to its standing at the head of the Calendar.

Mr. SPARKS. Let it retain its place, whether at the head of the Calendar or otherwise.

Mr. HAWLEY. I do not think there is any harm in a courtesy of this kind. We certainly do not lose anything, and for the present we save the time which would be spent in the discussion of the bill.

The CHAIRMAN. As the gentleman from South Carolina, [Mr. O'CONNOR,] who reported this bill, is not now in his seat, the bill, if there is no objection, will be laid aside, retaining its place.

Mr. ATHERTON. Let us have some understanding whether any effort will be made to call it up again at this session.

Mr. CARLISLE. I am advised that there will not be.

Mr. ATHERTON. If it is understood that it is not to come up again at this session of Congress, I have no objection.

Mr. CARLISLE. I am so advised; but I desire to say that I know nothing about the bill; I never heard of it until it was reached on the Calendar a few moments ago. At that time a member of the House informed me that it was the desire of the chairman of the committee, as well as of the gentleman who reported the bill, that it should be passed over; and I am informed in addition that there will be no effort made to call it up for action during the present session of Congress.

Mr. ATHERTON. Very well.

The bill was then passed over.

MESSAGE FROM THE SENATE.

The committee informally rose; and a message was received from the Senate, by Mr. BURCH, its Secretary, announcing the passage of a bill (H. R. No. 2788) to authorize the President to appoint an officer of the Navy or Marine Corps to perform the duties of solicitor and judge-advocate general, &c., and to fix the rank and pay of such officer, with an amendment in which concurrence was requested.

It further announced the passage of the following bills, without amendment:

A bill (H. R. No. 2797) for the relief of certain citizens of Lynchburgh, Virginia, and refunding to them taxes improperly collected from them on manufactured tobacco; and

A bill (H. R. No. 4439) to remove the disabilities of Sergeant P. P. Powell, Sixth Regiment United States Cavalry.

It further announced the passage of the following bills; in which concurrence was requested:

An act (S. No. 89) for the relief of John Adams, William B. Clift, David Dunseath, William Killinger, and J. F. Scott, administrators of the estate of Obediah Scott, deceased; Davis Peak, Charles Linderman, James Linnane, Patrick Carey, John McMahon, and James Gorman, administrators of the estate of Patrick Gorman, deceased;

An act (S. No. 281) for the relief of Emma G. Nelson, executrix, and Aaron H. Nelson, executor, of the estate of W. F. Nelson, deceased;

An act (S. No. 452) for the relief of Priscilla Watson;

An act (S. No. 549) for the relief of Samuel I. Gustin;

An act (S. No. 1135) authorizing the Secretary of War to adjust and settle the account for arms between the State of South Carolina and the Government of the United States;

An act (S. No. 1254) for the relief of Henry Warren;

An act (S. No. 1352) for the relief of George G. Snyder;

An act (S. No. 1608) for the relief of certain settlers within the late Fort Kearney military reservation, Nebraska; and

An act (S. No. 1749) to authorize the Roman Catholic bishops in California to sell certain church lands.

The committee then resumed its session.

CHARLES W. ABBOT AND W. W. BARRY.

The next business on the Private Calendar was the bill (H. R. No. 2828) for the relief of Charles W. Abbot, a pay director, and W. W. Barry, a passed assistant paymaster, in the United States Navy.

The bill, which was read, directs that Charles W. Abbot, a pay director, and W. W. Barry, a passed assistant paymaster, in the United States Navy, be released from liability or loss in consequence of the embezzlement of $2,605.54, by R. J. O'Reilly, a paymaster's clerk in the navy-yard at Boston; and the Secretary of the Treasury is authorized and directed to refund to said Abbot the sum of $797.15, and to said Barry $1,808.39, out of any money in the Treasury not otherwise appropriated.

The report was read, as follows:

It appears that on the 19th of October, 1876, R. J. O'Reilly was appointed paymaster's clerk by Paymaster W. W. Woodhull, then discharging the duties of paymaster of the navy-yard, Boston, Massachusetts, which appointment was approved by the commandant of the station. Since the above date O'Reilly continued to hold the position of paymaster's clerk, his duty being to assist the paymaster of the navy-yard at Boston, until the 25th of October, 1878, when, having been detected in a dishonest transaction, he was suspended from duty, and a thorough examination disclosed the fact that he had embezzled of the Government moneys $2,605.54. Prompt measures were taken to effect his arrest after his defalcation was ascertained, but he had absconded. On the 10th of July, 1878, Pay Director Charles W. Abbot was ordered to relieve Paymaster F. H. Swan at the Boston navy-yard. After taking charge of the pay office, Pay Director Charles W. Abbot became suddenly ill, and on July 22, 1878, was relieved by Passed Assistant Paymaster W. W. Barry. Again, on October 1, 1878, Pay Director Charles W. Abbot, having recovered his health, relieved Passed Assistant Paymaster W. W. Barry. The fidelity, competency, and integrity of the clerk, O'Reilly, having been vouched for by Paymaster Swan, who relieved Paymaster Woodhull, and had continued the clerk through his term of service, he was, therefore, retained by Passed Assistant Paymaster W. W. Barry and by Pay Director Charles W. Abbot.

After the discovery of this deficiency in the cash, the fact was at once reported to the commandant of the station, and an investigation requested by Pay Director Charles W. Abbot. An official investigation was ordered by Commodore Spicer, and subsequently a court of inquiry was ordered by the honorable Secretary of the Navy.

Secretary Thompson, in answer to a request by the committee, has furnished the following report of that court:

"The court do not find that either Passed Assistant Paymaster Barry or Pay Director Abbot has been guilty of negligence, carelessness, or inefficiency, or is chargeable with culpability or mismanagement, but that, owing to the changes and transfers made in the brief period between the dates July 10 and November 1, an opportunity was afforded the clerk, O'Reilly, to carry over from one to the other any frauds that he had kept concealed."

Having carefully considered all the facts and circumstances connected with the case, the committee report favorably thereon, and recommend the passage of the bill.

Mr. WARNER. I should like to have some further explanation of this bill. It seems to be a case of this kind: the paymaster appointed a clerk, and of course the paymaster is responsible to the Government for the funds which he holds, and he is responsible for his own acts as well as for the acts of his clerk. It is proposed by this bill to release him from the responsibility for the acts of his clerk.

Mr. MORSE. Those are the facts of the case.

Mr. WARNER. We can hardly do that without a pretty clear explanation of the reasons for it.

Mr. WHITTHORNE. In the general spirit of the objection of my friend from Ohio he is correct, and the Committee on Naval Affairs takes the view of all such matters which the gentleman has in his mind, but there is an exception which ought to be remembered in the case presented at this time. I ask the attention of the gentleman to the facts which, in my judgment, show that relief ought to be granted. This clerk was the clerk of a paymaster by the name of Woodhull. Mr. Abbot was assigned to this place July 10, and before he could ascertain the condition of the office he was taken sick July 22, twelve days thereafter. He was then relieved by Paymaster Barry, who acted for a while and during the illness of Mr. Abbot; but upon the restoration to health of Mr. Abbot, the latter was again ordered to duty at that place. About that time an examination of the accounts took place, and this clerk left the country. An examination of his accounts showed that he had been engaged in the business of secreting and making false entries extending back to Paymaster Woodhull's time. Carrying over and concealing these false entries, it became a question as to the responsibility of each one of these officers. They demanded a court of inquiry, and that court examined into all the facts and substantially reported what has been embodied in the report of the committee. Let me read the finding of that court:

The court do not find that either Passed Assistant Paymaster Barry or Pay Director Abbot has been guilty of negligence, carelessness, or inefficiency, or is

chargeable with culpability or mismanagement, but that, owing to the changes and transfers made in the brief period between the dates July 10 and November 1, an opportunity was afforded the clerk, O'Reilly, to carry over from one to the other any frauds that he had kept concealed.

In view of the finding of that court of inquiry the committee do not believe these gentlemen ought to be held responsible for the default and fraud of this clerk as if he had been appointed by them. We believe relief ought to be granted as provided in the pending bill.

Mr. ATHERTON. Do they not appoint their own clerks?

Mr. MORSE. But not in this case; they could not do so.

Mr. ATHERTON. Why?

Mr. MORSE. This same man, O'Reilly, was in that place at the time Mr. Abbot was ordered there. He had not time to know the condition of the office and take charge of it, or to discharge the clerk before he fell sick. There is nothing further to state here, it would seem, in addition to the facts so clearly set forth by my friend, [Mr. WHITTHORNE,] who has very fully given all the facts which appeared before the Committee on Naval Affairs, and on which they based their judgment. It was an impossibility for this man when he first entered upon the duties of the office, not knowing how long he was to retain control of it, to go to work and discharge the employés that he found there, especially to discharge this clerk who was in charge of the business. This officer was then taken sick and a new man came in and took his place. He did not know whether he was going to stay there a day or a week, or how long he was going to stay, and of course he did not want to take control of the question of discharging this man. Subsequently Mr. Abbot got well again and returned and took charge. Now, in this interval, while the office was under the control of these different parties, this clerk absconded. Mr. Abbot discovering his loss, immediately asked a court of inquiry which examined into the facts of the case and completely exonerated him.

Mr. HAYES. Mr. Chairman, there is this in reference to this matter, (of course I know very little of it, except what has been stated by gentlemen on the floor and what appears in the report, and hence I think we should be very careful in regard to passing such a bill:) I think the House should adopt as a general rule of action, the principle stated by the gentleman from Ohio, [Mr. WARNER,] that in regard to these cases we should hold the principal responsible for the acts of his subordinates where he has the privilege of appointment. This may be a good case. It may be a meritorious case, but we have had several cases of this kind before the House at this session, some of which we rejected, some of which we acted on favorably. I understand the gentleman from Connecticut [Mr. HAWLEY] has investigated this matter, and if he has any new light upon the subject I should be very glad to hear from him.

Mr. MORSE. This bill passed the Senate——

Mr. HAYES. I do not want to go blindly, and yet I want to do justice to all parties.

Mr. WHITE. Mr. Chairman, this bill, as I understand, is to relieve Pay Director Charles W. Abbot and W. W. Barry from the payment of certain sums of money which they were liable for and made good to the United States because of the alleged embezzlement thereof by a certain clerk. It is not a very safe kind of legislation for the United States Congress to indulge in, to begin with. I understand the rule is and should be to hold the principal responsible for the acts of his subordinates unless, under the common-law rule, the accident occurs in such a way that it was impossible to have provided against it. Cases of that kind have been presented here. I have had the honor of reporting to the House a number of bills like that, and will vote for them all because I regard that as being a good ground for granting relief. But the trouble here is, is this a case of that character?

Now, with all deference to the gentlemen who prepared this report, it is, I may be permitted to say, somewhat confused. As I gather from the reading of the report, some time in 1876 Mr. Woodhull was on duty as paymaster at the navy-yard in Boston. This clerk, O'Reilly, who is charged with the embezzlement, was his clerk. Now, Paymaster Woodhull continued there I do not know how long, but at all events he seems to have been relieved at some time afterward—the date is not exactly given. But on the 10th of July, 1878, Abbot, Director Charles W. Abbot, was ordered to relieve Paymaster Swan at the Boston navy-yard. Now, when Paymaster Swan relieved Paymaster Woodhull does not appear, and I am not informed from the reading of the report that Paymaster Woodhull was ever relieved. Subsequently it seems that Paymaster Barry relieved Paymaster Abbot, and again Paymaster Abbot returned and relieved Paymaster Barry. In all of these changes and in all that history it does not appear when this defalcation occurred, and it does not appear who was to blame for it. Here was a period of about three years, then, within which this defalcation could have occurred. It seems, however, that the Government held Abbot and Barry responsible for it.

Now, if gentlemen can satisfy me that this difficulty occurred while this man was under the control of Paymaster Abbot I shall be very glad, but no such circumstances appear, nor does there seem to be any attempt made in this report or in any statement connected with it to show when this loss took place. If the loss can be shown to have occurred at such time as would justify the granting of this relief by Congress it is all right, but in the absence of that information I think it is a bad precedent and dangerous legislation.

Mr. HAWLEY. Mr. Chairman, I know nothing personally of the facts of this case nor of the officers to be relieved. My attention was called to it some time ago when I read the report, and since the bill has been before the committee for consideration I have looked at it again. I do not think the gentleman from Pennsylvania [Mr. WHITE] quite understands the question, or perhaps I do not quite understand him.

It appears from the report of the Committee on Naval Affairs that the facts in the case are as follows: In October, 1876, O'Reilly was appointed paymaster's clerk at the Boston navy-yard by Paymaster Woodhull. It appears then that in July, 1878, nearly two years afterward, Paymaster Abbot was ordered to duty at this navy-yard. The clerk on hand, who had the full run of all the large purchases they had to make there, and the charge of the accounts, was recommended to him as a good man and continued to carry on that business. But Abbot, when he had been there only twelve days, was taken sick and went off duty, and Barry was put in July 22. Barry discharged the duties of the position till Abbot got well. Meanwhile Barry did not want to change the old clerk of Woodhull and Abbot. Barry held the place until Abbot came back on the 1st of October; and then Abbot, for the first time, had really time to take hold of the business to which he had been assigned in July, but from which he had been laid aside by sickness. Abbot went to work, and it was found O'Reilly had been cheating the Government. But before Abbot could get hold of the exact facts O'Reilly ran off and got out of reach. Whether the embezzlement occurred during Abbot's sickness or in Barry's time, or while Abbot was there after his return, no one appears to know. But it is certain the man who found him out should not be called upon to pay. Neither Abbot nor Barry had anything to do with his appointment. It appears to have been Abbot who found out that the man had been cheating.

Mr. WHITE. Was it not the duty of Abbot in succeeding Swan——

Mr. HAWLEY. Woodhull.

Mr. WHITE. No, Swan. Was it not the duty of Abbot in succeeding Swan and taking charge to ascertain just how much funds he had?

Mr. HAWLEY. He was there but twelve days, as I have said, when he was taken ill; and he was off duty for two and a half months.

Mr. WHITE. Well; when he came back ought he not to have ascertained immediately what funds he had?

Mr. HAWLEY. He did; and he found out the embezzlement in the course of two or three weeks. Everybody knows how a fellow who is dishonest can cover up accounts, and how it takes time to discover the defalcation. Abbot found it out, I think, on the 25th of October. O'Reilly ran away as soon as his frauds were discovered.

Mr. WHITE. O'Reilly was suspended from duty on the 25th of October, 1878. That was when Abbot was in charge.

Mr. HAWLEY. Yes, sir; he had been there for twenty-five days after his sickness.

Mr. WHITE. Why can we not ascertain during whose administration it was that this loss occurred?

Mr. HAWLEY. There had been four paymasters during the short term of two years and a quarter.

Mr. WHITE. They ought to have known, every one of them, the amount of funds they were receiving.

Mr. HAWLEY. Can the gentleman from Pennsylvania, then, tell me how it is that the ablest business men in the country are sometimes defrauded by their cashiers for years and years without finding it out? Yet this man who had been away sick found it out within three weeks after his return to his post.

Mr. WHITE. This is a different kind of institution. And I consider we ought to hold every paymaster who succeeds another responsible for the amount he receives from his predecessor.

Mr. MORSE. In so far as he used due care you would not hold him responsible for loss.

Mr. WHITE. Here is the point I am endeavoring to make: when Pay Director Abbot took charge on the 10th day of July, 1878, ought he not to have known the amount of money he was receiving from the man he relieved, namely, Paymaster Swan?

Mr. HAWLEY. He was taken sick immediately after his assignment.

Mr. CLAFLIN. I wish to ask the gentleman from Pennsylvania whether a paymaster in that position is to stop all the business of the office till he examines the state of all the accounts?

Mr. WHITE. To take charge of a pay office is merely for a pay director to take charge of what his predecessor turns over to him; and his first business should be to find out the amount of money on hand.

Mr. HAWLEY. It is not a mere question of how much money there is in a till.

Mr. WHITE. I have made my protest against it, and I do not care to discuss the matter further.

The CHAIRMAN. Without objection the bill will be laid aside to be reported favorably to the House.

Mr. ATHERTON. I certainly object. I desire to make a single remark on this matter if it be in order to do so.

I am quite certain that the facts disclosed in this report are not such as ought to authorize Congress to give the relief that is here asked. If relief of this kind is to be granted at all it ought to be shown affirmatively upon the face of the report that the party is not

negligent, but on the contrary has used due diligence to protect the public money. Now, I submit, Mr. Chairman, that nothing of that kind is shown in this report. When is it that this fraud of this paymaster's clerk is discovered?

Mr. HAWLEY. The 25th of October, 1878.

Mr. ATHERTON. The fraud is not discovered till October; not until this man has been found out in some other dishonest transaction in some way that is not reported here at all. Is any investigation whatever made into his conduct? No effort is made for the purpose of ascertaining how much funds he has in his hands when any of these men took possession of the office.

In the report there is no effort or there is scarcely an effort to whitewash the conduct of these parties as reported by the Secretary of the Navy. The most that is said in their behalf is:

> The court do not find that either Passed Assistant Paymaster Barry or Pay Director Abbot has been guilty of negligence, carelessness, or inefficiency, or is chargeable with culpability or mismanagement.

While they say the evidence does not disclose any of these facts, they do not, on the other hand, pretend that the evidence is of a nature to indicate that these men did use due diligence or any diligence at all. On the contrary, the facts are that they made no investigation whatever into the conduct of this man, made no effort to find out what money he had in his possession, and it was only by the occurrence of an adventitious circumstance away in October that suspicion even pointed to the man, and the question was raised as to whether he was doing right or not.

Now this man was a clerk, and each of these men when he took possession of the office should have ascertained how much money he was to be held accountable for. It is said on the other side that it is not known how much each of these men should have been held accountable for. They cannot be held accountable for a single dollar except what the evidence can trace to their hands. If Barry got money he is chargeable for that money, and not for what the other man had. And the other man if he had any money is chargeable for it, and not for any of the money that Barry had, which was diverted from the public use during the time that he had possession of the office. Each one must be held liable for the money traced to his hands, which was misapplied and not appropriated to the public use.

There is therefore nothing in the objection that it could not be told how much either one of these men should be called to account for, because before either can be called to account for any money it must be traced to his hands.

Mr. ROBINSON. I have no interest in this matter one way or the other, and no knowledge of it except from the papers in the case. But I desire to call the attention of the gentleman from Ohio [Mr. ATHERTON] to the last lines of the bill which make an apportionment as between Barry and Abbot. To my mind that would seem to indicate what each one of the men is chargeable with.

Mr. ATHERTON. I know what is in the bill; but there is no predicate for that portion of the bill, either in the report of the committee or in the statement of any gentleman on this floor.

Mr. ROBINSON. I know that apportionment does not appear in the report.

Mr. ATHERTON. The gentlemen who have spoken on this subject do not pretend to point out the means by which they arrive at the conclusion that so much shall be remitted for the benefit of Barry, and so much for the benefit of Abbot. If that could be known, the difficulty at once would disappear that has been suggested upon the other side, that it is impossible to say how much the one or the other is accountable for.

I say that there is nothing in the report to indicate that these officers who were intrusted with these public funds used due diligence; and until that is shown the doctrine suggested here that the principal must be held liable for the acts of his agent ought to apply. That principle ought to apply upon the ground of public policy, because there is no way to protect the public funds, except by holding the principal on all occasions liable for the acts of his agents.

Mr. HISCOCK. I desire to make this suggestion: the objection to this bill seems to be based upon the theory that all that was necessary was for these different officers to have counted the cash in the drawer; that there were simple naked pay-rolls to be made out and aggregated, and by counting the cash in the drawer, it could be ascertained what amount of cash ought to be on hand.

Now, as I understand it, this officer was one who purchased supplies, and doubtless on his books were accounts of different people who furnished merchandise, and it was the easiest thing in the world for the person who embezzled these funds by false entries upon the books for a month or six months or for a year to conceal his peculations and the time when they were made. It was only by a careful scrutiny of all the accounts that his embezzlement was found out. Of course it would be impossible to ascertain when the accounts had been raised by means of which the concealment was effected.

Mr. ATHERTON. Let me ask the gentleman, then, if because of the difficulty of finding out when and where this money went the principal is never to be held accountable for the act of his clerk.

Mr. HISCOCK. I am not discussing the question when a principal shall be held liable. The point I make is that it is impossible in a case of this kind to tell when the funds were taken or which principal should be held liable. It involves a careful scrutiny of a great many accounts for a long time, the comparison of payments and receipts; and when you get all through with that examination you do not know what day the fictitious entries were made or at what time the accounts were raised. I can well conceive in a case of this kind that it would be utterly impossible for the Government to fix the accountability anywhere. It is only upon the evidence of the embezzler himself that that could be done. It is unlike the case of mere payments of money on a pay-roll, where the man makes but one class of payments, counts up the aggregate, and then ascertains the amount of cash in his drawer. This case involves a long examination of accounts, of intricate matters, and it is utterly impossible to fix the liability or the date of the crime.

Mr. ROBINSON. In support of the suggestion I made a moment ago to the gentleman from Ohio, [Mr. ATHERTON,] I wish to call his attention to an affidavit which I find among the papers in this case.

Mr. ATHERTON. Of course I do not know anything about the papers in the case, for I have not seen them.

Mr. ROBINSON. It is in the testimony submitted in the case, from which I read:

> The embezzlement of O'Reilly amounts to the sum of $2,605.54—$1,808.39 being borne on the rolls of Passed Assistant Paymaster W. W. Barry and $797.15 upon the rolls of Paymaster Charles W. Abbot. This defalcation O'Reilly was enabled to conceal for a length of time by forged and fraudulent receipts.

It seems that it was only necessary for him to cover up this defalcation during the period of about three weeks.

Mr. ATHERTON. But as the gentleman will observe, there is no pretense that the embezzlement was discovered till October, after this man had been detected in some other dishonest transaction. Up to that time nobody had made any effort to find out anything about it.

Mr. WHITE. My friend from New York [Mr. HISCOCK] states the objection to this bill as arising from the fact that it does not appear that at the time of the different changes from one officer to another the balance was actually counted. That is one difficulty. I submit that in order to ascertain whether there was due diligence, proper regard for duty, by these officers, we ought to have some evidence that there was an attempt made to ascertain the balance with which they would be respectively charged when they relieved an officer. We have not such evidence here. The want of that evidence, in my opinion, makes against the case.

I have examined this matter a little further. I find that there is not one syllable of evidence cited in the report indicating that the embezzlement was actually made by this man O'Reilly; it seems to be a mere matter of conjecture. I find also that the Secretary of the Navy, in answer to a request of the committee, furnished the following report of the court of inquiry:

> The court do not find that either Passed Assistant Paymaster Barry or Pay Director Abbot has been guilty of negligence, carelessness, or inefficiency, or is chargeable with culpability or mismanagement, but that, owing to the changes and transfers made in the brief period between the dates July 10 and November 1, an opportunity was afforded the clerk, O'Reilly, to carry over from one to the other any frauds that he had kept concealed.

This, I submit, is a negative report. There is no positive affirmation by the court of inquiry that these men did their duty; that they did in reference to the public business all that a prudent man would do in regard to his own affairs.

In view of the doubt as to the person who committed the embezzlement and in the absence of any evidence showing that it occurred through the rascality of this man O'Reilly, I shall vote against this bill. In order to test the sense of the committee, I move to strike out the enacting clause. If this motion should fail, I will offer an amendment.

The question being taken on the motion of Mr. WHITE to strike out the enacting clause, there were—ayes 11, noes 23.

Mr. ATHERTON. I call for tellers.

Tellers were ordered; and Mr. MORSE and Mr. ATHERTON were appointed.

The committee divided; and the tellers reported—ayes 13, noes 45.

Mr. SPARKS. I make the point that no quorum has voted.

The CHAIRMAN. The tellers will resume their places.

The committee again divided; and the tellers reported—ayes 19, noes 76.

Mr. SPARKS. I make the point that there is no quorum.

The CHAIRMAN. If the gentleman insists on that point, the Chair will direct the roll to be called.

Mr. BREWER. I suggest to the gentleman from Illinois [Mr. SPARKS] that he allow this bill to be reported to the House and a vote taken by yeas and nays.

Mr. ATHERTON. Will you allow it to be taken in a full House?

Mr. BREWER. We will allow it to be taken at any time.

The CHAIRMAN. Does the gentleman from Illinois assent to the proposition of the gentleman from Michigan?

Mr. BREWER. I repeat my suggestion, that the gentleman from Illinois allow the bill to be reported to the House and a vote taken there by yeas and nays.

Mr. SPARKS. No, sir.

The CHAIRMAN. The Chair will direct the roll to be called.

Mr. PAGE. I move that the committee rise.

The motion was agreed to; there being—ayes 45, noes 22.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. NICHOLLS reported that the Committee of the Whole on the state of the Union having had under consideration the Private

Calendar, had directed him to report certain bills with a recommendation that they be passed with and without amendment, respectively.

Mr. LE FEVRE. I move that the House adjourn.

JOHN ADAMS AND OTHERS.

On motion of Mr BROWNE, by unanimous consent, the bill (S. No. 89) for the relief of John Adams, William B. Clift, David Dunseath, William Killinger, J. F. Scott, administrator of the estate of Obediah Scott, deceased, Davis Peak, Charles Linderman, James Linnane, Patrick Carey, John McMahon, and James Gorman, administrator of the estate of Patrick Gorman, deceased, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Naval Affairs.

PRIVATE LAND CLAIMS.

Mr. GUNTER, by unanimous consent, reported from the Committee on Private Land Claims, as a substitute for House bill No. 6075, a bill (H. R. No. 6403) to confirm a certain land claim in the Territory of New Mexico; which was read a first and second time, ordered to be printed, and recommitted.

Mr. GUNTER also, by unanimous consent, reported from the same committee, as a substitute for House bill No. 2553, a bill (H. R. No. 6404) to confirm a certain land title in the city of San Francisco, and for the relief of certain citizens of the United States; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

JAMES CLARK SMITH.

Mr. DAVIDSON, by unanimous consent, reported from the Committee on Claims, as a substitute for House bill No. 606, a bill (H. R. No. 6405) for the relief of James Clark Smith; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

PETER TARGORONA

Mr. DAVIDSON also, from the same committee, reported a bill (H. R. No. 6406) for the relief of Peter Targarona; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

Mr. HOSTETLER. I demand the regular order of business.

The SPEAKER. The regular order of business is the motion made by the gentleman from Ohio to adjourn.

Mr. LE FEVRE. I withdraw it.

Mr. BRAGG. I renew it.

The House refused to adjourn.

EDWIN DE LEON.

Mr. DAVIDSON also, from the same committee, reported back favorably the bill (H. R. No. 1368) for the relief of Edwin De Leon; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

J. W. BOWLING AND J. S. GOLLADAY.

Mr. DAVIDSON also, from the same committee, reported, as a substitute for House bill No. 604, a bill (H. R. No. 6407) for the relief of J. W. Bowling and J. S. Gollady; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

INTEREST ON ARREARAGES OF GENERAL TAXES, ETC.

Mr. HUNTON, by unanimous consent, from the Committee on the District of Columbia, reported back joint resolution (S. R. No. 64) extending the provisions of the first section of an act entitled "An act fixing the rate of interest upon arrearages of general taxes and assessments for special improvements now due to the District of Columbia, and for a revision of assessments for special improvements, and for other purposes," approved June 27, 1879, with an amendment.

The amendment was read, as follows:

In lines 12 and 13, strike out the words "1st of July, 1880," and insert "1st day of January, 1881;" so the joint resolution will read:

"*Resolved, &c.*, That the provisions of the first section of an act entitled 'An act fixing the rate of interest upon arrearages of general taxes and assessments for special improvements now due to the District of Columbia, and for a revision of assessments for special improvements, and for other purposes,' approved June 27, 1879, be, and the same are hereby, extended so as to apply to all general taxes in arrear on the 1st of July, 1879, and all special assessments due the District of Columbia, and which may be paid on or before the 1st day of January, 1881."

The amendment was agreed to; and the joint resolution, as amended, was ordered to a third reading, and it was accordingly read the third time, and passed.

Mr. HUNTON moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

INDUSTRIAL HOME FOR GIRLS.

Mr. NEAL. I move that the Committee of the Whole House on the state of the Union be discharged from the further consideration of the bill (H. R. No. 5702) to provide an industrial home for girls in the District of Columbia, and that the same be put upon its passage.

Mr. BOUCK. I object.

CHARLES EDWARDS.

Mr. WHITE, by unanimous consent, from the Committee on Military Affairs, reported back favorably a bill (H. R. No. 265) for the relief of Charles Edwards; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

PUBLIC BUILDING, FORT WAYNE, INDIANA.

Mr. ATHERTON, by unanimous consent, from the Committee on Public Buildings and Grounds, reported, as a substitute for House bill No. 624, a bill (H. R. No. 6408) for a public building at Fort Wayne, Indiana; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

EMPLOYÉS OF BUREAU OF ENGRAVING AND PRINTING.

Mr. ATHERTON, by unanimous consent, introduced a joint resolution (H. R. No. 318) authorizing the payment of wages to the female employés of the Bureau of Engraving and Printing while that office is being removed; which was read a first and second time, referred to the Committee on Printing, and ordered to be printed.

RETIRED LIST FOR NON-COMMISSIONED OFFICERS.

On motion of Mr. McCOOK, by unanimous consent, the bill (S. No. 1331) to authorize a retired list of non-commissioned officers of the United States Army who have served therein honorably and faithfully for a period of thirty years or upward, and for other purposes, was taken from the Speaker's table, read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

ALBERT L. JACK.

Mr. HOSTETLER. I demand the regular order of business.

The SPEAKER. The regular order of business is the consideration of the bills reported from the Committee of the Whole House on the Private Calendar. The first is the bill (H. R. No. 2123) granting a pension to Albert L. Jack, reported from the Committee of the Whole House on the Private Calendar with an amendment, which the Clerk will read.

The Clerk read as follows:

In line 7, strike out "the 2d day of June, 1865, being the date of his discharge from the service" and insert "and after the passage of this act."

Mr. COLERICK. I demand a division of the House on that amendment.

The House divided; and there were—ayes 71, noes 40.

So the amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. COLERICK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HENRY C. GROOME.

The next business reported from the Committee of the Whole House on the Private Calendar was the bill (H. R. No. 1953) for the relief of Henry C. Groome, with the following amendment:

In line 7, strike out the words "to a full pension."

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

CHARLOTTE M. COWARD.

The next business before the House was a bill (H. R. No. 3558) granting a pension to Charlotte M. Coward, widow of Captain Joel M. Coward, reported from the Committee of the Whole House on the Private Calendar with an amendment to strike out the words "and to pay her a pension of $20 a month."

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

SOPHIA BROOKE TAYLOR.

On motion of Mr. TALBOTT, by unanimous consent, a bill (S. No. 1249) to amend an act entitled "An act to grant a pension to Sophia Brooke Taylor, widow of the late Major Francis Taylor," was taken from the Speaker's table, and read a first and second time.

The bill, which was read, provides that the act entitled "An act granting a pension to Sophia Brooke Taylor, widow of the late Major Francis Taylor," approved March 3, 1865, be amended so that she shall be entitled to receive and shall receive a pension at the rate of $50 per month from and after the passage of this act, to be paid to her in lieu of the monthly rate of pension granted to her by the act hereby amended.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. TALBOTT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HULDA L. BARNARD.

Mr. VAN VOORHIS. I move by unanimous consent to discharge the Committee of the Whole House on the Private Calendar from the

further consideration of a bill (H. R. No. 192) granting a pension to Hulda L. Barnard.

The bill was read.

Mr. BUCKNER. Has that been considered by any committee?

Mr. VAN VOORHIS. It has been reported from the Committee on Invalid Pensions.

Mr. WHITE. I object.

ELIZABETH UPRIGHT.

Mr. DEERING. I ask unanimous consent to take from the Private Calendar House bill No. 1107, with an amendment, a bill granting a pension to Mrs. Elizabeth Upright, and ask its present consideration.

The SPEAKER. The gentleman from Iowa asks that this bill be taken up for present consideration, being a very meritorious case, this lady having furnished eleven sons to the Army.

Mr. BOUK. I object.

HULDA L. BARNARD.

Mr. VAN VOORHIS. I understand the gentleman from Pennsylvania will withdraw his objection to the bill which I sought to have action upon if I will consent to an amendment.

Mr. WHITE. Yes, sir; strike out "$20."

Mr. VAN VOORHIS. I will consent to the amendment. [Cries of "Regular order!"]

THOMAS PETTIJOHN.

Mr. POEHLER. I ask unanimous consent to consider at this time House bill No. 5918, granting a pension to Thomas Pettijohn. It is on the Private Calendar.

Mr. VAN VOORHIS. I object. I am going to object to all bills unless consent is given to the request I have made. I understand the gentleman from Pennsylvania to withdraw his objection. I do not think I ought to allow any other bills to come in until that is done.

Mr. WHITE. Is the bill of the gentleman from New York now before the House?

The SPEAKER. It is not. The gentleman himself objected to it.

Mr. WHITE. I think that is entirely uncalled for in the Chair.

The SPEAKER. Nevertheless, it is a fact.

Mr. WHITE. I have a right to object, and I exercised my right in my capacity as a Representative here.

The SPEAKER. The Chair does not desire to abridge any of the rights the gentleman has.

Mr. WHITE. But the Chair has no right to reflect upon me for having made an objection which I have a right to make, or to make a thrust of that kind upon me.

The SPEAKER. There is no need of the gentleman losing his temper or getting excited about it. The Chair has simply stated what was a fact.

Mr. WHITE. I am not excited, sir. I say it is unkind and unwarranted in the Chair to make such a fling at a member.

The SPEAKER. The Chair does not desire to do any injustice to any member. The gentleman asked the question whether the bill of the gentleman from New York was before the House. The Chair answered that it was not because the gentleman himself had objected.

Mr. WHITE. The Speaker had no right to make that additional statement. It was entirely uncalled for.

The SPEAKER. Nevertheless the gentleman himself had objected, and the Chair answered the gentleman's question.

Mr. WHITE. I desire to say again that I objected in the exercise of my right as a Representative upon this floor, and that action no man has a right to criticise. I am the peer of the Chair upon this floor. The Chair has no right to rebuke me or to criticise my action.

The SPEAKER. The Chair recognizes the right of the gentleman to object, but he recognizes also his own right, when a question is asked him, to truly answer it.

Mr. WHITE. I do not complain of that, but of the fling the Chair sought to make at me in the exercise of my privilege.

The SPEAKER. The gentleman from Pennsylvania will recognize the fact that the Chair simply answered the question that was asked.

THOMAS LUCAS.

Mr. BUCKNER. I ask unanimous consent to take from the Private Calendar the bill (S. No. 152) for the relief of Thomas Lucas.

Mr. TOWNSHEND, of Illinois. I object.

CHARGES AGAINST HON. J. H. ACKLEN.

Mr. ACKLEN. I ask that double the usual number of copies of the report of the Committee on the Judiciary made yesterday be printed with the accompanying testimony.

There was no objection.

The SPEAKER. Does the Chair understand that the gentleman wants double the number of copies of the testimony printed?

Mr. ACKLEN. No, sir; double the number of copies of the report and the usual number of copies of the testimony.

The SPEAKER. The Chair desires to ask the gentleman from Louisiana whether it is desired to have printed double the number of copies of the testimony in addition to duplicating the number of copies of the report?

Mr. ACKLEN. No, sir; double the usual number of copies of the report, but the ordinary number of copies of the testimony will be sufficient. It was understood that the testimony was to be printed. That taken before the Committee on Foreign Affairs was printed.

Mr. CLYMER. When that subject was before the House on yesterday it was understood that the testimony was not to be printed.

The SPEAKER. The Committee on the Judiciary did not ask to have the testimony printed, but that does not prevent the gentleman from Louisiana from asking it.

Mr. VAN VOORHIS. I object.

Mr. ACKLEN. It is too late, I submit, for the gentleman to object now. Permission was granted in the first instance when I made this request.

Mr. KENNA. I hope, Mr. Speaker, that no objection will be made to this. In the first place I think it is too late to make objection, but as the personal character of this gentleman is involved all the testimony ought to be printed as a matter of justice to him.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection, and it was ordered accordingly.

ORDER OF BUSINESS.

Mr. DIBRELL. I rise to parliamentary inquiry. Would it be in order to move to go to business on the Speaker's table?

The SPEAKER. It would.

Mr. DIBRELL. Then I make that motion.

The SPEAKER. But the Chair will state to the gentleman from Tennessee that if that motion is agreed to it will only be to take up private bills on the Speaker's table, this being Friday.

Mr. DIBRELL. I want to get concurrence in the Senate amendments to the bill S. No. 698.

The SPEAKER. That, as the Chair understands, is a public bill.

Mr. COFFROTH. I move to go to business on the Speaker's table.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate adhered to its disagreement to the amendments of the House to the bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes, and asked for a committee of conference on the disagreeing vote of the two Houses thereon.

The message further announced that the Senate had appointed Mr. RANSOM, Mr. HEREFORD, and Mr. MCMILLAN conferees on the part of the Senate.

ORDER OF BUSINESS.

Mr. COFFROTH. I renew the motion to proceed to business on the Speaker's table.

Mr. VAN VOORHIS. I object.

The SPEAKER. That question is within the control of a majority. An objection is not sufficient to defeat it.

The House divided; and there were—ayes 52, noes 27.

Mr. VAN VOORHIS. I make the point of order that no quorum has voted.

The SPEAKER. The point being made that no quorum has voted, the Chair will order tellers.

Mr. HOUSE. I move that the House do now adjourn.

JONATHAN H. CARTER.

Mr. TILLMAN. Mr. Speaker, I hope the gentleman from Tennessee will not insist upon that motion. I have never yet asked the attention of the House for a single moment during the time that I have been here, but I now ask to take up the bill (S. No. 1225) for the removal of the political disabilities of Jonathan H. Carter, and ask that it be put upon its passage.

The SPEAKER. The Chair corroborates the statement of the gentleman from South Carolina. The Clerk will report the title of the bill.

The Clerk read as follows:

Senate bill No. 1225: An act to remove the political disabilities of Jonathan H. Carter, of South Carolina.

The SPEAKER. There being no objection to the consideration of the bill, the question will be upon the third reading.

The bill was ordered to be read a third time; and being read the third time, it was passed, two-thirds voting in favor thereof.

Mr. TILLMAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. TUCKER. I desire to make a similar request for unanimous consent.

Mr. HOUSE. I renew the motion to adjourn.

ENROLLED BILLS SIGNED.

Pending the motion to adjourn,

Mr. WARD, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 165) to consummate the resolution of the Continental Congress of October 4, 1777, and erect a monument to the memory of Brigadier-General Herkimer, as therein directed.

An act (H. R. No. 5041) to authorize the Secretary of War to turn over to the governor of South Carolina four pieces of condemned cannon for the use of the Marion Artillery.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:
To Mr. BAILEY, for ten days;
To Mr. BAYNE, indefinitely;
To Mr. WILSON, for two days; and
To Mr. COWGILL, for ten days after Monday, the 7th, on account of important business.

LEAVE TO PRINT.

Mr. PRESCOTT, by unanimous consent, obtained leave to have printed in the RECORD, as part of the debates, some remarks he had prepared on the funding bill. [See Appendix.]

BANK INVESTIGATION EXPENSES.

The SPEAKER, by unanimous consent, laid before the House a statement of disbursements by John G. Thompson, Sergeant-at-Arms, House of Representatives, on account of sub-committee of the Committee on Banking and Currency investigating Ocean National Bank of New York and German National Bank of Chicago, under resolution of June 4, 1879, with accompanying vouchers; which was referred to the Committee on Accounts.

CAPTAIN J. SCOTT PAYNE.

The SPEAKER also laid before the House a letter from the Secretary of War, relative to the promotion of J. Scott Payne, Fifth Cavalry; which was referred to the Committee on Military Affairs.

ORDER OF BUSINESS.

The question being taken on the motion to adjourn, there were—ayes 65, noes 57.

Mr. TUCKER. I call for tellers.

Tellers were ordered; and Mr. TUCKER and Mr. HOUSE were appointed.

The House again divided; and the tellers reported—ayes 56, noes 56.

The SPEAKER. The Chair votes "ay," and the motion is agreed to.

And accordingly (at three o'clock and forty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By the SPEAKER: The petition of Emanuel Cole, for the extension of a patent for cleaning, hulling, and grinding grain—to the Committee on Patents.

By Mr. CHITTENDEN: The petition of Arnold Gray, for legislation regulating immigration—to the Committee on Foreign Affairs.

By Mr. DICKEY: The petition of James H. Barker and 120 others, citizens and ex-soldiers, for the passage of a law removing the charge of desertion from Thomas H. Newton, late private Company C, Forty-eighth Regiment Ohio Volunteers—to the Committee on Military Affairs.

By Mr. DUNNELL: A paper relating to the establishment of post-routes from Fairmont, via May and North Star, to Saint James, Minnesota, and from Fairmont, Minnesota, to Estherville, Iowa—to the Committee on the Post-Office and Post-Roads.

By Mr. ELLIS: The petition of citizens of Texas, Mississippi, and Louisiana, for the abolition of the duty on salt—to the Committee on Ways and Means.

By Mr. GOODE: The petition of B. W. Baker, for a change of name of the steam-tug Edwin Ludlow—to the Committee on Commerce.

By Mr. HALL: The petition of Wingate & Shaw, publishers of the Gazette, Exeter, New Hampshire, for the abolition of the duty on type—to the Committee on Ways and Means.

By Mr. HUBBELL: The petition of William Porter and 20 others, Union soldiers in the late war of the rebellion, against the passage of the sixty-surgeon pension bill—to the Committee on Invalid Pensions.

Also, the petition of T. K. Palmer and 49 others, of Ludington, Michigan, of similar import—to the same committee.

Also, the petition of Thomas R. Lyon and others, manufacturers of lumber, salt, and shingles, of Ludington, Michigan, for the passage of the Eaton tariff bill—to the Committee on Ways and Means.

By Mr. SCALES: The petition of citizens of New York, that titles to lands be granted to Indians in severalty—to the Committee on Indian Affairs.

IN SENATE.

SATURDAY, *June* 5, 1880.

The Senate met at eleven o'clock a. m. Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

Mr. KERNAN presented the petition of Willy Wallach, president, and other members of the Stationers' Board of Trade of the city of New York, embracing within its membership paper manufacturers and houses engaged in the book, stationery, wall-paper, blank-book, and other trades, praying the passage of a national bankrupt act; which was referred to the Committee on the Judiciary.

Mr. WALLACE presented a memorial of citizens of Pennsylvania, who were soldiers in the late war, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims, and in favor of the passage of the bill for the creation of a court of pensions; which was ordered to lie on the table.

He also presented additional papers to accompany the bill (S. No. 1791) to increase the pension of James Fleming, a wounded soldier of the war of 1812; which were referred to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. PLATT. The Committee on Pensions, to whom was referred the bill (S. No. 1776) granting a pension to Margaret S. Heintzelman, have directed me to report it back favorably. The bill gives a pension of $50 a month to the widow of General Heintzelman. I think there will be no objection to its present consideration, and I ask that it may be considered at the present time.

The PRESIDING OFFICER, (Mr. FERRY in the chair.) Is there objection to the present consideration of the bill?

Mr. COCKRELL. Is there not quite a large number of pension cases upon the Calendar that have not been acted upon?

Mr. PLATT. I have been absent for a few days, but I think they have all been acted upon.

Mr. INGALLS. There are some on the Calendar that have not yet been acted on.

Mr. PLATT. Very few, I understand.

Mr. COCKRELL. And they have been reported favorably?

Mr. INGALLS. Yes, sir.

Mr. COCKRELL. Then I must object to one being considered until they are all considered. I will second a motion to take them up at any time.

The PRESIDING OFFICER. The Senator from Missouri objects, and the bill will be placed on the Calendar.

Mr. GROOME, from the Committee on Pensions, to whom was referred the bill (S. No. 1038) to increase the pension of Edward Howard, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 972) granting a pension to Mrs. Anna I. Guest, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 1676) granting an increase of pension to Saint Clair A. Mulholland, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

ADDITIONAL POST-ROUTE BILL.

Mr. MAXEY. The Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. No. 1771) to establish a post-route in Missouri, have directed me to report it with an amendment as a substitute. It is simply a bill to establish post-routes, in which we are all interested. The bill is very short, it is a merely formal matter, and I ask that it may be considered and put on its passage.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1771) to establish a post-route in Missouri.

The bill was reported from the Committee on Post-Offices and Post-Roads with an amendment, to strike out all after the enacting clause and to insert:

That the following post-roads be, and the same are hereby, established:

FLORIDA.

From Hawthorne Post-office, via Mrs. McNabb's, to Palatka.
From Newnansville to Fort White.

LOUISIANA.

From Jennings, via Point-au-Loup Springs, to Germantown.
From Welsh's, via Hickory Flat, to The Bay.
From Rayne's, via Plaguemines, Brusle, to Prudhomme City.
From Brownssardsville, via Rayville and Liddons Ferry, to Abbeville.

INDIAN TERRITORY.

From Fishomingo, via Timber Hill and R. S. Bell's, to Little Mineral, Texas.

MISSOURI.

From West Plains to Dixon Springs.

TEXAS.

From Clarksville to Albion.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to establish post-roads."

ENOCH DAVIS.

Mr. BURNSIDE. I am instructed by the Committee on Military Affairs, to whom was referred the bill (H. R. No. 5043) to remove the charge of desertion against Enoch Davis, to report it favorably, and I ask for its present consideration. It is simply to remove a charge of desertion.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It removes the charge of desertion now standing against Enoch Davis, late a private of Company G, Sixth Iowa Volunteer Infantry on the rolls filed in the office of the

Adjutant-General, and directs the Adjutant-General to grant him an honorable discharge.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BILL INTRODUCED.

Mr. MAXEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1818) for the relief of D. W. Hatch, of Texas; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

WITHDRAWAL OF PAPERS.

On motion of Mr. HARRIS, it was

Ordered, That Mrs. Eliza H. Powers have leave to withdraw from the files of the Senate the papers in respect to her claim against the United States, upon which there has been an adverse report.

COMMITTEE ON CONTINGENT EXPENSES.

Mr. HILL, of Georgia. I offer a resolution, which is the formal and usual resolution in such cases, and I ask for its present consideration.

The resolution was read, as follows:

Resolved, That the Committee to Audit and Control the Contingent Expenses of the Senate be authorized to sit during the recess of Congress and that the necessary expenses thereof be paid out of the "miscellaneous items" of the contingent fund of the Senate.

The Senate, by unanimous consent, proceeded to consider the resolution.

Mr. SAULSBURY. I do not know anything about the necessity for that committee to sit during the recess, and I do not know whether it is usual or not.

Mr. HILL, of Georgia. I will say that it is the universal practice. A similar resolution is passed at every session of Congress.

Mr. SAULSBURY. I have no objection if it is necessary.

Mr. HILL, of Georgia. It is simply to authorize the Committee to Audit and Control the Contingent Expenses of the Senate to approve accounts in vacation. That is all. They have no authority to do that unless they are authorized to sit during the recess.

Mr. SAULSBURY. I merely wanted to know whether it has been usual to do this.

Mr. HILL, of Georgia. It is not only usual, but a similar resolution has always passed at every session of Congress.

The resolution was agreed to.

DISTRICT MUNICIPAL CODE.

Mr. HARRIS. I offer the following resolution:

Resolved, That the Committee on the District of Columbia be, and hereby is, authorized to sit during the recess of the Senate for the purpose of considering the bill to establish a municipal code for the District of Columbia; and that the necessary expenses be paid out of the "miscellaneous items" of the contingent fund of the Senate.

I will state that the only reason why I want the resolution passed is that we have a municipal code that has passed the House and been referred to the Committee on the District of Columbia. That committee propose to appoint a sub-committee to consider that code during the recess so as to be prepared to report to the full committee immediately on the meeting of the next session of Congress. I therefore desire the passage of the resolution.

The resolution was considered by unanimous consent, and agreed to.

ORDER OF BUSINESS.

Several Senators addressed the Chair.

The PRESIDING OFFICER, (Mr. FERRY.) If there be no other concurrent or other resolutions, the routine business of the morning hour is at an end.

Mr. BALDWIN. I ask the postponement of all prior orders for the purpose of taking up for consideration the bill (S. No. 1804) to provide for the reappraisement and sale of the buildings and grounds known as the Detroit arsenal, in the State of Michigan.

Mr. COCKRELL. I am not opposed to the consideration of the bill at all, but I simply rise to ask that we this morning proceed to the consideration of the unobjected cases upon the Calendar. We have witnessed a spectacle which is not very pleasing for some time past—six, eight, or a dozen Senators upon the floor, all trying to catch the eye of the President and get the floor. Time is consumed, time is wasted, and no business is done. I have been here for five years, and I have never seen the Calendar of business or the Senate in the condition it is in now. There is not a Senator upon this floor who can point back within the last five years to a condition similar to that which now exists in regard to the cases reported by the committees of the Senate.

We have over six hundred cases upon the Calendar. We have only passed to the three hundredth case, and we have not disposed of much over one-third of the cases on the Calendar. Now, if we would go to the Calendar and take up these cases in their order we could dispose of all the unobjected cases in one or two of the morning hours without any trouble. There would be no difficulty in it at all. Each Senator when the Calendar was being called would know whether he intended to object to a case or not.

I am making this statement because I want to bring to the attention of the Senate certain things. Each Senator has certain cases that he feels a personal interest in, and there are other cases that are of a general character. Here is a bill for the payment of the claims reported allowed by the southern claims commission, in which there are five hundred and seventy-five people of the late insurrectionary States interested. I say to my friends that I cannot as chairman of the committee which reported that bill indulge in a continual wrangle here upon the floor of the Senate in order to have that bill passed. Then there is a bill reported from the Committee on Claims in regard to quartermasters' claims allowed under the act of July 4, 1864, in which Maryland, West Virginia, Kentucky, Missouri, Tennessee, Indiana, Ohio, and Pennsylvania are interested. There are some six or seven hundred cases there. That bill is reported favorably. I have some few constituents interested in it, as other Senators have. That bill ought to pass. I do not feel that it is my place simply to get up every morning and join in the wrangle with a dozen Senators upon the floor to have these bills called up.

There are other bills of a public nature besides these individual bills. I am sure if Senators will permit us to go to the Calendar this morning and remain at it two hours we shall pass four times as many bills as we shall by taking them up out of order.

Mr. HEREFORD. Allow me to say to the Senator that we could have passed about four bills during his lecture.

Mr. COCKRELL. I have not consumed five minutes. I have not consumed half as much time as other Senators who are criticising the remarks that I have made on this question. I simply ask this as a matter of business, and I say to the democrats here that they are responsible before the country for the management of the business of the Senate, and they have permitted it to get into a condition that it never has been in before.

Mr. CAMERON, of Wisconsin. I think the Senator from Missouri is mistaken when he says that the spectacle we have witnessed has never been witnessed here before.

Mr. HILL, of Georgia. It is the case at the close of every session.

Mr. CAMERON, of Wisconsin. I came into the Senate at the same time the Senator from Missouri did, and according to my recollection we have witnessed at the close of every session a spectacle similar to the spectacle which we have witnessed here during the last eight or ten days. I disagree with the Senator when he says that we can pass more bills if we go to the Calendar than we can by taking them up at the request of Senators.

Mr. BALDWIN. I am quite in accord with what has been said by the Senator from Missouri as to the importance of taking up the Calendar in its regular order, and for one I should be very glad to consent to that course. I believe that it would conduce to the best interests of the business before the Senate. I know nothing of what has been the experience of the Senate heretofore; but certainly during the present session it has been otherwise. Therefore I ask that all prior orders be postponed that the Senate may take up for present consideration Senate bill No. 1804. The bill is a very short one, is of no local interest, it is of public interest, and will not occupy, in my judgment, the time of the Senate two minutes. I therefore ask that all prior orders be postponed for the purpose of taking up Senate bill No. 1804.

Mr. MORGAN. I concur in much that has been said by the Senator from Missouri on this occasion. I am very much disposed to proceed to the regular consideration of the Calendar. I believe by devoting our attention to it we can very soon get through with the most important part of it, to say the least.

There is a bill on the Calendar partly disposed of, which has been discussed before the Senate, which relates to an act of courtesy toward a foreign government, the government of Sweden and Norway. That government has been before Congress here through letters from the Secretary of State for two or three sessions, asking the adjustment of a matter of controversy between the United States Government and one of the citizens of Sweden and Norway. The bill is nearly disposed of. The Senator from Vermont [Mr. EDMUNDS] made a few objections to it, which I propose to answer in a few moments, as far as I am able to answer at all, and I should like very much to have the Senate extend to the Committee on Foreign Relations and also extend to the government of Sweden and Norway the courtesy of having the subject disposed of. If the Senator from Michigan succeeds in his motion to set aside the prior orders of the Senate, I shall ask that that bill be taken up. It is one that stands now virtually at the head of the Calendar, is the first case really on the Calendar, because there is but one case which has precedence of it, and the Senator in charge of that is not here, so that we would not take up that case. This is really the first case on the Calendar.

The PRESIDING OFFICER. The Secretary will report for information the bill asked for by the Senator from Michigan.

The CHIEF CLERK. A bill (S. No. 1804) to provide for the reappraisement and sale of the buildings and grounds known as the Detroit arsenal, in the State of Michigan.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. MORGAN. I hope the Senate will allow me to have the bill considered which is at the head of the Calendar, and then we can get along I think pretty smoothly with all the work that is before us on the Calendar.

Mr. JONAS. The objection to the consideration of the Calendar at the present time is that it puts it in the power of a single Senator to defeat any bill that is reached. If we take up the Calendar a single objection suffices to send any bill to the end of the Calendar and to prevent its consideration at this session.

Mr. MORGAN. I do not understand the rule in that way.

Mr. JONAS. That is the rule under which we act. There is scarcely a bill on which there is not some minority, no matter how small, perhaps a single member of the committee reporting the bill, who would carry his objection into the Senate and by a single objection defeat the bill, no matter how meritorious.

Mr. INGALLS. The Senator is mistaken in regard to the rule. Any bill is under the control of a majority, whether it is objected to or not.

Mr. JONAS. The rule does not say so.

Mr. MORGAN. That is distinctly the rule.

Mr. JONAS. The rule says:

And bills that are not objected to shall be taken up in their order, and each Senator shall be entitled to speak once and for five minutes only, unless upon motion the Senate shall at any time otherwise order; and the objection may be interposed at any stage of the proceedings.

Mr. INGALLS. Certainly; and a Senator may ask a vote of the Senate upon proceeding to the consideration of a bill so objected to, and if a majority so determine the consideration of the bill will be continued.

Mr. JONAS. It has been construed that a single objection suffices to carry a bill over.

The PRESIDING OFFICER. The Senator from Louisiana will bear in mind that this rule has been adopted by a majority of the Senate and can be overruled by a majority. It is a simple order of the Senate, which is controlled by a majority of the Senate.

Mr. JONES, of Florida. I do not wish to speak particularly about the bill the Senator from Michigan moves, but I want to say that I do not concur in what was said by the Senator from Wisconsin [Mr. CAMERON] awhile ago. Although I came into the Senate at the same time he did, I have no recollection of any such scenes as we have had here in struggling to get the floor within the last few days.

Mr. HILL, of Georgia. I have seen them.

Mr. JONES, of Florida. For one I wish to see the Senate conduct its business in regular order and go to the Calendar, and then there will not be this scramble, and each Senator will have then all the opportunity that others have. The objection of the Senator from Louisiana I do not think is wholly tenable in view of what has been said. The matter is altogether in the control of the Senate.

Mr. EATON. I dislike very much to object to taking up the bill which my friend from Michigan has suggested, but I agree entirely with the Senator from Missouri. I stood here yesterday and the day before addressing the Chair time and time again, as my friend from Tennessee [Mr. BAILEY] did, and we could get no recognition. I shall not do it any more. I am through with it. There are certain matters here, not private matters but public matters, reported by the committee of which I have the honor to be chairman, and unless the Calendar is taken up and reached in order those cases will not be reached by my asking for their consideration, for I have got through with that business.

Mr. MCMILLAN. Did I understand the Senator from Connecticut to interpose an objection to the bill which the Senator from Michigan asks to have considered?

Mr. EATON. I did not. I said I disliked very much to object to it.

Mr. MCMILLAN. I was going to say that I think the Senator from Michigan should have this bill disposed of.

Mr. DAVIS, of Illinois. I have no objection to the thing going on as it did yesterday if the Senate is so disposed; but we cannot let the Senator from Michigan have his bill considered unless everybody else has an equal chance. I am very anxious to have a measure taken up. I have no objection, if it is to be the rule, to have a scramble go on.

Mr. BALDWIN. I have heard the same objection from day to day, and yet persistently the Senate has laid aside the prior orders and taken up particular bills out of their order. The bill I move is very short; it could have passed a dozen times during the little debate that has occurred here on this question. It is a matter, as I observed before, of no local interest, of public interest entirely, and I presume there will not be a word of objection to it on the part of any Senator.

But I have occupied more time in saying this than it would have taken to have considered and passed the bill.

The PRESIDING OFFICER. Is there objection to postponing all prior orders and proceeding to the consideration of Senate bill No. 1804?

DETROIT ARSENAL.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1804) to provide for the reappraisement and sale of the buildings and grounds known as the Detroit arsenal, in the State of Michigan.

The bill was reported from the Committee on Public Lands with an amendment, in line 8, after the word "bidder," to insert "but not to be sold at less than the appraised value thereof;" so as to make the bill read:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized to cause to be made a new appraisement of the lots and blocks remaining unsold, said appraisement to be at their present cash value; after such appraisal the tracts, lots, and blocks now remaining unsold to be offered at public sale to the highest bidder, but not to be sold at less than the appraised value thereof; and in case any subdivision or subdivisions shall remain unsold the sale shall be postponed from time to time until the entire tract shall be disposed of as hereinbefore provided.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. COCKRELL. At the end of the bill I move to add the following proviso:

Provided, That such subdivision or subdivisions as may remain unsold, after having been twice offered at public sale under this act, may be sold at private sale for not less than the appraised value.

Mr. BALDWIN. I have no objection to that.

Mr. MCDONALD. I am not exactly satisfied with the amendment offered by the Senator from Missouri. I do not think we should provide that this property may be sold at private sale at any time.

Mr. COCKRELL. I will state to the Senator the object of the amendment. This land was offered to be sold a long time ago; it was appraised and offered for sale. There has been expense connected with it and it has not been sold. The bill provides for a reappraisement and then for a public sale.

Mr. MCDONALD. I understand that.

Mr. COCKRELL. If, after it has been offered at public sale twice, nobody bids the appraised value—and it cannot be sold for less—the amendment provides that after that time it shall be sold at private sale at not less than the appraised value.

Mr. MCDONALD. I understand this bill. It was before the Committee on Public Lands, of which I am chairman, and the committee reported it back with an amendment, to which the Senate has agreed; that is, requiring that the land shall not be sold at less than the appraised value. The concluding part of the bill, as agreed to by the committee, gives sufficient authority to sell this property without offering it at any time at private sale:

And in case any subdivision or subdivisions shall remain unsold, the sale shall be postponed from time to time until the entire tract shall be disposed of as hereinbefore provided.

That is, at public sale at not less than its appraised value. I think that if we go further than that, and after two offers permit the property to be sold at private sale, it opens up some door for combinations by which it may be sold for less than it would be sold for at public sale.

Mr. COCKRELL. It cannot be sold under the amendment for less than the appraised value.

Mr. MCDONALD. I understand that, but the question of appraisement may not always determine the accurate value of the property. If it cannot be sold for less than the appraised value and must be offered at public sale, there is no danger of these combinations; but if at any time it goes into private sale and the Government loses its control over the sale, it may be subject to combinations and will bring probably less than its value.

I trust the amendment will not be agreed to, for it certainly is not necessary in order that this property shall be disposed of.

Mr. BALDWIN. When the amendment was offered by the Senator from Missouri I said at once that there was no objection to the amendment. I still think there is no real objection to it. This property is called the Detroit arsenal, but it is probably known by perhaps every member of the Senate that it is not in the city of Detroit. It is in a small village of two or three or possibly four hundred inhabitants, ten miles from the city of Detroit. It has been unoccupied as an arsenal, unoccupied for any purpose whatever, for six, eight, or ten years; I do not exactly remember how long. It has been advertised and offered at public sale, how many times I cannot say, but time and again—three or four, possibly ten or a dozen, times. I think ten or a dozen of the village lots that were laid out, the most desirable ones, have been sold, but the property has been subsequently advertised and advertised again at public sale. Expense has been incurred by the Government not only for these advertisements, but for procuring auctioneers, and requiring the receiver of the land-office to attend, and he receives a fee each time for his attendance, &c. Therefore it does seem to me that there should be no valid objection to the amendment offered by the Senator from Missouri.

So far as I am concerned I care nothing about it either one way or the other. I think it is for the interest of the Government that the property should be sold, and if under this bill it should be advertised and offered at public sale twice, and then not be sold, I cannot well understand any very good objection that can be raised to allowing it to be disposed of according to the amendment offered by the Senator from Missouri. The object is solely that the property shall be disposed of, as it is of no earthly use for the Government. Of course it is for the Senate to decide whether the amendment shall be agreed to.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Missouri, [Mr. COCKRELL.]

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. COCKRELL. I move to amend the preamble by striking out the concluding words "at not less than the appraised value;" so as to read:

Whereas Congress, by an act approved March 3, 1875, authorized the Secretary of War to transfer to the custody of the Secretary of the Interior for sale, after appraisement, the buildings and grounds known as the Detroit arsenal, in the State of Michigan, and provided that the Secretary of the Interior should cause the property to be subdivided into tracts of not more than forty acres each, or into town lots, with proper streets to render the same accessible, and then that said lots and buildings should be sold at public sale to the highest bidder; and.

The amendment to the preamble was agreed to.

The preamble, as amended, was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 1958) for the relief of Henry C. Groomes;

A bill (H. R. No. 2123) granting a pension to Albert L. Jack; and

A bill (H. R. No. 3558) for the relief of Charlotte M. Coward, widow of Captain Joel M. Coward.

The message also announced that the House further insisted upon its amendments to certain amendments of the Senate to the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, further insisted upon its disagreement to the amendments of the Senate insisted upon by the Senate, asked a further conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. J. D. C. ATKINS of Tennessee, Mr. HIESTER CLYMER of Pennsylvania, and Mr. J. H. BAKER of Indiana, managers of the further conference on the part of the House.

The message further announced that the House had passed the joint resolution (S. R. No. 64) extending the provisions of the first section of an act entitled "An act fixing the rate of interest upon arrearages of general taxes and assessments for special improvements now due to the District of Columbia, and for a revision of assessments for special improvements, and for other purposes," approved June 27, 1879, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills:

A bill (S. No. 1249) to amend an act entitled "An act granting a pension to Sophia Brooke Taylor, widow of the late Major Francis Taylor;" and

A bill (S. No. 1225) to remove the political disabilities of Jonathan H. Carter, of South Carolina.

DRS. OWENS AND MARTIN.

Mr. JONAS. I ask to lay aside all prior orders temporarily for the purpose of taking up the bill (H. R. No. 4606) authorizing the President of the United States to nominate Drs. Thomas Owens and William Martin assistant surgeons United States Navy.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. EATON. I think I shall be compelled to object. Let us go to the Calendar.

Mr. MAXEY. I appeal to the Senator from Connecticut not to make that objection. This is a very meritorious case.

Mr. EATON. All these cases are meritorious except those in which I am interested, and therefore I withdraw the objection.

Mr. McPHERSON. I should like to state to the honorable Senator from Texas that this bill is likely to provoke a great deal of discussion. The Naval Committee are not agreed upon this report, and for one I shall not consent to the passage of the bill in its present form. With this information if it is desired to take up the bill and spend as much time as is necessary for its consideration, well and good.

Mr. JONES, of Florida. I had the honor of reporting this bill from the Committee on Naval Affairs, and it does seem to me, with all due respect to the chairman of the committee, that there is nothing in it which justifies a long debate, unless somebody wants to speak against time, and I do not think gentlemen desire to do that here. It is a very small bill, and whatever merit there is in it can be presented in a few minutes. The bill has already passed the House of Representatives, having received the indorsement of the Committee on Naval Affairs of that body, has passed the Naval Committee of the Senate, and is now here. I say at this late day a bill of that kind ought to be acted upon in preference to one that has not been considered at the other end of the Capitol at all. Bills that have passed the House of Representatives, and which have been sent over here and reported on, ought to have some preference. I am in favor of proceeding to the consideration of this bill.

Mr. KIRKWOOD. I wish I could get some test vote to settle this question among us about the Calendar. Every morning we consume more time in discussing what we shall take up than it would take to pass a dozen bills. Will some older Senator suggest some way by which we can test the question and settle the matter?

Mr. WALLACE. I suppose the Senator can move to lay the motion on the table for the purpose of going on with the Calendar.

Mr. KIRKWOOD. Would a motion to go to the Calendar be in order?

The PRESIDING OFFICER. It would be in order, objection having been made by the Senator from Connecticut, [Mr. EATON.]

Mr. KIRKWOOD. I move, then, in order to settle this thing, if possible, that we proceed to the Calendar in order.

The PRESIDING OFFICER. The Chair rules that motion is in order unless the Senator from Louisiana makes a motion.

Mr. INGALLS. A motion is not necessary to bring up the Calendar.

The PRESIDING OFFICER. It is not necessary.

Mr. JONAS. I ask for a vote on my motion, which was to lay aside all prior orders for the purpose of considering House bill No. 4606.

The PRESIDING OFFICER. The Senator, not having made that motion before, makes the motion now to postpone all prior orders. The question is on the motion of the Senator from Louisiana, [Mr. JONAS.]

Mr. KIRKWOOD. I hope the Senate will consider this a test question; and this motion having been carried, if it shall be carried, every man then is notified that he must scramble in order to get a chance to have his particular case disposed of.

Mr. MAXEY. I think the Senator from Iowa, who I know to be a very just man, as the Senator from Michigan has already had his bill passed, should not give that notice, but should let this bill be disposed of, giving notice now that after it is disposed of he will ask that the order in regard to the Calendar shall be enforced.

Mr. KIRKWOOD. What will become of the next bill, then?

The PRESIDING OFFICER. The question is on the motion of the Senator from Louisiana, to postpone the present and all prior orders, the object being to consider the bill which he has indicated.

The motion was agreed to.

The Senate proceeded to consider the bill (H. R. No. 4606) authorizing the President of the United States to nominate Drs. Thomas Owens and William Martin assistant surgeons United States Navy.

Mr. COCKRELL. Let the report be read.

The Chief Clerk read the following report, submitted by Mr. JONES, of Florida, March 9, 1880:

The Committee on Naval Affairs, to whom was referred the bill (H. R. No. 4606) authorizing the President to appoint Drs. Thomas Owens and William Martin assistant surgeons in the United States Navy, not in the line of promotion, have had the same under consideration, and submit the following report, namely:

The committee, upon the examination of the papers and records furnished by the Navy Department, find that Dr. Owens was ordered before a medical examining board for examination, under the act of Congress approved February 15, 1879, to abolish the volunteer navy, and that the said board found him unable to proceed with his examination on account of sickness, which originated in the line of duty in the Navy. The provision of said act provided "that in the event of physical disqualification which occurred in the line of duty such officer may, upon the recommendation of a retiring board, be placed upon the retired list." In compliance with this provision he was ordered to appear before the retiring board, which board found him unfit for active service then, from causes originating in the line of duty, but, acting under the advice of the medical officers attached thereto, declined at that time to place him upon the retired list. After reappearing before the medical examining board, and proceeding with his professional examination, under the disadvantageous circumstances of his sickness, he was compelled to withdraw therefrom, by advice of his then attending physician, Medical Inspector Philip S. Wales, United States Navy, who recommended a change of climate as being necessary for his health.

The medical examining board, in their report to the honorable Secretary of the Navy, recommended Dr. Owens to be placed on the active list as an assistant surgeon not in the line of promotion, stating that he was compelled to withdraw from his examination on account of sickness which originated in the line of duty in the Navy. The honorable Secretary of the Navy approves the recommendation of the board and recommends favorable action by Congress.

The committee also report that the medical examining board made same recommendation in the case of Dr. William Martin, which is also approved by the honorable Secretary of the Navy; and the committee recommend the passage of the House bill.

Mr. ANTHONY. I have an amendment to offer at the end of the bill. I move to add:

Provided, That they shall pass all the customary examinations into their medical, professional, and physical fitness for the appointment: *And provided further*, That in the judgment of the Secretary of the Navy such addition to the medical corps of the Navy is desirable.

Mr. McPHERSON. I desire to say only a word upon this amendment. It seems to me this bill proposes the most unprecedented thing that ever has been attempted to be done by any department of any government upon this earth. Think of the idea of appointing two men said to be physicians as assistant surgeons in the Navy when they have already been before a board of examination and failed to pass an examination before that board! Even the report itself shows that when they were before the board both pleaded physical inability to go on with the examination. All that the amendment of the honorable Senator from Rhode Island proposes to do is, if these two parties here named are appointed assistant surgeons in the Navy, that they shall come to that place in the same form and manner and with the same qualifications that every other appointee in the Navy must possess. In other words, the idea of appointing a surgeon in the Navy and sending him out on a vessel to some foreign station without a knowledge on the part of the Navy Department that that surgeon is capable of performing any duty that he may be called upon to perform is to my mind a most outrageous thing.

I am perfectly willing that the President should appoint both Drs. Martin and Owens or one hundred other surgeons if their appointment be necessary for the performance of the duties required by the naval service; but I am not willing, and I do not think there is a Senator on this floor who will be willing, to permit an appointment of that kind to be made unless the applicants pass through a physical and a professional examination as to their fitness to perform all the duties required.

I hope that the amendment will be agreed to, and under no circumstances should the bill be permitted to pass without the guard that the amendment proposes to impose.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Rhode Island, [Mr. ANTHONY.]

The amendment was agreed to.

The bill was reported to the Senate as amended.

Mr. JONES, of Florida. This bill came from the House with all the facts of this case open; there was no concealment about it at

all. Dr. Owens, from the record, appears to have been in the volunteer service for fourteen years. The better part of his life up to this time has been spent in the service of the United States as a naval surgeon. Dr. Martin was also in the naval service. I do not know how many years he was there, but I have reason to know he was there for some length of time, and I am informed that Dr. Owens was in the naval service as a physician fourteen years or nearly that time, and that during that time he contracted disease which rendered him physically incapable of undergoing the examination which he was called upon to undergo when the board met to examine him, and they so reported. The recommendation of the board was that in consideration of the facts in his case he be not required to undergo this examination, and recommended that Congress should put him upon the roll of surgeons not in the line of promotion. The Secretary of the Navy, understanding the whole case, indorsed that recommendation. The House of Representatives considered it and passed the bill and sent it to us. I am informed that this gentleman is an educated physician, a graduate of a medical institution of high character in the country, and that while in the service as a surgeon he bore a high character. But belonging to that volunteer force which was swept away a year or so ago by act of Congress, he went out, and it is conceived that his case is a little more meritorious than others, and a disposition has been manifested to retain him. He was suffering, it seems, from infirmity when he was called upon to appear before the board, and the board itself in its official communication recognized that fact. When a man has been in the trying situation in which this officer has been placed while in the public service, when he lost his health, when he passed through a period of fourteen years of service with nothing said against his professional character, when he is admitted on all hands to have done his duties properly, surely there is raised at least some presumption in his favor. It is not like the case of a man coming forward for the first time asking to have an examination dispensed with and seeking to obtrude himself into the public service who never was connected with it a single day. This is not that case, but it is the case of a man whose best years up to the present time have been devoted to the public service honorably and creditably, and in view of the peculiar facts of the case the board made this recommendation and we acted upon its suggestion, made in a spirit of equity, and which had the sanction of the head of the Navy Department. That is the whole case as to Dr. Owens.

With respect to Dr. Martin, whom I happen to know personally, the facts of his case are somewhat different. In the great epidemic which prevailed a few years ago in the city in which my friend from Louisiana [Mr. JONAS] resides he distinguished himself for heroism and devotion such as has not often been exhibited by physicians in a crisis like that. It is a well-known public fact in the city of New Orleans that Dr. Martin rendered the most efficient service there in the midst of that terrible epidemic of any man whose name has been professionally connected with it.

Mr. MAXEY. And he has the gratitude of that whole people.

Mr. JONES, of Florida. Mr. President, there are occasions and there are times when learning and skill supersede and override everything else, and there are times when a small proportion of them mixed with a high degree of moral courage go further toward alleviating the sufferings of humanity than anything else. This man may not be as learned as some of the distinguished doctors in the Navy, but I can say from my own personal knowledge of him that in a crisis such as he has passed through he is worth fifty of them that might be named. I happened on one occasion to see this thing tested. I saw learned physicians summoned from the North to my own town in the midst of a terrible epidemic, flushed with all the health and blood of a northern climate; I saw them tremble like little children on the eve of the duty that was imposed upon them, and utterly inefficient in the midst of the crisis that they were called upon to meet. I saw them lie down and die, surrounded by the terrors of that terrible calamity, because they were not acclimated or at all prepared to meet the emergency which they were called upon to face. This man has been through that ordeal and he has commended himself by his efficiency, his courage, and his devotion to the recognition of the Navy Department, and to-day I think in that climate he could be made one of the most useful and efficient physicians in the public service when called upon to meet with this terrible monster which holds the whole country nearly annually in dread.

Mr. McPHERSON. Mr. President, I agree with the honorable Senator from Florida that if there were no other diseases liable to afflict an officer of the Navy or any seaman in the Navy than the yellow fever perhaps Dr. Martin might be a most competent surgeon to deal with it. I have a very high respect for Dr. Martin, as much so as the honorable Senator from Florida can have, on account of the very extraordinary service that he has rendered to the yellow-fever sufferers; but is that any reason why Dr. Martin should be sent out on a naval vessel to some foreign station upon which hundreds of officers and seamen are placed? In case it should become necessary to amputate a limb or perform some surgical operation upon somebody on board that ship, how do we know that he can perform it? Here we appoint Dr. Martin a surgeon in the Navy without ever having passed a surgical examination, without ever having passed the examination that the statute requires that every man shall pass before he can be appointed in the Medical Corps. If the result should prove disastrous to the officer operated upon, there is no doubt in my mind that that officer would have a claim for redress upon the Government for sending a quack on board ship to perform that service. I do not say it is so; but I declare that for anything the Navy Department knows about him it is. The Navy Department have made no examination; they do not know the man's qualifications; and yet the bill declares that they shall give him a certificate as assistant surgeon.

Mr. JONES, of Florida. May I ask the Senator a question?

Mr. McPHERSON. Yes, sir.

Mr. JONES, of Florida. It cannot be denied that these gentlemen have both been in the public service for years. Will they be called upon, if this bill passes, to discharge any more responsible duty now than they were called upon to discharge when they were in the public service before?

Mr. McPHERSON. I have only to say now that we are placing them in the naval service; we are making them assistant surgeons in the Navy as the bill says "not in the line of promotion." Whoever heard of such a case in the Navy of the United States, appointing an officer in the Navy not in the line of promotion? It raises a presumption and a reasonable one that both these surgeons do not think themselves that they can pass the necessary examination to qualify them to be promoted.

I never will consent to appoint anybody in the Navy not in the line of promotion; more especially will I never consent to appoint a surgeon in the Navy who deals with hundreds of his fellow-officers until that surgeon passes all the examinations that it is requisite under the statute that he shall pass and shows his fitness to perform his duty everywhere and in every emergency.

These two officers have been before a board of examination. Their names have been before the Naval Committee of the Senate, at least one of them, for the past two years asking first to be appointed assistant surgeon. That is the case of Dr. Martin. His case was not acted on further than this: A board of examination, such a board of examination as every surgeon in the Navy is required to pass, was organized. Drs. Martin and Owens went before that board, and, strange as it may seem, neither of them, on account of temporary illness, as it was said, was able to pass the examination. The president of that board wrote a very flattering letter, no doubt sympathizing with them, in which he stated the fact to the Secretary of the Navy, not as a report of the board, remember, but as simply an individual opinion, that he thought by time and attention to their health perhaps it might be possible for them to prosecute their studies in order to fit them to pass the examination creditably.

Now, all that the amendment of the honorable Senator from Rhode Island requires is that before they are placed in the Navy as assistant surgeons they shall have passed the examination required by the statute. I say that to do less than that would be a very gross act of impropriety on the part of the Senate.

Mr. JONAS. Mr. President, I can add but very little to what the honorable Senator from Florida has said in relation to this matter. Dr. Owens was in the United States Navy for fourteen years in the capacity of an assistant surgeon. Necessarily he had to pass through an examination before he was appointed to that service, and it appears from all that there is before the committee and from all the information we have that Dr. Owens performed his service well and to the satisfaction of the Department, and was amply able and competent to fulfill the duties of the position. Dr. Martin also served in the Navy. I do not know the exact length of time, but for some four or five years after his graduation in his profession.

Both these gentlemen are educated physicians and surgeons. Dr. Martin is a graduate of the University of Louisiana. In the city where I reside he holds a most respectable position in the medical fraternity.

Mr. McPHERSON. May I ask a question?

Mr. JONAS. Certainly.

Mr. McPHERSON. If he is all that the Senator claims for him, why try to prevent the medical examining board of the Navy from examining him?

Mr. JONAS. I do not try to prevent it; but, as the honorable Senator well knows, this amendment will subject these gentlemen to a long delay before they can obtain this appointment which has been recommended by the Secretary of the Navy, and, as I am informed, by the Surgeon-General of the Navy, and, as I am informed also, by the officers of the very medical board who were summoned to examine them. They were unable from circumstances which were satisfactorily explained to the board to attend the examination; Dr. Owens from illness, which is said to have been removed; Dr Martin, from the fact that he was actively engaged in the duties of his profession and actively engaged as a sanitarian at his distant home. The reasons for their not being examined were satisfactory to the board which was appointed to examine them, and the officers of that board themselves recommend this appointment, and the Surgeon-General of the Navy, who knows the need of medical officers, recommends this appointment, and the Secretary of the Navy recommends this appointment.

Mr. VOORHEES. I understand the examination which the Senator from New Jersey speaks of, and in which he alleges these gentlemen failed, was suspended by the examining board for reasons satisfactory to it, and that that board recommends this action in their behalf.

Mr. JONAS. Yes, sir.

Mr. VOORHEES. And the Secretary of the Navy?

Mr. JONAS. Yes, sir; and it is to be presumed, and I assert it as a fact, that the very examination which these medical officers would have to undergo now, and which the amendment provides that they shall undergo in order to qualify themselves for the position of assistant surgeon, they had to undergo at the time they were originally appointed as assistant-surgeons in the volunteer navy. They have had the benefit of years of experience since. They are not applicants for promotion, they are not required to appear before a medical board for examination for promotion; it is for examination, according to the amendment, for an appointment as assistant surgeons in the Navy, the very lowest grade and position in the medical service of the Navy. That examination they had years ago, Dr. Owens sixteen years ago, after which he performed fourteen years' service in the Federal Navy, and Dr. Martin several years ago, after which he performed service in the Federal Navy until the act was passed disbanding the volunteer surgeons.

Mr. ANTHONY. Allow me to ask a question. If these men are so well qualified for the position in which it is attempted to place them, why are they deprived of the right of promotion?

Mr. JONAS. Mr. President, I take it for granted that men who for a long term of years fulfill their duties gallantly and well in the United States Navy as assistant surgeons are competent now to fill the position of assistant surgeons. They were not dismissed from that service; no fault was found with them; they remained in honorable service until the act was passed doing away with the volunteer service in the Medical Department of the Navy; and since then each of them has had active experience in the medical profession. I know personally the standing of Dr. Martin. Dr. Martin is now employed by the National Board of Health; he has charge of one of their quarantine ships. He is intrusted with the duty of visiting and inspecting vessels arriving from foreign ports and ascertaining whether or not they are in a condition to enter ports of the United States with safety. He is intrusted with a position of greater trust and confidence and more importance to the health of a large portion of the people of the United States than he will ever be called upon to occupy if admitted into the medical service of the Navy.

The honorable Senator from New Jersey asks if one of these gentlemen understands the yellow fever and has distinguished himself by its treatment, is that any reason why he should be appointed in the Navy? The Senator asks, does he understand other diseases; is he capable of attending the officers and seamen in the service of the United States? Why, Mr. President, Dr. Martin did so for a term of years, certainly not less than four and perhaps six or eight. He performed those services satisfactorily. He has passed all the necessary examinations. He has nothing to do under the law to become an assistant surgeon. If the amendment of the Senator from Rhode Island prevails, then he will have to undergo what he underwent years ago. I did not introduce this bill. It came here from the House of Representatives, where it passed almost by acclamation, because it was felt that when the Secretary of the Navy said he had need of two such officers, when the Surgeon-General of the Navy said he had need of two such officers, when the medical board who were appointed to examine these officers as to their qualifications recommended them for appointment, Congress could well dispense for this occasion at least with the usual routine which prevails in the appointment of assistant surgeons in the Navy. And because the bill provides that they shall be appointed not in the line of promotion, is the Senator from New Jersey to assume that it is because they are unfit for promotion or are unfit to practice their profession? That was probably put in there in committee or in the House in order to prevent jealousy in the regular line, in order that the large number of assistant surgeons either appointed or preparing to be appointed should not consider that this interfered with their legitimate chances of promotion. It is an exceptional bill, and therefore this exception was placed in the bill. From my personal knowledge of both these gentlemen I am satisfied that the bill ought to pass. My knowledge is of but little account, except so far as Dr. Martin is concerned. I know the general estimation in which he is held by the community in which he lives. In the opinion of the Surgeon-General and of the medical officers of the Navy these gentlemen are amply qualified to fill the position which they filled honorably and successfully for a long term of years. I sincerely trust the amendment will not be adopted.

Mr. JONES, of Florida. I would call the attention of the Senator from New Jersey to the case of Robert Platt, who without any examination whatever, by a special act of Congress, as he is aware, was promoted from service in the Light-House Board to the position of master in the Navy, not in the line of promotion. I think the bill for his relief was introduced by my friend from Delaware [Mr. BAYARD] and acted upon by the Naval Committees of both Houses, and passed the two Houses without objection. Under the ordinary rule of law that man would have been called upon to go through a professional examination, such as all naval officers are required to do when commissioned.

Mr. WITHERS. Mr. President, I have listened, I must confess with some surprise, to the character of the discussion on the bill under consideration. Two qualifications are essential to the appointment of a medical officer in the United States Navy. One is professional skill or knowledge, and the other is physical soundness. Those are the requirements of the law. A man deficient in either cannot under the law become a medical officer in the Navy.

It is too late to discuss now the wisdom or the folly which marked the enactment of these two requirements; and yet we find here in the bill under consideration a proposition which proposes to set aside both these essential requisites, one in the case of the first and the other in the case of the second. It is known to the Senate that where an officer of the highest skill, and of the longest service, and who may have attained the highest rank in the Navy, becomes physically disabled in that service, under the operation of law a medical board of examiners is called to sit upon and examine his condition, and if they find him physically disqualified he is placed upon the retired list. It is proposed by this bill to take a man who is now admitted to be physically disqualified and put him in the service in despite of this law.

I am not raising the question of professional qualification. I am taking the argument as made by the friends of this bill in the case of the first gentleman under consideration. It is claimed that he possesses professional qualifications of the highest order, but owing to disability incurred in the line of service his physical condition is such as will not enable him to pass the examination. I say that if that be true there is no reason that can be stated which would justify us in overriding the provisions of the law in his case that would not apply with equal force to a repeal of the whole law which renders physical soundness an essential prerequisite to admission into the Navy.

With regard to the second applicant under this bill, the argument used by the friends of the bill is that he is physically competent, he is mentally and morally so, but not professionally; and the argument made by the Senator from Florida is that professional qualifications are as nothing.

Mr. JONAS. The Senator is mistaken. No one has said that he was not professionally qualified. On the contrary, I contend that he is professionally qualified to fill the position of assistant surgeon in the Navy.

Mr. WITHERS. I understood the Senator from Florida—and I have his words taken down—to maintain the position that while he was not as learned as some other surgeons in the Navy, yet his moral courage and his devotion to duty made him worth fifty of them.

Mr. President, I cannot consent to admit that the arguments of the gentlemen are sound as to the possession of professional knowledge by those persons when they are unwilling to submit them to the test of the examinations as to their proficiency in professional knowledge, which is required by law and which the amendment offered by the Senator from Rhode Island requires.

It seems to me that this proposition overrides and ignores entirely those provisions which the wisdom of our forefathers deemed requisite to protect the lives and the health of the officers and seamen of the Navy, in that it renders inoperative those tests which were designed to secure that physical soundness and professional knowledge which were deemed indispensable for the performance of the duties of a medical officer in the Navy.

The philosophy which prompted the requirement of these two essential things seems to me to be perfectly sound. A man without physical health and strength cannot perform properly the professional duties required of a medical officer in the Navy, and it is manifest that one who is deficient in professional knowledge would be incompetent.

Mr. JONES, of Florida. Now, I wish to ask the Senator from Virginia, if all that he says is well taken, why is it that the medical board having charge of the interests of the Government have recommended this action? I beg, with great respect, to say that they were as well capable from their knowledge of these men as my honorable friend from Virginia, and still they recommended this legislation, and the Secretary of the Navy says the action now proposed to be taken is proper.

Mr. McPHERSON. The honorable Senator from Florida does not insist upon it that there has been an examination by a board of the Navy Department and that it recommended the promotion of these gentlemen.

Mr. JONES, of Florida. No; but I say that members constituting the board recommended this action.

Mr. McPHERSON. But the bill says they shall be placed on the active list "in accordance with the recommendation of the medical examining board now on file in the Navy Department." They were before the board, and the board refused to recommend their appointment.

Mr. JONES, of Florida. There is a recommendation.

Mr. McPHERSON. There is the letter of the president of the board which simply says that, in his opinion, with a little delay to enable them to go to the mountains and get their health restored and return again and pursue their studies for a short time, they might be able perhaps to pass a medical examination. That is all there is.

Mr. WITHERS. I have seen the recommendation of the board referred to; I have not seen the letter referred to. My position is, that if this medical examining board, which failed to examine these gentlemen according to the admissions of their friends, were of opinion that under certain possible conditions which might hereafter arise they ought to be permitted to go into the Navy, unless those conditions have been complied with there is no reason why we should put

them into the Navy in despite of the want of those qualifications. If they are professionally skilled and physically sound what objection can there be to the amendment of the Senator from Rhode Island? It must result from the want of either one of two conditions: these gentlemen are either not able to stand the medical examination or the physical examination, or their friends are unwilling to believe they can do it, and consequently they resist the amendment offered by the Senator from Rhode Island, which has for its object only that requirement.

I think that it is unfair for Congress to step in and by its action, influenced by whatever motive it may be, to remove that protection which the laws now cast around the lives and health of the officers and seamen of the Navy by breaking down the restrictions which are designed simply and solely to secure professional knowledge and physical capacity needed for the discharge of the duties of these positions.

That is all I see in the case. That is what this bill proposes to do, and that is what I propose to oppose by my vote.

Mr. KIRKWOOD. I should like to ask the Senator from Virginia who has just taken his seat whether the law does not also fix an age after which persons cannot be examined?

Mr. WITHERS. Certainly.

Mr. KIRKWOOD. I do not know how the case may be here.

Mr. WITHERS. Twenty-six years, I think.

Mr. KIRKWOOD. I do not know whether these gentlemen have reached that age or not.

Mr. McPHERSON. If the Senator will yield, I will read the statute:

SEC. 1370. No person shall be appointed assistant surgeon until he has been examined and approved by a board of naval surgeons, designated by the Secretary of the Navy; nor who is under twenty-one or over twenty-six years of age.

And both of these gentlemen are vastly over that age.

Mr. KIRKWOOD. I had my attention called to that matter in regard to an application for examination as surgeon in the Army by a friend of mine in Iowa last summer. He had served very acceptably during the war, and been promoted materially, and had acquitted himself very creditably. Last summer, after some years' practice in civil life, he desired to be examined for admission into the Army as surgeon, and application was made to me for that purpose, but it was found upon application here that he was too old, and could not be examined at all.

Mr. JONES, of Florida. Had he ever been in the Army?

Mr. KIRKWOOD. Not in the regular Army, but in the volunteer army, and had served four or five years very acceptably. The objection in his case was that he was beyond the age fixed by law, and he could not even have an examination, although he applied for one.

Mr. JONES, of Florida. Since I have been in this body I have had occasion to discuss the principle which is contended for by the Senators from Virginia and New Jersey in other cases, not with respect to medical officers alone. I take it that those officers who are intrusted with the lives of seamen in general command are just as important as medical officers, and still I think it must be admitted that the judgment of these boards with respect to the qualifications of those officers has never been regarded as conclusive. I think Congress time and again with respect to gentlemen of the Navy who were put aside by authority of examining boards, sometimes upon one ground and sometimes upon another, has lifted them up by its authority over the heads of these professional boards and restored them to the service of the country. I think it has been done and it will be done again, and I say here for one that I have not got the great admiration for these boards that has been set forth here. I pay due respect to them, but I think many cases create exceptions. There is no rule so unbending that it cannot be departed from. I have in my mind's eye a case in which a promotion was made to a high position in the Navy by the authority of this body over medical boards and reports. I am not here to justify anything, but I am speaking to a question of power, and I say this is not any very extraordinary action. Captain Platt, who never graduated at Annapolis, who was taken out of the volunteer navy——

Mr. McPHERSON. Let me ask was he appointed to a position where he was permitted to perform surgical operations on sufferers?

Mr. JONES, of Florida. I am not going into that question. The gentleman talks about the practice. I cite this as an example of an exception to the rule applicable to the naval service. Captain Platt was in the volunteer navy of the United States. He performed meritorious services. He had never been inside of Annapolis as a cadet; but the Government thought proper to retain him, and Congress by an act which went through, I think, without any opposition made him a master in the Navy not in the line of promotion. I supported the bill very willingly, a bill introduced by my friend from Delaware. Still, according to the ordinary rules, that man would have been compelled to stand an examination, the most critical and exacting, before he could have reached that position in the ordinary course. Congress by its omnipotent power dispensed with it all, recognized his merits, and gave him the position without any examination.

I am not quoting this as a binding precedent, because every case of this kind ought to stand on its own merits. If these gentlemen had never been in the public service, if they had never been recognized as physicians, if they had never been intrusted with the lives of seamen or any of the trusts growing out of their professional position, I would be the last man in this body to recommend the passage of such a bill as this; but I do say that after they have performed this service, after the medical board have recommended this course, after the Secretary of the Navy has indorsed it, these facts can well be brought to the notice of the Senate and take this case out of the general class where no such facts exist.

Mr. WITHERS. Will the Senator permit me to interrupt him for a moment to ask if he has the recommendation of the board to which he refers?

Mr. JONES, of Florida. It was among the papers here. I asked for it a while ago.

Mr. WITHERS. I should like to hear it read. I did not hear the report read.

Mr. JONES, of Florida. I have not been able to put my hand on it now.

Mr. WITHERS. I ask the Secretary whether the recommendation referred to is on file with the papers? If so, let it be reported.

The PRESIDING OFFICER. The Chair understands the papers have not been sent over from the House.

Mr. WITHERS. There is such a decided difference of opinion between the Senator from New Jersey and the Senator from Florida that I should be glad to have the recommendation of the board read.

Mr. JONES, of Florida. I should be glad to have that recommendation read. It was among the papers filed in the case. I confess it made a decided impression on my mind. I made the report; and the action of the House was in conformity with the conclusion at which I arrived.

I know Dr. Martin personally. He was stationed at my town in the character of quarantine physician, where he performed very meritorious service which was recognized there as well as at New Orleans, where he is known. A man who has gone through a professional course, who has tested by experience this very ability that is called into question, is not in the same position as a man who is a stranger and who must first pass an examination to get on the list at all. If these men never had been intrusted with any duty of professional character, there would be much force in what is said; but here during the epidemic the lives of hundreds if not thousands of people were under one of these men, and I am credibly informed that he succeeded in bringing back to a state of health more patients than any other man who was engaged in a similar duty. It cannot be denied that in our widely extended naval service occasions will arise in the climates south of us that will call for the services of a man like him.

Mr. McPHERSON. You speak of Dr. Martin?

Mr. JONES, of Florida. Yes. The trouble is that when the yellow fever makes its appearance there are but few physicians in the Navy who are sufficiently acclimated to meet that monster. I have had sad experience about my own home in this regard, and I have seen the folly of the management of the Navy Department in ordering men from the North down South in the midst of a terrible epidemic simply to lay down their lives. I have seen men come there enjoying the highest professional reputation—learned, useful men, but at the same time utterly incompetent for the position that they were called upon to occupy. I have taken it upon myself to insist time and again that some regard ought to be paid by the Navy Department in its selections for public duty of men to select those adapted for the special service required. During the last epidemic in my town two or three of the best naval officers lost their lives by this folly, and finally the Government was called upon to send to the city of my friend on the left [Mr. JONAS] for a physician in order to attend to the duty, and hired him at an enormous salary to go there and attend to the dying people. Here is a man who has passed through all this terror and is familiar with this disease; who has proven by experience his capability to handle it; and I say if due regard is paid by the Naval Department to this branch of service such a man as this could be made most invaluable.

The case of Dr. Owens I am not familiar with; but I have heard enough to satisfy my mind that whatever physical infirmity existed at the time he appeared before the board was by the admission of the board itself brought about by his services to the country, and that he was not at that time in a physical condition to undergo the examination and they recommended that it be dispensed with.

Congress not having been bound in former days and years absolutely by any rule about this matter, as I have stated, I think these two cases present as much merit in themselves for the action which I ask as any cases that have ever been presented, and I shall vote for the bill.

Mr. INGALLS. Mr. President, before voting on this bill I want some information, and I will ask the Senator from Florida or the Senator from Louisiana when this action of the medical board that is mentioned in the report was taken, if either of them can inform me.

Mr. JONES, of Florida. The report states.

Mr. INGALLS. The report that has been read does not state when this action was taken.

Mr. JONES, of Florida. Last summer, I think.

Mr. INGALLS. I understand that the examination was suspended in consequence of the fact that these men were disqualified in some way to proceed further. Now, what I want to know is whether the board acted upon the fact that they were physically or mentally dis-

qualified, or whether there was some other legal obstacle in the way of the examination proceeding?

Mr. McPHERSON. I will say to the honorable Senator, although he has asked for information from the Senator from Florida or the Senator from Louisiana, that I can give him the desired information.

Mr. INGALLS. I ask the Senator from New Jersey, if he is familiar with the case.

Mr. McPHERSON. As near as my recollection serves me, an examination was made in 1879 on application of these parties to the Navy Department for appointment as assistant surgeons. They went before an examining board convened by the Secretary of the Navy, and they did not get through with either a professional or physical examination.

Mr. INGALLS. Why not?

Mr. McPHERSON. The reason that they assign themselves that they could not proceed with their professional examination is that it was on account of physical disability.

Mr. INGALLS. Ill-health?

Mr. McPHERSON. Ill-health. The board make no recommendation whatever. The examination was not completed simply because both of the applicants withdrew from the examination before it was completed. The president of the examining board kindly sent a letter to the Secretary of the Navy, in which he states that he thinks, in the course of time, by careful attention to health and other things, they might be able to pass an examination; but no examination has ever yet been passed before any naval examining board by either of these gentlemen. There is no record evidence of any character whatever showing that they have ever passed an examination before any board of naval officers competent to judge as to their qualifications and authorized to take the matter into consideration.

It seems to me, if I do not detain the Senator from Kansas too long, that to send one of these surgeons so appointed, as you propose to appoint them practically under this bill, on board a ship to a foreign port upon which three or four hundred souls are gathered, with no power on their part anywhere to select any better surgeon than the one furnished them by the Navy Department, and so far as that Department knows entirely incompetent, is an act so nearly approaching criminality that I do not believe the Senate will ever consent to it.

Mr. INGALLS. The Senator from New Jersey has anticipated what was in my mind. If this question affected alone the persons who are named in the bill, there would be comparatively little difficulty; but if they are placed in the Navy in the positions that they desire, they will immediately become the custodians to a certain degree of the health and of the lives of those over whom they may be placed; and whether the objection that the medical board found to them arose upon the question of their health, of their physical soundness, of their professional qualifications, or of their age, or whatever it might have been, we cannot disconnect our responsibility over the question of what will be the result upon the lives and health of the men over whom these officers may be placed.

This is a very serious question. These men are to be appointed in the face of the fact that we know they are disqualified from some cause or other. It is admitted; it is not denied by any one; the report itself confesses it.

Mr. JONAS. I ask the honorable Senator where he gets his information that they are disqualified?

Mr. INGALLS. The report itself says that the examination of the medical board was suspended at the request of the parties themselves, because they were incompetent to proceed further with it.

Mr. JONAS. I suggest that the report admits, and such was the fact, that they did not pass an examination from certain causes; but the report does not show that they were disqualified; on the contrary, the president of the board recommended this proposed action.

Mr. ANTHONY. If an applicant is disqualified from undergoing an examination, certainly he must be disqualified from an appointment.

Mr. JONAS. Temporarily.

Mr. ANTHONY. Then have another examination; the amendment provides for it.

Mr. INGALLS. Mr. President, we are establishing a precedent and in my judgment a very vicious one, and one upon which we cannot stand. It is true that there have been several cases in which similar action has been taken by the Senate before at this session. We have restored to the Navy two men who had been dismissed for habitual drunkenness while upon duty. We were assured by their friends that they had entirely reformed, and we were appealed to to remove the bar that has been placed upon these worthy and innocent and suffering men in order that they might be once more restored to the line of duty; and I have been credibly informed this morning by authority I do not question that within the last month one of those very men who had been dismissed for habitual drunkenness and restored upon the ground that he had reformed celebrated the fact of his restoration by getting blind, roaring drunk!

Now, Mr. President, I say that we are going altogether too fast in this matter. It is not a precedent that we can afford to establish, and if for any reason these men are found to be disqualified even for examination, how can we say that they are qualified for the duties of active service? I cannot, unless there is some more evidence than has appeared yet before the Senate, vote for this bill, unless, at least, it is accompanied by the amendment offered by the Senator from Rhode Island, that before being placed upon the roll they shall pass an examination, and the Secretary of the Navy shall be satisfied of their fitness and their qualification.

Mr. ANTHONY. I will modify my amendment by striking out the second proviso.

Mr. JONAS. I will accept that amendment.

Mr. WITHERS. How will it read then?

Mr. ANTHONY. Let the amendment be read.

The Chief Clerk read as follows:

Provided, That they shall pass the customary examination into their mental, professional, and physical fitness for the appointment.

Mr. McPHERSON. What does the honorable Senator from Rhode Island propose to do, to withdraw the last part of his amendment?

Mr. ANTHONY. The latter clause, providing that in the opinion of the Secretary of the Navy such addition to the Medical Corps of the Navy is desirable. I strike that out.

Mr. McPHERSON. Then it actually appoints them as soon as they pass an examination.

Mr. ANTHONY. When they pass examination. It has been suggested to me that the Senate is the best judge of the necessity of increasing the Medical Corps of the Navy; but it does not seem to me that the Senate should set itself up as a professional board for examining into the qualifications of surgeons in the Navy. The Senator from Florida has argued the power of this board. I require no argument to convince me of the power of this body to place the Senator from Florida or myself in the Medical Corps of the Navy, but I think it would be a great abuse of power to appoint any member of this body except my friend from Virginia, [Mr. WITHERS.]

The PRESIDING OFFICER. The Senator from Rhode Island modifies his amendment. If there is no objection it will be so modified, and the question is on concurring in the amendment as modified.

The amendment, as modified, was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. DAVIS, of West Virginia. I ask the legislative bill be taken up for the purpose of appointing a second conference.

The PRESIDING OFFICER. The Chair will lay before the Senate a message from the House.

The Chief Clerk read as follows:

IN THE HOUSE OF REPRESENTATIVES,
June 4, 1880.

Resolved, That the House further insists upon its amendments to certain amendments of the Senate to the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, insists upon its disagreement to the amendments of the Senate insisted upon by the Senate, and asks a further conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. ATKINS, Mr. CLYMER, and Mr. BAKER be the managers of the further conference on the part of the House.

Mr. DAVIS, of West Virginia. I move that the Senate further insist on its amendments and agree to the further conference asked by the House.

Mr. ANTHONY. Will the Senator from West Virginia explain the points of difference between the two bodies?

Mr. DAVIS, of West Virginia. In part I will; I hardly think it best for the service to explain in full yet. I will say to my friend from Rhode Island that the principal and perhaps all the difference is as to the salaries of the employés of the two Houses. That is the question now pending between the two Houses. We have disagreed, but I am not without some hope of an agreement, and therefore I prefer at this time not to say to the Senate all that I may have to say hereafter on the subject.

Mr. ANTHONY. I understand the difference is upon the salaries of the employés of the Senate alone; there is no difference about the salaries of the employés of the House.

Mr. DAVIS, of West Virginia. There is a difference as to the employés of the House in this way: The two Houses having agreed to the salaries of the House employés, there is hardly any question that can be acted on perhaps by the conference as to the House employés; but there is some question as to the pay of the employés of the House, though it is not a serious matter. The question now between the two Houses is as to the salaries of the employés of the Senate, and I am hardly prepared until there is a further conference with the House conferees to state what the full difference is, except that I am prepared to answer any question my friend may ask.

Mr. ANTHONY. I hope the conferees of the Senate will take the ground that each House shall judge of the number and compensation of its own employés. This question has been before us repeatedly. Once I remember the Senate objected to the compensation allowed to the employés of the House, and I advocated an agreement to the wishes of the House in that respect; and I equally insist upon the right of the Senate to fix the salaries of its own employés and the numbers of its own employés. Each House can certainly be intrusted with that amount of discretion. If the House desires cheap employés, let it have them; if we desire those that are worthy of a higher compensation, let it concede them to us. I think that the independence of the two Houses is involved in the question of the number and the compensation of the employés.

Mr. BAILEY. Will the chairman of the committee please explain—his language leaves a doubt in my mind—whether the Senate has proposed in any way to interfere with the action of the House in regard to the compensation paid to employés of the House. I wish to understand distinctly whether the Senate has undertaken to interfere in any manner with the compensation of the employés of the House.

Mr. DAVIS, of West Virginia. The question is a very proper one. The whole matter is yet in conference, and I do not wish to go as fully into it now as I may have to do hereafter. I will answer my friend from Tennessee that the Senate has uniformly, since I have been here, conceded to the House the right to fix the compensation and the number of its employés. The House, however, has undertaken several times, and perhaps at this time, to say what the compensation of the Senate employés shall be, but not to prescribe the number. There has been no question as to the number between us.

Mr. BAYARD. May I suggest to my honorable friend from West Virginia that in 1876 we had a prolonged conference lasting I think nearly a month with sessions day by day; I remember that the honorable Senator from Minnesota [Mr. WINDOM] was the chairman of the committee on which I served; and one of the controverted points was the disposition of the House of Representatives to control the discretion of the Senate as to the compensation and the number of the Senate employés. The end of that conference was, as I thought, a settlement upon the proper and the becoming principle that each House was to be the judge of what was proper and just in dealing with such a subject. In other words, the employés of each House performing their duties under the eye of the several Houses, the character of their duties and the amount of their compensation could be best understood by the House which appointed and employed them. I thought the question had then reached that very proper basis for future action that there should be no more than a spirit of comity and of courteous acquiescence by one House in the action of the other in a matter which pertained solely to its own discretion.

That was the basis of the settlement in 1876 after a very long controversy, and I am surprised to know and regret to know that there has been any disposition to change that basis. We know here who are the laborers, and we know what the hire of the laborer should be and whether he is worthy of it. Each House has its responsibility before the country in fixing these matters of compensation, and each should be left to its own discretion and its own responsibility. Such was the basis of our settlement in 1876 and in 1878, and I hoped then, and I hope still, that that question will not again arise between the two Houses.

Mr. ANTHONY. I understand—the Senator from West Virginia can correct me if I am in error—that at this session the House had altered the compensation of a number of its servants, lowering some and raising others, and to all this the Senate has courteously yielded. Now, if we choose to lower the hire of our servants or if we choose to raise it, we are entitled to the same consideration from the House.

Mr. WALLACE. The Senator from Rhode Island is correct. The House has increased the compensation of some of its employés and decreased the compensation of others, and the Senate conferees have acquiesced in their action.

Mr. ANTHONY. I ask the Senator from Pennsylvania if the House has not increased the compensation of some of its employés above the price paid to the corresponding employés of the Senate?

Mr. WALLACE. Such is the fact.

Mr. ANTHONY. And the Senate has made no objection to it?

Mr. WALLACE. Such is the fact. I desire to say on behalf of the committee of conference, so far as I have had any connection with it, that I have understood the instruction of the Senate to be that it is a subject-matter entirely under the control of the Senate, and so far as the conference is concerned I propose to carry that out.

Mr. WINDOM. I only want to say a word. This is an old controversy between the two Houses, which I had supposed was settled in 1878, if not in 1876; but after 1876 it was renewed again in 1878, and has been several times before the Senate and the House. In 1878, on the 14th of June, I had the honor to submit the report of a conference committee on this subject, in which it was stated that this was the only question about which there was any material difference, the only question that seemed to be irreconcilable in conference, and in submitting that question to the Senate the chairman of that conference committee stated:

> I desire to have the question submitted. I do not wish to have the yeas and nays upon it at present. If there is any disposition on the part of the Senate to recede from the position taken by its conferees, I hope it may be expressed. For one I am willing to be governed by the wish of the Senate; but believing the unanimous wish of the Senate to be that their conferees should adhere to the position taken deliberately and several times heretofore by the Senate, we could not agree with the House conferees.
>
> I will say one other thing upon this point. This question has been raised frequently heretofore. I have a distinct recollection of several occasions in which it has been tried, and the result has been that each House has been left to regulate its domestic affairs in its own way.

There was the request when a further conference was proposed that the report might lie over for a little while in order that the Senate might consider it and deliberately adopt the position upon which it desired to stand; and after some discussion, in which several Senators participated, with the understanding that that vote would be regarded as instruction to its committee, the yeas were 59 and the nays 2; so that the Senate, in 1878, as distinctly and unequivocally as was possible for it to express its sentiment upon that subject, declared its right to regulate this matter according to its own judgment and under its own responsibility to the people.

I wish to read a very brief statement made by the honorable Senator from Ohio [Mr. THURMAN] upon that point, which I think states the case very clearly:

> Then I wish to say that so far as concerns the employés of the Senate I shall certainly stand by the Senate managers. The House forced us to give up three or four years ago after three conferences, and insisted that the House was the best judge of what employés it wanted and what was a fair remuneration for them. It then compelled us, at the end of three conference committees, to accede to that proposition. What was good for them is good for us, and I think that is the sensible view of it anyhow. I voted so then and I shall continue to vote so now. The Senate knows best what employés it needs, and knows best what is a fair remuneration for them.

That was the ground upon which the Senate voted, 59 to 2, on the 14th of June, 1878. Your conferees have no feeling upon this subject; but they do believe that under the responsibility of the Senate to the people in the exercise of its best judgment as to what should be the compensation of its own employés, as well as the number, it should be permitted to designate them as it permits the House to designate the number and compensation of its own employés.

Mr. ANTHONY. I suppose it is not improper to read from the CONGRESSIONAL RECORD a remark made in the House as long ago as 1875, when this same question was up. Then Mr. RANDALL said:

> Of course it is not proper for me to reflect upon the action of the other branch of Congress; but I wish to say that so long as I have been a member here this House has conceded to the Senate the right of fixing the number and compensation of its own officers, while we have claimed the same authority for this body. In my judgment the House cannot in self-respect yield this right.

I agree with the honorable Speaker of the House of Representatives in this declaration. I think that each House is the proper judge of whom it wishes to employ and of what compensation he is worth. We concede this to the House of Representatives; we have allowed them to raise the compensation of some of their servants and to reduce that of others, making no objection in either case. We claim the same right from them, and I trust the conferees on the part of the Senate will insist upon it.

Mr. DAVIS, of West Virginia. I do not wish to prolong the discussion; but I am rather gratified the discussion has taken place, though I think it a little too early. I think we have not done our full duty as conferees yet; and therefore I will not ask the Senate to take any vote or express any opinion by general debate. The time perhaps is not very far off when I shall have to make a full statement to the Senate of what the differences are and what is claimed by us. Now I ask for a vote on my motion.

The PRESIDING OFFICER. The Senator from West Virginia moves that the Senate still further insist on its amendments and agree to the further conference asked for by the House of Representatives.

The motion was agreed to.

By unanimous consent, the President *pro tempore* was authorized to appoint the conferees on the part of the Senate; and Mr. DAVIS of West Virginia, Mr. WALLACE, and Mr. WINDOM were appointed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its clerk, announced that the House insisted upon its disagreement to the amendments of the Senate to the bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. J. H. REAGAN of Texas, Mr. M. L. CLARDY of Missouri, and Mr. AMOS TOWNSEND of Ohio, managers at the conference on the part of the House.

The message also announced that the House had concurred in the amendments of the Senate to the bill (H. R. No. 698) to establish a district and circuit court at Chattanooga, Tennessee, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House had concurred in the amendments of the Senate to the following bills and joint resolution:

A bill (H. R. No. 1806) granting a pension to Michael Lingenfelter;

A bill (H. R. No. 2039) granting a pension to Jacob J. Smith;

A bill (H. R. No. 2046) to authorize a compromise of the claims of the United States under the will of Joseph L. Lewis;

A bill (H. R. No. 2474) to increase the pension of Thomas Riley;

A bill (H. R. No. 2853) granting a pension to Elizabeth Aults;

A bill (H. R. No. 2855) granting a pension to Rachael J. Reber;

A bill (H. R. No. 2860) granting a pension to Thomas H. Vaughn;

A bill (H. R. No. 2861) granting an increase of pension to Herman Baldwin;

A bill (H. R. No. 2862) granting an increase of pension to John H. Black;

A bill (H. R. No. 2864) granting an increase of pension to Isaiah W. Bunker;

A bill (H. R. No. 3261) granting a pension to Elizabeth Dougherty;

A bill (H. R. No. 3264) granting a pension to Abner Hoopes;

A bill (H. R. No. 3351) for the relief of Rev. Paul E. Gillen; and

A joint resolution (H. R. No. 215) requesting the President to open negotiations with certain foreign governments relative to the importation of tobacco into their dominions.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore:*

A bill (H. R. No. 5041) to authorize the Secretary of War to turn over to the governor of South Carolina four pieces of condemned cannon for the use of the Marion Artillery; and

A bill (H. R. No. 165) to consummate the resolution of the Continental Congress of October 4, 1777, and erect a monument to the memory of Brigadier-General Herkimer, as therein directed.

WILLIAM C. SPENCER.

Mr. GROOME. Mr. President, I move to suspend the pending and all prior orders in order to enable me to ask the Senate to take up Senate bill No. 662, order of business No. 688.

By unanimous consent, the bill (S. No. 662) for the relief of William C. Spencer was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with an amendment, to strike out, in lines 9, 10, and 11, the words "appoint him, the said Spencer, to such rank on the retired list of the Army as he would have attained had he remained continuously in the service," and to insert in lieu thereof "instead of appointing him, the said Spencer, captain upon the active list, appoint him to the same rank upon the retired list;" so as to make the bill read:

That the President be, and is hereby, authorized to appoint William C. Spencer, late a captain in the United States Army, to be a captain in the infantry service of the Army, and to assign him to the first vacancy occurring in that grade in any regiment of infantry after such appointment: *Provided*, That if he shall deem it proper, the President may, instead of appointing him, the said Spencer, captain upon the active list, appoint him to the same rank upon the retired list.

Mr. ANTHONY. Should not that be amended, instead of "appoint" to say "be authorized to nominate and, by and with the advice and consent of the Senate, appoint?"

Mr. GROOME. I have no objection to that.

Mr. BURNSIDE. It should be amended in that way.

The PRESIDING OFFICER, (Mr. FERRY in the chair.) Does the Senator from Rhode Island propose an amendment?

Mr. BURNSIDE. I move to amend as proposed by my colleague.

The amendment was agreed to.

Mr. ANTHONY. The same correction should be made in two parts of the bill.

The PRESIDING OFFICER. The bill will be so amended.

Mr. DAVIS, of Illinois. Let us have the report read.

The Chief Clerk read the following report, submitted by Mr. CAMERON, of Pennsylvania, May 21, 1880:

The Committee on Military Affairs, to whom was referred the bill (S. No. 662) for the relief of William C. Spencer, have had the same under consideration, and beg leave to submit the following report:

Captain William C. Spencer was appointed as second lieutenant in the Second United States Infantry June 18, 1855. He joined his regiment on the 8th of August of that year and served with it in Minnesota and Nebraska until the spring of 1861. On the 30th of April, 1861, he was appointed to a first lieutenancy in the same regiment to which he had first been assigned.

During the Sioux troubles in Minnesota in 1857 Captain Spencer rendered such gallant and meritorious services to the United States Government as called forth from the Commanding General of the Army, Winfield Scott, the following complimentary order:

"[General Orders No. 14.]

"HEADQUARTERS OF THE ARMY,
"*New York, November* 13, 1857.

* * * * * * *

"This rule, however, must have a marked exception—that of Brevet Major T. W. Sherman, Third Artillery, who, in August, 1857, marched, at short notice, with his battery from Fort Snelling to the Indian agency at Yellow Medicine, Minnesota Territory, and, by his promptitude, judgment, and firmness, preserved the country from a war with the Mississippi tribes of the Sioux Nation. In this connection, Second Lieutenant William C. Spencer, Second Infantry, is commended for his gallant bearing on the occasion of his demanding, alone, the Indian murderer from the armed warriors of the tribe.

"By command of Brevet Lieutenant-General Scott:

"IRVIN McDOWELL,
"*Assistant Adjutant-General.*"

The battery of artillery of Major-General T. W. Sherman, now dead, was surrounded, and, to all intents, taken by the Sioux Indians. His sentinels were stoned off the post and the warriors straddled the guns, and in various other ways insulted the command. Captain Spencer hearing of the situation, he, with his company, made a forced march of forty miles in one day, charged through the Indians, and relieved the command. On the next day he rendered the heroic services referred to in the above order. Of this event General Sherman certifies in the following manner:

"It gives me pleasure to certify to whom it may concern that W. C. Spencer, of Maryland, was well known to me in the years 1858 and 1859, when he was a lieutenant of infantry in the United States Army, and that he was under my command for a short time in the summer of 1858 at the Upper Sioux agency on the Minnesota River, (Yellow Medicine,) where he distinguished himself by his coolness and intrepidity when sent with an interpreter to the Sioux camp to demand a culpable warrior, and where he, when surrounded by the braves of the nation and threatened with instant death, seeing that any attempt at defense on his part would be worse than useless, handed his pistols to his interpreter, dismounted his horse, bared his breast to the muzzles of their pieces, and begged them to fire, which act of energy and abnegation was so appreciated by the braves that they became completely disarmed of their intentions through their appreciation of his bravery, and no doubt prevented a bloody war with the Sioux, which certainly would have taken place had they carried out their threats. This signal act was highly commended by Major-General Scott in general orders; and it gives me pleasure to say also that the personal and military character of this officer, so far as I had the means of observation when stationed in Minnesota, was above all reproach at all times and under all circumstances.

"T. W. SHERMAN,
"*Major-General, U. S. A.*

"NEWPORT, R. I., *December* 31, 1873."

General William F. Barry also speaks of the same event as follows:

"HEADQUARTERS ARTILLERY SCHOOL, U. S. A.,
"*Fort Monroe, Va., September* 14, 1874.

"MY DEAR CAPTAIN: I have carefully read the papers composing the package which you placed in my hands yesterday. They seem to me to be conclusive as regards your character for integrity, gallantry, and loyalty while you were an officer of the Army.

"I scarcely think anything from me, under such circumstances, is needed to support them or aid you. Nevertheless, since you are of the opinion that a letter from me may be of service, I take great pleasure in stating that, while you were a second lieutenant in the Second Regiment United States Infantry, during the years 1858 and 1859, I served with you and noted you to be a young officer of the very highest standing socially as well as professionally. Your gallant conduct in connection with the Sioux troubles at the Yellow Medicine was as creditable to your personal courage as it was honorable to the Army and beneficial to the country.

"I remain yours, very truly,

"WILLIAM F. BARRY,
"*Colonel Second Artillery, Brevet Major-General, U. S. A.*

"Captain WILLIAM C. SPENCER,
"*Late Seventeenth Regiment United States Infantry, Baltimore, Md.*"

In the adventure referred to by General Sherman, Captain Spencer was accompanied by but two non-commissioned officers and ten privates, while the Indians numbered several thousand. He also performed splendid services during a difficulty between white settlers on the one side and the half-breeds and Indians on the other, which he settled at the risk of his life, after a fight had taken place at Crow Wing, Minnesota, a number on both sides having been killed or wounded, and when there was every prospect of a general Indian war. He took twenty enlisted men from the command at Fort Ripley and arrested the leaders on both sides and reinstated law and order. In verification of this statement the following letter from General N. H. Davis, Inspector-General United States Army, is quoted, as follows:

"NEW YORK CITY, *January* 10, 1874.

"SIR: Yours of the 13th instant just received, and informing me that you are an applicant for appointment in the Army, and soliciting a letter from me.

"With pleasure I submit the following:

"I have known you for several years, and when a lieutenant in the Second Infantry, a part of which time you served at the same post with me, and at times under my command. I bear testimony to your energy, efficiency, and marked gallantry as an officer. I may instance your cool bravery, good judgment, and firm course, as shown in a threatened conflict between Indians, whites, and half-breeds, at Crow Wing, Minnesota, when your life was in imminent danger and when you successfully settled the affair without bloodshed.

"Wishing you success in your application,

"I remain yours, very respectfully,

"N. H. DAVIS.
"*Inspector-General, U. S. A.*

"WILLIAM C. SPENCER,
"*Washington, D. C.*"

On the 14th of May, 1861, he was promoted to the rank of captain of the Seventeenth United States Infantry, on the recommendation of the Adjutant-General of the Army, and ordered to the seat of war in Virginia. He repaired to Fort Preble, Portland Harbor, Maine, and as senior captain organized the first battalion of that regiment and marched into the field under the command of General George B. McClellan in the spring of 1862. It appears that on the 24th of June of that year he was arrested on the charge of disloyalty on account of language used in connection with the arrest of a relative and confined at Fortress Monroe, but he was permitted by General Sykes "to join the division as it passed Old Point *en route* to Aquia Creek," and who also permitted Captain Spencer to do duty with the Fourteenth Infantry at the battle of Manassas, August, 1862, where, in the language of General Sykes, "officers say he acquitted himself creditably in that battle."

It would thus appear that the charge of disloyalty to his Government was not well founded. It is not at all likely that he would have risked his life in battle—doing his very utmost to sustain the integrity and the supremacy of the Federal Union, and to preserve the honor of the nation—had he cherished any sentiments of disloyalty in his bosom. On the contrary, it would be supposed that he would have joined the rebel army and risked his life in its behalf, had his inclination run in the direction of treason. It may be well at this point to quote Captain Spencer's explanation of the foundation of this charge. It is as follows:

"After serving during the advance on Richmond on picket in the trenches at the siege of Yorktown, and on the march up the Peninsula, and on the Chickahominy River, (being continually exposed to the fire of the enemy,) I heard of the arrest of my uncle, Judge Richard B. Carmichael, of the State of Maryland, who had procured for me my original lieutenancy in the Army. The manner in which this arrest was conducted brought forth from all parties an expression of disgust and condemnation, for while that elderly judge was presiding over his court he was dragged off the bench and beaten over the head to a state of insensibility with pistols in the hands of a gang of volunteer soldiers and roughs from Baltimore City. This outraged me beyond measure, and I asked the intercession of General George B. McClellan, and requested him to communicate with the President. He informed me, through his chief of staff, General Marcy, that although he sympathized with me (not approving of the manner in which the arrest was made) he could effect nothing at Washington. I therefore tendered my sword to my commanding officer, and was placed under arrest. While *en route* to Fortress Monroe, a prisoner, and under charge of General Rufus Ingalls, (Jackson's advance being reported near,) I applied to the general for a command, and was informed if an engagement took place I should have one. After remaining several weeks at Fortress Monroe, and finding I could do nothing for my uncle, I joined my division for trial, and was the guest of Colonel David McKibben, Fourteenth Infantry; while under the charge of disloyalty, I marched with the battalion into position on the field of the second Bull Run, and was requested by the colonel to take command of his right company. I did this with the sanction of the division commander, and after the engagement (the loss being three officers and forty-five men out of two hundred and fifty men carried into the action) I was reported by the colonel for gallantry on the field.

"Shortly afterward General George D. Ruggles, of General McClellan's staff, informed me I would be shortly released from arrest, which was never done.

"My health being impaired by the campaign of the previous spring and summer, I was given a certificate of ill-health, and remained absent from the Army until the 1st of December, when I received orders to report for trial. On doing so, one of the witnesses for the prosecution being absent, it was found inexpedient to try me. I then proceeded to Washington and resigned my commission."

This resignation was accepted on the 11th of December, 1862.

Captain Spencer further states that his resignation was in no proper sense a voluntary one, but was caused by the fact that for upward of five months he had been deprived of his command and kept under charges which prevented him from being afforded an opportunity, which otherwise his commission would have secured him, of rendering valuable services as an officer of the Army to his country, and by the fact that after that time the trial of the charges was further postponed by the prosecution, and that he abandoned the hope of securing a speedy trial and consequent vindication. He further states that at the time of tendering his resignation his health was much impaired by the campaign of the previous spring and summer.

The following is the report of Captain D. B. McKibbin of the battle of Manassas, in which he alludes to Captain Spencer in a very complimentary manner:

"CAMP NEAR HALL'S HILL, VIRGINIA,
"*September* 4, 1862.

"SIR: In compliance with orders, I have the honor to report, for the information of the colonel commanding first brigade, Sykes's division, the operations of the second battalion, Fourteenth Infantry, at the battle near Bull's Run, Virginia, 30th August, 1862.

"We left bivouac on the Centreville and Gainsville road at daybreak. About 10 o'clock a. m. took up a position in front of Dogan's house, in a corn-field, my left resting on and perpendicular to the Centreville and Warrenton road. The enemy's sharpshooters and batteries opened upon us at once without loss, excepting a negro detained as prisoner. We then marched forward in line of battle, taking position in the rear of a skirt of woods about one thousand yards in advance and to the right of our former position. After remaining in this position a short time we were advanced to the front in rear of the first battalion, Fourteenth Infantry, about two hundred yards. We were ordered to lie down. Hitherto the firing had not been heavy. We were now under a terrific fire of shell, case, canister, and musketry. The position that my men had been placed in by the colonel commanding in a ditch was all that saved them from a more than severe loss.

"About one-half hour afterward we were ordered to fall back very slowly (which order was executed in good order) to the plateau in front of Robinson and Henry's house. Here we were formed in battalion in mass. Shortly afterward, General Milroy needing assistance, we were ordered to the front, deploying to the left; we were then within forty yards of the enemy, almost entirely concealed by the trees and thickets. After receiving and returning fire several times, I ordered the men to cease firing, and sent the sergeant-major with two men to my left along the road to find out if they were trying to flank us. He reported large numbers moving up, and I then caused my battalion to change front to rear on the right. Shortly afterward we were ordered to retire. This was about sundown. I had three officers wounded, Captains Coppinger, Locke, and Lieutenant Wharton, the first seriously, the others slightly.

"I cannot but call particular attention of the colonel commanding to the conduct of the officers of the battalion. The coolness and gallantry with which they fought their companies and attended to their several duties is worthy of commendation.

"There was but one officer with each company.

"Captain Spencer, of the Seventeenth Infantry, under charges for disloyalty, knowing how much I needed officers, volunteered his services, and fought the right company. His conduct was as cool and brave as that of any officer on the field.

"Sergeant-Major Graham, of this battalion, deserves especial notice. I believe he has been mentioned before for brave and soldier-like conduct.

"Three officers and forty-five enlisted men is the total loss in this battalion, out of two hundred and seventy-three who went into the fight.

"I am, sir, very respectfully, your obedient servant.

"D. B. McKIBBIN,
"*Captain Fourteenth Infantry, Commanding Second Battalion.*

"W. H. POWELL,
"*Second Lieutenant, Fourth Infantry, A. A. A. G.*"

"CHAMBERSBURGH, *May* 4, 1874.

"I have the honor to state that in July or August, 1862, I was appointed judge advocate of a general court-martial convened to try Major Davidson, Fourth Infantry; Captain Spencer, Seventeenth Infantry. The Army having been ordered to move, Captain Spencer, in arrest, was ordered to accompany me. The day of the battle of second Bull's Run, being in command of the second battalion, Fourteenth Infantry, I approached Captain Spencer and proffered him a command with a temporary release from arrest. He, although in bad health at the time, accepted the proffer with avidity, and demeaned himself with great coolness and gallantry, and was so reported by me in my official report of the battle. My reasons for acting as I did under the circumstances were as follows:

"First. I was short of officers.

"Second. Captain Spencer had been introduced to me by my most intimate friend, Captain John D. O'Connell. I became well acquainted with Captain Spencer, and I had no doubt in my own mind of Captain Spencer's sincere loyalty to the Government. This was also the feeling of Captain John D. O'Connell, and so expressed to me in several conversations on the subject.

"Third. I was (believing as I did) sincerely anxious that he should by action disprove any charge of disloyalty both as an Army officer and as my friend. I feel sure that all his old friends in the Army would gladly welcome him back.

"D. B. McKIBBIN,
"*Major Tenth Cavalry and Brevet Brigadier-General.*"

No fair-minded or unprejudiced person could, from the facts just narrated, entertain a doubt for one moment as to Captain Spencer's loyalty to the United States.

As a further proof of the falsity of the charge, it appears that on the 13th of December, 1865, President Johnson directed Captain Spencer's appointment as second lieutenant, but the examining board in New York, before which he appeared, found him disqualified on account of physical disability. On the 2d of July, 1868, the President again directed that Captain Spencer be allowed a re-examination. He appeared before an examining board on the 16th of December, 1868, but was again reported disqualified by reason of loss of right eye.

It is perhaps proper to say here that a bill was introduced in the Forty-fourth Congress authorizing "the President to appoint William C. Spencer, late a captain in the Seventeenth United States Infantry, to fill the first vacancy occurring in the list of captains of infantry, with the same date of rank held by him July 1, 1862; provided that instead of such reappointment the President is authorized to appoint him to such rank on the retired list of the Army as he would have attained had he remained in the service continuously;" but the committee declined to grant the relief prayed for, on the ground that it would be an act of injustice to the other officers of the Army, as it would entitle him immediately on his appointment to promotion to the rank of major over the heads of all the captains of infantry who have rendered continuous service since Captain Spencer's resignation. The bill was therefore reported adversely by the committee.

Your committee still adhere to that belief; but they are, however, of the opinion that, in justice to his previously good record and his valorous and heroic conduct while in the Army, he ought to be restored to the ranks to take position at the foot of the grade of captains. As the charge of disloyalty has been shown to have been entirely groundless, and as it is clear that Captain Spencer's resignation was not a voluntary one, your committee deem it but an act of justice and equity on the part of the Congress of the United States to restore him to the Army.

Your committee are averse to restoring officers of the Army who have voluntarily resigned their commissions, and have so decided in several cases at this session; but on account of the peculiar circumstances connected with this case they consider it an exceptional one; for, after all, the primary cause which led to his resignation was the fact that this unjust charge was hanging over his head, and at a time of great excitement, when it was a very difficult matter for him to free himself from the accusation.

Your committee therefore beg leave to report the bill back to the Senate with an amendment, and as thus amended they recommend its passage.

Mr. BURNSIDE. I feel constrained to oppose the passage of the bill. It is the first time I have ever heard anything about the matter, except that in a general way the Senator from Maryland [Mr. GROOME] talked to me about it the other day. At this very session of Congress I reported against the application of General Schuyler Hamilton, of General Scott's staff, who resigned during the late war. General Hamilton was shot through the body at the battle of Contreras, or Churubusco, I forget which, and is broken down in health; but it is a rule of the committee that officers who voluntarily resign should not be reinstated. Otherwise great injustice would be done to the Army. Hundreds of other applications just like this would come in. I certainly hope no action will be taken about it now until I look into the matter a little further. If this bill passes, I shall feel constrained myself to go back and have bills offered in some other form if the Senate adopt a precedent of this kind to reinstate several officers of the Army against whom I have reported. It is known to my colleagues on the committee that I reported against a man who lives a few miles from me, who was a soldier under me in the war. He had as meritorious a case as this, and more so.

I shall oppose the bill. I do not think it is just. I think it would be establishing a very bad precedent. All I know of the case is what I have caught from the reading of the report. I do not know whether it was acted upon in committee or not; I suppose it must have been, and I must have been absent. But I certainly think it would be very unwise action to pass the bill now. I make no point of disloyalty against this man. I think myself from what I have gathered from the report that it has been established that he was a loyal officer and that he probably said what he did at the time he was accused of disloyalty under a high state of excitement. I do not mean to justify it, but I say it can probably be excused. But the precedent of putting officers back in the Army in this way is a bad one. If we go on for ten years as we have been going on for the past few years in reference to the reinstatement of officers in the Army, the discipline will be just about ruined.

Mr. GROOME. Mr. President——

The PRESIDING OFFICER. The morning hour has expired.

Mr. GROOME. In view of the fact that fifteen or twenty minutes or more of the morning hour were occupied by the interjection of another matter, I would ask the Senate to indulge me in allowing this bill to be considered for a few moments. I think we can dispose of it soon.

Mr. BURNSIDE. I shall object.

The PRESIDING OFFICER. It must be by unanimous consent, unless the Senator moves to postpone the regular order.

Mr. GROOME. I do make that motion.

Mr. HARRIS. I hope the pending order will not be postponed. If the Senate will consent to let the pending order be informally laid aside without prejudice, and this matter will take but a few minutes, I shall not interpose an objection; but otherwise I must demand the regular order.

The PRESIDING OFFICER. The Senator from Rhode Island objects to unanimous consent.

Mr. BURNSIDE. I object to any arrangement by which this bill shall be passed at present. I shall put every obstacle I can in the way of its passage until I am better informed than I am now.

Mr. GROOME. Before the Senator from Rhode Island makes objection will he hear one remark from me?

Mr. BURNSIDE. Certainly.

Mr. GROOME. I agree with him in his objection as to cases to which it properly applies. I agree fully with the Senator from Rhode Island that where there are strictly voluntary resignations from the Army of the United States, more particularly in time of war, the parties who so resign should not be reinstated in the Army.

Mr. HARRIS. The Senator from Rhode Island, I understand, objects.

Mr. GROOME. He is willing to hear a remark from me.

Mr. HARRIS. I thought the Senator from Maryland had concluded. I did not intend to interrupt him.

Mr. GROOME. No, sir; I say that I agree thoroughly with the Senator from Rhode Island in the cases to which his point applies, but this report, if the Senator from Rhode Island had listened to it carefully——

Mr. BURNSIDE. I listened to every word.

Mr. GROOME. It shows that this officer was arrested upon an unfounded charge upon the 24th of June, 1862.

Mr. BURNSIDE. Hardly unfounded. His offense may not have been a grave one, but the charge was not unfounded, because he admits that what he said was said under a state of great excitement.

Mr. GROOME. There is nothing——

Mr. HARRIS. I must demand the regular order. This discussion is out of order.

Mr. BURNSIDE. I will say to the Senator from Maryland that I will take great pains to examine the report, and if I find occasion to change my mind I will very frankly state it to him.

The PRESIDING OFFICER. The regular order is before the Senate. The Senator from Maryland has the floor and has a right to debate it.

Mr. GROOME. I will simply take occasion before taking my seat to say this, that I shall call up at the close of the morning business on Tuesday next this bill, and shall ask the Senate to take it up, and hope to have it disposed of then.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (H. R. No. 1953) for the relief of Henry C. Groomes;

A bill (H. R. No. 2123) granting a pension to Albert L. Jack; and

A bill (H. R. No. 3558) for the relief of Charlotte M. Coward, widow of Captain Joel M. Coward.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting to the Senate the memorial of Captain Guy V. Henry, Third Cavalry, remonstrating against the passage of the bill (H. R. No. 6253) to promote Captain J. Scott Payne, Fifth Cavalry, to the first vacancy of major of cavalry, and calling attention to the indorsement thereon of the General of the Army; which was referred to the Committee on Military Affairs, and ordered to be printed.

INTEREST ON ARREARAGES OF TAXES.

The PRESIDENT *pro tempore* laid before the Senate the amendment of the House of Representatives to the joint resolution (S. R. No. 64) extending the provisions of the first section of an act entitled "An act fixing the rate of interest upon arrearages of general taxes and assessments for special improvements now due to the District of Columbia, and for a revision of assessments for special improvements, and for other purposes," approved June 27, 1879.

Mr. HARRIS. The joint resolution is returned from the House of Representatives with a single amendment, extending the time within which arrears of taxes may be paid from the 1st of July, 1880, to the 1st of January, 1881. I ask that the Senate concur in that amendment. The amendment is rendered necessary by reason of the fact that the resolution has been detained in the House for the last six months, having passed early in the session in the Senate.

The PRESIDING OFFICER, (Mr. FERRY in the chair.) The amendment of the House will be read.

The amendment of the House was to strike out all after the word "the," in line 12, and insert "1st day of January, 1881."

Mr. HARRIS. I move that the Senate concur in the amendment.

The motion was agreed to.

CLAIMS AGAINST THE DISTRICT.

Mr. MCDONALD. I ask my friend from Tennessee and the Senate to allow me to call up Senate bill No. 1230; it will not take five minutes.

Mr. HARRIS. I should be exceedingly glad to gratify the Senator from Indiana, but in my opinion the bill now under consideration will not take thirty minutes, and the Senator from Delaware has notified me that he will insist on calling up the Louisiana case.

Mr. DAVIS, of Illinois. The Senator from Indiana simply has a bill to make Indianapolis a port of delivery.

Mr. HARRIS. I reply to the Senator from Illinois that I have been appealed to by a dozen Senators, each with a matter equally simple, and if I yield to one I shall be bound to yield to another, and therefore I think the better policy is not to yield at all and endeavor to get through this bill. We can get through it in the next thirty minutes.

The PRESIDING OFFICER. The unfinished business is House bill No. 2328.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 2328) to provide for the settlement of all outstanding claims against the District of Columbia, and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes, the pending question being on the amendment proposed by Mr. ALLISON, in section 6, line 23, after the word "payable," to strike out the following words:

> And the gross amount of such bonds heretofore and hereafter issued shall not exceed in the aggregate $15,000,000: *Provided*, The bonds issued by authority of this act shall be of no more binding force, as to their payment, on the Government of the United States than the 3.65 bonds issued under authority of the act of June 20, 1874.

Mr. SAULSBURY. I have no disposition to antagonize this bill, but I shall be compelled to do so if I find that it is to take much time. I cannot in justice to the committee I represent consent to longer delay action on the resolutions relating to the seat of the Senator from Louisiana, [Mr. KELLOGG.] Several Senators desire to express their views on that question. I am informed by the Senator having charge of the pending order that his impression is that it will not take exceeding thirty minutes to dispose of it. If I find, however, that he is mistaken, and that protracted debate will ensue upon that bill, I shall then move to lay it aside, but I will wait for a short time to see what disposition will be made of it.

Mr. ALLISON. Mr. President, I think for the present I will withdraw that portion of my amendment striking out the words limiting the total issue of these bonds to $15,000,000. I have made some further examination of this question and I find that $15,000,000 will cover all claims that ought to be referred to the Court of Claims, and unless some other Senator shall offer an amendment I shall at the proper time (I am not clear that I can do it now in Committee of the Whole inasmuch as the amendments of the Committee on the District of Columbia have been agreed to) offer an amendment striking out all reference to the Court of Claims of claims on account of contracts made with the commissioners of the District of Columbia or on account of contracts extended by the commissioners of the District of Columbia originally made with the board of public works.

Mr. HARRIS. If the Senator from Iowa will indulge me a single moment I think it probable that he and I will arrive at a very satisfactory conclusion in regard to that matter. By the act of 1874 the policy was plainly adopted to continue certain improvements, but to pay for them in 3.65 bonds. The commissioners were required to continue them, but to pay for those improvements in 3.65 bonds. That policy was changed by the joint resolution of March 14, 1876, and the commissioners were forbidden to make any improvements or to make any contracts payable in 3.65 bonds after that date.

I shall propose first, in deference to the suggestion of the Senator from Ohio [Mr. THURMAN] that struck me with force, in line 4 of the first section to strike out the word "exclusive," and then in line 24 of the amendment that has been adopted, when we get into the Senate, I shall propose after the words "eighteen hundred and seventy-four" to add the words "and prior to the 14th of March, 1876." That confines the cases to be referred to the Court of Claims, contracts in respect to which the Court of Claims is to have jurisdiction, to contracts made by the commissioners after the passage of the act of 1874 and before the passage of the resolution of the 14th of March, 1876. One is entirely consistent with the other. I mean it would be proper for the Court of Claims to have jurisdiction of all those claims originating in the extension of contracts made by the commissioners after the act of 1874 and up to the 14th of March, 1876, just as proper as it is that they should have jurisdiction of the claims based on contracts made with the board of public works.

Mr. ALLISON. I regret to say that the Senator from Tennessee and myself cannot agree fully with reference to this matter. As I understand this question, it is proposed to settle up and close out the old contracts with the board of public works. The District commissioners made contracts of their own, and made extensions of their own of old existing contracts. In the law of 1874 we only required them to carry out valid contracts already made by the board of public works. When they were carrying out those contracts they were allowed and required to pay for them as they progressed in 3.65 bonds. If the District commissioners failed to discharge their duty, the courts of the District of Columbia are open to the contractors, are they not? And if they are open to the contractors, why is it that we shall now proceed to give these contractors with the board of District commissioners an equitable jurisdiction in the Court of Claims? It does not seem to me that that is wise. If we do not do that, I am satisfied that the million and a half of dollars or about that sum will be amply sufficient to cover all these claims. I find these claims reported in the report of the commissioners of the District of Columbia in 1877, and very clearly stated and set forth. The commissioners in the report of 1877 make no allusion whatever to extensions of contracts under their jurisdiction, but they only seek to include in the settlement and adjustment proposed the claims unadjusted by the board of audit, which were either presented and not disposed of or for some reason or other were not presented to the board of audit for their examination.

Now, what is the necessity of going beyond the claims included in the report of the District commissioners of November 1, 1877? If this bill is confined to that class of claims, I think a million and a half will amply cover the amount.

Mr. HARRIS. Mr. President——

Mr. BAYARD. Will my friend from Tennessee allow me to ask him why is it that the jurisdiction of the courts of the District is now sought to be replaced by the Court of Claims? The courts of the District have had during the whole period of time covered by the transactions alluded to in the bill, since 1871, confessed jurisdiction of this class of claims; and any man having sustained injury could bring his suit. Any man who was injured by the improper execution of the law could have enjoined their proceedings. And I am disposed to believe that there has been a great deal of litigation in the courts of the District. I would ask the honorable Senator from Tennessee why is it at this day that the courts of the District are deprived of their jurisdiction and this whole class of local business is transferred to the Court of Claims, a court of very special and statutory jurisdiction, designed only to protect the Government against claims arising under contracts with it, and a very untechnical court, and a court both of law and equity combined?

It strikes me with some surprise at the end of nearly ten years of litigation, of doubt, of great confusion in the affairs of this District, that a tribunal which naturally and properly it would seem should be intrusted with the decision of this class of cases is suddenly deprived of it, and at the same time all statutes of limitations are removed in order that all claims covering a very vexed period of time, in regard to transactions not only of great magnitude but many of them of a very doubtful and questionable class, may be introduced without limit in this new tribunal—I mean in this tribunal of new jurisdiction on this subject. That, I confess, is something that I should like to have answered for my satisfaction.

Mr. HARRIS. Mr. President, I have given a notice, that the Senator from Delaware perhaps did not hear, that I should, when it was proper to do so, move to strike out the word "exclusive." It is not the intention to deprive the supreme court of the District of Columbia

of any jurisdiction that it now has, and it certainly has jurisdiction of all these claims.

Mr. BAYARD. That is what I supposed.

Mr. HARRIS. And it has had from the beginning. The only reason that I know of why suits have not been brought in that jurisdiction upon these claims is found in two facts: First, when the board of public works was abolished in 1874, the act abolishing it created the board of audit and required that board to audit such of these claims as should be presented to it and to issue its certificates so far as claims were allowed, which certificates were to be funded into 3.65 fifty-year bonds; and to the extent of thirteen million seven hundred and some odd thousand dollars claims were audited, were so certified, were so funded. But there remained outstanding claims based upon contracts made with the board of public works and extensions of those contracts made by the commissioners of the District of Columbia, as the commissioners of the District of Columbia were clearly authorized to make them by the act of 1874. Indeed, under the act of 1874 the commissioners of the District of Columbia were to carry out to some extent, some considerable extent, that system of public works inaugurated by the board of public works, and these contracts were to be paid in 3.65 bonds. That condition of things continued to the 14th day of March, 1876, when a joint resolution was adopted abolishing the board of audit and forbidding the District commissioners to make any contract for any improvement payable in 3 65 bonds.

Up to 1876 my friend from Delaware will observe that the board of audit was in existence and had jurisdiction to investigate, determine, and certify such claims as in its judgment were allowable. Since that time there has not been a single session o Congress that there have not been pending in one or the other House, and generally in both Houses, bills proposing some easy and simple method of adjusting these old improvement claims, and upon two occasions at least a bill for that purpose has passed the House but has never become a law.

One other reason why the claimants have not sued in the supreme court of the District of Columbia upon these claims is found in the fact that the dockets of the supreme court of the District of Columbia have been and are so crowded that there is no hope of getting a trial within two or three years from the time a suit is commenced. Another reason that a number of claimants have assigned to me has been that if a claimant shall have brought his suit, obtained his judgment and his execution, he comes to a dead-lock at that point, and for the reason that he has no means on earth of making the money.

Mr. BAYARD. Are there any outstanding judgments unsatisfied of the kind the Senator has indicated?

Mr. HARRIS. Of exactly what kind I am not prepared to state to the Senator from Delaware, but there are to-day over $33,000 of judgments. I have an amendment here on my table that I propose to offer to the deficiency appropriation bill for the purpose of paying $33,000 of outstanding judgments against the District of Columbia to-day.

Mr. BAYARD. I took some interest in the bill pending before Congress at the time this 3.65 loan was authorized, and I remember that when upon inquiry it was found that very nearly $14,000,000 of 3.65 bonds had been issued, $13,743,250, Congress stepped in and arrested the issue of any more of these bonds upon the ground that they were not satisfied that the certificates which were being issued by the board of audit had been properly examined. They thought they were paying claims which were of doubtful propriety. Upon that they arrested the payment, as the Senator said. From 1874 until 1876 the board continued and they issued $758,226.15 more of certificates which were unfunded and forbidden by the act of 1874 to be funded in the 3.65 bonds. All this time, if any man had a claim against the District, there was nothing to prevent his reducing it to a judgment in the courts of the District; the District was suable at the option of any man to whom it was indebted. All these claims, audited or unaudited, form the basis of a good cause of action against the District of Columbia.

Mr. HARRIS. Unmistakably.

Mr. BAYARD. And judgments could be ascertained in the courts of the District for that amount. As the object of Congress in stopping this funding of the claims of the certificates of the board of audit into 3.65 bonds was that there should be an examination of those claims, the courts of the District formed a perfectly proper tribunal for the just ascertainment of what was honestly due to the various claimants for the supply of materials or labor to the District. Whenever a judgment shall appear by the courts of the District in favor of anybody, I shall very gladly vote for an appropriation of money to pay that judgment; but not yet have I been satisfied why we should give this jurisdiction to the Court of Claims when we have ample machinery for the purpose of ascertaining what is due to the citizen from the government—I mean from the government of the District, for these are suits not against the Government of the United States, but they are suits against the corporation or the government known as the District government of Columbia.

I do not wish to underrate at all, on the contrary I fully appreciate the labor and pains of the District Committee and of my friend from Tennessee. I am not given in this Chamber to underrating the labors of other committees upon which I am not assigned to labor myself; but at the same time there has been so much in this District of irregular government, so much of instability, that I now am unable to see why there is not under the existing law and has not been since 1876, or indeed since 1871, an opportunity for any creditor of the District to place his claim in the shape of a judgment against the District; and when that has been ascertained in a court of justice I will vote the money to pay it promptly. I have no doubt that many of these contractors may be suffering from want of prompt payment, and yet I do not see why it was not in their power to reduce their claims to the shape of judgments, and if it was so then I should feel relieved as to any share of responsibility I had in paying the debt.

We know that there were claims in this District of a very vague character, and many of them open to a great deal of suspicion. It was that fact which caused Congress to arrest the funding of the audit certificates in 3.65 bonds, because Congress is not a fit body to sift such claims; there must be a court, with pleadings, with evidence *pro* and *con*, and with argument *pro* and *con*, to ascertain what is due. I think the courts of this District are competent and fit to be trusted for that purpose. In my judgment they are fitter for it than the Court of Claims, and I feel an objection to voting to ingraft this local jurisdiction upon the general purposes for which the Court of Claims was created. The Court of Claims is a United States Court of Claims. It is to recognize claims against the Government of the United States. The officers who appear there are the officers of the United States. I do not think it wise to mingle the local affairs of this District and the debts of this District with the debts of the United States and the affairs of the United States. I know that in the end perhaps we—I mean by "we" the people of the United States—will have to pay the debts of this District for all that, and perhaps we ought; for I do not think this District, the city of Washington, stands in a simple municipal attitude. It is not a local government in that sense. This is the federal center of the Government, and the people of the United States, all of them, are interested in its maintenance upon a scale becoming the capital of a nation like our own.

But that is not the question here. When we are dealing with money, and money in such large sums, it seems to me that we cannot be too defined in what we legislate.

The Court of Claims ought not to be burdened with this jurisdiction. It is not germane to the general subject for which that court was created. The courts of the District are the proper tribunal. It may be that they are overcrowded and that their dockets are full of suits, which I hear with some surprise when I think of the numerical force of the courts, and when I think of the very small amount of commerce and the total absence of anything like manufacture or production in this District. I am surprised to hear that the judicial force of this District is not ample to dispose of all the litigation which may arise in it. We have a court here which is composed I think of five judges. They sit at *nisi prius* and they sit in banc. They may all sit at the same time at *nisi prius* if it is necessary to be done, and also consider questions in banc. I wish to be unjust to no one, but it seems to me to imply a great want of diligence on the part of the supreme court of the District to suppose that its business should be in such condition that a suit instituted to-day cannot be brought to judgment for three or four years. It does not bear comparison with the work of courts elsewhere in any of the busy centers of this country, with such an amount of business as we have in this District, for that to be the condition of the docket in a court composed of five judges, in a community of one hundred and twenty-five thousand people, and more than half of them clerks with no business with the court at all, with no manufacture, no production, no commerce worth speaking of. It is for that reason that I would wish and would now desire that the jurisdiction of these courts be allowed to remain unassisted by the Court of Claims, and that there should be at this time no raising of the bar of limitation where the statute has commenced to run. Statutes of limitation are statutes of repose. Statutes of limitation are essential for justice, simply because there is, as all men know, a decay and a death of the necessary proof in regard to contested transactions.

I hope that this bill may be so amended as to continue the courts of the District in the work for the jurisdiction for which they were designed, and not to ingraft this labor upon the Court of Claims.

Mr. INGALLS. Mr. President, I concur very largely with what has been said by the Senator from Delaware to the effect that this whole subject is complicated by innumerable difficulties. This situation arises largely from the fact that the United States Government assumes and exercises under the Constitution exclusive legislative authority over the affairs of the District.

As the Senator from Delaware has said, the city of Washington does not occupy the attitude of an ordinary municipal corporation. It is the great Federal city, ordained and established as such under the Constitution, for the permanent seat of the Government of the United States. The course of previous legislation has established the fact upon which creditors and residents and the citizens of the Republic everywhere have a right to rely, that the United States Government itself is ultimately responsible for the expenses, for the debt, and for the entire organization of this District. It is no use to attempt to blink this question out of sight. The Government has assumed the debt of this District, and has pledged its faith to the payment, principal and interest, of the entire amount of these 3.65 bonds, now amounting to between thirteen and fourteen million dollars. When the Senator from Delaware states a desire that all the public creditors here in this District should resort to the local courts for the

enforcement of their claims he forgets the very important distinction to which I have referred, that the Government itself has assumed the existing indebtedness, has assumed the payment of principal and interest, and that upon this fact they have a right to rely.

Mr. BAYARD. I understand the difficulty to be in ascertaining the justice of these claims; and Congress is, as we know, the most unfit body in the world to determine the justice of a claim against the Government.

Mr. INGALLS. That is very true.

Mr. BAYARD. Claims against the Government are sent to the Court of Claims in certain specified cases, but here are claims of a local character in the District, which have been tried and litigated in the courts of the District, and I ask why not continue them there and have them there ascertained before we pay them?

Mr. INGALLS. My opinion of the fitness of Congress as a tribunal to adjudicate claims concurs so far with that of the Senator from Delaware that if I could enforce my own views I would have a constitutional amendment forbidding consideration of any private claim by Congress. There is no sense in which Congress is fit to consider those questions. The ordinary rules of evidence cannot be applied here, and therefore they ought all to be excluded from congressional and legislative consideration.

But to return to the question as to the forum in which these matters should be inquired into; I have given some time and some thought to the investigation of the condition of the local tribunals of justice here in this District, and I state from information derived from eminent and reputable practitioners that if these matters were to be referred to the District courts for consideration they could not be passed upon within a period of five years from the present time.

Mr. BAYARD. But why were they not taken up five years ago and suits brought?

Mr. INGALLS. They were not taken up for the reason that Congress had already directed the funding of $13,000,000 of ascertained indebtedness into 3.65 bonds, leaving some $758,000 outstanding, which the holders of those certificates, I assert, had a right to rely would be assumed by the Government and treated in the same way. There was no reason why they should go to the courts, because by a tribunal established and recognized by Congress, consisting of two officers of the Treasury, to wit, the First and Second Comptrollers, these claims had been passed upon and their validity had been recognized. Therefore why should these creditors go into court to establish the validity of claims which had been recognized by a tribunal established by Congress for that purpose? I certainly cannot see the force of that reasoning. If there were any claims that were of a different character from those that had been adjudicated by the authorized agents of the Government I could see the force of the Senator's suggestion.

Mr. BAYARD. Are there none?

Mr. INGALLS. There are some, and we propose that that class shall be adjudicated by the Court of Claims, for two reasons. The first reason, the one to which I have already referred, is the congested accumulation of business upon the docket that renders the consideration of that class of cases a practical impossibility, so that to refer them to the courts of the District would be a practical refusal of justice.

Mr. CAMERON, of Wisconsin. Can the Senator from Kansas inform the Senate how many cases are now pending and undetermined on the common-law calendars of the courts in this District?

Mr. INGALLS. Of course I cannot give the Senator any statistics about the calendars of the District courts, and I have not assumed to do so. I have stated to the Senate information that I have derived from reputable practitioners at the bar here. They state to me that the condition of business is such that if a litigant takes an appeal from a justice of the peace to a District court he is sure of at least two years' stay of judgment under the best that can be done. Of course I do not assume to give the number of cases, or the statistics, or the data, for I do not know anything about it, and the Senator would not expect me to do so.

Mr. CAMERON, of Wisconsin. Inasmuch as the Senator had given special attention to this matter, I thought he might have inquired. The Senator has stated, as other Senators have stated, that the calendars of the courts of this District are so overcrowded that if one of these claimants were to bring an action into the supreme court of the District it would be two or three or four or five years before he could reasonably expect a determination of his case in that court. I did not know but that, inasmuch as there was that much information, the Senator had gone further and inquired the number of cases upon the calendar of the court. It seems very strange, as the Senator from Delaware has stated, that a court having five judges cannot dispose of the litigation arising in this District with more celerity than they seem to have disposed of it.

Mr. INGALLS. I have no criticism to make upon the activity of the judges or the abundance of litigation here, but merely state the facts as they have been delivered to me. The Senate Committee on the District of Columbia concurred with the opinion of the House in believing that the Court of Claims is for this reason a tribunal that may properly be vested with at least concurrent jurisdiction of this class of claims. They have not, as we are informed, such an amount of business before them as would prevent them from taking charge of this litigation.

There is another reason why the Court of Claims should be vested with this jurisdiction, and that rests in the fact that in case judgment should be rendered in the local tribunals against the District there is no power in those courts to levy a tax or in any other way to compel payment of the judgment. Therefore a judgment would be entirely nugatory, and if the court should inquire into and render judgment upon these claims the persons entitled to the judgments would be absolutely without remedy. There is no power to enforce the judgments by the levy of a tax, and they would therefore be compelled to come to Congress exactly the same as they are in this bill here.

Mr. HARRIS. If the Senator will allow me, there is yet another reason found in this fact: If a judgment is rendered in the supreme court of the District it will have to be paid in money, when if the party comes in under this bill and obtains judgment in the Court of Claims it will be paid in 3.65 bonds.

Mr. McMILLAN. I should like the Senator from Kansas to take notice of the fact that this bill does compel the judgment creditor to take the payment of his judgment in 3.65 bonds.

Mr. INGALLS. I do not so understand it. My object and purpose is to place the creditors of the District who are provided for in this bill upon exactly the same footing as those that were provided for under the act of 1874; that is to say, to allow them to have their certificates or judgments funded into these bonds, if they see fit to take them; in other words, to authorize the commissioners or the Secretary of the Treasury to exchange these certificates or judgments for the 3.65 bonds if the holders so desire. It is not my purpose to provide, nor do I think the bill is justly open to the interpretation, that in case these judgments are rendered they shall by the operation of the bill itself be payable in 3.65 bonds. It is an attempt on the part of the committee, so far as I understand it, to place these creditors, or the remainder of these creditors, upon exactly the same basis as that occupied by those recognized in the laws of 1874.

Mr. McMILLAN. If the Senator will permit me to read the language of this bill, beginning in line 9 of section 6, it provides:

> Which bonds shall be received by said claimants at par in payment of such judgments.

Mr. MORGAN. Mr. President, I am in a very much better condition to seek information than I am to give advice upon this bill, because I am not exactly familiar with the history of this legislation; but in the course of the debate it has occurred to my mind that there are two classes of claims provided for in this bill, both of them arising under contract, however, in one of which the amount has been adjusted and liquidated, and in the other where the amount has not yet been settled by the proper authority. I will state the question that has occurred to my mind.

We have established a board of audit to take into consideration all the claims heretofore existing arising under contract with the District of Columbia, or at least up to a certain period of time. It seems to me that Congress in the creation of that board of audit has given to a special tribunal a special jurisdiction to ascertain, adjudicate, and determine upon the rights of parties, and that having done so Congress cannot afterward by a prohibition in reference to the issue of certificates in conformity with the judgment of that tribunal deprive the parties of rights that had been fixed by law. It seems to me that that board of audit is as much a court, and so to be regarded, for the establishment of these claims, their verity, their amount, and their binding effect, as if we had sent the claimants before any other tribunal. It was a court of our own selection. We conferred upon it jurisdiction; the parties went there with their claims and the certificates have issued.

Mr. ALLISON. Will the Senator allow me on that point to say that the board of audit consisted of the First and Second Comptrollers of the Treasury, and their auditing was supposed to have the same effect as the ordinary auditing of Government accounts in the Treasury, upon whose certificates these bonds were to be issued?

Mr. MORGAN. Then the effect given to the judgments or adjudications of the board of audit under the statutes of the United States would be that whenever a judgment was certified into any court whatever it would be conclusive of the action of the Department and would stand in the nature of a case finally adjudicated and settled. If that be a correct proposition in reference to the law of the case, then the holders of these certificates have claims against the Government of the United States, or rather against the District of Columbia and ultimately against the Government, which have been adjudicated. I take it that a lawyer would have a good deal of difficulty in preparing a bill in equity or in any other legal procedure by which one of these certificates was to be vacated.

I will suppose now that the District of Columbia become an acter in any litigation whatever for the purpose of vacating one of these certificates. I do not see but that the plea would be a perfect answer to such an action as that, "You have selected the tribunal, conferred the jurisdiction; the tribunal has acted and has given a judgment in my favor; and now if you propose to disturb that you can do it only upon the plea which will bring up the question whether I have perpetrated fraud or falsehood or perjury in the obtension of that certificate." It seems to me it stands in every legal sense upon the ground of adjudication, really upon the ground of judgment, so far as the right is concerned and so far as the ascertainment of the amount of certificates is concerned.

If that be so, then but one duty remains to Congress, and that is to provide the same optional arrangement in regard to these certificates that has heretofore existed in regard to the same class of certificates up to a certain time, the option to receive their pay in a certain description of bonds, in 3.65 bonds, in place of money. I am not sure that any plea of the statute of limitations would lie against one of these certificates in one of the district courts here that would not lie against a judgment. I do not consider that these are open accounts. Certainly they are not. Neither are they merely accounts stated, but they are accounts adjudicated; they are in the nature of judgments. I should think if you were to undertake to plead the bar of the statute of limitations to an action upon one of these certificates to-day you would have to resort to that portion of the statute of limitations applicable to judgments before the bar would be sufficient to prevent a recovery. At all events, I do not consider that it is the duty of the Congress of the United States to compel the holders of these certificates to go into a new litigation as if nothing had been done, for in doing so you cast a reflection on these certificates without any just cause that I know of, which would be equally applicable to every dollar of the certificates upon which bonds have hitherto issued. I have heard of no distinction made, I have heard no case mentioned, I have heard nothing suggested to show why our action in regard to these certificates should be exceptional, and why we should include them in the ban of our reprehension and disapprobation when certificates of precisely the same character and issued by the same tribunal have heretofore been allowed and the bonds issued upon them.

I would suggest to some gentleman of the committee that if there is any difficulty in regard to the actual *bona fide* character of these certificates it is easy to amend by putting in a provision that in the event the commissioners of the District of Columbia shall make objection in writing to the funding of any of these certificates an issue shall be made up and referred to the Court of Claims to ascertain as to the validity of the specific certificate.

Mr. HARRIS. The commissioners recommend the certificates.

Mr. MORGAN. That of course removes the objection. I suppose they never made any objection; they must have looked over the ground and ascertained that these certificates were worthy of being allowed.

Mr. ALLISON. Mr. President, I want to say one word with reference to these certificates in connection with the act of 1876. I remember very well the occasion of that act and the reasons that impelled Congress to pass it. In 1874, when a joint committee of the two Houses undertook to make an adjustment of the affairs of the District of Columbia, it was provided that the valid contracts made by the board of public works might be carried out by the commissioners of the District of Columbia. It was also provided that the system of sewerage, then begun under contract and partly completed, should be conducted to completion. The commissioners of the District of Columbia under that statute construed every contract, I believe, made by the board of public works as a legal, valid, and binding contract. In many of those contracts there were provisions like this, that a certain contractor was to pave a square or two squares in a particular street, which might be extended in the discretion of the board of public works to other streets. In 1876 we found that the District commissioners were constructing pavements in almost every portion of this city under these provisions, and extending these contracts without any limit whatever. That was, perhaps, a wise thing for the District commissioners to do so far as the people of the District of Columbia were concerned, because bonds were being issued for the payment of the amounts due upon those contracts. It required no taxation, no present payment except the interest at the rate of 3.65 per cent. per annum. It was because the commissioners were doing this that Congress cut off the board of audit and cut off the further power to issue 3.65 bonds. We said, "If these pavements are to go on they must be paid for by taxation and by appropriation, and Congress must know from time to time the extent of these expenditures." But it so happened that while these acts were passing through Congress the board of audit was continuing its functions, and was continuing the issuance of certificates, so that when the act came to go into effect it caught a certain number of the certificates in the hands of persons who had not presented them to the sinking-fund commissioner for the purpose of securing bonds.

I thoroughly agree with the Senator from Delaware [Mr. BAYARD] that these certificates of the board of audit, so far as they have been issued, ought to go *pari passu* with the certificates that have been converted into 3.65 bonds. They are just as binding, and no court can go behind them, in my judgment, or ought for a moment to go behind them.

Mr. HARRIS. The Senator will allow me to suggest that when he was absent from the Chamber I believe an amendment was adopted.

Mr. ALLISON. I was aware of that amendment. I was in favor of that amendment; but the statement I think goes still further than this committee proposes to go. Where the board of audit has passed upon these claims, it is just as much an adjudication, in my judgment, as though the Supreme Court of the United States had passed upon these claims, unless there was an appeal. I am afraid that under the language of this bill persons who have not been satisfied with the action of the board of audit can come in and have their claims readjudicated. That is the point I object to, if there is any such power.

Mr. HARRIS. I say it is not possible.

Mr. MCMILLAN. If the Senator from Tennessee will look at the third line of the eighth section, he will see that there is an express provision for it.

Mr. SAULSBURY. Will the Senator allow me to make an inquiry?

Mr. ALLISON. Yes, sir.

Mr. SAULSBURY. I ask whether in the former discussion of this question some years ago statements were not made in debate that many claims which were not proper but were fraudulent claims had been passed upon by the board of audit, and was not that the reason why there was a hesitation in refunding any more of those claims that had been audited?

Mr. ALLISON. I am aware that statements of that kind were made at the time, but I cannot say that that in any sense constituted a reason why the board of audit was deprived of any further exercise of its functions. It was because the board of audit construed the law to authorize them to audit claims and accounts made by the commissioners of the District of Columbia in the extension of the contracts, which Congress did not believe the law authorized them to do; and therefore it was that this authority was cut off.

Mr. HARRIS. On that point will the Senator allow me to read section 8?

Mr. ALLISON. Yes, sir.

Mr. HARRIS. Section 8 provides that—

No claim shall be presented to or considered by the Court of Claims under the provisions of this act which was after a hearing upon its merits rejected by the board of audit.

The Court of Claims will have no jurisdiction of a claim that has been, after a hearing upon its merits, adjudicated by that board, and cannot take jurisdiction of it at all.

Mr. MCMILLAN. If the Senator from Tennessee and the Senator from Iowa will permit me to call their attention to that section, I think they will both discover that where a case was not heard upon its merits it is not embraced in that section.

Mr. HARRIS. That is not pretended.

Mr. MCMILLAN. The bill as it came from the House read thus:

No claim shall be presented to, or considered by, the Court of Claims under the provisions of this act which was rejected by the board of audit.

The Senate committee amended that section by inserting "after a hearing upon its merits" before the word "rejected;" so that the section reads:

No claim shall be presented to, or considered by, the Court of Claims under the provisions of this act which was, after a hearing upon its merits, rejected by the board of audit.

Mr. ALLISON. I only want to say a word or two about this bill, because I do not wish to embarrass its passage, if it is to pass, and I think some bill upon this subject ought to pass. I think there is force in the criticism just made by the Senator from Maine. I think the words "after a hearing upon its merits" ought not to remain in the bill. Where the board of audit have rejected a claim, that ought to be the end of it.

Mr. EATON. It is to be supposed that they heard it upon its merits.

Mr. ALLISON. Yes, and that ought to be the end of it. Now, what did we do by the act of 1874? We provided a board of audit for the purpose of allowing every contractor and every citizen of this District who had a claim against the District to go before that board and have his claim adjudicated. We selected eminent men for that purpose. Having gone before that board of audit, they could either acquiesce in its decision or they could bring suit in the courts of the District of Columbia and have their matters adjudicated. That they have not done.

Mr. HARRIS. Does the Senator from Iowa think that section 8 would be rendered more safe, more satisfactory to him, if the Senate should non-concur in the amendment that has been made in Committee of the Whole as recommended by the Committee on the District of Columbia?

Mr. ALLISON. I think it would.

Mr. HARRIS. I do not think I have any serious objection to non-concurring in that amendment. I am about as well satisfied with the section without that amendment as with it.

Mr. EATON. I hope it will be stricken out.

Mr. ROLLINS. Let the vote be reconsidered and the amendment rejected; and let us dispose of the question.

Mr. SAULSBURY. I think that is a very proper amendment. I had myself prepared an amendment, for I confess I do not want to vote for a bill providing that the claims adjudicated by the board of audit shall be paid, after having heard in the discussion here in 1876 that there had been imposition upon that board and that certificates had been obtained from it upon claims that were not valid. I for one would prefer that all these claims be opened in a court subject to inquiry rather than to have the court precluded from any inquiry into the validity of any of the claims which had been certified to by the board of audit. Hence I have prepared an amendment, which I shall not offer at present, that will suit my views.

Mr. ALLISON. If the Senator will allow me just to finish the remaining remark or two I desired to make upon this bill, then I will allow him to read his amendment.

There is another difficulty that I see in this bill, and that is that the Court of Claims is to have "exclusive, original, legal, and equi-

table jurisdiction of all claims now existing against the District of Columbia." What is to be understood by the two words "equitable jurisdiction?" Here, for example, is a citizen who had a contract with the board of public works for the paving of a street or for building a sewer. That contract on its face provided that he should be paid, if you please, $20 per lineal yard for building a sewer. In 1874 we said to him: "In the adjustment of your account you may go to the Treasury and draw a 3.65 bond for this claim of yours. You are not obliged to do it, but you can go there and draw a 3.65 bond." A great many of the contractors did protest against that at the time. They said: "You are compelling us to take a bond for a claim for which we have contracted to be paid in dollars." Now, will not many of these people come in and say, "These bonds being worth only at the time we had to take them from sixty-five to seventy cents on the dollar, in equity we are entitled to the difference between the market value of the bonds at the time you allowed us to take them and the money dollar which our contracts offered; we were compelled to take them or get nothing, and the money which we were to receive under our contracts ought to be paid to us as a matter of equity?"

Mr. HARRIS. Will the Senator allow me to suggest to him that under this bill the Court of Claims can take jurisdiction of no claim unless the claim is based upon a contract?

Mr. ALLISON. I understand.

Mr. HARRIS. Now is there any contract, can there by implication or otherwise arise a contract that the claimant would be entitled to the difference?

Mr. ALLISON. I do not know.

Mr. HARRIS. I do.

Mr. ALLISON. But what I want the Senator to explain, and I merely make this statement for the purpose of ascertaining the fact, is what there is in these claims that makes it necessary to invoke the equitable jurisdiction of a court. If there are contracts, then contracts can be enforced without going into a court of equity for that purpose. They are legal and binding upon all parties. However I make that criticism more with a view to ascertain what it is proposed to do under this equitable jurisdiction than to say what I think myself can be done under it.

Mr. HARRIS. I did not interfere with that language in the bill, as the member of the committee having it in charge, for the reason that if a party has a claim against the District of Columbia that is just and right in itself, whether that claim is technically a legal claim or technically an equitable claim, it is not the less a just claim; and it is not the less dishonest to withhold the money from the claimant and I am willing to allow it, whether it be legal or equitable.

The PRESIDING OFFICER. Does the Chair understand the Senator from Iowa to withdraw a part of his amendment?

Mr. ALLISON. I withdraw that part of the amendment which strikes out the limitation of $15,000,000 upon the gross amount of bonds, so that my amendment is only to strike out the proviso.

Mr. HARRIS. There is no objection to the amendment of the Senator from Iowa and I hope it will be adopted.

The amendment, as modified, was agreed to.

Mr. SAULSBURY. I do not desire that any of these parties holding any claims against the District of Columbia shall not be paid; but I confess I do not like to vote for this bill if effect is to be given to the certificates, which is conclusive upon the court. I remember in 1876 when this matter was under discussion in the Senate the opinion obtained in this body that the board of audit had been imposed upon and had given certificates to persons for greater amounts than they were entitled to, and it was for that, among other reasons, that the Senate refused to refund any of those certificates in the 3.65 bonds that are now provided to be paid under this bill. Having heard that these certificates are at least tinctured with fraud, not fraud perhaps on the part of the board of audit but on the part of those who obtained the certificates, I do not like to vote for a bill which gives to those certificates such validity that they are not open to inquiry in the court in which they are to be inquired of.

I have prepared an amendment which I have not offered and perhaps will not offer, but which expresses my opinion and which I will read. The amendment is to add to the sixth section:

That the certificates of the board of audit or other certificates mentioned in this section shall not be conclusive of the amount due the holder thereof; but the validity of such claims shall be open to inquiry in the court.

I think that that is a proper amendment. I do not like to interfere with a bill which has been properly under consideration by a committee of this body; but if the suspicion that in 1876 attached to these certificates was well founded, I for one do not like to vote that when the certificates are taken to a court they shall be conclusive as to the amount due to the holders thereof. I do not know whether the committee have had that matter properly brought to their attention; but such were the suspicions, I know, in 1876 in reference to these certificates; that it was partly upon that ground that Congress refused to refund the certificates in 3.65 bonds, which are now outstanding.

I think I shall be compelled to vote against this bill on the ground that it proposes to render valid and conclusive upon the court claims which were under suspicion here in 1876.

Mr. HARRIS. In section 1, line 4, after the word "have," I move to strike out "exclusive;" so as to read:

Shall have original, legal, and equitable jurisdiction.

The amendment was agreed to.

Mr. HARRIS. I move to amend the amendment that was adopted in committee yesterday, by inserting in line 24 of section 1, after the word "four," the words "and prior to the 14th of March, 1876;" so as to read:

And such claims as have arisen out of contracts made by the District commissioners since the passage of the act of June 20, 1874, and prior to 14th of March, 1876.

Mr. ROLLINS. There is no objection to that.

The amendment was agreed to.

Mr. McMILLAN. Was the language stricken out in section 8?

Mr. HARRIS. No, sir; no action has been taken. I suggested that if Senators desired it I had no objection to striking out that language.

Mr. McMILLAN. It is certainly an objectionable feature in the bill.

Mr. ROLLINS. I move a reconsideration of the vote by which the amendment in the eighth section was adopted.

The PRESIDING OFFICER. The question is on the motion of the Senator from New Hampshire, to reconsider the vote by which the words "after a hearing upon its merits" were inserted in section 8.

The motion to reconsider was agreed to.

The PRESIDING OFFICER. The question is, Will the Senate agree to the amendment inserting those words?

Mr. ROLLINS. I hope the amendment will be rejected.

Mr. KERNAN. What is the amendment?

The CHIEF CLERK. In section 8, line 3, before the word "rejected," the committee report to insert "after a hearing upon its merits;" so as to read:

No claim shall be presented to, or considered by, the Court of Claims under the provisions of this act which was after a hearing upon its merits rejected by the board of audit.

The amendment was rejected.

Mr. HARRIS. The Senator from Minnesota suggested an amendment yesterday evening to which I have no objection if he sees proper to insert it, in respect to appeals.

Mr. McMILLAN. I have not the amendment prepared.

Mr. HARRIS. The amendment suggested, which I think wholly unobjectionable, is to strike out, in section 2, line 7, after the word "case," the words "in which the amount in controversy exceeds $5,000." To strike out those words would leave the right of appeal just as it is, regulated by the general law without the limitation of $5,000.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Tennessee.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in.

The PRESIDING OFFICER. The question is, Shall the amendments be engrossed and the bill be read a third time?

Mr. McMILLAN. Mr. President, one of the principal objections that I have to the bill is the transfer of jurisdiction in civil actions arising upon contract from the local courts to the Court of Claims of the United States. The District of Columbia before the law is a municipal corporation and stands as an individual. The citizens of the District are as any other citizens of the United States. The Congress of the United States by the Constitution is invested with the exclusive power of legislating for this District. The court that it establishes is established under the power of government of the District conferred by the Constitution. The courts of the District, then, are provided for the adjudication of all local questions. The Court of Claims is a tribunal of a character altogether different. It is a court established under the Constitution of the United States, and the clause of the Constitution which defines the judicial power of the United States is in these words:

The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish.

Under that provision of the Constitution Congress has seen proper to provide a court into which the nation, the Government of the United States, consents to go and permit herself to be sued by any one of her citizens having a contract out of which any rights arise against the Government. This is an advance step in the progress of the law. Nations do not permit themselves to be sued by their citizens. The old maxim of the law, that the king could do no wrong, prevented the nation from submitting to litigation in any of the courts of the kingdom. Our Government, appreciating to such a high degree the justice existing between the Government and her citizens, has provided a tribunal and thrown open its doors to all her citizens, and invited them to come in and have their wrongs redressed, even against the sovereignty. That jurisdiction is one of a federal character. As between the citizens of States, their rights to sue each other in the courts of the United States are regulated by the statutes, but in the Territories of the United States the citizens must go into their local tribunals; they must have their rights adjudicated under the forms of the common law.

In the courts of the District of Columbia the municipal corporation represents the tax-payers of the District. A judgment against the District must be paid out of the taxes of all the people of the District. The corporation, therefore, in the faithful discharge of its duty to its citizens, must see that its rights are protected. It has a right to invoke all the securities and all the privileges guaranteed to it by the common law. It has those rights in the courts of this District. When a suit is brought against the District in the courts of

the District, it can have every fact in issue found and determined by a jury. So can any citizen bringing a suit in that tribunal. But this bill provides that these citizens may bring a suit in a tribunal of special jurisdiction, one of a different sovereignty, and there be deprived of the right of trial by jury altogether. Article 7 of the amendments to the Constitution provides that—

In suits at common law, where the value in controversy shall exceed $20, the right of trial by jury shall be preserved.

The word stricken out which gave "exclusive" jurisdiction to the Court of Claims has modified the objection to the bill with reference to the question of trial by jury. Perhaps a suitor who has the election of going into the courts of the District of Columbia where the right of trial by jury obtains waives that right by going into the Court of Claims where the trial by jury cannot be had is estopped by that act from saying that he insists upon his right of trial by jury; but when the citizen having that election goes into the Court of Claims and compels the District of Columbia to follow him there and deprives the District of Columbia of the rights which it would have, of a trial of these issues of fact by a jury in the courts of the District, then it is in direct conflict with this amendment of the Constitution.

The District of Columbia has the same right to have these issues of fact in actions at common law passed upon by a jury that a citizen has, and being a defendant and compelled to enter the Court of Claims at the election of a suitor she cannot be construed to waive her rights when she goes into that tribunal; she is there by compulsion; she waives no right, and a jury cannot be summoned in that court and the issue of fact cannot be passed upon by a jury. Yet this bill compels her to submit to a suit in that court if the citizen so elects. She has no opportunity of electing as to waiving this right.

The first section of the bill provides:

That the jurisdiction of the Court of Claims is hereby extended to, and it shall have original, legal, and equitable jurisdiction of all claims now existing against the District of Columbia, arising out of contracts made by the late board of public works, and extensions thereof made by the commissioners of the District of Columbia, and such claims as have arisen out of contracts made by the District commissioners since the passage of the act of June 20, 1874.

The Senator from Iowa has already called attention to the fact that the commissioners of this District were prohibited by law from extending contracts in certain cases. These cases were those in which the commissioners had the jurisdiction to make contracts and to extend them but for the existence of this prohibition by the statute. The act under consideration, by repealing the inhibition upon the commissioners and recognizing the contracts which they have extended since that prohibition was placed upon them, legalizes every extension which they have made whether right or wrong. Whatever may have been the character of the claim, right or wrong, the fact that the commissioners have extended it and this bill recognizes the extension and permits them to bring an action upon that extension, legalizes it and prevents any inquiry into the power of the commissioners to extend such contract, although at the time it was done the act prohibited it; no inquiry can be made into the propriety of those extensions whatever.

With reference to the measurements embraced also in this section, the provision is:

All measurements made by the engineers of said District of work done under contracts made since February 21, 1871, for which no certificates have been issued to and received by the contractor or his assignee.

The certificate of these measurements delivered to the contractors is, by the terms of this bill, made *prima facie* evidence of the correctness of the measurements, so that it changes the burden of proof from the contractor to the District of Columbia. It compels the District to show that these measurements were incorrect rather than permitting the burden of proof to remain where it would, in the absence of such a provision, upon the suitor, because in coming into court relying upon these measurements the suitor would be compelled to aver the correctness of the measurements and, therefore, to prove them, if they were put in issue; but under this bill it will only be necessary for him to produce a memorandum of the measurements, and that will be *prima facie* evidence of their correctness; and, as I understand the fact to be, these measurements were grossly wrong in many instances.

With these remarks I submit the question and am ready for action.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

Mr. McMILLAN. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. KIRKWOOD, (when his name was called.) I am paired on this bill with the Senator from Nebraska, [Mr. PADDOCK.] If he were here, he would vote "yea" and I should vote "nay."

The roll-call having been concluded, the result was announced—yeas 29, nays 13; as follows:

YEAS—29.

Bailey,	Hampton,	Kernan,	Vance,
Bayard,	Harris,	McDonald,	Walker,
Brown,	Hereford,	McPherson,	Wallace,
Butler,	Hill of Georgia,	Maxey,	Williams,
Cockrell,	Ingalls,	Morgan,	Withers.
Eaton,	Johnston,	Pryor,	
Farley,	Jonas,	Rollins,	
Ferry,	Jones of Florida,	Saunders,	

NAYS—13.

Allison,	Call,	Platt,	Windom.
Anthony,	Cameron of Wis.,	Saulsbury,	
Baldwin,	McMillan,	Slater,	
Burnside,	Morrill,	Vest,	

ABSENT—34.

Beck,	Davis of Illinois,	Hoar,	Randolph,
Blaine,	Davis of W. Va.,	Jones of Nevada,	Ransom,
Blair,	Dawes,	Kellogg,	Sharon,
Booth,	Edmunds,	Kirkwood,	Teller,
Bruce,	Garland,	Lamar,	Thurman,
Cameron of Pa.,	Groome,	Logan,	Voorhees,
Carpenter,	Grover,	Paddock,	Whyte.
Coke,	Hamlin,	Pendleton,	
Conkling,	Hill of Colorado,	Plumb,	

So the bill was passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had agreed to the amendments of the Senate to the bill (H. R. No. 4911) to amend the statutes in relation to the immediate transportation of dutiable goods, with amendments in which it requested the concurrence of the Senate.

The message also announced that the House insisted on its disagreement to the amendments of the Senate to the bill (H. R. No. 6036) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1881, and for other purposes; it insisted on its amendment to the seventh amendment of the Senate to said bill disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and had appointed Mr. J. C. S. BLACKBURN of Kentucky, Mr. J. H. BLOUNT of Georgia, and Mr. J. G. CANNON of Illinois, managers at the conference on the part of the House.

The message further announced that the House had passed the following bills:

A bill (S. No. 52) for the relief of John N. Reed;

A bill (S. No. 287) for the relief of the heirs of Charles B. Smith, deceased;

A bill (S. No. 559) donating condemned cannon and field-pieces to William L. Curry Post, No. 18, Grand Army of the Republic, for their place of burial;

A bill (S. No. 715) for the relief of the estate of N. Boyden;

A bill (S. No. 996) for the relief of Monroe Donoho; and

A bill (S. No. 1358) for the payment of certain moneys to the heirs of Constantine Brumidi, deceased.

The message also announced that the House had agreed to the amendments of the Senate to the following bills:

A bill (H. R. No. 2788) to authorize the President to appoint an officer of the Navy or the Marine Corps to perform the duties of solicitor and judge-advocate-general, &c., and to fix the rank and pay of such officer; and

A bill (H. R. No. 5053) granting relief to William Turman, guardian of William W. Brewer.

AMENDMENTS TO BILLS.

Mr. THURMAN and Mr. McPHERSON submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 6266) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes; which were referred to the Committee on Appropriations, and ordered to be printed.

Mr. WALLACE, Mr. RANSOM, Mr. VOORHEES, and Mr. EATON submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and for prior years, and for those certified as due by the accounting officers of the Treasury in accordance with section 4 of the act of June 14, 1878, heretofore paid from permanent appropriations, and for other purposes; which were referred to the Committee on Appropriations, and ordered to be printed.

IMMEDIATE TRANSPORTATION OF DUTIABLE GOODS.

Mr. BECK. Mr. President, I ask the Senate to allow me to call up a bill returned from the House of Representatives for the immediate transportation of dutiable goods. The House concur with all the Senate amendments except that they have added two words, in which I move to concur.

The Senate proceeded to consider the amendments of the House of Representatives to the amendments of the Senate to the bill (H. R. No. 4911) to amend the statutes in relation to immediate transportation of dutiable goods.

The amendments of the House of Representatives were in the twelfth amendment of the Senate, after the word "Wilmington," to insert "and Seaford," and after "Delaware" to insert "Salem, Massachusetts."

The amendments were concurred in.

UNITED STATES COURT AT CHATTANOOGA.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the bill (H. R. No. 698) to establish a district and circuit court at Chattanooga, Tennessee, which was to insert as a new section:

SEC. 9. That each of said courts shall be held in a building to be provided for that purpose by the State or municipal authorities, and without expense to the United States.

Mr. HARRIS. That is the only amendment, and I desire that the Senate shall concur in it. It merely requires that the building shall be furnished to the United States free of expense.

The amendment was concured in.

SENATOR FROM LOUISIANA.

Mr. SAULSBURY. I desire now to call up the resolutions reported by the Committee on Privileges and Elections relating to the seat of the Senator from Louisiana, [Mr. KELLOGG,] which were laid aside some ten days ago. After they are taken up I will, if the Senate desires to go on with formal business, yield. I desire to have the resolutions before the Senate as the regular order.

The PRESIDING OFFICER. The Senator from Delaware moves that the Senate proceed to the consideration of the resolutions touching the seat of Senator KELLOGG, of Louisiana.

Mr. ALLISON. Before that motion is put I should like to ask the Senator from Delaware when it is his intention to press a vote upon this question?

Mr. SAULSBURY. I do not intend to press a vote until the return of Mr. KELLOGG.

Mr. ALLISON. Then I have no objection to the motion.

Mr. KERNAN. Mr. President——

Mr. MAXEY. I would ask the Senator from New York——

Mr. KERNAN. Allow me a moment. Are the resolutions before the Senate?

The PRESIDING OFFICER. They are not. The question is on the motion of the Senator from Delaware, to take up the resolutions.

The motion was agreed to.

The PRESIDING OFFICER. The resolutions are before the Senate.

Mr. KERNAN. Mr. President——

Mr. MAXEY. May I ask the Senator from New York——

Mr. KERNAN. Being entitled to the floor I am willing to yield for to-day if the regular order will not lose its place by an adjournment to Monday. The Senator from Delaware [Mr. BAYARD] wants to go away in a few moments, and he has a short bill to which I will yield before yielding to the Senator from Texas.

The PRESIDING OFFICER. Is there objection to the understanding that the Kellogg resolutions shall not be prejudiced by an adjournment? The Chair hears none, and that is the understanding.

Mr. BAYARD. The Senator from Texas has a measure that I understand will lead to no debate. If so, I do not desire to antagonize it.

CREEK ORPHAN FUND.

Mr. MAXEY. I ask that Senate bill No. 451, order of business 634, be taken up and put on its passage, and I will state to the Senate that owing to a very severe drought in that country these people are, many of them, in actual want; hence the reason why I press it. I leave the case in the hands of the Senator from Oregon, [Mr. SLATER,] who reported the bill with a written report.

The PRESIDING OFFICER. The bill will be read for information.

The Chief Clerk read the bill (S. No. 451) to reimburse the Creek orphan fund.

The PRESIDING OFFICER. Will the Senate consider this bill at this time? The Chair hears no objection, and the bill is before the Senate as in Committee of the Whole.

The bill was reported from the Committee on Indian Affairs with amendments.

The first amendment was, in line 4 of section 1, after the word "cents," to insert "with 5 per cent. interest on $176,755.97 from April 6, 1872;" so as to make the clause read:

That the sum of $251,055.97, with 5 per cent. interest on $176,755.97 from April 6, 1872, be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, &c.

The amendment was agreed to.

The next amendment was to strike out, in lines 16 and 17, the words "or invested in registered bonds of the United States for their benefit, and the interest paid to them annually;" so as to make the proviso read:

Provided, Said sum shall, in the discretion of the President, be paid to the Creek orphans and their heirs under the direction of the Secretary of the Interior.

The amendment was agreed to.

The next amendment was, in line 18, after the words "provided further," to strike out "in case of payment;" and, in line 24, after the word "orphans," to insert "and their heirs;" so as to make the proviso read:

Provided further, It shall be the duty of the Secretary of the Interior to ascertain who are entitled under the aforesaid treaty of March 24, 1832, and the provisions of this act, to receive the money hereby appropriated; and it shall be his duty to see that said moneys shall be paid to the actual beneficiaries under said law, the orphans and their heirs, to the exclusion of all claims by attorneys for fees, except such reasonable attorneys' fees as shall be approved by the Secretary of the Interior after the passage of this act.

The amendment was agreed to.

The next amendment was, in line 29, after the word "fund," to strike out "except such as are not non-paying stocks;" so as to make the proviso read:

Provided further, That all bonds heretofore purchased with moneys belonging to this fund shall be the property of the United States.

The amendment was agreed to.

The next amendment was to add to the bill:

Provided further, That the Secretary of the Interior is hereby authorized and instructed to charge the sum of $69,956.68, used for general purposes of the Creek Nation, against the general fund of said nation, and said sum shall be retained by the Secretary of the Interior in such installments as shall not seriously embarrass the object of the annual appropriations for the support and necessities of the Creek Nation.

The amendment was agreed to.

Mr. COCKRELL. This bill appropriates the sum of $251,055.97 "for the purpose of reimbursing the Creek orphan fund, which sum has been diverted from the said fund and is due to the Creek orphans and their heirs, under the treaty of March 24, 1832." I should like some explanation of it.

Mr. SLATER. I call for the reading of the report.

The PRESIDING OFFICER. The report will be read.

The Chief Clerk read the following report, submitted by Mr. SLATER May 13, 1880:

The Committee on Indian Affairs, to whom was referred the bill to reimburse the Creek orphan fund, have had the same under consideration, and make the following report:

This claim is based on the second article of the treaty of March 24, 1832, which provides—

"And twenty sections shall be selected, under the direction of the President of the United States, for the orphan children of the Creeks, and divided and retained or sold for their benefit, as the President may direct," &c.

The President directed this land to be sold under the provisions of the act of March 3, 1837, (5 Stat., 186,) and the proceeds, $108,713.82, were invested in stocks. The President, under the third section of said act, ordered two payments made to the Creek orphans, to wit, August 26, 1868, $106,534.12, and July 1, 1870, $24,291.63. No other payments have ever been made to the orphans except on account of interest.

There was expended out of this trust fund, and without the consent of the orphans and without warrant of law, the following sums: $69,956.29 and $106,799.68. There was invested, in violation of law, $74,300 in non-interest-bearing State stocks. These three items, amounting to $251,055.97, constitute the claim of the Creek orphans.

On the 5th of April, Hon. F. A. Walker, Commissioner of Indian Affairs, addressed a communication to Hon. C. Delano, Secretary of the Interior, in which he said:

"The Assistant Attorney-General (W. H. Smith) decides, and the Department rules accordingly, that the Creek orphan fund is entitled to be reimbursed in the following amounts:

"1. By value of certain depreciated bonds, purchased in contravention of law, with money belonging to said fund, as follows (Tennessee bonds, $20,000; Virginia, $3,500, $9,000, and $41,800)—$74,300.

"2. By the sum of $68,956.29, taken without authority of law from said fund and applied to the general purposes of the Creek Nation.

"3. By the sum of $106,799.68, taken without authority of law from said fund and applied to the support of loyal refugees of the Creek Nation.

"The said Creek orphan fund is thus, in the opinion of the Assistant Attorney-General and by the decision of the Department, entitled to be reimbursed in an aggregate amount of $251,055.97."

On April 6, 1872, Hon. B. R. Cowen, Acting Secretary of the Interior, submitted to the Speaker of the House of Representatives the following estimate:

"Estimate of appropriation required to restore to the Creek orphans of 1832 certain funds to which they are entitled under the provisions of the treaty with the Creek Nation of March 24, 1832, but illegally invested in stocks or diverted to other purposes:

For this amount, to restore to the Creek orphans the par value of certain stocks now held in trust by the United States for said orphans, provided that said stocks shall become the property of the United States	$74,300 00
For this amount, to restore to the Creek orphans the amount taken from their fund and used for the support of the loyal refugees of the Creek people during the late rebellion	106,799 68
For this amount, to restore to the Creek orphans the amount taken from their fund and used for general purposes of the tribe	69,956 29
Total	251,055 97

The opinion of Assistant Attorney-General W. H. Smith, dated March 15, 1872, and which opinion was approved by Hon. C. Delano, Secretary of the Interior, March 30, 1872, says:

"My conclusion is that this orphan fund was not released, and that the same is a subsisting legal liability against the United States to its full amount, diminished only by the two payments that have been made to the orphans."

On May 18, 1878, Hon. Carl Schurz, Secretary of the Interior, submitted this matter to Hon. Charles Devens, Attorney-General, who gave, on June 6, 1878, an elaborate opinion, sustaining the right of the Creek orphans to reimbursement, as shown by the following extracts:

"The accrued interest of the Creek orphan fund, arising from investments made in interest-bearing stocks, was drawn out of the Treasury by the Indian Bureau in the same manner as interest on trust funds is generally drawn. But the act of the bureau in devoting it to the benefit of loyal refugees of this tribe was a diversion of the fund not authorized by the original intention of the treaty, the act providing for the creation of the same, nor by the subsequent legislation during the rebellion."

Again:

"The diversion of this fund to the amount of $176,755.97 by the Indian Bureau, between 1862 and 1865, to the benefit of the loyal refugees of the Creek Nation, was one that has not been ratified by the Creek Nation by its subsequent treaties."

As to the investment in State stocks, the Attorney-General decides:

"While the original investment was authorized by the act of March 3, 1837, there was an actual investment made after the act of September 11, 1841, out of funds arising from a sale of stocks of the State of Alabama. By this action an error was undoubtedly made by the President in investing in stocks which the law at that time prohibited an investment in. It is to be observed that the act requiring an investment in United States stocks of this trust fund is not a portion of the treaty, nor was it in existence at the time of the treaty, but is a rule laid down for the conduct of the trustee of this fund, in order that the provisions of the treaty might be properly carried out. In answer to your inquiry, I am therefore of opinion that in making the investment of the proceeds of the sale of Indian lands (which sales were provided for by treaty stipulations) the President was required by the provisions of the second section of act of September 11, 1841, to make all such investments from and after that date in United States stocks, bearing interest at not less than 5 per cent. per annum. There is, however, no mode in which this error can now be remedied by the Department of the Interior, and it will be for Congress to consider whether it is just that the loss, which has been occasioned by this mistake in investing the funds, should be one which should fall upon the

United States, or whether it is the duty of the United States to restore to the Creek orphan fund the value of the property thus invested."

In this same connection the opinion of the Assistant Attorney-General says:

"It seems to me that the loss should fall upon the United States, and not upon its wards."

As to the question of interest the committee, after careful and thorough consideration, report in favor of allowing interest on $176,755.97 from the date of the decision of the Department of the Interior, April 6, 1872, that the Creek orphans were entitled to the sum of $251,055.97, "illegally invested in stocks or diverted to other purposes." The United States has recognized its liability to pay 5 per cent. interest on a part of this sum, to wit, $74,300, and regularly appropriates the interest every year and pays the same to the Creek orphans, and the same principle requires that 5 per cent. interest should be paid on the balance of said amount. The United States, as a trustee, laid down the rule for its own conduct, as follows, act September 11, 1841:

"All funds held in trust by the United States, and the annual interest accruing thereon, when not otherwise required by treaty, shall be invested in stocks of the United States bearing a rate of interest not less than 5 per cent. per annum." (See Revised Statutes, 3659.)

The United States, under this rule, did invest and reinvest the principal and the annual accruing interest up to the time of these illegal diversions, and had not these diversions occurred the trustee would have continued to comply with the rule beyond any doubt. "The trustee misapprehended his powers and invested in stocks which the law prohibited him from investing in, and a loss has resulted therefrom. It seems to me that the loss should fall upon the United States, and not upon its wards," says the Assistant Attorney-General. The loss has been made good as to interest in the case of the illegal investment in non-interest-bearing State stocks, and should be made good in the other case of illegal diversions of this orphan trust fund. The error of the United States caused the loss to these orphan wards, and the trust fund should be reimbursed according to the rule established by the trustee himself.

We recommend the passage of the bill with the following amendment: Insert in line 4, between the words "be, and," these words, to wit, "with 5 per cent. interest on $176,755.97 from April 6, 1872."

Mr. ANTHONY. I did not listen to the reading of the report as attentively as I should have done, but I should like to inquire by whom was this wrong investment made in non-interest-bearing State stocks.

Mr. SLATER. It is shown by the report along about 1840, I think—I do not remember under what administration; it was in 1840 or 1841.

Mr. McDONALD. I desire to make inquiry if the amendment suggested by the report has been made to the bill.

The PRESIDING OFFICER. The bill is open to amendment.

Mr. McDONALD. I should like to inquire if there is any fund of the Creek Nation that this can be refunded from.

Mr. SLATER. I understand that there is, and the bill provides for reimbursing $69,000 to the United States.

Mr. McDONALD. The $166,799.68 seems to have been paid for the support of the loyal refugees of the Creek Indians during the rebellion. Why is that to be charged to the United States?

Mr. SLATER. Because that fund does not belong to the Creek Nation, and was not considered by the committee or by the Department as proper to be reimbursed by the nation. The arrangement as to the $69,000 is recommended by the Department.

Mr. McDONALD. When was that fund diverted to the support of the loyal Creeks?

Mr. SLATER. That was at the close of the rebellion, August 26, 1868.

Mr. ANTHONY. I understand that the improper investment of the fund was made under the act of 1841, not in 1841.

Mr. McDONALD. In part only, as I understand.

Mr. ANTHONY. I should like to know at what time it was made and by what authority, and in what non-interest-bearing stocks the investment was made.

Mr. SLATER. The report shows that:

The President, under the third section of said act, ordered two payments made to the Creek orphans, to wit, August 26, 1868, $106,534.12, and July 1, 1870, $24,291.63.

These are the amounts which have been paid out. The state of the investment in State securities is not given.

Mr. ALLISON. I should think, without knowing exactly when that investment was made, that it was about 1855. There were a great many investments made about that time. I find of this Creek orphan fund of $76,000 provided for there is invested $20,000 in bonds of the State of Tennessee; $3,500 in bonds of the State of Virginia, Richmond and Danville Railroad; $9,000 State of Virginia, Chesapeake and Ohio Canal. Then there was invested $2,693.66 in the funded loan of 1881 United States bonds; and in State of Virginia registered certificates $41,800. Thus, with the exception of $2,693.66, the whole of this investment is non-interest-bearing and practically worthless at present.

Mr. ANTHONY. Has the Government paid the interest upon the defaulted bonds?

Mr. ALLISON. Yes, sir; to the orphans, regularly.

Mr. ANTHONY. Did not the Creeks by going into the rebellion forfeit their rights?

Mr. ALLISON. That is a very great question. A portion of the Creeks went into the rebellion and another portion of them were obliged to flee from their homes and take refuge in Kansas, and did. In 1866, after the close of the war, we made treaties with the five civilized tribes in the Indian Territory, in which we substantially restored them to their rights under the treaties as they stood prior to the rebellion; so that it is a very grave question whether they forfeited anything by means of their going into the rebellion. Let me read the twelfth article of the treaty with the Creeks of June 14, 1866:

ARTICLE XII.

The United States reaffirms and reassumes all obligations of treaty stipulations with the Creek Nation entered into before the treaty of said Creek Nation with the so-called Confederate States, July 10, 1861, not inconsistent herewith; and further agrees to renew all payments of annuities accruing by force of said treaty stipulations from and after the close of the present fiscal year, June 30, 1866, except as is provided in article 11.

Mr. ANTHONY. It seems to me with my very little knowledge on the subject that a portion of the Creeks went into the rebellion and forfeited their treaty rights, and the money due to the whole of the nation was paid to the loyal portion of the tribe, and this bill seeks to return to the rebel Creeks what we have given to the loyal Creeks.

Mr. ALLISON. No; this bill, as I understand it, proposes to reimburse what is known as the Creek orphan fund, which was diverted, at least so declared by the Attorney-General in his opinion, from the purpose provided for in the treaty and used by loyal refugees of the Creek Nation.

Mr. ANTHONY. Was not that a legal diversion?

Mr. ALLISON. The Attorney-General says it was not, and we certainly had no right, having a trust fund for a specific purpose, as a trustee to use that fund for another and different purpose. That is all there is in this case.

Mr. McDONALD. That may be true; but still if the Creek Nation have a general fund that we are paying them the interest on annually, why should the orphan fund be reimbursed by the United States for moneys expended for the benefit of the Creek Nation?

Mr. ALLISON. As I understand this bill—the Senator from Oregon [Mr. SLATER] can speak of it better than I can—so far as the diversion to the Creek Nation is concerned we provide that it shall come out of the funds of the Creek Nation, the general funds of which there is a considerable sum.

Mr. McDONALD. For the general purposes of the tribe; but the $106,799.68 used for the support of the loyal Creeks is to be paid by the United States out of the Treasury of the United States.

Mr. SLATER. As I understand this bill the provision is this: at the time of the treaty there was a tract of land set apart for the so-called orphans of the Six Nations. Part of this land was sold and the proceeds reinvested as a trust fund for the orphans. The amount being invested, the accumulations were also to be reinvested, until the fund came to a very considerable sum. Afterward, some time perhaps between 1850 and 1860, a portion of that fund was invested in a class of securities not contemplated by the trust, that were non-interest-bearing, and it is held by the Department of the Interior and also by the Attorney-General to have been an improper investment of this fund, and therefore the trustee should make good to the ward this fund.

Another portion of the fund was diverted and paid, not to the orphans of the Creek Nation, but to the loyal refugees, which the Government of the United States had no right to do as trustee. These diversions, under the interpretations of the Secretary of the Interior and also the opinion of the Attorney-General, should be made good by the United States to the orphans or their heirs. These two funds provided for in the bill amount, one to $176,755.97 and the other to $69,956.68.

Mr. DAWES. What has become of the fund into which the $106,000 were invested which were not proper interest-bearing funds?

Mr. SLATER. They are in the hands of the Secretary of the Treasury, and the bill provides they shall become the property of the United States.

Mr. DAWES. Are they of any value?

Mr. SLATER. I understand that some of them are valuable now.

Mr. McDONALD. I can understand why the trustee should be held liable for the loss arising from the improvident investment of these funds in the securities referred to if they have depreciated or become worthless, but I do not just see yet why the United States Treasury should be burdened with the money that was paid out for the support of the loyal refugees of the Creek Nation.

Mr. SLATER. The refugees of the Creek Nation were not the Creek orphans, and the Government had no right to take a fund belonging to individuals of that nation and disburse it for the benefit of a portion of the nation or tribe; and hence it is that although it was expended for the benefit of the loyal Creeks, the Government of the United States should reimburse the Creek orphans, reserving to itself the right to recoup out of the general fund of the Creeks as much as was thus disbursed.

Mr. McDONALD. That was disbursed for the general purposes of the tribe, but not that which was disbursed for the support of the refugees. Now, why not indemnify itself also for that? The statement in this report is:

The diversion of this fund to the amount of $176,755.97 by the Indian Bureau, between 1862 and 1865, to the benefit of the loyal refugees of the Creek Nation, was one that has not been ratified by the Creek Nation by its subsequent treaties.

That is all. It has not ratified it, but in the restoration of this orphan fund why should the United States make good their disbursements that were made on account of a portion of the tribe?

Mr. MAXEY. I think I can make the point which the Senator from Indiana raises quite clear. This fund does not belong to the Creek Nation; it is not a fund of the Creek Nation; it is a fund belonging to individuals of the Creek Nation, and who were known under the treaty of 1832 as orphans, and this was called the Creek orphan fund, a fund belonging to a specific part only of the Creek Nation. During the war the United States diverted the use of something over $69,000 of that money belonging to this particular portion of the Creek Nation to the use of all the nation. It was a diversion of a trust fund

held not for the Creek Nation, but for a part of the Creek Nation. That question was submitted by the Secretary of the Interior to Attorney-General Devens, who says:

The accrued interest of the Creek orphan fund, arising from investments made in interest-bearing stocks, was drawn out of the Treasury by the Indian Bureau in the same manner as interest on trust funds is generally drawn. But the act of the bureau in devoting it to the benefit of loyal refugees of this tribe was a diversion of the fund not authorized by the original intention of the treaty, the act providing for the creation of the same, nor by the subsequent legislation during the rebellion.

It was a special fund belonging to a part of the Creek people. The Government had no right to divert that special fund to the use of the Creeks generally; but it having done so, now what course is to be pursued? The bill provides that the entire Creek Nation shall restore to the Creek orphan fund this sixty-nine thousand dollars and odd, and the United States being the trustee, holding the funds of the Creek Nation in hand, the United States pays this Creek orphan fund that much, and then the bill provides that it shall retain out of the general fund of the Creek Nation that $69,000 to reimburse the United States. That seems to me to be clear.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

NIGHT INSPECTORS OF CUSTOMS.

Mr. BAYARD. I ask the Senate to proceed to consider order of business No. 544, being the bill (H. R. No. 2508) to regulate the compensation of night inspectors of customs.

Mr. COCKRELL. Is there a report?

The PRESIDING OFFICER. There is no report of the committee. Is there objection to the consideration of the bill?

Mr. BECK. I object to the consideration of the bill.

Mr. BAYARD. I move to take up the bill for consideration.

The PRESIDING OFFICER. The Senator from Delaware moves to proceed to the consideration of the bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. BAYARD. I will merely say before the Senator from Kentucky states his objection to the bill, that the Senate may comprehend precisely what is intended by it, that section 2733 of the Revised Statutes provides:

Each inspector shall receive, for every day he shall be actually employed in aid of the customs, $3; and for every other person that the collector may find it necessary and expedient to employ, as occasional inspector, or in any other way in aid of the revenue, a like sum, while actually so employed, not exceeding $3 for every day so employed.

By section 2737, it is provided:

The Secretary of the Treasury may increase the compensation of inspectors of customs in such ports as he may think it advisable so to do, and may designate, by adding to the present compensation of such officers a sum not exceeding $1 per day.

Section 2733 was originally enacted in 1799, and amended in 1816 by providing for the appointment of occasional inspectors. In 1878 the pay of night inspectors was reduced from $3 per day to $2.50, and the whole scope and effect of the present bill is to allow the pay of night inspectors to be increased from $2.50 to $3. That is the beginning and that is the end of it. The bill before us is a House bill. It has been reported to the Senate favorably by a majority of the Finance Committee.

The reason why this pay was thought proper to be increased was not so much on account of the labor involved as it was the responsibility of the occupation. These men are not simple watchmen over an ordinary property; but the public revenues to a very large amount depend upon their fidelity. Therefore we should consider them not simply as men who will keep awake, but as men of character when awake, who will be faithful in the execution of their important duties.

This is the recommendation that comes from the House. The Senator from Pennsylvania [Mr. WALLACE] who reported the bill and has it in charge was also possessed of a large body of petitions showing why this increase from $2.50 to $3 should be made. It was the judgment of the committee that the bill ought to pass.

Mr. WITHERS. Before the Senator sits down I should like to inquire whether he is in possession of information as to whether there is any difficulty in securing the services of competent and reliable men at the present rate of compensation.

Mr. BAYARD. I cannot answer as to that, not being one of those who have had the employment or selection; but there was a very large presentation of recommendations and numerous petitions——

Mr. WITHERS. By persons other than those interested?

Mr. BAYARD. I would rather that the Senator from Pennsylvania should answer that, because he is more familiar with the subject. I do not know the *personnel* of the service. I know that this has been recommended by members of Congress, and by members of the Senate. It passed the House I believe without objection, and it has the approval of a great many persons who are not of the class to be appointed.

Mr. BECK. The bill was called up unexpectedly to me. There are communications in the room of the Committee on Finance, which I have asked the clerk to bring me, and he is now on his way to endeavor to get them. My information is that the Secretary of the Treasury himself does not ask or demand that the pay of these men should be increased all over the country to $3 a day. If I am right—and I speak in the absence of the papers I have sent for—at some of the ports he thought it would be well for him to have the authority to pay them that amount. The law of 1878 fixes their pay at $2.50 a day. That is as much or more than any of the watchmen or inspectors in three-fourths of the towns of the United States are paid for their services. It was believed to be enough for the payment of these men. Now, the effort is to increase the pay from $2.50 up to $3 all over the United States, at large ports and small ports, regardless according to my recollection of the recommendation of the Secretary, and I may almost say adverse to it.

Efforts have been made to increase the pay of men all over the country. It was said some years ago when the greenbacks were the money that officials had to take then that they were a dishonest money. We have got back to gold now. The money of this country is equal to the money of any other country in the world, and the assumption is that it will purchase as much as the money of any other people. If there ever was a time when we ought not to be increasing salaries, now seems to me to be the time. We are here proposing to increase the pay of all the night inspectors at one hundred and thirty-five custom-houses in the United States, when the present cost of collecting the revenue at one hundred and twenty-nine of those hundred and thirty-five ports is over 20 per cent. of the amount collected, and the official documents show it. And yet, while that is the present cost, now when our money is as good as money can be made, better than it was when Congress, two years ago, fixed $2.50 as a reasonable compensation, we are required because these men have been able to get petitions signed, against the will of the Secretary and against the recommendation of the Secretary, at every port in the United States, at the whole one hundred and thirty-five, to increase the pay from $2.50 to $3 a day.

Mr. BAYARD. These are night inspectors.

Mr. BECK. Three dollars a night; and we are called on to do this, when men are willing to serve and ready to serve at ninety-nine out of every hundred of these ports for $2.50, and glad to get it. I said in committee, and I repeat the remark in the Senate and before the country as an issue, that if the democratic party in the face of all these facts, against the recommendation of the Secretary, at all the small ports of the country, vote to increase the pay of the republican employés in the view of a coming election from $2.50 to $3 a day, then the campaign fund will be largely increased, and I suppose it ought to be.

I am annoyed at it! Our money has been made good, and everybody said we could get more for the same amount when it was made good and men could afford to work cheaper because it was honest money. And yet the democratic Finance Committee comes here under all these circumstances and insists upon increasing the pay of republican employés from $2.50 a day to $3 a day at one hundred and thirty-five ports, at one hundred and twenty-nine of which the cost to-day of collecting the revenue is over 20 per cent. of the amount received, in order to add to the campaign fund of the republican party. If I was a republican I would vote for it and make these men pay 20 per cent. of the increase to the campaign fund, if I had the ways that the republicans seem to have of coercing money out of the Federal officials, and I suppose it will be done. My voice is powerless as against the Finance Committee and the leading men of it, but I want the yeas and nays called so that I can record my vote against the bill.

I cannot find the papers. The clerk says there are none in the committee-room. I do not know where they are. They were read in committee. But my recollection is, and I think the Senator from Pennsylvania [Mr. WALLACE] will bear me out—but I do not see him in his seat—that this wholesale increase over the law of 1878 is not recommended by the Department. There is no sort of reason for it except a desire which is laid before us every day to increase pay. On the sundry civil bill we have had for the last three days and nights efforts to induce us to increase the pay of paymasters' clerks, policemen, watchmen, everybody, backed by highly respectable petitions; and if that is to be a reason for increasing pay, we should be increasing it every day and every hour and we should be adding thousands and hundreds of thousands of dollars to every bill that comes before the Appropriations Committee. I have opposed it in committee and I have opposed it in the Senate because it is unnecessary, not demanded, because the cost of the collection of the revenue to-day is too high.

While there may be one or two cities where the expenses of living are very great, and it may be somewhat of a hardship upon these men there to serve for $2.50 a day, yet in over one hundred and twenty of the one hundred and thirty-five custom-houses where this increase is demanded the pay is not only ample but men are clamoring and seeking for and begging for and glad to get these positions at $75 a month. Still I do not expect to be able to halt it or even delay it.

Perhaps at San Francisco, where it costs so much to live, there ought to be some increase, and perhaps at New York. There ought to be some discretion given to the Secretary in these ports. But this bill increases from $75 to $90 a month all the hordes of men who are called night inspectors at all the one hundred and thirty-five ports of the country. It seems to me to be a monstrous proposition for us to go into now.

Mr. BAYARD. I would merely say that it never occurred to my mind, and I hope it never will occur to my mind when I come to legislate in regard to the compensation of a public officer, whether he is a democrat or whether he is a republican. That is one fact.

Another fact is that I do not propose to time my votes and make them one way in the face of an election and one way after the election is over. I propose to legislate here according to that which I think right and just both as to men and to time. If I make a mistake, I only hope I shall have the credit of having intended what was right by those in regard to whom I vote.

Mr. BECK. I did not intend to impugn the virtue of the Senator from Delaware. I believe he intends to do exactly what he proposes; but at the same time I insist that when a democratic Congress in 1878 fixed this price at $2.50 a day and when men have been obtained all the time without any sort of difficulty and when they are clamoring to obtain the places, now when the money in which they are paid is better than it was then, it is a remarkable exhibit in the face of the Secretary's recommendation for a democratic committee to raise the pay of Federal officials just before an election and in the face of the known demands made upon these people.

Mr. DAWES. Mr. President, I had not seen the communication of the Secretary of the Treasury, but I think the Senator from Kentucky has fallen into this error: The day inspectors have a compensation fixed by law at $3 a day with authority in the Secretary to increase it to $4 if in his judgment it is necessary. The night inspectors have now a compensation of $2.50 without any authority in the Secretary to increase it under any circumstances or at any particular port. My impression is that the Secretary's letter covers the day inspectors and not the night inspectors. If the Senator has it, or if the Senator's recollection is clear upon it, of course I will not put mine against his.

Mr. BECK. I desire to say that I have not the letter; but the Senator from Pennsylvania I think had it, and he can state what it was.

Mr. WALLACE. I wrote to the Secretary of the Treasury for information in regard to this bill, it having been referred to me as a sub-committee, and he replied. Of course I sent a copy of the bill to him. His reply in substance was against the bill, saying that it was unwise to raise the compensation all over the country, that the rate fixed in the bill would make large compensation at one port and perhaps not too much at another, but that it would be better to leave it to the discretion of the Secretary. That was the substance of the letter.

Mr. DAWES. The last remark of the Senator shows just what I supposed was the fact. There is no discretion in the Secretary in regard to night inspectors; but there is in relation to the day inspectors; and there is a bill pending in reference to increasing the pay of the day inspectors; and I happen to know that the opinion of the Secretary in reference to the day inspectors is that it had better be left to his discretion at certain ports to increase. I know that in the port of New York he has increased the pay of the day inspectors to $4 a day. But in reference to the night inspectors, unless the Senator is clear, I am still of opinion, both from what has fallen from the Senator and from my own conference with the Secretary, that his opinion is different. Still I do not assert it against the recollection of those two Senators.

Previous to this law of 1878 the compensation was $3, with the discretion in the Secretary to increase that to a sum not exceeding $4, in his judgment. When Congress reduced it in 1878 as to the night inspectors that discretion was not left with the Secretary, so that night inspectors are brought down at all the ports, without any discretion in the Secretary, to $2.50. The day inspectors are $3, with the discretion in the Secretary to make it up to $4; and in point of fact, in the port of New York and one or two other ports, he does allow the day inspectors $4; the others he allows $3. But the night inspectors at all ports are cut down to $2.50 without any discretion in the Secretary.

Now, to look at it for a moment, it would seem that the duty and responsibility of a night inspector are greater than those of a day inspector. Then, too, the danger to which he is exposed from temptation and from assault and from thieves in the night-time and from exposure to the weather at all the ports must be in the nature of the case greater than in the case of a day inspector. At some of the ports, like the port of New York and the port of San Francisco and perhaps the port of Boston, (though of course not to such a degree as at the port of New York,) the labor and the duty and the exposure of a night inspector are a great deal more than those of a day inspector. At the port of San Francisco, where he comes in contact with the Chinamen much more in the night-time, I am told, than in the day-time, the complaint has come much more than from any other port. But from the nature of the case he ought to have a fair compensation; and if it were left in the discretion of the Secretary, as it is in reference to the day inspector, there would be no occasion for legislation, because the Secretary would see to it that within the limits that exist as to day inspectors he would make distinctions and discriminations among the different inspectors at the different ports according to the nature of their service and their responsibility.

Surely you ought to pay enough to secure proper men, either democrats or republicans. I would not use those words if the Senator from Kentucky had not brought them in. I do not care who they are. I have had something to do with trying to regulate the collection of customs duties with the Senator from Kentucky, and he will not charge me with any desire to feed out of the public Treasury republican officials in this country; nor do I charge him with any attempt to do toward a republican what he would not do toward a democrat. That is not what I am here for, and I cannot believe that is what he is here for. Let the Senator from Kentucky look at it as a reasonable man. We want proper men to do this work in the night-time; twelve hours daily in the night-time are required in the large cities. And is it enough to say that there can be men found willing to take the place? So there would be for half that sum; but would the Government be willing to trust them with its revenue?

Mr. BECK. I desire to ask the Senator from Massachusetts to observe the language of the law now proposed to be passed. It increases from $2.50 to $3 a night this pay not only at New York, Boston, Philadelphia, and San Francisco, but at all the little ports of the country where a ship does not land once a month, and where if she does the law provides that she shall not be unloaded between sundown and sunrise. And yet we are to pay $3 a day, and the Secretary is not allowed a discretion. It is against that I protest, and it is against that the Secretary protests; but for that the bill provides.

Mr. DAWES. How many of these night inspectors are at these little custom-houses compared with the number of night inspectors that it is necessary to employ in the great port of New York, where seven-eighths of all the revenue of the country is collected? You do not have any night inspector at these little bits of ports; it is not necessary to have one at a great many of these ports where all that is necessary is to prevent smuggling. If the statute of 1878 had left the discretion with the Secretary, there would perhaps have been no occasion for legislation now; but it has left no discretion. Every inspector, no matter what his duties or where he is, has to serve twelve hours of the day for $2.50. That is not a reasonable compensation.

Mr. KERNAN. I wish to say a word in reference to this bill. It came from the House in the form in which it is, was sent to the Finance Committee, and I tell no secret when I say that it was reported adversely. Thereupon we were called on by members from New York City, by men who had come from California, representing that this $3 a day, certainly for San Francisco and New York, was not overpaying an intelligent man that watched all the night the valuable property that was there, and who was exposed, as the Senator from Massachusetts has said, to all weather, often open to assaults, and who runs the risk of being attacked. Thereupon a man from each party in New York, Mr. COX of the one side, Mr. MORTON of the other, came to me personally, asked us to have the bill referred back and reconsidered. It was so referred back and was reconsidered and reported as it now is by the majority of the committee.

I have no objection, I would rather prefer to have it left in the discretion of the Secretary that he may pay, as I trust he would, in a place as expensive to live as New York and other cities, the $3 a day. I do not think it is overpaying a faithful, intelligent man there $3 a day for watching, guarding, and protecting the valuable goods that come in there. In my judgment, any intelligent, respectable man who has a family to support in the city of New York who is fit for this service can earn in some way as much as $3 a day. You must have good men there. Remember that of the one hundred and thirty millions collected from imports a year or two ago, when I examined it, ninety millions were collected in that city, showing the amount of valuable property there subject to depredation, and now I am told that one hundred millions of the one hundred and forty or one hundred and fifty collected in the United States are collected in that port.

I assented to this bill, and concurred in its report, believing that at New York and cities like it, where the great body of these imports come in, $3 a day was only a fair allowance for this service. The Senator from Massachusetts says the Secretary has the discretion and has raised the day inspectors from $3 to $4. I think as to these night inspectors there should be authority at least to pay them $3. I inquire not what the politics of a faithful watchman is. I am willing to pay him what is a fair, reasonable compensation for the service he does, and I am not willing to pay him any more, no matter to what party he may belong.

On the representation of these two respectable, intelligent members to me personally, and, besides, upon the representations of those who came here from California before the committee, we reported this bill. If it is thought better to leave it within the discretion of the Secretary, I shall not object to that. Indeed, I think very well of that suggestion; but I think we should not have an iron rule, that none of these men living in cities, where they cannot live as cheaply as they can in small towns, and doing this duty which requires intelligence, and men who are willing to take some risks in guarding property, shall receive no more than $2.50 a day. I am willing to have them paid, and I think they should be paid $3 a day.

Mr. EATON. I understand the Senator from Kentucky has prepared an amendment leaving the price at $2.50 per day as it now is, but giving discretionary power to the Secretary of the Treasury to pay not to exceed $3 per day, so as to accommodate places where the larger sum ought to be paid, if there be any such places. I shall be very glad to vote for that amendment if the Senator from Kentucky offers it.

Mr. BECK. I had endeavored to draw an amendment in these words:

That hereafter the Secretary of the Treasury shall have the right to increase the compensation of inspectors of customs employed for service at night to an amount not exceeding $3 per night while actually employed.

Mr. EATON. I suggest the words "if in his opinion the public interests demand it."

Mr. DAWES. I think the Senator had better turn to the Revised Statutes and use the phraseology they employ in reference to day inspectors.

Mr. EATON. There may be circumstances to be considered that cannot be presented in an act of Congress.

Mr. BECK. The object of the suggestion is that the Secretary shall have the right to allow an additional sum where he thinks it proper.

Mr. COCKRELL. I should like to ask the Senator from New York a question, and that is whether there is any record where any one of these night inspectors has ever resigned the office and declined to serve on account of the pay that he receives?

Mr. KERNAN. I do not know whether there is or not.

Mr. COCKRELL. If there is a record of that character I should like to see it. There has not been one solitary night inspector that has resigned his office because his salary has not been raised, I venture to say.

Mr. EATON. So far as I know—and I have been approached by several gentlemen in regard to this matter, members of the other House and gentlemen from New York, Boston, and San Francisco—I have not yet heard that any man has resigned; I have not been told that anybody has resigned. It is pretty difficult just now, or has been for the past year or two, to get employment. But that is not the sole question, I hope, with my friend from Missouri; it certainly is not with me. I know something about the duties that these men have to perform. I know of my own knowledge acquaintances of my own, men who went from my State to New York, that have been assailed by organized bands of river thieves, that have been assaulted, shot, cut. Those men did not resign, but still continued to perform their duties for $2.50 if they were not killed. It does not furnish any reason to my mind that they ought not to receive more.

Mr. COCKRELL. The question is, how many of these night inspectors are in that condition out of the whole number?

Mr. EATON. Not a great many.

Mr. COCKRELL. Very few. As to two-thirds of them, if they would vacate their office to-day, could not as good men be had for $1.50.

Mr. EATON. No; I think not. We pay in my own city for our night watchmen a thousand dollars a year.

Mr. McDONALD. It seems to me that the correct mode of undertaking to determine the compensation for labor or service is not to consider the fact that men do not resign or that their places could be filled if they did resign at present prices. We ought to exercise our best judgment upon the nature of the service and its responsibilities, and pay what we believe to be a fair compensation.

Now I have no doubt that if the pay of Senators was cut down to $2,500 a year there would not be a great many resignations, and if there were I am satisfied that able men could be found to fill the places. It is an argument that is always offered, but it never struck me as having any proper, solid foundation to rest upon. The real question is whether these employés, taking into consideration the nature of their service and its responsibilities and the time at which it has to be performed, are now receiving a fair compensation; not whether they would resign if it were not raised, but whether the compensation is a fair one. If it is not, then means ought to be provided for making it fair. That is all there is in this case.

Mr. COCKRELL. I thank the Senator from Indiana for his kindly suggestions in the matter. I think there are some rules which ought to be observed in regard to fixing the salaries of Government employés. I was asking questions for the purpose of eliciting the facts upon which we might base what is a reasonable compensation. I say for one that I am not in favor of paying those who work for the Government a much larger compensation than private individuals pay for the same labor at the same place; and if the Senator from Indiana believes in making the employés of the Government receive a greater salary than individuals pay for the same kind of work in the same locality I differ with him.

If individual labor can be procured in these places for less than the $3, and that for the same kind of work, the Government rate ought to be the same precisely. Now, in the city of New York and other places where there is extraordinary risk incurred in the discharge of the duty the pay ought to be commensurate; but there are places where I guarantee just as good men can be employed at $2 a day where there is no responsibility and no work, not a particle, and I say it is wrong to pay those employés $3 a night.

Mr. EATON. With the amendment that will be offered by the honorable Senator from Kentucky it strikes me the Senator from Missouri will be satisfied.

Mr. COCKRELL. If he gets the amendment in in that way, very well. I ask these questions for the purpose of ascertaining the facts in this case, and I desire now simply to call attention to a certain resolution which I heard in 1876 very often, and I believe the distinguished Senator from Indiana was one of the originators of it, and I am sure the Senator from New York was in the convention, and I desire for one that the actions of the democratic party shall be in consonance with its professions. In 1876 we declared:

That this convention, representing the democratic party of the United States, do cordially indorse the action of the present House of Representatives in reducing and curtailing the expenses of the Federal Government, in cutting down salaries, extravagant appropriations, and in abolishing useless officers and places not required by the public necessities, and we shall trust to the firmness of democratic members of the House that no committee of conference and no misinterpretation of the rules will be allowed to defeat these wholesome measures of economy demanded by the country.

Mr. McDONALD. I move the adoption of the resolution just presented by the Senator from Missouri. [Laughter.]

Mr. COCKRELL. I have no doubt but what the Senator will subscribe to this, as he was a member of the convention, and I think if the action of the democratic Senate in the laws they pass was more strictly in conformity with the resolution it would inspire greater confidence in the masses.

Mr. KERNAN. I agree with my friend in cutting down, but I am not disposed to be particularly sharp with the men who are getting day wages for watching nights in all weather, and who cannot get off with six or eight hours a day, but have to stay there during all the hours of the night. I would give such a man what in my judgment is fair pay, such as any good firm, any business house, would pay the man who did that service; and when it is in a city where he cannot live for less than $3 a day, I would give him that pay.

Mr. McMILLAN. I should like to know which of the Senators expresses the doctrine of the democratic party?

Mr. KERNAN. Both. I agree with my friend from Missouri.

Mr. CAMERON, of Wisconsin. One expresses the opinion of the democratic party in the national convention and the other in the National Congress.

Mr. McPHERSON. My friend from Indiana has well said that the resolution of the democratic convention is worthy of adoption. As far as I am concerned I do not see that the amendment proposed by the Senator from Kentucky in any sense or form improves the original proposition. I think there is very great misapprehension existing in the minds of the Senate in reference to the absolute requirements of this service. In the city of New York steamers arrive from foreign ports. They commence discharging and most of the goods are removed during the day-time, and there is absolutely no need of night inspectors; there is need only for night watchmen. Scarcely any goods are taken out in trucks from the different piers in New York to the warehouses at night. Goods that are forwarded in bond arrive and are at once put in the bonded cars. The proprietors of the cars are as much responsible as the custom-house officers themselves. They are forced to see that the custom-house officer has every facility for the inspection and examination of the goods.

Although I live in close proximity to the city of New York, and although very many people who live in my State are inspectors in the custom-house in New York under the present Administration, I have yet to know a case where a custom-house inspector can be said to have any very arduous duty at night. I believe that the civil-service orders of the present Administration have been entirely done away with, and the present Executive has become a stalwart, giving his consent, as I understand he has, to the collection of assessments for political purposes from the men who hold political positions all over the country. So it seems to me that whatever increase you make will only be giving the party in power an opportunity to collect additional assessments for political purposes. I understand the collectors have a schedule. A man receiving a certain salary is forced to pay a certain sum into the treasury of the republican party for election purposes. One who receives a less sum pays a less assessment, and so on down to the most minute office in the gift of the Administration. If you give these night inspectors $3 per day you only add fifty cents more to their power of assessment, and whatever may be the result they will have only that amount of their salaries less the assessment to pay for the necessaries of life, and the balance must go for an election fund.

For my part I am not willing to do it. If it would add one particle to the comfort of these officers who are employed, if it would give them one single dollar, if I believed it would do anything to assist them in the clothing and education of their families, I would gladly give it; but at this particular time I very much fear that it would not give them one single cent in addition to what they now receive, and I am unwilling at this time to vote the public money and to place it in such a position that any political party can use it for election purposes.

Mr. MORRILL. I desire to call the attention of the Senator from New Jersey to the fact that these men, whether inspectors or night watchmen, must be men of character, and that we therefore need not fear that they will spend their wages at a corner grocery. The fact is that these inspectors must be on the lookout for smugglers across the line or from vessels to the shore, and then again for this purpose other inspectors or watchmen are placed upon vessels. We understand perfectly how much smuggling is done in the night season. If these men are not men of character, and if they can be induced to step aside while any amount of foreign cigars, jewelry, packages of silk, or anything else is unloaded and put into a boat alongside of the vessel, see how the Government will be defrauded. Therefore the collector at San Francisco and New York and Boston, and various other places, are compelled to employ men of character, men of integrity, whom they can trust, and men who will not be bribed.

Mr. BECK. I wish now to have the substitute which I propose to offer for the first section read.

The PRESIDING OFFICER. The amendment will be read.

The CHIEF CLERK. It is proposed to strike out the first section of the bill and in lieu thereof to insert:

That hereafter the compensation to inspectors of customs employed under existing law for service at night may be increased by the Secretary of the Treasury at such ports as he may think it advisable so to do to a sum not exceeding $3 for each night's service.

Mr. WITHERS. I am perfectly willing to vote for that substitute to the bill, and I hope the Senate will adopt it. I wish to say simply that I do not propose to discuss this question or to vote upon it from a political stand-point at all. Both parties profess to desire an economical administration of the Government and to secure the services of competent agents for the dispatch of the business of the Government. Therefore, it seems to me that the whole of this question resolves itself into this: Is it possible to secure the services of competent, reliable men, such as have been described by the Senator from Vermont, for the discharge of these duties at the compensation fixed by the existing law? That is the whole question.

If it is possible to do that, it seems to me that no argument can be used which would justify an increase of their pay. If it can be shown that it is impossible or even impracticable to secure the services of men of the character indicated, as I am just as strongly in favor of securing the services of reliable and of competent men for this service as the Senator from Vermont or the Senator from Delaware, then I will vote for the increase. But in response to my inquiry and to the speech of the Senator from Missouri no man has indicated upon this subject that there has been the slightest difficulty in securing the services of men competent and reliable. No man can be shown to have resigned because of this reduction of pay. No one can assert that any difficulty has been experienced in securing for the services which are to be rendered by these men persons of unblemished character and thorough reliability.

The substitute offered just now by the Senator from Kentucky it seems to me fills all the requirements. In a place like New York or San Francisco, or any other locality where the expense of living is known to be so great as to render it impracticable for these employés of the Government to live upon the salary fixed by law, the Secretary of the Treasury is given the discretion of increasing the inspector's salary so as to support himself and family, but the amendment does not make this increase horizontal and applicable to every locality, in a great many of which it does not require the expenditure of half the salary to secure the means of living. I hope the substitute will be adopted.

Mr. McPHERSON. I should like to say one word in reply to the honorable Senator from Vermont, and I do not wish to delay action on the bill. He said that the officers employed must be men of character. I confess that they should be men of character, although, perhaps, in some cases they are not. He said that they have a great trust committed to them. I do not consider that that trust is much greater than that of a policeman who pickets the city of New York and other cities, who receives no greater pay than is already paid to night inspectors of customs. A policeman performs, perhaps, more service. I think if you were to visit during the night any of the piers or docks of New York, where a steamship lands that conveys products to this country, you would find nine times out of ten the night inspector safely ensconced in some office or room without doing any particular labor.

Mr. EATON. May I ask my friend a question?

Mr. McPHERSON. Certainly.

Mr. EATON. Am I right in understanding him as saying that a night watchman in New York receives but $2.50 per night?

Mr. McPHERSON. I think they receive $60 per month. I know in my own city, Jersey City, they receive $60, and I think they receive about the same in New York.

Mr. EATON. Their pay is much more than that in the city where I live, and I believe it is less there than in New York.

Mr. McPHERSON. I only wish to say that if it be the proposition of the Senator from New York or from Connecticut to pay night inspectors $100 per month, after they have paid all the political assessments which they will be required to pay I do not believe they would have any more than if they received $2.50 as now.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Kentucky, [Mr. BECK.]

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The question is on the passage of the bill.

Mr. COCKRELL. I ask for a division.

There were on a division—ayes 19, noes 10; no quorum voting.

Mr. ALLISON. I ask for the yeas and nays.

Mr. BECK. Let us have the yeas and nays.

Mr. CAMERON, of Wisconsin. Perhaps a further count will not be insisted upon.

Mr. ALLISON. I do not ask for the yeas and nays unless other Senators do.

Mr. MORRILL. There is not a quorum present.

The PRESIDING OFFICER. No quorum has voted.

Mr. McPHERSON. I call for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. BECK, (when his name was called.) On this question I am paired with the Senator from Delaware, [Mr. BAYARD,] who was obliged to leave the Senate Chamber. If he were here, he would vote "yea" and I should vote "nay."

The roll-call was concluded.

Mr. McPHERSON, (after having voted in the negative.) I perhaps should not have voted. I am paired with the Senator from Maine [Mr. BLAINE] upon all political questions. If this is a political question, I ask to withdraw my vote.

Mr. CAMERON, of Wisconsin, and others. Oh, no.

Mr. EATON. Only the Senator from Vermont and the Senator from New Jersey would consider this to be a political question.

Mr. McPHERSON. I will let my vote stand.

Mr. ANTHONY. My colleague, [Mr. BURNSIDE,] who is necessarily absent from the Senate, is paired with the Senator from New Jersey, [Mr. RANDOLPH,] who is also absent.

The result was announced—yeas 26, nays 16; as follows:

YEAS—26.

Allison,	Ferry,	McDonald,	Saunders,
Anthony,	Groome,	McMillan,	Vest,
Butler,	Hampton,	Maxey,	Wallace,
Cameron of Wis.,	Jones of Florida,	Morgan,	Williams,
Dawes,	Kernan,	Morrill,	Withers.
Eaton,	Kirkwood,	Platt,	
Farley,	Lamar,	Rollins,	

NAYS—16.

Brown,	Davis of W. Va.,	Jonas,	Saulsbury,
Call,	Harris,	McPherson,	Slater,
Cockrell,	Hereford,	Pryor,	Vance,
Davis of Illinois,	Ingalls,	Ransom,	Walker.

ABSENT—34.

Bailey,	Cameron of Pa.,	Hill of Georgia,	Randolph,
Baldwin,	Carpenter,	Hoar,	Sharon,
Bayard,	Coke,	Johnston,	Teller,
Beck,	Conkling,	Jones of Nevada,	Thurman,
Blaine,	Edmunds,	Kellogg,	Voorhees,
Blair,	Garland,	Logan,	Whyte,
Booth,	Grover,	Paddock,	Windom.
Bruce,	Hamlin,	Pendleton,	
Burnside,	Hill of Colorado,	Plumb,	

So the bill was passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. T. F. KING, one of its clerks, announced that the House had passed the following bills:

A bill (S. No. 324) for the relief of Somerville and Davis;

A bill (S. No. 392) to remove the political disabilities of John R. F. Tatnall, of Georgia;

A bill (S. No. 1148) to amend an act entitled "An act authorizing the commissioners of the District of Columbia to issue twenty-year 5 per cent. bonds of the District of Columbia to redeem certain funded indebtedness of said District," approved June 10, 1879;

A bill (S. No. 1256) to authorize the Secretary of War to improve and repair the Mullan wagon-road between Forts Missoula and Cœur d'Alene;

A bill (S. No. 1408) to further amend the act entitled "An act to reorganize the courts of the District of Columbia, and for other purposes," approved March 3, 1863, and to repeal section 861 of chapter 24 of the revised statutes of the District of Columbia, and re-enact the same as amended; and

A bill (S. No. 1404) to provide for issuing patents for public lands claimed under the pre-emption and homestead laws in cases where the claimants have become insane.

ORDER OF BUSINESS.

Mr. McPHERSON. I move that the Senate proceed to the consideration of the bill (H. R. No. 3983) to provide a permanent construction fund for the Navy, and for other purposes.

The PRESIDING OFFICER. The question is on the motion of the Senator from New Jersey, to proceed to the consideration of the bill indicated.

Mr. McDONALD. Let the bill be reported for information.

The Chief Clerk read the bill.

Mr. DAVIS, of Illinois. That is too important a bill to be taken up at this time in the evening and with such a thin Senate. I move that the Senate proceed to the consideration of executive business.

Mr. CALL. I ask the Senator from Illinois to withdraw his motion to allow me to make a motion.

Mr. McPHERSON. What objection, if any, does the Senator from Illinois make to this bill?

Mr. DAVIS, of Illinois. I do not think such a bill as this can be considered at this time in the evening. If it were a smaller one, well and good.

The PRESIDING OFFICER. The Senator from Florida rose for a purpose.

Mr. CALL. I give way to the Senator from Delaware, [Mr. SAULSBURY.]

Mr. SAULSBURY. I think that the bill moved by the Senator from New Jersey ought to be maturely considered. As I understood

from the reading of the bill, it authorizes the Secretary of the Navy to expend a portion of the money arising from the sale of material and to be placed in the construction fund, provided for by the bill, without the authority of Congress, to the amount, I believe, of a million dollars. I am unwilling to see the public funds of this country expended by any officer of this Government to any such amount without being appropriated by Congress. I think, therefore, that this bill will require more consideration than we can give it this afternoon.

Mr. McPHERSON. Let it lie over.

Mr. McDONALD. At this late hour in the evening, and on the last day of the week, it seems to me that we ought not to be called upon for a consideration of a bill of this kind. I therefore move that the Senate adjourn.

Mr. CALL. I ask the Senator from Indiana to withdraw his motion and allow me to move to postpone the pending order and take up a little bill that will require but a very few moments.

Mr. McDONALD. I have just such a bill myself that I would like very much to have considered, but I waive my own right in the case.

Mr. SAULSBURY. Let me appeal to the Senator from Indiana to allow the Senator from Florida who has been trying for several days to have his bill considered.

Mr. McDONALD. I give way to the Senator from Florida.

Mr. ANTHONY. I hope the pending bill will not be postponed, but laid aside informally.

Mr. CALL. I have no objection to laying it aside informally.

Mr. ANTHONY. So that it may retain its place as unfinished business.

The PRESIDING OFFICER. The Senator from Florida asks that the present and all prior orders be postponed.

Mr. ANTHONY. Let the bill be postponed without prejudice.

Mr. McPHERSON. Will that displace the bill which I called up?

The PRESIDING OFFICER. It will not.

Mr. McPHERSON. It will come up as the first business on Monday morning.

The PRESIDING OFFICER. The resolutions of which the Senator from Delaware [Mr. SAULSBURY] has charge will take the place of this bill on Monday. The order in regard to this bill will live only through this day.

PALATKA MILITARY RESERVATION.

Mr. CALL. I ask for the present consideration of the bill (H. R. No. 4849) to confirm certain entries and warrant locations in the former Palatka military reservation in Florida.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WINNEBAGOES OF WISCONSIN.

Mr. CAMERON, of Wisconsin. I move to postpone all orders prior to order of business No. 279.

Mr. ANTHONY. I will not interfere with the bill of my friend from Wisconsin, but I give notice that after that is disposed of, whatever may come up, I shall move an adjournment.

The PRESIDING OFFICER. The bill named by the Senator from Wisconsin will be read for information.

The Chief Clerk proceeded to read the bill (S. No. 323) for the relief of the Winnebago Indians in Wisconsin, and to aid them to obtain subsistence by agricultural pursuits, and to promote their civilization; and having read the preamble——

Mr. McDONALD. I should like to submit a motion now to adjourn.

Mr. FARLEY. Do not let us adjourn now.

Mr. McDONALD. It is very certain that we cannot consider that bill this evening. It involves some very important questions. It is quite lengthy, and we might as well quit on that as anything else. I move that the Senate adjourn.

Mr. CAMERON, of Wisconsin. I hope the Senator from Indiana will not insist upon his motion. This bill has been called up several times, and it went over upon objection. It was reported favorably by the Committee on Indian Affairs in the last Congress. It has again been reported favorably by the Committee on Indian Affairs at the present Congress. If there are important principles involved in it I do not know what they are; but if there are important principles in it we may as well discuss them and settle them now as at any other time.

Mr. McDONALD. Not at this hour of the evening will it be possible for us to consider the provisions of a bill so important as that.

Mr. CAMERON, of Wisconsin. I know it is out of order, but the Senate will indulge me while I say that a portion of the Winnebago Indians reside on a reservation in the State of Nebraska. Another portion, about one-third of the tribe, reside in Wisconsin, where nearly all of them have taken homesteads. This bill is for the purpose of making an equitable settlement between the Nebraska portion of the tribe and the Wisconsin portion of the tribe. The bill was prepared about two years ago by the Commissioner of Indian Affairs, or at least it was prepared in his office; it was sanctioned by the Indian Bureau; and it has been examined and recommended by the Secretary of the Interior.

Mr. McDONALD. I withdraw my motion.

The PRESIDING OFFICER. The Senator from Indiana withdraws the motion to adjourn. The Secretary will proceed with the reading of the bill.

The Chief Clerk read the bill.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 323) for the relief of the Winnebago Indians in Wisconsin, and to aid them to obtain subsistence by agricultural pursuits, and to promote their civilization.

Mr. COCKRELL. Is there any explanation of the bill or any report?

Mr. CAMERON, of Wisconsin. There is a report.

Mr. COCKRELL. Let the report be read.

The Chief Clerk read the following report, submitted by Mr. LOGAN February 11, 1880:

The Committee on Indian Affairs, having had under consideration Senate bill No. 224, Senate joint resolution No. 4, and Senate bill No. 1124, all for the relief of the Winnebago Indians of Wisconsin, report:

The committee recommend the indefinite postponement of Senate bill No. 224 and joint resolution No. 4, and recommend the passage of Senate bill No. 323, with amendments.

The Winnebago tribe of Indians formerly resided within the limits of the State of Wisconsin, and by various treaties on and prior to June 16, 1838, (Revised Indian Treaties, 1001,) conveyed to the United States all of their lands in that State. By the treaty of June 16, 1838, the United States ceded to them a tract of land in the Territory of Minnesota known as the neutral lands, and to which a claim in their behalf attached under one of the former treaties.

By the treaty of 1846 (*Ibid.*, 1004) the title of the Winnebagoes to the neutral lands was extinguished, and, in part consideration therefor, they were given a tract of land on the Saint Peter's River, in Minnesota, estimated to contain about 879,600 acres. Their title in this tract was entirely extinguished by the treaty of 1855, (*Ibid.*, 1006,) and in full compensation for the same the United States agreed to give them $70,000, and to grant them, as a permanent home, a tract of land equal to eighteen miles square on Blue Earth River, in one of the most fertile regions in Minnesota, to which they removed, and where they were immediately surrounded and pressed upon all sides by the whites.

Again, by treaty of 1859, (page 1011,) in order to aid in their civilization, and at the request of the tribe, townships 106 and 107, ranges 24 and 25, and the two strips of land immediately adjoining on the east and north, within their reservation, were authorized to be allotted in severalty to the members of the tribe, and it was provided that the remainder of their lands should be sold and the proceeds applied to their benefit.

Under these provisions allotments in severalty were made in 1861, and certificates issued to them. At the outbreak of the rebellion in 1861 numbers of the Winnebagoes enlisted in the Army, and during the Sioux outbreak of 1862 the tribe maintained the most friendly relations with the whites. Their lands, however, were very desirably located for settlement, and the settlers commenced a series of encroachments against the Winnebagoes, which finally rendered their condition unsafe, so that it became necessary to remove the tribe from the State.

An act was accordingly passed by Congress, on the 21st of February, 1863, (12 Statutes, page 658,) providing for their removal and the sale of their lands for their benefit, and they were removed to the Missouri River in Dakota. On account of the proximity of this location to the Sioux, who were hostile to them, and their remoteness from the whites, among whom they preferred to live, the tribe became dissatisfied, and large numbers of them returned to the States, about one-half of whom settled in Wisconsin, as stated by the Commissioner of Indian Affairs in a communication addressed to the committee.

Another treaty was made with the tribe in 1866, (see page 1014, Revised Indian Treaties,) whereby the tribe was gathered together and settled upon a reservation in Nebraska, where they now reside.

Arising from these treaties, the Winnebagoes, as a tribe, have a fund of $883,249.58 in the Treasury, the income of which at 5 per cent. is, by treaty provision, to be distributed to them in cash or supplies, as the President may direct.

By act of June 25, 1864, (13 Statutes, p. 172,) it was provided—

"That the proportion of annuities to which the stray bands of Winnebago Indians would be entitled, if on their reservation, should be retained in the Treasury to their credit, from year to year, to be paid to them when they should reunite with their tribe, or to be used by the Secretary of the Interior in settling and subsisting them on any other reservation which might thereafter be provided for them."

The fund herein provided for was not reserved until 1876, when, by direction of Secretary Chandler, their estimated proportion ($\frac{1}{19}\frac{1}{19}$) of the tribal annuities was retained, and has since been retained for them, amounting at the present time, in this proportion, to $48,249.17. This sum remains in the Treasury awaiting the direction of Congress.

The annuities so far to the tribe, from 1864 to 1875, inclusive, amount to $541,312.78, all of which, with a single exception, has been paid to the Winnebago Indians of Nebraska. Assuming that the tribe in Wisconsin would be entitled to their *pro rata* share, they ought to have received of this amount $253,383.12.

In 1873 and 1874 an appropriation was made (18 Statutes, p. 170) for the removal of the Winnebagoes of Wisconsin to a reservation to be purchased for them in Nebraska, adjacent to the reservation now occupied by the remainder of the tribe. There was expended in this removal, and subsistence, and purchase of lands, $154,624.49, and retained to be expended in settling them on their new lands, $26,131.13, and about eight hundred and sixty of them were removed to Nebraska. The Wisconsin Winnebagoes, however, were dissatisfied with their new location, and all but two hundred and four of them returned to Wisconsin prior to January, 1876.

The Commissioner of Indian Affairs reports that there is now in the Treasury to the credit of the tribe, accruing under treaty appropriations for the fiscal year 1873 and prior years, the sum of $40,406.42, from which a sufficient amount should be withdrawn and paid to the Wisconsin band to equalize the payments heretofore made in excess to the tribes in Nebraska.

During the last fiscal year there was appropriated to the tribe in Nebraska the sum of $29,260.68, and to the Wisconsin Winnebagoes $14,901.79.

The committee therefore recommend the payment to the Wisconsin Winnebago Indians of $48,249.17, now in the Treasury belonging to them, together with a sufficient sum to equalize the payments hereinbefore alluded to.

The committee also recommend that the proportion of annuity funds accruing from year to year hereafter should be applied to the Winnebagoes in Wisconsin, until they shall have been refunded the amount due them under the act of 1864.

The bill provides for a careful census of the Indians in Wisconsin, as well as the Winnebagoes in Nebraska, in order that a just division may be made.

By an act passed March 3, 1875, (18 Stats. at Large, 420,) it is provided that an Indian now in the United States, who is the head of a family, or arrived at the age of twenty-one years, and who afterward abandons his tribal relations, shall be authorized to take a homestead under the homestead laws, and shall still be entitled to receive his proportion of the tribal annuities. These Winnebagoes of Wisconsin, to the number of about two hundred, have taken, and others are desirous

of taking, homesteads under this provision of the act of 1875, and therefore the provisions of the bill apply only to such as have taken or shall take homesteads, having been carefully constructed for such Indians only.

A section is added against the alienation of these lands for a period of twenty years. This provision is considered necessary to protect the Indians having homesteads. The bill has been submitted to the Interior Department, and receives the sanction of the Commissioner of Indian Affairs and the Secretary of the Interior.

The commitee therefore recommend its passage, with a single amendment to the last section, which is herewith reported.

Mr. CAMERON, of Wisconsin. There are amendments proposed by the Committee on Indian Affairs.

The PRESIDENT *pro tempore*. The first amendment of the committee will be reported.

Mr. BUTLER. I should like to inquire of the Senator from Wisconsin what the chances are of getting through with this bill? I should like very much to have the Senate adjourn myself.

Mr. CAMERON, of Wisconsin. I think the bill can be passed in five minutes.

Mr. BUTLER. I will not make the motion just now, but will wait.

The PRESIDENT *pro tempore*. The amendments will be reported.

The first amendment of the Committee on Indian Affairs was, in section 2, line 7, after the words "fiscal years," to insert "1874, 1875;" in line 9, after "1877," to strike out "and;" in line 10, after "1878," to insert "1879, and 1880;" and in line 12, to strike out "$48,249.17" and insert "$90,689.93;" so as to read:

That upon the completion of the census of the Winnebago Indians in Wisconsin the Secretary of the Interior is authorized and directed to expend for their benefit the proportion of the tribal annuities due to and set apart for said Indians under the act of June 25, 1864, of the appropriations for the tribe of Winnebago Indians for the fiscal years 1874, 1875, 1876, 1877, 1878, 1879 and 1880, amounting to $90,689.93.

Mr. COCKRELL. I should like to ask the Senator from Wisconsin how it happens, if this bill was prepared in the Indian Bureau, that there is such a discrepancy between the bill as prepared and as reported?

Mr. CAMERON, of Wisconsin. The bill was prepared two years ago, and since that time additional moneys have been placed in this fund. These amendments were made during the present session. It is all right.

The amendment was agreed to.

The next amendment of the Committee on Indian Affairs was, in section 2, line 15, to strike out "$40,406.42" and insert "$41,012.74;" so as to read:

And the Secretary of the Interior shall also expend for the benefit of said Indians, out of the sum of $41,012.74 now in the Treasury to the credit of the Winnebago tribe of Indians, and accruing under treaty appropriations for the fiscal year 1873 and prior years, such sum as may, upon the completion of said census, be found necessary to equalize the payments between the two bands on account of the payment of the sum of $100,000 in the year 1872 from the principal funds of the tribe to the Winnebagoes in Nebraska.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. CAMERON, of Wisconsin. There are amendments to the preamble.

The PRESIDENT *pro tempore*. The amendments to the preamble will be reported.

The CHIEF CLERK. In the second clause of the preamble, before the word "portion," the committee report to strike out the word "small," and after the words "sum of" to strike out "$48,249.17" and to insert "$90,689.93;" so as to read:

Whereas a portion of the funds belonging to said Winnebago Indians of Wisconsin, and accruing under the act of June 25, 1864, "providing for deficiencies in subsistence and expenses of removal and support of the Sioux and Winnebago Indians of Minnesota," amounting to the sum of $90,689.93, is now in the Treasury of the United States to their credit; and.

The amendment to the preamble was agreed to.

The preamble, as amended, was agreed to.

CENSUS SUPERVISORS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting, in response to a resolution of the 31st ultimo, a report from the Secretary of the Interior in regard to the removal of supervisors of the census; which was referred to the Select Committee to make provision for taking the Tenth Census, and ordered to be printed.

INDIANAPOLIS A PORT OF DELIVERY.

Mr. McDONALD. I ask the present consideration of Senate bill No. 1230, order of business No. 420. It will not take five minutes.

Mr. COCKRELL. That bill has been reported adversely.

Mr. McDONALD. Oh, I reckon not.

Mr. COCKRELL. It is so stated on the Calendar.

Mr. McDONALD. It is a bill to establish Indianapolis as a port of delivery.

Mr. COCKRELL. "Senate bill 1230. A bill to establish a port of delivery in Indianapolis, in the State of Indiana: March 18, 1880; Mr. BALDWIN, Committee on Commerce, reported adversely."

The PRESIDENT *pro tempore*. That does not prevent the Senate from taking it up.

Mr. McDONALD. Certainly not.

The PRESIDENT *pro tempore*. Will the Senate postpone all prior orders?

The motion was agreed to.

The PRESIDENT *pro tempore*. Will the Senate proceed to the consideration of this bill?

A division was called for.

Mr. McDONALD. I wish to say that this bill simply makes a port of delivery of the city of Indianapolis, which is the first interior city in the United States.

Mr. WITHERS. Does my friend from Indiana think we are to take up bills reported adversely?

Mr. McDONALD. If there is any Senator who has any objection to this bill when taken up, I am willing to lay it aside.

Mr. WITHERS. An adverse report necessitates objection. I do not know anything about this particular case.

The question being put, the motion was not agreed to, the ayes being 18, less than a majority of a quorum.

LAKE NEAR COUNCIL BLUFFS.

Mr. KIRKWOOD. I ask the Senate to take up order of business No. 700, House bill No. 1064. It will not take two minutes.

The PRESIDENT *pro tempore*. The Senator from Iowa moves to postpone all orders prior to order of business No. 700.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Senator from Iowa now moves to proceed to the consideration of House bill No. 1064.

The motion was agreed to; and the bill (H. R. No. 1064) to grant to the corporate authorities of the city of Council Bluffs, in the State of Iowa, for public uses, a certain lake or bayou situated near said city, was considered as in Committee of the Whole.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

CHARLES DOUGHERTY.

Mr. WALLACE. I move that the Senate proceed to the consideration of House bill No. 270, order of business No. 495.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania moves that all orders prior to order of business No. 495 be postponed.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania now moves to proceed to the consideration of House bill No. 270.

The motion was agreed to; and the bill (H. R. No. 270) to reimburse Charles Dougherty for his expenses to the consulate of Londonderry was considered as in Committee of the Whole.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

COLLECTION DISTRICTS IN CALIFORNIA.

Mr. FARLEY. I move to postpone all orders prior to order No. 614, so as to take up Senate bill No. 1271.

The PRESIDENT *pro tempore*. The Senator from California moves to postpone all orders prior to No. 614.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Senator from California now moves to proceed to the consideration of Senate bill No. 1271.

The motion was agreed to; and the bill (S. No. 1271) to amend sections 2582, 2583, 2607, and 2684 of the Revised Statutes of the United States, relating to the collection district of California, was considered as in Committee of the Whole.

Mr. McDONALD. Is that bill reported from the Committee on Finance?

Mr. FARLEY. I will state to the Senator that the Committee on Commerce nearly two months ago reported this bill unanimously and recommended its passage. The bill simply provides for making Wilmington a port of entry, which has a commerce that furnishes supplies to the people in Arizona and along the line of the Southern Pacific road. It leaves San Francisco just as it is; leaves San Diego just as it is. The bill has been unanimously reported, and I understand there is no objection to it.

Mr. EATON. My friend says it leaves San Francisco as it now is?

Mr. FARLEY. Precisely.

Mr. EATON. With the same number of deputy collectors in that collection district?

Mr. FARLEY. Yes, sir; the same precisely.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

WILLIAM L. WHITE.

Mr. SLATER. I ask the Senate to proceed to the consideration of Senate bill No. 483, order of business No. 701.

The PRESIDENT *pro tempore*. The Senator from Oregon moves to postpone all orders prior to No. 701.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Senator from Oregon now moves to proceed to the consideration of Senate bill No. 483.

The motion was agreed to; and the bill (S. No. 483) for the relief of William L. White was considered as in Committee of the Whole.

The bill was reported from the Committee on Public Lands with an amendment, which was in line 9, after the word "moneys," to strike out the words "at his disposal for the compensation of clerical services" and to insert in lieu thereof "not otherwise appropriated;" so as to read:

And to pay the same out of any moneys not otherwise appropriated.

The amendment was agreed to.

Mr. SLATER. I offer a verbal amendment. In line 7 I move to strike out "reasonable," after "such."

The amendment was agreed to.

Mr. SLATER. In line 9, after "moneys," I move to insert "in the Treasury."

The amendment was agreed to.

Mr. COCKRELL. Let the bill be read as amended now.

The Chief Clerk read as follows:

That the Secretary of the Interior be, and he is hereby, authorized and directed to audit and allow the claim of William L. White for actual services performed by him as a clerk in the land-office at Oregon City, under contract with the register and receiver thereof, at such rate for said services as to said Secretary shall be deemed reasonable, and to pay the same out of any moneys in the Treasury not otherwise appropriated.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

FRANK P. GROSS.

Mr. WILLIAMS. I move to take up Senate bill No. 74, order of business No. 467.

The PRESIDENT *pro tempore*. The Senator from Kentucky moves to postpone all orders prior to No. 467.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Senator from Kentucky moves to proceed to the consideration of Senate bill No. 74.

Mr. WILLIAMS. There will be no contest about it. The bill is reported from the Committee on Military Affairs with an amendment.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 74) for the relief of Lieutenant Frank P. Gross.

The bill was reported from the Committee on Military Affairs with an amendment, to strike out all after the enacting clause and in lieu thereof to insert the following:

That the Secretary of War is hereby authorized and required to ascertain the value of the property lost by First Lieutenant Frank P. Gross, United States Army, by the burning of his quarters at Fort Clark, Texas, on or about the 19th day of April, 1869, without fault or neglect on his part; and the amount so ascertained is hereby appropriated for that purpose: *Provided*, That no allowance be made for any property except what was useful, necessary, and proper for such an officer while in quarters, engaged in the public service, or exceeding in amount the sum of $2,000.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

JOHN THORNLEY.

Mr. ANTHONY. I move that the Senate proceed to the consideration of the bill (S. No. 1206) for the relief of Medical Director John Thornley, United States Navy, order of business No. 240.

The PRESIDENT *pro tempore*. The Senator from Rhode Island moves to postpone all orders previous to order of business No. 240.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Senator from Rhode Island moves that the Senate proceed to the consideration of Senate bill No. 1206.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that Medical Director John Thornley, United States Navy, be considered as having been retired from active service as a surgeon and placed on the retired list of officers of the Navy June 1, 1861, on account of physical incapacity originating in the line of duty; and that the accounting officers of the Treasury be directed to allow him the rate of retired pay of the grade in which he was retired prescribed by section 1588, Revised Statutes, for officers so retired; and the accounting officers are further directed, in adjusting the account, to allow and pay to him the difference between the pay he has been allowed as a surgeon on the retired list since the passage of the act approved March 3, 1873, (section 1588, Revised Statutes,) and that to which he is entitled under that act as having been retired as a surgeon for incapacity originating in the line of duty, the sum to be paid out of any money in the Treasury not otherwise appropriated.

Mr. MORRILL. Will not the Senator from Rhode Island give way to a motion to adjourn?

Mr. ANTHONY. As soon as I get this bill through.

Mr. COCKRELL. This bill will take some time.

Mr. MORRILL. Evidently there is no quorum present. I give notice that I will make the motion as soon as this bill is disposed of.

The PRESIDENT *pro tempore*. The bill will be read.

The Chief Clerk read the bill.

Mr. COCKRELL. Is there a written report in that case?

The PRESIDENT *pro tempore*. There is.

Mr. COCKRELL. I intended to state the facts when that bill was up some time ago. It is to pay this man back salary for a considerable time. I wrote to the Department, and got some data in regard to it, and I thought I had them in my desk. I find that I have not. I examined the bill, and according to my understanding of the facts——

Mr. MORRILL. Will the Senator from Missouri give way to a motion to adjourn?

Mr. COCKRELL. I will.

Mr. MORRILL. I move that the Senate do now adjourn.

The motion was agreed to; and (at five o'clock and forty-seven minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, *June* 5, 1880.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

VOTE ON POST-OFFICE APPROPRIATION BILL.

Mr. KLOTZ. I rise to make a personal explanation. Yesterday I was announced as paired with my colleague from Pennsylvania [Mr. OVERTON] on the Post-Office appropriation bill, and I did not vote. My colleague agrees that I would have been at liberty to vote on a vital portion of the bill. I desire to have my name called and my vote recorded.

The SPEAKER. The Chair thinks he cannot allow that.

Mr. KLOTZ. I ask unanimous consent.

The SPEAKER. The Chair thinks that request cannot be entertained. The gentleman, however, in making his statement has accomplished his purpose.

Mr. KLOTZ. I will state, then, that I should have voted in the negative, that is, against laying upon the table the motion to reconsider the vote by which the Senate amendment concerning star routes was concurred in. I am opposed to the Senate amendment striking out the House proviso.

Mr. LOWE. I desire to state that I was paired on the Post-Office bill with the gentleman from Maine, [Mr. MURCH.] The pair was not announced.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate concurred in the amendment of the House to the amendment of the Senate to the bill (H. R. No. 2440) to authorize the Secretary of War to transfer to the Fairmount Park Art Association thirty condemned or captured bronze cannon to be used in the erection of an equestrian statue to the late Major-General George Gordon Meade.

The message further announced that the Senate had passed the bill (H. R. No. 5053) granting relief to William Turman, guardian of William W. Brewer, with an amendment in which the concurrence of the House was requested.

The message further announced that the Senate insisted upon its amendments to the bill (H. R. No. 6036) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1881, and for other purposes, disagreed to the amendment of the House to the seventh amendment of the Senate to the said bill, asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. WALLACE, Mr. BECK, and Mr. BOOTH to be the conferees on the part of the Senate.

ORDER OF BUSINESS.

The SPEAKER. The Chair will state that many of the members who seek to be recognized desire to reach bills upon the Speaker's table. The Chair suggests to the House that some equitable mode might be agreed upon by which unobjectionable bills on the Speaker's table could be reached and disposed of.

Mr. BOUCK. I call for the regular order.

The SPEAKER. The regular order is the morning hour.

Mr. CARLISLE. I move to dispense with the morning hour; and I desire to state for the information of the House that my purpose, if the morning hour be dispensed with, or if it be not dispensed with, then immediately after the morning hour, is to move to proceed to the consideration of business upon the Speaker's table, with the understanding that no matter of a political nature shall be considered. [Cries of "All right!"] The sole purpose is to get rid of a large number of bills and resolutions now upon the Speaker's table.

The SPEAKER. The gentleman from Kentucky moves that the morning hour be dispensed with.

Mr. RYON, of Pennsylvania. Is that motion debatable?

The SPEAKER. It is not.

Mr. CONVERSE. I wish to make a parliamentary inquiry, whether unfinished business does not come up before we can go to the Speaker's table?

The SPEAKER. Unfinished business, unless the previous question is prevailing, would come up after the morning hour.

Mr. CONVERSE. But if the morning hour should be dispensed with?

The SPEAKER. Then the unfinished business would come up.

Mr. CONVERSE. I would suggest to the Chair that the Des Moines River lands bill is the unfinished business.

The SPEAKER. The Chair does not now rule whether the gentleman's parliamentary statement is correct; that is, whether the bill comes over as unfinished business.

Mr. COX. I rise to a parliamentary inquiry. If the morning hour should be dispensed with, will it not require another motion to go to business on the Speaker's table?

The SPEAKER. It would, of course. The motion to go to the

Speaker's table comes after the morning hour, and after unfinished business is disposed of.

Mr. COX. What is the unfinished business?

The SPEAKER. The Chair has not said there was any.

Mr. HARRIS, of Virginia. There is none.

Mr. RYON, of Pennsylvania. I wish to inquire whether, after the morning hour is dispensed with and the unfinished business called up, we cannot raise the question of consideration?

The SPEAKER. The question of consideration can be raised on the unfinished business if the previous question is not prevailing and operating.

The question being taken on the motion of Mr. CARLISLE, to dispense with the morning hour, there were—ayes 108, noes 12.

Mr. VAN VOORHIS. No quorum.

Tellers were ordered; and Mr. CARLISLE and Mr. VAN VOORHIS were appointed.

The House again divided; and the tellers reported—ayes 130, noes 10.

Mr. VAN VOORHIS. I withdraw the demand for a quorum.

So the motion to dispense with the morning hour was agreed to.

Mr. CARLISLE. I now move that the House proceed to the consideration of business on the Speaker's table, with the understanding that matters of a political nature shall be passed over and not considered.

Mr. CONVERSE rose.

The SPEAKER. The gentleman from Ohio, [Mr. CONVERSE,] as the Chair understands, rises to a point of order.

Mr. SINGLETON, of Illinois. Mr. Speaker, in accordance with the special order of the House made on the 9th of March last, I now desire to call up the report of the Committee on the Interoceanic Canal. The order made on the day named recites that the report and accompanying resolutions shall be called up for consideration in the discretion of the committee. I now call up the resolutions reported by the Committee on the Interoceanic Canal.

The SPEAKER. The gentleman from Ohio [Mr. CONVERSE] raises a point as to unfinished business. The Chair would like to hear the claim of the gentleman on that point.

Mr. CONVERSE. Mr. Speaker, as I understand, the rules require that after the morning hour the first thing in order shall be the unfinished business. The Des Moines River land bill was taken up in the House on Thursday two weeks ago, and not being concluded, has from that time to this been antagonized by privileged business. This is the first opportunity when it could come up. I desire to state that the bill was considered and a demand made for the previous question, and pending the demand for the previous question the House adjourned.

The SPEAKER. The Chair decides that the demand for the previous question, if not seconded, does not carry a bill over as unfinished business as if the previous question had been ordered. When the previous question is ordered on a bill and an adjournment takes place it comes up immediately after the reading of the Journal on the next day. As to the second point which the gentleman raises, the Chair desires to have read the order assigning business for the day on which this bill was considered.

Mr. HOOKER. I wish to make a parliamentary inquiry.

The SPEAKER. The Chair is trying to answer one such inquiry, but will listen to the gentleman while the order just referred to by the Chair is being found.

Mr. HOOKER. I wish to inquire whether it is not now in order to antagonize the motion of the gentleman from Kentucky, that the House proceed to business on the Speaker's table, by a motion to go into Committee of the Whole for the purpose of taking up the Public Calendar?

Mr. COX. Before the Speaker decides that question let us have read what my friend from Illinois [Mr. SINGLETON] has called attention to.

The SPEAKER. The Chair wants to dispose of one controversy at a time.

Mr. COX. But the Chair listened to the gentleman from Mississippi, [Mr. HOOKER.]

The SPEAKER. The order referred to by the gentleman from Ohio [Mr. CONVERSE] will be read.

The Clerk read as follows:

On motion of Mr. CONVERSE, by unanimous consent—

"*Ordered*, That Thursday next, (May 20,) after the morning hour, be assigned to the consideration of reports from the Committee on Public Lands."

The SPEAKER. There was an order of the House that a particular day should be assigned to the business of the Committee on Public Lands. When that day ceased, the special privileges of that committee and its business ceased with the day. Therefore the bill pending at the close of that day does not come over as unfinished business in the usual sense as having a claim to consideration under the rule, and in the opinion of the Chair cannot be forced in at this time. The day having been assigned for that particular business, the Chair thinks any business of that day's assignment which was not concluded at the adjournment of that day reverts fairly to the position it occupied in the House before the order of specialty was made.

Mr. COX. I rise to a point of order.

Mr. RYON, of Pennsylvania. I demand the regular order of business.

Mr. COX. I rise to a point of order. The gentleman from Illinois rose to a question of privilege in reference to a matter specially assigned.

The SPEAKER. The Chair will hear the gentleman from Illinois on that point, but he wished first to hear the point which was previously raised by the gentleman from Ohio [Mr. CONVERSE] relating to the unfinished business.

Mr. COX. The Chair ought to hear a case where a member has a right to report at any time.

The SPEAKER. The report has been made, and the only question now is about calling it up.

Mr. CONVERSE. Mr. Speaker, the only ground upon which I make the claim I have is that the bill was taken up for consideration in the House, progress was made on it, and the demand was made for the previous question.

The SPEAKER. But the previous question was not seconded, and that gave it no binding force of continuance. It being considered on that special day was a great advantage given to the business from the Committee on the Public Lands. The privilege ceased with that day. Anything unfinished under the order assigning that day for the consideration of that class of business, the Chair thinks, reverts to its original condition.

Mr. CONVERSE. I do not claim it under the special order, but I do claim it as business begun and unfinished, without regard to the special order.

The SPEAKER. It was unfinished on that day, which was specially assigned for that business, but when that day was concluded it had to take its chance with other legislation.

Mr. COX. I wish to correct a misapprehension on the part of the Chair. The proposition of the gentleman from Illinois can be called up at any time for action as well as for report.

The SPEAKER. Consideration and action are, in one sense, the same.

Mr. SINGLETON, of Illinois. I rise to a point of order.

The SPEAKER. The Chair has disposed of one point of order, and will now hear the point of order raised by the gentleman from Illinois. The gentleman from Illinois claims the right to call up for action the report of the Committee on the Interoceanic Canal.

Mr. SINGLETON, of Illinois. Yes, sir; and I desire to have the order of March 9 read.

The SPEAKER. The Chair will send for it.

Mr. SINGLETON, of Illinois. Here it is in the RECORD, and I ask the Clerk to read it, with the proceedings of the House on the report of the committee.

The Clerk read as follows:

The SPEAKER. The gentleman from Illinois asks the resolution be printed, and also that it be printed in the RECORD, reserving the privilege of calling it up at any time for action. Is there objection?

There was no objection, and it was so ordered.

The SPEAKER. The gentleman from Illinois desires to call up the report mentioned at this time. The character of the order is a continuing one, but the Chair hardly thinks it should interfere at this time with the motion of the gentleman from Kentucky. The Chair, however, is willing to submit the question to the House for its decision.

Mr. CARLISLE. Let the sense of the House be tested on it.

Mr. SINGLETON, of Illinois. Mr. Speaker, I wish to say——

Mr. CARLISLE. I make the point this is not debatable.

The SPEAKER. It is not.

Mr. COX. It comes up as a question of privilege.

The SPEAKER. The House has the right to say whether it will consider it.

Mr. COX. Which comes first?

The SPEAKER. The gentleman from Kentucky antagonizes the motion; and the Chair thinks the House should decide on it at once.

Mr. SINGLETON, of Illinois. But I desire to be heard.

The SPEAKER. Priority of business is not debatable.

Mr. SINGLETON, of Illinois. But I rise to a question of order.

The SPEAKER. The Chair thought the gentleman wished to speak on the merits of the subject.

Mr. SINGLETON, of Illinois. I understand the gentleman from Kentucky has raised the question of consideration.

The SPEAKER. Such question is not debatable.

Mr. CARLISLE. It must be decided without debate.

Mr. SINGLETON, of Illinois. The third clause of Rule XXVI is not applicable, because the right to call up the subject "for action" is a special privilege conferred on the committee by unanimous consent of the House on the 9th day of March last. What was then a "proposition or motion" under the rule referred to has become a special privilege, to be exercised at the discretion of the committee. By this special order the House parted with the right, under the rule, to raise the question of consideration.

The SPEAKER. The Chair overrules the point of order. As many as are in favor of proceeding to consider the subject indicated by the gentleman from Illinois will say "ay."

Mr. COX demanded a division.

The House divided; and there were—ayes 31, noes 88.

So the House refused to take up the report of the Committee on the Interoceanic Canal.

Mr. HOOKER. I raise the point that a prior motion is in order

before that of the gentleman from Kentucky, namely, that it is now in order to go into the Committee of the Whole House on the state of the Union to take up the Calendar.

The SPEAKER. The rule to which the gentleman refers should have been taken advantage of immediately after the morning hour, but it was not. It is the clause of rule allowing motions to go into Committee of the Whole House on the state of the Union to consider revenue and appropriation bills.

Mr. HOOKER. But the morning hour has been dispensed with.

The SPEAKER. The Chair is advised of that, but the proper time for that motion to go into the consideration of revenue and appropriation bills was immediately after the morning hour, but not having been claimed at that time and other business allowed to intervene, it can only now come in under another rule, and the motion to go to the Speaker's table is now in order.

Mr. HOOKER. I desire to say that there are cases upon the Calendar of the Committee of the Whole which have been set apart for consideration by the unanimous action of the House, and I raise the question of order whether those cases which are so to be considered should not have consideration before business ordinarily upon the Speaker's table, and if they do not have priority over business upon the table.

The SPEAKER. It is always within the power of the House to regulate what business it will consider. The gentleman from Kentucky now moves the House go to business on the Speaker's table.

The motion was agreed to.

NIGHT SESSION—REPORTS FROM INTEROCEANIC CANAL COMMITTEE.

Mr. SINGLETON, of Illinois. Mr. Speaker, I ask unanimous consent that the House set apart Monday night next for the consideration of reports from the Committee on Interoceanic Ship Canal.

Mr. RYON, of Pennsylvania. I object.

HOT SPRINGS RESERVATION.

The first business on the Speaker's table was the bill (H. R. No. 4244) providing for the establishment of titles in Hot Springs, and for other purposes.

The bill was read at length.

The SPEAKER. The Senate amendments will be read.

The amendments of the Senate were read.

Mr. CONVERSE. I move that the bill be committed to the Committee on the Public Lands.

Mr. FINLEY. If this bill is to be considered, I would like to offer an amendment to it.

Mr. CONVERSE. I object to its being considered at this time. The rules of the House will take it to the Committee on the Public Lands.

The SPEAKER. Does the gentleman make a point of order against the present consideration of the bill?

Mr. CONVERSE. I make the point of order that this Senate bill, amending the House bill, disposes of the public lands of the United States.

The SPEAKER. The gentleman makes a point of order against its consideration in the House.

Mr. CONVERSE. I do make the point of order.

Mr. FINLEY. What point does the gentleman make against it? If the bill is to be considered, I would like to offer an amendment.

Mr. CRAVENS. I desire to move to concur in the Senate amendment.

The SPEAKER. The Chair will first determine the point of order raised by the gentleman from Ohio.

Mr. CRAVENS. Then I desire to address myself to the point of order.

The SPEAKER. The gentleman from Ohio will please indicate more fully than he has yet done the point of order he makes against the bill.

Mr. CONVERSE. I make the point of order that the bill or amendment of the Senate disposes of the lands of the United States; and the rules require that bills of that kind should go to the Committee on the Public Lands.

The SPEAKER. The rules require that such bills shall go to the Committee of the Whole House on the state of the Union.

Mr. CONVERSE. My understanding is that these bills should go to the Committee on the Public Lands.

The SPEAKER. The Chair thinks not. A point of order under the rules would take it to the Committee of the Whole. The Chair has already decided this point very fully, after consideration, when this bill was brought before the House on the 21st of April last.

Mr. CONVERSE. I was about to add in addition to the point of order that I have made that this bill provides for the payment of $74,000 in money not provided for in the House bill.

The SPEAKER. The Chair is ready to decide the point of order.

Mr. CRAVENS. I desire to be heard upon the point of order for a moment.

The SPEAKER. The Chair begs leave to suggest to the gentleman from Arkansas that he will be kind enough to be as brief as possible, as there are a great many bills upon the table which it is desired to dispose of to-day.

Mr. CRAVENS. I will confine myself directly to the point of order, and shall consume but a very few moments of the time of the House. I desire, in the first place, Mr. Speaker, to call attention to the first clause of Rule XIII, which is as follows:

1. There shall be three calendars of business reported from committees, namely:

First. A calendar of the Committee of the Whole House on the state of the Union, to which shall be referred bills raising revenue, general appropriation bills, and bills of a public character, directly or indirectly appropriationg money or property.

Second. A House calendar, to which shall be referred all bills of a public character not raising revenue nor directly or indirectly appropriating money or property; and

Third. A calendar of the Committee of the Whole House, to which shall be referred all bills of a private character.

Now, this bill or amendment of the Senate does not change the general purport of the act as it passed the House, except in one particular, and I desire to call attention of the Speaker particularly to that point. It disposes of a single piece of ground to a church. That is the only difference between the Senate bill and the House bill as originally passed.

The question whether, under the rules, such amendment having been made in behalf of a church ought to go to the Committee of the Whole or not, is the point to which I desire to address myself.

The twentieth rule provides that—

Any amendment of the Senate to any House bill shall be subject to the point of order that it shall first be considered in the Committee of the Whole House on the state of the Union if, originating in the House, it would be subject to that point.

Now, sir, if this amendment had originated in the House under this rule to which I have just referred, it would go to the Committee of the Whole on the Private Calendar only, instead of to the Committee of the Whole House on the state of the Union, and therefore it is not subject to the point of order made against it by the gentleman from Ohio.

The SPEAKER. The Chair will cause to be read the ruling of the Chair upon this subject when it was before the House on a former occasion.

Mr. FINLEY. If the construction of the gentleman from Arkansas be maintained, there is another point to be considered, and that is, that this bill provides also an appropriation of about $74,000 in money——

The SPEAKER. The Chair examined this point very carefully and critically on the 21st of April, and will cause to be read the decision of the Chair at that time.

The Clerk read as follows:

The SPEAKER. The gentleman from Illinois [Mr. SPRINGER] made the point that it was a new bill.

Mr. SPRINGER. I meant that the subject-matter of the bill was new.

The SPEAKER. The amendment of the Senate relates generally to the subject-matter of the bill as passed by the House. The point of order is made, however, that the amendment of the Senate in one of its provisions proposes to part with the property of the United States for an entirely different object from that proposed by the bill as it passed the House. It may be that that amendment is subject to that point of order.

Mr. DUNN. I do not know what different disposition the amendment of the Senate makes of the property from that made by the House bill, except as to the price charged.

The SPEAKER. The Chair understood the gentleman from Michigan [Mr. CONGER] to state, and the gentleman from Arkansas in charge of the bill [Mr. CRAVENS] admitted the statement to be correct, that by the Senate amendment property of the United States is given for a different purpose from any purpose in the House bill.

Mr. CRAVENS. I will state for the information of gentlemen that the Senate amendment does propose to give some land to a church.

The SPEAKER. The Chair now decides again that the bill is amenable to Rule XX, and has to be first considered in the Committee of the Whole House on the state of the Union.

Mr. CRAVENS. I wish to ask the Chair if an independent bill had originated in the House and appropriated or donated a piece of property, a part of the public lands, to a church, if it would not be considered a private bill?

The SPEAKER. The Chair thinks it should go to the Committee of the Whole on the state of the Union, under the rule.

Mr. CRAVENS. Not to the Committee of the Whole House on the state of the Union, as I understand, but to the Private Calendar. The rule provides that any amendment of the Senate to any House bill shall be subject to the point of order. If originating in the House it would be subject to that point. I hold that this under the circumstances would simply be a private bill.

The SPEAKER. The Chair thinks this is a public bill.

Mr. CRAVENS. And that it must go to the Committee of the Whole House on the state of the Union?

The SPEAKER. The Chair decides that it is amenable under Rule XX, which requires that it shall be first considered in the Committee of the Whole House on the state of the Union.

Mr. CRAVENS. But if the rule provides that it shall be considered in the Committee of the Whole, would not that indicate that it is in the nature of a private bill?

The SPEAKER. Any bill that disposes of the property of the United States must have its first consideration in the Committee of the Whole House on the state of the Union; those are the words of Rule XX, and the Chair now reaffirms the former decision.

Mr. CONVERSE. If the gentleman from Arkansas will consent, I would be glad to have this bill referred to the Committee on the Public Lands.

Mr. CRAVENS. I do not object to that reference, if we cannot have it considered at this time.

The SPEAKER. Is there objection to the reference of this bill to the Committee on the Public Lands?

Mr. WILLITS. Not to come back under a motion to reconsider?

The SPEAKER. Under the rules it cannot be brought back under a motion to reconsider, being by unanimous consent.

There being no objection, the bill was referred to the Committee on the Public Lands.

UNITED STATES COURT AT CHATTANOOGA, TENNESSEE.

The next business on the Speaker's table was the bill (H. R. No. 698) to establish a district and circuit court at Chattanooga, Tennessee, with amendments by the Senate.

The amendments of the Senate were read, as follows:

Strike out all after the enacting clause and insert the following:

"SECTION 1. That the county of Grundy, heretofore composing a part of the middle district of Tennessee, be transferred to and henceforth form a part of the eastern district of Tennessee.

"SEC. 2. A term of the circuit court and of the district court for the eastern district of Tennessee shall be held at Chattanooga, in said State, in each year on the first Monday of April and October, after the passage of this act.

"SEC. 3. Said eastern district shall be, and hereby is, divided into two divisions, to be known as the northern and southern divisions of the eastern district of Tennessee; the southern division shall consist of the following counties, to wit: Hamilton, James, Polk, McMinn, Bradley, Meigs, Rhea, Marion, Sequatchie, Bludsoe, Grundy, and Cumberland; and the northern division shall consist of the remaining counties in said district. But no additional clerk or marshal shall be appointed in said district.

"SEC. 4. That the clerks of the district and circuit courts for the eastern district of Tennessee, and the marshal and district attorney for said district, shall perform the duties appertaining to their offices respectively for said courts. And the said clerks and marshal shall each appoint a deputy to reside and keep their offices in the city of Chattanooga, and who shall, in the absence of their principals, do and perform all the duties appertaining to their offices respectively.

"SEC. 5. All suits not of a local nature in the circuit and district courts against a single defendant, inhabitant of said State, must be brought in the division of the district where he resides; but if there are two or more defendants residing in different divisions of the district such suits may be brought in either division. All issues of fact in said suits shall be tried at a term of the court held in the division where the suit is so brought.

"SEC. 6. All prosecutions for crimes or offenses hereafter committed in either of the subdivisions shall be cognizable within such subdivision; and all prosecutions for crimes or offenses heretofore committed within said county, taken as aforesaid from the middle district, or committed in the eastern district as hitherto constituted, shall be commenced and proceeded with as if this act had not been passed.

"SEC. 7. All grand and petit jurors summoned for service in each division shall be residents of such division. All mesne and final process subject to the provisions hereinbefore contained, issued in either of said divisions, may be served and executed in either or both of the divisions.

"SEC. 8. In all cases of removal of suits from the courts of the State of Tennessee to the courts of the United States in the eastern district of Tennessee, such removal shall be to the United States courts in the division in which the county is situated from which the removal is made; and the time within which the removal shall be perfected in so far as it refers to or is regulated by the terms of the United States courts shall be deemed to refer to the terms of the United States courts in such division.

"SEC. 9. This act shall be in force from and after the 1st day of July, A. D. 1880, and all acts and parts of acts inconsistent herewith are hereby repealed."

Amend the title so as to read: "A bill to establish a district and circuit court at Chattanooga, Tennessee, and to add the county of Grundy to the eastern district of Tennessee."

Mr. DIBRELL. I move concurrence in the Senate amendments, and call for the previous question.

Mr. ROBINSON. I hope the gentleman will permit me to ask him a question before he insists on his call for the previous question. I see that one section which the House Committee on the Judiciary recommended and the House adopted is omitted from the bill as it is returned by the Senate. That section provided that the courts should be held in a building to be provided by the State or municipal authorities and without cost to the United States. Will the gentleman permit that to be offered as an amendment to the amendment of the Senate?

Mr. DIBRELL. That was simply an omission on the part of the Senate in preparing the bill. But I assure the gentleman from Massachusetts and the House that no charge will ever be made against the United States for a building. A building has been erected there at an expense of $75,000, and rooms in it will be furnished for those courts free of charge.

Mr. ROBINSON. I think it would be better to make an amendment to that effect.

Mr. DIBRELL. I hope the gentleman will not insist on offering an amendment. We do not want that the bill should have to go back to the Senate.

Mr. ROBINSON. I desire to facilitate the passage of the bill, but this point ought to be made clear.

Mr. DIBRELL. There will be no difficulty on that score, I assure the gentleman from Massachusetts.

Mr. ROBINSON. That point was very distinctly brought before the Committee on the Judiciary in our investigation of this matter, and we authorized the reporting of the bill with that section in it.

Mr. DIBRELL. The bill as it comes from the Senate was drafted by Senator HARRIS, at the instance of Senator DAVIS, of Illinois. After drafting it, Senator HARRIS came and told me he had left out that section entirely by an inadvertence, and he hoped it would make no difference to the passage of the bill. I assure the gentleman the authorities will make no charge whatever.

Mr. ROBINSON. I hope the gentleman from Tennessee will not resist this amendment. If, as the gentleman says, there is no objection to it, it can only cause the delay of a day. Yesterday we adopted an amendment to an amendment of the Senate to a House bill, and the Senate returned the bill this morning, having concurred in the House amendment. We are all in favor of the bill, and the gentleman from Tennessee is in favor of the purpose of the amendment. I hope, then, he will agree to its being made.

Mr. McMILLIN. I will make this suggestion to the gentleman from Massachusetts: The statement of my colleague [Mr. DIBRELL] as to the intention of the State authorities goes upon record; and if an application should hereafter be made for an appropriation for that purpose, this statement would be quoted upon any one who would move in that direction.

Mr. ROBINSON. The gentleman from Tennessee of course understands the best record that can be made in this House is the record made by the bill itself.

Mr. McMILLIN. The only objection to that is the apprehension that the bill will fail if any further amendment should now be adopted.

The SPEAKER. If the bill should be in danger of failing on that account the Chair will suggest that the House could recede from its amendment at any moment, and that would pass the bill.

Mr. MILLS. I would suggest that, no matter though that proviso were put in the bill, Congress could hereafter make an appropriation for a public building there if it chose.

Mr. ROBINSON. That is very true. At the same time it is a good and safe precedent to establish in a case of this kind when accommodation is offered for the United States courts.

Mr. DIBRELL. I regret very much that on account of the late period of the session I should have to resist the making of the amendment suggested by the gentleman from Massachusetts.

Mr. ROBINSON. Very well; if the gentleman does not agree to the amendment being offered, I hope the House will vote down the previous question so as to permit me to offer the amendment.

The question being taken on seconding the demand for the previous question, there were—ayes 56, noes 46.

Mr. ROBINSON. I do not care myself to make the point that a quorum has not voted, but I regret that our legislation on this subject should be left uncompleted by the want of this proviso.

Mr. THOMAS. I make the point that a quorum has not voted.

Mr. DIBRELL. The point having been made about a quorum, I will agree that the gentleman from Massachusetts shall offer the amendment.

Mr. ROBINSON. I offer the following amendment:

Add as a new section the following:

"SEC. —. That each of said courts shall be held in a building to be provided for that purpose by the State or municipal authorities, and without expense to the United States."

The amendment was agreed to.

The amendment of the Senate, as amended, was concurred in.

Mr. DIBRELL moved to reconsider the vote by which the amendment of the Senate as amended was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The Senate amendment to the title of the bill was agreed to.

MICHAEL LINGENFELTER.

The next business on the Speaker's table was the bill (H. R. No. 1806) granting a pension to Michael Lingenfelter, with an amendment by the Senate.

The amendment of the Senate was read, as follows:

Strike out all after line 4 down to and including the word "being," in line 9, and at the end of the bill insert "subject, however, to the laws governing the rate of disability."

Mr. COFFROTH. I move concurrence in the amendment of the Senate.

The amendment of the Senate was concurred in.

Mr. COFFROTH moved to reconsider the vote by which the amendment of the Senate was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ELIZABETH AULTS.

The next business on the Speaker's table was the bill (H. R. No. 2853) granting a pension to Elizabeth Aults, returned from the Senate with an amendment.

The amendment was to strike out all after the word "pension," in line 6, down to and including the word "rebellion," in line 11, and to insert the words "from and after the passage of this act."

Mr. COFFROTH. I move to concur in the Senate amendment.

The motion was agreed to.

Mr. COFFROTH moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RACHAEL J. REBER.

The next business on the Speaker's table was the bill (H. R. No. 2855) granting a pension to Rachael J. Reber, returned from the Senate with an amendment.

The amendment was to strike out all after the word "and," in line 6, to the end of the bill, and to insert "minor children from and after the passage of this act."

Mr. COFFROTH. I move to concur in the Senate amendment.

The motion was agreed to.

Mr. COFFROTH moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOSEPH SHOWMAN.

The next business on the Speaker's table was the bill (H. R. No. 2857) granting a pension to Joseph Showman, returned from the Senate with amendments.

Mr. COFFROTH. I move that the bill, with the Senate amendments, be referred to the Committee on Invalid Pensions.

The motion was agreed to.

THOMAS H. VAUGHAN.

The next business on the Speaker's table was the bill (H. R. No. 2860) granting a pension to James H. Vaughan, returned from the Senate with an amendment.

The amendment was to strike out all after the word "from," in line 5, to the end of the bill, and to insert "and after the passage of this act."

Mr. COFFROTH. I move to concur in the Senate amendment.

The motion was agreed to.

Mr. COFFROTH moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ELIZABETH DOUGHERTY.

The next business on the Speaker's table was the bill (H. R. No. 3261) granting a pension to Elizabeth Dougherty, returned from the Senate with an amendment.

The amendment was to strike out all after the word "pension," in line 4, to the end of the bill, and to insert "from and after the passage of this act."

Mr. COFFROTH. I move to concur in the Senate amendment.

The motion was agreed to.

Mr. COFFROTH moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ABNER HOOPES.

The next business on the Speaker's table was the bill (H. R. No. 3264) granting a pension to Abner Hoopes, returned from the Senate with an amendment.

The amendment was to strike out all after line 3 to the end of the bill and to insert "subject to the provisions and limitations of the pension law, and pay him a pension from and after passage of this act."

Mr. COFFROTH. I move to concur in the Senate amendment.

The motion was agreed to.

Mr. COFFROTH moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JACOB J. SMITH.

The next business on the Speaker's table was the bill (H. R. No. 2039) granting a pension to Jacob J. Smith, returned from the Senate with an amendment.

The amendment was to strike out all after the word "cavalry," in line 4, to the end of the bill, and to insert "subject to the provisions and limitations of the pension law."

Mr. COFFROTH. I move to concur in the Senate amendment.

The motion was agreed to.

Mr. COFFROTH moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

THOMAS RILEY.

The next business on the Speaker's table was the bill (H. R. No. 2474) to increase the pension of Thomas Riley, returned from the Senate with an amendment.

The amendment was to strike out all after the word "the," in line 5, to the end of the bill, and insert "passage of this act."

Mr. COFFROTH. I move to concur in the Senate amendment.

The motion was agreed to.

Mr. COFFROTH moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HERMAN BALDWIN.

The next business on the Speaker's table was the bill (H. R. No. 2861) granting an increase of pension to Herman Baldwin, returned from the Senate with amendments.

The amendments were to strike out all after "granted," in line 3, down to and including "1877," in line 4; also to strike out all after "him," in line 8, to the end of the bill, and insert "such increase to date from the passage of this act."

Mr. COFFROTH. I move to concur in the Senate amendments.

The motion was agreed to.

Mr. COFFROTH moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOHN H. BLACK.

The next business on the Speaker's table was the bill (H. R. No. 2862) granting an increase of pension to John H. Black, returned from the Senate with amendments.

The amendments were to strike out, in line 3, the words "June 4, 1878," and to insert the words "and after the passage of this act;" also, to strike out all after the word "him," in line 7, to the end of the bill.

Mr. COFFROTH. I move that the amendments of the Senate be concurred in.

The motion was agreed to.

Mr. COFFROTH moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ISAIAH W. BUNKER.

The next business on the Speaker's table was the bill (H. R. No. 2864) granting an increase of pension to Isaiah W. Bunker, returned from the Senate with amendments.

The amendments of the Senate were to strike out of lines 3 and 4 the words "August 7, 1879," and to insert the words "and after the passage of this act;" also, in line 4, to strike out "$24" and to insert "$12."

Mr. COFFROTH. I move that the amendments of the Senate be concurred in.

The motion was agreed to.

Mr. COFFROTH moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REV. PAUL E. GILLEN.

The next business on the Speaker's table was the bill (H. R. No. 3351) for the relief of Rev. Paul E. Gillen, returned from the Senate with an amendment.

The amendment of the Senate was to strike out all after the enacting clause and to insert in lieu thereof the following:

That the Paymaster-General of the Army be, and he is hereby, authorized and required to pay to Rev. Paul E. Gillen, out of any money appropriated or hereafter appropriated for the payment of the Army, such sum as may be due him and unpaid for services as chaplain in the Army from the 20th of July, 1861, the date of his actual commencement of duty as such.

Mr. LE FEVRE. I move that the amendment of the Senate be concurred in.

The motion was agreed to.

Mr. LE FEVRE moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REPORT OF THE COMMISSIONER OF EDUCATION.

The next business on the Speaker's table was the joint resolution (H. R. No. 293) providing for the printing of the Report of the Commissioner of Education for the year 1878, returned from the Senate with amendments.

The SPEAKER. Under the law this joint resolution with the Senate amendments thereto will be referred to the Committee on Printing.

The joint resolution and amendments were referred accordingly.

WILL OF JOSEPH L. LEWIS.

The next business on the Speaker's table was the bill (H. R. No. 2046) to authorize a compromise of the claims of the United States under the will of Joseph L. Lewis, returned from the Senate with amendments.

The amendments of the Senate were to strike out the word "is," in line 3, and to insert the words "and Secretary of the Treasury are;" also, in line 3, to strike out the words "and directed" and to insert "if they see fit;" in line 5, to strike out "him" and to insert "them;" also, to strike out of the preamble all after line 9 down to and including line 22, and to insert the following:

Whereas the said will and codicil are now the subject of contestation in the courts of the State of New Jersey by Frances Grace and Catherine G. Ward, claiming as the surviving sisters, and John S. Cathcart as the nephew of Joseph L. Lewis, in which the Government of the United States has been, and is, represented by legal counsel, and it is further claimed that said bequest is void, and that the testator had no power to dispose of his said property by his said will in derogation of a prior deed of trust: Therefore——

Mr. CARLISLE. I move that the amendments of the Senate be concurred in.

Mr. ROBINSON. I wish the gentleman from Kentucky would occupy a few minutes in explaining this matter, so that we may understand it. Unless I mistake, this is a matter which has been discussed a good deal in the newspapers, and this very controversy has been very recently in the courts. Some explanation by the gentleman may enable us to understand what is the exact point here in litigation.

Mr. CARLISLE. I am not aware, Mr. Speaker, that there has been any discussion in the newspapers upon the particular subject to which this bill relates. There has been a good deal of discussion in the newspapers as to a claim of some persons who allege that they are heirs of Mr. Lewis; and, I believe, one person alleges that she is his widow. But the sole purpose of this bill is to authorize the Attorney-General and the Secretary of the Treasury to compromise with the two sisters of Mr. Lewis their claims under this will. The court in New Jersey decided a few days since that Lewis possessed testamentary capacity and has admitted the will to probate. But that has no effect whatever upon the merits of this bill.

As the bill passed the House originally it provided that the Attor-

ney-General alone should be authorized and directed to make a compromise with these persons. The Senate has struck out the words "and directed," and with the Attorney-General has associated the Secretary of the Treasury. The whole matter as to whether the compromise shall or shall not be made is by the bill, as amended, left to the discretion of these two officers of the Government.

The bill was reported at the extra session from the Committee on Ways and Means and passed by the House. These two old ladies who are setting up claims to this estate are, according to my information, between seventy-five and eighty years of age, and rather than go through a long litigation with the Government of the United States as to the validity of their claims they prefer, according to my understanding, to take some small amount which would be sufficient to sustain them during the remainder of their lives and allow the Government to take the residue of the estate, provided the Government has authority under the law to do so.

Mr. WILLIS. I would like to ask the gentleman whether this question has not recently been determined in the courts? I know I saw it stated in the New York papers that it was determined.

Mr. CARLISLE. I have already stated that the surrogate's court in New Jersey, before which this contest was pending, has decided that Lewis, the testator, possessed testamentary capacity, and has admitted the will to probate. This bill, however, proceeds upon the idea that the Government of the United States has a claim under the will, but that claim being in controversy these two officers of the Government are simply authorized in their discretion to make a compromise or adjustment of the claim.

I ought to have stated, Mr. Speaker, that this man Lewis by his will devised between one and two million dollars to the United States to be used in assisting to pay off the public debt, and he excluded from his bounty all his relatives, even these two aged sisters.

There is a question, and in my mind a very serious question, whether the Government of the United States without some authority by express statute can accept a devise or bequest of this kind and become a trustee. We all know that when Mr. Smithson made a devise for the benefit of science the Congress of the United States was compelled to pass a law accepting the devise and appointing persons to execute the trust. There is very great difficulty, it seems to me, in this case in using this money to pay off the public debt of the United States unless some authority be given by statute to some officer of the United States to receive and disburse the money. Certainly no individual can take $2,000,000 and without authority of law use it to liquidate the debt of the United States.

But, aside from that, leaving all these questions to be determined hereafter by the courts, or by Congress, as the case may be, the simple purpose of this bill is to authorize these two responsible officers of the United States to make a settlement with these two old ladies in case they see proper to do so. I hope the House will concur in the Senate amendments, the effect of which is still further to guard and protect the interests of the Government.

Mr. LAPHAM. Mr. Speaker, this subject was before the Committee on the Judiciary at the extra session. We were unanimous in the opinion suggested by the gentleman from Kentucky [Mr. CARLISLE] that the Government cannot become a trustee without some authority of Congress upon the subject. We were also of opinion, and made a report to this effect, that some officer of the Government should be authorized to effect a compromise with these two sisters, who, as we understand, are willing to accept in full settlement a sum of money which may adequately provide for their support and maintenance during their lives.

Mr. CARLISLE. That is my understanding.

Mr. LAPHAM. I see no objection whatever to the theory of this bill in that respect.

The amendments of the Senate were concurred in.

Mr. CARLISLE moved to reconsider the vote by which the amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

EXPORTATION OF TOBACCO.

The next business on the Speaker's table was the amendment of the Senate to the joint resolution (H. R. No. 215) requesting the President to open negotiations with certain foreign governments relative to the importation of tobacco into their dominions.

The amendment was read, as follows:

Strike out the preamble and all after the resolving clause, and insert:

"Whereas it is the policy of the United States to permit its own citizens and the citizens of France, Spain, Italy, and Austria to freely engage in the purchase and importation into the United States of any and all the great staple productions of said countries respectively, subject only to such impost duties as are deemed proper by this Government: Therefore,

"*Resolved, &c.*, That the President be respectfully requested to open such negotiations with France, Spain, Austria, and Italy as he may deem advisable, with a view to removing the restrictions on the importation of tobacco into the countries named and securing to our citizens an open market therein for the same."

Mr. HOUSE. I move to concur in the Senate amendment.

The amendment was concurred in.

Mr. HOUSE moved to reconsider the vote by which the Senate amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

IMMEDIATE TRANSPORTATION OF DUTIABLE GOODS.

The next business on the Speaker's table was the bill (H. R. No. 4911) to amend the statutes in relation to immediate transportation of dutiable goods, returned from the Senate with the following amendments:

Page 1, line 4, after "New Orleans" insert "Norfolk, Charleston, Savannah, Mobile, Galveston, Pensacola, Florida;"

Page 1, line 7, strike out "six" and insert "seven;"

Page 2, after line 9, insert the following section:

"SEC. 4. That sections 2853 and 2855 of the Revised Statutes of the United States be, and the same are hereby, so amended as to require that all invoices of merchandise imported from any foreign country and intended to be transported without appraisement to any of the ports mentioned in the sixth section of this act, shall be made in quadruplicate; and that the consul, vice-consul, or commercial agent, to whom the same shall be produced, shall certify each of such quadruplicates under his hand and official seal in the manner required by section 2855 of the Revised Statutes, and shall then deliver to the person producing the same, two of the quadruplicates, one to be used in making entry at the port of first arrival of the merchandise in the United States, and one to be used in making entry at the port of destination, file another in his office, there to be carefully preserved, and as soon as practicable transmit the remaining one to the collector or surveyor of the port of final destination of the merchandise: *Provided, however*, That no additional fee shall be collected on account of any service performed under the requirements of this section;"

Page 2, line 10, change section 4 to section 5;

Page 3, line 13, change section 5 to section 6;

Page 3, line 17, change section 6 to section 7;

Page 3, line 18, after "New York," where it comes the second time in said line, insert "Burlington, in Vermont;"

Page 3, line 19, after "Providence," insert "and Newport;"

Page 3, line 19, strike out "and;"

Page 3, line 19, after "Middletown," insert "and Hartford;"

Page 3, line 20, after "Baltimore," insert "Crisfield and Annapolis;"

Page 3, line 21, after "Maryland," insert "Wilmington, Delaware; Georgetown, in the District of Columbia;"

Page 3, line 21, strike out "and;"

Page 3, line 21, after "Richmond," insert "and Petersburgh;"

Page 3, line 21, after "Virginia," insert "Wilmington and New Berne, in North Carolina;"

Page 3, line 21, after "Charleston," insert "and Port Royal;"

Page 3, line 22, after "Savannah," insert "and Brunswick;"

Page 3, line 23, after "Maine," insert "Portsmouth, in New Hampshire;"

Page 3, line 23, after "Chicago," insert "Cairo, Alton, and Quincy;"

Page 3, line 23, strike out "and;"

Page 3, line 23, after "Port Huron," insert "and Grand Haven;"

Page 3, line 24, after "Saint Louis," insert "Kansas City and Saint Joseph;"

Page 3, line 25, after "Milwaukee," insert "La Crosse;"

Page 3, line 26, after "San Francisco," insert "San Diego and Wilmington;"

Page 3, line 26, after "Memphis," insert "Nashville and Knoxville;"

Page 3, line 27, after "Indiana," insert "and Galveston, Houston, Brownsville, Corpus Christi, and Indianola, in Texas; Omaha, in Nebraska; Dubuque, Burlington, and Keokuk, in Iowa; Leavenworth, in Kansas; Tampa Bay, Fernandina, Jacksonville, Cedar Keys, Key West, and Apalachicola, in Florida: *Provided*, That the privilege of transportation herein conferred shall not extend to any place at which there are not the necessary officers for the appraisement of merchandise and the collection of duties."

Page 4, line 1, change section 7 to section 8.

Page 4, line 7, change section 8 to section 9.

Page 4, after line 11, insert the following section:

"SEC. 10. That section 2981 of the Revised Statutes be amended so as to read as follows: 'That whenever the proper officer of the customs shall be duly notified *in writing* of the existence of a lien for freight upon imported goods, wares, or merchandise in his custody, he shall, before delivering such goods, wares, or merchandise to the importer, owner, or consignee thereof, give seasonable notice to the party or parties claiming the lien; and the possession by the officers of customs shall not affect the discharge of such lien, *under such regulations as the Secretary of the Treasury may prescribe*; and such officer may refuse the delivery of such merchandise from any public or bonded warehouse or other place in which the same shall be deposited, until proof to his satisfaction shall be produced that the freight thereon has been paid or secured; but the rights of the United States shall not be prejudiced thereby, nor shall the United States or its officers be in any manner liable for losses consequent upon such refusal to deliver. If merchandise so subject to a lien, regarding which notice has been filed, shall be forfeited to the United States and sold, the freight due thereon shall be paid from the proceeds of such sale in the same manner as other charges and expenses authorized by law to be paid therefrom are paid.'"

Page 4, line 12, change section 9 to section 11.

Amend the title so as to read: "An act to amend the statutes in relation to immediate transportation of dutiable goods, and for other purposes."

Mr. ALDRICH, of Illinois. I move concurrence in the Senate amendments, and on that motion demand the previous question.

Mr. MARTIN, of Delaware. I move to amend on page 3, line 21, by inserting after the word "Wilmington" the words "and Seaford." It is just as important this should be inserted as any port in the bill.

Mr. LORING. And I move to insert after that amendment "and Salem, Massachusetts."

The SPEAKER. The only way the amendments can be received is by voting down the demand for the previous question.

The House divided; and there were—ayes 35, noes 23.

Mr. MARTIN, of Delaware. No quorum has voted. I shall insist on my amendment.

The SPEAKER. The Chair will order tellers. There really is not a quorum present.

Mr. ALDRICH, of Illinois. I do not feel like allowing the amendments to come in, because in the closing hours of the session, if this bill goes back to the Senate—as it necessarily will have to do in case the amendments are agreed to—it may not be reached again during this session.

Mr. MARTIN, of Delaware. The gentleman had better consent to my amendment for the inclusion of Seaford.

The SPEAKER. It would be easier to agree to the amendments than to fight for a quorum in the House.

Mr. ALDRICH, of Illinois. Very well, then, I will allow the amendments to come in.

The SPEAKER. The demand for the previous question is withdrawn, and the question is on the amendments of the gentleman from Delaware and the gentleman from Massachusetts.

The amendments were agreed to; and the Senate amendments, as amended, were then concurred in.

Mr. ALDRICH, of Illinois, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SOLICITOR AND JUDGE-ADVOCATE GENERAL.

The next business on the Speaker's table was the bill (H. R. No. 2788) to authorize the President to appoint an officer of the Navy or the Marine Corps to perform the duties of solicitor and judge-advocate-general, &c., and to fix the rank and pay of such officer.

The SPEAKER. The Senate amendment will be read.

The Clerk read as follows:

In line 2, after the word "appoint," insert "for the term of four years."

Mr. WHITTHORNE. I move to concur in the Senate amendment.

The Senate amendment was concurred in.

Mr. WHITTHORNE moved to reconsider the vote by which the Senate amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WILLIAM TURMAN.

The next business on the Speaker's table was the bill (H. R. No. 5053) granting relief to William Turman, guardian of William W. Brewer, with Senate amendment.

The amendment of the Senate was read, as follows:

Provided, That said William Turman shall first execute a bond with good and sufficient security to be approved by the Secretary of the Treasury to hold the United States harmless against the double payment of said check.

Mr. WHITTHORNE. I move to concur in the Senate amendment.

The motion was agreed to.

Mr. UPSON. I rise to a parliamentary inquiry. I would like to inquire why it is that bill does not appear upon the Calendar?

The SPEAKER. The Chair will explain that this bill came from the Senate within the last two days, and it is not therefore on the Calendar. It came over yesterday from the Senate, and is of a class that has preference under the rules.

Mr. WHITTHORNE moved to reconsider the vote by which the Senate amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RIVER AND HARBOR APPROPRIATION BILL.

The next business on the Speaker's table was the bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes, returned from the Senate with amendments.

Mr. REAGAN. I move that the House further adhere to its disagreement to the amendments of the Senate, and consent to the conference committee asked for by the Senate.

The motion was agreed to.

POST-OFFICE APPROPRIATION BILL.

The next business on the Speaker's table was the bill (H. R. No. 6036) making appropriations for the Post-Office Department of the Government for the year ending June 30, 1881, and for other purposes, returned from the Senate with amendments.

Mr. CLYMER. I move that the House further adhere to its disagreement to the amendments of the Senate, and consent to the committee of conference asked for by the Senate.

The motion was agreed to.

ADVANCEMENT OF AGRICULTURAL INTERESTS.

The next business on the Speaker's table was a concurrent resolution of the Senate in reference to the advancement of agricultural interests.

Mr. CONVERSE. I move the reference of the resolution to the Committee on Agriculture.

Mr. REAGAN. I understand that there is an amendment accompanying that bill.

The SPEAKER. The proposed amendment will go with the resolution.

There being no objection, the concurrent resolution with the proposed amendment was referred to the Committee on Agriculture.

COUNTING THE ELECTORAL VOTE.

The next business, from the Senate, on the Speaker's table was a proposed joint rule providing for the counting of the votes of electors for President and Vice-President.

Mr. GOODE. In accordance with the arrangement made to-day I move to lay that aside for the present.

There was no objection, and the same was informally passed over.

REPORT OF NATIONAL ACADEMY OF SCIENCES.

The next business on the Speaker's table was a concurrent resolution of the Senate providing for the printing of 500 extra copies of the Report of the President of the National Academy of Sciences for the past year, for the use of the Academy of Sciences; which was referred to the Committee on Printing.

SOMERVILLE & DAVIS.

The next business on the Speaker's table was the bill (S. No. 324) for the relief of Somerville & Davis; which was read a first and second time. The bill authorizes and directs the Secretary of the Treasury to adjust the claim of Somerville & Davis, of Galveston, Texas, for excess of duties paid by them on twelve hundred and sixty-eight bundles of cotton-ties imported by them, per steamship China, at the port of Boston, July 29, 1876, and to refund to them the amount found to have been paid in excess of the duties chargeable by law.

Mr. JONES. I ask the previous question upon the third reading and passage of the bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was read a third time, and passed.

Mr. JONES moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REPEAL OF CERTAIN CUSTOMS DUTIES.

The next business on the Speaker's table was the bill (S. No. 840) to exempt from taxation competitory prizes won by American citizens in foreign countries.

The bill, which was read, provides that from and after the passage of this act all prizes, premiums, cups, medals, trophies, and other articles of value won by, or awarded in, foreign countries to citizens of the United States in public competition shall be admitted free of duty, provided that this act shall relate back so as to cover all such prizes and other articles aforesaid won and imported by citizens of the United States subsequent to January 1, 1878; and any duties paid on the articles aforesaid since the last-mentioned date shall be refunded.

Mr. McKENZIE. If that bill is amendable I move to include salt. I think that is of much more importance to very many of our people than prizes won in foreign countries.

Mr. FERNANDO WOOD. I make the point of order upon that bill.

The SPEAKER. The bill is subject to the point of order, as it changes existing law in reference to the collection of revenue.

Mr. FERNANDO WOOD. It is a bill which should have its first consideration in the Committee of the Whole on the state of the Union.

Mr. COX. There is no reason why that bill should not pass.

Mr. FERNANDO WOOD. There are many reasons why it should not pass. It is a bill affecting the revenues, and should have careful consideration.

The SPEAKER. The Chair sustains the point of order made by the gentleman from New York [Mr. FERNANDO WOOD] that it should go to the Committee of the Whole House on the state of the Union.

Mr. FERNANDO WOOD. Let it go to the Committee on Ways and Means.

Mr. COX. Why should it go to the Committee on Ways and Means?

Mr. FERNANDO WOOD. It is a bill that requires amendment wherever it goes. I hope, therefore, it will be sent to the Committee on Ways and Means.

The SPEAKER. Does the gentleman from New York withdraw his point of order? If the point of order is insisted upon the bill must go under the rule to the Committee of the Whole House on the state of the Union.

Mr. FERNANDO WOOD. I withdraw the point of order, and ask that it be referred to the Committee on Ways and Means.

Mr. COX. If it goes to the Committee on Ways and Means I hope they will report something.

There being no objection, the bill was referred to the Committee on Ways and Means.

REPRESENTATIVES OF ALBERT TOWLE.

The next business on the Speaker's table was the bill (S. No. 17) for the relief of the legal representatives of Albert Towle; which was read a first and second time.

The bill was read.

Mr. ROBINSON. That bill I believe is subject to the point of order.

The SPEAKER. It is. The bill ought properly to go to the Committee on Claims.

Mr. ROBINSON. I move its reference to that committee.

The bill was referred to the Committee on Claims.

MILLERS' INTERNATIONAL EXHIBITION AT CINCINNATI.

The next business on the Speaker's table was the bill (S. No. 931) to admit free of duty all articles intended for exhibition at the miller's international exhibition of milling and mill machinery, to be held at Cincinnati, Ohio, commencing May 31, 1880.

The SPEAKER. The Chair thinks a bill for this purpose has already been passed and is now the law.

Mr. FERNANDO WOOD. A bill entirely identical was considered by the Committee on Ways and Means, was reported favorably to the House, and, I think, passed the House unanimously. It may be that it also passed the Senate.

Mr. COX. The Speaker will remember that at the centennial exhibition, in Philadelphia, all the articles intended for exhibition came in free, including numbers of elephants, cameleopards, &c., and in fact whole menageries.

Mr. O'NEILL. The bill which was passed with reference to the admission of articles intended for the centennial exhibition was passed after the greatest deliberation, and in it there were a great many limitations, so that the Treasury should be protected.

Mr. COX. Whatever Philadelphia at any time has claimed for her own benefit she has got.

Mr. FERNANDO WOOD. I think it may be as well to let this bill remain on the Speaker's table.

There was no objection, and the bill was passed over.

JOHN W. CHEEKS.

The next business on the Speaker's table was the bill (S. No. 468) for the relief of John W. Cheeks; which was read a first and second time.

The bill was read.

Mr. SPARKS. I move that the bill be referred to the Committee on Military Affairs.

The motion was agreed to.

JOHN N. REED.

The next business on the Speaker's table was the bill (S. No. 52) for the relief of John N. Reed; which was read a first and second time.

The bill was read, as follows:

Be it enacted, &c., That the sum of $4,124.50 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to pay John N. Reed for material delivered, labor, time, and demurrages, upon the contract of Reed, Pitt & McPherson, approved by the Secretary of War on the 3d day of September, 1860, and assigned to said Reed, and shall be in full discharge of all claim against the United States in any manner arising upon or by reason of the said contract, or for any non-fulfillment thereof.

Mr. REAGAN. This bill has passed the House three times heretofore and has now passed the Senate. There is again a favorable report from the House Committee on Claims. I hope the House will now, by passing the Senate bill, make it a law.

I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. REAGAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DONATION OF CONDEMNED CANNON.

The next business on the Speaker's table was the bill (S. No. 559) donating condemned cannon and cannon-balls or field-pieces to William L. Curry Post, No. 18, Grand Army of the Republic, for their place of burial; which was read a first and second time.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of War be, and he hereby is, authorized to deliver, if the same can be done without detriment to the Government, to William L. Curry Post, No. 18, Grand Army of the Republic, six condemned cannon and cannon-balls, or six field-pieces, to be placed in their place of burial in the city of Philadelphia.

Mr. O'NEILL. I move the previous question on the third reading.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. O'NEILL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ESTATE OF N. BOYDEN.

The next business on the Speaker's table was the bill (S. No. 715) for the relief of the estate of N. Boyden; which was read a first and second time.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and bereby is, directed to pay the sum of $75, without interest, to the estate of N. Boyden, for rent of rooms in Salisbury, North Carolina, from January 1 to March 31, 1866, used for post headquarters, under contract with the said Boyden, at a monthly rental of $25; and the sum of $75 is hereby appropriated to pay the same upon the presentation of proper evidence of the qualification of a legal representative of his estate.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

READJUSTMENT OF SALARIES OF POSTMASTERS.

The next business on the Speaker's table was the bill (S. No. 903) to authorize and direct the Postmaster-General to readjust the salaries of certain postmasters according to the provisions of section 8 of the act of June 12, 1866; which was read a first and second time.

Mr. STONE. I am instructed by the Committee on the Post-Office and Post-Roads to ask the passage of this bill with an amendment.

Mr. BOUCK. I make the point of order that the bill must go to the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair sustains the point of order, and the bill is referred to the Committee of the Whole House on the state of the Union.

Mr. STONE. Is it in order to move that the House now resolve itself into Committee of the Whole on the state of the Union for the purpose of reaching this bill?

Mr. VAN VOORHIS. I move that all bills be laid aside except pension bills until those are disposed of.

The SPEAKER. That motion is not now in order. It would interfere with the order of the House previously made and partially executed.

Mr. PAGE. Does the Chair decide that a bill to readjust salaries of postmasters will take money out of the Treasury?

The SPEAKER. The Chair has no doubt the direct effect would be to take money out of the Treasury.

Mr. HASKELL. Would it be in order now to move that the House resolve itself into Committee of the Whole House on the state of the Union for the purpose of reaching this bill?

The SPEAKER. That motion would not be in order, because the order of the House was to proceed to the consideration of business on the Speaker's table, and that order is in process of being executed.

Mr. HASKELL. We do not ask for the passage of the bill without debate. I would suggest that it might be considered in the House as in Committee of the Whole.

Mr. RYON, of Pennsylvania. Was it not a part of the agreement that when the House went to the Speaker's table all the business there was to be taken up and considered in the order in which it was reached?

The SPEAKER. Subject to points of order under the rules. Suppose that the Chair should entertain a motion to go into Committee of the Whole on the state of the Union to consider business there; when the House went into committee it would have to take up the bills in their order on the Calendar, and this bill now referred to the Committee of the Whole on a point of order would be the last on the Calendar.

Mr. BELFORD. I call for the regular order.

The SPEAKER. The point of order being made, the bill will go to the Committee of the Whole.

MARK WALKER.

The next business on the Speaker's table was the bill (S. No. 2) for the relief of Mark Walker; which was read a first and second time.

Mr. SPARKS. I move that that bill be referred to the Committee on Military Affairs.

Mr. BELFORD. I understand that a bill just like this has been before the Military Committee and reported favorably.

Mr. SPARKS. This is a Senate bill which has never been before the committee.

Mr. O'NEILL. A bill of the House similar to this has been reported from the Committee on Military Affairs.

Mr. SPARKS. It seems that there was a bill in the Senate and another in the House on the same subject, which, in my opinion, is a very bad practice. I move that this Senate bill be referred to the Committee on Military Affairs.

Mr. O'NEILL. Is that motion debatable?

The SPEAKER. The Chair will hear the gentleman.

Mr. O'NEILL. I was going to state that the Committee on Military Affairs of the House has had under consideration a similar bill——

Mr. SPARKS. If the gentleman from Pennsylvania [Mr. O'NEILL] does not want this bill referred to the Committee on Military Affairs, I make the point of order upon it.

The SPEAKER. The Chair sustains the point of order, and the bill will be referred to the Committee of the Whole on the Private Calendar.

JAMES A. BARR.

The next business on the Speaker's table was the bill (S. No. 50) for the relief of James A. Barr; which was read a first and second time.

Mr. DIBRELL. I move that that bill be referred to the Committee on Military Affairs.

The motion was agreed to.

JOHN S. CUNNINGHAM.

The next business on the Speaker's table was the bill (S. No. 286) for the relief of John S. Cunningham; which was read a first and second time.

Mr. SMITH, of Pennsylvania. I make the point of order on that bill that it must receive its first consideration in Committee of the Whole.

Mr. DAVIDSON. A bill for the same purpose has been reported upon favorably by the Committee on Naval Affairs and is now on the Private Calendar.

The SPEAKER. The point of order being made upon this bill, it will be referred to the Committee of the Whole on the Private Calendar.

WILLIAM W. ROSS.

The next business on the Speaker's table was the bill (S. No. 707) for the relief of William W. Ross; which was read a first and second time.

Mr. SMITH, of Pennsylvania. I make the point of order on that bill.

Mr. WHITEAKER. I move that the bill be referred to the Committee on Claims.

Mr. SMITH, of Pennsylvania. I do not object to that.

The motion of Mr. WHITEAKER was agreed to; and accordingly the bill was referred to the Committee on Claims.

DUTIABLE ARTICLES IN THE MAILS.

The next business on the Speaker's table was the bill (S. No. 843) providing for the delivery of dutiable articles in the mails, and for indemnity for lost registered articles; which was read a first and second time.

Mr. MONEY. I move the previous question upon the third reading of this bill.

The SPEAKER. The bill will be read.

The bill was read, as follows:

Be it enacted, &c., That the provisions of section 17 of the act of March 3, 1879, making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1880, and for other purposes, authorizing the delivery of dutiable books to addresses in the United States under such regulations for the collection of customs duties as may be agreed upon by the Secretary of the Treasury and the Postmaster-General, shall be applicable to and embrace all mailable articles of dutiable matter received by mail from foreign countries and admissible by the convention for the formation of a universal postal union, ratified by the President of the United States on the 13th of August, 1878.

Sec. 2. That the Postmaster-General may accept and carry into execution the provisions of article 6 of the universal postal union convention concluded at Paris June 1, 1878, respecting the payment of an indemnity of fifty francs in case of the loss of a registered article exchanged by mail with countries of the universal postal union.

Mr. FERNANDO WOOD. That bill involves the question of revenue, and I move that it be referred to the Committee on Ways and Means.

Mr. MONEY. It relates to the postal service.

Mr. FERNANDO WOOD. It also relates to the transmission of dutiable articles through the mails.

Mr. MONEY. An arrangement was made by the act of March, 1879, to permit dutiable articles, particularly books, to be transmitted through the mails, under regulations to be established by the Secretary of the Treasury and the Postmaster-General. This bill is simply to establish a parcel post between the countries of the universal postal union. I desire that the bill shall now be considered and passed, with an amendment which I have to offer.

Mr. KELLEY. The bill does more than the gentleman from Mississippi [Mr. MONEY] states. It proposes to authorize the Postmaster-General to accept and carry into execution certain provisions of the universal postal union convention, so as to make the Government an insurer of articles transmitted through the mails.

Mr. MONEY. I desire to have the bill considered at this time and will call the previous question upon it.

The SPEAKER. The motion to refer would be in order under the rule, even though the previous question was ordered. The gentleman can attain his object only by inducing the House to vote down the motion to refer.

The question was taken upon the motion of Mr. FERNANDO WOOD, and it was agreed to.

Accordingly the bill was referred to the Committee on Ways and Means.

JOHN CUTLER AND HIS ASSIGNS.

The next business on the Speaker's table was the bill (S. No. 942) releasing the title of the United States to a certain parcel of land to John Cutler and his assigns; which was read a first and second time.

Mr. DUNNELL. I move the reference of this bill to the Committee on the Public Lands.

Mr. CANNON, of Illinois. It is subject to a point of order.

Mr. GUNTER. Should it not go to the Committee on Private Land Claims?

Mr. DUNNELL. I do not oppose that reference.

The bill was referred to the Committee on Private Land Claims.

MONROE DONOHO.

The next business on the Speaker's table was the bill (S. No. 996) for the relief of Monroe Donoho; which was read a first and second time.

Mr. CONVERSE. The Committee on the Public Lands have had this subject under consideration, and are unanimously in favor of the passage of this bill. I ask that it may be considered now.

Mr. LEWIS. I hope it will be taken up and passed.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and required to pay to Monroe Donoho, late register of the United States land office at Tuscaloosa, Alabama, the sum of $160.45, out of any money in the Treasury not otherwise appropriated.

Mr. CONVERSE. I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to a third reading, was accordingly read the third time, and passed.

Mr. LEWIS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOHN J. KEY AND M. G. M. DAVIS.

The next business on the Speaker's table was the bill (S. No. 87) for the relief of John J. Key and M. G. M. Davis; which was read a first and second time.

Mr. ROBINSON. This bill is subject to a point of order; but waiving that point I ask that the bill be sent to the Committee on the Judiciary, because we have had the same subject under consideration, and a bill similar in character has been reported adversely.

Mr. SPARKS. If identically the same bill has been reported upon adversely, why not at once dispose of this bill adversely?

Mr. ROBINSON. The bill reported adversely is not identically the same as this.

Mr. NEW. The bill reported upon adversely by the Committee on the Judiciary of the House embraced the same subject-matter as the Senate bill which has just been read.

Mr. TUCKER. Let the bill go to the Committee on the Judiciary.

The bill was referred to the Committee on the Judiciary.

RIVER AND HARBOR APPROPRIATION BILL.

The SPEAKER announced the appointment of Mr. REAGAN, Mr. CLARDY, and Mr. TOWNSEND of Ohio, as the conferees on the part of the House upon the river and harbor appropriation bill.

Mr. BREWER. Let me suggest that the gentleman from Ohio [Mr. TOWNSEND] is not here.

The SPEAKER. The Chair is advised that he will be here.

JOSEPH N. LEWIS.

The next business on the Speaker's table was the bill (S. No. 299) for the relief of Joseph N. Lewis; which was read a first and second time.

Mr. WARNER. That bill is subject to a point of order.

The SPEAKER. The bill, if referred, should go to the Committee on Claims; but if the point of order be insisted upon, it will be sent to the Committee of the Whole.

Mr. WARNER. I move its reference to the Committee on Claims.

The motion was agreed to.

HEIRS OF CONSTANTINE BRUMIDI.

The next business on the Speaker's table was the bill (S. No. 1358) for the payment of certain moneys to the heirs of Constantine Brumidi, deceased; which was read a first and second time.

Mr. COX. I hope this bill will be passed now.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, directed to pay to Elena Brumidi, of Rome, Italy, and Lawrence S. Brumidi, of Washington, Distfict of Columbia, children of Constantine Brumidi, deceased, the sum of $500, one half to each, being the amount reserved from the last voucher paid him for painting in fresco the picture on the canopy of the dome of the Capitol; and also to pay the sum of $200 to defray the funeral expenses of said deceased, said payments to be made out of the moneys appropriated by an act approved March 3, 1879, entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes," said appropriation being in the language following: "To pay C. Brumidi, for retouching and blending the picture in fresco on the canopy of the dome of the Capitol, and for constructing a scaffolding under said picture, $700."

The bill was ordered to a third reading; was accordingly read the third time, and passed.

Mr. COX moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HEIRS OF CHARLES B. SMITH.

The next business on the Speaker's table was the bill (S. No. 287) for the relief of the heirs of Charles B. Smith, deceased; which was read a first and second time.

Mr. VALENTINE. I ask that this bill be now considered. It has been passed by the Senate twice.

The bill was read, as follows:

Be it enacted, &c., That the proper accounting officers of the Treasury be, and they are hereby, authorized and directed, in the settlement of the accounts of Charles B. Smith, deceased, late first lieutenant of the Fifth Iowa Cavalry Volunteers, to receive and allow, where the proper vouchers cannot be procured, a statement verified, or such other satisfactory evidence, of all expenditures or issues made by him for the Government, as will be sufficient to close his subsistence and quartermaster's accounts upon the books of the Treasury.

The bill was ordered to a third reading; was accordingly read the third time, and passed.

Mr. VALENTINE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JAMES BURKE.

The next business on the Speaker's table was the bill (S. No. 952) for the relief of James Burke; which was read a first and second time.

The bill was read.

Mr. FINLEY. I make the point of order against that bill.

The SPEAKER. The bill appropriates $180.40, and is therefore subject to the point of order that it must have its first consideration in the Committee of the Whole on the Private Calender.

Mr. SPARKS. Let it go to the Committee on Claims.

The SPEAKER. Does the gentleman make that motion?

Mr. SPARKS. I do.

The motion was agreed to.

WILLIAM H. DAVIS.

The next business on the Speaker's table was the bill (S. No. 1208) for the relief of William H. Davis, of Oakland, California; which was read a first and second time.

The bill was read.

Mr. BOUCK. I make the point of order against that bill. It appropriates $60,000.

Mr. BERRY. I ask, Mr. Speaker, that the bill remain upon the Speaker's table.

The SPEAKER. Is there objection?

Mr. SPARKS. Yes; let it be referred.

Mr. PAGE. The colleague of the gentleman from Wisconsin [Mr. BRAGG] reported a similar bill, which is now in the Committee of the Whole House on the Private Calendar.

Mr. BOUCK. I understand this question. I have no objection, though, to the bill remaining upon the Speaker's table.

Mr. PAGE. Has the gentleman any objection to considering it now?

Mr. BOUCK. I have.

Mr. SPARKS. I object to any bill remaining upon the Speaker's table when it has been reached in its order. Let each bill after it is reached go somewhere.

The SPEAKER. The motion to commit is in order.

Mr. ATHERTON. I move, then, to refer to the Committee on War Claims. They have a similar claim before them, and have considered it.

The motion was agreed to.

CHESTER A. ARTHUR.

The next business on the Speaker's table was the bill (S. No. 1314) for the relief of Chester A. Arthur, collector of the port of New York; which was read a first and second time.

The bill was read.

Mr. MCMILLIN. I make the point of order against the bill.

Mr. CARLISLE. Let it be referred to the Committee on Ways and Means.

The motion was agreed to; and the bill was accordingly referred to the Committee on Ways and Means.

POST-OFFICE APPROPRIATION BILL.

The SPEAKER announced the appointment, on the part of the House, as conferees on the disagreeing votes on the Post-Office appropriation bill, Mr. BLACKBURN, Mr. BLOUNT, and Mr. CANNON of Illinois.

HOT SPRINGS RESERVATION.

The next business on the Speaker's table was a joint resolution (S. R. No. 89) touching the Hot Springs reservation in the State of Arkansas; which was read a first and second time.

The joint resolution, which was read, provides that the time allowed by the Secretary of the Interior to instruct the United States land officers at Little Rock, Arkansas, under section 10 of the act of March 3, 1877, entitled "An act in relation to the Hot Springs reservation in the State of Arkansas," be extended until the 15th day of April next, and all further proceedings under said act be suspended until that time.

Mr. CRAVENS. I move to lay the bill upon the table.

The motion was agreed to.

The SPEAKER. That kills the bill.

Mr. CRAVENS moved to reconsider the vote by which the bill was laid upon the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CHARLES W. ABBOT AND W. W. BARRY.

The next business on the Speaker's table was a bill (S. No. 533) for the relief of Charles W. Abbot, a pay-director, and W. W. Barry, a passed assistant paymaster, in the United States Navy; which was read a first and second time.

The bill was read.

Mr. ATHERTON. I make the point of order against that bill.

Mr. CRAPO. The same bill was discussed in the Committee of the Whole House on the Private Calendar yesterday.

The SPEAKER. The point of order is made against the bill.

Mr. CRAPO. I move, then, it be referred to the Committee on Naval Affairs.

The motion was agreed to.

MORAL AND SOCIAL SCIENCE, DISTRICT OF COLUMBIA.

The next business upon the Speaker's table was the bill (S. No. 217) to introduce moral and social science into the public schools of the District of Columbia; which was read a first and second time.

The bill was read.

Mr. BOUCK. I move that bill be referred to the Committee on Education and Labor.

The motion was agreed to.

JOHN R. F. TATNALL.

The next business on the Speaker's table was a bill (S. No. 392) to remove the political disabilities of John R. F. Tatnall, of Georgia; which was read a first and second time.

The bill, which was read, relieves John R. F. Tatnall, of Georgia, of all political disabilities imposed upon him by the third section of the fourteenth article of amendments to the Constitution of the United States.

Mr. NICHOLLS. I move that bill be put upon its passage.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed, two-thirds voting in favor thereof.

MULLAN WAGON-ROAD.

The next business on the Speaker's table was the bill (S. No. 1256) to authorize the Secretary of War to improve and repair the Mullan wagon-road between Forts Missoula and Cœur d'Alene; which was read a first and second time.

The bill, which was read, authorizes and empowers the Secretary of War to have improved and repaired the military wagon-road, commonly known as the Mullan wagon-road, between Fort Missoula, in Montana Territory, and Fort Cœur d'Alene, in Idaho Territory, and for the purpose of defraying the expenses of the same the sum of $20,000, or so much thereof as may be necessary, is appropriated out of any moneys in the Treasury not otherwise appropriated.

Mr. MAGINNIS. The Committee on Military Affairs of the House have had this subject under consideration, and have directed me to endeavor to secure the passage of the bill from the Senate. I ask for the reading of the report of the Committee on Military Affairs.

The SPEAKER. The report will be read.

The Clerk read the report, as follows:

The Committee on Military Affairs have had under consideration letters from Hon. George W. McCrary, late Secretary of War, and from Hon. Alexander Ramsey, Secretary of War, inclosing reports of Army officers whose commands, in obedience to orders from the General of the Army, were engaged during the summer of 1879 in clearing out and reopening the Government military road between Forts Missoula and Cœur d'Alene, known as the Mullan road and constructed by the Government in 1858.

Your committee find that this road is the only means of communication across the mountains between these posts, a distance of about one hundred and fifty miles. It is necessary to military operations, and its impassable condition was the main reason of the easy escape of the hostile Nez Percés from Idaho under Joseph, which caused the subsequent protracted and expensive campaign.

Under the direction of the General of the Army, who passed over the road shortly after that event, the troops on both sides of the mountains have been sent out to clear up and reopen the road, meeting at the summit of the range. Captain Penrose reports that on the east side of the mountains his command worked one hundred and fifteen miles of road, built twenty log bridges from one hundred to twenty-five feet long, and cut and removed hundreds of trees that had fallen across the road.

On the western side of the range Colonel Wheaton's command worked fifty-four days with cheerfulness and alacrity, although without extra-duty pay.

Colonels Wheaton and Gibson and Generals Howard, McDowell, Terry, and Sheridan join in the request for an appropriation of $30,000, which is warmly recommended by the General of the Army and the Secretary of War.

This appropriation is needed for the more permanent work which must be done by mechanics, for iron, tools, blasting material, &c., to be used in connection with the labor of the troops and to secure permanency for their work.

Your committee find that, in accordance with the request of the Secretary of War and the officers of the Army, the Military Committee of the Senate prepared and reported a bill for $20,000 of the amount asked for, which passed the Senate and is now on the Speaker's table. The sub-committee, consisting of the chairman and Mr. MAGINNIS, are instructed to call up that bill from the Speaker's table, in order that the appropriation may be available for this season's work, and recommend the passage of the bill.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. MAGINNIS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JAMES VANCE, ETC.

The next business on the Speaker's table was a bill (S. No. 1268) for the relief of James Vance or his legal representatives and the legal representatives of William Vance, deceased; which was read a first and second time.

Mr. UPSON. I move that bill be put upon its passage.

Mr. BREWER. I withhold my point of order until there can be some explanation of the matter.

Mr. BOUCK. What are those buildings used for?

Mr. UPSON. They are used by the military. This bill has been reported favorably from the Committee on Claims. These parties expended some $6,000 in repairing the buildings for the accommodation of the Government under a contract with the quartermaster. The parties have never yet been paid for rent.

Mr. BOUCK. Why did they not receive pay?

Mr. UPSON. It was just after the war.

Mr. ATHERTON. Why did not the quartermaster pay?

Mr. UPSON. The report upon the bill will fully explain, which I ask to be read.

Mr. VANCE. Let the bill and report be read.

The bill was read, as follows:

That the Secretary of the Treasury be, and he is hereby, authorized and directed, out of any money in the Treasury not otherwise appropriated, to pay to James Vance or his legal representatives and the legal representatives of William Vance, deceased, the sum of $5,500, in full payment for the use of buildings at San Antonio, Texas, between August 5, 1865, and August 20, 1866.

The report was read, as follows:

The committee to whom was referred the petition of James Vance and William Vance, asking for payment for use of certain buildings at San Antonio, Texas, report as follows:

The same matter was before the Senate in the Forty-fifth Congress, and a favorable report was made thereon by the Committee on Claims.

This claim is for rent for the use and occupation of certain buildings in San Antonio, Texas, from the 5th day of August, 1865, to the 20th day of August, 1866, as well as the rental of a certain dwelling-house from September 1, 1865, to April 30, 1866.

The principal buildings, exclusive of the dwelling-house, were five in number, containing twenty-two rooms; two of these were store-houses, each thirty feet wide by one hundred and ten feet deep, with two barracks, each thirty feet wide and one hundred and sixty-seven feet deep. These buildings had been rented before the war of the claimants, the Government paying rental therefor at the rate of $625 per month.

At the time actual hostilities ceased, which was before the 5th of August, 1865, these buildings were in a damaged condition, and the claimants allege that at the request of Captain H. S. Clubb, assistant quartermaster, they repaired the build-

ings at an expense of between seven and eight thousand dollars in gold; that such repairs were made for the purpose of inducing the Government to rent the buildings. On the 5th day of August, 1865, the Government, by its assistant quartermaster, took possession of the buildings before mentioned as well as the dwelling-house of the claimants.

The evidence is satisfactory on the question of possession having been given the Government by the claimants.

It was in no sense a taking of possession by force, or without the consent of the owners. It is evident that the claimants and the assistant quartermaster understood that rent was to be paid for the use and occupation of the premises. The claimants allege that there was no positive agreement as to the amount to be paid, but it was supposed that the amount allowed would be the same as had been paid before the war. The assistant quartermaster reported the use and occupation of the premises to the Department at Washington, with a diagram of the buildings, streets, &c., and under the head of "Rate of hire or compensation" entered "Rate not settled." This statement was made monthly during the time these buildings were so occupied, and the testimony shows that it was the intention of the quartermaster and the claimants that rent was to be paid at such sum as should be fixed at Washington, and there is nothing in the case that will warrant the idea that it was taken possession of by force, or without the consent of the owners first obtained. It is evident that this was the belief of the claimants, (that rent was to be paid,) for, in the spring of 1866, the claimants presented the claim for rent of the premises, and were informed, May 9, 1866, that "under existing decision of the War Department rent in States heretofore in rebellion cannot be paid by the Quartermaster's Department." This, the Department claims, brings the case within the rule laid down by the Supreme Court in the case of Filor *vs.* United States, 9 Wallace, page 45, and this is undoubtedly correct. The case of Filor *vs.* United States only decided that there was not such a contract as would entitle the plaintiff to sue in the Court of Claims, and it must be admitted that in this case the claimants have no standing in the Court of Claims. If they had they would doubtless go into that court.

Congress has uniformly allowed rent to claimants where the premises occupied by the Army were occupied under contract.

It is, under the provision of law, the duty of the Quartermaster's Department to furnish quarters for officers, and the Quartermaster's Department must provide storerooms, warehouses, depots for its supplies, and it cannot be said that while the Quartermaster's Department might contract for officers' quarters it could not contract for a building in which to put the stores indispensable to the existence of the Army rank and file. If Congress is justified in recognizing as valid the contract made for the convenience of the officers of the Army, and the clerical force necessary for the efficiency of the Army, it certainly will be justified in recognizing the contracts made by the same officers for the rental of buildings, without which the Quartermaster's Department would hardly have been able to discharge the duties imposed on it by law, the least of which was the furnishing quarters for officers and their staff.

The claimants were induced to expend a large amount of money in repairing the buildings, putting them in condition to be occupied by the Government, and under a contract with the assistant quartermaster the claimants surrendered to the Government the possession of the buildings at a time when war existed only in name and not in fact.

Such contract was made about two months after the Government of the United States had officially notified the governments of Europe that the war of the rebellion was at an end, that the authority of the United States was regarded in all of the late rebellious States. No armed force appeared against the Government in the State of Texas after August 1, 1865, and the Government did not after that time exercise the right (not denied to it in war) to seize the property of the citizens of disloyal States and occupy the same without compensation to the owners.

Under all the circumstances, your committee think it was the duty of the Government, on the 9th of May, 1866, if the intention was to repudiate the contract, to have surrendered to the claimants the possession which had been acquired under a promise to pay rent, and, not having so surrendered the premises, your committee think that it does not comport with the dignity of the Government to say that such rent ought not to be paid.

The Government did pay rent for the premises, exclusive of the dwelling-house, after August 20, at the rate of $5,000 per annum for a period, and subsequently at the rate of $6,000 per annum, and your committee think that the rent for the buildings so occupied, exclusive of the dwelling, ought to be paid at the rate of $5,000 per annum, and that the evidence shows that the rent of the dwelling-house was worth at least $50 per month, making the total rent due the claimants the sum of $5,200 for the rental of the property, exclusive of the dwelling-house, and $300 for the use of the dwelling, or a total of $5,500.

The committee therefore recommend that amount be allowed in full of all claims of claimants, and report the accompanying bill.

Mr. ATHERTON. Mr. Speaker, if there was a contract, as alleged, there is no trouble in having this matter paid by the accounting officers of the Government. If there was no contract then the Government is not liable at all. It seems to me that this is one of that class of bills which should be carefully considered before paying so large a sum for the rent of a building and establishing such a principle. In order to have a more thorough consideration of this question and a careful examination of it by a committee of this House, I move its reference to the Committee on War Claims.

Mr. UPSON. If the gentleman from Ohio had listened to my statement he would have found that this matter has already been reported by the Committee on Claims of this House. It has been passed upon unanimously by that committee. The facts of the case are that the Department refuses to pay this amount because the renting occurred at the period it did, right after the war, and the Quartermaster's Department hold that they cannot pay it under the decision of the Supreme Court. Other claims of the same character have been paid. This bill was favorably reported by the Senate committee in the Forty-fifth Congress, and also in the present Congress, and was passed by the Senate at this session without a dissenting voice. It has been before the Committee on Claims of this House and received the unanimous indorsement of the committee. There is no question in regard to the equity of the claim. I hope there will be no objection to the consideration of the question at this time by the House.

Mr. ATHERTON. If it is to be paid at all it should go to the Court of Claims, where the account can be ascertained and adjusted better than by a committee of the House.

Mr. UPSON. Under a decision of the Supreme Court of the United States the Court of Claims has no jurisdiction of the claim, and the parties are forced to come to Congress for a settlement.

Mr. BREWER. I reserved the point of order upon this, and I now insist upon it.

Mr. FINLEY. There is no point of order that can prevail against this question.

Mr. BREWER. I reserved the point of order, as I have stated; but if, as I understand, this question has been favorably considered by a committee of the House, I shall not insist upon it.

The SPEAKER. The gentleman cannot make a qualified objection. Does the Chair understand the point of order is withdrawn?

Mr. UPSON. I will say to the gentleman from Michigan that this has been before the Committee on Claims and received their unanimous recommendation.

Mr. SMITH, of Pennsylvania. Mr. Speaker, I made the point of order upon this at the time it was first introduced. I now renew the point of order upon it. I am satisfied that it ought to have further consideration by some committee of this House.

Mr. UPSON. The gentleman from Pennsylvania has not, perhaps, heard my statement. I stated that this had been unanimously reported by the Committee on Claims of this House.

Mr. BREWER. If it was reported from the Committee on Claims, then I withdraw the point of order.

Mr. SMITH, of Pennsylvania. I reserved the point of order at the time this was presented until it was read.

The SPEAKER. The gentleman from Pennsylvania states that he made the point of order upon the bill, reserving his right to object after it was read. The Chair, however, did not hear him, but will take the gentleman's statement for it.

Mr. FINLEY. Is it not too late to make the point of order now?

The SPEAKER. The gentleman states that he reserved the point of order. The Chair thinks it is not too late. The gentleman from Michigan [Mr. BREWER] reserved the point of order, but withdraws it. The gentleman from Pennsylvania now renews it. The gentleman states he reserved it at the time, and the Chair holds it is not too late.

Mr. SMITH, of Pennsylvania. Then I insist upon the point of order.

The SPEAKER. The point of order being insisted upon, the bill goes to the Committee of the Whole on the state of the Union.

A MEMBER. Should it not go to the Committee on War Claims?

Mr. UPSON. It does not belong to the Committee on War Claims. It has been before the Committee on Claims, and was passed upon by them. I ask its present consideration. Let it be considered upon its merits now. I am ready to meet the question. I know the claim is just, and should be allowed. There is no good reason why it should be referred and not now considered. I hope the gentleman will withdraw his objection.

The SPEAKER. The point of order being made upon it, it must go to the Committee of the Whole on the state of the Union.

The bill was so referred.

P. L. WARD.

The next business on the Speaker's table was the bill (S. No. 1267) for the relief of P. L. Ward, widow and executrix of William Ward, deceased.

The bill was read.

Mr. GOODE. I move that the bill be put upon its passage. It was passed unanimously in the Senate.

Mr. BOUCK. I make the point of order upon it.

The SPEAKER. The point of order being made, the bill goes to the Committee of the Whole on the Private Calendar.

RECLAMATION OF ARID LANDS.

The next business on the Speaker's table was the bill (S. No. 768) for the reclamation of arid and waste lands.

The bill was read.

Mr. BELFORD. Mr. Speaker, that bill has been substantially passed in the agricultural appropriation bill. I move, therefore, that it be laid upon the table.

The motion was agreed to.

CRIMINAL TRIALS IN THE DISTRICT OF COLUMBIA.

The next business on the Speaker's table was the bill (S. No. 1408) to further amend the act entitled "An act to reorganize the courts of the District of Columbia, and for other purposes," approved March 3, 1863, and to amend section 861 of chapter 24 of the Revised Statutes of the District of Columbia.

The SPEAKER. The Clerk will read the bill.

The Clerk read as follows:

Be it enacted, &c., That any justice of the supreme court of the District of Columbia holding a term of the circuit court for said District (whenever the condition of the business in such circuit court and in the criminal court, in the opinion of the general term of said supreme court, may render it proper and expedient so to do) may hold sittings for the trial of such criminal cases depending in the criminal court as the justice presiding therein may assign for that purpose, and may employ the petit juries drawn from such circuit court for such trial; and such sittings may be held during the regular sessions of the criminal court, or, in the recess thereof, during the term of such circuit court; and the business done at such sittings shall be recorded in the minutes of the criminal court.

SEC. 2. That section 861 of chapter 24 of the Revised Statutes of the District of Columbia be, and the same is hereby, amended so as to read as follows:

"SEC. 861. It shall be good cause of principal challenge to any person called to serve as a talesman on a petit jury at any term of the criminal or circuit courts of the District of Columbia, that he has served as such juror in the trial of a cause in either of said courts at any time within one year next before his being so called and challenged. And whenever a paper, on which is written the name of any person, shall be drawn from the jury-box, and such person by reason of being challenged, or for any other reason, shall not serve as a juror at the term for or at which

he shall have been so drawn, the clerk of the supreme court of the District of Columbia (unless otherwise ordered by the justice presiding in the court for which such name was drawn) shall replace the said paper in the jury-box, folded or rolled up in the manner prescribed by section 853 of said chapter, subject to be drawn again from said jury-box with the other papers therein."

SEC. 3. All laws and parts of laws inconsistent herewith are repealed.

Mr. HUNTON. Mr. Speaker, the only purpose of this bill is to expedite the trial of criminal cases. It provides that a justice of the supreme court, in addition to the criminal court, may try such criminal cases as may be assigned by the chief-justice. It amends section 861 of chapter 24 of the revised statutes of the District of Columbia authorizing the exemption of jurymen one year instead of two. I move that the bill be put upon its passage.

There being no objection, the bill was read three several times, and passed.

Mr. HUNTON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate further insisted on its amendments to the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, disagreed to by the House of Representatives, further insisted on its disagreement to the amendments of the House to certain amendments, and agreed to the further conference asked by the House, and had appointed Mr. DAVIS of West Virginia, Mr. WALLACE, and Mr. WINDOM to be the conferees on the part of the Senate.

The message further announced that the Senate agreed to the amendments of the House to the joint resolution (S. R. No. 64) extending the provisions of the first section of an act entitled "An act fixing the rate of interest upon arrearages of general taxes and assessments for special improvements now due to the District of Columbia, and for a revision of assessments for special improvements, and for other purposes," approved June 27, 1879.

The message further announced that the Senate had passed without amendment the bill (H. R. No. 5043) to remove the charge of desertion against Enoch Davis.

The message further announced that the Senate had passed, with amendments in which the concurrence of the House was requested, the bill (H. R. No. 4606) authorizing the President of the United States to nominate Drs. Thomas Owens and William Martin assistant surgeons United States Navy.

The message further announced that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

A bill (S. No. 1771) to establish post-roads; and

A bill (S. No. 1804) to provide for the reappraisement and sale of the buildings and improvements known as the Detroit arsenal, in the State of Michigan.

ELEVATOR IN PUBLIC BUILDINGS AT INDIANAPOLIS.

The next business on the Speaker's table was the bill (S. No. 1280) for the purpose of erecting an elevator in the United States courts and Federal offices at Indianapolis, Indiana; which was read a first and second time.

The bill was read.

Mr. DE LA MATYR. I ask the present consideration of the bill.

Mr. ATHERTON. I desire to have the report read. I do not understand the United States own any court-house in Indianapolis. Do they or not?

Mr. BAKER. They do. They own a court-house and post-office.

Mr. COOK. I make the point of order.

The SPEAKER. The Chair sustains the point of order, and the bill is referred to the Committee of the Whole on the state of the Union.

INSANE CLAIMANTS FOR PUBLIC LANDS.

The next business on the Speaker's table was the bill (S. No. 1404) to provide for issuing patents for public lands claimed under the pre-emption and homestead laws in cases where the claimants have become insane; which was read a first and second time.

The bill was read, as follows:

Be it enacted, &c., That in all cases in which parties who regularly initiated claims to public lands as settlers thereon according to the provisions of the pre-emption and homestead laws, have become insane or shall hereafter become insane before the expiration of the time during which their residence, cultivation, or improvement of the land claimed by them is required by law to be continued in order to entitle them to make the proper proof and perfect their claims, it shall be lawful for the required proof and payment to be made for their benefit by any person who may be legally authorized to act for them during their disability, and thereupon their claims shall be confirmed and patented, provided it shall be shown by proof satisfactory to the Commissioner of the General Land Office that the parties complied in good faith with the legal requirements up to the time of their becoming insane, and the requirement in homestead entries of an affidavit of allegiance by the applicant in certain cases as a prerequisite to the issuing of the patents shall be dispensed with so far as regards such insane parties.

Mr. CONVERSE. I move that the bill be put upon its passage.

Mr. DUNNELL. And I second that motion.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. CONVERSE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NATIONAL EDUCATIONAL ASSOCIATION.

The next business on the Speaker's table was the bill (S. No. 1282) to incorporate the National Educational Association; which was read a first and second time.

The bill was read.

Mr. WILLITS. I ask that the bill be put upon its passage.

Mr. CARLISLE. I move that it be referred to the Committee on the Judiciary.

Mr. GOODE. I move to amend the motion of the gentleman from Kentucky, so that the bill may now be put upon its passage.

The SPEAKER. The motion of the gentleman from Kentucky [Mr. CARLISLE] is first in order.

Mr. GOODE. I hope the House will vote it down.

Mr. MCMILLIN. Before a vote is taken, I desire to have the clause again read which makes a provision in regard to taxation.

Mr. WILLITS. There is no exemption from taxation provided for in the bill.

Mr. GOODE. If the House will permit me I desire to say one word. The bill after full consideration passed the Senate. It has been fully considered by the House Committee on Education and Labor and is approved by that committee. The whole object of the bill is to incorporate these superintendents of education in order to facilitate their efforts in the diffusion of information touching educational methods throughout the United States. It does not extend in its operations at all beyond the District of Columbia.

Mr. CARLISLE. The gentleman has just said that these persons are incorporated here in the District, but with power to make inquiries throughout the United States.

Mr. GOODE. I said they were to diffuse this information throughout the United States. But the terms of the bill itself restrict them to the District of Columbia. They have no power beyond the District of Columbia anywhere.

Mr. CARLISLE. I did not so understand the bill.

The SPEAKER. If the gentleman from Virginia is correct the title of the bill should be made to correspond.

Mr. CARLISLE. The very title of the bill contradicts the construction which the gentleman from Virginia puts upon it. The bill is to incorporate the "National Educational Association," and, as I understand, clothes it with power to extend its operations into every State of the Union. And not only that, but it is to be connected with the various public departments of the United States.

Mr. GOODE. The gentleman from Kentucky is entirely mistaken. If he had read carefully that portion of the bill he would see the association is restricted to operations in the District of Columbia. The only thing that gives color to the gentleman's idea is that these educators, these superintendents of instruction, live in the different States of the Union. The gentleman knows very well the Legislature of Kentucky has power to incorporate a company of individuals living in every State of the Union, but they must restrict their operations to the State of Kentucky. Is it possible the Congress of the United States cannot do for the District of Columbia what the Commonwealth of Kentucky could do for that State? I repeat to the House that the sole object of this bill is to erect a corporation here in the District of Columbia; and there is nothing in the bill from the beginning to the end of it that would make it obnoxious to the objection of the gentleman from Kentucky except the fact that the incorporators are superintendents of instruction living in every State of the Union.

Mr. WILLITS. Let me say further that the association cannot own a dollar of property out of the District.

Mr. CARLISLE. That is the whole extent to which the limitation of the corporation to the District goes. Its office is confined to the District of Columbia, and its capacity to hold real and personal property is limited to the District of Columbia; but the business of the corporation may extend into every State, county, and township in the Union.

Mr. GOODE. The gentleman certainly has not read the bill.

The SPEAKER. The question is upon the motion of the gentleman from Kentucky, [Mr. CARLISLE,] that the bill be referred to the Committee on the Judiciary.

The question was taken; and upon a division there were—ayes 36, noes 30.

Mr. GOODE. I would like a vote by tellers on this motion.

Tellers were ordered, and Mr. CARLISLE and Mr. GOODE were appointed.

The House again divided; and the tellers reported that there were—ayes 43, noes 29.

No further count being called for, the bill was referred to the Committee on the Judiciary.

DISTRICT OF COLUMBIA 5 PER CENT. BONDS.

The next business on the Speaker's table was the bill (S. No. 1148) to amend an act entitled "An act authorizing the commissioners of the District of Columbia to issue twenty-year 5 per cent. bonds of the District of Columbia to redeem certain funded indebtedness of

said District," approved June 10, 1879; which was read a first and second time.

The bill was read, as follows:

Be it enacted &c., That the act entitled "An act authorizing the commissioners of the District of Columbia to issue twenty-year 5 per cent. bonds of the District of Columbia to redeem certain funded indebtedness of said District," approved June 10, 1879, be, and the same is hereby, so amended as to authorize the commissioners of said District to issue registered bonds as well as coupon bonds, upon the terms and conditions and in the manner provided in said act; and that the Secretary of the Treasury be, and hereby is, authorized to exchange registered bonds for coupon bonds already issued under the authority of the act approved June 10, 1879, and to sell either the registered or coupon bonds, as may be most to the benefit of the said District, at not less than their par value in the redemption of the said funded indebtedness of said District: *Provided*, That the amount of both the registered and coupon bonds so issued or exchanged, with those already issued under said act, shall not exceed the amount of $1,200,000, as provided in said act of June 10, 1879.

Mr. HUNTON. The purpose of the act of June 10, 1879, of which this act is amendatory, was to authorize the commissioners of the District of Columbia to issue certain twenty-year bonds, bearing 5 per cent. interest, in order to fund some indebtedness of the District of Columbia falling due and bearing 6, 7, and 8 per cent. interest. Under that law the commissioners issued coupon bonds. Some of the parties who bought the coupon bonds want registered bonds in the place of them, and the purpose of this amendatory law is to authorize the commissioners to issue registered bonds in place of the coupon bonds. The act of June 10, 1879, provides expressly that "this act shall not be construed to make the Government of the United States liable for either the principal or the interest of said bonds or any part therof." The object of this bill is to accommodate the purchasers of the coupon bonds by giving them registered bonds instead of coupon bonds.

Mr. WARNER. It simply provides for an exchange of bonds?

Mr. HUNTON. That is all.

Mr. WARNER. It takes nothing out of the Treasury?

Mr. HUNTON. Not a dollar.

The bill was ordered to a third reading, read the third time, and passed.

DR. DANIEL M. APPEL.

The next business on the Speaker's table was the bill (S. No. 1075) to authorize Dr. Daniel M. Appel, of the United States Army, to receive pay for discharging the duties of physician to the Mescalero Apache Indian agency, in New Mexico; which was read a first and second time.

Mr. WARNER. Let that bill go to the Committee on Military Affairs.

Mr. SCALES. I think it should go to the Committee on Indian Affairs.

Mr. WARNER. I have no objection to that.

The bill was accordingly referred to the Committee on Indian Affairs.

EQUALIZING HOMESTEADS.

The next business on the Speaker's table was the bill (S. No. 1085) to equalize homesteads; which was read a first and second time.

Mr. POEHLER. I desire to have that bill put on its passage now.

Mr. CONVERSE. I move that it be referred to the Committee on the Public Lands.

The SPEAKER. The question is on the motion to refer.

The motion of Mr. CONVERSE was agreed to; and accordingly the bill was referred to the Committee on the Public Lands.

PUBLIC BUILDING AT ASHEVILLE, NORTH CAROLINA.

The next business on the Speaker's table was the bill (S. No. 1293) to provide for the erection of a public building at Asheville, North Carolina.

Mr. BAKER. I make the point of order on that bill.

Mr. VANCE. I ask that it be allowed to remain on the Speaker's table.

The SPEAKER. It would be liable to the point of order when again reached.

Mr. BAKER. I prefer that it shall go to the Committee of the Whole.

The bill was accordingly read the first and second time, and referred to the Committee of the Whole.

FORT STOCKTON, TEXAS.

The next business on the Speaker's table was the bill (S. No. 1205) to enable the Secretary of War to acquire for the United States the title to the site of Fort Stockton, Texas; which was read a first and second time.

Mr. ATHERTON. I move that the bill be referred to the Committee on Military Affairs.

The motion was agreed to.

MILITARY PRISON AT LEAVENWORTH, KANSAS.

The next business on the Speaker's table was the bill (S. No. 1319) authorizing the Secretary of War to expend the profits growing out of the manufacture of articles at the military prison at Leavenworth, Kansas, for the improvement of facilities for manufacture at said prison; which was read a first and second time.

Mr. BAKER. I make the point of order on that bill that it must receive its first consideration in the Committee of the Whole.

Mr. ATHERTON. Let it be referred to the Committee on Military Affairs.

Mr. BAKER. I do not object to that.

The bill was accordingly referred to the Committee on Military Affairs.

UNITED STATES DISTRICT COURTS IN MAINE.

The next business on the Speaker's table was the bill (S. No. 1079) regulating the times and places for holding the district courts of the United States for the district of Maine, and for other purposes; which was read a first and second time.

Mr. ROBINSON. I move that that bill be referred to the Committee on the Judiciary.

The motion was agreed to.

PRE-EMPTION AND HOMESTEAD ENTRIES.

The next business on the Speaker's table was the bill (S. No. 1247) to amend sections 2262 and 2301 of the Revised Statutes of the United States, in relation to the settlers' affidavit in pre-emption and commuted homestead entries; which was read a first and second time.

Mr. CONVERSE. I ask the present consideration of this bill.

The bill was read, as follows:

Be it enacted, &c., That the affidavit required to be made by sections 2262 and 2301 of the Revised Statutes of the United States may be made before the clerk of the county court or of any court of record of the county and State or district and Territory in which the lands are situated; and if said lands are situated in any unorganized county, such affidavit may be made in a similar manner in any adjacent county in said State or Territory, and the affidavit so made and duly subscribed shall have the same force and effect as if made before the register or receiver of the proper land district; and the same shall be transmitted by such clerk of the court to the register and receiver with the fee and charges allowed by law.

Mr. DUNNELL. I would inquire of the gentleman from Ohio [Mr. CONVERSE] if this bill has been considered by the Committee on Public Lands?

Mr. CONVERSE. This Senate bill has not been considered by that committee, but another bill relating to the same subject has been considered by that committee. This bill merely authorizes pre-emption affidavits to be made by homesteaders before a county clerk, and requires the county clerk to receive the fees and forward them to the register.

Mr. DUNNELL. The last clause of the bill is a little indefinite as to which officer the fees shall go to, whether to the register and receiver or to the clerk of the county court.

Mr. CONVERSE. I understand that the clerk is to receive the fees and then forward them to the register.

The bill was ordered to a third reading, read the third time, and passed.

PUBLIC BUILDING AT JACKSONVILLE, FLORIDA.

The next business on the Speaker's table was the bill (S. No. 232) to provide for the erection of a public building at Jacksonville, Florida; which was read a first and second time.

Mr. WARNER. I make the point of order that this bill must go to the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair sustains the point of order.

The bill was referred to the Committee of the Whole on the state of the Union.

JURIES IN UNITED STATES COURTS.

The next business on the Speaker's table was the bill (S. No. 1643) to provide that whenever the circuit and district courts of the United States are held at the same time and place there shall be but one grand or petit jury summoned to attend on said courts at one and the same time; which was read a first and second time, and, on motion of Mr. ROBINSON, referred to the Committee on the Judiciary.

PUBLIC BUILDING, DENVER, COLORADO.

The next business on the Speaker's table was the bill (S. No. 1269) for the erection of a public building at Denver, Colorado; which was read a first and second time.

Mr. McMILLIN. I make the point of order that this bill must receive its first consideration in Committee of the Whole.

The SPEAKER. The Chair sustains the point of order.

The bill was referred to the Committee of the Whole on the state of the Union.

CITY HALL, DISTRICT OF COLUMBIA.

The next business on the Speaker's table was the bill (S. No. 1349) for enlarging the City Hall for the accommodation of the courts and records of the District of Columbia; which was read a first and second time.

Mr. BOUCK. I make the point of order that this bill must receive its first consideration in Committee of the Whole.

The SPEAKER. The Chair sustains the point of order.

The bill was referred to the Committee of the Whole on the state of the Union.

LIGHT-HOUSE AND FOG-BELL, NARRAGANSETT BAY.

The next business on the Speaker's table was the bill (S. No. 1315) making an appropriation for the erection of a light-house and fog-bell on Old Gay Rock, at the entrance of Wickford Harbor, Narragansett Bay; which was read a first and second time.

Mr. BELFORD. I make the point of order that this bill must go to the Committee of the Whole.

Mr. ACKLEN. I ask that the bill be referred to the Committee on Commerce.

Mr. ATHERTON. It seems to me it ought not to go to the Committee on Commerce. I object to its going there. I would have no

objection to its going to the Committee on Public Buildings and Grounds.

Mr. ACKLEN. One or two bills similar to this are before the Committee on Commerce.

The bill was referred to the Committee of the Whole on the state of the Union.

HERMAN NETTERFIELD.

The next business on the Speaker's table was the bill (S. No. 35) granting a pension to Herman Netterfield; which was read a first and second time.

The bill is as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Herman Netterfield, late of Canby's scouts, and to pay him a pension as an enlisted private.

The bill was ordered to a third reading; was accordingly read the third time, and passed.

ACCOUNTS OF REAR-ADMIRAL A. H. FOOTE.

The next business on the Speaker's table was the bill (S. No. 1538) authorizing the closing of the accounts of the late Rear-Admiral A. H. Foote, United States Navy; which was read a first and second time.

Mr. HAWLEY. I ask that this bill be put on its passage.

The bill was read, as follows:

Be it enacted, &c., That the proper accounting officers of the Treasury Department be, and hereby are, authorized and directed to close the accounts of the late Rear-Admiral A. H. Foote by crediting him with the sum of $834, being the amount advanced to him while under orders to take command of the South Atlantic squadron, and which he expended in preparing to execute his orders, but was prevented from reaching his post by reason of death caused by wounds and exposure incurred in service and in the line of duty.

The bill was ordered to a third reading; was accordingly read the third time, and passed.

SOLDIERS' REUNION, WICHITA, KANSAS.

The next business on the Speaker's table was the joint resolution (S. R. No. 107) authorizing the loaning of certain tents and artillery to the Union Veteran Corps, composed of ex-Union soldiers, for the purposes of a reunion to be held at Wichita, Kansas, in the month of October, 1880; which was read a first and second time.

Mr. ATKINS. I move that this resolution be referred to the Committee on Military Affairs.

Mr. RYAN, of Kansas. I hope the gentleman will withdraw that motion, and let the resolution be passed.

Mr. ATKINS. There must be a stopping-place somewhere in this matter.

Mr. RYAN, of Kansas. I wish the gentleman would let the "stopping-place" be somewhere else. Many similar bills have been passed without objection.

The motion of Mr. ATKINS was not agreed to.

Mr. RYAN, of Kansas. I ask now that the joint resolution be put on its passage.

The joint resolution was read, as follows:

Resolved by the Senate and House of Representatives, &c., That the Secretary of War be authorized and required to loan to the Union Veteran Corps, an organization composed of former Union soldiers, such tents, not exceeding two hundred and fifty in number, as may be necessary for the accommodation of the members of said Union Veteran Corps and such visitors as may attend their reunion, and also of a section of artillery for the purpose of a reunion of said corps to be held at Wichita, Kansas, in October, 1880: *Provided*, Said tents and artillery can be spared without detriment to the public service and without expense to the United States, and that proper security shall be given for the return of said public stores in proper condition.

The joint resolution was ordered to a third reading; was accordingly read the third time, and passed.

Mr. RYAN, of Kansas, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NICARAGUAN CLAIMS.

The next business on the Speaker's table was the bill (S. No. 1650) authorizing the President to make the necessary arrangements to carry into effect any convention between the United States and Nicaragua for the adjustment of claims which may be duly concluded between the two governments; which was read a first and second time, and, on motion of Mr. COX, referred to the Committee on Foreign Affairs.

ILER & CO.

The next business on the Speaker's table was the bill (S. No. 1549) to authorize Iler & Co. to use a certain building in the city of Omaha, Nebraska, for the rectification of distilled spirits; which was read a first and second time.

Mr. VALENTINE. I ask that this bill be put on its passage.

Mr. ATHERTON. I reserve points of order on the bill.

The bill was read.

Mr. FIELD. I move that the bill be referred to the Committee on Ways and Means.

The motion was agreed to.

BARK ANNIE JOHNSON.

The next business on the Speaker's table was the bill (S. No. 1723) authorizing the Secretary of the Treasury to issue an American register to the bark Annie Johnson; which was read a first and second time.

Mr. ACKLEN. I move that this bill be referred to the Committee on Commerce.

Mr. DAVIS, of California. I ask that it be put on its passage. The matter has already been before the Committee on Commerce.

Mr. ACKLEN. This is not merely a bill to change the name of a bark, but is to grant an American register.

Mr. DAVIS, of California. This measure has been considered by the Committee on Commerce and reported unanimously.

Mr. ACKLEN. Where is it on the Calendar?

Mr. DAVIS, of California. On page 42.

The SPEAKER. It must be another bill which is on the Calendar.

Mr. DAVIS, of California. The bill on the Calendar is House bill No. 4162, which is verbatim the same as this Senate bill.

Mr. ACKLEN. I had no knowledge that such a bill had been reported from the Committee on Commerce; it may have been reported during my absence. In view of the gentleman's statement, I have no objection to the present consideration of this bill.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury is hereby authorized and directed to issue an American register to the bark Annie Johnson, formerly known as the British ship Ada Iredale, said vessel being now owned by a citizen of San Francisco, California.

The bill was ordered to a third reading; was accordingly read the third time, and passed.

Mr. DAVIS, of California, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SAINT PAUL BRIDGE ACROSS LAKE SAINT CROIX.

The next business on the Speaker's table was the bill (S. No. 849) to authorize the Saint Paul and Chicago Short Line Railway Company to construct a bridge across Lake Saint Croix, and to establish it as a post-road; which was read a first and second time.

Mr. DUNNELL. I move, Mr. Speaker, that that bill be put upon its passage.

The bill was read.

The first section provides that it shall be lawful for the Saint Paul and Chicago Short Line Railway Company, a corporation created and existing under and by virtue of the laws of the State of Wisconsin, to build a bridge across the Lake Saint Croix from such point in township No. 26 north, of range 20 west, of the fourth principal meridian, in the county of Pierce and State of Wisconsin, as may be hereafter selected by said railway company, to such point in the county of Washington, in the State of Minnesota, as may hereafter be selected by said railway company, and to lay on or over said bridge railway tracks for the more perfect connection of its railway tracks as they may hereafter be built to the points aforesaid on either side of said lake under the limitations and conditions herein; provided, that said bridge shall not interfere with the free navigation of said lake beyond what is necessary in order to carry into effect the rights and privileges hereby granted, and in case of any litigation arising from any obstruction or alleged obstruction to the free navigation of said lake, the cause shall be tried before the district court of the United States for the district of Minnesota or the western district of Wisconsin.

The second section provides that any bridge built under the provisions of this act may, at the option of said railway company, be built as a draw-bridge, with a pivot or other form of draw, or with unbroken or continuous spans; provided that if the said bridge shall be made with unbroken or continuous spans, it shall not be of less elevation in any case than fifty feet above extreme high-water mark as understood at the point of location to the bottom chord of the bridge; nor shall the span of said bridge be less than two hundred feet in length, and the piers of said bridge shall be parallel with the current of the lake, and the main span shall be over the main channel of the lake and not less than two hundred feet in length; and provided also that if the bridge built under this act shall be constructed as a draw-bridge, the same shall be constructed as a pivot draw-bridge, with a draw over the main channel of the lake at an accessible and navigable point, and with spans of not less than one hundred and sixty feet in the clear at low-water surface on each side of the central or pivot pier of the draw; and the next adjoining spans to the draw shall be not less than one hundred and forty feet, and said spans shall not be less than ten feet above extreme high-water mark and not less than thirty feet above low-water mark, measuring to the bottom chord of the bridge; and the piers of said bridge shall be parallel with the current of the lake; and provided also that said draw shall be opened promptly, upon reasonable signal, for the passage of boats, and in no case shall unnecessary delay occur in opening said draw-bridge during or after the passage of trains.

The third section provides that any bridge constructed under the provisions of this act and according to its limitations shall be a lawful structure, and shall be known and recognized as a post-route, upon which also no higher charge shall be made for the transmission over the same of the mails, the troops, and the munitions of war of the United States than the rate per mile paid for their transportation over the railroads or public highways leading to the said bridge, and the United States shall have the right of way for postal-telegraph purposes across said bridge.

The fourth section provides that all railway companies desiring to use said bridge shall have and be entitled to equal rights and privileges in the passage of the same and in the use of the machinery and fixtures thereof, and of all the approaches thereto, under and upon such terms and conditions as shall be prescribed by the Secretary of War upon hearing the allegations and proofs of the parties in case they shall not agree.

The fifth section provides that the plan and specifications with the necessary drawings of said bridge shall be submitted to the Secretary of War for his approval, and until he approves the plan and location of said bridge it shall not be built or commenced, and should any change be made in the plan of said bridge during the progress of the work thereon such changes shall be subject to the approval of the Secretary of War, and all changes in the construction of said bridge that may be directed by Congress shall be made at the cost and expense of the owners thereof.

Section 6 provides that the right to alter, amend, or repeal this act as in the judgment of Congress the public good may require, and to compel the removal of any obstructions to navigation caused by said bridge at the expense of the persons or corporations taking the benefit of this act, is hereby reserved.

Mr. HUMPHREY. Mr. Speaker, I hope there will be no objection to the passage of this bill. It affects only the constituents of the gentleman from Minnesota and mine. It is the wish of the people this competing line shall be completed.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

FOG-SIGNAL, LITTLE TRAVERSE HARBOR.

The next business on the Speaker's table was the bill (S. No. 1610) making an appropriation for the purchase of a site and the erection of a light-house and fog-signal at or near the entrance of Little Traverse Harbor, on Lake Michigan; which was read a first and second time.

Mr. HOOKER. I make the point of order against that bill.

The SPEAKER. The Chair sustains the point of order; and the bill will be referred to the Committee on Commerce.

MAJOR D. C. SMITH.

The next business on the Speaker's table was a bill (S. No. 1124) for the relief of the heirs of Major D. C. Smith.

Mr. HOOKER. I move the House do now adjourn.

The House refused to adjourn.

Mr. ATHERTON. I make the point of order against that bill.

The SPEAKER. The bill appropriates money, and the Chair sustains the point of order.

The bill was referred to the Committee on Military Affairs.

LIBRARY OF CONGRESS.

The next business on the Speaker's table was the bill (S. No. 1117) to provide additional accommodations for the Library of Congress; which was read a first and second time.

Mr. McKENZIE. Let that go to the Committee on the Library.

Mr. CLAFLIN. I hope the gentleman will withdraw his objection. This bill comes from the Committee on the Library, and unanimously passed the Senate after two days' debate. It simply provides a commission to say where the Library shall be placed, and also providing for plans and estimates.

Mr. McKENZIE. I withdraw my point of order.

The bill, which was read, provides that a joint select committee, consisting of three Senators and three Members of the House of Representatives, shall have power to employ, as soon as may be, at the expense of the United States, three persons of suitable skill and attainments, who, or a majority of whom, shall, with the approval of said committee, carefully examine and consider what practicable and beneficial changes can be made in and of the Capitol building in the District of Columbia for the better accommodation of the Houses of Congress and of the Congressional Library, having in view especially the need of better ventilation, light, and exposure to the open air of the legislative halls, and the convenience of communication between them and between them and the Library, and the need of greater space and better arrangement thereof for the Library. They shall, if they find any mode or modes of accomplishing the ends aforesaid practicable and beneficial, cause proper plans, designs, and estimates of cost to be made thereof, and submit the same to said committee, which shall report the same to Congress at the earliest practicable time. And said committee shall in any case make a full report on the subject, and especially whether such mode of providing for the Library is preferable to the erection of a separate building for that purpose.

The said joint select committee is also authorized and directed at the same time to examine the question of a site outside the Capitol for the Library of Congress, and report to Congress what location would be most suitable for the Library and afford the highest advantages for its future growth and permanent accommodation, and also in the case of each site the probable cost of the same and of the building.

The second section appropriates the sum of $5,000, or so much thereof as shall be necessary, out of any money in the Treasury not otherwise appropriated, for the purposes named in this act, which shall be paid on vouchers approved by said committee.

Mr. CLAFLIN. I move that be put on its passage.

Mr. ATHERTON. I move to amend by striking out "$5,000" and inserting "$3,000."

Mr. HUNTON. The appropriation is "$5,000, or so much thereof as may be necessary."

Mr. ATHERTON. I think $3,000 is sufficient.

Mr. HUNTON. I think the parties named in the bill can be trusted to spend no more than is absolutely necessary. I hope the gentleman from Ohio will withdraw his amendment, for if it is adopted it will result in the defeat of the bill.

Mr. CLAFLIN. This has been agreed to unanimously by the Committee on the Library.

Mr. ATHERTON. What reason can gentlemen give that we should appropriate this large amount of money for that purpose? I insist on my amendment.

The amendment was rejected.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. CLAFLIN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

C. MANIGAULT MORRIS, OF GEORGIA.

The next business on the Speaker's table was the bill (S. No. 1224) to remove the political disabilities of C. Manigault Morris, of Georgia; which was read a first and second time.

The bill removes (two-thirds of each House concurring therein) all political disabilities imposed upon C. Manigault Morris, of the State of Georgia, by the fourteenth amendment to the Constitution of the United States.

Mr. NICHOLLS. I move that bill be put upon its passage.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed, two-thirds voting in favor thereof.

PUBLIC BUILDING, PEORIA, ILLINOIS.

The next business on the Speaker's table was the bill (S. No. 1629) to provide for the erection of a public building in the city of Peoria, in the State of Illinois; which was read a first and second time.

Mr. HOOKER. I make the point of order on that bill.

Mr. ATHERTON. That bill has been considered in the Committee on Public Buildings and Grounds, and the report is unanimously in its favor. It is really the most meritorious bill before that committee.

Mr. HOOKER. We have acted on other bills of higher merit and they have not yet been considered.

Mr. BOYD. Will the gentleman from Mississippi withdraw his point of order until I can make a statement?

Mr. HOOKER. I have no objection to the gentleman making a statement.

The SPEAKER. The point of order is withdrawn for the present.

Mr. BOYD. Mr. Speaker, this bill has had full consideration in the Senate, and passed that body without a dissenting vote. The same bill has been considered before the Committee on Public Buildings and Grounds in this House, and has been recommended by that committee to the favorable consideration of this body. I desire to say this is not asked as a favor to that locality, for the fact that a few hundred dollars is expended there amounts to nothing; but it is asked because it is deemed a public necessity and has been for some years past. I can make no better argument in favor of the necessity of the bill than to have read in the hearing of the House the report of the Committee on Public Buildings and Grounds, and if the gentleman from Mississippi will listen to that report he will withdraw in this instance his objection to allow this to become the law.

It is not, as I have said, because it is a benefit to the locality, but simply for the reason that the public interest demands the location of a building there. I have had occasion already to state in this presence that the business of the revenue department of that city alone amounts to the sum of $40,000 a day—$1,000,000 a month in the shape of revenue, $12,000,000 in the course of a year. Ten days of that revenue is all that is asked by this city for the purpose of erecting a public building, not for her own special benefit, but for the reason that the public interests demand it. The committees of the two Houses have reported in favor of it, and the Secretary of the Treasury has recommended the erection of the building at a cost not exceeding $400,000. In view of these facts I ask gentlemen to allow the bill to be voted upon here and now, to determine whether the public interests shall be benefited to the extent demanded in this particular instance.

Mr. HOOKER. I desire to say, Mr. Speaker, in reply to the remarks of the gentleman, that only this morning I received from my section of the country a paper containing a notice of the fact that we have sat here and, by unanimous consent, passed ten bills, one for a public building at Vicksburgh, one in my neighboring State of Alabama, one in Kentucky, and one in other places, here and there, throughout the country, and yet when a few days ago we set aside a day here for the consideration of these bills in Committee of the Whole we were prevented from the consideration of a single one, and during that whole day there was not one bill passed or acted upon. I shall be perfectly willing to set aside or go into the Committee of the Whole at present for the consideration and disposition of all of these bills, but under the circumstances I am opposed to proceeding in this manner.

Mr. BOYD. In response to the gentleman from Mississippi, I wish to say that I have never obstructed the passage of any bill here.

Mr. SPRINGER. The gentleman does not object to having the report read?

The SPEAKER. The objection is made to the consideration of the bill, and it is hardly worth while to take up the time of the House in reading the report. If the gentleman desires it, it can be printed in the RECORD.

Mr. SPRINGER. I ask that the bill shall not lose its place, but remain upon the Speaker's table, then.

The SPEAKER. The bill under the point of order must go to the Committee of the Whole on the state of the Union.

Mr. PAGE. Has he not a right to keep it on the Speaker's table?

The SPEAKER. No; the point of order deprives the gentleman of that right and sends it to the Committee of the Whole on the state of the Union.

Mr. BOYD. Then let the report be read.

The SPEAKER. The Chair suggests that the report can be printed in the RECORD, as it will take up some considerable time to read it.

The report was read. It is as follows:

The Committee on Public Buildings and Grounds, to whom was referred the bill (H. R. No. 5082) for the construction of a public building at Peoria, Illinois, for a post-office, internal-revenue office, United States court-house, &c., having considered the same, respectfully report:

That Peoria, situate about the center of the State of Illinois, on the river of the same name, is a city of about fifty thousand inhabitants. Eleven railroads converge there, and others are in process of construction. The surrounding country is in one of the best agricultural regions of the West. It has the advantage of a boundless supply of bituminous coal. It has ample transportation facilities, not only by means of its system of railways, but also by way of the Illinois River and Canal.

The internal revenue collected at Peoria is very large in amount. From 1876 to and including the first half of 1880—four and one-half years—the receipts were $34,891,553.58, and for the first half of 1880 $5,765,163.60, or about $1,000,000 per month; and the amount to be collected will, without doubt, soon exceed that sum. It will be observed that this shows a receipt of $40,000 per day, and it also renders necessary the keeping on hand at Peoria of internal-revenue stamps of the value of about $2,000,000. The district in which these vast sums have been and are being paid has never had a Government building of any kind in it. The post-office and internal-revenue office have been kept in a building badly located, and being in size and in all other respects inadequate for the purposes for which it has been used, and unsafe in case of fire. The lease for the same expires in 1882, and some better building is fast becoming an absolute necessity.

The amount received at the post-office for the fiscal year ending June 30, 1879, was $41,029.43; the amount now paid for rent, fuel, and light, $3,030. No United States court has been held there except in lawyers' offices or judges' chambers, costing the Government nothing; but a United States court-room, with the necessary offices, seems now to be very desirable, and should be constructed as a part of any Government structure that may be built in Peoria.

A very small percentage of the amount collected at Peoria would construct a building ample for all desirable public purposes.

The committee therefore recommend the passage of this bill, by the substitute herewith submitted.

Mr. HOOKER. I am willing to go into Committee of the Whole to consider these bills but I do not wish to take them up in this way and let them go through without objection. I insist upon the point of order.

Mr. VAN VOORHIS. What becomes, then, of the bill?

The SPEAKER. It goes to the Committee of the Whole on the state of the Union.

PUBLIC BUILDING, MILTON, PENNSYLVANIA.

The next business on the Speaker's table was the bill (S. No. 1774) to provide for the erection of a public building in the town of Milton, in the State of Pennsylvania.

The bill was read at length.

Mr. BAKER. I make the point of order upon that.

Mr. PAGE. I hope the gentleman will not do that. This was the town that was burned down.

The SPEAKER. The point of order being made, the bill goes to the Committee of the Whole on the state of the Union.

PAY, ETC., DEPUTY MARSHALS.

The next business on the Speaker's table was the bill (S. No. 1726) regulating the pay and appointment of special deputy marshals.

The SPEAKER. The Chair thinks that is one of the bills which was specially excepted from consideration to-day by the gentleman from Kentucky in making his motion; and if there be no objection it will be passed over.

Mr. McMILLIN. I suppose there will be no objection to its present consideration.

Mr. HAWLEY. Oh, yes.

The SPEAKER. The Chair thinks it is a part of the agreement by which the House agreed to go to business on the Speaker's table this morning.

Mr. SPRINGER. It was distinctly stated that bills involving political matters should not be considered.

The SPEAKER. The Chair thinks this bill should remain on the table, as that was the understanding, and if there be no objection the bill will be informally passed over.

There was no objection, and it was ordered accordingly.

NORTHERN BOUNDARY OF NEBRASKA.

The next business on the Speaker's table was the bill (S. No. 550) to extend the northern boundary of the State of Nebraska.

The bill was read.

Mr. BENNETT. I move to refer that to the Committee on the Judiciary.

The motion was agreed to.

LAND TITLE BAKER CITY, OREGON.

The next business on the Speaker's table was the bill (S. No. 1162) confirming the title to block No. 14, in Baker City, Oregon, to Baker County.

The bill was read a first and second time. It provides that the title to so much of block 14, in Baker City, Oregon, as the United States has title to shall be confirmed to the county of Baker, Oregon, and that a patent be issued to the said county therefor, without prejudice to the right of any adverse claimant to any part thereof.

Mr. GUNTER. Mr. Speaker, I ask the reference of that bill to the Committee on Private Land Claims.

Mr. WHITEAKER. I hope the gentleman from Arkansas will not insist upon that motion, but will give me an opportunity to explain this matter.

Mr. GUNTER. I withhold the point of order until I hear the explanation the gentleman desires to make.

Mr. WHITEAKER. It is a very simple case. The authorities of Baker County instructed the judge to procure a block of land in Baker City for county purposes. The judge performed the duties, entered the land, and the money was paid and application was made to the General Land Office for a title. The Commissioner of the General Land Office, upon examination, found that the law prevented any one but an actual settler upon land from entering it, and this was the technical case which prevented the issuing of a warrant of title. The money had been paid, the county buildings erected, and all that was wanted was to secure the title, to which, under the original purchase, the county was entitled, but which, for a technical reason, had failed. The Commissioner of the General Land Office sent a letter to the committee in the Senate, in answer to inquiries by that committee, recommending that the title pass, or be granted, and the committee favorably acted upon it and passed this bill, which is simply for the purpose of confirming the title.

Mr. GUNTER. The Secretary of the Interior recommends it?

Mr. WHITEAKER. Yes, sir. The county of Baker has already erected buildings upon it and has possession of the land.

Mr. GUNTER. Is there any controversy between individuals in reference to the title of this property?

Mr. WHITEAKER. None whatever.

Mr. GUNTER. Then I withdraw my objection.

The SPEAKER. There being no further objection, the question will be upon ordering the bill to be read a third time.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. WHITEAKER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SURVEY OF GETTYSBURGH BATTLE-FIELD.

The next business on the Speaker's table was the bill (S. No. 1490) to complete the survey of the Gettysburgh battle-field, and to provide for the compilation and preservation of data showing the various positions and movements of troops at that battle, illustrated by diagrams; which was read a first and second time.

Mr. JOHNSTON. I am instructed by the Committee on Military Affairs to move that this bill be put upon its passage.

The bill was read, as follows:

Be it enacted, &c., That the sum of $50,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to complete the survey of the Gettysburgh battle-field; also, to provide for the compilation of all available data used in locating troops on the engineer maps of that battle; also, to provide diagrams showing the changing movements and positions during the engagement; the whole to be done by or under the direction of Mr. John B. Bachelder, author of the position plates of the Government maps of that battle, under the direction of the Secretary of War: *Provided*, That no part of said sum shall be disbursed by the Secretary of War except for work actually performed, or for materials furnished for the objects heretofore named; and that all the maps, data, and materials prepared for, or used for, the work contemplated by this act shall be the property of the Government, to be deposited in the Department of War: *And provided further*, That the sum hereby appropriated shall be in full satisfaction for all work done and all materials collected by the said John B. Bachelder.

The bill was ordered to be read a third time; and it was accordingly read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. SPARKS. Can we get the yeas and nays on that?

The SPEAKER. You can if one-fifth of the House orders the yeas and nays.

Mr. SPARKS. I do not insist on the call for the yeas and nays.

The bill was passed.

Mr. JOHNSTON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate agreed to the amendments of the House to the twelfth amendment of the Senate to the bill (H. R. No. 4911) to amend the statutes in relation to immediate transportation of dutiable goods.

PENSION BILLS.

The SPEAKER. The Chair has now in his hands twenty-two pension bills. He is instructed by the chairman of the Committee on

Invalid Pensions that he desires nearly all of these bills to be referred to that committee. The Chair will cause them to be read by title.

HARRIETTA M. DAVIS.

The Clerk read the title of the next bill on the Speaker's table, as follows:

A bill (S. No. 1175) granting an increase of pension to Harrietta M. Davis.

The bill was read a first and second time.

Mr. COFFROTH. I move that the bill be referred to the Committee on Invalid Pensions.

Mr. RICE. I ask that this bill be put upon its passage. It grants an increase of pension from $50 to $75 per month to the widow of Rear-Admiral Davis, who served in the Navy sixty-three years.

Mr. COFFROTH. I do not insist on the motion to refer the bill.

Mr. SPARKS. I renew the motion to refer the bill. Let it go to the Committee on Invalid Pensions.

The motion was agreed to.

HENRY WILLIAMS.

The Clerk read the title of the next bill on the Speaker's table, as follows:

A bill (S. No. 1201) granting a pension to Henry Williams.

The bill was read a first and second time.

Mr. COFFROTH. I move that the bill be referred to the Committee on Invalid Pensions.

The motion was agreed to.

ELI COOPRIDER.

The Clerk read the title of the next bill on the Speaker's table, as follows:

A bill (S. No. 1363) granting a pension to Eli Coopridee.

The bill was read a first and second time.

Mr. HOSTETLER. I move that the bill be put upon its passage.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Eli Coopridee, late a private of Company G, Fifty-ninth Regiment Indiana Volunteer Infantry.

Mr. BAKER. I desire to ask a question. Why is it a distinction is made between these Senate pension bills? Why are some selected for passage and others to be sent to the Committee on Invalid Pensions? It seems to me that discrimination should not be made.

The SPEAKER. The Chair will submit the motion to refer in every case where it is desired.

Mr. PAGE. Each bill, as I understand, is subject to the point of order.

The SPEAKER. These pension bills are all subject to the point of order, for they take money out of the Treasury. But no point of order has been made on a pension bill to-day. The motion has been to refer.

Mr. COFFROTH. I move to amend by inserting the letter "r" instead of the letter "e" as the last letter of the name, both in the title and in the body of the bill. The name is "Coopridee."

Mr. FIELD. The chairman of the Committee on Invalid Pensions has not stated, in reply to the gentleman from Indiana, the principle on which a discrimination is made between these bills.

Mr. COFFROTH. There is no discrimination. It was agreed by the Committee on Invalid Pensions that when any member of the committee desired to ask that a Senate bill be put upon its passage he should have the right to do so. And when the gentleman from Indiana [Mr. HOSTETLER] calls up this bill for action, I will not deny him the right, because the committee has given him the right.

Mr. RICE. It seems to me these bills ought all to be considered equally, at least those which have been considered by the chairman of the House committee. The bill No. 1175, the first one that was called, was referred to the Committee on Invalid Pensions, although the chairman of the committee stated that he was satisfied it ought to pass. I desire to move to reconsider the vote by which that bill was referred to the committee.

The SPEAKER. The Chair cannot entertain that motion now. He will entertain it at a later period. To entertain it now would interfere with the execution of the order of the House.

Mr. RICE. I call attention to the fact that a discrimination has been made, and give notice that I will move to reconsider.

The SPEAKER. Notice has been given of several motions to reconsider.

Mr. HOSTETLER. I ask that the question be put upon the amendment, which is merely a correction of an error in the spelling of the name.

The amendment was agreed to.

The bill, as amended, was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. HOSTETLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The title of the bill was amended so as to read: "A bill granting a pension to Eli Cooprider."

JAMES MORGAN.

The next business on the Speaker's table was the bill (S. No. 1411) granting a pension to James Morgan; which was read a first and second time.

The bill was read.

Mr. COFFROTH. That bill has never been considered by the Committee on Invalid Pensions. I move that it be referred to that committee.

Mr. BAKER. What is the proposition of the gentleman from Pennsylvania?

The SPEAKER. The gentleman from Pennsylvania moves that it be referred to the Committee on Invalid Pensions.

Mr. BAKER. I hope that motion will not prevail. There ought to be no discrimination between these pension bills. They ought all to be passed, or they ought all to be referred. Let these men have fair play.

Mr. COFFROTH. By the action of the Committee on Invalid Pensions——

The SPEAKER. The bill does not belong to that Committee. It is to grant a pension to a soldier in the war with Mexico. It belongs to the Committee on Pensions.

Mr. COFFROTH. I want to reply to the remark of the gentleman from Indiana. By the action of the Committee on Invalid Pensions any member of that committee has the right to call from the Speaker's table any Senate bill which he desires to pass.

The SPEAKER. But the Chair must recognize other gentlemen of this House as well as members of that committee. And this bill, as the Chair has stated, belongs to the Committee on Pensions.

Mr. BAKER. I move that the bill be put upon its passage.

Mr. COX. I move that it be referred to the Committee on Pensions.

The question being taken on Mr. COX's motion, it was not agreed to.

Mr. SPARKS. Is there a report accompanying the bill?

The SPEAKER. There is a report on file.

Mr. COX. If there is no report the bill ought to be referred.

The SPEAKER. The reports are not kept at the desk. They come over with the bills and go on the files, where they are always accessible to the members of the committee. The Chair will cause the report to be sent for.

Mr. SPARKS. The motion to refer was made.

The SPEAKER. The Chair recognized that motion and it was voted down. The Chair has sent for the report.

Mr. ATHERTON. Does anybody know whether the effect of this bill is to give a pension from the passage of the act or from some other period of time?

The SPEAKER. That is a matter for the House to judge from the bill itself, which has been read. The report will now be read.

The report was read, as follows:

The Committee on Pensions, to which was referred the bill granting a pension to James Morgan, Company K, report that the claim is pending before the Commissioner of Pensions waiting to receive the necessary testimony. They therefore report the same adversely and ask its indefinite postponement.

Mr. SPARKS. I presume the gentleman from Indiana [Mr. BAKER] is satisfied now.

Mr. BAKER. I think there ought to be a committee raised to ascertain how the Senate came to pass such a bill upon such a report.

Mr. COX. I move that the bill be referred to the Committee on Pensions,

Mr. BAKER. I concur that, with such a report as that, this bill should go to a committee.

The motion of Mr. COX was agreed to; and accordingly the bill was referred to the Committee on Pensions.

WILLIAM H. H. ANDERSON.

The next business on the Speaker's table was the bill (S. No. 1465) granting a pension to William H. H. Anderson; which was read a first and second time.

Mr. BERRY. I move that that bill be referred to the Committee on Invalid Pensions.

Mr. MARTIN, of Delaware. I move that the House do now adjourn.

The SPEAKER. The Chair begs that these pension bills may be acted upon now, either by passing them or referring them. The Chair is willing to remain here.

Mr. MARTIN, of Delaware. I withdraw the motion to adjourn.

The bill was accordingly referred to the Committee on Invalid Pensions.

HIRAM C. SHOUSE.

The next business on the Speaker's table was the bill (S. No. 1515) to increase the pension of Hiram C. Shouse; which was read a first and second time, and, on motion of Mr. SMITH, of Pennsylvania, referred to the Committee on Invalid Pensions.

REBECCA E. HASKIN.

The next business on the Speaker's table was the bill (S. No. 1535) granting an increase of pension to Rebecca E. Haskin.

Mr. COFFROTH. I ask that that bill be passed now.

Mr. SPARKS. No; let it be referred with the others.

The bill was accordingly referred to the Committee on Invalid Pensions.

HORACE S. SPEAR.

The bill (S. No. 1638) granting a pension to Horace S. Spear was taken from the Speaker's table, read a first and second time, and, on motion of Mr. BERRY, referred to the Committee on Invalid Pensions.

LEVI ANDERSON.

The bill (S. No. 1662) granting a pension to Levi Anderson, late private of Company A, Seventh Kansas Volunteers, was taken from the Speaker's table, read a first and second time, and, on motion of Mr. SMITH, of Pennsylvania, referred to the Committee on Invalid Pensions.

MATTHEW O'REGAN.

The bill (S. No. 1697) increasing the pension of Matthew O'Regan was taken from the Speaker's table and read a first and second time.

Mr. SPARKS. I move that that bill be referred to the Committee on Invalid Pensions.

Mr. DEUSTER. I hope not; let it be considered now.

Mr. SPARKS. Then I make the point of order on the bill that it should be considered in Committee of the Whole. What do we know about these Senate bills? We have no reports from our committee upon them.

The SPEAKER. The Chair sustains the point of order, and the bill will accordingly be referred to the Committee of the Whole on the Private Calendar.

Mr. COFFROTH. I will make the motion that all these pension bills be referred to the Committee on Invalid Pensions.

The SPEAKER. The titles of the bills will be read and a motion to refer submitted in each case.

BILLS READ AND REFERRED.

The following bills were accordingly taken from the Speaker's table, read a first and second time, and referred to the Committee on Invalid Pensions:

A bill (S. No. 1698) granting an increase of pension to George J. Webb;

A bill (S. No. 3) granting a pension to Elizabeth W. Goldsborough;

A bill (S. No. 21) granting a pension to Louisa Bainbridge Hoff;

A bill (S. No. 635) granting a pension to Emery Bowen;

A bill (S. No. 751) granting a pension to William B. Whiting;

A bill (S. No. 1133) granting a pension to Michael Hayne;

A bill (S. No. 1178) for the relief of Jason C. Bradeen;

A bill (S. No. 1584) granting a pension to Margaret Costello;

A bill (S. No. 1652) granting a pension to the minor children of Lawrence Burgess;

A bill (S. No. 1711) granting a pension to Hannah S. Mackey;

A bill (S. No. 1716) granting a pension to Thomas J. Mackey;

A bill (S. No. 1728) granting a pension to Mrs. Lelia E. McCauley; and

A bill (S. No. 1743) granting an increase of pension to Mary J. West.

The following bills were taken from the Speaker's table, read a first and second time, and referred to the Committee on Pensions:

A bill (S. No. 576) for the relief of Phœbe Meech;

A bill (S. No. 913) granting a pension to Thomas P. Johnson;

A bill (S. No. 1232) granting a pension to Elizabeth Sutherland;

A bill (S. No. 1546) granting a pension to P. B. Perry, sr.; and

A bill (S. No. 1729) granting a pension to William Stockwell.

STEPHEN FAIRCHILD.

The following bill was taken from the Speaker's table, and read a first and second time:

A bill (S. No. 1517) to authorize an increase of pension to Stephen Fairchild.

Mr. HOSTETLER. I wish to make a statement for the information of the House in reference to this bill. It has been reported upon by the Committee on Invalid Pensions of this House, and is now on the Private Calendar; and the report of the committee is at the Clerk's desk.

Mr. SPARKS. This is a Senate bill and has never been referred to the Committee on Invalid Pensions of this House.

Mr. HOSTETLER. That is true; but identically the same bill has been before that committee and reported to the House favorably.

Mr. SPARKS. I think this bill should go to the Committee on Invalid Pensions with all the other bills.

Mr. HOSTETLER. This bill has already been examined by the Committee on Invalid Pensions and reported therefrom.

Mr. SPARKS. Not this bill, for it is a Senate bill.

Mr. ATHERTON. I make the point of order on the bill that it must receive its first consideration in the Committee of the Whole.

Mr. COFFROTH. Very well, let it go there.

The SPEAKER. The Chair sustains the point of order, and the bill will be referred to the Committee of the Whole on the Private Calendar.

W. J. MORRIS.

The next business on the Speaker's table was the bill (S. No. 1754) for the relief of W. J. Morris; which was read a first and second time.

Mr. SINGLETON, of Illinois. I ask that this bill be considered now. I hold in my hand the Senate report, which, if necessary, can be read. The beneficiary of this bill is a very decrepit old man, who is here in this city where he has been trying to procure this pension. I think if the House understood the case there would not be any objection to the passage of the bill.

Mr. COFFROTH. I will say that Mr. Morris appeared before the Committee on Invalid Pensions, and I am satisfied that the committee would unanimously report this bill back.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of W. J. Morris, of Delhi, Illinois, and pay him a pension at the rate to which, upon examination, his disability may entitle him to receive.

The bill was ordered to a third reading; was accordingly read the third time, and passed.

Mr. SINGLETON, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HORACE BOUGHTON.

The next business on the Speaker's table was the bill (S. No. 1755) granting an increase of pension to Horace Boughton; which was read a first and second time.

Mr. VAN VOORHIS. I ask to have this bill considered now. If necessary, I would like to make a brief statement.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Horace Boughton, late colonel One hundred and forty-third Regiment New York Volunteers, and brevet brigadier-general, and pay him a pension of $72 per month in lieu of that which he now receives.

The bill was ordered to a third reading; was accordingly read the third time, and passed.

ABIGAIL S. TILTON.

The next business on the Speaker's table was the bill (S. No. 205) granting a pension to Abigail S. Tilton; which was read a first and second time; and, on motion of Mr. SPARKS, referred to the Committee on Invalid Pensions.

MISSISSIPPI RIVER LOGGING COMPANY.

The next business on the Speaker's table was the bill (S. No. 1371) to authorize the Mississippi River Logging Company to construct and operate sheer-booms at or near Straight Slough; which was read a first and second time.

Mr. HUMPHREY. The gentleman from Minnesota, [Mr. DUNNELL,] who is now absent from the Hall, is interested in this bill, and desires it to lie over on the Speaker's table. I presume that can be done by unanimous consent.

The SPEAKER. Is there unanimous consent that this bill lie on the Speaker's table?

Mr. ATHERTON. I object to its remaining on the Speaker's table.

Mr. BUCKNER. Let it go to the Committee on Commerce. I make that motion.

Mr. HUMPHREY. I hope the gentleman from Ohio [Mr. ATHERTON] will withdraw his objection. The gentleman from Minnesota [Mr. DUNNELL] is now absent. Let the bill lie on the Speaker's table till his return.

Mr. ATHERTON. We want to see the Speaker's table just as clear as we can for once.

The motion of Mr. BUCKNER was agreed to; and the bill was referred to the Committee on Commerce.

SUPERVISORS OF ELECTION.

The next business on the Speaker's table was the bill (S. No. 1252) to define the terms of office of chief supervisors of election.

Mr. BAKER. This, being a political bill, is not to be taken up.

The SPEAKER. This bill will be laid aside under the arrangement agreed upon.

PENSIONS.

The next business on the Speaker's table was the bill (S. No. 1501) to restore pensions in certain cases; which was read a first and second time.

Mr. HUNTON. I desire to have this bill considered now.

The bill was read, as follows:

Be it enacted, &c., That section 3 of an act entitled "An act increasing the pensions of widows and orphans, and for other purposes," approved July 25, 1866, and section 13 of an act entitled "An act relating to pensions," approved July 27, 1868, and section 4712 of the Revised Statutes, shall not operate to reduce the rate of any pension which had actually been allowed to the commissioned, non-commissioned, or petty officers of the Navy or their widows or minor children, prior to the 25th day of July, 1866; and the Secretary of the Interior is hereby directed to restore all such pensions as have already been so reduced to the rate originally granted and allowed, to take effect from the date of such reduction.

Mr. BAKER. I make a point of order on this bill.

Mr. HUNTON. Will the gentleman allow me to make an explanation before he raises his point of order? There was a law, as mentioned in this bill, giving to the widows of certain officers——

Mr. BAKER. I insist on the point of order.

Mr. HUNTON. Then I move that the bill be referred to the Committee on Pensions.

Mr. BAKER. I withdraw the point of order.

Mr. ATHERTON. I reserve all points of order until the bill has been again read.

Mr. BAKER. I wish to ask the gentleman in charge of this bill a single question. As I understand, it affects only four aged women.

Mr. HUNTON. I understand so, but I do not know the fact.

Mr. BAKER. Is there any one here who is advised on that point?

Mr. HUNTON. I know of but four who have applied.

The bill was again read.

Mr. ATHERTON. I am willing that the report, if there is a report, should be read, reserving the right to object.

The SPEAKER. Does the gentleman make a point of order.

Mr. BERRY. I do.

The SPEAKER. The point of order being made, the gentleman from Virginia asks that the bill may be referred to the Committee on Pensions.

Mr. BERRY. I had no object in making the point of order except that nobody seemed to know anything about the bill, or to be disposed to do anything with it. I withdraw the point or order.

Mr. WHITTHORNE. I think after a brief explanation of this bill there will be no objection to it. Under the acts referred to in the bill the widows of certain officers of the Navy were allowed pensions. Now, it will be remembered that naval pensions are paid out of a fund called the naval pension fund, arising from captures, and it is borne upon the public-debt statement. At the instance of Mr. Sherman, when a Senator, years ago, instead of paying 6 per cent. on that fund, to which they are entitled, 3 per cent. is only paid. An effort has been made by construction, not meant by the law, to reduce the pensions which these parties, four in number, can claim; that is, to scale them down. Congress did not intend by any construction of general law that these specific amounts granted to these widows should be reduced. The object of the bill is simply to prevent that.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

PUBLIC BUILDING, TOLEDO.

The next business on the Speaker's table was the bill (S. No. 1320) for the construction of a building for the use of the United States at Toledo, Ohio; which was read a first and second time.

The bill was read.

Mr. BUCKNER. I move that bill be referred to the Committee of the Whole House on the state of the Union.

Mr. HOOKER. I make the point of order against the bill.

The SPEAKER. The point of order being made, the bill is referred to the Committee of the Whole House on the state of the Union.

TRANSPORTATION OF MAILS.

The next business on the Speaker's table was the bill (S. No. 1570) providing for the transportation of the mails between East Saint Louis, in the State of Illinois, and Saint Louis, in the State of Missouri; which was read a first and second time.

The bill was read.

Mr. STONE. I move that bill be put upon its passage.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. STONE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FLORIDA INDIAN WAR CLAIMS.

The next business on the Speaker's table was the joint resolution (S. R. No. 79) directing the Secretary of War to investigate the claim of the State of Florida against the United States for expenditures made in suppressing Indian hostilities in said State between the years 1855 and 1860, and to report the result of such investigation to Congress; which was read a first and second time.

Mr. SPARKS. That should go to the Committee on Military Affairs.

Mr. DAVIDSON. That bill has been considered and unanimously reported in favor of by a committee of this House.

Mr. SPARKS. When?

Mr. DAVIDSON. At this session of Congress. I think if the gentleman from Illinois will hear it read, he will have no further objection to it.

The joint resolution was read, as follows:

Whereas the Indian trust fund of the United States holds a large amount of the bonds of the State of Florida; and

Whereas the State of Florida claims from the United States to be reimbursed for expenditures made by said State in suppressing Indian hostilities in said State: Therefore,

Resolved by the Senate and House of Representatives, &c., That the Secretary of War be, and he is hereby, authorized and directed to investigate, ascertain, and report to Congress, as soon as practicable, the amount of the claims of the State of Florida for expenditures made in suppressing Indian hostilities in that State between the 1st day of December, 1855, and the 1st day of January, 1860. In making such investigation the said Secretary is directed to receive and consider such testimony as he may deem necessary to authenticate said claims, including the muster-rolls of the State troops, and such other official data as may be on file in the War Department. In submitting his report to Congress the said Secretary shall not include any payments or allowances made by the State in excess of the amounts allowed by law at the time in behalf of troops regularly in the service of the United States.

Mr. BAKER. I move that joint resolution be referred to the Committee on Military Affairs.

Mr. DAVIDSON. I ask the gentleman to hear me for one moment.

Mr. BAKER. I have no objection to hearing the gentleman, but I shall renew my objection.

Mr. DAVIDSON. Not one dollar is appropriated by this resolution. The Indian trust fund holds a large amount of the bonds of the State of Florida. That State has a claim against the Government for the suppression of Indian hostilities between the years 1855 and 1860. This resolution merely provides that the Secretary of War shall investigate, ascertain, and report to Congress the number of those claims, &c., taking such testimony as he may deem necessary.

I will say that a committee of this House has already considered this resolution and reported in favor of it, and therefore it is hardly necessary, it occurs to me, that it should be referred to another committee.

Mr. BAKER. I think it should be referred.

Mr. SMITH, of Pennsylvania. I reserve the point of order on the bill.

The SPEAKER. What is it?

Mr. SMITH, of Pennsylvania. It involves the expenditure of money.

The SPEAKER. The gentleman from Florida states it relates only to money held in trust.

Mr. DAVIDSON. Does the gentleman insist on his motion?

Mr. BAKER. I do; I move that it be referred to the Committee on Military Affairs.

Mr. DAVIDSON. I hope that motion will be voted down.

Mr. BAKER'S motion was disagreed to.

The SPEAKER. The gentleman from Pennsylvania insists on his point of order.

Mr. DAVIDSON. It is not liable to the point of order, as it does not involve the expenditure of a single dollar.

Mr. O'CONNOR. Mr. Speaker, that bill is not subject to the point of order. It was referred to the Committee on Claims of this House, and was unanimously reported back by the committee. It makes no appropriation of money. It provides for no expenditure of money. It parts with no property of the United States. It simply authorizes the Secretary of War to adjust accounts between the State of Florida and the United States and report the result to Congress. There is nothing else in it.

Mr. SMITH, of Pennsylvania. The point of order I make is that under the authority given to the Secretary of War to investigate an expenditure of money is necessarily involved.

The SPEAKER. But the provision, as the Chair understands it, is made to investigate by an officer of the Department in receipt of a stipulated salary, who would receive the same salary whether he made the investigation or not.

Mr. SMITH, of Pennsylvania. But he is required to investigate what occurred during certain periods of time covering a number of years. Certainly that cannot be done without taking testimony and the expenditure of money in that direction. In other words, the very fact of making the investigation necessarily involves the expenditure of money.

The SPEAKER. Will the gentleman indicate the exact point in the bill to which he refers in his point of order?

Mr. SMITH, of Pennsylvania. The bill as read indicates that these officers are to be paid. Whether they are regularly employed in the Department or not is another question; but it provides for an investigation in which witnesses are to be called. Witnesses are to be paid. You cannot make a report without the examination of witnesses. It covers the period between the years 1855 and 1860.

The SPEAKER. The Chair will cause the clause of the rule to be read.

Mr. DAVIDSON. I wish to state to the gentleman from Pennsylvania that this is entirely record evidence. It is evidence that is already in the office of the Secretary of War.

Mr. SMITH, of Pennsylvania. The bill speaks of "witnesses," as I recollect.

The SPEAKER. The Chair will cause to be read the third clause of Rule XXIII.

The Clerk read as follows:

3. All motions or propositions involving a tax or charge upon the people; all proceedings touching appropriations of money, or bills making appropriations of money or property, or requiring such appropriations to be made, or authorizing payments out of appropriations already made, or releasing any liability to the United States for money or property, shall be first considered in a Committee of the Whole, and a point of order under this rule shall be good at any time before the consideration of a bill has commenced.

The SPEAKER. It is a difficult matter for the Chair to determine how this takes money out of the United States Treasury. It might in fact bring some into the Treasury.

Mr. DAVIDSON. That is very true. There is nothing to show any expenditure of money any more than there is a receipt of money by the Government.

Mr. SMITH, of Pennsylvania. I ask that the Chair will allow that part of the bill relating to witnesses to be read again.

The SPEAKER. The Chair will cause to be read for the information of the gentleman that portion of the bill to which he refers.

The section was again read.

Mr. SMITH, of Pennsylvania. That covers the period between 1855 and 1860. The claims would necessarily be barred by the statute of limitation. That goes a long way back, and to enter into the investigation of that subject would necessarily involve the expenditure of money. These claims would have been settled by the lapse of time or the accounting officers of the Treasury.

Mr. DAVIDSON. I wish to state to the gentleman from Pennsylvania that it is record evidence exclusively. The gentleman is mistaken in supposing that witnesses are to be called. This evidence is all in the Department, and the only thing that is required is for the Secretary of War to investigate it and look into the matter.

Mr. BAKER. Let the preamble be again read.

The preamble was again read.

Mr. SMITH, of Pennsylvania. I call particular attention of the Chair to the words "reimbursement for expenses incurred," which would necessarily involve the expenditure of money under certain contingencies.

The SPEAKER. The Chair will give the benefit of the doubt to the Government, and sustain the point of order.

The bill was referred to the Committee of the Whole House on the state of the Union.

TOBACCO FOR EXPORTATION.

The next business on the Speaker's table was the bill (S. No. 640) to authorize the bonds of manufacturers of tobacco, snuff, and cigars, exporting the same, to be canceled at the port of clearance.

The bill was read a first and second time. It provides:

That section 3385 of the Revised Statutes of the United States be amended by striking out all of said section after the word "shipment," where it occurs in the twenty-seventh line, and insert in lieu of the part stricken out the following:

"Upon the presentation to the collector of internal revenue of a detailed report from the inspector of customs, and a certificate from the collector of customs at the port from which the goods are to be exported that the goods removed from the manufactory under bond, and described in the permit of the collector of internal revenue, have been received by the said collector of customs, and that said goods were duly laden on board of a foreign-bound vessel, naming the vessel, and the said merchandise was entered on the outward-manifest of said vessel, and that said vessel and cargo were duly cleared from said port, and on the payment of the tax on deficiency, if any, the bonds which have been, or shall hereafter be, required to be given under the provisions of this section shall be canceled.

"Every person who, with the intent to defraud the revenue laws of the United States, relands, or causes to be relanded, within the jurisdiction of the United States, any manufactured tobacco, snuff, or cigars which have been shipped for exportation under the provisions of this act, without properly entering such tobacco, snuff, or cigars at a custom-house, and paying the proper customs and internal-revenue taxes thereon, or who receives such relanded tobacco, snuff, or cigars, and every person who aids or abets in such relanding or receiving of such tobacco, snuff, or cigars, shall, on conviction, be fined not exceeding $5,000 or imprisoned not more than three years; and all tobacco, snuff, or cigars so relanded shall be forfeited to the United States."

SEC. 2. That section 3357 of the Revised Statutes of the United States be amended and re-enacted so as to read as follows:

"Every collector shall keep a record in a book or books provided for the purpose, to be open to the inspection of any person, of the name and residence of every person engaged in the manufacture of tobacco or snuff in his district, the place where such manufacture is carried on, and the number of the manufactory. And he shall enter in said record, under the name of each manufacturer, a copy of every inventory required by law to be made by such manufacturer, and an abstract of his monthly returns. And he shall cause the several manufactories of tobacco or snuff in his district to be numbered consecutively, which numbers shall not be thereafter changed, except for reasons satisfactory to himself and approved by the Commissioner of Internal Revenue."

Amend the title so as to read: "A bill to amend sections 3385 and 3357 of the Revised Statutes of the United States."

Mr. FIELD. I move to refer that bill to the Committee on Ways and Means.

Mr. CARLISLE. I hope the gentleman will not insist upon that motion until I can have an opportunity to make a brief statement in reference to this bill.

Mr. FIELD. I will be very glad to hear an explanation from the gentleman upon the subject, and will yield for that purpose.

Mr. CARLISLE. This subject was referred to the Committee on Ways and Means during the extra session of Congress, and was very fully investigated by the committee. The result of that investigation was that during the present session the committee reported a bill, of which this is an exact copy. The report numbered 1264, and the bill accompanying it, are upon the Calendar in the Committee of the Whole on the state of the Union. The Senate took the bill reported from the Committee on Ways and Means of the House and passed it without changing a word.

Mr. WILLITS. Is this the unanimous report of the committee?

Mr. CARLISLE. Yes, sir. I will state, however, that the gentleman from Michigan [Mr. CONGER] reserved his vote upon it in the Committee on Ways and Means, stating that he desired to look further into the matter, but there was no opposition to it in the committee, and no vote against it. The object of the bill is simply to provide a more simple and inexpensive method of canceling bonds given upon the exportation of tobacco. It does not affect the revenue at all.

The second section of the bill allows the numbers of the manufacturers of tobacco to be changed with the consent of the Commissioner of Internal Revenue.

Mr. FIELD. I withdraw my motion.

Mr. BAKER. I would like to ask the gentleman from Kentucky one question: whether this is satisfactory to the Department?

Mr. CARLISLE. I will state that the head of the tobacco division in the office of the Commissioner of Internal Revenue appeared before the committee in person, and also laid before the committee a very full statement in writing, in support of this bill.

We understood at one time that the Commissioner of Internal Revenue himself was not favorable to the first section of the bill; but he offered no opposition to it. Afterward, while the matter was under consideration in the Senate Finance Committee, my information is that the Commissioner of Internal Revenue gave his assent to it; but of that I have no personal knowledge.

Mr. SMITH, of Pennsylvania. May I ask the gentleman from Kentucky a question?

Mr. CARLISLE. Yes, sir.

Mr. SMITH, of Pennsylvania. How would this bill in your judgment affect the revenue?

Mr. TUCKER. Not a bit.

Mr. CARLISLE. It will not affect the revenue at all; not to the extent of a single dollar.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. CARLISLE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FORT GRATIOT MILITARY RESERVE.

The next business on the Speaker's table was the joint resolution (S. R. No. 67) to authorize the Secretary of War to sell or lease to the Port Huron and Northwestern Railroad Company all of the Fort Gratiot military reserve, and to authorize the city of Port Huron to grant to said railway company the right of way through Pine Grove Park; which was read a first and second time.

Mr. BREWER. I ask that this bill be allowed to remain on the table.

Mr. McKENZIE. I object, and move that it be referred to the Committee on Public Lands.

Mr. BREWER. The Committee on Military Affairs have now the matter informally under consideration.

The SPEAKER. Does the gentleman desire that it shall go to the Committee on Military Affairs?

Mr. BREWER. I would rather let it remain on the table.

Mr. McKENZIE. I do not object to the joint resolution going to the Committee on Military Affairs, but I do to its remaining on the table.

The joint resolution was referred to the Committee on Military Affairs.

TERMS OF COURT IN NEW HAMPSHIRE.

The next business on the Speaker's table was the bill (S. No. 1292) to provide for the removal of the terms of the United States district and circuit courts, now held at Exeter for and within the district of New Hampshire, to the city of Concord; which was read a first and second time.

Mr. BRIGGS. I move that the bill be referred to the Committee on the Judiciary.

The motion was agreed to.

CHARLES COLLINS.

The next business on the Speaker's table was the bill (S. No. 1346) for the relief of Charles Collins; which was read a first and second time.

The bill was read.

Mr. ATHERTON. I make the point of order on that bill.

Mr. SMITH, of Pennsylvania. I move that it be referred to the Committee on Claims.

The motion was agreed to.

TARIFF COMMISSION.

The next business on the Speaker's table was the bill (S. No. 900) to provide for the appointment of a commission to investigate the question of the tariff.

Mr. BAKER. I object to the consideration of that bill. It falls, I think, within the agreement as to the bills which should be passed over.

The bill was passed over.

SETTLERS WITHIN FORT KEARNEY MILITARY RESERVATION.

The next business on the Speaker's table was the bill (S. No. 1608) for the relief of certain settlers within the late Fort Kearney military reservation in Nebraska; which was read a first and second time.

Mr. VALENTINE. I ask that that bill be put upon its passage.

The bill was read, as follows:

Be it enacted, &c., That the homestead entries numbered 7182, 7226, 7233, 7587, 7920, and 7921, made at Grand Island, Nebraska, under the act of Congress of July 21, 1876, by Morgan T. Martin, Samuel H. McNutt, Allan D. Randall, John J. Brown, Joseph B. Long, and Matthew O. Riley, as actual settlers, in section 36, township 9 north, of range 15 west, and section 36, township 9 north, of range 13 west, within the late Fort Kearney military reservation, be, and the same are hereby, confirmed: *Provided*, The State of Nebraska shall, by legislative act, assent thereto, and thereafter the said State shall be entitled to select other lands of equal area for school purposes as indemnity for the lands embraced in said entries, in like manner as by existing law may be done in cases where lands in sections 16 and 36, appropriated for schools in Nebraska, have been sold or otherwise disposed of by any act of Congress.

Mr. VALENTINE. There can be no objection I think to the passage of this bill.

Mr. MAGINNIS. It is in accordance with the usage in like cases.

Mr. CONVERSE. I understand there is a large amount of land involved.

Mr. VALENTINE. On the contrary, only a very small amount is involved; only four homesteads.

The SPEAKER. If only an acre was involved the bill would be open to the point of order.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

ENROLLED BILLS SIGNED.

Mr. THOMPSON, of Iowa, from the Committee on Enrolled Bills,

reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 2861) granting an increase of pension to Herman Baldwin;

An act (H. R. No. 3264) granting a pension to Abner Hoopes;

An act (H. R. No. 5043) to remove the charge of desertion against Enoch Davis;

An act (H. R. No. 3261) granting a pension to Elizabeth Dougherty;

An act (H. R. No. 2864) granting a pension to Isaiah W. Bunker; and

An act (H. R. No. 5053) granting relief to William Turman, guardian of William W. Brewer.

Mr. WARD, from the same committee, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 2474) to increase the pension of Thomas Riley;

An act (H. R. No. 2440) to authorize the Secretary of War to transfer to the Fairmount Park Art Association eighty condemned bronze cannon, to be used in the erection of an equestrian statue to the late Major-General George Gordon Meade;

An act (H. R. No. 2860) granting a pension to Thomas H. Vaughn;

An act (H. R. No. 2855) granting a pension to Rachael J. Reber;

An act (H. R. No. 2788) to authorize the President to appoint an officer of the Navy or the Marine Corps to perform the duties of solicitor and judge-advocate-general, &c., and to fix the rank and pay of such officer;

An act (H. R. No. 2853) granting a pension to Elizabeth Aults;

An act (H. R. No. 2039) granting a pension to Jacob J. Smith;

An act (H. R. No. 1806) granting a pension to Michael Lingenfelter;

An act (S. No. 1249) to amend an act entitled "An act granting a pension to Sophia Brooke Taylor, widow of the late Major Francis Taylor;" and

An act (S. No. 1225) to remove the political disabilities of Jonathan H. Carter, of South Carolina.

Mr. UPSON, from the same committee, reported that the committee had examined and found truly enrolled joint resolutions of the following titles; when the Speaker signed the same:

Joint resolution (S. R. No. 19) to provide for the publication and distribution of a supplement to the Revised Statutes; and

Joint resolution (S. R. No. 117) authorizing the Secretary of War to loan to the governor of North Carolina one hundred and forty-five tents for the use of the State Guards, to enable them to participate in the centennial celebration at King's Mountain in October next.

Mr. ALDRICH, of Illinois, from the same committee, reported that the committee had examined and found truly enrolled bills and a joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 3347) to authorize the Secretary of War to furnish four pieces of cast-iron condemned ordnance for the soldiers' monument at Marietta, Ohio;

An act (H. R. No. 2797) for the relief of certain citizens of Lynchburgh, Virginia, and refunding to them taxes improperly collected from them on manufactured tobacco;

An act (H. R. No. 4439) to remove the disabilities of Sergeant P. P. Powell, Sixth Regiment United States Cavalry; and

Joint resolution (S. R. No. 64) extending the provisions of the first section of an act entitled "An act fixing the rate of interest upon arrearages of general taxes and assessments for special improvements now due to the District of Columbia, and for a revision of assessments for special improvements, and for other purposes," approved June 27, 1879.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate had passed, and requested the concurrence of the House in, a bill of the following title:

A bill (S. No. 451) to reimburse the Creek orphan fund.

GEORGE G. SNYDER.

The next business on the Speaker's table was the bill (S. No. 1352) for the relief of George G. Snyder; which was read a first and second time, and, on motion of Mr. CONVERSE, referred to the Committee on the Public Lands.

CHURCH LANDS IN CALIFORNIA.

The next business on the Speaker's table was the bill (S. No. 1749) to authorize the Roman Catholic bishops in California to sell certain church lands; which was read a first and second time.

Mr. BERRY. I ask that the bill be now put on its passage.

The SPEAKER. The bill will be read.

The bill was read, as follows:

Whereas certain lands known as the Canada de los Pinos or College Ranch, situate in Santa Barbara County, State of California, pursuant to the decree of the board of land commissioners appointed under the act of Congress approved March 3, 1851, entitled "An act to ascertain and settle the private land claims in the State of California," were granted by patent of the United States dated February 28, 1861, to Joseph Sadoc Alemany, Roman Catholic bishop of Monterey, in the State of California, and his successors, "in trust for the religious purposes and uses to which the said lands have been respectively appropriated;" the said patent being recorded in the proper office at Washington City, in volume 3, pages 228 to 235, inclusive; and

Whereas it is found that said lands are not suitably located for said purposes and uses: Therefore,

Be it enacted, &c., That the said lands or any part or parts thereof may be sold and conveyed by said grantee or his successors in such trust, discharged of said trust, and that said grantee or his successors shall be bound to apply the proceeds of said college ranch, and of all such sales in such other places as they may deem more suitable for the purposes and uses of said trust, discharged from the obligation, if any, of keeping the seminary college on said ranch, but not from that of keeping one or more seminary colleges in accordance with the object of the trust: *Provided, however*, That the purchaser or purchasers shall not be responsible for the proper application of the purchase-money.

The bill was ordered to a third reading, read a third time, and passed.

Mr. BERRY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

ARMS FOR SOUTH CAROLINA.

The next business on the Speaker's table was the bill (S. No. 1135) authorizing the Secretary of War to adjust and settle the accounts for arms between the State of South Carolina and the Government of the United States; which was read a first and second time.

Mr. O'CONNOR. I ask that that bill be put on its passage.

Mr. SMITH, of Pennsylvania. I reserve all points of order upon the bill.

The SPEAKER. The bill will be read.

The bill was read at length.

Mr. O'CONNOR. Does the gentleman from Pennsylvania [Mr. SMITH] insist upon his point of order?

Mr. SMITH, of Pennsylvania. I do.

Mr. O'CONNOR. Then I ask that the bill be allowed to remain on the Speaker's table.

The SPEAKER. That requires unanimous consent.

Mr. SMITH, of Pennsylvania. I object, and move that it be referred to the Committee on Military Affairs.

The motion was agreed to.

HENRY WARREN.

The next business on the Speaker's table was the bill (S. No. 1254) for the relief of Henry Warren; which was read a first and second time.

Mr. WELLBORN. I ask that the bill be considered at this time.

Mr. SMITH, of Pennsylvania. I reserve all points of order on the bill.

The SPEAKER. The bill will be read.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury of the United States be, and he is hereby, authorized and directed to pay Henry Warren, of Weatherford, Texas, the sum of $15,867.50, out of any money in the Treasury not otherwise appropriated, in full satisfaction for damages sustained by reason of capture of trains and destruction of property by Comanche, Kiowa, and Cheyenne Indians in 1871 while said Warren was in the employ of the Government, supplying the troops at Fort Griffin, Texas; and that the Secretary of the Interior be, and he is hereby, directed to retain, out of any annuities due or to become due the Comanche and Kiowa Indians, the sum of $11,852.50, and from any annuities due or to become due the Cheyennes the sum of $4,015, and cover the same into the Treasury in accordance with treaty stipulations between said Indian tribes and the United States.

Mr. SMITH, of Pennsylvania. Let that bill go to the Committee on Indian Affairs.

Mr. WELLBORN. I ask the gentleman to allow me to make a statement before he insists upon his point of order.

Mr. SMITH, of Pennsylvania. I have no objection to that.

Mr. WELLBORN. This bill has not only passed the Senate upon the unanimous report of the Committee on Indian Affairs of the Senate, but it has been four times investigated by the Committee on Indian Affairs of the House, and in each case it has been unanimously reported favorably by the committee.

The Committee on Indian Affairs for this Congress have also had this claim under investigation and have unanimously reported in favor of it, and a bill for this purpose is now upon the Private Calendar of the House.

The only difference between the Senate bill and the House bill is as to the amount allowed. The Senate bill allows the sum of $15,867.50, while the House bill allows $14,732.50. In order to explain the difference between the Senate and House bill in that respect I will read from the report of the Committee on Indian Affairs of the House:

The property shown to have been lost is valued at $14,732.50. Deducting therefrom $2,880, proceeds of the sale of the recovered animals, would leave $11,852.50, which the committee recommend to be paid claimant for loss sustained from the attack of the Kiowas and Comanches, less $1,000 deducted from the gross amount of bill, to cover all questions as to value of property lost as itemized in Mr. Warren's schedule.

And the committee further say that the evidence is positive and conclusive on every point. The gentleman from Kansas [Mr. HASKELL] who reported the bill from the Committee on Indian Affairs of the House will bear testimony that this claim has been examined by the Commissioner of Indian Affairs, by the Secretary of the Interior, and, as I said before, by four committees of the Senate and one of the House; and in every instance where the claim has undergone an investigation by Government authority the report has been favorable.

Mr. HASKELL. If the House will permit me to say a few words in reference to this claim, I will state that it is the strongest supported claim, I think, on the docket of Indian-depredation claims pending before any of the Departments of the Government. It is supported by the Secretary of the Interior, by the Commissioner of Indian Affairs, by the General of the Army, by all the officers in command at Fort Griffin, near which the depredations took place. It is supported

by the affidavits of some fifteen or twenty citizens and by the report of the agent of the Indian tribe, including the declarations of the leading chiefs who admit the depredations absolutely. The statements of all the officers and every person within reach of the scene of the depredation point directly to the facts as set forth in the report. There is not a possibility of doubt that these Indians owe this claimant double the money that the committee recommend shall be paid.

Mr. SPARKS. Is it proposed that this money be taken from the Treasury of the United States?

Mr. HASKELL. It is to be taken from funds of the Indians. I will state further that out of this depredation grew the arrest of Satanta and Satank, those celebrated Kiowa chiefs, one of whom was killed in trying to escape from the United States forces. It is the most notorious case on the records, because it involves the capture of those two noted warriors and because the attention of the whole country was called to the incidents surrounding this depredation. The Indians themselves in council have admitted the depredation; the agent admits it; in fact he turned over to the owner a part of the goods of which he had been despoiled. There is no possibility of error in a single item. Indeed the committee have reduced the amount to what appears to me to be almost unfair as against the claimant. He ought to be paid more money. This money is to come from the funds of the Indians.

Mr. SPARKS. The gentleman from Texas [Mr. WELLBORN] is mistaken, I think, when he asserts that this claim has passed all the House Committees on Indian Affairs unanimously for a number of years last past. I remember this claim as having been before that committee some years ago together with other claims when I was a member of it, and am quite sure it did not receive my approval. If, however, the present bill proposes simply to take this money out of a fund belonging to the Indian tribes mentioned, and if they have a fund from which it can be thus taken, I see no objection to the passage of the bill. I have no doubt that these Indians have committed the depredations mentioned and that they ought to be held responsible for them; but I submit that the Government of the United States is not liable to the extent of one dollar for depredations committed upon its citizens by these or any other Indian tribes, no more than it is responsible to me for the value of a horse that some thief may have stolen from me. There is, as I understand, law and precedent justifying us in taking from Indian funds belonging to particular tribes the money necessary to pay for and make good such depredations as may have been committed by them upon citizens of the United States, but not out of the Treasury.

Mr. HASKELL. We propose that the claim shall be paid out of funds belonging to the Indians.

Mr. SPARKS. I have no doubt that this depredation was committed. I do not know anything about the amount of property destroyed; but I assume that the amount as found by the Senate is about right. Now I repeat that if this money is to be taken out of funds of these Indians, and if they have such funds of their own, and are not paupers themselves, relying upon the Government's bounty to feed and clothe them, then there may be no objection to the passage of the bill. But if this money were to be taken away from a tribe of Indians to whom we are giving every year a certain amount on the policy of "feeding rather than fighting them," we would then be taking or using our own bounty thus from policy given to pay a debt to somebody to whom the Government was in no sense liable, and would have to make good to these Indians a corresponding amount to keep the peace, which would in effect be to pay the amount from the Treasury. I do not know whether these Indians have funds of their own from which this claim can be paid. If they have, and this money can be taken out of such funds, and the bill is properly guarded in this and other respects, I have no objection to it. But in no case will I consent to paying any of these depredation claims by the Government, as I hold that it is in no sense liable to do so.

Mr. SMITH, of Pennsylvania. I am anxious only that these wards of the nation shall be properly protected. On that account I raised this point of order. The Government undertakes to deduct from the fund set apart for the benefit of these Indians a certain amount for depredations committed by them. Now, have these Indians who are to suffer by this deduction had an opportunity to have this matter thoroughly investigated?

Mr. HASKELL. They have; and in the person of their agent they have agreed to this.

Mr. SMITH, of Pennsylvania. There are two parties here, one charged with misdemeanor, for which a penalty is to be imposed by the United States——

Mr. HASKELL. They have pleaded guilty to the charge.

Mr. SMITH, of Pennsylvania. If that be so, I am satisfied. My only wish was that the parties interested here should be properly protected.

The SPEAKER. The gentleman from Pennsylvania withdraws his point.

The bill was ordered to a third reading; was accordingly read the third time, and passed.

Mr. WELLBORN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SAMUEL I. GUSTIN.

The next business on the Speaker's table was the bill (S. No. 549) for the relief of Samuel I. Gustin; which was read a first and second time.

Mr. BLOUNT. I ask that this bill be passed now.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, directed to pay to S. I. Gustin the sum of $1,129 for supplies furnished by him, under contract with Government officials, to the United States Army.

Mr. SMITH, of Pennsylvania. I make a point of order on this bill.

Mr. BLOUNT. I hope the gentleman will withdraw the point of order so as to allow me at least to make a statement.

Mr. SMITH, of Pennsylvania. This is a war claim, is it not?

Mr. BLOUNT. If the gentleman will allow me, I would like to make a statement.

Mr. SMITH, of Pennsylvania. Certainly.

Mr. BLOUNT. A portion of the Federal Army was located for several months near my city. After the occupancy the commanding general issued an order forbidding depredations——

A MEMBER. Foraging.

Mr. BLOUNT. Forbidding foraging, and directing that supplies be purchased. This was done; and in this way corn, meat, fuel, &c., were procured for the United States forces. Under this order this fuel was purchased, and the amount ascertained by a board and approved by the officer in command.

It is an old matter. The papers were placed in the hands of an attorney in Washington, and after a long time they were lost, and when recovered no relief could be had from the Department. During last Congress it was referred to the Committee on War Claims, and the gentleman from Ohio, [Mr. KEIFER,] who is not present, was on that committee. I was before the committee. It was carefully examined, and the committee unanimously directed a favorable report to be made of it. The Senate committee having the matter in charge reported it unanimously. It was there carefully examined and discussed and all objection withdrawn. During this Congress two bills were introduced, one referred to the Committee on Claims by my colleague, [Mr. STEPHENS,] and another by myself to the Committee on War Claims. During the session I have not been able to follow it up as I ought to have done, no papers having been referred to the Committee on War Claims. They reported there was no evidence. The Committee on Claims reported it back unanimously, and it is now on the Private Calendar.

The Senate bill is for a smaller amount, between $1,100 and $1,200. It is the claim of an old man seventy years of age, and I hope my friend, under the circumstances, will not insist on his point of order.

Mr. SMITH, of Pennsylvania. I should like to oblige my friend from Georgia, but the remarks which he has made satisfy me I should insist upon my point of order. It is an old claim, and I have no doubt ought to be investigated by a committee of this House.

Mr. BLOUNT. It has been investigated.

Mr. SMITH, of Pennsylvania. I insist on my point of order.

The SPEAKER. The point of order being insisted on, the bill will be referred to the Committee of the Whole House on the Private Calendar.

PRISCILLA WATSON.

The next business on the Speaker's table was a bill (S. No. 452) for the relief of Priscilla Watson; which was read a first and second time.

Mr. WHITEAKER. I move that bill be put upon its passage.

The bill, which was read, authorizes Priscilla Watson, at any time within one year from and after the date at which the body of the land embraced in the Fort Dalles military reservation in Oregon shall be offered for sale pursuant to the act of Congress of March 3, 1877, to become the purchaser of that portion of the land embraced within the limits of the said reservation upon which she has made improvements, in consequence of an error of survey, and believing the same to be outside of the said reservation and within the limits of her own land, at such a price as the register and the receiver of the land district within which the land is situated shall determine, subject to the approval of the Commissioner of the General Land Office.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. WHITEAKER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

EMMA G. NELSON, ETC.

The next business on the Speaker's table was a bill (S. No. 281) for the relief of Emma G. Nelson, executrix, and Aaron H. Nelson, executor, of the estate of W. F. Nelson, deceased; which was read a first and second time.

The bill, which was read, authorizes and directs the Secretary of the Treasury to pay, out of any money in the Treasury not otherwise appropriated, to Emma G. Nelson, executrix, and Aaron H. Nelson, executor, of the estate of W. F. Nelson, deceased, late chaplain United States Army, the sum of $500.26, in full payment for rent of quarters hired by said deceased while stationed at Washington Park United States General Hospital, Cincinnati, Ohio, between the 9th day of April, 1864, and the 28th day of July, 1865; provided that before any

payment is made the parties herein named shall file with the proper officer a duly authenticated copy of their letters testamentary.

Mr. MARTIN, of Delaware. I move, Mr. Speaker, that this bill be put upon its passage. It is an honest case, and I feel sure there cannot be the slightest objection to it.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. MARTIN, of Delaware, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CREEK ORPHAN FUND.

The next business on the Speaker's table was a bill (S. No. 451) to reimburse the Creek Orphan Fund; which was read a first and second time.

The bill was read.

Mr. HOOKER. The bill just read has passed the Senate unanimously.

Mr. WARNER. This bill should be referred to the Committee on Indian Affairs.

Mr. HOOKER. I desire to say a word on that bill. It has passed the Senate without a single dissenting voice. It was considered by the committee in the Senate and by the Indian Committee of the House. These Indians suffered from the destitution which visited their whole country on account of the great drought last year. It is not proposed to take any money out of the Treasury to pay them. It is only proposed to give them what is justly their own—what is due to them.

Mr. WARNER. That bill ought to go to the committee. I must insist upon the objection.

ORDER OF BUSINESS.

Mr. SINGLETON, of Illinois. I move that the House now adjourn.

The SPEAKER. Pending the motion to adjourn, the Chair desires to lay before the House several requests for unanimous consent.

Mr. HOOKER. I hope the gentleman from Illinois will withdraw his motion for a moment. I desire to have the attention of the House for a while in reference to this matter, which is of very great importance. It was my intention also to have asked a division on the last vote.

The SPEAKER. The Chair has made no announcement of the vote upon the gentleman's request. The point of order was raised against it.

Mr. WARNER. I insist upon the point of order.

Mr. SINGLETON, of Illinois. I insist upon the regular order.

Mr. HOOKER. I ask the gentleman from Illinois to yield to me for a moment in reference to this bill. Do I understand the gentleman from Ohio as making the point of order upon it?

The SPEAKER. The gentleman from Ohio has made the point of order upon it.

Mr. SPARKS. I move that the House now adjourn.

NIGHT SESSION FOR REPORTS FROM COMMITTEE ON PUBLIC BUILDINGS.

Mr. HOOKER. I ask the gentleman from Illinois to yield for a moment while I make a request that the House appoint next Tuesday evening for the consideration of bills reported from the Committee on Public Buildings and Grounds, to be considered in their order as they stand upon the Calendar, and that a recess be taken at half past four o'clock until half past seven for that purpose.

Mr. BOUCK. I object.

Mr. HOOKER. I hope the gentleman will withdraw his objection.

Mr. BOUCK. I insist upon the objection.

Mr. SINGLETON, of Illinois. I demand the regular order.

The SPEAKER. There are several gentlemen who desire to make requests for unanimous consent, and the Chair hopes that they will be permitted to do so.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted in the following cases:

To Mr. DE LA MATYR, for one week, to attend the convention of the national party;

To Mr. WEAVER, indefinitely, from Monday next;

To Mr. FINLEY, of Ohio, for the remainder of the session; and

To Mr. GILLETTE, indefinitely, on account of important business.

LEAVE TO PRINT.

Mr. SMITH, of Georgia, asked and obtained unanimous consent to print in the RECORD certain remarks upon the patent laws, and also upon the river and harbor appropriation bill. [See Appendix.]

MISSISSIPPI LOGGING COMPANY.

Mr. HUMPHREY. Mr. Speaker, the gentleman from Ohio has consented to withdraw his objection to allowing the bill (S. No. 1371) to authorize the Mississippi River Logging Company to construct and operate sheer-booms at or near Straight Slough to remain upon the Speaker's table.

Mr. SPARKS. Where has it gone?

The SPEAKER. It has been referred to the Committee on Commerce.

Mr. SPARKS. It ought to go to that committee or some other committee of the House. I renew the objection.

Mr. HUMPHREY. I hope the gentleman from Illinois will not insist upon his objection, but simply allow this to remain upon the Speaker's table.

Mr. SPARKS. Very well; I will consent to that.

The SPEAKER. Objection being withdrawn, the bill will remain upon the Speaker's table.

MOTION TO RECONSIDER.

Mr. BALLOU. Mr. Speaker, I desire to enter a motion to reconsider the bill (S. No. 1315) making an appropriation for the erection of a light-house and fog-bell on Old Gay Rock, at the entrance of Wickford Harbor, Narragansett Bay.

The SPEAKER. The motion to reconsider will be entered.

LOUIS M. BOURKE.

Mr. GILLETTE, by unanimous consent, introduced a bill (H. R. No. 6409) to reimburse Louis M. Bourke on account of lands sold him by the United States to which the United States had no title; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

ALLEN E. KNOX.

Mr. GILLETTE also, by unanimous consent, introduced a bill (H, R. No. 6410) granting a pension to Allen E. Knox, of Dallas Centre. Dallas County, Iowa; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JAMES BRACEWELL.

Mr. GILLETTE also, by unanimous consent, introduced a bill (H. R. No. 6411) granting a pension to James Bracewell, of Corydon, Wayne County, Iowa; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ISAAC HERRING.

Mr. GILLETTE also, by unanimous consent, introduced a bill (H. R. No. 6412) granting a pension to Isaac Herring, of Des Moines County, Iowa; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

TITLE TO RAILROAD LANDS, KANSAS.

Mr. ANDERSON, by unanimous consent, introduced a bill (H. R. No. 6413) to provide for the completion of a legal title to certain public lands in the State of Kansas granted by Congress to aid in the construction of certain railroad and telegraph lines; which was read a first and second time, referred to the Committee on Pacific Railroads, and ordered to be printed.

LIABILITIES OF VESSELS.

Mr. LAPHAM, by unanimous consent, from the Committee on the Judiciary, reported back, as a substitute for the bill (H. R. No. 5415) to make ships, steamers, tug-boats, schooners, and vessels engaged in commerce and navigation between ports of different States and also between ports of the United States and foreign ports liable for certain debts contracted by their owners, part owners, masters, clerk, steward, or other agent, and for other purposes, a bill (H. R. No. 6415) regulating maritime liens and remedies and to secure uniformity in the enforcement of the rights of material men in courts of admiralty; which was referred to the House Calendar, and, with the accompanying report, ordered to be printed.

RECONSIDERATIONS, ETC.

Mr. SPRINGER. I move to reconsider the various votes taken in the House to-day upon the business on the Speaker's table; and also move that the motion to reconsider be laid on the table.

There being no objection, the latter motion was agreed to.

WITHDRAWAL OF PAPERS.

On motion of Mr. MONROE, by unanimous consent, leave was granted to withdraw the papers in the case of Captain W. M. Beebe from the Committee on Military Affairs, there being no adverse report.

LUCY J. MITCHELL.

Mr. MCKENZIE, by unanimous consent, introduced a bill (H. R. No. 6414) for the relief of Lucy J. Mitchell; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

REPORT OF MISSISSIPPI RIVER COMMISSION.

Mr. DUNN. I am instructed by the Committee on Levees and Improvements of the Mississippi River, to whom was referred the report of the Mississippi River commission, to make a report thereon and to move that the same be printed and recommitted.

There was no objection, and it was so ordered.

Mr. DUNN. I ask that the report be printed in the RECORD.

Mr. HAWLEY. I must object to printing in the RECORD that pile of papers in reference to the improvement of the Mississippi River.

FORT GRATIOT MILITARY RESERVATION.

Mr. MCKENZIE. I withdraw my objection to allowing the joint resolution (S. R. No. 67) to remain on the Speaker's table.

The SPEAKER. The gentleman from Michigan [Mr. BREWER] has entered a motion to reconsider the vote by which that joint resolution was referred to the Committee on Military Affairs.

The motion of Mr. SPARKS was then agreed to.

And accordingly (at five o'clock and fifteen minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. JOYCE: The petition of W. M. Field and others, that a pension be granted to Susan Barker—to the Committee on Invalid Pensions.

By Mr. LOWE: The petition of James Wiggins, for a pension—to the same committee.

Also, the petition of Mahala Orr, of similar import—to the same committee.

By Mr. MAGINNIS: The petition of citizens of Montana, against the amendment of the mining laws—to the Committee on Mines and Mining.

By Mr. THOMAS: The petition of citizens of the State of New York, for the passage of a law preventing the manufacture and sale of oleomargarine—to the Committee on Ways and Means.

By Mr. PHILIP B. THOMPSON: The petitions of William Hoffman and of Mary Riley, for pensions—to the Committee on Invalid Pensions.

By Mr. THOMAS UPDEGRAFF: Resolution of the Legislature of Iowa, for such modification of the patent laws as will relieve innocent parties from prosecution for using patented devices—to the Committee on Patents.

Also, resolutions of the Dubuque (Iowa) Veteran Corps, favoring the passage of the bill equalizing bounties—to the Committee on Military Affairs.

IN SENATE.

MONDAY, *June* 7, 1880.

The Senate met at eleven o'clock a. m. Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of the proceedings of Saturday last was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a communication from the Secretary of War, transmitting petitions of officers of the Army stationed at Jackson Barracks, Louisiana, praying for the passage of an act making the retirement of officers of the Army compulsory at the age of sixty-two; which was referred to the Committee on Military Affairs, and ordered to be printed.

Mr. VANCE presented the petition of Jeannette E. Wilson, of the city of Washington, widow of William H. Wilson, late in the naval service of the United States, praying for arrears of pension; which was referred to the Committee on Pensions.

He also presented a petition of officers of the North Carolina State Guards, praying for the passage of a bill increasing the appropriation for the support of the volunteer militia of the United States; which was referred to the Committee on Military Affairs.

Mr. BOOTH presented the memorial of the president and board of directors of the Odd Fellows' Building Association of Los Angeles, California, recommending the purchase by the Government for a post-office of a building owned by them; which was referred to the Committee on Public Buildings and Grounds.

Mr. COCKRELL presented additional papers to accompany the bill (S. No. 1213) granting a pension to Samuel P. Bronson; which were referred to the Committee on Pensions.

Mr. DAVIS, of West Virginia. The growers of wool and sheep residing in Ohio County, West Virginia, have sent me a petition asking that it be presented to the Senate. It is in favor of what is known as the Eaton bill. It is a subject of some importance, as the sheep men as well as the iron men are moving in that direction. I ask that the petition take the usual course.

The PRESIDENT *pro tempore*. The petition will lie on the table.

Mr. BURNSIDE presented the petition of James L. Henry, of Kentucky, late of the United States Army, praying compensation for an invention in relation to rifled cannon; which was referred to the Committee on Military Affairs.

Mr. CARPENTER presented the petition of John F. Smith, of Ironton, Sauk County, Wisconsin, manufacturer of pig-iron, employing seventy-five hands, in favor of the passage of the Eaton bill providing for the appointment of a tariff commission; which was ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. MCMILLAN. I am instructed by the Committee on the District of Columbia, to whom was referred the bill (S. No. 1337) to provide additional school accommodations in the District of Columbia, to report it adversely, and with a recommendation that it be indefinitely postponed.

Mr. ROLLINS. I ask that the bill may be placed upon the Calendar.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar, with the adverse report of the committee.

Mr. MCMILLAN. I will merely state that the subject embraced in the bill just reported has been acted on by the committee under another bill, which has been reported favorably. There is no objection to the bill going on the Calendar if the Senator from New Hampshire desires.

The PRESIDENT *pro tempore*. The bill has been placed on the Calendar.

Mr. MCMILLAN, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 1176) for the relief of Dr. T. S. Verdi, reported adversely thereon, and the bill was postponed indefinitely.

Mr. INGALLS, from the Committee on the District of Columbia, to whom were referred the following bills, reported adversely thereon, and they were postponed indefinitely:

A bill (S. No. 211) for the relief of William Bowen;

A bill (S. No. 914) for the relief of William Bowen, of the District of Columbia; and

A bill (S. No. 1400) for the relief of William Bowen.

Mr. INGALLS, from the Committee on the District of Columbia, to whom the subject was referred, reported a bill (S. No. 1819) for the relief of William Bowen; which was read twice by its title.

BILLS INTRODUCED.

Mr. SLATER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1820) for the relief of the heirs of the late Lieutenant A. J. Davis; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Naval Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1821) for the relief of Captain Evan Miles, Twenty-first Infantry United States Army; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. CALL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1822) granting a pension to Mrs. Colonel Mark Downie; which was read twice by its title, and referred to the Committee on Pensions.

Mr. WALLACE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1823) to grant an American register to the schooner A. Scott Brown; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Commerce.

Mr. BAYARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1824) to regulate the carriage of passengers by sea; which was read twice by its title, and referred to the Committee on Commerce.

Mr. KERNAN. I ask leave to introduce a joint resolution relative to certain accepted drafts and other papers in the Department of State. I ask that it may go to the Judiciary Committee because last year the committee reported and there was passed a bill or a joint resolution allowing other people to withdraw their papers as is proposed in this case.

By unanimous consent, leave was granted to introduce a joint resolution (S. R. No. 118) relative to certain accepted drafts and other papers in the Department of State; which was read twice by its title, and, with the accompanying papers, referred to the Committee on the Judiciary.

BILL RECOMMITTED.

On motion of Mr. MCPHERSON, it was

Ordered, That the bill (S. No. 1263) to regulate appointments and promotions in the Marine Corps be recommitted to the Committee on Naval Affairs.

DONALD M'NEILL FAIRFAX.

Mr. ANTHONY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Navy be directed to furnish to the Senate copies of the correspondence, reports, and other papers relative to the promotion of Commodore Donald McNeill Fairfax.

DEBATE ON PROCEEDING TO BUSINESS.

Mr. ANTHONY. I offer a resolution which I think will commend itself to the Senate unanimously. We have all been observers, and experimental observers, of the constant struggle for the floor, which will increase as the remaining days of the session pass away. It takes more time to decide what bill shall be taken up than it does to dispose of it after it has been taken up. I offer the following resolution:

Resolved, That during the residue of the present session all motions to proceed to the consideration of any business shall be decided without debate.

Mr. DAVIS, of West Virginia. That is rather an important resolution. How can the Senate know what a Senator desires to have taken up unless some explanation be made? I should be willing to say that such matters should be debated under the five-minute rule; but I submit to my friend how can we vote to proceed to a bill without knowing what it is? A limit to debate I am perfectly satisfied with, and think it would be very proper; but there must be some word of explanation as to what the bill is. It is not sufficient to just say a bill number so-and-so, and then vote on proceeding to its consideration.

Mr. ANTHONY. A bill can be read by its title, or it can be read at length for information, and then the question of taking it up can be decided without debate. It takes longer to take up a bill than it does to pass it or to reject it after it is taken up. We have spent half of the morning hour in a wrangle among Senators, a dozen Senators rising at once, each claiming the floor.

Mr. DAVIS, of West Virginia. I submit to my friend from Rhode

Island that it would be well to provide that when a motion is made to take up a bill and it shall be submitted to the Senate, the Senate shall at once determine what they will do without debate.

Mr. ANTHONY. That is the resolution.

Mr. DAVIS, of West Virginia. Not as I understand it.

Mr. ANTHONY. Let the resolution be reported.

The Chief Clerk read the resolution.

Mr. DAVIS, of West Virginia. Mr. President——

The PRESIDENT *pro tempore*. The Chair must first submit the question. Is there objection to the present consideration of the resolution?

Mr. COCKRELL. Let it lie over until to-morrow. I object to it now.

The PRESIDENT *pro tempore*. The resolution lies over.

Mr. DAVIS, of West Virginia. I submit before it goes over that it would be well to provide that all questions upon taking up a bill shall be submitted to the Senate by the Chair, and let the Senate determine whether it will take it up without any further question about it.

Mr. ANTHONY. That is precisely what the resolution contemplates, that all motions to proceed to the consideration of business shall be decided without debate.

Mr. DAVIS, of West Virginia. But my friend knows that we have a regular order, and a Senator must move to lay that aside every time before a motion can be made to proceed to anything else. If it can be clearly understood that any question to proceed to the consideration of a bill shall be submitted to the Senate and that a majority shall decide without any reference to laying aside orders the question will be decided much quicker. The Senator well knows that if his resolution is adopted a Senator would still have to move to lay aside all pending orders, that is, to lay aside the Calendar if it is within the morning hour.

Mr. DAVIS, of Illinois. Is there any question before the Senate?

The PRESIDENT *pro tempore*. There is no question before the Senate.

Mr. FERRY. If there is no question before the Senate, debate is out of order.

Mr. ANTHONY. If the Senator from Missouri [Mr. COCKRELL] will waive his objection for a moment, I will say that it is in order to move to lay aside all pending and prior orders and take up any other bill; only the question can be divided if a division is called for by any Senator.

Mr. DAVIS, of West Virginia. And it always is divided.

Mr. ANTHONY. The Senator from West Virginia is perfectly competent to move to lay aside the Calendar and take up a bill indicated by him, and if that motion is agreed to the bill he moves to take up is before the Senate; but any other Senator has a right to call for a division, and the motion to postpone the pending and all prior orders is one question, and to take up the bill is another, and both of those motions will be decided without debate under this resolution. I think the Senator from Missouri has suffered enough with all of us from this constant struggle to be willing to allow the resolution to pass.

Mr. COCKRELL. Let it simply be printed, and then we can act on it in the morning without any trouble. We can then understand it. I think I am in favor of it.

Mr. McDONALD. I desire to make an inquiry of the Chair. Are we now acting under what is known as the Anthony rule in reference to the Calendar?

The PRESIDENT *pro tempore*. At the end of the routine morning business the Senate, unless the Calendar is postponed, will proceed with the Calendar under the Anthony rule.

Mr. McDONALD. I wish to make a further inquiry. Does it not require a previous notice in writing to move to set aside the Anthony rule?

The PRESIDENT *pro tempore*. It has been decided again and again, by the Vice-President and also by the Senate, that after the routine business is through, it is competent to move to postpone all prior orders to any bill whatever, and that a majority can do it.

Mr. McDONALD. My impression is that when the Senate is acting under the Anthony rule with reference to the Calendar it requires a previous notice in writing, given on a previous day, to set aside the Anthony rule.

The PRESIDENT *pro tempore*. It would require a previous notice to repeal the rule perhaps, but it has been long since decided, decided by the Vice-President and also by the Senate, that a majority could postpone the Calendar; and that decision has been acted on repeatedly.

Mr. McDONALD. A majority can postpone the Calendar, but it must be on a previous notice in writing.

The PRESIDENT *pro tempore*. It has been held to the contrary. The usage has been uniform.

Mr. FERRY. As this subject is up, I desire to say, so far as I am concerned, and I call the attention of the Senate to it, that in my judgment the best way to reach the business on the Calendar is to proceed to the Calendar immediately after the morning business, regularly under the Anthony rule. In the other case it is a struggle for recognition, and it involves a motion every time to postpone and take up, which takes time, when if we went to the Calendar and took up the cases on the Calendar under the Anthony rule we would dispose of what is on the Calendar by adopting this method every morning. I see my colleague [Mr. BALDWIN] has a measure and I am very much interested with him that that should be considered at once, yet I shall endeavor to prevail upon him to join me in the method of taking up the Calendar regularly under the Anthony rule and proceeding with it from day to day.

Mr. BALDWIN. Mr. President——

Mr. DAVIS, of Illinois. The Chair has not yet announced that the morning business is through.

The PRESIDENT *pro tempore*. Not yet. The Chair does not know for what purpose the Senator from Michigan rose.

Mr. BALDWIN. It was my intention to make a motion to postpone all prior orders for the purpose of taking up a bill.

The PRESIDENT *pro tempore*. That motion is not now in order.

Mr. BALDWIN. I am not making that motion now, I am simply stating that it was my intention at the proper time to make such a motion. I am perfectly willing, as I stated on Saturday, and not only perfectly willing, but I would very much prefer if the Senate should so conclude to do, that we should take up the business before the Senate in its regular order on the Calendar; but if we are to go on and scramble to get our individual bills before the Senate, as has been the case for the last week or two, of course I must take my chances with the others. However, I should be very glad before I do make such a motion if in some way the Senate would conclude to take up the Calendar in its regular order, and in no case postpone it for the purpose of considering business out of its regular order.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. T. F. KING, one of its clerks, announced that the House had passed the following bills and joint resolution:

A bill (S. No. 35) granting a pension to Herman Netterfield;

A bill (S. No. 281) for the relief of Emma G. Nelson, executrix, and Aaron H. Nelson, executor, of the estate of W. F. Nelson, deceased;

A bill (S. No. 452) for the relief of Priscilla Watson;

A bill (S. No. 640) to amend sections 3385 and 3357 of the Revised Statutes of the United States;

A bill (S. No. 849) to authorize the Saint Paul and Chicago Short Line Railway Company to construct a bridge across Lake Saint Croix, and to establish it as a post-road;

A bill (S. No. 1117) to provide additional accommodations for the Library of Congress;

A bill (S. No. 1162) confirming the title to block numbered 14, in Baker City, Oregon, to Baker County;

A bill (S. No. 1224) to remove the political disabilities of C. Manigault Morris, of Georgia;

A bill (S. No. 1247) to amend sections 2262 and 2301 of the Revised Statutes of the United States, in relation to the settlers' affidavit in pre-emption and commuted homestead entries;

A bill (S. No. 1254) for the relief of Henry Warren;

A bill (S. No. 1490) to complete the survey of the Gettysburgh battle-field, and to provide for the compilation and preservation of data showing the various positions and movements of troops at that battle, illustrated by diagrams;

A bill (S. No. 1501) to restore pensions in certain cases;

A bill (S. No. 1538) authorizing the closing of the accounts of the late Rear-Admiral A. H. Foote, United States Navy;

A bill (S No. 1570) providing for the transportation of the mails between East Saint Louis, in the State of Illinois, and Saint Louis, in the State of Missouri;

A bill (S. No. 1608) for the relief of certain settlers within the late Fort Kearney military reservation in Nebraska;

A bill (S. No. 1723) authorizing the Secretary of the Treasury to issue an American register to the bark Annie Johnson;

A bill (S. No 1749) to authorize the Roman Catholic bishops in California to sell certain church lands;

A bill (S. No. 1754) for the relief of W. J. Morris;

A bill (S. No. 1755) granting an increase of pension to Horace Boughton; and

A joint resolution (S. R. No. 107) to authorize the loaning of certain tents and artillery to the Union Veteran Corps, composed of ex-Union soldiers, for the purpose of a reunion to be held at Wichita, Kansas, in the month of October, 1880.

The message also announced that the House had passed a bill (S. No. 1363) granting a pension to Eli Cooprider, with amendments; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 2861) granting an increase of pension to Herman Baldwin;

A bill (H. R. No. 3264) granting a pension to Abner Hoopes;

A bill (H. R. No. 5043) to remove the charge of desertion against Enoch Davis;

A bill (H. R. No. 3261) granting a pension to Elizabeth Dougherty;

A bill (H. R. No. 2864) granting a pension to Isaiah W. Bunker;

A bill (H. R. No. 5053) granting relief to William Turman, guardian of William W. Brewer;

A bill (H. R. No. 2474) to increase the pension of Thomas Riley;

A bill (H. R. No. 2440) to authorize the Secretary of War to trans-

fer to the Fairmount Park Art Association thirty condemned bronze cannon, to be used in the erection of an equestrian statue to the late Major-General George Gordon Meade;

A bill (H. R. No. 2860) granting a pension to Thomas H. Vaughn;

A bill (H. R. No. 2855) granting a pension to Rachael J. Reber;

A bill (H. R. No. 2788) to authorize the President to appoint an officer of the Navy or the Marine Corps to perform the duties of solicitor and judge-advocate-general, &c., and to fix the rank and pay of such officer;

A bill (H. R. No. 2853) granting a pension to Elizabeth Aults;

A bill (H. R. No. 2039) granting a pension to Jacob J. Smith;

A bill (H. R. No. 1806) granting a pension to Michael Lingenfelter;

A bill (S. No. 1249) to amend an act entitled "An act granting a pension to Sophia Brooke Taylor, widow of the late Major Francis Taylor;"

A bill (S. No. 1225) to remove the political disabilities of Jonathan H. Carter, of South Carolina;

A bill (H. R. No. 3347) to authorize the Secretary of War to furnish four pieces of cast-iron condemned ordnance for the soldiers' monument at Marietta, Ohio;

A bill (H. R. No. 2797) for the relief of certain citizens of Lynchburgh, Virginia, and refunding to them taxes improperly collected from them on manufactured tobacco;

A bill (H. R. No. 4439) to remove the disabilities of Sergeant P. P. Powell, Sixth Regiment United States Cavalry;

A joint resolution (S. R. No. 64) extending the provisions of the first section of an act entitled "An act fixing the rate of interest upon arrearages of general taxes and assessments for special improvements now due to the District of Columbia, and for a revision of assessments for special improvements, and for other purposes," approved June 27, 1879;

A joint resolution (S. R. No. 19) to provide for the publication and distribution of a supplement to the Revised Statutes; and

A joint resolution (S. R. No. 117) authorizing the Secretary of War to loan to the governor of North Carolina one hundred and forty-five tents for the use of the State Guards, to enable them to participate in the centennial celebration at King's Mountain in October next.

ORDER OF BUSINESS.

The PRESIDENT *pro tempore*. If there are no further concurrent or other resolutions, the routine business of the morning hour is at an end.

Mr. WILLIAMS. I move that the Senate now take up for consideration Senate bill No. 1753.

Mr. McDONALD. That brings up the very question we have been talking about. I call for the regular order.

Mr. DAVIS, of Illinois. I believe with the Senator from Indiana that we should go on with the regular Calendar.

Mr. McDONALD. I call for the regular order.

Mr. DAVIS, of Illinois. I have a case here that I want called up. I think it is highly important, but I am perfectly willing to give way to the regular Calendar. It is the only thing I can give way to. I hope we shall have a vote on the question whether it shall be postponed.

The PRESIDENT *pro tempore*. The Senator from Kentucky moves to postpone all orders prior to order of business No. 718, which is the bill (S. No. 1753) granting pensions to certain soldiers and sailors of the Mexican and other wars therein named, and for other purposes.

Mr. McDONALD. This brings up the very question we have been talking about. While I should like to accommodate my friend from Kentucky, I suppose we must begin with the beginning or not begin at all. I therefore shall have to vote against his motion, very much against my desire.

Mr. DAVIS, of Illinois. You can move to lay it on the table.

Mr. COCKRELL. While I am in favor of the bill and shall vote for it when it comes up properly, I shall vote against taking it up this morning, and I shall vote against taking up any other business out of its order on the Calendar. After we have spent two hours and a half on the Calendar there will be plenty of time then to move to take this bill up. I will vote with the Senator at any time to take it up after we have spent two hours and a half in the morning upon the Calendar.

Mr. VOORHEES. That is the way the bill for pensioning the Mexican veterans has been treated ever since I have been a member of this body. That kind of friendship would kill any measure on earth; it would kill the Ten Commandments, one by one.

Mr. McMILLAN. Is this a test vote upon whether we shall proceed with the Calendar regularly?

Mr. ANTHONY and Mr. DAVIS, of Illinois. Yes, it is.

Mr. McMILLAN. Then I shall so regard it.

Mr. WILLIAMS. The question is whether we shall proceed to the consideration of this bill.

Mr. DAVIS, of Illinois. I would have no objection to considering the bill at any proper time, but there are plenty of important measures here, one of which I have been struggling for a week to get up, and there is no fairness in this method of business at all. Some persons are recognized because they speak louder; and I do think there is no fairness in doing anything except going on with the Calendar.

Mr. WILLIAMS. I should like to know what business there is before the Congress of the United States more important than this measure. Fifty Senators upon this floor are instructed by their Legislatures to vote for this bill. Twenty-five States have spoken. This measure has been put off from session to session just in this manner. I want the yeas and nays called upon this question, and I want to see who votes for it and who votes against it.

Mr. DAVIS, of West Virginia. I think it would save time, and even the bill that the Senator from Kentucky has in charge would soon be reached, if we should take up the Calendar regularly, and let this bill have consideration with all others. I shall now and straight along vote to proceed with the Calendar, and I hope the Senate will adopt that course. This bill will be reached as all other bills on the Calendar will be reached.

The PRESIDENT *pro tempore*. On the motion to postpone prior orders and proceed to the consideration of Senate bill No. 1753 the yeas and nays are demanded.

The yeas and nays were ordered.

Mr. SAULSBURY. I shall vote against taking up this bill. Whether I shall vote for the bill when it comes up depends upon its provisions. I exercise the right of an independent Senator, voting not under instructions but voting according to the dictates of my own judgment. I shall certainly vote against taking up the bill now; and when it comes up, whether I shall vote for the bill will depend entirely on its merits, according to my judgment.

Mr. EATON. I gave notice last week that I should not stand here myself and engage in a scramble for the purpose of getting up public measures that I have in charge, and that I should vote for going on with the Calendar next week—that is to-day—on Monday. The mild threat of my friend from Kentucky does not have very much effect on me. I am in favor of pensioning the Mexican war veterans, but I am in favor of pensioning them in my own way, and that is after the Calendar business has been done. I shall be very glad to vote on the yeas and nays that we take up the general business of the Senate and let this measure come up in its proper order, when I shall be happy to join my friend in voting for it. He knows I shall be glad to vote for it.

Mr. FERRY. I desire to say that my vote will be in accordance with the remarks I made a few moments ago, that we shall reach business more quickly and rapidly by taking up and sticking to the Calendar, and I shall so vote on this question.

Mr. McDONALD. The bill which the Senator from Kentucky has moved to take up is one that meets my approbation, and if I were willing to pass over the rule and take up any measure out of its order on the Calendar I should be willing to take that up; but I think after the exhibitions we have had for two or three days last week of Senators playing leap-frog for an hour to catch the eye of the President of the Senate, and the embarrassment it has caused to the business of the Senate, we ought at least to be willing to come down to the regular order and try if we cannot do better. Therefore, I shall vote on the yeas and nays against the motion of the Senator from Kentucky.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Kentucky to postpone all orders prior to order of business No. 718, which is the bill (S. No. 1753) granting pensions to certain soldiers and sailors of the Mexican and other wars therein named, and for other purposes, on which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. MAXEY, (when Mr. COKE'S name was called.) My colleague [Mr. COKE] has been called home on account of family afflictions.

The PRESIDENT *pro tempore*, (when Mr. EDMUNDS'S name was called.) I am paired with the Senator from Vermont, [Mr. EDMUNDS.]

Mr. WALKER, (when Mr. GARLAND'S name was called.) My colleague [Mr. GARLAND] is absent, on business of the Senate, as a Visitor to West Point, and is paired.

The PRESIDENT *pro tempore*, (when Mr. THURMAN'S name was called.) I am paired with the Senator from Vermont, [Mr. EDMUNDS.]

The roll-call was concluded.

Mr. VEST. I desire to announce that the Senator from South Carolina [Mr. BUTLER] is detained in his room by sickness, and is paired with the Senator from New Hampshire, [Mr. BLAIR.]

The result was announced—yeas 21, nays 27; as follows:

YEAS—21.

Bailey,	Jonas,	Pryor,	Walker,
Beck,	Jones of Florida,	Ransom,	Wallace,
Brown,	Lamar,	Slater,	Williams.
Call,	McPherson,	Vance,	
Farley,	Maxey,	Vest,	
Hill of Georgia,	Morgan,	Voorhees,	

NAYS—27.

Allison,	Cockrell,	Hereford,	Rollins,
Anthony,	Davis of Illinois,	Ingalls,	Saulsbury,
Baldwin,	Davis of W. Va.,	Kernan,	Saunders,
Booth,	Dawes,	Kirkwood,	Teller,
Burnside,	Eaton,	McDonald,	Windom,
Cameron of Wis.,	Ferry,	McMillan,	Withers.
Carpenter,	Harris,	Platt,	

ABSENT—28.

Bayard,	Conkling,	Hill of Colorado,	Paddock,
Blaine,	Edmunds,	Hoar,	Pendleton,
Blair,	Garland,	Johnston,	Plumb,
Bruce,	Groome,	Jones of Nevada,	Randolph,
Butler,	Grover,	Kellogg,	Sharon,
Cameron of Pa.,	Hamlin,	Logan,	Thurman,
Coke,	Hampton,	Morrill,	Whyte.

So the motion was not agreed to.

HENRY C. DE AHNA.

Mr. McDONALD. I am directed by the Committee on the Judiciary, to whom was referred the bill (S. No. 1725) for the relief of Henry C. De Ahna, to report it favorably with amendments, and I should like to have its present consideration.

Mr. INGALLS. That is a violation of the understanding we have just reached. I object to it.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar. The Senate now proceeds to the consideration of the Calendar under the Anthony rule. The first case on the Calendar, beginning at the point reached on its last consideration, will be stated.

JOSEPH R. SHANNON.

The CHIEF CLERK. A bill (S. No. 33) to ascertain the amount of the claim of Joseph R. Shannon, of Louisiana.

Mr. COCKRELL. That bill was before the Senate at a former time, and a question was raised as to whether the Court of Claims did not have jurisdiction of it. That question was not fully investigated by the Committee on Claims, and I believe that it is only right and proper that the bill should be recommitted to the Committee on Claims.

Mr. TELLER. There is no objection to that.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Missouri that the bill be recommitted to the Committee on Claims.

The motion was agreed to.

NORWEGIAN BARK ATLANTIC.

The next bill on the Calendar was the bill (S. No. 850) to provide a commission for the adjudication of damages to the Norwegian bark Atlantic by collision with the United States steam sloop-of-war Vandalia, and for payment of any award made by said commission, the consideration of which was resumed as in Committee of the Whole, the question being on the amendment reported by the Committee on Foreign Relations to strike out all after the enacting clause and insert:

That the Secretary of State be authorized and required to submit to an impartial arbitration, to be agreed upon between him on the part of the United States, and the minister of the government of Sweden and Norway at this capital on the part of the Norwegian bark Atlantic, the question of the liability of the United States upon the principles of law applicable between private parties for the damage caused to said bark Atlantic by said collision with the sloop-of-war Vandalia, and of the amount for which the United States should be so liable; and the amount, should any be found upon such arbitration to be justly due and payable by the United States, together with such proportion of the expenses of the arbitration as the Secretary of State shall approve, shall be paid out of the Treasury of the United States upon the warrant or requisition of the Secretary of State; and the necessary amount for such purpose is hereby appropriated thereto out of any moneys in the Treasury not otherwise appropriated.

Mr. MAXEY. I move to strike out "Secretary of State," where those words occur in lines 3 and 15, and insert "President of the United States."

Mr. EATON. I hope not. I hope it will stand as it is. The bill is under the charge of my friend from Alabama.

Mr. MAXEY. My observation since I have been here has been that wherever the Secretary of State is to do anything in the State Department it is directed to be done by the President of the United States.

Mr. MORGAN. I will state to the Senator that this bill was reported from the Committee on Foreign Relations. The objections I think to the form of the bill are entirely untenable. We should either remand this Norwegian citizen to the courts of the United States under a special act of Congress for the purpose of getting the damages occasioned by this collision, or provide for an arbitration. If we send him to the courts we should have to extend the same privilege to others, and have our courts thronged with suits against the Government by foreigners in courts of admiralty on the instance side whenever a United States vessel should have collided with a vessel of a foreigner. We cannot quite open the doors of our courts to litigants from foreign countries when we refuse to open them to our own citizens against our Government. There being no admiralty jurisdiction for the purpose of taking this subject under consideration at all, and it being necessary to provide some means of adjustment, the Secretary of State thought the best means was to appoint a commission for the investigation of this solitary complaint. It will be observed by the Senate that the wording of the bill as reported by the committee is very carefully prepared, and I hope the Senate will pass the bill in the form reported by the committee.

The PRESIDING OFFICER, (Mr. INGALLS in the chair.) The question is on the amendment of the Senator from Texas [Mr. MAXEY] to the amendment of the committee.

Mr. THURMAN. I do not remember to have seen before a proposition that an arbitration between the United States and any foreign government should take place upon the action of the Secretary of State; that he should have not simply the nomination of the commissioner, but absolutely the creation of the arbitration and the nomination of the commissioner on our side. It seems to me that it is a function which belongs to the President of the United States; and it sounds very strange to my ears to propose to confer this authority upon the Secretary of State. I hope, therefore, that the motion of my friend from Texas will prevail.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Texas to the amendment of the committee.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

Mr. THURMAN. I move to strike out, in line 5, the words "minister of the;" so as to read "the government of Sweden and Norway."

The amendment was agreed to.

Mr. ANTHONY. I move to strike out the words "and required," in line 3, after the word "authorized." It is sufficient to authorize the President.

Mr. MORGAN. Those words are improper now. They were proper as applicable to the Secretary of State, but not as to the President.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Rhode Island.

The amendment was agreed to.

The PRESIDING OFFICER. The words "at this capital," in line 6, should be stricken out in consequence of the amendment made on the motion of the Senator from Ohio, [Mr. THURMAN.] Is there objection? The Chair hears none, and that amendment will be made.

Mr. THURMAN. Certainly that amendment should be made.

The bill was reported to the Senate, as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to provide for settling by arbitration the question of the liability of the United States for damages to the Norwegian bark Atlantic by collision with the United States steamer Vandalia, and for payment of the same."

EFFICIENCY OF THE NAVY.

The next bill on the Calendar was the bill (S. No. 616) to promote the efficiency of the Navy; which was considered as in Committee of the Whole.

The bill was reported from the Committee on Naval Affairs with an amendment, in line 12, after the word "for," to strike out "one year, and no longer," and to insert "not longer than two years;" so as to make the bill read:

That whenever, on an inquiry had pursuant to law concerning the fitness of an officer of the Navy for promotion, it shall appear that such officer is unfit to perform at sea the duties of the place to which it is proposed to promote him, by reason of drunkenness, or from any cause arising from his misconduct or want of capacity not caused by or in consequence of the performance of his duty, he shall not be placed on the retired list of the Navy, and he shall be discharged from the service; and in that case he may, by order of the President, be allowed and paid the pay of his grade for not longer than two years next after such discharge.

Mr. ANTHONY. I desire to make a few remarks upon this bill, not to exceed I think the limit prescribed by the rules.

The reformation which this bill proposes has long been demanded by the best interests of the Navy. The wandering life, the hardships and exposure of the naval service, its long intervals of enforced leisure, its social temptations, expose those engaged in it, more than ordinarily, to the danger of intemperance; and Congress, when it abolished the spirit ration, wisely excluded the forbidden article from the ward-room as well as from the forecastle; and as a general rule the officers are almost as remarkable for their temperance as they are for their scientific acquirements, their skill and daring. But there are exceptions here, as in all the other pursuits of life; and in no other condition is the exception more full of danger. A drunken man, in any position, is a nuisance and a vexation; in the naval service he is a terrible danger. He is intrusted with the safety of American ships, the lives of American seamen, the honor of the American flag; and he is, for the time, transformed from a skillful, careful, accomplished officer, obedient to his superiors, considerate to his inferiors, with a high sense of the responsibility under which he acts, to a brute, insensible to every duty and regardless of every obligation. He has committed one of the highest offenses of which a man can be guilty; one that involves the possibility of any and every other offense.

But it is argued, with some force, that drunkenness is more a disease than a crime; that the taste for intoxicating liquor is natural to many that fall a victim to its indulgence, and that they should be restrained rather than punished by heavier penalties. Granting this, and I am not disinclined to the theory, it does not follow that they should be intrusted with responsible duties any more than in the case of the insane. An insane man is not the subject of punishment, but we do not put him in the command of our ships of war. Whether it be a crime or a misfortune, drunkenness, in a naval officer, is a disqualification which the Government cannot afford to condone. It should be settled and understood, as the irreversible law of the service, that drunkenness, under any circumstances, or in any place, be visited with severe punishment, and drunkenness on duty be followed by prompt dismissal, with no hope of restoration through the mistaken clemency of the Government. It might, it doubtless would, bear severely in some cases; but the hardship to one sufferer would be a mercy to thousands, whom it would protect from falling into the same error; and it would protect the Navy from the manifold dangers consequent upon the error.

The severity of this rule is not only necessary for the example, but because a man who has been the victim of intemperate habits can never again fully rely upon his power of resistance, and naval life exposes him to peculiar temptations. He may become a useful citizen; he may redeem his character and commence a new life in civil employments, and may rise to distinction in other pursuits, but he can never be trusted as a naval officer. It can never be safe to give

him the command of a ship; it can never be safe to give him the control of men. The risk is too great. A man may take risks for himself; the Government has not the right to take needless risks on others.

The many gallant and otherwise valuable officers who have been rendered useless, and worse than useless, by habits of intoxication, and who have been dismissed or retired therefor, but whose amiable and professional qualities have wrought upon their friends, and, through them, upon Congress, for restoration to active service, and the frequent disastrous results of such mistaken clemency, demand a more rigid administration of the law against such offenses; and this whether drunkenness be regarded as a crime or a disease. It is, according to either theory, equally dangerous to the Navy. If a crew is managed in such manner as to become insubordinate, and to lose respect for its officers; if a vessel be lost and lives sacrificed; if a ship is made a disgrace to the flag that she bears, it is a poor consolation to be told that the intemperate officer, through whom such calamity was allowed, was not responsible for his conduct; that he was afflicted with a disease which overmastered his power of resistance, and that he really could not help it. It may be an excuse for him *in foro conscientiæ;* but it is not an excuse for those who retained him in a position where he was exposed to such temptation, and capable of so great mischief.

We have had many instances of the evil done by Congress, in overruling upon *ex parte* testimony the decisions of the Departments and of the civil courts. It is much greater in overruling the decisions of courts-martial, which are constituted of officers above the rank of the accused, of high moral and professional character, and almost always mercifully inclined toward a brother officer, whom they are slow to punish unless required by a sense of duty to the country and to the service. On an appeal from the judgments of these courts to Congress the service is not represented. The officer retired or dismissed adduces the testimony of his friends, and there is no one to refute it. Almost any case may be made out when only one side is heard; and it is the exercise of a dangerous power for Congress to reverse, upon such a hearing, the decision of a court which has examined both sides patiently, thoroughly, intelligently, and honestly.

I myself, conscientiously, and with the best intention, and in ignorance of what experience has since taught me, have been instrumental in great mischief, by voting for the restoration of officers dismissed for intoxication. When I first came into the Senate a proposition was made for the restoration of a gallant officer who had inherited a name honored in our naval annals. He had been tried before a court-martial and found guilty of habits of intoxication which unfitted him for the service. The evidence, all on one side, of course, was of the most positive and indisputable character, to his complete reformation. His name, the services of his father and his own, his poverty, his sincere repentance, all plead for him. It was proved that he had never been under the influence of strong drink, except on the one occasion for which he was convicted; and a medical book was quoted in the Senate to prove that a man sometimes had the *delirium tremens* from too rigid an abstinence! All the women in Washington were in his favor and the Naval Committee and the Senate were besieged by their supplications. I, being a new Senator, was particularly exposed to them. But it needed not these to incline me to the side of mercy to the officer, ignorant of the wrong that my vote was doing to the service. After the vote of restoration had passed, Mr. Hale, of New Hampshire, who had taken a great interest in favor of the officer, whom he had never seen, as I had not, called to communicate the intelligence to him and to congratulate him on the event. He found him at home so drunk that he did not fully comprehend the purpose of the visit. He was never employed, the Department did not imitate the mistake of Congress, and he died miserably, soon after, having performed no other duty than to draw his pay. I have heard Mr. Grimes, whose knowledge of the Navy and of naval affairs exceeded that of any man with whom I ever served, say that he had watched the course of officers who had been dismissed or retired for drunkenness, and afterwards restored; that several of them had lost ships and that most of them had done discredit to the service.

But why should an officer incapacitated for duty, by his own vice, be placed on the retired list and supported by the Government that educated him, and that he has rendered himself unfit to serve? The retired list is intended as an honorable retreat for officers who have served faithfully, and, by reason of years, are incapacitated to render that prompt and active duty which the Navy demands. It is not an asylum for inebriates. Many men who are placed upon it are yet in the vigor of life, and might be profitably retained on active duty. But the line must be drawn somewhere, and it is fixed at the age of sixty-two, or after the officer's name has been borne on the Naval Register forty-five years. This list should not be encumbered and dishonored by officers who have not manifested the strength of mind necessary to the restraint of their appetites. If men who have been educated at the public expense, trained for an honorable service, with the certain prospect of promotion and of a competent provision for life, are not stimulated by all this to a sense of duty and restrained from indulgence in vicious appetites, why should the Government continue to support them in useless idleness? It is not the way that men in the private affairs of life conduct their business. If a merchant has a clerk or a bank has a cashier who incapacitates himself from the satisfactory performance of duty by indulgence in strong drink, he is discharged, not pensioned by his employer. How much more is this just when the offender has been especially trained for his service at the cost of his employer. Complaint is made, not justly I think, that the Navy is top-heavy, that the proportion of officers is too great for the number of men, and that a gradual reduction should be made, by omitting new appointments and suspending promotion, till the number is brought down to the requirements of the actual service. I do not agree with this complaint, and propose, at a proper time, to make some answer to it. I hold that the number of officers on the active list is not too great, and that the Navy afloat should rather be brought up to the number of officers than the number of officers reduced to the actual Navy on duty. But this objection obtains force, when the retired list is loaded with men not incapable, but unworthy of a place on the active list. Not only justice, but policy demands this reform. An officer should know that if he becomes intemperate he will not be placed on the retired list, with pay enough to supply his depraved appetite, but will be dishonorably dismissed the service; and the example should be held up to the younger officers as a warning and a prevention. I am confident that this bill will meet the approval of the best officers in the Navy, and that it will commend itself to the approbation of the Department and of the country.

The PRESIDING OFFICER. The question is on the amendment reported by the Committee on Naval Affairs.

Mr. COCKRELL. I suggest to the Senator from Rhode Island that the provision in the case of the Army is one year. Why not leave in the same provision in regard to the Navy?

Mr. ANTHONY. That is a mere matter of judgment. I thought it was hardly generous to turn a man loose without some provision, although he was turned loose by reason of his own fault.

Mr. COCKRELL. I think in the Army you will find it is one year, and it ought to be the same in the Navy.

Mr. ANTHONY. I agree to the Senator's suggestion.

Mr. COCKRELL. I hope, then, the amendment will not be agreed to. Let the bill be left as it was in that respect.

Mr. ANTHONY. Very well, I consent to that.

Mr. JONES, of Florida. I do not now remember to have been, although I may have been in committee when this bill was there considered. I regard it as a very important measure. On looking into the bill I am not prepared to give it my sanction in its present form, for the reason that I do not think it is sufficiently guarded. I think that the power it gives to a naval board is a very extraordinary one. We know that in all cases of examination for promotion the whole naval record of the officer comes before the board. As the law now stands, it is the duty of that board whenever a vacancy arises in the Navy to examine the officer next in the line of promotion in order to ascertain whether he possesses the physical and professional qualifications necessary to entitle him to advancement. That is all very proper. This bill undertakes to give them the additional power of displacing an officer from the Navy if they find that he has been, I suppose at any time in his life, addicted to drunkenness or has been guilty of any conduct which, in their judgment, renders him unfit to continue in public service.

Mr. President, no penalty that any tribunal could possibly put upon a naval officer is greater than this. The bill makes it the duty of the board, if they find that he has been guilty of drunkenness or misconduct such as would not entitle him to promotion, to put him out of the service altogether, to dismiss him from it; that service to which his life had been devoted, for which alone he is competent and in which it may have been that the best years of his life have been spent. I say that this is a most serious thing not only to a naval but to a military officer or to any professional man; and it does seem to me that some mode of trial, some little more solemnity, ought to be thrown around a proceeding which would carry with it these great consequences to an officer. In ordinary cases of courts-martial such a consequence may result; and I understand that an officer now cannot be put out of the public service, in accordance with law, unless he is tried by that description of tribunal which the law has fixed for ascertaining the fact of his guilt. Otherwise there are no safeguards provided whatever by which he can get a fair trial. Suppose he disputes the fact of drunkenness or misconduct, suppose he is disposed to draw in question the allegations brought against him, is he to be stricken down by a one-sided tribunal upon what you might call an *ex parte* case?

This, I say, however good it may be, is a very dangerous bill, and may lead, in my judgment, to the greatest injustice toward a most meritorious class of officers who have claims upon the consideration of the Government and the country.

Mr. ANTHONY. Mr. President, the decision of the board does not take effect until it has been approved by the Secretary of the Navy and by the President of the United States.

Mr. JONES, of Florida. That may be all true; I conceive that to be the case; but still does the Senator think that is a trial which would give the officer the opportunity that he would have if he were before a court-martial, attended by counsel, and with all the solemnities and safeguards that even that system secures?

Mr. ANTHONY. An officer has a right to appear before a board of inquiry, and he can appear by counsel, and witnesses are summoned and examined. Always, an officer has an opportunity to appear before the board of inquiry as to his promotion, and to adduce his witnesses. I am certainly willing that the bill shall be amended as the

Senator from Florida suggests, but I think it is entirely unnecessary. The power of the board does not operate until its action has been approved by the Executive.

Mr. McPHERSON. This is a bill which ought to have been passed by the Congress of the United States more than ten years ago for the relief of the retired list of the Navy. The retired list of the Navy to-day is burdened with just the class of cases that the bill under consideration proposes to get rid of. The opposition taken by the honorable Senator from Florida is that it is a very unwise and very improper thing to dismiss an officer from the Navy on the recommendation of a board. Now, let us see what the statutes provide to-day. If an officer of the Navy goes before an examining board to be examined preliminary to promotion and he cannot pass the necessary examination, he is placed on the retired list. If that officer wishes to get back on the active list of the Navy, it can only be done by a petition to Congress and by an act of Congress restoring him to the active list. If any more can be done with the officer under this bill, if a board shall dismiss him entirely from the service, he has exactly the same right; he can appeal to Congress, and they can restore him to the service again on the active list. I think the bill is very liberal, indeed, in its phraseology. It says that if such officer is unfit to perform at sea the duties of the place to which it is proposed to promote him, by reason of drunkenness, or from any cause arising from his misconduct or want of capacity not caused by or in consequence of the peformance of duty, &c., then he shall be dismissed. If his incapacity is caused by or in consequence of the performance of his duty, he is not to be dismissed, but placed upon the retired list; but if by his own misconduct, the bill provides that he shall be absolutely dismissed from the service, and that is right. The Navy is becoming so top-heavy that at least one third of the entire naval force consists of officers. The retired list is full. It is burdened with a class of men to which this bill refers, and I am only surprised that Congress has not sooner taken hold of this matter in this form.

Mr. COCKRELL. I give notice now that I must insist on the five-minute rule, and I hope the Chair will see to it.

Mr. CARPENTER. I think this is a very dangerous bill. Of course if there are men on the retired list of the Navy who ought to be discharged, it is proper to take some steps for that purpose; but in an *ex parte* proceeding, for that is substantially what this is——

Mr. ANTHONY. The Senator will allow me to suggest that this does not affect the officers already on the retired list.

Mr. CARPENTER. I do not care whether they are on the retired list or not; it affects the officers covered by the bill, and it proposes to visit on them all the consequences that could be visited by the sentence of a court-martial, and that by an *ex parte* proceeding. Is the bill open to amendment?

The PRESIDING OFFICER. The question is on the amendment reported by the Committee on Naval Affairs.

Mr. ANTHONY. At the suggestion of the Senator from Missouri I trust that amendment will be rejected.

The PRESIDING OFFICER. The question is on the amendment.

The amendment was rejected.

The PRESIDING OFFICER. The bill is now open to amendment.

Mr. CARPENTER. I move to amend the bill by adding thereto these words:

Provided, however, That no officer shall be discharged for any misconduct committed before his last promotion; nor without notice and opportunity to present witnesses and to be heard by counsel.

Mr. ANTHONY. There is no possible objection to that amendment; but it does not add a tittle to the law, and I am surprised that a Senator who has had a military as well as a legal education should speak of a naval court of inquiry as *ex parte*. It is the fairest tribunal in the world.

Mr. CARPENTER. Here is a matter well known, the case of Captain Thompson. He was twice promoted by such an examining board, notwithstanding certain charges were made against him by officers who opposed him; and when he came forward a third time, on the same testimony and the same charges he was rejected. Do they call that a fair proceeding? It is not.

Mr. ANTHONY. If it was *ex parte* it was his own fault. He had a right to be represented before the court. However, I have no objection to the amendment.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. T. F. KING, one of its clerks, announced that the Speaker of the House had appointed Mr. W. A. RUSSELL, of Massachusetts, one of the managers at the conference on the part of the House on the disagreeing votes of the two Houses on the bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes, in place of Mr. TOWNSEND, excused.

APPOINTMENTS IN THE ARMY.

The next bill on the Calendar was announced to be the bill (S. No. 1191) for the relief of James Monroe Heiskell, of Baltimore City, Maryland.

Mr. DAVIS, of Illinois. That bill is a bill that created some discussion when it was up before; and the Senator from Maryland, [Mr. WHYTE,] who is very much interested in it, is away sick. I think an amendment was offered by the Senator from Arkansas, [Mr. GARLAND,] who is away. I hope it will be passed over without prejudice so as to be taken up when these gentlemen come in.

The PRESIDING OFFICER. Is there objection to the suggestion of the Senator from Illinois, that this bill shall be passed by, retaining its place on the Calendar? The Chair hears none. The next bill will be reported.

ALBERT TOWLE.

The next bill on the Calendar was the bill (S. No. 16) for the relief of Albert Towle; which was considered as in Committee of the Whole. It proposes to appropriate $175 to reimburse Albert Towle, postmaster at Beatrice, Nebraska, for stamps stolen from the post-office at that place on the night of October 25, 1869.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

LIGHT-HOUSE ON WHALE ROCK.

The next bill on the Calendar was the bill (S. No. 1316) making an appropriation for the erection of a light-house and fog-bell on Whale Rock, at the entrance of Narragansett Bay; which was considered as in Committee of the Whole. It appropriates $35,000 for the purpose of erecting a light-house and fog-bell on Whale Rock, at the entrance of Narragansett Bay, under the direction of the Secretary of the Treasury.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

FORT UNION RESERVATION.

The next bill on the Calendar was the bill (S. No. 916) to authorize the United States to secure a title to certain military and timber reservations; which was considered as in Committee of the Whole.

Upon the owner or owners of the lands embraced within the limits of the Fort Union military and timber reservation, situate in the county of Mora, Territory of New Mexico, as surveyed and platted by John Lambert, in March, 1868, and as declared and set apart by the President of the United States, by proclamation, filing in the office of the Commissioner of the General Land Office good and sufficient deeds in law conveying to the United States all the right, title, and interest of such owner or owners in and to the lands embraced within the limits of that reservation, such owner or owners, his or their legal representatives, thereupon, in lieu of the land so conveyed to the United States, may select, and shall be allowed patents for, an equal quantity of any unappropriated public lands of the United States. The Commissioner of the General Land Office, under the direction of the Secretary of the Interior, is directed, upon the filing of these deeds, to issue certificates of location in legal subdivisions to the grantor or grantors in the deed or deeds, his or their legal representatives.

The bill was reported from the Committee on Military Affairs with amendments.

The first amendment was, after the words "United States," in line 17, to insert "not mineral, in tracts not less than the subdivisions provided for in the United States land laws;" so as to read:

Thereupon, in lieu of the land so conveyed to the United States within said reservation, may select, and shall be allowed patents for, an equal quantity of any unappropriated public lands of the United States not mineral, in tracts not less than the subdivisions provided for in the United States land laws.

The amendment was agreed to.

The next amendment was, in line 24, after the word "representatives," to insert "in accordance with the provisions of this act;" so as to read:

And the Commissioner of the General Land Office, under the direction of the Secretary of the Interior, is hereby authorized and directed, upon the filing of said deeds as aforesaid, to issue certificates of location in legal subdivisions to the grantor or grantors in said deed or deeds, his or their legal representatives, in accordance with the provisions of this act.

The amendment was agreed to.

The next amendment was, after the word "payment," in line 40, to insert "only;" so as to read:

And the said certificates issued under the provisions of this act shall be received from actual settlers in payment only for pre-emption or homestead entries of public lands.

The amendment was agreed to.

The next amendment was, at the end of the bill, to insert the following proviso:

And provided further, That said certificates of location shall not be located upon what is now known in law as double-minimum lands: *And provided further*, That the whole number of acres of land authorized by this act to be exchanged, and patents issued therefor, shall not exceed sixty-five thousand acres in all.

The amendment was agreed to.

Mr. ALLISON. I should like to ask the Senator from Texas why it is that these certificates cannot be located on double-minimum lands?

Mr. MAXEY. The whole purpose of this bill I can explain in a very few words. The report covers eight pages, and I do not care to detain the Senate by reading the whole report.

The United States Government located the Fort Union military

post on what proved to be a tract of land belonging to the heirs of Mora. The United States had expended upon that reservation $274,000 in public buildings. General Sherman in his letter to the Secretary of War agrees with the committee. He states that that is the most valuable land there is. General Sherman's expression is, "As a matter of course this reservation contains the best part of the land of New Mexico east of the Rocky Mountains." The Secretary of War expresses the same views. The heirs propose to transfer their grant to the extent of the necessities of the Fort Union reservation to the United States in consideration that the United States Government will give them a certain number of land warrants or certificates equivalent to the land granted to the United States.

The Military Committee, after a very careful and very thorough investigation of this matter, concluded that it would not be just to let them put these certificates upon what are known as double-minimum lands; and why? The double-minimum lands are those where when a grant has been made for railroad purposes the reserved alternate sections held by the United States have been doubled in price. Therefore if you put these certificates on double-minimum lands the holders could get two-dollars-and-a-half-an-acre land, and we do not want them to get any but dollar-and-a-quarter land. The double-minimum lands are of more than ordinary value, and hence we do not propose to let them take the double-minimum land in discharge of this debt. The provision is for the protection of the Government.

Mr. BOOTH. I move to amend the bill by inserting after the word "laws," in line 18, page 2, the words "within the Territory of New Mexico." The object of the amendment is to confine these locations to the Territory of New Mexico.

The amendment was agreed to.

Mr. BOOTH. I beg leave to suggest to the Senator from Texas a verbal amendment. I think it will make his meaning more clear. In line 40, I move to strike out the word "only" and insert that word in line 39, after the word "received;" so as to read:

And the said certificates issued under the provisions of this act shall be received only from actual settlers in payment for pre-emption or homestead entries of public lands.

Mr. MAXEY. I can say that the word "only" was inserted there by the committee for the purpose of limiting this right of locating these warrants to pre-emption or homestead entries, and to no others. That excluded the double-minimum idea. That was the object of the committee, to protect the Government. The Senator proposes to put that word in another part of the same sentence; and if that transposition would make the idea clearer, as a matter of course I have no objection. There is no difference of opinion as to the purpose.

Mr. BOOTH. I think it makes it clearer.

Mr. MAXEY. I thought the word was in the right place before.

Mr. DAVIS, of Illinois. I think the change, perhaps, would be better.

Mr. MAXEY. I have no objection.

The amendment was agreed to.

Mr. BOOTH. Then I would suggest, in line 40, to strike out "or homestead." It does not mean anything.

Mr. MAXEY. The bill in this shape is something of a compromise; and the Government is certainly getting, as General Sherman says, the best land in New Mexico, in exchange for which the Government gives these certificates or warrants. I do not know that those words ought to be struck out.

Mr. BOOTH. I do not insist on the amendment; but I want to explain why I make the suggestion. You do not pay for a homestead entry at all.

Mr. MAXEY. It does not hurt anything, and therefore may as well stay in.

Mr. BOOTH. I do not know that it hurts anything.

Mr. ALLISON. I should like to ask the Senator from Texas if it is clear that these people have a title to these lands?

Mr. MAXEY. That appears beyond doubt from the letter of J. A. Williamson, Commissioner of the General Land Office. The Secretary of War and everybody else admit that they have the grants for these lands. There is no question on that point.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

NATIONAL BOARD OF HEALTH.

The next bill on the Calendar was the bill (S. No. 1182) to increase the efficiency of the National Board of Health.

Mr. HARRIS. I ask that that bill be passed over without prejudice. It will take some little time to consider it, and I prefer not to enter upon its consideration this morning. Therefore I ask the Senate to pass it over without prejudice.

The PRESIDING OFFICER. If there be no objection that order will be observed. The next bill will be reported.

GEORGE EYSTER.

The next bill on the Calendar was the bill (H. R. No. 2796) for the relief of George Eyster; which was considered as in Committee of the Whole. It provides for the payment to George Eyster, of Philadelphia, of $882.50, being the amount stolen from Eyster while he was assistant treasurer of the United States by a subordinate in his office, without his fault or negligence.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

APPOINTMENTS IN THE ARMY.

Mr. BAYARD. Order of business No. 307 being the bill (S. No. 1191) for the relief of James Monroe Heiskell, of Baltimore City, Maryland, was passed by without prejudice. I think that bill may as well be taken up now.

The PRESIDING OFFICER. The Senator from Delaware asks for the consideration of Senate bill No. 1191.

There being no objection, the Senate resumed the consideration of the bill.

Mr. BURNSIDE. I think this bill is one that should not be passed by the Senate.

The PRESIDING OFFICER. Does the Senator object?

Mr. BURNSIDE. I object to the bill.

The PRESIDING OFFICER. The bill will be passed over under the rule.

Mr. BURNSIDE. I do not object to its consideration. I am willing to have it considered.

Mr. BAYARD. The honorable Senator from Arkansas [Mr. GARLAND] and the honorable Senator from Maryland [Mr. WHYTE] agreed that the amendment of the Senator from Arkansas should be withdrawn. Perhaps as he is not here it had better now be non-concurred in, as there is no one having regular authority to withdraw the amendment offered by the Senator. Let the vote be taken upon that amendment and let it be non-concurred in and the original bill without amendment be passed.

The PRESIDING OFFICER. The Senator from Rhode Island, under the Anthony rule, objects to the present consideration of the bill.

Mr. BURNSIDE. No; I beg pardon. I do not object to its consideration. I object to the passage of the bill, and I will give my reasons. I think this is a bill which should not be made an exception to the statute. I do not mean to say what my views are upon the statute as it is, or what my action will be when a bill is introduced for the repeal of these sections of the statute, but this bill is one that I cannot vote for because it provides for what is not an exceptional case. I had the honor the other day of reporting a bill relieving Sergeant Powell of the Army from disabilities under these sections of the statute, because he had served one or two enlistments in the Army, had been a non-commissioned officer in the Army, and is now in service in the field, and has obtained the necessary recommendations from his officers to make him eligible for a commission in the Army.

As I understand it, the object of this bill is to relieve this young man from these disabilities with a view to allowing him to make an application for a commission in the Army. He has seen no service in the Union Army since the war. He served in the confederate army, and under the statute he is not entitled to a commission and cannot be appointed in the regular Army. I see no reason why his case should be made an exception, why he should be picked out and relieved from the operation of the statute unless we make the action general.

In the case of Sergeant Powell there was a distinct reason. I took great pleasure in recommending that he be relieved, and the bill has already passed the Senate and the House both.

Mr. BAYARD. The Senator does not object to the present consideration of this bill.

Mr. BURNSIDE. Not at all.

Mr. ANTHONY. The Senator from Vermont who sits on my left [Mr. EDMUNDS] had a particular interest in this bill, and as he is absent I think it had better go over.

Mr. BAYARD. We propose to non-concur in the general amendment, and to allow the special act to pass.

Mr. ANTHONY. He was opposed to the bill.

Mr. BAYARD. I do not know that he was opposed to it, but at the time he suggested that it were well to pass a general act.

Mr. DAVIS, of Illinois. I am in favor of this bill because this was a young man sixteen years of age at the time, a grandson of Mr. Monroe, and he should hardly be held responsible for what he did then. But the Senator from Vermont did object to the bill itself as well as to the amendment. The Senator from Rhode Island is right.

Mr. ANTHONY. The Senator from Vermont said, "why not pass a general law as well as a special law for this particular case."

Mr. BAYARD. It was understood there would be objection to that. The Senator from Arkansas took the Senator from Vermont at his word and offered a provision for a general repeal. It was understood that would lead to opposition and lead to discussion. For the purpose of preventing that, it is now suggested at the request of the Senator from Maryland, [Mr. WHYTE,] who has a personal interest in this bill from his knowledge of the party and his relations to him and who vouches in every respect for the propriety of the act, that the amendment of the Senator from Arkansas proposing a general repeal should be non-concurred in. I am prepared to vote that it be non-concurred in as the question is about to be put. After it has been non-concurred in, I trust there will be no delay in passing the bill because the Senator from Vermont is absent.

Mr. ANTHONY. I am willing the case should be passed over without prejudice to hold its place on the Calendar until the Senator from Vermont returns.

Mr. BAYARD. The Senator knows how readily I yield to anything like a sense of senatorial courtesy; and if I thought there was in this bill anything that the Senator from Vermont felt himself obliged to oppose or defeat by delay, I should not press it now. The Senator from Rhode Island [Mr. BURNSIDE] objects to this particular bill, but is willing to let the vote of the Senate be taken upon it. That is all we ask. Let us vote upon it. Let the yeas and nays be called if need be; but let us vote. The Senator from Maryland has heretofore stated to the Senate in very frank terms the peculiar features of this case which do call in my judgment for action by the Senate. I therefore beg that it may be considered now, and I think there is no want of courtesy to the Senator from Vermont in passing the bill in his absence.

Mr. McDONALD. I should like to ask the Senator from Rhode Island if there is any probability of the Senator from Vermont returning again this session? My information is that he does not expect to return at this session.

Mr. ANTHONY. I understood he intended to return the latter part of this week.

Mr. BAYARD. We know the hurry and pressure of business at the close of the session, and I beg the Senator not to throw the bill over.

The PRESIDING OFFICER. Does the Senator from Rhode Island interpose objection to the consideration of the bill?

Mr. ANTHONY. No, sir. I withdraw the objection.

Mr. BURNSIDE. My objection is not to this young man himself, because I think there is some merit in his case; but I object to it because I think it is unjust to a large class of young men, who are laboring under disabilities under these clauses of the statutes. If we are going to repeal the law or to take any action in that direction, why not repeal it directly, and allow the thousands of young men in the same position as this young man to come forward and compete for what he is trying to get? This thing of picking out one single person without any kind of reason and making him the beneficiary of an act like this, is, I think, unfair. There are a thousand young men situated just like him.

Mr. BAYARD. I agree with the Senator. I think it is unfair, and I think there ought to be a general repeal.

Mr. BURNSIDE. That is another question. If action is taken on the amendment of the Senator from Arkansas, let that action stand, and let us pass judgment on the bill in that form.

Mr. BAYARD. I beg the Senator not to refuse a crumb because the whole loaf cannot go with it.

Mr. BURNSIDE. I see no reason under the sun for making this young man an exception to the statute. I am perfectly willing to make an exception where there is an exceptional case really presented, but I see no reason for making this an exceptional case.

Mr. BAYARD. Can we not take the question on this case?

Mr. BURNSIDE. I do not object to action on this bill.

The PRESIDING OFFICER. This bill appears by the record of the Secretary to have been read the third time on a previous day. The amendment offered by the Senator from Arkansas was agreed to by a yea-and-nay vote in Committee of the Whole, and, on motion of the Senator from Vermont, [Mr. EDMUNDS,] the yeas and nays were taken upon the third reading of the bill in the Senate, and it was read the third time, but before the bill had been passed the morning hour expired and the bill went over.

Mr. DAVIS, of Illinois. The amendment that was made in Committee of the Whole, I understood from the Senator from Maryland, was to be withdrawn, or non-concurred in at any rate.

The PRESIDING OFFICER. These proceedings can be reversed by unanimous consent if the Senate so desire, and the record can be changed to correspond by the unanimous consent of the Senate. Is there objection to the withdrawal of the amendment offered by the Senator from Arkansas, [Mr. GARLAND?]

Mr. CAMERON, of Wisconsin. What position is the bill in now?

The PRESIDING OFFICER. The bill has been read three times, and the question is, Shall it pass.

Mr. CAMERON, of Wisconsin. As amended?

The PRESIDING OFFICER. As amended. The present occupant of the chair was not presiding at the time this action was taken. He has been advised by the Secretary of the matters that have been announced.

Mr. ANTHONY. If it is to be passed with that amendment I shall certainly object to its further consideration.

Mr. BAYARD. I thought it was understood that that amendment was to be non-concurred in.

Mr. CAMERON, of Wisconsin. The amendment it seems has been concurred in.

The PRESIDING OFFICER. The amendment has been concurred in, and the question upon the third reading of the bill was taken by yeas and nays, and it was agreed to by a vote of yeas 36, nays 23. The question, therefore, is on the passage of the bill.

Mr. MAXEY. I should like to know what the amendment is.

The PRESIDING OFFICER. The amendment will be read.

The CHIEF CLERK. The amendment was to strike out all after the enacting clause of the bill and in lieu of the matter stricken out to insert:

That section 1218 of the Revised Statutes of the United States, being in chapter 1, Title XIV, of said Revised Statutes, which provides that "no person who has served in any capacity in the military, naval, or civil service of the so-called Confederate States, or of either of the States in insurrection during the late rebellion, shall be appointed to any position in the Army of the United States," be, and the same is hereby, repealed.

Mr. BAYARD. That was the amendment. I had the impression that there was objection or that objection would be urged to the present consideration of this measure provided the amendment offered by the honorable Senator from Arkansas and which had been adopted by a vote of the Senate should remain; that gentleman would object to the consideration of the bill. Now I understand that there is no objection to that. If so, then let us pass the bill as amended, which in my judgment is a much more proper thing.

Mr. BURNSIDE. No objection is made to the consideration of it.

Mr. CAMERON, of Wisconsin. There will be no objection to its consideration from this side of the House.

The PRESIDING OFFICER. The Chair would suggest that by unanimous consent the action of the Senate ordering the bill to be read the third time can be reconsidered and the amendment offered by the Senator from Arkansas can then be non-concurred in.

Mr. CAMERON, of Wisconsin. That unanimous consent cannot be obtained.

The PRESIDING OFFICER. If there is no objection to the consideration of this bill, the question is, Will the Senate reconsider the vote by which the bill was ordered to a third reading.

Mr. CAMERON, of Wisconsin. What is that? More than two days have elapsed since the action was taken ordering the bill to a third reading.

The PRESIDING OFFICER. Does the Senator object?

Mr. CAMERON, of Wisconsin. I stated distinctly that I would object.

The PRESIDING OFFICER. The Chair did not so understand the Senator.

Mr. CAMERON, of Wisconsin. I do object.

Mr. BURNSIDE. I understand the question now is on the passage of the bill.

The PRESIDING OFFICER. The question is on the passage of the bill.

Mr. BURNSIDE. As amended by the Senator from Arkansas.

The PRESIDING OFFICER. The question is on the passage of the bill, if the Senator from Wisconsin objects to the motion to reconsider.

Mr. CAMERON, of Wisconsin. I have objected.

Mr. ALLISON. I ask that the bill be read.

The Chief Clerk read as follows:

Be it enacted, &c., That section 1218 of the Revised Statutes of the United States, being in chapter 1, Title XIV, of said Revised Statutes, which provides that "no person who has served in any capacity in the military, naval, or civil service of the so-called Confederate States or of either of the States in insurrection during the late rebellion shall be appointed to any position in the Army of the United States," be, and the same is hereby, repealed.

Mr. DAWES. Before the Senate votes upon this bill in its present shape, I desire to have the statute read which it proposes to repeal, so that we can all understand clearly what is being done in this summary manner and with so little apparent attention to what seems to me to be a very important matter.

The PRESIDING OFFICER. The Secretary will read section 1218 of the Revised Statutes.

The Chief Clerk read as follows:

SEC. 1218. No person who has served in any capacity in the military, naval, or civil service of the so-called Confederate States or of either of the States in insurrection during the late rebellion shall be appointed to any position in the Army of the United States.

Mr. DAWES. If I understand the bill in its present shape, it proposes to remove that barrier and open the Army to being filled, if the appointing power shall deem it proper, by any person who has proved himself recreant to the flag and to the oath of office which he took to serve his country faithfully in the Army of the United States without exception. I desire before a vote shall be taken upon it, without arguing the question over and over again, that the Senate shall distinctly and clearly understand what is proposed.

Mr. DAVIS, of Illinois. Will the Senator give way to me a minute? Mr. President, I wish to make an objection to the further consideration of the bill.

Mr. DAWES. Let me——

Mr. DAVIS, of Illinois. I will state the reason.

Mr. DAWES. Let me simply state my view. If the Senate are prepared to strike down this last barrier or last distinction between the officers of the Army faithful to the flag and those who were faithless to it, if they are prepared so to vote, then let them vote for the passage of this bill.

Mr. DAVIS, of Illinois. The Senator from Maryland [Mr. WHYTE] introduced this bill for the benefit of a particular person. The Senator is not here, but is sick in bed. My understanding was that he wanted the bill to pass for the benefit of this particular man and not any general bill; and it was agreed between the Senator from Arkansas, [Mr. GARLAND,] who offered the amendment, being spurred to it by the Senator from Vermont, [Mr. EDMUNDS,] that that should be non-concurred in, and that this bill for the benefit of a grandson of Mr. Monroe should be considered. Now, sir, he is absent, and I object to any further consideration of the bill.

Mr. ALLISON. Let me call the attention of the Senator from Illinois to the fact, however, that if this general bill passes it will affect favorably the grandson of Mr. Monroe.

Mr. DAVIS, of Illinois. I want the Senator from Maryland to take the responsibility about that. I object now to any further consideration of the bill.

The PRESIDING OFFICER. The Senator from Illinois objects to the further consideration of this bill, and it goes over.

Mr. CAMERON, of Wisconsin. If the Senate will indulge me one moment, I desire to say that the Senator from Maryland, who is now absent, was present when this bill was considered, and voted in favor of the amendment proposed by the Senator from Arkansas.

Mr. DAVIS, of Illinois. There is nothing before the Senate.

The PRESIDING OFFICER. The Secretary will report the next bill on the Calendar.

Mr. BAYARD. Under the circumstances, I ask that the bill be passed by without prejudice.

Mr. CAMERON, of Wisconsin. I object to that.

Mr. DAVIS, of Illinois. I objected to its further consideration.

The PRESIDING OFFICER. The bill is not before the Senate. The next bill on the Calendar will be reported.

LANDS WITHIN RAILROAD LIMITS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 191) to reduce the price of public lands within railroad limits.

The bill was reported from the Committee on Public Lands with an amendment, to strike out all after the enacting clause and insert:

That all public lands within railroad limits, lying opposite a constructed section of railroad, and which have heretofore been subject to pre-emption entry at $2.50 per acre, shall be reduced to $1.25 per acre when three years shall have elapsed after the filing with the Secretary of the Interior of the evidence of the construction of said completed section of railroad.

Mr. DAVIS, of Illinois. I should like to have that bill explained by the Senator from California, who has it in charge.

Mr. JONES, of Florida. The Senator from California is not now in his seat. It came from the Committee on Public Lands, of which I am a member, and received consideration there. I think I am as well able to explain the bill as the Senator from California, who does not happen to be present.

My understanding of the bill is simply this: The Government of the United States, as is well known, in its railroad land policy has given away to numerous corporations all over the country large bodies of the public domain to aid in the construction of their works. The policy has been to grant every alternate section within fifteen miles of the line of the road. It was conceived that this policy would in the end redound to the advantage of the Government by enabling it to receive for the odd sections remaining a much higher price than they otherwise would command. The policy of giving the land directly to corporations never was defended by anybody, but it was put upon the ground that a benefit would result to the people and the Government from the concession in the enhanced price of the remaining sections within the railroad limits. I do not think that experience has demonstrated all that was expected from this policy, although it has resulted in the main in great good. There are large bodies of land now remaining unsold belonging to the United States within what are known as the railroad limits, and under the law they are held at $2.50 per acre, while all other lands of the United States sell at $1.25 per acre.

I never have been an advocate of the Government of the United States becoming in any sense a great landed proprietor. On every occasion that I could be heard I have advocated the most liberal policy with respect to the public lands, and I have said that if I could not get the people to take the lands at a low price I would give them to them for nothing, because settlement, and cultivation, and improvement, above all other things, ought to be promoted. This bill proposes to reduce the price of lands within railroad limits now held at $2.50 per acre to $1.25 per acre, and make them uniform, making no distinction between the price of land lying within railroad limits and those lying beyond, and I can see no just reason for it, because if any advantage has resulted to the people of the United States or to the Government from the construction of railroads, it has not been in the enhanced value of the land, but it has been in the swelling of population and wealth which these roads have carried into the heart of the continent. It is from people, from cultivation, from the working of the soil by the honest industry of the country that the wealth of this country must flow, and not from an enhanced value of a dollar in the acre on the land. Therefore I am in favor of this bill as a wise and beneficent measure.

Mr. ALLISON. I should be glad to know from the Committee on Public Lands what reason there is for so marked a change in the policy of our Government with reference to these alternate sections. The theory upon which we have acted hitherto is that by the construction of the railroads the lands immediately opposite the railways are enhanced in value; but in order to promote settlement we have provided that homesteads may be taken upon these lands in quantities of eighty acres, so as to encourage the settlement of the alternate sections by people who desire to take homesteads and cultivate eighty acres. If it be true that the lands are enhanced by reason of the construction of the railways, it seems to me that if a person intends to take eighty acres in addition to his homestead he ought to be willing to pay for the additional eighty acres, especially as we now have a provision, if I remember rightly, which authorizes an additional location for timber culture of eighty or one hundred and sixty acres.

It seems to me that this bill is a very wide departure from our policy. It may be a wise thing to do; I am not ready to say that I will vote against this bill; but it seems to me that we ought to know what policy it is which requires this new legislation.

Mr. BECK. Before this bill becomes a law, as perhaps it ought, there should be an amendment to it to the effect, that the lands granted to the railroad companies, if not sold within two or three years from the time of the grant, should again be open to settlement at a dollar and a quarter an acre, so that these corporations shall not hold the lands the United States has given them for an indefinite length of time and hold them up forever. If they are not sold before three years, or some reasonable time, then say they shall be again open for settlement at the regular price.

The PRESIDING OFFICER. The question is on the amendment reported by the Committee on Public Lands.

Mr. ALLISON. There is still another objection that occurs to my mind. Of course this reduction of the price will render more valuable the railroad lands.

Mr. FARLEY. How will it do that?

Mr. ALLISON. By these lands being taken up by pre-emptors and homestead settlers the railroad lands remaining unsold will be made more valuable. The companies, finding that the Government lands will be settled and improved, will reserve their own lands for an enhanced price. I think there is a great deal in what the Senator from Kentucky said. If we are to change our policy in this regard we ought also to make some amendment in reference to the land owned by the railroad companies.

Mr. BOOTH. I should like to ask the Senator from Iowa if he believes it competent for Congress to fix the price of lands owned by the railroads where the grant has been made and the title has passed? I do not suppose it is.

Mr. ALLISON. It is not necessary to ask me that question.

Mr. BOOTH. No; but I was answering one of the Senator's suggestions, or endeavoring to do so. At the last session of Congress a law was passed placing homesteaders within railroad limits on precisely the ground that they are upon any other public lands. They can now acquire title to one hundred and sixty acres of land within railroad limits just as well as upon any other lands. Since the passage of that law there have been very few of these lands settled under the pre-emption act. The Government will actually receive more money for the lands by the enactment of this bill than it will without it, because without the reduction the title to nearly all those lands will pass under the homestead act.

I may say that the Department recommends this bill with an amendment, which I shall offer. I handed the letter of recommendation to the Senator from Kansas [Mr. PLUMB] who is now absent from the Senate, and I am unable to find it this morning. The amendment that the Department suggests is something like this:

Provided, That nothing in this act shall apply to lands when the acts granting the same contain contracts that they shall not be sold for less than $2.50 per acre.

In some instances the acts contain a contract with the roads that the Government would not reduce the price of public lands reserved, and in such instances of course I do not hold it competent to do it. When the committee amendment shall have been acted on I will offer what I have read as an additional amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment reported by the Committee on Public Lands.

Mr. KIRKWOOD. Would it be in order to move to amend the amendment proposed by the committee, at this time?

The PRESIDING OFFICER. The Chair understands it would.

Mr. KIRKWOOD. I will offer my amendment, then. I move to add at the end of the committee's amendment:

And all *bona fide* settlers on said lands under the homestead laws shall be allowed to enter one hundred and sixty acres thereof at the expiration of the said three years.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Iowa to the amendment of the committee.

Mr. JONES, of Florida. I understood from what was said by the Senator from California that the law as it now stands covers that ground.

Mr. BOOTH. That is true. We passed a law at the last session of Congress that covers that ground.

Mr. KIRKWOOD. Taking that statement to be correct, as I have no doubt it is, it having been made by the Senator from California, I shall not insist upon this amendment. I offered it because very great hardships sometimes arise——

The PRESIDING OFFICER. Does the Senator withdraw his amendment?

Mr. KIRKWOOD. I will withdraw it for the present.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Committee on Public Lands.

The amendment was agreed to.

Mr. BOOTH. I move to add at the end of the bill the following proviso:

Provided, That nothing in this act shall apply to lands when the acts granting the same contain contracts that they shall not be sold for less than $2.50 per acre.

Mr. JONES, of Florida. I am in favor of maintaining the inviolability of contracts where they exist, and I would be glad if I could see one of these grants containing contracts such as are contemplated by the amendment. I never heard of any contract of that kind incorpo-

rated into land grants. I have seen some of the land-grant acts, but I have never seen a provision of that kind in them; and I am not prepared to say that they are binding upon the Government. These concessions were made gratuitously by the Government to the railroad companies to aid in the construction of their roads, by which they obtain absolutely the title to every odd section within fifteen miles of the projected route.

Mr. MORGAN. The amendment only excepts such contracts as are now existing, if any.

Mr. JONES, of Florida. I will not be captious about it. I will let the amendment go.

Mr. SAULSBURY. I desire to inquire if the saving of mineral lands will apply, after the adoption of this amendment, to lands which shall be open to settlement? There is no special character of lands mentioned in the amendment, and I do not know whether it applies generally.

Mr. JONES, of Florida. I will say to the Senator that in the present law there is a saving in regard to mineral lands. In land grants, so far as I know, there is always an exception in regard to mineral lands.

Mr. BOOTH. The bill only applies to lands which are already subject to pre-emption. The only effect it has is to reduce the price of that particular class of lands which come under the provisions of the bill from $2.50 to $1.25 an acre.

Mr. JONES, of Florida. The pre-emption price being $2.50, the object of the bill is to reduce it to $1.25.

Mr. SAULSBURY. I am not familiar with these laws and the public land question at all; but unless there is some special saving of mineral lands in this provision I did not know how any subsequent act might operate to defeat the provisions of the law already applying to mineral lands.

Mr. BOOTH. It does not change the law at all; it leaves it as it is; for mineral lands are not now subject to pre-emption.

Mr. SAULSBURY. So far as the general purposes of the bill are concerned, I am not acquainted specially with the condition of the public-land laws to know whether this is a proper measure to pass or not. However, I am willing to acquiesce in whatever are the views of gentlemen familiar with that subject. Personally I have very little knowledge of the public-land laws.

The PRESIDING OFFICER. The question is on the amendment of the Senator from California, [Mr. BOOTH.]

The amendment was agreed to.

Mr. BECK. I move to add the following additional proviso:

And provided further, That all lands heretofore granted to railroad companies shall, if not sold to actual settlers within three years after such railroad companies have the right to dispose of them, be subject to entry by *bona fide* settlers at $1.25 per acre, to be paid to said railroad companies.

The object that I have in offering this amendment is to equalize the right of settlers over those lands. I agree with the Senator from Florida that donations of lands to railroad companies were intended to enable them to build the roads at some time and also to provide homes for the people, that they may cultivate the lands and have the produce carried to market for the benefit alike of the actual settler and the company; but it has not been the intention of Congress to give those lands to be held in perpetuity or to be sold to other than actual settlers, so that the directors of the railroad companies can hold them against mortgages and liens, and hold them as though they had bought them, without ever putting a settler on them, until the actual settlers of the alternate sections have brought the value of the lands up to perhaps $20 an acre.

Mr. SAULSBURY. Will the Senator from Kentucky allow me to ask him what is the effect of the grants which have been made to railroad companies? If the Government of the United States now takes charge of those lands and sells them at a price below that which the companies may ask for them, will it not give those railroad companies an actual claim against the Government, provided they can show that if they had controlled the sales of the lands they could have sold them for more money than the Government has sold them for? I direct the attention of the Senator to that point.

Mr. BECK. I think not, because the right to limit the power of sale must always reside in the Government. It never was designed that the railroad companies should hold these lands in perpetuity. They have three years in which to dispose of their lands, and I propose that at the end of that time they shall be subject to entry by *bona fide* settlers at $1.25, to be paid to the railroad companies.

Mr. SAULSBURY. I am not opposed to the general policy of the amendment of the Senator from Kentucky if we can do it without subjecting the Government of the United States to loss; but, as I understand, these lands were granted absolutely to the railroad companies, and they therefore have become absolutely the property of the companies. I doubt if, after having made that grant, the Government resumes control of those lands we may not subject the Government of the United States to indemnity to the railroad companies to the full extent which they may hereafter establish upon proof they could have obtained for those lands. It is to that point that I wish to direct the attention of the Senator from Kentucky.

Mr. McDONALD. The only objection I have to the amendment of the Senator from Kentucky is that I do not think we have the power to pass it. Not having reserved the right in the original grant to the railroad companies to regulate the price of their land, or control it or dispose of it, I do not think we can now say their lands shall be disposed of after a given time at a certain price. That would be undertaking to control their property. I should like very much to see it done, but I do not see that we have the power to do it.

Mr. BECK. I have always understood that the whole object of the grant was to bring the lands into market and secure them to actual settlers; that the railroad companies were to sell them for that purpose; and that the power of Congress remained over all these grants to fix some limit within which they should be disposed of. Propositions are now pending in the Judiciary Committee for this very purpose, but as I never expect to see anything come from the Judiciary Committee particularly on the subject, I thought the only way was to bring it before the Senate.

Mr. JONES, of Florida. If the Senator from Kentucky will permit me, I will say to him that the proposition embodied in his amendment is somewhat different from that pending before the Judiciary Committee. As I understand it, the proposition before the Judiciary Committee is to forfeit to the United States all lands that have been donated to railroad companies where they have failed to complete their lines of road within the time specified in the grant; while the Senator's amendment will embrace lands that have been donated to railroads already completed and which have fulfilled every condition of their grant.

Mr. MORGAN. Where they have got them patented.

Mr. JONES, of Florida. And where they have got them patented, and they have become their property. The proposition before the Judiciary Committee is to take back those lands that have been given to railroad companies that exist only on paper, that have done nothing to carry out the purposes of the grant, and I think that is a very good purpose, because I see no reason why such lands should be held up and people prevented from entering them; but the Senator's proposition, I think, would invade the right of property vested in the companies by the patent of the Government which they hold, and, in my judgment, is as good a title as can be given to a piece of property owned by them which they obtained from any one.

Mr. BECK. Do I understand the Senator from Florida to say that the railroad companies who under those grants got possession of the alternate sections of those lands can hold them from settlement for fifty years?

Mr. JONES, of Florida. I think they could.

Mr. BECK. Then if we have any possible power over them, their charters ought to be amended under our power to alter and amend their charters, at the earliest possible moment.

Mr. ALLISON. Will the Senator allow me to ask him a question?

Mr. BECK. Yes; I only want information on this point.

Mr. McDONALD. I do not see how that gives us the power to control their property, that which they have already acquired and the title to which the Senator from Florida says ought to be as good as the title to any other property that they hold. I do not see how we could pass this amendment of the Senator from Kentucky unless we have the power to say to any of the railroad companies to whom we have given grants of land, "If you are not willing to dispose of your lands at a certain price we will require you to dispose of any other property you have at such price as we see proper to fix." The bill under consideration as amended by the Committee on Public Lands will undoubtedly have the effect of reducing the price of railroad-grant lands, because it lets the settlers in at the ordinary price, $1.25 per acre, after three years from the completion of any division of the road and after the railroad company has acquired its title to the sections donated to it. That is all there is in this bill. There is nothing else in it, and its influence and effect must be as a matter of course to reduce within the lines of railroad limits the value of unoccupied lands, and that is about all that we can do, so far as I can see.

Mr. ALLISON. I only wanted to call the attention of the Senator from Kentucky to the fact that most of these grants are made to the States. I know, for example, in past years, in 1856 and so on, there were a large number of grants made in my State. Those lands were granted to the State of Iowa. They were absolute grants. Afterward the State of Iowa by an act of the Legislature granted the lands to certain railway corporations.

Mr. BECK. Allow me one moment. I am told by gentlemen here that the hour of half past one has nearly arrived, and that my amendment will perhaps endanger this bill, which may be a good one. I withdraw my amendment for the time being, and will endeavor to submit the proposition after I have examined the charters and powers of these corporations more fully.

The PRESIDING OFFICER. Is there objection to the Senator from Kentucky withdrawing his amendment? The Chair hears none.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

JERRY FOLEY.

The next bill on the Calendar was the bill (H. R. No. 3783) to remove the charge of desertion from the military record of Jerry Foley; which was considered as in Committee of the Whole. It directs the Secretary of War to remove the charge of desertion now standing upon the records of the War Department against the name of Jerry Foley, late of Company G, Ninth Regiment of Maine Volunteers, and to grant to him an honorable discharge, with the same pay, bounties, and bene-

fits he would have been entitled to if the charge of desertion had not been entered against his name.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

The PRESIDING OFFICER. The morning hour has expired. Before calling up the regular order, the Chair will lay before the Senate the amendments of the House of Representatives to Senate bill No. 1363.

ELI COOPRIDER.

The amendments of the House of Representatives to the bill (S. No. 1363) granting a pension to Eli Coopridee, were laid before the Senate.

The amendments were, in line 4, to strike out "Coopridee" and insert "Cooprider," and to amend the title so as to read: "A bill granting a pension to Eli Cooprider."

Mr. WITHERS. I move that the Senate concur in the amendments of the House. The amendments merely give correctly the name of the party.

The amendments were concurred in.

SENATOR FROM LOUISIANA.

The Senate resumed the consideration of the resolutions reported by the Committee on Privileges and Elections relative to the seat held by WILLIAM PITT KELLOGG as a Senator from the State of Louisiana, the pending question being on the amendment proposed by Mr. HOAR as a substitute.

Mr. KERNAN. Mr. President, in the early part of 1877 there were two bodies in the State of Louisiana, each claiming to be the Legislature of that State which had been elected by the people at the election of 1876. The record before us shows that each of these bodies claimed to have chosen a United States Senator for that State for the term commencing on the 4th of March, 1877. In 1877, at the extra session which commenced in October, the credentials of Mr. KELLOGG, who claimed that he was chosen by the body known as the Packard legislature, and Mr. Spofford, who was chosen by the body known as the Nicholls legislature, were referred to the Committee on Privileges and Elections of this body. The claimants to the seat of Senator from Louisiana in person and by counsel appeared before that committee. Certain proceedings were had. Mr. Spofford asked the committee to hear testimony upon certain specified points. The committee declined to permit him to produce that testimony. The majority of the committee reported to the Senate the resolution which has been so often read declaring that Mr. KELLOGG was entitled to the seat, and that Mr. Spofford was not. The minority dissented. When that resolution came before the Senate, and before it was acted upon, a Senator of the minority of the committee offered a resolution in the Senate directing the committee to take the testimony which Mr. Spofford had requested to be taken. This resolution was rejected by the Senate. The resolution reported by the majority of the committee was adopted; and Mr. KELLOGG was, in November, 1877, admitted to a seat in this body as a Senator from Louisiana for the term of six years from the 4th of March, 1877.

Subsequently Mr. S pofford presented a petition to the Senate praying that additional evidence be taken, and that the Senate re-examine and rehear the case and review and reverse the decision previously made therein. That memorial was referred to the Committee on Privileges and Elections, and the same was authorized to take testimony. The sitting member and Mr. Spofford and their counsel appeared before the committee, and a large volume of testimony was taken at the instance of the respective parties, which is now before the Senate. Each party, I believe, was allowed to give all the evidence he desired. The majority of the committee reported the resolutions which are under consideration, declaring that Mr. KELLOGG is not the rightful Senator from Louisiana and that Mr. Spofford is.

Upon this record, containing all the proceedings from the commencement of the controversy, the question is made, and it is insisted that the Senate has no rightful power or authority to re-examine the case and review the decision which it made in 1877, and reverse it if erroneous. In a word, the position is taken, as I understand the opposition to the majority report, that when the Senate upon a contest has made a decision that a person is entitled to a seat in this body as a Senator, this decision is final and irreversible, although every Senator who voted in favor of such decision should become satisfied that it was and is erroneous for the reason that the party seated was not and is not, under the Constitution, eligible to be a Senator, because not a citizen, or that it was erroneous because the party who was declared entitled to the seat and seated was not chosen by the Legislature of the State which he claims to represent, but by some other body of men. The position taken by our opponents is, that a decision once made is final and conclusive.

Mr. President, I am not able to concur in this view. Where there has been a contest as to a seat in this body involving only the regularity of the election of the claimant by the Legislature of the State, or some question of that character, and such question has been examined and decided by the Senate, I would not be disposed to open it again. As to all such questions I appreciate the force of the argument that the decision of the Senate once made ought to be final. Where the party seated was eligible to be chosen a Senator, and where in fact he was chosen by the Legislature of the State, I would not review or reverse a decision admitting him to a seat on the ground that the election by the Legislature was irregular or not according to the statutes of the State or of the United States. The Constitution of the United States declares that each State shall be represented in the Senate by two Senators chosen by the Legislature of the State. The Constitution further declares that no person shall be a Senator who has not been a citizen of the United States for nine years. Where the question is raised whether the person who has been admitted by the Senate to a seat on a contest is eligible to hold the office, where the question is raised whether he was chosen by the Legislature of the State, if a fair case is made to create doubts upon such questions, in my judgment it is the right and duty of the Senate to rehear and re-examine the case. And if Senators are convinced by the evidence on such re-examination that the sitting member was not chosen by the Legislature of the State, or is not qualified under the Constitution to be chosen, then, in my judgment, the State has a right to demand and it is the duty of the Senate to reverse its decision and vacate the seat. If Mr. KELLOGG was not elected by the Legislature of Louisiana he never had any right to a seat in this body, he has none now, and he should be excluded. The decision of the Senate cannot make him a Senator for the State of Louisiana if he was not chosen by the Legislature of that State.

Not only does Mr. Spofford ask the Senate to rehear and re-examine the case and admit him to the seat in this body now occupied by Mr. KELLOGG, but the Legislature of Louisiana, the rightful Legislature of that State, protests against Mr. KELLOGG being recognized by the Senate as a Senator from that State, and demands that he be excluded and Mr. Spofford be admitted to the seat. I read resolutions adopted by the Legislature of Louisiana and presented to this body. They are as follows:

Be it resolved by the General Assembly of the State of Louisiana, That the State of Louisiana protests against the wrong and injustice done to the people and said State by the recognition of said WILLIAM PITT KELLOGG as a United States Senator from said State, and respectfully but most earnestly request the Senate of the United States, in the name of law and justice, to declare that the said KELLOGG never was duly elected as the representative of the State of Louisiana in the Senate of the United States.

Be it further resolved, &c., That the State of Louisiana protests against being deprived of the equal representation in the Senate of the United States guaranteed to each State by the Constitution of the United States, and respectfully but most earnestly requests that Henry M. Spofford, the duly elected Senator from said State for the term of six years from the 4th of March, 1877, may be admitted to a seat in that honorable body.

I ask Senators to remember that we are now to decide whether a State can be deprived for years of its constitutional right to be represented in this body by a Senator chosen by its Legislature because the Senate has erroneously admitted to a seat here as its Senator a person who was never chosen by its Legislature. This must be the result of an erroneous decision unless we have power to review and correct such decision.

The argument which has been pressed upon us is that the Senate acts judicially when it decides the right of an applicant to a seat in this body, and that the doctrine of *res adjudicata* as recognized in the courts applies to this body and to its decision of such a question.

Sir, I do not think that the doctrine of *res adjudicata* is applicable to this body as it is to a court. But, conceding that it is, I insist that the doctrine of *res adjudicata* as it is applied by the courts is not a legal bar to the pending proceeding.

I submit to every lawyer and to every layman who will examine the question that the doctrine of *res adjudicata* does not apply to this case, and I will state briefly why I think it does not. The former judgment of a court on a question in dispute between parties is a bar to another suit between the same parties to try the same question or right. In the language of the law the matter has become *res adjudicata*—a question decided adjudged. The plea is that prior to the commencement of the second suit the matter in controversy therein was litigated between the parties in a former suit in a court of competent jurisdiction and judgment rendered thereon, and that such judgment has never been reversed or set aside. Such judgment, I concede, is a bar to another suit, to litigate the same question between the same parties. But such judgment is not a bar to an application to the court which made the former decision, which rendered the former judgment to rehear and re-examine the same and reverse it if erroneous. I have in my hand a decision of the United States Supreme Court cited by Mr. Merrick in his clear and able brief on behalf of Mr. Spofford, which states this rule of law correctly. It was made in the case of Russell *vs.* Place, Ninety-fourth United States Reports. I read from the syllabus of the case the law on this subject:

A judgment of a court of competent jurisdiction, upon a question directly involved in one suit, is conclusive as to that question in another suit between the same parties—

That is the point I am discussing; but I will read a little further so as to show how the court lay down the rule—

but to this operation of the judgment it must appear either upon the face of the record or be shown by extrinsic evidence that the precise question was raised and determined in the former suit.

That is exactly what the court holds in that case.

The plea of a former judgment is a bar to another suit and never to a proceeding in the same suit to obtain a rehearing and a reversal of the decision and judgment in the former suit. This is not another suit by Mr. Spofford. This is a proceeding for a rehearing and re-examination of the case in the original suit or proceeding. It is not another suit or proceeding by Mr. Spofford against Mr. KELLOGG. His

petition sets forth that on the former hearing of the case he was not permitted to adduce material testimony and that the case was not fully examined, and adds as follows:

That for the reasons aforesaid petitioner's case against the said KELLOGG never had a full examination and hearing upon its merits either in the committee or in the Senate, and should therefore, petitioner most respectfully submits, be re-examined, to the end that justice may be done.

The petition further alleges certain material and relevant facts which he says he has recently discovered, and says in regard to them as follows: "All of which petitioner offers to prove upon a review of the case." This is certainly not another or new suit or proceeding, but an application for a retrial and examination in the original suit or proceeding. I submit to Senators that if this were a case in a court of law or equity, and especially if there was no appeal from its decisions to another tribunal, the court would have power, rightful power, to rehear and re-examine its decisions and judgments and to correct them if satisfied they were erroneous. If this were not so a party wronged by an erroneous decision of a court could never get redress.

The courts by granting reargurnents, by granting rehearings, and new trials, by entertaining bills of review, can and rightfully do set aside or annul erroneous judgments and decisions which they have pronounced. To such applications for relief the plea or doctrine of *res adjudicata* is no bar in the courts.

Sir, this is familiar law. The Supreme Court of the United States, the court of last resort, which reviews decisions of inferior courts, has and exercises authority to re-examine its own most solemn judgments and reverse them if erroneous. They make and announce a decision against a party after argument and careful deliberation. If the party applies months after, at any time before the end of that term, for a reargument, the court will hear the motion; and if he raises a reasonable doubt that the court erred as to the law or the facts, a reargument will be granted and had, and the case re-examined and the judgment changed if found to be erroneous. Very recently, in an unreported case, that court reheard it, and reversed the judgment made and announced weeks previously. That judgment was final and conclusive until reversed on a rehearing, and except for such rehearing would have been a bar as *res adjudicata* to any other suit between the same parties involving the same question. But there was no claim, there could be no claim that the court itself had not rightful power to rehear and review its prior decision and judgment, and correct it if it was ascertained to be wrong. The judgment which a party asks the court to re-examine that justice may be done, if it be found erroneous, is not a bar to the application for the re-examination.

So in all courts, and especially in all courts having jurisdiction of important matters where there is no appeal from its decision, that court will hear the party asking a rehearing, first, to ascertain whether there be reasonable cause to open the case; and if the court is of the opinion that there is, it will be reheard, retried, and re-examined, and justice be done notwithstanding the prior decision and judgment. If the party was not able to prove all the facts that were important to him when it was first heard, the court may allow him to take additional evidence or newly discovered evidence, and the court will then decide the case on all the evidence.

There is a case in Ambler's Reports, page 89, decided by Lord Hardwick. A final decree was made, and two years afterward the defendant petitioned to have the cause reheard. A rehearing was granted. The chancellor said a rehearing is not a matter of course, but is discretionary in the court, and was so declared by Lord Macclesfield in the case of Mills *vs.* Banks, 3 P. Williams. What was that case? The application for a rehearing was made to the court of chancery eighteen years after a final decree had been made. Money of infants had been invested under that decree, and the rehearing was resisted on the ground that after so long a time the court ought not to grant a rehearing. No question was made it had not power to do so. The rehearing was granted. The Lord Chancellor said "it was in the discretion of the court to grant a rehearing or not." Just what I am contending for here, that here is power, authority, in the Senate, treating it as a court, to rehear and re-examine the case before us and to decide it according to all the evidence now before us. In a word, I think Senators will find that a court, particularly a court having jurisdiction of important matters and where there is no mode of reviewing its decision, has a right in its discretion to re-examine a decision which it has made, and if it is found wrong, to the detriment of private parties, to reverse it. That is the law in cases where rights may have vested under the prior judgment. No one, I assume, will claim that a Senator acquires a vested right to a seat here by a decision of the Senate. Courts may be trammeled in the exercise of this power of rehearing by statutes and rules regulating when and how it must be exercised. Why has not the Senate a right to rehear and re-examine its own decision? There is no statute that interferes, there is no rule of law that prevents it from doing that which every high court of original and final jurisdiction has power to do, namely, correct an error if it has committed one in deciding a case.

The Constitution declares that no man shall sit in this body as a Senator who is not chosen by the Legislature of the State, that no man shall sit here as a Senator who is not a citizen of the United States. The Senate decides, in a case where there is a contest, that the applicant was chosen by the Legislature of the State, or that he was a naturalized citizen for the time required by the Constitution, yet if we subsequently find we have erred have we not power to correct that error? A State comes to the Senate and says, "We have not a representative of our people here, chosen as required by the Constitution, by the Legislature of the State; you made an erroneous decision, and we respectfully ask you to re-examine your former judgment, and if, on such re-examination, you become satisfied that the sitting member was not chosen by the Legislature of our State, then we insist that you should so declare now and exclude him." We owe this to the State; we owe this to the other States of the Union, for each State has a right to insist that no man shall sit and vote in this body who was not chosen by the Legislature of the State he claims to represent.

These decisions that I have referred to, and others, are cited in the brief of the counsel for Mr. Spofford. In that brief the views I have suggested are clearly and tersely expressed. I have heard no answer to them. I have heard with pleasure ingenious arguments in reference to the doctrine of the plea of *res adjudicata*—of former recovery; but no one has cited a case, I am quite sure no one can, where a former judgment itself was held to be a bar to the application to the court which rendered it to rehear and re-examine the case and see if it committed an error of law or fact in making its prior decision, and, if it becomes satisfied that it did on a material and controlling question, to reverse or correct the prior judgment.

Therefore I insist, and I insist respectfully but earnestly, that the Senate has and ought to have a right to rehear a case of this character and re-examine and review its prior decision. The question involved is not as to the form or manner of the election of a Senator. The question is, was he chosen by the Legislature of the State or by some other body of men?

I fully appreciate the grave objections there are to opening and retrying a case on some minor question concerning the time or mode of procedure of the Legislature in choosing a Senator. I would not be in favor of opening or re-examining a case on a question of that kind; but when the question stands right before us, was the person whom we admitted to a seat chosen by the Legislature of the State which he claims to represent?—on such a question I insist we have a right to re-examine, rehear carefully and thoroughly, and if we ascertain that he was not, then, in my judgment, we should disregard our former decision and exclude him. The Constitution requires us to do this. The State misrepresented and its people may rightfully demand this of the Senate of the United States. The State should not be deprived of its constitutional right to be represented by a Senator chosen by its Legislature by an erroneous decision of the Senate. When we become satisfied we erred we should correct the error.

I appreciate fully and respectfully the solicitude of Senators who, although satisfied that Mr. KELLOGG was not chosen by the Legislature of Louisiana, nevertheless are unwilling to open and re-examine the case and exclude him lest we make a precedent that will lead in the future to the factious excluding of Senators without adequate cause and for party purposes.

Mr. President, I do not think there is any more danger in our acting as I think we should act in this case than in our refusing to re-examine the case and correct an erroneous decision which we have made. What is the precedent we make if we hold we have not power to re-examine the case now before us? We in effect decide that even if the Senate by a mistake, by reason of excitement or haste, admits an applicant for a seat, and within a week we become entirely satisfied that the party admitted is not a citizen, that he was not chosen by the Legislature of a State, the prior decision is an absolute bar to a re-examination of the case and the exclusion of the intruder; that the Senate has not rightful power to correct the wrong which it had perpetrated by its former decision on a State of the Union. I submit there is danger in saying that in such a case there is no rightful power in this body to re-examine the decision they had made and annul it or disregard it if it is wrong, and give the State its true constitutional representation.

Therefore, I insist that there would be great danger in such a precedent. It would be a temptation to men to claim seats in this body and get decisions in their favor, relying upon the rule we are asked to adopt in this case, so that after a decision has been made there can be no re-examination or review, however defective may be the title to the seat of the applicant who has been admitted. This rule would permit parties, not citizens, not chosen by the Legislature of a State, to hold seats three, four, or five years after it is discovered that they had no title to seats and were erroneously admitted.

Take, for illustration, the case which occurred recently and which we all remember. Suppose in that case, which occurred in one of the Eastern States, the Garcelon legislature, as it was called, had got together what they called a quorum of the Legislature, and there had been a vacancy, and the person they chose as Senator came here and was admitted, the question of his right to a seat having been raised and decided in his favor by the Senate: is it wise to make a precedent which would affirm that the Senate would not have rightful power to review the former decision, to re-examine the case and vacate the seat and admit to this body the person chosen by the real Legislature of the State? No, sir; we must trust the Senate with power to correct an erroneous decision on this question, and assume that it will exercise that power with moderation, wisdom, patriotism, and justice.

If Senators are convinced by the evidence now before us that the body which elected Mr. KELLOGG was not the Legislature of Louisiana, we should exclude him. This is a fundamental question. Unless he was chosen by that Legislature the Constitution of the United States forbids him to sit here and requires us to exclude him, as I believe, whenever that fact is established, notwithstanding our prior erroneous decision by which he was admitted. I have no fear that in doing this we make a precedent which is not conservative and wise. All minor questions as to the mode of proceeding by the rightful Legislature, as to its choosing a Senator in the manner prescribed by the statute, may be said to be directory, and where a person claims a seat, having been chosen by the real Legislature of the State, then after he has been admitted to a seat by a decision of the Senate, the power of reopening the case and re-examining the question ought not to be exercised.

Mr. President, why has not the Senate full power and authority to review and re-examine its own decisions? I have called attention to the fact that the courts do it, rightfully do it; I have called attention to the fact that there is nothing in the Constitution which says when we have once decided on the question of the election, return, and qualification of a Senator that such decision shall be final; that we may not re-examine and correct it if it is wrong. There is no statute which forbids our doing so; there is no rule even in this body which says we may not re-examine the case in a week, month, or year after admitting Mr. KELLOGG, and exclude him if we are satisfied by evidence that he was not chosen by the Legislature and was chosen by some other body of men. I believe we have the rightful power, and that we ought to have this power; and I will say in the same breath that we ought always to exercise it wisely and judiciously, never reversing a former decision admitting a Senator because it is alleged and proven that there was irregularity in the manner of his election. But there is no such question before us. We all know that there could not be, and there was not, more than one rightful Legislature in Louisiana in 1877; and if we decided then that one body which chose KELLOGG was the Legislature, and it is now clearly established by the evidence before us then, and the additional evidence, that such body was never the Legislature of Louisiana, why should we not correct the erroneous decision which the Senate made?

I am not going to spend time to argue to Senators that the Packard legislature was not the lawful Legislature of Louisiana. I regard this entirely clear on the evidence. I am addressing myself to the question that we have rightful power and that this body ought to have the power to correct a former decision on a question of this character whenever it becomes satisfied that a person was admitted to a seat in this body who was not elected by the Legislature of the State he claims to represent. I will refer to a case in the court of appeals of Virginia, where one of the judges on an application for a reargument or rehearing expressed views which I think are applicable to this case. I read from 9 Leigh's Reports, page 287, where Judge Cabell says:

> But this statute is not in force here, nor have we any similar statute. We are therefore at liberty to go as far as the principles of the common law, amended by the spirit of liberality in modern times, will carry us. It is admitted that even a final judgment, pronounced on the gravest consideration, may be set aside, on mere motion, at any time during the term. This, possibly, may be as far as an inferior court ought to go; for if an error has been committed by such court, it may be rectified by resorting to a superior court. But *this* is the court of the last resort; and when it errs (as err it sometimes must, being human) its errors will be irreversible, unless it be allowed to correct them itself. It *will* correct its errors, if discovered during the term. Why shall it not do so afterward? What magical influence has the lapse of a day or the expiration of a term, to sanctify error and perpetuate injustice? There is no law for it, and reason revolts against it.

Apply that to this case. We are restrained by no statute; we are restrained by no rule from reviewing our decision. We are a body whose judgment or decision cannot be reviewed by any other tribunal. We are a body of original and final jurisdiction over the matter in question. As Judge Cabell says, human tribunals will err. Shall the error be irremediable? When we admit a man as a Senator not chosen by the Legislature or not eligible to the office, the error, the wrong to the State, is irremediable unless we have the power in our discretion, on a proper case being made, to re-examine it and reverse the erroneous decision.

I want to repeat, that I intend to commit myself to no practice or precedent that would lead me to vote in favor of exercising this power on anything short of a serious fundamental defect in the title of the sitting member. I hope I would not give a vote in this case which I would not give in a similar case where it was my best personal and political friend whose seat here was in question.

I wish to say a word as to the Senate being bound by the technical rules which apply to courts. The Senate is not to be treated as a court, bound by the technical rules of procedure which apply to courts. We are intrusted with the power of admitting into this body as Senators only those who are chosen by the Legislatures of the States, and we owe a duty to the States that whenever we discover that we have allowed a person not chosen by a Legislature to take a seat here, to vacate the seat and allow the State to send here a man chosen by its Legislature. The State has the constitutional right to demand this of us. I think we have the constitutional power and it is our constitutional duty when we have made a mistake to correct it, whether it is a month or a year or two years after the mistake was made and the erroneous decision admitting a claimant to a seat was made.

Mr. President, I am of the opinion, indeed I have no doubt, that we have this power rightfully to re-examine the former decision of the Senate as to the title of Mr. KELLOGG to his seat and to exclude him if the testimony proves that he was not chosen by the Legislature of the State of Louisiana. I am entirely satisfied by the evidence that Mr. KELLOGG was not chosen by the Legislature of that State, but by a body of men who had no real or colorable claims to be regarded as its Legislature. I shall therefore vote to exclude Mr. KELLOGG from the seat now occupied by him, and admit to that seat Mr. Spofford, who is shown by the evidence to have been duly chosen by the Legislature of Louisiana.

I ask Senators to examine the question whether the body which elected KELLOGG was the Legislature or not. Examine the evidence and the conceded facts. It never made a law for that State even in form; it never attempted to make a law; it never did a legislative act except to elect Mr. KELLOGG in the manner disclosed by the testimony. On the other hand we find that the Nicholls legislature was sitting there all that time, enacting laws which are recognized by the United States and the officers of the United States Government; making laws which were and are recognized and enforced by the courts, officers, and people of Louisiana as valid laws. The Packard legislature dispersed. Packard never resigned his pretended governorship. He accepted the position of consul abroad, and left. The members of the so-called Packard legislature who were really elected joined the Nicholls legislature, and participated in the election of Mr. Spofford as Senator. The other men who made up the Packard legislature, but who had never been elected at all, never resigned, but took places in the custom-house or somewhere else or went to their homes.

Both Houses of Congress have recognized the Nicholls legislature as the legal Legislature; all the people of the State have done so. The members who were admitted to the other House of Congress came with credentials from the Nicholls government; the other Senator from Louisiana who is now sitting here [Mr. JONAS] brought his credentials of election from the Nicholls government; in a word, every department of the State and Federal Governments has and does recognize the Nicholls State government and legislature as the legitimate Legislature and government of the State. The Packard government and legislature are not recognized as legitimate by State or Federal authorities. The only recognition it ever had was the act of the Senate in admitting KELLOGG to a seat in this body.

I think the record shows clearly now beyond question or doubt that the body which elected Mr. KELLOGG was not the Legislature of the State. The evidence also proves that Mr. Spofford was chosen by the real Legislature of the State as its Senator for the term of six years from March 4, 1877. Believing this, and believing that we have the power and that it is our duty now to correct the error which was committed when Mr. KELLOGG was admitted to a seat as a Senator from Louisiana, I shall vote to exclude him from that seat and to seat Mr. Spofford, who was chosen to fill it by the Legislature of that State.

Mr. CALL addressed the Senate in support of the resolutions. [His speech will appear in the Appendix.]

Mr. JOHNSTON. Mr. President, WILLIAM PITT KELLOGG has been permitted to remain in a seat in this body for one-half of the term of a Senator, and in that period twice has the Legislature of the State that he claims to represent sent formal protests against him, asserting that he is not a legal incumbent of the seat he occupies and no true representative of the State. I believe this to be true; I believe that he has no better right to sit here and vote and act as a Senator than any freedman you may meet on the streets of this city. And believing this, I am impelled when a vote is reached to give mine for the first resolution reported by the Committee on Privileges and Elections, however much I may regret the occasion for it.

A brief history of the events which have brought this matter before the Senate is proper to its true understanding, though the story has been already many times repeated.

WILLIAM PITT KELLOGG was acting governor of Louisiana for a term ending January, 1877. In November, 1876, an election was held in that State for President and Vice-President, members of the House of Representatives, a governor, all the members of the lower branch of the State Legislature, and one-half of the senate, the other half, with the exception of a senator who had died, holding over from a previous election. The term of the governor's office was four years, of the lower house two years, and of the senate four years. The Senate consisted of thirty-six members, under the constitution, and the house of one hundred and twenty; so that it took nineteen to make a quorum in the Senate and sixty-one in the house. Francis T. Nicholls and one Packard were the candidates for governor, and both claimed to be elected and both went through the form of inauguration. Two bodies assembled, each claiming to be the rightful Legislature; one holding its sessions in Saint Patrick's Hall and the other in the Saint Louis Hotel. The one assembling in the Saint Louis Hotel was the Packard, or republican body; the other was the Nicholls, or democratic body. A United States Senator was to be elected, and KELLOGG wanted the place. He claims that the Saint Louis Hotel legislature was the legal one, and that it elected him in a lawful and fair way, and he has announced, within a few days past, here on the floor of the Senate, that he proposes to stand on the strength of his title. His credentials (so called) were signed by Packard, who says he was governor. KELLOGG's term was to commence on the 4th

of March, 1877; and the Senate being in session that day, he presented himself for admission; but objection was made, and he did not take the oath of office. His credentials were referred to the Committee on Privileges and Elections, which reported a resolution that he was entitled to be admitted "on the merits of the case," a form never used before by the Senate in any case, and no doubt adopted because it was supposed that such a declaration would give the resolution more weight and authority, and make it, what it is now claimed to be, a final, utterly conclusive, irreversible judgment, not to be set aside for any cause whatever—a judgment to have more validity and strength than any ever rendered by any other tribunal in any other case. This resolution was adopted by the Senate November 30, 1877, and KELLOGG took a seat in this body. Henry M. Spofford says that he was elected by the other legislature, the one holding its sessions at Saint Patrick's Hall, and he presents credentials signed by Francis T. Nicholls as governor. His credentials were also referred to the same committee, which reported adversely, and Mr. Spofford is still denied his rights.

Now, as both of the governors and both of these legislatures could not be the right one, it may throw some light on the question if we inquire what became of Packard and Nicholls, the rival claimants, and what were the further history and subsequent transactions and fate of the two legislatures. Nicholls continued in office without interruption till the end of his term, or until a new constitution was adopted and put in force. His title and authority were and are acknowledged by the people of all parties of the State, by the courts, by the other States, so far as they have acted at all, by the General Government, by this Senate, because he signed the credentials of Mr. JONAS, the only Senator Louisiana has who was admitted without objection from anybody.

But Packard, after being caged up, like a rat in a hole, for a short time in a house covering less than an acre of ground, in a State with fully thirty millions of acres, and exercising no authority outside and only inside by virtue of bayonets, disappeared from the State, and, without even having resigned, came to Washington, was nominated for a consulship and confirmed by the Senate. And all that within a short time after the commencement of the term. He never did one valid act as governor, and the only one of all his transactions now claimed to have any legal authority is his signature to the credentials of his confederate, WILLIAM PITT KELLOGG. A legal and constitutional governor for a term of four years and yet no trace of his authority remains—his signature to no valid commission—his approval to no law in force! A governor, indeed! About as much so as Sancho Panza was of the island of Barataria.

Then how about the two legislatures? Where are they? What became of them? What did they do? What laws did they pass? What courts establish? What judges elect? Did they sit out the term allowed by law? Which is now recognized? The laws of which are now observed? Which assessed taxes, raised revenue, appropriated money? The courts of which try cases, determine the rights of property, condemn criminals to death?

The answer is easy, plain, historical, not denied by anybody. The Packard legislature passed no law and exercised no legislative right except the single pretended one of electing KELLOGG to the Senate. It never had any legal existence, and it dissolved about the time Packard absconded; and most of its members condemned their own action by going into the legal Legislature and participating in its proceedings.

I say the Packard legislature never had any legal existence, and I repeat it. For it took nineteen to make a quorum of the senate, and it never had that many. It attempted to make a quorum in this unheard-of violent and illegal way: by seizing on one Will Steven, who tells the tale in these words, namely:

STATEMENT OF WILL STEVEN RELATIVE TO HIS CAPTURE.

On January 1, 1877, I was one of the holding-over senators who formed the senate of the State of Louisiana, convened on that day in Saint Patrick's Hall, in the city of New Orleans.

I was one of a committee of three appointed by the Chair to inform Governor KELLOGG that the senate was duly organized and ready to receive any communication he might have to make, &c. The other members of the committee were Mr. Garland, of Saint Landry, and Mr. Boatner, of Catahoula, both of whom were elected in 1876. The committee proceeded to the Saint Louis Hotel, were admitted to Governor KELLOGG's office, and delivered to him in person the message with which they were charged. Upon leaving Governor KELLOGG's office I was stopped by two or three persons, who stated that they were sergeants-at-arms of the senate, and that I must accompany them to the senate chamber. I stated that the senate of the State had met in Saint Patrick's Hall on that day and had adjourned until the following day; therefore I refused to accompany them and refused to submit to arrest.

I was thereupon seized by two or more of these parties and pushed and dragged in the direction of the senate chamber, I resisting at every step. In this manner we reached the outside bar of the senate, where, by getting my feet against the railing, I was enabled for a few moments to make a more effectual resistance. I was finally forced to the bar of the senate. I addressed myself to the president, (Lieutenant-Governor Antoine,) who was in the chair, stating the circumstances which led to my arrest, protesting against the arrest, and demanding that I be permitted to withdraw. The president stated I could only be permitted to withdraw by unanimous consent of the senate, which was refused. At this juncture Governor KELLOGG came in through a door immediately in the rear of the president's desk. I appealed to him as commander-in-chief of the forces occupying the building to release me, as I considered my arrest as equivalent to a violation of a flag of truce.

He stated he was very sorry, &c., but as the senate had me in custody he could not interfere. I then made an attempt to go out, but was seized by several persons and forced back. I took a chair and sat down with my back to the president at the end of the center aisle. The roll was then called, my name repeated probably a dozen or more times; I made no response nor gave recognition in any way, shape, or manner whatever. When the roll was called on the seating of Baker and Kelso I made no answer, nor gave sign or motion of any kind whatever.

WILL STEVEN.

He protested, struggled, demanded to be set at liberty, said he was no member of that body, refused to answer to his name, would not vote, and in short, was held there as a prisoner. Though he did not vote, nor answer to his name, yet he was counted by some process unknown to parliamentary law, or any other law, as present and making a quorum. He made nineteen, and nineteen made a quorum, and so KELLOGG and Packard said they had a quorum. But there is only one way that presence of a quorum can be ascertained, that is either by a call of the house and a quorum answering, or by a vote by ayes and noes. The recorded votes are what make a quorum, and given nineteen as a quorum and only eighteen voting, even if the nineteenth is present but refuses to vote, there is and can be no quorum. The correctness of this is often illustrated here in this body. It is not necessary only that a sufficient number be present—they must be present voluntarily and legally and not under duress—duress vitiates a will, a deed, a bond, and so it must the action of a man in his legislative character. If he acknowledges the authority of a particular legislative body and concedes he is a member of it, he may be compelled to attend, but not otherwise. Then there never was a legal senate and could be no legal Legislature. KELLOGG himself admits (page 25 of proceedings of the committee) that there were only seventeen senators present in the joint assembly when he was elected, but he says that there was more than a quorum of the house and it was lawful to eke out the deficiency in the senate by the superfluity in the house—that is that a member of the house could for the time being be converted into a senator. And as there was no senate, there could be no "joint assembly" as required by the act of Congress. But it is certain that Packard speedily vanished, that the Legislature dissolved, that no law is found, no courts exist, and out of the wreck and ruin KELLOGG alone remains, the only relic, curious if not precious, of the so-called Packard government. Thus a government was established for the single and sole purpose of electing a carpet-bagger to a seat in the Senate and then vanished like the baseless fabric of a vision, the only wreck it left behind being the sitting member.

And if to-day KELLOGG were to bring a suit in Louisiana, he would not bring it in any tribunal established by his so-called Legislature or that recognizes it or Packard, but in a court established by the Nicholls legislature; he would try his case under laws passed by the Nicholls legislature, a Nicholls judge would preside, a Nicholls clerk and sheriff would act. If KELLOGG pays any taxes in Louisiana, he pays them to a Nicholls tax collector; his deed for property would be recorded by a Nicholls clerk; his person is protected by a Nicholls policeman; and yet he says that Packard, not Nicholls, was the true governor; that the Packard, not the Nicholls, legislature was the true Legislature; and this Senate, in spite of the stubborn and well-known facts, must say the same thing if they keep him here.

To the report of the committee the minority does not offer a denial; does not say that the charges against KELLOGG are untrue. They undertake to interpose what they consider an absolute, peremptory plea in bar, one that, according to them, cannot be got rid of in any way, and that is impregnable and unassailable, that new testimony cannot reach, that fraud and bribery cannot remove. They say that the Senate has once passed upon the question, that it is *res adjudicata*, that we are estopped, have tied our own hands; that having once placed a man here "on the merits," every Senator may know, savages, Indians, South Sea Islanders, the world may know, he is not entitled to his seat and we must let him stay, we must assist in violating the Constitution, disregard our own oaths, pollute legislation, but we cannot undo what we have done.

Mr. President, I have as much respect as any man for judicial decisions and the acts of this body, of which I am proud to be a member; but I cannot agree to any such doctrine as that. There are some questions upon which I admit the action of the Senate ought to be conclusive and irreversible, questions of formality or irregularity. Suppose, for instance, there was no doubt or question that the Legislature of a State was the legal one or that a majority of its members had voted for the applicant, but the election had been held on the wrong day or the credentials were not in due form. A Senator once admitted under such circumstances should never be disturbed. But suppose, after what seemed to be a full and exhaustive examination and a final decision, it should suddenly come to light that the Senator was an unnaturalized foreigner, or was under some other constitutional disqualification, will anybody say that it would not be our imperative duty to declare his seat vacant? In short, the minority say that Packard may not have been governor of Louisiana; that the legislature which KELLOGG claims elected him never had any legal existence; that KELLOGG may have crept into this Chamber falsely; that his soul may be loaded down with bribery, fraud, perjury, subornation of perjury; yet these things cannot be looked into for any purpose or on any charge. But in my opinion the question whether a man sitting here really belongs to the body cannot be closed; we cannot estop ourselves on such a question as that; we cannot tie our own hands. The Senate not only has the right but is bound to protect itself from intruders and usurpers. The people's rights are involved and cannot be set aside in any way.

But let us examine into the merits of the plea offered. The term

"*res judicata*" has a well-defined meaning and force in legal proceedings, and if the attempt is made to transplant it from court of law to legislative halls, it must be taken as it would in civil proceeding between two litigants and to have the same force and effect, no greater and no less. For surely nobody will reasonably claim that *res judicata* should be more binding and conclusive here than in a judicial tribunal. Suppose, then, we were in a court and had to construe the meaning and effect of the term, how would we do it?

I do not intend to repeat the able and learned and conclusive argument of the Senator from Tennessee [Mr. BAILEY] on the division of the powers of the different branches of the General Government. He has demonstrated that this Senate does not possess judicial powers, but that they are lodged in another branch of the Government. I indorse what he says. The Senate is not a court and does not exercise the functions of a court, and is not bound by its rules, forms, or proceedings. But let us suppose it to be a court and that it has tried judicially the case of Spofford *vs.* Kellogg and rendered a decision in favor of the latter. What is it that gives sanctity to the judgment of a court? It is that the judgment is supposed to be the result of a full and fair hearing of the case. A suit is brought, a declaration filed setting out the nature of the plaintiff's claim, a plea filed making the case of the defendant, issue is joined, the parties are awarded process to summon their witnesses; when the case is reached the court asks the parties if they are ready; if they both say so, a jury is sworn, the plaintiff examines all of his witnesses and brings in all his written proof, and then says he is done; the defendant then goes through the same process, and when he is done the plaintiff can again come in rebuttal; when both are through and declare they have made their whole case the argument is heard, the jury retire, consider on their verdict, render it, and judgment is entered accordingly. This judgment, thus arrived at, is *res judicata;* but even then, mind you, only binding on the parties themselves, and no one else. But if all the evidence be not heard, if one party has witnesses ready on some material point and the opportunity to hear them is denied, without default of the person producing them, or if facts be alleged likely, if sustained, to control the issue, and no proof is allowed as to them, then the essential element is wanting which makes the judgment sacred, and it loses its sanctity. It is not entitled to respect, but ought to be annulled, set aside, and rendered void whenever these facts appear.

Every litigant or contestant should be allowed to make his own case. The court should not make it for him, nor should it restrict him except by the rules which regulate the production and competency of witnesses. He should be permitted to produce his own witnesses and examine them as he chooses, subject only to the rules of evidence. He ought to be allowed to cross-examine the witnesses on the other side, and this is the way to have a fair trial. But was this the way it was done in the Spofford-Kellogg case? It was not. The committee said to Spofford, "You shall not introduce one single witness and you must take this batch of proof found in various reports or have none." If the committee thought that the charges Spofford made were already proved, they should not have reported as they did. And if they thought they were not proved, surely Spofford's witnesses should have been heard.

Then, accepting the view of the minority, and treating that as they do a case in court, how does it stand?

KELLOGG and Spofford both claiming the same seat, the matter is referred to a committee of the Senate, before which the parties appear. The committee awarded the seat to KELLOGG and he was admitted to it by the Senate "on the merits" of the case. Mr. Spofford files a memorial, which is in the nature of an appeal, bill of review, petition for a new hearing, or bill in chancery, to set aside the former judgment or enjoin its execution. This memorial must be considered as Spofford's bill or petition, and if, with the papers and proofs accompanying, it makes a case that a court of chancery would have entertained, then this Senate must do it on the theory of the minority of the committee, for their report is nothing if not judicial. What, then, are the averments of his memorial? He makes five as grounds of relief. He says:

That a partial or imperfect investigation of the respective claims of the contestants was had before the committee, but the case made by your petitioner against the claim of the said KELLOGG was not fully heard by the committee, because they came to a sudden determination to close the same without giving him opportunity to adduce proof, which he had constantly offered to adduce if leave were granted, having material bearing upon the contest for said seat.

* * * * * * *

That this abrupt closing of the case and refusal of petitioner's request for leave to take evidence was against the remonstrance of petitioner.

* * * * * * *

Petitioner further represents that he ever has been and still is ready to furnish evidence to establish the five specifications upon which he was not permitted to take proof heretofore, and particularly evidence of the direct and active interference of said KELLOGG in the preparation of illegal complaints or protests against polls of which he had no knowledge.

Petitioner further represents that since the contest aforesaid, and very recently, he has discovered new and material evidence to prove that the election of said KELLOGG was null and void, by reason of improper, illegal, and corrupt influences exerted by him in person to bring about his own election as Senator; to prove that he obtained and held the title of governor by corrupt bargain, not by election, and then used the power, patronage, and resources of the governor's office to procure the return and organization of a general assembly for the purpose of electing him Senator, and afterwards employed both menace and bribery among those whom he had assisted to have returned as members to induce them to vote for him as Senator, &c.

Of the five points made by Mr. Spofford two seem to have been agreed. The other three are as follows, namely:

3. That the facts relative to the election of Tremoulet, Cressy, and Rolle, from the seventh representative district of New Orleans, were substantially as set forth in the statement read by H. M. Spofford in his argument before this committee on the 24th of October, 1877.

4. That the composition, votes for Senator, and political proclivities of the Legislature on the 24th of April, 1877, when H. M. Spofford was elected Senator, were substantially as set forth in the argument aforesaid.

5. That by the actual returns or statements as made in duplicate by the supervisors of registration, (and assistant supervisors,) with their appointees and commissioners of election, and sent, one set to the clerk of the district court of each parish in the county, and to the secretary of state in the city, and the other set to the returning board, so called, showed a majority of votes actually cast throughout the State of about 8,000 votes for Nicholls and Wiltz over Packard and Antoine, for the offices of governor and lieutenant-governor, in the election that took place in Louisiana November 7, 1876.

In his application, therefore, for a rehearing, these grounds of equitable jurisdiction and relief are stated:

1. That the court of law (that is the Committee on Privileges and Elections) refused arbitrarily to hear material evidence which he offered to produce and could produce bearing on the issue before the court and under trial.

2. That since that time he has discovered material evidence of which he then had no knowledge and was not able to procure, tending to establish that KELLOGG, in securing his so-called election to the Senate, was guilty of bribery, fraud, forgery, and perjury and subornation of perjury, both in procuring the election of members to the so-called legislature, which he says elected him, and in his own election.

On these statements in a bill or petition, if they were accompanied with proofs sustaining them, any chancellor would have ordered that the plaintiff be given another chance to be heard.

And as to one of the charges, it is said that this Senate cannot look into the election and qualification of members of the Legislature of Louisiana, and therefore, as to that, Spofford was making an issue that could not be tried here. This is undoubtedly true as a general proposition; but this distinction is to be taken: if it be alleged that a member of the Legislature of a State obtained his certificate by a fraudulent conspiracy with the governor of the State, and, as part of the same conspiracy, voted for him for Senator, then it is the act of the sitting member, in procuring his own election, that we are investigating and not alone the election and qualification of members of the Louisiana Legislature. Any other fraud or misconduct in the election of members of the Legislature is safe from our investigation, except the single one of fraud in which the sitting member participated, and we can look into that just as we could into his fraud in procuring his own election by the Legislature.

It is a general and well-known principle that fraud vitiates everything, and that no man shall be permitted to take the benefit of his own fraud in anything. Whenever fraud is charged, then the doors of a court of chancery fly open. It is not worth while to cite any authorities for this statement; everybody will admit it.

The resolution adopted by the committee which cut off Spofford was first offered in this form, (page 112 proceedings of the committee:)

Senator HOAR. I move as an amendment to the motion of the Senator from Delaware, that it is the sense of the committee that the matters proposed by Judge Spofford have been fully already considered by them in their previous action, and are fully covered either by the admissions of Mr. KELLOGG or the evidence already before the committee.

On that proposition Senator SAULSBURY then said:

I would be very happy to know that what the Senator from Massachusetts says is true, but if the point alleging fraudulent action on the part of the returning board in making up its count is fully covered by the testimony in the case, I do not know where it is.

The next day the Senator from Massachusetts, finding that his motion was too broad and was not true as adopted by the committee, moved to amend it by adding the words "so far as material." Thus the committee, finding that it had adopted an untenable and false position, tried to escape by saying that the evidence already in covered the case "so far as material," meaning to declare that nothing was material except what was previously considered; that is to say, the majority of the committee undertook to pronounce on the materiality of evidence without hearing it, and announced that fraud, bribery, and perjury did not matter and were not material. But the Senator from Massachusetts, [Mr. HOAR,] though he offered the resolution which was adopted, did not himself seem to think it was right, for this is found in the proceedings of the committee, page 116:

Senator HILL. I think we are acting a little hastily. The resolution states that the matters, as far as material, to which our attention was called by Mr. Spofford this morning, have been previously considered by the committee. I respectfully submit that we have never considered them at all, and the journals and records and proceedings of this committee will not sustain that allegation. We have called upon these gentlemen to appear before us and to state upon what points they desire to take testimony, and we have had their statements from time to time for the purpose of making up the issue. The whole proceedings of this committee have been directed heretofore to making up the issue between these contestants. We have never once considered the issue as made up. Our attention has never been called to the fact directly whether these particular points were covered by the testimony already in or not, and no man can point to the testimony that is in that covers them. I think we are acting hastily. I do not think we have considered these things.

Senator HOAR. It seems to me that certainly some parts of the matters have been considered.

The honorable Senator introduces and votes for a resolution which

declares that the whole thing had been considered "as far as material," and is only able to recall dimly that "certainly some parts of the matter had been considered."

The decision in the Fitch and Bright case, so much relied on by the advocates of KELLOGG, exactly sustains the position I take; for the report of the committee in that case expressly put the refusal of the Senate to interfere on the ground, to use the language of the report, that—

The decision was made by an authority having exclusive jurisdiction of the subject, was judicial in its nature, and being made on a contest in which *all the facts and questions of law involving the validity of the election of Messrs. Fitch and Bright and their respective rights to their seats, were as fully known and presented to the Senate as they are now in the memorial of the Legislature of Indiana.*

There had been a full, fair, and complete trial. *All* the facts were before the Senate—*all* the questions of law made. No fraud was charged; no bribery; nor was it alleged that new evidence had been discovered, and the new hearing was asked for upon precisely the same case upon which the first decision was rendered. Of course, this made a case of *res adjudicata*, and the Senate did right to refuse to open its former judgment.

But is that the case here? Spofford took no testimony, examined no witnesses, cross-examined none. He was not allowed to do so. He was compelled to let the case be heard upon evidence taken by others upon different points in part than those on which he wanted to be heard, taken by committees of this body and the House when Spofford was not present. In other words, when he applied for leave to prove his case, he was told: "No, you shall not do so; we will look into all this mass of evidence found in these different reports and we will try your case upon that." It was useless for Spofford to protest, to declare that his case was not found in those papers; that he had other witnesses and wanted to prove other facts; that new evidence had come to light. The committee was firm and refused to hear him, and I earnestly insist that this different condition of things separates this case as wide as the poles from the Fitch and Bright case.

In KELLOGG'S brief, filed by his counsel, on page 17, is found this statement:

Then, observe, moreover, that not only was not this accusation about bribery not newly discovered evidence, but was a thing fully investigated by the legislature which elected KELLOGG before the Senate seated him.

This is an admission by KELLOGG himself that the charge of bribery was not investigated by this Senate, for he only claims that it was done by his own legislature. The men charged with bribery tried and acquitted themselves, and this is a "*res judicata;*" this is a bar to a trial by this body; this is a reason for shutting up this court; this estops the Senate!

As we are considering this as a mere legal question, let us examine some authorities as to what is a "*res judicata,*" and under what state of things relief may be had against a judgment.

"*Res judicata*" is the judgment of a court of competent jurisdiction upon a case properly submitted to it and is binding upon the parties to the suit and and their privies, and nobody else. It is heard upon testimony offered by the parties themselves, and each party must be fully heard.

In Freeman on Judgments, section 99, it is said:

For fraud: The maxim that fraud vitiates everything is applicable to judgments. Upon proof of fraud or collusion in their procurement they may be vacated at any time.

And in Holland on New Trials, chapter 18, section 22, the same doctrine, speaking of new trials in equity, is announced:

Fraud is another ground of injunction. And this, although the party might find a remedy in a court of law, or though he had notice of the judgment in time to appeal and made an abortive attempt to do so. A former recovery pleaded in bar to a bill for relief against a judgment at law alleged to have been obtained by fraud, will not avail the defendant. Thus equity will enjoin a judgment on the ground that there was a good defense of which the defendant did not know at the time the judgment was rendered. So, when a party having a good defense to an action is prevented by the gross fraud of the plaintiff in the suit and others from setting up that defense, and a judgment is obtained against him without any negligence or fault on his part, it is a proper case for relief in equity against the judgment.

Let it be remembered that Spofford in his memorial and in the points he makes charges that KELLOGG was guilty of fraud in procuring the election of members to the Legislature, and his own election; that he asked leave to prove these charges and it was denied him, and that he alleged that he had found new evidence not before known to him and he was not allowed to produce it. It is said that "whatever is settled by judgment is the result of an investigation conducted under the most favorable rules that mankind has been able to devise for the exposure of falsehood and the ascertainment of truth."

Were the rules adopted by the committee the most favorable that mankind has been able to devise for the exposure of falsehood and the ascertainment of truth? One of the most searching and complete tests is the right to cross-examine the witnesses produced by the other party. But Spofford was allowed to cross-examine no witness. And to say that a rule is favorable for the exposure of falsehood and ascertainment of truth which will not let a party produce witnesses that he says he has at hand is worse than absurd.

Freeman on Judgments, section 249, lays it down that—

The only questions which can arise between an individual claiming a right under acts done, and the public or any person denying its validity, are power in the office and fraud in the party. All other questions are settled by the decision made or act done by the tribunal or officer, whether executive, legislative, judicial, or special, unless an appeal is taken.

There can be no appeal taken from a decision of the Senate, but when KELLOGG claims a right under an act done and the State of Louisiana or H. M. Spofford denies its validity, fraud in KELLOGG may open and set aside the act done and he can not protect himself under it. In the same section the author says:

Precisely what conditions are indispensable to a judgment in one action in order that it may be received as conclusive in another has never been specified in any very distinct or satisfactory manner.

And in the next section, citing Lord Brougham, it is said:

A judgment must be a judicial determination of a cause, agitated between real parties upon which a real interest has been settled. In order to make a sentence there must be a real interest, a real prosecution, a real defense, a real decision. Of all these requisites not one takes place in a fraudulent or collusive suit. * * * It is also said that the principle *res judicata* cannot be invoked to sustain fraud.

And yet that is exactly what is attempted to be done here.

Awards are favored in law; and where there has been a submission of all demands the authorities disagree as to the effect of an award on a matter which was in fact never presented to the arbitrator.

In New York the position is taken that "it would be a very dangerous precedent to allow a party on a submission so general, intended to settle everything between the parties, to lie by and submit only part of his demands and then institute a suit for the part not brought before the authorities. The object of the submission was to avoid litigation; and neither party is at liberty to withhold a demand from the cognizance of the arbitrators on such submission and then sue for it."

The order of the Senate directing this case to be examined by the committee cannot be construed as more extensive and all-reaching than a submission which brings in "*all* demands" between the parties. Yet the author, commenting on the above-stated principle, says:

Just and reasonable as this view seems it has not met with general approbation. On the contrary, it seems to be well settled by a decided preponderance of authorities that, notwithstanding the general language of the submission, the award will conclusively determine nothing not in fact submitted, and that the *prima facie* final effect of the award may be overthrown by any evidence which sufficiently proves that a specified matter was never presented to the arbitrators.—*Freeman on Judgments*, sec. 320.

Putting the decision of the Senate upon the high ground of an award, it is clear that, as Spofford was denied the right of proving his points, of examining his own witnesses, and cross-examining those of his opponents, the *prima facie* final effect of the award may be overthrown.

And, again, in the same author, section 486, the rule is laid down in this way:

While the courts of equity in England and in the several States of this Union have uniformly refused their aid in all cases when their action would involve either the usurpation of appellate jurisdiction or the granting of a second opportunity of presenting a cause upon its merits, they have, on the other hand, uniformly extended their beneficent principles and their varied and efficient means of relief over a large and well-defined class of cases, to the end that no man should retain an unconscientious advantage procured by him in a court of law or of equity through his own fraud or through some excusable mistake or unavoidable accident on the part of his adversary. The jurisdiction of courts of equity "to set aside a decree obtained by fraud in an original bill filed for that purpose has long been unquestioned."

If we do not hear this case again, we allow KELLOGG to retain an unconscientious advantage procured by him through his own fraud. This Senate, in at least one other case I can name, has not exhibited much respect for the doctrine of *res judicata*, for the United States and the Republic of Venezuela entered into a treaty by which certain matters in dispute were referred to the final arbitrament and award of a commission, the members of which were required by the convention itself to make solemn oath that they would carefully examine and impartially decide, according to justice and in compliance with the provisions of the convention, all claims submitted to them. And in case the commissioners awarded an indemnity, they were to determine the amount to be paid, and issue certificates of the same; and it was also stipulated that "the decisions of this commission and those (if there be any) of the umpire shall be *final and conclusive* as to all pending claims at the date of their installation."

The commission met, adjudicated cases, made awards, and issued certificates; and Congress, to give additional impressment to them, passed a law recognizing the adjudication as final and conclusive. (See act February 25, 1873.) Thus these awards were made as sacred as treaties, judgments, and acts of Congress could make them, and if there could be a case in which the doctrine of *res judicata* should apply to the greatest extent it should be this. But Venezuela began to complain and charged that some of the awards were tainted with fraud, and thereupon Congress at once threw the awards and the doctrine of *res judicata* to the winds, repealed the act of February 25, 1873, and the whole matter is at a standstill. The parties interested say to Congress and the Government that these awards were made by a court established by Congress itself, which not only created the court, but went to the extent of declaring in advance that its judgment should be final and conclusive. But Congress replies that these statements are true, but that the charge of fraud having been made, if found to be true the awards ought not to be paid and their execution should be enjoined. Here is a precedent established by Congress itself, for nobody can with justice claim that KELLOGG'S case can stand on any higher ground than these awards thus made. And when the award in the KELLOGG case is impeached for the same ground, how can any Senator say that it shall not also be liable to be set aside?

I do not intend to go at length or in detail into the evidence before the Senate. That has been done ably and clearly by Senators who have already spoken, and I will not consume time so valuable at this period of the session by going over the same ground. But I will

briefly state what I think conclusively appears from the printed proceedings of the committee upon whose report KELLOGG was seated, and from the evidence taken recently.

The report of the proceedings of the committee shows these facts:

That Spofford demanded the right to be heard and to produce and examine witnesses.

That he asserted he had discovered new and material evidence.

That he charged KELLOGG with fraud, bribery, duress, menace, forgery, and perjury substantially.

That the committee would not allow him to introduce witnesses, and would not try his case on his own testimony; but compelled him to let it be heard upon testimony taken by others, with which he had no personal concern, of which he had no notice, and which related to other matters as well as the election for Senator.

That he had had no opportunity to examine or cross-examine any witnesses, and thus the very first principle of justice and law was violated, which declares that no man shall have his rights affected by the evidence of a witness unless he had the opportunity of applying cross-examination—the great test of truth.

And the testimony taken and reported by the committee at this session establishes these facts, namely:

That KELLOGG used his office as governor corruptly to secure the return of a legislature favorable to his election as Senator.

That to this end men who were legally elected were denied certificates, men who were not elected were given certificates.

That returns were altered to accomplish this.

That perjured testimony was used to compass the results desired by KELLOGG.

That he used bribery to secure votes for himself as Senator.

He and his advocates denounce the witnesses by whom these things are proved as coming from the slums of the city. No doubt many of them did. KELLOGG found them there, clothed them with office, place, and power, gave them control of public affairs, intrusted the interests of the people to them, associated with them, confided in them, and indorsed them in every way one man could indorse another. His mouth is, therefore, shut. He cannot be allowed to say that they are not worthy of credit. He condemns himself when he says so, and this very declaration is of itself a damning fact against him. Of course these men were bad—many of them thieves, liars, perjurers, and bribe-takers, yet in all this they were KELLOGG'S creatures and instruments.

And now, Mr. President, I have only to add that if the democratic party is afraid to rebuke fraud, to punish perjury, to right the wrong, then let it perish. If it will condone dishonest practices, keep a man here pretending to represent a State that never elected him, and that scorns and repudiates him, if it succumbs to threats from our adversaries, then it is not fit to govern the country.

Mr. McDONALD. Mr. President——

Mr. BAYARD. The Senator from Indiana I believe desires to address the Senate on this subject; but I presume he does not wish to commence his speech at this late hour of the afternoon. Therefore I will ask him to allow me to move to lay aside the pending order informally for the purpose of calling up a House bill which relates to a charity and which I hope the Senate will act upon. I move to lay aside the pending and all prior orders informally to call up order of business No. 712, being the bill (H. R. No. 776) refunding to the University of Notre Dame du Lac, of Saint Joseph County, in the State of Indiana, the sum of $2,234.07, that being the amount paid on certain imported articles, &c., which was reported by the Committee on Finance without amendment.

The PRESIDENT *pro tempore*. A motion to lay aside temporarily is not in order, but the Chair will put it as a request for unanimous consent. The Senator from Delaware asks unanimous consent that the pending order be laid aside informally, without being prejudiced by an adjournment, in order that he may move the Senate to take up the bill he has indicated. Is there objection? The Chair hears none. The pending order is laid aside informally. The Senator from Delaware now moves that the Senate proceed to the consideration of House bill No. 776.

The motion was agreed to,

Mr. WILLIAMS. I desire to give notice that to-morrow, immediately after the closing of the discussion on the Kellogg case, I shall move to take up the pension bill for the soldiers of the Mexican War.

ROBERT L. MARTIN.

Mr. JOHNSTON. If the Senator from Delaware will allow me, I should like to have a joint resolution passed withdrawing from the files of the House of Representatives certain papers and proofs in the case of Robert L. Martin.

Mr. COCKRELL. The papers were before the commissioners of claims.

Mr. JOHNSTON. I ask simply to have the joint resolution passed.

The PRESIDENT *pro tempore*. Does the Senator from Delaware give way temporarily?

Mr. BAYARD. I have no objection to the withdrawal being made, but I do not desire this bill to be displaced.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 255) for the relief of Robert L. Martin. It grants leave to Robert L. Martin to withdraw from the files of the House of Representatives the papers and proofs filed by him before the southern claims commission in support of his disallowed claim.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed a resolution that in the enrollment of the bill (H. R. No. 4911) to amend the statutes in relation to the immediate transportation of dutiable goods the Clerk of the House be authorized and directed to change the word "sixth," in the sixth line of the third amendment of the Senate to the said bill, to "seventh;" in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolution; and they were thereupon signed by the President *pro tempore*:

A bill (S. No. 52) for the relief of John N. Reed;

A bill (S. No. 287) for the relief of the heirs of Charles B. Smith, deceased;

A bill (S. No. 324) for the relief of Somerville & Davis;

A bill (S. No. 392) to remove the political disabilities of John R. F. Tatnall, of Georgia;

A bill (S. No. 559) donating condemned cannon and field-pieces to William L. Curry Post, No. 18, Grand Army of the Republic, for their place of burial;

A bill (S. No. 715) for the relief of the estate of N. Boyden;

A bill (S. No. 996) for the relief of Monroe Donoho;

A bill (S. No. 1148) to amend an act entitled "An act authorizing the commissioners of the District of Columbia to issue twenty-year 5 per cent. bonds of the District of Columbia to redeem certain funded indebtedness of said District," approved June 10, 1879;

A bill (S. No. 1256) to authorize the Secretary of War to improve and repair the Mullan wagon-road between Forts Missoula and Cœur d'Alene;

A bill (S. No. 1358) for the payment of certain moneys to the heirs of Constantine Brumidi, deceased;

A bill (S. No. 1404) to provide for issuing patents for public lands claimed under the pre-emption and homestead laws in cases where the claimants have become insane;

A bill (S. No. 1408) to further amend the act entitled "An act to reorganize the courts of the District of Columbia, and for other purposes," approved March 3, 1863, and to repeal section 861 of chapter 24 of the revised statutes of the District of Columbia, and re-enact the same as amended;

A bill (H. R. No. 1064) to grant to the corporate authorities of the city of Council Bluffs, in the State of Iowa, for public uses, a certain lake or bayou situated near said city;

A bill (H. R. No. 2046) to authorize a compromise of the claims of the United States under the will of Joseph L. Lewis;

A bill (H. R. No. 2862) granting an increase of pension to John H. Black;

A bill (H. R. No. 3351) for the relief of Rev. Paul E. Gillen; and

A joint resolution (H. R. No. 215) requesting the President to open negotiations with certain foreign governments relative to the importation of tobacco into their dominions.

UNIVERSITY OF NOTRE DAME DU LAC.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 776) refunding to the University of Notre Dame du Lac, of Saint Joseph County, in the State of Indiana, the sum of $2,334.07, that being the amount paid on certain imported articles, &c.

Mr. MORRILL. Mr. President, I desire to call the attention of the Senate to this bill. I do not believe that it is one that ought to pass. In the first place, it is not a proper representation of the importations. They were really windows imported, of stained and painted glass, and there is no reason in the world for including the lamp as a proper article to be exempt from duty, and there is no reason for exempting the importation of the glass windows from duty unless they were of so high a grade as to be considered works of art.

It is reversing the precedents that have been established hitherto in relation to these matters standing exactly in the same relation. I have here a report made by myself in 1868 in the case of the Old South Church of Boston, where stained-glass windows were imported and the claim to have them come in free was refused. I do not think it is a precedent that ought to be established in behalf of these wealthy churches to import their glass free of duties when the small church around the corner is compelled to pay duties upon plain glass.

But, Mr. President, I understand that within a few years a different practice has been established by the Treasury Department, and where the works could be proven to be works of art, of so high merit as to be called works of art, they have been allowed to come in at the rate of 10 per cent. instead of 40 per cent. I therefore move to amend this bill by striking out three-quarters of the amount proposed and reducing it so that it will leave one-fourth part, which would be 10 per cent. duty. If the chairman of the Committee on Finance would be satisfied with that, I should not move any other amendment; but from the information that I have derived from the Treasury Department I am satisfied that there can be no claim whatever for a reduction of duties upon the lamp, and we ought to set the example here

in all cases so that one would be a precedent for the next case. I am willing to concede, whether truly or not, that these works may have so much merit as to entitle them to come in at 10 per cent. duty.

The PRESIDENT *pro tempore*. Will the Senator please forward his amendment to the desk?

Mr. MORRILL. It is just reducing the amount to one-fourth of what it now stands in the bill.

Mr. BAYARD. While the Senator from Vermont is perfecting his amendment,—and I wish to suggest to him that he had better aid the Secretary in framing the language,—I will state to the Senate why I think it ought not to be adopted.

This is a charitable institution of wide beneficence. It is a university which is open for the benefit of the poor and needy who are unable to pay the high fees for education charged elsewhere. The bill has been three times reported upon favorably to the House of Representatives, and the bill we now have is a House bill; and at the present stage of the session to amend it at all is to jeopardize its passage at the present session. These duties were paid under protest; they were paid upon stained windows and upon a highly ornamental lamp or chandelier. Whether or not paintings upon glass, in the view of my honorable friend from Vermont shall ever reach the grade of art or whether they are to be classed as simple manufactures, is a question that he and I might possibly debate and would be very apt to differ upon, for I am disposed to believe that very high art can be reached by the process of painting and establishing colors by heat upon glass. I have seen some that I am sure would be well worthy of imitation in this country, and I hope the day is not far distant when we may be able to equal those which we are now compelled to import.

This university—

I read from the last House report, which, having the facts before us, was accepted by the majority of the committee under whose orders this report was adopted—

> This university was founded in 1844, with a small endowment of lands, and, by reason of carcful and economical management, has become a popular and useful institution of learning.
>
> The officers, professors, and teachers give their services to the institution without other compensation than a bare living, by reason of which tuition is afforded at cheaper rates than similar institutions in the country, and they have annually about six hundred pupils.
>
> In connection with the college building the university has erected a church, and, for the purpose of beautifying and ornamenting the same, they purchased in Europe a lamp costing $2,399, upon which they paid duty in gold to the United States. They also imported painted and stained glass for the windows of said church, costing in Europe $3,960, upon which they also paid duty to the Government in gold, amounting altogether to the sum of $2,334.07 of duty paid by said university on the said articles.
>
> These duties were paid under protest, the university claiming that the articles ought to be admitted free of duty under the provisions of the tariff act. By section 2505, Revised Statutes, the importation of the following articles are exempt from duty, namely: "Philosophical and scientific apparatus, instruments, and preparations, statuary, casts of marble, bronze, alabaster, or plaster of Paris, paintings, drawings, and etchings, specially imported in good faith for the use of any society or institution incorporated or established for philosophical, educational, or scientific purposes or encouragement of the fine arts, and not intended for sale." Also, "regalia and gems, and statues, and specimens of sculpture, when specially imported in good faith for the use of any society incorporated or established for philosophical, literary, or religious purposes, or for the encouragement of the fine arts, or for the use or by the order of any college, academy, school, or seminary of learning in the United States."

I am bound to say that with my present impression, if I were sitting as a collector of revenue or as a judge upon the bench, I should be bound to find that this statute did apply to these identical subjects, because, in the first place, they are not imported for sale; and in the next place, they are imported for a philosophical and educational institution; and in the next place, they are paintings or drawings; and therefore it seems to me every condition of the law is fulfilled and they ought to come in free.

The Treasury Department, under light which has come to it since these duties were exacted, has agreed to abate the duties three-fourths, from 40 per cent. to 10 per cent., and the honorable Senator from Vermont, the very Nestor and champion of the high system of duties, consents that it shall be reduced to 10 per cent. Now, I say frankly to the Senate, it ought to be reduced to nothing. I am satisfied that when these parties protested against the payment they were sustained by the law.

This is something which Congress can well afford to do. I am not a friend of special legislation, but I do hold that when the construction has been made under protest, and we are clear that that construction is wrong, and the Department has shown it by abating its demand three-fourths, it is proper to let these things come in free. Charities have been favored and I pray God they may always be favored by the spirit of the American Government. Bells for churches have been admitted free of duty; constantly matters which are not the subject of commerce, which are matters for the civilization and christianization of the country, have been admitted free. It seems to me that where there can be two constructions, and one is in favor of charitable objects and the other against, we are wise in adopting the one in favor. Therefore, I hope the Senate will not allow this beneficent act of Congress to be arrested or changed by the amendment offered by my friend from Vermont and that they may take the construction which three committees of the House of Representatives and one committee of the Senate have agreed is the proper one, that these goods should come in free of duty. There is no profit, there is nothing to be gained, but beneficence to humanity; that is all—the beautification of this church by works that I think do rise to the grade of art, and which ought, I think, on a fair construction of the law, to come in free of duty.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Vermont, which will be read.

The SECRETARY. In line 3, after the word "of," it is proposed to strike out "$2,334.07" and insert "$583.52."

Mr. DAWES. Mr. President, I do not think there would be any opposition to this bill if we could have some uniform rule to govern the Treasury Department in the exaction of this kind of duties or in Congress in enacting these laws. There have been several cases like this within the last few years where relief has been granted by Congress, but there have been others where Congress has refused the relief, and the hardship of a refusal becomes the more grievous to bear because there is no uniform rule. The Senator from Vermont has alluded to the case of the Old South Church in Boston. That was a peculiarly hard case, because the Treasury Department had under a ruling admitted windows precisely like those of the Old South Church for a church in Baltimore free of duty as works of art, and thereupon it was that the Old South Church made its contract abroad while that ruling was in existence for its windows under that ruling without any reference to duties, made a contract agreeing to pay a certain price for them abroad, supposing they were to come in free of duty. After that contract was made and after the windows were made and on their way here, before they reached the custom-house, the Treasury Department reversed that ruling and compelled the Old South Church to pay a duty of 40 per cent. upon those windows. The Old South Church came here for relief, and under these circumstances the relief was denied, although the windows were almost identically the same pattern that had been imported under a ruling of the Treasury Department free of duty. They came here and asked Congress to relieve them from that duty, and Congress refused.

These are to some extent works of art; and where they arrive at that high standard or where they approach it I agree with the Senator from Delaware that we should be liberal with them, especially when they come into buildings that are devoted to charitable uses; for if we make fish of one and flesh of another, if we remit duties in one case and refuse to remit them in another, we are constantly getting up friction and hardship. If Congress would enact that they should all come in free or should all pay 10 per cent. or should all pay 40 per cent., and adhere to it, there would be much less trouble in my opinion.

I shall vote for this bill because I have heretofore always been in favor of the most liberal construction on that side. I have reported bills for the admission of bells in Charleston, South Carolina, free of duty, and I do not know but for this very same building or a building of a very similar name in Indiana. I know that at one time the duty on bells imported for some such institution in Indiana was remitted. I do not see why, according to the statement of the character of these things, they do not come in as works of art.

Mr. McDONALD. I hope the Senate will make an exception in this case, and I shall be willing to except any other that presents the same facts. I understand the chairman of the Committee on Finance to say that these articles come within the spirit certainly, if not the letter, of the act exempting works of art from tariff duties.

As to the lamp that forms part of this importation, it will be seen that it is not an ordinary chandelier, but that it is an ornamental article, a work of art of a very costly character. It cost in Europe in gold $2,399. That of itself indicates very clearly that it is no mere ordinary piece of workmanship, no mere chandelier for lighting up a building, but an ornament of the very highest kind, a work of art of very superior character.

As to the windows, I am unable to see why if windows are used to place paintings or drawings upon, because they serve the double purpose of windows and at the same time of works of art, they should be subject to a duty because there is utility as well as ornament. If they had been placed in frames for the purpose of being hung up inside this church as paintings inside of the church, no one would have supposed for a moment that they should be subject to duty. When they are placed in such frames that they can be seen from the outside as well as the inside I cannot see why their character should change.

I hope that the amendment offered by the Senator from Vermont will not be adopted, and that the bill as it came from the House will pass.

Mr. MORRILL. My only purpose in moving the amendment is to establish some uniform rule on the subject. The Treasury Department have established this rule, I think they have construed the law liberally to permit them to establish the rate of 10 per cent. If we establish any other rule, I should feel bound in all cases where a lesser sum has been paid to go back and reimburse the parties.

But it would be a very great mistake to suppose that nothing of this kind is done in this country. At a very considerable number of places our own people are now doing this work and doing it very creditably. There are a very large number of ladies at work in decorating glass, and I understand that within the present spring an establishment has been created here at Washington for the very purpose of decorating glass and painting it. It is stated in the report of the House committee that these parties paid the duties under protest. It will be noticed by the report that comes from the Treasury De-

partment that one of these shipments was much earlier than the other. If they were not satisfied with paying the duties in the first place, why did they send an additional order for another large importation?

Then there is another question away behind the whole of it. If we are to remit duties for these wealthy churches that are able to buy decorated windows, why ought we not to admit the glass free of duty for poorer churches, churches that are in debt and have to get along with nothing but plain glass?

Mr. INGALLS. On what theory does the Treasury Department reduce the duties upon these articles from 40 per cent. to 10?

Mr. MORRILL. On the ground that they are works of art.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Vermont.

The amendment was rejected.

Mr. MORRILL. I do not think there is a quorum present. I do not like to break up a quorum, and so I will not call for a division.

The bill was reported to the Senate without amendment and ordered to a third reading.

The bill was read the third time.

Mr. MORRILL. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 45, nays 5; as follows:

YEAS—45.

Allison,	Davis of Illinois,	Jones of Florida,	Teller,
Anthony,	Davis of W. Va.,	Kernan,	Thurman,
Bailey,	Dawes,	Lamar,	Vest,
Baldwin,	Eaton,	McDonald,	Voorhees,
Bayard,	Ferry,	McPherson,	Walker,
Beck,	Groome,	Maxey,	Wallace,
Booth,	Hampton,	Morgan,	Williams,
Brown,	Hereford,	Pryor,	Windom,
Burnside,	Hill of Georgia,	Ransom,	Withers.
Call,	Ingalls,	Rollins,	
Cameron of Wis.,	Johnston,	Saulsbury,	
Cockrell,	Jonas,	Slater,	

NAYS—5.

Harris,	Morrill,	Platt,	Saunders.
McMillan,			

ABSENT—26.

Blaine,	Conkling,	Hoar,	Plumb,
Blair,	Edmunds,	Jones of Nevada,	Randolph,
Bruce,	Farley,	Kellogg,	Sharon,
Butler,	Garland,	Kirkwood,	Vance,
Cameron of Pa.,	Grover,	Logan,	Whyte.
Carpenter,	Hamlin,	Paddock,	
Coke,	Hill of Colorado,	Pendleton,	

So the bill was passed.

IMMEDIATE TRANSPORTATION OF DUTIABLE GOODS.

The PRESIDENT *pro tempore*. The Chair lays before the Senate a resolution from the House of Representatives which seems to require attention.

The Chief Clerk read the resolution, as follows:

Resolved by the House of Representatives, (the Senate concurring therein,) That in the enrollment of the bill (H. R. No. 4911) to amend the statutes in relation to the immediate transportation of dutiable goods the Clerk of the House be authorized and directed to change the word "sixth," in the sixth line of the third amendment of the Senate to the said bill, to "seventh."

Mr. ROLLINS. I hope there will be immediate action on this.

The PRESIDENT *pro tempore*. The Chair is informed by the enrolling clerk that it is simply to correct a mistake in the number of a section to which reference is made.

The resolution was considered by unanimous consent, and concurred in.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. HARRIS, from the Committee on the District of Columbia, reported an amendment intended to be proposed to the bill (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and for prior years, and for those certified as due by the accounting officers of the Treasury in accordance with section 4 of the act of June 14, 1878, heretofore paid from permanent appropriations, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. INGALLS, Mr. HARRIS, Mr. WALKER, Mr. MAXEY, Mr. SAUNDERS, and Mr. GROOME submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and for prior years, and for those certified as due by the accounting officers of the Treasury in accordance with section 4 of the act of June 14, 1878, heretofore paid from permanent appropriations, and for other purposes; which were referred to the Committee on Appropriations, and ordered to be printed.

Mr. MORGAN, (by request,) Mr. WALKER, and Mr. DAVIS of Illinois, submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 6266) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes; which were referred to the Committee on Appropriations, and ordered to be printed.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Interior, transmitting, in reply to a resolution of the Senate of March 12, 1880, a report of the Commissioner of Education in relation to the state of technical or industrial education in the schools and colleges endowed in whole or in part by the United States, and also in other schools and colleges in the several States and Territories and the District of Columbia, and the provision made for the education of females in such branches; which was referred to the Committee on Education and Labor, and ordered to be printed.

FORT SEDGWICK RESERVATION.

Mr. TELLER. There is a small bill reported from the Military Committee, to which there can be no possible objection, that it is very important should pass at this session. It is No. 714 in the order of business, Senate bill No. 1742. I ask that it be taken up and passed.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) The Senator from Colorado moves that the Senate proceed to the consideration of Senate bill No. 1742.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1742) in relation to the Fort Sedgwick military reservation.

The bill was reported from the Committee on Military Affairs with an amendment to strike out all after the enacting clause and to insert:

That the Secretary of War be, and is hereby, authorized and directed to transfer the lands embraced within the limits of the Fort Sedgwick military reservation situate in the States of Nebraska and Colorado to the custody and control of the Secretary of the Interior for disposition according to the existing laws of the United States relating to the other public lands within said States; the said reservation being no longer needed for military purposes.

Mr. DAVIS, of Illinois. What is the case?

Mr. COCKRELL. It is simply a reservation which has been abandoned for a number of years, and this bill transfers it from the War Department to the Interior Department and permits that Department to dispose of it as other public land. The bill was reported in the Forty-fifth Congress and passed by the Senate, and this bill was reported by me from the Committee on Military Affairs and the substitute is the same bill that formerly passed the Senate.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PUBLIC BUILDING AT DETROIT.

Mr. BALDWIN. I ask that the Senate take up for consideration Senate bill No. 1636.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1636) to authorize the Secretary of the Treasury to purchase a site and to enlarge the present Government building in the city of Detroit, Michigan, or for the purchase of a site and the erection of a Government building in said city.

The bill was reported from the Committee on Public Buildings and Grounds with an amendment in line 12, after the word "purpose," to strike out "a sum not to exceed," and, after the word "appropriated," in line 13, to insert "or so much thereof as may be necessary;" so as to read:

That the Secretary of the Treasury be authorized to purchase a suitable lot of ground contiguous to the land now owned and occupied as a post-office site by the United States in the city of Detroit, and State of Michigan, and that he be, and hereby is, authorized and directed to repair and extend the present Government building in Detroit for the use of the United States courts, post-office, custom-house, internal-revenue offices, and other Government offices, in accordance with specifications submitted by the Supervising Architect of the Treasury, and for this purpose $150,000 is hereby appropriated, or so much thereof as may be necessary, out of any money in the Treasury not otherwise appropriated.

The amendment was agreed to.

Mr. INGALLS. Does the limitation as to the amount to be appropriated apply to the second clause of the bill? In case the Secretary finds it is not possible to enlarge the building, I notice he is authorized to purchase or negotiate for a site and arrange for the construction of a separate building. My understanding of the bill as I heard it read is that there is no limitation fixed as to the price.

Mr. BALDWIN. The Senator from Kansas is right in that respect. The appropriation is for the enlargement of the present building, which will probably be the case. It was deemed unwise, however, to limit the bill to the enlargement of the present building, because, if the present building is enlarged, the adjoining lot must be purchased, upon which there is another building, and it was thought to be more advisable not to leave the Government entirely in the hands of the person who owns the adjoining building, but to make provision so that if it be deemed advisable another site may be purchased if they could not get this on fair terms.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

REFUNDING OF DUTY ON CHURCH WINDOW.

Mr. GROOME. I ask the Senate to take up at this time House joint resolution No. 153.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 153) authorizing

the remission or refunding of duty on a stained-glass window from Munich, Germany, for All Saints' church, in Saint Michael's parish, in Talbot County, Maryland.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, and read the third time.

Mr. McMILLAN. I believe the same principle is involved in this measure that was involved in the bill that was passed a few minutes since. I do not desire to have the yeas and nays recorded on the question, but simply to state that I shall oppose this joint resolution as I did that, on principle.

Mr. BAYARD. I believe excepting possibly my friend from Vermont [Mr. MORRILL] the bill received the unanimous approval of the Committee on Finance, and it is a House bill.

Mr. McMILLAN. I do not wish to have any vote by yeas and nays, but merely to record my vote against the joint resolution.

The joint resolution was passed.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. BECK. I am instructed by the Committee on Appropriations, to whom was referred the bill (H. R. No. 6266) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, to report it with amendments; and I am instructed also to give notice that to-morrow at half past one o'clock, at the close of the morning hour, we shall endeavor to call up the bill and put it on its passage.

NICHOLAS H. STAVEY.

Mr. VOORHEES. The bill (S. No. 163) to restore Assistant Paymaster Nicholas H. Stavey to the active from the retired list of the Navy is a bill to which there will be no objection, and I ask that it be taken up in the absence of the Senator from Maine, [Mr. BLAINE,] who called my attention to it and desired me to ask the Senate to consider it.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 163) to restore Assistant Paymaster Nicholas H. Stavey to the active from the retired list of the Navy.

Mr. VOORHEES. I desire simply to say that this man was retired because of defective vision. His eyesight failed in service. A board of medical men, officers of the Navy, have certified to the restoration of his eyesight. The Secretary of the Navy says he ought to be restored to the active list. I understand that the bill was unanimously reported from the Naval Committee. It was reported by the Senator from Maine [Mr. BLAINE] who is not present, and I hope the Senate will pass the bill at his instigation.

Mr. ANTHONY. Should not the bill be amended so as to authorize the President, by and with the consent of the Senate, to appoint? The bill merely authorizes the President to nominate him, and not to appoint him? It is a Senate bill.

Mr. VOORHEES. I have no objection to the amendment.

Mr. ANTHONY. I think the bill should be so amended. The facts are as stated by the Senator from Indiana.

Mr. VOORHEES. I do not know whether the amendment is necessary or not, but I am satisfied with it, because I know what the action of the Department will be.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Rhode Island, to insert "by and with the consent of the Senate, to appoint."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

HARDIE HOGAN HELPER.

Mr. BURNSIDE. I ask that the bill (S. No. 365) for the relief of Hardie Hogan Helper be taken up. The bill grants a pension, and was passed during the last Congress by the Senate, and is now reported by the Committee on Pensions. It will lead to no discussion.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 365) for the relief of Hardie Hogan Helper. It directs the Secretary of the Interior to place on the pension-roll the name of Hardie Hogan Helper, who was disabled while on special duty under the command of General A. E. Burnside in the war of the late rebellion.

The bill was reported to the Senate from the Committee on Pensions with an amendment, after the word "rebellion" to add:

And pay him a pension at the rate of $10 a month from the passage of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

TRESPASSES ON PUBLIC LANDS.

Mr. JONES, of Florida. I ask the Senate to proceed to the consideration of the bill (H. R. No. 1846) relating to the public lands of the United States.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

By the first section, when any lands of the United shall have been entered and the Government price paid therefor in full, no suit or proceeding, civil or criminal, by or in the name of the United States, shall thereafter be had or further maintained for any trespasses upon or for or on account of any material taken from the lands in the ordinary clearing of land in wooding a mining claim, or for agricultural or domestic purposes, or for maintaining improvements upon the land of any *bona fide* settler, or who, without fault or knowledge of the trespass, took or used any timber, or on account of any alleged conspiracy in relation thereto prior to March 1, 1879. The defendants in such suits or proceedings are to exhibit to the proper court or officer the evidence of such entry and payment, and shall pay all costs accrued up to the time of such entry.

The second section provides that persons who have heretofore under any of the homestead laws entered lands properly subject to such entry, or persons to whom the rights of those having so entered for homesteads may have been attempted to be transferred by *bona fide* instrument in writing, may entitle themselves to the lands by paying the Government price therefor, and in no case less than $1.25 per acre, and the amount heretofore paid the Government upon said lands shall be taken as part payment of the price; but this is in no wise to interfere with the rights or claims of others who may have subsequently entered such lands under the homestead laws.

Section 3 provides that the price of lands now subject to entry which were raised to $2.50 per acre more than twenty years ago by reason of the grant of alternate sections for railroad purposes shall be reduced to $1.25 per acre.

The fourth section declares that the act shall not apply to any of the mineral lands of the United States; and no person who shall be prosecuted for or proceeded against on account of any trespasses committed or material taken from any of the public lands after March 1, 1879, shall be entitled to the benefit thereof; and the act is not to apply to lands in California, Oregon, Nevada, or Washington Territory.

The bill was reported from the Committee on Public Lands with an amendment, in section 3, line 3, after the word "than," to strike out "twenty" and insert "ten;" so as to read:

That the price of lands now subject to entry, which were raised to $2.50 per acre more than ten years prior to the passage of this act by reason of the grant of alternate sections for railroad purposes, is hereby reduced to $1.25 per acre.

Mr. INGALLS. Is there any report accompanying the bill? It seems to be a very important change in the existing land laws.

Mr. JONES, of Florida. There are two bills on this subject, one of which is accompanied by a report. This is a House bill relating to the same subject. There is a Senate bill with a report which is applicable to the subject, which, if the Senator from Kansas desires to hear, can be read.

Mr. INGALLS. I should like to hear some explanation. The bill states that there are certain portions of the public domain to which the provisions of the bill do not apply, and it therefore evidently has some subterranean purpose that is not disclosed. Before voting upon it I should like to hear some statement as to the purposes that the bill is designed to accomplish.

Mr. JONES, of Florida. I will state the main purpose of the bill. The subject was very fully discussed at the other end of the Capitol. There have been a great many suits instituted by the Government against parties for trespasses on the public lands in the various States, not confined to any particular section, because I believe they were instituted in the West and in the South indiscriminately. It is well known that up to a very recent period the policy of the Government upon this subject was very mild and indulgent. The Government, I might say, had almost acquiesced for years past in trivial trespasses upon the public domain running through a series of years. Take for instance the States of the South, which for years were beyond the power of the General Government. Depredations were committed upon the public domain before the war. After the present head of the Interior Department came into power a vigorous system of persecution, as I called it in a former debate, was instituted. A very harsh policy was adopted toward people who were not guilty of any offense, in my judgment, either in morals or in law.

I had occasion a year or two ago to present my views on the subject and to try to point out the great hardship and injustice that was inflicted upon innocent persons who were technically liable under the law but in reality innocent. In my section of the country timber is a commodity sold in market like wheat in the grain mart at Chicago. It is sold at a given depot, sold by written evidence of title and inspection papers, just like the warehouseman's receipt changes title to the productions of the land in Chicago.

The timber comes down the river thousands of miles in the possession of parties who are unknown to the purchaser, and after it is transferred in the open market, a full price paid for it, the Government through its agent goes about and finds out that a particular lot of timber has been taken from the public domain hundreds of miles from the market where it was sold. After the merchant buys it in good faith and being a responsible party the active agent proceeds against him, institutes a suit in behalf of the Government, and claims the full value of the property with all the addition of labor that has been put upon it. Technically, as lawyers know, that man is liable notwithstanding he paid full value for that property, and he can set up no defense of law against the action of the Government. It is

true the lawyer on the other side would come in and say "*caveat emptor*;" purchaser beware; but how is it possible in cases of that kind for an honest purchaser to be able to tell whether the timber for which he is held responsible was taken from the public domain or not? Still in hundreds of instances the innocent purchaser is held responsible for this property in civil actions instituted by the Government.

I say that that is a policy that has never been pursued by the Government before. Never until the present head of the Interior Department came into power was there such a claim set forth. But now numbers of cases of this kind are pending. The House of Representatives, recognizing the necessity of legislative action to save parties from the consequences of this severe policy, sent us this bill. The matter was discussed before the committee of which I am a member, and they unanimously authorized me to report it after a full view of the facts. There are other gentlemen upon the floor here who know as much about this subject as I do.

Mr. COCKRELL. I insist upon the five-minute rule, and I hope that the Chair will not require a Senator upon the floor to stop a speaking Senator in order to enforce the rule. I demand that that rule be enforced by the Chair.

The PRESIDING OFFICER. The Chair is not aware of any five-minute rule.

Mr. JONES, of Florida. Only in the morning hour.

Mr. INGALLS. Only in the morning hour, or under the Anthony rule.

The PRESIDING OFFICER. The Chair will enforce any rule that exists which is brought to his attention.

Mr. WINDOM. I wish to offer one or two amendments which I think will meet with the approval of the Senator in charge of the bill.

The PRESIDING OFFICER. Does the Senator propose to amend the amendment reported by the committee or the text of the bill?

Mr. WINDOM. The text of the bill. I did not know the amendment had not been acted on.

The PRESIDING OFFICER. The usual custom is to act on the amendments reported by the committee first.

Mr. WINDOM. That is right.

The PRESIDING OFFICER. The question is on the amendment reported by the Committee on Public Lands.

The amendment was agreed to.

Mr. WINDOM. The first amendment I move is in section 1, line 9, to correct the verbiage of the bill. The Senator will see that the word "wooding" is used when "working" was meant to be used. It is a misprint. I move to strike out "wooding" and insert "working;" so as to read:

In the ordinary clearing of land in working a mining claim.

The bill now reads "in the ordinary clearing of land in wooding a mining claim," which makes no sense.

The amendment was agreed to.

Mr. WINDOM. In section 1, line 11, after the word "settler," I move to insert the words "or for or on account of any timber taken, or;" so as to read:

That when any lands of the United States shall have been entered and the Government price paid therefor in full, no suit or proceeding, civil or criminal, by or in the name of the United States, shall thereafter be had or further maintained for any trespasses upon, or for or on account of any material taken from, said lands in the ordinary clearing of land in working a mining claim, or for agricultural or domestic purposes, or for maintaining improvements upon the land of any *bona fide* settler, or for or on account of any timber taken, or who, without fault or knowledge of the trespass.

The amendment was agreed to.

Mr. WINDOM. After the word "trespass," in section 1, line 12, I move to strike out the words "took or used any timber" and insert "or for, or on account of, any timber taken or used by fraud or collusion by any person who in good faith paid the officers or agents of the United States for the same;" so as to read:

Who, without fault or knowledge of the trespass, or for, or on account of, any timber taken or used by fraud or collusion by any person who in good faith paid the officers or agents of the United States for the same, or on account of any alleged conspiracy in relation thereto, prior to March 1, 1879.

I think those amendments will meet with the approval of the committee. I know they have been examined by the chairman, and carry out the objects of the bill.

The amendment was agreed to.

Mr. INGALLS. I wish the Senator from Florida would explain why it is that the principles of this bill, if they are beneficent and wholesome, are limited in point of time to those persons who have committed the acts prior to March 1, 1879? Why is a discrimination made between citizens of the Republic who have been engaged in these operations before and after that date? It appears to me that the bill is open to very serious objections on that score, and if one man has a right to take timber from the public domain before March, 1879, those who took it after that date ought to have a similar privilege.

Mr. JONES, of Florida. I think I can answer the Senator. I said a while ago that before this time the policy of the Government with respect to technical trespasses upon the public lands was different from what it is now, that the Government went on, I might say, for years under a very different policy from what has been adopted recently.

Mr. INGALLS. What is the recent policy?

Mr. JONES, of Florida. The recent policy has been to institute civil actions against everybody into whose possession a stick of timber that had been taken from the public domain could be traced; and such a policy as that I say never did exist in the country before, and it cannot be justified.

Mr. CAMERON, of Wisconsin. The persons from whom they purchased had not obtained title; and how can a purchaser obtain title from a person who had no title?

Mr. JONES, of Florida. There is nothing on the statute-book of the United States to indicate that it ever was the intention of the Government to pursue such a policy toward the citizen. We find laws there indicating its policy; and what are they? They are laws which make the cutting and the carrying away from the public domain of growing timber criminal offenses.

Mr. INGALLS. Will the Senator explain, if a different policy is to be pursued, why this discrimination in point of time is made in the bill? Why is not a timber thief after March, 1879, just as good as one before that time?

Mr. JONES, of Florida. Now, I say the country has noticed, and the people are not disposed to do what they have done in the past. The people are put on their guard; honest merchants are able to know now what the policy of the Government is, so that when they put out their money in the purchase of a block of timber they will be led to inquire as to where it came from. Hitherto it would have been unreasonable to expect such a thing any more than it would be to ask a man in the grain market at Chicago to produce evidence of the title to the land upon which he grew his wheat. When a party comes down to Chicago with one thousand or two thousand bushels of wheat for sale in the open market, stores it in a warehouse, and has the warehouseman's receipt, which he offers in market and gets his money on that, what would be thought of calling upon the merchant who bought that wheat to inquire into the title to the land upon which that wheat was grown? Who ever heard of that? The analogy is complete with respect to the timber business, perfectly complete. In my section of country the disposal of timber is conducted on the same principle as the disposal of wheat is in Chicago, and I say the Government would have just as good a right to the wheat grown upon the land of the Government as it would have to the timber cut and manufactured from it; and still, if anybody came up and said that the purchaser of wheat in the open market ought to be allowed to inquire whose land it was grown on, it would be written down at once as an absurdity.

Now, I say the innocent purchaser who buys timber without notice in the open market, and upon a paper title, and is afterwards sued by the Government, and can set up no legal defense, is entitled to relief upon every principle of justice, and that when the Government gets the price of its land it is all that it can in equity ask. It never seeks to speculate upon the labor of its own citizens.

The bill was reported to the Senate as amended.

Mr. FARLEY. I wish to amend the bill by striking out the last proviso, as follows:

Provided, This act shall not apply to lands in California, Oregon, Nevada, or Washington Territory.

The PRESIDING OFFICER. The first question is on concurring in the amendments of the committee, and the Senator's amendment will then be in order.

The amendments made as in Committee of the Whole were concurred in.

Mr. FARLEY. Now I renew my motion to strike out that proviso. I have information from a very intelligent gentleman in Nevada, and also a letter from a gentleman who was a supreme judge in that State, written to the Senator from Nevada [Mr. JONES] who is not here, setting forth the fact that the people of that State—and I know it is so in California to a certain extent—would be subject to the annoyances of which the Senator from Florida has so justly complained that other persons are subject to. Therefore I think that proviso ought to be stricken out. I make that motion.

The PRESIDING OFFICER. The question is on the amendment of the Senator from California.

The amendment was agreed to.

Mr. INGALLS. I move to strike out the section of the bill that provides for the reduction of the price of double-minimum railroad lands. That section is not germane to the matter that the Senator from Florida refers to, and it deals with a very great subject. It ought to be considered in a bill separately by itself. It involves an entire change of the policy of the Government with regard to the disposition of the public domain, and I trust the Senator will allow the section to be stricken out. The bill has been amended, and therefore this amendment will occasion no additional delay.

Mr. JONES, of Florida. I regard this as one of the most essential features of the bill.

Mr. ALLISON. We passed a bill to-day on that subject.

Mr. MORGAN. That was in relation to rights of entry under pre-emption claims.

Mr. ALLISON. Does this authorize now any one to purchase in block lands at $1.25 an acre? If it does, it seems to me it will render nugatory the very bill we passed to-day extending homestead rights to pre-emptors on lands within railroad limits.

Mr. JONES, of Florida. I do not think it would have that effect. This section relates of course to the existing laws and to the existing price under those laws:

SEC. 3. That the price of lands now subject to entry which were raised to $2.50 per acre more than ten years prior to the passage of this act by reason of the grant of alternate sections for railroad purposes is hereby reduced to $1.25 per acre.

This section, it will be perceived, does not interfere in the least with the existing laws relating to the disposal of the public domain, but whenever $2.50 under those laws is required only $1.25 after the passage of this act will be required. That is in regard to land within the railroad limits, it being thus a measure in the interest of the settlers. The even sections along the railroads of course are owned by the Government and are held now at $2.50 per acre, and as I said a while ago when another matter was up, I see no reason in the world for this. The price of these lands ought to be uniform, especially after they have been in the market for ten years and every opportunity given to take them up at the higher price.

Mr. BECK. May not a speculator go and buy these lands after they are subject to entry at the reduced price?

Mr. JONES, of Florida. He cannot.

Mr. ALLISON. Why not?

Mr. JONES, of Florida. They are subject to entry under the pre-emption laws.

Mr. BECK. But whatever is subject to entry is subject to sale.

Mr. INGALLS. Under the provisions of section 2 there can be no doubt in the world that the adoption of section 3 would place it in the power of speculators to obtain an indefinite amount of the public lands by paying a dollar and a quarter an acre.

Mr. JONES, of Florida. Under what law?

Mr. INGALLS. According to the public-land laws of the United States and under the provisions of this bill itself.

Mr. JONES, of Florida. No; I disagree with the Senator about that. I should like to see the law under which he can do that.

Mr. BECK. Under what law can you and I buy land at all?

Mr. JONES, of Florida. When it is offered at public auction is the only case, and I do not know of that having taken place. The pre-emption laws confine the entry to one hundred and sixty acres of land. The homestead law permits one to enter the same quantity without any price, as I understand. Now, under what law can he go in and speculate?

Mr. ALLISON. Cannot a purchaser under this bill go into the railroad limits and buy as many acres at a dollar and a quarter an acre as he chooses to pay for? He can go into the railroad limits now and buy as many acres as he chooses to pay for at two dollars and a half an acre, and this bill simply says that these purchases which now require two dollars and a half an acre shall hereafter only require a dollar and a quarter under this bill.

Mr. JONES, of Florida. How is it with the pre-emption settler?

Mr. ALLISON. The pre-emption settler could take only eighty acres, but we passed a bill to-day extending the homestead principle to the pre-emption settler, which nobody objected to.

Mr. INGALLS. And a great proportion of the land that is described and defined under section 3 is just becoming valuable. It is just reaching that condition of value under the development that follows the introduction of railroads that will enable the Government to get two dollars and a half an acre for it.

Mr. JONES, of Florida. That is the very thing I do not want to see it get.

Mr. INGALLS. Now the Senator desires that the price shall be reduced from two dollars and a half an acre down to one dollar and a quarter, and put it in the power of speculators to obtain possession of an indefinite amount.

Mr. JONES, of Florida. Mr. President, I have heard this cry of speculation before.

Mr. INGALLS. We have suffered from it.

Mr. JONES, of Florida. I do not think we have. The railroads hold large bodies of land at high prices. They hold them at from five to ten dollars an acre; a settler cannot get them without paying it. The tendency of this reduction would be to enable the cultivator of the soil, the man who wants to pre-empt one hundred and sixty acres of land within the railroad limits, to go there and get the land for one dollar and a quarter when he is now required to pay two dollars and a half. The railroad companies of course who have these grants are interested in keeping the price up as high as possible, because when the value of Government land goes down theirs will go down. That is the whole of it. Even if a speculator every now and then could get a few acres it would not hurt any more than the holding of the lands by the corporations. I have no objection to this being amended so as to confine it to pre-emption settlers.

Mr. BECK. I believe that if this provision of the bill prevails it will be open to speculators; and unfortunately I know something about this land system by having speculated some myself. Whenever it is opened in this form I and any other man can go and purchase for a dollar and a quarter as many acres as we like. In order to ascertain whether that will be the effect of the section or not I suggest that the Senator from Kansas and the Senator from Florida can see the Commissioner of the General Land Office in the morning before the bill comes up again, and I shall move that we either now adjourn or go into executive session if anybody desires.

Mr. ALLISON. I ask the Senator to withdraw the motion for a moment until I can have a bill I have been trying to get up all day taken up.

Mr. BECK. Very well.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Kansas.

Mr. BECK. Pending that I thought it would be as well that the Senator from Kansas and the Senator from Florida should be able to ascertain definitely what will be the effect of the section if it is not stricken out, and that by morning the Commissioner of the General Land Office could inform either of them, or they could ascertain by an examination of their own into the law.

Mr. JONES, of Florida. This question can by one word be relieved of all doubt. If the Senator from Kansas or the Senator from Kentucky will bring forth an amendment limiting this to pre-emption settlers, or to one hundred and sixty acres to each purchaser, I am willing to accept it.

Mr. BECK. That relieves all the objection I have.

Mr. SLATER. I desire to offer an amendment to the first line of section 3.

The PRESIDING OFFICER. The Senator proposes to perfect the section which is moved to be stricken out. That is in order.

Mr. SLATER. In line 1 of section 3, after the word "to," I move to insert "pre-emption or;" so as to read:

That the price of lands now subject to pre-emption or entry which were raised to $2.50 per acre, &c.

Mr. JONES, of Florida. I accept that amendment.

Mr. INGALLS. If that is the construction the Senator from Florida imputes to it, I desire to know why he should say that this is the most important feature of this bill. There is not a man who has heard this subject discussed who does not know what the object of this bill is. There is no use of disguising it or attempting to sugar-coat it. The object of the bill is to avoid the consequences of trespasses that have hitherto been committed upon the public domain by men in different States and Territories of the United States. That is all there is of it; and when the Senator says after my question and after my motion to amend that he regards section 3, which has no obvious connection whatever with the rest of the bill, as the most important feature of it, it is obvious to everybody that there must be a cat in the meal somewhere.

Mr. JONES, of Florida. If there is, I am sure the Senator can discover it.

Mr. INGALLS. I will certainly try to discover it, and for that purpose I move that the Senate do now adjourn.

Mr. CALL. I hope the Senator will not press that motion.

Mr. INGALLS. I certainly shall press it unless the Senator from Florida consents that the bill may go over for the purpose of enabling me to ascertain what that section of the bill means. If he does, I have no objection.

Mr. JONES, of Florida. I have no objection to letting the section go out.

Mr. INGALLS. Very well. I withdraw the motion to adjourn in that event.

The question is on the amendment proposed by the Senator from Kansas, to strike out section 3.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

THOMAS J. LEAGUE.

Mr. MAXEY. I ask for the consideration of Senate bill No. 1322, for the relief of Thomas J. League.

Mr. SAULSBURY. Is a motion to adjourn in order?

The PRESIDING OFFICER. It is.

Mr. SAULSBURY. I move that the Senate adjourn.

The motion was agreed to; there being on a division—ayes 13, noes 12; and (at five o'clock and fifty minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *June* 7, 1880.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of Saturday was read and approved.

EXPLANATION.

Mr. BARBER. I desire to state that a pair on the Post-Office appropriation bill was arranged on Friday morning between the gentleman from Michigan [Mr. BREWER] and the gentleman from Ohio, [Mr. WARNER.] In consequence of an inadvertence on my part the pair was not announced, and accordingly does not appear in the RECORD of Saturday, in which those gentlemen are recorded as not voting.

ORDER OF BUSINESS.

Mr. HOUSE. I ask unanimous consent to have an order made for the printing of some Senate bills which are on the Speaker's table.

The SPEAKER. The Chair will recognize the gentleman for that purpose after the call of States and Territories. The Chair has never allowed anything to interfere with that call.

This being Monday, the first business in order is the call of States and Territories, beginning with the State of Nevada, for the introduction of bills and joint resolutions, for reference to the appropriate committees. Under this call memorials and joint resolutions from State and territorial Legislatures, and also resolutions calling upon the Executive Departments for information, are in order for reference.

POLLY TATHAM.

Mr. VANCE introduced a bill (H. R. No. 6416) for the relief of Polly Tatham, administratrix of Thomas C. Tatham, deceased; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

LIEUTENANT-COLONEL JOHN A. FAGG.

Mr. VANCE also introduced a bill (H. R. No. 6417) for the relief of Lieutenant-Colonel John A. Fagg, late of First North Carolina Regiment in the war with Mexico; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

ROBERT JONES.

Mr. VANCE also introduced a bill (H. R. No. 6418) for the relief of Robert Jones, late of Company H, Second North Carolina Volunteers; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

DENNIS M'CARTHY.

Mr. VANCE also introduced a bill (H. R. No. 6419) granting an increase of pension to Dennis McCarthy, late a private in First Virginia Regiment, war with Mexico; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

DAVID H. PERRIN.

Mr. HURD introduced a bill (H. R. No. 6420) granting a pension to David H. Perrin, of South Toledo, Ohio; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

S. E. BRYANT.

Mr. KLOTZ introduced a bill (H. R. No. 6421) for the relief of S. E. Bryant; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

HANNAH E. ALDEN.

Mr. OVERTON introduced a bill (H. R. No. 6422) granting a pension to Hannah E. Alden; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

REBECCA REYNOLDS.

Mr. SMITH, of Pennsylvania, introduced a bill (H. R. No. 6423) granting an increase of pension to Rebecca Reynolds; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

RAILWAY MAIL CONTRACTS.

Mr. COFFROTH introduced a bill (H. R. No. 6424) to regulate the letting of contracts for carrying mails on railways under fifteen miles in length; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

HENRY H. KUHN.

Mr. COFFROTH also introduced a bill (H. R. No. 6425) for the relief of Henry H. Kuhn; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

REPRESENTATIVES OF ANTHONY A. LAWS.

Mr. O'NEILL introduced a bill (H. R. No. 6426) for the relief of the widow and minor children of Anthony A. Laws, late of Company D, Second Regiment Pennsylvania Reserves, (volunteer infantry;) which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM VAUGHN.

Mr. TAYLOR introduced a bill (H. R. No. 6427) for the relief of William Vaughn; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

ANNA K. AND JESSIE J. HAMMOCKS.

Mr. TAYLOR also introduced a bill (H. R. No. 6428) granting a pension to Anna K. and Jessie J. Hammocks, minor children of Isaac Hammocks; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

DRURY A. WHITE.

Mr. TAYLOR also introduced a bill (H. R. No. 6429) granting a pension to Drury A. White; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

GEORGE W. M'PHERSON.

Mr. TAYLOR also introduced a bill (H. R. No. 6430) granting a pension to George W. McPherson; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM H. NAVE.

Mr. TAYLOR also introduced a bill (H. R. No. 6431) for the relief of William H. Nave; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

WILLIAM M. HENRY.

Mr. TAYLOR also introduced a bill (H. R. No. 6432) for the relief of William M. Henry; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

JOSEPH E. GARLAND.

Mr. TAYLOR also introduced a bill (H. R. No. 6433) granting a pension to Joseph E. Garland; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ALLEN ENGLISH.

Mr. TAYLOR also introduced a bill (H. R. No. 6434) granting a pension to Allen English; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

NANCY PRITCHETT.

Mr. TAYLOR also introduced a bill (H. R. No. 6435) granting a pension to Nancy Pritchett; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM M. COLLETT.

Mr. TAYLOR also introduced a bill (H. R. No. 6436) granting a pension to William M. Collett; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CATHERINE E. SALTS.

Mr. TAYLOR also introduced a bill (H. R. No. 6437) restoring a pension to Catherine E. Salts; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

LUCINDA BALLINGTON.

Mr. DIBRELL introduced a bill (H. R. No. 6438) for the relief of Lucinda Ballington; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

RICHARD F. MORGAN.

Mr. DEUSTER introduced a bill (H. R. No. 6439) for the relief of Richard F. Morgan, of Milwaukee, Wisconsin; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate had agreed to the amendments of the House to the amendments of the Senate to the bill of the following title:

A bill (H. R. No. 698) to establish a district and circuit court at Chattanooga, Tennessee.

The message further announced that the Senate had passed without amendment bills of the House of the following titles:

A bill (H. R. No. 270) to reimburse Charles Dougherty for his expenses to the consulate of Londonderry;

A bill (H. R. No. 1064) to grant to the corporate authorities of the city of Council Bluffs, in the State of Iowa, for public uses, a certain lake or bayou situate near said city; and

A bill (H. R. No. 4849) to confirm certain entries and warrant locations in the former Palatka military reservation in Florida.

The message also announced that the Senate has passed, with amendments in which the concurrence of the House was requested, bills of the following titles:

A bill (H. R. No. 2328) to provide for the settlement of the outstanding claims against the District of Columbia and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes; and

A bill (H. R. No. 2508) to regulate the compensation of night inspectors of customs.

The message also announced that the Senate had passed, and requested the concurrence of the House in, bills of the following titles:

A bill (S. No. 74) for the relief of Lieutenant Frank P. Gross;

A bill (S. No. 323) for the relief of the Winnebago Indians in Wisconsin, and to aid them to obtain subsistence by agricultural pursuits and to promote their civilization;

A bill (S. No. 483) for the relief of William L. White; and

A bill (S. No. 1271) to amend sections 2582, 2583, 2607, and 2684 of the Revised Statutes of the United States, relating to the collection district of California.

PAY OF HOUSE EMPLOYÉS.

Mr. SHELLEY introduced a bill (H. R. No. 6440) fixing the compensation of certain officers and employés of the House of Representatives for the fiscal year ending June 30, 1881, and making appropriations therefor; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

DAVID R. DILLON.

Mr. NICHOLLS introduced a bill (H. R. No. 6441) to confer jurisdiction on the Court of Claims to hear and determine the claim of David

R. Dillon, of New York, for compensation for the steamer Amazon while in the service of the United States; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

HEZEKIAH MILLER.

Mr. PERSONS introduced a bill (H. R. No. 6442) for the relief of Hezekiah Miller, of Chattahoochee County, Georgia; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

MRS. ELIZABETH PHILLIPS.

Mr. SPEER introduced a bill (H. R. No. 6443) granting a pension to Mrs. Elizabeth Phillips, widow of George D. Phillips, a soldier of the war of 1812; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

MRS. SAVILLA NATER.

Mr. HOSTETLER introduced a bill (H. R. No. 6444) for the relief of Mrs. Savilla Nater; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

IMPROVEMENT OF HARLEM RIVER.

Mr. MYERS (by request) introduced a joint resolution (H. R. No. 319) authorizing and requiring the Secretary of War to contract for the improvement of the Harlem River navigation, for which an appropriation has been made, with Charles Stoughton, provided the right of way is secured free of charge; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

ARREARS OF PENSION.

Mr. MYERS also (by request) introduced a joint resolution (H. R. No. 320) in reference to arrears of pensions; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MARY A. HOLSTON.

Mr. SAPP (by request) introduced a bill (H. R. No. 6445) for the relief of Mary A. Holston; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ELIZABETH SULLIVAN.

Mr. URNER introduced a bill (H. R. No. 6446) granting a pension to Elizabeth Sullivan, mother of James T. Sullivan, Company H, First Regiment Maryland Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

DONATION OF CONDEMNED CANNON.

Mr. LORING introduced a bill (H. R. No. 6447) donating cannon to the post of the Grand Army of the Republic in Haverhill, Massachusetts; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

Mr. LORING also introduced a bill (H. R. No. 6448) donating cannon to Post 82, Grand Army of the Republic, in Marblehead, Massachusetts; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

Mr. CRAPO introduced a bill (H. R. No. 6449) donating condemned cannon and cannon-balls or field-pieces to William Logan Rodman Post, No. 1, Grand Army of the Republic, for their place of burial; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

SILAS CARR.

Mr. BUCKNER introduced a bill (H. R. No. 6450) for the relief of Silas Carr; which was read a first and second time, referred to the Committee on Accounts, and ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER. All the States and Territories having now been called, the Chair will recognize, for the introduction of bills and joint resolutions, gentlemen who were not in their seats when their States or Territories were called.

SHIP-CANAL ACROSS ISTHMUS OF DARIEN.

Mr. COX introduced a joint resolution (H. R. No. 321) relating to a ship-canal across the Isthmus of Darien, &c.; which was read a first and second time, referred to the Committee on the Interoceanic Ship Canal, and ordered to be printed.

PRINTING OF SENATE BILLS AND RESOLUTION.

The SPEAKER. At the request of the gentleman from Tennessee [Mr. HOUSE] the Chair suggests the propriety of ordering the printing of two Senate bills and a resolution now on the Speaker's table. If there be no objection Senate bill No. 1726, regulating the pay and appointment of special deputy marshals, Senate bill No. 1252, to define the terms of office of chief supervisors of elections, and the concurrent resolution of the Senate proposing a joint rule for counting the votes of electors of President and Vice-President, will be ordered to be printed.

There being no objection, it was ordered accordingly.

ORDER OF BUSINESS.

The SPEAKER. The call of States and Territories for the introduction of bills and joint resolutions is now concluded; and this being the first Monday in the month, motions by individual members for suspension of the rules are now in order.

ENROLLED BILLS AND RESOLUTION.

Mr. KENNA, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and joint resolution of the following titles; when the Speaker signed the same:

An act (S. No. 52) for the relief of John N. Reed;

An act (S. No. 287) for the relief of the heirs of Charles B. Smith, deceased;

An act (S. No. 324) for the relief of Somerville & Davis;

An act (S. No. 392) to remove the political disabilities of John R. F. Tatnall, of Georgia;

An act (S. No. 559) donating condemned cannon and cannon-balls or field-pieces to William L. Curry Post, No. 18, Grand Army of the Republic, for their place of burial;

An act (S. No. 715) for the relief of the estate of N. Boyden;

An act (S. No. 996) for the relief of Monroe Donoho;

An act (S. No. 1148) to amend an act entitled "An act authorizing the commissioners of the District of Columbia to issue twenty-year 5 per cent. bonds of the District of Columbia, to redeem certain funded indebtedness of said District," approved June 10, 1879;

An act (S. No. 1256) to authorize the Secretary of War to improve and repair the Mullan wagon-road between Forts Missoula and Cœur d'Alene;

An act (S. No. 1358) for the payment of certain moneys to the heirs of Constantine Brumidi, deceased;

An act (S. No 1404) to provide for issuing patents for public lands claimed under the pre-emption and homestead laws in cases where the claimants have become insane;

An act (S. No. 1408) to further amend the act entitled "An act to reorganize the courts of the District of Columbia, and for other purposes," approved March 3, 1863, and to amend section 861 of chapter 24 of the Revised Statutes of the District of Columbia;

Joint resolution (H. R. No. 215) requesting the President to open negotiations with certain foreign governments relative to the importation of tobacco into their dominions;

An act (H. R. No. 2046) to authorize a compromise of the claims of the United States under the will of Joseph L. Lewis;

An act (H. R. No. 2862) granting an increase of pension to John H. Black; and

An act (H. R. No. 3351) for the relief of Rev. Paul E. Gillen.

VACANCY FILLED ON CONFERENCE COMMITTEE.

The SPEAKER appointed Mr. RUSSELL, of Massachusetts, in place of Mr. TOWNSEND, of Ohio, absent, as one of the conferees on the part of the House on the disagreeing votes of the two Houses on the river and harbor appropriation bill.

UTE AGREEMENT.

Mr. HASKELL. I move to suspend the rules and discharge the House Calendar from the further consideration of the bill (S. No. 1509) to accept and ratify the agreement submitted by the confederated bands of Ute Indians in Colorado, for the sale of their reservation in said State, and for other purposes, and to make the necessary appropriations for carrying out the same, and pass the same with the amendments reported from the House Committee on Indian Affairs. This is what is known as the agreement bill.

The bill, as amended by the House committee, reads as follows:

Whereas certain of the chiefs and headmen of the confederated bands of the Ute tribe of Indians, now present in the city of Washington, have agreed upon and submitted to the Secretary of the Interior an agreement for the sale to the United States of their present reservation in the State of Colorado, their settlement upon lands in severalty, and for other purposes; and

Whereas the President of the United States has submitted said agreement, with his approval of the same, to the Congress of the United States for acceptance and ratification, and for the necessary legislation to carry the same into effect: Therefore,

Be it enacted, &c., That said agreement be, and the same is hereby, accepted, ratified, and confirmed: *Provided*, That the said agreement shall be amended by adding to the first clause thereof, after the words "guilty parties," the words following, to wit: "Until such surrender or apprehension, or until the President shall be satisfied that the guilty parties are no longer living or have fled beyond the limits of the United States, the proportion of the money, hereinafter provided, coming to that portion of the Ute Indians known as the White River Utes, except for removal and settlement, shall not be paid;" and by adding to the third express condition of said agreement, after the word "forever," the words following, to wit: "*Provided*, That the President of the United States may, in his discretion, appropriate an amount thereof, not exceeding $10,000, for the education in schools established within or beyond the limits of the lands selected of such youths of both sexes as in his judgment may be best qualified to make proficiency in practical industries and pursuits necessary for their self-support, and out of the portion of said moneys coming to the White River Utes the United States shall pay annually to the following-named persons, during the period of twenty years, if they shall live so long, the following sums respectively: To Mrs. Arivella D. Meeker, $500; to Miss Josephine Meeker, $300; to Mrs. Sophronia Price, $500; to George Dresser, $200; to Mrs. Sarah M. Post, $500; to Mrs. Eaton, mother of George Eaton, $200; to the parents of Arthur L. Thompson, $200; to the father of Fred Shepard, $200; to the parents of Wilmer Eskridge, $200:" *And provided*, That the said several amounts so payable as aforesaid shall in the case of the death of either or any of said persons be paid to the minor children of such persons, if any surviving, during their minority; and by adding to the fifth express condition of said agreement, after the word "reaffirmed," the words following, to wit: "This sum, together with the annuity of $50,000 hereinbefore provided, may, in the discretion of Congress, at the end of twenty-five years, be capitalized, and the principal sum be paid to said Indians *per capita* in lieu of said annuities:" *And provided also*, That three-fourths of the adult male members of said confederated bands shall agree to and sign said agreement, upon presentation of the same to them, in open council, in the manner hereinafter provided: *Provided further*, That nothing in this act contained, or in the agreement herein set forth, or in the amendments herein proposed to said agreement, shall be so construed as to compel any Ute Indian to remove from any lands that he or she claims in severalty. Said agreement is in words and figures as follows, namely:

The chiefs and headmen of the confederated bands of the Utes, now present in

Washington, hereby promise and agree to procure the surrender, to the United States, for trial and punishment, if found guilty, of those members of their nation, not yet in the custody of the United States, who were implicated in the murder of United States Indian Agent N. C. Meeker and the murder of and outrages upon the employés at the White River Agency on the 29th day of September, 1879, and in case they do not themselves succeed in apprehending the said parties, presumably guilty of the above-mentioned crime, that they will not in any manner obstruct, but faithfully aid, any officers of the United States, directed by the proper authorities, to apprehend such presumably guilty parties.

The said chiefs and headmen of the confederated bands of Utes also agree and promise to use their best endeavors with their people to procure their consent to cede to the United States all the territory of the present Ute reservation in Colorado, except as hereinafter provided for their settlement.

The Southern Utes agree to remove to and settle upon the unoccupied agricultural lands on the La Plata River, in Colorado; and if there should not be a sufficiency of such lands on the La Plata River and in its vicinity, then upon such other unoccupied agricultural lands as may be found elsewhere in the State of Colorado.

The Uncompahgre Utes agree to remove to and settle upon agricultural lands on Grand River, near the mouth of the Gunnison River, in Colorado, and such other unoccupied agricultural lands as may be found in that vicinity.

The White River Utes agree to remove to and settle upon agricultural lands on the Uintah reservation, in Utah.

Allotments in severalty of said lands shall be made as follows:

To each head of a family one-quarter of a section, with an additional quantity of grazing land not exceeding one-quarter of a section.

To each single person over eighteen years of age one-eighth of a section, with an additional quantity of grazing land not exceeding one-eighth of a section.

To each orphan child under eighteen years of age one-eighth of a section, with an additional quantity of grazing land not exceeding one-eighth of a section; and to each other person, under eighteen years, now living, or who may be born prior to said allotments, one-eighth of a section, with a like quantity of grazing land.

All allotments to be made with the advice of the commission hereinafter provided, upon the selection of the Indians, heads of families selecting for their minor children, and the agents making the allotment for each orphan child.

The said chiefs and headmen of the confederated bands of Utes further promise that they will not obstruct or in any wise interfere with travel upon any of the highways now open or hereafter to be opened by lawful authority in or upon any of the lands to be set apart for their use by virtue of this agreement.

The said chiefs and headmen of the confederated bands of Utes promise to obtain the consent of their people to the cession of the territory of their reservation as above on the following express conditions:

First. That the Government of the United States cause the lands so set apart to be properly surveyed and to be divided among the said Indians in severalty in the proportion hereinbefore mentioned, and to issue patents in fee-simple to them respectively therefor, so soon as the necessary laws are passed by Congress. The title to be acquired by the Indians shall not be subject to alienation, lease, or incumbrance, either by voluntary conveyance of the grantee or by the judgment, order, or decree of any court, or subject to taxation of any character, but shall be and remain inalienable and not subject to taxation for the period of twenty-five years, and until such time thereafter as the President of the United States may see fit to remove the restriction, which shall be incorporated in the patents when issued; and any contract made prior to the removal of such restriction shall be void.

Second. That so soon as the consent of the several tribes of the Ute Nation shall have been obtained to the provisions of this agreement, the President of the United States shall cause to be distributed among them in cash the sum of $60,000 of annuities now due and provided for, and so much more as Congress may appropriate for that purpose; and that a commission shall be sent to superintend the removal and settlement of the Utes, and to see that they are well provided with agricultural and pastoral lands sufficient for their future support, and upon such settlement being duly effected, that they are furnished with houses, wagons, agricultural implements, and stock cattle sufficient for their reasonable wants, and also such saw and grist mills as may be necessary to enable them to commence farming operations, and that the money to be appropriated by Congress for that purpose shall be apportioned among the different bands of Utes in the following manner: One-third to those who settle on the La Plata River and vicinity, one-half to those settling on Grand River and vicinity, and one-sixth to those settling on the Uintah Reservation.

Third. That in consideration of the cession of territory to be made by the said confederated bands of the Ute Nation, the United States, in addition to the annuities and sums for provisions and clothing stipulated and provided for in existing treaties and laws, agrees to set apart and hold, as a perpetual trust for the said Ute Indians, a sum of money, or its equivalent in bonds of the United States, which shall be sufficient to produce the sum of $50,000 per annum, which sum of $50,000 shall be distributed *per capita* to them annually forever.

Fourth. That as soon as the President of the United States may deem it necessary or expedient, the agencies for the Uncompahgres and Southern Utes be removed to and established at suitable points, to be hereafter selected, upon the lands to be set apart, and to aid in the support of the said Utes until such time as they shall be able to support themselves, and that in the mean time the United States Government will establish and maintain schools in the settlements of the Utes, and make all necessary provision for the education of their children.

Fifth. All provisions of the treaty of March 2, 1868, and the act of Congress approved April 29, 1874, not altered by this agreement, shall continue in force, and the following words from article 3 of said act, namely, "The United States agrees to set apart and hold, as a perpetual trust for the Ute Indians, a sum of money or its equivalent in bonds, which shall be sufficient to produce the sum of $25,000 per annum, which sum of $25,000 per annum shall be disbursed or invested at the discretion of the President, or as he may direct, for the use and benefit of the Ute Indians forever," are hereby expressly reaffirmed.

Sixth. That the commissioners above mentioned shall ascertain what improvements have been made by any member or members of the Ute Nation upon any part of the reservation in Colorado to be ceded to the United States as above, and that payment in cash shall be made to the individuals having made and owning such improvements, upon a fair and liberal valuation of the same by the said commission, taking into consideration the labor bestowed upon the land.

Done at the city of Washington this 6th day of March, A. D. 1880.

(Signed)

CHAVANAUX his + mark.
IGNATIO his + mark.
ALHANDRA his + mark.
VERATZITZ his + mark.
GALOTA his + mark.
JOCKNICK his + mark.
WASS his + mark.
SAWAWICK his + mark.
OURAY

Witnesses:

WILL F. BURNS, *Interpreter.*
W. H. BERRY, *Interpreter.*
OTTO MEARS, *Interpreter.*
HENRY PAGE, *United States Indian Agent, Southern Utes.*
CHARLES ADAMS, *Special Agent.*

SEC. 2. That the President of the United States be, and he is hereby, authorized and empowered to appoint, by and with the advice and consent of the Senate, five commissioners, who shall receive compensation for their services at the rate of $10 per diem while actually engaged, in addition to their actual traveling and other necessary expenses; and said commissioners shall, under such instructions as the Secretary of the Interior may give them, present said agreement to the confederated bands of the Ute Indians in open council for ratification, as provided in the first section of this act; and said commissioners shall have a clerk, at a salary of $200 per month, in addition to his actual traveling and other necessary expenses, and who shall give bond in an amount to be fixed by the Secretary of the Interior, and shall act also as disbursing officer for said commissioners. And upon the ratification of said agreement by said tribe as herein provided, said commissioners shall, under the direction of the Secretary of the Interior, appraise the improvements belonging to said Ute Indians upon the lands surrendered by them as provided in said agreement, and report the same to the Secretary of the Interior for settlement. It shall be their duty to take a careful census of said Indians, separating them under said census as follows:

First. Those known in the agreement above referred to as Southern Utes.
Second. Those known as Uncompahgre Utes.
Third. Those known as White River Utes.

Said census shall also show separately the name of each head of a family, and the number of persons in such family, distinguishing those over eighteen years of age from those under eighteen years of age, and giving the names of each separately; also, said census shall show separately the orphan children in each of said classes of Utes described in the foregoing agreement, and they shall make an accurate register of the names, ages, occupations, and general condition of each of the above classes as aforesaid, specifying particularly the number and names of said Indians incapable by reason of orphanage, minority, or other disability of managing their own affairs, and they shall also select lands and allot them in severalty to said Indians, as herein provided, and superintend the removal, location, and settlement of the Indians thereon, and do and perform such other services as the Secretary of the Interior may consider necessary for them to do in the execution of the provisions of this act.

And after the said commissioners shall have performed the duties specifically assigned to them by this act, and such other duties as the Secretary of the Interior may require of them, they shall make a full report of their proceedings to the Secretary of the Interior, which shall set forth, among other things, the name of each person to whom they may have apportioned and allotted lands as herein provided for, with the name and condition of such person, showing who, upon proofs, are considered incompetent to take charge of their property, either as orphans, minors, or for other causes; and shall also exhibit the quantity of land assigned to each person, with the metes and bounds of such allotments. And said commissioners shall make an accurate map of the whole survey and proceeding, showing the partition and division aforesaid, a copy of which map shall be filed with said report; and the Secretary of the Interior shall cause a copy to be filed in the General Land Office, and copies shall also be filed in the office of the surveyors-general of Utah and Colorado, and also in the office of the register and receiver of the land district in which such lands or any portion of them may be situate. Said commissioners shall further report the total number of acres allotted and set apart as provided by the foregoing agreement, the amount of such land tillable without irrigation, the amount of irrigation required, and the probable cost thereof. They shall also locate the agencies for the Southern Utes and the Uncompahgre Utes, shall furnish an estimate of the number of houses required, the cost of each, the number of school-houses required and the number of teachers, and the number of children of school age, and such other data as the Secretary of the Interior may require to enable him to make judicious expenditure of the money appropriated in section 9 of this act; and said commissioners shall exercise direct supervision and control of all expenditures under this act during the time they remain in the Ute country, under the general direction of the Secretary of the Interior; and they shall render a full and detailed account of such expenditure, with the vouchers therefor, as now provided by law.

SEC. 3. That the Secretary of the Interior be, and he is hereby, authorized to cause to be surveyed, under the direction of said commissioners, a sufficient quantity of land in the vicinities named in said agreement, to secure the settlement in severalty of said Indians as therein provided. And upon the completion of said survey and the enumeration herein required, the said commissioners shall cause allotments of lands to be made to each and all of the said Indians, in quantity and character as set forth in the agreement above mentioned, and whenever the report and proceedings of said commissioners, as required by this act, are approved by the President of the United States, he shall cause patents to issue to each and every allottee for the lands so allotted, with the same conditions, restrictions, and limitations mentioned therein as are provided in said agreement; and all the lands not so allotted, the title to which is, by the said agreement of the confederated bands of the Ute Indians, and this acceptance by the United States, released and conveyed to the United States, shall be held and deemed to be public lands of the United States and subject to disposal under the laws providing for the disposal of the public lands, at the same price and on the same terms as other lands of like character, except as provided in this act: *Provided*, That none of said lands, whether mineral or otherwise, shall be liable to entry and settlement under the provisions of the homestead law; but shall be subject to cash entry only in accordance with existing law, the mineral lands at not less than $5 per acre, and the other lands at not less than $1.25 per acre; and when sold the proceeds of said sale shall be first sacredly applied to reimbursing the United States for all sums paid out or set apart under this act by the Government for the benefit of said Indians, and then to be applied in payment for the lands at their cash value, which may be ceded to them by the United States outside of their reservation, in pursuance of this agreement. And the remainder, if any, shall be invested by the Secretary of the Interior for the benefit of the said Indians, in the proportion thereinbefore stated, in 4 per cent. bonds of the United States, and the interest thereon shall be distributed annually to them in the same manner as the funds provided for in this act: *Provided further*, That the subdivisions upon which are located improvements to be appraised, as provided for in section 2 of this act, shall be offered to the highest bidder at public sale, after published notice of at least thirty days by the Secretary of the Interior, and the same shall be absolutely reserved from occupation or claim until so sold.

SEC. 4. That upon the completion of said allotments and the patenting of the lands to said allottees, each and every of the said Indians shall be subject to the provisions of section 1977 of the Revised Statutes and to the laws, both civil and criminal, of the State or Territory in which they may reside, with the right to sue and be sued in the courts thereof: *Provided*, That their lands shall not be subject to taxation or execution upon the judgment, order, or decree of any court obtained on any cause of action which may arise during the period named in the above-recited agreement.

SEC. 5. That the Secretary of the Treasury shall, out of any moneys in the Treasury not otherwise appropriated, set apart, and hold as a perpetual trust-fund for said Ute Indians, an amount of money sufficient at four per cent. to produce annually $50,000, which interest shall be paid to them *per capita* in cash, annually, as provided in said agreement.

SEC. 6. That all salaries paid to any member or members of the Ute tribe under existing treaty stipulations shall be continued for the term of ten years beyond the time fixed in said treaties. And the sum of $4,000 per annum, for the term of ten years, shall be distributed by the President at his discretion to such of said Indians as distinguish themselves by good sense, energy, and perseverance in the pursuits of civilized life, and in the promotion of a good understanding between

the Indians and the Government and people of the United States, and there is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, $4,000 as the first installment for such purpose.

SEC. 7. That the provisions of Title 28 of the Revised Statutes shall extend over and be applicable to every allotment of land provided for in the foregoing agreement, and to the administration of the affairs of said Indians, so far as said provisions can be made applicable thereto.

SEC. 8. That the hot springs, located in what is known as "The Uncompahgre Park," in the Uncompahgre Valley, and four square miles of land surrounding said springs and within said valley, are hereby reserved, and withdrawn from settlement, occupancy, or sale, under the laws of the United States, and dedicated and set apart for the benefit and enjoyment of the people; and, so far as practicable, the provisions of sections 2474 and 2475 of the Revised Statutes are hereby made applicable to said tract.

SEC. 9. That for the purpose of carrying the provisions of this act into effect, the following sums, or so much thereof as may be necessary, be, and they are hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of the Interior as follows, namely:

For the payment of the expenses of the commissioners herein provided, the sum of $25,000.

For the cost of removal and settlement of the Utes, surveying their lands, building houses, establishing schools, building mills and agency buildings, purchasing stock, agricultural implements, &c., as provided in said agreement and in this act, the sum of $350,000.

For the sum to be paid to said Ute Indians, *per capita*, in addition to the $60,000 now due and provided for, the sum of $15,000.

For the payment of the appraised value of individual improvements as provided herein, the sum of $20,000.

For the care and support of the Ute Indians in Colorado for the balance of the current fiscal year, the sum of $12,000: *Provided*, That with the exception of the appropriation for expenses of the commissioners, the above appropriations shall become available only upon the ratification of said agreement by three-fourths of the male adult members of the Ute Indians as provided in this act, and the certification of such fact to the Secretary of the Treasury by the Secretary of the Interior.

SEC. 10. If the agreement as amended in this act is not ratified by three-fourths of the adult male Indians of the Ute tribes within four months from the approval of this act, the same shall cease to be of effect after that day.

The SPEAKER. The question is on seconding the motion that the rules be suspended.

Mr. HASKELL. That can be done by unanimous consent.

There was no objection, and the motion was seconded.

The SPEAKER. Under the rules, fifteen minutes is allowed for debate on either side.

Mr. GUNTER. If the previous question is ordered, what time will be allowed for discussion?

The SPEAKER. There is no previous question on this bill, as the motion is to suspend the rules and take the bill from the House Calendar and pass it with the amendments of the House Committee on Indian Affairs.

Mr. GUNTER. Is discussion allowed on the bill?

The SPEAKER. Yes; under the rules, fifteen minutes on each side.

Mr. GUNTER. I trust and hope a longer time will be given to the discussion of this bill. It is of great importance both to the Government and to the Indians. Besides, it appropriates a large sum of money, which ought to be considered before it is passed by this House.

Mr. BAKER. I suggest, by common consent, half an hour be allowed to each side for a discussion of the pending motion.

The SPEAKER. Is there objection?

There was no objection; and it was ordered accordingly.

Mr. WARNER. Is the bill open to amendment?

The SPEAKER. It is not, as the motion is to suspend the rules and pass the bill as amended by the Committee on Indian Affairs of the House.

Mr. HOOKER. I ask whether it is not in the power of the House to take a separate vote on the amendments proposed by the House committee?

The SPEAKER. It is not. The motion is to suspend the rules and pass the bill with the amendments recommended by the House Committee on Indian Affairs.

Mr. HOOKER. I understood, in reference to the last amendment, those in favor of the bill do not particularly desire that amendment.

The SPEAKER. Half an hour is allowed for debate on either side, and the hour begins at thirty-four minutes past twelve o'clock.

Mr. SPRINGER. Unless there is demand for time for debate, and nobody now seems disposed to take the floor, I ask, without further debate, the House proceed to vote on the motion to suspend the rules and pass the bill.

The SPEAKER. The Chair supposed the gentleman proposing to extend the time for debate under the rule wished to occupy the floor.

Mr. SPRINGER. I do not understand that anybody desires to debate this bill.

Mr. GUNTER. I wish to discuss this matter for a few minutes.

The SPEAKER. How much time does the gentleman from Arkansas want?

Mr. GUNTER. I would like to have twenty minutes at least.

Mr. TOWNSHEND, of Illinois. On what side?

Mr. GUNTER. I shall oppose the bill.

The SPEAKER. The gentleman from Arkansas is recognized to speak in opposition to the bill for twenty minutes.

Mr. GUNTER. Mr. Speaker, I oppose this bill now under consideration because it is impracticable, inexpedient, and unjust, and because it inaugurates a new policy to be hereafter pursued by the Government with the Indian, a policy which commences in wrong upon our part and will end in the destruction of the Indian.

Since 1828 the Government of the United States has sturdily pursued one line of policy with the Indian. It has endeavored to isolate them from the white man, to place them upon reservations, where they would be free from encroachments when holding their lands in common, and, living under the tribal relation, they could be elevated to a higher degree of civilization and usefulness. That policy has been successful. Through and by it we have seen the Indian passing from the nomadic, through the pastoral, to the life of settled citizens.

Now, it is proposed to overturn this system that has proven good and inaugurate a new one—an experiment—to tear the wild Indian from his wild, free life, and make a farmer or mechanic of him at once by act of Congress. As well attempt, Mr. Speaker, by the same means to harness the wild buffalo to a cart and set him to drawing stone and timber. The thing is impracticable, and none but visionaries deem it anything else.

Mr. Speaker, I said this was "an experiment." It is not altogether so. The plan of allotments in severalty to Indian tribes has been tried and has failed. Fourteen bands or tribes of Indians have had lands given them in severalty. Of these two bands were half breeds, and in only four instances (these two included) has there been even a partial success, and in every instance the Indian bands with whom it was tried were more or less civilized. Out of the 13,653 Indians to whom allotments were made, only 1,226, less than 10 per cent., have profited by it.

Most of these Indian tribes were located in Kansas; they were brought to the verge of ruin and starvation by it, and then the United States required the Indians of the "Territory," who in their tribal relation were flourishing and on the road to civilization, to surrender a portion of their lands to the Indians with whom this experiment had been tried. They were removed to the Territory, the tribal relation re-established, their lands held in common, and these same Indians are now on the high road to civilization—the broad and beaten path that leads by easy stages to a higher life.

Mr. Speaker, this proposed law is unjust to the Utes, because only a short time ago (March 2, 1868) the United States gave to these Indians a tract of land in consideration of their surrender of certain other lands, and now it takes that away from them. It is impolitic, it is robbery.

Lands given to them in severalty would result as it did with the Pottawatomies. Read the history of that attempt. The law provided, as does this, against alienation; it went further, it allowed no patent to issue until after the death of the Indian to whom it was due. What has been the result? The Indians have been induced to leave their homes, then reported dead, guardians and administrators have been appointed, and the lands have been stolen—that is the plain English of it—stolen by a band of conspirators, such a band as would in a few years gobble that we are now proposing to secure in severalty to the Utes. But, sir, if it were practicable, if it were just, I should still oppose it, because, as I said before, it is the inauguration of a new policy toward the Indian, a policy to which I am unalterably opposed, and behind this bill lurks another that contemplates greater injustice, more glaring wrong, than is contained in the one now under consideration here.

I allude to House bill No. 5038, which has been considered by the Indian Committee and reported to this House for consideration and action. The demands of civilization may require the removal of the Utes from the lands they now occupy. We have the highest authority or such removals. The inhabitants of Canaan were required to give place to the descendants of Abraham, and these nomads must give way to the civilization that builds cities, opens farms, develops mines, constructs railroads, and provides subsistence for thousands where only hundreds can exist. But that is no reason why their entire system of life should be overturned. Nor, Mr. Speaker—and I weigh well the import of my words—is this bill intended for the Utes only. No, sir; hidden behind it, to be dragged forth with this bill, to be cited as a precedent, is House bill No. 5038, which I shall consider in connection with this.

This Senate bill giving the Utes their lands in severalty is but the entering wedge, the first step toward one more attempt at the integrity of the Indian Territory, the first move by which all the Indians, civilized, semi-civilized, and savage, shall be deprived of the homes that have been guaranteed to them by every pledge this Government can make. Believing this I shall treat the subject in its broader features as developed in House bill No. 5038.

I have said, Mr. Speaker, that our present system with the Indians commenced in 1828. As far back as 1822 Mr. Calhoun, then in charge of Indian affairs, called the attention of the Secretary of War to the evil effects of surrounding Indian tribes with a dense white population, and said:

> In that state tribe after tribe will sink with the progress of our settlements and the pressure of our population into wretchedness and oblivion. Such has been their past history.—*Am. State Papers, 2d Ind. Aff.*, 276.

His successor, Mr. Barbour, made a treaty in May, 1828, with the Cherokees west of the Mississippi, which speaks of them as having—

> Freed themselves from the harassing and ruinous effects consequent upon a location amidst a white population, and secured to themselves under the solemn sanction of the guarantee of the United States, as contained in this agreement, a large extent of unembarrassed country, and offers inducements to their brothers yet remaining in the States to join them and enjoy the repose and blessings of such a state in the future.—7 *Statutes*, 313.

The Secretary of War, Governor Cass, writes to the Creek chiefs, in November, 1831, that—

> For twenty years I have been in habits of daily intercourse with the Indians. I have seen and lamented their misfortunes, and still see and lament them. * * *

I have not found a single tribe which is not poor, dispirited, and declining. * * * Can you avoid this state of things in your present situation? * * * You have but one remedy before you, and that is to remove to the country west of the Mississippi.

In a letter to Governor Gilmer, of Georgia, on the removal of the Cherokees, General Eaton, Secretary of War, said:

It is undeniably true that to remove from their present home affords the only hope for their preservation and happiness. * * * Pending the examination of these questions before Congress, the suggestion has been frequently made that the Indians if placed in the West may again be subject to intrusion and interruptions. This is assuming too much and more I should fain hope than the good faith of this Government will authorize to be conjectured. * * * If Congress shall do no more for them, they will doubtless place at the disposal of the Executive authority sufficient to prevent the white people from over interfering or intruding upon their soil and their rights. * * * Their only reliance for the future against these imputations upon the faith of the Government which are so gratuitously made must be on the magnanimity and high sense of justice which prevail with the people and authorities of this country in their favor, and in this confidence they should not and will not be disappointed.—*Page* 2.

In a letter of appointment to the superintendent of Cherokee emigration, B. F. Currey, September 1, 1831, Secretary Cass says:

Let them know that the President feels for their situation; that he is satisfied they had better remove and soon; and that where we wish them to go they will find a mild climate, a fertile country, and the means of preserving their institutions without the interference of the white people.—*Page* 331.

In the instructions to the commissioners appointed to treat with the Indians under the act of July 14, 1832, Secretary Cass says:

In the great change we are now urging them to make it is desirable that all their political relations as well among themselves as with us should be established upon a permanent basis beyond the necessity of any future alteration.—*Page* 873.

In pursuance of this policy of isolation, suggested as the only one for the preservation of the Indians, and at the same time to remove them from the pathway of the whites, the United States entered into treaties with the Cherokees, Creeks, and some other tribes of semi-civilized Indians, by which they were to be removed westward beyond the limits of any State or Territory. These Indians had adopted a pastoral life, having advanced from the nomadic stage of hunters, living by the chase, to that of owning flocks and herds. It was then believed that the vast prairies of the West were unfit for tillage, and could never support any but a pastoral people. Except along the borders of the great river there were but few whites west of the Mississippi, and the wildest imagination had not conceived that in less than half a century millions of people would be living west of the river, and that these, supposed to be barren prairies, would be the granary of the world.

Under this view it was determined to remove the Indians to the outermost border of where civilization could extend. A large tract of country was selected west of Arkansas, in the prairies, and the Indians were given that. The treaty with the Cherokees says:

Whereas, it being the anxious desire of the Government of the United States to secure to the Cherokee Nation of Indians, as well those now living within the limits of the territory of Arkansas as those of their friends and brothers who reside in the States east of the Mississippi, and who wish to join their brothers of the west, a permanent home, and which shall, under the most solemn guarantee of the United States, be and remain theirs forever—a home that shall never in all future time, be embarrassed by having extended round it the lines or placed over it the jurisdiction of a Territory or State, nor be pressed upon by the extension, in any way, of any of the limits of any existing Territory or State.

This treaty was proclaimed May 28, 1828, and the words can be found on page 56 of the Revision of Indian Treaties. The treaty with the Creeks of April 4, 1832, contains a similar provision. In fact, every treaty made by the United States with any tribe of Indians contains the substance of such a clause, or it is implied by the terms agreed upon.

And now, sir, after having made this agreement, after having given permanent homes to many tribes where they are fast advancing in civilization, what is proposed here, first, by the Senate bill giving the Utes their land in severalty, and then by the change of policy commenced therein and carried out in House bill No. 5038? We have promised the Indians that they shall have their lands and shall not be surrounded or intruded upon by white men. We have given these lands and this promise for the peaceful surrender of other lands, more valuable, wanted by white men, and in the track of our civilization and progress. Under the communal system of land ownership we have seen the Indians gradually passing from the nomadic through the pastoral life to a higher civilization.

We have seen them progress on the road until they have produced farmers, mechanics, artisans, doctors, lawyers, preachers, soldiers, many of whom compare favorably with white men of the same trades and professions. We see this gradual progression, the tribes and nations first settled under that policy being in advance, the others following closely in their footsteps, and why should we now be guilty of the injustice of tearing down the fabric we have raised? Why should we break the plighted faith of the Government to undo what is being so well done? Our object has been, and is, to civilize the Indian. Under the plan adopted that object is being rapidly attained. It is no experiment, but an assured success. Civilization is a plant of slow growth. Centuries elapsed before the Saxon tribes, from which we are descended, passed from their mud huts to the Parliament House, from the Druid temples of trees and altars of stone to Saint Paul's. Aided by our advancement, the Indians are progressing more rapidly. Let us not be guilty of checking their march on the road to a higher life.

I cannot take up these measures, Mr. Speaker, and consider them, section by section, but must consider the principles involved. House bill No. 5038, in the first section, provides for a survey of all Indian reservations and an allotment of the lands; the seventh exempts five reservations; and the ninth and last exempts all or any of the others until the consent is obtained of two-thirds of the male Indians over twenty-one years of age. Should such a bill be adopted at all the seventh and ninth sections should be stricken from it; and as it assumes that we are masters and the Indians are but slaves or dependents all should be treated alike. But, sir, we are considering the bill as reported from the committee, and section 9 reads as follows:

SEC. 9. That the provisions of this act shall not extend to any tribe of Indians until the consent of two-thirds of the male members twenty-one years of age shall be first had and obtained.

No provision is made as to how the consent herein provided for is to be obtained, and we can only infer that it shall be done by "special agents designated by the Secretary of the Interior for such purpose," as it is ordered in section 3 as to the allotments. Now, sir, it is not necessary to state whether I am a believer in the doctrine of the total depravity of man or not, but I freely declare, and without hesitation, that I am a believer in the total depravity of special agents selected by the powers that be. The late revelations made and now being made as to the manner in which the removal of the Ponca Indians was brought about tells the story of how the Indians would be induced (?) to give the consent required by the section. Sir, this section provides for a new era of deception to be practiced on the Indians. It is a Pandora's box, from which will escape innumerable ills in the shape of Indian wars brought on by unscrupulous "special agents," who will induce the Indians to consent to the provisions of this bill by falsehood and fraud, the fruits of which will be gathered by the hardy pioneers of the West in destroyed homes, captive children, murdered men, and outraged women. Sir, I propose not to assist in planting trees that will bear such fruit.

But, Mr. Speaker, supposing "the consent" required by section 9 obtained, though it never will be except in the way of which I have spoken, the next step is to survey the land. There should have been added to this section a clause increasing the Army to fifty thousand effective men, for that number will be needed to protect the surveyors in their duty. Should any of the Indians be deceived into consenting—as many no doubt will be if this bill becomes a law—to its provisions, when the surveyors come with their instruments to make the surveys, when the Indians see these men making their (to them) mysterious marches and marks, they will resort to the rifle and scalping-knife to remove the intruders. An army will be needed to hold them in subjection while the surveys are being made. Whatever else I may seek to do, I shall never ask the position of surveyor to run "a provisional line" between the improvements of "two or more Indians" as is provided shall be done in section 2.

After the survey comes the allotments of the land to the Indians in severalty. Here another swarm of special agents is provided for; another hive from which rascals may suck and grow fat. Can this House, responsible as it is to the nation, to its constituents, to the people of the country, in view of what has been shown as to the acts of "special agents," afford to provide for these new pap-suckers upon the Treasury, who with one hand rob the people and with the other the Indians? If it can, I shall be no party to the scheme.

Then comes the selection of the allotments. Each Indian, or his guardian if under a certain age, is "to select" the prison-house provided for him. Sir, if a territory were surveyed and set apart by act of Congress, as this is proposed to be, for the benefit (?) of the clerks in one of the Departments—say of the members of this House—many of whom are the sons of farmers and were reared upon farms, and each clerk or member was told "you are entitled to one hundred and sixty acres of land in the territory of Eutopia; henceforth you are to be a farmer; go and select the best one-hundred-and-sixty-acre tract for farming purposes you find in the territory," how many of us, how many of these clerks have the necessary qualifications to make the best selection? Not many, I expect. How, then, can we expect the Indians, who know nothing of farming, to make such choice as will give them the best land of that set apart for them? It seems to me, sir, that I can almost see the smile upon the faces of these proposed "special agents," who are gloating over the chance given them to induce the Indians to select the poorest lands, leaving the best for them to speculate upon.

The plan, then, is "impracticable," first, because the Indians will not freely consent to it; secondly, because if they were to be deceived into consenting they would not peaceably abide by the results; thirdly, because it is impossible to change the habits acquired by centuries of usage, handed down from generation to generation, by a mere act of Congress; and, fourthly, because if all these reasons could be overcome the whites would not abide by it.

Now for its injustice. The blackest page in American history is that which records the dealings with the Indians. From the day when Las Casas denounced the cruelties of the Spaniards to the present time that history has been one of wrong and oppression, one unending, oft-repeated story of duplicity and fraud, of violated pledges, of broken faith. I do not stand here to hold the Indian up as a model of honor, uprightness, and faith. I have not gained my knowledge of him from the pages of Cooper's novels or the report of psalm-singing Indian agents, but from actual personal intercourse, and I claim to know something more of the Indian character than those who model

him after Uncas, the last of the Mohicans, or who picture him as an unchained devil.

Centuries of wrong, injustice, deception, and cruelty have left their impress upon the Indian character. White men have always been unjust to them, and therefore they distrust white men. This injustice has not been confined to individual white men—the borderers who, rifle in hand, took possession of their homes and hunting-grounds. These might have been passed by as the acts of individuals for which individuals alone were responsible, but for every wrong of that kind the Government has been guilty of a greater one. For every individual murder there has been a Government butchery, extending from the time of King Philip to the Piegan massacre. For every individual raid there has been a wholesale Government robbery. For every instance of personal faith broken there is a parallel of a broken treaty. The Indian who stood in the center of the grand dome which adorns this building epitomized the history of our transactions with the Indians. He eyed closely and curiously those monstrosities in the way of bas-reliefs over each of the doors leading from the Rotunda. After examining them closely, he turned to the one over the east door and said, "Indian giving white man corn." Looking to the West he exclaimed: "Indian woman saving white man's life;" then to the north, "White man cheating Indian out of his land;" facing this wing he said: "White man killing Indian." How many truths were thus tersely expressed.

I do not justify the Indians in their massacre of whites. The wrongs individuals or the Government have done to them is no justification for their cruelties. Each and every attempt upon the part of the Indians, whether successful or not, at robbery or murder, should meet with swift and sure punishment, such punishment as would deter future acts of a similar kind. There should be no mawkish sentimentality, no false philanthropy on this subject. Instead of that we should do as nearly substantial justice as is possible, and then punish crime with severity.

The needs of advancing civilization, the wondrous growth of this country, have imperatively demanded that the Indians should be placed within circumscribed limits. The good of mankind demanded that the hunting-grounds, which supported only a few nomadic tribes, should be turned into fertile fields teeming with the products which feed and clothe the civilized world, and dotted with cities and towns, where the whir of machinery replaces the stillness of nature. This has been done. The Government has "treated" with the Indians as the owners of the soil, and has bought it from them, giving them other homes and promising them such other payment as was deemed proper.

In doing this we have always respected the tribal or communal relation. We have given lands to the "tribes," not to the individual. The experiment has worked well. The Creeks, Cherokees, Choctaws, Chickasaws, and Seminoles settled in the Indian Territory are now classed as "civilized tribes." Their improvement has been steady and rapid. If I am not mistaken, there are gentlemen now on the floor of this House as honored representatives of the people who a few short years ago were in the everglades of Florida engaged in fighting "the savage Seminoles." That tribe was conquered. It fought desperately and with all the cruelty of savage warfare. It was settled in "the Nation" about forty years ago. The Seminoles are now recognized as a "civilized" people. They have changed from their nomadic habits and are fast adopting all the forms and habits of civilized life. This is a wonderful success. What is true of the Seminoles is true of the other tribes I have named, except that the latter have been longer engaged in the transformation process, and perhaps may be further advanced.

All this has been done while the tribes continue to hold their lands in common. Why, then, should we pursue after a novelty when the problem of Indian civilization is solved? Why seek new methods when the one already chosen is leading to the desired results? Why wander off into an unknown pathway when a broad and beaten road leads directly to the point aimed at? Why violate the pledged faith of the nation, when time has proven that the policy inaugurated in that pledge is the correct one?

Time and again, in treaty after treaty with tribe after tribe, the Government has pledged itself to preserve the reservations given to each tribe intact; to protect the Indians to whom any tract was granted from the predatory inroads of other Indians, and from the settlement of whites on their lands. There is hardly a page of the ten hundred and fifty-three of this book, containing the revision of Indian treaties, that does not contain such a promise, express or implied, and this bill proposes at one fell swoop to disregard them all. Section 5 of the bill contains the following:

That at any time subsequent to the completion of an allotment of land upon any reservation, as provided in this act, the Secretary of the Interior may, in his discretion, direct the unallotted lands in said reservation to be appraised by three competent, disinterested persons, whose compensation shall be fixed by him, in tracts not exceeding in extent one-eighth of a section, according to the legal subdivisions, at their actual cash value, which in no case shall be less than $1.25 per acre; and should there be any improvements upon the lands to be thus appraised which were made by or for said Indians, or for Government purposes, the said appraisers shall appraise the said improvements separately; and upon the completion of said appraisement the Secretary of the Interior shall be, and hereby is, authorized to offer the same for sale, at private entry, at the United States land-office in the district where the lands are situate, to actual settlers thereon, at the appraised value thereof. Each purchaser shall have the qualifications of a pre-emptor under the requirements of existing pre-emption laws of the United States, and shall be entitled to enter, at their appraised value, of the lands designated as chiefly valuable for agricultural purposes, not more than one hundred and sixty acres in the aggregate, and an additional tract of forty acres of the land designated as chiefly valuable for its timber; and the purchaser shall pay one-third of the purchase price or appraised value of the lands designated as chiefly valuable for agricultural purposes at the time of the entry thereof, one-third in two years, and the remaining one-third in three years from the date of such entry, with interest at 5 per cent. per annum, and the full appraised value of the timbered lands shall be paid at the date of entry.

This clause abrogates a part of every Indian treaty now on our statute-books. And, Mr. Speaker, may not this clause furnish the answer to the questions I have asked as to the reasons for the great change in our Indian policy which is proposed by the bill?

But, Mr. Speaker, some advocate of this bill will say "we excepted the five civilized tribes from its provisions." That is true, sir. The seventh section of the bill reads:

SEC. 7. That the provisions of this act shall not extend to the five so-called civilized tribes in the Indian Territory.

Sir, that must be an incomprehensible clause to those who do not understand the influences at work here to secure the passage of this bill. If there are any Indians to whom this measure of giving lands in severalty should be applied, the ordinary mind would say at once it should be to those furthest advanced in civilization. Why, then, this section that says, "That the provisions of this act shall not extend to the five so-called civilized tribes in the Indian Territory?"

I will endeavor to answer that question. In doing it I shall have to call your attention once more to section 9, which says:

SEC. 9. That the provisions of this act shall not extend to any tribe of Indians until the consent of two-thirds of the male members twenty-one years of age shall be first had and obtained.

For many years past these "so-called civilized tribes" have had, in the Territory given to them as a permanent home, farms, schools, churches, newspapers, legislatures, courts, and all the paraphernalia of civil government. They have had here in this city representatives who in point of intelligence and culture rank with the best of us. They have advanced to such a degree of civilization, even if it is only "so called," that no "special agent," however smart or unscrupulous, could secure the necessary two-thirds provided for in section 9, and hence these "so-called civilized tribes" are excepted. They have progressed so far in "so-called" civilization that they cannot be imposed upon or deceived by "special agents," hence they are "excepted" from the provisions of this act.

Sir, this leads me to the consideration of the question as to who are the advocates of this bill, or rather of the policy inaugurated by the measure now before us.

It is a well-known fact, Mr. Speaker, that for many years "the five so-called civilized tribes" in the Territory have not only had legislatures, courts, judges, &c., at home, but have had representatives selected by the legislative councils resident here. Other tribes have legislative councils and send representatives to the capital to attend to their interests. These representatives, it is conceded, are gentlemen of intelligence and standing, and we on this floor must concede that they represent the views of their people or stultify our own positions, for they are selected in about the same manner that we are. Will any gentleman point me to the accredited representative of a tribe here who favors this measure? Will they show me one that does not oppose it—bitterly, persistently oppose it? Can the proceedings of any legislative assembly, any council of any single one of the civilized or semi-civilized tribes be shown in its favor? Has not every tribe protested in every way possible for them to do against this or any cognate measure? It is well known that they have. The room of the Committee on Indian Affairs—this House—has been flooded with memorials, remonstrances, and petitions against this change in our policy toward the Indians. It is a patent fact, undisputed and indisputable, that the Indians are universally opposed to it. Who, then, is it that desires it?

There are two classes. One of them is composed of a body of *doctrinâires*, who conceive that they can improve upon the work of the Almighty; fanatics, who believe themselves destined to regenerate mankind and inaugurate the millennium; visionaries, who think that an act of Congress can in an instant change not only the color of a man's skin, but eradicate the habits of mind and body acquired through centuries of use and descent. These men besiege Congress, the President, and the Executive Departments, endeavoring to impress their ideas, if the crude imaginings of their overwrought brains can be called "ideas." They are to be pitied for their ignorance or stupidity on this question.

But there is another class who are more persistent, more active, more ingenious in their efforts to secure this legislation. They are neither ignorant nor stupid; on the contrary, they are as wide awake and active, as alert and watchful, as the sharks that surround a vessel in the Indian seas loaded with fresh meat; and they resemble nothing else in animated nature so much as these voracious monsters of the deep. In fact, they are land-sharks, ready with gaping mouths to swallow up the domain which the Government has sold, not given, to the Indians for a permanent home, and which they are trying unjustly to control.

It became necessary, or was thought necessary a few years ago, that a railroad should pass through the Indian Territory north and south and east and west. Charters were granted to companies to build these roads and land grants made to them, which were to take effect

when the lands of the Territory were surveyed and the Indian title extinguished. Both these railroad charters have passed into the hands of that railroad wrecker, Jay Gould. Since the day they were granted the corridors of this House have been infested with men who advocate this measure. Since Gould became the owner of these roads they have swarmed here like the lice in Egypt. They penetrate to committee-rooms; they besiege members in the corridors; they waylay them in the cloak-rooms; they meet them on the stairways; they join them in the restaurants; they call on them at their rooms; they are here, there, everywhere. With them and of them are the land-grabbers who expect to secure the lands in other reservations, the men who hope to be surveyors and special agents; and they are the men who are asking Congress for this legislation, to do this monstrous wrong, to change the policy that is working so well and launch upon the sea of experiment.

Mr. Speaker, shall we—and that is the question before us—shall we follow the advice of the land grabbers, these railroad wreckers, these would-be special agents, these visionaries, these paid lobbyists of Jay Gould, or shall we consult the wishes of the Indians, the dictates of common sense, the instincts of humanity and the pledged faith of the Government? We have to choose between, and I, sir, have enough confidence in the ability and integrity of this House not to doubt as to its verdict.

Mr. Speaker, these are the reasons which I conceive should actuate every member of this House to oppose the bill now before it. But I, sir, have others which may be called "selfish," but which I shall not hesitate to give even if they are. I am here, sir, as one of the Representatives of the great State of Arkansas. I said "great," because it is great in everything that adds to the material wealth of the world. Its agricultural lands are unequaled; corn, cotton, wheat, and all the fruits of the temperate zone are produced in perfection. Its forests contain a greater variety and more valuable timber than those of any other State. Its mountains teem with coal, iron, copper, silver, and other valuable minerals; its streams furnish water-power enough to run the machinery to manufacture the products of a dozen States, and all it needs to put it in the front rank of States is an influx of hardy husbandmen, industrious miners, and skilled artisans. With them would come the capital to build factories of all kinds, to open and work our mines, to build railways, and give us the means of ingress and egress and facilities for transporting our varied productions to those who need them.

Thousands upon thousands of people can find homes—homes where peace and plenty will reign; where neither the gaunt specter of poverty, the hand of oppression, nor the vision of the "bloody shirt" can reach them; and I should consider myself derelict in my duty toward my State if I failed to oppose any measure which it is at all probable would turn immigration away from within its borders. The passage of this bill would. We are seeking, through immigration societies and in every other way, to attract people to Arkansas, and I cannot and will not favor any measure which may prevent it. We are trying to induce capital to seek investment in building railroads in the State, and the passage of this bill would inure against us, and therefore I oppose it. This immigration would pass us by; this capital would leave us; railroads would pass us by on the other side; not because the Indian Territory has superior advantages, but because of that seeming law of the American nature which impels us to "go West." These reasons may, as I said, be called selfish ones, but if there were no others they would control my action. I do not expect them to influence other Representatives who are not similarly situated, (there are several such,) but I think I have given sufficient reasons that cannot be called "selfish" to justify, nay, to impel, every one to vote against the passage of this bill.

Mr. Speaker, it may be asked, what would you have? You are opposed to this policy. What do you want? I will answer. So far as the Territory is concerned, I would retain the *statu quo;* leave it as it is. The Indians there are working out the problem. When the time comes for them to desire their lands in severalty and to sell the remainder after a division is made—to sever their tribal relationship and enter upon the duties of citizenship, they will know it, and they will come to us or our successors and ask for it. Until that time comes let us disregard the cries of interested self-seekers and let well enough alone. So as to the tribes settled elsewhere on reservations, with one change. I would dispense with the "maternal" care of the Interior Department, and place the Indians under the "paternal" control of the War Department.

There are several reasons for this change; reasons that are unanswerable and call upon us to act at once. While we make treaties with them we still regard, have treated, and are now treating the Indian tribes in the nature of wards or dependents, for whom we have to care. Our theory is wrong; our practice right. When the Indians had a continent over which to roam in search of game they could care for themselves and provide for the wants of savage life. In their present prescribed limits they could not do that, nor can we permit them to remain savages. They are in the transition state, neither chrysalis nor butterfly, neither savage nor civilized. They need a firm hand to guide them, a firm will to repress the savage instinct when it predominates, an honest heart and hand to encourage them in the paths that lead to a self-sustaining, independent, civilized life.

The officers of our Army are gentlemen, trained to habits of command, honest and fearless, placed by their positions beyond the temptation to do wrong; and "lead us not into temptation" embodies the wisdom of the world. Under their charge the Indian would receive his dues, be protected in his rights. His savage instincts would be repressed and controlled, his savage outbreaks, should they occur, meet with swift and sure punishment. Authority would be enforced and respected. There would be no bullying to-day and cringing to-morrow, and, above and beyond all, there would be honest, fair, straightforward dealing, which the simple and untutored mind of the Indian could understand. Indian agents would not collude with thieving contractors to rob the Indians, and there would be no Meeker massacres nor Sitting Bull robberies. The Indians would soon understand that they were protected in their rights, and that they would be punished for any wrongs committed. We would know, when we voted the money of our constituents to aid in the support and civilization of the Indians, that it was honestly applied, not diverted to the pockets of agents and contractors or to election campaign funds, but used for the purposes for which it was intended. There would be no more scandals in the Indian Office, no more commissioners brought to trial before irresponsible bodies, no more caning matinees between ex-contractors and ex-secretaries.

Mr. Speaker, the demand for this change is imperative. It comes to us in such shapes that we cannot ignore it. Justice, humanity, common sense, common honesty, all cry aloud for it. Let us heed the cry.

As to the wild Indians, those not yet on reservations, or but lately placed there, let there be one uniform rule. Let reservations be selected, not in arid deserts or upon barren mountains where the hardiest sons of toil could not extract a living from the burning sands or barren rocks, but in places where men can live and thrive. Let all the Indians, by tribes, be placed on the reservations selected for them. Place an officer of the Army in charge of each reservation. Give to each tribe, according to its numbers, enough to live upon. Teach them the dignity of labor. Keep the white men from mingling with them. Let the punishment for savage outbreaks be commensurate with the crime; let it be quick as the lightning stroke and sure as the vengeance of the Almighty. Teach the Indian the necessity of observing the law, and impress this upon his mind by a strict observance upon our part of all agreements and the Indian question will be solved.

Mr. Speaker, for the reasons I have given and for many others time will not permit me to give I am unalterably opposed to the bill now under consideration and in favor of the policy I have indicated. We, sir, constitute one of the greatest and most powerful nations of the earth. We cannot afford to be dishonest toward the weak—we dare not oppress the feeble, for though we are supreme here, as individuals and as a nation we are accountable for our acts. Nations rise to power through labor, justice, right, and they crumble to decay when they practice wrong.

> Though the mills of God grind slowly, yet they grind exceeding small;
> Though with patience stands He waiting, with exactness grinds He all.

Mr. ERRETT. Mr. Speaker, my objection to this bill is that it settles nothing, although it purports to be a settlement, and its passage is advocated as a settlement of the Ute problem. In my judgment it settles nothing beyond the fact that it is an attempt to embody, under the most unfavorable and unpromising circumstances, the pet project of the Secretary of the Interior, to settle all Indian troubles by giving each Indian a quarter section of land.

In 1868 this Ute problem was "settled," as was then thought, on a permanent basis, by an agreement with the Utes and an act of Congress to carry the agreement into effect. But twelve years have passed and we are now asked to unsettle that settlement by adopting a new one which, in all human probability, will be as short-lived as its predecessor. Instead, therefore, of being a "settlement" of a great difficulty, it is a mere temporary expedient, to be set aside when some new problem comes up to be settled.

The idea of a "settlement" of anything connected with Indian affairs is preposterous. There never has been a treaty or an agreement made with any tribe of Indians that was not, at the time of its adoption, held out as a final and conclusive settlement of a troublesome problem; yet there never has been a treaty or an agreement with them that has been faithfully observed by us or that we have not felt at liberty at any time to regard as an instrument to be altered and amended at our pleasure. Let any student of the Indian problem take up the volume of Indian treaties and note how grandly (on paper) we started out to deal with the aboriginals, and yet how constantly and persistently we have forced the various tribes to consent to change after change, every one of which was to be a finality, and no one of which has been.

The administration of Washington, at the outset, expressed a strong desire to deal fairly with the Indians, and its treaties all bear evidence not only of a fair spirit, but of a sincere desire to protect them in their territorial possessions and promote their advancement in civilization. But presently the white settlements drew up to the Indian borders, then began to overlap them; and soon followed new treaties, contracting their borders, until finally the southern Indians were practically driven out, to find refuge in what is now known as the Indian Territory, but which was then beyond the outposts of civilization. There were no settlements then near them, and it was currently thought there never would be.

For awhile we thought we had thus solved that problem, and the

removal of the southern tribes, when accomplished, was thought to be a final "settlement." But now at last the tide of immigration is surging all around that Territory; and the "settlement" of fifty years ago is as far from a finality as ever. Longing, eager, covetous eyes are bent upon the lands to which we gave the Indians a title in fee-simple; and every session the congressional ear is vexed with plans and schemes to open up the Indian Territory for settlement. Our faith pledged to the Indians is nothing; a fee-simple title is nothing; our solemn treaty stipulations are nothing; the "settlement" of the vexed Indian question effected in times past is nothing. We must, we are told, yield to the hunger of the land-sharks and throw the Indian lands to them to satisfy their ravenous maws. And this experience of the five southern tribes has been, is, and will be the experience of all other tribes. As soon as the lands we give them become desirable for white settlements, the cry is raised that they must go. We are a sovereign nation, and while we exact from every other nation a fulfillment of treaty stipulations we are careful also to perform our agreements with them faithfully. But an Indian nation with whom we make a treaty or an agreement is such in our eyes only so far as it can cede its lands to us. It has no power to make a successful stand against us and none to compel us to perform our part of the bargain. It has no reliance but our sense of good faith; and because it has no power to enforce its claims this nation has always regarded an Indian treaty or an agreement as something to be set aside whenever it suits our convenience to do so.

All that there is in the Indian problem is contained in that one consideration. It is a problem only because we do not want to keep our promises to the various tribes, and they have no means of compelling us to do so. The real solution of it is to be found in doing justice and loving mercy in our dealings with them. Until we can bring ourselves to that plain, simple method, we shall go on making and unmaking settlements which are not settlements, and only complicate the Indian problem more and more, the longer we continue in this course. So far as this bill purports to be a settlement it is a delusion and a snare, and for that reason I oppose it.

The Secretary of the Interior, who has studied this problem in his closet, instead of in the field of actual life in contact with facts as they are, has a student's solution for the Indian problem. His great remedy for all Indian evils, his panacea for all Indian complaints, his succedaneums for all Indian wrongs, is to give every Indian a farm and transform and regenerate him from a savage into a civilized man in the twinkling of an eye by simply making him a land-holder. Convinced that this is the mere dream of an enthusiast, I take my stand here against it.

Let us look, then, for a little while at the futility of this proposed "settlement." Prior to 1868 these Utes were roving bands, scattered over New Mexico and adjacent territory, and in order to make it easier to deal with them they were gathered together in 1868 and an agreement made with them by which they were all settled in Colorado, and their present territorial possessions were given to them. This was considered at the time a happy settlement of a vexed question, and the negotiation was considered as resulting in a complete deliverance from many apprehended troubles. A thorough understanding of this agreement now before us depends upon a proper understanding of that. This agreement, made March 2, 1868, sets forth that—

The United States agree that the following districts of country, to wit: commencing at that point on the southern boundary-line of the Territory of Colorado where the meridian of longitude 107° west from Greenwich crosses the same; running thence north with said meridian to a point fifteen miles due north of where said meridian intersects the fortieth parallel of north latitude; thence due west to the western boundary-line of said Territory; thence south with said western boundary-line of said Territory to the southern boundary-line of said Territory; thence east with said southern boundary-line to the place of beginning, shall be, and the same is hereby, set apart for the absolute and undisturbed use and occupation of the Indians herein named, and for such other friendly tribes or individual Indians as from time to time they may be willing, with the consent of the United States, to admit among them; and the United States now solemnly agree that no persons except those herein authorized so to do, and except such officers, agents, and employés of the Government as may be authorized to enter upon Indian reservations in discharge of duties enjoined by law, shall ever be permitted to pass over, settle upon, or reside in the territory described in this article, except as herein otherwise provided.

Now, I will not stop to inquire whether this latter promise and solemn agreement has been kept by us. I do not believe it has; but I will not enter upon that. It is sufficient to say that the United States solemnly agreed to give the Utes this territory, and to keep all intruders off. All that is needed to settle the Ute problem is to keep this agreement; yet, in spite of our solemn promise to the contrary, as soon as the land given to the Utes proves valuable for mining purposes, the Government practically confesses its inability or unwillingness to keep its promises, and asks, or rather forces the Utes into a new agreement, by which they consent to give up what we guaranteed to keep them in possession of and to go elsewhere, beyond the present boundary of the land-grabbers. The "settlement" of 1868 is therefore already void and valueless; and why? Because the Government is unwilling or unable to keep its word. Being unable to keep one agreement we propose to make another.

But, it will be said, this is a bill to civilize the Indians and lift them out of dependence into independence, by giving them farms and teaching them agriculture. Such, I answer, was also the purpose of the agreement of 1868. It proposed to give a farm to any individual Indian who desired to learn and practice farming; to send agriculturists to teach them how to farm; to provide cattle for them and farming implements, and to protect every Indian who so chose to enter upon civilized life in the possession of the farm he cultivated. It provided also for schools and for mills, for school-teachers, millers, blacksmiths, and carpenters, to teach them all the arts of civilized life, and was as full, in this respect, as the present agreement. There was this difference, that the agreement of 1868 left it optional with the Indians whether they would or would not become farmers, while this bill makes it compulsory upon them. That is the sole difference between the two agreements. The Government has confessed its inability to enforce the old agreement; what guarantee has any one that it will be either able or willing to better observe the new one?

Before proceeding to discuss this difference between the two agreements, let me allude to one or two points in connection with the old agreements, to show the questionable course pursued by the Government with these Indians.

In the first place, the Utes claim that their eastern border was not run in accordance with the agreement I have quoted, but that a strip of ground fifteen or twenty miles wide was taken from them and left open for settlement. I am not familiar with the details of this claim, but I can easily conceive how the Indians came to regard all who settled within this strip as intruders upon the Ute domain. They thus felt justified in trying to drive them off, and although their conclusion was undoubtedly wrong, it is not hard to understand how they came to adopt it. In the second place, a new agreement was made with them by which they exchanged 1,800,000 acres upon their southern border for 1,125,000 acres elsewhere, and the difference in value between these two has never been paid them, although confessedly and justly due them. There is nothing festers in the Indian mind like the knowledge of palpably unjust actions toward their tribe. The Indian Office, it is known, has acknowledged the injustice of withholding the payment of this sum.

In the third place, the payment of $60,000, annuities due them under the Brunot treaty, was withheld from them for some length of time and has not yet been paid them, although long overdue. The pending agreement acknowledges that it is due, and provides for its payment conditionally; but if the existing agreement was not strong enough to compel its payment, although confessed to be due, the proposed agreement offers no assurance that the new stipulation will prove stronger than the old one. The only excuse ever given for withholding it was that given by the late Commissioner of Indian Affairs, who confessed that he held it back to compel the Indians to consent to a change in the present agreement. It was, in Pennsylvania legislative parlance, used as a "pincher," to compel the Indians to come to the new terms of the Indian Department. We hold out to the world the idea that this new agreement is a voluntary act upon the part of the Utes; but the moral coercion which the withholding of this annuity afforded the Indian Department leaves the voluntary assent exceedingly problematical.

These complaints afford a fair illustration of the methods we have all along pursued with the Indians; and it is the certainty that these practices will continue that justifies us in saying that the new agreement will prove as abortive as the old one. It is an agreement that will be kept on one side only; and I desire here to call attention to what I consider the crowning unfairness of the agreement contained in this bill and which we are called upon to ratify in voting for it. That unfairness consists in this: that the Indians agree (or are expected to agree) to give up their territory, absolutely, while we only promise to do our part. When this agreement is approved by them and us, their part will be done beyond recall or remedy. They will have parted from their lands and dispossessed themselves of their heritage, and with no recourse against us, while our part is yet to do, and it depends upon the ever-changing and changeable temper of the Indian Bureau and Congress whether it will ever be done. It is a one-sided bargain, in which we get all the certainties and they get all the uncertainties; and if they measure their future prospects by their past experience they have but little to look forward to.

I come now to the consideration of the remedy which the Secretary of the Interior regards as the cure-all for every Indian trouble. That Department has framed a bill to compel every Indian tribe except the five civilized tribes to accept the allotment system, break up their tribal relations, and become farmers, whether they will or no. In this bill that system is adopted and applied to the Utes, and pending the adoption of the general bill we are asked to indorse it in advance in the specific application of it in this bill to the Utes. It is proposed to give every Ute a farm, and having given him that, he must look out for himself.

When the general bill comes up, a more extended discussion of this plan will be in order. In the mean time, while it may be admitted that in cases where individual tribes have progressed far enough to adopt the habits of civilized life, and have agricultural lands that they can and will cultivate, there is a strong reason for allotting their lands to them in severalty and putting them upon the level of our own civilization—that far I am willing to go—but because that is proper it does not follow that the same principle can be applied to every Indian tribe. Men are not farmers by nature. They have got to learn, and to learn they must have an inclination to be taught. Even white men cannot be transformed into farmers by simply giving them land. They must first have the will, and then the

skill, to farm; and even then, as new beginners, they need the very best land to begin upon.

Have the Utes either the will or the skill to cultivate farms? No one who knows them will venture to say that they have; and if they have neither, no act of Congress can confer either upon them. The agreement of 1868, to which I have referred, made abundant provision for teaching agriculture to the Utes; yet how many of them, in twelve years, have ever profited by the opportunity thus offered them? Ouray and a few others have; but they are the exceptions that prove that as a rule the Utes have not advanced a single step toward civilization in that direction. The poor man Meeker was an enthusiast in that matter. He believed that he could convert them to the love of an agricultural life; and when, in trying an experiment toward it, he lost his temper and his presence of mind, he found himself surrounded by a tempest in which he was swept out of existence.

What Meeker failed to do, the men who will succeed him in trying the experiment will also fail to do. The Utes are savages, and the advance from a savage life toward civilization is always slow and tedious and gradual. The history of the world is full of instances of the change from savage to civilized life; but in no instance has the transition been sudden or instantaneous. The mere fact that each Indian has had allotted to him a tract of one hundred and sixty acres will neither make him willing or able to cultivate it. He has been trained as a savage; all his associations are savage, and every fiber in his life is interwoven with savage habits. He cannot unlearn his life in a day or a year; and as he stands to-day he is totally unfitted for the habits of civilized life.

But even if this were not so, and if it were true that the Indians were willing to enter upon an agricultural life, I contend that the pending bill proposes to try the system of holding lands in severalty under circumstances that will render the experiment a failure, no matter how willing the Indians may be to try it. This bill proposes to take these Indians and put them upon land a quarter section of which will not afford subsistence to a jack-rabbit. Not one acre of the land which this bill proposes to allot in severalty to the Utes is arable land, in one sense of the term. It is irrigable land, land that can be made temporarily and limitedly productive by irrigation; but irrigation implies both capital and skill, and the Utes have neither. It is perfectly safe to say that even skilled farmers could not earn a living on such land; and the only possible way to insure its cultivation, even by white men, is to employ capital enough to make a constant supply of water for irrigation certain and sure. To put the Utes upon such land and tell them to earn a living on it would be the bitterest mockery; and while there are members of this House who believe enough in this system to vote for this bill, I will undertake to say that there is not a man in this House, be he farmer or otherwise, who could earn a subsistence on the land which it is here proposed to give to the Indians as a sure reliance for their support.

If, therefore, the dreamers and enthusiasts want to try this experiment let them try it under circumstances that offer better chances of success than this experiment will meet with. It is an experiment at best of very doubtful utility, even under the most favorable circumstances; but it is cruelty of the worst kind to force these Indians to try it under the most unfavorable circumstances. They are the poorest qualified of all the Indians under our control to try such a scheme, and it seems like the wildest folly to put them forward as the exponents of a scheme to convert savages into competent farmers.

There are several other objections to this bill which I can state but briefly. They are, first, that it gives the Utes a ridiculous sum as the price of their reservation. That reservation contains in round numbers twelve million five hundred thousand acres. This bill gives them $1,250,000 for it, or an annual sum of $50,000 interest on an investment of $1,250,000 in 4 per cent. bonds. This is at the rate of ten cents an acre for a territory rich in minerals and worth actually many times as much. It would take no great effort to get a syndicate to buy it in a lump for $150,000,000. To give the Utes the contemptible sum of a million and a quarter for it is a mockery of justice and fair-dealing.

Second. It makes provision for obtaining the consent of the Utes to this agreement, but makes no provision whatever for securing this consent in such a way as to preclude the idea of coercion or deceit. Considering our experience in the cases of the Poncas, Pottawatomies, and Cheyennes, particularly in the Ponca case, I submit that the public sentiment of the nation is entitled to some legal guarantee that in obtaining this consent the Indians shall be left perfectly free and uninfluenced to express their wishes and views in the matter. Our experience in the Ponca case certainly makes it our duty to guard the process of obtaining the consent of the Indians in such cases.

Third. The bill provides for the removal of the Utes from their present to their future reservation, but fixes no time for it, and prescribes no regulations to govern the removal. We have seen, in the cases of the Poncas and Cheyennes, how brutally their removal was made. There is no page in the history of our dealings with the Indians, black as most of them are, that is so black as the page that records the removal of the Poncas; and as we now know that cruelty can be practiced, it is plainly our duty to guard this removal so that, if they are to be removed at all, they should be removed in such a way as to prevent the possibility of a new scandal.

Fourth. The bill provides for the maintenance of the Indians until they are able to maintain themselves. No limit is fixed to this obligation; and if the Utes are never able to maintain themselves, as I am convinced they never will be, under the system prescribed in this bill we bind ourselves to the permanent maintenance of this entire tribe. In an economical point of view this leaves a very wide door open for future extravagance; and it is impossible to tell, in advance, the limit of the sums we will have to pay under this clause of the agreement. It is true we can refuse to fulfill this agreement, but if we are to keep it the sum needed is likely to prove an immense one.

In conclusion, I may sum up our whole Indian policy, of which this bill is an integral part, in the following admirable summary from the New York Graphic:

1. A beautiful country. No white settlers. The Indian roams and hunts at will.
2. The white man finds the beautiful country. Finds gold.
3. White man to Indian—"Lo," move on. Move out. This land must be civilized.
4. The Indian does not want to move out.
5. War. "Massacres" by the Indians. "Attacks" by the whites. White men "murdered," Indians simply "slain."
6. "Lo" moves out. Moves to the poorest land his conquerors can pick out for him.
7. White man finds silver-leads and gold-mines on the poor Indian reservation.
8. Same "policy" over again.

My views on the allotment system are so fully given in the minority report of the Committee on Indian Affairs on the bill to "allot lands in severalty" to Indians that I insert it here as an expression of my own views:

The undersigned, members of the Committee on Indian Affairs of the House of Representatives, are unable to agree with the majority of the committee in reporting favorably upon this bill, for these among other reasons, namely:

I. The bill is confessedly in the nature of an experiment. It is formed solely upon a theory and it has no practical basis to stand upon. For many years it has been the hobby of speculative philanthropists that the true plan to civilize the Indian was to assign him lands in severalty, and thereby make a farmer and self-sustaining citizen of him; and so far back as 1862 Congress established the policy that—

"Whenever any Indian, being a member of any band or tribe with whom the Government has or shall have entered into treaty stipulations, being desirous to adopt the habits of civilized life, has had a portion of the lands belonging to his tribe allotted to him in severalty, in pursuance of such treaty stipulations, the agent and superintendent of such tribe shall take such measures, not inconsistent with law, as may be necessary to protect such Indian in the quiet enjoyment of the lands so allotted to him."

This law stands to-day on the statute-book as the recognized policy of this Government of the United States in its dealings with the Indians. It does not make allotments of lands in severalty obligatory, but recognizing the plea of those who contend for the beneficent effects sure to flow from the allotment policy it has opened the door to its establishment, allowing any Indian, in any tribe, desiring to try that policy a full opportunity to do so under the protection of the Government. That law has been upon the statute-book for nearly eighteen years, and how many Indians have availed themselves of its provisions? Manifestly very few; and yet we are told, with great pertinacity, that the Indians are strongly in favor of that policy, and will adopt it if they get a chance. It is surpassing strange, if this be true, that so few have availed themselves of the privileges opened to them by the act of 1862.

Being an experiment merely, it would seem to be the dictate of wisdom to make the trial of putting it into practice on a small basis, say with any one tribe that offers a good opportunity for trying it fairly. The Chippewa bands on Lake Superior, for instance, are alleged to be willing to enter upon the experiment. They have good agricultural lands, are partially civilized and educated, and are sufficiently removed from barbarism to give ground for hope that the experiment may succeed. There could be no very strong reason against trying the experiment merely as an experiment with them. But this bill, without any previous satisfactory test of the policy, proposes to enact a merely speculative theory into a law, and to apply the law to all the Indians, except a few civilized tribes, and to bring them all under its operation without reference to their present condition. It includes the blanket Indians with those who wear the clothing of civilized life; the wild Apaches and Navajoes with the nearly civilized Chippewas; and it applies the same rule to all without regard to the wide differences in their condition. It seeks to make a farmer out of the roving and predatory Ute by the same process as would be applied to the nearly civilized Omahas and Poncas. It needs no argument to prove that these Indian tribes vary widely from each other in their civilized attainments, but this bill ignores all these variances as if they did not exist, and erects a Procrustean bed, upon which it would place every Indian, stretching out those who are too short, and cutting off the heads or feet of those who are too long.

It is true that the bill leaves a great deal as to the time of putting the bill in operation to the discretion of the Secretary of the Interior; but we submit that the interests of these tribes are of too great a magnitude to be left to the discretion of any one man, even though he be a Secretary of the Interior. We know of nothing in the constitution of that Department that qualifies it peculiarly for such a great trust. Secretaries of the Interior change as frequently as the occurrence of a Mexican or South American revolution; and Congress, we think, is a safer depository for such trusts than any one man, no matter what place he may hold. Let us deal with these people intelligently and wisely, and not at haphazard.

We have said that this bill has no practical basis, and is a mere legislative speculation; but it may be added that the experiment it proposes has been partially tried, and has always resulted in failure. In the hurry of drawing up reports we cannot be expected to be very specific in our citations, but we may cite the case of the Catawbas, who had lands assigned them in severalty, and who were protected by the inalienability of their homesteads for twenty-five years, just as this bill proposes; and the result was a failure—a flat, miserable failure. The Catawbas gradually withered away under the policy, until there is not one of them left to attest the fact that they ever existed, and their lands fell a prey to the whites who surrounded them and steadily encroached upon them. They were swallowed up as thoroughly as Korah, Dathan, and Abiram, when the ground opened beneath their feet and ingulfed them. (See Historical Magazine, first series, volume 5, page 46.)

II. The plan of this bill is not, in our judgment, the way to civilize the Indian. However much we may differ with the humanitarians who are riding this hobby, we are certain that they will agree with us in the proposition that it does not make a farmer out of an Indian to give him a quarter section of land. There are hundreds of thousands of white men, rich with the experience of centuries of Anglo-Saxon civilization, who cannot be transformed into cultivators of the land by any such gift. Their habits unfit them for it; and how much more do the habits of the Indian, begotten of hundreds of years of wild life, unfit him for entering at once and peremptorily upon a life for which he has no fitness? It requires inclination, knowledge of agriculture, and training in farming life to make a successful farmer out of even white men, many of whom have failed at the trial of it, even with an inclination for it. How, then, is it expected to transform all sorts of

Indians, with no fitness or inclination for farming, into successful agriculturists? Surely an act of Congress, however potent in itself, with the addition of the discretion of a Secretary of the Interior, no matter how much of a *doctrinaire* he may be, are not sufficient to work such a miracle.

The whole training of an Indian from his birth, the whole history of the Indian race, and the entire array of Indian tradition, running back for at least four hundred years, all combine to predispose the Indian against this scheme for his improvement, devised by those who judge him exclusively from their stand-point instead of from his. From the time of the discovery of America, and for centuries probably before that, the North American Indian has been a communist. Not in the offensive sense of modern communism, but in the sense of holding property in common. The tribal system has kept bands and tribes together as families, each member of which was dependent on the other. The very idea of property in the soil was unknown to the Indian mind. In all the Indian languages there is no word answering to the Latin *habeo*—I have or possess. They had words to denote holding, as "I have a hatchet;" but the idea of the separate possession of property by individuals is as foreign to the Indian mind as communism is to us.

This communistic idea has grown into their very being, and is an integral part of the Indian character. From our point of view this is all wrong; but it is folly to think of uprooting it, strengthened by the traditions of centuries, through the agency of a mere act of Congress, or by the establishment of a theoretical policy. The history of the world shows that it is no easy matter to change old methods of thought or force the adoption of new methods of action. The inborn conservatism of human nature tends always more strongly to the preservation of old ideas than to the establishment of new ones. The world progresses steadily, but always slowly. There are singularities in the Anglo-Saxon character and peculiarities in Anglo-Saxon belief which run back over a thousand years, and which all the enlightenment of progressive centuries has been unable to overcome. There are, even in our own land system, peculiarities which are the remnants of feudal forms and practices, and which still inhere in our methods simply from the force of habit and the conservatism of forms. And if this is true of ourselves, with a written history running back well-nigh two thousand years, why should we be so vain as to expect that the Indian can throw off in a moment, at the bidding of Congress or the Secretary of the Interior, the shackles which have bound his thoughts and action from time immemorial? In this, as in all other cases, it is the dictate of statesmanship to make haste slowly.

We are free to admit that the two civilizations, so different throughout, cannot well co-exist, or flourish together. One must, in time, give way to the other, and the weak must in the end be supplanted by the strong. But it cannot be violently wrenched out of place and cast aside. Nations cannot be made to change their habits and methods and modes of thought in a day. To bring the Indian to look at things from our stand-point is a work requiring time, patience, and the skill as well as the benign spirit of Christian statesmanship. Let us first demonstrate, on a small scale, the practicability of the plans we propose; and when we have done that, if we can do it, a persevering patience will be needed to make the policy general.

III. The theory that the Indian is a man and a citizen, able to take care of himself, possessed of the attributes of manhood in their broadest sense, and fully responsible to all the laws of our civilized life—a man like other men, and therefore to be treated exactly as other men—is embodied in the first part of this bill, which provides for giving every Indian a farm, and leaving him then to take care of himself, because, as is assumed by the framers of the bill, he is able to take care of himself; but having thus launched the Indian upon his future course of life, the bill turns round upon itself and, assuming that the Indian is not and will not be able to take care of himself, at once proceeds to hedge him around with provisions intended to prevent him from exercising any of the rights of a land-owner except that of working and living on his allotment. He cannot sell, mortgage, lease, or in any way alienate his land; and although he is to be under and amenable to the laws, he is to be free from taxation for all purposes. He is to be treated as a man in giving him land and exacting from him the duty of maintaining himself upon and off of it, and all this upon the plea that he is simply a man, who is to be treated as other men are; and then, as soon as we do this, we proceed to treat him as a child, an infant, a ward in chancery, who is unable to take care of himself and therefore needs the protecting care of Government. If he is able to take care of himself, all this precaution is unnecessary; if he is not able to take care of himself, all this effort to make him try to do it is illogical. If the Indian is a ward under the paternal care of Government, he might as well hold his lands in common as in severalty. He cannot be made to feel the pride which a man feels in the ownership of property while he is made to feel that he does not possess one single attribute of separate ownership in the soil. In this respect the bill is like the old constitution of Virginia, which, when the convention which framed it put into it a clause providing a method for amending it, was said by John Randolph to bear upon its face the sardonic grin of death.

The main purpose of this bill is not to help the Indian, or solve the Indian problem, or provide a method for getting out of our Indian troubles, so much as it is to provide a method for getting at the valuable Indian lands and opening them up to white settlement. The main object of the bill is in the last sections of it, not in the first. The sting of this animal is in its tail. When the Indian has got his allotments the rest of his land is to be put up to the highest bidder, and he is to be surrounded in his allotments with a wall of fire, a cordon of white settlements, which will gradually but surely hem him in, circumscribe him, and eventually crowd him out. True, the proceeds of the sale are to be invested for the Indians; but when the Indian is smothered out, as he will be under the operations of this bill, the investment will revert to the national Treasury, and the Indian, in the long run, will be none the better for it, for nothing can be surer than the eventual extermination of the Indian under the operation of this bill.

The real aim of this bill is to get at the Indian lands and open them up to settlement. The provisions for the apparent benefit of the Indian are but the pretext to get at his lands and occupy them. With that accomplished, we have securely paved the way for the extermination of the Indian races upon this part of the continent. If this were done in the name of Greed it would be bad enough, but to do it in the name of Humanity, and under the cloak of an ardent desire to promote the Indian's welfare by making him like ourselves, whether he will or not, is infinitely worse. Of all the attempts to encroach upon the Indian, this attempt to manufacture him into a white man by act of Congress and the grace of the Secretary of the Interior is the baldest, the boldest, and the most unjustifiable.

Whatever civilization has been reached by the Indian tribes has been attained under the tribal system, and not under the system proposed by this bill. The Cherokees, Choctaws, Chickasaws, Creeks, and Seminoles, all five of them barbarous tribes within the short limit of our own history as a people, have all been brought to a creditable state of advancement under the tribal system. The same may be said of the Sioux and Chippewas, and many smaller tribes. Gradually, under that system, they are working out their own deliverance, which will come in their own good time if we but leave them alone and perform our part of the many contracts we have made with them. But that we have never yet done, and it seems from this bill we will never yet do. We want their lands, and we are bound to have them. Let those take a part in despoiling them who will; for ourselves, we believe the entire policy of this bill to be wrong, ill-timed, and unstatesmanlike; and we put ourselves on record against it as about all that is now left us to do, except to vote against the bill on its final passage.

RUSSELL ERRETT.
CHAS. E. HOOKER.
T. M. GUNTER.

In order to show how the allotment system works in practical operation I may cite the case of the Santee Indians. This tribe is a branch of the Sioux, and went to their present reservation in Nebraska about fifteen years ago. They have gradually thrown off their savage habits; have donned the dress of civilized people; have devoted themselves with an energy increasing year by year; have become tolerable farmers, and have even produced grain for sale; have become Christian people as well as civilized; and have churches and schools equal to those of any civilized community. So much have they improved that their village bears as much evidence of thrift as if it were a New England village. To encourage these people in their efforts to become the producers of their own subsistence allotments of land in severalty were made to them, on which they have built houses and which they have much improved by cultivation. This allotment, it is true, was not made by act of Congress, and there is no law by which they can claim a legal right to their homesteads; but they have been led to believe that the allotments made to them would be legalized, and in that faith they have, by years of toil, given to the land they occupy a value much beyond that of wild land. And what do we see? The hungry eyes of the land-grabber are upon these cultivated acres, and Congress is beset by an appeal from Nebraska that the Santees shall be driven from the homes they have built up for themselves and forced to find a new home upon the reservation stolen from the Poncas, to be, of course, driven from that also when they have repeated their experience in Nebraska.

About a year ago Bishop William H. Hare addressed a note to a Philadelphia paper, in which he exposed the scheme which was and is now afoot for driving these Santee Indians off of their reservation in Nebraska. In this letter Bishop Hare told what he knows about the Santees; and as he labors among them, his testimony is of the highest value. He showed that they have taken up their land in severalty, and that they hold Government certificates for it. He showed that they work hard, that they have good schools, that they have become thoroughly civilized, and that "they attend church in numbers which would do credit to any New England county." Not only have they accepted civilization and Christianity for themselves, but "trusty ministers and teachers have been raised up among them" for work among the people of their race. "Thirty or forty of these Santees are now employed as lay and clerical missionaries among the wilder Sioux, and six of them are candidates for the ministry." These are the people whom it is now proposed shall be turned by the Government out into the wilderness to begin life over again, while white men come in to illustrate the practical workings of Christianity by occupying their improved property.

The Senate of the United States is now considering a bill which will expel the Santees from the homes which they have occupied for thirteen years; from their tilled fields, their workshops, churches, and schools, and will send them forth to find new homes in the very reservation from which the Poncas in like manner have been expelled. The bill has but one motive behind it, which is the desire of the people of Nebraska to take the property of the Santees for their own use. And Congress is asked to sanction a wanton, scandalous, and absolutely indefensible attempt to perpetuate wholesale robbery upon a band of Indians who, by means of their own heroic endeavors and the help of devoted white men, have raised themselves out of the black darkness of savagery into the light of Christian civilization.

Now, here is a case in which a tribe has become civilized enough to enter fully upon an agricultural life, and lands are allotted to them in severalty, after a fashion; and as soon as they make their homes desirable an organized effort is made to drive them off. Their experience will be that of every other tribe that may try the same experiment; and if this measure should result in placing the Utes successfully on their land, and they succeed in making their lands valuable, they will simply have been contributing to the greed of the settlers who will, in course of time, crowd in upon them and crowd them out.

Take, also, the case of the Pottawatomies. They had lands set apart for them in severalty, and each Indian had his allotment of lands in Kansas made out and properly certified. In 1862 or 1863 a portion of the tribe went on a hunting expedition into Texas, and, being set upon by the confederate troops, were compelled to find refuge in Mexico. Here they remained until 1871, when a commissioner was sent to Mexico and brought them back. In the mean time, the tribe at home not hearing from these fugitives, and supposing them to be dead, so certified to the probate courts of Kansas. As a consequence, a lot of land speculators and irresponsible men went into the probate courts, took out letters of administration, collected the proceeds of the personal estate, and in some cases disposed of the real estate. Others went to Mexico and before the Indians returned got deeds from them, and claimed their lands on the basis of these deeds. Of course the deeds are worthless, but the whole incident illustrates the innumerable difficulties that will grow up under this allotment system. If an Indian goes away from his allotment and stays away for a few years squatters will be sure to squat upon the temporarily abandoned allotments and set up a rival claim to it. In course of time the number of squatters will become strong enough to set up a clamor for some legislation to make their own worthless title good.

Mr. HASKELL. Mr. Speaker, if there is no other member of the House who desires to speak against this bill, I wish to present to the

House as briefly as I am able the causes that have led to this Ute agreement, and the main features of the bill.

It will not be necessary for me to enter into any description of the Ute outbreak, and the conflict between the Indians and the troops out of which this agreement grew. It is a well-known fact that our policy of maintaining large Indian reservations immediately in front of the advancing tide of civilization has been found to be a poor policy, and one which we cannot sustain. It has been found thus with this Ute reservation. A large territory embracing over twelve millions of acres of the richest mineral lands of Colorado has been allowed to be occupied exclusively by less than four thousand Utes. Within twenty miles of the eastern boundary of this reservation is a city of forty thousand inhabitants. Looking longingly across the border-line of that reservation are hundreds and thousands of venturous miners who desire to secure possession of the immense mineral wealth that it contains, and this is what led to the conflict originally between the United States and the Indians. The Interior Department became well advised that it would be utterly impossible to prevent a conflict between the Indians and the miners desiring to enter upon these lands for the sake of prospecting for minerals, and in view of the fact that an outbreak had occurred they sent for and brought on here the head chiefs of the Ute Nation, in order that a peaceful conference could be had which might avert the impending danger of an Indian war and bring about a peaceful settlement of the difficulty.

The Ute chiefs came here and met in council. They were not held in duress. They met the officers of the Interior Department and agreed to sell to the United States this reservation upon certain stipulated terms. They agreed to sell to the United States their reservation and to take up individual selections upon the best farming lands of the reservation. They are to receive $50,000 per annum as a perpetual annuity; they are to be provided with schools; they are to be made subject to the laws of the land. Their lands, however, are to be made inalienable, so that speculators and land-sharks cannot, by means of incumbrances, leases, or other methods, obtain control of their property hereafter for a period of twenty-five years.

The bill is made up essentially of two parts: one an agreement between the Indians and the Government to sell their lands, and the other the simple legislation necessary to carry into effect the terms of that agreement. The amount of money appropriated in the bill is $422,000. That is to provide for the payment of the first annuity, to provide for the expenses of the commission, to provide for the survey of the lands, to provide for the payment to the Indians of the improvements they have made, and to provide further that schools shall be established and school-houses built, and also to furnish more or less of subsistence, as may be needed. These Indians also, by their own concession, have agreed to deliver up the guilty parties engaged in the Meeker massacre for trial by the authorities of the United States. They have further agreed to pay to the widows of those men who had families and who were killed at the time of the massacre a certain stipulated annuity every year. These Indians are to receive lands in severalty, as follows: each head of a family, one hundred and sixty acres of land; each single individual, eighty acres of land, and each child forty acres of land. The White River Utes engaged in the massacre agree to go into the Uintah reservation; the Uncompahgre Utes agree to remove and settle upon agricultural lands on Grand River, and the Southern Utes agree to remove and to settle upon unoccupied agricultural lands on the La Plata River.

By this disposition of the Indians they are placed upon good farming lands and separated from each other to a greater or less extent. They are protected by the laws of the land, are subsisted from year to year or aided to maintain themselves upon these lands, and such a sum of money as will produce $50,000 annuity is set apart for their use. They are also to be provided with schools, and they are to take their places as soon as possible as citizens of the United States.

Now, this agreement between the Indians and the Government of the United States is an agreement which before it becomes the law of the land or binding upon either party is to be signed and ratified by three-fourths of the adult males of the tribe. The Government of the United States intends to place no duress upon them; but of their own free will they are, three-fourths of them, to come up and ratify the provisions of that agreement and of the legislation to carry it into effect, or else it all falls to the ground.

There are, Mr. Speaker, before this Congress of the United States, in my judgment, but two roads open. One is to accept this bill, which is the result of a compromise and an agreement between the Government and the Indians, satisfactory to both, by which the United States secures a very large domain, very valuable lands, at a very small price to them, and a very good price to the Indians, by which the Indians are to be protected in their individual rights and the whites are to be protected, or we are to abandon this bill and undertake to maintain in that rich mineral district of Colorado a great Indian reservation of twelve millions of acres, against the on-rushing tide of civilization and of adventurous miners. In other words, we are to accept this treaty of peace, we are to agree to a peaceful solution of the present difficulty and the problem thus placed before us, or we are to engage in an Indian war that will result simply in the extermination of the Indians. There is no other course open. Already the miners are clustered on the borders of the reservation ready to enter. It is a mountainous country that would require three times the force the United States has at its disposal to protect and defend. It is a mountainous country, in which if we went to war there would be simply a reproduction on a larger scale of those terrible scenes in the lava-beds when we captured the Modocs. In other words, it means the absolute extermination of the Indian at a great cost of blood and treasure to the United States, or it means the peaceable solution of the question by which the Government buy their land, pay them year by year a fair stipend, care for their little ones in school, protect them under the laws of the land, put whites and Indians side by side, under the same law, and teach the red men the arts of civilization by actual practical contact with the civilized man himself.

This is the bill in short. And now I yield five minutes to the chairman of the Committee on Indian Affairs, the gentleman from North Carolina, [Mr. SCALES.]

Mr. SCALES. I desire to call the attention of the committee to the consideration, the careful consideration, this bill has had. It will be remembered there was an agreement entered into between the Department of the Interior and these Indians. This agreement was brought to the attention of the joint committee of the House and Senate, and was considered by them. It was afterward considered by each committee, the committee of the Senate and the committee of the House, separately. It was then considered by the Senate, and after a very full debate, extending through nearly a week, it was passed by a very large majority. It was considered by the committee of the House and passed by the majority of that committee; and it is now here for passage before this House.

I next desire to call the attention of the House to the necessity for this bill. It will be remembered that on the 29th of September, 1879, an outrageous massacre was committed upon the agent of this Government and the employés under his care; a massacre in which every white man in the agency was murdered and the women captured and outraged. On that same day United States troops were attacked by the Indians and many valuable lives lost, among others Captain Thornburgh, a gallant officer in command of the troops. Without some agreement, a war thus begun would have been carried on at the expense of millions of dollars, much blood, and for a number of years, without accomplishing the object in view, the arrest of the criminals. In order to prevent this war the Secretary of the Interior sent on an agent, and by that agent the Indians were brought here, and through the Secretary of the Interior this agreement was made.

There is no one within the sound of my voice, there is no American who will not insist that any expense must be incurred to vindicate the authority of the Government and to punish those who thus defied the Government, wickedly murdered and sacrificed its agents, and outraged its defenseless women. In order to do that the Secretary of the Interior made this agreement with these Indians, by which they bind themselves without war, without the further shedding of blood, to surrender all of the guilty parties to the justice of this Government.

If we adopt this, Mr. Speaker, war is avoided. If we fail to adopt it, there is but one course left. I repeat these men must be arrested. I say they must be punished. The blood of those citizens massacred in Colorado cries to this House from the ground and demands the punishment of the guilty perpetrators to the end that in future the citizens of this Government may be protected ever against wild savages.

Something must be done, and must be done now. If this is not done then you must send your troops to the mountains of Colorado, and in the mountains and cañons of that country you must accomplish by force what this bill seeks to accomplish without it. We know something of Indian wars in such a country, and I declare to-day in view of the fact that such a war now inaugurated would result in a loss to the Government of money and men which is beyond all calculation.

I take it everybody will say something is necessary. What is that? Your committee have said after the most careful consideration that this bill, not perhaps all it ought to be but the best under the circumstances that can be had, is the remedy for this state of things.

The effect of the agreement ratified by this bill is to secure to the Government about twelve millions of acres in Colorado made up in great part of the finest and most valuable mineral lands in this country. If there had been no difficulty these lands ought to be the property of the Government. If there had been no trouble they ought not to remain in possession of the Indians. They are worth nothing to them. They are worth millions to our people. The question is, shall we make an agreement by which these Indians shall surrender mineral lands and give them up to us for development, while we give to them in exchange agricultural lands and money, which is a fair consideration, and which will aid them most materially in supporting themselves?

We buy twelve millions of acres of land, and for it we pay them an annuity of $50,000, and that added to the amount given for other purposes aggregates the sum of $425,000 now to be appropriated. The $50,000 annuity is to be raised from a principal of $1,250,000, which is to be invested in bonds at 4 per cent. and set apart for this purpose.

Mr. ATKINS. For all time?

Mr. SCALES. It can be capitalized at any time so that the Government can pay the whole of it, principal and all, at once. These lands, then, will cost the Government about $1,400,000. They are said to be worth a great deal more. The bill as it came from the Senate contained no provision to reimburse the Government from the lands sold for the money it will pay out under this agreement. I could not consent to that. I believe that Indian affairs should be so managed

as to be self-sustaining, and that when we sell these lands we must see to it that the money received for them will be used to reimburse the Government for what it has expended. To that end I introduced an amendment in the committee which was adopted, and is now a part of the bill as reported from the committee of the House.

Then, in order that full justice may be done the Indians, and that no advantage shall be taken of them, we provide that after the Government has been reimbursed the last dollar it has expended or shall expend from the money received for these lands the balance, if any, of the proceeds is to be invested in United States bonds and the interest on those bonds paid annually to the Indians.

A portion of these Indians, those known as the White River Utes, are believed to be alone responsible for the murders and outrages committed. The tribe who permitted them as well as the guilty parties themselves must be punished. We have therefore provided that out of their part of this fund the widows and orphan children of the persons whom they massacred shall be paid annually the amount specified in the bill during their lives. It is also provided that no part of the money shall be paid this tribe until the guilty parties are surrendered.

This I believe is the sum and substance of this agreement, and after the most careful consideration, though this bill is not all that I would have it, I have come to the conclusion that it is the best that can be now had, and I trust the House will pass it. If it does pass you avoid, it is believed, a long and expensive Indian war. It is an economical measure; it is humane; it is just. I wish I had time to answer some suggestions made by my friend from Arkansas, [Mr. GUNTER,] but I have not time now. I will say that if you pass this bill you will commence in this country a new policy toward the Indians—a policy by which the Indians are to have their land in severalty and to be so protected by law in its enjoyment that for twenty-five years, and as long thereafter as the President may deem it desirable, it is inalienable. We deal with them as individuals and no longer as nations. Each man is responsible for his own conduct, is protected by the law in all his rights, and is amenable to the law as any other citizen.

I think this is all that the Indians can require; I think it is all that the Government should demand. The Secretary of the Interior has been much censured in this Ute matter; but in my judgment he has deserved no part of it. To my knowledge he has given it the most anxious and careful consideration, and by his management and skill has, as I hope and believe, avoided a long, cruel, and expensive war. So far his work is well done, and the country will so decide. He must now see to it that what has been so well begun will end well. He must see to it if possible that these guilty savage fiends be arrested and brought to punishment. The citizens must be protected, the Government must be vindicated. If he does it by this agreement the greater his triumph, the more lasting the honor. Peace has its trophies, and none in the Indian policy of the past can rise in distinction with this. Let it be done through peaceful means, but whether by peace or war these outrages must be punished.

Mr. HOOKER. I desire to say a few words, if the gentleman from Kansas will yield to me.

Mr. HASKELL. There is some time left on your side now.

The SPEAKER. Five minutes is remaining of the time allowed for those opposed to the bill.

Mr. HOOKER. I desire to call the attention of the House to the salient points in this bill in the few minutes allotted to me. In the first place it is not possible for the Government of the United States to make any agreement with these tribes of Indians that will be binding upon them under the present treaty stipulation unless three-fourths of the adult males of these tribes will assent to it. Hence in the Committee on Indian Affairs I was in favor of adopting the suggestion of the Secretary of the Interior, from whose Department this bill comes, to appoint a commission to visit the Ute country and obtain the assent of the requisite number under the treaty of 1868.

By the provisions of that treaty no agreement for the cession of any portion or part of the reservation therein described, which may be held in common by these Indians, shall be of any validity or force against said Indians unless acknowledged and signed by at least three-fourths of the adult males interested in the same.

Hence, I say that the agreement of the Secretary of the Interior with Ouray and the few chiefs who were here with him is not at all binding upon the tribe. This bill concedes that by providing for a commission to go to the Ute country, at an expense of thirty or forty thousand dollars, for the purpose of obtaining the assent of these tribes.

In addition to the $25,000 annuity in money now paid to the Ute Indians, this bill provides for paying them $50,000 annually forever. That provision will be found upon page 7 of the bill. It provides that the Government shall set apart a sufficient amount in money or the bonds of the United States to yield $50,000 per annum, and the bill provides that that amount shall be paid to these Indians annually forever.

I say, therefore, that it is an unwise arrangement on the part of the Government of the United States, in a financial point of view, to submit to this agreement made by the Utes, and ratify it by passing this bill. In addition to all the annuities in money, provisions, and clothing now paid to them, this bill provides that an annuity of $50,000 in money shall also be paid to them. I say, therefore, that as a mere matter of policy it would be unwise for the Government of the United States to agree to this arrangement.

My friend from North Carolina, [Mr. SCALES,] the chairman of the Committee on Indian Affairs, from whom I always differ with great diffidence and reluctance, because I know he is extremely conscientious and generally accurate, takes a position from which I must differ in regard to this matter. By this agreement these Indians are not removed from Colorado. It was proposed primarily that some of them should be removed to Utah and some to New Mexico. But very naturally the representatives of these Territories on this floor said: "We do not want these Indians any more than they are wanted in Colorado; we object to their being quartered upon us; and particularly do we object to it if it is to involve an expense to the Government of $50,000 annually." Hence we amended that provision of the bill as originally submitted, and now it is proposed to settle these Indians on other lands in Colorado. But they own these lands. It is said now that this agreement must be made because of the unfortunate massacre of the Meeker family and the employés at the White River agency. Mr. Speaker, I can only say to the House, as shown by the evidence taken before the committee, that the unfortunate policy adopted by the Department of the Interior and executed by the agent was the cause of that Ute outbreak. And there was only one band of Utes connected with it, the White River Utes. The agent insisted, according to the policy of the Government, that the Indians should convert their pasture-lands to plowing-lands. It was the testimony of Miss Meeker herself, the young lady who was captured by the Indians, and who is now in this city, that the Indians said: "We do not want our pasture-lands, where we have now three or four hundred ponies, plowed up; you can take that land half a mile beyond and plow that up; we want to reserve this land for our pasture." The outrage was the result of the agent insisting that the lands used by the Indians for pasturage purposes should be used as arable lands. The agent probably acted upon a conscientious conviction that he was doing a good thing for the Indians; I do not question that. But I say it was their land, and they had a right to use it as they pleased. It was this unfortunate policy which the agent was instructed to enforce that brought on the outbreak. The effort was to compel the Indians to convert about eighty acres of their land into arable land.

Mr. SCALES. Do I understand the gentleman to say or to think that this action on the part of the agent justified the Indians in the massacre?

Mr. HOOKER. Oh, no; of course not. But I say that the policy of the Government as enforced by the agent led to the outbreak. The first gun fired by the Indians was a gun fired at one of the men who was breaking up their land. This led to the calling in of the military and the sacrifice of the troops. When the troops of the Government arrived within striking distance the Indians were held in check. While the troops were there the peace commissioners were sent out, and the troops were held back instead of being allowed to punish the Indians as they ought to have done. It is this double policy of dealing with the Indians—the management of them by the Interior Department through the peace commissioners and the management of them by the War Department through the Army—that produces continual clashing and conflict, so that we never know who is to blame.

It will be remembered, as stated by the gentleman from North Carolina, [Mr. SCALES,] that this massacre and the battle occurred on the same day. The battle did not occur on account of the massacre, and the massacre did not occur on account of the battle. The troops had been sent for long before the massacre occurred. They had been summoned there really to capture certain portions of the Utes. The Utes, finding this out, went to the Army and said: "Why do you come here? What is the purpose of your visit?" The Indians learned that the purpose of the troops was to capture some of the Indians who had been guilty of some impropriety. One of them had made an assault upon the agent, Mr. Meeker, and it was upon that account, as was supposed, that the troops were brought there. I say that the battle did not produce the massacre, nor the massacre the battle; but the policy adopted of insisting on converting the pasture lands of the Indians into arable lands was the real cause of the Ute outbreak. This was the land of the Indians, belonging to them by the most solemn cessions and treaties and stipulations that the Government could enter into. They had the right to use this land as they pleased. The massacre was the unfortunate result of the policy of the Government in insisting that the Indians should use their lands as the Government thought they ought to use them, not as the Indians thought they ought to use them.

In my judgment, for many reasons, both on account of the Indians and as a matter of policy upon the part of the Government, it would be unfortunate to pass this bill, and especially to pass it under the spur of the previous question without full and adequate consideration of all its provisions.

Mr. SCALES. I ask leave that any member of the House who may desire to print in the RECORD remarks on this bill be allowed to do so.

There being no objection, leave was granted.

Mr. HASKELL. I yield now for two minutes to the gentleman from Colorado.

Mr. BELFORD. Mr. Speaker, this bill is not what the people of

my State desire, but yet I propose to vote for it, because I regard it as the only way out of the war which will inevitably happen if Congress ignores the consideration of this question.

During the last two months emigrants have been going into Colorado at the rate of twelve hundred a day. They have been going from every State in this Union. They are camped along the line of this reservation. They went there under the belief that this agreement would be ratified as submitted to the Senate and House by the Secretary of the Interior and Ouray, chief of the tribe.

I know if Congress fails to pass this bill we will have the most terrific Indian war in Colorado this summer that this country has witnessed for years. And while I am opposed to many of the provisions of the bill, yet to avoid that conflict, to avoid this war which, in my judgment, will be inevitable if we fail to pass this bill, I propose to vote for it, in the hope that it will reach a committee of conference and be improved.

I want to say one thing in reply to the remark made by the gentleman from Mississippi, [Mr. HOOKER.] He said the cause of the massacre was Mr. Meeker's attempt to carry out the policy of the Interior Department. The policy of the Interior Department was simply the policy of this Government inaugurated years ago, and designed to civilize the Indians, to teach them to labor, to improve their condition by work; and because Mr. Meeker undertook to plow one hundred and sixty acres of land, out of a tract of twelve million acres, the gentleman from Mississippi intimates that the Indians were justified in resisting this effort on his part.

Mr. HOOKER. I did not say they were justified, but that that was the cause of the war.

Mr. BELFORD. Whether it was the cause of the war or not, it shows how utterly futile is the attempt to civilize and educate these Indians.

Suppose a class of people in the gentleman's district had gone to work and murdered some of the prominent citizens there, outraged and abused the women in the district, would any man stand here and say the authorities having charge of the execution of the laws should take no notice of it, or that the mere attempt to teach the murderers the arts of civilization would be a just cause for violence and outrage, or would he desire those murderers to continue in his district and roam through it at will? Yet, sir, in Colorado, on the 29th of last September, a wanton and cruel and needless massacre occurred, and from that time to this this great Government has taken no steps whatever to vindicate its dignity, to assert its power, or to execute its will.

Now if, according to the gentleman's theory, this bill is to be passed over from day to day in order that it may have additional consideration, we will not only have the men who engaged in this massacre running scot free among the mountains of Colorado, but we will have inside of thirty days, not only another massacre, but a most terrific and bloody war. And while, as I said before, I cannot support all the provisions of this bill, yet I implore this House, in the interest of peace, in the interest of the people of my State, to pass it and settle now and forever this vexed Indian question.

The SPEAKER. The gentleman's time has expired.

Mr. BELFORD. Under the general leave granted, I shall elaborate these remarks.

The SPEAKER. The gentleman has that right under the general leave granted on motion of the chairman of the Committee on Indian Affairs, [Mr. SCALES.]

Mr. EWING. Does not my friend from Colorado desire more time? As the only representative of the State most affected by this bill, I will move by unanimous consent his time be extended.

Mr. BELFORD. I am obliged to the gentleman, but, being quite unwell to-day, I shall content myself with printing in the RECORD any additional remarks which I may deem it desirable to make.

Mr. ATKINS. I wish to ask the gentleman from Colorado a question, and that is whether the value of the lands to be ceded to the United States will reimburse the Government what is paid out to these Indians under this bill?

Mr. BELFORD. Leadville is forty miles this side of that reservation. This year the product of silver bullion from Leadville alone will be $20,000,000. Every man who has gone through that reservation says it is exceedingly rich in gold and silver; and, I think, from one mining camp this nation will realize more than $100,000,000 in the next few years. That may appear an exaggerated statement, but, judging of the future by the past, I have no hesitation in making that prediction. If you pass this bill you at once open up a tract of country almost as large as New England; a country abounding in great material wealth, and fitted to become the home of a million active and enterprising citizens. You give the sanction of the Government to the act of the miner in taking up a claim; you open a way by which he can acquire title to land; and you apprise the Indian that he can no longer stand as a breakwater against the constantly swelling tide of civilization. The passage of this bill is the reclamation of eleven millions of acres of land from the domain of barbarism. It enlarges the possible achievements of the white man by enlarging the field in which he can labor. It settles for all time the doctrine which has received illustrations in the past that an idle and thriftless race of savages cannot be permitted to guard the treasure vaults of the nation which hold our gold and silver, but that they shall always be open, to the end that the prospector and miner may enter in and by enriching himself enrich the nation and bless the world by the results of his toil. But I have already exceeded my time and must thank the House for its indulgence.

Mr. HASKELL. I now yield the remainder of the time to the gentleman from Iowa [Mr. DEERING] and the gentleman from Missouri, [Mr. WADDILL.]

Mr. DEERING addressed the House. [His remarks will appear in the Appendix.]

Mr. WADDILL. Mr. Speaker, I am for this bill for the very reason for which the gentleman from Arkansas [Mr. GUNTER] opposes it. I am for it because it makes a new departure on this Indian question. The Government of the United States for the past one hundred years has carried on a policy toward the Indians of this country which has in effect fostered barbarism and encouraged crime. I say the policy of this Government for the past one hundred years under all administrations, regardless of parties, has been to throw around savages and barbarians its strong arm of power and encourage them by its course to acts of barbarity and murder. We have seen, sir, during all that period of time annual outbreaks in this country in which not only men who might be offensive, but in which defenseless women and children have been butchered and offered up as sacrifices to savage hate. That the white man has been entirely guiltless, that he has in all cases done toward the Indian what he should, I do not pretend to assert. That outrages have been perpetrated upon the Indians I freely admit, but that a Government like this, strong and powerful as it is, should through all these years pursue a policy dictated by mere sentiment and gush and fail to use its strong arm to bring under its control and administration and under its influence these savage tribes is an outrage upon our civilization and a disgrace upon our administration.

This bill proposes and, as the gentleman from Arkansas well expressed it, is the "entering wedge" to a new policy, the precursor of a better day, when these men—these savages—shall be brought under the civilizing influences of agriculture and of the ways of civilized life. And for that very reason I favor the measure. The principle of the allotment of lands in severalty in this bill is the kernel and meat of this whole question. It proposes to bring the Indian down to work. It proposes to carry out the decree of God himself, when He placed man upon the earth, and when He commanded that by the sweat of his face he should eat his bread. So must it be with this people. The buffalo is gone, the antelope is no more, the elk has passed into history. They must work, they must go to agriculture, they must cultivate the soil, they must become citizens of this country and live under the influence of our institutions and civilization.

[Here the hammer fell.]

Mr. GUNTER. I would like to ask the gentleman a question.

Mr. SCALES. As I understand, no further debate is in order.

Mr. GUNTER. I simply wanted to ask a question. I want to ask if the gentleman does not believe that the Indians have certain rights, and that they ought to be consulted by the Government before any radical change is made in this respect?

Mr. WADDILL. My answer to that question is that this bill proposes that this agreement shall be ratified by three-fourths of this tribe of Indians, and therefore their consent is unquestionably asked in the matter.

Mr. GUNTER. Then another question I wish to ask the gentleman: to point out to me any delegate or any other person authorized by any civilized, semi-civilized, or wild tribe of Indians that favors this radical change that is proposed in this bill.

Mr. WADDILL. In answer to that question I simply answer that I do not care whether any civilized, semi-civilized, or barbarous Indian tribe does or does not consent to it——

Mr. GUNTER. That is it; that is exactly the reason, they do not consent.

Mr. WADDILL. It is a matter which the American Congress and the American people have to deal with, and I do not believe it is necessary to consult savages as to the best mode of civilizing them.

The SPEAKER. The question is on the motion to suspend the rules and pass the bill as amended. This will require a vote of two-thirds.

Mr. SPARKS. As this is a bill making an appropriation of money, does it not require under the rule that the roll shall be called upon it?

The SPEAKER. The rule to which the gentleman refers applies to general appropriation bills. This not being a general appropriation bill, the rule does not require the yeas and nays to be called upon it.

Mr. GUNTER. I wish to understand before the vote is taken whether it is proposed to pass this bill with the amendments reported by the Committee on Indian Affairs of the House?

The SPEAKER. The question is on passing the bill as amended by the committee.

Mr. SPARKS. I demand the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and there were—yeas 174, nays 15, not voting 103; as follows:

YEAS—174.

Acklen,	Atherton,	Bayne,	Bliss,
Aiken,	Atkins,	Beale,	Blount,
Aldrich, William	Baker,	Belford,	Bouck,
Anderson,	Ballou,	Bicknell,	Boyd,
Armfield,	Barber,	Blake,	Brewer,

Briggs,	Goode,	Mason,	Sherwin,
Brigham,	Hall,	McCook,	Singleton, J. W.
Bright,	Hammond, John	McKenzie,	Singleton, O. R.
Browne,	Hammond, N. J.	McMahon,	Slemons,
Buckner,	Harris, Benj. W.	Miles,	Smith, A. Herr
Cabell,	Harris, John T.	Miller,	Smith, William E.
Caldwell,	Haskell,	Mills,	Sparks,
Cannon,	Hatch,	Mitchell,	Speer,
Carlisle,	Hawk,	Money,	Springer,
Carpenter,	Hawley,	Monroe,	Steele,
Caswell,	Henderson,	Morrison,	Stevenson,
Chalmers,	Henry,	Morse,	Stone,
Chittenden,	Herbert,	Neal,	Taylor,
Claflin,	Hill,	New,	Thomas,
Clardy,	Hiscock,	Nicholls,	Thompson, W. G.
Clark, Alvah A.	Horr,	Norcross,	Tillman,
Clark, John B.	House,	O'Connor,	Townshend, R. W.
Clymer,	Hubbell,	O'Neill,	Tucker,
Coffroth,	Humphrey,	O'Reilly,	Tyler,
Cook,	Hunton,	Overton,	Updegraff, Thomas
Cravens,	Hurd,	Pacheco,	Urner,
Daggett,	Hutchins,	Page,	Valentine,
Davis, Horace	Johnston,	Persons,	Van Aernam,
Davis, Joseph J.	Jones,	Phelps,	Vance,
Deering,	Joyce,	Prescott,	Van Voorhis,
Deuster,	Kelley,	Rice,	Waddill,
Dibrell,	Kenna,	Richardson, D. P.	Ward,
Dickey,	Ketcham,	Richardson, J. S.	Warner,
Dunn,	Kimmel,	Robertson,	Weilborn,
Dunnell,	Kitchin,	Robeson,	Wells,
Dwight,	Klotz,	Robinson,	Whiteaker,
Elam.	Ladd,	Ross,	Whitthorne,
Evins.	Lapham,	Russell, W. A.	Williams, C. G.
Ewing,	Le Fevre,	Ryan, Thomas	Willis,
Ferdon,	Lewis,	Ryon, John W.	Willits,
Field,	Lowe,	Samford,	Wood, Fernando
Fisher,	Manning,	Sawyer,	Wright.
Ford,	Martin, Edward L.	Scales,	
Godshalk,	Martin, Joseph J.	Shallenberger,	

NAYS—15.

Cobb,	Gunter,	Myers,	Thompson, P. B.
Colerick,	Hooker,	Osmer,	Turner, Oscar
Culberson,	Martin, Benj. F.	Reagan,	Upson.
Errett,	Muldrow,	Shelley,	

NOT VOTING—103.

Aldrich, N. W.	Dick,	Keifer,	Richmond,
Bachman,	Einstein,	Killinger,	Rothwell,
Bailey,	Ellis,	King,	Russell, Daniel L.
Barlow,	Farr,	Knott,	Sapp,
Beltzhoover,	Felton,	Lindsey,	Simonton,
Berry,	Finley,	Loring,	Smith, Hezekiah B.
Bingham,	Forney,	Lounsbery,	Starin,
Blackburn,	Forsythe,	Marsh,	Stephens,
Bland,	Fort,	McCoid,	Talbott,
Bowman,	Frost,	McGowan,	Townsend, Amos
Bragg,	Frye,	McKinley,	Turner, Thomas
Burrows,	Garfield,	McLane,	Updegraff, J. T.
Butterworth,	Geddes,	McMillin,	Voorhis,
Calkins,	Gibson,	Morton,	Wait,
Camp,	Gillette,	Muller,	Washburn,
Conger,	Harmer,	Murch,	Weaver,
Converse,	Hayes,	Newberry,	White,
Covert,	Hazelton,	O'Brien,	Wilber,
Cowgill,	Heilman,	Orth,	Williams, Thomas
Cox,	Henkle,	Philips,	Wilson,
Crapo,	Herndon,	Phister,	Wise,
Crowley,	Hostetler,	Pierce,	Wood, Walter A.
Davidson,	Houk,	Poehler,	Yocum,
Davis, George R.	Hull,	Pound,	Young, Casey
Davis, Lowndes H.	James,	Price,	Young, Thomas L.
De La Matyr,	Jorgensen,	Reed,	

So the rules were suspended and the bill was passed.

The following pairs were announced:

Mr. WAIT, on political questions, with Mr. FORNEY, who is detained from the House by illness.

Mr. CRAPO with Mr. GIBSON.

Mr. WILLIAMS, of Alabama, with Mr. WASHBURN.

Mr. DAVIDSON with Mr. FARR.

Mr. FROST with Mr. BAYNE.

Mr. WILSON with Mr. HAYES, except on the tariff question.

Mr. LE FEVRE with Mr. MARSH, on political questions.

Mr. COWGILL with Mr. BRAGG.

Mr. COX with Mr. MORTON.

Mr. TAYLOR with Mr. HOUK, on political questions.

Mr. HERNDON with Mr. CAMP.

Mr. KING with Mr. RICE.

Mr. NEWBERRY with Mr. ELLIS.

Mr. THOMAS TURNER with Mr. MCGOWAN.

Mr. GARFIELD with Mr. TUCKER.

Mr. MCKINLEY with Mr. HURD.

Mr. CALKINS with Mr. PHISTER.

Mr. KNOTT with Mr. FRYE.

Mr. ORTH with Mr. MYERS, on political questions.

Mr. SAPP with Mr. GEDDES.

Mr. WALTER A. WOOD with Mr. MULLER.

Mr. EINSTEIN with Mr. ARMFIELD.

Mr. JAMES with Mr. O'BRIEN.

Mr. JOHNSTON with Mr. CROWLEY.

Mr. HOSTETLER with Mr. DAVIS, of Illinois.

Mr. GUNTER with Mr. BURROWS.

Mr. STARIN with Mr. RICHMOND.

Mr. COVERT with Mr. YOUNG, of Ohio.

Mr. PHILIPS with Mr. BOWMAN.

Mr. WILBER with Mr. BACHMAN.

Mr. FELTON with Mr. KILLINGER.

Mr. MCLANE with Mr. HARMER.

Mr. BAILEY with Mr. YOUNG, of Tennessee.

Mr. EWING with Mr. HEILMAN.

Mr. CONGER with Mr. WILLIS.

Mr. MCMILLIN with Mr. WHITE.

Mr. POEHLER with Mr. POUND.

Mr. ARMFIELD. I am paired with Mr. EINSTEIN, but I am informed on this question he would vote "ay." I have voted "ay."

Mr. LE FEVRE. I am paired with Mr. MARSH, of Illinois. If he were here he would vote "ay," and I have voted "ay."

Mr. MANNING. I am paired with Mr. KEIFER, of Ohio. I am informed he would vote for this bill, and I have voted "ay."

Mr. TAYLOR. I am paired with my colleague from Tennessee, Mr. HOUK. If he were here he would vote "ay," and I have voted "ay."

Mr. WILLIS. I am paired with Mr. CONGER, of Michigan. I am informed he would vote "ay." I have voted "ay."

Mr. TUCKER. I have been announced as paired with Mr. GARFIELD, of Ohio. I am informed by his colleague, Mr. NEAL, that Mr. GARFIELD, if present, would vote in the affirmative on this question. I am therefore allowed to vote, and have voted "ay."

The result of the vote was then announced as above recorded.

ENFORCEMENT OF EIGHT-HOUR LAW.

Mr. WRIGHT. I move that the rules be suspended and that the joint resolution (H. R. No. 239) to provide for the enforcement of the eight-hour law, reported from the Committee on Education and Labor, be taken from the House Calendar and passed.

The joint resolution was read, as follows:

Resolved, &c., That, according to the true intent and meaning of section 3738 of the Revised Statutes, all laborers, workmen, and mechanics employed by or in behalf of the Government shall hereafter receive a full day's pay for eight hours' work; and all heads of Departments, officers, and agents of the Government are hereby directed to enforce said law as herein interpreted.

Mr. WRIGHT. I ask that the report of the Committee on Education and Labor be read.

The Clerk read as follows:

Mr. VAN AERNAM, from the Committee on Education and Labor, submitted the following report, to accompany H. Res. No. 239:

The Committee on Education and Labor, to whom have been referred the many petitions of the workingmen throughout the country and the several bills and resolutions of the House in regard to the enforcement of the provisions of the act commonly known as the "eight-hour law," have had the same under consideration, and beg to make the following report:

The act of June 25, 1868, section 3738 of the Revised Statutes, which was passed after a long and exhaustive debate upon the subject in both branches of Congress, constituted eight hours a day's work for all laborers, workmen, and mechanics employed by or on behalf of the Government of the United States.

Yet, notwithstanding the requirements of this law, many of the officers and agents of the Government in charge where such laborers, workmen, and mechanics were employed disregarded its beneficent and vital requirements; and to remedy the evils growing out of this violation of the law, the President of the United States, on the 19th of May, 1869, issued a proclamation (Statutes at Large, volume 16, page 1127) directing that no reduction should be made in the wages of laborers, workmen, and mechanics in the employment of the United States by reason of the reduction of the hours of labor.

Still the provisions of this law continued to be evaded or utterly disregarded on the part of many officers and agents of the Government charged with its execution, so the President of the United States did again, on the 11th day of May, 1872, (Statutes at Large, volume 17, page 727,) issue another proclamation calling attention to the provisions of the said act of June 25, 1868, and directing all officers of the executive department of the Government having charge of the employment or payment of laborers, workmen, and mechanics, to make no reduction in the wages on account of the reduction in the hours of labor.

The law is practically now a dead letter, and many of the officers charged with its execution utterly disregard its provisions; and your committee, fully believing that all laws, so long as they remain upon the statute-books, should be faithfully executed by all officers of the Government, and obeyed by all good citizens, present the accompanying joint resolutions for the correction of the evils stated, and ask the favorable consideration of the House.

Mr. CAMP. I move that the House do now adjourn.

The question being taken on the motion to adjourn, there were—ayes 51, noes 72.

So the House refused to adjourn.

Mr. TILLMAN. I demand a second on the motion of the gentleman from Pennsylvania to suspend the rules.

The SPEAKER. The rule requires that on a motion to suspend the rules where the demand is made the second shall be by tellers. The Chair appoints as tellers the gentleman from Pennsylvania, Mr. WRIGHT, and the gentleman from South Carolina, Mr. TILLMAN.

The House divided; and the tellers reported—ayes 80, noes 35.

Mr. WILLITS, and Mr. CANNON of Illinois, made the point that a quorum had not voted.

Mr. LAPHAM. I move that the House do now adjourn.

Mr. RYON, of Pennsylvania. I move to suspend the rules and discharge——

The SPEAKER. The Chair cannot entertain that motion when there is a motion to suspend the rules now pending.

Mr. CANNON, of Illinois. I withdraw the point as to a quorum.

Mr. WILLITS. I insist on it.

Mr. COX. I ask unanimous consent to take a little bill from the Speaker's table.

The SPEAKER. The Chair cannot ask unanimous consent just now.

Mr. COX. Why can it not be done by unanimous consent?

The SPEAKER. A quorum has not voted, and the Chair cannot entertain a request for unanimous consent.

Mr. COX. I think no quorum would be required for this little matter.

The question being taken on Mr. LAPHAM'S motion, there were—ayes 65, noes 75.

Mr. CAMP. I call for the yeas and nays.

On the question of ordering the yeas and nays there were—ayes 27, noes 79.

So (the affirmative being more than one-fifth of the whole vote) the yeas and nays were ordered.

The question was taken; and there were—yeas 43, nays 128, not voting 121; as follows:

YEAS—43.

Baker,	Daggett,	Humphrey,	Overton,
Ballou,	Deering,	Joyce,	Pacheco,
Blount,	Dibrell,	Lapham,	Reagan,
Bouck,	Dunnell,	Mason,	Rice,
Brewer,	Dwight,	Miles,	Smith, A. Herr
Browne,	Field,	Miller,	Ward,
Camp,	Fisher,	Mills,	Warner,
Cannon,	Hall,	Mitchell,	Whiteaker,
Carlisle,	Hammond, N. J.	Monroe,	Whitthorne,
Carpenter,	Hawley,	Myers,	Willits.
Caswell,	Horr,	Norcross,	

NAYS—128.

Acklen,	Culberson,	Ketcham,	Scales,
Aiken,	Davis, Horace	Kimmel,	Shelley,
Aldrich, William	Davis, Joseph J.	Klotz,	Sherwin,
Anderson,	Deuster,	Ladd,	Singleton, J. W.
Armfield,	Dickey,	Lewis,	Singleton, O. R.
Atherton,	Dunn,	Loring,	Smith, William E.
Atkins,	Elam,	Lowe,	Sparks,
Barber,	Errett,	Martin, Benj. F.	Speer,
Beale,	Evins,	Martin, Joseph J.	Springer,
Belford,	Ewing,	McMahon,	Steele,
Berry,	Ferdon,	McMillin,	Stevenson,
Bicknell,	Ford,	Morrison,	Stone,
Blake,	Godshalk,	Morse,	Talbott,
Bliss,	Goode,	Muldrow,	Thomas,
Boyd,	Hammond, John	New,	Thompson, P. B.
Briggs,	Harris, John T.	Nicholls,	Thompson, W. G.
Brigham,	Hatch,	O'Connor,	Tillman,
Bright,	Henderson,	O'Neill,	Townshend, R. W.
Cabell,	Henkle,	O'Reilly,	Tucker,
Caldwell,	Henry,	Osmer,	Turner, Oscar
Chalmers,	Hill,	Page,	Tyler,
Chittenden,	Hiscock,	Phelps,	Urner,
Clardy,	Hooker,	Prescott,	Valentine,
Clark, Alvah A.	House,	Richardson, D. P.	Van Aernam,
Clark, John B.	Hubbell,	Richardson, J. S.	Voorhis,
Clymer,	Hunton,	Robertson,	Van Voorhis,
Cobb,	Hurd,	Robeson,	Waddill,
Coffroth,	Hutchins,	Robinson,	Wellborn,
Colerick,	Johnston,	Ryan, Thomas	Wells,
Cook,	Jones,	Ryon, John W.	Willis,
Cox,	Kelley,	Samford,	Wood, Fernando
Cravens,	Kenna,	Sawyer,	Wright.

NOT VOTING—121.

Aldrich, N. W.	Finley,	Lindsey,	Russell, W. A.
Bachman,	Forney,	Lounsbery,	Sapp,
Bailey,	Forsythe,	Manning,	Shallenberger,
Barlow,	Fort,	Marsh,	Simonton,
Bayne,	Frost,	Martin, Edward L.	Slemons,
Beltzhoover,	Frye,	McCoid,	Smith, Hezekiah B.
Bingham,	Garfield,	McCook,	Starin,
Blackburn,	Geddes,	McGowan,	Stephens,
Bland,	Gibson,	McKenzie,	Taylor,
Bowman,	Gillette,	McKinley,	Townsend, Amos
Bragg,	Gunter,	McLane,	Turner, Thomas
Buckner,	Harmer,	Money,	Updegraff, J. T.
Burrows,	Harris, Benj. W.	Morton,	Updegraff, Thomas
Butterworth,	Haskell,	Muller,	Upson,
Calkins,	Hawk,	Murch,	Vance,
Claflin,	Hayes,	Neal,	Wait,
Conger,	Hazelton,	Newberry,	Washburn,
Converse,	Heilman,	O'Brien,	Weaver,
Covert,	Herbert,	Orth,	White,
Cowgill,	Herndon,	Persons,	Wilber,
Crapo,	Hostetler,	Philips,	Williams, C. G.
Crowley,	Houk,	Phister,	Williams, Thomas
Davidson,	Hull,	Pierce,	Wilson,
Davis, George R.	James,	Poehler,	Wise,
Davis, Lowndes H.	Jorgensen,	Pound,	Wood, Walter A.
De La Matyr,	Keifer,	Price,	Yocum,
Dick,	Killinger,	Reed,	Young, Casey
Einstein,	King,	Richmond,	Young, Thomas L.
Ellis,	Kitchin,	Ross,	
Farr,	Knott,	Rothwell,	
Felton,	Le Fevre,	Russell, Daniel L.	

So the motion to adjourn was not agreed to.

The following additional pair was announced:

Mr. MCKENZIE with Mr. SHALLENBERGEE, for the remainder of the day.

Mr. WILLIS. It may be proper to state that I was paired with the gentleman from Michigan, [Mr. CONGER,] the pair to end with Saturday last, on the condition that I was to be free to vote when necessary to make a quorum. I have agreed to continue the pair with him upon the same condition, and have voted on this motion in the negative.

The SPEAKER. There is more than a quorum on this vote.

Mr. WILLIS. Then I withdraw my vote, as it is not needed to make a quorum.

The result of the vote was then announced as above stated.

Mr. WRIGHT. I now ask that the vote be again taken on seconding my motion to suspend the rules.

The SPEAKER. The tellers will resume their places.

The House again divided; and the tellers reported that there were—ayes 96, noes 10.

Mr. MORSE. I make the point that no quorum has voted.

Mr. WRIGHT. I have been here for three years trying to get a vote on this proposition. [Laughter.]

Mr. MORSE. If the gentleman has been here three years trying to get a vote, I will withdraw my point of order.

Mr. RICE. I renew it.

The SPEAKER. It is very evident that members of the House decline to vote on seconding the motion to suspend the rules.

Mr. KENNA. I hope the gentleman from Massachusetts [Mr. RICE] will withdraw his demand for a quorum and allow a direct vote to be taken on the proposition.

The SPEAKER. If the gentleman from Pennsylvania [Mr. WRIGHT] will withdraw his motion to suspend the rules for the present, with the understanding that it shall be submitted at another time, the Chair will recognize other gentlemen.

Mr. WRIGHT. I have been here three years trying to get a vote on this bill. I move a call of the House.

Mr. ALDRICH, of Illinois. I hope the gentleman will withdraw his motion to suspend the rules.

Mr. WRIGHT. Withdraw it! I will not withdraw it. I want to test this House and see whether the laboring-man has any rights here or not.

Mr. ALDRICH, of Illinois. Of course he has rights here; I have voted with you every time.

The SPEAKER. The question is on the motion for a call of the House.

The question was taken; and there being more than 15 in the affirmative, a call of the House was ordered.

The Clerk proceeded to call the roll, when the following members failed to answer to their names:

Aldrich, N. W.	Forney,	Lindsey,	Russell, Daniel L.
Barlow,	Forsythe,	Lounsbery,	Shallenberger,
Beltzhoover,	Fort,	Marsh,	Smith, Hezekiah B.
Bingham,	Frost,	McGowan,	Springer,
Blackburn,	Frye,	McKinley,	Starin,
Bland,	Garfield,	Morton,	Stephens,
Bowman,	Geddes,	Muller,	Townsend, Amos
Bragg,	Gibson,	Murch,	Turner, Thomas
Burrows,	Gillette,	Neal,	Updegraff, J. T.
Butterworth,	Hammond, John	Newberry,	Updegraff, Thomas
Calkins,	Harmer,	O'Brien,	Upson,
Conger,	Hazelton,	O'Connor,	Washburn,
Converse,	Heilman,	Orth,	Weaver,
Cowgill,	Herndon,	Page,	White,
Crowley,	Houk,	Persons,	Wilber,
Davis, George R.	Hull,	Philips,	Wilson,
Davis, Lowndes H.	James,	Pierce,	Wise,
De La Matyr,	Johnston,	Pound,	Wood, Walter A.
Dick,	Jorgensen,	Price,	Yocum,
Einstein,	Keifer,	Reed,	Young, Casey
Farr,	Killinger,	Richardson, J. S.	Young, Thomas L.
Felton,	King,	Richmond,	
Finley,	Knott,	Rothwell.	

Mr. SHELLEY. My colleagues, Mr. HERNDON and Mr. FORNEY, are absent sick.

The SPEAKER. Two hundred and two members—more than a quorum—have answered to their names.

Mr. MORSE. I move to dispense with further proceedings under the call.

The motion was agreed to.

Mr. WRIGHT. I ask that the tellers may resume their places.

Mr. HISCOCK. I move that the House now adjourn.

The question being taken on the motion to adjourn, it was not agreed to, there being—ayes 59, noes 79.

The SPEAKER. The tellers will resume their places; and the question will be again taken on seconding the motion of the gentleman from Pennsylvania, [Mr. WRIGHT,] to suspend the rules.

The House again divided; and the tellers reported—ayes 83, noes 13.

Mr. RICE. No quorum.

Mr. LAPHAM. I move that the House adjourn.

Mr. WRIGHT. I move a call of the House.

The SPEAKER. There is a quorum present, but there is an evident indisposition on the part of the House to vote on this question. If the gentleman from Pennsylvania would withdraw this motion for the purpose of submitting it at another time, the House might proceed with such business as it is willing to proceed with.

Mr. WRIGHT. If the House will agree to take up this question to-morrow or next day as the first business after the morning hour I will agree to postpone it until that time.

The SPEAKER. The Chair would recognize the gentleman from Pennsylvania again upon the motion to suspend the rules as soon as the last six days of the session have been entered upon, when motions to suspend the rules will be in order at any time.

Mr. WRIGHT. Unfortunately, I shall not probably be here at that time.

Mr. COX. I hope my friend from Pennsylvania [Mr. WRIGHT] will accept the suggestion of the Speaker and have this matter brought up for action during the last six days of the session. It is evident that my friend cannot carry it now.

Mr. WRIGHT. I ask unanimous consent to bring it up on Wednesday morning next.

The SPEAKER. The gentleman from Pennsylvania states that he will withdraw this motion provided consent be given that he shall bring the question up on next Wednesday morning after the morning hour. Is there objection?

Mr. CANNON, of Illinois. I object.

Mr. O'NEILL. When will motions to suspend the rules be reached again in regular order?

The SPEAKER. If the last six days of the session should not meanwhile be entered upon, the next day for motions of individual members to suspend the rules will be the first Monday in July.

Mr. HUBBELL. Well, give him the first Monday in July.

Mr. WRIGHT. I looked for just such language as that. I am willing to take it. I am willing to stand any abuse here in advocating the cause of these men.

The SPEAKER. The Chair will protect the gentleman from abuse.

Mr. WRIGHT. It amounts to about that. The gentleman says "put it off until July." I stand here to advocate this measure, and I am willing to take abuse.

Mr. HUBBELL. I only assented to the gentleman having that day. I did not say "put it off." I still say I am willing the gentleman should have that day.

Mr. WRIGHT. If next Wednesday is objected to, let it be Thursday.

The SPEAKER. The gentleman from Pennsylvania now asks unanimous consent that this question be taken up on Thursday next.

Mr. CANNON, of Illinois. I object.

Mr. WRIGHT. I will agree to call the previous question and there shall be no debate if the House will let me have a vote upon this question next Thursday morning.

Mr. LAPHAM. I insist on my motion that the House adjourn.

Mr. CAMP. I call for the yeas and nays on that motion.

The yeas and nays were ordered.

The question was taken; and there were—yeas 42, nays 111, not voting 139; as follows:

YEAS—42.

Ballou,	Dibrell,	Humphrey,	O'Reilly,
Bouck,	Dunnell,	Hurd,	Overton,
Briggs,	Dwight,	Joyce,	Reagan,
Camp,	Field,	Martin, Edward L.	Rice,
Cannon,	Hall,	Mason,	Smith, A. Herr
Carlisle,	Hammond, John	Miles,	Thompson, W. G.
Carpenter,	Hammond, N. J.	Mills,	Ward,
Caswell,	Hawk,	Mitchell,	Whitthorne,
Chalmers,	Hawley,	Monroe,	Willits.
Crapo,	Horr,	Nicholls,	
Daggett,	Hubbell,	Norcross,	

NAYS—111.

Acklen,	Culberson,	Kitchin,	Scales,
Aiken,	Davis, Horace	Klotz,	Shelley,
Aldrich, William	Davis, Joseph J.	Ladd,	Sherwin,
Anderson,	Deuster,	Lewis,	Singleton, J. W.
Atherton,	Dickey,	Lowe,	Singleton, O. R.
Atkins,	Dunn,	Manning,	Sparks,
Barber,	Elam,	Martin, Benj. F.	Steele,
Beale,	Errett,	Martin, Joseph J.	Stevenson,
Berry,	Evins,	McMahon,	Talbott,
Bicknell,	Ewing,	McMillin	Thomas,
Blackburn,	Ferdon,	Money,	Thompson, P. B.
Blake,	Fisher,	Morrison,	Tillman,
Bliss,	Ford,	Morse,	Townshend, R. W.
Boyd,	Goode,	Muldrow,	Tucker,
Brewer,	Gunter,	Myers,	Turner, Oscar,
Brigham,	Harris, John T.	Neal,	Tyler,
Bright,	Hatch,	New,	Urner,
Browne,	Henderson,	O'Neill,	Valentine,
Buckner,	Henry,	Osmer,	Vance,
Cabell,	Hooker,	Phelps,	Van Voorhis,
Caldwell,	House,	Prescott,	Voorhis,
Chittenden,	Hunton,	Richardson, D. P.	Waddill,
Clardy,	Hutchins,	Richardson, J. S.	Wellborn,
Clark, Alvah A.	Johnston,	Robinson,	Wells,
Clymer,	Jones,	Ryan, Thomas	Whiteaker,
Cook,	Kelley,	Ryon, John W.	Willis,
Cox,	Kenna,	Samford,	Wright.
Cravens,	Ketcham,	Sawyer,	

NOT VOTING—139.

Aldrich, N. W.	Covert,	Harmer,	Loring,
Armfield,	Cowgill,	Harris, Benj. W.	Lounsbery,
Bachman,	Crowley,	Haskell,	Marsh,
Bailey,	Davidson,	Hayes,	McCoid,
Baker,	Davis, George R.	Hazelton,	McCook,
Barlow,	Davis, Lowndes H.	Heilman,	McGowan,
Bayne,	De La Matyr,	Henkle,	McKenzie,
Belford,	Deering,	Herbert,	McKinley,
Beltzhoover,	Dick,	Herndon,	McLane,
Bingham,	Einstein,	Hill,	Miller,
Bland,	Ellis,	Hiscock,	Morton,
Blount,	Farr,	Hostetler,	Muller,
Bowman,	Felton,	Houk,	Murch,
Bragg,	Finley,	Hull,	Newberry,
Burrows,	Forney,	James,	O'Brien,
Butterworth,	Forsythe,	Jorgensen,	O'Connor,
Calkins,	Fort,	Keifer,	Orth,
Claflin,	Frost,	Killinger,	Pacheco,
Clark, John B.	Frye,	Kimmel,	Page,
Cobb,	Garfield,	King,	Persons,
Coffroth,	Geddes,	Knott,	Philips,
Colerick,	Gibson,	Lapham,	Phister,
Conger,	Gillette.	Le Fevre,	Pierce,
Converse,	Godshalk,	Lindsey,	Poehler,
Pound,	Shallenberger,	Townsend, Amos	Wilber,
Price,	Simonton,	Turner, Thomas	Williams, C. G.
Reed,	Slemons,	Updegraff, J. T.	Williams, Thomas
Richmond,	Smith, Hezekiah B.	Updegraff, Thomas	Wilson,
Robertson,	Smith, William E.	Upson,	Wise,
Robeson,	Speer,	Van Aernam,	Wood, Fernando
Ross,	Springer,	Wait,	Wood, Walter A.
Rothwell,	Starin,	Warner,	Yocum,
Russell, Daniel L.	Stephens,	Washburn,	Young, Casey
Russell, W. A.	Stone,	Weaver,	Young, Thomas L
Sapp,	Taylor,	White,	

So the House refused to adjourn.

On motion of Mr. EVINS, the reading of the names was dispensed with.

The following additional pairs were announced from the Clerk's desk:

Mr. LAPHAM with Mr. HERBERT, on all questions except to make a quorum.

Mr. JONES with Mr. JOYCE, on all questions for the remainder of this day.

Mr. UPSON with Mr. RUSSELL, of Massachusetts, for to-day.

Mr. FINLEY with Mr. MILLER, for the remainder of the session.

The vote was then announced as above recorded.

Mr. WRIGHT. I see it is manifest, Mr. Speaker, that there is a disposition to prevent any vote being taken on this bill to-day.

Mr. GOODE. On what side?

Mr. WRIGHT. I do not want to be personal. [Laughter.] There has been a decisive vote of 80 to 30 in favor of the bill as I regard it. There are other gentlemen who have bills they desire to bring before the House, and I do not wish to stand in their way. I do not wish to be obnoxious to them, and therefore, under the intimation of the Speaker made from his place a short time ago that if I consented to let this go over for the present he would give me the opportunity during the first of the last six days of the session to call the matter up, I am willing it shall be postponed. I do it with the assurance that I shall have an opportunity to bring this up at that time.

The SPEAKER. The Chair did not make any arrangement.

Mr. WRIGHT. No; but he said it could be done.

The SPEAKER. The Chair said if there was an absolute withdrawal he would recognize the gentleman during the first day of the six last days of the session.

Mr. WRIGHT. Is there any gentleman who objects to my calling it up on the first day of the last six days of the session?

The SPEAKER. It is not a question with any one; but the gentleman can then move to suspend the rules.

Mr. HUNTON. You will get consent.

Mr. WRIGHT. I do not want consent, but I wish to know whether any one objects to it or not.

Mr. GOODE. No one objects to it.

PUBLIC BUILDINGS.

The SPEAKER. The Chair desires to state he proposes to recognize gentlemen in reference to public buildings in the order in which the bills stand upon the Calendar, because the House has by a vote said in considering these bills the House itself would consider them in the order in which they stood upon the Calendar. The Chair takes that as binding on him as an expression of opinion on the part of the House. If these bills are to be passed, they ought to have the opportunity in the order in which they are on the Calendar.

Mr. LAPHAM. I rise to a question of order. I make the point of order that the gentleman from Pennsylvania cannot withdraw his proposition, as it has been acted on in part by the House.

The SPEAKER. The Chair overrules the point of order.

Mr. HOOKER. And the Chair has recognized another gentleman on the floor.

Mr. VAN VOORHIS. I rise to move to suspend the rules.

Mr. LAPHAM. I insist on my point of order.

Mr. TOWNSHEND, of Illinois. It is in the power of a member to withdraw any proposition before final action.

Mr. LAPHAM. There has been partial action, and it cannot be withdrawn. The House is in possession of the subject, and the gentleman from Pennsylvania has no power to withdraw it.

The SPEAKER. The Chair will cause clause 2 of Rule XVI to be read.

The Clerk read as follows:

2. When a motion has been made, the Speaker shall state it, or (if it be in writing) cause it to be read aloud by the Clerk before being debated, and it shall then be in possession of the House, but may be withdrawn at any time before a decision or amendment.

The SPEAKER. There has been no decision or amendment, and therefore, the Chair thinks, under the letter of the rule, the gentleman from Pennsylvania has the right to withdraw his motion.

PUBLIC BUILDING, ROCHESTER, NEW YORK.

Mr. VAN VOORHIS. I move to discharge the Committee of the Whole House on the state of the Union from the further consideration of a bill (H. R. No. 2531) for a public building at Rochester, New York, and to pass the following substitute therefor.

Mr. RYON, of Pennsylvania. I reserve the right to object.

The SPEAKER. The gentleman moves to suspend all rules and pass the substitute which the Clerk will read.

The Clerk read as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and is hereby, authorized and directed to purchase at private sale or by condemnation in pursuance

of the statute of New York a suitable lot of ground for a site for a building suitable for a post-office, court-house, custom-house, internal-revenue office, and other Government offices, in the city of Rochester, State of New York, and cause to be erected thereon a building suitable for the aforesaid purposes; and for the purposes herein mentioned the sum of $100,000 is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of the Treasury. The lot of land to be purchased, and the building hereby authorized to be constructed, when completed, upon plans to be previously made and approved by the Secretary of the Treasury, shall not exceed the cost of $300,000: *Provided*, That no money to be appropriated for this purpose shall be available until a valid title shall be vested in the United States, nor until the State of New York shall cede its jurisdiction over the same and relinquish the right to tax or assess the same while the United States shall be owners thereof. And the site shall be of sufficient extent to leave an open space upon every side of the building to be erected, including streets and alleys, of at least fifty feet.

Mr. LAPHAM. I ask a second by tellers.

The SPEAKER. A second being demanded, the Chair will appoint tellers.

Mr. LAPHAM and Mr. VAN VOORHIS were appointed.

The House divided; and the tellers reported—ayes 72, noes 6.

Mr. LAPHAM. I make the point of order that no quorum has voted.

Mr. STEVENSON. I suggest to the gentleman from New York that he give way, as there seems to be some objection to this bill, and let some bills come in which are not objectionable.

Mr. VAN VOORHIS. If there is any bill that is meritorious before the House this is one.

The SPEAKER. The House does not seem to respond to the opinion of the gentleman from New York.

Mr. COX. I ask to bring before the House a meritorious bill by unanimous consent.

The SPEAKER. Does the gentleman from New York insist upon the point of order that no quorum has voted?

Mr. LAPHAM. I do.

CORRECTION OF ERROR IN ENROLLED BILL.

Mr. ALDRICH, of Illinois. Mr. Speaker, I desire to present a concurrent resolution authorizing the Clerk of the House to correct an error in an enrolled bill, as it will take but a few moments.

The SPEAKER. The Clerk will read the proposed resolution.

The Clerk read as follows:

Concurrent resolution authorizing the Clerk of the House to correct an error in the enrollment of the bill H. R. No. 4911.

Resolved by the House of Representatives, (the Senate concurring therein,) That in the enrollment of the bill (H. R. No. 4911) "to amend the statutes in relation to the immediate transportation of dutiable goods" the Clerk of the House be authorized and directed to change the word "sixth," in the sixth line of the third amendment of the Senate to the said bill, to "seventh."

The resolution was agreed to.

ENROLLED BILL SIGNED.

Mr. KENNA, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (H. R. No. 1064) to grant to the corporate authorities of the city of Council Bluffs, in the State of Iowa, for public uses, a certain lake or bayou situated near said city; when the Speaker signed the same.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, announced that the Senate had passed, without amendment, House bills of the following titles:

A bill (H. R. No. 2796) for the relief of George Eyster; and

A bill (H. R. No. 3783) to remove the charge of desertion from the military record of Jerry Foley.

The message further announced that the Senate had agreed to the amendments of the House to the bill (S. No. 1363) granting a pension to Eli Cooprider.

The message also announced that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

A bill (S. No. 191) to reduce the price of public lands within railroad limits;

A bill (S. No. 16) for the relief of Albert Towle;

A bill (S. No. 850) to provide for the settling by arbitration the question of the liability of the United States for damages to the Norwegian bark Atlantic by collision with the United States steamer Vandalia, and for payment of the same;

A bill (S. No. 616) to promote the efficiency of the Navy;

A bill (S. No. 916) to authorize the United States to secure a title to certain military and timber reservations; and

A bill (S. No. 1316) making an appropriation for the erection of a light-house and fog-bell on Whale Rock at the entrance of Narragansett Bay.

ORDER OF BUSINESS.

Mr. RYON, of Pennsylvania. I move that the House do now adjourn.

The House divided; and there were—ayes 66, noes 60.

Mr. STEVENSON. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 89, nays 80, not voting 123; as follows:

YEAS—89.

Aiken,	Barber,	Blount,	Brigham,
Aldrich, William	Berry,	Bouck,	Bright,
Baker,	Bicknell,	Brewer,	Browne,
Ballou,	Blackburn,	Briggs,	Buckner,
Cannon,	Harris, Benj. W.	Monroe,	Smith, A. Herr
Carpenter,	Harris, John T.	Morse,	Stone,
Chalmers,	Hawk,	Neal,	Talbott,
Clymer,	Hawley,	Nicholls,	Thompson, P. B.
Cobb,	Hiscock,	Norcross,	Thompson, W. G.
Cook,	Horr,	Osmer,	Tyler,
Crapo,	Hubbell,	Overton,	Updegraff, Thomas
Daggett,	Humphrey,	Pacheco,	Van Aernam,
Davis, Horace	Ladd,	Prescott,	Wait,
Deering,	Lapham,	Reagan,	Ward,
Dibrell,	Lowe,	Rice,	Warner,
Dunnell,	Martin, Edward L.	Richardson, J. S.	Wells,
Dwight,	Martin, Joseph J.	Robertson,	Whiteaker,
Ferdon,	Mason,	Robeson,	Whitthorne,
Field,	McCook,	Robinson,	Williams, C. G.
Godshalk,	McMahon,	Ross,	Willits.
Gunter,	Miles,	Ryon, John W.	
Hall,	Mills,	Simonton,	
Hammond, N. J.	Mitchell,	Siemons,	

NAYS—80.

Acklen,	Deuster,	Kenna,	Singleton, J. W.
Anderson,	Dickey,	Ketcham,	Singleton, O. R.
Armfield,	Dunn,	Kitchin,	Sparks,
Atherton,	Elam,	Klotz,	Speer,
Atkins,	Errett,	Manning,	Springer,
Blake,	Evins,	Martin, Benj. F.	Steele,
Bliss,	Ewing,	McMillin,	Stevenson,
Boyd,	Fisher,	Morrison,	Thomas,
Cabell,	Ford,	Muldrow,	Tillman,
Caldwell,	Goode,	Myers,	Townshend, R. W.
Carlisle,	Haskell,	New,	Tucker,
Clardy,	Hatch,	O'Connor,	Turner, Oscar
Clark, Alvah A.	Henry,	Phelps,	Urner,
Clark, John B.	Hill,	Richardson, D. P.	Valentine,
Coffroth,	Hooker,	Ryan, Thomas	Vance,
Colerick,	House,	Samford,	Van Voorhis,
Cox,	Hunton,	Sawyer,	Waddill,
Cravens,	Hurd,	Scales,	Wellborn,
Crowley,	Hutchins,	Shelley,	Willis,
Davis, Joseph J.	Johnston,	Sherwin,	Wright.

NOT VOTING—123.

Aldrich, N. W.	Farr,	Kimmel,	Price,
Bachman,	Felton,	King,	Reed,
Bailey,	Finley,	Knott,	Richmond,
Barlow,	Forney,	Le Fevre,	Rothwell,
Bayne,	Forsythe,	Lewis,	Russell, Daniel L.
Beale,	Fort,	Lindsey,	Russell, W. A
Belford,	Frost,	Loring,	Sapp,
Beltzhoover,	Frye,	Lounsbery,	Shallenberger,
Bingham,	Garfield,	Marsh,	Smith, Hezekiah B.
Bland,	Geddes,	McCoid,	Smith, William E.
Bowman,	Gibson,	McGowan,	Starin,
Bragg,	Gillette,	McKenzie,	Stephens,
Burrows,	Hammond, John	McKinley,	Taylor,
Butterworth,	Harmer,	McLane,	Townsend, Amos
Calkins,	Hayes,	Miller,	Turner, Thomas
Camp,	Hazelton,	Money,	Updegraff, J. T.
Caswell,	Heilman,	Morton,	Upson,
Chittenden,	Henderson,	Muller,	Voorhis,
Claflin,	Henkle,	Murch,	Washburn,
Conger,	Herbert,	Newberry,	Weaver,
Converse,	Herndon,	O'Brien,	White,
Covert,	Hostetler,	O'Neill,	Wilber,
Cowgill,	Houk,	O'Reilly,	Williams, Thomas
Culberson,	Hull,	Orth,	Wilson,
Davidson,	James,	Page,	Wise,
Davis, George R.	Jones,	Persons,	Wood, Fernando
Davis, Lowndes H.	Jorgensen,	Philips,	Wood, Walter A.
De La Matyr,	Joyce,	Phister,	Yocum,
Dick,	Keifer,	Pierce,	Young, Casey
Einstein,	Kelley,	Poehler,	Young, Thomas L.
Ellis,	Killinger,	Pound,	

So the House determined to adjourn.

LEAVE OF ABSENCE.

Pending the announcement of the vote on the motion to adjourn, leave of absence was granted by unanimous consent in the following cases:

To Mr. CHITTENDEN, for two days; and

To Mr. MARSH, for five days.

LEAVE TO PRINT.

By unanimous consent, leave was granted to Mr. WRIGHT to print remarks in the RECORD on the funding bill; to Mr. KITCHIN, on the funding bill, and also on the bill for relief of the depositors in the Freedman's Bank; and to Mr. VAN VOORHIS, on the bill to erect a public building at Rochester, New York. [See Appendix.]

BONDS PURCHASED BY TREASURY.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, transmitting a detailed statement of the amount of bonds purchased by the Treasury Department between January 1, 1844, and January 1, 1859, setting forth the date and amount of each purchase, the rate of interest borne by the bonds then purchased, with the date of the maturity thereof, and the total premium, exclusive of accrued interest, paid on each purchase and its rate per cent.; which was referred to the Committee on Banking and Currency.

EAST FLORIDA CLAIMS.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting answer to resolution of the House relative to East Florida claims; which was referred to the Committee on Claims.

The result of the vote was then announced as above recorded.

And accordingly (at four o'clock and thirty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. CRAPO: The petition of Joseph Grinnell and others, of New Bedford, Massachusetts, for a law granting land titles to Indians in severalty—to the Committee on Indian Affairs.

By Mr. DICKEY: The petition of R. W. Moberly and 32 others, citizens of Highland County, Ohio, for the amendment of the patent laws so as to make the manufacturer or vendor of patented articles alone responsible for infringements—to the Committee on Patents.

Also, the petition of N. A. Huggins and 40 others, citizens of Highland County, Ohio, for the passage of the interstate-commerce bill—to the Committee on Commerce.

By Mr. LADD: The petition of Joseph Mitchell, for an increase of pension as a soldier of the war of 1812—to the Committee on Invalid Pensions.

By Mr. OSMER: The petition of Addison Leech, of Erie, Pennsylvania, for an American registry for a wrecked Canadian vessel—to the Committee on Naval Affairs.

By Mr. SAPP: The petition of citizens of Iowa, for the extension of a post-route in that State—to the Committee on the Post-Office and Post-Roads.

By Mr. TAYLOR: The petition of Nancy Williams, for a pension—to the Committee on Invalid Pensions.

Also, the petition of A. M. Dougherty & Co., of Johnson County, Tennessee, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. VANCE: A paper relating to the bill for the relief of Polly Tatham—to the Committee on Indian Affairs.

IN SENATE.

TUESDAY, *June* 8, 1880.

The Senate met at eleven o'clock a. m. Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a letter of the Secretary of War, transmitting the petition of Captain Evan Miles, Twenty-first Infantry, asking relief for the loss of his personal property destroyed by the burning of the Government warehouse at Vancouver Barracks, Washington Territory, on the night of March 8, 1880; which was referred to the Committee on Claims.

Mr. MORRILL presented the petition of Hugh O'Neill, father of John O'Neill, late a private in Company I, United States Mounted Rifles, praying for the passage of a bill granting him a pension; which was referred to the Committee on Pensions.

Mr. BALDWIN presented the memorial of Julian D. Pulsipher and 23 others, soldiers of the late war, citizens of Michigan, remonstrating against the bill providing for commissioners to adjudicate pension claims; which was ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. DAVIS, of Illinois. The Committee on the Judiciary has had under consideration the bill (S. No. 1801) for the relief of Clement C. Clay, of Alabama, and have instructed me unanimously to report in favor of it. Mr. Clay is one of the gentlemen who have held out a long time. He was a Senator here at the time the secession occurred; he has finally petitioned Congress to remove his disabilities, and I therefore hope that the bill will be considered now.

Mr. INGALLS. He has waited so long I think he had better wait until to-morrow. I object to the consideration of the bill.

The PRESIDENT *pro tempore*. The Senator from Kansas objects, and the bill will be placed on the Calendar.

Mr. KIRKWOOD, from the Committee on Pensions, to whom was referred the bill (H. R. No. 2120) granting a pension to Bernard Brady, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the petition of Ailsey E. Murphy, praying for the passage of a law granting her a pension, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

He also, from the same committee, to whom was referred the bill (H. R. No. 1938) granting a pension to John H. McBrayer, submitted an adverse report thereon; which was ordered to be printed.

Mr. BECK. I ask that that bill be placed on the Calendar.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar with the adverse report of the committee.

Mr. KIRKWOOD, from the Committee on Pensions, to whom was referred the bill (S. No. 1615) granting a pension to Henry Schroeder, submitted an adverse report thereon; which was ordered to be printed.

The PRESIDENT *pro tempore*. If there is no objection the bill will be postponed indefinitely.

Mr. CAMERON, of Wisconsin. I ask that the bill be placed on the Calendar.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar with the adverse report of the committee.

Mr. KIRKWOOD, from the Committee on Pensions, to whom was referred the bill (H. R. No. 3100) granting relief to Samuel B. Hutchinson, reported it, with amendments, and submitted a report thereon; which was ordered to be printed.

Mr. COCKRELL. The Committee on Military Affairs, to which was referred the joint resolution (H. R. No. 316) granting the use of artillery, muskets, and tents at the soldiers' reunion at Decatur, Illinois, in the fall of 1880, has duly considered the same and instructed me to report it back favorably recommending the passage of the resolution, without amendment, as it came from the House, it being in the usual form of all such resolutions.

Mr. DAVIS, of Illinois. That is similar to a great many bills that have passed upon that subject, and unless it is passed now it will be of no use. I therefore hope that the joint resolution will be considered now.

Mr. INGALLS. I object to the consideration of any business reported this morning.

The PRESIDENT *pro tempore*. The Senator from Kansas objects, and the joint resolution will be placed on the Calendar.

Mr. BOOTH, from the Committee on Public Lands, to whom was referred the bill (S. No. 1457) for the relief of the State University of California, reported it with amendments, and submitted letters from the Secretary of the Interior and the Commissioner of Public Lands, recommending the bill.

Mr. BURNSIDE, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1730) donating condemned cannon, carriages, and appurtenances to the Charles Russell Lowell Post, No. 7, of the Grand Army of the Republic, of Boston, Massachusetts, reported it with an amendment.

BILLS INTRODUCED.

Mr. McDONALD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1825) to provide for the survey of certain public lands in the State of Ohio; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. CALL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1826) granting a pension to Mohammed Kahn, otherwise John Ammahoe; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. CAMERON, of Wisconsin, (by request,) asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 119) authorizing the use of a certain building on G street, Northwest, to be used as a temporary home for women in distress; which was read twice by its title, and referred to the Committee on the District of Columbia.

MILITARY RESERVATIONS IN DAKOTA.

The PRESIDENT *pro tempore*. If there are no concurrent or other resolutions, the routine business of the morning hour is at an end.

Mr. COCKRELL and others. The Calendar.

The PRESIDENT *pro tempore*. The Chair lays before the Senate the first bill on the Calendar, under the Anthony rule, which will be reported.

The first bill on the Calendar at the point reached when it was last under consideration was the bill (H. R. No. 1305) abolishing the military reservations of Fort Abercrombie, Fort Seward, and Fort Ransom, all in the Territory of Dakota, and authorizing the Secretary of the Interior to have the lands embraced therein surveyed and made subject to homestead and pre-emption entry and sale the same as other public lands; which was considered as in Committee of the Whole.

Mr. DAVIS, of Illinois. Let us hear the report.

The PRESIDING OFFICER, (Mr. WALLACE in the chair.) The report will be read.

The Chief Clerk read the following report, submitted by Mr. PLUMB February 24, 1880:

The Committee on Military Affairs, to whom was referred the bill (H. R. No. 1305) abolishing the military reservations of Fort Abercrombie, Fort Seward, and Fort Ransom, all in the Territory of Dakota, and authorizing the Secretary of the Interior to have the lands embraced therein surveyed and made subject to homestead and pre-emption entry and sale the same as other public lands, have had the same under consideration and submit the following report:

That the reservations proposed to be abolished are no longer needed for military purposes and have been abandoned for several years. In the judgment of the committee there is nothing in the character of the lands embraced in them to enhance their value above surrounding lands subject to homestead and pre-emption entry. The homestead area is being rapidly diminished, and it has become the settled policy of the Government to reserve the public domain to actual settlement. The committee can see no objection to the bill, and they recommend its passage without amendment.

Mr. KIRKWOOD. I would inquire of some member of the Committee on Military Affairs whether there are buildings upon these reservations?

Mr. COCKRELL. I understand there are none upon the reservations named here, and that these reservations a number of years ago were recommended by the Secretary of War to be given up and turned over to the Interior Department for disposition. There is a document (I cannot lay my hand upon it just now) that gives all these different reservations that the Government has long since ceased to

use, and a number of them do not even have a sergeant in charge of them.

Mr. KIRKWOOD. My inquiry was directed especially to the point whether there were buildings upon them that might be valuable.

Mr. COCKRELL. My understanding is that there are none; and from the location of these reservations I think there are no buildings that amount to anything. That is the understanding of the committee.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

POLITICAL ASSESSMENTS.

The next bill on the Calendar was the bill (S. No. 1366) to prohibit officers and employés of, and claimants against, or corporations created or aided by, the United States, or contractors under the United States from contributing money for political purposes.

Mr. INGALLS. Let that bill go over.

The PRESIDING OFFICER. The bill is objected to and goes over.

Mr. BAILEY. Let it be read.

The PRESIDING OFFICER. There is objection to it.

WILLIAM L. ADAMS.

The next bill on the Calendar was the bill (S. No. 500) for the relief of William L. Adams, which was considered as in Committee of the Whole. It directs the proper accounting officer, in the settlement of the accounts of William L. Adams, formerly collector of customs for the district of Oregon, to credit him with $13,257.30.

Mr. DAVIS, of Illinois. Let the report be read. We want to know what the facts are.

The Chief Clerk proceeded to read the report, submitted by Mr. TELLER, from the Committee on Claims, February 25, 1880.

Mr. CAMERON, of Wisconsin. The report in that case is very long and would occupy probably ten or fifteen minutes in the reading of it. The report was unanimously agreed to by the Committee on Claims, not only at the present session of Congress, but a unanimous report was made from that committee during the last Congress. I can explain the bill in a few words, although the bill was reported by the Senator from Colorado, [Mr. TELLER.] This Mr. Adams was a collector in Oregon. He was directed by the Department at Washington to take the money that he then had in his possession, some $40,000 or $50,000 in gold, and deposit it at San Francisco. He put the money in a trunk, took it in his state-room, and proceeded with it by boat, which was the only mode of travel available, to San Francisco. When he arrived in San Francisco he discovered that a portion of the money had been taken from the trunk.

Mr. DAVIS, of Illinois. How much?

Mr. CAMERON, of Wisconsin. There were fifteen or twenty thousand dollars taken, but a considerable amount was afterward recovered. The robbers were arrested and all except six or eight thousand dollars of the money was recovered. The committee, after a thorough examination of all the facts connected with the case, came to the conclusion and were unanimously of the opinion that Mr. Adams was not at all to blame in the matter. He was directed, as I have stated, by the Department at Washington to take the money to San Francisco. He was not authorized to send it by express; he was not authorized to employ any additional assistants in conveying the money. We think it is a case where he ought to be relieved.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JEREMIAH C. CONKLIN.

The next bill on the Calendar was the bill (S. No. 270) for the relief of Jeremiah C. Conklin, which had been reported adversely from the Committee on Claims.

Mr. INGALLS. That bill had better go over.

The PRESIDING OFFICER. The bill goes over under objection.

POSTMASTERS' CLAIMS FOR LOSSES.

The next bill on the Calendar was the bill (S. No. 1343) to authorize the Postmaster-General to make settlement with postmasters for loss of money-order funds, postage-stamps, stamped envelopes, postal cards, and registered letters lost or stolen without fault of postmasters, their employés, or deputies.

Mr. MAXEY. There are amendments to the bill, reported from the Committee on Post-Offices and Post-Roads.

Mr. DAVIS, of Illinois. I should be glad to have the chairman of the Committee on Post-Offices and Post-Roads make a statement. This is a very important measure, proposing to take from Congress the right to decide when money is stolen, for which by the common law of the country the postmaster is liable, whether he ought to be relieved, and to transfer that authority to the Postmaster-General. You will have to extend it to the head of every Department in the case of the officers of his Department. I think it is a very important bill.

Mr. MAXEY. I will state to the Senator from Illinois that this bill was very maturely considered by the Post-Office Committee, and I can explain the reasons which prompted the committee in reporting it.

Mr. DAVIS, of Illinois. I should be glad if the Senator would. There is no report upon it.

Mr. MAXEY. It was not designed that there should be a written report, for the reason that it was thought the chairman could explain the bill better, and I will give the reasons if the Senate will listen to me.

It is the experience of every member of the committee, I will state, not only of those who have served there for many years but of those who have served for but a few years, that when this class of claims comes to us for examination we are thrown at last upon the Post-Office Department for all the information of value that can be obtained. There is where we have to go to get the information. The Post-Office Department gets this information through its special agents. We have to go and investigate the books of the Post-Office Department, and from the statement which we derive from the Post-Office Department, it being our only available and reliable means of information, we have to make up our report.

The committee were of opinion, in view of the machinery of the Post-Office Department, considering the amount of work we have to do, and considering that we have to rely alone upon the Department, and that we have not the means of that investigation satisfactorily that would be made by the Post-Office Department, that it would be best to refer that class of claims to the Department, just exactly as disputes between contractors and the Post-Office Department are now settled; just as many other disputes are settled in the Post-Office Department, where their machinery for investigation is so much better than that of any committee of this body.

That was the unanimous opinion of all the members of the committee, those who have served for many years, as well as others. I believe I state it correctly. The Senator from Iowa [Mr. KIRKWOOD] is present, and can confirm what I say. It was the opinion of all of us that we could not make a report so satisfactorily ourselves, as at last we had to go there for information, and they had the means of sending out agents and gathering up information, and making an adjustment just and fair, which we did not have. These are the reasons which actuated the committee.

Mr. DAVIS, of Illinois. I think this is a very important bill; I do not know what the Senate may think about it. When a public officer loses money, or it is stolen from him, he cannot get relief in a court of justice, and he comes for relief on each particular case to Congress. Now, you will abdicate your jurisdiction over all sorts of cases of this kind by giving the matters relating to the Post-Office Department to the Postmaster-General. If you give him authority to do this, you then should give to the Attorney-General the authority to settle all claims where money has been stolen in the Department of Justice, to the Treasury Department, where money is stolen or lost in that Department, so that it seems to me you abdicate the jurisdiction of Congress over these subjects entirely, because if this bill passes there is no reason why a bill for the benefit of the Treasury Deparment settling the accounts of internal revenue collectors who have lost money should not be passed. We can allow it to them if we please. It is for Congress to decide. A marshal has had money stolen from him, a receiver of the land office has had money stolen from him. The books are full of cases of that kind, and the records of Congress are full of such cases. Shall we abdicate the jurisdiction of Congress over all this class of claims, because if you pass this bill there will be other bills extending it to them entirely? I am in favor of the creation of a board of commissioners, with good salaries, to report to Congress the facts in relation to all claims and the conclusions that they draw from those facts, not to report the evidence, but their conclusions of fact and law. Then Congress can act upon each individual case as it ought. To give to the heads of Departments the authority to do all this, it seems to me is not proper.

Mr. MAXEY. I have stated all that I care to state. I have given what is the mature deliberation of the committee, of the members who have been there for many years, as well as others, the conclusion of all the members of that committee, based upon the very pregnant fact that at last we have to go to the Department for all the information that we get, and that they have better machinery for obtaining information than we can possibly have in committee. Therefore we reported this bill, the committee having no interest in the world further than thinking it better to do it in that way than otherwise. If the Senator objects I have nothing further to say.

Mr. INGALLS. I doubt myself the policy of the bill. The question of the accountability of public officers for the funds intrusted to them is one that has been very greatly relaxed in the last few years; and instead of opening the door wider, I think the limitations should be more rigid than they are. In any event we ought to know, if this bill becomes a law, what action is taken under it, and I move to amend by adding a section—

That the Postmaster-General shall report annually to Congress all settlements made under the provisions of this act.

Mr. MAXEY. There are several committee amendments.

The PRESIDING OFFICER. The amendments from the committee will be reported in their order.

Mr. DAVIS, of West Virginia. I think this is a very dangerous bill. I do not know why the Secretary of the Interior, the Secretary of War, the Secretary of the Navy, the Secretary of State, and other heads of Departments should not have control over all the claims arising under their Departments, as well as the Postmaster-General. So far as my knowledge extends, no such action as this ever has been taken by Congress. It appears to me it is a new departure and one that would entirely take out of the control of Congress any claim that might arise in the Post-Office Department for the loss of stamps or defalca-

tions, or anything of that kind. It appears to me that the Senate ought to consider this bill well before passing upon it, and I hope that it will have that consideration which it is necessary for it to have.

I ask the chairman of the Committee on Post-Offices and Post-Roads whether the bill would not give to the discretion of whoever might be Postmaster-General all claims arising in his Department for his adjustment? Such a step, so far as my knowledge extends, never has been taken by Congress in any particular. Each claim must stand upon its own merits, and Congress ought to know what it is. I have no objection to a court or something of that kind, but this idea is that a single man must pass upon these claims, that man passing upon his political associates, his own appointments to office, he saying who shall be relieved and who shall not be relieved in these Post-Office claims. It appears to me we had better not take such a step.

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

Mr. KIRKWOOD. Mr. President——

Mr. MAXEY. If the Senator from West Virginia would wait until the amendments are read, perhaps his speech would come in better at another time. The amount of claims comparatively is small that come up in this way. The Department now settles disputed claims amounting to hundreds of thousands of dollars, disputes of contractors, fines of contractors; and it at last comes back to the proposition which I first laid down, that in the judgment of the committee, (and we have had perhaps as much experience as anybody else on that subject,) as we had at last to go to the Post-Office Department and nowhere else to get the information, and without the same means of obtaining information that the Post-Office Department had, these claims should be referred to that Department. That is the simple idea that the committee desire to present.

Mr. KIRKWOOD. The Senator from West Virginia will notice that this bill does not authorize the Postmaster-General to pass upon all claims of all kinds in that office. It authorizes him to pass upon only the loss of money-order funds, postage-stamps, stamped envelopes, postal-cards, and registered letters lost or stolen without the fault of the postmaster, his employés, or deputies. That is the extent to which the authority goes.

Now, it is a practical question in which way will the interests of the Government be best guarded. As you have been informed by the chairman of the Committee on Post-Offices and Post-Roads, when these claims come before that committee they come generally upon a petition of the postmaster; inquiry is made at once of the Post-Office Department for what information they may have on the subject; it is received, and upon that, and that alone almost universally, the committee acts and has to act. It has no power to send for persons and papers. It cannot take any testimony in regard to the matter. It is compelled to rely and does rely, as other committees do in matters of this kind, on the testimony submitted mainly by the Department in which the loss occurred.

My experience in the matter of claims before Congress is not a very encouraging one. They are passed almost wholly upon *ex parte* testimony. If they are of any considerable amount they are reported upon by the proper committee and placed upon the Calendar, and the amount frightens some member of Congress and the claim is not considered, and it passes over from Congress to Congress and from Congress to Congress until it becomes what is called a stale claim, an old claim. Why? Just because Congress will not examine it and pass upon it; and when it has acquired the designation of a stale claim, that is about the end of it.

Mr. DAVIS, of West Virginia. Allow me to ask my friend from Iowa a question. Would not the Secretary of War be just as competent and would it not be in the same line to authorize the Secretary of War to decide on all claims growing out of the war?

Mr. KIRKWOOD. Not at all.

Mr. DAVIS, of West Virginia. Why not?

Mr. KIRKWOOD. This is a particular class of claims that the Postmaster-General is to be authorized to pass on.

Mr. DAVIS, of West Virginia. What other claims has the Postmaster-General to pass upon except those relating to letters, postage-stamps, and other things? The contracts are another thing, and he already passes on those I understand to a considerable extent.

Mr. KIRKWOOD. Claims are often made on the Post-Office Department for extra compensation and for various other matters; but this bill relates to losses which occur where a post-office has been broken into by burglars. It is a common basis of claim that a post-office is broken into by burglars, the safe blown open, and the moneys, the stamps, the envelopes, the registered letters stolen therefrom. The ordinary mode of proceeding is for the Department to send out an agent to investigate the matter, and he investigates it and makes his report to the Department, and the postmaster is required to pay the money into the Department, and then the postmaster comes before Congress and asks to have the money refunded.

Under this bill, if it shall pass, the Postmaster-General will be authorized to procure testimony, to prescribe rules and regulations under which testimony shall be procured. He is authorized to do what the committee cannot do; he is authorized to go into an investigation of matters that the committee cannot go into, and in that way the committee believed, and I think yet believe, that there is less danger of loss to the Government, less danger of injury to the Government than there is to-day in the allowance or disallowance of these claims as they are at present allowed or disallowed by the action of the Post-Office Committees of the two Houses.

Mr. BECK. Will the Senator tell us the amount of money-order funds required to be kept, for example, in the post-office in the city of New York?

Mr. KIRKWOOD. The chairman of the committee can give that information, I apprehend. I cannot.

Mr. MAXEY. I cannot tell without referring to the report. The amount at the different offices is stated in the Post-Office Regulations.

Mr. BECK. I supposed the money-order funds required to be kept at a post-office like New York would amount to a very large sum of money.

Mr. KIRKWOOD. I presume it would.

Mr. BECK. I thought perhaps the Post-Office Committee had the information about the amount kept there.

Mr. KIRKWOOD. It would impose a very large amount of labor on the Post-Office Committee if they had gone to work to examine and report to the Senate the amount of money-order funds kept at each post-office in the United States. It would be rather a large undertaking for the Post-Office Committee to procure that information. The law determines what proportion of money-order funds shall be kept in the post-offices of different grades.

Mr. MAXEY. I would call the attention of the Senator from Iowa to this fact——

Mr. KIRKWOOD. I am afraid my time will run out.

Mr. MAXEY. Wherever there is a depository the postmaster has to make his deposits with the public depository daily—a national bank or other depository.

Mr. KIRKWOOD. The question with me is a practical one, where will the interests of the Government be best guarded? It may be very unreasonable for me to say it here, but I do not believe that all the honesty or all the capacity of all the officials of the Government of the United States is concentrated in the Congress of the United States. I believe there is just as much honesty and just as much capacity in other officials as there is in members of this or the other House. So believing, and believing that the machinery provided for in this bill affords a better means of acquiring information than the Post-Office Committee can have or does have, I shall support the bill.

Mr. McDONALD. Mr. President, I have a very serious objection to this bill, on principle. Under the law as it now stands officers charged with public property or money are insurers for that property or money. It is usual, of course, where this property has been taken from them in the manner suggested by the Senator from Iowa, by burglary, by theft, where there is no fault on their part, for Congress to relieve them from that liability by a special act. Congress has frequently done it, and it may have done it in cases where a close observance of the principles of law would not have justified it; but while the law stands as it now is, these relaxations of the obligations of the officer are applied to individual cases alone. It seems to me the officers of the Government should stand on their present general responsibility. If this bill is passed it changes that law. It in effect says they are no longer insurers, that if property is lost without fault or neglect on their part the Department to which they answer may, under the provision of this bill, itself exonerate them. In other words, the principle of responsibility that now rests upon them is changed entirely so far as this class of officers is concerned.

It seems to me that while it may be true that congressional committees are not the best forum for the investigation of these particular cases, yet until we are ready to abandon the principle on which official responsibility rests an act of this kind ought not to be passed. I would rather many cases of individual wrong and injustice should take place under the present system than to open the door widely by a complete change of the principles of the law of responsibility to cases that are to be considered by the heads of Departments and in that manner undertake to do what it is the duty of Congress to do in individual cases. I cannot support this bill on principle.

Mr. BECK. I asked a question a moment ago as to the amount of money-order funds held by some of the largest postmasters for the purpose of saying that this bill undertakes, wherever money-order funds are represented to have been stolen or lost without fault of the postmaster, to allow the Postmaster-General himself, who appoints the postmasters in many cases, all who are not presidential appointments, to determine upon the guilt or innocence, the negligence or diligence of his own employés, and where he desires to screen one he can do it and it will never be known outside of the Department; and where there is a person that he desires to punish or get clear of he can inflict punishment upon him, and it will never get outside of the Department.

It seems to me that these officers being as the Senator from Indiana has very well said insurers of the public funds in their hands, if anything happens to them or if anything is lost they ought to come to Congress or some independent tribunal, and not to the person to whom they look, the Postmaster-General, who employs them. The Postmaster-General is by the bill made the absolute judge of whether the party has taken proper care or not of the property intrusted to him. We are investing him with judicial authority over the funds of the United States, invested in money-orders, the stamped envelopes, the registered letters, &c., and he is to be the final judge and arbiter. It seems to me to be an uncommonly dangerous power to vest in any

man who may happen to be Postmaster-General over all that class of cases, and it will to a very great extent remove the restraints that now exist on people having charge of these funds if this proceeding is to be had. It was only with that view that I asked the question as to the amount of money-order funds, because it becomes a very important matter in determining what ought to be done.

Mr. JOHNSTON. Will one objection pass the bill over?

The PRESIDING OFFICER, (Mr. WALLACE in the chair.) It will.

Mr. JOHNSTON. I object.

The PRESIDING OFFICER. The bill will be passed over.

JACOB E. BURBANK.

The next bill on the Calendar was the bill (S. No. 313) for the relief of Major Jacob E. Burbank; which was considered as in Committee of the Whole. It proposes to authorize the proper accounting officers of the Treasury, in the settlement of the accounts of Major Jacob E. Burbank, late paymaster United States Army, to allow him such credits for overpayments and for losses of funds and vouchers as they may deem just and reasonable, when recommended, under authority of the Secretary of War, by the Paymaster-General.

The bill was reported from the Committee on Military Affairs with an amendment, to add the following proviso:

Provided, Said overpayments and losses shall not exceed $4,000.

Mr. DAVIS, of Illinois. I should like to have the report read. I do not know what this is.

Mr. KIRKWOOD. A single word. The Senate is about to exercise its high prerogative of determining the question whether or not an officer of the Government who claims that he has lost money without fault of his own shall be credited with it in settlement. I venture the assertion that there is not one Senator in twenty who knows that about it, [snapping his finger.]

Mr. DAVIS, of Illinois. I ask for the reading of the report of the committee who have examined it.

Mr. KIRKWOOD. It is a most vicious system, and a system the perpetuation of which here embarrasses legislation, interferes with the proper discharge of our duties, takes our consideration away from subjects of general importance to matters that ought to be settled elsewhere; and we are to pass this bill when in all human probability the committee that reported it knew nothing but what they got from the Department in regard to it, and not one man in twenty of those by whose votes or silence it is to be passed knows anything at all about it.

The PRESIDING OFFICER. The report will be read.

The Chief Clerk read the following report, submitted by Mr. BURNSIDE February 26, 1880:

The Committee on Military Affairs, to whom was referred the bill (S. No. 313) for relief of Major Jacob E. Burbank, make the following report:

This is a bill for the relief of Major Jacob E. Burbank from certain discrepancies in his account while on duty as paymaster of the United States Army.

It would appear from the letters of the Paymaster-General and the Second Comptroller, which are on file with the records of this case, that the passage of this act would be a re-enactment of the law of June 23, 1870. The law was a modification of the severe rules of accountability, giving a large and unusual discretion to the accounting officers to give such credit for losses of funds as they may deem just and reasonable.

Major Burbank was stationed at Omaha from November, 1868, to December, 1871, under supervision of General Alvord as chief paymaster. The chief paymaster had observed the mental infirmities of Major Burbank, but not until after General Alvord's return to Washington, December, 1871, was his attention called to the serious derangement of the major's mind. On the subject of his mental infirmities, reports of the retiring board, before which Major B. appeared in 1874, are on file; also the certificate of his physician who attended him in an attack of brain fever while stationed at Leavenworth, Kansas, previous to his being stationed at Omaha. Surgeons Cuyler and Moore submitted their statements, giving as the cause of his mental weakness and irregularities "the probable softening of the brain." Senator Crozin, in a letter of February 7, 1874, (on file,) testifies to his inability to add or subtract a small column of figures.

From the records of the Paymaster-General's Office it appears that there was a discrepancy between the weekly statements of Major Burbank and those of the assistant treasurer in New York, for which a deposit covering the amount was duly made by Major Burbank's brother, who was his surety. This discrepancy arose from the fact that the sum of $2,000 was stolen from Major Burbank, paymaster, while at Fort D. A. Russell, in March, 1871, while on a tour for payment of the troops. He had deposited the sum of $40,000 one night in the sutler's safe, as was his usual custom, there being no other safe depository at the fort, and took the keys and kept them in his possession. In counting his money after he had made his payments he discovered that $2,000 had been stolen from him. He presumes there were duplicate keys to the safe, of which he had no knowledge.

The records of the Paymaster-General's Office show that Major Burbank was on duty paying troops at Forts D. A. Russell, Laramie, and Fetterman from the 9th to 25th of March, 1871.

The Paymaster-General says: "It is true that owing to his peculiar mental condition Major Burbank was a fit subject for the wiles and villainies of any unscrupulous man." Some documents in the office give different data to the alleged robbery, but this discrepancy is considered due to the mental infirmities of the major. From all the circumstances the Paymaster-General states his opinion that a robbery was committed, but by whom or at what precise date he cannot say, and adds: "It is due to him that I should say that I believe Major Burbank habitually did his best to guard and protect the public funds, and he always evinced zeal, industry, and fidelity in the discharge of his duties." He was permitted to travel in Europe previous to his appearing before the retiring board, and the result was the partial restoration of his health.

The Paymaster-General closes his report by saying that he thinks full credit can be given to the facts substantially as set forth in the affidavits accompanying his report.

In view of all these facts, substantiated as they are by letters and affidavits on file, your committee would make a favorable report, and recommend the passage of the bill.

The PRESIDING OFFICER. The question is on the amendment reported from the Committee on Military Affairs.

The amendment was agreed to.

Mr. KERNAN. The report speaks of this as having occurred prior to 1871. I wish to learn, if the time is fixed by the facts proven, when this discrepancy was first discovered by the Government.

Mr. BURNSIDE. I cannot tell the exact date; but it was when the first settlement of his quarterly account was made in the Paymaster-General's Department.

Mr. KERNAN. Eight or nine or ten years ago?

Mr. BURNSIDE. Yes, sir; before 1871; and the money has been paid.

Mr. KERNAN. The money has been paid to the Government?

Mr. BURNSIDE. Yes, sir.

Mr. KERNAN. When was it paid?

Mr. BURNSIDE. I am not sure about that; but soon after.

Mr. KERNAN. When did he first apply to have Congress give it back to him?

Mr. BURNSIDE. This bill has passed the Senate once already, but did not reach the House in time for action there during that Congress. I think it was passed by the Senate four years ago; but I will not be sure about the date.

Mr. ALLISON. I should like to make an inquiry of the Senator from Rhode Island. I see in this report allusion is made to the mental condition of Major Burbank.

Mr. BURNSIDE. He is now on the retired list.

Mr. ALLISON. But I refer to the time when he was discharging these duties. I think the report very plainly intimates that although Major Burbank was doing as well as he could he was hardly in such mental condition as to justify his having this sum of money under his control.

Mr. BURNSIDE. The Senator is quite right about that.

Mr. KERNAN. What was the mental difficulty?

Mr. BURNSIDE. A tendency to softening of the brain.

Mr. ALLISON. Under these circumstances is it a wise thing to relieve him from this responsibility?

Mr. BURNSIDE. I think clearly so. There is no doubt he lost the money without fault of his own. I do not think he ought to suffer for it. He is a man on the retired list with a family, on small pay. I think it is a very just claim. I think it is as clear a case as I ever examined. I examined it at the last session of Congress very carefully, and I had the impression then, and I have the impression now, that it is a very just case, as much so as any I ever examined.

Mr. ALLISON. I have great confidence in the Senator from Rhode Island if he has given the claim full examination.

Mr. BURNSIDE. Probably the Senator from Iowa has more confidence in me than I have in myself as to an examination of that kind; but I have given this case a careful examination, and I am satisfied it is a just claim.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

SALARIES OF DIPLOMATIC AND CONSULAR OFFICERS.

The next bill on the Calendar was the bill (S. No. 1380) to provide for the payment of salaries of diplomatic and consular officers while in the United States under orders from the State Department; which was considered as in Committee of the Whole. It provides that whenever a diplomatic or consular officer comes to or is detained in the United States under orders from the Department of State, such officer shall be entitled to his pay until dismissed by the Department and directed to return to his post of duty. The act is to take effect on the 1st day of March, 1880.

Mr. EATON. This bill is recommended by the Secretary of State; and in the opinion of the Committee on Foreign Relations it ought to pass. There are cases where the representatives of the United States have been detained here over the length of time now allowed in order to confer with the Department. The committee thought it proper to agree with the Department of State that in such cases our representatives ought to be paid their salaries while awaiting orders from the Department of State.

Mr. COCKRELL. I suggest to the Senator that instead of the 1st day of March, 1880, he make the bill take effect the 1st day of July, 1880.

Mr. EATON. That was put in for this reason: there was a gentleman, one of our ministers abroad, ordered here by the Department and kept here for some time, and unless the date fixed in the bill is retained his case will not be covered. The length of time the statute allowed him to remain expired on the 1st of March. Therefore it seems to me entirely proper the date should be left as it is in the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

STATUARY AT NEW YORK SUB-TREASURY BUILDING.

The next bill on the Calendar was the bill (S. No. 1327) granting permission for the erection of certain statuary upon the buttresses in front of the sub-treasury building in the city of New York; which was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JAMES P. WORRELL.

The next bill on the Calendar was the bill (S. No. 489) for the relief

of James P. Worrell; which was considered as in Committee of the Whole. It provides for payment to James P. Worrell, late captain Eighty-sixth Illinois Volunteer Infantry, or to his legal representatives, of an amount equal to the pay and allowances of a captain of infantry from June 6, 1865, to July 22, 1865, together with the usual mileage from Chattanooga, Tennessee, via Nashville, and Springfield and Chicago, Illinois, to Peoria, Illinois.

Mr. DAVIS, of Illinois. Let the report be read.

Mr. COCKRELL. I can explain the bill. The Senator from Kansas [Mr. PLUMB] reported it. Captain James P. Worrell, a captain in the infantry, was assigned to perform quartermaster and commissary duty, and his regiment was ordered to be mustered out and was mustered out while he was detailed. On the 3d of August following that he reported for muster out, and under existing regulations they mustered him out to date back to June, when his regiment was mustered out, and they could not pay him for the time intervening between the 6th of June, 1865, and the 3d of August, 1865. This is simply to allow him the pay which he would otherwise have been entitled to.

The bill was reported from the Committee on Military Affairs with an amendment, in line 8, after the word "to," to strike out "July 22" and insert "August 3;" so as to read:

The pay and allowances of a captain of infantry from June 6, 1865, to August 3, 1865.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MARY A. LORD.

The next bill on the Calendar was the bill (S. No. 742) for the relief of Mary A. Lord.

Mr. MAXEY. That bill is reported adversely from the Committee on Pensions.

Mr. McDONALD. Has anybody objected to it?

The PRESIDING OFFICER. The Chair hears no objection.

Mr. ANTHONY. An adverse report is in the nature of an objection.

The PRESIDING OFFICER. Does the Senator object?

Mr. ANTHONY. I do not object.

Mr. INGALLS. In the absence of the Senator from Virginia [Mr. WITHERS] who reported the bill, I will object.

Mr. HARRIS. The Senator from Virginia is in committee-room, and can be here in one minute if it is necessary. I hope the Senator from Kansas will not object to the present consideration of the bill.

The PRESIDING OFFICER. The Chair has heard the objection of the Senator from Kansas. The bill goes over.

SIGNAL-SERVICE MEN.

The next bill on the Calendar was the bill (S. No. 821) fixing the compensation of enlisted men in the signal service, United States Army.

The PRESIDING OFFICER. The bill is reported adversely. Is there objection to the consideration of the bill?

Mr. MORGAN. I object.

The PRESIDING OFFICER. The bill will be passed over.

JACKSON GRUBB.

The next bill on the Calendar was the bill (H. R. No. 710) to refund to Jackson Grubb, or his legal representative, internal-revenue tax wrongfully collected; which was considered as in Committee of the Whole. It provides for refunding to Jackson Grubb, of McMinn County, Tennessee, or his legal representative, $300, improperly collected from him by the internal-revenue collector, in the year 1868, for tax improperly assessed upon him as a distiller of fruit brandy, in the year 1868, after orders had been issued suspending the collection of the special tax on fruit distillers.

The bill was reported to the Senate without amendment, and ordered to a third reading.

Mr. DAVIS, of Illinois. The report should be read, or some one should state what the case is. We are passing bills without knowing anything whatever about them.

The Chief Clerk read the following report, submitted by Mr. BECK March 2, 1880:

The Committee on Finance report the claim of Jackson Grubb back to the Senate with the recommendation that the bill do pass. The committee adopt the report of the Committee on Claims of the House of Representatives, which is as follows:

"[H. Report No. 28, Forty-sixth Congress, second session.]

"Mr. O'CONNOR, from the Committee on Claims, submitted the following report, to accompany H. R. 710:

"The Committee on Claims, to whom was referred the bill (H. R. No. 710) for the relief of Jackson Grubb, of McMinn County, Tennessee, have had the same under consideration, and submit the following report:

"From a letter of the Commissioner of Internal Revenue of April 27, 1878, and the proof in this case, it appears that Jackson Grubb was a distiller of brandy from fruit in McMinn County, Tennessee, in 1868; that by the act of 20th July, 1868, distillers of brandy were assessed the sum of $400 annual tax; that upon an opinion of the Attorney-General the Commissioner of Internal Revenue, in accordance with the second section of said act of July 20, and with the approval of the Secretary of the Treasury, did, on the 12th day of October, 1868, issue an order suspending the collection of, and relieving the distillers of fruit brandy from, the payment of said special tax, and that after the issuance of said order forbidding the further collection of said special tax the collector of internal revenue of the second district of Tennessee afterward, to wit, on the 21st day of October, 1868, collected from said Jackson Grubb $300, said special tax. By reference to the letter of the Commissioner of Internal Revenue above referred to it will be seen that this is the only claim, so far as the Commissioner is advised, paid after said order that has not been refunded.

"The committee being well satisfied of the justness of this claim, recommend that the bill do pass."

The bill was read the third time.

Mr. BECK. I reported the bill from the Committee on Finance, and I think the report shows all the facts.

The bill was passed.

SILAS F. FEILD.

The next bill on the Calendar was the bill (S. No. 1015) for the relief of Silas F. Feild, one of the sureties on the bond of John G. Halliburton, deceased, late marshal of the United States in and for the eastern district of Arkansas.

The PRESIDING OFFICER, (Mr. FERRY in the chair.) In this case there is an adverse report.

Mr. BECK. When the Senator from Arkansas [Mr. GARLAND] left here for West Point I said to him that if the case was called up before he came back I would ask that it be passed over without prejudice until his return. The Senator from Arkansas desires to be heard on the bill.

The PRESIDING OFFICER. By unanimous consent the bill will be passed over without losing its place.

JURISDICTION OF JUSTICES OF THE PEACE.

The next bill on the Calendar was the bill (S. No. 41) to extend the jurisdiction of justices of the peace in the District of Columbia, and to regulate proceedings before them.

Mr. COCKRELL. I will state that the bill seems to have been referred to the Committee on the District of Columbia, and yet appears to have been reported back to the Senate by the Senator from Vermont, [Mr. EDMUNDS,] now absent, from the Judiciary Committee. The members of the District of Columbia Committee do not seem to know anything about it; and unless there is some one here who understands the bill I shall object to its consideration.

Mr. HARRIS. In fact the bill was referred to the Committee on the District of Columbia, and that committee discharged, and it was referred to the Committee on the Judiciary.

Mr. INGALLS. There is some confusion on the Calendar, the bill appearing to be reported by Mr. EDMUNDS from the District Committee, he not being a member of that committee. I would ask the Secretary to state from what committee the bill appears to have come?

The PRESIDING OFFICER. The Chair is informed that it was committed to the Committee on the Judiciary, and reported back by that committee. The Senator from Missouri objects to the consideration of the bill.

Mr. COCKRELL. No, I have no objection if there is any one here to explain the bill and take charge of it.

Mr. ROLLINS. The bill was referred in the first place to the Committee on the District of Columbia, reported back by that committee and referred to the Committee on the Judiciary, and has been reported favorably from the Judiciary Committee by the Senator from Vermont.

Mr. INGALLS. The bill is a very important one to the administration of justice in this District, and was intended to remedy certain defects of an admitted character that require correction, and unless there is some objection by the Senator from Missouri I would express the hope that the bill might pass.

Mr. COCKRELL. I make no objection to its consideration.

Mr. MAXEY. It appears to me that this bill, as I heard it read, gives to a justice of the peace jurisdiction to try a case of trespass to realty where the amount claimed to be due or the value of the property sought to be recovered shall not exceed $200, except where the title to realty was involved. For example, an action of *trespass quare clausum fregit* under the bill, if the amount be not over $200, would be subject to the jurisdiction of a justice of the peace.

Mr. DAVIS, of Illinois. I do not know anything about this bill; but if it is passed over without prejudice, I will look at it to-day.

The PRESIDING OFFICER. There are several amendments reported by the Committee on the Judiciary. The first is, in line 5, after the word "replevin," to insert "not exceeding $50."

Mr. CALL. I think this bill ought not to pass, and I object to its present consideration.

The PRESIDING OFFICER. The Senator from Florida objects.

Mr. DAVIS, of Illinois. I am satisfied, although I was not present in the Judiciary Committee when the bill was considered, that it is called for from the necessities of the case in this District, and if it can be passed by without prejudice to-day, the Judiciary Committee meet to-morrow and we can then consider it.

Mr. CALL. I have objection.

Mr. INGALLS. Let it retain its place on the Calendar.

Mr. DAVIS, of Illinois. I hope that will be done.

The PRESIDING OFFICER. The Chair hears no objection to that suggestion, and the bill will be passed over, retaining its place on the Calendar.

WILLIAM D. OYLER.

The next bill on the Calendar was the bill (H. R. No. 2359) for the relief of William D. Oyler; which was considered as in Committee of the Whole.

The preamble recites that William D. Oyler purchased of the United States, by cash entry, on the 21st of July, 1874, at Dixon,

Illinois, the west half of the northeast quarter of section 19, in township 26 north, of range 6 east, and paid therefor the sum of $100, and afterward conveyed the same to Jacob Jackson, who conveyed it to Peter H. Bigelow and John Jackson, who were, in fact, partners in trade; that afterward the title of Oyler and his assignees failing, by reason of conflict of his entry with a prior pre-emption claim of John Shumaker, and Oyler, because of this failure of title, having afterward refunded the purchase-money to Bigelow and Jackson, and thereby became entitled to have the original purchase-money refunded to him by the United States; and that it has never been refunded because of technical insufficiency of the quitclaim made by the assignees to Oyler. The bill therefore directs the Secretary of the Interior to refund and pay to William D. Oyler, or his legal representatives, the sum of $100 in full satisfaction and discharge of any claim in the premises.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

AUGUSTIN MAURIN.

The next bill on the Calendar was the bill (S. No. 1395) for the relief of the estate of Augustin Maurin; which was considered as in Committee of the Whole. It provides for the payment of $500 to Perry E. Brocchus, administrator of the estate of Augustin Maurin, in satisfaction of a draft drawn on the 4th of May, 1861, at Santa Fé, New Mexico, by Colonel John B. Grayson, United States Army, acting commissary of subsistence in and for the Military Department of New Mexico, to the order of Lieutenant W. B. Lane, United States Army, and acting assistant commissary of subsistence, which draft was indorsed and paid out by Lane to R. P. Kelley, at Fort Fillmore, in New Mexico, for flour supplied for the use of the Army at that post, and which draft was lost in the course of transmission from the Territory of New Mexico to Washington for payment, the same having previously become the property of Augustin Maurin, and so continued up to the period of its loss.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

FOREIGN DECORATIONS TO AMERICAN OFFICERS.

The next bill on the Calendar was the bill (S. No. 1396) authorizing the persons therein named to accept of certain decorations and presents therein named from foreign governments, and for other purposes.

Mr. DAVIS, of Illinois. I would be glad if the Senator from Connecticut [Mr. EATON] would explain this bill.

Mr. EATON. There is a verbal amendment necessary, which should first be made. I move, in line 3, after "United States," to strike out "marines" and insert "revenue-marine service;" so as to read:

That Joseph Irish, of the United States Revenue Marine Service, be, and he is hereby, authorized to accept from the Spanish government.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. EATON. Mr. President, it will be remembered by all the members of the Senate, I presume, that a great contest was once had in this body in regard to permitting officers of the United States to accept foreign decorations. The Committee on Foreign Relations, after very careful examination of the whole subject, have come to the conclusion that this is a proper bill. Where foreign governments for services rendered by officers of the United States, whether civil or military, think proper to give decorations to such officers the Committee on Foreign Relations have concluded to recommend to the Senate that they may be received hereafter by the Department of State and not by the officer himself, and by the Department of State, if Congress see proper to authorize it, they can be transmitted to the officer; and at no time shall these decorations be publicly worn by any officer of the United States anywhere.

I confess that so far as I am individually concerned I am opposed to this whole business. I do not believe it is proper that the decorations of foreign governments should be given to United States officers; but the committee, on the whole, (and I agreed with them as to legislation of this character,) concluded that perhaps we would do well to permit the officers of the United States named in this bill to receive these decorations, but never to be worn, never to be exposed publicly on their persons. Of course they can be shown, but they are never to be exposed publicly on their persons.

My friend from Illinois suggests that we shall have to put a penalty on the bill. I say if they violate the law we will not hang them, but we will put a penalty then. I have great confidence in the integrity of the officers of the United States, both military and civil, and when we indicate the desire and, more than that, the determination of Congress that these decorations shall not be publicly worn, I have no doubt that no officer of the United States will violate the law.

I care as little as any member of the Senate can care whether the bill become a law or not; but on the whole I believe that there is a feeling among our Army and Navy officers that they ought to be permitted to receive these little decorations that foreign governments are in the habit of tendering in recognition of gallant conduct for the benefit of their subjects or citizens. We tender not a decoration to a foreign officer who gallantly interposes to save an American crew at sea upon a sinking vessel, but we give what is better than a decoration, a fine chronometer, a vote of thanks, or something of value; but foreign nations have this manner of testifying their gratitude and their respect to gallantry upon the part of our officers, and therefore I have concluded to concur in the passage of this bill.

Mr. MAXEY. I was very glad to hear the Senator from Connecticut, who is a lover of republican government as I am, declare himself as he did, not favorable to the principle of this bill. I am utterly hostile to the principle of this bill, and for this reason: An officer holding a commission from a republican government should consider the highest honor that can be conferred upon him the honor emanating from the government under which he holds his commission. I believe, and have always believed, that the effect of these foreign decorations given to American officers is to inculcate a spirit favorable to a monarchical form of government as against republican simplicity, and therefore I say that an officer who holds a commission from the American Government should go no farther than that Government for his decorations of any sort.

I am in favor and will at any time vote a vote of thanks to an officer who deserves it. I would vote a sword at any time when it ought to be voted to an officer who deserved that sword; but I say that this Government has got nothing to do with putting decorations upon the officers of any other government, and I say that no other government has any business to put decorations upon the officers of this Government. We should teach our officers who may be disposed to be somewhat aristocratic (and that charge is sometimes brought against our Army and Navy officers, that they do not exactly consider themselves a part of the people from whom they draw the money that they live upon) that they are a portion of the people and that they must look for their honors to their own country.

Mr. MORGAN. Mr. President, I concur very much with the sentiments expressed by the honorable Senator from Texas and the honorable Senator from Connecticut, but the Constitution of the United States provides that under certain restrictions officers of the United States Government may receive decorations or evidences of the approval of their conduct from foreign governments. It therefore becomes the duty of Congress to provide a means by which this may be lawfully done. Heretofore we have had a great many special enactments on this subject. The object of this bill is to get rid of the necessity of having special enactments, and it is to require a certain formality to be entered into whereby the communication of a present from a foreign government shall be made to the Department of State, and then it makes certain regulations about wearing these decorations which I entirely approve of.

I am satisfied that there is a good deal of ambition, which may be called puerile and childish ambition, on the part of officers of the United States Army and Navy to wear the honors and insignia of foreign governments; but there is more in this matter than merely the question whether it gratifies the personal vanity or pride of the particular individual who is the recipient of these marks of decoration. We owe something to the governments that bestow them; we owe at least decorous treatment to those governments, and we cannot say that if a foreign government chooses, according to its own laws and its own ideas of propriety, to confer an honor or reward on one of our officers, he shall not receive it merely because it comes from that government. Hence we cannot refuse, in every case at least, to permit our officers to receive these decorations without casting some sort of shadow of offense to the government that has tendered them.

I think we had better go along quietly on this subject and pass this bill, and let these gentlemen receive these decorations which they value so highly, and let them be handed down in their families as evidence of their intrepidity, or their courage, or of their humanity, or of whatever it may be, and use them as articles which their children may take a pride in.

Mr. INGALLS. Mr. President, the Constitution expressly provides that—

No person holding any office of profit or trust under them [the United States] shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

It evidently was the design of the founders of the Constitution that this practice should be discountenanced, and that in no case, except it might be an exceedingly exceptional one, should any citizen of the United States, holding office, receive any decoration, or thing of value, from a foreign government, and in pursuance of that idea the great and noble men of the early days of the Republic, whenever they were presented with anything from foreign governments, uniformly turned it over to the Government, and I understand the archives to-day contain a vast amount of property of various kinds that has been presented to the Presidents and to the Army and Navy officers of the Republic, who have turned them over to the Government. It appears to me that any officer, in view of these great examples, who asks permission to receive any petty decoration or any little trifling article of value from a foreign power shows by that fact alone that he is unworthy to act under the commission of the United States Government. It is contrary to policy and contrary to principle, and, in my judgment, opposed to the plain constitutional provisions under which the Government is acting.

I hope the bill will not pass, and I see that the Senator from Connecticut, [Mr. EATON,] who reported the bill, agrees generally with that view, and in order to prevent anything like a public acknowledgment of these decorations he provides that they shall not be

worn, but shall be preserved in secret, as if they were something to be ashamed of.

Mr. EATON. Will my friend read the whole of that provision of the Constitution?

Mr. INGALLS. It is:

No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

Mr. EATON. Mr. President, the committee of which I am a member have not been guilty of any violation of the Constitution of the United States. It is in the power of Congress, if Congress deems it proper that these evidences of distinction should be permitted to be received by one or more of its officers, to allow it to be done.

My friend says that very many presents were made in the early days of the Republic, and that those presents are now public property of the United States, that they were turned over to the United States. It was not so with all. It may have been so at times, but it is within my knowledge that many families in this country are in possession of these evidences of the good opinion of foreign governments, and more recently some of our most trusted public servants, men of the highest character, have received from foreign governments evidences of great value with the permission of Congress. My honored friend, formerly governor of my State, well known to many members on this floor, Thomas H. Seymour, of Connecticut, one of the purest and best men that the country has ever produced, received from the Emperor of Russia a malachite table of more than $20,000 value, which is now in the possession of his brother and sister, citizens of Louisiana, I think, not in their personal possession, but their property, now in a public building in the city of Hartford, where I reside. These things are not uncommon. My friend, about whom I have spoken, would not have received one of these petty decorations about which the Senator from Kansas has spoken and about which I have spoken, but here was an article of great value testifying the absolute friendship of the Emperor of Russia to this minister of ours, and our Government permitted him to receive it.

I think on the whole we had better pass this bill.

Mr. MAXEY. I would ask the Senator from Connecticut if the eighth clause of the ninth section of the first article of the Constitution does not contemplate a special act in each particular case by the use of the word "person?"

No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them, [the United States,] shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

Does not that contemplate that each case shall be a special case standing on its own merits?

Mr. EATON. Undoubtedly. All these are special cases standing on their merits.

Mr. MAXEY. But does not the bill operate *in futuro* on other cases that may arise?

Mr. EATON. It operates on each individual. The difference is this: Instead of tendering to my gallant friend from Texas personally, if he was an officer abroad, this evidence of the esteem of a foreign government, it is to be tendered to the Department of State, and there must be action by Congress before my friend from Texas can receive it.

Mr. MAXEY. I understand; but my point is that the Constitution contemplates that for some special and extraordinary reasons Congress may permit this to be done in the case of a given person, making each case a special case. I understand this bill is a general bill which will apply to a person that may thus be decorated by foreign governments, that he cannot get that decoration except through the State Department.

Mr. EATON. Therefore he is not decorated. There is the point. The decoration is sent to the Department of State, and then, unless Congress says that this is a matter worthy of the attention of Congress, the officer will never receive the evidence of the good feeling of the foreign government.

I agree with a great deal that my friend from Kansas said, though on the whole I have drilled myself up or down, whichever it may be, to voting for the bill, and letting the gentlemen who do regard these evidences as of consequence to their families, hereafter to be talked about, to have them. It is a little childish in my judgment, but still it does not hurt the child.

Mr. MORGAN. I desire to explain to the honorable Senator from Texas and to the Senate that this bill in its first section is a special act applicable to particular individuals, a large number of whose cases were presented to the Committee on Foreign Relations, and they are merely grouped in one law. The second section provides:

That no decoration, or other thing, the acceptance of which is authorized by this act, and no decoration heretofore accepted, or which may hereafter be accepted, by consent of Congress, by any officer of the United States, from any foreign government, shall be publicly shown or exposed upon the person of the officer so receiving the same.

And then the third section relates to the manner in which the tender of these decorations shall be made hereafter; that is to say, through the Department of State. This is a special law applicable to the individuals named, and is not intended to pass any general law by which a person not named in a special act of Congress may hereafter receive such a decoration.

Mr. CAMERON, of Wisconsin. I do not know whether I am in favor of the passage of this bill or not; but I think I am opposed to section 2, which provides:

That no decoration, or other thing, the acceptance of which is authorized by this act, and no decoration heretofore accepted, or which may hereafter be accepted, by consent of Congress, by any officer of the United States, from any foreign government, shall be publicly shown or exposed upon the person of the officer so receiving the same.

If we permit the officers of the United States to receive these decorations or honors at all, what possible objection can there be to their wearing them exposed upon their persons? Under this act they can carry them in their pocket, in their hat, or wrapped up in their pocket handkerchief, but they cannot carry them exposed upon their person. If it be a good thing to allow them to receive these decorations at all, why not allow them to make the fact as public as possible? The chairman of the Committee on Foreign Relations has given no reason for the incorporation of this section in the bill.

Mr. EATON. Neither did I give any reason why the bill should pass. I did the best I could for the bill. But I will say to my friend, if he will permit me, that I am utterly opposed to this exhibition of vanity on the part of a public officer of the United States; and, therefore, while I will permit him to receive such a decoration and transmit it to his children, I will go no further. I do not talk about its being put in tissue-paper, such as they make ballots of in certain places, and his carrying it in his pocket. That is not what I propose to do. But if a gallant officer has a little decoration from a foreign government, and it is done up in velvet and he exhibits it to his friends, and after his death his children are able to say, "Here is what the Emperor of Germany gave to our father," there is something in that I can consent to; but I would not have them expose these decorations on their person.

Mr. CAMERON, of Wisconsin. There is another idea in connection with this section. It applies not only to decorations that may hereafter be received, but to decorations which heretofore have been received. Now, I desire to submit to the chairman of the Committee on Foreign Relations whether or not the acts of Congress under which officers of the United States heretofore have been allowed to receive these honors and decorations were not in the nature of contracts, and whether it is competent for Congress now to interfere with those contracts if they were contracts? Is it not a vested right? There were no conditions imposed upon the happy recipients of these decorations and honors when they were received; and it seems to me rather late in the day for Congress to step in now and say, "You have carried these decorations exposed on your person for five, ten, twenty, or fifty years, but we think now you had not better do so any longer, and we will prohibit it." What does the chairman think of that?

Mr. EATON. I do not think there is very much of a contract and very little of a vested right in the matter; hardly worth talking about, in my judgment. I do not think there will ever be any quarrel between the Congress of the United States and one of the gentlemen who twenty years ago received a decoration under such a contract. I hardly think he has obtained any vested right.

Mr. CAMERON, of Wisconsin. There may not be any quarrel, but I submit that those persons who have, with great satisfaction to themselves I assume, worn these decorations for five, ten, or twenty years may feel rather badly now if Congress shall step in and interfere with that privilege.

Mr. EATON. From a somewhat intimate acquaintance with a good many of our Army and Navy officers who have received evidences from abroad, I have never yet seen one upon the person, I am happy to say, of an officer in either service, and I do not apprehend there will be any feeling on the part of any of these gentlemen at the passage of this act.

Mr. MAXEY. I move, at the end of line 5, section 3, after the word "person," to add:

But such present, decoration, or other thing shall not be delivered by the Department of State unless thereunto authorized by act of Congress.

The section as it stands might by implication leave the power in the Department of State to deliver a present to the party to whom it was intended to be presented, and the Constitution does not permit him to accept it at all except by special permission of Congress. If you make this a general law, that these decorations, presents, &c., cannot be tendered except through the Department of State, without some qualification the Department of State might deliver them, and that would be in violation, in my judgment, of the Constitution. Hence, in order to avoid the possibility and make it entirely clear, I move this amendment.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Texas.

Mr. EATON. I have no objection to it.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The bill was passed; there being on a division—ayes 29, noes 10.

WILLIAM SHARP.

The next bill on the Calendar was the bill (H. R. No. 2569) to remove the political disabilities of William Sharp, of Virginia; which was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered

to a third reading, read the third time, and passed, two-thirds of the Senators present voting in the affirmative.

ABNER SMEAD.

The next bill on the Calendar was the bill (H. R. No. 2799) to remove the political disabilities of Abner Smead, of Oregon; which was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, and read the third time.

Mr. DAWES. I simply want to inquire whether there is a petition in the ordinary form in these cases?

Mr. COCKRELL. Oh, yes; in all of them.

Mr. DAVIS, of Illinois. I would state in reply to the Senator from Massachusetts that there is no bill reported from the Judiciary Committee removing the disabilities of different persons who apply for removal unless the petition is in form, and where they have been officers unless their accounts have been settled.

Mr. DAWES. I do not mean to make any opposition to the bills, but I desire to see the disabilities removed in proper order.

The bill was passed, two-thirds of the Senators present voting in the affirmative.

WALTER R. BUTT.

The next bill on the Calendar was the bill (H. R. No. 2801) to remove the political disabilities of Walter R. Butt, of California; which was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed, two-thirds of the Senators present voting in the affirmative.

JOHN M. BROOKE.

The next bill on the Calendar was the bill (H. R. No. 2800) to remove the political disabilities of John M. Brooke, of Virginia; which was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed, two-thirds of the Senators present voting in the affirmative.

COURT IN INDIAN TERRITORY.

The next bill on the Calendar was the bill (S. No. 1418) to establish a United States court in the Indian Territory, and for other purposes.

Mr. VEST. That bill will elicit a large amount of discussion. In the absence of the chairman of the Committee on Territories, I ask that the bill be passed over without prejudice.

The PRESIDING OFFICER. The bill will be passed over without prejudice.

PORT OF TAMPA, FLORIDA.

The next bill on the Calendar was the bill (S. No. 1161) creating the port of Tampa, Florida, a port of entry; which was considered as in Committee of the Whole.

The bill was reported from the Committee on Commerce with an amendment, in line 4, before the word "delivery," to strike out "entry and;" so as to make the bill read:

Be it enacted, &c., That the port of Tampa, in the State of Florida, be, and the same is hereby, created a port of delivery, subject to the general laws of the United States and the regulations of the Treasury Department.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill creating the port of Tampa, Florida, a port of delivery."

GEOLOGICAL SURVEY.

The next business on the Calendar was the joint resolution (H. R. No. 116) to amend the act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes."

Mr. COCKRELL. That will produce a great deal of discussion, and it had better be passed over.

Mr. DAVIS, of Illinois. There is no reason why that joint resolution should not be considered. It is reached in its order. Unless it is considered now it will not be considered at this session. The resolution came here a year ago; and it seems to me that there is no good reason why it should not be considered now.

Mr. COCKRELL. There is no good reason why, except that this call is for the consideration of unobjected cases. The Senator from Illinois is perfectly aware of the fact that there is very bitter opposition to the joint resolution, and it will elicit discussion and cannot be passed in the morning hour, and the time will be simply thrown away. That is all there is of it. If we could pass it, I would not object.

Mr. DAVIS, of Illinois. I want to test the sense of the Senate upon the measure. I have been trying to get the sense of the Senate upon this joint resolution for some time. It is to extend the geological surveys into the States. I know it will bring up some discussion, but so will all these bills bring up discussion, for that matter. I move that the joint resolution be taken up now, and I have done all that I can when I have made that motion. If it is decided against me, well and good.

Mr. CAMERON, of Wisconsin. I hope the Senator from Missouri will not object to the consideration of the joint resolution.

Mr. COCKRELL. If the joint resolution could be disposed of in the morning hour I would not object. Every Senator here knows that it will not be disposed of in the half hour remaining, and it is useless to throw away the time in that way.

Mr. CAMERON, of Wisconsin. The time will not be thrown away. I assume it will not be thrown away if it is occupied in discussing this measure. I assume that time is never thrown away in a discussion in the Senate.

The PRESIDING OFFICER. The Senator from Missouri objects.

Mr. DAVIS, of Illinois. I make the motion.

The PRESIDING OFFICER. The Senator from Illinois moves to proceed to the consideration of the joint resolution.

Mr. HARRIS. Is that motion in order under the Anthony rule where a case is objected to? I hardly think it is in order.

Mr. DAVIS, of Illinois. I understand that under the Anthony rule when a bill is reached on the Calendar, if objected to, it can be taken up by a majority of the Senate.

The PRESIDING OFFICER. It is in the control of a majority of the Senate. The Senator from Illinois moves to proceed to the consideration of the joint resolution.

Mr. COCKRELL. I have understood that it has been decided expressly that during the morning hour such a motion cannot be made.

The PRESIDING OFFICER. The Senator is mistaken. This matter can be controlled by a majority of the Senate.

Mr. DAVIS, of Illinois. I have no objection if the joint resolution can be passed over without prejudice and be taken up to-morrow.

Mr. JOHNSTON. That is fair.

Mr. COCKRELL. I objected only to save the consumption of time to no purpose.

Mr. DAVIS, of Illinois. Can I have consent to have the joint resolution passed over without prejudice?

The PRESIDING OFFICER. Is there objection to that?

Mr. BOOTH. I object.

The PRESIDING OFFICER. The Senator from California objects.

Mr. DAVIS, of Illinois. Then I move to proceed to the consideration of the joint resolution. There is no other way to have it considered.

The PRESIDING OFFICER. The question is on the motion of the Senator from Illinois.

The motion was not agreed to.

PUBLIC BUILDING AT CHARLESTON, WEST VIRGINIA.

The next bill on the Calendar was the bill (S. No. 794) to provide a building suitable for a post-office, for the accommodation of the revenue officers, and the United States courts and their officers, in the city of Charleston, West Virginia.

Mr. JONES, of Florida. A similar bill to that has been passed.

Mr. COCKRELL. Then this bill should not remain on the Calendar.

The PRESIDING OFFICER. Shall this bill be indefinitely postponed, a House bill having passed that covers the case? The Chair hears no objection, and it is so ordered.

RAILWAY MAIL SERVICE.

The next bill on the Calendar was the bill (S. No. 1209) to designate, classify, and fix the salaries of persons in the railway mail service; which was considered as in Committee of the Whole.

The bill was reported from the Committee on Post-Offices and Post-Roads with amendments.

The first amendment was, in line 8, before "$800," to insert "not exceeding;" in line 9, before "$900," to insert "not exceeding;" in line 10, before "$1,000," to insert "not exceeding;" in line 10, before "$1,200," to insert "not exceeding;" and in line 11, before "$1,400," to insert "not exceeding;" so as to make the bill read:

That persons in the railway mail service, known as railway post-office clerks, route agents, local agents, and mail-route messengers, shall, on and after the 1st day of July, 1880, be designated as railway postal clerks, and divided into five classes, whose salaries shall not exceed the following rates per annum: First class, not exceeding $800; second class, not exceeding $900; third class, not exceeding $1,000; fourth class, not exceeding $1,200; and fifth class, not exceeding $1,400.

The amendment was agreed to.

The next amendment was to add the following proviso:

Provided, The Postmaster-General, in fixing the salaries of clerks in the different classes, may fix different salaries for clerks of the same class, according to the amount of work done, and the responsibility incurred by each, but shall not, in any case, allow a higher salary to any clerk of any class than the maximum fixed by this act for the class to which such clerk belongs.

The amendment was agreed to.

Mr. ALLISON. I do not rise to object to the amendment that has just been adopted, but, as I understand the bill, there is no restriction as to the number in each class.

Mr. MAXEY. I will explain the whole matter to the Senator.

Mr. ALLISON. I would be glad to have it explained.

Mr. MAXEY. I will state to the Senator from Iowa that there is a complete and very elaborate report on this subject, report No. 336. I shall not trouble the Senate to hear the report, but will state the principal facts. I call attention especially to what is said on page 2 of the report, being an extract from a letter of the Postmaster-General in respect to the classification of the employés of the railway mail service. He says:

I most earnestly renew my recommendation of last year for the reclassification of the employés of the railway mail service, as advised by the general superin-

tendent of that service. No additional expense will be incurred, but the business of the Department will be greatly facilitated and much annoyance will be spared to the appointment office which is now caused by the necessity of transferring employés from one class to another in order to avoid exceeding the appropriation. The railway mail service is the most important branch of the postal system. Under a judicious system of appointments and a tenure of office dependent upon merit alone, its efficiency has developed so that the enormous amount of 2,648,661,550 pieces of mail-matter were distributed by it during the past year with only one mistake in the distribution of each 3,469 pieces. The work performed by all the employés is the same, varying only in amount, and yet under the present mode of appropriating for postal clerks, route agents, mail-route messengers, and local agents, two men working in the same car and performing the same service frequently receive a different salary simply because one is paid out of the appropriation for route agents and the other out of that for postal clerks. This is the greatest evil now existing in the service, and it can be completely remedied by the classification of the employés as recommended.

This bill went before the Committee on Post-Offices and Post-Roads, and being one of great importance was most thoroughly and carefully considered by that committee. The amendments which have been reported and adopted were unanimously concurred in by that committee. The committee reported this bill back without a dissenting voice as the best arrangement that can be made for the railway-mail-service system.

You create by these five classes a system of promotion. The lowest man, if he is true and faithful, goes up by regular promotion to the second class, and so on. It adds not a dollar to the expenses of the Government. It prevents that jealousy which necessarily results where two men are working in the same car doing exactly the same service, and one is called a clerk by one name and the other by another, and one gets more money than the other. All that is removed by this bill. It reduces and classifies and adjusts this system in a way that I think is to the best interest of the service.

A word as to the proviso. The proviso says that the amounts of salary may be different, but shall not exceed the maximum, and why? Suppose you have a little route twenty-five or thirty miles long, which is the case very often on a branch road. You have a postal clerk. It is not reasonable that that clerk should get as much pay as a clerk that runs on seventy, eighty, or ninety miles of service. Hence this bill authorizes the Postmaster-General, where there are quite short routes, to cut down the amount that that one gets to a lower rate than the one who does a larger amount of service, but no one is to get more than the maximum fixed by the bill. That, I believe, is a full explanation.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. SAUNDERS. I believe as I came in the amendment of the committee was adopted saying not to exceed the sums named, $800, $900, and so on. I move to strike out the words "not exceeding." I think the salary ought to be fixed at a given sum, so that a fixed amount will be given to the clerks. The words "not exceeding" put it in the power of the persons who have control of these matters to say that a clerk shall not have more than so much, and he does not know when he goes to work for the Government what he is to get. There ought to be some price fixed that these clerks shall get the same as in the case of other clerks. I know from conversations and letters I have had that it will not give satisfaction to the clerks in the Department of the West at any rate to use the words "not exceeding," and thus allow some one at his own whim and caprice to change the figures of a man's pay at any time. I move to strike out the words "not exceeding," so as to read "first-class, $800; second-class, $900," and so on.

The PRESIDING OFFICER. The question was put on concurring in the amendments made as in Committee of the Whole, and that was stated as carried. If the Senator rose for the purpose of objecting the Chair will consider the question as still pending on concurrence and entertain a motion to amend. The words "not exceeding" occur at several points. Will the Senator please indicate the points where he moves that the words are to be stricken out? The Chair will reserve the question on concurring in the amendments made as in Committee of the Whole.

Mr. MAXEY. I desire to say now, and that will settle as far as the committee is concerned in one short talk all I wish to say, that the committee inserted the words "not exceeding" for the very purpose of protecting the Government and of not permitting more than the maximum salary fixed in the bill to be given to anybody. I will undertake to say to the Senator from Nebraska, from my experience and that of every Senator here, that there is not the slightest difficulty in getting men under this bill thoroughly accomplished and qualified for every one of these positions. I think from the number of applications I have had—and I presume others have had a like number—there will be no trouble on that point whatever.

Mr. SAUNDERS. If the committee means that these clerks shall receive a certain salary, let it be fixed. As it is now, some persons who have control of these matters will say, "We will give John Smith, or Jones, so much, as the case may be." I do not want to put any such power in the hands of the men who, for the time being, may have the authority to fix the rates of pay for persons in the railway mail service. I want to say to these employés, you shall have so many dollars; and if $800 is too much, then make it $700, or $600, or $500, but fix it at some rate that the clerk may know what he is to receive. That is what I want to see done. I know that nine-tenths of them, and I may say ten-tenths of them, want that done. I want it fixed at some rate, some fixed price that they will get, and I do not want the words "not exceeding" in the bill, thus leaving it in the power of some one in charge to say that a man has but a short distance to run, and therefore on that account he will cut his wages down less than this price, when probably the whole time of that man is employed just as much as any other person. I have two cases in point that I can give right here. One of them only travels during the day one hundred and fifty miles, but that man happens to live fifty miles from the terminus of his road and he never has an opportunity to go home. He cannot go home fifty miles distant on a railroad; he cannot go home on Sunday; he travels six days out of seven, and the result is that, although that man travels but one hundred and fifty miles, his pay would be cut down evidently, for this power is given into the hands of the Department, yet he is more closely confined than any man who gets $1,400 or $1,500.

Mr. INGALLS. He either ought to change his residence or resign.

Mr. SAUNDERS. Now I will take another case, if the Senator pleases. There is a man who goes out of my own town, he only travels sixty miles and back again, but he has to go six days out of the week. The man who goes one thousand miles goes one week and lays off a week, so that he has a chance to rest himself and he gets thirteen hundred or fourteen hundred dollars, while the other man would get $800. According to this provision those on the short routes would only get the lowest rates and not be allowed the fixed salary.

Mr. INGALLS. I think if the Senator will examine this bill he will find that the design of it is to enable the Postmaster-General to arrange the salaries of these clerks as well of which the Senator complains that their compensation is not in just proportion to others.

Mr. SAUNDERS. The bill says that the salary shall not exceed so much.

Mr. INGALLS. The Senator has not read the last amendment of the committee.

Mr. SAUNDERS. I think I have. I will reserve this question until the bill comes in the Senate.

The PRESIDING OFFICER. The bill is in the Senate, and the question is on concurring in the amendments made as in Committee of the Whole.

Mr. SAUNDERS. My attention has been called to the last proviso of the bill by the Senator from Kansas, who thinks it meets all the objection that I am raising. On the contrary, it is just the very objection that I have to the bill, and it is what I want to have stricken out. The proviso reads:

> The Postmaster-General, in fixing the salaries of clerks in the different classes—
>
> In the different classes, mark you—
>
> may fix different salaries for clerks of the same class, according to the amount of work done, and the responsibility incurred by each, but shall not, in any case, allow a higher salary to any clerk of any class than the maximum fixed by this act for the class to which such clerk belongs.

He is not allowed to go above the figure no matter how much work is done, but he is allowed to go lower, and that is the trouble. As I said before, you take some of these clerks that run but a short distance and they are cut off, although they are obliged to be on hand in season and out of season every day. They have no alternates, they have no assistants, they have nobody to take their places when they are gone, without hiring at the full wages; and the result is that whether sick or well they have got to be on hand, while the others can swap.

Mr. INGALLS. How would it do to add another proviso to the bill, that if any clerk is not satisfied he shall be permitted to resign?

Mr. COCKRELL. That would cover the case exactly.

Mr. WITHERS. That would relieve the difficulty.

Mr. SAUNDERS. All that is to be done with this bill, in my opinion, is to leave the subject alone. We have fixed the class; we have said that one class shall have $800 and another class $900, and so on. We have already classified them ourselves and taken that away from the Postmaster-General.

Mr. DAVIS, of West Virginia. I rise to a point of order. I wish to make an inquiry of the Chair. I wish to know whether under the Anthony rule the five minutes limitation to debate applies?

The PRESIDING OFFICER. It is in force; and there is one minute left of the time of the Senator from Nebraska.

Mr. SAUNDERS. Then I move during that minute, as the Senator is becoming anxious about what I am saying, in line 7, after the word "shall," to strike out the words "not exceed" and insert "be fixed at," and to strike out the words "not exceeding;" so as to read:

> Divided into five classes, whose salaries shall be fixed at the following rates per annum: First class, $800; second class, $900; third class, $1,000; fourth class, $1,200; and fifth class, $1,400.

Then I move to strike out the proviso, because there is no necessity for that.

Mr. MAXEY. I hope that that will all be voted down.

The PRESIDING OFFICER. The Chair will suggest to the Senator from Nebraska that the question on concurrence comes first. The question is on concurring in the amendment made as in Committee of the Whole, inserting the words "not exceeding." If the Senator desires to add, that will be another motion. The question is on concurring in the amendment made as in Committee of the Whole, inserting the words "not exceeding."

The amendment was concurred in.

The PRESIDING OFFICER. The Senator from Nebraska now moves to insert——

Mr. SAUNDERS. After the word "shall," in line 7, I move to strike out "not exceed" and insert "be fixed at;" so as to read:

Shall be fixed at the following rates per annum.

The amendment was rejected.

The PRESIDING OFFICER. The question is on concurring in the other amendments made as in Committee of the Whole.

Mr. ALLISON. I want to see if I understand this bill, because I should like to vote intelligently on the proposition of the Senator from Nebraska. As the bill now stands I understand that it simply provides for a classification of the clerks by numbers instead of having route agents and mail messengers and post-office clerks.

Mr. MAXEY. That is the whole of it.

Mr. ALLISON. Leaving the discretion in the Postmaster-General as it is now to fix a just compensation for the men engaged in the service.

Mr. MAXEY. According to the value of the work done. That is the whole of it.

The PRESIDING OFFICER. The question is on concurring in the amendment made as in Committee of the Whole, adding a proviso at the end of the bill.

The amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills and joint resolution; in which it requested the concurrence of the Senate:

A bill (H. R. No. 375) for the relief of Philemon B. Hawkins;

A bill (H. R. No. 2058) for the relief of Redmond Tully;

A bill (H. R. No. 2528) to change the name of the steam-yacht Kate Sutton, of Buffalo, to that of Loraine, of Oak Orchard;

A bill (H. R. No. 3274) to change the name of the steam-yacht E. R. Bryant, of Rochester, to Summerland;

A bill (H. R. No. 3275) to change the name of the sloop-yacht Mariah, of Rochester, New York, to that of Tourist;

A bill (H. R. No. 4418) for the relief of E. J. Gurley;

A bill (H. R. No. 5153) to change the name of the steamboat L. Boardman to River Belle;

A bill (H. R. No. 5304) authorizing the changing the name of the sloop-yacht America; and

A joint resolution (H. R. No. 322) for the relief of certain persons in respect of duties demanded of them upon the import of certain articles named therein.

The message further announced that the House had passed the following bills:

A bill (S. No. 152) for the relief of Thomas Lucas;

A bill (S. No. 307) for the relief of L. C. Cantwell;

A bill (S. No. 1175) granting an increase of pension to Harrietta M. Davis;

A bill (S. No. 1197) granting a pension to Peter Claesgens;

A bill (S. No. 1281) authorizing the Secretary of the Navy to introduce cotton cordage into the naval service of the United States; and

A bill (S. No. 1360) granting a pension to Aaron Hatcher.

The message also announced that the House had concurred in the amendment of the Senate to the bill (H. R. No. 2508) to regulate the compensation of night inspectors of customs.

UTE INDIANS IN COLORADO.

The message also announced that the House had passed the bill (S. No. 1509) to accept and ratify the agreement submitted by the confederated band of Ute Indians in Colorado, for the sale of their reservation in said State, and for other purposes, and to make the necessary appropriations for carrying out the same, with amendments in which it requested the concurrence of the Senate.

Mr. WILLIAMS. Senate bill No. 1509 has just been returned from the House of Representatives with amendments. It is a very important bill, and amendments have been made by the House which will require a committee of conference.

The PRESIDING OFFICER. The Chair will lay the action of the House of Representatives on the bill before the Senate.

The Chief Clerk proceeded to read the amendments of the House of Representatives to the bill (S. No. 1509) to accept and ratify the agreement submitted by the confederated bands of Ute Indians in Colorado, for the sale of their reservation in said State, and for other purposes, and to make the necessary appropriations for carrying out the same.

Mr. ALLISON. It is utterly useless to read the amendments in that form. I suggest that the bill with the amendments be printed, so that we may see what they are, and that the bill lie over for the present.

Mr. DAVIS, of West Virginia. One objection carries it over.

Mr. ALLISON. It will only delay action a few hours.

Mr. DAVIS, of West Virginia. I think the suggestion of the Senator from Iowa is proper. No one can know what we are acting on until that is done. One objection carries it over.

The PRESIDING OFFICER. The Senator from West Virginia objects. The bill will be printed as suggested by the Senator from Iowa.

TERRITORIAL GOVERNMENT FOR ALASKA.

The bill (S. No. 1426) to establish a territorial government for the Territory of Alaska was announced as next in order on the Calendar.

Mr. INGALLS. That had better go over.

Mr. McPHERSON. Before that bill is passed over I should like to call the attention of the Senate to a communication which has been addressed to the chairman of the Committee on Naval Affairs with respect to the condition of things at Sitka, Alaska. It appears from the communication that a naval vessel has been ordered there and continued there during the past year for the purpose of preserving order in that community. It is a duty entirely outside of that properly appertaining to naval officers, and it seems to me as though it might cause some trouble. I should like to have the bill considered as being before the Senate for the purpose of having the communication read, which will apply to the bill, and then I have no objection to the Senate passing it over.

Mr. INGALLS. The Senator can have the communication printed in the RECORD.

Mr. McPHERSON. Very well.

The PRESIDING OFFICER. The Chair hears no objection, and it will be so ordered.

The communication referred to is as follows:

NAVY DEPARTMENT,
Washington, June 5, 1880.

SIR: I deem it my duty to communicate to the Committees on Naval Affairs of the Senate and House of Representatives the condition of affairs now existing in Alaska, that they may consider the expediency of having some measure adopted before the adjournment of Congress whereby this Department may be relieved from the necessity of keeping a vessel of war at Sitka and of longer imposing upon officers of the Navy the anomalous duty of exercising civil authority for the protection of persons and property.

The Jamestown, under the command of Commander L. A. Beardslee, was sent to Sitka in May, 1879, and has remained there ever since, a period of about thirteen months. The necessity for sending this vessel grew out of the representation and belief that the peace of the community was constantly liable to be disturbed by turbulent and threatening savages whose passions were inflamed by drunkenness and who had never experienced the restraints of law. After thorough investigation the President felt constrained by the obligation to extend protection to all American citizens, to direct the presence of a naval vessel as the only means within the scope of the executive authority of accomplishing that object.

Upon the arrival of the vessel at Sitka Commander Beardslee found the society very much agitated by fear, and immediately inaugurated such measures of relief as were within his power. He was fortunate in being able to restore quiet and, with the co-operation of the collector of the port and the consent of the citizens, to establish a system of regulations which continues to furnish the only means of preserving peace and quiet. These regulations have not, of course, the force of law, and would in all probability become entirely ineffectual if it were not that they are enforced by the presence of officers of the Navy backed by an armed vessel. By reference to Executive Document No. 105 of the present session of Congress you will find important documents accompanying reports from Commander Beardslee, which were communicated by me to the Senate and which explain the measures adopted by him, as well as the condition of affairs up to their date. Later communications to the same effect have been received from him, and in one dated the 6th of last month he asks for further instructions from the Department to guide his action in the future. It is this request which is specially embarrassing to the Department, inasmuch as it involves the continued exercise of authority which has not been conferred upon the Navy Department by law and is not compatible with the machinery legitimately under its control. Under these circumstances I have, with the consent of the President, considered it obligatory upon me to address you this communication.

In his last letter Commander Beardslee says:

"The absence of Collector Ball and the sickness of the deputy collector have made it necessary for me to assume all the functions of manager of this community. This I have not hesitated to do, from the discretionary nature of my orders and instructions and the absolute need of there being some head to it. My assumption has been a very popular move, and I receive full and cheerful support from all classes, except perhaps the lowest.

"I find it necessary to devote an hour or more every day to police-court duties on shore, &c.

"Hootchenoo drinking is a prevailing vice, and under its influence the beating of fathers and mothers and young children is very common."

It will readily appear to you, therefore, that the necessity for some action of Congress is absolute. The Navy Department ought not to be longer charged with these extra-official duties, or with any duties so foreign to its organization as those pertaining to civil government. Consequently I have addressed this communication to the only committees of Congress to whom jurisdiction over naval affairs has been confided, with the hope that some relief may be afforded before the close of the session. I do not know what bills are now pending having reference to a territorial organization in Alaska, but in all probability some one may be found which, if passed, will answer the necessary purpose. If nothing more can be done, a simple provision conferring jurisdiction, civil and criminal, upon justices of the peace and extending the laws of Washington Territory over the people of Alaska, so far as they are proper, would be far better than to leave affairs there in their present condition. If the positive necessities of the service should require the withdrawal of the Jamestown, the result in all probability would be that the whole society would be plunged into anarchy.

I have the honor to be, sir, your obedient servant,

R. W. THOMPSON,
Secretary of the Navy.

Hon. JOHN R. MCPHERSON,
Chairman Committee on Naval Affairs,
United States Senate.

The PRESIDING OFFICER. The bill will be passed over, and the next bill on the Calendar will be reported.

PERMANENT APPROPRIATIONS.

The next bill on the Calendar was the bill (S. No. 1424) to repeal certain laws relating to permanent and indefinite appropriations.

Mr. CAMERON, of Wisconsin. That had better go over.

The PRESIDING OFFICER. Objection is made, and the bill goes over.

Mr. DAVIS, of West Virginia. I wish to say a word. The objection is hardly fair or hardly proper. This is a bill of public importance. It has twice been before the Senate, and by the request of

Senators, especially the Senator from Vermont, [Mr. MORRILL,] it was allowed to go over. It is a bill of more than ordinary importance, and it must get to the House very soon if it is to take effect next year. I do not know what Senator objected to it. I hope whoever may have objected to it will withdraw his objection. I hope the Senate will proceed with this bill. I see no objection to it.

Mr. CAMERON, of Wisconsin. I have objected to it, and I do not withdraw my objection.

Mr. DAVIS, of West Virginia. I think, then, I shall have to ask the Senate to proceed to the consideration of the bill. ["No!" "No!"] Yes, I cannot help it. It is now the first bill on the Calendar. This bill has been before the Senate now two months, and it is a bill of a public nature. I believe it is the unanimous opinion of the Committee on Appropriations that it ought to pass, and so far as I know, with the exception of some matter that the Senator from Vermont probably will move, it is probable that there will be no objection to it. It is by general opinion of the Departments all through, especially of the Treasury Department, that this bill ought to pass. It will reform a service that has not been reviewed perhaps for fifty years. There are $8,000,000 or $10,000,000 expended annually over which Congress has no supervision whatever, perhaps more; but I will say in the neighborhood of $10,000,000 is expended annually under permanent indefinite appropriations, and properly expended for aught we know. The Secretary of the Treasury himself has sent a communication here saying that all these appropriations ought to be reviewed by Congress annually.

Mr. CAMERON, of Wisconsin. The bill cannot be considered this morning. It is now within two minutes of the expiration of the morning hour.

Mr. DAVIS, of West Virginia. Then it will be the first bill on the Calendar to-morrow morning.

Mr. CAMERON, of Wisconsin. No, it will not.

Mr. DAVIS, of West Virginia. I cannot consent to let it go in that way.

Mr. CAMERON, of Wisconsin. It is the last bill that has been acted on, not the first bill on the Calendar to-morrow by any means.

Mr. DAVIS, of West Virginia. This bill has been recommended by the Secretary of the Treasury, is in the interest of the Government and in the interest of the people, and I think it very strange if a bill of such a public nature should not be considered, when, so far as I know, not a single objection comes from anybody that knows anything about the bill. I doubt whether my friend from Wisconsin knows even one-twentieth part of what is in this bill. Every one who has studied the bill, so far as I know, every member of the Committee on Appropriations is in favor of it. I hope the Senate will not pass it over, but that it will take it up and dispose of it.

Mr. INGALLS. Before the bill passes away from the consideration of the Senate, I wish to offer an amendment so that it may be pending when the bill comes up.

Mr. DAVIS, of West Virginia. I certainly have no objection to that.

Mr. INGALLS. My amendment is to insert, after the word "debt," in the seventh line of the first section, the words "or of the bonds known as the 3.65 bonds of the District of Columbia." I offer the amendment so that it may be pending when the bill comes up.

Mr. DAVIS, of West Virginia. I do not know now whether there will be objection to that amendment. That is certainly an important question and one that ought to be presented to the Senate. It is probably an amendment which ought to pass.

Mr. INGALLS. I do not ask action now at all.

Mr. DAVIS, of West Virginia. I ask to dispense with general consent——

The PRESIDING OFFICER. The morning hour has expired, and the unfinished business is the resolutions reported from the Committee on Privileges and Elections.

ORDER OF BUSINESS.

Mr. WILLIAMS. I gave notice yesterday morning that at this hour I should move to take up the bill (S. No. 1753) granting pensions to certain soldiers and sailors of the Mexican and other wars therein named, and for other purposes. I understand that the Committee on Appropriations wish now to take up an appropriation bill, and I extend my notice until to-morrow at the end of the morning hour.

Mr. DAVIS, of West Virginia. I wish my friend from Kentucky would allow me one moment, so as to have it understood that there is a motion pending to lay aside all other orders, if an objection is insisted upon, and to take up Senate bill No. 1424. I wish that understood by the Chair.

Mr. BECK. I desire that the sundry civil appropriation bill may be taken up, and then when the bill is formally before the Senate I will yield to gentlemen who have mere formal business to present.

The PRESIDING OFFICER, (Mr. WALLACE in the chair.) The Senator from Kentucky moves that the Senate proceed to the consideration of the sundry civil appropriation bill. Is there objection?

Mr. McDONALD. I understand that the appropriation bill is to be taken up and the pending order is to be laid aside informally without prejudice.

The PRESIDING OFFICER. That is under the control of the Senator from Kentucky.

Mr. McDONALD. Is that the understanding?

Mr. BECK. That is my understanding of it, if the order has been made. I intended to make that suggestion.

Mr. McDONALD. I desire that that should be the understanding.

Mr. KIRKWOOD. What is that?

Mr. McDONALD. That the pending order, the resolution in reference to the seat of the Senator from Louisiana, be laid aside informally for the purpose of considering the appropriation bill, and not to be prejudiced by an adjournment.

The PRESIDING OFFICER. The Senator from Indiana suggests that the pending order, being the resolutions relating to the seat of the Senator from Louisiana, be laid aside informally, not to be prejudiced by taking up the sundry civil appropriation bill. Is there consent to that understanding?

Mr. KIRKWOOD. Nor to be prejudiced by adjournment.

The PRESIDING OFFICER. Nor by adjournment or otherwise. Is that the understanding of the Senate? The Chair hears no objection, and it is so understood.

Mr. BECK. The sundry civil appropriation bill being before the Senate, I give way at the request of Senators to allow merely formal business to be presented.

PETITION.

Mr. COCKRELL. I present the petition of citizens of Gasconade Valley, State of Missouri, to Congress, praying for an appropriation for the improvement of the Gasconade River, and representing that that river can be made navigable for a distance of at least seventy-five miles from its mouth for steam-vessels, barges, flat-boats, and rafts, and that it is a matter of very great importance. I move the reference of the petition to the Committee on Commerce.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. RANDOLPH, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1805) relative to revolutionary battlefields, reported it with amendments.

Mr. KIRKWOOD, from the Select Committee to examine into the circumstances connected with the removal of the Northern Cheyennes from the Sioux reservation to the Indian Territory, submitted a report thereon, accompanied by a joint resolution (S. R. No. 120) instructing the Secretary of the Interior to report to the Senate proper boundaries of a reservation of lands in the Indian Territory for the Cheyenne and Arapahoe Indians with reference to providing arable lands for the Indians in severalty.

The joint resolution was read twice by its title, and the report was ordered to be printed.

CHANGE OF NAME OF SCHOONER.

Mr. RANDOLPH. I am directed by the Committee on Commerce, to whom was referred the bill (H. R. No. 2208) to change the name of the schooner J. H. Dusenberry, to report it without amendment, and I ask as a matter of personal favor that the bill, which is simply to make the change in the name of a vessel, be taken up and considered and passed.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It changes the name of the schooner to that of the Cordorus.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PAPERS WITHDRAWN.

Mr. WITHERS. I ask that the following order be made:

Ordered, That the papers from the Pension Office in the case of Luman Case, soldier of the war of 1812, be withdrawn from the files of the Senate and returned to the Pension Office by the clerk of the Committee on Pensions.

I will state that the papers from the Pension Office were inadvertently filed with the other papers in the case.

The order was agreed to.

WILLIAM P. CHAMBLISS.

Mr. HARRIS. A week or two since the bill (S. No. 1660) for the relief of William P. Chambliss, late major Fourth Regiment United States Cavalry, was reported back adversely from the Committee on Military Affairs, and the bill was indefinitely postponed. I ask unanimous consent of the Senate to reconsider the vote by which the bill was postponed, in order that the bill may go upon the Calendar. I understand that there are material facts that were not before the committee, and for that reason I desire to have the vote reconsidered by which it was postponed and the bill placed on the Calendar.

The motion to reconsider was agreed to.

The PRESIDING OFFICER. The bill will be placed on the Calendar.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 900) granting a pension to John H. Ferrell;

A bill (H. R. No. 989) for the relief of John H. Standish;

A bill (H. R. No. 2470) to create a new collection district in North Carolina, and to make Fayetteville a port of entry;

A bill (H. R. No. 3740) to change the name of the side-wheel steamboat Sarah K. Taggart to that of Bridgeport;

A bill (H. R. No. 6380) for the relief of the estate and sureties of John P. Hall, deceased;

A bill (H. R. No. 3772) granting a pension to Samuel Burwell; and

A bill (H. R. No. 3794) authorizing the City National Bank of Manchester, New Hampshire, to change its name.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolution; and they were thereupon signed by the President *pro tempore:*

A bill (S. No. 35) granting a pension to Herman Netterfield;

A bill (S. No. 281) for the relief of Emma G. Nelson, executrix, and Aaron H. Nelson, executor, of the estate of W. F. Nelson, deceased;

A bill (S. No. 452) for the relief of Priscilla Watson;

A bill (S. No. 640) to amend sections 3385 and 3357 of the Revised Statutes of the United States;

A bill (S. No. 849) to authorize the Saint Paul and Chicago Short Line Railway Company to construct a bridge across Lake Saint Croix, and to establish it as a post-road;

A bill (S. No. 1117) to provide additional accommodations for the Library of Congress;

A bill (S. No. 1162) confirming the title to block numbered 14, in Baker City, Oregon, to Baker County;

A bill (S. No. 1224) to remove the political disabilities of C. Manigault Morris, of Georgia;

A bill (S. No. 1247) to amend sections 2262 and 2301 of the Revised Statutes of the United States in relation to the settler's affidavit in pre-emption and commuted homestead entries;

A bill (S. No. 1254) for the relief of Henry Warren;

A bill (S. No. 1363) granting a pension to Eli Cooprider;

A bill (S. No. 1490) to complete the survey of the Gettysburgh battle-field, and to provide for the compilation and preservation of data showing the various positions and movements of troops at that battle, illustrated by diagrams;

A bill (S. No. 1501) to restore pensions in certain cases;

A bill (S. No. 1538) authorizing the closing of the accounts of the late Rear-Admiral A. H. Foote, United States Navy;

A bill (S. No. 1570) providing for the transportation of the mails between East Saint Louis, in the State of Illinois, and Saint Louis, in the State of Missouri;

A bill (S. No. 1608) for the relief of certain settlers within the late Fort Kearney military reservation, in Nebraska;

A bill (S. No. 1723) authorizing the Secretary of the Treasury to issue an American register to the bark Annie Johnson;

A bill (S. No. 1749) to authorize the Roman Catholic bishops in California to sell certain church lands;

A bill (S. No. 1754) for the relief of W. J. Morris;

A bill (S. No. 1755) granting an increase of pension to Horace Boughton;

A bill (H. R. No. 270) to reimburse Charles Dougherty for his expenses to the consulate of Londonderry;

A bill (H. R. No. 2796) for the relief of George Eyster;

A bill (H. R. No. 3783) to remove the charge of desertion from the military record of Jerry Foley;

A bill (H. R. No. 4849) to confirm certain entries and warrant locations in the former Palatka military reservation; and

A joint resolution (S. R. No. 107) to authorize the loaning of certain tents and artillery to the Union Veteran Corps, composed of ex-Union soldiers, for the purposes of a reunion to be held at Wichita, Kansas, in the month of October, 1880.

SUNDRY CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 6266) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes.

Mr. BECK. A copy of the bill is in the hands of each Senator. It is a very long bill, sixty-nine pages. I ask that the formal reading of the bill be dispensed with, and that we act on the amendments reported by the Committee on Appropriations as they are reached in the reading of the bill, and that the amendments of the committee shall first be considered before other amendments are in order.

The PRESIDING OFFICER, (Mr. FERRY in the chair.) The Senator from Kentucky asks that the formal reading of the bill be dispensed with, and that the amendments of the Committee on Appropriations be taken up in their order. Is there objection to that arrangement? The Chair hears none, and that order will be pursued.

Mr. BECK. Before the bill is read perhaps it is proper that I should say a few words in order to explain the nature of the bill and what has been done in the Committee on Appropriations, so that the Senate may understand as the bill is being read something of the nature of the action taken by the Committee on Appropriations of the Senate.

Of course, this is a very important bill, dealing with a great number of subjects, and it appropriates a very large amount of money. The bill as it passed the House appropriated $21,599,647.36. The bill as it now is offered to the Senate by the Committee on Appropriations appropriates $22,933,951.69. The net increase proposed by the committee amounts to $1,334,304.24. The total increase proposed by the committee is $1,459,284.24. The total reduction as it came from the House amounts to $124,980, leaving the net increase, as I said, $1,334,304.24, all the items of which I have in the paper now before me. The magnitude of the bill and the increase made by the committee perhaps demand that I should make a statement.

We have, as is well known, for several years been very careful about expenditures of this character because of the closeness between the collection of revenue and the expenditures. That difficulty is now in great part removed because of the surplus on hand. I can safely say to the Senate that each item of increase made by the Senate Committee on Appropriations was made in regard to great public interests. There is no personal matter in it; there is no item that any Senator will suspect as having anything connected with a job in it, which is sometimes a matter of serious consideration.

For example, when we took up the public buildings of the country we determined that we would not add any new buildings, although there were fifty-one new buildings tendered to us and urged upon us by Senators and Representatives, and many of them having had the reports of committees in their favor, which if we had entered upon would have added very largely to the amount of increase.

One of the reasons why we were reluctant to enter upon the erection of new buildings grew out of the fact that when we have made appropriation for new buildings, say $100,000, or $500,000, or $1,000,000, before the building was finished it generally turned out that it cost double the amount, sometimes treble the amount of what was originally appropriated and what we were assured we would get the building for.

The Committee on Appropriations desire (and I am glad to see some of the prominent members of the Committee on Public Buildings and Grounds now in their seats) that the Committee on Public Buildings and Grounds will, before they press new buildings on the Committee on Appropriations, frame some law, as carefully drawn as they can draw it, to punish all public officials who disobey the orders of Congress and require appropriations for public buildings to be made double and sometimes treble what the original estimate is and what the original assurance is.

As to those on hand our policy was this: We had to finish them, and whenever one was nearly completed we differed from the House thus far, that we made appropriations sufficient to complete the building, so that it could be occupied and used, and that the rents that we were paying for other purposes should cease, and we believe that the policy is a good one.

Take as an instance the building at Utica. The House appropriated $25,000 for the purpose of continuing the building. It required $61,000 to finish it. We have said, "Give the $61,000, and finish it, and let it be occupied and used, and save the rents that are being paid for other buildings." So at Hartford, Connecticut, where the officials have expended double what they said originally would be required, the House appropriated $25,000 to continue the building. We have added $50,000 more, and said, "Complete that building which has been going on for years, and the moment it is completed the expenditure of the United States will cease and the building itself will be occupied."

That was the general policy with regard to that class of public buildings which are the first items in the bill and the first that Senators will have to consider. From what I have said they will understand what is meant by our proposed increases; and this general statement may suffice for an explanation of all the items.

When we came to the light-houses which follow next after public buildings in the bill, we called all the officers connected with the light-houses before us. We had their statements as to what was most needed, and wherever we could finish a light-house instead of merely continuing it, as on the coast of Oregon, Tillamook Light, we added $25,000, and said, "Finish that, so that it can be useful." Wherever there was anything necessary to save life or to aid the commerce of the country we thought instead of merely continuing the work and doing no good until an indefinite time in the future, we would finish it at once and let it be made, whether on the coast or on the Mississippi, the Ohio, or any of the great rivers of the country.

So in regard to the life-saving stations; we were assured that an increase had to be given there in order to enable the officers in charge of life-saving stations to man their boats and to give them the assistance required. It was made so plain that at the risk of increasing the bill we added money there.

Another class of cases came before us. Take the city of Chicago for example. We have erected at great expense a public building which is unfinished. The United States courts that sit at Chicago have to be held in it. The internal-revenue offices, the custom-house offices, the post-office, are in that building. The House allowed a small amount to partially finish it, but the amount allowed was evidently insufficient for that purpose; and while the Department demanded $200,000 for the purpose of furnishing it, we thought that in addition to the furniture now on hand $100,000 would do, and we gave that.

Then we came to the forts of the country. It was made apparent to us by the War Department and by the recommendations of the Committee on Military Affairs that more appropriations were required there, and I will only instance some of them. There is Fort Assinaboine, which is on the headwaters of the Missouri, between Fort Benton and Fort Buford, a fort where our soldiers have to be marched every year, living in tents during the summer and removing there during the winter at great cost, a fort along the lines where all the hostile Indians make their raids upon the country. It was made

plain to us that that fort ought to be used and the soldiers kept there, and we gave $100,000 to build a fort at that point.

Take another example, San Antonio, Texas. It was made apparent to us that that point had to be military headquarters along the Mexican frontier, as long as Mexico remains a republic separate from us. We have ninety acres of land there; we have partial buildings; we are paying to-day $20,000 a year for rent for quarters and commutation of quarters for our officers; we said that it was a proper thing to put up the necessary buildings at San Antonio, so as to save that $20,000 a year rent, and we agreed to give $125,000 for that purpose. That will only cost the United States $25,000 a year, and in six years the $125,000 will be saved. We considered that it was economy to do that, although we were thereby increasing the bill.

The largest increase of appropriation that we have agreed to make perhaps was in another direction. Mare Island, California, is the only navy-yard on the Pacific coast; we are building a dry-dock there. The House appropriated $50,000; that would only advance the work very slightly. We have spent nearly a million dollars there already, and will have to spend half a million more before it is finished. The officers of the Navy Department said they could use $150,000 to advantage in order to go on with the dry-dock at Mare Island. It is the only navy-yard on the Pacific coast, and the Appropriations Committee said "We will give you that $150,000 so as to make the work useful."

At Pensacola, Florida, we have a navy-yard. It has been allowed to go unattended to for a great while. There is no other navy-yard in the Gulf of Mexico, the great Mediterranean Sea of the country, no place where a ship can be repaired; and we said that navy-yard ought not to go down, and we agreed to allow $200,000 for the Secretary of the Navy to put the Pensacola navy-yard in a position where our ships can be repaired in the Gulf, and we thought the expenditure would be a good one. There are a number of navy-yards along the North Atlantic, one at League Island, one at Brooklyn, one at Boston, one at Portsmouth, all within a space of less than a thousand miles; but there is not one in the Gulf of Mexico, and none but Mare Island on the Pacific. We thought we should have one on the Gulf and one on the Pacific coast. Of course Norfolk is a good navy-yard for the central belt, and hence we provided for one at Pensacola.

This is the general character of the increases made. A very large number of amendments were offered. We have rejected as many as forty. For example, the Indian Committee pressed upon us the importance of voting two hundred and odd thousand dollars for what is known as the Creek orphan fund. We resisted it. We said it must come before the Senate. We believed it was a just claim as far as we could understand it; but it must come before the Senate and let the Senate settle with the Indians under their trust fund, but do not charge that money as coming out of the Treasury of the United States to swell this bill so as to have it said, "you are expending two hundred and odd thousand dollars more than you ought." They took our advice, came to the Senate, and passed the bill in a separate form.

We were asked to put on $4,000,000 to finish monitors by the Naval Committee. We have endeavored to resist that, and, as far as our committee is concerned, we have resisted it, because that is a matter that should stand on its own merits. It ought not to be dragged down by this bill, and it ought not to drag the bill down, or drive it up, as the Senator from Virginia [Mr. WITHERS] says, by adding this much to it, as part of the expenditures of the Government, when that is to carry out old contracts made in years gone by. No doubt, many of the items to which the attention of the Senate will be invited are matters which the committee has refused to put in, and if they are added they will add perhaps ten millions or twenty millions to this bill.

We believe there is nothing in the bill, as reported, except what is for the good of the public service, which we have endeavored to maintain, whether it be to preserve life on the ocean, the lakes, and the great rivers of the country, or to defend the country against the hostile invasions of Indians, or to carry on existing works, or to do whatever is absolutely necessary for the good of the public service. The increases grow entirely out of the character of the things I have stated; and the reason I have made the statement at all is to appeal to Senators on all sides not to load this bill down with extraneous matter, to require the different committees and the different gentlemen who have urgent matters, and perhaps just ones, to have their measures stand upon their own merits in separate bills. This bill is heavy enough now, perhaps more than it ought to be, but in the present condition of the service we could not see how we could exclude anything in it.

This is the substance of what I desired to say before the bill is read.

The PRESIDING OFFICER. The Secretary will proceed with the reading of the bill with the amendments.

The Chief Clerk proceeded to read the bill. The first amendment of the Committee on Appropriations was under the head of "under the Treasury Department: public buildings," in line 9, after the word "for" to strike out "fencing, grading, and approaches, twelve" and insert "completion of the building, thirteen;" so as to make the clause read:

Court-house and post-office, Austin, Texas: For completion of the building, $13,000.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, in line 24, to reduce the appropriation for "custom-house and post-office, Evansville, Indiana: for fencing, grading, and approaches," from $25,000 to $15,000.

Mr. VOORHEES. I should like to know why that change is made.

Mr. BECK. That change is made at the suggestion of Mr. Hill, the architect of the Treasury, whose estimate for the custom-house and post-office at Evansville, Indiana, grading and fencing, is $15,000, and he says that is all that he desires to complete the work according to the plan and arrangement he had made. The House committee reported it that way, and the House itself added $10,000 to it. He did not recommend it, and said he did not need it unless a change of plan was made, about which he had not formed an opinion. We have given the full amount of the estimate.

The PRESIDING OFFICER. The question is on the amendment.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was in line 29, after the word "for," to strike out "continuation" and insert "completion," and in line 29, after the word "building," to strike out "seventy-five," and insert "one hundred and twenty-five," so as to make the clause read:

Custom-house and post-office, Hartford, Connecticut: For completion of the building, $125,000.

Mr. BECK. That illustrates what I said a few moments ago. The estimate was $125,000 to complete the building; and instead of allowing $75,000 to continue it we agreed to allow $125,000 to complete it, so that the building which has been hanging on for many years may be occupied soon and a large amount of rent saved.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, in line 33, to insert "custom-house" before "court-house," and after the word "dollars," in line 35, to insert "and the limitation on the cost of said building is hereby extended from $200,000 to a sum not to exceed $300,000;" so as to make the clause read:

Custom-house, court-house, and post-office, Kansas City, Missouri: For continuation of building, $25,000; and the limitation on the cost of said building is hereby extended from $200,000 to a sum not to exceed $300,000.

Mr. BECK. These changes are rendered necessary because of the fact that the court-house has to be in the third story of that building. While we thought the change of the limitation from $200,000 to $300,000 was quite large growing out of that, when we brought the Representatives from Missouri and the Architect of the Treasury before us they showed that from the very foundation the walls will have to be strengthened and everything will have to be made stronger and heavier. It is an extensive building. The addition of the court-house and other things necessarily require $100,000 more to complete it.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, in line 46, to increase the appropriation for "custom-house and post-office, New Orleans, Louisiana: for repairs and finishing third story of building" from $40,000 to $47,000.

The amendment was agreed to.

The next amendment was, in line 49, to increase the appropriation "for completion of custom-house, court-house, and post-office, Nashville, Tennessee," from $59,000 to $75,000.

The amendment was agreed to.

The next amendment was, after the word "dollars," in line 50, in the clause appropriating for custom-house, &c., at Nashville, Tennessee, to insert:

And so much of the sundry civil appropriation act approved March 3, 1879, as limits the cost of the iron-framed roof for said building is hereby repealed.

Mr. BECK. Perhaps this needs this explanation: There was a storm which blew down a portion of this building. That required an addition, and it is ascertained that it will be impossible to build an iron roof for the fifteen-thousand-dollar limit. I make the statement because this exceeds the estimate. It would not be increased but for the storm. This seems to us absolutely right.

The amendment was agreed to.

The reading of the bill was continued to the end of the clause, in lines 57 and 58, as follows:

For commencing work on a public building at Pittsburgh, Pennsylvania, $75,000.

Mr. BECK. The reason we agreed to that clause, though it appears to be commencing a new work, is that Congress, by an act approved May 28, authorized and required this appropriation for Pittsburgh.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, in line 66, after the word "dollars," in the clause appropriating $50,000 for "court-house and post-office, Topeka, Kansas," to insert the following proviso:

Provided, That iron joists for floors may be used, and that the limit of cost for the entire building be extended $20,000 to cover increased cost therefor.

The amendment was agreed to.

The next amendment was, after the word "for," in line 70, to strike out "continuation" and insert "completion;" and in line 71, to strike out "twenty-five" and insert "sixty-one;" so as to make the clause read:

Court-house and post-office, Utica, New York: For completion of building, $61,000.

The amendment was agreed to.

The next amendment was, in the clause making appropriations for "building for Bureau of Engraving and Printing, Washington, District of Columbia," in line 79, after the word "dollars," to insert the following proviso:

Provided, That the Secretary of the Treasury be, and hereby is, authorized and directed to purchase lots numbered 11, 12, 24, and 25, in square 231, in the city of Washington and District of Columbia, being the land lying between the south line of the present site of the new building for the Bureau of Engraving and Printing and a fifteen-foot alley, or any portion thereof, as an addition to the site of the said building, at a cost not exceeding fifty cents per square foot; and the sum of $15,732.70, or so much thereof as may be necessary for the purchase of said land, is hereby appropriated out of any moneys in the Treasury not otherwise appropriated.

The amendment was agreed to.

The next amendment was, under the head of "life-saving stations," after the word "stations," in line 136, to strike out "at a rate not to exceed $40 per month each, during the period of actual employment, three hundred and seventy-six thousand nine hundred and sixty" and to insert "four hundred thousand;" so as to make the clause read:

For pay of crews of experienced surfmen, employed at the life-saving and lifeboat stations, $400,000.

The amendment was agreed to.

The next amendment was, in line 155, to increase the appropriation for "contingent expenses" of life-saving stations from $50,000 to $65,000.

The amendment was agreed to.

The next amendment was, under the head of "Light-House Establishment," in line 216, after the word "books," to insert "and furniture;" so as to read:

For books and furniture for light-stations, and other incidental and necessary expenses, &c.

The amendment was agreed to.

The next amendment was, in line 219, after the word "light-houses," to insert "and stations;" in line 220, after the word "light-houses," to insert "and stations;" and in line 221, after the word "rebuilding," to insert "renovating;" so as to make the clause read:

Repairs of light-houses and stations: For repairs and incidental expenses of light-houses and stations; for rebuilding, renovating, and improving the same, and buildings connected therewith; and for the purchase and repair of illuminating apparatus and machinery, $285,000.

The amendment was agreed to.

The next amendment was, in line 227, to increase the appropriation "for maintenance of lights and buoys on the Mississippi, Ohio, and Missouri Rivers," from $130,000 to $150,000.

Mr. BECK. I only desire to say that all the other items we have passed over were substantially according to the estimates; the House had given what was asked, and the Department are pretty well content; but in this item they said that they would have to have $150,000 in order to do the work at all well.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, under the head of "light-houses, beacons, and fog-signals," in line 244, after "New York," to strike out "sixteen" and insert "and for repairs and dredging, twenty-one;" so as to make the clause read:

For purchase of additional strip of land at Staten Island depot, New York, and for repairs and dredging, $21,000.

The amendment was agreed to.

The next amendment was to strike out lines 246 and 247, in the following words:

For establishing lights on the Delaware River, in addition to existing appropriations, $15,000.

Mr. BECK. That was stricken out because it is provided for elsewhere.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, after the word "light-house," in line 248, to insert "and the purchase of additional land not exceeding six acres;" so as to make the clause read:

For continuing the construction of the light-house, and the purchase of additional land not exceeding six acres, at Cape Henry, Virginia, $25,000.

The amendment was agreed to.

The next amendment was, in line 287, to increase the appropriation "for continuing the erection of a first-class light-house and steam fog-signal on Tillamook Head, Oregon," from $50,000 to $75,000.

The amendment was agreed to.

Mr. BECK. We made a mistake in leaving line 286 to stand as it is in the House bill:

For continuing the erection of a first-class light-house and steam fog-signal on Tillamook Head, Oregon, $75,000.

We have increased the appropriation so as to finish it. It ought to be:

For completing the erection of a first-class light-house, &c.

The PRESIDING OFFICER. That correction will be made.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was to strike out from line 289 to line 291, as follows:

For completing a light-house and establishing a fog-signal at Point no Point, Admiralty Inlet, Washington Territory, $5,000.

The amendment was agreed to.

The next amendment was, in line 292, after the word "building," to strike out "one steam tender" and insert "two steam tenders;" in line 293, after the word "coast," to strike out "forty-five" and insert "ninety;" and after the word "dollars," in line 294, to insert:

Provided, That masters of light-house tenders shall have police powers in matters pertaining to Government property and smuggling.

So as to make the clause read:

For building two steam tenders for general service on the Atlantic coast, $90,000: *Provided*, That masters of light-house tenders shall have police powers in matters pertaining to Government property and smuggling.

The amendment was agreed to.

The next amendment was, in line 299, before the word "at," to strike out "light-house" and insert "light;" and in line 300, after "South Carolina," to strike out "ten thousand" and insert "one thousand two hundred;" so as to make the clause read:

For the erection of a light at the mouth of Sampit River, Georgetown Harbor, South Carolina, $1,200.

The amendment was agreed to.

The next amendment was to strike out from line 306 to line 310, inclusive, as follows:

For commencing a light station on Sanabel Island, Punta Rossa Harbor, Florida, $20,000.

For the erection of a light-house and fog-bell on Bloody Point Bar, Kent Island, Chesapeake Bay, $25,000.

Mr. CALL. I ask the Senator from Kentucky why lines 306 and 307 were stricken out?

Mr. BECK. We were advised by the Light-House Board that $20,000 would do them no good at all to begin with; that unless we gave them $40,000 for Sanabel Island they would rather that we should not begin it this year. Until we are prepared to build a first-class light-house at a much higher cost than they were now prepared to advise, they would rather that we would not make the appropriation and they do not estimate for it at all, and they desire to make a proper estimate before we go further. It will be observed that in lines 333 to 335 we have an amendment providing "for the examination and survey of sites for proposed light-houses, and preparing plans for proposed structures, $10,000." When that is done we can provide for this light if we believe it proper.

Mr. CALL. The explanation is satisfactory. I merely desired to say that this is a point of great importance to the commerce of the whole country.

Mr. BECK. The Light-House Board state that.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was to strike out from line 316 to 320, in the following words:

For the improvement of Stamford Harbor in the State of Connecticut, $12,000; $5,000 thereof to be used for the establishment of a day-mark on Harbor Ledge, and $7,000 thereof for the establishment of a light on Forked Rock.

And in lieu thereof to insert:

For the establishment of a light on Forked Rock, Stamford Harbor, in the State of Connecticut, $7,000.

The amendment was agreed to.

The next amendment was, after line 328, to insert:

To establish lights at the mouths of Red River, Louisiana, $3,000,

The amendment was agreed to.

The next amendment was, after line 332, to insert:

For the examination and survey of sites for proposed light-houses, and preparing plans for proposed structures, $10,000.

The amendment was agreed to.

The next amendment was, under the head of "Coast and Geodetic Survey," after line 351, to insert:

For the continuation of the resurvey of Delaware Bay and River, $10,000.

Mr. BECK. I desire to say generally, in regard to the Coast and Geodetic Survey, that Mr. Patterson, the superintendent, was before us, and we examined all the provisions on the subject carefully. He desired this item for the resurvey of the Delaware River. The city of Philadelphia and the people there think a great deal of it, and we thought it was absolutely necessary.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment was, under the head of "under the Commissioner of Fish and Fisheries," after line 406, to insert:

For the construction of an additional pond on Monument lot for the cultivation of carp and other food-fishes, with the necessary arrangements of drainage, and for completing the work on the ponds now in use, $12,000.

The amendment was agreed to.

The next amendment was, under the head of "standard weights and measures," in line 427, to increase the appropriation "for construction and verification of standard weights and measures, including metric standards, for the custom-houses and other offices of the United States, and for the several States, and of mural standards of length in Washington, District of Columbia," from $5,000 to $11,000.

The amendment was agreed to.

The next amendment was, in line 438, after the word "necessary," to insert "to be expended under the Department of State;" so as to make the clause read:

For contribution to maintenance of International Bureau of Weights and Measures, in conformity with terms of convention signed May 20, 1875, $1,900, or so much thereof as may be necessary, to be expended under the Department of State.

The amendment was agreed to.

The next amendment was, after line 439, to strike out:

For expenses of attendance of the members of the international committee on weights and measures from the United States Government to the sexennial general conference, $600.

The amendment was agreed to.

The next amendment was, in line 443, after "all," to strike out "nine thousand one" and insert "fourteen thousand five;" so as to read "in all, $14,500."

Mr. McPHERSON. What does that "in all" apply to?

Mr. BECK. All the items about "standard weights and measures." It will be observed there was an increase in line 427 from "five" to "eleven," and this involves a change in the total.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, under the head of "miscellaneous objects under the Treasury Department," in line 461, before the word "new," to strike out "four" and insert "three;" in line 463, after "Massachusetts," to strike out "one at Chicago, Illinois;" and in line 464, before the word "thousand," to strike out "seventy" and insert "forty;" so as to make the clause read:

Furniture and repairs of furniture for public buildings:
For furniture and repairs of furniture, and carpets, for all public buildings under the control of the Treasury Department, including furniture for three new buildings, namely: one at Austin, Texas, one at Fall River, Massachusetts, and one at Atlanta, Georgia, $140,000.

The amendment was agreed to.

The next amendment was, after line 464, to insert:

For furniture for the new public building at Chicago, Illinois, in addition to the furniture in use, $100,000.

Mr. KERNAN. I wish to make an inquiry of the Senator having the bill in charge. I observe that this is an appropriation for furniture for the new building at Chicago, "in addition to the furniture in use, $100,000." I should like to know how much they have had.

Mr. BECK. It will be observed that the item which came from the House provided $170,000 "for furniture and repairs of furniture, and carpets, for all public buildings under the control of the Treasury Department, including furniture for four new buildings, namely, one at Austin, Texas, one at Fall River, Massachusetts, one at Chicago, Illinois, and one at Atlanta, Georgia." There are one hundred and ten public buildings under the charge of the Treasury Department which have to be furnished, and all the repairs on them come out of this appropriation. The smallest sum possible to meet that in one hundred and ten buildings was $100,000; and there are required $10,000 for Austin, Texas, $12,000 for Fall River, Massachusetts, $18,000 for the building at Atlanta, Georgia. That left only about $30,000 for furniture for the Chicago building. The estimates that were demanded by the Department for the furniture of the building at Chicago, Illinois, were $200,000. We called the Supervising Architect before us. They have some furniture there now which they used in the old building. The new building in Chicago is a very large and very costly one, and a very fine one. The United States courts are held there; all the internal-revenue officers are accommodated there; all the custom-house officers are there; the post-office is there.

Mr. DAVIS, of Illinois. Will the Senator allow me to interrupt him? The whole furnishing of the building is to be attended to. The old furniture is not fit to be in such a building.

Mr. BECK. The Senator from Illinois says the furniture now there ought not to be in a building like that; but the Department having estimated for $200,000, we thought it was better to detach that from the other three buildings and from the general item for repairs and furniture and allow them $100,000, and have a careful examination made of all the furniture they now have, to see how much of it can be used, instead of giving the $200,000 asked for. That seemed to be satisfactory to them, and we agreed to it.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was in the clause making appropriations for "salaries and traveling expenses of agents at seal-fisheries in Alaska," in line 496, after the word "dollars," to strike out "two assistant agents at $2,190 each."

The amendment was agreed to.

The next amendment was, in line 500, to reduce the total amount of the appropriation for "salaries and traveling expenses of agents at seal-fisheries in Alaska" from $13,350 to $7,770.

The amendment was agreed to.

Mr. ANTHONY. I should like to make an inquiry of the Senator who has charge of the bill in regard to the amendment on page 20, which I did not observe as we passed it, cutting down the appropriation for furniture and repairs of furniture for public buildings from $170,000 to $140,000.

Mr. BECK. We struck out "Chicago, Illinois," which was provided for in the $170,000, and allowed Chicago, as the Senator will see in the following line, $100,000 additional. I explained that a few moments ago.

Mr. ANTHONY. I beg pardon; I was not listening. I know that the deficiency in the appropriations for the furniture of public buildings has been lamentable.

Mr. BECK. We have allowed at Austin, Texas, $10,000; at Fall River, Massachusetts, $15,000; at Atlanta, Georgia, $18,000, according to the estimates.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, in line 505, to increase the appropriation "to enable the Secretary of the Treasury to use revenue-steamers for the protection of the interests of the Government on the seal islands, the sea-otter hunting-grounds, and the enforcement of the provisions of law in Alaska," from $20,000 to $30,000.

The amendment was agreed to.

The next amendment was after the word "necessary," in line 535, to insert:

Provided, That $75,000 of the appropriation made by act of June 2, 1879, entitled "An act to prevent the introduction of contagious or infectious diseases into the United States," shall be applied to the same purposes.

So as to make the clause read:

National Board of Health:
For salaries and expenses of the National Board of Health, and to carry out the purposes of the various acts creating the National Board of Health, $75,000, or so much thereof as is necessary: *Provided*, That $75,000 of the appropriation made by act of June 2, 1879, entitled "An act to prevent the introduction of contagious or infectious diseases into the United States," shall be applied to the same purposes.

The amendment was agreed to.

The next amendment was, after the word "dollars," in line 543, to strike out:

Provided, That $75,000 of the appropriation made by act of June 2, 1879, entitled "An act to prevent the introduction of contagious or infectious diseases into the United States," shall be applied to the same purposes;

So as to make the clause read:

For aid to local quarantine stations and for aid to local and State boards of health, to be used in case of epidemic, $100,000.

The amendment was agreed to.

The next amendment was to strike out from line 557 to 561, as follows:

To enable the Secretary of the Treasury to provide suitable and sufficient accommodation for the storage of the coin of the United States, he is hereby directed to pay the sums appropriated by this act in lawful silver coin of the United States.

The amendment was agreed to.

The next amendment was under the head of "under the War Department: Signal Service," after the word "dollars," in line 579, to insert:

There shall be added to the Signal Corps fifty privates; and from and after the passage of this act the Chief Signal-Officer shall have the rank and pay of a brigadier-general.

The amendment was agreed to.

The next amendment was under the head of "armories and arsenals," in line 619, after the word "railroad," to insert "$12,000;" in the same line, before the word "care," to insert the word "for;" and in line 621, after the word "draw," to strike out "twelve" and insert "nine;" so as to make the clause read:

For general care, preservation, and improvement: For building new roads; care and preservation of the water-power; painting and care and preservation of permanent buildings and bridges and shores of the island; building fences and grading grounds; and repairs of and extension of railroad, $12,000; and for care and preservation of the Rock Island bridge, and expense of maintaining and operating the draw, $9,000.

The amendment was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. T. F. KING, one of its clerks, announced that the House had passed the bill (H. R. No. 3742) to authorize the Secretary of the Treasury to sell certain real estate belonging to the United States, and vesting the title to certain other lands in the city of Vincennes, in the State of Indiana, and for other purposes; in which it requested the concurrence of the Senate.

The message also announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 6036) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1881, and for other purposes.

POST-OFFICE APPROPRIATION BILL.

Mr. WALLACE. I rise to a privileged question. The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 6036) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1881, and for other purposes, have agreed, and I submit the report and move its adoption.

The PRESIDENT *pro tempore*. Will the Senate proceed to the consideration of this report?

Mr. EATON. I object to the acceptance of that report at present. Let it lie on the table for the present.

The PRESIDENT *pro tempore*. The Chair thinks the report cannot be received if objection be made. The Chair will take this opportunity to lay before the Senate some bills from the House of Representatives for the purpose of reference.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Commerce:

A bill (H. R. No. 2528) to change the name of the steam-yacht Kate Sutton, of Buffalo, to that of Loraine, of Oak Orchard;

A bill (H. R. No. 3274) to change the name of the steam-yacht E. R. Bryant, of Rochester, to Summerland;

A bill (H. R. No. 3275) to change the name of the sloop-yacht Mariah, of Rochester, New York, to that of Tourist;

A bill (H. R. No. 5153) to change the name of the steamboat L. Boardman to River Belle; and

A bill (H. R. No. 5304) authorizing the changing the name of the sloop-yacht America.

The bill (H. R. No. 6380) for the relief of the estate and sureties of John P. Hall, deceased, was read twice by its title, and referred to the Committee on Finance.

The bill (H. R. No. 375) for the relief of Philemon B. Hawkins was read twice by its title, and referred to the Committee on Claims.

The bill (H. R. No. 2058) for the relief of Redmond Tully was read twice by its title, and referred to the Committee on Military Affairs.

The bill (H. R. No. 4418) for the relief of E. J. Gurley was read twice by its title, and referred to the Committee on the Judiciary.

The joint resolution (H. R. No. 322) for the relief of certain persons in respect of duties demanded of them upon the import of certain articles named therein was read twice by its title, and referred to the Committee on Finance.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. DAVIS, of West Virginia. I ask that the regular order be laid aside that I may present a conference report on the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes; and I ask the attention of the Senate a moment while I make a statement.

The conferees on the legislative bill, which, it is known, provides for the salaries of all the employés of the Government, including those of the House and the Senate, have had several meetings, and have had an earnest wish and desire to come to a conclusion as to the salaries of the Senate employés. The House has insisted and gone so far as to disagree with us on the point of the payment of the Senate employés, they contending that the employés of the Senate are paid more as a rule than the House employés, and therefore that there ought to be an adjustment of the salaries of the employés of the two Houses, they offering to us that they will meet us half way, to use an ordinary expression; but the Senate conferees have insisted that the Senate had a right, and ought to maintain it, to fix the salaries of its own employés. That position is denied on the part of the House.

In this condition of things the conferees of both Houses have agreed on all the amendments in the bill except those in respect to the employés of the Senate and two or three of the House who were left open by the committee themselves. The Senate said to the House conferees, "You can fix yours as you think proper, and we claim the same right as to ours."

I desire some expression from the Senate to know to what extent the Senate conferees shall insist upon the right, as they think it is, of this body to fix the compensation of its own employés; and I shall be gratified to have some expression from the Senate in any way that the Senate desire by way of instruction, if that is thought best; or the committee will take an expression from the Senate of any kind as an instruction.

The question was up the other day, and something was said on the subject; but at my instance at that time the Senate agreed to allow a further hearing. That hearing has been had; and in my opinion, so far as the present House conferees are concerned, there is no chance of an agreement unless the House shall give way, which they will have an opportunity to do when this report is adopted by the Senate and is sent to the House.

Now, if the Senate desires to give this committee any instructions or in any way to direct them I shall be gratified to have an expression on the subject.

Mr. VOORHEES. Mr. President——

The PRESIDENT *pro tempore*. Does the Senator from West Virginia submit a written report?

Mr. DAVIS, of West Virginia. I have one ready, but before submitting it I desired to state to the Senate what the difference was between the committees of the two Houses. I now send to the Chair the report.

The PRESIDENT *pro tempore*. The report must first be read.

Mr. DAVIS, of West Virginia. I am aware of that, but the Senate would not understand the mere reading of the report, inasmuch as the amendments go by numbers without an explanation of what the difference was between the two Houses. Now, after the explanation I have made, I send the report to the desk. That report is in substance just this: All the questions at issue between the two Houses on the legislative bill have been agreed on by the conference, except the question as to the employés of the Senate.

Mr. VOORHEES. If such a motion be in order, I move that the committee on the part of the Senate be instructed to adhere and insist upon the amendments of the Senate. I think it is clearly our right to regulate the pay of our own employés. I shall not enlarge on the subject; the statement of it carries conviction to every man's mind, and I trust the Senate will give such expression as will leave the committee in no doubt as to the desire of this body on that point. If that motion is in order, I hope it will be put by the Chair.

The PRESIDENT *pro tempore*. The report will first be read.

The Secretary read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its amendments numbered 73, 75, 83, 84, 86, 87, 100, 107, 108, 110, 111, 114, 125, 129, and 130.

That the House recede from its disagreement to the amendments of the Senate numbered 74, 82, 88, 94, 95, 96, 103, 104, 105, 106, and 121.

That the House recede from its amendment to the amendment of the Senate numbered 71, and agree to the same.

That the House recede from its amendment to the amendment of the Senate numbered 72, and agree to the same with an amendment inserting "$3,500" in lieu of the sum proposed; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 76, and agree to the same with an amendment as follows: Insert "$389,920" in lieu of the sum proposed; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment as follows: Insert "$43,760" in lieu of the sum proposed; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 101, and agree to the same with an amendment as follows: Insert "$5,000" in lieu of the sum proposed; and the Senate agree to the same.

That the House recede from its amendment to the amendment of the Senate numbered 109, and agree to the same with an amendment as follows: Insert the words "eighty-five" in lieu of the words "one hundred;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 112, and agree to the same with an amendment as follows: Insert "$444,970" in lieu of the sum proposed; and the Senate agree to the same

That the House recede from its disagreement to the amendment of the Senate numbered 127, and agree to the same with an amendment as follows: Insert "$72,800" in lieu of the sum proposed; and the Senate agree to the same.

That the House recede from its amendment to the amendment of the Senate numbered 128, and agree to the same.

That the committee have been unable to agree on the following amendments, numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 66, and 67. Said amendments relate to the salaries of the employés of the Senate and House of Representatives.

H. G. DAVIS,
WM. A. WALLACE,
WILLIAM WINDOM,
Managers on the part of the Senate.
J. D. C. ATKINS,
HIESTER CLYMER,
JOHN H. BAKER,
Managers on the part of the House.

The PRESIDENT *pro tempore*. The rule requires that the question shall be forthwith put to the Senate, Will the Senate proceed to the consideration of this report.

The question was determined in the affirmative.

The PRESIDENT *pro tempore*. The report is before the Senate.

Mr. VOORHEES. With respect to the motion I submitted a few minutes ago, I will say that on a little talk with members of the committee, perhaps it is well not to give an instruction, but in the absence of any expression of sentiment to the contrary I hope and I believe the committee will understand as well as if instructed that the sense of the Senate is in favor of insisting and adhering to the amendments made by this body.

Mr. WINDOM. The Senator does not use the word "adhering," I suppose, in the technical sense. To adhere means to end all discussion of the subject. The Senator means "to insist."

Mr. VOORHEES. I did not mean to use the word "adhere" in its technical sense. In deference to the wishes of friends about me, I withdraw the motion as a motion to instruct; but I am sure the committee would be glad to know if there is any division of sentiment on this point, and, if so, I should like to know it myself.

Mr. MORRILL. I think the position of the Senator from Indiana has been maintained here ever since I have been a member of the Senate, that the Senate should have entire control of the pay and number of its officers.

The PRESIDENT *pro tempore*. This report, as the Chair hears from the reading, shows that the managers on the part of the two Houses have agreed upon sundry questions upon which the two Houses disagreed, but upon some questions they have not agreed.

Mr. DAVIS, of West Virginia. I will state that the conference committee have agreed upon all questions other than those relating to the employés. On that question there is a wide difference between the House and the Senate. The report submitted by your committee is to agree on all the bill except that part relating to the employés, and upon that we insist that the present compensation of the Senate employés ought to remain as it is.

One reason why the committee desire that we should have the report adopted in part is so that the clerks may be enrolling that part of the bill that has been agreed upon and the other part will come in the future. If the report of the committee is adopted the bill will go back to the House, and it is thought on the part of the Senate conferees that the House itself will agree that the Senate ought to control its own business and its own employés and to pay them what it thinks best. In that view I trust the report of the committee will be adopted. At the same time I understand, unless there is some expression otherwise, that it is the wish of the Senate that its conferees will insist upon its right to pay its employés what it thinks best and that the present compensation is not out of the way or exorbitant.

The PRESIDENT *pro tempore*. The Chair wishes to state to the Senate what the Chair intended to state when the Senator from West

Virginia arose. Here were divers points of difference between the two Houses. The managers have agreed in respect to a portion. There is one point—one will do for illustration as well as another—upon which they have not agreed. To adopt this report is to adopt a conference report by piece-meal. The Chair is not aware that that is ever done. If it has been done, the Chair will of course conform to the usage or submit to the Senate whether it can be done; but on inquiry of Senators who have presided before, the Chair is informed that no such thing has been done in the Senate. Concurrence in a conference committee's report passes the bill, if they agree; but here it is proposed to agree as to a part of a bill and leave the rest of the bill untouched.

Mr. WALLACE. The Chair is undoubtedly right. There can only be a concurrence or non-concurrence as a whole in a conference committee's report; but the purpose of bringing this report in this form to the two Houses was to obtain instruction on the very point at issue. We want to individualize the single point aimed at the employés of the Senate; and what we ask is something from the Senate to give us its views upon this single mooted question.

Mr. EATON. I understand the report is that there is a disagreement in the conference committee. It is perfectly competent and courteous, it strikes me, for the Senate to simply say this—not to say it in a resolution but to say it in the conference committee—we concur with our conferees and ask for a further conference. That is all. The Senate sustains its committee and asks for a further conference with the House. Nothing else can be done.

Mr. INGALLS. Mr. President, how much is the House willing to pay our clerks?

The PRESIDENT *pro tempore*. The Chair is not informed.

Mr. INGALLS. The Senator from Pennsylvania can infrom us, perhaps.

Mr. WALLACE. The Senator from Kansas can find out by examining the bill. We have not gone into the question, but simply said that is a matter that belongs to the Senate. We have stood for what we understood to be the wish of the Senate.

Mr. WINDOM. I will answer the Senator from Kansas a little further. The Senate restored the salaries to precisely what they are the current year, and the difference between the two Houses is that the House of Representatives insists on reducing them from what we are now paying, and they have stated in the bill the amount that they are willing to cut them down to. The Senate committee simply insist that they shall remain where they are, as we have fixed them heretofore upon agreement; that they shall remain without change.

Mr. BLAINE. As to the parliamentary point involved it is very obvious that you cannot take a conference report, by which there is a single point of disagreement left, and bring the bodies together upon it. The only usage that I have ever known which justifies a partial report of this kind is where it gives the one body or the other a ground for receding if it chooses. If its judgment is that the only point of disagreement left is not worth insisting upon, it recedes; but if it is worth insisting upon it simply asks another conference. That is all there is of it; and these partial reports are often made merely to let the body to which they are communicated judge whether on the whole it will further insist.

Mr. McDONALD. I do not see that the concurrence of the Senate in the report of the conference committee will lead to any difficulty at all. They report a disagreement upon a particular matter, and a concurrence in that report sustains that disagreement. It does not pass the bill or any part of it, but it informs the Senate just where the difficulty between the two Houses is, and as the Senate on that point of difficulty is a unit in favor of its own committee, of course the committee only desire to learn that fact and a further conference can then go on. It will lead to no difficulty to confirm this report of this committee.

The PRESIDENT *pro tempore*. In the opinion of the Chair the Senator from Maine has correctly stated the parliamentary rule. There is nothing for the Senate to do but to recede from its disagreement to the action of the House, or to insist upon that disagreement and ask for another conference.

Mr. McDONALD. That is what the report does.

Mr. DAVIS, of West Virginia. It is the opinion of your committee that the House ought to ask for a further conference. We only ask the Senate now to insist upon its amendments and let a further conference be asked for by the House. I have a reasonable hope that probably the House may agree with the Senate that this body ought to have a right to fix its own employés' salaries. If that is so, that will end the question. If this bill goes back to the House, I think if the simple question is put to the Senate whether we will adopt the committee's report and instruct them to insist, that will be sufficient, and the House will ask for a further conference if they want it.

Mr. FERRY. Do I understand the Senator from West Virginia to propose in his report to concur in part and insist in part?

Mr. DAVIS, of West Virginia. The report stated what the differences are, and I stated to the Senate exactly what the differences are.

Mr. FERRY. The object of the Senator, then, is simply to enlighten the Senate?

Mr. DAVIS, of West Virginia. The object was to come back to those who were competent to instruct us to learn whether or not they desired to still further insist. We want to leave the question open, so that the House when this report goes back, if it thinks proper to recede, may do so.

Mr. FERRY. Then the question of difference between the two Houses is simply one item, I understand.

Mr. DAVIS, of West Virginia. Sixty or seventy items, but all on the same subject.

Mr. FERRY. On one question?

Mr. DAVIS, of West Virginia. Yes.

Mr. FERRY. Then I suppose the proposition of the Senator is simply to report the condition of the conference to enlighten the Senate and ask that the Senate insist upon the disagreement, which is confined to one subject.

Mr. DAVIS, of West Virginia. And inform the House that we have done so.

The PRESIDENT *pro tempore*. The amendments were amendments made in the Senate to the House bill. The House disagreed to those amendments and the conferees have not been able to agree. The Senator from West Virginia now moves that the Senate still further insist on its amendments.

Mr. DAVIS, of West Virginia. And so inform the House.

The PRESIDENT *pro tempore*. It is not a question of concurrence in the report. The report must be complete before it can be concurred in. The question is on the motion to still further insist upon the Senate amendments.

The motion was agreed to.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (H. R. No. 900) granting a pension to John H. Ferrell; and

A bill (H. R. No. 3772) granting a pension to Samuel Burwell.

The bill (H. R. No. 3742) to authorize the Secretary of the Treasury to sell certain real estate belonging to the United States and vesting the title to certain other lands in the city of Vincennes, in the State of Indiana, and for other purposes, was read twice by its title, and referred to the Committee on Public Lands.

The bill (H. R. No. 989) for the relief of John H. Standish was read twice by its title, and referred to the Committee on the Judiciary.

The following bills were severally read twice by their titles, and referred to the Committee on Commerce:

A bill (H. R. No. 2470) to create a new collection district in North Carolina, and to make Fayetteville a port of entry; and

A bill (H. R. No. 3740) to change the name of the side-wheel steamboat Sarah K. Taggart to that of Bridgeport.

The bill (H. R. No. 3794) authorizing the City National Bank of Manchester, New Hampshire, to change its name was read twice by its title, and referred to the Committee on Finance.

GROUNDS SOUTH OF CAPITOL.

The PRESIDENT *pro tempore* laid before the Senate a communication from the commissioners of the District of Columbia, transmitting, in accordance with the joint resolution of February 4, 1880, relative to the grounds south of the Capitol, the full report of Lieutenant F. V. Greene, United States Engineers, assistant to the engineer commissioner, under whose supervision the work was executed; which was referred to the Committee on the District of Columbia, and ordered to be printed

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had yesterday approved and signed the following acts and joint resolutions:

An act (S. No. 1249) to amend an act entitled "An act granting a pension to Sophia Brooke Taylor, widow of the late Major Francis Taylor;"

An act (S. No. 1225) to remove the political disabilities of Jonathan H. Carter, of South Carolina;

A joint resolution (S. R. No. 64) extending the provisions of the first section of an act entitled "An act fixing the rate of interest upon arrearages of general taxes and assessments for special improvements now due to the District of Columbia, and for a revision of assessments for special improvements, and for other purposes," approved June 27, 1879;

A joint resolution (S. R. No. 19) to provide for the publication and distribution of a supplement to the Revised Statutes; and

A joint resolution (S. R. No. 117) authorizing the Secretary of War to loan to the governor of North Carolina one hundred and forty-five tents for the use of the State Guards, to enable them to participate in the centennial celebration at King's Mountain in October next.

AMENDMENTS TO DEFICIENCY BILL.

Mr. THURMAN, Mr. CALL, Mr. KERNAN, Mr. HARRIS, Mr. PRYOR, Mr. MORGAN, and Mr. DAVIS of Illinois, submitted amendments intended to be proposed by them, respectively, to the bill (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and for prior years, and for those certified as due by the accounting officers of the Treasury, in accordance with section 4 of the act of June 14, 1878, heretofore paid from permanent appropriations, and for other pur-

poses; which were referred to the Committee on Appropriations, and ordered to be printed.

REPORT OF A COMMITTEE.

Mr. KERNAN from the Committee on Finance, to whom was referred the bill (H. R. No. 3794) authorizing the City National Bank of Manchester, New Hampshire, to change its name, reported it without amendment.

SUNDRY CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 6266) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, under the head of "buildings and grounds in and around Washington and the Executive Mansion," in line 639, to increase the appropriation for "improvement and care of public grounds: for filling in and improving grounds south of Executive Mansion," from $5,000 to $15,000.

The amendment was agreed to.

The next amendment was, in line 692, after the word "dollars," to insert "to be immediately available;" so as to make the clause read:

Building for State, War, and Navy Departments: To continue work on the north wing of the building, $450,000, to be immediately available.

The amendment was agreed to.

The next amendment was, after line 695, to insert:

To enable the Joint Committee on Public Buildings and Grounds to defray expenses already incurred in procuring a model of proposed changes in the Washington Monument, $147.85.

Mr. INGALLS. I should like to ask the chairman of the Committee on Public Buildings and Grounds if it is proposed to change the original design of the Washington Monument?

Mr. MORRILL. I confess that I do not know what the design is. A resolution was reported by the Committee on Public Buildings and Grounds some time ago, but it has not been acted on, to ascertain that fact, and I shall be very glad if the Senate would pass the resolution. It is not known whether the monument is to be constructed according to the original plan, with a colonnade around it, with columns one hundred feet high, or whether it is to be constructed four hundred and eighty-five feet high, five hundred and fifty feet high, or six hundred feet high. Nor is it known whether any contracts have been made for the marble to complete it, nor what the amount of expense will be to complete it under any plan that has been adopted.

Mr. INGALLS. What kind of a model is it that is provided for in the amendment of the committee? "To defray expenses already incurred in procuring a model of proposed changes."

Mr. MORRILL. Nothing has been done about it except that three years ago the Joint Committee on the Library employed Mr. Story to send his model; nothing has been adopted about it.

Mr. BECK. The Committee on Appropriations were entirely satisfied that this money was expended in an honest effort to obtain information, and that it ought to be paid.

Mr. INGALLS. This does not imply, then, any change in the original design?

Mr. BECK. None at all; exactly the contrary. It is only to pay for obtaining the information.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, under the head of "miscellaneous objects under War Department," after line 707, to insert:

Military surveys and reconnaissances in military divisions and departments: For military surveys, reconnaissances, and surveys of military reservations by the engineer officers attached to the various headquarters of military divisions and departments, being an average of $2,500 for each of the nine military divisions and departments west of the Mississippi River, and $2,500 for publication of maps, $25,000.

The amendment was agreed to.

The next amendment was, after line 716, to insert:

For the preparation, under the direction of the Secretary of War, of reports and maps and such other illustrations as may be necessary in completing the office work of the geographical and topographical survey of the territory of the United States west of the one hundredth meridian, including cost of engraving and printing, $15,000, to be immediately available.

The amendment was agreed to.

The next amendment was, after line 730, to insert:

For the construction of a new military post at or near the Musselshell River, in the Territory of Montana, at a site to be approved by the Secretary of War, $50,000: *Provided*, That such portion of the buildings and materials at Fort Logan, Montana Territory, as can profitably be used, shall be reserved from the sale of such material provided by the act approved May 8, 1880, and applied to the construction of said new post, and that all proceeds derived from said sale shall be covered into the Treasury as miscellaneous receipts.

The amendment was agreed to.

The next amendment was, after line 741, to insert:

For the construction and completion of the necessary buildings, including officers' quarters, for the headquarters already commenced of the military Department of Texas on the military reservation at San Antonio, Texas, $125,000.

Mr. MAXEY. I desire to say in that connection that I am entirely familiar with the necessity of this provision. The headquarters of the Department of Texas have been at San Antonio for the last twenty-five years. The Government has erected a depot near there which is the finest depot for quartermaster's and commissary and other supplies that I know of in the South. All the various officers connected with the department are there. They are now paying rent at San Antonio amounting to about $21,000 a year. The interest on the cost of this building is $5,000; the difference between this interest and the rent is $16,000 annually, which in a very few years will entirely pay for this building and leave the Government the owner of it for all time to come, and this point will be the headquarters of the Department of Texas as long as the Rio Grande is the boundary between Mexico and the United States.

Mr. BECK. The Senator from Texas [Mr. MAXEY] appeared before the committee, as did Mr. UPSON, one of the Representatives from Texas, and made such a strong showing of necessity and propriety that we could not resist the insertion of this provision. It is clearly for the interests of the Government, and so the military authorities inform us.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, after line 746, to insert:

For continuing the construction of quarters at Fort Omaha, Nebraska, $50,000.

The amendment was agreed to.

The next amendment was, after line 748, to insert:

For the repair of the Government quarters at Fortress Monroe, Virginia, $20,000.

The amendment was agreed to.

The next amendment was, after line 750, to insert:

For the continuance and completion of Fort Assinaboine, Montana Territory, $100,000.

The amendment was agreed to.

The next amendment was, after line 833, to insert:

To pay certificates for arrears of pay and bounty due white and colored soldiers and their heirs, which have been issued since January 1, 1880, and may be issued up to June 30, 1881, $100,000.

The amendment was agreed to.

The next amendment was, after line 870, to insert:

That the buildings and grounds adjoining the Washington Asylum in the District of Columbia, heretofore used as a naval and Army magazine, be, and the same hereby are, added to the grounds of the asylum, and subjected to the control of the commissioners of the District of Columbia as part of the asylum until otherwise ordered.

The amendment was agreed to.

The next amendment was, after line 876, to insert:

That the Secretary of War be, and he is hereby, authorized and directed to collect and maintain in his office all the title-papers, records, and other data relating to the military reservations, arsenals, forts, and other real property of the United States under jurisdiction of the War Department, and cause to be prepared abstracts of title to said property, and to defray the expenses thereof out of the contingent fund of the Army.

The amendment was agreed to.

The next amendment was, under the head of "under the Navy Department," after line 888, to insert:

For construction and repair of marine barracks at Washington, Norfolk, and Annapolis, $22,336.69, using therefor unexpended appropriations to that amount, now on the books of the Treasury, for provisions and fuel for the Marine Corps, for the fiscal year ending June 30, 1879.

The amendment was agreed to.

The next amendment was, under the head of "navy-yards and stations," in line 910, to increase the appropriation for "navy-yard, Mare Island, California: for continuation of work on stone dry-dock," from $75,000 to $150,000.

The amendment was agreed to.

The next amendment was, after line 911, to insert:

Navy-yard, Pensacola, Florida: To enable the Secretary of the Navy to put the Pensacola navy-yard in a state of efficiency, $200,000.

The amendment was agreed to.

The next amendment was, after line 921, to insert:

Under the Department of State:

That the sum of $14,300 be, and hereby is, appropriated, out of any money in the Treasury not otherwise appropriated, for printing and distributing more frequently the publications by the Department of State of the consular and other commercial reports, including circular letters to chambers of commerce, $7,000: *Provided*, That such publication may be sold at such rates as may be fixed by said Department, and the proceeds of all sales to be paid into the Treasury; and $7,300 of said amount is hereby appropriated for the clerical hire necessary for the competent administration of this whole branch of the public service in the collection, analyzing, publication, and distribution of commercial information under the Department of State; $2,100 for chief clerk; $1,800 for one clerk; $1,400 for one clerk, and $2,000 for two additional clerks.

The amendment was agreed to.

The next amendment was, in line 947, to increase the appropriation "for casual repairs of the building occupied by the Department of the Interior; for replacing heating apparatus in Ninth street wing of same; for renewing water-closets; for replacing sewer and drain pipes in the east and south wings," from $10,000 to $15,000.

The amendment was agreed to.

The next amendment was, after line 947, to insert:

For fire-proof model-cases, to be used in fitting up the north and west wings of the Patent-Office building, $80,000.

The amendment was agreed to.

The next amendment was, under the head of "public buildings," in line 959, after the word "House," to insert "nor with the lighting or ventilation thereof;" so as to make the clause read:

Capitol extension: For work on the Capitol, and for general repairs thereof, $50,000; and for passenger-elevator in south wing of the Capitol, as may be located by the Speaker and the Architect of the Capitol, $7,000: *Provided*, That the loca-

tion of such elevator shall not in any wise interfere with the use or occupation of or communication between any of the offices or committee-rooms of the House, nor with the lighting or ventilation thereof.

Mr. BECK. I desire to say that the amendment was inserted at the request of the Committee on Appropriations of the House, as shown by a letter from the chairman, which I ask may be made part of the RECORD. We did not desire to interfere with their action, and inserted it at the request of the chairman in charge of the bill.

The PRESIDING OFFICER, (Mr. WALLACE in the chair.) Does the Senator desire to have the letter read?

Mr. BECK. I do not. I merely want it to go into the RECORD to show that this was done at the request of the House committee.

The letter referred to is as follows:

COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES,
Washington, D. C., June 8, 1880.

DEAR SIR: The Committee on Appropriations of the House of Representatives instruct me to express to you the hope that the Committee on Appropriations of the Senate will so amend the clause providing for the construction of an elevator in the south wing of the Capitol by adding, after the word "House," in line 959, the following words: "nor with the lighting or ventilation thereof, or of any corridor." The purpose of such an amendment is manifest.

I have the honor to be, your obedient servant,

J. D. C. ATKINS,
Chairman Committee on Appropriations, House of Representatives.

Hon. JAMES B. BECK.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, after line 990 to insert:

For purchase of necessary furniture for the Library of Congress, $1,500.

The amendment was agreed to.

The next amendment was, after line 995, to insert:

For a night watchman for the Botanic Garden, $720.

The amendment was agreed to.

The next amendment was, under the head of "National Museum," in line 1004, to increase the appropriation "for a steam-heating apparatus and for fuel" from $20,000 to $25,000.

The amendment was agreed to.

The next amendment was, in line 1007, to increase the appropriation "for water, gas-fixtures, and electrical apparatus" from $10,000 to $12,500.

The amendment was agreed to.

The next amendment was, after line 1008, to insert:

For construction of relieving sewer, with the necessary man-holes and traps, from the new National Museum building to the Seventh street sewer, $1,000.

The amendment was agreed to.

The next amendment was, after line 1012, to insert:

Howard University:
For maintenance, $10,000.

The amendment was agreed to.

The next amendment was under the head of "Geological Survey," in line 1143, after the word "dollars," to insert:

And the Secretary of War is hereby authorized to detail not exceeding two officers of the Ordnance Corps to serve with the Geological Survey: *Provided*, That in his judgment it can be done without injury to the service.

The amendment was agreed to.

The next amendment was, in line 1174, to increase the appropriation "to meet the expenses of enumeration and compilation attendant upon the taking of the tenth census, (including printing and engraving, $125,000,) to be expended under the direction of the Secretary of the Interior," from $2,875,000 to $2,960,000.

The amendment was agreed to.

The next amendment was, after the word "dollars," in line 1175, to insert:

And $10,000 thereof, or so much as may be necessary, shall be used by the Superintendent of the Census in obtaining statistics as to the number of citizens of the United States, being males of the age of twenty-one years and upward, inhabitants of any State, whose right to vote for members of Congress is denied or abridged by provisions of the constitution or laws of any State, which said provisions are not applicable to all of the citizens of the United States resident in such State, and also to obtain statistics of the number of foreign-born persons, being males over twenty-one years of age, who have resided in the United States over five years and are now resident in any State which contains in its constitution or laws provisions which require from foreign-born citizens a different qualification for the right to vote than that required from native-born citizens.

Mr. MORRILL. I make a point of order on the amendment. I desire to say that this matter was fully considered in presence of the Superintendent of the Census, and was unanimously disagreed to so far as the Census Committee and the Superintendent of the Census were concerned. I desire to say further that this provision would be entirely inoperative, for long before this law will be in operation the census will have been taken.

Mr. WALLACE. I do not think the amendment is obnoxious to that objection, because the order given is to the Superintendent of the Census to obtain the statistics. It is not necessary that he should do it by the enumerators; he may do it by the appointment of special commissioners, or in any way in which he can obtain the information. Power is given him to do it. He can do it during this month; there is no difficulty about it.

Mr. BLAINE. Then the Senator from Pennsylvania will see that he is making by that construction still more a new law than even the Senator from Vermont suggests.

Mr. WALLACE. None whatever.

Mr. BLAINE. The Senator is making it wholly a new law, not an amendment to an existing law, not in furtherance of any law we have, but under a new enactment never thought of before, it is now to prescribe an entirely new field of operation. If there ever was an amendment clearly obnoxious to the point of order, this is the one.

Mr. WALLACE. Certainly not, Mr. President.

The PRESIDENT *pro tempore*. The Chair cannot of course carry in his head all the laws the existence of which may affect the question whether this is new legislation or not. That can only be known by Senators who are members of committees who have given attention to the subject, and can only be brought before the Senate by the Chair submitting the question to the Senate, for if the Chair rules the amendment out there is an end to it unless he be overruled on appeal.

Mr. DAVIS, of Illinois. These provisions are not in the law for taking the census.

The PRESIDENT *pro tempore*. That is a matter which can be laid before the Senate by the Chair submitting the question to the Senate; and therefore the Chair submits the question to the Senate whether the amendment is in order.

Mr. BLAINE. Is that the judgment of the Chair as to the function of the presiding officer?

The PRESIDENT *pro tempore*. The rule expressly authorizes the Chair to submit any question to the Senate for decision.

Mr. DAWES. That is to be done, if the Chair will allow me, when he has some doubt about the relevancy whether an amendment is germane under that clause of the rule which forbids absolutely any change of the law; it does not require it to be submitted to the Senate.

Mr. BLAINE. The twenty-ninth rule, if the Chair will permit me, says:

No amendment which proposes general legislation shall be received to any general appropriation bill; nor shall any amendment not germane or relevant to the subject-matter contained in the bill be received; nor shall any amendment to any item or clause of such bill be received which does not directly relate thereto; and all questions of relevancy of amendments under this rule, when raised, shall be submitted to the Senate and decided without debate.

But that is not the question of general legislation. This rule does not authorize the Chair to submit a question of general legislation to the Senate. Otherwise, if it did, the inhibition in the rule would amount to nothing at all, because it would be only saying that the majority who wanted the legislation, you who are in the majority deciding it, shall also decide the point of order admitting it.

Mr. WALLACE. The rule is very plain. Rule 40 provides that:

A question of order may be raised at any state of the business, except when the Senate is dividing, and, when raised, shall be decided by the presiding officer, without debate, subject to an appeal to the Senate; or——

Mr. BLAINE. Ah! Subject to an appeal.

Mr. WALLACE.

Or he may submit any question of order for the decision of the Senate.

He has the whole power; he may take either course. The Senate on an appeal can determine, or the Chair may submit it to the Senate in the first instance, and thus in either case the governing power will control and settle it.

Mr. BLAINE. But the Senator from Pennsylvania certainly will not take a general question of that kind, relating to all points of order that may arise in the progress of business in the Senate, and insist that it overrides a specific rule made on purpose and directly aimed at such questions as this. This is segregated out from all the rest; there is a rule directly applicable to it, and the inhibition is as plain as language can make it.

Mr. DAVIS, of Illinois. I know nothing about the point of order, but this legislation was submitted to the Committee on the Census, and they unanimously decided not to recommend it. It was before them and rejected by them. I wish simply to sustain the Senator from Vermont in what he says. I do not know anything about the point of order.

Mr. ALLISON. The suggestion made by the Senator from Illinois shows that this is legislation. He says this legislation was submitted to the committee of the Senate having charge of the subject.

Mr. DAVIS, of Illinois. I meant this provision; I said legislation.

Mr. ALLISON. But the Senator was more accurate in saying that this legislation was submitted to the committee having charge of that subject, and they unanimously rejected it. If the law of the census already provides for the taking of this class of subjects, of course this is not necessary. If the law does not so provide, then it is legislation directing the Superintendent of the Census so to do.

Mr. BECK. The fourteenth amendment to the Constitution contains this provision:

SEC. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors of President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

As the taking of the census is for the purpose of ascertaining what shall be the representation in Congress hereafter under that census, and as it is asserted and known to be true by reports of the committee of which the Senator from Pennsylvania [Mr. WALLACE] is chairman, that in one State at least citizens of foreign birth are not allowed to vote unless they are the owners of real estate, while all other classes of citizens are allowed to vote although they are not the owners of real estate, and thus a discrimination is made against them not because of "participation in rebellion or other crimes," it seemed to the committee when the amendment came to them that it was a proper matter for the census-takers to consider in some form, either by enumerators or by special agents, so that the Congress of the United States, in making up the next apportionment of Representatives from the States that thus make a distinction between citizens, not on account of rebellion or other crimes, but because they happen to be born in a country other than this, ought to know it and have it a part of the census, so that the representation may be fairly made up. It seems to me that if the fourteenth amendment means anything at all, it means that this enumeration shall be so made that the Congress of the United States can apportion the representation among the States in accordance with that provision of the fourteenth amendment, and that if the census officers are going to do anything valuable at all these facts ought to be known. We agreed, when the Senator from Pennsylvania offered the amendment to us, that it was a proper amendment to make, whether the Census Committee desired to do it or not.

Mr. BLAINE. It is nearly two years, certainly eighteen months, since the original census bill ordering the enumeration for the tenth census passed Congress. It has had two or three amendments made to it. It was discussed at great length. There is not a fact relating to Rhode Island known to-day to the Senator from Kentucky that was not known then. He let all those opportunities go by when it was pertinent, when it was in order, when it ought to have been brought up if there was anything in it at all to bring up. All those opportunities of this urgent case were omitted by the Senator from Kentucky, and now at the eleventh hour and the fifty-ninth minute of the twelfth, when the census enumerators have been eight days at work, the Senator from Kentucky wakes up and finds this so overwhelmingly important that all the rules of the Senate and the orderly proceeding on appropriation bills must be trampled under foot in order that this heinous offense in Rhode Island shall be got at through the enumeration of the tenth census.

There is something, Mr. President, if the Senator will not take offense at the phrase, a little too thin, and, if he will pardon me, a little ridiculous in this late bringing up of this proposition, which never had anything in it and has not anything in it now except a mere political twit; and that is all there is of it.

Mr. BECK. The Senator from Maine is so extremely courteous in his language about political tricks——

Mr. BLAINE. "Twit;" I did not say "trick."

Mr. BECK. "Twist" is a little bit better. Things elsewhere in the country have had a twist to-day perhaps that is not quite as agreeable as might be desired by some Senators, and that may have irritated a little the Senator from Maine and made him lose his temper, which he does not usually do. I want the Senate to vote understandingly. If Rhode Island (and I did not name that State) sees fit to require that a certain portion of her citizens must own real estate before they can vote, and makes discrimination in violation of the fourteenth amendment, as shown by the reports of the committees of this body laid before this body for the first time at this session of Congress, with all the facts, that no man can dispute, the question is whether those men should be counted in the apportionment of the State for the members of the House of Representatives from Rhode Island. Foreign-born citizens of that State, by reason of calamities brought upon them, not by fault of their own, who have had their real estate sold, are to-day unable to vote in the State for one of the Representatives. Thousands of the best men in the State, according to the testimony taken before both committees, the one presided over by the Senator from South Carolina [Mr. BUTLER] and the other by the Senator from Pennsylvania, [Mr. WALLACE,] are confessedly excluded for no other crime except that they were born abroad. In Rhode Island to-day that question is up as to Representatives sitting in the lower House, when the facts are plain under the fourteenth amendment that she is only entitled to one Representative. The Senate ought to know what the facts are, and if that State is going to claim full representation, as she is holding it now, under the next census, we ought to know how many people are excluded.

This amendment is introduced for that purpose, not waking up for the first time, but it is the first time that it has been before the Committee on Appropriations, as far as I know, and when it was laid before us we determined that it was a proper thing to inquire into. It is part of our legitimate business to inquire into the interference with the right of suffrage in all the States, so that Congress may make a proper apportionment based on the enumeration. That is all there was of it, so far as the Committee on Appropriations is concerned.

Mr. MORRILL. I confess that I do not feel a very lively interest about this matter. At the same time, it was fully considered by the Committee on the Census, and in a joint meeting of the Committee on the Census this proposition was unanimously rejected, for the reason, as explained by the Superintendent of the Census, that it could not practically be administered; that the information to be obtained would be wholly inaccurate. For instance, when an enumerator should call at a house, perhaps the man of the house might be away and it would be left to his wife or children to answer. Then there would be some confusion as to whether a notice of an intention to take out naturalization papers was not the naturalization. On the whole it was deemed wholly impracticable. While it is true that there are many republicans who have desired to have this information obtained in several of the Southern States, some on the democratic side have desired to investigate Massachusetts and Rhode Island. Let me say to my friend from Kentucky that it will not affect Rhode Island in the next representation. Rhode Island now receives one Representative on a fraction, as does Florida, as does Tennessee, as does Vermont, as does Pennsylvania. These fractions after the next census will be all wiped out. I do not expect that my own State will have more than two Representatives, instead of three; Rhode Island undoubtedly cannot have more than one, and the same with Florida. So that practically this amendment is nothing; and if it were intended that it should operate over the whole country, the sum appropriated is wholly inadequate. It is only $10,000 for the whole country. Everybody sees that that is not a sufficient amount of money to pay the expenses of appointing special enumerators to ascertain these facts.

But, Mr. President, the amendment is clearly out of order, and I trust the Senate will have no delicacy in so deciding, whatever the presiding officer may think.

Mr. WALLACE. It may be true that the enumerators who are selected for the purpose of obtaining the general statistics cannot obtain the information that is sought to be obtained here. That is not the purpose of this amendment. On the contrary, it is to authorize the employment of experts by the Superintendent of the Census, and his objection was put solely to the point that the ordinary enumerators could not obtain the information. I beg to say to the Senator from Vermont that this amendment never was before the Census Committee. A proposition that was submitted by the committee in the form of a bill was before that committee, but this proposition was never before any committee until it was referred to the Committee on Appropriations. This is a specific, distinct amendment covering the very ground of discrimination against foreign-born citizens and nothing else.

Mr. MORRILL. I have never intended to be understood otherwise. I do not think it helps the amendment to say that it has not been before the proper committee, but was merely introduced on the motion of the Senator from Pennsylvania alone. I say the subject was before the committee in its whole length and breadth, and rejected.

Mr. WALLACE. I concede that the statement of the Senator is quite probable, but that was within the last two months, and it was when the enumerators were understood to be the medium through which the information would be obtained. The Committee on Appropriations by this amendment intend an entirely different method; that is, that under the general law under which power is given to appoint commissioners to obtain information in regard to any special subject-matter the Superintendent of the Census may appoint a special commission or experts, and this amendment authorizes him to use this money for that purpose and thus obtain these statistics.

The Senator says this is not enough of money to cover the whole country. There is no such provision as is named in this amendment found in any constitution or law of any State in the Union but one. There is no other State having a constitution or laws showing such discrimination as is here named.

It is said that this is a mere political matter and of no consequence. If it be so it is strange that the means for obtaining these statistics should be contested. It is strange that we should not be permitted to obtain this information. Why should we not have this information? No; I tell the Senators that this proposition means more than mere political information. It involves a question that goes deep into our political fabric—into the very marrow of what ought to be the governing authority in this country, into the problem whether men are to rule themselves and control the Government as men or whether our policy is to be based on a different theory. Does the republican party on this floor desire to place itself upon the theory that men are not equal? That land and not men vote? Is that the doctrine? A State undertakes to say by its law that a foreign-born, naturalized citizen is not the equal at the polls of a negro or an American-born citizen and discriminates against him and you refuse to learn the facts. Give us the data. Let us know how many of these citizens there are thus proscribed. Is it true that our friends on the other side support this doctrine and will not allow us even to learn the truth? Is it true that citizens of a given class are discriminated against? How many of these are there? This is all. Let us learn if such discrimination exists and where it is and how great it is and then we will be able to apply both law and theory. If the other side of this Chamber oppose this let us understand it.

Sir, we simply wish to obtain the data on this subject that exists and can easily be obtained under this provision. It seeks only to learn the number of foreign-born citizens discriminated against because of their being such, within a given State in the Union, of which there is happily but one. We seek to learn, first, whether there are such; second, what is the effect of this discrimination; and, third, what is to be the effect upon the representation of the State in the popular branch of Congress. These are the purposes. Is there any-

thing wrong in them? Why do Senators contest it? Ought we not to have this data? Is there anything improper in it?

Mr. ALLISON. Will the Senator allow me to ask him a question?

Mr WALLACE. Certainly.

Mr. ALLISON. If it is designed to have this data, why merely provide for but one class of cases? The Senator from Kentucky read the fourteenth amendment of the Constitution of the United States. If the inquiry is to be made, why not let it be made general, so that the provisions of the fourteenth amendment may be inserted in this proviso?

Mr. WALLACE. If the Senator from Iowa will point out to me any other State in the Union in which either by provision of its laws or constitution there is discrimination against any class of citizens that does not extend to all citizens, to black and white, native and foreign, then I will say there is no objection to his proposition.

Mr. ANTHONY. I will point to the Senator a State that makes discrimination against foreigners—the State of Pennsylvania——

Mr. WALLACE. Not at all.

Mr. ANTHONY. That requires that a naturalized citizen shall have been thirty days a resident of the State longer than a native citizen.

Mr. WALLACE. But citizens are not required to be naturalized by State laws, that is Federal. The State of Massachusetts requires two years. They must be there for seven years, not as in ours. Ours is a regulation for registration and as to taxation. All these propositions are restrictions upon the right of suffrage and they are anti-republican and anti-democratic, and the sooner the country gets to understand precisely what the damaging effects of these provisions are, and how far they aid to destroy us, the better it will be. I believe in what the republican party assumed to teach, universal suffrage, and I believe in honestly attaining that point. I do not believe in discriminating either by poll taxes or by any other kind of restriction of suffrage, further than is necessary for a pure ballot.

Mr. TELLER. Why do you not come on our side?

Mr. WALLACE. I am on any side where the rights of the masses can be attained and secured.

Mr. ANTHONY. I am speaking of the State of Pennsylvania, and I ask if that State does not require a tax as a qualification for suffrage?

Mr. WALLACE. It does.

Mr. ANTHONY. An assessed tax?

Mr. WALLACE. I say in reply to the Senator that wherever there exists a restriction of suffrage it simply tends to corrupt people and tends to debase suffrage. I am in favor of entire and absolute equality, without restriction or discrimination. Restricted suffrage, poll tax and discrimination, in the experience of both Rhode Island and Pennsylvania, mean corrupt methods and debased suffrage. The sooner we change them the better.

Mr. ANTHONY. Then this must extend to Pennsylvania.

Mr. WALLACE. Not at all; all the citizens of Pennsylvania are on the same platform, all must pay a tax. If your provisions were equal in their application to all the citizens of the State this inquiry need not be made under the fourteenth amendment to the Constitution. All citizens of Pennsylvania must pay a poll tax, but there is no discrimination. The purpose of this amendment is simply to bring it within the purview of the fourteenth amendment to the Constitution, and to learn whether there is discrimination against citizens of one class or another, and to what extent it has gone.

Mr. ANTHONY. This amendment is utterly impracticable. It is not confined to the State of Rhode Island; it extends to the State of Pennsylvania, to the State of Georgia, to the State of Virginia, to the State of Massachusetts and Connecticut. All of those States have restrictions upon the suffrage which come within the purview of this amendment; and the appropriation of $10,000 is ridiculously small. Suppose it is true, as the Senator says, that Rhode Island is the only State to be investigated, how is the Superintendent of the Census to know that? He must make his investigation, his inquiries, general all over the country.

Mr. EATON. Do I understand my friend to say that the amendment applies to Connecticut?

Mr. ANTHONY. Certainly, to Connecticut.

Mr. EATON. I am not particularly in favor of this proposition, but I do not think it applies to Connecticut in any degree whatever.

Mr. ANTHONY. Connecticut requires that a voter shall read and write.

Mr. EATON. All must.

Mr. ANTHONY. And shall be of good moral character, too.

Mr. EATON. All must, black and white; everybody must read and write. In Connecticut there is no proscription against any class, whether foreign-born or native-born, whether white or black.

Mr. ANTHONY. But a man is restricted from suffrage for other reasons than for participation in the rebellion or other offenses.

Mr. EATON. I was simply speaking of my own State. I think the Senator is wrong if he will reflect a moment. I am not defending this now. Perhaps I may do so before the debate closes.

Mr. ANTHONY. At the last census an inquiry in this direction was made, and the Superintendent of the Census in his report says:

To schedule No. 1 two inquiries were added (Nos. 19 and 20) in compliance with what was believed to be the requirements of the fourteenth amendment to the Constitution. The *first* was intended to obtain the number of male citizens of the United States, in each State, of twenty-one years and upward; the *second*, to obtain the number of such citizens whose right to vote is denied or abridged on other grounds than rebellion or other crime. No anticipations were entertained that the results of these inquiries would be of value for the purpose for which directly they were introduced into the schedule, but it was believed that, in the absence of any legislative provision for determining these two classes of the population, in order to carry out the requirements of the fourteenth amendment, the Department would not be clear if it neglected to make the attempt, it being the only executive organ through which, without such special provision, the information could be obtained, and the present being the only time for ten years when the attempt could be made.

The census is not the proper agency for such an inquiry. The questions of citizenship and of the denial of suffrage to rightful citizens are mixed questions of law and fact, which an assistant marshal is not competent to decide. No particular value is attributed to the results of these questions, so far as the original object is concerned, but incidentally, it is believed, information of value has been obtained.

The Secretary of the Interior, in submitting the report to the House of Representatives, said:

It is necessary to state, in transmitting these returns, that the Department is disposed to give but little credit to the return made by assistant marshals in regard to the denial or abridgment of suffrage. The unfavorable judgment of the Department in respect to this single class of statistics is found, first, from the application of certain statistical tests, and, second, from a consideration of the agencies employed, which are not deemed adequate to the determination of the numerous questions of difficulty and nicety which are involved.

If there were ample time for this enumeration the results of it would be utterly useless and nugatory; but the census in the large cities, to which this inquiry is mainly directed, is to be completed in six days from to-day. This act will not probably become a law within that time, certainly not enough within that time for the Superintendent of the Census to issue his certificates and instructions to his subordinates. It is utterly impossible, and the appropriation is ridiculously small for it.

I do not enter here into any defense of the right of Rhode Island to manage her own affairs under the Constitution of the United States in her own way, I address myself merely to the expediency and the practicability of this amendment.

Mr. DAWES. Mr. President, I should like to know how the census enumerator is going to comply with this provision in the State of Rhode Island or in the State of Massachusetts. In the State of Rhode Island a foreign-born citizen is required to hold real estate to be a voter. How can a census-taker in June say whether he will be the holder of real estate when the November election comes on or not? How can he determine whether to-morrow he will not be a holder of real estate, or whether, if a holder of real estate to-day, he may not part with his real estate before the day of election?

Is it the purpose to ascertain how many are to-day, according to the opinion of the census enumerator, deprived by the legislation or constitution of Rhode Island of the right of suffrage, or is it how many are so deprived when election day comes around? The condition of the naturalized citizen on the day of election determines whether he comes within the provision of the Rhode Island constitution or not, and the provision of the Massachusetts constitution that a naturalized citizen shall have resided within the United States two years or he shall not be entitled to vote. How is the census enumerator to ascertain, when he comes to take the name of any particular naturalized citizen, whether he has resided in the United States or not during all the time that shall have expired between the date of his naturalization papers, or whether the time that he has been out of the United States and may be out of the United States between the 1st day of June, when the census is to be taken, and the next election day shall be taken into account, and whether the census enumerators, wise, experienced, and skillful lawyers as they all are and must be, being non-partisan, shall be able to determine what is the legal effect of any particular provision of a constitution or the laws of any particular State of this Union? Suppose one census enumerator wiser than all the rest shall say that a poll tax of $2 imposed by law as a restriction and an enactment that no voter who has not paid that poll tax within one year from the day of election is excluded by the laws of the State, according to this phraseology, and another enumerator shall say with my friend from Connecticut and myself that that is a law that applies to all of them, and therefore it does not come within this provision. It requires a lawyer to determine and then all lawyers do not determine the same question alike.

Mr. CARPENTER. And how are they to find the facts?

Mr. DAWES. And how are they to find the facts, the law applicable to the facts to be obtained from some woman whom they find resident in the house of a person who is foreign-born, who probably is the wife of the foreign-born? And all this is to be done over again.

So far as my own State is concerned, I am quite willing to have the enumeration made. There is no law or provision of the constitution of Massachusetts from the full force of which any of her citizens shrink. A few days ago it was claimed that because Massachusetts tried to elevate the character of her voters and hold out an inducement to every voter to learn to read and write, she was excluding them; but my distinguished friend from Connecticut has silenced that on the other side of the Senate Chamber, and therefore all that effort of Massachusetts to try to improve the character of her voters to see to it that the voter when he comes to the polls shall understand what is the nature and character of that great function of an American citizen, does not seem now to have that terrible force that it did a few days ago.

I am quite willing, so far as I am concerned on this side of the Senate Chamber, to see such an enactment made as one effort on the part

of those who control legislation here to secure an honest and free ballot to every citizen of the United States. I desire to have the country take notice of what the character of that effort is and how our friends are laboring with zeal and an honest effort to secure to every citizen of the United States, whether foreign-born or native, the right to an honest and free ballot; but I shall like also to call attention to the fact that they begin in New England; that their alarm is for free institutions in New England; that although they have been appealed to year after year in other sections of the United States to do something by the way of legislation that shall secure to each citizen of the United States a free and honest ballot deposited in peace and in safety, they have at last waked up to the necessity of some national effort in this behalf, and though it may begin in my own State, or in the State of Rhode Island, yet I hail it as something that will grow and spread, and that our friends will not give up this effort until every voter in the land, by means of national legislation and national legislation enforced by national power, shall be secure when he walks up to the ballot-box in his right to deposit and have honestly counted his vote.

Sir, I am willing that my own State shall take its share of the effect of any investigation or any legislation that shall secure to each voter such rights. I am very willing that to-day it shall be proclaimed throughout this land that all the effort and all that can be obtained out of this Congress in the way of legislation is, first, to strike down every safeguard that the poor and weak and inoffensive voter on the one side may have of national protection in the deposit of his ballot, and on the other hand an attempt to cramp by national legislation the efforts of States who desire to lift him up in his character and make him more highly appreciate by better understanding the nature of that great right, his duty as a voter.

Sir, this provision has no terror to the people of Massachusetts. They are willing to have their provisions of constitution and of law tested by any test this Congress may apply.

Mr. ANTHONY. Mr. President, I omitted to reply to the remark of the Senator from Kentucky about the representation of Rhode Island in the House as being one greater than it should be under the Constitution. Leaving out of the ratio of our representative population the persons who are referred to in this amendment, we still have a fraction over one-half of a representative number. We have one Representative by a full ratio and one by a fraction, as nearly half the other States in the Union have; and we should have that number omitting the persons foreign-born who are restrained from voting by reason of not holding real estate. We have but one election more under the existing census, and under the next census, as the Senator from Vermont has said, we can hardly expect to retain our second Representative by a fraction.

Mr. TELLER. Mr. President, I propose to vote against this amendment, because it seems to me to be general legislation, and not because I am opposed to the inquiry. It is plainly general legislation, it seems to me, and inappropriate in this bill. Some time since the Senator from Pennsylvania, [Mr. WALLACE,] who is the chairman of a certain committee which has been making some reports, reported a general bill intended to cover this very same question which is now pending before the Senate. I believe that was reported something over a month ago. There has been no effort to take it up and pass it when it might have been of some use, and that fact will give some color to the statement which has been made, that this is not expected to do very much except to make a little political capital.

Whenever the Senator from Pennsylvania or any other Senator introduces a bill calculated to make this inquiry in a proper way I shall be prepared to vote for it; for I certainly sympathize with the Senator when he says that he believes in universal suffrage. I believe in it. I am opposed to the law of Pennsylvania that requires a man to pay his taxes and the law of Georgia that requires the same; and that is the law in very many other States, as I understand. I am opposed to the educational qualification also. I do not deny but that it would be a very good thing if everybody who exercises that right and privilege was a thoroughly educated man. I can see it would probably be a safer thing for the country if he was; yet I believe it to be one of the rights of man in every republican government to exercise the privilege of selecting his rulers; and I deny the right to put any restriction upon it, whether it be to require the voter to read the Constitution or the statutes or whether, as it was suggested in a certain section, that he should be a fluent reader of the Greek Testament before he can be allowed to vote. When you adopt any principle of restriction you can go to any extent and justify it.

If the Senator will come here with a bill prepared to make a most thorough investigation into all of these restrictions, and if there is the constitutional power to deprive a State of its proportionate representation where it puts these restrictions on, he will always find me voting with him, and I think he will find, perhaps, a majority of the republicans in this Chamber voting with him.

Mr. BROWN. Mr. President, reference has been made by honorable Senators on the other side to the law of Georgia which excludes voters unless they have paid a poll-tax. We have such a law in our State, and I desire to make some mention of the history of it. When the reconstruction convention met in 1868 it was controlled by those who have since in the main acted with the republican party, there having been a large number of colored representatives in the convention. There was a proposition made in that convention to incorporate in the constitution a provision that no citizen twenty-one years of age or upward should vote until he had paid a poll-tax of $1, and that poll-tax was set aside perpetually as an addition to the educational fund of the State. It was not a party measure there. It was incorporated into our constitution by those who, as I say, were then reconstructionists, and who are mostly now republicans. I believe it was a very good provision. One of the reasons is that it increases our school fund almost $200,000 a year, and in that way it is a benefit to the State. Then I think that a citizen who will not pay at least $1 a year toward the education of his children probably ought not to go to the polls. At least that was the position taken by one of the leading colored men in the convention of 1868, and it had much weight in the passage of the provision.

Such is the law of Georgia, and not only the law but a constitutional provision, which was incorporated in the constitution of 1868 and was retained in the new constitution in 1877, and is now a constitutional provision of our State. The constitution was submitted to the people for ratification, and ratified by a very large majority.

Mr. BAILEY. The constitution of 1868 was submitted to Congress.

Mr. BROWN. I thank the honorable Senator from Tennessee for the suggestion. The constitution of 1868 was submitted to the Congress of the United States, and it was ratified by Congress before we were readmitted to representation in Congress.

Mr. MAXEY. Was the State readmitted?

Mr. BROWN. My friend from Texas asks whether the State was readmitted or not. I do not know exactly the logical result of the action of the republican party on this subject. They denied that we were out of the Union; they said our ordinances of secession were void and of no force. I thought they were valid and believed we were out of the Union. As long as the war lasted the republican party said we were not out. But at the close of the war, when we appeared by Senators and Representatives and proposed to resume our former position, we were told we could not do so till we complied with the terms then dictated as a condition precedent to our restoration to our former position in the Union. So the honorable Senator must see he has asked a hard question. I certainly thought we were out during the war; and I found it very difficult to establish the fact that my State was in after the close of the war. However that may be, she is in now, and determined to be in. The constitution was ratified by the Congress of the United States with the provision in it that I have described.

While this is true, however, of the constitution of Georgia, I agree with my friends on the other side of the House that this is not a proper amendment to be made to this bill. As has already been well said, the census-takers have now been for a considerable length of time in the field. Half the work is probably done. There is an appropriation here of $10,000 to enable the Superintendent of the Census to ascertain the facts required, while there are $2,960,000 appropriated for the purpose of taking the census. It will be necessary to go back and to go over the whole ground again to ascertain this fact. Does not any Senator who will examine the question see that it will be utterly impossible for the enumeration to be made that is required here with an appropriation of $10,000, and would it not be a fruitless endeavor now to undertake to ascertain and get this information without going back and going over the whole field again? It seems to me, on that ground especially, that it is a very unwise provision here and it ought to be stricken out.

I am not sure as to the effect of this amendment under the fourteenth constitutional amendment upon the representation of certain States in the Union, but I do not think it is now important to raise that question; I do not think it the proper time to raise it. If it had been important that this provision should have been incorporated in the law at all, it should have been done when the census act was before Congress; it ought not to be done at this stage.

I make no assault upon my New England friends nor upon the constitutions of their States. They have made such provisions in their State constitutions as they have considered wise and proper. I accord to them enough State rights yet to say that, in my opinion, this is a matter that belongs to them; that it ought to be left with them to settle; that it ought to be left with each State; that it ought to be left to my State on the tax question; and our constitution having been approved by Congress, it is properly left there; and this is therefore a sort of fire-brand, I think, thrown in here that may do harm and can possibly do no good. Therefore, under the circumstances, I cannot vote for the amendment.

Mr. TELLER. I did not mean to imply that there was any politics in this question of taxation. I was aware of what the history of taxation was in Georgia. I knew also that this peculiar provision in Rhode Island was put in when the State was democratic and was kept in by democrats, and I am informed that the democrats of Rhode Island are as tenacious to keep it in to-day as the republicans. Upon that I think it is not a party question in Rhode Island. I do not remember when the provision with reference to a poll-tax in Pennsylvania was made—whether it was a democratic measure or a republican measure—but I understand that it is not a party measure in Pennsylvania; that both parties agree in keeping it in, and that some portions of both parties are opposed to it. I did not speak of it with that idea at all, as charging it upon any political party. I spoke of it as a general principle that I felt like condemning, for if there was the power in the Government, of which I am not so clear, to

pass upon these questions, I should be very glad to aid the Senator from Pennsylvania who expressed himself so earnestly on the subject, in providing some remedy for what I consider an evil, and which ultimately may grow into a very much greater evil than now exists.

Mr. KIRKWOOD. Mr. President, I have a word to say about this matter. It is proposed to have this work done in order that we may test whether or not a certain State, as I understand it, has more than her due share of representation in the other House of Congress. The language of the amendment is broad enough to cover all the States, but taking it as the Senator from Pennsylvania states it to be let us suppose that the bill passes and a person goes to work under it, how is he to ascertain? The first question to be ascertained is whether each citizen of Rhode Island is a native-born or foreign-born citizen. How is that to be ascertained? By taking the statement of the citizen himself?

Mr. WALLACE. I imagine the Senator would very easily understand it by going to the locality in which he lives. It is very easily ascertained. Let the Senator take his own town, for instance.

Mr. KIRKWOOD. They are to take the statement of the person himself, then, as to being a native-born or foreign-born citizen. Having ascertained, then, by his answer that he is a foreigner by birth, the next question is whether he has been naturalized or not. How is that to be ascertained? Is his statement to be taken for that? We know that a great many foreign-born persons suppose themselves to be naturalized when they have received what are called their first papers, that is when they have made in due form their application for naturalization. A great many believe that they are naturalized when they receive the evidence of their application. Is it intended that the statement of the party that he has been naturalized shall be conclusive? It might be very dangerous; it might affect very materially the verity of the information sought by this provision. Then there is a third question: Does the man own real estate or not? How is that to be ascertained? Is his statement to be taken with regard to that?

Mr. WALLACE. Let me answer the Senator from Iowa. By the general census law the Superintendent of the Census is authorized to appoint experts to obtain manufacturing and social statistics. He may appoint (that is the purpose of the appropriation of this money) experts for the purpose of obtaining this information. There is no practical difficulty in the way that I can see. Of course the only evidence of a man's naturalization is the production of his naturalization papers. As a matter of course the Senator understands that as well as I do, and the laws of nearly all the States provide that the production of his papers shall be the sole evidence of his naturalization.

Mr. KIRKWOOD. Then it seems to me that instead of this provision in the bill being drawn, as it is, broad enough and wide enough to cover the whole United States, it should have been narrow enough and small enough to cover what it is designed to cover, as I understand, the State of Rhode Island.

Mr. WALLACE. It does in so many words. There is no possibility of mistaking it. There is no other State in the Union which has males of the age of twenty-one years and upward, and inhabitants of the State, whose right to vote for a member of Congress is denied by provisions of the constitution of that State which are not applicable to all the citizens of the State.

Mr. KIRKWOOD. The Senator having answered as well as he can the inquiry I have put as to how the question of naturalization is to be settled, the remaining question is, how is it to be determined whether the man has real estate or not? It sometimes is a very difficult question to settle whether a man is the owner of real estate or not. Are these experts to go through the records of the whole State of Rhode Island to ascertain in each individual case whether the claim that a man makes that he is entitled to real estate is a true claim? It might impose a very great degree of labor and trouble, and might be very unreliable at last.

Mr. WALLACE. In the State of Rhode Island, as in most of the States, there are registry lists which contain the data, the statement as to the possessions of each man as to real estate in that State, as to the payment of taxes, as to naturalization and everything of that character. The registry of voters contains these data, and would be the basis upon which to report.

Mr. KIRKWOOD. Then if the registration record of the State of Rhode Island has this information already, what is the use of spending $10,000 in getting it in another way? Why not have the committee of which the Senator has been chairman for some time past give the information to the Senate and let Congress act upon that information?

Mr. WALLACE. Simply because by the registration and the examination of the polls of the State of Rhode Island the Superintendent of the Census can obtain it without any difficulty. It is a part of the social statistics of the State. There is no difficulty in doing it.

Mr. KIRKWOOD. There is no doubt at all that the provision is exceedingly loosely drawn and may have very uncertain and unsafe results. It would scarcely be that kind of information that the Congress of the United States would feel itself justified in acting on when attempting to deprive the State of a member of Congress. However, I understand that we are discussing a question of order at this time.

Mr. DAVIS, of Illinois. Yes, sir; that is the point.

Mr. THURMAN, (Mr. MAXEY in the chair.) That is precisely what the Senate has not been doing for the last half hour, although that is the question that I submitted to the Senate.

Mr. President, I beg leave to ask the attention of the Senate for a few minutes to the question that I submitted to the Senate. The Senator from Vermont made the point of order that the amendment reported by the committee beginning on line 1175, after the word "dollars," down to and including line 1191, is not in order. That amendment requires the Superintendent of the Census to expend $10,000 of the money which is appropriated by this bill for carrying out the census law in order to ascertain—

> The number of citizens of the United States, being males of the age of twenty-one years and upwards, inhabitants of any State, whose right to vote for members of Congress is denied or abridged by provisions of the constitution or laws of any State, which said provisions are not applicable to all of the citizens of the United States resident in such State, and also to obtain statistics of the number of foreign-born persons, being males over twenty-one years of age, who have resided in the United States over five years and are now resident in any State which contains in its constitution or laws provisions which require from foreign-born citizens a different qualification for the right to vote than that required from native-born citizens.

Now, says the Senator from Vermont, this amendment is out of order. It is, he says, in violation of Rule 29 of the Senate, which is, or so much as is necessary to read, that—

> No amendment which proposes general legislation shall be received to any general appropriation bill.

The Senator from Vermont says that this amendment is general legislation, and therefore is in opposition to this rule of the Senate. The rule goes on—

> Nor shall any amendment not germane or relevant to the subject-matter contained in the bill be received.

The Senator from Vermont says that this amendment is not germane or relevant to the subject-matter of this bill, and therefore it is out of order. The rule goes on—

> Nor shall any amendment to any item or clause of such bill be received which does not directly relate thereto.

The Senator from Vermont makes the point of order that this amendment does not directly relate to the clause in the bill to which it is proposed to be added. I felt it my duty to submit this question to the Senate, and I wish to say why I did so. I did it mainly for this reason: The first sentence of Rule 29 says:

> No amendment which proposes general legislation shall be received to any general appropriation bill.

What is general legislation within the meaning of this sentence? In order to understand that, it is necessary to refer to Rule 27, by which it will be seen that the words "general legislation," in the first sentence of Rule 29, are limited by what is contained in Rule 27. If they are not, then anything whatever that is general legislation could not be added to an appropriation bill, whereas Rule 27 says in express words—

> No amendment shall be received to any general appropriation bill, the effect of which will be to increase an appropriation already contained in the bill, or to add a new item of appropriation, unless it be made to carry out the provisions of some existing law, or resolution previously passed by the Senate during that session.

The words "previously passed by the Senate during that session," I take it, very plainly relate to the last antecedents, which are "law, or resolution." It is plain from this rule, which prohibits an amendment that shall increase an appropriation or add a new item of appropriation unless it be made to carry out the provisions of some existing law or treaty stipulation, that if it be for the purpose of carrying out some existing law or some treaty stipulation the amendment may be received; but in ninety-nine cases out of one hundred, if not in the whole one hundred cases of legislation to carry out the provisions of an existing law or to carry out the provisions of an existing treaty stipulation, it would be general legislation. What could it be? It is not private bills.

Mr. MORRILL. Will the Senator allow me to interrupt him?

Mr. THURMAN. Certainly.

Mr. MORRILL. The proposed law does not exist and will not exist unless this provision should pass.

Mr. THURMAN. I am coming to that presently.

Mr. MORRILL. The appropriation and the proposed law are made at the same time.

Mr. THURMAN. I am coming to that presently. That is a question about which I have not made up my mind.

Having thus endeavored to show to the Senate that it is not all cases of general legislation which are prohibited by Rule 29, but that there may be general legislation where it is for the purpose of carrying out the provisions of some existing law or treaty stipulation, then the question arises, Is this a proposition to carry out the provisions of some existing law? The Senator from Vermont says that it is not. The Senator from Pennsylvania says it is. The Senator from Pennsylvania says it is the duty of the Superintendent of the Census to obtain by means of experts social statistics, and that what is sought to be obtained under this amendment belongs to the domain of "social statistics." That raises the question. He claims that this amendment is right because it is to carry out the provisions of an existing law, the census law, which requires the collection of social statistics, and he says that what is asked for in this amendment is social statistics.

Mr. President, I have said all that I want to say upon this point, and I have said this in order that the Senate may understand what

the question is that I submitted to the Senate, and that there may be an intelligent decision of it, which may be a guide for the Chair as well as for the Senate in the future.

Mr. WALLACE. I will read from the census statute what the words of the statute are:

Whenever he shall deem it expedient, the Superintendent of Census may withdraw the schedules for manufacturing and social statistics from the enumerators of the several subdivisions, and may charge the collection of these statistics upon experts and special agents, to be employed without respect to locality.

The PRESIDENT *pro tempore*. The question is, Is this amendment in order?

Mr. MORRILL. I merely rise to say that I hope the Senate will arrive at the conclusion that this is not in order, because I foresee that if it shall be determined to be in order there will be numerous amendments that will take a great deal of time to be added to this in order to perfect it, and I am desirous to reach some other portions of the bill.

The PRESIDENT *pro tempore*. Is the Senate ready for the question? The question is, Is this amendment in order? Those who are of opinion that the amendment is in order will say "ay," those of the contrary opinion "no."

Mr. WALLACE called for the yeas and nays, and they were ordered; and the Secretary proceeded to call the roll.

Mr. ROLLINS, (when Mr. BLAIR'S name was called.) My colleague [Mr. BLAIR] is paired with the Senator from South Carolina, [Mr. BUTLER.]

Mr. BOOTH, (when his name was called.) I am paired with the Senator from North Carolina, [Mr. VANCE.] Though I do not see how this question is exactly political, I prefer not to vote.

Mr. DAWES, (when Mr. HOAR'S name was called.) My colleague [Mr. HOAR] is paired with the Senator from Indiana, [Mr. VOORHEES.]

Mr. MORGAN, (when his name was called.) On this question I am paired with the Senator from Kansas, [Mr. PLUMB.]

The roll-call was concluded.

Mr. MAXEY. My colleague [Mr. COKE] has been called away on account of sickness in his family. He is paired with the Senator from Michigan, [Mr. BALDWIN.]

Mr. BALDWIN, (after having voted in the negative.) I am paired with the Senator from Texas, [Mr. COKE,] and I therefore withdraw my vote.

Mr. GROOME. I understand that my colleague, [Mr. WHYTE,] who is confined at his home by sickness, is paired on all political questions with the Senator from Illinois, [Mr. LOGAN.] If here, my colleague no doubt would vote "yea."

Mr. FARLEY. As this question has assumed a party aspect, I will state that I am paired with the Senator from Colorado, [Mr. HILL.] If he were here, I should vote "yea."

Mr. EATON. I do not know that this ought to be called a party question. I am paired with the Senator from New York [Mr. CONKLING] on all political matters, and I withhold my vote. If I were to vote I should vote "yea."

Mr. CALL, (after having voted in the affirmative.) I understand that the Senator from Maine [Mr. HAMLIN] is regarded as paired with me; and as this may affect political matters, I ask leave to withdraw my vote.

The result was announced—yeas 24, nays 17; as follows:

YEAS—24.

Bailey,	Hampton,	McPherson,	Thurman,
Beck,	Harris,	Maxey,	Vest,
Brown,	Hereford,	Pendleton,	Walker,
Cockrell,	Jonas,	Randolph,	Wallace,
Davis of W. Va.,	Jones of Florida,	Saulsbury,	Williams,
Groome,	Kernan,	Slater,	Withers.

NAYS—17.

Allison,	Carpenter,	Ingalls,	Saunders,
Anthony,	Davis of Illinois,	Kirkwood,	Teller.
Blaine,	Dawes,	Morrill,	
Burnside,	Ferry,	Platt,	
Cameron of Wis.,	Hill of Georgia,	Rollins,	

ABSENT—35.

Baldwin,	Conkling,	Johnston,	Plumb,
Bayard,	Eaton,	Jones of Nevada,	Pryor,
Blair,	Edmunds,	Kellogg,	Ransom,
Booth,	Farley,	Lamar,	Sharon,
Bruce,	Garland,	Logan,	Vance,
Butler,	Grover,	McDonald,	Voorhees,
Call,	Hamlin,	McMillan,	Whyte,
Cameron of Pa.,	Hill of Colorado,	Morgan,	Windom.
Coke,	Hoar,	Paddock,	

So the amendment was decided to be in order.

The PRESIDENT *pro tempore*. It is decided that the amendment is in order. The question now is on the adoption of the amendment.

Mr. MORGAN. I cannot support this amendment in the form in which it now is. Ten thousand dollars of the sum appropriated is to be "used by the Superintendent of the Census" for the purpose stated. It is by no means a sufficient sum of money; it probably will require $30,000. The disability is imposed by the law of the constitution of the State upon persons who are now included in the apportionment. I was upon the Committee on the Census at the time the general law on that subject was framed, and this was a matter of much consideration and debate, and as far as I am aware there was no dissent as to this proposition that the general law of enumeration for the people of the United States did not necessarily include an inquiry into the particular statutes or constitutions of different States so far as they might affect the right of particular States to representation in the House of Representatives, but that that was more appropriately the subject of special legislation on the part of Congress. It was considered by the committee—and I mention this in vindiction of the law, which was passed without objection in the Senate, at least on this point—that whenever Congress came to the apportionment of the representation that any State might be entitled to on the basis of the general census of the country, there then arose the question in reference to the particular laws or constitution of the particular State which would require close attention and the execution of which would require men of very decided skill in the ascertainment of the facts.

Now, I will take the instance cited by the Senator from Georgia, of a certain disqualification in the constitution of that State operating upon a person who might claim the right to vote, because that person had not paid a poll-tax which should go into the general educational fund of the State. It seems to me it would require a good deal of legal skill first to determine how far that disqualification was affected by the fourteenth amendment. It would require a good deal of skill in the case of Massachusetts or perhaps in the case of Rhode Island to determine how far as a matter of constitutional law those States respectively might be debarred of the right of representation under the fourteenth amendment in consequence of excluding certain persons from the privilege of voting. It was considered by that committee, and I thought wisely, that whenever Congress undertakes to act on this proposition it should do so by special legislation in the case of each particular State. That duty would have to devolve on the other side of the Chamber, on that party which claims the credit of having originated the fourteenth amendment and of having passed it through the Legislatures of the different States.

In the Southern States, under the reconstruction process, the constitution of every State I believe, unless it may be that of Georgia, was made as liberal as it was possible to make constitutions in reference to the right of citizens to vote. It is true that we did not include women in the right to vote, but we took men who had obtained their majority, three times seven years, which was supposed to be requisite for the purpose of securing a man of judgment and discretion, as has been the law among civilized nations for a great many centuries in reference to the most important social relations and social duties as well as political. All the Southern States, reconstructed as they were either under the fourteenth amendment or in view of it, knowing what was to be done and what would be done with a view of imposing an absolute compulsory recognition of the right of the African race to vote, made their constitutions entirely free. Indeed most of the States before that time had constitutions that were entirely free in reference to voting by all persons who were considered freemen; but we fell into accord with the Constitution of the United States, as it was alleged, and liberalized our institutions to satisfy the spirit of the age and the demands of the then dominant party in the United States. The consequence is that I believe there is but one State in the South about which there would be the slightest difficulty either in reference to its constitution or in reference to its laws in relation to the disqualification of any persons whatever from voting. That is the State of Georgia.

It devolves on the gentlemen of the Northern States who framed the fourteenth amendment, who put it upon the country, to see that that constitutional amendment is executed by the laws of Congress. We have done all that we could do to execute it in our State constitutions and in our State enactments. It belongs, therefore, to the gentlemen of the northern part of the United States to execute by act of Congress that law which they have made a part of the fundamental law of this country. They seem to be reluctant to come forward to do it. It seems the State of Rhode Island does not desire to come forward and enforce the fourteenth amendment in reference to her own people, and particularly she does not deem it desirable to do so inasmuch as by possibility she may lose a Representative in the other House by that. So in the other States, among the Northern States that have these restrictions in their constitutions and in their laws; and I think it is the duty of Congress, whenever the suggestion is properly made, when the case arises, when a bill is to be framed, or the time is opportune for framing a bill for the next apportionment under this general census, to raise a commission in the Senate and in the House, or by the assistance of the standing committees, or in some way, to ascertain the precise state of the law, both constitutional and legislative, in these respective States, and to determine here by an act of Congress how much these constitutional and legislative provisions shall affect the laws of representation.

But, Mr. President, I do not think that it was the intention in making a provision for the general enumeration of inhabitants, that where a specific question might arise of the character to which I have adverted, the general enumeration of the people should be complicated with matters of this kind. We understand perfectly well that the census enumerators are not qualified by their learning and by their ability to decide on these judicial and legal questions. I should dislike very much indeed that the people of Georgia should be subjected to the loss of a Representative in the other House because their enumerators might decide the law to be this way, that, or the other way. They are not men selected with reference to the discharge

of any such duties as these; and it seems to me it would be very much wiser and comport far more with our duty to the people of the United States at large and to these particular States in question, that we should enact laws for the purpose of ascertaining how much has been lost out of the basis of representation in consequence of the constitutional or legal restrictions upon the right of suffrage.

Now, how is it in the debate on this appropriation bill to-day? Have we the laws and constitutions of all these different States before us? What guide shall we give of a legislative character to these enumerators so as to control them in their judgment in fixing and settling upon these very important facts? I would not undertake upon an appropriation bill like this to say that Massachusetts should lose a Representative in the House of Representatives or that Georgia should lose one. I should feel that we were getting along in rather a slipshod way to deal with a question of such gravity as this in a loose manner and in a manner that would not and could not and ought not to be satisfactory to the country. I believe that we should allow the census bill to have its full operation, that which Congress designed it should have when it was enacted, that we should find ample opportunity if questions actually exist here which require solution by the Congress of the United States to legislate with deliberation and care upon those questions, not to undertake to do it upon an appropriation bill. I shall therefore vote against the amendment.

Mr. HILL, of Georgia. I am not going to detain the Senate. I simply want to say that I am opposed to this amendment in principle, and I shall vote against it in every form in which it can present itself, as matters now stand.

In the first place, if there is any State in this Union which has passed a law or incorporated in its constitution a provision which is obnoxious to the fourteenth amendment, we ought to go directly at that State by name, and not in this indirect manner. I do not know of any such State myself; I do not know any State in this Union which in my opinion has anything in its constitution or laws obnoxious to the fourteenth amendment. If we do not know of any such State, then to adopt this amendment is to go out on a sort of fishing expedition to see if we can find that some State has passed laws obnoxious to the fourteenth amendment. I do not approve of this Congress going out and searching for issues of this kind with the States. I think it is time for the States to have some rest from this perpetual supervision by the central power. I think the people of this country ought to realize that the States of this Union are entirely capable of taking care of their own internal affairs, of adopting their own constitutions, of passing their own laws, and that they have about as intelligent a comprehension of the Constitution of the United States when they infringe that Constitution as we have, or as the enumerators would have, as my friend from Iowa [Mr. ALLISON] very correctly suggests.

It has been said that the constitutions of Rhode Island and Massachusetts are obnoxious to the fourteenth amendment. I do not so think. I do not think there is a single provision, as far as I have heard, in either constitution that is obnoxious to the fourteenth amendment. I think the fourteenth amendment stands on a wholly different principle; and the attempt to interfere with the constitutions of these States for the reasons alleged is an attempt to apply the fourteenth amendment in a sense and for a purpose that was never contemplated by its framers; and the contemplation of its framers was bad enough, the Lord knows, and this attempt seems to me to make it worse.

I think a State has a right to fix the qualifications of a voter. I do not consider that the educational qualification of Massachusetts is a prohibition upon the right of suffrage. It is a condition to the right of suffrage, one which the State has a right to impose, and one which the citizen can remove within himself by learning to read and write and complying with the educational qualification. I think the citizen of my State who is required to pay a dollar poll-tax is not disqualified from voting. He can vote by going and paying his dollar, and if he does not pay his dollar it is his own fault and not the fault of the law.

So I think of Rhode Island. I think Rhode Island has a perfect right to pass the law she has passed. I am not saying anything about the wisdom of those laws; I am not saying anything about the expediency of them; I am not saying whether if I were a citizen of Rhode Island I would vote for or against the qualification contained in her constitution; but I say Rhode Island has a right to adopt it, in my judgment, and I do not think this Government has any business with it, and I for one will under all circumstances and on all occasions——

Mr. WALLACE. Will the Senator from Georgia answer me a question?

Mr. HILL, of Georgia. Certainly.

Mr. WALLACE. Does he think it would be right to put in the constitution of Georgia a provision that no colored citizen should vote unless he held one hundred and thirty-three dollars' worth of real property?

Mr. HILL, of Georgia. No, it would not. I am not discussing the question of right.

Mr. WALLACE. Do you think the State has a right to do that?

Mr. HILL, of Georgia. She has. I think she has as much right to require a citizen to pay fifty dollars tax as she has to require him to pay one. I say she has the power.

Mr. WALLACE. If so, ought not the country to know that fact as a fact?

Mr. HILL, of Georgia. I think the country will know it.

Mr. WALLACE. Ought it not to know how many of them there are?

Mr. HILL, of Georgia. How many of what?

Mr. WALLACE. How many citizens there are who have no real estate who are disfranchised.

Mr. HILL, of Georgia. I do not think it is the country's business. It is the State's business. The State can regulate that matter for itself. I do not see what business any other State has with it.

Mr. SAULSBURY. Does not the Senator from Georgia regard that provision of the constitution of Rhode Island whereby she requires persons of a certain description to have a certain amount of property not required of other citizens of the State as a discrimination against that class of citizens, and a violation of the fourteenth amendment?

Mr. HILL, of Georgia. I have said it was not a violation of the fourteenth amendment. I do not say that it is not a discrimination. I say it is a discrimination, but it is not one of those discriminations which, in my judgment, are obnoxious to the fourteenth amendment, because it is a discrimination that it is in the power of the citizen to remove.

Mr. DAVIS, of West Virginia. How can we fix the representation in Congress without knowing how many are disfranchised?

Mr. HILL, of Georgia. I do not consider that a disfranchisement in the sense of the fourteenth amendment, and therefore it does not affect the basis of representation. As I say, I am not on the question of its expediency or the question of its wisdom. I do not say I should favor such a provision in the constitution of Rhode Island; I certainly would not favor the incorporation of such a provision in the constitution of my State. I do not say I would vote for any such provision. Whether such a provision ought to be incorporated in the constitution of Rhode Island is a question for Rhode Island. That is what I say.

I am exceedingly glad to see my friends on the other side of the House solidly asserting that the States have got some rights, especially when their ox is gored. I hope they will adhere to the principle. That is all I have to say. I do not say I approve the constitution of Rhode Island; I do not think it is any of my business to approve or disapprove it. I do not say I approve the constitution of Massachusetts. All I have to say is that these are provisions within the power of the citizen himself to remove, and they are therefore not provisions that are obnoxious to the fourteenth amendment in the sense of that amendment.

Mr. SAULSBURY. Are they not provisions which apply to one class of the community that do not apply to others?

Mr. HILL, of Georgia. In one sense they do, and the same argument would say that a State cannot require an educational qualification because that qualification applies to the ignorant and not to the intelligent. Do you say that is a discrimination? I say it is a discrimination; I admit it is a discrimination, but it is not one of those discriminations which are obnoxious to the fourteenth amendment. That is my judgment.

It was never contemplated by the fourteenth amendment to take away from the States the power of discrimination in fixing the qualifications of suffrage. Almost every State has a discrimination of some kind; and are you to take the broad ground here that any discrimination in the qualification of suffrage in a State is a violation of the fourteenth amendment and authorizes the Federal Government to go into that State, take charge of it, and frame a constitution for that State? I hold to no such doctrine.

I repeat I have nothing to say here about the wisdom or unwisdom, the expediency or inexpediency, the justice or injustice of the constitution of Rhode Island, the constitution of Massachusetts, the constitution of Georgia, or the constitution of any other State. All I say is that the provisions are not obnoxious to the fourteenth amendment; and unless they are obnoxious to the fourteenth amendment it gives the Federal Government no right to interfere with them.

These are my convictions. I do not object to my friends using this matter on the stump if they choose; they may attack the expediency of these laws; they may attack the justice of these laws just as much as they please. I have no objection to that. That I have nothing to do with; but I say that those States have the power to fix those qualifications in their constitutions; and when fixed they are not obnoxious to the fourteenth amendment; and therefore we have no right to interfere with them.

Mr. MORRILL. Does the Senator from Alabama withdraw the amendment that he made of $30,000? I understood the Senator to propose an amendment to make the amount $30,000.

Mr. MORGAN. No; I moved no amendment to this bill. I referred an amendment to the Appropriations Committee.

Mr. MORRILL. I understood the Senator to say that $10,000 was entirely inadequate, and I perfectly agree with him. I think it would require at least a half million dollars, perhaps a million; but I have an amendment, which I send to the desk, to come in on page 49, after the word "State," in line 1184.

The CHIEF CLERK. It is proposed after the word "State," in line 1184, to insert "and not in accordance with the fourteenth amendment of the Constitution of the United States."

Mr. MORRILL. I merely have to say that the committee's amendment as proposed is for enforcing a part of the fourteenth amendment.

If there is any part of it to be enforced, I prefer to have the whole of it enforced, and I take it my friends on the opposite side will not object.

Mr. BROWN. In my own State there is a qualification for a voter, or rather a limitation on his right to vote, which is that he must pay $1 poll-tax, and he cannot vote unless he has paid the tax the previous year. He has a right under our law to pay it at any time before he tenders his vote at the polls. For instance, the tax-collector is here; he can go and pay the tax and take the receipt, and in a minute afterward go and tender his vote. Now, suppose you send your enumerators around after they have done taking the census, and they go over the whole State again and take the number who have not paid taxes so as to qualify them to vote this year. Suppose it is five thousand; and they report that number? How do you know that forty-nine hundred and ninty-nine of them may not pay on the day before the voting takes place or before the polls close? What practicability is there about it? It seems to me simply absurd.

Mr. BECK. It seems to me that the statement made by the Senator from Georgia that the Georgia law applies to everybody in the State, being, as in Pennsylvania, the exaction of a tax as a prerequisite of the right to vote, there is no trouble with his State. The provision for the payment of taxes in Georgia applies to all the people there; there is no discrimination. Therefore no enumerator is going to go to work in Georgia under this provision. I fail to see the absurdity of the provision.

Mr. BURNSIDE. Mr. President, I think it is very clear that one part of this amendment and the principal part of it is directed against an individual State, and that happens to be the State which I have the honor in part to represent. Sir, I must say that I think it unbecoming in a great committee like the Committee on Appropriations to use its power to bring before the Senate in the last days of the session an amendment directed against any one State with a view to reducing its representation. The State of Rhode Island governs itself in matters of that kind. If Senators feel that the government of Rhode Island is not republican, if they contend that there is a restriction of suffrage there within the inhibition of the fourteenth amendment of the Constitution, let them open the question in a bold, manly way; let them introduce a resolution broaching the subject at once, and let a committee be appointed to investigate it. The State of Rhode Island shrinks from no investigation whatever. I do not think the State of Rhode Island will change its system of suffrage at the dictation of Congress or from any apprehension that she may lose a Representative under the action of Congress; but I think that it is an unbecoming thing to introduce in the last days of the session on an appropriation bill that everybody wants to vote for and to hurry through a proposition striking at any one State, or striking at her suffrage system with a view to reducing her representation. The Senate is asked to vote $10,000 for the purpose of employing a few enumerators in Rhode Island to ascertain how many foreigners are deprived of the right to vote because they do not own real estate.

Mr. EATON. If my friend will permit me I beg to say one single thing, that I, as a member of the Committee on Appropriations, do not strike at anything in his State because of any recent action of the Legislature of Rhode Island.

Mr. BURNSIDE. I am very much obliged to the Senator from Connecticut for his complimentary reference. I appreciate it very much, I assure him; but I must say that this is clearly an attack on the system of suffrage in Rhode Island, and it does not belong on an appropriation bill. I would not vote for an amendment of that kind directed against any State in this Union, and the strongest party in the world would not drive me into a vote of that kind, because it is not fair. If gentlemen want to attack the system of suffrage in Rhode Island, do it in a fair way; attack it directly; and do not ask men who are anxious to get an appropriation through here to accept such an amendment as this at the risk of the loss of this important appropriation bill.

The State of Rhode Island, as I said before, shrinks from no investigation. If she is depriving people of suffrage so that under the fourteenth amendment she ought not to have her second Representative, the people will give it up cheerfully. They are a manly, independent people; they are an industrious people, an intelligent people, a thrifty people. They know their rights, and they will not change their system of suffrage at congressional dictation. You may take away one of their Representatives, and they will not whine under it, if it is done fairly; but I do say that this movement is unfair.

The PRESIDING OFFICER, (Mr. HEREFORD in the chair.) The question is on the amendment of the Senator from Vermont [Mr. MORRILL] to the amendment of the Committee on Appropriations.

Mr. MORRILL. I ask for the yeas and nays on that amendment.

The yeas and nays were ordered.

Mr. WALLACE. The effect of that amendment will be to produce the very result the Senator predicted was in the bill, to leave the constitutional question to be determined by the experts; you open the door. There is in the bill a specific class of persons who can be ascertained. It is only intended to obtain the numbers of these persons, not to decide any question of law. The effect of this amendment of the Senator from Vermont will simply be to produce the result which is alleged to exist in the amendment of the committee, but which does not exist there.

Mr. ANTHONY. The fourteenth amendment of the Constitution does not say that when the right to vote at any election for the choice of President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof is denied to any of the male inhabitants of the State of Rhode Island, but "to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States," &c. If this amendment, which is cunningly devised to affect one State alone, is to be adopted, it should be extended to all the States. The States that impose a tax, the States that impose an educational qualification, the States that impose an additional residence of thirty days for naturalized citizens should be included in the investigation. It is singular that an amendment to the census bill should be adopted and directed only to a single State. If the fourteenth amendment is to be enforced, let it be enforced all over the Union in every State, not in one alone.

Mr. SAULSBURY. So far as I am concerned I agree fully that it is no part of the business of Congress to determine what qualifications for voters the States themselves may prescribe. I concede to Massachusetts and Rhode Island full right to make any provision in their fundamental law in reference to the qualifications of voters in those States that they see proper to do. I do not think it is any part of the business of Congress to interfere with any State, Massachusetts or Rhode Island, in that matter. I am not contending, therefore, that we have the power to enact any law that by possibility interferes with the perfect right of the State of Rhode Island or the State of Massachusetts or any other State to regulate that matter according to its own discretion; but we are now soon to have an apportionment of Representatives in Congress, and a provision of the Federal Constitution prescribes that where there has been discrimination made by a State against any class of citizens of the State that class of people shall not be counted in making up the basis for the apportionment of Representatives in Congress.

I think it perfectly legitimate for Congress, while it is not within its province to determine what qualifications shall be prescribed by the State, to inquire whether there have been discriminations made in the constitutions and laws of the States in reference to the right of persons to vote, in order that Congress may properly determine what apportionment of representation the States shall have. So that I am certain that in advocating this amendment I am not interfering with the right of every State to regulate the elective franchise within her borders according to her own discretion. I maintain that that is legitimately the province of the State, as much of Rhode Island and of Massachusetts as it is of Delaware or any other State.

Mr. HILL, of Georgia. I ask my friend from Delaware if he thinks any property qualification of suffrage by a State is one of the discriminations referred to in the fourteenth amendment which are to lessen the basis of representation?

Mr. SAULSBURY. Not if it applies to all the electors of the State; but if you attempt to apply a property qualification to a portion of the electors which you do not apply to the others, then it is a discrimination against that class to which you apply it. If you attempt to apply it to the foreign-born citizens of the State and do not apply it to all the citizens of the State, it is unquestionably a discrimination within the purview of the Constitution against that class to which it is applied. So, too, if you attempt to apply the qualification of a poll-tax to one class of the citizens of the State and do not apply it to all the voters of the State, it is a discrimination unquestionably against that class to which you do apply it. For instance, suppose the State of Delaware should apply to the colored voters of that State a property qualification which it did not prescribe and apply to the white voters of the State, would it not be a property qualification applied to one class which was not applied to others, and would it not be a discrimination within the purview of the fourteenth amendment of the Constitution against the colored people of the State? Most unquestionably; and that is all I contend for here.

I do not deny the right of the State of the Senator from Georgia or the right of the State of the Senator from Rhode Island to fix the qualifications of its voters; I do not believe it is competent for Congress to undertake to dictate to a State what qualifications for voters it shall prescribe; but under the fourteenth amendment, when there has been a discrimination in any State of the Union against any particular class of citizens whereby they have been deprived of the elective franchise, when you come to ascertain the apportionment of representation in Congress it is the duty of Congress to apply the facts in the apportionment, and not allow the State representation for all her people when she is only entitled to it for those who are not disfranchised. That is the position I take.

Mr. ANTHONY. Mr. President, the Senator seems to read the second section of the fourteenth amendment as though it applied to discrimination among the electors of one State against other electors of that State. It is not so when the right of suffrage "is denied to any of the male inhabitants of such State being twenty-one years of age and citizens of the United States;" and the State of Delaware imposes a tax. This investigation should reach the State of Delaware as well as the State of Rhode Island, for the persons in Delaware who cannot or do not pay their taxes should be deducted from the representative ratio of Delaware the same as the citizens of foreign birth who do not own real estate should be deducted from the representative ratio of Rhode Island. The Constitution does not speak of discrimination between the citizens of the same State, but

of the abridgment or denial of suffrage to any of the male inhabitants over twenty-one.

Mr. WITHERS. I would simply ask the Senator from Rhode Island what would be the effect of a constitutional amendment in Virginia which would require every black man in Virginia twenty-one years of age, before he should be entitled to vote, to be an owner of real estate, and make no such provision with regard to the white people of the State? Would he regard that as a discrimination?

Mr. ANTHONY. Undoubtedly I would; but then the State of Virginia requires a tax as a condition of voting upon all her citizens.

Mr. WITHERS. Upon everybody. It does not require the black man to pay one tax and the white man another.

Mr. ANTHONY. But there is a discrimination between those who pay the tax and those who do not pay the tax; and those who do not pay the tax are, according to the fourteenth amendment, if the doctrine of this amendment to this bill be correct, to be deducted from the representative ratio of Virginia; and the investigation should be general; it should go into Virginia and Delaware as well as into Rhode Island.

Mr. WITHERS. Manifestly it should.

Mr. ANTHONY. That is the intention of the amendment offered by the Senator from Vermont.

Mr. BURNSIDE. Does the Senator from Virginia think $10,000 will enable the Superintendent of the Census to go into Virginia, Georgia, Pennsylvania, and other States that have poll-taxes? Does it not show on its face that it is manifestly intended to spend $10,000 in the State of Rhode Island with a view to finding out some discrimination in that State, and does the Senator feel like voting for an amendment to an appropriation bill at the heel of the session for an object of that kind?

Mr. WITHERS. I will answer the Senator from Rhode Island that, in my judgment, this $10,000 will be expended in any locality where there is reason to believe that such discrimination exists in contravention of the provisions of the fourteenth amendment.

Mr. BURNSIDE. Does not the Senator know well enough that it cannot cover even the territory of the State of Rhode Island fully?

Mr. ANTHONY. The Superintendent of the Census has not a right to presume that one State comes under the exclusion of the fourteenth amendment and not another. He is bound to go over the whole United States.

Mr. WITHERS. I assume that the constitution of every State in the Union is accessible and can be had; and if there be anything in the constitution of any State of the Union which makes a discrimination forbidden by the fourteenth amendment, it can be ascertained upon an investigation of the constitutions; and if such discrimination be found to exist, to that particular State should the investigation be directed, or those States.

Mr. ANTHONY. And that question of constitutional law is to be referred to the census enumerators!

Mr. HILL, of Georgia. I wish to ask the Senator from Virginia a question. Take his position to be true, is it not better to ascertain in what States there are discriminations contrary to the fourteenth amendment before you undertake to have the enumeration? Ascertain the States first and let Congress settle that question. Here is a State that has a provision you say obnoxious to the fourteenth amendment. Ascertain that, and then go and make your enumeration. Why make your enumeration in advance? If this amendment passes you have got to have this enumeration in every State of the Union, for the enumerators cannot undertake to say what is in the constitution of a State obnoxious to the fourteenth amendment. They have got to go through every State in the Union. What is it for?

Mr. BURNSIDE. I can answer the Senator from Georgia what the money is appropriated for. It is appropriated to conduct an investigation in the State of Rhode Island, and that issue cannot be dodged. It is perfectly clear, and every sensible man who reads the amendment must know that that is what it is intended for. The Committee on Appropriations, as I said before, in the last days of the session introduce into a large appropriation bill an amendment which is directed to Rhode Island. That is exactly what it is intended for, and they mean to spend that $10,000 for that purpose.

Mr. HILL, of Georgia. I do not know what it is intended for. I say if this amendment is adopted it is the duty of the Superintendent of the Census to send his enumerators into every State in this Union to make this investigation, unless indeed you make the enumerators the supreme judges in advance of what States they will make the investigation in and what States they will not, and thereby make them supreme judges of what is the law.

I regret to differ with so many of my democratic brethren on this question, but I do think if there has been one great evil of this country for the last twenty years that evil has been the continual interference by the Federal Government with the affairs of the States, and I, for one, am opposed to it.

Mr. MORGAN. I think we had better take more time to consider this question, and I therefore move that the Senate proceed to the consideration of executive business.

The PRESIDING OFFICER. The Senator from Alabama moves that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After sixteen minutes spent in executive business the doors were reopened, and (at five o'clock and fifty-seven minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *June* 8, 1880.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

The SPEAKER. The Chair desires to state to the House that there are various gentlemen who are seeking recognition on behalf of measures to which the Chair really thinks there would not be a single objection. If he could be allowed, by unanimous consent, to give that recognition, preserving to each and every member the right of objection, after hearing the bills read, he thinks it would facilitate the disposition of business.

Mr. HAYES. I suppose each and every member has a measure of that kind which he would desire to pass.

The SPEAKER. The Chair desires to recognize each and every member who has such a measure.

Mr. SPRINGER. I ask unanimous consent that in lieu of the morning hour to-day one hour be devoted to recognitions of requests for unanimous consent, in accordance with the suggestion just made by the Chair.

The SPEAKER. It would require a two-thirds vote first to dispense with the morning hour.

Mr. SPRINGER. Unanimous consent would have the same effect.

The SPEAKER. Certainly. Is there objection to the proposition of the gentleman from Illinois, [Mr. SPRINGER,] that one hour be devoted, in lieu of the morning hour, in the manner indicated?

There was no objection.

Mr. RYON, of Pennsylvania. I ask that the Chair recognize members alternately, one from each side of the House.

Mr. TOWNSHEND, of Illinois. In what order does the Chair propose to recognize members, by letter or by State?

The SPEAKER. The Chair will recognize gentlemen, alternating from one side of the House to the other.

Mr. TOWNSHEND, of Illinois. Will the Chair recognize all gentlemen?

The SPEAKER. He will, if the time permits. Gentlemen are losing time now by these interrogatories.

E. J. GURLEY.

Mr. MILLS. I ask unanimous consent that the Committee of the Whole be discharged from the further consideration of the bill (H. R. No. 4418) for the relief of E. J. Gurley, and that it be put upon its passage.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and required to pay to E. J. Gurley, of McLennan County, Texas, the sum of $1,000 for himself and $1,000 as trustee for the law firm of Blosker & Gurley for legal services rendered the Government of the United States.

Mr. BAKER. I call for the reading of the report, and reserve the right to object.

The SPEAKER. That right the Chair will preserve for every member.

The report was read, as follows:

The Committee on Claims have examined the petition and testimony affecting the claim of E. J. Gurley, of McLennan County, Texas, and find that the petitioner asks payment of two claims for attorney's fees for services rendered to the Government by employment of officers of the Government. The first is for professional services in the prosecution of Peter Garland and some eighteen other persons charged with the murder of seven Caddo Indians, in Palo Pinto County, Texas. The petitioner, Mr. Gurley, has been for many years a practicing lawyer at Waco, Texas, and during the year 1859 he was employed by Major Robert S. Neighbours, superintendent of Indians in Texas, to prosecute said Garland and others. The defendants, nineteen in number, were charged with the murder of seven friendly Indians of the Caddo tribe, of the Brazos agency, in Texas, on the 27th day of December, 1858.

On the 14th day of January, 1859, said superintendent of Indians made affidavit before Hon. N. W. Battle, judge of the district court, in whose district said offense was charged to have been committed, alleging the perpetration of the crime, and that no peace officer residing in said county could be procured to execute a warrant of arrest against said offenders. So great was the indignation among the people along the frontier of Texas adjacent to the Indian reservation, on account of the outrages committed by the Indians upon the white people, and so thoroughly were the entire people in sympathy with the defendants, that the civil officers refused to execute the process of the court. The petitioner then, on the 17th day of January, 1859, obtained an order from said district judge, directed to Captain John S. Ford, commanding a company of Texas rangers on the Texas frontier, and commanding him with the force under him to arrest the defendants and bring them before the court for trial; but Captain Ford was himself a frontier man and had been fighting Indians all his life, and had frontier men under him who had been compelled to take the field to protect themselves and families from Indian depredations, and he and they were also in sympathy with the defendants, and he refused to execute the process. The petitioner then applied to Governor H. R. Runnels for an order to Captain Ford to execute the process. After a great deal of trouble and delay the order was executed, but it was found, when the issue was made and met, that the courts were powerless and the laws silent in the presence of a whole population in arms for their own protection and the protection of their defenders.

The prosecution shared the fate of the civil power; it passed away in the presence of an irrestible force. An accommodation was finally had that removed the Indians out of the State, and the troubles arising out of these charges and all others from the same source passed away with the removal of the Indians. The part taken by Mr. Gurley, as prosecutor for the United States, involved him in great personal danger, as the sentiment of the country was overwhelmingly with the accused. He was continually threatened by armed men, and the whole population were in bitter hostility to him; but notwithstanding the peril in which he was placed and the loss of business his relation to the accused caused him, he firmly and faithfully pressed the prosecution and exerted himself with great courage, industry, and perseverence, till the civil power subsided in the presence of

an assemblage of armed men, which the State was unwilling to meet and overcome with force. All of this occurred in a district where Mr. Gurley had a large practice, almost all of which was sacrificed by his employment in these causes. Hon. John Hancock, a member of the Forty-fourth Congress, and his law partner, states his service to be worth not less than $5,000; Judge Battle says not less than $2,500 or $3,000. He has also testimony of other citizens of Texas, and among them the governor of Texas, the Indian agent, Colonel Ross, and others, all testifying to the courage, ability, and efficiency with which he discharged the duties of his position. We therefore think he is entitled to the relief he asks, and for this branch of his case we report as a reasonable compensation the sum of $1,000.

The facts in the other case are, that on the 16th day of April, 1854, Captain R. H. Anderson, United States Army, was ordered by Brigadier-General W. S. Harney to proceed with a detachment of men under his command to Fort Graham, in Hill County, Texas, and arrest Assistant Surgeon Josephus M. Steiner, and convey him to Austin, Texas, for trial before court-martial for killing Major R. A. Arnold, his superior officer, who was at that time in command of the fort. His orders stated that "H. P. Brewster, esq., a gentleman of legal learning, would accompany him and give such advice as the exigencies of the mission might require." Sickness in Mr. Brewster's family at the time of Captain Anderson's departure prevented him from accompanying the command, and Captain Anderson proceeded without him and arrested Dr. Steiner in Hill County, Texas, while he was claimed by the sheriff of said county as his prisoner and in his lawful custody, and proceeded with him toward Austin as far as Waco, where he and his detachment were arrested by legal process on a charge of rescuing the prisoner Steiner from the custody of the sheriff of Hill County, the penalty for which offense was confinement to hard labor in the penitentiary not less than five years and not more than ten years. In consequence of the absence of Mr. Brewster, Captain Anderson employed the firm of which Mr. Gurley was a member to defend himself and his men, and advised his superior officers of what he had done. On the trial by the examining court the men under his command were discharged, but he was held to answer before the district court of Hill County, to which he was remanded, and by which he was tried and acquitted, the petitioner acting as counsel during the trial.

This claim was before Congress at a previous term, on the petition of the applicant asking for $5,000. The circumstances surrounding this case are similar to the facts in the former case. The attorney in this case had to contend against a whole people whose sympathies were all for Steiner, and whose passions were aroused fiercely against Captain Anderson and his men, for what they considered a flagrant act of military usurpation, and the victim of that outrage a man of unbounded popularity with them. On the 4th day of June, 1858, the Senate Committee on Military Affairs reported a bill to the Senate for the relief of petitioner for the sum of $1,500, (Congressional Globe, volume 36, part 3, page 2699.) January 31, 1860, the same committee reported a bill for $1,000, (volume 39, part 1, page 647,) which was afterward passed by the Senate and sent to the House, (volume 40, part 3, page 1451.) In the House the Judiciary Committee reported back the Senate bill to the House and recommended its passage, (volume 41, part 3, page 2354.) The bill on a point of order was sent to the Committee of the Whole, and was not reached in the Calendar during the session. The claim of the petitioner is meritorious and just, and, considering the long time that has elapsed during which the petitioner has remained unpaid, and that the Senate have twice reported in favor of its payment, once at $1,500 and once at $1,000, the committee feel that the sum of $1,000 is but reasonable compensation, and they report in favor of paying said amount for said services in defending Captain Anderson and his men. They therefore report the accompanying bill as a substitute for the House bill, providing for the payment of both of said claims, and recommend its passage.

Mr. MILLS. If I can get the ear of the House for a few moments——

Mr. BAKER. I have no objection to that bill.

Mr. HAYES. It strikes me this bill has been up for consideration before, either in Committee of the Whole or in the House.

Mr. MILLS. No, sir; not during this session. The bill has passed this House once unanimously and has never received a vote against it. It passed the House unanimously in Committee of the Whole during last Congress.

Mr. WHITE. I objected to this bill in the Forty-fifth Congress and I object to it now.

Mr. MILLS. I hope the gentleman will not object. It has failed on account of his objection repeatedly.

Mr. WHITE. I insist on my objection.

PUEBLO OF SAN FRANCISCO.

The SPEAKER. The Chair recognizes the gentleman from California, [Mr. PACHECO.]

Mr. MILLS. I call for the regular order.

The SPEAKER. This is the regular order.

Mr. MILLS. I shall object to every request for unanimous consent to pass a bill from now to the end of the session.

The SPEAKER. The bills had better be read in accordance with the agreement which was made by unanimous consent.

Mr. PACHECO, by unanimous consent, from the Committee on Private Land Claims, reported back, with amendments, the bill (H. R. No. 4928) to confirm the survey of the pueblo of San Francisco; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

Mr. PACHECO. I also ask unanimous consent that the minority of the committee have leave to file a report on the bill (H. R. No. 2553) to confirm a certain land title in the city of San Francisco, and for the relief of certain citizens of the United States; and I ask that it be printed.

There was no objection.

CHANGE OF NAMES OF VESSELS.

Mr. McLANE. I ask unanimous consent that the Committee of the Whole be discharged from the further consideration of the House bills No. 3274, No. 3275, No. 2528, No. 5304, and No. 5153, and that they be put upon their passage. They are bills reported from the Committee on Commerce, four of them being to change the names of pleasure- yachts, and one of them to change the name of a steamboat.

The SPEAKER. The bills will be read separately.

The Clerk read the title of the first bill indicated, as follows:

A bill (H. R. No. 3274) to change the name of the steam-yacht E. R. Bryant, of Rochester, to Summerland.

The bill was read.

Mr. MILLS. I object to the consideration of that bill.

The Clerk read the title of the next bill, as follows:

A bill (H. R. No. 3275) to change the name of the sloop-yacht Mariah, of Rochester, New York, to that of Tourist.

The bill was read.

The SPEAKER. The Chair hears no objection.

Mr. MILLS. I object to the consideration of that bill.

The SPEAKER. This bill is before the House. Does the gentleman from Texas state that he meant to object to this as well as the previous bill?

Mr. MILLS. I object to all of them.

Mr. McLANE. I ask for the reading of them all.

The Clerk read the title of the next bill, as follows:

A bill (H. R. No. 2528) to change the name of the steam-yacht Kate Sutton, of Buffalo, to that of Loraine, of Oak Orchard.

The bill was read.

The SPEAKER. Is there objection?

Mr. MILLS. I object.

The Clerk read the title of the next bill, as follows:

A bill (H. R. No. 5304) authorizing the changing of the name of the sloop-yacht America.

Mr. MILLS. I object.

The Clerk read the title of the next bill, as follows:

A bill (H. R. No. 5153) to change the name of the steamboat L. Boardman to River Belle.

Mr. MILLS. I object.

MRS. ELIZABETH UPRIGHT.

Mr. DEERING. I ask consent to take from the Private Calendar and pass at this time the bill (H. R. No. 1107) granting a pension to Mrs. Elizabeth Upright. The gentleman from Wisconsin, [Mr. BRAGG,] who objected to that bill when it was reached on a former occasion, withdraws his objection now, with the understanding that an amendment be made to it.

The SPEAKER. The bill will be read, after which the Chair will ask for objection.

The bill directs the Secretary of the Interior to place on the pension-roll the name of Mrs. Elizabeth Upright, of Applington, in the State of Iowa, and to pay her a pension at the rate of $8 per month during the remainder of her life after the passage of this act.

The amendments reported from the Committee on Invalid Pensions were to strike out the word "Applington" and to insert the word "Rockford," and to strike out the words "during the remainder of her life."

Mr. WHITE. I move also to amend by striking out the amount of pension.

Mr. MILLS. I object to the bill.

The SPEAKER. Objection being made, the bill is not before the House.

IMPORTATION OF HOOP-IRON.

Mr. TUCKER. I ask consent to report from the Committee on Ways and Means for consideration at this time a joint resolution for the relief of certain persons in respect of duties demanded of them upon the import of certain articles named therein.

Mr. MILLS. I object.

Mr. TUCKER. I ask my friend from Texas [Mr. MILLS] not to object.

The SPEAKER. The gentleman does object, nevertheless.

Mr. TUCKER. The joint resolution comes from the Committee on Ways and Means, and is a matter of public interest.

Mr. MILLS. What is it?

Mr. TUCKER. It is a joint resolution in relation to the duty upon hoop-iron.

Mr. MILLS. I withdraw my objection.

There being no objection, the joint resolution (H. R. No. 322) was received and read a first and second time.

The question was upon ordering the joint resolution to be engrossed and read a third time.

The joint resolution was read, as follows:

Whereas by a circular of the Secretary of the Treasury, issued in 1878, after the decision of a case between the United States and an importer in the circuit court of the United States for the southern district of New York, all the articles named in the following resolution were directed to be imported on payment of a duty of 35 per cent. *ad valorem*; and

Whereas the Secretary of the Treasury, by letter of March 12, 1880, to the House of Representatives, has indicated his purpose to revoke said circular and subject said articles to the specific duty imposed by existing law on all band, hoop, and scroll iron; and

Whereas it is represented that, confiding in the said circular of the year 1878, parties have contracted for such articles to be imported under the duty of 35 per cent. *ad valorem*, and it is right and proper to relieve them from the effect of the change of orders by the Secretary of the Treasury upon his construction of the existing law, but without intending to alter existing law or to interpret by legislative act the effect thereof, leaving that to the judicial tribunals, except as to the special cases herein provided for: Therefore,

Be it resolved, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to cause to be levied upon all articles under the designation of cut hoops, hoops cut to length, hoops cut and punched, and barrel hoops a duty of 35 per cent. *ad valorem*, which shall be shown to the satisfaction of the Secretary

of the Treasury to have been ordered under *bona fide* and absolute contracts made and entered into prior to March 12, 1880, and which shall be imported from any foreign country into the United States prior to the 1st day of January, 1881; and the amount of any duties in excess of 35 per cent. *ad valorem* paid since the 12th day of March, 1880, upon any of the articles hereinbefore named, which shall be shown as aforesaid to have been imported under such contracts, shall be refunded to the parties entitled thereto out of any money in the Treasury not otherwise appropriated.

Mr. CHALMERS. I ask the gentleman to yield to me to offer an amendment, to include cotton-bale hoops.

Mr. TUCKER. I will yield for that amendment.

Mr. BAYNE. I desire to make a brief statement, having objected to this joint resolution on a former occasion.

Mr. HISCOCK. If this joint resolution is to be open to amendment I must object to it.

Mr. TUCKER. Very well; I will not allow any amendment to it.

Mr. BAYNE. I desire to make a brief statement.

Mr. TUCKER. I will yield to the gentleman.

Mr. BAYNE. I want to ask the gentleman from Virginia [Mr. TUCKER] whether this is the joint resolution which was reported by the Committee on Ways and Means and submitted to the Secretary of the Treasury, after I had interposed my objection to it, and an alteration was made therein requiring the proof of these contracts to be submitted to the Secretary of the Treasury?

Mr. TUCKER. That amendment has been made.

Mr. BAYNE. It is that identical joint resolution, with that simple alteration?

Mr. TUCKER. And with another alteration.

Mr. BAYNE. What is that other alteration?

Mr. TUCKER. It is an amendment suggested by the Treasury Department, that in those cases where duties have been paid on importations which come within the purview of this joint resolution, the Treasury Department shall be allowed to refund the excess of duties in such cases.

Mr. WILSON. That is right.

Mr. BAYNE. I have no objection to that.

Mr. TUCKER. In other words, it is to put those importers upon the same basis as the others. As soon as the gentleman from Pennsylvania [Mr. BAYNE] has made his statement, I will, if it is deemed necessary, make a single remark, which I think will satisfy the House that this joint resolution should pass.

Mr. BAYNE. Mr. Speaker, when I objected to this resolution I did not fully know its contents, but understood, as I thought, its general import. I am now satisfied that inasmuch as all the iron that has been contracted for would be imported into the country in any event, and the passage of this resolution will not militate against manufacturers of our own country in these particular branches of industry, the resolution is not objectionable on that score. On the other question, as to the right of these parties to import such iron as they *bona fide* contracted for, I deem it but fair and just that they should have this right in view of the fact that the specific duty was reduced to an *ad valorem* duty in 1878, and these contracts have all been made since the *ad valorem* duty has been in force. Regarding the conduct of these parties as a compliance in good faith with the law, I think it but just that the resolution in its present form should pass.

The joint resolution was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

Mr. TUCKER moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. MILLS. I desire to make a statement, after which I will withdraw the objection I have made to the several bills which gentlemen have desired to have passed by unanimous consent. The bill which I undertook to call up this morning, and which was objected to, has passed unanimously every Committee on Claims to which it has been referred since I have been a member of Congress, now a number of years. The bill has been brought up in Committee of the Whole and objected to once, perhaps twice, by the gentleman from Pennsylvania, [Mr. WHITE,] who objected to it just now. Last year, however, in the Forty-fifth Congress, the bill was passed by this House during the gentleman's absence and sent to the Senate, where it died on the Calendar. It is a just claim, as all the facts in the case will show. One of the committees reported that if the attorney had asked a larger allowance they would have reported in favor of it. I will not, however, let my feelings lead me to do an ungracious thing toward other gentlemen in this House because that bill has been slaughtered. I therefore withdraw the objection I have made to these bills of various gentlemen, and ask that they be now considered and passed.

Mr. WILSON. I hope now the gentleman from Pennsylvania [Mr. WHITE] will withdraw his objection.

Mr. WHITE. I never objected to any gentleman's bill in this House from spite or personal feeling, and I never will. In the Forty-fifth Congress I objected to this bill of the gentleman from Texas from conviction, and I did the same to-day.

Mr. GOODE. Why not let the House pass upon it?

Mr. WHITE. I am reading the report now; and if I should become satisfied that this is a just bill, I will withdraw my objection; if not, I will not.

Mr. O'NEILL. How would it do for my colleague to vote against the bill?

Mr. WHITE. I will pursue my own course.

Mr. O'NEILL. I only suggest that as a compromise of the gentleman's difficulty.

Mr. WHITE. I have nothing to compromise.

CHANGE OF NAMES OF VESSELS.

The SPEAKER. The bills which the gentleman from Maryland [Mr. MCLANE] desired to bring before the House, and which were objected to, will now be considered if there be no objection.

Mr. O'NEILL. I have a bill of the same character which I would like to offer as an amendment to one of those bills.

The SPEAKER. That has been objected to once.

Mr. O'NEILL. But I wish to try it again.

The SPEAKER. There are five bills of this character which the gentleman from Maryland wants to have passed.

Mr. O'NEILL. Then I propose to add another bill of the same character.

The SPEAKER. But the bill of the gentleman from Pennsylvania being pending before the House as an independent bill would not be in order as an amendment. With the assent of the gentleman from Maryland the Chair will bring the bill of the gentleman from Pennsylvania before the House in connection with the bills of the gentleman from Maryland.

On motion of Mr. MCLANE, by unanimous consent, the Committee of the Whole on the Private Calendar was discharged from the further consideration of the following bills; which were thereupon ordered to be engrossed for a third reading, were accordingly read the third time, and passed:

A bill (H. R. No. 3274) to change the name of the steam-yacht E. R. Bryant, of Rochester, to Summerland;

A bill (H. R. No. 3275) to change the name of the sloop-yacht Mariah, of Rochester, New York, to that of Tourist;

A bill (H. R. No. 2528) to change the name of the steam-yacht Kate Sutton, of Buffalo, to that of Loraine, of Oak Orchard;

A bill (H. R. No. 5304) authorizing the changing the name of the sloop-yacht America; and

A bill (H. R. No. 5153) to change the name of the steamboat L. Boardman to River Belle.

Mr. MCLANE moved to reconsider the several votes by which the bills were respectively passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

On motion of Mr. O'NEILL, by unanimous consent, the Committee on Commerce was discharged from the further consideration of the bill (H. R. No. 3740) to change the name of the side-wheel steamboat Sarah K. Taggart to that of Bridgeport; which was thereupon ordered to be engrossed for a third reading, read the third time, and passed.

Mr. O'NEILL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ELIZABETH UPRIGHT.

Mr. DEERING. I move to discharge the Committee of the Whole House on the Private Calendar from the further consideration of a bill (H. R. No. 1107) granting a pension to Mrs. Elizabeth Upright, and put it on its passage.

The bill, which was read, authorizes and directs the Secretary of the Interior to place on the pension-rolls the name of Mrs. Elizabeth Upright, of Applington, in the State of Iowa, and to pay her a pension at the rate of $8 per month, during the remainder of her life, from the passage of this act.

Mr. DEERING. I move to strike out in the fifth line the word "Applington," and in lieu thereof to insert "Rockford;" and in the seventh line to strike out the words "during the remainder of her life." This extraordinary woman had eleven sons in the service of her country, and is now seventy-three years of age and in indigent circumstances.

Mr. WHITE. I move to insert the words, "subject to the provisions and limitations of the pension laws providing for pensions for the loss of children upon whom parents are dependent."

Mr. CALDWELL. Is this bill on the Private Calendar?

The SPEAKER. It is.

Mr. CALDWELL. I object; it should be considered in its regular order.

CENTENNIAL BATTLE OF KING'S MOUNTAIN.

Mr. EVINS. I move by unanimous consent to discharge the Committee of the Whole House on the state of the Union from the further consideration of the joint resolution (H. R. No. 294) appropriating $5,000 in aid of the centennial celebration of the battle of King's Mountain, for the purpose of putting it on its passsage at this time.

The joint resolution, which was read, appropriates the sum of $5,000 out of any money in the Treasury not otherwise appropriated, to aid the centennial commissioners in celebrating and properly designating, by the erection of a shaft, the battle of King's Mountain during the war of the Revolution; said sum to be expended under the direction of the Secretary of War.

Mr. EVINS. I move the following amendments:

In the fifth line after the word "the" insert "King's Mountain;" and after the word "centennial," same line, strike out "commissioners" and insert "association;" and in seventh line, after the word "Mountain," insert the word "fought."

The SPEAKER. The Chair hears no objection; and the amendments are agreed to.

Mr. WARNER. I do not think this is the sort of a bill which should pass, and I therefore object.

MERCHANTS' NATIONAL BANK, OF MANCHESTER.

On motion of Mr. CRAPO, by unanimous consent, the House Calendar was discharged from the further consideration of the bill (H. R. No. 3794) authorizing the City National Bank, of Manchester, New Hampshire, to change its name.

The bill, which was read, in the first section provides that the name of the City National Bank, located in Manchester, in the county of Hillsborough, and State of New Hampshire, shall be changed to the Merchants' National Bank of Manchester, whenever the board of directors of said bank shall accept the new name by resolution of the board, and cause a copy of said resolution, duly authenticated, to be filed with the Comptroller of the Currency, provided that such acceptance be made within six months after the passage of this act; and that all expense incident to such change, including engraving, shall be borne and paid by said bank.

The second section provides that all debts, demands, liabilities, rights, privileges, and powers of the City National Bank of Manchester, New Hampshire, shall devolve upon and inure to the Merchants' National Bank of Manchester, New Hampshire, whenever such change of name is effected.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

THOMAS LUCAS.

Mr. SAMFORD. I move by unanimous consent to discharge the Committee of the Whole House on the Private Calendar from the further consideration of a bill (S. No. 152) for the relief of Thomas Lucas and to put it on its passage. It has received the unanimous concurrence of the Committee on the District of Columbia. It does not take any money out of the Treasury of the United States, but simply provides that the District commissioners may be authorized to audit his accounts, and there can certainly be no objection to it.

There was no objection, and the Committee of the Whole House on the Private Calendar was discharged from the further consideration of the bill.

The bill, which was read, directs and empowers the commissioners of the District of Columbia, or their successors in office, to examine and audit for settlement the claim of Thomas Lucas, assignee of Peter Murray & Co., growing out of a contract, in writing, with the board of health of the District of Columbia, to abate certain nuisances in the city of Washington by lateral sewers running from the premises upon which the nuisances existed to certain main sewers in said city, said contract being dated June 2, 1874; and said commissioners, or their successors in office, as the case may be, are also directed to pay to Thomas Lucas the amount found due upon such audit out of any moneys belonging to the general fund of said District.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

PUBLIC LAND, VINCENNES, INDIANA.

On motion of Mr. SAPP, by unanimous consent, the Committee of the Whole House on the state of the Union was discharged from the further consideration of a bill (H. R. No. 3742) to authorize the Secretary of the Treasury to sell certain real estate belonging to the United States, and vesting the title to certain other lands in the city of Vincennes, in the State of Indiana, and for other purposes, reported from the Committee on the Public Lands with amendments.

The bill was read, as follows:

Whereas the United States heretofore, through the intervention of trustees, acquired title for debt to certain real estate situate in and near the city of Vincennes, in the county of Knox, and State of Indiana, described as follows: The southeast half of lot No. 1 and the whole of lot No. 8 in Harrison's addition to the borough, now city, of Vincennes, and also survey No. 5 in upper prairie surveys, in township 3 north, range 10 west, containing eighty-two acres and eighty one hundredths of an acre, known as the "Steam Mill Tract," and situate in Knox County, Indiana; and

Whereas the said eighty-two and eighty one hundredths acre tract of land consists of a strip of about thirteen rods in width commencing on the Wabash River, thence running in a southerly direction through said city of Vincennes and far beyond its limits; that said city has been built up on both sides of said land and its streets abut thereon, said city not having the legal right to lay out and improve her streets through the same; in consequence whereof that part of said city through which said land is located has been greatly hindered and obstructed in its growth; and

Whereas said city is in great need of a public park, and as the portion of said survey which lies between the northern line of the extension of Fourth street through said land and the Wabash River can be improved and made suitable for such public park: Therefore,

Be it enacted, &c., That the Secretary of the Treasury shall, as soon as practicable after the passage of this act, cause a survey to be made extending said Fourth street of said city of Vincennes through said survey or tract of land, and shall establish the boundaries thereof on said land. And he shall then cause a survey to be made of all that part of said survey or land which lies between the southern boundary of said Fourth street, established as aforesaid, and the southern boundary or limit of said city, except so much thereof as is now occupied by the Ohio and Mississippi Railway Company, the Evansville and Terre Haute, and the Indianapolis and Vincennes Railroad Companies, with their respective road-beds and tracks, and shall cause the same to be laid off into streets, alleys, blocks, and lots, so as to conform to the streets, alleys, blocks, and lots of said city as near as practicable; and shall cause a plat of said streets, alleys, blocks, and lots to be made, and cause a duly certified copy of the same to be filed in the office of the clerk of said city. And he shall cause that part of said survey or land lying south of the southern boundary or limits of said city to be laid off into five-acre lots as near as may be; and after giving reasonable notice of the time, place, and terms of sale in the public newspapers, one of which shall be published in said city, he shall, on the premises, offer each of said lots, including said five-acre lots and the southeast half of lot No. 1 and the whole of lot No. 8 in said Harrison's addition to said city, for sale separately at public auction, and shall sell the same to the highest and best bidder for cash; and he shall, on payment of the purchase-money, execute to the purchasers all needful conveyances for the same, and after deducting all the necessary expenses incurred in making said surveys and sales the remainder of the proceeds shall be covered into the Treasury.

SEC. 2. That the title to all that part of said survey No. 5 which lies between the northern boundary of said Fourth street and the Wabash River is hereby vested in the city of Vincennes for a public park, to be used for that purpose and none other.

The amendments of the Committee on the Public Lands were read, as follows:

Last line, page 1, strike out "thirteen" and insert "twenty-six."
Line 23, page 3, strike out "reasonable" and insert "three weeks."

The amendments were agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

E. J. GURLEY.

Mr. WHITE. I have read the report of the gentleman from Texas in reference to the case of E. J. Gurley, and I withdraw my objection to that bill.

The SPEAKER. The bill to which the gentleman refers and the report have been read. The question will now be on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

CENTENNIAL BATTLE OF KING'S MOUNTAIN.

Mr. EVINS. Mr. Speaker, I understand the gentleman from Ohio will withdraw his objection to the joint resolution (H. R. No. 294) making an appropriation to celebrate the centennial of the battle of King's Mountain.

Mr. WARNER. I shall not object if an amendment which I have suggested to the gentleman is agreed to, to strike out the words "aid the centennial commissioners in celebrating and appropriately designating" and insert the words "appropriately designate and mark." If that amendment is accepted I will withdraw the objection.

Mr. EVINS. I have no objection to that amendment.

Mr. WHITE. I shall be compelled to object to that bill.

PHILEMON B. HAWKINS.

Mr. DAVIS, of North Carolina. Mr. Speaker, I ask that the Committee of the Whole on the state of the Union be discharged from the further consideration of the bill (H. R. No. 375) for the relief of Philemon B. Hawkins, and that the same be put upon its passage.

The bill, which was read, authorizes the Treasurer of the United States to pay to Philemon B. Hawkins the sum of $7,190.63 for stone furnished for the court-house and post-office building in the city of Raleigh, North Carolina.

The SPEAKER. There being no objection, the question will be on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

ORDER OF BUSINESS.

Mr. McKENZIE. Mr. Speaker, I wish to suggest that this proceeding be continued to-day until every gentleman on this floor has had an opportunity of presenting at least one bill. There is no fairness, it seems to me, in this method of proceeding, and a great deal of time may be occupied in getting in a very limited number of bills. I hope there will be no objection to continuing this proceeding until every gentleman has had an opportunity.

The SPEAKER. Is there objection to the suggestion of the gentleman from Kentucky. [After a pause.] The Chair hears none.

Mr. McKENZIE. I desire, Mr. Speaker, to amend my proposition and suggest that the names of gentlemen on the floor be called in alphabetical order, alternating between A and Y, so as to give each gentleman a chance.

Mr. WRIGHT. I shall be compelled to object to that arrangement. My name would never be called.

Mr. McKENZIE. The gentleman is mistaken. My suggestion was that we proceed in alphabetical order, alternating between the first and last letters of the alphabet. That seems to me to be a perfectly fair arrangement and one that would reach the gentleman very soon.

Mr. WRIGHT. I should have no objection to that.

Mr. WHITE. I shall be compelled to object to that, Mr. Speaker.

The SPEAKER. The Chair understands that several members have objected to it.

Mr. McKENZIE. I think the gentleman from Pennsylvania will withdraw his objection if he will listen to me for a moment. My proposition is that in these recognitions the Speaker alternate between the letters A and W or A and Y. There certainly can be no objection to that.

Mr. WHITE. My objection is this, that we have a number of bills

here and a gentleman must designate among his bills one to which in this way he would give precedence. That would be embarrassing.

Mr. McKENZIE. Then I suggest that the Speaker adopt some fair and equitable method by which the matter can be reached.

The SPEAKER. The Chair is endeavoring to recognize gentlemen as equitably as he knows how. Time is being lost in this manner. If gentlemen will resume their seats they will be notified whenever their time comes to present bills.

REDMOND TULLY.

Mr. URNER. I move that the Committee of the Whole House be discharged from the further consideration of the bill (H. R. No. 2058) for the relief of Redmond Tully.

The SPEAKER. The bill will be read, after which the Chair will ask for objections.

The bill was read, as follows:

Be it enacted, &c., That the President be, and he is hereby, authorized to reinstate Redmond Tully, late first lieutenant of the Twelfth United States Infantry, as of the date he was previously mustered out, giving him the grade rank and promotion which he would have held had he remained continuously in the Army; and that he shall be assigned to the first vacancy occurring in such grade in the infantry arm of the service: *Provided, however*, That he shall receive no pay or allowance for the time he was out of service, other than that already received at the time of his muster-out.

The SPEAKER. There being no objection, the question will be on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

Mr. URNER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

JOHN P. HALL.

Mr. McKENZIE. I ask that the Committee of the Whole House be discharged from the further consideration of the bill (H. R. No. 6380) for the relief of the estate and sureties of John P. Hall, deceased, and that the same be put upon its passage.

I will state, Mr. Speaker, that this bill has received the unanimous indorsement of the Committee on Ways and Means, having been reported by my colleague from Kentucky [Mr. CARLISLE] who is entirely familiar with the facts in the case, and I would be glad if he would make a statement in reference to it.

The SPEAKER. The bill will be read, after which the Chair will ask for objection to its present consideration.

The bill was read, as follows:

Be it enacted, &c., That the proper accounting officers of the Treasury are hereby directed to credit the accounts of John P. Hall, deceased, late collector of internal revenue for the first collection district in the State of Kentucky, with the sum of $3,701.96, being the amount due the United States of America, as shown by the Treasury statements; and the estate and sureties of said Hall, deceased, are hereby released from liability on the bonds of said Hall as such collector, and from any judgment which may have been rendered on said bonds or either of them.

Mr. WHITE. I shall be compelled to object unless there are some special reasons given for its passage.

Mr. McKENZIE. I am sure the gentleman from Pennsylvania will withdraw his objection if he will permit my colleague from Kentucky to make a statement in reference to this matter.

Mr. WHITE. Is there a report accompanying this bill?

Mr. McKENZIE. There is a report, but it has not yet been sent from the Printing-Office. A report was made last Friday and sent to the office to be printed, but has not been returned. I hope my colleague will be permitted to make an explanation of the case.

Mr. CARLISLE. I will make as brief a statement as I possibly can of the facts of this case.

John P. Hall was appointed collector of the first collection district of Kentucky, and a short time after he received his appointment he had an attack of paralysis, which disqualified him entirely from the discharge of his official duties. He had in his office a deputy named Myers, and by order of the Treasury Department Myers was continued in charge of the office and had control of the business during the period of Hall's sickness, which was about one month. Then Hall died, leaving Myers still in charge of the office, and having control of all the papers and accounts in connection with it.

A very short time before Hall died an investigation of the office was made, from which it appeared that the accounts were all correct. A short time after his death three intelligent and reputable gentlemen were selected to make another investigation of the office, and it was ascertained that there was a deficit of some three thousand seven hundred and odd dollars, the amount specified in the bill. It appeared, therefore, very clear to the committee that this deficit had occurred during the administration of the affairs of the office by Myers, the deputy, and not during their administration by Hall himself.

As soon as this defalcation was discovered, Myers was arrested upon a criminal process, issued from the United States court of that district, and was admitted to bail in the sum of $3,000, which he forfeited. He made his escape from the State and has never yet been arrested, so far as the committee is informed. The amount of his bail-bond, $3,000, has been paid by the sureties upon that bond, as is shown by the records of the court certified by the clerk. So that the Government of the United States, if this bill shall pass, will simply lose the difference between the $3,000 paid by the sureties of Myers and the amount of defalcation, which was about $3,700.

There was nothing whatever before the committee to show that Hall himself, the collector, whose sureties these gentlemen had become, was in any manner whatever personally responsible for this defalcation. But as I have already said all the facts produced show conclusively, in the judgment of the committee, that it occurred in the administration of Myers, who had been continued in the office by order of the Department. These sureties are responsible, legally, for the whole amount of this money, but the committee thought under the circumstances the Government ought not to insist on their liability, and accordingly it recommended the passage of this bill.

Mr. WHITE. Upon the statement of the case presented by the gentleman from Kentucky [Mr. CARLISLE] the bill seems a very proper one. I withdraw my objection.

There being no further objection, the Committee of the Whole was discharged from the consideration of the bill; and it was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. McKENZIE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

HARRIETTA M. DAVIS.

Mr. FIELD. I ask unanimous consent to report from the Committee on Invalid Pensions for present consideration a Senate bill granting an increase of pension to the widow of Rear-Admiral Charles H. Davis.

The bill was read as follows:

A bill (S. No. 1175) granting an increase of pension to Harrietta M. Davis.

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed, subject to the provisions and limitations of the pension laws, to increase the pension of Harrietta M. Davis, widow of the late Rear-Admiral Charles H. Davis, from $30 to $50 a month, said increase to take effect from and after the passage of this act; and the Secretary of the Treasury is hereby directed to pay to the said Harrietta M. Davis the sum of money necessary to carry into effect the provisions of this act, out of any moneys in the Treasury of the United States not otherwise appropriated.

Mr. WARNER. Has that bill been before a committee of the House?

Mr. FIELD. It was referred to the House Committee on Invalid Pensions, and I have been instructed by the committee to report it this morning with a favorable recommendation.

There being no objection, the report was received and the bill was read a third time, and passed.

COTTON CORDAGE IN THE NAVAL SERVICE.

Mr. STEPHENS. I ask unanimous consent that the bill (S. No. 1281) authorizing the Secretary of the Navy to introduce cotton cordage into the naval service of the United States be taken from the House Calendar and put upon its passage.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Navy be authorized and directed to introduce into the naval service rope and cordage manufactured of cotton, according to the recent methods, to such an extent as will furnish a fair test of the value and efficiency thereof as compared with the kinds now in use: *Provided, however*, That no person shall have any claim whatever against the United States, or any Department thereof, or receive any compensation therefor.

There being no objection, the bill was taken from the House Calendar, read a third time, and passed.

Mr. STEPHENS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PETER CLAESGENS.

Mr. PRESCOTT. I ask unanimous consent that the Committee of the Whole be discharged from the further consideration of the bill (S. No. 1197) granting a pension to Peter Claesgens. The bill has passed the Senate, was referred to the House Committee on Invalid Pensions, and has been favorably reported by that committee.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Peter Claesgens, late captain of Company F of the One hundred and forty-sixth Regiment New York Infantry.

Mr. WHITE. Is there a report in this case?

The SPEAKER. There is. The Chair will cause it to be read.

Mr. WHITE. I do not ask for the reading of the report.

There being no objection, the Committee of the Whole was discharged from the further consideration of the bill, and it was read a third time, and passed.

AARON HATCHER.

Mr. BLAND. I ask unanimous consent that the bill (S. No. 1360) granting a pension to Aaron Hatcher be taken from the Private Calendar and put upon its passage.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Aaron Hatcher, late private Company F, Twenty-third Regiment Missouri Volunteer Infantry.

There being no objection, the Committee of the Whole was discharged from the further consideration of the bill, and it was read the third time, and passed.

JOHN H. FERRELL.

Mr. THOMAS. I ask unanimous consent that the Committee of the

Whole be discharged from the further consideration of the bill (H. R. No. 900) granting a pension to John H. Ferrell, and that it be put upon its passage.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of John H. Ferrell, late a pilot on the United States steamer Moose, in the Mississippi squadron, on the pension-roll, subject to the provisions and limitations of the pension laws.

There being no objection, the Committee of the Whole was discharged from the further consideration of the bill, and it was read the third time, and passed.

NIGHT INSPECTORS OF CUSTOMS.

Mr. COX. I ask unanimous consent to have taken from the Speaker's table at this time House bill No. 2508, to regulate the compensation of night inspectors of customs, returned from the Senate with an amendment.

The amendment of the Senate was read, as follows:

Strike out lines 1, 2, 3, and 4, and insert in lieu thereof the following:

"That hereafter the compensation to inspectors of customs employed under the existing law for services at night may be increased by the Secretary of the Treasury, at such ports as he may think it advisable so to do, to a sum not exceeding $3 for each night's service."

Mr. COX. I move the amendment of the Senate be concurred in.

The amendment was agreed to.

Mr. COX moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MORITZ SPEYERS.

Mr. ROBESON. I ask consent to put on its passage at this time the joint resolution I send to the Clerk's desk. It has the unanimous approval of the Committee on Foreign Affairs, and is a resolution to pay to the administrator of a man who is dead the award which was due to the man himself.

The joint resolution was read, as follows:

Whereas by the action of the American and Mexican joint commission, under the convention of July 4, 1868, for the settlement of claims between the two countries, an award of $23,000 was made to one Moritz Speyers as a naturalized citizen of the United States; and

Whereas the naturalization of said Moritz Speyers, and also the fact of his decease, appear to be abundantly established for the purpose of this case; and

Whereas on proof of his decease in the proper courts of New York, the State of his residence, letters of administration upon his estate have been duly issued to Albert Speyers, who has given bond for the due and proper execution of his duties as such administrator; and

Whereas on account of the absence and death of said Moritz Speyers the said award still remains unpaid: Therefore,

Be it resolved, &c., That the Secretary of State be, and he is hereby, directed to pay or cause to be paid to the said legal representatives of Moritz Speyers the amount of said award of said commission to him, with interest, as therein provided, out of any money due or owing to the Republic of Mexico from the United States, under the joint convention of July 4, 1868, for the settlement of claims between the two countries.

Mr. WHITE. Is there a report in favor of this joint resolution?

Mr. ROBESON. There is a unanimous report.

Mr. WHITE. From what committee?

Mr. ROBESON. From the Committee on Foreign Affairs.

There being no objection, the joint resolution (H. R. No. 323) was received, read three several times, and passed.

Mr. ROBESON moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NEW COLLECTION DISTRICT IN NORTH CAROLINA.

Mr. ARMFIELD. I move that the Committee of the Whole on the state of the Union be discharged from the further consideration of House bill No. 2470, to create a new collection district in North Carolina, and to make Fayetteville a port of entry. I will state that the Legislature of North Carolina has instructed her Senators and requested her Representatives to secure the passage of this bill. It has been unanimously reported from the Committee on Commerce, and I ask that it be passed as amended by that committee.

The bill as proposed to be amended was read, as follows:

Be it enacted, &c., That a collection district is hereby created to include so much of the present collection district of Wilmington, North Carolina, as is situated on the south and west side of the Cape Fear River.

SEC. 2. That Fayetteville, in said district, is hereby created a port of entry, subject to all the laws, rules, and regulations governing other ports of entry of the United States.

SEC. 3. That a collector shall be appointed for said port of entry who shall reside at Fayetteville, and keep his office there, and who shall receive such compensation as may be fixed by the Secretary of the Treasury, not to exceed $500 per annum.

SEC. 4. That the navigable waters of the Cape Fear River are hereby declared to be free and open to all the steamboats or other vessels duly registered or licensed under the laws of the United States which may ply between said port of Fayetteville and any other port of the United States, or any foreign port, or which may navigate said river for any purpose whatever.

SEC. 5. It shall not be lawful for any corporation or person to exact or to attempt to exact tolls or other charges from any such steamboat or other vessel, whether under color of any State charter or otherwise, and any person who shall violate the provisions of this section shall be guilty of a misdemeanor, and on conviction shall be fined not less than $500 for every such offense.

SEC. 6. That all laws and clauses of laws in conflict with this act are hereby repealed.

There being no objection, the Committee of the Whole on the state of the Union was discharged from the further consideration of the bill, and the same was brought before the House for consideration.

The amendments recommended by the Committee on Commerce were agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

Mr. ARMFIELD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

L. C. CANTWELL.

Mr. FORD. I ask unanimous consent that the Committee of the Whole on the Private Calendar be discharged from the further consideration of the bill (S. No. 307) for the relief of L. C. Cantwell. It was reported from the Committee on Claims of this House with a favorable recommendation.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and hereby is, directed to pay to L. C. Cantwell, postmaster at Richmond, Ray County, Missouri, out of any money in the Treasury not otherwise appropriated, the sum $327.46, being the amount of money-order and postage funds in his possession belonging to the United States, and totally destroyed by a cyclone on the 1st day of June, 1878, without any fault whatever of said Cantwell, and since fully paid by him to the United States.

There being no objection, the Committee of the Whole on the Private Calendar was discharged from the further consideration of the bill; and the same was ordered to a third reading, read the third time, and passed.

BENJAMIN BABB AND OTHERS.

Mr. MANNING. I ask that the Committee of the Whole on the Private Calendar be discharged from the further consideration of the bill (H. R. No. 6018) for the relief of Benjamin Babb and others.

The bill was read, as follows:

Be it enacted, &c., That the Commissioner of Internal Revenue be, and he is hereby, authorized and directed to re-examine and settle the following claims for tax on rope and bagging, alleged to have been illegally assessed and collected, upon the separate application of the parties hereinafter named, and the Secretary of the Treasury is hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the several amounts of taxes so found, by said Commissioner of Internal Revenue as aforesaid, to have been illegally and improperly assessed and collected, to said parties respectively: *Provided*, That the amount paid in any case shall not exceed the amount hereinafter named: To Benjamin Babb, $2,725.56; to Branson Bayliss, $2,558.25; to Thomas Leech, $1,333.02; to E. M. Apperson, $1,022.18; to Davis & Norton, $398.77; to James G. Simpson, $450.55; to Lacey & McGee, $940.09; to Tate, Gill & Able, $111.96; to George M. Gill, $2,226.88; to G. Falls & Co., $1,930.65; to G. Falls, $615.07; to E. Meyer, $1,490.38; to Pierce, Park & Co., $618.04; and to John B. Leach, $1,008.20.

Mr. WHITE. I object to that bill.

Mr. MANNING. I hope the gentleman will not object.

The SPEAKER. Objection being made, the bill is not before the House.

SAMUEL BURWELL.

Mr. HAYES. I ask consent that the Committee of the Whole on the Private Calendar be discharged from the further consideration of the bill (H. R. No. 3772) granting a pension to Samuel Burwell, and that the same be now passed.

The bill directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension law, the name of Samuel Burwell.

Mr. HAYES. That bill is favorably reported from the Committee on Invalid Pensions.

There being no objection, the Committee of the Whole was discharged from the further consideration of the bill, and the same was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

DUTY ON BARLEY MALT.

Mr. MORRISON. I ask unanimous consent that the Committee of the Whole on the state of the Union be discharged from the further consideration of the bill (H. R. No. 4585) fixing the rate of duty on barley malt at twenty-five cents per bushel, and that the bill be now passed. It has been unanimously reported from the Committee on Ways and Means.

Mr. HUBBELL. I object.

JOHN H. STANDISH.

Mr. STONE. I ask unanimous consent that the Committee of the Whole on the Private Calendar be discharged from the further consideration of the bill (H. R. No. 989) for the relief of John H. Standish, and that the bill be now passed.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, instructed and directed to pay, out of any money not otherwise appropriated, the sum of $225 to John H. Standish, late United States attorney for the western judicial district of Michigan, being compensation in full for services as attorney of the United States, rendered by him by order of the court, from the expiration of his term of office to the date of the qualification of his successor in office, to wit: from March 8, 1877, to April 21, 1877.

Mr. STONE. This bill was unanimously reported in the last Congress and also in this.

There being no objection, the bill was ordered to be engrossed for a third reading, was accordingly read the third time, and passed.

UNITED STATES COURTS IN INDIANA.

Mr. NEW. I ask unanimous consent that the Committee of the Whole on the state of the Union be discharged from the further consideration of the bill (H. R. No. 2384) amendatory of and supplementary

to "An act to provide for the holding of terms of the district and circuit courts of the United States at Fort Wayne, Indiana," approved June 18, 1878; and that the same be now taken up for consideration.

The bill was read, as follows:

Be it enacted, &c., That there shall be two terms each of the United States district and circuit courts for the district of Indiana, held in the city of Fort Wayne, Indiana, said terms to begin on the second Tuesday in June and December.

SEC. 2. The clerk of the district and circuit courts for the district of Indiana, and marshal and district attorney for said district, shall perform the duties appertaining to their offices respectively for said courts, and said clerk and marshal shall appoint deputies, who shall reside and keep their offices at Fort Wayne, Indiana. Said deputies shall keep in their offices such records as appertain to their offices, and said deputy clerk shall keep in his office full records of all actions, proceedings, and judgments in said courts.

SEC. 3. Said district and circuit courts at Fort Wayne shall have exclusive jurisdiction as to the counties of Steuben, La Grange, Elkhart, Saint Joseph, La Porte, Porter, Lake, Newton, Jasper, Pulaski, Stark, Marshall, Fulton, Kosciusko, Noble, Whitley, De Kalb, Allen, Adams, Wells, Huntington, Wabash, Miami, Cass, White, Blackford, Grant, and Jay; and said courts shall be limited in territorial jurisdiction to said counties: *Provided*, That if part of the defendants in any case or proceeding in said courts shall reside without said counties in said State, process issued from and returnable to said courts may be served on such persons by the marshal or any of his deputies.

The amendments reported by the Committee on the Judiciary were read, as follows:

In section 3, lines 3, 4, and 6, strike out "Saint Joseph," "La Porte," "Lake," "Newton," "Jasper," "Pulaski," and "White."

Add the following as a new section:

"SEC. 4. In all cases of removal of suits from courts of the State of Indiana, in the counties above named, to the courts of the United States in the State of Indiana, such removal shall be to the United States courts held at Fort Wayne, as aforesaid; and the time within which the removal shall be perfected, in so far as it refers to or is regulated by the terms of the United States courts, shall be deemed to refer to the terms of the United States courts held at said city of Fort Wayne."

Mr. BROWNE. Mr. Speaker, I was not in the House when this bill was taken up for consideration, and I do not know——

The SPEAKER. The gentleman has the right to object; but the Chair was advised by the gentleman from Indiana, [Mr. NEW,] who asked that the bill be taken up, that his colleague [Mr. BROWNE] desired to speak upon the bill.

Mr. BROWNE. I do not wish to interpose an objection and by that means prevent the present consideration of the bill.

The SPEAKER. The Chair so understood. The gentleman from Indiana [Mr. BROWNE] is recognized to speak upon the bill.

Mr. BROWNE. But I desire to present to the House very briefly some of the reasons why this bill should not become a law. Indiana at present constitutes a single judicial district.

Mr. TOWNSHEND, of Illinois. I do not wish to object to the consideration of this bill; but if time is to be consumed in debating this bill and others——

The SPEAKER. The gentleman makes his objection too late. The bill is now before the House for consideration.

Mr. TOWNSHEND, of Illinois. I do not wish to object, but merely admonish my friend from Indiana to be as brief as possible.

Mr. BROWNE. The admonition was entirely unnecessary. The gentleman from Illinois ought to know from my previous conduct in this House that I am always brief.

As I was attempting to say before I was interrupted, Indiana constitutes at present a single judicial district. It contains a population of about two millions and a quarter of people. By law it has been already provided that sessions of the United States district court shall be held at the cities of Evansville and New Albany, and at the capital of the State, Indianapolis. This bill proposes to give to the court at Fort Wayne exclusive jurisdiction in a territory embracing about twenty counties in the northeastern portion of the State. The court at Indianapolis or at Evansville or at New Albany has no such jurisdiction. Process from these courts runs into any of the counties of the State. I have no objection that the law shall continue as it is, putting the court at Fort Wayne upon a perfect equality with the other district courts of the State; but this is an attempt to compel business to go to the city of Fort Wayne which would never find its way there unless exclusive jurisdiction be given by act of Congress over particular counties in the State.

Mr. WILSON. Why not move to strike out "exclusive?"

Mr. BROWNE. There is no necessity for striking out "exclusive" in this bill, because the law as it now stands fixes a court at the city of Fort Wayne and allows process of that court to run into any county in the State. I do not object to the continuance of the law in that form; but Fort Wayne is located in the extreme northeastern part of the State, near the Ohio State line, and there is no reason why you should compel suitors to resort to that court when they do not desire to do so. Yet that is the object of this bill.

The court at Fort Wayne has been established for a year or more; and if you would consult the statistics of that court, (I have not them before me,) you would find probably that within the past year not ten suits have been instituted in that court. There is really no necessity for the court at that point.

There is another reason why this bill ought not to become a law. The evident purpose of this legislation is ultimately to establish a new district in the northern end of the State, requiring the appointment of an additional United States judge, an additional marshal, and an additional district attorney, with the other expenses attending the creation of a new court.

The district judge in Indiana receives a salary of but $3,500 a year, the smallest salary paid to any United States judge, considering the amount of business transacted in that district. If the exclusive jurisdiction contemplated by this bill be given as to about one quarter of the territory of the State, compelling litigants from that section to go to the court at Fort Wayne, it will add to the already extraordinary labor of the judge and compel him to hold court there for a very considerable part of the year, increasing his expenses without adding to his compensation. I think that we have already imposed a sufficient amount of business upon the district judge while we pay him a salary of but $3,500 a year.

These are some of the reasons why I think this bill ought not to become a law. It puts the court at Fort Wayne in a position which is not occupied by any other court in the State, either at Evansville, Indianapolis, or New Albany; for at neither of these three cities has the court exclusive jurisdiction over any part of the territory of the State. I can see no reason why this discrimination should be made in favor of the court located at Fort Wayne.

A MEMBER. Why not object to the bill?

Mr. BROWNE. I promised that I would not interpose an objection to the consideration of the bill.

Mr. NEW. Mr. Speaker, inasmuch as I cannot know what impression may have been made upon the House by the remarks of my colleague, I think it my duty to the merits of the bill under consideration, as also to the Committee on the Judiciary, from which it was reported favorably and unanimously, to answer briefly the objections which have been made against it. An act was passed at the second session of the last Congress which authorized the holding of sessions of the Federal courts at Fort Wayne, Indiana. This bill is amendatory and supplementary to that, as gentlemen have observed from its reading. The State of Indiana will be found upon the completion of the present census to contain nearly two and one-half millions of people. The twenty-one counties named in the bill, and which, if it becomes a law, will constitute the territorial jurisdiction, so to speak, of the Federal courts at Fort Wayne, contain probably one-quarter of the population and wealth of the State. These counties also, perhaps, furnish a like proportion of the litigation in the United States courts held in Indiana.

The county of Allen, of which Fort Wayne is the county seat, is the second county in the State in population, and Fort Wayne is a most flourishing city, numbering more than thirty thousand inhabitants. The twenty-one counties referred to are all nearer to Fort Wayne than Indianapolis, and all of them have direct railroad communication with the former city. The geographical situation and relation of these counties is such as to naturally and conveniently associate them with the city of Fort Wayne. No good reason has been or can be given why the people in these counties, litigants and witnesses, should be subjected to the additional inconvenience, annoyance, and expense of attending court at Indianapolis rather than at Fort Wayne.

It has been remarked that the State of Indiana constitutes but a district and that within it are three points besides Fort Wayne where the Federal courts are held and from which process may go to any and all parts of the State. This is true, and the fact needs only to be stated to show how onerously and unjustly the people may be affected by that fact. It is well known to all that throughout the Union Federal judicial districts are subdivided into what are known as divisions, certain counties constituting a division. It is proposed by this bill to constitute a division out of the counties which are named in it. And if the future action of Congress can be foretold from what has transpired in the past, all that will be necessary to create divisions for the other three points where United States courts are held will be for the people who are geographically and more conveniently associated with those points to ask for it. And here let me say, that if the State of Indiana should be divided into four such divisions the number would not exceed the average in States of like business and population.

My colleague has also complained and made it a point in his opposition to the bill that Judge Gresham receives a salary of only $3,500. Now, sir, let me say to the gentleman that of the fifty-three district judges only eleven of them receive more than that sum.

Mr. BROWNE. My colleague will allow me to ask him whether there is any other district in the United States containing so large a population as that of Indiana in which the judge receives a salary of only $3,500?

Mr. NEW. I will answer the gentleman's question. It is not so much a question of population as it is of actual labor performed. Judge Treat, of the eastern district of Missouri, receives only $3,500. His court is in session and hard worked about ten months out of twelve. He is one of the ablest judges in the country, and I doubt not does fully as much work and puts in as much time as Judge Gresham. The same is no doubt true of Judge Welker, of the northern district of Ohio, and a score of others who are paid no more.

In this connection I wish to say that Judge Gresham does his duty fully, and I bear willing testimony to his high character, personal and judicial. He is impartial, fearless, and intelligent in his decisions.

Mr. BROWNE. How many courts does Judge Treat attend?

Mr. NEW. I object to further interruption in the short time I have remaining. I wish to further say that there is no State in the Union which can be traversed in all directions and visited at all points with greater facility than the State of Indiana. I may also state that Fort Wayne is scarcely inferior to Indianapolis as a railroad center.

I doubt not, and, indeed, I hope that the time is not far distant when our Federal judges, especially the district judges, will be better paid; but it should be by a general law. The fact that the present salary is hardly sufficient is no argument against this bill, which is framed solely with a view to the convenient and economical transaction of the business of the Federal courts in the district of Indiana.

Mr. BROWNE. Just one word. [Cries of "Vote!"]

The SPEAKER. The gentleman has the floor under the agreement.

Mr. BROWNE. It is not expected, Mr. Speaker, that the House will in this bill increase the salary of the judge of the eastern district of Indiana; there is no proposition of that kind before the House; but what I protest against is that he shall be compelled to do this extraordinary amount of work when there is no demand for it. I asserted before, and repeat now, that this is a bill to compel reluctant suitors to go to the city of Fort Wayne. They have an opportunity to go there under the present law if they think proper to do so.

It is true, as has been stated by my colleague, that Fort Wayne is the third city in the State, that it is a very growing and active business city; but we ought to remember that the city of Evansville is the second city in the State and the court was organized there so it might assume maritime jurisdiction over the business of the Ohio River. It was there the first court was organized after Indianapolis, and while there is but little business there, it has not sought it—nobody has asked for it. There is no demand that it be given exclusive jurisdiction over any part of the territory of the State. This discrimination is not for the purpose of serving the end of justice or accommodating the people, but it is to accommodate the city of Fort Wayne.

Mr. NEW. Mr. Speaker, one word of response to what my colleague has just said. He seems to have not quite satisfied himself in his first remarks in opposition to the bill. He now says that the people have not asked for the exclusive territorial jurisdiction which the bill will give to the courts at Fort Wayne. I might answer in kind by saying that the people in other parts of the State have not remonstrated against it. But the fact is, as I am informed by my colleague [Mr. COLERICK] from the Fort Wayne district, that the bar and the people generally of the counties named in the bill are exceedingly anxious that it should be passed. I suspect that about the only serious opposition in Indiana to the bill will be found to be confined to a favored few who have in the past enjoyed a monopoly of the profits of the business of the Federal courts in that State.

The SPEAKER. There are several amendments reported to this bill from the committee, and if there be no objection the Chair will submit them so that a vote may be taken on them in gross.

The amendments reported from the Committee on the Judiciary were agreed to.

The question recurred on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question recurred on the passage of the bill.

The House divided; and there were—ayes 83, noes 23.

Mr. BROWNE. I make the point of order that no quorum has voted.

The SPEAKER. The point of order being made that no quorum has voted, the Chair will appoint tellers.

Mr. BROWNE and Mr. NEW were appointed.

The House again divided; and the tellers reported—ayes 94, noes 36.

So (no further count being demanded) the bill was passed.

Mr. NEW moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, announced that the Senate had passed, with amendments, a bill (H. R. No. 1846) relating to the public lands of the United States.

The message further announced that the Senate had passed, without amendment, the following House bills and joint resolutions:

A bill (H. R. No. 2359) for the relief of William D. Oyler;

A bill (H. R. No. 710) to refund to Jackson Grubb, or his legal representative, internal-revenue tax wrongfully collected;

A bill (H. R. No. 1305) abolishing the military reservation at Fort Abercrombie, Fort Seward, and Fort Ransom, all in the Territory of Dakota, and authorizing the Secretary of the Interior to have the lands embraced therein surveyed and made subject to homestead and pre-emption entry and sale the same as other public lands;

A bill (H. R. No. 776) refunding to the University of Notre Dame du Lac, of Saint Joseph County, in the State of Indiana, the sum of $2,334.07, that being the amount paid on certain imported articles;

A joint resolution (H. R. No. 153) authorizing the remission or refunding of duty on a stained-glass window from Munich, in Germany, for All Saints church, in Saint Michael's parish, in Talbot County, Maryland; and

A joint resolution (H. R. No. 255) for the relief of Robert L. Martin.

The message further announced that the Senate had agreed to the House concurrent resolution authorizing the Clerk to correct an error in the enrollment of the bill (H. R. No. 4911) to amend the statutes in relation to the immediate transportation of dutiable goods.

It also announced that the Senate had passed bills of the following titles; in which concurrence was requested:

A bill (S. No. 365) for the relief of Hardie H. Helper;

A bill (S. No. 500) for the relief of William L. Adams;

A bill (S. No. 163) to restore Assistant Paymaster Nicholas H. Stavey to the active from the retired list of the Army;

A bill (S. No. 1636) to authorize the Secretary of the Treasury to purchase a site and to enlarge the present Government building in the city of Detroit, Michigan, or for the purchase of a site and the erection of a Government building in said city; and

A bill (S. No. 1742) in relation to the Fort Sedgwick military reservation.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED.

Mr. KENNA, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 35) granting a pension to Herman Netterfield;

An act (S. No. 281) for the relief of Emma G. Nelson, executrix, and Aaron H. Nelson, executor, of the estate of W. F. Nelson, deceased;

An act (S. No. 452) for the relief of Priscilla Watson;

An act (S. No. 640) to amend sections 3385 and 3357 of the Revised Statutes of the United States;

An act (S. No. 849) to authorize the Saint Paul and Chicago Short Line Railway Company to construct a bridge across Lake Saint Croix, and to establish it as a post-road;

An act (S. No. 1117) to provide additional accommodations for the Library of Congress;

An act (S. No. 1162) confirming the title to block numbered 14, in Baker City, Oregon, to Baker County;

An act (S. No. 1224) to remove the political disabilities of C. Manigault Morris, of Georgia;

An act (S. No. 1247) to amend sections 2262 and 2301 of the Revised Statutes of the United States, in relation to the settler's affidavit in pre-emption and commuted homestead entries;

An act (S. No. 1254) for the relief of Henry Warren;

An act (S. No. 1363) granting a pension to Eli Cooprider;

An act (S. No. 1490) to complete the survey of the Gettysburgh battle-field, and to provide for the compilation and preservation of data showing the various positions and movements of troops at that battle, illustrated by diagrams;

An act (S. No. 1501) to restore pensions in certain cases;

An act (S. No. 1538) authorizing the closing of the accounts of the late Rear-Admiral A. H. Foote, United States Navy;

An act (S. No. 1570) providing for the transportation of the mails between East Saint Louis, in the State of Illinois, and Saint Louis, in the State of Missouri;

An act (S. No. 1608) for the relief of certain settlers within the late Fort Kearney military reservation in Nebraska;

An act (S. No. 1723) authorizing the Secretary of the Treasury to issue an American register to the bark Annie Johnson;

An act (S. No. 1749) to authorize the Roman Catholic bishops in California to sell certain church lands;

An act (S. No. 1754) for the relief of W. J. Morris;

An act (S. No. 1755) granting an increase of pension to Horace Boughton; and

Joint resolution (S. R. No. 107) to authorize the loaning of certain tents and artillery to the Union Veteran Corps, composed of ex-Union soldiers, for the purpose of a reunion to be held at Wichita, Kansas, in the month of October, 1880.

Mr. WARD, from the same committee, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 270) to reimburse Charles Dougherty for his expenses to the consulate of Londonderry;

An act (H. R. No. 2796) for the relief of George Eyster;

An act (H. R. No. 3783) to remove the charge of desertion from the military record of Jerry Foley; and

An act (H. R. No. 4849) to confirm certain entries and warrant locations in the former Palatka military reservation in Florida.

ELIZABETH UPRIGHT.

Mr. CALDWELL. I withdraw my objection to the bill called up by the gentleman from Iowa, [Mr. DEERING.]

The SPEAKER. The bill will be again read.

The Clerk read as follows:

A bill (H. R. No. 1107) granting a pension to Mrs. Elizabeth Upright.

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls the name of Mrs. Elizabeth Upright, of Applington, in the State of Iowa, and to pay her a pension at the rate of $8 per month, during the remainder of her life, from the passage of this act.

Mr. DEERING. I offer the following amendments:

In line 5, strike out "Applington" and insert "Rockford."

Strike out all after the word "pension," in line 6, and insert the following: "From the passage of this act at the rate per month now allowed to parents for the loss of children upon whom such parents were dependent."

The amendments were agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

BENJAMIN BABB AND OTHERS.

Mr. WHITE. I withdraw my objeection to the bill called up by the gentleman from Mississippi, [Mr. MANNING.]

There being no further objection, the Committee of the Whole was discharged from the further consideration of the bill (H. R. No. 6018) for the relief of Benjamin Babb and others.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

DUTY ON BARLEY MALT.

Mr. HUBBELL. I withdraw my objection to the bill called up by the gentleman from Illinois, [Mr. MORRISON,] fixing the rate of duty on barley malt.

The bill was read, as follows:

A bill (H. R. No. 4585) fixing the rate of duty on barley malt at twenty-five cents per bushel.

Be it enacted, &c., That from and after the passage of this act the duty on barley malt shall be twenty-five cents per bushel of thirty-four pounds weight, instead of the present duty of 20 per cent. *ad valorem*.

The SPEAKER. Is there any further objection to the present consideration of this bill?

Mr. ROBINSON. There is no objection on the understanding that the bill is not to be open to amendment.

The SPEAKER. That is the understanding.

There being no further objection, the Committee of the Whole on the state of the Union was discharged from the further consideration of the bill.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MORRISON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RICHARD P. TAYLOR.

Mr. CANNON, of Illinois. I ask unanimous consent that the Committee of the Whole be discharged from the further consideration of the bill (H. R. No. 799) granting a pension to Richard P. Taylor, and that the same be put upon its passage.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Richard P. Taylor, late a private of Company E, Thirty-fifth Illinois Volunteer Infantry.

There being no objection, the Committee of the Whole was discharged from the further consideration of the bill.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

HULDA L. BARNARD.

Mr. VAN VOORHIS. I ask unanimous consent that the bill (H. R. No. 192) granting a pension to Hulda L. Barnard be taken from the Private Calendar and put upon its passage.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Hulda L. Barnard, widow of Henry B. Barnard, late captain of Company K, Second New York Mounted Rifles, and pay her a pension from January 10, 1877, at the rate of $20 per month, that being the pension received by her husband, Captain Henry B. Barnard, in his life-time.

Mr. VAN VOORHIS. I offer the following amendment:

Strike out, in lines 9 and 10, the words "of twenty dollars a month, that being the pension."

The amendment was adopted.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

MASACH FINN.

Mr. CALDWELL. I ask unanimous consent that the Committee of the Whole be discharged from the further consideration of the bill (H. R. No. 2603) to place upon the pension-roll the name of Masach Finn, and that the same be put upon its passage.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place upon the pension-roll the name of Masach Finn, late corporal of Company F, Fifty-second Regiment of Kentucky Mounted Infantry Volunteers, on account of disabilities equivalent to the total loss of his eye-sight, received while in the service of the Government; subject to the restrictions of the pension laws: *Provided, however*, That he shall receive compensation from the date of his discharge, to wit, the 18th day of January, 1865.

Mr. CALDWELL. I offer the following amendment:

Strike out all after the word "Government," in the eighth line, and insert the following: "Subject to the provisions and limitations of the pension laws."

The amendment was adopted.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

WINNEBAGO INDIANS IN WISCONSIN.

Mr. HUMPHREY. I ask unanimous consent that the Senate bill No. 323 be taken from the Speaker's table and put upon its passage. It is a bill for the relief of the Winnebago Indians of Wisconsin, who have settled on homestead claims.

The Clerk read the title of the bill, as follows:

A bill (S. No. 323) for the relief of the Winnebago Indians in Wisconsin, and to aid them to obtain subsistence by agricultural pursuits, and to promote their civilization.

Mr. HUMPHREY. If it will save time I will say this bill, which after careful consideration was passed by the Senate, is quite long. It is to enable the Winnebago Indians to settle on homesteads, and the expense is to be paid out of the money which is due them for that purpose.

The SPEAKER. The bill must be read.

The Clerk proceeded to read the bill. Before he had concluded the reading,

Mr. SCALES said: This is a very long bill. It is one which ought to be considered carefully. I dislike exceedingly to object, but I think I must interpose an objection to its being passed in this way.

The SPEAKER. Does the gentleman from North Carolina [Mr. SCALES] propose that the bill shall go to the Committee on Indian Affairs?

Mr. HUMPHREY. Before that suggestion is acted upon I would like to be allowed one remark. The object of the bill is to enable the Winnebago Indians, now in Wisconsin, to have their share of the annuities belonging to them applied to the payment of homesteads and the improvement of their lands that they have settled upon in Wisconsin, and also to have a census taken. The Nebraska bands have had their share under the act of Congress providing for them, and this is to provide the band in Wisconsin their share also.

Mr. SCALES. Does this make any appropriation of Government money?

Mr. HUMPHREY. Not at all. The payments are to be made from the funds belonging to these Indians.

Mr. SCALES. I ask time to read the report, that I may see whether I will insist upon my objection or not.

NAVIGATION OF TWELVE-MILE BAYOU.

Mr. ELAM. I ask unanimous consent that the Committee of the Whole on the state of the Union be discharged from the further consideration of the bill (H. R. No. 1915) to improve the navigation of Twelve-mile Bayou and the lakes between Shreveport, Louisiana, and Jefferson, Texas, and for other purposes; and that it be put upon its passage, with an amendment reported by the Committee on Commerce.

The bill was read, as follows:

Be it enacted, &c., That for the purpose of improving the navigation of Twelve-mile Bayou and the lakes between Shreveport, Louisiana, and Jefferson, Texas, by preventing the wasting of water from Soda Lake into Cross Lake, and to relieve the said city of Shreveport from miasmatic influences arising from the stagnant water of the lake known as Cross Lake, the overflowed lands in the bed of said lake, situated in township 18, ranges 14, 15, and 16, and township 17, range 14, in the parish of Caddo, State of Louisiana, be, and the same are hereby, granted to John G. McWilliams, J. M. Hollingsworth, W. D. Wylie, J. M. Foster, L. L. Tomkies, jr., P. O'Marah, and R. N. McKellar, and their associates, their successors and assigns, upon conditions that said named persons, their successors and assigns, shall, within five years from and after the passage of this act, cause the water in said lake to be drained and the land in the bed of said lake reclaimed from overflow, by building of the necessary levees and the making of proper drainage.

SEC. 2. That whenever said persons shall have complied with the provisions of this act it shall be their duty to file in the office of the Secretary of the Interior a report, in writing, stating that the provisions of this act have been complied with; whereupon the Secretary of the Interior shall cause said work to be inspected by three competent engineers of the Army of the United States; and upon the report of such officers, showing that said persons have fully complied with the terms and provisions of this act, and have drained said lake and reclaimed said lands from overflow, the Secretary of the Interior shall execute and deliver to the said persons a patent for the land hereinbefore described; and the title to said land shall not vest in said persons until the execution and delivery of said patent.

SEC. 3. That if said persons shall fail to comply with the terms of the provisions of this act within five years after its passage, they shall forfeit all right to said land, or any part thereof; and it shall not be necessary in such case for a forfeiture to be declared by judicial process or legislative enactment.

SEC. 4. That nothing herein contained shall be so construed as to interfere with or impair any valid claim or claims to said land, or any part thereof, now held by any person or persons, State, or corporation.

SEC. 5. That the above-named persons shall, within twelve months from the date of the passage of this act, or as soon thereafter as practicable, incorporate themselves into a body politic and corporate, under the laws of the State of Louisiana, for the purpose of carrying out the provisions of this act relating to the drainage of said lake.

The amendments reported by the Committee on Commerce were read, as follows:

In the first line of the fifth section strike out the word "shall" and insert the word "may."

In the sixth line, after the word "lake," insert: "And the same rights shall be enjoyed by them in their corporate capacity as are conferred upon them individually by the terms of this act."

Mr. WHITE. Is there any report upon this bill from the committee?

Mr. REAGAN. There is a report from the Committee on Commerce. The bill grants certain overflowed lands for the purpose of aiding in the drainage of this lake. It does not appropriate a cent of money.

The amendments were agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ELAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PENITENTIARY FOR DAKOTA.

Mr. BENNETT. I ask unanimous consent that the Committee of the Whole be discharged from the further consideration of the bill (H. R. No. 3785) appropriating money for the erection of a penitentiary in the Territory of Dakota.

The bill was read, as follows:

Be it enacted, &c., That the sum of $30,000 be, and the same is hereby, appropriated for the purpose of erecting, under the direction and supervision of the Secretary of the Interior, a penitentiary building in said Territory of Dakota, upon such tract or parcel of land, at or near the village of Sioux Falls, in Minnehaha County, said Territory, as shall be designated by the Secretary of the Interior: *Provided*, That the money hereby appropriated shall be devoted and applied exclusively to the purchase of the necessary grounds and to the erection of a penitentiary in said Territory, and shall not exceed the sum hereby appropriated, including the sum expended for the purchase of grounds upon which to erect said penitentiary; and the penitentiary of the Territory of Dakota is hereby located at or near the village of Sioux Falls, Minnehaha County, said Territory, upon such tract or parcel of land as shall be selected and designated by the Secretary of the Interior as herein provided.

There being no objection, the Committee of the Whole was discharged from the further consideration of the bill; and the same was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

ORDER OF BUSINESS.

Mr. BELFORD. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BELFORD. I would like to know whether there is any possibility of the Speaker's eye getting as far west to-day as the Rocky Mountains? [Laughter.]

The SPEAKER. "The Speaker's eye," as the gentleman terms it, reached Dakota the last time. [Renewed laughter.]

Mr. SINGLETON, of Illinois. I ask unanimous consent to discharge the Committee of the Whole on the state of the Union from the further consideration of House bill No. 5074, and that it be considered and passed at this time.

The SPEAKER. The bill will be read.

The bill (H. R. No. 5074) to provide for the erection of a public post-office building in the city of Quincy, in the State of Illinois, and for other purposes, was read in full.

The SPEAKER. The Chair did not know that this was a bill for the erection of a public building. He would be perfectly willing to recognize the gentleman from Illinois [Mr. SINGLETON] to call up this bill, but the Chair feels compelled, under what he considers the instructions of the House, to recognize gentlemen who desire to call up bills for public buildings in the order in which those bills stand upon the Calendar.

Mr. HURD. Then I ask that the House now proceed to consider Senate bill No. 1320, for the construction of a public building for the use of the United States at Toledo, Ohio.

Mr. GOODE. Does the Chair decide that bills providing for the construction of public buildings shall have the preference?

The SPEAKER. Not at all. The Chair says that, under the instructions of the House as he regards them, the House having resolved to consider bills for public buildings in their order upon the Calendar, the Chair feels bound to recognize gentlemen to call up such bills in their order.

Mr. BELFORD. Is this Ohio bill the first on the Calendar?

The SPEAKER. It is the first practically, because the gentleman from New York [Mr. VAN VOORHIS] who is interested in the first bill on the Calendar does not press it against the Toledo bill.

Mr. VAN VOORHIS. I will not object to the Toledo bill, but I desire to reserve all my rights.

Mr. DUNN. I would inquire of the Chair if those gentlemen who desire to call up bills for the erection of public buildings shall now be recognized in preference to others, although they have been already recognized to-day upon bills not providing for public buildings?

The SPEAKER. The Chair does not remember that the gentleman from Ohio [Mr. HURD] has been recognized to-day to call up any other bill.

Mr. DUNN. I think others have been; the gentleman from New York, [Mr. VAN VOORHIS,] for instance.

The SPEAKER. The gentleman waives his right in regard to that public building.

Mr. DUNN. But reserves it.

The SPEAKER. He reserves all his rights hereafter.

Mr. BAYNE. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BAYNE. If the House is now about to enter upon the consideration of bills providing for the erection of public buildings, is it proposed that they shall be taken up to the exclusion of all other bills?

The SPEAKER. The Chair would not think that would be fair. If any gentleman objects to considering the bills providing for the erection of public buildings, all he has to do is to state that objection when any such bill is taken up.

Mr. SCALES. I desire to state that I withdraw my objection to the Winnebago bill.

The SPEAKER. There is another bill proposed for consideration now.

Mr. THOMPSON, of Kentucky. I give notice that I will object to all these public building bills.

The SPEAKER. Then the Chair will not recognize any gentleman who proposes to call up such a bill, because it will only be a waste of time.

Mr. HOOKER. Then I give notice that if gentlemen propose to object to bills in which they are not interested I will object to every other bill. I am willing that they shall be taken up in their order.

Mr. SPARKS. I have a little bill which I would like to have called up.

Mr. WHITE. I rise to a question of order.

The SPEAKER. The gentleman will state it.

Mr. WHITE. There is so much confusion that we cannot hear what is going on.

The SPEAKER. That is the fault of the members themselves.

Mr. HOOKER. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. HOOKER. The proposition was submitted this morning by the gentleman from Kentucky, [Mr. MCKENZIE,] that the House should proceed to-day to consider bills by unanimous consent; and that any member recognized by the Chair for that purpose should have the right to ask for the consideration of any bill. Now, if I choose to avail myself of that order of the House and to ask for the consideration of a bill providing for the erection of a public building, I have a right to do so, just as much as any other gentleman has the right to call up any other bill. We all assented to that proposition; and bill after bill has been passed under that order of the House. The gentleman from Kentucky [Mr. THOMPSON] now gives notice that he will object to every bill providing for the erection of a public building. I think that under the order of the House, made on motion of the gentleman from Kentucky, [Mr. MCKENZIE,] any member has a right to call up any bill, no matter what it is.

The SPEAKER. The Chair understood the gentleman from Kentucky [Mr. THOMPSON] to object to bills in regard to public buildings——

Mr. MCKENZIE. I understood the objection of my colleague to apply to such bills being considered out of their order on the Calendar.

The SPEAKER. The Chair has stated distinctly that he would not recognize gentlemen to call up such bills out of their order, because the Chair considers himself bound by a vote of the House, setting apart a special day for these bills to be considered in their order upon the Calendar, to recognize members who desire to call up such bills in the order in which those bills stand upon the Calendar.

Mr. MCKENZIE. I think that is what my colleague [Mr. THOMPSON] desires to insist upon, and but for that order of the House, I should have moved to take up the bill for a public building at Owensboro, Kentucky.

The SPEAKER. Now, if the gentleman from Kentucky [Mr. THOMPSON] makes his objection with the view of insisting upon the bills being taken up in their order on the Calendar, then the Chair states to the gentleman that this has all along been the intention of the Chair.

Mr. THOMPSON, of Kentucky. I said that my objection would be to the consideration of any of these bills for public buildings. I gave notice that I would object to each bill of this character which might be taken up.

Mr. HOOKER. Upon what principle does the gentleman from Kentucky object?

The SPEAKER. The gentleman from Kentucky objects. The gentleman from South Carolina [Mr. O'CONNOR] is recognized.

Mr. O'CONNOR. I ask unanimous consent that the Committee of the Whole on the State of the Union be discharged from the further consideration of the bill (H. R. No. 4663) to admit free of duty one of the bells of Saint Michael's chimes, Charleston, South Carolina, which has been sent to England to be recast; and that the bill be taken up and passed now.

The bill was read.

Mr. SINGLETON, of Illinois. I wish to know whether I understood the Chair correctly. I understood the Chair to say that in consequence of the notice given by the gentleman from Kentucky the Chair would not hereafter recognize any member desiring to bring up a bill for the erection of a public building?

The SPEAKER. The Chair stated that whenever he did recognize requests for the consideration of these bills for the erection of public buildings he would consider himself bound to recognize them in the order of the bills upon the Calendar. But the Chair understood the gentleman from Kentucky to maintain his objection absolutely to the consideration of these bills to-day.

Mr. MCLANE. The gentleman from Kentucky ought to be here to make his objection.

The SPEAKER. The Chair cannot take advantage of the momentary absence of the gentleman.

Mr. TUCKER. I insist that the gentleman cannot, by leaving his objection with the Chair, prevent the House from entertaining these requests for unanimous consent.

Mr. BOUCK. Well, I will act as his proxy.

The SPEAKER. The gentleman from Kentucky has not left the House, but merely gone to the cloak-room for a moment.

Mr. ACKLEN. I understood the purpose of the gentleman was to object to these bills in the order in which they came.

The SPEAKER. The gentleman from Kentucky having stated that

he would object to each of these bills the Chair cannot recognize any gentleman to bring up a bill of this class, for the reason that the order of business for to-day was that unobjectionable bills should be taken up, and the Chair thinks it due to members interested in bills upon other subjects that these bills which would surely be objected to and would needlessly take up time should not be interjected.

Mr. HOOKER. I rise to a point of order. It was the order of the House, on motion of the gentleman from Kentucky, [Mr. McKENZIE,] that any member should have the right to bring before the House, by unanimous consent, any bills; and there was no exclusion of bills relating to public buildings. That was the order of the House, unobjected to by the gentleman's colleague, [Mr. THOMPSON, of Kentucky.] Now my friend from Illinois gets up and asks to bring before the House a bill with reference to a public building——

The SPEAKER. The Chair declines to bring before the House bills for the erection of public buildings in any other way than according to their order on the Calendar.

Mr. HOOKER. The gentleman from Ohio [Mr. HURD] had the floor under that understanding. The gentleman from Illinois assented to that, but the gentleman from Kentucky [Mr. THOMPSON] now undertakes to object to carrying out the order of the House. I say this objection cannot now be entertained.

The SPEAKER. The right of objection was reserved to any and every member of the House.

Mr. HOOKER. But the objection must be made *seriatim* to each bill as offered.

Mr. THOMPSON, of Kentucky. I do not object to the order of the House being carried out; the gentleman from Mississippi misconstrues my position. I have simply given notice that I will object to each bill of this character as it is called up. Gentlemen may bring up these bills if they wish to do so.

The SPEAKER. In view of such a notice as the gentleman from Kentucky gives, ought the Chair to recognize these bills? [Cries of "No!" "No!"]

Mr. HOOKER. Then I shall object to every single measure presented.

The SPEAKER. The pending question is on the request of the gentleman from South Carolina [Mr. O'CONNOR] to take up the bill the title of which will be read.

The Clerk read as follows:

A bill (H. R. No. 4663) to admit free of duty one of the bells of St. Michael's chime, Charleston, South Carolina, which has been sent to England to be recast.

Mr. SINGLETON, of Illinois. I object.

POST-OFFICE APPROPRIATION BILL.

Mr. BLACKBURN. I rise to make a privileged report, a report from a committee of conference.

Mr. SINGLETON, of Illinois. I raise the question of order whether the gentleman from Kentucky, [Mr. BLACKBURN,] under the order of the House appropriating to-day to requests for unanimous consent, can come in with this report.

The SPEAKER. According to the Manual (with which the practice of the House agrees) the report of a committee of conference is a question of so high privilege that it can interrupt even a motion to adjourn. The Chair overrules the point of order raised by the gentleman from Illinois and recognizes the gentleman from Kentucky.

Mr. BLACKBURN. The committee of conference on the disagreeing votes of the two Houses upon the Post-Office appropriation bill have directed me to submit a report accompanied by the statement which the rules require.

Mr. SINGLETON, of Illinois. Mr. Speaker, can the question of consideration be raised on this report?

The SPEAKER. It can.

Mr. SINGLETON, of Illinois. Then I raise that question.

The question being taken, shall the report of the committee of conference be considered, it was decided in the affirmative.

The SPEAKER. The report will be read.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House No. 6036 making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1881, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate numbered 7, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 6.

That the House recede from its disagreement to the amendment numbered 3, and agree to the amendment substituting for the amount proposed the sum of $9,665,000; and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 8, and agree to the same with an amendment substituting for the amount proposed the sum of $3,883,420; and the Senate agree to the same.

J. C. S. BLACKBURN,
JAMES H. BLOUNT,
JOSEPH G. CANNON,
Conferees on the part of the House.

WM. A. WALLACE,
JAMES B. BECK,
NEWTON BOOTH,
Conferees on the part of the Senate.

The statement accompanying the report, under the rules, is as follows:

COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES,
Washington, D. C., June 8, 1880.

Statement in explanation of the report.

The effect of the report, if adopted, will be to allow the sum of $9,665,000 for inland mail transportation in lieu of the sum of $9,840,000, demanded by Senate amendment No. 3; to allow $25,000 more for mail messengers (amendment 6) than the sum granted by the House bill; to allow the retention of the House proviso to Senate amendment No. 7, calling for readvertisement for proposals for contracts for mail locks and keys; to fix the conditional deficiency amount (amendment 8) to correspond to the several amounts agreed upon.

The report was adopted.

FRANK W. HARNEY.

Mr. BLAKE. I move by unanimous consent to discharge the Committee of the Whole House on the Private Calendar from the further consideration of the bill (H. R. No. 2843) for the relief of Frank W. Harney, in order to put it upon its passage at this time.

Mr. HOOKER. I object.

QUARANTINE STATION, HAMPTON ROADS, VIRGINIA.

Mr. GOODE. I move to take up for consideration at the present time the joint resolution (H. R. No. 301) in relation to a quarantine station in Hampton Roads, Virginia.

The joint resolution was read.

Mr. GOODE. It does not take any money out of the Treasury.

Mr. SINGLETON, of Illinois. I object.

DAVID W. BELL.

Mr. BREWER. I move by unanimous consent to take up for action at this time the bill (H. R. No. 5832) for the relief of David W. Bell.

Mr. SINGLETON, of Illinois. I object.

Mr. ACKLEN. As the gentleman from Illinois has given notice that he will object to everything, I think we might as well adjourn.

The House divided; and there were ayes 91, noes not counted.

Mr. BERRY demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 100, nays 93, not voting 99; as follows:

YEAS—100.

Acklen,	Davis, Horace	Lapham,	Ryan, Thomas
Aiken,	Davis, Lowndes H.	Le Fevre,	Sapp,
Anderson,	Deering,	Loring,	Scales,
Armfield,	Dwight,	Lounsbery,	Shallenberger,
Baker,	Ferdon,	Martin, Joseph J.	Singleton, J. W.
Barber,	Field,	Mason,	Singleton, O. R.
Bayne,	Fisher,	McCook,	Smith, A. Herr
Beale,	Hammond, N. J.	McLane,	Steele,
Belford,	Harris, Benj. W.	Mitchell,	Stone,
Blount,	Harris, John T.	Monroe,	Thomas,
Bouck,	Haskell,	Myers,	Thompson, P. B.
Bowman,	Hawk,	Neal,	Tyler,
Boyd,	Hawley,	Norcross,	Updegraff, Thomas
Brewer,	Hayes,	O'Connor,	Urner,
Brigham,	Hazelton,	O'Neill,	Valentine,
Browne,	Hooker,	Overton,	Van Aernam,
Buckner,	Horr,	Persons,	Van Voorhis,
Cannon,	House,	Prescott,	Voorhis,
Carlisle,	Hubbell,	Price,	Wait,
Carpenter,	Humphrey,	Rice,	Ward,
Caswell,	Hurd,	Richardson, D. P.	Warner,
Clark, John B.	Joyce,	Richardson, J. S.	Wells,
Cobb,	Kelley,	Robeson,	White,
Cox,	Ketcham,	Robinson,	Williams, C. G.
Daggett,	Ladd,	Russell, W. A.	Willits.

NAYS—93.

Aldrich, William	Deuster,	Lewis,	Sparks,
Atherton,	Dibrell,	Lowe,	Speer,
Atkins,	Dickey,	Manning,	Springer,
Ballou,	Dunn,	Martin, Edward L.	Starin,
Beltzhoover,	Dunnell,	McKenzie,	Stevenson,
Berry,	Elam,	McMahon,	Talbott,
Blackburn,	Errett,	McMillin,	Taylor,
Blake,	Evins,	Mills,	Thompson, W. G.
Bliss,	Ford,	Money,	Tillman,
Briggs,	Gunter,	Morrison,	Townshend, R. W.
Bright,	Hall,	Muldrow,	Turner, Oscar
Cabell,	Harmer,	New,	Upson,
Caldwell,	Hatch,	Nicholls,	Vance,
Claflin,	Henderson,	Phelps,	Waddill,
Clardy,	Henry,	Poehler,	Wellborn,
Clark, Alvah A.	Herbert,	Reagan,	Whiteaker,
Clymer,	Hill,	Ryon, John W.	Whitthorne,
Coffroth,	Hunton,	Samford,	Willis,
Colerick,	Hutchins,	Sawyer,	Wilson,
Cook,	Johnston,	Shelley,	Wood, Fernando
Covert,	Kenna,	Sherwin,	Wright.
Cravens,	Kimmel,	Slemons,	
Culberson,	Kitchin,	Smith, Hezekiah B.	
Davis, Joseph J.	Klotz,	Smith, William E.	

NOT VOTING—99.

Aldrich, N. W.	Chittenden,	Farr,	Goode,
Bachman,	Conger,	Felton,	Hammond, John
Bailey,	Converse,	Finley,	Heilman,
Barlow,	Cowgill,	Forney,	Henkle,
Bicknell,	Crapo,	Forsythe,	Herndon,
Bingham,	Crowley,	Fort,	Hiscock,
Bland,	Davidson,	Frost,	Hostetler,
Bragg,	Davis, George R.	Frye,	Houk,
Burrows,	De La Matyr,	Garfield,	Hull,
Butterworth,	Dick,	Geddes,	James,
Calkins,	Einstein,	Gibson,	Jones,
Camp,	Ellis,	Gillette,	Jorgensen,
Chalmers,	Ewing,	Godshalk,	Keifer,

Killinger,	Morton,	Pierce	Turner, Thomas
King,	Muller,	Pound,	Updegraff, J. T.
Knott,	Murch,	Reed,	Washburn,
Lindsey,	Newberry,	Richmond,	Weaver,
Marsh,	O'Brien,	Robertson,	Wilber,
Martin, Benj. F.	O'Reilly,	Ross,	Williams, Thomas
McCoid,	Orth,	Rothwell,	Wise,
McGowan,	Osmer,	Russell, Daniel L.	Wood, Walter A.
McKinley,	Pacheco,	Simonton,	Yocum,
Miles,	Page,	Stephens,	Young, Casey
Miller,	Philips,	Townsend, Amos	Young, Thomas L.
Morse,	Phister,	Tucker,	

So the motion was agreed to.

On motion of Mr. LAPHAM the reading of the names was dispensed with.

The following pairs were announced from the Clerk's desk:

Mr. WAIT with Mr. FORNEY, on all political matters, the latter gentleman being detained from the House by sickness.

Mr. FINLEY with Mr. MILLER.

Mr. FROST with Mr. BAYNE.

Mr. LE FEVRE with Mr. MARSH, on political questions.

Mr. COWGILL with Mr. BRAGG.

Mr. COX with Mr. MORTON.

Mr. TAYLOR with Mr. HOUK, on political questions.

Mr. KING with Mr. RICE.

Mr. NEWBERRY with Mr. ELLIS.

Mr. THOMAS TURNER with Mr. MCGOWAN.

Mr. GARFIELD with Mr. TUCKER.

Mr. MCKINLEY with Mr. HURD.

Mr. CALKINS with Mr. PHISTER.

Mr. KNOTT with Mr. FRYE.

Mr. ORTH with Mr. MYERS, on political questions.

Mr. SAPP with Mr. GEDDES.

Mr. WALTER A. WOOD with Mr. MULLER.

Mr. EINSTEIN with Mr. ARMFIELD.

Mr. JAMES with Mr. O'BRIEN.

Mr. JOHNSTON with Mr. CROWLEY.

Mr. GUNTER with Mr. BURROWS.

Mr. STARIN with Mr. RICHMOND.

Mr. COVERT with Mr. YOUNG, of Ohio.

Mr. WILBER with Mr. BACHMAN.

Mr. FELTON with Mr. KILLINGER.

Mr. BAILEY with Mr. YOUNG, of Tennessee.

Mr. EWING with Mr. HEILMAN.

Mr. CONGER with Mr. WILLIS.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted in the following cases:

To Mr. CLAFLIN, for the remainder of the session, on account of important business; and

To Mr. PRESCOTT, indefinitely, on account of sickness in his family.

The vote was then announced as above recorded.

And accordingly (at two o'clock and thirty-two minutes p. m.) the House adjourned.

PETITIONS.

The following petitions were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. BELTZHOOVER: The petition of citizens of Washington and Allegheny Counties, Pennsylvania, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. CARPENTER: The petition of 23 disabled soldiers of Algona, Iowa, for the passage of the Geddes court of pensions bill and against the passage of the Withers bill—to the Committee on Invalid Pensions.

Also, the petitions of Anna M. Simonds, Mary G. Townsend, Elizabeth Cowgill, and Lydia P. Cowgill, for the removal of their political disabilities—to the Committee on the Judiciary.

By Mr. STEVENSON: The petition of citizens of Bloomington, Illinois, for the passage of the interstate-commerce bill—to the Committee on Commerce.

By Mr. WEAVER: The petition of George Hay and 11 others, of Etna, Minnesota; of Henry Graham and 75 others, of Vandalia, Iowa; of William Carson and 189 others, of Butler County, Pennsylvania; and of E. Phillips and 384 others, of the twenty-fourth congressional district of Pennsylvania, for the passage of the Weaver soldier bill—to the Committee on Military Affairs.

IN SENATE.

WEDNESDAY, *June* 9, 1880.

The Senate met at eleven o'clock a. m. Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

Mr. MCPHERSON presented two petitions of citizens of New Jersey, praying for the passage of a law granting land titles to Indians in severalty on their reservations; which were referred to the Committee on Indian Affairs.

Mr. CAMERON, of Wisconsin, presented additional papers to accompany the bill (S. No. 687) for the relief of C. Bohn; which were referred to the Committee on Claims.

FINAL ADJOURNMENT.

Mr. DAVIS, of West Virginia. I wish to make a report from the Committee on Appropriations, and I should be glad to have the attention of the Senate a moment, as I shall ask for the immediate consideration of the report I am about to make. The Committee on Appropriations have considered the concurrent resolution passed by the House which named to-morrow at twelve o'clock as the time for the final adjournment. The committee direct me to report the concurrent resolution back with an amendment substituting Wednesday, June 16, for Thursday, June 10. If there is no objection, as the time fixed by the House expires to-morrow, and the House ought to have some notice of our intention before its expiration, I ask for the immediate consideration of the resolution.

By unanimous consent, the Senate proceeded to consider the following concurrent resolution, passed by the House of Representatives on the 3d instant:

Resolved by the House of Representatives, (the Senate concurring,) That the President of the Senate and the Speaker of the House of Representatives declare their respective Houses adjourned *sine die* at twelve o'clock m., Thursday, the 10th of June instant.

The amendment reported from the Committee on Appropriations was, to strike out "Thursday" and insert "Wednesday," and to strike out "10th" and insert "16th;" so as to make the resolution read:

Resolved by the House of Representatives, (the Senate concurring,) That the President of the Senate and the Speaker of the House of Representatives declare their respective Houses adjourned *sine die* at twelve o'clock m., Wednesday, the 16th of June instant.

The amendment was agreed to.

The resolution, as amended, was concurred in.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. DAVIS, of West Virginia. In the nature of a report from a committee, it being the report of a conference committee, I wish to call the attention of the Senate to the consideration of the conference report on the legislative, executive, and judicial appropriation bill, and to ask the Senate to reconsider its action of yesterday, so that the conference report as it came from the committee may be adopted, instead of the ruling of the Chair as to the adoption of the report in part yesterday.

The legislative bill has been in two or three conferences, as it is known, and the only question left open is the salaries of the employés of the Senate, and one or two of the House salaries about which there is no question. In order that the bill might be enrolled, with the exception of that part in dispute, the conferees made a report to the Senate asking the Senate to agree on all the amendments except those with reference to the employés.

It was supposed yesterday that a conference report had to be taken as a whole, and that a part of a bill could not be agreed on and a part still left in conference. I find by consultation with the Chair and others that there are precedents, and a number of them, for the report made by the committee yesterday, and I think the Chair is now convinced that it can be done, and that it is proper to be done. No harm can come from it, and good may result from it. I therefore ask the Senate to reconsider its action of yesterday, and let us adopt the report as far as it goes so that no question will be left open in the bill except the matter of the salaries of the employés. I make this request believing, after consultation with members of the House, that possibly if that is the only question left open the House itself will recede from its disagreement in regard to the salaries of the Senate employés. I move that the action of the Senate of yesterday be reconsidered.

The PRESIDENT *pro tempore*. The Chair will state to the Senator from West Virginia that in looking at the Journal the Chair finds that it is not necessary to move to reconsider the action of the Senate yesterday. The Senator can move to proceed to the further consideration of the conference report, and then can move concurrence in the report so far as the managers have agreed. It is not necessary to move a reconsideration.

Mr. DAVIS, of West Virginia. I of course have no objection to make the motion in any way the Chair may think most parliamentary.

The PRESIDENT *pro tempore*. The Senator from West Virginia moves that the Senate proceed to the further consideration of the conference report on the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes.

Mr. MCPHERSON. I wish to make an inquiry, if the Senator from West Virginia will yield to me a moment. I inquire whether it would be proper now to propose an amendment to the bill?

Mr. DAVIS, of West Virginia. Oh, no; the bill has been in conference and passed two or three stages, and everything is agreed upon except the compensation of the employés. Both Houses have passed the bill, and of course it is beyond the reach of the Senate or the House to put in new matter now.

Mr. MCPHERSON. I wish to amend the bill by providing for the pay of the clerk to the Committee on Naval Affairs of the Senate,

but I will withhold the amendment and ask to have it put on the sundry civil appropriation bill.

The PRESIDENT *pro tempore*. The Chair wishes to ascertain the fact whether a message announcing the proceedings on the subject yesterday has been sent to the House?

Mr. DAVIS, of West Virginia. No, sir; it has not been communicated to the House, or I should not have moved a reconsideration of the action of the Senate.

The PRESIDENT *pro tempore*. The Senator from West Virginia moves that the Senate proceed to the further consideration of the conference report.

The motion was agreed to.

The PRESIDENT *pro tempore*. The conference report is before the Senate.

Mr. FERRY. What is the proposition of the chairman of the Committee on Appropriations?

Mr. DAVIS, of West Virginia. The conferees of the House and the Senate have agreed on this partial report; that is, they have agreed to a disposition of everything in the bill except the amendments with reference to compensation of the employés. Now, the committee of conference on the part of the Senate ask that the Senate agree to the report of the committee in whole.

Mr. FERRY. In full?

Mr. DAVIS, of West Virginia. In full.

Mr. FERRY. That is satisfactory.

The PRESIDENT *pro tempore*. The Chair will state that yesterday when the question was raised it was a novel point, and on consultation with Senators who are the most experienced and who had presided here longest he found that they were unanimously of the opinion that a report could not be received in part, and that was the opinion of the Chair; but upon looking into the precedents it is thought that that is admissible according to the precedents. The Chair holds in his hand a case which arose in the Twenty-ninth Congress, in which—

> Mr. Fairfield, from the committee of conference on the part of the Senate on the disagreeing votes of the two Houses on the bill (H. R. No. 51) making appropriations for the naval service for the year ending the 30th June, 1847, reported:
>
> "That they have met the conferees on the part of the House of Representatives, and, after free and full conference upon the subject of the said disagreeing votes, the conferees have agreed to recommend, and do recommend to their respective Houses, that the House recede from their disagreement to the first amendment of the Senate, and agree to said amendment, amended by striking out all thereof after 'employed,' in line 6; that the House recede from their amendment to the third amendment of the Senate, and agree thereto; that the House recede from its amendment to the tenth amendment of the Senate, and agree thereto; and the conferees have not been able to agree upon the eighth and ninth amendments of the Senate to the said bill, disagreed to by the House of Representatives.
>
> "And the conferees on the part of the Senate recommend that the Senate insist on said amendments."
>
> The Senate proceeded to consider the said report; and
>
> "*Resolved*, That the Senate concur in the said report, with the exception of the eighth amendment; that they *recede* from their said eighth amendment; and that they insist on their ninth amendment to the said bill."

In the House the recommendation of the managers was concurred in so far as they had agreed, and then the House receded from its disagreement to the ninth amendment which the Senate had insisted upon. It is laid down also, the Chair finds, in Cushing's Manual that this may be done. Therefore the question is, Will the Senate concur in the report of the managers of the two Houses except in those particulars as to which they have not agreed?

Mr. FERRY. I understand the chairman of the committee to ask for concurrence in the report of the conference committee, which is that they insist upon their amendments and ask for a further committee of conference.

Mr. DAVIS, of West Virginia. I will state to the Senator that the report is that the two Houses concur on all the amendments except those relating to the salaries of the officers, and the motion is to adopt the report in full of the conference committee. It is not to divide that report.

Mr. FERRY. What is the report?

Mr. DAVIS, of West Virginia. The report is just what I have stated, to concur in the settlement of all the points of disagreement between the two Houses except that relating to the employés, and that is still an open question between the two Houses. The particular reason, I will state to the Senate, for asking concurrence is that this is, as we all know, a very long bill, and that part of the bill to which we have agreed can be enrolled, which is four-fifths of the whole bill.

Mr. FERRY. And on the remaining items the committee on the part of the Senate insist?

Mr. DAVIS, of West Virginia. Yes; and the Senate so voted yesterday.

Mr. BECK. I wish to ask a question of the Senator from West Virginia. Is the effect of this agreement to enable all that has been agreed to to become the law if we fail to make further agreement?

Mr. DAVIS, of West Virginia. I am inclined to answer that question in the negative. I think the bill would still be before the two Houses, and if it fell finally the whole bill would fall; but the agreement of the conference committee will enable a part of the bill to be enrolled, and we can make that much progress.

Mr. BECK. I understand the only difference is with regard to the general management of its own affairs by the Senate, which the House denies it the right to do. If the effect is to pass this bill by agreeing and leave that undone so that all the affairs of the Senate and its employés shall go unprovided for and unpaid during the next year, then I do not want to agree to this report. If, however, it is only to show how far the conferees have progressed and leave this for further conference, so that if it is not settled the whole bill shall fail, then I will agree to it, because I would rather the whole bill should fail, and stay here until we do agree, than to have the power of the Senate to fix and control the number of its employés ignored and left out.

Mr. ALLISON. I think it is of very doubtful propriety to adopt the suggestion of the Senator from West Virginia. I do not think there are many precedents for this action. It is plain to my mind that the precedent cited by the presiding officer was in pursuance of an understanding had in advance with reference to the bill then under consideration. The conferees in that case, as I have heard it read by the Chair, agreed to certain amendments, and then the Senate receded from one amendment and insisted upon another; and when the bill went back to the House the House receded, so that the two Houses came together at once.

Now, here is a substantial difference between the two Houses. It is not a new difference. It is a difference that has been the subject of controversy for the last eight or ten years. I remember very well in 1876 this difference and other differences of a like character kept the two Houses here for more than a month, and the differences were finally compromised then by a substantial agreement that the two Houses should respectively have the control of their employés.

The House has insisted again and again upon regulating the number and the compensation of the employés of the Senate. It seems to me that it is a wise thing to hold in our hands the whole of this report, and if this bill is to fall because the House insist upon controlling our employés, let it fall, but let us not run even the risk of having the bill become a law with the House controlling and directing our employés. It is not difficult for the conferees on the part of the Senate to lay aside informally all the questions that have been agreed to and wait until they come to a substantial agreement upon the real question in controversy here, the question of difference between the House and the Senate.

Mr. SAULSBURY. Will the Senator allow me to ask him a question? The Senator from West Virginia, as I understood him, put a construction upon the action now proposed that it would not make the part of the bill a law which was agreed to between the two Houses.

Mr. DAVIS, of West Virginia. That is true.

Mr. ALLISON. That is very well, but we make an informal agreement here which covers all the amendments except those amendments with reference to the employés. It is said it is a matter of convenience to have this bill enrolled——

Mr. DAVIS, of West Virginia. Not of convenience, but of actual necessity.

Mr. SAULSBURY. I want to say to the Senator from Iowa that I differ in my construction with the Senator from West Virginia. If the two Houses now agree upon certain provisions of this bill, it is the agreement of the legislative will so far, and in my opinion the effect of that would be to make it a law so far as the two Houses of Congress can make it a law. The simple fact that there is a part of the bill upon which there has not been an agreement of the legislative will does not necessarily defeat that upon which they have agreed. I differ in my construction with the Senator from West Virginia. If the two Houses agree upon one single provision of the bill by their act, it seems to me it becomes *pro tanto* a law, because there has been an agreement of the legislative will of the two Houses.

Mr. McDONALD. If a vote in favor of the report of the conference committee should have the effect of passing any part of this bill, I should undoubtedly be opposed to it; but I do not understand that to be its effect at all. Its effect, on the contrary, is simply that the Senate adheres to its amendments to the House bill. That is all the effect of sustaining this report, because that is all in fact that the report is.

In stating that point, however, the conferees have seen proper to state to us what particular points of disagreement still remain, and that is all. They say as to all other items except these the representatives of the two Houses in conference have agreed, but as to these there is a disagreement, and they recommend that the Senate insist upon its amendments. That is the recommendation of the report of the conferees. Therefore to adopt that report is simply to adhere to the amendments that we have made, and it cannot possibly have the effect of passing any part of the bill.

Mr. FERRY. I can see no possible object to be gained except to arrive at the sentiment of the Senate in order to fortify the action of the conferees on the part of the Senate. It seems to me if the policy is established now (and I think it is a very faulty one and a very dangerous one) that we should adopt a portion of a conference report and leave the remainder of it undetermined, that simply narrows down the debatable ground and does away with the duty of a conference committee. It puts the power of the Senate in the hands of the House, because then the duty of the conferees on the part of the Senate is simply to agree to what the conferees on the part of the House may agree to, and leave the difficult subject or the debatable ground undetermined.

I think the only safe ground is to leave the whole bill open. The chairman of the Committee on Appropriations has reported to the Senate the action of the conference and given its views by stating that on all points save one class of cases the committee of conference

have agreed. Having thus enlightened the Senate, the Senate have indirectly declared that they insist upon the amendments on the part of the Senate. So far the conferees on the part of the Senate have been indirectly instructed by the Senate. Now, they go with the whole bill to the House, and say that on that bill the Senate insists upon its amendments, whether it be one or the whole of the amendments, leaving the whole ground open.

I repeat, if we concur in a portion of this report and leave but one single class of cases we shall not reach an understanding between the Senate and the House. I believe the only true course is for the Senate to retain its right and insist upon its amendments generally, and let the conference committee do the work that is confided to it on the part of the Senate.

Mr. CAMERON, of Wisconsin. But the Senate conferees have agreed on all the other matters.

Mr. FERRY. If we surrender to the House so far as the conferees have agreed we give to the House the benefit of that agreement and they may disagree to this class of amendments, and then we fail to reach a result.

Mr. CAMERON, of Wisconsin. The whole bill fails unless they agree.

Mr. DAVIS, of West Virginia. Allow me one moment. We ask the Senate to agree to the report of the committee of conference as a whole and not as a part. Some Senator has expressed the opinion that possibly this portion of the bill will become a law and not the other. Is it possible that a bill in conference can become a law when it is not announced from the Chair as enrolled and sent to the President for his signature? How can a bill be passed here unless the enrolled bill is announced by the Chair? That settles that question at once. If it does not pass, no portion of it passes. The conferees of the two Houses have agreed to a portion of the bill, and we want to get that out of the question and then take up the one question in dispute and settle that.

Mr. FERRY. Why does not the Senator, as chairman of the committee of conference, ask the Senate to insist upon its amendments and call for a further committee of conference simply?

Mr. DAVIS, of West Virginia. I have stated, but perhaps the Senator has overlooked the fact, that the committee of conference desire to get out of the way everything but this one question, and make the issue upon that, with the belief expressed, I might say, by some members of the House, but it is hardly necessary to refer to that that if all other things are out of the way the House will itself at once concur with us in these amendments.

Mr. FERRY. As I understand the Senator, they have already agreed to all but this class of amendments, and it lies in the hands of the committee of conference.

Mr. DAVIS, of West Virginia. Not the House, but the conference.

Mr. FERRY. I say the conference. Then, why do the conferees on the part of the Senate wish to take away from themselves the pressure of that agreement in order to have this effect upon the House in bringing them to an agreement upon the disagreeing votes?

Mr. DAVIS, of West Virginia. I can see no harm that will result from this course. I am told it is almost usual. I ask the Chair whether there have not been precedents in the last few years for this very kind of a report. My impression is that there have been, and I ask the Chair, as he has looked into the question, whether there have been or not?

The PRESIDENT *pro tempore*. The Clerks have handed to the Chair another decision made on a legislative, executive, and judicial appropriation bill, a bill of the same nature as that which is before us now. On the 3d of March, 1877—

Mr. WINDOM, from the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 4472) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1878, and for other purposes, submitted the following report.

The report then goes on to recommend that the Senate recede from a number of amendments, thirty or forty, and that the House recede from its disagreement to a great many more, fifty or sixty, I do not know but a hundred, and that the House recede from its disagreement to certain others with amendments, and goes on recommending agreement I should suppose in two hundred particulars at the least. The report then ends with—

That upon the amendments numbered 76 and 77 they are unable to agree.

They reported an agreement upon everything but the two amendments numbered 76 and 77. Then—

The Senate proceeded to consider the report; and,
On motion by Mr. WINDOM,
Resolved, That the Senate agree thereto, and that it further insist upon its amendments numbered 76 and 77, and ask a further conference on the disagreeing votes of the two Houses thereon.

Mr. DAVIS, of West Virginia. To settle the matter and bring the question right before the Senate I offer the following resolution, and that will settle it at once:

Resolved, That the Senate agree to the report, and that it further insist upon its amendments numbered 1 to 67, both inclusive, and ask a further conference on the disagreeing votes of the two Houses thereon.

The PRESIDENT *pro tempore*. Is the Senate ready for the question? The question is on agreeing to the resolution.

The resolution was agreed to.

Mr. DAVIS, of West Virginia. I ask that the Chair appoint the conferees, and I take it that the same conferees which were on the last conference will be appointed.

The PRESIDENT *pro tempore*. If there is no objection the Chair will make the appointment. Does the Senator suggest the same conferees?

Mr. DAVIS, of West Virginia. I suggest the same conferees as before.

The PRESIDENT *pro tempore*. The Chair will appoint the same managers who have already acted, being the Senator from West Virginia, [Mr. DAVIS,] the Senator from Pennsylvania, [Mr. WALLACE,] and the Senator from Minnesota, [Mr. WINDOM.]

POST-OFFICE APPROPRIATION BILL.

Mr. WALLACE. I move that the Senate now proceed to the consideration of the conference report on the Post-Office appropriation bill, which was made yesterday.

The motion was agreed to.

The PRESIDENT *pro tempore*. The report will be read.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 6036) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1881, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate numbered 7, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 6.

That the House recede from its disagreement to the amendment numbered 3, and agree to the same, with an amendment substituting for the amount proposed the sum of $9,665,000; and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 8, and agree to the same, with an amendment substituting for the amount proposed the sum of $3,883,420; and the Senate agree to the same.

WM. A. WALLACE,
JAS. B. BECK,
NEWTON BOOTH,
Conferees on the part of the Senate.

JO. C. S. BLACKBURN,
JAMES H. BLOUNT,
J. G. CANNON,
Conferees on the part of the House.

The PRESIDENT *pro tempore*. The question is, Will the Senate concur in the report?

Mr. EATON. I hope that the Senate will not concur in the report of the conference committee in regard to one item. The amount of $25,000 was appropriated by the House for the purchase of mail-locks. Manifestly under the law it had become the duty of the Postmaster-General to advertise for new mail-locks. He did advertise two years ago. The life of the lock, to use the expression that mechanics and the Department use, was ten years. The Postmaster-General asked for an appropriation of $100,000 that he might proceed to contract for a new lock. The House did not give that. The Senate added $75,000, and on conference with the Department they thought the sum of $75,000 more would be all that would be required. I think I am correct. If not my friend from Pennsylvania [Mr. WALLACE] will correct me.

Mr. PLATT. With regard to the amount I have the bill before me. The amount reported was $25,000. The amount passed by the House was $25,000, and it was amended in the Senate by inserting $100,000.

Mr. WALLACE. Yes, $75,000 was added.

Mr. EATON. I say $75,000 was given by the Senate, and I was strictly correct, although I did not state the full amount. Under the advertisement of the Postmaster-General there were perhaps half a dozen different establishments in the country, one in North Carolina, one in New York, one, I think, in Pennsylvania, and one in Connecticut, who went to work, and at great expense at these various establishments, each one of them produced a very fine lock. Three of the parties, as I understand, presented to the Postmaster-General a lock that did not receive the slightest approbation from the Department, while the work of three other establishments was looked upon favorably. In order that the Postmaster-General may proceed to contract the Senate gave him $75,000 for that purpose, and the managers at the conference agree to that amendment with an amendment. Now I should be glad to have that amendment read.

The PRESIDENT *pro tempore*. Will the Senator state again what it is?

Mr. WALLACE. It is the proviso put on by the House.

Mr. EATON. It is a proviso put on by the House of Representatives, to which the managers on the part of the Senate agreed, and to which I desire the Senate not to agree.

Mr. PLATT. It comes in after line 119 in the printed bill.

The Chief Clerk read as follows:

Provided, That the proposals for contracts for furnishing said mail locks and keys shall be readvertised for.

Mr. EATON. Now, why readvertise, so that these same parties who have been beaten in this contest of mechanical talent can have another two years to try it, and in the meanwhile the same old lock be used, which is now pronounced nearly worthless, at an expense of from three to six cents, I have forgotten which, upon each lock more than the new lock, which the Postmaster-General is at liberty to contract for at any moment?

It has been at an expense of $1,000 or $1,500 that each one of these establishments in North Carolina, in New York, and in Connecticut

have gone in order to produce this lock, which I suppose is entirely satisfactory to the Post-Office Department. Then why readvertise, I ask again? The public service must suffer. The old lock must be used. The new and improved lock cannot be had and will not be had under a year or two years. I should be perfectly satisfied if the Senate would do this. In the first place, I do not think there ought to be any agreement with the House on this subject, but as the managers on the part of the Senate felt it necessary to do something, I propose that we disagree to the action of the conference committee and let this proviso come in:

Provided, That in the opinion of the Postmaster-General such readvertisement will not be injurious to the public service.

It strikes me that it will be injurious to the public service. That new lock under a readvertisement cannot be had for the use of the public service in less than from twelve to twenty-four months. A good lock has already been furnished by three establishments. No one of these three establishments knows, neither the North Carolina establishment, nor the New York, nor the Connecticut establishment, which lock the Post-Office Department will take, nor for the purposes of this provision do I care. I would be very glad if the work should be done by the establishment in Connecticut; my friend from North Carolina would be very glad if it would be done there; my friend from New York would be very glad if it was done in New York; but it is a matter in the consideration of this proviso of no real consequence. These three establishments have shown each a model lock. I have seen the locks myself; they are model locks; the Department so pronounce them. The lowest one and the best one will get the contract. Which that is nobody knows; neither of these establishments knows which it is.

I had felt as though under the circumstances the Senate ought to disagree with the action of the managers on the part of the Senate and let our managers go back and try this matter again, but I would be willing to agree with the proviso that in the opinion of the Postmaster-General such readvertisement will not be injurious to the public interests.

Mr. WALLACE. As one of the managers on the part of the Senate of the conference, I beg to say that the conferees found but three items of disagreement in the bill. The first was the item in regard to transportation on railroad routes, upon which the Senate had increased the amount $350,000 over the amount appropriated by the House. We came to an agreement by dividing the difference and adding $175,000 to the amount appropriated by the House, and thus settled that point of difficulty. The second question was an addition of $25,000 to the pay of mail-messengers, making it $725,000 in place of $700,000 as appropriated by the House, giving the amount estimated for by the Department. The House conceded our demand and acquiesced in the amendment made by the Senate.

Thus two of the questions at issue were disposed of. The third and only remaining one was the item in reference to mail locks and keys. There the House had appropriated $25,000 for mail locks and keys, a simple appropriation to continue the purchase of mail locks and keys. A demand was made, for the reason stated by the Senator from Connecticut, that a new lock should be supplied to the Department, and after hearing the officials of the Department the Senate committee came to the conclusion that it was wise to increase the amount from $25,000 to $100,000, in order to substitute a new lock for the lock now in existence in the Department. We thus increased the amount from $25,000 to $100,000, and that was the third item of difference.

The House upon consideration of that question agreed to the amount fixed by the Senate of $100,000 in place of $25,000, but added to it an amendment or proviso, which has already been read, which provides that in letting the contract for those locks there should be a readvertisement. It seemed that there had been some arrangement or some provision by which the Department had made a letting of the locks for the future, although there had been no provision of law or no specific appropriation of money enough to provide sufficient locks for the whole of the purposes of the Department.

We had considerable difficulty upon the question of agreeing to this amendment. The conferees on the part of the Senate believed that the statements made to them by the Department were correct; that it was just and wise that the discretion should be left to the Department; but the managers of the conference on the part of the House were firm and decided. They said in effect that the House would not consent; that the vote in the House upon this question was very decided; indeed, it was stated that there were but three votes against it, although that of course I ought not to say here.

Mr. EATON. There was no vote for it. It was a mere formal adoption of the amendment.

Mr. WALLACE. They said that the House was very decided on that subject, and that they would not consent to this appropriation without the proviso in reference to the readvertisement for the contracts. This being the state of facts, and not desiring to postpone the bill and procrastinate the subject-matter, the managers of the conference on the part of the Senate acquiesced, having fixed the amount and provided for a new lock, agreeing that there might be a readvertisement for contracts for the purchase of those locks.

That is the whole of this question. We have reported back the bill agreeing to these provisions, and the whole question at issue is whether there shall be a readvertisement of the contracts. It seems to me that we ought not to differ upon this subject.

Mr. PLATT. Mr. President, I know it is an ungracious thing to ask the Senate not to agree with the report of a conference committee, but I do think that in this case there are grounds for it. There are some things which are admitted, namely, that a new lock is required; that the Postmaster-General has requested bidders to compete for the furnishing of that new lock; and that that competition has been had. Now, what is the position of the House of Representatives? Simply this, that no money shall be furnished to enable the Postmaster-General to supply the requirements of the service and purchase this new lock unless a new advertisement and a new bidding shall be had. I say that is not fair. It is in the interest of somebody who wants to come in from outside, who has not any show in the competition which has already been had, and properly had, that he may have another chance to bid. The sense of justice and fair play which is in every man's bosom will agree with me that that is not fair.

There is one other point which I wish to speak of. I do not think it is good policy for Congress to direct the Postmaster-General whether he shall readvertise for this lock or not. If he is a competent head of the Department, he knows best whether to readvertise or not. My colleague and myself will be perfectly willing to leave this matter in the discretion of the Postmaster-General, and there is where I think it ought to be left. Why should Congress tell the Postmaster-General that he shall readvertise for this when there is no claim that the competition has not been perfectly fair, and when the only object of it is to give some person who has now no chance in the competition an opportunity to come in over those who have been put to trouble and expense in making their bids?

It seems to me that it ought to be left to the Post-Office Department, and I cannot but believe that the House in a sense of desiring to do what is fair, if the amendment suggested by my colleague can pass the Senate, will adopt it. I do not believe that they will take this discretion away from the Postmaster-General if that question is submitted to them squarely.

There is another thing to be considered. A readvertisement cannot be had upon terms as favorable to the Department as the former bidding. The price of materials has risen, as every one knows, from 30 to 50 per cent., and it will cost the Government very much more under any readvertisement than it will cost under the bidding which has been had.

Mr. BECK. Mr. President, I was one of the conferees on the part of the Senate, and agreed to this report that the Senator from Connecticut now asks the Senate to reject, which I am afraid will lead to much more trouble if it is rejected. There has been a great deal of misunderstanding between the two Houses, indeed between members of each House among themselves, as to the discretion that has been exercised by the Post-Office Department in various ways. We had to give and take, of course, in order to get an agreement, for it is of importance that the Post-Office bill should pass. We were convinced in the Senate by the statement made to us, as the Senator from Connecticut has very well said, that arrangements had been made whereby a good and sufficient lock was likely to be had; we inserted the addition of $75,000 more to the $25,000 the House had given, so as to enable that to be carried out, and we endeavored to maintain it as well as we could. But, independent of the difficult things on this bill that the House had agreed to by very close votes, we saw that the transportation on all the railroads was going to suffer unless the House made an increase; and they did increase that service $175,000, which is somewhere in the neighborhood of what the service can be done for. They added $25,000 for mail-messenger service and gave the $100,000 we said was necessary for the new locks, but they said the contract for the locks shall be relet, shall be readvertised for. That is the law in all public lettings; and this provision of the Revised Statutes was insisted upon with some earnestness and with some show of propriety:

No Department of the Government shall expend, in any one fiscal year, any sum in excess of appropriations made by Congress for that fiscal year, or involve the Government in any contract for the future payment of money in excess of such appropriations.

The House conferees said, and said well, "While there may have been competition, there can be no contract until the appropriation is made." The House had only given $25,000. There is no contract for the next year for locks to be bought after the 1st of July, and these locks are to be bought after that, and can be no provision for them until the Department gets either the $25,000 or the $100,000; and as there is no contract, and as it is a good principle outside of this particular case that all purchases shall be made after advertisement and fair competition, and as the House agreed to increase their own appropriation from $25,000 to $100,000 for the purpose of purchasing locks to be used in the future, it seemed to me unreasonable that we should insist, lose the Post-Office appropriation bill, and break up the conference committee rather than yield to a fact which we could not deny: first, that advertisement and competition was the true way, and next, that nothing shall be done to bind the Government before an appropriation is made. Indeed it would be in violation of law to have made any contract in advance of an appropriation.

Mr. EATON. There is no contract. Nobody claims that there is one.

Mr. BECK. There being no contract, that being admitted, and public policy being to secure this work by open bids, after the House had yielded all the other things to us as the chairman of the commit-

tee of conference very well said, we were assured not only mildly but with emphasis over and over again that there would be no agreement unless we yielded that much to the House, and that in their opinion there would be no possibility of passing the bill through the House unless that provision was made. Under these circumstances we did not believe we should jeopard the bill by insisting on an item like that, after having obtained substantially everything else, and break up the conference on such a point. Having obtained the substantial matters in the bill, and the House insisting on this as being an important item, we having to yield something felt compelled to do it, although I must say we did it very reluctantly.

Mr. MAXEY. The importance of the Post-Office appropriation bill cannot be overestimated. The statement made by the Senator from Pennsylvania [Mr. WALLACE] and the Senator from Kentucky [Mr. BECK] satisfies my mind that it is right that this conference report should be adopted, and being the chairman of the Committee on Post-Offices and Post-Roads I have thought it but right for me to insist that this report should be adopted and the mail service allowed to go on.

Mr. EATON. Mr. President, one word more. Really if my friend from Kentucky imagines that the statute which he read has any sort of bearing upon this subject I should almost think he was a manager upon the part of the House and not a manager on the part of the Senate, for it has no sort of influence on this subject in my judgment.

Mr. BECK. Will the Senator allow me to say this: if there is no contract there can be no obligation on the part of the Department, and if there is neither contract nor obligation, then the public interest requires fair open competition. It has that much bearing, and only that.

Mr. EATON. My friend says there is no contract and therefore there can be no obligation. That depends upon the meaning of the two words whether there be a contract or not, or whether there may be an obligation in honor upon the part of the Government without a contract.

I take issue with the honorable Senator from Kentucky. We are as wide apart in the meaning of the term "obligation" as the poles are. Let us look at it for one moment. Here two years ago or more the Postmaster-General, acting according to law, knowing that the life of the lock was out, that in two years there would of necessity be a new lock required by the entire mails of the United States, issued his proposals not to make a contract, but to offer to the mechanical talent of the United States to produce and exhibit to the Department a proper lock for the Department service. As I understand, all the large establishments of the United States entered into this matter. No contract appears. There is no contract. But is there no obligation? Yes, Mr. President, there is an obligation; an obligation in honor. Here men went to work, expended their money, from ten to fifteen hundred or two thousand dollars, in order to produce such a lock as the Department required, and they have it now. Nobody denies that. The Senator from Kentucky saw it. Everybody has seen it here. Under the advertisement of the Government a proper lock has been shown, but Mr. Thomas Jones is not the successful man; he is left out in the cold. There is the trouble. Nobody knows who it is, but we know it is not Mr. Jones who succeeded. It may be a North Carolina gentleman, it may be a manufacturer from my own State, it may be one from New York, nobody knows; and I am glad I do not know, because I am not here speaking in the interest of an establishment of Connecticut at all, because I do not know which of these establishments will be the successful one if the Postmaster-General has the right to carry out what his idea may be. I say there is an obligation.

Mr. SAULSBURY. Allow me to ask whether the Post-Office Department has examined these various locks?

Mr. EATON. The Post-Office Department has selected three of the six and said that three of them are worthy of examination and from one of these three they will make the selection. Now, the outside gentlemen who were not successful I do not say are improperly operating on anybody in the House of Representatives—oh! no, not at all; that cannot be done! It is not in the nature of things that any such thing as that should be done; but somehow or other they want a readvertisement now. I say let there be a readvertisement, though I think there ought not to be one, provided the public service will not suffer in the opinion of the Postmaster-General.

Mr. BECK. I only desire to read section 3709 of the Revised Statutes:

SEC. 3709. All purchases and contracts for supplies or services, in any of the Departments of the Government, except for personal services, shall be made by advertising a sufficient time previously for proposals respecting the same, when the public exigencies do not require the immediate delivery of the articles, or performance of the service. When immediate delivery or performance is required by the public exigency, the articles or service required may be procured by open purchase or contract, at the places and in the manner in which such articles are usually bought and sold, or such services engaged, between individuals.

So that there being no pretense of public exigency, and the law requiring that all these things shall be done as provided in the House bill, this was a strong reason why the conferees on the part of the Senate thought it was well to yield.

Mr. EATON. Will my friend permit me to correct him? There was a public exigency. It required two years to get up a proper lock in the opinion of the Department and in the opinion of experts, and therefore they were advertised two years ago, because the life of the lock is now ended and the old locks have become worthless and are coming in by the thousand, as my friend from Kentucky no doubt knows.

Mr. BECK. The Postmaster-General can only act in accordance with the law, and when he makes his proposals he does it on his own responsibility to get information. Nine-tenths of the locks are used on letter-bags, and if he wants to get the contents all he has to do is to take his knife and cut the bag. Putting an iron lock on a leather bag is but poor security. Therefore the exigency did not exist in that form. Now, the House have said, "We will give you a better lock than you have got and increase the appropriation to $100,000; all we ask is that you shall act according to law."

The PRESIDENT *pro tempore*. The question is, Will the Senate concur in the conference report?

The report was concurred in; there being on a division—ayes 22, noes 19.

REPORTS OF COMMITTEES.

Mr. WITHERS, from the Committee on Pensions, to whom was referred the bill (S. No. 1454) to amend an act entitled "An act granting a pension to Catharine Harris," approved June 19, 1878, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. TELLER, from the Committee on Claims, to whom was recommitted the bill (S. No. 33) to ascertain the amount of the claim of Joseph R. Shannon, of Louisiana, reported it with an additional report; which was ordered to be printed.

Mr. WALLACE. The Committee on Finance direct me to report back, with an amendment, the bill (S. No. 564) to enable the Centennial Board of Finance, incorporated by an act approved June 1, 1872, to close its affairs and to dissolve said corporation. I ask unanimous consent to act on the bill at the present time.

The PRESIDENT *pro tempore*. Is there objection?

Mr. WITHERS. I call for the Calendar regularly.

The PRESIDENT *pro tempore*. Objection is made. The bill will go on the Calendar.

Mr. KERNAN, from the Committee on Finance, to whom was referred the joint resolution (H. R. No. 322) for the relief of certain persons in respect of duties demanded of them upon the import of certain articles named thereon, reported it without amendment.

Mr. HEREFORD, from the Committee on Claims, to whom was referred the bill (S. No. 1735) for the relief of Benjamin Babb and others, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. MCMILLAN. From the report just made by the Committee on Claims I dissent without submitting any minority report.

Mr. WALKER, from the Committee on Claims, to whom was referred the bill (S. No. 347) for the relief of John B. Nix, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. JONES, of Florida. I am instructed by the Committee on Public Buildings and Grounds, to whom was referred the joint resolution (H. R. No. 315) amending and re-enacting joint resolution approved June 14, 1879, directing a monument to mark the birthplace of George Washington, to report it back and recommend the passage of the same; and I ask for its immediate consideration.

The PRESIDENT *pro tempore*. The Senator from Florida asks unanimous consent for the present consideration of the resolution.

Mr. INGALLS. I object.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills and joint resolution; in which it requested the concurrence of the Senate:

A bill (H. R. No. 192) granting a pension to Hulda L. Barnard;

A bill (H. R. No. 799) granting a pension to Richard P. Taylor;

A bill (H. R. No. 1107) granting a pension to Mrs. Elizabeth Upright;

A bill (H. R. No. 1915) to improve the navigation of Twelve-mile Bayou and the lakes between Shreveport, Louisiana, and Jefferson, Texas, and for other purposes;

A bill (H. R. No. 2603) to place upon the pension-roll the name of Masach Finn;

A bill (H. R. No. 2384) amendatory of and supplementary to "An act to provide for the holding of terms of the district and circuit courts of the United States at Fort Wayne, Indiana," approved June 18, 1878;

A bill (H. R. No. 3785) appropriating money for the erection of a penitentiary in the Territory of Dakota;

A bill (H. R. No. 4585) fixing the rate of duty on barley malt at twenty-five cents per bushel; and

A joint resolution (H. R. No. 323) directing payment of award made to Moritz Speyers to his administrator.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. No. 4911) to amend the statutes in relation to immediate transportation of dutiable goods, and for other purposes; and it was thereupon signed by the President *pro tempore*.

UTE INDIANS IN COLORADO.

Mr. PENDLETON. I am directed by the Committee on Indian

Affairs to ask that Senate bill No. 1509 be taken from the table in order that I may ask for a committee of conference on the disagreeing votes of the two Houses.

The PRESIDENT *pro tempore*. The Senator from Ohio moves that Senate bill No. 1509 be taken from the table in order that he may move for the appointment of a committee of conference. Is there objection? The Chair hears none.

The Chief Clerk proceeded to read the action of the House of Representatives, as follows:

Resolved, That the bill (S. No. 1509) to accept and ratify the agreement submitted by the confederated bands of Ute Indians in Colorado, for the sale of their reservation in said State, and for other purposes, and to make the necessary appropriations for carrying out the same, do pass with the following amendments.

Mr. PENDLETON. It is not necessary to read the amendments, I presume. I move concurrence in the amendments numbered 1, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, and 22, by the direction of the Committee on Indian Affairs.

The PRESIDENT *pro tempore*. The Senator from Ohio moves concurrence in the amendments he has named.

The motion was agreed.

Mr. PENDLETON. I now move that the Senate non-concur in amendments numbered 2, 3, 4, 5, 6, 7, 8, 9, 23, 24, 25, 26, and 27.

The motion was agreed to.

Mr. PENDLETON. I now move that the Senate ask for a conference on the disagreeing votes of the two Houses.

The motion was agreed to.

By unanimous consent, the President *pro tempore* was authorized to appoint the conferees on the part of the Senate; and Mr. PENDLETON, Mr. ALLISON, and Mr. WILLIAMS were appointed.

REUBEN S. JONES.

Mr. HARRIS. Some time ago the bill (S. No. 455) for the relief of Reuben S. Jones was reported back to the Senate adversely from the Committee on Claims and was indefinitely postponed. I am informed that there are material facts which were not before the committee at the time, in view of which I ask unanimous consent of the Senate to reconsider the vote by which the bill was indefinitely postponed in order that it may go upon the Calendar.

The PRESIDENT *pro tempore*. When was it indefinitely postponed?

Mr. HARRIS. Some week or two since.

The PRESIDENT *pro tempore*. The Senator from Tennessee asks unanimous consent that the vote by which the bill he has indicated was indefinitely postponed be reconsidered in order that the bill may be placed upon the Calendar. Is there objection? The Chair hears none, and it is so ordered; and the bill will be placed on the Calendar with the adverse report of the committee.

PRINTING OF A DOCUMENT.

Mr. BOOTH. On the 25th of May the Chair, according to the RECORD, "laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to the requirements of a clause in the sundry civil act of July 15, 1870, the report and opinion of the surveyor-general of Arizona Territory, together with a duly authenticated copy of the title papers and testimony in the matter of the private land claim No. 7, known as Tumacacori and Catabazas, in Pima County, in that Territory; which was referred to the Committee on Private Land Claims, and ordered to be printed." By some mistake the order to print was not entered on the Journal. I move that the communication be printed.

The motion was agreed to.

ORDER OF BUSINESS.

The PRESIDENT *pro tempore*. Concurrent and other resolutions are in order. [A pause.] If there be no concurrent or other resolutions the routine business of the morning hour is at an end, and the Senate resumes the consideration of the Calendar under the Anthony rule.

Mr. DAVIS, of West Virginia. I call for the regular order.

The PRESIDENT *pro tempore*. The first case on the Calendar under the Anthony rule will be called.

Mr. CAMERON, of Wisconsin. I desire to make an inquiry in reference to the case that appears to be the first on the Calendar. Order of business No. 368, being the bill (S. No. 1424) to repeal certain laws relating to permanent and indefinite appropriations, was reached yesterday on the call of the Calendar under the Anthony rule. I objected to the consideration of the bill. Thereupon the Senator from West Virginia [Mr. DAVIS] moved to postpone all prior orders and proceed to the consideration of the bill. No vote was taken upon that motion. Before any action was taken upon it the morning hour expired. Now, the inquiry I desire to make is whether or not this bill is, under the Anthony rule, the first bill on the Calendar for to-day? My understanding is that the motion of the Senator from West Virginia fell with the expiration of the morning hour yesterday, that it did not go over as unfinished business, and consequently that the bill was disposed of at that time. I have no objection to the consideration of the bill now, but I desire to understand how this is.

Mr. DAVIS, of West Virginia. The facts of the case are very much as the Senator from Wisconsin states. The bill was reached in regular order on the Calendar. The Senator objected to it. I made an appeal to the Senator and at the same time moved that the regular order be laid aside and this bill be taken up. During the discussion the morning hour expired. The Senate understood that it was the pending business before the Senate. Of course it is now the same as any other bill on the Calendar. I understand my friend from Wisconsin does not object to its consideration, and I think we all agree to it, and we can pass it in ten minutes or indeed in five minutes. I hope it will go on.

Mr. CAMERON, of Wisconsin. I do not think the Senate understood that this bill would be the first bill on the Calendar for to-day. It is true the Senator from West Virginia stated, "Then it will be the first bill on the Calendar to-morrow morning." I replied, "No, it will not." I understood that the bill having been reached, and objection having been made under the Anthony rule, thereupon the bill went over.

Mr. DAVIS, of West Virginia. But the Senator will recollect that no action was taken, and I understand there is no objection now to considering the bill.

Mr. CAMERON, of Wisconsin. If it is understood that it is to come up as a matter of favor, all right; but if it is understood that it is to come up as a matter of right, I shall object.

Mr. DAVIS, of West Virginia. I do not care how it comes up, so that it comes.

Mr. CAMERON, of Wisconsin. Very well, let it come up in that way.

The PRESIDENT *pro tempore*. The present occupant of the Chair was not in yesterday when these proceedings took place. As the Secretary construed the rule the bill was reached, but was not disposed of; therefore, under the Anthony rule, it was the first bill to be called on the Calendar this morning.

Mr. CAMERON, of Wisconsin. The bill was reached, and I objected to its consideration. Did not that dispose of the bill?

The PRESIDENT *pro tempore*. Then a motion was made to proceed to its consideration, notwithstanding the objection.

Mr. CAMERON, of Wisconsin. But the Senate did not vote on that motion when the morning hour expired, and that motion fell with the morning hour.

The PRESIDENT *pro tempore*. The Chair does not see any necessity for ruling on this point, one way or the other, if the Senator does not object to the consideration of the bill now.

Mr. CAMERON, of Wisconsin. I do not object.

Mr. DAVIS, of Illinois. Senate bill No 41, to extend the jurisdiction of justices of the peace in the District of Columbia, and to regulate proceedings before them, was passed over yesterday without prejudice. I do not wish to interfere with going on regularly with the Calendar, but I suggest that I be allowed to have Senate bill No. 41 regarded as the first bill for to-morrow morning, if I am in order.

The PRESIDENT *pro tempore*. If it was passed over without prejudice yesterday, it would be the first bill for to-day.

Mr. DAVIS, of Illinois. Let it go over until to-morrow. I simply wanted to know whether I could have the opportunity of calling it up the first thing in the morning.

Mr. COCKRELL. I call for the regular order.

The PRESIDENT *pro tempore*. The bill which stands as the first one on the Calendar will be reported, prior to which the Chair will lay before the Senate some House bills for reference.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (H. R. No. 192) granting a pension to Hulda L. Barnard;

A bill (H. R. No. 799) granting a pension to Richard P. Taylor;

A bill (H. R. No. 1107) granting a pension to Mrs. Elizabeth Upright; and

A bill (H. R. No. 2603) to place upon the pension-roll the name of Masach Finn.

The following bills and joint resolution were severally read twice by their titles, and referred as indicated below:

The bill (H. R. No. 1915) to improve the navigation of Twelve-mile Bayou and the lakes between Shreveport, Louisiana, and Jefferson, Texas, and for other purposes—to the Committee on Commerce;

The bill (H. R. No. 2384) amendatory of and supplementary to "An act to provide for the holding of terms of the district and circuit courts of the United States at Fort Wayne, Indiana," approved June 18, 1878—to the Committee on the Judiciary;

The bill (H. R. No. 4585) fixing the rate of duty on barley malt at twenty-five cents per bushel—to the Committee on Finance;

The bill (H. R. No. 3785) appropriating money for the erection of a penitentiary in the Territory of Dakota—to the Committee on Territories; and

The joint resolution (H. R. No. 323) directing payment of award made to Moritz Speyers to his administrator—to the Committee on Foreign Relations.

PERMANENT APPROPRIATIONS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1424) to repeal certain laws relating to permanent and indefinite appropriations, the pending question being on the amendment proposed by Mr. INGALLS, in line 7 of section 1, after the word "debt," to insert "or of the bonds known as the 3.65 bonds of the District of Columbia."

Mr. DAVIS, of West Virginia. The committee do not recommend

that amendment; but I can say on behalf of most of the committee that we make no objection to it. The bill, including that item in its provisions, came to the committee with many other items on the recommendation of the Secretary of the Treasury. The committee had not acted upon that particular question at all, but it having come to the committee among many other items from the Secretary, the committee adopted the Secretary's recommendation. However, I see no objection to the amendment, excepting that item.

The amendment was agreed to.

Mr. ALLISON. I move to insert among the exceptions:

Indian trust funds deposited as provided by the act of Congress, approved April 1, 1880, entitled "An act to authorize the Secretary of the Interior to deposit certain funds in the United States Treasury in lieu of investment."

The PRESIDENT *pro tempore*. The amendment of the Senator from Iowa will be read.

The CHIEF CLERK. It is proposed after the words "Soldiers' Home," in line 21 of section 1, to insert:

Indian trust funds deposited as provided by the act entitled "An act to authorize the Secretary of the Interior to deposit certain funds in the United States Treasury in lieu of investment," approved April 1, 1880.

Mr. DAVIS, of West Virginia. I understand the bill referred to has passed and become a law since this bill was introduced in the Senate, and as it is a law now, and has become so since we reported this bill, I see no objection to the exception. I think it is one of the cases, and probably the only one of all the Indian trust funds, that ought to be excepted.

The amendment was agreed to.

Mr. JONES, of Florida. I move to amend in the first section, line 22, after the words "Navy pension fund," by inserting:

Except the appropriations heretofore made to carry into effect the last clause of the ninth article of the treaty of the 22d of February, 1819, between the United States and Spain, and concerning which subject a special message of the President and a peremptory demand of Spain are now pending before the Senate and Congress.

Mr. DAVIS, of West Virginia. The Senate will readily see that that is an amendment which carries us back to 1819, to something that possibly exists, possibly not. The intention of this bill is to at once bring before Congress all these old acts if they still exist, and if there is money to be paid from the Treasury on things one hundred years old or fifty years old or ten years old to let Congress know what they are.

I will state that this bill was prepared carefully, in part and to a very considerable extent in the Treasury Department, and they believed it excepted all the objects that ought to be excepted. I hope the amendment will not be agreed to.

Mr. JONES, of Florida. Mr. President, it is true that the matter to which this amendment relates is a little old, but nevertheless it is just, and it only goes to show how hard it is at times to get governments to do justice. The ordinary remedies that individuals are liable to of course cannot be put in operation against the Government, and years and years roll on before just claims can be finally adjusted. This is a very remarkable case; it has attracted the attention of the country; it has been brought to the attention of the President of the United States, and he has called the attention of the Senate and the other House to it, and the matter is now before Congress.

In 1811, in anticipation of the occupation of Eastern Florida by the British forces, a secret act of Congress was passed, under which the troops of the United States, co-operating with the militia of Georgia, were authorized to invade the territories of a friendly State. They entered the boundaries of Florida under the guise of patriots; they overrun the whole eastern portion of the State of Florida, seized private property, carried away the goods of the inhabitants, and subsisted themselves in that locality for nearly two years. A greater violation of the laws of nations never occurred. At the time there was no publicity given to the authority under which it was done, but history has recorded it that it was done by the authority and under the sanction of the American Government.

In 1819, when we came to acquire the territory of Florida, Spain insisted on a provision being incorporated into the treaty that we should make satisfaction for the damages caused by the troops of the United States within her territory. A provision was put in the treaty so clear and positive that nobody at the time entertained a doubt as to its real meaning. It is in the following language:

The United States will cause satisfaction to be made for the injuries, if any, which, by process of law, shall be established to have been suffered by the Spanish officers, and individual Spanish inhabitants, by the late operations of the American Army in Florida.

Such injuries as might be established by process of law, are the words of the treaty. This was an international agreement between two powers of the earth by which they agreed that the injuries suffered by the citizens of the one should be repaired according to process of law in the courts of the other. Congress recognizing the binding force of this treaty, in 1823 enacted a statute to give it effect. Under that statute they gave to the judges of the territorial courts in Florida power to hear complaints of all citizens or subjects of Spain who had suffered damage in consequence of the invasion of 1811 and 1813. This was enacted in 1823. The courts of the Union under the treaty had to be opened to them, and these claims had to be passed upon judicially according to the process of law. These tribunals went on and discharged their duty; they heard the complaints of the subjects that had suffered loss and damage; they entered up a number of judgments in favor of them and under the provisions of the act of 1823 it was made the duty of the Treasury Department when the judgments were certified here by the territorial courts to pay them under the treaty.

The PRESIDING OFFICER, (Mr. MCDONALD in the chair.) The Senator from Florida has spoken five minutes.

Mr. ALLISON. I will take the floor and yield to the Senator from Florida, because I want to know something more about this question. I would like to ask the Senator from Florida if these judgments have not already been paid and adjudicated by the Treasury Department? It seems to me that by the long lapse of time these people must have certainly perfected any just claims they have against the United States.

Mr. JONES, of Florida. Mr. President——

The PRESIDING OFFICER. Is there unanimous consent that the Senator from Florida may proceed?

Mr. ALLISON. I have asked the Senator a question. He is about to answer.

Mr. JONES, of Florida. I will say that these judgments have not been paid, and the President of the United States, in a message directed to this body March 1, 1880, has called the attention of the Senate to the fact. They were paid in part. The judicial tribunals which were invested by law with the settlement of these claims under the treaty adopted a rule of damages which is well known to international law. They took into account the value of the property at the time of its destruction in 1811 and gave a judgment for that value, and in addition allowed 5 per cent. to the injured party for the delay that intervened between the period of determination and the period of proposed satisfaction. That they had a clear right to do. The United States had pledged her faith to see those claims settled by process of law, and she remitted them to her own judicial tribunals, and those tribunals, acting under the laws of nations, decided that those claimants were entitled to the value of their property at the time it was destroyed and an addition of 5 per cent. to compensate them for the loss they had sustained by delaying that payment to the period of satisfaction.

The Treasury Department from that day to this, although those judgments remain there in solemn form, has refused to pay that 5 per cent. After the transfer of the territory those people of course became incorporated into the State; but nevertheless, according to the view entertained by the Spanish government and by the lawyers, including Daniel Webster and the present Secretary of State, the obligation of the Government to meet and to pay that 5 per cent. is just as great as to pay the principal; and the act making appropriation——

The PRESIDING OFFICER. The five-minute rule is imperative on the Chair unless the Senate otherwise order.

Mr. TELLER. I suggest that the Senator be allowed to proceed.

Mr. JONES, of Florida. Just a few minutes longer and I will conclude.

The PRESIDING OFFICER. The Senator will proceed unless there be objection.

Mr. JONES, of Florida. In 1823 an appropriation was made in general terms authorizing the Treasury Department to pay these judgments in whole, and it stands unrepealed to this day. I do not want that law repealed until justice is done in some form to those long deferred claimants.

Mr. DAVIS, of West Virginia. This is one of the very old claims that are not even recognized by the Department; but if there is anything there binding on Congress, it ought to be known properly, and it ought to come before Congress for a regular appropriation, and I have no doubt the Senator will bring it forward whenever the time comes. But there may be a hundred such cases, which this bill is intended to shut off, so that Congress may know in future what is to be paid on all these old claims.

Mr. JONES, of Florida. Will the Senator permit me to have a communication of the President on this subject read? It is a short paper.

Mr. DAVIS, of West Virginia. I do not see what it has to do with this question. Let it go with the remarks of the Senator.

Mr. TELLER. Let us have the paper read.

Mr. COCKRELL. I insist on the rule. We have consumed near three-quarters of an hour on this bill.

Several SENATORS. Let the message go into the RECORD.

Mr. JONES, of Florida. That will do.

The PRESIDING OFFICER. If there be no objection, leave will be given to have the message printed in the RECORD.

The message is as follows:

To the Senate and House of Representatives:

I deem it proper to invite the attention of Congress to the subject of the unsettled claims of Spanish inhabitants of East Florida during the years of 1812 and 1813, generally known as the "East Florida claims," the settlement of which is provided for by a stipulation found in Article IX of the treaty of February 19, 1819, between the United States and Spain.

The provision of the treaty in question which relates to the subject is the following: "The United States will cause satisfaction to be made for the injuries, if any, which, by process of law, shall be established to have been suffered by the Spanish officers and individual Spanish inhabitants by the late operations of the American Army in Florida."

The act of Congress of the 3d of March, 1823, (Statutes at Large, vol. 3, p. 768,) to carry into effect the ninth article of the treaty in question, provided for the examination and judicial ascertainment of the claims by the judges of the superior

courts established at Saint Augustine and Pensacola, and also made provision for the payment by the Secretary of the Treasury of such claims as might be reported to him by the said judges upon his being satisfied that such claims were just and equitable; and a subsequent act approved the 26th of June, 1834, (Statutes at Large, vol. 6, p. 569,) gave further directions for the payment, and also provided for the hearing and determination by the judge of the superior court of Saint Augustine of such claims as had not then been already heard and determined. Under these acts of Congress I understand that all claims presented to the judges in Florida were passed upon, and the result of the proceedings thus had reported to the Secretary of the Treasury. It also appears that in the computation of damages the judges adopted a rule of 5 per cent. per annum on the ascertained actual loss from the date of that loss to the time of the rendition of their finding, and that the Secretary of the Treasury in 1836, when the first reports were presented to him, not deeming this portion of the claims, covered by the 5 per cent. rule, just and equitable within the meaning of the treaty and the acts of Congress, refused to pay it, but did continue to pay the ascertained amounts of actual loss. The demand for payment of this rejected item has been pressed at various times and in various ways up to the present time, but Mr. Woodbury's successors in the Treasury Department have not felt at liberty to review that ruling. Under these circumstances I have thought it proper to lay the subject before Congress for its consideration and such action as may be deemed necessary. The history of the proceedings already had in regard to the matter is of record in the Treasury Department, and will be furnished by the Secretary of the Treasury should Congress desire it.

R. B. HAYES.

WASHINGTON, *March* 1, 1880.

Mr. ALLISON. One word before the vote is taken. It seems to me that the Senator from Florida will not accomplish what he desires to accomplish, even if his amendment is adopted. Away back in 1836 the Secretary of the Treasury, under the law of 1823, refused to pay this 5 per cent., believing that that portion of the allowance was not just and equitable under the treaty. No subsequent Secretary of the Treasury has been willing to reverse that decision, and I trust no other Secretary of the Treasury ever will. If that sum is to be paid—and I do not say that it ought not to be paid—let it be paid by the deliberate judgment of Congress after a careful examination of the treaties and the circumstances which led to those treaties.

I am aware of the difficulties that existed between the Government of the United States and the government of Spain between 1810 and 1819, when both governments claimed a portion of the Territory of Florida under the cession made in 1803. These are great questions. Let them be decided finally by Congress, and let us not trust to any Secretary of the Treasury to reverse the ruling made in 1836.

Mr. JONES, of Florida. I do not want to say one word except to leave the law on the statute-book where it has stood since 1823.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Florida, [Mr. JONES.]

Mr. CALL. I hope very much that the amendment proposed by my colleague will be adopted. It certainly is a matter that ought to present itself with very great consideration to the gentlemen moving this bill. This is a claim which has been approved by the head of the executive department. The Secretary of State has, in correspondence with the Spanish government, clearly indicated the opinion of the Department as to the binding obligation of that treaty and the payment of this sum of money ascertained judicially in the manner provided by the treaty; and I undertake to say that there can be no question with any lawyer who will give this matter a fair and candid investigation that the honor of the Government is bound and unquestionably bound by the interpretation of the treaty which has been put upon it by the Government under successive administrations.

The whole question lies in the simple construction of the words "ascertained by judicial process," and the language of the treaty is clearly to the effect that these claims shall be ascertained judicially, and that the Government of the United States was bound by legislation to provide the means by which that judicial ascertainment should be had. They did provide it; it was had, and the question simply is whether any of the administrative departments of the Government had it in their power to violate the solemn faith of a treaty.

The question has come up before this Administration upon a demand of the government of Spain for the enforcement of the provisions of the treaty; and the Secretary of State, sustained by the clearest reasoning, has in his correspondence admitted what must be admitted by any one who will investigate the subject, that the language of the treaty required a definite ascertainment of these claims judicially, that they were passed upon by a judicial tribunal, and that the judgment of that judicial tribunal was absolutely binding upon the Government.

There was a law passed making an appropriation for carrying the provisions of the treaty into effect. My colleague, in behalf of these many and long-suffering people, who have the obligation of the Government for their payment, and now demanded by the government of Spain to be enforced, simply asks that an exception be made from the sweeping provision of this bill in regard to this one thing. I can see no possible ground of objection. It does not affect the policy of the law. It leaves every provision of the act repealing the laws making permanent appropriations stand.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Florida, [Mr. JONES.]

The amendment was rejected.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

IMPROVEMENT OF SUSQUEHANNA RIVER.

The next bill on the Calendar was the bill (S. No. 1425) to appropriate money for the continuance of the improvement in the Susquehanna River.

Mr. PRYOR. I suggest that bill has been superseded by the river and harbor bill. I therefore suggest that it go over.

The PRESIDING OFFICER. The bill will be passed over.

KIMBERLY BROTHERS.

The next bill on the Calendar was the bill (S. No. 953) for the relief of Kimberly Brothers.

Mr. INGALLS. I object to that. It has been indefinitely postponed once.

The PRESIDING OFFICER. The bill will be passed over.

REPRESENTATIVES OF ISRAEL DODGE.

The next bill on the Calendar was the bill (S. No. 310) for the relief of the heirs and legal representatives of Israel Dodge, deceased.

Mr. JONAS. This bill is reported from the Senate Committee on Private Land Claims. A similar bill has passed the House, which also has been reported favorably by the Senate Committee on Private Land Claims, and is order of business No. 470. I move to postpone this Senate bill indefinitely that the House bill on the same subject may be taken up.

The motion to postpone was agreed to.

Mr. JONAS. Now I move to take up the House bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 4908) for the relief of the heirs and legal representatives of Israel Dodge, deceased.

The bill was reported from the Committee on Private Land Claims with amendments.

The first amendment was, in line 7, after the word "two," to insert "erroneously;" in line 10, after the name "Israel Dodge," to insert the word "as;" and in line 12, after "1858," to insert "with the same effect;" so as to make the clause read:

That the Commissioner of the General Land Office be, and he is hereby, authorized and required to issue patents to such of the legal representatives of Israel Dodge, deceased, as may be entitled to them, for lands entered under and by virtue of certificate of location number 2, erroneously issued by the Commissioner of the General Land Office on the 22d day of December, 1865, to the legal representatives of said Israel Dodge, as under and by virtue of act of Congress approved June 2, 1858, with the same effect as though said lands had been entered under and by virtue of a certificate duly issued in accordance with the provisions of the second section of the act of June 21, 1860.

The amendment was agreed to.

The next amendment was, after the word "acres," in line 21, to insert "and subject to all the provisions of said act of June 21, 1860;" and in line 25, after the word "thereof," to strike out "at $1.25 per acre, and in commutation of pre-emption and homestead entries;" so as to make the proviso read:

Provided, Said entries be found free from objection in every other particular, and that for the remainder of the land yet authorized to be located under said certificate upon the surrender thereof he issue to the legal representatives aforesaid, who may be legally entitled thereto, certificates of location in quantities not to exceed eighty acres, and subject to all the provisions of said act of June 21, 1860, each of which may be located upon any lands, not mineral, of the United States, subject to entry under the laws thereof, and the lands located therewith patented in like manner as other public lands of the United States: *Provided*, That the location in each case shall conform to the legal subdivisions of the public surveys.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

DISTRICT POLICE FORCE.

The bill (S. No. 1394) to increase the police force of the District of Columbia was considered as in Committee of the Whole. The bill proposes to amend section 340 of the Revised Statutes of the United States relating to the District of Columbia so as to read:

The police force shall consist of the following officers, namely: One major, two captains, twelve lieutenants, twenty-four sergeants, such number of privates, not exceeding two hundred and fifty for the regular service, as the board may deem necessary; eight detectives.

The bill was reported from the Committee on the District of Columbia with amendments.

The first amendment was to insert as section 2:

SEC. 2. That so much of section 354 of the Revised Statutes of the United States, relating to the District of Columbia, as requires that "no person shall be appointed as policeman or watchman who has not served in the Army or Navy of the United States and received an honorable discharge" be, and the same is hereby, repealed.

Mr. ROLLINS. Does the Senator from Tennessee intend to press this amendment of the committee? If so, I shall either have to object to the consideration of the bill or ask for a division on it.

Mr. HARRIS. The amendment was adopted in committee for this reason only, and I desire that the Senate shall consider the reason of the amendment and decide as in its wisdom it may seem proper: With the limitation of the general law as now fixed the field of selection is narrowed down to a single class of persons. So far as the soldiers of the war of 1861–'65 are concerned, under the regulation of the department there is scarcely a soldier of that war who is eligible to appointment by reason of his age, for forty years is the limit fixed by the regulations as the age beyond which no appointments are made in the police force.

The commissioners of the District of Columbia recommended to the committee that that restriction be repealed so as to give the broadest

field of selection of policemen, they believing that under such rules they would get much better material and a more efficient police force. These were the considerations that controlled the committee. I desire to see the police force selected from the entire population, so that the very best material that desires that class of employment may be selected and may be eligible to the position. I see no reason why it should not be.

Mr. TELLER. I should like to ask the Senator a question. By what rule do they restrict the selection to men under forty?

Mr. HARRIS. There is no law controlling it. It is a rule of the commissioners of the District of Columbia that has controlled them heretofore, they deeming it proper not to appoint persons in the police force who are over forty years of age. It has been an established rule to which they have adhered.

Mr. TELLER. If the police commissioners have adopted a rule which practically nullifies a statute, that is no reason why they should come here now and ask the repeal of that statute. There is no one here who will pretend that it is a reasonable rule that says a police officer shall be under forty; a man may be capable of service twenty years later than that. That is no reason at all.

Mr. HARRIS. They do not discharge a man because he exceeds forty years of age. If he is in the service, he is continued as long as he is efficient and capable; but they deem it unwise to make appointments of men over the age of forty years, and I quite agree with them in the opinion that it is not good policy to make appointments of men over forty years of age.

Mr. TELLER. They have not any right to adopt any such rule. The statute says they shall take the appointees from a certain class of men. Now, the time may come when we shall be compelled to repeal that; but it cannot be said with any force at all that out of the many thousands and tens of thousands and hundreds of thousands of men who served their country during the war, who are ready and willing and anxious to serve in this department, they cannot get men suitable. It will be twenty years yet before they can come here with any sort of force and make that suggestion. That will hardly justify the repeal. If they have got tired of selecting soldiers, are anxious to select another class, then it will do for them to come and say, "We do not want any longer to select soldiers; we have concluded we can do better somewhere else."

Mr. SAULSBURY. So far as the appointment of soldiers is concerned, they are just as proper persons to appoint as anybody else if there were no statute on the subject, provided they possess the requisite qualifications for police officers; but there is no reason why the selection of police officers should be made from any class exclusively, whether they are soldiers or civilians. What the District needs is efficient men as police officers; and if it can get them better from soldiers than from any other class of men, take them from the soldiers. If it can get more efficient men from any other class than soldiers, there is no reason why it should select these officers from the soldiers.

Soon after the war this provision was made, in order to find employment for men who had served in the Army. The war has been over now some fifteen years, and these commissioners in the discharge of their duty in appointing police officers do not want to be compelled to take men who are now in the neighborhood of forty years of age to start in the service. All they ask is that when a vacancy occurs they may make a proper selection whether it is from within the line of the soldiers or not—the best selection they can. That is reasonable. It is just as every man would act in the transaction of his ordinary business. When we come here to make laws to govern this community, to govern this District, we ought to act as we would act in regard to our own affairs in making selection of our agents to attend to our own business, and use the best economy.

For my part, therefore, I have no hesitation in voting for the amendment proposed by the District Committee.

Mr. ROLLINS. I think we can let the law stand as it is for a few years longer.

Mr. SAULSBURY. There was never any good reason why the law should have been enacted at all. It was simply a matter of favoritism to a class of men to whom the Government felt bound for services rendered to the people, and there never was any good reason why from a disposition to reward men for service in the field there should have been enacted any such law. The District commissioners ought to have had the liberty all the time of selecting the most efficient men for the police force to guard the property and lives of the people of this entire community. Why force them to take an inefficient class of men and start them in a service in which it will require years to make them efficient? Why require them to select men at least forty years of age when perhaps they may select men of twenty and twenty-five and start them in the service who would make efficient officers and render valuable service to the community in the protection of the property and the lives of the citizens? I shall vote for the amendment; it is a very proper one.

Mr. ROLLINS. I think we had better let the commissioners modify their regulations and appoint a police officer, even though he may be forty-five years of age, rather than repeal the section to which this amendment refers. I think there is no occasion for it whatever. Nearly one-half the present police force was taken from civil life. The training a man gets in the Army is very good, and enables him to discharge his duty as a police officer. I hope the amendment will not be agreed to.

Mr. SAULSBURY. I should like to ask the Senator if two men were presented making applications, one of them who would make an efficient officer and the other a soldier who would be an inefficient police officer, would he restrict the commissioners to the appointment of the man who was not a civilian rather than take a man who would make a valuable police officer?

Mr. ROLLINS. I mean to say just this: that I do not believe it is difficult at all to find from the discharged soldiers and sailors of the Union good men to appoint as police officers.

Mr. SAULSBURY. That may be the theory of the Senator.

Mr. ROLLINS. I have no doubt it is absolutely true that the case presented by the Senator from Delaware is no case at all, for that condition of affairs is not at all likely to occur, because they can find among the men who have served in the Army and in the Navy proper persons to be appointed police officers. The records of the Pension Office show that the average age of those who have been discharged from service in the late war is thirty-six rather than forty; and if a man can be appointed at forty-five, I have no doubt there will be plenty, and that will leave some nine years for him to serve, taking the average age of those discharged after service in the late war.

The Senator from Delaware says there never was any occasion for any law of this kind, there was never any necessity or any propriety in giving discharged soldiers and sailors any advantage over others in these appointments. From his stand-point I confess that it is proper and right for him to vote for this amendment; but from my stand-point I do not think it is right and proper.

Mr. SAULSBURY. If you can apply this principle to police officers, why not to any other calling in civil life? What the government of this District needs is the most efficient police officers it can obtain, whether they are obtained from the ranks of the Army or from civilians. It makes no difference, so that they get proper men to fill the station. Now, I have no objection to their taking soldiers. I think it would be as well to take soldiers as anybody else if you can find the proper and efficient men; but there certainly can be no good reason for shutting the commissioners up to the appointment of soldiers unless they are competent and efficient men who are fitted for the service. It is against the interest of the community to make any such discrimination.

Mr. ALLISON. I should like to ask the Senator from Tennessee having charge of this bill whether the committee have examined the matter sufficiently to know that an absolute necessity exists for increasing the police force?

Mr. HARRIS. The commissioners of the District of Columbia are quite satisfied, perfectly confident that there is an absolute and imperative necessity for an increase of the force; indeed, with the area that the police for Washington have to take care of, it is a very much smaller force than in any city in Europe or in America.

Mr. ALLISON. So I have understood; and I have believed for some time that there is a necessity for this increase of the police force; but now there is thrown into this bill a controverted question, and, as some have said, a question that ought not to be thrown in here. I ask the Senator having charge of this bill to withdraw the amendment suggested, and let us pass the bill providing for an increase of the police force; and if there is a necessity for a repeal of the existing statute let us consider that more at length when we have more time. We can repeal it next winter, if necessary. I trust this bill will not be embarrassed by this question of repealing sections of the Revised Statutes.

Mr. INGALLS. Mr. President, I withheld my opposition in committee to this amendment for the purpose of allowing the bill to be reported to the Senate, because the paramount question before us is whether there shall be an increase in the police force of this District. The Senator from Tennessee has stated, what is the fact, that there is no city in the world where, considering its area and its population, the police force is so small as here. There is no city, I believe, where life is so insecure and where property is so insecure as in the city of Washington, in consequence of the inadequacy of the police force; and no man who is familiar with the events of the last few months, and remembers the women that have been dishonored, the men that have been murdered, the burglaries and robberies that have been committed, can fail to appreciate the fact that there is a pressing necessity for some immediate increase of the police force.

I therefore join the Senator from Iowa in expressing the hope that upon this mere sentimental question, one that is in no sense whatever practical, the Senator in charge of the bill will consent to a withdrawal of the amendment proposed by the committee and let us vote upon the original proposition, which is one of confessed practical necessity and importance.

Mr. McMILLAN. I concur entirely in the remarks just made by the Senator from Kansas. Certainly the wants of this community demand an increase of the police force, and there was no difference of opinion in committee on that subject, but we were all in favor of an increase of the police force. Some of us, however, thought that this bill was not the place for a repeal of the existing statute, and I trust the Senator from Tennessee, the chairman of the committee, will agree to withdraw this amendment and let the bill pass in the shape in which it was originally introduced.

Mr. HARRIS. The amendment is the amendment of the committee; it is not my amendment; and I desire to say that it was suggested by the commissioners of the District of Columbia as necessary

to the efficiency of the force and for the reason that they have experienced embarrassment and are experiencing embarrassment every day by reason of the restriction imposed by the statute proposed to be repealed.

I am as ready to acknowledge and to reward the patriotic services of the soldier as either of the Senators who have spoken on the other side; but why limit the selection of policemen to that particular class of persons? It would be just as legitimate to say that no man shall be eligible for sheriff of his county, or constable, or justice of the peace, or for the State Legislature, or for Congress, as to say that no man shall be eligible to the position of a policeman except a discharged soldier. It is a piece of sentimentality to which I have no disposition to yield. I have no authority to withdraw the amendment.

Mr. ALLISON. Let it be voted down by unanimous consent.

The PRESIDING OFFICER. The question is on the amendment reported by the Committee on the District of Columbia.

Mr. ROLLINS called for the yeas and nays, and they were ordered.

Mr. TELLER. This act was passed during the war, and I think that it cannot be questioned that there are a great many soldiers who are willing to serve who are under the age that the commissioners have fixed, forty years, and if anybody can give any good reason why a man must be under forty years of age to serve as a policeman in this District I should like to hear it.

It is said that there is no reason why we should take these men from soldiers any more than from another class. The business of a soldier, the experience that he has had, fits him especially for this kind of business; and we did hope until very recently that a great majority of the people recognized that the nation was under some sort of obligation to these men. I suppose as time wears away and a different class of men come to the front and get into the legislative department of the Government there will be no longer any recognition of the great service these men rendered to the nation. I am afraid the time is not very far distant when it will not recommend a man to public favor and public consideration before the National Legislature that he was one of the men who went out and took his life in his hands to maintain the integrity of the Union. It seems to me, though, a little early, and as if gentlemen are in a little haste in proposing to say now that we owe nothing to these men which we do not owe to the men who on the other hand took their lives in their hands and went out and served for the purpose of destroying the nation.

Mr. BECK. I am one of those who desire to vote for this amendment, because I believe the commissioners of the District of Columbia ought to have a right to select their policemen from the very best men they can find anywhere, no matter whether they served in the Army or not; and it is just as reasonable to say that no man shall be eligible to a seat in the Senate from Colorado unless he is a wounded Federal soldier as to say that no man shall be eligible to be a policeman in the District of Columbia unless he has served in the Federal Army. It is the duty of the District commissioners to select the best men they can find to preserve the peace and protect the lives and property of the citizens. Any limitation upon it is simply a little remnant of the meanest spirit of demagogy, to pretend that you are endeavoring to be very loyal to the old soldiers by giving them places that many of them do not want, and which many of them, perhaps, are not qualified for. We give them pensions; we give them arrears of pensions; there are soldiers' homes provided for them. Everything has been done for these men that ought to have been done, and that can be done in legitimate ways; but let the public service of the country be filled by the men most eligible for it.

It is akin to the idea that went over the country under the civil-service-reform notion when it was supposed that men must be able to answer certain questions, where Pernambuco was, and what was the latitude of this place and the longitude of that, before they could be put in the life-saving stations, which we are providing for now in this bill. Unless they could answer all such questions men were not eligible under the civil-service rules to these places when there are men, black and white, of courage, who can neither read nor write, who are better men to man a life-boat, or save a vessel while she is sinking, than all the schoolmasters that could be turned out of New England schools.

We want men for their fitness for the thing to be done; and I would give every Federal soldier every chance that any other man has to get anything that he is fitted for; but to say that he shall be forced into a place for which he may not be fit, and that the District commissioners shall not have the right to select anybody else, will after a while do these men more harm than good.

I desire to do everything for the Federal soldiers that can be done in a fair way; that is all they ask, and this low, cheap demagogy—for that is what it is—that seeks to keep the soldier to the front and pretend to be his special friend by forcing him on all sorts of things to the exclusion of everybody else does not receive his commendation and will not induce him to support the gentlemen who make the effort, in my judgment.

The Secretary proceeded to call the roll.

Mr. SAULSBURY, (when Mr. BAYARD'S name was called.) My colleague [Mr. BAYARD] has been suddenly called away from the Senate on account of illness in his family.

Mr. ROLLINS, (when Mr. BLAIR'S name was called.) My colleague [Mr. BLAIR] is absent and paired with the Senator from South Carolina, [Mr. BUTLER.]

Mr. CALL, (when his name was called.) I am paired with the Senator from Maine, [Mr. HAMLIN.] If he were present, I should vote "yea."

Mr. DAVIS, of West Virginia, (when his name was called.) The Senator from Minnesota [Mr. WINDOM] is not in his seat, and unless he comes in I am paired with him.

Mr. DAWES, (when his name was called.) I am paired on all political matters with the Senator from Delaware, [Mr. BAYARD.] I do not know how this would be considered, and I shall withhold my vote.

Mr. FARLEY, (when his name was called.) I do not regard this as a party question at all, but I am paired with the Senator from Colorado, [Mr. HILL.] If he were here, I should vote "nay." As he is absent I shall not vote.

Mr. JOHNSTON, (when his name was called.) I do not see why this should be regarded as a political question, and I do not so consider it myself; but as it seems to be so considered, I wish to announce that I am paired with the Senator from Nevada, [Mr. JONES,] with the reservation of the right to vote if it should be necessary to make a quorum. If the Senator from Nevada were here, I should vote "yea."

Mr. JONES, of Florida, (when his name was called.) I am paired with the Senator from Wisconsin, [Mr. CARPENTER.] If he were here, I should vote "yea."

Mr. LAMAR, (when his name was called.) On this question I am paired with my colleague, [Mr. BRUCE.] If he were present, he would vote "nay" and I should vote "yea."

Mr. MORGAN, (when his name was called.) On this question I am paired with the Senator from Kansas, [Mr. PLUMB.] If he were here, I should vote "yea."

Mr. VOORHEES, (when his name was called.) I am paired with the Senator from Massachusetts, [Mr. HOAR.]

The roll-call was concluded.

Mr. HARRIS. My colleague [Mr. BAILEY] is necessarily absent from the Senate to-day, but he has notified me of the fact that he is paired with some Senator on the other side of the Chamber, I do not remember whom. If my colleague were here, he would vote "yea."

I was requested by the Senator from Arkansas [Mr. GARLAND] to state that he was called to one of the Departments, and is therefore absent, and is paired with the Senator from Vermont, [Mr. EDMUNDS.]

Mr. DAWES. My colleague [Mr. HOAR] is paired, as I am informed, on political questions with the Senator from Indiana, [Mr. VOORHEES.]

Mr. LAMAR. I reserved the right to vote in case it was necessary to make a quorum. I understand there is not a quorum now voting, and I vote "yea."

Mr. JOHNSTON. I reserved the same right if it were necessary to make a quorum. I vote "yea."

Mr. MORGAN. I vote "yea" to make a quorum.

Mr. BALDWIN, (after having voted in the negative.) For the moment it had escaped my mind that I was paired with the Senator from Texas, [Mr. COKE,] and I therefore withdraw my vote.

Mr. ALLISON. Senators on the opposite side have voted in the affirmative to swell this majority, because there was no quorum when the call of the roll was concluded. I see no reason why the same rule should not apply to our side.

Mr. BALDWIN. If my vote is required for a quorum, I will allow it to remain.

The PRESIDING OFFICER. Does the Senator from Michigan withdraw his vote or let it remain?

Mr. BALDWIN. As Senators on the other side of the Chamber have voted so as to make a quorum, I shall feel at liberty——

Mr. HARRIS. Several Senators on this side of the Chamber who were paired have voted for the purpose of making a quorum.

Mr. BALDWIN. If I understand the Senator correctly——

Mr. HARRIS. I hope the Senator will let his vote remain.

Mr. BALDWIN. I will allow my vote to stand.

The result was announced—yeas 25, nays 15; as follows:

YEAS—25.

Beck,	Hill of Georgia,	Pendleton,	Walker,
Brown,	Johnston,	Pryor,	Wallace,
Cockrell,	Jonas,	Ransom,	Williams,
Groome,	Kernan,	Saulsbury,	Withers.
Hampton,	Lamar,	Slater,	
Harris,	McDonald,	Vance,	
Hereford,	Morgan,	Vest,	

NAYS—15.

Allison,	Cameron of Wis.,	Kirkwood,	Platt,
Anthony,	Davis of Ill.,	McMillan,	Rollins,
Baldwin,	Ferry,	Morrill,	Teller.
Burnside,	Ingalls,	Paddock,	

ABSENT—36.

Bailey,	Carpenter,	Grover,	Maxey,
Bayard,	Coke,	Hamlin,	Plumb,
Blaine,	Conkling,	Hill of Colorado,	Randolph,
Blair,	Davis of W. Va.,	Hoar,	Saunders,
Booth,	Dawes,	Jones of Florida,	Sharon,
Bruce,	Eaton,	Jones of Nevada,	Thurman,
Butler,	Edmunds,	Kellogg,	Voorhees,
Call,	Farley,	Logan,	Whyte,
Cameron of Pa.,	Garland,	McPherson,	Windom.

So the amendment was agreed to.

The PRESIDING OFFICER. The morning hour has expired.

Mr. HARRIS. I ask the Senator from Kentucky, [Mr. BECK,] who has the appropriation bill in charge, to allow us to proceed with this bill.

Mr. ROLLINS. I object to the further consideration of this bill.

The PRESIDING OFFICER. Objection is made to the further consideration of this bill.

Mr. DAVIS, of Illinois. I understand the appropriation bill will now be considered. I appeal to the Senator from Kentucky to allow me to take up a bill that was reported yesterday from the Judiciary Committee, to remove the political disabilities of Clement C. Clay, of Alabama.

Mr. BECK. I hope we will remove them all.

Mr. DAVIS, of Illinois. This bill will take but a minute. I hope it will be taken up.

Mr. HARRIS. I rise to know the condition of the bill that was under consideration at the expiration of the morning hour. I did not understand the Senator from New Hampshire as objecting to its consideration under the Anthony rule, but merely as objecting to its being proceeded with now.

Mr. ROLLINS. I objected to its further consideration under the Anthony rule.

Mr. HARRIS. So that the purpose is to put it over altogether. I give notice that during the morning hour to-morrow I will move to postpone all prior orders so as to take up and continue the consideration of the police-force bill.

CLEMENT C. CLAY.

The PRESIDING OFFICER. The Senator from Illinois asks unanimous consent to take up the bill (S. No. 1801) for the relief of Clement C. Clay, of Alabama.

By unanimous consent, the bill (S. No. 1801) for the relief of Clement C. Clay, of Alabama, was considered as in Committee of the Whole. It proposes to remove the disabilities imposed by the third section of the fourteenth amendment of the Constitution of the United States from Clement C. Clay, of Alabama.

Mr. DAVIS, of Illinois. The petition is regular in form.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed, two-thirds of the Senators present voting in the affirmative.

CHANGE OF NAME OF A BANK.

Mr. KERNAN. The Senator from Kentucky yields to me for a moment that I may ask the Senate to pass a House bill which came here yesterday or the day before and has been reported by the Committee on Finance, to change the name of a bank in New Hampshire. It is all right.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New York? The Chair hears none.

By unanimous consent, the bill (H. R. No. 3794) authorizing the City National Bank of Manchester, New Hampshire, to change its name was considered as in Committee of the Whole.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

SENATE LIBRARY.

Mr. DAVIS, of West Virginia. I call for the regular order.

Mr. COCKRELL. The bill of which the Senator from Kentucky [Mr. BECK] has charge is now before the Senate, I understand.

Mr. BECK. It is.

Mr. COCKRELL. I wish to make an explanation and to withdraw an objection that I made some days ago. On the 25th of February a resolution was introduced for the appointment of an assistant Senate librarian. On that day a letter was read from the Secretary of the Senate, and appears in the RECORD of that date. I opposed the resolution at the time, and afterward made a motion to reconsider the vote by which it was passed. After having made a motion to reconsider, on the 2d of April, 1880, I introduced a resolution directing the Committee on the Library to inquire into the condition of the Senate library and the force which has been in charge of the same for the past six years, and whether any increase of force is necessary, and, if so, to what extent, and to report to the Senate the result of their investigation. The Committee on the Library, the Senator from Indiana [Mr. VOORHEES] and the Senator from North Carolina [Mr. RANSOM] being the majority of the committee, reported to the Senate a few days ago, on the 4th of June, and accompanied that report with a letter from the librarian which will be found in the RECORD of June 4, 1880. When that report was made I introduced a resolution calling upon the Secretary of the Senate to furnish the Senate with certain information. That letter was reported the same day to the Senate and was read at the desk, but by some means was not printed in the RECORD. It was ordered to be printed; I applied for the order to print it. On yesterday it was still not printed, although it had been read in the Senate on the 4th of June. It ought to have been printed and on our desks on Saturday, but was not here yesterday. I sent to the Printing Office and got it, and now I ask that that letter be read—it is only a few lines—and that it may be put in the RECORD.

The Chief Clerk read as follows:

OFFICE OF SECRETARY OF THE UNITED STATES SENATE,
Washington, June 4, 1880.

SIR: I submit the following in reply to the resolution of the Senate this day passed, directing me to report in writing "the number, names, and salaries or compensation of all persons employed in or about or in charge of the Senate Library from June 1, 1879, to June 1, 1880, and the term of service or employment of each person."

Peter J. Pierce was appointed librarian April 28, 1879, and has since continuously occupied that position, at a salary of $2,220 per annum; amount paid him from June 1, 1879, to June 1, 1880, $2,220.

Charles F. Murray was laborer from June 1, 1879, to July 1, 1879. His compensation was at the rate of $720 per annum; amount received by him from June 1, 1879, to July 1, 1879, $59.30.

He was succeeded as laborer, at the same rate of compensation, by F. P. Ferris, who has since continuously served in that position; amount received by Ferris from July 1, 1879, to June 1, 1880, $660.70.

These are the only persons who have been appointed to serve in either capacity during the time specified, and are the only persons who have received any salary or compensation from this office for any such service.

Respectfully,

JNO. C. BURCH, *Secretary*.

Hon. A. G. THURMAN,
President pro tempore.

Mr. COCKRELL. I made the motion to reconsider because I believed this was the creation of an unnecessary office, an office the duties of which were not required by the best interests of the service. The letter of the Secretary, which was read when the resolution was first introduced, did not assert that there was any necessity for it. The investigation of the committee has since been made, and the statements are such that I do not feel that I shall be justified in insisting upon the objection and a vote upon my motion to reconsider. I feel that I have done my duty, and if there is no necessity for these things, as I thought, the evidence is such that I cannot well overcome it. I therefore withdraw the motion.

The PRESIDING OFFICER. The motion to reconsider is withdrawn by leave of the Senate.

Mr. BECK. I now ask that the Senate proceed with the sundry civil appropriation bill.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes; agreed to the further conference asked by the Senate on the remaining disagreeing votes of the two Houses, and had appointed Mr. J. D. C. ATKINS of Tennessee, Mr. HIESTER CLYMER of Pennsylvania, and Mr. JOHN H. BAKER of Indiana, managers at the further conference on the part of the House.

The message also announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes.

RIVER AND HARBOR BILL.

Mr. RANSOM submitted the following report; which was read:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes, having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its amendments numbered 10, 23, 40, 41, and 95.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 5, 6, 7, 8, 9, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 58, 59, 60, 61, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 79, 80, 81, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 112, 113, 114, 115, and 116, and agree to the same.

That the House recede from its disagreement to the amendment numbered 1, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$20,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 4, and agree to the same with an amendment as follows: Strike out "25,000" and insert "20,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 9, and agree to the same with an amendment as follows: Strike out "70,000" and insert "50,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 14, and agree to the same with an amendment as follows: Strike out "25,000" and insert "20,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 55, and agree to the same with an amendment as follows: Strike out "12,000" and insert "10,000;" and the Senate agree to the same.

That the Senate recede from its amendment numbered 56, and agree to the same with an amendment as follows: Strike out "25,000" and insert "15,000;" and the House agree to the same.

That the House recede from its disagreement to the amendment numbered 57, and agree to the same with an amendment as follows: Insert after the word "dollars," "$6,000 of which may be expended for the removal of dams;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 62, and agree to the same with an amendment as follows: Strike out "25,000" and insert "20,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 78, and agree to the same with an amendment as follows: Strike out "20,000" and insert "16,000;" and the Senate agree to the same.

That the Senate recede from its amendment numbered 82, and agree to the following: In lieu of the original clause insert:

"It shall be the duty of the Secretary of War to apply the money herein appropriated for improvements other than surveys, and estimates in carrying on the various works, as far as can be, without detriment to the interest of the Government, by contract. Where such works cannot be done by contract, without injury to the public interest, they may be prosecuted by hired labor. Where said works are done by contract, such contracts shall be made after sufficient public advertise-

ment for proposals, in such manner and form as the Secretary of War shall prescribe; and such contracts shall be made with the lowest responsible bidders, accompanied by such securities as the Secretary of War shall require, conditioned for the faithful prosecution of the work according to such contract, and for the proper payment of all liabilities incurred in the prosecution thereof for labor and material; but this clause shall not be so construed as to prevent the continuance of work on the Great Kanawha by hired labor, unless the Secretary of War is satisfied that the public interest requires such change;" and the House agree to the same.

That the House recede from its disagreement to the amendment numbered 111, and agree to the same with an amendment as follows: Strike out the word "river" and insert "and Lillington Rivers and Beaufort Harbor;" and the Senate agree to the same.

M. W. RANSOM,
FRANK HEREFORD,
S. J. R. MCMILLAN,
Managers on the part of the Senate.
JOHN H. REAGAN,
MARTIN L. CLARDY,
WM. A. RUSSELL,
Managers on the part of the House.

Mr. RANSOM. I ask the Senate as a matter of form not to concur, but to ask for another conference.

In copying the report of the committee of conference we have found that one or two inaccuracies have occurred. The best parliamentary way of correcting them is for the Senate to non-concur in the report and have another conference. It is the only way by which we can get a correct report before the other House.

Mr. WITHERS. Why not recommit the report if there are clerical errors?

Mr. RANSOM. I thank my friend from Virginia; but the committee has considered this question. When the report was adopted by the House a motion was immediately made, as is the custom in the House, to reconsider, and that motion was laid on the table, which takes the report out of the power of the House except by unanimous consent. So the only parliamentary method left now to correct the very trifling mistakes made is for the Senate to non-concur and ask for another conference; which motion I make.

The PRESIDING OFFICER. The question is on concurring in the report.

The report was not concurred in.

The PRESIDING OFFICER. The Senator from North Carolina now moves that the Senate further insist and ask another conference.

The motion was agreed to; and by unanimous consent the President *pro tempore* was authorized to appoint the committee; and Messrs. RANSOM, HEREFORD, and MCMILLAN were appointed.

SUNDRY CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 6266) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, the pending question being on the amendment proposed by Mr. MORRILL to the amendment reported from the Committee on Appropriations.

The amendment of the Committee on Appropriations was, after the word "dollars," in line 1175, to insert:

And $10,000 thereof, or so much as may be necessary, shall be used by the Superintendent of the Census in obtaining statistics as to the number of citizens of the United States, being males of the age of twenty-one years and upward, inhabitants of any State whose right to vote for members of Congress is denied or abridged by provisions of the constitution or laws of any State, which said provisions are not applicable to all of the citizens of the United States resident in such State, and also to obtain statistics of the number of foreign-born persons, being males over twenty-one years of age, who have resided in the United States over five years and are now resident in any State which contains in its constitution or laws provisions which require from foreign-born citizens a different qualification for the right to vote than that required from native-born citizens.

The amendment of Mr. MORRILL was, after the words "resident in such State," to insert:

And not in accordance with the fourteenth amendment of the Constitution of the United States.

Mr. ALLISON. I move to lay the amendment on the table.

Mr. MORRILL. That is without regard to the increase of the amount?

Mr. ALLISON. Yes, after the word "dollars," in line 1175.

Mr. BECK. Mr. President——

The PRESIDING OFFICER, (Mr. MCDONALD in the chair.) The motion to lay on the table is not debatable.

Mr. BECK. I know that. I rise to a parliamentary inquiry. A motion is made to lay this amendment on the table, and the inquiry which I make is, what will be the effect upon the bill of an affirmative vote on a motion of that sort? If the amendments of the Senate Committee on Appropriations are to be treated simply as other amendments, then I know that the amendment would be merely rejected by that vote. If they are to be considered as a part of the bill and in the bill, I am afraid to lay this amendment on the table would carry the bill with it. I desire to know what is the effect of the vote on the rest of the bill. I assume that the amendments offered by the committee stand in no higher relation than an amendment offered by a Senator, but I desire to have that distinctly understood before the vote is taken, so that the bill will not be endangered by it.

Mr. DAVIS, of West Virginia. It will be recollected that this amendment now is a part of the bill. It is true the Senate has not acted on it, but it is in the bill.

Mr. BECK. The chairman of the committee and myself differ. I do not think it is part of the bill, and therefore it can be laid on the table without endangering the bill, whereas if it is a part of the bill the effect of the motion might be to endanger the whole bill.

Mr. INGALLS. How does the mere fact of printing it make this amendment a part of the bill?

Mr. BECK. I think it does not, but I desire the ruling of the Chair.

Mr. INGALLS. The question is whether a motion to lay this amendment on the table carries the bill with it, I understand.

Mr. BECK. That is what I desire to know.

Mr. INGALLS. Under the provision of Rule 29 it seems to me there can be no question about that. The language is as broad as the dictionary would permit:

And any amendment to a general appropriation bill may be laid on the table without prejudice to the bill.

That includes a committee amendment as well as every other amendment.

Mr. COCKRELL. There is no dispute on that.

Mr. BECK. There is some difference of opinion, and I want an authoritative ruling.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) The Chair has no doubt about the fact that the amendment proposed by a committee may be laid on the table, and it does not affect the bill under the rule.

Mr. BECK. That is what I desired to know.

The PRESIDING OFFICER. The question is on the motion to lay the amendment on the table.

The motion was agreed to; there being on a division—ayes 25, noes not counted.

Mr. PENDLETON. Mr. President——

Mr. BECK. We desire to act on the committee amendments first. The amendment, I believe, has been adopted increasing the amount for taking the tenth census to $2,960,000.

The PRESIDING OFFICER. That amendment has been agreed to.

Mr. BECK. It has been suggested that the words "to be immediately available" be added after the amendment. The committee present that amendment now.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, in the appropriations for "miscellaneous objects," under the head of "Government Hospital for the Insane," to strike out from line 1195 to line 1199, in the following words:

For support, clothing, and treatment in the Government Hospital for the Insane of such persons as are entitled to admission therein under the provisions of chapter 4 of the Revised Statutes of the United States, $138,000.

And in lieu thereof to insert:

For support, clothing, and treatment of the insane of the Army, Navy, Marine Corps, and revenue-cutter service, and of all persons who have become insane since their entry into the military or naval service of the United States, and who are indigent, and of the indigent insane of the District of Columbia, $175,000; and of this sum not exceeding $1,000 may be used for transporting patients to their friends: *Provided*, That hereafter the admissions to the hospital shall be limited to such persons as are entitled to treatment therein under the provisions of title 59, chapter 4, of the Revised Statutes of the United States, and under the act approved March 3, 1875, chapter 156, second session Forty-third Congress.

Mr. WITHERS. I wish to explain that amendment. The provision of the bill as it came from the House was stricken out and what has just been read was substituted for it, principally for two reasons, which I will state. It will be seen that the amendment increases the appropriation from $138,000 to $175,000. This was done because the number of inmates of the asylum cannot be adequately provided for by the amount of appropriation fixed by the House. Last year we appropriated $160,000 for the same purpose. There are a larger number of inmates now than last year. In addition to the $160,000 we had to have an appropriation of $13,000 deficiency. Therefore to supply the wants of the inmates of the asylum at the present number the increase was demanded, and we did not think it judicious to attempt to curtail the expenses necessary for the support and maintenance of the indigent insane at the asylum.

One thousand dollars was added to the appropriation, and is authorized to be used for the transportation of patients to their friends. That explains itself. They frequently find persons there who are temporarily confined, and if they had a small sum at their disposal they could send them to their friends, and relieve the Government of the expense of supporting them.

The provision in reference to the admission of patients applies to this condition of things. There are now in the asylum some patients who, because they served in the Army or Navy years ago, are by the terms of the act referred to permitted to come into the asylum. This is designed to restrict the admissions into the asylum to the provisions of the original act, which, so far as persons who served in the Army or Navy are concerned, restricts it to service three years antecedent to the time of admission. It is simply to restore to some extent the limitation which has been removed, and under which persons who ever served at any time in the Army or Navy, no matter how long before the insanity occurred, may be entitled to admission. That is the explanation.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the

Committee on Appropriations was, under the head of "Columbia Institute for the Deaf and Dumb," after the word "dollars," in line 1296, to insert:

Provided, That when any indigent applicant for admission to the institution, belonging to the District of Columbia, and being of teachable age, is found on examination by the president of the institution to be of feeble mind, and hence incapable of receiving instruction among children of sound mind, the Secretary of the Interior may cause such person to be instructed in some institution for the education of feeble-minded children in Pennsylvania, or some other State, at a cost not greater for each pupil than is, or may be for the time being, paid by such State for similar instruction, and the sum necessary therefor is appropriated out of the sum above provided for current expenses of the institution.

The amendment was agreed to.

The next amendment was, under the head of "Entomological Commission," in line 1274, to reduce the appropriation "for the completion of the work of the United States Entomological Commission under the Department of the Interior in the special investigation of the Rocky Mountain locust or grasshopper and the cotton-worm" from $20,000 to $15,000.

Mr. MORGAN. I desire to offer an amendment to the text in line 1273.

The PRESIDING OFFICER. The Chair would suggest to the Senator from Alabama that that is not in order at this time, while the committee's amendments are being acted upon.

Mr. MORGAN. I have an amendment which I desire to offer to the amendment of the committee. In line 1274, I move to strike out "15" and insert "25," so as to make the sum appropriated $25,000.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Alabama to the amendment of the committee.

Mr. MORGAN. Mr. President, I desire to submit some remarks to the Senate in explanation of my proposition.

Soon after I came into the Senate I instituted, or at least I inaugurated, a proposition for the purpose of investigating the ravages of the cotton-worm in the Southern States. It is a subject that I think ought to attract the attention of at least the gentlemen from the southern part of the United States, whether it does that of the commercial men from other parts or not. By the ravages of that insect for a period of at least ten years the cotton crop had sustained an annual loss of $15,000,000, making at least $150,000,000 that were lost in a period of ten years by the ravages of the cotton-worm.

All the attention that could possibly be paid to this subject by all the people of the South, for they were all interested in it, black and white, did not succeed in developing anything whatsoever that could promise relief against this great public calamity. We had labored for ten or twelve years, indeed for a longer period of time than that, finding that this enemy of the cotton crop was continually on the aggressive, and we had labored in vain to ascertain anything really of the habits of the worm or of the methods of its propagation, or indeed the seasons or the places where it was propagated.

Being admonished by the very great success that had attended the efforts of gentlemen in the Northwest to relieve the grain crops of that country from the invasion of the grasshopper, my attention was drawn to the practicability of reaching this great public evil through the entomological department of the United States Government. Finding that all the scientists in the South were at variance in the matter, finding that one opinion prevailed in one neighborhood and a different opinion in another neighborhood, that there was no uniformity of opinion in regard to the subject, I inaugurated a measure of having this subject investigated by the entomological bureau of the Government.

In 1876 or 1877, in consequence of the ravages of the grasshopper in the Northwest, an entomological commission was organized by act of Congress. In 1875, however, Congress found it necessary to appropriate $150,000 for the relief of persons in the northwestern Territories and States, who had been reduced to a condition of starvation almost from the ravages of this insect. January 25, 1875, $30,000 additional was appropriated for that purpose, making in all $180,000 that was appropriated to relieve people against starvation in that country from the ravages of this insect.

Congress inaugurated, as I have stated, in 1876 or 1877, an entomological commission under the Interior Department, appropriating on the 3d of March, 1877, $18,288; on the 20th of January, 1878, $10,000; March 3, 1879, $10,000, then June 14, 1878, $663, and in 1879 an additional appropriation was made for the purpose of finishing up the work in reference to the investigation of the ravages of that insect.

The entomologists in charge of that investigation have accomplished a very great work, one that is thoroughly creditable to the scientific attainments and reputation of our own people, and one which has already succeeded in resisting and overcoming the ravages of that insect until the people of the Northwest are almost entirely relieved of all fear and apprehension in respect of it hereafter. When I proposed the investigation of the ravages of the cotton-worm I started with a moderate appropriation of $5,000, it being merely experimental, and being intended to enable the entomologists of this country to organize a system of investigation. [A pause.]

On suggestions made to me by other Senators, inasmuch as the Senate is particularly thin at this moment and this is a subject that ought to engage attention, at least that of southern gentlemen, and who seem to be entirely indifferent to it so far as I can observe, I withdraw my amendment for the present, and I will bring it forward after the amendments of the Committee on Appropriations have been disposed of, giving notice, however, at this time, that I shall move to increase this appropriation.

The PRESIDING OFFICER. The amendment to the amendment is withdrawn. The question is on the amendment of the Committee on Appropriations.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, in the appropriation for the entomological commission, after the word "available," in line 1275, to add the following proviso:

Provided, That after the close of the next fiscal year all work of the character herein provided for shall be exclusively under the control of the Agricultural Department, and all operations under the Interior Department shall be fully and finally closed before the 30th day of June, 1881.

The amendment was agreed to.

The next amendment was, under the head of "Indian Office," after line 1301, to insert:

Expenses of Indian commissioners: For the expenses of the commission of citizens serving without compensation, appointed by the President under the provisions of the fourth section of the act of April 10, 1869, $10,000.

Mr. COCKRELL. I should like to reserve that amendment on the question of concurring in the amendments in the Senate.

Mr. BECK. I do not object to that at all.

The PRESIDING OFFICER. The amendment will be noted as reserved. The question is on agreeing to the amendment as in Committee of the Whole.

The amendment was agreed to.

Mr. BECK. After line 1306, I am authorized by the committee to move to insert:

To enable the Secretary of the Interior to pay the rent of that part of the Freedman's Bank building now occupied by the Court of Claims, $3,600.

I do not desire to take any time to say anything about it, but I wish to place on record, as it may be useful in conference, quite an urgent letter from the Secretary of the Interior on this subject, as well as from one of the commissioners. They are very short.

Mr. ALLISON. I suggest that the letters be printed in the RECORD.

Mr. BECK. That is all that I desire; so that the House may see the ground on which we acted, and the conference committee may have the facts.

The letters referred to are as follows:

DEPARTMENT OF THE INTERIOR,
Washington, June 7, 1880.

SIR: I have the honor to state that under a provision of a joint resolution of Congress, approved July 1, 1879, the Secretary of the Interior was directed to procure suitable rooms for the Court of Claims. Under the authority conferred by said resolution this Department leased from the commissioners of the Freedman's Savings and Trust Company the first floor of the Freedman's Bank building at an annual rental of $3,600.

Of the sum of $5,000 appropriated, the larger portion was required for payment of expenses of the transfer of the court from the Capitol to said building and the fitting up of the rooms. I have the honor to request that an additional appropriation of $120 be made to make up the full amount of rent, $900, for the quarter ending June 30, 1880, and that an appropriation of $3,600 be made for the payment of the rent of said building for the year ending June 30, 1881.

I have the honor to transmit herewith a letter from R. H. T. Leipold, one of the commissioners of the bank, upon the subject.

Very respectfully,

C. SCHURZ,
Secretary.

Hon. H. G. DAVIS,
Chairman of the Committee on Appropriations,
United States Senate.

OFFICE COMMISSIONERS OF FREEDMAN'S SAVINGS AND TRUST COMPANY,
Washington, D. C., June 5, 1880.

SIR: Referring to your letter of the 13th ultimo, in which you notify us that it is the desire of your Department to retain the first floor of the Freedman's Bank building for the use of the Court of Claims of the United States during the year ending June 30, 1881, and state that Congress would be requested to make provision for the payment of the rent, we are informed that no provision has been made for such rent in any of the appropriation bills by the House of Representatives

We have the honor, therefore, most respectfully to request that you will call the attention of the Committee on Appropriations of the Senate to the omission, with a view of having it corrected.

Very respectfully, your obedient servant,

R. H. T. LEIPOLD,
Of the Commissioners.

Hon. CARL SCHURZ,
Secretary of the Interior, Washington, D. C.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, under the head of "Under the Department of Justice," to strike out from line 1313 to line 1321, in the following words:

Defending suits and claims for seizure of captured or abandoned property: For payment of the necessary expenses incurred in defending suits against the Secretary of the Treasury or his agents for the seizure of captured or abandoned property, and for the examination of witnesses in claims against the United States pending in any Department, and for the defense of the United States in the Court of Claims, to be expended under the direction of the Attorney-General, $25,000.

Mr. BECK. I desire to say in behalf of the committee that we have agreed to an amendment which the Senator from Illinois [Mr. DAVIS] will offer to take the place of the words proposed to be stricken out.

The PRESIDING OFFICER. The amendment of the Senator from Illinois will be reported.

Mr. DAVIS, of Illinois. My amendment is to strike out what the

committee propose to strike out and insert this; the phraseology is a little different:

For payment of necessary expenses incurred in the examination of witnesses in the matter of claims against the United States pending in any Department and for the necessary expenses incurred in defending suits in the Court of Claims, to be expended under direction of the Attorney-General, $25,000.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was to strike out from line 1357 to 1365, as follows:

To enable the Attorney-General to supply the office of the district judge of the western district of Tennessee with volumes of Reports of the Supreme Court of the United States and volumes of the Statutes at Large, $80.

To enable the Attorney-General to supply the United States courts at Kansas City, Missouri, with Reports of the Supreme Court of the United States and the Statutes at Large, $435.

And in lieu thereof to insert:

To enable the Attorney-General to supply the circuit and district courts of the United States, at points where said courts are held and not already supplied, with volumes of Reports of the Supreme Court of the United States and volumes of the Statutes at Large, $10,000, or so much thereof as may be necessary.

The amendment was agreed to.

The next amendment was, under the head of "public printing and binding," after the word "printing," in line 1490, to insert:

And he shall, in his annual report to Congress, state the total receipts of the Government Printing Office, and from what sources, and set forth the total expenditures, and the purposes thereof; and in order to carry out the foregoing provision the Public Printer is authorized to employ a bookkeeper at an annual salary of $1,800, which sum is hereby appropriated for the next fiscal year.

The amendment was agreed to.

The next amendment was, after line 1498, to insert:

That lot subdivision 55, in square 624, fronting on H street, in the city of Washington, adjoining the lands on which the Government Printing Office building is situated, shall be purchased for the use of the United States; and it shall be the duty of the Secretary of the Interior to purchase said lot, the value thereof to be paid to the owner, out of any money in the Treasury not otherwise appropriated, on the requisition of the said Secretary of the Interior: *Provided*, That before such payment shall be made the owner of said lot shall, by a good and sufficient deed in fee-simple, to be approved by the Attorney-General of the United States, convey the said lot to the United States for the purpose aforesaid.

That to ascertain the value of said lot it shall be the duty of the Secretary of the Interior to make application to the supreme court of the District of Columbia, by petition containing a particular description thereof by metes and bounds, with the name of the owner and his residence, and the said court is hereby authorized and required, upon such application, in such mode, and under such rules and regulations as it may adopt, after notice to the owner of said lot by summons, to appoint three commissioners, freeholders of the District of Columbia, acquainted with the value of real estate in Washington City, to make, under oath, a just and equitable appraisement of the cash value of said lot and the improvements thereon, and the Secretary of the Interior is authorized and required to pay to the owner of said lot the amount specified in the appraisement so made, or he may deposit said amount for said owner with the court in payment thereof. The said court may direct the time possession of the said lot so condemned may be taken, and may, if necessary, enforce any order or issue any process necessary to give such possession. The cost occasioned by the appraisement and purchase shall be taxed and paid as the court may direct.

Mr. BECK. In regard to that and the next amendment I would be glad if the Senator from Rhode Island [Mr. ANTHONY] were here; I do not see him in his seat. A communication was sent to him by the Public Printer, Mr. Defrees, and the Architect of the Capitol, which I hold in my hand, urging the purchase of this lot and the erection of the building, the building being provided for in the next amendment, from lines 1536 to 1543. I believe I will ask to have the letter of Mr. Defrees read, or published in the RECORD as a part of the information upon which we acted.

Mr. WITHERS. Let it be made part of the RECORD.

The PRESIDING OFFICER. Does the Senator from Kentucky ask to have the letter read?

Mr. BECK. I will hand it to the Reporter.

The letter referred to is as follows:

OFFICE OF PUBLIC PRINTER,
Washington, May 25, 1880.

DEAR SIR: The owner of a lot within ten feet of the west end of the Government Printing Office building is about to erect a three-story brick building. Should he do so, it will compel the using of gas in the west end of the Printing Office during every day, which would amount in a single year to more money than now necessary to purchase the lot.

Again, the building of his house would destroy the free circulation of air which is so essential to the health of the employés.

The lot fronts twenty-four feet on H street, and runs back one hundred and seventy-five feet, the whole width of the Printing Office, making forty-two hundred square feet. If appraised by good judges of the value of real estate appointed by the court, as is usual in the purchase of property by the Government, it could not possibly exceed from seventy-five cents to $1 per foot.

This statement of facts shows how important it is that it be purchased by the Government.

The absolute necessities of the Government Printing Office demand the erection of an extension to the building now occupied by it.

Where large additions of work are ordered an immense amount of room is required for storage during its progress to completion. To give you an idea of the room required it is only necessary to say that at the present session of Congress about 600,000 volumes of reports from the Agricultural Department alone have been ordered to be printed. These volumes would twice fill the Congressional Library. The work for all of the Departments is also increasing, and that for the Census Office is immense.

In addition to this, the Government recently purchased 71,140 stereotype and composition plates, and 63,046 odd volumes, bound and unbound, of the Congressional Globe, for which it gave $100,000.

This property, by the law, was placed in the custody of the Public Printer, for which he is responsible, and yet, having no room in which to store it, is only nominally in his possession, the greater portion remaining in buildings belonging to the persons from whom it was purchased, and he has recently been requested by them to remove it, which he cannot do for want of room.

Again, there are over two hundred tons of stereotype plates of jobs for the Departments and of the CONGRESSIONAL RECORD now in the building, which would cost over $200,000 to re place if destroyed by fire. These should be placed in a fire-proof room, which any prudent individual would do if it were his property.

For want of room the present building is so overloaded as to become dangerous, and but recently I received the following letter from Mr. Clark on the subject:

"ARCHITECT'S OFFICE, UNITED STATES CAPITOL,
"*Washington, D. C., April* 15, 1880.

"SIR: I feel called upon to again bring to your notice the overloading of the upper floor of the H street portion of the Printing Office building, particularly near the elevator at the rear wall.

"It should be remembered that the old portion of this building was erected by private enterprise, and in a cheap manner. In consequence, the floors are not capable of bearing, without danger, the weights often placed upon them.

"Respectfully,

"EDWARD CLARK,
"*Architect United States Capitol.*

"Mr. JOHN D. DEFREES,
"*Public Printer.*"

At my request, Mr. Clark, the Architect, made a plan of the building needed, (which I herewith submit,) which he estimates to cost $36,000, certainly a very small sum as compared with the advantages the expenditure will be to the Government.

Very respectfully, yours, &c.,

JNO. D. DEFREES,
Public Printer.

Hon. H. B. ANTHONY.

Mr. BECK. I desire only to say that as far as I am concerned I never was fully satisfied in regard to the purchase of the lot and the construction of a building. We had before us propositions bearing upon the publication of the RECORD, which seemed to me upon their face to be in the interest of economy to the extent of $40,000 or $50,000 a year, and perhaps if that could have been consummated the erection of that building might have become unnecessary.

It was so late in the session, so difficult to ascertain what the facts were, that in the absence of a report of the Committee on Public Printing we did not feel authorized to act upon it, and yet it seemed to me so reasonable and met with my approbation so thoroughly that I was hardly prepared to vote for the erection of a public building now until more could be heard upon that subject. There have been charges of great confusion, extravagance, and useless expenditure on the part of the Public Printer, whether true or untrue I am not able to say, and it was claimed that the RECORD particularly could be published much more economically than it is done now. Instead of erecting more public buildings, I felt as though we ought to wait until December to see what the facts were in regard to the propositions laid before us, not feeling willing to make any change now in the absence of information and in the absence of reports. I was not quite willing to erect buildings in the absence of information and reports. Still the amendment is in the bill, the letter seems to be quite urgent, and much information was given to us that looked as though it was indispensable, and I did not feel quite at liberty to object.

Mr. WITHERS. I wish to state, in reference to the amendment now under consideration providing for the purchase of the lot adjoining the Government Printing Office, that the whole necessity of it arises from this fact, that quite adjoining the western side of the Printing Office is a lot which does not belong to the Government but to a private person, who proposes now to erect a building upon it, the effect of which building, if erected, will be to cut off all the light and air from that end of the Government Printing Office and render it impossible for them to conduct their operations there without the constant use of gas, to say nothing of the injury to the health of those who labor there for the want of air. The person owning this property is willing to sell it to the Government, and the whole object of this provision is designed simply to secure to the Government the right of purchasing the property at a fair and equitable valuation. The whole amount involved in the purchase will not probably exceed $4,000.

Mr. BECK. That far I think is right.

Mr. JONES, of Florida. I concur entirely in what has been said by the Senator from Virginia. This subject was under consideration in the committee of which I am chairman, and we decided there, after mature consideration of the whole question, that this property ought to be purchased. It is true that a great mistake was made in the first instance in not acquiring all the property necessary for this important building; but still the necessity of getting the adjacent lot is all-important, because if a structure were to be erected there now by private persons it would endanger the building that the Government has erected. Every consideration, I think, requires that this property should be bought.

Mr. BECK. On that we all agree.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, after line 1535, to insert:

For fire-proof extension of the Government Printing Office building, upon plans approved by the Architect of the Capitol, and the work to be done under his direction, including heating apparatus and plumbing, said appropriation to be available during the present fiscal year, $36,000; and any expenditure on a plan that shall cost a greater sum to complete it shall be deemed unlawful.

Mr. BECK. That is the amendment I am not clear about.

Mr. ALLISON. I am very clear about it.

Mr. BECK. I know you are, and I want you to explain it.

Mr. ALLISON. I have made a personal examination, as has also the Senator from Virginia, of the necessities of the Printing Office, and I am perfectly clear that this amendment ought to be adopted.

But I rose for another purpose. In line 1540 the amendment says, "to be available during the present fiscal year." I think this appropriation ought to be available during the present and the next fiscal year; otherwise there might be some question whether it could be used during the next fiscal year.

Mr. DAVIS, of West Virginia. I think the Senator is right.

Mr. BECK. That is right; that is the intention of it.

Mr. ALLISON. I made some days ago a personal examination of the Printing Office with a view to ascertain whether or not this proposed amendment which came to us from the Committee on Printing should be adopted. We found there an immense establishment, with very little room for the storage of the material now on hand and of the necessary books and papers passing through the various processes required at the Government Printing Office. For example, at this session of Congress we have authorized the printing of 300,000 copies of the Agricultural Report. The storage alone required for this immense number of volumes during the process of printing and binding requires an immense amount of room. We became satisfied from this investigation and examination that it would be impossible to meet the present requirements of that office unless there was an enlargement of the building. The enlargement proposes simply a connection of two side wings with each other by building a central building, leaving a court in the center. I think there is no question about the propriety of making this expenditure, and, in fact, no question about its necessity.

I have said nothing of the fact that two or three years ago, in a bill similar to this one, we appropriated $100,000 to buy the stereotype plates and odd volumes of the old Congressional Globe. The Senator from Massachusetts [Mr. DAWES] is quite familiar with that. We were told then, and I suppose truthfully, that these stereotype plates and these volumes were of immense value to the Government. We made the purchase, and expended $100,000 for them. They were required by that law to be placed under the jurisdiction and control of the Public Printer. The Public Printer has no place even for the storage of the stereotype plates, to say nothing of the vast number of volumes of the old Congressional Globe, which were secured by the original purchase. They are now in a building four or five miles distant from the Capitol.

Mr. DAWES. Will the Senator allow me to interrupt him?

Mr. ALLISON. Certainly.

Mr. DAWES. I suggest that he give us a little information about what was the real condition of the old Globes after we purchased them, as to complete sets.

Mr. ALLISON. The Senator from Massachusetts interrupts me, not for the purpose of securing to himself any information upon this subject, but rather for the purpose I suppose of taking the opportunity of stating that we paid vastly too much for these stereotype plates and these odd volumes of the Globe.

Mr. DAWES. I wish merely to put on record that we were the victims of misplaced confidence.

Mr. ALLISON. So we were, and so we have often been. I desire to say with reference to this matter that these volumes and these stereotype plates are now stored in a building some four or five miles distant from the Capitol. They are subject to the casualties of fire, and to the danger of destruction or injury in other ways. The object of the Government and the object of the Public Printer is to save whatever may be valuable of this mass of matter and put it in storage as the law requires him to do. If these things are to be done, it is very necessary that there should be a considerable extension of the Public Printing Office. I do not believe the extension proposed for here will be sufficient for this purpose. Indeed, this extension will only be sufficient to carry on the necessary and daily operations of the Government Printing Office.

I have made this statement at the request of the Senator from Kentucky who has charge of the bill, and who did not make the personal examination of the subject that the Senator from Virginia and myself made.

The PRESIDING OFFICER, (Mr. FERRY in the chair.) The question is on the amendment of the Senator from Iowa, [Mr. ALLISON.]

Mr. DAVIS, of West Virginia. That is merely to make the appropriation available during the next fiscal year.

Mr. ALLISON. After the word "present," in line 1540, my amendment is to insert the words "and the next;" so as to read, "to be available during the present and the next fiscal year."

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, after line 1543, to insert:

Senate:

For improving and repairing the heating apparatus of the Senate Chamber, for additional registers in floor and gallery, and for small sky-lights in roof and ceiling, and for one vacuum-pump, $10,000.

The amendment was agreed to.

The next amendment was, under the head of "House of Representatives," after line 1590, to insert:

To pay for services in cleaning Statuary Hall and watching statuary therein for the fiscal year ending June 30, 1881, $722, to be disbursed as contingent expenses of the House of Representatives, subject to the approval of the Architect of the Capitol.

The amendment was agreed to.

The next amendment was, under the head of "general miscellaneous," after line 1664, to insert:

To pay Charles H. Evans for the book prepared by him, known as Senate Document No. 46, first session Forty-sixth Congress, "Imports and duties from 1867 to 1878," and for revising and superintending the printing of the same, $2,000.

The amendment was agreed to.

The Secretary resumed and concluded the reading of the bill.

Mr. PADDOCK. After line 72 I move an amendment which is estimated for by the Supervising Architect.

Mr. McPHERSON. Am I in order to offer an amendment?

Mr. BECK. There is an amendment pending. The Senator from Alabama [Mr. MORGAN] has moved an amendment.

Mr. PADDOCK. At the end of line 72 I move to insert:

For completing the grade, sidewalk, fences, and other necessary improvements on the grounds of the United States court-house and post-office at Lincoln, Nebraska, $5,000.

The amendment was agreed to.

Mr. MORGAN. I have an amendment pending to the bill which I offered to an amendment of the committee.

The PRESIDING OFFICER. The Secretary will report the amendment.

The CHIEF CLERK. In line 1274, before the word "thousand," it is proposed to strike out "15" and insert "25;" so as to read:

For the completion of the work of the United States entomological commission under the Department of the Interior in the special investigation of the Rocky Mountain locust or grasshopper and the cotton-worm the sum of $25,000, to be immediately available.

Mr. MORGAN. Mr. President, when the amendment of the committee was under consideration I had undertaken to invite the attention of the Senate to the object of my amendment, but for want of interest in the subject or for some other reason I could not do it. I therefore postponed the further remarks I had to make on the subject until the Senate should be fuller and more disposed to listen to what I had to say.

I had already called the attention of the Senate to the fact that for the last ten years, to say the least of it, if not for a much greater period of time, there had been an annual loss of $15,000,000 to the cotton crop in the South by reason of the ravages of the cotton-worm proper, though there are many other insects injurious to the cotton-plant. I have before me a table all of which I shall not read, but I will state the conclusions of it, in reference to the year 1878. The loss for that year was $29,711,000 in the States of Florida, Georgia, Alabama, Mississippi, Louisiana, Texas, South Carolina, Tennessee, Arkansas, and North Carolina. I had explained to the Senate that at the time this investigation was first instituted, finding that there was an entomological commission already in existence charged with the investigation of the ravages of the grasshopper in the Northwest, I availed myself of that organization and of the ability of those entomologists for the purpose of setting this work on foot. The first appropriation that was made was on the 19th of June, 1878, $5,000; the second appropriation was on March 3, 1879, including the grasshopper and cotton-worm, $10,000. It was supposed that that appropriation would be divided about equally between the two species of insects. On the 21st of June, 1879, the appropriation was $5,000, making the entire outlay so far in this investigation, $15,000.

I hope the Senate will bear with me for a moment until I can explain the situation in the South in reference to the ravages of this insect. I had already remarked that its habits, both of propagation and of distribution, and the question as to the place or manner of its hibernation, and the question as to the method of getting rid of it, had attracted the attention of all classes of people in the South. The most ignorant plantation hand in the South was earnestly engaged in studying this subject, with a view of trying to find some remedy against the ravages of this insect; and so, of course, the most enlightened people that we have were everywhere engaged in this investigation. But their examination was totally unscientific, was not harmonious in any respect, and met with no good result. It led to an almost indefinite number and variety of opinions greatly in conflict, out of which there was nothing to be deduced of any value whatever with reference to relief from this great public pest. It was this fact that induced me to attempt to avail myself of the highest scientific ability in this country, and I found it in the entomological commission. That commission is composed of three gentlemen who are an honor to the people of the United States, whose reputation extends abroad, who have received gold medals and other rewards from foreign governments in consideration of their scientific experiments and scientific discoveries for the protection of the crops abroad. For instance, there is the phyloxera that has affected the wine crop of Germany and France to an enormous extent, to the threatened destruction almost absolutely of the whole grape-growing interest of those countries, and it was a calamity of such universal bearing and effect to those governments that they concerned themselves as they always do in the protection of their industries, particularly their agricultural industries. They sent even to this country, and obtained knowledge and scientific information from our own entomologists, and achieved a tremendous triumph for science through their inspection and investigation of these insects.

I therefore very naturally desired to avail myself of the scientific abilities of this board, and I asked for only $5,000. Here is a cotton crop that this year will produce in raw cotton and the manu-

factured article in the United States more than $300,000,000. The cotton crop for the present year will be about fifty-six hundred thousand bales, the largest crop that ever was made; and I have not a doubt that a very considerable part of the increase of the cotton crop in the South is due to the fact that through the scientific investigations of these entomologists people have been put in possession of means whereby they may stop and arrest to some extent the ravages of this insect.

This investigation has gone on at great personal sacrifice on the part of the gentlemen who have been conducting it. The amount of money that has been contributed by Congress to this object has been very meager; and if it were not for the fact that these gentlemen received at large the hospitalities of the southern people in their efforts to meet this great public calamity I do not know that they could ever have succeeded in getting through, with the limited appropriation that Congress has made them.

Mr. President, does it not look as if it was the most meager parsimony for the Congress of the United States to appropriate $5,000, or, if you please, even $10,000 a year to the investigation of this subject, when we are appropriating sums of enormous amount to objects that certainly cannot claim the attention of Congress as fully as that which I now bring before it? In this present appropriation bill, under the head of "Commissioner of Fish and Fisheries," for the propagation of food-fishes, we have appropriated "$85,000, which shall be immediately available." Then,

For maintenance of the United States carp-ponds in the city of Washington and elsewhere, $5,000.

Congress gives as much money to carp-ponds in the city of Washington as it does to the whole cotton crop of the South.

For the construction of an additional pond on Monument lot for the cultivation of carp and other food-fishes, with the necessary arrangements of drainage, and for completing the work on the ponds now in use, $12,000.

Twice as much as you give to the entire cotton crop!

For collecting statistics of the sea-coast and lake fisheries of the United States, especially those covered by the Washington treaty of 1871, $3,500.

* * * * * * *

For furniture for the new public public building at Chicago, Illinois, in addition to the furniture in use, $100,000.

Sir, if you were to allow that building to go unfurnished for two years and give that $100,000 to the investigation of the ravages of the cotton-worm in the South the whole people would rise up and call you blessed on account of your liberality.

Salaries and traveling expenses of agents at seal-fisheries in Alaska: For one agent, $3,650; one assistant agent, $2,920; necessary traveling expenses of agents in going to and returning from Alaska, at $600 each per annum; in all, $7,770.

Seven thousand seven hundred and seventy dollars for looking after the Alaska seal-fisheries!

Examination of rebel archives and records of captured property: To enable the Secretary of the Treasury to have the records of captured and abandoned property examined, and information furnished therefrom, for the use and protection of the Government, $5,000.

We had rather a great deal that you would be looking into the history and habits of the cotton-worm in the South than be looking into the rebel archives. It would be much more profitable to us and much more profitable to the cotton crop. On page 28 of this appropriation bill, I notice:

For flower-pots, twine, baskets, and lycopodium, $1,000.
For care and construction and repair of fountains in the public grounds, $1,500.
For abating nuisances, $500.
For improving various reservations, $10,000.

Then we come to the establishment of forts away off in the Territories. In Montana a fort is to be built at the cost of $100,000.

For continuing the construction of quarters at Fort Omaha, Nebraska, $50,000.
For the repair of the Government quarters at Fortress Monroe, Virginia, $20,000.

And so on through the whole bill. I am not complaining of these as being extravagances by any means, for I gave my vote very cheerfully for every one of these appropriations; but I thought that it was not improper for me to call the attention of Congress to the question whether we had not better make some provision for the protection of the agriculture of this country while we are bestowing such lavish expenditures upon the mere decorations of houses with furniture, or the providing of flower-pots and matters of that kind for the gratification of our taste.

Mr. President, during three seasons some investigations and explorations have been made in this matter. The work is conducted in this way: Men of the best scientific attainments who can be found, who will consent to act as agents in this entomological investigation, are stationed in different latitudes and also in different longitudes in the South for the purpose of making observations the year round. They make their reports to the entomologist who is in charge of the investigation, and he makes a comparison of the reports. He goes abroad himself and visits every State, visits every locality from year to year, and makes his personal investigations, so as to verify the reports that have been made to him by his observers.

Mr. PADDOCK. I should like to inquire of the Senator from Alabama who is at the head of the commission.

Mr. MORGAN. There are three entomologists who belong to the entomological commission, as it is called, in the Department of the Interior, who have it in charge, but it is under the special direction of Professor Riley, a man who is very distinguished in this country and abroad for his scientific attainments in this branch of knowledge.

Mr. MAXEY. Speaking of the head of the entomological commission, I ask the Senator from Alabama if his work on the cotton-worm is not regarded in the South as one of high repute and one of great value?

Mr. MORGAN. There never has been a book published by Congress that met with so much approbation and was so sought after as Riley's report upon the cotton-worm. I have never known anything to equal it in regard to a publication made by the Congress of the United States.

Mr. BECK. If the Senator from Alabama will allow me, I wish to say that I sympathize with him except in his attacks on the committee, because they have given money for forts and other things and have not given all the money to the cotton-worm. I notice that we have two reports, one on the cotton-worm, by Mr. Riley, and a report on the cotton for the same year, by Mr. J. Henry Comstock. So far as I am able to examine them the one seems to be about as good as the other. We have been carrying on one set of investigations under the Commissioner of Agriculture and another under the Secretary of the Interior, and each furnishing us with books. If the size is to be a test of value, the experiment is in favor of the Agricultural Department; and if the material is to be valued they seem to be exactly alike. Why we should run both those commissions at the same time and pay $20,000 or $30,000 a year to them, is a problem that I should like to hear discussed. I am inclined to think that one or the other ought to get the information. I am not disparaging the value of the investigation, but I do not see the need of two antagonistic investigations going on at the same time, and each publishing substantially the same thing.

Mr. MORGAN. When the Senator from Kentucky undertakes to defend the committee he will not defend it against any attack I have made on the committee, for I distinctly said that I had voted, and voted with cheerfulness, for every one of these appropriations. I was attempting to illustrate by the freedom and liberality of our expenditures in other directions what I thought would be a just and proper rule in reference to a subject of the magnitude of this. I made no criticism at all on the committee; I could not do it without criticising myself.

As to the two reports, that of Mr. Comstock, made from the Department of Agriculture, is a larger book than the report of Mr. Riley, and it is larger only in respect to the fact that it contains a great deal of useless information, examinations and contributions of private citizens and their opinions in regard to this cotton-worm pest. The Senator says the two books are exactly alike so far as he can discern. I am prepared to admit that they are almost exactly alike; but Mr. Riley is the author of the report and Mr. Comstock is the man who printed it under the auspices of the Agricultural Bureau. That is how they come to be alike. Professor Riley is the man who made the report and Mr. Comstock is the man who appropriated it. The investigations were made by Professor Riley. Mr. Comstock is a young man in his profession, just out of college, perhaps not more than twenty-five years of age to-day, with very little experience in the field. I do not wish to derogate from him at all, for I think he is a very promising man and I have very great respect for him. He was one of Mr. Riley's observers in the field and did good work in the field; but he was only one of a number. The scientific work of this report has been done by Professor Riley, and I do no man in the United States the slightest degree of harm or discredit when I say that there is no man in the United States who is competent to do that work to the same extent that Professor Riley is competent. I desire that the people of the South shall avail themselves of the highest scientific ability in the country; and if Professor Riley and Mr. Le Duc cannot get along with their private affairs without quarreling, if they cannot live together in harmony or work together in harmony, there is no good reason why the South should be made to suffer for it.

Mr. CALL. And the whole country.

Mr. MORGAN. And, my friend from Florida says, the whole country. Of course the whole country and the whole world, too, are made to suffer from it. It is not correct to say, however, that this investigation is being conducted under both these Departments of the Government at the same time. The agricultural bill, which we passed at this session of Congress, appropriated $5,000 for an entomological investigation in the Department of Agriculture. They have over there a museum of collections of various insects injurious to agriculture and to plants of every description. They have a library; they have a bureau there in which they receive correspondence and in which they answer correspondence, and keep themselves in communication with such investigations as are made or can be made throughout the whole length and breadth of the land. That is a necessary bureau, and $5,000 is just as little money as they can get along with in that establishment. Out of that they have to pay the salary of the entomologist, the salary of his wife, who is a clerk in the bureau, the salary of the assistant entomologist, and other expenses of the bureau. By the time that $5,000 is expended in this necessary work there is nothing of it left for field operations.

Mr. President, there is no man in the United States, I care not what may be his scientific attainments, who can sit in his Department in Washington City and investigate this cotton-worm affliction in the manner which it should be investigated with a view to its being stopped.

Finding that it was necessary that this investigation should be con-

ducted under the Department of the Interior and under the entomological commission in order that we might get the subject disposed of at some time and in the most beneficial manner, the appropriations heretofore made by Congress except the first one have been carried to the Department of the Interior and to this entomological bureau merely for the sake of having the benefit and advantage of the examination of these scientific men into this subject.

Bulletin No. 3, which Professor Riley has sent out and which Congress has printed and circulated in very large numbers, as well as the report of Mr. Comstock also is all that has yet been accomplished. What ground does that cover? That is the question. Until these entomologists got hold of this question it was a matter of extreme doubt whether the cotton-worm belonged in the United States anywhere, and also as to the form of his hibernation, whether in the form of a chrysalis or in the form of the moth or butterfly. After long and tedious examination, extending through the winter months and through the summer months, it has now been determined authoritatively that this insect hibernates in the moth form in the southern tier of counties of the cotton-growing States, and that from those winter quarters, where in consequence of the mildness of the climate numbers of them survive every winter, the invasion spreads toward the North, consuming the cotton-fields as it goes, until the worms come in contact with the early frosts of the autumn. This moth even invades Michigan, and there it feeds upon the cantaloupes and other sweet and succulent plants. It is found in great numbers in that region, showing that it has a powerful wing and ready flight, and can be carried over a vast extent of territory within a very few days, particularly with favoring winds. These facts have been developed; a large amount of scientific, accurate, and practical information has been developed already in reference to the cotton-worm in all of its various phases and stages of existence.

The next step, and the most important one to which these entomologists are directing their attention, is the prevention of it. When the potato-bug was invading the crops of this country Professor Riley was called into the field. He recommended the application of Paris green and some other poisonous minerals for the extinction of that pest. Following after his example and upon his recommendation the southern planters took up Paris green and applied it, and they have rescued many crops from the invasion of the cotton-worm, thereby availing themselves of his great scientific knowledge and abilities in the very outset of this matter. But it has been found that Paris green is not only an expensive poison, but it is also very dangerous to stock, and sometimes has resulted in the death of the people who have been compelled to handle it.

In the investigations which the entomologists are making their attention is now greatly drawn to the proposition as to what means shall be used for the extermination or at least for the checking of the ravages of this insect. It was discovered by Professor Riley, during the last months of his investigation in the year 1879, that there was a plant in California called the pyrethrum, grown there by a single enterprising individual, the flowers of which when dried and pulverized are a fatal poison to the cotton-worm. The flowers of this plant are largely used in commerce and imported from the southern part of Hungary, and have only been recently introduced into the United States as a growth. When it is pulverized and sold in the shops and drug-stores it is called "Persian insect powder," and is largely used here for the purpose of destroying roaches and other pestiferous insects that infest houses. The experiment is now on foot, which I believe will result in something very valuable to the South, of having the planters in that part of the country raise this plant, the pyrethrum, collect the flower and powder it, and use it upon their crops, and it has been found up to this time to be a most effectual exterminator of this insect.

Professor Riley is thoroughly persuaded, and I am persuaded, of course upon his convictions rather than upon my own, that there are various native plants in the South which can be made applicable to the destruction of this insect, for it scarcely ever happens in nature that a great invader of this kind afflicts a country without its being found after due scientific investigation that there is a remedy right in the soil itself which can be applied to its extermination.

It has been proposed by some of the zealous admirers of General Le Duc that he shall take charge of this subject, that he shall break into it *in medias res*, that he shall assume jurisdiction and destroy the cotton-worm of the South. I would welcome him as well as any person if he could only accomplish it; but I have not very decided faith in his ability to do it. Here is a successful experiment being conducted by a man of science, who has agents in Texas, Mississippi, Louisiana, Arkansas, Alabama, Georgia, South Carolina, North Carolina, and Tennessee. All of these men are now in the field. They are stationed at different appropriate localities for the purpose of making observations upon the progress, growth, and devastation of the cotton-worm; and because of an ambitious purpose on the part of the Commissioner of Agriculture to absorb the whole management of all the interests of this country, and because of the jealousies that have grown up between his Department and the entomological commission, it seems that we are to be sacrificed.

Mr. President, I desire to call the attention of the Senate to a fact in regard to this matter. The Committee on Agriculture of the House consists of fifteen members. They have naturally a desire to have all the jurisdiction reserved to the Department of Agriculture that is possible. They investigated this subject very fully; they examined the *pros* and *cons* in every direction; they examined into all the jealousies and wranglings and bickerings that existed between the entomological commission and the Department of Agriculture, and, looking at the best interests of the whole country, they recommended that this cotton-worm investigation should be allowed to remain in the hands of the entomological commission, and that the sum of $25,000 should be appropriated for the purpose of conducting it. That is a very small sum, $25,000 to be divided between that and the completion of the investigation of the grasshopper plague. That was the recommendation (and I have it here) of the Committee on Agriculture of the House, but the House Appropriations Committee in a sort of spasm of economy struck off $5,000 and sent the bill here with $20,000; and then the Committee on Appropriations of the Senate, I dare say under a new and more dangerous spasm of economy, struck it down to $15,000, to be divided between the investigation of the grasshopper plague and the cotton-worm, which makes $7,500, and out of that, making the proper allowance for the payment of the services of the entomologist, which have heretofore been rated at $3,000 a year, always put at that price, and I suppose no one with the ability of either of these gentlemen could be engaged for a less amount of money than that, we have $4,500 left, and $4,500 is to pay the expense of employing some dozen or more scientific examiners in different parts of the country and all the traveling expenses and all the incidental expenses connected with the investigation of this important subject.

If I had come here in the outset with a demand for $100,000 for the investigation of the cotton-worm the Senate of the United States would have given it to me, and I have often regretted that I did not myself comprehend the full magnitude of the question at the time I proposed it. I got a small appropriation of $5,000, which was expended greatly to the advantage of the country; then another of $5,000, which went to this purpose; then another of $5,000—$15,000 in all; and now to-day because we are asking the pitiful sum of $12,500, being the half of $25,000, for the purpose of conducting this investigation we are met by attacks on all hands.

It is the most difficult subject I have ever had to deal with since I have been in the Senate of the United States to get $12,500 appropriated, not only for the purpose of conducting the investigation, but of making a final and complete end of it, for the bill requires that we shall find out all that is to be known in reference to the habits of the cotton-worm and the best means of extinguishing it during the next fiscal year. I have to take the bill as it is; I do not propose to amend it in that respect; but I hope that Congress may recover its senses some time during the next fiscal year.

I challenge all the industries of this country that have ever cost Congress one cent, the fisheries, or any other branch of industry that has ever been the expense of a dollar to Congress, in comparison with the amount of money that has been spent for this enormous industry, which furnishes $300,000,000 a year actual money to the people of the United States, and I ask the question whether any single industry of the United States has ever had so thoroughly the neglect and contempt of Congress as has this growth of cotton? Why, sir, if you were to strike out, as you will be compelled to do unless at some time the ravages of the cotton-worm can be destroyed, one-third of the annual production of your cotton crop, your Government would soon become bankrupt. You cannot afford to lose the money that the people of the South toil for in this great staple crop, for it is all money. None of it is annually consumed. It is not food that is raised and destroyed.

I hold in my hand a memorial of W. H. Gardner, of Mobile; Robert Murdock, of New York, and J. D. Skinner, of Galveston, a committee of the National Cotton Exchange, concerning the destruction of cotton by worms and insects, which gives a history of the whole subject, and when the facts stated in this memorial strike the eye of Senators it will be impossible any longer to manifest the slightest indifference to this question. Let me submit this memorial to the Senate:

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

This memorial respectfully represents that the National Cotton Exchange, at its last meeting in the city of New York, appointed the undersigned a committee to memorialize your honorable bodies concerning the destruction of cotton by worms and insects, and the great loss of wealth to the country therefrom, and to pray you to appoint a committee of entomologists to investigate and study the habits and ravages of the cotton-caterpillar, boll-worm, and all other insects which prey on the fruit and foliage of the cotton-plant; and also the most practicable means of destroying them or preventing their ravages.

Your memorialists therefore respectfully state that in the richest cotton districts greater damage is sustained from the causes stated than from all others; that in some seasons in these sections the yield is reduced one-fourth to one-half therefrom, and in exceptional instances entire destruction has resulted, following either an early appearance of the worm or late fruiting of the crop.

The cotton-caterpillar was known locally as a pest in limited sections of Georgia, South Carolina, and Florida in the early history of cotton cultivation, but not until 1846 was its appearance general over the old cotton belt. The area visited has, however, shown a uniform increase since 1865, extending in 1876 to the mountain counties of Alabama, to all of North Mississippi, and into Tennessee.

We will briefly refer to some seasons of exceptional severity as indicating the destructive nature of the caterpillar. Their appearance in West Alabama and along the eastern boundary of Louisiana in 1864 was about the last of July. At that time the crop was very promising in Alabama, though the area in cultivation was small, and by the 10th of August such damage was inflicted that in many instances the yield was reduced below fifty pounds seed-cotton per acre, and in some absolute destruction resulted. On the Red River bottoms in 1869 and the Warrior River bottoms in 1872, the crop being late, was totally destroyed. In the rich

prairie counties of Alabama, from 1871 to 1874 inclusive, the yield was reduced more than one-half, and in all the southern cotton counties of Texas in 1874 it was less than 20 per cent. of an acreage. Below we give some statistics kindly furnished by Professor C. V. Riley, whose labors in this connection last summer we beg to commend:

"*Destructiveness of the worm—losses occasioned by it.*

"The percentage of loss is also dependent on location. When the injury is done early in the season the loss in localities of heaviest production, or where the fields are numerous and contiguous, is nearly double what it is where the fields are more isolated. In years of severe injury, from 30 to 98 per cent. of the crop may be ruined upon some plantations, while on others the loss will be trifling. The highest average of loss is sustained in the southern portion of the belt, as in Florida and South Texas. It increases also in a westerly direction, commencing with Georgia at 16 per cent., or sixteen bales out of every one hundred of an average crop for fifteen years, and ending with Texas at 28 per cent. In the northern portion of the belt the averages are low, ranging from 5 to 8 per cent. for the same period, while in many parts of it, and notably in North Carolina, the worm appears so late as to generally do more good than harm, by removing the luxuriant top foliage and thus admitting the sun to the lower bolls and hastening their maturity.

The following table shows the amount of loss in bales and dollars for each State in a year of severe visitation:

State.	Per cent. of loss.			Total crop.	Losses.	Money loss.
	Highest.	Lowest.	Average for State.	Average number of bales for fifteen years.	Average number of bales for worst years.	For worst years at $50 per bale.
Florida	.....	.....	24	49,700	12,000	$600,000
Georgia	25.1	15	16.5	474,600	78,422	3,912,000
Alabama	25.2	12.5	17.8	536,700	95,790	4,789,000
Mississippi	24	15	17	706,000	123,070	6,150,000
Louisiana	.....	.....	20	438,000	89,740	4,437,000
Texas	35	20	28	525,000	148,125	7,406,000
South Carolina	.....	.....	0.05	224,500	11,225	560,000
Tennessee	.....	.....	0.05	147,000	8,365	418,000
Arkansas	.....	.....	0.08	347,000	27,760	1,380,000
Totals	.....	.....	17.5	3,449,200	594,497	29,711,000

"This table shows a possible loss of about thirty millions of dollars in years of general prevalence of the worm, or an average of 17½ per cent. total annual loss, namely: $12,934,500 for all the cotton States since the war. That it was equally great before the war there is no reason to doubt, for while severe visitations have, perhaps, been more frequent since that time, the injury has been greatly diminished by the use of Paris green and other arsenical poisons since the year 1873."

From this it will be seen that the aggregate loss to the cotton producers of the South for the last fifteen years closely approximates $200,000,000, an amount which would have enabled State and municipal governments to meet their obligations, prevented many individual bankruptcies, and brought the commercial and agricultural interests of the cotton States to a much higher position than they have attained.

Your memorialists are confident that such a committee as we pray you to create will devise a certain, safe, and inexpensive means of destroying the caterpillar, and possibly the boll-worm, and by their observations of causes affecting the growth and maturity of the plant be enabled to offer suggestions conducing to better cultivation and greater profits.

Your memorialists would state their strong conviction that if our prayer is granted results will be reached profitable to the cotton interests, creditable to science and the Government, and by adding substantially to the exportable values of the country conduce to the general good, as any increase in the volume and value of exports necessarily strengthens the national credit.

Your memorialists, after careful investigation, are satisfied an appropriation of $50,000 will enable such a committee to perform the duties to be imposed upon it.

W. H. GARDNER,
of Mobile.
ROBT. MURDOCK,
of New York.
J. D. SKINNER,
of Galveston.

MOBILE, *January* 6, 1880.

Another amendment which I propose to insert, and which I will make a few remarks on now, is on line 1273, following the word "cotton-worm," to add "and other insects injurious to the cotton-plant." My reason for that is this: There are a number of insects that are injurious to the cotton-plant, the habits of which can be investigated and reported upon at the same time and by the same labor that investigates the cotton-worm. Therefore it is to the advantage of cotton-growers that these insects should also be examined. It adds nothing to the expense and never will add anything to the expense unless it be a few dollars in printing the observations made on these insects.

The entomologists do not desire to have their investigation confined, as it would be by the text of the bill, to the cotton-worm proper. There are other insects injurious to the plant. They very much prefer to have their investigation unfettered, so that it may extend to all the insects that prey on the cotton-plant, and there are numbers of them very injurious in their consequences and effects on the plants, which can easily be investigated by this scientific commission without any additional expense.

I could entertain myself for a long time speaking on this subject, which is of such great interest to me and also to the people I represent in the Senate; but I will not detain the Senate, as I see it is anxious to come to a vote on this proposition. I trust the Senate will allow us to have at least one fair chance to find some means for the extermination of these insects, and I assure them also that the slightest indication of liberality on this question will be prized by the people of the entire South, and I believe by the people of the entire country.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Alabama, in line 1273, after the word "cotton-worm," to insert "and other insects injurious to the cotton-plant."

The amendment was agreed to.

Mr. MORGAN. I have another amendment, in line 1274, to strike out "15" and insert "25," so as to make the amount of the appropriation $25,000.

Mr. WITHERS. Before we vote on that I think it necessary to make a statement on the part of the committee to explain their action in the amendment which they have introduced. As has been briefly alluded to by my friend from Kentucky, the Committee on Appropriations were of opinion that it was useless for the Congress of the United States to make appropriations for the same purpose to two distinct commissions, one being conducted under the administration of the Agricultural and the other of the Interior Department. As both were engaged in investigating precisely the same thing we did not deem it expedient or proper to make a large appropriation for both. That the Department of Agriculture was engaged in investigating this matter of the cotton-worm we had evidence before us in the volume which it published. It was stated to the committee that that volume had been published and the information for it secured at an expense of $5,000. Bulletin No. 3, which has been referred to by my friend from Alabama with such encomium—and I do not mean to say that it may not be deserved—was presented as the result of an expenditure of about $20,000, and apparently one is as valuable as the other. In bulk the publication of the Agricultural Department is ahead.

I do not impugn at all the scientific attainment of the gentleman who made the report, nor of the commission of which he stands as the exponent; still less would I underrate the importance of the cotton crop or the obligation which devolves on us to do whatever is in our power to promote the interest of the cotton crop; but I would simply call the attention of my friend from Alabama to the fact that other agricultural interests have been equally neglected; and while we are only appropriating the aggregate of $25,000 to the investigation of the insects injurious to the cotton-plant we have appropriated nothing for the investigation of many other crops of the country, some of them equally important as the cotton crop. That, therefore, does not furnish a fair subject of criticism against the action of Congress or of the Committee on Appropriations.

The whole, or if not the whole the principal, reason which influenced the Committee on Appropriations in the recommendations which they have embodied in their report was that they did not deem it proper to have these two investigations being conducted by commissions on the same subject, one under the control of one Department of the Government, and another of another Department. We believed that the investigation of these questions more properly devolved upon the Agricultural Department than upon the Department of the Interior.

These, briefly stated, were the reasons which influenced my judgment in concurring in the report of the sub-committee as submitted to the Senate. I have no hesitation whatever in saying that I am anxious to lend whatever aid may be in my power to secure the best and most complete investigation not only of this matter with reference to the cotton-worm, but of all other insects injurious to agriculture; but when we see that these reports profess to take up the history of this cotton-insect, and trace it through all its various stages of chrysalis, moth, and worm, from the time the egg was laid in fact until the animal hibernated or died, it seemed to us it would be well to concentrate the efforts in that direction so as to secure a remedy for the evil; and we were informed by the Commissioner of Agriculture that the appropriation which was proposed would be sufficient for the completion of the investigation.

Mr. MORGAN. The report to which the Senator from Virginia refers from the Agricultural Department is the result of the experiments made in the first year of this investigation at the time Professor Riley had charge and at the time he was the entomologist of that bureau. Since that time the Agricultural Department has done nothing except to collect a great many statistics and data for almost nothing in reference to this investigation; but Professor Riley through successive years has been continuing his experiments. The cost has been $10,000. That of course includes the two years of investigation he has been out collecting the actual data, and these gentlemen in the Agricultural Bureau have had nothing to do but to canvass and compile them. The credit of the work is really due to Professor Riley. We understand entirely well that he is the man on whom they rely.

I desire very much also that the other very able entomologists associated with him on the entomological commission shall pass their judgment on the whole work, not only at the end of the inquiry, but as it progresses. I desire to have the counsel and consultation of these very eminent men on this scientific question, and not to leave it in the hands of a mere youth who has had no experience or very little experience in the field.

A fair understanding of this will show, as I have attempted heretofore to explain, that the point is not the expenditure in one Department of $5,000 and in the other Department of $25,000 or $15,000, as the case may be, because we must remember that this appropriation

is divided between the investigation of the cotton-worm and the investigation of the grasshopper in this bill. It has always been made in bulk, and I have not felt that I was able to define the boundary-line between the two so as to discriminate exactly how much money should be given to one and how much to the other; but the work being conducted now under the entomological commission is a work in the field. The Senator from Virginia has rightfully said that nothing remains to be done; I will not say nothing, but not very much remains to be done in reference to the study of the habits of this insect; but now a remedy has to be provided. We have a diagnosis of the disease, and now the question is the cure of the patient, and that is very much the more important question to us, because we do not care about the diagnosis of the disease unless it can be cured. A thousand remedies have been suggested which experiment must develop, and the practicability of which must be demonstrated by men who are able to do it scientifically. I think when the Senate come to understand it that they will never think that we are asking anything like an extravagant appropriation for this very important subject.

I remarked before that the sum of $25,000 had been recommended by the Committee on Agriculture of the House, 11 to 4, after a very careful investigation of the subject, and I hope the Senate of the United States will feel that it is not necessary to cramp the investigation of this great subject with reference to what I conceive to be a false economy.

Mr. WITHERS. In defense of the action of the committee I should like to suggest just there that the statement was made to the committee that the whole work which is proposed to be done under the section as it came from the House for $20,000 could be completed for $15,000. Hence we thought it was improper to pay more for the work than we can have it completed for.

Mr. BECK. Will the Senator allow me a moment? The amount appropriated for the current fiscal year is $15,000. The amount demanded was $25,000; and in the Book of Estimates which each Senator can examine for himself, page 175, is the following statement:

Entomological commission:

Current expenses, United States entomological commission: Current expenses of the United States entomological commission in the investigation into the habits of the Rocky Mountain locust, the cotton-worm, and other insects injurious to the cotton-plant and to agriculture, with a view of ascertaining how best to prevent their injuries; and for office rent in the city of Washington, District of Columbia, not to exceed $500 per annum, the sum of $25,000, to be immediately available.

NOTE.—Ten thousand dollars of this sum is required for continuing investigations in the States and Territories of the Northwest and in British America, where lie the permanent breeding-grounds of the Rocky Mountain locust, in order to still further perfect our knowledge thereof, and thus the better to prevent the disastrous migrations therefrom; also to enable the commission to make timely reports to the farmers of the Mississippi Valley as to the prospects, and forewarn them when there is or is not danger of injury. The remaining $15,000 is for continuing and completing the investigation into the insects injurious to the cotton-plant, and of other insects injurious to agriculture, with a view of ascertaining the best means of preventing their injuries. The losses sustained by the planters of the South from the ravages of the cotton-worm amount in some years to $30,000,000. The subject is of such importance that a full and thorough investigation is desirable. As may be gathered from Bulletin No. 3 of the commission, the work already done has given correct knowledge where before there was nothing but conflicting theory, and has materially reduced the cost of protecting the crop; but there is so much yet to be done that the sum estimated is required to enable the commission to do complete and exhaustive work that shall prove of value for all time to come.

The committee thought the Agricultural Department was the proper Department to look into all questions in regard to the Rocky Mountain locusts and these other things, and as $15,000 was all that anybody estimated for all the purposes the Senator from Alabama has so much at heart and so properly so much at heart for completing the investigation into the insects injurious to the cotton-plant, the committee reported just what is estimated for by the Department, leaving the Department of Agriculture to deal with the other subjects relative to the Northwest.

Mr. MORGAN. The Committee on Appropriations of the House had the same evidence before it, and that committee of the House put up the amount of the appropriation for the two subjects to $20,000, notwithstanding the Committee on Agriculture had recommended $25,000. I understand that it is entirely according to parliamentary usage for the committee having charge of a specific subject as the Committee on Agriculture has charge of this subject to recommend to the Committee on Appropriations an amount of money that may go beyond an estimate and say, "We recommend $25,000 after mature deliberation;" but I do not yet understand that the Department of the Interior which made that estimate, or perhaps it is uncertain where it came from——

Mr. PADDOCK. I was about to ask myself from what source this recommendation came.

Mr. MORGAN. I suppose the Senator from Kentucky can explain that; but when the Committee on Agriculture in the House made this recommendation it seems to me the Senate ought to have no hesitancy in following the recommendation. The investigation of the cotton-worm and of the grasshopper have heretofore been kept together, and must naturally be kept together, because they are in charge of the same commission, and I have not felt at liberty to try to separate them. I find, however, when we come to follow the recommendation of the committee on this occasion, that after paying the salary of the entomologists and observers there is nothing at all left. It seems to me the contingent expenses and the field work alone will consume $10,000. I hope the Senate will give us the $25,000.

Mr. VOORHEES. This is a very important subject and the attention of Congress should be directed to it. The ravages of the cotton-worm is a subject in which men representing the cotton belt and the cotton section of this country feel a deep interest. I am disposed to defer to what the Senator from Alabama says. I think there is no subject on which men can afford less to economize in small sums than on this great question of the production of cotton. The House of Representatives has voted the sum of $20,000, and the Senator from Alabama proposes $25,000. I see no economy in such a thing when each year our cotton crop produces $250,000,000. The great question of agriculture is pushed aside whenever an appropriation is required here to help forward some branch of that great industry, and the interest of something else is advanced. There is nothing so greatly affecting the prosperity of the South as the production of cotton. I know the Senator from Virginia [Mr. WITHERS] is deeply interested in tobacco, and I do not think he will say that I am backward in assisting that industry by the reduction of taxes or in any other way; but I do hope the Senate will deal—I will not say in a liberal spirit, for it will not be a liberal, it will be a very ordinary spirit—in voting $25,000 to investigate the injurious causes that operate on the production of cotton. It is the greatest agricultural interest to-day in the world, far the greatest in this country, and I sincerely hope that there will be no sort of objection to the amendment.

I do not stop to discuss technically the question of where this proposition comes from. I would give any amount that any respectable and responsible man would say was needed to discover how the damage to the production of cotton was done; and it is strange to me that anybody should object to it; it is strange to me that anybody should stop to cavil on a question of economy, on a matter of such great importance as this great and eternal product of the southern sky and the southern soil that is not for to-day or yesterday or for to-morrow, but forever and forever—not a product that is passing away, but one that is to build up and make stronger the country. I trust sincerely the appeal made by the eloquent Senator from Alabama, so faithfully and so truthfully representing his section, will be answered, and that what he asks will be accorded to him by the Senate. I can hardly think it possible that it will be otherwise.

Mr. MAXEY. Mr. President, as one of the Senators from one of the leading if not the leading cotton State in the South, raising a million bales per annum, it is natural that I should feel a very deep interest in this question. I do not understand the estimate as the Senator from Kentucky and others do.

Mr. BECK. The Senator will allow me to say that the $25,000 is not for the cotton-worm alone, but the bill provides for the Rocky Mountain locust and grasshopper in the West. There was a mistake in the bill.

Mr. MAXEY. I examined the bill and I find that $15,000 to which the committee has refused the addition by amendment is "for the completion of the work of the United States entomological commission under the Department of the Interior in the special investigation of the Rocky Mountain locust or grasshopper and the cotton-worm." The House said $20,000; the Senate committee reduced it to $15,000. It therefore is not accurate to say that this $15,000 goes to the cotton-worm; it goes to the grasshopper and cotton-worm both.

I remember that the first time I ever heard of this subject being raised was in 1876, when Mr. Frelinghuysen was one of the Senators from New Jersey; and if I remember correctly it was upon his motion that the entomological commission was raised. It was originally limited to the investigation of the habits, &c., of the grasshopper. I placed upon it the amendment taking in the cotton-worm, and my friend from Virginia [Mr. WITHERS] put in the tobacco-worm. My object then was and is now to stop this fearful depredation upon the leading crop of the South, injuring us hundreds of thousands of dollars annually, and by the injury of that much to the South it injures the whole country, because it is true that the prosperity of each portion of this Union retroacts and inures to the benefit of the entire Union, and the prosperity of the South means the prosperity of the East, the North, and the West.

Therefore all that we can save by the destruction of this destroying worm is that much capital added to the entire country. As I stated four years ago, in 1876, this may be an experiment, but it is an experiment in the right direction, and the pittance given for that purpose is a mere drop in the bucket compared with the immense good which will result if there can be discovered first the habits of this cotton-worm, and next some method for his cheap and certain destruction. If this entomological commission can aid in that, unquestionably they will aid in preserving one of the grand industries of this country, for in my humble judgment it is as true to-day as it was twenty years ago, and will be true to the end of time, that cotton is king of commerce. We want to preserve that grand crop and thus help the whole country. The whole Union is helped by it, and I do not see why an appropriation for it should be cut down. It is a mere trifle as compared with the object to be accomplished, and I therefore trust that the Senate will agree to the amendment offered by my friend, the Senator from Alabama. Those of us who live there and who feel such a deep interest in it surely, it seems to me, ought to understand this, and I hope the Senate will take into consideration our statements in regard to it and give us the amount my friend from Alabama proposes.

Mr. ROLLINS. I agree very much with what the Senator from

Texas has said, but I suggest that there should be one other amendment looking in the same direction, that the potato-bug should be included. After the word "grasshopper" insert "potato-bug." Certainly that is as great a pest in some parts of this country as the locust.

Mr. MAXEY. Let us vote on this amendment, and then the Senator can move that.

Mr. ROLLINS. I presume the committee will not object.

Mr. ALLISON. Is "potato-bug" the proper entomological term?

The PRESIDING OFFICER, (Mr. CAMERON, of Wisconsin, in the Chair.) The question is on the amendment of the Senator from Alabama, [Mr. MORGAN,] to strike out "fifteen" and insert "twenty-five."

The amendment was agreed to.

Mr. McPHERSON. I desire to call up for consideration an amendment I have offered.

Mr. ROLLINS. Has my amendment been agreed to?

The PRESIDING OFFICER. The amendment suggested by the Senator from New Hampshire was not offered.

Mr. ROLLINS. I move it, then.

The PRESIDING OFFICER. The Senator from New Jersey has the floor.

Mr. McPHERSON. I offer now the amendment at the desk numbered "1."

Mr. ALLISON. Before the Senator from New Jersey proceeds I want to call attention to one committee amendment, if he will allow me. I want to call the attention of the Senator from Kentucky to an amendment which was not agreed to, with reference to the completion of the Stannard's Rock light, in line 269. The clause in the bill is:

For continuing the erection of a light-house on Stannard's Rock, Lake Superior, Michigan, $50,000.

That matter was considered, as the Senator will remember, very fully and thoroughly in the committee, and finally it was understood in the committee and by the committee that a light could be put upon Stannard's Rock as it now stands, and therefore no change was made in the House amendment. Since that time the Secretary of the Light-House Board informs us that no light can be put on Stannard's Rock, and it is very important to the commerce of the great northwestern lakes that this light should be completed. Therefore I suggest to the Senator from Kentucky to strike out the word "continuing" and say:

For completion of the erection of a light-house on Stannard's Rock, Lake Superior, Michigan, $123,000.

Which will complete the light.

Mr. PADDOCK. If the Senator from Iowa will yield one moment I want to suggest an amendment to the text of the last amendment.

Mr. ALLISON. In a moment. Let us finish this while we are at it. I move to insert $123,000 instead of $50,000, and I am sure my friend having charge of the bill will make no objection.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Iowa.

Mr. BECK. The estimate came to us by letter from the Light-House Board and from the Secretary of the Treasury, asking for an addition of $73,000 for the completion of a light-house on Stannard's Rock, Lake Superior, Michigan, making in all $123,000, the House having given $50,000 for continuing the erection of that light-house. The sub-committee of the Committee on Appropriations—if I may state what took place—agreed to refer the matter to the whole committee. It came before the committee. The question was asked, is there a light there, or can a light be placed there this year with the appropriation made by the House of Representatives? We thought there was a light on the rock or a light-ship near by, but were not very sure; and having to appropriate so much for other things, especially as we had to strike out several light-houses that were thought to be important, we did not increase this. We had to finish Tillamook Head light on the coast of Oregon, and that and Stannard's Rock light in Lake Superior, Michigan, were said to be the two most important light-houses in the bill; and whatever else we struck out, we were urged to give the amounts needed for those two lights. Thereupon I wrote or telegraphed at once, having the bill somewhat in charge, to the Light-House Board, and yesterday received this answer:

WASHINGTON, D. C., *June* 8, 1880.

[From Treasury Department.]

To Hon. J. B. BECK, *U. S. S.:*

No light-house on Stannard's Rock now. One is in course of construction.

GEO. DEWEY,
Naval Sec'y.

That not being quite full enough, I telegraphed back to know whether a light could be placed there this year with the appropriation of $50,000 given by the House of Representatives, to which this answer came back:

WASHINGTON, D. C., *June* 8, 1880.

[From Treasury Department.]

To Hon. J. B. BECK, *U. S. S.:*

House appropriation in sundry civil bill will not enable board to put a light of any kind on Stannard's Rock this year.

GEORGE DEWEY,
Naval Sec'y.

So there is no light there now and none can be placed there unless an appropriation is made to finish it. The committee believed that Tillamook Head was more important. We had to strike out two or three others, you will observe; one for a light-station on Sanabel Island, Punta Rassa Harbor, Florida, one at Bloody Point Bar, Kent Island, Chesapeake Bay, and cut down others, in order to keep this appropriation bill down. Yet it is fair to say, because it is the assertion of the Department, that Stannard's Rock in Lake Superior (there being an immense commerce owing to the great railroads that are running from the head of that lake westward, bringing down vast products) was next to Tillamook Head, in Oregon—the most dangerous place perhaps on the Pacific coast—the most important light-house, and we thought, that being so, to give them enough to finish it.

I was ordered by the committee to stand by the bill as it was reported; and I am not sure yet but that there is a light or a light-ship near by Stannard's Rock. If I was satisfied there was no light there, knowing that the commerce of the whole Northwest is interested in a good passage down that dangerous lake at that point, I am not sure that I would not vote for the amendment of the Senator from Iowa.

I have stated all I know about it. I am not sure whether there is a light-ship there or not.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Iowa.

Mr. BALDWIN. There is certainly in this bill no appropriation of more importance than the appropriation for this light upon Stannard's Rock. The Senator from Kentucky said that he was not quite sure whether there was a light-ship there or not. I can say to him that there is no light-ship there. There is no light-ship there at all, and it is one of the most important positions upon Lake Superior. The commerce of Lake Superior is steadily and rapidly increasing, and the time is very near when owing to the progress of the Northern Pacific Railroad the commerce of the lake will be increased still more rapidly. I do hope that the amendment offered by the Senator from Iowa will be adopted. There certainly is not, in my judgment, on the whole coast of North America a more important position for a light-house than that upon Stannard's Rock, and I do hope the amendment offered by the Senator from Iowa will be adopted.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Iowa, [Mr. ALLISON.]

The amendment was agreed to.

Mr. ALLISON. Now make it read "for the completion of the erection of a light-house," &c. This sum of $123,000 will complete the light-house.

The PRESIDING OFFICER. That correction will be made.

Mr. SAULSBURY. I wish to call attention to one amendment on page 40. I see the Senate has put in a provision in reference to an elevator in the other end of the Capitol which, I am told, renders it impossible to work the elevator. The bill came here with this proviso:

Provided, That the location of such elevator shall not in any wise interfere with the use or occupation of or communication between any of the offices or committee-rooms of the House.

That was put on by the House itself. The Senate committee have added:

Nor with the lighting or ventilation thereof.

I am told that the Architect says it will be utterly impossible to erect the elevator if that provision is in. The House had itself acted upon the subject, and had determined that they wanted the elevator, and had guarded it all they thought proper to do, and I do not think we ought in the Senate to put on a provision which will nullify the action of the House in regard to the elevator they want. We have one at our end of the Capitol, and the House have acted on this question themselves, and this provision of the Senate will, I have been informed the Architect says, nullify the entire provision for an elevator made by the House.

Mr. BECK. When the question came before the Committee on Appropriations of the Senate we were so careful not to interfere with what had been done by the House, as we claim the right to manage our own affairs, that we did nothing till we received the official authority and request of the proper organ of the House to make the amendment, the Committee on Appropriations of the House saying that the language now used by us should be inserted. As will appear by the RECORD of to-day, when the matter came up I said:

I desire to say that the amendment was inserted at the request of the Committee on Appropriations of the House, as shown by a letter from the chairman, which I ask may be made part of the RECORD. We did not desire to interfere with their action, and inserted it at the request of the chairman in charge of the bill.

I will now read the letter:

COMMITTEE ON APPROPRIATIONS,
HOUSE OF REPRESENTATIVES,
Washington, D. C., June 8, 1880.

DEAR SIR: The Committee on Appropriations of the House of Representatives instruct me to express to you the hope that the Committee on Appropriations of the Senate will so amend the clause providing for the construction of an elevator in the south wing of the Capitol by adding, after the word "House," in line 959, the following words: "nor with the lighting or ventilation thereof, or of any corridor." The purpose of such an amendment is manifest.

I have the honor to be, your obedient servant,

J. D. C. ATKINS,
Chairman Committee on Appropriations,
House of Representatives.

Hon. JAMES B. BECK.

Mr. SAULSBURY. I understand that.

Mr. BECK. One word further. On the official request of the House

committee in charge of the bill, who assured our committee that it was their meaning and intent to have these words put in or some words which would give the House again control over it, so that when it goes there they can arrange it to suit themselves, we made the amendment. If the Architect shows them that these words are wrong they will strike them out. If we had not given them a chance at the official request of the committee of the House having charge of the bill, it would have been discourteous in us, because it would have cut them off from all power even to consider the matter. Every suggestion now made by the Senator from Delaware goes back to the House to be carefully considered by the House to do as they like, and if the Architect of the Capitol shows that what is now suggested by the Committee on Appropriations of the House is wrong the House will sustain him. If the committee are right in saying that these words were intended to be added, we as a matter of courtesy to them should have inserted them, and the committee will convince the Architect of the Capitol that he is wrong. Our action only gives them a chance to express their will.

Mr. SAULSBURY. I have been informed by a member of the House that this amendment originates from parties originally opposed to the elevator on the House side. It comes here not from the House but from parties who opposed the provision when the bill was pending in the House. The House determined on the elevator, and these parties were opposed to it in the House, as I am informed, and now come here and ask the committee of the Senate to put in a provision which nullifies practically what the House had determined on. I have not talked with the Architect, but I have been told by a member of the House that the Architect says that provision nullifies entirely, and must nullify, the desire of the House in reference to an elevator. When the bill goes back to the House it will go to a committee of conference, and these hostile parties, not the House, will have to act on it.

Mr. WITHERS. The House passes on it first.

Mr. SAULSBURY. That has been my information. It is only because of that information that I call attention to it. We have been very careful not to let the House interfere with provisions appertaining exclusively to the Senate, and I do not see any reason why this clause should be put on by the Senate hostile to the action of the House in a matter designed for their own peculiar accommodation, especially as we have the privilege of an elevator, which is enjoyed on our side of the Capitol.

Mr. BECK. All I have to say is that this is an official communication of the committee that has charge of the bill, and gives their construction of it.

Mr. McPHERSON. There is no motion of the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware makes no motion.

Mr. McPHERSON. I ask to have my amendment No. 1 considered.

The PRESIDING OFFICER. The amendment of the Senator from New Jersey will be reported by the Secretary.

The CHIEF CLERK. After line 1548 it is proposed to insert:

For clerk of Committee on Naval Affairs, United States Senate, $2,220.

Mr. McPHERSON. This has been recommended by the Committee on Naval Affairs. The clerk of that committee has been receiving a very small salary. This is simply placing him in the same position that other clerks are in the Senate, and I believe it will receive the sanction of the Committee on Appropriations. I think no objection will be made to it.

I wish to state that it is my purpose during the summer and fall if possible to visit all the naval stations along the Atlantic and Gulf coast. Of course I shall be forced to pay my own expenses and also those of my clerk; but I think it a little ungenerous that the Government should ask me to pay the hire of the clerk when he is certainly entitled to such compensation as other clerks are receiving. I think there will be no objection to the amendment.

Mr. BECK. The chairman of the Committee on Naval Affairs had before the Appropriations Committee one of the most important propositions that the Senate has had to consider for a long time, involving the completion of four monitors, about which there has been a great deal of discussion and about which there have been conflicting reports, one of them known as the Lenthall board doubting whether under the present construction they will be valuable, others thinking they may be. He has been urging us to put it on this bill. We have resisted; we have kept it off. We have prevented the expenditure of money in that way to carry out contracts made years ago; at least we have prevented it up to this time. How long we shall be able to make opposition I do not know. We have succeeded in keeping it from coming before the Senate. Now, the chairman of the Naval Committee said to us that he desired to go over the naval stations of the country and wished his clerk to be made an annual clerk. I as one of the Committee on Appropriations said, "I will vote to give you an annual clerk; I will vote to give you any aid you want."

I believe what is needed by the Naval Committees of the House and the Senate is full information in regard to all these matters, and any expense that is necessary to make a thorough investigation of everything connected with naval affairs, monitors, and ships ought to be had. The chairman of the committee ought to have full power and authority to have competent men paid by the Government to aid him in making investigations, and after making the investigations he can come and report to us what ought to be done, and on the naval bill of next winter or on an independent bill we can consider whatever he recommends.

While I will resist his next amendment I will vote with him cordially now to give him all the aid we can to make investigations this summer, so that he can tell us next session exactly what we ought to do. That is the ground upon which I propose to vote for this amendment, and my vote for one reason as well as another will be as good to him if I vote with him for a bad reason as for a good one.

Mr. DAVIS, of West Virginia. The legislative bill was the proper place for this amendment, and not this bill; but as the legislative bill is closed and this appears to be a necessity from the fact that the investigation of the subject of building vessels for the Navy is to be gone into this summer, I, as a member of the Committee on Appropriations, will agree with my friend from Kentucky. I shall vote for making the clerkship of the Committee on Naval Affairs an annual clerkship, though by right the amendment belongs to the legislative bill, and it ought not to be here but for the facts stated by the chairman of the Committee on Naval Affairs.

Mr. ANTHONY. I hope the amendment will be adopted. I know it is the purpose of the chairman of the Naval Committee to visit the various naval establishments of the country during the recess of Congress, and it is very important that he should have a clerk with him. I anticipate very useful results to the country from the visit of the chairman of the committee, and I hope the amendment will be agreed to.

The amendment was agreed to.

Mr. McPHERSON. I now call for the reading of the third amendment I submitted.

The CHIEF CLERK. After line 907, on page 38, it is proposed to insert:

For the completion, including side-armor, turrets, pilot-houses, smoke-pipes, ventilators, engines, and steam machinery, with all the appurtenances thereto belonging, of the iron monitors Puritan, Amphitrite, Terror, and Monadnock, $3,300,000; and the Secretary of the Navy is hereby directed to annul the bureau orders now under suspension of March 3, 1877, for the completion of said vessels, and is authorized to complete the same with the engines and machinery in the navy-yards or to make contracts for their completion as he may deem for the best interests of the Government.

Mr. BECK. I do not know whether a point of order will lie to this or not, but to guard every point I make it.

Mr. McPHERSON. What is the point of order?

Mr. BECK. It is independent legislation on a general appropriation bill, adding nearly $4,000,000 on subjects not bearing on anything connected with this bill nor for the supply of the Government for the next fiscal year, but to endeavor to carry out old contracts made years ago.

Mr. DAVIS, of West Virginia. I rise to a parliamentary inquiry. I understood the Senator from New Jersey to say this was his third amendment. I know of one amendment previous to this, but I do not know what the second amendment is. It may be some amendment has been adopted that neither the Senator from Kentucky nor myself knows anything about.

Mr. McPHERSON. My amendments are numbered only for my own convenience. I have numbered them as first, second, and third.

Mr. BECK. There is only one yet adopted.

Mr. McPHERSON. Yes. This provides for the construction of new turrets for the double-turreted monitor Miantonomah.

Mr. DAVIS, of West Virginia. Is this the second amendment or the third amendment?

Mr. McPHERSON. The second offered, but numbered 3 on the manuscript, and it is for placing turrets upon the Miantonomah, a double-turreted iron monitor, now completed, with the exception of the turrets, at the yard of John Roach, in Chester, Pennsylvania. It is placing compound metal turrets, smoke-stacks, and pilot-house upon that ship. It was the original design to take the old turrets of the old ship Miantonomah and place them on the newly-constructed vessel. Those turrets are only ten inches in thickness, are made of laminated iron plates, and offer no protection either to the gun or the gunner. They are now at the Boston navy-yard, are considered antiquated, and it would be absolutely throwing away the whole benefit to be received from a large construction account placed in the hull, the machinery, and the vessel to place upon the deck of that vessel an insignificant ten-inch laminated iron turret. The Navy Department ask $275,000 as an appropriation for purchasing the plates. There is about 20 per cent. of additional resistance or impenetrability, if I may use the word, in the use of the compound turret; and the Navy Department and the Committee on Naval Affairs both considered, after we had expended $1,200,000 thus far in the construction of that ship, it was worse than useless to put the old turrets that were upon the old Miantonomah upon the deck of the ship. The turrets proposed to be put upon her will be a thorough thickness of compound iron, equal to fifteen inches of laminated iron with nine inches of solid oak backing, re-enforced by an additional plating of iron. That will make her a formidable ship. I am informed, contrary to what seems to be the opinion of the Department, that it can be placed upon the vessel for an appropriation of $200,000.

Mr. BECK. What has become of my point of order?

Mr. DAVIS, of West Virginia. The Clerk read an amendment which appropriated $3,300,000, and the Senator from New Jersey has been speaking on the question of appropriating $200,000.

Mr. McPHERSON. I thought the Clerk read both amendments.

Mr. DAVIS, of West Virginia. I think not.

Mr. McPHERSON. Let the amendment be reported.

The Chief Clerk read as follows:

For turrets and machinery for the same, pilot-house, smoke-stack, and ventilator, to be composed of metal made of iron and steel, for the monitor Miantonomah, $200,000.

Mr. DAVIS, of West Virginia. Where does the Senator wish that to come in?

Mr. McPHERSON. Anywhere under the naval appropriations, wherever it will best suit the chairman of the Committee on Appropriations.

The PRESIDING OFFICER. The Senator from Kentucky has raised a question of order, as the Chair understands.

Mr. DAVIS, of West Virginia. This is not to complete anything that is in this bill; it is a new thing, a new point, an entirely new appropriation. I make that suggestion to the Chair.

Mr. McPHERSON. It is recommended by a Department of the Government and recommended by a committee of the Senate, and was referred to the Committee on Appropriations and rejected by the Committee on Appropriations. It is now before the Senate upon its merits, and I trust it has merit enough to cause the Senate to incorporate it in the bill.

The PRESIDING OFFICER. If it has been recommended by a standing committee of the Senate or is proposed in pursuance of the estimate of the head of some one of the Departments, the Chair is of opinion that the amendment is in order, unless the Senator from Kentucky raises a point of order under Rule 28.

Mr. BECK. I will raise every point of order that I can. I will try them one at a time.

The PRESIDING OFFICER. It would aid the Chair somewhat in deciding the point if the Senator would designate the rule under which it is made.

Mr. BECK. I want it understood that I raise every point of order that can be raised against the amendment.

The PRESIDING OFFICER. The Chair is of opinion that the amendment is in order.

Mr. BECK. Even under Rule 28?

The PRESIDING OFFICER. Yes, under Rule 28.

Mr. BECK. Then I move to lay the amendment on the table. I will make that motion first and call for the yeas and nays on that. The bill goes down if this goes on. That is all.

Mr. McPHERSON. I should like to know if it be the opinion of the honorable Senator from Kentucky that in a matter of so much importance to the interests of the whole people of this country, with a Navy to-day in the weak and imbecile condition that ours is, when it is demanded by all the people of the country that there shall be some reform in our naval armament, some increase, that Congress shall make some addition to it, when an amendment for that purpose is moved it should be laid upon the table, thus choking off all debate on a question so important?

Mr. BECK. As I am asked that question in a way that indicates somewhat of a taunt, I will say that it was the duty of the Committee on Naval Affairs of this body, selected for that and no other purpose, during all the six months we have been in session here, to bring up their proposition and lay it before us either in the naval appropriation bill or in an independent measure, and not hold it back and smother it in committee and thrust it on the Committee on Appropriations, who knew nothing about it, with all sorts of reports, within five days of the end of the session, there to load down the sundry civil bill and press through a measure that could not stand on its merits or kill off a meritorious bill by a bad thing being put upon it. The Committee on Appropriations appropriate for matters that are provided for by law in their appropriation bill. It was the duty of the Committee on Naval Affairs, if they desired to increase the efficiency of the Navy, to lay their measure before the Senate and the House standing upon its own merits, so that both Houses could freely and fairly consider it and act upon it; and it ill behooves them now to taunt the Committee on Appropriations, when they are seeking to deliver a good bill of twenty odd millions, embracing all the forts of the country and all the light-houses and many of the great public interests of the country and prevent it being loaded down by a measure that they have either not dared because of its want of merit or have refused for some other cause to give the Senate and House a fair chance to consider upon whatever merit there may be in it, I say that I will move, and I am ordered by my committee to move, and I told the chairman of the Committee on Naval Affairs I was so ordered as the organ of the Committee on Appropriations to move to lay upon the table at once everything that was foreign to the object of this bill or that ought to stand upon its own merits. I do so not because of any feeling, and I hope every Senator will understand hereafter that I am ordered to pursue this course. I know it is unpopular; I know it is a subject of criticism; but in order to save the bill within three or four days of the end of the session I must move to lay on the table everything that by possibility can be kept out of the bill.

Mr. McPHERSON. I am glad to see that the honorable Senator from Kentucky is so well carrying out the instructions of his committee; but I scarcely think the committee instructed him to move to lay the amendment on the table while I occupied the floor.

Mr. BECK. The Senator did not occupy the floor.

Mr. McPHERSON. I think I had not got off my feet since I rose for the purpose of discussing the merits of this amendment.

The PRESIDING OFFICER. The motion is to lay the amendment on the table, which is not debatable.

Mr. McPHERSON. I understand, but I still insist that I have had the floor and have not left the floor since I first rose from my seat for the purpose of presenting the amendment. Therefore I do not know how the Senator from Kentucky, as I yielded to him simply for a moment to make an explanation——

The PRESIDING OFFICER. The Senator from New Jersey will give way for a moment. The Senator from New Jersey offered an amendment. The Senator from Kentucky raised a question of order upon that amendment. That question of order took the Senator from New Jersey off the floor. The Chair decided that question of order; and thereupon the Senator from Kentucky, strictly in order, as the Chair thinks, moved to lay the amendment offered by the Senator from New Jersey on the table. The debate went on by unanimous consent.

Mr. McPHERSON. I submit to the ruling of the Chair. I should like to state, if I have permission to do so, why the amendment is pending.

The PRESIDING OFFICER. The Chair hears no objection.

Mr. McPHERSON. I think it is due to the Committee on Naval Affairs that some explanation should be made. I hope the motion of the Senator from Kentucky will not be made.

The PRESIDING OFFICER. The Senator from New Jersey can proceed by unanimous consent.

Mr. FARLEY. The Senator from Kentucky, after he had made his motion to lay the amendment on the table, debated the merits of the question and the action of the Committee on Naval Affairs for some time himself, no objection being made. He was clearly out of order under the rules in speaking while the motion to lay on the table was pending. Now I ask that unanimous consent be given to the chairman of the Committee on Naval Affairs to make his statement before the Senate in justification of the action of the Committee on Naval Affairs.

Mr. BECK. I have no objection to that. I only defended my committee as well as I could. My motion is not withdrawn, but I do not object to the Senator from New Jersey being heard by unanimous consent.

Mr. McPHERSON. The honorable Senator from Kentucky criticises the action of the Committee on Naval Affairs for not at an earlier day reporting a bill to the Senate providing an appropriation of money for the completion of these vessels. I have this to say in answer to that: From the very day that the Senate met last December the Committees on Naval Affairs of both Houses have been seriously considering the propriety of some such measure; but we were confronted by the fact that it was very apparent that there was something about the faulty construction of these vessels which made it necessary that they be re-examined; that a new board of survey and examination be organized for the purpose of determining whether it was the interest of the Government that these vessels be completed or broken up. The result of the deliberation of the committee produced a resolution which was reported to the Senate and which was acted upon by the Senate authorizing the Secretary of the Navy to appoint boards of survey, whose duty it should be to report three things: first, whether these vessels should be completed; second, whether they should be completed in accordance with the plans and models; and, third, whether they should be completed in accordance with the agreements then existing for their completion.

The three boards of survey have just completed their labors. They have reported to the Secretary of the Navy, and the Secretary of the Navy has transmitted those reports to the Senate. Within two days after having received from the Secretary of the Navy those reports the Naval Committee acted upon them, and, as the only means they had left to get an appropriation through at this session, made a recommendation to the Committee on Appropriations that an appropriation of money be made for their completion. The Secretary of the Navy also recommended that the same changes in the plans and models of the Miantonomah be made that were recommended to be made upon the other four ships, and that recommendation, with the recommendation of the Committee on Naval Affairs, was also sent to the Committee on Appropriations, and that is the one now under consideration. Therefore I say that neither the honorable Senator from Kentucky, nor any other member of the Committee on Appropriations, can censure the Committee on Naval Affairs for any dereliction of duty or any unnecessary delay in the management of this case, so far as it is concerned.

Mr. President, as I am allowed to proceed by unanimous consent in respect to the merits of the case, permit me a word further. I do not wish to consume the time of the Senate. I do not wish to delay action by saying more than a very few words in addition to what I have already stated with respect to the propriety of this amendment. If we were to complete the Miantonomah by placing upon her the old antiquated and dilapidated turrets that were on the original vessel, we certainly should be ashamed of our work when it was called completed. I believe that the true policy of the Government is to make an appropriation of money suitable to place upon that vessel a turret which will compare favorably with the other part of the work on the vessel. She is to-day, or would be if she was pro-

vided with a formidable turret as it is proposed to provide her, one of the most formidable iron-clads afloat. She would be able to work a rifled gun of ten inches caliber, capable of throwing a very heavy shot, and protecting the entire gun and protecting the gunner. If the smaller and older turrets were placed upon her the gun would protrude three or four feet beyond the turret line and would be not impervious to shot or shell, and therefore would be of no avail and would make a weak and effeminate ship.

It is for that reason the committee have recommended this appropriation, and I hope the Senate will concur in the report.

Mr. ALLISON. Mr. President——

Mr. BECK. Now I object to the Senator from Iowa speaking.

The PRESIDING OFFICER. Objection is made.

Mr. ALLISON. Objection to what? I desire to ascertain what this amendment is; if it applies simply to this one turret?

Mr. McPHERSON. A turret for the Miantonomah; that is all. Two hundred thousand dollars will give us a compound iron turret instead of the old antiquated iron turret—good for nothing.

Mr. ALLISON. For a ship already built?

Mr. McPHERSON. The ship is already completed with the exception of the turret.

Mr. DAVIS, of West Virginia. The money heretofore appropriated ought to have finished the ship, as I have heard more than once.

Mr. WITHERS. May I make an inquiry of the chairman of the Committee on Naval Affairs, whether after this amendment shall have been disposed of he is not prepared to offer another amendment giving in detail the appropriations which were included in the amendment submitted to the Committee on Appropriations?

Mr. McPHERSON. This is not included in the amendment I submitted to the committee for the completion of four ships. This is in excess of that amendment.

Mr. WITHERS. In addition to the $3,500,000.

Mr. McPHERSON. In addition to that, but providing with turrets a ship already completed, and it has nothing to do with the other amendment I offered.

The PRESIDING OFFICER. The Senator from Kentucky moves to lay the amendment on the table.

The question being put, there were on a division—ayes 18, noes 16; no quorum voting.

Mr. McPHERSON. I call for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. SAULSBURY, (when Mr. BAYARD'S name was called.) I desire to say that my colleague [Mr. BAYARD] has been called away from the Senate.

Mr. CARPENTER, (when his name was called.) I am paired.

Mr. KERNAN, (when his name was called.) On this particular question I am paired with the Senator from Delaware, [Mr. BAYARD.] If he were here, I should vote "yea" on this motion.

The roll-call was concluded.

Mr. HARRIS. My colleague [Mr. BAILEY] is necessarily absent from the Senate to-day and is paired with some Senator on the other side of the Chamber. If he were here, he would vote "yea."

The Senator from Arkansas [Mr. GARLAND] is also compelled to be absent and is paired with the Senator from Vermont, [Mr. EDMUNDS.]

Mr. HAMPTON. My colleague [Mr. BUTLER] is detained from his seat by illness.

Mr. MAXEY. My colleague [Mr. COKE] is absent from the city on account of sickness in his family.

The result was announced—yeas 26, nays 21; as follows:

YEAS—26.

Beck,	Hereford,	McMillan,	Slater,
Brown,	Hill of Georgia,	Maxey,	Walker,
Call,	Ingalls,	Morgan,	Wallace,
Cameron of Wis.,	Johnston,	Pendleton,	Williams,
Cockrell,	Jonas,	Pryor,	Withers.
Davis of W. Va.,	Lamar,	Ransom,	
Harris,	McDonald,	Saulsbury,	

NAYS—21.

Allison,	Farley,	Morrill,	Vance,
Anthony,	Ferry,	Paddock,	Vest,
Baldwin,	Hampton,	Platt,	Voorhees.
Blaine,	Jones of Florida,	Randolph,	
Burnside,	Kirkwood,	Rollins,	
Dawes,	McPherson,	Teller,	

ABSENT—29.

Bailey,	Coke,	Hamlin,	Saunders,
Bayard,	Conkling,	Hill of Colorado,	Sharon,
Blair,	Davis of Illinois,	Hoar,	Thurman,
Booth,	Eaton,	Jones of Nevada,	Whyte,
Bruce,	Edmunds,	Kellogg,	Windom.
Butler,	Garland,	Kernan,	
Cameron of Pa.,	Groome,	Logan,	
Carpenter,	Grover,	Plumb,	

So the amendment was ordered to lie on the table.

Mr. McPHERSON. I do not know that it is wise or profitable for me to press the other amendment that I have offered asking for an appropriation of $3,300,000 to complete ships that are now lying in the ship-yards of the different contractors and constructors, and have lain there for three years; no progress has been made with them, and Congress has been persistently asked to make an appropriation of money to complete them. If the Senate refuses an appropriation of $200,000 to perfect a ship already completed so that she may go to sea, I think perhaps it is unwise for me to ask the Senate to give any further attention to the subject. I fear it will be a very unprofitable task.

Mr. MORRILL. I desire, in behalf of the Committee on Public Buildings and Grounds, to offer an amendment.

Mr. BECK. Is the amendment of the Senator from New Jersey withdrawn?

Mr. McPHERSON. I will not withdraw the amendment, but I will ask to have it taken up, and if the movement is made to table it, let that vote be taken without making any remarks on the subject.

Mr. BECK. I move to lay the amendment of the Senator from New Jersey on the table.

Mr. ANTHONY. I hope the Senator from Kentucky will not move to lay the amendment on the table until the Senator from New Jersey has had an opportunity to explain it. It is a very important amendment indeed; very important to the life of the Navy.

Mr. BECK. It has been explained fully.

Mr. McPHERSON. I will state that I have not explained the amendment now pending; but I have a great deal of explanation to make about it, and I do not wish to occupy the time of the Senate by explaining a measure of this kind for a large appropriation of money when an appropriation of $200,000 for the same purpose practically, although perhaps more meritorious in one sense in that the vessel is all ready for sea with the exception of her turret, has been denied by the Senate. When money has been denied to the Department to build the turret for that vessel, it is scarcely necessary for me to ask the Senate to make a larger appropriation for vessels in not quite so forward a state of completion as the one we have already discussed.

Mr. ANTHONY. I think the time of the Senate cannot be better employed than in listening to the very able chairman of the Committee on Naval Affairs in support of this amendment. It is necessary to the existence of the Navy. We have now a very inefficient Navy. We have upon the stocks four iron-clads which, when completed, will be equal to anything afloat, and will be able to meet anything that foreign powers can bring against us. They have been upon the stocks for three years, and the money that has been expended upon them is entirely lost unless an appropriation is made to complete them. If we are ever to have a Navy, we ought to complete these vessels.

Mr. BECK. I desire the Senate to understand and the country to understand that the objection was not made to the completion of the vessels; that it was made to loading down this appropriation bill where the provision has no right to be; and it was to say to the Senator from Rhode Island and to all his committee that they have had time and opportunity to present their measures on the naval appropriation bill or as independent bills. If this proposition did not, in their opinion, have sufficient merit to be brought up during the six months we have been here, it ill becomes them now to complain that in the last expiring hours of the session this scheme of theirs cannot be made to drag down an appropriation bill with which it has no concern. Therefore I move to lay it on the table.

Mr. McPHERSON. My friend——

Mr. BECK. I object to further debate.

The PRESIDING OFFICER. Debate is not in order.

Mr. ANTHONY. The Senator from Kentucky, after having concluded his remarks, I am sure will not refuse to permit the Senator from New Jersey, at the head of the Committee on Naval Affairs, to reply to him.

Mr. BECK. The Senator from New Jersey and I have had it up and down for half an hour while the Senator from Rhode Island has been out, and the Senator from New Jersey is a good quarter of an hour ahead of me now.

Mr. FARLEY. I think it is the universal rule in the Senate that has never been departed from not to allow the previous question to be moved to cut off debate. Now, I understand the motion of the Senator from Kentucky has the same effect that the moving of the previous question would have in a body where it is permitted. He gets up and makes his speech on this proposition and then moves to lay it on the table, which cuts off other Senators from making any explanation whatever. It has the same effect as if we had the previous question in this body. I want the Senator from Kentucky to explain the difference between the previous question and a motion to lay on the table cutting off the opportunity to explain the provisions of a proposition. I understand that it can be done by parliamentary law. I do not deny it; but I appeal to the Senator that the usual courtesy should be extended to the Committee on Naval Affairs that is always extended to Senators on this floor when they desire an opportunity to make an explanation. I think the Senator from New Jersey, the chairman of the Committee on Naval Affairs, should have an opportunity to discuss this amendment and show why it ought to be adopted as well as the Senator from Kentucky to show why it ought to be rejected. I hope the motion to lay on the table will be withdrawn.

Mr. SAULSBURY. I hope the Senator from Kentucky will not press the motion to lay on the table. I think the chairman of the Naval Committee should have ample time to explain the proposition he has submitted. One of the vessels provided for by the amendment of the Senator from New Jersey is now on the stocks in the city of Wilmington, in my own State. I am inclined to vote against the amendment of the Senator from New Jersey; but I desire to state

now that I do that not because the amendment is offered to an appropriation bill, but because I have very serious doubts from what I have heard whether it is proper to make the expenditure of the money on these vessels at all. There have been reports circulated—whether true or not I do not know—that it is impossible to complete these vessels in the mode recommended so as to make them of use in the naval service. If that is true, I am opposed to any further expenditure of money upon them. Upon that point I have not sufficient information to enable me to vote intelligently, and I would therefore prefer that there should be a postponement of any action in that regard until the next session rather than vote blindly now. If forced to a vote on this amendment now I shall be compelled to vote against it with my present information, but I desire to hear whatever explanation may be made by the chairman of the committee, so that I may vote intelligently on the subject.

Mr. McDONALD. Mr. President, what is before the Senate?

The PRESIDING OFFICER. The question is on the motion of the Senator from Kentucky, to lay on the table the amendment offered by the Senator from New Jersey.

Mr. McDONALD. Allow me one word before the vote is taken. I could insist upon my right to be heard in this matter; but inasmuch as the Senate have refused, as I have already stated, to make the smaller appropriation, I do not enter into the discussion of this question with any heart whatever, and therefore I do not insist as I otherwise would if the case were different.

The PRESIDING OFFICER. The question is on the motion to lay on the table.

The motion was agreed to.

Mr. ANTHONY. I ask for the yeas and nays on that question. I want to see who is in favor of having a navy and who is against it.

Several SENATORS. Too late!

The PRESIDING OFFICER. The call is not seconded.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. T. F. KING, one of its clerks, announced that the House had agreed to the amendments of the Senate to the joint resolution (H. R. No. 293) providing for the printing of the report of the Commissioner of Education for the year 1878.

The message further announced that the House had concurred in the amendments of the Senate to the concurrent resolution of the House fixing a day for the final adjournment of both Houses of Congress.

The message also announced that the House further insisted upon its disagreement to the amendments of the Senate to the bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes, agreed to the further conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. JOHN H. REAGAN of Texas, Mr. MARTIN L. CLARDY of Missouri, and Mr. W. A. RUSSELL of Massachusetts, managers at the further conference on the part of the House.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following bills and joint resolutions; and they were thereupon signed by the President *pro tempore:*

A bill (H. R. No. 2359) for the relief of William D. Oyler;

A bill (H. R. No. 710) to refund to Jackson Grubb or his legal representative internal-revenue tax wrongfully collected;

A bill (H. R. No. 1305) abolishing the military reservation at Fort Abercrombie, Fort Seward, and Fort Ransom, all in the Territory of Dakota, and authorizing the Secretary of the Interior to have the lands embraced therein surveyed and made subject to homestead and pre-emption entry and sale the same as other public lands;

A bill (H. R. No. 776) refunding to the University of Notre Dame du Lac, of Saint Joseph County, in the State of Indiana, the sum of $2,334.07, that being the amount paid on certain imported articles, &c.;

A bill (H. R. No. 2208) to change the name of the schooner J. H. Dusenberry;

A bill (S. No. 152) for the relief of Thomas Lucas;

A bill (S. No. 307) for the relief of L. C. Cantwell;

A bill (S. No. 1175) granting an increase of pension to Harrietta M. Davis;

A bill (S. No. 1197) granting a pension to Peter Claesgens;

A bill (S. No. 1281) authorizing the Secretary of the Navy to introduce cotton cordage into the naval service of the United States;

A bill (S. No. 1360) granting a pension to Aaron Hatcher;

A bill (H. R. No. 2508) to regulate the compensation of night inspectors of customs;

A bill (H. R. No. 2799) to remove the political disabilities of Abner Smead, of Oregon;

A bill (H. R. No. 2569) to remove the political disabilities of William Sharp, of Virginia;

A bill (H. R. No. 2801) to remove the political disabilities of Walter R. Butt, of California;

A bill (H. R. No. 2800) to remove the political disabilities of John M. Brooke, of Virginia;

A joint resolution (H. R. No. 153) authorizing the remission or refunding of duty on a stained-glass window from Munich, Germany, for all Saints church, in Saint Michael's parish, in Talbot County, Maryland; and

A joint resolution (H. R. No. 255) for the relief of Robert L. Martin.

AMENDMENTS TO DEFICIENCY BILL.

Mr. BOOTH and Mr. RANSOM submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and for prior years, and for those certified as due by the accounting officers of the Treasury in accordance with section 4 of the act of June 14, 1878, heretofore paid from permanent appropriations, and for other purposes; which were referred to the Committee on Appropriations, and ordered to be printed.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had on the 8th instant approved and signed the following acts:

An act (S. No. 52) for the relief of John N. Reed;

An act (S. No. 287) for the relief of the heirs of Charles B. Smith, deceased;

An act (S. No. 324) for the relief of Somerville & Davis;

An act (S. No. 392) to remove the political disabilities of John R. F. Tatnall, of Georgia;

An act (S. No. 559) donating condemned cannon and field-pieces to William L. Curry Post, No. 18, Grand Army of the Republic, for their place of burial;

An act (S. No. 715) for the relief of the estate of N. Boyden;

An act (S. No. 996) for the relief of Monroe Donoho;

An act (S. No. 1148) to amend an act entitled "An act authorizing the commissioners of the District of Columbia to issue twenty-year 5 per cent. bonds of the District of Columbia to redeem certain funded indebtedness of said District," approved June 10, 1879;

An act (S. No. 1117) to provide additional accommodations for the Library of Congress;

An act (S. No. 1256) to authorize the Secretary of War to improve and repair the Mullan wagon-road between Forts Missoula and Cœur d'Alene;

An act (S. No. 1254) for the relief of Henry Warren;

An act (S. No. 1358) for the payment of certain moneys to the heirs of Constantine Brumidi, deceased;

An act (S. No. 1404) to provide for issuing patents for public lands claimed under the pre-emption and homestead laws in cases where the claimants have become insane;

An act (S. No. 1408) to further amend the act entitled "An act to reorganize the courts of the District of Columbia, and for other purposes," approved March 3, 1863, and to amend section 861 of chapter 24 of the Revised Statutes of the District of Columbia;

An act (S. No. 1754) for the relief of W. J. Morris;

An act (S. No. 35) granting a pension to Herman Netterfield;

An act (S. No. 281) for the relief of Emma G. Nelson, executrix, and Aaron H. Nelson, executor, of the estate of W. F. Nelson, deceased;

An act (S. No. 452) for the relief of Priscilla Watson;

An act (S. No. 640) to amend sections 3385 and 3357 of the Revised Statutes of the United States;

An act (S. No. 849) to authorize the Saint Paul and Chicago Short Line Railway Company to construct a bridge across Lake Saint Croix, and to establish it as a post-road;

An act (S. No. 1162) confirming the title to block numbered 14, in Baker City, Oregon, to Baker County;

An act (S. No. 1224) to remove the political disabilities of C. Manigault Morris, of Georgia;

An act (S. No. 1247) to amend sections 2262 and 2301 of the Revised Statutes of the United States, in relation to the settler's affidavit in pre-emption and commuted homestead entries;

An act (S. No. 1363) granting a pension to Eli Cooprider;

An act (S. No. 1490) to complete the survey of the Gettysburgh battle-field, and to provide for the compilation and preservation of data showing the various positions and movements of troops at that battle, illustrated by diagrams;

An act (S. No. 1501) to restore pensions in certain cases;

An act (S. No. 1538) authorizing the closing of the accounts of the late Rear-Admiral A. H. Foote, United States Navy;

An act (S. No. 1570) providing for the transportation of the mails between East Saint Louis, in the State of Illinois, and Saint Louis, in the State of Missouri;

An act (S. No. 1608) for the relief of certain settlers within the late Fort Kearney military reservation, in Nebraska;

An act (S. No. 1723) authorizing the Secretary of the Treasury to issue an American register to the bark Annie Johnson;

An act (S. No. 1749) to authorize the Roman Catholic bishops in California to sell certain church lands;

An act (S. No. 1755) granting an increase of pension to Horace Boughton; and

A joint resolution (S. R. No. 107) to authorize the loaning of certain tents and artillery to the Union Veteran Corps, composed of ex-Union soldiers, for the purposes of a reunion to be held at Wichita, Kansas, in the month of October, 1880.

ACCOMMODATIONS FOR THE LIBRARY.

The PRESIDENT *pro tempore* appointed Mr. VOORHEES, Mr. KER-

NAN, and Mr. MORRILL members of the joint select committee on the part of the Senate under the requirements of the first section of the act of June 8, 1880, to provide additional accommodations for the Library of Congress.

SUNDRY CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 6266) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes.

Mr. MORRILL. In behalf of the Committee on Public Buildings and Grounds I present the following amendment, to come in onpage 5 after line 106:

That the sum of $117,000 be, and the same hereby is, appropriated, out of any moneys in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of the I[illegible]rior, in enlarging the City Hall so as to afford additional accommodations for the [illegible]urts of the District and for fire-proof rooms for the safe-keeping of the record[illegible] the courts and of the District of Columbia, according to the general plan furn[illegible]d by the Architect of the Capitol extension, and under the supervision of that [illegible]icer.

I desire to say that this proposition has already passed the Senate as a separate bill by a large majority, and I suppose it will pass again now. I do not know any other reason why it has not passed the House save that there is some collision there about the power of the Committee on Public Buildings and Grounds to report any bill containing an appropriation.

The plan of this extension has been here in the Senate; and if this measure shall be adopted it will make this a very convenient and respectable building, accommodating the necessary offices and the judges and also having fire-proof rooms for containing the large amount of deeds and other valuable documents that are now in danger of fire on almost any occasion. Even since the bill was first introduced in the Senate a fire has occurred in the building which came very near destroying the public records.

I do not think I need consume any time about this, and I hope no member of the Committee on Appropriations will object to it.

Mr. DAVIS, of West Virginia. If this were a meritorious amendment it ought not to go on this bill. This is a bill intended for specific purposes; and are we to put on it all kinds of amendments of every description, to build up a Navy and to erect buildings here in Washington, or add to buildings? It ought not to be done. The Senator has said that a bill appropriating $117,000 for this purpose passed the Senate. If so, it is now pending in the House and let the House act upon it as an independent bill and not try to load down this appropriation bill at the end of the session that ought to go through as clean as possible.

Then, again, that old building you are going to patch is not worth $117,000. You are going to spend $117,000 on an old building that is not worth $50,000 to-day. If you want a building at all, which I believe you do, let it be a good one, let it be a new one, and do not spend $117,000 on a building that is not fit for its object. If it caught fire, as the Senator says it did lately, will $117,000 spent on an addition prevent its taking fire? The fire will burn up the addition as well as the present building. I hope the Senate will not add this amendment to the bill. It ought not to be here.

Mr. THURMAN, (Mr. CAMERON, of Wisconsin, in the chair.) I dislike very much to differ with my friend from West Virginia, but as I took some little interest in this matter before, I beg leave to say that I hope the amendment of the Senator from Vermont will prevail. The question whether or not we should build a new structure in Judiciary Square for the courts, or whether, according to the plan proposed by the Architect, we should enlarge the present building, I think was fully enough discussed when the bill was before the Senate that passed the Senate for the enlargement of the present building.

Mr. President, the whole difficulty in this case arises from the fact that the House of Representatives insists that we have no right to make an appropriation for any purpose whatever, unless it is by way of amendment to a bill that comes from the House. Inasmuch as the appropriation for the extension of this building originated in the Senate, the bill is blocked in the House. I do not agree to that interpretation of the Constitution by the House of Representatives; I have not agreed to it heretofore, in the whole length and breadth in which the House carries it. But that is not the question. It is not a question whether the House is right or whether the Senate is right. Here is the fact that this difference of opinion between the House of Representatives and the Senate completely blocks the necessary extension of this building so as to afford to the courts what is absolutely necessary for them, increased accommodation for the courts and increased security for the records of this District. That is all there is of it.

If there is any Senator here who thinks we should pull down that old building and erect some magnificent structure at a cost of two or three or four million dollars, well and good; but if we are to have a structure which will not be very much of an eye-sore even in this ornamental city of Washington, which will afford to the courts the room which they need, and will afford to the records the security which they need, the cheapest way to do it, the most economical way to do it, the quickest way to do it, is to adopt the amendment of the Senator from Vermont.

When we passed the bill the other day which was recommended by every judge of the supreme court of this District, which was recommended by the Architect, which was recommended by the unanimous vote of the Committee on Public Buildings and Grounds, I did hope that it was an end of this matter. I had given some attention to the subject. I found that it was absolutely necessary for the convenience of the courts, for the transaction of the judicial business of the District, for the security of the public records, that something should be done and done speedily. Therefore I very earnestly supported the bill reported by the Committee on Public Buildings and Grounds. That bill passed the Senate with very little opposition. It went to the House. It sticks there, not on account of any objection, so far as I know, to the bill itself, but simply upon the question whether or not the Senate can put any appropriation whatsoever in a bill. That is all there is of it; that is the whole of it.

Mr. President, I have great respect for the House of Representatives, and being a practical man, too, I do not want to run counter to a prejudice or an opinion. I do know that the courts of this District have not the facilities they ought to have for the transaction of their business. I do know, I think I have the word of every judge of the supreme court of this District to that effect, that the records of the District of Columbia, its judicial records, its land records, all of them, are not secure. Therefore, I am in favor of the amendment of the Senator from Vermont, as I was in favor of the original bill which we passed, and I do hope that the Senate will agree to it.

Mr. CARPENTER. Without taking up the time of the Senate, I wish to testify as a witness here upon the merits of this amendment. Any Senator can satisfy himself, if he will go down to Judiciary Square and examine the building there now, that this appropriation is absolutely necessary. The court at present has to occupy at different times different houses, sometimes across the street, away from the square, changing around from place to place with the utmost inconvenience and annoyance; and the accommodations are wholly insufficient. Then beyond that the insecurity of the land titles and judicial records of itself should carry the amendment, and I do hope the Senate will not on a mere technical fancied objection stand in the way of that improvement which the public good imperatively demands.

Mr. HARRIS. Six weeks or two months ago there was presented to me a memorial signed by the chief-justice and by the associate justices of the supreme court of the District of Columbia, setting forth the present pressing and absolute necessity for enlarging the accommodations for that court. The Senate in deference to that memorial, or the facts stated in it, passed a month ago perhaps—some weeks ago at least—a bill appropriating $117,000, the estimates of the Architect, for the necessary improvement. The bill has not passed the House. If this amendment is adopted, it secures the immediate appropriation and the immediate construction of that improvement so absolutely necessary, not only to the safety of records, but to the convenience of the courts of the District of Columbia. If this amendment is adopted, the bill in the House of course will be indefinitely postponed; there will be no further occasion for its passage. It will facilitate an important and necessary work, and I earnestly hope that the amendment may be adopted.

Mr. BECK. I have only one word to say. The bill passed the Senate with great unanimity. I do not know that I have a right to speak of the other House; I believe the sub-committee were unanimously in favor of it. The committee did not see fit to agree with us, and I for one reserved my right to vote as I pleased, and I shall vote for this amendment, believing it to be indispensably necessary.

Mr. DAVIS, of West Virginia. Two or three Senators have said that the security of the records requires that this building should be patched up. Another Senator has said that lately it has been on fire. I should like to know how it is that the patching of this building will save the records. I cannot see that. If there is to be a building at all, which I believe is proper and right, it ought to be a different building entirely from this, and we should not spend $117,000 in patching up an old building, as I said a moment ago, that is not worth $50,000.

Mr. THURMAN. Will my friend allow me to answer that inquiry? The reason why the records are not safe is that there are no fire-proof rooms in the building, but the proposed extension provides for fire-proof rooms. The fire which took place occurred in one of the court-rooms, and if it had extended it would have burned up everything, because there are actually no fire-proof rooms in that building. There are some that were thought to be fire-proof twenty or thirty years ago, but experience has proved that they are not fire-proof, experience elsewhere. The extension provides for fire-proof rooms, and if they be constructed as the amendment contemplates the whole building may burn down and the records yet be saved.

Mr. MAXEY. I only have to say in regard to the amendment that I voted for the bill to extend the court-house with great pleasure, because I deemed that it was necessary; and I would be willing to vote for this amendment if the vote would not be misunderstood.

I do hold that under the Constitution of the United States the Senate has the same right to pass a bill making an appropriation that the House has. The original draught of the Constitution placed before the convention did confer upon the House the right to originate appropriation bills just as it now does revenue bills. The original draught of the Constitution gave to the House the right to originate both revenue and appropriation bills. I refer to the Madison Papers,

and especially to volume 2, page 1228, to section 5 of the draught reported by the committee of detail, August 6, 1787:

Mr. Rutledge delivered the report of the committee of detail, as follows, a printed copy being at the same time furnished to each member:

* * * * * * *

SEC. 5. All bills for raising or appropriating money, and for fixing the salaries of the officers of government, shall originate in the House of Representatives, and shall not be altered or amended by the Senate. No money shall be drawn from the public Treasury but in pursuance of appropriations that shall originate in the House of Representatives.

Contrast this with the clause of the Constitution (article 1, section 7) which is as follows:

All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments as on other bills.

What I first read was the original draught as reported by the committee of eleven, and the word "appropriation" was stricken out in the convention which framed the Constitution, so that it was not accidental that the word "appropriation" is not in the Constitution. It was left out designedly, thus giving to the two Houses equal and exact right to originate appropriation bills.

The reason which has been assigned for putting the amendment on this bill is that the House claims the exclusive right to originate appropriation bills. This would be by implication a concession on the part of the Senate that that claim of the House is a just claim. I do not believe that it is. For that reason I do not like the idea, however great may be the necessity, as I believe it to be in this case, of voting that which would probably be voting away what I regard a constitutional right of the Senate.

Mr. CARPENTER. Mr. President, I concur entirely with the Senator from Texas in his construction of the Constitution; but conceding that the House is all wrong about this and the Senate all right, of which I have no doubt, does that justify us in leaving that court and the records and titles of land in this District in their present condition?

Mr. MAXEY. I wish to call the attention of the Senator from Wisconsin to the point I am endeavoring to make, not that I am opposed to this appropriation, for I believe in it, but would not this be a concession on the part of the Senate that the claim of the House is a just claim and that they have that right?

The PRESIDING OFFICER, (Mr. CAMERON, of Wisconsin, in the chair.) The question is on the amendment of the Senator from Vermont, [Mr. MORRILL.]

The amendment was agreed to.

Mr. HARRIS. Mr. President——

Mr. MORRILL. If the Senator from Tennessee will allow me, I have one or two amendments from the Committee on Public Buildings and Grounds that I want to have disposed of, and I should like to finish them.

Mr. HARRIS. I had risen myself for the purpose of offering an amendment, but upon the appeal of the Senator representing his committee I feel bound to yield to him.

Mr. McPHERSON. I wish to give notice that I shall reserve my right to offer in the Senate the amendment making appropriation of money for the completion of the Miantonomah only.

Mr. DAVIS, of West Virginia. I will state to my friend that his amendment was rejected, and therefore there is no right to reserve it. It is not in the bill.

Mr. MORRILL. In line 962, I move to strike out, after the word "grounds," "$60,000," and to insert "and for the construction of stairways on the western front of the Capitol, $150,000;" so as to read:

Improving Capitol grounds: For continuing the work on the Capitol grounds and for the construction of stairways on the western front of the Capitol, $150,000.

I desire to say that we are making appropriations for public buildings all over the country; we have just made one of as large an amount as this would require for a light-house on Lake Superior; and yet the stairs on the west front of the Capitol have been neglected for years. It does seem to me that it is important, it is for the convenience of the members of the House and of the Senate, that we should do something to complete the western front of this Capitol.

Mr. BECK rose.

Mr. MORRILL. I trust that there will be no objection upon the part of my friend from Kentucky to an addition to the bill for the purpose of the stairways that we have now, which are a reproach to any people, and that there shall be an appropriation made for new stairs on the west front of the Capitol.

Mr. BECK. The matter was considered with a great deal of care by the Committee on Appropriations, and was very well presented by the Senator from Vermont. The serious difficulty we had about it was simply this, that the plan for the improvement of the front of the Capitol is not yet determined on. What it will be, what will be its cost, we do not know; neither has the Committee on Public Buildings and Grounds determined. While we, of course, are compelled to make very large expenditures where they are absolutely necessary, we could not see the necessity of building stairways to approach a building which itself had not yet been determined on and the character of the plan of which was not even yet laid before any committee of the House or the Senate.

The plan may be so changed before it is adopted that the stairways that we would build now would not suit at all, would neither be in correspondence with it nor be in the place where they ought to be. It seemed like spending money simply because we had money to spend to build an approach to a thing that did not exist or that might have to be torn away, as it seems to be the general plan all around this Capitol to put up one year and tear away the next. They are building a thing down here now on this side of the public grounds. I do not know what it is. I heard that it was a house for some man's monkey. No man knows what it is. It is an eye-sore there now. They have been changing all around. They have a pair of things outside of the Capitol here that look like Dutch spittoons. They are said to be very beautiful. They have built steps now from Pennsylvania avenue, from the monument there—what do you call it? A war monument, I believe.

Several SENATORS. The naval monument.

Mr. BECK. The naval monument, and a beautiful monument it is! From there they have built steps that no man can step from one to another. They are so badly constructed that one cannot make two steps out of them. While a Senator may be perfectly safe, some friend coming down from the Capitol may fall and break his neck. They will be pulled away in less than another year. Now it is desired to put up another stairway to a building the plan of which we know nothing about, which is simply going on and spending money unnecessarily.

It was the unanimous determination of the Committee on Appropriations that this thing could wait until we can see what we are going to do, and I do hope the Senate will sustain the committee in their determination.

Mr. MORRILL. I think the Senator from Kentucky has made but one just criticism, and that is in relation to the steps here. I am ready to agree with him most cordially that there is a mistake in the height of the steps from Pennsylvania avenue to the western stairway. So far as the building going up on the right-hand side is concerned, a place of rest, I think the Senator had better wait until it is completed. It is a very inexpensive affair, costing only $2,200, and when it is completed I think the expectation is that it will prove one of the handsomest decorations about the grounds.

In relation to the large "Dutch spittoons" I ought to say, in order that others as well as the Senator from Kentucky may know what the original purpose was of those bronze vases upon the east side of the Capitol, that it was the intention of the artist that they should be filled with jets of water so as to throw up water in the form of a half globe, and that the interior should be lighted with gas jets, so that in the evening it would always present a rainbow. If this flow of water there making a regular half circle over the entire top shall be completed, it will then present a very beautiful feature of the grounds upon the eastern side of the Capitol.

Mr. McDONALD. I should like to ask the Senator from Vermont what this structure is, what it is called?

Mr. MORRILL. Which?

Mr. McDONALD. What is the name of this structure down here in the grounds.

Mr. MORRILL. It is a summer rest, I believe, sir. [Laughter.]

Mr. McMILLAN. Does the Senator mean that it has been resting all summer? [Laughter.]

Mr. MORRILL. The observations of the Senator from Kentucky about the front of the Capitol I think have no foundation, for it will make no difference whether the steps come within a few feet more or less of the front of the Capital, they will always come upon a parapet; therefore, that objection is removed. The old steps are worn out, and it is hardly practicable to get over them in the winter season, and they are unsightly at any time. It seems to me that it is quite time that they should be removed and something better placed in their stead.

Mr. TELLER. I should like to ask by whose authority this summer's rest was built? I ask the Senator from Vermont, as he seems to know about it.

Mr. MORRILL. It was built by authority of Mr. Olmstead.

Mr. TELLER. Are those questions submitted to Congress, and do we know anything about them beforehand?

Mr. MORRILL. No, sir.

Mr. TELLER. I think if he is going to build any more summer rests or roosts, the matter had better be submitted to Congress. It is a blemish, I think, to the grounds.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Vermont.

Mr. ANTHONY. I hope the amendment will be agreed to. The steps on the west front of the Capitol are not only unsightly, but they are unsafe. I appeal to my vigilant friend, the Senator from West Virginia, whom I do not see in his seat, and who is always in favor of economy, to support this amendment on economical grounds. We are in danger of breaking our necks every time we go up and down those steps, and it costs $5,000 to bury a member of Congress. [Laughter.] I think it would be a measure of economy to adopt the amendment.

Mr. DAVIS, of West Virginia. The general rule is not to go down the steps, but to go the other road.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Vermont, [Mr. MORRILL.]

The amendment was rejected; there being, on a division—ayes 16, noes 23.

Mr. MORRILL. I have one more amendment from the Committee on Public Buildings and Grounds to offer.

The PRESIDING OFFICER. The amendment will be reported.

The CHIEF CLERK. After line 1596 it is proposed to insert:

For fire-proofing the old Hall of Representatives and the rooms adjoining, and for shelving in the basement and cellar stories, such rooms as the Speaker of the House of Representatives may select for the reception of books, files, and stationery, which are to be moved from the rooms connected with the old Hall, $36,500: *Provided*, That so much of the sum herein appropriated as may be necessary for the reconstruction of the inner portion of the Hall may be used during the present fiscal year, and the balance for changing the roof is hereby made available during the fiscal year ending June 30, 1882.

Mr. MORRILL. I desire to say that if that amendment shall pass it will take from the Treasury but $10,000 this year, and the remainder will be expended the next year. I will state the necessity for the amendment.

The roofs over the old Senate Chamber and over the old Hall of the House of Representatives are nothing but wood, and they are surrounded by immense piles of documents and papers that are very combustible. If a fire were to occur under either of these roofs it would be very destructive to the Capitol. I feel that there is a great responsibility upon the Committee on Public Buildings and Grounds for years that this has been neglected. It is quite time that this Capitol, at least, should be made fire-proof. These two roofs over the old Senate Chamber and the old Hall of the House of Representatives are composed of nothing but wood, and I trust there will be an entire willingness on the part of the Senate to have these two roofs replaced, one to begin this year, and the appropriation will probably be made the next year for the other. This $10,000 would be expended in fixing the lower part of the Hall so as to sustain the roof, and so as to make that fire-proof as well as the rest of the building. There is now merely a wooden partition separating it from a room of documents.

Mr. BECK. When the Senator from Vermont was before the subcommittee this question was very well presented by him, but we came to a conclusion which I desire to state for the benefit of the Senate, and they may do as they like. All that portion of the Capitol that lies beyond the center of the Rotunda——

Mr. MORRILL. I desire to correct the Senator so far as that fact is concerned.

Mr. BECK. I have not stated one yet.

Mr. MORRILL. The Statuary Hall is set apart by a special act of Congress, and is no more under control of the House of Representatives than of the Senate. It is placed exclusively under the control of the Architect of the Capitol.

Mr. BECK. We regarded the Senate and the House as taking jurisdiction up to the center of the Rotunda. All the rooms beyond that on the other side are occupied by the House, and those on this side by the Senate. When the question came up as to repairing the roof of the old Hall of the House of Representatives and of arranging it under the direction of the Speaker of the House into such rooms as might be of most use to the House of Representatives, we regarded that as a matter which the House of Representatives themselves ought to attend to and ought to arrange. They have made no suggestion in that direction, and do not seem to desire any additional room or to have any fitted up for their use. The Committee on Appropriations of the Senate did not think that it was a proper thing for us to do, especially as there is some jealousy between the two Houses with regard to the jurisdiction over divers matters, to be fitting up rooms under the direction of the Speaker of the House of Representatives for the use of the House of Representatives. When they want anything done at that end of the Capitol they will be sure to send us here the appropriation to do it. That is the idea we had. I think it is safer and better to let this alone at present, especially as there is no urgent necessity except the fact that these roofs are not fire-proof. They may burn up, of course, next year, but they have been standing a good many years without burning up, and I hope will stand a hundred years longer without burning up.

In the midst of so many necessary appropriations we did not feel, first, like interfering with the House in matters at their end of the Capitol, and, second, in spending money except where it is absolutely necessary for the public good. For that reason we could not recommend the amendment.

Mr. MORRILL. The exigency is so great that I shall ask for the yeas and nays upon this amendment.

Mr. BECK. All right.

The yeas and nays were ordered.

Mr. COCKRELL. I should like to ask the Senator from Vermont why he puts in an appropriation for the fiscal year 1882 when there will be another session of Congress before the proper appropriations for that year are made?

Mr. MORRILL. For the reason that it is necessary to make contracts for the iron roof in advance, and there is no time to do it this year after the meeting of Congress in December; but there would be time if the appropriation is made in this form to make contracts for the iron roof; and next year will be the short session of Congress, and there will be ample time to complete it. There would not be this year.

Mr. COCKRELL. Will the Senator answer another question?

Mr. MORRILL. I will, if I can.

Mr. COCKRELL. I believe the Senator from Vermont was chairman for a long series of years of the Committee on Public Buildings and Grounds of the Senate, and I believe that the party to which he belongs had absolute control of the Senate and the House. I have not been advised of any increase in the risk and danger of loss by fire in the last six months or a year. If this thing was so absolutely important, why did not the chairman of the Committee on Public Buildings and Grounds during the eight or ten years last past have provision made for securing the building against these risks and loss, and why is it so urgent just at this particular time that we shall not only appropriate for this fiscal year but for the fiscal year 1882?

Mr. DAWES. The Senator from Missouri really forgets. The Senator from Vermont has been, in season and out of season, year after year, pressing this measure, and the danger has been increasing year after year as the documents are piled up under the roof there and old furniture put in there. Shavings are put in there from repairs, and every year adds to the danger of burning down the middle part of this Capitol, if not the whole of it. When the Senator from Vermont represented the Committee on Public Buildings and Grounds, when he was chairman of it, and when some one else was chairman of it during the last Congress, these same measures were brought forward and urged upon Congress, but Congress does not seem willing to listen until the danger is upon it. Even the Senator from Kentucky thinks that it is safer as against fire not to interfere with the province of the House of Representatives over the other side of a line drawn through the center of the Rotunda, as if the fire when it broke out would pay any particular regard to that line when it was consuming the roof of this building. He presents the idea that it would be safer to keep distinctly in mind where the dividing line in this building is between the House of Representatives and the Senate when you undertake to protect the roof from fire, when it is all packed up full of documents and books! Two or three years ago we undertook to dispose of a quantity of those books to make room for more, and the place is filled up with documents.

I trust, with the Senator from Kentucky, that no fire will come there, but I do not think it will be perfectly safe to dispose of it on a question of jurisdiction. A fire does not stop to consider the jurisdiction.

I suggest to the Senator from Missouri that the Senator from Vermont is the last man against whom this complaint should be made; and so of any other member of the Committee on Public Buildings and Grounds of this Congress or of any of the last five Congresses, who have had occasion to know to what this building is exposed. If any person should go with a lighted candle or with a cigar, or if anybody should come in contact with the gas-light up under these roofs or drop a match or anything of that kind, it would consume the whole of them; it could not be extinguished, and we should then stop, I suppose, in the Senate Chamber to plead the question of jurisdiction.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Vermont, [Mr. MORRILL,] on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 23, nays 21; as follows:

YEAS—23.

Allison,	Cameron of Wis.,	Jones of Florida,	Rollins,
Anthony,	Carpenter,	McMillan,	Saulsbury,
Baldwin,	Dawes,	McPherson,	Saunders,
Blaine,	Ferry,	Morrill,	Vance,
Brown,	Hill of Georgia,	Paddock,	Voorhees.
Burnside,	Ingalls,	Platt,	

NAYS—21.

Beck,	Hampton,	McDonald,	Wallace,
Call,	Harris,	Maxey,	Williams,
Cockrell,	Hereford,	Pendleton,	Withers.
Davis of W. Va.,	Johnston,	Slater,	
Eaton,	Jonas,	Vest,	
Farley,	Kernan,	Walker,	

ABSENT—32.

Bailey,	Conkling,	Hoar,	Pryor,
Bayard,	Davis of Illinois,	Jones of Nevada,	Randolph,
Blair,	Edmunds,	Kellogg,	Ransom,
Booth,	Garland,	Kirkwood,	Sharon,
Bruce,	Groome,	Lamar,	Teller,
Butler,	Grover,	Logan,	Thurman,
Cameron of Pa.,	Hamlin,	Morgan,	Whyte,
Coke,	Hill of Colorado,	Plumb,	Windom.

So the amendment was agreed to.

Mr. BECK. I desire to give notice that I shall ask for a separate vote by yeas and nays on this amendment in the Senate.

Mr. MORRILL. And I hope we shall have a very much larger vote in favor of it at that time.

Mr. KERNAN. I wish to offer an amendment, and will not say one word about it, but will just read from the estimates and a short letter. At the end of line 753 I move to add:

To enable the Secretary of War to continue the tests of iron and steel, $20,000.

I will read from page 82 of the estimates——

Mr. BECK. I make——

Mr. KERNAN. Let me proceed, and then the Senator can make his point of order. On page 82 of the estimates I read as follows:

United States testing-machine:

Caring for, preserving, using, and manipulating the United States testing-machine at Watertown arsenal, $20,000.

That is the estimate; and this note is appended:

NOTE.—This machine is too valuable to be permitted to stand idle. The determinations that may be made by it will be of value to the different Departments of the Government, as well as to the public generally. A much larger amount might be expended to great advantage.

I am not going to say one word, but I desire to have a letter of the Secretary of War read in response to my request yesterday. Here is his letter, written this morning, in which he says that the Government and the public, and particularly all those building bridges, are greatly interested in having this machine kept in use making its tests, and he cordially recommends the appropriation.

The PRESIDING OFFICER. The communication will be reported at the desk.

The Chief Clerk read as follows:

WAR DEPARTMENT,
Washington City, June 9, 1880.

SIR: The amendment proposed by you to the sundry civil bill now pending before the Senate, "to enable the Secretary of War to continue the tests of iron and steel, $20,000," meets my full approval.

This amount is estimated for in the Book of Estimates, page 82, in connection with the United States testing-machine at the Watertown arsenal.

I am satisfied, from the opinions of experts, that the determinations of formulas and facts in regard to metals will be of great value to the industrial interests of the country. Miscellaneous Document No. 38 of Forty-fourth Congress, second session, gives the written opinions of scientific and industrial associations in favor of an appropriation of $50,000 to be used in experiments. It is stated by reliable authorities that two hundred railroad bridges have fallen within ten years; a single one of these, the Ashtabula bridge, caused an estimated loss of about $2,000,000—over $750,000 having been paid for loss of life and limb alone in that accident. These trials and tests of metals are absolutely necessary to determine the strength of material and prevent such accidents—the tests with this machine showing that large bars break under a much less strain than has heretofore been accepted as their actual strength, many breaking with from six to eight tenths of the load they were expected to bear.

I respectfully recommend an appropriation for this important matter in accordance with the estimate.

Very respectfully, your obedient servant,

ALEX. RAMSEY,
Secretary of War.

Hon. FRANCIS KERNAN,
United States Senate.

Mr. BECK. Upon consultation with members of the Committee on Appropriations, unless there is some great desire to go on, as we cannot finish the bill to-night, I shall move that the Senate adjourn. I should like to look at this amendment between now and to-morrow morning. I shall not make the point of order against it; I will say that. I desire to investigate it.

Mr. EATON. Let us have an executive session.

Mr. BECK. Or I will move an executive session.

Mr. EATON. There are a great many things to be done in executive session.

Mr. BECK. I move that the Senate proceed to the consideration of executive business, as some Senators desire an executive session.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After twelve minutes spent in executive session the doors were reopened, and (at five o'clock and fifty minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *June* 9, 1880.

The House met at eleven o'clock a. m. Prayer by Rev. SAMUEL DOMER, D. D., of Washington, District of Columbia.

The Journal of yesterday was read and approved.

OUTSTANDING CLAIMS AGAINST THE DISTRICT OF COLUMBIA.

Mr. HUNTON. Mr. Speaker, I desire to take from the Speaker's table the bill (H. R. No. 2328) to provide for the settlement of all outstanding claims against the District of Columbia and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes, returned from the Senate with amendments, and move nonconcurrence in the amendments of the Senate and to agree to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon.

The SPEAKER. The title of the bill will be reported, after which the Chair will submit the motion of the gentleman from Virginia.

The Clerk read as follows:

A bill (H. R. No. 2328) to provide for the settlement of all outstanding claims against the District of Columbia and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes.

The SPEAKER. The question is on the motion to disagree to the Senate amendments and to agree to the committee of conference asked for.

The motion was agreed to.

Mr. HUNTON moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CENTENNIAL ANNIVERSARY—CAPTURE OF ANDRÉ.

Mr. HUTCHINS, by unanimous consent, submitted the following concurrent resolution; which was read, considered, and agreed to:

Resolved by the House of Representatives, (the Senate concurring,) That the President of the Senate and the Speaker of the House are hereby requested to represent the Congress of the United States at the centennial anniversary of the capture of André, to be held at Tarrytown, in the State of New York, on the 23d day of September next.

Mr. HUTCHINS. I ask unanimous consent to submit some remarks in connection with this subject.

The SPEAKER. Is there objection to the request of the gentleman from New York.

There was no objection.

Mr. HUTCHINS. Mr. Speaker, the event the one hundredth anniversary of which you are invited to attend is one which must ever appeal strongly to the patriotism of all Americans. One hundred years ago our forefathers were engaged in a struggle for all that men hold dearest. For five long years our feeble Colonies had undergone all the horrors of a civil and foreign war. Again and again had the Briton and the Tory joined forces to crush our small but heroic army, only to be foiled by the bravery of the Old Continentals. The year 1780 opened upon a conflict still doubtful. The British had triumphed in the South. The patriot army of the North was few in numbers, and weak in everything but that devotion to the cause of liberty which was at length destined to conquer all difficulties. A false system of finance had entailed a series of embarrassments upon the business of the country which we can now scarcely realize. Those were the days when a breakfast cost a thousand dollars and a pair of boots five thousand. Never were the evils arising from an irredeemable paper currency more terribly illustrated. The army was without sufficient clothing or supplies, thinned by disease and the victorious enemy, with the suffering of Valley Forge fresh in its mind and apparent defeat staring it in the face. It was at this critical time that Benedict Arnold applied to Washington for the command of West Point, the most important of the few strongholds still remaining in the possession of the patriots. Sixteen forts and redoubts crowned the commanding heights of this key of the Hudson. As long as it remained to them our army might still dare to hope for success. With this gone the prospect was indeed desperate. With the great water highway between New England and the other Colonies closed against them, of what avail would have been the most undaunted heroism and devotion? Overwhelmed by numbers, our little armies would have been easily defeated, and the sufferings of five terrible years would have been endured in vain. As we look back upon this scene, can we believe that a man could have been found base enough to betray his trust and deliver his bleeding country, bound hand and foot, to the mercy of a triumphant foe? But such a man there was, and it was to his traitorous hands that the defense of West Point was intrusted.

I need not again recount the story of his arch treason. It is known to all. The name of his accomplice in the deed has been embalmed in prose and verse, and the fate of the unfortunate young André has been bewailed by many a pitying reader who, perchance, has never even heard the name of Nathan Hale. A monument in Westminster Abbey, erected by a grateful king, and another monument raised by one of our own countrymen, mark the spots of his execution and burial, while the resting-place of the man whose only dying regret was that he "had but one life to give for his country" still remains unmarked and forgotten. Fortunate, most fortunate, was it for us that André died. Had he not, our own free country might never have been born. Had he once safely reached the British lines how different might have been our history! But to whom is due the praise for foiling this treasonable plot? To three yeomen of Westchester; to three citizens of that county which, whether in foreign or civil war, has ever been most ready to support the standard of the country, which during "those times that tried men's souls" sustained the honor of our Colonies among the hills and valleys of the far-famed "neutral ground," battling at once with the disdainful Briton and treacherous Tory, till at length over those battle-scarred hills floated in security and triumph the flag of our infant Republic; which when eighty years later danger again threatened their country from foes, alas! this time citizens of their own land, poured out its blood most freely to sustain the integrity of the Union and the honor of our common flag. In uttering these words I make use of no mere empty vaunt. I believe the records of our civil war show that Westchester County, in proportion to the number of its citizens, sent more soldiers to the field of battle than any other county in the Northern States. Yes, I repeat, the same spirit that animated Paulding, Van Wart, and Williams still burns brightly throughout the length and breadth of Westchester County, and let the occasion come when it may her citizens will be as ready in the future to respond to their country's call as they ever have been in the past. May that necessity be far distant. Let us hope that neither foreign nor internecine foe may ever attempt to overthrow those free institutions for which our ancestors fought so nobly and so well. But should the exigency arise, let us recall the example set us by the heroes of the Revolution, and let us ever remember, whether at the ballot-box or in the battle-field, that "eternal vigilance is the price of liberty."

LIGHT-HOUSE AND FOG-BELL, WICKFORD HARBOR.

Mr. BALLOU. Mr. Speaker, I desire to call up the motion to reconsider the bill (S. No. 1315) making an appropriation for the erection of a light-house and fog-bell on Old Gay Rock at the entrance of Wickford Harbor, Narragansett Bay, which was committed to the Committee of the Whole House on the state of the Union a few days ago. It will be remembered that I entered a motion to reconsider at the time.

This bill was passed by the Senate unanimously. It is recommended by the Light-House Board and also by the Secretary of the Treasury. The erection of a light-house is essential for the interest of commerce

and for the protection of human life at the point indicated in this bill. I trust it will be passed unanimously. I move, therefore, to reconsider the action of the House by which the bill was referred to the Committee of the Whole on the state of the Union, in order to bring it before the House for immediate consideration.

The SPEAKER. The Clerk will read the bill.

The Clerk read as follows:

Be it enacted, &c., That there be appropriated, out of any money in the Treasury not otherwise appropriated, $45,000, for the purpose of erecting a light-house and fog-bell on Old Gay Rock, at the entrance of Wickford Harbor, Narragansett Bay, under the direction of the Secretary of the Treasury, and that the old light in said harbor be discontinued upon the completion of the new one.

Mr. SINGLETON, of Illinois. Is that by unanimous consent?

The SPEAKER. No; it is by right. The gentleman from Rhode Island entered a motion to reconsider, which was allowed at a former sitting by unanimous consent. The Chair thinks there were two motions entered to reconsider at the time by other gentlemen. The question now is on the motion of the gentleman from Rhode Island, to reconsider the action of the House by which this bill was referred to the Committee of the Whole on the state of the Union.

Mr. ACKLEN. I wish to make a parliamentary inquiry. I desire to know if the motion to reconsider carries if the effect is to take the bill back to the Speaker's table.

The SPEAKER. If the reconsideration carries, the Chair will hold that under the circumstances it brings the bill before the House for action, for reference; and if voted down, then on its passage.

Mr. ACKLEN. The bill, as I understand, was on the Speaker's table.

The SPEAKER. It was; and was taken from the table by being reached in its turn under the order of the House to dispose of business on the Speaker's table, but sent to the Committee of the Whole on a point of order, which was subsequently withdrawn, and the motion to reconsider entered.

Mr. ACKLEN. Does that bring the bill before the House for consideration?

The SPEAKER. The Chair thinks technically it would take it back to the Speaker's table——

Mr. ACKLEN. That is what I inferred.

The SPEAKER. But, as in the first instance this bill was before the House under an order heretofore alluded to, and the motion to reconsider being a privileged one and unanimously allowed, it will bring it again before the House in the same position in which it was when the objection was made to it on a preceding day. This seems to the Chair equitable.

Mr. ACKLEN. I understand now that the gentleman from Rhode Island desires to call up and pass this bill.

Mr. BALLOU. This bill was on the Speaker's table on a previous day, and would have been acted on at the time but for the point of order which was raised upon it, which point of order has been withdrawn.

The SPEAKER. That point of order has been withdrawn. The gentleman from Rhode Island was permitted to enter a motion to reconsider, which motion having been allowed, and now called up, if adopted gives the bill the same privileges which it had on the former occasion.

Mr. BALLOU. It would have been acted upon on that day except for the point of order, as I have said.

Mr. ACKLEN. Then I understand that if the motion to reconsider is carried this bill is before the House for action?

Mr. COX. Why should it not be before the House? It is a very simple bill.

Mr. BALLOU. It is a very essential thing that this bill should pass. The light-house at that point is falling to pieces, and it is important for the needs of commerce and the protection of life that some prompt action should be taken in the premises. This bill passed the Senate unanimously, and is recommended by the Secretary of the Treasury, and is important for the protection of commerce and life; and I hope, therefore, there will be no objection to its passage.

The motion to reconsider was agreed to.

The SPEAKER. The question now recurs on the motion to refer the bill to the Committee of the Whole on the state of the Union.

The motion to refer was not agreed to.

The SPEAKER. The bill being before the House now for consideration, the question is on its third reading; that being the understanding at the time objection was made to it on a former day.

The bill was read the third time.

Mr. SINGLETON, of Illinois. Mr. Speaker, I wish to ask if this proceeding is by unanimous consent?

The SPEAKER. It is not by unanimous consent, but by right. The gentleman from Rhode Island entered a motion to reconsider some days ago, and called up the motion to-day. That is a privileged motion. The bill was before the House on a former occasion, when the point of order was made against it.

Mr. SINGLETON, of Illinois. Has the motion to reconsider prevailed?

The SPEAKER. The motion to reconsider has prevailed, and also the motion for the third reading of the bill. The question now is on its passage.

Mr. BLOUNT. I would like to ask the gentleman in charge of this bill a single question: what recommendations there are for it.

Mr. BALLOU. It is recommended by the Light-House Board and also by the Secretary of the Treasury.

Mr. BLOUNT. Has there been any action by the Committee on Commerce of this House in reference to it?

Mr. BALLOU. I think not; it was on the Speaker's table, having come from the Senate where it was passed unanimously.

Mr. BLOUNT. It is usual to make appropriations for this service in the sundry civil bill. I am not aware of the facts in connection with this case, but of course I take the gentleman's statement for it.

The SPEAKER. The question is on the final passage of the bill.

The House divided; and there were—ayes 64, noes 19.

Mr. COBB. I call for the yeas and nays.

The yeas and nays were not ordered, only five members voting therefor.

Mr. COBB. I make the point that a quorum has not voted on the question of the passage of the bill.

The SPEAKER. A quorum not having voted the Chair will order tellers, and appoints the gentleman from Indiana, Mr. COBB, and the gentleman from Rhode Island, Mr. BALLOU.

The House again divided; and the tellers reported that there were—ayes 87, noes 10.

So (further count not being called for) the bill was passed.

Mr. BALLOU moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. POEHLER. I ask unanimous consent that the bill for the relief of Thomas Pettijohn be taken from the Calendar and put upon its passage.

Mr. WARNER. I rise to make an inquiry of the Chair. I desire to know how business is proceeding. Is it by unanimous consent?

The SPEAKER. The gentleman from Minnesota has made a request for unanimous consent.

Mr. WARNER. I feel constrained to interpose an objection, not to this bill, but to proceeding in this manner, and wish to have a moment to state my reasons. We have tried time and again to take up business by unanimous consent and have failed every time to do more than favor a few and disappoint the many. In the first place this passing bills by unanimous consent is much like many other things: it goes by favor, and is unequal and unjust. Again, if it is agreed, as yesterday, that all shall be recognized in turn, every member who has the consent of the House to call up and pass a bill is disarmed from objecting to anybody else; and I believe that to be a vicious way to legislate. Few wish to incur enmity at any time by interposing objection, and fewer will do it when they have measures of their own to call up. I think bills should be passed by votes; and that can be done, I believe, more expeditiously and certainly more fairly and safely if we take up the Calendar in a business-like way and go through it. I therefore must object to proceeding further by unanimous consent.

Several members called for the regular order.

The SPEAKER. The regular order is the morning hour.

Mr. SPRINGER. I move that the morning hour be dispensed with.

Mr. SHELLEY. I hope the objection will not apply to the introduction of bills for reference.

The SPEAKER. The Chair desires to state that there are quite a number of members who desire to make reports from committees to go on the Calendar. This may possibly be the last chance during this session these committees may have to report, and it would not be unadvisable, the C hair thinks, to allow a morning hour to-day.

Mr. SPRINGER. I have moved to dispense with the morning hour.

The question being taken on the motion to dispense with the morning hour, it was not agreed to; two-thirds not voting in favor thereof.

MORNING HOUR.

The SPEAKER. The morning hour begins at twenty-five minutes to one o'clock, the business of the morning hour being the call of committees for reports. The call rests with the Committee on Commerce.

SECTIONS 2517 AND 2518 OF THE REVISED STATUTES.

Mr. BEALE, from the Committee on Commerce, reported a bill (H. R. No. 6451) to amend and re-enact sections 2517 and 2518 of the Revised Statutes, and changing the boundaries of a certain district in the State of Maine; which was read a first and second time, referred to the House Calendar, and, with the accompanying report, ordered to be printed.

NAVIGATION OF MISSISSIPPI RIVER.

Mr. BEALE also, from the same committee, reported back, with an adverse recommendation, the bill (H. R. No. 6076) making an appropriation for the construction and operation of reservoirs for the improvement and navigation of the Mississippi River above Saint Louis and the navigable waters flowing into the same; which was laid on the table, and the accompanying report ordered to be printed.

ENROLLED BILL SIGNED.

Mr. ALDRICH, of Illinois, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title, when the Speaker signed the same:

An act (H. R. No. 4911) to amend the statutes in relation to immediate transportation of dutiable goods, and for other purposes.

AWARDS OF MEXICAN COMMISSION.

Mr. COX. In the absence of my colleague on the Committee on Foreign Affairs, the gentleman from Alabama, [Mr. HERNDON,] who is ill, I report from that committee a substitute for the bill (H. R. No. 4899) to amend an act approved June 18, 1878, relative to the awards of the Mexican commission.

The bill reported as a substitute (H. R. No. 6452) with the same title was read a first and second time, referred to the House Calendar, and, with the accompanying report, ordered to be printed.

TREATY OF WASHINGTON.

Mr. COX also, from the same committee, reported, as a substitute for House bill No. 6242, a bill (H. R. No. 6453) relating to certain provisions of the treaty of Washington; which was read a first and second time, referred to the House Calendar, and, with the accompanying report, ordered to be printed.

Mr. COX. I ask that the minority have leave to file their views, to be printed with the majority report.

There was no objection.

WILLIAM SCHUCHARDT.

Mr. COX also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 4552) for the relief of William Schuchardt, United States commercial agent at Piedras Negras, Mexico; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

FISHERY ARTICLES OF TREATY OF WASHINGTON.

Mr. RICE. I am instructed by the Committee on Foreign Affairs, to whom were referred the resolutions of the Legislatures of Maine and Massachusetts relating to the termination of the fishery articles of the treaty of Washington, to make a favorable report, accompanied by a joint resolution looking to the abrogation of the fishery clauses of that treaty.

The joint resolution (H. R. No. 324) relating to the termination of articles 18 and 21 of the treaty of 1871 with Great Britain was received, read a first and second time, referred to the House Calendar, and, with the accompanying report, ordered to be printed.

Mr. WILSON. I desire the privilege of making a minority report, to be printed with the majority report.

There was no objection.

PETER PHILLIPS.

Mr. SPARKS, from the Committee on Military Affairs, reported back, with a favorable recommendation, the bill (S. No. 389) for the relief of Peter Phillips; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

QUARANTINE AT SAN FRANCISCO.

Mr. SPARKS also, from the same committee, reported back, with amendments, the bill (H. R. No. 6140) to authorize the Secretary of War to allow the city of San Francisco to use a part of one of the islands in that harbor for quarantine purposes; which was referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

MILITARY SERVICE BY MISSOURI FORCES.

Mr. SPARKS. I am also instructed by the Committee on Military Affairs to report back the bill (H. R. No. 4542) providing for the appointment of commissioners to ascertain what just claims for military services performed by officers and privates of the military forces of the State of Missouri in the suppression of the rebellion in concert with the authorities of the United States and subject to their orders still remain unpaid and not assumed by said State, and for other purposes, and to move that the committee be discharged from the further consideration of the same, and that it be referred to the Committee on War Claims.

Mr. BUCKNER. I suppose the object of the Committee on Military Affairs in making this report is to get rid of the subject, and that the recommendation does not rest on the ground that the committee does not have jurisdiction.

Mr. SPARKS. The Committee on Military Affairs determined that the bill belonged to another committee and not to it.

Mr. BUCKNER. I cannot understand why the Committee on Military Affairs do not have jurisdiction. It would seem that they are unwilling to report upon the bill.

Mr. SPARKS. The Committee on Military Affairs is willing to do its duty on every subject. It was the sense of that committee that this matter belonged to another committee, and I think it is very clear that it does.

The Committee on Military Affairs was discharged from the further consideration of the bill, and it was referred to the Committee on War Claims.

ARCHIBALD HUNLEY.

Mr. WHITE, from the Committee on Military Affairs, reported back, with an amendment, the bill (H. R. No. 3499) granting relief to Archibald Hunley, late private Company H, Thirtieth Regiment Illinois Volunteers; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

NAVY CHAPLAINS.

Mr. BRIGGS, from the Committee on Naval Affairs, reported, as a substitute for House bill No. 69, a bill (H. R. No. 6454) for promoting the efficiency of the corps of chaplains of the United States Navy; which was read a first and second time, placed on the House Calendar, and, with the accompanying report, ordered to be printed.

STEAMER DE SOTO.

Mr. HARRIS, of Massachusetts, from the Committee on Naval Affairs, reported, as a substitute for House bill No. 288, a bill (H. R. No. 6455) granting jurisdiction and authority to the Court of Claims in the case of the steamer De Soto; which was read a first and second time, placed on the House Calendar, and, with the accompanying report, ordered to be printed.

MAIL SERVICE IN ARKANSAS.

Mr. MONEY, from the Committee on the Post-Office and Post-Roads, reported adversely upon a petition relative to additional mail service in Arkansas; which was laid upon the table.

HOMESTEAD ENTRIES.

Mr. RYAN, of Kansas, from the Committee on the Public Lands, reported back, with a favorable recommendation, the bill (H. R. No. 6345) authorizing the certificate and patent to issue for homestead entries at the expiration of three years from the date of entry; which was placed on the House Calendar, and the accompanying report ordered to be printed.

SENECA NATION OF INDIANS, NEW YORK.

Mr. DEERING, from the Committee on Indian Affairs, reported back, with amendments, the bill (H. R. No. 3573) to authorize the Seneca Nation of Indians in the State of New York to grant title to land for cemetery purposes; which was placed on the House Calendar, and the accompanying report ordered to be printed.

UTAH AND NORTHERN RAILWAY COMPANY.

Mr. McLANE, from the Committee on Pacific Railroads, reported back, with a favorable recommendation, the bill (H. R. No. 4874) in relation to the Utah and Northern Railway Company; which was referred to the Committee of the Whole on the state of the Union, and the accompanying report ordered to be printed.

PATENTS.

Mr. VANCE, from the Committee on Patents, reported a bill (H. R. No. 6456) to enable the courts of the United States in cases of fraud and misrepresentation to declare a patent void on the application of the Attorney-General; which was read a first and second time, ordered to be printed, and recommitted.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate had concurred in the resolution of the House fixing the day for the final adjournment of this session of Congress, with amendments, in which the concurrence of the House was requested.

The message also announced that the Senate had agreed to the partial report of the committee of conference on the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, and requested a further conference on the remaining points of disagreement on the said bill.

The message further announced that the Senate had passed without amendment bills of the House of the following titles:

A bill (H. R. No. 2569) to remove the political disabilities of William Sharp, of Virginia;

A bill (H. R. No. 2799) to remove the political disabilities of Abner Smead, of Oregon;

A bill (H. R. No. 2800) to remove the political disabilities of John M. Brooke, of Virginia;

A bill (H. R. No. 2801) to remove the political disabilities of Walter R. Butt, of California; and

A bill (H. R. No. 2208) to change the name of the schooner J. H. Dusenberry.

The message also announced that the Senate had passed and requested the concurrence of the House in bills of the following titles:

A bill (S. No. 313) for the relief of Major Jacob E. Burbank;

A bill (S. No. 489) for the relief of James P. Worrell;

A bill (S. No. 1161) creating the port of Tampa, Florida, a port of delivery;

A bill (S. No. 1209) to designate, classify, and fix the salaries of persons in the railway mail service;

A bill (S. No. 1327) granting permission for the erection of certain statuary upon the buttresses in front of the sub-treasury building in the city of New York;

A bill (S. No. 1380) to provide for the payment of salaries of diplomatic and consular officers while in the United States under orders of the State Department;

A bill (S. No. 1395) for the relief of the estate of Augustin Maurin; and

A bill (S. No. 1396) authorizing the persons therein named to accept of certain decorations and presents therein named from foreign governments, and for other purposes.

PENSIONS.

Mr. COFFROTH, from the Committee on Invalid Pensions, reported back, with favorable recommendations, the following bills; which were referred to the Committee of the Whole on the Private Calendar, and the accompanying reports ordered to be printed:

The bill (S. No. 1535) granting an increase of pension to Rebecca E. Haskin;

The bill (S. No. 1584) granting a pension to Margaret Costello;

The bill (S. No. 1716) granting a pension to Thomas J. Mackey;

The bill (S. No. 1728) granting a pension to Mrs. Lelia E. McCauly; and

The bill (S. No. 1743) granting an increase of pension to Mary J. West.

Mr. COFFROTH, from the same committee, also reported a bill (H. R. No. 6457) granting a pension to Julia A. Ross; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

Mr. HATCH, from the Committee on Invalid Pensions, reported back, with a favorable recommendation, the bill (H. R. No. 4367) granting a pension to Emma A. Porch; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

Mr. HOSTETLER, from the Committee on Invalid Pensions, reported a bill (H. R. No. 6458) granting a pension to Freeland Hasten; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

Mr. MASON, from the same Committee on Invalid Pensions, reported back adversely the following petitions; which were laid on the table, and the accompanying reports ordered to be printed:

The petition of Lewis Johnson, father of Hollis A. Johnson, Company D, One hundred and eighteenth Regiment New York Volunteers, war of 1861; and

The petition of Joseph Bamberger, for arrears of pension.

Mr. MASON also, from the same committee, reported back, with a favorable recommendation, the bill (S. No. 1638) granting a pension to Horace S. Spear; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

Mr. MASON also, from the same committee, reported back the petition of Laura M. Lord; when the committee was discharged from the further consideration of the same, and it was referred to the Committee on Pensions.

Mr. MASON also, from the same committee, reported back the bill (H. R. No. 1362) for the relief of John Collister, injured by the falling in of the roof of the New York post-office in May, 1877; when the committee was discharged from the further consideration of the same, and it was referred to the Committee on Claims.

Mr. UPSON, from the Committee on Invalid Pensions, reported back, with a favorable recommendation, the bill (H. R. No. 2059) granting an increase of pension to Bernard Brady; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

CLAIMS.

Mr. SAWYER, from the Committee on Claims, reported back the petition of Alvah W. Hick, asking one month's pay as a discharged employé from the soldiers' roll of the House of Representatives; when the committee was discharged from the further consideration of the same, and it was referred to the Committee on Accounts.

Mr. SAWYER also, from the same committee, reported back the petition of Peyton Johnston, asking payment for rent, fuel, &c.; when the committee was discharged from the further consideration of the same, and it was referred to the Committee on War Claims.

Mr. SAWYER also, from the same committee, reported back adversely the following bill and memorials; which were laid on the table, and the accompanying reports ordered to be printed:

The bill (H. R. No. 4771) for the relief of Lucius D. Alden;

The memorial of George D. Graham, asking compensation for extra services as fireman in the Department of the Interior; and

The memorial of Mrs. Sallie H. Palmer, asking compensation as a laborer in the Patent Office.

Mr. SAWYER also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 5837) for the relief of Timothy McCormick; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

Mr. SAMFORD, from the Committee on Claims, reported back, with a favorable recommendation, the bill (S. No. 1346) for the relief of Charles Collins; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

Mr. DAVIS, of Missouri, from the Committee on Claims, reported back, with a favorable recommendation, bills of the following titles; which were referred to the Committee of the Whole on the Private Calendar, and, with the accompanying reports, ordered to be printed:

The bill (S. No. 296) for the relief of Edward P. Vollum;

The bill (S. No. 298) for the relief of Van B. Bowers; and

The bill (H. R. No. 2973) for the relief of Byron H. Harkness, postmaster at Humbolt, Humbolt County, Iowa.

Mr. BARBER, from the Committee on Claims, reported back, with a favorable recommendation, bills of the following titles; which were referred to the Committee of the Whole on the Private Calendar, and, with the accompanying reports, ordered to be printed:

The bill (H. R. No. 185) for the relief of John H. Morris; and

The bill (H. R. No. 3894) for the relief of Joseph C. Irwin.

Mr. BARBER also, from the same committee, reported back, with an amendment, the bill (H. R. No. 1742) for the relief of Henriette Buggert; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

Mr. LINDSEY, from the Committee on Claims, reported back, with a favorable r ecommendation, the bill (H. R. No. 3541) for the relief of the heirs of Asbury Dickins; which was referred to the Committee of the Wh ole on the Private Calendar, and, with the accompanying report, ordered to be printed.

Mr. LINDSEY also, from the same committee, reported a bill (H. R. No. 6459) for the relief of J. P. Wright, of Lynchburgh, Virginia; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

JOHN DIXON.

Mr. THOMPSON, of Kentucky, from the Committee on War Claims, reported back adversely the bill (H. R. No. 4211) for the relief of John Dixon; which was laid on the table, and, with the accompanying report, ordered to be printed.

PRIVATE LAND CLAIMS.

Mr. GUNTER, from the Committee on Private Land Claims, reported back, with favorable recommendation, bills of the following titles; which were referred to the Committee of the Whole on the Private Calendar, and, with the accompanying reports, ordered to be printed:

The bill (H. R. No. 6403) to confirm a certain land claim in the Territory of New Mexico; and

The bill (S. No. 1049) to amend section 2447 of the Revised Statutes of the United States in relation to the issue of patents for private land claims confirmed by act of Congress.

RENT OF PUBLIC BUILDINGS.

Mr. DEUSTER, from the Committee on Expenditures on Public Buildings, reported back adversely a resolution relating to rents paid by the United States Government for the use of public buildings, &c.; which was laid on the table, and the accompanying report ordered to be printed.

M'CRARY'S LAW OF ELECTION.

Mr. SMITH, of Pennsylvania, from the Committee on Accounts, reported back adversely a resolution to purchase 500 copies of the second edition of McCrary's American Law of Elections for the use of Members, Delegates, and committees of the House; which was laid on the table, and, with the accompanying report, ordered to be printed.

PAY OF CAPITOL POLICE.

Mr. SMITH, of Pennsylvania, also, from the same committee, reported back adversely the joint resolution (H. R. No. 128) relative to the pay of the Capitol police; which, on motion of Mr. DUNNELL, was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

FEMALE EMPLOYÉS OF BUREAU OF ENGRAVING AND PRINTING.

Mr. SINGLETON, of Mississippi. I am directed by the Committee on Printing to report back, with a favorable recommendation, the joint resolution (H. R. No. 318) authorizing the payment of wages to the female employés of the Bureau of Engraving and Printing while that office is being removed. Mr. Speaker, will it be in order for me to ask unanimous consent to have this resolution put on its passage now?

The SPEAKER. It will not.

The joint resolution was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

LAMPHERE'S UNITED STATES GOVERNMENT.

Mr. SINGLETON, of Mississippi. I am also directed by the same committee to report back, with amendments, the joint resolution (H. R. No. 307) for the purchase of 1,500 copies of Lamphere's United States Government. Mr. Speaker, can I make a motion now in regard to this resolution?

The SPEAKER. The gentleman cannot. Reports during the morning hour are presented only for reference to the appropriate calendar.

The joint resolution was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

CONTESTED-ELECTION EXPENSES.

Mr. SPRINGER, from the Committee on Elections, reported a joint resolution (H. R. No. 325) to pay certain contested-election expenses; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

DIGEST OF CONTESTED-ELECTION CASES.

Mr. SPRINGER also, from the same committee, reported a resolu-

tion authorizing the printing of the digest of contested-election cases; which was referred to the Committee on Printing.

REGULATION OF VINEGAR MANUFACTURE.

Mr. CARLISLE, from the Committee on Ways and Means, reported a bill (H. R. No. 6460) to regulate the manufacture of vinegar by the alcoholic vaporizing process; which was read a first and second time, recommitted, and, with the accompanying report, ordered to be printed.

INTERNAL REVENUE.

Mr. CARLISLE also, from the same committee, reported a bill (H. R. No. 6461) to amend an act entitled "An act to amend the laws relating to internal revenue," approved March 1, 1879; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

WILLIAM T. PATE AND SILAS Q. HOWE.

Mr. CARLISLE also, from the same committee, reported back the bill (H. R. No. 766) for the relief of William T. Pate and Silas Q. Howe, of Patriot, Indiana, with an amendment; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

JACQUELINE M. WOOD.

Mr. TUCKER, from the Committee on Ways and Means, reported, as a substitute for House bill No. 5595, a bill (H. R. No. 6462) for the relief of Jacqueline M. Wood; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and ordered to be printed.

GEORGE G. SNYDER.

Mr. SAPP, from the Committee on the Public Lands, reported back favorably the bill (S. No. 1352) for the relief of George G. Snyder; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

QUIETING TITLE TO LANDS.

Mr. SAPP also, from the same committee, reported back the bill (H. R. No. 4289) to quiet title to lands patented by the United States, with amendments; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

SURVEY OF UNSURVEYED LANDS, KEYS, AND ISLANDS.

Mr. SAPP also, from the same committee, reported back favorably the bill (H. R. No. 3693) relating to the survey and disposal of unsurveyed lands, keys, and islands belonging to the United States; which was ordered to be printed, with the accompanying report, and recommitted, not to come back by a motion to reconsider.

MISSISSIPPI RIVER.

Mr. ROBERTSON. I ask, Mr. Speaker, by unanimous consent, that the bill (H. R. No. 6326) making appropriation for the construction, repair, completion, and preservation of certain works on the Mississippi River be set as a special order for consideration some time in the month of December next.

The SPEAKER. That cannot be done during the morning hour when committees are called for reports. The gentleman can be recognized at some time hereafter for such purpose.

HOMESTEADERS.

Mr. WRIGHT, from the Committee on the Public Lands, reported back favorably the bill (H. R. No. 2666) for the benefit of homesteaders and pre-emptors of public lands; which was referred to the House Calendar, and the accompanying report ordered to be printed.

RED WING AND TRENTON TRANSIT COMPANY.

Mr. HENDERSON, from the Committee on Commerce, reported back favorably the bill (H. R. No. 2782) to authorize the Red Wing and Trenton Transit Company to erect a bridge across the east channel or slough of the Mississippi River, and for other purposes; which was referred to the Committee of the Whole House on the state of the Union, and the accompanying report ordered to be printed.

DEPUTY INSPECTOR, SAN JUAN ISLAND.

Mr. DEUSTER, from the Committee on Commerce, reported, as a substitute for House bill No. 2158, a bill (H. R. No. 6463) to authorize the deputy inspector of customs resident on San Juan Island, in the Puget Sound district, in Washington Territory, to enter and clear vessels; which was read a first and second time, referred to the House Calendar, and, with the accompanying report, ordered to be printed.

MYRA CLARK GAINES.

Mr. BRIGHT, from the Committee on Claims, reported back favorably the bill (H. R. No. 3046) for the relief of Myra Clark Gaines; which was referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

UNITED STATES COURT, WICHITA, KANSAS.

Mr. HERBERT, from the Committee on the Judiciary, reported, as a substitute for House bill No. 5115, a bill (H. R. No. 6464) to provide for holding a term of the district court of the United States at Wichita, Kansas, and for other purposes; which was read a first and second time, referred to the House Calendar, and, with the accompanying report, ordered to be printed.

GALLUS KERCHNER.

Mr. DAVIS, of Missouri, from the Committee on Claims, reported, as a substitute for House bill No. 2505) a bill (H. R. No. 6465) referring to the Court of Claims the claim of Gallus Kerchner; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

M. D. HAMPTON, ETC.

Mr. BRIGHT, from the Committee on Claims, reported a bill (H. R. No. 6466) for the relief of M. D. Hampton and C. S. Wilson, administrators of E. L. Allen, deceased; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

THOMAS J. WHARTON.

Mr. HOOKER. I ask by unanimous consent, Mr. Speaker, that the Committee of the Whole House on the Private Calendar be discharged from the further consideration of a bill (H. R. No. 1349) for the relief of Thomas J. Wharton, of Jackson, Mississippi, for the purpose of putting it on its passage at this time. It has been reported three times from the Committee on Claims favorably and is merely for the purpose of paying for professional services rendered as an attorney to the United States courts. The appropriation is only for the sum of $250, and I hope there will be no objection to the passage of the bill.

The bill, which was read, appropriates the sum of $250, out of any moneys in the Treasury not otherwise appropriated, for the benefit of Thomas J. Wharton, of Jackson, Mississippi, as compensation for certain professional services rendered by said Wharton in the southern district of Mississippi, under appointment of the then district attorney of the United States for the southern district of Mississippi, in accordance with the statute in such case made and provided.

Mr. WHITE. I know nothing about this, and will reserve my objection until the report is read.

The report was read, as follows:

The bill proposes to pay to the claimant the sum of $250, for professional services rendered the Government in the southern district of Mississippi.

On the 16th day of June, 1874, Felix Brannigan, United States attorney for the southern district of Mississippi, purporting to act "by virtue of the authority vested" in him by the fourteenth section of the act of August 16, 1856, appointed the claimant "to attend to such business as may appertain to the duties of my office during my absence from the district in the prosecution of the cases of the United States *vs.* H. B. McClure and J. W. Robbins, now pending before C. L. C. Cass, United States commissioner in this district."

The claimant is a lawyer of ability and attended faithfully to the duties designated, and presented his account and asked to have it allowed. On the 20th day of November, 1875, being a day in court, Hon. R. A. Hill, judge of the district court, presiding, after argument it was "considered by the court that the appointment of said T. J. Wharton * * * was fully authorized by section 14, act of Congress August 16, 1856, (11 Statutes, 51;) * * * that it was the duty of the district attorney thereunder to make said appointment, and the said section was not repealed by any provision of the act to establish the Department of Justice, (16 Statutes, 162;) and it being admitted by W. W. Dedrick, United States attorney, and the court being satisfied, that the sum of $250 charged by said Wharton for legal services rendered for the United States, under said letter of appointment in the account attached to said motion, is just and moderate, the court doth hereby allow, approve, and tax said account, and recommend that the same be paid as authorized by the provisions of section 838, Revised Statutes."

The Treasury Department refused to pay the account, because—

First. Since the passage of the act creating the Department of Justice the district attorney had no authority to employ counsel to attend to his duties;

Second. Because the substitution was not sanctioned by the Secretary of the Interior; and

Third. The district attorney himself would not have been allowed such a bill had he performed the service himself.

The committee are of opinion that the district attorney misconceived his power, and that he had no authority to make the appointment, and that the judge erred in his ruling; but it is conceded that the services were rendered, and they were rendered under the assurance that they would be paid for, and that they were worth the sum claimed. We are of opinion that the claimant is entitled to the sum claimed upon a *quantum meruit*, and recommend that the bill do pass.

Mr. WHITE. I object, for the reasons stated by the Department.

LEGISLATIVE APPROPRIATION BILL.

Mr. ATKINS. I rise to make a privileged report on the legislative appropriation bill, and also a detailed report, which, if gentlemen desire it, can be read. It is very voluminous, however, and I will state in a few words the effect of the report now submitted.

The SPEAKER. The Clerk will read the conference report.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its amendments numbered 73, 75, 83, 84, 86, 87, 100, 107, 108, 110, 111, 114, 125, 129, and 130.

That the House recede from its disagreement to the amendments of the Senate numbered 74, 82, 88, 94, 95, 96, 103, 104, 105, 106, and 121.

That the House recede from its amendment to the amendment of the Senate numbered 71, and agree to the same.

That the House recede from its amendment to the amendment of the Senate numbered 72, and agree to the same with an amendment inserting "$3,500" in lieu of the sum proposed; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 76, and agree to the same with an amendment as follows: Insert "$389,920" in lieu of the sum proposed; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment as follows: Insert "$43,760" in lieu of the sum proposed; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 101, and agree to the same with an amendment as follows: Insert "$5,000" in lieu of the sum proposed; and the Senate agree to the same.

That the House recede from its amendment to the amendment of the Senate numbered 109, and agree to the same with an amendment as follows: Insert the words "eighty-five" in lieu of the words "one hundred;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 112, and agree to the same with an amendment as follows: Insert "$444,970" in lieu of the sum proposed; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 127, and agree to the same with an amendment as follows: Insert "$72,800" in lieu of the sum proposed; and the Senate agree to the same.

That the House recede from its amendment to the amendment of the Senate numbered 128, and agree to the same.

That the committee have been unable to agree on the following amendments, numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 66, and 67. Said amendments relate to the salaries of the employés of the Senate and House of Representatives.

J. D. C. ATKINS,
HIESTER CLYMER,
JOHN H. BAKER,
Managers on the part of the House.
H. G. DAVIS,
WM. A. WALLACE,
WILLIAM WINDOM,
Managers on the part of the Senate.

Mr. ATKINS. Mr. Speaker, if the House will give me its attention for a very few minutes I think I can place before its members in a general way the points of difference on the legislative appropriation bill. The conference committee have agreed to all of those features of the bill about which the House and Senate differed except the mere salaries of the Senate employés and the salaries of the House employés.

In the second place, Mr. Speaker, there are other points of difference with regard to the salaries of the employés of the House. One of them is the electrician, and the other as to the salaries of the messengers on the soldiers' roll; and, third, as to the salaries of the messengers who get $1,000. That is the second point of difference. The third point is on the general salaries of the Senate employés as now fixed by law. The Senate conferees held that these salaries shall remain as now fixed by law, while the House have agreed to bring them down to the point fixed for the corresponding employés of the House.

The fourth point is simply the raising of the salaries of the clerks of the Library Committee, the Census Committee, and the Committee on the District of Columbia in the Senate from per diem clerks to annual clerks, and also gives them an additional messenger. That is the fourth point. These are the points of difference between the House and the Senate on this bill.

Now, I wish to state that on yesterday, if I may be allowed to refer to what occurred in the other end of the Capitol, it was ruled by the presiding officer of the Senate that the conference report must be accepted as a whole. But on this morning I understand that the ruling of the presiding officer has been changed, and they have agreed to the conference report as far as it has been made, or as far as terms of settlement have been reached by the conferees; that is to say, the Senate agreed to all those features of the bill which do not relate to the salaries of the employés of either House.

The SPEAKER. The Chair would like to ask the gentleman from Tennessee a question. Does the Chair understand the gentleman to state that the Senate agreed this morning to the report of the conference committee?

Mr. ATKINS. I stated that on yesterday the President of the Senate ruled that the conference report must be complete, and that it was not in order to receive a part of the report and reject a part of it; that the report, in other words, must be conclusive.

The SPEAKER. That the report must be complete.

Mr. ATKINS. Yes; but on this morning the presiding officer rules that it will be in order for the Senate to accept the report as far as made and as we propose to make it here; that is, to agree to certain amendments to which the conference committee have already agreed. These relate to all matters that do not pertain to the salaries of the employés of either House.

Then I was going to make a parliamentary inquiry of the Speaker if it will be admissible to move that the House recede from its amendments which the committee recommend that it should recede from touching these points.

The SPEAKER. The Chair is of opinion that the judgment given on yesterday by the President *pro tempore* of the Senate was correct, namely, that the conference report must be complete before it can be concurred in when such an issue is made.

Mr. ATKINS. The President of the Senate so held himself on yesterday, but since that time he has had occasion to look into the precedents upon this question, and has found three or four which sustain the view which he now takes of it.

The SPEAKER. The Chair himself has the precedents to which the gentleman from Tennessee refers, running back as far as the Twenty-ninth Congress, wherein the conferees report partial agreements and partial disagreements, and the reports in such cases were accepted without the issue being raised or a ruling had thereon, and generally a motion followed that the House should recede from the disagreements mentioned in the report of the committee of conference, which without controversy produced a final agreement.

Mr. ATKINS. But the presiding officer of the Senate this morning has found, upon examination, a case in this identical bill in 1877 which he regards as conclusive as a precedent.

The SPEAKER. That was a decision in which the House, the Chair thinks, expressed an opinion that the House conferees should recede, and the same conferees went back and subsequently did recede. The issue in that instance as to a complete conference report was not raised, and in consequence was allowed by unanimous consent.

The Chair will direct the attention of the gentleman from Tennessee to decisions covering this point which he thinks will be regarded as conclusive:

A separate vote cannot be taken on the different propositions in a report of a conference committee; the report must be adopted or rejected as a whole. It can neither be amended nor separated, like other reports, but must be acted on as an entirety.—11 *Congressional Globe*, 869; *ibid.*, 1179; *Congressional Globe*, 1, 39, 4287; *ibid.*, 1, 38, 3016.

Mr. ATKINS. I suppose it will not make much difference as to the course of the House in regard to this matter if the House intends to agree to the amendments to the legislative bill which the Senate insist upon, and the conferees have so far agreed to accept those relating to the salaries of the employés of the two Houses?

The SPEAKER. But the Chair is not advised whether the Senate has disagreed to the amendments of the House wherein several of the House employés' salaries were increased.

Mr. ATKINS. That is the question at issue now, so far as the salaries are concerned; but there is no question with the Senate as to the amendments of the Senate as a matter of course, and those which the committee of conference report that they have agreed upon.

The SPEAKER. The recent decision, to which reference has been made, will now be read.

The Clerk read as follows:

Mr. ATKINS, from the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House (H. R. No. 4104) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes, reported that the committee, after full and free conference, were unable to agree.

Mr. BEEBE submitted the following resolution and demanded the previous question thereon, namely:

"*Resolved*, It is the opinion of this House that its conferees on the legislative, executive, and judicial appropriation bill should under the circumstances yield to the conferees on the part of the Senate the claim of the Senate in said bill as to the compensation of its own officers and employés."

The previous question was seconded and the main question ordered; and being put, namely:

Will the House agree to the said resolution?

And it was decided in the affirmative—yeas 116, nays 92, not voting 83.

The SPEAKER. It will be observed that in this case the conferees reported to the House a full disagreement, stating what the occasion of the disagreement was, and that then the House expressed an opinion that its conferees should recede. That was taken as an advisement to the committee of conference, and the same committee, as the Chair thinks, having been reappointed, went back and returned to the House with a complete report. The Chair concurs in the opinion expressed on yesterday by the President *pro tempore* of the Senate, that when contested a report must be complete in order to be concurred in by the two Houses.

Mr. ATKINS. It would not be in order, then, to move that the House recede on that part of the report which the committee have agreed on?

The SPEAKER. The Chair thinks the legitimate parliamentary mode of procedure would be to follow the example which has been cited, and for the House either to insist as the Senate did on yesterday on its disagreement, or for the House to say that in their opinion the conferees should recede. In that case the same conferees would go back and they would come to the House again with a complete report on the entire bill, which would be technically a compliance with the parliamentary practice. In that way the Chair thinks the parliamentary law would be executed without any confusion.

Mr. ATKINS. That would be the shortest way to reach it. I rather think myself it is the proper parliamentary way. I wanted, however, before that was done to get some expression from the House whether it is the wish of the House that we take up the disputed points which are very narrow; only the salaries of the messengers on the soldiers' roll, the eight messengers on the $1,000 roll, and the electrician. Those are the only three; the margin is very narrow.

Mr. LAPHAM. I desire to make a parliamentary inquiry.

Mr. ATKINS. The gentleman cannot rise to a parliamentary inquiry to take me off the floor, while I am in the midst of a sentence. I would like to have some expression of the sense of the House whether the House desires the committee of conference on its part to recede, or whether we should increase those salaries or put them at what the salaries now are; whether we should make them an exception to all the rest of the employés of the House.

Mr. HAWLEY rose.

Mr. TOWNSHEND, of Illinois. I have here a resolution which, if adopted, will express the sense of the House.

Mr. HAWLEY. I have risen to offer a resolution.

Mr. TOWNSHEND, of Illinois. I ask that my resolution may be read.

Mr. HAWLEY. I believe I have the floor.

The SPEAKER. The floor is under the control of the gentleman from Tennessee, [Mr. ATKINS.]

Mr. LAPHAM. I wish to submit that the action of the House just cited is binding on every committee of conference until the House has changed its determination.

The SPEAKER. The Chair concurs, and thinks the House has not varied from that principle, and the Chair thinks it should not vary. It is the safe way.

Mr. ATKINS. I yield to allow the resolution offered by the gentleman from Illinois [Mr. TOWNSHEND] to be read.

The Clerk read as follows:

Resolved by the House of Representatives, (the Senate concurring,) That the conferees on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House No. 6185, (legislative, executive, and judicial appropriation bill,) be, and they are hereby, authorized to take into consideration the question of the equalization of salaries of employés of the House with those of the employés of the Senate.

Mr. ROBINSON. I make the point of order on that resolution.

Mr. TOWNSHEND, of Illinois. I can satisfy the House that all the precedents heretofore establish that the resolution is not obnoxious to the point of order.

The SPEAKER. The Chair has heretofore ruled upon this proposition, and his ruling is one of the precedents. The Chair has reflected very carefully over his ruling in this respect and adheres to his judgment. He therefore rules the proposition of the gentleman from Illinois out of order.

Mr. TOWNSHEND, of Illinois. I can cite a dozen instances in which the House has acted in this way. I have the cases before me.

The SPEAKER. The Chair thinks there must have been some peculiar surrounding circumstances that made any Speaker depart from what the present occupant of the chair has stated to be the practice, as he reads parliamentary law of legislative bodies. To give a committee of conference between two Houses power to rip up a bill where there was no disagreement between the two Houses would be to give a power to a conference committee greater than either of the Houses possesses, and on this point I submit several decisions of former Speakers:

The House cannot amend their own amendment on return of their bill from the Senate, for the reason that they have agreed to it in that form, and cannot change it, and for the same reason a conference committee cannot change the text of a bill which has been agreed to by both Houses.—*Jefferson's Manual*, 48; 3 *Hatsell*, 31; *Speakers Hunter, Boyd, and Grow, and Journals passim.*

Mr. ATKINS. I concur entirely in the ruling of the Speaker.

Mr. TOWNSHEND, of Illinois. I will not insist, since the Speaker has said he has carefully considered this question.

Mr. HAWLEY. I offer the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That the conferees on the part of the House upon the legislative, executive, and judicial appropriation bill, are hereby instructed to yield to the wishes of the Senate conferees upon questions concerning the salaries of the employés of the Senate.

Mr. HAWLEY. I desire to be heard a moment upon that resolution.

The SPEAKER. The Chair suggests to the gentleman from Connecticut to change his resolution, so that it shall express an opinion on the part of the House, rather than be in the form of an instruction to the committee.

Mr. HAWLEY. I will modify the resolution in the way the Chair suggests.

Mr. ATKINS. One question of my colleague on the Committee on Appropriations, [Mr. HAWLEY.] Does his resolution extend to the raising of the salaries of the *per diem* clerks of the House Committees on the Library, the Census, and the District of Columbia, and the additional messengers?

Mr. HAWLEY. I had in view so much of this bill as there is still disagreement upon. And that is the reason why I desired to make some remarks upon my resolution.

Mr. ATKINS. That embraces all.

The SPEAKER. The resolution as read relates only to the Senate employés.

Mr. MCMILLIN. I reserve all points of order upon the resolution.

Mr. HAWLEY. I have submitted this resolution not because I think the Senate is entirely right; I express no opinion upon that point. The Senate may be entirely wrong in raising these salaries. But we know that this House has always been very stubborn in insisting upon its assumed rights to regulate the salaries of its employés, and the Senate has been equally stubborn in regard to its right to fix the compensation of its employés. Year after year this conflict comes up, but always too late to allow a proper adjustment, because it never arises until toward the close of the session, and the Senate simply concurs in what we do about our own employés, and that part of the subject drops out of the question. At the right time I would like to offer a resolution indicating what I think ought to be done on this subject, something like this:

Resolved by the House of Representatives, (the Senate concurring therein,) That a joint select committee, to consist of three members of the Senate and three members of the House of Representatives, be appointed by the presiding officers of the two Houses to take into consideration the subject of the compensation of the employés of the two Houses of Congress, with leave to sit during the recess and to employ a clerk; and said joint committee shall report by bill or otherwise at the commencement of the next session of Congress, the expenses of said committee to be paid out of the contingent funds of the two Houses.

If we had started in that way last December and had asked a conference in the first place with the Senate on this subject we might have come by this time to a just and equitable arrangement in regard to the salaries of the employés of the two Houses; and I think we will never do it in any other way.

I have now offered a resolution that we yield to the Senate upon so much of this bill as there is disagreement upon.

Mr. SCALES. I understood the gentleman from Connecticut [Mr. HAWLEY] to say that the Senate ought to have the right which they claim, to regulate the salaries of its own employés.

Mr. HAWLEY. I do not know that I expressed it precisely in that way. I said that the Senate had claimed the right to fix the compensation of its employés, as the House had claimed the right in regard to its own employés, and that is what we are disputing about.

Mr. SCALES. That is the object of the resolution.

Mr. HAWLEY. The object of the resolution is to yield the few points which are now in dispute.

Mr. SCALES. With regard to this claim of the Senate: if the Senate employés are paid at all they must be paid by law. The Senate cannot make a law by itself; it must have the concurrence of the House to make such a law. As one member of this House, I will never consent that an employé of the House who performs the same labor shall receive less for his services than an employé of the Senate, who is paid under the same law and by the concurrence of the same two Houses.

This claim of the Senate is worth nothing; it ought not to be regarded by this House, and I hope it will not be. These employés are paid by law. We make that law, and therefore we ought to stand upon equal terms with the Senate. What member of this House would agree that a Senator should receive $100 or $500 a year more salary than a member of this House receives? There would be exhibited such indignation in this Hall as was never seen before. Every man would be on his feet and crying out against such a proposition. Yet we stand here year after year and, for some cause or other, I do not know what, allow the Senate to pay their employés, who are not performing as much service as is done by the House employés, a higher compensation than is paid to the employés of this body. I trust the House will do no such ridiculous thing at this time.

Mr. HAWLEY. A single word before I call the previous question. The Senate can assent to or dissent from any bill which we may pass, and if they dissent from the bill we are stopped; that is all there is of it. The Senate is an associate branch of the legislative department of this Government, and it can say yes or no to any of our salaries, and we can say yes or no to any of theirs, and there will be this deadlock every year, if no provision is made to avoid it. I now call the previous question on the resolution I have submitted.

Mr. ATKINS. Before that is done I desire to suggest to the gentleman from Connecticut [Mr. HAWLEY] that he had better narrow the scope of his resolution, if I understand the reading of it, so as not to express any opinion as to the rights of the two Houses upon this subject, but simply get an expression of opinion from the House, if that is what the gentleman desires, that its conferees should yield to the demand of the Senate.

Mr. HAWLEY. There is nothing at all said about the rights of the two Houses in my resolution. The words employed there are "the wishes of the Senate conferees."

Mr. ATKINS. Let the resolution be read again.

The resolution was again read, as follows:

Resolved, That it is the sense of the House that its conferees upon the legislative, executive, and judicial appropriation bill yield to the wishes of the Senate conferees upon questions concerning the salaries of employés of the Senate.

Mr. HISCOCK. I desire to ask a single question of the chairman of the Committee on Appropriations.

Mr. ATKINS. What is it?

Mr. HISCOCK. What is the amount involved in this controversy?

Mr. ATKINS. About $30,000 only, I think.

Mr. HAWLEY. I now call the previous question on my resolution.

The previous question was seconded and the main question ordered.

Mr. HAWLEY moved to reconsider the vote by which the main question was ordered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The question recurring upon the adoption of the resolution of Mr. HAWLEY,

Mr. MCMILLIN called for the yeas and nays.

On ordering the yeas and nays there were—ayes 15, noes 115.

Mr. MILLS. I make the point that no quorum has voted.

The SPEAKER. No quorum having voted, the Chair orders tellers, and appoints the gentleman from Connecticut, Mr. HAWLEY, and the gentleman from Texas, Mr. MILLS.

Mr. MILLS. If gentlemen will consent to give us the yeas and nays on this resolution, we will not make any point upon the lack of a quorum.

Mr. HAWLEY. If this contest is to be prolonged, I suggest that we allow the yeas and nays to be taken.

Mr. MILLS. That is all we want—a record vote.

The House divided; and the tellers reported ayes 39, noes not counted.

So the yeas and nays were ordered.

The question was taken; and there were—yeas 104, nays 72, not voting 116; as follows:

YEAS—104.

Acklen,	Ferdon,	Lapham,	Russell, W. A.
Aiken,	Field,	Lindsey,	Ryan, Thomas
Aldrich, William	Fisher,	Loring,	Ryon, John W.
Ballou,	Godshalk,	Manning,	Sawyer,
Barber,	Hall,	Martin, Joseph J.	Shallenberger,
Beale,	Hammond, John	Mason,	Shelley,
Bland,	Hammond, N. J.	McCook,	Sherwin,
Bliss,	Harmer,	Mitchell,	Smith, A. Herr
Bouck,	Harris, Benj. W.	Money,	Smith, William E.
Boyd,	Haskell,	Monroe,	Stone,
Brewer,	Hawk,	Morse,	Thompson, W. G.
Bright,	Hawley,	Muldrow,	Townsend, Amos
Browne,	Hayes,	Myers,	Upson,
Buckner,	Hazelton,	Neal,	Urner,
Carpenter,	Henderson,	Nicholls,	Valentine,
Caswell,	Hiscock,	O'Connor,	Van Aernam,
Chalmers,	Horr,	O'Reilly,	Van Voorhis,
Cook,	Hubbell,	Osmer,	Voorhis,
Crapo,	Humphrey,	Overton,	Waddill,
Cravens,	Johnston,	Pacheco,	Wait,
Daggett,	Jones,	Persons,	Ward,
Davis, Horace	Joyce,	Rice,	Warner,
Deering,	Keifer,	Richardson, D. P.	Wells,
Dwight,	Kelley,	Richardson, J. S.	White,
Errett,	Ketcham,	Robeson,	Willits,
Evins,	Ladd,	Robinson,	Wood, Fernando.

NAYS—72.

Anderson,	Clark, John B.	Henry,	Samford,
Atherton,	Clymer,	Herbert,	Scales,
Atkins,	Cobb,	Hooker,	Singleton, J. W.
Baker,	Coffroth,	Hunton,	Singleton, O. R.
Bayne,	Colerick,	Hutchins,	Smith, Hezekiah B.
Beltzhoover,	Cox,	Kitchin,	Sparks,
Berry,	Culberson,	Klotz,	Springer,
Bicknell,	Davis, Joseph J.	Lowe,	Steele,
Blackburn,	Davis, Lowndes H.	Martin, Edward L.	Taylor,
Blake,	Deuster,	McLane,	Thomas,
Blount,	Dibrell,	McMillin,	Tillman,
Briggs,	Dickey,	Mills,	Turner, Oscar
Cabell,	Dunnell,	Morrison,	Updegraff, Thomas
Caldwell,	Elam,	New,	Vance,
Cannon,	Ford,	Phelps,	Wellborn,
Carlisle,	Forney,	Philips,	Whiteaker,
Clardy,	Frost,	Reagan,	Whitthorne,
Clark, Alvah A.	Harris, John T.	Ross.	Wright.

NOT VOTING—116.

Aldrich, N. W.	Farr,	Le Fevre,	Robertson,
Armfield,	Felton,	Lewis,	Rothwell,
Bachman,	Finley,	Lounsbery,	Russell, Daniel L.
Bailey,	Forsythe,	Marsh,	Sapp,
Barlow,	Fort,	Martin, Benj. F.	Simonton,
Belford,	Frye,	McCoid,	Slemons,
Bingham,	Garfield,	McGowan,	Speer,
Bowman,	Geddes,	McKenzie,	Starin,
Bragg,	Gibson,	McKinley,	Stephens,
Brigham,	Gillette,	McMahon,	Stevenson,
Burrows,	Goode,	Miles,	Talbott,
Butterworth,	Gunter,	Miller,	Thompson, P. B.
Calkins,	Hatch,	Morton,	Townshend, R. W.
Camp,	Heilman,	Muller,	Tucker,
Chittenden,	Henkle,	Murch,	Turner, Thomas
Claflin,	Herndon,	Newberry,	Tyler,
Conger,	Hill,	Norcross,	Updegraff, J. T.
Converse,	Hostetler,	O'Brien,	Washburn,
Covert,	Houk,	O'Neill,	Weaver,
Cowgill,	House,	Orth,	Wilber,
Crowley,	Hull,	Page,	Williams, C. G.
Davidson,	Hurd,	Phister,	Williams, Thomas
Davis, George R.	James,	Pierce,	Willis,
De La Matyr,	Jorgensen,	Poehler,	Wilson,
Dick,	Kenna,	Pound,	Wise,
Dunn,	Killinger,	Prescott,	Wood, Walter A.
Einstein,	Kimmel,	Price,	Yocum,
Ellis,	King,	Reed,	Young, Casey
Ewing,	Knott,	Richmond,	Young, Thomas L.

So the resolution of Mr. HAWLEY was adopted.

The following pairs were announced from the Clerk's desk:

Mr. THOMPSON, of Kentucky, with Mr. KENNA, on this vote.

Mr. POUND with Mr. POEHLER, for to-day, but not to break a quorum nor upon tariff questions.

Mr. SIMONTON with Mr. HOUK, indefinitely.

Mr. HEILMAN with Mr. TOWNSHEND, of Illinois, for to-day and to-morrow.

Mr. NORCROSS with Mr. MARTIN, of West Virginia.

Mr. DAVIDSON with Mr. FARR.

Mr. DUNN with Mr. PRESCOTT, from to-day until Mr. PRESCOTT returns, on all political questions, but not to interfere with a call of the House or a quorum.

Mr. STEVENSON with Mr. MCKENZIE.

Mr. O'NEILL with Mr. HENKLE, on political questions and the sugar question.

Mr. FINLEY with Mr. MILLER.

Mr. LE FEVRE with Mr. MARSH, on political questions.

Mr. COWGILL with Mr. BRAGG.

Mr. COX with Mr. MORTON.

Mr. KING with Mr. RICE.

Mr. NEWBERRY with Mr. ELLIS.

Mr. THOMAS TURNER with Mr. MCGOWAN.

Mr. GARFIELD with Mr. TUCKER.

Mr. MCKINLEY with Mr. HURD.

Mr. CALKINS with Mr. PHISTER.

Mr. KNOTT with Mr. FRYE.

Mr. ORTH with Mr. MYERS, on political questions.

Mr. SAPP with Mr. GEDDES.

Mr. WALTER A. WOOD with Mr. MULLER.

Mr. EINSTEIN with Mr. ARMFIELD.

Mr. JAMES with Mr. O'BRIEN.

Mr. JOHNSTON with Mr. CROWLEY.

Mr. GUNTER with Mr. BURROWS.

Mr. STARIN with Mr. RICHMOND.

Mr. COVERT with Mr. YOUNG, of Ohio.

Mr. WILBER with Mr. BACHMAN.

Mr. FELTON with Mr. KILLINGER.

Mr. BAILEY with Mr. YOUNG, of Tennessee.

Mr. CONGER with Mr. WILLIS.

Mr. HOSTETLER with Mr. DAVIS, of Illinois, for this day.

The result of the vote was announced as above stated.

Mr. CLYMER submitted the following resolution; which was adopted:

Resolved, That the report of the committee be accepted and a further conference be requested.

The SPEAKER announced the appointment of Mr. ATKINS, Mr. CLYMER, and Mr. BAKER as conferees upon the part of the House at the further conference with the Senate.

Mr. HAWLEY. I ask unanimous consent to offer as a proper sequence to the resolution just adopted a resolution providing for a joint committee of the two Houses to report next December a bill adjusting the salaries of the employés of Congress.

Mr. REAGAN. I hope the House will agree to that resolution.

The resolution was read, as follows:

Resolved by the House of Representatives, (the Senate concurring,) That a joint select committee, to consist of three members of the Senate and three members of the House of Representatives, be appointed by the presiding officers of the two Houses to take into consideration the subject of the numbers and compensation of the employés of the two Houses of Congress, with leave to sit during the recess and to employ a clerk; and said joint committee shall report by bill or otherwise at the commencement of the next session of Congress; the expenses of said committee to be paid out of the contingent fund of the two Houses.

Mr. BOUCK. I object. If the resolution provided that the clerical work in connection with this joint committee should be done by the clerks already regularly employed I would make no objection, but I do not see why a clerk should be specially employed when there are already clerks at annual salaries who could do the work.

Mr. HAWLEY. To obviate the gentleman's objection I will strike out the clause of the resolution providing for the employment of a clerk.

Mr. BOUCK. Then I withdraw the objection.

Mr. SINGLETON, of Illinois. I renew it.

Mr. HAWLEY. Then I do not strike out anything.

RIVER AND HARBOR BILL.

Mr. REAGAN. I submit the following conference report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House, No. 6237, making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes, having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its amendments numbered 10, 23, 40, 41, and 95.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 5, 6, 7, 8, 9, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 58, 59, 60, 61, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 79, 80, 81, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 96, 97, 98, 99, 100, 102, 103, 104, 105, 106, 107, 108, 109, 110, 112, 113, 114, 115, and 116, and agree to the same.

That the House recede from its disagreement to the amendment numbered 1, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$20,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 4, and agree to the same with an amendment as follows: Strike out "25,000" and insert "20,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 9, and agree to the same with an amendment as follows: Strike out "70,000" and insert "50,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 14, and agree to the same with an amendment as follows: Strike out "25,000" and insert "20,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 55, and agree to the same with an amendment as follows: Strike out "12,000" and insert "10,000;" and the Senate agree to the same.

That the Senate recede from its amendment numbered 56, and agree to the same with an amendment as follows: Strike out "25,000" and insert "15,000;" and the House agree to the same.

That the House recede from its disagreement to the amendment numbered 57, and agree to the same with an amendment as follows: Insert after the word "dollars" "$6,000 of which may be expended for the removal of dams;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 62, and agree to the same with an amendment as follows: Strike out "25,000" and insert "20,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 78, and agree to the same with an amendment as follows: Strike out "20,000" and insert "16,000;" and the Senate agree to the same.

That the Senate recede from its amendment numbered 82, and in lieu of the original clause agree to the following:

"It shall be the duty of the Secretary of War to apply the money herein appropriated for improvements other than surveys and estimates in carrying on the various works as far as can be, without detriment to the interests of the Government, by contract. Where such works cannot be done by contract without injury to the public interest, they may be prosecuted by hired labor. Where said works are done by contract, such contracts shall be made after sufficient public advertise-

ment for proposals in such manner and form as the Secretary of War shall prescribe; and such contracts shall be made with the lowest responsible bidders, accompanied by such securities as the Secretary of War shall require, conditioned for the faithful prosecution of the work according to said contract and for the proper payment of all liabilities incurred in the prosecution thereof for labor and material. But this clause shall not be so construed as to prevent the continuance of work on the Great Kanawha by hired labor, unless the Secretary of War is satisfied that the public interest requires such change;" and the House agree to the same.

That the House recede from its disagreement to the amendment No. 111, and agree to the same with an amendment as follows: Strike out the word "river" and insert "and Lillington River and Beaufort Harbor;" and the Senate agree to the same.

JOHN H. REAGAN,
MARTIN L. CLARDY,
WILLIAM A. RUSSELL,
Managers on the part of the House.

MATT. W. RANSOM,
FRANK HEREFORD,
SAMUEL J. R. McMILLAN,
Managers on the part of the Senate.

The SPEAKER. The statement required by the rule will now be read.

The Clerk read as follows:

The managers on the part of the House of the conference on the river and harbor appropriation bill respectfully submit the following detailed statement as to the effect of the amendments proposed and agreed to by the committees of the two Houses:

The amendments numbered 3, 22, 33, 38, 39, 44, 50, 51, 60, 69, 70, and 71 are merely verbal, involving no additional expenditure of money.

Amendments numbered from 83 to 115, both inclusive, relate to surveys, and do not increase the appropriation.

The other amendments from the disagreement to which the House recedes leave the amounts as they were put on in the Senate.

Amendment No. 1, for the improvement of Lubec Channel, Maine, the amount is reduced from $26,000 to $20,000.

Amendment No. 4 reduces the amount appropriated for Little Sodus Harbor from $25,000 to $20,000.

Amendment No. 9 reduces the appropriation for ice-harbor at mouth of Muskingum River from $70,000 to $50,000.

Amendment No. 14 reduces the appropriation for Calumet, Illinois, from $25,000 to $20,000.

Amendment No. 55 is reduced from $12,000 to $10,000, the appropriation being for Elk River, Maryland.

The Senate recedes from its amendment (No. 56) to strike out the appropriation for Susquehanna River from Richard's Island up, and the House agrees to fix the amount at $15,000 instead of $25,000.

The amendment to amendment No. 57 is merely directing the manner in which the money shall be used; the amount remains the same.

Amendment No. 62 is reduced from $25,000 to $20,000 in the appropriation for San Joaquin River, California.

Amendment No. 78 is reduced from $20,000 to $16,000 in the appropriation for the Savannah River above Augusta, Georgia.

The amendment No. 82 is stricken out and a new provision inserted providing that the Secretary of War shall let all works of improvement of rivers and harbors out by contract where it can be done without injury to public interests, and providing for the advertising of the same and for the proper bonds for the faithful prosecution of the, and payment for, labor and material.

The Senate recedes from the following amendments:

No. 10. The appropriation for Port Clinton, Ohio, is left at $5,000 instead of $10,000.

No. 23. The appropriation for the Delaware River at Cherry Island Flats is restored to $100,000 instead of $75,000.

No. 40. The appropriation for the Missouri River at Omaha is left at $20,000 instead of $30,000.

No. 41. The appropriation for the Missouri River at Nebraska City is left at $14,000 instead of $20,000.

No. 95, which merely provides for a survey that is provided for elsewhere in the bill.

The conference committee reduced the Senate amendments $63,000, and restored items that were stricken out by the Senate amounting to $40,000.

In agreeing to the Senate amendments to the House bill we consented to reductions amounting in the aggregate to $190,000 in addition to the amounts of reduction by amendments to Senate amendments.

The bill now appropriates $8,929,500.

Mr. REAGAN. I have a word of explanation in reference to those amendments.

Mr. COX. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. COX. Will it be proper to move this bill be referred to the Committee of the Whole, with instructions?

Mr. REAGAN. I do not yield for any interruption.

Mr. COX. I presume I can move to lay on the table in spite of refusal to be interrupted?

The SPEAKER. The Chair thinks not; but the Chair will rule on that point whenever the gentleman tries to make such motion.

Mr. COX. I make the point it should go to the Committee of the Whole on the state of the Union, as it contains new appropriations.

Mr. REAGAN. I do not yield the floor at present.

The SPEAKER. The gentleman will proceed.

Mr. REAGAN. Mr. Speaker, there is, perhaps, no occasion for saying but a very few words in reference to this report. There are numerous amendments, and the report of the committee shows that the House conferees yielded their objections to a great many amendments incorporated by the Senate in the bill. I desire briefly to explain that twelve of these were simply verbal amendments, proper to be made with no reference to increasing the appropriations, and of course the House conferees yielded to them. There are thirty-two amendments in relation to orders for new surveys or examinations to be made, and the House conferees did not feel authorized to object to them, as they make no additional appropriation.

The Senate amendments agreed to by the House conferees reduced the Senate bill about $190,000. The Senate conferees agreed to the reductions of their amendments, and in the aggregate we made them a little lower than they were originally adopted by the Senate. The amount of the bill as now made up by the Clerk is something over $8,900,000. This, I believe, is all the explanation that is necessary to make in reference to the conference report.

Mr. SINGLETON, of Mississippi. How much more than the original bill does this bill provide?

Mr. REAGAN. Some $400,000. Upon this now I propose to ask the previous question.

Mr. SCALES. May I ask the gentleman from Texas how much more than the original bill the present bill provides for, as I did not hear his response to the gentleman from Mississippi?

Mr. REAGAN. According to the estimate of the Clerk now, under the agreement of the conferees, it increases the bill about $400,000. The House bill was, as will be remembered, quite a large one, and it made but little margin for the Senate amendments. The Senate did incorporate some few amendments, but the great majority of those proposed by the committee were stricken down in the Senate. The conference committee have stricken down these amendments which were adopted, making a still further reduction of about $190,000. The few amendments and the small amount put into the bill by the Senate left but little margin for a compromise or a reduction; but the committee of conference wherever they could do it reduced the amount and the Senate conferees agreed to a small reduction of the amount appropriated by them. I ask the previous question upon the conference report.

Mr. COX. I renew my point of order and ask to have Rule XX read.

The SPEAKER. The Clerk will read Rule XX.

The Clerk read as follows:

Any amendment of the Senate to any House bill shall be subject to the point of order that it shall first be considered in the Committee of the Whole House on the state of the Union if, originating in the House, it would be subject to that point.

The SPEAKER. The Chair thinks that the proper time to have made this point of order, under that rule, would have been at the time the bill was before the House for action on the Senate amendments, and not after it got into a conference.

Mr. COX. I endeavored to get the floor to make some such motion, and also a motion to lay the bill upon the table. Now, I wish to ask if it would be in order to move that this committee shall have instructions to limit the aggregate amount of the appropriation in this bill to $5,000,000, to be distributed *pro rata*, according to the appropriations for the various objects of the bill?

The SPEAKER. The Chair will consider that if the previous question is voted down, but does not decide upon it in advance.

Mr. COX. Would it be in order to debate the merits of the bill?

The SPEAKER. It would be if the previous question is voted down.

Mr. COX. I think this bill is the greatest outrage of this Congress; the greatest since I have ever been in Congress. It ought to be laid upon the table.

The SPEAKER. Does the Chair understand the gentleman from New York as endeavoring to make a motion to lay the bill upon the table?

Mr. COX. I think that motion is always in order, and I make the motion.

The SPEAKER. The Chair will cause to be read for the information of the House extracts from the Digest in reference to this matter.

The Clerk read as follows:

The report may be laid on the table. (Journal, 1, 31, p. 1590.) But it has since been decided otherwise. (See Journals, *passim*.) [And its effect will be to lay the bill on the table.—Barclay.]

[This opinion of Mr. Barclay has never been sustained by the House. Speaker Blaine having decided that a conference report could not be laid on the table, requested Mr. George F. Hoar to take an appeal in order to obtain the sense of the House on the question, and on division the decision was sustained by yeas 98, nays 25.—Journal, 2, 42, p. 1129.]

The SPEAKER. The Chair has himself conformed to that settled practice of the House——

Mr. COX. I remember having made the motion once, but it was overruled; but I made the motion also to lay upon the table, and I see by the RECORD, although I did not hear the Speaker state it at the time, that the Chair overruled the motion.

The SPEAKER. The Chair does not think he overruled that motion if it was entertained as made at the proper time.

Mr. COX. I did not hear the Speaker overrule it, but the RECORD shows that it was overruled.

Mr. KENNA. I think the Chair said that the point of order came too late.

Mr. COX. The RECORD shows it was overruled.

Mr. ROBINSON. The Chair held that it was too late at the time that motion was made.

The SPEAKER. That is probable; the Chair does not now remember; but the Chair certainly did not decide according to the statement of the gentleman from New York that it was not in order if made at the proper time for such motion.

Mr. COX. If I am too late when I am early, where am I when I am late?

The SPEAKER. If the gentleman makes his motion too late he must not expect the Chair to correct his error.

Mr. REAGAN. I demand the previous question upon the conference report.

The previous question was seconded and the main question ordered; and under the operation thereof the report of the conference committee was agreed to.

Mr. REAGAN moved to reconsider the vote by which the conference report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

AGRICULTURAL APPROPRIATION BILL.

Mr. COVERT. I rise to make a conference report.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House (H. R. 6207) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1881, and for other purposes, having met, after full and free conference have been unable to agree.

JAMES W. COVERT,
G. G. DIBRELL,
JOHN A. ANDERSON,
Managers on the part of the House.
WILLIAM WINDOM,
H. G. DAVIS,
WILLIAM A. WALLACE,
Managers on the part of the Senate.

The SPEAKER. The accompanying statement will now be read.

The Clerk read as follows:

Statement to accompany report of conference committee on H. R. No. 6207, the bill making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1881, &c.

The effect of the report herewith submitted is as follows:

As to Senate amendment No. 1, the amendment to the amendment as agreed to by the conference committee establishes the salary of the Commissioner of Agriculture for the ensuing fiscal year at $3,500, instead of $4,000 as proposed by the Senate amendment.

As to amendment No. 2, the action had simply strikes out the title given to one of the employés of the Department—"the assistant disbursing clerk"—and the adoption of amendments Nos. 3 and 4 ranks said officer among the clerks of class 2, and dispenses with the requirement that two of the clerks of said class shall be practical printers, this requirement being deemed unnecessary.

Amendment No. 5 authorizes the payment of clerks, with the other employés named, out of the general appropriation made in the bill for the pay of such employés, it being thought that the Commissioner might make better disposition of the employés engaged in the Department if the word "clerks" was inserted as proposed by the amendment.

Amendment No. 7 merely creates a separate division, and gives it the title of "microscopical division," without adding to the appropriation.

The agreement to amendment No. 8 reduces the salary of the librarian from $1,800 to $1,400 for the coming fiscal year.

Amendment No. 10 has reference to the matter of seed distribution, and strikes out the provision requiring that "an equal proportion" of seeds be distributed among Senators, Members, and Delegates, and provides that "a reasonable proportion" of seeds shall be so distributed. The effect of this amendment will be to leave a certain proportion of seeds to be distributed by the Commissioner among agriculturists.

The effect of the action of the Senate committee in receding from amendment No. 11 is to make it obligatory on the part of the Commissioner thus to supply seeds to Senators, Members, and Delegates, instead of leaving it as matter of construction whether such action is obligatory on his part.

Amendment No. 12 provides in terms that Senators shall participate in such distribution, and determines in this respect the construction of the paragraph.

The effect of the action of the Senate committee in receding from amendments Nos. 13, 14, and 15, with amendments, is to appropriate $5,000 for experiments in connection with the culture and manufacture of tea, as provided originally in the House bill, to be available immediately; and to appropriate $3,000 for experiments in connection with cotton.

Amendment No. 16 appropriates $5,000 for labor, implements, and materials. This item has formerly found place in the sundry civil appropriation bill. For convenience it has been thought best to insert it in the agricultural appropriation bill and omit it in the sundry civil bill; from which last-named bill it will be stricken out in the Senate.

The agreement upon the amendments to Senate amendments Nos. 17 and 18 has the effect to appropriate $4,000 for chemicals and chemical apparatus, and to provide an appropriation of a like amount to test the peculiarities of wools and animal fibers on exhibition at the approaching international sheep and wool exposition, both of said sums to be available immediately.

The agreement to recede from Senate amendment No. 20 has the effect to restore the appropriation of $5,000 for the investigation of the agricultural needs of the arid region of the United States.

Senate amendment No. 21 provides that reports as to the progress, &c., of the work of sinking the artesian wells, provided for by the bill, shall each week be forwarded to instead of filed with the Commissioner of Agriculture.

An agreement has been reached as to all the amendments except those numbered 6 and 19, and the formal amendments giving the totals of the various classes of appropriations.

The Senate amendments as amended upon the conference, and as so amended agreed to, increase the total appropriations over the amount appropriated in the House to the amount of $4,600.

Senate amendment No. 6 provides for the appointment of three assistant chemists, and makes an appropriation therefor of $3,600; and amendment No. 19 makes an appropriation of $15,000 for the purchase of machinery and apparatus for experiments in the manufacture of sugar from sorghum, corn, and other producing plants, and authorizes out of this amount an additional compensation of $1,000 to the chief chemist, &c., making together a total of $18,600.

Upon these last two amendments the report leaves the items in the same attitude as when last considered by the House, no agreement on the same having been reached by the conference committee.

JAMES W. COVERT,
G. G. DIBRELL,
JOHN A. ANDERSON,
Managers on the part of the House.

Mr. DUNNELL. I desire to ask the gentleman from New York who presents this report a couple of questions before he moves its adoption. In the first place, how does the report leave the distribution of seeds? Does it take away any share or any portion of the seeds from members?

Mr. COVERT. The amendments as agreed to in that regard leave the matter in this shape: The word "equal" as applied to the proportion of seeds which in the bill as it passed the House was directed to be distributed among Senators and Members and Delegates, was stricken out and the word "proper" inserted. The effect of it will be to leave it somewhat to the discretion of the Commissioner of Agriculture to distribute a portion of these seeds among the people throughout the country whom he knows and recognizes to be agriculturists instead of dividing the amount of the seeds among Senators, Members, and Delegates.

Mr. DUNNELL. Will Senators, Members, and Delegates be entitled to any seeds?

Mr. COVERT. They will be entitled, according to the phraseology of the amendment, to a fair and reasonable proportion of these seeds on application to the Commissioner. Upon such application it is made his duty to send seeds to members for distribution by them.

Mr. DUNNELL. Is it not left wholly to the discretion of the Commissioner?

Mr. COVERT. It is left to the discretion of the Commissioner except as that is guided, governed, and controlled by the words "proper and reasonable" as applied to the distribution of seeds.

Mr. ANDERSON. If the gentleman from New York will allow me, I will state there is also another difference. The action of the House was that the Commissioner shall distribute these seeds when requested. The Senate struck out the word "shall" and inserted the word "may;" the Senate conferees recede from this amendment, and the bill in this respect now stands as the House passed it.

Mr. DUNNELL. It seems, then, with regard to the seed distribution, the House has made nothing by its contest this year. We have been left where we were left heretofore, at the discretion of the Commissioner; and it is well-known the Commissioner refuses to give seeds, except to a few special friends. Some members of this House have had lots of seeds, bushels, sent to their rooms, while other members have had none. The word "equal" was put into the bill with a good deal of meaning, and I regret exceedingly the conference committee, on the part of the House, have had the only good word in the amendment stricken out, the word "equal."

Mr. ROBINSON. Will the gentleman from Minnesota allow me to ask him a question?

Mr. DUNNELL. Certainly.

Mr. ROBINSON. Does the gentleman say under the present Commissioner seeds have been sent to the members of the present Congress to their rooms for distribution?

Mr. DUNNELL. I am so informed.

Mr. COVERT. The gentleman, I think, is mistaken.

Mr. ROBINSON. The Commissioner has distinctly said to me he did not, under the law, give out seeds directly to the members for distribution, but sent them, on their request, to parties through the country. I want to know the fact.

Mr. DUNNELL. The second question I wish to ask the gentleman from New York is respecting the salary of the Commissioner. Is it kept at $3,000 or raised to $4,000.

Mr. COVERT. The bill, as it passed the House, fixed the salary of the Commissioner at $3,000 for the next fiscal year. The Senate, by its amendment, increased the amount $1,000, making the salary $4,000. In the conference we agreed upon $3,500, and that compromise stands as the report of the conference committee.

Now, only one word with reference to the suggestion of the gentleman from Minnesota. I am not here for the purpose of defending the Commissioner of Agriculture as to any dereliction of duty that may be charged against him. But I have this to say, that I think my friend from Minnesota and other gentlemen upon this floor who upon occasion have indulged in adverse criticism as to the course of the Commissioner in the matter of seed distribution, claiming that they have not received the amount of seeds they are entitled to, or that their constituents are not properly regarded in the distribution of seeds, will find, in every instance where there has been any supposed dereliction of duty of this kind on the part of the Commissioner, the application for seeds has been sent in at so late a time in the season that it was impossible for the Commissioner to respond to it.

Mr. MORRISON. Not a bit of it.

Mr. COVERT. I have said I am not here to defend the Commissioner if this statement is not found to be true. I am merely giving the result of my own experience. In the early part of the season I sent a list to the Commissioner, asking that seeds be transmitted to the persons on the list. The request was complied with. Later in the season I received further applications for seeds. I sent the Commissioner a supplementary list, coupled with the same request, and I was met with the statement that the seeds had been distributed, and it was too late to serve those whose names were included in the supplementary list. And I supposed my experience in that regard had been the experience of others who had indulged in this adverse criticism.

Mr. DUNNELL rose.

Mr. KEIFER. Will the gentleman from New York yield to me?

Mr. COVERT. Yes, sir.

Mr. DUNNELL. I am entitled to a reply.

Mr. COVERT. If I understand aright, I have replied fully; if not, I will give the gentleman as full a reply as I can.

Mr. DUNNELL. The gentleman from New York has made reference to me, and I think I am entitled to a reply. He has alluded to me as heretofore criticising the Commissioner of Agriculture.

Mr. COVERT. I beg the gentleman's pardon. The reference to criticisms was general. I did not refer specially to the gentleman from Minnesota.

Mr. DUNNELL. You said "the gentleman from Minnesota and others" had freely criticised the course of the Commissioner of Agriculture. Now, I have not before said one word in this House in the way of criticism; but I have all the while, since I have been a member of this House, believed that a good share of the seed going to the different districts of this country could be better distributed by the members representing those districts than by the Commissioner himself.

Under the present system all the seeds may be disposed of in the months of March and April. A member of Congress will have fifteen, twenty, thirty, or forty applications for seeds after that time, and it is the usual habit of men writing for these seeds to attribute their failure to receive them to their members. In my own State the bulk of applications for seeds come to me in the month of April. April is the time for men to ask for seeds in the State of Minnesota. But when I applied to obtain them I was told that they were all gone.

Now, if you will take $80,000, the amount appropriated for seeds, and divide it by the number of members of this House, it will be evident that each member should get a considerable quantity of seeds. I never have received I think ten dollars' worth a year, although representing a purely agricultural district.

Mr. MCKENZIE. Has the gentleman from Minnesota ever inclosed a request to the Commissioner of Agriculture for seeds and been denied?

Mr. DUNNELL. I have.

Mr. RYAN, of Kansas, and many others. So have I.

Mr. KEIFER. I understood the gentleman from New York [Mr. COVERT] to say, and I think it was a very proper thing to say, that he was not here for the purpose of defending the acts of the Commissioner of Agriculture, if any of those acts needed defending. But I wish to suggest to him and to the House that perhaps it might be well to make a law, which we would hope the Commissioner would follow, that would make it impossible for him to give rise to all this criticism. If each member has sent to him an equal quantity of this seed he can distribute it among his constituents in April or in May, just whenever his people may want it.

Now, why the word "equal" should have been stricken out of this provision I cannot understand. I do not desire to criticise the Commissioner of Agriculture, but I know that since I have been in Congress I have sent very small lists to him, none exceeding a hundred names, and I have received notice that there was no more seed to be had. Such notice would be sent to me here at my desk, while another man by my side the same day would receive a notice that seed had been sent to hundreds of names according to his request. Some weeks after I had been notified that there was no seed to be had, I was told by a gentleman on the other side of the House that he himself had just received six hundred packages at his room to be sent out by mail.

Mr. BUCKNER. He represented a close district, maybe. [Laughter.]

Mr. KEIFER. The chairman of the Committee on Agriculture says that he has had his lists filled. A gentleman on this side of the House who is also on the Committee on Agriculture, but in the minority, says that he was told at the same time that there was no seed to fill his list. Now, I do not know whether it is the fault of the Commissioner or of his clerk or of his manner of transacting business. At all events, it is not very satisfactory.

So far as I am concerned, I have not very many calls for seeds, and do not care very much about this matter; but I desire to say this system of doing business is not very satisfactory. I would like to know on whose suggestion this word "equal" was stricken out of the bill, and if there is any good reason for doing it.

Mr. HAZELTON. Put it in again; it will not take long.

Mr. KEIFER. I merely wish to express my opposition to striking out that word.

Mr. WHITE. I had the honor to write and offer this provision, which seems to have received the commendation of so many of my friends about me. I desire to ask my friend from New York [Mr. COVERT] if the amendment as adopted by the House was not passed in the same words by the Senate?

Mr. COVERT. No, sir; the Senate amended the House provision.

Mr. WHITE. I did not so understand it. I was informed by a gentleman in a conversation on the subject that the amendment which I had offered and which had been adopted by the House had passed the Senate just as it passed the House. If that is so, then it was not a point of difference between the two Houses, and I desire to raise the question that it was improperly considered and acted upon by the committee of conference. If the gentleman from New York, [Mr. COVERT,] the chairman of the Committee on Agriculture, tells me that the Senate amended the House provision, then of course this criticism does not obtain. Does the gentleman know that the provision was so changed?

Mr. COVERT. I repeat the assertion to the gentleman from Pennsylvania [Mr. WHITE] and to the House that when this bill passed the House it contained this phraseology, "that a reasonable and equal proportion of which seeds shall be supplied to Senators, Members, and Delegates." Now I want to say again to my friend from Pennsylvania and to the House that in the Senate the words "and equal" were stricken out of the House bill, leaving it to read "a reasonable proportion of which seeds shall be supplied," &c.

Mr. WHITE. Was the word "shall" stricken out and "may" inserted?

Mr. COVERT. Yes, sir; but the word "shall" was restored by the conference committee.

Mr. WHITE. Just one word more. I assert here that the amendment with the words "equal and reasonable proportion" was adopted by the House deliberately and considerately. There seemed to be an almost unanimous expression of the House in favor of that provision. The reason was that the House desired fair, reasonable, equal distribution of these seeds among members so that they themselves could supervise the distribution to their agricultural constituencies.

I cannot now alter this report. It is out of my power to express my disapproval by my vote in any way except by voting down the report and sending the bill to another conference. I do not desire to do that; nor do I wish to give my experience and turn this House into an agricultural "class meeting." Suffice it to say that the amendment as it now comes before us does not, in my opinion, express fairly the sense of this House, and I protest against it.

The SPEAKER. This is a report of disagreement on the part of the committee of conference.

Mr. COVERT. Mr. Speaker, it occurs to me that in the discussion of this question gentlemen here lose sight of one or two very important considerations. In the first place the Commissioner of Agriculture seems to be the butt of all sorts of adverse criticisms upon every occasion when an appropriation bill for the Agricultural Department comes before this House; simply because he has attempted to do his duty as the law of the land tells him he must perform it, he becomes in a measure the subject of this adverse criticism. What is the law as it stands to-day? What is the statute under which the Commissioner of Agriculture has tried to do his duty? The statute prescribes that he shall experiment with these seeds, and if he finds his experiments crowned with success, it is then his duty to distribute the seed—among whom? Among Senators and Members? There is not a word of that kind in the statute, so far as the past year has been concerned; but the law of the land says that this distribution shall be made among agriculturists. The Commissioner, in attempting to follow out not only the spirit but the letter of this statute, has been made the recipient of unfriendly criticism, not to say personal abuse, from gentlemen of the House, especially those on the other side.

What will be the effect if the amendment of the Senate should not be concurred in? My friend from Pennsylvania [Mr. WHITE] says that the House amendment was passed deliberately, and seemed to be the almost universal judgment of members. It is within the recollection of every gentleman who was present when this agricultural appropriation bill was passed that the amendment of my friend from Pennsylvania was adopted without the first solitary word of discussion; there was absolutely no opportunity given upon either side of the House to debate this proposition.

Mr. WHITE. Will my friend allow me a moment to state the reason why the amendment was not discussed? I rose to speak upon it, but it was so well understood around me that members said, "Let us have a vote;" and so the amendment was adopted.

Mr. COVERT. I am not giving the reasons; I am simply stating the fact that there was absolutely no discussion on the amendment at the time of its adoption by the House.

Mr. WHITE. It was discussed at the extra session, and was well understood here.

Mr. COVERT. But there was no discussion at the time of the adoption of the amendment; and I do not remember the phraseology in which it was couched.

Mr. WHITE. When the legislative, executive, and judicial appropriation bill was before this House in the first session of the present Congress, this same amendment was presented, discussed, and adopted. It was also adopted in the Senate. But the bill happened to be vetoed. The full discussion which had been had before was the reason it was not discussed when last offered.

Mr. COVERT. Now, Mr. Speaker, what would be the effect of the adoption of a motion to non-concur in the Senate amendment in this regard? The head of the Department of Agriculture—I do not care whether he is personally popular or unpopular, whether his Department is popular or unpopular—the head of this Department, who is in correspondence with agriculturists, not only in this country, but in other lands, is shorn absolutely of the power to send a single sample or variety of seed to any correspondent either in this country or abroad, no matter how earnest or enthusiastic or scientific an agriculturist the Commissioner may know the correspondent to be. These seeds cannot be sent to correspondents even in return for similar favors which the Commissioner may receive. The wording of this House amendment is sweeping. Under it every ounce of seed purchased by the Agricultural Department or grown by it for distribution must be distributed among Senators, Members, and Delegates in Congress. Not a single ounce of seed has the Commissioner to experiment with or to distribute among those whom he knows to be agriculturists and proper persons to receive seed.

Mr. BLOUNT. If the gentleman's statement be correct, and the

House should now non-concur, could not that matter be arranged in another conference?

Mr. COVERT. Possibly it might. I am only discussing the objections which have been raised by gentlemen who entertain different views of this question. I was about to move in conclusion that the House insist upon its disagreement to the Senate amendments and ask a further conference. I make that motion, but yield a few moments to the gentleman from Ohio, [Mr. HILL.]

Mr. HILL. Mr. Speaker, I have but a word to say, and it will be in support of what has already been said by the chairman of the Committee on Agriculture, [Mr. COVERT.] It is a well-known fact that members of Congress use these seeds only for electioneering purposes. [Laughter.]

Mr. McMILLIN. Did the gentleman from Ohio ever use any of them in that way?

Mr. HILL. Certainly I did, and would do it again, if I had the opportunity; so would every gentleman on this floor.

Now, Mr. Speaker, this provision of the bill in regard to "equal distribution" is all nonsense anyhow. A farmer in Vermont does not want cotton-seed, nor does a farmer in the South want that class of seeds which are used in a northern State. Why, sir, when I was trying to get a renomination for Congress, and made application over there for seed, I got tobacco-seed enough to plant the whole of the United States. [Laughter.] The fact is there is not a stalk of tobacco raised in my district, and never was. [Laughter.]

Mistakes occur in this way; and what is the remedy? Just so long as members of the House and Senators are allowed to run in there and make application for seed for the purpose of securing renomination that Commissioner of Agriculture will be harassed to death. And if every man does not get what he asks for and wants, he comes in here and damns the Commissioner. [Laughter.] The better way is to let the Commissioner of Agriculture have his own way; let him distribute his seed to the farmers of the country, to the presidents and directors of your agricultural societies, who know the men in the several counties who pay attention to these matters, and do not let him distribute them to politicians, many of whom do not know a corn-stalk from a mullen-stalk. [Laughter.]

Now, sir, I have taken pains to examine into this matter personally. I have visited that Department, and I have inquired into the means and the money which has been provided for the Commissioner of Agriculture for the purpose of allowing him to make these experiments, and the fact is, as the gentleman from New York has stated, that whenever he has succeeded in getting a supply of seed for the country, there has been a swarm of politicians from this Capitol demanding every one of them before he could inquire into what they were. No Commissioner of Agriculture with the limited means which he has had at his command can discharge the duties of that office properly and efficiently when he is embarrassed in the way in which this Department has been embarrassed.

Why do members want these things? Can they not make speeches enough and distribute them? Have they not books enough? Why do they want to be bothered with sending out tobacco seed to Ohio and cotton seed to Vermont under your "equal distribution?" Why not let this Commissioner, who is in correspondence with every grange lodge in the United States, with every county agricultural society and with every State agricultural society in the United States, as well as with the entire farming interest, take this matter in his hands and trust him as you trust the other Departments of the Government.

This is the position which I occupy on this question, and, if we desire to make this Department efficient, if we desire to make it useful, if we desire to give it that efficiency which its importance demands, then give the Commissioner, the head of that Department, some discretion and do not allow every lawyer and every doctor and every politician, who knows nothing about the subject, to go over there and control and embarrass him by making exorbitant demands for seed with which to return themselves to this House and the Senate at the other end of the Capitol.

Mr. AIKEN. Mr. Speaker, I have had a good deal of experience in my association with the Commissioner of Agriculture, and it has been so entirely different from a great deal expressed here to-day. I desire to allude particularly to one or two remarks which have fallen from gentlemen on this floor.

It is asserted that after the time had arrived this spring for the distribution of seed, and when one member failed to receive from the Commissioner any seed at all, another member on this side of the House subsequently received at his room six hundred packages of seed. My experience——

Mr. KEIFER. I did not say this spring, if the gentleman refers to the remark I made, or this Congress, but I did mean the last Congress.

Mr. AIKEN. Then the gentleman might as well have been talking about the dead as to talk about anything in a preceding Congress.

Mr. KEIFER. But I was talking about the same Commissioner.

Mr. AIKEN. We are discussing the present Commissioner and the present condition of things.

Mr. KEIFER. It related to the present Commissioner.

Mr. AIKEN. If he alludes to anything which occurred before I came to Congress, I do not care to reply to him.

My experience with the Commissioner of Agriculture, Mr. Speaker, satisfies me that he is a man who understands his duty and that he is doing his duty according to the law, as the honorable chairman of the Committee on Agriculture [Mr. COVERT] has already stated to the House. He is doing his duty, in my judgment, conscientiously.

I have heard it remarked by gentlemen around me since this discussion commenced that the Commissioner has been applied to for seed and subsequently told the parties applying he had sent the seed to the persons to whom he had been requested to send them. But these members say the persons to whom they were said to have been sent never had received any of them. I have asked some of these gentlemen, "Did you go to the Commissioner and ask him, 'did you really send seed?'" And none have gone. The same thing has occurred to me. I have never sent seed to any constituent unless that constituent asked for them, because I believe the gratuitous distribution of seed is injurious to the country and to the Department. But whenever I was asked for seed I sent that name to the Commissioner, and if I learned afterward that the seed never had come to hand I went in person, and immediately, to the Department and inquired why, and I found that once the clerks had failed to send the seed, and on two occasions the mails were to blame, because it was proven to my satisfaction that seed had been sent but were not received by the parties to whom they were directed. I exonerated the Commissioner of Agriculture entirely, though at first I was disposed to blame him, and thought perhaps the difficulty was in the management of his Department.

But I venture to assert, Mr. Speaker, that if gentlemen who have complaints of this kind to make would investigate the matter they will find that there has been reason for the failure. I believe the seed are sent by the Department whenever the order is given for that purpose. This order is placed directly in the hands of the clerk who has charge of that business. The mails of the country are sometimes to blame, as I have shown. More than that, Mr. Speaker, I have seen one hundred packages of seed returned because the direction and post-office were incorrectly given; that certainly is not the fault of the Commissioner, who simply complies with the request. All of this matter can be investigated if gentlemen take the trouble to go to that Department and find out the cause of the delay and not come here and make broad assertions that the Commissioner is to blame for it. I do not believe he is to blame, and I am not a champion of the Commissioner.

Mr. BRIGGS. Will the gentleman permit me to ask him a question? I would like him to give the number of his constituents who have been furnished seed from that Department?

Mr. AIKEN. The only answer I can make to that is that whenever a constituent writes to me and asks for seed, I send immediately to the Department or to the Commissioner and ask him to supply the demand.

Mr. BRIGGS. About how many? Five hundred?

Mr. AIKEN. I have no conception; whether twenty, fifty, or more.

Mr. BRIGGS. I thought perhaps the gentleman might be able to approximate the number.

Mr. AIKEN. I cannot; I did not keep a roll of those who applied to me for seed, but when an application thus came I sent it to the Department to be furnished from there, and I think that the seed should be sent from there. I do not believe that any gentleman in this House or any other man, other than the Commissioner, has the right to distribute one ounce of the seed purchased for that purpose. It is neither right nor proper, in my judgment. Let the Commissioner send them. He can manage it properly and better than any one here. As the gentleman from Ohio [Mr. HILL] says, the Commissioner is in communication and in direct correspondence with the grangers throughout the country, with all the agricultural organizations, with the leading agriculturists in almost every township in the United States, and if gentlemen desire to benefit the agricultural interests of the country let them agree to allow this matter to remain under the control of the Commissioner, where it ought to be, who is able to do something for the agricultural interests. If the Commissioner of Agriculture with his opportunities is not able to do this, in Heaven's name tell me how politicians on this floor are able to do it? I believe that two-thirds of the seed sent out by members of Congress, especially by city members whose constituents do not need them, are distributed for political purposes. I say there is no propriety in that. The farmers do not ask you to do it. They want the seed to be improved. They want the Agricultural Department to experiment and give them the benefit of their experiments. But for politicians to undertake to manage this business, men who are sent here to control the legislation of the country to dabble in this seed distribution, especially to city constituents, I think is simply ridiculous. On principle I am opposed to it. I think the Agricultural Department ought to manage this matter and that it is a mistake to attempt to make this change.

Mr. ANDERSON. Mr. Speaker, I will say but a very few words in reference to the disagreement between the House and the Senate upon this bill. The objection made upon the part of the Senate was this: that if those words "and equal" were not stricken out then the Department would have no seed which it could dispose of either in its foreign exchanges or in experimental purposes. But the statute provides that the Commissioner of Agriculture shall distribute the seed, vines, &c. There can be no question that a strict construction of the law places the distribution in his hands. This, then, was the first point. Another point was, that if you left these words in, then you would have to distribute all the seed and each variety of seed

equally among the districts without regard to their adaptability; in other words, seed only adapted to northern localities would be sent South, while seed that could only be of service in southern or western localities would be sent North. And they made the further point that it was only reasonable this confidence should be reposed in the Commissioner.

For these reasons it seems fair that these words "and equal" should be stricken out, because the language remaining provides "that a reasonable proportion of which seed shall be distributed," &c.

Mr. KEIFER. What becomes of the balance?

Mr. ANDERSON. They are to be distributed under the law by the Commissioner. If you allow those words to go out, then only the members who make the request for their quota share in the distribution, and the remainder of the seeds are left in the hands of the Commissioner.

The Senate had stricken out the word "shall" and made it optional with the Commissioner whether he should grant the request of members by inserting the word "may." To that the House conferees objected, and the Senate conferees receded from its amendment, and now the law would be obligatory and not optional.

I wish to say further that probably the Representative is quite as well acquainted with the agricultural interests in his district and the real agriculturists in that district as is the Commissioner of Agriculture. This does not seem to me to be a political question at all. Of course it can be made so, and men may abuse this privilege for political effect. But I apprehend it can also be abused on the other side. And my judgment is, the amendment as it now stands does make it obligatory on the Commissioner of Agriculture to furnish a fair and reasonable and equitable proportion of these seeds to any Member of Congress or Senator when requested so to do.

Mr. COVERT. I move the previous question.

Mr. WHITE. I desire to offer a resolution of instructions to the committee. I send it to the desk and ask the Clerk to read it.

The Clerk read as follows:

Resolved, That the committee of conference on the part of the House on the agricultural appropriation bill be, and hereby are, instructed to insist upon the retention of the words "and equal," in the sixty-fourth line of the first section of the bill as originally passed, and inserted therein by the vote of the House.

Mr. COVERT. I make the point of order against the resolution.

Mr. WHITE. What is the point of order?

The SPEAKER. This is a report of disagreement, the Chair is advised.

Mr. COVERT. Yes, sir.

Mr. KEIFER. I understand it is a report of agreement as to this matter.

Mr. ANDERSON. It is a report of agreement on this point and of disagreement upon a wholly different question.

The SPEAKER. The report as it comes from the conference committee is in the form of a disagreement. It reports the inability of the conferees to agree on the differences between the two Houses. The motion would be to receive the report of the committee of conference, and that might be followed by a motion that the House ask a further conference.

Mr. COVERT. That was part of the motion I made originally.

The SPEAKER. The gentleman states that that is a part of his motion and he demands the previous question; pending which the gentleman from Pennsylvania [Mr. WHITE] desires to instruct the committee of conference. Voting down the previous question would enable the gentleman to offer that resolution; or it would enable the gentleman after the disposition of this subject to submit the resolution he has offered.

Mr. WHITE. Would it not be in order to submit the resolution at this time, the previous question not having been ordered?

The SPEAKER. The sense of the House can be tested on the call for the previous question; and if the House desires to vote on the proposition of the gentleman from Pennsylvania, the House should vote down the demand for the previous question.

Mr. WHITE. I appeal to the gentleman from New York to let the sense of the House be tested on this proposition. Let that be done before the previous question is demanded.

The SPEAKER. The Chair thinks this resolution, if it is submitted at all, had better be put in the shape of an expression of opinion rather than in the form of an instruction.

Mr. WHITE. Very well, I will modify the resolution so that it will read "that it is the sense of this House that the committee of conference on the part of the House," &c.

Mr. COVERT. I insist on the call for the previous question.

The question being taken, there were—ayes 85, noes 15.

So (further count not being called for) the previous question was seconded and the main question ordered.

The SPEAKER. The question is now on the motion of the gentleman from New York, that the report be received and that the House ask a further conference.

The motion was agreed to.

Mr. WHITE. I now offer my resolution as an expression of the sense of the House.

The Clerk read as follows:

Resolved, That it is the sense of this House that the committee of conference on the part of the House on the agricultural appropriation bill shall insist upon the retention of the words "and equal" in the sixty-fourth line of the first section of the bill as originally passed and inserted therein by the vote of the House.

Mr. DIBRELL. That requires unanimous consent, does it not?

The SPEAKER. The Chair thinks it does, according to what has been heretofore said and agreed to.

Mr. DIBRELL. Then I object.

The SPEAKER. The Chair thinks it requires unanimous consent, because the House, by ordering the previous question, intended, in the opinion of the Chair, to cut off this very resolution. It was so presented in this way to control the Chair.

Mr. WHITE. I gathered from the statement of the Chair a few moments ago that it was competent for me to introduce a resolution of this kind.

The SPEAKER. The Chair recognized the gentleman to offer his proposition, but the House ordered the previous question, intending to cut it off.

Mr. WHITE. I understood I could submit it without unanimous consent being necessary.

The SPEAKER. The Chair stated that voting down the demand for the previous question would allow the resolution to be offered.

Several members called for the regular order.

Mr. WHITE. I move to reconsider the vote by which the main question was ordered.

Mr. COX. And I move to lay the motion to reconsider on the table.

The motion to lay the motion to reconsider on the table was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

A bill (S. No. 1424) to repeal certain laws relating to permanent and indefinite appropriations; and

A bill (S. No. 1801) for the relief of Clement C. Clay, of Alabama.

The message further informed the House that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 6036) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1881, and for other purposes.

The message further informed the House that the Senate concurred in certain amendments of the House and non-concurred in other amendments to the bill (S. No. 1509) to accept and ratify the agreement submitted by the confederated bands of Ute Indians, in Colorado, for the sale of their reservation in said State, and for other purposes, and to make the necessary appropriations for carrying out the same, asked a committee of conference on the amendments non-concurred in, and had appointed Mr. PENDLETON, Mr. ALLISON, and Mr. WILLIAMS to be the conferees on the part of the Senate.

The message further announced that the Senate had passed without amendment the bill (H. R. No. 3794) authorizing the City National Bank of Manchester, New Hampshire, to change its name.

The message further announced that the Senate had passed, with amendments in which the concurrence of the House was requested, the bill (H. R. No. 4908) for the relief of the heirs and legal representatives of Israel Dodge, deceased.

BILLS AND JOINT RESOLUTIONS APPROVED.

A message from the President of the United States, by Mr. PRUDEN, one of his secretaries, announced that the President had approved and signed bills and joint resolutions of the following titles:

An act (H. R. No. 5896) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1881, and for other purposes;

An act (H. R. No. 5526) providing the times and places of holding the circuit court of the United States in the district of Iowa, and for other purposes;

A joint resolution (H. R. No. 280) authorizing and empowering the Secretary of War to deliver arms and accouterments, ammunition, and tents to the soldiers' reunion committee of the Northwest;

A joint resolution (H. R. No. 314) granting the use of artillery, muskets, and tents at the soldiers' reunion in Northeast Missouri;

An act (H. R. No. 5975) for the relief of certain homestead and pre-emption settlers in Kansas and Nebraska;

An act (H. R. No. 966) to permit Elias C. Boudinot, of the Cherokee Nation, to sue in the Court of Claims;

An act (H. R. No. 3966) to carry into effect the resolution of Congress, adopted on the 29th day of October, 1781, in regard to a monumental column at Yorktown, Virginia, and for other purposes;

An act (H. R. No. 2797) for the relief of certain citizens of Lynchburgh, Virginia, and refunding to them taxes improperly collected from them on manufactured tobacco;

An act (H. R. No. 3347) to authorize the Secretary of War to furnish four pieces of cast-iron condemned ordnance for the soldiers' monument at Marietta, Ohio;

An act (H. R. No. 4439) to remove the disabilities of Sergeant P. P. Powell, Sixth Regiment United States Cavalry;

An act (H. R. No. 2855) granting a pension to Rachael J. Reber;

An act (H. R. No. 2860) granting a pension to Thomas H. Vaughn;

An act (H. R. No. 2039) granting a pension to Jacob J. Smith;

An act (H. R. No. 1806) granting a pension to Michael Lingenfelter;

An act (H. R. No. 2853) granting a pension to Elizabeth Aults;

An act (H. R. No. 3264) granting a pension to Abner Hoopes;

An act (H. R. No. 3261) granting a pension to Elizabeth Dougherty;
An act (H. R. No. 2861) granting an increase of pension to Herman Baldwin;
An act (H. R. No. 2864) granting an increase of pension to Isaiah W. Bunker;
An act (H. R. No. 2474) to increase the pension of Thomas Riley;
An act (H. R. No. 2788) to authorize the President to appoint an officer of the Navy or the Marine Corps to perform the duties of solicitor and judge-advocate-general, &c., and to fix the rank and pay of such officer;
An act (H. R. No. 5041) to authorize the Secretary of War to turn over to the governor of South Carolina four pieces of condemned cannon for the use of the Marion Artillery;
An act (H. R. No. 165) to consummate the resolution of the Continental Congress of October 4, 1777, and erect a monument to the memory of Brigadier-General Herkimer, as therein directed;
An act (H. R. No. 5043) to remove the charge of desertion against Enoch Davis;
An act (H. R. No. 5053) granting relief to William Turman, guardian of William W. Brewer;
An act (H. R. No. 2440) to authorize the Secretary of War to transfer to the Fairmount Park Art Association thirty condemned bronze cannon, to be used in the erection of an equestrian statue to the late Major-General George Gordon Meade;
A joint resolution (H. R. No. 215) requesting the President to open negotiations with certain foreign governments relative to the importation of tobacco into their dominions;
An act (H. R. No. 1064) to grant to the corporate authorities of the city of Council Bluffs, in the State of Iowa, for public uses, a certain lake or bayou situated near said city;
An act (H. R. No. 3351) for the relief of Rev. Paul E. Gillen;
An act (H. R. No. 2862) granting an increase of pension to John H. Black;
An act (H. R. No. 2046) to authorize a compromise of the claims of the United States under the will of Joseph L. Lewis;
An act (H. R. No. 2796) for the relief of George Eyster;
An act (H. R. No. 270) to reimburse Charles Dougherty for his expenses to the consulate of Londonderry;
An act (H. R. No. 3783) to remove the charge of desertion from the military record of Jerry Foley; and
An act (H. R. No. 4849) to confirm certain entries and warrant locations in the former Palatka military reservation in Florida.

REPORT OF THE COMMISSIONER OF EDUCATION.

Mr. SINGLETON, of Mississippi, from the Committee on Printing, reported back the joint resolution (H. R. No. 293) providing for the printing of the report of the Commissioner of Education for the year 1878, with the Senate amendments thereto, and recommended that the amendments of the Senate be concurred in.

The amendments of the Senate were concurred in.

REPORT OF NATIONAL ACADEMY OF SCIENCES.

Mr. SINGLETON, of Mississippi, from the same committee, reported back, with a favorable recommendation, the following; which was considered and adopted:

Resolved by the Senate, (the House of Representatives concurring,) That 500 extra copies of the report of the president of the National Academy of Sciences of the past year be printed for the use of the academy.

ETHNOLOGICAL REPORT.

Mr. SINGLETON, of Mississippi, from the same committee, reported back, with a favorable recommendation, the following concurrent resolution:

Resolved by the House of Representatives, (the Senate concurring,) That there be printed at the Government Printing Office 15,000 copies of the annual report of the director of the bureau of ethnology of the Smithsonian Institution, with the necessary illustrations; 7,000 copies of which shall be for the use of the House of Representatives, 3,000 copies for the use of the Senate, and 5,000 for distribution by the Smithsonian Institution.

The question was upon agreeing to the resolution.

Mr. SINGLETON, of Mississippi. I desire to state that this is one of the books which have been published from year to year.

Mr. COX. I desire to offer an amendment.

Mr. SINGLETON, of Mississippi. I will hear it.

Mr. COX. I move to amend by adding the following:

Resolved, That the usual number of copies of the report, No. 77, and testimony, third session Forty-second Congress, be reprinted for the use of the members of the House.

Mr. SINGLETON, of Mississippi. I do not know how I can consent to that.

Mr. COX. Everybody is calling for that report and cannot find it.

Mr. HAYES. I object to that.

The concurrent resolution was adopted.

ORDER OF BUSINESS.

Mr. COX. Let me offer the resolution and have it referred to the Committee on Printing.

Mr. KELLEY. I rise to a privileged question.

Mr. TUCKER. I move that the House resolve itself into Committee of the Whole on the state of the Union, and I announce that it is for the purpose of taking up the revenue bill.

Mr. KELLEY. That motion certainly cannot exclude a privileged question.

The SPEAKER. The gentleman will state his privileged question.

Mr. KELLEY. It is to call up the Senate amendments to the adjournment resolution, for the purpose of concurring in those amendments.

Mr. FERNANDO WOOD. I move to amend so as to refer the resolution to the Committee on Ways and Means.

Mr. CARLISLE. The House has not determined to take it up yet.

The SPEAKER. Not yet.

Mr. CARLISLE. Let that question be first determined.

The SPEAKER. The Chair recognizes that it is a privileged question.

Mr. KELLEY. I move that the amendments of the Senate be concurred in; and on that motion I call the previous question.

Mr. FERNANDO WOOD. I give notice that I shall move to refer the resolution to the Committee on Ways and Means.

Mr. TUCKER. The gentleman from Pennsylvania [Mr. KELLEY] cannot make two motions at once.

The SPEAKER. The gentleman from Pennsylvania moves to proceed to the consideration of the adjournment resolution, returned from the Senate with amendments.

The question was taken; and upon a division there were—ayes 110, noes 21.

Mr. BAYNE. I call for the yeas and nays.

Mr. FERNANDO WOOD. I move to refer the resolution to the Committee on Ways and Means.

Mr. KELLEY. I move to concur in the Senate amendments; and on that I call the previous question.

The SPEAKER. The question of proceeding to the consideration of the resolution is not yet determined; and the gentleman from Pennsylvania [Mr. BAYNE] calls for the yeas and nays upon that question.

Mr. BAYNE. I withdraw that call.

Mr. LOWE. I renew it.

The yeas and nays were not ordered, there being but 6 in the affirmative.

So the motion of Mr. KELLEY to proceed to the consideration of the resolution was agreed to.

FINAL ADJOURNMENT.

Mr. KELLEY. I move now to concur in the amendments of the Senate, and upon that I call the previous question.

The SPEAKER. The amendments of the Senate will be read.

The amendments were to strike out "Thursday" and to insert "Wednesday," and to strike out "10th" and to insert "16th;" so that the resolution will read:

Resolved by the House of Representatives, (the Senate concurring.) That the President of the Senate and the Speaker of the House of Representatives declare their respective Houses adjourned *sine die* at twelve m., Wednesday, the 16th of June instant.

Mr. FERNANDO WOOD. I move to refer the resolution with the Senate amendments to the Committee on Ways and Means.

Mr. KELLEY. I have moved to concur in the Senate amendments, and on that motion I have called the previous question.

The SPEAKER. The Chair will submit the question upon demanding the previous question, but before doing so will cause the new rule to be read.

The Clerk read as follows:

It shall be in order, pending the motion for or after the previous question shall have been ordered on its passage, for the Speaker to entertain and submit a motion to commit, with or without instructions, to a standing or select committee.

The SPEAKER. The parliamentary practice has been to receive the motion to concur as taking precedence of the motion to commit; but the arbitrary language of the new rule which controls is that "pending the motion for or after the previous question shall have been ordered it shall be in order for the Speaker to entertain and submit a motion to commit." The Chair therefore entertains the motion to commit.

Mr. HARRIS, of Virginia. If that motion is voted down, what will be the condition of the question?

The SPEAKER. The vote will then come directly upon concurring in the amendments of the Senate.

The question being taken upon the motion of Mr. FERNANDO WOOD, to refer the resolution with the amendments of the Senate to the Committee on Ways and Means, there were—ayes 47, noes 100.

Mr. FERNANDO WOOD. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 62, nays 106, not voting 124; as follows:

YEAS—62.

Beltzhoover,	Elam,	Manning,	Shelley,
Bicknell,	Hammond, N. J.	Martin, Edward L.	Singleton, O. R.
Blackburn,	Harris, John T.	McKenzie,	Smith, William E.
Blount,	Hatch,	McLane,	Sparks,
Bright,	Henry,	McMillin,	Springer,
Cabell,	Herbert,	Mills,	Steele,
Caldwell,	Hill,	Morrison,	Taylor,
Carlisle,	House,	Myers,	Thompson, P. B.
Chalmers,	Jones,	New,	Turner, Oscar
Cobb,	Kenna,	Nicholls,	Vance,
Colerick,	Kimmel,	Persons,	Wellborn,
Cook,	Kitchin,	Philips,	Whitthorne,
Cox,	Ladd,	Reagan,	Wilson,
Culberson,	Le Fevre,	Richardson, J. S.	Wood, Fernando
Davis, Lowndes H.	Lewis,	Samford,	
Dibrell,	Lowe,	Scales,	

NAYS—106.

Acklen,	Daggett,	Klotz,	Sawyer,
Aiken,	Davis, Horace	Lapham,	Shallenberger,
Aldrich, William	Deering,	Lindsey,	Sherwin,
Anderson,	Dunnell,	Loring,	Singleton, J. W.
Atherton,	Dwight,	Lounsbery,	Smith, Hezekiah B.
Ballou,	Errett,	Martin, Joseph J.	Speer,
Barber,	Evins,	Mason,	Stone,
Bayne,	Ferdon,	McCook,	Talbott,
Beale,	Field,	Mitchell,	Thomas,
Blake,	Frost,	Monroe,	Thompson, W. G.
Bliss,	Godshalk,	Neal,	Tillman,
Bouck,	Hall,	O'Connor,	Townsend, Amos
Bowman,	Hammond, John	O'Reilly,	Tyler,
Boyd,	Harmer,	Osmer,	Updegraff, Thomas
Brewer,	Harris, Benj. W.	Overton,	Valentine,
Briggs,	Haskell,	Pacheco,	Van Aernam,
Brigham,	Hawk,	Page,	Van Voorhis,
Buckner,	Hawley,	Phelps,	Voorhis,
Cannon,	Hayes,	Rice,	Waddill,
Carpenter,	Henderson,	Richardson, D. P.	Ward,
Caswell,	Hiscock,	Robertson,	Wells,
Clardy,	Horr,	Robeson,	White,
Clark, Alvah A.	Humphrey,	Robinson,	Williams, C. G.
Clymer,	Joyce,	Ross,	Willits,
Coffroth,	Keifer,	Russell, W. A.	Wright.
Crapo,	Kelley,	Ryan, Thomas	
Cravens,	Ketcham,	Ryon, John W.	

NOT VOTING—124.

Aldrich, N. W.	Dickey,	Hutchins,	Price,
Armfield,	Dunn,	James,	Reed,
Atkins,	Einstein,	Johnston,	Richmond,
Bachman,	Ellis,	Jorgensen,	Rothwell,
Bailey,	Ewing,	Killinger,	Russell, Daniel L.
Baker,	Farr,	King,	Sapp,
Barlow,	Felton,	Knott,	Simonton,
Belford,	Finley,	Marsh,	Slemons,
Berry,	Fisher,	Martin, Benj. F.	Smith, A. Herr
Bingham,	Ford,	McCoid,	Starin,
Bland,	Forney,	McGowan,	Stephens,
Bragg,	Forsythe,	McKinley,	Stevenson,
Browne,	Fort,	McMahon,	Townshend, R. W.
Burrows,	Frye,	Miles,	Tucker,
Butterworth,	Garfield,	Miller,	Turner, Thomas
Calkins,	Geddes,	Money,	Updegraff, J. T.
Camp,	Gibson,	Morse,	Upson,
Chittenden,	Gillette,	Morton,	Urner,
Claflin,	Goode,	Muldrow,	Wait,
Clark, John B.	Gunter,	Muller,	Warner,
Conger,	Hazelton,	Murch,	Washburn,
Converse,	Heilman,	Newberry,	Weaver,
Covert,	Henkle,	Norcross,	Whittaker,
Cowgill,	Herndon,	O'Brien,	Wilber,
Crowley,	Hooker,	O'Neill,	Williams, Thomas
Davidson,	Hostetler,	Orth,	Willis,
Davis, George R.	Houk,	Phister,	Wise,
Davis, Joseph J.	Hubbell,	Pierce,	Wood, Walter A.
De La Matyr,	Hull,	Poehler,	Yocum,
Deuster,	Hunton,	Pound,	Young, Casey
Dick,	Hurd,	Prescott,	Young, Thomas L.

So the motion to refer was not agreed to.

The following pairs were announced from the Clerk's desk:

Mr. ATKINS with Mr. BAKER, during the absence of Mr. ATKINS.

Mr. STEVENSON with Mr. HUBBELL.

Mr. MONEY with Mr. HAZELTON, on all questions for the remainder of this week except that either party may vote to make a quorum.

Mr. CLARK, of Missouri, for the remainder of the day, with Mr. FISHER.

Mr. BELFORD with Mr. BOUCK, on all political questions, reserving the right to vote to make a quorum.

Mr. WAIT with Mr. FORNEY, for the remainder of to-day, Mr. FORNEY being absent by reason of illness.

Mr. CLAFLIN with Mr. WARNER.

Mr. MULDROW with Mr. KING.

The result of the vote was announced as above stated.

The question recurred on seconding the demand for the previous question.

The previous question was seconded and the main question ordered; which was upon the motion of Mr. KELLEY, to concur in the amendments of the Senate.

Mr. McKENZIE. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 106, nays 72, not voting 114; as follows:

YEAS—106.

Acklen,	Carpenter,	Godshalk,	Le Fevre,
Aiken,	Caswell,	Hall,	Lindsey,
Aldrich, William	Clardy,	Hammond, John	Loring,
Atherton,	Cobb,	Harmer,	Lounsbery,
Bachman,	Coffroth,	Harris, Benj. W.	Martin, Joseph J.
Ballou,	Crapo,	Haskell,	Mason,
Barber,	Cravens,	Hawk,	McCook,
Bayne,	Davis, Horace	Hawley,	Mitchell,
Beale,	Deering,	Hayes,	Monroe,
Blake,	Dickey,	Henderson,	Myers,
Bland,	Dunnell,	Hiscock,	Neal,
Bouck,	Dwight,	Horr,	O'Connor,
Bowman,	Errett,	Humphrey,	Overton,
Boyd,	Evins,	Joyce,	Pacheco,
Brewer,	Ewing,	Keifer,	Page,
Briggs,	Ferdon,	Kelley,	Phelps,
Brigham,	Field,	Ketcham,	Rice,
Buckner,	Fisher,	Klotz,	Richardson, D. P.
Cannon,	Frost,	Lapham,	Robertson,
Robeson,	Smith, A. Herr	Tyler,	White,
Robinson,	Smith, Hezekiah B.	Valentine,	Williams, C. G.
Russell, W. A.	Sparks,	Van Aernam,	Willits,
Ryan, Thomas	Stone,	Van Voorhis,	Wilson,
Ryon, John W.	Thomas,	Voorhis,	Wood, Fernando
Sawyer,	Thompson, W. G.	Waddill,	Wright.
Shallenberger,	Tillman,	Ward,	
Sherwin,	Townsend, Amos	Wells,	

NAYS—72.

Anderson,	Deuster,	Lewis,	Singleton, O. R.
Beltzhoover,	Dibrell,	Lowe,	Slemons,
Bicknell,	Elam,	Manning,	Smith, William E.
Blackburn,	Ford,	Martin, Edward L.	Speer,
Bliss,	Hammond, N. J.	McKenzie,	Springer,
Blount,	Harris, John T.	McLane,	Steele,
Bright,	Hatch,	McMillin,	Talbott,
Cabell,	Henry,	Mills,	Taylor,
Caldwell,	Herbert,	Morrison,	Thompson, P. B.
Carlisle,	Hill,	New,	Turner, Oscar
Chalmers,	House,	Nicholls,	Updegraff, Thomas
Clymer,	Hunton,	Persons,	Upson,
Colerick,	Hutchins,	Philips,	Urner,
Cook,	Jones,	Reagan,	Vance,
Culberson,	Kenna,	Richardson, J. S.	Wellborn,
Daggett,	Kimmel,	Samford,	Whiteaker,
Davis, Joseph J.	Kitchin,	Scales,	Whitthorne,
Davis, Lowndes H.	Ladd,	Shelley,	Willis.

NOT VOTING—114.

Aldrich, N. W.	Dunn,	Killinger,	Price,
Armfield,	Einstein,	King,	Reed,
Atkins,	Ellis,	Knott,	Richmond,
Bailey,	Farr,	Marsh,	Ross,
Baker,	Felton,	Martin, Benj. F.	Rothwell,
Barlow,	Finley,	McCoid,	Russell, Daniel L.
Belford,	Forney,	McGowan,	Sapp,
Berry,	Forsythe,	McKinley,	Simonton,
Bingham,	Fort,	McMahon,	Singleton, J. W.
Bragg,	Frye,	Miles,	Starin,
Browne,	Garfield,	Miller,	Stephens,
Burrows,	Geddes,	Money,	Stevenson,
Butterworth,	Gibson,	Morse,	Townshend, R. W.
Calkins,	Gillette,	Morton,	Tucker,
Camp,	Goode,	Muldrow,	Turner, Thomas
Chittenden,	Gunter,	Muller,	Updegraff, J. T.
Claflin,	Hazelton,	Murch,	Wait,
Clark, Alvah A.	Heilman,	Newberry,	Warner,
Clark, John B.	Henkle,	Norcross,	Washburn,
Conger,	Herndon,	O'Brien,	Weaver,
Converse,	Hooker,	O'Neill,	Wilber,
Covert,	Hostetler,	O'Reilly,	Williams, Thomas
Cowgill,	Houk,	Orth,	Wise,
Cox,	Hubbell,	Osmer,	Wood, Walter A.
Crowley,	Hull,	Phister,	Yocum,
Davidson,	Hurd,	Pierce,	Young, Casey
Davis, George R.	James,	Poehler,	Young, Thomas L.
De La Matyr,	Johnston,	Pound,	
Dick,	Jorgensen,	Prescott,	

So the amendments of the Senate were concurred in.

On motion of Mr. HARRIS, of Virginia, the reading of the names was dispensed with.

Mr. WILLIS. It may be proper to state that I am paired with Mr. CONGER, but on consultation with his colleague I am permitted to vote.

The vote was then announced as above recorded.

Mr. KELLEY moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILLS AND JOINT RESOLUTIONS.

Mr. WARD, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 152) for the relief of Thomas Lucas;

An act (S. No. 307) for the relief of L. C. Cantwell;

An act (S. No. 1175) granting an increase of pension to Harrietta M. Davis;

An act (S. No. 1197) granting a pension to Peter Claesgens;

An act (S. No. 1281) authorizing the Secretary of the Navy to introduce cotton cordage into the naval service of the United States; and

An act (S. No. 1360) granting a pension to Aaron Hatcher.

Mr. THOMPSON, of Iowa, from the same committee, reported that they had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

Joint resolution (H. R. No. 255) for the relief of Robert L. Martin;

Joint resolution (H. R. No. 153) authorizing the remission or refunding of duty on a stained-glass window from Munich, Germany, for All Saints' church in Saint Michael's parish, in Talbot County, Maryland;

An act (H. R. No. 710) to refund to Jackson Grubb, or his legal representative, internal-revenue tax wrongfully collected;

An act (H. R. No. 776) refunding to the University of Notre Dame du Lac, of Saint Joseph County, in the State of Indiana, the sum of $2,334.07, that being the amount paid on certain imported articles, &c.;

An act (H. R. No. 1305) abolishing the military reservations of Fort Ambercrombie, Fort Seward, and Fort Ransom, all in the Territory of Dakota, and authorizing the Secretary of the Interior to have the lands embraced therein surveyed and made subject to homestead and pre-emption entry and sale, the same as other public lands;

An act (H. R. No. 2359) for the relief of W. D. Oyler; and

An act (H. R. No. 2508) to regulate the compensation of night inspectors of customs.

Mr. UPSON, from the same committee, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 2208) to change the name of the schooner J. H. Dusenberry; and

An act (H. R. No. 2799) to remove the political disabilities of Abner Smead, of Oregon.

Mr. COFFROTH, from the same committee, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 2569) to remove the political disabilities of William Sharp, of Virginia;

An act (H. R. No. 2800) to remove the political disabilities of John M. Brooke, of Virginia; and

An act (H. R. No. 2801) to remove the political disabilities of Walter R. Butt, of California.

ORDER OF BUSINESS.

Mr. TUCKER. I move the House resolve itself into the Committee of the Whole on the state of the Union with a view of taking up revenue bills.

Mr. BAYNE moved the House do now adjourn.

The House divided; and there were—ayes 73, noes 77.

Mr. BAYNE demanded tellers.

Tellers were ordered.

Mr. SPRINGER demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 81, nays 92, not voting 119; as follows:

YEAS—81.

Acklen,	Errett,	Klotz,	Shallenberger,
Bachman,	Ewing,	Lapham,	Sherwin,
Ballou,	Ferdon,	Lindsey,	Smith, A. Herr
Barber,	Fisher,	Martin, Joseph J.	Smith, Hezekiah B.
Bayne,	Godshalk,	Mason,	Stone,
Blake,	Hall,	Mitchell,	Thomas,
Bliss,	Hammond, John	Monroe,	Thompson, W. G.
Bouck,	Harmer,	Myers,	Townsend, Amos
Bowman,	Harris, Benj. W.	Neal,	Tyler,
Boyd,	Haskell,	Osmer,	Updegraff, Thomas
Brewer,	Hawk,	Overton,	Valentine,
Briggs,	Hawley,	Page,	Van Aernam,
Brigham,	Hayes,	Rice,	Van Voorhis,
Carpenter,	Henderson,	Richardson, D. P.	Voorhis,
Caswell,	Horr,	Robertson,	Wait,
Clymer,	Humphrey,	Robeson,	White,
Coffroth,	Jones,	Robinson,	Williams, C. G.
Daggett,	Joyce,	Ross,	Willits.
Davis, Horace	Keifer,	Russell, W. A.	
Deuster,	Kelley,	Ryan, Thomas	
Dwight,	Ketcham,	Ryon, John W.	

NAYS—92.

Aiken,	Davis, Lowndes H.	Le Fevre,	Singleton, O. R.
Aldrich, William	Deering,	Lewis,	Smith, William E.
Anderson,	Dibrell,	Manning,	Sparks,
Beale,	Dickey,	Martin, Edward L.	Speer,
Bicknell,	Dunn,	McKenzie,	Springer,
Blackburn,	Dunnell,	McLane,	Steele,
Bland,	Elam,	McMillin,	Talbott,
Blount,	Evins,	Mills,	Taylor,
Bright,	Ford,	Morrison,	Thompson, P. B.
Buckner,	Frost,	Morse,	Tillman,
Cabell,	Hammond, N. J.	New,	Turner, Oscar
Caldwell,	Harris, John T.	Nicholls,	Upson,
Carlisle,	Hatch,	O'Connor,	Urner,
Chalmers,	Henry,	Persons,	Vance,
Clardy,	Herbert,	Phelps,	Waddill,
Clark, Alvah A.	Hill,	Philips,	Wellborn,
Cobb,	House,	Reagan,	Wells,
Colerick,	Hunton,	Richardson, J. S.	Whiteaker,
Cook,	Hutchins,	Samford,	Whitthorne,
Crapo,	Kenna,	Sawyer,	Williams, Thomas
Cravens,	Kimmel,	Scales,	Wilson,
Culberson,	Kitchin,	Shelley,	Wood, Fernando
Davis, Joseph J.	Ladd,	Singleton, J. W.	Wright.

NOT VOTING—119.

Aldrich, N. W.	Covert,	Gunter,	McCoid,
Armfield,	Cowgill,	Hazelton,	McCook,
Atherton,	Cox,	Heilman,	McGowan,
Atkins,	Crowley,	Henkle,	McKinley,
Bailey,	Davidson,	Herndon,	McMahon,
Baker,	Davis, George R.	Hiscock,	Miles,
Barlow,	De La Matyr,	Hooker,	Miller,
Belford,	Dick,	Hostetler,	Money,
Beltzhoover,	Einstein,	Houk,	Morton,
Berry,	Ellis,	Hubbell,	Muldrow,
Bingham,	Farr,	Hull,	Muller,
Bragg,	Felton,	Hurd,	Murch,
Browne,	Field,	James,	Newberry,
Burrows,	Finley,	Johnston,	Norcross,
Butterworth,	Forney,	Jorgensen,	O'Brien,
Calkins,	Forsythe,	Killinger,	O'Neill,
Camp,	Fort,	King,	O'Reilly,
Cannon,	Frye,	Knott,	Orth,
Chittenden,	Garfield,	Loring,	Pacheco,
Claflin,	Geddes,	Lounsbery,	Phister,
Clark, John B.	Gibson,	Lowe,	Pierce,
Conger,	Gillette,	Marsh,	Poehler,
Converse,	Goode,	Martin, Benj. F.	Pound,
Prescott,	Simonton,	Turner, Thomas	Willis,
Price,	Slemons,	Updegraff, J. T.	Wise,
Reed,	Starin,	Ward,	Wood, Walter A.
Richmond,	Stephens,	Warner,	Yocum,
Rothwell,	Stevenson,	Washburn,	Young, Casey
Russell, Daniel L.	Townshend, R. W.	Weaver,	Young, Thomas L.
Sapp,	Tucker,	Wilber,	

So the House refused to adjourn.

The following additional announcements were made from the Clerk's desk:

Mr. LOUNSBERY with Mr. PRICE.

Mr. FORNEY with Mr. WASHBURN.

Mr. MCCOOK, on this question, with Mr. HISCOCK.

Mr. STEPHENS with Mr. BELTZHOOVER, on the tariff question for this day.

The vote was then announced as above recorded.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its secretary, notified the House that that body had disagreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes, and further insisted on its amendments disagreed to by the House and asked a further conference on the disagreeing votes of the two Houses, and had appointed as managers of said conference on its part Mr. RANSOM, Mr. HEREFORD, and Mr. MCMILLAN.

RIVER AND HARBOR APPROPRIATION BILL.

Mr. REAGAN. Mr. Speaker, I rise to a privileged motion. I move that the House further insist on its disagreement to the Senate amendments to the river and harbor appropriation bill and consent to the conference asked for.

The SPEAKER. The Clerk will report the title of the bill.

The Clerk read as follows:

A bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes.

The SPEAKER. Is there objection to the motion of the gentleman from Texas?

There was no objection.

The SPEAKER appointed as conferees Mr. REAGAN, Mr. CLARDY, and Mr. RUSSELL of Massachusetts.

Mr. REAGAN. Mr. Speaker, this has grown out of two verbal mistakes in the report of the conference committee to-day, and it was found that it could not be corrected except by getting the Senate to non-concur. The only mistake was in the insertion of the figure "9," in one of the paragraphs and the omission of the figures "101." The conference committee have considered that and have a report ready. They have agreed respectively to report to the two Houses the proper correction which should have been made in the original report submitted this morning, and as it is a mere clerical error I ask the House to adopt the conference report.

The SPEAKER. The Chair desires to state to the gentleman from Texas that the conference committee has just been appointed.

Mr. REAGAN. But I submit the report of the conference committee and state to the House that we have made the necessary corrections which were merely verbal in the former report, and under the authority of the conference committee I now ask that the House accept and adopt that report.

The SPEAKER. The point to which the Chair desires to call the attention of the gentleman from Texas is that the conferees have not had a meeting since their appointment in which they could recommend any action to the House.

Mr. REAGAN. It is only a formal matter—the meeting now—the conference committee having already agreed upon the necessary amendment here, and I hope there will be no objection to it.

The SPEAKER. The usual parliamentary practice would be for the conference committee to again meet, and in addition it is necessary that the Senate should be notified of the appointment of the conferees upon the part of the House just announced. The conferees certainly could not have anticipated their appointment.

Mr. REAGAN. I do not want to violate any rule of propriety, of course, but the conferees have met.

The SPEAKER. The Chair has appointed the same conferees, it is true, but he thinks that they ought to have a formal meeting after due notification to the Senate of the new appointment of the conference committee.

Mr. REAGAN. That seems to be immaterial, as the conferees have already agreed upon their report.

The SPEAKER. The Chair thinks the new conferees should have a meeting. The practice, as the Chair has already stated, is for the Senate to be notified that conferees have been appointed on the part of the House. The Chair will cause the Senate to be immediately notified. The gentlemen composing the committee can doubtless get together and prepare their report before the House adjourns this evening.

Mr. COX. If the bill has not yet passed beyond the control of the House, I wish to ask a parliamentary question, and that is if it would be in order to instruct the conference committee now, or to move to lay the bill upon the table?

The SPEAKER. The subject had already passed from the consideration of the House, and the conferees thereon had been appointed before the gentleman from New York rose to make his motion.

Mr. COX. Would it be in order to move to lay on the table this remarkable bill?

The SPEAKER. It would not, as the bill by action of the House has gone to the conference committee.

Mr. WARNER. Would it be in order to move to concur in the Senate amendments?

The SPEAKER. The only course for the House to pursue now is for the conference committee to meet and present a formal report to the House after the Senate has been notified of their appointment. It has gone out of the control of the House, and the conferees have been appointed.

ORDER OF BUSINESS.

Mr. TUCKER. I call for the regular order, but yield to the gentleman from North Carolina, [Mr. SCALES,] who desires to ask the appointment of a committee of conference.

TREATY WITH THE UTE INDIANS.

Mr. SCALES. Mr. Speaker, I move that Senate bill No. 1509 be taken up, and that the House insist upon its amendments thereto, and that a committee of conference be appointed.

The SPEAKER. The Clerk will report the title of the bill.

The Clerk read as follows:

Senate bill No. 1509, to accept and ratify the agreement submitted by the confederated bands of Ute Indians in Colorado for the sale of their reservation in said State, and for other purposes, and to make the necessary appropriations for carrying out the same.

The motion was agreed to.

ORDER OF BUSINESS.

Mr. TUCKER. I now demand the regular order.

Mr. RYON, of Pennsylvania. I move that the House adjourn.

Mr. TUCKER. Is that motion now in order?

The SPEAKER. It is. The gentleman has himself allowed intervening business since the last motion to adjourn.

Mr. WHITE. Pending the motion to adjourn, I move that when the House adjourns it be to meet on Friday morning next at half past ten o'clock.

The SPEAKER. That motion would not be in order, as it changes the rule of the House fixing the hour of meeting.

Mr. WHITE. Then at eleven o'clock on Friday morning.

The SPEAKER. The rule fixes the hour at which the House shall meet, and it would not be necessary to incorporate that in the gentleman's motion.

The motion was not agreed to.

The question recurred on the motion that the House now adjourn.

The House divided, and there were—ayes 79, noes 61.

Pending the announcement of the vote on the motion to adjourn, the Speaker submitted the following requests for unanimous consent:

WITHDRAWAL OF PAPERS.

On motion of Mr. WHITTHORNE, by unanimous consent, leave was granted to withdraw from the files of the House papers in the case of J. N. Carpenter, there being no adverse report; also, on motion of Mr. JOHNSTON, by unanimous consent, in the case of Peyton Johnston; and, on motion of Mr. CLARK, of New Jersey, in the case of H. W. Mercer.

LEAVE TO PRINT.

By unanimous consent leave was granted to Mr. BREWER to print in the RECORD remarks on the bill H. R. No. 1400; also to Mr. BELTZHOOVER, on the Ute bill; also to Mr. COLERICK, to print certain remarks on the bill relating to the United States courts at Fort Wayne, Indiana; and to Mr. ROBERTSON, on the bill H. R. No. 475. [See Appendix.]

OSAGE INDIAN CLAIMS.

By unanimous consent Mr. SCALES was granted leave to have printed the views of the minority of the Committee on Indian Affairs on the bill relating to the Osage Indian claims.

TERRITORY OF NEW MEXICO.

The SPEAKER, by unanimous consent, laid before the House memorials and joint resolutions adopted at the twenty-fourth session of the Legislative Assembly of the Territory of New Mexico; which were laid on the table.

IMPROVEMENT OF GROUNDS SOUTH OF THE CAPITOL.

The SPEAKER also, by unanimous consent, laid before the House a letter from the commissioners of the District of Columbia, transmitting report of the expenditures of money appropriated for the improvement of the grounds south of the Capitol; which was referred to the Committee on the District of Columbia.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. JOHNSTON, until Friday next; and

To Mr. WILSON, for to-morrow and Friday.

ORDER OF BUSINESS.

Several members demanded the regular order.

The SPEAKER. The regular order is the announcement of the vote on the motion to adjourn.

Mr. TUCKER. I ask the appointment of tellers on the motion to adjourn.

The SPEAKER. The Chair appoints as tellers the gentleman from Virginia, Mr. TUCKER, and the gentleman from Pennsylvania, Mr. BAYNE.

The House again divided; and the tellers reported—ayes 84, noes 46.

Mr. MILLS. I call for the yeas and nays.

The yeas and nays were not ordered, only six members voting therefor.

So the motion was agreed to; and accordingly (at four o'clock and twenty-eight minutes p. m.) the House adjourned.

PETITIONS.

The following petitions were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. ANDERSON: The petition of George C. Hollis and other ex-soldiers, for the passage of the pension-court bill—to the Committee on Invalid Pensions.

By Mr. BOWMAN: The petition of Bridget Egan, for a pension—to the same committee.

By Mr. FORD: The petition of G. B. Bothwell and others, citizens of Missouri, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

Also, the petition of William J. Dimock and others, citizens of Missouri, against the passage of the Senate bill known as the sixty-surgeon bill—to the Committee on Invalid Pensions.

By Mr. VANCE: The petition of Antonio Meucci, that the Commissioner of Patents be authorized to consider and act upon a patent for a certain electrical invention—to the Committee on Patents.

By Mr. PHISTER: The petition of J. J. Wood and other druggists, of Maysville, Kentucky, against the passage of any law restricting steamboats from carrying coal-oil less than 150° flash test—to the Committee on Commerce.

By Mr. WHITEAKER: The petition of citizens of Oregon, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. WILSON: The petition of John Faris and others, of similar import—to the same committee.

IN SENATE.

THURSDAY, *June* 10, 1880.

The Senate met at eleven o'clock a. m. Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented the petition of W. M. Beebe, late captain Thirty-eighth Infantry, praying to be restored to his former rank; which was referred to the Committee on Military Affairs.

Mr. WALLACE presented the petition of Rear-Admiral Henry Walke, United States Navy, praying for a recognition of his services by a vote of thanks; which was referred to the Committee on Naval Affairs.

Mr. COCKRELL presented additional papers to accompany the bill (S. No. 1766) granting a pension to John C. Hargrave; which were referred to the Committee on Pensions.

Mr. JONAS presented the petition of William B. Robertson, of the parish of West Baton Rouge, Louisiana, praying the passage of an act granting him a renewal of his patent for a cane-cutter; which was referred to the Committee on Patents.

REPORTS OF COMMITTEES.

Mr. McDONALD, from the Committee on the Judiciary, to whom was referred the bill (S. No. 1682) directing the Court of Claims to investigate the claims of Benjamin Weil and La Abra Silver Mining Company, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. BOOTH, from the Committee on Public Lands, to whom was referred the bill (S. No. 1414) authorizing claimants to the Rancho de Napa, in Napa County, California, to prove up their title, reported it without amendment.

Mr. BURNSIDE, from the Committee on Military Affairs, to whom was referred the bill (H. R. No. 4753) to correct the military record of Byron Rosecrans, reported it without amendment.

Mr. KERNAN, from the Committee on Finance, to whom was referred the bill (H. R. No. 4585) fixing the rate of duty on barley malt at twenty-five cents per bushel, reported it without amendment.

CHANGE OF NAME OF VESSELS.

Mr. RANSOM. I am instructed by the Committee on Commerce, to whom was referred the bill (H. R. No. 5304) authorizing the changing the name of the sloop-yacht America, to report it favorably and without amendment. I ask that it be considered now. There can be no objection to it.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It changes the name to that of Kelpie.

Mr. KERNAN. It is a fifteen-ton yacht.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. RANSOM. I am also instructed by the Committee on Commerce to report favorably and without amendment the bill (S. No. 1733) to change the name of the sloop-yacht Alice to Princess. I ask for its present consideration. There will be no objection to it.

Mr. COCKRELL. I give notice that that will be the last reported bill that will pass through on present consideration this morning. It is not justice to the three or four hundred cases that are on the Calendar. Other committees have made their reports, and the bills are on the Calendar, and they are entitled to consideration.

Mr. RANSOM. I hope, as the bill is not objected to, that matter will not be discussed now.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. JONAS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1827) for the relief of William B. Robertson; which was read twice by its title, and referred to the Committee on Patents.

Mr. KERNAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1828) authorizing the changing the name of the sloop-yacht Niantic; which was read twice by its title, and referred to the Committee on Commerce.

Mr. DAVIS, of West Virginia, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1829) authorizing the Solicitor of the Treasury to grant relief to Florence W. Kirwan; which was read twice by its title, and referred to the Committee on Claims.

Mr. WITHERS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1830) for the relief of William Tabb; which was read twice by its title, and referred to the Committee on Claims.

Mr. WALLACE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 121) authorizing an experiment of the Haupt River improvement plan on the Ohio River; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Commerce.

Mr. McMILLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1831) granting a pension to Laura C. P. Haskins; which was read twice by its title, and referred to the Committee on Pensions.

BENNINGTON BATTLE MONUMENT.

Mr. MORRILL. I desire to ask the unanimous consent of the Senate to act upon one bill. I believe that I have not asked perhaps for ten years any special bill to be considered for the State of Vermont, nor any appropriation for a public building and no private claim. I ask to have considered a bill reported by the Committee on Military Affairs with a substitute, Senate bill No. 1805.

Mr. WITHERS. What is the bill?

Mr. MORRILL. It is the bill for the Bennington battle-field monument.

Mr. COCKRELL. It appropriates $40,000 out of the Treasury for the purpose of erecting a monument.

Mr. INGALLS. When the Senate left off the consideration of the Calendar yesterday the bill to increase the police force of this District was under consideration. Those who have read the papers this morning will see that another attempt at murder was made in the city last night, and another woman saved from dishonor only by the merest accident. I think it my duty to insist upon the consideration of that bill in the interest of humanity and in the interests of the rights and property of the people of this District.

Mr. MORRILL. The bill I ask to have considered will not take five minutes.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1805) relative to revolutionary battle-fields.

The bill was reported from the Committee on Military Affairs with an amendment, to strike out all after the enacting clause and to insert:

That the Secretary of the Treasury be authorized, and is hereby directed, to pay to the governer of the State of Vermont the sum of $40,000, out of any money in the Treasury not otherwise appropriated, to be by him transferred to the Bennington Monument Association, which has raised an equal amount for the erection of a proposed monument to commemorate the revolutionary battle of Bennington.

SEC. 2. That no moneys shall be paid out of the Treasury for the benefit of such association until the design for its monument shall have been approved by the President of the United States, or by a commission appointed by him for the purpose, and a board of three Army officers appointed by him shall have reported to him that the moneys already raised, together with the sum hereby appropriated from the Treasury of the United States, shall be sufficient to complete the monument in accordance with the design approved by him, or by the commission appointed by him.

Mr. COCKRELL. The bill appropriates $40,000 out of the pockets of the people of the country for the purpose of building a little monument up in Vermont. I think there ought to be an amendment to it, and that amendment ought to include an equal amount for every other monument that the people of this country may desire to build, and every church. The principle of the bill is that because the people in that neighborhood have raised $40,000, we shall tax the rest of the people of this country to give $40,000 more. I simply desire to state that I am opposed to it.

Mr. MORRILL. I move to insert after the word "Bennington," in line 7 of section 1, the word "Battle;" so as to read: "Bennington Battle Monument Association."

The amendment to the amendment was agreed to.

Mr. TELLER. I do not know that I am opposed to the bill, but I notice that whenever a bill comes from the Committee on Claims or from other committees to pay the honest debts of the Government there is a great fuss if it amounts to forty or fifty thousand dollars, and a great deal is said about it; the bill must be examined with a great deal of care. Here we have a proposition to pay $40,000. That may be a very nice thing for the people of Bennington, and it may be a nice thing for the country, and yet it is not to discharge any obligation that the Government owes. It is very doubtful whether the Government ought to go into the business of building monuments of this class all over the country wherever there was a large battle, either during the revolutionary war or at any other time.

I do not know that I shall oppose the bill, but I want to suggest that it would be a great deal better for the Government first to go to work and pay the honest debts that it owes to its citizens, and build the monuments afterward.

Mr. MORRILL. I desire to say that we have been liberal already in appropriating money for the commemoration of three revolutionary battle-fields at the present session, and I shall be in favor of making appropriations as to three or four more. There has been raised by private and by State subscriptions, as has been stated, the sum of $40,000, and it is expected that a very handsome monument will be erected at Bennington. The design is to be subject to the approval of the President and a board of Army officers.

There is this to be said in relation to it: If it had not been for the battle of Bennington the army of Burgoyne and Burgoyne himself would not have been captured at Saratoga; and there would have been no Yorktown if there had not been the victory at Bennington. It was the first victory of the Revolution.

I do not wish to consume any time, and therefore will refrain from saying more.

The PRESIDENT *pro tempore*. The question is on the amendment as amended.

Mr. McDONALD. On the grounds stated by me in objecting to an amendment offered by the Senator from New York [Mr. KERNAN] a short time since to the deficiency bill, I shall feel constrained to vote against the amendment and against the bill.

If we are to carry out the recommendations of the Continental Congress in reference to monuments it ought to be done in some systematic way. I am certainly very willing that the beginning and ending of the Revolution shall be well marked; but for us to enter upon each intermediate step, to take up and discuss in the Senate each intermediate battle or military movement with a view of determining its particular importance or bearing upon the Revolution, and in that way endeavoring to fix monuments at different points and places, would exhaust a great deal of the time of the Senate and a very large amount of the revenues of the country.

I therefore do not feel like taking this thing up in detail in that way, but if it is thought best at any time to take up and follow out the recommendations of the Continental Congress on the subject of monuments, I shall be willing to join in it, but not in this way. I shall therefore have to vote against the bill.

The amendment, as amended, was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, and it was read the third time.

The PRESIDENT *pro tempore*. Shall the bill pass?

Mr. COCKRELL. Let us have the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 29, nays 14; as follows:

YEAS—29.

Allison,	Dawes,	Kernan,	Saunders,
Anthony,	Ferry,	Lamar,	Thurman,
Bailey,	Garland,	McMillan,	Voorhees,
Baldwin,	Groome,	Morrill,	Walker,
Burnside,	Hereford,	Pendleton,	Withers.
Butler,	Hill of Colorado,	Platt,	
Call,	Johnston,	Pryor,	
Davis of Illinois,	Jones of Florida,	Rollins,	

NAYS—14.

Beck,	Harris,	McDonald,	Vance,
Booth,	Ingalls,	Morgan,	Wallace.
Cockrell,	Jonas,	Slater,	
Davis of W. Va.,	Kirkwood,	Teller,	

ABSENT—33.

Bayard,	Conkling,	Jones of Nevada,	Saulsbury,
Blaine,	Eaton,	Kellogg,	Sharon,
Blair,	Edmunds,	Logan,	Vest,
Brown	Farley,	McPherson,	Whyte,
Bruce,	Grover,	Maxey,	Williams,
Cameron of Pa.,	Hamlin,	Paddock,	Windom.
Cameron of Wis.,	Hampton,	Plumb,	
Carpenter,	Hill of Georgia,	Randolph,	
Coke,	Hoar,	Ransom,	

So the bill was passed.

The title was amended so as to read: "A bill relative to the revolutionary battle-field of Bennington."

UNITED PEORIAS AND MIAMIS.

Mr. SAUNDERS. The Committee on Indian Affairs, to whom was referred the bill (S. No. 1598) to provide for the allotment of lands in severalty to the United Peorias and Miamis of the Indian Territory, and for other purposes, have instructed me to report it with an amendment. I wish to state that this bill has been well considered by the committee, and is a bill of considerable importance, one that I think every Senator will take some interest in. It simply involves the question of dividing the lands out and allowing them to be held in severalty by these confederated tribes of Indians, who are now making progress toward civilization and toward citizenship. I give notice to the Senate that I shall——

Mr. KERNAN. Let it be after the morning hour, I suggest.

Mr. COCKRELL. I object to the present consideration of the bill.

Mr. SAUNDERS. I give notice that at the first opportunity I can get after the business of the morning hour is over I shall call this bill up. I wish it laid on the table for the present.

Mr. ALLISON. The bill ought to be printed. I suppose it will be printed.

The PRESIDENT *pro tempore*. The bill will be printed, as a matter of course.

Mr. INGALLS. The Senator from Nebraska asks that the bill may lie on the table.

The PRESIDENT *pro tempore*. The bill will lie on the table.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes.

The message also announced that the House had passed the bill (S. No. 1315) making an appropriation for the erection of a light-house and fog-bell on Old Gay Rock, at the entrance of Wickford Harbor, Narragansett Bay.

The message further announced that the House had passed a bill (H. R. No. 6018) for the relief of Benjamin Babb and others; in which it requested the concurrence of the Senate.

The message also announced that the House had passed a concurrent resolution for the printing of 15,000 copies of the annual report of the director of the bureau of ethnology of the Smithsonian Institution with the necessary illustrations; in which it requested the concurrence of the Senate.

The message further announced that the House had passed a concurrent resolution requesting the President of the Senate and the Speaker of the House of Representatives to represent the Congress of the United States at the centennial anniversary of the capture of André, to be held at Tarrytown, in the State of New York, on the 23d day of September next; in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the concurrent resolution of the Senate for the printing of 500 extra copies of the report of the president of the National Academy of Sciences of the past year for the use of the academy.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Treasury, transmitting, in compliance with Senate resolution of March 8, 1880, a statement showing the expenses of the Government on account of the war of the rebellion from June 1, 1861, to June 30, 1879, inclusive, together with analytical statements of the public debt and receipts and expenditures of the Government for the fiscal years 1856 to 1879, inclusive; which, on motion of Mr. KIRKWOOD, was ordered to lie on the table, and be printed.

RIVER AND HARBOR BILL.

Mr. RANSOM. I notice that the House of Representatives has sent to the Senate the report of the conference committee on the river and harbor bill. I beg leave to submit the report from the Senate conferees, and ask that it be concurred in.

The PRESIDING OFFICER, (Mr. GARLAND in the chair.) The first question is, Will the Senate proceed to the consideration of the conference report submitted by the Senator from North Carolina, [Mr. RANSOM?]

The question was determined in the affirmative.

The PRESIDING OFFICER. The report is before the Senate, and will be read.

The Chief Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its amendments numbered 10, 23, 40, 41, and 95.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 5, 6, 7, 8, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 58, 59, 60, 61, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 79, 80, 81, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 112, 113, 114, 115, and 116, and agree to the same.

That the House recede from its disagreement to the amendment numbered 1, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$20,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 4, and agree to the same with an amendment as follows: Strike out "25,000" and insert "20,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 9, and agree to the same with an amendment as follows: Strike out "70,000" and insert "50,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 14, and agree to the same with an amendment as follows: Strike out "25,000" and insert "20,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 55, and agree to the same with an amendment as follows: Strike out "12,000" and insert "10,000;" and the Senate agree to the same.

That the Senate recede from its amendment numbered 56, and agree to the same with an amendment as follows: Strike out "25,000" and insert "15,000;" and the House agree to the same.

That the House recede from its disagreement to the amendment numbered 57, and agree to the same with an amendment as follows: Insert after the word "dollars" "$6,000 of which may be expended for the removal of dams;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 62, and agree to the same with an amendment as follows: Strike out "25,000" and insert "20,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 78, and agree to the same with an amendment as follows: Strike out "20,000" and insert "16,000;" and the Senate agree to the same.

That the Senate recede from its amendment numbered 82, and, in lieu of the original clause, agree to the following:

"It shall be the duty of the Secretary of War to apply the money herein appropriated for improvements other than surveys and estimates in carrying on the various works as far as can be, without detriment to the interests of the Government, by contract. Where such works cannot be done by contract without injury to the public interest, they may be prosecuted by hired labor. Where said works are done by contract, such contracts shall be made after sufficient public advertisement for proposals in such manner and form as the Secretary of War shall prescribe; and such contracts shall be made with the lowest responsible bidders, accompanied by such securities as the Secretary of War shall require, conditioned for the faithful prosecution of the work according to such contract and for the proper payment of all liabilities incurred in the prosecution thereof for labor and material. But this clause shall not be so construed as to prevent the continuance of work on the Great Kanawha by hired labor, unless the Secretary of War is satisfied that the public interest requires such change;" and the House agree to the same.

That the House recede from its disagreement to the amendment numbered 111, and agree to the same with an amendment as follows: Strike out the word "river" and insert "and Lillington River and Beaufort Harbor;" and the Senate agree to the same.

MATT. W. RANSOM,
FRANK HEREFORD,
SAMUEL J. R. MCMILLAN,
Managers on the part of the Senate.
JOHN H. REAGAN,
MARTIN L. CLARDY,
WILLIAM A. RUSSELL,
Managers on the part of the House.

DISTRICT POLICE FORCE.

The PRESIDENT *pro tempore*. If there are no concurrent or other resolutions, the routine business of the morning hour is at an end and the Senate resumes the consideration of the Calendar under the Anthony rule.

Mr. HARRIS. At the expiration of the morning hour yesterday the Senate had under consideration the bill (S. No. 1394) to increase the police force of the District of Columbia. After the regular order was laid before the Senate I appealed to the Senator from Kentucky [Mr. BECK] to allow the consideration of that bill to be continued to completion. The Senator from New Hampshire [Mr. ROLLINS] interposed an objection. I see in making out the Calendar the Secretary has put that bill with the cases that were passed over. I gave notice then that if the Senator from New Hampshire or any other Senator objected to the further consideration of the bill I should move to postpone all prior orders, and I propose to make that motion if there be objection to proceeding with the consideration of the bill.

The PRESIDENT *pro tempore*. The Chair is informed by the Secretary (the Chair was not in the Senate at the time) that this bill was passed over without prejudice. It will therefore be called.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 1394) to increase the police force of the District of Columbia.

The PRESIDENT *pro tempore*. There are amendments to the bill reported from the Committee on the District of Columbia.

Mr. HARRIS. The first amendment of the committee was adopted yesterday morning. The pending amendment is to add a third section.

The PRESIDENT *pro tempore*. The pending amendment will be reported.

The CHIEF CLERK. The Committee on the District of Columbia report an amendment, to insert as an additional section:

SEC. 3. That the commissioners of the District of Columbia be, and hereby are, authorized to appoint one additional clerk for service at police headquarters.

Mr. TELLER. I think there is a mistake as to the fact. I think the Senator from New Hampshire [Mr. ROLLINS] objected. Whether he would desire to insist upon the objection, I do not know.

Mr. ALLISON. He is right here.

Mr. TELLER. I do not object; I only suggested that the Senator from New Hampshire was not in his seat.

Mr. MCDONALD. The Chair correctly stated the attitude of this bill. I was occupying the chair at the time, and when the morning hour expired this bill was passed over without prejudice.

The PRESIDENT *pro tempore*. So the Chief Clerk informs the Chair. The question is on the amendment of the committee.

The amendment was agreed to.

The bill was reported to the Senate as amended.

Mr. ALLISON. I ask for a separate vote on the amendment of the committee repealing section 354 of the Revised Statutes, relating to the District of Columbia. I do not think the bill ought to be embarrassed with that question. I think we all unite in agreeing that it is very important to have this additional service.

Mr. HARRIS. I send to the Clerk's desk a letter from the commissioners of the District of Columbia, and ask that it be read as the only answer that I have to make in respect of this bill.

The Chief Clerk read as follows:

OFFICE OF THE COMMISSIONERS, DISTRICT OF COLUMBIA,
Washington, March 4, 1880.

SIR: The commissioners have the honor to make the following answer to the letter of your committee of yesterday, transmitting Senate bill No. 1394, "to increase the police force of the District of Columbia," and requesting their views as to the extent of the increase necessary to meet the requirements of the public service.

The present number of the police force was established in 1866, and includes one major and superintendent, one captain, six detectives, ten lieutenants, twenty sergeants, and two hundred privates. An increase is now proposed of one captain, two lieutenants, four sergeants, two detectives, and fifty privates, which the commissioners heartily approve.

The public interests imperatively demand an increase of the force. The extent of territory embraced in the police district is about sixty-seven square miles. The large number of idle and vicious persons who constantly resort to this District, to say nothing of those who permanently reside here, and the increasing demand for police protection in the parks and about the public buildings, fully justifies the oft-repeated call of our citizens for more policemen.

There is another matter in this connection demanding the serious consideration of Congress. The present law (see section 354 Revised Statutes) declares that no one shall be appointed as a policeman or watchman who has not served in the Army or Navy of the United States and received an honorable discharge therefrom. Assuming that at the close of the late war the average ages of the then discharged soldiers was twenty-five years, they have now reached the limit of age for appointees on the police force, namely, forty years. So that if this provision was intended as a recognition for service in the United States Army or Navy during that war it has now about reached the limit of its applicability. It is not a final bar to those who served against the United States, as they can readily become eligible for appointment by a subsequent enlistment in the Army or Navy, as many have done; nor does it preclude those who, having served in the Army or Navy of the United States before the war, were afterward engaged with those who were opposed thereto. Furthermore, it is by no means established that the most desirable material for policemen is to be found among those who resort to the military or naval services by enlistment in time of peace. The appointments on the police force are made for life or during good behavior, and it is of the utmost importance to secure the services of vigorous young men whose antecedents can be readily ascertained and relied on as a reasonable guarantee of their future conduct in the position which brings them in such close relation with the most delicate and vital interests of our people.

It is impossible under the present law to get the class of men most needed, and we are therefore led to suggest the repeal of the clause in the section above mentioned restricting appointments to those who have served in the Army or Navy.

The commissioners further suggest that one additional clerk be allowed at police headquarters. The clerical force has been cut down more than one-half, and at present is inadequte to properly keep the records of the Department.

The bill should be passed as speedily as practicable, and take effect upon its passage.

By order of the board:

Very respectfully,

J. DENT, *President*.

HON. ISHAM G. HARRIS,
Chairman Senate Committee on District of Columbia.

The PRESIDENT *pro tempore*. The Senator from Iowa asks to reserve the amendment repealing section 354 of the Revised Statutes relating to the District of Columbia, and upon that question asks for a separate vote. The question is, Will the Senate concur in the other amendment?

The amendment was concurred in.

The PRESIDENT *pro tempore*. Will the Senate concur in the amendment upon which a separate vote has been asked? It will be reported.

The CHIEF CLERK. The Senate, as in Committee of the Whole, inserted as an additional section:

SEC. 2. That so much of section 354 of the Revised Statutes of the United States relating to the District of Columbia as requires that "no person shall be appointed as policeman or watchman who has not served in the Army or Navy of the United States and received an honorable discharge," be, and the same is hereby, repealed.

The amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title of the bill was amended so as to read: "A bill to increase the police force of the District of Columbia, and for other purposes."

JURISDICTION OF JUSTICES OF THE PEACE.

Mr. DAVIS, of Illinois. The first bill now on the Calendar is the bill (S. No. 41) to extend the jurisdiction of justices of the peace in the District of Columbia, and to regulate proceedings before them.

The PRESIDENT *pro tempore*. That was passed over without prejudice, the Chair understands.

Mr. DAVIS, of Illinois. Yes, sir.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 41) to extend the jurisdiction of justices of the peace in the District of Columbia, and to regulate proceedings before them; which had been reported from the Committee on the District of Columbia with amendments.

Mr. DAVIS, of Illinois. Some one objected to the bill the other day——

Mr. HARRIS. No; the bill went over without objection. It went over in the absence of the Senator from Vermont [Mr. EDMUNDS] without prejudice.

Mr. DAVIS, of Illinois. Yes, without prejudice.

The PRESIDENT *pro tempore*. The amendments of the Committee on the District of Columbia will be reported.

The first amendment of the Committee on the District of Columbia was, in section 1, line 5, after "replevin," to insert "not exceeding $50;" in line 9, before the word "actions," to strike out "in issue" and insert "concerned;" and in line 11, before the word "actions," to strike out "in;" so as to read:

That justices of the peace of the District of Columbia shall have jurisdiction to hear, try, and determine all pleas and actions, including attachment and replevin not exceeding $50, where the amount claimed to be due or the value of the property sought to be recovered shall not exceed $200, except in cases where the title to real estate is concerned, actions for malicious prosecution, actions against justices of the peace or other officers for misconduct in office, and actions for slander, verbal or written.

The amendment was agreed to.

The next amendment was to add at the end of section 1:

SEC. 2. No appeal shall be allowed from the judgment of a justice of the peace in any common-law action unless the matter in demand in such action or pleaded in set-off thereto shall exceed the sum of $20.

Mr. SAULSBURY. I desire to say, in reference to that provision of the bill, that while the amount is very small, being $20, there is a practical denial to litigants whose claims do not reach that extent of all right of appeal, however erroneous the judgment below may have been. In my opinion every man who goes before a justice of the peace to have his case adjudicated ought to have the right of appeal, however small the amount may be.

I am opposed myself to that provision. I would give every individual the right to have his case carried up if he sees proper to incur the cost to do it. Why should we deny this class of litigants, whose amounts are very small, the rights which we have given to gentlemen whose claims are of larger demand?

I hope, therefore, that the amendment will not be adopted, and that the right of appeal may be secured to every person who is compelled to go before a justice of the peace to have his matters adjudged.

Mr. DAVIS, of Illinois. The justices of the peace in this District are appointed by the President, by and with the advice and consent of the Senate. They are a better class of men than are usually found in States where they are elected. Twenty dollars is a very low limit. It is now $5, and it is proposed to increase the limit to $20. The courts above are overburdened with business. There is hardly a State in the Union in which an appeal is allowed from a justice of the peace where the judgment is under $20.

Mr. SAULSBURY. I desire to have it understood that I shall vote against the amendment.

Mr. DAVIS, of Illinois. The Senator from Vermont [Mr. EDMUNDS] had this bill in charge. He consulted with the chief-justice of the supreme court of the District. They went through it very carefully, and came to the conclusion that the amendment ought to be made.

Mr. JONES, of Florida. I ask the Senator from Illinois whether, under the practice in this District, a party in a case where the sum of $20 is involved is entitled to a jury?

Mr. DAVIS, of Illinois. Where the amount involved is above $20 the parties are entitled to a jury.

Mr. JONES, of Florida. Under the statutes?

Mr. DAVIS, of Illinois. Yes, under the statutes.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The next amendment of the Committee on the District of Columbia was, in section [2] 3, line 2, after the word "thereto," to strike out "or his agent;" in line 3, after "him," to strike out "on any claim placed in his hands for collection, or;" in line 4, after "issued," to strike out "or judgment rendered;" in line 5, before "justice," to strike out "any" and insert "the," and after "justice" to insert "issuing such a process;" in line 6, after "party," to strike out "or his agent;" after the word "named," in line 8, to insert "and not less than two days after service of such summons;" and in line 14, before "appeal," to strike out "on" and insert "by;" so as to make the section read:

SEC. [2] 3. Whenever any constable shall neglect or refuse to pay over to the party entitled thereto any moneys collected or received by him on any process issued by a justice of the peace, the justice issuing such process may, upon complaint of such party, summon the said constable and the sureties upon his official bond to appear before him at a day and hour therein named, and not less than two days after service of such summons, to answer to the said complaint, and may render judgment against the said constable and his sureties for the amount so collected or received, if not exceeding $200, with interest and costs, and execution may issue therefor without stay, except by appeal.

The amendment was agreed to.

The next amendment was to add at the end of section [2] 3 the words "and when the sum claimed exceeds $20 either party shall be entitled to a trial by jury."

Mr. INGALLS. Does that amendment relate to the process by which a constable is to be compelled to pay over money or to the general procedure between litigants?

Mr. DAVIS, of Illinois. It relates to the process.

Mr. INGALLS. Between litigants?

Mr. DAVIS, of Illinois. No; it relates to the process mentioned in this section.

The PRESIDENT *pro tempore*. The Chair is informed that the law now in force provides for a jury trial.

Mr. INGALLS. That is true.

Mr. DAVIS, of Illinois. This is a summary proceeding, and this means that they may have a trial by jury in this summary proceeding. There is trial by jury now in all cases, but it might not extend to this summary proceeding without special provision for it.

Mr. INGALLS. This is to allow the question of the right of a party to moneys detained by a constable to be tried by jury?

Mr. DAVIS, of Illinois. Yes; to be tried by jury.

Mr. SAULSBURY. I desire to say that the whole proposition in reference to this summary proceeding upon the official bond of an officer is to my mind rather a novel measure. There are very many nice questions of proceeding that may arise under an action for the breach of an official bond. Here is a proceeding to drag the constable's securities before a justice of the peace upon a notice of two days and authorizing the justice of the peace to render judgment against the sureties upon the official bond for the default of the officer. Perhaps they might have some defense if they could be heard in a court where the proper plea for the breach assigned might be interposed. It is a novel proceeding to me at any rate. I do not know but what it may be a good one; but it is entirely different from anything to which I have been accustomed.

Mr. DAVIS, of Illinois. It is not a novel proceeding in any of the western States of this country. I think there are but very few States in which there are not similar proceedings. A constable collects money and does not pay it over. To require him to be sued on his official bond and have that suit go through the courts without any provision for a summary proceeding is a denial of justice practically. This is a means of bringing him summarily before the court with his sureties to the amount of $200, and compel him to pay the money. They can appeal, if there is anything wrong where it involves over $20, to the supreme court, like other litigants. I believe there is hardly a State in the Union in which there is not a similar proceeding against a constable to enforce the proper collection of money.

Mr. McMILLAN. I should like to ask the Senator from Illinois whether this does not remove the summary character of the proceeding where the amount exceeds $20?

Mr. DAVIS, of Illinois. The party can appeal at any time; but if the amount exceeds $20 he has a right of trial by jury before the justice; that is, he has a right of trial by jury before the justice, like anybody else.

Mr. McMILLAN. It enlarges the rights, then, of an officer in that regard?

Mr. DAVIS, of Illinois. In that regard it does.

Mr. McMILLAN. Because, irrespective of the amount, if an officer collects money I suppose the justice out of whose court or under whose jurisdiction the execution issues would have a right to compel him to pay over the money without any trial by jury of the fact.

Mr. DAVIS, of Illinois. Yes, sir; without any trial at all.

Mr. McMILLAN. I am unable to see why that should not be so. If an officer in the exercise of his duty collects money and then refuses to pay it over, it seems to me the court out of which the execution issues should have authority to close that matter.

I wish further to suggest whether there is not pending before the Senate now a House bill regulating all these proceedings in the courts of the District.

Mr. DAVIS, of Illinois. I do not know anything about that.

Mr. INGALLS. There is such a bill pending.

Mr. DAVIS, of Illinois. This bill was prepared by the Senator from Vermont [Mr. EDMUNDS] under the direction of the Judiciary Committee, and the chairman requested me to take care of it. The Senator from Vermont examined it with great care and upon consultation with the chief-justice of the District of Columbia.

Mr. McMILLAN. I merely made the inquiry for the purpose of determining whether it is necessary to act upon this amendment at this time.

Mr. DAVIS, of Illinois. We can get through with this bill in a few minutes.

Mr. McMILLAN. I do not refer to the time occupied by the Senate but the time occupied with reference to the District of Columbia. A code has already been introduced and passed in the House of Representatives regulating all judicial proceedings in the District of Columbia, as I understand it. That bill has been sent to the Senate, and is now pending here before one of the committees of the Senate. This measure contemplates a change in the law which will have to be considered at that time; and I submit whether the bill had not better be passed over and let the matter be considered in connection with the general bill regulating the code of proceedings in this District.

Mr. DAVIS, of Illinois. There will be no action taken upon that general bill at this session, and this is a bill prepared with great care. It seems to me it ought to pass. There is very little objection to it, and it can be got through in a few moments now. I hope the Senator from Minnesota will not object.

Mr. JONES, of Florida. It does seem to me there cannot be any very great pressing emergency for this measure. I suppose there has been a code of laws here for years under which justices of the peace have rendered judgments in suits brought before them. This bill is intended to increase their jurisdiction, and it must be obvious that it is a measure in the interest of a class of people who usually have demands for small sums.

Mr. DAVIS, of Illinois. If the Senator will allow me I will tell him the great necessity for this bill. The Legislative Assembly of the District of Columbia, which went out of office some years ago, conferred upon justices of the peace the right to issue attachments and writs of replevin in sums not exceeding $50. That law of the Legislative Assembly was declared void by the supreme court of this District, illegal for some reason, I do not know what, because I have not investigated it.

The justices of the peace have exclusive jurisdiction to the sum of $50, and concurrent jurisdiction between that sum and $100 with the supreme court of the District. The supreme court of the District cannot issue an attachment or an action of replevin in any sum between $1 and $50. There is, then, in this District at the present time no authority to issue process of attachment or to issue the writ of replevin in any case between $1 and $50 either in the supreme court of the District or before a justice of the peace. It ought to be provided for. Poor men who bring these suits for between $1 and $50 cannot issue an attachment in any court in the District at the present time. Certainly a man who has a case ought to have the privilege of replevying if it does not amount to over $50, but he cannot do it. The law of the Legislative Assembly gave him the authority, but that law has been declared illegal. The great purpose is to pass the first section of this bill.

Mr. JONES, of Florida. This bill professes to be "a bill to extend the jurisdiction of justices of the peace in the District of Columbia, and to regulate proceedings before them." I find it stated in the first section that they—

> Shall have jurisdiction to hear, try, and determine all pleas and actions, including attachment and replevin not exceeding $50, where the amount claimed to be due or the value of the property sought to be recovered shall not exceed $200, except in cases where the title to real estate is concerned, actions for malicious prosecution, actions against justices of the peace or other officers for misconduct in office, and actions for slander, verbal or written.

The interpretation of the first section, as I understand it, is that in cases of attachment and replevin the jurisdiction shall be limited to $50, but that in all other cases the jurisdiction shall extend to $200, with the exception stated in the section. That is the only interpretation that can be given to it. I understood the Senator from Illinois to say awhile ago that the jurisdiction up to the present time in all cases did not exceed $100. These officers are selected, as we all know, from the class of unprofessional men.

Mr. INGALLS. Just the reverse.

Mr. JONES, of Florida. Of lawyers?

Mr. INGALLS. Of lawyers under the recent act relative to the administration of justice in this District.

Mr. JONES, of Florida. Well, they are selected in a way very different from that existing in the States. There they are the chosen servants and agents of the people and they are elected throughout the Union pretty generally by the voice of the people over whose little interests they are called upon to preside.

Mr. INGALLS. They are appointed here by the President.

Mr. JONES, of Florida. Appointed by the President and confirmed by the Senate. They are a very self-important class, very important in their way no doubt, and the class of cases they are called to deal with affects usually a poor class of men and small interests, and I am opposed to this increase in their power. The fifth section of this bill is a very remarkable one. It goes on to provide—

> When the defendant domiciled in the District cannot be found so that personal service may be made upon him, service of process may be made by leaving a copy of such process at the dwelling-house or usual place of abode of said defendant in the District in the hands of some person residing therein of sufficient discretion to receive the same; and the officer in his return shall state the manner of such service.

I desire to say that this is a little different from any similar law on this subject that I have seen. It may be exactly right; but if a man were at a boarding-house, if that were his last place of abode, a house kept by a family that were utter strangers to him, service could be effected under this bill by leaving a copy of the process with a member of that family, although he bore no relation to them in the world.

Mr. THURMAN. Cannot that be done in the Senator's State?

Mr. JONES, of Florida. No; it cannot. My State says it must be left with a member of the family over nine years of age.

Mr. THURMAN. Suppose he has no family?

Mr. JONES, of Florida. Then the doctrine of constructive service ought not to apply.

Mr. SAULSBURY. I desire to call the attention of the Senator from Florida to another provision. The service may be made in the manner the Senator has indicated, but it does not say the length of time before the return of the process; it may be done an hour before the return of the process.

Mr. JONES, of Florida. I suppose the general law, as the Senator from Illinois suggests, regulates the time of service.

Mr. SAULSBURY. That may be, but I should like to know what the general law is on that subject.

Mr. DAVIS, of Illinois. The time of service is not changed by this. It must be the same as in cases of personal service.

Mr. SAULSBURY. If the service had been made only one hour before the return of the process, it might be a compliance with this

provision. I think it would be well to put in a provision requiring the service to be made a certain number of days before the return.

Mr. DAVIS, of Illinois. It cannot be questioned that the term of service, whatever it is, under the general law is not changed by this.

Mr. JONES, of Florida. I have stated the two objections that occur to me in connection with this bill, first the increase of jurisdiction, and, second, the defective service of process under the fifth section.

Mr. INGALLS. This bill is intended—and I speak of it with knowledge because it was once before the District Committee—as a measure of relief to the judiciary of this District. Every person who is at all familiar with this subject knows that the dockets of the District court are crowded with a great accumulation of petty causes, and that in a great number of instances litigants in the courts below under the present law take appeals simply for the purposes of delay. I believe it is the uniform experience of the bar and the judiciary that in all intelligent and especially in all populous communities the jurisdiction of justices should be extended as far as possible for the purpose of enabling all that little class of what may be called pie-poudre cases to be decided in courts of low and original jurisdiction where they may be finally determined. In my State I think the jurisdiction of justices of the peace has been extended to $300; in Ohio the Senator from that State informs me it is the same.

Mr. DAVIS, of Illinois. Two hundred dollars in Illinois.

Mr. INGALLS. And in Illinois it is $200. My impression is that in all States, where the subject has been under recent consideration, the jurisdiction has been extended for the purpose of preventing the delay that results from appeals merely for the purpose of procrastination.

Mr. THURMAN. And right here, if the Senator will allow me, I wish to state an interesting fact. The poor debtors' court, as it was called, in Great Britain, originally had jurisdiction to £5. It has been found so valuable a court and it has given such satisfaction that its jurisdiction has been increased tenfold.

Mr. INGALLS. Now, under the laws as they stand at present in this District, there is an appeal where the amount claimed is $5 or over. That is an absurdity. There is not a lawyer who does not know that to allow an appeal from a judgment of $5 before a justice of the peace is preposterous.

Mr. DAVIS, of Illinois. I would state to the Senator from Kansas that appeals taken to the supreme court of the District cannot be perfected into judgments under two or three years.

Mr. INGALLS. There is the difficulty about it; the docket becomes congested by a vast accumulation of petty appeals, so that instead of there being a denial of justice by this bill, there is a practical refusal of it under the existing practice; and this bill is liberal; it is intended to relieve the courts and relieve this class of small debtors. In regard to that clause which the Senator from Florida referred to in regard to summary proceedings against a constable or executive officer who withholds money that he has collected, as the law now stands if the constable withholds money that he has collected the District court after five days' notice can enter up judgment *instanter* against the officer for the whole amount with interest and costs. The section we propose liberalizes and takes away the hardship of that provision so that if the Senator from Florida would examine this bill in connection with the law as it now stands he would find that it was beneficent in all its provisions.

The PRESIDING OFFICER, (Mr. GARLAND in the chair.) The question is on the amendment to add to section 2 "and when the same claim exceeds $20 either party shall be entitled to a trial by jury."

The amendment was agreed to.

The next amendment of the Committee on the Judiciary was, at the beginning of section [3] 4, to strike out "justices" and insert "any justice;" in line 2, after the word "process," to insert "signed by such justice;" so as to make the section read:

SEC. [3] 4. Any justice of the peace may compel any constable to make due return of any process signed by such justice and placed in his hands for service, by attachment, and for refusal to make such return such constable shall be subject to the same fines and penalties as a witness refusing to obey a summons.

The amendment was agreed to.

The next amendment was to strike out section 4, in the following words:

SEC. 4. Persons regularly engaged in business or owning real estate in the District of Columbia shall not be required to give security for costs before commencing suit by reason of their personal residence being without the limits of said District.

The amendment was agreed to.

The next amendment was, in section 5, line 1, after the word "defendant," to insert "domiciled in the District," and in line 5, after the word "defendant," to insert "in the District;" so as to read:

SEC. 5. When the defendant domiciled in the District cannot be found so that personal service may be made upon him, service of process may be made by leaving a copy of such process at the dwelling-house or usual place of abode of said defendant in the District, in the hands of some person residing therein.

The amendment was agreed to.

The next amendment was in the same section, line 6, after the word "therein," to strike out "above the age of fourteen years" and insert "of sufficient discretion to receive the same;" so as to read:

In the hands of some person residing therein of sufficient discretion to receive the same; and the officer in his return shall state the manner of such service.

Mr. JONES, of Florida. I ask why that change?

Mr. THURMAN. Mr. President, it was the opinion of the committee that it would not do to say "above the age of fourteen years." How is a constable who goes to serve a process to know whether a young lady or youth is fourteen or thirteen and a half?

Mr. INGALLS. How is he to tell whether he has sufficient discretion or not?

Mr. THURMAN. That he can tell very easily. Look at some of the pages on this floor. Have they not discretion enough, if a person hands them a paper to give to a Senator, and to tell what it is about, to do so? Do they not come and tell us? Do you not see plenty of them who are under fourteen years of age appointed when they were twelve years of age? This is really what the law is almost everywhere. Take the act of Congress itself in regard to the service of process in the judicial courts. The process may be served by delivering it to the person or leaving it at his usual place of abode, without saying more; but is it a proper service to go and stick it under his door or go and throw it into his window? No; we know that is not a proper service. The officer making the service, if he does not find the person there upon whom the service is to be made, leaves the process with some person in the house of sufficient discretion to know what it is. This is more guarded than is usual, because the officer is to state the manner of service so that if there is anything wrong in the service it may be quashed. This was intended to be more guarded than is the law in regard to the service of process out of the circuit courts of the United States. I do not think there is the least objection to it.

The amendment was agreed to.

The next amendment reported from the Committee on the Judiciary was, in section 6, line 5, after the word "be," to strike out "allowed" and insert "paid," and in line 6, after the word "dollar," to strike out "and fifty cents" and insert "but the superior court may require the production of the original papers;" so as to make the section read:

SEC. 6. In cases of appeal or on *certiorari* the justice shall retain all original papers, except those filed in evidence, and make and file with the appellate court copies of the papers so retained, certified by himself; and for preparing and transmitting the papers on appeal or *certiorari*, he shall be paid a fee of $1, but the superior court may require the production of the original papers.

The amendment was agreed to.

The next amendment was, after section 7, to insert:

SEC. 8. No removal of any cause from one justice of the peace to another shall hereafter be allowed.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. CALL. I think this bill is a very bad bill, with great respect to the Judiciary Committee, and I wish before it is put on its passage to record my objections to it.

The bill concerns a very large class of people, people who need particularly the protection of the Legislature and of the laws passed under it. It affects those against whom small claims are urged, very much the largest portion of the community, and it puts in the hands of the most inferior class of judicial officers absolute power. The parties bringing suits may or may not have a proper cause of action; they may or may not have sufficient proof; but in the absolute discretion of these justices they are authorized to render judgment, and it may be under the provisions of this bill a judgment without notice of any kind whatever. The bill provides that there shall be no appeal where the sum is over $20. I can see no reason, I think even this learned committee for whom and for the great jurists who are upon it I have so high a respect, can give no reason why a poor man who has a controversy involving only $20 should not have his right ascertained by fair, judicial means as well as a man who has a controversy for a larger amount.

In my experience and observation the courts of justices of the peace everywhere are a great hardship, a great tyranny upon the poorer classes of the people; and any law which forbids an appeal or makes the path of inquiry and supervision of their proceedings difficult, not to say impossible, as this bill does, is a great injustice and a great oppression to the great mass of the people.

I concur with what my colleague has said in regard to the provision for service. This bill provides that service shall be made in a certain way on a person domiciled in the District. The question of domicile is one of great difficulty of ascertainment. If a person temporarily in the District is stopping at a boarding-house or at a hotel, the provision is that a paper left with some person having no connection with him, having no kind of relationship with him either of business or otherwise, shall constitute a legal service, and upon that there may be rendered an absolute judgment which may not be appealed from against him. It puts this power in the hands of a class of people not appointed with any great care for their learning, their ability, or their integrity, but appointees it may be from favor and without, as they frequently are, any of the knowledge or any of the qualifications proper for the judicial character.

For these reasons I regard this bill as fatally objectionable, and I wish to record my vote against it.

Mr. THURMAN. Mr. President, I must confess that I am a little astonished at the opposition this bill has met with. I thought that the justices' courts were the courts of the poor people really. Where

is it that the laboring man who has a small sum at stake gets justice, gets judgment against the man who owes him for his labor? It is in these very courts; and I venture to say that of all the courts there are in this country the most popular are the courts of the justice of the peace. They are so in my State, and I believe they are so here. They are everywhere so as far as I know. They are the courts where the laboring man or the laboring woman recovers his or her wages, and speedily.

Now, in regard to this bill not allowing appeals where the amount is under $20; that is true; but it is a beneficial provision. In nine hundred and ninety-nine cases out of a thousand litigation ought not to go into the higher court where the amount involved is less than $20. It is not for the benefit of anybody, either party, that it should. It may be that one person may get an advantage; that is very true; if a person had plenty of money and could take an appeal and pay lawyers, he could keep another person for a long time litigating with him about $5 or $10 wages; that might give him an advantage; but it is for the interest of the people, it is for the interests of the litigants themselves, that when the sum is under $20 there should be an end of the litigation.

But I do not want to take up time on this bill. I merely rose to say that upon consultation we have concluded to ask the Senate not to concur in the amendment inserting section 8. Let a separate vote be taken on that and let it be non-concurred in.

Mr. DAVIS, of Illinois. That is the provision in regard to removal.

Mr. THURMAN. I move to non-concur in the amendment inserting that section.

The PRESIDING OFFICER. The Chair will state to the Senator from Ohio that the amendments have already been concurred in. He will have to move to reconsider.

Mr. THURMAN. Then I move to reconsider the vote concurring in the amendment inserting section 8.

The motion to reconsider was agreed to.

Mr. THURMAN. Now I ask the Senate not to concur in that amendment.

The PRESIDING OFFICER. The question is on concurring in the amendment known as section 8.

The amendment was non-concurred in.

Mr. CALL. A single word in reply to the Senator from Ohio. The Senator from Ohio assumes that the laboring people, the poor people of the country are those who bring suits. That is not my observation. I undertake to take issue with that. They are the people who are sued before justices, and these laws are in the interest of creditors, and often very harsh creditors, and these courts are in the interest of creditors and often very harsh creditors. It is a settled opinion on my part that the legislation of the country ought to look to a fair judicial ascertainment of the obligations of the people; and there is more to be apprehended from the oppressive use of judicial power by those who have means against those who have not than there is from those who are poor and have no means defrauding the people of wealth out of what they have.

Mr. COCKRELL. I call the attention of the Chair to the Anthony rule and ask that it be enforced. That allows only one speech from each Senator, and that but five minutes.

The PRESIDING OFFICER. The present occupant of the chair will enforce it hereafter.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

SOMERVILLE NICHOLSON.

Mr. VOORHEES. On the 18th of last month the bill (S. No. 201) for the relief of Somerville Nicholson passed the Senate, and on the following day a motion to reconsider the vote by which it was passed was entered by the Senator from Rhode Island, [Mr. ANTHONY.] I ask the Senate to take up that motion and dispose of it this morning.

The PRESIDENT *pro tempore*. The Senator from Indiana asks unanimous consent to proceed to the consideration of the motion to reconsider the vote by which the bill (S. No. 201) for the relief of Somerville Nicholson was passed.

Mr. ANTHONY. I have no objection to the motion being taken up. I entered the motion to reconsider in good faith, not for any purpose of delay. The Senate will bear witness that I never employ parliamentary tactics to delay a measure or defeat the will of the Senate. I moved the reconsideration because I wished the bill to be again under the consideration of the Senate, and because I objected to it especially in its present form and desired to move some amendments.

Mr. COCKRELL. If this bill will lead to discussion, I must object to its being taken up in the morning hour.

Mr. VOORHEES. It will not lead to discussion, I think.

Mr. COCKRELL. I reserve the right to object if it leads to discussion.

The PRESIDENT *pro tempore*. Is there objection to considering this motion? The Chair hears none, and it is before the Senate. The question is, Will the Senate reconsider the vote by which the bill was passed?

Mr. ANTHONY. I desire to state the object of my moving a reconsideration. I have two amendments to move, one in behalf of the Constitution, and the other in behalf of the Navy. The bill reads:

That the President of the United States be, and is hereby, authorized to restore Somerville Nicholson, now a captain on the retired list of the Navy, to the active list, to take rank next after Clark H. Welles.

That promotes him to be a commodore. Congress has no authority to devolve the appointment of a commodore upon the President of the United States. The Constitution authorizes Congress to devolve upon the President or the heads of Departments or the courts of law the appointment of such inferior officers as they may see fit; but a commodore in the Navy cannot be called an inferior officer except that he is inferior to an admiral; and in one respect every officer is inferior, for every officer in the Government is inferior to the President of the United States. If the Constitution can be construed that Congress may devolve the appointment upon the President or the heads of Departments or the courts of law of any officer who has any superior, then it covers the whole patronage of the Government.

I wish to move to amend the bill so as to read:

That the President of the United States be authorized to nominate and, by and with the consent of the Senate, to appoint.

That is the first amendment I wish to offer; and the second is:

Provided, That the said Nicholson shall pass an examination before a board of naval officers as to his qualifications, mental, professional, and physical, for the place to which it is proposed to promote him.

We do not promote any officer without an examination. The most meritorious, the most gallant, the most deserving officer of the Navy, if he is a captain cannot be made a commodore without an examination. Here it is proposed to promote this man without an examination. I desire to offer these two amendments, and for that reason I ask that the vote on the passage of the bill may be reconsidered.

The PRESIDENT *pro tempore*. The question is, Will the Senate reconsider the vote by which this bill was passed?

The question being put, there were on a division—ayes 17, noes 18; no quorum voting.

Mr. PLATT called for the yeas and nays; and they were ordered.

Mr. ANTHONY. Now, Mr. President, I wish to call the attention of the Senate to this bill. It proposes to authorize the President of the United States to do that which we have no authority to authorize him to do. It authorizes him to make a commodore of a captain. The Constitution gives us no authority to do that. We can only authorize the President to nominate him and appoint him with the advice and consent of the Senate. I do not think the bill can stand the test of judicial investigation.

The second amendment that I desire to offer is, that this officer, a candidate for promotion, shall be subjected to the same examination that every other officer is subjected to. A captain is not made a commodore without a favorable report of a board of examination, nor without the advice and consent of the Senate. This bill proposes to do away with both. We might as well pass a law here authorizing the President to make an admiral of a midshipman, as this bill. I trust that some regard will be had to the plain provisions of the Constitution, if not to the interests of the Navy.

Mr. JONES, of Florida. Mr. President, when it comes to the Constitution, I do not think there is any doubt on that point.

Mr. ANTHONY. I do not think there is either.

Mr. JONES, of Florida. What provision of the Constitution does the Senator rely upon? Mr. President, I have hitherto taken the position with respect to these particular officers that they are within the sole control of Congress; that they are not civil officers within the meaning of the Constitution; that this and the other House have complete and plenary power over them; and in the last work that I have in my hand of high military authority that doctrine is sustained. The power "to raise and support armies and to provide and maintain a navy" gives to Congress authority over the whole subject, and that other provision of the Constitution which speaks of the appointment of civil officers is not in conflict with it.

Mr. ANTHONY. The Constitution does not read "civil officers;" it says "all officers."

Mr. JONES, of Florida. I know it; but there is a meaning there that cannot be hidden. Congress has power "to provide and maintain a navy." What is a navy? Who is to provide it? What share has the Executive in it? Nothing except what he gets under the authority of the Constitution with respect to his veto; but two-thirds of each House of Congress to-day under the Constitution can create a navy, and with it every officer who in their judgment may be necessary to support it.

It will not do for the Senator to say that that other provision of the Constitution ordinarily relied upon which gives the President power to nominate officers and the Senate to confirm them takes away from Congress this plenary power over the Army and Navy. There is absolute and unqualified jurisdiction here to make an admiral out of a midshipman, to take the case supposed by the Senator from Rhode Island.

Mr. KERNAN. A single word before this vote is taken. Since this motion was entered several of the most estimable and oldest citizens of this District have come to me and said that this bill was right and that they hoped the motion to reconsider would not prevail; that Mr. Nicholson had been in the Navy forty years, and this little irregularity that caused the trouble they vouched publicly and privately was at an entire end; that he had reformed, and was in all respects worthy of the consideration this bill proposed to extend to him.

Mr. ANTHONY. If the officer had never been placed upon the retired list, if he had merely arrived at the stage when he was entitled to promotion, he could not be promoted without the examination of

a board composed of officers his superiors in rank. Now we propose to dispense with that and to promote him by an act of Congress.

I do not agree with my learned friend from Florida as to the construction of the Constitution; but waiving that, if we have the power to do it, it is a most dangerous power to exercise. Has it come to this that acting under personal influences, representations from the most respectable citizens of this District who know nothing about the Navy, we shall put a man over the heads of others? I trust not.

Mr. VOORHEES. Now, Mr. President, a single word. The bill does not put this officer over anybody at all; it simply restores him to the active list from the retired list. As to an examination of a board, this is an appeal from an unjust decision by a board. I do not want to reflect on the board; I will simply state to the Senate that every officer of his grade or above him has testified one way or the other in this case, and it would be an impossible thing to get a board. I hope the Senate will stand by its former vote on this subject and stand by the bill.

Mr. ANTHONY. The Senator from Indiana——

Mr. COCKRELL. I dislike to interfere with my good friend from Rhode Island, but we are under the Anthony rule, and this is his third speech.

The PRESIDENT *pro tempore*. This bill is not under the Anthony rule. This was taken up by unanimous consent, not under the Anthony rule.

Mr. ANTHONY. I shall detain the Senate but a moment. I did not interpose the motion to reconsider for any purpose of delay or to defeat the will of the Senate; but merely to call the attention of the Senate to what it is about to do. My friend from Indiana says that this bill does not place Captain Nicholson above any other officer. It places him over every captain in the Navy.

Mr. VOORHEES. He is already over every captain.

Mr. ANTHONY. But not on the active list. He delays the promotion of every captain in the Navy by one number.

Mr. VOORHEES. Not at all.

Mr. ANTHONY. Certainly it does. When the captain who would be promoted to a commodore comes up he finds this man in his way. It places him over every captain and every officer below the grade of captain; it delays his promotion by one number; and certainly we *ought not* to do that unless he goes through the regular examination that is required of all officers applying for promotion.

I have nothing more to say, Mr. President. If the Senate is determined to destroy the Navy, I cannot help it.

The PRESIDENT *pro tempore*. The question is on the motion to reconsider the vote by which this bill was passed, upon which the yeas and nays have been ordered.

The yeas and nays were taken.

Mr. BALDWIN. I am paired with the Senator from Texas [Mr. COKE] on political questions.

Mr. ANTHONY. I think this is a political question. The Senators on the other side have all voted one way.

Several SENATORS. The Senator from Missouri [Mr. COCKRELL] voted in the affirmative.

Mr. ANTHONY. My friend from Missouri saves the party.

Mr. SAUNDERS. I thought it could not be a political question, and voted; but I am paired with the Senator from Arkansas [Mr. WALKER] on political questions, and withdraw my vote.

The PRESIDENT *pro tempore*. The vote will be withdrawn.

Mr. SAUNDERS. I understand Senators on the opposite side to disclaim any politics in it, and therefore I will let my vote stand.

Mr. BALDWIN. I vote in the affirmative.

The result was announced—yeas 19, nays 29; as follows:

YEAS—19.

Allison,	Carpenter,	Hill of Colorado,	Paddock,
Anthony,	Cockrell,	Ingalls,	Platt,
Baldwin,	Davis of Illinois,	Kirkwood,	Saunders,
Booth,	Dawes,	McMillan,	Teller.
Burnside,	Ferry,	Morrill,	

NAYS—29.

Bailey,	Hampton,	McDonald,	Vance,
Beck,	Harris,	Morgan,	Voorhees,
Brown,	Hereford,	Pendleton,	Wallace,
Call,	Hill of Georgia,	Pryor,	Williams,
Davis of W. Va.,	Johnston,	Randolph,	Withers.
Farley,	Jonas,	Ransom,	
Garland,	Jones of Florida,	Saulsbury,	
Groome,	Kernan,	Slater,	

ABSENT—28.

Bayard,	Coke,	Jones of Nevada,	Rollins,
Blaine,	Conkling,	Kellogg,	Sharon,
Blair,	Eaton,	Lamar,	Thurman,
Bruce,	Edmunds,	Logan,	Vest,
Butler,	Grover,	McPherson,	Walker,
Cameron of Pa.,	Hamlin,	Maxey,	Whyte,
Cameron of Wis.,	Hoar,	Plumb,	Windom.

So the motion to reconsider was not agreed to.

LANDS AT GREAT FALLS.

The PRESIDENT *pro tempore*. The first bill regularly in order on the Calendar will be called under the Anthony rule.

The joint resolution (S. R. No. 90) directing the Attorney-General of the United States to take steps for the condemnation of certain lands, and for other purposes, was considered as in Committee of the Whole. It proposes to direct the Attorney-General of the United States to take such steps as may be necessary for the condemnation of the land upon which the dam across the Maryland channel of the Potomac at the Great Falls rest, and such other lands as the engineer in charge of the aqueduct may report to him as necessary for the extension of the dam across Conn's Island to the Virginia shore. He is also to investigate and report to Congress whether the United States is legally liable to the Chesapeake and Ohio Canal Company for repairs of any of the dams of that company, or legally liable to the company on any other account by reason of the construction of the aqueduct and the dam at Great Falls.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

BINDING FOR DEPARTMENTAL LIBRARIES.

The next bill on the Calendar was the bill (S. No. 1435) to amend an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1879," approved June 20, 1878; which was considered as in Committee of the Whole.

In addition to the exemption of the Congressional Library from the restriction imposed by chapter 359 of the act of Congress approved June 20, 1878, in relation to the binding done for the Departments, and the exemption from that restriction of the library of the Patent Office and of the library of the Department of State by chapter 106 of the act of Congress approved February 26, 1879, the act approved June 20, 1878, is by this bill amended so as to exempt from the restriction the library of the Navy Department, the library of the War Department, and the library of the Department of the Interior.

Mr. ANTHONY. Some time since Congress in an unwise fit of economy enacted upon an appropriation bill that no binding should be done for any of the Departments except in cloth. Now, the binding of books in a library is very inefficiently done in cloth. It is necessary for the preservation of the books that they should be bound in leather; and there are in all these libraries series of books which have previously been bound in leather and which now by law can only be bound in cloth. Several of the libraries have been exempted from the provisions of that act, and this is to exempt the other libraries of the Departments. It does not extend to books for the use of the Departments or for circulation.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

CLASSICAL ANTIQUITIES.

The next bill on the Calendar was the bill (H. R. No. 2524) in relation to the importation of classical antiquities; which was considered as in Committee of the Whole.

The bill was reported from the Committee on Finance with amendments, in section 1, line 3, after the word "no," to strike out "duty" and insert "duties shall;" and in line 5, after the word "duty," to insert "and the term 'objects of classical antiquity,' as here used, shall be understood to include all such articles whether manufactured or produced before or during the mediæval period;" so as to make the clause read:

That no duties shall be levied or collected on any objects of classical antiquity imported into the United States, but the same shall be wholly exempt from duty; and the term "objects of classical antiquity," as here used, shall be understood to include all such articles whether manufactured or produced before or during the mediæval period.

The amendments were agreed to.

Mr. INGALLS. I wish the Senator from Vermont, [Mr. MORRILL,] who I believe is the sponsor of this bill, would state what is intended by the last amendment—it seems to be incongruous with the title—providing that this class of works of art shall be imported free of duty whether they were constructed before or since the mediæval period. Is that intended to allow the introduction of works of art constructed at any time? What is it intended to cover? I understand there are extensive manufactories of antiquities in Italy and other parts of Europe which are conducted at great profit to the proprietors; I do not know but that this may be intended to cover that class of works of art.

Mr. MORRILL. I do not feel any deep interest in this bill. It was reported, I believe, unanimously by the Committee on Finance, and I reported it by their direction. These words are used because there is some question as to what shall be considered a work of classical antiquity. The technical meaning of it would perhaps confine it to works prior to the mediæval period, and this amendment is inserted at the request of the Treasury Department in order that if they really are objects of classical antiquity they shall be allowed to come in free, even if they were produced since the tenth or twelfth century.

Mr. INGALLS. Would it affect the Egyptian obelisk?

Mr. MORRILL. I hardly think the Egyptian obelisk would be considered a classical antiquity.

The PRESIDENT *pro tempore*. The Chair finds on the table a printed amendment submitted by the Senator from Iowa, [Mr. KIRKWOOD,] but it has not been offered.

Mr. KIRKWOOD. I desire to offer that amendment.

The PRESIDENT *pro tempore*. The Senator from Iowa offers an amendment, which will be read.

The CHIEF CLERK. At the end of section 1 it is proposed to insert:

SEC. 2. That section 3022 of the Revised Statutes is hereby amended so as to read as follows:

"Imported salt in bond may be used in curing fish taken by vessels licensed to engage in the fisheries, under such regulations as the Secretary of the Treasury shall prescribe, and upon proof that the salt has been used in curing fish the duties on the same shall be remitted; and exporters of meats, whether packed or smoked, which have been cured in the United States with imported salt, shall upon proof, under such regulations as the Secretary of the Treasury shall prescribe, that such meats have been cured with imported salt, have refunded to them from the Treasury the duties paid on the salt so used in curing such exported meats."

SEC. 3. That all provisions of law inconsistent herewith are hereby repealed.

Mr. MORRILL. I have no objection to this amendment, and indeed I think it will be a very proper amendment to a bill concerning the revenue laws; but my apprehension is that if it is placed upon this bill it will kill the bill. The bill will not be acted upon by the House if it should be returned with an amendment of that kind upon it.

Mr. HEREFORD. It seems to me this is rather a singular mixture.

Mr. KIRKWOOD. That may be.

Mr. HEREFORD. I do not see why the Senator wants to put salt on such a bill as this. This is not the way to act on the tariff question.

Mr. BECK. The first classical antiquity we know of was a pillar of salt. [Laughter.]

Mr. HEREFORD. They did not use that pillar of salt to cure beef. [Laughter.] They did not mix it up with works of art. That pillar of salt was the result of disobedience to a divine law. It seems to me there is great incongruity between the amendment and the bill. I hope the amendment will not prevail.

Mr. KIRKWOOD. The Senator from Kentucky has very correctly said that these subjects are intimately connected. We learn by the Good Book that long ago, where the Dead Sea now is, perhaps, there was a statue in salt; and I suppose if the taste of the old times for beauty was as good as it was for piety, it was a very beautiful statue, that of Lot's wife. That statue has been lost, I believe. It may be discovered in the numerous discoveries going on nowadays of things that have been hidden for a very long time; and that may raise the question, if it should come to this country, whether it should be admissible free of duty or not.

But, Mr. President, seriously, we all know that in this House we have no power on the subject of the tariff except as it is afforded to us by the House of Representatives sending here bills that we may amend. I wish the Senator from West Virginia to understand that no attack is made on the duty on salt here. I can understand his sensitiveness very well. They make salt in West Virginia; and if this amendment proposed to repeal the duty on salt, I could understand why he would be sensitive on the subject, because it would be, in the language of the day, attacking an interest of his people. The amendment does not propose that at all.

I had occasion to say a few days ago in regard to this matter that finding that the question whether or not the duty on salt should be repealed was agitated in the other end of the Capitol I looked into the law in regard to that subject. I found that the tariff upon salt is so much per hundred pounds—eight cents if brought in in bulk and twelve cents if in packages. I found another thing that struck me with surprise at the time, that the duty upon salt used in curing fish was remitted. Foreign salt may be used in curing fish caught upon our coast and the fish may be exported or sold at home, and the duty upon the salt thus used is remitted. It struck me that as a large interest of our country is involved in curing meats for exportation, and as for the purpose of curing the meats in such way as to make them acceptable for the foreign market they must be cured with foreign salt, whether there is a tariff upon that salt or not, and they are so cured, it would be but fair and right in the interest of the men who produce the hogs and the cattle that are thus cured that the duty paid on the foreign salt used in curing that meat should be remitted as well as the duty on the salt used in curing fish.

As I said before, it does not affect the question of the tariff upon salt at all. It does not take any protection away from the men who make salt that they have to-day; but in the various protections that are given to various interests in the country it does do a little for the men in the Northwest and the Southwest and elsewhere who grow the animals whose meat is cured, and the men who are engaged in curing it. It does a little for them.

Now why should it not be done? We cannot originate a bill of that kind here, and the only chance of doing anything in that direction here is to do as I have tried to do in this case; when the House of Representatives send to us a bill touching a question of the tariff we may amend it. It seems to me that it is really more important to the business interests of this country and the welfare of the country that this amendment should be passed than that the original bill should.

The question is for the Senate. If I struck at the salt interest, if I struck at the interest of the salt-makers, I should expect an opposition; but I do not. I strike at no existing interest. But to repeat what I said before, to show the extent of this matter, let me say that when I was investigating this question I wrote to a packing establishment at Cedar Rapids, in the county adjoining the one in which I live—my colleague knows it very well—to inquire to what extent foreign salt was used there in curing meat, and to my utter astonishment I learned that in thirteen months, including the months of 1879 and January of 1880, two hundred and forty-five car-loads of foreign salt were used by that single establishment, and that is a very small establishment compared to those in Chicago and elsewhere in the West engaged in packing meats. These gentlemen tell me that to secure a foreign market for their meats cured at home they must cure them with foreign salt.

The PRESIDENT *pro tempore*. The Senator's time is up.

Mr. MORRILL. This bill is of very little importance, and the only importance there is to it is to enable institutions in the interior part of our country to obtain these articles of classical antiquity that are dug up at Herculaneum and some of the articles that have been found at the new Troy by Schliemann and in various other parts of the world that are desired by various museums which are unable to send abroad and import these articles but find them in the hands of dealers, and they desire to have an opportunity to purchase them without sending abroad purposely after them.

The amendment of my friend from Iowa, it seems to me, is too good a one to be harnessed to this bill, for I have no doubt that if it shall be connected with the bill it is the last we shall hear of it. It will not pass. The Senate can judge whether——

Mr. KIRKWOOD. Will the Senator allow me to interrupt him?

Mr. MORRILL. Certainly.

Mr. KIRKWOOD. Do not all museums and all institutions of learning of all kinds in the country to-day receive these things free of duty.

Mr. MORRILL. No, sir.

Mr. KIRKWOOD. If I understand the law every public institution, every museum can receive these classical antiquities free of duty, and the bill is not for their benefit as I understand, but to enable dealers to import them free of duty, and men who have money to invest in that kind of way for their private gratification to invest it without paying their share of the public revenue.

Mr. MORRILL. Undoubtedly it is also to enable dealers to import these articles, because if there were no dealers there would be no opportunity for either private individuals or these institutions to obtain these articles. However, as I have said, I do not take a deep interest in the bill; I do not regard it as of any very great importance. It was thought at the Treasury Department that something of this kind ought to be passed in order to more accurately define what shall be considered classical antiquities. But I merely desired to suggest to my friend that I think he jeopardizes the passage of the bill, and will not benefit the cause he is advocating by his amendment.

Mr. McDONALD. Mr. President, I am decidedly in favor of the amendment of the Senator from Iowa to this bill or to any other bill to which it can be attached. The question is one to which I have given some attention.

At the beginning of this session a bill to extend the right of drawback to salt used in curing beef and pork was introduced in the House of Representatives. No action has been had upon it, so far as I know, in that body. For the purpose of bringing the subject before the Senate in some form, some time ago I introduced a bill in the Senate amending the section of the Revised Statutes so that this right should be secured. It went to the Committee on Finance, and after consideration there it was reported back to the Senate adversely, on the ground that it was a bill affecting the revenue and therefore had to originate in the House of Representatives.

I have no complaint whatever to make that those who are engaged in catching and curing fish have salt duty free to cure their fish with. I have no desire to impose any burden or throw any additional impediment in their way; but I am unable to see why that particular branch of industry, important as it is, should secure this special advantage and privilege, and the entire Northwest suffer under the very onerous restrictions of the tariff, as it now is, upon foreign salt.

My investigation into the matter satisfies me that the Senator from Iowa has not overstated the case when he says that it is a heavy impost upon one of the most important industries of the Northwest, and it ought not to exist in my opinion any longer than it is possible to remedy it. Therefore I am willing, inasmuch as we cannot take up this subject originally in the Senate, to put it upon any bill that the House may send us upon that or any kindred subject to which we can attach this reformation.

I believe the amendment ought to be adopted and the bill in that form passed, and if that were done it would render this bill one of very great importance to the country; in its present form it is more ornamental than useful.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Iowa, [Mr. KIRKWOOD.]

The amendment was agreed to.

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. The question is on concurring in the amendments made as in Committee of the Whole.

Mr. KERNAN. I am friendly enough to allowing the drawback, but I ask the Senator not to put it on this bill. I am not one of those who care much about the antiquities, but I do know that the press in my State and some gentlemen of culture and some societies have asked that a bill be passed such as this was without the amendment. The chairman of the Committee on Finance [Mr. BAYARD] is not here. We reported it favorably without dissent, and I do not think it is worth while to kill the bill by putting on this amendment which will

lead to discussion. I hope salt will stand on its merits, if it has merits, and I am in favor of giving the drawback, but I do not think we are legislating in the right direction when we put it on this bill. Therefore I hope we shall vote down the amendment.

I ask for the yeas and nays on concurring in the amendment.

The PRESIDENT *pro tempore*. The Senator from New York demands a separate vote on the amendment offered by the Senator from Iowa. The Chair will first put the question on concurring in the other amendments.

The other amendments made as in Committee of the Whole were concurred in.

The PRESIDENT *pro tempore*. The question now is on the amendment inserted on motion of the Senator from Iowa, [Mr. KIRKWOOD.]

Mr. MAXEY. I desire to say in connection with the amendment offered by the Senator from Iowa that as the law now stands it is this: free salt for New England fish, taxed salt for western beef. For that reason I shall vote for the amendment of the Senator from Iowa.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment offered in Committee of the Whole by the Senator from Iowa, [Mr. KIRKWOOD.] The Senator from New York [Mr. KERNAN] asks for the yeas and nays.

The yeas and nays were ordered.

Mr. HEREFORD. I would vote for this bill as it came from the House if you did not put this amendment on it. I do not see why the Senator from Iowa should put free salt into the bill. If anything will kill the bill this will kill it.

Mr. KIRKWOOD. Why?

Mr. HEREFORD. Because, if not out of order, I will say that it will never be concurred in by the House. I am opposed to striking down one of our great interests to build up another. This amendment does that; therefore I shall vote against the amendment and the bill also if this amendment should be tacked on it.

Mr. DAVIS, of Illinois. I wish to make a point of order on the Senator from West Virginia [Mr. HEREFORD] under the Anthony rule. This is his second speaking, and it is pretty nearly half past one. I make the point whether he has a right to speak now.

Mr. HEREFORD. I cannot vote for the bill with this amendment. All interests in the United States should be protected alike.

The Secretary proceeded to call the roll.

Mr. MAXEY, (when Mr. COKE's name was called.) I desire to state on this important vote that my colleague [Mr. COKE] has been called home by a family affliction. If present, he would vote "yea."

The roll-call was concluded; and the result was announced—yeas 37, nays 7; as follows:

YEAS—37.

Allison,	Harris,	Morgan,	Teller,
Beck,	Hill of Georgia,	Morrill,	Thurman,
Booth,	Ingalls,	Paddock,	Vance,
Brown,	Johnston,	Pendleton,	Voorhees,
Burnside,	Jonas,	Pryor,	Wallace,
Carpenter,	Jones of Florida,	Randolph,	Williams,
Cockrell,	Kirkwood,	Rollins,	Withers.
Davis of Illinois,	McDonald,	Saulsbury,	
Garland,	McMillan,	Saunders,	
Groome,	Maxey,	Slater,	

NAYS—7.

Baldwin,	Farley,	Hampton,	Kernan.
Davis of W. Va.,	Ferry,	Hereford,	

ABSENT—32.

Anthony,	Cameron of Pa.,	Hamlin,	Platt,
Bailey,	Cameron of Wis.,	Hill of Colorado,	Plumb,
Bayard,	Coke,	Hoar,	Ransom,
Blaine,	Conkling,	Jones of Nevada,	Sharon,
Blair,	Dawes,	Kellogg,	Vest,
Bruce,	Eaton,	Lamar,	Walker,
Butler,	Edmunds,	Logan,	Whyte,
Call,	Grover,	McPherson,	Windom.

So the amendment was concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. KIRKWOOD. I move to amend the title by adding "and for other purposes."

Mr. KERNAN. "And to make salt free" perhaps should be added.

The PRESIDENT *pro tempore*. The title will be amended as suggested by the Senator from Iowa, if there be no objection.

HOUSE BILL REFERRED.

The bill (H. R. No. 6018) for the relief of Benjamin Babb and others was read twice by its title, and referred to the Committee on Claims.

SMITHSONIAN ETHNOLOGICAL BUREAU.

The PRESIDENT *pro tempore* laid before the Senate the following concurrent resolution of the House of Representatives; which was referred to the Committee on Printing:

Resolved by the House of Representatives, (the Senate concurring,) That there be printed at the Government Printing Office 15,000 copies of the annual report of the director of the bureau of ethnology of the Smithsonian Institution, with the necessary illustrations; 7,000 copies of which shall be for the use of the House of Representatives, 3,000 copies for the use of the Senate, and 5,000 for distribution by the Smithsonian Institution.

ANNIVERSARY OF ANDRÉ'S CAPTURE.

The PRESIDENT *pro tempore* laid before the Senate the following concurrent resolution of the House of Representatives:

Resolved by the House of Representatives, (the Senate concurring,) That the President of the Senate and the Speaker of the House of Representatives are hereby requested to represent the Congress of the United States at the centennial anniversary of the capture of André, to be held at Tarrytown, in the State of New York, on the 23d day of September next.

Mr. KERNAN. I am asked by the member representing the district in which Tarrytown is—that being a mere resolution to invite the Speaker and President of the Senate to attend—to have it considered now.

The PRESIDENT *pro tempore*. It requires unanimous consent. The Senator from New York asks for the present consideration of this concurrent resolution.

The Chief Clerk read the resolution.

The PRESIDENT *pro tempore*. The Chair would suggest that there is some ambiguity about the resolution. Probably it is intended that the Vice-President of the United States shall attend.

Mr. KERNAN. The House ask us to pass it.

Mr. DAVIS, of Illinois. The Vice-President is President of the Senate.

The PRESIDENT *pro tempore*. He is President of the Senate. If there be no objection, the Chair will put the question.

The resolution was concurred in.

SOLDIERS' REUNION AT DECATUR, ILLINOIS.

The PRESIDENT *pro tempore*. The unfinished business is the sundry civil appropriation bill.

Mr. DAVIS, of Illinois. With the consent of the Senator from Kentucky, I would ask that a joint resolution be taken from the table and passed. It simply relates to flags and other things to be loaned to a soldiers' reunion at Decatur, Illinois.

Mr. BECK. I will give way for a little matter like that, which does not take up much time.

Mr. MAXEY. I hope that will be done. The Military Committee, in order to accommodate the Senator from Illinois, took that joint resolution up, and there is no objection to it.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 316) granting the use of artillery, muskets, and tents at the soldiers' reunion at Decatur, Illinois.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

DUTIES ON HOOP-IRON.

Mr. KERNAN. The Senator from Kentucky gives way to allow me to ask the Senate to consider a joint resolution as to hoop-iron. I am sure on being read it will be passed without objection. It is House joint resolution No. 322, the last one on the Calendar.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 322) for the relief of certain persons in respect of duties demanded of them upon the import of certain articles named therein.

The preamble recites that by a circular of the Secretary of the Treasury issued in 1878, after a decision of a case between the United States and an importer in the circuit court of the United States for the southern district of New York, all the articles named in the following resolution were directed to be imported on payment of a duty of 35 per cent. *ad valorem;* that the Secretary of the Treasury, by letter of March 12, 1880, to the House of Representatives, has communicated his purpose to revoke the circular and subject these articles to the specific duty imposed by existing law on all band, hoop, and scroll iron; and that it is represented that, confiding in the circular, certain parties have contracted for such articles to be imported under the duty of 35 per cent. *ad valorem*, and it is right and proper to relieve them from the effect of the change of orders by the Secretary of the Treasury upon his construction of the existing law, but without intending to alter existing law, or to interpret by legislative act the effect thereof, leaving that to the judicial tribunals, except as to the special cases herein provided for. The resolution therefore directs the Secretary of the Treasury to cause to be levied upon all articles under the designation of "cut hoops," "hoops cut to length," "hoops cut and punched," and "barrel-hoops" the duty of 35 per cent. *ad valorem*, which shall be shown to the satisfaction of the Secretary of the Treasury to have been ordered under *bona fide* and absolute contracts made and entered into prior to March 12, 1880, and which shall be imported from any foreign country into the United States prior to the 1st day of January, 1881. And the amount of any duties in excess of 35 per cent. *ad valorem*, paid since the 12th of March, 1880, upon any of the articles hereinbefore named which shall be shown to have been imported under such contracts, is to be refunded to the parties entitled thereto.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

THE BRIG GENERAL ARMSTRONG.

Mr. PENDLETON. I ask unanimous consent to take up for consideration Senate bill No. 1441. It is the next bill on the Calendar to that which was considered.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) Is there

objection to proceeding to the consideration of the bill named by the Senator from Ohio? It will be reported by its title for information.

Mr. TELLER. Why not take up all the Calendar?

Mr. PENDLETON. It is a Senate bill, and has to go to the other House.

The Chief Clerk read the title of the bill (S. No. 1441) for the relief of the captain, owners, officers, and crew of the late United States private-armed brig General Armstrong, their heirs, executors, administrators, or assigns.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. PLATT. I object.

The PRESIDING OFFICER. The Senator from Connecticut objects.

JOSEPH R. SHANNON.

Mr. TELLER. The bill (S. No. 33) to ascertain the amount of the claim of Joseph R. Shannon, of Louisiana, has been before the Senate and partially considered——

Mr. BECK. I think we ought to go on with the appropriation bill now.

Mr. TELLER. I am not asking to take up the bill. I simply ask that it may be replaced at the head of the Calendar, where it was when it was recommitted to the Committee on Claims for a special purpose the other morning.

The PRESIDING OFFICER. Is there unanimous consent that the bill named by the Senator from Colorado be placed at the head of the Calendar? If there be no objection it will be so ordered. The Chair hears no objection, and the order will be made.

SUNDRY CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 6266) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, the pending question being on the amendment proposed by Mr. KERNAN, to insert after line 753:

To enable the Secretary of War to continue the tests of iron and steel, $20,000.

Mr. BECK. I desire to say that I looked into this matter somewhat this morning, and, as far as I am able to ascertain, this testing-machine is being used by the United States principally, indeed I think altogether, for the benefit of private persons or corporations; that it is not now being used to any extent, perhaps not at all, for anything pertaining to the service of the United States. While the tests that are made by this machine are doubtless valuable, I think the letter of the Secretary of War substantially states the fact that the great use of it is to railroad and other companies to test the strength of their iron. He states that the Ashtabula bridge and many others indeed by reason of false tests of metal have lost large sums of money and the country has suffered a great deal. The tests of this machine, as he says, show that large bars break under a much less strain than has heretofore been accepted as their actual strength, many breaking with from six to eight tenths of the load they were expected to bear.

I am not sure that this is a matter that ought to be put on this bill, the machine not seeming to be used for the public interests, but for the interest of others. I ought to add that it appears to me to be a very wonderful machine. I examined it with great care. The claim, I believe, is before the Committee on Claims.

Mr. COCKRELL. Yes, sir, for $200,000.

Mr. BECK. There is a claim for $200,000 by a gentleman by the name of Emory before the Committee on Claims, and there seems, as far as I can observe, to be a great deal of merit in it. He was the inventor of the machine, I believe. While we could not consider that in our committee a good deal of information was obtained by the committee in an examination of this matter; and by looking over it it seems to be highly meritorious and valuable. It is for the Senate to determine, after the statement I have made, whether it is well to charge the public with this appropriation or not.

Mr. COCKRELL. The bill for the relief of Mr. Emory has been referred to the Committee on Claims and has not been reported back. There was originally an appropriation of $25,000 made for constructing a testing-machine at Watertown arsenal, and then there was an additional appropriation of $6,500 or $7,000. That was all expended, and after a considerable lapse of time this machine was perfected. There were appropriations for experimenting in the mean time. The machine has been perfected and the constructor claims that he expended something like $100,000 in the construction of the machine. That it is a very valuable one there is no doubt. As to the merits of the claim, that is not here now. That belongs to an entirely different committee and has nothing to do with this case. This is certainly a very valuable machine, and there ought to be some appropriation for the purpose of using it; but whether $20,000 is not an excessive appropriation I am not sure. There ought to be a sufficient amount appropriated to enable the Government to go on testing the strength of the various kinds of material used not only by the Government but by others who may desire it.

Mr. KERNAN. If Senators will look on the last page of to-day's RECORD they will see that I read yesterday from the estimates as to the importance of having this machine used by the Government, and as to the necessity of it. I read from page 82 of the estimates:

United States testing-machine:

Caring for, preserving, using, and manipulating the United States testing-machine at Watertown arsenal, $20,000.

Then there is this note appended:

This machine is too valuable to be permitted to stand idle. The determinations that may be made by it will be of value to the different Departments of the Government, as well as to the public generally. A much larger amount might be expended to great advantage.

I read also, which is on the last page of the RECORD, the letter of the Secretary of War in answer to my inquiry before I put in this amendment to know if they wanted it, and you will find his letter dated yesterday in the RECORD. In that letter he says that it is used for the Government, and that it is also very useful in furnishing information and correcting misinformation in reference to the strength of iron used in railroad bridges. He says:

It is stated by reliable authorities that two hundred railroad bridges have fallen within ten years; a single one of these, the Ashtabula bridge, caused an estimated loss of about $2,000,000—over $750,000 having been paid for loss of life and limb alone in that accident. These trials and tests of metals are absolutely necessary to determine the strength of material and prevent such accidents.

He also says:

Miscellaneous Document No. 38 of Forty-fourth Congress, second session, gives the written opinions of scientific and industrial associations in favor of an appropriation of $50,000 to be used in experiments.

Instead of $20,000, as my amendment provides. Surely if we need the machine for the Government, and owning it ourselves we can furnish information which is for the protection of life and property in reference to the strength of iron in our numerous bridges, we cannot make a more useful appropriation of money than to have the Government use its own machine, and not have it lie idle, as the Secretary says it should not, and we should give this information for the benefit of all. Observe, it is said that a much larger sum could be used to advantage.

Mr. COCKRELL. I understand that this machine is perfected and that the Government is using it in testing any material it is using in the construction of any works ordered by Congress or necessary for the Government. I also understand that the Government is using it for the purpose of testing materials for private individuals when they pay the actual cost of the test. The question is before the Committee on Claims as to the extent of the use of this machine by the Government for other purposes than its own. I cannot say how much will be required for the purpose, but the machine certainly ought to be in use whenever its use is required, either by the Government or by private individuals, until some other machine of the kind is constructed. There is no other such machine in the United States or in the world.

Mr. KERNAN. Allow me to say in answer that the note to the estimate says that a much larger amount can be expended to great advantage, but the Department ask for $20,000.

Mr. COCKRELL. I have no doubt that they might expend $100,000 in testing all kinds of metals of all kinds of shape and form, but the question is, what is absolutely necessary.

Mr. KERNAN. It is worth all the agricultural reports to get accurate statistics on the strength of iron in this age of building.

Mr. WALLACE. I regard this as a most meritorious invention, one that has not been equaled in the history of this country in regard to its value. Its inventor has at large expense to himself and at the request of officials of the Government created and constructed this machine. It is now in the custody of the Government and very valuable results are coming from it. The question now submitted is not of payment for the services and expenditures that he has performed for the Government, but it is simply that the Government may continue to use this machine in the protection of life and property. It seems to me that while we have taken from him his time and his labor, his brain and his energy, and we hesitate about paying him for that to which he is undoubtedly as much entitled as ever any man was who devoted his talents to the best interests of this Government in invention, we ought at least to be willing to continue to test the value of this machine in the field in which it belongs.

It seems to me that this appropriation is one that is eminently proper and just to be made. I have no hesitation in saying on the part of those whom I represent that I think it is one that the Government ought to fully sustain in every way in which we can sustain it here. This appropriation is a comparatively small one, and I think it ought not to be reduced in amount, but that the amendment ought to go in without any hesitation for the purpose of continuing the testing that has gone on in the past.

Mr. TELLER. My tastes, and not my business, have inclined me to look for some years into the question of the strength of iron. It has been apparent to every person who has examined the subject that our engineers are greatly overestimating the strength of both iron and steel in the construction of bridges, especially railway bridges. This machine is one that enables a test to be made of all classes of material that enter into all kinds of structures, not only railways, but in public buildings, where iron is so largely used. This machine having been perfected at great expense, and now being the only one that there is and will be for some little time, and inasmuch as the Department say that this amount of money, $20,000, is no more than they need, and not as much, perhaps, as they ought to have, it seems to me that it would be very poor economy for us to cut down the amount of the estimate. It seems to me that we ought to appropriate the $20,000 estimated for. I am not speaking of the claim of the gentleman.

Mr. KERNAN. That has nothing to do with this question.

Mr. TELLER. When that comes here I propose to say something on it. But this is a matter of national importance, and $20,000 is certainly a very small sum if the Government can use the machine. If they can use it at all it will return tenfold benefit and advantage to the country, and they say they can use it.

Mr. WITHERS. I presume this amendment, like the others, will pass, but before the vote is taken I want it understood that it is a proposition to pay $20,000 for work to be done by this machine in which the Government has not the slightest interest. It did not appear to the committee, who examined this matter pretty carefully, that the Government had any use whatever for this machine at present in testing any work in which the Government is interested; but it is claimed that the Government, being in possession of this valuable instrument, because it is a valuable one no doubt, ought to appropriate $20,000 in order to enable outside parties, private individuals and corporations, to have the benefit of this testing-machine for their own private operations. That is the whole of it. If Congress desires to make an appropriation for such a purpose, well and good; but I want it understood that the Government has no work which demands it now.

Mr. KERNAN. The same amount only is asked that we have given to have a frolic in celebrating the Yorktown monument, and I think it helps the country more.

Mr. ALLISON obtained the floor.

Mr. WITHERS. I claim to reply to that last taunt of the Senator from New York. I say that the Senate did well to appropriate $20,000 to entertain the guests of the nation when they came here to celebrate the anniversary of a victory the greatest and most glorious in our national history, and but for which alone we would have had no national history. I say that is not to be compared to this proposition, which is to test metals for private individuals or for private corporations, wherein the Government has not the slightest interest.

Mr. KERNAN. I only want to state that I did not say anything against the Yorktown appropriation, but only said that this is very useful to the public, and I doubted somewhat whether the other was as useful.

Mr. WITHERS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield further?

Mr. ALLISON. I would be glad to yield until we could settle the question of Yorktown, but I would remind my friend from New York that we also provided for a monument for General Herkimer.

Mr. KERNAN. Certainly, and I am thankful for it.

Mr. ALLISON. And we also provided for a monument this morning for Bennington, Vermont; so I think we have been quite liberal on the question of monuments.

Mr. COCKRELL. And antiquities.

Mr. ALLISON. And antiquities, as my friend suggests.

The Senator from Virginia has fallen into an error with reference to the use of this machine. In 1878 by law we authorized private parties and corporations, as he suggests, to have their iron and steel tested with this machine, but we required them to pay the cost of it to the Government.

Mr. KERNAN. They do.

Mr. ALLISON. Every corporation, every man who uses this machine, except the Government of the United States, is bound to pay into the Treasury the cost of using the machine. As I understand the proposed amendment of the Senator from New York, it is to allow the Government itself, for its own uses and purposes outside of the uses of corporations, to test this machine, to so take care of it and preserve it.

Mr. KERNAN. Just as the estimate reads.

Mr. ALLISON. Therefore it seems to me that the suggestion made by the Senator from Virginia has no application to the present appropriation. I have had occasion to examine this matter very carefully, as Senators on the Committee on Appropriations very well know; we have all had occasion to examine it, more or less; and I am satisfied that we cannot very well judge here just how much should be appropriated. We must do in this instance as we do in almost every instance, we must rely upon the proper authority of the Government having these subjects in charge to estimate the amounts necessary to be used. The Engineer Department of the Government have recommended this machine very highly. The chief of the Ordnance Bureau, General Benét, has recommended it very highly as a very valuable machine to be used by the Government in testing iron and steel. They say that $20,000 ought to be appropriated. It seems to me if we appropriate any sum we had better appropriate the amount they ask for. Of course if the full amount is not needed, it will not be used.

Mr. WITHERS. I wish to say, in reply to the statement of the Senator from Iowa, that not one word that he has said, so far as it strikes my judgment, affects at all the argument which I adduced. If this machine is used simply for testing iron and steel for private parties, and they are required to pay all the expenses of it, whence arises the necessity for making the appropriation? They ask for an appropriation; but there has been no response to my inquiry. It was said that the Government had no use for it at all; in other words, that the Government had no work now in progress which required the capacities of this instrument to be tested by application to the metals involved in the construction of a work. That is the sole point. It is not either for preservation, as the Senator from Iowa suggested. There is no such suggestion in the proposition made by the Secretary of War. It is simply for testing, and as the Government has no public work in progress of construction which requires the use of this testing-machine, and as private individuals under the law are required to pay the expenses of the test when it is for their benefit alone, I see no use in making the appropriation.

Mr. KERNAN. This machine belongs to the Government of the United States, as I am informed by this same gentleman, Mr. Emory. They ordered it for their own use. I will read the estimate which will be found on the last page of the RECORD, taken from page 82 of the estimates:

United States testing-machine:
Caring for, preserving, using, and manipulating the United States testing-machine at Watertown arsenal, $20,000.

Mr. EATON. I have only a word, sir. In my opinion this appropriation ought to be made. This is the most extraordinary machine in this or any other land; and I shall not only vote for this appropriation, but so soon as I have an opportunity I shall vote to pay that man $100,000 for the money and the brains which he has expended for the benefit of this country. Just so soon as I can get to vote I shall vote for it. It belongs to him.

I undertake to say that in the great works the Government now has in hand, in the $100,000 of iron that it is about to purchase for use here in Washington City, it ought to know the strength of the iron that it puts in its new buildings here and everywhere else where we are building, so as to know exactly the resistance which the iron which we shall purchase to-morrow will bear before we buy. Let us know it; let us test it. This machine will do it. It will test the strength of a bar of iron as large as the body of any man in the world, or the strength of the finest needle that can be made out of steel, so fine is it in its operations as that.

Sir, I hope we shall use this machine; let us use it. If it be necessary to use it for the benefit of the people, let us do it. As we appropriate gladly money to take care of the cotton-worm in the South or the bug of the Rocky Mountains, let us do this for the benefit of all the people of the land.

Mr. McPHERSON. I should like to make the inquiry of the Senator from Connecticut whether it would be possible by this machine to test the resisting power of the turrets for our new monitors, if we shall ever be able to get any such.

Mr. TELLER. Undoubtedly.

Mr. EATON. Beyond a question; but there is one thing that it cannot do, I will inform my honorable friend, the chairman of the Committee on Naval Affairs; it cannot test the fact whether these things that you call double-turreted monitors will sink or not when they leave the wharf.

Mr. BROWN. I rise to make a practical inquiry or two in reference to this machine. It was not my good fortune to be on the committee; and I have but little information in reference to the machine. I do not know its size, its weight, its location, or anything about the practical mode of making the tests. If I am correctly informed, it has a location; it is located at Watertown arsenal, Massachusetts. I understand it is a machine to test the strength of iron and steel. The fact has been referred to here that a great many railroad bridges are built of iron that is not of the necessary toughness or strength, and that therefore there has frequently been great loss of property and loss of life. That is no doubt true; and if this machine will accomplish the object in view, to wit, the test of all the iron that is put into railroad bridges, then $20,000 is nothing compared with the importance of having the test made.

But let us get at this question practically. The railroad company of which I am president has lately been building some iron bridges in the State of Georgia. Suppose I want to make the test and ascertain the strength and toughness of the iron I am putting into these bridges, how am I to get it made? I suppose the machine is stationary. If I must ship each bar of my iron from Georgia to Massachusetts, and there have the test made and sent back home, by the time I pay the freight both ways it is a very dear test to me. Therefore I can derive no benefit from it if each piece of the iron has to be shipped unless I am located near the machine.

Mr. TELLER. I will suggest to the Senator from Georgia that the usual test is to take a sample as often as the party contracting with the iron establishment wants to have it tested. That is my observation. That would depend upon the contract. Of course it would be impossible to send there from an iron foundery in Georgia all the machinery of a bridge without great expense, but having a few fair samples of the iron of the bridge, of the different parts of it, it is fair to presume that the test then furnished would apply to the whole bridge. Of course this test cannot descend to the minutiæ of it unless each manufacturer has one of these machines at his place, which he ought to have, and which he ultimately will have undoubtedly. The Government is not expected to try the whole of the material, but if there are iron-works in Georgia, and they would like to have a sample of their iron tested, they will send it from Georgia and the Government will test it and charge just what it costs, and nothing more.

Mr. BROWN. I thank the Senator from Colorado for the information, but it still does not meet my objection. Every man who knows anything about bridges and railroading must know that you may take a lot of iron made at the same mill, of apparently the same mate-

rial, and test the different bars, and they are not of the same strength and toughness.

Mr. TELLER. I admit that.

Mr. BROWN. Therefore, we may take a sample out and send it to Massachusetts and have the test made, and it is no test as far as the protection of life and property is concerned. The test of a single bar is not reliable as to the quality of all the iron that is to be put into a particular bridge. If you do not test each bar, you have no guarantee that you are right. For instance, the breaking of a single bar where you can see no possible defect about it many a time causes an accident, and that bar may look as well as any other bar, and it may be the only defective bar in the lot. But as it is not the one sent to the machine, the test of any other bar would be of no value.

You may take the axle of a car, and if it has been worn a little too long it sometimes breaks like glass, and yet you can discover nothing wrong on the outside when you look at it. There is a certain period of time that you may use it safely. Beyond that period you use it at a great risk. Yet there is nothing that appears on the surface that would distinguish that from other axles. Suppose I send one axle and have it tested and the test is all right, and I have another that has this latent defect and it breaks; the test has done me no good, and the same accident may happen as would have happened if I had gone to no expense of a test. Again, in a thousand tons of new rail there may be but a single defective bar. It may not be the one sent to the machine to be tested and it may break, throw off a train, and do immense damage. Therefore unless we can test all the bars there is no practical result by sending and testing a single one. There may be some presumption in favor of a lot of iron, but there is nothing at all conclusive about it. If this machine can be made so common, or, in other words, if it can be constructed in so many places that we can all get at it conveniently and test all the iron that we use in bridges or in railroading, there is no trouble; but I do not see any great practical benefit to result, from one machine located in Massachusetts, to Georgia, Texas, California, or any other part of the United States.

Again, the Government, as I understand it, is not engaged in building railroads. Private corporations are building railroads. If roads were being constructed by the Government of the United States and it would test all the bars that went into the bridges or any other part of the construction it would be very valuable; but as I understand it this $20,000 is to be appropriated simply for the tests to be made by the Government. Tests of what? What is it the Government is building? It is not railroads, for I believe it is not engaged in the construction of any railroads. If we are I am not aware of it, and I should be glad to be put right if we are. We are not building monitors, and, as my friend from Connecticut [Mr. EATON] says, this would not be a test as to whether a monitor would sink or not. Therefore I confess I do not see what practical result is to come from the appropriation of $20,000 simply to make such tests as may be made in Massachusetts. Individuals or companies who are building railroads in that State or who are building bridges near this machine may be benefited; but as they have a right already to have the test made by paying for the simple expense of it, it seems to me there is no great good to result from the appropriation.

I confess I vote reluctantly against a measure of this kind, and yet unwillingly for it unless I can have more information in regard to it.

Mr. CARPENTER. I deem it advisable periodically to call the attention of our strict-construction democratic friends to the Constitution. It is one of those objects of reflection which are always profitable and may sometimes drub our consciences a little when we strike a particular point that is worth considering. We are asked here to appropriate $20,000 because this is a most excellent machine, and my friend from Connecticut, [Mr. EATON,] whose heart is larger than the Treasury of the United States, says he is ready to vote $100,000 to this inventor on the first opportunity that he can get to do it. If the Senator was disposed to give out of his own pocket $100,000 to this inventor, nobody would object; but the Constitution provides that Congress shall have power "to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." I am not aware that Congress has any power to reward an inventor in any other way or beyond what it is authorized to do by that provision of the Constitution. We may give any inventor or any author the exclusive use of his machine or his book for a certain time. Beyond that, I ask the Senator from Connecticut where we get our authority to go?

Mr. EATON. I simply want to tell my friend why I am willing to give $100,000. The Government of the United States entered into a contract with this gentleman to build this machine. He built the machine himself. It cost him more than $130,000, more than the Government paid. Instead of disposing of it, instead of doing the work which it was supposed could be done for $20,000 or $30,000 or $40,000—I have forgotten the exact amount—in two years he gave more than $130,000 of his own money and more than eight years of his time and his brain. It is for that I said the United States under the Constitution, even under the last edition, the Chicago edition of the Constitution of the United States, will have a right to pay a contractor all the money which he has properly expended for the Government.

Mr. CARPENTER. I did not understand the Senator from Connecticut to be speaking about creditors of the United States at all. I misunderstood him undoubtedly. I supposed he was speaking of an act of gratitude and generosity toward this gentleman.

Mr. EATON. Not at all.

Mr. CARPENTER. If the Senator means simply to say that the United States owes this man $100,000, and he will vote to pay it any day, I will vote with him.

Mr. EATON. I know the Senator will.

Mr. ALLISON. I want to call the attention of the Senator from Wisconsin to another fact, that having taken this gentleman's machine, by a law which we passed in 1878 we provided that private parties could come and use this machine owned by the Government by paying the actual cost of testing it, thus depriving him of the use of his invention by selling it to other people who might have used it if the Government had not stepped in with a practical monopoly of it.

Mr. CARPENTER. That law should be repealed.

Mr. BECK. The suggestion last made by the Senator from Iowa is the basis in part of the claim that the inventor now has before the Committee on Claims. That is a separate proposition from this. He does not get the benefit of a dollar of this $20,000. If he did I should feel, after having read all of his papers, very much more inclined to vote for it, because in looking over his papers they showed to my mind that he had made a very wonderful invention, that he had spent a great deal of money, and the Government had got the benefit of it. I hope the Committee on Claims will report that bill and give me a chance to vote for it. Unless I change my mind after reading all I have read I shall certainly vote to give him a liberal compensation; but that we cannot give in an appropriation bill.

I will state simply the reason for reporting against this amendment. The United States are not using for any purpose of their own this machine. They are requiring pay from all the corporations that do use it. We have at the United States arsenal at Watertown provided amply for all the force necessary to preserve and care for the machine. We pay already large salaries for that very purpose and have built handsome buildings to have it cared for. This is just adding $20,000 more to do precisely what it is their duty to do now. There is hardly an arsenal in the United States where there is not a surplus of officers and men who can preserve, care for, manipulate, and do whatever is necessary without any $20,000 about it. They have very often quite liberal supplies of men who are absolutely idle unless they are employed in some work of this sort, and as private persons pay for all that is done for them, and as these arsenals are provided with men and buildings and rations and everything that is needed, why should they not do the work so far as the United States is concerned? When it comes to the question of paying the man what we owe him, and the Committee on Claims reports on that, it is a different proposition.

Mr. TELLER. I think the Senator from Kentucky falls into an error when he says the Government is not using this machine. The Government has been in the habit for many years of testing the strength of iron and steel with very incompetent and inefficient machinery. That I believe is a business followed and practiced to some extent by all nations of the earth. The most valuable reports that engineers get are national reports. In fact there never would be any thorough investigation of these questions unless it were done by this or some other nation.

We have here the most complete and perfect machine, engineers say, in the world, a wonderful machine, passing the comprehension of a man who is not thoroughly educated in engineering, a machine of extraordinary qualities. Shall the Government, for the lack of a little money, let this machine remain idle unless some private individual goes there? The Government should have money to buy iron and to buy steel, and to put them in this machine and test them; and when it has made one hundred tests of one particular bridge it may be safely said then that you have arrived at the strength of that iron under like circumstances, and the necessity for testing every particular piece and every bar is to some extent removed, for that is practically impossible.

I speak because I know a little something about the subject myself. I have given some attention to it, as I said before, not as a matter of business, but as a matter of pleasure to myself for many years, and I have believed, as have distinguished engineers in this country, that we have overestimated the strength of iron and steel. This machine has demonstrated that fact. I want the Government to try a few more experiments. You cannot tell by trying ten pieces of steel or ten pieces of iron, you want to try several hundred, and when you have got through and have examined the fiber, the character of its fracture, you have determined the strength under which it breaks or comes together, whichever way you try it, and then you make an estimate and can get somewhere near the strength of the iron. I think it is very desirable that the money should be given to the Government. I do not believe the Government will waste it.

Mr. BECK. We have taken a good deal of time on this subject, and I hope now we shall have a vote, unless some gentleman desires to speak further.

The PRESIDING OFFICER. The question is on the amendment of the Senator from New York, [Mr. KERNAN.]

The amendment was agreed to.

Mr. BECK. I should like to know, so as to keep the run of it, the language of the amendment we have just adopted, and where it is to be inserted in the bill.

The CHIEF CLERK. After line 753 insert:

To enable the Secretary of War to continue the tests of iron and steel, $20,000.

Mr. BECK. I do not think the amendment as adopted is in proper form, nor does it cover the object intended. Therefore I shall reserve a separate vote in the Senate, if for no other purpose than to amend it properly.

The PRESIDING OFFICER. The Clerk will note the reservation.

Mr. BECK. After line 1548 of the bill I move to insert:

To enable the Secretary of the Senate to pay the assistant librarian of the Senate from July 1, 1880, to June 30, 1881, $1,440.

That is rendered necessary by the action of the Senate appointing an assistant librarian the other day.

The PRESIDING OFFICER. The Chair is informed by the Chief Clerk that there is an amendment already inserted at the point designated by the Senator from Kentucky. The Chair supposes this amendment would come in after that amendment.

Mr. BECK. Let it come in after the amendment that has already been agreed to, under the title "Senate," at the end of line 1548 of the bill.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Kentucky, [Mr. BECK.]

The amendment was agreed to.

Mr. KERNAN. I offer an amendment which was printed and sent to the Committee on Appropriations. After line 634 I move to insert:

Sea-wall at Governor's Island, New York: For completing sea-wall already commenced on west side of the island, and constructing sea-wall on its southeastern portion, $39,000.

Mr. BECK. I desire to know whether that is reported by any committee or whether it is recommended by the Department.

Mr. KERNAN. I will state that it was sent early to the Committee on Appropriations. I offered it at the request of parties who are familiar with the matter. The amount is the same as stated in the estimates. I will read from page 135 of the Book of Estimates:

Sea-wall at Governor's Island, New York: Completing sea-wall already commenced on west side of the island, and constructing sea-wall on its southeastern portion, $39,000.

I have only one additional suggestion to make. Understand this amendment is approved by the War Department, and it is estimated for. I hold in my hand two letters of General Hancock, one of February 9, 1880, and one of May 24, 1880, in which he says, in reply to a member of the House writing to him, that this expenditure is necessary for the preservation and completion of the wall which has been begun. Therefore I sent the amendment to the committee, and I offer it here.

Mr. BECK. There were no facts laid before us, or before the other House, so far as I know from any paper we saw, showing the importance of this being done now. The Book of Estimates is full of things of that sort; there are not less than $100,000,000 in it. If all the recommendations and suggestions of the different Departments are to be put on because they have been thus far suggested, the bill will not contain less than $50,000,000. A Senator or Representative can go and ask them to recommend at his request, and they will say kind words about everything that they have recommended or suggested, and they will ask the highest amounts for everything. If this had been important, some officer of the War Department, somebody would have come before the Committee on Appropriations and made the fact known. It is very seldom that on anything that is really urgent they fail to express their wish with due zeal.

We have added, as I said in the beginning of the consideration of this bill, a large amount, a million and a half dollars, in excess of what was contained in the bill as it came from the House, but all the additions have been works of almost indispensable necessity. This appropriation surely can wait until we get the more important things done, and then if a sea-wall has to be added to Governor's Island, or if any more ornamentation has to be done for the benefit of General Hancock or some of the other gentlemen who may want more elegant quarters, we can perhaps provide for it. This is a mere question of taste, I submit, a matter of making a more handsome place than they have now got; and according to my observation it is pretty handsome now. It is inside the bay of New York. We all know where it is.

I hope the Senate will not load down the bill with this and similar things, because there is no reason why a hundred more should not be put on just as well as this one. If we are to go into conference and expect to save the bill at all with anything like the important amendments we had better leave off those that can afford to wait. That is all there is of it.

The PRESIDING OFFICER, (Mr. GARLAND in the chair.) The question is on the amendment of the Senator from New York, [Mr. KERNAN.]

The amendment was rejected.

Mr. FARLEY. After line 634 I move to insert:

For completing repairs on wharf for Benicia arsenal, California, $5,000.
For continuing boring the artesian well at Benicia wharf, California, $5,000.

I would say in support of this amendment that there has been a good deal of talk on the floor of the Senate in reference to the estimates, or proposed estimates, or submitted estimates. The arsenal at Benicia, which manufactures and provides for all the Pacific coast, has not got one dollar appropriated, although a submitted estimate was presented of $69,780. These are two important items at that arsenal that it is necessary to preserve. The Government has already expended a considerable amount of money in sinking this artesian well, and the estimate is $6,900 for the completion of that well. I ask that $5,000 be appropriated for that purpose, and that $5,000 be appropriated for the repair and finishing of the wharf, which is actually necessary at that point. The estimates made for the other improvements are entirely left out. I find that other arsenals in the United States are provided for. Two hundred thousand dollars are appropriated for the Rock Island arsenal, and a few moments ago $20,000 for the machine suggested by the Senator from New York at the Watertown arsenal. Here is what the Secretary of the Treasury says in the Book of Estimates in reference to the Benicia arsenal:

NOTE.—The carpenters' and blacksmiths' shops are already completed; this one is required to complete most of the work commenced in them. All repairs of arms, gun-carriages, and ordnance stores, &c., for the States of California, Nevada, and Oregon, and for the Territories of Arizona, Alaska, Idaho, and Washington, are made here; and most of the ordnance supplies for the above-named divisions of our country, which contain an area of 1,235,974 square miles—in a word, more than one-third of the area of the whole territory of the United States—are issued from this arsenal.

There has been no appropriation made as required by the estimates, but these two small items for the completion of the artesian well and the repair of the wharf are asked for by the amendment, and I hope there will be no objection to it.

Mr. BECK. Let the amendment be read again.

The amendment was read.

The amendment was agreed to—ayes 25, noes not counted.

Mr. CARPENTER. I wish to move to amend, on page 39, at the end of line 950, which I will send to the Chair and have reported, stating that it is recommended by the Commissioner of the General Land Office and the Secretary of the Interior. I will send their letters also to the Chair.

The CHIEF CLERK. At the end of line 950 it is proposed to insert:

And the Secretary of the Interior is hereby authorized to print 2,000 copies of the Centennial Map of the United States, heretofore published by authority of Congress, at a cost not exceeding $10 a copy; 400 copies for the use of the Senate, 1,000 copies for the use of the House of Representatives, and 600 copies for the use of the Interior Department, and the sum of $20,000 be appropriated therefor, out of any moneys in the Treasury not otherwise appropriated.

Mr. BECK. This matter was laid before the committee and considered very carefully. We thought that while we all might desire to have the map made, in a bill of this magnitude, where there was so much appropriated already, we could not afford to recommend it. I have no doubt from the temper of the Senate that they are going to pile on to this bill everything they want, and if this is going to be done and there is to be $20,000 more for something else, and $50,000 more for something else, keep on.

Mr. CARPENTER. I hope the force of anything said by the Senator from Kentucky will not fall on this map. The Commissioner of the General Land Office and the Secretary of the Interior both recommend this appropriation. We all know that it is an excellent production, and one that it would be very desirable to have. I hope that the Senate will adopt the amendment.

Mr. ANTHONY. This map was prepared at great expense; I think twenty or thirty thousand dollars were expended to prepare the map. Only 100 copies were struck off; and all the expense that we have gone to in preparing the map is wasted unless it is printed. I think it is sold by the person who has the plate at $50 a copy. It can be printed for about $10.

Mr. WITHERS. I should like to ask the Senator, who is a member of the Committee on Printing, when the map was prepared at such an expense as $30,000, why it is that the printing of but 100 copies was authorized?

Mr. ANTHONY. That was because Congress authorized the printing of no more.

Mr. WITHERS. I presume that it was done at the request, however, of the committee of which the Senator has been chairman. When was the order made?

Mr. ANTHONY. The map was prepared in the Interior Department. I think the appropriation for preparing the map was sufficient to print one hundred copies. The House of Representatives provided that the plate should be put in the possession of the clerk of the Committee on Public Lands of the House, and copies to be furnished by him.

Mr. WITHERS. When were these maps printed, I would inquire?

Mr. ANTHONY. Two or three years ago.

Mr. WITHERS. I have never seen one.

Mr. ANTHONY. There is one of them in the committee-room of the Committee on Public Buildings and Grounds.

Mr. MCDONALD. Yes, there is one there.

Mr. ANTHONY. It is a very valuable map, the best map of the United States that ever has been prepared.

Mr. WITHERS. The object of my inquiry was simply for information upon the subject, as we know that the number of copies of any document or publication of Congress is fixed generally by the report

of the Committee on Printing, and I was a little curious to know why so valuable a map should only have been printed to the extent of one hundred copies.

Mr. ANTHONY. The printing of this map was never authorized by Congress; it was done under some appropriation for the Department of the Interior, and the appropriation was sufficient to prepare the plate and print one hundred copies.

The PRESIDING OFFICER put the question on agreeing to the amendment, and declared that the ayes appeared to prevail.

Mr. BECK. Let us have the yeas and nays on that.

The yeas and nays were ordered; and being taken, resulted—yeas 23, nays 20; as follows:

YEAS—23.

Anthony,	Davis of Illinois,	Ingalls,	Platt,
Blaine,	Dawes,	Kirkwood,	Ransom,
Blair,	Farley,	McDonald,	Rollins,
Booth,	Ferry,	McMillan,	Saunders,
Burnside,	Garland,	Paddock,	Williams.
Carpenter,	Hill of Colorado,	Pendleton,	

NAYS—20.

Beck,	Hampton,	Jones of Florida,	Saulsbury,
Call,	Harris,	Kernan,	Slater,
Davis of W. Va.,	Hereford,	Maxey,	Walker,
Eaton,	Johnston,	Morgan,	Wallace,
Groome,	Jonas,	Pryor,	Withers.

ABSENT—33.

Allison,	Cockrell,	Kellogg,	Thurman,
Bailey,	Coke,	Lamar,	Vance,
Baldwin,	Conkling,	Logan,	Vest,
Bayard,	Edmunds,	McPherson,	Voorhees,
Brown,	Grover,	Morrill,	Whyte,
Bruce,	Hamlin,	Plumb,	Windom.
Butler,	Hill of Georgia,	Randolph,	
Cameron of Pa.,	Hoar,	Sharon,	
Cameron of Wis.,	Jones of Nevada,	Teller,	

So the amendment was agreed to.

Mr. BLAINE. I want the attention of the honorable Senator from Kentucky to an amendment I am going to offer, because I appeal to him to give it his support, much as he thinks the bill may be weighted.

The building now going up known as the National Museum building is one which has been constructed at unusually small expense, especially so for a Government building. They set out to build it for $250,000. It is a very large building in area, as all Senators who have visited it know. They are finishing it with a common concrete floor, just such as you have on the street to drive on. The floor that is now designed and that they must adopt if kept within the appropriation which is now granted them will be a simple ordinary rough concrete floor on which they propose to put strips of boards for walking. I think that would be a great disfigurement to a building which will be greatly visited, which will be an object and center of interest to all the visitors to Washington and to the whole people of the country. I think the beauty of the building, the beautiful design for which it is intended, and all connected with it deserve at least that there should be a good floor in it.

I had a conference with the chairman of the commission who are building it, and they would be very glad, if they had the money, to put in that building a marble-tile floor. I appeal to every Senator before it is too late not to disfigure that fine building by making the floor there nothing more than the common street-way that leads up to it. It will require to put a marble-tile floor in that building $25,000, and I appeal to the honorable Senator from Kentucky to allow it to be done. At all events I shall offer the amendment. It is a matter in which no one Senator has a particle more interest than another Senator. It is a matter that concerns the utility and in a very high degree the beauty and comfort of a great national building.

Therefore I offer the amendment to come in after line 1005, under the heading of "National Museum." I have the estimate of Mr. Cluss, the superintending architect, in my hand, that it will require $25,000 to put down a marble-tile floor bedded in hydraulic cement.

The PRESIDING OFFICER. The Secretary will report the amendment.

The CHIEF CLERK. It is proposed, after line 1005, to insert:

For laying of marble-tile floor bedded in hydraulic cement, $25,000.

Mr. BECK. I shall raise the question of order that that is not in order, not estimated for, not reported by any committee, and not sent to the Committee on Appropriations. Professor Baird has been before us and we have given him every dollar that he has asked in every form on that building, and he never even suggested this to us.

Mr. BLAINE. He did not suggest it because there was a sort of implied contract that the building was to be put up for just this limited amount. It was stated, possibly a little boastfully, that it could be done for that amount. I do not think the point of order would apply to the amendment. It is an item under a head for which appropriations are made in the bill, and they may be made more or less. I think it ought to be left to the Senate to decide that.

The PRESIDING OFFICER. The Chair will submit the question of order to the Senate.

Mr. DAVIS, of West Virginia. I hope the Chair will hear me one moment.

The PRESIDING OFFICER. It is the purpose of the Chair to submit the question of order that it may be debated.

Mr. DAVIS, of West Virginia. There cannot be any question about the amendment being out of order, and I hope the Chair is not in doubt about it. It is out of order, I understand, for three reasons: First, it is not estimated for; second, the Committee on Appropriations did not receive the one day's notice which is required of any amendment going upon this bill; and in the third place, as I understand, it comes from no standing committee. For each of these three reasons it is out of order.

Mr. BLAINE. I hoped I might have unanimous consent.

The PRESIDING OFFICER. The question before the Senate is, Is the amendment offered by the Senator from Maine in order?

Mr. ANTHONY. I am in favor of this amendment, but I cannot imitate the example so often set by Senators of voting upon parliamentary questions with reference to the merit of the proposition upon which the question of order is raised. I think it is out of order, although I am in favor of the amendment.

Mr. BLAINE. The only reason for my urgency about it is that it is just one of those things that must be done now or it is too late. They will go on making this floor, and if we ever attempt afterward to change it all that will have to be undone. Indeed, I am sure that next autumn when Congress reassemble they will see how unfit it is to use a mere stable floor, a mere barn-yard floor. There is not a modern stable in this city, there is not what would be called a decent and comfortable stable built in this city, that will not have a floor as carefully made as the present estimate will give to the National Museum.

Mr. BECK. I have only to add in explanation that Professor Baird has conducted this building with great care. We have great confidence in him. He has never asked us for anything that we have not given him. We have added to the appropriation for the National Museum $5,000 for heating apparatus, $12,500 for water and gas fixtures, and for the construction of relieving sewer and other things. We have adopted every suggestion he has made, and he is entirely content, so far as we know, with the building as it is.

Mr. BLAINE. I do not say that I know anything, but I should be very glad to have the question referred to Professor Spencer Baird as to what he thinks is the proper thing to be done.

Mr. BECK. I have stated what he said before the committee.

Mr. BLAINE. Upon further reflection, and realizing myself that the amendment is not in order—I hoped that I might get the consent of the gentlemen who are in charge of the bill—I will withdraw it, and I give notice to the Senate that on the general deficiency bill I will ask the judgment of the Senate upon this amendment.

The PRESIDING OFFICER. If there is no objection the amendment will be withdrawn.

Mr. FERRY. I have an amendment that I think even the Senator from Kentucky will not object to. It is not only in order, but appeals to the sense of justice of the Senate. I ask that it be inserted at the end of line 100, on page 5:

That the salary of the postmaster at the city of Washington, District of Columbia, be, and the same is hereby, fixed at the sum of $4,000 per annum from and after the passage of this act.

I wish to make a simple statement on this amendment. It has been recommended by the Committee on Post-Offices and Post-Roads, received the unanimous judgment of that committee, and has been referred to the Committee on Appropriations, so that it comes within the rule.

Prior to 1876 the postmaster received a specific salary of $4,000. A law was passed then basing his salary on commissions; and if Congress had not made mail matter free he would be receiving $4,000; the commissions would have amounted to much more than the maximum. No postmaster can receive over $4,000 except the postmaster at New York, whose salary is fixed at $8,000. In 1879 Congress took away this basis by making all public documents free as well as all matter from the different Departments; so that seven-eighths of the business of the city post-office is free matter and the postmaster has but one-eighth of the matter which he handles to base his salary upon. If he had the whole amount the commissions would amount to $23,000; he is, of course, prevented by the maximum of compensation allowed and cannot receive over $4,000. I mean that would be the result if all the matter had postage paid. I think no one will object to restoring the salary to $4,000, the maximum that it was in 1876 and prior to that date.

Mr. BECK. The amendment was referred to the Committee on Appropriations; but we believed that this bill was not the proper place to consider it. All salaries and increases of salary belong to the legislative, executive, and judicial appropriation bill. That bill is still in conference. Whether any clause in it is open to which this can be attached, I am not able to say. I am told there is considerable merit in the presentation of this case; but we were pressed to increase salaries in a great number of instances, and we did not believe this was the proper place to make the increases, nor that this bill was the proper one; but I believe the committee felt, on the presentation of the case by the Senator from Michigan and others that, either as an independent proposition or on some bill to which it belonged, it would not meet with much opposition from the committee.

Mr. FERRY. There is a clause here pertaining to the Post-Office Department, and I think the chairman of the committee will not exclude this amendment, which involves but a small amount, an increase

of $500 a year, simply because it may be opening the door to other amendments of less merit. It is impossible to have the amendment placed on the Post-Office appropriation bill, because that is in conference and there is no item there to which it could be attached; there is no question of difference between the two Houses there to which it can be attached. It is germane to this bill; it is offered as an amendment to the clauses pertaining to the Post-Office Department; it has received the assent of the Post-Office Committee, and commends itself upon the simple statement that the weight of the matter which the postmaster here handles is second in classification of all the post-offices of the United States, the post-office in New York only exceeding the matter handled by this postmaster, and yet on account of the free matter sent out by Congress and the Departments the basis is taken away and his salary reduced.

I think there can be no possible objection to the amendment.

Mr. BECK. The principal trouble we had was that this gentleman had ample time, long before any of the bills to which the amendment properly belongs were considered, to have it acted on; and having held it back until this time—an office that was sought for with some avidity—we did not think it ought to be imposed on a bill of this character just now.

Mr. FERRY. The postmaster did act early, but (not revealing any of the action or secrets of the committee) I merely say it slipped by for some reason not known to me, but it was presented and referred to the committee when the Post-Office appropriation bill was before the Committee on Appropriations. Therefore it does not rest upon the lack of action on the part of the postmaster, and certainly he ought not to be defeated in his just rights.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Michigan.

Mr. WITHERS. This proposition was pressed very earnestly on the attention of the committee, and so were propositions to increase the salaries of various other officers, employés of the Senate and House and of the different Departments, but the committee concluded that this was not the proper bill upon which to increase salaries, that no valid reason existed why these proposed increases of salaries should not have been provided for in the legislative bill, and therefore they adopted, as the guide of their action in reference to that class of cases, that they would not recommend the increase of any salary on this bill.

Mr. FERRY. I ask the Senate not to confound this postmaster's salary with the salaries of other persons here. The only ground on which I put it is that the free matter, made free by Congress, after his salary was based on commissions upon the postage received, has deprived him of his right; and it applies only to this city and not to other post-offices. All the matter of Congress, all the matter of the various Departments, to and from them, passes through this post-office and is handled by this postmaster, without any compensation except one-eighth part thereof. This postmaster would be perfectly satisfied if the salary was based upon canceled postage-stamps provided the free matter was counted as postage paid.

Mr. WITHERS. While the circumstances which render this in the judgment of the postmaster necessary certainly may not apply to other officers, yet the principle is the same. We were fully aware of the effect of the argument as to the quantity of free matter which is handled in this office; but to provide for that Congress has given him a clerical force sufficient to handle it.

I will state, in addition, that this position was accepted by the present incumbent with a full knowledge of that fact. He accepted the position with the salary; and now if he is unwilling to hold the position at that salary I have no doubt there will not be the slightest difficulty in finding a successor.

Mr. FERRY. All persons accepting office accept it with the then salary, but that does not stand in the way of doing a man justice.

Mr. WITHERS. We did not consider it a question of justice.

Mr. FERRY. He is entitled to this. He does the work, and so far as the clerical force is concerned every office is supplied with clerical force, paid out of the commissions. In this case the commissions exceed the maximum of $4,000 by near $20,000 and odd, counting all the matter passing through the office as liable to postage. This would leave a surplus for clerical force. The Government always supplies whatever clerical force is necessary to these large offices, and this office has not its proportion according to others that are receiving $4,000 salary, nor will it compare with the post-office at New York, where the postmaster receives $8,000 instead of $3,500.

Mr. BECK. I have only one word to add that the Senate may thoroughly understand the question. If this increase of salary is made now, it will be followed first by fifty-four paymasters' clerks who ask to have their salaries increased to $1,500. They of course have as much right to be considered as this man. That will be followed by at least fifty-four more. If we are going into a general increase of salaries be it so; this is the entering-wedge, and I suppose the vote on this will settle the status of all the others. Therefore I hope the Senate will not adopt it, because if they do I see no end to it.

Mr. FERRY. I trust the Senate will not be deterred from doing justice in this case, because it is an isolated case. There is no other one like it. The cases the Senator has referred to are fixed salaries proposed to be increased, and at the proper time I should be disposed to increase them or some of them; but they may not come into this bill properly, while this does come in here and is germane to the appropriations in it for the Post-Office Department. It is a meritorious case. Congress itself has taken the basis away from the postmaster in fixing his salary; and now it is but just that he should be brought back to the maximum, the same salary that he received in 1876, and should have received since.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Michigan.

The question being put, there were on a division—ayes 16, noes 16; no quorum voting.

Mr. FERRY. I ask for the yeas and nays.

Mr. BECK. I want a call of the Senate. There is no quorum every time we have a vote.

The PRESIDING OFFICER. The regular course is a call of the Senate.

Mr. FERRY. I think there is a quorum here.

Mr. PADDOCK. It is manifest that there is a quorum present.

The PRESIDING OFFICER. If the Senator from Kentucky withdraws his motion for a call, the question will be put upon ordering the yeas and nays.

Mr. BECK. I want to keep a quorum in the Chamber. The yeas and nays will answer the same purpose perhaps.

The PRESIDING OFFICER. The yeas and nays are called for.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. SAULSBURY, (when Mr. BAYARD's name was called.) I desire to announce that my colleague [Mr. BAYARD] is necessarily detained from the Senate.

The roll-call was concluded; and the result was announced—yeas 21, nays 28; as follows:

YEAS—21.

Allison,	Burnside,	Kirkwood,	Saunders,
Anthony,	Carpenter,	McMillan,	Teller,
Bailey,	Farley,	Maxey,	Windom.
Baldwin,	Ferry,	Paddock,	
Blaine,	Hill of Colorado,	Platt,	
Blair,	Ingalls,	Rollins,	

NAYS—28.

Beck,	Garland,	Kernan,	Saulsbury,
Brown,	Groome,	McDonald,	Slater,
Call,	Hampton,	McPherson,	Vance,
Cockrell,	Harris,	Morgan,	Voorhees,
Davis of W. Va.,	Johnston,	Pendleton,	Walker,
Davis of Illinois,	Jonas,	Pryor,	Williams,
Eaton,	Jones of Florida,	Randolph,	Withers.

ABSENT—27.

Bayard,	Conkling,	Hoar,	Ransom,
Booth,	Dawes,	Jones of Nevada,	Sharon,
Bruce,	Edmunds,	Kellogg,	Thurman,
Butler,	Grover,	Lamar,	Vest,
Cameron of Pa.,	Hamlin,	Logan.	Wallace,
Cameron of Wis.,	Hereford,	Morrill,	Whyte.
Coke,	Hill of Georgia,	Plumb,	

So the amendment was rejected.

Mr. HAMPTON. I wish to offer an amendment, to come in after line 1409, page 58:

For repairs and furniture for the United States court-house at Charleston, South Carolina, $2,500.

Mr. ALLISON. I would suggest to the Senator to put his amendment on page 20.

Mr. BECK. I raise the point of order on this amendment. It is not estimated for, has not been submitted to the Committee on Appropriations, nor has it been reported by any committee.

Mr. HAMPTON. I was afraid my friend from Kentucky would make that point; but I wish to suggest the importance of this appropriation. It was proposed in the House, but the committee there thought it could come out of the miscellaneous items of expenditure for public buildings; but it is found that the United States court-house at Charleston does not come under the control of the Treasury, and therefore there can be no use of that appropriation for it. The house has a tin roof; it is leaking very badly. One of the judges writes that he has not even a decent chair to sit upon. There is property there to the amount of $50,000, and unless the leaks can be stopped this property will be injured. They require a much larger amount than that; but I put in $2,500 simply to have temporary repairs made until the proper arrangement can be made for covering the house.

The PRESIDING OFFICER. The Senator from Kentucky makes the point of order on the amendment. The Chair thinks that the point of order is well taken. The amendment is out of order under Rule 27.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 2328) to provide for the settlement of all outstanding claims against the District of Columbia and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes, asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. EPPA HUNTON of Virginia, Mr. W. J. SAMFORD of Alabama, and

Mr. H. S. NEAL of Ohio, managers at the conference on the part of the House.

The message also announced that the House had passed the following bills and joint resolution; in which it requested the concurrence of the Senate:

A bill (H. R. No. 6467) to change the name of yacht Niantic to that of Hildegarde;

A bill (H. R. No. 6471) to amend an act entitled "An act to create the northern judicial district of the State of Texas and to change the eastern and western judicial districts of said State, and to fix the time and places of holding courts in said districts," approved February 24, 1879; and

A joint resolution (H. R. No. 327) to authorize the Secretary of the Navy to loan flags and bunting to the city of Boston.

The message further announced that the House insisted upon its amendments to the bill (S. No. 1509) to accept and ratify the agreement submitted by the confederated bands of Ute Indians in Colorado, for the sale of their reservation in said State, and for other purposes, and to make the necessary appropriations for carrying out the same, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and had appointed Mr. A. M. SCALES of North Carolina, Mr. J. R. WADDILL of Missouri, and Mr. RUSSELL ERRETT of Pennsylvania, managers at the conference on the part of the House.

The message also announced that the House had concurred in the amendments of the Senate to the following bills:

A bill (H. R. No. 4606) authorizing the President of the United States to nominate Drs. Thomas Owens and William Martin assistant surgeons United States Navy; and

A bill (H. R. No. 4908) for the relief of the heirs and legal representatives of Israel Dodge, deceased.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolution; and they were thereupon signed by the President *pro tempore:*

A bill (H. R. No. 698) to establish a district and circuit court at Chattanooga, Tennessee, and to add the County of Grundy to the eastern district of Tennessee;

A bill (H. R. No. 3794) authorizing the City National Bank of Manchester, New Hampshire, to change its name;

A bill (H. R. No. 6036) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1881, and for other purposes; and

A joint resolution (H. R. No. 293) providing for the printing of the report of the Commissioner of Education for the years 1878 and 1879.

CLAIMS AGAINST THE DISTRICT.

Mr. HARRIS. I ask that the pending order be laid aside for a moment in order that I may request the Chair to lay before the Senate a House bill just returned with a message of non-concurrence in the Senate amendments and a request for a conference, in order I may move to insist on the Senate amendments and agree to the conference asked by the House.

The PRESIDING OFFICER. There being no objection the pending bill will be laid aside informally. The Chair lays before the Senate the action of the House of Representatives.

The Chief Clerk read as follows:

IN THE HOUSE OF REPRESENTATIVES,
June 9, 1880.

Resolved, That the House disagree to the amendments of the Senate to the bill (H. R. No. 2328) to provide for the settlement of all outstanding claims against the District of Columbia, and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes, and ask a conference with the Senate on the disagreeing votes of the Houses thereon.

Ordered, That Mr. HUNTON, Mr. SAMFORD, and Mr. NEAL be the managers of said conference on the part of the House.

Mr. HARRIS. I move that the Senate insist on its amendments and agree to the conference.

The motion was agreed to; and by unanimous consent the President *pro tempore* was authorized to appoint the committee; and Messrs. HARRIS, WITHERS, and INGALLS were appointed.

HOUSE BILLS REFERRED.

Mr. MAXEY. I ask that House bill No. 6471 be taken from the table and referred to the Judiciary Committee, with the statement that the object is to have it considered without fail, and I desire to call the attention of the Judiciary Committee to it. It is an important bill, and I hope it will be considered at the committee meeting on Monday.

The bill (H. R. No. 6471) to amend an act entitled "An act to create the northern judicial district of the State of Texas and to change the eastern and western judicial districts of said State, and to fix the time and places of holding courts in said districts," approved February 24, 1879, was read twice by its title, and referred to the Committee on the Judiciary.

LOAN OF FLAGS TO BOSTON.

Mr. DAWES. There is a resolution from the House authorizing the Charlestown navy-yard to loan flags to the city of Boston to celebrate the anniversary of the battle of Bunker Hill. If the Senate will pass it without a reference, I should like to have it done at once.

By unanimous consent, the joint resolution (H. R. No. 327) to authorize the Secretary of the Navy to loan flags and bunting to the city of Boston was read three times, and passed.

CHANGE OF NAME OF A VESSEL.

The bill (H. R. No. 6467) to change the name of yacht Niantic to that of Hildegarde was read twice by its title.

The PRESIDING OFFICER. The bill will be referred to the Committee on Commerce.

Mr. RANSOM. I do not see the Senator from New York [Mr. KERNAN] in his seat, but a similar bill has been referred to the Committee on Commerce, and I have it in my hand ready to report back with a recommendation that it pass; but in behalf of the Senator from New York, I ask that the House bill be now considered.

By unanimous consent, the bill (H. R. No. 6467) to change the name of yacht Niantic to that of Hildegarde was considered as in Committee of the Whole.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

Mr. RANSOM, from the Committee on Commerce, to whom was referred the bill (S. No. 1828) authorizing the changing the name of the sloop-yacht Niantic, reported adversely thereon; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 5153) to change the name of the steamboat L. Boardman to River Belle, reported it without amendment.

AMENDMENT TO DEFICIENCY BILL.

Mr. ALLISON submitted an amendment intended to be proposed by him to the bill (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and for prior years, and for those certified as due by the accounting officers of the Treasury in accordance with section 4 of the act of June 14, 1878, heretofore paid from permanent appropriations, and for other purposes; which was referred to the Committee on Appropriations.

SUNDRY CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 6266) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes.

Mr. HARRIS. Lines 541, 542, and 543 contain an appropriation for the National Board of Health, to be used only in case of an epidemic, of $100,000. The estimate of the Board of Health for this contingent fund, based upon its experience in the epidemic of last summer, is $164,860. That estimate has been submitted to and approved by the Secretary of the Treasury. I propose so to amend this clause as to add $64,860 to the $100,000 appropriated. The Committee on Appropriations, because of its extreme engagements, or not having time to consider the merits of this proposition, failed to adopt the amendment. I therefore move in line 543, after the word "hundred," to add the words "and sixty-four," and after the word "thousand" to add the words "eight hundred and sixty."

The effect of the amendment will be to make the appropriation to be used by the Board of Health in preventing the spread of disease in the event of an epidemic $164,860, the amount estimated, the amount approved by the Secretary of the Treasury, and the amount that the actual experience of the board in the epidemic of 1879 proves to be necessary.

I will add, however, that unless there is an epidemic not a dollar of this fund will be expended at all.

The PRESIDING OFFICER, (Mr. GARLAND.) The question is on the amendment of the Senator from Tennessee, [Mr. HARRIS.]

Mr. BECK. If I read the estimate of expenditures for the fiscal year ending June 30, 1881, for the maintenance of the National Board of Health correctly, this is the way it reads:

For aid to local and State boards of health, to be used in case of epidemic, $100,000.

The House has given precisely the estimate as it is stated here by the chairman of the House committee. I will look at the estimates themselves. I assume that that is the correct estimate.

Mr. HARRIS. I have the estimate from the Board of Health, with the approval of the Secretary of the Treasury.

Mr. BECK. I care nothing about that, but here is the Book of Estimates from the Treasury Department. I think $100,000 covers every dollar estimated for. Therefore I make the point of order that this is an increase of the estimate, and adding to a general appropriation bill beyond the estimate made by the Department.

Mr. PADDOCK. It is only a conditional increase.

Mr. HARRIS. On the point of order I have to say that this is an amendment reported from a committee of this body; it is an amendment that was submitted in due time and regularly referred to the Committee on Appropriations, and it certainly does not fall under any objection of a point of order.

The PRESIDING OFFICER. The Chair understands from the Senator from Tennessee that the amendment is moved by instruction of a committee.

Mr. HARRIS. Yes, sir; the Committee on Epidemic Diseases.

The PRESIDING OFFICER. The Chair overrules the point of order.

Mr. DAVIS, of West Virginia. This bill as it came from the committee is much larger than similar bills for several years past. This side of the Chamber is now responsible for the expenditures of the Government, and I would remind gentlemen that we are going on at a rate that will cause the expenditures of the Government next year to be greater than they have been for a number of years if we continue to add to this and other bills as we are doing. They know as well as I do what will be the effect of that. The other side of the Chamber I notice is willing in all instances to vote almost unanimously to increase this bill as well as others. How is that? Do they know—I presume they do—that this side of the Chamber is responsible? And different gentlemen on this side who are interested in particular matters generally vote with them. It is a strange state of things that almost every time this bill is asked to be increased it strikes our friends on the other side that it is important it should be done, no matter what the increase is for.

Mr. ALLISON. Does the Senator claim that the amendments are without merit?

Mr. DAVIS, of Illinois. I have not said one word about that. I do not know of any increase in this bill that the Senator has not voted for. If there is one, let him tell me what it is. I say this in the best nature, because he is a good-natured Senator, and always does what he believes to be right. I am not impugning the motives of anybody, but such is the fact.

Mr. CARPENTER. This side of the Chamber take a more enlarged view of these questions.

Mr. DAVIS, of West Virginia. Suddenly they do. A few years ago they did not. A few years ago they tried to keep down the appropriation bills, and now they say make them as large as you can.

Mr. PADDOCK. I should like to inquire of the Senator from West Virginia what section of the country is interested in this? I ask if that section of the country which is represented here largely by republican votes is the section that is interested in this particular item?

Mr. DAVIS, of West Virginia. I do not know any section of the country. I am one of the men who know no East, no West, no North, no South.

Mr. BAILEY. I ask whether the Senate will not vote to increase the appropriation if it shall be satisfied that it is necessary, that it is an expenditure proper to be made, that it is a sum not more than sufficient to prevent the spread of a disease which when epidemic is the most terrible that can afflict the country? Under such circumstances should we hesitate for one moment as to the amount of the expenditure?

Mr. DAVIS, of West Virginia. I thought the Senator wanted to ask a question.

Mr. BAILEY. I am asking a question. I ask whether the Senator would hesitate to make the expenditure if it was necessary to prevent the spread of this disease, or if we shall hesitate because it may afford some politicians a chance to say on the stump that a democratic Senate has increased the expenditures of this kind $60,000. I am sure he will not refuse to vote such an appropriation for the reason he has assigned.

Mr. DAVIS, of West Virginia. I have assigned no reason on this particular amendment; but there is a reason. The Committee on Appropriations, who are charged with the duty of trying to present about what in their judgment is the proper appropriation to be made, have given this subject full consideration. There is no amendment that I know of that was not considered fully by that committee. As I have stated, this is an unusually large bill, and we are adding to it item after item for different purposes in different ways; and my intention was to call the attention of the Senate not only to this, but to all the amendments to follow adding to this bill.

Mr. BAILEY. If this appropriation is not a proper one to be made in the estimation of Senators, I trust that they will vote against it and defeat it; but if it be an appropriation proper to be made, then certainly the Senator from West Virginia has given no sufficient reason why the Senate should vote against it. It is upon this amendment—although he may not have specially referred to this—that the Senator speaks, and I hope he will reserve his speech until some amendment shall be offered of a different character. It is to be used by the officers of the Government only in the event that this disease shall again become epidemic, and if it shall I imagine that the Senator from West Virginia, if the disease shall appear again in West Virginia, will regret that he has not advocated this proposition.

Mr. EATON. Mr. President, I yielded my assent to this class of legislation with very great doubt at a previous session of Congress. I doubted very much whether the establishment of a National Board of Health was desirable; but I yielded those objections, and therefore the question put by my honorable friend from Tennessee to my honorable friend from West Virginia ought to be answered by me or by anybody else. After entering into this species of legislation, however faulty it may have been, we ought now to pursue it fairly and properly. What has been done by the committee? Under estimates made with the greatest care by the Board of Health and by the Secretary of the Treasury $100,000 was deemed all that was necessary to meet the event that might occur.

Mr. HARRIS. I wish to correct that statement.

Mr. BECK. I am about to do it myself. I made that statement. The amount "for aid to local and State boards of health, to be used in case of an epidemic," I stated at $100,000 in the hurry of the statement. On looking at it carefully since I sat down I find that it reads:

For aid to local quarantine stations, to be used in case of epidemic, $64,860.
For aid to local and State boards of health, to be used in case of epidemic, $100,000.

So that there is a separate item for local quarantine stations apart from the others, and in the bill the two are grouped together.

Mr. EATON. My recollection coincides with the statement made by the Senator from Kentucky, and I supposed he was correct. I think $100,000 is enough anyway. I dislike to refuse to vote money in the event of what may be regarded as a great public calamity, however faulty the original legislation was. Perhaps I ought now to vote for a million if they say a million is needed, having voted as I did once before. I shall be governed by the Senator who has this bill in charge. I voted with him when he misled me before, and now I stand corrected before the Senate and the country; but still I think, with all due deference to this board of health, that $100,000 is enough.

This board of health here undertake to govern the city of New York, its authorities, its men who have been there for a hundred years—not the same men, but men pursuing the same course—knowing exactly what they require. But a few men, "clothed with a little brief authority," here undertake to tell them what should be done in New York. I have a poor opinion of their judgment after that.

Mr. BECK. I know how difficult it is to argue against a sentiment or an apprehension relative to a disease that may destroy our people. I followed the Senator from Tennessee [Mr. HARRIS] when all the bills were up in reference to the National Board of Health and voted for everything without question, because I knew that if an epidemic did come and the people of the country died, and we failed to make an effort to relieve or save their lives, we never could explain it to the country or to ourselves. Therefore, regardless of constitutionality, regardless of everything except trying to do something, I was willing to vote any amount of money that was necessary; and I say to the Senator from Tennessee, [Mr. BAILEY,] who spoke a few minutes ago, that the question of $100,000 or $1,000,000 or $10,000,000 in order to save the lives of the people was not the thing we were considering. We have a Board of Health that we have to look after carefully to see that they do not spend the money we give them lavishly. That is the duty of the Senate and House and of the Committee on Appropriations of each House. We gave that board first $50,000 to make inquiries and make investigations and obtain information for us. We then gave them $500,000 by the act of June 2, 1879, making a total appropriation of $550,000. They spent of that $187,000 in a variety of ways shown in a table I will present.

There was expended in the State of Louisiana, $14,854.06; $3,006.28 in Florida; $49,610.75 in Tennessee, where they did good work I think last year; $16,125.84 in the State of Mississippi; $3,849.77 in the State of Illinois; $7,589.51 in the State of Arkansas; $535 in the State of Texas; $2,195.46 in the State of Alabama; $7.710 in the District of Columbia, and some other items, making $187,484.86 in all.

They estimated that from March 1 to July 1, 1880, they would expend $276,900 more in building quarantine stations at Hampton Roads, Virginia; Sapelo Sound, Georgia; Ship Island, Mississippi, and on the Mississippi River; improving quarantine station at Charleston, and so on.

Of the $550,000 that we gave this board last year they propose spending by July 1 all except $75,798.38.

Mr. KIRKWOOD. Has it been properly spent, well spent, or not?

Mr. BECK. I should rather the Senator from Tennessee would speak on that subject. It looks to me as though the erection of buildings all along the coast without responsibility to anybody, without reporting to anybody, making the contracts as they please and doing as the please, is a very loose way of expending public money. At Hampton Roads they spent $35,000. I do not know to whom the estimates are submitted, how the contracts are made, or what arrangements are made to see that that is the proper amount to spend. At Ship Island, Mississippi, $56,000 is the amount. I do not know under what authority that is done——

Mr. HARRIS. Will the Senator from Kentucky allow me to call his attention to the act of July 1, 1879?

Mr. BECK. Yes, sir; I have it before me.

Mr. HARRIS. The Senator will remember that I called his attention in the committee to the act which gives the Board of Health, with the consent of the Secretary of the Treasury, power to construct these buildings whenever and wherever in the opinion of the board, approved by the Secretary, they may deem them necessary.

Mr. BECK. I know that was done, and that was an act which passed because of the cry that an epidemic was coming over the country, and we gave a power to these men that I do not think has been used very cautiously. At least the local boards of health and the people of the different States up to this time have got less than $120,000 out of the $475,000 spent, if I foot up the figures correctly, and the balance of that money has gone to build houses at places where they pleased if the Secretary of the Treasury agrees with them, and of course he is obliged to agree with them. The Secretary has no means of knowing except what they tell him. Thus an immense amount of money has gone.

The statements which I have made are best presented by the following statement of figures:

Statement of appropriations and expenditures and estimates of National Board of Health.

Amount appropriated by act March 3, 1879		$50,000 00
Amount appropriated by act June 2, 1879		500,000 00
Total		550,000 00
Expenditures to June 30, 1879, of National Board of Health, as per vouchers:		
Furniture	$620 89	
Employés	2,346 45	
Printing	669 99	
Telegrams	29 21	
Postage	92 25	
Miscellaneous expenses, including stationery	1,086 03	
Pay and expenses of members	4,044 25	
Havana commission	927 69	
Total expenditures to June 30, 1879		9,816 76
Balance unexpended June 30, and available July 1, 1879		540,183 24
Expenditures from June 30, 1879, to March 31, 1880:		
National Board of Health, furniture	$1,398 69	
National Board of Health, employés	11,853 73	
National Board of Health, miscellaneous expenses	450 66	
National Board of Health, rent, light, and fuel	1,428 55	
National Board of Health, stationery	1,466 95	
National Board of Health, pay and expenses of board	6,214 99	
National Board of Health, telegrams	1,523 79	
National Board of Health, postage	672 83	
National Board of Health, printing	4,535 99	
National Board of Health, pay and expenses of inspectors	13,851 79	
National Board of Health, miscellaneous investigations	5,098 37	
National Board of Health, conference with sanitarians	178 25	
National Board of Health, Havana commission	11,406 15	
National Board of Health, T. S. Taylor, act June 2, 1879	540 00	
National Board of Health, floating quarantine stations	4,155 75	
National Board of Health, quarantine at Ship Island	1,806 35	
Expended in State of Louisiana	14,854 06	
Expended in State of Florida	3,006 28	
Expended in State of Tennessee	49,610 75	
Expended in State of Mississippi	16,125 84	
Expended in State of Illinois	3,849 77	
Expended in State of Arkansas	7,589 51	
Expended in State of Texas	535 00	
Expended in State of Alabama	2,195 46	
Expended in District of Columbia	7,710 00	
Expended for sanitary survey of Memphis	5,925 35	
Bills due but not audited March 31, 1880	9,500 00	
		187,484 86
Balance unexpended March 31, 1880		352,698 38
Estimates of expenditures from March 31, 1880, to June 30, 1880:		
For establishment of quarantine stations and erection of quarantine buildings, namely:		
At Hampton Roads, Virginia	$35,000 00	
At Sapelo Sound, Georgia	30,000 00	
At Ship Island, Mississippi	56,000 00	
On Mississippi River	35,000 00	
For improvement quarantine station at Charleston, South Carolina	12,000 00	
For aid to other quarantine stations	20,000 00	
For aid to local and State boards of health	25,000 00	
For office expenses of National Board of Health:		
Rent, light, and fuel	700 00	
Clerks, messengers, and watchman	6,000 00	
Postage, stationery, and telegrams	2,200 00	
Printing Bulletin	1,500 00	
Other printing, (blanks, records, &c.)	1,200 00	
Printing report of board	13,000 00	
Special investigations	21,500 00	
Pay and expenses members	4,000 00	
Pay and expenses inspectors	10,000 00	
Pay of Drs. Bemiss and Cochrane and Colonel Hardee	1,800 00	
Contingent and miscellaneous expenses National Board of Health	2,000 00	
		276,900 00
Balance unexpended June 30, and available July 1, 1880		75,798 38
Estimates of expenditures for fiscal year ending June 30, 1881:		
For maintenance of quarantine stations, as follows, namely:		
At Hampton Roads, Virginia	$6,000 00	
At Sapelo Sound, Georgia	6,000 00	
At Ship Island, Mississippi	13,700 00	
On Mississippi River	13,700 00	
For contingent expenses of quarantine stations, (repairs, supplies, and care of vessels)	5,000 00	
For expenses of National Board of Health:		
Pay and expenses of members	14,000 00	
Pay and expenses of inspectors	19,000 00	
Special investigations and surveys	30,000 00	
Rent, light, and fuel	1,800 00	
Clerks, messengers, and watchman	21,830 00	
Stationery, postage, and telegrams	5,600 00	
Printing Bulletin	6,000 00	
Other printing, (blanks, records, &c.)	3,300 00	
Contingent and miscellaneous expenses	5,000 00	
For aid to local quarantine stations to be used in case of epidemic	64,860 00	
For aid to local and State boards of health, to be used in case of epidemic	100,000 00	
		315,790 00
Amount needed to be appropriated to complete the service for the fiscal year ending June 30, 1881		239,991 62

We give them $175,000 now in this bill to go on with their own work, and we give them $100,000 to aid quarantine and local State boards of health. Two hundred and seventy-five thousand dollars is now given, and it seemed to me that there ought to be some limitation upon the expenditures of these gentlemen in regard to buildings that they have the absolute discretion to put where they like, as the Senator says, and in regard to the pay and expenses of themselves and others. For example, they have $13,000 for the current year for printing reports; they have $21,500 for special investigations; they have $10,000 for payment of inspectors.

The great bulk of the money, it seems, goes in their own machinery. Any amount of money that is necessary if the yellow fever breaks out at New Orleans, breaks out at Memphis, breaks out at Charleston, breaks out anywhere, I am perfectly willing to give; but it seems to me we have given them as much as it is fairly safe to give men who do not seem to me to be practicing any sort of economy in the matter, and who constitute a board that is to become greater and greater. Seventy-seven hundred dollars was spent in the District of Columbia this year. I inquired what about. The small-pox broke out here, and they had to take charge of that, I was told. I suppose it will not be two years before this National Board of Health, in connection with the Academy of Sciences, which seems to be another thing foisting itself on the business of the country, will be running every city, every neighborhood, entering houses where they like, breaking up State organizations as they please, and demanding any amount of money, and if any Senator rises and says "limit this amount, curb the power of these men, let them be put under some sort of control in the expenditure," then the cry is, "you are not going to protect the lives of the people, you are parsimonious," and a great many things that gentlemen can say when they get on sentimental topics. I know the difficulty about it.

Mr. CARPENTER. Will the Senator allow me to ask him a question?

Mr. BECK. Yes, sir.

Mr. CARPENTER. I want to know if, in the opinion of the Senator, Congress has any power whatever to establish this National Board of Health or to carry on these operations within the States?

Mr. BECK. I answered a little while ago that when the question was up and the original bill was passed I waived all these considerations for fear that the disease might come and destroy the people, and we could hardly justify ourselves in not making some effort; but when I see so much of the money that I am willing to vote to help the people expended in buildings and clerks and watchmen and making a great board which was not one of the purposes, I am not clear that the vote which I gave was a good one. I do not care to go any further than that.

Now, while I am willing to put the money somewhere to aid the people when they are in trouble, I am not willing to magnify this board beyond what it is, nor to give it unlimited power to erect buildings wherever it pleases and to do what it pleases, to employ watchmen and surgeons and so on. Of the $475,000 that has gone I think less than $120,000 of it ever went to aid suffering humanity anywhere, unless it was in making examinations of how the disease could be prevented. I may vote for more after I hear the Senator from Tennessee. I have followed him from the beginning of this thing, and I may be compelled to follow him still further, but the estimates furnished by this board do not impress me that they are very economical or very careful with the money that they get to spend.

Mr. PADDOCK. I should like to ask the Senator from Kentucky a question; that is, if he considers that this appropriation would be available in the event that there was not a condition of epidemic disease?

Mr. BECK. It will be available whenever these gentlemen see fit to spend it.

Mr. PADDOCK. I think not.

Mr. BECK. Was it supposed by the Senate when the $550,000 was voted that they would come to Washington and take care of small-pox patients, notwithstanding all the doctors we have got here? They have done it, and have taken $7,000 and odd to do it. Suppose the small-pox or measles break out in Nebraska; they may spend $50,000, because that is a case of disease. You have got as good doctors in Nebraska perhaps as any of these gentlemen. It is a pretty loose range that we are giving to these gentlemen now.

Mr. ALLISON. I am willing to give this Board of Health whatever is necessary to carry on their operations in the case of the breaking out of an epidemic such as we had in Tennessee and in other Southern States last year and the year before; but, like the Senator from Kentucky, I am not satisfied with the mode that they have adopted in the expenditures already reported to us.

Under the statement made by the Senator from Kentucky, $187,000 of the $500,000 was expended last year for the purpose of preventing the spread of this contagion. We have appropriated in this bill, as the Senator says, $175,000 for a like purpose. Now, I hold that under the law these gentlemen have no right to build buildings at Hampton Roads or at Ship Island. No such thing was contemplated in the law as they are now doing there. The law provides that—

The Board of Health shall have power, when they may deem it necessary with the consent and approval of the Secretary of the Treasury, as a means of preventing the importation of contagious or infectious diseases into the United States, or into one State from another, to erect temporary quarantine buildings.

The Senator from Kentucky says they are erecting a building at Hampton Roads costing $46,000, and another at Ship Island costing $56,000.

Mr. HARRIS. Will the Senator allow me to correct both him and the Senator from Kentucky in respect to that statement?

Mr. ALLISON. Certainly.

Mr. HARRIS. That they are erecting quarantine buildings at the cost mentioned by the Senator from Iowa is true; but several buildings are necessary. You have to have a building to take care of the infected inmates, a building to take care of the non-infected class. You have to have a building to take care of the sick passengers, those who are infected. There are various buildings. If the Senator desires to know the character of building, it is a mere strong, substantial structure of undressed plank that will answer this purpose; but it has to be of large dimensions, equal to the necessities of the case.

Mr. ALLISON. But this law, as I read it and understand it, was intended to provide for a pressing emergency; as, for example, if a contagious disease on an infected vessel should approach the port of Norfolk or the port of New Orleans, in order to protect the people from this infection they shall have authority to erect temporary buildings for that purpose and for the moment, not that in seasons and at times when there are no infectious diseases they shall build at various points along our coast buildings that may be used this year or may not be used for ten years. Take the building at Hampton Roads for illustration. It may be that building will stand there for ten years without a single infected vessel coming into that port. Was it intended that buildings should be erected everywhere for the purpose of protecting these different regions from these diseases? It seems to me not.

Another thing, Mr. President, I had an opportunity of inspecting some of the expenditures in this city of the Board of Health and I say to you they were not satisfactory to me. There is an expenditure of $1,000 for the fees of the health officer of this city. They have one clerk at $2,200, another at $1,800, another at $1,600, another at $1,200, and so on. We give no such discretionary power to any departmental officer of this Government. The Secretary of the Treasury in former years was authorized to use from twenty to thirty thousand dollars for the purpose of employing temporary clerks in the Department of the Treasury where unexpected and necessary work was to be performed, but that was solely by law. We soon said these appropriations must be made specifically; if we want twenty clerks of class 1, let us have them; if we want ten clerks of class 2, let us specifically appropriate for them. No Department of this Government to-day has one single dollar of money to be used in its discretion to pay clerks' salaries of $2,000, $2,200, and $1,800, as it pleases, for clerical services; yet this Board of Health has a corps here amounting, as the Senator from Kentucky tells us, to $21,000.

While I am willing to give whatever is necessary to carry on the operations of this board, I wish to curtail their power in this regard and put them under law as other Departments and bureaus of this Government are placed under the restrictions of law, and require them to make their estimates in detail.

Now, with reference to the pending item of appropriation of $100,000, it is "for aid to local and State boards of health." The committee allowed $100,000, or rather agreed to the House provision of $100,000 for this purpose. It is asked that it shall be increased $64,000. This, in the nature of things, must be an absolute guess. This Board of Health cannot tell what will be required. I would give very little more for their estimate than for my own judgment in reference to the amount. In the first place, how do they know but that these local boards of health and these State governments and State boards of health will expend all the money that is necessary to protect their several localities? How can they know that the city of Memphis, for example, or the State of Tennessee, or the State of Louisiana, or the State of New York will require any aid at their hands? In the nature of things it must be experimental; and while $64,000 additional would somewhat enlarge their power, yet if a contagion such as we had two years ago should arise in this country I undertake to say that some method will be found to stay that contagion, and this $164,000 will be a small sum for that purpose. I for one do not believe in placing more discretion in the hands of this Board of Health than we can do so as to preserve properly and carefully the health of the people of this country who may be infected by contagion. I want the Senator from Tennessee to know that I for one do object to the methods that have been adopted in respect to this money. I object to the large clerical force they have established here with the salaries they have provided. I say that, in my judgment, they have violated the spirit of the law in erecting quarters that may not be used for ten or twenty years, and therefore I desire, so far as I can, to keep them within their proper limits.

Mr. BLAINE. How expensive, if I may ask my friend from Iowa, are the buildings they have put up at Fortress Monroe and at these other places?

Mr. HARRIS. There are two quarantine stations costing $35,000 apiece, and one costing $56,000 at Ship Island.

Mr. BLAINE. I do not pretend to know anything about the details of this business; but it struck me that my friend from Iowa was taking ground not tenable, because if this Board of Health and its operations are to be effectual in excluding the ingress of contagious disease they must not wait for the necessary buildings until the contagious disease is upon them. They are not to have buildings up and down the coast at every point; but the points which the Senator from Iowa cites are points where a large immigration comes in. Hampton Roads is one of the largest harbors on the coast, if not the very largest. Ship Island, outside of New Orleans, is an important point. These are the very places where, if epidemics are to come, they must be met, and the provision must be made in advance, because it is altogether too late to give an appropriation to these persons and say, "If the disease comes in, you may have this money to keep it out after it is inside."

Mr. ALLISON. The Senator from Maine will allow me a moment. He wholly misapprehends what I stated in reference to this matter. I was speaking of the law which authorizes those people to erect temporary buildings, and I say they are now constructing buildings without any reference to epidemic diseases, without any knowledge to any person that these epidemics are likely to reach our shores next year or for ten years.

Mr. BLAINE. The honorable Senator from Iowa will perceive that that is the very question; whether they are likely to come or not is the unknown thing. If we knew exactly when they were coming, and with what force they would be here, and how they were to approach, we should know a great deal more than we ever shall happen to know. It is because of the unforeseen character of it that some provision must be made, and made effectual, in advance.

Mr. DAVIS, of West Virginia. Will my friend from Maine contend that the Government is to erect buildings all over the country because something may happen at some future time?

Mr. BLAINE. If the honorable Senator from West Virginia contends that erecting quarantine buildings at Hampton Roads and at Ship Island is putting them all over the country, then I answer yes; but he will remember that those are the points of access through the large internal channels which would give the disease if it came the most ready access to large centers of population, and there would be a most dangerous distribution of disease over the country if the buildings were not provided.

Mr. DAVIS, of West Virginia. But are there not fifty other places in the United States just as accessible and just as likely to want them?

Mr. BLAINE. I do not know about it further than this: The President has appointed what is regarded as a competent, wise, and responsible board on this question. I am told and have reason to believe that they are men of capacity professionally, and personally of high character. This movement was undertaken in some small measure; it will amply pay in a large measure. We hope to avert the spread of these terrible calamities which visited a large portion of the country one year ago and still greater two years ago, and I do not believe that we shall make anything by higgling and cutting down here or there a few thousand dollars in this experiment. If the experiment fails we shall know more than we do to-day; if it is effectual we shall have averted more evil and suppressed more suffering than any other dollar that has been appropriated by the Government ever secured, and I am in favor of doing this on some scale that will be commensurate with the professional experiment that is at stake and with the terrible evils that are sought to be averted.

Mr. HARRIS. Mr. President, the Senator from Kentucky and the Senator from Iowa seem to have overlooked the main point in this controversy. This appropriation cannot be spent, no single dollar of it can be spent unless there is an epidemic prevailing in the country.

In arguing against bringing this contingent fund up to the point of the estimates as approved by the Secretary of the Treasury both Senators devoted most of their time and most of their argument to a criticism of the administration of the board and of its general expenditures. Now, I suggest to those Senators that if the clerical force in the opinion of their Committee on Appropriations is too large or the salaries paid to the employés are too great, they should have looked at that point when they were making the appropriations for the absolute and certain expenditures of the board. I have no contest with the committee in respect to the appropriations for the necessary and known expenses of the board for the coming year. The committee has given all the money the board asked, all that the Secretary of the Treasury asked for this purpose. It is only in respect to this contingent fund, to be used and only to be used in the event of an epidemic settling in your midst, that I have differed with the committee.

Now, I undertake to say that if the epidemic was proclaimed as existing to-day with its usual dangers of spreading into other communities and other localities, however much Senators may stickle and higgle about the petty pittance that I ask to have added to this appropriation to-day, there is not a Senator on this floor who would not vote ten times the amount if the exigency were actually existing or threatening your localities and my locality, the locality of all of us, by its natural tendencies to spread. This amendment only comes up to the measure of the estimate of the Board of Health as approved by the Secretary of the Treasury, to be used only in the contingency where that epidemic shall exist.

As to the Board of Health, I chance to know its *personnel* perfectly and well, and I undertake to say that in point of personal character, in point of talent, intelligence, and ability, that Board of Health in its *personnel* will compare favorably with the same number of gentlemen who sit in either end of this Capitol. I undertake to say in addition that from my observation I sincerely believe that the moneys they have expended in the last fiscal year have been of more material

benefit to the American people, and to the whole people, than any moneys that have been appropriated by this Congress or that have been expended by the public service of the country.

Let me refer to one or two facts. In 1878 you had no National Board of Health; you had no machinery except just such as municipalities and a few of the States had organized; no general system; each was acting independently and for itself. You had an epidemic that spread through many of the Southern States, and swept up the Ohio River to Louisville and away up into the State of Ohio. The death rate ran into thousands. If the pecuniary injury sustained by the people of this country cou'd be estimated, I undertake to say, as the President of the United States has said in a message, that the pecuniary injury and expense of the epidemic of 1878 to this country exceeds $200,000,000. You had a Board of Health in 1879; you had an epidemic in 1879; but under the rules and regulations of the National Board of Health in 1879 commerce was very much, yes, 100 per cent., freer than it was in the panic of the epidemic of 1878. Take Cairo, for instance. I have the official report of the tonnage during the epidemic months of 1878 and of 1879. The tonnage to and from the South during the epidemic months of 1879 is more than 100 per cent. greater than the tonnage was during the epidemic months of 1878, while just before the epidemic months in 1878 and in 1879 and just after the epidemic months in these two years the tonnage at Cairo which went from the South was just about the same. It shows that commerce was a hundred per cent. freer under the regulations of the National Board of Health in 1879 than it was under the panic of 1878. And yet under the wise rules and regulations and vigilance brought about by the National Board of Health, with this greater freedom to commerce, the epidemic was absolutely confined to the locality where it originated.

I think that if you economize at all, especially in the line of the suggestion of the Senators from Iowa and Kentucky, scrutiny ought to have been directed to the regular expense of the Board of Health in its general administration, and I confess that I have been surprised at the committee or any one hesitating as to this particular contingent fund, that is to be expended only in the event of that supreme necessity that shall force itself on the country in the event of an epidemic such as we had in 1878 or 1879; and if there is no epidemic, then no single dollar, whether you appropriate $100,000 or the $164,860 we ask, or a million of money, will be used. Not a dollar of it will be used unless that necessity forces itself upon the country. In view of this fact I sincerely hope the Senate will adopt the amendment, give the Board of Health the amount that it has estimated, the amount that from the experience of 1879 it says will be necessary for this purpose, with the assurance that none of it will be expended unless it be absolutely necessary, and if it be necessary not only that amount but ten times that amount ought to be expended.

Mr. KERNAN. I felt when the bill establishing the National Board of Health was passed that it was likely to lead to the building up of a national board here that would become very expensive. I said then, what I believe now, that our safety against the entrance of epidemic disease into our ports must be in the local boards organized by the States in which the ports are where the people are in danger, and who will look to it that there is an efficient system established and preserved. I opposed the bill then until it was so modified that they were to act only in aid of local boards of health where those were established as they had been in New York for more than fifty years. I think now that unless we are vigilant in looking after it this will grow up into a most extensive bureau, not near as useful as a moderate one acting in aid of the local boards.

I did not oppose the appropriation then or the bill as it was modified, because there had been an epidemic the year before, and there was a likelihood that one would follow, and Senators did not desire to put themselves in opposition to what might protect some portions of the Union where it was said they had not efficient local boards of health. But I am now against the idea that this is to be a permanent concern spending large sums of money annually. From the nature of things, located here it cannot act as economically or as efficiently as local boards established by the States to protect themselves.

I called attention then to the fact that from the commencement of the Government down to that time there was never but a single statute passed by Congress on the subject of the public health, and that was not one that assumed at all that it was the right or the duty of the Federal Government to take charge of the subject. It was a law which provided either directly or authorized the Secretary of the Treasury to direct—I forget which—that the custom-house officers at the various ports of the Union should act in aid of the quarantine boards and the health officers of the States in protecting us from epidemics. Under that system we got on until this late day. While I was not willing to object to having this board for the benefit of sections where Senators whose constituents had suffered from the epidemic deemed it important, I desire now to enter my protest against the idea of having a permanent board of health here spending money and keeping up an establishment, instead of leaving it to the States to do what is right and wise to guard their people against this danger.

As to the particular appropriation, the board having been established, I am willing to vote what is really deemed necessary, but when they have not been able to satisfy the Committee on Appropriations that $100,000 is not sufficient I must vote against giving this $64,000 more.

Mr. HARRIS. Allow me to call attention to the fact that the Committee on Appropriations fell into an error as to what the estimates were, acted upon what the committee supposed to have been the estimates of the Board of Health to the Secretary of the Treasury, which is an error. The committee was mistaken as to what the estimates were.

Mr. KERNAN. This, like every one of these bureaus, will magnify itself, as if it were to take charge of the entire Union. I for one will only vote for an increase of appropriations to it when the regular committees are satisfied that more should be voted than they have reported in favor of.

Mr. TELLER. Mr. President, if I fail to vote for his appropriation, it will not be because I am afraid of swelling the appropriation bill, as suggested by the Senator from West Virginia, and if I vote for it it will not be because I am anxious to swell it. I am not in the habit of giving my votes that way. I hardly think the criticism of the chairman of the Committee on Appropriations is just on the Senate. There is some reason why the Senate occasionally, though rarely, overrules the Committee on Appropriations, and adds to the bill.

A few moments before a Senator rose and stated that the United States court-house in his State, in the principal city of the State, was in a ruinous condition; the roof was leaking; the furniture was being destroyed; not a decent chair said he for the judge to sit in, and yet the committee say, "We will not vote that." Why? The secret is out by the admission of the chairman, that for fear somebody on this side of the Chamber would, when Congress adjourned, go on to the stump and suggest that the democratic committee had presented a very large bill of this character, and thereby make political capital, they would really refuse to do that which common economy required they should do.

Mr. President, I had suspected before that sometimes that committee were a little afraid to increase this bill. The question simply is what ought to be done, what ought to be the amount of expenditure. If this money ought to be appropriated, should any Senator stand here and say, "Well, now, that is going to be a very big bill, that is going to look very bad when it goes out?" I believe the Senator from West Virginia did not think of that the other day when the river and harbor bill was up with a very large appropriation for West Virginia that very many Senators on this floor believed might have as well been dumped into the river as to have been put where it is being put.

I did not vote for this board. I did not believe in it, and I do not believe in it now. I said then this would grow into a very large expenditure of money and I did not object to that so much as I did for fear it would not be an efficient machine with all the money we might spend. Now, having transferred this whole question to the National Board of Health, having said in substance to the State boards that they need not look after the public health, the National Government having assumed what I think belongs to the States, economy, justice, decency, I may say, requires that having undertaken the thing we should carry it out.

The gentlemen who have had charge of this business, who have investigated it, say there is a necessity for this money, and it seems to me that every man on this floor who voted for the original bill, who recognizes the right of the General Government to manage and control this matter, ought to vote for appropriating this money inasmuch as it is only voted provisionally, voted to be expended in case it is needed. I cannot see how Senators who believe it is the duty of the Government to look into this matter can stand on a question of fifty or sixty thousand dollars. As has been said, if it is necessary I suppose we have the power and it is recognized all around to vote many millions rather than have the scenes of 1878 repeated both on the score of economy and on the score of humanity.

I am opposed to the whole theory of the National Board of Health; but if we are to have it, then I say let us make it efficient. If we have taken from the States that which belongs to them, let us do our duty toward the people of those States, if it is our duty at all, and do it well.

Mr. WITHERS. Mr. President, a great deal has been said in the course of this discussion that I think totally irrelevant to the amendment which is under consideration. I am one of those alluded to by the Senator who has just taken his seat, who supported the bill providing for the creation of this board; but I do not consider that I am thereby committed to support any recommendation or estimate that may be made by the board. If it were a question of appropriating sufficient money to make the board effective in its operations, to secure the best possible service for the object sought to be done, I would vote for it very willingly; but what is the amendment under consideration? It is a proposition to increase the appropriation of $100,000, which by the terms of the bill is contingent and uncertain, hypothetical entirely, to $164,000. It is manifest to any one who will look at the question a moment that if we have no epidemic prevailing throughout the country not one dollar of this money will be used; if we have an epidemic widespreading in its operations that sweeps over the land devastating its population, as we had in 1878, this would be a mere drop in the bucket, the $164,000 would be as nothing. We should require millions upon millions of dollars to meet the emergency, and I have no question, judging by the experience of the past, that the people of this country, North and South, would respond as they have heretofore done when such an emergency existed, and that every

dollar of the money that would be necessary to secure protection and assistance to those stricken portions of our community would be forthcoming.

But there can exist no data sufficiently definite to enable the Board of Health or any other person to estimate what will probably be needed in the event that we have an epidemic; and as that is manifestly and palpably the case, as the House bill contains an appropriation of $100,000, as that is amply sufficient if we have an epidemic confined to particular localities, and as it will be entirely inadequate if we have one widespread in its effects upon the community, I think the committee acted very properly in appropriating the amount included in the House bill. I think there is no necessity whatever for the $64,000 additional from the fact that we have no reliable data to assure us that that amount will be required.

It is said that that is the amount ascertained by the Board of Health from the experience of the epidemic of last year, as I understand the Senator who moves the amendment. Is that any assurance whatever that the next epidemic will maintain exactly the same proportions? None whatever. Therefore I say, in the absence of any data on which a reliable estimate can be made of the amount of money that will be required to be appropriated in the event that we have an epidemic, I am perfectly satisfied myself to stand by the bill appropriating $100,000, without any fear that my conscience will be in any degree affected if it should be found insufficient.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Tennessee, [Mr. HARRIS.]

The question being put, there were on a division—ayes 21, noes 17; no quorum voting.

Mr. HARRIS. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. MORGAN. I did not intend making any remarks on this amendment, and proposed to allow the subject to pass without remarks, but as the yeas and nays are to be called, I desire to state in a very few words why I am compelled to vote against the amendment.

It has been my misfortune to antagonize the establishment of this Board of Health with the broad sweep on which it was organized in the outset. I regarded it as a very bold grasp of unconstitutional power. I regarded it as an effort to build up in the city of Washington a bureau to take the control of the sanitary measures in all the different localities of the country, and to control the quarantine of this country both in reference to foreign countries and with reference also to interstate communications. I believed when the bill was first passed that every possible effort would be made to organize this into a bureau and to make it permanent, but I succeeded in getting an amendment put into the bill by which it should have no vitality after four years' experience unless Congress should see fit to re-enact it.

Five hundred and fifty thousand dollars I believe was the sum originally appropriated. Added to that there have been very considerable additional appropriations, and this money has been expended in one way or another without, so far as I am able to understand from any authentic information, the improvement of the health of the country, or the restraint actually of any epidemic either threatened or that has actually appeared in any part of the country.

Under a stretch of this law which I conceive to be an abuse of its provisions this Board of Health has already commenced to erect permanent establishments at different harbors on the southern coast of the United States, and is demanding money for the purpose of fitting up and continuing and enlarging these quarantine establishments, and it will not be long until we shall have a regular corps of officers assigned to duty at all these quarantine establishments, and they will be maintained at the expense of this Government continuously for many years to come. I cannot conceal it from my own conviction myself—I do not know whether it is actually so or not, but I am convinced that it is so—that this very project of getting the increase demanded by this board is for the purpose of building up these establishments, adding more and more to their size and their cost and their expense every year.

Mr. HARRIS. The Senator from Alabama will allow me to say that not one dollar of this money is to be appropriated to any such purpose. This appropriation that I ask for is to enable the National Board of Health to aid the local quarantines and local boards of health in preventing the spread of an epidemic, in the event an epidemic shall come, but not one dollar or one cent of it will go in the character of improvements that the Senator refers to, nor can it.

Mr. MORGAN. I am speaking of the general purpose of the appropriation of this money and of the uses to which it has been applied heretofore. My conviction is that it has been a settled plan on the part of this Board of Health to build these establishments along the sea-coast of the United States and compel Congress to hold on to them for the management of these establishments hereafter. They were intended to thwart by an expenditure of this money that provision of the law which decreed that it should die at the end of four years' experiment, to be thereafter resurrected only by the act of Congress. The enactment of that law and the establishment of this Board of Health as a permanent policy of the United States is the policy they are adopting and trying to carry into effect. Hence it is that we find that they surround themselves with an enormous corps of clerks and officers here in the District of Columbia, expending $21,800 per annum upon them—an enormous expenditure, and for what good I cannot see and never have been able to see.

Now, it is said they must have $164,000 set apart as a contingent or conditional fund for the purpose of meeting an epidemic. What sort of an epidemic are you going to meet and where are you going to meet it? What epidemic do you apprehend is coming? Not yellow fever? It is already in the country; it has been indigenous, a regularly naturalized inhabitant of this country for three or four years now, to say the least of it. Do you expect an epidemic from abroad? If so, what port will it come in at? Will it be at Portland, Maine, or at New Orleans, or at Galveston? Do you expect to contract it or countervail it? Or is it the cholera that Senators expect to invade the country; or is it the plague? The epidemic is not named; the point of attack is not named; but the amount of money is actually estimated at $164,860 for the purpose of meeting the epidemic if it does come. How the fact is ascertained that that is the proper prescription of money for the purpose of fencing out the epidemic I am not able to ascertain. I have no evidence that the Board of Health desire this money for that purpose. When the money is voted, it is left to them to say whether the epidemic condition exists sufficiently to authorize them to draw for it; and when they draw for it the Secretary of the Treasury has no option, because he is no doctor and cannot determine whether there is an epidemic here or not. So they determined for themselves the conditions on which this money is to be used, and you might just as well make a conditional appropriation of money to provide for the cyclone that has been in the West, and is expected to visit it again according to certain predictions of astrologers and astronomers during the coming season. We have had a cyclone that ran through Missouri and tore up towns and destroyed property and killed people; another one in Mississippi; another, I believe, in the State of Illinois, and in other places in the West. It is quite as reasonable to expect some cyclone during this coming year as it is to expect an epidemic. We have had fires that broke out and burnt up whole towns, especially in the oil regions of Pennsylvania, and we voted $25,000 to build a post-office in one of those towns. Why not raise a contingent fund in the Treasury of the United States to build post-offices in all the towns that may be destroyed by fire? Why not raise a contingent fund to remunerate damages that may occur and to relieve the inhabitants of all communities where cyclones may sweep with their terrible force? If we are to rush forward with this experimental and provisional sort of legislation, open the door wide and let all the people have a chance at it. It is an unfortunate—yes, sir, it is a false principle of legislation.

When this bill was up before the country we were forced to vote $500,000 under the constraint and compulsion of an existing epidemic, and Senators here were afraid to vote against it because they might violate the tenderness of public sentiment by an apparent opposition to a relief that was demanded for people who were suffering then under a great public calamity. Now that there is no epidemic, now that everything is healthy and the prospects are favorable for relief from all epidemic diseases, more so than they have been for many years in this country, I believe, we are invited to make another appropriation of $164,000 upon the hypothesis, the guess, the conjecture that an epidemic may occur during this year.

Mr. HARRIS. Will the Senator from Alabama allow me to suggest to him that he is grossly mistaken in his facts? When we made the appropriation of $500,000 it happened to be in June, 1879, when there was no epidemic, just as there is no epidemic now; but we had one in 1878, as we had one later in 1879.

Mr. MORGAN. When that additional appropriation was made we had emerged from the terrible epidemic of 1878; we made it in 1879; and the epidemic did return in the autumn of 1879 to a certain extent. The country was in a state of alarm on that occasion in consequence of that recent visitation, which caused, as I have remarked, Senators to hesitate and falter in making any opposition to the enactment. Many Senators, I doubt not, voted for the bill at the time it was passed because they were apprehensive that if they voted against it they might subject themselves to the criticism of having refused an act of justice and benevolence to the country. But now we have no epidemic, and there is no conjecture of any that I have heard of. On the contrary, the appropriation of part of this money to the sanitary relief of the citizens of the South has removed very largely, as I understand, the apprehension of any epidemic.

I think if you are to make a fund for the purpose of fencing off epidemics, you had better make it $500,000, and allow the President of the United States to draw his warrant against the fund according to emergencies, rather than expect to treat an epidemic, whether of cholera or yellow fever, by an appropriation of $164,000.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Tennessee, [Mr. HARRIS,] upon which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 20, nays 26; as follows:

YEAS—20.

Bailey,	Hampton,	Kirkwood,	Pendleton,
Blaine,	Harris,	Lamar,	Saunders,
Burnside,	Hereford,	Maxey,	Voorhees,
Davis of Illinois,	Johnston,	Morrill,	Walker,
Garland,	Jonas,	Paddock,	Williams.

NAYS—26.

Allison,	Blair,	Call,	Eaton,
Baldwin,	Booth,	Cockrell,	Groome,
Beck,	Brown,	Davis of W. Va.,	Ingalls,

Jones of Florida,	McPherson,	Rollins,	Wallace,
Kernan,	Morgan,	Saulsbury,	Withers.
McDonald,	Pryor,	Slater,	
McMillan,	Ransom,	Teller,	

ABSENT—30.

Anthony,	Conkling,	Hill of Georgia,	Sharon,
Bayard,	Dawes,	Hoar,	Thurman,
Bruce,	Edmunds,	Jones of Nevada,	Vance,
Butler,	Farley,	Kellogg,	Vest,
Cameron of Pa.,	Ferry,	Logan,	Whyte,
Cameron of Wis.,	Grover,	Platt,	Windom.
Carpenter,	Hamlin,	Plumb,	
Coke,	Hill of Colorado,	Randolph,	

So the amendment was rejected.

Mr. BURNSIDE. I move to amend the bill by striking out all from line 228 to line 232, on page 10.

This amendment I offered several days ago, and it was referred to the committee. The section of the Revised Statutes to which this clause refers provides for the payment to collectors of customs of a commission on moneys disbursed for light-house purposes. If this section is repealed no provision is made for making these payments. There are no bonded officers provided for who can make them. I see no reason for the repeal of the law. In fact, I see great harm that will come from repealing it. If my amendment obtain, I shall offer to amend further by inserting a clause providing for this payment such as was inserted in the last bill. This matter was brought before the House and stricken out in committee, but was put back on consideration in the House.

I move now to strike out all contained in line 228 to line 232, inclusive.

The PRESIDING OFFICER. The Secretary will report the amendment of the Senator from Rhode Island.

The CHIEF CLERK. It is proposed to strike out from line 228 to line 232, inclusive, in the following words:

> And so much of section 4672 of the Revised Statutes of the United States as provides compensation to collectors of the customs for services as superintendents of lights or as disbursing agents for the Light-House Establishment is hereby repealed.

Mr. BECK. Section 4672 of the Revised Statutes provides as follows:

> The Secretary of the Treasury shall assign to any of the collectors of the customs the superintendence of such light-houses, beacons, light-ships, and buoys, as he deems best; but no person whose compensation as collector of customs exceeds $3,000 a year shall receive any compensation as disbursing agent for the Light-House Establishment, whether the sums disbursed by him be for articles to be used or services rendered within or without the limits of his superintendency or collection district: *Provided*, That where the compensation of any collector as disbursing agent is not more than $3,000 a year, such agent shall receive for such services not more than $400 in any fiscal year.

That section the House in this bill seeks to repeal. We brought before us the managers and officers of the Light-House Board, and they said that the repeal of this section was proper, that they had their own disbursing officers, their own supervisors, men connected with the Light-House Establishment, whose duty it was to go and pay off all these men; that it only brought confusion and conflict by reason of the custom-house officers seeking to get the $400 by interfering with them; that there was a conflict of jurisdiction, and that there was no use for the statute, but on the contrary it was doing positive harm, as they had now officers connected with the Light-House Board fully competent to do the work, able to do it without any additional expense, maintaining the whole of the payment of their own people within their own establishment. They said that they had a great trouble by reason of the existence of this law and a conflict with the custom-house officers who were seeking to get in and pay their men and get the $400, when they could do it better, account for it better, and it would cost the Government not a dollar. Therefore we agreed with the House in striking that out at the earnest request of the officers of the Light-House Board.

Mr. DAWES. This amendment will take away from the compensation of collectors of customs the sum of between $7,000 and $8,000, distributed over and among eighty-two collectors of customs. No one of them can receive more than $400, and no one can receive anything whose regular compensation is $3,000. Of these eighty-two collectors only four in the last year are reported as having received $400, and only four others received $300, while thirty-eight of them received less than $100. Some of the collectors depend entirely for their compensation upon these fees, and have no other fees. They are collectors who under the present system of collecting the revenue are necessary at ports where scarcely any business is done; but there must be either a collector or an inspector of customs at that point to prevent smuggling. The collector, under the present system, remains there and depends entirely upon these fees.

The moment you repeal this law you must do one of two things: You must provide a salary for the collector or you must put the port in charge of an inspector and transfer its jurisdiction to some adjoining collection district. If you put an inspector there you must give him from $1,100 to $1,500 a year. If you leave a collector there you must provide some pay for him. So there is now a saving to the Treasury. On the other hand the repeal of this law deprives eighty-two collectors of this amount, only four of them getting the limit of $400, and only four others getting the limit of $300, and thirty-eight of them getting under $100. They depend upon these fees.

I am quite aware that the Light-House Establishment would rather have this charge themselves, and have these fees themselves, as they certainly would. The light-houses are not to be taken care of for nothing, and the expenses of the light-houses are not to be disbursed for nothing. This system, without any provision for it, throws some collectors of customs out of compensation at all. It undertakes to save to the Treasury between $7,000 and $8,000, taken off eighty-two of them, and from some of them it takes every dollar that they get for taking care of the port and keeping smuggling from going in and for services in taking care of light-houses, all on the ground that the Light-House Establishment would care for this themselves.

I think if the Committee on Appropriations will look into it they will see that it is not exactly safe, without making any provision at all for the care of these light-houses and the disbursement of these expenses, to repeal this law. You repeal this law, and every one of the eighty-two collectors charged by law with it are relieved of this duty, but you make no provision imposing it upon the Light-House Board or upon keepers of light-houses. The keeper of the light-house is not the man to disburse the expenses of the Light-House Establishment. The keeper of light-houses or else some portion of the Light-House Board here in Washington must do it. It should be somebody in the vicinity, and should not be the keeper himself.

I commend this view of the case to the Senator from Kentucky, because I know the Senator from Kentucky does not want to cripple the service, and I know the Senator from Kentucky is not to be led into a false move under the idea of economy. He will find that he has relieved eighty-two collectors of the duty imposed upon them by law at the trifling expense of seven thousand and odd dollars a year, and he has made no provision for anybody else to do the work; and he puts collectors at some points to watch the revenue without a dollar of pay.

Mr. BECK. All I can say is that we were assured by the officers of the Light-House Board with great emphasis that they had full provision made for the performance of this service, and all the duties could be performed by their own officers without any additional expense to the Government—officers they were obliged to have and maintain, who were accountable to them for the money that was appropriated for this purpose. We were informed that now conflicts of jurisdiction between collectors of divers ports and their own inspectors created great confusion, and they urged us to concur in this repeal upon the assurance that the provision was now ample in their own hands.

Mr. DAWES. It is a great pity the committee did not take the views of the customs division of the Treasury Department as well as of the Light-House Board. This is not the only thing in which there is a conflict. There is a grasping of power on the part of the one, and they would like to have this; but if the Senator himself has examined the law he will see that the Light-House Board cannot take a dollar of this money. The Light-House Board, in the present condition of the law, if you repeal this section cannot disburse this money. They can in one sense tell their light-house keeper to look after the light-house. They have ample authority, as they conceive, to tell the light-house keeper to look after the light-house; but they cannot disburse the money. The money goes from the Treasury through Treasury agents, and not through the Light-House Board, who are not authorized by law to disburse a dollar of it, as the Senator from Kentucky will find if he will look into the provisions of the law and not listen solely to the statements of the Light-House Board, who want to have a provision of law that will put this money into their hands for disbursement.

Mr. WITHERS. I will ask the Senator from Massachusetts, if his statement be correct that the Light-House Board cannot discharge the duty, why should they desire to grasp it if they cannot discharge it?

Mr. DAWES. I will answer the Senator. The Light-House Board think that their general supervision of light-houses will take care of the property. They expect that this will be supplemented, the moment you will see it put in operation, by a provision that will authorize them to take the money and disburse it, and then they will want the additional compensation.

Mr. WITHERS. The Senator from Kentucky has correctly stated the position taken by the officers of the Light-House Board before the sub-committee, and which prompted them to stand by the bill as it came from the House, where the same subject was investigated and this provision of the bill was incorporated into it, and that was that under the operations of that section of the Revised Statutes which it is proposed to repeal officers of customs were intrusted with duties that properly devolved, and by law devolved, upon the officers of the Light-House Board; and that the effect of this complication of methods of payment was so to disarrange their accounts as to render it very difficult for them to make an intelligible statement and settlement of accounts, because the payments which were made by the custom-house officers were not returnable to the Light-House Board.

This was the state of facts before the committee. We had notified all the officials of the Government to attend our meetings and to suggest any amendments or alterations that might be desired in this service. The Secretary of the Treasury received this notification, the custom-house service received it, the Light-House Board received it, and no complaint was made before us, and no denial of the allegations made by the Light-House Board, and therefore we proposed no change in the bill as it came from the House in this regard.

Mr. DAWES. The criticism I make is that they did not hear the customs division of the Treasury Department. The Secretary of the

Treasury himself is as innocent of the details of gathering the customs as I am.

Mr. BURNSIDE. If the Committee on Appropriations had consulted the members of the Light-House Board who were attached to the Navy alone the chances are that they would have said that the whole of the Light-House Board ought to have been under the charge of the Navy. If they had consulted alone the Army officers who are in the Light-House Board they would probably have said it all ought to be under the charge of the Army. They go to work and consult the secretary of the board as to how the money ought to be disbursed, and of course he says it ought to be disbursed under the Light-House Board.

I want to say to the Committee on Appropriations that they committed I think a very great error in relieving the light-houses along the coast from the supervision of eighty-two bonded officers just for the trifling saving of an expense of $7,500. The supervision of those eighty-two bonded officers is a valuable thing to this Government; and the Appropriations Committee or any other committee that relieves them from the responsibility and takes away from the light-houses and the light-keepers the watchfulness which they exercise over them would commit a great mistake, in my opinion. I hope the Senate will not sustain the committee in making this innovation, repealing a statute here on an appropriation bill. I think that is an improper thing to do. This is a section of the Revised Statutes. These sections were certainly placed in the statutes on mature deliberation, and an appropriation bill is not the place to repeal a statute, I submit.

Mr. WITHERS. I want to call the attention of the Senator from Rhode Island to the fact that the light-house service is a branch of the Treasury Department and not of the Navy.

Mr. BURNSIDE. Quite so.

Mr. WITHERS. The Secretary of the Treasury himself is president of the Light-House Board.

Mr. BURNSIDE. But a certain supervision of it is given to the custom-house officers, and it is very proper that it should be so. It is proper that the collector of the port of Newport, for instance, should have a supervision of the light-houses in the neighborhood of Newport, to see that the work is performed decently.

Mr. ALLISON. Will the Senator allow me to call his attention to one provision?

Mr. BURNSIDE. Yes, sir.

Mr. ALLISON. The law is not changed with reference to the supervision to be exercised by the custom-house officers. That section remains as it is now.

Mr. BURNSIDE. Then I submit you are asking the collectors to do work for nothing. Is that fair? You say the law is not changed and the work is still resting with them. The Secretary can act under the law; I agree to that. Even after this repeal is made the Secretary can require the custom-house officers to do the work. You expect these men, some of whom get $200 or $300 and many of whom get not more than $100 apiece, to keep a supervision of the lights, looking after the light-houses, seeing that the light-house keepers remain sober and attend to their work, without paying them for it. The amount of their commission is at the discretion of the Secretary of the Treasury. He can make it smaller or larger, I believe not to exceed 2½ per cent., or something like that, and it is not to exceed in the aggregate $400.

Mr. BECK. Will the Senator allow me to make a suggestion?

Mr. BURNSIDE. Certainly.

Mr. BECK. After constituting the Light-House Board, section 4654 of the Revised Statutes provides that "the Secretary of the Treasury shall be *ex officio* president of the Light-House Board."

Section 4658 provides that "the Light-House Board shall be attached to the office of the Secretary of the Treasury, and under his superintendence shall discharge all administrative duties" connected with it; so that it is all provided for carefully now.

Mr. BURNSIDE. Quite so; but there should be some provision here. These collectors are along the coast, and if they are to have that supervision, they should be paid for it. Any collector who gets $3,000 does not get any commission for this duty at all. Therefore, the only ones who are benefited by it are some of the collectors who get small salaries. As the Senator from Massachusetts states, there are eighty-two of them, and no one of them can draw more than $400 of this whole $7,500. I say that they are bonded officers.

Mr. DAWES. The smallest sum received is $12.

Mr. BURNSIDE. Some of them get as small a sum as $12, the Senator from Massachusetts tells me. I say that is not wise economy, but deprives the service of the watchfulness of a corps of eighty-two men, who are under bond to supervise these light-houses during the year. Great harm will be done, in my opinion, if this section is repealed, because it is utterly impossible for these light-house officers who are not bonded men, as a rule, to be held accountable for the disbursement of this money. It is probable that they would only go there at intervals, probably not more than once in a quarter. How are they going to keep supervision over the light-house keepers? I think the repeal of this section would be a great mistake, and I hope it will not be done.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Rhode Island, [Mr. BURNSIDE.]

The amendment was rejected—ayes 12, noes not counted.

Mr. McDONALD. Mr. President——

Mr. BECK. Will the Senator from Indiana allow me to make a suggestion? It is now five o'clock, and perhaps by six or seven o'clock, unless there are more amendments than we think for, we can finish the bill. We hope to close this bill to-night, and I rise at the request of the committee to ask Senators to stay with us as long as they conveniently can, hoping that we can get through.

Mr. McDONALD. I desire to offer an amendment. At the end of line 76 I move to insert:

For the purpose of constructing an elevator in the United States court-house and post-office at Indianapolis, Indiana, the sum of $9,500.

Mr. BECK. I make the point of order on that amendment. It is not estimated for, nor has it been considered by any committee.

The PRESIDING OFFICER. The Senator from Kentucky makes the point of order on the amendment offered by the Senator from Indiana.

Mr. McDONALD. Mr. President——

The PRESIDING OFFICER. It is not debatable, but the Chair will submit the question to the Senate. Is the amendment in order?

Mr. McDONALD. I do not know what the point of order is. This provision is the language of a bill that has been reported by a standing committee, the Committee on Public Buildings and Grounds.

Mr. WITHERS. Not as an amendment offered to this bill, though.

Mr. McDONALD. It stands precisely as the amendment that was adopted yesterday for the addition to the City Hall building here. The bill has passed the Senate unanimously; there was no objection made to it. It is in the House, and if it could be reached there it would be passed.

Mr. WITHERS. We had better put all the bills that have passed the Senate on this bill!

Mr. McDONALD. Every proper and appropriate one I suppose we could. If the Senator from Virginia has any such——

Mr. WITHERS. Certainly; there are several.

Mr. McDONALD. If he has any such that he desires to offer——

Mr. WITHERS. There are many such equally pertinent.

Mr. McDONALD. I would be glad to put them on.

Mr. WITHERS. I think not.

Mr. McDONALD. I do not see how it is going to increase the aggregate of the appropriations because the items are in the form of amendments to this bill, or that it will decrease the appropriations because they are kept off of this bill.

The PRESIDING OFFICER. The question before the Senate is, Is the amendment offered by the Senator from Indiana in order? [Putting the question.] The noes have it, and the amendment is out of order.

Mr. ALLISON. In line 1394 I move to strike out "general" before "deputies," and after the word "deputies" to strike out the words "except for services of the latter rendered at elections;" so as to read:

For payment of marshals and their deputies, $650,000.

The object of this amendment, as Senators will readily see, is to provide for the payment of all the deputy marshals. I do not propose to discuss the question. I believe now it is generally understood that these deputy marshals are to be continued, and I suppose no one will propose to continue them in the service without paying them.

Mr. WITHERS. We have made appropriations three times for that.

Mr. ALLISON. I shall content myself with offering this amendment, and shall ask for the yeas and nays on it if there is any objection to it.

Mr. BECK. Let us have the yeas and nays.

The yeas and nays were ordered.

Mr. KIRKWOOD. I wish merely to make an inquiry. I understand from the amendment offered by my colleague that the appropriation bill as it stands makes no provision at all for paying fees for deputy marshals who may be appointed to act under the election laws. Am I right? I should be very glad to have the answer of the Senator from Kentucky whether I am right.

Mr. BECK. I beg pardon; I was listening to another suggested amendment at the time.

Mr. KIRKWOOD. I understand from the amendment offered by my colleague that no provision is made in this appropriation bill for paying the expenses of deputy marshals who may be appointed to execute the laws touching elections.

Mr. BECK. There is not in this bill; it is the old question we have argued over and over so often. I hope the Senator will let the yeas and nays be taken. I believe that it is about the only thing that is political in the bill.

Mr. KIRKWOOD. What I want to ask is whether the intention is to pass any bill for that purpose, or whether it be the intention not to make any provision for the payment of these officers?

Mr. BECK. I am wholly unable to answer that. There is a bill before the House, but what will be done with it I do not know.

Mr. ALLISON. But that bill does not make any appropriation. That bill simply authorizes a different mode of appointment, recognizing the fact that we must have such officers.

Mr. KIRKWOOD. Will the Senator then answer the question, if it be the purpose to make an appropriation for this object, why it was not done in this bill where payment for the services of the marshals and their deputies is provided for?

Mr. BECK. The Senator will recollect that there is a House bill now pending there which brings up that whole question. We have been differing upon that for a year or two, as the Senator knows. All I can say is that he understands exactly what this means, and so do I, and we all understand what his colleague's amendment proposes. I hope, therefore, as it has been so often debated, that we shall not debate it much longer. At least I shall not.

Mr. KIRKWOOD. I do think it is due to the majority of the Senate and to the minority of the Senate and to the country that the question should be understood openly and plainly whether or not it is the intention of those who, for the time being, are in the majority here to make provision for the payment of these officers.

Mr. EATON. It will be known.

Mr. McDONALD. I will state to my friend from Iowa, for one Senator at least, that as long as these election laws are kept in the manner they are, by which they are mere partisan machinery and used for partisan purposes, I shall never vote a dollar.

Mr. KIRKWOOD. That is frank; and I do not see why there should not be equal frankness all around.

Mr. KERNAN. I do not see any good in talking about it.

Mr. EATON. We do not want to talk about it; we will vote.

Mr. KIRKWOOD. I will then take it, and I suppose I may say the whole country will take it, that the refusal to adopt the amendment offered by my colleague will be a declaration that it is not the intention to make any provision for the payment of these officers.

Mr. EATON. The Senator may take it as he pleases, and the country of course will take it as it pleases.

Mr. KIRKWOOD. Yet the Senator ought to say how he intends to have it.

Mr. EATON. My views are well understood. It is not necessary for us to talk about it.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Iowa, [Mr. ALLISON,] on which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. BALDWIN, (when his name was called.) On this and all political questions I am paired with the Senator from Texas, [Mr. COKE.]

Mr. CALL, (when his name was called.) I am paired with the Senator from Maine [Mr. HAMLIN] on all party questions, and I suppose this to be one.

Mr. DAWES, (when his name was called.) I am paired on this question with the Senator from Delaware, [Mr. BAYARD.] I should vote "yea" if he were here.

Mr. EATON, (when his name was called.) I am paired on all political questions with the Senator from New York, [Mr. CONKLING,] except when it is necessary that I should vote in order to make a quorum.

Mr. GARLAND, (when his name was called.) I am paired with the Senator from Vermont, [Mr. EDMUNDS.]

The roll-call was concluded.

Mr. BURNSIDE, (after having voted in the affirmative.) I voted inadvertently. I am paired with the Senator from New Jersey, [Mr. RANDOLPH.] If he were here, he would vote "nay" and I should vote "yea."

Mr. DAVIS, of West Virginia, (after having voted in the negative.) I voted, not thinking at the moment that I am paired with the Senator from Minnesota, [Mr. WINDOM.] I ask to withdraw my vote.

Mr. MAXEY. My colleague [Mr. COKE] is necessarily absent, and is paired on political questions with the Senator from Michigan, [Mr. BALDWIN.] If my colleague were here, he would vote "nay."

Mr. McMILLAN. My colleague [Mr. WINDOM] is absent in the discharge of duties pertaining to a committee of the Senate.

Mr. INGALLS. My colleague, [Mr. PLUMB,] who is absent, is paired on party questions with the Senator from Alabama, [Mr. MORGAN.]

Mr. DAVIS, of Illinois. I wish to remark, so that it may go on the record, that my colleague [Mr. LOGAN] is paired with the Senator from Maryland, [Mr. WHYTE.]

Mr. MORGAN. I am paired with the Senator from Kansas [Mr. PLUMB] on this question.

The result was announced—yeas 16, nays 28; as follows:

YEAS—16.

Allison,	Booth,	Kirkwood,	Platt,
Anthony,	Ferry,	McMillan,	Rollins,
Blaine,	Hill of Colorado,	Morrill,	Saunders,
Blair,	Ingalls,	Paddock,	Teller.

NAYS—28.

Bailey,	Hampton,	Lamar,	Thurman,
Beck,	Harris,	McDonald,	Vance,
Brown,	Hereford,	McPherson,	Voorhees,
Cockrell,	Hill of Georgia,	Maxey,	Walker,
Davis of Illinois,	Jonas,	Pendleton,	Wallace,
Farley,	Jones of Florida,	Saulsbury,	Williams,
Groome,	Kernan,	Slater,	Withers.

ABSENT—32.

Baldwin,	Carpenter,	Grover,	Plumb,
Bayard,	Coke,	Hamlin,	Pryor,
Bruce,	Conkling,	Hoar,	Randolph,
Burnside,	Davis of W. Va.,	Johnston,	Ransom,
Butler,	Dawes,	Jones of Nevada,	Sharon,
Call,	Eaton,	Kellogg,	Vest,
Cameron of Pa.,	Edmunds,	Logan,	Whyte,
Cameron of Wis.,	Garland,	Morgan,	Windom.

So the amendment was rejected.

Mr. COCKRELL. I suggest that in line 1028, where the appropriation is made "for expenses of adjusting claims for indemnity for swamp lands," the words "for indemnity," where they first occur, ought to be stricken out. Then it would read:

For expenses of adjusting claims for swamp lands, and for indemnity for swamp lands, $15,000.

Mr. ALLISON. I do not know about that. It reads:

For expenses of adjusting claims for indemnity for swamp lands and for indemnity for swamp lands, $15,000.

Mr. INGALLS. That is right as it stands.

Mr. ALLISON. A portion of this fund is to go for expenses of adjusting these claims, and a portion of it is to go to pay the claims.

Mr. BECK. I think that is right.

Mr. COCKRELL. It makes no particular difference, but still I think, as I stated, it is correct; and it is the way the appropriation has been made ever since it has been made, for I have the acts before me. It is first for investigating the swamp-land——

Mr. ALLISON. For investigating claims for indemnity for swamp lands.

Mr. COCKRELL. No; it is first for investigating the swamp-land claim by the State, and which the Government has sold, and then it is for investigating the claim which the Government has for swamp lands in the State.

Mr. WITHERS. As it is, it provides for two separate and distinct things.

Mr. COCKRELL. That is what I want it to provide for. I want it to provide for investigating the swamp lands which the States claim and which the General Government has never patented. That is one thing. Then I want to provide for indemnity.

Mr. BECK. I merely want to make a suggestion, which is that we agree to strike out the words "for indemnity" in line 1078, and when we get into conference we can ascertain the exact fact.

Mr. WITHERS. It can then be settled.

Mr. BECK. Let the words "for indemnity" be stricken out in line 1028, and if there is any mistake it can be ascertained. Is there objection to that being done?

The PRESIDENT *pro tempore*. If there is no objection, the amendment will be made.

Mr. KERNAN. I am directed by the Committee on Patents to offer an amendment to come in at the end of line 723. This amendment was sent to the Committee on Appropriations.

The PRESIDENT *pro tempore*. The amendment will be reported.

The CHIEF CLERK. It is proposed to insert after line 723:

That the Secretary of War is authorized to purchase from Addison M. Sawyer his patent-right for canister-shot, and to pay him therefor such sum as he shall deem just and reasonable, not exceeding $25,000; and said sum is hereby appropriated for that purpose, out of any moneys in the Treasury not otherwise appropriated.

Mr. WITHERS. I cannot make the point of order on that, inasmuch as it was reported by a committee and submitted to the Committee on Appropriations of the Senate, but it was rejected by the committee on the ground that it was simply an appropriation for the benefit of a private individual, that it properly belonged if anywhere to the Army appropriation bill, that no reason existed or was known to us to exist why if the claim was a good one it should not have been incorporated into that bill; and inasmuch as it was alleged that the Government had been using this device for several years, we declined to put it in the appropriation bill when we had no opportunity to investigate the matter.

Mr. DAWES. While the phraseology of the amendment is to enable the Government to pay a certain individual for this claim it is by no means a private claim; that the individual's name is incorporated in the amendment to whom the money is to be paid does not make any claim upon the Government for it. The Government proposes to buy of him the patent. The Secretary of War recommends it in a letter addressed to the Congress of the United States.

I will state the circumstances. This man Sawyer during the war devoted his time to the invention of a new canister-shot, and during the war and at the close of it perfected a canister-shot of such remarkable quality as that the Government abandoned all other methods of using canister-shot and adopted this canister-shot, so that they use it entirely now. They do not require canister-shot in time of peace for any purpose except for target practice, for practice in the Army. The amount of royalty that they pay this man for the invention is about $1,000 a year. They pay so much for these shot. They have abandoned all others and require these to be used, so they require so much of these shot. Of course in time of peace they use no more; but if there should be war they would use a hundred times as much and be obliged to pay a hundred times as much royalty. They have paid him from time to time $1,000 a year for this. They owe him now about $1,000 royalty. Instead of coming to Congress each year for an appropriation to pay this royalty they have made an arrangement with him of their own motion to purchase his patent and have an end of it. So they sat down with him and counted up the $1,000 a year during the life of his patent, found out how much that would amount to, and then they agreed to give him a reasonable compensation for the time which he had expended over and above for perfecting it, for it is a very expensive matter to experiment on canister-shot, and a private individual cannot experiment on it without laying out a good deal of money. He rendered an account of all the money he had expended in these experiments. They looked it all

over and they said it was very reasonable. They added that to the amount of royalty each year during time of peace for the life of the patent, and they said they would give him that for it and have an end of it.

The Secretary of War has written a very strong letter—I do not know whether it is addressed to the committee themselves, but either to them or to Congress—urging that this be bought, setting forth the necessity of having it. The fact is, that in time of peace they pay all this money out, and if war should ever turn up they would be obliged to pay a great deal more.

The committee have examined the whole matter and I think they approve of it; they agree with the Ordnance Department and the Secretary of War that it is the thing that must be used; but they say that the War Department did not originally make any estimate for this, that it ought to have gone into the Army appropriation bill, and that they do not want to put it in this bill. That is the only objection, as I understand, to it. The answer is that they came to settle their accounts with this man after the estimates were made, and they found this little charge, and it occurred to them that this was a business way of doing it. They found a man who was not here with a patent trying to make an enormous sum; he said he only wanted to be made whole. The invention was made originally from patriotic motives, for the use of the Government; it cannot be used by anybody else. He said, "you reckon up just what this would cost you and you may have it." Then they urged this method of doing it. It is as reasonable an application on the part of the War Department as ever was made in the world. When you find an honest, reasonable patentee who is willing to give the Government the whole benefit of his patent for what it cost him, I do think that it is such a rare exception in human nature, (I do not mean a rare exception as to patentees,) that I do think the Committee on Appropriations in an economical sort of view ought not to turn their back upon it. I hope the amendment will be adopted.

Mr. HOAR. Mr. President, the question before the Senate is whether we propose to dismiss from the resources of this Government in war the inventive genius of American mechanics. This man is one of the great inventive geniuses of this country. He is no adventurer; he is no beggar; he is the man who has perfected rifled cannon. He brought his rifled cannon to Washington before the war, and he received a certificate of General Lee and General Scott and Mr. Floyd, who was then Secretary of War, and he was the first person who had brought the rifling of cannon to perfection. Now he has invented a canister-shot which multiplies by five the effective force of every canister ever fired out of a rifled cannon. The charts which show the comparison of the effect of his canister-shot and that which we had in store show that his is as five to one in its effective power.

In addition to that, as I am informed—and any military gentleman in the Senate will correct me if I mistake—I understand that every battery of rifled cannon was obliged to have a certain number of smooth-bore cannon because of the destructive effect of the ordinary canister upon the rifling, which is a great additional cost. This man's invention prevents all that and the canister are fired without injury to the rifling. This is not my statement; it is the statement of General Benét in the letter which he has written, which is with the papers here, in which he states both these facts. That is a saving of millions of dollars to this country. It is one of the great military inventions of the age, and it is so certain that the War Department immediately discarded all its old stock of canister-shot and adopted this man's. It is described carefully, with pictures and representations, in the ordnance report.

Where a man has rendered a benefit to his country like that, multiplying by five the effective force of rifled cannon so far as grape-shot are used, and saving this injury to the rifling, it seems to me that when the War Department have adopted his invention and come in and say that he ought to have this little moderate sum of $25,000 for an invention which saves hundreds and hundreds of thousands to the Government, we should not turn him out on a mere technicality, and say that it is all right, all the committees agree that it is right, the Ordnance Department says so, the Secretary of War says so, but we will not pay this citizen this little moderate sum because it ought to be in another bill and not this; it came a little too late.

Mr. BECK. I desire to say to the Senate that there is a letter from the Secretary of War, and a very strong one. The claim seemed to be of great merit. The difficulty was that we could not put it on this bill. Though believing it was a proper claim against the Government the committee did not think they could afford to put it on this bill.

Mr. VOORHEES. There is great doubt whether there is any merit in it at all.

Mr. DAVIS, of West Virginia. I think the claim is now before the Claims Committee, and they are considering it. I am so informed.

Mr. COCKRELL. No; the Committee on Patents.

Mr. HOAR. The Committee on Patents reported unanimously in its favor. If I can say properly what was communicated to the committee of the House, they examined it when they had nearly completed this bill, and said if it was put on in the Senate they would make no objection whatever to it; and the Committee on Appropriations concur in my statement. It seems to me, as I said, that unless this nation, whose one conspicuous attribute and glory is its inventive power, proposes to refuse to avail itself of the inventive genius of its citizens in war, we ought not to refuse to adopt the recommendation and desire of the Ordnance Department and the Secretary of War on the mere technical question which bill it ought to be put in.

Mr. McMILLAN. I think this claim is not before the Committee on Claims.

Mr. HOAR. The Committee on Patents.

Mr. COCKRELL. There is no question about that. The Senator from West Virginia was corrected in that. It is before the Committee on Patents.

Mr. WITHERS. I wish to state that the Committee on Appropriations did not consider that the question was quite as far-reaching as the Senator from Massachusetts [Mr. HOAR] seemed to indicate; and we did not suppose that in passing upon this question we were determining as to whether the inventive genius of the nation should have recognition. We regarded it as simply a proposition before us that we should attempt upon the tail of the sundry civil bill, at the close of a session, to purchase a patent which had been in use for sixteen years, according to the statement. That is the whole of it. No person challenged it or made any allusion to the status or character of the inventor.

Mr. HOAR. My friend from Virginia will permit me to say that this patent has not been used for sixteen years. This gentleman made the invention in 1864, just as the war was closing. He brought it to the Ordnance Office at that time.

Mr. WITHERS. That is what I understood exactly.

Mr. HOAR. Let me go a little further. There it remained. He perfected it and brought it to great perfection in the mean time. In 1877 he brought it to the attention of the War Department, and Secretary McCrary ordered a trial. Then another board made trial at Sandy Hook, and they reported that it was better than anything known in this country. They waited six months with a view of making some further examination as to whether there was anything in Europe equal to it, and then they reported unanimously recommending the War Department to abandon its old canister and to use this. The War Department did so, and all that that Department have actually used of it is for two years. They ordered about one thousand dollars' worth a year for mere trial practice, on which the profit to the maker is $150, making $1,000 a year for trial practice.

Mr. WITHERS. I have not heard anything stated that I was not perfectly aware of before, nor has the correction which the Senator proposed to make of my statement amounted to it inasmuch as he merely reiterated what I say, that the invention dated from 1864.

Mr. President, I do not mean to question the value of this invention, nor did the committee design to challenge the character of the inventor. No person alleges that he was either an adventurer or beggar, and therefore that was a perfectly gratuitous defense. But the question simply resolves itself into this: Here is a proposition to pay, by a single provision of the sundry civil bill, for the purchase of an invention, however valuable it may be, that has been before the Department of War for several years. Any year since 1877, according to the revised statement of the Senator from Massachusetts, the Secretary of War could have recommended this purchase. Any year since 1864 the Committee on Patents could have reported and any time the Congress of the United States could have made an appropriation for the purchase of that patent if they desired. It is simply a private matter designed for the benefit of a private individual.

I do not pretend to say that the amount proposed is out of proportion to the character of the service rendered or the value of the invention. All these things we did not take into consideration at all. It is simply that the committee did not deem it judicious legislation to undertake without an opportunity for examination now to ingraft into the sundry civil bill an appropriation which properly belonged to the Army bill, and which can be just as well put upon the next estimates emanating from the Secretary of War.

Mr. HOAR. I should like to have these two letters read by the Secretary. The result of the Senator's position would be that the whole matter having been considered by the committee and by the Senate and decided in favor of the man on its merits, he has got to be turned away now simply because he is in the wrong bill, and come back next winter.

Mr. WITHERS. It has not been decided at all.

Mr. DAVIS, of West Virginia. There has been no decision.

Mr. WITHERS. Where was it decided?

The PRESIDENT *pro tempore*. The letters will be read.

The Chief Clerk read as follows:

WAR DEPARTMENT,
Washington City, December 18, 1878.

SIR: Referring to your inquiry upon the subject, I have the honor to invite your attention to the following remarks of the president of the ordnance board on the trials of the different field projectiles, namely:

"The board, in consideration of the small number of Absterdam solid shot (brass sabots) and the small powder capacity and light weight of the Hotchkiss shell on hand in the Department, reconsiders its former action and finally recommends as follows: that all the Absterdam shot, shell, and case shot, and all the Eureka projectiles be retained for issue, and all other field projectiles, canister included, be condemned and sold. The board further recommends that when canister is called for, only that of the Sawyer pattern be issued; and that all percussion shell or case shot retained be provided with the latest model Hotchkiss fuse, small size, such as is used in the shell for the revolving cannon."

In submitting for approval the recommendations of the ordnance board, the Chief of Ordnance remarks:

"The projectiles have been on hand since the war, and the large bulk are unfit

for issue. The best are to be retained, and as there are over twenty-three thousand of these, the supply is deemed ample for the present."

The Department approved the recommendations.

Very respectfully, your obedient servant,

GEO. W. McCRARY,
Secretary of War.

Hon. G. F. HOAR,
United States Senate.

WAR DEPARTMENT,
Washington City, May 10, 1880.

SIR: I have the honor to inform you that Hon. LEOPOLD MORSE has requested me to inform the Committee on Appropriations, House of Representatives, whether the Department deems it desirable or just that the Government should acquire the patent of Sawyer's canister-shot, at a sum to be fixed by me, within certain limits which will afford reasonable compensation to the inventor, and, if so, what would be a suitable limit.

In response to the communication above referred to I beg to invite the attention of the committee to the report of the Chief of Ordnance on this matter, as follows:

"This office has expressed itself favorable to an appropriation that will reimburse Mr. Sawyer for the expense incurred in making and perfecting his invention.

"In time of peace the number of canisters for current use will not be more than one thousand a year.

"Allowing 10 per cent. of cost as royalty would be fifteen cents each, or $150 a year, and for seventeen years, the life of the patent, would amount to $2,550.

"In all probability the United States will be the only purchaser in this country during the life of the patent. Should the country be engaged in war during that period the Sawyer canister would no doubt be used in large numbers; but war is a possibility only.

"Under all circumstances $5,000 would be a fair price, and it would be well to purchase the patent, or acquire for the United States the right to use it, at that price.

"Mr. Sawyer assures me that the cost to him in money in inventing and perfecting his invention is more than $15,000. In my opinion $5,000 is a fair price for the right to use the patent by the United States, and therefore that $20,000 should be appropriated.

"As to the value of this canister to the Navy I am not a fair judge, and did not consider it in determining upon the price."

It will be seen from the above that the Chief of Ordnance has not taken into consideration the advantage to the naval service of this invention, and therefore, in passing on the case, Congress may consider this is an item that should enter into the case.

Very respectfully, your obedient servant,

ALEX. RAMSEY,
Secretary of War.

Hon. J. D. C. ATKINS,
Chairman of the Committee on Appropriations,
House of Representatives.

Mr. HOAR. The letter of General Benét, in which he states in the most emphatic manner how this canister-shot multiplies the effective force of the arm, and that it is without injury to the rifling, I mislaid; but I state, on my personal knowledge, that I have seen it. It is a recent letter, and it states that fact in the strongest terms.

Mr. BECK. Has the Senator got the letter of General Benét? I am looking for it now.

Mr. HOAR. No; it has been mislaid.

Mr. BECK. We had it before us; it is a very strong letter.

Mr. HOAR. Here is the report of the Ordnance Board if any Senator would like to look at the description and the plates of this cannon.

Mr. PLATT. I am aware that the customs of the Senate are too sacred to be questioned by one who has recently come to occupy a seat here; but if there be any tradition or custom which forbids us paying an honest debt or purchasing a thing which the War Department desires us to purchase because it cannot be placed on the right appropriation bill, I think that tradition or custom ought to be done away with. Here is a case where it seems to be admitted on all hands that it is for the interest of the Government to make this purchase; it has been agreed upon between the Secretary of War and the patentee; and the only reason urged against it, the only reason which can be urged against it, is that it does not happen to come, in the opinion of the Committee on Appropriations, on the right appropriation bill. Now, what earthly difference does that make? It is so much money, and whether it comes in one appropriation bill or in another it is all the same in the end.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from New York, [Mr. KERNAN.]

The question being put, there were, on a division—ayes 22, noes 22.

Mr. HOAR called for the yeas and nays; and they were ordered.

The Secretary proceeded to call the roll.

Mr. WALKER, (when Mr. GARLAND'S name was called.) My colleague [Mr. GARLAND] is paired with the Senator from Vermont, [Mr. EDMUNDS.]

Mr. GROOME. My colleague [Mr. WHYTE] is detained from the Senate by illness and is paired.

The roll-call was concluded, and the result announced—yeas 25, nays 23; as follows:

YEAS—25.

Allison,	Davis of Illinois,	McDonald,	Saunders,
Anthony,	Dawes,	McMillan,	Teller,
Baldwin,	Ferry,	McPherson,	Thurman,
Blaine,	Hoar,	Morrill.	Windom.
Blair,	Ingalls,	Paddock,	
Burnside,	Kernan,	Platt,	
Call,	Kirkwood,	Rollins,	

NAYS—23.

Bailey,	Eaton,	Hill of Georgia,	Vance,
Beck,	Farley,	Jones of Florida,	Voorhees,
Booth,	Groome,	Maxey,	Walker,
Brown,	Hampton,	Morgan,	Williams,
Cockrell,	Harris,	Pendleton,	Withers.
Davis of W. Va.,	Hereford,	Saulsbury,	

ABSENT—28.

Bayard,	Conkling,	Jonas,	Randolph,
Bruce,	Edmunds,	Jones of Nevada,	Ransom,
Butler,	Garland,	Kellogg,	Sharon,
Cameron of Pa.,	Grover,	Lamar,	Slater,
Cameron of Wis.,	Hamlin,	Logan,	Vest,
Carpenter,	Hill of Colorado,	Plumb,	Wallace,
Coke,	Johnston,	Pryor,	Whyte.

So the amendment was agreed to.

Mr. WITHERS. I shall ask a separate vote in the Senate on that amendment.

Mr. EATON. I move to amend the bill by inserting, between lines 914 and 915:

For continuing repairs and improvements at the navy-yard, New London, Connecticut, in extending one of the buildings thereat so as to furnish a drill-room and hospital for the use of the training-ships of the Navy, $30,000.

I regret that this was not put on in committee. I do not think I shall say anything in reference to this matter that does not meet the approbation of every member of the committee. I believe in 1867 the State of Connecticut purchased a mile of water-front and gave it to the United States; she did not sell it, but gave it to the United States for naval purposes, four miles above the mouth of the river Thames. There are eight miles of river capable of containing the commercial marine of the world, with a half-mile channel of from thirty to fifty feet in depth, entirely land-locked. On this mile front of the river Thames the Government has erected one building and laid the foundations for another. The Minnesota is now there as a training-ship, and it is deemed necessary, absolutely necessary, that this other building should be erected.

I do not say too much when I say that there is no point upon the coast anywhere from Pensacola to Maine that offers a better harbor—I will not say as good, but a better harbor than the harbor of New London. It is never frozen in the winter, always open. I think that under the circumstances this additional building should be erected. I hope that my friends on the committee will not vote me down here as they did in the committee.

Mr. VOORHEES. I rise to a question of order.

Mr. EATON. No question of order can be interposed here, I apprehend.

Mr. VOORHEES. No one needs enlightenment on questions of order more than I do, consequently I have a right to ask whether this amendment is in order or not.

Mr. EATON. I will state this. In the first place, I would not have offered it if I had not believed it was entirely in order. It was in accordance with estimates; it was properly before the Committee on Appropriations, and that committee said that I should be permitted to present it here without any question being raised.

Mr. VOORHEES. I have great respect for the Senator from Connecticut's knowledge of parliamentary law, and yet his statement that, if he had not thought it in order he would not have offered it, is not quite binding.

Mr. EATON. Will the gentleman point out the question of order?

Mr. VOORHEES. I ask the Chair, who is entirely familiar with questions of this sort, whether this amendment is in order or not?

The PRESIDENT *pro tempore*. That depends on a question of fact which is not within the knowledge of the Chair.

Mr. VOORHEES. Then somebody will have to furnish that question of fact.

The PRESIDENT *pro tempore*. Rule 27 would exclude it unless it be moved in pursuance of the estimate of the head of some one of the Departments. The Chair does not understand it to be proposed by any standing committee.

Mr. VOORHEES. So I supposed.

The PRESIDENT *pro tempore*. It must, then, be proposed in pursuance of the estimate of the head of some one of the Departments or "to carry out the provisions of some existing law, or treaty stipulation, or act, or resolution previously passed by the Senate during" this session. The Chair understands the Senator from Connecticut to say that it is in pursuance of an estimate of the head of some Department. The Chair has no information on that subject.

Mr. EATON. I have stated that fact.

The PRESIDENT *pro tempore*. The Chair so understood the Senator.

Mr. VOORHEES. Is there any official communication from any head of Department? I do not understand that a Senator can be the conduit through which official information can be transmitted to this body.

Mr. EATON. I do not propose myself to be a conduit through which anything can be given to this or any other body. I state the fact; that is all. If the Senator from Indiana doubts it he must grope himself to find the necessary information.

Mr. VOORHEES. I am not doubting as to the question of veracity, but there are ways in which facts can be communicated to the Senate of the United States, and I do not know the constitution or law of the country that recognizes the Senator from Connecticut or anybody else as one of these means. Mr. President, the Senator from Connecticut assumes a form of expression which justifies me in saying that some days ago he characterized——

The PRESIDENT *pro tempore*. The Senator from Indiana will please recollect that the question of order is not debatable. Did the Chair understand the Senator from Connecticut to say that this had been estimated for by the head of a Department or otherwise?

Mr. EATON. I have in my hand a letter from the Secretary of the Navy, directed to Mr. ATKINS, chairman of the Committee on Appropriations of the House, with regard to this very subject.

Mr. VOORHEES. I call for the reading of it, and I make the point of order that it cannot even be read, because it is not a paper addressed to this body.

Mr. EATON. Then you do not ask for its reading.

Mr. VOORHEES. I do not.

Mr. EATON. Then we will rest where we are.

Mr. VOORHEES. Very well.

Mr. BURNSIDE. I ask for the reading.

Mr. MCMILLAN. Is there any question of order before the Senate?

The PRESIDENT *pro tempore*. The Senator from Indiana [Mr. VOORHEES] raises the point of order that this amendment is not in order.

Mr. MCMILLAN. I did not understand the Senator to raise the point of order.

Mr. VOORHEES. I did.

The PRESIDENT *pro tempore*. It is said it is in order because the amendment is offered in pursuance of an estimate made by the head of a Department. Of course the Chair has no knowledge on that subject, and therefore, if the information can be laid before the Senate, that is the proper way to inform the body.

Mr. VOORHEES. Will the Chair accept information except that which is addressed to the Senate in its official capacity?

The PRESIDENT *pro tempore*. If the Senator offering the amendment says there is an estimate of that kind, the Chair supposes he is always ready, if any Senator questions it, to verify the fact.

Mr. VOORHEES. Does it not have to be transmitted to the body?

Mr. SAULSBURY. If the Senator from Connecticut has referred this amendment to the Committee on Appropriations and has the permission of the Committee on Appropriations to present it to the Senate, does not that make it in order?

Mr. VOORHEES. I do not know that the Committee on Appropriations can give him the right to offer it.

Mr. EATON. It virtually comes from the Committee on Appropriations by the action of that committee.

The PRESIDENT *pro tempore*. The Chair understands now from the Senator from Connecticut that there is an estimate for this amendment, and will rule it to be in order.

Mr. VOORHEES. Has it been addressed to this body?

The PRESIDENT *pro tempore*. That the Chair does not know.

Mr. BURNSIDE. I ask for the reading of the letter.

The PRESIDENT *pro tempore*. Is there an appeal from the decision of the Chair?

Mr. VOORHEES. What is the decision of the Chair?

The PRESIDENT *pro tempore*. The decision of the Chair is that the amendment is in order, on the statement made by the Senator from Connecticut.

Mr. VOORHEES. That is the first time I have heard it.

The PRESIDENT *pro tempore*. That was the decision of the Chair, and the Chair thought it was distinctly enough announced. If there is no appeal the question is on the amendment.

Mr. BLAINE. I think there is a parliamentary point involved there that may be of some importance. The honorable Senator from Connecticut has stated with perfect frankness, as he always does, just what he has to base this upon. The point I suggest is whether a letter addressed to the chairman of the Appropriations Committee of the House is, within the meaning of the rule of the Senate, an estimate.

The PRESIDENT *pro tempore*. That is certainly a somewhat serious question, and the Chair will submit it if the letter was ever before the Senate.

Mr. BLAINE. I have no interest in the matter; I will vote with the Senator from Connecticut for the amendment; but as a matter of fact it ought to be very carefully weighed whether a letter even addressed to the chairman of the Committee on Appropriations of the Senate is an estimate. That rule has a specific, a direct, and a technical meaning, or else it has no meaning at all. The estimates are the propositions for the support of the Departments sent by the head of each Department through the Treasury Department to Congress. That is a very strong mode of getting at the exact ability of the Government of the United States to pay. Whether outside of that a private letter addressed to the chairman of the committee and not coming through the Treasury Department at all can be called an estimate may be a very serious matter; and although I shall vote very cheerfully with the Senator from Connecticut for the appropriation which he offers, yet I think it ought to be settled with a good deal of definiteness in a ruling of that kind whether that sort of a paper does constitute an estimate.

Mr. ALLISON. I hope the Senator from Indiana will withdraw his point and let us test the sense of the Senate upon the merits of the appropriation proposed by the Senator from Connecticut.

Mr. VOORHEES. I will, with this single word: The Senator from Connecticut saw fit the other day to characterize a bill for which two-thirds of this body voted upon a yea-and-nay vote as "a steal," and now I am disposed to characterize this proposition of his as a steal and out of order, too.

Mr. EATON. Mr. President——

The PRESIDENT *pro tempore*. This whole debate is out of order.

Mr. EATON. The Senator from Indiana ought to govern his temper and ought to be courteous. Now it seems his opposition to this measure results not because the measure is not right, but because the mover of the measure characterized a certain bill in a certain manner. That is the reason for the opposition of the Senator from Indiana to the amendment which I have had the honor to offer. I have no comments to make upon that. That fact is before the Senate, and if I am to be tried because I differ in opinion with the Senator from Indiana with regard to a certain measure which appeared before this body some days since, and if this measure is to be tried because I used language that the Senator from Indiana did not like at that time, I regret it very much.

Mr. VOORHEES. Mr. President, I think I control my temper quite as well as the Senator from Connecticut, and my discretion somewhat better. If I had characterized a great measure, for which two-thirds of this body voted upon careful consideration, as a steal, as a grand larceny, and had thus impugned the votes of my brother Senators to the extent that he has done, I would feel rebuked. I feel the outrage committed upon the majority of the Senate by the Senator from Connecticut in the most glaring and outrageous manner.

Mr. EATON. Mr. President, I am entirely ready that my peers here on the floor of the Senate who heard the remarks I made with regard to that bill should vote upon this and judge me as they will in regard to that matter.

Mr. VOORHEES. Does the Senator say that a vote on his measure now will be to confirm what he said, that the river and harbor bill was a steal?

Mr. EATON. Mr. President——

The PRESIDENT *pro tempore*. The Chair must enforce the rules of order. This whole discussion is out of order.

Mr. TELLER. I move that the Senate adjourn.

Mr. BECK. I hope not. I think we shall soon get through.

Mr. TELLER. If we are likely to get through I shall not insist on the motion. I withdraw it.

Mr. BURNSIDE. Mr. President——

The PRESIDENT *pro tempore*. The Senator from Rhode Island has called for the reading of the letter alluded to by the Senator from Connecticut. Is there objection to its being read? The Chair hears none, and the Senator from Connecticut will please send it to the Clerk's desk.

The Chief Clerk read as follows:

NAVY DEPARTMENT,
Washington, March 10, 1880.

SIR: I have the honor to acknowledge your reference to this Department, for examination and report, of a resolution of Hon. Mr. WAIT, with a letter addressed by him to you, in relation to putting the New London navy-yard in a state of thorough repair and efficiency.

This yard is admirably situated, upon the waters of a bay unsurpassed on the coast, in a healthy region of the country, and if put in a state of thorough efficiency would add greatly to the facilities for repairing ships. The waters of the bay are not seriously affected by ice in the winter season, and on this account the Department has considered it a desirable station for the Minnesota, one of the vessels engaged in training boys for the Navy. She is now there, and has been for several months, and important advantages to the boys are expected to be derived from it, on account of their removal from injurious influences to which they were likely to be exposed in the harbor of New York.

The question whether this yard shall be put in a condition of "thorough repair and efficiency" is one peculiarly belonging to Congress, and can only be decided by reference to the general policy which may be adopted in regard to the future building of ships for the Navy and the sufficiency of the present completed yards for that purpose. There are now there two brick store-houses, each 100 by 40 feet, two stories high, the lower story of one of which is used as a drill-room for the boys on the Minnesota. As the floor of this building is concrete, much inconvenience is complained of on account of the dust raised while the drill is going on, and if its use for that purpose is continued a plank floor will be required to replace the one now there. But as a possible point for permanent use by training-ships it is well to consider whether it would not be better to improve the yard with reference to that fact. If this shall be considered expedient a store-house, 65 by 275 feet, should be built. Such a building is supposed by the commandant to be required for immediate use, in view of the necessities of the training service. If erected, this building can be partitioned off so as to provide storage for all material of the different bureaus, and at one end shop-rooms for minor repairs of ships and machinery can be erected, space for drilling under cover and for rigging-loft can be provided, and it will also provide a place for the accommodation of the sick. It is estimated that such a building will cost $100,000.

There is also needed a bathing and swimming house, with steam for heating and pumping, bath-tubs, &c. Such a building, 20 by 40 feet, with the necessary fixtures, will cost $10,000.

Besides the foregoing there is a shed for spars and boats required, 40 by 150 feet, at a cost of $1,000.

The commandant has no house, as in the cases of other yards, and it is desirable that one shall be erected for his use. It can be done for $10,000. For grading the grounds the sum of $5,000 is needed, and $10,000 for repairs of the wharves and the buildings already erected. The above may be summed up as follows:

Building, 65 by 275 feet	$100,000
Bathing and swimming house	10,000
Spar and boat house	1,000
Commandant's house	10,000
Grading grounds	5,000
Repairs of wharves and buildings	10,000
Total	136,000

I am, very respectfully,

R. W. THOMPSON,
Secretary of the Navy.

Hon. J. D. C. ATKINS,
Chairman Committee on Appropriations, House of Representatives.

Mr. HEREFORD. The point is very correctly stated by the Senator from Maine; and the question propounded by the Senator from Indiana in the light of this letter shows, I think now, that he was right. The point is, whether a letter from any one of the heads of

Departments addressed to the chairman of a committee of either House is an estimate within the parliamentary rule. It was ruled several times during the last session of Congress by the Senate that such a letter was not an estimate. We have what we regard here as estimates. We have a Book of Estimates prepared specially for that purpose, and I am informed by the Committee on Appropriations that no such estimate is found in it as this. Here is simply a letter addressed to the chairman of the Committee on Appropriations of the House. The letter is not addressed to the House of Representatives; the letter is not addressed to the President of the Senate; the letter is not addressed to either body, consequently it cannot fall within the meaning of an estimate as it is understood by the rules of either this House or the other. It is a question that has been ruled upon in the House of Representatives time and again, and such a letter has been held not to be an estimate. It has been ruled in this body that it is not an estimate.

The PRESIDENT *pro tempore*. The Chair will submit the question to the Senate and have a decision upon it. So far as precedents are concerned, the Chair is not aware, nor are the clerks who keep the minutes of decisions of questions of order aware, of any decision except upon a telegram which was received by the Senator from Nebraska, and that was from one of the clerks in one of the Departments and was a mere telegram to him. That was held, and very properly held, not to be an estimate. But in regard to letters of this kind, the Chair cannot ascertain that any decision has ever been made. It is certainly very doubtful whether it is an estimate, and yet it may be. The Book of Estimates is made up to a certain date, and there may be estimates after that which the exigencies of the public service may seem to require.

The Chair will submit the question: Is this letter an estimate within the meaning of this rule? As many as are of the opinion that it is will say "ay," of a contrary opinion say "no," [putting the question.] The noes appear to have it.

A division was called for.

Mr. DAVIS, of West Virginia. There are gentlemen who cannot sustain the ruling that this letter, even if addressed to the Senate, is an estimate, while at the same time they might favor the amendment that the Senator from Connecticut offers. The Book of Estimates is the only thing alluded to in the rule. A letter even addressed to the Senate is not an estimate. It is a recommendation. The estimate must come through the Secretary of the Treasury and be regularly transmitted to Congress.

Mr. JONES, of Florida. May I ask the Senator one question in that connection? The ruling on this point heretofore was against me by the Vice-President.

Mr. DAVIS, of West Virginia. I recollect now two or three instances, and if the Chair will think of it he will see that the Book of Estimates is what is alluded to in the rule, and not a letter, not a recommendation of the Senate even. But in this case I am inclined to think the amendment is in order from the fact that the Senator from Connecticut had it before the Committee on Appropriations and a majority of the committee, while opposed to it, agreed that the Senator might offer it in the Senate, and that there would be no objection on the part of the committee. Therefore I think it comes within the rule; but so far as I have been able to ascertain, I cannot find it, and other Senators do not find it, in the Book of Estimates. Under the rule, nothing can be considered an estimate unless it is in the Book of Estimates.

Mr. JONES, of Florida. On that point I should like to ask the Senator one question. How can he reconcile his position with the language of the rule which speaks of the estimate of the head of a Department?

Mr. DAVIS, of West Virginia. No; it says an estimate.

Mr. JONES, of Florida. From the head of one of the Executive Departments.

Mr. DAVIS, of West Virginia. A letter of recommendation is not an estimate. The difference is very plain. The estimates are required to be made by law. The Secretary of War, for instance, or the Secretary of the Navy is required to transmit his estimates to the Secretary of the Treasury, and the Secretary of the Treasury then transmits them to Congress. That is under the law, and no one Department can send an estimate to Congress.

Mr. BURNSIDE, (at six o'clock and fourteen minutes p. m.) I move that the Senate adjourn.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question that the Chair submits to the Senate is: Is this letter an estimate within the meaning of the rule?

Mr. BECK. I desire to hear the rule read before I vote.

The PRESIDENT *pro tempore*. The twenty-seventh rule reads or all that it is necessary to read of it on this point is as follows:

> And no amendments shall be received to any general appropriation bill, the effect of which will be to increase an appropriation already contained in the bill or to add a new item of appropriation, unless it be made to carry out the provisions of some existing law or treaty stipulation, or act or resolution previously passed by the Senate during that session; or unless the same be moved by direction of a standing or select committee of the Senate; or proposed in pursuance of an estimate of the head of some one of the Departments.

Mr. BECK. As this ruling is not only to affect this particular matter, but is to govern the Senate in all time to come on all like questions, I shall be obliged to vote that the letter just read is not an estimate made from the head of a Department in such a form as to make this amendment in order. The Senator from Connecticut, who is a member of the Committee on Appropriations, always careful, stated that there was an estimate for this. The committee acted upon the belief that there was; and of course we did not know what the estimate was. On looking over the Book of Estimates now for the first time I am unable to find any estimate there. We all supposed from our knowledge of the carefulness of the Senator from Connecticut that perhaps it was in the Book of Estimates, but without inquiring what the estimate was we voted against the amendment, some of us rather reluctantly, and authorized him to offer it in the Senate, saying that we would not make the point of order. Our objection to it was that there were so many navy-yards at that end of the country that perhaps we should have to sell some and we ought not to be expending more on any of them now. This is not an estimate according to my understanding.

Mr. PLATT. Mr. President, I beg the indulgence of the Senate for a single moment. I am very much interested in this amendment, and my State is, and I regret that it should seem to be complicated by any feeling between any members of the Senate. I think if we go into executive session or adjourn at this time this feeling will be allayed by morning, and the point of order probably will not be insisted on. I move that the Senate proceed to the consideration of executive business.

The PRESIDENT *pro tempore*. The Senator from Connecticut moves that the Senate proceed to the consideration of executive business.

The motion was not agreed to.

Mr. MCPHERSON. I do not understand how the Committee on Appropriations ruled out this amendment upon the ground that it is not an estimate.

Mr. DAVIS, of West Virginia. We have not done so.

Mr. MCPHERSON. I believe the declaration has been made by the committee that it is not an estimate of the Department. The Secretary of the Navy clearly estimates for it in the letter he sends to the House of Representatives. He estimates for different parts of the work, $100,000 for a building, so much for a swimming-bath, so much for this thing and so much for that, as being necessary to perfect and complete the improvement at this navy-yard. I cannot understand for my part why the amendment is not as much in order as an item to carry out a recommendation of a Department for any other purpose. There have been hundreds of things incorporated on appropriation bills which stand exactly and precisely on the same basis that this does, on all fours with it. The Secretary here estimates the probable cost of this work. The Senator from Connecticut proposes that an appropriation of $30,000 of the amount asked for by the Secretary of the Navy in the communication sent to the House of Representatives, a part of this Congress, shall be made for this purpose; and for my part I cannot conceive why it is not in order as being the recommendation and the estimate of a Department of the Government.

Mr. President, I would like to say something in respect to the merits of this proposition now if permitted to do so; but I cannot of course on the question of order. If the Senate shall decide to sustain the Chair, as I understood it was ruled to be in order, I shall probably say something in respect to the merits of the case.

Mr. EATON. As far as I know, in no case where such a letter has been received from the head of a Department has the Senate declined to act upon that letter. It is never addressed, or very rarely addressed, to the President of the Senate or to the Speaker of the House, but usually to the chairman of the Committee on Appropriations. In other words, if Mr. Sherman, the Secretary of the Treasury, desires to consult with my friend the chairman of the Committee on Appropriations, he does not address a letter to the President *pro tempore* of the Senate, but to the chairman of the Committee on Appropriations, and we take his estimates from day to day, and have repeatedly, again and again, within the last four days. We have to-day. My friend from Pennsylvania [Mr. WALLACE] and my friend from California [Mr. BOOTH] with me have to-day in a sub-committee changed and added items because of communications that we have this very day received from heads of Departments.

Now, I am not going myself to make any proposition that I do not believe in. I am not very clear myself that, standing firmly and strictly by the rule, this can be considered as the estimate of the head of a Department. I have doubts about it, and therefore I express those doubts as every man ought to express them. But superadded to the letter of the Secretary I have virtually the consent of the Committee on Appropriations to offer this amendment. Every man of them instructed me that I might offer this amendment here, and therefore it is upon that ground that I rely. I was beaten and barely beaten in the committee, but they authorized me to offer this amendment to the Senate.

Mr. FERRY. I am on the Naval Committee and feel a deep interest in the object the Senator from Connecticut has in view; but the question placed before the Senate now is, whether this is an estimate in the sense of the rule. The Senator's allusion to the committee's consent does not relieve the question whether this is an estimate or not; and the Senator from Connecticut expresses a doubt whether this is really an estimate in the sense of the rule. Now, I would ask the Senator from Connecticut, who is not only fair, but well versed in parliamentary usage, who has great knowledge of the rules, if this

is not setting a precedent in ruling upon this which has a doubt in the mind of the Senator from Connecticut. I state frankly that I am ready to vote for the appropriation; I shall be very glad to do it; but I cannot cast my vote that this is an estimate in the sense of the rule.

Mr. EATON. I am very nearly of the same opinion as the Senator from Michigan.

Mr. FERRY. I am glad to know it.

Mr. EATON. I have not expressed any opinion in favor of it. I rather base myself upon the ground that the committee authorized me to offer this amendment.

Mr. HEREFORD. The committee could not do it.

Mr. EATON. They did it whether they could or not.

The PRESIDENT *pro tempore*. If the Senator from Connecticut moves this by direction of a committee——

Mr. HEREFORD. He does not do it. The committee say they are opposed to it and rejected it, but the committee gave him permission, he says, to offer it. The Committee on Appropriations could not give him permission any more than they could give anybody else permission. They cannot change the rule. They voted this down in committee.

Mr. BLAINE. Now, Mr. President, as the Senator from Indiana has shown the Senator from Connecticut that the river and harbor bill did not contain anything at all any more objectionable than this, and as the Senator from Connecticut has shown that this is entirely unobjectionable, and as this question is embarrassed by a submission of a point of order upon which sundry and divers Senators have grave and serious doubts, and as we are all good-natured and we all want to go to dinner, I ask unanimous consent that the honorable Senator from Connecticut be allowed to offer the amendment.

The PRESIDENT *pro tempore*. The Senator from Maine asks unanimous consent that the amendment may be received. Is there objection? The Chair hears none. It is before the Senate and will be reported.

The Chief Clerk read the amendment of Mr. EATON.

Mr. BECK. Before the vote is taken on the amendment I desire to state why the committee were opposed to it. We have made very ample provision for the continuation of the work at Mare Island, adding $75,000 to the House bill and giving $150,000 to carry on that work. We have given $200,000 for the purpose of improving and rendering useful the navy-yard at Pensacola. We thought there ought to be one navy-yard provided for on the Pacific coast and one on the Gulf of Mexico. For the central Atlantic at Norfolk we now have one. North of it we have one at League Island, which has cost a great deal of money; one at Brooklyn, New York; one at Boston, Massachusetts, and one at Portsmouth, New Hampshire. There are four large navy-yards kept up at an enormous expense along a coast, all within a thousand miles. To go on and spend $30,000, the beginning of an expenditure which will amount to a million after a while, at New London, Connecticut, is to make five navy-yards where there ought only to be one.

I am inclined to think that some of these other navy-yards ought to be sold, and that perhaps New London, Connecticut, is a proper place to establish a great navy-yard along that coast; but I am not well enough advised to say that that is true. I remember that some years ago the Senator from Massachusetts, while in the House of Representatives, argued elaborately the advantages of New London; but it is perfectly certain that we ought not to be expending now, for this $30,000 is but the beginning, according to that letter of $140,000 or $150,000 for this part of the work. It is only a training-ship to be repaired, with bathing-places for the boys, &c. The boys can go and bathe in the sea anywhere they like now.

There are four other navy-yards all along that coast, when we ought not to have over four navy-yards altogether—one on the North Atlantic, one at Norfolk, one at Pensacola, and one at Mare Island. I hope the Committee on Naval Affairs of the Senate will look over all these yards before next year. This expenditure ought not to be made until some arrangement is made to consolidate some of these navy-yards or to do something instead of building up this one that the committee do not recommend. We were liberal where the yards are needed. The Gulf of Mexico needs a port to repair ships, and Pensacola is the place. The Pacific coast needs one, and Mare Island is the place. Norfolk is conceded to be a proper place on the Atlantic, but we cannot afford to add a new navy-yard when we have one at New York, one at Philadelphia, one at Boston, and one at Portsmouth. I think the Senate will agree with us in that.

Mr. MCPHERSON. In respect to the navy-yard at New London, I will say that a portion of the Committee on Naval Affairs have been in favor of proceeding with it. For one I will say that of all the locations upon the Atlantic coast I believe there is none that nature has done so much for as the one at New London. There remains for Congress to do less upon that yard to make it the best navy-yard in the country than at any other location that can be found on the Atlantic coast. A wide and deep river enters the bay at that point, where it can be easily and safely fortified. Four miles up the river the navy-yard is located. A large area of territory has been ceded to the General Government by the State of Connecticut. Upon that land can be found all kinds of material needed for the purpose of constructing piers, docks, buildings, and everything necessary to make a complete naval establishment. It is one of the healthiest locations to be found anywhere in the country. No malaria, so common near the New York and Philadelphia yards, and also, perhaps, in some of the Southern yards, exists there. There are no diseases assuming an epidemic form. There is everything needed except a little improvement asked for by the honorable Senator from Connecticut, and the completion of certain buildings and the addition of certain machinery, so that a vessel putting into that yard can be repaired, every part of her—her hull, her machinery, or anything that appertains to a war-vessel may be entirely completed and repaired there without doing a portion of the work in that yard and then transferring it to some other navy-yard, where they have the additional accommodations to perform the rest of the work.

The honorable Senator from Kentucky has made a statement with respect to our naval establishments. We have no less than seven of them on the Atlantic coast, also one on the Gulf and one on the Pacific coast. There are some of the navy-yards lately established where, I understand—and I think I am credibly informed—that when we run one of our war-ships up into the navy-yard and let it remain there for a low tide it becomes necessary for the Government to be at the expense of dredging her out. I think it exceedingly unwise on the part of this Government to expend millions of money in trying to make a navy-yard in such an unnatural and absurd location as that.

Hundreds and hundreds of thousands of dollars have already been expended at New London, and for the amount of expenditure made on the part of the Government there cannot be found in any navy-yard in this or any other country so much to show for the money. From the land owned by the Government the material for all the grading has been taken, and the improvements there made are of a character that will last for centuries; they will never wear out, and they will never rot out; they are imperishable. There runs a river with a wide and deep channel which can be safely and cheaply fortified. At the mouth of the river is a sufficient bay to float the navies of the world. I do believe that if any expenditure of money is to be made by this Government for any naval establishment anywhere upon the Atlantic coast it ought to be there. I fully agree with the honorable Senator from Kentucky that there are too many of them; that some of them must necessarily be abandoned. I think I can safely say to the Senate that I could pick out those that should be abandoned and those that should be retained. Now we do under existing regulations keep up a naval establishment at New London. We have a corps of officers and a corps of men for the purpose of repairing ships, and we need a certain amount of improvement to make the establishment a complete one, although upon a very moderate scale, I admit; but complete it in all its appointments. A vessel which becomes disabled can run into the port of New London and have her machinery repaired; if necessary she can have her hull repaired, she can have her masts repaired; but there is not there today a complete establishment able to repair every part of that vessel. I heartily agree with the honorable Senator from Connecticut in all he has said with respect to the advantages of New London; I heartily agree with the report of the honorable Secretary of the Navy in recommending an appropriation of money to be made for the purpose because I believe it can be and will be economically and profitably applied.

Therefore I hope that the Senate will concede that this naval establishment, one of the most important in New England and one that nature has done more for and the Government less for than for any other establishment on the globe, shall be put in a position in which all the improvements that are proposed shall be provided.

The PRESIDING OFFICER, (Mr. ALLISON in the chair.) The question is on the amendment proposed by the Senator from Connecticut, [Mr. EATON.]

The question being put, there were on a division—ayes 26, noes 8; no quorum voting.

Mr. BECK. I think there ought to be a quorum of the Senate on a matter of that sort.

Several SENATORS. There is a quorum here.

Mr. DAVIS, of West Virginia. I think if the Chair will ask for another division there will be a quorum. It is not necessary to call the yeas and nays.

The PRESIDING OFFICER. The Chair will put the question again on the amendment of the Senator from Connecticut.

The amendment was agreed to; there being on a division—ayes 27, noes 13.

Mr. GROOME. I offer the following amendment: on page 5, line 92, at the end of the line, insert:

Post-office, Baltimore, Maryland: The Secretary of the Treasury is hereby directed to cause plans to be prepared for the said building, and to report to Congress at its next session the estimated cost of completing the same, together with a statement of all incidental expenses connected therewith; and the sum of $4,060 appropriated for cost and expenses of condemnation by act of June 8, 1879, or so much thereof as may be necessary, is hereby made available for the purpose of defraying the expenses of preparing such plans and estimates.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Maryland, [Mr. GROOME.]

The amendment was agreed to.

Mr. BURNSIDE. I offer the following amendment, to come in immediately after line 1543:

For purchase of 1,500 copies of Lamphear's Government of the United States; 1,000 copies for the use of the House, and 500 copies for the use of the Senate, $3,000.

Mr. BECK. I make the question of order on that.

Mr. BURNSIDE. This was offered as an amendment, referred to the Committee on Printing, recommended by the Committee on Printing, and sent to the Committee on Appropriations on the recommendation of the Committee on Printing. It is clearly within the rule. It is recommended by the Committee on Printing.

The PRESIDING OFFICER. The Senator from Rhode Island states that this amendment was referred to the Committee on Printing, reported favorably by that committee, and referred to the Committee on Appropriations. On that statement of facts it is in order.

Mr. COCKRELL. Did they make any written report?

Mr. BECK. There was an amendment sent by the Senator from Rhode Island to the Committee on Appropriations, but we knew of no report from the Committee on Printing.

Mr. BURNSIDE. It was reported favorably from the Committee on Printing.

Mr. BECK. I take it for granted there cannot be maps or picture-books or anything else that will not be put on by the Senate. I ask that the yeas and nays be called on this.

Mr. COCKRELL. That number is not enough; there ought to be at least ten or fifteen thousand copies.

Mr. BURNSIDE. It is a very valuable work, and we distribute a great deal less valuable works than it is.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Rhode Island.

The amendment was rejected.

Mr. BURNSIDE. I should like to experience a new sensation once in a while. I have been here five years, and never had an amendment put on an appropriation bill; I should like to know how it feels for once. [Laughter.]

Mr. ROLLINS. In line 1273 I move to insert after the amendment already adopted the words "or other agricultural products;" so as to make the clause read:

For the completion of the work of the United States entomological commission, under the Department of the Interior, in the special investigation of the Rocky Mountain locust or grasshopper and the cotton-worm, and other insects injurious to the cotton-plant or other agricultural products, the sum of $25,000.

Mr. BECK. I do not think that ought to be added. That embraces everything on the face of the earth, and we shall have to make an appropriation of $100,000 to cover all that.

Mr. ROLLINS. It is meant to cover the potato-bug, which is as much a pest as the cotton-worm. There cannot be any objection to this. We increased the appropriation yesterday. Now let the Yankee farmer have some little advantage from it.

Mr. MORGAN. The objection to the amendment is that the investigation of insects injurious to agriculture is provided for in the agricultural bill under the Department of Agriculture, and in that bill an appropriation has been made for that purpose. This is a special fund for the investigation of the devastation of the cotton-worm and the Rocky Mountain locust or grasshopper. If you extend it to an investigation of insects injurious to agriculture, you will destroy it. An investigation has been going on, and the purpose is to complete it.

Mr. ROLLINS. This would divert the merest trifle from the appropriation. Certainly it can do no harm to allow a few hundred dollars to be spent in this way.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from New Hampshire, [Mr. ROLLINS.]

The amendment was rejected.

Mr. CALL. I move in line 487 to strike out "and other felonies against the Government" and insert:

And robbing mails and other felonies committed against the laws of the United States relating to the postal service and against the laws relating to the revenue service.

Mr. BECK. We have a very large appropriation in the postal bill for depredations against the mail service.

Mr. CALL. The object of this amendment, which does not add anything to the appropriation, is simply to define the crimes against the United States for which this money appropriated for detection shall be applied, so as not to make the whole range of crimes within the United States the subject of the employment of money appropriated by this section for purposes of detection. It is well known that there is a particular class of offenses, counterfeiting national-bank notes, Treasury notes, and other securities of the United States as well as its coin, and offenses relating to the mail and offenses relating to the revenue service of the Government, for which this money has been customarily and properly applied. The language of this section of the bill authorizes it to be used for detecting any felony committed against the United States, traversing the whole criminal code. I think it an unwise expression and permission of the law, allowing the authorities of the United States to traverse the whole range of the criminal code and employ this money for the purpose of detecting those who are engaged in other felonies besides those included in this important class. It is a dangerous power and one subject to great abuse, and I think it has not been the history of this Government that secret-service money or money for the detection of crime should be used by the Government except in that class of cases.

Mr. MCMILLAN. Would there be any appropriation then for the prosecution of any other felonies than those mentioned specifically in the section? I think it would be unsafe to make an amendment of this kind unless it was very fully considered.

Mr. CALL. I will say to the honorable Senator that there is provision in the laws everywhere for the proper prosecution and for all the expenses of criminal prosecutions for any crime; but this money is for the detection and not, in the general sense of the word, for the prosecution of crime. The expenses of criminal prosecutions are contained in the different estimates of appropriation for the courts, for the arrest of criminals, &c., all of which are already provided for by law. This money is for a different purpose; it is for the detection of crime, for the employment of secret agents to detect crime. I will say to the Senator that there ought not to be, and never has been in the history of this country or in England, as I understand, and it never has been the practice of the Government or the intention of the law to authorize the Government to employ money for the detection of crime other than this class of crimes. I ask the honorable Senator to name what kind of a felony against the Government of the United States other than those comprehended in this designation there could be?

Mr. WALLACE. On page 55, from line 1334 to 1338, "for the detection and prosecution of crimes against the United States," &c., $20,000 are appropriated.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Florida, [Mr. CALL.]

Mr. MCMILLAN. I should like to know whether the chairman of the Committee on Appropriations has examined this question, and whether the committee are satisfied that this change should be made.

Mr. BECK. I thought the amendment could do no harm, and it can be looked at more carefully by the committees of both Houses afterward. I do not see any harm in the amendment, and I do not wish to waste time.

Mr. MCMILLAN. The only offenses embraced in this item in the appropriation bill are felonies. For the suppression or detection of felonies certainly there should be some appropriation made. The Senator from Florida strikes out "and other felonies against the Government" and inserts specific offenses against the laws of the United States, so that if there are any other cases which should be provided for they are left unprovided for in this item of the bill. If this matter had been examined and there should be no omission by this form of appropriation, I would have no objection; but I have not had time to look at it.

Mr. WALLACE. If the Senator from Minnesota will look at the initial words of the clause he will see it is for "suppressing counterfeiting and similar felonies."

Mr. MCMILLAN. The same clause, however, proceeds to specify what offenses are embraced in the items:

Suppressing counterfeiting and similar felonies: For expenses of detecting and bringing to trial and punishment persons engaged in counterfeiting Treasury notes, bonds, national-bank notes, and other securities of the United States, as well as the coins of the United States, and other felonies against the Government, and for no other purpose whatever, $80,000.

The specification of these offenses and the general clause "suppressing counterfeiting and other felonies" would of course limit the appropriation to the crimes specified; and if the words "and other felonies against the Government" are stricken out it leaves only those that are specifically mentioned in this item. There should be in an appropriation bill of this character funds appropriated for detecting felonies, certainly.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Florida, [Mr. CALL.]

The question being put, there were on a division—ayes 23, noes 9; no quorum voting.

Mr. PENDLETON, (at six o'clock and fifty-three minutes p. m.) I move that the Senate adjourn.

Mr. BECK. I hope not.

The PRESIDENT *pro tempore*. It is moved that the Senate do now adjourn.

A division was called for.

Mr. DAVIS, of West Virginia. We expect to finish the bill in ten minutes, and I hope we shall be allowed to finish it.

The PRESIDENT *pro tempore*. The question is on the motion to adjourn.

The motion was not agreed to; there being on a division—ayes 14, noes 23.

Mr. ALLISON. I hope the Senator from Florida will not press this amendment. I do not think there are any abuses under this provision. The appropriation is a very small one, a very limited one, and I think it is entirely safe. I hope he will allow it to remain as usual. I trust the phraseology will be allowed to stand as the House has passed it.

Mr. MCDONALD. I trust the amendment will be agreed to. The whole system of detection is liable to great abuse. There ought to be as many limitations placed upon the system as possible. It seems to me that although this sum does not sound very large—it runs up nearly to a hundred thousand dollars—we have no limitation upon it, and the bill as it now stands is liable to great abuse.

Mr. WALLACE. This appropriation is under the head of the Treasury Department. It is what is known as the detective-fund appropriation for the Treasury Department, and it is confined, and ought

to be, to the specific things that are named here, and it ought not to be applied to the investigation or detection of other felonies at all. It ought to be confined to those felonies that grow out of the operations of the Treasury Department.

Mr. ALLISON. But the Senator from Florida proposes to include the Post-Office.

Mr. WALLACE. I think there is enough money appropriated for the detection of crime under the Post-Office laws without putting that in this bill. It ought to be confined to the specific cases of the detection of crimes growing out of the operations of the Treasury Department, and with that view the amendment of the Senator from Florida is very proper.

Mr. CALL. I am perfectly willing the amendment shall be changed as my friend from Iowa suggests, by leaving out the postal laws. My only purpose was to embrace all the possible cases in which the money of the Government could be properly applied for the detection of crime. We do not want to apply the money for any but a specific class of cases. We do not want to apply the money to detect piracy upon the high seas or any acts which violate the law in respect to the criminal jurisdiction of the Government on the high seas or in fortified places, but only this particular class of crimes in regard to the revenue service, counterfeiting, and offenses against the currency.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Florida.

The question being put, there were on a division—ayes 25, noes 12; no quorum voting.

Mr. DAVIS, of West Virginia. There is evidently a quorum present. One or two Senators did not vote.

Mr. McMILLAN. I move that the Senate proceed to the consideration of executive business.

Mr. McDONALD. Let there be a call of the Senate.

The PRESIDENT *pro tempore*. The Senator from Minnesota moves an executive session, but that motion is not in order.

Mr. DAVIS, of West Virginia. We have named the 16th instant for adjournment, and unless we finish this and other bills soon we cannot expect to adjourn then. I hope we shall finish this bill to-night.

The PRESIDENT *pro tempore*. The motion to proceed to the consideration of executive business is not in order, there being no quorum; but a motion to adjourn is in order.

Mr. McMILLAN. Then I move that the Senate adjourn.

The motion was not agreed to.

Mr. ALLISON. Let us have the yeas and nays on the amendment, and that I think will develop a quorum.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. McMILLAN, (when his name was called.) I am paired with the Senator from Tennessee [Mr. BAILEY] on political questions. Thus far the vote seems to have assumed that aspect, and under those circumstances I do not feel at liberty to vote.

The roll-call was concluded.

Mr. BALDWIN, (after having voted in the negative.) I am paired on all political and party questions with the Senator from Texas, [Mr. COKE,] and as this seems to have been made a strict party vote I withdraw my vote.

Mr. DAVIS, of West Virginia. We will release the gentleman.

Mr. BALDWIN. No man can release me, I take it. Unless my vote is necessary to make a quorum, I shall not vote.

Mr. WITHERS. I have not been recognized as a member of the republican party, and I voted "nay."

Mr. PADDOCK. As I do not see any political significance in this, I vote "yea."

Mr. CALL. I wish to say that I am paired on all party questions with the Senator from Maine, [Mr. HAMLIN,] reserving, however, the right to vote to make a quorum; but I cannot imagine that there can be anything party or political in the amendment I have offered.

Mr. LAMAR, (after having voted in the affirmative.) In view of the doubt about this matter, I withdraw my vote; or rather I vote "nay," as my colleague would if here, in order to make a quorum.

Mr. MAXEY. I desire to call the attention of the Senator from Michigan [Mr. BALDWIN] to the fact that before my colleague [Mr. COKE] left he stated to me that if there were any doubts as to whether a question was political or not I could determine that and release the Senator. I do not regard this as in any possible sense a political question, and so far as that pair is concerned the Senator from Michigan is at liberty to vote.

The result was announced—yeas 27, nays 15; as follows:

YEAS—27.

Beck,	Groome,	McDonald,	Thurman,
Brown,	Hampton,	McPherson,	Vance,
Call,	Harris,	Maxey,	Voorhees,
Cockrell,	Hereford,	Morgan,	Walker,
Davis of W. Va.,	Jonas,	Paddock,	Wallace,
Eaton,	Jones of Florida,	Pendleton,	Williams.
Farley,	Kernan,	Ransom,	

NAYS—15.

Allison,	Burnside,	Lamar,	Teller,
Anthony,	Dawes,	Platt,	Windom,
Blaine,	Ferry,	Rollins,	Withers.
Blair,	Kirkwood,	Saunders,	

ABSENT—34.

Bailey.	Coke,	Hoar,	Pryor,
Baldwin,	Conkling,	Ingalls,	Randolph,
Bayard,	Davis of Illinois,	Johnston,	Saulsbury,
Booth,	Edmunds,	Jones of Nevada,	Sharon,
Bruce,	Garland,	Kellogg,	Slater,
Butler,	Grover,	Logan,	Vest,
Cameron of Pa.,	Hamlin,	McMillan,	Whyte.
Cameron of Wis.,	Hill of Colorado,	Morrill,	
Carpenter,	Hill of Georgia,	Plumb,	

So the amendment was agreed to.

Mr. PADDOCK. After line 556 I propose to insert the following amendment:

For the construction of a marine-hospital building at some point on the Missouri River, to be selected by the Surgeon-General of the Marine-Hospital Service and approved by the Secretary of the Treasury, $15,000.

Mr. BECK. I make the point of order that is not in the estimates that we can find, and we have searched carefully, and it is not recommended by any committee or any Department.

Mr. PADDOCK. It is not in the Book of Estimates, but it is recommended by the Surgeon-General of the Marine-Hospital Service, who is substantially the head of that Department.

The PRESIDENT *pro tempore*. In the opinion of the Chair the point of order is well taken.

Mr. ANTHONY. I am instructed by the Committee on Revolutionary Claims to offer the following amendment, to come in after line 1548:

For clerk to the Committee on Revolutionary Claims of the Senate, $2,220.

The amendment was rejected.

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. Shall the vote be taken upon the amendments in gross? If there be no objection the vote will be so taken.

Mr. TELLER. I understand that the Senator from Missouri [Mr. COCKRELL] reserved some amendment that he wished a separate vote on.

Mr. PENDLETON. He is not here.

Mr. TELLER. He has gone to dinner.

The PRESIDENT *pro tempore*. A memorandum is handed to the Chair by the Chief Clerk that the Senator from Kentucky reserved an amendment at page 31, and that some one whose name is not recollected reserved one on page——

Mr. BECK. We have had so much of this that I waive all claim to any separate vote on anything.

Mr. WITHERS. I reserved an amendment, but I waive it.

Mr. TELLER. I understand the Senator from Missouri reserved the amendment offered by the committee to pay the Indian commissioners.

Mr. ALLISON. It is hardly worth while to have a question about that now.

Mr. BECK. We shall have trouble enough with the House about that.

Mr. TELLER. I hope there will be trouble before you get it through.

The PRESIDENT *pro tempore*. No one has asked since the bill came into the Senate for a separate vote and no reservation could be made until the bill came into the Senate.

Mr. HAMPTON. Is it in order to move an amendment now?

The PRESIDENT *pro tempore*. Not at this moment. The question is, Will the Senate concur in the amendments made as in Committee of the Whole?

Mr. TELLER. I ask for a separate vote on the amendment of the Committee on Appropriations on page 54 from line 1302 to 1306; that is the Indian-commission clause.

The PRESIDENT *pro tempore*. That amendment will be reserved and a separate vote taken upon it. The Chair will put the question on concurring in the amendments other than that indicated by the Senator from Colorado.

The amendments were concurred in.

The PRESIDENT *pro tempore*. The amendment indicated by the Senator from Colorado will now be read.

The CHIEF CLERK. The amendment made in Committee of the Whole was, after line 1301, to insert:

Expenses of Indian commissioners: For the expenses of the commission of citizens serving without compensation, appointed by the President under the provisions of the fourth section of the act of April 10, 1869, $10,000.

The amendment was concurred in.

The PRESIDENT *pro tempore*. The bill is still open to amendment.

Mr. HAMPTON. On page 58, to follow after line 1409, I move to insert:

For repairs and furniture for the court-house, Charleston, South Carolina, $2,500.

Mr. BECK. The Architect of the Treasury says that that building is not provided for, and it is the only one in the United States that is not provided for by the Treasury Department, because there is no post-office in it. Boston was unprovided for at one time for the same reason. Unless this special provision is made the building will get nothing. We make no objection to the amendment.

The amendment was agreed to.

Mr. FERRY. I came so near—within 7 votes—carrying the only

amendment I offered to this bill that, as we have passed from the Committee of the Whole into the Senate and the fears expressed by the chairman of the Committee on Appropriations that it would open the door to an increase of salaries generally are groundless, I appeal to the Senate again to increase the salary of the city postmaster from $3,500 to the maximum, $4,000, inasmuch as he gets pay only on one-eighth of the business he does, seven-eighths being free matter. With that statement, I offer the amendment.

Mr. WITHERS. The Senator offered his amendment, called for the yeas and nays on it, and the sense of the Senate was fully tested upon it, and I think he ought to be satisfied. At this late hour I think he ought not to re-offer it.

Mr. FERRY. Amendments are offered in committee and then offered in the Senate again. I think the amendment of the honorable Senator from South Carolina was offered in committee and rejected.

Mr. WITHERS. No; ruled out on a point of order.

Mr. FERRY. This is perfectly in order; and I think the Senate now are better informed—time always informs men—and I think they are prepared to vote for it. It is simply increasing the salary $500, and he is entitled to it. It is a question of justice, nothing less.

The PRESIDENT *pro tempore*. The amendment will be read.

The CHIEF CLERK. It is proposed, on page 5, after line 100, to insert:

That the salary of the postmaster at the city of Washington, District of Columbia, be, and the same is hereby, fixed at the sum of $4,000 per annum from and after the passage of this act.

Mr. FERRY. I wish to state, as there may be some Senators present now who were not in when this amendment was offered before, that the postmaster of Washington City received $4,000 up to 1876, and then it was put upon a basis of commissions. Since then, we having made so much free matter, the result has been to reduce the basis of the commissions. This is placing it back where it was in 1876, simply restoring it to the maximum. There are seven or eight other cities in the country where the postmaster receives the same salary here proposed.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Michigan.

Mr. FERRY. I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. FERRY. I ask for a division.

The question being put, there were on a division—ayes 16, noes 14; no quorum voting.

The PRESIDENT *pro tempore*. A call of the roll will be had.

Mr. EATON. Let us have the yeas and nays.

The PRESIDENT *pro tempore*. Is there a second to the call for the yeas and nays?

The yeas and nays were ordered, and the Secretary called the roll.

Mr. HILL, of Georgia, (after having voted in the negative.) I am paired with the Senator from Vermont, [Mr. MORRILL,] and I withdraw my vote.

Mr. BURNSIDE, (after having voted in the affirmative.) If this is a political vote I shall have to withdraw my vote. I am paired with the Senator from New Jersey, [Mr. RANDOLPH.] I shall vote only to make a quorum. If this is considered political, I withdraw my vote.

Mr. FERRY. I desire to remind the Senator from Rhode Island that the vote is divided on the other side. It is not a political question. It is fixing the pay of the postmaster at Washington.

Mr. HOAR. It is clearly not a political question.

Mr. FERRY. It may pass to the democracy, though I hope not.

Mr. HILL, of Georgia. If the Senators generally say that it is not a political question I shall not withdraw my vote.

Mr. JONAS. I voted in the affirmative, and I am a pretty good democrat.

Mr. EATON. I voted "yea."

Mr. HILL, of Georgia. My pair with the Senator from Vermont was not confined to political questions. He asked me to pair with him generally. I do not know how he would vote on this question.

Mr. ALLISON. Perhaps the Senator from Vermont would vote "yea" on this question.

Mr. HILL, of Georgia. I shall not vote.

Mr. DAVIS, of West Virginia. All this is out of order. Let the vote be announced.

The result was announced—yeas 27, nays 17; as follows:

YEAS—27.

Allison,	Call,	Ingalls,	Platt,
Anthony,	Dawes,	Jonas,	Rollins,
Baldwin,	Eaton,	Jones of Nevada,	Saunders,
Blaine,	Ferry,	Kirkwood,	Teller,
Blair,	Groome,	McMillan,	Williams,
Brown,	Hampton,	Maxey,	Windom.
Burnside,	Hoar,	Paddock,	

NAYS—17.

Beck,	Kernan,	Pendleton,	Walker,
Cockrell,	Lamar,	Ransom,	Withers.
Davis of W. Va.,	McDonald,	Thurman,	
Harris,	McPherson,	Vance,	
Hereford,	Morgan,	Voorhees,	

ABSENT—32.

Bailey,	Bruce,	Cameron of Wis.,	Conkling,
Bayard,	Butler,	Carpenter,	Davis of Illinois,
Booth,	Cameron of Pa.,	Coke,	Edmunds,
Farley,	Hill of Georgia,	Morrill,	Sharon,
Garland,	Johnston,	Plumb,	Slater,
Grover,	Jones of Florida,	Pryor,	Vest,
Hamlin,	Kellogg,	Randolph,	Wallace,
Hill of Colorado,	Logan,	Saulsbury,	Whyte.

So the amendment was agreed to.

Mr. McPHERSON. I have reserved the right to renew my amendment appropriating $200,000 for the completion of the Miantonomah. I now wish to call it up.

Mr. BECK. I make the point of order on it again that it is not estimated for.

Mr. McPHERSON. I will state that if the honorable Senator from Kentucky makes the point that this was not referred to the Committee on Appropriations he is right; but it is recommended by the Navy Department. We have the recommendation of the Secretary of the Navy asking for the appropriation of money of this amount for the purpose specified, but through some mischance or other, a neglect of mine, it was not referred along with other recommendations of the Department and also of the Committee on Naval Affairs to the Committee on Appropriations.

The PRESIDENT *pro tempore*. If it was not referred, it is out of order plainly.

Mr. McPHERSON. Then I cannot offer it.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. BECK. I ask that the bill be now printed with the Senate amendments numbered. That will save a day or two.

The PRESIDENT *pro tempore*. If there be no objection, it will be so ordered.

ORDER OF BUSINESS.

Several Senators addressed the Chair.

The PRESIDENT *pro tempore*. The Chair recognizes the Senator from Missouri, [Mr. COCKRELL.]

Mr. WILLIAMS. Mr. President——

The PRESIDENT *pro tempore*. The Senator from Missouri has the floor.

Mr. COCKRELL. I have the floor. I yield to the Senator from Kentucky.

Mr. WILLIAMS. I desire to call up the bill granting pensions to the soldiers of the Mexican war.

Mr. McDONALD. When the appropriation bill just disposed of was taken up, it was taken up by laying aside informally the resolutions in reference to the seat of the Senator from Louisiana, [Mr. KELLOGG,] with the understanding that on the completion of the bill the regular order should be resumed, and that there should be no prejudice to it on account of adjournment.

Mr. INGALLS. That is correct.

Mr. McDONALD. That has been the understanding under which this appropriation bill has been considered. I hope there will be no action taken by the Senate that will interfere with that.

Mr. INGALLS. I call for the regular order, Mr. President.

The PRESIDENT *pro tempore*. The regular order is the resolutions reported by the Committee on Privileges and Elections relative to the seat of the Senator from Louisiana.

Mr. DAVIS, of West Virginia. That question being before the Senate, I move that the Senate adjourn.

Mr. HARRIS. I ask the Senator from West Virginia to withdraw the motion a moment. There are certain nominations that ought to be referred. An executive session of three minutes I think important in order to have the references made.

Mr. DAVIS, of West Virginia. I withdraw my motion for that purpose.

Mr. HARRIS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After four minutes spent in executive session the doors were reopened, and (at seven o'clock and thirty-four minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES

THURSDAY, *June* 10, 1880.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

VOTE ON FINAL ADJOURNMENT.

Mr. STEPHENS. I desire to state that if I had been in the House yesterday I should have voted against the resolution fixing the time for the final adjournment.

RIVER AND HARBOR BILL.

Mr. REAGAN. I submit the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes. Perhaps I can save the necessity of having the report read by stating that the only differ-

ence between this and the report submitted yesterday consists in the correction of two clerical errors. In the third paragraph the figure "9" is struck out and the figures "101" are inserted.

The SPEAKER. If there be no objection the reading of the report will be dispensed with, and it will be printed in the RECORD.

There was no objection.

The report of the committee of conference was concurred in.

Mr. REAGAN moved to reconsider the vote by which the report of the committee of conference was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The report is as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House No. 6237, making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes, having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its amendments numbered 10, 23, 40, 41, and 95.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 5, 6, 7, 8, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 58, 59, 60, 61, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 79, 80, 81, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 112, 113, 114, 115, and 116, and agree to the same.

That the House recede from its disagreement to the amendment numbered 1, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$20,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 4, and agree to the same with an amendment as follows: Strike out "25,000" and insert "20,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 9, and agree to the same with an amendment as follows: Strike out "70,000" and insert "50,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 14, and agree to the same with an amendment as follows: Strike out "25,000" and insert "20,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 55, and agree to the same with an amendment as follows: Strike out "12,000" and insert "10,000;" and the Senate agree to the same.

That the Senate recede from its amendment numbered 56, and agree to the same with an amendment as follows: Strike out "25,000" and insert "15,000;" and the House agree to the same.

That the House recede from its disagreement to the amendment numbered 57, and agree to the same with an amendment as follows: Insert after the word "dollars" "$6,000 of which may be expended for the removal of dams;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 62, and agree to the same with an amendment as follows: Strike out "25,000" and insert "20,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 78, and agree to the same with an amendment as follows: Strike out "20,000" and insert "16,000;" and the Senate agree to the same.

That the Senate recede from its amendment numbered 82, and, in lieu of the original clause, agree to the following:

"It shall be the duty of the Secretary of War to apply the money herein appropriated for improvements other than surveys and estimates in carrying on the various works as far as can be, without detriment to the interests of the Government, by contract. Where such works cannot be done by contract without injury to the public interest, they may be prosecuted by hired labor. Where said works are done by contract, such contracts shall be made after sufficient public advertisement for proposals in such manner and form as the Secretary of War shall prescribe; and such contracts shall be made with the lowest responsible bidders, accompanied by such securities as the Secretary of War shall require, conditioned for the faithful prosecution of the work according to said contract and for the proper payment of all liabilities incurred in the prosecution thereof for labor and material. But this clause shall not be so construed as to prevent the continuance of work on the Great Kanawha by hired labor, unless the Secretary of War is satisfied that the public interest require such change;" and the House agree to the same.

That the House recede from its disagreement to the amendment numbered 111, and agree to the same with an amendment as follows: Strike out the word "river" and insert "and Lillington River and Beaufort harbor;" and the Senate agree to the same.

JOHN H. REAGAN,
MARTIN L. CLARDY,
WILLIAM A. RUSSELL,
Managers on the part of the House.
MATT. W. RANSOM,
FRANK HEREFORD,
SAMUEL J. R. McMILLAN,
Managers on the part of the Senate.

ORDER OF BUSINESS.

Mr. HARRIS, of Virginia. I move that the morning hour be dispensed with.

The SPEAKER. There are some gentlemen who desire to introduce matters for reference. The Chair will recognize the motion of the gentleman fr m Virginia in a moment.

Mr. HARR S, of Virginia. Very well.

DUTIES ON COTTON-TIES.

Mr. TUCKER, by unanimous consent, introduced a joint resolution (H. R. No. 326) in respect to duties to be levied on certain descriptions of hoop and band iron, known as cotton-ties; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

LOAN OF FLAGS, ETC., TO CITY OF BOSTON.

Mr. MORSE. I ask unanimous consent to offer for consideration at this time a joint resolution to authorize the Secretary of the Navy to loan flags and bunting to the city of Boston.

The SPEAKER. The understanding was that only matters for reference were to be offered. The Chair, however, will cause the resolution to be read.

Mr. WHITE. I reserve the right to object.

The joint resolution was read, as follows:

Resolved, That the Secretary of the Navy be, and he is hereby, authorized and directed to loan to the city of Boston such flags and bunting for decorative purposes as said city may desire, and as may be now in possession of said Secretary, for use on the 17th of June, 1880.

Mr. SPARKS. I did not hear the reading of the resolution distinctly. What is its object?

The SPEAKER. It is to authorize the loan of flags and bunting to the city of Boston.

Mr. SPARKS. On what occasion?

Mr. MORSE. To be used on the 17th of June.

There being no objection, the joint resolution (H. R. No. 327) was read three times, and passed.

Mr. MORSE moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. BICKNELL. I move that the morning hour be dispensed with.

The SPEAKER. That motion has been made by the gentleman from Virginia, [Mr HARRIS,] and is now pending.

Mr. TUCKER. I desire to state that if the morning hour is dispensed with I shall make the same motion that I made yesterday, that the House resolve itself into Committee of the Whole on the state of the Union, with a view to taking up revenue bills.

Mr. BICKNELL. And I give notice that if the morning hour is dispensed with I propose to move that the House go to business on the Speaker's table, with a view to reaching the consideration of the joint rule for counting the votes of electors of President and Vice-President.

The SPEAKER. The gentleman from Virginia [Mr. HARRIS] and the gentleman from Indiana [Mr. BICKNELL] move that the morning hour of to-day be dispensed with.

The question being taken, there were—ayes 78, noes 45.

Mr. HARRIS, of Virginia. I call for tellers.

Tellers were ordered; and Mr. KEIFER, and Mr. HARRIS of Virginia, were appointed.

The House again divided; and the tellers reported—ayes 89, noes 54.

So (further count not being called for) the motion was not agreed to, two-thirds not voting in the affirmative.

Mr. SPRINGER. Would it be in order to ask unanimous consent that in lieu of the morning hour there should be an hour in which requests shall be received for unanimous consent to call up measures for action?

Mr. HARRIS, of Virginia. I will state that my object in moving to dispense with the morning hour was that we might go to business on the Speaker's table with a view to considering the Senate bill regulating the pay and appointment of deputy marshals. I ask gentlemen on the other side——

Mr. WHITE. Mr. Speaker, is debate in order?

Mr. HARRIS, of Virginia. I wish to make an inquiry of the gentlemen on the other side in order to facilitate business, and I am sure they will answer it: Whether we can fix now on a day for the consideration of that bill—say to-day or to-morrow?

Mr. WHITE. Let it be the 4th of July.

Mr. KEIFER. Or the first Monday in December next.

Mr. SPRINGER. This proposition does not at all interfere with the request I have just submitted.

Mr. KEIFER. I will state in reply to the gentleman from Virginia [Mr. HARRIS] that I do not understand on this side of the House there is a disposition to prevent the consideration of the bill he has referred to and a vote upon it. But we should not be willing that bill should be taken up and considered unless there can be ample time given for debate upon it.

Mr. HARRIS, of Virginia. I think I may say that we on this side, while desirous of reaching the bill, are not anxious to debate it but are willing that gentlemen on the other side should have what reasonable time they desire for debating it.

The SPEAKER. What time for debate do gentlemen on the minority side desire?

Mr. WHITE. Unanimous consent I understand is required.

The SPEAKER. Unanimous consent for what?

Mr. WHITE. To take up this bill.

The SPEAKER. The gentleman from Virginia is trying to reach an understanding as to what debate is desired upon the bill when it is reached. The gentleman from Ohio having expressed the judgment there was a willingness to enter upon the consideration of the bill, the Chair asked what time gentlemen on the minority side desired for debate.

Mr. KEIFER. Not so much a willingness to consider the proposition as an indisposition to obstruct the progress of business in this House.

The SPEAKER. The Chair will correct his statement so as to conform with the exact language of the gentleman.

Mr. STEPHENS. Say three hours.

Mr. KEIFER. I think three hours would be satisfactory unless some other gentlemen desire more time.

Mr. WHITE. Does it not require unanimous consent to bring the proposition before the House at this time?

The SPEAKER. That may be at this particular time; but the gen-

tleman is mistaken if he supposes that the rules do not provide a way of reaching business on the Speaker's table, where the bill in question is.

Mr. WHITE. I call for the regular order.

Mr. HARRIS, of Virginia. I am willing that there shall be three hours' discussion.

Mr. WHITE. I insist upon the regular order.

The SPEAKER. The regular order is demanded, which is the morning hour.

Mr. HARRIS, of Virginia. I think I am authorized to say for this side of the House that three hours' debate will be accorded.

Mr. SPRINGER. I ask unanimous consent that instead of the morning hour being used for the call of committees for reports it be devoted to the consideration of business to be called up by unanimous consent.

Mr. HAYES. Will the gentleman consent to have the roll called and let each individual member have a chance?

The SPEAKER. The Chair will consent to anything that will be satisfactory to the House. Should it be agreed that the roll be called those thirty-six gentlemen, eighteen on each side, who were recognized the other day, should be omitted from the list, so as not to be allowed a double chance.

Mr. HAYES. That is what I want to get at.

Mr. COX. If unanimous consent be given to use the morning hour in the manner suggested by the gentleman from Illinois, [Mr. SPRINGER,] can we then proceed to business on the Speaker's table by a majority vote?

The SPEAKER. Undoubtedly; but the Chair will first recognize the motion of the gentleman from Virginia [Mr. TUCKER] as having priority after the morning hour has expired.

Mr. COX. Is there any unfinished business pending?

The SPEAKER. Not that the Chair is now advised of.

Mr. BUCKNER. Does not the rule provide that after the morning hour the first motion in order is the motion to go to business on the Speaker's table?

The SPEAKER. The Chair will state the order of business. First is the reading of the Journal; next, the morning hour, or so much of the hour as may be necessary to complete the call of the entire list of committees for reports. Then the motion first in order under one of the rules is that submitted by the gentleman from Virginia, [Mr. TUCKER,] to go into Committee of the Whole on the state of the Union for the consideration of revenue and appropriation bills. If that motion is not made, or being made it is voted down, then the next business in order is the disposing of unfinished business coming over from a preceding day; and after the unfinished business is disposed of a motion to go to business on the Speaker's table is in order.

The condition of business to-day is this: the House has refused to dispense with the morning hour, two-thirds not voting therefor. After the business of the morning hour shall have been completed, then the consideration of unfinished business, if there be any, will be in order. The Chair is advised that there is no unfinished business. Therefore the motion of the gentleman from Virginia [Mr. TUCKER] would be in order, and should it be voted down, then it would be in order to proceed to business on the Speaker's table by a majority vote.

Mr. McLANE. I call for the regular order.

Mr. ACKLEN. I have heard no objection to the request of the gentleman from Illinois, [Mr. SPRINGER.]

Mr. BOUCK. I object.

Mr. McLANE. I call for the regular order.

The SPEAKER. The call for the regular order is equivalent to an objection to the suggestion of the gentleman from Illinois, [Mr. SPRINGER.]

Mr. SPRINGER. If the morning hour is to be entirely wasted——

The SPEAKER. It does not necessarily follow that an hour will be occupied in receiving reports from committees. The rule provides that an hour or so much as may be necessary to complete the call of committees shall be devoted to reports from committees.

Mr. HAYES. We will consume less time by having the regular order.

The SPEAKER. The regular order is the morning hour, which will begin at seven minutes before twelve.

MINERAL LANDS.

Mr. STEVENSON, from the Committee on Mines and Mining, reported back, with amendments, the bill (H. R. No. 5635) to provide for the survey and disposition of the mineral lands of the United States; which was referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

Mr. STEVENSON. I ask leave that the minority of the committee be permitted to present their views upon the bill just reported.

There was no objection.

THE YACHT NIANTIC.

Mr. BLISS. I am instructed by the Committee on Commerce to report a bill to change the name of a yacht, and to ask its consideration at this time.

The bill (H. R. No. 6467) to change the name of the yacht Niantic to Hildegarde was received, and read a first and second time.

The SPEAKER. The gentleman from New York [Mr. BLISS] asks unanimous consent that the bill which has just been reported by unanimous consent be put upon its passage at this time.

There was no objection.

The bill was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

ELIZA ANN DA CAMARA.

Mr. UPSON, by unanimous consent, introduced a bill (H. R. No. 6468) for the relief of Eliza Ann Da Camara, of Brownsville, Texas; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

CHANGING NAME OF STEAMBOAT REBECCA.

Mr. UPSON also, by unanimous consent, introduced a bill (H. R. No. 6469) to authorize the Secretary of the Treasury to change the name of the steamboat Rebecca, of Brownsville; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

JACOB ADAMS.

Mr. WARNER, by unanimous consent, introduced a bill (H. R. No. 6470) granting a pension to Jacob Adams, of the war of 1812; which was read a first and second time, referred to the Committee on Pensions, and ordered to be printed.

ORDER OF BUSINESS.

Mr. KEIFER. Mr. Speaker, has the morning hour expired?

The SPEAKER. The call of committees for reports did not to-day occupy an hour; and the rule provides that where the entire hour is not occupied with the business assigned to such hour, the remainder of the hour lapses, and the general business of the House is then in order.

HOT SPRINGS, ARKANSAS.

Mr. DUNN. I ask unanimous consent to report back from the Committee on the Public Lands the bill (H. R. No. 4244) for the establishment of titles in Hot Springs, and for other purposes. This bill was referred to the committee with the amendments of the Senate, which we now desire to report back with a recommendation of non-concurrence, so that the matter may go to a committee of conference.

Mr. WHITE. I would like to hear a statement of the points of difference.

The SPEAKER. Is there objection to allowing the bill to be reported?

Mr. WHITE. Let the right of objection be reserved till the gentleman has made his statement.

Mr. DUNN. I will state to the gentleman the points of difference between the Senate amendments and the bill as originally passed by the House. By these amendments, in the first place, the assessment to be paid by parties to whom the right of entry is accorded is raised from $10 a lot to 50 per cent. of the amount fixed by the commissioners. The amendments also provide that the certificates for condemned property be received in payment for the right of entry. These are the material points of difference. The object of the Committee on the Public Lands is to secure concurrence in the increased assessment, and to have struck out, if we can, the provision for receiving these certificates.

Mr. WHITE. Do I understand the gentleman to say that the Senate has increased the assessment from $10 to 50 per cent.?

Mr. DUNN. Fifty per cent. of the assessment of the commissioners.

Mr. WHITE. And the House conferees do not agree to that.

The SPEAKER. There has not been a conference on this bill.

Mr. DUNN. We want to ask a conference now.

Mr. WHITE. I thought there had been a conference.

The SPEAKER. Does the gentleman from Pennsylvania object to the request of the gentleman from Arkansas, [Mr. DUNN?]

Mr. WHITE. I believe not.

The SPEAKER. If there be no objection the amendments of the Senate will be non-concurred in and a conference with the Senate requested.

There was no objection, and it was ordered accordingly.

UNITED STATES COURTS IN TEXAS.

Mr. WELLBORN. I ask unanimous consent to introduce and have put upon its passage now the bill which I send to the desk.

The Clerk read as follows:

A bill to amend an act entitled "An act to create the northern judicial district of the State of Texas and to change the eastern and western judicial districts of said State and to fix the time and places of holding courts in said districts," approved February 24, 1879.

Be it enacted, &c., That the above-recited act be amended by adding to and at the end of the fifth section thereof the following words, to wit: "And all prosecutions in either of said districts for offenses against the laws of the United States shall be tried in that division of the district to which process for the county in which said offenses are committed is by said section required to be returned; and all writs and recognizances in said prosecutions shall be returned to that division in which said prosecutions by this act are to be tried."

SEC. 2. That said act be further amended by adding to and at the end of section 3 thereof the words "and Aransas."

SEC. 3. This act shall not apply to prosecutions now pending.

There being no objection, the bill (H. R. No. 6471) was introduced, read a first and second time, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. WELLBORN moved to reconsider the vote by which the bill

was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. TUCKER. I now move that the House resolve itself into Committee of the Whole on the state of the Union.

Mr. KEIFER. For what purpose?

Mr. TUCKER. For the purpose already mentioned—the consideration of revenue bills.

The question being taken, there were—ayes 58, noes 67; no quorum voting.

Tellers were ordered; and Mr. TUCKER and Mr. KEIFER were appointed.

The House divided; and the tellers reported—ayes 67, noes 20.

Several MEMBERS. No quorum.

The SPEAKER. It is manifest that there is a quorum in the House.

Mr. HAWLEY. I should be glad to say a word with the object of forwarding, if possible, the public business.

Mr. TUCKER. I do not desire that the motion which I have made, and upon which no quorum has voted, shall obstruct the public business. I therefore, with the consent of the House, withdraw the motion for the present.

Mr. HOSTETLER. I call for the regular order.

Mr. HARRIS, of Virginia. I move to go to business on the Speaker's table.

The SPEAKER. The Chair recognizes the gentleman from Indiana.

Mr. BICKNELL. I move to go to business on the Speaker's table.

Mr. HOSTETLER. I call for the regular order of business.

The SPEAKER. That motion is in order.

Mr. WHITE. Is there no unfinished business?

The SPEAKER. There is no unfinished business.

Mr. WHITE. Where is the funding bill?

The SPEAKER. The bill to which the gentleman from Indiana alludes was a special assignment, but after adjournment the House did not again enter upon its consideration. Therefore, under the rules, the Chair thinks he is bound to recognize the motion of the gentleman from Indiana, [Mr. BICKNELL.]

Mr. WHITE. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. WHITE. Is not the funding bill considered by the House some weeks ago the unfinished business before the House?

The SPEAKER. It is not before the House at all, but is in the Committee of the Whole House on the state of the Union, and the House has just refused on a division to go into committee.

Mr. SPRINGER. Business in Committee of the Whole is never considered unfinished business.

Mr. WHITE. Is it not in order to move to go into the Committee of the Whole House on the state of the Union on that bill?

The SPEAKER. It is not.

Mr. WHITE. I should like to get some crumbs of comfort from the Chair. [Laughter.]

The SPEAKER. The question is on the motion of the gentleman from Indiana, [Mr. BICKNELL,] to go to business upon the Speaker's table.

The House divided; and there were—ayes 91, noes 16.

Mr. ERRETT. No quorum has voted.

Mr. SPRINGER demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 142, nays 28, not voting 122; as follows:

YEAS—142.

Acklen,	Deering,	Ladd,	Scales,
Aiken,	Deuster,	Lewis,	Shelley,
Aldrich, William	Dibrell,	Lounsbery,	Singleton, J. W.
Atherton,	Dickey,	Lowe,	Singleton, O. R.
Ballou,	Dunnell,	Manning,	Slemons,
Beale,	Elam,	Martin, Benj. F.	Smith, Hezekiah B.
Beltzhoover,	Evins,	Martin, Edward L.	Smith, William E.
Berry,	Ewing,	McCook,	Sparks,
Bicknell,	Ferdon,	McLane,	Springer,
Bland,	Field,	McMahon,	Steele,
Bliss,	Ford,	McMillin,	Stephens,
Blount,	Forney,	Mills,	Stevenson,
Bouck,	Geddes,	Mitchell,	Stone,
Boyd,	Gunter,	Monroe,	Taylor,
Brigham,	Hammond, N. J.	Morrison,	Thompson, P. B.
Bright,	Harris, Benj. W.	Muldrow,	Thompson, W. G.
Buckner,	Harris, John T.	Myers,	Tillman,
Cabell,	Hatch,	New,	Turner, Oscar
Caldwell,	Hawk,	Nicholls,	Updegraff, Thomas
Carlisle,	Hawley,	Norcross,	Upson,
Carpenter,	Hayes,	O'Connor,	Urner,
Chalmers,	Henkle,	O'Reilly,	Vance,
Chittenden,	Henry,	Osmer,	Voorhis,
Clardy,	Herbert,	Persons,	Waddill,
Clark, Alvah A.	Hostetler,	Phelps,	Warner,
Clark, John B.	House,	Philips,	Wellborn,
Clymer,	Humphrey,	Poehler,	Wells,
Cobb,	Hunton,	Reagan,	Whiteaker,
Coffroth,	Hutchins,	Richardson, J. S.	Whitthorne,
Colerick,	Jones,	Robertson,	Williams, Thomas
Cook,	Keifer,	Robinson,	Willits,
Crapo,	Kelley,	Ross,	Wise,
Cravens,	Ketcham,	Russell, W. A.	Wood, Fernando
Culberson,	Kimmel,	Ryon, John W.	Wright.
Davis, Joseph J.	Kitchin,	Samford,	
Davis, Lowndes H.	Klotz,	Sawyer,	

NAYS—28.

Anderson,	Davis, Horace	Lindsey,	Thomas,
Barber,	Dwight,	Mason,	Townsend, Amos
Bayne,	Godshalk,	O'Neill,	Tyler,
Briggs,	Hall,	Overton,	Wait,
Browne,	Hammond, John	Ryan, Thomas	Ward,
Caswell,	Hubbell,	Shallenberger,	Washburn,
Daggett,	Joyce,	Smith, A. Herr	Young, Thomas L.

NOT VOTING—122.

Aldrich, N. W.	Einstein,	Kenna,	Reed,
Armfield,	Ellis,	Killinger,	Rice,
Atkins,	Errett,	King,	Richardson, D. P.
Bachman,	Farr,	Knott,	Richmond,
Bailey,	Felton,	Lapham,	Robeson,
Baker,	Finley,	Le Fevre,	Rothwell,
Barlow,	Fisher,	Loring,	Russell, Daniel L.
Belford,	Forsythe,	Marsh,	Sapp,
Bingham,	Fort,	Martin, Joseph J.	Sherwin,
Blackburn,	Frost,	McCoid,	Simonton,
Blake,	Frye,	McGowan,	Speer,
Bowman,	Garfield,	McKenzie,	Starin,
Bragg,	Gibson,	McKinley,	Talbott,
Brewer,	Gillette,	Miles,	Townshend, R. W.
Burrows,	Goode,	Miller,	Tucker,
Butterworth,	Harmer,	Money,	Turner, Thomas
Calkins,	Haskell,	Morse,	Updegraff, J. T.
Camp,	Hazelton,	Morton,	Valentine,
Cannon,	Heilman,	Muller,	Van Aernam,
Claflin,	Henderson,	Murch,	Van Voorhis,
Conger,	Herndon,	Neal,	Weaver,
Converse,	Hill,	Newberry,	White,
Covert,	Hiscock,	O'Brien,	Wilber,
Cowgill,	Hooker,	Orth,	Williams, C. G.
Cox,	Horr,	Pacheco,	Willis,
Crowley,	Houk,	Page,	Wilson,
Davidson,	Hull,	Phister,	Wood, Walter A.
Davis, George R.	Hurd,	Pierce,	Yocum,
De La Matyr,	James,	Pound,	Young, Casey.
Dick,	Johnston,	Prescott,	
Dunn,	Jorgensen,	Price,	

So the motion was agreed to.

Mr. SIMONTON. I am paired, but at liberty to make a quorum; and, if necessary to do so, I will vote.

The SPEAKER. The gentleman's vote is not required to make a quorum.

Mr. WILLIS. I am paired; and, as there is a quorum voting, I withdraw my vote.

Mr. HARRIS, of Virginia, moved to dispense with the reading of the names.

Mr. WHITE objected.

The following pairs were announced from the Clerk's desk:

Mr. PACHECO with Mr. FORSYTHE, for the balance of this week.

Mr. KENNA, on this vote, with Mr. VAN VOORHIS, of New York.

Mr. HILL with Mr. BUTTERWORTH.

Mr. ROBESON with Mr. WILSON, for to-day except on the tariff question.

Mr. JOHNSTON with Mr. DAVIS, of Illinois, for to-day.

Mr. BLACKBURN with Mr. HISCOCK, not to interfere with a quorum.

Mr. SIMONTON with Mr. HOUK.

Mr. HEILMAN with Mr. TOWNSHEND, of Illinois.

Mr. ATKINS with Mr. BAKER.

Mr. HAZELTON with Mr. MONEY.

Mr. MCKENZIE with Mr. PAGE, on political questions, not to interfere with a quorum.

Mr. PRICE with Mr. GOODE.

Mr. DAVIDSON with Mr. FARR.

Mr. DUNN with Mr. PRESCOTT.

Mr. FINLEY with Mr. MILLER.

Mr. LE FEVRE with Mr. MARSH, on political questions.

Mr. COWGILL with Mr. BRAGG.

Mr. COX with Mr. MORTON.

Mr. KING with Mr. RICE.

Mr. NEWBERRY with Mr. ELLIS.

Mr. THOMAS TURNER with Mr. MCGOWAN.

Mr. GARFIELD with Mr. TUCKER.

Mr. MCKINLEY with Mr. HURD.

Mr. CALKINS with Mr. PHISTER.

Mr. KNOTT with Mr. FRYE.

Mr. ORTH with Mr. MYERS, on political questions.

Mr. SAPP with Mr. GEDDES.

Mr. WALTER A. WOOD with Mr. MULLER.

Mr. EINSTEIN with Mr. ARMFIELD.

Mr. JAMES with Mr. O'BRIEN.

Mr. GUNTER with Mr. BURROWS.

Mr. STARIN with Mr. RICHMOND.

Mr. COVERT with Mr. YOUNG, of Ohio.

Mr. WILBER with Mr. BACHMAN.

Mr. FELTON with Mr. KILLINGER.

Mr. BAILEY with Mr. YOUNG, of Tennessee.

Mr. CONGER with Mr. WILLIS.

The vote was then announced as above recorded.

DRS. THOMAS OWENS AND WILLIAM MARTIN.

The SPEAKER. The House having resolved to go to the business upon the Speaker's table, the first business in order is the bill (H. R. No. 4606) authorizing the President of the United States to nominate Drs. Thomas Owens and William Martin assistant surgeons United

States Navy, returned from the Senate with the following amendment:

At the end of the bill add the following:
"*And provided*, That they shall pass the customary examination into their mental, professional, and physical fitness for the appointment."

Mr. WHITTHORNE. I move concurrence in that amendment of the Senate.

Mr. CANNON, of Illinois. I wish the gentleman from Tennessee would explain the necessity for this. Why cannot the question be settled by the Department?

Mr. HAWLEY. And I would like to supplement that question by another: How came these men out of the Navy, and why is the legislative power invoked to get them back?

Mr. WHITTHORNE. The House will remember that at the time of the Forty-fifth Congress and during that Congress there existed in the Navy a rank called volunteer officers of the United States Navy. An act was passed authorizing these officers to be mustered out of the service. However, if any of them had incurred disability while in the line of duty, it was provided that they should be placed upon the retired list. In other words, a meritorious officer who had incurred disability while in the line of duty should not be mustered out of service. Other officers who had not incurred disabilities were mustered out with one year's pay.

In the case of these parties, while going through this question of examination as to disability, that examination was suspended, and was not completed, it being provided in another bill if they were competent that they might be placed in the regular Navy, but not in the line of promotion. These two officers were, so to speak, suspended during the examination, and the Secretary of the Navy—that is to say, it was doubtful whether they were on the retired or active list—the Secretary of the Navy recommended to Congress that this legislation should be had to meet this case, in which there was doubt in the Department. Both Houses have now agreed to the legislation; but it is provided (being omitted in the House bill) that they shall be examined, and their qualifications decided by that examination.

Mr. McMILLIN. Will my colleague allow me to ask him a question? Is the object to get them now in the service so that they may be placed on the retired list?

Mr. WHITTHORNE. No, sir.

Mr. McMILLIN. Will that be the effect of it?

Mr. WHITTHORNE. No, sir.

Mr. HAWLEY. Does this bill meet the approval of the Navy Department?

Mr. WHITTHORNE. Yes, sir.

Mr. McMILLIN. Are they in the service now?

Mr. WHITTHORNE. That is the question. I move to concur in the Senate amendment.

The motion was agreed to.

Mr. WHITTHORNE moved to reconsider the vote by which the Senate amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

TRESPASSES ON THE PUBLIC LANDS.

The next business on the Speaker's table was the bill (H. R. No. 1846) relating to the public lands of the United States, returned from the Senate with amendments.

The amendments of the Senate were as follows:

Page 1, line 7, strike out the word "wooding" and insert "working."
Page 1, line 9, strike out the word "who" and insert "or for or on account of any timber taken or used."
Page 1, line 10, strike out the words "took or used any timber" and insert "or for or on account of any timber taken or used by fraud or collusion by any person who in good faith paid the officers or agents of the United States for the same."
Strike out section 3.
Page 2, strike out all after "thereof," in line 16, down to and including line 18.

Mr. HERBERT. I move that the House non-concur in the Senate amendments.

The motion to non-concur was agreed to.

Mr. HERBERT moved to reconsider the vote by which the Senate amendments were non-concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ISRAEL DODGE, DECEASED.

The next business on the Speaker's table was the bill (H. R. No. 4908) for the relief of the heirs and legal representatives of Israel Dodge, deceased, returned from the Senate with amendments.

The amendments of the Senate are as follows:

On page 1, line 6, after the word "two," insert "erroneously."
On page 1, line 8, after the word "Dodge," insert "as."
On page 1, line 9, after the word "fifty-eight," insert "with the same effect."
On page 2, line 4, after the word "acres," insert "and subject to all the provisions of said act of June 21, 1860."
On page 2 strike out all after the word "thereof," in line 6, down to and including line 7.

Mr. CLARDY. I move to concur in the amendments of the Senate.

The Senate amendments were concurred in.

Mr. CLARDY moved to reconsider the vote by which the Senate amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MILLERS' INTERNATIONAL EXHIBITION.

The next business on the Speaker's table was the bill (S. No. 931) to admit free of duty all articles intended for exhibition at the millers' international exhibition of milling and mill machinery, to be held at Cincinnati, Ohio, commencing May 31, 1880.

The SPEAKER. This bill was passed over on a former day, and now comes up in its regular order, having remained on the table by consent. The House having passed a similar bill, it would seem, perhaps, to be proper now to refer this bill to the Committee on Ways and Means.

Mr. MORRISON. This bill may as well be laid upon the table, and I move that disposition of it.

There was no objection, and the bill was laid on the table.

ORDER OF BUSINESS.

The SPEAKER. There were three political bills laid aside on a former day when business on the Speaker's table was reached, and these having been so passed over will be taken up now in the order of their receipt by the House.

Mr. COX. Cannot we allow them to go over for the present, until we get through with other bills upon the table to which there will be no objection?

Mr. REAGAN. May I ask what has been done with the Millers' Association bill, which was on the Speaker's table?

The SPEAKER. It was laid on the table on the motion of the gentleman from Illinois, a member of the Committee on Ways and Means, where the bill would properly have been sent for consideration, a similar bill having become a law.

Mr. BICKNELL. I wish to inquire of the Chair whether concurrent resolutions of the Senate do not take precedence of bills from the Senate on their first and second reading?

The SPEAKER. The Chair thinks as these political bills were laid aside by unanimous consent when the House was formerly considering business on the Speaker's table, they might, under such circumstances, come up in the order in which they were received from the Senate. The Chair thinks that on account of the way in which they were passed over by unanimous consent they were thus taken out of the technical scope of the rule.

Mr. HUMPHREY. I ask that they be laid aside till other business on the Speaker's table is disposed of, which I think will not occupy much time.

The SPEAKER. These bills come next in regular order. The Chair has not precipitated them ahead of anything that under the rule has priority.

Mr. HUMPHREY. There is some little business on the Speaker's table that can be disposed of in a very short time. I desire to move that these three bills be laid aside, if that motion be in order.

The SPEAKER. The gentleman from Indiana [Mr. BICKNELL] makes the point that concurrent resolutions of the Senate have priority of Senate bills on their first and second reading. The rule states that the business on the Speaker's table shall be disposed of in the following order:

First. Messages from the President and other executive communications.
Second. Messages from the Senate and amendments proposed by the Senate to bills of the House.
Third. Bills and resolutions from the Senate on their first and second reading, that they be referred to committees or put on their passage; and the motions so to refer shall have precedence of all other motions touching their disposition.

If the Chair understands correctly the gentleman from Indiana, he claims that a concurrent resolution of the Senate is included in the class of "messages from the Senate," and not in the third class, which relates to "bills and resolutions from the Senate."

Mr. KEIFER. The joint rule of the Senate in regard to counting the electoral vote is in the form of a concurrent resolution?

The SPEAKER. It is.

Mr. KEIFER. Then it comes under the head of "resolutions."

The SPEAKER. The Chair supposes there might be difference of opinion whether this resolution would come under the head "messages from the Senate" or under the third class, "bills and resolutions."

Mr. KEIFER. It is clearly a resolution.

The SPEAKER. It is a resolution, but the point is whether it is included within the scope of "messages from the Senate."

Mr. KEIFER. The subject-matter of it does not control its character at all as a resolution.

Mr. CARLISLE. It takes its place on the Speaker's table in the order in which it reaches the House from the Senate.

The SPEAKER. As the Chair has already stated, unanimous consent was given to lay aside these political bills until other business on the Speaker's table should be disposed of; and it is that fact which has weighed with the Chair in deciding that the joint rule in reference to counting the electoral vote should come in order of date of reception from the Senate.

Mr. BICKNELL. The order of business on the Speaker's table as printed here on the first page of the Calendar reads as follows:

First. Executive communications undisposed of.
Second. Senate bills, with House amendments thereto.
Third. House bills, with amendments of the Senate thereto.
Fourth. Concurrent resolutions of the Senate.
Fifth. Bills from the Senate on their first and second reading.

The SPEAKER. The Chair is aware that is the order printed on Calendar, but the rule has been varied in some respects from former

rule. The Chair, however, does not rely here upon the rule, but he relies upon the fact that by the unanimous consent of the House these three political bills were laid aside. They are now reached, and the Chair thinks that under the circumstances they ought to be taken up in the order in which they were received. The fact of their having been laid aside by unanimous consent and in manner as was done the Chair thinks takes them out of a too strict construction of the rule.

Mr. HARRIS, of Virginia. According to the ruling of the Chair the bill relating to deputy marshals is the first reached on the Speaker's table.

The SPEAKER. And that ruling is in harmony with the suggestion of the gentleman from Ohio [Mr. KEIFER] although the Chair does not go quite as far as the remark of the gentleman from Ohio indicated when he stated that a resolution for a joint rule came under the designation "resolutions" in the third class of business on the Speaker's table, although he at present inclines to concur with the gentleman from Ohio. But the effect is the same. Only the gentleman from Ohio and the Chair take different roads to reach the same result.

Mr. ROBESON. Do I understand the Chair to say that when we agreed by unanimous consent to go to the Speaker's table to take up everything except certain bills that were to be laid aside, that was unanimous consent to take up those bills when reached?

The SPEAKER. The Chair did not exactly say that. The Chair said those bills were laid aside and placed out of the category of the rule.

Mr. ROBESON. By unanimous consent?

The SPEAKER. There was unanimous consent that when reached they should be laid aside for future action. They are now reached by a definite vote of the House to go to business on the Speaker's table, and to be considered in their order.

Mr. HUMPHREY. I desire to ask the Chair if the motion I made is in order that we shall first consider the few bills on the Speaker's table that are non-political; that these political bills be laid aside, say, for an hour, that the others may be passed to which there is no objection?

The SPEAKER. The Chair will submit that proposition.

Mr. BERRY. I think it a very proper suggestion.

Mr. COX. I hope there will be no objection to that.

ENROLLED BILLS SIGNED.

Mr. KENNA, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and a joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 698) to establish a district and circuit court at Chattanooga, Tennessee, and to add the county of Grundy to the eastern district of Tennessee;

An act (H. R. No. 3794) authorizing the City National Bank of Manchester, New Hampshire, to change its name;

An act (H. R. No. 6036) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1881, and for other purposes; and

Joint resolution (H. R. No. 293) providing for the printing of the report of the Commissioner of Education for the year 1878 and 1879.

COMMITTEES OF CONFERENCE.

The SPEAKER. The Chair appoints Mr. HUNTON, Mr. SAMFORD, and Mr. NEAL as conferees on the part of the House on the bill (H. R. No. 2328) to provide for the settlement of all outstanding claims against the District of Columbia, and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes.

The Chair also appoints Mr. SCALES, Mr. WADDILL, and Mr. ERRETT as the conferees on the part of the House on the bill (S. No. 1509) to accept and ratify the agreement submitted by the confederated bands of Ute Indians in Colorado for the sale of their reservation in said State, and for other purposes, and to make the necessary appropriations for carrying out the same.

PUBLIC LANDS.

Mr. HERBERT. I move that the House ask for a committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1846) relating to the public lands of the United States.

The motion was agreed to.

DEPUTY MARSHALS.

Mr. HARRIS, of Virginia. I now call for the regular order.

The SPEAKER. The regular order is the bill to regulate the pay and the appointment of deputy marshals; which will be read.

The bill was read.

Mr. HARRIS, of Virginia. I now desire to ask gentlemen on the other side what time they wish for discussing this bill. So far as we on this side are concerned we do not desire to consume any time at all in debate. It is so near the final adjournment of this session that we think we can better spend the time in action than in debate.

Mr. KEIFER. What time does the gentleman say they want on the other side?

Mr. HARRIS, of Virginia. We do not want any time on this side of the House, but are willing to yield to you such time as you desire, always believing you will be reasonable.

Mr. KEIFER. Thank you. Are we to understand that you not only want no time but will take no time for debate?

Mr. HARRIS, of Virginia. We expect to take no time for debate.

Mr. WHITE. May I ask if this bill has been referred to the appropriate committee of this House?

Mr. HARRIS, of Virginia. This bill has been referred to no committee of this House.

Mr. WHITE. Then I move that the bill be referred to the Committee on the Judiciary.

The SPEAKER. The Chair will entertain that motion.

Mr. HARRIS, of Virginia. I hope it will not be agreed to.

The motion to refer was not agreed to; upon a division—ayes 61, noes 93.

Mr. HARRIS, of Virginia. I now renew my inquiry of gentlemen on the other side as to the length of time they desire for discussion.

Mr. KEIFER. There are a number of gentlemen about me who say that they are not prepared to discuss this bill to-day. I think if we could agree to take it up at a given hour to-morrow, say right after the reading of the Journal, we would be satisfied on this side of the House with two hours for debate. There are quite a number of gentlemen who seem to be taken somewhat by surprise that the bill has come up to-day.

Mr. HARRIS, of Virginia. I am perfectly willing to agree to that proposition if it can be carried out. I would inquire of the Chair if we agree by unanimous consent to-day that this bill be taken up at a given hour to-morrow, could any objection then prevail against taking it up?

Mr. BLOUNT. I would like to know of gentlemen on the other side whether, if this proposition is agreed to, there will be any filibustering to prevent a vote?

Mr. KEIFER. There will be none so far as I am concerned, provided a fair time for debate is given.

The SPEAKER. The Chair will submit the proposition to the House. The gentleman from Ohio [Mr. KEIFER] makes the suggestion that this bill be taken up to-morrow immediately after the reading of the Journal, and that there be allowed—how much time for debate?

Mr. KEIFER. Two hours.

Mr. WHITE. Three hours.

Mr. KEIFER. Some say two hours and some say three hours. I will say three hours for debate on this side of the House.

Mr. HARRIS, of Virginia. I hope that will be agreed to.

Mr. BLOUNT. Does the gentleman from Virginia [Mr. HARRIS] propose to exclude this side of the House entirely from the debate on this bill.

The SPEAKER. On the demand for the previous question an hour could be had on the majority side if desired.

Mr. WARNER. Suppose the previous question is not seconded?

Mr. HARRIS, of Virginia. I have always found that by yielding to the requests of the minority, when reasonable, we have facilitated the transaction of business.

The SPEAKER. The Chair hears no objection to the proposition.

Mr. WHITE. What is the proposition?

Mr. HUNTON. Does the understanding exclude debate on this side of the House?

The SPEAKER. It does not exclude it, because the Chair thinks the gentleman from Virginia [Mr. HARRIS] will be entitled to one hour before demanding the previous question, and the Chair would recognize him for that purpose.

Mr. HUNTON. I do not think it right to give all the time to the other side of the House.

Mr. FIELD. I ask consent to have printed in the RECORD an amendment which I desire to offer to this bill.

There was no objection, and leave was granted accordingly.

The following is the amendment proposed by Mr. FIELD:

Strike out section 2 of the bill and insert in place thereof the following:

"SEC. 2. Whenever an election for a Representative or Delegate in Congress is to be held in any city or town of twenty thousand inhabitants or upward, special deputy marshals, instead of being appointed by the marshal of the district as provided by section 2021 of the Revised Statutes, shall hereafter, on the application in writing of at least two citizens residing in said city or town, be appointed by the circuit court of the United States for the circuit wherein such city or town is situated, which circuit court shall be opened, held, and kept open in the manner provided by sections 2011, 2012, 2013, 2014, and 2015, of the Revised Statutes, and all the duties, powers, and obligations imposed and conferred by said sections upon said circuit court, or upon each of the judges of the circuit court, or upon any one of the judges of the district courts within the circuit selected and assigned by the judge of the circuit court to the performance of said duties, in reference to the appointment of supervisors of election, are hereby imposed and conferred upon said circuit court, and upon each and all of said judges for the purpose of appointing special deputy marshals. Such number of special deputy marshals shall be appointed as the court shall deem necessary, and they shall be appointed in equal numbers, so far as practicable, from the different political parties, and shall be well-known citizens of good moral character, and actual residents of the voting precincts in which their duties are to be performed. Such special deputy marshals shall be under the orders and control of the marshal of the district and they shall have all the powers, and perform all the duties conferred upon or required of special deputy marshals by title 26 of the Revised Statutes, and shall be subject to the provisions of that title relating to special deputy marshals.

Mr. MCMAHON. Before we pass from this matter I desire to know if the proposition submitted by gentlemen on the other side includes the idea that when this bill comes before the House they will vote upon it.

The SPEAKER. The Chair thinks it was stated that there will be no attempt to break a quorum.

Mr. BAKER. I desire to make an inquiry. I consider that this

bill is defective, and should be amended in an important particular. I desire to inquire whether or not there is included in the agreement the right to offer amendments?

The SPEAKER. The gentleman from Massachusetts [Mr. FIELD] has indicated a purpose to offer an amendment. And the rules give the right to offer an amendment and an amendment to an amendment, unless cut off by the previous question, which the Chair supposes will not be attempted in this case.

Mr. KEIFER. There have been some things said on the other side in relation to this matter which we have not been able to hear, and we do not feel bound by what we do not hear.

The SPEAKER. The Chair will again state the proposition in all its parts. The gentleman from Ohio [Mr. KEIFER] proposes that this bill be taken up to-morrow morning immediately after the reading of the Journal; that there shall be allowed three hours' debate to members of the minority side of the House, the gentleman from Virginia [Mr. HARRIS] reserving his right to one hour for debate, and that as many amendments as are allowable under the rules shall be admitted to be voted on.

Mr. HAWLEY. That is all right.

Mr. HARRIS, of Virginia. And the previous question to be called at the end of three hours.

The SPEAKER. At the end of three hours or four hours, as the gentleman from Virginia may decide.

Mr. WHITE. I want to know why the right to offer amendments should be limited? It seems to me that any gentleman who wants to offer amendments should have the right to do so during the three hours.

Mr. HARRIS, of Virginia. There will be no limit at all, except what the rules prescribe.

The SPEAKER. Any amendments may be presented as a part of the remarks of the gentleman presenting them; but the rule would allow but two amendments to be pending at one time, and the gentleman from Massachusetts [Mr. FIELD] and the gentleman from Indiana [Mr. BAKER] have indicated their purpose to offer amendments.

Mr. WHITE. I want to offer an amendment.

Mr. KEIFER. I do not understand that this agreement in any sense affects the right to offer amendments.

Mr. HARRIS, of Virginia. Not at all.

Mr. MITCHELL. I have not agreed to anything. I object to the whole thing.

The SPEAKER. If the proposition is objected to, then the debate must be proceeded with now.

Mr. HOUSE. I understand that amendments can be offered within the three hours before the previous question is called.

The SPEAKER. The rule allows only two amendments to be pending at one time. The Chair must be governed by the rules.

Mr. ANDERSON. I would like to inquire whether it is understood as a part of the agreement that all gentlemen on this side are bound to vote one way or the other on the bill?

The SPEAKER. It is not; but the understanding was that there should be no effort to prevent a final vote on the bill by omission to vote one way or the other and to thereby break a quorum.

Mr. ANDERSON. I reserve the right to vote or not as I shall please at the time.

Mr. KEIFER. I did not understand the Chair's last statement.

Mr. BLOUNT. I do not think we understand each other fully. I know from a private conversation with the gentleman from Kansas [Mr. ANDERSON] awhile ago that he does not understand the state of this matter as many other gentlemen do, but that he reserves, so far as he is concerned, the right to make an effort at filibustering.

The SPEAKER. Several gentlemen, notably the gentleman from Connecticut [Mr. HAWLEY] and the gentleman from Ohio, [Mr. KEIFER,] the Chair understood, stated that there would be no effort made to break a quorum.

Mr. DWIGHT. That may bind them, but not anybody else.

Mr. KEIFER. I spoke for those around me at the time.

The SPEAKER. The statement was made by the gentleman from Ohio and the gentleman from Connecticut.

Mr. HAWLEY. If the House will bear with me just one moment, I desire to make a statement for the purpose of facilitating business. When these propositions were presented upon appropriation bills, I for one resisted them with all my power; I considered them out of place. They are now here as independent measures, as the majority of the House have the right to have them here. They are fairly proposed. I am willing to meet them; I am willing to discuss them briefly in these closing hours of the session; I am willing to proceed in due order to vote upon them. I have no desire to filibuster. I am willing gentlemen on the other side shall make this issue and go to the country as they desire; and we are willing to meet them.

The SPEAKER. That is what the Chair understood.

Mr. FERNANDO WOOD. The gentleman from Connecticut [Mr. HAWLEY] speaks for himself. Now I desire to know whether it is or is not a part of this arrangement that there will be no dilatory motions at the expiration of the three hours.

Mr. McCOOK. I will ask my colleague [Mr. FERNANDO WOOD] whether he can speak for his side of the House?

Mr. HARRIS, of Virginia. I am satisfied that gentlemen on both sides will carry out the agreement. I have no apprehension on the subject.

The SPEAKER. The Chair believes that that was part of the understanding, and does not believe there will be any effort to break it by the minority.

Mr. BARBER. I rise to a parliamentary inquiry: Would it be in order to appoint a committee of conference on this question?

The SPEAKER. What is needed most is a committee of good feeling.

Mr. ROBINSON. I want to say a word in regard to this arrangement which has been made; and I desire to call the attention of the Speaker to it very carefully, because I have often found that in cases of this kind a difference arises afterward because gentlemen misunderstand the proposition that has been made. Now, unless I mistake the idea of gentlemen on different sides of the House, we shall find to-morrow that we are in an absolute disagreement, and then we shall have dilatory motions. The gentleman from Pennsylvania [Mr. WHITE] has said that the proposition to limit the time for debate should not, of course, debar any gentleman from offering amendments. The gentleman from Ohio [Mr. KEIFER] says that this arrangement does not at all interfere with offering amendments.

Mr. KEIFER. And the Chair assents to that.

Mr. ROBINSON. And the Chair at the time assented to it, as I understood.

The SPEAKER. That amendments would be allowed to be offered so far as the rules would allow.

Mr. ROBINSON. On the other side of the House my friend from Tennessee [Mr. HOUSE] has said, "I understand that no arrangement can be made under which more than two amendments can be offered;" or something like that.

Mr. HOUSE. Oh, no.

Mr. SPARKS. But they should not go beyond the time fixed for the consideration of the question.

Mr. ROBINSON. Let me state it. When those two amendments are offered, and the previous question is demanded and seconded and the main question ordered, then no other amendment can be presented. Gentlemen may say that is bad faith, that they expected to have the opportunity to offer more amendments. I have no direct interest in it, but I deprecate a misunderstanding, and therefore a conflict to-morrow. I think both sides of the House should understand exactly what they agree to.

The SPEAKER. The gentleman from Virginia states that he is willing to allow amendments.

Mr. ROBINSON. Without regard to the limit of the rule?

The SPEAKER. Without regard to the limit of the rule. [Cries of "All right!" on the republican side of the House.]

Mr. ROBINSON. I only wish it understood.

Mr. SPARKS. So the time shall not be extended.

Mr. ROBINSON. I only wish to have it understood.

The SPEAKER. Two pending amendments having been disposed of under the statement of the gentleman from Virginia two more would be allowed, and one having been disposed of another would be allowed. The Chair stated in reference to amendments that he did not want to be any party to an agreement which would make him violate one of the rules of the House, if he should be called upon to execute that rule. But the gentleman having charge of the subject can allow as many amendments as he pleases, in conformity with rule or by unanimous consent, prior to the demand for the previous question.

Mr. KEIFER. One word as to a fair understanding.

Mr. COX. No one is allowed to speak for this side of the House. Some gentlemen on this side are not so enamored of this bill, and we know very well how the distinguished standard-bearer of the republican party stands on this bill. Why not give the House a vote at once on it? Why do gentlemen on the other side oppose their own leader?

The SPEAKER. The Chair desires to state, in reference to the question about dilatory motions and the breaking of a quorum, that an interchange of views passed between the two sides of the House prior to the submission of the proposition of the gentleman from Ohio, and the Chair supposed it was then acceded to that there should be no such dilatory motions.

Mr. HUMPHREY. One word on that point, Mr. Speaker. The gentleman from Ohio inquired of his colleague on this side whether at the end of three hours a vote would be arrived at without any filibustering. That is another point which should be settled here, so far as the leaders of our side of the House are concerned, so there may be no question in reference to it hereafter, and after the three hours of debate have expired.

The SPEAKER. The Chair thinks that was the understanding, and moreover he believed, from the temper of the minority side of the House as shown to-day, there will not be any attempt to delay action to-morrow after the debate assented to.

Mr. WHITE. One moment, sir.

Mr. THOMPSON, of Iowa. I deny the right of any member of this side of the House or the other side to say how I shall vote, or whether I shall vote at all or not.

Mr. HUMPHREY. It is not a question of voting, but a question of dilatory motions and filibustering.

Mr. WHITE. One minute. A few moments since I objected to any arrangement being made binding every gentleman on this side of the House to have a vote at the end of three hours. I still stand on that, notwithstanding the frank avowal of the gentleman from Connecti-

cut of his desire to have an issue distinctly made. That is all right, but I hold it to be the right of any member who is opposed to the bill to invoke the aid of all parliamentary expedients he can for the purpose of defeating it. I do not know that will be done, but I merely give notice at this time that I for one reserve the right to exercise that privilege if I shall see fit, and in so doing, I follow the express example of the present occupant of the chair in recent legislation in the history of this country. I think it is right to defeat bad bills, if we can.

Mr. KEIFER. One word.

Mr. REAGAN. If gentlemen will not accept the amendment, we might as well go on with the bill now.

Mr. KEIFER. I do not profess to speak for any one but myself, but I understand when I made the statement in the early part of the negotiation I was speaking for myself, but with the acquiescence of almost every person about me. I stated we would not filibuster when it came to the passage of the bill, and I reiterate it now.

Mr. HARRIS, of Virginia. I am willing to accept that statement.

Mr. WHITE. That only binds the gentleman himself.

Mr. HARRIS, of Virginia. I am willing to take the statement of the gentleman from Ohio and of the gentleman from Connecticut, acquiesced in by that side of the House generally, that there will be no filibustering.

The SPEAKER. The Chair hears no objection to laying aside this bill to be taken up to-morrow morning after the reading of the Journal.

Mr. REAGAN. With the understanding that the previous question is then to be called after three hours' debate.

The SPEAKER. The previous question is in the power of the majority of the House.

Mr. REAGAN. I shall object to the arrangement unless, at the end of three hours, the previous question shall be called.

The SPEAKER. That is under the control of the majority of the House and to be submitted in first instance on the demand of the gentleman from Virginia in charge of the bill.

Mr. REAGAN. But if the question of a quorum is raised, or if we cannot get a quorum, then what becomes of a majority of the House?

Mr. BLOUNT. I would like to ask the gentleman from Texas if he wants any stronger assurances than have been made on the other side that there will not be any effort to defeat the consideration of this measure by such methods as that?

Mr. REAGAN. The gentleman from Pennsylvania and the gentleman from Kansas, as I have understood, distinctly stated that they do not acquiesce in the arrangement made.

Mr. BLOUNT. Still the large majority—almost the unanimous voice of that side has consented to the proposal here.

The SPEAKER. The Chair hears no objection to the arrangement suggested, and it will be considered as agreed to.

COUNTING THE ELECTORAL VOTES.

The next business on the Speaker's table was the concurrent resolution of the Senate in relation to the joint rule for counting the votes of electors for President and Vice-President.

The proposed rule was read, as follows:

Resolution in relation to joint rule for counting the votes of electors of President and Vice-President.

Resolved by the Senate, (the House of Representatives concurring,) That the following joint rule be, and the same is hereby, adopted:

Joint rule for counting the votes of electors of President and Vice-President.

THE MEETING OF THE HOUSES.

SECTION 1. The Senate and House of Representatives shall assemble in the Hall of the House of Representatives at the hour of one o'clock p. m. on the day prescribed by law for opening and counting the votes of electors of President and Vice-President of the United States, and the President of the Senate shall preside over them.

APPOINTMENT OF TELLERS.

SEC. 2. Two tellers shall be previously appointed on the part of the Senate and two on the part of the House of Representatives, to record and compute the votes of electors.

OPENING THE LIST OF VOTES AND RECEIVING AND COUNTING THEM.

SEC. 3. The certified list of votes of electors shall be opened by the President of the Senate in the presence of the Senate and House of Representatives and in the alphabetical order of the States, beginning with the letter A. He shall open all the certified lists of votes of electors, (or papers purporting to be such certified list of votes,) of each State respectively, which shall have been delivered to him, in the order herein prescribed, and shall deliver them to the tellers, by whom they shall be read in the presence and hearing of the two Houses.

When the papers in one of such certified lists shall have been so read, and before another sealed package or list of votes of electors from the same or any other State has been opened, the President of the Senate shall call for objections to receiving such certified list of the votes of electors and to counting the votes therein certified, or any or either of them. If no objection is made, in the manner hereinafter provided, such list shall be received and the votes be counted, and no other package purporting to be a certified list of votes of electors from such State shall be opened.

If objection is made to receiving such certified list of the votes of electors, or to the counting of any vote therein certified, such objection, or objections, if more than one objection is made, shall each be submitted in writing and shall state the grounds of objection succinctly and without argument, and must be signed in duplicate by at least two Senators and three Members of the House of Representatives; and one of said duplicates shall be handed to the President of the Senate and the other to the Speaker of the House of Representatives; and the said objection shall be stated by the President of the Senate in the presence and hearing of the two Houses; whereupon he shall proceed to open another package, if there be any other, purporting to contain a certified list of votes of electors from said State. And the same proceedings shall be had, and in the same order, with reference to said list and any other certified list of votes of electors from said State, or papers purporting to be such lists, in succession, if two or more lists are opened and read in accordance with this rule.

If any list of votes of electors from such State is so opened and read, and no objection is made to receiving such list, or to counting any vote therein certified, it shall be received as the valid and authentic list of votes of electors from such State, and the votes therein shall be counted, and the list or lists previously opened, read, and objected to shall be rejected.

If upon the reading of the certified list or lists of votes of electors from any State no list has been received without objection to the same or to any vote therein certified, the Senate shall withdraw to its Chamber and shall proceed to consider such objections as have been made as aforesaid. And thereupon the House of Representatives shall also proceed to consider said objections.

Senators and Representatives in their respective Houses may each speak upon such objections ten minutes and not longer, nor oftener than once, (except by unanimous consent,) and after one hour's debate on the objections the main question shall be put upon receiving each list of votes and counting the same. And when all objections so made are decided upon in either House, it shall communicate its decision to the other House; and when both Houses have disposed of such objections, they shall immediately again assemble in the Hall of the House of Representatives, and the President of the Senate shall state the decision of each House upon the questions so submitted to them.

And all objections so made to the receiving or counting the votes of electors from any State shall be disposed of before a list of votes of electors from any other State is opened.

If but one list of votes of electors from any State has been so submitted to each House for its decision, and it shall appear that the Houses have not concurred in rejecting said list, the same shall be received. But if both Houses shall have concurred in rejecting any vote contained in such list, such vote shall not be counted; otherwise all the votes therein shall be counted.

If more than one list of votes of electors from any State, or paper purporting to be such list, has been submitted to each House for its decision upon objections made thereto, and it shall appear that the Houses have not concurred in receiving either of said lists as the authentic and lawful list, they shall each be declared by the President of the Senate, in the presence of the Senate and House of Representatives, as being rejected; and no list of votes of electors so rejected shall be afterward read in the presence of the two Houses except for information.

The votes having been ascertained and counted in the manner provided in this rule, the result of the same shall be delivered by the tellers to the President of the Senate, who shall thereupon announce the state of the vote, and the names of the persons, if any, elected, which announcement shall be deemed a sufficient declaration of the persons elected President and Vice-President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses.

PRESERVING ORDER.

SEC. 4. When the Senate and House of Representatives are assembled to count the votes of electors for President and Vice-President of the United States, and any question of order shall arise, it shall be decided by the President of the Senate. And no debate shall be had on any question except by unanimous consent, when the two Houses are in meeting. But the question of receiving a certified list of votes of electors from any State to which objection is made, or the question of counting the vote of any elector to which objection is made, as provided in this rule, before the Houses have considered the objections to the same in the manner provided in this rule, shall not be considered as questions of order to be decided by the President of the Senate. Appeal may be taken by any Senator or Member of the House of Representatives from any decision made by the President of the Senate; and, when so taken, the question of order and the decision upon the same shall be reduced to writing and signed by the President of the Senate, and a copy of the same shall be delivered to the Speaker of the House of Representatives; and thereupon the Senate shall repair to its Chamber, and each House shall consider and decide, without debate, whether such decision of the President of the Senate while presiding over the two Houses shall stand as the judgment of such House. And the decision of each House having been communicated to the other, the Senate and House of Representatives shall again assemble in the Hall of the House of Representatives, and the decision of each House shall be announced by the President of the Senate; and if it shall appear that each House has voted to overrule the decision of the President of the Senate while he was presiding over the two Houses, said decision shall be set aside, otherwise it shall stand.

ARRANGEMENT OF SEATS, AND RECESS.

SEC. 5. At such joint meeting of the Senate and House of Representatives seats shall be provided as follows: For the President of the Senate, the Speaker's chair; for the Speaker, a chair immediately upon his left; the Senators in the body of the Hall upon the right of the President of the Senate; for the Representatives, in the body of the Hall not provided for the Senators; for the tellers, Secretary of the Senate, and the Clerk of the House of Representatives, at the Clerk's desk; for the other officers of the two Houses, in front of the Clerk's desk and upon either side of the Speaker's platform. Such joint meeting shall not be dissolved until the electoral votes are all counted and the result declared; and no recess shall be taken unless when a question has been submitted to each House in regard to receiving a list of votes of electors or to counting any of such votes and the Houses have separated to consider the same, in which case it shall be competent for either House, acting separately in the manner hereinbefore provided, to direct a recess of such House not beyond the next day at the hour of ten o'clock a. m.

SEC. 6. This rule is adopted to stand until by the affirmative action of one of the two Houses the same shall be vacated.

Mr. BICKNELL. Mr. Speaker, I want to ask gentlemen on the other side how much time they will require for debate upon this proposition?

Mr. WHITE. Before answering the gentleman's question I move to refer this resolution to the Committee on the Electoral Count. That is too important a measure to launch upon the House in this manner without an opportunity for previous examination.

Mr. BICKNELL. The Committee on the Electoral Count have already considered and agreed upon this resolution.

Mr. WHITE. But it had not been referred to them, and therefore I make the motion that it be referred to them now.

Mr. BICKNELL. I hope that motion will not be agreed to.

Mr. KEIFER. Do I understand the gentleman to say that this resolution was ever referred to the committee, and as a committee considered and agreed to?

Mr. BICKNELL. The bill was on the Speaker's table, and we thought it would be sooner reached if it were allowed to remain on the table than if it were referred to the committee. But we took up the proposition informally in the committee and considered it, and the committee have instructed me, as the chairman, to take the first opportunity to bring it up before the House for consideration.

Mr. KEIFER. I do not understand that it was the unanimous action of the committee.

Mr. BICKNELL. No, sir; I believe there was one vote against it.

Mr. WHITE. Is there any report from that committee which will enlighten the House as to this measure?

Mr. BICKNELL. There is no written report; there is no report at all.

Mr. WHITE. We should have a written report so that we may know something about this proposition.

The SPEAKER. There was a report in the Senate, but it was not in the power of the committee to prepare a report upon a bill which was not actually before them.

Mr. WHITE. That is exactly the reason I have made the motion so that the committee can have it properly before them, and make the proper report to the House.

The question was taken on the motion to refer; and on a division there were—ayes 50, noes 81.

Mr. WHITE. I feel like calling the yeas and nays upon that vote. I make the point that no quorum has voted.

The SPEAKER. The point having been made that no quorum has voted, the Chair will appoint tellers.

Mr. WHITE and Mr. BICKNELL were appointed.

The House again divided; and the tellers reported—ayes 39, noes 109.

Mr. WHITE. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 65, nays 103, not voting 124; as follows:

YEAS—65.

Aldrich, N. W.	Deering,	Martin, Joseph J.	Thompson, W. G.
Aldrich, William	Dunnell,	McCook,	Townsend, Amos
Anderson,	Dwight,	Mitchell,	Tyler,
Ballou,	Fisher,	Monroe,	Urner,
Barber,	Godshalk,	Neal,	Valentine,
Bayne,	Hall,	Norcross,	Van Aernam,
Blake,	Harmer,	O'Neill,	Voorhis,
Bowman,	Harris, Benj. W.	Osmer,	Wait,
Boyd,	Haskell,	Overton,	Ward,
Brewer,	Hayes,	Robinson,	Washburn,
Briggs,	Horr,	Russell, W. A.	White,
Brigham,	Hubbell,	Ryan, Thomas	Williams, C. G.
Browne,	Joyce,	Sapp,	Willits,
Carpenter,	Keifer,	Shallenberger,	Young, Thomas L.
Caswell,	Kelley,	Sherwin,	
Crapo,	Ketcham,	Smith, A. Herr	
Davis, Horace	Lindsey,	Stone,	

NAYS—103.

Aiken,	Dibrell,	Lowe,	Singleton, J. W.
Atherton,	Dickey,	Manning,	Singleton, O. R.
Beale,	Elam,	Martin, Benj. F.	Slemons,
Berry,	Evins,	Martin, Edward L.	Smith, Hezekiah B.
Bicknell,	Ewing,	McLane,	Smith, William E.
Bliss,	Field,	McMahon,	Speer,
Blount,	Forney,	McMillin,	Springer,
Bright,	Geddes,	Mills,	Steele,
Buckner,	Hammond, N. J.	Morrison,	Stephens,
Cabell,	Harris, John T.	Morse,	Stevenson,
Caldwell,	Hatch,	Muldrow,	Talbott,
Chalmers,	Henry,	New,	Taylor,
Chittenden,	Herbert,	Nicholls,	Thompson, P. B.
Clardy,	Hooker,	O'Connor,	Tillman,
Clark, Alvah A.	Hostetler,	Persons,	Turner, Oscar
Clark, John B.	House,	Phelps,	Updegraff, Thomas
Clymer,	Hunton,	Philips,	Upson,
Cobb,	Hutchins,	Reagan,	Vance,
Coffroth,	Jones,	Richardson, J. S.	Van Voorhis,
Colerick,	Kenna,	Robertson,	Whiteaker,
Cook,	Kimmel,	Ross,	Whitthorne,
Cravens,	Kitchin,	Ryon, John W.	Williams, Thomas
Culberson,	Klotz,	Samford,	Wise,
Davis, Joseph J.	Ladd,	Sawyer,	Wood, Fernando
Davis, Lowndes H.	Lewis,	Scales,	Wright.
Deuster,	Lounsbery,	Shelley,	

NOT VOTING—124.

Acklen,	Dick,	Humphrey,	Pierce,
Armfield,	Dunn,	Hurd,	Poehler,
Atkins,	Einstein,	James,	Pound,
Bachman,	Ellis,	Johnston,	Prescott,
Bailey,	Errett,	Jorgensen,	Price,
Baker,	Farr,	Killinger,	Reed,
Barlow,	Felton,	King,	Rice,
Belford,	Ferdon,	Knott,	Richardson, D. P.
Beltzhoover,	Finley,	Lapham,	Richmond,
Bingham,	Ford,	Le Fevre,	Robeson,
Blackburn,	Forsythe,	Loring,	Rothwell,
Bland,	Fort,	Marsh,	Russell, Daniel L.
Bouck,	Frost,	Mason,	Simonton,
Bragg,	Frye,	McCoid,	Sparks,
Burrows,	Garfield,	McGowan,	Starin,
Butterworth,	Gibson,	McKenzie,	Thomas,
Calkins,	Gillette,	McKinley,	Townshend, R. W.
Camp,	Goode,	Miles,	Tucker,
Cannon,	Gunter,	Miller,	Turner, Thomas
Carlisle,	Hammond, John	Money,	Updegraff, J. T.
Claflin,	Hawk,	Morton,	Waddill,
Conger,	Hawley,	Muller,	Warner,
Converse,	Hazelton,	Murch,	Weaver,
Covert,	Heilman,	Myers,	Wellborn,
Cowgill,	Henderson,	Newberry,	Wells,
Cox,	Henkle,	O'Brien,	Wilber,
Crowley,	Herndon,	O'Reilly,	Willis,
Daggett,	Hill,	Orth,	Wilson,
Davidson,	Hiscock,	Pacheco,	Wood, Walter A.
Davis, George R.	Houk,	Page,	Yocum,
De La Matyr,	Hull,	Phister,	Young, Casey.

So the motion to refer the resolution to the Committee on Counting the Electoral Vote was not agreed to.

The following additional pairs were announced:

Mr. CANNON, of Illinois, with Mr. BELTZHOOVER.

Mr. POUND with Mr. POEHLER, but not to break a quorum on a question of tariff.

Mr. LORING with Mr. GIBSON, on this question.

Mr. BELFORD with Mr. BOUCK, on all political questions, reserving the right to vote to make a quorum.

The result of the vote was then announced as above recorded.

The SPEAKER. The gentleman from Indiana [Mr. BICKNELL] is entitled to the floor.

Mr. WHITE. I move to refer the concurrent resolution to the Committee on the Judiciary.

The SPEAKER. The Chair has recognized the gentleman from Indiana.

Mr. WHITE. Have I not the right to make a motion to refer?

The SPEAKER. The gentleman loses no right by waiting until the gentleman from Indiana has occupied his hour.

Mr. WHITE. Does not a motion to refer take precedence of consideration?

The SPEAKER. The motion to refer has just been voted down. The bill was up, or the motion to refer could not have been made.

Mr. WHITE. Can I not make a motion to refer to another committee?

The SPEAKER. The sense of the House having been tested on the motion to refer the gentleman from Indiana [Mr. BICKNELL] desired the floor to speak, and is entitled to retain it for one hour. The Chair allowed former motion to refer under rule regulating the previous question.

Mr. WHITE. I would like to have this resolution referred to some committee so that we may have a report.

The SPEAKER. The gentleman from Indiana has the floor.

Mr. BICKNELL. Mr. Speaker, the second article of the Constitution provides that each State shall appoint, in such manner as the Legislature thereof may direct, a number of presidential electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress. The same article provides that Congress may determine the time of choosing the electors and the day on which they shall give their votes; which day shall be the same throughout the United States.

The twelfth amendment of the Constitution provides that the electors shall meet in their respective States and cast distinct ballots for President and Vice-President, and shall send certificates of the votes to the seat of Government, directed to the President of the Senate. The same amendment provides that the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and that the votes shall then be counted, and that the persons having the majority of the whole number of such votes shall be the President and Vice-President. These are all the provisions of the Constitution as to the mode of election by electors, and these are all the provisions as to the mode of ascertaining and declaring the result of such an election. There are other provisions as to an election by the House of Representatives, but they need not be considered now. It is clear that some legislation was necessary to enforce the provisions which I have recited, and it is equally clear that the duty of providing such legislation was imposed upon Congress.

By section 8 of article 1 of the Constitution Congress is authorized to make all laws which shall be necessary and proper for carrying into execution any of its enumerated powers, and all other powers vested by the Constitution in the Government of the United States, or in any department or officer thereof. It is therefore not only the duty of Congress to provide legislation necessary and proper to carry into effect the mode of election established by the Constitution, but it is also the duty of Congress to provide legislation necessary and proper to carry into effect the powers of the two Houses for ascertaining and declaring the result of the election.

Congress has recognized its obligations in this respect and has undertaken to discharge them. In chapter 1 of title 3 of the Revised Statutes, entitled "Presidential Elections," there are twenty-one sections, from 131 to 151 inclusive; they provide the mode of electing the President and the method of ascertaining and declaring the result of the election, but they do it imperfectly, they fail to declare who shall count the electoral vote, they fail to declare who shall determine what are votes proper to be counted, and they make no provision whatever for the determination of contested elections.

These are fatal omissions; elections for President and Vice-President separately began in 1804; we have had nineteen such elections; in more than half of them electoral votes have been disputed; angry and dangerous controversies have arisen repeatedly, threatening the existence of the Government more than once, yet Congress has never provided a remedy. Congress has never agreed upon a pretended remedy except the short-lived twenty-second joint rule of 1865, which was not only inadequate and unsatisfactory, but whenever trouble came it bound nobody. We all agree that something should be done to prevent hereafter such evils as we have suffered heretofore.

The House committee having charge of the state of the law as to the election of President and Vice-President, of which I have the honor to be chairman, agreed upon a bill at the first session of this

Congress which in their judgment fully met the emergency. That bill was made the special order for January 29 and from day to day thereafter until disposed of; it has been crowded out by the discussions on the rules and by the appropriation bills; I have tried in vain repeatedly to induce the House to consider it. In the mean time the Senate has agreed upon the joint rule now under consideration.

In my judgment, no joint rule will meet the existing emergency. Where an obligation rests upon Congress to provide the legislation necessary to carry into execution constitutional provisions, a joint rule will not discharge that obligation, because a joint rule is not legislation. A joint rule in such a case is a mere make-shift, a temporary expedient; it binds nobody. Either House adopting it to-day may abandon it to-morrow. It carries no moral force with it. What we need is to place this matter upon the solid basis of an established law that will bind everybody. I have heard no sufficient reason assigned for a joint rule. They say that because the republicans, when in power, gave us a joint rule, therefore we should give them a joint rule now; but I submit that it is not our part to follow republican examples; we never gained anything by it. Our business is to do right and satisfy our constituents. But they say we cannot pass a bill in both Houses, whereas we can adopt a joint rule. The answer to this is that, if we are right, the possibility of defeat ought not to deter us, the difficulties in the way ought not to frighten us. If it be suggested that some constitutional scruples may defeat the proposed law, I submit that a joint rule contravening the Constitution is no better, nay, it is worse than a doubtful law; it is accomplishing by indirection what you dare not openly undertake. If it be suggested that there is danger of a veto from the President, the answer is, we are bound to perform our duty without reference to a possible failure of duty elsewhere. I therefore advocate a bill in preference to a joint rule.

But the joint rule now under consideration, as far as it goes, is substantially the same in its provisions as the bill reported by our committee. They may both be passed, and they will stand together without repugnancy or inconsistency; they both provide that the electoral votes shall be counted by the two Houses; they both provide that votes objected to shall be counted unless rejected by both Houses; and they both provide that in case of conflicting certificates that certificate which both Houses declare to be the lawful one shall stand. I shall therefore vote for the joint rule in the hope that we shall also be able to pass the bill. So far as the two agree, if there is any valid constitutional objection against one, it is equally valid against the other, and the same arguments that sustain the provisions of the bill will also sustain the corresponding provisions of the rule.

The only statutory provision for counting the electoral votes for President and Vice-President is section 142 of the Revised Statutes, to wit:

> Congress shall be in session on the second Wednesday in February succeeding every meeting of the electors, and the certificates, or so many of them as have been received, shall then be opened, the votes counted, and the persons to fill the offices of President and Vice-President ascertained and declared, agreeably to the Constitution.

The rule undertakes to supply the defects of this meager and unsatisfactory section. It provides for a joint meeting of the two Houses on the day prescribed by law, at which meeting the President of the Senate shall preside; that two tellers shall be previously appointed by each House; that the President of the Senate shall, in the joint meeting, open all the certificates and papers purporting to be certificates of the electoral votes and deliver them to the tellers, by whom they shall be read in the presence and hearing of the two Houses; that as each list is read the President of the Senate shall call for objections; if there are no objections to any such list it shall be received and the votes shall be counted. Objections must be in writing, brief, without argument, signed in duplicate by at least two Senators and three Representatives; one of the duplicates shall be handed to the presiding officer of each House. The President of the Senate shall state the objections in the presence and hearing of the two Houses. Like proceedings shall be had upon the lists of all the States in alphabetical order. Objections must be considered separately by each House, the Senate withdrawing; and when both Houses have determined the objection they shall meet again, and the decision of each House shall be stated by the President of the Senate. Votes shall be counted unless rejected by both Houses, and if there be conflicting certificates that certificate shall be received which both Houses determine to be the lawful certificate, and its votes shall be counted. The votes being thus ascertained and counted the result of the counting shall be delivered by the tellers to the President of the Senate, who shall thereupon announce the state of the vote and the names of the persons elected. These are the substantial provisions of the rule. There are other provisions as to order and arrangement of seats which need not be stated now.

I submit that these provisions are reasonable. The scanty legislation of section 142 of the Revised Statutes, which I have already recited, amounts to nothing. The Constitution does not expressly declare by whom the electoral votes shall be counted. The language of the twelfth amendment is:

> The President of the Senate shall open all the certificates, and the votes shall then be counted.

Upon the construction of this language there have been three opinions. Mr. Justice Story holds that the regulation of the counting of the votes is an omitted case in the Constitution, and that the question of jurisdiction is left in a most embarrassing situation. (Story's Comm., section 1470.)

Chancellor Kent admits that Congress has the right to legislate upon the subject, but he presumes that "in the absence of legislation the right of counting belongs to the President of the Senate."

In the discussions upon this floor it has been asserted often that the twenty-second joint rule of 1865 was unconstitutional, because it deprived the President of the Senate of a right alleged to be given him by the Constitution; and we all know that at the first election in 1789 John Langdon, then President of the Senate, not only opened the electoral certificates, but counted the votes himself in the presence of both Houses of Congress. (Journal of Senate, First Congress, first session.)

The prevailing opinion, however, has been that Congress is not required to be in session for the idle purpose of witnessing a ceremony in which it can take no part, but that as the declaration of the result goes to the world under the authority of the two Houses by the voice of their presiding officer, the ascertainment of that result belongs to both Houses, who must, of necessity, count the votes, and cannot perform their duty without counting them.

The usage of the Government was in accordance with this construction for more than half a century, and during all that time the certificates were opened by the President of the Senate, and then counted by the tellers of the two Houses, who handed the result to the President, by whom it was declared. The joint rule is in accordance with this long-established usage, and provides that the votes shall be counted by both Houses of Congress. If both Houses are to count the votes, it follows that they must determine what are votes. The power to count votes for the purpose of ascertaining and declaring the result of an election comprehends the power of deciding upon disputed votes, and that power cannot be exercised as to electoral votes without inquiring who were appointed electors? were they duly qualified? have they acted according to law?

The Constitution provides that "each State shall appoint its electors in such manner as its Legislature shall direct," but it does not expressly declare how the validity of an alleged electoral vote shall be determined, and it makes no provision for a decision upon conflicting electoral certificates. In the absence of express constitutional provision it seemed to a majority of our committee that the determination of all questions as to the validity of electoral votes, or certificates, necessarily belonged to the tribunal appointed to ascertain and declare the result of the election; and that is the effect of this joint rule.

It has been suggested that any legislation or joint rule to this effect will impair the right of the State to appoint its own electors. But there is really no conflict between a State's right to appoint electors and the right of the two Houses to inquire into the validity of alleged electoral votes. The right of the State in appointing electors is exercised and exhausted before the power of the two Houses begins. When votes are presented to the two Houses purporting to be the electoral votes of a State, then instantly is called into action the necessarily implied power of the two Houses to determine whether these are electoral votes or not, and this power involves three questions at least, to wit: Were the electors duly qualified? Were they appointed according to law? Have they acted according to law?

To say that the two Houses have not the power to determine what are valid electoral votes is simply to reassert the doctrine of the electoral commission—"nothing *aliunde*."

The propositions which lie at the basis of this joint rule are these:

First. Electoral votes for President and Vice-President ought to be counted by the two Houses of Congress.

Second. The right of counting votes involves the right of deciding what are lawful votes.

Third. The right of ultimate determination as to disputed certificates and votes, and as to conflicting certificates, belongs to the two Houses, and cannot be safely abandoned.

It concerns the highest interest of every State that the electoral votes of all the States shall be lawful votes, and that result cannot be adequately secured unless the right of ultimate determination be retained by the two Houses. These Houses together representing all the people and all the States, their concurrent action on these questions, if not absolutely right, will always represent the prevailing public opinion and will therefore give general satisfaction. This joint rule, if adopted and adhered to, will put an end to many of the uncertainties and embarrassments and dangers of presidential elections, and I shall therefore vote for it, trusting that we shall also adopt the legislation proposed by my committee, House bill No. 2023.

How much of my time remains?

The SPEAKER *pro tempore*, (Mr. MARTIN, of Delaware.) Twenty-five minutes.

Mr. BICKNELL. I will reserve that time.

Mr. ROBESON. Will the gentleman from Indiana permit me to ask him a question?

Mr. BICKNELL. Certainly.

Mr. ROBESON. As there is no report on this subject, and as I agree with certain of the gentleman's propositions in the opening of his speech, I desire to ask him whether he thinks that a joint rule which binds nobody in the two Houses can affect the rights of outside people; whether under the provision of the Constitution which authorizes Congress to make such laws—such "laws" as are neces-

sary to carry out the provisions of the Constitution—and under the provision which authorizes each House to make rules for its own procedure, the gentleman from Indiana thinks the two Houses can make laws, if not altering, at least construing the Constitution and affecting the rights and interests of outside parties and of the country? I ask the gentleman to say whether he believes that these two Houses under the provision which authorizes them to legislate can, by virtue of a joint rule which governs their own course of proceeding only, affect extraneous rights and duties under the Constitution of this country?

Mr. BICKNELL. The gentleman has given me a pretty long question to answer; but I think I can answer the substance of it.

Mr. ROBESON. Pardon me. In the absence of a report on that subject, there is where I want to stand, on the threshold of this case. I deny the power of the two Houses, by virtue of a mere rule to govern their own course of procedure, to make laws and do acts which are to affect the Government of this country for all future time.

Mr. BICKNELL. The gentleman from New Jersey has answered his own question, and I have no doubt he has done it to his own satisfaction much better than I could.

Mr. CARLISLE. I should like, with the permission of the gentleman from New Jersey, to ask him a question.

Mr. ROBESON. I have not the floor but I shall be glad to hear the gentleman's question.

Mr. CARLISLE. It is this: Whether, in his opinion, if Congress should act without any rule whatever, its action would bind outside persons and the country?

Mr. ROBESON. If Congress should act without any rule, of course not; unless they have the power to act given them by the Constitution.

Mr. CARLISLE. The gentleman holds, then, that if the two Houses of Congress shall meet together without having previously adopted a joint rule, and shall receive and count the electoral votes, the declaration of the result made by the two Houses binds nobody.

Mr. ROBESON. I did not say that.

Mr. CARLISLE. That is what follows from the gentleman's statement.

Mr. ROBESON. Not at all.

The SPEAKER *pro tempore*. Does the gentleman from New Jersey [Mr. ROBESON] take the floor in his own right?

Mr. ROBESON. No, sir; I merely took the floor to ask a question. I will say this in answer to the proposition of the gentleman from Kentucky, [Mr. CARLISLE:] That if the majority of the two Houses of Congress have been here for six months and have made no affirmative attempt at legislation upon this subject they cannot now come forward and say, "It is true we have no power to do this, but we have not done anything else, therefore you must take this thing."

Mr. CARLISLE. That is a very wide departure from the proposition made by the gentleman.

Mr. ROBESON. It is not we who are responsible for the majority not having done anything.

Mr. CARLISLE. With the permission of the gentleman from Indiana [Mr. BICKNELL] I desire to state very briefly, without argument, what my views are on the question propounded by the gentleman from New Jersey. I hold it to be indisputable that if the two Houses of Congress, assembled in obedience to the provision of the Constitution, have the power to receive the electoral votes, to count them, and to declare the result, then it follows that the two Houses may by previous action prescribe the rule which shall govern them in conducting that proceeding. And that it seems to me is the fundamental proposition involved in the question put by the gentleman from New Jersey; for I agree with him that if the two Houses of Congress cannot receive and count the electoral vote and declare the result in such a manner as to bind the whole country, including those who are candidates for these high offices as well as those who are not candidates, then the two Houses of Congress cannot by any previous rule prescribe a method of ascertaining and declaring the result.

And I hold it to be equally clear that if the two Houses can receive the electoral votes, count them, and declare the result, the two Houses can in advance of that proceeding declare the mode, the manner, and the method by which that proceeding shall be conducted when the time comes for it to take place.

Mr. DAVIS, of North Carolina. Is not that in accordance with precedents until the last election?

Mr. CARLISLE. I am not going to discuss this matter now. I am simply stating what I conceive to be an answer to the gentleman from New Jersey, [Mr. ROBESON.]

Mr. ROBESON. I would like to ask the gentleman from Kentucky [Mr. CARLISLE] another question, in order that he may make his answer more definite. [Cries of "Order!" "Order!"]

The SPEAKER *pro tempore*, (Mr. MARTIN, of Delaware.) Does the gentleman from Indiana [Mr. BICKNELL] yield?

Mr. BICKNELL. I decline to yield further.

Mr. ROBESON. The gentleman from Kentucky has said that he contends for the right of the two Houses by previous action to do this thing. Does the gentleman contend—[cries of "Order!" "Order!"]

The SPEAKER *pro tempore*. The gentleman is not in order.

Mr. ROBESON. The gentleman from Kentucky [Mr. CARLISLE] has not declined to yield.

The SPEAKER *pro tempore*. The gentleman from Indiana [Mr. BICKNELL] who has charge of the resolution declines to yield.

Mr. ROBESON. I only want to ask the gentleman from Kentucky whether this previous action shall be by legislation or by concurrent rule.

Mr. BICKNELL. I do not yield.

Mr. WHITE. Will the gentleman from Indiana [Mr. BICKNELL] allow me to ask him a question?

Mr. BICKNELL. I think we had better proceed with the regular discussion of this matter.

Mr. WHITE. I want to get the facts in regard to this resolution before the country.

The SPEAKER *pro tempore*. The gentleman from Indiana declines to yield.

Mr. WHITE. May I not appeal to the courtesy of my friend from Indiana [Mr. BICKNELL] to answer a civil question? [Cries of "Order!" "Order!"]

Mr. BICKNELL. What is the question of fact that the gentleman wants to ask?

Mr. WHITE. I understand that the gentleman from Indiana is the chairman of the Committee on the Electoral Count. I desire to inquire of him if the Committee on the Electoral Count has agreed upon a bill upon this subject?

Mr. BICKNELL. I stated before that the committee had agreed upon a bill.

Mr. WHITE. Where is that bill? Was it ever reported to this House?

Mr. BICKNELL. It is on the Calendar.

Mr. WHITE. Very well. Was it ever before this House for consideration?

Mr. BICKNELL. It was made the special order for the 29th day of January, and from day to day thereafter until disposed of.

Mr. WHITE. Why was it not pressed for consideration?

Mr. BICKNELL. I have tried half a dozen times to get it up.

Mr. WHITE. The gentleman belongs to the majority, and they had it in their power to enact a law on this subject, rather than a joint rule.

Mr. BICKNELL. I decline to yield any further.

The SPEAKER *pro tempore*. The gentleman from Iowa [Mr. UPDEGRAFF] is entitled to the floor.

Mr. UPDEGRAFF, of Iowa. Mr. Speaker, this concurrent resolution or bill proposes to take away from the President of the Senate, ordinarily the Vice-President of the United States, and confer upon the two Houses of Congress the power of counting the electoral votes. It proposes to encroach upon and impair the constitutional right of each State to appoint presidential electors in its own way and confer upon Congress the power, for such reasons as it deems proper, to reject the vote or votes of any State, whatever may have been the manner of the appointment of the electors.

I am constrained to oppose the passage of this bill because:

First. I believe that the Constitution of the United States confers the authority and imposes the duty upon the President of the Senate of counting the electoral votes for President and Vice-President, and that this power and duty can only be transferred or taken away by constitutional amendment. In short, that Congress has no constitutional power to pass this bill.

Second. I believe this bill, aside from the above objection, is in contravention of that clause of section 1 of article 2 of the Constitution of the United States which provides that "each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors," &c., in that it proposes to give to Congress a revisory power over the manner of the appointment and denies the conclusiveness of any appointment that may be made by the State.

Third. I believe the passage of this bill would increase whatever doubts, uncertainties, and dangers may now exist.

The Constitution provides that—

> The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice-President, chosen for the same term, be elected as follows.

Two things are especially noticeable here:

First. The entire absence of anything conferring power upon Congress.

Second. The implied negation of any such intention.

There is no provision that the President shall be elected in such manner as Congress may prescribe; not a word suggestive of the thought that Congress is to have anything to do with the election or the "manner of holding" it. All this, by the language, is studiously avoided. The clause simply vests the executive power in the President, fixes his title, defines his term, and declares that he "*shall be elected as follows.*" Here the Constitution departs from its usual and ordinary methods, abandons general terms and general purposes, and, considering the subject of the election of President unsafe in legislative hands, descends to detail and *itself legislates*. The peculiar phraseology of this clause of the Constitution; its declaration that the President "shall be elected as follows;" the fact, as we shall see further on, that in two unimportant particulars, namely, fixing the time when electors shall be chosen and the day on which they shall vote, power is expressly conferred; the well-known jealousy of its framers regarding congressional interference in presidential elections—all conspire to make it morally certain that it never was intended to devolve upon Congress any general power over that subject.

> Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives

to which the State may be entitled in the Congress: but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

The electors shall meet in their respective States and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each; which lists they shall sign and certify, and transmit sealed to the seat of Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted; the person having the greatest number of votes for President, *shall be the President*, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the 4th day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.

The person having the greatest number of votes as Vice-President *shall be the Vice-President*, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

The Congress may determine the time of choosing the electors and the day on which they shall give their votes; which day shall be the same throughout the United States.—*Constitution*, article 2, section 1, as amended by article 12.

Beyond the foregoing provisions, the Constitution contains no express grant of power to Congress respecting the election of President and Vice-President. This grant is limited to fixing the time when electors shall be chosen and the day on which they shall vote. As the authority of Congress is limited to those powers granted in express terms and those necessary to carry out express powers, whoever claims for Congress any power or authority over the subject of presidential elections must be able to show its necessity as a means of executing an express power. Moreover, this is a grant of power to regulate detail, a power to control particulars, and it will require a very strong implication indeed to overcome the universally admitted maxim of construction, which declares that "the specification of particulars excludes generals." If it had been intended to confer upon Congress any general supervision or control over the methods of choosing the Executive, these specific grants were futile and senseless. It may be safely affirmed, therefore, that the express authority devolved upon Congress respecting the presidential election is to—

First, determine the time when the electors shall be chosen; and

Second, fix a day on which they shall vote.

This power is exceedingly narrow. Its restricted nature is especially noticeable when compared with the wide range of authority given by the Constitution to Congress over the election of Senators and Representatives by section 4 of article 1, which provides that—

The times, *places, and manner* of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; *but the Congress may at any time by law make or alter such regulations*, except as to the places of choosing Senators.

This difference was not an inadvertent or accidental one. It was made *ex industria* and had a clearly-understood and well-defined purpose. It is an unquestioned matter of history that it was the settled intention and purpose of the founders of the Government, in order to prevent "cabal, intrigue, and corruption," and conserve the entire independence of the Executive, to remove its election as near to the people and as far away from congressional interference as possible. On this point the testimony is uncontradicted and conclusive.*

So jealous was the Federal convention of conferring power upon Congress on the methods of choosing a President that a proposition to give it authority to "prescribe the manner of certifying and transmitting the electoral vote" was rejected. Subject to this single condition of the power of Congress to "determine the time when the electors shall be chosen," the choice of the electors is a matter of purely State concern; Congress has no more power to meddle with it than it has to interfere in the election of a governor or any other State officer. The Constitution declares that—

Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors, &c.

The word "State" means more than "Legislature;" it includes not only a designated territory and the people thereof, but the ordinary organs of State government, namely, the executive, legislative, and judicial. So the "Legislature" in "directing" the "manner" of "appointment" may use any of the three organs or departments of the State necessary and proper for conducting elections, ascertaining and certifying results, and settling all disputed questions; and of course, in case of contested or disputed elections, may confer and should confer upon the judicial branch the power to finally settle and determine who have been appointed. All this is included in the words "shall appoint."

All questions of disputed elections are thus settled, and when the counting power comes to act it has ordinarily nothing to do beyond mere enumeration. It has no concern with or power to question the "manner" of the appointment. It has only to ask: Is this political organization which offers its votes a State? If yea, Has the State appointed these electors? If, after reference to the State laws, this be answered in the affirmative, but one more question can remain, viz: Are these their votes? In short, the counting power has nothing to do beyond ascertaining whether or not the electors have been accredited by the State for that purpose; if they have, their votes must be counted. The question to be decided is the same that has more than once confronted the President of the United States. In what is known as Dorr's rebellion in the State of Rhode Island there were two conflicting State governments, two sets of State officers, each claiming to be the organs of the State, each calling upon the President to suppress the other. He meets under these circumstances precisely the same questions which face the President of the Senate, or other counting power, as suggested above. First, Is this a State? If yea, Has the State appointed these organs? If, after reference to the State laws, this be answered in the affirmative, but one more question can remain, viz: Is this call the voice of the organs thus appointed? Then all opposition is suppressed.

This power was conferred upon the President in pursuance of article 4, section 4 of the Constitution by act of Congress of 1795, which is the law to-day, and shows clearly that "our fathers" were not unfamiliar with the thought of conferring upon a single officer the authority to determine what officers at any given time are the legally-constituted organs of a State.

The following extract from the opinion of the court in Luther *vs.* Bordeau *et al.*, 7 Howard, 43, illustrates the principle:

By this act [of February 28, 1795] the President is to move upon the application of the Legislature or of the executive, and consequently he must determine what body of men constitute the Legislature, and who is the governor, before he can act. The fact that both parties claim the right to the government cannot alter the case, for both cannot be entitled to it. If there is an armed conflict like the one of which we are speaking, it is a case of domestic violence, and one of the parties must be in insurrection against the lawful government. And the President must of necessity decide which is the government and which party is unlawfully arrayed against it before he can perform the duty imposed upon him by the act of Congress.

And right here we must avoid falling into a very common error, an error into which the authors of this bill seem to have dropped. The right to "appoint" includes the right to say—to certify—who has been appointed. This is obvious; for of what avail to any one is the right to appoint who is denied the power to say who he has appointed? Of what avail is such right if the authority to say, to decide who has been appointed be reserved to another? Right here is the first great vice of this bill. Under the thin guise of conferring authority upon Congress to decide who the State has chosen for its electors, it strikes down the constitutional right of the State and confers upon Congress the appointing power. The extreme limit of the counting power, wherever it may be lodged, is the authority to decide, not who the State has appointed, but who the State has said has certified by its designated organ it has appointed.

Recalling what has already been said about the propriety of calling into operation all the departments of the State government in the process of appointing, suppose the "Legislature" of a State has "directed" that all disputes concerning the choice of electors shall be settled by its highest judicial tribunal, and that the decision and certificate of such court shall be the final and conclusive evidence of the State's choice, will any one say that they are not, or that there exists any constitutional power on earth to set aside that decision? To say either is, in my opinion, and with perfect respect for those who differ with me, the wildest fallacy. It is equivalent to asserting that a grant, in terms unconditional, of the power to appoint, reserves by implication to the grantor the right to say who has been appointed. Here is the juvenile philosopher's stone, "How to eat the cake and keep it, too." And yet this bill provides, "But if both Houses shall have concurred in rejecting any vote contained in such list such vote shall not be counted."

* When a measure somewhat similar to the present bill was under discussion in the Senate of the United States, Charles Pinkney, who had been a prominent member of the Federal convention, in the course of a lengthy argument, said on the 28th of March, 1850:

"Knowing that it was the intention of the Constitution to make the President completely independent of the Federal Legislature, I well remember that it was the object, as it is at present, not only *the spirit* but the letter of that instrument, to give to Congress no interference in or control over the election of a President. * * * They [the framers of the Constitution] well know that to give to the members of Congress a right to give votes in this election, *or to decide upon them when given*, was to destroy the independence of the Executive, and make him the creature of the Legislature. * * * And I ask whether you would not have (under the exercise of this right by Congress) for an Executive a fettered dependent creature of the Legislature, * * * a thing with a chain on his pen and a curb in his mouth?"

In letter lxviii, Federalist, Alexander Hamilton says:

"Another and no less important desideratum was, that the Executive should be independent for his continuance in office on all but the people themselves."

In the Federalist, letter xlviii, James Madison says:

"The legislative department is everywhere extending the sphere of its activity and drawing all power into its impetuous vortex. * * * It is against the enterprising ambition of this department that the people should indulge all their jealousy and exhaust all their precautions."

Then he quotes from Jefferson's "Notes on Virginia," and holds up as a warning the language of the author with reference to the affairs of that State:

"All the powers of government, legislative, executive, and judiciary, result to the legislative body. The concentrating these in the same hands is precisely the definition of despotic government. * * * They [the Legislature] have accordingly decided rights which should have been left to judicial controversy, and the direction of the Executive during the whole time of their session is becoming habitual and familiar."

This is naked usurpation—nothing less. The Constitution declares that the "State shall appoint, in such manner as the Legislature thereof may direct," &c. The Legislature directs the manner of the election, and, as a part of it, declares that the judicial department of the State shall be its organ of speech to say who it has chosen; and yet this provision comes in and declares that it shall not designate the appointees. Thus it is proposed for any cause whatever, or on any pretext, or on no pretext, to deprive a State or any number of States of a voice in the electoral college, and trample under foot the constitutionally-expressed will of the people.

But other considerations develop in this resolution still greater vices, if greater be possible. It would seem that to rob a State of a clearly defined constitutional right a decent regard for the opinions of mankind ought to require at least the concurrence of both Houses of Congress. The enactment of an ordinary statute requires this much, as well as the executive approval. This bill, for bill it is if it is anything, ignores the necessity of submitting as the Constitution requires to the Executive for his approval any "vote, order, or resolution" by which an electoral vote is counted or rejected, and places it in the power of a majority of one in either House to disfranchise a State. Let us see. Section 3 provides:

He [the President of the Senate] shall open all the certified lists of votes of electors (or papers purporting to be such certified lists of votes) of each State respectively which shall have been delivered to him, in the order herein prescribed.

One is opened and read; objections are called for. If objection is made—

He shall proceed to open another package, if there be any other, *purporting* to contain a certified list of votes of electors from said State.

And so on, until all "*papers purporting to be such lists*" from such State are opened; and, if none pass without objection, the two Houses separate and retire to their respective Chambers to consider the objections. Then—

If more than one list of votes of electors from any State, *or paper purporting* to be such list, has been submitted to each House for its decision upon objections made thereto, and it shall appear that the Houses have not concurred in receiving either of said lists as the authentic and lawful list, they shall each be * * * rejected.

So that the bill, while pretending to recognize the principle that both Houses ought to concur before disfranchising a State, really leaves it in the power of a majority of one in either House to do it; for let it be understood that the legal returns being in the hands of the President of the Senate, but two things are necessary, namely:

1. That a *paper purporting* to be a list of electoral votes be placed by some one in the hands of the President of the Senate.

2. That an objection be made to the counting of the lawful returns; and then neither can be counted if either House refuses.

The President of the Senate is given no discretion. If a "*package* purporting" to be returns be placed in his hands by a tramp or vagabond, it must, when its turn comes, be opened and read, and its simple presence, no matter what may be its character or source provided only it "purport" to be an electoral certificate, takes the State out of the charmed circle and so changes its condition that a majority of one in either House can stifle its voice and restores to us all the vices of the twenty-second joint rule—a political bastard, disowned and denounced by every one.

But let us return from this digression. We have seen that the only power in reference to the election of President *expressly* conferred upon Congress by the Constitution is to fix the time when electors shall be chosen and the day on which they shall vote. We might add the right to be present when votes are opened and counted. If any other power is asserted, it must be shown to be necessary to the exercise of some express power. It is believed that, with the exception of one instance, no such showing can be made. Under the express power to guarantee to each State a republican form of government it is doubtless true that it rests with Congress to determine what set of officers represent the established government in a State. Under the act of 1795, in certain cases, the Executive may exercise this power, and when the decision is made by either all other departments are bound to recognize it, so that if Congress decide what is a State and what set of officials represent its established government this decision would be binding upon the counting power. And now, until some one can show me some other express power or some other means necessary to the exercise of some other express power, I assert the foregoing to be the measure and limit of the power of Congress on the subject of presidential elections.

But while I affirm that these are the only matters of *congressional* cognizance, I am not unmindful that there are other grave matters which are of *national* concern and jurisdiction affecting the subject of presidential elections. These, under the provisions of the Constitution, are as follows:

1. The electors must be appointed by a "State,"
2. In the manner prescribed by its Legislature,
3. On the Tuesday next after the first Monday in November.
4. No Senator,
5. Representative,
6. Or person holding an office of trust or profit under the United States shall be eligible.
7. The number shall be equal to the whole number of Senators and Representatives to which the State is entitled.
8. They shall meet in their own State,
9. And vote on the first Wednesday in December
10. By ballot
11. For President and Vice-President.
12. One, at least, of the persons so voted for shall not be an inhabitant of the same State with themselves.
13. The persons voted for must be thirty-five years of age,
14. And natural-born citizens,
15. And have been residents within the United States for fourteen years.
16. The electors shall name in their ballots the person voted for as President,
17. And in distinct ballots the person voted for as Vice-President.
18. They shall make distinct lists of all persons voted for as President,
19. And of all persons voted for as Vice-President,
20. And of the number of votes for each;
21. Which lists they shall sign,
22. Certify,
23. And transmit
24. Sealed,
25. Directed to the President of the Senate
26. At the seat of Government.
27. The President of the Senate shall, in the presence of the Senate and House of Representatives,
28. Open all the certificates,
29. And the votes shall then be counted.
30. The person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed.
31. The person having a like majority for Vice-President shall be the Vice-President.

Every other act and thing necessary to be done on and about the election is left to the States respectively, as fully and completely as the choice of their own State officers. But while these are matters properly of *national* cognizance, it does not follow that they are subject to *congressional* decision.

If asked how these constitutional mandates are to be enforced? the answer is this: The Congress is not the residuary legatee of constitutional authority. It is not the sole executor of constitutional commands. That instrument creates three departments—three branches of power—the executive, legislative, and judicial. Upon these, each in its proper sphere, it depends for the execution of its mandates; and in so far as power has been conferred upon any one of these three great departments that department should act. In so far as their enforcement depends on the legislative department, let the proper laws be enacted. Where it depends upon the exercise of executive or judicial functions, let these departments, respectively, where authority depends upon precedent legislation, be authorized by statute to act. Right here is the key which unlocks the whole situation. For example: if the constitutional power be vested in Congress, and it be thought wise to do so, let it provide by law that if an ineligible person be chosen an elector his vote shall not be counted, or, that if the electoral vote of a State be not cast on the day fixed by law, though it was prevented by the "act of God" it shall be void, or make any other general rule within its proper constitutional authority. But even after the wisdom and ingenuity of Congress has been exhausted in defining the consequences which are to flow from possible conditions of fact, as long as constitution framers and legislators are not omniscient, as long as there remains variety in human minds and human methods, as long as "all that is pronounced in human language, save mathematics, requires constant interpretation," as long as men disagree upon things obvious or things obscure, so long there will be occasions when laws constitutional and laws statutory will refuse to interpret and apply themselves, and there will exist, as there always has existed, since regulations were first made among men, an absolute necessity for every law, to expound and apply it to real cases, a living, breathing, intelligent authority. Under our form of government this authority is called the judiciary, a power that possesses *judgment* but has no *will*.

For these reasons the founders of the Government declared in our organic law that—

The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, &c.—*Constitution*, article 3, section 2—

thus making the judicial authority co-extensive with constitutional provision and legislative enactment. Had they stopped short of this they would in so far have failed to make a government. Of this subject more hereafter.

To the question as to how the aforementioned mandates are to be enforced there is another answer, not wholly unreasonable, in which, however, I cannot concur. It is this: The commands of the Constitution are addressed to Congress, to the Executive, to the judiciary, to the States, and to individuals. Each is supposed to be alike loyal to its behests. While it is possible for a State to choose ineligible electors and for an elector to vote for ineligible candidates, so it is equally possible for Congress or any other department to disregard it; and the one danger is no greater than the other. Whichever may be the correct answer, either excludes Congress from determining, after the election, the legality or illegality of a vote.

But it is said the Constitution, properly understood, expressly confers upon Congress the power to count the electoral vote. I deny it,

and assert the counter proposition that it expressly confers this power upon the President of the Senate. I assert it—

1. Because it is the natural import of the language used. After providing that the certificates shall be transmitted to the President, the Constitution declares that—

> The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted.

The President of the Senate is the only active agency in the sentence. The "presence" of the two Houses is expressly commanded for both the opening and the counting. The idea of any other function on the part of the two Houses is thus excluded. Chancellor Kent so read and understood it. So also did Judge Story, as is shown by an incidental remark in his Commentaries on the Constitution, in which he recites that—

> The votes are, then, to be opened and counted *in the presence* of both Houses.

Mr. Pomeroy, in his work on Constitutional Law, section 198, third edition, shows that he so understood it when he says—

> The ballots are to be counted by the President of the Senate in the presence of the Senate and House of Representatives.

To exclude this meaning it is not sufficient to show that a happier form of expression might have been chosen. To deny the existence of a power because the choicest words and aptest arrangement have not been adopted would be a severe rule of construction, and if applied it would exclude the power of *Congress* to count.

2. This clause places Congress where it is impossible for it to act and commands the counting to be *then* done.

No one will dispute these propositions:

First. There must be present at the opening and counting the President of the Senate and the two Houses as Houses in their organized capacities, with their presiding officers, secretaries, sergeants-at-arms, and every incident and thing necessary to their full and complete organizations.

Second. "The votes shall *then* be counted." That is, at that time, on that occasion, in that presence, before anything else is done, and, I venture to add, before "that presence" ceases or is removed or changed.

Third. The counting must be *then* done by either the President of the Senate or by one or both of the two Houses.

If these propositions be true, then it follows that if the two Houses of Congress can exercise any power in the premises, it must be in one of two methods:

First. They must deliberate, debate, and vote separately, but in the presence of each other; or,

Second. They must be considered a joint convention and vote *per capita*.

No one, I believe, has ever suggested so ridiculous and absurd a thing as the first of these alternatives. If the two Houses are the counting power, and, as every vote must be acted on affirmatively, a question must arise on every vote, or at least on the return from every State, the two Houses would have to enter into debate and voting as separate bodies in the presence of each other. The suggestion is manifestly absurd and has no precedent in parliamentary history.

The other alternative is less irrational and impracticable, yet it has met with little favor, and is now maintained by few or none. It has never been suggested without meeting with angry remonstrance from Senators, and it is believed that no considerable portion of any American Senate would ever consent to it. It would be thought an abasement of senatorial power and dignity to reduce the Senate from acknowledged equality to about one-fourth its normal power. Neither the Constitution itself, nor any recorded opinion of any of its framers, or of any of the founders of the Government, contain, so far as I know, any expression, phrase, or hint, which suggests such a method. It is admittedly at war with all the theories and compromises of the Constitution. The House of Representatives represents population, and is chosen by the people. The Senate represents States, and is chosen by the States. The vote or unit in each is essentially different, and cannot be reduced so as to be expressed in the same terms. They are fractions incapable of reduction to a common denominator. If any one thing is certain, it is that the framers of the Constitution never contemplated a joint convention and *per capita* vote. At the counting of the electoral vote the two Houses are, by the Constitution, brought together as *Houses*, each with its presiding officer, secretary, sergeant-at-arms, and all its organs, that something may be done, not by them or either of them, but "in their presence." This method has never been attempted, and is never likely to be. If the power is to be exercised by Congress, it must be by the Congress as defined by the Constitution, namely, "which shall consist of a Senate and House of Representatives," and there can be no binding affirmative action without the affirmative consent of both. As no advocate of congressional authority now maintains either of these methods, they deserve no more attention.

If, therefore, this clause of the Constitution confers the counting power upon either the President of the Senate or upon Congress, and the counting is to be *then* done, the inference grows irresistible that it devolves upon the former. For we have seen that the Constitution by its express terms places both Houses of Congress in a position where it is not only impracticable but impossible to act, ties their hands, takes away every power and function save their "presence," commands a thing to be *then* done, leaving only one organ, one agent free to act and able to act, namely, the President of the Senate. The only remaining capacity for action must perform the thing commanded. If a master having three servants tie two to a post and then command a thing to be done which requires locomotion, will there be any doubt as to who he intends to have do that thing?

There is, however, one other method, provided the phrase "the votes shall *then* be counted" can be so stretched as to permit a separate debate and vote in the respective Chambers. This, to say the least, is a matter of grave doubt. The mandate of the Constitution is that when the certificates are by the President of the Senate opened in the presence of the two Houses "*the votes shall then be counted*," which seems unmistakably to mean *then and there*, in that presence counted, by some power or intelligence there existing, and not elsewhere. But let us suppose this merely constitutional difficulty be overcome, then what? Doubt, uncertainty, impossibility, absurdity.

3. It is impossible to make a deliberative body out of two constituents and without an umpire. Each House is co-ordinate and co-equal with the other, and in case of non-concurrence who shall decide? To this question there are three answers.

First. The vote or votes shall not be counted. But this was the purport of and objection to the twenty-second joint rule, which has been thus characterized by the following eminent authorities:

> That rule, now abrogated, is admitted on all sides to have been iniquitous in conception, dangerous in existence, and constitutionally without warrant.—*Senator Randolph, in Senate, May* 20, 1876.
>
> Such a power was an utter usurpation, utterly without warrant in the Constitution, dangerous in the extreme.—*Senator Bayard, December* 8, 1875.
>
> That monstrous claim of power.—*Ibid.*
>
> Maleficient and without constitutional warrant.—*Senator Bayard, March* 24, 1876.

The second answer is, in case of non-concurrence, the vote shall be counted. But the reply to this is no less eminent in its source and no less conclusive:

> The counting of a vote is an affirmative act. It involves the examination of the certificate, the reading it in the presence and hearing of the two Houses, the entering of the votes upon the list, and the enumerating of the vote in the footing which states the result. All these steps are affirmative acts.
>
> In all cases where two persons or two bodies are required to concur in the doing of an act, and each has a discretion to do it or not, if they cannot agree the act cannot be done. It is the familiar case of two judges who do not agree, and the result is that no judgment can be rendered.—*The Presidential Counts*, page 37.

A work produced, I believe, under the auspices of no less a person than Samuel J. Tilden.

The same view was presented very ably and forcibly by the gentleman from Virginia [Mr. TUCKER] in the Forty-fourth Congress. (Congressional Record, Forty-fourth Congress, second session, page 847.)

The third and remaining answer is the only true one, and it is, *that no decision is possible.*

Whenever the advocates of congressional power in counting the electoral vote admit (and they cannot deny it) that the two Houses must act in counting as organizations, they "give their case away." The votes must be counted. If any be disputed, a decision must be reached and reached promptly. The Constitution commands it. The existence of the Government depends on its being done. If it is not done, and done promptly, all this priceless fabric of our Government goes to pieces; and yet we are asked to believe, not from any express language, but in the face of it, that the framers of our Constitution, whose far-seeing wisdom was something almost more than human, intended to commit all the questions involved in a presidential count to the decision of a tribunal composed of two constituents without an umpire, and from which a conclusion was impossible.

It is possible that a schoolmaster may find in their work, accomplished as it was by "slow accretions of agreement," clauses capable of happier forms of expression after nearly a hundred years have elapsed. The same may be possible with the best of our work; but to argue that they did this inexpressibly foolish and absurd thing is, to say the least, uncomplimentary to their judgment. "A silk purse cannot be made out of a sow's ear;" nor can a deliberative body be made out of two constituents. "Our fathers" did not attempt it. If they did not, then the President of the Senate must count; for this is all there is left to us.

Fourth. It is not a legislative act.

For Congress to perform a legislative act or effect a legislative expression it is required that both Houses concur. Every expression of legislative will implies such concurrence. Without such concurrence there is no legislative act. Writers on parliamentary law inform us that legislative bodies express their will by four, and only four, methods, namely, by votes, orders, resolutions, or addresses, and the last must be adopted by one of the first three. But section 7, article 1, of the Constitution provides that—

> Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

This provision follows and is entirely distinct from and in addition to the ordinary power of the Executive to veto bills. There is but one single exception, and that is on a question of adjournment. No other "vote, order, or resolution" can escape this process and have vitality. The reception of every vote is an affirmative act. (See *Presidential Counts* before cited.) It can only be accomplished by a "vote,

order, or resolution." It is utterly nugatory until it has the executive approval, or, that being refused, until it be repassed by two-thirds of both Houses. Are the advocates of congressional counting power prepared thus to admit the executive share in so large a portion of this authority? If Congress possesses the counting power there is no escape from it.

Counting the electoral vote is, in the first instance, a ministerial act, but if afterward it be disputed and Congress has conferred jurisdiction upon the courts, it may become a judicial act. The power, whether it be conferred upon Congress or upon the President of the Senate, is only the power to "count." It is not even a power to "canvass." For the most part it is merely an enumeration. It may, it is true, in exceptional cases go beyond this from necessity, but it is nevertheless a ministerial power. Whether an act be ministerial or judicial depends not solely upon the nature of the act itself, but upon a variety of circumstances. If the counting of votes or canvassing of election returns be confided to an officer or tribunal not judicial, without power to hear allegations and proofs and expound law, and without express declaration that the determination shall be final and conclusive, the authority conferred is purely ministerial and subject to review by the judicial power. It is believed there is no respectable authority to the contrary.*

The power which this bill proposes to confer upon Congress is unmistakably "judicial," and not "legislative." On this subject there seems to be no room for two opinions. That Congress can exercise judicial functions, save with respect to the election of its members, whereto it is expressly authorized by the Constitution, will hardly be claimed. The Constitution vests all "legislative powers" in the Congress, but declares that—

> The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish.

Judicial functions, therefore, cannot be exercised by or conferred upon Congress. The obvious truth that "all that is expressed in human language, save mathematics, needs constant interpretation" has made necessary the distinction between legislative and judicial powers.

No member of this House who has witnessed the operation of its "new rules," and who recalls the fact that not a single step could be taken under them without interpretation, ought to need to be reminded of this constant necessity for interpretation and construction. Enforcing this well-known truth, Professor Francis Lieber, in his Hermeneutics, at page 28, says:

> Let us take an instance of the simplest kind to show in what degree we are continually obliged to resort to interpretation. By and by we shall find that the same rules which common sense teaches every one to use in order to understand his neighbor in the most trivial interview are necessary likewise, although not sufficient, for the interpretation of documents or texts of the highest importance, constitutions as well as treaties between the greatest nations.
>
> Suppose a housekeeper says to a domestic, "Fetch some soup-meat," accompanying the act with giving some money to the latter, he will be unable to execute the order without interpretation, however easy, and consequently rapid, the performance of the process may be. Common sense and good faith tell the domestic that the housekeeper's meaning was this:
>
> First. He should go immediately, or as soon as his other occupations are finished; or, if he be directed to do so in the evening, that he should go the next day at the *usual* hour.
>
> Second. That the money handed him by the housekeeper is intended to pay for the meat thus ordered and not as a present to him.
>
> Third. That he should buy such meat and of such parts of the animal as to his knowledge has commonly been used in the house he stays at for making soups.
>
> Fourth. That he buy the best meat he can obtain for a fair price.
>
> Fifth. That he go to that butcher who usually provides the family with whom the domestic resides with meat, or to some convenient stall, and not to any unnecessarily distant place.
>
> Sixth. That he return the rest of the money.
>
> Seventh. That he bring home the meat in good faith, neither adding anything disagreeable or injurious.
>
> Eighth. That he fetch the meat for the use of the family and not for himself.
>
> Suppose, on the other hand, the housekeeper, afraid of being misunderstood, had mentioned these eight specifications, she would not have obtained her object if it were to exclude all *possibility* of misunderstanding, for the various specifications would have required new ones. Where would be the end?

Again, at page 256, he says:

> We have already seen that no human wisdom can contrive to make laws which will precisely cover all complex cases that may occur, whatever attention may be paid by the law-makers to the variety of compound cases which they are able to imagine; and that it is not in the power of any human intellect, though of the most gigantic grasp, to draw up a political constitution so as to leave no doubtful case untouched, considering the condition of society at the time of its being drawn up. As to future generations, the problem becomes still more impracticable, because the state of human society is constantly changing and ought to change according to its very principles of existence. This is a rule so well established that statesmen and lawyers are now agreed upon the wisdom of pointing out principles and drawing general outlines in a clear and easily understood language in constitutions and laws, rather than of giving minute details, which, in whatever degree we may augment the enumeration of minutiæ, have a tendency rather to contract than to extend.

The simple illustration of Professor Lieber makes clear one of the great distinctions between legislative and judicial functions. It is the province of the legislature to issue the command. It is the duty of the person or officer to whom it is addressed to interpret and execute it in the first place. Then, if there be dispute, a "case arises," and the final, conclusive interpretation, construction, and application is made by the courts.

We have already seen that there are thirty-one or more distinct constitutional mandates respecting the election of President, which are of purely national concern and jurisdiction. They constitute a small code of regulations in themselves. We have seen the amount of interpretation involved in the simple command, "Fetch some soup-meat," and from this some conception may be formed of the possibilities involved in this code of regulations.

How any Anglo-Saxon jurist or statesman can maintain that, without doing violence to the recognized constitutional theories, the interpretation, construction, and application of this code to facts after they shall have occurred can be withdrawn from the courts and committed to the legislative body passes comprehension.

The distinction between legislative and judicial functions is easy of ascertainment. It is the peculiar province of the legislature to prescribe general rules for the government of society; the application of these rules to individuals would seem to be the duty of other departments. (United States Supreme Court, 6 Cranch, 136.)

The Congress *makes*, the judiciary *construes* and *applies* laws.

In *Bates vs. Kimball*, (2 *Chip.*, 77,) cited by Judge Cooley, the court say:

> The judicial function is a determination of what existing *law is* in relation to some existing thing already done or happened; while the legislative function is a predetermination of what the *law shall be* for the regulation of future cases coming within its provisions.

The legislature makes rules to be applied to and govern future transactions; the judiciary applies existing rules to accomplished facts.

The national and all our State governments are founded upon the philosophy which separated these two classes of functions. The constitution of one of the "original thirteen," after declaring that the legislative and the judicial, the law-making and law-applying powers should be forever separate, recited that this was "*to the end that the Government be one of laws and not of men.*"

This bill makes no rule whereby the legality or illegality of votes (future facts) are to be tested. If it did, the country could inquire of its wisdom, its fairness, and its constitutionality; and it would operate alike upon all cases and upon all political parties—upon the majority which adopted and the minority which opposed it. If within the constitutional power of Congress, it would be a law. This bill, however, neglecting to predetermine a rule for the regulation of future cases, authorizes Congress to wait until the fact is accomplished, the thing done, the election held and returns made, and then to make a rule and apply it on the spot to existing facts. This is a palpable usurpation of judicial functions, and, according to Jefferson, "the precise definition of despotism." Under the provisions of this bill it is not necessary to announce to the public the rule which Congress makes, under which it receives or rejects a vote; and thus we have what it is believed never before existed in America, a court of last resort, without any public knowledge of the rules or principles which control its judgments; nor is it even necessary that there should be *any* rule other than "its own sweet will;" and thus we have a government not of *laws* but of *men*.

While, perhaps, the definition may not in all respects be precisely accurate, it is sufficiently so as here applied. Enacted laws may be said to be declarations by competent authority of the public will in the form of abstract propositions, fixing the consequences of, and to be applied to, certain conditions of fact. Under our form of government the declaration of the abstract proposition is the limit of legislative authority. If law-abiding persons affected agree upon the facts of a transaction and upon the application of the proposition thereto, the law enforces itself. Thus, in ordinary affairs, nothing more is needed. Not one in many thousand human transactions, contracts, and dealings ever come before the courts for adjustment; but there will be exceptional cases when the facts are disputed, or when the application of the abstract proposition to the facts is in controversy, or when the dispute is as to the application of one or more propositions to the facts, or when neither the facts nor the application are agreed upon. In such cases the Legislature, having exhausted its functions in asserting the propositions of law, can give no relief, and resort must be had to the judicial power, the power which does not make but construes, expounds, and applies laws to accomplished facts. To illustrate: The Legislature declares this abstract proposition: If one person, for a valuable consideration, agrees to pay another at a given time $300, and fail to do so, his property shall make it good. B asserts these facts as against A. A denies them. The judicial power ascertains the facts and applies the law. The Legislature, however, cannot thus inquire or deal with things already done. In plain English, it cannot try a law-suit.

Again, the Legislature declares the abstract proposition that when the absolute title to land covered by a highway is in the public, any owner of a railroad may construct and operate his road *over and across* such highway without liability to the abutting proprietor. The facts are not in dispute. The owner constructs and operates his road lon-

*As the election officers perform, for the most part, ministerial functions only, their returns and the certificates of election issued upon them are not conclusive in favor of the officers who would thereby appear to be chosen, but the final decision must rest with the courts. Statutory boards, clothed with special powers of final decision, are an exception. And it matters not how high and important the office, if any one without the requisite vote, with or without a certificate, intrude, the courts have jurisdiction to oust.—*Cooley's Constitutional Limitations*, third edition, 623.

It is well settled that the duties of canvassing officers are purely ministerial and extend only to the casting up of the votes and awarding the certificate to the person having the highest number; they have no judicial power.—*American Law of Elections*, section 81.

gitudinally of the highway, and says these facts are within the abstract proposition. The abutting proprietor asserts that they are not; that "over and across" do not include "longitudinally." The law-applying, law-expounding authority, the courts, must settle the controversy. To permit the Legislature to wait without declaring a rule and then to fix the consequences which are to flow from this condition of fact would be to make the Legislature an absolute monarch, and we should have a government not of *laws*, but of *men*.

The law-making power declares the abstract proposition that "electors shall be appointed by each State in the manner prescribed by the Legislature thereof." The ultimate facts are: A State Legislature provides for an election and authorizes a tribunal to settle all disputes and determine who have been appointed. Electors are thus chosen. Another tribunal, unknown to the Legislature, has made another and different determination and certified a different set of electors. Each set claims to have been appointed in accordance with the terms of the proposition. One set is wrong. Now, if Congress before the fact should assert a rule or proposition which would apply to all cases coming within its provisions by which the just determination of this question could be rendered more certain, this would be the exercise of legislative functions. But the bill does not propose to do this. On the contrary, without defining any rule which when the facts occur might be inconvenient, it proposes to submit the whole matter to the sovereign pleasure of the two Houses, making thus a government not of laws, but of men.

Again, there may be two rules or propositions of law apparently inconsistent. For example: First, an unnaturalized person shall not hold any public office; second, if an ineligible person be chosen an officer and act, his official acts are valid. Thus constitutional law declares that no office-holder of the United States shall be an elector. There are those who insist that if the ineligible person be chosen and vote, his vote shall be valid. Now, if Congress in advance should declare by law that if an ineligible person be chosen and vote, his vote shall be or shall not be counted, that would be the exercise of a legislative function. That would give an increased certainty to the proceeding. The wisdom and constitutionality of the rule could be examined; the transactions of men could be adapted to it. Moreover, it would be as potent to exclude a democratic vote as a republican vote, to admit a republican as a democratic vote. It would apply to all parties alike. But this bill proposes no such thing. On this subject it proposes no rule or principle. So that, if an ineligible person be chosen an elector the two Houses can count or reject the vote at pleasure, accordingly as it may tend to elect or defeat the candidate of the majority.

Now having, I trust, made clear the distinction between legislative and judicial functions, and that the Constitution vests in the courts all judicial power and prohibits its exercise by the Congress, let us see if the bill does not propose to confer a portion of this prohibited authority.

It is the votes, not the count, that elect. The Constitution does not provide that the person to whom the President of the Senate or the Congress shall ascribe a majority shall be declared and held as the person chosen. It declares that—

> The person having the greatest number of votes for President shall be the President, if such number shall be a majority of the whole number of electors appointed;

so that after every presidential election, if any eligible person has received a majority of the votes of the electors appointed, he, and he only, can be the constitutional President. The "votes" must be such as in accordance with existing law and acknowledged principles of interpretation may be justly called "electoral votes." The ultimate question is: Which one of the eligible candidates voted for has received the constitutional majority? Its solution involves the ascertainment of many facts and the application of many principles of law. Now, one of two things will happen: there will be dispute or there will not be dispute. Ordinarily, as in the great majority of human transactions, there is no dispute about the facts, the law, or its application, and the law enforces itself. A mere ministerial officer, who cannot hear allegations or proofs, and whose duties are for the most part arithmetical, foots up the columns and declares the result. This declaration stands until set aside by judicial review. This review, however, with respect to elections, as with respect to the great body of human affairs, is necessary only in rare and exceptional cases. Until a doubt is raised and some one is willing to make a contest the ministerial decision is sufficient. In presidential elections prior to 1876 no practical necessity has been felt for judicial review. The Constitution, however, when it extended the judicial power of the Government to "all cases in law and equity arising under the Constitution and the laws of the United States," made ample provision for it, and we have only to draw upon that instrument.

If there be dispute, its settlement must involve at least one, and may involve the interpretation and application of every one, of the constitutional mandates, the whole code of regulations before referred to, and the ascertainment of the facts to which they relate. The dispute must be settled in accordance with existing law. Surely no one will contend that Congress may wait until after the election and until the returns are spread before it, and then, in the act of adjudicating upon the legality of votes, enact a law which would result in counting in a President of the majority party, and this, too, without submitting it to the Executive for approval or return. Some one has been legally elected. The question is, which one of two or more persons voted for has received a majority of the legal votes? There are two departments of the Government. To one the Constitution gives the exclusive power to declare what the law *shall be* with respect to future facts, (subject always to the executive veto;) to the other the equally exclusive power to declare what the *law is* with reference to accomplished facts. Can there be any doubt as to which of these departments is to determine this question?

Let us go more into detail. Does a disputant say that the vote of Wisconsin was not cast on the day fixed by law? And the answer is, it was prevented by the "act of God" and was cast on the next succeeding day. Does a disputant allege that certain electors have voted who were ineligible by reason of being office-holders under the United States? If the allegation is found to be true, can the acts of *de facto* officers be treated as void? Can national power justly interfere? Does a disputant say that the returns from Georgia do not show that the electors voted by ballot, as required by the Constitution? Is the presumption in favor of or against the regularity of the action of the board? Is that presumption conclusive? Does a disputant say the electors neglected to name in distinct ballots the persons voted for? Is it the violation of a directory or mandatory law? Does a disputant say that one or both the persons voted for were not thirty-five years of age or were not natural-born citizens? Hundreds of such questions might be suggested. Will any lawyer stand on this floor and tell me these are not judicial questions? This bill proposes to declare no general rule of law by which these questions are to be determined. Its friends will not claim this for the bill. It simply turns the whole matter over to Congress to be made the sport of a partisan majority. It commits all the above and hundreds of kindred questions of fact and law which may be collateral to and involved in the ultimate question, which eligible person has received a majority of the legal votes, to Congress as to a court. I impugn no man's motives, sincerity, or patriotism. I accord to all the same charity I ask for my own mistakes; but it does seem to me that unless the promoters of this bill can show that it does not attempt to confer upon Congress the authority to determine the hundreds of questions of fact and of law I have before mentioned, or that these are not judicial functions, or that Congress can confer judicial functions upon itself, then, if it be execrable to violate the Constitution, nothing can save this bill from the execration of the country. In my opinion, a more palpable usurpation was never suggested in the American Congress.

The report of the committee, which accompanies a bill somewhat similar, admits that "the Constitution does not declare expressly by whom the electoral votes shall be counted." It does, however, expressly declare that Congress shall not exercise judicial power, but it shall be vested in the courts. There is but one exception, and the exception emphasizes the rule. The Constitution in express words gives to Congress the power to judge of the qualification, election, and returns of its own members. An express provision was deemed necessary to accomplish this purpose. Everybody knows that this provision confers judicial powers, and knows, too, that it is an exception and the only exception, and for that reason was made *express*. This bill asserts that the power to judge of the election, returns, and qualification of another independent body of equal dignity with Congress was conferred by *implication*.

It is doubtless true that the framers of the Constitution intended to leave, with respect to presidential elections, the slightest necessity for interpretation, and, as far as possible, to reduce the functions of the counting power to those which are purely arithmetical, and therefore within the province of a ministerial officer. How well they succeeded is attested by the fact that for nearly a hundred years their enactments have practically applied and interpreted themselves. But it is also true that they constructed a government which, within its proper sphere, within the scope of its defined powers, is perfect and complete; that the powers of the three great divisions or departments—the law-making, law-applying, and law-executing—are precisely coextensive with each other, so that if they can be imagined to be of material substance and laid together neither would by a hair's breadth overlap the other, and there can be no right asserted by one person and disputed by another under its Constitution and laws which may not be ascertained and declared by its courts, and when thus declared enforced by its executive.

Crime, like disease, has its epidemics. There is now, unhappily, an epidemic of crime against the ballot. The simple methods, sufficient for past generations, are unequal to present exigencies, and better are demanded. I recognize fully the necessity which produces this demand. This better method, however, must be consistent with the spirit and genius of the Constitution, and must be found in the exercise by Congress of legislative and by the courts of judicial functions. Let Congress exert to the utmost its constitutional power of *legislation*. After that, when the "real case" comes on, when the law ceases to be "a mere abstraction" and must be applied to things done, when "the generality of the law must be fixed and linked" to accomplished facts, let the courts, if they are not already, be authorized to act. For this better method I am wedded to no special theory, but will most heartily join in perfecting and supporting any which preserves faithfully the distinction between legislative and judicial functions and confides to each of these departments respectively such powers, and such only, as it may constitutionally exercise. Should

the present Congress do this it would deserve well of the country and do much toward atoning for its past errors.

Fifth. This subject in one form or another has been before one branch or the other of almost every Congress since the Constitution was adopted, and has generally provoked prolonged and sometimes angry controversy. Notable among these occasions have been the efforts to confer upon Congress the counting power. The first of these began in January, 1800, and was pending until May 20, of same year. Much time was spent in the discussion, the Senate insisting on the right of either House to reject a vote, and the House insisting on the propriety of a concurrence in order to stifle the voice of a State. No result, of course, was reached. A similar effort began in December, 1823, and was sustained until April 21, 1824, but, as before, it was barren of result. In January, 1873, Senator Morton began his celebrated crusade in favor of some measure of rendering more certain and satisfactory the state of the law respecting presidential counts, and from that date up to the passage of the electoral bill the Senate was, except at brief intervals, engaged in discussion of the subject. Week after week was spent at every session in a vain effort to devise a satisfactory method of making a counting power out of the two Houses of Congress. The best minds in the United States, of both political parties, as the debates show, gave their earnest and undivided attention to the matter. Then followed the discussion preceding the electoral bill and the deliberations of the electoral commission. Never before has a subject been more fully and ably discussed. And now, in the light and as the ripe fruit of all these debates, the present bill is produced as the best and wisest solution possible. And what is it? Can the voice of a State be stifled without the concurrence of both Houses? Can a majority of one in either House disfranchise a State? Has the result so fiercely and yet so wisely denounced by the eminent statesman before mentioned been avoided? What is the ripe fruit of all this careful culture?

The answer depends wholly and entirely upon whether or not some tramp, forger, or vagabond hands to the President of the Senate a paper purporting to be an electoral certificate. If this is done, then, *ipso facto*, either House may reject. The authors of this bill are not blameworthy for this ridiculous outcome. It may be the best device attainable, if Congress is to be made the counting power. But I say that because no better result is attainable is of itself an unanswerable argument for the proposition that the framers of the Constitution never intended to confer upon Congress the authority which this bill asserts.

It is worth while here to examine the history of the oft-quoted clause which declares that—

> The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted.

It formed a part of section 1 of article 2 of the original Constitution, and when this section was revised in 1803 it was again inserted *verbatim* in the twelfth amendment.

In the Federal convention this clause was, on the 4th day of September, 1787, reported from the committee of eleven in the following form:

> The President of the Senate shall, in that House open all the certificates; and the votes shall then and there be counted.—*Elliott's Debates*, volume 1, second edition, page 283.

On the 6th day of September—

> It was moved and seconded to insert the words, "in the presence of the Senate and House of Representatives," after the word "counted," which passed in the affirmative.—*Ibid.*, 289.

So that the clause then stood:

> The President of the Senate shall, in that House, open all the certificates, and the votes shall then and there be counted *in the presence of the Senate and House of Representatives*.

This surely indicates no desire or intention to confer upon the Houses, either separately or jointly, any counting power; nor does it evince any particular horror or dread at the thought of the Vice-President exercising it.

On the same day (see page 290 of same work) occurs the following entry:

> The several amendments being agreed to on separate questions the first section of the report is as follows: "The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted."

Which is precisely as it stands to-day. Through what mutations, strikings out, insertings, and transpositions the clause reached its final shape, neither the debates nor the journal disclose. It was reported to the convention on the 4th day of September and was not changed after the 6th of the same month. It is true that a different, perhaps a better, form of expression might have been chosen had any single member been permitted to draft the clause. This, however, cannot always be allowed in deliberative bodies, and this House, after its experiences with the "silver bill" and other measures, at its first session, need not be reminded that the movers and amenders of propositions are often obliged to be content with forms of expression which neither would have originally adopted, and that the fear of hazarding what is already gained often deters attempts to correct mere phraseology, however desirable may be clearer forms of expression. Enough is shown, however, to indicate clearly that the convention contemplated with undisturbed equanimity the thought of the Vice-President counting the votes in the presence of the two Houses. If any horror or alarm thereat had seized any of its members, certainly a form of expression would have been adopted to exclude that idea. Neither the journal nor the debates show any further proceedings or discussion with reference to this clause.

We now come to the first practical construction given to this clause; and this was by the convention itself which framed it.

On the 13th day of September, only four days before the adjournment of the convention and about the conclusion of its labors, there were reported to it two resolutions, which seem to have been adopted by it on the 17th of the same month, providing for the submission of the Constitution to the States, and recommending that after ratification Congress fix a day for the appointment of presidential electors, and another day on which they should assemble and vote; and the electors being chosen and a Congress elected—

> That the electors should meet on the day fixed for the election of the President, and should transmit their votes, certified, signed, sealed, and directed, as the Constitution requires, to the Secretary of the United States in Congress assembled; that the Senators and Representatives should convene at the time and place assigned; *that the Senators should appoint a President of the Senate for the sole purpose of receiving, opening, and counting the votes for President.*

These resolutions, from one of which the above quotation is made, were reported to the convention by Mr. Johnston, were not changed, were probably the product of a single mind and pen, undisturbed by the amendments, strikings out, insertings, transpositions, or other changes incident to deliberative bodies, and were intended as a sort of "send off" to set in motion the machinery of the new Government. They were, together with the new Constitution and a letter signed by the president of the convention, sent to Congress.

Among other things they suggest the method of electing the first President of the Republic. They recommend:

First. That Congress fix a day on which electors should be appointed by the States.

Second. That electors be appointed.

Third. That Congress fix a day on which the electors should assemble to vote for President.

Fourth. That the electors should meet on the day fixed,

Fifth. And should transmit their votes certified, signed, sealed, and directed, as the Constitution requires, *to the Secretary of the United States in Congress assembled.*

Sixth. That Congress should convene.

Seventh. That the Senators should *appoint a President of the Senate for the sole purpose of receiving, opening, and counting the votes for President.*

It is noteworthy but quite natural that all these specifications run exactly parallel with the provisions of the Constitution except two, namely, that the votes should be transmitted to the Secretary of the United States and that the provisional Vice-President should be elected by the Senate. For these departures there was obvious necessity. There was no Vice-President to whom the votes could be transmitted, and there must be a provisional Vice-President to count the votes and ascertain who should be the first Vice-President. The detail of starting required no provisional President, and none was chosen.

These resolutions were adopted "by the unanimous order of the convention" September 17, 1787, and were signed by George Washington, president, and W. Jackson, secretary, and no doubt expressed the common understanding and construction of the clause in question. It is believed that no reason ever has or can be suggested for any departure at this time, this first election, from the method of counting provided for in the Constitution itself. It would be strange indeed if the members of that convention, having been engaged from May 25 to September 17 in perfecting the Constitution, should at the close of their labors, without necessity or reason, resolve unanimously that at the first election under it a method of counting the votes for President totally different from that provided by the instrument itself for all future time should be adopted. The thought seems totally inadmissible. They did no such thing.

If horrors and dangers are now involved in the construction I claim for the clause in question, they were a thousand-fold more threatening then. At that time all confidence had departed from the old confederation; it was recognized as a "rope of sand." Everything political was chaos. Envies, jealousies, heart-burnings, and bickerings were everywhere flagrant. Intercommunication was difficult and tedious. Many of the most intelligent and trusted public men fiercely denounced the new constitution, and on all sides the gravest fears were entertained. It was an experiment. Its success depended upon its power to withstand the first strains made upon it. Would its framers expose it to death on the threshold of its existence?

If the two Houses in joint convention by *per capita* votes, or otherwise, or by retiring into separate chambers and acting as two entities, without possibility of a majority, were to deliberate, decide upon, and count the votes in all after times, why not then?

So much for the *history* of the clause. Now let us examine the *practice* under it.

First term, beginning in 1789: George Washington, President; John Adams, Vice-President.—The Constitution having been ratified by the requisite number of States, a Congress and presidential electors

having been chosen under it, the following entries will be found on the record:

IN THE SENATE, *April* 6, 1789.

The credentials of the members present being read and ordered to be filed, the Senate proceeded by ballot to the choice of a *President for the sole purpose of opening and counting the votes for President of the United States.*

John Langdon was elected.

Ordered, That Mr. Ellsworth inform the House of Representatives that a quorum of the Senate is formed; *that a President is elected for the sole purpose of opening the certificates and counting the votes* of the several States in the choice of a President and Vice-President of the United States; and that the Senate is now ready in the Senate Chamber to proceed in the presence of the House to discharge that duty; and that the Senate has appointed one of their members *to sit at the Clerk's table to make a list of the votes as they shall be declared*, submitting it to the wisdom of the House to appoint one or more of their members for a like purpose.

The House immediately informed the Senate of their readiness "forthwith to meet the Senate to attend the opening and counting the votes;" and having appointed Mr. Parker and Mr. Heister tellers on the part of the House, the House did attend; and thereupon, in the presence of the two Houses, the President of the Senate did open and count the votes.

At this time, as before remarked, there was no Vice-President or President of the Senate; and in order to put in motion the new machinery a provisional Vice-President was indispensable. In all other respects the detail of the new Constitution was faithfully followed.

Here the practice of appointing tellers had its origin. They possessed no deciding power, but were mere conveniences, organs, clerks, or enumerators. They were appointed, as the proceedings indicate, "to make a list of the votes as they shall be declared." Declared by whom? By the President of the Senate.

While the resolutions of September 17,1787, were in no sense binding on either House and were at most mere suggestions, there is no record of any objection to the method they proposed. Both Houses adopted and followed it. So there is abundant warrant for asserting that the Federal convention at its close and the First Congress that assembled under the Constitution understood that that instrument imposed and conferred upon the President of the Senate the duty and power of counting the electoral vote. In this First Congress sat nineteen men who had been members of the Federal convention.

Election for second term, 1793: George Washington, President; John Adams, Vice-President.—A joint committee was appointed by the Senate and House "to ascertain and report a mode for examining the votes for President and Vice-President." The following entries appear of record:

IN THE SENATE, *February* 11, 1793.

Mr. King, from joint committee, reported:

That the two Houses shall assemble in the Senate Chamber on Wednesday next at twelve o'clock; that one person shall be appointed a teller on the part of the Senate to make a list of the votes *as they shall be declared*; that the result shall be delivered to the President of the Senate, *who shall announce* the state of the vote and the persons elected to the two Houses assembled as aforesaid.

In the House an order was made precisely similar in terms, except that instead of one teller two were appointed.

FEBRUARY 13, 1793.

The two Houses accordingly assembled, the certificates [1] the electors of the fifteen States in the Union, which came by express, were by the Vice-President opened, read, and delivered to the tellers appointed for the purpose, who having examined and ascertained the votes, presented a list of them to the Vice-President, which list was read to the two Houses, and is as follows:

* * * * * * *

Whereupon *the Vice-President declared George Washington unanimously elected President, * * * and John Adams, elected by a plurality of votes, Vice-President.*

On the same day there appears in the Journal of the House the following entry:

Mr. William Smith then delivered in, at the Clerk's table, a list of the votes of the electors of the several States in a choice of a President and Vice-President of the United States, *as the same were declared by the President of the Senate*, in the presence of the Senate and this House.

These extracts show plainly enough that the President of the Senate did all the "counting" that was done, and that neither House, singly or jointly, assumed or exercised any function whatever in respect of the "counting." On this occasion John Adams himself was the Vice-President, and, having been re-elected, so declared himself. It is impossible to suppose that the exceedingly proper and punctilious Mr. Adams would have been guilty of the indelicacy of counting and declaring his own vote, except in obedience to the peremptory command of the Constitution.

Third term, 1797: John Adams, President; Thomas Jefferson, Vice-President.—On this occasion precisely the same joint resolution was adopted, tellers were appointed, the count made, and the result declared as before. John Adams, being Vice-President, made the count and declared himself elected President and Thomas Jefferson Vice-President. How marked must have been the reverence of "the fathers" for the behests of the organic law when such men as Adams and Jefferson, in loyal obedience and without a murmur, could put aside all the feelings of delicacy and propriety for which that age was noted, and "count themselves in." It rises almost to the dignity of sacrifice and reminds us of the love and faith and loyalty of Abraham.

Will any one say that these men usurped this power? John Adams having made the count and declared the result himself, needed no notification of his election; but it was thought requisite to notify Mr. Jefferson, and on the 10th day of February, 1797, the House—

Resolved, That the notification of the election of the Vice-President elect be made in such manner and by such person as the Senate may direct.

On the Journal of the Senate of the same day will be found the following:

On motion,

"*Ordered*, That the resolution this day agreed to by the House of Representatives relative to the notification of the election of the Vice-President-elect be referred to Messrs. Mason, Hillhouse, and Sedgwick, to consider and report thereon to the Senate."

Mr. Mason reported from the committee appointed, and the report being read, *was amended and adopted*, as follows:

"*Resolved*, That the President of the United States be requested to cause to be transmitted to Thomas Jefferson, esq., of Virginia, Vice-President-elect of the United States, notification of his election to that office, and that the President of the Senate do make out and sign a certificate in the words following: 'Be it known that the Senate and House of Representatives of the United States of America, being convened in the city of Philadelphia on the second Wednesday in February, A. D. 1797, *the underwritten Vice-President of the United States and President of the Senate did, in the presence of the said Senate and House of Representatives, open all the certificates and count all the votes* of the electors for a President and for a Vice-President, by which it appears that Thomas Jefferson, esq., was duly elected, agreeably to the Constitution, Vice-President of the United States of America. In witness whereof I have hereunto set my hand and seal this 10th day of February, 1797."

This certificate must have been signed by John Adams and transmitted to Jefferson by Washington. No single word of dissent from it appears in any quarter. It was not the work of a mere clerk or secretary, but a committee was appointed to prepare the form, and after the committee reported a form it was amended by the Senate before its adoption. If this construction of the Constitution had been doubted by any one, it is quite certain that some of these punctilious, formal men, so jealous of every usurpation of power, would have cried out against it. This record gives perfect warrant for the assertion that the construction I claim for the Constitution was the accepted construction of Washington, Jefferson, Adams, and this Congress, in which sat many men who had been members of the Federal convention.

On the 23d day of January, A. D. 1800, Mr. Ross introduced into the Senate a resolution for a committee to consider what, if any, law should be enacted for deciding disputed presidential elections. Mr. Charles Pinckney, of South Carolina, who had been a member of the Federal convention, said, in an elaborate speech against such legislation, that—

Nothing was more clear to him *than that Congress had no right to meddle with it at all.*

A bill, however, passed the Senate regulating the electoral count by a vote of 16 to 12. When this vote was taken there were present of those who had been members of the Federal convention the following: Abram Baldwin, of Georgia; Jonathan Dayton, of New Jersey; John Langdon, of New Hampshire; and Charles Pinckney, of South Carolina. Of these all but Dayton opposed the bill. The bill at one time passed the House by a vote of 52 to 37, but there was disagreement on amendments and it never became a law.

In the following year (1801) a movement in the House to amend the Constitution in this respect failed.

Election for the fourth term, 1801: Thomas Jefferson, President; Aaron Burr, Vice-President.—On this occasion substantially the same resolutions were passed; the count was made and result declared by Thomas Jefferson, himself a candidate for the Presidency. There being no choice by the electoral vote, Thomas Jefferson was elected President by the House, and Aaron Burr became Vice-President. Again, the House having as before committed to the Senate the matter of notifying Mr. Burr of his election, the Senate, on the 18th day of February, 1801, adopted resolutions precisely similar to those adopted at the last preceding election, and containing the same recital, namely:

The underwritten, Vice-President of the United States and President of the Senate, did, in the presence of the Senate and House of Representatives, open all the certificates and count all the votes of the electors for President; whereupon it appeared, &c.

And this notice or certificate bore the signature of Thomas Jefferson.

That Jefferson did count these votes, as he certified he did, is well attested by other evidence. The return from the State of Georgia was informal, as may be seen in the archives of the Senate. It was on a sheet of ordinary foolscap paper. It contained the following, and nothing else:

THOMAS JEFFERSON.	AARON BURR.
John Morrison,	John Morrison,
Dennis Smelt, M. D.,	Dennis Smelt, M. D.,
Arch. Graybill,	Arch. Graybill,
Dd. Blackshear.	Dd. Blackshear.

The names were written apparently by the electors respectively. The sheet was then folded into the old-fashioned letter-form, and addressed as follows:

[Post-mark.] Free.

THOMAS JEFFERSON,
Vice-President of the United States and President of the Senate.

On the back, where it was sealed or wafered, was written the following:

We do certify the within to contain the votes of us, the electors on behalf of the State of Georgia for a President and Vice-President of the United States.

JOHN MORRISON,
DENNIS SMELT,
ARCH. GRAYBILL.
DD. BLACKSHEAR.

This return was accompanied by a certificate of the governor of

the State of Georgia that these persons had been duly chosen electors. This was all there was of it. This much the record shows. The record also shows that these votes were counted by Mr. Jefferson for himself and Burr. It shows further, that had not these few votes been counted as they were the result would have been materially changed. These 4 votes made the vote of Jefferson and Burr 73. The whole number was 138. Seventy constituted a majority. These 4 votes gave Jefferson and Burr each a majority; and as the Constitution then stood, the choice of a President by the House was confined to "the two persons who had a majority and an equal number of votes." But subtracting the 4 votes of Georgia, Jefferson and Burr would be both reduced to 69, one less than a majority, and then the choice would be made from the five highest, thus admitting into the race three other competitors, namely, Mr. Adams, Mr. Pinckney, and Mr. Jay. In this event Mr. Jefferson in all human probability would not have been chosen by the House. Certain federalists were driven to his support in order that an election might be reached and the country saved from violence, who if it had been possible would have insisted upon a milder republican than Mr. Jefferson as a compromise.

The record also shows that no mention of this informal return was made to either House or to both Houses, and no action was taken in relation to it by either House, and it does not appear that any member of either House, aside from the tellers, knew of this informality. Those who believe that Mr. Jefferson, as President of the Senate, was clothed with the counting power, must believe that he did right. Those who think he did not pretend to exercise it, must believe that he perpetrated a deliberate fraud or at least connived at a criminal concealment. He did, in my opinion, his simple duty and needs no word of defense.

An account of this transaction is given in volume 2 of Davis's Memoirs of Burr, page 71, in which it is stated that the return was discovered to be informal by the tellers, who handed it back to Mr. Jefferson, calling his attention to its defects, and Mr. Jefferson examined it and in an audible voice announced the votes for himself and Burr.

At this election there were 138 electoral votes. Jefferson had received 73; Burr, 73; John Adams, 65; C. C. Pinckney, 64; and John Jay, 1. There was no choice. As the Constitution then stood, the electors cast no vote for Vice-President. Each elector cast two votes for President, and the person having a majority was elected President, and the one having the next highest became the Vice-President.

This experience induced an amendment to the Constitution, and it was designated article 12, or the twelfth amendment. It covered the whole subject of the election of President and Vice-President, and re-enacted without the slightest change the clause in question. It was proposed in Congress in October, 1803, and became a part of the Constitution in September, 1804.

Under all the circumstances this becomes a matter of great significance.

There had been four presidential elections. In every instance the Vice-President had assumed the power of counting the votes. In these cases, embracing the two last, the Senate had adopted a resolution of notification, reciting therein that the "*Vice-President had opened and counted the votes.*" In no instance had the Houses, either separately or jointly, exercised or asserted any power or jurisdiction over the count. The two Houses had in 1801 discussed the alarming and delicate nature of this great power resting in the hands of a single man. Beside having been uniformly exercised in practice, this power had, by Pinckney, Brown, Randolph, and others, been broadly and vigorously asserted and defended in both Houses.

If the men of this day had believed the construction given to this clause was erroneous or, if correct, was alarming, they would in thus amending this part of the Constitution have corrected it. Instead of that they re-enact it *verbatim*, doing it with a full knowledge of the previous construction and uniform practice under it; they distinctly approved and asserted the rightfulness of the construction by which the duty and power of counting the electoral vote is fixed and confined by the Constitution itself upon the Vice-President. It is difficult to suggest a disputed question where the light of contemporaneous construction is more clear or its weight greater.

Election for the fifth term, 1805: Thomas Jefferson, President; George Clinton, Vice-President.—Here again preliminary resolutions similar to those of former occasions were adopted. Neither House assumed to exercise any function or jurisdiction in the counting. The Vice-President, as on former occasions, without action by or reference to either House or the joint assembly, declared the result, and the Senate adopted precisely the same resolution of notification, containing the same recital that "the Vice-President did, in the presence of the Senate and House of Representatives, *open all the certificates and count all the votes*," &c.

Election for the sixth term, 1809: James Madison, President; George Clinton, Vice President.—Previous to the day fixed for counting the electoral vote at this election there had been received in the House from Massachusetts sundry petitions and memorials making objections to the manner of the appointment of the electors of that State. Mr. Randolph and others strongly denied the power of Congress to meddle with the matter. The House sent the memorials to the Senate, "as an intimation that such petitions had been received;" and the Senate ordered them "to lie on the table." When the day fixed for the count arrived the same preliminary resolutions were adopted, and for the first time the Senate repaired to the House of Representatives. The Houses neither did nor attempted to do any act with reference to the count. The President of the Senate, as before, declared the result. As on the former occasion, the same resolution of notification was adopted by the Senate, with the usual recital "that the Vice-President had opened all the certificates *and counted all the votes*," &c.

While the two Houses were together, Mr. Hillhouse endeavored to call up the Massachusetts matter, but no notice was taken of either him or the memorials, the President of the Senate proceeding with the declaration of the result.

Election for the seventh term, 1813: James Madison, President; Elbridge Gerry, Vice-President.—There were the same preliminary resolutions as before, the same proceedings were had, and the same resolution of notification, containing the same recital that "the President of the Senate had opened all the certificates *and counted all the votes*," &c., was adopted by the Senate.

Election for the eighth term, 1817: James Monroe, President; Daniel D. Tompkins, Vice-President.—At this election Indiana had appointed presidential electors before the State had been by Congress declared a State of the Union. The two Houses adopted the same preliminary resolution as on former occasions; the count was proceeding in precisely the same manner, and when Indiana was reached Mr. Taylor, of the House, objected to the counting of that vote. He was declared out of order. Thereupon the Senate withdrew. After some discussion in the House a message was sent to the Senate informing that body that the House had "*not seen it necessary to come to any resolution or take any order on the subject.*" Thereupon the Senate returned to the House, the votes of Indiana were counted in the usual manner, and the President of the Senate declared the result.

Notwithstanding this discussion the Senate adopted, and the President of the Senate signed, the same resolution of notification before used, and which recited—

That the President of the Senate *pro tempore* did, in the presence of the Senate and House of Representatives, *open all the certificates and count all the votes.*

No authority, power, or function was exercised or asserted with reference to the count by either House.

Election for the ninth term, 1821: James Monroe, President; Daniel D. Tompkins, Vice-President.—Here, again, with respect to Missouri, occurred the same question as at the last election had arisen as to Indiana. At this time the great compromiser, Henry Clay, appeared upon the scene, and at his instance there was added to the usual preliminary joint resolution a provision that if objection should be made to the votes of Missouri and these votes should not affect the result the declaration should be: Were the votes of Missouri counted there would be a certain result; if not counted, there would be a certain other result; but, in either case, that certain persons were elected.

The count was proceeding in the usual manner and presence, and when the State of Missouri was reached, Mr. Livermore objected. Thereupon the Senate withdrew. The House, after some discussion, laid the subject on the table and requested the Senate to return. Whereupon the count was resumed as if no interruption had taken place; and while the President was declaring the result, objection was again made, but declared *out of order*. The President of the Senate then concluded the declaration of the result.

On this occasion it appears that in the usual resolution of notification the usual recital that "the President of the Senate had opened all the certificates and counted all the votes," was omitted.

Here, again, no authority over the count was asserted or exercised by either House. The provision for the hypothetical declaration in Mr. Clay's resolution was adopted by the President of the Senate, and that was a matter entirely within the discretion of that officer.

Election for the tenth term, 1825: John Quincy Adams, President; John C. Calhoun, Vice-President.—The usual preliminary joint resolution was adopted; and in the Senate Mr. Eaton sought to have added a provision for objections; but the proposition was negatived. The count was made in the usual manner, and the result declared by the President of the Senate without interposition or action by either House. There was choice of Vice-President, but none of President, and the resolution of notification adopted by the Senate contained the recital which had been omitted on but two prior occasions, namely:

That the President of the Senate *pro tempore* did, in the presence of the said Senate and House of Representatives, *open all the certificates and count all the votes.*

Election for the eleventh term, 1829: Andrew Jackson, President; John C. Calhoun, Vice-President.—There was the usual preliminary joint resolution, the usual method of counting, and again the result was declared by the President of the Senate without interposition or action by either House. There was no resolution of notification formulated, but a committee was appointed for that purpose.

Election for twelfth term, 1833: Andrew Jackson, President; Martin Van Buren, Vice-President.—On this occasion the proceedings did not differ from those had at the last election.

Election for thirteenth term, 1837: Martin Van Buren, President; Richard M. Johnson, Vice-President.—On this occasion a question arose with respect to Michigan, similar to that which formerly occurred as to Indiana and Missouri, and, under the influence of Mr. Clay, then in the Senate, it was disposed of as in the Missouri case. In other respects the proceedings were not unlike the two last. It is, perhaps, worthy of mention that prior to the count a committee of the Senate had reported that five or six of the electors held, at the time of their appointment, Federal offices; that although they had resigned before

acting, yet the disqualification related to the time of appointment, and such resignation did not entitle them to vote; "*that whether the respective electoral colleges or Congress should decide this question, ought to be settled by permanent provision.*" These votes were, nevertheless, counted by the President of the Senate.

At the election for the fourteenth term in 1841, William Henry Harrison, President, John Tyler, Vice-President; and fifteenth term, 1845, James K. Polk, President, George M. Dallas, Vice-President; and sixteenth term, 1849, Zachary Taylor, President, Millard Fillmore, Vice-President; and seventeenth term, 1853, Franklin Pierce, President, William R. King, Vice-President, nothing unusual occurred. The usual form of preliminary joint resolution was adopted, the count made in the ordinary method, and the result declared in each case by the President of the Senate, without interposition or action in reference to the count by either House.

Election for eighteenth term, 1857: James Buchanan, President, John C. Breckinridge, Vice-President.—At this election the electors of the State of Wisconsin had been prevented by a severe storm from reaching the State capital on the day fixed by law for casting the electoral vote, but organized and voted on the succeeding day.

The two Houses adopted the usual preliminary joint resolution, and the Senate repaired to the Hall of the House. Mr. Mason, the President of the Senate, took his seat on the right of the Speaker of the House and said: "Pursuant to law and in obedience to the concurrent order of the two Houses, *the President of the Senate will now proceed to open and count the votes.*"

When Wisconsin was reached objection was made, which the President of the Senate refused to hear, and held that a motion to exclude or a motion to receive the vote was out of order. Thereupon the President of the Senate declared the result, and the vote of Wisconsin was counted. Various ineffectual attempts were made to procure the two Houses to take joint action on the question, none of which were entertained. The Senate returned to its own Chamber. A prolonged and earnest debate followed in each House, neither body being able to reach a conclusion that the method of the count was incorrect; both Houses, however, giving it the quasi approval of notifying the persons declared elected of the result.

Election for nineteenth term, 1861: Abraham Lincoln, President; Hannibal Hamlin, Vice-President.—The usual form of preliminary joint resolution was adopted. The Vice-President, in the presence of the two Houses, counted the votes and declared the result in the usual manner.

Election for twentieth term, 1865: Abraham Lincoln, President; Andrew Johnson, Vice-President.—On this occasion the usual form of preliminary joint resolution was not adopted. Previous to the day fixed for counting, the two Houses passed a joint resolution declaring that certain specified States had been in rebellion on the day of the election and were not entitled to vote in the electoral college. There was also substituted for the old preliminary joint resolution what was called the twenty-second joint rule. This rule provided that the two Houses should assemble; the Vice-President should preside; one teller should be appointed by the Senate and two by the House; the certificates, as opened by the President of the Senate, should be handed to the tellers, who should read the same aloud, make a list of votes as per certificates, and, the votes having been counted, the result should be declared to the President of the Senate, who should announce the state of the vote; that if objection should be made to the reading of any certificate, it should then and there be submitted to the respective Houses separately, and that no vote should be counted without the concurrence of both Houses.

On these resolutions there was, in the Senate, prolonged debate. Before this time neither House had ever denied the power of the President of the Senate to count the electoral vote. Here this power was practically denied by the concurrent action of both Houses. It can scarcely be said, however, that the President of the Senate surrendered the right. The most that can be said in that respect is that he recognized the count made by the tellers in accordance with the joint resolutions; but it was doubtless the count he would have made in any event, and, if so, it would have been puerile in him to have entered into a vain dispute as to what was the authority upon which the count rested.

Election for twenty-first term, 1869: Ulysses S. Grant, President; Schuyler Colfax, Vice-President.—At this election the vote of Georgia alone was questioned, and although there was much violent controversy and much argument the result was that the same course was followed with respect to Georgia as had before been adopted in the cases of Indiana, Missouri, Michigan, and Wisconsin, respectively. It may be noted that on this occasion the Houses separated, and the House of Representatives, by a large majority, voted to exclude the State of Georgia, yet the President of the Senate ignored the twenty-second joint rule, followed the concurrent resolution previously adopted, and counted the vote of Georgia hypothetically.

Election for twenty-second term, 1873: Ulysses S. Grant, President; Henry Wilson, Vice-President.—In this case the proceedings were conducted under the twenty-second joint rule. The two Houses nonconcurred in the question of counting 3 votes from Georgia for Horace Greeley, "the said Horace Greeley having died before said votes were cast," and the votes were not counted. The whole vote of Arkansas was rejected by reason of a non-concurrence. Both Houses concurred in refusing to count the vote of Louisiana. It may be safely said that this twenty-second joint rule is now almost universally conceded to have been unwise and unconstitutional.

Election for twenty-third term, 1877: Rutherford B. Hayes, President; William A. Wheeler, Vice-President.—The proceedings in this case were exceptional, and too recent to require recapitulation here. It is submitted that this history and practice, embracing a period of ninety years, may be thus justly and correctly summarized:

First. The clause in section 1 of article 2 of the original Constitution, and which was repeated verbatim in the twelfth amendment, which reads "The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted," reached its existing form and phraseology through the various mutations, strikings out and insertings incident to deliberative bodies; that not being the product of a single mind, but of many minds, running perhaps in somewhat different channels, its peculiarity of structure and lack of what might perhaps be called "unity of expression" is not at all remarkable.

Second. That in the Federal convention, at its close, it being necessary to set the new government in motion, there being no Vice-President or President of the Senate to count the vote for the first President, a resolution was reported and adopted which *was* the product of a single mind, and which provided "that the Senators should appoint a President for the sole purpose of receiving, opening, and counting the vote for President." Thus, without objection or dispute, giving an unmistakable construction to the clause in dispute.

Third. That eighteen months thereafter the Senate followed the suggestion of said resolution, and did elect a President "*for the sole purpose of receiving, opening, and counting the votes;*" and there was appointed by the Senate one, and by the House two "*of their members to act at the Clerk's table to make a list of the votes as they shall be declared;*" and John Langdon, thus chosen provisional Vice-President, and who had been a leading member of the Federal convention, did, by order of the Senate, sign and send to George Washington a certificate of election, the form of which was submitted to and approved by the Senate, reciting that he, John Langdon, "*President of the Senate, did, in the presence of the Senate and House of Representatives, open all the certificates and count all the votes.*"

Fourth. That at the first, third, fourth, fifth, sixth, seventh, eighth, and tenth elections the Senate, and on some occasions both Houses, adopted a resolution of notification, to be forwarded to the persons elected, which recited:

That the underwritten, President of the Senate, did, in the presence of the Senate and House of Representatives, open all the certificates and count all the votes of the electors for President.

And these resolutions were addressed to, voted for, signed or forwarded by a large number of the framers of the Constitution and founders of the Government—too large a number for recital here. It is few, indeed, of "the fathers" who did not in some way connect themselves to the construction of the Constitution that gave to the President of the Senate the power of counting the electoral vote and denied to Congress the power to meddle with it at all.*

Fifth. That at every election, from and including the first and down to and including the nineteenth, in 1861, the preliminary joint resolution recited:

That one person be appointed a teller on the part of the Senate and two on the part of the House of Representatives *to make a list of the votes as they shall be declared;* that the result shall be declared to the President of the Senate, *who shall announce the state of the vote and the persons elected.*

Showing unmistakably that the tellers were mere organs or clerks, without authority, and that the real counting power, the power to declare the vote and the state of the vote, to decide and declare the result, was uniformly exercised by, and conceded to, the President of the Senate.

Sixth. That from the first election down to and including the nineteenth, in 1865, the President of the Senate, and he alone, counted the electoral votes; and on no occasion did either or both Houses of Congress exercise any function or authority or decide any question whatever relating to the count, save that in the cases of Missouri, in 1821, and of Wisconsin and Michigan, the two Houses, prior to the

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* The prevalent opinion in the earlier days of the Government was that Congress were the "mere witnesses of the count."—*Paschal's Annotated Constitution*, p. 402.

The bill of 1800, which Pinckney and Baldwin so earnestly opposed as unconstitutional, was similar in principle to the pending bill. While it was pending, James Madison wrote Thomas Jefferson in reference to it, as follows, (see Madison's writings, vol. 2, p. 157:)

"MARCH 15, 1800.

"DEAR SIR: Since my last I have been favored with the following inclosures: The bill relating to electors. * * * It is not to be denied that the Constitution might have been more properly full in prescribing the election of President and Vice-President, but the remedy is an amendment to the Constitution and not a legislative interference. It is evident that this interference ought to be, and was meant to be, as little permitted as possible, it being a principle of the Constitution that the two departments should be independent of each other and dependent on their constituents only. Should the spirit of the bill be followed up it is impossible to say how far the choice of the Executive may be drawn out of the constitutional hands and subjected to the management of the legislative. The danger is the greater as the Chief Magistrate for the time being may be bribed into the usurpations by so shaping them as to favor his re-election. If this licentiousness in constructive provisions of the Constitution continues to increase we shall soon have to look into our code of laws, and not the charter of the people, for the form as well as the powers of our Government.

"Indeed such an unbridled spirit of construction as has gone forth in sundry instances would bid defiance to any possible parchment securities against usurpation.

"JAMES MADISON."

count, provided by joint resolution for a hypothetical declaration of result; and this the President of the Senate was at liberty to adopt or reject.

And while in this line of thought let us not be unmindful of the fact, too well known to require a citation of authorities, that it was the settled and general conviction and desire of the founders of the Government, in order to prevent "cabal, intrigue, and corruption," and to render the executive, as far as possible, independent of the legislative branch, to place the election of President and Vice-President, as far as possible, beyond the power and influence of Congress. This important consideration should in no part of the discussion be forgotten.

So much for the light of history and practice.

The last clause of the eighth section of the first article of the Constitution, which confers upon Congress the power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States or in any department or officer thereof," is so often and by such eminent authority treated as a fountain of power that it deserves a passing notice.

It requires but a slight reflection to make it seem that this clause confers no power whatever, and if it had never formed a part of the Constitution that instrument would receive precisely the construction now given it. This clause affects to confer no power beyond what is necessary and proper for carrying into execution powers expressly granted. Such powers are always implied. It found its way into the Constitution in this way: There was a reaction against the weakness of the old articles of confederation. These articles *expressly* inhibited the exercise of *implied* powers. This clause *expressly* authorizes the exercise of *implied* powers. It has no other scope or effect. Thus if the Constitution had devolved upon Congress the power to provide for the election of a President there would be implied from this grant the power to provide by law for securing a true count of votes. This clause expressly authorizes the exercise of this implied power. This view is fully sustained by both Hamilton and Madison in the Federalist, and by Judge Strong in his work on the Constitution, section 1243, fourth edition.

But if this broad power "to provide for the election of a President" had been conferred upon Congress, still the clause in question would furnish no warrant for Congress to clothe itself with the counting power. Congress could make only such laws as might be "necessary and proper" for carrying into effect the power "to provide for the election of a President." It could make laws necessary and proper for securing a true count. It could authorize the judicial branch of the Government to exercise its powers to that end; but inasmuch as there is a judicial branch upon which all judicial powers are devolved it would neither be necessary nor proper to enact a law clothing Congress with the counting power, involving as it does, when final, judicial functions. Congress may authorize the courts to try a case at law, but it cannot clothe itself with that power.

One more consideration and I am done. It is said that to accord to the President of the Senate the counting power, either for provisional or final purposes, is unwise and unsafe; that it involves interests too delicate and important to rest in the hands of a single man. It must be remembered that we are not now making a constitution, but striving to ascertain the meaning of one already made, and that our wishes as to what *it might be* must yield to our judgment as to what *it is*. The objection is more apparent than real. I deny it altogether. If the question is of importance at all, it is not, Is the President of the Senate a perfect tribunal? but it is, Is he not a safer depositary of the power than Congress? I think he is. He is always a man of national fame. He is, or thinks he is to become, a part of the history of the country. He can conceal no material fact upon which his action is based. If he is tempted to yield to wrong, he knows that he alone must bear the whole responsibility; he can divide it with none; he is the focus of millions of eyes; if he seeks by wrongful means to gain a partisan vantage, he knows that his memory is to become a hissing and by-word forever, and that men he degrades himself to serve will soon despise him.

On the other hand, you have a numerous body for whose sins there is little or no individual responsibility. Wrong often rests too lightly on the broad shoulders of a partisan majority, and this division of responsibility often makes wickedness possible that would otherwise never be attempted. Let the public want of confidence in the rightfulness of the decisions in election contests in legislative bodies attest the truth of my position. Who that is rightfully entitled to a contested seat in a legislative body would not prefer to have his rights determined by the Speaker rather than by the body itself? Who that is wrongfully contesting a seat does not prefer to submit to a partisan majority?

If we were making instead of construing a constitutional provision in this behalf I would unhesitatingly, as between the President of the Senate and Congress, choose the former as the safer tribunal, as the one from which an impartial and honest judgment might with the more reason be expected.

But we are not driven to this alternative. Let the President of the Senate, as our fathers intended, make the count, ministerially, provisionally. For about eighty years he did so, and during that whole period neither House of Congress took a vote, passed a resolution, or made an order on any question arising in a count. This was good enough in a practice of nearly a century. If the tendency to evil has made some other sanction necessary let us follow the traditions and teachings of the great men whose practical wisdom as expressed in the Constitution has grown more illustrious day by day in the test of a century, and find it where they placed it within our reach, in a judicial determination of judicial questions. Let us not make Congress the scene of "cabal, intrigue, and corruption," and violate our organic law by usurping judicial powers.

Mr. LOUNSBERY obtained the floor.

Mr. KEIFER. Would the gentleman prefer to speak to-morrow? If so, I will move that the House adjourn.

Several MEMBERS. Too early.

Mr. LOUNSBERY. Mr. Speaker, I had proposed to address myself to two propositions involved in this measure. There are various reasons why this discussion should be brief, apart from the fact that this legislative session is about to close. The proposition is really presented in a very narrow and distinct compass. It is a fact which all members of this House know that we are approaching another election of President. It is less than four years since this House and the country were confronted with an emergency which not only attracted the attention of all our people but was a matter of anxiety with foreign nations as well; and it was really thought that the actual test of the endurance of this Republic was about to be made.

A distinguished citizen of my own State had received a large majority of the popular vote of the country and there had been chosen electors who, if they had been fairly given their certificates and if their votes had been fairly counted, that distinguished citizen would have been declared elected President. Confronted as the country was with that emergency, it was claimed by some persons that it was the power of the Vice-President or the then President of the Senate to declare a partisan adjudication upon the election in the several States. That question was argued, and argued at great length, in the Senate and in this House. It is not necessary for me to reiterate the arguments on each side. The ambition of a single man might have precipitated this country into war, because volunteers were cheerfully offered, and there were men who charged this citizen to whom I have referred with being pusillanimous and craven that he did not put himself at the head of an army of volunteers and march to this capital to take possession of the office to which the people had fairly chosen him. Yet my honorable and eloquent friend from the State of New Jersey [Mr. ROBESON] rises here to-day in his seat and declares, as I understood him to declare, that there is no language in the Constitution defining the manner by which the President may be chosen, but that it is a matter of strength and power—the army against the volunteers, as I understood.

Mr. ROBESON. Will the gentleman permit a disclaimer? I certainly have said nothing of that kind. All I did say was that when the Constitution gives Congress power to make laws to carry out the Constitution, a joint rule excluding the Executive from his share in a matter of legislation is not law under the Constitution.

Mr. LOUNSBERY. Mr. Speaker, it is not my purpose to misrepresent the gentleman. I gave what I supposed to be the logical effect of his remarks, not the language; for if it be true, as he did assert, that the Constitution has failed to provide a method, if the law has failed to provide a method, and it is impossible for us to make a rule, then it is the logical conclusion of that statement that this question is to be determined every four years by arms and by bloodshed. The disorders which have marked the history of Mexico are to be surpassed by much greater violence and bloodshed than have ever been perpetrated by parties in Mexico in the election of their president.

I propose, therefore, to address myself very briefly to the question whether joint rules are proper to be adopted at this time; and, in the next place, whether they can be effectual under the language of the Constitution and the law.

I understand my learned friend from Iowa [Mr. UPDEGRAFF] has made an argument against the adoption of these rules. He is a member of the committee of this House having in charge this very important question of the manner of counting and declaring the votes for President and Vice-President, and I have listened to his remarks with some care to see whether he has appreciated fully the emergency presented, and whether he has submitted any plan by which we can avoid the dangers I have indicated. All I find from his speech is that there are two ways in which these votes can be counted and the result declared. One is by the President of the Senate, with an appeal to the Supreme Court of the United States, under laws which are to be passed at some future time. I can get no other idea from the speech which he made, and I propose to show that, in the presence of the emergency we are now approaching, his ideas are not at all applicable to the case.

Let me say, first, that I in a measure differ from the expressions of the learned chairman of the committee on one single point. I think there is an advantage in a joint rule over the enactment of a law in some respects, and I will proceed to show how I reached that conclusion against the conclusion which I first reached with the gentleman that it was absolutely necessary we should enact a statute upon the question.

The Constitution says that the certificates from the several States shall be sent to the national capital, and on a day mentioned in the Constitution they shall be opened. The Constitution provides on

that day and in that place the Senate and House of Representatives shall be in session. What does the Constitution say the President of the Senate shall do? It says he shall open the returns, and it stops there, putting upon him no further act or duty.

Who is this President of the Senate? It is supposed by some he is the Vice-President. Not necessarily so. The Vice-President, if he be present there, *ex officio* is President of the Senate, and if he be absent the person who sits there as President of the Senate is the creature of the Senate, made by the Senate, chosen by them as they have the right to do under the Constitution.

Now, the Constitution says these certificates shall be opened by the President of the Senate, whoever he may be, the Vice-President or this creature of the Senate; and it says these certificates shall then be counted. It does not say by the President of the Senate. There is an entire absence of direction.

Let me show briefly the reason why the Senate is there. Because the Constitution says on that day and occasion they shall be present. This creature of theirs opens and in their presence counts. Why should there be the presence of the Senate? Did the makers of the Constitution have any meaning in that word "presence?" The Senate must be there, and the counting must be done, and it must be done in the presence of the Senate. Who does it? The creature of the Senate or the Senate itself?

More than that, the Constitution says that the House of Representatives shall be there, and it shall be done in the presence of the House of Representatives. Why? In case there shall be no choice of President, in case no person shall have received a majority of the votes cast, then there is a failure to elect the President; and who determines that fact? Who is to determine for the House of Representatives, for they have to know it, because the Constitution puts upon them the duty, immediately upon the determination that no person has been elected by the people, immediately to elect the President? It is absolutely necessary to carry out the Constitution that the House of Representatives should pass upon the fact that no person has been chosen by the electors, that there has been no choice under the Constitution, for then the Constitution says the House of Representatives shall immediately choose from one of the three persons on the list voted for as President a person to be President of the United States.

I understand it has been argued this House of Representatives, which the Constitution says shall be there, has no power to act, has no power to judge, is there simply as idle persons witnessing an act to be performed by the President of the Senate. Yet, in the same clause, they are bound to judge and declare no person has been elected. They are bound under the Constitution, in case there has been no election, to proceed to the election of a President.

This briefly discusses the question whether this is an act of the two branches acting under the Constitution, or whether it was intended by the framers of the Constitution to be a mere manual act on the part of the President of the Senate.

Mr. ROBINSON. If it will not interrupt the gentleman from New York, I would be glad to make a suggestion to him in this connection upon which I would like to have his opinion.

Mr. LOUNSBERY. I am perfectly willing to yield to my friend from Massachusetts, but I would prefer to complete this thought. Then I will yield cheerfully.

I have reached the conclusion in my own mind that the counting and declaring of the result of the vote of the electors is an act of sovereign power, delegated to the two Houses of Congress by the Constitution; that when the Constitution says the votes shall then be counted in the presence of the Senate and House of Representatives, it made the two branches of Congress the two factors by which the result was to be reached and declared. Now, I will yield to the question of my friend.

Mr. ROBINSON. I understand the gentleman to argue that there is no express provision in the Constitution by which the Vice-President can count the votes.

Mr. LOUNSBERY. The Constitution says the President of the Senate, who is not necessarily the Vice-President.

Mr. ROBINSON. Then I understand that there is entire absence of that power in the President of the Senate.

Mr. LOUNSBERY. Will the gentleman allow me to quote the exact language of the Constitution itself?

Mr. ROBINSON. That is of course familiar.

Mr. LOUNSBERY. I will read it so that my position may be distinctly understood:

> The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted.

Mr. ROBINSON. Very well; now the Constitution does not say that they shall be counted by the Vice-President or the President of the Senate, neither does it say that they shall be counted by Congress.

Mr. LOUNSBERY. Nor do I argue that they shall be counted by Congress.

Mr. ROBINSON. I understand the gentleman says the next step is that Congress shall judge or determine whether any person shall count them.

Mr. LOUNSBERY. They are required to judge whether or not any person has been chosen by the people under the Constitution.

Mr. ROBINSON. Where is that language in the Constitution?

Mr. LOUNSBERY. It is here.

Mr. ROBESON. That would leave the power in the House of Representatives, not in the two Houses of Congress.

Mr. LOUNSBERY. To judge that, of course. The language of the Constitution is that, "and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President."

I take the meaning of that to be that the House must determine that there has been no choice. The House must determine who are the three having received the highest number of votes, because that determination or adjudication was preliminary to the next step, namely, of electing.

Mr. ROBINSON. I want to suggest the embarrassment we have here. If there is absence of power in the President of the Senate to count, there is also absence of power in the Congress, and, further, when the language says that "if no person have such majority," then the House of Representatives shall do something. There is there an absence of expression of power on the part of Congress or even the House to determine whether any person has the majority. You find again a single step further that the House of Representatives shall do something if it is decided that no person has a majority. Now who is going to determine that?

Mr. LOUNSBERY. I was approaching that part of my argument at the time the gentleman interrupted me.

Mr. ROBINSON. I only wanted to suggest that thought to the gentleman so that he might illustrate it in his argument. The question is a very difficult one, and without reference to parties or to its political bearing it is one that should be distinctly considered, no matter who shall be President.

Mr. LOUNSBERY. I am entirely aware that there are troubles besetting this question, and not alone the particular point as to which we are now speaking, but there are other difficulties in the same amendment—article 12 of the Constitution. They are political questions, and political questions are always liable to trouble. They need wisdom and patriotism both when they are to be discussed and dealt with, and I invoke in the consideration of this question both elements, wisdom and patriotism, and I have tried to bring both to bear upon this subject. I say, Mr. Speaker, it is no easy question to deal with. If the Constitution had stated that Congress shall count the vote, the expression would have been easy of interpretation but very difficult to carry into effect. There must have been an inherent difficulty with the framers of the Constitution, and which they were called upon to meet when they were giving language to this part of that instrument, and that difficulty grows greater as antagonizing interests and powers grow and fight each other in the choice of electors and in the declaration of the result. But I reach the conclusion that the two branches which make up the Congress of the United States, the law-making power, have the right to count because there is no provision in the Constitution which reposes that right in any other person or persons, and therefore that clause of the Constitution comes in which gives to Congress the right to energize and supplement every provision of that instrument which does not carry out and project itself into effect. Now the two Houses of Congress are a law unto themselves. They have the power to pass statutes. They have the power to make rules. They have the power to refuse to obey law, because the law is their creature. They have the power to disobey their own rules, because the rules are of their own creation.

Now, is there any reason in that idea which gentlemen have thrown out, and which I understand my eloquent friend from New Jersey [Mr. ROBESON] to make the basis of his opposition to these rules? He says because the two Houses of Congress have a right to refuse to obey these rules, therefore they shall not be observed. It is a great misfortune, perhaps I should say a good fortune, that this law-making power, which is composed of the Senate and House of Representatives, is not bound by law. It is bound by the Constitution, because that is the organic act of the people in convention. But laws are made by the Senate and House of Representatives in Congress assembled. They make and unmake laws; they may obey if they choose and they may disobey; and it is just so with a rule. But yet let me tell my friend from New Jersey it is my belief if we pass this rule—and I am not here to discuss whether in language it be wise or unwise, I am not here to discuss its provisions—but I wish to say if we adopt this rule we do so to formulate the action which the two Houses of Congress are to take when they come together, and it will be a light, if they choose to follow it, by which to guide their steps. On the other hand, if we leave them to act without a rule provided beforehand, they are left on an emergency to make rules, because they cannot get on without rules.

These are rules of order, rules to establish procedure, not to establish right. These rules do not change the Constitution. They will not change the law, but simply provide a manner of acting to the two Houses, and if we pass them they will be ready made and to hand when the emergency of counting the vote of the next presidential election shall occur.

Is it not a wise thing to adopt rules for that purpose? I submit to my friend from New Jersey, looking at it as I do, and assuming that these rules are to be followed, and to furnish a guide for the action of these two bodies, is it not wise to adopt them now?

Mr. KEIFER. Will the gentleman yield to me for a question?

Mr. LOUNSBERY. Yes, sir.

Mr. KEIFER. I understood the gentleman to say these rules were in no sense intended to regulate the conduct of anybody but Congress in counting the vote. I want to call his attention to what is contained in lines 5 to 10 of section 3. Let me read the words. Speaking of what is to be done by the President of the Senate the language of the section is:

He shall open all the certified lists of votes of electors (or papers purporting to be such certified list of votes) of each State respectively, which shall have been delivered to him, in the order herein prescribed, and shall deliver them to the tellers, by whom they shall be read in the presence and hearing of the two Houses.

Now, my question is this: In view of the fact that the Constitution of the United States provides that the President of the Senate shall open certain certified papers, is it in the power of the House, by a joint rule or otherwise, to require him, as is proposed here, to open all kinds of papers that may be sent to him purporting to be certified lists of votes?

Mr. LOUNSBERY. I had supposed that the question of the gentleman came directly within the next proposition I was about to discuss. It is germane to it, and I will therefore proceed to state my concluding proposition upon this question. I understood my friend from New Jersey [Mr. ROBESON] to claim that these rules could not affect outsiders; I quote his words as I understood them. These rules are, in my opinion, like the rules of a court having jurisdiction by constitution and by law of the subject-matters pending before that court. The court makes to itself rules by which it acts and by which others may act; and so far as others are affected by those rules they affect outsiders.

If I am right in my argument that the Senate and House of Representatives ought to have jurisdiction of this subject-matter, then they have the right to make rules of order by which they shall exercise that jurisdiction and proceed to an adjudication upon it. And so far as that adjudication shall affect outsiders, these rules become effectual an d binding upon outsiders, so that in fact they are affected by them. Yet, as I said before, there is no right determined by these rules of order. The court itself may, if it see fit, set aside its rules momentarily or continuously. It is only the part of wisdom to adopt rules.

Mr. ROBESON. I fear the gentleman does not understand my proposition, and with his permission I will state it again.

My proposition is this: If Congress has the right to act at all upon this subject, it has the right to act under that provision of the Constitution which was quoted by the gentleman from Indiana [Mr. BICKNELL] authorizing Congress to make laws to carry into effect the provisions of the Constitution. When that Constitution authorized Congress to make laws it did not authorize them to make anything else. Laws are definite things, things to be passed by both Houses separately and signed by the Executive, or passed by a two-thirds vote over his veto.

When the Constitution says that Congress may make laws for carrying out the provisions of the Constitution, it excludes the idea of doing it in any other way. I disclaim here before this House and before the country any fear of violence. I never made any allusion to fear or violence, as the gentleman has attributed to me. But I did say that those two Houses of Congress cannot make a rule under the constitutional provision which says that they shall make rules to govern their own procedure—cannot make a rule which shall authorize the returns of the votes of a State to be thrown out and that State disfranchised, merely because the two Houses of Congress, elected two years before, concur in throwing out that vote.

Mr. HUNTON. Will the gentleman from New Jersey [Mr. ROBESON] allow me to ask him a question?

Mr. LOUNSBERY. I cannot yield now. I cannot allow the gentleman from New Jersey to put in my speech another speech of his own.

It is apparent that we stand upon entirely different grounds of reasoning in this case. I understand the gentleman to be constantly insisting that the counting of the electoral vote under the Constitution is the work of Congress. I have made no such argument as that; I have no such theory. I do not say that it is the law-making power which adjudges and declares the result of the election, nor do I think it is so placed by the language of the Constitution. The Constitution requires the Senate to be present as a separate body; the Senate of the United States with its President making one body. It requires the House of Representatives to be present as an integer by itself; the Speaker and the House of Representatives making the House of Representatives of the United States. These two bodies, named as they are in this section of the Constitution, and not Congress, are to count and declare the electoral vote. The Senate is there because the Constitution puts it there to do its work. The House is there because the Constitution puts it there, and because it has to judge whether or not a President has been elected.

Therefore it is not a question, as the gentleman states, about which Congress must make a law, because the Constitution has not put it into the power of Congress. Nor is he right in another respect, because if it be left to Congress to act, so as to involve the entire law-making power, then it is necessary that the President should exercise the right of veto which is given him by the Constitution. There was no such purpose in this provision of the Constitution. It was not placed with the law-making power, in the exercise of which the President has a function. It was placed in the power of the two branches of Congress, the Senate as a separate and distinct branch, and the House of Representatives as a separate and distinct branch, each to perform its functions separately and distinctly, and each in the end uniting in declaring the result of the election.

One word more and I will be through. Have gentlemen who have been putting themselves in opposition to this rule considered the emergency? Have they considered that if we refuse to act at this time, if we refuse to act with promptness—because our time to act will soon be passed—the two Houses of Congress will come together next winter, as the Constitution says they shall come, without any light or guide except their conscience and their purpose at the time when they have to act? Do they not know that when great interests are at stake, when two, three, or perhaps more parties in this country shall have been in a struggle hot and exciting, the blood not yet cooled, the results not yet determined, the dispute still active in the public minds in all the States—do not gentlemen know the great danger which will hang over us if we now refuse to act?

Mr. VAN VOORHIS obtained the floor.

Mr. LOUNSBERY. I wish to reserve the remainder of my time that I may dispose of it if I desire.

Mr. HUNTON. If the gentleman from New York [Mr. VAN VOORHIS] will yield, I will move that the House adjourn.

Mr. VAN VOORHIS. I will yield for that purpose.

W. T. PATE AND S. Q. HOWE.

Mr. CARLISLE. I ask unanimous consent to withdraw the report submitted by me yesterday from the Committee on Ways and Means in the case of the bill (H. R. No. 766) for the relief of William T. Pate and Silas Q. Howe.

There was no objection, and leave was granted accordingly.

ENROLLED BILLS SIGNED.

Mr. THOMPSON, of Iowa, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (S. No. 1315) making an appropriation for the erection of a light-house and fog-bell on Old Gay Rock at the entrance of Wickford Harbor, Narragansett Bay.

Mr. COFFROTH, from the same committee, also reported they had examined and found truly enrolled bills of the House of the following titles; when the Speaker signed the same:

An act (H. R. No. 4606) authorizing the President of the United States to nominate Drs. Thomas Owens and William Martin assistant surgeons in the United States Navy; and

An act (H. R. No. 4908) for the relief of the heirs and legal representatives of Israel Dodge, deceased.

ORDER OF BUSINESS.

Mr. ROBESON. I move that the House now adjourn.

The SPEAKER *pro tempore*, (Mr. MARTIN, of Delaware.) The gentleman from Virginia [Mr. HUNTON] has already submitted that motion.

Mr. HARRIS, of Virginia. I ask unanimous consent that a session of the House be held to-night, commencing at eight o'clock, for general debate only—no business to be transacted.

Mr. WHITE and others objected.

LEAVE TO PRINT.

Mr. LAPHAM. I ask consent of the House to have printed in the RECORD, as a portion of the debates, some remarks I have prepared upon the bill in regard to the construction of a public building at Rochester, New York.

Mr. BERRY. I ask consent to have printed in the RECORD some remarks upon House bill No. 5636, relating to the mining *débris* question in California.

The SPEAKER *pro tempore*. The Chair hears no objection.

Mr. VAN VOORHIS. I object to printing anything in the RECORD about the public building in Rochester.

The SPEAKER *pro tempore*. Did the gentleman object in time?

Mr. VAN VOORHIS. I did.

The SPEAKER *pro tempore*. The objection will be noted in regard to the application of the gentleman from New York, [Mr. LAPHAM.] The request of the gentleman from California [Mr. BERRY] is granted.

[See Appendix.]

Mr. LAPHAM. Then I desire the House to understand that after he has himself had unanimous consent to print in the RECORD remarks upon that bill, he objects to my having the same privilege. I want the House to understand that.

Mr. VAN VOORHIS. The gentleman objected to my bill; and I make this objection.

MINORITY REPORT.

Mr. MCMILLIN. I desire to present a minority report, which leave was given me to present on a former day.

The Clerk read as follows:

Views of the minority of the committee on House bill No. 3955.

The SPEAKER. The views of the minority will be printed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, informed

the House that the Senate agreed to the concurrent resolution of the House of Representatives requesting the President of the Senate and the Speaker of the House of Representatives to represent the Congress of the United States at the centennial anniversary of the capture of André, to be held at Tarrytown, in the State of New York, on the 23d day of September next.

The message further announced that the Senate had passed, with amendments in which the concurrence of the House was requested, the bill (H. R. No. 2524) in relation to the importation of classical antiquities.

The message further announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes.

The message further announced that the Senate had passed, without amendment, joint resolutions and bills of the House of the following titles:

A joint resolution (H. R. No. 327) to authorize the Secretary of the Navy to loan flags and bunting to the city of Boston;

A joint resolution (H. R. No. 322) for the relief of certain persons in respect of duties demanded of them upon the import of certain articles named therein;

A joint resolution (H. R. No. 316) granting the use of artillery, muskets, and tents at the soldiers' reunion at Decatur, Illinois;

A bill (H. R. No. 6467) to change the name of the yacht Niantic to that of Hildegarde; and

A bill (H. R. No. 5304) authorizing the changing the name of the sloop-yacht America.

The message further announced that the Senate had passed bills and a joint resolution of the following titles; in which the concurrence of the House was requested:

A bill (S. No. 41) to extend the jurisdiction of justices of the peace in the District of Columbia, and to regulate proceedings before them;

A bill (S. No. 1805) relative to the revolutionary battle-field of Bennington;

A bill (S. No. 1733) to change the name of the sloop-yacht Alice to Princess;

A bill (S. No. 1435) to amend an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1879," approved June 20, 1878;

A bill (S. No. 1394) to increase the police force of the District of Columbia, and for other purposes;

A bill (S. No. 201) for the relief of Somerville Nicholson; and

A joint resolution (S. R. No. 90) directing the Attorney-General of the United States to take steps for the condemnation of certain lands, and for other purposes.

The message further announced that the Senate insisted upon its amendments to the bill (H. R. No. 2328) to provide for the settlement of all outstanding claims against the District of Columbia, and conferring jurisdiction upon the Court of Claims to hear the same, and for other purposes, disagreed to by the House of Representatives, agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. HARRIS, Mr. WITHERS, and Mr. INGALLS to be the conferees on the part of the Senate.

CONFERENCE COMMITTEES.

The following committees of conference on the part of the House were announced:

On the agricultural appropriation bill, Mr. COVERT, Mr. DIBRELL, and Mr. ANDERSON.

On the bill (H. R. No. 1846) relating to the public lands of the United States, Mr. HERBERT, Mr. ROBINSON, and Mr. WASHBURN.

REMOVAL OF POLITICAL DISABILITIES.

Mr. LOWE asked unanimous consent to have taken from the Speaker's table for present consideration the bill (S. No. 1801) for the relief of Clement C. Clay, of Alabama.

The bill was read.

Mr. KEIFER. Is there a petition?

Mr. WHITE. Let us have the petition read.

The SPEAKER *pro tempore*. The petition will be read.

The Clerk read as follows:

To the Congress of the United States:

I respectfully ask that the disabilities imposed upon me under section 3 of the fourteenth amendment of the Constitution of the United States in consequence of my participation in the war waged by Alabama and other States against the United States, or my having given aid or comfort to the enemies of the United States, may be removed.

C. C. CLAY.

HUNTSVILLE, ALABAMA, *May* 24, 1880.

Mr. WHITE. I do not think this petition is in the form contemplated by the fourteenth article of the constitutional amendments.

Mr. KEIFER. It is better than usual, I think.

Several MEMBERS, (to Mr. WHITE.) Do not object.

Mr. WHITE. Clement C. Clay was a dangerous man.

Mr. LOWE. I hope the gentleman will withdraw his objection. Mr. Clay is not dangerous now.

There being no objection, the bill was taken from the Speaker's table, read three times, and passed, two-thirds voting in favor thereof.

PAY OF CONGRESSIONAL EMPLOYÉS.

Mr. HENRY, by unanimous consent, reported from the Committee on Accounts a joint resolution (H. R. No. 328) in relation to committee clerks, pages, and other employés of the Senate and House of Representatives; which was read a first and second time.

Mr. HENRY. I ask that this joint resolution be now considered.

The joint resolution was read, as follows:

Be it resolved, &c., That the Secretary of the Senate and the Clerk of the House of Representatives be, and they are hereby, authorized and directed to pay all committee clerks, pages, laborers, and other employés of the Senate and House of Representatives, respectively, who do not now receive annual salaries, their regular per diem allowance for thirty days from the adjournment of this session of Congress; and the amount necessary to pay the same is hereby appropriated out of any money in the Treasury not otherwise appropriated, and shall be immediately available.

Mr. DUNNELL. Does that come from the Committee on Accounts.

The SPEAKER *pro tempore*. It does.

The joint resolution was ordered to be engrossed for a third reading, was accordingly read the third time, and passed.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. ATHERTON, for the remainder of the session.

The motion of Mr. HUNTON, that the House adjourn, was then agreed to; and accordingly (at four o'clock and thirty minutes p. m.) the House adjourned.

PETITION.

The following petition was laid on the Clerk's desk, under the rule, and referred to the Committee on Ways and Means:

By Mr. THOMAS L. YOUNG: The petition of J. M. Bean and 23 others, revenue officers of Wisconsin, for the passage of the bill (H. R. No. 4802) extending the privilege of leave of absence to such officers without loss of compensation for a period not exceeding thirty days per annum.

IN SENATE.

FRIDAY, *June* 11, 1880.

The Senate met at eleven o'clock a. m. Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

Mr. COCKRELL presented additional papers to accompany the bill (S. No. 1766) granting a pension to John C. Hargrave; which were referred to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. JONAS, from the Committee on Private Land Claims, to whom was referred the bill (H. R. No. 4907) to confirm to John Hepting and others title to certain lands, reported it without amendment.

Mr. HEREFORD, from the Committee on Claims, to whom was referred the bill (H. R. No. 6018) for the relief of Benjamin Babb and others, reported it without amendment.

Mr. ALLISON, from the Committee on Finance, to whom was referred the bill (S. No. 759) for the relief of G. W. Thompson and others, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

BILLS INTRODUCED.

Mr. DAVIS, of West Virginia, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1832) to enable the courts of the United States in cases of fraud and misrepresentation to declare a patent void on the application of the Attorney-General; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. VOORHEES asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 122) authorizing the payment of John A. Sutter for his losses and services in California; which was read twice by its title, and ordered to lie on the table.

Mr. PADDOCK asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 123) authorizing the payment of wages to the employés of the Bureau of Engraving and Printing while that office is being removed; which was read twice by its title, and referred to the Committee on Appropriations.

WITHDRAWAL OF PAPERS.

On motion of Mr. HAMLIN, it was

Ordered, That the Secretary of the Senate be ordered and authorized to deliver to Charles Bulfinch, George Barrell, S. V. S. Wilder, heirs of Captain John Kendrick, or their legal representatives, copies of any papers on file in the office of the Secretary relating to the purchase of lands by said Kendrick on the northwest American coast, and for services done the Government in sending the first expedition of trade and discovery to said northwest coast.

HARBOR OF BALTIMORE.

Mr. GROOME submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be, and he is hereby, directed to call upon the Chief of Engineers of the Army for an estimate of the cost of giving an increased depth of water to the city of Baltimore, say twenty-seven feet at mean low water, and report the same to the Senate at the earliest practicable date.

CHEYENNE AND ARAPAHOE INDIANS.

The PRESIDENT *pro tempore*. If there are no other concurrent or other resolutions the routine business of the morning hour is at an end, and the Senate resumes the consideration of the Calendar under the Anthohy rule.

Mr. KIRKWOOD. A few days ago the select committee to examine into the removal of the Northern Cheyennes made a report in writing, accompanied by a joint resolution. That resolution asks for certain information, to be reported to the next session of Congress, and it is important that the resolution should be passed at this session, so that when we meet that information may be before the Senate. I ask to have the joint resolution considered at this time.

The PRESIDENT *pro tempore*. The Senator from Iowa asks unanimous consent that the Calendar may be informally laid aside, subject to call, in order to proceed to the consideration of Senate joint resolution No. 120.

Mr. COCKRELL. As I am informed that that is simply an inquiry for information I shall make no objection, but to any business to be transacted out of its order I shall object.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 120) instructing the Secretary of the Interior to report to the Senate proper boundaries of a reservation of lands in the Indian Territory for the Cheyenne and Arapahoe Indians, with reference to providing arable lands for the Indians in severalty, &c.

Mr. INGALLS. Where are these Indians now?

Mr. MORGAN. There are four hundred of them in the vicinity of Fort Keogh now, and about two hundred in the Indian Territory. The joint resolution does not seek to remove them, but merely asks for information upon which Congress is to act hereafter in regard to these Indians.

Mr. INGALLS. Fort Keogh is somewhere in the northern part of Montana or Dakota, I think.

Mr. MORGAN. It is about the mouth of Tongue River, Dakota, I suppose.

Mr. INGALLS. If the object of the joint resolution is to remove the Indians from the northern part of the territorial possessions of the United States west of the Mississippi River into the Indian Territory, I am opposed to it.

Mr. MORGAN. There is no such object in the joint resolution, I will say to the Senator; on the contrary, it is merely seeking information as to where they are to be located, and where they are now in the northern part of the Territory, to keep them there.

Mr. KIRKWOOD. I suggest an amendment in the fourth line of the third section, to strike out the word "including" and insert "belonging to;" so as to read: "For the use of the Northern Cheyenne Indians belonging to Little Chief's band," &c.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had non-concurred in the amendments of the Senate to the bill (H. R. No. 1846) relating to the public lands of the United States, asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. H. A. HERBERT of Alabama, Mr. G. D. ROBINSON of Massachusetts, and Mr. W. D. WASHBURN of Minnesota, managers at the conference on the part of the House.

The message further announced that the House had passed the bill (S. No. 1801) for the relief of Clement C. Clay, of Alabama.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 6266) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. J. H. BLOUNT of Georgia, Mr. HIESTER CLYMER of Pennsylvania, and Mr. JAMES MONROE of Ohio, managers at the conference on its part.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore:*

A bill (S. No. 1315) making an appropriation for the erection of a light-house and fog-bell on Old Gay Rock, at the entrance of Wickford Harbor, Narragansett Bay;

A bill (H. R. No. 4606) authorizing the President of the United States to nominate Drs. Thomas Owens and William Martin assistant surgeons United States Navy; and

A bill (H. R. No. 4908) for the relief of the heirs and legal representatives of Israel Dodge, deceased.

TRESPASSES ON PUBLIC LAND.

The Senate proceeded to consider the action of the House of Representatives on the amendments of the Senate to the bill (H. R. No. 1846) relating to the public lands of the United States.

Mr. JONES, of Florida. I move that the Senate insist on its amendments and agree to the conference asked by the House of Representatives.

The motion was agreed to; and by unanimous consent the President *pro tempore* was authorized to appoint the committee on the part of the Senate.

Mr. JONES, of Florida, Mr. MORGAN, and Mr. BOOTH were appointed the conferees on the part of the Senate.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. BECK. I understand that the sundry civil bill has been sent back with a request for a conference. I move that the Senate insist on its amendments and agree to the conference.

The PRESIDENT *pro tempore* laid before the Senate the message of the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H. R. No. 6266) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes.

Mr. BECK. I move that the Senate insist on its amendments and agree to the conference asked by the House.

The motion was agreed to; and by unanimous consent the President *pro tempore* was authorized to appoint the committee; and Messrs. BECK, WITHERS, and ALLISON were appointed.

JOSEPH R. SHANNON.

The PRESIDENT *pro tempore*. The Secretary will call the first case on the Calendar under the Anthony rule.

The first bill on the Calendar was the bill (S. No. 33) to ascertain the amount of the claim of Joseph R. Shannon, of Louisiana; which was considered as in Committee of the Whole.

The bill was reported from the Committee on Claims with an amendment, to strike out all after the enacting clause and insert:

That the Secretary of the Treasury is hereby authorized and directed to pay Joseph R. Shannon, formerly of the State of Louisiana, for the steamboat A. W. Quarrier, impressed into the service of the United States in the year 1862, and destroyed in such service, the sum of $48,000, out of any money in the Treasury not otherwise appropriated.

The amendment was agreed to.

Mr. DAVIS, of Illinois. This is too large a claim to pass without having the report read to see what it is. Let the report be read.

The PRESIDENT *pro tempore*. The report will be read.

Mr. TELLER. There is a report that has been read to the Senate.

Mr. DAVIS, of Illinois. I never heard it.

Mr. TELLER. And there is an additional report. They should both be read.

Mr. DAVIS, of Illinois. It is a large claim.

The PRESIDENT *pro tempore*. Both reports will be read.

Mr. COCKRELL. I suggest to the Senator from Illinois, and to other Senators, that probably the Senator from Colorado [Mr. TELLER] who reported the bill twice from the Committee on Claims could make an explanation of the facts in the case more concisely than it is stated in the report if that will be satisfactory. Otherwise the report can be read.

Mr. TELLER. This case was referred to the committee, carefully examined by the committee, and reported, and not having passed the Senate was rereferred to the committee and reported again. When the case came before the Senate some question arose as to whether the claimant ought to have gone before the southern claims commission, and the bill was recommitted, re-examined by the whole committee, and I believe I may say all the committee agreed to the report.

The facts are simply these: General Butler, desiring to use a steamboat at New Orleans in the spring of 1863, impressed the boat, put his officers on it, and sent it up the Red River. There it was taken by the confederate authorities and dismantled, and the machinery taken over into Texas, and set up in what was known as the Davis and Marion County Iron-Works, used by the confederate authorities to manufacture ordnance. After the war Mr. Shannon brought suit for the recovery of the machinery that was there. That suit was pending until 1874. Then the Government set up title to it as having taken it from the confederate government, and Mr. Shannon was of course defeated, inasmuch as the inquiry could not go back to see whether the confederate government had it properly or not.

In the mean time, Mr. Shannon came to the War Department and made his claim before the War Department. In 1871, before the southern claims commission was instituted, General Meigs notified Mr. Shannon that the Treasury Department was the proper place. That is all set out in the report. He then went to the Treasury Department. The Treasury Department entertained his account and called on him for his proof, which he furnished. They kept it there until 1874, when they determined that it was not within their province, and they could not pay it.

Mr. COCKRELL. What did they say about the amount?

Mr. TELLER. They found the amount to be $48,333; found the fact that the boat was taken, found the fact that this man was loyal, and all that, but simply said that they had not jurisdiction after that lapse of time.

The southern claims commission was organized in the spring of 1871 and existed two years, so that during the time that Mr. Shannon might have gone into the southern claims commission he was really before the Treasury Department supposing that he was in the proper tribunal. Technically, as he did not go into the southern claims com-

mission, there might be a question whether he made such a case as would justify us now in passing his bill.

The case is a very strong one and the facts are undisputed. There is not any question about the value of the boat. The Auditor might have found the value to be $75,000 instead of $48,000 if he had seen fit. Several witnesses testified, and no witness testified that its value was below $48,000. The case is an exceedingly strong one. Mr. Shannon is a poor man and has been here now many years, either in the Departments or before Congress, and it seems to me the bill ought to pass. I believe the committee are unanimous in that opinion.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to provide for the payment of the claim of Joseph R. Shannon, of Louisiana."

THE BRIG GENERAL ARMSTRONG.

The next bill on the Calendar was the bill (S. No. 1441) for the relief of the captain, owners, officers, and crew of the late United States private-armed brig General Armstrong, their heirs, executors, administrators, or assigns; which was considered as in Committee of the Whole. It authorizes the Secretary of State to examine and adjust the claims of the captain, owners, officers, and crew of the late private-armed brig General Armstrong, growing out of the destruction of the brig by a British force in the neutral port of Fayal, in September, 1814, and to settle the same on principles of justice and equity. And he is further authorized and requested to pay to the claimants, their heirs, executors, administrators, or assigns, the amount which may be found due to the claimants, not exceeding $70,739, the amount established by the evidence taken before the Court of Claims.

Mr. ANTHONY. I think that word "requested" should be "directed" at the beginning; and it occurs in a subsequent part of the bill.

Mr. COCKRELL. It should read "authorized and directed to examine and adjust." There will be no objection to that amendment.

Mr. ANTHONY. It occurs in a subsequent part of the bill also.

Mr. COCKRELL. Yes. It should read there also "authorized and directed," in line 10, instead of "authorized and requested."

Mr. PENDLETON. Let the word "requested" be stricken out.

The PRESIDENT *pro tempore*. The questson is on the amendment to strike out the word "requested" and insert the word "directed" in lines 4 and 10 of the bill.

The amendment was agreed to.

Mr. DAVIS, of Illinois. I should like to have this bill explained or have the report read.

Mr. PENDLETON. There is a report, a very brief one, accompanying the bill, to which are appended all the papers that constitute the evidence upon which the committee came to the conclusion that the bill ought to pass. At the request of the Senator from Illinois, I ask that the report be read.

The Chief Clerk read the following report, submitted by Mr. PENDLETON March 9, 1880:

The Committee on Foreign Relations, to whom was referred the memorial of Samuel C. Reid, on behalf of the captain, owners, officers, and crew of the late United States private-armed brig General Armstrong, their heirs, executors, administrators, or assigns, report:

That the claim set forth in this memorial has been before the Government in one form or another for sixty-five years. It has been the subject of much diplomatic correspondence with the government of Portugal. Its validity against that government has been asserted by Messrs. Monroe, Adams, Forsyth, Webster, Upshur, and Clayton, Secretaries of State under the administrations of Presidents Madison, Monroe, Jackson, Tyler, Polk, Taylor, and Fillmore. It has received the sanction of the Committees on Foreign Relations of the Senate and House of Representatives in the Thirty-third and the Thirty-fifth Congresses. It has received the favorable adjudication by a majority of the judges of the Court of Claims; and, although the decision was reversed on a rehearing, the reversal was also by a divided court on a question of technical *legal* right. It is now presented by the Secretary of State with the recommendation that an appropriation be made for its payment.

The event out of which the claim arose is most creditable to the valor and skill of American seamen, and in its remoter influences probably secured victory to the American arms at New Orleans. The accompanying papers will give the narrative, which, in romantic incidents, almost equals a tale of the imagination.

The history of the event and of the prosecution of the claim to which it gave rise is to be found in the diplomatic correspondence, the reports of the committees, the reports of the testimony and opinions in the Court of Claims, and the letter of the present Secretary of State.

From a thorough examination of these very voluminous documents, the committee finds the following facts:

First. That in September, 1814, the private-armed brig General Armstrong was destroyed by the boats of three British men-of-war in the port of Fayal, belonging to the neutral power of Portugal.

Second. That such destruction was in breach of the neutrality of Portugal.

Third. That the local authorities of the Azore Islands, as well as the government of Portugal, then residing at Rio Janeiro, admitted to the American minister immediately on the happening of the event that there had been a breach of its neutrality, and, asserting that fact to the British government, demanded satisfaction therefor in the most peremptory terms.

Fourth. That after fruitless negotiations for many years President Taylor, in 1850, made a peremptory demand upon the government of Portugal for the settlement of "incontrovertible claims of American citizens upon that government," among which was the claim for the loss of the brig General Armstrong. The government of Portugal, not admitting their validity, but *pro bono pacis*, offered to pay all the claims except this, which it proposed should be referred to the arbitration of a third power. President Taylor declined this proposal, insisted on immediate settlement of all the claims; and on an evasive answer being given, required the American minister to demand his passports and to leave Portugal in an American man-of-war which had been sent for him.

Fifth. A subsequent administration accepted the offer of the Portuguese government, received payment of the other claims, and submitted this claim to the arbitration of Louis Napoleon, then president of the French Republic. This submission was made without the knowledge of the claimants, and provided only "that copies of all correspondence which has passed between the two governments in reference to the said claim shall be laid before the arbiter."

Sixth. The interpretation put on this article by the State Department excluded all proofs and all arguments except those contained in the correspondence. And in point of fact, not only were the claimants prevented by the Government from making such proofs and arguments, but the correspondence of the Fayal authorities and of the Portuguese government while at Rio Janeiro, admitting the breach of neutrality, was not laid before the arbiter.

Seventh. Louis Napoleon, in 1853, forty years after the event, decided against the validity of the claim on the ground of a doubt as to whether the British forces or the brig commenced the hostilities.

Eighth. Subsequently the committees of both Houses of Congress reported favorably on the claim, and referred it to the Court of Claims. The court reversed its opinion on a rehearing, and decided that these above-recited facts constituted no *legal* claim against the Government of the United States, and thereupon the Senate passed a bill for the relief of the claimants, which received a very large majority of those voting in the House of Representatives; but by reason of the failure of a quorum did not become a law.

On these facts this committee concurs with its predecessors of the Thirty-third and Thirty-fifth Congresses, in holding that these claimants have good title against the Government to be reimbursed for their loss, and accordingly report a bill authorizing the payment of the amount proven before the Court of Claims, to wit, $70,739.

The committee does not doubt the power of the Government to submit this claim, or any other claim, however just it may be, to arbitration, or even to surrender it, for reasons of State policy or public interest, or question the finality of the arbitrament; but it maintains with entire confidence and on grounds of the simplest justice, which is the highest expediency, that if the Government, either to secure a peace or other advantage to itself, or to obtain the payment of other claims, or to subserve any public or private interest, surrenders the claim of any individual, or if for any such inducement it refers to arbitration any just claim, limiting the proof or the argument which might be made in its behalf, or refusing or neglecting to produce the proofs which are within its knowledge and control, the Government is bound *ex æquo et bono* to compensate his loss to that individual.

In this case the Government did submit this just claim to arbitration, in order to secure the payment of other claims, did limit unduly the proof and arguments to the diplomatic correspondence, and did neglect to lay before the arbitrator a part of the correspondence which was entirely within its control.

Mr. PLATT. Is it in order to speak to the merits of the bill at this time?

The PRESIDENT *pro tempore*. Certainly; the bill is before the Senate as in Committee of the Whole.

Mr. PLATT. It is with very great diffidence that I question the correctness of a report of the Committee on Foreign Relations, and there is no opportunity to discuss this question within the time allowed by the five-minute rule. This is a very large claim, amounting to $70,000. It is a claim which involves most important principles of international law, and of the law as to the right of a claimant to make demand upon his own Government for reparation.

The facts in this case are within a very small compass, and the case itself is within a very small compass. In 1814 the brig General Armstrong, which was a privateer, was destroyed in a Portuguese harbor under the guns of the fort by Great Britain, with whom this Government was then at war. Claim was made by this Government upon the government of Portugal for indemnity to the owners of the privateer, on the ground that she had violated her neutrality laws. That was denied by Portugal, and was the subject of very much correspondence between the two governments for a great number of years. Finally this Government said that Portugal must pay or we would go to war with her, and our minister was directed to demand his passports, and did. But we did not go to war; we referred the claim to arbitration, to the arbitration of Louis Napoleon, and he decided against the claimant and against this Government.

The claimant says that this Government did not properly submit this claim to arbitration, submitted it without his consent, and that it did not submit all the proof that was in its possession, and therefore the Government should pay him. The matter having been once submitted to Congress the claimant was directed to go to the Court of Claims. He has been there and has had a full trial of the case. The Court of Claims has decided that he has no legal claim against the Government of the United States, and he has taken no appeal from that decision. So the case, I think, stands to-day admitted that the party has no legal claim against this Government, and the question seems to be whether this Government is in justice or morals or generosity bound to pay to the heirs the amount of the loss of the owners of the brig General Armstrong, either because it was submitted to arbitration without the consent of their agent or because the arbitration was not properly conducted on the part of this Government.

I hesitate very much, Mr. President, to admit the right of a claimant to collect his claim of this Government under such circumstances. I think the allegation of want of consent has not been sustained. I think in the Court of Claims it was determined that it was submitted with the consent of the claimant to arbitration, and I think the only question remaining here is whether the Government must pay him because it has not properly conducted that arbitration. To admit that principle would put this Government in the situation that whenever it submits to arbitration a claim against a foreign power growing out of a damage done to one of its citizens, if the Government does not properly conduct that arbitration then it must pay the individual itself. For one, while I have no opportunity under the five-minute rule to discuss this matter fully, I cannot assent to that doctrine.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDENT *pro tempore*. Shall the bill pass?

Mr. PLATT. I ask for the yeas and nays.

Mr. McMILLAN. I should like to ask whether this claim was not before the Committee on Claims at one time, and what disposition was made of it there?

Mr. COCKRELL. When first introduced it was referred to the Committee on Claims, and that committee was discharged from its further consideration, and it was referred to the Committee on Foreign Relations.

Mr. McMILLAN. It was reported back by the Committee on Claims.

Mr. COCKRELL. No action was taken except to report it back and have that committee discharged on the ground that it belonged to the Committee on Foreign Relations and not to the Committee on Claims.

Mr. KERNAN. It was not rejected there?

Mr. COCKRELL. It was not rejected there, but reported back by the committee. The Committee on Claims did not conceive that it was properly referred to it.

Mr. McMILLAN. This claim, I understand, is a claim against our Government distinctly.

Mr. CAMERON, of Wisconsin. I desire the Senator from Ohio who reported this bill to inform the Senate, if he is able to do so, why the claimant, when an adverse decision was made in the Court of Claims, did not take an appeal to the Supreme Court? What excuse is there?

Mr. PENDLETON. I am unable to give the Senator the information; I do not know.

Mr. CAMERON, of Wisconsin. I am informed—my information perhaps is not entirely reliable—that this decision was made about the commencement of the late civil war; that the claimant went into the rebel service, and for that reason was not in a position to take an appeal at that time.

Mr. PENDLETON. I do not know anything about it. I never heard that he was in the rebel service. I am not prepared to state upon that fact whether he was or not. There is an entire absence of information on my part on the subject. I never before heard such an allegation, however. I do not think any suggestion of that kind has ever before been made. I am not prepared to say that it is not true, however.

Mr. WILLIAMS. Mr. President, I should like to know what that has to do with the case. The amnesty of the President of the United States has been decided by the Supreme Court to work a complete removal not only of the punishment but of the crime itself. All, say the court, is wiped out as with a sponge. I do not know anything about the fact here; I do not see very well how it is possible that infant heirs could have been in the rebellion. The original parties who petitioned here were citizens of New York.

Mr. CAMERON, of Wisconsin. It may have a good deal to do with this case. The Court of Claims has decided that the claimant has no legal claim against the United States. Consequently, if the United States pays this sum or any other sum, it is a mere gratuity, the claimant not having any legal claim against the Government. If he has no legal claim against the Government I think it is a very important fact, if it be made to appear that instead of aiding the Government in its hour of trial he aided the enemies of the Government. If he had a legal claim against the Government I agree with the Senator from Kentucky, that it would probably make no difference whatever, but, inasmuch as the Court of Claims has decided that he has no legal claim and he acquiesced in that decision by not taking an appeal to the Supreme Court, I assume that he has no legal claim. Consequently, if we make this appropriation, we make it as a mere gratuity.

Mr. WILLIAMS. If the Senator will allow me I will suggest to him that the Court of Claims, in deciding this matter, said that he had not a legal claim but he had an equitable one, and that his proper remedy was by application to the Congress of the United States.

The PRESIDENT *pro tempore*. The Chair is very much indisposed to interrupt Senators, but the rule has to be enforced. A Senator can speak but once on a bill under the Anthony rule, on one question.

Mr. WILLIAMS. I did not suppose that I was making a speech. I was making a suggestion to the Senator from Wisconsin. I did not understand that it was a speech.

The PRESIDENT *pro tempore*. The question is upon the passage of the bill, on which the yeas and nays are demanded.

Mr. HOAR. Is this under the Anthony rule?

The PRESIDENT *pro tempore*. The Anthony rule is that a Senator may speak but five minutes and but once on a question. Senators evade it, as the Senator very well knows, but that is the rule.

Mr. HOAR. I think I must interpose an objection, then.

Mr. EATON. I want to state the fact as I understand it from authority that cannot be questioned. I never knew where this gentleman lived during the war until within the last five minutes when this matter came up and the question was put. I have ascertained that he lived in Tennessee at the commencement of the war and remained in the State of Tennessee during the entire war, having no part whatever as a soldier or in service in any way. So I am informed, and I believe correctly, and I make that statement in justice to the claimant.

Mr. HOAR. I agree with the Senator from Kentucky [Mr. WILLIAMS] that the question of the merits of this claim is entirely independent of what may or may not have happened between the years 1861 and 1865 in this country. We have in this country some history belonging to other years than those, and I am very glad myself of any opportunity to revive the memories which pertain to other portions of our history. But I do not feel inclined to pass this bill under a five-minute discussion, though I have very strong feelings of regard for the claimant from what I saw of him when his claim was pending before the Committee on Claims, of which I am a member. If I understand it, it presents two questions. The claim is that the United States failed to press a claim against a foreign government with due diligence, and therefore that it ought to pay the petitioner itself. It does seem to me that we cannot recognize in our legislation the doctrine that whenever the United States does not use sufficient diplomatic skill in pressing such claims it is bound to pay the petitioner, as if a man might sue his attorney for negligence. That doctrine rests at the bottom of this claim. I conceive that there was no claim whatever against a foreign government on his behalf as a citizen or on behalf of the persons whom he represents, but, on the contrary, if there were any claim it was a claim by the United States against Portugal for a breach of neutrality, with which the individual citizen had nothing to do.

This is a very serious precedent and I do not think it ought to be decided in the little five-minute debate which is allowable under the rules, and therefore I must object.

The PRESIDENT *pro tempore*. Does the Senator object to the further consideration of the bill?

Mr. HOAR. I do.

The PRESIDENT *pro tempore*. Under the practice of the Senate an objection can be made at any time before the bill passes, and it carries the bill over. The Secretary will state the next bill on the Calendar.

Mr. PENDLETON. Do I understand the Chair to decide that one objection now carries the bill over?

The PRESIDENT *pro tempore*. One objection carries it over under the Anthony rule.

Mr. HOAR. I ask unanimous consent to make one suggestion to the Senator from Ohio. At any appropriate time I suppose the Senator can move to lay aside other orders and take this bill up. If that is done by a majority of the Senate, we shall then have a debate without being fettered, and when that is done I shall not object further.

Mr. PENDLETON. I rose and addressed the Chair in order that I might make that motion.

Mr. INGALLS. I hope the Senator will not make it now. I hope he will let us have the time between now and half past one for the Calendar. After that we will all help to take up this bill when we get through the formal business on the Calendar.

Mr. HOAR. There will be a chance before the end of the session.

Mr. JONAS. The other day when the question was whether the Calendar should be considered or not I made the point that a single objection carried over any bill on the Calendar; but the honorable Senator then in the chair ruled otherwise, and I think several Senators on the floor stated that that would not be the result, but that if an objection was made it would not carry it over if a majority concluded to go on with it.

The PRESIDENT *pro tempore*. The rule is very plain:

Resolved, That at the conclusion of the morning business for each day the Senate will proceed to the consideration of the Calendar, and continue such consideration until half past one o'clock; and bills that are not objected to shall be taken up in their order, and each Senator shall be entitled to speak once and for five minutes only, unless, upon motion, the Senate shall at any time otherwise order; and the objection may be interposed at any stage of the proceedings—

The latter clause was put in expressly to solve a question that had been raised under a previous Anthony rule whether the objection could be interposed at any time or whether it was to be made at first—

and this order shall commence immediately after the call for concurrent and other resolutions, and shall take precedence of the unfinished business and other special orders.

There is no question that a single objection carries the bill over.

Mr. PENDLETON. At the suggestion of gentlemen on both sides of the Chamber, I will not make the motion to lay the regular order aside and proceed with this until half past one o'clock, when I will endeavor to get the floor for that purpose.

STATE WAR LOANS.

The next bill on the Calendar was the bill (S. No. 10) to reimburse the several States for interest paid on war loans, and for other purposes.

Mr. INGALLS. That bill has been reported adversely. I suggest that it go over.

Mr. DAVIS, of Illinois. There was a dissent in that case, and it ought to go over so that it may be discussed.

The PRESIDENT *pro tempore*. The bill will be passed over.

PUBLIC MARINE SCHOOLS.

The next bill on the Calendar was the bill (H. R. No. 2769) to amend the act entitled "An act to encourage the establishment of public marine schools," approved June 20, 1874, so as to extend it to the ports of Wilmington, Charleston, Savannah, Mobile, New Orleans, Baton Rouge, and Galveston; which was considered as in Committee of the Whole.

Mr. JONAS. In the absence of the Senator from North Carolina, [Mr. VANCE,] who has charge of the bill, I ask that the Secretary read the act proposed to be amended, which I send to the Chair.

The Chief Clerk read as follows:

An act to encourage the establishment of public marine schools.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy, to promote nautical education, is hereby authorized and empowered to furnish, upon the application in writing of the governor of the State, a suitable vessel of the Navy, with all her apparel, charts, books, and instruments of navigation, provided the same can be spared without detriment to the naval service, to be used for the benefit of any nautical school, or school or college having a nautical branch, established at each or any of the ports of New York, Boston, Philadelphia, Baltimore, Norfolk, and San Francisco, upon the condition that there shall be maintained, at such port, a school or branch of a school for the instruction of youths in navigation, seamanship, marine enginery, and all matters pertaining to the proper construction, equipment, and sailing of vessels or any particular branch thereof. And the President of the United States is hereby authorized, when in his opinion the same can be done without detriment to the public service, to detail proper officers of the Navy as superintendents of, or instructors in, such schools: *Provided*, That if any such school shall be discontinued, or the good of the naval service shall require, such vessel shall be immediately restored to the Secretary of the Navy, and the officers so detailed recalled: *And provided further*, That no person shall be sentenced to, or received at, such schools as a punishment or commutation of punishment for crime.

Approved, June 20, 1874.

The bill was reported to the Senate without amendment.

Mr. SAULSBURY. I desire to inquire what is the necessity for this measure. It authorizes a war-vessel to be detained at each of these different points.

Mr. MCMILLAN. The Senator from New Jersey, [Mr. MCPHERSON,] the chairman of the Committee on Naval Affairs, is not in his seat. I should like to have some explanation from the committee in regard to the necessity and propriety of passing this bill. It authorizes, as I understand it, the detail of a vessel at every port where one of these schools is established; and if a school is established at the additional ports named in this bill, it will require seven vessels, with all the officers attached to the vessels, to establish these schools. I think that is a matter we should hesitate to do. It seems to me we should have some expression from the Committee on Naval Affairs before passing the bill.

Mr. JONAS. The chairman of the Committee on Naval Affairs is not present, but will be here soon. This bill was reported from the Naval Committee by the honorable Senator from North Carolina, [Mr. VANCE,] who is not in his seat. The bill proposes simply to extend the provisions of the act of 1874 to the ports herein named. It is for the purpose of educating sailors and affording the same facilities for the education of sailors at these different points to young men familiar with the water, who can be found in all southern ports as well as northern ports.

Mr. MCMILLAN. There is no difficulty about northern or southern. It is the number of the ports and the expenses of the Government, not the locality of these ports, that I care anything about. That does not enter into the question.

Mr. JONAS. The Government simply furnishes a ship which is not necessary to the service elsewhere and details a retired officer who is on retired pay. The only additional expense is the extra pay, the difference between retired pay and active pay.

Mr. MCMILLAN. I see the Senator from North Carolina is in his seat now; he has charge of the bill, and I should be glad to hear from him something of the necessity or propriety of its passage.

Mr. VANCE. I will simply say that the bill is unanimously reported by the Committee on Naval Affairs. It is to extend the benefits of these marine schools to the several ports of the South, provided that the States interested will bear a portion of the expense, as provided in the original law. The object was to furnish marine education at places where the young men were acclimated to the yellow fever, so that in manning vessels in those ports subject to yellow fever the danger of introducing that disease would not be so great as if the ships were manned by unacclimated persons or persons who never had any experience in those localities. That was the object of the bill, and was the reason why the Committee on Naval Affairs unanimously agreed to the report.

The Secretary of the Navy is to furnish the ship. It is not imperative. He is only to do it in case it can be spared. There are a number of ports mentioned in the bill not with a view to having ships detailed to all of them, but to enable all of them that are willing to undergo the expense to have them. I think under the circumstances there will be no impropriety whatever in passing the bill, but great propriety in doing it.

Mr. BURNSIDE. I move to amend the bill by inserting "and in Narragansett Bay."

The PRESIDENT *pro tempore*. The Senator from Rhode Island moves to add "and in Narragansett Bay."

The amendment was agreed to.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read: "A bill to amend the act entitled 'An act to encourage the establishment of public marine schools,' approved June 20, 1874, so as to extend it to the ports of Wilmington, Charleston, Savannah, Mobile, New Orleans, Baton Rouge, Galveston, and in Narragansett Bay."

NIGHT INSPECTORS OF CUSTOMS AT SAN FRANCISCO.

The next bill on the Calendar was the bill (S. No. 822) to regulate the pay of night inspectors of customs at the port of San Francisco.

Mr. BOOTH. That bill may be passed over at present. There is a general bill on the subject.

The PRESIDENT *pro tempore*. The bill will be passed over.

MANLY B. M'NITT.

The next bill on the Calendar was the bill (S. No. 1103) for the relief of Manly B. McNilt; which was considered as in Committee of the Whole.

The bill was reported from the Committee on Post-Offices and Post-Roads with amendments.

The first amendment was, in line 6, to strike out "McNilt" and insert "McNitt."

The amendment was agreed to.

The next amendment was, in line 8, to strike out "and thirty-four dollars postal funds;" so as to read:

To reimburse Manly B. McNitt, postmaster at Red Cloud, Nebraska, for $184.34 money-order funds stolen from the post-office.

Mr. COCKRELL. I would suggest that the amount in line 3 should be changed. It now reads:

That the sum of $218.49 is hereby appropriated.

When you strike out the $34 below and only report in favor of $184.34 the amount appropriated should correspond with the amendment.

Mr. FERRY. Let that amendment be made.

Mr. COCKRELL. I therefore move that in line 3 the words "two hundred and eighteen dollars and forty-nine cents" be stricken out and "one hundred and eighty-four dollars and thirty-four cents" be inserted.

The PRESIDENT *pro tempore*. The Senate has not yet acted on the amendment of the committee to strike out "and thirty-four dollars postal funds."

The amendment was agreed to.

The PRESIDENT *pro tempore*. Now the question is on the amendment of the Senator from Missouri, [Mr. COCKRELL.]

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill for the relief of Manly B. McNitt."

COLLECTION DISTRICT OF SAINT MARK'S, FLORIDA.

The next bill on the Calendar was the bill (S. No. 655) to amend section 2562 of the Revised Statutes of the United States, relating to the boundary-lines of the collection district of Saint Mark's, in the State of Florida, and for other purposes; which was considered as in Committee of the Whole.

The bill was reported from the Committee on Commerce with amendments, in line 3, after the word "That," to insert "subdivisions fourth and fifth;" in line 6 to strike out "Sec. 2562," and in the same line, after the word "fourth," to strike out "paragraph;" in line 10, after the word "fifth," to strike out "paragraph;" so as to make the bill read:

That subdivisions fourth and fifth, section 2562 of the Revised Statutes of the United States be amended so as to read as follows:

Fourth. The district of Key West; to comprise all the waters and shores from Indian River to Tampa Bay, and of the islands opposite and nearest thereto; in which Key West shall be the port of entry.

Fifth. The district of Saint Mark's; to comprise all the waters and shores from Ocklocknee Bay to and including Tampa Bay; in which Cedar Keys shall be the port of entry, and Saint Mark's, Bayport, and Magnolia ports of delivery.

Sixth. The district of Apalachicola; to comprise all the waters and shores from Cape Saint Blas to and including Ocklocknee Bay; in which such place as the President may designate shall be the port of entry.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ELISHA F. ROGERS.

The next bill on the Calendar was the bill (S. No. 1361) granting an increase of pension to Elisha F. Rogers.

Mr. COCKRELL. Let that be passed over. It is reported adversely.

The PRESIDENT *pro tempore*. The bill will be passed over.

POINT SAN JOSÉ RESERVATION.

The next bill on the Calendar was the bill (S. No. 890) relating to the equitable and legal rights of parties in possession of certain lands and improvements thereon in California, and to provide jurisdiction to determine those rights; which was considered as in Committee of the Whole.

The bill was reported from the Committee on Private Land Claims with amendments, in line 9, after the word "thereof," to insert "under claim of title;" in line 11, after "for," to strike out "the lands and;" in line 12, after "thereon," to insert "erected at their private cost;" in line 15, after the word "be," to strike out "the value of said lands;" in line 16, after the word "thereon," to insert "to the United States;" and in line 22, after "said," to strike out "premises," and in lieu thereof to insert "improvements;" so as to make the bill read:

Be it enacted, &c., That the several persons, their heirs, grantees, assigns, or legal representatives, who, when the military authorities of the United States took pos-

session and entered into the occupation of the lands above high-water mark within the present limits of the military reservation at Point San José in the city of San Francisco, in the State of California, were in the *bona fide* possession of portions thereof, under claim of title, by themselves, their tenants, or agents, shall be compensated by the United States for the improvements thereon, erected at their private cost, of which they were respectively deprived when said lands and improvements were taken possession of by the military authorities of the United States; which compensation shall be the value of the improvements thereon to the United States at the time when the military occupation of said lands commenced, without interest. And the Court of Claims is hereby directed to ascertain and determine the said values, and render judgment for compensation therefor in favor of the several persons, respectively, who were, as aforesaid, in the possession of said improvements, or any part thereof, their heirs, grantees, assigns, or legal representatives; and any and all judgments so rendered by said court shall be paid out of moneys appropriated, or hereafter to be appropriated, to pay judgments rendered by said court: *Provided*, That no suit shall be brought by virtue of the provisions of this act unless the same be instituted within six months from the passage thereof.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The PRESIDENT *pro tempore*. If there be no other amendment to the body of the bill the question is on the preamble, which the committee report to strike out. Is there objection to striking out the preamble? The Chair hears none, and the amendment is agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill relating to the claims, equitable and legal rights of parties in possession of certain lands and improvements thereon in California, and to provide jurisdiction to determine those rights."

WILLIAM R. BROWN.

The next bill on the Calendar was the bill (S. No. 1234) amending an act entitled "An act granting a pension to William R. Brown," approved February 7, 1879.

Mr. INGALLS. That bill is reported adversely.

Mr. COCKRELL. Let it be passed over.

The PRESIDENT *pro tempore*. The bill will be passed over.

I. WILKINSON.

The next bill on the Calendar was the bill (H. R. No. 3109) to remove disabilities of I. Wilkinson; which was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed by a two-thirds vote.

CHARLES CARROLL SIMMS.

The next bill on the Calendar was the bill (H. R. No. 3988) to remove the political disabilities of Charles Carroll Simms, of Virginia; which was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed by a two-thirds vote.

JOHN OWINS.

The next bill on the Calendar was the bill (H. R. No. 3328) to remove the political disabilities of John Owins, of Portsmouth, Virginia.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed by a two-thirds vote.

JOSEPH A. SEAWELL.

The next bill on the Calendar was the bill (H. R. No. 3832) to remove the political disabilities of Joseph A. Seawell, of Virginia.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed by a two-thirds vote.

ARRESTS OF ELECTION OFFICERS.

The next bill on the Calendar was the bill (S. No. 1253) prohibiting the arrest of election officers on election day.

Mr. McDONALD. As the Senator who reported that bill [Mr. BAYARD] is now absent, and it will probably cause some discussion, I do not think it need be proceeded with now; but I give notice that at the close of the morning business on Monday I shall move to lay aside the pending and all prior orders in order to take it up.

The PRESIDENT *pro tempore*. The bill will be passed over at present.

PUNISHMENT OF RAPE.

The next bill on the Calendar was the bill (S. No. 1421) to make the crime of rape in the District of Columbia punishable with death.

Mr. DAVIS, of Illinois. That is a very important bill, and it was antagonized by the Senator from Vermont, [Mr. EDMUNDS.] It will lead to discussion and it had better go over.

The PRESIDENT *pro tempore*. The bill will be passed over.

Mr. HARRIS. With respect to that bill I desire that it shall be passed by without prejudice to its position on the Calendar.

Mr. DAVIS, of Illinois. The Senator from Vermont is not here to antagonize it himself.

Mr. HARRIS. Let it be passed by without prejudice. I do not desire that it should be pressed at this time.

Mr. DAVIS, of Illinois. But I do not think it ought to be considered at this session of Congress.

The PRESIDENT *pro tempore*. The Chair will suggest to the Senator from Tennessee that it is impossible to pass that bill under a five-minute debate.

Mr. HARRIS. I do not ask that it be taken up now; and my only request was that it might be passed over without prejudice to its position on the Calendar.

Mr. DAVIS, of Illinois. It does not lose its place on the Calendar at the next session; but I shall object to its being considered at this session, although I am in favor of the bill.

The PRESIDENT *pro tempore*. The bill will be passed over.

WALKER A. NEWTON.

The next bill on the Calendar was the bill (S. No. 1058) for the relief of Walker A. Newton.

Mr. COCKRELL. Let that be passed over. The Senator reporting it is not here.

The PRESIDENT *pro tempore*. The bill will be passed over.

PRACTICE OF DENTISTRY.

The next bill on the Calendar was the bill (S. No. 1035) for the regulation of the practice of dentistry in the District of Columbia, and for the protection of the people of said District.

Mr. INGALLS. Let that go over.

Mr. WITHERS. I ask that the bill be indefinitely postponed. It was reported by me from the Committee on the District of Columbia, but the parties at whose suggestion the legislation was asked, the Dental Association of the District of Columbia, have notified me that they desire the bill indefinitely postponed, and I make that motion.

Mr. INGALLS. I withdraw my objection to let that motion be entertained.

The PRESIDENT *pro tempore*. The Senator from Virginia moves that this bill be indefinitely postponed.

The motion was agreed to.

BRIDGE ACROSS THE POTOMAC.

The next bill on the Calendar was the bill (H. R. No. 1381) to authorize the construction of a bridge across the Potomac River at or near Georgetown, in the District of Columbia, and for other purposes.

Mr. INGALLS. It will be hardly possible to pass that bill in the morning hour, I suggest.

Mr. WITHERS. I hope the Senator will not object to it. I think it will be entirely satisfactory if the Senate will listen to a statement I wish to make. The bill has passed the House and has been amended by the Senate District Committee and it is designed to meet a great pressing need of the public; and in order to obviate trouble on the amendments I have been instructed by the Committee on the District of Columbia to recede from the amendments, or not to press them, and ask that the House bill be passed without amendment.

Mr. INGALLS. I withdraw any objection until the bill has been read at length for information.

The PRESIDENT *pro tempore*. The bill will be read.

The Chief Clerk read the bill. It proposes to direct the Secretary of War to cause to be constructed across the Potomac River at or near Georgetown, in the District of Columbia, at such point as he may select, a substantial iron and masonry bridge, with approaches; and appropriates $140,000 for the construction of the bridge and approaches, the same to be maintained as a free bridge for travel. The Secretary of War is to construct a bridge upon such plan as shall cost no more than the amount herein appropriated, and which cost shall include the construction of a substantial bridge over the canal, and any and all approaches to the iron bridge. No part of this appropriation is to be paid out of the Treasury until contracts shall have been entered into with responsible parties, and with good and sufficient sureties, to be approved by the Secretary of War, for the construction and completion of the bridge, including the masonry, iron-work, and approaches, at a cost not to exceed $140,000. A draw of sufficient width to permit the free passage of vessels navigating that part of the Potomac River is to be constructed in the bridge, unless the bridge shall be constructed by the side of or up the river from the present aqueduct, and at the same or greater elevation above the water.

The sum thus expended is to be treated and regarded as a part of the general expenses of the District of Columbia, and the United States shall be credited with the amount which it may pay under the act for the erection of the bridge upon its 50 per cent. of the expenses of the District of Columbia, as provided in the act of June 11, 1878. The Secretary of War is, as soon as may be, to fix and determine the location of the bridge, and cause a survey of the river to be made at such place of location, determine the length, width, and height of the bridge, and the length of draw, if one is required, and thereupon advertise for plans and price for the construction of the bridge, such advertisement to be inserted in one or more daily newspapers published in Washington, New York, Cleveland, Detroit, Philadelphia, and Chicago, for the space of one week.

The PRESIDENT *pro tempore*. The amendments reported from the Committee on the District of Columbia will now be read.

The CHIEF CLERK. The first amendment reported from the committee is, in line 26, after the word "constructed" to insert "upon, or;" so as to read:

And provided also, That a draw of sufficient width to permit the free passage of vessels navigating that part of the Potomac River shall be constructed in said bridge, unless said bridge shall be constructed upon, or by the side of, or up the river from the present aqueduct, and at the same or greater elevation above the water.

Mr. WITHERS. That is an amendment reported from the committee which I ask non-concurrence in. The amendment just reported I do not wish adopted, not that I have any objection to it except that the effect will be to send the bill back to the House, when we shall not probably be able to get it passed this session, and a very large number of people will be subjected to great loss and inconvenience for the want of this bill for another year. I ask that the amendment be non-concurred in and that the House bill be passed as it came to the Senate.

The PRESIDENT *pro tempore*. The question is on the amendment which has been read.

The amendment was rejected.

The next amendment reported from the Committee on the District of Columbia was to add the following as additional sections:

SEC. 2. That the Secretary of War may, for the purposes of the preceding section, acquire, under and subject to the provisions of section 355 of the Revised Statutes, the right to perpetually maintain a free bridge across the Potomac River upon the piers of the Alexandria Canal at Georgetown, District of Columbia, and for that purpose to use the present bridge as long as the same can conveniently and safely be done, and afterward to construct and maintain a new and permanent free bridge upon said piers: *Provided*, That the right to use the present bridge and to maintain a new bridge structure perpetually upon said piers can be purchased for a sum not to exceed $100,000 of the amount hereinbefore appropriated; and power is hereby conferred on the Secretary of War to establish regulations for the use of said free bridge. But said free bridge shall not interfere with the said Alexandria Canal, and shall be strong enough and be so constructed as to allow the trough or trunk of said canal to rest securely thereon; but the United States shall not be charged with the expense of constructing, maintaining, or keeping the said trough or trunk in repair, and shall have exclusive control of all of said bridge except said trough or trunk: *Provided*, That no steam-power shall be used upon said bridge or its approaches, or upon said piers, trough, or trunk, for any purposes whatsoever.

SEC. 3. And the Secretary of War is further authorized, in the event of said purchase, to repair the wooden bridge now on said piers, and for that purpose is authorized to expend of the moneys hereinbefore appropriated a sum not exceeding $10,000.

The amendment was rejected.

Mr. SAULSBURY. I understand that there is already a bridge across the Potomac belonging to a corporation. I wish to inquire of the Senator from Virginia having charge of this bill whether the bridge now proposed to be erected may not be an infringement to some extent of the rights of that corporation, and whether by the erection of this bridge there may not a question of damage arise against the Government.

I know nothing of it myself, but I happen to know the fact that there is a bridge at Georgetown erected by a corporation. I do not know anything of the rights of the corporation owning that bridge; and I now want to make the inquiry before I vote on the bill whether there are any provisions of law which secure certain rights as to persons crossing the river to this corporation which would be infringed by the erection of the bridge hereby provided for, because we ought to vote intelligently on the subject.

Mr. WITHERS. I can answer the Senator's inquiry very certainly and very promptly. The whole matter has been investigated thoroughly. I have the act of incorporation of the company owning the bridge referred to, which the Senator can examine. There is no provision in it which guarantees the existing bridge company any special rights as to rates. There is as to the canal, which this proposed bridge does not interfere with at all. They have no exclusive rights whatever except as to their canal, and this proposed bridge does not touch that in any respect whatever. No possible infringement can arise if this bill is passed.

Mr. SAULSBURY. One other observation I wish to make in reference to the provisions of this bill. It vests the Secretary of War, I believe, with the right to determine the location of the bridge. Now the Secretary of War is not an inhabitant of this District; he is not supposed to know as much about the wants of the District as other parties—for instance, the District commissioners. I question very much whether the Secretary of War is the proper person to vest the power in of determining the location of the bridge. It seems to me there ought to be an amendment in that regard. I do not know but that the committee have considered all these questions, and perhaps have done so thoroughly, but I deem it proper to call their attention to them before the bill is passed.

Mr. WITHERS. The attention of the committee has long since been called to that matter. They have examined it very thoroughly as far as it was possible for them to do so. They did not consider it practicable for them to locate the bridge, and supposed it was best to assign this duty to the Secretary of War, under whose supervision the bridge must be constructed, and who will be guided by the reports of the engineer officers, who are properly qualified to act on the subject.

Mr. SAULSBURY. I think it is very proper to have a bridge and to have its proper location determined by some proper authority, and there ought to be a report to that effect made to Congress before any contract is made, because we are to dispense the money of the Government for it, and we ought to dispense it in the most satisfactory manner.

Mr. WITHERS. I have no objection to the Senator's suggestion, except that it would prevent the passage of the bill. There is no danger of the rights of any party or of the public being infringed by the passage of this bill. If there was, I should not ask the Senate to pass it.

Mr. ROLLINS. I object to the further consideration of this bill.

Mr. WITHERS. Then I ask the Senate to lay aside the existing and prior orders and proceed with the consideration of the bill.

Mr. ROLLINS. I was not in the Chamber when the bill was called up. I desire to submit some remarks in reference to it.

Mr. WITHERS. I hope the Senator from New Hampshire will not destroy an important measure by a simple objection and prevent its passage now.

Mr. ROLLINS. The Senator from New Hampshire proposes to do his duty in this matter. The Senator from New Hampshire does not believe it proper and right to build this bridge where it will be built if the bill passes as it passed the House. Therefore the Senator from New Hampshire proposes to oppose the bill.

Mr. WITHERS. Very good. Of course I do not desire to interfere with the gentleman's rights in any respect. I only made an appeal to him not to prevent the passage of the bill by a single objection.

Mr. ROLLINS. Allow me to say a word.

Mr. COCKRELL. I rise to a question of order. If this bill is objected to, ought not the next case on the Calendar to be called?

Mr. WITHERS. I have moved that the further call of the Calendar be suspended for the purpose of completing the consideration of the bill now before the Senate.

Mr. HOAR. Is not that motion debatable?

The PRESIDENT *pro tempore*. A motion to proceed to the consideration of a bill is debatable, but not on the merits of the bill proposed to be taken up. A motion to postpone prior orders is another question. The Chair will look at the rule.

Mr. HOAR. Then I make the point of order that the remarks of the Senator from New Hampshire were the regular order. He was proceeding to state his reasons for opposing the laying aside of prior orders at this moment.

Mr. COCKRELL. If the bill was up no doubt his remarks were in order, but if the bill was passed over they were not in order. I understand the bill to have been carried over.

Mr. HOAR. I know nothing about the merits of this bill; I never heard of it before. I merely rose to a question of order. The Senator from New Hampshire [Mr. ROLLINS] objected. Thereupon the Senator from Virginia [Mr. WITHERS] made a motion to lay aside all prior orders, and on that motion the Senator from New Hampshire proceeded to state his objections to laying aside other orders. The Senator from Missouri [Mr. COCKRELL] then demanded the regular order. My point is that the Senator from New Hampshire was in order in addressing himself to that question.

The PRESIDENT *pro tempore*. The Senator from New Hampshire was not ruled to be out of order. Nobody suggested that he was out of order.

Mr. HOAR. The Senator from New Hampshire was proceeding to debate the pending motion, which is to lay aside the regular order. Thereupon the Senator from Missouri interposed a demand for the regular order. My point of order is for the Senator from New Hampshire to proceed with his remarks.

The PRESIDENT *pro tempore*. The Senator from New Hampshire is entitled to the floor undoubtedly. The motion to postpone all prior orders is a debatable motion.

Mr. ROLLINS. I wish to inquire, in the first place, if the amendments reported by the Committee on the District of Columbia have been non-concurred in?

Mr. WITHERS. Yes, sir.

Mr. ROLLINS. I think, then, it is necessary for me to speak of the action of the committee, although it may not be strictly in accordance with parliamentary usage, in order to bring this question fairly before the Senate.

A bill came over from the House of Representatives providing for the construction of a bridge at the Three Sisters, or a point above the present Aqueduct bridge, which it is supposed will be the Three Sisters. The Committee on the District of Columbia agreed to certain amendments giving the Secretary of War power to build a bridge upon the piers of the Aqueduct bridge, if he could purchase those piers, and the right to construct a bridge there for the sum of $100,000. This proposition met the unanimous assent of the committee. We agreed to it, but by and by it was discovered that possibly the bill with an amendment could not go through the House. Thereupon a change of front took place, and now the Senate of the United States is asked to pass a bill that its Committee on the District of Columbia unanimously disapproved of for fear——

Mr. WITHERS. Oh, no. I call the Senator's attention to the fact that the committee did not disapprove of it. It merely suggested amendments.

Mr. ROLLINS. The committee, as I understand, unanimously put upon this bill the amendments which were reported originally.

Mr. WITHERS. That was not a disapproval of the bill.

Mr. ROLLINS. It was a disapproval of the bill as it passed the House——

Mr. WITHERS. There was merely a suggestion of amendments.

Mr. ROLLINS. Otherwise there would have been no necessity whatever for the amendments.

Mr. WITHERS. The amendments were an additional proposition.

Mr. ROLLINS. The Committee on the District of Columbia disapproved the bill, I say again, and reported amendments, and now they have receded from them because they thought the bill would not pass if amended.

Mr. President, I believe in a free bridge. I believe there ought to be a free bridge, and there is only one decent place to put a free bridge and that is upon the piers of the old Aqueduct bridge. The place at which it is proposed to be constructed under the House bill is not a proper site for this bridge; and instead of costing $140,000 or $150,000—I do not know what the amount appropriated is—it will cost half a million dollars to build it there and construct the proper approaches to it; and the Senate of the United States, if they embark in this enterprise, should understand that they embark in one that will cost the Government at least half a million dollars.

There are piers that can be had, piers that cost the Government of the United States $600,000 or $700,000, a magnificent work, upon which a fine bridge can be constructed at the proper time, and all parties have agreed that that is the place. Now comes in here a proposition for the sake of securing speedy action to recede from that. I ask the members of the committee and I ask the Senate of the United States simply—I state it now, so that the Senate may understand what I suggest—to retain the amendment on the second page in the twenty-sixth line, the two words "upon, or." The meaning of this amendment is that if the Secretary of War can make proper arrangements he can build a bridge upon the present aqueduct piers; and if he cannot, let him go somewhere else.

To show my good faith and disposition in this matter, I had prepared an amendment to the sundry civil bill and referred it to the Committee on Appropriations, providing that this property should be taken, and if the parties refused to make an amicable arrangement by which the Government might have the right to construct a bridge there for $100,000, there should be a condemnation, and the Government should proceed to condemn the property, take possession of it, and build a bridge on those piers where it ought to be built. The Committee on Appropriations saw fit to reject that amendment; at least they have not reported it; but if there is haste about the bill, if it is necessary to have a bridge, and I agree with the Senator from Virginia that we ought to have it, then put it as an amendment on some appropriation bill. Then if these parties will not sell their property for a fair appraisal, for what it is worth, let it be condemned and let the Government of the United States take possession of it.

The PRESIDENT *pro tempore*. The Chair would state to the Senate that in the opinion of the Chair the five-minute rule applies in this discussion. The motion of the Senator from Virginia, [Mr. WITHERS,] if the Chair heard him distinctly, was to postpone the prior orders and continue the consideration of the bill which was objected to. That was not a motion that could be made, for the prior orders had already been reached. The only motion he can make will be to suspend the further execution of the Anthony rule in order to continue the consideration of the bill that was before the Senate.

Mr. WITHERS. That is my motion.

The PRESIDENT *pro tempore*. If upon that interlocutory question unlimited debate is to take place, the Anthony rule is scarcely worth anything.

Mr. HOAR. Will the Chair permit me to call his attention to one fact?

The PRESIDENT *pro tempore*. Certainly.

Mr. HOAR. The objection was made by the Senator from New Hampshire. That sent over and removed this bill from the consideration of the Senate. The next bill on the Calendar then was reached, and that and its successors on the Calendar became the prior orders. Now, the motion to suspend them, I submit to the Chair, must be governed by precisely the same rules as if it had been made in regard to any other bill or at any time later on the Calendar. This bill has gone from the consideration of the Senate by reason of the objection.

The PRESIDENT *pro tempore*. The Chair thought that, but it seems to the Chair that would apply to every bill on the Calendar all the way down after this; they would all have to be postponed in like manner if they are to be considered as prior orders. The Chair thinks that the proper motion is to suspend the further execution of the Anthony rule and continue the consideration of this bill; and in either form, whether it is to postpone prior orders or not, if any vitality is to be given to the Anthony rule the five-minute limitation and the restriction as to speaking once only must be applied to interlocutory motions as well as to the principal question on bills; and so the Chair rules. The Chair would be very glad to have the better advice of the Senate. If some one will appeal from the decision the Chair will submit that question.

Mr. HOAR. I do not appeal, for the ruling of the Chair is so manifestly convenient to the Senate that I am sure the Senate will be very glad that the Chair has so ruled, whether it be right or not as an original question.

Mr. PLATT. May I understand what the ruling of the Chair is? Is it that if a person speaks on an interlocutory motion he cannot speak on the merits of the bill?

The PRESIDENT *pro tempore*. No, certainly not; but on interlocutory motions the merits of the bill are not debatable.

Mr. ROLLINS. I was very ill, lying in the cloak-room when this matter came up. It was a mere accident that I knew anything about it.

Mr. TELLER. I do not know but that this may be an important bill, but if every time that a bill is reached and an objection is made a Senator who thinks it specially important proposes to take it up out of its order, you might as well throw away the rule; you might as well quit. The purpose of the Anthony rule is to dispose of the minor cases, cases of minor importance, and upon which there will be but little discussion, and I think that the friends of the Anthony rule ought not, even though this is an important bill, to allow it to be taken up.

Mr. COCKRELL. I hope the Senate will vote down the motion of the Senator from Virginia. He can call up this bill after half past one o'clock, and we are proceeding nicely with the Calendar and disposing of some business. I hope this will not be pressed now.

Mr. WITHERS. I will state that for five weeks I have tried every day in vain to get the floor to call up this bill. It is the only bill on the Calendar in which any considerable number of my constituents have any interest whatever.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Virginia to suspend the further execution of the Anthony rule, and to continue the consideration of the bill——

Mr. ROLLINS. If the Senator will agree to the amendment I suggested, I will offer no objection.

Mr. WITHERS. I have no objection to the amendment except that it will send the bill back to the House.

Mr. ROLLINS. It is a very trifling affair, and it can be easily acted on there.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Virginia to suspend the further execution of the Anthony rule and continue the consideration of the bridge bill.

The motion was not agreed to.

Mr. INGALLS. I suggest to the Senator from Virginia, if I can have his attention for a moment, that he allow the amendment reported by the committee to be concurred in and let the bill go to the House. I think there will be no objection if that course can be pursued.

Mr. WITHERS. Very well; I want to get the bill through.

Mr. ROLLINS. I do not object to that. I want a bridge there as much as the Senator from Virginia.

The PRESIDENT *pro tempore*. Is the objection to the consideration of the bill withdrawn?

Mr. ROLLINS. I withdraw the objection.

Mr. WITHERS. I move to reconsider the vote by which the amendment suggested by the Senator from New Hampshire was rejected.

The PRESIDENT *pro tempore*. It is necessary to reconsider the vote by which the Senate disagreed to the committee amendments. Is that motion made?

Mr. INGALLS. I make the motion, if it is necessary.

The PRESIDENT *pro tempore*. It is moved that the Senate reconsider the vote by which it disagreed to the amendments reported by the Committee on the District of Columbia.

The motion to reconsider was agreed to.

The PRESIDENT *pro tempore*. The amendments will now be reported *seriatim*.

Mr. INGALLS. They have been reported. Let them be agreed to and the bill go to the House.

The PRESIDENT *pro tempore*. Will the Senate agree to the amendments reported by the Committee on the District of Columbia?

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

W. B. FARRAR.

The next bill was the bill (H. R. No. 393) authorizing the Treasurer of the United States to refund to W. B. Farrar, of Whitfield County, Georgia, illegal taxes collected from him in the year 1877, which was considered as in Committee of the Whole.

Mr. BECK. There is a short report in that case.

Mr. CAMERON, of Wisconsin. The report had better be read.

The Chief Clerk read the following report, submitted by Mr. BECK March 16, 1880:

The Committee on Finance, having considered the bill (H. R. No. 393) for the relief of W. B. Farrar, submit the following report:

That the report of the Committee on Ways and Means of the House of Representatives sets forth the facts with substantial accuracy, which report is as follows:

"[H. Report No. 8, Forty-sixth Congress, second session.]

"The Committee on Ways and Means, to whom was referred the bill (H. R. No 393) authorizing the Commissioner of Internal Revenue to refund to W. B. Farrar of Whitfield County, Georgia, taxes improperly collected from him by the Government in the year 1877, have considered the same, and submit the following favorable report:

"Farrar was the proprietor and operator of a small distillery, without experience in or a practical knowledge of the business, and the taxes asked to be refunded were imposed for an alleged deficiency in the production of his distillery.

"The collector appointed as storekeeper a dissipated and worthless man with whom Farrar was unacquainted, who promised to run the distillery in such a manner as to secure him against a deficiency, but who, in fact, neglected his duties, and often left the premises in the care of a dishonest and incapable man, who sold and otherwise misappropriated, without the knowledge of Farrar at the time, a large quantity of the product of the distillery.

"Under the claim of the Government the distillery and all its fixtures were distrained and sold for the non-payment of a deficiency tax which had been assessed, and the property was purchased and is now held by the Government for the small sum of $133.07, and Farrar is left entirely destitute of property and employment.

"The committee find that Farrar paid all legal taxes on all the spirits that were

turned over to him by the storekeeper, and that the proceedings of the Government in imposing the tax and distraining and selling his property were oppressive and unjust, and that he is entitled to the relief provided for in said bill, and recommend its passage."

All the papers in the case were submitted by this committee to the Commissioner of Internal Revenue for examination and report; they were carefully examined by him and returned to the committee with an elaborate report, the conclusion of which is as follows:

"While I have no doubt upon a re-examination of this case that the assessment and collection of the greater portion of this tax could not have been omitted by this office, yet there is no evidence of fraud on the part of Mr. Farrar; and as he had but little experience as a distiller, and as it is to the interest of the Government to encourage the establishment and operation of legal distilleries in said district, as a means of aiding in the suppression of illicit distilleries, I would recommend the passage of this bill for the relief of Mr. Farrar.

"Respectfully,

"GREEN B. RAUM,
"*Commissioner of Internal Revenue.*"

While the Commissioner in his report shows that Mr. Farrar had no legal right to trust the management of his distillery to a United States storekeeper, sent by the collector to take charge of it, and while it is apparent that irregularities occurred under the management of the storekeeper, it seems to us equally certain that Mr. Farrer paid the tax on every gallon of spirits turned over to him by the storekeeper, and that he was guilty of no fraud or connivance at fraud. We agree with the Commissioner that the deficiencies he was required to pay ought to be refunded to him. We therefore recommend the passage of the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CHARLES CLINTON.

The next bill on the Calendar was the bill (S. No. 436) for the relief of Charles Clinton.

Mr. INGALLS. There is an adverse report in that case.

The PRESIDING OFFICER, (Mr. FERRY in the chair.) The bill will be passed over.

FELIX LIVINGSTON'S SURETIES.

The next bill on the Calendar was the bill (S. No. 816) for the relief of Theodore F. Hartridge and William G. Christopher, sureties on the official bond of Felix G. Livingston, collector of customs at Fernandina, Florida.

The bill was reported from the Committee on Commerce with an amendment, to strike out all after the enacting clause and to insert:

That the proper accounting officers of the Treasury Department are hereby authorized and directed to close the accounts of the late collector of customs for the district of Fernandina, Florida, namely, Theodore Livingston, on the books of the Department, and give him credit for $581.31; and that said Livingston and Theodore Hartridge, William Christopher, Albert G. Philips, and John M. Pons, sureties on the bond of said Livingston, executed March 26, 1857, be, and the same are hereby, relieved from all liability on said bond; and that the said bond be, and the same is hereby, released, and the obligors thereon released from all liability thereon; and the said Pons be, and he is hereby, released from any judgment rendered against him as surety on said bond.

The amendment was agreed to.

Mr. SAULSBURY. I desire to inquire the grounds upon which it is proposed to release the sureties on this bond. There may be some very good reason for it; but unless there are good reasons for it, I do not think it is wise policy for the Government to discharge securities on official bonds. I do not know anything about the facts of the case, and therefore I should like some person to explain the reasons why we should grant this release.

Mr. HEREFORD. There is a written report in this case, the most of which is taken from papers furnished us by the Treasury Department from which these facts appear. Livingston was appointed collector of the port of Fernandina, and gave certain parties as his sureties. This was in 1857. In 1861 the war broke out. He had at the time $572.40 of the funds of the Government in his hands. As is shown in the letter sent us by the Department, uncontradicted, he was until May, 1861, still recognized as collector at that port. He had this money on hand, and he paid it, as he was directed as he says in this letter, every dollar of it, to the employés themselves, and even that money did not suffice to pay the salaries of the employés, but the confederate government also furnished him $269.06 which he paid to the employés, so that the employés were paid up in total.

There is no charge anywhere by the Department or otherwise that any of this money ever was retained by the collector himself. The only question with the Department was whether they would recognize this action of his in paying out the money to the employés after the war broke out, and for services that had been rendered prior to the breaking out of the war as shown by the papers. There is no moral delinquency charged against this party; nobody pretends that he got the money. The only question is whether he should have credit for the money that he paid to the Government officers. That is all there is in the case.

The Department itself virtually asks that this bill should pass, for it says a judgment has been rendered against one of the sureties, and we ought to provide for him also; but this bill does not attempt to reach that case. That is a question the other party must take care of. The report from the committee I believe is unanimous.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill for the relief of Felix Livingston, principal, and Theodore Hartridge, William Christopher, Albert G. Philips, and John M. Pons, sureties on the official bond of said Livingston, late collector of customs for the district of Fernandina, in the State of Florida."

BILLS PASSED OVER.

The next bill on the Calendar was the bill (S. No. 813) to amend section 1402 of the Revised Statutes relative to the appointment of assistant naval constructors.

Mr. INGALLS. The Senator who reported that bill being absent, I ask that it go over. And I also ask the same order in relation to the bill (S. No. 918) for the relief of certain volunteer officers of the Navy, which was reported by the same Senator.

The PRESIDING OFFICER. Both bills will be passed over.

The next bill on the Calendar was the bill (S. No. 666) relating to the public lands of the United States.

Mr. JONES, of Florida. That bill may be passed over for the present.

The PRESIDING OFFICER. The bill will be passed over.

PORT OF DELIVERY AT INDIANAPOLIS.

The next bill on the Calendar was the bill (S. No. 1230) to establish a port of delivery at Indianapolis, in the State of Indiana.

Mr. McMILLAN. That bill is reported adversely, I think.

Several SENATORS. Let it go.

Mr. RANSOM. There is no objection to it now.

The bill was considered as in Committee of the Whole, reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

DEPUTY APPRAISERS.

The next bill on the Calendar was the bill (S. No. 1497) to amend section 2630 of the Revised Statutes of the United States so that appraisers shall be authorized to act by deputy in certain cases; which was considered as in Committee of the Whole.

Mr. COCKRELL. I should like to hear an explanation of that bill. There is no written report.

Mr. McMILLAN. There is a letter from the Secretary of the Treasury accompanying the bill, which I ask to have read.

The PRESIDING OFFICER. The letter will be read.

Mr. COCKRELL. The letter is not convenient. Cannot the Senator explain it?

Mr. McMILLAN. This bill meets with the approval of the Secretary of the Treasury, in a letter communicated to the committee; and it is for convenience in the discharge of the duties in the collector's office.

Mr. RANSOM. I would rather that bill should go over. Let it go over without prejudice.

Mr. McMILLAN. If the letter of the Secretary of the Treasury is at the desk, let it be read.

The Chief Clerk read as follows:

TREASURY DEPARTMENT, *February* 5, 1880.

SIR: I have the honor to call your attention to the act of Congress of July 27, 1866, (14 Stat., p. 302,) which authorized the appraiser at the port of New York to perform his functions *ad interim* by deputy, to be designated by the appraiser in writing.

The provision referred to was omitted from the Revised Statutes, and as portions of said act of July 27, 1866, were included therein by virtue of section 5596, said provision was repealed, and there is now no law authorizing any officer to discharge the appraiser's duties in case of his occasional and necessary absence, sickness, or other disability.

In view of these circumstances, and as occasion may arise making it necessary that some one should be empowered to perform the functions of the appraiser at New York, I have to recommend that section 2630, Revised Statutes of the United States, be amended by inserting after the word "collector," in the sixth line of said section, the words "or appraiser."

I am, very respectfully,

JOHN SHERMAN, *Secretary.*

Hon. JOHN B. GORDON,
Chairman Committee on Commerce, United States Senate.

Mr. McMILLAN. The bill is made to conform to the recommendations of the Secretary.

Mr. RANSOM. Now read the bill.

The Chief Clerk read the bill.

Mr. RANSOM. I must object to the consideration of the bill to day.

Mr. McMILLAN. It is made in accordance with the recommendation of the Secretary, and the section of the statute is recited, and this addition is merely made to the powers of the appraiser.

Mr. RANSOM. To satisfy my friend from Minnesota, I will say that the first part of the bill provides for the appointment of as many deputy collectors as the collector and Secretary of the Treasury may think proper. The letter only refers to the last part of the act.

Mr. McMILLAN. That part of the bill is a repetition of the existing law.

Mr. COCKRELL. The bill has gone over. I ask for the next order.

Mr. RANSOM subsequently said: A moment ago I objected to a bill on the Calendar. The Senator from Minnesota has kindly furnished me the act to which it refers and explained the bill satisfactorily, and I withdraw the objection.

The PRESIDING OFFICER. Objection being withdrawn, the bill (S. No. 1497) to amend section 2630 of the Revised Statutes of the United States so that appraisers shall be authorized to act by deputy in certain cases is before the Senate as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

IRA GILL.

The next bill on the Calendar was the bill (S. No. 846) for the relief of Ira Gill.

Mr. KERNAN. I ask that that may be laid aside until the gentleman who reported it [Mr. CALL] is in, without losing its place.

The PRESIDING OFFICER. That course will be pursued.

EDGAR HUSON.

The next bill on the Calendar was the bill (S. No. 915) for the relief of Edgar Huson; which was considered as in Committee of the Whole. It grants to Edgar Huson, of Ithaca, New York, leave to make application to the Commissioner of Patents for an extension of letters-patent granted to him February 17, 1857, reissued March 5, 1867, for improvements in gearing for wagon, extended by the Commissioner of Patents for the term of seven years from the 17th of February, 1871, as reissued September 28, 1875, for the term of seven years; and upon such application so filed the Commissioner of Patents is to consider and determine the same upon the principles prescribed by the acts of Congress of July 4, 1836, and the amendments thereof governing and granting extensions; and if, after hearing the petition, upon due notice to the public, according to the practice of the Patent Office in cases of extension, the Commissioner should decide that the petition ought to be granted, he is authorized and empowered to extend the letters-patent for the term of seven years from and after the issue of the extension. The application to the Commissioner of Patents is to be made within ninety days after the passage of the act. No person is to be held liable for the infringement of the said patent, if extended, for making use of the invention between the time of the expiration of the extended term of the letters-patent and prior to the date of extension.

Mr. DAVIS, of Illinois. As I have a natural repugnance to extending any patent, I want the report read or a statement made by the Senator reporting the bill, whichever he prefers.

Mr. HOAR. The Senator from New York [Mr. KERNAN] is very familiar with the case.

Mr. KERNAN. I think the Committee on Patents has reported more than three or four cases of extensions. I ask that the report be read which was made by the Senator from Massachusetts.

The Chief Clerk read the following report, submitted by Mr. HOAR March 19, 1880:

The Committee on Patents, to whom was referred the bill (S. No. 915) for the relief of Edgar Huson, have considered the same, and report:

Edgar Huson, of Ithaca, New York, a blacksmith, obtained letters-patent on the 17th of February, 1857, for an improved gearing for wagons. This is an invention of very great ingenuity, value, and importance. It consists in hanging the body of the wagon upon a platform composed of two splinter-bars connected at their rear ends to a head-block; said frame-work resting upon three springs, two of which are secured upon the axle, the third connecting the rear ends of the former two also; and in the mode of attaching the poll or thills to a draught-bar, which is secured between the splinter-bars.

The specification being defective, a new patent was issued to Huson March 5, 1867.

An extension of said patent was granted to petitioner for seven years from the 16th day of February, 1871. The specification being still defective, he was compelled to surrender his extended patent, and the same was reissued on the 28th of September, 1875.

Huson was unable to bring his invention into general use until 1870, for the reason that the art of making springs suited to his style of wagon was not understood. He used all reasonable effort to introduce his wagon, without success, giving rights to territory to induce persons to aid in bringing the invention to public notice, and assigning one-half the patent for a nominal sum, in 1868, to William Halsey, who with fidelity and energy, but without success, exerted himself for its introduction. In 1870 a manufacturer of springs succeeded in making springs by machinery suited to Huson's platform-wagon. The invention then for the first time came into extensive use, and about $2,000 were received as royalty on the patent. In 1871 a strong and extensive combination was formed to break down the patent, issuing circulars and calling for contributions to break down the patent. Suits were brought against infringers, which resulted in a decree fully sustaining the patent, in the circuit court in New York, in June, 1877. In prosecuting these suits the patentee expended more than all his receipts from the patent.

It appears that, without the slightest fault, the patentee has enjoyed the benefit of his patent less than two years. The committee do not place great stress upon the fact that the original specification was defective. The invention was in advance of the time, and has only become profitable by reason of the ability of the manufacturers of wagon springs to supply them at a cheap rate. We think it reasonable that the inventor should derive a reasonable reward from the great benefit he has conferred on the public.

Mr. Huson is a poor man, and has had a shock of paralysis, which impairs his power of speech and the use of one leg. Mr. Halsey, the owner of the other half of the patent, is insane. Their rights in this patent are their only means of support, with trifling exception.

Mr. DAVIS, of Illinois. I make no objection to the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PERSONS IMPRESSED INTO THE NAVAL SERVICE.

The next bill on the Calendar was the bill (S. No. 826) for the relief of several persons impressed into the United States naval service.

Mr. CAMERON, of Wisconsin. I object to the consideration of that bill.

The PRESIDING OFFICER. The bill will be passed over.

ROBERT HABERSHAM AND OTHERS.

The next bill on the Calendar was the bill (S. No. 319) for the relief of Robert Habersham, George Patten, and John L. Villalonga, or their executors or administrators.

Mr. DAVIS, of Illinois. That is reported adversely.

Mr. COCKRELL. Let it go over.

Mr. DAVIS, of Illinois. It ought to be indefinitely postponed unless there is objection to that course.

The PRESIDING OFFICER. Does the Senator from Illinois make that motion?

Mr. DAVIS, of Illinois. Yes, sir.

The motion was agreed to.

OFFICERS IN ALABAMA.

The next bill on the Calendar was the bill (S. No. 688) to provide for the appointment of a marshal for the middle district of Alabama and a district attorney for the northern district of Alabama.

Mr. DAVIS, of Illinois. The Senator from Alabama is not in, and the bill is reported adversely.

The PRESIDING OFFICER. The bill will be passed over.

SUITS BY CERTAIN STATES.

The next bill on the Calendar was the bill (S. No. 12) to authorize the States of Ohio, Indiana, and Illinois, respectively, to commence and prosecute suits against the United States in the Supreme Court of the United States; which was considered as in Committee of the Whole.

The bill was reported from the Committee on the Judiciary with amendments.

Mr. COCKRELL. I wish to ask one question. Is the bill reported unanimously by the Committee on the Judiciary? I understood at the time it was reported that the Senator from Vermont [Mr. EDMUNDS] objected.

Mr. DAVIS, of Illinois. He did and does now.

Mr. COCKRELL. There is no written report.

Mr. DAVIS, of Illinois. No written report.

Mr. McDONALD. It passed the Senate unanimously last year.

Mr. DAVIS, of Illinois. It has passed the Senate before. The Senator from Vermont has always objected to it.

The first amendment reported from the committee was in section 1, line 5, after the word "prosecute," to insert "subject to the rules of law existing in respect to claims against the United States, excepting statutes of limitations or in the nature thereof;" in line 9, after the word "be," to insert "lawfully;" and in line 11, after the word "sales," to insert "for money;" so as to make the section read:

That the authority of the United States is hereby given to the States of Ohio, Indiana, and Illinois, respectively, to commence and prosecute, subject to the rules of law existing in respect to claims against the United States, excepting statutes of limitations or in the nature thereof, in the Supreme Court of the United States, an action for the recovery of any moneys which may be lawfully due and owing, if any there be, by the United States to either of said States under the laws of the United States, on account of the sales for money of public lands in each of said States respectively.

The amendment was agreed to.

The next amendment was, in section 2, line 6, after the word "plead," to strike out "or;" in the same line, after the word "answer," to insert "or demur;" in line 10, after the word "testimony," to strike out "whether record, documentary, or otherwise;" in line 11, after the word "shall," to strike out "advance the said case or cases on the docket, and shall;" and in line 14, after the word "severally," to strike out "according to the merits of each of said cases;" so as to make the section read:

SEC. 2. That in prosecuting said cause or causes in said court, each of said States shall be authorized and required, under rules to be prescribed by said court, to set forth by petition the facts and grounds upon which such State relies for the recovery of said money; and the United States, by the Attorney-General, shall plead, answer, or demur, to the merits of such petition. And the respective parties to such case or cases shall be entitled to have produced in court, and to introduce, under such rules as the Supreme Court shall prescribe, all competent testimony. And said court shall in the exercise of its original jurisdiction proceed to hear and determine and render judgment in said cases severally.

The amendment was agreed to.

The next amendment was at the end of the bill to insert as an additional section the following:

SEC. 3. That nothing in this act shall be deemed or construed to in any manner recognize the existence of any debt or duty of the United States in respect to the matters in this act mentioned or referred to.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BILLS PASSED OVER.

Mr. COCKRELL. The next five bills on the Calendar are reported adversely. I object to them. Let them be passed over, and let us proceed to order of business No. 434.

A bill to provide for the appointment of a marshal for the middle district of Alabama, and a district attorney for the northern district of Alabama.

A bill to authorize the States of Ohio, Indiana, and Illinois, respectively, to commence and prosecute suits against the United States in the Supreme Court of the United States.

A bill extending the provisions of section 2997 of the Revised Statutes of the United States to the port of Omaha, in the State of Nebraska.

A bill extending the privileges of sections 2990 to 2997, inclusive, of the Revised Statutes of the United States to the port of Saint Louis, in the State of Missouri.

A bill extending the provisions of section 2997 of the Revised Statutes of the United States to the ports of Kansas City and Saint Joseph, in the State of Missouri.

BILLS REPLACED.

Mr. ANTHONY. The bill (S. No. 813) to amend section 1402 of the Revised Statutes, relative to the appointment of assistant naval constructors, and the bill (S. No. 918) for the relief of certain volunteer officers of the Navy, were passed over in the absence of the Senator who had charge of them, and also of the chairman of the Committee on Naval Affairs. I ask that they be considered as passed over without prejudice, to retain their place on the Calendar.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection, and it is so ordered.

BRIDGE AT WINONA.

The bill (S. No. 1192) to authorize the city of Winona to construct, operate, and maintain a wagon bridge across the Mississippi River at Winona was considered as in Committee of the Whole.

The bill was reported from the Committee on Commerce with amendments.

The first amendment was, in section 2, line 3, after the word "constructed," to insert:

Immediately below the railroad bridge now crossing said river at Winona aforesaid, and so connected with said railroad bridge as to make the bridges a single structure, or as close to said railroad bridge as possible, and shall be constructed.

And in line 8, after the words "provided with," to strike out "a suitable ponton draw" and insert:

One ponton draw of the same extent, and at the same place as and corresponding with the draw-span in said railroad bridge, and another ponton draw of two hundred and fifty feet adjacent to and at the west side of said first-mentioned ponton draw, and corresponding in place and extent with the raft-span in said railroad bridge adjacent to and on the easterly side of said draw-span in said railroad bridge.

So as to read:

That the portion of said bridge that shall cross the western channel of said river from the city of Winona to the island aforesaid shall be constructed immediately below the railroad bridge now crossing said river at Winona aforesaid, and so connected with said railroad bridge as to make the bridges a single structure, or as close to said railroad bridge as possible, and shall be constructed as a ponton bridge, and shall be provided with one ponton draw of the same extent, &c.

The amendment was agreed to.

The next amendment was, in section 2, line 17, to strike out the word "draw" and insert "draws;" so as to read:

That the said draws shall be opened promptly, upon reasonable signal, for the passage of vessels and rafts.

The amendment was agreed to.

The next amendment was, in section 2, after the word "board," line 22, to insert:

And shall construct and at all times maintain and keep in good condition, at the upper side of said railroad bridge, a sheer-boom, covering the span in said railroad bridge next to said island for the purpose of guiding rafts into the raft-span of said railroad bridge.

So as to read:

And the authorities of said city shall, for the security of navigation, maintain, from sunset to sunrise, during the periods of navigation, such lights on said bridge as may be required by the Light-House Board, and shall construct and at all times maintain and keep in good condition, at the upper side of said railroad bridge, a sheer-boom, covering the span in said railroad bridge next to said island for the purpose of guiding rafts into the raft-span of said railroad bridge.

The amendment was agreed to.

Mr. COCKRELL. There ought to be an amendment providing that Congress reserves the right to alter, amend, or repeal the act at any time. I move to add as an additional section at the end of the bill:

SEC. —. Congress hereby reserves the right to alter, amend, or repeal, or modify this act in whole or in part.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. ALLISON. Before the bill passes I should like to ask the gentleman in charge of it whether the question has been carefully considered of building two bridges contiguous to each other with reference to the effect of such a structure upon navigation.

Mr. McMILLAN. That was referred by the committee to the War Department, and the communication from the Chief of Engineers and the engineer in charge of that portion of the river was communicated to the Senate and is in possession of the Secretary. The bill was amended so as to embrace the precise language of the local engineer, as it does in the first amendment.

Mr. ALLISON. I find that the first amendment provides that this bridge "shall be constructed immediately below the railroad bridge now crossing said river at Winona aforesaid, and so connected with said railroad bridge as to make the bridges a single structure."

Mr. McMILLAN. "Or."

Mr. ALLISON. "Or as close to said railroad bridge as possible."

Mr. McMILLAN. That is the language of the engineer who makes the recommendation. It is quoted from his report.

Mr. ALLISON. I infer from the last language that it may be constructed so as to make two structures.

Mr. McMILLAN. It may be possible, but they must be constructed so close that they would be virtually one.

Mr. ALLISON. I do not object to the bill.

Mr. McMILLAN. That is the language of the engineer, and that is the only reason why it was put in the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

GEORGE HOLLINGSWORTH.

The next bill on the Calendar was the bill (S. No. 303) for the relief of George Hollingsworth; which was considered as in Committee of the Whole. It directs the Secretary of the Treasury to credit to George Hollingsworth, deputy postmaster at Greenton, Lafayette County, Missouri, $40, being the amount of postage-stamps, stamped envelopes, and postal cards in the post-office building on the night of November 22, 1878, belonging to the United States, when the post-office building was burglarized and burned, and its contents, including postage-stamps, stamped envelopes, and postal cards, totally lost.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CATHERINE I. GILLIS.

Mr. COCKRELL. The next two bills on the Calendar are reported adversely.

Mr. DAVIS, of Illinois. The next two ought to be indefinitely postponed unless there is some one who wishes to contest that disposition.

Mr. WITHERS. The second is a House bill, and they are both of the same character.

Mr. DAVIS, of Illinois. I say they both ought to be indefinitely postponed.

The PRESIDING OFFICER. Does the Senator move to indefinitely postpone them?

Mr. DAVIS, of Illinois. Yes, sir.

The PRESIDING OFFICER. The bills will be reported by title.

The CHIEF CLERK. A bill (S. No. 199) for the relief of Catharine I. Gillis, and a bill (H. R. No. 2377) for the relief of Catherine I. Gillis.

The PRESIDING OFFICER. The question is on the motion to indefinitely postpone these two bills.

The motion was agreed to.

ROBERT P. WILSON.

The next bill on the Calendar was the bill (S. No. 1520) to restore Robert P. Wilson, late captain of the Fifth United States Cavalry, to his former rank and position in the Army.

Mr. BURNSIDE. I object to the consideration of that bill.

The PRESIDING OFFICER. Objection is made, and the bill goes over.

ROBERT ERWIN.

The bill (S. No. 350) to amend the act entitled "An act for the relief of Robert Erwin," was announced as being the next in order upon the Calendar.

Mr. DAVIS, of Illinois. That is reported adversely from the Committtee on the Judiciary, as well as the bill (H. R. No. 385) to amend the act entitled "An act for the relief of Robert Erwin." I move that both bills be indefinitely postponed.

The motion was agreed to.

WILLIS N. ARNOLD.

The next bill on the Calendar was the bill (S. No. 283) for the relief of Willis N. Arnold.

Mr. WALLACE. The report seems to be that the case should be referred to the Court of Claims, and I object.

The PRESIDING OFFICER. The Senator from Pennsylvania objects. The morning hour has expired and the regular order comes up, being the resolutions reported from the Committee on Privileges and Elections, on which the Senator from Indiana [Mr. McDONALD] is entitled to the floor.

COURTS IN TEXAS.

Mr. DAVIS, of Illinois. Mr. President——

The PRESIDING OFFICER. Does the Senator from Indiana [Mr. McDONALD] yield to the Senator from Illinois?

Mr. McDONALD. For a moment.

Mr. DAVIS, of Illinois. The Committee on the Judiciary have had under consideration a bill to amend the act to create the northern judicial district of Texas, and have directed me to report it favorably and to ask for its immediate consideration. It simply allows prosecutions to be commenced in the divisions into which the State is divided, rather than over the whole State. It will not take a minute to pass the bill.

Mr. MAXEY. I just want to add that I know personally the pressing necessity of this bill. I hope there will be no objection to it.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 6471) to amend an act entitled "An act to create the northern judicial district of the State of Texas, and to change the eastern and western judicial districts of said State, and to fix the time and places of holding courts in said districts," approved February 24, 1879.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

YORKTOWN CENTENNIAL CELEBRATION.

The PRESIDENT *pro tempore* appointed Messrs. JOHNSTON, ROLLINS, DAWES, ANTHONY, KERNAN, RANDOLPH, EATON, WALLACE, WHYTE, RANSOM, BUTLER, HILL of Georgia, and BAYARD members of the joint select committee on the part of the Senate under the requirements of the second section of the act approved June 7, 1880, "to carry into effect the resolution of Congress, adopted on the 29th day of October, 1781, in regard to a monumental column at Yorktown, Virginia, and for other purposes."

FORT HARKER MILITARY RESERVATION.

Mr. PLUMB. I ask the Senator from Indiana to yield to me for a moment while I call up the amendment of the House to Senate bill No. 194.

Mr. McDONALD. I yield for that purpose.

The PRESIDING OFFICER (Mr. FERRY) laid before the Senate the amendments of the House of Representatives to the bill (S. No. 194) to provide for the disposal of the Fort Harker military reservation.

The amendments of the House of Representatives were, in line 4, section 2, to insert after the word "persons" the words "who shall be appointed by the Secretary of the Interior, and who shall make said make said appraisement under oath;" also to strike out the proviso beginning at line 18, in the following words:

Provided, That the provisions of this act shall not be construed to impair in any way any rights which may heretofore have been granted to the Kansas Pacific Railway Company, nor have the effect to confer any right to any part of said reservation.

The amendments were concurred in.

LAND FEES IN DONATION CASES.

Mr. SLATER. I appeal to the Senator from Indiana to yield to me for a moment to pass a bill.

Mr. McDONALD. If it will not involve any discussion I will yield.

Mr. SLATER. I ask the Senate to consider House bill No. 3921.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 3921) to amend section 2238 of the Revised Statutes in relation to fees for final certificates in donation cases.

The bill was reported from the Committee on Public Lands with an amendment, in line 9, after the word "hundred," to insert "and twenty;" so as to make the bill read:

Be it enacted, &c., That the sixth paragraph of section 2238 of the Revised Statutes of the United States be, and the same is hereby, repealed, and that in lieu thereof the following paragraph be substituted:

"A fee in donation cases of $2.50 for each final certificate for one hundred and sixty acres of land, $5 for three hundred and twenty acres, and $7.50 for six hundred and forty acres."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

SAINT MARY'S RIVER BRIDGE.

Mr. RANSOM. Mr. President——

The PRESIDING OFFICER. Does the Senator from Indiana yield to the Senator from North Carolina?

Mr. McDONALD. I yield.

Mr. RANSOM. I beg leave to report from the Committee on Commerce the bill (S. No. 1814) to authorize the construction of a fixed bridge over the Saint Mary's River, and for other purposes, with an amendment, and I ask for its present consideration.

The bill was read, as follows:

Be it enacted, &c., That the Waycross and Florida Railway Company and the East Florida Railroad Company be, and they are hereby, authorized to construct a fixed bridge with one span over the Saint Mary's River at the point selected by said companies for crossing said river with their railroad line, about one and one-half miles below Trader's Hill, in Charlton County, Georgia, and to make such bridge of such height as they may see fit: *Provided*, The height be sufficient to permit the passage of timber rafts under said bridge; and such proposed railroad crossing and bridge are hereby declared to be the head of navigation on the said Saint Mary's River.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. McMILLAN. I think that had better go over.

Mr. ALLISON. Let us hear the amendment read.

Mr. McMILLAN. Very well.

The PRESIDING OFFICER. The amendment will be reported.

The CHIEF CLERK. It is proposed to add to the bill:

SEC. 2. That Congress reserves the right to alter or amend or repeal this act at any time, and that if at any time the navigation of the said river shall in any way be obstructed or impaired by the said bridge the Secretary of War shall have authority and it shall be his duty to require the said railroad companies to alter and change the said bridge at their own expense in such manner as may be proper to secure free and complete navigation without impediment, and if upon reasonable notice to said railroad companies to make such changes or improvements they shall fail to do so, the Secretary of War shall have authority to make the same, and all the rights conferred by this act shall be forfeited and Congress shall have power to do any and all things necessary to secure the free navigation of the river.

The PRESIDING OFFICER. The Senator from Minnesota objects to the present consideration of the bill, it having been reported to-day.

Mr. CALL. I hope the Senator from Minnesota will withdraw the objection. This is a bill that cannot do any injury to anybody, and it is very pressingly demanded by the construction of a railroad, which will shorten a route traveled very much. There is no kind of objection to it, I assure the Senator.

Mr. McMILLAN. I withdraw my objection.

The PRESIDING OFFICER. The objection is withdrawn, and the bill is before the Senate as in Committee of the Whole. The question is on agreeing to the amendment reported from the Committee on Commerce.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

TREASURY ACCOUNTS.

Mr. DAVIS, of West Virginia. I wish to give notice that to-morrow at half past one o'clock, if an appropriation bill is not before the Senate, I shall ask the Senate to take up the report of the Committee to Investigate the Finance Reports, Books, and Accounts of the Treasury Department, for the purpose of submitting some remarks, not very long, however.

PENSIONS TO SOLDIERS OF THE MEXICAN WAR.

Mr. WILLIAMS. I had the floor yesterday evening for the purpose of making a motion, but yielded to the Senator from Indiana. I desire now to say that at the end of his argument, if no other Senator desires to speak upon the Louisiana resolutions, I shall move to lay aside without prejudice the pending order and to postpone all prior orders for the purpose of taking up the bill (S. No. 1753) granting pensions to certain soldiers and sailors of the Mexican and other wars therein named, and for other purposes.

CHANGE OF NAME OF YACHTS.

Mr. CONKLING. I wish to interpose for only a moment to report from the Committee on Commerce three bills changing the names of three little pleasure boats in the waters of New York. The papers are all right, there is no question about the safety of passing these bills. I beg leave to make these reports and to ask the Senate to act upon the bills now. They are House bills, and unless acted upon now they will not be acted upon at all.

The PRESIDING OFFICER, (Mr. INGALLS in the chair.) Is there objection to the request of the Senator from New York? The Chair hears none.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 2528) to change the name of the steam-yacht Kate Sutton, of Buffalo, to that of Loraine, of Oak Orchard.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 3274) to change the name of the steam-yacht E. R. Bryant, of Rochester, to Summerland.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 3275) to change the name of the sloop-yacht Mariah, of Rochester, New York, to that of Tourist.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. CONKLING. I send to the Secretary the papers showing that these bills are all right and meritorious, that they may be filed.

AGRICULTURAL DEPARTMENT APPROPRIATIONS.

A message from the House of Representatives, by Mr. T. F. KING, one of its clerks, announced that the House further insisted on its disagreement to the amendments of the Senate to the bill (H. R. No. 6207) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1881, and for other purposes, asked a further conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. JAMES W. COVERT of New York, Mr. G. G. DIBRELL of Tennessee, and Mr. JOHN A. ANDERSON of Kansas, managers at the further conference on the part of the House.

Mr. WINDOM. I present the report of the committee of conference on the agricultural bill.

The Chief Clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 6207) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1881, and for other purposes, having met, after full and free conference have been unable to agree.

WILLIAM WINDOM,
H. G. DAVIS,
WILLIAM A. WALLACE,
Managers on the part of the Senate.
JAMES W. COVERT,
G. G. DIBRELL,
JOHN A. ANDERSON,
Managers on the part of the House.

Mr. WINDOM. I wish to make a very brief statement as to the differences between the two Houses. The Senate adopted an amendment appropriating $15,000 for the purpose of testing the sugar-cane experiment, purchasing machinery, and making a practical test, and also appropriating for three assistant chemists in connection with that work. As I understood the action of the Senate when the bill was pending, this was a matter which was considered of very considerable

importance. I believe it to be of very great importance. I believe that the sugar enterprise which is proposed to be developed from cane and corn is one of very great interest to the country. The committee on the part of the House refused to agree to the amendment and the House has insisted upon its disagreement. I move now that the Senate further insist on its amendments and ask for another committee, and I should like the vote of the Senate not to be a merely formal one, and to know whether the Senate really desires its committee to insist on that or not. If it does not desire to insist on that amendment I should like to have the Senate vote against the motion to insist and have some other Senator make a motion to recede from our amendment.

The PRESIDENT *pro tempore*. The Senator from Minnesota moves that the Senate further insist on its amendments and agree to the request of the House of Representatives for a further conference.

The motion was agreed to; and the President *pro tempore*, being by unanimous consent authorized to appoint the committee, Messrs. WINDOM, DAVIS of West Virginia, and WALLACE were appointed.

SENATOR FROM LOUISIANA.

The Senate resumed the consideration of the resolutions reported by the Committee on Privileges and Elections relative to the seat held by WILLIAM PITT KELLOGG as a Senator from the State of Louisiana, the pending question being on the amendment proposed by Mr. HOAR as a substitute.

Mr. McDONALD. Mr. President, on the 26th of November, 1877, the Committee on Privileges and Elections reported the following resolution:

Resolved, That WILLIAM PITT KELLOGG is, upon the merits of the case, lawfully entitled to a seat in the Senate of the United States from the State of Louisiana for the term of six years, commencing on the 4th day of March, 1877, and that he be admitted thereto upon taking the proper oath.

This resolution was afterward adopted by the Senate. At a subsequent session his contestant, Henry M. Spofford, presented his memorial to the Senate insisting that WILLIAM PITT KELLOGG had not been duly elected, and that he, Spofford, had been. On the 20th of March last the Committee on Privileges and Elections reported the resolutions now under consideration, the first of which is as follows:

Resolved, That, according to the evidence now known to the Senate, WILLIAM PITT KELLOGG was not chosen by the Legislature of Louisiana to the seat in the Senate for the term beginning on the 4th day of March, 1877, and is not entitled to sit in the same.

Each State is entitled to two Senators, "to be chosen by the Legislature thereof." "No State without its consent can be deprived of its equal suffrage in the Senate." The Senate is "the judge of the elections, returns, and qualifications of its own members." Representation, therefore, in this body rests upon an election by the Legislature of a State, and can rest upon nothing else. Representatives in this body are the representatives of States in their corporate capacity, in their State capacity, and the electors to choose these representatives are the members of the Legislatures of the several States, or, in the language of the Constitution, "the Legislatures thereof."

The sitting member claims to be a Senator from the State of Louisiana. His right to that seat is questioned by the resolution under consideration. If he is a Senator from the State of Louisiana it is because he has been elected by the Legislature of that State and possesses the proper personal qualifications. As the question of personal qualifications is not involved, it resolves itself into the single question of whether WILLIAM PITT KELLOGG was chosen a Senator in the Senate of the United States by the Legislature of the State of Louisiana. The Legislature of that State is composed of two branches, constituting one body, under the style of the General Assembly, a senate consisting of thirty-six members and a house of representatives consisting of one hundred and twenty members. The constitution of the State of Louisiana declares that—

Not less than a majority of each house shall form a quorum to do business, but a less number may adjourn from day to day and shall be authorized by law to compel the attendance of absent members.

So that the legislative body, or the General Assembly of the State of Louisiana authorized to do business, must consist of not less than nineteen senators and sixty-one representatives; that is, each house must have a quorum; otherwise there is no legal General Assembly, no legal Legislature for any purpose except for the purpose of adjourning from day to day and taking such measures as the law provides to compel a quorum.

Mr. President, I propose to show, in the first place, if I can, that the body which claimed to have elected WILLIAM PITT KELLOGG as a Senator to the Senate as representing the State of Louisiana never was a legal Legislature, never possessed the power to transact or to do any business, and I propose to show that from the records of that assembly embraced in the testimony taken by the Committee on Privileges and Elections.

There was an election in 1876 in the State of Louisiana, at which members of the General Assembly then to be elected were chosen. Those to be chosen at that time consisted of the entire house of one hundred and twenty members and one-half of the senate, as by the constitution and laws of that State one-half of the senators hold over from one session to the next. The senate is divided into two classes, one-half of which goes out at the end of each session of the Legislature. On the 1st of January, 1877, being the day fixed by their constitution and laws for the Legislature to assemble, the members chosen assembled at the capitol in the city of New Orleans. Certain members who had received a majority of the votes cast at the election, and the members also who had received certificates from what is known in the history of that State as their returning board, assembled there.

The constitution of the State of Louisiana requires that the returns of the elections of senators and representatives to the Legislature shall be made to the secretary of state, and to him alone. Under the constitution those returns could be sent nowhere else. But by an act passed in 1874 and amended again in 1876 these returns were sent to what is known as the returning board, and after having been manipulated by them were turned over to the secretary of state, and certificates were issued by him, not to the members who had received the highest number of votes, but to those certified to be elected by the returning board, and all of the members claiming seats assembled in the capital of that State. An effort was made to form two general assemblies. The one organized in what was called the State-house, and was known as the Packard legislature; the other in Saint Patrick's Hall, in that city, and was known as the Nicholls legislature. It is the history of the Packard legislature that I propose to trace, as that is the body that assumed to elect WILLIAM PITT KELLOGG to a seat in the Senate of the United States. When that body assembled on the 1st day of January, 1877, the senators who responded to the roll-call consisted of sixteen senators who were legally entitled to their seats and three who held no other title to their seats than the certificates given to them by the returning board, having been defeated upon the face of the returns and at the polls. These three senators, Weber, Blunt, and Hamlet, claimed seats that were represented in what was known as the Nicholls senate by senators who received a majority of the votes cast in their respective districts. But these three having the certificates of the returning board were admitted into the Packard senate as members of that body, and by their admission the bare number of nineteen was obtained. This is shown by the record kept by that body, its journal. All other members are noted as absent.

Mr. President, I insist that absence to entitle a body to claim or hold the parties as in any way connected with it must be of members who recognize that body. If the absentees are responding to some other authority, are sitting in some rival Legislature or senate, or recognizing some other body as the true body, they cannot be considered in the body that is endeavoring to form its quorum or forming a part of it.

Before the day had closed, one of the nineteen, Mr. Hamlet, withdrew from the Packard senate, and that left the body without any quorum according to its own record. To avoid that difficulty, Mr. Steven, a senator holding over from a former election, who was sitting in the rival senate, who was not acknowledging the authority of this senate, not responding to it, denying its right and its authority, was captured, having been found within the precincts of the State-house, and was carried forcibly into the senate chamber and there held until the farce was gone through with of seating two other senators, Kelso and Baker, who had not only been defeated at the polls, but who had been denied certificates by the returning board, and the senators who had received the certificates issued by the returning board and who had been legally elected were at that very hour sitting in the rival senate.

I desire to call the attention of the Senate to the proceedings by which the effort was again made to form a quorum.

Mr. KELLOGG. Will the Senator from Indiana allow me to make a suggestion to him?

Mr. McDONALD. Certainly.

Mr. KELLOGG. I understand the Senator to say that Hamlet withdrew. I do not suppose the Senator intended to leave the impression that Hamlet withdrew but for the time being.

Mr. McDONALD. He withdrew for the time being. He came back afterward, and again withdrew.

Mr. KELLOGG. He came back within an hour, and he continued for ten days.

Mr. McDONALD. No, sir; I will show just how long he continued.

Mr. KELLOGG. He merely stepped out of the senate.

Mr. McDONALD. The call immediately preceding these proceedings showed that there was not a quorum present. I read from the journal:

The following senators were present—

Giving the call, numbering 14.

No quorum present.

The president ordered the sergeant-at-arms to go after absent members.

Mr. Garland, senator-elect from the tenth senatorial district, was brought before the senate.

He was a newly elected senator, but not having taken the oath they thought that they could not use his presence. Consequently he was suffered to go. Then they fell upon Steven. When they brought him in there was another call of the senate, and although Steven did not answer, although he refused in any manner to recognize the authority of that body, they put him down as present. Thereupon—

Senator Harper moved that the cases of G. Y. Kelso and Percy Baker, contestants, be taken up from the table and acted upon, and called the previous question.

Senator Demas rose to a point of order, that it required a two-thirds vote to take up a paper from the table.
The president decided the point not well taken.
Senator Weber appealed from the decision of the Chair.
Senator Landry moved to lay the appeal on the table.
On call of the yeas and nays resulted as follows:

Nineteen in the affirmative—that is, to lay the motion on the table.

Nays—Demas, Weber, Wheeler—3.
Blank—Steven—1.
Absent and not voting.

Then the names of those senators who were sitting in the rival senate are recorded as absent and not voting.

On motion of Senator Harper, the papers in the Kelso case were read.
Senator Harper moved that Mr. G. Y. Kelso be admitted as a senator from the twenty-third senatorial district, subject to contest.
The main question was ordered.
A majority of the senators having voted in the affirmative, Mr. George Y. Kelso was admitted as a member of the senate.
Senator Harper called up the case of Percy Baker, contestant from the twentieth senatorial district.
The papers were read.
Senator Harper then moved that Mr. Percy Baker be admitted as a senator from the twentieth senatorial district, subject to contest.
The main question was ordered.
On the final vote Messrs. Demas and Weber called for the yeas and nays, as follows.

Then follow the names, yeas 14.

Nays—Allain, Demas—2.
Blank—Steven, Weber, Wheeler—3.

"The papers were read." If they were read they were papers that showed on their face, first, that these two men had not received the majority of the votes in their senatorial districts; and in the second place, that the returning board had not only so certified, but certified on the contrary two other senators at that time sitting in the rival senate had received a majority of the legal votes. Yet upon these papers, with the coerced presence of Steven to make a quorum, the senate seated these two men subject to contest. Then they had in this so-called senate five senators sitting as senators who had been defeated at the election, and from each of whose districts there were other persons sitting in the rival senate representing those districts in the real senate of the State of Louisiana.

That is the kind of a quorum or organization that they had in the Packard senate. In that form and in that way and with these members they maintained a quorum, not always, but from day to day until the 8th day of January. On the 8th day of January they met and after some effort finally obtained a quorum, and concurred with the house in the appointment of a committee to act in inaugurating ceremonies by which Packard was to be inaugurated that day as governor of the State of Louisiana. When they concluded on that day the farce by which Packard was inaugurated as governor of the State of Louisiana and adjourned there never was in that body again, down to the time it finally dissolved, a legal quorum or a quorum of any kind. On the 8th day of January they had a quorum, formed in the manner in which I have stated, for the last time, and from that time forward until they dissolved the records they themselves kept show that they met from day to day, but on a call of their body there was always less than a quorum.

On page 379 of the testimony the record will be found of their proceedings on the 8th of January, 1877, in which they respond to the resolution of the house to take joint action in regard to the inauguration of a governor. On that day, according to the call registered by them, there were twenty senators appearing. That embraces the five senators whose places were filled and whose districts were represented in the rival senate. The election of the sitting member, or the farce of that election, took place on the 10th day of January, 1877. In the published testimony of the committee, at page 382, will be found the proceedings of that senate on that day. It is as follows:

The senate met, pursuant to adjournment, at 11.50 a. m.
On a call of the roll the following senators answered to their names.

Then follow the names, showing that but 16 responded; absent 20.

No quorum.
[Senator Cage in the chair.]
On motion of Senator Burch, the senate took a recess for the purpose of proceeding to the hall of the house of representatives, according to the requirements of the statutes of the United States, to elect a United States Senator.

After having entered on their own records that there was no quorum, after having shown by the call of the yeas and nays that there was not a sufficient number of senators there to transact business, they proceed to the transaction of most important business; they proceed to adopt a resolution to repair to the hall of the house of representatives for the purpose of uniting in the election of a United States Senator with the members of the house.

They say they were doing this in pursuance of the act of Congress. I say the act of Congress gives no such authority. The act of Congress could not confer upon an unauthorized body, as this then was, authority to transact any business under the constitution of the State except to adjourn from day to day and take measures to compel the attendance of absentees, if there were any absentees; but at that time there were no absentees from this body, because these, and these alone, were all that responded to it and recognized its authority.

They therefore went through no such farce as summoning absentees; there were no absentees to summon. The sixteen who answer to their names and one other, making seventeen in all, composed the whole body. There were none others, and therefore they did not seek to form a quorum by sending for absentees. The constitution of their State told them that when they ascertained that condition of affairs, when there was less than a majority of their body present, they could do but two things: adjourn from day to day, and take action to compel the attendance of a quorum; but they proceeded to the house of representatives, as it was called, and there went through the form of electing the sitting member to the place which he now holds.

Mr. KELLOGG. Do I understand the Senator from Indiana to make the point that it required the presence of a quorum of the senate in joint convention?

Mr. McDONALD. No, sir; I say there must be a quorum. I do not say it requires a quorum of each house to act in the joint convention, but I say that if one branch of the general assembly has less than a quorum it is not a general assembly for the transaction of business; that is what I say.

Mr. KELLOGG. The Senator will not deny, I presume, that on the day before——

The PRESIDING OFFICER, (Mr. WILLIAMS in the chair.) Does the Senator from Indiana yield?

Mr. McDONALD. Certainly.

Mr. KELLOGG. The Senator will not deny that on the day before the senate had a quorum present.

Mr. McDONALD. On the 8th day of January is the last day that they had even such a quorum as they claimed to have had, and I say that that was not a quorum.

Mr. KELLOGG. That was the legislative day, the 8th. The Senator will notice that then they took a recess from day to day.

Mr. McDONALD. I am reading from the record, and I do not intend to falsify the record in any respect. I say, and I am capable, I think, of maintaining the proposition, that if on the 10th day of January there was not a quorum of senators who responded to that body as a senate, who acknowledged its authority and recognized it as a senatorial body, they had no power to transact any kind of business. Let me put the question on the other side. Suppose that nineteen of the senators had resigned when there had been a quorum at the beginning of this session, which I deny ever was the fact; but suppose there had been, and that nineteen of them had resigned. In the face of the fact that there must be a majority of senators present to constitute a quorum to transact business—in the language of their constitution not less than that number shall have power to transact business—will it be pretended that they could go on and do any business of any kind that required the sanction of the General Assembly of the State of Louisiana, that the Legislature of Louisiana could speak in that way? No, sir; when they met in the senate chamber, if that was the senate chamber, on the 10th day of January, 1877, and entered in their order of proceedings that there was no quorum, Senator Burch had no authority to move, Senator Cage acting as chairman had no authority to receive a motion to proceed to the house of representatives to transact any kind of business.

What is the law of Congress upon that subject prescribing the manner of electing Senators of the United States?

Each house shall openly, by a *viva voce* vote of each member present, name one person for Senator in Congress from such State, and the name of the person so voted for, who receives a majority of the whole number of votes cast in each house, shall be entered on the journal of that house by the clerk or secretary thereof; or if either house fails to give such majority to any person on that day, the fact shall be entered on the journal. At twelve o'clock meridian on the day following that on which proceedings are required to take place as aforesaid, the members of the two houses shall convene in joint assembly, &c.

Did they meet there in pursuance of this law? Had they on the 9th day of January, on the legislative day preceding this, taken a vote and entered it in the journal of the senate? No; and why? Because they had no quorum to transact that business; because the number of Senators who acknowledged the authority of that body was insufficient to authorize them to transact it. If that was so when they assembled on the 10th in their senate chamber and ascertained that they were still without that number, had they any right to proceed to the house of representatives, and there in conjunction with the house undertake to elect a Senator? Is such an election an election by the Legislature of a State consisting of two bodies, in each of which it is necessary that there should be a majority of the members chosen to transact business? If there had been a quorum of the senate, and the majority of the members thus present had declined to proceed to the election *viva voce* and also declined to adopt the resolution to meet the next day at twelve o'clock, it would not have taken away from the minority the right to have proceeded and with a majority of the house to consummate the election. I admit that proposition; but I say there must be a senate capable of transacting business, and there must be a house capable of transacting business, and it requires these two to form the Legislature of a State that is to choose for that State the person who is to represent it here, whose rights are held so sacred that no State can be denied its equal suffrage in the Senate without its consent.

Let us look for a moment at the organization and composition of the house of representatives. These same records show that at the

time of this attempt to organize a senate there was also an attempt to organize a house of representatives; that the members who responded and claimed seats in that body amounted at the highest number to sixty-eight. Twelve of that sixty-eight were representing districts that had by their popular vote elected other parties. If the returns had been made to the secretary of state and the certificates issued on the face of the returns they would have held those certificates. The twelve representing these districts by virtue of the popular election took their seats in the rival Legislature. So that of this house of representatives of the Packard legislature twelve of the persons who held seats there held them by no other or greater warrant or authority than the false certificate of that infamous returning board, and the men who had been really elected on the face of the returns were sitting at the same time in the rival Legislature organized in the same city.

These two bodies could not both be the Legislature of the State of Louisiana. She had no right to two. Her constitution declared that she was entitled to and provided for but one general assembly consisting of two houses, but not two general assemblies. Therefore one or the other of these bodies was an illegal body, a usurping body. If you take the twelve men from the whole number of persons who appeared as representatives in the Packard legislature, who had been defeated upon the face of the returns, you will find that at no time did the house of representatives that claimed to elect the sitting member have a legal quorum.

Mr. CAMERON, of Wisconsin. Will the Senator from Indiana state how many members of the Packard house were admitted to the Nicholls house after the dissolution of the Packard legislature?

Mr. McDONALD. About fifty.

Mr. CAMERON, of Wisconsin. Fifty-seven.

Mr. McDONALD. I have the report here and I intended, of course, to refer to it. That still left the Nicholls legislature a quorum without them.

Mr. CAMERON, of Wisconsin. I think the Senator will find that fifty-seven were admitted.

Mr. McDONALD. I have not counted the number, but I propose to take the report of the Committee on Privileges and Elections made in favor of the sitting member.

Mr. CAMERON, of Wisconsin. And the Senator will find that the three republicans elected in the Seventh ward of New Orleans were not admitted. Including those three there were sixty, and there was one independent candidate there, so there were really sixty-one.

Mr. McDONALD. I should like to ask the Senator from Wisconsin when they were to be regarded as legal members of the Legislature? When they were sitting in the Packard legislature or in the Nicholls legislature?

Mr. CAMERON, of Wisconsin. I think they were legal members of the Legislature when they received their regular certificates of election.

Mr. McDONALD. Then the Senator thinks that when they went over and took their seats in the Nicholls legislature they ceased to be members of the Legislature?

Mr. CAMERON, of Wisconsin. I do not think any such thing. They retained their certificates.

Mr. McDONALD. So the Nicholls legislature being the legislative body of the State of Louisiana——

Mr. CAMERON, of Wisconsin. The members who received their legal certificates first took seats in the Packard legislature, and afterward some of them went into the Nicholls legislature—fifty-seven of them. Whether it was or was not the legal Legislature, they continued legal members of a legislature.

Mr. McDONALD. I suppose, according to the gentleman's argument, they would make the Legislature legal wherever they went. They made a legal Legislature for Packard up to the time they left, and then they made a legal Legislature for Nicholls afterward, and in that way the State by some strange process that it is pretty hard to reason out has legalized half of two Legislatures sitting at the same time.

Mr. CAMERON, of Wisconsin. That does not follow, by any means.

Mr. McDONALD. I was coming to the very question, and intend to read as supporting the view that I present in this case from the report of the Committee on Privileges and Elections made in behalf of the sitting member in 1877:

> Of the lawful election of fifty-seven members of the house of representatives which aided in electing Mr. KELLOGG there is no dispute whatever.

"Of the lawful election of fifty-seven." That is five less than a quorum. The fifty-seven would have had no power to unite with these seventeen senators in electing a Senator.

Mr. CAMERON, of Wisconsin. It would be only four less than a quorum. Sixty-one would constitute a quorum.

Mr. McDONALD. Well, it would be four or five less than the entire number necessary. It is sufficient if there be only one less. I do not suppose it will be contended that the election of these fifty-seven representatives, so far as the popular election is concerned, is controverted by any person. No one controverts the fact that they were legally elected; but the fifty-seven thus conceded to have been elected did not constitute a quorum; and to make up that quorum it was necessary to take the twelve of whom I have just spoken, who were representing districts that were represented in the rival legislature at the same time; and those districts continued to be represented by their rivals after the fifty-seven whose election is not questioned had gone over and joined that rival legislature. I say the twelve representatives who were sitting in the rival legislature by virtue of a popular election upon the fact that they had received a majority of the votes in their respective districts continued to hold their seats, continued to sit there, and were recognized by the very men whose election the Senator from Wisconsin says is not questioned, because they went over afterward and were admitted to seats in the Nicholls legislature.

Mr. CAMERON, of Wisconsin. The fifty-seven gentlemen did not continue in the Nicholls legislature.

Mr. McDONALD. Yes; that is what your committee says. I do not recollect whether the Senator from Wisconsin was a member of it or not.

Mr. CAMERON, of Wisconsin. But the fifty-five democrats——

Mr. McDONALD. No, sir; here is what the committee says on that subject:

> Of the lawful election of fifty-seven members of the house of representatives which aided in the election of Mr. KELLOGG there is no dispute whatever, and they now sit in the Nicholls house which took part in the election of Mr. Spofford.

Mr. CAMERON, of Wisconsin. Certainly.

Mr. McDONALD.

> Three more of the members of the Packard house, from the parish of Orleans, were, until recently, admitted on all hands to have had a majority of the votes cast—

A majority of votes cast—

> and your committee find that they were lawfully elected.

This committee took the certificate of the returning board whenever it certified in favor of a republican member, but when a question arose in which a republican claimed a seat by virtue of a popular vote this same committee resolved that question in his favor. They say, and here is their own language upon that subject:

> Three more of the members of the Packard house, from the parish of Orleans, were, until recently, admitted on all hands to have had a majority of the votes cast, and your committee find that they were lawfully elected.

"Were lawfully elected" because they had a majority of the votes cast.

Mr. CAMERON, of Wisconsin. Yes, because they had a majority of the votes. The three members from the Seventh ward of New Orleans were elected on the face of the returns. They not only received the certificate of the returning board, but they were elected on the face of the returns.

Mr. McDONALD. That is not what your committee says upon that subject. It says that the committee determined, because they have a majority on the face of the returns, that they were duly elected. I have read from the report of the committee.

Mr. CAMERON, of Wisconsin. As a matter of fact——

Mr. McDONALD. I am not responsible for its accuracy; I do not know whether it is accurate or not.

Mr. CAMERON, of Wisconsin. As a matter of fact they were elected upon the face of the returns, and they did receive the regular certificates of election from the proper officers, and with the fifty-seven republicans who went into the Nicholls legislature after the dissolution of the Packard legislature they would together constitute sixty; so they were legally elected. The Nicholls legislature could not have had a quorum because there were sixty legally elected members in the Packard legislature.

Mr. McDONALD. The Nicholls legislature did not undertake to elect a United States Senator until they had a clear, unquestioned quorum of legally elected members.

Mr. KELLOGG. Of returning-board members?

Mr. McDONALD. Yes, and legally elected members.

Mr. KELLOGG. They would not go into an election until they got the returning-board members over.

Mr. McDONALD. Then they had both.

Mr. CAMERON, of Wisconsin. The Senator a short time ago was arguing that the Packard senate could not resolve to go into a joint convention if there were not at that time a quorum present in the senate.

Mr. McDONALD. Yes, sir.

Mr. CAMERON, of Wisconsin. If there were sixty legally elected members in the Packard house, until after the members from the Packard house went into the Nicholls legislature there could not have been a quorum in the Nicholls legislature, but they voted each day for a Senator; so that the argument cuts both ways.

Mr. McDONALD. But they did not undertake to elect.

Mr. CAMERON, of Wisconsin. Yes, they undertook to elect, but did not.

Mr. McDONALD. They did not elect.

Mr. CAMERON, of Wisconsin. That is the correct statement.

Mr. McDONALD. They did not elect. If it had been a town meeting, they could have gone into a vote for Senator, if they pleased; but if they did not elect and did not send forward anybody here upon such an election as that, it certainly would raise no question for our consideration. But it is known to the Senator from Wisconsin that shortly after this attempted election of United States Sena-

tor certain persons who had been acting in that legislative body, and whose elections were unquestioned, did go over to the Nicholls legislature. They took their seats there.

Mr. CAMERON, of Wisconsin. About three months afterward.

Mr. McDONALD. No, sir; some of them took their seats there within a week after this attempt to elect the sitting member. It is a well-known fact that three Senators—Demas, Wheeler, and Hamlet—withdrew from the Packard senate before the election of the 10th of January, dissolved their connection with it, disavowed allegiance to it, took shelter in the house of Governor Pinchback, and when there was an attempt made to capture them there and bring them back it was foiled by the use of "the shot-gun policy," Governor Pinchback appearing at his gate with his shot-gun, and shortly afterward a corps of police officers captured the assaulting party; that the next morning after that Demas and Wheeler went and took their seats in the Nicholls senate, and that Hamlet resigned whatever pretension or claim he had to an election, stating before the senate that he had not been elected upon the face of the returns. At the same time certain members of the house of representatives went and did likewise; and this all took place before the 17th day of January, 1877, as I know of my own knowledge, for I was there up to that time.

Then, Mr. President, this is the body thus constituted and thus organized that sought to make this election. What became of it? What is its brief history? It met on the 1st day of January, 1877, in the State-house building in the city of New Orleans, but it met not there as a free senate or a free house. For that occasion, and for the protection of this body against the people of Louisiana, that house was turned into a fortress; all its entrances were barricaded except one, and that was partially closed. Its interior was guarded by an armed, organized, and drilled police force, sustained and supported within supporting distance by a regiment of United States troops that were quartered in an adjoining building with free access through the courts of these buildings to this fortress, for it was nothing else.

On the 8th of January it enacted another farce in inaugurating the so-called governor of Louisiana, General Packard. On the 10th of January, without any authority, confessedly without the power to transact business spread broadly upon its own records, showing that it was shorn of any authority whatever except to seek to bring in absentees, it united in the performance of another farce in the election of the sitting member, and so long as it was protected by United States troops, and fortified and guarded, it maintained a sickly existence; but when some months afterward a change of policy on the part of the administration left it without this military support, it vanished into thin air, it disappeared like frost-work, and there is not a wreck of its action behind except that which we have recognized here in the Senate by saying that the man that they designated is the Senator to speak for the State of Louisiana as "chosen by the Legislature thereof." It was supported by Federal bayonets, not resting upon the popular affection and regard of the people of the State. It was maintained by military authority, and even with that it was not in the power of the military to give it numbers enough to clothe it with any legal authority whatever, for they were not there; but the other, the rival Legislature, that met as a free body without guards surrounding it, at once was recognized by the people of Louisiana as the Legislative Assembly.

I am not going to enter into the question of when it acquired sufficient numbers to enable it to transact business, but it did so acquire them, and eventually fifty-seven of the men of the house that undertook to elect the sitting Senator from that State admitted by their action in the most solemn manner that the body they were in at the time of the election was not the legislative body of the State, and went and took their seats in the recognized legislative body and united in electing and sending another man here.

The Committee on Privileges and Elections when it made the report on the resolution to which I have already called the attention of the Senate in November, 1877, knew all these facts. They knew and they spoke of them as facts going to show the legality of the Legislature that elected this man, that fifty-seven of its members had repudiated it, had confessed by their action in the strongest terms that they had not been responding as representatives of the State in the proper body. Therefore, when they reported that WILLIAM PITT KELLOGG on the merits was entitled to this seat, they made that report in the face of the facts before them, and the Senate when it voted upon that report voted the resolution in the face of the facts that showed the contrary. And the only authority that the sitting member has had from the time that he made his appearance in this Chamber to the present time is simply that it was given to him by the majority vote cast in his favor here. If he represents any one he represents the then majority of the Senate, and not the State of Louisiana, for he has never been chosen by its Legislature.

Mr. TELLER. I should like to ask the Senator a question.

The PRESIDING OFFICER, (Mr. WILLIAMS in the chair.) Does the Senator from Indiana yield to the Senator from Colorado?

Mr. McDONALD. Yes, sir.

Mr. TELLER. I do not know that I understood him, but if I did understand him, he said that all the facts he has detailed were presented and known to the Senate at the time that action was taken.

Mr. McDONALD. They were known to the committee, but the Senate would not hear them. They were known to the committee that made this report.

Mr. CAMERON, of Wisconsin. I assume that they were known to the Senate, for the testimony taken by the committee was all spread before the Senate, and if they were not known to the Senate, it was because it refused to know them.

Mr. McDONALD. The Senate might have known them, but they did not or they would not. That was all. This resolution was voted upon——

Mr. TELLER. I should like to make another inquiry. I should like to know, if the statement just made by the Senator is correct that the Senate had knowledge of these transactions, what becomes of the claim that has been urged here repeatedly that the Senate had proceeded lacking information that was necessary to form a proper judgment.

Mr. McDONALD. I am not discussing that branch of the question at all.

Mr. HILL, of Georgia. That is another branch of it.

Mr. McDONALD. I am not discussing that branch. I say that these facts were known to the committee, and might have been known to the Senate. I do not think the Senators on the other side did examine; I am free to say that I believe they shut their eyes and voted blindly. The resolution declaring the sitting member entitled to his seat upon the merits was adopted, if I remember aright, some time between midnight and day, after a long and wearisome night session, and I remember to have attempted on that occasion to put some of these facts before the Senate, but I was not able to get a hearing. I finally said that if I could get the attention of the Chair I would say a few words on the subject; I did not expect anybody else to listen to me, and the debate was closed, the vote taken, and the Senate voted in this man when upon the very record that presented him here they knew or might have known that the body which attempted to elect him had no power to transact any business whatever, much less so important a business as the election of a United States Senator.

It has been said that this case has been settled by the vote which the Senate passed upon the resolution to which I have referred; and a case from my own State has been brought forward and insisted upon as establishing that proposition, that it is settled beyond the power of the Senate legally to change it. Of course, Mr. President, the case from Indiana is somewhat familiar to me, as the election took place while I was the attorney-general of that State, and the legality of that election was submitted to me as the law officer by the governor; and I can say further that the act of Congress, subsequently passed, evidently is framed with reference to the facts that transpired in that election, and authorized precisely such an election as took place on that occasion.

At the time Mr. Bright and Mr. Fitch were elected Senators from Indiana, in 1857, there was no act of Congress regulating the manner of electing Senators, nor had the State of Indiana placed upon her statute-book any law regulating the matter. The usage in our State had been to elect by joint convention. We had never been accustomed to take a separate vote in the two houses, but to elect by joint convention, in which it was required that a majority of all the members of the senate and house of representatives acting together should concur in the election to make it legal.

That was simply what was done in the case of Messrs. Bright and Fitch; but because the senate of the State of Indiana had not previously passed a resolution to provide for going into that joint convention the regularity of the election was questioned, and that was the only ground upon which it was questioned. There was a legal senate, a senate consisting of fifty members, the full number; there was a legal Legislature; there was no controversy about that; there was no rival Legislature organized or set up anywhere, but this single body, this General Assembly of two houses, constituted the legal Legislature of the State of Indiana. There were two Senators to be elected from our State, and these men were chosen by a majority of the votes of all the senators and representatives—not a majority of the senate, but a majority of the senators and representatives. The single question before the Senate of the United States when their cases came up was whether it required as a prerequisite a resolution to go into that joint convention. This Senate decided that it did not, that the election was legal without it, regular without it, inasmuch as it violated no law; and subsequently the Congress of the United States enacted provisions that precisely met such a case as that.

Two years later, the Legislature of Indiana having changed its political complexion, two other distinguished citizens of the State were elected and sent here to claim the seats on the ground that the first election was void. Their cases went before the Senate, and those who represent the party that contend now for *res adjudicata* voted to open that question; those who, in the first place, voted that the election was legal, that there was no irregularity in it, and that the Senators elected at the first election were entitled to their seats, voted against opening it. There were no new facts in the case, not one; there was no dispute about the case as to its facts. The question of *res adjudicata* received just this support, and this alone: Senator Mason, who in the first instance had voted against the regularity of the election, when two years later the question came up again voted against reopen-

ing it; but every other Senator who voted against its regularity when the question was first made voted to reopen the question again when it came up before the Senate two years later.

That is the simple history of the Indiana case. There was a very able report made by the minority of that committee that has been referred to again and again that, in my judgment, embraces properly the law of this case.

For my own satisfaction I have taken from the Journals the names of the Senators who voted to reopen the case of Messrs. Bright and Fitch. They were, Broderick, Chandler, Clark, Collamer, Doolittle, Douglas, Fessenden, Foot, Foster, HAMLIN, Harlan, King, Mason, Seward, Trumbull, and Wilson. They had voted in the first instance that this election was irregular and void, and they voted in the second instance to the same effect that it was irregular and void. Their minds had not changed on that subject. That was all. Every Senator who believes that a United States Senator may be elected or can be elected upon such a record as this presented by me, as a matter of course ought to vote against the resolution that has been reported by the Committee on Privileges and Elections, now under consideration; but every Senator who believes that it was but a farce, that this body claiming to be the Legislature of Louisiana was not such, that it was there in opposition to the will of the people of that State, that it was supported simply by military power and disappeared when that power was withdrawn from it, if he votes that the sitting member is still entitled to his seat, it seems to me must give a vote that will stultify himself.

But it is said that the decision made upon that resolution precludes any further consideration of the subject. The Senate is the judge of the elections, returns, and qualifications of its own members. The Constitution so declares. It is "the judge." The power thus vested in it is plenary; there are no limitations upon it; it can place none upon itself. The Senate has no power to put limitations this session to bind the next, or this Senate to bind the next Congress that follows it. It may establish precedents that are to be looked to and examined; it may present reasons; it may satisfy judgment, but it has no power to limit; and the right of each Senator to a seat in this Chamber is one that stands always for the consideration and judgment of the Senate, if it so desires to do it. But it is said, "Are you to change a decision simply because the majority changes?" No, sir; nor are you to maintain a wrong decision when you find it was wrong because the majority have not changed. If I believed that the sitting member had been elected by the Legislature of the State of Louisiana, I should vote to retain him in his seat though mine was but the sole voice that spoke upon that side. If I did not believe him to have been legally elected by the Legislature of that State, I should vote to unseat him although mine was the only vote cast against him, and as often as it was questioned. I must decide if I vote in his favor that he has been elected by the Legislature of the State he professes to represent?

But it is said that the doctrine of *res adjudicata* is to be applied in a case of this kind. In the first place, the plea of *res adjudicata* is never applicable in the same proceeding. It is where the same question has been decided by a court of competent jurisdiction between the same parties in another suit, and one of the litigants undertakes to institute another proceeding or suit when he is met by the plea "this has been adjudicated;" but in the same proceeding there is no such principle. It is impossible that there should be, because the very application for a further hearing of the case starts out upon the admission that there has been a decision in the case. As far as this may be analogous to proceedings in courts of law, that doctrine could not have any application in a case of this kind.

In suits at common law, the same court, the same tribunal may be applied to again and again to review the same question in the same case, either for errors of law committed by the judge in the progress of the decision before or for newly discovered evidence after he has rendered his decision, and to these applications there is no limit except that which the statute imposes. A motion for a new trial cannot be objected to or defeated because of the lapse of time, unless the objection can be rested upon some statute of limitation. In chancery proceedings, bills of review and petitions for rehearing have constantly been made, and they are made daily almost I might say in the Supreme Court of the United States, a court the very highest in the land; and the records of that court show how often the same judges have taken back a solemn decision they have rendered in a cause and rendered a different one, or by a change in the composition of the court different conclusions have been arrived at by a new set of judges differing from the old. It is well known to members of the profession that in the practice in courts of equity in Great Britain bills of review have been entertained twenty years after the final decree had been rendered and a reversal of the first decree had. In each one of these cases it is an appeal from the court to the court, as in this case. We appeal from the decision made by the Senate in the resolution I have referred to as adopted in 1877 to the Senate acting upon the case as it stands before it now. That is what it is. It is an appeal from the court to the court. We are the judge of the election of this man, and his case is before us for judgment. It is said the Senate once adjudged the other way, but this is an appeal from that decision to the Senate again on a case that I say in my judgment is impregnable for the relief demanded.

Mr. MCMILLAN. Will the Senator from Indiana allow me to ask him a question?

Mr. MCDONALD. Yes, sir.

Mr. MCMILLAN. If there had not been a change in the political character of the Senate since the case was decided, would that question have been presented to the Senate to-day?

Mr. MCDONALD. I suppose it would, but whether we could have convinced my friend from Minnesota that his decision before was wrong is a more difficult question. I am very certain of one thing: if he was on the supreme bench of the State of Minnesota and I had a case of this kind before him, I could convince him.

Again, it is said that the doctrine of *stare decisis* renders it at least improper if not impossible for the Senate to review this question. When I run over these terms "*res adjudicata*," "*stare decisis*," &c., I cannot but think of the remark made by an Ohio judge, more distinguished for his strong sense than he was for his book-learning, who was engaged in hearing a very important railroad case. He said "these corporations always intrench themselves behind some Latin phrase or other and make it very difficult to get at the real facts and to decide what would be right and just in a case." Sometimes they talked about *stare decisis*, and then about *res adjudicata*. "Now," says he, "they have got another term I never heard of before; it is called *ultra vires;* and if I understand that term as it has been discussed in this case, these corporations have the power to do whatever they want to do, and they have no power to do what they don't want to." [Laughter.]

So as to *stare decisis;* that is simply an appeal to the precedents; it asks the court to stand by the precedents, not by an adjudication in that particular case, but by something that has been said or decided in some other; and it is never a defense; it is never appealed to to sustain a wrong; and the overruled cases that are in the books almost without number show how frequently it has been disregarded. A precedent is a very good thing. Courts are very much inclined to be governed by principles once decided, and it is well that they should; and when those principles have been decided so as to become rules of property courts may treat them as morally binding upon them. But to talk about the decision made in November, 1877, in this case upon the facts presented to the Senate at that time as forming a decision that we are to close our eyes and insist that it is right whether it is right or wrong in fact would astonish any court if the question could be presented in a court.

Then, Mr. President, we have after all to come back to the question, Has this man been elected by the Legislature of the State of Louisiana for the term he claims here? The resolution under consideration says upon the facts now known (and they embrace not only the record I have read and commented upon, but the facts that were so ably commented upon by the Senator from Arkansas, [Mr. GARLAND,] that I have not thought it necessary to look into that branch of the case at all) the sitting member is not entitled to the seat. And whenever that question comes up, as long as I hold a seat in this Senate, and he claims a right by virtue of the election made by that illegal body that called itself a legislative assembly, I shall be compelled to vote against it.

Mr. HILL, of Georgia. Mr. President, on the 11th and 12th of May I had the honor of submitting my views at length to the Senate in this case. Since then several gentlemen have addressed the Senate, one only, I believe, making or attempting to make anything of a legal argument purporting even to reply to what I then said. Other gentlemen have seen proper to allude to me personally, without attempting to assail the argument which I submitted. I promised the Senate that I would at an early day when I could get the floor notice some of the points that had been made in this connection. I now propose to do so, and with this I trust be rid forever of this case as far as I am concerned.

In order that what I say may be distinctly understood, I desire to restate in brief form three propositions which, in my opinion, cover every issue in this case.

The first proposition is this: Each State establishes her own Legislature; with the Legislature thus established by the State the Constitution deposits the authority of choosing Senators; in admitting Senators to their seats the Senate recognizes the body choosing them as being the Legislature established by the States. An attempt by this Senate to enlarge the authority to ascertain or recognize the Legislature established *by* the State into a power to establish a Legislature *for* the State is a plain attempt at usurpation, and is void. The body pretending to elect KELLOGG was never established by the State of Louisiana to be her Legislature, and therefore never had authority to choose a Senator. KELLOGG, therefore, never had a title to the seat, and his retention by the Senate without a title is a continuing violation of the Constitution, and a continuing fraud on the State of Louisiana.

The second proposition is this: If it be assumed that this Senate can inquire not only "what is the Legislature established by the State," but can also declare that a body not so established is nevertheless the lawful Legislature of such State, then such inquiry can only be complete when the Senate has ascertained for itself the legality of the elections of the members composing such body.

In 1877 the Senate first resolved to reject the Legislature established by the State, and to inquire for itself "who were the lawful Legislature of Louisiana," and resolved to take no evidence but the certifi-

cates of the returning board, and refused to receive any evidence to show that these certificates were forged and fraudulent and the result of a conspiracy between KELLOGG and the returning board to make a false Legislature. The evidence showing this fraudulent conspiracy was not presented or considered in 1877, and is now for the first time before the Senate to be considered and passed upon.

The third proposition is this: In 1877 the only issue considered or passed upon was the legality of the Packard legislature *as evidenced by the certificates of the returning board only*. There was no inquiry into the regularity of the election of Senator, assuming that body to be the Legislature. The charges now made are that, assuming that body was the Legislature, there was no quorum of certified members present, but that absent members were recorded as present and were personated by others, and that a false journal was made to show a pretended quorum, and that those who were present were induced to vote for KELLOGG by force, bribery, and other corrupt practices.

These charges have never before been made, considered, or passed upon, and the evidence fully sustaining the charges has never before been taken.

These three propositions cover exactly the points in this case. In the first I say that there can be no final, conclusive, binding decision, because it would make the decision of this Senate superior to the Constitution, because if a man is not chosen by the Legislature, as the Constitution requires, he can never by the decision of this Senate acquire a legal title to a seat in this body, and until he has a legal right to it he is subject to be ejected, and ought to be ejected whenever that fact is known. On the other two grounds I say that the evidence now submitted was never submitted before, was not known, was not taken, was not presented on the trial in 1877. Therefore it never was submitted and passed upon and did not enter into the judgment then rendered.

Now, Mr. President, I desire to notice first of all the statement by the Senator from Wisconsin, [Mr. CARPENTER.] I shall not notice all his points. I wish to notice two or three of what he evidently considered his strongest points, for the purpose of showing how far from the law the Senator was.

In the first place the Senator read from the opinion of the Supreme Court of the United States rendered by Chief-Justice Taney in the case of Luther *vs.* Borden. I read this portion of the decision taken from the Senator's own speech, and I call the attention of the Senate to it, for the difference between this decision as made by the court and then as stated by the Senator himself, actually punctuates the difference between myself and the Senator, for the decision rendered by the court is simply the position taken by myself.

Chief-Justice Taney said:

> Under this article of the Constitution it rests with Congress to decide what government is the *established* one in the State. For as the United States guarantee to each State a republican government, Congress must necessarily decide what government is established in the State before it can determine whether it is republican or not. And when the Senators and Representatives of a State are admitted into the councils of the Union, the authority of the government under which they are appointed, as well as its republican character, is *recognized* by the proper constitutional authority.

Note that language. What is the emphatic word in that sentence? No man can escape it. "Under this article of the Constitution it rests with Congress to decide" what? What is the government of a State? No, sir. To set up a government in a State? No, sir. To overrule the decision of the State as to what is her government? No, sir. What does the court say?

> It rests with Congress to decide what government is the *established* one in a State.

Established by whom? Established by what authority? Not by Congress. The power of Congress is to ascertain what government is the established one in a State; that is, what government is established by the State. So it says:

> And when the Senators and Representatives of a State are admitted into the councils of the Union the authority of the government under which they are appointed, as well as its republican character, is *recognized* by the proper constitutional authority.

What government is recognized? The power of the Senate is to recognize, not to create, a government; not to go into the State and dispute with the State as to what is her government, but the very term "recognized" is used. The Senate recognizes the government established by the State.

Now, for the purpose of showing the difference between the Senator and the court, and therein the difference between the Senator and myself in this case, let me read the language of the Senator himself when he undertakes to repeat this decision in his own language. Here is what he said:

He—

Taney—

> says that the power of determining what is the government of a State *rests with Congress* under that clause of the Constitution which compels us to guarantee a republican government to every State.

Taney said no such thing. The Senator in intending to quote the decision of Taney leaves out the main word in Taney's decision. Taney never said Congress had power to determine what is the government of a State. Taney said that Congress had power to decide what government "is the established one in a State," bringing in another power to establish an act already done. Not that Congress ascertains what government it, Congress, establishes, but what government is the established one in a State, by the authority, of course, of the people of that State.

So in the admission of Senators this Senate has no authority to decide what is the Legislature of a State in the sense of controverting the decision of the State on that subject, or in the sense of establishing a Legislature, but the Senate simply recognizes the body established by the State to be her Legislature, and the Senate has no other power. In other words, the power of the Senate is one of recognition only of that which exists, of that which is established by another power—the State.

Now, sir, I ask is there a member on either side of this Chamber who will risk his reputation for veracity—I will not say risk his reputation as a lawyer, I will not say risk his reputation as a judge, as a wise man—but is there any man on either side of this Chamber who will stand up before the country in this high council and risk his reputation for veracity by saying that the Legislature which sent the sitting member was ever established as the Legislature of Louisiana? Who established it? When was it established? By what authority was it established? There is not a member who will rise and assert it. Everybody knows the fact to be the reverse.

The Packard government, as it is called, had struggled for a while to be established. It was maintained in that struggle solely by the military power. It never succeeded in becoming established, and the moment the military power was withdrawn that moment the government fell, and this occurred before KELLOGG'S admission to his seat. What were called the Nicholls and Packard legislatures were both struggling to be established at the same time. They continued their struggle through the months of January, February, and March, the Packard legislature sustained by the military, the Nicholls legislature sustained by the people. When the military was withdrawn by order of the President, that moment the struggle ceased. What struggle ceased? The struggle to be established as the Legislature of the State. How did it cease? It ceased by the Packard government failing to be established and by the Nicholls government becoming absolutely established beyond dispute. The Packard legislature dissolved, disbanded, and the elected portion of it went into the Nicholls legislature, and that became the undisputed, established Legislature of the State. After that Legislature was thus established, Mr. Spofford was elected Senator to this body.

There can be no controversy as to the facts of this case. The only Legislature which in the language of Chief-Justice Taney was ever established in Louisiana from the 1st day of January, 1877, was what was known as the Nicholls legislature. I ask no better authority than that of Chief-Justice Taney. Strange to say the Senator from Wisconsin [Mr. CARPENTER] after quoting that decision establishing my proposition so directly uses this very remarkable language in the Senate of the United States:

> I am very sorry I cannot see the Senator from Georgia in his seat, because I should like to see what impression that language would make upon him after the speech he made the other day.

I had alluded to it in my speech and said that the language of Chief-Justice Taney had been misinterpreted and did not mean what the Senator now says it meant. The Senator himself cannot quote that language of Chief-Justice Taney without leaving out the strongest word of the sentence, because to have incorporated that word was a direct overthrow of the Senator's argument, and to leave out that word was a downright misrepresentation of Chief-Justice Taney's decision.

Another remark made by the Senator from Wisconsin I feel it my duty to notice. He said:

> As I understood the Senator from Georgia, the first premise of his speech was that the Senate could not determine which of two rival bodies was the Legislature of a State; that the State had the power to determine it; and that as often as the State changed front on the question and reversed its own decision as to what body had been its Legislature before we were bound to follow it and unseat a Senator we had seated according to their own first decision.

I should not care to notice that if nobody had made that statement but the Senator from Wisconsin. But other Senators have fallen into the same error. The Senator from Ohio [Mr. PENDLETON] has made this singular statement, and coming from a distinguished lawyer professing to adhere to a strict construction of the Constitution it did startle me:

> It has been urged in this connection with much force that the rule is absolute, unvarying, of universal application; that the Senate must follow the decision of the political powers of the State as to which body is the Legislature of the State. Doubtless such decision is of persuasive authority—

Very persuasive—

> but I cannot agree that it is conclusive upon the Senate. That decision may be changed—

That is, the decision of the State may be changed—

> A forcible or a peaceable revolution, or a mere change of public opinion in its fitful mood, might reverse a decision once made; and this latter decision might by the same means be again reversed. Can it be gravely contended that the Senate must follow all these changes and seat, unseat, reseat, and again unseat a man elected by one of these alleged Legislatures?

But the honorable Senator from South Carolina, the Senator who sits near me, [Mr. BUTLER,] made the same mistake. He said:

> But when the Legislature, the senatorial constituency, the electoral body prescribed in the Constitution to appoint a United States Senator, has acted and sent

one or more persons to the Senate with credentials in due form of law, and when the Senate has taken jurisdiction of the person or persons, and after investigation of the merits of their respective claims, has seated one of them, the State has no further control over that person as a Senator.

* * * * * * *

After a person has been thus seated in the United States Senate the State cannot six, twelve, or eighteen months afterward say to the Senate, "The Legislature which sent A B to you as my Senator was not my lawful Legislature, and A B is not my representative in your body. This is my lawful Legislature, and it has elected C D. Seat him and turn A B out."

Each of these Senators has drawn an inference from a plain constitutional statement for which inference there is not the slightest foundation whatever, and I must be pardoned for saying an inference which ignores the whole character and system of the Government under which we live. What! Because we say that the Senate is bound to recognize the Legislature established by the State authority it follows that when a man has been once seated who was elected by a recognized Legislature, by an established Legislature, as often as another Legislature may be established so often must there be a denial by the Senate to the person occupying the seat! The statement is remarkable. The Constitution says in plain language that a Senator shall be chosen for six years; and when he is once chosen by a legal body, he is chosen for the constitutional term of six years. How, then, does it follow, because the State should determine in the first instance what is her Legislature, that a revolution in the State would undo what the State has previously legally done? That is the error, an error completely answered in my reply to the Senator from Massachusetts, [Mr. HOAR.] When what the Senator calls a constitutional Legislature, "the senatorial constituency," once elects a man, the question of his right to a seat for six years is at end. If it were possible that the Legislature should change a thousand times in political conviction, that would not change that which was done by a legal Legislature while that legal Legislature had existence.

But I said the inference drawn by the Senator from Wisconsin, by the Senator from Ohio, and by the Senator from South Carolina from the premises I laid down ignores the whole character of this Government. They talk glibly as though a State could change her Legislature at will. The State can do no such thing. The gentlemen ignore the great fact that in this country we do not live under a pure democracy; we live under a constitutional form of government, and when a Legislature is once established in a State legally, and by the authority of the State herself, the whole people of that State cannot change that government except in the method pointed out by the constitution and laws. If, therefore, in the State of Louisiana, or any other State, the people establish a Legislature under their constitution and laws, they cannot destroy that Legislature at will; they cannot change it at will capriciously every six months, every few days, as these Senators seem to think. They can only change their government in the method pointed out by their constitution.

Mr. BUTLER. The Senator certainly does not desire to misrepresent me; but he does misrepresent me when he says I claimed any such power or authority for a State. On the contrary, I stated exactly the opposite. Now, the Senator is putting me in the position of claiming that a State can change her Legislature when she pleases. Just exactly the contrary is what I insist upon.

Mr. HILL, of Georgia. The Senator does not see the point.

Mr. BUTLER. I do not think anybody else sees the point made by the Senator.

Mr. HILL, of Georgia. I do not give way for such remarks. I say this: the Senator has stated that if my position be true the inference he draws follows, which he denies to be correct. He denies the correctness of the inference, and therefore undertakes to deny the correctness of the premise that I laid down. That is the argument the Senator from Wisconsin, the Senator from Ohio, and the Senator from South Carolina each made. They deduced their own inference from the premise stated by myself, and because their inference is absurd then they want to infer that my premise was absurd. There is the folly. I do not wish to misrepresent any Senator.

I say that if the people of a State establish their own Legislature and the Senate seats Senators in this body sent by that Legislature, the Senate thereby recognizes the Legislature established by the State. I say the Senate has no power to go into a State and recognize a Legislature for itself not established by the State. It is the duty of the Senate to take the Legislature established by the State; that is my premise, and the Packard government never was established by the State of Louisiana. You cannot take a representative from that government. The Nicholls government was established by the State, and you are compelled to take the representative from that State government.

Then come Senators and say, "If we admit your premises that we are bound to take the government recognized and established by the State, and that the power of the Senate is one of recognition, then it would follow that as often as the State changes we should have to change." I am amazed that intelligent gentlemen should attempt to deduce such an inference from such a premise as that and then undertake because their inference is wrong to show that the premise is wrong. I say they are not authorized to draw such an inference because the inference itself ignores the whole constitutional character of the Government under which we live.

How could a State change capriciously when she pleased, how could a State which has a legal Legislature elected for two years change that Legislature every month or every six months? We do not live under a pure democracy, we live under a constitutional government, and the people can change their government, they can change the constitution, that is true, but they must change the constitution in the manner pointed out by the constitution itself and by the laws of the State. A mob cannot change the government, and even when the State changes her government or her Legislature she does not annul anything that was done legitimately by the government that formerly existed. Everything the government has done while it has legal existence is valid, even though the State by due forms of law may change subsequently her government. My own State in 1877 called a convention of the people in the manner provided by the constitution and framed a new constitution, and in that new constitution, which was submitted to the people and ratified by them, she cut off the terms of the members of the Legislature who had been previously elected; but that previous Legislature had been legal when it acted. The State changed it, but she did not seek to undo anything that had been done by that Legislature while it had legal existence. That Legislature sent me to the Senate, and that Legislature made laws, and those laws remain of force. Whatever is done by a valid, legal Legislature remains valid though the State changes her constitution and orders a new Legislature, even during the time for which the old one was elected. I am amazed that intelligent gentlemen like the Senators from South Carolina, distinguished constitutional lawyers, should draw an inference so absurd from premises so absolutely correct, and then seek to destroy the premises by showing that the inference is absurd.

That is all on that point. I do not care to notice any other point made by the Senator from Wisconsin. These two points are important because they relate to the constitutional character of the Government under which we live, and I do not care that such representations, especially when they seem to be taken up by the Senator from Ohio and the Senator from South Carolina and repeated, should go on the record unchallenged.

Mr. President, I believe as far as the other side of the Chamber is concerned in this case I have done with them; I have no further quarrel with them, but I am going to have some very plain words with my friends on this side of the House. I understand the gentlemen on the other side; I understand the logic of their position, and they understand it themselves, and the country will understand it; but there is one thing I do not understand, and the country will not understand, on this side of the House. The gentlemen on the other side assume and believe, or pretend to believe—and I must assume that they do believe—that the Packard government was a legal government. They assume to believe that the Packard legislature that sent the sitting member here was the valid Legislature of the State. How they can believe it, I do not know; but they do believe it. But that is not the condition of the two honored gentlemen from South Carolina on this floor. They admit that the Packard government was not the legal government; they admit that the sitting member sits here without authority of the Legislature of his State; and yet they say they are going to vote to continue him here. That is the proposition. I confess my inability to understand it. Only two Senators on this side have thus far committed themselves to that proposition on the record, and as I do not wish to misrepresent them in the slightest degree, for they know the high esteem I have for them, I wish to quote exactly what they said. The Senator from South Carolina [Mr. HAMPTON] who spoke first, speaking of the Nicholls government, used this language:

That this government was the legal one I have never for a moment doubted; nor do I entertain a doubt that the court would have so decided had a proper issue been brought before it for its decision on this point.

The Senator puts on record that he has never doubted that the Nicholls government was the legal government of Louisiana, and of course, therefore, it follows that the Packard government was not the legal government, for there could not be two legal governments in Louisiana at the same time. The other Senator from South Carolina [Mr. BUTLER] said this:

I tell that Senator—

Addressing the Senator from Alabama, [Mr. PRYOR]—

frankly that as an individual I do not believe the Packard legislature was a lawful Legislature; but unfortunately this Senate decided by a majority of its members that it *was* a lawful Legislature, and made this decision before he and I became members of this body.

Now, I want to know how it is that gentlemen can get up here and put on record a formal admission that a man is sitting in this body who was never elected by a legal Legislature, and yet have such a lawful title to sit here that they will not vote to exclude him?

Mr. BUTLER. I ask the Senator this question: He expresses some surprise that I should admit that in my individual judgment the Packard legislature was an illegal body. I repeat that opinion, that it was illegal. I went on further to say that that, in my judgment, was not the question before the Senate; that a majority of the Senate had decided it was a legal Legislature. Now, Mr. President, if that is so astounding to the Senator, will he answer me this question: Does he believe the judgment of the electoral commission which declared

the present Chief Executive of this country to be the President of the United States a lawful judgment?

Mr. HILL, of Georgia. I do not believe that was a correct judgment; I will not say it was not a lawful judgment. Yes, I think it was lawful, but I deny that it was a correct judgment. But the Senator in all this debate must keep in mind the distinction between an erroneous decision and an unconstitutional decision. The first is only voidable, the latter is absolutely void.

Mr. BUTLER. Let me ask another question: Does he believe that the judgments of the Supreme Court in the recent cases from Virginia and Tennessee are right and proper? Will he set them aside?

Mr. HILL, of Georgia. I do not think they are right and proper, and whenever I get where I have the authority to pass upon them I will say under my oath that they are not right and proper.

Mr. BUTLER. I would ask the Senator if he has not had it in his power ever since the 4th of March, 1877, to have passed upon the title of Mr. Hayes as President of the United States?

Mr. HILL, of Georgia. Never, except once. I was a member of the House when the decision of the electoral commission was submitted to the House, and I voted against it.

Mr. HAMPTON. May I interrupt the Senator a moment? Did I understand him to say that he voted against the bill for the electoral commission?

Mr. HILL, of Georgia. I did not. I said I voted against the correctness of the decision by the electoral commission.

Mr. HAMPTON. Was the Senator opposed to the electoral commission?

Mr. HILL, of Georgia. That has nothing to do with this question. I will come to that. I know it has been stated by the honorable Senator that the electoral commission had made a decision to which we had all submitted. Certainly the electoral commission, after they had been clothed with authority by law to make it, did make a decision——

Mr. BUTLER. Then I would ask the honorable Senator if the Senate of the United States was not clothed by authority of law with the right to make the decision which it made in 1877?

Mr. HILL, of Georgia. Let me attend to the other question first.

Mr. BUTLER. It is entirely germane to the question I had just propounded.

Mr. HILL, of Georgia. The Senator does not allow me to get through with one question. I go back and repeat that the electoral commission made a decision by authority of an act of Congress which clothed them with the power to make that decision. I do not believe that decision was correct, and I did not feel bound to vote for it because the electoral commission had decided it. The House of Representatives and the Senate in joint convention accepted by a majority vote that advisory decision and they declared Mr. Hayes President of the United States. It was not the electoral commission that did it. In determining that question I had the exquisite pleasure of voting against the decision of the electoral commission. Now the Senator asks whether we have had authority to review that since. By no means. That is the very point. The jurisdiction that determined whether Hayes was elected President or not was the two Houses of Congress of the Forty-fourth Congress. They dissolved by operation of law on the 4th of March, 1877, and no other tribunal after that Congress disbanded has been clothed with authority to pass on that question.

Mr. BUTLER. I should like to ask the honorable Senator if when the electoral law was drafted the reservation was not distinctly made that it should not preclude the right to inquire into the regularity of that proceeding. As I remember the proceedings it was distinctly reserved, and the honorable Senator could at any moment have moved in the matter.

Mr. HILL, of Georgia. The Senator is mistaken again. There could be no right reserved to exercise a jurisdiction that did not exist by the Constitution; but the right was reserved by the bill creating the electoral commission that the courts might exercise whatever power they had on the subject. That was all. There was no new power given. There was no power given to the courts which they did not before have. The truth is it was a snare. It reserved no power. The courts could not review a political decision rendered by the joint convention of the two Houses.

Mr. BUTLER. I understand the honorable Senator to say he voted for a snare; he voted for the electoral bill; he voted with the understanding that the Supreme Court or some other tribunal had the right to review their proceedings.

Mr. HILL, of Georgia. I did not vote for the bill because that provision was in it, but in spite of it. That provision was only a nullity. The Senator is exceedingly captious to-day. I voted for the bill for other reasons. I repeat there was no power in the courts to review and reverse a decision rendered by the two Houses of Congress in counting the presidential vote. If there was a power to review that decision, would the Senator get up here and say, "I believe that decision was unconstitutional, and yet because it had been so once decided I was bound by it? I would continue in force an unconstitutional decision?" Surely he would not; and yet the Senator comes here and says, "Oh, here is a man sitting in this body who was not chosen by the Legislature of the State, and yet because the Senate once seated him, though his opinion is that he has no right here under the Constitution, for he denies his right, yet since the decision of the Senate he will vote for retaining him."

Mr. BUTLER. That is not a fair statement of my position. I vote to retain him here because under my opinion of the powers of this body it cannot unseat him after having seated him upon the merits of his case. That is the point.

Mr. HILL, of Georgia. That has been stated. Of course the Senator means by his statement that he recognizes a power in the Senate superior to that of the Constitution; and that, with all due deference to my friend, is the startling feature of his position. The Constitution says that no man shall sit here who was not chosen by the Legislature; the Constitution says that this Senate shall be composed of two Senators from each State chosen by the Legislature thereof. That is what the Constitution says.

Mr. BUTLER. But, Mr. President, in pursuance of that, the Senate has once said that he was sent here by a proper Legislature, and I say that in my judgment we have not the power to oust him. I do not take the ground the Senator puts me upon, that I am voting to retain him in his seat. There is a great deal of difference between voting to retain him in his seat and voting to oust him. I say I do not believe we have the constitutional power to oust him after the decision in his favor.

Mr. HILL, of Georgia. The Senator will not be able to escape. I am not trying to do the Senator injustice. I have the kindest feelings personally for him. He will not be able to escape. He is asked to vote for a resolution from the Committee on Privileges and Elections which simply says that KELLOGG was not chosen by the Legislature of Louisiana.

Mr. BUTLER. If the Senator thinks I desire to escape the result of any action of mine, he is very much mistaken; but I undertake to say that before I acknowledge myself convicted I will select some other tribunal than his own unsupported opinion.

Mr. HILL, of Georgia. Well, Mr. President, I am not condemning the Senator. I am only condemning his position, and it is from the logic of the argument he cannot escape.

Here, I repeat, is a resolution reported from the Committee on Privileges and Elections, simply declaring as a fact that the sitting member was not chosen by the Legislature of Louisiana. The Senator admits that he was not chosen by the Legislature of Louisiana, and yet says he will vote against that resolution, and he says he will vote against that resolution because the Senate once seated him, and thus he admits that the Senate has the power to seat a man in this Senate with a legal title who was not chosen by the Legislature! Why, does my friend support the Constitution according to the view of a majority of the Senate as to what the Constitution is? When he swears to support the Constitution, he says he will support the Constitution as he understands it, not as somebody else understands it. Now, if the Senator will take the position the gentlemen on the other side take, that the Packard government was the lawful government, however absurd I think that might be in point of fact, I could understand him. I understand them.

Mr. BUTLER. I do not support the Constitution as the majority of those on the other side understand it; nor do I support it as the Senator from Georgia understands it, by any means. I should be very sorry to base my judgment on either construction of that instrument. I support it as I understand it, not as the Senator interprets it nor as the majority of those on the other side interpret it.

Mr. HILL, of Georgia. Let us take the Senator's support of it as he understands it. He understands it that KELLOGG was not chosen by the Legislature of Louisiana.

Mr. BUTLER. That is my individual opinion.

Mr. HILL, of Georgia. And he will not vote according to his individual opinion.

Mr. BUTLER. I say if this were a question brought up for the first time, my vote would be very different. I say that if I had to pronounce judgment in the first instance I should vote very differently. If the Senator had made his speech in the first instance, if he had brought in this resolution in the first instance, it would have presented a very different issue; but the Senator is making a speech three years after which would have been very appropriate three years ago. I think he jumps entirely over the main question; he dodges the main question, has dodged it from the beginning. He has gone clear over it. There is the difference between the Senator and myself. I am discussing the issue before the Senate; he is discussing the issue which was before the Senate three years ago; and hence I say I choose not to select his interpretation of the Constitution to-day. I think his position would have been entirely correct three years ago when this question was first considered.

Mr. HILL, of Georgia. I admit that the Senator says that the reason he does not vote to unseat the sitting member is because the Senate has previously decided to admit him on the merits. Then he votes to keep a man here whom he admits was not chosen by the Legislature, because the Senate has previously said so. Can the Senate change the Constitution? Was the Constitution different three years ago from what it is now? Did he not say a moment ago that he voted according to his own convictions of what the Constitution was, and not according to what the Senate said; and yet he turns around now and reminds me that he votes so because the Senate has said so. What I am bringing my friend to is the point that he who believes that this

man was not chosen by the Legislature cannot be protected in voting to keep him one hour because the majority of the Senate once thought otherwise. The Senate has no power of absolution. It cannot change the Constitution. You must vote on a constitutional question, not once but always, according to your own convictions. It will never do to establish the doctrine that a man is relieved from his own judgment and convictions of what is a constitutional provision by any vote of the Senate. You can do this and it is your duty to respect the decisions of the Senate thus far: when a majority have admitted a man here that we believe has no authority from a State to sit here, we of course have to recognize him as a Senator, we have to recognize the fact that he draws the pay and has an actual seat, he is a Senator *de facto;* but whenever opportunity is presented for us to vote on the question as to whether he has a title to sit here, it is our duty then to rescue the Constitution from continued violation. Because a State has been denied her equal suffrage in this Senate for a portion of a term is no reason she should be denied that equal suffrage the whole of the term. The State alone can give title to a seat in this body. A resolution by the Senate seeking to give a title over the State is void. If the Senator would have voted three years ago to exclude KELLOGG because the State had given him no title to sit here, he is equally bound now to exclude him because the State has not yet given him a title, and has sent us her most solemn protest against allowing KELLOGG to sit here against her will and without her authority. This is the logic the Senator can never escape.

Mr. President, I assure the Senator that if I endeavor to state the argument strongly it is not from personal unkindness. I desire to strip the point naked so that all the world can see it. My friend has made a mistake, a grievous mistake; it is a dangerous mistake; it is a mistake, I respectfully submit, to which he cannot adhere, when he says that he will vote to continue a man in this body for any cause in the heavens above or in the earth beneath who he admits has not been chosen by the Legislature of his State. If it was the last hour of his six years' term and the question was up if he should remain here for that hour, it would be our duty under the Constitution to say "no," because the Constitution is imperative that this Senate shall be composed of persons chosen by the Legislatures, and you cannot allow any man to sit here if you believe he was not chosen by the Legislature.

It is not a question of discretion; it is a question of duty. The Constitution, not a resolution of the Senate, is the supreme law. It is the Constitution we swear to support. We cannot keep that oath and support a resolution or continue a resolution which we admit was unconstitutionally adopted.

Mr. BUTLER. Will the Senator allow me to interrupt him now?

Mr. HILL, of Georgia. Yes, sir.

Mr. BUTLER. He says I have made a great mistake, one from which I cannot escape.

Mr. HILL, of Georgia. That is my opinion.

Mr. BUTLER. He will pardon me for saying that I think he has made a most grievous mistake in thrusting this discussion upon the Senate at this time, one which he cannot persist in with safety. And when the Senator threatens me with making this issue sharp before the country I desire to say to him that he may make it just as sharp as he pleases, and I will meet it whenever and wherever and at whatever time the Senator makes it. Let me say that to him.

Mr. HILL, of Georgia. I wish to say distinctly to the Senator that I decline to yield any more for the purpose of such interruptions as that.

Mr. BUTLER. Well, Mr. President——

Mr. HILL, of Geogia. I decline to yield further.

Mr. BUTLER. I ask the Senator, then, not to misrepresent and put me in a false position.

Mr. HILL, of Georgia. I am not misrepresenting the Senator. He has represented himself in his speech, and I have read it. I have no objection to his standing by it; and I am not threatening the Senator. It is strange that it affects him in this manner. I am not threatening the honorable Senator when I say I wish to strip the issue naked! I want to make the Senator feel as I feel, if I can, because I want nothing in the world but the truth shown and the right to triumph. That the Senator is honest in his opinion I do not question a moment. I am not assailing his motive; I am simply discussing his position, and I will illustrate it now further.

This same clause says:

> The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years; and each Senator shall have one vote.

Now there are four things required to organize the Senate under that clause: (1) that each State shall have two Senators; (2) that they shall be chosen by the Legislature; (3) that they shall be chosen for a term of six years, and (4) that each Senator shall have one vote. One of these provisions is just as imperative as the other. If the Senator can say that because the Senate has once seated this man that will justify him in keeping him here though he believes he was not chosen by the Legislature, then if the Senate should seat a man for three years, for twelve years, for twenty years, for life, the Senator would be bound to sustain that according to his position. If the Senate should override that other clause, which says that each State shall have two Senators, and give each State three Senators, or only one Senator, as in this very case, would the Senator feel bound to sustain that resolution? If the Senate should say that each Senator should have two votes, or that each Senator should have half a vote, would the fact that this Senate so overrode the Constitution be obligatory? Has the decision of this Senate superior power and authority to the Constitution of the country? And yet it is just as imperative that the Senator shall be chosen by the Legislature as that he shall be chosen for six years, as that each Senator shall have one vote. If the Senator believed that the body which chose KELLOGG was the Legislature as a matter of fact, established by the State, that would change the case I admit. If he took the position the gentlemen on the other side take, that this was a legal Legislature, that would make a difference I admit. But when the Senator concedes that he has no doubt that this man was not chosen by the Legislature, then he is compelled to yield the whole position, because he must support the Constitution, not as the old majority say, not as this majority say, not as any man says the Constitution is, but as the Senator himself believes it to be.

I leave this branch of the subject.

There is another thing I do not understand; and it is this: If Senators believe, if this side of the Chamber believe, that when this Senate passed judgment in 1877 that judgment was final and conclusive, and that it is not competent for the Senate to review and examine it, pray tell me why did you order this investigation? These gentlemen talk here as though it was this committee that ordered this investigation, as though this committee is pressing this thing unnecessarily; and my friend says he thinks I am unnecessarily thrusting this discussion before the country. What am I doing? What is the committee doing? Nothing on earth but obeying the instructions of the Senate. The Senate ordered the committee to make this investigation; the Senate ordered us to make this report; and because we made the investigation, and made the report under the orders of the Senate, gentlemen arraign us. I do not wish to misrepresent Senators on that subject. This very question was decided on the 7th day of May, 1879. A resolution was then adopted, and after elaborate debate, instructing the Committee on Privileges and Elections to take testimony, to make this investigation.

Mr. BUTLER. Then I understand the resolution did not order the committee to make report.

Mr. HILL, of Georgia. Certainly; every committee is to make report when it makes investigation. We have to investigate first.

Mr. BUTLER. Take testimony.

Mr. HILL, of Georgia. We had when we took testimony to act on it.

Mr. BUTLER. That is the question.

Mr. HILL, of Georgia. No question at all. The very object of ordering an investigation is to have a report. While that resolution was pending the Senator from Vermont [Mr. EDMUNDS] offered an amendment to allow the inquiry to go—

> So far only as relates to any charge in said petition of personal misconduct on the part of said KELLOGG which may render him liable to expulsion or censure.

And the Senate voted that down, and the honorable junior Senator from South Carolina voted in the negative. Then, again, the Senator from New York [Mr. CONKLING] offered this amendment:

> *Provided*, That the inquiry hereby authorized shall be confined to the matters alleged in the memorial of Mr. Spofford to be new and different from those covered by the previous inquiry.

There was an admission that there were matters in the memorial which never had been before the Senate hitherto, and the Senator from New York moved to confine the new investigation to them, and this Senate voted that down, and the honorable junior Senator from South Carolina voted also against it.

Again the Senator from Vermont [Mr. EDMUNDS] moved another amendment:

> *Resolved*, That, recognizing the validity and finality of the previous action of the Senate in the premises, the Committee on Privileges and Elections, to which was referred the memorial of Henry M. Spofford, &c.

Recognizing the finality of the former decision, says Mr. EDMUNDS, and we voted that down, the honorable junior Senator from South Carolina again voting in the negative. Then the Senator from New York [Mr. CONKLING] offered another amendment:

> *Provided*, That such questions in said case as were fully considered and adjudged in the former investigation shall not be reopened under this resolution.

And they voted that down, the honorable junior Senator from South Carolina [Mr. HAMPTON] voting against it.

Mr. BUTLER. Will the honorable Senator now read the resolution under which the committee did act?

Mr. HILL, of Georgia. That is not before me, but I will read the substitute offered.

Mr. BUTLER. I would like to have the resolution under which the committee acted read.

Mr. HILL, of Georgia. I will find that presently. Here was the substitute offered by the Senator from Massachusetts [Mr. HOAR] to the resolution reported by the committee:

> Strike out all of the resolution and insert the following:
> "Whereas, on the 25th day of October, 1877, the Senate unanimously adopted the following resolution:
> "'*Resolved*, That the Committee on Privileges and Elections on the contested cases of WILLIAM PITT KELLOGG and Henry M. Spofford, claiming seats as Senators from the State of Louisiana, and whose credentials have been referred to such committee, be authorized to send for persons and papers and administer oaths, with a

view of enabling said committee to determine and report upon the title respectively on the merits of each of said contestants to a seat in the Senate.'

"And whereas, on the 26th day of November, 1877, said committee reported the following resolution:

"'*Resolved*, That WILLIAM PITT KELLOGG is, upon the merits of the case, entitled to a seat in the Senate of the United States from the State of Louisiana for the term of six years, commencing on the 4th of March, 1877, and that he be admitted thereto upon taking the proper oath.

"'*Resolved*, That Henry M. Spofford is not entitled to a seat in the Senate of the United States.'

"And on the 30th day of November, 1877, the Senate adopted said resolutions; and thereafter, on the same day, said KELLOGG was duly admitted to take the oath, and took his seat as a Senator from said State for said term: Therefore,

"*Resolved*, That said proceedings are final and conclusive upon the right of said KELLOGG and the claim of said Spofford to such seat for said term."

And that the honorable Senator from South Carolina, the junior Senator, voted against, and that resolution the Senate voted down. Six times in one day this democratic Senate solemnly voted that this question was not finally passed upon. Six times in one day you solemnly voted it was not *res adjudicata*, and should be reviewed. If one vote of the Senate by a republican majority in 1877 was so solemn as to justify the Senate in keeping a man in this seat who was not chosen by the Legislature, pray tell me how much respect would the Senator have for six votes of the Senate passed on the same day that the case was not *res adjudicata?*

My friend [Mr. VANCE] calls attention to the seventh vote:

Mr. HOAR. I move to amend the original resolution by adding thereto the following:

"And said committee was further instructed to inquire and report whether bribery or other corrupt or unlawful means were resorted to to secure the alleged election of the memorialist."

And that was adopted unanimously. Republicans and democrats wanted that testimony. Seven times, then, the Senate solemnly voted that this case was not precluded either as to KELLOGG or as to Spofford. Here is the resolution adopted by the Senate, and see how imperative it is. You voted seven times to reopen the case, and then you voted to pass this resolution:

Resolved, That the Committee on Privileges and Elections, to which was referred the memorial of Henry M. Spofford, praying permission to produce evidence relating to the right of Hon. WILLIAM PITT KELLOGG to the seat in the Senate held by him from the State of Louisiana, and in support of the claim of said petitioner thereto, be, and said committee is hereby, instructed to inquire into the matters alleged in said petition; and for that purpose said committee is authorized and empowered to send for persons and papers, administer oaths, and do all such other acts as are necessary and proper for a full and fair investigation in the premises.

Mr. BUTLER. Now, I should like to ask the honorable Senator if that is not the resolution under which the committee acted?

Mr. HILL, of Georgia. Certainly.

Mr. BUTLER. I ask him, then, if the seven propositions which he has said we voted down, thereby asserting that the question was not *res adjudicata*, were not amendments to that resolution?

Mr. HILL, of Georgia. Certainly.

Mr. BUTLER. Were they not amendments offered by Senators on the opposite side of the Chamber for the purpose of defeating the resolution? I ask the Senator that.

Mr. HILL, of Georgia. I do not know what the purpose was. They seem intended to limit the investigation to new matter only.

Mr. BUTLER. I ask the honorable Senator if they were not offered by what is called the opposition in the Senate?

Mr. HILL, of Georgia. I read that, and stated the name of the Senator moving each amendment.

Mr. BUTLER. Then I ask the honorable Senator if he does not know that on almost every bill which the opposition attempt to defeat they submit amendments for the purpose of defeating it and which commit the Senate to nothing when voted down?

Mr. HILL, of Georgia. The republicans insisted that the vote of 1877 was final and could not be reviewed, and offered amendments to carry out their views. The democrats insisted that the case could be reviewed, testimony could be taken, and voted down all the amendments seeking to deny or limit the investigation.

The amendment submitted by way of substitute could not have been for the purpose of defeating the motion except by declaring that the case was finally adjudicated, and if the Senate believed it was finally adjudicated it ought to have adopted that substitute. That is the point. My friend's question has no relevancy whatever. They moved to declare that what the Senate had done in 1877 was final and could not be reviewed, and if an investigation was ordered they sought by every means to limit the investigation to new matter. The Senate voted it down every time and reopened the case to full investigation, and when the proposition was distinctly made by the Senator from Massachusetts by his substitute that the whole matter was final and conclusive the gentlemen on this side said no. Now, read that in the light of the declarations made by the honorable Senator. Here is what the junior Senator from South Carolina said:

These authorities which I have cited are conclusive to my mind that in passing on election cases the Senate acts in a judicial capacity, and that when it decides such a case on its merits its action is final; it does not possess the lawful power to reverse or even review its action.

And yet seven times on the 7th of May, 1879, the honorable Senator who says that voted that it should be reviewed, voted that it was not final, and ordered this committee to make this investigation. And here is the other, the senior Senator's statement:

Second. The Senate expended its power under that provision of the Constitution which makes it the "judge of the elections, returns, and qualifications of its members "when it confirmed the judgment of a majority of the Committee on Privileges and Elections giving the seat to the sitting member, no motion to reconsider having been entered at the time of the rendition or at any other time.

The idea that the Senate's voting once on the question expended its power! Even courts are not limited to one judgment or trial. Then why did the Senate order the investigation a second time? Why did the Senate order the committee to do an unconstitutional thing? I acquit the gentlemen on the other side. They voted that it was final; they voted against this investigation; but every democrat who voted on this side of the Chamber voted to order a reinvestigation, voted that it was not final, voted it seven times in one day. The honorable senior Senator from South Carolina [Mr. BUTLER] did not vote, I admit, nor was he paired; but the junior Senator so voted every time. If you believed that this decision of 1877 was final, why did you order this investigation? If you believed with the junior Senator that the Senate had no power even to review, if you believed, in the language of the honorable senior Senator, that the power to review or examine was exhausted by the first decision, why did you order the second review? Why did you order an unconstitutional thing? Why did you order the expenditure of thousands of dollars from the public Treasury to do what you say we have no power to do? Why did you order this committee to do the most unpleasant work that a committee ever had to perform? Why did you order this committee to be stenched in a den of skunks for months in the execution of an unconstitutional and unnecessary order? Such corruption, such debased perjury, such bribery, such effrontery, such degradation of human nature in every shape and form, I never imagined could exist as I saw in this investigation. We obeyed your order; we spent thousands of dollars of the public money in executing the order; we stood submissive under the shafts of abuse and calumny, some of us pelted with filth, to execute your order; and when we had passed through it all, and when the money was expended, and when we had executed your instructions faithfully and we come here to report to you, you rise up in your places and most graciously say, "We do not think you had any right to do it; we do not think it was constitutional to review what was done in 1877."

Mr. HAMPTON. May I interrupt the Senator for a moment? I am not disposed to interrupt him at all.

The PRESIDING OFFICER, (Mr. JOHNSTON in the chair.) Does the Senator from Georgia yield?

Mr. HILL, of Georgia. Yes, sir.

Mr. HAMPTON. It is simply in reference to my vote authorizing the committee to act. It is well known, I suppose, to the Senator from Georgia, it certainly is to very many other members of that committee and to very many others in the Senate, there were a good many Senators who were opposed to having this committee authorized to make this investigation. I was one of that number, and I said at the time that if it was proposed to reopen the case I would not vote for the committee, and a good many others of my colleagues said the same thing. We were assured by some of the members of the committee that it was not the intention to reopen it; but the committee, an honorable committee of this body, came in and asked permission to collect evidence. We thought that a proper respect to them made it mandatory upon us that we should allow the committee to investigate; and I voted then with the committee, voted at the request of the committee, but I did not feel that I was committing myself in advance to resolutions, and in fact I did not think the committee was authorized to bring in such resolutions as they did, and without any consultation with the majority of the Senate.

Mr. BAILEY. Will the Senator from Georgia give me one moment?

Mr. HILL, of Georgia. Certainly.

Mr. BAILEY. In view of what has been said by the Senator from South Carolina, as one of that committee, I feel constrained by a sense of justice to myself to say that at the time this question was submitted to the committee I myself had formed no opinion upon the main question, which, as I conceived, was presented to the committee, and is to-day presented to the Senate, namely, whether the former so-called adjudication by the Senate was binding and conclusive. I expressed no opinion upon the question, for I had then really formed no opinion. I beg leave to say for one of that committee that I gave no such assurances as have been intimated by the Senator from South Carolina, nor do I remember that any other member of the committee gave to the Senator such assurances, either in public or in private. I feel constrained to say this much in justification of myself from what might seem to be an implied charge of bad faith made by the Senator from South Carolina.

Mr. HAMPTON. Mr. President——

Mr. BAILEY. Of course I do not understand the Senator to refer to me personally, for my relations with him are exceedingly pleasant.

Mr. HAMPTON. Nor to the committee, in the slightest degree. I was only saying what I had learned privately and what had influenced my action in regard to this matter; not that the committee had made any pledge, not that the members of it individually or privately had done it, but the understanding left upon my mind was that the committee desired to take evidence and collect facts, and bring all this evidence before the Senate, and leave it to the Senate then to determine whether they should take any other final action or review the action that had been taken before.

Mr. HILL, of Georgia. That last statement is correct to this ex-

tent: we all agreed that if there was no evidence to be taken other than that which was before the Senate in 1877, it would then be a question whether we would disturb or change the former judgment, especially as far as the regularity of the election was concerned; but it was alleged that evidence was suppressed in 1877; it was alleged that new evidence had been discovered since 1877. Whether you would reverse that judgment, therefore, on the ground of new evidence would depend upon the evidence when it came in. But the position of the Senator now is that no amount of evidence would justify a review. The position of the two Senators from South Carolina is that under the decision in 1877 the Senate had exhausted its power of review and no amount of evidence would be sufficient. If no amount of evidence would be sufficient why take any evidence at all? If the Senator voted contrary to his views of the power of the Senate in 1879, when he voted against this amendment and to order this investigation to accommodate the committee or because the committee requested it, I wish he would vote on the request of the committee again. But the Senator has no right to say he voted on the request of the committee. The committee requested nothing. The committee believed the investigation was within the power of the Senate and so reported. The Senate agreed with the committee and ordered the investigation. The committee acted solely from a sense of duty.

Mr. President, there is no escape logically from the position of Senators who hold to the doctrine that when the Senate had decided this question once it was decided finally and forever. If there is no power of review they had no right to order this investigation.

I want to say one more thing, that gentlemen not only ordered this investigation and compelled this committee to take this testimony, but now some of our friends have made very strange mistakes as to what the testimony is. I want to call the attention of the Senator from Ohio [Mr. PENDLETON] who took generally a more correct view of the law of this case, and who escapes the dilemma into which I think the gentlemen from South Carolina have placed themselves, by admitting the power of review, but he says the new testimony is not sufficient. I want to call his attention to the fact that he made a most remarkable mistake, and a mistake of fact that I think the Senator owes it to himself to correct. I will call his attention to it, and then he can examine it at his leisure. That Senator in his speech makes this statement:

> In this case it has been asserted in every form of phrase and expression that the State government of Louisiana was fraudulently in power, inaugurated and sustained by force and fraud, by false returns of illegal returning boards; that the Legislature which elected KELLOGG was never elected; that it never had a quorum; that its members were bribed; that it fell of its own inherent lifelessness, leaving no trace except KELLOGG'S election. But all these allegations—every one of them—whether of the contestant or the committee, tending to impeach the validity of the State government as such, or to question the complete organization of the Legislature, or affecting its action, were made before the Senate in 1877.

The Senator is vastly mistaken; there was nothing before the Senate in 1877 behind the certificates of the returning board as to the legality of the Legislature. The very evidence that Mr. Spofford proposed to introduce in 1877 which was excluded was the evidence attacking the fairness of the returning-board certificates. The Senate in 1877 refused to go behind those certificates. Mr. Spofford offered to show the complicity of KELLOGG in those frauds, but they rejected the evidence as immaterial. The Senator speaks of the charge of bribery, and says it was before the Senate in 1877. There was no such charge in 1877. There is none in the record; there was none before the committee; there was not a particle of evidence taken on that subject. Not a particle of evidence was taken on the subject of the want of a quorum, assuming the returning-board certificates to be correct. Now, we have taken evidence to show that there was a false quorum; that in truth there was no quorum; that absent members were recorded who were not present, and that absent members were personated. All that is new; none of it was before the Senate in 1877.

I tell the Senator if he will look at the question he will find that we were shut up in 1877 to the returning-board credentials. I think it but fair to ask the Senator to review his conclusion on the evidence, and I take the liberty of referring him to the able argument of the Senator from Arkansas [Mr. GARLAND] on this subject of the new evidence. The record abundantly shows that the republicans, including KELLOGG, admitted the bribery charge was a new one.

The Senator quotes me in his speech very unjustly, but I know he did not intend to do me injustice. He quotes remarks made by me to show that these questions were all passed upon by the Senate in 1877. I was showing in the remarks which the honorable Senator quotes, and in the speech which I then made from which he quotes, what we sought to get before the committee, and what we tried to get before the Senate—the evidence of frauds in the returning board and of KELLOGG'S personal complicity in those frauds, but the evidence was rejected by the committee and rejected by the Senate. Therefore it was never before the Senate. I respectfully ask the Senator to review his position upon that subject, and also the evidence of the want of a quorum, which, in my judgment, is conclusive.

Mr. President, I had intended to say what I have said in a very few brief words and to devote most of the remarks I intended to make to a very singular assault made upon me by the Senators from South Carolina. Why it was made I shall not inquire. But the Senators are not only content to take the position which they have taken, and which they no doubt honestly believe to be a correct position, they have not only been content to give their reasons for it to the Senate as they have done, but they have taken occasion, after all the tribulations through which this committee have passed, to turn upon the committee rather savagely, and to select me, as a member of the committee, upon whom to expend their polished satire and splenetic rhetoric. Certainly nothing has ever entered my thoughts inconsistent with the strictest personal honor on the part of the Senators from South Carolina. There were no two Senators on this floor for whom I had higher personal regard. There was no State represented on this floor which I could less desire to injure. It was perhaps because I felt the interest in the State and in the honorable gentlemen personally which has brought me into the trouble with them. I have felt, indeed I know, when friends differ the best remedy is plain language, and plain language I shall use, assuring the gentlemen that I intend nothing personally offensive to them. If I did not regard them as I do personally I should not notice what they have said. I do not respect a man who requires me to notice the vilest calumnies of men who stand covered with bribery and perjury before the country, but when honorable gentlemen like the Senators from South Carolina, standing justly high in the confidence of their State and justly high in my own confidence, go out of the way to give a meaning to language used by me which is not justified, and to make their own misconstruction of it the occasion for a personal assault, they must excuse me if I come back in proper tone and proper temper to give that proper attention demanded by my own self-respect.

Sir, simultaneously with my introduction into the Senate almost and my assignment to the Committee on Privileges and Elections the two cases from South Carolina and Louisiana were referred to the committee for investigation. The first work I was called on officially to do in committee was to examine those cases. I did so honestly and earnestly. I say to the Senator from South Carolina, (and I believe I speak the judgment of every democrat on that committee,) we had much greater trouble with his credentials than we had with those of Mr. Spofford. We did seriously doubt at one time whether he had been legally elected, because there was doubt as to whether there was any senate at all to the body of the legislature which elected him. But we were satisfied that he represented the will of his State, and the State of South Carolina had established as her true Legislature the one that elected the Senator from South Carolina. Therefore we became satisfied that he represented the Legislature that was established by the people of South Carolina and admitted him. Others labored more ably, none labored more earnestly, than I did to admit the Senator to his seat; and I say there is not a democratic member of that committee who did not feel and admit that the title of Mr. Spofford was far freer from doubt than his own, and that indeed there was not a member of the Senate who had a more unquestionable title than Spofford had, because he was elected by a Legislature after the factions had ceased and after they had all united in one body.

Mr. CAMERON, of Wisconsin. Will the Senator allow me a moment?

Mr. HILL, of Georgia. I am not dealing with you on that side now.

Mr. CAMERON, of Wisconsin. I understand that; but you are dealing with the Committee on Privileges and Elections, of which I happen to be a member.

Mr. HILL, of Georgia. Not your side of it.

Mr. CAMERON, of Wisconsin. I understood the Senator to state that when the case of the Senator from South Carolina was considered by that committee the democratic members of the committee had serious doubts, &c., concerning the question as to whether——

Mr. HILL, of Georgia. I said we had serious trouble with one question.

Mr. CAMERON, of Wisconsin. What I rose to say was this: that the case of the Senator from South Carolina was never, according to my recollection, considered at all in the committee.

Mr. HILL, of Georgia. That is wholly unnecessary.

Mr. CAMERON, of Wisconsin. The committee was discharged from the consideration of his credentials, and the case was not considered at all in the committee.

Mr. HILL, of Georgia. That is a wholly unnecessary interruption. The committee did consider it, but they took no testimony. The briefs of both sides were submitted to the committee. That the committee was discharged before they concluded their labors, I admit. The committee did not come to any decision about it, that is true.

Mr. CAMERON, of Wisconsin. It was not taken up.

Mr. HILL, of Georgia. The Senator will excuse me; I cannot yield. The individual members of the committee did consider it, I considered it, the democratic members of the committee considered it, and I found there was no issue of fact whatever between Corbin and Butler; it was nothing but a legal question, and that legal question is the one I stated.

Mr. CAMERON, of Wisconsin. If the democratic members of the committee considered it, the committee did not.

Mr. HILL, of Georgia. I decline to yield any further.

The PRESIDING OFFICER, (Mr. INGALLS in the chair.) The Senator from Georgia must not be interrupted without his consent.

Mr. HILL, of Georgia. Now, then, I will speak to the Senator frankly. He says in his speech with some spleen that I have been disappointed. I have been. I do not blame the Senator, I am not

censuring him; but I tell him with a frankness and a candor which is due from one to another who are entitled to mutual esteem that I did not dream when I was laboring so earnestly to do what was right to admit him to his seat in this body that I was admitting strength which would be used to keep a better title out. I did not dream when South Carolina stood redeemed and disenthralled from the carpet-bag government that South Carolina in this Senate would take the lead in keeping up a most odious carpet-bag misrepresentation upon Louisiana.

Mr. BUTLER. I will say in reply to that that the Senator from South Carolina has done nothing of the kind.

Mr. HILL, of Georgia. I have told the Senator I did not attack his motives; I am speaking of the fact.

Mr. BUTLER. The honorable Senator goes on and he puts me in a false position, and puts words in my mouth that I have never used, and it goes upon the record. If he will just confine himself exactly to what is the record and what is the fact, I will promise him not to interrupt him. Of course I have no right to interrupt him if he objects to it, but when he undertakes to say indirectly or by implication that South Carolina has imposed upon Louisiana one single hardship which they could prevent he states that which is not so.

Mr. HILL, of Georgia. The Senator had as well keep his temper.

Mr. BUTLER. My temper, Mr. President, is perfectly preserved. I am not in the slightest degree excited.

Mr. HILL, of Georgia. I must decline any further interruption from the honorable Senator.

The PRESIDING OFFICER. The Senator from Georgia cannot be interrupted against his consent.

Mr. HILL, of Georgia. I have said so once before, and I hope the Senator will respect it. His interruptions are unnecessary. I have put no words in his mouth and the statement that I misrepresent him is not so. I submit that I am speaking of the effect of the Senator's position. That is what I say. I did not expect when I was voting for him to come into the Senate that he should ever take the position that he has taken. I will not say what his position is. Let it be judged by his own language. I am not attacking his motives.

The Senator says I spoke of whisperings. Where did those whisperings come from, he asks. "How did they reach the Senator's ears; through the corridors of his imagination, or from the polluted lips of busy scandal-mongers?" And the Senator adds other indignant interrogatories as though the whisperings were new to him. Whisperings come from my imagination? I remind the Senator that the report from this committee was made on the 22d of March, and on the 24th of March an elaborate article appeared in the Charleston News and Courier demanding that the report, which the writer evidently had never read, should not be adopted, and insisting that the honor of Southern Senators was involved, and that KELLOGG ought to be retained in his seat. That was the first democratic paper in the Union that took position in behalf of KELLOGG, so far as my observation extended, and it was two days after the report was made. That elaborate article was quoted extensively here in the republican papers. Is the News and Courier a "busy scandal-monger?" When the Senator was delivering his philippic against myself a gentleman placed in my hands a letter taken from the Charleston News and Courier, and at the very moment he was calling upon me to know where those whisperings came from I read this:

To the editor of the News and Courier: I have talked to-day with prominent citizens, business men, and others.

This was written the day after the speech delivered by the junior Senator from South Carolina, [Mr. HAMPTON.]

They all agree that Senator HAMPTON has acted well and in good faith in the Spofford-Kellogg matter.

"Good faith!" What is that?

We are all sorry for Louisiana. Our sympathies are with her; but we cannot forget the fact that KELLOGG was seated at the same time as our gallant Butler. If one is unseated the other may be hereafter.

And he goes on in that strain. "Charleston, May 14, 1880"—signed, "a merchant"—published in the Charleston News and Courier. Now, if the Senator becomes excited and gets mad because these things are "whispered," he ought not to point his wrath at me. He has not become offended, that I am aware, at the Charleston News and Courier. He has not called that to account. Why this discrimination? I alluded to the rumor to stamp it, as I said, with scorn and indignation.

The News and Courier gives the fact as a reason why southern Senators should allow this man to remain in his seat. Yet it has not aroused the ire of the honorable Senators from South Carolina.

The first democratic paper in the United States to take position against the unseating of KELLOGG was the leading democratic paper of South Carolina.

The first democratic Senator on this floor to announce his determination to vote against unseating KELLOGG was the junior Senator from South Carolina.

The only Senators who, up to this time, have taken the ground that there was no constitutional power to unseat KELLOGG are the two Senators from South Carolina.

And now disclaiming all personal unkindness, I must review the speeches of the Senators on this case.

The junior Senator could not have had the facts of this case in his mind when he was writing the speech which he delivered. I know the high character of that Senator, and I would do nothing to impair it even if I could; but it is not possible to mistake the thoughts which engaged the Senator while he was writing his speech. He was not writing a speech which even attempted to fit the facts of this case or the issues of this case, and I will convince even him of it. He was writing a very handsome speech for delivery in the Senate, but he was not writing a speech on the Spofford-Kellogg case. Now I will call his attention to his speech in the light of the facts of the case and see how it will read. The first point I call attention to is this:

But on the matter under consideration such is the wide difference of opinion prevailing among some of the ablest jurists in this body that the unprofessional mind seeks in vain for light to guide it to a correct judgment. Amid this great and fundamental diversity of opinions among the eminent members of the legal profession a layman like myself may well be excused for entertaining grave doubts as to the settled principles of law which should determine this important issue, and he surely cannot be blamed if, disregarding the mere technicalities of law, he strives earnestly to conform his action to the fixed and immutable principles of justice.

In this sentence the Senator from South Carolina admits he is in doubt as to the law which will determine this case, and yet he gives the benefit of that doubt to his enemies against his friends. Yet he gives the benefit of that doubt to the representative of a body which he admits was not the Legislature against the representative of a body which he admits was the Legislature; he gives the benefit of that doubt to a resolution of the Senate against the Constitution of the country. He gives the benefit of that doubt to the sitting member against the supreme voice of Louisiana with her protest before him.

Now, talking about unprecedented things, talking about revolutionary matters, I ask the honorable Senator if he can find in history, religious, moral, or political, an instance before where a man ever gave the benefit of a doubt to the wrong against the right according to his own admissions? He gave the benefit of a doubt to what he admits to be a wrong against what he admitted to be a right. Then again, the reason of the honorable Senator, the manner in which he gives the benefit of this doubt, is by getting rid of the technicalities of the law and conforming his action "to the fixed and immutable principles of justice." I thought there was no way on earth to sustain KELLOGG in his seat in this body except on a technicality, on a very narrow technicality. The matter was contested on a technicality—the technicality that the Senate had once passed on it. This is the ground on which even KELLOGG's friends seek to sustain him, but the Senator throws away the technicality and he concludes to *sustain* KELLOGG *upon the principles of "fixed and immutable justice!"* Keeping a man in a seat to which he admits he was not elected by the rightful Legislature upon the principles of fixed and *immutable justice!* The Senator was not thinking when he wrote that sentence of the facts of the case, or I am sure he would not have written it. I will now call the attention of the honorable Senator to another clause. He says:

I recognize painfully in my own case how difficult it is to throw off the shackles forged by partisanship; to oppose the mandates of party, or to rise superior to that spirit of sectionalism which has so often exercised its malign influence on matters which have come before us.

I appreciate as fully as any one the necessity of party organizations, and I acknowledge to their fullest legitimate extent the obligations of party fealty. But there are sometimes questions upon which we are called to act which each man must determine for himself; when his only guide must be his conscience and his sense of right. Such a question is the present one; one as grave, as important, as far-reaching in its consequences as ever came before this body, and one which demands all the prudence, all the wisdom, all the patriotism which should belong to this the highest as well as the most conservative legislative tribunal in this country. We cannot afford, in a matter of such vital consequence, to draw party lines or to be governed by sectional prejudices. We are here as representatives of great coequal States, and in judging of the rights of any of these States we are bound to do equal and exact justice to all, while we protect inviolate the rights and privileges of our colleagues. Any proceeding in this Chamber that could be considered as at all revolutionary or even irregular would shock the sentiment of the whole country, and would shake the settled foundations of the Government itself. We cannot tamper rashly with the principles, the rules, the traditions even which have obtained in the organization of this august body. Some may treat these fears as groundless while they boldly seek to establish new precedents, but I seek safety and repose in clinging to the old, for I realize how dangerous innovations may become.

I have analyzed that sentence honestly and earnestly five or six times; I have analyzed it to the best of my ability, and I must say to the honorable Senator from South Carolina that I am unable to extract but two ideas from the whole paragraph I have read. One is an implication that the democratic party in this Senate is proposing to do something "harsh," something "sectional," something revolutionary, something unprecedented, and that they are employing party discipline, and party mandates, and party plans, and party organization to enforce the observance of the party to such purposes. The other idea is that the Senator finds himself so much purer, so much better, and so much more patriotic than his party that he bursts the shackles of party in this case, rises above his party, and asserts his independence of his party in this particular case for "conscience sake and from a sense of right."

I do not doubt the truth of the latter proposition. I would not question the honorable Senator's claim to great purity or attempt in the slightest degree to derogate from it, for I know he is entitled to all he claims; but the Senator did very great injustice to the democrats of the Senate and to the party with which he usually asso-

ciates when he put them in the position of proposing something revolutionary, something unprecedented, or something sectional in order to lift himself to a high pedestal of conservative patriotism and lofty Unionism above his party.

After that the Senator quotes some very beautiful poetry. The only objection to it is that I do not see any idea in it that has the slightest relation to this case. The Senator then proceeds to make an argument and read authorities in support of his position. I am not going to refute them. I simply say to the Senator that every point he has made and every authority he has read in this case is conceded, and they have no more application to the facts and issues in this case than has the Decalogue or the Lord's Prayer or the Sermon on the Mount. The position he has taken and the authorities he has read apply to the *regularity* of an election by a *conceded legislature*. They have no reference whatever to the case now before the Senate. The very fundamental question involved is the denial of what he himself admits to be true, the *existence* of a Legislature at all. That is why the Senator fell into error. Whoever directed his attention to the authorities he read misled him.

The Senator then closes his argument with a very beautiful peroration in which he speaks highly of his own bravery and gallantry during the war. I have no objection to that, but what has that to do with the question? He reminds us that he carried the palmetto flag to the front amid the shower of shot and shell and bladed steel, and that he was in a very dangerous place, while somebody else was at a safer place. I say to the Senator—and he will pardon me for doing it—suppose he was brave during the war, and does not everybody admit it? Does that make the Packard government a legal government? Does that make a resolution of the Senate declaring it a legal government constitutional? Because the Senator was brave in war and carried the flag to the front, does that justify him or justify us in keeping a man in the Senate not chosen by the Legislature of a State?

Sir, the Senator is unfortunate and Louisiana is peculiarly unfortunate. Of all the States which have been called on to pass through the terrible reconstruction ordeal Louisiana was most defiled, most maligned, and most plundered, and South Carolina was next. When the people of Louisiana saw their sons shot down in the streets of New Orleans on the memorable 14th of September, it was no mitigation of their sorrow to be told that those who shot them down were under the command of a brave and gallant ex-confederate general, and I tell the honorable Senator disfranchisement will not be less galling to Louisiana because its infliction is continued under the lead of South Carolina!

The honorable Senator was not content with a glowing eulogy upon his own brilliant daring in the war, but he takes occasion also to inform the world that while he was following the palmetto flag on bloody fields that were "shot-sown and bladed thick with steel" he did not enjoy the benefit of the precepts and example of myself. He intimates that while he was gaining honors I was enjoying a place of safety. My only answer is that I was brave enough during the war to discharge as best I could the duties of the position to which the people of Georgia, without any solicitation from myself, saw proper to call me; and I am brave enough now neither to boast of my own achievements nor to depreciate those of the Senator from South Carolina.

Sir, it did not require a war to make me a Union man. I am and ever have been one from conviction. I feel under no obligation or necessity to yield one jot or tittle of the equal rights and privileges of the Southern States and people under the Constitution in order to appease northern wrath or to show to the northern people that I have been effectually thrashed into a condition of submission and subservient loyalty. No Southern State shall be deprived of her equal suffrage in this Senate by my vote or without my protest. I would surrender a thousand seats in this body before I would give one vote to place or retain a man here who I admitted was not chosen by the Legislature and did not represent the sovereign will of the State, or to exclude a Senator from his seat who I admitted was chosen by the Legislature and therefore did represent the sovereign will of his State. One military record may suffice to restrain the just indignation of the people for such a vote, for it seems a man who has a military record can do anything with impunity, but ten thousand military records would never be sufficient to satisfy my own conscience with such a vote.

Sir, I believe the only basis of either permanent or honorable union is the Constitution. That Constitution I will demand as fearlessly for the South as I will grant it cheerfully to the North. Contrary to that Constitution I will consent to no sacrifice of a single right or privilege of any State or citizen of this Union.

Wars, especially civil wars, are more damaging in their sequel than in their progress. Their moral slaughters exceed their physical slaughters.

Mr. Burke says:

> Civil wars strike deepest of all into the manners of the people. They vitiate their politics; they corrupt their morals; they pervert even the natural taste and relish of equity and justice.

One chief source of these evils is found in the fact that civil wars breed a species of heroes who invariably use their war exploits as means of securing civil positions, and to this end keep alive the spirit of the conflicts. These remarks do not apply to the Senator from South Carolina.

Montesquieu says:

> If Europe should ever be ruined it will be by her warriors.

Mark the words, not by her wars, but "by her *warriors*."

The people of the United States have been struggling for fifteen years to recover from the consequences of a very unnecessary civil war.

The greatest obstacle to success has arisen from the difficulty in freeing the people from the spirit engendered by the war. The Southern States and people have suffered a double portion of the evils which have followed civil war. At the North, a large number of politicians are ever appealing to the war passions to justify any wrong, any outrage, any slander upon the southern people. At the South, we have a few who are ever magnifying their own exploits in the war in order to further their individual schemes, to excuse their deficiencies, failures, mistakes, and shortcomings in every respect. Sensational writers are exciting the war pride of the people with glowing accounts of achievements which were not known to or reported by Lee, and fifteen years after the war ended we are having eloquent speeches to the soldiers which the soldiers never heard.

It is pleasant to know that these remarks apply to but few. There are men in this presence who carried the confederate flag bravely to the front whom no man can discover without inquiring of others.

Mr. President, there are other things I had intended to say. I had intended to take up and review the speech of the senior Senator from South Carolina more particularly, but it is wholly unnecessary, because it has no more relevancy to the question at issue than did the speech of the junior Senator from South Carolina. They are all made upon the theory which is conceded by the report of this committee. The gentlemen did not touch the real issues that are before the Senate. I invoke them again to consider the real issues which are before the Senate, and not the issues decided in the Bright and Fitch case and other similar cases which have no relevancy whatever to the present case.

Mr. President, one more remark and I shall close. The Senator from Massachusetts [Mr. HOAR] some time ago called for the list of members of the Packard legislature who had been appointed to offices under the Federal Government. At my suggestion, and with the aid of my friend from Missouri, an elaborate list has been prepared, giving the names.

Mr. HOAR. The Senator errs, if he will permit me; I did not call for the list.

Mr. HILL, of Georgia. I do not see what you meant; you said the statement had been made that there were so many of these members of the Legislature of Louisiana appointed to office, and it had not been retracted, implying thereby it was not true, and I promised to produce it.

Mr. HOAR. If the Senator will pardon me, I should like to say that I suppose he prefers to state the facts as they happened, and would be unwilling to fall into any error. When the Senator stated that the Senator from Massachusetts called for a list I replied and corrected him that I did no such thing. I do not think he makes his original assertion good by saying that he did not know what I meant.

Mr. HILL, of Georgia. The Senator rose in his place and called the attention of the Senate and of the country to the fact that the statement had been made that thirty-nine or some other number of members of the Packard legislature had been employed in the custom-house and other Government offices, and he said the statement had not been retracted.

Mr. HOAR. Exactly; that is true.

Mr. HILL, of Georgia. Is not that calling for the list?

Mr. HOAR. No, sir.

Mr. HILL, of Georgia. The Senator is exceedingly critical; he is hypercritical, not hypocritical. I say I have had prepared the list; here it is in full, showing in the employ of the Government eight senators of the Packard legislature, three senate officers, thirty-two members of the house, and four house officers, receiving in the aggregate $49,400 a year.

Mr. CAMERON, of Wisconsin. Does the list show the date of their several appointments?

Mr. HILL, of Georgia. No, simply because the Blue-Book and the list of custom-house employés furnished the committee do not always give the date. It seems from the evidence and the list that most of them were appointed in May and June last.

Mr. CAMERON, of Wisconsin. I think perhaps that might be quite important. I have no doubt it would show that very many of them were appointed long before Mr. KELLOGG was elected.

Mr. HILL, of Georgia. No, sir, I beg your pardon; only a few of them, three or four perhaps. The evidence shows that a few were appointed before this investigation began, and the evidence shows that nearly every one of them has been appointed since the investigation began. A few of them were appointed before, but as the evidence shows they were appointed in pursuance of promises made at the time the votes were given; for instance, take the man Twitchell, a senator; the witness swore that he was given $300 by KELLOGG and promised an office if he would vote for him, and sure enough, some time after the inauguration of Mr. Hayes, Twitchell was appointed

consul to Kingston. He is among them. The whole number is forty-seven members and officers of the Packard legislature who are in the employ of the Government. We got some of this information, most of it, from the list furnished before the committee by the custom-house officers, but that list was incomplete. We had to go to the Blue Book for a portion of it and to the testimony for a portion of it. I will furnish this list to be printed as part of my remarks without reading it all, and the gentleman can see it in full in the RECORD:

Members of the Kellogg legislature (?) who voted for Kellogg for United States Senator and afterward received Federal offices.

Names.	Present offices.	Salaries.
Senators:		
J. E. Breaux	United States deputy collector, New Orleans	$1,500
J. H. Burch	Clerk in New Orleans custom-house	1,400
A. J. Dumont	United States deputy collector, New Orleans	3,000
P. Landry	Laborer in New Orleans custom-house, at 25 cents per hour, or	720
Isaac Sutton	Laborer in New Orleans custom-house, at 25 cents per hour, or	720
M. A. Twitchell	Consul to Kingston, Canada	1,500
George W. Bryant	Laborer in New Orleans custom-house, at 25 cents per hour, or	720
A. J. Wakefield	Night inspector, New Orleans custom-house, at $2.50 per day, or	900
Eight senators receive directly		10,360
Officers of the senate:		
C. C. Antoine, president	Clerk and storekeeper in New Orleans custom-house	2,000
Peter E. Bechtel, first secretary	Clerk in New Orleans custom-house	1,600
W. H. Green, assistant secretary	United States inspector, New Orleans custom-house, at $3 per day, or	1,080
Senate officers receive		4,680
Members of the house:		
Charles F. Brown	Laborer in New Orleans custom-house	600
O. H. Brewster	Surveyor-general, New Orleans	1,800
R. J. Brooks	Night inspector in New Orleans custom-house, at $2.50 per day, or	900
John E. Brown	Messenger in New Orleans custom-house	600
J. M. Carville	Inspector in New Orleans custom-house, at $2.50 per day, or	900
W. J. De Lacy	Inspector in New Orleans custom-house, at $90 per month, or	1,080
W. H. Dinkgrave	Clerk in New Orleans custom-house	1,600
Louis Desmarais	Cashier in New Orleans custom-house	2,500
A. De Joie	United States gauger at New Orleans	Fees.
Fred. Fobb	Night inspector at New Orleans custom-house, at $75 per month, or	900
George Gracien	Laborer in New Orleans custom-house	600
O. Holt	Inspector in New Orleans custom-house, at $3 per day	1,080
J. J. Johnson	Laborer in New Orleans custom-house, at 25 cents per hour, or	720
Robert Johnson	Night inspector in New Orleans custom-house, at $75 per month, or	900
Milton Jones	Revenue boatman at New Orleans	600
C. W. Keeting	United States gauger at New Orleans custom-house	1,500
William Kern	United States deputy collector at New Orleans	1,000
W. G. Lane	United States commissioner at New Orleans	Fees.
A. H. Leonard	United States district attorney at New Orleans	200
John G. Lewis	Night inspector, New Orleans custom-house, at $75 per month, or	900
A. E. Milon	Night inspector, New Orleans custom-house, at $75 per month, or	900
M. L. McMillen	Postmaster at New Orleans	3,500
W. J. Moore	Gauger, New Orleans custom-house	Fees.
Henry Raby	Night inspector, New Orleans custom-house, at $75 per month, or	900
L. J. Souer	United States appraiser, New Orleans	3,000
George A. Swazie	Laborer in New Orleans custom-house	600
L. A. Snaer	Storekeeper, New Orleans custom-house	1,440
Jules Severgnes	Night inspector, New Orleans custom-house, at $75 per month, or	900
J. R. Stewart	Captain of night watchmen at New Orleans custom-house	600
George Washington	United States boatman, New Orleans	750
L. Como	See testimony of James Lewis on page 649 of evidence	
R. Simmes	Appointed since he testified. (See telegram in evidence)	
Thirty-two members of the house draw annually		30,070
Officers of the house:		
Robert Guichard, chief clerk	Examiner in New Orleans custom-house	1,800
William Vigers, assistant clerk	Night inspector, New Orleans custom-house	900
T. A. Clover, minute clerk	Assistant weigher, New Orleans custom-house	1,200
Charles H. Merritt, house postmaster	Inspector New Orleans custom-house, at $3 per day, or	1,080
Four house employés		4,980

RECAPITULATION.

8 senators receive	$10,360
3 senate officers receive	4,680
32 members of the house receive	30,070
4 house officers receive	4,980
47 members and officers draw	49,490

NOTE.—The above does not include the pay of fee-offices or the salaries of Hons. L. Como and R. Simmes, for the reason that their names are not in the United States Official Register or the certified "roll of employés" (evidence, page 1220) of the New Orleans custom-house; nor does it include the salaries of the relatives and representatives of Senators T. T. Allain, William Harper, Percy Baker, G. Y. Kelso, David Young, Thomas and B. Stamps, and Representatives E. Martin, S. Thomas, P. J. Watson, and R. J. Walker, appointed to Federal offices since KELLOGG's pretended election, amounting to about $8,000 in round numbers.

Mr. President, I hope I have closed my connection with this case forever. I have done nothing but my duty as I understood it to be. I say again to the Senators from South Carolina, that while I have a very positive way of expressing myself, I have not meant to be offensive. I did not mean to be unjust to the Senators. I could not see the impropriety of alluding to a rumor when it was published in the papers of their own State, and when it had been republished all over the country and read upon the very floor of the Senate. If I have said anything that any gentleman can construe to be unjust to anybody I regret it, and would freely and gladly correct it. There are no members on this floor for whom I have entertained a higher personal regard than the honorable Senators from South Carolina. I will not question the honesty of their convictions. In my judgment, looking at the law as I do and the facts as I regard them, they have taken a most unfortunate position, I think a most incorrect position, and I am constrained to believe that the honorable Senators have contented themselves with an abstract legal view without reading all of the testimony in this case.

Mr. BUTLER. Mr. President——

Mr. KELLOGG. Will the Senator from South Carolina yield that I may correct a matter that is personal.

Mr. BUTLER. I cannot yield now.

The PRESIDING OFFICER, (Mr. INGALLS.) The Senator from South Carolina declines to yield.

Mr. BUTLER. I regret that I am just out of a sick bed. I do not suppose the honorable Senator from Georgia is aware of the fact that he was striking a sick man to-day.

Mr. HILL, of Georgia. No, I was not, I assure him. I did not mean to strike any way.

Mr. BUTLER. The gentleman says he does not mean to strike, and yet he does strike.

Mr. President, before I proceed to notice some of the remarks of the honorable Senator which are purely personal to myself, I beg to call the attention of the Senate to some of his observations as to the action of the committee and the authority under which it acted in making this investigation. If the Senator had confined himself to

what in my judgment was proper language in characterizing the action of the majority of the Senate in voting upon the various amendments submitted by the other side to the resolution ordering the investigation, I do not know that I should have had any objection to his saying it, but when he undertakes to say that this majority, in passing the resolution which I shall presently read, ordered the committee to do an unconstitutional thing, and knew it to be unconstitutional, and by doing so placed themselves in an awkward dilemma, I submit that he goes further than he is justified by the resolution itself.

Mr. President, what did that resolution authorize the committee to do? Did it authorize the committee to make a report, to make recommendation? Not at all, The resolution simply says that they are instructed to inquire into the matters alleged in said petition, and there it stops.

If the committee, under the driving-wheel of the honorable Senator from Georgia, had exceeded their powers, had been guilty of what the honorable Senator from Indiana calls *ultra vires*, and find themselves in a dilemma, pray what right has the honorable Senator from Georgia to come here and charge me with being placed in an unfortunate dilemma from which I cannot extricate myself?

Mr. BAILEY. Will the Senator permit me to make a statement, and, perhaps, to correct him?

Mr. BUTLER. Certainiy.

Mr. BAILEY. The Senator from South Carolina by his language, I do not suppose intentionally, involves the Committee on Privileges and Elections, and prefers a charge against them of having exceeded their instructions. If the Senator will only look into the book which lies before him he will find that the Legislature of Louisiana memorialized the Senate of the United States, and complained that one who was not chosen by the Legislature of that State occupied a seat upon the floor of the Senate, and asked redress from the Senate, and asked that the Senator chosen by the true and lawful Legislature might be seated. That memorial, as well as the resolution that he has read, was referred to the committee. When the Senator speaks of the committee being driven by the Senator from Georgia to its conclusions and to its conduct I am prompted to say that the Senator has gone beyond what is the fact, and beyond what I suppose in a cooler moment he would express.

Mr. BUTLER. I submit that I make no reflection whatever upon the committee. I am here defending myself against the charges of one of that committee.

Mr. BAILEY. Precisely, but I trust that the Senator in his personal matters will not involve the committee and make charges against the committee that are not founded in fact and not justified by their conduct.

Mr. BUTLER. I certainly do not mean to make any charges whatever against the committee which are unworthy, but in my deliberate judgment I think I can say without disrespect the committee have exceeded their authority.

Mr. BAILEY. That is the Senator's opinion, to which he is entitled of course.

Mr. BUTLER. That is my judgment on that point, and I say upon authority of the resolution which I have just read they were simply instructed to take the testimony and report that testimony to this body, as I understand it, and there stop. Now the honorable Senator from Georgia comes in here and says that the majority of the Senate has instructed the committee to violate the Constitution and make a crusade upon the State of Louisiana, in which the Senators from South Carolina have led.

Mr. President, the Senator has placed himself in that position, and not the Senators from South Carolina, in the discharge, so far as I am concerned, and I believe I speak the sentiments of my honorable colleague when I say in the conscientious discharge of our duty without regard to the opinion of the Senator from Georgia.

The Senator from Georgia reminds me that when he worked as hard as he did to have me seated in the Senate in my contest with Mr. Corbin he did not expect to see me leading the crusade against Louisiana; that there were very grave doubts about the legality of my claim. Is that the position and language of a conscientious Senator who sits here and is sworn to discharge his duty according to the Constitution? Would he permit his personal friendship for me, his regard for South Carolina, to induce him to violate the Constitution in recommending me to be seated? As obliged as I am to the Senator, as profoundly obliged as I am to him for that great work, let me say to him that it has not increased my respect for his character. Would a Senator who comes here and charges every other Senator who disagrees with him upon a purely legal, constitutional question, with being guilty of absurd and ridiculous positions, indulging in flippant language—would that strict Senator permit himself with that doubt upon his mind to recommend even his dearest friend to be seated on this floor?

I say to the Senator that if he has that doubt I absolve him now, and ask that he make a motion to vacate my seat, and I will join him in it. I absolve him now and forever from any obligation, either personal or political, under which he feels himself bound to me.

I do not propose to hold my seat in this Chamber by any such claptrap as that; and I say that without meaning to be disrespectful. I have nothing to do with the opinions of the honorable Senator upon this or upon any other question. I have said nothing about my military record; I have said nothing about his civil record; but let me tell the honorable Senator that even his high superior position in all questions of that kind does not justify him in assuming a patronizing air toward even so humble a person as myself. He must pardon me if upon this floor, where we are all at least supposed to be equal, I decline to defer to his high and superior qualifications in that respect.

It is not a question of records. I have no doubt the honorable Senator in the sphere which he felt called upon to act during the four years of bloody war discharged his duty as conscientiously as I did; not the slightest, and I make no point upon him; but when we come into this Chamber to discuss a question which appeals to our consciences and our judgments, the honorable Senator must not assume to be superior to any of us, because I tell him it will not be tolerated.

He refers and makes complaint that I took exception to his reference to the whisperings about the Capitol in regard to some bargain, and undertakes to justify himself by quoting from the Charleston News and Courier. But the Senator's memory is defective; he must certainly have forgotten that that question was met, and met promptly days before, when the honorable Senator from Maine [Mr. BLAINE] introduced the very identical question; and the Senator cannot with any degree of propriety throw himself back now upon that editorial from that paper to justify his innuendoes when he made his argument here. I then branded it, as I brand it now, a base and malignant calumny. It was therefore a voluntary, unjustifiable piece of assumption on the Senator's part to get up in my presence and attempt to defend me againt insinuations of that kind.

Mr. President, I have no idea of going into anything like extended remarks this evening. When the Senator gets up and makes the charges which he does here, and because the majority here rejected amendments introduced by Senators on the other side of the Chamber for the avowed and unquestioned purpose of defeating the resolution, undertakes to say that anybody was thereby committed to anything, the honorable Senator is not dealing fairly. It occurs every day in the Senate. The honorable Senator illustrates it every day of his life by voting against amendments which as separate propositions would perhaps result in a very different vote in this body when they are put distinctly and not as riders. Although he did vote seven times against those amendments (I did not remember it) not a Senator on this side felt that he was thereby committing himself to any proposition. The majority were simply yielding to a demand of the Committee on Privileges and Elections to be instructed "to inquire into the matters alleged in said petition," and "to send for persons and papers," and that was all. When the Senator comes here and says as he did awhile ago that we authorized the committee to review and report, he was not justified by the language of the resolution.

Mr. VANCE. Will the honorable Senator allow me to say as a member of that committee one word?

Mr. BUTLER. Yes, sir.

Mr. VANCE. I wish to say that the power to inquire into the matters set forth in the petition of Spofford embraced the whole question, for Spofford alleged that he had new proof, that he had been denied the proof on the former hearing, and that he was the proper representative of the Legislature of the State of Louisiana. Therefore the grant of authority to inquire into the matters alleged in the petition conferred ample authority upon the committee, in my opinion, for everything that we have done, and more too.

Mr. BUTLER. Precisely, to inquire into the matters alleged in the petition, simply that; but I see no authority in the resolution to make any report or recommendation whatever. I do not see in the language of the resolution——

Mr. HILL, of Georgia. The petition.

Mr. BUTLER. The petition is not of much value to the Senate. The petition was not the instructions under which the committee acted; the resolution of the Senate was your warrant for what you did, and that was all.

Now, because the committee have exceeded that authority (I say it without disrespect to any of the committee) and placed themselves in that position, they come in here and attempt to retort by saying that I have placed myself in an unfortunate and lamentable position. Mr. President, I think I shall survive it. I think I shall survive it much longer than the honorable Senator from Georgia, for I would not be surprised if in one month he were taking exactly the opposite ground; perhaps in one day he may be exactly on the other side.

Mr. President, I merely apologize to the Senate for having occupied the time that I have. I have nothing whatever to do with the controversy which the honorable Senator gets into with Senators on the other side. Upon a previous occasion I stated, somewhat at length, my deliberate judgment about this whole matter. I will venture to say in criticising the argument of the honorable Senator, as he has done very freely mine, that he has not touched the question before the Senate. With one single bound he has leaped clear out of it. He has not touched the main, naked issue which he threatened to make before the country. He has talked about the Constitution and about the power of the State to organize its own Legislature, but he has distinctly and industriously in his whole argument avoided the main, leading question in this issue, which is: Can the Senate vacate a judgment made deliberately after an investigation upon the merits in this form of proceedings?

Now, Mr. President, I undertake to say that this resolution might

have been offered to the Senate for the purpose of ascertaining if the sitting member might not be expelled on the testimony; it might have been with reference to an inquiry in that direction, for the honorable Senator from Arkansas [Mr. GARLAND] has stated in his argument that he thinks there is enough of unworthiness to vacate the seat. Is his position an absurd one, an untenable one? I say the Senate might be entirely consistent in passing that resolution of instruction and then in voting against the resolution which the committee have honestly had the opinion they had the right to prepare and have brought here for our action.

I am glad to hear, as we often do hear whenever the Senator speaks, it is always pleasant to hear him declare that during the war, before the war, and now he is, has been, and always will be a Union man. Well, I am glad to hear that. If we do not hear it, it is not because he does not tell us so often enough. But, Mr. President, there were about four years of the history of this country when I did not hear much of that. I did not hear so much about his Union principles during about four years of the history of this country. Perhaps he thought it prudent at that time to suppress his real opinions.

But really, Mr. President, the honorable Senator, it seems to me, might have avoided the whole of this splendid burst of indignation which he has just given us the benefit of, asking me all the time to keep quiet and not be excited. I was not excited. He might have avoided the whole of it if on reading my remarks on this question he had simply risen and said: "The Senator has misconceived and misconstrued my language." I should have been spared the very painful duty of animadverting as I thought I had a right to do upon him. We might have been spared this splendid burst of indignation and eloquence with which he has entertained us to-day. We might have been spared a repetition of that old tale or assertion of his that he was always for the Union, always will be a Union man, always has been a Union man.

But I do not know, Mr. President, if in allowing the Senate to enjoy the benefit of the eloquence of the Senator I have not done them a service in calling that forth.

Mr. WILLIAMS. If nobody else desires to speak on this subject now, I move——

Mr. TELLER. I desire to submit one suggestion.

Mr. HAMPTON. I ask the Senator to yield to me for a moment.

The PRESIDENT *pro tempore*. Does the Senator from Kentucky yield?

Mr. WILLIAMS. Yes, sir.

Mr. HAMPTON. I think that I might very properly plead the statute of limitations in regard to any necessity to reply to my friend from Georgia; but there is one fact that I wish to state. Whatever may have been charged against him it never has been charged that he was not a master of language. He has told us to-day that he speaks plainly. He certainly has been whenever I have had the pleasure of hearing him always able to make himself thoroughly understood; and therefore when about a month ago he closed his speech by an allusion to South Carolina and the Senators from South Carolina I was so amazed and so struck and so doubtful whether I comprehended him aright that before I ventured to answer him the next morning I sent to the Stenographer and got the notes of what the Senator had said. I read them carefully and without pretending to be the hypercritical master of English that he is, I could not but think that in those remarks he went out of his way to warn the Senators from South Carolina and to impute to them motives which were not justifiable. I repelled then that insinuation as I thought, as I felt it deserved; and had the Senator been in his seat and risen, or had he come in the next day and said that I had misconceived his language and his purposes and his objects and his motives, I should at once have risen and said how much I regretted that I had misunderstood him. But he did not do so; and after my colleague had spoken he simply said that we had misconceived him; but he went on to say not anything that would authorize us to withdraw what we had said, and he went on to warn us again that he intended to pay his respects to the Senators from South Carolina. Then, of course, I had nothing more to say until he should have done so.

When I received the stenographic notes, as taken down, of the words that fell from him, I found in them words that were not in the printed RECORD, and I call his attention to one which puts a very different phase on the language that he used that I think justified me in what I said. The Stenographer's notes of the Senator's remarks show this expression:

> They are whispering all over the country that there is some secret, unavowed reason; and nothing illustrates the brazen effrontery of the parties interested in this case so palpably as the charge they have made against members on this side of the Chamber of bargains, dishonorable agreements.

The RECORD says "honorable agreements."

Mr. HILL, of Georgia. "Honorable" was the word; and that is a quotation.

Mr. HAMPTON. I felt that I was authorized to repel what I thought was an imputation on my State. Mr. President, I confess that I was in very great doubt upon this grave question. I saw, as I stated, some of the ablest legal minds in the Senate taking opposite ground, and the Senator from Georgia will pardon me if I was unwilling to take him for my guide, to follow him blindly and implicitly, for he must admit that he has I will not say been inconsistent but he has given all parties the benefit of his precepts and his guidance. I think he has said that he had been burned in effigy as an abolitionist. I think that he has said that he wanted to prove to the country after the war that the democratic party was responsible for all the blood shed and all the losses of that war, and he wanted to prove to the country that the democratic party should never be trusted again by the country. I think my friend has said that.

Mr. HILL, of Georgia. When?

Mr. HAMPTON. When? Does he want me to read it?

Mr. HILL, of Georgia. I understand the Senator from South Carolina as referring to my examination before the Ku-Klux committee.

Mr. HAMPTON. I have it from the library.

Mr. HILL, of Georgia. If he will get that examination before the Ku-Klux committee and read it all, not isolated sentences, I shall be very much gratified.

Mr. HAMPTON. I have read it all and it is very heavy reading. [Laughter.] I do not believe in holding the gentleman to any convictions at any stage of his political life. I have no doubt that he he is now consistent here. He has the right to express his convictions; he has the right to give utterance to them not only in words but by his votes here. I claim precisely the same right that I accord to him. My judgment has been made up on a most thorough, earnest investigation of this case. I have been so unfortunate as to come to a different conclusion from the Senator from Georgia. It is my misfortune, perhaps it is a misfortune of the country, but I cannot help it. There are some lines of poetry I would commend to him; perhaps they may be applicable to him:

> Stiff in opinions, always in the wrong,
> Was everything by starts, and nothing long.

Mr. WILLIAMS. I now make the motion to take up Senate bill No. 1753.

Mr. KELLOGG. Will the Senator from Kentucky yield a moment until I send a paper——

Mr. WILLIAMS. Do you want to make a speech? I yield.

Mr. KELLOGG. The list of names furnished by the Senator from Georgia I hold in my hand. I had intended to analyze it, but it is pretty long and there are several mistakes in it. I will content myself with simply sending it to the reporter's desk, assuming that it will appear in the RECORD to-morrow morning in compliance with the request of the Senator from Georgia as part of his speech, and at some other time I will call the attention of the Senate to a letter that I hold in my hand from the Assistant Secretary of the Treasury, in which he recites the number of persons employed in the custom-house, and I will also point out the inaccuracies in the list furnished by the Senator. I send up the paper.

The PRESIDENT *pro tempore*. The Chair will inform the Senator from Louisiana that it is contrary to the practice and usage of the Senate to incorporate any paper in the RECORD without its having been first read in the Senate.

Mr. HOAR. The Senator from Georgia obtained leave twenty minutes ago to incorporate a paper without reading it—a list of names. Thereupon the Senator from Louisiana, having what he claims to be the true list, asks that it may be incorporated. I submit that that is not a case where the justice of the Chair, which we all alike confide in, would call upon the occupant of the chair to interpose.

Mr. KELLOGG. It is the same paper.

The PRESIDENT *pro tempore*. The present occupant of the chair was not in the chair when that occurrence took place and knew nothing of it. The present occupant of the chair has never allowed any paper to go into the RECORD that was not read in the Senate, for such is the undoubted usage of the Senate.

Mr. McDONALD. What is the paper?

The PRESIDENT *pro tempore*. The Chair has no knowledge.

Mr. HOAR. Does the Chair claim that this paper, the Senate having given leave to the Senator from Georgia to append it to his remarks, shall not also be appended to those of the Senator from Louisiana? That is the precise proposition.

The PRESIDENT *pro tempore*. The Chair knows nothing of what the paper is that was sent to the Reporter by the Senator from Louisiana; but the Chair does know that it has been the uniform custom of the Senate never to allow any paper to go into the RECORD that was not read in the Senate, unless it was by unanimous consent.

Mr. INGALLS. I was occupying the chair temporarily at the time when the incident that the Senator from Massachusetts [Mr. HOAR] refers to occurred; and it is just to say that the Senator from Georgia stated that he would send the paper to the Reporter and ask that it be incorporated in the RECORD. The Chair made no observation, and no request was made of the Senate to allow it to be done.

Mr. KELLOGG. And no objection.

Mr. INGALLS. No objection was made and no action was taken.

Mr. HOAR. But it was done in the presence of the Senate.

Mr. GARLAND. I move, then, that the Senator from Louisiana have unanimous consent to have the paper inserted in the RECORD as part of his remarks, if he desires.

Mr. McDONALD. I should like to know what the paper is before we insert it.

Mr. SAULSBURY. I have not the slightest objection to unanimous consent being given to the Senator from Louisiana, but I think it due to the Senate that he should state the character of the paper before the consent is given.

Mr. GARLAND. The Senator did state it, but it was not heard.

Mr. ANTHONY. I understand it is the identical paper that the Senator from Georgia [Mr. HILL] had permission to put into the RECORD. I do not understand that the Senator from Louisiana offered any other paper.

Mr. GARLAND. The Senator from Louisiana can accomplish his purpose just as well by submitting it as part of his speech and handing it to the Reporter to be inserted. That is done every day in the Senate, and, inasmuch as I understand the Senator from Massachusetts has stated correctly what occurred while the Senator from Kansas was in the chair, I make the motion and request the Senate to give unanimous consent.

Mr. HOAR. I desire to ask the Chair to consider whether the Chair is correct in stating that the usage of the Senate prohibits the annexing to remarks tables of figures, lists of names, evidence of that kind. I do not so understand the usage of the Senate, with deference to the Chair. Now, the Senator from Georgia in making his remarks said that a question had arisen about a certain list of the employés in the custom-house at New Orleans, and other employés under the Federal Government in Louisiana, who had been members of the Legislature at a certain time. He sent to the Chair a certain list, which he said contained the names of thirty or forty such persons. Now, does the usage of the Senate require the Chair to insist that that list, with the names of John Doe, Richard Smith, Richard Roe, and so on, be read? Suppose it contained a thousand names. I do not understand that the usage the Chair referred to applies to such a case. At any rate, the Senator from Georgia did it, and he sent it to the Reporter, and the Reporter took it down as part of his remarks, in the full view of the Senate, nobody objecting. The Senator from Louisiana rises and makes a remark in regard to the same list, alleging that the Senator from Georgia's version of it is incorrect, and wants to have it appended to his remarks. That is the point at which the Chair interposed.

Permit me to say that I know the absolute justice of the Chair, and I know that if there were a difficulty in the Chair's mind in applying this rule he would rather apply it against his own party than ours. I make no question at all of that; but I submit to the Chair that it is not an occasion for the application of the rule of the Senate which requires argument, discussion, language conveying ideas to be read if it goes in the RECORD.

The PRESIDENT *pro tempore*. The Chair wishes to state in answer to the inquiry of the Senator from Massachusetts what the Chair understands to be the rule. In a certain legislative hall which it is not proper to mention it is customary to ask leave to print a speech without its ever having been delivered, and that leave is granted to print it; but according to the experience of the Chair no one has ever been allowed in the Senate to print any remarks as his speech which were not actually delivered in the Senate; and if a paper is to be considered as part of a speech, that must fall within the same rule.

Then again there is the express rule of the Senate that no paper shall be read without the consent of the Senate. That rule is often avoided by a Senator reading a paper as part of his speech; but in order that it may go into the RECORD it has to be read either by leave of the Senate or read by the Senator as a part of his speech. The Chair is aware that sometimes by unanimous consent, there being no objection, papers have been allowed to go into the RECORD as part of a Senator's speech which were not read, their contents having been stated; but it has been done by unanimous consent. It is only a little while since the Chair made this precise ruling when the junior Senator from West Virginia [Mr. HEREFORD] proposed to put some tables of figures in a speech of his without their being read. The Senate has gone upon the ground that nothing shall appear in the RECORD that has not been heard, so that other Senators might answer it if they saw fit; but it can be done by unanimous consent, and the Senator from Arkansas asks that unanimous consent be given to the publication of this paper as part of the remarks of the Senator from Louisiana. Is there objection?

Mr. ANTHONY. That is not the question, I submit. The Senator from Georgia gave a list and asked permission to have it printed in the RECORD, which passed *sub silentio*. The Senator from Louisiana borrows that list, hands it back again, and he does not ask to have it printed. The Senator from Georgia asks to have it printed.

The PRESIDENT *pro tempore*. Is this the same paper?

Mr. KELLOGG. It is the same paper. I was about to explain to the Chair. I sent for the paper, after the Senator from Georgia sent it to the desk, simply for information. I was about to address myself to the Senate in regard to the paper, when the Senator from South Carolina, [Mr. BUTLER,] having the floor and declining to yield, went on, and after that his colleague took the floor. I then took the floor, the present occupant of the chair having come in in the mean time and assumed the chair, and, of course, I can understand very readily, and the Senate can, that he would not understand the situation. I then stated that I had intended to address the Senate a few remarks regarding the inaccuracy of that list, but that I would defer my remarks until a future time, and in the mean time I would send the list back to the Reporter's table and request if there was any doubt about its appearing in the RECORD to-morrow morning that it be incorporated, but I assumed that it would appear as a matter of course at the request of the Senator from Georgia.

The PRESIDENT *pro tempore*. If the Senate has given consent to the Senator from Georgia——

Mr. HILL, of Georgia. I distinctly stated in my remarks what the paper was, stated its contents, its aggregate, its results, its objects, and said that it would be published as part of my speech. There was no objection.

The PRESIDENT *pro tempore*. If unanimous consent was given to that request on the part of the Senator from Georgia, there is no question about it before the Senate.

REPORTS OF COMMITTEES.

Mr. McDONALD, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 3742) to authorize the Secretary of the Treasury to sell certain real estate belonging to the United States, and vesting the title to certain other lands in the city of Vincennes, in the State of Indiana, and for other purposes, reported it with amendments.

He also, from the same committee, to whom was referred the bill (S. No. 1506) to authorize persons who have entered homesteads on the public lands which have been abandoned or for any reason canceled to make a new entry, also to require mistakes of description in making homestead entries to be corrected, reported it with amendments.

Mr. EATON, from the Committee on Appropriations, to whom was referred the bill (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and for prior years, and for those certified as due by the accounting officers of the Treasury in accordance with sec ion 4 of the act of June 14, 1878, heretofore paid from permanent appropriations, and for other purposes, reported it with amendments.

ANSON NORTHUP.

Mr. McMILLAN presented additional papers in the matter of the petition of Anson Northup, praying compensation for services rendered the Government by him on the frontier in Minnesota in 1862; which were referred to the Committee on Military Affairs.

WAGONS FOR INDIAN SERVICE.

On motion of Mr. PLUMB, it was

Ordered, That the letter of the Secretary of the Interior, transmitting, in response to resolution of the Senate of the 13th instant, information relative to the rejection of certain bids for wagons for the Indian service, be printed for the use of the Senate.

BILLS INTRODUCED.

Mr. BURNSIDE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1833) to remove the charge of desertion from the military record of William Hull; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. BLAINE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 124) to pay employés of the Senate and House of Representatives; which was read twice by its title, and referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. CALL asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 125) authorizing an experiment of the William A. Young river-improvement plan on the Saint John's River, Florida; which was read twice by its title, and referred to the Committee on Commerce.

BILLS RESTORED TO CALENDAR.

Mr. HILL, of Georgia. While the Senators from Georgia were out of the Chamber to-day some bills were postponed indefinitely and they ask unanimous consent that they be reconsidered, because it was the understanding with the committee that they were not to be acted upon at this session. They were called in our absence. They are numbers 437, 438, 444, and 445 in the order of business, being the bill (S. No. 199) for the relief of Catharine I. Gillis, the bill (H. R. No. 2377) for the relief of Catherine I. Gillis, the bill (S. No. 350) to amend the act entitled "An act for the relief of Robert Erwin," and the bill (H. R. No. 385) to amend the act entitled "An act for the relief of Robert Erwin."

The PRESIDENT *pro tempore*. Is there objection to reconsidering the vote by which these bills were indefinitely postponed and placing them on the Calendar? The Chair hears no objection.

Mr. HOAR. Is the Senator who reported adversely on these bills now in the Senate Chamber?

Mr. HILL, of Georgia. No.

Mr. HOAR. I shall object until he returns.

Mr. McDONALD. They were reported from the Judiciary Committee, and if I had been in the Chamber at the time the bills were called I should have insisted that they be not indefinitely postponed, because it had been understood they were not to be called up for consideration.

Mr. HOAR. I withdraw the objection.

The PRESIDENT *pro tempore*. The vote by which the bills were indefinitely postponed will be regarded as reconsidered, and the bills placed on the Calendar.

Mr. HILL, of Georgia. There are two bills in each case.

PENSIONS TO MEXICAN WAR SOLDIERS.

Mr. WILLIAMS. I now make my motion to take up the bill (S. No. 1753) granting pensions to certain soldiers and sailors of the Mexican and other wars therein named, and for other purposes.

The PRESIDENT *pro tempore*. The Senator from Kentucky moves

that all prior orders be postponed and that the Senate proceed to the consideration of the Mexican war veteran pension bill.

Mr. HOAR. Let it be read for information.

Mr. SAULSBURY. I understand the motion to be to lay aside informally the pending order.

Mr. HOAR. That requires unanimous consent.

Mr. WILLIAMS. There is an understanding that the Kellogg case is a question of privilege that takes precedence of all others.

Mr. INGALLS. No, I understand if the motion of the Senator from Kentucky prevails the resolutions of the Committee on Privileges and Elections are displaced formally, and that the request of the Senator from Kentucky can only be granted by unanimous consent.

The PRESIDENT *pro tempore*. The Senator has not asked for unanimous consent, which would leave the resolutions of the Committee on Privileges and Elections as the unfinished business. His motion was to postpone all prior orders.

Mr. SAULSBURY. I think the object of the Senator from Kentucky is to lay aside temporarily the regular order and take up his bill. That is all he aims at, I know, because I have had personal conversation with him on the subject.

Mr. HARRIS. I suggest to the Senator from Kentucky that he put his proposition in the form of a request for unanimous consent.

Mr. WILLIAMS. I may not get it.

Mr. HARRIS. Ask it first. If he does not obtain it, it will be time enough to make the motion.

Mr. WILLIAMS. I was voted down the other day.

The PRESIDENT *pro tempore*. The Senator from Kentucky moves to postpone all prior orders in order to proceed to the consideration of the pension bill.

Mr. INGALLS. I understand that motion is not in order under the rules.

The PRESIDENT *pro tempore*. Why not?

Mr. INGALLS. If the Chair will consult Rule 43 he will see what motions are in order when a question is pending.

Mr. WILLIAMS. I am willing to amend the motion.

Mr. INGALLS. I should like the decision of the Chair as to what motions can be put while a question is pending.

Mr. WILLIAMS. I am willing to have the motion put with the understanding that any gentleman who wants to speak from this rostrum which has been erected by the Kellogg and Spofford business, and from which we have heard so much law and eloquence throughout the last two or three months, may have the opportunity of doing so. I am willing to yield the floor any time for that. I am willing to postpone the Mexican pension bill for that purpose. I am willing to take up this bill and go into it to-night and vote on it to-night. I, sir, have marched with these old men through many a long and weary night, and I am willing to sit here all night, if necessary, to pass this bill.

Mr. HOAR. I call for the regular order.

Mr. WILLIAMS. I am afraid if I get off the floor I shall never get on it again.

The PRESIDENT *pro tempore*. The Senator from Kentucky has moved to postpone prior orders in order to proceed to the consideration of the pension bill he has named. The Senator from Kansas calls the attention of the Chair to Rule 43. That rule reads:

> When a question is pending, no motion shall be received, but—

Such and such. One of them is:

> To postpone to a day certain.

It is therefore perfectly competent for the Senator from Kentucky to move to postpone the pending order until to-morrow in order to proceed to the consideration of the pension bill he has named.

Mr. WILLIAMS. That is my motion; that is exactly what I want.

The PRESIDENT *pro tempore*. The question is on that motion

Mr. HOAR called for the yeas and nays, and they were ordered.

Mr. SAULSBURY. I desire to inquire what will be the effect of that on the regular order. Will it come up to-morrow?

The Secretary proceeded to call the roll.

Mr. GARLAND, (when his name was called.) The Senator from Vermont [Mr. EDMUNDS] who is absent and myself are paired on all votes of importance. I regard the pair as extending to this.

Mr. PRYOR, (when his name was called.) I am paired with the Senator from Pennsylvania [Mr. CAMERON] on all matters involving the Kellogg case, and therefore I shall not vote on this motion.

Several SENATORS. This does not affect it.

Mr. PRYOR. Then I vote "yea."

Mr. RANSOM, (when his name was called.) The Senator from Maine [Mr. HAMLIN] and I are paired on all party questions. I will not vote on this.

The roll-call was concluded.

Mr. DAWES, (after having voted in the negative.) I am paired on all political questions with the Senator from Delaware, [Mr. BAYARD,] and I suppose from the turn this vote has taken I ought to withdraw my vote. I therefore withdraw it.

Mr. WITHERS. Is it a political question? ["No!" "No!"]

Mr. BLAINE, (after having voted in the negative.) On the same suggestion I ought to withdraw my vote. I am paired with the Senator from New Jersey [Mr. MCPHERSON] on all political questions, and especially on all votes on the Kellogg case.

Mr. WILLIAMS. I cannot see for my life how a question of pensioning the old soldiers of the republic can be considered a party question.

Mr. BLAINE. No; but this is to get rid of the Kellogg case.

Mr. WILLIAMS. No; we are going to take up the Kellogg case to-morrow.

Mr. HOAR. This is something more than to pension the soldiers who need pensions. It is to pension all those who do not, as I understand it, without exception.

Mr. DAWES. I do not desire to violate my pair, and I withdraw my vote.

Mr. MCDONALD, (after having voted in the affirmative.) If this is to be regarded as a political question, I am paired with the Senator from Wisconsin, [Mr. CARPENTER.] I have not regarded it in that light, but as Senators on the other side regard it so I withdraw my vote.

Mr. MAXEY. My colleague [Mr. COKE] is absent and paired. If present, and not paired, he would vote "yea."

Mr. HILL, of Georgia, (after having voted in the affirmative.) I withdraw my vote. I forgot that I was paired with the Senator from Vermont, [Mr. MORRILL,] but I have a right to vote to make a quorum.

Mr. CAMERON, of Wisconsin, (after having voted in the negative.) I am paired with the Senator from New York, [Mr. KERNAN,] and I withdraw my vote.

Mr. BUTLER. I am paired with the Senator from Pennsylvania [Mr. CAMERON] on all political questions, but I do not understand how this can possibly be regarded as a political question, and therefore I leave my vote stand.

Mr. SAULSBURY. On the assurance of a number of Senators that they will take up the Kellogg case to-morrow, I vote "yea."

The result was announced—yeas 28, nays 16; as follows:

YEAS—28.

Bailey,	Davis of W. Va.,	Jones of Florida,	Vance,
Beck,	Eaton,	Maxey,	Vest,
Brown,	Farley,	Morgan,	Voorhees,
Butler,	Hampton,	Pendleton,	Walker,
Call,	Harris,	Pryor,	Wallace,
Cockrell,	Hereford,	Saulsbury,	Williams,
Davis of Illinois,	Jonas,	Thurman,	Withers.

NAYS—16.

Allison,	Burnside,	Kirkwood,	Plumb,
Anthony,	Hoar,	McMillan,	Rollins,
Blair,	Ingalls,	Paddock,	Saunders,
Booth,	Kellogg,	Platt,	Teller.

ABSENT—32.

Baldwin,	Conkling,	Hill of Colorado,	McPherson,
Bayard,	Dawes,	Hill of Georgia,	Morrill.
Blaine,	Edmunds,	Johnston,	Randolph,
Bruce,	Ferry,	Jones of Nevada,	Ransom,
Cameron of Pa.,	Garland,	Kernan,	Sharon,
Cameron of Wis.,	Groome,	Lamar,	Slater,
Carpenter,	Grover,	Logan,	Whyte,
Coke,	Hamlin,	McDonald,	Windom.

So the motion was agreed to.

The PRESIDENT *pro tempore*. The Senator from Kentucky now moves to proceed to the consideration of the pension bill which he has indicated.

Mr. HOAR. Let the bill be read for information.

Mr. VOORHEES. Is the bill before the Senate?

The PRESIDENT *pro tempore*. Not yet. The Senator from Massachusetts demands that the bill be read for information. It will be read.

Mr. COCKRELL. I make a point of order. On a motion of this kind has a Senator the right to demand that the entire body of any bill may be read before the vote shall be taken?

The PRESIDENT *pro tempore*. It is the impression of the Chair that such has been the practice of the Senate.

The Chief Clerk read the bill (S. No. 1753) granting pensions to certain soldiers and sailors of the Mexican and other wars therein named, and for other purposes.

The PRESIDENT *pro tempore*. The question is, Will the Senate proceed to the consideration of this bill?

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. BLAINE. I want to offer an amendment to this bill. I presume there is a general feeling on both sides of the Chamber that every person connected with the Mexican or Florida war who by any reason whatever is in need of a pension should have one. I should hope that the feeling might be just the same that those who are not in need of a pension should not be voted one, any more than those in the late war; and therefore I want to put this proviso in the proper place:

Provided, That the benefits of this act shall not apply to any soldier of the Mexican or Florida war who incurred no physical disability from his service and who is not in need of pecuniary assistance.

The PRESIDENT *pro tempore*. There are amendments reported by the Committee on Pensions. The amendment of the Senator from Maine will be printed and lie on the table until the committee amendments are disposed of.

Mr. HOAR. I desire also to offer an amendment, which I should like to have read at the present time for information, and to take the same course.

The PRESIDENT *pro tempore*. The Senator from Massachusetts gives notice of his intention to offer an amendment, which will be read.

Mr. HOAR. I offer the amendment.

The PRESIDENT *pro tempore*. The committee amendments are first entitled to be acted on.

Mr. HOAR. I am entitled to make my motion. The order of voting is one thing; the order of moving is another. I will read the amendment:

Provided, That no person shall receive a pension under this act who would not be entitled to a pension under the provisions of law relating to the soldiers of the late war, unless he shall make oath and prove that he actually needs such pension for the support of himself or family.

The PRESIDENT *pro tempore*. The amendment will be received, printed, and laid on the table.

Mr. BURNSIDE. I suggest to the Senator from Maine to change his amendment to include the wars mentioned in the bill. He mentions only the Mexican and Florida wars.

Mr. BLAINE. What are the others?

Mr. BURNSIDE. The Black Hawk war and others are named in the bill.

Mr. BLAINE. I will amend that.

Mr. JONES, of Florida. I move that the Senate adjourn.

The PRESIDENT *pro tempore*. The Chair will inform the Senator from Florida that there is an Executive message on the table.

Mr. JONES, of Florida. I withdraw the motion to adjourn.

Mr. COCKRELL. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After ten minutes spent in executive session the doors were reopened, and (at six o'clock and twenty minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *June* 11, 1880.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

THE JOURNAL.

The Journal of yesterday was read.

The SPEAKER. If there be no objection the Chair will direct that the Journal be changed so that the bill for the removal of the political disabilities of Clement C. Clay, which was called up yesterday for the gentleman from Alabama [Mr. LOWE] by the Speaker while upon the floor, shall appear, as it does in the CONGRESSIONAL RECORD, as having been called up by the gentleman from Alabama himself, that gentleman having been momentarily absent. The Chair hears no objection, and the change will be made.

The Journal, as amended, was approved.

ORDER OF BUSINESS.

Mr. HARRIS, of Virginia. I call for the regular order.

Mr. HENRY. I hope the gentleman will yield to allow me to present a resolution for the purpose of making a verbal correction.

Mr. POEHLER. I ask leave to present at this time a bill to be put on its passage.

Mr. HARRIS, of Virginia. I yield for these two propositions, but for none other.

The SPEAKER. The gentleman from Virginia can hardly yield in that way, as the two gentlemen to whom he proposes to yield are on the same side of the House.

Mr. HARRIS, of Virginia. Then I must call for the regular order. I find there is objection to my yielding.

The SPEAKER. There is no objection on the part of the Chair, but he claims the right, in recognizing requests for unanimous consent, to go from side to side.

Mr. HARRIS, of Virginia. I find that if I commence yielding I shall be required to do so without limit. I must insist on the regular order.

Mr. POEHLER. This bill of mine is for the relief of a blind man. I hope the gentleman will withdraw his objection.

Mr. HARRIS, of Virginia. If I yield to one gentleman I must yield to similar demands from all quarters. The gentleman's bill can be attended to after the regular order is disposed of.

DEPUTY MARSHALS AT ELECTIONS.

The SPEAKER. The gentleman from Virginia demands the regular order, which, under the unanimous agreement of the House adopted yesterday, is the consideration of the bill which will be read.

The Clerk read as follows:

An act (S. No. 1726) regulating the pay and appointment of deputy marshals.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act the pay of all deputy marshals for services in reference to any election shall be $5 for each day of actual service, and no more.

SEC. 2. That all deputy marshals to serve in reference to any election shall be appointed by the circuit court of the United States for the district in which such marshals are to perform their duties, in each year, at the term of court next preceding any election of Representatives or Delegates in Congress; but if from any cause there should be no session of the circuit courts in the States or districts where such marshals are to be appointed, then, and in that case, the judges of the district courts of the United States are hereby respectively authorized to cause their courts to be opened for the purpose of appointing such deputy marshals, who shall be appointed by the said district courts; and the officers so appointed shall be in equal numbers from the different political parties, and shall be well-known citizens, of good moral character, and actual residents of the voting precincts in which their duties are to be performed, and shall not be candidates for any office at such election; and all laws and parts of laws inconsistent with this act are hereby repealed: *Provided*, That the marshals of the United States for whom deputies shall be appointed by the court under this act shall not be liable for any of the acts of such deputies.

Mr. HARRIS, of Virginia. Under the arrangement made yesterday three hours for debate are to be occcupied exclusively on the opposite side of the House. I therefore turn over the control of the floor to my friend from Ohio [Mr. KEIFER] and my friend from Connecticut, [Mr. HAWLEY,] with whom the agreement was made, so that they may manage this time as they think proper. I wish it understood, however, that the three hours to which gentlemen on the other side are entitled are to be used at their discretion on that side, and must not be yielded to this side of the House for the purpose simply of getting in speeches on the opposite side of the question.

Mr. KEIFER. Mr. Speaker, before entering upon a brief discussion of this measure I desire to have the Clerk read section 2021 of the Revised Statutes relating to the time and manner of appointment of special deputy marshals to assist the supervisors of elections.

The Clerk read as follows:

SEC. 2021. Whenever an election at which Representatives or Delegates in Congress are to be chosen is held in any city or town of twenty thousand inhabitants or upward, the marshal for the district in which the city or town is situated shall, on the application, in writing, of at least two citizens residing in such city or town, appoint special deputy marshals, whose duty it shall be, when required thereto, to aid and assist the supervisors of election in the verification of any list of persons who may have registered or voted; to attend in each election district or voting precinct at the times and places fixed for the registration of voters, and at all times and places when and where the registration may by law be scrutinized, and the names of registered voters be marked for challenge; and also to attend, at all times for holding elections, the polls in such district or precinct.

Mr. KEIFER. I desire the Clerk also to read the succeeding section of the Revised Statutes, which relates to the duty of the marshal and his general deputies and also such special deputies as may be appointed under section 2021.

The Clerk read as follows:

SEC. 2022. The marshal and his general deputies, and such special deputies, shall keep the peace, and support and protect the supervisors of election in the discharge of their duties, preserve order at such places of registration and at such polls, prevent fraudulent registration and fraudulent voting thereat, or fraudulent conduct on the part of any officer of election, and immediately, either at the place of registration or polling place, or elsewhere, and either before or after registering or voting, to arrest and take into custody, with or without process, any person who commits, or attempts or offers to commit, any of the acts or offenses prohibited herein, or who commits any offense against the laws of the United States; but no person shall be arrested without process for any offense not committed in the presence of the marshal, or his general or special deputies, or either of them, or of the supervisors of election, or either of them, and, for the purposes of arrest or the preservation of the peace, the supervisors of election shall, in the absence of the marshal's deputies, or if required to assist such deputies, have the same duties and powers as deputy marshals; nor shall any person, on the day of such election, be arrested without process for any offense committed on the day of registration.

Mr. KEIFER. Mr. Speaker, bad as this bill is, devoid as it is of anything which would be at all efficacious in the direction of enforcing the United States election laws, great sham as it is in merely pretending to be in favor of something which would be efficient in the direction of enforcing law and order at the polls, with all these defects in the bill, I consider it a matter of congratulation that we should now have it before us. The democratic party is especially to be congratulated that to-day, in the expiring hours of the first regular session of the Forty-sixth Congress, that party should be pressing a bill which in name at least, if not in substance, recognizes the constitutional power of the United States to enforce its own laws and preserve order on election day at the polls wherever members of the House of Representatives are to be chosen. To this extent I want to congratulate not only the democratic party, but the whole country.

But this bill is a mere sheer deception, if I may be pardoned for using the expression. It is intended to be passed for the purpose of annulling, instead of really improving the statutes upon the subject of the use of special deputy marshals at the polls to aid the supervisors of elections in preserving peace and order when there is open disorder and violence. Already it appears, by what has been read by the Clerk, that there are two classes of deputy marshals known to the law, to wit: general and special deputy marshals. Each class has duties to perform under the law, as defined in section 2022 of the Revised Statutes, which duties relate to the conduct of elections on election day when a Member of the House of Representatives or a Delegate is to be chosen.

But the bill proposes to create a distinct class called "*deputy marshals for services in reference to any election.*" In the original draught of the bill as offered by the distinguished Senator from Delaware [Mr. BAYARD] the word "special" preceded the word "deputy," and it was supposed it was the purpose to pass a law which referred to and regulated the appointment and conduct of special deputy marshals of elections as they were appointed under section 2021 of the Revised Statutes. It was thought wise to strike out the word "special," and to define this class of deputies as "deputy marshals for services in reference to any election." Such deputy marshals have always been unknown to the law, and they are still unknown to it.

In order that we may understand what this bill is, let us go through it and analyze it. The bill provides that these deputy marshals for services in reference to any election shall be appointed by the circuit court of the United States at the term next preceding any election of Representatives or Delegates in Congress, and it further provides, if there should be no session of the circuit court in the State or district where such marshals are to be appointed, then the appointment may be made by the district court. Here we have a new class of deputy marshals appointed by the courts without suggestion from the executive power, without the cognizance, and against the will, if you please, of the marshal of the district where the deputies may be required to serve. In no event is this class of officers, if they may be dignified with the name of officers—in no event are these officers to be responsible to the executive power, that power which by the Constitution of the United States and by the laws of the United States is responsible for the execution of all the laws of the United States.

But if we look further we will see that under the very thinnest kind of gauze it is proposed to hide away the real purpose of the bill. I submit, Mr. Speaker, it is impossible for any gentleman to name a possible case where a district court of the United States could appoint under this bill, if it should become a law, a deputy marshal to serve in reference to an election—to appoint anybody under the bill. Before the exigency can arise where the district court of the United States may be invoked to make these appointments we will have to discover a district in the United States wherein there never has been or will not be before the coming election a term of the circuit court of the United States.

I repeat, Mr. Speaker, that before a district court can acquire jurisdiction under this bill to appoint a deputy marshal to serve at any election you must find a district wherein no circuit court has ever been held. If gentlemen on the other side desire to use any portion of my time for the purpose of telling me where and how a case can arise and the district court can ever make an appointment of any one of these deputies to serve at an election, I will yield with great pleasure. Mr. Speaker, I would like to know whether there is any gentleman here prepared to defend this scheme, if I may be pardoned for using the expression. Under the terms of the bill it is impossible for the district court to appoint one of these so-called officers in any place in the United States.

If that cannot be done, then what? Unless it happens between this and the coming election for members of the House of Representatives and Delegates to Congress that a circuit court is in session, and in such session that its power might be invoked for the purpose of making these appointments, then it will be impossible to have one of these deputy marshals at the succeeding election.

The bill does not propose to have the district court exercise this power in the absence of the circuit court that might be held after the passage of the act and before the election; but if there ever has been a circuit court in session in any district, then the district court is not allowed to take jurisdiction for the purpose of making appointments under this proposed law. So it will be impossible, and I am quite warranted in saying it will be impossible in most if not all the cases, to have this class of officers should this bill become the law. By the terms of the bill it is not made the right or duty of any person to pray the court to appoint deputy marshals. The court must act, if at all, on its own motion.

The time I shall occupy will be for the purpose of trying, in my way, to develop what there is and what there is not in this proposed legislation. A provision of this bill is to the effect that the officers appointed shall be in equal numbers from the different political parties. Some persons misnamed this measure as non-partisan. I am not quite well enough advised to speak with confidence, but I believe that it is the only absolutely partisan measure pending before Congress. Under this bill every non-partisan in the United States is rendered ineligible to be appointed a deputy marshal to serve at an election. Under this bill it is proposed to make special partisans of the officers who execute the most delicate law of the land, to wit, the election law. We are to give power to the most vicious partisans, if you please, upon either side, amid the heat of political controversy, and send them to the polls armed with that power to stand face to face and eye to eye in opposition to each other on political grounds. They are to be specially chosen with reference to their partisan character. There may arise an emergency where one party, through its supporters, will try to overthrow the election officers, or may try to compel them to do what is not their duty under the law, or one party may engage in an effort to prevent honest voters from exercising their right of voting. In such an emergency there would be found a deputy marshal on one side who would be willing to see the law executed and the officers and voters protected, but the other deputy, denying the right to interfere, stands face to face with him, and says, "My duty here is to see that you do not do your duty. I am appointed under the law of Congress because I am a partisan; I represent my friends, the plug-uglies and the bulldozers here the partisans on the other side. I am the chief captain of them all, and it is my purpose here to see that you do not interfere or perform your duty. I was appointed for that purpose. I was recommended to the judge of the court because I was a partisan, and I will do my duty to my party." And this is the kind of non-partisan legislation that you are proposing to write upon our statute-books.

I might elaborate this, but it is sufficient to cite the provisions of the law which it is proposed to enact, for all here at least can comprehend them and their real design.

In this connection, Mr. Speaker, it must be remembered that these so-called officers are in no sense responsible to the appointing power. No power by the provisions of the bill can remove them. The judge that appointed them has no power to remove them. They have, as I have already pointed out, no connection with the executive power of the Government. They are to receive no orders, no instructions, and are under no control by the marshal of the district. They give no bond, and it is fair to say that under the provisions of the law as it now stands they are not required to qualify at all, even by the taking of an oath of office. No qualifications, no bond; and nobody gives a bond for them, as in the case of the deputy marshals now provided for.

And further, Mr. Speaker, it will be observed by following the language of this bill that they have no jurisdiction outside of the immediate location of the election polls. If it should be thought by one of them that it was his duty to arrest a man at the polls who was committing or was proposing to commit some crime against the election law he could arrest him possibly, but the very moment he passed with his prisoner a rod beyond the immediate location of the polls he would be required to release him for want of jurisdiction to continue him under arrest. The jurisdiction of the proposed new class of deputies is not to extend beyond services at an election.

I have just called the attention of the House to the fact that the supposed officers called deputy marshals for services in reference to any election if they have any sort of power as officers can only exercise it in connection with the election; and if it should turn out that they were obliged to arrest a person who was guilty of repeating at the polls, guilty of any sort of crime against the United States election laws, guilty of a breach of the peace or any other offense known to the law, they might perhaps technically have the right to arrest the man and carry him a few feet from the place of election and let him go. Nobody pretends that this proposed law gives such deputy marshals jurisdiction to arrest an offender and hold him for trial and punishment or that they can execute a warrant under the direction of a marshal of a district. By the terms of this bill—and I give the exact language as set forth in the proviso added to the second section—

> The marshals of the United States for whom deputies shall be appointed by the court under this act shall not be liable for any of the acts of such deputies.

They are not to perform the duties of a general deputy marshal. They are not to perform the duties of a special deputy marshal of elections appointed under section 2021 of the Revised Statutes, and whose duties are defined by section 2022 of the Revised Statutes; but they are officers without duties save and except as they may be inferred from the use of the language in the first section of the bill, to wit:

> Deputy marshals for services in reference to any election.

That is all. Then they are not to be responsible themselves; and I repeat they are not to qualify by the form of oath provided for deputy marshals appointed by the marshals themselves under section 780 of the Revised Statutes, and the form of oath given in section 782 of the Revised Statutes. These deputy marshals for services in reference to any election could not qualify at all. The bond of the marshal required to be given by the statute (section 783) for the purpose of securing the faithful conduct of the marshals covers the duties of his own deputies.

While the bill provides that there shall be such a singular and anomalous thing known to our statutes as a deputy marshal, who will himself be responsible to nobody for his acts, it was wisely thought by the draughtsmen of this bill that it would be well to make nobody responsible for him. Hence the bill says that the marshals of the United States shall not be liable for any of the acts of the deputy marshals which the court might appoint. He has no qualification under the law; he has a naked appointment, and is required to fight an adversary who is to be chosen because he is able to compete with him, and peculiarly because he is a partisan. He is not responsible for malfeasance or misfeasance, and he has no sort of duty to perform that anybody can hold him liable for failing to perform. He is to be called a deputy marshal for services at any election.

Now it is a grave question whether or not the general statute defining the duties of special deputy marshals or general deputy marshals under our election laws would apply to such officer at all. It is exceedingly doubtful whether they would apply to such deputies under any fair construction, and the bill, if it becomes a law, is not to have a liberal construction. When we are determining the powers of an officer who may arrest a man for crime we are not to construe his powers liberally but strictly as defined in the statutes. Strictly speaking, the statute laws of the United States could give and would give no sort of power to an officer called a deputy marshal for services at an election. The general statutes require duties of the marshal of the district and of his general deputies and his special deputies, as will appear by the sections of the Revised Statutes already read; but no provision of the general statute would reach these deputy marshals for services at any election. Therefore, when you strip this all down to the bare pole, you will find that it is a mere scheme to destroy our election laws, barely recognizing the right of Congress to uphold the power of the Government of the United States in the execution of such laws. The law, however, is to be so drawn that it cannot be

executed, and that great power, the power which, wisely executed, preserves peace and order at the polls, where of all places in this country we should have peace and order, the entire machinery for that purpose is to be destroyed under the guise of a new and more perfect law.

This is the worst of the legislation proposed in this Congress and in the closing session of the Forty-fifth Congress. It was more manly to stand up openly and say that you wanted to and would repeal all the laws of the United States that gave to the Government of the United States the power to preserve peace at the polls on election-day. The party that took that position, as did the democratic party a few months ago, once stood upon a more heroic plane than now.

It is of necessity groveling now, coming down to an attempt to enact a law that is a mere pretense for a law and to say that by it the election laws of the United States to preserve peace at the polls are to be enforced, but really undertaking to put on the statute-books a law that cannot be executed at all. If this bill should become a law the democrats will at least be enabled to go before such of their people as will listen to them and say that while they could not repeal the election laws of the United States, while they could not repeal the laws that secured peace and order at the polls, they did succeed in getting through the Congress of the United States a bill that renders nugatory all those provisions, in so far at least as deputy marshals at the polls are concerned.

I like the democratic party for some things. It is an obstinate party.

Mr. WILSON. And an honorable party.

Mr. KEIFER. The gentleman from West Virginia says that it is an honorable party. By that I suppose I am to infer that he means that when the democratic party is whipped and overthrown in a fair fight it will attempt to accomplish its purpose in some other way.

We find that party here pressing for a vote on a bill entitled "An act regulating the pay and appointment of deputy marshals." A few months ago we were warned that we should have no appropriations to carry on this Government until we allowed all the laws relating to the appointment of deputy marshals and their use at the polls to be absolutely repealed. In the light of what has since taken place, especially in the Forty-sixth Congress, in the light of the overwhelming defeats of that party in this Congress and at the polls, in the broad glare of the light which comes to us from the Supreme Court of the United States through recent decisions, we are to-day witnessing the grand scene of that party bowing humbly to the powers that be and recognizing the Constitution of the United States as a Constitution conferring upon the Government of the United States power to preserve itself and to enforce its own laws.

Education comes slowly to that obstinate party. If I were to review its history I could find a vast number of things that it set out to oppose. Step by step it opposed all the grand measures that now stand forth as great monuments to the success of the republican party, the party of progress.

When we proposed at the close of the war to amend the Constitution of the United States so as to wipe out human slavery, democrats stood up in this Hall, in the Congress of the United States, and said that it was unconstitutional to amend the Constitution of the United States so far as human slavery was concerned. The republican party, by its might and power, recognizing the right to amend the Constitution in every respect, wiped out human slavery by the adoption of the thirteenth amendment to the Constitution, and the democratic party, after the fact was accomplished, in time bowed and said, "We, too, are in favor of destroying human slavery."

We tried them on the fourteenth amendment, that amendment which proposed to define citizenship, and which contains various other wise provisions. We found the democratic party steadily against it, not only in the Halls of Congress, but in the halls of the State Legislatures all over the country. By voice and vote they were against it, but they were defeated. After being defeated, as time rolled on, they again said, "We were wrong then, but now we are right."

We said, "We will enfranchise all American citizens by the adoption of the fifteenth amendment of the Constitution;" and every democrat I believe voted against that measure, and so far as the members of that party spoke they spoke against it all over the country, in Congress and out of it. But the republican party erected another monument to its glory and adopted the fifteenth amendment. Then lagging along behind came the democratic party, crying out that they, too, were in favor of the fifteenth amendment.

Everything that this party has learned in a score of years has been through its defeats; ay, a large part of its members learned patriotism through defeat, not only at the polls, but upon the field of battle. I do not doubt their patriotism now; but I do know that they learned it, many of them, before the mouths of cannon and amid the clash of arms in the field. I glory in this, for this was an heroic way of acquiring it when other methods failed. While speaking to this measure (and I do not intend to occupy any more time) I wish to say that as we close this session we add one thing more to the success of the republican party—the education of the democratic party up to the idea that we have a Government strong enough to defend itself from foes within or without, and yet shorn of all power to oppress any of its citizens.

I yield the remainder of my time to the gentleman from Massachusetts, [Mr. FIELD.]

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, announced that the Senate had passed, with amendments, the bill (H. R. No. 6266) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes; in which amendments the concurrence of the House was requested.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. BLOUNT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the sundry civil appropriation bill, with Senate amendments thereto, to move non-concurrence in the Senate amendments, and ask for the appointment of a committee of conference.

The motion was agreed to.

Mr. GOODE. Mr. Speaker, I would like to have the sense of the House on one amendment at least to that bill before the conference committee is appointed.

Mr. BLOUNT. That can be done after the conferees make their report. There are many amendments to the bill, and a great number of differences between the two Houses upon it, and I make the request in view of the fact that it is important some action should be taken at once upon this as we are approaching the close of the session. If this bill was considered in Committee of the Whole again it would take several days on these Senate amendments——

The SPEAKER. If point of order is made the bill and amendments would go to the Committee of the Whole House on the state of the Union, under Rule XX.

Mr. BLOUNT. And it is for that purpose that I make the request of the House.

Mr. COX. Is debate in order upon this proposition?

The SPEAKER. The Chair thinks debate upon the subject-matter of the amendments is not now in order, but the Chair will recognize the gentleman to make the point of order upon the amendments of the Senate if he desires. This is an assumption that the motion to non-concur made by the gentleman from Georgia [Mr. BLOUNT] is held in abeyance.

Mr. COX. I cannot debate the point of order?

The SPEAKER. The point of order is debatable to a limited extent, but the merits of the Senate amendments to the bill are not debatable on the point of order.

Mr. COX. I wanted to say something on the merits of this bill and many other bills of this character, and especially the river and harbor bill, but I will reserve the right to make the point of order. I simply ask leave now to have printed an extract from a speech of a Senator in reference to the river and harbor bill, showing exactly how the people's money is spent; and that the money voted in this river and harbor bill is used by the republicans for electioneering purposes. This will justify all my votes and protests against this kind of legislation. Here is the extract:

That is what the Secretary of the Treasury asks for; that is what he says the Secretary of War demands; and yet a professed democratic Congress presents a bill now close on to $10,000,000, double the estimates of a republican Secretary of the Treasury, of a republican Secretary of War, and seeks to put every dollar of this money into the hands of republican electioneerers to carry the next election, and there is where half the money will go. I have endeavored as far as I could to keep within the estimates. I have endeavored to keep clear of a proper charge being made that we were extravagant beyond what the heads of Departments demanded.

Mr. TOWNSHEND, of Illinois. What Senator does the gentleman refer to?

Mr. COX. I refer to Mr. BECK.

Mr. OSCAR TURNER. I want it to be understood that I voted against that bill myself.

Mr. WARNER. I make the point of order that debate is not in order.

Mr. BLOUNT. I move to non-concur in the Senate amendment and ask a committee of conference.

Mr. RYON, of Pennsylvania. Before this House is called upon to vote to non-concur in the amendments made to this bill by the Senate we ought to know, as intelligent men, what those amendments are.

Mr. BLOUNT. I wish to say to my friend from Pennsylvania——

The SPEAKER. The amendments will be read.

The Clerk proceeded to read the amendments of the Senate.

Mr. TOWNSHEND, of Illinois, (interrupting the reading.) These amendments are entirely unintelligible as they are read.

The SPEAKER. Every member has a right to have the amendments read on which he is called upon to vote.

Mr. BLOUNT. I desire to make this simple statement: There are many new matters on that bill which, at this time, the Committee on Appropriations of the House cannot understand, for they have no information in regard to them; and the main object I have in asking that the bill go to a committee of conference is that we may get at the reasons the Senate had for putting these several amendments on the bill. In that way we will save time. So far as relates to knowing what the amendments are, I desire to say that the House will be fully informed. I propose to ask further that the bill and amendments be printed; and when it comes back from the conference committee we are bound under the rule to accompany the conference report with a full statement of the effect of everything contained in it.

Mr. TOWNSHEND, of Illinois. I hope the gentleman from Penn-

sylvania will withdraw his request for the reading of the amendments. After the explanation just given by the gentleman from Georgia it would appear to be a useless consumption of time to read the amendments now.

Mr. RYON, of Pennsylvania. I did not ask to have the amendments read; I merely wished to have an understanding of what they were. I wish to ask the gentleman from Georgia this question: Do the amendments increase the appropriation?

Mr. BLOUNT. They do, very largely.

Mr. RYON, of Pennsylvania. To what extent?

Mr. BLOUNT. To the extent of nearly two millions of dollars.

Mr. HAYES. Let the bill go to a committee of conference.

Mr. TOWNSHEND, of Illinois. I reserve all points of order.

The SPEAKER. It will be too late to make points of order after the bill goes to a committee of conference.

Mr. TOWNSHEND, of Illinois. I reserve them now.

The SPEAKER. The reservation of points of order when the bill is sent to a conference is not effective under Rule XX.

Mr. BLOUNT. As I understand, the gentleman from Illinois does not propose to put any obstacles in the way of the proposition I have submitted.

Mr. TOWNSHEND, of Illinois. Not at all. I merely wish to reserve the right to make points of order hereafter if they can then be made.

The SPEAKER. Any points of order made after non-concurrence in Senate amendments will be against the conference report.

Mr. TOWNSHEND, of Illinois. I believe the gentleman from Georgia [Mr. BLOUNT] is willing that the bill should go to a conference committee upon that understanding.

The SPEAKER. Not merely the gentleman from Georgia but the whole House might be willing, except one other member, and that member could object and prevent a point of order now good from having any force against an amendment after the bill goes to the conference committee.

Mr. BLOUNT. I am quite willing that the gentleman from Illinois should reserve points of order.

Mr. McMILLIN. It would be too late to make them after the committee has reported.

The SPEAKER. The Chair has just stated so.

Mr. BLOUNT. I do not say it would not be too late for the gentleman to make a point of order after the committee of conference has reported. But the object of the point of order is to get discussion, and I will say to the gentleman from Illinois that I shall not in so important a matter as this attempt to cut off discussion.

Mr. TOWNSHEND, of Illinois. That is satisfactory to me. If that is agreed to by common consent I am content.

The SPEAKER. The Chair does not desire the members of the House to travel without information. The time to make points of order on the Senate amendments under Rule XX is before the bill goes to conference committee.

Mr. TOWNSHEND, of Illinois. For the purpose of expediting business I withdraw points of order.

The SPEAKER. The gentleman from Georgia now moves that the House non-concur in the amendments to the sundry civil appropriation bill and ask a committee of conference.

The motion was agreed to.

The SPEAKER. The Chair appoints as conferees on the part of the House the gentleman from Georgia, Mr. BLOUNT, the gentleman from Pennsylvania, Mr. CLYMER, and the gentleman from Ohio, Mr. MONROE.

Mr. BLOUNT. I move that the bill and Senate amendments be printed.

The motion was agreed to.

DEPUTY MARSHALS AT ELECTIONS.

Mr. FIELD. Mr. Speaker, I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

Strike out section 2 of the bill and insert in place thereof the following:

"SEC. 2. Whenever an election for a Representative or Delegate in Congress is to be held in any city or town of twenty thousand inhabitants or upward, special deputy marshals, instead of being appointed by the marshal of the district as provided by section 2021 of the Revised Statutes, shall hereafter, on the application in writing of at least two citizens residing in said city or town, be appointed by the circuit court of the United States for the circuit wherein such city or town is situated, which circuit court shall be opened, held, and kept open in the manner provided by sections 2011, 2012, 2013, 2014, and 2015 of the Revised Statutes, and all the duties, powers, and obligations imposed and conferred by said sections upon said circuit court, or upon each of the judges of the circuit court, or upon any one of the judges of the district court within the circuit selected and assigned by the judge of the circuit court to the performance of said duties, in reference to the appointment of supervisors of election, are hereby imposed and conferred upon said circuit court, and upon each and all of said judges for the purpose of appointing special deputy marshals. Such number of special deputy marshals shall be appointed as the court shall deem necessary, and they shall be appointed in equal numbers, so far as practicable, from the different political parties, and shall be well-known citizens of good moral character, and actual residents of the voting precincts in which their duties are to be performed. Such special deputy marshals shall be under the orders and control of the marshal of the district, and they shall have all the powers and perform all the duties conferred upon or required of special deputy marshals by Title 26 of the Revised Statutes, and shall be subject to the provisions of that title relating to special deputy marshals."

Mr. FIELD. Mr. Speaker, those gentlemen who are not in favor of any change in the existing law will oppose this amendment, for it adopts the principle of the appointment of special deputy marshals by the courts in equal numbers from the different political parties, so far as may be practicable. Those gentlemen who want a repeal of the existing law, or, in default of that, such a change that the laws cannot be executed at all, will also oppose the amendment, for it is adapted to the existing laws, is effective, and will carry out effectually the principle of appointment by the courts in equal numbers from the different political parties.

Special deputy marshals now are appointed only in cities of twenty thousand inhabitants and upward. They are not appointed in country districts; they are of very little use unless supervisors of election are appointed, who are also appointed in cities or towns of twenty thousand inhabitants and upward on the petition of two citizens. In the country districts supervisors of elections are appointed on the petition of ten citizens, and there are no marshals who execute the election laws.

Now, for the appointment of supervisors the provisions of the statute are ample. They are appointed by the circuit court, which must be in session for at least ten days before registration if supervisors of registration are required, and at least ten days before the election if supervisors of election are required. The circuit court must be in session every day up to and including the day following the election; may during that time revoke all appointments of supervisors and make new ones; and the court may be held by the circuit justice or the circuit judge or any one of the district judges within the circuit selected and assigned by the circuit justice or the circuit judge for that purpose; and may make its orders in chambers as well as in court.

It is thus seen that when supervisors are desired by two citizens you have a court necessarily in session every day for ten days preceding the election and on the day of election, to be held by some judge with full powers of appointment, revocation, and re-appointment; and that judge is holding all the time the circuit court for this purpose, and all the proceedings are of record in the circuit court.

Now, if special deputy marshals are to be appointed by the courts they should be appointed by the same court which appoints the supervisors, because that court is in session every day for the purpose of appointing supervisors, and has general charge over the election in that respect; and the same court ought to take charge of the appointments of special deputy marshals. This is a court, as has been said, required by law to be in session every day for ten days preceding the registration and preceding the election, and as this provision of law is mandatory upon the petition of two citizens, you necessarily have in operation for every day the judicial machinery appropriate for the appointment of both these classes of officers.

The provisions of my amendment use this court, thus established, for the appointment of special deputy marshals. But the special deputy marshals thus to be appointed are appointed only on the petition of two citizens; therefore, if nobody wants them, they are not appointed at all. They are to be appointed in such numbers as the court may deem necessary, because somebody must determine the number; and if you say the court shall appoint as many as the citizens may call for there may be abuse. The discretion must be left somewhere, and the best place to leave it is with the court.

These officers must be appointed in equal numbers, so far as may be practicable, from the different political parties; must be well-known citizens, of good character, and actual residents of the voting precincts in which their duties are to be performed.

These provisions are mandatory on the court if a petition is filed; and they embrace all the essential provisions which have been contended for in speeches by gentlemen of the democratic party. But they are put in such shape that they will be effectual; there is an economy of judicial machinery, and it is guarded by the constant presence of the court to revoke improper appointments and make new ones, and all the existing provisions of law relating to the powers and duties of special deputy marshals are made applicable to the special deputies thus appointed.

What are the provisions of the pending bill? I am the last person to impute motives to anybody; but if it had been intended, under the guise of adopting the principle of appointment, by the courts, from all political parties, to make a law which it should be impossible in many districts to execute, it could not have been better accomplished than by the provisions of the second section of the pending bill.

And first a few general considerations. There is no provision that the court shall act on the application of two citizens or on the application of anybody. I do not know, and it is not possible for any man to tell whether under this bill petitions are necessary or not. In the second place, I do not know whether it is discretionary with the court to act or whether it is mandatory on the court to act. I say it is a doubtful legal proposition either way.

Mr. CARLISLE. Does it not leave the existing law in force with reference to that matter, so that the supervisors will be appointed on the application of a certain number of citizens as now provided by statute, and then the court will appoint the marshals?

Mr. KEIFER. On whose application?

Mr. FIELD. I have said, Mr. Speaker, that that is one construction of the law, and another construction of the law can at least be made, but the bill as it stands is so doubtful that no person can certainly know what its construction is in that respect when applied to existing laws, and there is no time during an election to settle doubtful constructions of law by a court.

In the next place, then, waiving the matter whether a petition is necessary or not, waiving the matter whether the exercise of this duty is discretionary or obligatory on the court or not, waiving also the matter whether this bill confines special deputy marshals to cities of twenty thousand inhabitants or upward, or whether it extends marshals to serve in reference to any election to all places, in all districts, for there is nothing whatever in the provisions of the bill itself which confines it to cities of twenty thousand inhabitants or upward, and there is a fair ground for contending that the court is bound to act in reference to any election of a Representative to Congress or a Delegate to Congress in any district, whether there be a city contained in it of twenty thousand inhabitants or upward or not—I say waiving all these, I desire to invite attention to two or three specific provisions. The first is "that all deputy marshals to serve in reference to any election shall," &c.—that is a new term. We have marshals and deputy marshals and special deputy marshals, but this is a new phrase or designation.

They cannot all perform the same service, I take it; special deputy marshals cannot execute civil process. I doubt whether they can execute any criminal process unless it be a process relating to the violation of election laws. The general deputies have certain powers which the specials have not, and I am not certain that the special deputy marshals have not some powers which the marshal and his deputies have not, and, therefore, the phrase "deputy marshals to serve in reference to any election" being a new phrase, it is not certain that either the laws relating to deputies or to special deputies apply to them; if not, have they any powers or any duties? But on that sufficient comment has been made by others.

Mr. CARLISLE. Will the gentleman allow me to ask him a question in reference to the meaning and effect of his amendment?

Mr. FIELD. Certainly.

Mr. CARLISLE. Because it is pertinent to the very clause of the bill upon which the gentleman is now commenting. The bill which the gentleman holds in his hands provides, as he has already stated, that the deputy marshals to serve in reference to elections shall be appointed by the court. The amendment which the gentleman proposes to the bill provides that all special deputy marshals to serve in reference to elections shall be appointed by the court.

Mr. KEIFER. The word "special" is not in it.

Mr. CARLISLE. It is in his amendment.

Mr. KEIFER. Oh! it is in his amendment.

Mr. CARLISLE. Now, Mr. Speaker, we all know that Attorney-General Taft, in his somewhat celebrated circular to the United States marshals in 1876, took the position that those marshals might appoint general deputies to perform service in reference to elections outside of cities containing a population of twenty thousand inhabitants and upward, and the result was that such general deputies were appointed to serve at elections in numerous cases, and especially in the Southern States. If the bill now pending before the House shall pass, all marshals who are appointed to serve with reference to elections, whether they be general deputy marshals or special deputy marshals, must be appointed by the court. But if the amendment proposed by the gentleman from Massachusetts shall pass, only special deputy marshals—that is, those deputy marshals who are to serve in cities containing twenty thousand inhabitants and over—will be required to be appointed by the court; and the marshal will still be left, under the construction of the law put upon it by Attorney-General Taft, to appoint as many general deputy marshals as he may see proper of one political party residing anywhere in the congressional district to serve at elections in the country outside of the cities. Now, I ask the gentleman from Massachusetts if it is the purpose of his amendment to allow the court to appoint these general deputies to serve at elections? Because, if that is his purpose, his amendment does not accomplish it, but confines the power to the court alone to appoint special deputies whose services are performed in cities having a population of twenty thousand inhabitants and upward.

Mr. FIELD. The gentleman has correctly stated the purport of my amendment. It does not touch at all the appointment of general deputy marshals.

Mr. CARLISLE. That is what I supposed.

Mr. FIELD. I do not wish to be understood as agreeing at all, if I understand the remarks of the gentleman, in his reasoning that general deputy marshals can be appointed by the marshal to serve at any election in cities of less than twenty thousand inhabitants.

Mr. CARLISLE. If the gentleman from Massachusetts so understood me he was mistaken. My statement was that Attorney-General Taft so construed it, and the marshals under his construction were so appointed at the election held in the fall of 1876. I agree with the gentleman from Massachusetts that there can be no deputy marshals, general or special, appointed by the marshal to serve with reference to any election outside of a city containing a population of twenty thousand and over.

Mr. FIELD. Will the gentleman permit me to ask him a question?

Mr. CARLISLE. Certainly.

Mr. FIELD. Does the gentleman from Kentucky understand the phrase "deputy marshals to serve in reference to any election" in the second section of this bill to include general deputy marshals?

Mr. CARLISLE. I understand that includes the general deputy marshals who may be appointed to serve with reference to any election, and if the court shall construe the law to mean that general deputies may also be appointed to serve with reference to any election, the court must appoint them, and not the marshal.

Mr. FIELD. Pursuing for a single moment the suggestion of the gentleman, I do not understand that my amendment forbids the marshal from appointing general deputy marshals, and those general deputy marshals can perform the duties required by the statute in reference to any election. But I have never heard yet that the appointment of general deputies has been claimed by anybody to have been an abuse in the election laws. And I want to say this, that all general deputy marshals are removable by the district court or by the circuit court; and if the marshal so far forgot his duty as to evade the intention of the law by appointing an extraordinary number of general deputies the courts could remedy it, and if that were not done, or if it grew to be a grievance, I think Congress could remedy the mischief, when it was found to be an abuse, as Congress saw fit.

[Here the hammer fell.]

Mr. LAPHAM obtained the floor and yielded ten minutes to Mr. FIELD.

Mr. FIELD. Mr. Speaker, I have not even advanced certain special objections against this bill. The bill reads: "That all deputy marshals to serve in reference to any election shall be appointed by the circuit court of the United States for the district in which such marshals are to perform their duties, in each year, at the term of court next preceding any election of Representatives and Delegates in Congress." I was curious to ascertain when the terms of the circuit court of the United States next preceding the election of Representatives in Congress were by law required to be held in the various States or districts, and on examination of the statutes I find that the next preceding term of the circuit court varied all the way from April to November. The gentleman from New York [Mr. HUTCHINS] has suggested that the bill does not say "term fixed by law," but at the "term next preceding," &c. But if my friend from New York were a lawyer he would know that there are no terms of a court not fixed by law, and this means at the term of the court next preceding any election for Representatives.

I have stated that the next term of the circuit court preceding the election varies greatly in the different States, but I will give a few instances. In five of the States or districts the next term of the circuit court begins on the first Monday of November, which is the day before the election in those States. Take a few illustrations. In Alabama, in the middle district, the term next preceding the election is held on the first Monday of November, the day preceding the election; and in the southern district, the district in which the city of Mobile, with a population of upward of thirty-two thousand, is situated, the next term of the court preceding the election is held on the first Monday in June, nearly five months before the election. In the State of Georgia, in the southern district, which includes the city of Savannah, the term of the court begins on the second Monday in April, nearly seven months before the election. In Illinois, in the northern district of that State, including the city of Chicago, the next term of the court preceding the election is held on the first Monday in June. In the State of Kentucky, including the cities of Covington and Louisville, the next term preceding the election begins on the first Monday in November. That is the day immediately preceding the election. Now, every gentleman knows when the first day of the court comes in it has much to do in the way of preliminary business, and yet on that day these special deputy marshals by this bill must be appointed, if appointed at all.

These special deputy marshals are to attend in each district or voting precinct at the times and places fixed for the registration of voters, and at all times and places when and where the registration may by law be scrutinized and the names of registered voters be marked for challenge; and also to attend, at all times for holding elections, the polls in such district or precinct.

Now, a court coming in the day before election cannot appoint special deputy marshals who can attend to registration. The registration very likely is over. The registration in different States ends from sixty days before the election up to the day of election. These are varying times. It would be in the nature of things absolutely impossible for a court coming in for the first time on the day preceding the election to appoint special deputy marshals, have them take the oath, and have them perform any effective service even on the day of election; and of course they could not perform any service at all with reference to registration, or matters preceding the election. In Louisiana, which includes the city of New Orleans, the court comes in on the first Monday of November, the day preceding the election. In Maryland, which includes the city of Baltimore, the court comes in also on the first Monday of November. In New York, southern district, on the third Monday of October; northern district, on the first Tuesday of October. In Ohio, on the first Tuesday of October. In the northern district of Pennsylvania, on the first Monday of October. In Virginia, which includes Richmond, on the first Monday of November.

Thus you will see that under this bill in five States, or districts in States which contain large cities, Louisville, Baltimore, New Orleans, Richmond, and others, the court which under this bill must, if it have a session, appoint these marshals, comes in for the first time on the day preceding the election, and under such circumstances that it

could not appoint special deputy marshals at all who could attend to registration; and practically under such circumstances that it could not appoint special deputy marshals to act on the day of election. No other court could act until after this first day had passed, and then only if there was no session on that day and the next day is the day of election, which is too late.

In other cases the court meets nearly seven months beforehand. Who knows seven months beforehand whether you will want special deputy marshals at all? Who knows how many you will want? There is no provision that the court shall remain in session to supervise these appointments, to make new appointments if those first appointed resign or become unfit; or to make additional appointments if the exigencies of the election require it. But the thing is over and done perhaps seven months before the election, when no man knows what is wanted, and no man knows even who can serve; because it is provided by this bill that those to be appointed shall be actual residents of the voting precincts in which their duties are to be performed. Now, the law of different States requires a residence in the voting precinct of from six months to thirty days, varying in different States; but a man cannot vote unless he be a resident at the time of election.

Now, a court may appoint a man seven months before the election, who is an actual resident of the voting precinct then, and yet at the time of election he may not be a resident of the voting precinct and he may not be a qualified voter in that precinct. It is required by section 2028 of the Revised Statutes that—

> No person shall be appointed a supervisor of election or a deputy marshal, under the preceding provisions, who is not at the time of his appointment a qualified voter of the city, town, county, parish, election district, or voting precinct in which his duties are to be performed.

And if this section is applicable to the deputy marshals provided for by this bill, they may become disqualified after appointment. You make no provision by this bill for the actual session of a court near the time of registration, during the time of registration; near the time of election, during the time of election. You make no provision for its being always in session to supervise these officers and adapt its appointments to the exigencies of the occasion. In some cases you put it into a court on the day before election, when it cannot really act at all, and in other cases you put it into a court seven months before the day of election, when it cannot act intelligently.

But the bill says:

> But if from any cause there should be no session of the circuit court in the *States* or *districts*, &c.

Well, that means, if it means anything, no session of the court at the term next preceding any election of Representatives or Delegates in Congress; no session at that term. Then it goes to the district courts; and observe the language:

> But if from any cause there should be no session of the circuit courts in the *States* or *districts*, &c.

I do not know what that means. Take Tennessee—one State and three districts. If there is a session of the circuit court at the term next preceding the election in the State of Tennessee in the first district, but none in the second, what court can appoint for the second district? Then does it go to the district court of the second district or not? Mind you, the district courts have no authority under this bill if there be a session of the circuit court in the *State* or district at the term next preceding the election. Suppose, I say, there is a session of the circuit court of the term next preceding the election in the State of Tennessee in the first district, but none in the second and none in the third; can the district courts of the second and third districts appoint or not? The circuit courts of those districts cannot appoint, because they have no sessions in these districts as of the term next preceding the election.

The SPEAKER *pro tempore*, (Mr. O'CONNOR.) The gentleman from Massachusetts has occupied the ten minutes yielded to him by the gentleman from New York. Does the gentleman from New York yield further?

Mr. LAPHAM. I yield the gentleman five minutes more of my time.

Mr. FIELD. If, then, there is no session of the circuit court in the State or district by my construction at a term next preceding the election of Representatives or Delegates in Congress, then and in that case—

> The judges of the district courts of the United States are hereby respectively authorized to cause their courts to be opened for the purpose of appointing such deputy marshals who shall be appointed by the said district courts, &c.

And when shall these district courts be opened and how long kept open, how near the election, on whose application, or on what information shall they act? It is not stated. And whether the provision is mandatory on the courts that they shall do it, or whether it simply authorizes them to do it if they see fit, is a consideration which I have already noticed, and which I do not propose further to consider. In the few minutes I have I have noticed some of my objections to the pending bill.

I contend that this is an impracticable bill, not adapted to the laws, not effective in its operation. If gentlemen want an effective law on the principle of appointment by the courts in equal numbers from the different political parties, they must adopt some different provisions, and I think those of my amendment are adequate.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, announced that the Senate insisted upon its amendments to the bill of the House No. 6266, making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, and agreed to the conference asked by the House on the disagreeing votes of the two Houses on said bill; and further, that the Senate had appointed as such conferees on its part Mr. BECK, Mr. WITHERS, and Mr. ALLISON.

DEPUTY MARSHALS AT ELECTIONS.

Mr. LAPHAM. Mr. Speaker, I ask why it is that as the sands of this session of the Forty-sixth Congress are fast running out the business of legitimate and proper and necessary legislation has been suddenly arrested by the demand that we shall consider this extraordinary measure? What great public evil or great public necessity exists for forcing upon the consideration of this House at this time the determination of the questions which arise upon the bill now under consideration?

A committee of this House, solemnly charged with the responsibility of examining the question, investigated the operations of the law providing for the regulation of congressional elections in the great city of the Empire State, which I have the honor in part to represent, in the exciting contest of 1876. In that same city in the year 1868, before these safeguards were thrown around the ballot-box, more than sixty thousand fraudulent naturalization papers were issued, and more than 30,000 additional fraudulent votes were counted, so that the vote of that great State was snatched from the republican party and nominally given to the democratic party of the country. In that same city there were such scenes enacted and such frauds perpetrated when it was without the protection of the law which is to be nullified by the bill we are now considering. A committee of this House, as I have stated, was charged with the responsibility of investigating the election of 1876 after this law was enacted. A democratic majority of that committee reported that a more free, honest, and fair election than that of 1876 was never held in said city. The report of my colleague, [Hon. S. S. COX,] who was the chairman, contained the following:

> Whatever may be said as to the right of a State to regulate in all ways such elections, this must be said: that the administration of the laws by Commissioners Davenport, Muirhead, and Allen, the United States functionaries, and their subordinates, was eminently just and wise and conducive to a fair public expression in a presidential year of unusual excitement and great temptation.
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> The committee would commend to other portions of the country and to other cities this remarkable system, developed through the agency of both local and Federal authorities acting in harmony for an honest purpose. In no portion of the world, and in no era of time, where there has been an expression of the popular will through the forms of law, has there ever been a more complete and thorough illustration of republican institutions. Whatever may have been the previous habit or conduct of elections in those cities, or howsoever they may conduct themselves in the future, this election of 1876 will stand as a monument of what good faith, honest endeavor, legal forms, and just authority may do for the protection of the electoral franchise.
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> From the moment the supervisors are appointed, from the moment that the lists are purged, from the moment that the applications are examined to the very last return of the popular expression, this election shows the calm mastery of prudence.
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> * * * * * * *
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> This happy result (a free, fair, and honest election) was the consequence of co-operation between the official advisers of the city and *United States officers*. The party organizations, by their regulations and orders, made the city police one in action along with *United States marshals*.
>
> Whether this work, which is unexampled, *should be accounted a republican work, through their Federal election law*, or the work of the local authorities and organisms, inspired by a desire for an honest vote among the people, who were especially jealous of it on account of what was occurring elsewhere, *one thing the committee must report, that it approximated as near to perfection as it was possible to do. There were no riots, no fights, no bayonets, no disturbance, no conflicts of authority, and none of the concomitants which accompany fraud and endanger free institutions.*
>
> The people of the country owe a tribute of respect to the police of a city of more than a million, and to the *United States officers, who numbered thousands, for the harmony of action between the various officers*, so as to illustrate to all the world how the imperial island city can conduct herself under great excitement in view of startling events.

Such, Mr. Speaker, was the operation of the law this bill so greatly changes in the most exciting contest in our history. A statute which has been found the agent or even a factor in working out such benign results as those depicted in the report from which I have read should not be dispensed with.

Why, then, I repeat, is it that this question is dragged in here at this time to block the wheels of legitimate legislation? It is because the party cry has gone forth from our adversaries on the other side that they must be able before the people to claim that they have done something in the way of modifying the election laws which were enacted by a republican Congress, and because those laws, as they say, were the fruits of the hatreds engendered by the war?

Therefore this bill is to be rushed through according to the form in which it comes to us from the Senate, without amendment, without any consideration on the aptness of its provisions, and without any reference to whether it can be duly executed. No amendment will be adopted on this bill by the opposite side of this House. No amendment was tolerated in the Senate. Twenty-five or thirty amendments were offered there by different Senators, but every one of them was voted down there, as every amendment will be voted down here. It is "fiat legislation," and our adversaries will find that, like "fiat money," it can never be redeemed.

This bill, if it is to be passed at all, is to be passed because there is a supposed necessity for it in the shape in which it has come to us from the Senate. In regard to those who are to superintend the elections of this country under the name of inspectors of elections, and in regard to those who are to act as supervisors of elections in cities having more than twenty thousand inhabitants, there are now provisions for the appointment of persons from both political parties to see that a fair and proper canvass is conducted, just as men of both parties stand around the polls and the canvassing board to see that all is conducted fairly.

How are the supervisors of elections appointed? Not as provided in this bill, as the gentleman from Massachusetts [Mr. FIELD] has shown, by an impossible power of appointment. I ask the Clerk to read sections 2011 and 2012 of the Revised Statutes.

The Clerk read as follows:

SEC. 2011. Whenever, in any city or town having upward of twenty thousand inhabitants, there are two citizens thereof, or whenever, in any county or parish, in any congressional district, there are ten citizens thereof, of good standing, who, prior to any registration of voters for an election for Representative or Delegate in the Congress of the United States, or prior to any election at which a Representative or Delegate in Congress is to be voted for, may make known, in writing, to the judge of the circuit court of the United States for the circuit wherein such city or town, county or parish, is situated, their desire to have such registration, or such election, or both, guarded and scrutinized, the judge, within not less than ten days prior to the registration, if one there be, or, if no registration be required, within not less than ten days prior to the election, shall open the circuit court at the most convenient point in the circuit.

SEC. 2012. The court, when so opened by the judge, shall proceed to appoint and commission, from day to day and from time to time, and under the hand of the judge, and under the seal of the court, for each election district or voting precinct in such city or town, or for such election district or voting precinct in the congressional district, as may have applied in the manner hereinbefore prescribed, and to revoke, change, or renew such appointment from time to time, two citizens, residents of the city or town, or of the election district or voting precinct in the county or parish, who shall be of different political parties, and able to read and write the English language, and who shall be known and designated as supervisors of election.

Mr. LAPHAM. It will be seen by the provisions of the sections just read that the power of appointment of supervisors is a continuing power, to be exercised every moment of necessity from a period prior to the time when registration begins until after the close of the canvass and the counting of the votes.

In this bill that power is taken from the judge and the court in daily session and a different mode of appointment provided, and for an obvious reason. Under the provisions of this bill, as has been shown by the citations of the gentleman from Massachusetts, [Mr. FIELD,] in all those cities where the registration is provided by law to take place twenty or thirty days prior to the election there can be no marshals whatever to attend and see that the law is carried out on the day of registration.

It blots out entirely the protection of the general law as it now exists, guarding the registration of voters, which is as important, if not more important, than to guard voters in the exercise of the elective franchise on election day. That is the design of this bill—to prevent the possibility of having an additional number of deputy marshals in cities to see that the registration which is made is fair and honest.

If this bill had provided for the appointment of deputy or special marshals of elections in the same manner as the statute provides for supervisors of elections, so far as the mode of appointment is concerned, that would have been no serious objection to the bill. But it purposely provides another and different mode of appointment—not by the judge under his seal, as the Revised Statutes provide, but by the court at its stated session, not at a session called for the purpose as is provided in the statute—at its regular stated session fixed by law, known to the authors of this bill and known to occur between the time of registration and the time of election, and in many cases so soon before the election that the appointment will become almost an impossibility for securing the services of these officers on election day.

Now, while I concede that, as in the case of inspectors of elections, so in the case of supervisors of elections who are to aid the inspectors, it is fair and proper that they should be divided between the political parties as they always have been—a division to which nobody objects—when you come to the class of men who are to execute the laws, there is an obvious and fatal objection to divided responsibility. The moment you select these officers because they are politicians, and from opposite political parties, that moment you defeat the whole object of the enactment of these laws, and instead of aiding in their execution, you obstruct and prevent their execution. And this is by the operation of a natural law. The statutes provide for a class of cases where marshals and their deputies are authorized to arrest persons for offenses committed in their presence without process from any officer whatever. Now, suppose we have a democratic deputy and a republican deputy at the same poll. The republican deputy says, "There is a man who is violating the law." The democratic deputy says, "He is not violating the law." What are you going to do in such a case? If the republican deputy undertakes to arrest the offender, the democratic deputy will interfere and say, "You are violating the law; you have no right to arrest this man." Thus strife and contention and riot are the inevitable result of such a provision as is contained in this bill.

Mr. Speaker, the democratic party of the great State from which I come resolved many years since in one of its State conventions that the party in power was not only responsible for the legislation of the country, but responsible for its laws and their execution. It is in the main a sound maxim; it is a maxim by which we propose in the coming campaign to hold you gentlemen of the other side of the House responsible for the neglect during the last twelve months to enact wholesome legislation in this body and at the other end of the Capitol. You have had the power; you have neglected the duty. The responsibility is upon you. It has rested upon you all the time. The responsibility of seeing that the laws of the United States are executed belongs with the executive power of this Government. It is in our hands. We are to see that it is faithfully done; and we have a right to the instrumentalities by which the laws are to be executed.

Nobody doubts, nobody can doubt, that under the law the marshal of the United States and his general deputies are charged with the execution of this election law in every part of the State or district. I do not agree with the gentleman from Kentucky [Mr. CARLISLE] in the statement that except in cities containing a population of twenty thousand inhabitants the marshal and his deputies have no power. That is far from being the true state of the law. So far as the law regulates elections in towns and cities having a population of less than twenty thousand, it is just as much the duty of the marshal and his deputies to see the laws executed as it is in cities containing twenty thousand population or more. It is only where more deputies are required than the general law authorizes the marshal to appoint that this law is intended to intervene, because such is the language of the section in regard to the appointment of deputy marshals. I read section 2021 of the statutes:

Whenever an election at which Representatives or Delegates in Congress are to be chosen is held in any city or town of twenty thousand inhabitants or upward, the marshal for the district in which the city or town is situated shall, *on the application, in writing, of at least two citizens residing in such city or town*, appoint special deputy marshals, whose duty it shall be, when required thereto, to aid and assist the supervisors of election in the verification of any list of persons who may have registered or voted; to attend in each election district or voting precinct at the times and places fixed for the registration of voters, and at all times and places when and where the registration may by law be scrutinized, and the names of registered voters be marked for challenge; and also to attend, at all times for holding elections, the polls in such district or precinct.

It is only in that class of cases that special deputy marshals are to be appointed; and as I read this bill its only object is to take from the marshal his power, under the section I have just read, to appoint these special deputy marshals. It proposes to give that power to the court when last in session before an election is held. Now, why take from the marshal the power to appoint his special deputies any more than take from him the power to appoint his general deputies? Why create, as you will by this bill, an inevitable conflict between the persons appointed under this statute and the regular general deputies of the marshal, who are bound to aid him in the execution of the law? As if to place it beyond any question that such is the purpose of the bill, what does it provide in its conclusion? That the marshal of the district shall in no way be responsible for the acts and doings, whatever they may be, of the persons appointed by the court under this bill.

Now take the city of New York. Suppose you appoint under the provisions of this bill two hundred special deputy marshals of opposite politics—one hundred democrats and one hundred republicans. The marshal of that great city charged with the execution of the laws—of these election laws as well as all other laws—undertakes to execute the law and commands a political opponent to aid him in doing so. What state of things do you think we would introduce on election day? It would paralyze the arm of the law; it would lead to endless strife and confusion in its administration and defeat entirely the object of the enactment; it would take away entirely from the party charged with the execution of the law the power to enforce its execution.

Mr. FERNANDO WOOD. Will my colleague permit me to ask him a question?

Mr. LAPHAM. Certainly.

Mr. FERNANDO WOOD. I wish to ask my colleague whether for many years elections in the city of New York have not been conducted under the direction of inspectors and judges of elections in which both parties were represented according to the principles of the pending bill?

Mr. LAPHAM. I understand they have, and that the judges who were charged with that power in 1868 issued sixty thousand fraudulent naturalization papers.

Mr. FERNANDO WOOD. They had no relation whatever to the administration of the election. My colleague knows that the act adopted by the Legislature of the State of New York under which those elections have been conducted is identically the same in principle with the bill now before the House.

Mr. LAPHAM. I concede to my colleague there were local officers who aided the deputy marshals in the election of 1876, and who came in for their share of the credit of that being the fairest and purest election that we have ever had in the State, but the report on the subject made to this House winds up with saying that mainly that result is due to the supervisors and marshals of election.

Mr. McCOOK. And the gentleman from New York [Mr. COX] was on the committee.

Mr. LAPHAM. That result was mainly due to the Federal law and to the supervision by Federal officers. I admit that in that instance local officers were entitled to the credit of having co-operated

with United States officers in securing fair results, and I am glad it is so. But there were no marshals of both political parties. There were no marshals of opposite political sentiments and feelings to quarrel with each other over the events and results of the canvass.

Mr. Speaker, I have called attention to a class of cases, the most important of all, and that is in reference to the power of a deputy marshal to arrest without process a man who is endeavoring to prevent the execution of the law, or who is seeking to obstruct the supervisor in the discharge of his duty. Now, I say, and I say without fear the accuracy of my statement will be challenged, if you have two special deputies at the polls, one of them appointed as a democrat and one of them appointed as a republican, and the republican should undertake to arrest a man without process for not doing his duty, or for any violation of law, he would be liable to meet with the opposition of his democratic contemporary instead of his support.

Mr. MORSE. Then, why not make them all democrats?

Mr. LAPHAM. I would vastly rather they would be all democrats, and if you had the control of the Executive Department of the Government, and were charged with the duty of executing the laws, you would have a right to have them all democrats. It is that right for which I plead, the right of an administration clothed with the responsibility to execute the laws to be clothed with the power to execute them also.

You cannot find in the history of this Government or any other, Mr. Speaker, an instance in which the executive power of the Government has been undertaken to be divided between the two political parties. This is a part of the executive power of the Government. You might as well say that the court, on some session prior to the election, should appoint a special President of the United States or a special marshal of the southern district of New York as to say they shall make these appointments. The great power is, nevertheless, under the charge of those who have the administration of the laws in their hands, and must be executed by those and by those only.

I might dwell much longer upon the incongruities of this bill, upon its extraordinary features, but I have in the main stated the suggestions which occurred to me in opposition to it; and, as I desire a portion of my time to be given to associates, I will not trespass much longer on the attention of the House.

If this bill is to be forced upon us at this period of the session, without change, without amendment, without consideration, without the report of any committee, without any of the sanctions which surround ordinary and useful legislation, it must be passed against my protest and against my vote; and, if it shall be done, I beg in the name of all that is consistent, before it is enacted into a law, let us change the title of the bill, and instead of having it read, "An act regulating the pay and appointment of deputy marshals," let it read, "A bill to annul section 2021 of the Revised Statutes, to introduce strife at elections and divide the responsibility of the execution of the laws on election day between contending political parties and to deprive the marshals of all power to enforce the laws on such days."

I now yield the balance of my time to the gentleman from Wisconsin, [Mr. WILLIAMS.]

Mr. WILLIAMS, of Wisconsin. Mr. Speaker, the maxim "Put not the child to nurse with a stranger" holds good in legislation as elsewhere. If the legislation here proposed is not in the hands of strangers it is in the hands of those who bear it no good will. That they are interested in making it complete and effective no one will pretend. They have no love for the Federal election laws. They desire to see them nugatory if they cannot be repealed, and although the Supreme Court, the highest judicial authority of the land, has pronounced them constitutional and binding, the promoters of this legislation believe or profess to believe them utterly unconstitutional and void. They regard any attempt on the part of the Federal Government to interfere with or in any manner regulate elections for members of Congress an intrusion and an outrage upon the rights of the States and as not sanctioned by the Constitution; and this notwithstanding the Constitution says in plain words that after the States have prescribed regulations for such elections "Congress may at any time by law make or alter such regulations," and the Supreme Court has held that Congress can make such regulations, and that in doing so it is not necessary that it should assume entire control thereof, but may make entirely new regulations or add to, alter, or modify the regulations made by the State, and in so doing may impose new duties on the officers of elections, or additional penalties for breach of duty or for the perpetration of fraud, or provide for the attendance of officers to prevent frauds and see that the elections are legally and fairly conducted, and that the authority of the National Government being paramount, collisions can only occur from unfounded jealousy of authority.

This being the position of gentlemen, I repeat that they cannot be interested in perfecting this bill and making it efficient. There is no necessity, Mr. Speaker, for discussing this question with heat or with partisan bitterness or acrimony. It has been said and often repeated that up to the year 1871 this country got along without any such legislation as this and without any interference on the part of the National Government with elections for members of Congress in the States; but the gentleman from New York [Mr. LAPHAM] has just reminded the House that in 1868 in the city of New York there were thirty thousand spurious ballots cast.

Mr. Speaker, the life's blood of this nation and its hope for perpetuity is the purity of the ballot-box. Taint that with fraud or corruption and you poison the whole system and put it on the road to decay and death. Dare any man stand up, on either side of the House, and seriously contend that if thirty thousand—yea, if ten thousand fraudulent ballots go into the box unchallenged, that free government is possible? Can that practice be tolerated and this nation live?

These facts have been disputed, but by indisputable proof they stand out like headlands in our current political history. Judges who engaged in this nefarious business have been driven in disgrace from their high positions and gone broken-hearted to their graves. If in any part of this country the purpose exists to perpetuate our institutions and hand them down unharmed to posterity, then, regardless of party, we should rouse up as one man and say this thing must not be allowed, there must be a remedy for these evils and these wrongs. We need not go over the old story again.

If there is fact in the universe, the fact exists and stands out here to-day that not only were these frauds perpetrated in New York City, but in other parts of the country unauthorized bodies of men have gone armed to the polls and confronted the officers of the Government in the discharge of their duties; bodies of men organized, officered, uniformed, and equipped have gone there to prevent legal voters from exercising the highest constitutional function of American citizens, the right to say who shall be their representatives. Confronted with fraud at the ballot-box, met by force at the polls, what will gentlemen do? Will you yield to fraud? Will you surrender to a mob? Will you relinquish all attempt to enact some legislation which shall confer power adequate to prevent this fraud, and overcome force by force if necessary? It was in this spirit that these laws were proposed. If there is to be a fair count, there must be a fair supervision. If there is to be a fair and adequate supervision, one which will impart confidence, then one man or one party should not have exclusive control of such supervision. Therefore it was eminently proper, and perfectly logical and right, that the supervisors of elections should be selected from the different political parties. They were to be present first at the registration, then at the election; they were to occupy such position near the ballot-box as to see all that was done; and they were to inspect, scan, and scrutinize the whole proceeding so as both to detect and prevent fraud.

Will any man rise here to-day and say that such a proceeding is not fair, is not desirable, is not safe? But if there is commotion at the polls, if there is riot and tumult there, if life and limb are endangered, it is useless, it is nonsense, it is mere child's-play to select two supervisors, though of different political parties, and bid them empty-handed scrutinize the canvass and preserve the peace. Unless they themselves can be protected their presence there is a mockery.

The first condition to any proper performance of their duties is *protection*, complete and absolute. If gentlemen insist that such protection has been afforded by State authority in all the States, the simple answer is that it is not true and we need not stop here to quarrel about it.

These national election laws, therefore, wisely provided that the marshal, who is the right arm of the civil executive power, should protect these supervisors and the voters as well, and should for that purpose appoint as many special deputies as may be necessary. To do what? Why, to preserve the peace and protect these officers and the citizens in the lawful exercise of their rights. Was there anything wrong in that? You desire protection; you desire peace; you desire fairness; you desire purity at your elections; you desire that the will of the humblest citizen in this free country may be as fairly and freely expressed at the ballot-box on election day as that of the mightiest; that he should feel his full manhood and independence on this day, if no other. Now, if you do desire this, there must be absolute protection. There must be nothing to intimidate either mentally or physically. The very humblest of citizens must walk unchallenged to the polls, shielded by the power of his Government and by the maxims of American fair play, must be free to say to himself, "I deposit this ballot unaccountable to anybody but my conscience, my country, and my God." Secure this and you have based your Government on a foundation of granite. Your ballots will speak the will of sovereign men, and not the cringing subserviency of menials. You will have a nation upheld by men and not resting on the necks of beggars! But plant it on tumult, violence, bloodshed, and fraud, and you have built it, not on the sand, but on the waves of an unresting sea, where it sooner or later must break up and go to pieces.

As I suggested on a former occasion, and as has been sufficiently presented here to-day, if you are to have peace through the Executive Departments you must have power and responsibility combined. Now, being unfriendly to this legislation, gentlemen on the other side are perfectly willing that the circuit courts whenever they are in session shall appoint these marshals. But, supposing they sit a year before, supposing they sit after registration has been accomplished, supposing they sit a year, a week, a day, an hour before the election, under this bill they, and they alone, can appoint these marshals, these twins; but twins who do not agree, for they must come from opposite, come from different political parties, so they shall not agree. [Laughter.] I think one of the best things Josh Billings ever said was that there was one thing in this world we were never prepared for, and that was twins. [Renewed laughter.] My God, was anybody prepared for this twin executive power?

What is the duty of executive power but to enforce law. Is there

any partisanship in that? Do you leave it to a marshal or sheriff to enforce or not enforce law at discretion? But gentlemen say no. The enforcement of law is to become a matter of taste in this country hereafter, and therefore we want twin marshals and twin sheriffs, not to agree, but to disagree. They must assume that no longer is there strength in unity, but in diversity there is democratic salvation. I have no doubt that that democracy would have put down the rebellion with two commanding generals selected from each side the line. But men who were in earnest on either side did not marshal armies in that way.

There is no disputing the fact that under tumult and violence and show of force voters by the hundred and by the two hundred and by the three hundred have been driven from a single voting precinct in this country. I refer to it in no taunting spirit; I refer to it in no feeling of bitterness; but I ask you, gentlemen on the other side, how long do you think our elections can be conducted in that manner?

All we want is purity of the ballot-box, peace at the polls, fair play for all, protection of officers with power to execute law and responsibility for the faithful performance of duty. Some gentleman on the other side has remarked in this debate that general deputy marshals could go to all the polls and help preserve the peace, &c. But one of your leaders in another place—the rules forbid my being more specific—takes exactly the opposite position and insists that the amendments to this bill were designed to cut out these general marshals and prevent their interfering in any manner at the different election polls. He seems to doubt whether they could even execute civil process on election day in any matter pertaining to the election, but thinks they might do this on the day following the election.

Thus you see the real purpose of this bill is to do away with these general deputy marshals at elections and to say, though riot springs up at the polls, only those marshals whom your courts have appointed six months before shall interfere to keep the peace. How is the court to know now what number of marshals will be needed at New York, for instance, at the next November election? Left to the Executive, to the marshal, when the danger comes and is imminent the power to appoint is there, and to appoint any needed number. But your court has acted; the term has gone; weeks, perhaps months, before, one, two, three, four men from opposite parties may have been appointed; but a riotous body of a thousand, it may be, march to the polls, and so far as this bill furnishes any protection your election is at the mercy of the mob. And we are told it is designed that it should be so; that we want no more of these general deputy marshals interfering with elections.

I thank the House for its attention. I have simply spoken from the impulse of the moment, not expecting or knowing when I reached the Chamber that I could be permitted to speak at all. But I say in conclusion to gentlemen on both sides of the House it is not for me to lecture you, it is not for me to counsel you, but in the name of fairness, in the name of justice, in the name of that hope which we all profess to cherish, that this Government of our fathers shall be perpetuated to all coming time, let us say here and now with one voice and with one accord whatever is necessary and lawful to preserve the purity of the ballot-box and maintain peace at the polls shall be freely granted regardless of partisan purposes or partisan ends. [Applause.]

Mr. LAPHAM. I yield the remainder of my time to the gentleman from Wisconsin, [Mr. HUMPHREY.]

The SPEAKER *pro tempore*. The gentleman has seven minutes remaining.

Mr. HUMPHREY. In the few moments which I shall have to discuss this bill, and the short time I have had to examine its provisions and the provisions of the general law on the subject, I cannot be expected to add much to what has been said.

The first thought that struck me upon reading the bill was, what kind of an officer is to be created by this act? On page 147 of the Revised Statutes I find set forth the duties of the marshal, who is required to take this oath:

> I, A B, do solemnly swear that I will execute all lawful precepts directed to the marshal of the district of, &c.

That oath is required to be taken by each marshal and deputy marshal. Every marshal before entering on the duties of his office is required to give bonds in a sum of at least $20,000 for the faithful performance of said duties by himself and his deputies.

But the bill before the House provides that when this deputy marshal shall be appointed in reference to any election he is to be appointed by the circuit court, and if no circuit court is held, then the district court of the United States may be convened for the purpose of appointing these marshals. Now, who shall ask that this United States district court shall come together? On page 355 of the Revised Statutes will be found a provision setting forth the manner in which the court is to be convened at the time that supervisors of elections are to be appointed, and the manner in which marshals shall be appointed, and the proper machinery is provided to make its provisions effective. But here is an officer who when he is selected or appointed is to be responsible to nobody; is to take no oath, and who acts upon his own responsibility; who goes and comes whenever he pleases, and yet he is but a deputy of some other officer. The bill provides that the marshal shall not be responsible for his acts. Then I ask who will be responsible for them? He will be an officer owing no responsibility to the power that appointed him, owing no responsibility to the marshal of the district. The court that appoints him cannot be responsible; the marshal is expressly exempted from any, yet he is a deputy, a deputy of the marshal. The marshal cannot command him, cannot direct him, yet he is his deputy. He may commit willfully the grossest acts, and who shall remove him. He may refuse utterly to perform the duties enjoined upon a deputy marshal, yet where is the power to correct such an abuse until it is too late; for a removal would furnish no remedy for the wrongs already committed, and his successor's relation to the marshal would be precisely the same. Think of it, a deputy marshal to be directed by the marshal, the marshal not responsible for the act he commands him to perform!

Again, suppose the marshal directs the deputy under this act to do an act that in the judgment of the deputy would exceed his powers, would be an excess of authority. As the law is now the marshal would be liable, under the bill before us the deputy alone would be responsible. While it is true any deputy would be liable, with the marshal who directed him, for a trespass committed by him under the marshal's direction, it is also true that if the act of the marshal was willful and the deputy was simply acting in obedience to orders the marshal would be responsible for such willful act. This act would change totally the relation of the deputy appointed under it to the marshal, he alone being responsible for his acts; yet, in contemplation of law, each and every act of this deputy is the act of the marshal. Who ever heard of a deputy sustaining such relations to a superior officer? It seems to me that no man who possesses the qualifications this bill requires would ever accept an appointment under it. In this respect the act may accomplish the desire of its friends.

This is a matter of moment to us. It has been said by an ecclesiastical writer of great repute that law has its seat in the bosom of God, and its voice is the harmony of the world; that all in heaven and earth do her homage; the least as feeling her care and the greatest as not exempt from her power. If that is the law which freedom gives and which shall obtain in a republic, then in Heaven's name what will be the position of this officer when he is appointed? What law is he to execute? Is he to execute the laws set forth in sections 2021, 2022, and 2023 of the Revised Statutes?

How is it in the States? Every officer that the sheriff appoints, if he exceeds his authority, becomes a trespasser *ab initio*. If a man who is evil-minded shall be appointed a deputy marshal, who has political predilections different from the marshal, he can exceed his authority, can commit a trespass, and a marshal will not be liable for it; and while he himself will be amenable to the law, yet he gives no bond, and every man who may suffer at his hands is utterly without remedy if he himself is irresponsible.

I say it cannot be gainsaid that under this bill these officers will owe no responsibility to any one. If they were to be appointed under the general law, their responsibility would be left intact and secure—under the general law, which recognizes the liability of the marshal for the acts of his deputies, as it compels him to give a bond of indemnity against not only his own acts, but the acts of his deputies also.

The deputies to be appointed under this bill being obliged to give no bond, being responsible neither to the marshals nor any one else, it being expressly provided that the marshals shall not be responsible for the acts of such deputies—I say that no more dangerous law could be passed than the one embraced in this bill.

The SPEAKER *pro tempore*. The time of the gentleman has expired, and the Chair now recognizes the gentleman from Connecticut [Mr. HAWLEY] as controlling the next hour.

Mr. HUMPHREY. I desire a few minutes more.

Mr. HAWLEY. I will yield ten minutes of my time to the gentleman from Wisconsin, [Mr. HUMPHREY.]

Mr. HUMPHREY. I desire to call attention to section 2021 of the Revised Statutes, which is as follows:

> SEC. 2021. Whenever an election at which Representatives or Delegates in Congress are to be chosen is held in any city or town of twenty thousand inhabitants or upward, the marshal for the district in which the city or town is situated shall, on the application, in writing, of at least two citizens residing in such city or town, appoint special deputy marshals, whose duty it shall be, when required thereto, to aid and assist the supervisors of election in the verification of any list of persons who may have registered or voted; to attend in each election district or voting precinct at the times and places fixed for the registration of voters, and at all times and places when and where the registration may by law be scrutinized, and the names of registered voters be marked for challenge; and also to attend, at all times for holding elections, the polls in such district or precinct.

I desire to call attention to sections 2022 and 2023 of the statutes:

> SEC. 2022. The marshal and his general deputies, and such special deputies, shall keep the peace, and support and protect the supervisors of election in the discharge of their duties, preserve order at such places of registration and at such polls, prevent fraudulent registration and fraudulent voting thereat, or fraudulent conduct on the part of any officer of election, and immediately, either at the place of registration or polling place, or elsewhere, and either before or after registering or voting, to arrest and take into custody, with or without process, any person who commits, or attempts or offers to commit, any of the acts or offenses prohibited herein, or who commits any offense against the laws of the United States; but no person shall be arrested without process for any offense not committed in the presence of the marshal or his general or special deputies, or either of them, or of the supervisors of election, or either of them, and, for the purposes of arrest or the preservation of the peace, the supervisors of election shall, in the absence of the marshal's deputies, or if required to assist such deputies, have the same duties and powers as deputy marshals; nor shall any person, on the day of such election, be arrested without process for any offense committed on the day of registration. (See sections 5521, 5522.)
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> SEC. 2023. Whenever any arrest is made under any provision of this title, the

person so arrested shall forthwith be brought before a commissioner, judge, or court of the United States for examination of the offenses alleged against him; and such commissioner, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States.

The officers named in the statute are appointed by the marshal; they are all amenable to him and under his control. Now, it is a notable fact that in the election in Edgefield County, South Carolina, in 1876, when there was an army officer, a captain, with fourteen of his men stationed two miles away for the purpose of preserving the peace at the polls, an individual sent by the marshal went to him and asked his aid; but that military officer refused to accede to the demand unless the marshal made the demand personally, and the marshal having made the demand and the captain responded with his fourteen men, as the proof shows, one of the present Senators from South Carolina was instrumental (to his credit be it said) in opening a way for the people to reach the polls.

I call attention to this fact to show how careful officers of the Army were at that time. They knew that under the law the marshal had authority, and that if he came in person and made a demand they were authorized to act. So, under the rider which was proposed to the Army bill, it was provided that if an officer should willfully commit any unlawful act therein specified he should be, on conviction, imprisoned or compelled to pay a fine. But under this bill what responsibility attaches to the officer except his personal responsibility? If he accepts the office there may be an implied obligation on his part to perform the duties faithfully. But he is not required to give bond, nor can he take the oath prescribed for deputies, and his personal responsibility may be worthless.

It is true that for an unlawful act he may be liable, but apart from this where is his liability? How incongruous is this bill in that respect with the provisions of the elective-franchise law in respect to officers of this class! Some of the States of this Union have provided most stringent laws for keeping the peace at the polls; the militia can be called out; the sheriff can call upon the power of the county, and every officer under him is liable to be called upon to act at his bidding. He is responsible for their acts. When we depart from this principle which has been followed in the laws of the United States, the marshal having his deputies, who act the time act under his command and for whose acts he is responsible—I repeat, when we depart from this conservative principle adopted from the common law of England and create an officer with an authority which if carried into effect may enable him, if he be not a good man, to commit acts for which there would be no responsibility on the part of the power appointing him, we incur the risk of bringing upon the Government lasting disgrace.

Dismissing the question of the political effect of this legislation, I ask, if laws are to be enacted for the public good, what public good does this bill subserve? Where is there a man who, if he has read the history of the country for the last ten years, does not know that in one of the great cities of this Union, New York, there exists a power which, unchecked by wholesome laws, can carry the election of that city and thereby carry the election of the State, and thereby elect the President of the United States. Against such a power officers of this kind, responsible to no one, would in vain invoke the power to repress. Suppose in the proper discharge of the duties these deputies were obliged to call for aid, could they call on the marshal? They would not be responsible for the acts of the marshal, the marshal not responsible for their acts, nor they responsible for the acts of each other.

Thus we see the power which the law reposes in officers, from the Chief Executive of the nation to the humblest officer of the Government, is broken; there is no head nor power to command, no seat of responsibility, and no mainspring of power. In fact, the more we consider this bill the stronger are we led to the conclusion that it was not designed to aid in obtaining free and fair elections, but to be so utterly inoperative that the Executive will be left powerless in the enforcement of the laws to prevent frauds in the election of Federal officers.

Thus by this bill of false pretenses are we to be deprived of the dearest right that a free government can give—the right that when one deposits his ballot it shall not be thrown to the winds and made nugatory by a fraudulent ballot put in by its side. This power, the greatest power that a freeman can possess and one that should be sacredly guarded at all times, is destroyed. This bill might be properly entitled "A bill to evade the elective franchise laws of the country and to bring into disgrace free institutions and free government."

Mr. Speaker, I speak not as a partisan; I speak what I believe to be true. The republican party has made some mistakes, but they have generally been on the side of humanity and liberty; the democratic party by this act is making a serious mistake, for curses, like chickens, always come home to roost; and if this bill be passed it will, when the people come to understand its effects, be one of the turning points in the power of the opposition in this House.

The power to repress wrong, the power to uphold the right, is our only safeguard. The only guarantee for this Republic is the purity of the ballot-box. If the civil power of the government, to effect this result, is stricken down, let it be said that the crowning act of the democratic party was its attempt to render nugatory the elective-franchise laws of the land and destroy the purity of elections as a means to seize the reins of government.

Mr. HAWLEY. Mr. Speaker, I do not propose to enter at length upon a legal discussion of the pending bill, but rather to make some matter-of-fact observations on the general political situation. As for the bill itself, I feel under no obligation to give it deliberate consideration, for one reason, if for no other, that it is presented by men who have uniformly and vehemently denied, entirely denied, the right of the Federal Government to regulate and to protect the elections of Federal officers in the several States, men who have denied the rightfulness of the existing statutes to that end. And therefore I am not prepared to expect from them any amendment of the law. I know if they could do as they desire they would utterly repeal it. I know they claim that the entire matter is completely within the discretion of State officials, and that men holding Federal commissions have no business near the ballot-box, whether they be marshals, deputy marshals, or military officers. Therefore, I am prepared, when they bring a bill here, to expect that it is intended to be in the nature of a mutilation, a hampering, a weakening of the existing statute. And such is this proposition.

I decline to enter upon any middle ground upon such a question. I am for the principle and the laws as they stand. I will not agree to give up a hair's breadth of allegiance to them or to divide the support of them with any man.

If I were asked to say that there shall be two men, one of each party, to receive votes, after the usual custom, I would agree to it. That is the habit everywhere. If it is demanded that there be two or four or six men equally divided among all parties to count these votes, I agree to it. But when I am called upon to choose the arm, to choose the officer who shall execute the law, I want the man who has sworn to obey it and who believes in it and whose single duty and desire it is to execute it. There is no possibility dividing duty there. There are no two parties there. A man is either for the law or against it, and when I am asked as a matter of fairness to divide the enforcement of the law with a man who believes it to be unconstitutional and wicked, I am at liberty to say the motive is to nullify the law.

Am I to be called on to enforce a law against the mutilation or the fraudulent issue of national-bank notes by dividing the enforcement of that law with a man who believes national-bank notes are unconstitutional and wicked and that there ought not to be any, and that he has a right to rebel against them, a man who, perhaps, has committed forgery himself or been engaged in issuing unlawful or forged notes? Am I to be called in any matter, under any criminal or semi-criminal statute, to divide the support of it with a man who hates it and has determined to nullify it? That, I affirm, goes to the essence of this controversy.

We shall be told—we have been told already—that the suggestion upon which this is founded was made by an especially distinguished gentleman from Ohio. In the abounding good nature of that magnificent heart he suggested something one day upon which they have built this. They ran for it eagerly, hoping they might get us on some common ground, get something they might make us say was not objectionable, so that they might escape from the ground they had before taken. Even the suggestion was an error of policy——

Mr. COX rose.

Mr. HAWLEY. Wait, my friend. Even the suggestion was an error of policy in the grand heart of that man, because the responsibility of saying that the Federal Government should or not have and execute election laws was on that side, and it should have been left with them to say yes or no. If they were disposed to leave the ground they have taken, let them say so and come squarely out of it.

Mr. COX. Are you for this bill?

Mr. HAWLEY. Am I for it!

Mr. COX. Yes.

Mr. HAWLEY. I thought I indicated clearly that I looked upon it with contempt, [laughter and applause,] but I will try to make it more clear before I get through.

Mr. COX. I wish you would have read the speech of General GARFIELD.

Mr. HAWLEY. You will attend to that; you could not wait; you hopped up and suggested it before the debate began.

Mr. COX. I have not time now. Please have it read; it will instruct the House now.

Mr. HAWLEY. The suggestion is made to me in a dozen directions to ask the attention of the gentleman from New York to the admirable manner in which the Federal election officers executed their duties in the city of New York. I will call upon him to read an extract from his own report to that effect.

Mr. COX. I will answer that at the proper time.

Mr. HAWLEY. And the gentleman might have waited until the proper time before he made the other inquiry.

Mr. COX. I would rather do it now.

Mr. HAWLEY. Well, I would rather you would take your own time.

Mr. COX. I know you would. That is your style.

Mr. HAWLEY. Now, I proceed to make, as I promised, some rather general reflections upon the political situation, as we are now about to part until December. The democracy came into power in the legislative department of the Government March 4, 1879, and signalized their entrance by asserting a revolutionary principle in legislation, declaring absolutely, unequivocally, and defiantly that they had the right to put any kind of legislation whatever upon appropriation bills

and demand of the co-ordinate legislative branch of the Government, and of the executive, concurrence in that legislation under penalty of leaving the Government without any moneys for its support. They began with that policy and still maintain it, I presume, for they have not confessedly abandoned it. It lies *perdu* now, and ready to be asserted again, for no man upon the democratic side, to my recollection or so far as I have heard, has denied the rightfulness of that claim. I have not forgotten that assertion. I remember that doctrine, and so will the people. The democracy virtually deny the right of the Federal Government to use, if it should become necessary, force in executing the Federal laws. I say that is practically the effect of it. They will say there are exceptions. Of course there are exceptions where the State executive calls directly upon the Federal Executive for force to maintain himself in the exercise of his executive authority. But in general I may say the democratic party is opposed to the appearance of Federal power in the States to execute the Federal laws or assert Federal authority, save upon request or assent of State authority. They have made it impossible to call upon a squad of Federal troops to enforce the Federal laws unless they come as a part of the *posse comitatus*—not even then if they appear as soldiers. They deny and vote against the right of the Federal Government to send Federal troops anywhere near the place of holding an election. We understand the distinction. No man believes in the employment of Federal troops, in the ordinary sense, as a police force to attend, armed and organized, to prevent breaches of the peace at the polls. But no man who believes this Government to be a government in fact as well as in name, to be anything more than a mere rope of sand, can call in question the power of the Government to enforce the execution of its laws with crushing military force if it becomes necessary to resort to it. The actual use of force may not be needed once in a hundred years. The knowledge that it may be invoked is sufficient. But to proclaim in advance that force shall never be called to sustain the defeated civil authority is to invite the bad elements to defy all law. It is to announce in advance to all bad men that they may defy your Government with impunity Therefore I repeat what I have said, that when there is riotous determined resistance to the national law, there must be the right of appeal to the military power of the Government, and there is no inch of ground and no second of time when this is not true.

The democratic party, in the third place, have denied wholly, I may say, the right of the Federal Government to make or alter the laws for the protection of the ballot-box except when the States shall have failed to enact such laws.

Now, we argued a year ago that the power of the Federal Government is paramount in that matter, and whether a State had made such laws or had not made such laws the Federal Government had unqualifiedly the right to step forward to alter old laws or make new ones, and in the second instance to compel obedience to them. And I shall print with my remarks on this subject the syllabus of the decision of the Supreme Court of the United States made in reference to the election laws, and covering identically the position taken by the republicans a year ago, and it might be used as a syllabus for twenty careful arguments which were made here on the republican side during the extra session.

The decision in the Siebold case, (October term, 1879,) I venture to say, will command the unquestioned adherence of every man of intelligence who examines the matter free from partisan motives. Suffice it for us that the republican claims upon this ground and upon all the other points connected with this legislation have been amply vindicated by the highest tribunal known to the law of the country. We can rest satisfied upon that decision. We are willing to go to the country upon it, and the people of this country will see the position in which the two parties have been placed by the decision. It is as follows:

Certain judges of election in the city of Baltimore, appointed under State laws, were convicted in the circuit court of the United States, under sections 5515 and 5522 of the Revised Statutes of the United States, for interfering with and resisting the supervisors of elections and deputy marshals of the United States in the performance of their duty at an election of Representatives to Congress, under sections 2016, 2017, 2021, 2022, Title 26, of the Revised Statutes: *Held*, that the question of the constitutionality of said laws is good ground for this court to issue a writ of *habeas corpus* to inquire into the legality of the imprisonment under such conviction; and if the laws are determined to be unconstitutional, the prisoners should be discharged.

Congress had power by the Constitution to pass the sections referred to namely, section 5515 of the Revised Statutes, which makes it a penal offense against the United States for any officer of election, at an election held for a Representative in Congress, to neglect to perform, or to violate, any duty in regard to such election, whether required by a law of the State or of the United States, or knowingly to do any act unauthorized by any such law, with intent to affect such election, or to make a fraudulent certificate of the result, &c.; and section 5522, which makes it a penal offense for any officer or other person, with or without process, to obstruct, hinder, bribe, or interfere with a supervisor of election, or marshal, or deputy marshal, in the performance of any duty required of them by any law of the United States, or to prevent their free attendance at the places of registration or election, &c.; also, sections 2011, 2012, 2016, 2017, 2021, 2022, Title 26, of the Revised Statutes, which authorizes the circuit courts to appoint supervisors of such elections, and the marshal to appoint special deputies to aid and assist them, and which prescribe the duties of such supervisors and deputy marshals; these being the laws provided by Congress in the enforcement act of May 31, 1870, and the supplement thereto of February 28, 1871, for supervising the elections of Representatives, and for preventing frauds therein.

The circuit courts have jurisdiction of indictments under these laws, and a conviction and sentence in pursuance thereof is lawful cause of imprisonment, from which this court has no power to relieve on *habeas corpus*.

In making regulations for the election of Representatives it is not necessary that Congress should assume entire and exclusive control thereof. By virtue of that clause of the Constitution which declares that "the times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof, but the Congress may at any time by law make or alter such regulations, except as to the place of choosing Senators," Congress has a supervisory power over the subject, and may either make entirely new regulations or add to, alter, or modify the regulations made by the State.

In the exercise of such supervisory power Congress may impose new duties on the officers of election or additional penalties for breach of duty or for the perpetration of fraud, or provide for the attendance of officers to prevent frauds and see that the elections are legally and fairly conducted.

The exercise of such power can properly cause no collision of regulations or jurisdiction, because the authority of Congress over the subject is paramount, and any regulations it may make necessarily supersede inconsistent regulations of the State. This is involved in the power to "make or alter."

There is nothing in the relation of the State and national sovereignties to preclude the co-operation of both in the matter of elections of Representatives. If both were equal in authority over the subject, collisions of jurisdiction might ensue; but the authority of the National Government being paramount, collisions can only occur from unfounded jealousy of such authority.

Congress had power by the Constitution to vest in the circuit court the appointment of supervisors of election. It is expressly declared that "Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of Departments." While, as a question of propriety, the appointment of officers whose duties appertain to one Department ought not to be lodged in another, the matter is nevertheless left to the discretion of Congress.

The provision which authorizes the deputy marshals to keep the peace at the elections is not unconstitutional. The National Government has the right to use physical force in any part of the United States to compel obedience to its laws and to carry into execution the powers conferred upon it by the Constitution.

The concurrent jurisdiction of the National Government with that of the States, which it has in the exercise of its powers of sovereignty in every part of the United States, is distinct from that exclusive jurisdiction which it has by the Constitution in the District of Columbia, and in those places acquired for the erection of forts, magazines, arsenals, &c.

The provisions adopted for compelling the State officers of election to observe the State laws regulating elections of Representatives, not altered by Congress, are within the supervisory powers of Congress over such elections. The duties to be performed in this behalf are owed to the United States as well as to the State; and their violation is an offense against the United States which Congress may rightfully inhibit and punish. This necessarily follows from the direct interest which the National Government has in the due election of its Representatives and from the power which the Constitution gives to Congress over this particular subject.

In the fourth place the democratic party has asserted vehemently, defiantly, and persistently its purpose to repeal in general terms all of the "war legislation" (as it has been styled) upon the statute-books. It has been found necessary to enact various and extensive statutes to carry into practical effect and to maintain the thirteenth, fourteenth, and fifteenth amendments to the Constitution; and such statutes are the "war legislation" aimed at. Of course the great democratic party yield unwilling assent to the practically irrepealable amendments themselves, but nevertheless it is the hope and purpose of many, as has been frankly asserted upon this floor, to wipe from the statute-books the legislation necessary to and authorized by those glorious amendments. That is logically their proper ground and it is their ground. If I viewed those amendments as they do I should insist upon leaving them as a dead-letter in the Constitution, as I believed myself at one time in leaving as a dead-letter in the Constitution what appeared to call upon me to hunt runaway slaves.

The democracy are united only on these things. I have indicated substantially all the points upon which that party is united; it is hopelessly divided on the other live questions of the time; the tariff, for example. It is a protective party in Pennsylvania; it is a protective party in Kentucky when you touch hemp and tobacco; it is a protective party in Maryland and Virginia; it is a protective party largely in Ohio when you touch wool; it is a protective party in Louisiana when you touch sugar; and it will be a protective party in Georgia soon when you touch the tariff on cotton goods.

Mr. CARLISLE. The people of Kentucky want no protection for hemp or tobacco. Remove the internal duties from tobacco, and you may make its importation free if you desire to do so.

Mr. HAWLEY. Then there must have been a change of opinion since we discussed the so-called little tariff bill five or six years ago.

Some of my constituents wanted to reduce the duty upon jute butts and I remember well that opposition was made in the West in the interest of hemp and flax. The gentleman from Kentucky [Mr. CARLISLE] seeks to clear the skirts of that State from the charge of being for protection, but he has nothing to say for Ohio and Pennsylvania and Maryland and Louisiana. But I have only to appeal to the record of votes incidentally touching the tariff this session.

As a party the democracy has no policy on the subject. The gentleman from Kentucky could not say that the whole democratic party at large occupies the ground he himself holds as a free-trader. He would not prophesy, he would not dare to prophesy, though a brave and honorable man, that their coming convention will take grounds in favor of free trade. It will be proven there that the democracy is a divided party. I should be very happy, because I believe that party ought to be defeated, to find it taking ground in favor of free trade in general. That party has been for many years full of threats and promises, denouncing the existing tariff, and promising revenue reform upon the earliest opportunity. But it has been in control in this House for now six years nearly, and for nearly two years it has had control of both branches of the general legislature. And where is its tariff bill? What general measure has it offered? There was an attempt at a tariff bill in the last Congress, but in a short time its friends were invited to attend at its home, and it was carried to the grave before it was cold.

In this Congress they have made no attempt to revive the general issue. There have been some puny pickaxes working at the crevices and chips by means of distinct attacks upon the duties on salt, or wood-pulp, or paper, &c. But if our opponents have any broad policy on the subject which they dare to submit to the country we should be only too glad to have it in the form of a bill, to be discussed next autumn. They have come to us instead of that with a scheme for a tariff commission. Some like it; some do not. But what is the essence of the measure? It proposes to go outside of these ambitious men, of these legislators, who were apparently very ready to open the contest, and to pick up some nine specialists or experts, men not responsible for legislation, men who could not be called to account in the campaign next autumn, and require them to draft a bill and report, eighteen months hence, to the republican Congress which will meet in December, 1881.* [Applause.] That is the way in which the great national party full of high courage has met one of the great questions of the day.

It is hopelessly divided again upon the currency question. That party is full of opposition to the national-bank system. Take its members individually and I do not know whether there are ten men on that side who will deny that they are opposed to the national-bank system.

Well, gentlemen, a great campaign is coming on in which that question will be discussed. We shall be glad to have you tell the people what you think of it. Where is your bill? If you have prepared none, why not? You have a feeling, a wish, a dislike, if I may not say a hatred, of that system. Why have you not formulated that in a bill that we may lay it before the people and have a discussion, and so that you may say to the people frankly and fairly what kind of government you would give them for the next four years? It has been generally reported that gentlemen of the democratic party are in favor of an indefinite continuance of paper money, legal-tender paper money, in time of profound peace and fifteen years after the war has closed.

Mr. HUTCHINS. Is not Secretary Sherman in favor of it?

Mr. HAWLEY. I do not know. No, he is not in favor of keeping it up permanently.

Mr. WHITE. Never.

Mr. HAWLEY. I do not believe in the indefinite continuance of legal-tender paper in time of peace for abundant reasons, all of which I could draw from the history and arguments of the fathers of the democratic party.

Mr. HUTCHINS. I will vote with you to-morrow to annul it.

Mr. HAWLEY. Yes; but the gentleman is but just born into the democratic party. [Laughter.] This democratic party has already, as I understand—I have not examined the details—made its formal union with the greenback party in the State of Maine. The dead carcass of a gigantic fraud is to be brought forward in Maine and carried through the campaign. I am amused at seeing those Siamese twins, the democratic party and the greenback party of Maine. The combination indicates the demoralization of the democracy and the general disposition on its part to combine with any financial heresy whatever in order to gain power.

Mr. HUTCHINS. Will the gentleman allow me to ask him a question?

Mr. HAWLEY. A single question.

Mr. HUTCHINS. Will the gentleman tell me why the republican party indorsed the greenback candidate in my district last fall against me, when I declared myself a hard-money man and the greenback candidate declared himself in favor of issuing a thousand millions more of legal-tender paper?

Mr. HAWLEY. It was a tremendous temptation to beat you. [Laughter.]

Mr. HUTCHINS. They did not do it, however.

Mr. HAWLEY. I think if they had not thought that by so doing they could beat you, they would not have indorsed the other man.

In obedience to the ancient democratic doctrine of Jackson and Benton, very much remains to be done in the financial field; very much remains to be done with our currency and with our national debt. But I defy the most skillful political physiognomist to see any resemblance in the democratic party of to-day to the party of Jackson and Benton on this subject.

The majority have denied to the Secretary of the Treasury an opportunity to refund some $700,000,000 of the national bonds. There are some $490,000,000 of 5 per cent. bonds and $230,000,000, more or less, of 6 per cent. bonds which he could refund in four percents at least.

Now, it is true they have brought in a bill which they will claim in the campaign they were willing to adopt, and they will say that that bill gave the Secretary of the Treasury a chance to refund that portion of the national debt. But the bill named a bond at 3¼ per cent., and gave the Secretary of the Treasury no discretion whatever; he must refund by selling at par a 3½ per cent. bond, or not refund at all.

Now, I am inclined to charge that those who offered to press that bill did not intend to pass it; or, if they did, they did not expect that under it the Secretary of the Treasury would be able to refund the fives and sixes. However, it has had one considerable effect. It has, without doubt, tended to maintain at a very high rate the 4 per cent. bonds in the market of New York. It has done somebody good; to the brokers of Wall street, if to no others.

The great Secretary of the Treasury, who has done so much to establish specie payments and strengthen our credit throughout the world, is left without power to take advantage of the most favorable opportunity which has occurred in the financial market since the war, or will probably come again within ten years. The opportunity is passing. If the Secretary could receive power to-day he could use it, but the session is almost ended.

If the democratic party has any foreign policy of any description it has not manifested it to my knowledge in any bill before this House, certainly in no bill which has been pressed into prominence.

For many years past the democratic party has been in the habit of reproaching the republicans for the depressed condition of American shipping. What have they done to remedy it? Can any one recall a bill, among the six thousand or more of this Congress, that proposes any remedy? There may be one in some committee-room, possibly one on the calendar. But nobody has said a word for it, nor, so far as I can remember, urged the consideration of any measure relating to that subject.

That depressed condition of American shipping resulted from obvious necessity, from a wonderfully exhausting war, from an expanded paper currency, from the inflated condition of prices in this country, which made it impossible for our capitalists and our seamen to engage profitably in that business in competition with the cheap capital and the cheap labor of other countries.

But there might be some partial remedies. Where are they? Have the democrats offered any?

Gentlemen of the majority are quite willing, I know, upon river and harbor bills to waive that hostility to internal improvements which used to be a democratic doctrine. Many of us remember reading in our youth or boyhood the appeals made by the grand Henry Clay in favor of internal improvements, and remember that the policy was in general denounced by the leading democrats of that day.

The democratic party has gotten well over its opposition to internal improvements. It is willing to take all that the Federal Government will give in that direction. At this session it runs the river and harbor bill up to nine millions or thereabout. I am willing to vote reasonable or liberal sums to such purposes where the water is over three or four inches deep, [laughter,] but I call attention to this matter for the purpose of showing that the democratic party which used to hold quite different doctrine is now indiscriminately and unreservedly in favor of "the old flag and an appropriation;" and the republicans—to their credit be it said—have been the restraining influence in this House in regard to many extravagant expenditures.

In many things the democratic party has lost all respect for State rights. It is ready to welcome any trespasser upon the doctrine if he only brings money enough in his hands to condone for a violation of the theory, whether the expenditure be in the way of extravagant plans for national quarantines, or for the improvement of the Mississippi River, or in any other of numerous directions. Members of that party have no dread of Federal money, but a very great dread of Federal justice in many things.

At the first session of this Congress they appeared here as a "solid South" with a northern attachment, filled with a marvelous joy over their renewed control of Congress and a more marvelous audacity in their programme of reactionary legislation. The fall election intervened. Does any man recall, has any man read of, a more remarkable change in the temper and spirit of a party than that which occurred between last June and the beginning of this session? Then they were without fear, full of defiance and self-assertion. Now it is hard to say whether they are most in dread of JAMES A. GARFIELD or the "whisperer of Cipher Alley." [Laughter.] They have not, to my knowledge, disavowed any doctrine asserted last year, but there has never been seen a party of unruly boys brought under such good discipline so speedily. There are men on the other side who have been full of red-hot speeches, but they have been sweet, calm, and mild as a summer evening. Their doctrines are still held but nobody has asserted them.

Mr. LAPHAM. They are "nursing their wrath to keep it warm."

Mr. HAWLEY. Yes; they have devoted the winter to the building of Greek horses and the digging of tunnels in their siege of the republican citadel.

I said they were afraid of Tilden. If Mr. Tilden is the victim of wrong that they have always asserted him to be, he is entitled at the hands of men who declare that they will have fair play to an heroic attempt at vindication. But there is nothing in the world that the democratic party is so unwilling to ask of the American people as justice to Mr. Tilden.

The result of republican legislation in the years since the war has been to strike off in the aggregate $1,000,000,000 of the public debt—not all bonded debt, but of floating and bonded debt, $1,000,000,000. It has reduced the annual burden of interest from nearly $150,000,000 to something like $90,000,000. Since our nominations at Chicago American credit has reached the highest point it has ever known, 4 per cent. bonds standing between 9 and 10 per cent. above par.

Such facts are not without their significance. They show that the portion of the community devoted to cold business, caring nothing

*Mr. HAWLEY begs leave to interline a correction. The printed bill has been so amended in the Senate as to require the report January 1, 1881.

for sentiment when figures are in question, looking at political questions from the stand-point of dollars and cents, know to whom the good credit of this country is due; and when the republican party makes a good nomination and starts out bravely upon a campaign the money market discounts the hopeful future and is willing to pay millions of dollars more for bonds in evidence of its faith in the policy of the republicans and in its chances of future success.

Now, upon this financial policy in general there are two courses and only two: one is forward in the direction of specie payment and a sound constitutional currency of the precious metals; the other is in the direction of the destruction of the national banks, the revival of the "wild-cat" State banks, and a general, indefinite, prolonged issue of legal-tender paper in time of peace. These are the two roads. In one of these the republican party is well advanced; it is the road it has always pursued. The democratic party has uniformly opposed every one of the successive and successful financial measures from 1861 down to the resumption of specie payments and since that time. It is obliged by the logic of history to continue to pursue that course. If it is not going to do so it has given us no good evidence to the contrary. It is more hopelessly divided as a party now than when it was a minority in this House. Compactly organized then, with the sole duty of opposition, it was united and vigorous. Now, with a temporary measure of success and more of hope than it has entertained in twenty years, it is timid and doubting. It has no policy as a whole upon any one of the great questions that agitate the public mind, with the sole exception of those questions inherited from the war—the maintenance of the thirteenth, fourteenth, and fifteenth amendments—their enforcement in every particular, the protection of the people in the great right of suffrage, the protection of the equal rights and liberties of all men in every part of the Union so far as the Federal power can justly reach. Concerning all these things it indulges its inherited traditional prejudices, but upon the wide range of other great national tasks and problems it has shown itself practically without a creed or policy. [Applause.]

Mr. COX. I will not take longer in the discussion of this question, especially as the gentleman from Connecticut——

Mr. KEIFER. I desire to understand the situation of the question. How much time has the gentleman from Connecticut left?

The SPEAKER *pro tempore*, (Mr. O'CONNOR in the chair.) He has seventeen minutes left. The Chair understood the gentleman from Connecticut yielded the floor absolutely, no one on that side desiring to occupy any portion of his time.

Mr. HAWLEY. Can I reserve that time?

Mr. TOWNSHEND, of Illinois. Not after you have surrendered the floor.

Mr. KEIFER. Gentlemen say the gentleman from Connecticut cannot reserve it. The unanimous consent of the House yesterday was there should be three hours allowed on this side for debate.

Mr. HARRIS, of Virginia. Well, go on with it.

Mr. KEIFER. I am not pressing to go on with it; but my purpose in rising was to ask whether the gentleman from New York proposes to violate the agreement.

Mr. HARRIS, of Virginia. There is no violation of the agreement.

Mr. COX. Nobody wishing to occupy the floor, I propose to take it for a few moments.

Mr. HARRIS, of Virginia. Let gentlemen on the other side go on and finish the remaining seventeen minutes.

Mr. COX. Finish your seventeen minutes, and I will then go on. How can I violate an agreement when no one on that side wishes to speak?

Mr. KEIFER. We want to understand the position. There is no trouble about that.

Mr. HARRIS, of Virginia. We concede what you ask. Go on with the remaining seventeen minutes.

Mr. COX. You have run out of material. [Laughter.]

Mr. WILLITS. What do you claim?

Mr. HARRIS, of Virginia. At the expiration of three hours of debate the right to call the previous question and close debate with one hour, or less, if I think proper, afterward.

Mr. COX. The gentleman from Connecticut discussed the whole campaign. He did not confine himself to the bill. But the other side is played out on the debate. [Laughter.]

Mr. KEIFER. No gentleman on this side desiring to occupy the remainder of the time we agree with what the gentleman from Virginia has said, that it is his right to move the previous question and occupy an hour afterward.

Mr. WARNER. I suggest that the rest of the time be taken up with the reading of General GARFIELD'S speech.

Mr. KEIFER. Nobody wants the seventeen minutes on this side. Let the other side go on.

The SPEAKER *pro tempore*. The Chair, then, will recognize the gentleman from Virginia in charge of the bill.

Mr. HARRIS, of Virginia. I demand the previous question.

The SPEAKER *pro tempore*. The question is on seconding the demand for the previous question.

Mr. TOWNSHEND, of Illinois. I rise to a parliamentary inquiry. If the previous question is seconded, will one hour be left for debate?

The SPEAKER *pro tempore*. That was the unanimous consent given yesterday.

Mr. HARRIS, of Virginia. I will yield to an amendment to be offered by the gentleman from Kentucky.

Mr. KEIFER. As I understand, there is an amendment now pending offered by the gentleman from Massachusetts.

The SPEAKER *pro tempore*. There is, offered by the gentleman from Massachusetts, [Mr. FIELD.]

Mr. KEIFER. I understand there are some other amendments to be offered on this side. It is only in order to offer them before the demand for the previous question.

The SPEAKER *pro tempore*. They had better be offered now.

Mr. WHITE. I move to amend by striking out after the word "courts," in the twelfth line, to the word "and," in the fourteenth line; that is, to strike out the following words:

And the officers so appointed shall be in equal numbers from the different political parties.

Mr. LAPHAM. I offer as a third section what I send to the Clerk's desk to be read.

The Clerk read as follows:

Every person who shall, by unlawful intimidation, unlawful menace, unlawful violence, or by other unlawful means, prevent, or attempt to prevent, any citizen of the United States, or of any State, lawfully entitled so to do, from peaceably going to, remaining at, or returning from any place of registration, tax-paying, voting, or place of doing any other act or thing required by the laws of the United States, or of any State or Territory, to be done by such citizen, in the exercise, or as a requisite to the exercise, of the right to vote for a Member of, or Delegate to, the House of Representatives of the Congress of the United States, for the purpose of doing such act or complying with such requisition, or who shall unlawfully hinder, impede, prevent, or neglect or refuse to allow the doing of any such act or the compliance with any such requisite, or the free voting by such lawfully entitled citizen in the manner prescribed by law, at any election for Member of, or Delegate to, said House of Representatives, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine of not more than $5,000, or by imprisonment not more than three years, or both, in the discretion of the court.

Mr. LAPHAM. I offer the following to come in as additional sections:

SEC. —. That every person who shall, by unlawful intimidation, unlawful menace, unlawful violence, or other unlawful means, prevent, or attempt to prevent, any citizen of the United States, or of any State, from peaceably assembling with any other such citizen or citizens for the purpose of petitioning the Congress of the United States for a redress of grievances, or from so assembling for the purpose of considering the subject of the nomination or choice of any person to be a Member of, or Delegate to, the House of Representatives of the said Congress, or from so assembling for any other lawful purpose relating to the preservation, operation, administration, or authority of the Government of the United States, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine of not more than $1,000, or by imprisonment not more than one year, or both, in the discretion of the court.

SEC. —. Every person who shall, by unlawful intimidation, unlawful menace, unlawful violence, or other unlawful means, break up or disturb any meeting of citizens of the United States, or of any State, lawfully assembled or existing for any of the purposes mentioned in the next preceding section of this act, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine of not more than $1,000, or by imprisonment not more than one year, or both, in the discretion of the court.

SEC. —. Every person who shall, by unlawful intimidation, unlawful menace, unlawful violence, or by other unlawful means, prevent, or attempt to prevent, any citizen of the United States, or of any State, lawfully entitled so to do, from peaceably going to, remaining at, or returning from any place of registration, tax-paying, voting, or place of doing any other act or thing required by the laws of the United States, or of any State or Territory, to be done by such citizen, in the exercise, or as a requisite to the exercise, of the right to vote for a Member of, or Delegate to, the House of Representatives of the Congress of the United States, for the purpose of doing such act or complying with such requisition, or who shall unlawfully hinder, impede, prevent, or neglect or refuse to allow the doing of any such act or the compliance with any such requisite, or the free voting by such lawfully entitled citizen in the manner prescribed by law, at any election for Member of, or Delegate to, said House of Representatives, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine of not more than $5,000, or by imprisonment not more than three years, or both, in the discretion of the court.

SEC. —. When under the authority of the constitution or laws of any State, or the laws of the United States, or of any Territory, any act is or shall be required to be done as a prerequisite or qualification for voting for Member of, or Delegate to, the House of Representatives of the Congress of the United States, and by such constitution or laws persons or officers are or shall be charged with the duty of furnishing to citizens an opportunity to perform such prerequisite, or to become qualified to vote, every such person and officer shall give to all citizens of the United States, and to all citizens of each State, lawfully entitled, the same and equal opportunity to perform such act and prerequisite, and to become qualified to vote.

SEC. —. Every person or officer charged with any duty specified in the preceding section who refuses or knowingly omits to give full effect to said section shall forfeit the sum of $500 to the party aggrieved by such refusal or omission, to be recovered by an action on the case, with costs and such allowance for counsel fees as the court may deem just.

SEC. —. Whenever, under the authority of the constitution or laws of any State, or the laws of the United States, or of any Territory, any act is or shall be required to be done by a citizen of the United States, or of any State, as a prerequisite to qualify or entitle him to vote for a Member of, or Delegate to, the House of Representatives of the Congress of the United States, the offer of such citizen, lawfully made, to perform the act required to be done, shall, if it fail to be carried into execution by reason of the wrongful act or omission of the person or officer charged with the duty of receiving or permitting such performance or offer to perform, or action thereon, be deemed and held as a performance in law of such act; and the person so offering and failing to perform, and being otherwise qualified, shall be entitled to vote for such Member of, or Delegate to, the House of Representatives, in the same manner, and to the same extent, and with the same effect, as if he had in fact performed such act. Every officer of registration, judge, inspector, or other officer of election, whose duty it is or shall be to register or report the names of voters, or to receive, count, certify, register, report, return, or give effect to, the vote of such citizen for a Member of the House of Representatives of, or Delegate to, the Congress of the United States, who shall wrongfully refuse or omit to make due registration, or to receive, or truly to count, certify, register, report, return, or give effect to the registration or vote of such citizen, upon the presentation by him of his affidavit stating such offer, and the time and place thereof, and the name of the officer or person whose duty it was to act thereon, and that he was wrongfully prevented by such person or officer from performing such act, shall forfeit the sum of $500 to the party aggrieved by such refusal or omission, to be recovered by an

action on the case, with costs, and such allowance for counsel fees as the court may deem just.

SEC. —. Every officer of the United States, or of any State or Territory, or other person, charged by this act, or who is, or shall be, charged by other laws of the United States, or by the laws of any State or Territory, with any duty in relation to the right of citizens of the United States, or of any State, to become qualified to vote for, or the right of any such citizen to vote for a Member of, or Delegate to, the House of Representatives of the Congress of the United States, or in relation to the conduct of any election for the choice of such Member or Delegate, or in relation to the registration of the names of voters, or the receiving, counting, declaring, returning, or certifying of any vote or votes for such Member or Delegate, who shall knowingly and wrongfully fail or refuse to truly perform such duty, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine not exceeding $5,000, or by imprisonment not exceeding five years, or both, in the discretion of the court.

SEC. —. Every person who shall cast, deposit, or count, or allow to be cast, deposited, or counted, at, or on the occasion of, any election for a Member of, or Delegate to, the House of Representatives of the Congress of the United States, any false or unlawful vote or ballot, knowing such vote or ballot to be false or unlawful, or who shall knowingly make any false certificate, report, or return of, or in respect to, any such election, or the result thereof, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine of not more than $5,000, or by imprisonment not more than five years, or both, in the discretion of the court.

SEC. —. Every person who, in the committing of any of the misdemeanors mentioned in this act, shall assault, beat, or otherwise ill-treat any citizen of the United States, or of any State, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine of not more than $1,000, or by imprisonment not more than one year, or both, in the discretion of the court.

SEC. —. Every person who, in the committing of any of the misdemeanors mentioned in this act, shall kill any citizen of the United States, or of any State, shall be deemed guilty of murder, and, on conviction thereof, shall suffer death.

SEC. —. Every person who shall promise, offer, give, or cause or procure to be promised, offered, or given, any money or other thing of value, or who shall make or tender any contract, undertaking, obligation, gratuity, or security for the payment of money or for the delivery or conveyance of any thing of value, to any person, with intent to influence or reward such person for, or on account of, his vote, or for or on account of his omission to vote, at any election for a Member of, or Delegate to, the House of Representatives of the Congress of the United States, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined not more than $1,000, or imprisoned not more than two years, or both, in the discretion of the court.

SEC. —. Every person who shall in any wise accept or receive, or agree to accept or receive, any sum of money, or other bribe or reward, for, or on account of, his voting or promising to vote, or refraining from voting or promising to refrain from voting, for a Member of, or Delegate to, the House of Representatives of the Congress of the United States, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined not more than $1,000, or imprisoned not more than one year, or both, in the discretion of the court.

SEC. —. Every person convicted of any offense against either of the two preceding sections shall be thereafter forever disqualified from holding any office of honor, trust, or profit under the United States.

Mr. HARRIS, of Virginia. All the amendments now being in, I ask the previous question on the bill and amendments.

Mr. CARLISLE. Will the gentleman yield the floor to me to offer an amendment?

Mr. HARRIS, of Virginia. I will yield five minutes to my friend from Kentucky to offer his amendment and to explain the same.

Mr. CARLISLE. I am not particular about having the time now. I simply desire to offer the amendment before the previous question is called, and I offer this amendment in view of the criticism which has been made by the gentleman from Massachusetts in order to remove any ambiguity that may be in the bill.

Mr. HARRIS, of Virginia. I ask the attention of the House to the amendment proposed by the gentleman from Kentucky, as perhaps it can be accepted by unanimous consent.

The Clerk read as follows:

Strike out all after the word "year," in the fourth line of the second section, down to and including the word "case," at the end of the eighth line, and insert "and the judges of the several circuit courts of the United States are hereby authorized to open their respective courts at any time for that purpose, and in case the circuit court shall not be opened for that purpose at least ten days prior to the registration, if there be one, and if no registration be required, then at least ten days before such election."

Mr. HARRIS, of Virginia. So far as I have any power to do so I am willing to accept the amendment by unanimous consent.

The SPEAKER *pro tempore*. The amendment could only be accepted by unanimous consent.

Mr. HARRIS, of Virginia. I suggested that it might be accepted by unanimous consent and incorporated as a part of the bill.

Mr. WHITE. There will be objection to that.

Mr. HARRIS, of Virginia. Then I ask the previous question on the bill and pending amendments.

The previous question was seconded and the main question ordered.

Mr. HARRIS, of Virginia, moved to reconsider the vote by which the previous question was seconded and the main question ordered; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The SPEAKER. The gentleman from Virginia is now recognized for one hour under the rule.

Mr. HARRIS, of Virginia. Mr. Speaker, I shall detain the House but a very few minutes. I do not intend to make a speech upon the bill, but I rise now simply to state that this bill makes no change in the existing law as to the powers and duties of deputy marshals, supervisors, or any other officer. Gentlemen on the other side have covered the whole ground of the supervisors law, as if this changed the law in any respect. They discussed the duties of the deputy marshals and they have endeavored to impress upon the House and the country that this bill seeks to interfere with the duties of the deputy marshals as now provided by law.

That, Mr. Speaker, I hold is not the fact. This bill changes and modifies no law of Congress except in so far as the mode of appointment and the political complexion and personal character of the parties to be appointed are concerned. In other words, the only change made is this: It authorizes the circuit and district courts to appoint deputy marshals instead of permitting them to be appointed as heretofore and now by the marshals. It provides further that there shall be an equal number of these persons appointed from each political party, and that they shall be men well known in the community where they reside and men of good moral character, and these are the only changes in the law.

Mr. WHITE. Will the gentleman permit me to ask him a question here? Does it not take away the power from the marshal to appoint general deputies for election purposes?

Mr. HARRIS, of Virginia. No, sir; it does not touch that question at all.

Mr. WHITE. Does it not deny entirely the power which the Attorney-General in his opinion in 1876 stated that the marshals had?

Mr. HARRIS, of Virginia. I do not think the law ever gave them that power, and therefore it is not worth while to discuss that question.

Mr. WHITE. It was done in 1876 and was done to protect the colored voters in the South in the exercise of their rights.

Mr. HARRIS, of Virginia. That is the only change in the law, as I have said, to wit, in reference to the appointment of these officers, and the character of the men to be appointed. What is the history of the legislation upon this subject since the democratic party obtained control of this branch of the Government? They undertook to repeal all laws touching deputy marshals on an appropriation bill at the extra session of Congress, but the President vetoed that on the ground that it interfered with the purity of elections, but said that he would sign any bill which would throw additional safeguards around the exercise of the elective franchise. I do not pretend to quote the message literally, but that is its purport.

A short time since the substance of this bill was attached to a deficiency appropriation bill by the two Houses, and was sent to the President, and he vetoed it on the sole ground that it was a rider, and gave no other objection than the mere fact that it was a rider on the bill. In the discussion before the House and before the country the great objection urged upon the other side to this bill was that it was a rider on an appropriation bill. But few gentlemen ventured so far as to say the law which provided for an equal number of deputy marshals from each political party was not a just and good law. Few gentlemen would stake their reputation for impartiality upon a denial of such a point as that, and, sir, one of their leaders, the head and front of the republican party now, the one chosen for their great standard bearer in the pending presidential contest, took occasion to express himself upon this question, and I will send to the clerk's desk to have read an amendment he offered at the present session of Congress, which will be found to be almost identically the law as now proposed.

The Clerk read as follows:

For special deputy marshals of elections, the sum of $7,600: *Provided*, That hereafter special deputy marshals of elections and general deputy marshals, for performing any duties in reference to any election, shall receive the sum of $5 per day in full for their compensation; and that all appointments of such special deputy marshals or of general deputy marshals having any duty to perform in respect to any election shall be made by the judge of the circuit court of the United States for the district in which such marshals are to perform their duties, or by the district judge in the absence of the circuit judge; said special deputies to be appointed in equal numbers from the different political parties.

Mr. HARRIS, of Virginia. Now, Mr. Speaker, it will be observed that the bill under consideration fixes the pay at $5 a day, following the exact estimate of the gentleman from Ohio who offered that amendment, and that it provides for these deputy marshals being taken in equal numbers from the different political parties and for their being appointed by the circuit and district courts. That is the whole of the bill now before the House. I now send to the Clerk's desk the CONGRESSIONAL RECORD containing the remarks made by the same gentleman when that question was under debate, and I commend his patriotic words to the deliberate attention of gentlemen on that side of the House. I hope they will be guided by what he then said and show now as much liberality in act as he then did in spirit.

The Clerk read as follows:

The first object which I try to keep before my mind in legislation is to be right. And on this question of the election laws, during the long and heated session of debate last summer, in which all sorts of accusations were made against them by gentlemen on the other side, there was made but one lodgment in my mind of a just criticism upon them. There was one charge made by the other side, and in so far as it was true I consider it a just objection to the law. It was that the law had been used, or was capable of being used, to fill election precincts with men of one party whose time might be employed at the public expense for party electioneering purposes.

I say in so far as that law can be so used to that extent it is unjust; and at all times and on all proper occasions I have declared, and I now declare myself, willing to modify the law so that the alleged abuse cannot take place. [Applause on the democratic side.] That I say for myself, and will continue to say it. No other valid objection to this law was, in my judgment, made by anybody during the last session of this Congress or since.

* * * * * * *

I did not offer my substitute as a compromise. On the question of what I believe just and right I make no compromise anywhere; but I do believe that it strengthens the election law to free it from every ground of charge that it is partisan or can be used for merely partisan purposes. I want the law to insure, so far as law can do it, fair, honest, and peaceable elections, and I want it for no other purpose.

Mr. HARRIS, of Virginia. Now, Mr. Speaker, the English language

cannot afford terms plainer or better than those used by the gentleman from Ohio when he speaks of the merits of the bill now under consideration. He says the existing law is objectionable because it may be used for partisan purposes; and he says it will strengthen the election law, it will tend to the purity of elections by so amending the law as to give each party a representative at the poll.

But the objection then made was that it was on an appropriation bill. Now the Senate, anticipating the wants of the country and feeling the necessity of pure elections, have passed a bill separate and apart from the appropriation bills. It comes before the House upon its naked merits just in the form in which many gentlemen on the other side said during the discussion they would accept it.

And now when it so comes what a spectacle do we witness? Do we find the followers of their great leader coming up to his standard, and saying they will do what is right and take his advice? Do we witness them coming up and saying we will so amend the law as to make it better and free from partisan law and partisan machinery? No, sir. They are offering amendments and making every possible objection to the bill that can be raised or can be conceived, and when the time comes, I fear from the indications, a large majority of them will vote against it. But with them will be the responsibility, Mr. Speaker, of thus differing from their chosen leader. [Applause.]

I now yield to the gentleman from New York, [Mr. COX.]

Mr. COX. Mr. Speaker, after what has fallen from the gentleman from Virginia as to the record of the statesman who has been chosen as standard-bearer of the republican party, it is not necessary for me to add much, if anything, on that subject. As I stated yesterday, I am not enamored of this bill. I do not know that, if present, I should have voted for it when first proposed by the distinguished candidate for President. I was a little dubious about it when it came from that source.

This bill recognizes the right of the Federal Government to interfere with elections. I have held and hold that the Supreme Court decided rightly when they decided, in their best estate and days, that there were no Federal elections, only State elections. True there have been some other decisions since. But the Supreme Court has fallen since they first made that correct decision as to the relation of elections to State and Federal governments.

I will, like others around who agree with me, vote, however, for this bill on this ground: it is a mitigation of the rigors, the vicious rigors, of the present law. It does not go very far; not far enough. We should expunge the Federal espionage over elections; but we must do the best we can for the present.

The curiosity of this debate consists in this: that the gentlemen on the other side who are sustaining General JAMES ABRAHAM GARFIELD for President are attacking him right in the house of his friends and on this his own measure.

Mr. HUBBELL. Defending him.

Mr. COX. They are not defending him.

Mr. HUBBELL. You are defending him.

Mr. COX. I will defend him in a measure—a small measure, a very limited, infinitesimal measure. [Laughter.] But I beg to say to my friend from Michigan [Mr. HUBBELL] that when he has raised the banner of JAMES A. GARFIELD and votes against this measure he votes against JAMES A. GARFIELD—at least on this question as to the naming by the United States court of a deputy marshal from each party—and he had better wait for the Cincinnati convention or the greenback arrangement. Are you for this bill, my friend? [Laughter.]

Mr. HUBBELL. No, sir.

Mr. COX. Then you are against General GARFIELD. I never saw such a party. How is my friend from Connecticut, General HAWLEY, one of the best men in this House for a republican? I think he is about the average honest man of the party. But I could not, for the life of me, tell which side he was on when he got through his speech. I asked all the members around me, and they could not tell whether he was for or against this bill, whether he was for or against GARFIELD—perhaps a little of both. [Laughter.] Where is he? What does he mean? He made a speech outside of this bill. He traveled all over creation. He spoke about the tariff and harbor and river bills. Why, does not the gentleman know that as to the tariff—he being a newspaper man—General GARFIELD, by his attempt to suppress the tariff on wood-pulp, not to speak of salt, &c., dirked the tariff reform under the fifth rib? All tariff men will favor him. Will newspaper men do the same? Do not newspaper men know that they had all to raise the price of their subscriptions and advertisements? Did not this increase come off of the people? Thanks to General GARFIELD, the people pay more for their newspapers because your standard bearer and others who support him help to keep a tariff on paper, &c., and suppress all attempts to reform the tariff.

Mr. KELLEY, (in his seat.) Nobody in the world knows that, for it is not so.

Mr. COX. Rise up my noble friend and let me see your face. You are a greenbacker, are you not?

Mr. KELLEY. I am, when that question is up.

Mr. COX. Are you for WEAVER or GARFIELD on this bill? [Laughter.]

Mr. KELLEY. If I understand their opinions I agree with both of them on this bill.

Mr. COX. Why did you not telegraph General WEAVER? I wanted to hear from that stentorian voice in favor of "Greenbacks, WEAVER, and victory!" [Great laughter.] I know my friend is sound on the tariff, therefore he sustains General GARFIELD. Is not General GARFIELD sound on the tariff? Otherwise my friend would not vote for him? No?

Mr. KELLEY. Have you read his two minority reports made during this session?

Mr. COX. Oh, yes.

Mr. KELLEY. If you will read them you will find out where he stands on the tariff.

Mr. COX. Do you not know that he is, like myself, a free-trader, a member of the Cobden free-trade club of London? [Laughter.]

Mr. KELLEY. It required until 1857 to open my eyes to the iniquities of free trade. Am I to condemn a man for having once believed, as I did, and as you still foolishly do. [Laughter.]

Mr. COX. Whether I am foolish or not depends upon what my constituents think, and they do not think so.

Mr. CARLISLE. Will the gentleman from New York permit me to read a short extract from a speech of General GARFIELD in this House on the tariff?

Mr. COX. Certainly.

Mr. CARLISLE. It was a speech made in 1866 and repeated and reaffirmed in 1870. In that speech General GARFIELD used this language:

I hold that a properly adjusted competition between home and foreign products is the best gauge by which to regulate international trade. Duties should be so high that our manufacturers can fairly compete with the foreign product——

[Applause on the republican side.]

Mr. COX. Wait till you get it all.

Mr. CARLISLE, (continuing to read:)

but not so high as to enable them to drive out the foreign article, enjoy a monopoly of the trade, and regulate the price as they please.

[Applause on the democratic side.]

Many MEMBERS on the republican side. "Go on!" "Go on!"

Mr. CARLISLE. I will go on if gentlemen will allow me.

This is my doctrine of protection. If Congress pursues this line of policy steadily we shall, year by year, approach more nearly to the basis of free trade—

[Applause on the democratic side.]

because we shall be more nearly able to compete with other nations on equal terms.

[Applause on the republican side.]

I am for a protection that leads to ultimate free trade.

[Applause on both sides.]

I am for that free trade which can only be achieved through a reasonable protection.

[Applause on the republican side.]

Mr. CONGER. Is not that good doctrine?

Mr. CARLISLE. I ask the gentleman from Pennsylvania [Mr. KELLEY] if he is for a protection which will lead to ultimate free trade in this country.

Mr. KELLEY. I have over and over again proclaimed that the only road to permanent and profitable free trade is through protection. [Applause on the republican side.] That doctrine I learned from the great teacher, Henry C. Carey.

Mr. ROBINSON. Would it not be in order to have more of General GARFIELD'S speeches read? They are very good reading.

Mr. COX. I want to pay my attention to those gentlemen who are so very vociferous and who applaud so much those ambiguities just read by my friend from Kentucky, [Mr. CARLISLE.] You can no more tell on what side General GARFIELD is from that extract [laughter] than you can tell on what side my friend from Connecticut [Mr. HAWLEY] is on this bill, or my friend from Pennsylvania [Mr. KELLEY] just now is on the greenback question.

I will say for my friend from Pennsylvania [Mr. KELLEY] that when General GARFIELD'S name was presented here for Speaker, he utterly repudiated him, and voted for General WRIGHT, of Pennsylvania. [Great laughter.]

Mr. KELLEY. Because I did not understand how sound he [Mr. GARFIELD] was on the tariff.

Mr. COX. The gentleman from Pennsylvania, like his standard-bearer, is an incarnate equivocation. [Laughter.] They have not the same idea one day after another. To illustrate that, all I have to do is to send up and have read another speech of General GARFIELD made on the 23d of April. In that speech he expressed his sanction of the bill now pending. From it you gentlemen on the other side will see, what perhaps you do not want to see, that you are fighting your standard-bearer. You fight him in regard to the best thing which he perhaps ever did. It does not meet your acquiescence, because you are not as good as he is.

Mr. CONGER. The truth is he is the best of us all.

Mr. COX. You have been in Chicago; you have been in noise enough, [laughter,] and since you have been away we have had the happiest time here. [Great laughter.] Why, we have come out of hell into paradise. [Roars of laughter.] We were amused, delighted, and overjoyed to know that you were making the same old worry in Chicago. [Continued laughter.] How you voted there, whether you have come back with your favorite or not as a success, I do not know. I know that if you do not vote for this bill you are another of the ambiguities. [Laughter.]

Now, I will ask to have Mr. GARFIELD'S speech on this subject read.

I want my friend from Connecticut, [Mr. HAWLEY,] who spoke about rivers and harbors and tariffs and everything but the main question, to say whether he approves that speech or not, and whether he will vote for this bill.

Mr. ROBESON rose.

Mr. COX. Oh, no; you are too eloquent, altogether too eloquent. [Laughter.]

Mr. ROBESON. I merely want to state to the gentleman that the speech of General GARFIELD has already been read in the time of the gentleman from Virginia, [Mr. HARRIS.]

Mr. COX. This is another speech. This is his speech of the 23d of April, which my friend [Mr. HARRIS] did not have read.

Mr. ROBESON. May I make another suggestion in all kindness to the gentleman? I desire to thank him for having these speeches read, because I know that while wrong fades away truth endures forever——

Mr. COX. Do not be so solemn. [Laughter.]

Mr. ROBESON. And the gentleman must remember that when in the future we come to read this debate his remarks may be forgotten, but those of our candidate will stand like an antique column amid the rubbish that surrounds them.

Mr. COX. The gentleman refers to the "rubbish" that "surrounds" the "column." Now, sir, irrespective of my honored friend's service as Secretary of the Navy, irrespective of all the noble honors he gained in that Department, everybody knows that the "rubbish" is not on this side of the House. [Laughter.]

Now, I would like to have read this speech of General GARFIELD for instruction, meditation, and repentance.

The Clerk read as follows:

Under the law as it now stands the supervisors themselves are appointed by the courts and from the different political parties. Now, can any valid reason be given on the merits of the case why their assistants, whose first and chief duty is to aid them in the discharge of their quasi-judicial duties, should not also be appointed by the court as they themselves are appointed, without regard to political affiliation? The argument that these officers should not be appointed by the court because they are under the orders of the marshal falls to the ground when the plain fact is known that they serve the supervisors rather than the marshal. But we are told that if the special deputies should be appointed from different political parties there would be no unity of action among them in the execution of the law. I am not willing to confess, for I do not believe it to be true, that this country is so far gone into debasement and anarchy that the fair-minded people in any democratic township or ward can truthfully say, "There is no republican in this precinct who can be trusted to aid in executing the election law," or that they will in any republican community say, "There is no democrat in all the borders of this district whom we can trust to help carry out a fair election law." When I am compelled to believe this I shall say that my country is no longer capable of self-government, is no longer worthy of freedom.

Our laws provide for summoning the *posse comitatus* as the extreme civil remedy for suppressing disorder and keeping the peace. What is the *posse comitatus* but the whole body of by-standers—men of all political parties? The theory of our Government is that in the last civil resort we summon all men without distinction of party to act as conservators of the peace. If the by-standers, without distinction of party, can be trusted to perform this important duty, surely we can trust such as the court on its high responsibility shall appoint to aid in securing a fair election. It ought constantly to be remembered that no one of these special deputy marshals has any power to put down a riot at the polls, unless the marshal, under his hand and seal, in writing, shall specially empower such special deputy to do that thing. And let it also be remembered that this amendment in no way interferes with the power of the marshal to appoint as many general deputy marshals as may be needed to suppress disorder.

I hope I am not altogether a dreamer, forgetful of practical necessities, but I have never been able to see why this measure cannot be executed fully, thoroughly, and justly, provided its language makes it a part of the election law. My friend from Maine [Mr. REED] has raised some doubt on that point, and in so far as that doubt is justified, it is a fair argument against the clause. But we should look beyond the mere word of the amendment to the objects of national good it may be made to accomplish. I care but little for it as a mere settlement of a present party controversy.

No thoughtful man can fail to see great danger in a close and bitterly contested national election. In common with my party associates I believe that these election laws are great and beneficent safeguards to the fair and free expression of the national will. Now, if the adoption of a measure like this will harness the two great political parties to these election laws, by the bonds of common consent and mutual co-operation for their enforcement, it will be a benefit that will far outweigh any slight advantage that can be gained by retaining wholly within our party the appointment of a few officers to aid the supervisors. I believe this measure will not weaken but will strengthen the authority of the election laws, and will remove from them the only reasonable ground of complaint that the other side have made against them.

Mr. COX. I suppose everybody here may have heard that speech; but since the prominence that has been given to the distinguished gentleman from Ohio, who still remains a member of the House, it is wise for the people to inquire into his policy. This is a part of his thoughts. They are embodied in the present bill. It is so much better than the thoughts of gentlemen on the other side that I cannot fail to reproduce it.

The New York Times, of to-day's issue, referring to the same subject, commends this bill to the moderate and conservative men of both parties. I will send up the article and have it read. I hope that we may get some conservatism, some little moderation, on the other side, if we only handle them gracefully and delicately. [Laughter.] I ask the Clerk to read from the leading organ of the republican party.

The Clerk read as follows:

The "deputy marshals bill," which passed the Senate May 21, and was known in that body as the Bayard bill, will be taken up in the House to day. It is one of the few general measures, apart from appropriation bills, which have any chance for consideration before adjournment. We have already intimated that if this measure can be agreed upon as securing from the majority the passage of the appropriations necessary to the enforcement of the election laws, or even if the passage of these appropriations can be secured by consenting to this bill and the one regulating the appointment of supervisors, the price is not too high to pay. It must be remembered that the marshals bill is practically identical with the amendment to the "little deficiency" bill proposed by Mr. GARFIELD when that measure was before the House. The present position of its real author gives the measure new significance and authority, and its passage would be quite in accord with the conservative and moderate position generally of the republican candidate for the Presidency. In any case, it does not seem a bill against which filibustering tactics can properly be resorted to.

Mr. COX. Now, with this exhortation, I ask my republican friends whether they cannot come to the altar and be prayed for; whether we cannot have a general "love feast" over this matter.

Mr. KEIFER. Do you want an answer?

Mr. COX. No, I do not want an answer from you. I am a little choice as to those to whom I yield when I occupy the floor. General GARFIELD defended this measure——

Mr. KEIFER. Never.

Mr. COX. Then the New York Times lies.

Mr. KEIFER. He voted against it.

Mr. COX. I do not yield to the gentleman from Ohio, [Mr. KEIFER.] He is not large enough in brain to wear yet the mantle of his absent colleague. Although he may try to fill the place, he must cultivate something else before he undertakes to interrupt gentlemen so fluently here; for we know his record on certain things. Was he not the man who attacked General GARFIELD for his position in debate here?

Mr. KEIFER. Not at all.

Mr. COX. Why, you attempted an answer to General GARFIELD in the very debate from which my friend from Virginia has read.

Mr. KEIFER. The gentleman is mistaken.

Mr. COX. General GARFIELD spoke and you followed him; but I will not take up time in a matter of that kind.

Mr. KEIFER. No.

Mr. COX. When you interrupt a gentleman in debate you ought to observe the rule; you ought to rise up and ask permission.

Mr. KEIFER. The gentleman addresses his remarks to me; I would be glad to reply.

Mr. COX. I have not directed my remarks to anybody but to the Speaker.

My colleague [Mr. LAPHAM] undertook to say awhile ago that there were great frauds in elections in New York in 1868. So there were. They were made possible by corrupt combinations, made by Tweed, of republicans and democrats in the Legislature. That is history. But since that time elections in New York have been fair. Especially in 1876, as the report which I made as chairman of the investigating committee shows, there was a fair election, so confessed by all parties. Then we carried New York City by 52,000 majority. How? My report, if it is not garbled, shows how. Because of the general consent for the time, that for the sake of peace and harmony there should be no execution of that law in the sense in which it was intended. Republicans and democrats, municipal and State officers, met Federal officers, and they made all pacific arrangements, as the report shows, for a fair and just election. They ignored the Federal statute, in so far as their harshness was concerned. I insert an extract from my report to show how unfair and unjust is this garbling, which the President had the audacity to insert in an isolated way in his veto message last session. I make an extract from my report of that election, which answers all that is said of my apology for this bad and unconstitutional election law:

The United States commissioner, along with the mayor of the city and the president of the board of police, General Smith, had a meeting to allay any excitement occasioned by rumors which always precede an election. The United States marshal, district attorney, and the counsel of the corporation of New York were called in. They were men of various politics. They came to an agreement, which was signed, so as to execute the law without straining it, and so as to adjudicate without irritation or impediment the questions which might arise during the day of election. Throughout the whole length of New York—sixteen and a quarter miles—arrangements were made to prevent bringing men any distance from their homes or the polling place. The commissioners were distributed over the city, and from early morning until after the polls closed cases were taken before them, and information given by them as to voting. Four lawyers were selected—General Barlow, Mr. Alderman Billings, Mr. Marbury, and Mr. Olney. They, too, were equally divided as to politics, and the rule was adopted that whenever they found a reasonable and well-founded doubt as to a person being a legal voter, the voter should get the benefit of the doubt, so that he could take an oath under challenge, and have applied to him by the inspectors the test of the law. It was intended to provide not only against fraudulent votes, but that no person really entitled to a vote should be refused. The political organizations concurred with Mr. Davenport in this arrangement. It proved a decided success, and the result was, what all who have any knowledge of this New York election have concurred in confirming, that there was comparatively no fraud, and the attempts made to repress it were welcomed by both parties and carried out in good faith.

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So that, as a compendious statement resulting from these prudential measures, it may be said that out of 183,000 registered voters, only fifteen hundred warrants were required against those suspected of fraud; and out of those fifteen hundred for whom warrants were issued, only three hundred came to the polls. Those three hundred were arrested, but they were generally of a class which has a right to vote.

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The committee does not mean to justify the publication of the names of those who are thus advised that they will be arrested, for there may be many honest men in the list, who, apprehending arrest, may lose their honest votes. But, in spite of these harsh measures, which may deprive some of the franchise, the committee are decided in the opinion that the result is an astounding one, where out of 183,000 registered only about three hundred men were arrested, and only thirty of them were held.

Whether this work, which is unexampled, should be accounted a republican work, through their Federal election law, or the work of the local authorities and organisms, inspired by a desire for an honest vote among the people, who were

especially jealous of it on account of what was occurring elsewhere, one thing the committee must report, that it approximated as near to perfection as it was possible to do.

Now, Mr. Speaker, one more remark in answer to what fell from the gentleman from Connecticut, [Mr. HAWLEY.] He talked about the river and harbor bill as if this side were responsible for it. I suppose he voted against it. I think he did. I know I did all I could in season and out of season, for the last five or six years, against this inordinate increase for rivers and harbors. The other day when that bill came up to be voted on, the vote stood 23 republicans and 22 democrats against it, and 10 greenbackers. What can be made out of that? I ask my friend from Connecticut. Both parties are responsible for this outrageous bill. Why did he not rise as an Appropriation Committee member and help somebody kill this outrageous growth for rivers and harbors? I never heard his eloquent voice this session on this topic. I know he signed a protest two or three years ago. And so far as making any political capital against this side of the House we are quits on that. I put my record against his, although there is more in that bill for the city and State of New York, fourfold, than for the State of Connecticut, and still I voted against it all the time because of its multifarious and bad association.

Mr. HAWLEY. Can I make a correction of a fact?

Mr. COX. Yes.

Mr. HAWLEY. The gentleman does me too much credit. I do not know what protest he refers to. Perhaps it was in the Forty-fifth Congress, of which I was not a member. I have voted on four river and harbor bills——

Mr. COX. I beg the gentleman's pardon.

Mr. HAWLEY. Let me finish. I have voted on four river and harbor bills: two I voted against and two I voted for. I ought to have voted against this last one when it came back from the Senate. That is true.

Mr. COX. If you were here in the Forty-fifth Congress you would have protested against it. Did you vote for the last bill of ten millions?

Mr. HAWLEY. It went through on a conference. I do not remember.

Mr. COX. You did not vote for the last bill?

Mr. LAPHAM. The gentleman will remember I signed that protest.

Mr. COX. Yes, sir; but did the gentleman [Mr. HAWLEY] vote for the last bill?

Mr. HAWLEY. I said I did not recollect what I did. I ought to have voted against it, but I have voted on four since I have been in Congress.

Mr. COX. You know your platform in Chicago speaks of rivers and harbors, and appropriations therefor, and gives them a magnificent indorsement. The democracy have not indorsed that.

The gentleman from Connecticut was eloquent about the serenity of this side of the House. It was as "serene as a summer evening," in his opinion. He meant the "brigadiers," I suppose. Oh, yes; he was vexed that no wild talk from gentlemen on this side was going on, as he hoped. I beg to say to that gentleman that I do not regret that gentlemen on this side have been so prudent as to avoid coarse, harsh, unjust criticism. These friends about me are just and patriotic; ay, "brigadiers" and all. From the time they voted for this resolution, which some seventeen republicans voted against, they have been true to their allegiance in the best sense. Here is their vote on my resolution in the Forty-fourth Congress:

Resolved, That the doctrine that any State has the right to secede from the Union is in conflict with the idea of a perpetual Union as contemplated by the Constitution. It should be regarded as being forever extinguished by the results of the recent conflict.

Every democrat from the North and South voted for that resolution. Have they not kept their faith—not by mere speech, but by acts? They have reported and voted for your large pension bills. They voted for all your measures looking to the amelioration of the condition of the soldiers of the war. They have helped your colored brethren wherever they could, and wherever anything was possible after the great spoliations of Freedman's Bureaus and Freedman's Banks. They have done all they could to rescue the colored man from the insatiate greed of the republican party.

Why, then, are these our generous and chivalric colleagues to be blamed? Ah! Because they have been reticent, quiet, "serene as a summer evening." Oh! the gentleman would like to have them rude and rough, so as to vindicate secession and rebellion. Their pride should have been aroused and their old memories revived. But they are discreet and wise. They vindicate no secession doctrines. They do not even vindicate the secession which you make to-day from your candidate, General GARFIELD. [Laughter and applause.] They are opposed to rebellion even of that kind. They will stand by their friends and by the old Constitution.

Mr. HAWLEY and Mr. KELLEY. Old!

Mr. COX. They know what you have done in Chicago. They know your candidate is vulnerable. They know that with a good ticket at Cincinnati we can win the day in November. [Applause on the democratic side.] Then we can sing the song:

Wail for your glorious Pleiad fled,
Wail for your ne'er returning star.

[Laughter and applause.]

Your star will go down in clouds and once more the good old cause of democracy will be exalted in spite of radicalism and of all its abominations. [Applause.]

Mr. HARRIS, of Virginia. Mr. Speaker, how much time is remaining?

The SPEAKER *pro tempore*. The gentleman has seventeen minutes of the hour remaining.

Mr. HARRIS, of Virginia. I yield the balance of the time to the gentleman from New York, [Mr HUTCHINS.]

Mr. HUTCHINS. Mr. Speaker, the bill before the House for its consideration provides for the amendment of the United States election law in two particulars. The law now provides that supervisors of election be required to attend at all times and places for holding elections for Representatives in Congress, and to witness the casting and counting of votes at such election, and they are in general terms invested with all the power and authority in reference to such election as is conferred upon inspectors of election appointed by State authority. Such supervisors are to be appointed by the circuit court of the United States. Two are to be appointed from each election district and to be residents thereof, and who shall be of different political parties, able to read and write the English language, and to be known and designated as supervisors of election.

These supervisors are to be appointed in any city having twenty thousand inhabitants and upward, upon the application of two citizens thereof; in all other places, upon the application of ten citizens of a congressional district.

The marshal of the district is empowered upon the application of two citizens of a city having twenty thousand inhabitants or upward to appoint special deputy marshals, whose duty it shall be to aid and assist the supervisors of election. In cities and towns of twenty thousand inhabitants and upward the supervisors are authorized to cause the arrest of persons charged with an infraction of the election laws without process of law; but in all other places in the congressional district, by the express terms of the law, he is prohibited from making arrests or from performing any other duties "than to be in the immediate presence of the officers holding the election, and to witness all their proceedings, including the counting of the votes and the making returns thereof." It will be seen that the marshal is authorized to appoint an unlimited number of special deputy marshals, whose duty it is to attend at the polls on the day of election, and, acting under and by direction of the supervisors, to keep the peace, preserve order, and make arrests.

The bill in question proposes, first, to deprive the marshals of the power to appoint the special deputies, and vests it in the same court that now appoints the supervisors. And, second, it directs that such officers shall be appointed in equal numbers from the different political parties, and shall be well-known citizens of good moral character, and actual residents of the voting precincts in which their duties are to be performed, and that they shall not be candidates for any office at such election. It will be observed that these deputy marshals are to be appointed only to serve at an election. They are to "aid and assist the supervisors." The election being over, their term of office ceases. Acting in obedience to the orders of the supervisors, being in fact so far as all official action is concerned their deputies, and acting in their immediate presence, it would seem that they should be appointed by the supervisors, or by the court which appoints the supervisors. The bill under consideration provides for these appointments by the court. The chief objection urged against its passage is that it provides that such deputy marshals shall be appointed in equal numbers from the different political parties; that this course will have a tendency to cause dissensions and promote conflicts at the polls, and nullify the efficiency of the law regulating elections. I cannot think but this is a groundless alarm. It must be borne in mind that the inspectors of election appointed by State authority are of different political parties, that the police officers appointed by the State authority to preserve order at the polls are selected from both parties, and that by the very terms of the Federal election law supervisors must be appointed from different political parties. As the deputy special marshals are to serve in fact as the deputies of the supervisors, and they are to be selected from each party, no good reason can be given why these deputies should not also represent all parties. It is to be presumed that sworn officers of the law will perform impartially and fearlessly all duties imposed upon them by law. It would be a sad day for the Republic when it comes to be understood that a sworn officer of the law, in any position, whether he be a judicial, executive, or police officer, cannot be expected to do his duty, and for the time being forget parties and party allegiance.

The Federal election law has been declared constitutional by the Supreme Court of the United States. It is the duty of every good citizen, therefore, to see that it is fairly enforced. If it is defective in any particular, it should be perfected. And if, as it stands upon the statute-book, it may be enforced so as to work wrong and injustice to the voters, in such regard it should be changed, changed so that in city and country, in the democratic strongholds and republican strongholds, all the provisions of the law be alike enforced. If in cities of twenty thousand inhabitants and upward arrests may be made without process of law, then why should not the same provision be made applicable to the rural districts? Why should a democrat or republican in a city be arrested at the polls without process of law and deprived of his right to vote, while in a rural district he

be allowed to deposit his vote, and the only thing the supervisor can do is to make note of the fact? This ought not to be. The law should be so amended that what would be cause for arrest in a city without process of law should also be cause for arrest in the country precincts.

It will be recollected that the principle of the bill under consideration was suggested by the gentleman from Ohio, [Mr. GARFIELD.] While it was under discussion on another occasion in the House, he favored us with his views on the subject. Since that time, with full knowledge of his opinions, the republican party has made him its standard-bearer for the coming presidential election. It is therefore eminently proper that I should quote at some length from his remarks as reported in the RECORD. He said:

> Under the law as it now stands the supervisors themselves are appointed by the courts and from the different political parties. Now, can any valid reason be given on the merits of the case why their assistants, whose first and chief duty is to aid them in the discharge of their quasi-judicial duties, should not also be appointed by the court as they themselves are appointed, without regard to political affiliation? The argument that these officers should not be appointed by the court because they are under the orders of the marshal falls to the ground when the plain fact is known that they serve the supervisors rather than the marshal. But we are told that if the special deputies should be appointed from different political parties there would be no unity of action among them in the execution of the law. I am not willing to confess, for I do not believe it to be true, that this country is so far gone into debasement and anarchy that the fair-minded people in any democratic township or ward can truthfully say, "There is no republican in this precinct who can be trusted to aid in executing the election law," or that they will in any republican community say, "There is no democrat in all the borders of this district whom we can trust to help carry out a fair election law." When I am compelled to believe this I shall say that my country is no longer capable of self-government, is no longer worthy of freedom.
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> Our laws provide for summoning the *posse comitatus* as the extreme civil remedy for supressing disorder and keeping the peace. What is the *posse comitatus* but the whole body of by-standers—men of all political parties? The theory of our Government is that in the last civil resort we summon all men without distinction of party to act as conservators of the peace. If the by-standers, without distinction of party, can be trusted to perform this important duty, surely we can trust such as the court on its high responsibility shall appoint to aid in securing a fair election. It ought constantly to be remembered that no one of these special deputy marshals has any power to put down a riot at the polls, unless the marshal, under his hand and seal, in writing, shall specially empower such special deputy to do that thing. And let it also be remembered that this amendment in no way interferes with the power of the marshal to appoint as many general deputy marshals as may be needed to suppress disorder.
>
> No thoughtful man can fail to see great danger in a close and bitterly contested national election. In common with my party associates I believe that these election laws are great and beneficent safeguards to the fair and free expression of the national will. Now, if the adoption of a measure like this will harness the two great political parties to these election laws, by the bonds of common consent and mutual co-operation for their enforcement, it will be a benefit that will far outweigh any slight advantage that can be gained by retaining wholly within our party the appointment of a few officers to aid the supervisors. I believe this measure will not weaken but will strengthen the authority of the election laws, and will remove from them the only reasonable ground of complaint that the other side have made against them.
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> I resist the amendment only because it is a rider which should not be a part of the appropriation bill; but as a measure by itself, clearly and plainly drawn, I will cordially support it. I agree that ours is a party Government, and I believe in parties, especially in my own; but when we come to the ballot-box where citizens of all parties meet to enjoy the highest rights of freemen, all parties should unite in enforcing these just and necessary laws designed to secure free, fair, and peaceable national elections throughout the Union.

Mr. Speaker, it is now presented to this House "as a measure by itself, clearly and plainly drawn." It will, if adopted, go far to allay partisan strife, and give us fair elections. Am I not therefore justified in believing that so just and wise a measure will receive the unanimous vote of this House? The gentleman from Connecticut [Mr. HAWLEY] in his remarks on the discussion of this bill has taken occasion (though it has nothing to do with the merits of the measure under consideration) to arraign the democratic party, charging that it has no common policy on the tariff issue or on the currency question. In this he is mistaken. The democratic party is to-day, as it has always been, the advocate of a tariff for revenue, affording incidental protection, and of hard money. It is honorably pledged to this action, and although it may not be able in one year to accomplish its mission to reform all the abuses that have crept into our laws relating to revenue and the currency for the past twenty years, still it will work on and on until it shall have relieved the people from the wrongs and burdens under which they are now suffering. During the present session measures for relief from some of the most grievous exactions of the present revenue laws have been introduced and brought before the House for its action. In every instance such measures were introduced by members of the democratic party, and their passage advocated by nearly all the members of that party in the House, while they have been opposed by the united republican party. But a little help and a few votes from the members of that party and to-day wood-pulp and salt would have been on the free list; the duty on paper and other articles of merchandise reduced, and this, too, without the least injury to any American manufacturer. It is true that a few democrats joining with the united republican party have prevented favorable action. At their head has stood the gentleman from Ohio, [Mr. GARFIELD.]

For years the present tariff has been continued, not for the purpose of revenue, for it could be amended so as to yield a larger revenue and still afford as ample protection to all American industries as it does now, but simply to enrich a comparatively small number of interests at the expense of all the people of the country. It is and must be conceded that our revenue laws must be reformed, and the time has come when longer delay is dangerous. It could have been done this session only that the republicans have, as with one mind and heart, labored in season and out of season to prevent such result. We shall again go before the country upon this issue. If the people are satisfied with the present tariff and desire its continuance with all its wrongs and burdens they will say so by their votes. But if they desire prudent and just reforms they will cast their ballots for the democratic candidate for President who, I cannot but believe, will be in full sympathy with those who will work for revenue reform, and for those candidates for Congress who, when elected, will do all they can to aid and assist a democratic Executive to strike off the shackles that now fetter our commerce, and so modify our revenue laws as that, while protecting the people against exorbitant taxes collected under form of law, they will at the same time protect and stimulate every legitimate American industry.

Now as to the currency question. My friend from Connecticut [Mr. HAWLEY] says that the democratic party has no policy on this question. He says, and truly, that there has been a "continuance of paper money, legal-tender paper money, in time of profound peace, and fifteen years after the war has closed." In my judgment this is all wrong. But to whom shall the blame be charged? For more than half this time the republican party was in control of both branches of the Government, the executive and the legislative. Why was it that during all this time no step was taken by the party in power to retire the greenback or at least to deprive it of its legal-tender quality? What member of that party has ever even introduced into and advocated in the Halls of Congress this measure? It was reserved for a democratic Senator to do this, and for a democratic committee in the Senate to report the measure to the Senate for its action.

But you say that under republican administration the Government has resumed specie payments. Are you entirely correct when you make this assertion? What did the advocates of the resumption act mean when they promised to resume specie payment on the 1st of January, 1879? Did they intend that the operations of the Government were to be conducted on a hard-money basis, that the fictitious greenback currency was to be replaced by a real dollar, and that we were to make a beginning at least toward the natural self-regulating money that every civilized nation must sooner or later adopt? Or did they mean that at that date the country was to be in a condition to do this? What is the meaning of the word resumption? A return to or taking up again of something which we have done before. But what happens now when one takes his paper promise to be redeemed at the Treasury? The Treasurer takes from one drawer a gold dollar and gives it in exchange for the paper dollar. If the operation stopped here all would be well, the Government would really resume. But what follows? From another drawer the Treasurer takes another paper dollar and puts it into circulation in place of the dollar "redeemed;" in other words, the Government pays its debts in gold and then resumes its old course of paying one promise by giving another in its place. What is this in reality but a policy of paper resumption, of payment in gold and resumption of paper? We have not resumed. We are by the blessings of Providence in a position to resume. Bountiful harvests on this side the Atlantic, short crops in Europe, together with a long term of economy, have resulted in bringing to our shores millions of dollars in gold. When if not now should we resume? Another year may see short harvests here and large crops in Europe. Then the balance of trade may be against us, and gold will leave this country. Will that be the time to resume? The greenbacks are a debt. Is the time to pay your debts when you have money or when you do not have it? But you say we are making money now; times are good. If you retire the greenback you will contract the currency, you will cause a stringency, you will check the rise of prices, and the general tide of prosperity which is now setting so strongly in our favor. "Let well enough alone," is the cry. This was the watchword immediately preceding the panic of 1873. When any one can prove to me that the present state of affairs here and in Europe will last forever, then will I say "Let well enough alone." But until then I say that no more pernicious maxim has ever cursed this nation.

There is no danger in retiring the greenback altogether or of depriving it of its legal-tender quality. In our fear of a fancied peril we are drifting slowly, but surely, toward a real one. With the present large amount of gold in the country, we could begin a cancellation of the greenbacks with the least possible derangement to existing prices, and with but little if any stringency in the money market. Those who now predict a general derangement of business as the necessary result of this measure are the same men who a little more than one year ago prophesied a like result as the inevitable consequence of the resumption act. Has their prophetic success in the past been so brilliant as to justify us in following them in the future?

But now let us trace out the "let-well-enough-alone" policy to its logical results. Its advocates wish us to wait until the country is better prepared for the retiring of the legal-tender. But will the country be in a better condition for this measure one year or three years hence? What are the two requisites of resumption? First, plenty of gold to resume with; second, the business of the country in such a condition that the legal-tender can be withdrawn with the least disturbance to and opposition of the business interests of the nation. Have we any reason to believe that these two elements will be in stronger action in the near future than they are to-day? Rather have we not every reason for believing that they will be wanting? What

must be the effect on the industries of the country of the present large and ever increasing volume of the currency? We must read the future in the light of the past. What was the effect of a smaller quantity in the years immediately preceding 1873? A great and artificial rise in prices; thousands of millions wasted in unproductive railroads, and unnecessary manufactures; trade and speculation unnaturally stimulated; heavy imports of foreign luxuries and an enormous production of high-priced manufactured goods. What is there in our position to-day to warrant us in believing that a like result will not follow our present policy, differing perhaps in degree, but not in kind? Already we can distinctly see the first signs in the great inflation in the price of stocks, in excessive importations and a general spirit of speculation. But what do these high prices and large imports portend? The disappearance of the very requisites of resumption which we have pointed out. They mean that our gold will leave us; that the owners of high-priced stocks and manufactures will be very unwilling that Congress should adopt any measure that must inevitably lead to a diminution of their value. There is no objection that can be urged now against resumption that will not be in the future tenfold stronger than it is to-day.

Let me here allude to a wide-spread delusion, namely, if our currency is not depreciated it cannot be inflated. If our legal-tender currency was governed by the immutable and infallible laws of trade we should have nothing to fear. But it is not. We have to-day in this country two kinds of currency: one gold, controlled and regulated by the natural laws of trade; one greenback legal-tender, controlled and regulated by the arbitrary laws of Congress. So long as this lasts we can have no stable and certain currency, and as a result no real and lasting prosperity. In this fact lies the great curse of our present legal-tender currency. Regulating the amount of the currency of a country is as foreign to the proper functions of a legislature as prescribing to its citizens what religion they should adopt or support. The legal-tender was purely a war measure. It was an unfortunate necessity. It has served its purpose and has no right to be perpetuated any more than the armies which it supported. If it had been retired sooner it would have saved a great catastrophe in the past; if it is retired now it will save us from another in the future.

So long as business remains good and people are making or fancy themselves to be making money this danger is dormant. But let the tide of prosperity turn, and the inevitable crash comes and the danger becomes manifest. Those who believe the greenback lion to be dead merely because he has ceased to roar for the present are sadly deluding themselves. The greenback party was the natural outgrowth of the depression which so long hung over our land, and now, as the light of returning prosperity becomes brighter, the greenback lion slowly retreats, growling, to his den. But we must not flatter ourselves by thinking that he is dead. We shall not always be fortunate; we shall not always be economical; we shall not always be rich; and so soon as another night of financial gloom shall overtake us he will again come forth more aggressive than ever. And who can tell whether we shall be able to withstand his next attack as well as we did his last? Even a child once burnt will ever after shun the fire; but the advocates of the legal tender, hardly yet recovered from the severe burning they received in 1873 from handling the "let-well-enough-alone" policy, now again fondle it as if it was the safest and most beautiful of all human inventions. This fact cannot be too often or too emphatically asserted: that the prime necessity of a solid and enduring prosperity is a money governed, and governed only, by the laws of trade. Money—that is, real money, not promises to pay serving as money—must and does find its own level as certainly as unconfined water. But our legal-tenders are governed by no such laws. There is no overflow for the greenback. Like the poor, it is always with us. Whether we need it or do not need it, not a dollar can leave us, and worse, far worse, than this, we may at any time, at the will of our National Legislature, be deluged by a new flood.

Mr. Speaker, I have felt impelled to thus briefly and plainly give my views on the tariff and currency questions, they having been dragged into this debate by the gentleman from Connecticut, [Mr. HAWLEY,] although not germane to the question under consideration. In so doing I believe I have expressed the sentiments of the great majority of the democratic party.

The SPEAKER. The time of the gentleman from New York [Mr. HUTCHINS] has expired.

Mr. HUTCHINS. I ask permission to print the remainder of my remarks.

The SPEAKER. There is no objection.

Mr. HUTCHINS. I also desire to include in them some remarks on the tariff and the currency as well, as those subjects have been referred to in this debate.

There was no objection.

Mr. McCOOK. As the gentleman has appealed to me, it is perhaps well for me to put in a general denial. So many references have been made to Mr. Davenport, and as Davenport seems to be the foundation-stone of the democratic party in the city of New York, it is scarcely necessary for me to attempt a reply.

Mr. HUTCHINS. As a denial of my statements has been made, I ask unanimous consent for five minutes to reply.

Mr. HARRIS, of Virginia. I insist upon the agreement being carried out.

The SPEAKER. Debate is exhausted, and the question will now be taken on the amendments in their order upon the bill.

The first amendment was the one offered by Mr. CARLISLE, to strike out all after the word "year" in line 4 of section 2 of the bill, down to and including the word "case," in line 8, and to insert in lieu thereof the following:

And the judges of the several circuit courts of the United States are hereby authorized to open their respective courts at any time for that purpose; and in case the circuit courts shall not be open for that purpose, at least ten days prior to a registration, if there be one, or if no registration be required, then at least ten days before the election.

Mr. KEIFER. I do not understand that that is the first amendment which was offered.

The SPEAKER. It is the first amendment in legislative order. The amendment of the gentleman from Massachusetts [Mr. FIELD] is to strike out the entire section and to insert a substitute therefor. The amendment of the gentleman from Massachusetts will not be excluded by action on this amendment.

Mr. CARLISLE. I ask that the section may be read as it will be if the amendment I have offered is adopted.

The Clerk read as follows:

SEC. 2. That all deputy marshals to serve in reference to any election shall be appointed by the circuit court of the United States for the district in which such marshals are to perform their duties in each year; and the judges of the several circuit courts of the United States are hereby authorized to open their respective courts at any time for that purpose, and in case the circuit courts shall not be open for that purpose at least ten days prior to a registration, if there be one, or if no registration be required then at least ten days before the election, the judges of the district courts of the United States are hereby respectively authorized to cause their courts to be opened for the purpose of appointing such deputy marshals, who shall be appointed by the said district courts; and the officers so appointed shall be in equal numbers from the different political parties, and shall be well-known citizens, of good moral character, and actual residents of the voting precincts in which their duties are to be performed, and shall not be candidates for any office at such election; and all laws and parts of laws inconsistent with this act are hereby repealed: *Provided*, That the marshals of the United States for whom deputies shall be appointed by the court under this act shall not be liable for any of the acts of such deputies.

The amendment of Mr. CARLISLE was agreed to.

The SPEAKER. The next amendment is one offered by the gentleman from Pennsylvania, [Mr. WHITE,] to strike out of the second section these words:

And the officers so appointed shall be in equal numbers from the different political parties.

The amendment was not agreed to.

The SPEAKER. The next amendment is one offered by the gentleman from Iowa, [Mr. UPDEGRAFF,] to add to section 2 that which will be read by the Clerk.

The Clerk read as follows:

Provided, That the clause requiring that the officers so appointed shall be in equal numbers from the different political parties shall not be applied in any State the laws of which do not require a similar division in the selection of election officers, nor in any State wherein such laws are not faithfully enforced.

The amendment was not agreed to.

The SPEAKER. The gentleman from New York [Mr. LAPHAM] has offered an amendment. The Chair would inquire of him if he intends his amendment as a new section or to be added to the section under consideration?

Mr. LAPHAM. Each of my amendments is intended as a separate section.

The SPEAKER. Then the next question will be upon the amendment of the gentleman from Massachusetts [Mr. FIELD] to strike out section 2 of the bill as amended, and to insert in lieu thereof what will be read by the Clerk.

The Clerk read as follows:

SEC. 2. Whenever an election for a Representative or Delegate in Congress is to be held in any city or town of twenty thousand inhabitants or upward, special deputy marshals, instead of being appointed by the marshal of the district as provided by section 2021 of the Revised Statutes, shall hereafter, on the application in writing of at least two citizens residing in said city or town, be appointed by the circuit court of the United States for the circuit wherein such city or town is situated, which circuit court shall be opened, held, and kept open in the manner provided by sections 2011, 2012, 2013, 2014, and 2015 of the Revised Statutes, and all the duties, powers, and obligations imposed and conferred by said sections upon said circuit court, or upon each of the judges of the circuit court, or upon any one of the judges of the district courts within the circuit selected and assigned by the judge of the circuit court to the performance of said duties, in reference to the appointment of supervisors of elections, are hereby imposed and conferred upon said circuit court, and upon each and all of said judges for the purpose of appointing special deputy marshals. Such number of special deputy marshals shall be appointed as the court shall deem necessary, and they shall be appointed in equal numbers, so far as practicable, from the different political parties, and shall be well-known citizens of good moral character, and actual residents of the voting precincts in which their duties are to be performed. Such special deputy marshals shall be under the orders and control of the marshal of the district and they shall have all the powers, and perform all the duties conferred upon or required of special deputy marshals by Title 26 of the Revised Statutes, and shall be subject to the provisions of that title relating to special deputy marshals.

The amendment was not agreed to.

The SPEAKER. The next question is upon the first amendment offered by the gentleman from New York [Mr. LAPHAM] to add to the bill as an independent section what will be read by the Clerk.

The Clerk read as follows:

That every person who shall, by unlawful intimidation, unlawful menace, unlawful violence, or other unlawful means, prevent, or attempt to prevent, any citizen of the United States, or of any State, from peaceably assembling with any other such citizen or citizens for the purpose of petitioning the Congress of the United States for a redress of grievances, or from so assembling for the purpose of

considering the subject of the nomination or choice of any person to be a Member of, or Delegate to, the House of Representatives of the said Congress, or from so assembling for any other lawful purpose relating to the preservation, operation, administration, or authority of the Government of the United States, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine of not more than $100, or by imprisonment not more than one year, or both, in the discretion of the court.

Mr. KEIFER. I ask for the yeas and nays on that amendment.

The yeas and nays were ordered.

The question was taken; and there were—yeas 84, nays 107, not voting 101; as follows:

YEAS—84.

Aldrich, William	Davis, Horace	Houk,	Russell, William A.
Anderson,	Deering,	Humphrey,	Ryan, Thomas
Baker,	Dunnell,	Joyce,	Shallenberger,
Ballou,	Errett,	Keifer,	Sherwin,
Barber,	Ferdon,	Kelley,	Stone,
Bayne,	Field,	Ketcham,	Thomas,
Bingham,	Fisher,	Lapham,	Thompson, W. G.
Blake,	Ford,	Mason,	Townsend, Amos
Bowman,	Fort,	McCoid,	Tyler,
Boyd,	Frye,	McCook,	Updegraff, Thomas
Brewer,	Godshalk,	Mitchell,	Valentine,
Briggs,	Hall,	Morton,	Van Aernam,
Browne,	Hammond, John	Neal,	Van Voorhis,
Cannon,	Harmer,	Norcross,	Voorhis,
Carpenter,	Harris, Benj. W.	O'Neill,	Wait,
Caswell,	Haskell,	Osmer,	Ward,
Chittenden,	Hawk,	Overton,	Washburn,
Conger,	Hawley,	Pound,	White,
Crapo,	Hayes,	Richardson, D. P.	Williams, C. G.
Daggett,	Henderson,	Robeson,	Willits,
Davis, George R.	Hiscock,	Robinson,	Young, Thomas L.

NAYS—107.

Acklen,	Deuster,	Lounsbery,	Slemons,
Aiken,	Dibrell,	Lowe,	Smith, William E.
Atkins,	Dickey,	Manning,	Sparks,
Beale,	Elam,	Martin, Benj. F.	Speer,
Beltzhoover,	Evins,	McLane,	Springer,
Berry,	Forney,	McMahon,	Steele,
Bicknell,	Geddes,	McMillin,	Stephens,
Blackburn,	Goode,	Morrison,	Talbott,
Bland,	Hammond, N. J.	New,	Taylor,
Bliss	Harris, John T.	Nicholls,	Thompson, P. B.
Bright,	Hatch,	O'Connor,	Tillman,
Buckner,	Henkle,	O'Reilly,	Townshend, R. W.
Cabell,	Henry,	Persons,	Tucker,
Caldwell,	Herbert,	Phelps,	Turner, Oscar
Carlisle,	Hooker,	Philips,	Upson,
Chalmers,	Hostetler,	Poehler,	Vance,
Clark, John B.	House,	Reagan,	Waddill,
Clymer,	Hunton,	Richardson, J. S.	Wellborn,
Cobb,	Hutchins,	Robertson,	Wells,
Colerick,	Johnston,	Ross	Whiteaker,
Cook,	Jones,	Ryon, John W.	Whitthorne,
Covert,	Kenna,	Samford,	Williams, Thomas
Cox,	Kimmel,	Sawyer,	Willis,
Cravens,	Klotz,	Scales,	Wilson,
Culberson,	Knott,	Shelley,	Wise,
Davis, Joseph J.	Ladd,	Simonton,	Wright.
Davis, Lowndes H.	Lewis,	Singleton, O. R.	

NOT VOTING—101.

Aldrich, N. W.	Dwight,	Le Fevre,	Prescott,
Armfield,	Einstein,	Lindsey,	Price,
Atherton,	Ellis,	Loring,	Reed,
Bachman,	Ewing,	Marsh,	Rice,
Bailey,	Farr,	Martin, Edward L.	Richmond,
Barlow,	Felton,	Martin, Joseph J.	Rothwell,
Belford,	Finley,	McGowan,	Russell, Daniel L.
Blount,	Forsythe,	McKenzie,	Sapp,
Bouck,	Frost,	McKinley,	Singleton, J. W.
Bragg,	Garfield,	Miles,	Smith, A. Herr
Brigham,	Gibson,	Miller,	Smith, Hezekiah B.
Burrows,	Gillette,	Mills,	Starin,
Butterworth,	Gunter,	Money,	Stevenson,
Calkins,	Hazelton,	Monroe,	Turner, Thomas
Camp,	Heilman,	Morse,	Updegraff, J. T.
Claflin,	Herndon,	Muldrow,	Urner,
Clardy,	Hill,	Muller,	Warner,
Clark, Alvah A.	Horr,	Murch,	Weaver,
Coffroth,	Hubbell,	Myers,	Wilber,
Converse,	Hull,	Newberry,	Wood, Fernando
Cowgill,	Hurd,	O'Brien,	Wood, Walter A.
Crowley,	James,	Orth,	Yocum,
Davidson,	Jorgensen,	Pacheco,	Young, Casey.
De La Matyr,	Killinger,	Page,	
Dick,	King,	Phister,	
Dunn,	Kitchin,	Pierce,	

So the first amendment of Mr. LAPHAM was not agreed to.

The following pairs were announced from the Clerk's desk:

Mr. LORING with Mr. GIBSON.

Mr. SMITH, of Pennsylvania, with Mr. MARTIN, of Delaware, on all political questions until further notice.

Mr. MULDROW with Mr. DWIGHT, upon this bill. If Mr. MULDROW were present, Mr. DWIGHT would vote for Mr. LAPHAM's amendment, and against the passage of the bill. Mr. MULDROW would vote against the amendment and for the bill.

Mr. HUBBELL with Mr. FERNANDO WOOD, for the remainder of the session on all political and revenue questions.

Mr. CLARDY with Mr. SAPP, on all questions, during the remainder of the session.

Mr. MONROE with Mr. BLOUNT, for the remainder of the day.

Mr. BOUCK with Mr. BELFORD, reserving the right to vote to make a quorum.

Mr. ATHERTON with Mr. EINSTEIN.

Mr. ARMFIELD with Mr. MARTIN, of North Carolina.

Mr. BRIGHAM with Mr. CLARK, of New Jersey.

Mr. PRICE with Mr. SMITH, of New Jersey, for the remainder of the session.

Mr. HEILMAN with Mr. EWING.

Mr. PACHECO with Mr. FORSYTHE, for the remainder of the week.

Mr. URNER with Mr. MILLS.

Mr. HAZELTON with Mr. MONEY.

Mr. MCKENZIE with Mr. PAGE.

Mr. DAVIDSON with Mr. FARR.

Mr. DUNN with Mr. PRESCOTT.

Mr. FINLEY with Mr. MILLER.

Mr. LE FEVRE with Mr. MARSH, on political questions.

Mr. COWGILL with Mr. BRAGG.

Mr. KING with Mr. RICE.

Mr. NEWBERRY with Mr. ELLIS.

Mr. THOMAS TURNER with Mr. MCGOWAN.

Mr. MCKINLEY with Mr. HURD.

Mr. CALKINS with Mr. PHISTER.

Mr. ORTH with Mr. MYERS, on political questions.

Mr. WALTER A. WOOD with Mr. MULLER.

Mr. JAMES with Mr. O'BRIEN.

Mr. GUNTER with Mr. BURROWS.

Mr. STARIN with Mr. RICHMOND.

Mr. WILBER with Mr. BACHMAN.

Mr. FELTON with Mr. KILLINGER.

Mr. BAILEY with Mr. YOUNG, of Tennessee.

The result of the vote was announced as above stated.

The SPEAKER. The question next recurs on the amendment of the gentleman from New York, [Mr. LAPHAM,] to add a number of additional sections to the bill.

Mr. KEIFER. That is a very long amendment and has already been read and inserted in the proceedings, and unless some gentleman desires to have it read I ask the reading be omitted and demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 80, nays 107, not voting 105; as follows:

YEAS—80.

Aldrich, William	Davis, Horace	Horr,	Russell, W. A.
Anderson,	Deering,	Houk,	Ryan, Thomas
Baker,	Dunnell,	Humphrey,	Shallenberger,
Ballou,	Errett,	Joyce,	Sherwin,
Barber,	Ferdon,	Keifer,	Stone,
Bayne,	Field,	Kelley,	Thomas,
Bingham,	Fisher,	Ketcham,	Thompson, W. G.
Blake,	Fort,	Lapham,	Townsend, Amos
Bowman,	Frye,	Mason,	Tyler,
Boyd,	Godshalk,	McCoid,	Updegraff, Thomas
Brewer,	Hall,	McCook,	Valentine,
Briggs,	Hammond, John	Mitchell,	Van Aernam,
Browne,	Harmer,	Neal,	Van Voorhis,
Cannon,	Harris, Benj. W.	Norcross,	Voorhis,
Carpenter,	Haskell,	O'Neill,	Ward,
Caswell,	Hawk,	Osmer,	Washburn,
Conger,	Hawley,	Overton,	White,
Crapo,	Hayes,	Pound,	Williams, C. G.
Daggett,	Henderson,	Richardson, D. P.	Willits,
Davis, George R.	Hiscock,	Robinson,	Young, Thomas L.

NAYS—107.

Acklen,	Davis, Lowndes H.	Lounsbery,	Singleton, O. R.
Aiken,	Deuster,	Lowe,	Slemons,
Atkins,	Dibrell,	Martin, Benj. F.	Smith, William E.
Bachman,	Dickey,	McLane,	Sparks,
Beale,	Elam,	McMahon,	Speer,
Beltzhoover,	Evins,	McMillin,	Springer,
Berry,	Forney,	Mills,	Steele,
Bicknell,	Geddes,	Morrison,	Stephens,
Blackburn,	Goode,	Morse,	Taylor,
Bland,	Hammond, N. J.	New,	Thompson, P. B.
Bliss,	Harris, John T.	Nicholls,	Tillman,
Bright,	Hatch,	O'Connor,	Townshend, R. W.
Buckner,	Henkle,	O'Reilly,	Tucker,
Cabell,	Henry,	Persons,	Turner, Oscar
Caldwell,	Herbert,	Phelps,	Upson,
Carlisle,	Hostetler,	Philips,	Vance,
Chalmers,	House,	Poehler,	Waddill,
Clark, John B.	Hunton,	Reagan,	Wellborn,
Clymer,	Hutchins,	Richardson, J. S.	Wells,
Cobb,	Johnston,	Robertson,	Whiteaker,
Coffroth,	Jones,	Ross,	Whitthorne,
Colerick,	Kenna,	Ryon, John W.	Williams, Thomas
Cook,	Kimmel,	Samford,	Willis,
Covert,	Klotz,	Sawyer,	Wilson,
Cravens,	Knott,	Scales,	Wise,
Culberson,	Ladd,	Shelley,	Wright.
Davis, Joseph J.	Lewis,	Simonton,	

NOT VOTING—105.

Aldrich, N. W.	Camp,	Dwight,	Gunter,
Armfield,	Chittenden,	Einstein,	Hazelton,
Atherton,	Claflin,	Ellis,	Heilman,
Bailey,	Clardy,	Ewing,	Herndon,
Barlow,	Clark, Alvah A.	Farr,	Hill,
Belford,	Converse,	Felton,	Hooker,
Blount,	Cowgill,	Finley,	Hubbell,
Bouck,	Cox,	Ford,	Hull,
Bragg,	Crowley,	Forsythe,	Hurd,
Brigham,	Davidson,	Frost,	James,
Burrows,	De La Matyr,	Garfield,	Jorgensen,
Butterworth,	Dick,	Gibson,	Killinger,
Calkins,	Dunn,	Gillette,	King,

Kitchin,	Monroe,	Price,	Turner, Thomas
Le Fevre,	Morton,	Reed,	Updegraff, J. T.
Lindsey,	Muldrow,	Rice,	Urner,
Loring,	Muller,	Richmond,	Wait,
Manning,	Murch,	Robeson,	Warner,
Marsh,	Myers,	Rothwell,	Weaver,
Martin, Edward L.	Newberry,	Russell, Daniel L.	Wilber,
Martin, Joseph J.	O'Brien,	Sapp,	Wood, Fernando
McGowan,	Orth,	Singleton, J. W.	Wood, Walter A.
McKenzie,	Pacheco,	Smith, A. Herr	Yocum,
McKinley,	Page,	Smith, Hezekiah B.	Young, Casey.
Miles,	Phister,	Starin,	
Miller,	Pierce,	Stevenson,	
Money,	Prescott,	Talbott,	

So the amendment was rejected.

The following additional pairs were announced from the Clerk's desk:

Mr. WARNER with Mr. CLAFLIN.

Mr. HILL with Mr. BUTTERWORTH.

Mr. TALBOTT with Mr. WAIT, for the balance of the day.

Mr. WILBER with Mr. KITCHIN.

The vote was then announced as above recorded.

The bill, as amended, was ordered to a third reading; and it was accordingly read the third time.

The SPEAKER. The question recurs on the passage of the bill.

Mr. KEIFER demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 110, nays 85, not voting 97; as follows:

YEAS—110.

Acklen,	Davis, Lowndes H.	Lewis,	Simonton,
Aiken,	Deuster,	Lounsbery,	Singleton, O. R.
Atkins,	Dibrell,	Lowe,	Slemons,
Bachman,	Dickey,	Manning,	Sparks,
Beale,	Elam,	Martin, Benj. F.	Speer,
Belford,	Evins,	McLane,	Springer,
Beltzhoover,	Ford,	McMahon,	Steele,
Bicknell,	Forney,	McMillin,	Stephens,
Blackburn,	Geddes,	Mills,	Taylor,
Bland,	Goode,	Morrison,	Thompson, P. B.
Bliss,	Hammond, N. J.	Morse,	Tillman,
Bright,	Harris, John T.	New,	Townshend, R. W.
Buckner,	Hatch,	Nicholls,	Tucker,
Cabell,	Henkle,	O'Connor,	Turner, Oscar
Caldwell,	Henry,	O'Reilly,	Upson,
Carlisle,	Herbert,	Persons,	Vance,
Chalmers,	Hooker,	Phelps,	Waddill,
Clark, John B.	Hostetler,	Philips,	Wellborn,
Clymer,	House,	Poehler,	Wells,
Cobb,	Hunton,	Reagan,	Whiteaker,
Coffroth,	Hutchins,	Richardson, J. S.	Whitthorne,
Colerick,	Johnston,	Robertson,	Williams, Thomas
Cook,	Jones,	Ross,	Willis,
Covert,	Kenna,	Ryon, John W.	Wilson,
Cox,	Kimmel,	Samford,	Wise,
Cravens,	Klotz,	Sawyer,	Wright.
Culberson,	Knott,	Scales,	
Davis, Joseph J.	Ladd,	Shelley,	

NAYS—85.

Aldrich, N. W.	Deering,	Hurd,	Shallenberger,
Aldrich, William	Dunnell,	Joyce,	Sherwin,
Anderson,	Errett,	Keifer,	Smith, William E.
Baker,	Ferdon,	Kelley,	Stone,
Ballou,	Field,	Ketcham,	Thomas,
Bayne,	Fisher,	Lapham,	Thompson, W. G.
Bingham,	Fort,	Lindsey,	Townsend, Amos
Blake,	Frye,	Mason,	Tyler,
Bowman,	Godshalk,	McCold,	Updegraff, Thomas
Boyd,	Hall,	McCook,	Valentine,
Brewer,	Hammond, John	Mitchell,	Van Aernam,
Briggs,	Harmer,	Neal,	Van Voorhis,
Browne,	Harris, Benj. W.	Norcross,	Voorhis,
Cannon,	Haskell,	O'Neill,	Ward,
Carpenter,	Hawk,	Osmer,	Washburn,
Caswell,	Hawley,	Overton,	White,
Chittenden,	Hayes,	Pound,	Williams, C. G.
Conger,	Henderson,	Richardson, D. P.	Willits,
Crapo,	Hiscock,	Robeson,	Young, Thomas L.
Daggett,	Horr,	Robinson,	
Davis, George R.	Houk,	Russell, W. A.	
Davis, Horace	Humphrey,	Ryan, Thomas	

NOT VOTING—97.

Armfield,	Einstein,	Marsh,	Rice,
Atherton,	Ellis,	Martin, Edward L	Richmond,
Bailey,	Ewing,	Martin, Joseph J.	Rothwell,
Barber,	Farr,	McGowan,	Russell, Daniel L.
Barlow,	Felton,	McKenzie,	Sapp,
Berry,	Finley,	McKinley,	Singleton, J. W.
Blount,	Forsythe,	Miles,	Smith, A. Herr
Bouck,	Frost,	Miller,	Smith, Hezekiah B.
Bragg,	Garfield,	Money,	Starin,
Brigham,	Gibson,	Monroe,	Stevenson,
Burrows,	Gillette,	Morton,	Talbott,
Butterworth,	Gunter,	Muldrow,	Turner, Thomas
Calkins,	Hazelton,	Muller,	Updegraff, J. T.
Camp,	Heilman,	Murch,	Urner,
Claflin,	Herndon,	Myers,	Wait,
Clardy,	Hill,	Newberry,	Warner,
Clark, Alvah A.	Hubbell,	O'Brien,	Weaver,
Converse,	Hull,	Orth,	Wilber,
Cowgill,	James,	Pacheco,	Wood, Fernando
Crowley,	Jorgensen,	Page,	Wood, Walter A.
Davidson,	Killinger,	Phister,	Yocum,
De La Matyr,	King,	Pierce,	Young, Casey.
Dick,	Kitchin,	Prescott,	
Dunn,	Le Fevre,	Price,	
Dwight,	Loring,	Reed,	

So the bill was passed.

Mr. HARRIS, of Virginia, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PAY OF CONGRESSIONAL EMPLOYÉS.

Mr. HENRY. I desire to make a verbal correction in the joint resolution (H. R. No. 328) in relation to committee clerks, pages, and other employés of the Senate and House of Representatives, passed yesterday. I move to insert the words "Clerk of the" before the words "House of Representatives" in the second line after the enacting clause, so it will read:

Be it resolved, &c., That the Secretary of the Senate and the Clerk of the House of Representatives be, and they are hereby, authorized and directed to pay all committee clerks, pages, laborers, and other employés of the Senate and House of Representatives, respectively, who do not now receive annual salaries, their regular per diem allowance for thirty days from the adjournment of this session of Congress; and the amount necessary to pay the same is hereby appropriated out of any money in the Treasury not otherwise appropriated, and shall be immediately available.

There was no objection, and it was ordered accordingly.

Mr. HENRY moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

IMMEDIATE TRANSPORTATION OF DUTIABLE GOODS.

Mr. ALDRICH, of Illinois, by unanimous consent, introduced a bill (H. R. No. 6472) to amend an act entitled "An act to amend the statutes in relation to the immediate transportation of dutiable goods, and for other purposes;" which was read a first and second time.

The bill, which was read, provides that in the act entitled "An act to amend the statutes in relation to the immediate transportation of dutiable goods, and for other purposes;" approved June 10, 1880, the words "section four," where they occur in the first section of said act, be changed to "section five."

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ALDRICH, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, announced that the Senate further insisted upon its amendments to the bill (H. R. No. 6207) making appropriations for the Agricultural Department of the Government for the fiscal year 1881, and for other purposes, and agreed to a further conference asked for by the House on said bill, and had appointed Messrs. WINDOM, DAVIS of West Virginia, and WALLACE as conferees on the part of the Senate on the disagreeing votes of the two Houses thereon.

The message further announced that the Senate agreed to the conference asked for on the disagreeing votes of the two Houses on the bill (H. R. No. 1846) relating to the public lands of the United States, and had appointed Messrs. JONES, of Florida, MORGAN, and BOOTH as conferees on the part of the Senate.

The message further announced the passage of the following bills of the House, with amendments in which concurrence was requested:

A bill (H. R. No. 1381) to authorize the construction of a bridge across the Potomac River at or near Georgetown, in the District of Columbia, and for other purposes;

A bill (H. R. No. 2769) to amend an act entitled "An act to encourage the establishment of public marine schools," approved June 20, 1874, so as to extend it to the ports of Wilmington, Charleston, Savannah, Mobile, New Orleans, Baton Rouge, and Galveston; and

A bill (H. R. No. 3921) to amend section 2238 of the Revised Statutes, in relation to fees for final certificates in donation cases.

The message further announced the passage of the following House bills without amendment:

A bill (H. R. No. 3988) to remove the political disabilities of Charles Carroll Simms, of Virginia;

A bill (H. R. No. 3328) to remove the political disabilities of John Owins, of Portsmouth, Virginia;

A bill (H. R. No. 3832) to remove the political disabilities of Joseph A. Seawell, of Virginia;

A bill (H. R. No. 3109) to remove the political disabilities of I. Wilkinson;

A bill (H. R. No. 393) authorizing the Treasurer of the United States to refund to W. B. Farrar, of Whitfield County, Georgia, illegal taxes collected from him in the year 1877; and

A bill (H. R. No. 6471) to amend an act entitled "An act to create the northern judicial district in the State of Texas, and to change the eastern and western judicial districts of said State, and to fix the time and places of holding courts in said districts," approved February 24, 1879.

The message also announced the passage of the following bills, in which concurrence was requested:

A bill (S. No. 12) to authorize the States of Ohio, Indiana, and Illinois, respectively, to commence and prosecute suits against the United States in the Supreme Court of the United States;

A bill (S. No. 33) to provide for the payment of the claim of Joseph R. Shannon, of Louisiana;

A bill (S. No. 303) for the relief of George Hollingsworth;

A bill (S. No. 655) to amend section 2562 of the Revised Statutes of the United States relating to the boundary-lines of the collection district of Saint Marks, in the State of Florida, and for other purposes;

A bill (S. No. 816) for the relief of Felix Livingston, principal, and Theodore Hartridge, William Christopher, Albert G. Phillips, and John M. Pons, sureties on the official bond of said Livingston, late collector of customs for the district of Fernandina, in the State of Florida;

A bill (S. No. 890) relating to the claims, equitable and legal rights, of parties in possession of certain lands and improvements thereon in California, and to provide jurisdiction to determine those rights;

A bill (S. No. 915) for the relief of Edgar Huson;

A bill (S. No. 1103) for the relief of Manly B. McNitt;

A bill (S. No. 1192) to authorize the city of Winona to construct, operate, and maintain a wagon-bridge across the Mississippi River at Winona;

A bill (S. No. 1230) to establish a port of delivery at Indianapolis, in the State of Indiana;

A bill (S. No. 1497) to amend section 2630 of the Revised Statutes of the United States so that appraisers shall be authorized to act by deputy in certain cases; and

A bill (S. No. 1814) to authorize the construction of a fixed bridge over the Saint Mary's River, and for other purposes.

The message also announced the passage of the following Senate resolution, in which concurrence was requested:

A joint resolution (S. R. No. 120) to instruct the Secretary of the Interior to report to the Senate proper boundaries of a reservation of land in the Indian Territory for the Cheyenne and Arrapahoe Indians with reference to providing arable lands for the Indians in severalty, &c.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED.

Mr. KENNA, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes.

Mr. THOMPSON, of Iowa, from the same committee, reported that the committee had examined and found truly enrolled a bill and joint resolutions of the following titles; when the Speaker signed the same:

An act (H. R. No. 5304) authorizing the changing the name of the sloop-yacht America;

Joint resolution (H. R. No. 316) granting the use of artillery, muskets, and tents at the soldiers' reunion at Decatur, Illinois;

Joint resolution (H. R. No. 322) for the relief of certain persons in respect of duties demanded of them upon the import of certain articles named therein; and

Joint resolution (H. R. No. 327) to authorize the Secretary of the Navy to loan flags and bunting to the city of Boston.

THOMAS PETTIJOHN.

Mr. POEHLER. I ask unanimous consent that the Committee of the Whole be discharged from the further consideration of the bill (H. R. No. 5918) granting a pension to Thomas Pettijohn, and that it be put upon its passage.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and required to place the name of Thomas Pettijohn, late corporal of Company D, Ninth Regiment Minnesota Volunteers, on the pension-roll, subject to the limitations and provisions of the pension laws; the pension to commence from the date of his disability.

The SPEAKER. This is a bill granting a pension to a man that is blind, as the Chair is advised.

Mr. HAYES. Yes; totally blind.

The SPEAKER. It was for that reason the Chair recognized the gentleman from Minnesota to ask unanimous consent.

There being no objection, the bill was ordered to be engrossed and read a third time, and being engrossed, it was accordingly read the third time, and passed.

Mr. POEHLER moved to reconsider the vote by which the bill was passed, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

UTAH AND NORTHERN RAILROAD COMPANY.

Mr. MAGINNIS. I ask unanimous consent to take from the Calendar and put upon its passage the bill reported yesterday by the gentleman from Maryland [Mr. McLANE] from the Committee on Pacific Railroads. It is a bill to correct an error in the right of way to a small railroad being built up in my country.

The bill (H. R. No. 4874) in relation to the Utah and Northern Railway Company was read.

The SPEAKER. The Chair is advised there is no land grant in this bill.

Mr. MAGINNIS. None at all.

Mr. SPRINGER. If there be no land grant it is all right.

The question being put on the engrossment and third reading of the bill, only two or three members responded "ay" and "no."

The SPEAKER. The Chair thinks it would be better that the report should be read.

Mr. MAGINNIS. I send to the desk the report of the Committee on Pacific Railroads accompanying this bill.

The report was read.

Mr. HUTCHINS. Is that a unanimous report?

Mr. MAGINNIS. It is.

Mr. FIELD. This bill seems to me to deserve consideration, and I must object.

Mr. MAGINNIS. I make the point that the objection comes too late.

The SPEAKER. The Chair entertains the objection. The Chair will never take advantage of any one who desires to interpose an objection.

Mr. MAGINNIS. I submit that the bill was read and discussed, and the question put upon its third reading.

The SPEAKER. But the Chair recognizes the fact that the bill came in by unanimous consent; and the gentleman from Massachusetts having claimed the right to object, the Chair must recognize his objection.

SUPPLEMENTAL POST-ROUTE BILL.

Mr. MONEY. I am instructed by the Committee on the Post-Office and Post-Roads to move that the bill (S. No. 1771) to establish post-roads be taken from the Speaker's table, and to offer an amendment to the bill on behalf of the committee. There is no legislation in the bill; nothing but the addition of a number of post-roads.

There being no objection, the bill was taken from the Speaker's table and read a first and second time.

The amendment reported by the Committee on the Post-Office and Post-Roads was agreed to.

The bill, as amended, was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. ATKINS. I move that the House do now adjourn.

The motion was agreed to, and accordingly (at five o'clock p. m.) the House adjourned.

PETITIONS.

The following petitions were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. CRAPO: The petition of the Durfee Mills Company and other manufacturing corporations, of Fall River, Massachusetts, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. KNOTT: The petition of James H. Nichols, for a pension—to the Committee on Invalid Pensions.

By Mr. MAGINNIS: Three petitions of citizens of Montana Territory, against proposed changes in the mining laws—to the Committee on Mines and Mining.

By Mr. O'NEILL: The petition of citizens of Pennsylvania, for the passage of the bill (H. R. No. 5038) granting titles to Indians in severalty on their reservations—to the Committee on Indian Affairs.

By Mr. RICHARD W. TOWNSHEND: The petition of M. J. Wright, widow of Peter Wright, deceased, late of Company K, Eighth United States Colored Artillery, for bounty and back pay due her late husband—to the Committee on Military Affairs.

By Mr. THOMAS L. YOUNG: The petitions of Howard Knowles and 45 others, and of G. A. Balzar and 22 others, internal-revenue officers, for the passage of the bill (H. R. No. 4802) granting thirty days' leave of absence per annum to such officers, without stoppage of compensation—to the Committee on Ways and Means.

IN SENATE.

SATURDAY, *June* 12, 1880.

The Senate met at eleven o'clock a. m. Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the bill (S. No. 1726) regulating the pay and appointment of deputy marshals, with an amendment in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills and joint resolution; in which it requested the concurrence of the Senate:

A bill (H. R. No. 6472) to amend an act entitled "An act to amend the statutes in relation to immediate transportation of dutiable goods, and for other purposes;"

A bill (H. R. No. 5918) granting a pension to Thomas Pettijohn; and

A joint resolution (H. R. No. 328) in relation to committee clerks, pages, and other employés of the Senate and House of Representatives.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Navy, transmitting, in compliance with a resolution of the 7th instant, a copy of the record of the proceedings of the naval examining board relative to the case of Commodore

Donald McNeill Fairfax, United States Navy; which was referred to the Committee on Naval Affairs.

HOUSE BILLS REFERRED.

Mr. DAVIS, of West Virginia. There are two or three bills that have just come from the House, one of which must go to the Committee on Appropriations. I ask that they be laid before the Senate for reference.

The bill (H. R. No. 5918) granting a pension to Thomas Pettijohn was read twice by its title, and referred to the Committee on Pensions; and

The joint resolution (H. R. No. 328) in relation to committee clerks, pages, and other employés of the Senate and House of Representatives was read twice by its title, and referred to the Committee on Appropriations.

IMMEDIATE TRANSPORTATION OF DUTIABLE GOODS.

The bill (H. R. No. 6472) to amend an act entitled "An act to amend the statutes in relation to immediate transportation of dutiable goods, and for other purposes," was read twice by its title.

Mr. BECK. I ask the Senate to act upon that at once. It only changes a reference to "section 4" to "section 5," a single word, correcting a mistake.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

DEPUTY MARSHALS.

The PRESIDENT *pro tempore* laid before the Senate the amendment of the House of Representatives to the bill (S. No. 1726) regulating the pay and appointment of deputy marshals.

The amendment of the House was to strike out all after the word "year," in line 7 of section 2, down to and including the word "case," in line 11, and, in lieu thereof, to insert:

And the judges of the several circuit courts of the United States are hereby authorized to open their respective courts at any time for that purpose; and in case the circuit courts shall not be open for that purpose, at least ten days prior to a registration, if there be one, or if no registration be required, then at least ten days before such election.

Mr. EATON. I move the immediate consideration of the amendment of the House.

The PRESIDENT *pro tempore*. The Senator from Connecticut asks the Senate to proceed to the consideration of this amendment. Is there objection? The Chair hears none.

Mr. GARLAND. I move that the Senate concur in the amendment of the House to the bill.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Arkansas.

Mr. HOAR. What bill is it on which the Chair is just stating the question?

The PRESIDENT *pro tempore*. The bill in regard to deputy marshals.

Mr. HOAR. I desire to have that stand over.

The PRESIDENT *pro tempore*. Objection is made. Although the Senate had given leave by unanimous consent to its consideration, if the Senator did not hear the Chair ask for objection, it will be entertained.

Mr. HOAR. I did not understand what the question was.

The PRESIDENT *pro tempore*. The amendment will be printed, and the bill will go over until the next legislative day.

REPORTS OF COMMITTEES.

Mr. McDONALD, from the Committee on Public Lands, to whom was referred the bill (S. No. 1495) for the relief of homestead settlers on the public lands of the United States, reported it with amendments.

Mr. PLUMB. I am directed by the Committee on Public Lands, to whom was referred the joint resolution (H. R. No. 123) authorizing the Secretary of the Interior to certify school lands to the State of Kansas, to report it without amendment, and I ask that it be considered now by unanimous consent.

Mr. COCKRELL. I object to anything being considered that is reported this morning, and ask that the bill be laid over.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar.

Mr. HOAR. I am directed by the Committee on Claims, to whom was referred the bill (S. No. 1181) for the relief of Dodd, Brown & Co., of Saint Louis, to report it with an amendment in the form of a substitute. It is a bill to pay the persons for whose relief it is drawn certain Indian claims in accordance with the report of the Commissioner of Indian Affairs, and I ask unanimous consent so far to consider it at this time as to have the substitute adopted and treated as the original bill.

The PRESIDENT *pro tempore*. The bill will be read.

Mr. HOAR. Let the substitute only be read.

Mr. COCKRELL. I understand that the Senator does not ask present action; only that we adopt the substitute and let that substitute stand for the original bill. It is not necessary to read anything but the title.

The bill was read by its title.

The PRESIDENT *pro tempore*. The substitute will be printed. The Senator from Massachusetts does not ask for its present consideration, the Chair understands.

Mr. HOAR. Only so far as to have the substitute take the place of the original bill by consent.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar.

ANTHONY LAWSON.

The PRESIDENT *pro tempore*. If there are no concurrent or other resolutions the routine business of the morning hour is at an end.

Mr. COCKRELL. The Calendar.

The PRESIDENT *pro tempore*. The Senate resumes the consideration of the Calendar under the Anthony rule. The first bill in order will be called.

The bill (S. No. 1109) for the relief of Anthony Lawson was announced as the first in order upon the Calendar.

Mr. COCKRELL. That is reported adversely. The Senator from West Virginia [Mr. HEREFORD] is not in his seat. It is a West Virginia case; and it may go over; otherwise I should move its indefinite postponement.

The PRESIDENT *pro tempore*. The bill will be passed over.

THOMAS J. LEAGUE.

The next bill on the Calendar was the bill (S. No. 1322) for the relief of Thomas J. League. It directs the Secretary of the Treasury to pay $10,750 to Thomas J. League, or his legal representative, for rent of coal wharf and yard at Galveston, Texas, used for discharging, shipping, and storing Government coal and other freight, from December 1, 1865, to March 31, 1866, under contract, at the monthly rental of $2,500 per month, and also for rent of coal-yard at Galveston, Texas, used for storing Government coal, from April 1, 1866, to June 30, 1866, under contract, at the monthly rental of $250 per month.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CYPRIAN T. JENKINS.

The next bill on the Calendar was the bill (S. No. 896) for the relief of Cyprian T. Jenkins; which was considered as in Committee of the Whole. It directs the Secretary of the Treasury to pay to Cyprian T. Jenkins, of Bay Port, Florida, $678.75, which amount has been found to be due him by the Secretary of the Treasury for his services as United States timber agent during the fourth quarter of the year 1860 and during the first quarter of the year 1861.

The bill was reported from the Committee on Claims with an amendment, after "1861," in line 11, to strike out "the amount herein appropriated shall be available from and after the passage of this act" and insert "any existing law to the contrary notwithstanding."

Mr. ALLISON. I ask that the report may be read in that case.

Mr. McDONALD. What committee is it from?

The PRESIDENT *pro tempore*. The Committee on Claims.

The Chief Clerk read the following report, submitted by Mr. GROOME, March 24, 1880:

The Committee on Claims, to whom was referred the bill (S. No. 896) for the relief of Cyprian T. Jenkins, report:

That the bill directs the Secretary of the Treasury to pay to said Jenkins, out of any money in the Treasury not otherwise appropriated, the sum of $678.75, which amount has been found to be due him by the Secretary of the Treasury for his services as United States timber agent during the fourth quarter of the year 1860 and the first quarter of the year 1861.

A member of your committee, on its behalf, addressed a letter to the Treasury Department to ascertain whether or not the claim of said Jenkins is well founded, and received the subjoined reply:

"TREASURY DEPARTMENT, FOURTH AUDITOR'S OFFICE,
"*February* 9, 1880.

"SIR: In reply to your letter of the 12th ultimo, in relation to the case of Mr. C. T. Jenkins, late timber agent of Bay Port, Florida, I have the honor to state that two settlements were made in favor of the said Jenkins for $443.75 and $235, respectively. These settlements were regular and were admitted by the honorable Second Comptroller. A requisition for $443.75 was issued April 26, 1861, but it was canceled before a draft was made, and consequently the amount has not been paid. Requisition upon the second sum, $235, found due in April, 1861, was not issued. Therefore, the books of this office show a credit to Mr. Jenkins in the sum of $678.75, for which he has apparently received no payment from the United States Government. The inclosed bill is herewith returned.

"Very respectfully,
"CHARLES BEARDSLEY,
"*Auditor.*

"Hon. JAMES B. GROOME,
"*United States Senate.*"

Your committee recommend the passage of the bill.

The PRESIDENT *pro tempore*. The question is on the amendment reported by the Committee on Claims.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

UNIVERSITY LANDS TO TERRITORIES.

Mr. McDONALD. The Committee on Public Lands have directed me to report without amendment the bill (H. R. No. 1327) to grant lands to Dakota, Montana, Arizona, Idaho, and Wyoming, for university purposes, and recommend its passage. I request its present consideration.

Mr. COCKRELL. Let it be passed by until the morning hour is over.

Mr. McDONALD. Allow me to state what the bill is. It is a House bill reported back without amendment by the Committee on Public Lands. It simply grants to these Territories the same quantity of public lands for university purposes that has been granted to other States and Territories.

Mr. COCKRELL. I do not think it is fair for committees to come in during the short two hours and a half that we have allotted to the Calendar and ask that bills which they report be taken up at once.

The PRESIDENT *pro tempore*. Does the Senator from Missouri object?

Mr. COCKRELL. I do not object to this; but I give notice that I shall object to all others.

Mr. TELLER. Let the bill be read. Let us see what it is before we are deprived of the right of objecting.

The Chief Clerk read the bill.

No objection being made, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. TELLER. I do not intend to spend much time on this bill, but I am clearly of the opinion that it is a mistake. It is a mistake to give these Territories the disposal of the land at this time, when the land is practically in many of these Territories worthless. It has not been the policy of the Government to give the Territories land for these purposes, but to wait until they become States and then give them the land. The land now, if seventy-two sections are given to these Territories, will be practically worthless; the result will be to create a fund so small that it will do no good; it will be frittered away, practically wasted, while if the land was reserved to them, as it ought to be, until they become States it would be of some value. But the committee have recommended the bill, and it may seem like an objection to furthering the cause of education to oppose it, and I do not propose to offer any objection.

Mr. INGALLS. This is an innovation. Land for university purposes never has been given to Territories before.

Mr. McDONALD. It has been.

Mr. INGALLS. It has always been given to States.

Mr. McDONALD. I have before me the act of March 3, 1875, by which the Territory of Colorado received 46,080 acres of land.

Mr. TELLER. When it became a State.

Mr. McDONALD. No; it was granted to the Territory of Colorado. The reason why this bill ought to pass at this time is that if these incipient States which are Territories now are denied the right of selecting their lands until they become States the selections will be of very little value.

Mr. INGALLS. What was the date of the Colorado act?

Mr. McDONALD. March 3, 1875.

Mr. ALLISON. I will state to the Senator from Kansas that there are a great many precedents for this. Iowa had a grant of land for university purposes while it was a Territory.

Mr. McDONALD. And several others.

Mr. ALLISON. I think Kansas had, but I am not certain about that.

Mr. McDONALD. The grant to Kansas was January 29, 1861.

Mr. INGALLS. That was the act of admission.

Mr. McDONALD. I wish to say one word further, and that is, that this bill guards against any wasteful disposition of these lands. It provides that they shall not be sold for less than $2.50 per acre. The principal object is to enable the Territories to make their selections while there are lands to be selected. It seems to me that it is perfectly right to do so, if we intend this grant ever to be of any benefit in the establishment of universities.

Mr. INGALLS. The act to which the Senator from Indiana referred, relative to the Colorado land, was the act of admission, which was passed March 3, 1875. It was not donated to Colorado as a Territory.

The PRESIDENT *pro tempore*. The bill is before the Senate as in Committee of the Whole and open to amendments.

Mr. INGALLS. I object to it.

The PRESIDENT *pro tempore*. The bill was taken up by unanimous consent. It is not on the Calendar. If there are no amendments the bill will be reported to the Senate.

Mr. INGALLS. If it is a bill reported from a committee, it cannot be read on the same day twice.

The PRESIDENT *pro tempore*. It could not if an original bill, and if it had not been taken up by unanimous consent.

Mr. INGALLS. I object to the third reading, then. I suppose I have a right to object when the question of the third reading comes up.

Mr. McDONALD. If the Senator does not desire the consideration of this bill now, I hope he will be allowed to make an objection to its being considered. I do not want it to be considered by piecemeal, or put through in any way that is not entirely satisfactory.

Mr. INGALLS. I should like to examine the precedents. The only two precedents which the Senator from Indiana has quoted are not such as to support the theory of this bill. He quoted Colorado and Kansas, and in both those cases the grant was in the act of admission, and not to the Territories. If there are any precedents upon examination I shall withdraw my objection to this bill; but I want time to examine whether there are any precedents or not.

The PRESIDENT *pro tempore*. The Chair will inform the Senator from Kansas that this bill is a House bill, which was read twice before it was referred to the committee, and therefore, the Senate having agreed to take it up, there can be no objection to its third reading to-day.

Mr. INGALLS. There can be no objection to-day?

The PRESIDENT *pro tempore*. There could have been objection when the bill was first reported, but by unanimous consent the Senate took it up.

Mr. COCKRELL. I understood the Senator from Colorado to ask that the bill be read before objections were made. I made objections to it and withdrew them. Then he asked that the bill be read before objections were called for, and it has been the universal rule in the Senate to have a bill read before objection is called for.

Mr. McDONALD. If the Senator from Kansas desires to take time to consider this bill or look into it further I have no objection.

Mr. INGALLS. I only ask for time to examine the precedents. If there is a precedent for the grant of seventy-two sections for university lands to a Territory, I shall withdraw my objection, and I merely ask time to examine it.

Mr. McDONALD. I can state that university lands for the establishment of a State university were granted to my own State when it was a Territory, I know.

The PRESIDENT *pro tempore*. Is there objection to postponing the further consideration of the bill until to-morrow? The Chair hears no objection, and it is so ordered.

TITLES AT HOT SPRINGS.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had non-concurred in the amendments of the Senate to the bill (H. R. No. 4244) for the establishment of titles in Hot Springs, and for other purposes; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. POINDEXTER DUNN, of Arkansas, Mr. GEORGE L. CONVERSE of Ohio, and Mr. THOMAS RYAN of Kansas, managers at the conference on the part of the House.

Mr. GARLAND. I desire to have action upon the bill now.

The PRESIDENT *pro tempore* laid before the Senate the action of the House of Representatives non-concurring in the amendments of the Senate to the bill (H. R. No. 4244) for the establishment of titles in Hot Springs, and for other purposes.

On motion of Mr. GARLAND, it was

Resolved, That the Senate insist on its amendments disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the Houses thereon.

By unanimous consent, it was

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The President *pro tempore* appointed Messrs. McDONALD, WALKER, and BOOTH.

HENRY M. SHREVE.

The bill (S. No. 814) for the relief of Henry M. Shreve was considered as in Committee of the Whole.

The bill was reported from the Committee on Claims with an amendment, to strike out the preamble and all after the enacting clause and in lieu thereof to insert:

That the Secretary of the Treasury pay to the legal representatives of Henry M. Shreve, deceased, the sum of $50,000 as a full compensation for, and in satisfaction of, all claims for the invention of the steam snag-boat, and for the use of the same, past, present, and future, and for any and all rights that the said Shreve may have acquired under the patent granted to him for the invention of the steam snag-boat.

Mr. DAVIS, of Illinois. I should like to have that explained. It is a large sum. The Senator from Tennessee [Mr. HARRIS] reported the bill.

Mr. HARRIS. The action of the committee recommended the filling of the blank with $50,000, and it was so filled in pencil, but the printer, I see, has left it blank. I insert $50,000. That is the action of the committee.

Several SENATORS. That was read by the Clerk.

Mr. HARRIS. The Clerk informs me that it is in the bill. I understood from a remark of the Senator from Missouri [Mr. COCKRELL] that it was not so inserted.

Mr. DAVIS, of Illinois. But I should like an explanation of the bill.

Mr. HARRIS. I ask that the report be read. That is the best explanation I can offer.

The PRESIDENT *pro tempore*. The Senator from Tennessee moves to fill the blank with $50,000.

Mr. HARRIS. It is in the bill. I was misled by the remark of the Senator from Missouri.

Mr. COCKRELL. It is not in the copy I have.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment of the committee.

Mr. HARRIS. The Senator from Illinois asks for some explanation in regard to the bill. Let the report I submitted be read as the explanation of the bill.

The Chief Clerk proceeded to read the report submitted by Mr. HARRIS, March 24, 1880:

The Committee on Claims, to which was referred the bill (S. No. 814) for the relief of Henry M. Shreve, having carefully examined the same, submits the following report:

Prior to 1824 Henry M. Shreve was engaged in the steam navigation of the Ohio

and Mississippi Rivers, and had given much attention to the matter of removing obstructions to the navigation of rivers.

By act of 24th of May, 1824, $75,000 was appropriated to improve the navigation of the Ohio and Mississippi Rivers. Under this act the War Department, on the 1st of June, 1824, offered a premium of $1,000 to any person who should present to the Department the machine or instrument best calculated to remove sawyers, planters, and snags, so as to render navigation safe.

In response to this offer there were a number of methods of removal presented, among others that of Captain Henry M. Shreve, which was to saw off the snags six or eight feet below the surface of the water at its lowest stage; and he stated that "about three years ago I invented a machine for the purpose of sawing off snags, &c., under the water, a model of which I will submit to the inspection of the War Department, if desired."

The plan suggested by John Bruce was adopted, and on the 12th of October, 1824, a contract was entered into with him for the execution of the work proposed. To superintend this work Major Samuel C. Babcock was first appointed, who was succeeded by Major Long, of the Engineer Corps; then Colonel Samuel McKee; and on the 1st of December, 1826, Captain H. M. Shreve was appointed superintendent.

In his letter of instructions from the Engineer Department he was informed that the results of Mr. Bruce's operations had not been satisfactory, and Captain Shreve was ordered to report, from time to time, the adequacy of the means of the contractor, Bruce, to execute his contract, &c.

On the 20th of February, 1827, Captain Shreve reported to the Secretary of War that, in his opinion, the means used by Mr. Bruce were insufficient for the work on the Mississippi River, and that Bruce would be unable to perform his contract according to its terms, reporting also, with particularity, the nature of the obstructions in the rivers, and his own opinions as to the best methods of removal.

On the 9th of April, 1827, the Engineer Department instructed Captain Shreve to inform Mr. Bruce that his contract was forfeited, stating that "the Secretary of War approves your plan of removing obstructions in the Mississippi River, and has directed me to say to you that you will take measures to carry into effect, as soon as practicable, the project suggested in your letter."

On the 1st October, 1827, Captain Shreve informed the Engineer Department that the apparatus and means at his command were wholly inadequate to the work to be done, and stated that no boat worked by men would ever be able to remove the obstructions, and recommended that a steamboat be so constructed as to apply the power of the engine to raising and cutting out the obstructions, as well as propelling the boat, proposing to submit a plan for such boat if the Government approved the suggestion.

On the 11th December, 1827, the Engineer Department instructed Captain Shreve to submit a plan and estimates of cost of such boat before the Government should commit itself to it.

On the 7th January, 1828, Captain Shreve submitted plan and estimates of cost of such boat to the Engineer Department.

On the 24th January, 1828, the Engineer Department wrote Captain Shreve that his plan and estimates for building a steamboat for improving the bed of the Mississippi River had been communicated to Congress, and that no step could be taken by the Department until Congress should have acted upon the subject.

On the 27th January, 1828, the Engineer Department wrote Captain Shreve that "the Secretary approves of the use of a steamboat for the purpose," but suggested that one might probably be bought or hired at less expense than to build one that would be of little or no value after the work was done.

On the 13th July, 1828, Captain Shreve, in a letter to the Engineer Department, stated that to hire or purchase a boat suitable for the service contemplated was impossible, and that a boat must be built.

On the 8th August, 1828, the Engineer Department wrote to Captain Shreve that the funds should be deposited in the branch Bank of the United States in Cincinnati and Louisville to enable him to build the snag-boat recommended by him, and the first twin steam snag-boat, the Heliopolis, was commenced in the latter part of 1828, and completed in August, 1829, upon the plans and specifications and under the supervision and direction of Captain Shreve.

On the 25th August, 1829, Captain Shreve reported to the Engineer Department that he had made experiments in removing snags "at Plumb Point (the most dangerous place on the Mississippi River) * * * with the steam snag-boat Heliopolis, and that he had succeeded beyond his most sanguine expectations. In eleven hours that whole forest of formidable snags, so long the terror of the boatmen, (many of which were six feet in diameter,) were effectually removed, and all of them were broken off below the sand in the bottom of the river."

The full success of Captain Shreve's invention was stated to the War Department in the official report of Captain Delafield, made in 1830, and in 1832 the War Department ordered the construction of another boat, the Archimedes, under the superintendence of Captain Shreve, which was brought into use by him, and the improvement of the navigation of the western rivers was greatly accelerated.

On the 1st May, 1834, Captain Shreve petitioned Congress for compensation for the invention of the snag-boat, in which he said, among other things:

"Your petitioner states that had his invention been of a nature to be applied to private interests, or individual pursuits, he could have made it the means of independence and wealth. Had it been of that character he could, under the Constitution and laws of the country, have secured to himself the exclusive benefit thereof; but its nature is such as to preclude the employment of it in any other than national improvements. He therefore appeals to the justice of Congress for reasonable compensation for his invention, for which he can, under existing circumstances, derive no personal advantage, but which must be beneficial to the country for ages to come."

He asked for a grant of 25,000 acres of land which may be reclaimed by the removal of the Red River raft.

This petition was referred to the House Committee on Public Lands, which committee recommended the passage of an act granting petitioner the right of pre-emption to eighteen sections of the public lands lying upon the line of the Red River raft, upon which report, however, no action was taken in the Twenty-third Congress. In the Twenty-fourth Congress the petition was again referred to the same committee and the former report was adopted, but the bill was not passed.

On the 6th July, 1836, Captain Shreve applied for a patent for his invention, and on the 12th day of September, 1838, letters-patent issued to him.

On the 13th January, 1839, Captain Shreve, in furnishing the Engineer Department with estimates for the construction of another snag-boat that the Department had decided to build, said:

"The accompanying estimate * * * will be very near the cost of the boat and machinery, *exclusive of the patent-right* for the boat, which, I hope, will not be charged, as I anticipate selling the right of using the snag-boat to the Government."

On the 23d September, 1839, in his official report to the Engineer Department, he said:

"I must beg leave to suggest to the Department the propriety of calling on Congress for an appropriation to be made at the present session to pay me for the patent-right to the snag-boat."

On the 11th September, 1841, Captain Shreve was removed from the office of superintendent of river improvements, but with emphatic expressions of the approval and approbation by the Department of the manner he had performed the duties of the position.

In 1841 Captain Shreve again petitioned Congress to compensate him for the use of his invention, asking that the sum of $100,000 be paid to him for his patent, and there were various reports of committees, all favorable, yet no final action taken upon any of them.

In 1855 Lydia R. Shreve, widow, and Walker R. Carter, executor, of H. M. Shreve, deceased, filed their petition in the Court of Claims asking compensation for the invention of the snag-boat.

The court found the facts as above stated, but held that the patent was not valid because of the public use the inventor had made of the invention for seven years before he applied for a patent. Hence the petition of the widow and executor of the patentee was dismissed.

The committee is satisfied from the proof that Captain Henry M. Shreve was the inventor of the snag-boat; that the invention has been, is, and will hereafter be, of very great, if not incalculable, value to the commerce of the United States in the removal of snags and other obstructions from the channels of our rivers. The removal of obstructions, which was impossible before, was rendered certain and comparatively easy by this invention.

The importance and value of this invention seem to be established as conclusively as any fact can be by human testimony. The benefits resulting to the country from its use are manifest.

The great raft in the Red River, one hundred and sixty miles in extent, completely blocking navigation and overflowing an immense area of most valuable lands on each side of the stream, was cleared by means of the snag-boat, without which no one would have regarded the undertaking as at all probable, if, indeed, possible, but with it, at comparatively small expense, the whole raft was removed, the river restored to its original channel, and hundreds of thousands of acres of land reclaimed and made valuable, and about twelve hundred miles of navigation opened.

The Secretary of War, in his report of 1840, estimates the saving to the Government in the transportation of supplies to Fort Towson by the removal of the Red River raft at about $85,000 annually.

By the removal of snags from the great western rivers generally the dangers of navigation to life and property have been incalculably diminished, and the time necessary to the trip of a steamboat reduced about one-half, which have resulted in the reduction of freights in about the same ratio.

Captain Delafield, of the Engineer Department, after carefully inspecting the snag-boat, describes it as "a splendid piece of machinery, with power to raise the largest and most firmly planted snags—an invention that answers the purpose admirably well." He states that one snag raised by the Heliopolis while he was on board contained sixteen hundred cubic feet of timber, and could not have weighed less than sixty tons.

In 1835 Captain Bowman, of the Engineer Corps, in a report of an inspection of the improvements of the navigation of rivers, made to the War Department, says:

"The Department is already in possession of the most unquestionable proofs of the efficiency of this machine [the snag-boat] drawn from its hitherto successful operation; but I cannot here omit an opportunity of rendering the merited tribute of praise to its excellence and to the ingenuity of its inventor. No machine can surpass it in its adaptation to the work in the execution of which it is now engaged. The machine is simple in its construction, and easy in its application; while in power it has been found adequate to overcome promptly every obstacle it has yet encountered. Through the agency of this machine the largest snags and logs are extracted with ease, many of which without its intervention could never have been removed."

And again, in 1841, he says in his report:

"I regard the snag-boat as having contributed immensely to facilitate the navigation of the Mississippi, Arkansas, and Red Rivers. Indeed, I do not think without it that these rivers could have been cleared of snags, rafts, &c., in a century."

In 1834, Mr. Ashley, from the Committee on Public Lands, House of Representatives, reported in favor of granting the petitioner the right of pre-emption to eighteen sections of land on the line of the Red River raft.

On the 3d of March, 1836, Mr. Dunlap, from the same committee, House of Representatives, made a similar report to the Twenty-fourth Congress.

On the 12th of April, 1842, and again on the 28th of February, 1843, Mr. Cross, from a select committee of the House of Representatives, reported a bill to the Twenty-seventh Congress to pay Captain Shreve $40,000 for his patent.

On the 7th of June, 1844, Mr. Joseph A. Wright, from a select committee of the House of Representatives, reported a bill to pay to claimant the sum of $40,000 for his patent.

On the 28th of February, 1846, Mr. Sykes, from the Committee on Patents, reported to the House of Representatives a bill to pay the claimant $85,000 for his patent.

On the 4th of January, 1848, Mr. Farrelly, from the Committee on Patents, reported to the House of Representatives a bill to pay to Captain Shreve the sum of $85,000 for his patent.

On the 9th of February, 1855, Mr. Walley, from the Committee on Claims, House of Representatives, reports that the claimant is entitled to compensation for his invention, and that the smallest amount fixed by the evidence is $50,000 and the largest $200,000.

There have been these eight reports from the various committees of the House recommending the passage of bills for the relief of Henry M. Shreve for the invention of the steam snag-boat, and no report against it; and while none of these bills have been rejected, none of them have passed.

The committee is satisfied that Henry M. Shreve was the inventor of the steam snag-boat, and that it is an invention which has saved to the Government many millions of dollars, by removing obstructions from our great western rivers which it was impossible to remove without it; by opening to navigation many hundreds of miles of rivers which could not have been navigated without its use; by the increased safety that it has given to life and property in the navigation of our rivers; by the diminution of time necessary for steamers to make their trips, thus lessening freights; and by reclaiming lands which were overflowed, by removing obstructions and returning the water to the channel of the rivers; and so perfect was this invention that no very material improvement has been made upon it, though in constant use by the Government up to this time.

The committee is satisfied that neither Henry M. Shreve, the inventor, nor his heirs since his death have received any compensation for this invention.

Justice demands that a fair and reasonable compensation should be paid to his heirs for an invention which has saved to the Government already millions of dollars and which will be necessary to the Government for all future time.

The amount that should be allowed is a question not free from difficulty. The opinions of former committees have varied from eighteen sections of land to $40,000 and $85,000. In view of the unquestioned value of the invention and the long delay of compensation the committee recommends the payment to the legal representatives of the late Henry M. Shreve of the sum of $50,000 in full satisfaction for his invention of the steam snag-boat and any and all rights that he may have acquired under his patent for the same.

The PRESIDENT *pro tempore*. The reading of the report will be suspended until order is restored in the Chamber. If Senators wish to hear the report they must submit to their conversation being interrupted.

Mr. DAVIS, of Illinois. I have read it all through while the Clerk was reading it, and I do not care about its being read any further.

The PRESIDENT *pro tempore*. The reading of the report will be resumed.

Mr. TELLER. I ask that the further reading of the report be dispensed with.

Mr. HARRIS. I called for the reading of the report at the request of the Senator from Illinois, and he having read it himself he does not ask for a further reading by the Secretary. With a brief statement, I ask that the consideration of the bill proceed.

As it appears from the report, and the facts on record, this claimant, Captain Shreve, was appointed superintendent of the improvement of the navigation of the Ohio and Mississippi Rivers in 1826. As a means of removing obstructions from the channels of those rivers he invented what is now known as the snag-boat. He continued as superintendent for some fifteen years, and with that instrumentality the reports of the Engineers Department show that he was able to remove from the channels of these rivers obstructions that it would have been utterly impossible to have removed in any other way, and with its use the navigation of all the streams to which it was applied had been improved beyond the possibility of improving in any other method; that it had given a facility and a freedom to commerce that commerce never could have had without it, and in addition to that had reclaimed hundreds of thousands of acres of the most productive lands in the deltas of many of our southern streams, thus redounding to the pecuniary interests of the Government to untold millions of money, in addition to the great advantages secured to the commerce of the country then, now, and for all time to come.

Being an employé of the Government when he invented this machine, after he had obtained his patent, which he did some two or three years after the public use that he had made of the invention, the Court of Claims decided that his patent was void because of the public use that he had so made of it. Therefore he has never received one cent from the Government or from any other source for his invention, an invention that has proved of a higher degree of pecuniary advantage to the United States perhaps than any invention of its period. I prepared my report——

The PRESIDENT *pro tempore*. The Senator's five minutes are out.

Mr. CAMERON, of Wisconsin. I desire to state before action is taken on this bill that the report submitted by the Senator from Tennessee was not concurred in by the Senator from Minnesota [Mr. McMILLAN] and myself.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill for the relief of the legal representatives of Henry M. Shreve, deceased."

HIRAM S. TOWN.

The next bill on the Calendar was the bill (S. No. 1202) for the relief of Hiram S. Town, postmaster of the city of Ripon, in the county of Fond du Lac, in the State of Wisconsin; which was considered as in Committee of the Whole.

The bill was reported from the Committee on Post Offices and Post Roads with amendments, to strike out in lines 5, 6, 7, 8, and 9 the words "eight hundred and sixteen dollars and eleven cents, two hundred and fifty dollars of which being the value of money belonging to the General Post-Office fund, belonging to the United States, and five hundred and sixty-six dollars and eleven," and insert "five hundred and fifty-seven dollars and fifty-five;" in line 11, before "money-order," to insert "United States;" and in line 12, after "fund," to strike out "all of;" so as to make the bill read:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized to pay to Hiram S. Town, postmaster of the city of Ripon, Fond du Lac County, Wisconsin, the sum of $557.55, the value of money and vouchers belonging to the United States money-order fund, which was destroyed by fire in the burning of the post-office building at Ripon, Wisconsin, on the morning of the 7th day of February, A. D. 1879.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MORGAN'S RAILROAD COMPANY.

The next bill on the Calendar was the bill (S. No. 92) for the relief of Morgan's Louisiana and Texas Railroad and Steamship Company; which was read.

The bill was reported from the Committee on Public Lands, with amendments.

The first amendment of the Committee on Public Lands was to add at the end of the bill the following proviso:

Provided further, That the amount of any claims or claim made or presented by or on behalf of said railroad company against the Government of the United States for transportation of troops or munitions of war over said railroad shall not exceed the sum of $10,000, but nothing in this proviso contained shall be construed as an admission by said Government of the existence of any indebtedness on its part to said railroad company in any sum of money whatever.

Mr. SAULSBURY. That is a very important bill, I think; too important to come up under this rule.

Mr. JONES, of Florida. Will the Senator listen for a moment? I agree that the bill is important, but at the same time it is an eminently just one; and if the Senator from Delaware will listen to me for a few minutes, I think I can relieve his mind about it.

Mr. SAULSBURY. It brings up the whole question of the release of forfeited lands where railroad companies have not complied with the terms of the grants.

Mr. JONES, of Florida. No, Mr. President; with all respect to the Senator I think he is mistaken; it does not bring that question up. If he will listen to me for a few moments I will show him that that question is not involved at all.

Mr. SAULSBURY. I will hear the Senator, but I reserve the right to object.

The Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. JONES, of Florida. This bill has been before the Senate before; it came here under a favorable report made by the former chairman of the Committee on Public Lands. This line of railroad from New Orleans to Texas became entitled, in common with other roads in the South, to a land grant. The grant, as in other cases, was made to the State of Louisiana of a large body of lands, but it was found that the land conveyed to the State and to which this road would have been entitled had been formerly conveyed to the State of Louisiana for another purpose—the improvement of her levees—and therefore no title vested in the State under the railroad-grant act; so that the railroad company never got one single acre of this land, never benefited in the least by the grant, and still the company has been held bound down by the provisions of the act of Congress referred to in the bill which makes roads receiving land grants public highways over which troops and munitions of war and other property must be carried free. All this bill proposes is, inasmuch as this road never had an acre of land from the Government, to release the company from the obligations that are imposed upon roads that have been benefited by land grants. That is the whole of it.

Mr. KIRKWOOD. Do I understand the Senator from Florida simply to say that this company never received any lands whatever from the Government?

Mr. JONES, of Florida. None whatever.

Mr. TELLER. Is it proposed to give them to it now?

Mr. JONES, of Florida. No; it is proposed to release it from the corresponding obligation that goes hand in hand with like grants in other cases.

Mr. KIRKWOOD. Another question: Was the grant made to the company?

Mr. JONES, of Florida. No; no grant was ever made to the company. The grant was made to the State of Louisiana, and the State of Louisiana undertook to convey to this company its proportion of the whole grant, but the land along the line of this railroad was swamp and overflowed land, which had been previously granted by act of Congress of 1849 to the State for the improvement of her levees, and this company never availed itself of one acre, never disposed of an acre at all.

Mr. KIRKWOOD. Did it ever mortgage the lands? It sometimes happens that railroad companies, when a grant is made in this way, mortgage the lands.

Mr. JONES, of Florida. This company, as I understand, never mortgaged any of this land, and they propose to relinquish any supposed right they may have in the land in accordance with the suggestion of the Secretary of the Interior.

Mr. KIRKWOOD. My point is this: In what position would it leave the Government if before the lands became forfeited the company had mortgaged the lands and now the Government were to pass this bill? It might possibly complicate the Government in some way. I am not prepared to say that it would.

Mr. COCKRELL. A proviso at the end would cover it: provided that they reconvey the lands.

Mr. JONES, of Florida. That is already in the bill.

Mr. COCKRELL. No; they relinquish all claim; but I would require them to reconvey the lands free from any lien.

Mr. KIRKWOOD. If there is no outstanding mortgage made by the company covering the lands, I cannot see on the statement made that any trouble would arise; but if there should be such an outstanding mortgage, I can conceive that some very delicate questions might arise under it, and possibly a reclamation be made against the Government.

Mr. JONES, of Florida. The matter has been investigated by the Interior Department, and a letter of the Commissioner of the General Land Office is embodied in my report here setting out the facts, and this bill was framed in accordance with his suggestion, and no such trouble as that contemplated by the Senator from Iowa, I think, is possible to arise, because it places the lands precisely where they were under the first grant. The railroad company never had any right to them, and has nothing to reconvey. It never disposed of an acre of them.

The PRESIDENT *pro tempore*. The Senator's time is up. The question is on the amendment reported by the Committee on Public Lands.

Mr. PLATT. If I understood the bill from its reading, it allows the railroad company to retain so much land as they have occupied. Will the chairman of the committee please state how that is?

Mr. JONES, of Florida. Only a right of way, such as has been granted in every case without objection.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The PRESIDENT *pro tempore*. The committee proposes an amendment to strike out the preamble, which will be read.

The CHIEF CLERK. It is proposed to strike out the preamble, in the following words:

Whereas by act of Congress approved June 3, 1856, certain lands in the State of Louisiana were granted to the New Orleans, Opelousas and Great Western, now Morgan's Louisiana and Texas, Railroad and Steamship Company of that State, upon the condition that the said railroad should remain a public highway for the use of the Government of the United States, free of toll or other charges; and

Whereas the said railroad, so far as it has been built, has not benefited from the said grant, and all the said lands available under the grant have been forfeited to the United States by act of July 14, 1870: Therefore.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ADJUDICATION OF PENSION CLAIMS.

The bill (S. No. 496) providing for the examination and adjudication of pension claims was announced to be the next in order on the Calendar.

Mr. TELLER. Let that go over.

Mr. WITHERS. I wish to state that that is a bill of very great importance, reported from the Committee on Pensions, involving very large interests both to the Government and to pensioners. I should like very much to have it considered; but as it will be impossible to give it proper consideration in the morning hour, and I do not desire to consume the whole of the time in the discussion of this question, I ask that the bill be passed by without prejudice with the privilege of calling it up hereafter.

The PRESIDENT *pro tempore*. It will be so ordered, if there be no objection.

Mr. KIRKWOOD. I should be glad that the bill should not lose its place. I look upon it as a measure of great importance.

The PRESIDENT *pro tempore*. By unanimous consent the bill will retain its place on the Calendar.

Mr. KIRKWOOD. As the pension law stands to-day, it is an absolute denial to applicants for pensions of a determination of their cases. There are two hundred and fifty thousand pension cases pending, and it will take eight years, if there is not another one filed, to dispose of those which are on hand under the present system. If something cannot be done, we ought to know it. The committee think that this bill as reported will expedite the matter very largely, and in the interest of every man who has an honest claim on the Government. I hope before Congress adjourns that the chairman of the committee may have the opportunity of explaining to the country and to the soldiers who are interested in the matter the supposed improvements made by this bill.

Mr. TELLER. I desire to enter an objection to this bill being considered now or at any other time in the morning hour. It is believed by the soldiers generally who are interested to be a very bad bill.

Mr. WITHERS. I wish to correct the Senator in a statement of fact. We have petitions from a large number of soldiers in favor of it.

Mr. TELLER. I object to it because five minutes is not sufficient for any man to give satisfaction in discussing this bill.

Mr. WITHERS. I have already stated that it is not to be discussed under the five-minute rule.

The PRESIDENT *pro tempore*. The bill has gone over, and the discussion is out of order.

REPORTER OF SUPREME COURT.

The next bill on the Calendar was the bill (H. R. No. 1493) defining the duties of reporter of the Supreme Court of the United States, fixing his compensation, and providing for the publishing and distribution of said reports.

Mr. COCKRELL. That is reported adversely, I see. Let it be passed over.

The PRESIDENT *pro tempore*. The bill will be passed over.

NATIONAL FAIR GROUNDS ASSOCIATION.

The next bill on the Calendar was the bill (H. R. No. 4429) to amend an act entitled "An act to incorporte the National Fair Grounds Association;" which was considered as in Committee of the Whole.

The bill was reported from the Committee on the District of Columbia, with an amendment to strike out all after the enacting clause and insert:

That the name of said association shall be "The National Fair Association of the District of Columbia."

SEC. 2. That the board of directors of said association shall consist of eleven members, to be elected in accordance with its charter and by-laws.

SEC. 3. That within thirty days after the passage of this act the stockholders of said association shall be convened in general meeting, and shall elect six of their number as additional members of the board of directors, who, with the five directors now serving, shall hold their office until the second Monday in January, 1881, and until their successors are elected; six of said board shall constitute a quorum for the transaction of business.

SEC. 4. That on the second Monday in January, 1881, and annually thereafter, the stockholders of said association shall be convened in general meeting and shall elect eleven of their number as a board of directors.

SEC. 5. That in all elections each share of stock shall be entitled to one vote, and shareholders may vote by proxy in accordance with the provisions of the by-laws.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill was read the third time, and passed.

CHARLES E. GUNN.

The next bill on the Calendar was the bill (S. No. 1340) for the relief of Charles E. Gunn; which was considered as in Committee of the Whole. It provides for the payment to Charles E. Gunn, postmaster at Calhoun, Henry County, Missouri, of $140, being the amount of postage-stamps and money-order and postage funds in his possession belonging to the United States, and stolen from the safe of the postmaster by burglars on the morning of November 27, 1879, without fault or negligence on the part of Gunn.

The bill was reported to the Senate, and ordered to be engrossed for a third reading.

Mr. ANTHONY. I do not rise to oppose this bill. I presume it is all right, as it comes from the Committee on Claims; but I wish to call the attention of the Post-Office Committee to the importance of reporting a general bill authorizing the Department to make restitution in cases of this kind.

Mr. COCKRELL. Such a bill has been reported and is on the Calendar.

Mr. ANTHONY. I shall be very happy to support it.

Mr. FERRY. That has already been done. The Post-Office Committee have reported such a bill covering all such cases, making a general law.

Mr. WITHERS. And I believe the bill has passed the Senate.

The bill was read the third time, and passed.

UNIFORM CANCELING-INK FOR POST-OFFICE.

The next bill on the Calendar was the bill (S. No. 1419) authorizing the Postmaster-General to adopt a uniform canceling-ink and stamping-pad.

Mr. CAMERON, of Wisconsin. I object to the consideration of that bill.

The PRESIDENT *pro tempore*. The bill is objected to, and goes over.

WISCONSIN GRAND ARMY OF THE REPUBLIC.

The next business on the Calendar was the joint resolution (S. R. No. 74) authorizing the Secretary of War to furnish tents, &c., to the Grand Army of the Republic in the State of Wisconsin.

Mr. DAVIS, of West Virginia. That is reported adversely.

Mr. CAMERON, of Wisconsin. That resolution might as well be postponed indefinitely; another bill has been passed covering that matter.

The joint resolution was postponed indefinitely.

DUNBAR R. RANSOM.

The next bill on the Calendar was the bill (S. No. 390) to authorize the President to restore Dunbar R. Ransom to his former rank in the Army.

Mr. BURNSIDE. I object to the consideration of that.

The PRESIDENT *pro tempore*. The bill will be passed over.

RESTORATION OF OFFICIAL LETTER-BOOKS.

The next business on the Calendar was the joint resolution (S. R. No. 71) directing restoration of the official letter-books of the executive department of the State of North Carolina; which was considered as in Committee of the Whole.

The resolution was reported from the Committee on Military Affairs with amendments, which were, in line 4, after the word "made," to strike out "exact" and insert "out duly certified;" in line 6, after the word "War," to strike out "Office" and insert "Department;" in the same line, after the word "and," to strike out the words "that he deliver the originals" and insert "to be delivered;" and in line 8, after the word "the," to strike out the word "copies" and insert "originals;" so that the bill will read:

That the Secretary of War is directed to cause to be made out duly certified copies of the official letter-books of the executive department of the State of North Carolina, now in the War Department, and to be delivered to the governor of North Carolina, retaining the originals in the War Department.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A joint resolution directing copies of the official letter-books of the executive department of the State of North Carolina to be furnished to said State."

N. AND G. TAYLOR COMPANY.

The next bill on the Calendar was the bill (S. No. 1353) for the relief of N. and G. Taylor Company; which was considered as in Committee of the Whole. It provides for the payment to N. and G. Taylor Company, of Philadelphia, of $11,017.05, being the amount of duties paid by them under protest and appeal on certain importations in excess of the legal rate, as ascertained by the decision of the United States circuit court for the southern district of New York giving construction to the law.

Mr. COCKRELL. Is there a report in that case?

Mr. WALLACE. There is a report from the Committee on Finance.

Mr. COCKRELL. Let the report be read.

The Chief Clerk read the following report, submitted by Mr. WALLACE March 30, 1880:

The Finance Committee of the Senate submit the following report upon the bill (S. No. 1353) for the relief of N. & G. Taylor Co. They adopt the report made in the House of Representatives, No. 197, second session Forty-sixth Congress, as follows:

"That the petitioners are, and have for a long time been, importers, in Philadelphia, of an article known as 'terne tin,' and that the Treasury Department, between March 21, 1870, and March 13, 1873, claiming that the rate of duty on their importations, under the thirteenth section of the act of July 14, 1862, (12 Statutes, page 557,) was 35 per cent. instead of 25 per cent. *ad valorem*, as contended by petitioners, assessed the first-named rate and collected it from said petitioners, the difference paid by them between said rates being $14,953.77.

"That they paid this larger rate of duty to the extent of $11,017.06 under protest, and within the time limited by law appealed from the decision of the collector.

"Finally, in order to determine their rights in the matter, their correspondents, Messrs. Bruce & Cook, who are also like importers in the city of New York, at their instance, sued the collector of the port of New York in the circuit court of the United States for the southern district of New York, and on December 12, 1872, in said case, Judge Shipman rendered a decision against the collector and in favor of the plaintiffs that 'the rate of duty exacted upon the importations in question was 10 per cent. in excess of that fixed by the statute, and to that extent is illegal.'

"On March 13, 1873, the Treasury Department, by letter of that date, 'acquiesced in the decision of Judge Shipman in the suit of Bruce *et al. vs.* Murphy,' and instructed the collectors at New York and Philadelphia to assess duty on continuous terne plates in accordance with said decision, which was afterward done.

"Messrs. N. & G. Taylor Co. have applied to the Treasury Department for a refund of the sum thus decided to have been collected from them in excess of the duties fixed by the statute.

"The act of March 3, 1875, (Statutes, page 469,) restricts the power of the Secretary of the Treasury to refund customs duty, 'unless in accordance with the judgment of a circuit or district court of the United States giving construction to the law,' and from which the United States does not appeal.

"The petitioners believe that their claim for refund by the Treasury Department was such a one as the statute contemplated, but it seems that there was no appropriation for the purpose, and at all events the Treasury Department refused the refund and recommended the petitioners to apply for relief to Congress.

"This relief your committee believe should be granted. The decision of Judge Shipman was acquiesced in by the Treasury Department, as appears by a letter from the Secretary of the Treasury to this committee.

"The whole sum of $14,953.77 was collected from the petitioners in excess of the proper duty. Inasmuch, however, as the Secretary of the Treasury reports that only $11,017.06 of this excess of duty was paid under protest and appeal, your committee believe that substantial justice will be done by refunding to them this balance, (being $11,017.06,) and report the bill with a recommendation that the same do pass."

Your committee also append the letter of the Secretary of the Treasury bearing upon the subject:

"JUNE 17, 1878.

"Hon. FERNANDO WOOD,

"*Chairman of Committee of Ways and Means, House of Representatives:*

"SIR: I am in receipt of a request from the clerk of your committee, under date of the 7th instant, to report upon a bill which proposes to refund to the N. & G. Taylor Co. $11,033.41, excess of duties paid by them on importations of terne plates between March 21, 1870, and March 13, 1873.

"In answer to the inquiries contained in said note, I have to state that the decision of the United States district court for the southern district of New York, in the suit of Bruce *et al.* against the collector, which decided the proper rate of duty on this article to be 25 per cent. *ad valorem*, was concurred in by this Department under date of March 13, 1873.

"The whole excess of duty paid under protest and appeal by said company, within the time stated, above the rate of 25 per cent. *ad valorem*, as appears by the reports of the collector at Philadelphia, was $11,017.06.

"The petition and accompanying documents are herewith returned.

"Very respectfully,

"JOHN SHERMAN,

"*Secretary.*

"J. B. HAWLEY."

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SOLDIERS' HOME.

The next bill on the Calendar was the bill (S. No. 1550) to amend section 4820 of the Revised Statutes of the United States in relation to the Soldiers' Home.

Mr. CAMERON, of Wisconsin. My colleague [Mr. CARPENTER] desires to be present when that bill is considered, and requested me to object to its consideration in the event that it came up in his absence. I do object.

The PRESIDENT *pro tempore*. The bill will be passed over.

HERMAN BIGGS.

The next bill on the Calendar was the bill (S. No. 254) for the relief of Herman Biggs; which was considered as in Committee of the Whole.

Mr. COCKRELL. Is there a report in that case? If so, I ask that the report be read or an explanation made by some one.

Mr. RANDOLPH. The report is a very short one, and yet I may make an explanation still shorter. Colonel Biggs was once an officer of the regular Army, was chief quartermaster of the expedition to North Carolina under General Burnside, served during the war, was wounded, and voluntarily retired in October, 1865. He was entitled under the law to be placed on the retired list at the time of his resignation; but, being in good circumstances, and not believing at that time that his wound would be of such a character as to incapacitate him from civil service, and being a proud and patriotic man, he chose to waive his right to go upon the retired list, and for fourteen years he has sustained and supported himself without cost to the Government. He now asks, in substance, that the right to go upon the retired list, which for the time being he waived, be given to him. His military record is without blemish, and he bears a very high character as a patriot and citizen, as the certificates appended to this report show.

Mr. KIRKWOOD. If this bill should not pass, with what rank could he go on the retired list?

Mr. RANDOLPH. He would not go on it at all.

Mr. KIRKWOOD. He is now out of the service?

Mr. RANDOLPH. Yes. He is now out of the service, and is to be restored and put on the retired list because of the change in his health and circumstances, and because of his faithful and meritorious service.

Mr. KIRKWOOD. Was he in the regular or volunteer service?

Mr. RANDOLPH. In the regular service.

Mr. COCKRELL. A captain in the regular service, and a colonel of volunteers. I desire to submit some papers I have touching the case. This bill proposes to place him as colonel on the retired list. That was not his rank at the time he resigned and he could not then have been retired upon the rank of colonel. At the time he resigned he was a captain in the regular Army and a colonel of volunteers; and there never was any law for the retirement of a volunteer officer. Had he in September, 1865, been retired he would have had to take the rank of captain in the regular service.

Mr. KIRKWOOD. Let me understand it. He was in the regular service and was entitled to be retired?

Mr. COCKRELL. No, there is doubt upon that question. He claims that he could have been retired if he had chosen. That is a question of doubt.

Mr. KIRKWOOD. He was not retired but resigned?

Mr. COCKRELL. He voluntarily gave up his position.

Mr. KIRKWOOD. Are there not a great many men who at one time or another have resigned from the regular Army and have gone into civil life who have after a while found that it was inconvenient to do without the salaries they had been receiving?

Mr. COCKRELL. There are plenty of them knocking right here at the door; and that is precisely the point I want to call the attention of the Senate to. It is nothing more nor less in my humble opinion than pure favoritism.

Mr. KIRKWOOD. I was about to say that I know a gentleman in Iowa who rendered gallant service for a long time in the regular Army, and also in the war of the rebellion, who afterward resigned his position. Fortune has been unfavorable to him since that time, and he is now in bad condition. He would like to be on the retired list with the rank he had when he resigned, no doubt.

Mr. RANDOLPH. I reply to the Senator from Iowa, interrupting my friend from Missouri, that when his constituent's case comes before the Military Committee, if he has a record such as this man, I have no question but he will be treated as favorably as Captain Biggs is being treated.

Another word as to the rank on which the committee propose to retire Captain Biggs. It is that of lieutenant-colonel, that being the rank he held at the time he received his wound which incapacitated him, and from which he now severely suffers.

Mr. KIRKWOOD. In the volunteer service?

Mr. RANDOLPH. Yes; in the volunteer service.

Mr. KIRKWOOD. But his rank in the regular service was that of captain.

Mr. RANDOLPH. The simple truth is, as I endeavored to state a few minutes ago, Captain Biggs at the time of his retirement believed himself to be in good health and circumstances. The wound seemed to have healed. The surgeon told him at the time that the wound would trouble him as years went by, and at last it would incapacitate him for all service. He did not believe it. For eleven years or more he went on working for himself in civil life. He has been at great expense because of the wound he received. He is now probably within a few years of his death. He asks simply to be placed where he would have been had he availed himself of his right at the time of his resignation; that is, to go on the retired list. I think, Mr. President, that an officer who shows the record that Captain Biggs has shown ought to be placed on the retired list, and not only this officer but every other meritorious officer in a similar position—of equal record—and who voluntarily and for years has waived his right to be on the retired list of the Army.

Mr. ALLISON. May I ask the Senator from New Jersey whether or not Captain Biggs would be entitled to a pension from the date of his wound as lieutenant-colonel in the Army?

Mr. RANDOLPH. I presume he would.

Mr. ALLISON. If he was wounded when he held the rank of lieutenant-colonel of volunteers, would he not under existing law be entitled to a pension dating back from the time of his wound?

Mr. RANDOLPH. I presume he would, but it was the purpose, as I understood it, of a majority of the Military Committee to show to this man some special evidence of their appreciation of his merit and of his effort this many years to keep the Government from any expense on his account—though his right was undoubted to have been on the retired list from the date of his resignation.

Mr. THURMAN, (Mr. INGALLS in the chair.) Mr. President, I dislike very much ever to antagonize the report of a committee deliberately made upon any bill which is not a bill of great public interest; but this is really a bill of public interest, one that concerns the service. I am fully aware that precedents can be found for what this bill proposes to do, that is, for retiring an officer of the Army not upon the rank that he held in the regular Army but upon the rank that he held in the volunteer service. I recollect one very notable case of that kind, and I think I can recollect some others; but it has

always seemed to me to be wrong and to be a great injustice to other officers of the regular Army.

Why, what is the fact here? How many captains in the regular Army were wounded, disabled for service, and had to be retired, and all retired on their rank of captain; but here, by taking this gentleman and retiring him with the rank of lieutenant-colonel, he will receive far more pay than men who were in the same rank with himself in the regular Army when they received their wounds or incurred their disability. It is a part of that class business, both in the Army and in the Navy, that, I think, is extremely unjust to both services. I have always opposed it, and therefore I move to strike out the words "lieutenant-colonel," in line 5, and insert "captain."

Mr. RANDOLPH. I shall make no objection to that if it is the wish of the Senate.

The PRESIDING OFFICER, (Mr. INGALLS in the chair.) The question is on the amendment of the Senator from Ohio to strike out "lieutenant-colonel" and insert "captain" in line 5.

The amendment was agreed to.

Mr. ALLISON. Now the bill must be further amended in the clause, "this being the actual rank held by him when in action he received the wound."

Mr. THURMAN. After "rank" I move to insert "in the regular Army;" so as to read:

This being the actual rank held by him in the regular Army when in action he received the wound.

Mr. ANTHONY. Is this officer out of the Army now?

Mr. RANDOLPH. He is now out of the Army.

Mr. ANTHONY. Then the bill is not constitutional. We cannot authorize the President to appoint him, but to nominate him and, by and with the advice and consent of the Senate, appoint him.

Mr. RANDOLPH. He is placed by this bill acted upon by the Senate on the retired list, if the President approves.

Mr. ANTHONY. But we cannot authorize the President to appoint him. We can authorize the President to nominate and, by and with the advice and consent of the Senate, to appoint him, but we cannot authorize the President to appoint an officer unless an inferior officer.

Mr. TELLER. I object to the further consideration of this bill.

Mr. PLUMB. I hope the Senator from Colorado will not insist on that objection.

Mr. RANDOLPH. Of course, according to the rule under which we are acting this morning, a single objection carries the bill over. I have only to say, if I may have permission, that no more meritorious officer of his class has been before the Senate during this session; and if Senators will take the pains to examine his record, I am quite sure they will hardly care to object to this bill. The man is really slowly dying to-day. Every breath he draws is to him a distressing one. I repeat, Colonel Biggs simply asks to be placed where he had the right to be under the law at the time he voluntarily retired. Surely, this is modest.

Mr. TELLER. I am willing the bill should go over without prejudice, but I do think we ought to have a chance to look into it and see what principles are involved in it.

Mr. RANDOLPH. The report is before the Senate.

The PRESIDING OFFICER. If the Senator from Colorado insists on his objection, under the rule the bill goes over.

Mr. TELLER. I will not insist if the bill can go over to to-morrow or some time without prejudice, so that we may look at it.

Mr. RANDOLPH. The time is so short that if it goes over now of course it is understood there is no chance for it this session.

Mr. PLUMB. I hope the Senator from Colorado will withdraw his objection and let the bill be considered on its merits. It is a bill which possesses peculiar merits, and one which the committee considered at great length with full regard for the precedents.

Mr. TELLER. I will, if Senators desire to consider this bill now, withdraw my objection. I simply say, however, that I shall withhold my vote from the bill. I believe the principle is fraught with evil; and if this should be done, it should be done by general law. If this is a meritorious case there should be a general law to meet it. There are grave constitutional doubts whether we have power to do it. I think, however, the Senate may as well meet this case now as at any other time. The attention of the Senate is directed to it, and if Senators will look at it and vote either for or against it we shall know what is the course to be pursued.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Ohio, [Mr. THURMAN.]

The amendment was agreed to.

Mr. ANTHONY. I move to amend by saying "the President be authorized to nominate and, by and with the advice and consent of the Senate, to appoint." We cannot authorize the President to appoint.

Mr. RANDOLPH. I have no objection to the amendment proposed.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Rhode Island.

The amendment was agreed to.

Mr. COCKRELL. Now let the bill be read as amended.

The PRESIDING OFFICER. The bill will be read as amended.

The Chief Clerk read as follows:

That the President be, and hereby is, authorized to nominate, and, by and with the advice and consent of the Senate, to place on the list of retired officers of the United States Army the name of Herman Biggs, with the rank of captain, this being the actual rank in the regular Army held by him when in action he received the wound from which he suffers permanent disability: *Provided*, That no pay or allowances shall accrue under this act until it is approved.

Mr. COCKRELL. I simply desire to state my objection to the passage of this bill. This officer no doubt was a gallant and brave man, and performed valuable and distinguished services for the country, but he is only one out of several thousands.

Mr. TELLER. Hundreds of thousands.

Mr. COCKRELL. He is only one of thousands of officers who risked their lives equally with him and performed equally valuable and dangerous service, and who have been wounded, too. Now there is great stress put upon the fact of disability. I hold in my hand the official record of the services and rank of Colonel Biggs, and I will ask the Clerk to read it, and it fails to show the wound in action.

The PRESIDING OFFICER. The paper will be read.

The Chief Clerk read as follows:

HEADQUARTERS OF THE ARMY, ADJUTANT-GENERAL'S OFFICE,
Washington, April 15, 1880.

Military history of Herman Biggs, of the United States Army, as shown by the files of this office.

Graduated from the United States Military Academy and appointed brevet second lieutenant of infantry July 1, 1856; promoted second lieutenant First Infantry July 31, 1856, and first lieutenant First Infantry May 10, 1861; appointed captain and assistant quartermaster United States Army August 3, 1861; lieutenant-colonel United States volunteers and quartermaster from July 24, 1862, to August 2, 1864; colonel United States volunteers and quartermaster from August 2, 1864, to October 9, 1865. Brevetted major, lieutenant-colonel, and colonel United States Army, March 13, 1865, for faithful and meritorious services during the rebellion. Brevetted brigadier-general United States volunteers March 8, 1865.

Service.—On graduating leave and delay from date of appointment to December 8, 1856; on duty with regiment at Camp Cooper, Texas, to July, 1857; sick to September 17, 1857; absent on sick-leave to March 30, 1858; on duty with regiment at Camp Hudson, Texas, to May 6, 1858; in charge of Fort Inge, Texas, to September 4, 1858; on duty with regiment at Fort Duncan, Texas, to June 11, 1859; at Camp Verde, Texas, to July 29, 1859; on detached service at Indianola, Texas, to August 10, 1859; on leave of absence to August 31, 1859; on duty at United States Military Academy to October 10, 1861; chief quartermaster in fitting out General Burnside's North Carolina expedition from October 23, 1861, to January 13, 1862; chief quartermaster Department North Carolina to July 5, 1862; chief quartermaster Ninth Army Corps from July 22, 1862, to January, 1863; chief quartermaster Eighteenth Army Corps and Department of North Carolina to July 15, 1863, and of the Department of Virginia and North Carolina to August 2, 1864; inspector in Quartermaster's Department at Washington, District of Columbia, from August 25, 1864, to October, 1864; chief and depot quartermaster at Philadelphia to February 27, 1865; inspector in Quartermaster's Department, unemployed until acceptance of his resignation, October 9, 1865.

E. D. TOWNSEND,
Adjutant-General.

Mr. RANDOLPH. A single word and I shall have said all I care to further detain the Senate with. The Senator from Missouri says that the record does not show that Colonel Biggs received a wound. He did receive a severe splinter wound, which, as I have before said, he thought would not incapacitate him for civil service. That wound he was advised by the surgeon would as time proceeded give him more and more trouble. The surgeon was right. At the end of twelve or fifteen years, as is clearly shown, Colonel Biggs is incapacitated for any kind of remunerative work.

The Senator from Missouri says there are thousands of cases, and that this would be a precedent. General Benét, upon this matter, says:

I do not believe that there is another case where an officer, disabled in service and entitled to be placed on the retired list, has preferred to resign because at the time of his resignation he believed that he could live without his retired pay.

There certainly never has been a case before the Military Committee, according to my recollection, exactly like this in character or, in my judgment, more meritorious.

Mr. COCKRELL. I had not concluded the remarks I intended to make.

The PRESIDING OFFICER. The Senator from Missouri had spoken five minutes and more than once on this bill.

Mr. COCKRELL. I had spoken five minutes, but I was taken off the floor. I move that the bill be indefinitely postponed, and that will bring up the question.

The PRESIDING OFFICER. The Senator from Missouri moves the indefinite postponement of the bill.

Mr. COCKRELL called for the yeas and nays, and they were ordered.

Mr. DAVIS, of West Virginia. Has the bill been reported favorably by the Military Committee?

Mr. COCKRELL. A majority reported it favorably.

Mr. ALLISON. Before the roll is called, I should like to have the construction of the last sentence of this bill in reference to the pay. Will he be put on the retired list as of the date of his wound, or will it be from the nomination? There is no pay under this act to accrue until the act is approved. Will it not allow pay from the approval of the act?

Mr. RANDOLPH. Let that clause be read.

The Chief Clerk read as follows:

Provided, That no pay or allowances shall accrue under this act until it is approved.

Mr. TELLER. It seems to me that it ought to be amended to read "until he is confirmed." He must now be confirmed by the Senate.

Mr. RANDOLPH. That would be the proper amendment.

Mr. TELLER. Insert "he is confirmed" after "until."

Mr. SAULSBURY. I should like to inquire of the chairman of the

Military Committee if this is a gentleman who is now drawing a pension?

Mr. RANDOLPH. Not at all.

The PRESIDING OFFICER. The motion to indefinitely postpone takes precedence of the motion to amend. The bill is not open to amendment so long as the motion to postpone indefinitely is pending.

Mr. RANDOLPH. I hope by common consent the amendment will be made.

The PRESIDING OFFICER. Is there objection to the amendment suggested by the Senator from Colorado, before the motion to indefinitely postpone is put?

Mr. LOGAN. I want to hear the bill read as amended.

The PRESIDING OFFICER. Does the Senator from Illinois object to the amendment proposed by the Senator from Colorado?

Mr. LOGAN. No, sir, but I want to hear the bill read as amended. I do not know that I understand it.

The PRESIDING OFFICER. The amendment proposed by the Senator from Colorado will be inserted.

The Chief Clerk read the bill as amended.

Mr. LOGAN. The bill does not seem to me to be specific enough as to the time the retirement shall take effect; whether it relates back to the time of the wound, or whether it takes effect at the time of his confirmation as an officer on the retired list. By a construction given to a bill that passed here not long ago an officer of the Army received back pay for quite a number of years. I would suggest to the chairman of the committee that he make that specific, so that no pay or allowance shall be given for any time except for the time of confirmation.

Mr. RANDOLPH. That is the purpose.

Mr. LOGAN. I know that is the purpose, but it ought to express it more specifically. I would say:

That no pay or allowance shall accrue under this act for any time that he has been out of the service, and until he is confirmed.

Mr. COCKRELL. Let me suggest an amendment of this kind: After the words "that no pay or allowance shall accrue," insert "or be paid to said Biggs under this act for any time prior to his confirmation."

Mr. LOGAN. That will do. That makes it exactly right.

The PRESIDING OFFICER. Is there objection to the amendment suggested by the Senator from Missouri, [Mr. COCKRELL?] The Chair hears none. The question now is on the indefinite postponement of the bill, upon which the yeas and nays have been ordered.

Mr. HAMLIN, (when his name was called.) I wish to state that on this and all questions I am paired with the Senator who sits nearest me from North Carolina, [Mr. RANSOM.] Therefore I withhold my vote.

The result was announced—yeas 5, nays 45; as follows:

YEAS—5.

Brown,	Davis of W. Va.,	Kirkwood,	Teller.
Cockrell,			

NAYS—45.

Allison,	Farley,	Lamar,	Saulsbury,
Bailey,	Ferry,	McDonald,	Saunders,
Baldwin,	Garland,	McMillan,	Slater.
Beck,	Groome,	Maxey,	Vest,
Blair,	Hampton,	Morgan,	Voorhees,
Booth,	Harris,	Paddock,	Walker,
Butler,	Hereford,	Pendleton,	Wallace,
Call,	Hill of Colorado,	Platt,	Williams,
Cameron of Wis.,	Ingalls,	Plumb,	Withers.
Davis of Illinois,	Johnston,	Pryor,	
Dawes,	Jonas,	Randolph,	
Eaton,	Jones of Nevada,	Rollins,	

ABSENT—26.

Anthony,	Coke,	Jones of Florida,	Sharon,
Bayard,	Conkling,	Kellogg,	Thurman,
Blaine,	Edmunds,	Kernan,	Vance,
Bruce,	Grover,	Logan,	Whyte,
Burnside,	Hamlin,	McPherson,	Windom.
Cameron of Pa.,	Hill of Georgia,	Morrill,	
Carpenter,	Hoar,	Ransom.	

The motion was not agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

WILLIAM J. GAMBLE.

The next bill on the Calendar was the bill (S. No. 1063) for the relief of William J. Gamble; which was considered as in Committee of the Whole. It provides for the payment to William J. Gamble, late of Company K, Second Arkansas Cavalry, of $125, in payment for the running-gear of a six-horse wagon furnished by him and used by the United States Army.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

UNPAID ACCOUNTS IN INDIAN BUREAU.

The next bill on the Calendar was the bill (S. No. 1001) to authorize the auditing of certain unpaid accounts in the Indian Bureau; which was considered as in Committee of the Whole.

The bill was reported from the Committee on Claims with amendments.

The first amendment was, in line 4, after the word "direc ted," to insert "examine and."

The amendment was agreed to.

Mr. ALLISON. I move to insert "and prior years" after the word "seventy-five."

The PRESIDING OFFICER. There are other committee amendments.

Mr. ALLISON. Very well.

The next amendment of the Committee on Claims was, in line 4, after the word "audit," to insert "all;" in line 6, after the word "furnished," to strike out "within the years 1873, 1874, and 1875;" in line 9, strike out "Department" and insert "Bureau;" in line 11, after the word "Indians," to strike out "to certify" and insert "and report to Congress;" and to strike out, in line 13, at the end of the bill, "said balances to be reported to Congress for appropriation;" so as to read:

Audit all the unpaid accounts heretofore filed in the Departments for services rendered and supplies furnished under directions of the Indian Bureau, and in cases where said services and supplies are found to have actually been applied to the benefit of the Indians, and report to Congress the balances equitably due on said accounts respectively, notwithstanding no sufficient appropriation existed.

The amendment was agreed to.

Mr. COCKRELL rose.

The PRESIDING OFFICER. The Senator from Iowa offered an amendment.

Mr. COCKRELL. Let me correct the text of the bill. There is a clerical mistake in printing. It reads:

And in cases where said services and supplies are found to have actually been applied to the benefit of the Indians, and report to Congress.

The word "and," in the last line, should be stricken out and "to" inserted; so as to read:

To report to Congress the balances equitably due on said accounts, &c.

Mr. BOOTH. I hold in my hand a letter from the Second Comptroller who suggests an amendment which, if agreeable to the Senate, will correct that, to make it read "certify and report."

Mr. COCKRELL. Very well, say "to certify and report."

Mr. BOOTH. Let the words be "to certify and report."

The PRESIDING OFFICER. If there is no objection that change will be made. The Chair hears none.

Mr. BOOTH. Now, after the word "Bureau," in line 9, I move to insert "or its agents."

The amendment was agreed to.

Mr. ALLISON. I ask that the bill be read as it now stands with the amendments.

The PRESIDING OFFICER. The bill will be read as amended.

The Chief Clerk read as follows:

That the proper accounting officers of the Treasury are authorized and directed to examine and audit all the unpaid accounts heretofore filed in the Departments for services rendered and supplies furnished under directions of the Indian Bureau or its agents; and in cases where said services and supplies are found to have actually been applied to the benefit of the Indians, to certify and report to Congress the balances equitably due on said accounts respectively, notwithstanding no sufficient appropriation existed.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MATTIE S. WHITNEY.

The next bill on the Calendar was the bill (S. No. 1179) for the relief of Mattie S. Whitney, which was considered as in Committee of the Whole.

The bill was reported from the Committee on Claims with amendments, in line 5, before the word "thousand," to strike out "eleven" and insert "three;" in the same line, after the word "thousand," to strike out "three" and insert "nine;" before the word "dollars," in line 6, to strike out "nineteen" and insert "twenty-five;" in line 8, after the name "Whitney," to strike out "or to her legal representative;" and in line 11, after the word "one," to strike out "carriage" and insert "wagon;" so as to make the bill read:

That there be, and there is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $3,925; and the proper accounting officers of the Treasury are hereby directed to pay the same to Mrs. Mattie S. Whitney, in full for all and any claim she may have or hold against the Government of the United States for and in consideration of fifteen horses, three mules, and one wagon taken from her by order of General H. W. Slocum, on or about the —— day of ——, 1864, at or near Vicksburgh, in the State of Mississippi.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

DUTIES OF MARSHALS.

The next bill on the Calendar was the bill (S. No. 1456) to amend section 2022 of the Revised Statutes.

Mr. TELLER. Let that go over.

The PRESIDING OFFICER. The bill will be passed over.

JOHN W. CHICKERING.

The next bill on the Calender was the bill (S. No. 131) for the relief of John W. Chickering.

Mr. BURNSIDE. I object to the consideration of that bill.

The PRESIDING OFFICER. The bill will be passed over and the next bill called.

D. T. KIRBY.

The next bill on the Calendar was the bill (S. No. 965) for the relief of D. T. Kirby.

Mr. BURNSIDE. I object to that. These bills will require more discussion than can be had in the morning hour.

The PRESIDING OFFICER. The bill goes over.

PUBLIC HOLIDAYS IN THE DISTRICT.

The next bill on the Calendar was the bill (S. No. 1444) to amend the revised statutes of the United States for the District of Columbia, relating to public holidays within said District.

Mr. COCKRELL. That is reported adversely.

The PRESIDING OFFICER. The bill will be passed over.

OFFICERS OF QUARTERMASTER'S DEPARTMENT.

The next bill on the Calendar was the bill (S. No. 192) to correct the date of commission of certain officers of the Quartermaster's Department.

Mr. WITHERS. That is reported adversely.

The PRESIDING OFFICER. The bill will be passed over.

The next bill on the Calendar was the bill (S. No. 577) to correct the date of commission of certain officers of the Quartermaster's Department.

Mr. WITHERS. That is in the same condition.

The PRESIDING OFFICER. The bill will be passed over.

FREEDMAN'S SAVINGS AND TRUST COMPANY.

The next bill on the Calendar was the bill (S. No. 711) amending the charter of the Freedman's Savings and Trust Company, and for other purposes.

The bill was reported from the Select Committee on the Freedman's Savings and Trust Company, with an amendment to strike out all after the enacting clause and to insert:

That so much of the seventh section of the act entitled "An act amending the charter of the Freedman's Savings and Trust Company, and for other purposes," approved June 20, 1874, as authorizes the selection and appointment of three commissioners be, and the same is hereby, repealed.

SEC. 2. That the Secretary of the Treasury is hereby authorized and directed to appoint the Comptroller of the Currency a commissioner, who shall execute a bond to the United States, with good securities, in the penal sum of $20,000, conditioned for the faithful discharge of his duties aforesaid, and take an oath faithfully to perform his duties, which bond shall be executed in the presence of said Secretary and approved by him, and by him safely kept; and when said bond shall have been executed, and oath taken, then said commissioner shall be invested with the possession and legal title to all the property of said company for the purposes of this act and the said act of June 20, 1874, and shall have all the rights, prerogatives, and privileges, and perform all the duties that were conferred and enjoined upon the three commissioners in said act of June 20, 1874; and from and after the qualification of said Comptroller as said commissioner the duties, rights, and authority of said three commissioners shall forthwith cease and determine: *Provided*, That nothing contained in this act shall in any way impede or delay any case or cases instituted in any court by or against the commissioners appointed under the provisions of the act to which this act is amendatory, but every such case shall, upon suggestion of the appointment of the Comptroller aforesaid, and the due entry of the change on the docket of the court in which said case may be pending, be proceeded with in the name of such Comptroller in the same manner as if such change had not been made.

SEC. 3. That said commissioner, with the approval of the Secretary of the Treasury, shall have the right and authority to compound and compromise debts to and liabilities of the company.

SEC. 4. That said commissioner, with the approval of the Secretary of the Treasury, shall have the right and authority to sell any of the real and personal property of said company at public or private sale, as in his judgment he may deem best, and to buy in for the benefit of the company any property which may be offered for sale to pay debts and liabilities to said company, if in his judgment said property is being sacrified by said sale, and to make to the purchasers of property sold by him deeds of conveyance for their respective purchases.

SEC. 5. That said commissioner shall, by the tenth day of each annual session of Congress, make a written report to Congress of his proceedings up to the first day of said session; and for his service as commissioner aforesaid he shall, in addition to his present salary as Comptroller, receive an annual salary of $1,000, to be paid out of the funds of said institution.

SEC. 6. That whenever said commissioner is prepared to make a dividend to the depositors he is authorized and directed through the United States Treasurer to place in the various depository banks of the United States which are convenient to said depositors an amount sufficient to pay them, and the officers of said banks shall pay the depositors or their assignees, and take receipts from them in such way and manner as shall be prescribed by said commissioner and the Secretary of the Treasury; and said evidences of payment shall be returned by said officers to the commissioner, and by him preserved: *Provided*, That where there are no depository banks of the United States, then said commissioner may, with the approval of the Secretary of the Treasury, pay the depositors in said localities in such way as he may deem best.

SEC. 7. That said commissioner, with the approval of the Secretary of the Treasury, may prescribe such form as he may deem right and proper for the depositors to transfer their claims: *Provided*, Every such transfer shall state the amount of the claim transferred, and the amount actually received for the same.

SEC. 8. That said commissioner shall make payments to those depositors only whose pass-books have been properly verified and balanced, unless said pass-books have been lost or destroyed; then, upon satisfactory proof of such loss or destruction, and the amount due them, he may pay as though they had pass-books. But all claims founded on pass-books or otherwise not presented to said commissioner for examination and credit within —— months from and after the passage of this act, as well as all dividends declared upon audited accounts not called for within —— years from the date of their declaration, shall be barred, and their amounts shall inure to the benefit of the other depositors of the company.

SEC. 9. That it shall be the duty of the Solicitor of the Treasury, under the direction of said commissioner, to investigate the manner in which said company has been managed by its trustees and others having control thereof; and if, in the judgment of said solicitor, the affairs of said company have been mismanaged, or managed fraudulently and corruptly, then said solicitor, under the direction of said commissioner, shall cause such civil and criminal proceedings to be instituted in the courts against those participating in said mismanagement or fraudulent and corrupt management as he shall deem right and proper to attain the ends of justice. He shall pay fees and costs of suits out of the funds in his hands as commissioner aforesaid; and said solicitor shall attend to all the suits in the courts held in the District of Columbia in which such company is in any manner a party, and he shall be the legal adviser of such commissioner in all matters in which such company is interested.

SEC. 10. That if from any cause there shall be any considerable delay in making a dividend to the depositors, then said commissioner shall, under the direction of the Secretary of the Treasury, invest the funds on hand in United States bonds, until such time as he may be prepared to make a dividend, as directed under the act of June 20, 1874.

Mr. GARLAND. In section 8, line 8, I move to fill the blank by inserting the word "six" before "months," and in line 10, by inserting the word "two" before "years" in the blanks respectively.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Mr. PLATT. May we understand what the amendment is?

The PRESIDING OFFICER. The Secretary will read the amendment.

The CHIEF CLERK. In line 8 of section 8 it is proposed to fill the blank by inserting "six," and in line 10 to fill the blank by inserting "two;" so as to read:

But all claims founded on pass-books or otherwise not presented to said commissioner for examination and credit within six months from and after the passage of this act, as well as all dividends declared upon audited accounts not called for within two years from the date of their declaration, shall be barred, and their amounts shall inure to the benefit of the other depositors of the company.

Mr. TELLER. I think six months is rather too short a time.

Mr. CAMERON, of Wisconsin. They have had four or five years already within which to present them.

Mr. TELLER. Have they presented them?

Mr. CAMERON, of Wisconsin. Nearly all have been presented.

Mr. TELLER. But will it not be contended that there must be a new presentation under this bill? If not, perhaps it will do.

Mr. CAMERON, of Wisconsin. Oh, no; that will not be required.

Mr. GARLAND. Briefly, this bill is substantially the same bill that was reported at the last Congress by the Senator from Delaware [Mr. BAYARD] from the Committee on Finance, and substantially the same bill that I had the honor of reporting from the special committee on this subject in May of last year, to which it was recommitted at the present session.

After a long and laborious investigation by that committee of the facts connected with this institution, they came to the conclusion that it was best to take some steps to wind up its business, and that at the least possible expense. In the place of three commissioners the Comptroller of the Currency is substituted, and he takes charge of the business, under the direction and legal advice of the Solicitor of the Treasury, instead of having a separate attorney employed and attorneys here and there wherever there may be a suit. It is economical and expeditious. It is important if these persons are to have any dividend that this bill should pass, and pass at an early day. The report of the committee is somewhat lengthy, but this is the substance. The bill has been twice reported by two committees heretofore.

The PRESIDING OFFICER. The question is on the amendment reported by the committee.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. CALL. Yesterday a bill was passed over informally without prejudice. I rise to ask——

Mr. COCKRELL. Let us go on with the Calendar.

Mr. CALL. The bill to which I refer was passed over without prejudice, to come up to-day on the Calendar.

Mr. COCKRELL. That does not give it precedence now.

The PRESIDING OFFICER. The Chair has not heard yet what the Senator from Florida desires.

Mr. CALL. I ask for the consideration of a bill which was passed over yesterday without prejudice.

The PRESIDING OFFICER. The Senator from Missouri insists on going on with the Calendar regularly. The Secretary will report the next bill on the Calendar.

FREEDMAN'S BANK.

The next bill on the Calendar was the bill (S. No. 1581) authorizing and directing the purchase by the Secretary of the Treasury, for public use, the property known as the Freedman's Bank, and the real estate and parcels of ground adjacent thereto, belonging to the Freedman's Savings and Trust Company, and situated on Pennsylvania avenue between Fifteenth and Fifteenth-and-a-half streets, Washington, District of Columbia.

Mr. JONES, of Florida. I am at a loss to understand how this bill has found its way from this select committee. I think that the Committee on Public Buildings and Grounds ought to have had something to say about this matter. I think it falls within their appropriate and peculiar jurisdiction to determine what public buildings shall be acquired.

Mr. COCKRELL. Will the Senator permit me? I move that the bill be referred to the Committee on Public Buildings and Grounds if it has not been there.

Mr. ALLISON. I ask the Senator from Florida what committee it came from?

Mr. JONES, of Florida. From the special Committee on the Freedman's Savings and Trust Company.

Mr. WITHERS. From the committee to investigate the affairs of the Freedman's Bank, and it is susceptible of a very easy explanation.

Mr. JONES, of Florida. I object to this way of doing business. It is not in accordance with the rules of this body. I insist that the Committee on Public Buildings and Grounds had the right to determine this question.

Mr. WITHERS. I have no objection in the world to that committee considering it.

Mr. JONES, of Florida. You might as well have referred a question relating to the pension laws to this committee and have it brought up here in an irregular way. It may be that this is all right; but as the chairman of the Committee on Public Buildings and Grounds I think we have some rights in this matter, and I insist upon the regular and orderly course of procedure.

Mr. WITHERS. I wish to state in defense of the committee that I would not have volunteered to say anything except for the fact that the Senator asked for information how it got here. I was proceeding to give it to him when he interrupted me. I do not suppose this special committee has any desire to infringe in the slighest degree on the prerogative of the Senator or his committee; but this being one of the subjects included in the matter which was committed to them for investigation, they considered, I presume, that they had a right to suggest such action in the premises as seemed to them to be expedient.

Mr. ROLLINS. I suggest that in the absence of the Senator from Mississippi, [Mr. BRUCE,] who reported the bill, it be passed over without prejudice until he returns.

Mr. JONES. of Florida. I am willing that it shall be passed over.

The PRESIDING OFFICER. Is there objection to that course?

Mr. COCKRELL. I do not mind about the bill retaining its place on the Calendar; as a matter of course it retains its place on the Calendar; but I object to a bill being continually kept at the head of the Calendar. Passing a case over without prejudice and all that simply amounts to nothing. A bill retains its place on the Calendar until it is either passed, indefinitely postponed, or recommitted, and remains just where it is.

Mr. HARRIS. But the Senator in charge of the bill or any other Senator can call it up at any time he pleases. It is a very material thing.

The PRESIDING OFFICER. The bill will be passed over without prejudice.

BILLS PASSED OVER.

The next bill on the Calendar was the bill (S. No. 1579) for the relief of B. B. Connor.

The PRESIDING OFFICER. This and the succeeding bill (S. No. 827) to facilitate the negotiation of bills of lading and other commercial instruments, and to punish fraud therein, were reported adversely, and will be passed over.

The Chief Clerk proceeded to read the next bill on the Calendar.

Mr. COCKRELL. What was done with Senate bill No. 827 and Senate bill No. 1579?

The PRESIDING OFFICER. There being an adverse report, they went over.

Mr. COCKRELL. I thought they might have been indefinitely postponed. I do not desire their indefinite postponement, but simply that they be passed over and remain on the Calendar.

H. A. MYERS.

The bill (S. No. 160) for the relief of H. A. Myers was announced as being the next bill on the Calendar.

Mr. CALL. I propose that that go over informally, as the Senator who reported it is not here.

Mr. PLUMB. The Senator from Rhode Island [Mr. BURNSIDE] who reported the bill is in his seat.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 160) for the relief of H. A. Myers. It provides for the payment to H. A. Myers, late a private Eleventh Kansas Volunteers, a sum that shall be equal to the pay of a private soldier from the 17th of September, 1862, to the date of his discharge from the service of the United States, deducting therefrom any amount that may have been paid to him as such private soldier, and any amount that may be due from him to the Government.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

COURTS IN NEBRASKA.

The next bill on the Calendar was the bill (S. No. 1241) to provide for the holding of a term of the circuit and district courts of the United States at Lincoln, Nebraska, and for other purposes; which had been reported adversely from the Committee on the Judiciary.

The PRESIDING OFFICER. This bill having been reported adversely, the next bill on the Calendar will be reported.

The Chief Clerk proceeded to read the next bill on the Calendar.

Mr. McDONALD. What was the action with reference to Senate bill No. 1241?

The PRESIDING OFFICER. It was reported adversely, and under the practice it has gone over as being objected to.

Mr. McDONALD. No one has objected, I understand. That is a bill from the Committee on the Judiciary.

Mr. WITHERS. It is reported adversely by that committee.

Mr. McDONALD. I know; but it is on the Calendar for consideration.

The PRESIDING OFFICER. An adverse report has been considered in the nature of an objection, under the practice heretofore followed by the Senate. Is there objection to the present consideration of Senate bill No. 1241?

Mr. COCKRELL. There are only two or three members of the Judiciary Committee here, and it is not fair, when a majority of the committee reports against a bill that it should be taken up and acted on in their absence.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. WITHERS. I object in accordance with our universal custom.

The PRESIDING OFFICER. Objection being made, the bill goes over.

HENRY F. LINES.

The next bill on the Calendar was the bill (S. No. 326) for the relief of Henry F. Lines; which was considered as in Committee of the Whole.

The bill was reported from the Committee on Claims with an amendment, to strike out all after the enacting clause and to insert:

That the Secretary of the Treasury is hereby authorized and directed to pay to Henry F. Lines, late a private in Company B, First Illinois Artillery, the sum of $300 in full payment and satisfaction of all his claim, pay, and allowance as a soldier, and as a military telegraph operator from June 1, 1865, to September 18, 1865, both inclusive, and upon such payment to close the account of said Lines on the books of his Department.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

WILLIAM WHEELER HUBBELL.

The next bill on the Calendar was the bill (H. R. No. 2270) to pay for expert services relating to the metric system rendered the Forty-fifth Congress; which was considered as in Committee of the Whole. It appropriates $350 to enable the Secretary of the Treasury to pay the bills of June 18 and June 28, 1878, for expert services rendered by William Wheeler Hubbell to the Forty-fifth Congress respecting the application of the system of metric weights and measures.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

GEORGE W. SAULPAW.

The next bill on the Calendar was the bill (S. No. 1606) for the relief of George W. Saulpaw; which was considered as in Committee of the Whole. It provides for the payment to George W. Saulpaw of $7,000, in full compensation for his steamer Alfred Robb, taken by the United States for the use of the Government during the late rebellion.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had appointed Mr. FRANK HISCOCK, of New York, one of the managers at the conference on the part of the House upon the disagreeing votes of the two Houses on the bill (H. R. No. 6266) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, in the place of Mr. JAMES MONROE, excused.

The message also announced that the House had passed the bill (S. No. 1771) to establish post-roads, with an amendment in which it requested the concurrence of the Senate.

The message further announced that the House had passed a bill (H. R. No. 6469) to authorize the Secretary of the Treasury to change the name of the schooner Rebecca, of Brownsville, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses upon the bill (S. No. 1509) to accept and ratify the agreement submitted by the confederated bands of Ute Indians in Colorado for the sale of their respective reservations in said State, and for other purposes, and to make the necessary appropriations for carrying out the same.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses upon the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore:*

A bill (H. R. No. 5304) authorizing the changing the name of the sloop-yacht America;

A bill (H. R. No. 6237) making appropriations for the construction,

repair, completion, and preservation of certain works on rivers and harbors, and for other purposes;

A bill (H. R. No. 6467) to change the name of yacht Niantic to that of Hildegarde;

A joint resolution (H. R. No. 316) granting the use of artillery, muskets, and tents at the soldiers' reunion at Decatur, Illinois;

A joint resolution (H. R. No. 322) for the relief of certain persons in respect of duties demanded of them upon the import of certain articles named therein; and

A joint resolution (H. R. No. 327) to authorize the Secretary of the Navy to loan flags and bunting to the city of Boston.

REPORTS OF COMMITTEES.

Mr. BECK, from the Committee on Finance, to whom was referred the bill (H. R. No. 6380) for the relief of the estate and sureties of John P. Hall, deceased, reported it without amendment.

Mr. CALL. I ask leave, by request of the Senator from Maryland, [Mr. GROOME,] who is absent, to make a report from the Committee on Pensions. I report the bill (H. R. No. 3980) authorizing the Secretary of the Interior to place upon the pension-roll the name of Della Benner, widow of the late Lieutenant Hiram H. Benner, Company C, Eighth Infantry, without amendment, and submit a written report.

The report was ordered to be printed.

CREDENTIALS.

The PRESIDENT *pro tempore* presented the credentials of AMBROSE E. BURNSIDE, chosen by the Legislature of Rhode Island a Senator from that State for the term beginning March 4, 1881; which were read, and ordered to be filed.

BENJAMIN HOLLADAY.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Postmaster-General, in response to a resolution of the 4th instant, submitting copies of contracts entered into between the United States, and amount paid on each contract through the Postmaster-General, and Benjamin Holladay from July 1, 1859, to January 1, 1866, for carrying mails; which was read.

Mr. CAMERON, of Wisconsin. I desire to give notice, as having some connection with the information which has just been given to the Senate, that as soon as the pending order, at least the matter which will be the pending order at half past one o'clock, is disposed of, unless the Committee on Appropriations are prepared to move the consideration of an appropriation bill——

Mr. DAVIS, of West Virginia. We are ready to go on with an appropriation bill to-day.

Mr. CAMERON, of Wisconsin. Very well; then I suppose that will take precedence of the pending order. If the appropriation bill is considered to-day, and if the bill of which the Senator from Kentucky has charge granting pensions to soldiers in the Mexican and other wars is considered next after that bill and is disposed of, I shall move to take up and consider the bill (S. No. 231) for the relief of Ben. Holladay.

Mr. DAVIS, of West Virginia. That is only a notice. I move that the communication with the accompanying exhibits be laid on the table and printed.

The motion was agreed to.

POST-ROAD BILL.

The PRESIDENT *pro tempore* laid before the Senate the amendments of the House of Representatives to the bill (S. No. 1771) to establish post-roads.

Mr. MAXEY. I move that the Senate concur in the House amendments.

The motion was agreed to.

HOUSE BILL REFERRED.

The bill (H. R. No. 6469) to authorize the Secretary of the Treasury to change the name of the schooner Rebecca, of Brownsville, was read twice by its title, and referred to the Committee on Commerce.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The PRESIDENT *pro tempore*. The morning hour is at an end, and the Senate proceeds to the consideration of its unfinished business, which is the bill (S. No. 1753) granting pensions to certain soldiers and sailors of the Mexican and other wars therein named, and for other purposes.

Mr. DAVIS, of West Virginia. I rise to a privileged question. I wish to submit a report from a committee of conference on the legislative, executive, and judicial appropriation bill.

The PRESIDENT *pro tempore*. The Senator can submit the report; it is his right to do so at any time.

Mr. WILLIAMS. I understand that that is a privileged question.

The PRESIDENT *pro tempore*. It is.

Mr. WILLIAMS. It does not disturb the regular order at all?

The PRESIDENT *pro tempore*. Not at all.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its amendments numbered 63, 64, 66, and 67.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, and 62.

H. G. DAVIS,
W. A. WALLACE,
WILLIAM WINDOM,
Managers on the part of the Senate.
JOHN D. C. ATKINS,
HIESTER CLYMER,
JOHN H. BAKER,
Managers on the part of the House.

The PRESIDENT *pro tempore*. The question is, Will the Senate proceed to the consideration of the report? Is there objection? The Chair hears none.

Mr. DAVIS, of West Virginia. I will state to the Senate, so that it may be understood, that the only question pending previous to the last conference was that of the compensation of the employés of the Senate and House. It was agreed in conference fully that the Senate employés should remain just as they had been heretofore and just as the bill was passed by the Senate in every particular. The House, of course, regulated their own employés, and the Senate readily acceded; so that all the report means is that the employés remain at their present salaries, with the few additions that were made at this session by the Senate; nothing new was added by the committee. In that respect the bill is just as it was passed by the Senate.

Mr. CONKLING. And the employés themselves are left as the Senate fixed them?

Mr. DAVIS, of West Virginia. Yes; in every particular. A few additions were made to the bill by the Senate in regard to Senate employés, and they remain in the bill.

Mr. McDONALD. What are the amendments from which the Senate recede?

Mr. DAVIS, of West Virginia. The Senator from Indiana asks me what we receded from. I will say that those items are amendments as to the compensation of certain House employés from which the Senate conferees recede, leaving the House to fix the compensation of their employés as they desire.

The PRESIDENT *pro tempore*. Will the Senate concur in the report?

The report was concurred in.

UTE INDIANS IN COLORADO.

Mr. PENDLETON. I rise to a privileged question. I wish to submit the report of a committee of conference.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. No. 1509) to accept and ratify the agreement submitted by the confederated bands of Ute Indians in Colorado for the sale of their reservation in said State, and for other purposes, and to make the necessary appropriations for carrying out the same, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House numbered 2, and agree to the same.

That the Senate recede from its disagreement to the amendment of the House numbered 3, and agree to the same with the following amendment thereto: Strike out "three" and insert in lieu thereof "five;" and the House agree to the same.

That the Senate recede from its disagreement to the amendments of the House numbered 4, 5, and 6, and agree to the same.

That the Senate recede from its disagreement to the amendment of the House numbered 7, and agree to the same with the following amendment thereto: Strike out all after the word "dollars," in line 15, down to and inclusive of the word "minority" in line 6 of the amendment; and the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House numbered 8, and agree to the same with the following amendment thereto: After the word "vicinity," in line 4 of the amendment, insert "in Colorado;" after the word "found," in line 5 of the amendment, insert "on the La Plata River, or in its vicinity, in New Mexico;" and strike out of the same lines the words "elsewhere in the State of Colorado;" and the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House numbered 9, and agree to the same with the following amendment thereto: After the word "Colorado," in line 29, insert "if a sufficient quantity of agricultural land shall be found there; if not, then upon;" and strike out of line 29, page 3, the word "and" and insert in line 1, page 4, after the word "vicinity," the words "and in the Territory of Utah;" and the House agree to the same.

That the House recede from its amendments numbered 23 and 24, and agree to that section of the bill.

That the Senate recede from its disagreement to the amendment of the House numbered 25, and agree to the same with the following amendments thereto: Strike out all after the word "law," in line 4 of the amendment, down to and inclusive of the word "acre" in line 6; in line 10 of the amendment strike out the words "their cash value" and insert in lieu thereof "$1.25 per acre;" in line 12 of the amendment strike out the words "invested by the Secretary of the Interior" and insert in lieu thereof "deposited in the Treasury as now provided by law;" in line 14 of the amendment strike out the words "in 4 per cent. bonds of the United States;" and the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House numbered 26, and agree to the same with the following amendment thereto: In line 2 of the amendment, after the word "lands," insert "and personal property;" and the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House numbered 27, and agree to the same.

GEO. H. PENDLETON,
JOHN S. WILLIAMS,
W. B. ALLISON,
Conferees on the part of the Senate.
A. M. SCALES,
JAS. R. WADDILL,
RUSSELL ERRETT,
Conferees on the part of the House.

The PRESIDENT *pro tempore*. Will the Senate proceed to the consideration of this report?

The question was determined in the affirmative.

The PRESIDENT *pro tempore*. The question now is, Will the Senate concur in the report?

Mr. INGALLS. It is obviously impossible, by the mere numerical recitation of these amendments and statement of the action of the House and Senate respectively upon them, to ascertain in what condition the bill has been left. Will the Senator from Ohio be kind enough to state in what respect the bill has been changed from its condition when it left the Senate?

Mr. PENDLETON. Many of these amendments were merely formal, and I will not take up time by calling attention to them. In one case the word "amongst" in the bill was stricken out and the word "to" inserted.

Mr. INGALLS. I refer to the main questions of difference between the two Houses.

Mr. PENDLETON. I say I will not call attention to any formal amendments of that kind. The chief embarrassment between the two Houses arose out of the disposition on the part of the House of Representatives to confine the settlement of these Indians to Colorado. The agreement that was finally reached by the committee of conference was that the settlement of the Southern Utes should be made on the La Plata, in Colorado, if sufficient agricultural lands should be found there for that purpose, and, if not, the settlements should be made in accordance with the original bill on the adjacent lands on the river La Plata, in New Mexico. That is the substantial amendment that has been made in the bill.

There was some little difference of opinion as to the distribution of the funds that were provided for the benefit of those who were sufferers by the massacre; but we found no difficulty in adjusting that after it was discovered that the Senate had inserted in the list persons who had suffered from the Indians at other times and from events not connected at all with the massacre, while one of those who did suffer at that time had been omitted. We therefore adjusted that difficulty.

Mr. SAUNDERS. As I understand the Senator, the Indians are only to be removed from Colorado on condition that they do not find sufficient lands there.

Mr. PENDLETON. The southern Utes who are to be removed to New Mexico are only to be removed in case there shall not be found sufficient land in Southern Colorado on which to locate them. I believe that those are the material changes in the bill.

Mr. TELLER. I should like to make an inquiry of the Senator. The House put in a provision that the whole proceeds of the twelve million acres of land should be paid to the Indians. I want to inquire what was done with that amendment.

Mr. PENDLETON. The provision which was finally agreed upon was that the proceeds of these lands when sold shall be applied to reimbursing the United States for all sums paid out or set apart under this act by the Government for the benefit of the Indians, and also to reimburse for whatever amount of land outside of the reservation might be given to the Indians, at the rate of $1.25 an acre.

The Senator will remember that the purchase that was made by the Government from these Indians was final. The amendment made requires that an account shall be kept, and after an entire reimbursement by the Government of all its expenses, both the expenses incurred and the price of the land, the balance shall be held in trust for the Indians.

Mr. TELLER. The committee seemed to have agreed to a bill that establishes an entire new principle, that recognizes a fee-simple title in the Indians to the lands. When I attempted to demonstrate the case I suppose, if anybody paid much attention to it, it would have been clear that these Indians had no title whatever to the land, neither title to the soil nor title to the occupation, that this land came to us from Mexico, being a part then of the province of New Mexico; that the Mexican authorities never recognized even this shadowy, undefined right to the soil that we do; that they never recognized any title in the Indians except as they submitted themselves to the church and settled down upon the land. They had exactly the same title that a white man had and no more. When we made an agreement with these Indians the first time we stipulated that we recognized no other title to them in the soil except what they had under the Mexican law. We repeated that in substance. The next treaties say they had not any title, but if they had the highest title known in this country with reference to Indians they had simply the right of occupation. The conference committee have so framed the bill that the Indian will have not only the right of occupation but the fee-simple in the lands.

It is a matter of no consequence to Colorado more than to anybody else. If the Senate is willing, and if the Congress of the United States is willing now to proceed upon that theory, it is of no more interest to me as a resident of Colorado than it is to the Senator who resides in the State of Ohio. I only want to call attention to it so that the Senate may understand the theory upon which this bill is now proceeding.

Mr. PENDLETON. I think it will be found that the report of the committee of conference and the agreement which they have reached does not in any degree affect the question that was so ably argued by the Senator from Colorado when the bill was before the Senate. In that respect the bill stands exactly as it was left by the Senate.

The PRESIDENT *pro tempore*. The question is, Will the Senate concur in the report?

The report was concurred in.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had, on the 10th instant, approved and signed the following acts:

An act (S. No. 152) for the relief of Thomas Lucas;

An act (S. No. 307) for the relief of L. C. Cantwell;

An act (S. No. 1175) granting an increase of pension to Harrietta M. Davis;

An act (S. No. 1197) granting a pension to Peter Claesgens;

An act (S. No. 1281) authorizing the Secretary of the Navy to introduce cotton cordage into the naval service of the United States; and

An act (S. No. 1360) granting a pension to Aaron Hatcher.

ORDER OF BUSINESS.

The PRESIDENT *pro tempore*. The unfinished business is before the Senate, which is the Mexican veteran pension bill.

Mr. SAUNDERS. I ask the Senator from Kentucky, [Mr. WILLIAMS,] who has charge of the bill, to yield in order to allow me to call up a bill that will take but a few minutes to have passed.

Mr. INGALLS. I understood that there was an appropriation bill to be taken up at half past one to-day. We were so advised.

Mr. EATON. I have been waiting for an opportunity to get the floor. I move to proceed to the consideration of the deficiency appropriation bill.

The PRESIDENT *pro tempore*. Does the Senator move to postpone the pending order, or does he ask for unanimous consent?

Mr. EATON. I move to lay aside informally without prejudice the pending order.

The PRESIDENT *pro tempore*. That is not the subject of a motion; it must be done by unanimous consent. The Senator from Connecticut asks unanimous consent that the pending order be laid aside informally in order that he may call up an appropriation bill. Is there objection?

Mr. HOAR. I object.

The PRESIDENT *pro tempore*. The Senator from Massachusetts objects. The pension bill, then, is before the Senate. It requires a motion to postpone it if it is to be postponed.

Mr. SAUNDERS. I ask the Senator who has charge of that bill to allow me to call up a bill which I think will not take more than a moment to pass. I am very anxious to have it passed. It is Senate bill No. 1819, for the relief of William Bowen.

Mr. HOAR. I want the pension bill laid aside formally when it is laid aside; that is the reason why I object.

Mr. EATON. I did not hear what the Senator said.

Mr. HOAR. I said my desire was to have the pension bill laid aside formally, not informally. That is the reason I object. The Kellogg case was laid aside formally, and I do not see why this should not be.

Mr. HARRIS. To cut off further discussion, I desire to say that if the pension bill cannot be laid aside informally by unanimous consent I shall object to any business being done informally; I shall object to the bill designated by the Senator from Nebraska or any other bill that may be sought to be taken up by unanimous consent.

Mr. SAUNDERS. Is there unanimous consent——

Mr. HARRIS. I object. If there is objection to laying aside the pension bill of the Senator from Kentucky informally, so that the appropriation bill may be taken up, I object to taking up any other bill by unanimous consent.

The PRESIDENT *pro tempore*. The Senator from Tennessee objects.

Mr. EATON. I move to lay aside informally, not formally——

Mr. ALLISON and Mr. CONKLING. You cannot do that.

Mr. EATON. I will try. I move to lay aside informally the pending order for the purpose of proceeding to the consideration of the deficiency appropriation bill.

The PRESIDENT *pro tempore*. The Senator cannot move to lay it aside informally.

Mr. EATON. Well, then, I move to lay it aside.

Mr. CONKLING. That is to postpone.

The PRESIDENT *pro tempore*. The Senator from Connecticut moves to postpone the pending and all prior orders in order that he may ask the Senate to take up an appropriation bill.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Senator now moves to proceed to the consideration of the deficiency appropriation bill.

The motion was agreed to.

CHANGE OF NAME OF STEAMBOAT.

Mr. CONKLING. I want to make an appeal to the Senator from Connecticut, which is that he give way for a single moment to allow me to ask consideration of a bill changing the name of a boat in which a good many friends of the Senator and of myself are interested. If he will give way for that purpose, I send to the Secretary the bill I have in view, reported from the Committee on Commerce, a House bill. I simply ask to put it on its passage.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 5153) to change the name of the steamboat L. Boardman to River Belle.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. CONKLING. I wish to submit, to go on the files of the Senate,

the papers, showing the propriety of the bill, bringing it within the rule.

The papers will be filed.

SOUTHERN CLAIMS COMMISSION CASES.

Mr. COCKRELL. I desire to make one statement simply to the Senator from Connecticut and appeal to the Senate in regard to it. The bill (H. R. No. 4435) making appropriations for the payment of claims reported allowed by the commissioners of claims under the act of Congress of March 3, 1871, and acts amendatory thereof, came to the Senate, was referred to the Committee on Claims, and unanimously reported back to the Senate favorably, with three slight amendments changing the names of the parties to whom certain appropriations were to be paid to correspond with the judgments of the commissioners of claims, the mistakes having been made in the House.

The following is a statement of the number and total amount of claims allowed by the commissioners of claims and provided for in House bill No. 4435 and the Senate amendment thereto:

State.	Number.	Amount.
Alabama	61	$21,400 24
Arkansas	79	31,489 33
Florida	5	3,470 00
Georgia	106	38,094 45
Louisiana	13	12,411 83
Mississippi	26	34,201 49
North Carolina	38	14,784 50
South Carolina	17	5,910 25
Tennessee	146	44,515 76
Texas	3	1,720 00
Virginia	55	29,272 36½
West Virginia	9	5,677 25
Total	558	242,947 46½

This is next to the last, the final report of the southern claims commission. It is a very important matter to be acted upon; the amounts are small, and there is no question about the validity and the correctness of the bill. I hope that we shall take it up and act upon the amendments, and then let the bill go back to the House.

Mr. CONKLING, (to Mr. EATON.) They are all democratic States.

Mr. EATON. Every one; and therefore I will permit it to come in.

Mr. CONKLING. There cannot be any objection to that! They are all democratic States!

The PRESIDENT *pro tempore*. The Senator from Missouri asks unanimous consent that the appropriation bill be laid aside informally in order to proceed to the consideration of the bill he has named.

Mr. DAVIS, of West Virginia. Subject to call.

Mr. EATON Subject to call, if it leads to discussion.

Mr. COCKRELL. There will be no discussion.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 4435) making appropriations for the payment of claims reported allowed by the commissioners of claims under the act of Congress of March 3, 1871, and acts amendatory thereof.

The bill was reported from the Committee on Claims with amendments.

The first amendment was, in line 197, after the name "Catharine Stapp," to insert "administratrix of A. J. Stapp, deceased;" so as to make the item read:

To Catharine Stapp, administratrix of A. J. Stapp, deceased, $160.

The amendment was agreed to.

The next amendment was, in line 388, after the word "to," to strike out "Primus Wilson, senior," and insert "Leah Wilson, widow of Primus Wilson, senior, deceased;" so as to make the item read:

To Leah Wilson, widow of Primus Wilson, senior, deceased, the sum of $225.

The amendment was agreed to.

The next amendment was, in line 575, after the name "Callen," to insert "administrator of Isaac B. Janeway, deceased;" so as to make the item read:

To A. C. E. Callen, administrator of Isaac B. Janeway, deceased, $166.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. COCKRELL. There is the same kind of a bill in regard to claims allowed by the Quartermaster-General and the Commissary-General and reported by the Treasury Department, and they are not all in democratic States. Some of them are from the State of Kansas, some from the States of Missouri, Tennessee, Ohio, and Pennsylvania. There is no objection to it. The Committee on Claims unanimously recommends the bill without any amendment. It is a House bill, and I hope it will be acted on.

Mr. DAVIS, of West Virginia. The appropriation bill before the Senate ought not to be laid aside for anything. The former matters that intervened were in the shape of conference reports.

The PRESIDENT *pro tempore*. The Senator from West Virginia objects.

Mr. DAVIS, of West Virginia. This can follow the appropriation bill.

DEFICIENCY APPROPRIATION BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and for prior years, and for those certified as due by the accounting officers of the Treasury in accordance with section 4 of the act of June 14, 1878, heretofore paid from permanent appropriations, and for other purposes, which had been reported from the Committee on Appropriations with amendments.

The PRESIDENT *pro tempore*. Does the Senator from Connecticut wish the amendments acted upon as they are reached in the reading of the bill?

Mr. EATON. I think it would be better, if the Senate see no reason to differ with me, that we should act upon the amendments as we reach them in the reading and therefore I make the suggestion that the amendments of the committee be adopted or rejected as we reach them.

The PRESIDENT *pro tempore*. That is the usual method, and will be observed if there is no objection. Does the Senator wish to address the Senate before the reading commences?

Mr. EATON. Only a word. I wish to state one fact, that the total amount of the bill as it passed the House is $4,392,412.53. The amendments made by the Senate Committee on Appropriations are $432,312.18, and the deductions amount to $230,557.86, being a net increase of $201,756.32, making the total amount as reported to the Senate $4,594,168.85. I now ask that the reading of the bill proceed.

The Secretary proceeded to read the bill. The first amendment reported from the Committee on Appropriations was in section 1, after line 25, to insert:

SMITHSONIAN INSTITUTION.

For completing the preparation, with the necessary illustrations, of the report of Dr. Emil Bessels, of the scientific results of the Arctic expedition under the late Captain C. F. Hall, to be expended under the control of the Smithsonian Institution, $8,000.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, under the head of "State Department," in line 36 of section 1, to increase the appropriation "to enable the Secretary of State to provide for the expenses of the international exhibition on the part of the United States Government at Melbourne, Australia, in addition to the sum already appropriated for said purpose," from $6,000 to $8,000.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, under the head of "Treasury Department," in the appropriations for "mints and assay offices," in section 1, line 109, after "1877" to insert "being $480.50;" so as to make the clause read:

For fitting up an assay laboratory in the office of the Director of the Mint, the balance of the appropriation made for this object by the act of March 3, 1877, being $480.50, is hereby reappropriated.

The amendment was agreed to.

The next amendment was, in the clause making appropriation for "public buildings," section 1, line 139, to increase the appropriation "for the completion of the custom-house, court-house, and post-office building, and approaches, at Chicago, Illinois, including steps, grading, sidewalks, and paving," from $100,000 to $125,000.

Mr. EATON. I ought to say perhaps that where there is a very large addition to the amount appropriated by the House if any Senator desires an explanation I shall be happy to give it.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, under the head of "internal revenue," in section 1, line 168, to reduce the appropriation "for additional amount to pay salaries and expenses of agents and surveyors, for fees and expenses of gaugers, for salaries of storekeepers, and for miscellaneous expenses, being a deficiency for the fiscal year 1880," from $320,000 to $313,000.

Mr. EATON. Since the committee acted upon this clause in the bill we have received information from the Commissioner of Internal Revenue and are satisfied that the deduction of $7,000 ought not to have been made, and that we ought to permit the appropriation to stand as $320,000, as the House had it, instead of $313,000. Therefore I move that "13" be stricken out and that "20" be restored.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) The question is on agreeing to the amendment of the committee.

Mr. EATON. I withdraw the amendment at the instance of the committee.

The PRESIDING OFFICER. The Chair understands that the Senator asks that the amendment be rejected.

Mr. EATON. I do; I ask that it be disagreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the committee.

The amendment was rejected.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, in the appropriations for miscellaneous expenses of the Treasury Department, after line 233 of section 1, to insert:

For coal, wood, grates, grate-baskets and fixtures, stoves and fixtures, blowers, coal-hods, hearths, shovels, tongs, pokers, matches and match-safes for the Treasury Department, $1,250.

The amendment was agreed to.

The next amendment was, after line 237 of section 1, to insert:

For ice, ice-buckets, file-holders, book-rests, labor, clocks and repairs of the same for the Treasury Department, $1,250.

The amendment was agreed to.

The next amendment was, after line 240 of section 1, to insert:

For printing and binding for the Treasury Department for the current fiscal year, $7,000.

The amendment was agreed to.

The next amendment was, in section 1, line 271, to increase the appropriation "for the repayment to importers the excess of deposits for unascertained duties, or duties or other moneys paid under protest, including interest and costs in judgment cases," from $200,000 to $350,000.

The amendment was agreed to.

The next amendment was in section 1, after line 328, to insert:

To enable the Secretary of the Treasury to pay for maintaining lights and buoys on the Ohio River from the 1st day of July, 1866, to the 11th day of November, 1874, the sum of $7,802.98; the same being unexpended balance of appropriation made for same purpose in sundry civil appropriation act approved June 20, 1878.

The amendment was agreed to.

The next amendment was, after line 377 of section 1, to insert:

To pay Caroline Grayson for wood furnished in 1864, $135, being claim No. 38683 in House Executive Document No. 30, Forty-fifth Congress, third session.

The amendment was agreed to.

The next amendment was, after line 382 of section 1, to insert:

To pay William L. Sergeant for wood furnished in 1865, $611, being claim No. 45859 in House Executive Document No. 30, Forty-fifth Congress, third session.

Mr. INGALLS. To whom was this wood furnished?

Mr. EATON. All three items, this and the preceding amendment, and the item from line 372 to line 377, which is not an amendment, the appropriation to Blunt and the amendment making an appropriation to Caroline Grayson, and this amendment making an appropriation to William L. Sergeant, are based on a letter of the Secretary of the Treasury, which is as follows:

TREASURY DEPARTMENT, *February* 26, 1880.

SIR: I have the honor to transmit herewith, for the information of your committee, copy of a letter addressed this day to the chairman of the House Committee on Appropriations, relative to the claims of James G. Blunt, Caroline Grayson, and William L. Sergeant, reported to Congress on the 16th of January, 1879, for which no appropriation has yet been made.

Very respectfully,

JOHN SHERMAN,
Secretary.

Hon. H. G. DAVIS,
Chairman Committee on Appropriations, United States Senate.

Then follows a letter from the Secretary of the Treasury to Chairman ATKINS, written at the request of the Senator from Kansas, [Mr. PLUMB,] which I will read if the Senator wishes.

Mr. INGALLS. It is immaterial. I thought it was a private claim.

Mr. EATON. I will look and see to whom the wood was furnished, so that I may answer fully. I see that the other letter upon which the committee acted does not state to whom the wood was furnished. It states the fact that the wood was furnished in 1864, payable to Caroline Grayson, for $611, to Sergeant on the same page of the executive document for the sum affixed to his name, and it winds up with the statement that the claims are entirely correct, and recommends favorable action on them. I am not able to say to what point the wood was delivered.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, under the head of "Navy Department," in section 1, after line 463, to insert:

To enable the Secretary of the Navy to pay for water furnished the marine barracks at Brooklyn, New York, for six months ending June 30, 1879, $207.31.

The amendment was agreed to.

The next amendment was, under the head of "Interior Department," to strike out from line 489 to line 491 of section 1, as follows:

For publishing the Biennial Register, $2,000; $500 of which shall be additional pay to the compiler of said Register.

The amendment was agreed to.

The next amendment was, after line 564 of section 1, to insert:

To enable the Secretary of the Interior to pay the balance due for rent of that part of the Freedman's Bank building occupied by the Court of Claims, $120.

The amendment was agreed to.

The next amendment was, in line 573 of section 1, to insert "and for expenses of special agents employed by the General Land Office for the suppression of depredations upon timber on the public lands;" so as to make the clause read:

PUBLIC-LANDS SERVICE.

For the settlement of the accounts of receivers of public moneys for expenses incurred in examination of timber depredations, under the act of June 3, 1878, and for expenses of special agents employed by the General Land Office for the suppression of depredations upon timber on the public lands, $15,500, or so much thereof as may be necessary.

The amendment was agreed to.

The next amendment was, in section 1, after line 659, to insert:

For salaries and commissions of registers of land-offices and receivers of public moneys, being a deficiency for the fiscal year 1880, $57,900.

The amendment was agreed to.

The next amendment was, in section 1, after line 633, to insert:

For salaries and commissions of registers of land-offices and receivers of public moneys, being a deficiency for the fiscal year 1878, $8,219.09.

The amendment was agreed to.

The next amendment was, in section 1, after line 667, to insert:

For depredations on public timber for the fiscal year 1878: To pay Joseph G. Hester for advertising, $21.

The amendment was agreed to.

The next amendment was, in section 1, after line 670, to insert:

For contingent expenses of local land-offices for the fiscal year 1878: To pay the Daily Post Company, of Detroit, Michigan, for advertising, 75 cents.

The amendment was agreed to.

The next amendment was, in section 1, after line 674, to insert:

For replacing furniture in the office of the surveyor-general of Washington Territory, destroyed by the falling of the building in which the office was located, being a deficiency for the fiscal year 1880, $300.

The amendment was agreed to.

The next amendment was, under the head of "Indian Bureau," in section 1, after line 705, to insert:

To indemnify the Wyandotte tribe of Indians for loss on sale of bonds May, 1859, $11,592.50; for loss on sale of bonds March, 1860, $8,130; for money heretofore appropriated in fulfillment of treaty stipulations but transferred to surplus fund, $2,093.51; for depredation claims allowed, $6,293.50; in all, $28,109.51, which amounts shall be paid to said Wyandotte Indians *per capita*.

The amendment was agreed to.

The next amendment was, in the appropriations for the Post-Office Department, under the head of "Office of Second Assistant Postmaster-General," in line 768 of section 1, after the word "items," to insert "contingent expenses;" so as to make the clause read:

For miscellaneous items, contingent expenses, for the present fiscal year for the Post-Office Department, $4,000.

The amendment was agreed to.

The next amendment was, after line 770 of section 1, to insert:

For telegraphing, $700.

The amendment was agreed to.

The next amendment was, after line 771 of section 1, to insert:

For keeping of horses and repairs of wagons, $300.

The amendment was agreed to.

The next amendment was, after line 773 of section 1, to insert:

To pay the assistant engineer of the Post-Office Department, additional to his compensation for the fiscal year 1880, $100.

The amendment was agreed to.

The next amendment was, in line 777, to strike out "six" before "thousand" and insert "twenty-two;" so as to make the clause read:

That the sum of $222,211.92 of the unexpended balances of the appropriations for the Post-Office Department for the fiscal year 1879 is hereby reappropriated and made available for the following purposes, namely: For transportation on star routes, $199,094.05; for letter-carriers, $1,706.61.

Mr. EATON. I had not examined this printed bill thus far before this time. There is an error here: $222,211.92 should be $228.211.92. The addition to the $206,000 should be $22,000, so as to make it $228,000. Therefore I move that the committee's amendment be amended so as to read, "the sum of $228,211.92" instead of "$222,211.92."

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, after the word "cents," in line 785 of section 1, to insert:

For letter-carriers during the month of June, 1879, $22,000.

The amendment was agreed to.

The next amendment was, under the head "judicial," in section 1, line 806, after the word "witnesses," to strike out "two" and insert "three;" so as to read:

And for 1880, for fees of jurors, support of prisoners, miscellaneous expenses of the United States courts, and for fees of witnesses, $350,000: *Provided*, That no part of this appropriation shall be used in the payment of general or special deputy marshals for services rendered at any election.

The amendment was agreed to.

The next amendment was, after line 810 of section 1, to insert:

To enable the Attorney-General of the United States to pay for certain books purchased October, 1878, for use of the circuit and district courts held at Frankfort, Kentucky, $505.50.

The amendment was agreed to.

The next amendment was, in line 834 of section 1, to increase the appropriation "for defraying the expenses of the territorial courts in Utah for the current year" from $2,500 to $6,000.

The amendment was agreed to.

The next amendment was, after line 846 of section 1, to insert:

For payment to the heirs of William Selden, late United States marshal for the District of Columbia, the sum of $1,023.28: *Provided*, That the same shall be found due on adjustment of said William Selden's accounts by the accounting officers of the Treasury, which is hereby authorized, so as to include his full official term.

The amendment was agreed to.

The next amendment was, after line 858, to insert:

To enable the Secretary of the Senate to pay to Charles L. Jones for services as messenger of the Senate from the 5th day of July to the 5th day of October, 1879, inclusive, $360.

The amendment was agreed to.

Mr. EATON. The heading "Senate" should come in after line 858,

instead of after line 862, as printed. It should be placed above the amendment just adopted.

The SECRETARY. It is proposed, after line 858, to insert "Senate," and after line 862 to strike out "Senate."

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, after line 862 of section 1, to insert:

To enable the Secretary of the Senate to pay Lewis Winters the per diem of a folder in the folding-room of the Senate for the month of April, 1879, so as to include him in the provisions of the joint resolution approved June 24, 1879, "fixing the date on which the pay of committee clerks, pages, and laborers of the House of Representatives, who are paid during the session only, shall begin for this session, and for other purposes," $90.

The amendment was agreed to.

The next amendment was, after line 873 of section 1, to insert:

To enable the Secretary of the Senate to pay C. Gautier for services rendered before taking the oath, from April 28th to May 12, 1879, at the rate of $1,300 per annum, $49.45.

The amendment was agreed to.

The next amendment was, after line 878 of section 1, to insert:

To enable the Secretary of the Senate to pay the salary of the assistant librarian of the Senate from June 10 to June 30, 1880, inclusive, at $1,440 per annum, $83.08.

The amendment was agreed to.

The next amendment was, after line 883 of section 1, to insert:

To enable the Secretary of the Senate to pay John P. Ringgold for services as clerk in folding-room from July 1, 1879, to June 30, 1880, $480, this amount being the difference between the pay of clerk and that of laborer received by him

The amendment was agreed to.

The next amendment was, after line 889 of section 1, to insert:

To enable the Secretary of the Senate to pay to the messenger in his office the difference between his present pay and that of a messenger or the Senate of the United States from July 1, 1879, to June 30, 1880, $144.

Mr. DAVIS, of West Virginia. That was an error, and the Senate ought not to agree to the amendment.

Mr. VOORHEES. An error in what way?

Mr. DAVIS, of West Virginia. This person is not entitled to the salary proposed in the amendment.

Mr. VOORHEES. I think there is no error about it. This man has carried down from the Treasury here in the last two or three years three or four millions of dollars in money. He has the most important trust of any man connected with the Capitol.

Mr. DAVIS, of West Virginia. I wish to say just one word to the Senator, and I do not think he will disagree with me. We have had a conference with the House. As the Senator knows, a conflict has been going on in regard to salaries, and we finally succeeded in reaching an agreement. This gentleman's salary is just where it has been all the time from the beginning. There has been no change.

Mr. EATON. I suggest to my friend to withdraw his objection as there are so few Senators here, and not require a vote to be taken.

Mr. VOORHEES. I will say by way of explanation that the highest trust is placed in the hands of this officer, and he needs the best pay of any one. Unless the Senator from West Virginia states that the Senate is concluded by conference with the House and that this man is embraced in the agreement, I shall at the proper time ask the sense of the Senate upon this amendment.

Mr. DAVIS, of West Virginia. I shall make no objection so far as to raise a question here, which may develop an inability to do business.

The PRESIDING OFFICER. If no objection be made the amendment is agreed to. The reading will proceed.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, after line 895 of section 1, to insert:

To enable the Secretary of the Senate to pay Thomas Neligan the sum of $336, due him for services rendered the Senate in 1879 and 1880, to June 30.

The amendment was agreed to.

The next amendment was, after line 900 of section 1, to insert:

To enable the Secretary of the Senate to pay S. B. Pennebaker for services as page in the Senate from December 2, 1878, to April 4, 1879, inclusive, $133.30, it being the difference of pay received by him and that received by the regular pages of the Senate.

Mr. EATON. I desire to ask the Senator from Indiana, who, I believe, knows this youth, if there is not a mistake in the name. Is it spelled wrongly?

Mr. VOORHEES. It is right. I am informed by a person who bears the name that it is right.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, after line 907 of section 1, to insert:

To enable the Secretary of the Senate to pay James N. Fitzpatrick and Frank C. Harris, under the provisions of the joint resolution approved June 24, 1879, providing one month's extra compensation to discharged employés of the Senate, $175 and $120 respectively.

The amendment was agreed to.

The next amendment was, after line 914 of section 1, to insert:

To enable the Secretary of the Senate to pay Maurice F. Pilgrim for services as messenger of the Senate from December 16 to December 21, 1879, inclusive, being for the time between his appointment and the date of his taking the oath, $20.

The amendment was agreed to.

The next amendment was, under the head of "House of Representatives," after line 944 of section 1, to insert:

To enable the Clerk of the House of Representatives to pay the claims hereinafter named: To pay John N. Reed, $1,215.77; to pay A. D. Anderson, $534; to pay John A. Dugan, $756; to pay E. T. Keightley, $166 66; to pay George T. Rogers, $180; to pay G. V. Hebb, $55; the aforesaid sums being for services rendered during the Forty-fifth Congress.

Mr. EATON. There was a House bill that passed the House and we have taken that bill and there were names in addition. After the item allowing Rogers $180 the committee move to insert:

To Benjamin P. Gaines, $90.

And after the item for Hebb to insert:

To pay Charles Ford, $87.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, after line 959 of section 1, to insert:

To enable the Clerk of the House to pay the telegraph operator of the House for the current fiscal year, $100.

The amendment was agreed to.

The next amendment was, under the head of "Court of Claims," before the word "license," in line 981, to strike out "free;" and after the word "hereafter," in the same line, to insert "as has been agreed upon between the parties;" so as to make the clause read:

For the payment of a judgment of the United States circuit court for the district of Connecticut in favor of William H. and George W. Miller and against Colonel James G. Benton, United States Army, commanding the Springfield arsenal, $18,792.52, for the use of the said Millers' patent cartridge-extractor: *Provided*, That the said Millers, upon the payment of said judgment, deliver in exchange a license to use said patent hereafter, as has been agreed upon between the parties.

The amendment was agreed to.

The next amendment was, in section 2, under the head of "State Department," after line 18, to insert:

To compensate B. R. Lewis, appointed consular agent in China in 1872, and to reimburse him for expenses incurred by him while proceeding to and awaiting the opening of the port under the instructions of the Department of State, $550.

The amendment was agreed to.

The next amendment was, under the head of "Interior Department," in section 2, after line 217, to insert:

For relief of persons for damages sustained by certain bands of Sioux Indians for 1873 and prior years, $128.

The amendment was agreed to.

The next amendment was, under the head of "War Department," in line 250 of section 2, to insert "$61,858.95;" in line 252, after the word "Michigan," to insert "$347.60;" and in line 253, after the word "Pennsylvania," to insert "$39,005.78; in all;" so as to make the clause read:

For refunding to States expenses incurred in raising volunteers in the State of New York, $61,858.95; State of Michigan, $347.60; State of Pennsylvania, $39,005.78; in all, $101,212.33.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was to strike out section 3, in the following words:

SEC. 3. That the sum of $221,257.86 be, and the same is hereby, appropriated, out of any money in the Treasury of the United States not otherwise appropriated, to pay the Miami Indians of Indiana the principal sum to become due them on the 1st day of July, 1880, in accordance with the amended fourth article of the treaty concluded with said Indians on the 5th day of June, 1854, and ratified on the 4th day of August, 1854.

That the Secretary of the Interior shall appoint a competent and proper person to take a census and make a list of the Miami Indians residing in Indiana or elsewhere who are entitled to participate in the distribution of said principal sum, as provided by article 4 of the treaty that was made between the United States and the Miami tribe of Indians on the 5th day of June, 1854, as amended by the Senate. When said census shall be so made, it shall be the duty of the person so appointed to make such enumeration and list to report the same to the Secretary of the Interior, distinguishing in his report between males and females, and between those over twenty-one years of age and those under twenty-one years of age, which list so made, when approved by the Secretary of the Interior, shall stand as the true list of the persons entitled to share in the payments provided for in this act; and each person named in said list shall be entitled to receive the same amount, irrespective of age or sex, payments for minors to be made to the guardians legally appointed, as hereinafter provided, under the laws of the State or Territory in which said minors reside. The person appointed to make such enumeration and list shall, before entering on such duty, take and subscribe an oath that he will make a true and correct enumeration and report of said Indians according to the best information he can obtain, said oath to be administered and certified to by a United States commissioner or a clerk of a court of record, and he shall receive as his compensation therefor the sum of $5 per day, and his actual and necessary traveling and other expenses while engaged in said duty, not to exceed $3 0: *Provided*, That no persons other than those embraced in the corrected list agreed upon by the Miami Indians of Indiana, in the presence of the Commissioner of Indian Affairs in June, 1854, comprising three hundred and two names as Miami Indians of Indiana, and the increase of the families of the persons embraced in said corrected list, shall be recipients of the money hereby appropriated.

That the Secretary of the Interior shall appoint some suitable person as an agent of the United States to make payment to each of said Miami Indians who is more than twenty-one years of age, whose name shall be borne on the list prepared as aforesaid, the amount that he or she, as the case may be, shall be entitled to receive, and he in like manner shall pay to the guardian of each minor whose name shall appear on said list the amount that said minor shall be entitled to receive. *Provided, however*, That no payment shall be made to any guardian as such until he produce and deliver to the agent from whom he shall receive such payment the certificate of the judge of the court, attested by the seal of the same, certifying that such guardian has been duly appointed and qualified as such, and given bond, secured by unencumbered freehold surety, in the penalty of not less than three times the amount he shall receive from the United States on account of the payment so to be made for the benefit of said ward, which certificate shall be filed by said agent at the time of making his report and final settlement. A copy of said list so prepared as aforesaid shall be furnished to said agent for his guidance in the

performance of the duties aforesaid by the Secretary of the Interior. Said agent shall take the receipt of the persons so paid, attested in such manner as the Secretary shall prescribe, which receipt shall be a voucher for said agent in the final settlement of his accounts. Said agent shall receive, in full compensation for his services and expenses incurred required by the provisions of this act in receiving, disbursing, and accounting for the money hereby appropriated, a sum equal to ¾ of 1 per cent. on the amount that he shall receive.

The agent so appointed to make said payment shall, before entering on such duty, take and subscribe an oath before some United States commissioner or the clerk of some court of record for the faithful performance of the duties imposed by the provisions of this act, and make and execute a bond payable to the United States in such penalty and with such security as the Secretary of the Interior shall and may require and approve.

That there shall be, and hereby is, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $2,000, or so much thereof as shall be necessary, to pay the agent whom the Secretary of the Interior shall appoint, for the services and expenses required under the third section of this act.

The amendment was agreed to.

The next amendment was, in section [4] 3, in line 2, after the word "and," to strike out "orphans" and insert "children;" in line 3, after the word "at," to insert "Point;" and in line 6, after the word "the," to strike out "Superintendent of the Life-Saving Service" and insert "Secretary of the Treasury in equal portions between the widows aforesaid and the children under sixteen years of age;" so as to make the section read:

SEC. 3. That there shall be, and is hereby, appropriated for the relief of the widows and children of the surfmen who recently perished at Point Aux Barques, Lake Huron, under orders of the Life-Saving Service, in the effort to save life and property, the sum of $1,000, to be distributed under the direction of the Secretary of the Treasury in equal portions between the widows aforesaid and the children under sixteen years of age.

The amendment was agreed to.

The PRESIDING OFFICER. The amendments of the Committee on Appropriations have been acted on. The bill is still open to amendments.

Mr. EATON. I am authorized by the Committee on Appropriations to offer the following amendments, to come in after line 889 of section 1, on page 37:

To enable the Secretary of the Senate to pay Thomas C. Quantrell, under the provisions of the joint resolution approved June 24, 1879, providing one month's pay to discharged employés of the Senate, $120 and $56 for fourteen days' service as messenger to the Senate from March 6, 1879, to March 19, 1879.

The amendment was agreed to.

Mr. GARLAND. I wish to offer this amendment, to come in on page 36, after line 853:

To pay James F. Fagan, late marshal of the western district of Arkansas, $2,116.27, the amount found to be due him as such marshal at a trial had in the United States district court for the western district of Arkansas at the July term thereof in 1879, in a suit by the United States on his official bond as such marshal.

Fagan was marshal of the western district of Arkansas under the appointment of General Grant, and after his term of office expired the United States instituted a suit in the district court on his official bond for an amount alleged to be due to the United States that Fagan had failed to pay over. Fagan appeared in the suit and pleaded among other things an offset. A long trial, taking nearly two weeks, occurred in the court, presided over by Judge Parker, the suit being prosecuted by Mr. Clayton, the attorney for the district, who has held his office for four or five years and proved himself to be an acceptable district attorney, and after that long and exhaustive trial it was ascertained by the verdict of the jury that instead of Fagan owing the United States the United States owed Fagan on his transactions as marshal the sum stated in the amendment.

The finding of the jury was entered of record as a matter of course, and that was all that could be done. No judgment could be recovered against the United States for that amount of money. Of course if it had been a proceeding between individuals a judgment could have been rendered on the plea of set-off in favor of Fagan; but all that the jury could do was to find that the United States owed Fagan, and the court could not render any judgment upon that finding. Under the act of Congress, and under the decisions of the Supreme Court, the last of which I hold in my hand, in 11 Wallace, it is legitimate for the jury to find that the United States owes the money, but the court cannot render judgment on the finding, and the Supreme Court holds in the decision to which I allude that no court can render a judgment against the United States now except the Court of Claims, unless there is a special act conferring jurisdiction for that purpose.

A full trial was had, and all the accounts of Fagan with the United States were examined critically and minutely, and the jury under the instructions of the judge ascertained this amount to be due to Fagan. The Government, as the record shows, made no exceptions, took no appeal, asked no review upon any question of law decided by the court. The finding was transmitted to the Department. The Department recognizes the finding, as it does in all cases of that sort, but says in its letter before the committee that it does not feel itself called upon to make any recommendation about it. As a matter of course, it is not a judgment against the Government, but it is a finding that the Government is in default that much to Fagan, and the whole matter is transmitted to Congress for its disposal as it sees proper.

You have the verdict of twelve men placed upon the court records that the United States owes Fagan this two thousand and odd dollars as specified in the amendment. There are only two ways Fagan can get this money: either by an appropriation by Congress, or by having a special bill passed to send him to the Court of Claims and put him through that tribunal, involving a delay of two or three years and the cost of lawyers' fees, &c. Which will Congress do? There is no law now under which Fagan can go into the Court of Claims. If Congress sends him to the Court of Claims, Congress has to pass a special act conferring jurisdiction. The general act as to the jurisdiction of the Court of Claims will not put him in the court. He might as well go to the District court of this District; he might as well go to the district court in the western district of Arkansas, and he might as well go to the Court of Queen's Bench in England, so far as the jurisdiction is concerned, unless when he is sent there a special act is made broad enough to give them jurisdiction of this particular case.

The jury found simply that on the transactions growing out of the marshal's operations the United States owes Fagan this money. Congress must appropriate the money now or it must compel him to present a bill for his special relief, and have it referred to the Committee on Claims or the Committee on the Judiciary or the Committee on Finance to make him go through that process, or send him under a special act to the Court of Claims.

There can be no doubt as to the finding. The Government took no exceptions. The Government filed no motion for a new trial, and the Department very properly say, "We know nothing about it except the finding, and we transmit it to Congress." Here is the correspondence. It is not worth while to take up the time of the Senate in reading it. Since then the attorney, Mr. Clayton, addressed a letter to Mr. Fagan, in which he says:

I do not think it would be proper for either the judge or myself to address a letter to the Department on this subject unless upon their request.

He is right about that. Fagan asked him to write to the Department in reference to it.

That you are entitled to this money I am satisfied, and so wrote the Solicitor. As a matter of simple justice I sincerely hope you will succeed in getting what I am satisfied is justly due you.

This is the attorney who tried the case for the United States, against whom as a good lawyer and as a faithful representative of the Government that he represents there never has been a charge or a shadow of a charge.

Now let me ask the Senate what are they going to do? The Solicitor-General, in his letter that I have before me, says the money is due Fagan; the Department says it, but it does not feel called upon to estimate for it; there is the verdict of the jury for Congress to pass upon. The amendment comes within the rule; it was offered and referred to the Committee on Appropriations. The committee for some reason did not include it in the bill. I have presented it to the Senate. I do not want Mr. Fagan submitted to the process of coming here with a bill for his special relief and having the matter reinvestigated, or to go to the Court of Claims and spend all his money to employ lawyers.

Mr. EATON. Having charge of the bill, perhaps I hardly can give my approval to permitting this matter to be heard at all because it is clearly out of order. It is not offered on the estimate of any Department of the Government, or any officer of the Government; it is not here by the action of any authority of the Senate in the shape of a committee; but I did not interpose the point of order, and I will not do it now.

It was the opinion of the committee, a unanimous opinion, that we ought not as an appropriation committee to appropriate the money of the United States for a claim that did not receive the approbation of any Department or officer of the Government of the United States. If this gentleman has a good claim, let him pursue the ordinary course which is pursued by other creditors of the Government. I have never seen or heard anything of the like before, but my friend from Arkansas says that the United States attorney took no exceptions and no appeal. How could he take an appeal? An appeal from what? There was no legal question involved that he could appeal from here. The only question to be tried by that jury was, was this man in violation of his bond? He was tried upon that question and acquitted, and that should have been the end of it in my judgment. At all events, the district attorney had no power to appeal. Could he appeal to have the United States go into another United States court in this matter? It strikes me that he could not do it. I am inclined to the opinion that the Appropriations Committee are right, and that this gentleman should seek his remedy in the way that my friend from Arkansas has suggested.

Mr. GARLAND. I thought the practice here resorted to was so common that I did not deem it necessary to call attention specifically to the case in which the Supreme Court has passed upon the question, because really it is elementary logic to any lawyer. I am astonished that the Senator from Connecticut says he never knew any such thing before. Now, I will read a little from the case in 11 Wallace that I had reference to, so that there may be no mistake about it. But before I do that, as a matter of course if there is an intimation that there is a question of order I know enough about the rules to know that the amendment is not strictly in order; and if that point is made I quit; but the Senator from Pennsylvania told me the committee had specially agreed that the point of order should not be made on this.

Mr. EATON. It has not been made.

Mr. GARLAND. Very well. May I call the attention of the Sen-

ator from Connecticut to the decision in Case *vs.* Terrill, 11 Wallace, 201, where the Supreme Court says:

It is strange that in any court professing to administer the English system of equitable jurisprudence such a decree could be rendered against any one not made a party to the suit, and who had in no manner appeared in the case; and it is almost incredible that in any Federal court of this Union, except the Court of Claims, a moneyed judgment could be rendered against the United States.

The contrary has been so repeatedly decided that it is a waste of time to reargue the proposition, which will be found fully asserted in the recent cases of De Groot *vs.* United States, United States *vs.* Eckford, The Siren, and The Davis. In the case of United States *vs.* Eckford it was held—

Now here is the point—

that, although in a suit in which the United States was plaintiff—

She was plaintiff in this suit against Fagan—

a set-off could be pleaded and allowed—

Fagan pleaded the set-off and it was allowed to the extent named—

yet no judgment could be rendered for a balance found to be due to the defendant by the verdict of the jury, either in the circuit court, where the case was tried, or in the Court of Claims, where suit had been brought on the verdict.

He is permitted to plead the set-off, and it may be allowed. In this case the jury allowed the plea to the extent of over $2,000. That was as far as they could go. The court could not render a judgment on that finding, nor could the Court of Claims. So if you send Fagan to the Court of Claims you have got to draw a special act for that purpose to give the court full jurisdiction of the matter.

Now, you have all the facts before you as to the verdict rendered. The plea having been offered and the allowances made by the jury, what is the use, in the name of common sense, of sending Fagan back to another Congress for relief, or of sending him to the Court of Claims for a special investigation there?

The Senator from Connecticut is mistaken when he says this is a new proceeding. There are four cases besides this four which I have read cited by the Supreme Court. Such a finding gives Congress something to act upon, instead of sending a roving commission over the country to look into these facts. You may send him to the Court of Claims and you may send him to all the Congresses that may succeed this Congress, but you will never get the case in any better or more judicial form than you have it now, and with due deference to the committee I think the Senate should allow this amendment and appropriate this money.

Mr. EATON. I suppose the plea of set-off goes just this far and no farther, and is allowed for that purpose and no other, and that is to show that there is no indebtedness. That is all. That is the end of it.

Mr. GARLAND. But the Senator is mistaken. The Supreme Court says they may allow——

Mr. EATON. May allow what?

Mr. GARLAND. May allow his claim for the set-off against the claim of the United States.

Mr. EATON. I do not know that it goes any further than the claim.

Mr. GARLAND. The Supreme Court says so.

Mr. EATON. Perhaps it does.

Mr. GARLAND. No "perhaps" about it. I read it.

Mr. EATON. The Senator did not read the whole of that.

Mr. GARLAND. I read it all.

Mr. EATON. Then it does not cover the ground.

Mr. GARLAND. Well, let us see:

In the case of United States *vs.* Eckford it was held that, although in a suit in which the United States was plaintiff, a set-off could be pleaded and allowed—

Mr. EATON. I heard that.

Mr. GARLAND. It says:

A set-off could be pleaded and allowed—

They may allow it entire, or they may allow it in part—

yet no judgment could be rendered for a balance found to be due.

That is the precise language. Nobody can mistake that. Here the jury did find the balance of two thousand and odd dollars to be due, but the court could render no judgment upon it because they were forbidden to do it under the act of Congress, and no court has been authorized with special jurisdiction to give this judgment. It is an amount found due; it is only a question of whether you will turn him out of one door to come in at another.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Arkansas, [Mr. GARLAND.]

The amendment was agreed to.

Mr. McMILLAN. I offer the following amendment, to come in between lines 920 and 921 of section 1, on page 38:

To J. J. Noah, for thirty-one days' clerical service rendered the Senate Committee on Military Affairs, being from March 18 to April 18, 1879, inclusive, at $6 per day, $186.

Mr. EATON. On consultation with the chairman of that committee, the Committee on Appropriations believe that the amendment ought to be allowed, and therefore no point of order will be made.

The amendment was agreed to.

Mr. McDONALD. I offer an amendment, to come in at the end of line 920 of section 1:

To pay Charles R. Faulkner for services as messenger from the 1st day of April, 1879, to the 2d day of July of same year, $360.

Mr. EATON. The committee have no doubt, on consultation with the Sergeant-at-Arms and the Senator from Indiana, that that amendment is entirely proper.

The amendment was agreed to.

Mr. DAVIS, of Illinois. I sent an amendment to the committee which they have not allowed, and I now present it to the Senate. After line 920 of section 1 I move to insert:

To enable the Secretary of the Senate to pay to George T. Howard the difference between his pay as a mail-carrier and that of a messenger of the Senate of the United States from July 1, 1878, to June 30, 1879, $240.

Mr. EATON. I raise the point of order on that. It comes from no committee. It has been considered by the Committee on Appropriations and rejected.

Mr. DAVIS, of Illinois. It was sent to the Committee on Appropriations.

Mr. EATON. That alone does not make it in order.

The PRESIDING OFFICER. The Chair understands the Senator from Connecticut to raise the point of order that this amendment is reported by no committee of the Senate and is not estimated for by any head of a Department. The Chair is bound to sustain the point of order.

Mr. TELLER. I want to be heard on this question of order. I understand that if such an amendment has been referred to the Committee on Appropriations one day before the bill is reported a Senator has the right to present it. Is not that in order under Rule 28?

The PRESIDING OFFICER, (Mr. INGALLS in the chair.) The Senator has the right to appeal from the decision of the Chair.

Mr. TELLER. I will not appeal.

Mr. DAVIS, of West Virginia. It must come from a committee; and even if it is from a standing committee it has to be referred one day in advance to the Committee on Appropriations.

Mr. DAVIS, of Illinois. I think it ungracious in the committee, when they have allowed half a dozen claims like this, to reject this.

Mr. DAVIS, of West Virginia. I think the Senator from Illinois is mistaken. I think there is not one. My judgment is that there is not a single claim like this on the bill.

Mr. DAVIS, of Illinois. My dear sir——

Mr. DAVIS, of West Virginia. Will the Senator point out one like it?

Mr. DAVIS, of Illinois. Here:

To enable the Secretary of the Senate to pay to the messenger in his office the difference between his present pay and that of a messenger of the Senate of the United States from July 1, 1879, to June 30, 1880, $144.

Again:

To enable the Secretary of the Senate to pay John P. Ringgold for services as clerk in the folding-room from July 1, 1879, to June 30, 1880, $480, this amount being the difference between the pay of clerk and that of laborer received by him.

Mr. DAVIS, of West Virginia. That is for the current year. The Senator's amendment is for a previous year.

Mr. DAVIS, of Illinois. Here is another:

To enable the Secretary of the Senate to pay S. B. Pennebaker for services as page in the Senate from December 2, 1878, to April 4, 1879, inclusive, $133.30.

Away back.

Mr. DAVIS, of West Virginia. Service unpaid.

Mr. DAVIS, of Illinois. "It being the difference of pay received by him and that received by the regular pages of the Senate."

Mr. EATON. All this is out of order. The point of order was sustained.

Mr. CONKLING. I will appeal from the decision of the Chair to enable us to understand what this is. Now it is in order to discuss it.

Mr. DAVIS, of Illinois. Mr. Howard was the messenger of the Private Land Claims Committee. He was told by the Sergeant-at-Arms that he would receive the full pay that the messenger to that committee was allowed. However, he only received pay as a mail-carrier, and there are $240 to which he was entitled, which he has never received. That is the case.

Mr. COCKRELL. Why did he not receive it?

Mr. DAVIS, of Illinois. He did not get it like other persons.

The PRESIDING OFFICER. The question is, Shall the judgment of the Chair stand as the judgment of the Senate?

Mr. DAVIS, of West Virginia. The way I understand this case is this: There are, I suppose, fifty other just such cases. It is well known that there are and have been since I have been in the Senate a number of men doing messengers' duties who are on what is termed the skilled laborers' roll. There are not sufficient messengers for all the committee-rooms. This gentleman happened to be one of them two years ago. Now I suppose there are twenty others for that same year in precisely the same position. He was put on the roll then as a skilled laborer and did a messenger's duties. Since then he has been promoted to a full messengership, as many others have been in the same way. He was put there probably at his own request—glad to be there, so as to be in the line of promotion. The case was presented to the Committee on Appropriations, and they considered it, and would have been glad if they could agree consistently to give him additional pay for a year ago, for that is what it is. It is nothing else than that. He is now a full messenger, and I think he ought to be satisfied.

Mr. CONKLING. May I inquire who made the point of order?

The PRESIDING OFFICER. The Senator from Connecticut, [Mr. EATON.]

Mr. CONKLING. Then I shall appeal with some confidence to that Senator to withdraw it, and I do it for this reason: The Senator from Arkansas in his persuasive way offered an amendment here much

larger in amount than this, and much less simple in its character. No point of order was made against him.

Mr. EATON. Let me say to the Senator from New York that the Committee on Appropriations——

Mr. CONKLING. I will yield to my friend in a moment. Two or three other amendments have been offered which were out of order, but no point was made against them. Now I suggest to the honorable Senator from Connecticut—and if the suggestion is a fair one I know he will adopt it because he always is very fair—that he ought not to insist upon his point of order against the Senator from Illinois, but ought rather to withdraw that point and give notice, if he thinks such his duty, that he will make a point of order against any other amendment offered to this bill which is offensive to a point of order. That will be I think fair and will not be invidious; but I submit to the honorable Senator from Connecticut that when other amendments have been tolerated and no point of order leveled at them, and the Senator from Illinois has offered an amendment simple in character without any notice having been given by the committee before he offered it that they would object to it, this might be received. It would be a little more agreeable I am sure to the Senator from Connecticut, who likes to do a thing which is just and generous, to give notice to me and to all other Senators who have not offered amendments that if we do offer them and encounter an objection in the rules, he will insist upon it, rather than to insist upon his objection in the case of a Senator who has offered no amendment before and who has offered now an amendment involving a small amount in which he feels considerable interest, and an amendment which is simple in its character, which will not detain the Senate, but on which we can readily vote intelligently in a very short time. Therefore I ask the Senator to withdraw his point of order, and meanwhile I will withdraw my appeal from the decision of the Chair.

Mr. THURMAN. Mr. President, I ought to say something on this matter, because I know more about it perhaps than any Senator in the body. I was chairman of the Committee on Private Land Claims, and Mr. George T. Howard was, if I recollect aright, borne on the rolls as a skilled laborer; but that committee needed a messenger, and at the instance of the committee he was assigned as messenger for the committee, but he not only performed the duties of messenger for the committee, he performed the duty of one of the doorkeepers in the gallery, and did everything that any messenger of the Senate did, and with the expectation that he would be paid the difference between the pay of a skilled laborer and that of messenger, and as I am told with a promise on the part of the Sergeant-at-Arms that he would recommend that that thing be done. I know that he performed those duties. I know that he performed them to the entire satisfaction of every member of that committee. I know that he performed them so well that every member of that committee, if I am not mistaken, and I do not think I am, joined in recommending his appointment as messenger when there was a chance for his promotion; and I undertake to say that no more meritorious man is in the service of the Senate. I do hope my friend will not insist upon his point of order, but will let this little sum, which is fairly and honestly due, be paid.

Mr. HEREFORD. I will say that if this is fair in the present case—and I do not say it is not fair—there are several persons in identically the same condition for this year and the last.

Mr. CONKLING. But will the Senator allow me to remind him that it will be no better for them if justice is not done in this one case?

Mr. HEREFORD. Put them all together and there will be more justice done.

Mr. CONKLING. But they will suffer no injustice because this one gets his due.

Mr. HEREFORD. I am not objecting to this; but I should like to have the same provision applied to those who were paid simply as laborers and who were performing the duties of messengers to committees.

Mr. HOAR. I desire to ask a question of the Senator from Ohio, the answer to which may perhaps tend to induce the Senator from Connecticut to withdraw the point of order. If this point of order be insisted upon, would it not be entirely competent for the Senate by a simple resolution, on the motion of any Senator, to order this man to be paid from the contingent fund of the Senate? If that be true, would it not be better to let it go into this bill without objection?

Mr. EATON. That is rather in the nature of a threat: "If you do not do it we will get this money some other way."

Mr. President, I know very many of the gentlemen about the Senate here that take care of the committee-rooms. So far as I know, they are all good men. I know this person is a very reputable man and a very good officer. There are half a dozen others that I could name who are in precisely the same position.

Mr. DAVIS, of Illinois. When the Senator from Arkansas was speaking, it was the first time I heard it suggested that this point of order would be made.

Mr. EATON. I desire to say this because I mean to be just in this matter: The Senator from Arkansas was told by the committee he should have the opportunity of presenting his amendment. The committee said also—because they had not time at the moment nor was the information quite complete enough in regard to certain matters—to the Senator from Tennessee [Mr. HARRIS] that we should with great pleasure ask him to come before us in regard to certain District of Columbia matters. But there are a dozen of these gentlemen whose friends stand ready to offer amendments to increase their salaries. I think I must insist on the point of order. We may as well apply it in this case and stop the business.

Mr. TELLER. Mr. President——

The PRESIDING OFFICER. Does the Senator from New York insist on his appeal from the decision of the Chair?

Mr. CONKLING. Only to enable the Senator from Colorado to address the Senate if he wishes.

Mr. TELLER. No; I wish to offer an amendment.

Mr. CONKLING. I withdraw the appeal.

Mr. TELLER. For fear somebody will make a point of order on me, perhaps I had better state what I propose before I offer my amendment.

Some time ago, when the diplomatic and consular bill was before the Committee on Appropriations, I sent an amendment to the committee asking an appropriation of $545.50 to pay a debt due to citizens of France from the late Henry O. Wagoner, late consular clerk at Lyons, France, caused by the sickness and death of the said Wagoner. I sent at that time a letter from the State Department stating how this debt had been created, on account of the sickness of Mr. Wagoner. That letter now I believe cannot be found by the clerk of the committee, but the members of the committee I think read the letter at that time, and there is no question as to what it contained.

Now I have here an amendment to this present bill of the committee to appropriate $545.50 to pay these debts.

Of course these people have no legal claim against the United States. Mr. Wagoner was consular clerk at Lyons, a young man of about twenty-four or twenty-five years of age, whose father was a citizen of Colorado, as was the young man when he was appointed, and it is about the only appointment in the foreign service that ever was accredited to Colorado. The father of this young man is a very poor man, a man who had given his son, the only son he had left, a very excellent education. I will venture to say that in the public service, for his age, there was not a more accomplished young man than this Mr. Wagoner. He spoke several languages fluently, and was a very fine scholar in every department. He was actually for a good deal of the time the consul. The acting consul was absent at one time in Germany and one time in the United States, and this young man attended to the whole business, and I thought when a new consul was appointed under every rule of the service he ought to have been made consul, but the proper authorities did not make him consul but allowed him to remain a consular clerk on a salary of $1,200. Something like a year and a half ago he sickened, and during his sickness, which ran over a period of perhaps a couple of months, an indebtedness of $545 was incurred. These French citizens look to the United States for this money. They have sent here to the State Department their claims, but there is no provision, I am told at the State Department, for paying them except by an appropriation of this kind.

I am told that there are very many precedents for action of this kind, and there is one within the recollection of all. When our minister, Mr. Taylor, died, we paid the debts he had incurred, among other things. Of course this young man was but a clerk, but I venture to say that he filled the office and position of consular clerk with as much ability in the place that he occupied as Mr. Taylor filled that of minister, and if we were under a moral obligation to pay the debts of our minister we are equally under a moral obligation to pay the debts of our consular clerk.

The old gentleman in Colorado is one of the men who, if he can dispose of the few things that he has got left—and I doubt if they would amount to enough to pay this $500—will pay it. He has so much pride in his son's character and reputation that he will part with the last thing in the world that he has got to pay this debt. I doubt whether he will be able to pay it even when he has done that, when he parts with all he has in the world.

Now, it does seem to me that under these circumstances we ought to pay this debt of $545.50. Of course the old gentleman cannot go anywhere else; he cannot go to any Committee on Claims, neither can these creditors; and unless the provision can be put upon some appropriation bill I suppose it never will be paid. I should like very much to see it paid. Of course if the point of order is made, or if the Senate refuses by a vote to pay it, that is the end of it. I wish the Senate would give me a vote. I wish the Senate would put it on. It is a small matter, and yet to these creditors it is of some importance; to the credit of the United States it is of a good deal of importance; and to the father of this young man, the last child he had I think, it is a good deal.

Mr. EATON. Mr. President, it is a very ungracious thing undoubtedly to raise the point of order upon this matter.

The PRESIDING OFFICER. There is no question before the Senate. No amendment has been offered.

Mr. TELLER. I send up the amendment.

The PRESIDING OFFICER. The amendment will be read.

The CHIEF CLERK. It is proposed to insert:

Five hundred and forty-five dollars and fifty cents to pay the debts due to citizens of France from the late Henry O. Wagoner, late consular clerk at Lyons, France, caused by the sickness and death of said Wagoner.

Mr. EATON. I am compelled to interpose the point of order, and

to say that if my friend introduces a resolution I will vote for it, but I will not vote to put it on this appropriation bill.

The PRESIDING OFFICER. The Chair thinks the point of order is well taken.

Mr. HARRIS. Mr. President, in line 986 of section 1, page 41, I move to strike out all to and including the word "three" and to insert "two thousand and eighty-four" in lieu of what is stricken out; and I will state to the Senator from Connecticut that this increases the amount of deficiency for the health office of the District of Columbia $901, from $1,133.34 to $2,084.34, in accordance with the estimates of the commissioners, as approved by the Secretary of the Treasury.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Tennessee, [Mr. HARRIS.]

The amendment was agreed to.

Mr. HARRIS. In line 993 of section 1 I am instructed by the Committee on the District of Columbia to move to insert after the word "dollars" the words "for coroner's juries, $748." That is also in accordance with the estimates of the commissioners of the District, approved by the Secretary of the Treasury.

The amendment was agreed to.

Mr. HARRIS. I am instructed by the same committee to move to amend, following the last amendment, by inserting "for public schools, $7,500." And I will state to the Senator from Connecticut that the estimates of the commissioners and the approval of the Secretary are among the papers he has and not returned to me. I have seen them, however, and the appropriation is absolutely necessary to complete the school building on Stanton Square.

Mr. EATON. The other two items were overlooked, and the only reason why this large sum of $7,500 was not allowed by the Committee on Appropriations was simply this: This is a deficiency bill which expires by its own limitation in two weeks, and therefore we hardly thought this item ought to be on the deficiency bill for 1880, which will expire on the last day of June; but I have no doubt, having seen all the papers and being perfectly familiar with them, that the money is desirable for the purposes of this school. I have no doubt about it, and therefore I shall not interpose any objection.

The amendment was agreed to.

Mr. HARRIS. I am instructed by the same committee to offer as an additional amendment after the amendments just acted on the following:

For the payment of judgments against the District of Columbia, $40,000.

That is also estimated for and approved by the Secretary of the Treasury. I will state to the Senate that there are something over $33,000 of judgments now in existence that ought to be paid, and suits are pending that the commissioners estimate will require quite the additional sum between the thirty-three thousand and odd dollars and the $40,000. It is regularly estimated for.

Mr. SAULSBURY. Are the judgments to be paid out of the public Treasury or out of the funds raised by the District?

Mr. HARRIS. There is a provision in the bill that one-half shall be paid by the District of Columbia and one-half by the Government of the United States. This is simply increasing the amount to be provided in that way.

Mr. KIRKWOOD. I shall be glad to have the attention of the Senator from Tennessee a moment. I ask whether these amendments offered by him from the Committee on the District of Columbia have the recommendation of the District commissioners?

Mr. HARRIS. They have been regularly estimated by the commissioners and referred to the Secretary of the Treasury as the act of 1878 requires, and approved by the Secretary of the Treasury.

Mr. KIRKWOOD. My reason for asking the question was that in conversation with one of the commissioners not long since he suggested to me that the number of special appropriations for particular purposes was so great that he was afraid they would curtail the amount of money the commissioners would have to expend for purposes of improvement on our streets.

Mr. HARRIS. These amounts are based upon the estimates of the commissioners. They deem it absolutely necessary that these appropriations should be made.

Mr. KIRKWOOD. I was merely asking for information as to how it was.

Mr. HARRIS. That is the last amendment I have to offer.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Tennessee.

The amendment was agreed to.

Mr. VOORHEES. I observe that in the bill as it passed the House there was this item:

For publishing the Biennial Register—

otherwise called the Blue Book—

$2,000; $500 of which shall be additional pay to the compiler of said Register.

I understand that that was estimated for and requested by the Secretary of the Interior. It was the unanimous assent of the Committee of the House that it should be there. I should like to ask the committee of the Senate in charge of this bill why, if they feel at liberty to state, this item was stricken out. Really, I think the law ought to be repealed or we ought to appropriate the money needed.

Mr. EATON. According to all the information we could get, there was no necessity for any money to be expended on the Biennial Register between this and the 30th day of June. We got no information that there was any necessity for this whatever, or if there was a necessity for the money it would arise between July, 1880, and June, 1881. At any rate, by striking out the item we thought we might get information from the House that we did not have before us. Therefore we struck it out, supposing that if the House had information justifying it the conference committee could put it in.

Mr. VOORHEES. I was going to make that suggestion, but I will content myself with calling the attention of the committee and of its members who may be on the conference committee to the fact that the estimate from the Secretary of the Interior is before the House, and I presume it will be presented to the committee of conference.

Mr. BLAINE. I should like to make a remark of a mere general character in the same connection with that of the Senator from Indiana to this effect: The Biennial Register, commonly spoken of as the Blue Book, is a book of very great interest and of very great value. It requires a very large amount of type-setting in small type. What the printers call "the composition" on it is a heavy item, and yet the old law stands that has stood now for seventy-five years to print only 1,500 copies. It is a very difficult book to get. It is rapidly getting out of print. As long as the type is set up additional copies can readily be struck off. I think a people of fifty millions ought to have a good deal larger number than a people of three or four millions, and I beg if there is anything done in the conference committee touching the future publication it will be to enlarge the number of this publication, which would involve only the cost of press-work and paper, and give us 15,000 instead of 1,500 copies.

I think there are only two copies, and I do not know that more than one copy goes to a Representative or Senator. My experience has been that the work is very much sought after, not in an idle manner, but by people to whom a book of that kind is valuable as an historic addition to their library shelves. It shows as clearly as almost any book we have the great progress of the country and its official history, and we ought to have a larger number of it. I hope the committee will take my suggestion into consideration at least.

Mr. VOORHEES. On reflection, I give notice that when we come into the Senate I shall ask for a separate vote, and ask the Senate to non-concur in the recommendation of the committee to strike out that clause.

Mr. DAVIS, of West Virginia. If the amendment be non-concurred in the clause cannot be changed even to meet the ideas of the Senator from Maine. If the amendment stands we can add to the clause in conference; but if the Senate agrees to the item it must remain as it is. I think the Senator had better let it go to the committee of conference.

Mr. VOORHEES. Perhaps so. I will think about it.

Mr. HAMPTON. I am very anxious to offer an amendment, but I am afraid my friend from Connecticut will raise an objection. It was proposed by my colleague, [Mr. BUTLER.] I move to insert after line 920 of section 1:

To enable the Secretary of the Senate to pay to George N. Stranahan, conductor of the Senate elevator, the difference between his pay as conductor of the elevator and that of a messenger of the Senate of the United States, from July 1, 1879, to June 30, 1880, $240.

I am not sure about the rule whether this having been referred to the Committee on Appropriations would make it in order.

Mr. EATON. I think my friend is sure of the rule, but it does not suit his purpose. I shall have to interpose the same objection as in the case of the Senator from Illinois. This is a very worthy man, and a very excellent friend of mine, and I regret to object, but I cannot do anything else.

Mr. VOORHEES. In order that I may not seem to neglect a duty which I am very anxious to perform I offer an amendment.

The PRESIDENT *pro tempore*. The Chair wishes first to understand the facts. Is the amendment of the Senator from South Carolina offered by direction of a committee? If not, it is not in order.

Mr. HAMPTON. Notice was given, as I understand, by my colleague to the Committee on Appropriations that he would propose this amendment. He has not offered it as he is not very well to-day. I felt satisfied that if it were brought to the attention of the Senate they would act upon it. I am like my friend from Kentucky, not now in his seat, [Mr. BECK,] I know nothing about parliamentary law, but there ought to be some way of bringing this before the Senate, some right of appeal, as my friend from Illinois said the other day, and I hope that the Chair will suggest some mode by which we can get out of the difficulty.

The PRESIDENT *pro tempore*. The Chair is very reluctantly compelled to say that it is out of order.

Mr. VOORHEES. There is due and not paid a month's salary to J. J. Noah as clerk to the Committee on Military Affairs.

Mr. COCKRELL. That has been put in.

Mr. DAVIS, of West Virginia. It has been put in by the Committee on Appropriations.

Mr. VOORHEES. I am very glad of it.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

WITHDRAWAL OF PAPERS.

On motion of Mr. GROOME, it was

Ordered, That Thomas J. Hitch have leave to withdraw his papers from the files of the Senate if there be no adverse report.

BILLS INTRODUCED.

Mr. TELLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1834) to pay the creditors of the late Henry D. Waggoner, late consular clerk at Lyons, France; which was read twice by it title, and ordered to lie on the table.

Mr. BLAIR asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1835) for the relief of George W. Colbath; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

Mr. BALDWIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1836) for the relief of Arthur W. Eastman; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. BURNSIDE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1837) to change the name of the schooner-yacht Cornelia; which was read twice by its title, and referred to the Committee on Commerce.

Mr. BLAIR asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 126) directing the Secretary of War to loan to the Union Veteran Corps of the District of Columbia one hundred arms and equipments, &c.; which was read twice by its title, and referred to the Committee on Military Affairs.

ORDER OF BUSINESS.

Mr. WILLIAMS. I now move that the Senate proceed to the consideration of the bill pensioning the surviving soldiers of the Mexican and Indian wars.

Mr. HOAR. Mr. President, what is the pending order?

The PRESIDENT *pro tempore*. The pending order——

Mr. DAVIS, of West Virginia. I wish to make a statement to my friend from Kentucky. This morning about the time the appropriation bill——

Mr. HOAR. I rise to a question of order. What is the pending order?

The PRESIDENT *pro tempore*. The pending order is the first bill on the Calendar.

Mr. HOAR. I make the point of order that the Kellogg case was postponed yesterday and stands to-day as the order.

The PRESIDENT *pro tempore*. Having been postponed to to-day, it was overcome by the unfinished business. That being the case, the pending order is the first bill on the Calendar. The Senator from Kentucky moves to postpone all prior orders and proceed to the consideration of the pension bill that he has named.

The motion was agreed to.

Mr. DAVIS, of West Virginia. I wish to make a statement. This morning when the appropriation bill which we have just passed was about being considered the Senator from Missouri [Mr. COCKRELL] appealed to the Senate that he might be allowed to pass a bill relating to certain claims belonging to many of the States, known as the Fourth of July claims, and it would only take a few moments. I did not understand the nature of the bill at the time and I objected. I wish to say to the Senator from Kentucky that I hope he will let that bill which three hundred or four hundred persons are embraced in, and about which there is no controversy, be now taken up and passed.

The PRESIDENT *pro tempore*. The pension bill is before the Senate.

Mr. COCKRELL. I ask that the Senator from Kentucky yield to me temporarily that I may call up and have acted on House bill No. 3291, being a bill for the allowance of certain claims reported by the accounting officers of the United States Treasury Department.

The PRESIDENT *pro tempore*. The Senator from Missouri asks unanimous consent that the pending order may be laid aside informally, without prejudice by an adjournment and subject to call, in order that he may move to take up the bill he has named. Is there objection? The Chair hears none. Will the Senate now proceed to the consideration of the bill mentioned by the Senator from Missouri?

The motion was agreed to.

QUARTERMASTER AND COMMISSARY SUPPLIES CLAIMS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 3291) for the allowance of certain claims reported by the accounting officers of the United States Treasury Department.

Mr. COCKRELL. There are five hundred and nine claims embraced in this bill. There were five hundred and twelve reported by the Secretary of the Treasury and the House of Representatives rejected three of them. I have examined the papers in the rejected cases and coincide and concur with the action of the House. This bill came to the Senate, was referred to the Committee on Claims, and by direction of that committee was examined by myself and the clerk carefully, and we find the bill exactly right, and it corresponds precisely with the report of the Secretary of the Treasury, excepting where three claims reported by the Secretary of the Treasury have been rejected.

The PRESIDENT *pro tempore*. The bill will now be read at length.

Mr. HOAR. Is it necessary to read the bill? It is a mere list of names and sums. Its reading will give no information probably to any single member of the Senate.

The PRESIDENT *pro tempore*. Is there objection to dispensing with the reading of the bill? The Chair hears none.

Mr. DAVIS, of West Virginia. I have no objection to dispensing with the reading of the names. It is a bad practice to dispense with the reading of a bill. As far as the names and amounts are concerned, I do not object to omitting their reading, but to dispense with the reading of the appropriation part of the bill I do object to.

Mr. COCKRELL. Read the first clause of the first section, and the last section.

The Chief Clerk read as follows:

That the Secretary of the Treasury be, and he is hereby, authorized and required to pay, out of any moneys in the Treasury not otherwise appropriated, to the several persons in this act named, the several sums mentioned herein, the same being in full for, and the receipt of the same to be taken and accepted in each case as a full and final discharge of, the several claims examined and allowed by the proper accounting officers, under the provisions of the act of July 4, 1864, since January 6, 1879, namely.

Mr. COCKRELL. Then follow the names of the claimants. Now read section 2.

The Chief Clerk read as follows:

SEC. 2. That the agents appointed by the Quartermaster-General or his subordinates to investigate claims under the act of July 4, 1864, shall give notice to claimants whose claims it is proposed to investigate of the time and place of taking testimony, who shall have the right to cross-examine every witness who may testify in behalf of the Government; and said agents shall also take, at the same time, testimony of any and all witnesses who may be presented by the claimant. And all, both in behalf of claimants and the Government, shall be taken under the law and rules which usually govern the taking of testimony. And the reports of said agents shall be open to the inspection of the claimant or his attorney at all times, on application, subject to such regulations as the Quartermaster-General or Commissary-General may prescribe.

Mr. KIRKWOOD. I move to amend the bill in the last section. After the word "agents," in line 12 of section 2, I propose to insert the words "upon pending claims;" so as to read:

And the reports of said agents upon pending claims shall be open to the inspection of the claimant, &c.

Mr. COCKRELL. I apprehend that I understand the object of the Senator from Iowa, and that is to prevent the information that has been given informally or formally under oath by various parties in regard to loyalty and other questions in the various border States from being seen and known. Now, this does not refer to the past cases, and as a matter of course the Quartermaster-General and the Commissary-General of Subsistence would still hold the past claims in the same condition that they have been before. This section refers only to the claims that are being investigated, not to those that have been passed upon. I hope there will be no amendment made to the bill, because it may not get through the House if it is amended, and I am sure that that section only refers to the pending claims which are to be investigated by the agents; and it is their reports and their testimony alone which is to be received, and that is to be received under such rules and regulations as the Quartermaster-General and Commissary-General may prescribe. There can be no danger in it.

Mr. KIRKWOOD. My purpose was to have the bill clearly show precisely what the Senator from Missouri says it means, but I have a fear that it may be held to mean otherwise. The condition against which I wish to guard is this: It so happens that in the State of Iowa we have two or three of these agents who have been examining these claims in the border States. They have said to me that they had great difficulty in getting testimony in favor of the Government and against the local claimant, a neighbor, and that, in order to secure such evidence in favor of the Government, they have been compelled to say and have said again and again that the evidence given should not be made public so as to get among the neighbors as to whom it was given. We all know the extreme bitterness of feeling that arose in some of the border States during the rebellion. They are wisely endeavoring to smooth that over as much as possible, and men are unwilling to go forward and testify, especially as to this matter of loyalty, in regard to their neighbors that may tend to revive this trouble.

No possible benefit can arise to any one from having the testimony taken in regard to that in claims that have been disposed of, examined. Injury may arise from having that done in the way I have indicated by causing bad feeling. In regard to pending claims, if the Government, with the understanding that the evidence taken by it and for it must be exposed, cannot procure evidence in its favor that may exist, it must suffer the loss I presume; but I am very clear in my mind that sound policy and good faith as well require that, so far as all cases disposed of already are concerned, what has been testified to had better be allowed to remain where it is, undisturbed. If I were sure that the Senator from Missouri gives the true construction to this section, I would withdraw my amendment.

Mr. COCKRELL. There can be no doubt of it, I think, "and the reports of said agents," in the cases where there has been cross-examination made, where testimony has been introduced on both sides; not the reports of all agents of the Quartermaster's Department, but "of said agents," those who have gone out under this provision and have taken testimony on both sides, "shall be open to the inspection of the claimant or his attorney at all times, on application, subject to such regulations as the Quartermaster-General or Commissary-General may prescribe."

That as a matter of course would not permit under their regulations

these old claims to be examined. They are not in the Quartermaster's Office; they are in the Second Auditor's Office. They have all been sent away. The Senator should bear in mind that the Quartermaster-General and the Commissary-General are not changeable officers; they remain the same all the way through; and their rules and regulations are binding unless repealed by law, and we know what they are. I hope the Senator will withdraw the amendment in order that there may be no necessity of sending the bill back to the House.

Mr. KIRKWOOD. I am very clear in my own mind that the object intended by myself is a good one. Whether it will be secured without this amendment or not I am not clear.

Mr. CAMERON, of Wisconsin. These claims have waited a long time, I will say to the Senator from Iowa, and if this bill be amended at this late stage of the session the probability is that they will not pass during this session, and that they will have to wait until the next session of Congress and probably until late in that session. There are several hundred, I do not know how many hundred.

Mr. COCKRELL. Five hundred and nine claims.

Mr. CAMERON, of Wisconsin. Over five hundred claims.

Mr. KIRKWOOD. That furnishes five hundred and nine reasons why the bill should not fail. It is not the kind of a bill that usually fails. Bills that give money to five hundred and nine persons scattered all through the region of country where these people are do not fail easily.

Mr. CAMERON, of Wisconsin. The money is needed undoubtedly.

Mr. KIRKWOOD. With the assurance on the part of the Senator from Missouri, which I have no doubt will be heeded by the Quartermaster-General in this connection, although with some misgivings in my own mind, I withdraw the amendment.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

NOTICES OF BUSINESS.

The PRESIDENT *pro tempore*. The pension bill is before the Senate.

Mr. SAUNDERS. I ask the Senator from Kentucky and the Senate to allow me to present a bill for the relief of William Bowen, which simply authorizes the claimant to take his claim before the Court of Claims. It has been reported by the Committee on the District of Columbia unanimously. There is no question about it.

Mr. WILLIAMS. I dislike very much to be discourteous, I hate to do it extremely; but I have once before given way in this matter and thereby absolutely lost the chance for a vote before on this bill. I must decline.

Mr. DAVIS, of West Virginia. I gave notice yesterday that to-day at half past one o'clock, if an appropriation bill was not before the Senate, I should like to be heard on the report of the Committee to Investigate the Finance Reports, Books, and Accounts of the Treasury Department. Of course, I could not take the floor to-day, an appropriation bill coming up; but on Monday, at half past one o'clock, after the morning hour, I shall ask for a short time only to be heard.

Mr. CAMERON, of Wisconsin. I have given notice that as soon as the pension bill is disposed of I shall move to take up the bill for the relief of Ben. Holladay.

PENSIONS TO SOLDIERS OF MEXICAN WAR.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 1753) granting pensions to certain soldiers and sailors of the Mexican and other wars therein named, and for other purposes.

The bill was reported from the Committee on Pensions with amendments.

The first amendment was, in section 1, line 18, after the word "days," to strike out "and who shall subscribe an oath to support the Constitution of the United States."

Mr. CONKLING. As well on this amendment as on any I wish to inquire for information what is that section of the Revised Statutes which is to be repealed? I apologize for my question, because having been absent a few days from the Senate I do not know the particulars of this bill.

Mr. WILLIAMS. I will say to the Senator that the section of the Revised Statutes is the one which provides that no person who served in the confederate army shall be paid a pension.

Mr. CONKLING. Has the Senator the statute before him?

Mr. WILLIAMS. No, sir.

Mr. KIRKWOOD. I have it. It is section 4716.

Mr. CONKLING. I should like to hear the section of the statutes read, if some Senator has it in hand, or let the Secretary read it.

The PRESIDENT *pro tempore*. The section will be reported.

The Chief Clerk read as follows:

SEC. 4716. No money on account of pension shall be paid to any person, or to the widow, children, or heirs of any deceased person who in any manner voluntarily engaged in, or aided or abetted, the late rebellion against the authority of the United States.

The PRESIDENT *pro tempore*. The question is on the amendment reported by the committee, which has been read.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The second amendment will be read.

The next amendment was, in section 1, line 20, after the word "men," to strike out the words "*Provided*, That such widows have" and insert "who are;" so as to read:

And the surviving widows of such officers and enlisted men who are not remarried.

The amendment was agreed to.

The next amendment was at the end of section 1 to add:

Provided, That all persons to whom pensions are granted under this act shall subscribe an oath to support the Constitution of the United States.

The amendment was agreed to.

The first section of the bill, as amended, reads:

That the Secretary of the Interior be, and is hereby, authorized and directed to place on the pension-roll the names of the surviving officers and enlisted men, including militia and volunteers of the military and naval services of the United States who served sixty days in the war of 1846 and 1847 with Mexico; who served thirty days in the Creek war of 1835 and 1836, or in the Florida war with the Seminoles from 1835 to 1842, or the Black Hawk war of 1832, and were honorably discharged, and to such other officers and soldiers and sailors as may have been personally named in any resolution of Congress for any specific service in said wars, although their term of service may have been less than sixty days, and the surviving widows of such officers and enlisted men who are not remarried: *Provided*, That all persons to whom pensions are granted under this act shall subscribe an oath to support the Constitution of the United States.

The PRESIDENT *pro tempore*. The committee amendments have now been acted on. The bill is in Committee of the Whole and open to amendment.

Mr. INGALLS. I now move, after "1832," in line 15 of section 1, to insert:

Or in the war for the Union, between 1861 and 1865.

Mr. HARRIS. So that it will read how?

The CHIEF CLERK. So that the clause will read:

Who served thirty days in the Creek war of 1835 and 1836, or in the Florida war with the Seminoles from 1835 to 1842, or the Black Hawk war of 1832, or in the war for the Union between 1861 and 1865, and were honorably discharged, &c.

Mr. WILLIAMS. I should like to ask the gentleman on which side?

Mr. INGALLS. The first part of the bill defines that. If the Senator had read the bill he would not have asked that question. The bill reads:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls the names of the surviving officers and enlisted men, including militia and volunteers of the military and naval services of the United States, &c.

I suppose that leaves no doubt as to which side they fought on.

Mr. WILLIAMS. The amendment does not state it.

Mr. CONKLING. I beg the Senator from Kansas to change his amendment. Although I agree with him that there can be no doubt of the legal effect of it in the words which he proposed, inasmuch as the Senate is about to vote I should be glad to have the amendment in such phrase that it states itself, that those who wish to read it hereafter will not have to hunt up the residue of the bill and refer to some other part of it in order to interpret this part. I think we could vote more satisfactorily if we had it altogether as a whole proposition. If my friend from Kansas will indulge me, I beg him to add words which will import that he means the men who fought for the Union and not the men who fought to destroy the Union.

Mr. VOORHEES. Mr. President——

The PRESIDENT *pro tempore*. The Senator from Kansas is modifying his amendment. The Senator will wait until it is reported.

Mr. INGALLS. Let it read:

Or who fought for the Union in the war of the rebellion between 1861 and 1865.

The PRESIDENT *pro tempore*. The amendment will be reported.

The CHIEF CLERK. In line 13 of section 1, after the word "thirty-two," it is proposed to insert:

Or who fought for the Union in the war of the rebellion between 1861 and 1865.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Kansas, [Mr. INGALLS.]

Mr. INGALLS On that I ask for the yeas and nays.

Mr. BLAINE. Mr. President——

Mr. VOORHEES. I believe I have the floor. I was waiting for the amendment to be reported.

Mr. BLAINE. I beg pardon.

Mr. VOORHEES. Mr. President, there are many ways of fighting a bill. The country will not at all be deceived by the proposition of the Senator from Kansas. He is not for his amendment, nor is anybody on that side of the Chamber, except as a means of destroying this bill. His amendment is a proposition to place on the pension-rolls two million men, not one of whom would he or any of those acting with him place there unless they made out a case for a pension under the existing laws.

Yesterday we had the remarkable spectacle presented on this floor of a party question being made as to whether this Government would pension the few surviving veterans of the great war with Mexico and with all the consequences that followed. Men stood up here and claimed to pair with each other on that question because of its political aspects. And now, in order to sink this measure, the Senator from Kansas proposes in the face of the country to place upon the pension-rolls all the surviving soldiers of the war for the Union.

The Senator from Kansas will not deceive anybody in supposing that I am less willing to vote to pension the surviving soldiers of the war for the Union than any man upon this floor. Nobody would suppose so. Nor will that side of the Chamber convince the country that it is more willing to pension survivors of the war for the Union than

this side by voting for this amendment, so transparently offered for simply the purpose of defeating the bill in behalf of the survivors of the Mexican war.

If the Senator from Kansas desires to place the entire survivorship of the late war for the Union on the pension-rolls, let him bring forward a bill to that effect. Does he suppose that anybody will think that he is eagerly, earnestly yearning to pension all the survivors of the war for the Union? If so, he has had ample opportunity to bring forward a bill. If so, he will have opportunity hereafter.

I trust that this amendment will be voted down, and then we shall see; it will test the sincerity of that side of the Chamber by letting us see whether hereafter they will offer a separate proposition like this to place the entire surviving soldiery of this country upon the pension-roll. I repeat, there are many ways of fighting a bill, and none is more familiar to the country than the attempt to overload it by amendments so that it will be defeated by its own weight.

It is inconceivable to me, Mr. President, this hostility to the little remnant of that glorious band of men who did so much for the honor and wealth and glory of this country at home and for its renown abroad. Why it is that the opposition comes I do not know. I am not here to retort in the spirit of sectionalism. The Mexican war shed glory upon every part of this country; the Mexican war shed honor upon all this country, and to even those portions of the country which it shed the least upon it gave an equal division of wealth. The New England man has had a world of enterprise and of wealth opened to him by the prowess of the soldiers of the Mexican war, as well as the man from other portions of this country. Everybody has shared in it, and why this extreme and sensitive hostility is always displayed upon this question is a marvel to my mind.

I stand here to say that I am as willing and as generous to vote pensions to the survivors of the war for the Union as any other Senator upon this floor, and I stand here to say that this is an unfair mode of warfare against this bill. Let it stand or fall upon its merits, and I am content with the verdict that may be rendered.

The PRESIDENT *pro tempore*. Upon this question the yeas and nays are demanded.

Mr. BROWN. I desire to offer a proviso to the amendment offered by the Senator from Kansas.

The PRESIDENT *pro tempore*. The Senator from Georgia offers an amendment to the amendment, which will be reported.

The CHIEF CLERK. It is proposed to add to the amendment the following proviso:

Provided, This amendment shall not take effect till the end of thirty-three years after the close of said war for the maintenance of the Union.

Mr. BROWN. It has been, I believe, about thirty-three years since the close of the war against Mexico, and we now ask to pension those who were soldiers of that war and acted a gallant part in the defense of the country. I am entirely willing that the Senator's amendment should take effect whenever the soldiers who aided in the maintenance of the Union and served in that war shall have waited the same length of time that the soldiers who served against Mexico have waited; and I say to the Senate now that if I am alive and a member of the Senate at the end of that period I have no doubt I should vote for a bill to pension every one of them.

Mr. INGALLS. The argument of the Senator from Georgia would be very good but for one fact, and that is that this is merely one in a sequence where the period of time has been followed in a constantly diminishing ratio. We placed the entire surviving list of soldiers of the war of 1812 upon the pension-rolls in 1871, which was fifty-six years after the war closed. This bill proposes to put under exactly the same conditions upon the pension-roll the soldiers of the Mexican war thirty-three years after the war closed, making a discrimination of twenty-three years in favor of the soldiers of the Mexican war.

All that I ask is that the same rule shall be applied to the survivors of the war for the Union and diminish the period of time in the same proportion. The argument of the Senator from Georgia is not good.

Mr. BROWN. We did, in my opinion, wait too long before we pensioned the soldiers of the war of 1812. The fact that we have set one bad precedent is no reason why we should set another. I think thirty-three years is about the right time—it is the third of a century; and that period has now passed since the Mexican war. Whenever the third of a century again passes I think the Government then should pension all the soldiers of the war for the Union in the late rebellion.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Georgia to the amendment offered by the Senator from Kansas. [Putting the question.] It is impossible for the Chair to decide; Senators will please vote. The Chair will put the question again.

Mr. CONKLING. I think we had better have the yeas and nays. I ask for the yeas and nays on this question.

The yeas and nays were ordered.

Mr. FARLEY. I should like to inquire of the Senator from Kansas if his amendment shall be adopted will he vote for this bill?

Mr. INGALLS. I of course yield to any of my peers the right to ask questions that affect the sincerity of my motives.

Mr. FARLEY. I have no doubt the Senator is sincere in it.

Mr. INGALLS. I assure the Senator that if this amendment is adopted I shall vote for this bill.

Mr. FARLEY. That is the question I wanted to know.

Mr. EATON. I am sorry that my friend from Georgia offered the amendment to the amendment. I think we had better have met this question at once. I shall vote against the amendment to the amendment; and I shall vote against the amendment of my friend from Kansas, and for this reason: that it will add $200,000,000 a year——

Mr. INGALLS. Two hundred million dollars?

Mr. EATON. Yes, $200,000,000 annually; and I have no idea that the country can stand any such expenditure as that. I am willing, and have shown it, to vote in all proper cases for the granting and giving of pensions; I shall do it while I have the opportunity to do it; but as for voting for an amendment of this character I cannot and will not.

Mr. CONKLING. May I ask my friend a question?

Mr. EATON. Certainly.

Mr. CONKLING. Suppose the amendment of the Senator from Kansas involved an expenditure of only one million a year, would the Senator vote for it then?

Mr. EATON. There comes the question. Perhaps I would. It amounts to so little, I might say, to get one great good I would even adopt this thing which is unnecessary. We have already provided, and are providing every day, every week, and every month, for the welfare of the soldiers in the late war between the different sections of the country.

Mr. CONKLING. Then I understand the Senator to mean that, although he would still disapprove of the amendment, he might accept it as an evil in order to have the bill pass making the same provision for soldiers who fought in another war?

Mr. EATON. I would if I could not pass it in any other way. That is all the reason that would induce me to do it.

Mr. CONKLING. The Senator would accept such an amendment in spite of its demerits in order to get something else?

Mr. BLAINE. The honorable Senator from Connecticut speaks of our continually ministering to the wants of those who suffered in the late war between the Union and the South, as he styles it, I believe. Do I understand the honorable Senator from Connecticut to imply that there are any provisions made for the relief of soldiers in the late war of the rebellion that are not applicable to-day to soldiers in the Mexican war?

Mr. EATON. I have not said any such thing.

Mr. BLAINE. The honorable Senator presented himself as in the attitude of merit and Congress in the attitude of merit because we were continually doing for the soldiers who had suffered in the war of the rebellion. For one I pledge myself—and I have only the right to speak for myself—to make every law that is applicable for the relief of a soldier in the war for the Union applicable also, *in totidem verbis*, to any soldier who suffered in the war with Mexico or the Florida war. I will put them on exactly the same basis. But the demerit of this bill is that it proposes to put them on an entirely different basis, and without any regard whatever to the circumstances of the man, whether escaping all the perils of the field, as my honorable friend from Kentucky has—and he was exposed to great perils—whether well to do in the affairs and goods of this world, as my honorable friend from Kentucky I am happy to believe is—whatever his condition of escape or peril or wound, or whatever his financial and pecuniary condition may be to-day, you propose to say that he shall be made the recipient of bounty at the hands of the Government of the United States. You do not say so at all to the soldier of the late war. You propose in this bill to say that here may be a man who has a million dollars and is no more in need of a benefit from the Government than the sun is in need of added heat, and yet he shall be put upon the pension-rolls of the United States when throughout the length and breadth of the United States to-day there are men hard pinched with the approach of poverty who did their best in the war for the Union, but who do not fall within the limits of the law as we have felt bound to prescribe it.

I ask the other side to put themselves on record for that, that the millionaire who fought in the Mexican war, regardless of his wants, shall be pensioned, and that the restriction shall be held upon every man who fought in the Union war, though he shall show that he lost limb or lost health in that dangerous service, however poor he may be, as my friend from Massachusetts [Mr. DAWES] well suggests, however near his door the wolf may be at this moment, however hard he may work in daily and hourly toil for food for himself and his family.

I protest against it. I protest against it as unprecedented. I protest against it as unjust, and I protest against it in the name of that great party which has gone further than any other in recognition always of the right of the patriotic soldier, regardless of the war he fought in.

Mr. VOORHEES. Mr. President, the Senator from Maine overlooks a vital distinction which ought to be apparent it seems to any mind. He says he desires to place the soldiers of the war with Mexico, so far as pensions are concerned, and the soldiers of the war for the Union on exactly the same ground. That he cannot do. He says he desires those that have been disabled in one war to have the same rights as those disabled in the other, those who have the same disabilities to have the same right to pensions. He forgets that the survivors of the Mexican war are bearing the weight and burden and disability of years far beyond those who fought in the war for the

Union, and that the principle of pensioning the survivors of a war after a considerable lapse of time is that you take care of the old men who in their youth did something unusual for the honor, welfare, preservation, and glory of their country. We think the time has come when this plea can be urged justly in behalf of the survivors of the Mexican war.

I think the spirit of the amendment to the amendment offered by the Senator from Georgia is correct, and will be correct when that time rolls around; but until the disabling influences of thirty years' difference in point of time shall rest upon the survivors in the war for the Union there will be no equality in the claims of the survivors of these two wars.

Mr. HOAR. Will the Senator from Indiana allow me to ask him a question?

Mr. VOORHEES. I expect so.

Mr. HOAR. I desire to ask the Senator from Indiana if the five Mexican war soldiers in this Chamber are not, in his judgment, the five most vigorous men and five as well off as anybody in worldly affairs?

Mr. VOORHEES. I am not going to give the Senator from Massachusetts a disrespectful answer or a discourteous answer, but if I were to say what I really thought about a question of that kind I would say that it was worthy of no answer whatever. Simply because here and there a man who served his country has escaped the poor-house and got into some position, therefore the old, decrepit, and aged men shall be denied any relief whatever, is an argument that falls at my feet dead and there receives my contempt.

The Senator from Maine pressed that argument before the Senator from Massachusetts put it in the shape of a question. With what towering eloquence and force he disclaimed rendering assistance to millionaires! There are so many millionaires among the survivors of the Mexican war! What a danger it is to the country to give $8 a month to a man who was in that war who may now have something else besides that to live on! The Senator from Maine pointed to the Senator from Kentucky, and opined that he had some blue grass and perhaps some Durham cattle in the central part of beautiful Kentucky, and therefore the some hundreds and perhaps a thousand men in Indiana, aged, grey, and poor, as I recall them, ought not to have this $8 a month, because the Senator from Kentucky could live without it.

Supplementing it with a lofty sweep of looking at the question in a big way, the Senator from Massachusetts rises and asks me to take an inventory of the Senators in this body who served in the Mexican war, to pass them in review, to inspect them, and to tell the Senate whether I know of anybody who is doing any better than they are. They are doing right well, and I am very glad of it. There is the Senator from Kentucky, [Mr. WILLIAMS;] there is the Senator from Rhode Island, [Mr. BURNSIDE,] and I am glad he is here, I like him very much; then there is the Senator from Illinois, [Mr. LOGAN,] who "fleshed his maiden sword" when young on the plains of Mexico, and who to-day is here. Their being here is an argument now thrown up to us against the poor privates who yet survive, sprinkled over this country, getting a crumb from the table of this mighty Government. I should think those Senators would feel that it was a base use to which they have been put to be lugged in here as an argument and thrust, as it were, against their own comrades. I venture to say that it is the first time that those commanders of brave men in two wars, those commanders of brave men in Mexico and in the recent war, were ever quoted to the injury and injustice of the men who followed them in the day of peril. Then here is the Senator from Texas, [Mr. MAXEY;] I beg his pardon; he is so close to me that I overlooked him.

Mr. BUTLER. I wish to ask my friend one question only. Is there any compulsory provision in this bill which will require a millionaire to take this pension?

Mr. VOORHEES. No, I do not know that there is, but I think that there would be complaint made by the Senator from Maine and the Senator from Massachusetts if my friend here, the Senator from Texas, who signalized his youthful valor so well in those immortal fields, or the Senator from Kentucky, or the Senator from Illinois, or the Senator from Rhode Island, should give to the Sisters of Charity or some hospital the sum of six or eight dollars a month rather than take it.

Mr. MAXEY rose.

Mr. VOORHEES. I yield.

Mr. MAXEY. Mr. President, I do not place the claim of the soldiers of the Mexican war to a pension upon the ground on which it has been placed by some, that it is to put them as pensioners upon the bounty of the United States. But if it is to be placed upon that ground, then I ask of the Senate from whom did the United States acquire the grandest bounty that was ever conferred upon a nation in the world's history? The soldiers of the Mexican war granted, by their valor upon the soil of a foreign foe, a bounty such as was never granted to any other country since the world's history began.

Sir, the soldiers of the Mexican war, beyond the limits of their native land, fighting on a foreign soil, by their prowess added to the American Union the Territory of New Mexico, of Arizona, of Utah, of Nevada, of Colorado, and of California. From the gold mines of California has been dug more gold than is sufficient to pay the entire national debt of the American Union. To that may be added the grand silver mines of Nevada, the greatest in the world. On the floor of the Senate men owe to the prowess of the soldiers of the Mexican war the seats which they occupy in this Chamber. The Senators from California, from Nevada, and from Colorado were brought here as Senators when their States were admitted, and their States were admitted from that territory which was acquired under the treaty of Gaudalupe Hidalgo by the prowess of the soldiers of the Mexican war.

Mr. INGALLS. The Senator is entirely right.

Mr. CONKLING. May I ask a question of the Senator?

Mr. MAXEY. Certainly.

Mr. CONKLING. The honorable Senator depicts and tries to measure the empire which was the fruit of valor on what have been called the immortal fields of Mexico. May I inquire of that Senator whether he thinks that fruit and that achievement greater in value, larger in dimensions, more precious to the American people, than the fruit and achievement of the war for the Union? May I ask that honorable Senator whether he thinks it was a greater gift to mankind or to the American nation to wrest from Mexico the domain he has described than to preserve from destruction a nationality incontestably the greatest the world has ever seen? I wish the Senator would answer.

Mr. MAXEY. Mr. President, I have not the slightest difficulty in answering the Senator from New York. The soldiers who fought under the flag of the American Union in Mexico, upon a foreign soil, and grasped from that country and brought into our own the grand domain to which I have referred, were soldiers of this country, citizens of the United States, some born in the North, some in the East, some in the West, and some in the South. At that time the American flag floated over the entire country, north, south, east, and west.

I had no reference in what I said to the late war between the States, because the settlement of the disturbances between the sections added nothing to the soil of the American Union. It was simply such a war as has occurred in the history of all nations, ancient and modern. It is such a war as for thirty years raged in England, the country from which we came. It was an internecine war, a sectional civil war, and when that war is settled and peace once more spreads her wings over our borders I say that it is wise, it is sound statesmanship, to let the dead past bury its dead, and to remember that in days past and gone, in the wars between the houses of York and of Lancaster, the wars of the Roses, Englishmen fought against Englishmen, but when the war was settled they all again became Englishmen, they all again were under the cross of St. George, fighting for the grand country which gave them birth.

So now, since the American flag flies over a country united, from the lakes to the Gulf, from rock-bound New England to the golden shores of the Pacific, one people, one flag, one country, I would be the last man to say here upon this floor that those who aided by their acts in securing this reunion of the country should not receive the plaudits of "well done" from the country under whose flag they served.

Mr. CONKLING. But, if the Senator will pardon me a moment, he seems altogether to miss the point of my inquiry. The Senator, if I understand him aright, was arguing that the soldiers of the Mexican war in their deserts were an exception to other soldiers, at least an exception to the soldiers who fought for the Union against the rebellion, because of the fruit of their exertions, because the result of their victory was to give to the American nation a large increase of territory. To meet that argument, and for no other purpose than to meet that argument, I ventured to present to the Senator from Texas the fruit, the achievements, and the result of the war for the Union, and the endeavors of the men who fought that war, my object being only to compare the one with the other.

That was the argument exactly of the honorable Senator. Now, he seems to suppose that I wished for some reason to reproduce and make them stalk over the stage the ghosts of sectional discord and animosities. Not at all. I wished when an argument was presented to me that the soldiers of the Mexican war were pre-eminent in deserts because pre-eminent in the advantage which flowed from their achievements, to encounter that argument by a sharp dissent. I do dissent from it utterly. I say that as the dust in the balance so was the acquisition of all these then outlying territories compared with the single fact that by the exertion of the soldiers for the Union, by their bravery and daring, they preserved to immortality the institutions under which we live and prevented this Government of ours from going down in blood to the sepulcher of buried nationalities. And I say to the honorable Senator from Texas that he and those with him hold their seats here to-day, I will not say as the bounty of the achievements of the soldiers for the Union, but I do say that but for the achievements, the valor, the heroism, and the sufferings of the soldiers for the Union, the Senator from Texas would not hold his seat in the Senate of the United States, nor would there be a Senate in which that seat could be held.

Mr. MAXEY. Mr. President, it will be right difficult I think when one reads the speech which the Senator from Texas was endeavoring to make to determine whether it is his speech or that of the Senator from New York. He has referred to the fact that I and others hold our seats by the bounty of those who remained true to the Union.

Mr. CONKLING. No, Mr. President, I beg the Senator's pardon.

Mr. MAXEY. The precise form of the expression I do not remember, nor do I care for that.

Mr. CONKLING. Let me make the Senator remember if he will allow me. I said I would not say by the bounty but by the achievements of the soldiers for the Union.

Mr. MAXEY. Precisely; the point is the same in my estimation. I have learned, Mr. President, (and I learned it many long years ago,) that when two friends have become estranged, have had their differences, their collisions, or their fight, if you please, and have struck the right hand of friendship and fellowship again, it is not in good taste to refer in the future to the past. I have nothing to say in regard to that. I have come back into this Union because the Constitution of my country tells me to do so; I am as true to the flag under which I serve as others; and I deny this pretended claim of superior patriotism in anybody.

Mr. President, I made no reference to the late unhappy war. It is the last thing I am in the habit of doing. When I refer to the achievements of the Mexican war, I refer to that grand empire which was carved from a foreign land and added to this country, not to the internecine difficulties which added nothing, but spent hundreds and hundreds of millions of the wealth of the country North and South, and the best blood of the land in both sections of the Union. I made no reference to that. I was referring to that which we brought under the flag of the Union from a foreign country, and I repeat it. I place this on the ground of justice. You give to your sailor, who captures on the high seas an enemy's ship, his prize-money, and why? Because he has added that much wealth to the country; and here I say that by the prowess of the soldiers of the Mexican war this grand empire was added to the American Union. The precise equity which gives prize-money to the sailor would at least give something in the shape of what is termed a bounty to the soldiers of the Mexican war.

Look if you please to San Francisco, brought in when a mere village of wood huts, brought into the American Union by the valor of the soldiers of the Mexican war, and to-day it pays into the Treasury of the United States an amount of money from customs dues inferior only to New York and Boston. It is the third paying custom-house in the American Union. You may take this custom-house, which is the direct result of the Mexican war, and the other custom-houses on the Pacific coast, and let the net proceeds coming from those custom-houses only go toward paying this and every dollar will be met. And this was all brought in by these men.

I, sir, would not detract from the honor and glory of those men who fought to support the flag of the Union in the dark days of the late war. No, sir. They followed their convictions of the right as they understood the right to be, as I followed my convictions of the right as I understood the right to be; and in that fearful war between the sections, the South went down. But, sir, when at Appomattox court-house the southern confederacy surrendered, and when that gallant and manly act which all the South approved and respected was performed by the great man whose flag some gentlemen not long since upheld when he declined to receive the sword of his gallant opponent, Robert E. Lee, we appreciated it. Sir, it was the act of the soldier. The soldiers on both sides understood that they were fighting for what they believed to be right, and they are the last men on this earth to come in and attempt to raise trouble. Why, sir, Daniel Webster never wrote a better thing on earth than when he wrote to John Taylor that he had as little respect for the man who would attempt to estrange one section from the Union as he would for the man who would attempt to estrange one of your neighbors, John Taylor, from another.

It is the true principle, and it is strange to me that no proposition can come up intended to give a pittance to men who under the flag of our common country did gallant service, as all admit—not a thing can be said in their behalf, citizens of the United States as they were, fighting upon a foreign soil as they did, under the flag of their country—nothing can be said in their favor but a contrast must be drawn. Sir, I draw not the contrast. The soldiers who fought to sustain the Union were Americans, fighting for what they believed to be right, and they were successful. I and gentlemen who are around me fought, and honestly, too, for what we believed to be right, and we went down, and when we surrendered we surrendered as honorable men; and we had a right to expect that when the tomahawk was buried, when by the very terms of the Constitution we were admitted back to our seats in this Senate Chamber and have done our duty here faithfully and truly, it would not be hurled into our teeth "it is by the bounty of your conquerors that you hold these positions." Sir, it is not the way that I believe is true between man and man trying to do right. I hold that every man upon this Senate floor is trying to serve his country according to his oath to the best of his conscientious convictions. I hold that no man here is superior to me, notwithstanding that in the late war it was my fortune, good or ill, to fight under the stars and bars; but as an honorable man, proving true always to his colors, when I come back to the Union I am as true as any man who lives on this earth in my judgment.

Look at the record of the Senate Chamber and find the instance where I have failed to reward in the most generous manner when a committee would come in here and say it was right the soldiers of the late war, and where any on this side have failed to vote for pensions and for bounties where they were reported by the appropriate committee. Have we attempted to decry, or in the slightest manner in any way detract from those who fought under the flag of the Union in the late war? Then why all this? What is the purpose? Sir, the very purpose of this, in my judgment, is by attempting to bring up this contrast to array the soldiers in the Union Army in some sort against the poor veterans of the Mexican war, rapidly passing away, not millionaires, as may be the one mentioned by the Senator from Massachusetts, but mostly poor men. The exceptions are rare, and the exceptions but prove the rule. When we come in and show that not only have these men served their country, and served their country well, but they have given to this country this grand empire to which I have referred, we say that there is an equity in their claim which an upright, honorable, and honest American Senate ought to respect.

Mr. BLAINE. Mr. President, I did not get as distinct an answer as I desired, when I imposed myself on the Senate a short time ago, to the question which I should like to have answered now; and that is whether the pension laws, as they exist in the statutes of the United States to-day, withhold any possible thing from the soldiers of the Mexican and Florida wars that was given to the soldiers of the war for the Union?

Mr. INGALLS. I can answer the Senator. They do not.

Mr. BLAINE. The Senator on my left, who will be recognized on both sides of the Chamber from long service on the Pension Committee as especially well posted and learned in all the pension laws, answers me, as I presumed he would, that they stand on exactly the same footing. Now, this bill is to change the footing, and, in the language of the Senator from Texas, to change it really because of the superior service that these men rendered, to change it because these men did something above and beyond what anybody else did. The Senator was pleased to recount what we might get annually out of the custom-houses on the Pacific coast, which all flowed into our coffers by reason of the achievements of the soldiers of the Mexican war. Before the honorable Senator from Texas carries that asset entirely to the credit side of the ledger he is now opening I should like him to answer me where he thinks those revenues would be to-day but for the prowess of the soldiers of the Union.

Mr. SAULSBURY. Will the honorable Senator from Maine allow me to interrupt him a moment?

Mr. BLAINE. Certainly.

Mr. SAULSBURY. I am not much of an advocate for the pending bill, but certainly the Senator from Maine misunderstood the argument of the Senator from Texas. This bill is asked to be passed because, by reason of the length of time that has elapsed, the men who served in the Mexican war are now aged and infirm.

Mr. BLAINE. I understood that perfectly, and I looked around and saw the aged and infirm Senator from Kentucky, [Mr. WILLIAMS,] and I saw the aged and infirm Senator from Illinois, [Mr. LOGAN,] and I saw the aged and infirm Senator from Texas [Mr MAXEY] who has just spoken, and I saw the aged and infirm junior Senator from Missouri, [Mr. VEST,] who I understand was a gallant soldier in the Mexican war. They are all right before us.

Mr. SAULSBURY. I simply wanted to correct the Senator as to the ground on which the bill is based.

Mr. BLAINE. And I saw my distinguished friend from Rhode Island, [Mr. BURNSIDE,] also aged and infirm like the rest. [Laughter.]

Mr. SAULSBURY. I simply wanted to call the Senator's attention to the fact that he seemed to misunderstand the argument of the Senator from Texas. He did not base the advocacy of this bill on what the Senator from Maine said he did, the achievement of the soldiers of the Mexican war, but he simply adduced that as an argument for this bill based on the length of time since the service was performed. That was all. He did not put it on the ground the Senator from Maine states.

Mr. VEST rose.

Mr. BLAINE. I was informed that the honorable Senator from Missouri—I could scarcely believe it with his fair hair and ruddy face and youthful appearance that my honorable friend from Missouri could have been there, and he will understand that I was giving him no offense when I was adding that to the many honors of his illustrious career.

I did not forget that point. I understood that in the amendment of the Senator from Georgia that the generous tender was to be tailed on to this bill, if we would take it, that if the soldiers of the Union, who are possibly in the most indigent circumstances, will just drag on in that condition for seventeen years, the democrats would proffer relief. That was plain on the forefront of the motion of the honorable Senator from Georgia.

Why, look, Mr. President. It is but a few days since we had a discussion running over several morning hours as to whether a scout, whose heroic services were vouched for by both the Senators from West Virginia, for whose pension I voted, influenced by their presentation of facts, should receive a pension; and in the case of that man who had served the cause of the Union against the rebellion almost the whole four years of the war upon a field of peculiar and exceptional peril the Senate of the United States debated on four different days as to whether he came within the exact line and letter of the statute. He was a disabled man; that was not denied; he was a wounded man; that was admitted; he was a man of exceptional and great heroism, every one avouched it, and two democratic Senators whose veracity would be questioned nowhere stood as the special sponsors for it.

Mr. MAXEY. I beg to remind the Senator from Maine that in the very case to which he refers I not only voted but spoke in favor of that bill.

Mr. BLAINE. I am not laying it at the door of any Senator that he voted for it or against it. I am only calling to mind the fact that it was a seriously contested question whether under the law we should admit that man; and we were warned by the Senator from Virginia, the chairman of the Committee on Pensions, [Mr. WITHERS,] and I believe by the honorable Senator from Illinois, [Mr. LOGAN,] whose devotion to the soldiers of this country will never be questioned, that the pension laws ought to be kept within restraint, and he gave very strong reasons for it, reasons that shook a little my purpose of voting for that man's bill. I am not laying it on that side of the Chamber or on this side of the Chamber. I am only saying that up to this time, in considering the merits and deserts of the soldiers of the Union and measuring those immeasurable deserts and merits by the ability of their country to pay, we have ruled them down by the strict line and plummet. We have made them show injuries; we have made them show disabilities; and when they had shown those injuries and when they had shown those disabilities, and when almost literally their gaping wounds were brought before the Senate of the United States, we compelled them in addition to show that they had received those wounds in the line of duty. And now, forsooth, holding to that line, these soldiers who saved all of which the Senator from Texas has spoken, the honorable Senator from Indiana ventures to reproach this side of the Chamber because they wish to mete equal and exact justice to the soldiers of other wars. The honorable Senator from Texas likens it to a controversy which I was not the first to allude to, to the wars of the Roses and the contentions between the houses of York and Lancaster. I would like the honorable Senator from Texas, in his cultured knowledge of history, to remember that those wars related to a mere change of dynasty, whether York triumphed or Lancaster reigned. But the other war was a war of vindictive separation and ultimate and hopeless ruin, taking out from the Union all that was brought into it by the valor of the soldiers of the Mexican war and adding immeasurably more in addition thereto.

Mr. VOORHEES. Mr. President, this to my mind is the flimsiest masquerade I have ever witnessed in public life and is least likely to deceive anybody. Now, the Senator from Maine knows—and I speak it in no tone of discourtesy to him—that we all know he would not vote for this bill if it was amended according to the proposition of the Senator from Kansas, nor would the Senator from Kansas either, and neither one of them and not a man on that side of the Chamber will rise in his place and say that he will vote for this bill if amended according to their wish.

They are proposing, therefore, to make a bill putting not merely the Mexican war soldier in it, but likewise the Union soldier, all that is left of him—two millions of him—and then intending to vote against it. I call the Union soldiers of the whole country to notice the fact that this amendment is not offered with a view of its ever becoming a law; it is not offered for the purpose of its ever being adopted; it is not intended to pass the bill. The Senator from Maine, with all his acuteness, strategy, and management in rallying the clans here and elsewhere, will not make the Union soldier of the country any more his friend than he is already, for not one of them will be deceived into the belief that he wants this bill amended in order therefore to vote for it and place all the survivors of the Union Army on the pension-rolls? Will the Senator from Maine tell me he will vote for it? Will the Senator from Maine——

Mr. BLAINE rose.

Mr. VOORHEES. I do not yield for the purpose of being interrogated; but if the Senator rises to answer I will let him answer.

Mr. BLAINE. I rise to answer.

Mr. VOORHEES. Very well.

Mr. BLAINE. My motive in voting for that amendment is simply to keep the soldiers of the Union and the soldiers of the Mexican war exactly on a level, where they now stand, and that if the bill goes through for the one it shall go through for the other.

Mr. VOORHEES. Let me finish the sentence for him: and to keep them both off the pension-roll—and he knows it—to keep them both off the pension-roll, with no purpose, no expectation, and no desire to put either upon the pension-roll. That is what I call the attention of the country to, that this is a maneuver, a political maneuver, for a little supposed cheap capital, with no intention to benefit the Union soldier, but with the intention to grossly deceive him into the belief that you want to do it when you do not. That is the whole movement, that is the whole maneuver.

Mr. CONKLING. Will the Senator state whether he will vote for the bill if this amendment prevails?

Mr. VOORHEES. I will vote against this amendment.

Mr. CONKLING. But if the amendment prevails?

Mr. VOORHEES. I will vote against this amendment. I will vote for the amendment of the Senator from Georgia, that when the Union soldiers become old and the lapse of time has borne as heavily upon them as upon the survivors of the Mexican war I will then do for them what I propose to do now for the survivors of the Mexican war. That brings me to consider the general question of pensions for a moment.

The distinction that has been thrown up here by the Senator from Maine is not well taken. After the war of the Revolution we first pensioned those who were disabled by wounds and disease contracted in the service. After a while, when age did for them what disease and wounds did for others—in other words, when the heavy hand of time laid general disability on all of them, when the weight of the frosts, the killing, chilling effects of age came upon them—we finally placed them all on the pension-roll.

After the war of 1812 a similar policy was pursued. We pensioned first those who had lost their health from disease or wounds in the service. After a while, when age disabled the rest of them, we pensioned them all because they were old men and had served well in the days of their youth. We have pensioned, it is true, the disabled men of the Mexican war, and we think (and this brings the argument together) that now the survivors of that war have reached a point in age where their claim should be recognized as we recognized the soldiers of former wars. And when the surviving soldiers of the Union war have lived as long in this way and their hairs are as white and their heads bow as much with the weight of years as the survivors of the Mexican war, then the policy shadowed forth by the amendment offered by the Senator from Georgia will be embraced doubtless by this country.

Sir, the attempt of the Senator from Maine to array the Senate one side against the other on the soldier question was a dismal failure here more than a year ago, and it is a dismal failure now. Let me ask him, with all his fertility of resource in reply, what he or his associates have ever done on this floor or on the floor of the other House beyond or equal even to that which has been done by the party to which I belong? Answer me, what has been done by that side of the Chamber that is beyond or even equal to what has been done by this side, characterized as the side of the confederate brigadiers? The arrears of pensions were left unpaid as long as that Senator's party had power in Congress. He never started the question. He can lift his eloquent and powerful voice now to make a disturbance, and now, as heretofore, with no intention of benefiting the Union soldier. When the practical question of paying the soldier his arrears of pension was before Congress and the country, who led? Not the Senator from Maine, not the republican party, not the Senator from New York, not even the Senator from Kansas, whom I recognize as usually a just man on the subject of pensions, for I have had the honor of serving with him; but the confederate soldier brigadier, the Senator from Virginia, [Mr. WITHERS,] on this side of the Chamber. The bill came from this side of the Chamber, never was passed until the democratic party had power in both branches of Congress; and after it passed and went to your Administration, went to the White House, went to your President, it was a matter of serious and long debate, as is well known, between the Secretary of the Treasury and the President of the United States whether they would not have the veto power interposed and the bill stopped even at that stage. The question was raised seriously whether the money could be found to pay these arrears of pensions. The whole country has taken notice of this, and it is too late, allow me to say to my friend from Maine, for him to make the question now as to who has done most or who has liked best the Union soldier on this floor.

Mr. BLAINE. Will my honorable friend permit me to ask a question? When did the arrears-of-pension bill pass?

Mr. VOORHEES. It passed since I got in here.

Mr. BLAINE. Not since the democrats have had a majority of this body.

Mr. VOORHEES. I know I did more for it than the Senator from Maine, and it passed a democratic House. It passed when there was a so-called republican majority of one and a half or two in this Chamber, but it passed by force of the discussion on this side of the Chamber.

Mr. BLAINE. Who represented the half?

Mr. VOORHEES. I do not believe the Senator from Maine even represented that much of it.

Mr. INGALLS. Will the Senator from Indiana yield to me a moment? I presume he does not wish to be inaccurate in his history. The bill granting arrears of pension was introduced by me, and was passed through the Senate committee when I was chairman of the Committee on Pensions. It was brought up on my motion, and passed under my leadership in January, 1879, before the democrats obtained possession or control of this body.

Mr. VOORHEES. About thirty days before. The shadow of the democratic majority was on this body and the fear of the awe thereof, and they did some things they had left undone until then; and I would like to ask the Senator from Kansas now how often up to that little bridge of time that you stood on from which you were soon to pass away and give place to a democratic majority had it been rejected?

Mr. INGALLS. I cannot say how many times it had been rejected. I had introduced it myself at each of the three Congresses during which I had been a member of the Senate.

Mr. VOORHEES. Then it had been rejected three times. As I said awhile ago, I want to do entire justice to the Senator from Kansas; but for the first time I have reason to believe that he is not dealing with his usual sincerity and straightforwardness on the subject of the Union soldier. I give him credit on the subject of the arrears; but his credit makes the discredit of his party all the more conspicuous; for even with his bright talent shining in the lead among all his party the measure was rejected three times; and it was only when the democratic party was on the very threshold of power and stepping in to take hold of this body, and with a democratic House already in session, that this late act of justice to the Union soldiers

took place. Years and years they had asked for it, and you let it go by; and now at this late day it is sought to make somebody in the country believe that somebody on this side of the Chamber is inimical to the Union soldier and that somebody over there is going some day or other to reap great fruits in the shape of gratitude from the Union soldier on this subject. Just discount that in your political warfare hereafter, if you please; eliminate it from your calculations. The subject has become thoroughly understood; the Union soldier knows it by heart, and he does not hang out any great returns toward the men that are always trying to use that capital and are always exposed in their attempts to use it without any purpose of ulterior advantage or lasting benefit to the soldier himself.

Mr. INGALLS. Mr. President, I do not propose to reply to the assertions the Senator from Indiana has made upon this floor in regard to the motives that have animated and actuated those who have introduced this amendment. That is a matter of which the country must judge. I repel all such accusations for myself, whether any other member of the Senate does so or not. When the Senator talks about masquerading and about bad faith and about an attempt to deceive the Union soldiers, it is an unwarrantable and unjustifiable implication that is unworthy of the Senator and unworthy of this presence.

Now, Mr. President, in addition to what has been said about the discrimination in this bill in favor of the soldiers of the Mexican war and against those who fought for the Union I wish to call attention to this other most pregnant fact: There is not a Senator upon this floor who does not know that of the soldiers of the Mexican war a large proportion came from the South; that they were during the war in the confederate army, and that they are living there to-day, and that if this bill passes with the bar of section 4716 removed you will place upon the pension-roll a very large number of men who served under the rebel flag in the confederate army. I have nothing to say about the policy of that; I have nothing to say about the justice of it; but I affirm that in addition to the unjust and invidious discrimination of pensioning those who do not need a pension, of pensioning those who are able to support and care for themselves, of pensioning those who occupy seats upon this floor, and who occupy other high places in the nation, and refusing to grant to the crippled soldiers of the Union and to their widows and orphans the little pittance that they need, you not only do that, but you place upon the pension-roll a very large number of men under this bill who served in the confederate army under the rebel flag during the rebellion.

Let me read section 4716, which it is proposed by section 5 of this bill to repeal, which reads as follows:

SEC. 5. That section 4716 of the Revised Statutes is hereby repealed.

Section 4716 is:

No money on account of pension shall be paid to any person, or to the widow, children, or heirs of any deceased person, who in any manner voluntarily engaged in, or aided or abetted, the late rebellion against the authority of the United States.

Mr. President, on former occasions I have believed that perhaps the bar of that statute ought to be removed; but when there appears an attempt to remove it in this bill, what is the inevitable deduction? Why is the attempt made to repeal that statute in a bill granting pensions to the survivors of the Mexican war if it is not the intention by removing the bar of that section to place upon the pension-roll a large number of men who served in the rebel army and to place them there while you refuse the pittance of $8 a month to the deserving soldiers of the Union and their widows and survivors and give it to those who do not need it, who are entirely above want and necessity, upon the ground that sufficient time has not elapsed in order to make these men old enough and venerable enough and crippled enough to entitle them to the bounty of the Republic?

Mr. President, I have no desire, so far as I am concerned, to keep in mind or to revive the animosities of the war. I have no objection to granting a pension to every soldier of the Mexican war, whether he was in the rebel army or not, if he needs it; but I ask that when we yield so much of our sentiment upon that subject that you shall at least believe that we are acting in good faith, that we are not attempting a silly masquerade; that we are not attempting to deceive the Union soldiers when we ask you to do the same thing for the veterans of the Union armies of the Republic and their surviving widows that we are willing to do to the veteran survivors of the Mexican war.

I do not undervalue the services rendered by the Mexican war soldiers in behalf of this country; but the geography of the Senator from Texas was not correct. Several of the States that he named were not at all due in the galaxy of the States to the valor of the Mexican war soldiers. They were purchased with the money of the Republic from France when Louisiana was bought in 1804 or thereabouts. But, sir, as has previously been said in this debate, what were the services rendered by the Mexican war soldiers worth compared with what was accomplished by the soldiers of the Union whom we now seek by this amendment to place upon the pension-roll in exactly the same attitude and under the same circumstances, and with the same benefits that you ask and that we are willing to extend to the surviving veterans of Mexico?

Mr. BROWN. Mr. President, this Government, after too long delay, granted pensions to the soldiers of the war of the Revolution without any qualification as to their wealth or poverty.

We had the war of 1812. A long time passed before there were any pensions granted to the soldiers of that war, but the time did come when the Government judged it was proper, on account of the valuable services rendered by them to their country, to grant pensions to the old and decrepit soldiers of the war of 1812. And I recollect no provision in that act that drew any distinction between him who was in the poor-house or the old soldier who lived in good style and had means to support himself. The pension was not for his poverty, but for the valuable service rendered to his country.

About thirty-four years ago we declared war against Mexico, and the soldiery of this country rallied under the flag of the Government and marched to that foreign soil and achieved feats of valor the equal of which have scarcely been known on any other fields. They soon overran the country, humbled the government of Mexico, and dictated terms at its capital; and as the honorable Senator from Texas [Mr. MAXEY] justly tells us, we annexed as the result of that conflict of arms an empire of territory and an empire of wealth. The number of men was comparatively small who achieved this grand result. True, we have since pensioned the wounded and those who were disabled in that war. Time has passed along and many of the old soldiers of the Mexican war, as it has been so well and so eloquently said by the able Senator from Indiana, [Mr. VOORHEES,] are becoming decrepit. They are now mostly old men; all except the youth who went in then are now gray-headed, time-worn, little able to work for their support.

My honorable friend, the Senator from Kentucky, [Mr. WILLIAMS,] in this state of the case, comes forward with his bill to pension those old veterans who were his companions in arms, and the gallant old soldiers of the Indian wars, and we are met here with amendments which seem to us to be intended to defeat this measure. I neither impugn nor question the motives of Senators, but I say it seems to us this is the intention; and if the amendments prevail, that this is to be the effect. The amendment of the Senator from Kansas [Mr. INGALLS] is in substance that all the soldiers who lately fought in the war for the preservation of the Union on the Union side are to be now pensioned. Another amendment, offered by the honorable Senator from Maine, [Mr. BLAINE,] is that the soldiers of the Mexican war are only to be pensioned where it is shown that on account of their poverty their necessities require it.

As I have said, that is an unusual amendment because it has not been incorporated in other bills granting pensions to soldiers who have defended the honor and the flag of their country. It is not a proper time now, I insist, to pension the Union soldiers indiscriminately, nor do I suppose honorable Senators on the other side have any intention of doing so, because the period has not arrived which has brought them to old age or that has caused them on account of their age or infirmities to be unable to work for an honest living. If it were the purpose of Senators to vote to give them pensions indiscriminately now, it would then be the object of my amendment to postpone the operation of that part of the act till as long a period of time is past after the service was rendered as has already passed in the case of soldiers of the war against Mexico and of the Indian wars.

I think it cannot be justly asserted that we of the South have been illiberal in voting pensions to Union soldiers who were disabled by the war. But we insist that the cases are not parallel. It is not proper to put the Union soldier on the pension-roll by the side of the old soldier in the war against Mexico, because the length of time has not passed which disables him by age or infirmity from making his own living by his own exertions or his own labor.

Mr. INGALLS. Will it disturb the Senator if I ask him a question?

Mr. BROWN. No, sir; not at all.

Mr. INGALLS. Does he base the right or claim to a pension upon the lapse of time that has intervened since the close of the war in which the soldier fought, or upon the necessities of the soldier or his surviving widow? I should like an answer to that question.

Mr. BROWN. I will answer the Senator's question by asking him one. Does he in pensioning the wounded officers of the Union Army base it on their necessities, or does he pension the poor and the wealthy who lost limbs all alike?

Mr. INGALLS. There is a class of pensions that are given to those who have specific disabilities resulting from gunshot wounds or loss of limbs, and injuries of that description. There is another class of what are called pensions to dependent relatives, where there is no injury to the person receiving the pension, but where necessity and indigence and dependence must be proved. But my question was for the purpose of ascertaining whether or not the Senator believes that pensions should be granted simply upon the fact of lapse of time since the war closed, or upon the fact that there is a dependence and indigence and a necessitous condition that renders help from the Government desirable.

Mr. BROWN. I think the period that has elapsed in case of the soldiers of the war against Mexico is long enough and that the pensions ought to be granted; and the records will show that neither the Senator nor his party, nor those on my side, have made any exception in the case of wounded soldiers in the Union Army. As we have pensioned all alike without inquiring into their wealth or their poverty, we should pension all alike here without inquiring into their wealth or poverty.

Mr. INGALLS. So we pension all the wounded soldiers and officers of the Mexican war without inquiring into their poverty or their wealth. They all stand on the same platform.

Mr. BROWN. Then it follows when the time has come that it is proper to pension the officers and privates who were not wounded, it should be done without any regard to their poverty or wealth.

Mr. INGALLS. Is it a question of time?

Mr. BROWN. Yes; time has much to do with it, and when the proper time comes to pension the Union soldier, I care not if he is a millionaire, who was a faithful soldier and acted a gallant part, I would vote to pension all alike. All who did the same service should have the same reward.

Mr. CONKLING. Will the Senator from Georgia allow me a minute?

Mr. BROWN. Yes, sir, with pleasure.

Mr. CONKLING. He seems to be discussing this question with candor and fairness.

Mr. BROWN. That is my intention.

Mr. CONKLING. I believe it; and for his information and my own I beg to submit to him this proposition: I understand the Senator to argue that time is the controlling matter, and that had thirty-three years elapsed he would be willing to vote for this amendment in favor of the soldiers of the Union. I think I am right so far.

Now I ask the Senator this question, or rather I submit to him in the form of a query this impression of my own: Although the proportion of men of advanced age who served in the Mexican war is of course immeasurably greater now than in the case of men who served in the war for the Union, I think that speaking positively, speaking of actual numbers, there is a far larger number of men advanced in age who served in the war for the Union than who served in the Mexican war growing out of the fact that the whole number of enlisted men was so immensely greater. Forty-five years I believe was the limit of age which subjected men to the draft. Now, without saying that numbers of men volunteered who were beyond that age, the Senator will see that a very large number of men who served in the war for the Union must be now upwards of sixty. The war for the Union broke out in 1861—in 1860 in reality, but I will say 1861; nineteen years ago. A man who was forty-five years old at that time is now sixty-four years old. Count all these men; and is there not a much larger number than of men surviving who fought in the Mexican war who are even as old as that?

I think the honorable Senator will be compelled, if he will reflect a moment, to agree with me; and if he does, then I beg to ask him, assuming the whole force of his argument, why is it that, with laws now exactly equal toward soldiers of all the wars, we should come in and say that men sixty years old and upward who fought in the Mexican war shall be paid a pension although no injuries were received by them, and that a much larger number of men of equal or greater age shall not be paid a farthing unless they lost limb or health? It seems to me that the Senator's argument would lead him to say that as to this much larger number at least of Union soldiers, the equities which he states applied quite as strongly to them.

Mr. BROWN. Mr. President——

Mr. BLAINE. If the Senator from Georgia will permit me one word in further continuation of what the Senator from New York has said——

Mr. BROWN. I was just going to observe that when I yielded the floor to the honorable Senator from New York [Mr. CONKLING] to make an inquiry, I did not expect he would inject a speech into mine. To the Senator from Maine I will yield with pleasure.

Mr. BLAINE. I only want to inject a further observation, not a speech, and that is in continuation of the suggestion made. I do not believe a war was ever fought, certainly none on this continent, so exclusively by young men as the Mexican war was. It went with a whirl of enthusiasm through the Southwest of this country; the young men everywhere flocked to the standard, and I presume that *per capita* there never was a more irresistible army than marched into Mexico; full of enthusiasm, full of fire, full of youth. I venture to say, taking the age of the survivors—I am only repeating, probably showing the other side what has been said already—that you can find double the number of men over sixty years of age who served in the war for the Union that you can find of men who served in the war with Mexico; double the number.

Mr. CONKLING. Now at least double.

Mr. BROWN. Mr. President, I have listened with patience and with a great deal of interest to the remarks made by the honorable Senator from New York and the honorable Senator from Maine. I have been entertained by the ingenuity with which they have presented their argument; and I have no hesitation in answering. My reply is it will be time enough to meet and act on those questions when they come before the Senate.

When the Senators introduce an amendment here, which they have not done, to limit the period of the age at which a soldier who served in either of the wars shall draw a pension, I may then be prepared to say something on that subject. If the honorable Senator from New York, for instance, chooses now to introduce an amendment to pension a soldier of the war for the Union who is sixty-five or seventy years of age, I may or may not be found voting with him. If he chooses to introduce an amendment here that a soldier who served in the war against Mexico shall not be pensioned until he has arrived at a certain age, I may or may not be willing then to vote with him. But no such question as that which the honorable Senators have pressed on the consideration of the Senate is now before us. I am discussing the bill with the amendments submitted; and I am replying to the arguments which have been made on those amendments. I say that the cases of the Union soldiers and the soldiers of the Mexican war are not parallel; because there were about two millions of men in the Union Army and about one hundred thousand, I believe, in the army against Mexico; and the proportion of old men in the Union Army that served any length of time may not have been much greater than in the Mexican war; but I presume it was something greater, because they were called out sometimes for mere local service for thirty days; and I give the Senators the benefit of all that; but I say that does not affect the question we are now discussing. I will meet the question presented by the two able Senators when it comes in shape for action before the Senate.

The time has come when I think it is proper to pension the soldiers of the war against Mexico and the Indian wars; and when amendments come up as to limiting the period of time or the age when they shall have it I will then consider that question. When interrupted by the three honorable Senators I was discussing the amendment of the Senator from Maine, by which he proposes to pension in the case of the soldiers against Mexico only those who are indigent; and I was attempting to show the Senate that that was an exception never made heretofore in a general pension bill, and that it was not a proper one to make against the men who had performed the feats of gallantry and had achieved the grand results that the men did who fought against Mexico. That is about what I desired to say upon that point.

Now, Mr. President, a few remarks upon another point.

The honorable Senator from New York, [Mr. CONKLING,] it is true, did not say that the Senators on this floor who fought on the confederate side of the late war, which he terms the war of the rebellion, sit here by the grace of the Government, of the Senators on the other side, or of the party to which the honorable Senator belongs; but why, let me ask that honorable Senator, was it necessary to throw out the idea on that point that we sit here under circumstances where the title to our seats might at least by implication be questioned?

The honorable Senator in his interrogatories to the Senator from Texas desired to know whether the result achieved by the Union Army in the preservation of the Union was not much greater, more grand and glorious than the result achieved by the soldiers in the war against Mexico. On this point I desire to say that I must suppose now that Providence overruled our efforts to secede from the Union, and I presume a wise Providence had a grand object in that result, and, if He had, He will doubtless continue to develop His designs until the achievements of the Union Army in restoring the Union may be above comparison with the achievements of any other army that ever went into the field. If I am right as to the Divine will in this matter, then I trust these grand and glorious results may be perpetual, and may bring us, with good government, unbounded wealth and unlimited prosperity.

But why, let me ask, are we thus told by the Senator from New York, gently, delicately, mildly, that we hold title to our seats here by grace? Your armies fought, as you claimed, for the preservation of the Union; you could not preserve it without representatives from all the States in this Chamber. The Constitution of our fathers, the compact of union of our fathers, requires that each State shall have two representatives of her own free choice in this Chamber; and I care not how long a State has been in rebellion, when she lays down her arms and you refuse to permit her Senators to come back into this Senate and occupy their seats you do that which you did not profess to do during the war; you destroy the Union of the Constitution by refusing to permit the different departments of the Government to perform the functions required by the Constitution.

The State of Georgia has a right to two Senators on this floor under the Constitution of the country, and they hold their seats here by the grace of no political party, of no Government, of no department of Government, and of no other power on the face of this earth except a guaranteed right under the Constitution of the United States. We sit here as matter of right, and not as matter of grace.

True, we attempted to go out of the Union. I grant it. I was a secessionist, earnest and active; I mince nothing about it. Georgia sent about one hundred regiments into the field against you, organized by me as governor of my State or called in under the conscript act of the Confederate States, which, as all know, I did not approve. We fought you honestly. We were as earnest, as honest, as bold, and as gallant as you were in the struggle. We believed we were right.

Mr. KIRKWOOD. And believe it yet?

Mr. BROWN. Yes, sir; I believe it yet. I say we were right on principle at the time. I will give the Senator the full benefit, and then I will say frankly to the Senator from Iowa two great questions brought the war about. They were slavery and our differences on the right of secession. Two great questions, the discussion and agitation of which shook this country from center to circumference. Bold men, enthusiastic men, I may say patriotic men, each believing they were right advocated their own ground with zeal and ability.

We of the South believed we had a right to slavery guaranteed by the Constitution of our fathers. The people of New England and Old England imported the slaves. You did not find it profitable to continue to use them, and you sold them to our fathers. As you did not find it profitable, and it could be made profitable in the South, you sold them to our fathers, took their money, which you put into

brick and mortar, factories, shipping, and other profitable investments that built you up and made you a great people. I would detract nothing from your merits. I admire your industry, I admire your educational institutions, and I admire your prosperity, and wish you well in it.

Your people, after the importation of slaves had ceased, became dissatisfied with slavery when we became prosperous with it, and without going over the ground so often occupied, which I do not intend to do here, suffice it to say we reached the point where you had elected a President on a sectional issue against the extension of slavery, and we of the South thought we saw in this no other alternative than the ultimate downfall of slavery, or the exercise of what we considered the inherent right of secession and withdrawing from the Union.

On this issue you resorted to arms to compel us to remain in the Union. We met you in the high court of your own choice, knowing that on the issue of that litigation was involved the question of slavery as well as the right of secession. I believed then and I believe now that the right of secession was inherent in the several States, but when we staked it upon the issue as joined we were bound honorably and in good faith to abide by the judgment of that highest of human tribunals, the *ultima ratio regum*. The result of that litigation in that high court of last resort was the arbitrament of the sword that slavery was abolished, perpetually, forever abolished, and must always remain abolished, and that ours is an indestructible Union of indestructible States. And as I said in the Senate the other day, while I would have given my life then to maintain our institution of slavery, believing it was for the best interests of both races, morally, politically, socially, and religiously, yet, if by turning my hand over to-day I could reinstate it I would not do so. I accept the result, feel bound by the judgment, and shall never move for a new trial. And I say the same as to the question of secession; I consider it forever settled.

I did think a State had the right to secede, and still think it had, but the decision of that high court, as already stated, was against the right and against my judgment of the right, and I feel bound by that decision, which settles the question finally, perpetually, forever.

Now, will the Senator from Iowa please put that with the other answer? That is where I stand. I hold that a great war like the late war between the States always settles something. The war of the Revolution settled something. We went into that war the subjects of Great Britain; we came out a free country, with free and independent States. There was no question that the English government had the right to control us as colonies under her charters before that war. It is equally clear that she has no right to do it now. Why? Because the war settled that question and settled it forever. It settled it against England; it settled it in our favor, and we are no longer the subjects of the British Crown. In this view of the subject it must be admitted that wars do often legislate, or at least they decide disputed rights.

Mr. KIRKWOOD. Will the Senator allow me?

Mr. BROWN. Not this moment. The parallel, to some extent, of the war of the Revolution is the war of the rebellion, as you term it, and as we must all term it on account of our failure. At the time we did not so consider it. If we had succeeded we would have been patriots and heroes, but having failed we were rebels; consequently we must accept the term "the war of the rebellion." That war settles it permanently and absolutely that slavery is dead and that the right of secession is lost and gone forever, just as the war of the Revolution settled the fact that we were no longer colonists of the English government. But while that was true, it did not settle the fact that the States had no rights in the Union. It settled, and settled perpetually, the question of our right to go out. That will never be contested again, but we stand with whatever reserved rights we originally had in the Union under the Constitution, with the perfect right of State representation upon this floor, without favor or grace from any quarter, and with the perfect right of local self-government as practiced by the fathers, limited only by the new amendments to the Constitution. And so has the Supreme Court of the United States in effect decided since the war.

Many of the Senators on the other side were whigs originally, and I will admit that we stand to-day in this Government more nearly upon the original platform of the whig party than that of the democratic party, to which I belong and in whose fold I was reared. We cannot now stand to the full extent upon the doctrines of Mr. Jefferson and Mr. Calhoun, because the war, so far as the right of secession is concerned, has settled that against us; but we can stand upon the doctrines of Clay, Jackson, and Webster as to the rights of the States. And there is where I think we do stand, and where all States and parties should continue to stand.

Now a word further in reference to our right to be here. I admit at the end of the war, when we were the vanquished you were the conquerors, and I as an original secessionist, believing we had gone out of the Union and had been conquered, admitted your right to dictate the terms as conquerors.

When President Johnson committed the great mistake of not calling Congress together and submitting his plans to them before he attempted to reconstruct the Southern States, and dictated his terms, I advised our people instantly to accept them. Why? Because as I understood it we had seceded and you had made war upon us, and in that war you were the conquerors, and you had a right to dictate the terms; and as the President alone, in the absence of Congress, represented the conquerors, I bowed to his dictation. We had no one else to appeal to.

When Congress assembled, and the republican party being largely in the majority, repudiated his action and took the matter in hand, you dictated terms that we of the South thought very hard; but hard as I thought they were, as a matter of *necessity* and because there was no escape from it, I advised our people at once to recognize your authority, acquiesce, and promptly comply with your dictation. We had tried resistance to your authority when we had nearly half a million of gallant men under arms, and by your superior numbers and resources you had decimated our ranks and compelled us to surrender. At the end of the struggle you had, I believe, over twelve hundred thousand troops organized and on your muster-rolls, in service and ready for service. Having failed to make effective resistance while our armies were in the field, I saw no hope of it after they had surrendered and you remained armed and equipped in all the plenitude of your power. In this state of the case I was satisfied the wisest thing our people could do was to agree with the adversary quickly. I thought it of the first importance to get back into the Union and get rightful representation in Congress as States, even upon the unjust terms of your dictation. And I so advised our people.

It is true I went through a hard ordeal on account of that advice, but I have never yet regretted it, because I thought it was best for my section and best for the whole country. And I think it will be generally admitted that time has proven the correctness of my judgment. I then stood upon the platform of acquiescence in the reconstruction measures dictated by Congress. I still stand there. The democratic party of the whole Union stands there to-day, and has stood there for the last eight years. I supported Grant in 1868. The national democratic party supported Greeley in 1872. It seemed to me we were then together again. And I have constantly acted with them since then. But at that time other eminent gentlemen differed with me. They were honest as I was. I impugn the motives of nobody. I only speak of the history of those events. I am aware, gentlemen, that you considered us still very rebellious, because the section to which I belonged, the States lately in rebellion, did not instantly acquiesce in everything you dictated. Let us look at this a little and see if you ought not to have viewed our course with a little more fairness, not to say charity. It seems to me justice required that in passing upon our acts you should have taken into the account our true condition and the great embarrassments of our situation.

We may have made a great mistake in going into the war. I think, however, there was no other way on earth to get rid of the slavery question. It was only a question whether we would fight it out or our children would have to fight it out. Be that as it may, we went into it a wealthy people. We lost by the results of the war over two thousand millions of dollars' worth of slaves. We supported our own armies for four years out of our substance. It is true the confederate government and the States issued bonds and notes, but at the end of the war you required us to repudiate them absolutely; and I admit you had a shadow of reason for that. It was said there were Union men in those States, and Union men had a right to go there and settle, and that no Union man should be taxed for the purpose of paying the war debts of the Confederate States. That was the most feasible grounds on which you put it. Suffice it to say that you required us to repudiate those obligations, and the result was as stated, we supported our armies for four years out of our own substance.

Then we returned to the Union as soon as you would let us. It is true we were in rather an awkward dilemma for a time. During the war you said we had no right to go out; that we never were out; that our ordinances of secession were nullities; that we were all the time in the Union. Well, we surrendered, after we had made as gallant a fight as we could, and we came back with our representatives ready to acquiesce in your theory, and in good faith resume our place in the Union, and you refused to admit us. You said we were in while we were fighting you, but we found we were out when we laid down our arms. However, after a long struggle you did admit us, but on what terms? You, by the fourteenth constitutional amendment and the reconstruction acts, disfranchised every man who had held office and taken an oath to support the Constitution from voting for delegates to the conventions held under the reconstruction acts, and after that period, not from voting, but from holding office until relieved by Congress.

Well, now look at that. You will at least admit that the people of the South were a gallant people. And you can readily imagine how keenly they felt terms of that character. They thought it was hard, even cruel, that you should impose such terms; but you did impose them. Furthermore, when you finally let us back into the Union, we of course had to assume our part of the expenses of the war on your side. In other words, in proportion to our means we had to pay our part of the debt contracted for the support of the Union armies, and not only so, but we have to pay our part of the very large sum that is now annually appropriated to pension Union soldiers, and I grudge not a dollar of it to them, for they were gallant men fighting for their honest convictions. On the other hand I think you should sympathize with the poor maimed soldiers who on our side felt that he was fighting in as sacred a cause as yours, and believed he was right, who can draw no pension because he was on the weaker side.

But that was not all. You set our slaves free as I have said, and then very soon after that you put the ballot in their hands to go to the polls by the side of those who had lately been their masters and owners and exercise the elective franchise.

Now, I beg Senators to remember that all these things taken together were very trying to a gallant people. A people who had gone into the war from honest conviction that they were right, who had lost in the contest under circumstances like these would very naturally feel the defeat and the terms imposed by the conqueror keenly, and it would have been remarkable if there had been no riots, no bloodshed, no lynch law, nothing there to disturb the quiet of society. It is only remarkable, when we think of all we had to undergo in the reconstruction period, and the losses of the war, and the irritations growing out of it, where every family had lost a father, a brother, or a son, to say nothing of property, not that we should have had so much of disorder, but remarkable that we did not have more of it. Place yourselves in our situation, with our misfortunes, and tell me if you think your people would have acted with greater moderation or less of violence.

Now the Senator from Kansas [Mr. INGALLS] tells us that if this bill passes we put upon the pension-rolls a portion of the old Mexican soldiers and the soldiers of the Indian wars who fought in the war of the rebellion under the rebel flag. I have no doubt that will be so, because they were as gallant a body of men as you ever knew when they fought under the Union flag. And when their section was invaded, and they were satisfied they were right, they rallied to arms and they did fight like heroes under the rebel flag. But, after all the hard terms you put upon us, after all we have had to suffer, as just recited, are these gallant old heroes to be still further punished? Is the bloody shirt to wave forever? Is there to be no time when the offense of fighting gallantly for honest convictions is condoned?

We do not ask you, Senators, to pension them because they fought in the war of the rebellion, but give them pensions because they fought in the war against Mexico, under the flag of the Union. You say you forgive the balance. You do not require us now to take the oath that we did not engage in the rebellion before we can hold office. You permit the mass of our people to go to the polls by the side of their former slaves and vote. Why, then, will you make the point here that these old heroes served in the rebel army when asked to give them pensions for the service done upon a foreign field under the Union flag? I think Senators on the other side will not be so illiberal as that. It seems to me to be illiberality. Now, when the war is over, and you have dictated the terms and enjoyed the results, you might at least be content to waive further reference to the conduct of these gallant men, who were acting under honest convictions during the late civil strife, and give them pensions for valuable services rendered to the Union. Why not?

While on the floor I want to say a few words about another subject that is not exactly germane to this issue, but I shall not have another opportunity, and as it is in reply to remarks that dropped on the first day I sat in the Senate from Senators on that side I ask your indulgence. It is in reference to the treatment of the colored race by the people of the South since the war. I know that much was said about sworn testimony as to riots and bloodshed in the South soon after the war. Much of this testimony was from sources wholly unreliable and unworthy of credit. But I have admitted that there was some of it, and have given you the reasons for it. Now allow me to tell you that that day has passed. In my State—and I can speak more certainly in reference to it because I am better informed there—we have as orderly a community to-day as Senators from the northern section of the Union have in theirs. Law and order reign supreme, and he who inflicts an injury upon a colored man must answer for it to the law. Not only that; the colored race has behaved well; they are working well, and we feel most kindly toward them. Why should we not? They were raised in our households; the master and the mistress of the premises had the responsibility of looking after and caring for them. That responsibility added to the common dictates of humanity and our interest in them made us treat them well. There were some bad slaveholders as there are some bad husbands and guardians in northern States; but such was not the rule.

When the war came the newspapers on your side predicted that it must be of short duration because our negroes would rise in insurrection and soon disband our armies. Well, I confess we were not without some apprehension on that subject, and they could have disbanded Lee's army any moment they had risen in insurrection in the rear. I mention that to show you the kindly understanding that existed between the two races at the time. There was no bad feeling there between them, and during the whole period of the struggle, where they were not torn away from us by the Union armies intervening, they behaved as well as any race could behave, and I take pleasure in testifying to it.

When General Sherman invaded the territory of my State and I called out, in addition to the very large number in confederate service, the old men up to fifty-five and the boys down to sixteen, it was an extraordinary levy on account of the invasion. The whole manhood of the white race was in the martial field and the whole manhood of the colored race was in the corn-field and the cotton-field. They had it in their power to disband our armies, but they did not choose to do it, and when the news would come of one of Lee's or Stonewall Jackson's brilliant movements and splendid victories, I have seen them throw their caps high into the air and shout for joy over it. The only inquiry was, "How is Massa John or Massa Tom? Is he out safe?" Hence I say we have no reason to feel unkindly toward them.

Then again at the end of the war when you gave them the ballot by our side without education, without training, without any state of probation, it was certainly a dangerous experiment. We anticipated, it is true, great trouble, and we did have trouble, because that class of men called carpet-baggers, who were adventurers, who had no stake at home, came down and took charge of them and often misled and deceived them, and in that way we had trouble, but take it altogether they behaved then—and I take pleasure in testifying to it—better than probably almost any other race would have done under similar circumstances. Then I say we are not hostile to the colored race. We are their friends and they are our friends.

Now, a little further. Soon after the war, and during the reconstruction period, the question of their education came up. It was a very vexed question. The leaders of the two races came together when the first Legislature under the reconstruction acts was in session—and a considerable proportion of it was colored—to confer on that subject as to what was best to be done. I recollect a delegation of them came to my office—I was then on the supreme bench as chief-justice of my State—and asked my advice about it, and I know they asked the advice of other gentlemen very freely. I said, "We cannot have mixed schools; you build a school-house for your children on one hill, and we will build for ours upon another, and we will divide the money with you honestly and faithfully; you shall have your honest *pro rata* according to the number of children you have within the school age, and though we have to pay it—and as a people we are left very poor—we believe it right that you have your part of it, and we will see that you get it." At the time we could not make large appropriations for that purpose, but we did the best we could and divided the fund fairly. It has since increased till I see by the last report of our able State school commissioner we now raise and apply to public schools in our State about $400,000 annually.

Mr. TELLER. I wish to ask the Senator what Legislature he speaks of?

Mr. BROWN. I speak of the reconstruction Legislature, the one immediately after the reconstruction convention.

Mr. TELLER. The Senator I suppose does not speak of the Legislature that assembled before the ballot was given to the colored people in his State.

Mr. BROWN. Before what, sir?

Mr. TELLER. You had a session of the Legislature before the colored people were given the ballot, had you not?

Mr. BROWN. Yes, there was a session of the Legislature under the Johnson government, as you may term it.

Mr. TELLER. In the Legislature that assembled after reconstruction the negroes had control of the Legislature by their numbers, had they not?

Mr. BROWN. No, sir; there was not more than a third; I do not remember the exact number, but my recollection is there was not quite a third of the members who were colored men. The white men had the control of the Legislature.

The question came up also as to the education of their sons at college, and they asked what about that. We said to them, "In the present state of feeling here if you send your sons to college with ours there will be trouble and probably it will break up the college, but we will build you a college; select your place; we will appropriate money out of the treasury to construct your buildings for you, and we will appropriate exactly the same amount annually to your college that we do to our own, or if you will adopt a college that a noble charitable society of New England has already located in Atlanta, and they will waive the denominational feature, we will adopt that as the colored college of the State, and we will make the appropriation to it.

Prior to that time we had appropriated annually $8,000 to our State university. That year we appropriated $8,000 each to the college for the whites and the college for the colored. A colored member went into the Legislature and moved that the schools be kept forever separate. A white member thereupon moved that the colored race should have their fair proportion of the fund. Both propositions were adopted, and a fair division was made. It was just and it was right. It was true one of the executives of the State since did recommend that the $8,000 a year to the colored college be discontinued for what he considered good reasons, but after the question had been thoroughly canvassed in the Legislature the appropriation was made by a majority so overwhelming that there was scarcely any division upon it. Then when our convention of 1877 met, which framed our present constitution, they incorporated into it the fundamental principle that the State should continue to make suitable appropriations to maintain a colored college.

The city of Atlanta maintains a system of public schools. It employs sixty-odd teachers in the public schools. They are paid out of the treasury by taxation of the people. Part of the schools were built for the colored race and part for the white, and they have had equal justice there all the while, and there is no complaint whatever; at least I hear none, and I have been a member of the board since its organization. Therefore I say the colored people are satisfied. We have given them fair play in the educational system of the State throughout.

We employ the colored people. They are the best laborers we can get. You may talk about German immigration, Chinese immigration, or any other immigration into the State, I would not give the negro as a laborer in the cotton-field for any man of any race. They are laboring there faithfully and we are paying them justly, and we intend to continue to do so. Many of them are accumulating property. We are glad of it. We feel kindly toward them. We wish them well. You made them citizens and we now wish to aid them to be good citizens, and to become useful members of society. To that end we shall do all in our power.

I know I should beg the pardon of the Senate for making this digression, as it is not germane to this particular debate; but while on the floor I have asked the privilege, because I think some honorable Senators on the other side the other day, from the tenor of their speeches, whatever may have been the case in the past, did not understand the facts of the case or the relations as they exist between the two races in our State at the present time.

Now, Mr. President, I have gone through substantially what I desired to say. I have already said that we are paying our part of the taxes to pension your wounded soldiers, and we do not grudge it to them, though we deeply deplore the fact that ours have no pensions. The only chance, probably, for the South to have a little in return is for you to give pensions to these old Mexican veterans, and veterans of the Indian wars. I know Senators on the other side cannot be charged with want of generosity; but, I ask, is it generous in the present state of the case to refuse a little pittance to those men who composed that grand army of invasion of Mexico, the superior of which, according to its numbers, has never been known upon the planet that we inhabit? I appeal to Senators to withdraw the objection, and, at least, do that much for the men who served so gallantly under the flag of the Union so long ago, both in the Indian wars and the Mexican war, and do not lay to their account the fact that, pursuing their honest convictions, they have since served their own States and their own section in what you term the war of the rebellion. It seems to me, after all that has been condoned and all we have suffered, that might be passed over on this occasion, and that your magnanimity might prompt you to act liberally toward them.

When we returned to the Union we did so in good faith. The question of the right of secession is settled forever, and with its settlement our faith is pledged to stand by and defend the Constitution and the Union. In the field you found the southern armies to be brave men, and brave men are never treacherous. Should our relations with foreign powers at any time involve this Government in war, the people of the North will have no reason to complain of the promptness, earnestness, and gallantry with which the people of the Southern States will rally around the old flag and bear it triumphantly wherever duty calls. If that emergency were now upon us, the comrades in arms of Sherman and Johnston, who once confronted each other with such distinguished heroism, would rally together in the cause of the Union, and, vying with each other, would perform such prodigies of valor as the world has seldom witnessed. This being the present condition of the country, the present feeling of the great masses of people on each side, let us do justice to each other, restore cordial and fraternal relations, and folding up the bloody shirt let us bury it forever beyond the reach of resurrection; and let us unite in the enactment of such laws as will show to the world that we are once more, not in name only but in reality, a united people, ready to do equal and exact justice to all. And let us move forward grandly and gloriously in united efforts to restore to every section of the Union substantial, growing, material prosperity; and we will then bring to the whole country peace, happiness, and fraternal relations. This seems to me to be a consummation devoutly to be wished by the patriotic people of all parts of the Union.

Mr. THURMAN. If I thought this bill could be finished to-night I should be perfectly willing to sit it out. I am inclined to think, however, that it cannot be finished to-night, and as we can have, I think, nearly or quite the whole of Monday to consider it, and to consider all that has been suggested on both sides, and inasmuch as there is certain executive business to which I can only allude so far as to say that it ought to be attended to——

Mr. MAXEY. I hope the Senator from Ohio will give me just one moment before he makes the motion. The Senator from Kansas, doubtless laboring under a misapprehension, said that I had stated the history of the acquisition from Mexico inaccurately. I shall not revise the Reporter's notes and he will find my remarks just as I have spoken them, and they are correct, with the slight exception that the country south of the Gila was acquired by the Gadsden purchase, a small strip; otherwise the fact is exactly as I stated.

Mr. THURMAN. The Senator from Florida [Mr. JONES] asks to make a report from a conference committee. Of course that is a privileged question.

TRESPASSES ON PUBLIC LANDS.

Mr. JONES, of Florida, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 1846) relating to the public lands of the United States, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows, namely:

The following shall be a substitute for, and enacted in lieu of, section 1 of the bill as amended by amendments of the Senate thereto, to wit:

"That when any lands of the United States shall have been entered, and the Government price paid therefor in full, no criminal suit or proceeding by or in the name of the United States shall thereafter be had, or further maintained, for any trespasses upon, or for or on account of any material taken from said lands; and no civil suit or proceeding shall be had or further maintained for or on account of any trespasses upon or material taken from the said lands of the United States in the ordinary clearing of land, in working a mining claim, or for agricultural or domestic purposes, or for maintaining improvements upon the land of any *bona fide* settler, or for or on account of any timber or material taken or used by any person without fault or knowledge of the trespass, or for or on account of any timber taken or used without fraud or collusion by any person who in good faith paid the officers or agents of the United States for the same, or for or on account of any alleged conspiracy in relation thereto: *Provided*, That the provisions of this section shall apply only to trespasses and acts done or committed, and conspiracies entered into, prior to March 1, 1879: *And provided further*, That the defendants in such suits, or proceedings, shall exhibit to the proper courts or officer the evidence of such entry and payment, and shall pay all costs accrued up to the time of such entry."

The Senate shall recede from its amendment striking out section 3, and agree to said section with an amendment, which amendment shall be as follows:

"Strike out the words 'more than twenty years prior to the passage of this act,' and insert in lieu thereof the words 'and put in market prior to January, eighteen hundred and sixty-one (1861.'")

That the House recede from its disagreement to the amendment made by the Senate to section 4 of the bill, and agree thereto.

CHAS. W. JONES,
JOHN T. MORGAN,
NEWTON BOOTH,
On the part of the Senate.
H. A. HERBERT,
GEO. D. ROBINSON,
W. D. WASHBURN,
On the part of the House.

The PRESIDING OFFICER, (Mr. MORGAN in the chair.) The question is, Will the Senate proceed to the consideration of the conference report?

The motion was agreed to.

The PRESIDING OFFICER. The report is before the Senate.

Mr. JONES, of Florida. I move that the Senate concur in the report.

The motion was agreed to.

EMIGRATION OF NEGROES TO NORTHERN STATES.

Mr. THURMAN. I move that the Senate proceed to the consideration of executive business.

Mr. WINDOM. Mr. President——

The PRESIDING OFFICER. The question is on the motion of the Senator from Ohio, that the Senate proceed to the consideration of executive business.

The motion was agreed to.

Mr. WINDOM. While the doors are being closed I desire to say that in accordance with previous understanding I shall ask consent of the Senate at half past twelve o'clock Monday next to make some remarks on the exodus question.

EXECUTIVE SESSION.

The Senate proceeded to the consideration of executive business. After seven minutes spent in executive session, the doors were reopened, and (at seven o'clock and five minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, *June* 12, 1880.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

MISSISSIPPI RIVER LOGGING COMPANY.

Mr. DUNNELL. I ask unanimous consent to take from the Speaker's table for present consideration the bill (S. No. 1371) to authorize the Mississippi River Logging Company to construct and operate sheer-booms at or near Straight Slough. I will say there is on the House Calendar, reported from the Committee on Commerce, identically the same bill. It passed the Senate unanimously.

The bill was read, as follows:

Be it enacted, &c., That it shall be lawful for the Mississippi River Logging Company, a corporation organized under the laws of the State of Iowa, to construct and operate, in conformity with plans to be approved by the Secretary of War, sheer-booms in the Mississippi River, at or above the head of Rollingstone Slough and below the mouth of the Chippewa River, for the purpose of sheering logs that may escape and float out of the Chippewa River and into the Mississippi River from the main channel of said river into Rollingstone or Straight Slough: *Provided*, That said sheer-booms shall not be constructed until the plans and location of the same are submitted to the Secretary of War and receive his approval, or so constructed as to interfere with or obstruct navigation: *And provided further*, That if, after said sheer-booms are so constructed, in the opinion of the Secretary of War they interfere with or obstruct navigation, he may order them removed or modified, and the said Mississippi River Logging Company shall be required to remove the same without cost to the United States.

SEC. 2. That the said Mississippi River Logging Company are hereby authorized to construct, in Rollingstone or Straight Slough, such piers and booms as they shall deem necessary for the purpose of securing, holding, sluicing, and rafting logs that may float into said slough.

SEC. 3. That this act may be altered, amended, or repealed at any time, and in case of such alteration, amendment, or repeal, it is expressly provided that the United States shall not be liable for any damages that may be sustained by reason thereof.

Mr. DUNNELL. I move that the bill be read a third time.

Mr. ACKLEN I will state that the bill has also been reported favorably by the Committee on Commerce of the House.

Mr. DUNNELL. I hold in my hand the House bill and also the report by the committee.

There being no objection, the bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. DUNNELL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. STEVENSON. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. STEVENSON. It is whether all the members of the House are to be recognized to make requests for unanimous consent?

The SPEAKER. That is a question of time. The Chair is quite willing to recognize all. The reason the Chair is recognizing gentlemen on his left to-day is that he recognized three more gentlemen yesterday on the right of the Chair than he did on the left.

Mr. SPRINGER. I ask unanimous consent that one hour in lieu of the morning hour be devoted to entertaining requests for unanimous consent.

Mr. ACKLEN. I move to amend that, so that the States shall be called and members who have not yet been recognized by the Speaker when their States are called shall be recognized. That is the fair and equitable way.

Mr. SPRINGER. I have no objection to that.

Mr. TOWNSHEND, of Illinois. Let all the States be called.

Mr. RYAN, of Kansas. That is equitable and just.

Mr. HOUK. Let the call be continued until all the States are called.

The SPEAKER. The Chair understands the proposition to be that the States be now called, and one member from each State be recognized to submit a proposition for unanimous consent.

Mr. BOUCK. I object.

The SPEAKER. Objection is made.

Mr. CHITTENDEN. I ask unanimous consent that House bill No. 4450, to change the name of the steam-tug Charlotte and Isabella to Maud, be now considered.

Mr. TOWNSHEND, of Illinois. I object to that for the purpose of moving to suspend the rules so that the States may be called and every member have an opportunity to ask for unanimous consent for some proposition.

The SPEAKER. The gentleman objects to the proposition of the gentleman from New York, [Mr. CHITTENDEN.]

Mr. TOWNSHEND, of Illinois. I object on that ground.

The SPEAKER. The gentleman cannot object with a qualification.

Mr. TOWNSHEND, of Illinois. Then I move to suspend the rules for that purpose.

The SPEAKER. The gentleman is not recognized for that motion. If the regular order is demanded there will be a morning hour.

Mr. TOWNSHEND, of Illinois. I withdraw my objection to the proposition of the gentleman from New York, [Mr. CHITTENDEN.] I do not wish to interfere with any gentleman getting his bill through.

Mr. SINGLETON, of Illinois. I call for the regular order.

The SPEAKER. The regular order is the morning hour.

Mr. SPRINGER. I move that the morning hour for to-day be dispensed with.

The question was taken upon the motion of Mr. SPRINGER; and upon a division there were—ayes 73, noes 23.

The SPEAKER. Two-thirds have voted in the affirmative.

Mr. ATKINS. I rise to make a privileged report.

Mr. WHITE. No quorum has voted; and I call for tellers.

The SPEAKER. Tellers will be ordered, no quorum having voted and that point being made. The Chair appoints the gentleman from Illinois, Mr. SPRINGER, and the gentleman from Pennsylvania, Mr. WHITE, to act as tellers.

Mr. TOWNSEND, of Ohio. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. TOWNSEND, of Ohio. What will be the effect of dispensing with the morning hour?

The SPEAKER. If the morning hour be dispensed with, then the House will proceed with its business under the rules.

The House again divided, and the tellers reported that there were—ayes 43, noes 41.

So (two-thirds not voting in favor thereof) the morning hour was not dispensed with.

HOT SPRINGS RESERVATION,

The Speaker announced the appointment of Mr. DUNN, Mr. CONVERSE, and Mr. RYAN of Kansas, as the conferees on the part of the House on the disagreeing votes of the two Houses on the bill (H. R. No. 4244) for the establishment of titles in Hot Springs, and for other purposes.

COMMITTEE ON LIBRARY BUILDING.

The Speaker announced the appointment of Mr. GEDDES, of Ohio; Mr. COOK, of Georgia; and Mr. CLAFLIN, of Massachusetts, as the members on the part of the House on the Joint Committee on the Library Building.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. HUBBELL, for the remainder of the week; and

To Mr. MONROE, for to-day, on account of sickness.

ORDER OF BUSINESS.

The SPEAKER. The morning hour begins at twenty-five minutes past eleven o'clock, and the call rests with the Committee on Commerce.

COMPRESSED ILLUMINATING GAS FOR LIGHT-HOUSES, ETC.

Mr. BEALE, from the Committee on Commerce, reported back, with amendments, the bill (H. R. No. 5574) to authorize the use of compressed illuminating gas in light-houses, beacons, and other aids to navigation; which was referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

PENSIONS.

Mr. COFFROTH, from the Committee on Invalid Pensions, reported back, with favorable recommendations, the following Senate bills; which were referred to the Committee of the Whole on the Private Calendar, and the accompanying reports ordered to be printed:

The bill (S. No. 341) granting a pension to Peter Getert;

The bill (S. No. 342) granting a pension to Charles Reed;

The bill (S. No. 370) granting a pension to Phebe C. Doxsie;

The bill (S. No. 635) granting a pension to Emery Bowen;

The bill (S. No. 751) granting a pension to William B. Whiting;

The bill (S. No. 982) granting a pension to Spencer W. Tryon;

The bill (S. No. 1133) granting a pension to Michael Hayne;

The bill (S. No. 1178) for the relief of Jason C. Bradeen;

The bill (S. No. 1185) granting a pension to Jesse F. Phares;

The bill (S. No. 1201) granting a pension to Henry Williams;

The bill (S. No. 1232) granting a pension to Elizabeth Sutherland;

The bill (S. No. 1465) granting a pension to William H. H. Anderson;

The bill (S. No. 1515) to increase the pension of Hiram C. Shouse;

The bill (S. No. 1652) granting a pension to the minor children of Lawrence Burgess;

The bill (S. No. 1662) granting an increase of pension to Levi Anderson, late private Company A, Seventh Kansas Volunteers;

The bill (S. No. 1698) granting an increase of pension to George J. Webb; and

The bill (S. No. 1711) granting a pension to Hannah S. Mackey.

Mr. COFFROTH, from the same committee, also reported back, with favorable recommendations, the following House bills; which were referred to the Committee of the Whole on the Private Calendar, and the accompanying reports ordered to be printed:

The bill (H. R. No. 3576) granting a pension to George Knopsnyder;

The bill (H. R. No. 5175) granting a pension to Mary R. Yeager;

The bill (H. R. No. 6311) granting a pension to Joseph E. Vanhorn; and

The bill (H. R. No. 6423) granting an increase of pension to Rebecca Reynolds.

Mr. COFFROTH, from the same committee, also reported a bill (H. R. No. 6473) granting a pension to David Flynn; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

Mr. HATCH, from the Committee on Invalid Pensions, reported back, with a favorable recommendation, bills of the following titles; which were referred to the Committee of the Whole on the Private Calendar, and, with the accompanying reports, ordered to be printed:

The bill (H. R. No. 5113) granting a pension to A. T. Still;

The bill (H. R. No. 2731) granting a pension to Mrs. Rebecca Hall, widow of George R. Hall;

The bill (H. R. No. 1672) for the relief of Ralph P. Ford;

The bill (H. R. No. 5567) granting a pension to Alexander W. Walker;

The bill (H. R. No. 5566) granting a pension to Hannah Justis;

The bill (H. R. No. 4138) granting a pension to John Durant;

The bill (H. R. No. 1694) granting a pension to Eliza Duncan;

The bill (H. R. No. 1188) granting a pension to Christian H. Stienmeier; and

The bill (H. R. No. 5551) granting a pension to Jacob R. McFarren.

Mr. TAYLOR, from the Committee on Invalid Pensions, reported a bill (H. R. No. 6474) granting a pension to Mrs. Ellen M. Boggs, widow of William Brenton Boggs, deceased; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

CLAIMS.

Mr. DICKEY, from the Committee on Claims, reported back, with a favorable recommendation, the bill (H. R. No. 1340) for the relief of J. D. Ryan; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

Mr. BARBER, from the Committee on Claims, reported a bill (H. R. No. 6475) for the relief of Beaufort C. Lee; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and ordered to be printed.

Mr. HORR, from the Committee on Claims, reported back, with a

favorable recommendation, bills of the following titles; which were referred to the Committee of the Whole on the Private Calendar, and, with the accompanying reports, ordered to be printed:

The bill (H. R. No. 1739) for the relief of Anna W. Osborne; and

The bill (H. R. No. 3673) for the relief of C. M. Terrill, paymaster United States Army.

Mr. BRIGHT, from the Committee on Claims, reported back the bill (H. R. No. 942) for the relief of Harlow J. Phelps; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

Mr. BOWMAN, from the Committee on Claims, reported back, with a favorable recommendation, the bill (H. R. No. 3811) for the relief of Mary J. Trimble; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

Mr. BOWMAN also, from the same committee, reported a bill (H. R. No. 6476) for the relief of the legal representatives of Peter A. Cassidey; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

Mr. DAVIS, of Missouri, from the Committee on Claims, reported back, with a favorable recommendation, the bill (H. R. No. 18) for the relief of Henry P. Rolfe, late United States attorney for the district of New Hampshire; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

Mr. SAWYER, from the Committee on Claims, reported back adversely the bill (H. R. No. 3972) for the relief of Henry Hoffman; which was laid on the table, and the accompanying report ordered to be printed.

Mr. SAWYER also, from the same committee, reported a bill (H. R. No. 6477) for the relief of James Bridger; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

Mr. COLERICK, from the Committee on Claims, reported back bills of the following titles; when the committee was discharged from the further consideration of the same, and they were referred to the Committee on War Claims:

The bill (H. R. No. 4102) for the relief of H. Q. Walker; and

The bill (H. R. No. 3868) for the relief of James M. Kirkland, of Monroe County, Tennessee.

STATUE OF GENERAL NATHANIEL GREENE.

Mr. DAVIS, of North Carolina, from the Select Committee on the Yorktown Celebration, reported, as a substitute for House joint resolution No. 263, a joint resolution (H. R. No. 329) approving the centennial celebration of the battle of Guilford Court House, and for the erection of a statue to General Nathaniel Greene; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

LEVI PRICE.

Mr. MILLS, from the Committee on Ways and Means, reported a bill (H. R. No. 6478) for the relief of Levi Price; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

UNITED STATES CIRCUIT COURT, FOURTH CIRCUIT.

Mr. HURD, from the Committee on the Judiciary, reported back, with a favorable recommendation, the bill (H. R. No. 1512) to alter and appoint the times for holding the circuit court of the United States for the fourth judicial circuit, and for other purposes; which was referred to the House Calendar, and, with the accompanying report, ordered to be printed.

THOMAS SNELL.

Mr. HURD also, from the same committee, reported a bill (H. R. No. 6479) for the relief of Thomas Snell; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

IMPROVEMENT OF HARLEM RIVER.

Mr. LAPHAM, from the Committee on the Judiciary, reported back the joint resolution (H. R. No. 319) authorizing and requiring the Secretary of War to contract for the improvement of the Harlem River navigation, for which an appropriation has been made, with Charles Stoughton, provided the right of way is secured free of charge; when the Committee on the Judiciary was discharged from the further consideration of the same, and it was referred to the Committee on Commerce.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, announced that the Senate had passed without amendment bills of the following titles:

An act (H. R. No. 2528) to change the name of the steam-yacht Kate Sutton, of Buffalo, to that of Loraine, of Oak Orchard;

An act (H. R. No. 3274) to change the name of the steam-yacht E. R. Bryant, of Rochester, to Summerland;

An act (H. R. No. 3275) to change the name of the sloop-yacht Mariah, of Rochester, New York, to that of Tourist; and

An act (H. R. No. 6472) to amend an act entitled "An act to amend the statutes in relation to immediate transportation of dutiable goods, and for other purposes."

GENERAL INDEX OF JOURNALS OF CONGRESS.

Mr. STEPHENS, from the Committee on Rules, submitted the following report:

The Committee on Rules, who were instructed by resolution passed June 18, 1878, to provide for the preparation of a general index of the Journals of Congress, respectfully report that the index of the Journals of the first ten Congresses, embracing the period from March 4, 1789, to March 4, 1809, has been completed, and they ask that it be printed, under the supervision of the indexer, for the use and information of the House and the public, and that it be recommitted to the Committee on Rules.

There was no objection, and it was ordered accordingly.

The SPEAKER. The Chair will now recognize gentlemen who were not present when their committees were called.

ADDISON SCOTT, OF ERIE.

On motion of Mr. WHITTHORNE, the Committee on Naval Affairs was discharged from the further consideration of the petition of Addison Scott, of Erie; and the same was referred to the Committee on Commerce.

GREENLEAF CILLEY.

Mr. TALBOTT, from the Committee on Naval Affairs, reported, as a substitute for House bill No. 15, a bill (H. R. No. 6480) for the relief of Greenleaf Cilley; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

SCHOONER REBECCA.

Mr. REAGAN. I am directed by the Committee on Commerce to report back favorably the bill (H. R. No. 6469) to authorize the Secretary of the Treasury to change the name of the schooner Rebecca, of Brownsville.

Mr. UPSON. I ask that that bill be put on its passage.

The SPEAKER. The Chair cannot do that during the morning hour. He will recognize the gentleman after the morning hour.

Mr. REAGAN. Very well; I withdraw the report until that time.

ALICE J. BENNIT.

Mr. MASON, from the Committee on Invalid Pensions, reported back favorably the bill (H. R. No. 5753) for the relief of Alice J. Bennit; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

ISAAC P. LOCKMAN.

Mr. MASON also, from the same committee, reported back favorably the bill (H. R. No. 5451) granting a pension to Isaac P. Lockman; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

USEBUS SWEET.

Mr. MASON also, from the same committee, reported back favorably the bill (H. R. No. 5158) granting a pension to Usebus Sweet; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

WILSON M. THOMSON.

Mr. MASON also, from the same committee, reported back favorably a bill (H. R. No. 3727) granting a pension to Wilson M. Thomson; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

ARMSTEAD GOODLOW.

Mr. MASON also, from the same committee, reported a bill (H. R. No. 6481) granting arrears of pension to Armstead Goodlow; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

ADVERSE REPORTS.

Mr. MASON also, from the same committee, submitted adverse reports on the following petition and bills; which were laid on the table, and the accompanying reports ordered to be printed:

Petition of William Glessing;

The bill (H. R. No. 4453) granting a pension to Charles Parhall; and

The bill (H. R. No. 6118) granting an increase of pension to William H. McMahon.

POSTMASTERS, FOURTH CLASS.

Mr. BINGHAM, from the Committee on the Post-Office and Post-Roads, reported back favorably the bill (H. R. No. 3799) to fix the compensation of postmasters of the fourth class; which was referred to the Committee of the Whole House on the state of the Union, and the accompanying report ordered to be printed.

STEAM-TUG MAUD.

The SPEAKER. The morning hour has expired and the Chair now recognizes the gentleman from New York [Mr. CHITTENDEN] to call up for action at this time a bill (H. R. No. 4450) to change the name of the steam-tug Charlotte and Isabella to Maud, the objection having been withdrawn.

The bill, which was read, provides that the name of the steam-tug

Charlotte and Isabella, owned by S. F. Shortland & Brother, of the port of New York, be changed to Maud, by which name the said steamtug shall be hereafter documented and known.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. CHITTENDEN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SCHOONER REBECCA.

Mr. UPSON. I now ask the passage of the bill to change the name of the schooner Rebecca.

The SPEAKER. The Chair hears no objection.

Mr. REAGAN, from the Committee on Commerce, reported back favorably the bill (H. R. No. 6469) to authorize the Secretary of the Treasury to change the name of the schooner Rebecca, of Brownsville.

The bill, which was read, provides that the Secretary of the Treasury be authorized to change the name of the schooner Rebecca, of Brownsville, to that of Agnes, of Brownsville, and to grant said schooner proper marine papers in that name.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. UPSON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MEXICAN CLAIMS.

Mr. COX, by unanimous consent, asked and obtained leave to withdraw the bill (H. R. No. 6452) to amend the act approved June 18, 1878, relative to the awards of the Mexican commission, with the accompanying report, and the same was recommitted to the Committee on Foreign Affairs.

JAMES H. REEVE.

Mr. FERDON. I ask unanimous consent to discharge the Committee of the Whole on the Private Calendar from the further consideration of the bill (S. No. 39) granting a pension to James H. Reeve, and that the same be put upon its passage.

Mr. BICKNELL. I demand the regular order, but will yield to the gentleman from New York.

The SPEAKER. The Chair will recognize the request of the gentleman from New York after a conference report is received, which the gentleman from Tennessee now desires to make.

LEGISLATIVE APPROPRIATION BILL.

Mr. ATKINS. Mr. Speaker, I desire to make a report from the conference committee on the disagreeing votes of the two Houses on the bill providing for the expenses of the legislative, executive, and judicial department of the Government for the next year.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its amendments numbered 63, 64, 66, and 67.

That the House recede from its disagreement to the amendments numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, and 62.

JNO. D. C. ATKINS,
HIESTER CLYMER,
JOHN H. BAKER,
Managers on the part of the House.
H. G. DAVIS,
W. A. WALLACE,
WILLIAM WINDOM,
Managers on the part of the Senate.

The SPEAKER. The accompanying report will now be read.

The Clerk read as follows:

The managers on the part of the House of the conference on the legislative, executive, and judicial appropriation bill submit the following detailed statement in explanation of the action recommended in the report submitted.

The effect of the action recommended on the Senate amendments numbered 1 to 62, both included, if ratified by the two Houses, is to place the salaries of the officers and employés of the Senate at the same rates as those fixed for the current year, except that of the Postmaster, which is increased from $2,100 to $2,250, and will also provide for clerks to the Senate Committees on the District of Columbia, the Census, and the Library at annual salaries of $2,220 each, in lieu of per diem clerks heretofore provided for said committees; for a messenger to the official reporters at $1,200, and a page in the document-room at $720. It will also increase the appropriations for sundry items of the contingent expenses of the Senate to amounts fixed by that body and which are represented to be necessary.

The effect of the action recommended on amendments 63, 64, 66, and 67 is to strike out the proposed increase of $50 on the salaries of the House messengers on the soldiers' roll and of those who receive $1,200 per annum, and to strike out the proposed increase of the salary of the electrician of the House from $1,150 to $1,500.

J. D. C. ATKINS,
HIESTER CLYMER,
JOHN W. BAKER,
Managers on the part of the House.

The SPEAKER. The question is on agreeing to the report of the conferees.

The conference report was agreed to.

Mr. ATKINS moved to reconsider the vote by which the conference report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. BICKNELL. I now demand the regular order.

Mr. ACKLEN. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ACKLEN. The second clause of Rule XXIV provides that—

On all days other than Monday as soon as the Journal is read and approved, and on all Mondays (except the first and third in each month) after the call of States and Territories, there shall be a morning hour for reports from committees, which shall be appropriately referred and printed, and a copy thereof mailed by the Public Printer to each Member and Delegate; and the Speaker shall call upon each standing committee in regular order and then upon the select committees, and if the whole of the hour is not consumed by this call, then it shall be in order to proceed to the consideration of other business; but if he shall not complete the call within the hour, he shall resume it in the succeeding morning hour where he left off.

I desire to know if it is not in order to move to proceed to business on the Speaker's table during the remainder of the morning hour, the whole of the hour not having been consumed in the reports from the committees. Is it not within the power of the House to decide what business it will proceed to; and does not the rule which I have just read permit the motion which I have suggested, there being nothing in the rule which prohibits such motion?

The SPEAKER. The rule to which the gentleman has referred does not regulate the business, excepting with reference to that call, but other rules do fix it. The meaning of that rule the Chair takes to be that if the whole hour is not occupied in the call of committees the House shall proceed as though the full hour had been occupied; and then the unfinished business comes up next. The gentleman from Indiana now demands the regular order.

Mr. MAGINNIS. I wish to ask unanimous consent for the passage of the bill to which the gentleman from Massachusetts objected, as I understand he now withdraws his objection.

The SPEAKER. The regular order having been demanded, the Chair has no option but to recognize the demand.

Mr. BICKNELL. I yield to the gentleman from Texas.

IMPROVEMENTS OF THE HARBOR AT SAN FRANCISCO.

Mr. REAGAN. Mr. Speaker, I ask unanimous consent at this time to submit from the Committee on Commerce a substitute for a resolution referred to that committee in reference to the improvements to the harbor at San Francisco.

The SPEAKER. The resolution will be read.

The Clerk read as follows:

Resolved, That the Secretary of War be directed to report to this House what causes, if any, are tending to diminish the tidal area of the bay of San Francisco, and what action, if any, has been taken by the Government of the United States, by the city of San Francisco, or by corporations or individuals which will tend to lessen the tidal scour on the bar of San Francisco, and thereby decrease the depth of water upon said bar and diminish its value as a commercial harbor.

Mr. REAGAN. The committee recommend the passage of the resolution.

Mr. BERRY. It is simply a resolution for information.

The resolution was agreed to.

WILLIAM WEBSTER.

Mr. HILL, from the Committee on Foreign Affairs, by unanimous consent, submitted a report and joint resolution (H. R. No. 330) from that committee in the matter of the claim of William Webster against Great Britain; which was ordered to be printed, and referred to the Committee of the Whole House on the Private Calendar.

MARY ANN HARE.

Mr. BRIGHT, from the Committee on Claims, by unanimous consent, reported, as a substitute for House bill No. 692, a bill (H. R. No. 6482) for the relief of Mary Ann Hare; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

CONFEREE ON SUNDRY CIVIL APPROPRIATION BILL.

The Speaker appointed Mr. HISCOCK a member of the committee of conference on the sundry civil appropriation bill in place of Mr. MONROE, who is confined to his room by sickness.

ORDER OF BUSINESS.

Mr. BICKNELL. I now demand the regular order, and yield to the gentleman from New York, [Mr. VAN VOORHIS.]

Mr. SPRINGER. I would like to ask what arrangement is contemplated in reference to the length of discussion upon this bill, and how much time gentlemen upon the other side wish?

The SPEAKER. The Chair knows of no arrangement.

Mr. BICKNELL. I would like to ask gentlemen upon the other side how much time they wish to discuss this question?

Mr. KEIFER. I am not prepared, as far as I am concerned, to decide upon that question at this time. A great many gentlemen on this side wish to make speeches upon it, but as the time for adjournment is very near I am not prepared to say whether they will be present, and ready to proceed. How many speeches is it desired to make upon that side of the House?

Mr. BICKNELL. Are you willing to agree upon any time when a vote may be taken?

Mr. KEIFER. Oh, no! We do not know how much time is desired on the other side.

Mr. WHITE. I think the gentleman from New York has the floor and should not be interrupted.

AGREEMENT WITH UTE INDIANS.

Mr. SCALES. I rise to present the report of the committee of conference on the Ute agreement bill. I will explain to the House there has been no material change in the bill except in this particular: The House committee and the House thought that the time had come when each Territory and State should provide for its own Indians. We had provided that in selecting the lands on which the Utes are to be settled after their removal they should not go outside of Colorado. In the conference the Senate conferees insisted that there was not enough arable land in Colorado on which to settle the Indians, and in this they were fully sustained by the opinion of the Secretary of the Interior. We insisted there was; and we were sustained by the former action of the Government and by reliable witnesses. We finally agreed that if a sufficient quantity of land should be found near the mouth of the Gunnison River and on the La Plata in Colorado the Indians should be settled there; if a sufficiency should not be found there, they should be settled in that vicinity in Utah and New Mexico, leaving it to the honor and good faith of the Secretary of the Interior to carry out that provision of the bill. That was the main difference, and we came to an agreement without making any other material change in the bill. I hope the House will concur in the report.

The Clerk read the report of the committee of conference, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. No. 1509) to accept and ratify the agreement submitted by the confederated bands of Ute Indians in Colorado for the sale of their reservation in said State, and for other purposes, and to make the necessary appropriations for carrying out the same, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House numbered 2, and agree to the same.

That the Senate recede from its disagreement to the amendment of the House numbered 3, and agree to the same with the following amendment thereto: Strike out "three" and insert in lieu thereof "five;" and the House agree to the same.

That the Senate recede from its disagreement to the amendments of the House numbered 4, 5, and 6, and agree to the same.

That the Senate recede from its disagreement to the amendment of the House numbered 7, and agree to the same with the following amendment thereto: Strike out all after the word "dollars," in line 15, down to and inclusive of the word "minority" in line 6 of the amendment; and the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House numbered 8, and agree to the same with the following amendment thereto: After the word "vicinity," in line 4 of the amendment, insert "in Colorado;" after the word "found," in line 5 of the amendment, insert "on the La Plata River or in its vicinity in New Mexico," and strike out of the same lines the words "elsewhere in the State of Colorado;" and the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House numbered 9, and agree to the same with the following amendment thereto: After the word "Colorado," in line 29, insert "if a sufficient quantity of agricultural land shall be found there; if not, then upon," and strike out of line 29, page 3, the word "and" and insert, in line 1, page 4, after the word "vicinity," the words "and in the Territory of Utah;" and the House agree to the same.

That the House recede from its amendments numbered 23 and 24, and agree to that section of the bill.

That the Senate recede from its disagreement to the amendment of the House numbered 25, and agree to the same with the following amendment thereto: Strike out all after the word "law," in line 4 of the amendment, down to and inclusive of the word "acre," in line 6; in line 10 of the amendment, strike out the words "their cash value" and insert in lieu thereof "one dollar and twenty-five cents per acre;" in line 12 of the amendment, strike out the words "invested by the Secretary of the Interior" and insert in lieu thereof "deposited in the Treasury as now provided by law;" in line 14 of the amendment, strike out the words "in four per centum bonds of the United States;" and the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House numbered 26, and agree to the same with the following amendment thereto: In line 2 of the amendment, after the word "lands," insert "and personal property;" and the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House numbered 27, and agree to the same.

A. M. SCALES,
JAMES R. WADDILL,
RUSSELL ERRETT,
Conferees on the part of the House.
GEORGE H. PENDLETON,
JOHN S. WILLIAMS,
W. B. ALLISON,
Conferees on the part of the Senate.

Mr. SCALES. The detailed statement accompanying the report is in the hands of the Clerk. If the reading is not called for I ask that it be printed in the RECORD.

There was no objection.

The explanatory statement is as follows:

The effect of the amendments made to the bill and agreed to by the conferees is that the Senate agree to all the amendments made to the bill as it passed the House, with the following exceptions:

First. That the House recede from its amendments requiring payments of the sums awarded to the women made widows by the Ute massacres, to be made after their death to the minor children of the same.

Second. That the House recede from a part of its amendment requiring the lands on which the Utes are to be settled after their removal, to be selected in Colorado alone, and concur in an addition thereto permitting the selection to be made in New Mexico and Utah, provided the selection is confined to the La Plata River in New Mexico and the vicinity of the mouth of the Gunnison River in Utah, if a sufficiency of lands therefor cannot be found in that vicinity in Colorado.

Third. The amendment of the House requiring an account to be kept of the sales of the lands ceded by the Utes, the surplus of which, after reimbursing the United States for the payments provided for in the bill, is to be deposited in the Treasury for the benefit of the Utes, is substantially concurred in by the Senate, but has been modified in its phraseology at the suggestion of the Senate conferees, without materially changing its requirements.

A. M. SCALES, *Chairman.*
JAS. R. WADDILL,
RUSSELL ERRETT,
Managers on the part of the House of Representatives.

The report of the committee of conference was concurred in.

Mr. SCALES moved to reconsider the vote by which the report of the committee of conference was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COUNTING THE ELECTORAL VOTES.

The House resumed, as the unfinished business, the consideration of the Senate concurrent resolution in relation to joint rule for counting the votes of electors for President and Vice-President.

Mr. VAN VOORHIS. Mr. Speaker, early in this session the Committee of this House on the Counting of the Electoral Votes, by its chairman, reported a bill to provide for and regulate the counting of the votes for President and Vice-President, and the decision of questions arising thereon. This bill was made a special order for January 29, and from day to day thereafter until disposed of. Although the chairman of that committee on repeated occasions endeavored in good faith to have this bill considered, the majority of this House have uniformly refused to consider it. Such a bill, before it could become a law, would not only have to pass both Houses of Congress, but it must have the assent of the President. The object of that bill was to place the question of electing a President entirely under the control of Congress. The difficulties in the way of that bill were too great to be overcome, and now at this late hour of the session a new contrivance is sprung upon us in the shape of a joint rule—the one now under consideration—having in view precisely the same object, and the work of the House committee is entirely ignored. I did not, in the committee, agree to the bill so reported, but I do agree that whatever action Congress shall take in so important a matter ought to be in the form of a bill.

This joint rule is neither a bill, a joint resolution, nor a concurrent resolution. It is not a resolution at all. A joint rule has no warrant in the Constitution. The only authority to pass rules is this:

Each House may determine the rule of its proceedings.

Congress cannot determine a rule of proceeding of either House. The Senate may make its own rules; that is provided for. The House may make its own rules; that is provided for. But there is no provision anywhere for joint rules. There is no authority anywhere for the joint action of the two Houses, and therefore no necessity for joint rules.

This joint rule is artfully constructed. If it had been a bill it would need the assent of the President before it could become a law. If it were a resolution it would need like assent. The Constitution requires it. It says:

Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States; if he approve, he shall sign it, but if not he shall return it, with his objections, to that House in which it shall have originated.

* * * * * * *

Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him.

Being neither a bill nor a resolution, nor anything else known to the Constitution, the political party which fathers it is doubtless of opinion that it can get along without presenting it to the President for his approval or disapproval. If that can be done, then Congress has achieved the feat of finding a way to pass laws on momentous questions by a majority vote without the aid of the Executive and in spite of any objections of the Executive. This may appropriately be denominated a convenient and easy method to enable the democratic party to obtain the Presidency, whether its candidate is elected or not.

This joint rule is ephemeral in its character as well as a stranger to the Constitution. It is designed for use at the next election, now soon to happen. It may be destroyed without the action of Congress. The last section provides that—

This rule is adopted to stand until, by the affirmative action of one of the two Houses, the same shall be vacated.

Here is a law, then, which may be enacted without the assent of the President and may be repealed without the action of Congress. The Senate may vacate it, although the House of Representatives refuse to concur. The inventor of this new mode, this more excellent way of making and repealing laws, deserves to have his invention patented.

If this joint rule passes, then there is an end of an election of a President by the people. It places the power to say who shall be the next President entirely in the hands of Congress, and takes away from the President of the Senate the authority with which he is clothed by the Constitution to count the electoral votes. It is another attempt on the part of Congress, after repeated failures, to draw to itself the power to control the election of President.

Can the democrats in Congress, now a majority in each House, rise above their party predilections and decide the presidential election according to law? Alas! experience shows that they cannot. I have only to point to the electoral commission to prove that they cannot.

That commission had in it seven democrats, illustrious for their learning and high character as well as for their democracy, and yet not one of them assented to the decision of that high forum—whether jurists or statesmen made no difference. Although the questions of law and fact were plain and simple, yet no democratic judge could get sufficiently above his democracy to render a decision against his party and according to law. And although the democratic party originated the electoral commission and agreed to accept its verdict and be bound by it, a distinguished democratic lawyer on this floor, my colleague, [Mr. LOUNSBERY,] has asserted since this debate began, directly in the face of the verdict of that commission, that a citizen of New York was elected President in 1876, instead of a citizen of Ohio as found by the commission.

This shows how unwise it would have been in the framers of the Constitution to have given Congress control of the presidential election, and how unwise it will be to enact this joint rule. Are the democrats who constitute the majority of Congress better men than the democrats who were on the electoral commission? Nobody will put in such a claim. Does anybody suppose that the democracy is not ingenious enough to see to it that contests are made in a sufficient number of cases, so that there will be no election of a President by uncontested electors, and ingenious enough to find pretexts upon which the majority in Congress will reject the vote of every republican State whose vote is thus contested? I, for one, do not. I think the democratic party is equal to any emergency of that character. Hear what Charles Pinckney said on this subject in 1800 when a scheme something like this was before Congress:

But surely its friends never could have considered the extent and danger of giving to this committee, or even to Congress, the right to decide on double returns, or they must immediately have seen the extreme impropriety of attempting it. It is, in short, nothing less than holding out to the minority in all the States a temptation to dispute every election, and to always bring forward double returns. In every State where the election is strongly contested there will, of course, be a minority. It will be easily known by the measures of Congress to which candidate the majority of that body inclines and whose friends will compose the committee that are to be thus packed and selected. If the minority in a particular State find that the candidate they have unsuccessfully supported is the favorite one with the majority of Congress or their committees, they will easily discover the means of raising objections to the validity of the return of the electors, insist that they themselves are elected, proceed to the length of meeting and voting, and transmit to Congress a double return.

What was true in 1800, as stated by Charles Pinckney, is true to-day.

I proceed to give my views briefly as to how the presidential vote should be counted under the Constitution.

There is no provision of the Constitution which gives Congress the power to count the electoral votes or determine who has been elected President and Vice-President. If such power exist it must somewhere in the Constitution be expressed, or be found necessary to carry into effect some expressed power. Section 8 of Title 2 of the Constitution defines the powers of Congress. It begins, "The Congress shall have power," and then it enumerates seventeen subjects over which power is given to Congress. To elect a President is not one of them; to determine by canvassing the votes, or otherwise, who has been elected President by the States is not one of them. These seventeen powers conferred upon Congress by the Constitution constitute the sum of all the powers possessed by Congress, except in certain specific cases, such as fixing the time for choosing electors in the States, (article 2, section 1, subdivision 4,) declaring the punishment of treason, (article 3, section 3, subdivision 2,) making regulations respecting the territory of the United States, (article 4, section 3, subdivision 2,) and proposing amendments to the Constitution, (article 5.) The election of President is accomplished by means of electors, and is made by the States under the provisions of the Constitution.

The election of a President and Vice-President is divided into three distinct acts: first, the appointment of the electors; second, the voting of the electors; and third, the counting of their votes. In relation to the appointment of electors the Constitution says, (article 2, section 1, subdivision 2:)

Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

By this provision a State may choose its electors in any manner its Legislature may contrive. The mode of appointing electors has not always been uniform in all the States. For many years after the adoption of the Constitution the electors were not chosen by the popular vote. In most States they were appointed by the Legislatures; in some by a State court. Now the practice is uniform in all the States to elect the electors by the votes of the people. Any mode of appointment is lawful which the Legislature of a State may provide.

The electors are State officers. The only authority Congress has in the premises is to fix the time of their election and the day on which they shall give their votes, which day shall be uniform throughout the United States. The clause on that point is this:

The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

Congress, having fixed the time of choosing electors and the day on which they shall give their votes, has nothing further which it can do. It has no appellate or revisory power over the action of the Legislatures of the States in prescribing the mode of choosing the electors, and it has no appellate or revisory power over the action of the States in selecting electors in the manner designated by their Legislatures. All questions relating to the appointment or election of electors belong to the States. Congress can no more canvass the votes by which the electors of the several States are chosen than it can canvass the votes by which the governors of the States are chosen. Each State has exclusive jurisdiction over this subject. The Constitution prohibits Senators and Representatives in Congress and persons holding offices of trust or profit under the United States from being appointed electors. This prohibition is a rule for the States. Each State must judge for itself whether the elector is or is not disqualified under this provision of the Constitution.

When a person elected or appointed an elector demands of the officers of his State the evidence to show that he has been appointed such elector the duty is cast upon such officers to determine whether or not he is disqualified under the United States Constitution. These officers, although administrative officers, act in a sense judicially; and having decided that the applicant is not disqualified, and given him the proper certificate of his election, the decision is final; it is *res adjudicata;* there is no appeal from it; there is no form in which that act can be reviewed. The State must decide upon the means by which the act of appointment shall be authenticated and certified; and when so authenticated and certified, the certificate is conclusive, not only as to the due election or appointment of the person mentioned in it, but also as to his being qualified to act as an elector. When the certificate is opened for the purpose of counting the vote by Federal authority no suggestion that the elector is disqualified can be entertained. The certificate is conclusive in that regard.

The evidence of appointment must vary according to the manner in which the electors are appointed. If elected by the Legislature, as they may be, a copy of the act or joint resolution by which they were appointed, proven in the usual mode by which such acts are authenticated, would be sufficient. In such case the Legislature must be deemed to have decided that the elector was not disqualified to hold the office. If appointed by the governor, his certificate with the seal of the State attached would doubtless be sufficient. In such case the governor, by the act of appointment, must have decided that the person he appointed was qualified. If appointed by a court of a State, the usual manner of authenticating the acts of the court would without doubt be sufficient. In that case the court must be deemed to have decided that the elector was qualified to act as such. If elected by the people, the election should be proved in the mode prescribed by the law of the State for that purpose. In that case the people and the canvassing officers must be held to have decided that the elector is not disqualified.

And so, when the electors come to vote and when their votes come to be counted, their eligibility is no longer an open question; it has been conclusively settled by the power that made the electors. Congress has fixed the time of the election of presidential electors, and it has also fixed the time when the electors in each State shall meet and give their vote, namely: on the first Wednesday in December next after the election. There can be but one authority in a State having the right to certify to the appointment of electors, and when that authority has certified, in the mode prescribed by law, that certain persons have been appointed electors, there can no longer be any contest. Disputes as to what persons are the electors of a State, if they arise, must be settled in the State and by the authorities of the State, and when so settled the contest is at an end. In case there are two certificates from a State, the President of the Senate must discriminate between them so far as to ascertain which is genuine and which is the spurious certificate. This involves only the inquiry whether the State has made an appointment of electors in the mode prescribed by its Legislature; if it has, the votes of the electors so appointed must be counted. No Federal authority can draw in question or sit in judgment upon the determination of the regularly constituted authorities of a State in ascertaining and determining who are its presidential electors. The counting power, whatever it is, can only inquire as to what persons have been accredited by a State as its electors. If a State is a member of the Union, he cannot reject its vote if properly accredited.

I have no doubt Congress might declare by law that a State is engaged in rebellion, and that its relations with the Union are for the time being severed, and that no lawful election can be had therein. This was done in 1865, in respect of the States in rebellion. Congress, on the 8th day of February, passed the following joint resolution:

Joint resolution declaring certain States not entitled to representation in the electoral college.

Whereas the inhabitants and local authorities of the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, Arkansas, and Tennessee rebelled against the Government of the United States, and were in such condition on the 8th day of November, 1864, that no valid election for electors of President and Vice-President, according to the Constitution and laws thereof, was held therein on that day: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the States mentioned in the preamble to this joint resolution are not entitled to representation in the electoral college for the choice of President and Vice-President of the United States for the term of office commencing on the 4th day of March, 1865; and no electoral votes shall be received or counted from said States concerning the choice of President and Vice-President for said term of office.

This resolution went to the President, Abraham Lincoln, and was signed by him. This resolution furnishes evidence that Congress in

its own opinion was not to count the vote. If so, the resolution was entirely unnecessary.

The electors being appointed, the next step in the election of President and Vice-President is to vote. The Constitution says:

The electors shall meet in their respective States, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate.

The voting of the electors is by ballot. No record is kept as to how or for whom the individual elector votes—indeed it cannot be known for whom he votes. The ballots are examined and "a list of all the persons voted for, and the number of votes for each" is made. The elector is not required to disclose his vote. He may vote for anybody he chooses. He votes by secret ballot. Although elected under an honorable obligation to vote for some particular persons for President and Vice-President, he is under no legal obligation to do so. The electors of a State may divide and vote for different persons for President, but it is not known and cannot be known who voted for one or who for the other. Take the State of New York for example, with thirty-five electors, seventeen may vote for one candidate and eighteen for another, and no one could select the individual electors who voted for either. If one of the electors were disqualified, there is no method of ascertaining for whom he voted. This illustration adds to the conclusiveness of the proposition that there is no Federal authority to investigate into the eligibility of electors. The electors of the several States having voted in the manner prescribed by law, they shall sign, certify, and transmit to the President of the Senate a list of the persons voted for and the number of votes for each.

The next step is the counting or ascertainment of the electoral votes. The Constitution says:

The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted.

These votes are to be counted by the President of the Senate. The custody of the votes is committed to him and he cannot legally divest himself of it. He is the only man who has power to count, because he is the only man who has possession of the votes. He may call others to his aid if he needs assistance, but the count is his nevertheless; whoever aids him acts as his agent. By what legal right can Congress order the President of the Senate to turn over to it the electoral votes, expressly committed to his custody by the Constitution? And how can Congress count the electoral votes unless it can get possession of them? There is no way to compel the President of the Senate to turn over to Congress the electoral votes, if he refuses to do so.

"In the presence of the Senate and House of Representatives" is, in the language of the grammarians, an adjunct phrase, which modifies the words "open" and "counted." That is to say, the certificates shall be opened in the presence of both Houses and the votes counted in the presence of both. The declaration of the Constitution, therefore, is, that the certificates shall be opened by the President of the Senate and the votes counted by him. It cannot be assumed that the Constitution did not intend to authorize somebody to count the electoral votes. It is made the duty of somebody to count the votes and somebody else to be present and witness the count. One of two constructions is correct, namely, either the President of the Senate must count the votes in the presence of the two Houses of Congress, or the two Houses of Congress must count in the presence of the President of the Senate. These are the two questions: who is the counter? and, who are the witnesses of the count?

The Constitution indicates very clearly who are the spectators or witnesses of the count. "In the presence of" is an attestation clause.

As this provision of the Constitution was adopted by the constitutional convention it read as follows:

The President of the Senate shall open all the certificates and the votes shall then be counted in the presence of the Senate and House of Representatives.

This language is clear. Votes counted "in the presence of" the Senate and House of Representatives are not votes counted by the Senate and House of Representatives. If this language had not been changed there could be no doubt in the premises. The two Houses of Congress are spectators or witnesses of the count. This language was changed, not to alter its meaning, but to express it more clearly. It was changed by a committee on style, whose duty was solely to redraught the Constitution as amended, correct clerical errors, and give it literary finish without changing its meaning. In the judgment of that committee it means now just what it meant before the change. It means that the opening of the certificates and the counting of the votes should both be in the presence of the two Houses of Congress. It was thought by the committee which made the change to express that meaning better in its present form. Not a word is put in or taken out in making the change. Every word is there now that was there before. The change consists in locating the phrase "in the presence of the Senate and House of Representatives" before the word "open," instead of after the word "counted," as it stood before.

This construction is sanctioned by Chancellor Kent, an authority good enough for me. He says:

I presume in the absence of all legislative provision on the subject that the President of the Senate counts the votes and determines the result, and that the two Houses are present only as spectators to witness the fairness and accuracy of the transaction, and to act only if no choice be made by the electors.

There is now no legislation of Congress which affects the count of the electoral votes. The act of 1792, which is now a part of the Revised Statutes, has this provision:

Congress shall be in session on the second Wednesday in February succeeding every meeting of the electors, and the certificates, or so many of them as have been received, shall then be opened, the votes counted, and the persons to fill the offices of President and Vice-President *ascertained and declared, agreeable to the Constitution.*

Here is no intimation that Congress shall count the votes any more than open the certificates.

It is fair to suppose that none knew better the meaning of the Constitution than they who made it. Their interpretation of it is therefore entitled to some weight. Cooley says:

Where a particular construction of a constitutional provision has generally been accepted as correct, and especially when this has occurred contemporaneously with the adoption of the Constitution, and by those who had opportunity to understand the intention of the instrument, it is not to be denied that a strong presumption exists that the construction rightly interprets the instrument.

The constitutional convention completed its work on the 17th day of September, 1787. It took time to procure the ratification of the Constitution by the States. On the 28th of September, 1787, Congress transmitted the Constitution with a resolution of the convention to the States for ratification by their conventions. The resolution is as follows:

Resolved, That it is the opinion of this convention that as soon as the conventions of nine States shall have ratified this Constitution, the United States in Congress assembled should fix a day on which electors should be appointed by the States which shall have ratified the same, and a day on which the electors should assemble to vote for the President, and the time and place for commencing proceedings under this Constitution; that after such publication the electors should be appointed and the Senators and Representatives elected; that the electors should meet on the day fixed for the election of the President, and should transmit their votes, certified, signed, sealed, and directed, as the Constitution requires, to the Secretary of the United States in Congress assembled; that the Senators and Representatives should convene at the time and place assigned; that the Senators should appoint a President of the Senate, *for the sole purpose of receiving, opening, and counting* the votes for President; and that after he shall be chosen, the Congress, together with the President, should without delay proceed to execute the Constitution.

Here is a construction put upon this provision of the Constitution by the convention which made it.

Under this resolution the Senate, on the 6th of April, 1789, met and appointed John Langdon President for the sole purpose of *opening and counting* the electoral votes. Here are the proceedings of the Senate:

APRIL 6, 1789.

The Senate proceeded by ballot to the choice of a President for *the sole purpose of opening* and *counting* the votes for President of the United States.

John Langdon, esq., was elected.

Ordered, That Mr. Ellsworth inform the House of Representatives that a quorum of the Senate is formed; that a President is elected for the sole purpose of *opening* the certificates and counting the votes of the electors of the several States in the choice of a President and Vice-President of the United States; and that the Senate is now ready, in the Senate Chamber, to proceed, in the presence of the House, to discharge that duty; and that the Senate have appointed one of their members to sit at the Clerk's table, to make a list of the votes as they shall be *declared*, submitting it to the wisdom of the House to appoint one or more of their number for the same purpose; who reported that he had delivered the message.

The House returned answer as follows:

Mr. Boudinot, from the House of Representatives, communicated the following verbal message to the Senate:

"Mr. President, I am directed by the House of Representatives to inform the Senate that the House is ready forthwith to meet the Senate to attend the opening and counting of the votes of the electors of President and Vice-President of the United States."

The President of the Senate, in the presence of the two Houses, opened the certificates and counted the electoral votes, and declared George Washington elected President of the United States and John Adams elected Vice-President of the United States. The following certificate was prepared and signed by John Langdon, President of the Senate:

Be it known that the Senate and House of Representatives of the United States of America, being convened in the city and State of New York, the 6th day of April, in the year of our Lord 1789, *the underwritten*, appointed President of the Senate for the sole purpose of *receiving, opening, and counting* the votes of the electors, did, in the presence of the said Senate and House of Representatives, *open all the certificates and count all the* votes of the electors for a President and for a Vice-President, by which it appears that George Washington, esq., was unanimously elected, agreeably to the Constitution, to the office of President of the United States of America.

In testimony whereof I have hereunto set my hand and seal.

JOHN LANGDON.

A similar certificate was also prepared showing the election of John Adams as Vice-President. That Senate consisted of ten members, and six of them had been members of the constitutional convention which prepared the Constitution. Among the six are John Langdon, Oliver Ellsworth, and Robert Morris. James Madison, as a member of the House, witnessed this count.

Here is a construction given to the Constitution by its framers, contemporaneous with its adoption, that the certificates are to be opened and the votes counted by the President of the Senate, and that the Senate and House only are present as spectators or witnesses of the proceeding. The clause of the Constitution under which the electoral votes are counted stands now precisely as it stood in 1789, when John Langdon counted the votes.

The second count of the electoral votes occurred February 13, 1793. Washington was re-elected unanimously President, and John Adams by a plurality Vice-President. John Adams, Vice-President, and

therefore President of the Senate, opened the certificates and counted the votes in the presence of the two Houses, and declared Washington elected President and himself Vice-President. The Senate appointed one teller and the House two, and their duties were by resolution defined to be to "make a list of the votes as they shall be declared" by the President of the Senate.

The third count occurred on the 8th of February, 1797, when John Adams, still President of the Senate, opened the certificates, counted the votes, and declared himself elected President and Thomas Jefferson elected Vice-President in the presence of the Senate and House of Representatives.

In 1801 Thomas Jefferson, acting as President of the Senate, passed upon the certificate of the State of Georgia, overruled the objections suggested by the tellers, and ordered the vote of Georgia to be counted, and it was counted. I give the history of that proceeding:

It was the election for the fourth term, 1801: Thomas Jefferson, President; Aaron Burr, Vice-President. On this occasion the count was made and result declared by Thomas Jefferson, himself a candidate for the Presidency. There being no choice by the electoral vote, Thomas Jefferson was elected President by the House, and Aaron Burr became Vice-President. Again, the House having as before committed to the Senate the matter of notifying Mr. Burr of his election, the Senate, on the 18th day of February, 1801, adopted resolutions precisely similar to those adopted at the last preceding election, and containing the same recital, namely:

The underwritten, Vice-President of the United States and President of the Senate, did, in the presence of the Senate and House of Representatives, open all the certificates and count all the votes of the electors for President; whereupon it appeared, &c.

And this notice or certificate bore the signature of Thomas Jefferson.

That Jefferson did count these votes, as he certified he did, is well attested by other evidence. The return from the State of Georgia was informal, as may be seen in the archives of the Senate. It was on a sheet of ordinary foolscap paper. It contained the following and nothing else:

THOMAS JEFFERSON.	AARON BURR.
John Morrison,	John Morrison,
Dennis Smelt, M. D.,	Dennis Smelt, M. D.,
Arch. Graybill,	Arch. Graybill,
Dd. Blackshear.	Dd. Blackshear.

The names were written apparently by the electors respectively. The sheet was then folded into the old-fashioned letter-form, and addressed as follows:

[Post-mark.] Free.

THOMAS JEFFERSON,
Vice-President of the United States and President of the Senate.

On the back, where it was sealed or wafered, was written the following:

We do certify the within to contain the votes of us, the electors on behalf of the State of Georgia, for a President and Vice-President of the United States.

JOHN MORRISON.
DENNIS SMELT.
ARCH. GRAYBILL.
Dd. BLACKSHEAR.

This return was accompanied by a certificate of the governor of the State of Georgia that these persons had been duly chosen electors. This was all there was of it. This much the record shows. The record also shows that these votes were counted by Mr. Jefferson for himself and Burr. It shows further, that had not these four votes been counted as they were the result would have been materially changed. These 4 votes made the vote of Jefferson and Burr 73. The whole number was 138. Seventy constituted a majority. These 4 votes gave Jefferson and Burr each a majority; and as the Constitution then stood, the choice of a President by the House was confined to "the two persons who had a majority and an equal number of votes." But subtracting the 4 votes of Georgia, Jefferson and Burr would be both reduced to 69, one less than a majority, and then the choice would be made from the five highest, thus admitting into the race three other competitors, namely, Mr. Adams, Mr. Pinckney, and Mr. Jay. In this event Mr. Jefferson in all human probability would not have been chosen by the House. Certain federalists were driven to his support in order that an election might be reached and the country saved from violence, who if it had been possible would have insisted upon a milder republican than Mr. Jefferson as a compromise.

The record also shows that no mention of this informal return was made to either House or to both Houses, and no action was taken in relation to it by either House, and it does not appear that any member of either House, aside from the tellers, knew of this informality. Those who believe that Mr. Jefferson, as President of the Senate, was clothed with the counting power, must believe that he did right. Those who think he did not pretend to exercise it, must believe that he perpetrated a deliberate fraud or at least connived at a criminal concealment. He did, in my opinion, his simple duty, and needs no word of defense.

An account of this transaction is given in volume 2 of Davis's Memoirs of Burr, page 71, in which it is stated that the return was discovered to be informal by the tellers, who handed it back to Mr. Jefferson, calling his attention to its defects, and Mr. Jefferson examined it and in an audible voice announced the votes for himself and Burr.

At this election there were 138 electoral votes. Jefferson had received 73; Burr, 73; John Adams, 65; C. C. Pinckney, 64; and John Jay, 1. There was no choice. As the Constitution then stood, the electors cast no vote for Vice-President. Each elector cast two votes for President, and the person having a majority was elected President, and the one having the next highest became the Vice-President. Here is a case when Jefferson not only in fact counted the votes, but as President of the Senate decided upon a disputed certificate, without calling the attention of the two Houses of Congress to the point or making any suggestion that either of the Houses had any need to be informed of the irregularity.

In this manner the electoral votes were counted for eighty years. Neither House interfered, by itself or its tellers, with the counting by the President of the Senate. At each count the President of the Senate certified that he had opened the certificates and counted the votes in the presence of the two Houses of Congress. At each count the Senate appointed one teller and the House two, and the resolution appointing them invariably defined their duties to be "to make a list of the votes as they shall be declared."

In each instance the record, as made up in the presence of the two Houses of Congress, shows that the certificates were opened and the votes counted by the President of the Senate. No matter what part the two Houses took in counting the votes, the count was recognized as the work of the President of the Senate. There is no statement in any record of any count to the effect that the votes were counted by the Senate and House of Representatives.

The framers of the Constitution took great care to guard the independence of the three co-ordinate functions of the Government—the legislative, the executive, and the judicial. Each of these functions is defined in the Constitution with emphasis and with clearness. They are in certain respects reciprocally dependent upon each other, but neither has authority to encroach upon the domain of another. There is a tendency on the part of Congress to draw to itself the functions of the other two departments of the Government. The practice of placing riders upon appropriation bills has for its object the coercing of the Executive and is an unconstitutional and revolutionary interference with the powers of the Executive as expressed in the Constitution.

The attempt so frequently made by Congress to overthrow, directly or indirectly, the judgments of the Supreme Court is another method in which the legislative department seeks to control all the functions of government. If the President refuses his assent to the passage of a law, it is his constitutional right to do so, and Congress has no legitimate right to compel his assent by any species of duress. When the Supreme Court has rendered final judgment in a cause there can be no appeal from it to Congress. Any attempt on the part of Congress to review or to overthrow such judgment is a usurpation of power. The instances in which Congress has thus attempted to interfere with the judgments of the court are numerous.

It is not exceptional, therefore, that there should have been men in Congress who have sought to have Congress assume the control over the election of President and Vice-President and over the count of the electoral votes at different times. It was because of what the framers of the Constitution called, in the language of Gouverneur Morris, "the indispensable necessity of making the Executive independent of the Legislature" that the power to count the electoral votes and ascertain who has been elected was placed as far out of the reach of Congress as possible.

The President of the Senate, who is usually the Vice-President, is beyond legislative control. He is a man whom the people have selected as fit to command the armies and navies of the nation; a man fit to fill the presidential office in case of vacancy. He is, in a measure, removed from the field of partisan politics, and his chief duty is to preside over the Senate, a body of which he is not a member and in which he has no vote except a casting vote It was, without doubt, a matter of difficulty to fix upon a perfectly satisfactory mode of counting the electoral votes. Very likely the framers of the Constitution did not foresee every possible contingency that might arise. The question is not what they ought to have done but what they did do. With the light of a century's experience modern statesmen may believe they might improve this work of the fathers if it were now to be done over again. If it were a new question and we were to decide to-day where to place the power to count the electoral votes, could a better repository for it be found than the President of the Senate? Could a more unsafe one be found than the Congress always ruled by one of the great political parties of the country? What the framers of the Constitution thought in relation to giving Congress any power over the count is stated by Charles Pinckney, of South Carolina, a member of the constitutional convention, and who thoroughly knew the subject he speaks about. It was in 1800, when an attempt was made in Congress to pass a law to regulate the count of the electoral votes. This attempt was defeated, and the fact that Congress in 1800 refused to pass a law which interfered with the duty of the President of the Senate to count is a strong authority to sustain his right to count these votes. A similar attempt was made in 1824, which met the same fate. Mr. Pinckney said:

It was never intended nor could it have been safe in the Constitution to have given to Congress, thus assembled in convention, the right to object to any vote, or even to question whether they were constitutionally or properly given. This right of determining on the manner in which the electors shall vote, the inquiry into the qualifications, and the guards that are necessary to prevent disqualified or improper men voting, and insure the votes being legally given, rests and is exclusively vested in the State Legislature. If it is necessary to have guards against

improper elections of electors, and to institute tribunals to inquire into their qualification, with the State Legislatures and with them alone rests the power to institute them, and they must exercise it. *To give to Congress, even when assembled in convention*, a right to reject or admit the votes of States would have been so gross and dangerous an absurdity as the framers of the Constitution never could have been guilty of. How could they expect that in deciding on the election of a President, particularly where such election was strongly contested, party spirit would not prevail and govern every decision? Did they not know how easy it was to raise objections against the votes of particular elections, and that in determining upon these it was more than probable the members would recollect their sides, their favorite candidate, and sometimes their own interests? Or must they not have supposed that in putting the ultimate and final decision of the electors in Congress, who were to decide irrevocably and without appeal, they would render the President their creature, and prevent his assuming and exercising that independence in the performance of his duties upon which the safety and honor of the Government must forever rest?

So careful is the Constitution to keep the election of the Executive out of Congress that it imposes a severe penalty upon the great States for permitting the election by the people to fail and throwing the choice into the House of Representatives. The penalty is that each State shall have but one vote. New York with her thirty-five electoral votes counts no more than Delaware with three. Here is a strong incentive to the people to see that the President is elected by the popular vote. That part of the Constitution reads as follows:

The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice.

The effect of this provision is not to give the election to Congress in any contingency, but in the case provided for to give the election to the States, each State having one vote, which vote shall be given by its Representatives in Congress. Thus twenty of the smaller States having only sixty-three Representatives might elect a President as against eighteen of the larger States having two hundred and thirty-six Representatives.

"Immediately," as here used, does not mean that the House must act in the presence of the Senate. It may meet in its own Hall and as the House of Representatives, and the result declared as all other acts of the House are declared, by the Speaker. "Immediately" means before proceeding to other business. If they elect at any time before the 4th of March the election would be valid, but not after. The Constitution on this point is:

And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the 4th day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.

Mr. Speaker, I am content with a mode of counting the electoral votes which was good enough for George Washington, John Adams, Thomas Jefferson, and James Madison—a mode prescribed by the men who framed the Constitution, and practiced by them when they came to put the Constitution into execution.

I am opposed to the passage of this joint rule as most vicious legislation, and I am in favor of resisting its passage by all the means which a minority possesses that are known to parliamentary law.

I yield the remainder of my time to the gentleman from Pennsylvania, [Mr. WHITE.]

Mr. WHITE. Mr. Speaker, I am obliged to my friend from New York [Mr. VAN VOORHIS] for yielding me some of his time in this debate.

Sir, the concurrent resolution, recently passed, to adjourn on the 16th instant leaves but four legislative days of the present session of Congress. The gravity of the pending question admonishes us it should have been pressed upon the attention of the House at an earlier period of the session, when, free from the hurly-burly of these closing hours, it could have received that deliberate thought its magnitude requires. The majority of this House seek by the pending measure, summarily, as a party expedient, possibly by the passage of a mere concurrent resolution of the two Houses, to regulate the counting and declaring the votes of the electors of the several States for President and Vice-President. This, indeed, is pressed now, I fancy, in view of the approaching presidential election. The merest tyro in our politics can discover, as he reads, this resolution, joint or concurrent, I care not what you call it, involves questions seriously affecting the perpetuity of the Republic. They who prophesy ill of this Government declare its greatest perils are in the frequency of its elections. De Tocqueville, in his remarkable discussion of democracy in America, predicted that the real test of our political institutions would not come until we approached a population of a hundred millions. Then confusion worse confounded would follow our electoral system. To the same effect was that wonderful letter of Macaulay, in its gloomy forebodings for our Republic. In their anxiety for a theoretically popular form of government, the fathers could not have anticipated the great strain upon our institutions resulting from frequently recurring presidential elections. In taking a retrospect of the past and a horoscope of the future, the observing statesman cannot fail to see that he who wisely separates more remotely than four years the recurring elections for President will do his country a most substantial service.

PRESIDENTIAL CYCLONE.

To borrow the language of our distinguished associate [Mr. GARFIELD] now so conspicuous before the nation, when the other day speaking on the adjournment resolution, the presidential cyclone has struck us. Already the business of the country is calling a halt until this absorbing excitement subsides. Latterly the agitations of these national campaigns have not ended when the elections are over, but have continued after the elections have been held and the apparent results published to the world. It would be wise, indeed, if some safe remedy could be devised against these great perils to our institutions. There are intervals of comparative composure from political excitements when prudent provisions could be enacted to avoid some, at least, of the dangers to which we are subjected during our presidential elections.

EMBARRASSMENTS IN COUNTING THE VOTE.

It is matter of recent history that most embarrassing questions arise out of the manner of counting and declaring the result of the presidential election, under our peculiar system, when it is actually over. Such questions can be readily and shrewdly raised, are most difficult of solution, and dangerous to the peace and contentment of the country. The pending proposition, as a mere joint rule, is now in these hasty hours pressed upon our attention to settle as a party device, indeed, a grave constitutional dispute. Sir, I seldom indulge in mere partisan declamation in this House, yet the condition of this question would justify me in the severest criticism of the ways and methods pursued by the controlling majority now in Congress. For many years there has been much discussion as to where the proper constitutional authority rested for counting and declaring the votes of the electors of the different States for President and Vice-President of the United States; many contending that under the Constitution the President of the Senate has the sole authority to receive, open, and count in the presence of the two Houses of Congress the certificates of the votes cast by the presidential electors in the different States. Others, again, argue that the President of the Senate was in this matter of the counting of votes under and subject to the control and direction of the two Houses of Congress.

EXCITEMENT OF 1876.

Now nearly four years ago this great dispute culminated in a direct issue. This House was the theater of angry contentions and perilous excitements. Personal and political animosities were frequent and bitter. Business men, citizens, and patriots looked with anxious concern for the result of the approaching conflict. The adherents of Mr. Tilden menaced and blustered. His most devoted followers threatened to sound their bugle-call and summon to the capital a hundred thousand devoted, patronage-expectant democrats from the South and the North, armed and equipped, to forcibly inaugurate their venerable chieftain of Gramercy Park. The supporters of Mr. Hayes patiently yet hopefully waited the issue of their just cause. Prudence and statesmanship prevailed and the present Executive was peacefully inaugurated. The electoral commission act was passed and averted impending perils. This great event admonished those controlling Congress that some remedy should be supplied to prevent the recurrence of the scenes of 1876–'77.

A BILL PASSES REPUBLICAN SENATE.

After Mr. Hayes was inaugurated and the last Congress met in 1877, the republicans controlled the Senate and the democrats the House. A prudent bill regulating the electoral count was passed, under charge of Senator EDMUNDS, through the Senate and came to this House where it slept the sleep of death. It was never reported from the committee nor pressed upon our attention here. That being a time of profound calm from political agitations would have been most suitable to consider and pass the proper legislation in this behalf. The American people are now within five months of another presidential election, with the possibilities of all the angry excitements of the past upon them, and yet no deliberate enactments have been considered by this House nor by this Congress providing suitable remedies against the dangerous perils from the uncertainties and disputes about electoral counts. Now, here in the closing hours of the session a remedy, a weak, unsatisfactory, unconstitutional remedy, is proposed in the form of a mere legislative rule. What is it? Let us examine its details. Before doing so, however, let us see what is confessedly the Constitution and the law regulating the counting of the electoral votes.

THE CONSTITUTIONAL PROVISION.

The single constitutional provision on the subject is in the twelfth article, which reads:

The electors shall meet in their respective States and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each; which lists they shall sign and certify, and transmit sealed to the seat of Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all certificates and the votes shall then be counted;—the person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of electors appointed.

This amendment was proposed in 1803, and became part of the Constitution in 1804. The first elections for Vice-President began under it in 1804, and have continued ever since. The only permanent statutory provision Congress has ever enacted for the electoral count was

in March, 1792, and may be found as section 142 of the Revised Statutes, and provides:

Congress shall be in session on the second Wednesday in February succeeding every meeting of the electors, and the certificates, or so many of them as have been received, shall then be opened, the votes counted, and the persons to fill the offices of President and Vice-President ascertained and declared, agreeable to the Constitution.

[Here the hammer fell, Mr. WHITE'S time having expired.]

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate insisted on its amendments to the bill (H. R. No. 4244) for the establishment of titles in Hot Springs, and for other purposes, disagreed to by the House of Representatives, agreed to the conference asked for by the House, and had appointed Mr. MCDONALD, Mr. WALKER, and Mr. BOOTH as conferees on the part of the Senate.

The message further announced that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

A bill (S. No. 254) for the relief of Herman Biggs; and

A bill (S. No. 1001) to authorize the auditing of certain unpaid accounts in the Indian Bureau.

The message further announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes.

ENROLLED BILLS SIGNED.

Mr. WARD, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 194) to provide for the disposal of the Fort Harker military reservation;

An act (S. No. 1801) for the relief of Clement C. Clay, of Alabama;

An act (H. R. No. 3988) to remove the political disabilities of Charles Carroll Simms, of Virginia;

An act (H. R. No. 3328) to remove the political disabilities of John Owins, of Portsmouth, Virginia;

An act (H. R. No. 3832) to remove the political disabilities of Joseph A. Seawell, of Virginia;

An act (H. R. No. 3109) to remove the political disabilities of I. Wilkinson;

An act (H. R. No. 393) authorizing the Treasurer of the United States to refund to W. B. Farrar, of Whitfield County, Georgia, illegal taxes collected from him in the year 1877; and

An act (H. R. No. 6471) to amend an act entitled "An act to create the northern judicial district in the State of Texas, and to change the eastern and western judicial districts of said State, and to fix the time and places of holding courts in said districts," approved February 24, 1878.

COUNTING ELECTORAL VOTE.

Mr. HUNTON. Mr. Speaker, I approach the discussion of this important question with some diffidence for several reasons, one of which is that I feel physically unable to make a sustained effort to-day. But the magnitude of the question and the fact that I have given it considerable study and consideration make it in my opinion proper that I should submit to the House some remarks upon the subject.

The question presented to this House is one of the deepest importance, because in my opinion if ever this country is disrupted and the Government broken up it will be on the occasion of a contested presidential election. Since the last presidential count the attention of the whole country, including patriots of all parties, has been directed to the adoption of some mode by the two Houses of Congress for counting the electoral vote and preventing the recurrence of the scenes witnessed in the last presidential count.

The remedies for the evil are in the minds of different individuals as various almost as the gentlemen who express their opinions. Some prefer a constitutional amendment; some prefer a law of Congress; some prefer a joint rule. Now, I am indifferent as to the modes adopted, provided a right and proper mode be agreed on for ascertaining and declaring who are the President and Vice-President of the United States elected by the people.

I have been somewhat astonished at the remarks of some of the gentlemen on the other side of this Chamber, who take the ground that the joint rule under discussion is an assault upon State rights. I for one, if I believed that assertion, would be the first one on this floor to oppose this proposition. But, sir, I do not understand that any question of State rights in the sense usually attached to that term is involved in the election of a President and Vice-President of the United States.

There is no sovereign or inherent right of a State to elect a President or Vice-President. It is not one of the powers that originally belonged to the thirteen States that formed the Federal Government. It is a right conferred upon the States by the compact into which the thirteen original States entered when the Constitution was adopted. Therefore, when gentlemen on the other side of the Chamber say that this joint rule assails State rights, they cannot use that expression as meaning anything else than that it interferes with the compact right of each State under the Federal Constitution. The State having no such right as a State when this Constitution was adopted, we have to look to that instrument, and to that alone, to see whether or not the State has such rights as are maintained for them by some persons on this floor.

Well now, sir, I agree in the Constitution of the United States the right is conferred by that instrument upon each State to appoint its electors in such manner as the Legislature may direct; and no human being, without a violation of that sacred instrument, has a right to abridge, interfere, or alter that right of a State to appoint its own electors in such manner as the Legislature may direct. And, therefore, I again say if this joint rule interferes with the right of a State to appoint its electors, I will be foremost among those who would oppose it.

But I beg to call the attention of gentlemen on the other side of the House to a distinction, to which their minds seem never to have adverted, between the appointment of electors and the declaration of that appointment. Now, the question arises, after a State has appointed its electors, who the State has appointed; and when that question is solved the State must have its votes according to the electors appointed, and the only question left is to determine who are the electors appointed by the State.

Now, it seems to me that the question who has the State appointed not only interests the State itself, but interests every one of the States of the United States. Allow me to illustrate: Take the State of Louisiana in the last election; and on the decision of how that State had voted, who that State had appointed as its electors, hung the declaration of who was the next President of the United States. We all know now, although we did not know it at the time of the count, that the certificates of electors of their votes were forged. The State of Louisiana appointed its electors. Who were appointed? One of the certificates of electors which came up here to be counted was a forged certificate, and if the existence of forgery had been as well known then as now that vote could not and would not have been counted, and nobody within the sound of my voice would have demanded that vote should be counted under the forged certificate of the electors.

Not only was Louisiana interested to have her true vote counted and to have her legally appointed electors certify their votes here and their votes counted, but every one of the thirty-eight States of the United States had the same interest in the question that Louisiana had. When the two Houses of Congress meet to ascertain who has been elected President of the United States the person declared elected is not only the President of the State in dispute, but the President of the thirty-eight States of this Union, and every one of those thirty-eight States has the same interest in a proper legal declaration of the result that the State in dispute has.

I say, therefore, Mr. Speaker, that the framers of the Constitution hardly meant to leave it to any given State of the thirteen original States and such as might come into the Union afterward the right by forgery, by bribery, by perjury to palm off on the other States of the Union a President not elected. I believe the framers of that Constitution were more far-sighted than that, and meant to reserve in that compact between the States some powers in the Federal Government or the two Houses of Congress to check a fraudulent certificate of votes; not to interfere with the appointment of electors in the States, but to ascertain who was appointed the elector in any given State.

I believe that this power, by the twelfth amendment to the Constitution, was lodged in the two Houses of Congress. A different opinion prevailed in the minds of some, and four years ago nearly this whole question was elaborately and ably discussed in the two Houses of Congress. The discussion in this House was led by my eloquent and able colleague from Virginia, and in the other wing of the Capitol by the distinguished Senator from New York, [Mr. CONKLING.] When that question came to be determined by the votes of these two Houses on the electoral bill which declared, in substance, that the Vice-President had no right to count the vote, but that it belonged to the two Houses and to be controlled in such manner as the two Houses might determine, but seventeen gentlemen were found on the floor of this House and but few on the floor of the other to maintain a different doctrine. I say it is too late, therefore, to discuss that question. Nobody who has read the debate on that subject to which I have referred would now dare, it seems to me, to rise in his place and maintain that the Constitution of the United States devolved upon the President of the Senate the right not only to open but to count the vote.

I shall not, therefore, in the limited time I shall occupy, undertake to repeat the arguments, which were better than any I can make, and will refer gentlemen who have any doubt on the subject to the debate on that subject.

But I do desire to call the attention of the House to the simple fact that never since the history of this Government has the President of the Senate undertaken to count the electoral vote. There is an unbroken series of precedents on the subject, and in all of them the President of the Senate never, never dared to claim or usurp the authority to count the electoral vote.

Mr. WHITE. Will my friend allow me?

Mr. HUNTON. Certainly.

Mr. WHITE. Did not John Langdon do it?

Mr. HUNTON. I expected you were going to say that. If you will take your seat I will come to that first. I hope my friend will be quiet and patient.

I say again that I defy the other side of the House or any gentleman to bring a single precedent in which the President of the Senate *ex mero motu*, by his own motion or power derived from the Constitution, undertook to count or tabulate the vote for President of the United States. The first case on record was in reference to the first election of Washington as President of the United States. The condition of affairs at that time was peculiar. There was no President of the Senate. There was no President of the United States. The machine had to be started and of course there was no President of the Senate to count or even to open the votes, but the two Houses of Congress by a joint resolution conferred upon John Langdon the power for this purpose to open and count the electoral vote, and while they did exercise the power on that occasion and the only one in the history of the country in which that power was exercised in that way, it was not exercised until the two Houses of Congress conferred upon Mr. Langdon the authority to open and count, and until that time there was no human being who had the power to open the votes.

Mr. CASWELL. Will the gentleman yield to me for a question?

Mr. HUNTON. Yes, sir; for a question.

Mr. CASWELL. I wish to ask the gentleman from Virginia in what part of the Constitution he finds the power or in what clause of the Constitution he finds the authority to vest the count of the electoral votes in Congress?

Mr. HUNTON. Why, my dear sir, what is the necessity for asking that question? It is in the twelfth amendment to the Constitution. It was originally in the first section of the second article, but afterward it was amended and the twelfth article now contains the power which is the subject of dispute, and it is in that article that the power to open and count the vote is given to somebody——

Mr. CASWELL. Given to the President of the Senate.

Mr. HUNTON. And I desire now to show where that authority is vested under the Constitution.

Mr. CASWELL. It was given to the President of the Senate in the presence of the two Houses of Congress, who cannot assemble there in their legislative capacity. Now, what part of the Constitution delegates to the Congress any jurisdiction over the subject?

Mr. HUNTON. Does my friend mean to say that the two Houses when they meet to witness or meet to count assemble in their legislative capacity?

Mr. CASWELL. Not at all.

Mr. HUNTON. I understood the gentleman to say so.

Mr. CASWELL. I did not say that. They do not assemble in their legislative capacity, but merely as witnesses, and because the Constitution permitted their presence at the opening of the certificates. But because they are present as witnesses at the opening of the certificates it does not follow that they are expected to take part in the proceedings, and I ask now the gentleman from Virginia to point me to the authority in the Constitution which delegates to the two Houses of Congress, when they are assembled in that capacity, any authority to take any jurisdiction whatever over the count.

Mr. HUNTON. I cannot yield for a speech. I only yielded for a question. The gentleman says there is no authority under the twelfth amendment for the two Houses to count the electoral vote. Does the gentleman maintain that there is authority for the President of the Senate to open and count the votes?

Mr. CASWELL. I do.

Mr. HUNTON. Where, then, does the gentleman get that authority from?

Mr. CASWELL. From the Constitution.

Mr. HUNTON. Very well, but where in the Constitution? This amendment to which I have been referring says the President of the Senate shall open——

Mr. CASWELL. Exactly.

Mr. HUNTON. And the votes shall then be counted. Now, if the framers of this article of the Constitution meant what the gentleman means, or what he asserts now, why did they not say that the President of the Senate shall open and *count the votes*?

When John Langdon was elected for the purpose of opening and counting the vote, the language was, "he shall open and count."

There was no evasion or doubt in the force of the language that was used. But they conferred upon John Langdon not only the power to open, but the power to count the votes. But the twelfth amendment to the Constitution says the President of the Senate shall "open all the certificates and the votes shall then be counted," and I assert that if the framers of the Constitution meant that the President of the Senate shall count as well as open the certificates it would have used the same language, employed the same form of words that was used when this power was conferred upon Langdon in the case of the first election where he was empowered to open and count the electoral votes.

Mr. CASWELL. I hope my friend will now yield to me for another question.

Mr. HUNTON. I will yield for a question merely.

Mr. CASWELL. How can the two Houses there assembled in their joint capacity assume any jurisdiction over this question or take any part in the count?

Mr. HUNTON. I will endeavor to show the gentleman before I get through. I say that from the time of the counting in of George Washington at the first election for President down to the present time, with one exception, the two Houses of Congress have exercised that power.

Mr. KEIFER. Will the gentleman yield to me for a moment? He has challenged contradiction of his assertion in reference to this matter, and I wish to show him from the record that his statement in reference to this count by Mr. Langdon is entirely incorrect in the light of history.

Mr. HUNTON. Well, the gentleman from Ohio can follow me and show that if he desires to.

Mr. KEIFER. I thought you said you wanted it done now, if it could be done, and challenged contradiction to your assertion.

Mr. HUNTON. I mean to undertake to demonstrate conclusively to this House that John Langdon opened and counted the electoral vote by express authority conferred upon him for that purpose by the two Houses of Congress, and that from that time down to the present the two Houses of Congress have exercised that right.

Mr. KEIFER. Will the gentleman from Virginia allow me to read from the record to show that that is incorrect?

Mr. HUNTON. I mean to read from the record myself, and then if the gentleman has anything to read against that he can do so.

Mr. VAN VOORHIS. Will the gentleman from Virginia allow me to ask him a question?

Mr. HUNTON. I will yield to the gentleman from New York for a question, and after that I shall not yield any further.

Mr. VAN VOORHIS. Did the twelfth amendment make any change in the wording of this provision of the Constitution?

Mr. HUNTON. The gentleman will understand what I mean if he will listen to me. I am not speaking in doubtful language.

Now I proceed to the unbroken line of precedents in which, as I maintain, both Houses of Congress, and not the President of the Senate, have undertaken to count the electoral vote and declare who is President and who is Vice-President. At the very second election in 1793 a joint rule was adopted, which I shall read. My friends on the other side have a great horror of joint rules, and yet if they will search the precedents from the earliest history of the Government down to the present time they will find that every President except George Washington for his first term and R. B. Hayes has been counted in under the operation of a joint rule. From George Washington down to Rutherford B. Hayes every President of the United States has been counted in and the vote counted and declared by the action of the two Houses. Here is the first joint rule. Mr. King, from the joint committee appointed to prepare and report a joint rule for the counting of the electoral vote, reported the following:

That the two Houses shall assemble in the Senate Chamber on Wednesday next at twelve o'clock; that one person shall be appointed a teller, on the part of the Senate, to make a list of the votes as they shall be declared; that the result shall be delivered to the President of the Senate, who shall announce the state of the vote, and the persons elected, to the two Houses assembled as aforesaid.

Now, in that joint rule adopted in 1793 the two Houses of Congress counted and declared or prescribed how the result of the election of President and Vice-President of the United States should be declared. They appointed two tellers, who on their part carried out the instructions of the two Houses of Congress, subject to their order and removable at their pleasure. And the tellers of the two Houses counted and declared the vote; when it was counted it was handed by them to the President of the Senate, who announced the result. And that was done not by an amendment of the Constitution, as some gentlemen seem to desire so earnestly, not by a law of Congress, as others seem to desire as earnestly, but by a joint rule of the two Houses of Congress, adopted just before the votes were to be counted and the result of the election declared.

Now, if gentlemen make an assault upon the joint rule they assault the action of every Congress since the formation of the Government, except the first, whenever a count of the presidential vote was to be made. Now, then, let us see what John Adams did; and I suppose that there is no Massachusetts man on that side of the Chamber who would like to controvert anything that John Adams did. In 1793 we find this was the order of proceeding, John Adams being then the Vice-President:

The two Houses having accordingly assembled, the certificates of the electors of the fifteen States in the Union, which came by express, were, by the Vice-President, opened, read—

Not counted—

and delivered to the tellers appointed for the purpose, who, having examined and ascertained the votes, presented a list of them to the Vice-President, which list was read to the two Houses, and is as follows.

Now, when the Vice-President at that day opened the certificates of the electors they were read and delivered to the tellers, who examined and declared upon them, and those tellers were the organs of the two Houses, appointed by them for this purpose, and exercising in their person the same powers which the two Houses could have exercised without the tellers if it had been as convenient.

Well, let us see what Mr. Adams said on another occasion. Mr. Adams was President of the Senate and Vice-President of the United States:

Gentlemen of the Senate and House of Representatives—

See how the fathers of our Republic acted, and see how you are

disposed to violate the example they set you in ascertaining and declaring who was elected President and Vice-President—

Gentlemen of the Senate and House of Representatives: By the report which has been made to me by the tellers appointed by the two Houses to examine the votes, there are 71 votes for John Adams, 68 for Thomas Jefferson, 59 for Thomas Pinckney, 30 for Aaron Burr, 15 for Samuel Adams, 11 for Oliver Ellsworth, 7 for George Clinton, 5 for John Jay, 3 for James Iredell, 2 for George Washington, 2 for John Henry, 2 for Samuel Johnston, and 1 for Charles C. Pinckney.

Now, there is the President of the Senate, who, according to the doctrine maintained by some gentlemen at this late day, has the right himself to examine, count, and declare, telling the two Houses of Congress assembled in joint convention that according to the report which has been made to him by the tellers appointed by the two Houses to examine the votes the vote is as follows; and the President of the Senate did not any more undertake to ascertain and determine what were the votes and for whom they were to be counted than the King or the Queen of Great Britain. And yet, according to the latter-day construction, which violates all these precedents, the President of the Senate alone had the right to do that which the two Houses of Congress, either themselves or by their appointed agents, have done from the foundation of the Government in every presidential election except the first.

John Adams said this upon his election as President, and it is set down in the account of the proceedings:

Gentlemen of the Senate and House of Representatives: By the report which has just been made to me by the tellers appointed by the two Houses to examine the votes, there are 71 for John Adams, &c.

So it seems that John Adams himself, the President of the Senate, puts the declaration of the vote, not upon what he has ascertained, but upon what the tellers, the organs of the two Houses, have reported to him as the result of that election. The President of the Senate then sat down for a moment, and rising again thus addressed the two Houses:

In obedience to the Constitution and law of the United States, and to the commands of both Houses of Congress expressed in their resolution passed in the present session, I declare that John Adams is elected President, &c.

Now, how can there be a doubt as to the construction of this clause of the Constitution at that early day and by persons who themselves took part in the formation of that Constitution?

These counts of the electoral votes took place under the first section of the second article of the Constitution as originally adopted, in which these words are used:

The President of the Senate shall in the presence of the Senate and House of Representatives open all the certificates, and the votes shall then be counted.

As I have shown, the President of the Senate, in the counts already referred to, did not attempt to count the votes, (except in the first count,) but that the two Houses counted the votes under a joint rule, and this construction of those words was acquiesced in by all parties.

Then the twelfth amendment was adopted, in which the words of the first section of the second article, above quoted, were inserted. The rule of construction is imperative that when certain words of a bill or constitution are readopted or re-enacted they are readopted or re-enacted with the construction already given them. Therefore this amendment was adopted with the construction that the President of the Senate had not and the two Houses had the power to count the vote, and, as will be seen, subsequent action has conformed to this construction.

I must, of course, omit a great many of the precedents that I would like to lay before the House, because time fails me. I come now down to 1861. The House will remember that in 1860 occurred the last presidential election before the war, and in February, 1861, when the two Houses were assembled to count the vote for President and Vice-President, the war had actually begun.

Who was the President of the Senate on that occasion? I believe I am not mistaken when I say that John C. Breckinridge was the President of the Senate. He himself was a candidate for election to the high office of President of the United States; and it was he, if anybody, who had the right, if such was the rule, to count and declare the vote for President and Vice-President on that occasion.

A joint rule was adopted on that occasion by the two Houses of Congress very similar to the one that I have read as having been adopted at the time of the second presidential election, by which each House appointed tellers, who examined the votes and handed the result to the President of the Senate to be declared. What did the Vice-President say on that occasion? Recollect that he was himself a candidate for the office of President. The votes given him for that high office were opened by him and disposed of according to the Constitution. On that occasion he said:

The two Houses being assembled in pursuance of the Constitution, that the votes may be counted and declared for President and Vice-President of the United States for the term beginning the 4th of March, 1861, it becomes my duty under the Constitution to open the certificates of election in the presence of the two Houses; and I now proceed to discharge that duty.

He did not arrogate to himself the right to count those votes. He knew from the language of the Constitution and the precedents upon the subject that it was alone his duty to open the certificates and hand them over to the tellers who had been appointed by the two Houses of Congress. The Vice-President then proceeded to open and to hand to the tellers the votes of the several States for President and Vice-President of the United States. The count which was made by the tellers, and not by John C. Breckinridge, the President of the Senate, gave Mr. Lincoln 180 votes and John C. Breckinridge 72 votes.

That was an example which surely is worth something. When the country was on the verge of war, when the then President of the Senate was himself one of the candidates for the Presidency, if ever there was a time when a man might be tempted to usurp power under the Constitution, then was the time. But John C. Breckinridge, President of the Senate, instead of attempting to usurp power, followed the precedents of the Government from its earliest history down to that moment, and declined to do more than to open the electoral certificates and hand them over to the tellers. They, as the organs of the two Houses, passed upon the votes which were opened by the President of the Senate and handed by him to the tellers. When they declared the number of votes given to each one of the candidates for the Presidency, that was handed to the Vice-President, and he announced to both Houses of Congress, in joint convention assembled, the result of the vote as ascertained by the tellers of the two Houses.

Now, in my opinion, whatever other gentlemen may be able to see in this unbroken line of precedents, the President of the Senate never undertook, not even at the time of the first election of President, to usurp the power of counting the votes.

The war came on in 1861. When it was over, and the Southern States were returning to the Union, difficult questions arose about ascertaining whether a State had the right to vote, and if it had a right to vote, how it had voted. The two Houses of Congress became very anxious on the subject. Instead of trusting to a joint rule, to be adopted just before each presidential count, they adopted formally a joint rule to remain as the joint rule of Congress to govern their action on all future occasions, so long as it remained a joint rule.

Some gentlemen on the other side of the House have criticised those on this side for postponing action on this matter to so late a day in this session. I grant you that it might have been better to have taken the subject up earlier. And my friend, the chairman of the committee on that subject, [Mr. BICKNELL,] has been trying since the 27th day of January, 1880, to get this matter before the House in the shape of a bill to become a law by passage through the two Houses of Congress and receiving the signature of the President. He has been unable to do it, and the closing hours of this session are approaching, and we thought something must be done to avert the disaster, possibly war, next year, in the count of the votes for President and Vice-President of the United States.

It is said that it is too late in the session to consider this matter now. My friend from Indiana [Mr. BICKNELL] has offered you all the time you want to debate it. I beg leave to call the attention of gentlemen on the other side of the House to the fact that the twenty-second joint rule was adopted 6th of February, 1865, not quite thirty days before the count of the electoral votes for President and Vice-President was entered upon. If this is hasty action, that was more so. If this is democratic action and too hasty, that was republican action and still more hasty.

But the truth of it is that this action is proposed now, even during the closing hours of the second session of this Congress, because we believe, and everybody must agree, that it is better to settle the rule by which this count is to be made before the election rather than afterward.

When the two Houses of Congress shall meet in December next the presidential election will have passed, and any attempt then to establish a rule for the counting of the votes will be an attempt in face of the facts involved in that count. Of course it is better to make that rule now before the election takes place.

Our friends on the other side will bear in mind the fact that although the attempt has been made on two several occasions, probably on three, to pass a law on the subject of counting the electoral vote, that attempt has always resulted in a failure. Each recurring presidential election has been solved by the operation of a joint rule, adopted by the two Houses of Congress just before the presidential count, until a permanent joint rule was adopted in 1865.

When 1865 came around the war was about closed; not quite over. Troublesome questions might be expected to arise in the future in regard to counting the electoral vote. The republican party, then in possession of both Houses of Congress by more than a two-thirds majority, adopted the twenty-second joint rule. Now, what do my friends on the other side think of this rule in regard to violating State rights if their party approved the late twenty-second joint rule?

Mr. WHITE. That was a bad rule.

Mr. HUNTON. If that is so it was not the only bad thing your party did in those days.

Mr. WHITE. It did a great many good things.

Mr. HUNTON. That may be; but it did a great many bad things.

Mr. WHITE. That was not a practicable rule.

Mr. HUNTON. If it was a bad rule your republican party is committed to it.

Mr. WHITE. Those were rebellious times, and many measures had to be resorted to which were not to be justified in other and more peaceable times. That did not affect the vote.

Mr. HUNTON. I will show that under that twenty-second joint rule States were thrown out and States were admitted. It was as potent to regulate the proceedings of the two Houses in counting the

electoral vote as an amendment to the Constitution or an act of Congress could possibly be.

Mr. WHITE. It did not affect the result of the election.

Mr. HUNTON. I cannot be interrupted any further. You will excuse me; you can have some time presently, and then you can say what you please.

I say, then, that it will not do for the republican party of this day to criticise this proposed joint rule for counting the vote for President and Vice-President, when from the foundation of the Government both parties have acted under a joint rule, and when the republican party, at the time that it controlled both Houses of Congress by more than a two-thirds majority, adopted the twenty-second joint rule. It is said that this proposed joint rule is an invasion of State rights. When did the other side of the House become such an advocate for State rights?

Mr. WHITE. I do not say that.

Mr. HUNTON. It is a recent conversion, if it be a real conversion, which I very much doubt. It suits the purpose of gentlemen on the other side at the present time to put their opposition to this joint rule upon the ground that it is an invasion of State rights. If this is an invasion of State rights, then I ask in the name of common sense how did your party invade the rights of States by the adoption of the twenty-second joint rule in 1865?

By the provisions of that rule the vote of no State could be counted unless both Houses concurred in favor of counting it, although there might have been but one certificate of electors and no objection made to the vote from that State. Here comes up a vote from the sovereign State of New York; there is no contesting vote; there is no objection upon constitutional grounds to the reception of that vote; yet under that twenty-second joint rule the two Houses of Congress must concur in receiving that vote before it could be counted by the tellers.

That is not the provision of the proposed rule now under discussion. Under this rule, when but one certificate comes up from a State certifying who are the electors and how they have voted, that vote must of necessity be counted unless both Houses of Congress concur in rejecting it. If the provision of the resolution now pending requiring that there must be joint action before a vote is rejected is an invasion of State rights, how much more was the late twenty-second joint rule an invasion of State rights when it provided that the vote of a State should not be counted under any circumstances unless both Houses of Congress assented?

How can it be contended that it is too late to pass a joint rule, when according to the history of the counting in of our Presidents from the foundation of the Government till now the mode of counting the votes and declaring who was elected President of the United States has been fixed and settled just before the counting was begun? Of course I do not speak now of the elections of 1868 and 1872, because to them the permanent joint rule adopted in 1865 applied.

Now I have come to the electoral count of 1869, when the famous twenty-second joint rule was in operation and governed the action of the two Houses. I can prove to the gentleman by this book, which I have not time to read to the House, that in every case where the twenty-second joint rule was in operation the President of the Senate, the two Houses of Congress, and everybody connected with the presidential count conformed themselves to the twenty-second joint rule because it was the rule.

Mr. WHITE. That did not affect the result.

Mr. HUNTON. How do you know it did not?

Mr. WHITE. I know it from the count; I know it from the arithmetic.

Mr. HUNTON. I suppose a thing is not right or wrong because it does or does not affect the result.

Mr. WHITE. But it passed *sub silentio*.

Mr. HUNTON. But great parties do not undertake to make constitutional precedents depend upon the question of affecting results. I take it for granted that the whole country adopted a rule in regard to counting the electoral vote because it was thought to be a rule consonant with the provisions of the Constitution. Unless it was so considered it would not have been adopted; would it?

Mr. WHITE. No; but I ask my friend, who is a lawyer and a good lawyer——

Mr. HUNTON. Then I think I have a right to argue that in adopting this joint rule in 1865 by an overwhelming majority—two-thirds of each body, I believe, concurring—the gentleman's party thereby declared that the President of the Senate had not the right to count the vote, but the two Houses of Congress had.

In addition to that, Mr. Speaker, the then President of the United States, Abraham Lincoln, sent to Congress a message which I will ask the Clerk to read.

Mr. WHITE. Will my friend allow me just here?

Mr. HUNTON. I cannot; my time is nearly out. I gave the gentleman five minutes.

Mr. WHITE. And I am very much obliged to the gentleman. But I want to vindicate history.

Mr. HUNTON. I ask the Clerk to read the message of Abraham Lincoln on this subject.

The Clerk read as follows:

IN SENATE, *February* 10, 1865.

The President *pro tempore* also laid before the Senate the following message from the President of the United States:

"*To the honorable the Senate and House of Representatives:*

"The joint resolution entitled 'Joint resolution declaring certain States not entitled to representation in the electoral college' has been signed by the Executive in deference to the view of Congress implied in its passage and presentation to him. In his own view, however, the two Houses of Congress, convened under the twelfth article of the Constitution, have complete power to exclude from counting all electoral votes deemed by them to be illegal; and it is not competent for the Executive to defeat or obstruct that power by a veto, as would be the case if his action were at all essential in the matter. He disclaims all right of the Executive to interfere in any way in the matter of canvassing or counting electoral votes; and he also disclaims that, by signing said resolution, he has expressed any opinion on the recitals of the preamble or any judgment of his own upon the subject of the resolution.

"ABRAHAM LINCOLN.

"EXECUTIVE MANSION, *February* 8, 1865."

Mr. HUNTON. It appears from this message that Abraham Lincoln, then President of the United States, not only thought that the two Houses of Congress alone had the power to count the vote, but believed it was not competent for the President of the United States, by vetoing a bill or resolution on the subject, to interfere with that power. President Lincoln stands upon record committed to the doctrine that a joint rule, which does not require the signature of the President, is the true and only mode of determining how the presidential vote shall be counted.

That was not the end of it. In 1869, when a point was made, the President *pro tempore* of the Senate said:

The Chair will suggest to the Senate whether this ought not to be a concurrent resolution. The twenty-second joint rule, under which we are acting, provides, &c.

That twenty-second joint rule provided for a concurrent resolution, and a concurrent resolution was adopted. Thus the President of the Senate at that time, in 1869, maintained the twenty-second joint rule as the rule of the two Houses of Congress in counting and declaring the presidential vote.

[Here the hammer fell.]

The SPEAKER *pro tempore*, (Mr. O'CONNOR.) The time allotted to the gentleman from Virginia has now expired.

Mr. WHITE. I ask unanimous consent that the gentleman's time may be extended.

The SPEAKER *pro tempore*. How long?

Mr. WHITE. Indefinitely—until he gets through.

Mr. HUNTON. I only want a few minutes more. I am very sorry to trespass upon the patience of the House.

The SPEAKER. If there be no objection, the gentleman will proceed. [Cries of "All right!"]

Mr. HUNTON. I am very much obliged to my friend from Pennsylvania and to the House for this courtesy. I shall be very brief.

In 1869 the vote of Louisiana was disputed, and there was directly presented to the joint convention of the two Houses of Congress, assembled to count and declare the electoral vote, the question what should be done with the vote of the State of Louisiana. According to the rule declared by my friends on the other side, there could not have been any trouble then. The President of the Senate had a right to say how Louisiana had voted; and no member of either House of Congress had the right to do more than sit there and see the President of the Senate usurp authority and declare a man elected as President who perchance might not have received one-third of the electoral votes. But the twenty-second joint rule was in operation, a rule which met the approval of two-thirds of both Houses and the approval of the President of the United States. When, under the operation of that rule, Louisiana was reached, and an objection was made to the reception of the vote of that State, both Houses separated, and each House having separately declared that the vote of Louisiana should be received, it was received.

Mr. WHITE. My friend was a member of the Forty-fourth Congress, and——

Mr. HUNTON. I have not got to the Forty-fourth Congress yet; wait till I get there. The gentleman wants me to skip what it is not agreeable to me to skip or agreeable to him to hear.

Mr. WHITE. I want to ask about the twenty-second joint rule.

Mr. HUNTON. I am coming to that presently.

Mr. WHITE. Why did you not adopt that twenty-second joint rule in the Forty-fourth Congress?

Mr. HUNTON. In the Forty-fourth Congress?

Mr. WHITE. Yes, sir.

Mr. HUNTON. Well, is it possible that the gentleman from Pennsylvania asks such a question?

Mr. WHITE. It is possible. Why not?

Mr. HUNTON. Does not the gentleman know that the Senate repealed that rule?

Mr. WHITE. The House refused to adopt the twenty-second joint rule, as I understand.

Mr. HUNTON. Well, now, the gentlemen is standing on his head instead of his feet. The joint rule was in operation when the Forty-fourth Congress began. In the mean time the House had become democratic, the Senate remaining republican. The House was willing that the twenty-second joint rule should stand, but the Senate was not. The Senate repealed that joint rule, and then there was no longer a joint rule to govern the two Houses; they had to look out for some other mode of counting the electoral vote, because the Senate would not submit to a rule under which three presidential counts had been had.

Mr. WHITE. Will the gentleman allow me to state a fact of history?

Mr. HUNTON. I am stating facts of history myself.

Mr. WHITE. My friend will allow me. With all deference to him,

he has not stated the facts exactly right. The Senate of the United States in the Forty-fourth Congress did not recognize the existence of the joint rules unless they were adopted by the then Senate; and, as I understand it, the twenty-second joint rule never was adopted by the Forty-fourth Congress.

Mr. HUNTON. Is my friend from Pennsylvania to be informed?

Mr. WHITE. I will be glad to be informed.

Mr. HUNTON. I will be glad to inform him.

Mr. WHITE. Very well; go ahead.

Mr. HUNTON. Is he to be informed a joint rule of the two Houses remains a joint rule until rescinded?

Mr. WHITE. I do not accept that interpretation.

Mr. HUNTON. I cannot help that.

Mr. WHITE. That is a difference of opinion.

Mr. HUNTON. Enjoy yours. And if you will sit down I will finish my speech; and then you can reply to it.

Mr. WHITE. Go ahead.

Mr. HUNTON. Now I state as a matter of history, which gentlemen will not controvert, that the twenty-second joint rule adopted on the 6th of February, 1865, remained the joint rule of both Houses through that and the two succeeding Congresses, and three presidential elections were counted under that rule without its having been readopted by either House until the Forty-fourth Congress came in, which had to count and declare the vote in the last presidential election. My friend will recollect as a matter of history that the complexion of this House had changed. He will recollect the provision of the twenty-second rule that both Houses had to concur before a State could be counted. That is the reason why the republican Senate would not agree longer to be bound by a rule under which they had counted three several times, because this House, which had become democratic, had a right to put a veto on the electoral vote of a State. Therefore the republican Senate determined to repeal the joint rule, and would no longer be bound by it. Those are facts of history.

Mr. WHITE. I will get a chance to state my side after a while.

Mr. HUNTON. You cannot controvert the facts.

Mr. WHITE. I have the book.

Mr. HUNTON. So have I. I have two books. [Laughter.]

Mr. WHITE. I can quote from a dozen.

Mr. HUNTON. Now, I say in 1869, at the point where my friend interrupted me and wanted me to skip to the Forty-fourth Congress, the State of Louisana was objected to under the twenty-second rule, and both Houses concurring in the fact the State of Louisiana ought to be counted, the State of Louisiana was counted under that twenty-second joint rule in that presidential election.

They came to the State of Georgia in the same count, but, according to my recollection, and I believe it is correct, both Houses did not concur in counting the vote of Georgia and, under the same twenty-second joint rule, the vote of the State of Georgia was thrown out of the count.

So my friends on the other side must see, not only from the unbroken precedents coming down from the very beginning of the Government, but that in 1865, 1869, and 1873, this twenty-second joint rule, so obnoxious to the criticism of the gentleman from Pennsylvania, was in operation. It declared that, not the President of the Senate, but the two Houses of Congress had the right to count and declare the vote. It confined the operations of the President of the Senate to opening the certificates and laying them before the two Houses. Not only that, but the President of the United States declared in his message it was not only right and proper the two Houses should do this, but improper and *ultra vires* on the part of the President to interfere by veto in the count of the electoral vote for President.

In 1872, when they were counting the presidential vote, Mr. HOAR, of Massachusetts, rose to a point:

> I desire to make the point that the three votes reported by the tellers as having been counted for Horace Greeley, of New York, cannot be counted, because the person for whom they purport to have been cast was dead at the time of the assembling of the electors of the State.

There was the point raised as to the validity of the votes. It was not determined by the President of the Senate, who gentlemen on the other side now say has the right to open and count, but it was a point raised by a member of this House in joint convention of the two Houses, met for that purpose. When that point was raised, who decided it? Not the President of the Senate. Here is what the President of the Senate said:

> The gentleman from Massachusetts having made the point which has been stated by him, the Chair will read—

From what?

> The Chair will read from the twenty-second joint rule of the two Houses.

After reading the rule, the Vice-President continued:

> On previous occasion when this rule has been in operation it has been required an objection to the counting of any vote should be in writing, so it might be submitted, &c.

So the minutest details required by the twenty-second joint rule were enforced by the President of the Senate when the electoral vote was counted on these three several occasions, and whenever a point touching the counting of an electoral vote was raised in joint convention it was determined and acted on according to the details of that twenty-second joint rule.

In 1872 the vote of the State of Texas was objected to when that State was called, and under that twenty-second joint rule, objections having been made, it was not determined by the President of the Senate, who under this latter-day construction is the one person to determine a contested presidential vote, but it was laid before the two Houses, and they separated to determine each for itself whether that vote should be received or not, in exact accordance with that joint rule.

Well, the two Houses agreed that the vote of Texas should be counted, and having so agreed under the twenty-second joint rule, by the mere force of its operation made the vote of Texas a constituent part of the electoral vote which elected Ulysses S. Grant President in 1873.

Now, Mr. Speaker, I could give in support of the position which I have taken one hundred or more precedents from this book which gives the history of every electoral count since the formation of the Government. But surely what I have stated will suffice to show that everybody up to the year 1865 agreed that the presidential vote should be counted under a joint rule and did count under a joint rule, and in 1865, after a temporary joint rule for that occasion was adopted, a permanent joint rule was adopted by the two Houses of Congress, two-thirds of each House (being republican) voting in favor of it, and that joint rule receiving the support of two-thirds of the republican members present in the two Houses of Congress. It also received the express approbation of the President of the United States, and under it three Presidents were counted in—a rule which was more obnoxious than the present can possibly be if there be anything obnoxious in it at all.

Now, I say this joint rule not only prescribes how the vote shall be counted, but expressly negatives the idea that the President of the Senate has the right to count the vote. After all this has gone into the history of the country, I humbly submit that it is too late for any gentleman to rise in his place here, on this floor, and make the bold assertion that the President of the Senate has under any authority the power to count the electoral vote. Therefore, Mr. Speaker, while I would prefer a law, if there was time to pass a law, or if the other side of the House would allow us to enact one—while I would prefer a law upon this subject, I see no reason why we should be debarred from following the precedents of our ancestors from the foundation of the Government down to the present time and before partisan excitement or madness arises as a possible result of the next presidential election, from passing some such measure as this, a measure which may avert possible dangers in the ascertainment and declaration of the result of the next presidential election.

Now, it is feared that danger to the peace of the country is threatened by the count of the next presidential election. It is, in my opinion, the imperative duty of Congress to adopt some rule for the purpose which shall avoid this danger. We tender to the other side of this House a joint rule which has already passed the Senate, a rule which cannot be objected to on account of its provisions, and on that side of the House will rest the responsibility for its defeat and for any dire consequences which may flow from its defeat.

Mr. BICKNELL. I want to ask a question of the other side of the House, and that is whether they are ready to agree upon any time when this debate might close?

Mr. KEIFER. I am free to say that there are a number of gentlemen who want to speak upon this subject, and it is impossible to tell when they can do so; certainly not to-day.

Mr. BICKNELL. Then I give notice that I shall call the previous question at four o'clock.

Mr. KEIFER. And I give notice that the gentleman will only call it—he will not be likely to get it.

Mr. WHITE. Now Mr. Speaker I ask a few minutes more.

Mr. BICKNELL. If gentlemen indicate their intention to obstruct a vote upon this measure, I shall object to further debate.

The SPEAKER *pro tempore*. How much time does the gentleman from Pennsylvania want?

Mr. WHITE. About twenty minutes.

Several MEMBERS. Call the previous question now.

Mr. BROWNE. The gentleman from Pennsylvania has the floor, as I understand.

The SPEAKER *pro tempore*. The Chair has recognized the gentleman from Pennsylvania, who asked, by unanimous consent, twenty minutes additional time, to which request the Chair has heard no objection. Thereafter the Chair will recognize the gentleman in charge of the bill.

Mr. KEIFER. I desire to say that there are some of us who are ready to proceed with the debate on this side of the House now in answer to the remarks of the gentleman from Virginia.

The SPEAKER *pro tempore*. The Chair is governed entirely by such arrangements as to the time for debate as the gentleman from Indiana in charge of the bill may make. The Chair understands the gentleman from Indiana will call the previous question after the twenty minutes granted by consent to the gentleman from Pennsylvania.

Mr. KEIFER. We desire to answer the speech which has just been made, and presume that the Chair would not allow the gentleman in charge of the bill to make the closing speech upon it, and immediately demand the previous question, but that he would recognize some of the rights of this side of the House.

The SPEAKER *pro tempore*. The Chair will have to recognize the

gentleman in charge of the bill, and he will be recognized to demand the previous question. The gentleman's own side will have the closing argument, as the Chair understands there will be no discussion after the twenty minutes allowed to the gentleman from Pennsylvania.

Mr. KEIFER. But I understand the demand for the previous question will cut off debate. Now, the time was extended on that side of the House by consent, and I hope time will also be given to this side.

The SPEAKER *pro tempore*. It was done by unanimous consent.

Mr. KEIFER. But the time had not been equally divided even up to that point.

The SPEAKER *pro tempore*. The minority will have the last speech.

Mr. KEIFER. That is only to finish the twenty-minute speech which the gentleman has already made. I think, in view of the extension of time upon that side of the House, there should be ample time allowed on this side for discussion.

Mr. BICKNELL. At what time will the gentleman indicate that his side of the House will be ready to come to a vote upon this proposition?

Mr. KEIFER. I am not able to answer for other gentlemen upon this side of the House. I know that several of them desire to discuss this question.

Mr. HARRIS, of Virginia. If gentlemen expect to come to a vote upon the bill, and are willing to fix some time, all possible time ought to be given them for the discussion of the question; but if they propose to filibuster, and thereby defeat a vote, the sooner the matter is settled the better.

Mr. REAGAN. I think the matter had better be settled now by cutting off all debate. Gentlemen have notified us that it is their purpose to filibuster, and it is a mere sham to go on discussing the matter.

Mr. KEIFER. I take exception to the remark of the gentleman from Texas. Nobody has notified him or the House that we are going to have a sham debate.

Mr. REAGAN. I did not state that the gentleman had notified me, but his own declaration on the floor of the House a few moments ago and the remarks of his friends in private conversation are sufficient indication of their purpose.

Mr. SPARKS. Will the gentleman from Ohio say that it is not their intention to filibuster?

Mr. KEIFER. We mean to discuss the question and debate it fully.

Mr. SPARKS. Are you going to vote upon it?

Mr. KEIFER. We want full time to consider the question, and we propose to have plenty of time if we can get it.

Mr. SPARKS. Will gentlemen make an arrangement with us now that at some hour to-day or on Monday they will vote without filibustering?

Mr. KEIFER. There is no one on this side prepared to say when those who desire to speak on this side will be through.

Mr. SPARKS. Will you yourself state a time at which you will be willing a vote shall be taken?

Mr. KEIFER. I should be glad to have an opportunity of making some remarks on this question myself.

Mr. SPARKS. Will you fix upon a time when the vote will be taken?

Mr. KEIFER. I am not authorized to fix upon a time.

Mr. CONGER. We have no doubt, if proper time be permitted for debate we shall be able to convince the other side of the House that the resolution ought not to pass. With that feeling and that conviction, in order that we may be harmonious and that we may convince gentlemen opposite, as we believe we can, that this resolution ought not to pass, we ask time for full debate upon it. If gentlemen on the other side object it shows they are unwilling to be convinced by argument.

Mr. SPARKS. The gentleman from Michigan has come back from the Chicago convention resolved on counting in his man by the Vice-President as the only way of getting him in.

Mr. WHITE. I am opposed to discussing politics in this connection.

The SPEAKER *pro tempore*. The gentleman from Pennsylvania [Mr. WHITE] has been recognized, and is entitled to the floor for twenty minutes.

Mr. WHITE. Mr. Speaker, when I was taken from the floor a short time ago I had just quoted the constitutional provision and the act of 1792 as to the electoral count. I thought there could be little difference of statement as to what had been the practices of the earlier statesmen in counting the electoral votes through all our presidential elections till 1865. The gentleman from Virginia [Mr. HUNTON] who has just taken his seat has defied the statement that the uniform practice was for the President of the Senate to open and count the votes. I accept his challenge, and before discussing the proposed rule will, as pertinent to the argument, recite the precedents and authority for the President of the Senate, in the absence of any express legal provisions on the subject, to open and count the votes.

THE FIRST COUNT.

In a running debate, when formerly on the floor, I remarked that the first instance of counting the electoral vote was just after the adoption of the Constitution in 1789, by John Langdon, a Senator from New Hampshire, when George Washington was elected President. This was the resolution electing Mr. Langdon for the purpose:

APRIL 6, 1789.

Ordered, That Mr. Ellsworth inform the House of Representatives that a quorum of the Senate is formed; that a president is elected for the sole purpose of opening the certificates and counting the votes of the electors of the several States in the choice of President and Vice-President, * * * and that the Senate have appointed one of their members to sit at the Clerk's table to make a list of the votes as they shall be declared, &c.

In the certificate of the result, signed by Mr. Langdon, it is recited: "The underwritten, appointed President of the Senate for the sole purpose of receiving, opening, and counting the votes of electors, did," &c. The next election was in 1792, and with the experience of John Langdon's count in 1789 before them the act of March 1, 1792, was passed in relation to the count, which I have before quoted as section 142 Revised Statutes.

After the election of 1792, in February, 1793, John Adams, as Vice-President, conducted the count, and it was messaged from the Senate to the House, "as the same were declared by the President of the Senate in the presence of the Senate and of this House." Mr. Adams was elected and declared by himself Vice-President.

Similar proceedings were had in 1797, when John Adams was elected President of the United States. Mr. Adams was the Vice-President, the record shows:

And the certificates of the electors of sixteen States were by the Vice-President opened and delivered to the tellers appointed for the purpose, who, having examined and ascertained the number of votes, presented a list thereof to the Vice-President, which was read, &c.

To the same effect, only more explicit, is the resolution passed by the House February 10, 1797, directing the Vice-President to notify Mr. Jefferson of his election as Vice-President. *Inter alia*, it requires the recital, "the underwritten, Vice-President of United States and President of the Senate, did, in the presence of the said Senate and House of Representatives, open all the certificates and count all the votes of the electors for President and Vice-President," &c.; which was signed by Mr. Adams.

In 1800, the year of the fourth presidential election, a bill was reported to the Senate from a committee for that purpose, and discussed, "prescribing a mode of deciding disputed elections of President and Vice-President of the United States." Although this bill in different forms passed both Houses it never became a law. In the course of its discussion James Ross, a Senator from Pennsylvania, said the Constitution only directed "that after the votes were received," &c., "the President of the Senate should, in the presence of the Senate and House of Representatives, open the certificates, and the votes should be counted," &c.

Says Charles Pinckney:

He remembered very well that in the Federal convention great care was used to provide for the election of the President of the United States independently of Congress; to take the business, as far as possible, out of their hands, &c.

Then came the election of 1801, when Mr. Jefferson, then Vice-President, was elected President the first time. While there was no election by the people, Mr. Jefferson and Mr. Burr having an equal number of votes, Mr. Jefferson was subsequently elected by the House President, and Aaron Burr Vice-President. Mr. Jefferson thereafter signed a certificate, in which the following appears:

In Senate, February 18, 1801,

"*Resolved*, * * * The underwritten, Vice-President of the United States and President of the Senate, did, in the presence of the said Senate and House of Representatives, open all the certificates and count all the votes of the electors for President, whereupon it appeared that Thomas Jefferson, of Virginia, and Aaron Burr, of New York, had a majority of the votes of the electors, and an equal number of votes.

* * * * * * *

THOMAS JEFFERSON.

Let me, sir, in this certificate emphasize the word "count."

In this connection, and indicative of the understanding by this illustrious statesman of his power and authority in the premises, a curious historical incident is related. Mark you, he being Vice-President and *ex-officio* President of the Senate, was a candidate for President of the United States.

In the second volume of Davis's Memoirs of Aaron Burr, page 77, it is related of this count that—

Mr. Wells, a teller on the part of the Senate, informed Mr. Jefferson as president of the joint convention that the return from Georgia was informal; that it was merely stated in the inside that the votes of Georgia were, for Thomas Jefferson 4, and for Aaron Burr 4, without the signature of any person whatsoever. Mr. Wells added that he was very undecided as to the proper course to be pursued by the tellers. It was, however, suggested by one of them that the paper be handed to the presiding officer without any statement except that the return was informal; that he consented to this arrangement under the conviction that Mr. Jefferson would announce the informality from the chair; but, to his utmost surprise, he (Mr. Jefferson) rapidly declared that the votes of Georgia were 4 for Thomas Jefferson and 4 for Aaron Burr, without noticing their informality, and in a hurried manner put them aside, and then broke the seals and handed to the tellers the package from the next State.

Thus it will be observed in all the presidential counts referred to the same proceedings were practically had as were taken originally by John Langdon. With these experiences before them, the twelfth article of the Constitution, now the only constitutional provision on the subject, was in September, 1804, adopted. The contemporaneous history as to the manner of this count prior to and about the time of the adoption of this amendment is strong argument of the understanding and intention of its authors.

Mr. BROWNE. Will my friend allow me to interrupt him?

Mr. WHITE. Certainly.

Mr. BROWNE. When John Adams was a candidate for the Presidency with Thomas Jefferson, John Adams being Vice-President of the United States, there was a controversy as to the vote of the State of Vermont; yet John Adams, as Vice-President, counted the vote of that State in his own favor, when had it been counted for Thomas Jefferson it would have elected Jefferson President, and no man ever challenged even his power to do so or the propriety of his doing so.

Mr. WHITE. I am obliged to the gentleman from Indiana [Mr. BROWNE] for giving me this cumulative evidence in this regard. But I will not stand alone in the ancient way of the Republic; I will come down to more modern times.

The experience, then, of the Government up to the adoption of this amendment, and the language of the amendment itself declaring that "the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted," in the absence of any other statute, is most persuasive argument to me of the right of the President of the Senate to receive, open, and count the electoral vote.

UNDERSTANDING OF EARLY STATESMEN.

What was the understanding of the statesmen of the time? I read from the remarks of Charles Pinckney. I presume he will not be questioned as correct authority in this behalf. In 1800, in the Senate, he said:

Knowing that it was the intention of the Constitution to make the President completely independent of the Federal Legislature, I well remember it was the object, as it is at present not only the spirit but the letter of that instrument, to give to Congress no interference in or control over the election of a President. It is made their duty to count over the votes in a convention of both Houses, and for the President of the Senate to declare who has the majority of the votes of the electors transmitted. It never was intended, nor could it have been safe, in the Constitution to have given to Congress thus assembled in convention the right to object to any vote, or even to question whether they were constitutionally or properly given. This right of determining on the manner in which the electors shall vote, the inquiry into the qualifications and the guards that are necessary to prevent disqualified or improper men voting and to insure the votes being legally given, rests and is exclusively vested in the State Legislatures.

This is the contemporaneous declaration of that eminent Senator from South Carolina, Charles Pinckney, and, as my friend from Indiana [Mr. BROWNE] reminds me, a member also of the constitutional convention.

I can quote also the commentaries of Mr. Story in this behalf, remarking that the Constitution in this respect is singularly deficient of explicit directions, and that in the absence of any specific provision the power rests with the President of the Senate.

Mr. Chancellor Kent, more explicit than Judge Story, declares distinctly his opinion that the power to receive, open, and count is with the President of the Senate in the absence of legislation.

Now, sir, others have repeated and doubtless will repeat the historical precedents I have related, and do it more *in extenso* and better than I can hope to do. I have heard, however, in this connection the defiant challenge of the gentleman from Virginia [Mr. HUNTON] asking this side of the House to indicate where the President of the Senate in the history of the Government has ever followed this policy of opening and himself counting the votes. I accepted the challenge, and have pointed to the clear line of precedents from the adoption of the Constitution until the amendment of 1804.

I shall point further to a line of precedents from 1804 until the adoption of what has been called the twenty-second joint rule of February, 1865.

COUNT OF 1821.

At the electoral count of 1821 objection was made to counting the vote of Missouri. Mr. Tompkins was Vice-President. While the Houses separated, yet they came together again, and objection being again made, the president of the joint convention decided it out of order and completed the count and announced the result.

A similar experience occurred in 1837, when Martin Van Buren was Vice-President, and objection was made to the vote of the State of Michigan on account of alleged personal disqualification of some electors at the date of their appointment. The Vice-President counted the State and declared the result. In all other instances up to 1857, except those mentioned above, there was no question or interruption of the count being made by the President of the Senate.

WISCONSIN IN 1857.

It is a matter of recent history that in 1857 the electors of the State of Wisconsin were detained by reason of a storm from the capital of the State, the place of casting their vote, so that the vote of those electors could not be cast and certified at the capital of the State upon the day required by the act of Congress for the casting of the electoral votes in the several States. When that vote came here, and the Senate and House of Representatives met together in the old Hall, James M. Mason, of Virginia, was President *pro tempore* of the Senate.

Mr. BROWNE. And was a democrat.

Mr. WHITE. A most conspicuous democrat. The authority of his acts in this direction will certainly not be questioned by the gentleman from Virginia [Mr. HUNTON] who has just preceded me.

On that occasion Mr. Mason came in and took his seat on the right of the Speaker, as usual in such cases, and said:

Pursuant to law, and in obedience to the concurrent order of the two Houses, the President of the Senate will now proceed to open and count the votes which have been given for President and Vice-President of the United States, &c.

When the question was raised about the reception of the vote of Wisconsin, he would not hear discussion upon it and the vote was counted. I have before me the remarks of a number of the then Senators and Members as to the power of the President of the Senate in that behalf. I have not time to read them *in extenso*. I will read from the remarks of Senator Douglas:

On looking into the law and the Constitution since we have returned to our Chamber, I have arrived at the conclusion that all has been done that the law requires to be done to make the action complete. We assembled in the hall of the House in pursuance of the law. The votes were opened and were counted. That was all that was required to be done.

I quote also from the remarks of Mr. Thompson, of Kentucky, in the same direction:

So far as the resolution of my colleague declares that the vote of Wisconsin should not be counted, I believe it is correct and proper, and I will so vote. I do not believe, however, in the right of any member of the Senate or any member of the House to object when we are in joint session, or take part in it. I will proceed to show very briefly how that is in the Constitution.

And then he quotes *in extenso* that feature of the Constitution which is relied upon here. In addition to this high authority I quote the declaration of John J. Crittenden, of Kentucky. He believed and I also believe in the power of Congress to enact a law regulating this subject under the Constitution; but in the absence of any law he recognized the right of the President of the Senate to count and declare the vote.

I also cite to the same effect the remarks of Senator Stewart, then from Michigan. I also refer to the remarks of Hon. R. M. T. Hunter, then a distinguished and conspicuous Senator from the State of Virginia.

Mr. SPARKS. Does the gentleman from Pennsylvania [Mr. WHITE] assert that Mr. Mason insisted upon himself acting upon the Wisconsin case?

Mr. WHITE. I do say that he did not entertain the objections that were made in the joint convention.

Mr. SPARKS. I pretend to say that Mr. Mason on the contrary refused to act upon that case, and the two Houses did act upon it.

Mr. WHITE. That was subsequently.

Mr. SPARKS. Precisely.

Mr. WHITE. But I refer to the declarations of distinguished members of both Houses of Congress at that time to show, in their opinion, that in the absence of law upon this subject the President of the Senate, by virtue of the Constitution, has the right to do what Mr. Jefferson did and what Mr. Mason did, and what every previous presiding officer of the joint convention had done.

Mr. SPARKS. Now, of course the gentleman from Pennsylvania——

Mr. WHITE. I would like to yield to my friend, but my time is limited.

Mr. SPARKS. You can have more time. Of course the gentleman from Pennsylvania does not want to misrepresent history. I undertake to say that Mr. Mason took precisely the view which we take to-day, that as President *pro tempore* of the Senate he did not claim or attempt to exercise the right of passing upon the vote of Wisconsin or any other State, but submitted the question specifically to the two Houses of Congress. That is our position now; that is the principle assumed in the twenty-second joint rule; that is the principle embodied in the rule which the late Senator Morton attempted to have adopted in the Forty-fourth Congress. If the gentleman from Pennsylvania [Mr. WHITE] means to say that Mr. Mason took a different view, let him say so, and we will show that he is mistaken. On that we can make a square issue.

Mr. WHITE. I say that when the vote of Wisconsin was reached, in February, 1857, James M. Mason being in the chair as president of the joint convention, objection was made to counting that vote, and he ruled the objection out of order; and he himself subsequently counted the vote of that State. This is the contemporaneous history of that time; and the right of the President of the Senate so to act is justified by the long line of distinguished names which I have repeated.

Will my friends upon the other side listen? Here I have the record before me. I read from the Congressional Globe of February 11, 1857:

Mr. SMITH, of Tennessee. Would it be in order now to move that the vote of the State of Wisconsin be received?

The PRESIDING OFFICER. It would not be in order.

* * * * * * *

Mr. LETCHER. Is it in order now to move to exclude the vote of Wisconsin from that count?

The PRESIDING OFFICER. No debate is in order, in the opinion of the Presiding Officer.

Further on Mr. Mason said:

The Chair considers that, under the law and the concurrent order of the two Houses, nothing can be done here but to count the votes by tellers, and to declare the vote thus counted to the Senate and House of Representatives sitting in this Chamber.

Again, in the same connection, he says:

The Presiding Officer considers that the only duty imposed by the Constitution was that the vote should be counted in the presence of the Senate and House of Representatives. He considers that the vote has been counted by the tellers in the presence of the two Houses and under the charge, he presumes, of the Presiding Officer.

Pardon me another quotation from Mr. Mason in this connection:

The Presiding Officer, therefore, again states it as his judgment that the Senate came here under the Constitution only for the purpose of counting the votes in the manner prescribed in the Constitution.

I answer the challenge of the gentlemen on the other side by citing these conspicuous instances in which the Presiding Officer of the Senate has uniformly received, opened, and counted the votes for President and Vice-President.

Mr. ROBESON. With the consent of the gentleman from Pennsylvania, I would like to call his attention to a matter which perhaps he has forgotten. The convention which made our Constitution added to it a resolution, which was transmitted to the Legislatures of the various States, containing this provision:

That the Senators and Representatives should convene at the time and place assigned; that the Senators should appoint a President of the Senate for the *sole* purpose of receiving, opening, and counting the votes for President; and that after he shall be chosen the Congress, together with the President, should without delay proceed to execute this Constitution.

This resolution did not provide that the Senate and House should convene for receiving, opening, and counting the votes, but that the Senate should appoint a president of that body "for the sole purpose of receiving, opening, and counting the votes for President." This resolution was sent down to the States, and ratified by them in connection with their ratification of the Constitution.

Mr. WHITE. I am very much obliged to my friend from New Jersey. What he has read corroborates the position I have taken.

Mr. SPRINGER. That was done by the authority of Congress. The Senate had no other authority for electing a President of the Senate. The Government was just being inaugurated, and there was no Vice-President.

Mr. BROWNE. It was done by the constitutional convention, and expressed their understanding of the Constitution that was to go into effect.

Mr. SPRINGER. There was no President of the Senate; and it was necessary for a presiding officer to be chosen for this particular purpose, in order to set the machinery of the Government in motion.

Mr. BROWNE. But they conferred upon the temporary President of the Senate the exact power which the Constitution, when it went into operation, conferred upon the regularly-elected Vice-President, or President of the Senate.

TWENTY-SECOND JOINT RULE.

Mr. WHITE. I have done with this branch of the case. As I read history and precedents in this behalf, they are all in the direction I have indicated. Thus it continued until the adoption of the twenty-second joint rule, on the 6th of February, 1865. I have already said that such a rule in this time of profound peace would, in my judgment, be a dangerous one for the American Congress to adopt or act upon. That rule contemplated what? It prohibited the counting of an electoral vote from any State that was objected to unless the objection should be overruled by the concurrent vote of the two Houses. I cannot pause to discuss the matter in detail; suffice it to say that this nation was then in the throes of a great war. It was grappling with a terrible rebellion. This was possibly a temporary expedient, the offspring of the necessity of the hour. But singular to say this much-berated twenty-second joint rule was introduced into and passed through the United States Senate by Hon. Lyman Trumbull, then a United States Senator from Illinois and to-day the democratic candidate for governor of that State. In this connection the gentleman from Virginia [Mr. HUNTON] has had read the message of Mr. Lincoln approving a joint resolution excluding the eleven States in rebellion in February, 1865, from being counted at the electoral count.

Sir, this was a law. It was a joint resolution requiring the approval of the President. The pending resolutions do not require the executive approval. Do the gentlemen disapprove of the action of Mr. Lincoln in approving that measure? At that time the gentlemen, or most of them, across the way were not wanting to vote for President, but with arms in their hands were detaining a good many of us on the other side of the Potomac away from our homes, so that we could not peacefully participate in the presidential election to which the message of Mr. Lincoln referred.

The SPEAKER *pro tempore*. The twenty minutes the gentleman asked for have expired.

Mr. KEIFER. I ask the gentleman's time be extended indefinitely.

Mr. PHILIPS. I object.

Mr. WHITE. I hope the gentleman will not object in view of the fact that much of my time has been taken up by interruptions.

Mr. PHILIPS. I object and call for a vote.

Mr. BICKNELL. I yield ten minutes to the gentleman from Indiana, [Mr. BROWNE.]

Mr. KEIFER. I make the point of order that the gentleman from Indiana [Mr. BICKNELL] having occupied his time, is not now entitled to the floor when other gentlemen are demanding it.

The SPEAKER *pro tempore*. The gentleman from Indiana, in charge of this bill, reserved thirty-five minutes of his hour at the time arrangement was made under which the debate was to proceed. He proposes to give the entire balance of the time remaining to him to the minority of the House.

Mr. WHITE. Allow me a moment in view of the interruptions——

Mr. COX. I object to debate.

Mr. WHITE. I beg to make a statement.

Mr. PHILIPS. I object to his making any statement.

Mr. KEIFER. Can the gentleman object?

Mr. WHITE. I rise in my own right.

Mr. SPARKS. I hope the gentleman from Pennsylvania will have five or ten minutes to finish his remarks.

The SPEAKER *pro tempore*. The Chair has recognized the gentleman from Indiana [Mr. BICKNELL] who has yielded to his colleague, [Mr. BROWNE.]

Mr. SPARKS. I hope the gentleman from Pennsylvania will have five or ten minutes.

Mr. BROWNE. I do not desire now to occupy the attention of the House if the other side are willing to concede my friend from Pennsylvania additional time.

The SPEAKER *pro tempore*. Will the House concede additional time to the gentleman from Pennsylvania?

Mr. SPARKS. For ten minutes.

The SPEAKER *pro tempore*. The Chair hears no objection, and the gentleman from Pennsylvania will proceed.

Mr. WHITE. I will not delay to speak at length of this twenty-second joint rule, which is cited as a precedent in favor of the pending resolution. This twenty-second rule, as I have indicated, was passed amid the tumult of armed rebellion, and authorized at these electoral counts, if objection was made to any certificate or return, that the Houses should separate, and if such objection was not voted down by the concurrent majority of each House, such return or electoral vote should be excluded from the count, and so declared by the President of the Senate. Sir, Mr. Lincoln never approved that. I think that was a most dangerous rule. I am glad it does not now prevail.

THE PENDING PROPOSITION.

But, Mr. Speaker, what is the pending rule. I confess, sir, it is most confused in its details. It is entitled: "Resolution in relation to joint rule for counting the votes of electors of President and Vice-President."

After fixing the time and place for the meeting of the two Houses it provides the certified lists of votes of electors from the States shall be opened by the President of the Senate in presence of the two Houses, taking the States alphabetically, beginning with the letter A. He shall give them to the tellers to be read aloud when the papers in one certified list shall be read, and before another package from the same or any other State shall be read the President shall call for objections. If no objection is made the vote is counted, and no other package from the same State shall be opened. If objection is made it must be in writing, signed by at least two Senators and three members—objections being made in duplicate, one for the President of the Senate, the other for Speaker of the House, which objections shall be then stated aloud—then any other package from the same State shall be opened and similar proceedings had. If any list from a State shall not be objected to, it shall be counted, and any other opened and objected to from the same State shall be rejected. If no list from a State has been received without objection, the Senate shall withdraw to its Chamber and each House shall proceed to consider the objections. The manner of debate is regulated. If but one list of electors from a State has been submitted with objections, and the Houses concur in rejecting, it shall not be counted; if they do not concur in such rejection, it shall be counted. If more than one list has been received from a State, and objections made to all, no one shall be counted but the one the two Houses concur in receiving. It is provided that all questions of order shall be decided by the President of the Senate. But no question of receiving a certified list of electors' votes from any State to which objection shall be made, or the question of counting the vote of any elector, shall be a question of order to be decided by the President of the Senate. The other provisions are substantially as to the formal part of the meeting.

Now, sir, this is proposed as a mere rule to settle a constitutional question—a temporary expedient. It is not proposed as a law requiring executive approval. Nothing of the kind. Either House may dissent from it in an hour, and it is no longer a joint rule. It is as a rope of sand where you should propose bands of iron or strong cords of steel. I will not, sir, discuss now the details of your proposition. I want no mere rule. You cannot, in my understanding, interpret the Constitution by a mere temporary rule of Congress. I shall take pleasure to favor a good law on this subject, which requires executive approval. Says Senator BAYARD, of Delaware, in discussing this question in the Senate in 1876, and speaking of this much-talked-of twenty-second joint rule:

I, for one, am glad that it takes not the shape of a joint rule, which may be rescinded at will as we have seen in this late joint rule begotten and carried into effect in silence and retired from without notification to the other branch of Congress, simply by the sole action of the Senate. That rule is at an end. It has proved to have one of the greatest vices that a regulation can have, and that is want of stability and certainty, because its existence depends upon the pleasure of the accidental majority of either body of Congress. Therefore it is plain that if we can provide a wholesome and just and proper rule for this important subject it should take the permanent form of a law, which can only be rescinded by the vote of each House and the signature of the President.

And, again, speaking of the authority of a mere joint rule for this purpose, in the Senate February 4, 1875, he said:

Now, Mr. President, this joint rule is the rule under which the electoral votes have been counted since February, 1865, including the election of Mr. Lincoln, the election of President in 1868-'69, and 1872-'73. I confess I do not see where the power can possibly be found which is assumed by the joint rule, either as it now stands or as it is proposed to be amended, giving the two Houses the right to say whether a vote shall be counted or not.

Why, then, attempt this device of a mere rule? Both the Senate and House are in the control of one party. The Vice-President belongs to another. Is it intended to apply the experiment of this rule to disfranchise the electors of any republican State? It is said the

Empire State, New York, is to be the field for the opening presidential battle. Should the party having the majority in both Houses be defeated in that great State in November, is it intended to raise some cry of fraud, get up some second set of returns, like Cronin in Oregon in 1876, send them on here with some extravagant statements; then, when the electoral count begins and the Vice-President opens the certificates, objection will be made, and the majority in Congress by concurrent votes of the Houses, or by disagreeing under this rule, throw out the actual vote and lose it to the republicans? Or is it to be applied to the desperate condition existing in Maine last year? I can see, sir, how great wrong, great disturbance to the composure of the country, can result from this insidious device you would force upon us. Do you ask me to suggest a remedy? I can do it. I will aid you to pass a judicious law on the subject or help to amend the Constitution for the purpose.

I admit, Mr. Speaker, that the views upon this subject are as varied as the figures of the kaleidoscope or the hues of the rainbow. I do not know whether I agree completely with my political associates on this grave question.

CONGRESS SHOULD PROPERLY ACT.

That some definite congressional action should be taken I grant you. What should be done? It must be admitted the expression of the Constitution, "The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted," in its brevity, allows a variety of discussion. While we have seen in the past experience of the counting of the electoral vote this provision has received a uniform construction and executed itself with the concise enactment of 1792, already quoted, until the crisis of 1865, culminating in the threatened confusion about the count of the election of 1876, which brought forth the electoral commission of 1877, yet the political anxieties of the hour admonish us some action, some judicious constitutional action, should be taken. The cautious statesman will not fold his arms until anticipated dangers are actually upon his country. I realize the responsibility resting upon me as part of the law-making power. Unless the impending presidential struggle is so decided in its result that no doubt can arise the worst consequences may follow the dispute about the electoral count.

A CONFLICT MAY OCCUR.

A conflict might occur between the President of the Senate and the minority in Congress on the one hand and the ambitious majority here on the other. Some one in this debate, I think the gentleman from Virginia, [Mr. HUNTON,] has already suggested we will have contention, possibly war. I will not indulge such serious apprehensions. I remember, however, the possible trouble we faced in 1876 and 1877. It has been in the power of this Congress to offer earnestly to give us a law, a solemn statute, on this subject, while the proper remedy possibly would be a constitutional amendment; yet there is proper warrant for a statute, not a mere rule. My view is this: Here is a constitutional provision for the counting of the electoral vote. That must be done. If it is not specific, Congress ought to make a law according to constitutional methods requiring executive approval or by a two-thirds majority over a veto to execute this power, this power of counting the vote every four years, so that the Government can be carried on. The eighth article of the Constitution provides:

Congress shall make all laws—

Laws, mark you—

necessary to execute the power vested by the Constitution in any department or officer of the Government.

Here is a direct admonition for action. I do not reasonably doubt the jurisdiction of Congress to make a law, a good law, for this purpose. As a lawyer, I recognize the doctrine of *stare decisis*. While from its peculiarity this question has never and possibly never could be decided by the Supreme Court, yet we have come as near having a judicial decision which is a precedent as we could have on the question.

The electoral-commission act of 1877, under the decision of which the present Executive was peacefully inaugurated, is a most conspicuous instance of the jurisdiction by Congress by a law over this question. That act was to settle disputes about the count. It was fully debated, and most ably, too, before its passage. It passed, not by common consent, not *sub silentio*, but with deliberate debate and divided vote. The Executive, President Grant, approved it. This bill provided *inter alia* for five judges of the Supreme Court to act with five Senators and five Members of Congress on the electoral count. The judges were not obliged to act if they doubted or disapproved the jurisdiction. The five judges are a majority of the court, and can control the decision of constitutional principles. Thus, then, sir, on the jurisdiction of Congress by law, we have an instance, a conspicuous instance, of the legislative, the executive, the judicial departments all concurring and acting under a congressional enactment. I must regard this as the highest judicial precedent.

WHY DELAY?

Why have you delayed, then, to offer us a law that will bind all the people? Do you ask me to propose a law? I can do it to my satisfaction if you give opportunity, possibly not to yours. I have not time now to indicate its details. Why, then, trifle longer with the public necessity? The majority here are asked for bread and they offer a stone. We will not take it. Is the effort to pass this mere rule part of a plan to take possession of the Government for the next presidential term regardless of law, forcibly if necessary? Recently you have sought to repeal the election laws providing against frauds and to secure the humble voter in the Southern States the right of suffrage. Through the executive veto you failed in that, but have just passed a law to impair the power of the United States marshals to keep the peace at elections. You have a bill pending to seriously affect the efficiency of the supervisors at elections and to make fraudulent practices and tissue-ballots more possible. Is this rule now pressed upon us the climax of all the propositions? Is this presumptuous, pretentious proposition to secure that which the frauds of the ballot will not accomplish? Is it the intention by this rule to supply the majority in Congress to-day the balance of the machinery so insidiously constructed to surely take the Government, rightly or wrongly, at the close of the present presidential term? The signs of the times are most suspicious. Such practices will not succeed. But, sir, let the responsibility rest with the majority of this House. If confusion and dangerous contention comes to the country from disputes about the next electoral count it will be because the controlling power here have failed to offer or give a proper remedy.

Mr. BICKNELL. I now yield ten minutes to the gentleman from Indiana, [Mr. BROWNE.]

Mr. BROWNE. Mr. Speaker, as I took occasion not long since to put on record my views upon almost every question embraced in this controversy, I desire to detain the House but a very few minutes to-day. I am bound by no action of any previous Congress. I have never given my assent to the passage of any law or the adoption of any joint rule by which the right to contest an electoral vote was committed to the Congress of the United States. I believe the exercise of such a power to be a usurpation upon the part of the national Congress, a palpable invasion of the rights of the States as secured to them by the Constitution.

If I understand this proposed joint rule it commits in one way or another the whole question of counting the electoral vote to the Congress by the two Houses acting separately and concurrently. There is not a single question within the orbit of that immense controversy that may not be passed upon by the Representatives of the people either in the other or this end of the Capitol. Now, let me put a question, a single question, and I will be glad if some gentleman on the other side will give me a frank answer. What is an elector? Is he an officer of the State or of the nation? By whom is he appointed? Is he appointed by the Federal Government or by the authority of the State? What legislative power defines the method of that appointment, Congress or the State Legislature? There can be but one answer to these inquiries: an elector is the officer or agent of the State, appointed by the State to give its voice in selecting a President for the United States. I think there can be no controversy about that.

Then what is the next proposition? If he be the officer or agent of the State to exercise its power and give voice to its choice, how is he appointed? He is appointed in such a manner as the Legislature of a State may direct. The Legislature prescribes the method of his appointment. It may provide that the elector shall be chosen by the governor; by its Legislature; by a council to be appointed by the governor or one to be selected by the Legislature; that he may be appointed by the popular branch of the Legislature, or chosen by its senate. In other words, the State has plenary power over the whole question to determine the method in which the elector is to be appointed.

Now, I grant when that power is exercised by the appointment of an elector, the officer so appointed must be qualified under the Constitution to exercise the functions of his office. He must not be a Senator or a Representative in Congress, nor hold any office of trust or profit under the General Government. Upon the exercise of the power this limitation is imposed, and if it were a question of conferring upon the two Houses of Congress the right to determine whether or not the officer was eligible under the Constitution, I would perhaps not be combating here this afternoon the assertion of that power.

But there is a question behind all this. It is one that concerns the sovereignty of the State. Suppose the Legislature directs the method of appointing its own agent by its own statute, and it can only so direct by the statute of the Legislature, but suppose that Legislature commits the appointment to a popular vote of the people and confers the appointing power upon those to whom it commits the right of suffrage. Suppose it declares that whoever shall receive a majority or a plurality of that vote shall be the elector to represent the State in this choice. Suppose, in other words, the State Legislature points out the method and provides the machinery by which this selection or appointment is to be made. Now, the Constitution provides that the appointment shall be made in such manner as the State Legislature may direct. That being the case, let me put a question: Suppose the electors of that State pursue the law of that State as it is declared by the supreme judicial tribunal of the State—for the State is obliged to execute the law as it is interpreted by its court—then, in that case, this joint rule appears to confer upon the two Houses of Congress, acting concurrently, the power to overturn the laws of the State as adjudged by its highest judicial tribunal. And yet gentlemen upon the other side of the House profess to be in favor of what is known as State rights. They say to us in this controversy, and they have repeated it in every one that has preceded it upon almost every conceivable question that has arisen in this body, that

under the Constitution the United States has no power except such as was specially committed to it by the Constitution, all other powers being reserved to the States and to the people.

But they may give it a broader and more generous interpretation, and assume that Congress has not only the power that is expressly committed to it, but all powers necessarily incident to these expressed powers. And yet I ask them wherein the Constitution either expressly or by implication gives Congress the power to supervise and try the electoral vote?

The SPEAKER *pro tempore*. The ten minutes allotted to the gentleman from Indiana have expired.

Mr. BROWNE. Will my colleague yield me five minutes more?

Mr. BICKNELL. Yes, sir.

Mr. BROWNE. I ask now, to show that I am not entirely alone upon this question, that the Clerk may read the opinion in regard to the twenty-second joint rule given by a gentleman who may enjoy the honor of being defeated as the next democratic candidate for the Presidency of the United States, Mr. BAYARD.

The Clerk read as follows:

But under that rule the electoral votes in three presidential elections have been counted; under a rule that gave the power of absolute veto to either house, and that was given in separate session and without an opportunity of debate, with the barest statement of an objection which might be on its face the merest pretext for the assumption of a power to exclude the vote of any State, and disfranchise any State at the caprice, the unargued or unreasoning will of either house of Congress. It is not too much to say that such a power was an utter usurpation, utterly without warrant in the Constitution, dangerous in the extreme, and threatening to overthrow that spirit of popular government which all over underlies the frame-work of our system, because it enabled, on account of a disagreement in regard to a vote, the entire electoral vote of a State, any portion of the electoral vote of a State, or the electoral votes of any number of States, to be cast out by the silent operation of a veto by the vote of the Senate or of the House.

Mr. BROWNE. Comment upon that extract from remarks of the distinguished Senator from Delaware is unnecessary.

It has been said here that it is dangerous to commit the power of determining this question to the President of the Senate; that it is conferring the power upon a single man. That may be true, but it is not a question as to whether the power has been properly reposed by the Constitution. The question is: Where has the Constitution committed it? If it were dangerous for the Vice-President to exercise it, how much more dangerous is it to commit it to the Congress of the United States? A tribunal has been provided for the impeachment of the Vice-President. He may be brought to trial upon charges, convicted and punished and consigned to ignominy.

But who is to impeach the Congress of the United States? Suppose that Congress violates its trust; suppose that in the acrimony of a party struggle it forgets the voice of the sovereign people who stand behind it; suppose it prostitutes its power for the purpose of securing party ascendency; suppose, if you please, that in the scramble for office and place it commits moral perjury. In what tribunal may it be arraigned? It is true that it is answerable to the people, but it is equally true that the people may not respond until every right the most sacred has been stricken down by a partisan Congress. [Here the hammer fell.] I thank my distinguished friend from Indiana [Mr. BICKNELL] for his courtesy.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate had passed, with amendments in which the concurrence of the House was requested, bills of the following titles:

A bill (H. R. No. 4435) making appropriations for the payment of claims reported allowed by the commissioners of claims under the act of Congress of March 3, 1871, and acts amendatory thereof; and

A bill (H. R. No. 4429) to amend an act entitled "An act to incorporate the National Fair Grounds Association."

The message further announced that the Senate had passed, without amendments, House bills of the following titles:

A bill (H. R. No. 2270) to pay for expert services relating to the metric system rendered the Forty-fifth Congress; and

A bill (H. R. No. 5153) to change the name of the steamboat L. Boardman to River Belle.

The message further announced that the Senate had passed a joint resolution and bills of the following titles; in which the concurrence of the House was requested:

A joint resolution (S. R. No. 71) directing copies of the official letter-books of the executive department of the State of North Carolina to be furnished to said State;

A bill (S. No. 92) for the relief of Morgan's Louisiana and Texas Railroad and Steamship Company;

A bill (S. No. 160) for the relief of H. A. Myers;

A bill (S. No. 326) for the relief of Henry F. Lines;

A bill (S. No. 1063) for the relief of William J. Gamble;

A bill (S. No. 1179) for the relief of Mattie S. Whitney;

A bill (S. No. 1340) for the relief of Charles E. Gunn;

A bill (S. No. 814) for the relief of the legal representative of Henry M. Shreve, deceased;

A bill (S. No. 896) for the relief of Cyprian T. Jenkins;

A bill (S. No. 1202) for the relief of Hiram S. Town, postmaster of the city of Ripon, in the county of Fond du Lac, in the State of Wisconsin;

A bill (S. No. 1322) for the relief of Thomas J. League;

A bill (S. No. 1353) for the relief of N. & G. Taylor Company; and

A bill (S. No. 1606) for the relief of George W. Saulpaw.

ENROLLED BILLS SIGNED.

Mr. WARD, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the House of the following titles; when the Speaker signed the same:

An act (H. R. No. 2528) to change the name of the steam-yacht Kate Sutton, of Buffalo, to that of Loraine, of Oak Orchard;

An act (H. R. No. 3274) to change the name of the steam-yacht E. R. Bryant, of Rochester, to that of Summerland; and

An act (H. R. No. 3275) to change the name of the sloop-yacht Mariah, of Rochester, New York, to that of Tourist.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. MCLANE, for the day; and

To Mr. DUNN, for the remainder of the day.

ELECTORAL COUNT.

The House resumed the consideration of the joint rule in relation to the electoral count.

Mr. BICKNELL. I now yield ten minutes to the gentleman from Wisconsin, [Mr. CASWELL.]

Mr. CASWELL. I thank the gentleman for his courtesy in allowing me a few moments on this question. Of course I cannot enter upon an argument in ten minutes' time, and I will come directly to the question before us.

We have been referred for precedents to the twenty-second joint rule, adopted in 1865, for which the republicans were responsible. We have also been referred to the electoral law of 1877, for which both parties were responsible. Now I regard both as departures from the Constitution of our fathers on this subject. I gave my voice and my vote in the Forty-fourth Congress against the electoral bill. I believed then as earnestly as I believe I stand here to-day that that bill was a violation of that great principle of the Constitution which preserves to the people of the States the right to select their President. Whatever I may say upon a subject of so grave importance and character I say with the greatest diffidence, because it affects a principle which lies at the very foundation of our Government.

First of all, I desire to correct my friend from Pennsylvania [Mr. WHITE] when he makes the important concession that the act of John Langdon in opening and counting the electoral vote on the first occasion of counting that vote was prior to the adoption of the Constitution. It was immediately after its adoption, and in that fact lies a volume of wisdom.

Mr. WHITE. I think the gentleman misunderstands me. I said it was before the adoption of the amendment to the Constitution on this subject.

Mr. CASWELL. The amendment to which the gentleman refers was almost a repetition of that part relating to the opening and counting the vote, which was already in the Constitution, as originally adopted. After the adoption of the Constitution, at the first electoral count which followed, the Senate elected John Langdon President of the Senate, who was a member of the convention which framed the Constitution and who understood its provisions and its meaning, not only to open the certificates, but to count the electoral vote. The first step in that direction, after the adoption of that Constitution, was executed by John Langdon, at a time when the meaning of this section was well understood. What followed? In 1800 a bill of a similar nature to this was before the Senate and House of Representatives. That bill proposed to depart in a manner similar to this joint rule from the methods which had been followed up to that time in counting the electoral vote. The President of the Senate thus far had opened the certificates and counted the vote. That bill was discussed at great length and for a long period of time, and finally fell between the two Houses of Congress.

Now, what followed was very important, as throwing light upon this subject. This very section of the Constitution which relates to the electoral count was in 1803 amended; but so far as the opening and counting of the electoral votes were concerned the language in the amendment which was adopted was identical with that in the original Constitution. This shows that the people had no desire to change the present method as interpreted by the Senate in the appointing of a President not only to open, but to count the vote. The practice had been uniform up to that time.

Now, what will we do with that provision of the Constitution which has been referred to by my friend from Indiana [Mr. BROWNE] that declares that the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States or to the people? Where in the Constitution is there expressed or implied any authority to Congress to step forward at any stage of the proceeding and seize upon these certificates and reject them? The Constitution says that when the President of the Senate shall open these returns they shall be counted. The votes which the States send forward to the President of the Senate shall be counted. But this resolution says that Congress may determine they shall not be counted.

Why, sir, it cannot be claimed that the two Houses when assembled in joint convention have any power or jurisdiction over the subject. It cannot be claimed that they can act and take proceedings as a joint body. What, then, can they do? It is urged that in their separate legislative capacity, as they are assembled in their respective

Chambers, they may take up this subject and dispose of it, may determine whether the certificates of the electors as sent forward by the States shall be counted or rejected. But, sir, where is such jurisdiction conferred upon Congress in its legislative capacity? No member will pretend that there is one word or syllable in the Constitution pointing to a delegation of power to Congress to legislate upon this subject. Then whence comes the authority, in view of the provision of the Constitution that all power not delegated to Congress or prohibited to the States is reserved to the States or to the people? Congress can take no jurisdiction not delegated to it by the Constitution.

The provision relating to the electoral count may be defective; I concede that it is defective, but what is the remedy? Where is it? Is it in Congress? Is it in the executive? Is it in the judiciary? We may as well say that the remedy lies through the one as the other. Why should we assume this power? Let the people exercise it. If not now in the Constitution it is reserved and they may provide the remedy by an amendment if they are not contented with it as it is.

[Here the hammer fell.]

Mr. LOUNSBERY. I now yield ten minutes of the time which I reserved to the gentleman from Illinois, [Mr. SPARKS.]

The SPEAKER *pro tempore*. The gentleman from New York [Mr. LOUNSBERY] had thirty minutes of his time remaining, which he reserved with the consent of the House. He now yields to the gentleman from Illinois ten minutes.

Mr. ROBESON. There ought to be no question of time on this important matter. Give every gentleman all the time he wants.

Mr. SPARKS. Mr. Speaker I want to say a few words in answer particularly to the gentleman from Pennsylvania, [Mr. WHITE.] A very few years ago speeches such as we have listened to here within a day or two past made by gentlemen on the republican side of this House would have sounded very oddly—speeches made by republican members insisting that the President of the Senate has the power not only to open the certificates of the electoral votes but to determine their validity and count them regardless of, or, if you please, in opposition to, the two Houses of Congress. It is well known that the republican party some years ago with unanimity adopted what is known as the twenty-second joint rule. It was passed almost exclusively by republican votes; for there were hardly democrats enough in Congress at that time to be counted or regarded as a party. That rule continued in force for years, and under its operation three presidential counts of electoral votes were made, namely: March, 1865; March, 1869, and March, 1873. It is well known that the provisions of that joint rule are that the two Houses of Congress have the sole power to decide as to the validity of the votes and to count them. It also provides that both Houses shall concur in the validity of the votes counted. But what a wonderful change has come over these gentlemen! The very moment that the majority of this House became democratic, the Senate and the President of the Senate still remaining republican, the Senate rescinded this joint rule. It was doubted whether or not they had the power to do so. They did rescind it, however; and immediately thereafter their great leader, the late Senator Morton, to meet the altered condition of the republican party, proposed a joint rule similar in all respects to the one now pending, which, still insisting that the power to count belonged to the two Houses, made the concurrence of both necessary to reject a vote or votes; and following upon the heels of that came the electoral-commission bill, in which this same principle is distinctly recognized—that under the Constitution the power to count the electoral votes is committed to the two Houses of Congress.

Now, in view of all this, for gentlemen of the republican party to be defending to-day what seems to me this monstrous proposition, that an accidental officer, one single man, the presiding officer of the Senate, has the sole power to not only open the certificates of electoral votes, but to decide and pass upon their validity and count them, is, in my judgment, not only disingenuous, but insincere and done solely as an effort by desperate means to sustain the waning fortunes of an unscrupulous party.

Mr. KEIFER. George Washington thought that——

Mr. SPARKS. George Washington thought no such thing.

Mr. KEIFER. In the first resolution he ever signed——

Mr. SPARKS. No word of his ever indicated any such opinion.

Mr. KEIFER. In the first resolution which George Washington signed after the Constitution had been framed——

Mr. SPARKS. I have the floor and have not time to yield. The language of the Constitution of the United States on this subject is:

> The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted.

Now, the question turns upon this clause of "counting the votes." The two Houses of Congress are called together for what purpose? Gentlemen on the other side say that the two Houses have no power in the matter; have nothing to do in the case; but that this accidental (it may be) officer of the Senate does everything. Why, then, call these deliberative bodies into joint convention? The certificates of the electoral votes are sent to the presiding officer of the Senate, and by him opened in the presence of the two Houses; and, in the language of the Constitution, "the votes shall then be counted." Now, I say that from the organization of the Government to this hour the precedents have been that the two Houses of Congress have decided and passed upon the validity of those votes and determined which should be counted and which, if any, rejected. Gentlemen on the other side have not been able and never will be able to show that there is any precedent in conflict anywhere with this position. The twenty-second joint rule, and the rule which was proposed and advocated by Mr. Morton in the Forty-fourth Congress, and the electoral-commission bill, all go upon the principle that it is the province of the convention of the two Houses to decide and pass upon the validity of the electoral votes, and count them.

But I rose particularly to reply to the case presented by the gentleman from Pennsylvania in regard to the counting of the vote of Wisconsin in March, 1857. The gentleman says that the then presiding officer of the Senate (Mr. Mason, of Virginia) by his language indicated most clearly that he as such presiding officer was clothed with the sole authority to decide, pass upon, and count the votes. I squarely deny this, and assert directly the opposite to be true, and will read from the proceedings to prove my assertion:

> The PRESIDING OFFICER. Pursuant to law and in obedience to the concurrent order of the two Houses, the President of the Senate will now proceed to open and count the votes which have been given for a President and Vice-President of the United States—

That is the language used, which the gentleman from Pennsylvania says clearly shows that the presiding officer was to count. What had been done in that case? The House of Representatives had appointed tellers; the Senate had appointed a teller; these tellers were to do the "counting" under the joint rule established by the two Houses for the occasion. Let us see what he said further:

> For the term prescribed by the Constitution, to commence on the 4th day of March, 1857. The teller appointed on the part of the Senate and the two tellers appointed on the part of the House will please take the place assigned them in discharge of their duties.
>
> * * * * * *
>
> The presiding officer thereupon proceeded to open and hand to the tellers the votes of the several States for President and Vice-President of the United States, commencing with the State of Maine.

When the State of Wisconsin was reached Mr. Letcher, of Virginia, made objection to counting the vote of that State because it was cast the day after that on which it should have been cast, and used this language:

> If I understand the vote which has just been read, it was not cast on the day prescribed by law for voting for President and Vice-President of the United States. I do not know what would be proper in a case of this sort; but I desire now to call attention to it in order that the point may be brought to the attention of the country.
>
> A time may come when it would be a matter of importance to have these votes in regular shape. I desire, so far as I am concerned, now, as a Representative of the people, to present my objection to the reception of this vote.

To which was replied:

> The PRESIDING OFFICER. The presiding officer considers that debate is not in order while the tellers are counting the votes.
>
> Mr. JONES, of Tennessee. I suppose, Mr. President, the proper way would be for the tellers to report the facts to the convention of the two Houses and let them decide.
>
> The PRESIDING OFFICER. The presiding officer so considers it.

Now, sir, if you can by any use of the English language make the statement of the case stronger and clearer than that, I should like to see it. There the proposition of Mr. Jones, of Tennessee, fixed the point at issue (deciding the validity of the votes) beyond all question by saying:

> I suppose, Mr. President, the proper way would be for the tellers to report the facts to the convention of the *two Houses*, and let *them* decide.

To that statement of the case the presiding officer responded:

> The presiding officer so considers it.

Did the gentleman from Pennsylvania forget or overlook that?

Mr. WHITE. No, sir; if you will but allow me, and I know he wants to state history correctly——

Mr. SPARKS. I am not stating history. I have simply read the record; you cannot deny it, nor can you dodge out of it.

Mr. WHITE. But my friend has not stated it all.

The SPEAKER *pro tempore*. Does the gentleman yield?

Mr. SPARKS. I cannot yield when I have only ten minutes myself for my whole speech.

Mr. KEIFER. We will extend your time.

Mr. SPARKS. You cannot extend my time.

Mr. KEIFER. We will be liberal to you.

The SPEAKER *pro tempore*. The gentleman from Illinois has but two minutes left.

Mr. SPARKS. So it appears by the record that the presiding officer on that occasion stated explicitly that the point at issue (counting Wisconsin's vote) was to be decided by the two Houses and not by himself, and then and there settled the matter as distinctly and squarely as the English language could possibly put it.

Again, at another place in the proceedings the presiding officer uses this language:

> The presiding officer, therefore, again states it as his judgment that the Senate came here under the Constitution only *for the purpose* of *counting* the *votes* in the manner prescribed by the Constitution, that the mode of doing it was provided for in addition by the concurrent order of the two Houses.

The gentleman from Pennsylvania made the point that the formal language used by the President of the Senate in opening the proceedings "pursuant to law and in obedience to the concurrent order of the two Houses, the President of the Senate will now proceed to open and count the votes," indicated that he arrogated to himself the sole authority to pass upon, decide, and count; but in this second clause,

which I now present from the same proceeding, it will be perceived that he declares that the Senate shall do it, one seeming to conflict with the other. But there is no conflict in reality. This is simply verbiage, this is in the routine of business where no proposition involving dispute or decision is presented and amounts to nothing in the way of authority on the subject. Now, what is the case? Here on the Wisconsin vote was a point made, an objection to counting the vote of the State of Wisconsin. A snow storm had prevented a meeting of the electors on the 3d day of the month and they met and cast the vote on the 4th. What was to be done about it? Mr. Letcher suggested that there might be objections to counting it, Mr. Jones, of Tennessee, stated his view as to the correct rule in regard to deciding it, which was—

For the tellers to report the facts to the joint convention of the two Houses, and that they should then decide it.

And the presiding officer said that he considered that to be the proper course. That is all there is of it. And it is directly opposite to the view presented by the gentleman from Pennsylvania.

Mr. LOUNSBERY. No other gentleman desiring to occupy the remaining portion of my time, I will now yield the floor to the gentleman from Indiana [Mr. BICKNELL] to demand the previous question.

Mr. BICKNELL. I demand the previous question.

Mr. BAYNE. There is no use of rushing at a railroad speed. We are bound to be heard before we vote.

Mr. KEIFER. Pending that, I move the House adjourn.

The House divided; and there were—ayes 53, noes 73.

So the House refused to adjourn.

Mr. WHITE. I move to take a recess.

Mr. LOUNSBERY. That is not a privileged question and cannot be made during a demand for the previous question.

The SPEAKER *pro tempore*. The Chair thinks it is privileged under the rules.

Mr. LOUNSBERY. Not privileged so as to precede the demand for the previous question.

The SPEAKER *pro tempore*. The Clerk will read the rule.

The Clerk read as follows:

4. When a question is under debate, no motion shall be received but to fix the day to which the House shall adjourn, to adjourn, to take a recess, to lay on the table, for the previous question, (which motions shall be decided without debate,) to postpone to a day certain, to refer or amend, or to postpone indefinitely, which several motions shall have precedence in the foregoing order; and no motion to postpone to a day certain, to refer, or to postpone indefinitely, being decided, shall be again allowed on the same day at the same stage of the question.

5. A motion to fix the day to which the House shall adjourn, a motion to adjourn, and to take a recess shall always be in order, and the hour at which the House adjourns shall be entered on the Journal.

The SPEAKER *pro tempore*. The motion to take a recess takes precedence, and the question is upon the motion of the gentleman from Pennsylvania that the House now take a recess.

The House divided; and there were—ayes 55, noes 80.

So the House refused to take a recess.

The SPEAKER *pro tempore*. The question now recurs on the motion of the gentleman from Indiana for the previous question.

The House divided; and there were 84 in the affirmative and none in the negative.

Mr. KEIFER. I make the point that no quorum has voted.

The SPEAKER *pro tempore*. The Chair will order tellers.

Mr. KEIFER and Mr. BICKNELL were appointed tellers.

The House again divided; and the tellers reported 86 in the affirmative and none in the negative.

Mr. KEIFER. I make the point that no quorum has voted.

Mr. LOUNSBERY. I move a call of the House.

The motion was agreed to.

Mr. WHITE. Mr. Speaker, pending this action for the previous question cannot I submit a resolution? [Cries of "Regular order!"] I am rising now to a parliamentary inquiry.

The SPEAKER. The Chair will hear the gentleman's inquiry.

Mr. WHITE. I desire to ask the Chair if I cannot at this time offer a resolution to commit this proposition to the Committee on the Electoral Count to report a bill to the House in pursuance of article 12 of the Constitution, under the new rule—Rule XVII of this House?

The SPEAKER. There are so many absentees that there was not a quorum of the House present on the last vote, and a call of the House has been ordered. The call to secure a quorum cannot be interrupted by a resolution such as the gentleman indicates.

Mr. ROBESON. Pending the motion for a call of the House, I move that the House do now adjourn.

Mr. WILSON. I suggest that our republican friends have until midnight to talk and then vote.

Mr. GODSHALK. Upon the motion to adjourn I demand the yeas and nays.

Mr. KENNA. I desire to inquire whether the motion to adjourn is in order pending the roll-call on the call of the House?

The SPEAKER. The calling of the roll had not been commenced when the motion to adjourn was made.

Mr. KENNA. I understood that the roll-call had been commenced.

The SPEAKER. It had not.

Mr. DAVIS, of North Carolina. Has there been any intervening business since the last motion to adjourn was made?

The SPEAKER. There had been an intervening motion of a different character.

The question recurred on the motion to adjourn.

The House divided; and there were—ayes 54, noes 83.

So the motion to adjourn was not agreed to.

The SPEAKER. The Clerk will now call the roll and note the absentees.

The Clerk proceeded to call the roll, when the following members failed to answer to their names:

Armfield,	Einstein,	Knott,	Pierce,
Atherton,	Ellis,	Le Fevre,	Pound,
Bailey,	Errett,	Lewis,	Prescott,
Barlow,	Farr,	Loring,	Price,
Belford,	Finley,	Marsh,	Reed,
Beltzhoover,	Ford,	Martin, Benj. F.	Richmond,
Bingham,	Forney,	Martin, Edward L.	Ross,
Blackburn,	Forsythe,	Martin, Joseph J.	Rothwell,
Bliss,	Frost,	McCook,	Russell, Daniel L.
Blount,	Garfield,	McGowan,	Ryan, Thomas
Bragg,	Gibson,	McKenzie,	Ryon, John W.
Brigham,	Gillette,	McKinley,	Sapp,
Burrows,	Hammond, John	McLane,	Singleton, J. W.
Butterworth,	Harmer,	Miles,	Smith, Hezekiah B.
Calkins,	Harris, Benj. W.	Miller,	Starin,
Camp,	Hazelton,	Mills,	Stephens,
Claflin,	Heilman,	Money,	Tucker,
Clardy,	Herndon,	Monroe,	Turner, Thomas
Clark, Alvah A.	Hiscock,	Muller,	Updegraff, J. T.
Clymer,	Hooker,	Murch,	Updegraff, Thomas
Converse,	Hubbell,	Neal,	Wait,
Covert,	Hull,	Newberry,	Weaver,
Cowgill,	James,	O'Brien,	Wilber,
Crowley,	Jorgensen,	O'Reilly,	Wise,
Daggett,	Joyce,	Orth,	Wood, Fernando
Davidson,	Ketcham,	Pacheco,	Wood, Walter A.
De La Matyr,	Killinger,	Page,	Yocum,
Dick,	Kimmel,	Persons,	Young, Casey
Dunn,	Kitchin,	Phister,	Young, Thomas L.

Mr. WILLIAMS, of Alabama. I desire to announce, Mr. Speaker, that my colleagues, General FORNEY and Mr. HERNDON, are detained from the House by sickness.

The SPEAKER. One hundred and seventy-six members have answered to their names. A quorum is present.

Mr. LOUNSBERY. Mr. Speaker, as the absent members from the other side of the House have returned to the Hall, I move that all further proceedings under the call be dispensed with.

The motion was agreed to.

Mr. WHITE. Pending the call for the previous question I introduce my resolution.

The SPEAKER. The resolution will be read.

The Clerk read as follows:

Resolved, That the pending resolution be committed to the Committee on the Electoral Count, with instructions to report an act regulating the counting of the electoral votes for President and Vice-President of the United States, in pursuance of article 12 of the Constitution of the United States.

Mr. LOUNSBERY. I make the point of order that this resolution is not in order pending the motion for the previous question.

The SPEAKER. The Chair thinks it in order.

Mr. CONGER. I ask to have the latter part of clause 1 of Rule XVII read, which answers the point of order made by the gentleman from New York.

The SPEAKER. The Chair will cause the rule to which the gentleman refers to be read, although the Chair has ruled that the resolution of the gentleman from Pennsylvania is in order.

The Clerk read as follows:

It shall be in order, pending the motion for or after the previous question shall have been ordered on its passage, for the Speaker to entertain and submit a motion to commit, with or without instructions, to a standing or select committee; and a motion to lay upon the table shall be in order on the second and third reading of a bill.

Mr. LOUNSBERY. I make the point of order that it is not in order pending the demand for the previous question. After the previous question has been ordered, under that rule it will be in order, but not before.

The SPEAKER. The pending question is the demand for the previous question, and the rule says that pending the motion for the previous question a motion to commit shall be in order.

Mr. HUNTON. I rise to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HUNTON. The House was dividing, and upon the division the want of a quorum was developed. Now, while the House is in the process of dividing on the demand for the previous question can a motion to refer be entertained?

The SPEAKER. Since that time a quorum has appeared. The Chair possibly might have ordered the tellers to resume their places.

Mr. HUNTON. That seems to me the only thing now in order. I submit that the resolution of the gentleman from Pennsylvania [Mr. WHITE] is at present out of order.

The SPEAKER. A quorum has now appeared.

Mr. HUNTON. I submit that the only thing to be done is for the tellers to resume their places that the division on the demand for the previous question may be completed.

The SPEAKER. This is virtually a new proceeding, and the count begins *de novo;* and a new demand for the previous question being made, the resolution to refer is in order.

Mr. HUNTON. What becomes of the division that was being taken when the want of a quorum was developed?

The SPEAKER. The call of the roll shows the presence of a

quorum. The division on the demand for the previous question was not conclusive, because a quorum did not vote. The question is on agreeing to the resolution of the gentleman from Pennsylvania, [Mr. WHITE.]

Mr. SPRINGER. I rise to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SPRINGER. Can a resolution of reference be entertained until after the demand for the previous question has been seconded? As I understand, the resolution is simply regarded as pending, to be voted on after the previous question is seconded.

The SPEAKER. The Chair thinks the motion to submit can be made under the rule before the seconding or after the previous question has been ordered.

Mr. SPRINGER. The motion can be made but not put until after the previous question is seconded. Pending the motion for the previous question it can be submitted, but it can be only voted on after the previous question shall have been ordered.

The SPEAKER. The Chair has decided the motion can be made pending the previous question. But it cannot be made both before and after; it can be made only once.

Mr. SPRINGER. And, as I understand, it can be only voted on after the previous question has been seconded.

The SPEAKER. The Chair understands that a single motion to commit may be entertained under the rule either pending the motion for the previous question or after the previous question shall have been ordered.

Mr. SPRINGER. Is the motion to commit debatable?

The SPEAKER. The Chair thinks not under the rule which permits the motion to commit.

Mr. SPRINGER. What makes it not debatable?

The SPEAKER. The rule is not explicit on that point; but the practice of the House is, that pending a demand for the previous question debate is not in order in such character of motion as the pending one. The rule reads:

> It shall be in order, pending the motion for or after the previous question shall have been ordered on its passage, for the Speaker to entertain and submit a motion to commit, with or without instructions.

The question is on the resolution offered by the gentleman from Pennsylvania, [Mr. WHITE.]

The question being put, there were—ayes 32, noes 71.

Mr. WHITE. I call for tellers.

Tellers were ordered, and Mr. BICKNELL and Mr. WHITE were appointed.

Mr. WHITE. I call for the yeas and nays. I think we may as well have them at once.

The yeas and nays were ordered.

The question was taken; and there were—yeas 47, nays 100, not voting 145; as follows

YEAS—47.

Aldrich, N. W.	Crapo,	Humphrey,	Stone,
Aldrich, William	Davis, George R.	Kelley,	Thomas,
Baker,	Davis, Horace	Lapham,	Townsend, Amos
Barber,	Deering,	Lindsey,	Tyler,
Bayne,	Dunnell,	Mason,	Valentine,
Blake,	Dwight,	McCoid,	Van Voorhis,
Bowman,	Fisher,	Morton,	Ward,
Boyd,	Godshalk,	O'Neill,	Washburn,
Brewer,	Hall,	Overton,	White,
Briggs,	Hawley,	Richardson, D. P.	Williams, C. G.
Carpenter,	Hayes,	Shallenberger,	Young, Thomas C.
Caswell,	Houk,	Sherwin,	

NAYS—100.

Acklen,	Culberson,	Johnston,	Scales,
Aiken,	Davis, Joseph J.	Kenna,	Shelley,
Anderson,	Davis, Lowndes H.	King,	Simonton,
Atkins,	Deuster,	Klotz,	Singleton, O. R.
Bachman,	Dibrell,	Ladd,	Slemons,
Berry,	Dickey,	Lounsbery,	Sparks,
Bicknell,	Elam,	Lowe,	Speer,
Bland,	Evins,	Manning,	Springer,
Bouck,	Felton,	McMahon,	Steele,
Bright,	Field,	McMillin,	Stevenson,
Browne,	Fort,	Morrison,	Taylor,
Buckner,	Geddes,	Morse,	Thompson, P. B.
Cabell,	Goode,	Muldrow,	Tillman,
Caldwell,	Hammond, N. J.	New,	Townshend, R. W.
Carlisle,	Harris, John T.	Norcross,	Turner, Oscar
Chalmers,	Hatch,	O'Connor,	Upson,
Clark, John B.	Henderson,	Phelps,	Vance,
Cobb,	Henkle,	Philips,	Waddill,
Coffroth,	Henry,	Poehler,	Wells,
Colerick,	Herbert,	Reagan,	Whiteaker,
Conger,	Hooker,	Rice,	Whitthorne,
Cook,	Hostetler,	Richardson, J. S.	Williams, Thomas
Covert,	House,	Robertson,	Willis,
Cox,	Hunton,	Samford,	Wilson,
Cravens,	Hutchins,	Sawyer,	Wright.

NOT VOTING—145.

Armfield,	Blount,	Clark, Alvah A.	Ellis,
Atherton,	Bragg,	Clymer,	Errett,
Bailey,	Brigham,	Converse,	Ewing,
Ballou,	Burrows,	Cowgill,	Farr,
Barlow,	Butterworth,	Crowley,	Ferdon,
Beale,	Calkins,	Daggett,	Finley,
Belford,	Camp,	Davidson,	Ford,
Beltzhoover,	Cannon,	De La Matyr,	Forney,
Bingham,	Chittenden,	Dick,	Forsythe,
Blackburn,	Claflin,	Dunn,	Frost,
Bliss,	Clardy,	Einstein,	Frye,
Garfield,	Kitchin,	O'Brien,	Smith, William E.
Gibson,	Knott,	O'Reilly,	Starin,
Gillette,	Le Fevre,	Orth,	Stephens,
Gunter,	Lewis,	Osmer,	Talbott,
Hammond, John	Loring,	Pacheco,	Thompson, W. G.
Harmer,	Marsh,	Page,	Tucker,
Harris, Benj. W.	Martin, Benj. F.	Persons,	Turner, Thomas
Haskell,	Martin, Edward L.	Phister,	Updegraff, J. T.
Hawk,	Martin, Joseph J.	Pierce,	Updegraff, Thomas
Hazelton,	McCook,	Pound,	Urner,
Heilman,	McGowan,	Prescott,	Van Aernam,
Herndon,	McKenzie,	Price,	Voorhis,
Hill,	McKinley,	Reed,	Wait,
Hiscock,	McLane,	Richmond,	Warner,
Horr,	Miles,	Robeson,	Weaver,
Hubbell,	Miller,	Robinson,	Wellborn,
Hull,	Mills,	Ross,	Wilber,
Hurd,	Mitchell,	Rothwell,	Willits,
James,	Money,	Russell, Daniel L.	Wise,
Jones,	Monroe,	Russell, W. A.	Wood, Fernando
Jorgensen,	Muller,	Ryan, Thomas	Wood, Walter A.
Joyce,	Murch,	Ryon, John W.	Yocum,
Keifer,	Myers,	Sapp,	Young, Casey.
Ketcham,	Neal,	Singleton, J. W.	
Killinger,	Newberry,	Smith, A. Herr	
Kimmel,	Nicholls,	Smith, Hezekiah B.	

The following pairs were announced:

Mr. BOUCK with Mr. BELFORD, Mr. BOUCK reserving the right to vote to make a quorum.

Mr. BALLOU with Mr. NICHOLLS, for to-day.

Mr. TUCKER with Mr. HASKELL, until Monday, on all political questions.

Mr. KIMMEL with Mr. URNER, until Monday, not to break a quorum.

Mr. TALBOTT with Mr. ROBINSON, for the day.

Mr. MILLS with Mr. POUND, for the day.

Mr. JONES with Mr. JOYCE, for the remainder of the day.

Mr. WAIT with Mr. FORNEY, for the day.

Mr. O'REILLY with Mr. NEAL, on political questions and on questions concerning the revenue, except the sugar question, until the close of the session.

Mr. BLISS with Mr. HAMMOND, of New York, for this day.

Mr. ERRETT with Mr. BELTZHOOVER.

Mr. THOMPSON, of Iowa, with Mr. LEWIS, on all questions for the balance of the session, Mr. LEWIS reserving the right to vote to make a quorum.

Mr. MCLANE with Mr. HARMER, until Monday.

Mr. ROBESON with Mr. CLYMER, for this day, on political questions, Mr. CLYMER being absent on a conference committee.

Mr. HARRIS, of Massachusetts, with Mr. KING, for to-day, not to break a quorum.

Mr. ATHERTON with Mr. EINSTEIN.

Mr. ARMFIELD with Mr. MARTIN, of North Carolina.

Mr. BRIGHAM with Mr. CLARK, of New Jersey.

Mr. PRICE with Mr. SMITH, of New Jersey.

Mr. HEILMAN with Mr. EWING.

Mr. PACHECO with Mr. FORSYTHE.

Mr. HAZELTON with Mr. MONEY.

Mr. MCKENZIE with Mr. PAGE.

Mr. DAVIDSON with Mr. FARR.

Mr. DUNN with Mr. PRESCOTT.

Mr. FINLEY with Mr. MILLER.

Mr. LE FEVRE with Mr. MARSH.

Mr. COWGILL with Mr. BRAGG.

Mr. NEWBERRY with Mr. ELLIS.

Mr. THOMAS TURNER with Mr. MCGOWAN.

Mr. MCKINLEY with Mr. HURD.

Mr. CALKINS with Mr. PHISTER.

Mr. ORTH with Mr. MYERS, on political questions.

Mr. WALTER A. WOOD with Mr. MULLER.

Mr. JAMES with Mr. O'BRIEN.

Mr. GUNTER with Mr. BURROWS.

Mr. STARIN with Mr. RICHMOND.

Mr. BAILEY with Mr. YOUNG, of Tennessee.

Mr. KNOTT with Mr. FRYE.

Mr. SPARKS with Mr. MCCOOK.

Mr. CLARDY with Mr. SAPP.

Mr. HUBBELL with Mr. FERNANDO WOOD, on all political questions and revenue questions.

Mr. SMITH, of Pennsylvania, with Mr. MARTIN, of Delaware.

Mr. HISCOCK with Mr. BLACKBURN.

Mr. WILBER with Mr. KITCHIN.

Mr. ROSS with Mr. KILLINGER.

The SPEAKER. Upon the motion to refer the yeas are 47, nays 97.

Mr. WHITE. No quorum has voted.

Mr. SPARKS. How many does it lack of a quorum?

The SPEAKER. It lacks three of a quorum.

Mr. SPARKS. My pair was upon the condition that I should be allowed to vote if necessary to make a quorum. I insist upon my right to vote, if the point is made that no quorum has voted.

Mr. KING. My pair is also on the condition that I shall be allowed to vote to make a quorum.

Mr. BOUCK. And so is mine.

The SPEAKER. The gentleman from Louisiana, Mr. KING, the gentleman from Illinois, Mr. SPARKS, and the gentleman from Wisconsin, Mr. BOUCK, state that their pairs are on the condition that

they shall be allowed to vote to make a quorum. The Chair thinks that, under the circumstances, those gentlemen should be allowed to vote.

Mr. CONGER. Let them vote by unanimous consent, so as not to make a precedent.

There being no objection, Mr. BOUCK, Mr. KING, and Mr. SPARKS were called, and they voted in the negative.

The SPEAKER. The vote now is—yeas 47, nays 100.

So the motion to refer was not agreed to.

ENROLLED BILL SIGNED.

Mr. UPSON, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 6472) to amend an act entitled "An act to amend the statutes in relation to immediate transportation of dutiable goods, and for other purposes."

ORDER OF BUSINESS.

Mr. ALDRICH, of Illinois. I move that the House now adjourn.

The motion was not agreed to.

Mr. BICKNELL. I move that the House now take a recess until Monday morning at half past nine o'clock.

LEAVE OF ABSENCE.

Pending the motion for a recess, leave of absence was granted, by unanimous consent, as follows:

To Mr. UPDEGRAFF, of Ohio, until Monday morning, from four o'clock of to-day;

To Mr. URNER, for the remainder of the day;

To Mr. RICHARDSON, of South Carolina, indefinitely after Monday next, on account of sickness;

To Mr. PHISTER, for the remainder of the session; and

To Mr. THOMPSON, of Iowa, until Wednesday next.

LEAVE TO PRINT.

By unanimous consent, leave to print remarks in the RECORD was granted as follows:

To Mr. LAPHAM, on the bill to provide for the public building at Rochester, New York. [See Appendix.]

To Mr. TOWNSEND of Ohio, on the merchant marine of the United States. [See Appendix.]

To Mr. BUCKNER, on Senate bill No. 900, to establish a tariff commission. [See Appendix.]

To Mr. HENKLE, on the deputy marshals bill. [See Appendix.]

To Mr. SPRINGER, on the deputy marshals bill and on the joint rule in reference to the electoral count. [See Appendix.]

WITHDRAWAL OF PAPERS.

By unanimous consent, leave to withdraw papers was granted as follows:

To Mr. HARMER, in the case of Major James B. U. Neill, now before the Committee on Military Affairs, no adverse report; and

To Mr. RUSSELL, of Massachusetts, in the case of Oliver L. Wheeler.

EMPLOYÉS IN THE BUREAU OF ENGRAVING AND PRINTING.

The SPEAKER, by unanimous consent, laid before the House the following; which was referred to the Committee on Printing, and ordered to be printed in the RECORD:

TREASURY DEPARTMENT,
June 10, 1880.

SIR: I have the honor to transmit herewith a communication from the Chief of the Bureau of Engraving and Printing of this Department, of the 8th instant, inclosing a petition from the employés of the bureau to Congress for the payment of their wages during the period of twenty days that they will necessarily be furloughed while the machinery and effects of the bureau are being moved to the new building erected for its use.

Very respectfully,

JOHN SHERMAN,
Secretary.

Hon. SAMUEL J. RANDALL,
Speaker House of Representatives.

TREASURY DEPARTMENT, BUREAU OF ENGRAVING AND PRINTING,
June 8, 1880.

SIR: In compliance with the request of the employés of this bureau, I have the honor to transmit, with the recommendation for favorable consideration, their petition to Congress for the payment for the time which they will necessarily lose while the machinery and effects of the bureau are being removed to the new building.

Anticipating that the removal of the bureau would cause an interruption to prosecution of our regular work of about three weeks, it was arranged that the number of impressions upon which the appropriations for the fiscal year were based, should be executed so as to leave at the close of the year the time required for the establishment of the bureau in the new building.

This has been done. The number of impressions for which the money was appropriated has been made, and the money placed at our disposal is substantially exhausted, and the employés have been notified of a furlough equal to about twenty days to each.

If Congress should provide for the payment of the employés during the twenty days they are not permitted to work, it will require an appropriation of $25,000.

Very respectfully, &c.,

O. H. IRISH,
Chief of Bureau.

Hon. JOHN SHERMAN,
Secretary of the Treasury.

TREASURY DEPARTMENT, BUREAU OF ENGRAVING AND PRINTING,
June 8, 1880.

SIR: I have the honor to submit, at the request of the superintendents of divisions a petition signed by them on behalf of the employés for the payment of their wages during the period that they will necessarily be furloughed, to enable you to remove the machinery and effects of the bureau to the new building and establish it therein.

I have the honor to request that you forward this petition through the proper channel to Congress, with such recommendation as you may deem proper.

Very respectfully,

WARD MORGAN,
Superintendent of Printing and Senior Superintendent in the Bureau.

Hon. O. H. IRISH,
Chief of Bureau Engraving and Printing.

To the Senate and House of Representatives of the Congress of the United States:

We the undersigned superintendents of divisions of the Bureau of Engraving and Printing, beg leave to petition: That in consequence of the removal of the bureau to the new building erected for its use, a suspension of work for a period embracing about eighteen working days has necessarily been ordered by the chief, during which time all the employés of our bureau will be furloughed without pay. During the fiscal year about closing very much urgent work has been called for by the Government from this bureau, and in every instance the employés have cheerfully responded to the requirements made upon them, and have performed severe tasks to enable the bureau to meet these calls.

The present economical management of the Department makes the pay of the employés of the bureau, granting they have steady employment, only such as is necessary to the support of the families dependent upon them, and every day or part of day lost by them through sickness or other reason causes a proportionate loss of pay which always amounts to a hardship, and in very many cases severe suffering ensues; and if they shall be compelled to lose the pay they would have earned during the period of moving, many of them, by reason of the fact that all their monthly pay is immediately required to meet the calls of their families for the necessaries of life, will be obliged to incur debts which will take them months to recover from, and many, because of very dependent families relying on their small incomes, could scarcely recover at all.

Therefore, on behalf of the employés of our several divisions, we pray that a joint resolution of the two Houses of Congress may be passed authorizing the payment of the employés of the bureau their regular pay during the period of furlough above named, and that the money necessary be appropriated.

And your petitioners will ever pray.

WARD MORGAN,
Superintendent of Printing.
(On behalf of 470 employés of Plate Printing Division.)

GEO. W. CASILEAR,
Superintendent.
(On behalf of 37 employés of the Engraving and Transferring Division.)

OWEN T. EDGAR,
Foreman of Wetting Branch.
(On behalf of 41 employés.)

THOS. P. SPARK,
Superintendent of Binding and Perforating Division.
(On behalf of 45 employés.)

ANNIE E. BEALLE,
Superintendent of Examining Division.
(On behalf of 84 employés.)

ANNIE R. ROE,
Superintendent of Numbering and Separating Division.
(On behalf of 82 employés.)

HARRIET C. STICKNEY,
Clerk in charge of Surface Branch.
(On behalf of 22 employés.)

JAMES MILLIGAN,
Superintendent of Steam Press Division.
(On behalf of 3 employés.)

ANNIE M. HAYES,
Superintendent of Orders.
(On behalf of 28 employés.)

PORTERFIELD SCRIP.

Mr. BLISS, by unanimous consent, introduced a joint resolution (H. R. No. 331) authorizing the Secretary of the Interior to issue duplicates of certain Porterfield scrip; which was read a first and second time, and referred to the Committee on the Public Lands.

EMPLOYÉS OF THE HOUSE OF REPRESENTATIVES.

Mr. HARRIS, of Virginia, by unanimous consent, introduced a joint resolution (H. R. No. 332) for the relief of certain employés of the House of Representatives; which was read a first and second time, and referred to the Committee on Accounts.

CLAIMS ALLOWED BY SOUTHERN CLAIMS COMMISSION.

Mr. SIMONTON. There is on the Speaker's table a bill making appropriation to pay claims allowed by the southern claims commission, returned from the Senate with some formal amendments. I ask that the amendments of the Senate be concurred in. They are simply formal amendments: in one case to insert the word "administrator" after the name, and in another case to insert the name of the widow of the original claimant instead of the name of the claimant.

There being no objection, the bill (H. R. No. 4435) making appropriations for the payment of claims reported allowed by the commissioners of claims under the act of Congress of March 3, 1871, and acts amendatory thereof, was taken from the Speaker's table; and the amendments of the Senate were read and concurred in.

ORDER OF BUSINESS.

The SPEAKER. The gentleman from Indiana [Mr. BICKNELL] moves that the House take a recess until half past nine o'clock on Monday morning.

Mr. ATKINS. If this motion be agreed to, will not the subject which has been under discussion to-day be the unfinished business when the House reassembles on Monday morning?

The SPEAKER. It will come up at once. The session will be a continuation of the same legislative day.

Mr. TOWNSHEND, of Illinois. I move to amend the motion of the gentleman from Indiana so as to fix ten o'clock as the hour of meeting.

The amendment of Mr. TOWNSHEND, of Ill'nois, was not agreed to.

Mr. SPRINGER. I desire to ask whether gentlemen desire further time for the purpose of considering this resolution or simply to delay action upon it? [Cries of "Regular order!"]

Mr. CONGER. We will tell the gentleman privately.

The question being taken on the motion of Mr. BICKNELL, there were—ayes 91, noes 16.

Mr. HATCH. No quorum.

Tellers were ordered; and Mr. HATCH and Mr. BICKNELL were appointed.

The House divided; and the tellers reported—ayes 77, noes 13.

Mr. HATCH. No further count is insisted upon.

The SPEAKER. No further count being called for, the motion of the gentleman from Indiana [Mr. BICKNELL] is agreed to; and the House takes a recess until Monday morning next at half past nine o'clock.

MORNING SESSION.

The recess having expired, the House (at nine o'clock and thirty minutes a. m., Monday, June 14) reassembled.

COUNTING ELECTORAL VOTE.

The SPEAKER. The pending question is on the demand of the gentleman from Indiana [Mr. BICKNELL] for the previous question on the adoption of the concurrent resolution of the Senate, proposing a joint rule for counting the electoral votes for President and Vice-President.

The question being put, there were—ayes 18, noes 9.

Mr. KEIFER. No quorum.

Tellers were ordered, and Mr. KEIFER, and Mr. HARRIS of Virginia, were appointed.

The House again divided; and the tellers reported—ayes 22, noes 5.

Mr. KEIFER. No quorum.

Mr. WHITTHORNE. I move a call of the House.

The motion of Mr. WHITTHORNE was agreed to.

The roll was called; when the following-named members failed to answer:

Acklen,	Davidson,	Kimmel,	Richardson, D. P.
Aiken,	Davis, Horace	King,	Richardson, J. S.
Aldrich, N. W.	De La Matyr,	Kitchin,	Richmond,
Aldrich, William	Deuster,	Klotz,	Robertson,
Anderson,	Dick,	Knott,	Rothwell,
Armfield,	Dickey,	Le Fevre,	Russell, Daniel L.
Atherton,	Dunn,	Lewis,	Russell, W. A.
Atkins,	Dwight,	Lindsey,	Ryan, Thomas
Bachman,	Einstein,	Loring,	Sapp,
Bailey,	Ellis,	Lowe,	Sherwin,
Baker,	Ewing,	Manning,	Simonton,
Barlow,	Farr,	Marsh,	Singleton, J. W.
Belford,	Felton,	Martin, Edward L.	Singleton, O. R.
Beltzhoover,	Ferdon,	Martin, Joseph J.	Slemons,
Berry,	Finley,	Mason,	Smith, Hezekiah B.
Bingham,	Fisher,	McCoid,	Smith, William E.
Blackburn,	Ford,	McCook,	Speer,
Blake,	Forsythe,	McGowan,	Starin,
Bland,	Fort,	McKinley,	Stephens,
Bliss,	Frost,	McMahon,	Talbott,
Blount,	Frye,	McMillin	Taylor,
Bowman,	Garfield,	Miles,	Thompson, W. G.
Bragg,	Geddes,	Miller,	Tillman,
Brewer,	Gibson,	Mills,	Townsend, Amos
Brigham,	Gillette,	Mitchell,	Tucker,
Bright,	Godshalk,	Money,	Turner, Thomas
Buckner,	Goode,	Monroe,	Tyler,
Burrows,	Gunter,	Morse,	Updegraff, J. T.
Butterworth,	Hammond, John	Muller,	Updegraff, Thomas
Caldwell,	Harmer,	Murch,	Urner,
Calkins,	Harris, Benj. W.	Myers,	Valentine,
Camp,	Haskell,	Neal,	Van Aernam,
Carlisle,	Hawk,	New,	Vance,
Carpenter,	Hayes,	Newberry,	Voorhis,
Caswell,	Hazelton,	Norcross,	Wait,
Chalmers,	Heilman,	O'Brien,	Warner,
Claflin,	Henkle,	O'Neill,	Weaver,
Clardy,	Hill,	O'Reilly,	Wellborn,
Clark, Alvah A.	Hiscock,	Orth,	Whiteaker,
Clark, John B.	Hooker,	Osmer,	Wilber,
Clymer,	Horr,	Overton,	Williams, C. G.
Cobb,	Houk,	Page,	Willis,
Colerick,	Hubbell,	Persons,	Wilson,
Converse,	Hull,	Phister,	Wise,
Covert,	Humphrey,	Pierce,	Wood, Fernando
Cowgill,	Hunton,	Pound,	Wood, Walter A.
Crapo,	Hurd,	Prescott,	Wright,
Cravens,	James,	Price,	Yocum,
Crowley,	Jorgensen,	Reagan,	Young, Casey
Culberson,	Kelley,	Reed,	Young, Thomas L.
Daggett,	Killinger,	Rice,	

The SPEAKER. Eighty-nine members have answered to their names.

Mr. ACKLEN. Mr. Speaker, am I recorded?

The SPEAKER. The gentleman is recorded as an absentee.

Mr. ACKLEN. I desire to be recorded as present.

Mr. BERRY. I am present.

Mr. GOODE. So am I.

Mr. ANDERSON. I rise to a parliamentary inquiry.

Mr. HAZELTON. I rise to a parliamentary inquiry. I would like to have my name called.

Mr. BARBER. I ask that the roll be called once more.

Mr. McMILLIN. I desire to know whether the Clerk has my name recorded.

The SPEAKER. As an absentee. [Laughter.]

Mr. McMILLIN. Then I desire to know whether or not I am an absentee?

The SPEAKER. The Chair upon the evidence of sight thinks the gentleman is not now an absentee.

Mr. BICKNELL. I move that further proceedings under the call be dispensed with.

The motion was agreed to.

Mr. ALDRICH, of Illinois. I move that the names of the absentees be called.

The SPEAKER. They have been.

Mr. ALDRICH, of Illinois. I mean those of them who are present. [Laughter.]

Mr. HAZELTON. I make the point of order that they are not absentees.

Mr. KEIFER. I move that the House adjourn.

The question being put, the motion was declared not agreed to.

Mr. KEIFER. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 24, nays 104, not voting 164; as follows:

YEAS—24.

Aldrich, William	Errett,	Lapham,	Smith, A. Herr
Barber,	Hall,	Overton,	Thomas,
Bayne,	Hawley,	Pound,	Valentine,
Briggs,	Hazelton,	Robeson,	Van Voorhis,
Cannon,	Horr,	Russell, W. A.	White,
Davis, George R.	Keifer,	Shallenberger,	Williams, C. G.

NAYS—104.

Acklen,	Davis, Horace,	Hostetler,	Robinson,
Aldrich, N. W.	Davis, Joseph J.	House,	Ross,
Anderson,	Davis, Lowndes H.	Hubbell,	Russell, Daniel L.
Atkins,	Deering,	Hutchins,	Ryan, Thomas
Bachman,	Dibrell,	Johnston,	Ryon, John W.
Ballou,	Dickey,	Jones,	Sawyer,
Beale,	Dunnell,	Joyce,	Scales,
Beltzhoover,	Dwight,	Kelley,	Shelley,
Berry,	Elam,	Kenna,	Sparks,
Bicknell,	Evins,	Ladd,	Springer,
Blackburn,	Field,	Lounsbery,	Steele,
Bland,	Fisher,	Lowe,	Stevenson,
Bouck,	Forney,	Manning,	Thompson, P. B.
Boyd,	Fort,	Martin, Benj. F.	Tillman,
Brewer,	Geddes,	McKenzie,	Townshend, R. W.
Browne,	Goode,	McMillin,	Tucker,
Buckner,	Gunter,	Morton,	Turner, Oscar
Cabell,	Hammond, N. J.	Muldrow,	Upson,
Caldwell,	Harris, John T.	New,	Vance,
Chittenden,	Hatch,	Nicholls,	Waddill,
Coffroth,	Hawk,	O'Connor,	Washburn,
Conger,	Hayes,	Pacheco,	Wellborn,
Cook,	Henderson,	Phelps,	Wells,
Cox,	Henry,	Philips,	Whiteaker,
Cravens,	Herbert,	Poehler,	Whitthorne,
Culberson,	Hill,	Richardson, J. S.	Williams, Thomas.

NOT VOTING—164.

Aiken,	Einstein,	Loring,	Robertson,
Armfield,	Ellis,	Marsh,	Rothwell,
Atherton,	Ewing,	Martin, Edward L.	Samford,
Bailey,	Farr,	Martin, Joseph J.	Sapp,
Baker,	Felton,	Mason,	Sherwin,
Barlow,	Ferdon,	McCoid,	Simonton,
Belford,	Finley,	McCook,	Singleton, J. W.
Bingham,	Ford,	McGowan,	Singleton, O. R.
Blake,	Forsythe,	McKinley,	Slemons,
Bliss,	Frost,	McLane,	Smith, Hezekiah B.
Blount,	Frye,	McMahon,	Smith, William E.
Bowman,	Garfield,	Miles,	Speer,
Bragg,	Gibson,	Miller,	Starin,
Brigham,	Gillette,	Mills,	Stephens,
Bright,	Godshalk,	Mitchell,	Stone,
Burrows,	Hammond, John	Money,	Talbott,
Butterworth,	Harmer,	Monroe,	Taylor,
Calkins,	Harris, Benj. W.	Morrison,	Thompson, W. G.
Camp,	Haskell,	Morse,	Townsend, Amos
Carlisle,	Heilman,	Muller,	Turner, Thomas
Carpenter,	Henkle,	Murch,	Tyler,
Caswell,	Herndon,	Myers,	Updegraff, J. T.
Chalmers,	Hiscock,	Neal,	Updegraff, Thomas
Claflin,	Hooker,	Newberry,	Urner,
Clardy,	Houk,	Norcross,	Van Aernam,
Clark, Alvah A.	Hull,	O'Brien,	Voorhis,
Clark, John B.	Humphrey,	O'Neill,	Wait,
Clymer,	Hunton,	O'Reilly,	Ward,
Cobb,	Hurd,	Orth,	Warner,
Colerick,	James,	Osmer,	Weaver,
Converse,	Jorgensen,	Page,	Wilber,
Covert,	Ketcham,	Persons,	Willis,
Cowgill,	Killinger,	Phister,	Willits,
Crapo,	Kimmel,	Pierce,	Wilson,
Crowley,	King,	Prescott,	Wise,
Daggett,	Kitchin,	Price,	Wood, Fernando
Davidson,	Klotz,	Reagan,	Wood, Walter A.
De La Matyr,	Knott,	Reed,	Wright,
Deuster,	Le Fevre,	Rice,	Yocum,
Dick,	Lewis,	Richardson, D. P.	Young, Casey
Dunn,	Lindsey,	Richmond,	Young, Thomas L.

So the House refused to adjourn.

During the roll-call,

Mr. CLYMER said: I am paired with Mr. BLAKE, of New Jersey, and therefore withdraw my vote.

Mr. McLANE. I voted inadvertently and withdraw my vote, as I am paired with Mr. HARMER.

Mr. WARNER. I am paired with Mr. CLAFLIN.

The vote was then announced as above recorded.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, notified the House that that body had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 1846) relating to the public lands of the United States.

It further announced the passage without amendment of an act (H. R. No. 3291) for the allowance of certain claims reported by the accounting officers of the United States Treasury Department.

It further announced the passage of an act (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and for prior years, and for those certified as due by the accounting officers of the Treasury in accordance with section 4 of the act of June, 1878, heretofore paid by permanent appropriations, and for other purposes, with amendments in which concurrence was requested.

It further announced the passage of an act (S. No. 711) amending the charter of the Freedman's Savings and Trust Company, and for other purposes; in which concurrence was requested.

COUNTING ELECTORAL VOTE.

The SPEAKER. The question recurs on seconding the demand for the previous question.

Mr. KEIFER. Have the proceedings under the call of the House been dispensed with?

The SPEAKER. They have.

The House divided; and there were ayes 71, none in the negative.

Mr. CONGER. No quorum has voted.

The SPEAKER. The point being made that no quorum has voted, the Chair will appoint Mr. BICKNELL and Mr. KEIFER as tellers.

The House again divided; and there were—ayes 84, noes 1.

Mr. KEIFER. No quorum has voted.

Mr. BICKNELL. Mr. Speaker, it is evident our friends on the other side do not intend to vote to make a quorum, and the only motions now in order are a call of the House and to adjourn. If I should move that there be a call of the House it could not be completed before the time for adjournment; and I therefore now move the House adjourn.

The motion was agreed to; and accordingly (at ten o'clock and thirty-five minutes a. m., June 14, 1880) the House adjourned.

PETITIONS, ETC.

The following petitions and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. BLISS: The petition of J. W. Adams, A. Crittenden, D. Y. Eaton, and others, citizens of Brooklyn, New York, against the further introduction of the French metric system—to the Committee on Coinage, Weights, and Measures.

By Mr. McKENZIE: A paper relating to the pension claim of William McCoughtry, of Kentucky—to the Committee on Invalid Pensions.

By Mr. STARIN: The petition of Avery, Snell & Co., Pardue & Noyes, and 17 others, dealers in earthenware, of New York, for a reduction of the duty on crockery—to the Committee on Ways and Means.

By Mr. UPSON: Two petitions of citizens of Texas, for a reduction of the duty on salt—to the same committee.

By Mr. WHITTHORNE: The petition of Benjamin Harlan, for pay for property taken by the United States Army during the late war—to the Committee on War Claims.

By Mr. THOMAS L. YOUNG: The petition of C. H. Noyes and 41 others, United States officers of internal revenue, for the passage of the bill (H. R. 4802) granting them the same leave of absence granted other executive officers in the Executive Departments—to the Committee on Ways and Means.

CHANGE OF REFERENCE.

Change of reference was made, under the rule, of the petition of Addison Leech, for an American registry for a wrecked Canadian vessel, from the Committee on Naval Affairs to the Committee on Commerce.

IN SENATE.

MONDAY, *June* 14, 1880.

The Senate met at eleven o'clock a. m. Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of the proceedings of Saturday last was read and approved.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. BECK I rise to make a privileged report—to report a disagreement of the conference between the two Houses on the sundry civil bill.

The PRESIDENT *pro tempore*. The report will be read.

The Chief Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 6266) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, having met, after full and free conference have been unable to agree.

JAMES B. BECK,
R. E. WITHERS,
W. B. ALLISON,
Managers on the part of the Senate.
J. H. BLOUNT,
HIESTER CLYMER,
FRANK HISCOCK,
Managers on the part of the House.

Mr. BECK. I desire only to say a word. The conferees on the part of the Senate do not despair of finally coming to an agreement. We found ourselves surrounded by quite a number of embarrassments. The item relative to the appropriation for the National Board of Health seems to be one of serious difficulty that we did not very well see how we could get over, unless the conferees on the part of the House lay it once more before the House, which we hope they will do this morning.

There were other matters that were inserted by a vote of the Senate, upon a call of the yeas and nays, which, as we had to disagree upon other things, we were extremely anxious the conferees on the part of the House should ask the opinion of the House quite distinctly about, not feeling at liberty to surrender them without further consultation there. We were necessarily required to give up some things that we did not like to give up, and had to reduce the appropriations made for others; but that has to be done, I suppose, in all conferences.

But, believing that there were certain matters which it would be well for us to look at a little further, which we were not willing to surrender without further examination at that end, we agreed to disagree and report our disagreement, hoping that we shall hereafter be able to agree when the committee meet again. I believe that states the case.

The PRESIDENT *pro tempore*. The question is, Will the Senate proceed to the consideration of the report of the conference committee?

The motion was agreed to.

The PRESIDENT *pro tempore*. The report is before the Senate.

Mr. HARRIS. I desire to say simply that I hope the Senate will not recede from its amendment in respect of the National Board of Health, or if it should I think it would be wise to abolish the Board of Health altogether. It is certainly a very bad policy to continue the board if it is to be continued in a condition so crippled as to render it powerless to perform the functions for which it was created. I very much hope that the action of the House will be such as not to make it necessary to recede from the Senate amendment, because if the Senate shall recede then I am satisfied that the board will not be able to perform those duties that it was expected to perform, that it was created to perform. I think it would be improper to continue the board at all unless the appropriation made by the Senate is given.

Mr. CONKLING. We cannot hear the Senator from Tennessee. We want to hear him.

Mr. HARRIS. I was simply expressing the opinion that unless Congress be willing to give the means necessary to enable the Board of Health to perform the functions that it was created to perform it would be better policy to abolish it altogether. If this amendment of the Senate to the sundry civil bill is non-concurred in, it leaves the board so crippled as to render it powerless. It would be unable to perform its functions, and I should favor the abolition of the board sooner than to cripple it and render it unable to perform the duties for which it was created.

I very much hope, however, that no such contingency may be necessary, because whatever may be the opinion of others in respect to the board and its operations, I think the results of 1879, the only year of its existence, have proven beyond controversy that it has performed a work highly important and beneficial in restraining the yellow fever of that year within the limits where it originated and in giving a freedom to commerce which commerce never had before in the period of an epidemic.

I think these conclusions can be demonstrated and made to appear so clearly that no Senator or Representative would be inclined to abolish the board. I very much hope that no such necessity may arise; but I do not wish to detain the Senate with another word upon this subject at this time.

Mr. ALLISON. I desire to say just one word in reference to what has been said by the Senator from Tennessee. I think we can very safely say that the House seem to be very much opposed to the present situation in reference to the Board of Health; and they are especially hostile to the amendments put on in the Senate with reference to that board. That is all I desire to say.

The PRESIDENT *pro tempore*. Does the Senator from Kentucky submit a motion?

Mr. BECK. I move that the report of the committee be concurred in and that the Senate request a further conference with the House of Representatives upon the disagreeing votes of the two Houses.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Kentucky.

Mr. CONKLING. I ask the Senator from Kentucky and the Chair

whether that is quite the motion? I suggest to the honorable Senator that the motion is that the Senate do further insist upon its amendments and ask another committee, not that we concur in the report. The report is one of disagreement. I submit to the Senator's better knowledge that the motion should be that the Senate shall further insist.

Mr. BECK. I believe that is proper. I am not familiar with the forms; but I think that is the proper motion.

The PRESIDENT *pro tempore*. The Senator from Kentucky moves that the Senate further insist upon its amendments and ask for a further conference. Is there objection? The Chair hears none. How shall the conferees be appointed?

Mr. BECK and others. By the Chair.

The PRESIDENT *pro tempore*. The Chair will appoint the same conferees who were formerly appointed, the Senator from Kentucky, [Mr. BECK,] the Senator from Virginia, [Mr. WITHERS,] and the Senator from Iowa, [Mr. ALLISON.]

Mr. DAVIS, of West Virginia. Before this question passes from the Senate I desire to express the hope that the conference committee will make as early a report as they can, so as not to extend the session beyond Wednesday, the time fixed for adjournment. It is only an expression of the hope that they will get to work early.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a communication from the Secretary of War, transmitting the memorial of Colonel E. A. Carr, and other officers of the Sixth Cavalry, remonstrating against the restoration to the Army of Edwin Mauck and John W. Chickering, formerly officers of that regiment, and H. L. Street, Robert P. Wilson, and Edwin Byrne, formerly officers of the First, Fifth, and Tenth Regiments of Cavalry, respectively; which was referred to the Committee on Military Affairs, and ordered to be printed.

Mr. PENDLETON presented the petition of T. Worthington, late colonel Forty-sixth Ohio Volunteers, praying for the passage of a bill granting him a pension; which was referred to the Committee on Pensions.

Mr. HARRIS presented additional papers to accompany the bill (S. No. 1720) to refer the claim of George E. Payne to the Court of Claims; which were referred to the Committee on Patents.

He also presented the petition of the vestry of Trinity church of the District of Columbia, praying for the passage of an act releasing their property from sale, and from all assessments and taxes; which was referred to the Committee on the District of Columbia.

REPORTS OF COMMITTEES.

Mr. LAMAR, from the Committee on Railroads, to whom was referred the bill (S. No. 1543) to aid the Mississippi Valley and Ship Island Railroad Company to construct a line of railroad in the State of Mississippi, reported it without amendment.

Mr. JONAS, from the Committee on Railroads, to whom was referred the bill (S. No. 115) to aid in the construction of a military, commercial, and postal rail highway from the district headquarters of the United States Army at San Antonio, in the State of Texas, to the Rio Grande, at or near the town of Laredo, reported it with an amendment.

Mr. DAWES, from the Committee on Railroads, to whom was referred the joint resolution (S. R. No. 85) for the relief of the Kansas City, Fort Scott and Gulf Railroad Company, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. MCMILLAN, from the Committee on Commerce, to whom was referred the bill (S. No. 1397) to incorporate the Spanish-American Commercial Company, reported adversely thereon, and the bill was postponed indefinitely.

Mr. MCMILLAN. I am also instructed by the Committee on Commerce, to whom was referred the bill (S. No. 1583) to change the name of the schooner-yacht Nettie to Nokomis, to report it favorably and without amendment. I ask the Senate to consider the bill now. There is no opposition to it.

Mr. COCKRELL. I object to its coming in now. It can be acted on near the close of the morning hour.

Mr. MCMILLAN. Very well.

Mr. WILLIAMS, from the Committee on Indian Affairs, to whom was referred the bill (H. R. No. 6112) to carry into effect the second and sixteenth articles of the treaty between the United States and the Great and Little Osage Indians, proclaimed January 21, 1867, reported it without amendment.

SMITHSONIAN ETHNOLOGICAL BUREAU.

Mr. ANTHONY. I am instructed by the Committee on Printing, to which was referred a concurrent resolution of the House of Representatives providing for the printing of 15,000 copies of the annual report of the director of the ethnological bureau of the Smithsonian Institution, to report it without amendment and to ask for its present consideration.

The resolution was considered by unanimous consent, and concurred in, as follows:

Resolved by the House of Representatives, (the Senate concurring,) That there be printed at the Government Printing Office 15,000 copies of the annual report of the director of the bureau of ethnology of the Smithsonian Institution, with the necessary illustrations; 7,000 copies of which shall be for the use of the House of Representatives, 3,000 copies for the use of the Senate, and 5,000 for distribution by the Smithsonian Institution.

COMMITTEE CLERKS, PAGES, ETC.

Mr. DAVIS, of West Virginia. The Committee on Appropriations, to whom was referred the joint resolution (H. R. No. 328) in relation to committee clerks, pages, and other employés of the Senate and House of Representatives, have instructed me to report it favorably without amendment, and I ask for its present consideration. I judge there will be no objection to it.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It directs the Secretary of the Senate and the Clerk of the House of Representatives to pay all committee clerks, pages, laborers, and other employés of the Senate and House of Representatives respectively, who do not now receive annual salaries, their regular per diem allowance for thirty days from the adjournment of this session of Congress.

Mr. FERRY. I ask if this is confined to the House employés solely, or whether it covers the Senate employés?

Mr. DAVIS, of West Virginia. It includes all the employés of the House and the Senate who receive a per diem compensation. It is a House resolution which was sent to us. It includes employés of both Houses other than those who receive annual salaries.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. BLAINE subsequently moved to reconsider the vote by which the resolution was passed; and the motion to reconsider was entered.

BILLS INTRODUCED.

Mr. JONES, of Florida, asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 127) authorizing and instructing the Secretary of the Navy to take the necessary steps to secure adequate naval stations and harbors for the use of the naval forces of the United States at proper points on the Atlantic and Pacific coasts of Central America and of the American isthmus; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. WALLACE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 128) authorizing the watchmen at the Capitol to act as policemen, receive the same compensation, and be paid for uniforms; which was read twice by its title, and referred to the Committee on Appropriations.

NATURALIZATION OF SPANIARDS.

Mr. WALLACE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested to communicate to the Senate, if not incompatible with the public service, the correspondence which has recently passed between Spain and the United States in regard to the agreement of February 12, 1871, and more particularly with reference to the question of the naturalization in the United States of natives of Spain.

COMMITTEE ON YORKTOWN CELEBRATION.

Mr. JOHNSTON submitted the following concurrent resolution; which was read:

Resolved, (the House of Representatives concurring,) That the Joint Committee on the Yorktown Centennial Celebration be authorized to sit during the recess of Congress at such times and places as may be necessary, and to appoint a clerk, whose compensation, at the usual rate of clerks to committees of the Senate, shall be paid equally out of the contingent funds of the Senate and House of Representatives.

Mr. DAVIS, of West Virginia. I ask the Senator whether there is not a fund from which to pay all expenses of that character?

Mr. COCKRELL. A fund of $20,000.

Mr. JOHNSTON. There is an appropriation of $20,000 to be used for the expenses of the centennial celebration proper, but it is proposed that this shall be paid in the usual way, out of the contingent funds of the two Houses.

Mr. DAVIS, of West Virginia. I of course would have no objection to small items, but it has grown up to be a practice in the Senate that during the vacations we add to the clerks and employés until we know at this session there were two or three times deficiencies when the contingent fund had to be enlarged by special appropriations; and I submit to the Senate that we cannot very well do it. I suggest whether the expense had not better be taken from the contingent fund of $20,000 appropriated for this celebration? I shall not object, however.

The resolution was considered by unanimous consent, and agreed to.

LIST OF PRIVATE CLAIMS.

Mr. JOHNSTON submitted the following resolution; which was read:

Resolved, That the Secretary of the Senate cause to be prepared an alphabetical list of all private claims which have been before the Senate, with the action of the Senate thereon, since the 3d day of March, 1867, and that he communicate the same to the Senate at the commencement of the next session.

Mr. JOHNSTON. I ask for the present consideration of the resolution.

Mr. COCKRELL. Let it be printed and lie over.

The PRESIDENT *pro tempore*. Objection is made, and the resolution lies over.

COMMITTEE ON ENROLLED BILLS.

Mr. WILLIAMS. I desire to announce to the Senate that the Sen-

ator from North Carolina, [Mr. VANCE,] who is chairman of the Committee on Enrolled Bills, is absent, and I move that the Chair appoint some person to act in his place as chairman of the Committee on Enrolled Bills.

The PRESIDENT *pro tempore*. It is understood that the chairman of the Committee on Enrolled Bills will be absent during the remainder of the session, and the Senator from Kentucky moves that some member of the Senate be appointed in his place as the chairman of that committee for the remainder of the session. The Chair thinks the motion should be to add a member to the Committee on Enrolled Bills for the time being, leaving the member who stands at the head of the committee in the absence of the Senator from North Carolina chairman. ["Agreed."] The Chair appoints the Senator from Ohio [Mr. PENDLETON] as an additional member of the committee; and the Senator from Florida [Mr. CALL] will be the chairman in the absence of the Senator from North Carolina.

BILL RECOMMITTED.

Mr. BAILEY. The bill (S. No. 1545) for the relief of J. W. Burbridge & Co. and Robert H. Montgomery was reported adversely from the Committee on Claims. I ask that that bill may be referred again to the Committee on Claims. By some means additional papers have been overlooked, which I now present, to go with the bill.

The PRESIDING OFFICER, (Mr. FERRY in the chair.) The bill will be recommitted to the Committee on Claims, if there be no objection, with the papers now presented. The Chair hears none, and the order is made.

ORDER OF BUSINESS FOR MORNING HOUR.

Mr. GARLAND and others addressed the Chair.

Mr. BECK. I desire to make a suggestion relative to the business of the Senate if I can get its attention a moment before the routine morning business is announced to be at an end. We have on the Calendar some four hundred cases that have not yet been called. There are thirty or forty bills that have come from the House which have been referred to appropriate committees and reported back with or without amendment. I suggest to the Senate whether we ought not to call the House bills and joint resolutions that have been reported back favorably by committees and act upon them under the Anthony rule, subject of course to objection, so that if they pass they may become laws at this session rather than that they should all fail. If this is not thought advisable, then I shall move that the Senate take a recess at six o'clock this evening and meet at eight o'clock for the purpose of considering that character of bills.

Mr. DAVIS, of Illinois. You may make the motion now.

Mr. BECK. I will first ask unanimous consent to consider the House bills that have been reported favorably by committees.

The PRESIDENT *pro tempore*. The Senator from Kentucky asks unanimous consent that when the Senate proceeds to the consideration of the Calendar under the Anthony rule the bills and joint resolutions that have come from the House of Representatives shall have precedence in the order they stand on the Calendar. Is there objection? The Chair hears none, and it is so ordered.

Mr. CONKLING. That is, that we are to pass over Senate bills as they are reached and call House bills?

The PRESIDENT *pro tempore*. That is the understanding.

Mr. DAVIS, of West Virginia. I understand the Senator from Kentucky to include that part of the Calendar that has not been gone over.

Mr. PENDLETON. It includes all the House bills on the Calendar.

Mr. CONKLING. Beginning with the beginning of the Calendar?

Mr. BECK. I have no objection to that, taking the unobjected cases merely.

The PRESIDENT *pro tempore*. The Chair so understood it, to take the Calendar from the beginning, not at the point last reached, and consider the House bills and joint resolutions in their order.

Mr. BECK. I do not care; that is all right, the unobjected cases.

DEPUTY MARSHALS.

Mr. GARLAND. On last Saturday I moved that the Senate concur in the House amendment to Senate bill No. 1726, but upon the objection of the Senator from Massachusetts [Mr. HOAR] it went over one day. I now move to take up Senate bill No. 1726 and concur in the House amendment.

The PRESIDENT *pro tempore*. The Senator from Arkansas moves that the Senate proceed to the consideration of this bill. [Putting the question.] The ayes have it, and the bill is before the Senate. The Senator from Arkansas now moves that the Senate concur in the amendment made by the House. Is the Senate ready for the question? [Putting the question.] The ayes have it, and the amendment is concurred in.

Mr. ALLISON. I did not quite hear the last House bill that the amendments were concurred in. What bill was that?

The PRESIDENT *pro tempore*. It is a Senate bill, and the amendment of the House was concurred in.

Mr. ALLISON. What bill? I did not quite understand.

The PRESIDENT *pro tempore*. The bill regulating the pay and appointment of deputy marshals—commonly called the deputy marshals bill.

Mr. ALLISON. I should like to hear those amendments read. I do not see very well how we can act upon them without having them read.

The PRESIDENT *pro tempore*. The amendment was reported before.

Mr. GARLAND. The amendment was read on Saturday and concurred in then, but upon objection of the Senator from Massachusetts we consented that it should go over.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed a bill (S. No. 1371) to authorize the Mississippi River Logging Company to construct and operate sheer-booms at or near Straight Slough.

The message also announced that the House had concurred in the amendments of the Senate to the bill (H. R. No. 4435) making appropriations for the payment of claims reported allowed by the commissioners of claims under the act of Congress of March 3, 1871, and acts amendatory thereof.

The message further announced that the House had passed the bill (H. R. No. 4450) to change the name of the steamer Charlotte and Isabella to Maud; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the President *pro tempore*:

An act (H. R. No. 4435) making appropriations for the payment of claims reported allowed by the commissioners of claims under the act of Congress of March 3, 1871, and acts amendatory thereof;

An act (S. No. 194) to provide for the disposal of the Fort Harker military reservation;

An act (S. No. 1801) for the relief of Clement C. Clay, of Alabama;

An act (H. R. No. 3988) to remove the political disabilities of Charles Carroll Simms, of Virginia;

An act (H. R. No. 3328) to remove the political disabilities of John Owins, of Portsmouth, Virginia;

An act (H. R. No. 3832) to remove the political disabilities of Joseph A. Seawell, of Virginia;

An act (H. R. No. 3109) to remove the political disabilities of I. Wilkinson;

An act (H. R. No. 393) authorizing the Treasurer of the United States to refund to W. B. Farrar, of Whitfield County, Georgia, illegal taxes collected from him in the year 1877;

An act (H. R. No. 6471) to amend an act entitled "An act to create the northern judicial district in the State of Texas, and to change the eastern and western judicial districts of said State, and to fix the time and places of holding courts in said districts," approved February 24, 1878;

An act (H. H. No. 2528) to change the name of the steam-yacht Kate Sutton, of Buffalo, to that of Loraine, of Oak Orchard;

An act (H. R. No. 3274) to change the name of the steam-yacht E. R. Bryant, of Rochester, New York, to that of Summerland;

An act (H. R. No. 3275) to change the name of the sloop-yacht Mariah, of Rochester, New York, to that of Tourist; and

An act (H. R. No. 6472) to amend an act entitled "An act to amend the statutes in relation to immediate transportation of dutiable goods, and for other purposes."

CARLILE BOYD.

Mr. VOORHEES. The bill (S. No. 1150) for the relief of Carlile Boyd was reported adversely, and on my motion placed on the Calendar. I now move that the bill be postponed indefinitely.

The motion was agreed to.

DISTRICT INSPECTOR OF PLUMBING.

The PRESIDENT *pro tempore*. If there is no further morning business the routine business of the morning hour is at an end, and the Senate proceeds under the Anthony rule to consider the Calendar, but beginning at the beginning and considering only House bills and joint resolutions.

Mr. COCKRELL. The first one is order of business No. 187, House bill No. 1894.

The bill (H. R. No. 1894) authorizing the employment of an inspector of plumbing in and for the District of Columbia, and for other purposes, was considered as in Committee of the Whole.

The bill was reported from the Committee on the District of Columbia with amendments, in line 4, after "District of Columbia," to strike out "on recommendation of the health officer;" and in line 6, after "whose duty it shall be," to strike out "under direction of the health officer;" so as to make the bill read:

Be it enacted, &c., That there shall be appointed by the commissioners of the District of Columbia an inspector of plumbing for said District, whose duty it shall be to inspect all houses in course of erection, and pass upon the plumbing and sewerage of said houses. And the health officer of the District of Columbia is hereby authorized, under direction of the commissioners, to execute and enforce regulations governing plumbing, house-drainage, and the ventilation of house-sewers; and any person who shall neglect or refuse to comply with the requirements of the said regulations, when promulgated, shall be punishable by a fine of from twenty-five to two hundred dollars for each and every such offense, or, in default of payment of fine, to imprisonment for thirty days.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

AMANDA M. COOK.

The next House bill on the Calendar was the bill (H. R. No. 1076) for the relief of Amanda M. Cook; which was considered as in Committee of the Whole. It directs the Secretary of the Interior to deduct from any annuities due or to become due to the Cheyenne or Arapahoe Indians, $2,000, and pay the same to Amanda M. Cook, formerly Amanda M. Fletcher, whose mother was killed and herself captured by the Cheyenne and Arapahoe Indians, in the Territory of Wyoming, in August, 1865, while *en route* from the State of Illinois to California.

Mr. COCKRELL. Is there a written report in that case?

Mr. ALLISON. There is no written report in the case.

Mr. DAVIS, of Illinois. State what it is.

Mr. ALLISON. The bill on its face states precisely the fact. The mother of this girl was murdered, and she was captured and remained with these Indians for nearly two years. This is to allow her some compensation for it. That is all there is in the case.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

COIN AND BULLION CERTIFICATES.

The bill (H. R. No. 564) to amend certain sections of the Revised Statutes of the United States relative to coinage and coin and bullion certificates, and for other purposes, was announced as the next House bill in order upon the Calendar.

Mr. JOHNSTON. That bill was reported adversely.

The PRESIDING OFFICER, (Mr. FERRY in the chair.) This bill is reported adversely, and the next House bill on the Calendar will be reported.

CALVIN BRONSON.

The consideration of the bill (H. R. No. 2269) for the relief of Calvin Bronson was resumed as in Committee of the Whole.

Mr. THURMAN. This bill is one that passed the House, having been favorably reported by a committee, was unanimously reported favorably by our committee here, and I hope there will be no objection to it.

Mr. CONKLING. Let us hear the report read.

The PRESIDING OFFICER. The report will be read.

The Chief Clerk read the following report, submitted by Mr. HARRIS February 11, 1880:

The Committee on Claims, to whom was referred the bill (H. R. 2269) for the relief of Calvin Bronson, of Toledo, Ohio, submit the following report:

The facts necessary to be noticed in respect to this claim are briefly these: By section 93 of the act of 30th June, 1864, (13 Statutes at Large, page 270,) the tax imposed on smoking tobacco, the subject of this claim, was 25 cents per pound.

By the 1st section of the act of March 3, 1865, the tax was increased to 35 cents per pound, (13 Statutes at Large, 477,) and by section 18 of same act (page 487) it is provided that this act shall take effect on the 1st April, 1865.

The claimant manufactured some 110,000 pounds smoking tobacco in the month of March, 1865.

Section 90 of act of 30th June, 1864, (page 262,) requires manufacturers to make their returns to the assessor on Wednesday of every week, of the amount and kinds of tobacco manufactured in the week ending that day, and requires the assessor to assess the same immediately thereafter, and that the tax so assessed to be paid within five days after assessment. The claimant returned to the assessor on Wednesday of each week in March, 1865, the tobacco manufactured during the week, as required by the act of 30th June, 1864, and the same was assessed at 25 cents per pound, in strict obedience to the requirements of the law of that day.

Immediately after each assessment the claimant proposed to pay the tax so assessed, tendering the money, but in disregard of the law the collector refused to receive weekly payments from claimant, saying that he could not be bothered with payments made weekly; that he would only receive them monthly.

This tobacco having been reported, inspected, and assessed, was immediately removed from the manufactory to a warehouse of claimant, some half mile distant.

After the act of March 3, 1865, went into effect, and after the assessment of 25 cents per pound had been collected, this lot of tobacco was reassessed under the act of March 3, 1865, the additional sum of 10 cents per pound, amounting to $11,211. This assessment the claimant refused to pay, because it was illegal.

In June, 1865, the collector of the district seized the tobacco manufactory with a large amount of tobacco of the claimant, on the ground that claimant had in May, 1864, made a pretended sale of a large amount of tobacco to his brother, David Bronson, to avoid a higher rate of tax imposed by the act of June 30, 1864, and the additional ground that he refused to pay the additional tax of 10 cents per pound on this lot of tobacco.

Immediately after this seizure the claimant came to Washington and requested the Commissioner of Internal Revenue to send a special agent to Toledo to examine and report the grounds of this seizure. Messrs. Payne and Hawley, special agents of the Department, were sent to Ohio for that purpose. On the 22d September, 1865, Benjamin Payne makes the following report:

"TOLEDO, OHIO, *September* 22, 1865.

"I, Benjamin Payne, having been appointed by the Commissioner of Internal Revenue special agent to investigate the charges against Mr. Calvin Bronson, of Toledo, Ohio, hereby certify that I have carefully examined all the business transactions of the said Bronson connected with the Revenue Department, and that I have nowhere found fraud or design on his part to defraud the Government. I further certify that the seizure of his goods by the collector was, in my opinion, unnecessary.

"BENJAMIN PAYNE,
"*Special Agent, Treasury Department.*"

But in addition to this Mr. Payne decided that the additional tax of 10 cents per pound was legal, due the Government, and must be paid. Under protest claimant paid it, giving Mr. Payne notice at the time in addition to his protest that he would appeal to the Commissioner to refund the tax so illegally demanded.

The law prohibited the claimant from instituting suit against the collector for the money thus illegally collected from him until after he had made his application to the Commissioner of Internal Revenue to refund it; but at the end of six months after making such application (Revised Statutes, 3226) claimant had the right to sue without a decision of the application, but claimant says he did not sue because the collector was a defaulter, and soon after the collection of this tax he absconded.

The records of the office of the internal revenue collector show that the collector was a defaulter to the amount of about $30,000, and in May, 1866, absconded.

Claimant made his application to the Commissioner and clearly proved that this lot of tobacco was manufactured in March, 1865; that it was reported on Wednesday of each week as manufactured, and immediately thereafter assessed for tax under the then existing law; that the tax was payable in March under the law; and that the money was tendered to pay this tax, but not received, only because the collector refused to be bothered with weekly payments. On the 5th of January, 1870, this claim is indorsed:

"Examined and allowed and submitted by—

"J. T. VINSON.

"Allowed March 12, 1870.

"W. H. SMITH,
"*Solicitor.*"

On the 7th July, 1870, E. P. Gaines, chief of internal-revenue division of Secretary's office, reviews all the facts in the case, and in conclusion says that while this payment of $11,211 was not made on what was strictly a legal compromise, the Secretary having not approved it, yet the seizure of the factory and tobacco of claimant was pending, and the payment of this tax was demanded; and in order to get his property released from seizure he paid the tax, and his property was released from seizure; and argues that if the seizure case had been prosecuted the Government might have recovered; therefore, he says it is unjust for claimant to demand that the tax should be refunded, and recommends that the case be returned to the Internal Revenue office for re-examination. On the 7th of July, 1870, the Assistant Secretary of the Treasury returned the papers to the Commissioner, requesting a re-examination of the case.

On the 1st December, 1870, the Acting Commissioner of Internal Revenue addressed the following note to Joseph R. Swigart, esq., United States collector, tenth district, Toledo, Ohio:

"SIR: Refunding claim of C. Bronson for $11,211 has been fully considered, with all the accompanying papers and the brief of counsel for the claimant, and rejected by the solicitor and by me.

"Respectfully,

"J. W. DOUGLASS,
"*Acting Commissioner.*"

The claimant then petitioned Congress to refund this tax of $11,211, alleging that it was illegally assessed and collected from him.

To reach the justice of this case three questions must be determined—

First. Was this additional tax of ten cents per pound, amounting to $11,211, legal?

Second. Were there just grounds of seizure and forfeiture of the property of claimant? and,

Third. Was this $11,211 paid as a legal and just compromise of the seizure case?

It is shown by the affidavits of the revenue officers of that district and by the affidavit of claimant that this tobacco was manufactured in the month of March, 1865, and that all that was produced each week was reported on Wednesday, assessed by the assessor, and the assessment handed over to the collector for collection of the tax, as required by the act of June 30, 1864; and that the claimant tendered the money immediately thereafter each week to pay the tax so assessed, but the collector refused to receive it because "he was not willing to be bothered with weekly payments;" that at the end of the month he did receive the tax so assessed, the tobacco having been immediately after assessment removed from the manufactory to the warehouse for sale. The committee is satisfied that this tobacco having been manufactured, reported, and assessed weekly before the 1st day of April, 1865, was properly assessed at 25 cents per pound, and that no subsequent additional assessment was legal.

Hence the failure to pay this subsequent illegal assessment of 10 cents additional under the act of March 3, 1865, constituted no just or legal ground of seizure, and if the report of the special agents of the Internal Revenue Department and the action of that department upon them are worth anything, then there was no fraud in the sale of tobacco by claimant to his brother, David Bronson, in 1864; hence no judgment of forfeiture could have been obtained upon that ground, and these are the only grounds on which the seizure rested. Upon the report of the special agents sent to investigate the reasons of the seizure the Commissioner directed the district attorney to dismiss the case, and it was dismissed, and the committee thinks properly dismissed, because illegal, unnecessary, vexatious, and unjust. The sum claimed nor any other sum was ever demanded of claimant as a *compromise* of the seizure case; it was demanded as a tax, collected and receipted for as a tax, and under solemn protest paid as a tax.

This tax having been illegally assessed, and its payment extorted by the seizure of a property (worth many times the amount claimed) equally illegal, the committee is of opinion that it should be refunded, and therefore report the bill back with the recommendation that it pass.

The PRESIDING OFFICER. The pending question is on the amendment of the Senator from Tennessee, [Mr. HARRIS,] which will be reported.

The CHIEF CLERK. It is proposed to add:

In full satisfaction of an illegal tax assessed upon certain smoking tobacco, and paid by him under protest.

Mr. THURMAN. I wish the Senator from Tennessee would withdraw the amendment. It would take the bill back to the House and might defeat it.

Mr. HARRIS. If the Senator from Ohio is satisfied that the bill without the amendment is safe——

Mr. THURMAN. Perfectly safe.

Mr. HARRIS. I have no desire to press the amendment. It was on the suggestion of some Senator that I offered it.

Mr. THURMAN. There is no necessity for the amendment. The evidence and the facts are fully set forth by the committee in their report.

Mr. HARRIS. I will withdraw the amendment at the request of the Senator from Ohio if he thinks the bill is safe as it is.

Mr. CONKLING. May I hear the amendment read before it is withdrawn?

The amendment was read.

Mr. CONKLING. Is this the same case, may I inquire of the Senator from Tennessee, which arose some time ago, in which the form of the bill was a mere order for the payment of money?

Mr. HARRIS. It is the case in which the Senator from New York criticised the form of the bill, and I offered an amendment intended to cover the criticism made by the Senator from New York.

Mr. CONKLING. Now may I hear the bill read?

The Chief Clerk read the bill as follows:

Be it enacted, &c., That the Secretary of the Treasury be authorized and directed to pay to Calvin Bronson $11,211 out of any money in the Treasury not otherwise appropriated.

Mr. CONKLING. Can it be possible that we ought to pass a bill in that form, however meritorious it may be? I think the honorable Senator from Ohio said that the fact that it came from the Committee on Claims, if that be the committee, would show what it was for. It goes upon the statute-book as a statute to speak for itself, and to speak alone for itself. Here is a bill with little less formality than a check upon a bank or an order on a tradesman: "Pay to such a man so much money and charge the same to my account." That is this bill. I never heard of such a one before. I would venture with some confidence to say that the statutes of the country will display no parallel to this form of bill.

Although I do not wish to interpose against the bill at all, having no doubt of its merits after hearing the Senator from Ohio say that he knows in regard to it, and after hearing him give us the assurance which I accept fully, still I hope that we shall not in any case adopt such a bit of legislation as that. I take it there can be no doubt of getting the House to concur in a mere formal amendment, an amendment of no more substance than one which would cure a clerical error. If there had been a mistake in the name of this claimant and we corrected that mistake, truly the House I think might be relied upon to concur in that, and this is an amendment as formal and I think quite as necessary as that.

I hope the Senator from Tennessee will not withdraw his amendment. Even in the stress of an occasion and the haste of the closing hours, particularly after this bill has been left to stand so long since attention was called to this defect, I hope the Senate will not put on the statute-book a bill of that sort, which would not amount to as much as a receipt unsealed, which would show nothing in the world except so much money had been paid to this man by an act of legislation.

Mr. THURMAN. I quite concur in the criticism of my friend from New York on the general appearance of this bill. The bill ought to have been more specific, but that is certain which can be rendered certain. This bill is reported as such a bill by number in the House, with a written report which was printed, and the bill passed the House. It was referred to our Committee on Claims, and by a unanimous report was reported favorably by its number. I think there can be no danger in passing it as it is, yet it may be that it would be a bad precedent to set, although I am afraid it is losing the bill, and this man has already been fifteen years out of his money and will not get a cent of interest when the bill passes; still if my friend insists I shall not complain.

Mr. CONKLING. Let me ask the Senator, who can judge better than myself, can it be possible that if a message goes to the House returning the bill with this amendment anybody in the House will object?

Mr. THURMAN. There will not be any objection, certainly, if the bill can be reached, if it can be got off the Speaker's table.

Mr. CONKLING. Can it not be done by unanimous consent?

Mr. THURMAN. I am willing that the amendment should be adopted.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Tennessee.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

GEOLOGICAL SURVEY.

The joint resolution (H. R. No. 116) to amend the act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes," was announced as next in order.

Mr. BOOTH. I object to the consideration of that.

The PRESIDING OFFICER. The joint resolution will be passed over.

Mr. DAVIS, of West Virginia. I hope the Senator will allow the Senate to vote upon it. It is a resolution that has been up two or three times. Cannot the Senator allow a vote without discussion?

Mr. BOOTH. I object.

The PRESIDING OFFICER. The next bill will be reported.

BILLS PASSED OVER.

The bill (H. R. No. 2377) for the relief of Catherine I. Gillis; the bill (H. R. No. 385) to amend an act entitled "An act for the relief of Robert Erwin;" the bill (H. R. No. 1493) defining the duties of reporter of the Supreme Court of the United States, fixing his compensation, and providing for the publishing and distributing of said reports; and the bill (H. R. No. 2262) for the relief of Juliet Leef, widow, and the heirs of Henry Leef, deceased, owner of the bark Mary Teresa, illegally seized by Alexander H. Tyler, consul of the United States at Bahia, Brazil, having been reported adversely, were passed over at the suggestion of Mr. COCKRELL.

TOBACCO FOR UNITED STATES NAVY.

The bill (H. R. No. 4417) to regulate the mode of purchasing tobacco for the United States Navy was considered as in Committee of the Whole. It directs the Secretary of the Navy to cause all purchases of tobacco for the use of the Navy to be made in the city of Washington, and as follows: In the month of February or March of each year the Secretary of the Navy shall cause proposals for bids for supplying the Navy with tobacco during the next year to be advertised thirty days in one daily newspaper in each of the cities of New York, Baltimore, Richmond, Lynchburgh, Petersburgh, Danville, Saint Louis, Louisville, Nashville, Hartford, Connecticut, Detroit, Cairo, Illinois, Rochester, New York, and Chicago; said tobacco to be manufactured during the months of June, July, August, and September; the bids to be accompanied by samples of the tobacco which each bidder may propose to furnish. The lowest bid for furnishing tobacco equal to the United States Navy standard now in use shall be accepted.

The bill was reported from the Committee on Naval Affairs with amendments.

The first amendment was, in line 10, after "New York," to insert "Harrisburgh, Pennsylvania."

Mr. ALLISON. I should like to have some explanation of the necessity of the bill.

Mr. WITHERS. I have not the bill before me, but I am familiar with the object of the bill, which can be stated by the Senator from Florida, [Mr. JONES,] who is on the committee reporting it.

Mr. JONES, of Florida. I am not as familiar with the subject as the Senator who reported the bill, [Mr. VANCE,] but I think it is very obvious that its whole purpose is to have purchases of tobacco for the Navy made after advertisement in open market, which is not now required to be done by law, I understand.

Mr. ANTHONY. Is not that required by general law for all supplies of the Navy?

Mr. JONES, of Florida. I am informed it is not the practice. I do not think there is anything compulsory in the existing law on the subject.

Mr. ALLISON. This bill provides that all these purchases shall be made in the city of Washington. Now, it may be inconvenient to make these purchases in the city of Washington. I should like to have some one familiar with the subject state that it is the judgment of those in charge of the Navy Department that such a bill should pass. I have never heard any complaint of the manner in which these purchases are made by the Navy Department.

Mr. COCKRELL. Let us have a vote on the question.

The PRESIDENT *pro tempore*. The question is on the amendment of the Committee on Naval Affairs inserting "Harrisburgh, Pennsylvania," after "New York," in line 10.

The amendment was agreed to.

The next amendment reported by the Committee on Naval Affairs was, in line 11, after "Richmond," to strike out "Lynchburgh, Petersburgh, Danville" and insert "Raleigh, North Carolina."

Mr. WITHERS. I am opposed to that amendment. Lynchburgh, Petersburgh, and Danville are very large tobacco points, where immense amounts of tobacco are manufactured, much more than in Raleigh.

Mr. TELLER. I enter an objection to the further consideration of this bill. It is liable to bring up discussion.

Mr. RANSOM. There will be no discussion on the bill. Nobody will insist on striking out Lynchburgh, Petersburgh, and Danville; we only want to insert Raleigh. Let us insert Raleigh.

The PRESIDENT *pro tempore*. The Senator from Colorado objects, and that passes the bill over.

NAVAL WHARF AT KEY WEST.

The bill (H. R. No. 1023) making an appropriation for the erection of a naval wharf at Key West, in the State of Florida, was considered as in Committee of the Whole. It proposes to appropriate $30,000, to be expended under the direction of the Secretary of the Navy, for the erection of a naval wharf at Key West, in the State of Florida.

Mr. PLATT. Is there a report with this bill?

The Chief Clerk read the following report, submitted by Mr. BRIGGS from the Committee on Naval Affairs of the House of Representatives, April 6, 1880:

The Committee on Naval Affairs, to whom was referred bill H. R. No. 1023, having had the same under consideration, respectfully submit the following report:

The naval station at Key West is one of great importance as a depot for coal and stores, and it affords a very convenient place for the repair of the machinery of vessels belonging to the Atlantic squadron.

The present wharf is an old wooden structure in a ruinous condition, requiring frequent repairs, and is wholly unfit for the necessities of the station. The Secretary of the Navy, in a communication to the Naval Committee in relation to the construction of a new wharf at this place, uses the following language:

"The Department regard this wharf as an improvement of the utmost importance and as absolutely necessary for the accommodation of the naval force employed at the West India station, and strongly recommend the passage of the bill, as the present old wharf cannot stand much longer."

The committee report said bill to the House, and unanimously recommend its passage.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

UNION RAILROAD DEPOT IN WASHINGTON.

The bill (H. R. No. 3047) to authorize the commissioners of the District of Columbia to recommend a proper site for a union railroad

depot in the city of Washington, and for other purposes, was considered as in Committee of the Whole.

The bill was reported from the Committee on the District of Columbia with an amendment, to strike out the following words from lines 6 to 17:

At some central point, having just reference to the convenience of access by said companies, and the people, sojourners, and visitors of said city, and to all the public interests involved, and report their doings in the premises to Congress within thirty days after the passage of this act with a bill containing such further provisions as they may deem best calculated to give effect to the purpose of requiring all said railroads to use said depot in common, and vacate all other depots, and remove all tracks not necessary for such use: *Provided*, That such union depot shall be provided by said railroads free from expense to the Government of the United States or the District of Columbia.

And in lieu thereof to insert:

Having due regard, as well to the interests of the residents and property-owners of the District of Columbia as to the chartered rights and pecuniary investments of the railroad companies to be affected by the action of Congress in the premises; but if, in the judgment of the said commissioners, it is better, for the interest of all parties concerned, that two depots should be established, the one on the northern and the other on the southern side of the city of Washington, then to make selection of the two sites for the respective depots, and to report their action in the premises, with proper plats, to Congress during the present session; but if that is not practicable, then to report on the first Monday of December, 1880, with a bill containing such further provisions as they may deem best calculated to secure the use by said railroad companies of said union depot if so selected; or in case of the selection of the two depots aforesaid, to secure the use of the northern depot by the company or companies whose road or roads enter the city of Washington nearest to said northern depot, and the use of the southern depot by the company or companies whose road or roads enter the said city nearest to said southern depot, and to compel the vacation of all other depots and the removal of all tracks not necessary for use in reaching the depot or depots intended to be established under the provisions of this act: *Provided*, That such union depot or the two depots herein referred to, whichever may be selected, shall be provided by said railroad companies free from expense to the United States or the District of Columbia.

The amendments were agreed to.

Mr. ALLISON. I noticed by the reading of the bill that these commissioners are required to report in thirty days.

Mr. WHYTE. No; it is in the alternative in the amendment, within thirty days, or, if that be not practicable, at the first day of the next session.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

MACHINISTS IN THE NAVY.

The next House bill on the Calendar was the bill (H. R. No. 5628) relating to machinists in the Navy.

Mr. COCKRELL. Is there any explanation accompanying that bill or any necessity for the gratuity granted by the bill? There seems to be no one in charge of the bill. Let it be passed over.

The PRESIDING OFFICER, (Mr. FERRY in the chair.) The bill will be passed over.

JAMES M. RUBY.

The bill (H. R. No. 1128) for the relief of James M. Ruby was considered as in Committee of the Whole. It provides for the payment to James M. Ruby of the pay of a private soldier from the 28th of June, 1862, to the 18th of August, 1862, and the pay of a sergeant-major from the 18th of August, 1862, to the 26th of August, 1862, the period when Ruby was sergeant-major of the Twentieth Regiment of Wisconsin Volunteer Infantry, and also the pay of first lieutenant from the 26th of August, 1862, when he was commissioned and mustered as first lieutenant in the Eighteenth Regiment of Wisconsin Volunteer Infantry, to the 2d of December, 1862, when he was commissioned and mustered as an officer in the Thirty-fourth Regiment of Wisconsin Volunteer Infantry.

The bill was reported from the Committee on Military Affairs with an amendment in line 5 to strike out "M" and insert "N," so as to read "James N. Ruby."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

The title of the bill was amended so as to read: "A bill for the relief of James N. Ruby."

R. W. BARKLEY.

The bill (H. R. No. 4842) to reinstate R. W. Barkley as cadet-midshipman in the United States Naval Academy at Annapolis was considered as in Committee of the Whole.

Mr. ANTHONY. Is there a report in that case?

Mr. COCKRELL. I can explain it more briefly than the report. This young gentleman was a cadet from the tenth congressional district of Missouri at the Naval Academy. He, in connection with two or three other young men, in 1876 was tried for the alleged offense of hazing. The court sentenced him to be dismissed. After the sentence was passed the Secretary of the Navy ordered the naval judge-advocate to review the proceedings in the case; and he found that all the proceedings were illegal and void. The other two were reinstated and placed back in the class; but in the mean time in this particular congressional district the Representative had appointed another cadet, and Mr. Barkley could not be restored. Now that cadet has gone out and the Representative wants to reappoint Mr. Barkley, but as he is a very few days or months over the age he cannot be appointed without a special law. This bill is simply to enable the Representative from the district to appoint him. The Secretary of the Navy recommends it, and it is recommended by the Naval Committee both in the Senate and House.

Mr. ANTHONY. I recollect the case now. I have no objection to it, although it is hardly according to precedent to reinstate a man in the Navy unless he has been guilty of drunkenness or embezzlement.

Mr. COCKRELL. There is nothing of that kind.

Mr. ANTHONY. I say that would be in his favor ordinarily. [Laughter.]

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PATENT INFRINGEMENT SUITS.

The next House bill on the Calendar was the bill (H. R. No. 4412) to regulate practice in suits brought to recover damages for infringement of patent.

Mr. CAMERON, of Wisconsin. That is a very important bill, and I doubt if it can be disposed of in the morning hour. I object to its consideration.

Mr. ALLISON. I think it can be disposed of in a few minutes.

Mr. WHYTE. It is a very important bill which cannot be disposed of in a few minutes. It had better go over. It is to regulate trials in patent cases. The Senator who reported the bill [Mr. KERNAN] is absent, and I object to its consideration.

The PRESIDING OFFICER. The bill will be passed over.

ELIZA M. FRICK.

The next House bill on the Calendar was the bill (H. R. No. 3021) granting a pension to Eliza M. Frick.

Mr. COCKRELL. There is an adverse report.

The PRESIDING OFFICER. The bill will be passed over.

DAKOTA INSANE ASYLUM LANDS.

The bill (H. R. No. 5502) granting to the Territory of Dakota section 36, in township No. 56 north, of range No. 94 west, in the county of Yankton, in said Territory, for the purposes of an asylum for the insane, and granting to said Territory one section of land, in lieu of said thirty-sixth section, for school purposes, was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

YAKIMA LAND DISTRICT.

The bill (H. R. No. 1291) creating Yakima land district, in Washington Territory, was considered as in Committee of the Whole.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

RACHAEL MARTIN.

The bill (H. R. No. 2793) for the relief of Rachael Martin was considered as in Committee of the Whole. It proposes to credit Rachael Martin, postmaster at New Castle, Craig County, Virginia, with $34.25, being the amount forwarded by her, on her account as such postmaster, by registered letter on the 31st of May, 1879, addressed to the Third Assistant Postmaster-General, which sum was stolen from the United States mail-bags by one William E. Cundiff, who was subsequently indicted for the larceny thereof in the United States district court, at Lynchburgh, Virginia, and, upon his arraignment therefor, pleaded guilty thereto.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PORT OF DELIVERY AT PORTSMOUTH, OHIO.

The bill (H. R. No. 559) to constitute the city of Portsmouth in the State of Ohio a port of delivery was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CONSTRUCTION FUND FOR THE NAVY.

The next House bill on the Calendar was the bill (H. R. No. 3983) to provide a construction fund for the Navy, and for other purposes.

Mr. CAMERON, of Wisconsin. That had better go over.

Mr. ANTHONY. I think not.

Mr. CAMERON, of Wisconsin. It was up the other day and considered at some length.

Mr. ANTHONY. The only objection to it was the incongruity of putting it on the sundry civil bill.

Mr. CAMERON, of Wisconsin. I withdraw the objection.

The bill was read.

Mr. INGALLS. That bill is obviously too important to be considered without debate in the morning hour, and I object to its consideration.

The PRESIDING OFFICER. The bill will be passed over.

JOHN HOHSTADT.

The bill (H. R. No. 3656) for the relief of John Hohstadt was considered as in Committee of the Whole. By its terms the Third Auditor of the Treasury is directed to issue to John Hohstadt, sergeant in Captain Elijah W. Wood's company of Vermont militia in the war of 1812, an honorable discharge from that service, and to so amend

the records and rolls in the War Department as to relieve him from the charge of desertion, entitling Hohstadt to the same bounty and pension as other soldiers of his rank and arm of service.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SCHOOL-LANDS IN NEVADA.

The bill (H. R. No. 3708) to grant to the State of Nevada lands in lieu of the sixteenth and thirty-sixth sections in said State was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

DEALERS IN LEAF-TOBACCO.

The bill (H. R. No. 6109) to amend the sixth subdivision of section 3244 of the Revised Statutes of the United States was considered as in Committee of the Whole. It proposes to add to the sixth subdivision of section 3244 of the Revised Statutes the following proviso:

Provided further, That dealers in leaf-tobacco (other than retail dealers, as defined in the seventh subdivision of the section) who do not deal in leaf-tobacco otherwise than to sell, or offer for sale, or consign for sale on commission, to an amount not exceeding twenty-five thousand pounds in any one special-tax year, only such leaf-tobacco as they purchase or receive in the hand directly from farmers or planters who have produced the same on land owned, rented, or leased by them, or received the same as rent from their tenants, who have produced the same on such land, shall each be required to pay for carrying on such business a special tax of $5 only. If any person who has paid such special tax shall be found to have purchased or received and sold, or consigned for sale on commission, more than twenty-five thousand pounds of leaf-tobacco, such as is herein provided for, in any one special-tax year, the Commissioner of Internal Revenue is authorized and directed to assess such person an amount of tax equal to the difference between the special tax paid by him and the special tax of $25 hereinbefore imposed upon a dealer in leaf-tobacco.

Mr. BECK. I only desire to say that this bill was drafted by the Commissioner of Internal Revenue himself, and I have his official indorsement that he desires its passage.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

NAVAL PROFESSORS OF MATHEMATICS.

The bill (H. R. No. 5047) relating to the appointment of professors of mathematics in the Navy was considered as in Committee of the Whole.

The bill was reported from the Committee on Naval Affairs, with an amendment, after the word "boards," in line 9, to strike out:

And no person shall be appointed a professor of mathematics in the Navy who is more than thirty-five years of age, unless he shall have been continuously engaged in scientific duty under the Navy Department, or in the duty of instruction at the Naval Academy from and after attaining the age of thirty years until the date of his appointment.

So as to make the bill read:

Be it enacted, &c., That hereafter no person shall be appointed a professor of mathematics in the Navy until he shall have passed a physical examination before a board of naval surgeons, and a professional examination before a board of professors of mathematics in the Navy, to be convened for that purpose by the Secretary of the Navy, and received a favorable report from said boards.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

REPAYMENT OF CERTAIN LAND FEES, ETC.

The bill (H. R. No. 3171) for the relief of certain settlers on the public lands, and to provide for the repayment of certain fees, purchase-money, and commissions paid on void entries of public lands, was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment.

Mr. ANTHONY. I think this bill of sufficient importance to require some explanation from the Senator who has it in charge.

Mr. PLUMB. I think I can explain it, perhaps, to the satisfaction of the Senator from Rhode Island, although it is in charge of the Senator from California, [Mr. BOOTH,] who is now temporarily absent.

The first section applies to a class of entries which were made upon what are known as soldiers' additional homestead locations. The habit or rule of the Department required those papers of locations to be sent to the Commissioner of the General Land Office to be by him certified as correct. He did so certify them, and in a great many cases where the papers were fraudulent, through no mistake of the parties who presented them, through no fraud on their part, but through a mistake of his own, and through a fraud of parties who had originally gotten up the papers and sold them to innocent persons. Those papers were then located upon public lands. Afterward, the fraud being discovered, those locations were set aside. These persons, acting upon the faith of the certification by the Commissioner of the General Land Office, on making their entries paid certain fees, innocently paid them of course, because they paid them on the faith of the certification of the Commissioner that the papers were all right. The entries were of course set aside, and these persons have not had refunded to them, as they ought to have had, the fees they paid for those locations.

The second section refers to a class of cases which frequently arise in the administration of the laws with regard to the public domain where errors occur. A person is erroneously permitted to enter a quarter section of land and pays for it. In a large number of these cases the Department holds under the law as it now stands that it cannot refund the amount, notwithstanding the party who makes the entry does not get the land he pays the money for. It occurs frequently in town-site entries, where the lands are discovered subsequently to have been withdrawn for railroad purposes. It occurs, too, that private parties have made pre-emption entries upon lands of a similar character. There is a great mass of cases where erroneous entries are made, from misdescriptions of land, and so on.

Mr. PADDOCK. And where the local land officers themselves are responsible for the errors, and not the parties making the entries.

Mr. PLUMB. Whether they are responsible solely or not, at all events they are responsible because they permit entries to be made that it subsequently turns out should not have been made; and inasmuch as the settler or person seeking to make the entry depends on the local office for his information in regard to the character of the land, that is to say that it is land which he may properly enter, it is perhaps primarily the error of the land office. In all these cases the Government gets from these innocent persons fees and in many cases the price of the land, which it religiously holds on to and does not pay back, as it ought to do. This second section is for the purpose of compelling repayment.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

DANIEL M. COOK.

The next House bill on the Calendar was the bill (H. R. No. 2019) for the relief of Daniel M. Cook.

Mr. JOHNSTON. There is an adverse report in that case.

The PRESIDING OFFICER. The bill goes over.

WILLIAM BOWMAN.

The next House bill on the Calendar was the bill (H. R. No. 2290) granting a pension to William Bowman; which was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, after the word "month," in line 6, to strike out "commencing on the 10th day of July, A. D. 1865, that being the date of his discharge from the Army of the United States in the late war of the rebellion, on account of disease contracted while in said military service and in line of duty" and in lieu thereof to insert "subject to the limitations and provisions of the pension laws;" so as to make the bill read:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of William Bowman, Company B, Ninety-first Veteran Pennsylvania Volunteers, at the rate of $6 per month.

The amendment was agreed to.

The bill was reported to the Senate, as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

SENATE PENSION BILLS.

Mr. WITHERS. I ask whether the Senate will not unanimously consent to consider the Senate pension bills as we reach them, because it will take only a few minutes. There are but eight or ten of them, and we are just approaching them on the Calendar.

Mr. DAVIS, of Illinois. I hope the Senate will consent to that.

Mr. WITHERS. It will take very little time.

Mr. BECK. I would be glad to see that done, though it changes the effect of my motion.

The PRESIDING OFFICER. The Chair hears no objection to the suggestion of the Senator from Virginia, and the pension bills will be considered as they are reached on the Calendar, whether they be House bills or Senate bills.

MARY A. SHEMELIA.

The bill (S. No. 182) granting a pension to Mary A. Shemelia was considered as in Committee of the Whole. It provides for placing upon the pension-rolls the name of Mary A. Shemelia, as dependent widowed mother of William H. Shemelia, deceased, late a member of Company C of the Thirty-fourth Regiment of New Jersey Volunteers, who died at post hospital at Paducah, Kentucky, December 14, 1864, at the full rate of pension allowed by the pension laws to dependent widowed mothers of enlisted soldiers, to commence December 14, 1864, that being the date of the death of the soldier while in the service of the United States.

Mr. INGALLS. I ask the chairman of the committee if that bill should pass without amendment? I was not present, I think, when the case was called up in committee. I am not aware of any case where the pension has been granted to date back sixteen years, as in this case.

Mr. WITHERS. That was not designed, certainly, by the committee, and if it has been so reported it is by mistake on the part of the member reporting it.

Mr. INGALLS. Let the bill be read.

The PRESIDING OFFICER. The bill will be read.

The Chief Clerk read the bill.

Mr. WITHERS. I move to amend the bill by striking out that part relative to the date of the commencement of the pension and to insert "from and after the passage of this act."

The PRESIDING OFFICER. The amendment will be reported.

The CHIEF CLERK. It is proposed to amend by striking out, after the word "commence," in line 12, the words "December 14, A. D. 1864, that being the date of the death of said soldier while in the service of the United States," and to insert "from and after the passage of this act."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

LUMAN CASE.

The bill (S. No. 1114) granting a pension to Luman Case was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Luman Case.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

THOMAS J. JACKSON.

The bill (H. R. No. 753) granting a pension to Thomas J. Jackson was considered as in Committee of the Whole. It proposes to place upon the pension-roll the name of Thomas J. Jackson, late lieutenant-colonel of the Eleventh United States Colored Infantry.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN FISHER.

The bill (H. R. No. 3544) granting a pension to John Fisher, guardian of the infant heirs of William Dakin, deceased, was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of John Fisher, of West Virginia, guardian of the infant heirs of William Dakin, deceased, late private of Company G, Sixth Regiment of West Virginia Infantry, and pay him as such guardian the sum allowed by law to minor children of deceased private soldiers until the children arrive respectively at the age of sixteen years, commencing from July 13, 1864, that being the date of the death of their father.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

RANK OF ENGINEER OFFICERS.

The bill (H. R. No. 5627) to amend section 1486 of the Revised Statutes, in order to preserve the meaning of the original law from which it was taken, with reference to the rank of engineer officers, graduates of the Naval Academy, was considered as in Committee of the Whole.

The bill was reported from the Committee on Naval Affairs with an amendment, in line 6, after the word "word," to strike out "'service,' in lines 5 and 6," and insert "'accordingly,' at the end of the section;" so as to make the bill read:

That section 1486 of the Revised Statutes of the United States be amended by inserting after the word "accordingly," at the end of the section, the words "*Provided*, That nothing in this section shall be so construed as to give to any officer of the staff corps precedence of, or a higher relative rank than that of, another staff officer in the same grade and corps, and whose commission in each grade and corps antedates that of such officer."

Mr. COCKRELL. Is there any explanation of that bill? I believe the Senator in the chair [Mr. FERRY] reported the bill.

The PRESIDING OFFICER. There is a written report, which can be read.

The Chief Clerk read the following report, submitted by Mr. FERRY May 28, 1880:

The Committee on Naval Affairs, to whom was referred the bill (H. R. 5627) to amend section 1486 of the Revised Statutes, in order to preserve the meaning of the original law from which it was taken, with reference to the rank of engineer officers, graduates of the Naval Academy, having had the same under consideration, submit the following report:

This is a bill passed by the House as recommended by the Secretary of the Navy, and in its design and scope is intended to apply only to a few engineer officers of the Navy.

It has been found that the letter of the law as expressed in sections 1484 and 1486 of the Revised Statutes, if strictly construed, gives to a very few engineer officers precedence in rank, to which, in the opinion of the Secretary of the Navy, they are not entitled in accordance with "military usage;" and the bill, as it comes from the House, proposes to limit the operation of the sections referred to, so as to correct the inconsistency complained of.

The full details of the present application of the law, and the ends sought to be accomplished, are expressed in the report of the Committee on Naval Affairs of the House of Representatives, dated April 6, 1880, and in the letter of the Secretary of the Navy, dated February 21, 1880, hereto appended.

Your committee adopt the views and conclusions therein embraced, and recommend that the bill from the House of Representatives be passed, with an amendment, as follows:

After the word "word," in line 5, strike out the words "'service' in lines 5 and 6," and insert in lieu thereof the words "'accordingly,' at the end of the section," so that section 1486 of the Revised Statutes, as so amended, will read as follows:

"SEC. 1486 In estimating the length of service for such purpose the several officers of the staff corps shall, respectively, take precedence in their several grades and with those officers of the line of the Navy with whom they hold relative rank who have been in the naval service six years longer than said officers of said staff corps have been in said service; and officers who have been advanced or lost numbers on the Navy Register shall be considered as having gained or lost length of service accordingly: *Provided*, That nothing in this section shall be so construed as to give to any officer of the staff corps precedence of or a higher relative rank than that of another staff officer in the same grade and corps, and whose commission in each grade and corps antedates that of such officer."

"[H. Report No. 699, Forty-sixth Congress, second session.]

"The Committee on Naval Affairs, to whom was referred bill H. R. No. 1439, beg leave to report the same back with a substitute therefor. They recommend the adoption of the substitute.

"The original bill has apparent merit, in that it seeks to re-enact what was omitted by the revisers of the statutes in their codification of the laws of the United States, yet it seems to the committee in their review of the statutes that the revisers substantially adopted the intent and purpose of the law-makers.

"In fixing the grade and rank of officers of the Navy the question of the relative rank of the staff presented some very sensitive questions, in part arising from the fact that staff officers, being appointed from civil life, could not, without authority of law, be credited with the period of pupilage, as in case of the line officers graduating at Annapolis; hence, with the purpose of securing harmony and doing justice in fixing questions of precedence, &c., as it seemed to the then legislators, it was provided by law that the staff officer should be credited or allowed 'six years' as of service, when it was provided by law that engineer-cadets should be appointed to the Naval Academy, and should have and receive the same period of instruction as cadet-midshipmen; and an effort was made by act of June, 1873, to preserve the harmony intended by the act of March, 1871. This purpose is manifest. Yet, if the 'word' is followed, the 'spirit' thereof is killed, as is apparent; since, if the original bill is allowed to pass, it will, in the opinion of your committee, evade the true intent and meaning of the act of 1871 for the benefit of a few engineer officers appointed in 1866, and at the expense of a larger number of equally meritorious officers.

"The operation of this bill upon the service, and the reasons which induce your committee to recommend the adoption and passage of the accompanying substitute, are to be found in the letter of the honorable Secretary of the Navy, herewith submitted as an appendix to this report, and which your committee ask to be printed as a part thereof.

"NAVY DEPARTMENT,
"*Washington, February 21, 1880.*

"SIR: I have the honor to acknowledge the receipt of your letter inclosing bill H. R. No. 1439, 'to amend section 1484 of the Revised Statutes, in order to preserve the meaning of the original law from which it was taken with reference to the rank of engineer officers graduates of the Naval Academy,' and making certain inquiries of me in connection therewith.

"The law regulating the precedence of staff officers in their several grades and corps, and with officers of the line of the Navy, is embraced in sections 1484, 1485, and 1486 of the Revised Statutes.

"By the statute of March 3, 1871, (section 1486, Revised Statutes,) it was provided that in estimating the length of service for the purpose of determining precedence, the several officers of the staff corps should, respectively, take precedence in their several grades and with officers of the line of the Navy with whom they hold relative rank who have been in the naval service six years longer than such staff officers have been in said service. In enacting this provision, which gave the benefit of six years of constructive service in determining the question of precedence among officers, it seems to have been the intention of Congress to equalize the rank of the officers of the staff with those of the line, by giving them a period which would be supposed to answer to the time which was expended by the line officers during the course of study at the Naval Academy, four years, and in the grade of midshipman about two years, before reaching the grade of ensign which is the relative rank of staff officers upon their original appointment from civil life to the lowest grades in the staff corps.

"Under the provisions of section 1485 of the Revised Statutes the precedence of staff officers, in their several grades and corps and with officers of the line of the same relative grade, is determined by *length of service in the Navy*.

"By the construction then given to the regulations of the Navy, six years was expended by the line officers in their education at the Naval Academy and service in the grade of midshipman before attaining the rank of ensign, and which period was counted as service in the Navy. It was undoubtedly deemed proper to fix this (six years) as the time which should be given to the staff officers in order to equalize their rank with that of the line officers of the same relative grade.

"At this time certain engineer officers were educated at the Naval Academy, and, in determining the question of rank, should such engineer officers, graduates of the Naval Academy, be allowed the constructive service of six years, they would obtain a great advantage over the line officers, because the term of their education at said academy would be counted as a term of service, and, in addition to that, they would have what has been termed the fictitious or constructive term of service allowed to the officers of the staff corps appointed from civil life. The act of March 3, 1873, (section 1484, Rev. Stats.,) therefore provided that engineer officers graduated at the Naval Academy should take precedence with all other officers with whom they held relative rank according to *actual* length of service in the Navy.

"While, therefore, in the Revised Statutes, section 1484 precedes section 1486 it is in fact a limitation or exception to section 1486, and when thus read together it will be seen that all staff officers are entitled to the benefit of the six years' term of constructive service, with the exception of *those engineer officers who graduate at the Naval Academy*, and whose term of service, like that of line officers, begins at the commencement of the period of their education, and not, as with other staff officers, at the time when they actually enter upon their staff duties.

"This bill (H. R. 1439) proposes to allow to the engineer officers graduated at the Naval Academy, who entered the academy prior to March 3, 1873, in addition to the time expended by them in their education at the academy, six years' constructive service in estimating their length of service in the Navy, for the purpose of establishing their precedence and relative rank with other officers of the same relative grade. The effect of the legislation proposed by this bill would be to give to about twenty-two engineer officers, graduates of the Naval Academy, six years' precedence of line officers who entered the Naval Academy in the same year with them, and relative rank with line officers who entered the academy six years before such engineer officers were appointed. This would be an exception to the general rule prescribed by sections 1484 and 1486 of the Revised Statutes, which establishes precedence and rank in grades, and, in the opinion of the Department, no reason exists why this advantage should be accorded to those officers; and, as they already have precedence and relative rank equal to that of line officers who entered the Naval Academy at the same time, such a provision of law would greatly disturb the harmony of the service.

"At the time of the passage of the act of March 3, 1873, (section 1484, Rev. Stat.,) quite a number of engineer officers graduated at the Naval Academy had been commissioned as assistant engineers, and from time to time since that date persons have been appointed from civil life and commissioned as assistant engineers in the Navy—these latter not being graduates of the Naval Academy, and, under the provisions of section 1486 Revised Statutes, entitled as staff officers to the six years' constructive service; and in consequence of which some of them claim precedence over other officers of the same grade in their corps who graduated at the Naval Academy, and whose commissions as assistant engineers antedate those of such assistant engineers appointed from civil life.

"As the engineers are the only staff officers graduated at the Naval Academy, I invite your attention to page 68 of the Navy Register for 1879 to illustrate the operation of sections 1484, 1485, and 1486 of the Revised Statutes, and, for that purpose, especially to the names of Robert R. Leitch, who is the senior assistant engineer, with the relative rank of ensign, and of J. P. Stuart Lawrence, standing twenty-two on the same list of assistant engineers. The former is a graduate of the Naval Academy, and his service in the Navy commenced from the date of his appointment thereto, October 1, 1871, and he was commissioned an assistant engineer January 23, 1874. The relative rank of assistant engineer is that of master

or ensign, according to length of service in the Navy; and, whether that of master or ensign, their relative rank is determined by the rank of officers of the line who entered the Naval Academy the same year with such engineer officers. Line officers of the Navy, as a class, entering the service in 1871, are ensigns; the relative rank, therefore, of Mr. Leitch, who entered the Naval Academy in 1871, is that of ensign. The latter (Mr. Lawrence) was appointed from civil life and commissioned an assistant engineer March 22, 1875; and not being a graduate of the Naval Academy, he is, under the provisions of section 1486 Revised Statutes, entitled to six years' constructive service in estimating his length of service for the purpose of determining his precedence and relative rank with other officers of the same relative grade. Under the section last above mentioned Mr. Lawrence takes precedence and relative rank with line officers of the same relative grade who entered the Naval Academy six years before he was appointed assistant engineer, (March 22, 1875,) namely, March 22, 1869.

"Line officers who entered the Naval Academy in 1869 have the rank of master; consequently the relative rank of Mr. Lawrence is that of master, senior, however, to those line officers of that rank who entered the Naval Academy in the summer of that year.

"Mr. Lawrence, therefore, who entered the Navy about four years after Mr. Leitch was appointed to the Naval Academy, and fourteen months after he (Leitch) was commissioned assistant engineer, is a grade higher in relative rank than Mr. Leitch.

"Thus it will be seen that officers of the engineer corps graduated at the Naval Academy, and whose commissions in their grades antedate those of officers subsequently appointed from civil life in the same grade and corps, are, in some instances, a grade lower in relative rank, as determined by the provisions of the sections of the Revised Statutes referred to. In consequence of this, claims have been made by assistant engineers appointed from civil life to be advanced in their grade over graduates of the Naval Academy whose commissions in that grade are of a prior date, and such claims are advocated by them on the ground that they are entitled by law to a higher relative rank than such graduates.

"It is not thought that it was the intention of Congress by the acts of March 3, 1871, and March 3, 1873, to advance the staff officers in their grades and corps, but, on the contrary, that the object of those acts was to equalize the rank of line and staff officers.

"It is important and necessary to the harmony and efficiency of the service that the operation of the sections of the Revised Statutes referred to which is inconsistent with military usage should be corrected by legislation directed to that end. I take the liberty therefore of offering as a substitute for bill H. R. 1439 the following:

"A bill to amend section 1486 of the Revised Statutes of the United States.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That section 1486 of the Revised Statutes of the United States be amended by inserting after the word 'service,' in lines 5 and 6, the words, '*Provided*, That nothing in this section shall be so construed as to give to any officer of the staff corps precedence of or a higher relative rank than that of another staff officer in the same grade and corps and whose commission in such grade and corps antedates that of such officer.'

"The bill and accompanying papers are herewith returned.

"Very respectfully,

"R. W. THOMPSON,
"*Secretary of the Navy.*

"Hon. H. C. WHITTHORNE,
"*Chairman of the Committee on Naval Affairs,*
"*House of Representatives.*"

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

ANN M. PAULDING.

The bill (S. No. 1802) granting a pension to Ann M. Paulding was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Ann M. Paulding, widow of Hiram Paulding, late the senior rear-admiral of the United States Navy, at the rate of $50 per month.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JULIA GARDNER TYLER.

The bill (S. No. 992) granting a pension to Mrs. Julia Gardner Tyler, widow of Ex-President Tyler, was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Mrs. Julia Gardner Tyler, widow of Ex-President John Tyler, at —— dollars per month.

The bill was reported from the Committee on Pensions with an amendment, in line 7, after the word "of," to fill the blank by inserting "one hundred."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. TELLER. I should like to have the Senator who reported this bill explain why we depart from the statute. I recollect not long since he delivered to the Senate a rather warm homily upon that matter.

Mr. WITHERS. Upon what matter?

Mr. TELLER. Upon putting on the pension-roll people who were not entitled under the law to pensions.

Mr. WITHERS. This is not a case of that kind. It is a proposition to increase the present pension of a person on the pension-roll.

Mr. TELLER. How was she entitled to be on it?

Mr. WITHERS. By the services of her husband in the war of 1812.

Mr. TELLER. If it is for services of her husband in the war of 1812, all right.

The bill was passed.

The title was amended so as to read: "A bill granting an increase of pension to Mrs. Julia Gardner Tyler, widow of Ex-President Tyler."

ORDER OF BUSINESS.

Mr. WINDOM. Mr. President, I ask in accordance with the notice given on Saturday that the report of the exodus investigation may be considered as before the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. WITHERS. Will not the Senator let us conclude the pension cases?

Mr. COCKRELL. Does the Senator desire to submit remarks?

Mr. WINDOM. I desire to submit the remarks of which I gave notice on Saturday.

The PRESIDING OFFICER. The Chair hears no objection.

Mr. BECK. I know the Senator from Minnesota is entitled to the floor, and so is the Senator from West Virginia a little later. The Senator from West Virginia assured me he would not object to allowing the Calendar to go on till half past one. If the Senator from Minnesota will not object we can pass a number of meritorious cases before half past one.

Mr. WINDOM. My only object in calling up this subject was that I might not interfere with the wishes of the Senator from West Virginia. If it be agreeable to him that I shall commence at half past one, it is entirely so to me.

Mr. DAVIS, of West Virginia. I have given notice that at half past one I shall ask the Senate to allow me to make some remarks on the Treasury-accounts report; but the Senator from Minnesota having given notice for half past twelve is entitled to priority. If the Calendar is considered more important than my talk, I shall give way my right to speak at half past one, if the Senator from Minnesota will not commence till then, and I shall follow him.

Mr. WINDOM. That is entirely agreeable to me.

Mr. DAVIS, of West Virginia. It may be, if the Senator from Minnesota shall occupy much of the time, that I shall ask the Senate to hear me in the morning. I will delay my remarks until morning if the Senator consumes much of the evening. I will see after the Senator from Minnesota concludes.

Mr. WINDOM. Either arrangement will suit me.

The PRESIDING OFFICER. The Calendar will be proceeded with under the arrangement made.

CHARLES H. FRANK.

The bill (S. No. 1334) for the relief of Charles H. Frank was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, after the word "from," in line 5, to strike out "the time said pension accrued: *Provided*, That in making payment for past time the amount heretofore paid said Frank shall be first deducted" and in lieu thereof to insert "and after the passage of this act;" so as to make the bill read:

That the Secretary of the Interior be, and hereby is, authorized and directed to increase the pension of Charles H. Frank to $50 a month to date from and after the passage of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

STANDARD WEIGHTS AND MEASURES.

The joint resolution (H. R. No. 186) authorizing the Secretary of the Treasury to furnish States, for the use of agricultural colleges, one set of standard weights and measures, and for other purposes, was considered as in Committee of the Whole.

The joint resolution was reported from the Committee on Finance with amendments, in line 6, before the word "agricultural," to strike out "any;" in the same line, after "agricultural," to strike out "college" and insert "colleges;" in line 7, after the word "which," to strike out "is maintained in whole or in part by State appropriations" and insert "have received a grant of lands from the United States;" and after the word "institution," at the end of the bill, to insert "*Provided*, That the cost of each set shall not exceed $200;" so as to make the joint resolution read:

That the Secretary of the Treasury be, and he is hereby, directed to cause a complete set of all the weights and measures adopted as standard to be delivered to the governor of each State of the Union, for the use of agricultural colleges in the States, respectively, which have received a grant of lands from the United States, and also one set of the same for the use of the Smithsonian Institution: *Provided*, That the cost of each set shall not exceed $200.

The amendments were agreed to.

Mr. ALLISON. I offer the following amendment to be attached to the joint resolution in order to carry out its provisions:

And a sum sufficient to carry out the provisions of this resolution is hereby appropriated out of any money in the Treasury not otherwise appropriated.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution was read the third time, and passed.

E. K. SNEAD.

The bill (H. R. No. 2567) for the relief of E. K. Snead, deceased, and his sureties, for the loss of certain books of special stamps and coupons, was considered as in Committee of the Whole. By its provisions

the Secretary of the Treasury is directed to credit upon the official bond of E. K. Snead, deceased, late collector of internal revenue for the first district of Virginia, and of his sureties therein, so much, not exceeding $2,020.83, as shall be satisfactorily proven to the Secretary to have been transmitted, in books containing special-tax stamps and coupons, by the deputy, a certain Patrick H. Slaughter, on or about April 21, 1874, through the mail to Snead, and were lost *in transitu*, and were never received by Snead, and have never therefore been accounted for by him to the Government.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

GEORGE SMITH.

The bill (S. No. 465) granting an increase of pension to George Smith was considered as in Committee of the Whole. It proposes to place on the pension-rolls the name of George Smith, of Culpeper County, Virginia, late private in Captain Charles C. Allen's company of Virginia volunteers.

The bill was reported from the Committee on Pensions with an amendment, after the word "volunteers," at the end of the bill, to insert:

And pay him a pension at the rate of $15 per month, that being the amount to which his disability entitles him according to the report of the board of examining surgeons.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CAROLINE BOLL.

The next House bill on the Calendar was the bill (H. R. No. 3099) granting a pension to Caroline Boll.

Mr. WITHERS. There is an adverse report in that case.

The PRESIDING OFFICER. The bill will be passed over.

FIFTEENTH AND SIXTEENTH MISSOURI CAVALRY VOLUNTEERS.

The bill (H. R. No. 952) for the relief of the Fifteenth and Sixteenth Missouri Cavalry Volunteers was considered as in Committee of the Whole. It provides for the payment of bounty to the enlisted men of the Fifteenth and Sixteenth Missouri Cavalry Volunteers who served during the late rebellion, as follows: To those who served the full period of one year or more, the sum of $100; to those who served the full period of six months, but less than one year, the sum of $66.66; to those who served a less period than six months, the sum of $33.33.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

AMOS CHAPMAN.

The bill (S. No. 1809) granting a pension to Amos Chapman, scout, was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MARY E. AMBRESTER.

The bill (S. No. 1810) granting a pension to Mary E. Ambrester was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Mary E. Ambrester, widow of Jerome Ambrester, late a private in Company G, First Maryland Infantry Volunteers.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

HARVEY BURK.

The bill (H. R. No. 751) granting a pension to Harvey Burk was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Harvey Burk, late a private in Company E of the Sixty-seventh Regiment Indiana Infantry Volunteers.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

DAVID W. COMBS.

The bill (S. No. 1521) granting a pension to David W. Combs was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of David W. Combs, a private in Company C, Thirteenth Regiment United States Volunteers, war with Mexico.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CECIL CLAY.

The bill (S. No. 1815) granting a pension to Cecil Clay was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Cecil Clay, late captain and acting colonel of the Fifty-eighth Pennsylvania Volunteers, at $30 per month.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

BELINDA CURTIS.

The bill (H. R. No. 2407) granting a pension to Belinda Curtis was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Belinda Curtis, widow of Major-General Samuel R. Curtis, at the rate of $50 per month.

The bill was reported from the Committee on Pensions with an amendment, to strike out "fifty" and insert "thirty;" so as to read "at the rate of $30 per month."

Mr. INGALLS. I ask the Senate to non-concur in that amendment. The next bill on the Calendar, which grants a pension to the widow of Major-General Heintzelman, fixes the rate at $50, and General Curtis was an officer of equal rank in the volunteer army, and it seems to me the precedent ought to be followed.

Mr. WITHERS. They certainly ought to have the same pension.

Mr. INGALLS. I ask the Senate to non-concur.

Mr. ALLISON. I hope the Senate will not agree to the amendment.

The amendment was rejected.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MARGARET S. HEINTZELMAN.

The bill (S. No. 1776) granting a pension to Margaret S. Heintzelman was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Margaret S. Heintzelman, widow of Major-General Samuel P. Heintzelman, deceased, and to pay her a pension at the rate of $50 per month.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

MRS. ANNA I. GUEST.

The bill (S. No. 972) granting a pension to Mrs. Anna I. Guest was considered as in Committee of the Whole. It provides for placing on the pension-roll the name of Anna I. Guest, widow of John Guest, late commodore in the United States Navy, at the rate of $50.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SAINT CLAIR A. MULHOLLAND.

The bill (S. No. 1676) granting an increase of pension to Saint Clair A. Mulholland was considered as in Committee of the Whole. It provides for placing upon the pension-roll the name of Colonel Saint Clair A. Mulholland, One hundred and sixteenth Regiment Pennsylvania Volunteers, at the rate of $30 per month, instead of $15 per month, which he has heretofore been receiving, the increase to date from the time of his discharge from the service.

The bill was reported from the Committee on Pensions with an amendment, in line 10, after the word "of," to strike out "his discharge from the service" and insert "the passage of this act;" so as to read "said increase to date from the time of the passage of this act."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

THORNTON SMITH.

The bill (S. No. 562) granting an increase of pension to Thornton Smith was announced as the next pension bill on the Calendar.

Mr. INGALLS. That bill has once been passed, and stands on a motion to reconsider by the Senator from Pennsylvania, [Mr. WALLACE.]

Mr. WALLACE. I move to take up the motion to reconsider.

The PRESIDING OFFICER. The Senator from Pennsylvania moves to reconsider the vote by which the bill was passed.

The motion to reconsider was agreed to.

Mr. BLAINE. What is the point of the reconsidering?

Mr. WALLACE. Simply that there was an amendment made which was not intended to be made. The bill passed the Senate with an amendment which gave him no increase of pension whatever. It went to the House and was recalled. I now desire to take the bill and pass it as it came from the committee.

Mr. WITHERS. The whole case is this; I will state it for the information of the Senate: This is a gentleman who is now receiving a pension. He asks for an increase of pension. He receives now the rate of pension to which he is ascertained to be entitled under the report of the medical board. It is proposed to increase the pension beyond that amount, and to fix the appropriation beyond $30, which is the amendment which is designed to be incorporated in the bill. That is the whole of it.

The PRESIDING OFFICER. The vote by which the bill was passed has been reconsidered. The third reading will be regarded as reconsidered, if there be no objection.

Mr. WALLACE. I move to amend the bill so as to read "pay him a pension at the rate of $30 a month from and after the passage of this act."

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

SAMUEL B. HUTCHINSON.

The bill (H. R. No. 3100) granting relief to Samuel B. Hutchinson was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with amendments, in line 4, after the word "directed," to strike out "to restore on the pension-roll the name of Mary Ann Shurlock;" in line 6, after the word "due," to strike out "her;" and in line 9, after "1871," to

strike out "to February 5, 1876, the time of the death" and insert "until the death;" so as to make the bill read:

That the Secretary of the Interior be, and he is hereby, authorized and directed to pay to the said Samuel B. Hutchinson, guardian of Mary Ann Shurlock, the amount of money due her on certificate 153,434, from September 4, 1871, until the death of his ward, the said Mary Ann Shurlock.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. WHYTE. Now, that all the pension bills are passed, I ask the Senate——

Mr. BECK. I object. There are some very important House bills not yet reached.

The PRESIDING OFFICER. There are six minutes longer for House bills on the Calendar.

MONUMENT AT WASHINGTON'S BIRTHPLACE.

The next House business on the Calendar was the joint resolution (H. R. No. 315) amending and re-enacting joint resolution approved June 14, 1879, directing a monument to mark the birthplace of George Washington.

Mr. INGALLS. That had better pass over in the morning hour.

The PRESIDING OFFICER. The resolution will be passed over.

BYRON ROSECRANS.

The bill (H. R. No. 4753) to correct the military record of Byron Rosecrans was considered as in Committee of the Whole. It provides for correcting the military record of Byron Rosecrans, late of Company H, Twenty-ninth Michigan Volunteer Infantry, by removing the charge of desertion against him, and for granting him an honorable discharge as of the date of the mustering out of the regiment.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

DUTY ON BARLEY MALT.

The next House bill on the Calendar was the bill (H. R. No. 4585) fixing the rate of duty on barley malt at 25 cents per bushel.

Mr. BECK. I offer the following amendment:

That on and after July the 1st, 1880, no duty shall be levied, assessed, and collected on merchandise imported into the United States in excess of 50 per cent *ad valorem* on any article embraced in the following schedules of section 2504 of the Revised Statutes and not subject to tax under the internal-revenue laws, to wit: Schedule A, cotton and cotton goods; schedule B, earths and earthenware; schedule C, hemp, jute, and flax goods; schedule E, metals; schedule F, provisions; schedule G, sugars; schedule H, silks and silk goods; schedule K, wood; schedule L, wool and woolen goods; schedule M, sundries, except bay rum or bay water and other perfumery of which alcohol forms a component part, rum essence or oil, and bay-rum essence or oil, fusel oil or amylic alcohol, opium and all preparations of opium, and playing cards. And that wood-pulp for manufacture of paper, and upon paper, unsized, used for books and periodicals exclusively, shall be admitted free of duty.

Mr. WHYTE. I offer the following as a substitute for that:

That all tank-bottoms, sirup of sugar-cane juice, and melado shall pay a duty of one cent and fifty hundredths of a cent per pound; that concentrated melado or concrete and all sugars not above No. 13, Dutch standard in color, shall pay a duty of two cents per pound; above No. 13, and not above No. 16, Dutch standard in color, shall pay a duty of two cents and twenty-five hundredths of a cent per pound; above No. 16, and not above No. 20, Dutch standard in color, shall pay a duty of two cents and sixty hundredths of a cent per pound; above No. 20, Dutch standard in color, and all refined loaf, lump, crushed, powdered, and granulated sugar, shall pay a duty of three cents and twenty-five hundredths of a cent per pound. Molasses five cents per gallon.

SEC. —. That melado shall be known and defined as an article made in the process of sugar-making, being the cane juice boiled down to the sugar point and containing all the sugar and molasses resulting from the boiling process, and without any process of purging or clarification. And any and all products of the sugar-cane imported in boxes, mats, baskets, or other than tight packages shall be considered as sugar and dutiable as such. And that sirup of sugar, sirup of sugar-cane juice, melado, concentrated melado, or concentrated molasses, entered under the name of molasses, shall be forfeited to the United States: *Provided*, That the above schedule of duties shall apply to all goods hereinbefore described held in bond in warehouses, public stores, or on bonded wharves at the date of the passage of this act: *And provided further*, That of the drawback on sugars exported allowed by section 3019 of the Revised Statutes of the United States only 1 per cent. of the amount so allowed shall be retained by the United States.

SEC. —. That nothing herein shall be construed to alter or repeal the act entitled "An act to carry into effect a convention between the United States of America and His Majesty the King of the Hawaiian Islands, signed on the 30th of January, 1875; which act was approved August 15, 1876.

Mr. EATON. That is a revision of the tariff under the Anthony five-minute rule!

Mr. WALLACE. The bill came from the Finance Committee and as these amendments are offered in the Senate without consideration in committee comprehending very large questions which are new, I object to the consideration of the bill.

Mr. ALLISON. I ask that the amendments be printed that we may see what they are.

The PRESIDING OFFICER. The order to print will be made. The bill goes over.

YACHT NETTIE.

Mr. McMILLAN. I ask to take up the bill reported from the Committee on Commerce this morning of which I gave notice to the Senate at the time and asked for its consideration. There is no opposition to it. It is merely to change the name of a yacht from Nettie to Nokomis.

Mr. HARRIS. Let us go on with the Calendar of House bills regularly.

The PRESIDING OFFICER. Senators object until half past one, so that for two minutes more the Calendar of House bills will be proceeded with.

JOHN HEPTING AND OTHERS.

The bill (H. R. No. 4907) to confirm to John Hepting and others title to certain lands was considered as in Committee of the Whole. By the bill all the right, title, claim, and interest of the United States to certain tracts of land on the right bank of the Mississippi River, opposite the city of New Orleans, in the parish of Jefferson, and now the site of the village of Mechanicham, and described as a tract of land fronting sixteen arpents on the river by forty arpents in depth, between parallel lines, and further described in the official maps of the General Land Office of the United States as sections 3 and 5, 34, 35, and 36, in township 13 south, range 24 east, and sections 40, 41, 42, 57, 58, and 59, in township 14 south, range 24 east southeast, district of Louisiana, are granted and conveyed to the Lady Abbess and community of Ursuline Lady Nuns of New Orleans, Louisiana, their successors, transferees, vendees, and assignees. This is to have the effect only of a quitclaim of all the right, title, and interest of the United States therein, not to affect any valid adverse right or title to the land, nor create any liability on the part of the United States.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

The PRESIDING OFFICER. The morning hour has expired.

SCHOONER-YACHT CORNELIA.

Mr. BALDWIN. I ask leave to make a report. The Committee on Commerce, to whom was referred the bill (S. No. 1837) to change the name of the schooner-yacht Cornelia, direct me to report it back with the recommendation that it be passed. It will take but a moment, and I ask its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1846) relating to the public lands of the United States.

The message also announced that the House further insisted on its disagreement to the amendments of the Senate to the bill (H. R. No. 6266) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, agreed to the further conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. JAMES H. BLOUNT of Georgia, Mr. HIESTER CLYMER of Pennsylvania, and Mr. FRANK HISCOCK of New York, managers at the further conference on the part of the House.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and for prior years, and for those certified as due by the accounting officers of the Treasury in accordance with section 4 of the act of June 14, 1878, heretofore paid from permanent appropriations, and for other purposes, asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. THOMAS R. COBB of Indiana, Mr. WILLIAM H. FORNEY of Alabama, and Mr. JAMES MONROE of Ohio, managers at the conference on the part of the House.

JOHN S. MAURY.

Mr. GARLAND. I wish to make a report from the Committee on the Judiciary, who have had under consideration the bill (H. R. No. 3990) to remove the political disabilities of John S. Maury. They have recommended unanimously that the bill be reported back and passed, and I ask for its present consideration.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed; two-thirds of the Senators present voting in favor thereof.

COURT MILEAGE IN COLORADO.

Mr. DAVIS, of Illinois. The Committee on the Judiciary have had under consideration the bill (H. R. No. 4268) in relation to the mileage of jurors and witnesses in the State of Colorado, and instruct me to report it favorably to the Senate, believing that the bill should pass, and pass at once. It raises the mileage in that State, which is absolutely necessary.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that jurors and witnesses in the district and circuit courts of the United States in and for the State of Colorado shall be entitled to receive fifteen cents for each mile actually traveled in coming to or returning from said courts.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN H. STANDISH.

Mr. DAVIS, of Illinois. The Committee on the Judiciary have also had under consideration the bill (H. R. No. 989) for the relief of John H. Standish, and have directed me to report it without amendment. He was district attorney in Michigan for a month, and this simply is to pay him what the judge awarded should be paid. I ask for the present consideration of the bill.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides for the payment of $225 to John H. Standish, late United States attorney for the western judicial district of Michigan, being compensation in full for services as attorney of the United States, rendered by him by order of the court, from the expiration of his term of office to the date of the qualification of his successor in office, to wit, from March 8, 1877, to April 21, 1877.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

WILLIAM BOWEN.

Mr. SAUNDERS. I wish to call up the bill (S. No. 1819) for the relief of William Bowen.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It extends the jurisdiction of the Court of Claims to the claim of William Bowen against the District of Columbia for abating certain nuisances, under a contract with the board of health of the District of Columbia, for filling certain lots in squares 545, 849, square north of 853, 996, all in the city of Washington, District of Columbia.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

DEFICIENCY APPROPRIATION BILL.

The Senate proceeded to consider the action of the House of Representatives on the amendments of the Senate to the bill (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and for prior years, and for those certified as due by the accounting officers of the Treasury in accordance with section 4 of the act of June 14, 1878, heretofore paid from permanent appropriations, and for other purposes.

On motion of Mr. EATON, it was

Resolved, That the Senate insist upon its amendments disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

By unanimous consent, it was

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

And Messrs. EATON, WALLACE, and BOOTH were appointed on behalf of the Senate.

STEAMER CHARLOTTE AND ISABELLA.

The bill (H. R. No. 4450) to change the name of the steamer Charlotte and Isabella to Maud was read twice by its title, and referred to the Committee on Commerce.

EMIGRATION OF NEGROES TO NORTHERN STATES.

The PRESIDING OFFICER, (Mr. FERRY.) The Chair recognizes the Senator from Minnesota, [Mr. WINDOM.]

Mr. WINDOM rose.

Mr. McDONALD rose.

Mr. WINDOM. I am asked by very many to yield, but I shall have to decline. The Senator from West Virginia stands behind me, no doubt insisting that I shall go on.

Mr. McDONALD. I have a bill that will not take five minutes, and can be passed now. It is a bill for the relief of Henry C. De Ahna.

Mr. WINDOM. I cannot yield without the consent of the Senator from West Virginia, whom I do not see present, for I am speaking partly by his sufferance.

Mr. McDONALD. He does not seem to be present.

Mr. WINDOM. I cannot yield unless the Senator from West Virginia consents.

The PRESIDING OFFICER. The Senator from Minnesota is entitled to the floor.

Mr. WILLIAMS. I rise to make an inquiry. The regular order of the day is the veterans' pension bill. Does that lose its place?

The PRESIDING OFFICER. The Chair understands that the unfinished business is the Mexican pension bill, but the Senator from Minnesota gave notice and by common consent is entitled to the floor.

Mr. WILLIAMS. Let it be understood that the Mexican pension bill is merely laid aside informally.

The PRESIDING OFFICER. It is not displaced. The Senator from Minnesota proceeds by unanimous consent.

Mr. WINDOM. The report of the Exodus Committee, I believe, is before the Senate by unanimous consent.

The PRESIDING OFFICER. It is.

Mr. WINDOM. I desire to address some remarks to the Senate upon that subject.

The PRESIDING OFFICER. The Senator from Minnesota is entitled to the floor.

Mr. WINDOM. Mr. President, in the month of December last a few hundred colored men, women, and children, discontented with their condition in North Carolina and hoping to improve it, were emigrating to Indiana. They attracted the attention of the vigilant Senator from the latter State, who imagined he saw in that movement an "infamous conspiracy" against the democratic party. Hoping to avert the threatened doom of democracy in Indiana, he promptly presented a resolution directing the appointment of a committee to inquire why American citizens were thus presuming to remove to his State from North Carolina. At that time twenty-five thousand refugees from democratic injustice and oppression had gone from the South to Kansas, while only a few hundred had migrated to Indiana; but the former had made no impression on the honorable Senator, while the latter filled him with unutterable dismay. His original resolution ignored the mighty movement toward Kansas and sought only to know why the few had dared to enter the State of Indiana. It was intended by its author to have confined this inquiry to that one point, but on its passage through the Senate the resolution was amended and enlarged at the instance of the honorable Senator from Iowa [Mr. ALLISON] so as to embrace the exodus from all the Southern to the Northern States.

The theory of the Senator from Indiana was that this movement toward his State was the result of a "secret and wicked conspiracy by partisan leaders at the North" to overthrow the democracy of Indiana by the importation of negro voters from North Carolina.

The utter absurdity of this theory was apparent to everybody except the honorable Senator himself. If the republican party or its leaders proposed to import negroes into Indiana for political purposes, why take them from North Carolina? Why import them from a State where the republicans hope and expect to carry the election, when there were thousands upon thousands ready and anxious to come from States certainly democratic? Why transport them by rail at heavy expense half way across the continent when they could have taken them from Kentucky without any expense or brought them up the Mississippi River by steamers at merely nominal cost? Why send twenty-five thousand to Kansas to swell her 40,000 republican majority, and only seven or eight hundred to Indiana? These considerations brand with falsehood and folly the charge that the exodus was a political movement induced by northern partisan leaders, but they in no wise deterred the honorable Senator from his purpose. He was determined to make political capital for his party, and in order to sustain his preposterous theory the committee of which he was chairman devoted six months of hard and fruitless labor, during which they examined one hundred and fifty-nine witnesses selected from all parts of the country, mainly with reference to their supposed readiness to prove said theory, expended over $30,000, and filled three large volumes of testimony. The results of that stupendous effort and prodigal expenditure of money are all condensed in the speech of the Senator from Indiana. No distorted circumstance that could tend to create a suspicion, no word of any witness which, disconnected from its context, could be perverted into a seeming confirmation of this theory, has been omitted in his skillful argument. Hence the reader of that speech will find all that the committee could discover, and all that the vivid imagination of the Senator could invent to prove that the exodus had its inception, inspiration, and encouragement from northern republican leaders. In his usual fervid strains, the honorable Senator speaks of "secret organizations," "dark conspiracies," and "infamous political plots" to flood the State of Indiana with negro voters in order to wrest from the democracy "the only Western State which is reliably democratic."

Referring to the aid societies which sprung up about that time, the Senator says:

> One was at Indianapolis, one at Greencastle, and the other most likely, though not so stated by the witness, at Terre Haute. These societies were secret so far as the general public was concerned. Their existence was unknown except to those connected with them until the present investigation exposed them. The great body of the people of Indiana did not know that secret organizations were at work in their midst, pursuant to the suggestion of the Senator from Minnesota, to induce negroes in large numbers to come into the State, and to provide means for the transportation of such as were paupers. It was at first a hidden conspiracy, so far as Indiana was concerned, to stock the State with a worthless black population. The conspirators—of course I do not use that word in connection with the Senator from Minnesota—moved about for a time in the dark and fancied themselves secure from exposure. That the object of the conspiracy was to assist the republican party and to secure its ascendency in Indiana, if possible, is a matter of the clearest demonstration under the proof.

At this point I ventured to ask the Senator for a reference to the evidence in proof of that assertion, when the following colloquy ensued:

> Mr. WINDOM. Would it interrupt the Senator if I should ask him where those secret societies were organized, and what class of people composed them?
>
> Mr. VOORHEES. The Senator can answer that from the evidence, just as well as I can.
>
> Mr. WINDOM. I should like to have the Senator answer.
>
> Mr. VOORHEES. I will discuss that with the Senator at another time.
>
> Mr. WINDOM. I will state here, then, that there was no such thing in the proof.
>
> Mr. VOORHEES. I say there was, and I will show there was by the proof.
>
> Mr. WINDOM. Then it stands between the Senator's assertion and mine.
>
> Mr. VOORHEES. It does not stand upon our say-so, for I shall show it by the evidence here, and will submit it to the country, in the clearest possible manner.
>
> Mr. WINDOM. I feel myself at liberty to ask leave of the Senator to correct him at that point, when although speaking respectfully of myself he says that there was a secret conspiracy of which I was a part.
>
> Mr. VOORHEES. I said the Senator was not a part, distinctly.
>
> Mr. WINDOM. I deny that there was any conspiracy of any kind, or that the proof shows that there was any secret society in Indiana to encourage a single colored man to come into that State.

Mr. VOORHEES. If the Senator thinks he can inject that sort of a denial into my speech, we shall see about that hereafter. If he will sit and listen until I get through, if I do not demonstrate to him the truth of what I have said, and to the satisfaction of every man of every color and of every shade of politics, I will agree that what I say to-day goes for naught.

Mr. WINDOM I shall certainly listen with great——

Mr. VOORHEES. I decline to yield. The Senator knows that this is not the kind of a speech which is usually interrupted.

The PRESIDING OFFICER, (Mr. GROOME in the chair.) The Senator from Indiana declines to yield, and cannot be interrupted without his consent.

The frankness with which the Senator informed me that his was not the "kind of speech" to be interrupted prevented me from making any further efforts at that point to correct his statements of the evidence, but I listened in vain for his promised demonstration that any such "secret societies" ever existed. I now assert that not one word of evidence can be found in the entire fifteen hundred pages of testimony, or elsewhere, to sustain the charge which I then challenged, and I assert further that the "hidden conspiracy" "moving about in the dark" to "assist the republican party and to secure its ascendency in Indiana" is wholly a figment of the Senator's vivid and fruitful imagination.

Mr. President, what were those societies which inspired the honorable Senator with such mortal terror? When were they organized? What were the conditions which brought them into existence? In the spring of 1879 thousands of colored people, unable longer to endure the intolerable hardships, injustice, and suffering inflicted upon them by a class of democrats in the South, had, in utter despair, fled panic-stricken from their homes and sought protection among strangers in a strange land. Homeless, penniless, and in rags, these poor people were thronging the wharves of Saint Louis, crowding the steamers on the Mississippi River, and in pitiable destitution throwing themselves upon the charity of Kansas. Thousands more were congregating along the banks of the Mississippi River, hailing the passing steamers, and imploring them for a passage to the land of freedom, where the rights of citizens are respected and honest toil rewarded by honest compensation. The newspapers were filled with accounts of their destitution, and the very air was burdened with the cry of distress from a class of American citizens flying from persecutions which they could no longer endure. Their piteous tales of outrage, suffering, and wrong touched the hearts of the more fortunate members of their race in the North and West, and aid societies, designed to afford temporary relief and composed largely, almost wholly, of colored people, were organized in Washington, Saint Louis, Topeka, and in various other places. Possibly there may have been one or two in Indiana. Indeed, I think the evidence shows that there was one of such societies in Indianapolis composed almost wholly of colored sympathizers with their race. The sole purpose and object of these societies was to relieve distress, to feed the hungry, clothe the naked, shelter the homeless, and find work for the unemployed. There is not a syllable of proof that they ever contributed one dollar to bring these people from their homes or to induce them to migrate. The Senator says they were composed of republicans. True, for they were nearly all colored people, and they were organized to administer relief to refugees from democratic tyranny and abuse. Who ever heard of a democrat exerting himself for any such purpose? But that they were organized to induce migration for political purposes, or to aid or encourage these people to leave their homes for any purpose, or that they ever contributed one dollar to that end, is utterly untrue, and there is absolutely nothing in the testimony to sustain such a charge. Their purposes and objects were purely charitable. They found a race of wretched, miserable people flying from oppression and wrong, and they sought to relieve their distress. The refugees were hungry, and they fed them; in rags, and they clothed them; homeless, and they sheltered them; destitute, and they found employment for them—only this and nothing more. In this act of Christian charity the Senator from Indiana discovers "a dark and hidden conspiracy" against the democracy of Indiana, and, rushing to the rescue of the faithful, sets on foot a costly and sweeping investigation to ascertain what he can do to save his party from ruin.

He based his speech, as he had already based the investigation itself, upon this broad and thoroughly partisan platform, namely:

> I here assert that the first dawning of the idea of a negro exodus into the Northern States and Territories, the first conception and the first announcement of such a purpose, occurred in the North, and was originated by leaders of the republican party. I assert that it was a lesson taught to the negro, not by his sufferings or misfortunes in the South, but by political partisan leaders in the North.

This proposition was assumed by the chairman of the committee at the beginning, and every step of the investigation was designed to prove it. To this end scores of democratic partisans were called from the cities and villages of Indiana, who knew nothing about the wants of farmers, nor apparently anything else but politics, for the purpose of proving that Indiana was overstocked with labor, and that therefore there must have been some hidden political reason for the migration of these people to that State. Kansas was diligently searched to find, if possible, some dissatisfied "exoduster," who, for the sake of his witness fees and mileage to Washington, would swear that he was dissatisfied with his new home, and wished himself back in Dixie. Perhaps a half dozen such were found, and their testimony has been paraded before the Senate with tremulous emotion by the Senator from Indiana. In several cases, notably those of Stafford and Roby, the majority of the committee having learned that the Sergeant-at-Arms had made a mistake, and that they would not testify as desired, they were dismissed without examination, until subsequently called by the minority.

Sheriff Lewman, of Greencastle, State Auditor Manson, and other like zealous democrats, were induced to dog the footsteps of the confiding negro, at midnight, in order that he might be betrayed into some expression that would implicate the republican party in the supposed "political conspiracy." Democrats such as Stanton, of Topeka, stealthily listened behind board fences to the conversations of the negroes, to hear if possible some word of discontent which might be brought to the anxious ears of the chairman of the committee. Barns were burned and other injuries threatened by the democracy in some parts of Indiana, in order to deter people from employing the refugees, that it might be said there was no demand for their labor in that State. A deputy sergeant-at-arms was dispatched with blank subpœnas to scour Louisiana and Mississippi, in order that if any prosperous colored man who is satisfied with his condition, and does not want to emigrate, could be found, he might come to Washington, at Government expense, to tell the committee how contented he is, and how peacefully and happily everything is moving on in that country. Perhaps a half dozen of the more fortunate ones were found who so testified, but when cross-examined some of them admitted that it was safer in that country to vote the democratic ticket. Planters were brought who, of course, testified that they had never abused their colored laborers. Democratic politicians were summoned from Shreveport and other places almost within sight of parishes where hundreds of negroes had been whipped, maimed, and murdered for political reasons, during the last ten years, who nevertheless swore that they had never known of any serious disturbances between the two races, and that such little troubles as had occurred were brought on by the negroes themselves. The country was scoured from one end to the other to find some radical republican who had said he wished the negroes would go to Indiana to vote, and possibly a half dozen such cases were found, but on cross-examination it always turned out that they expressed only their individual sentiments, and that neither the republican party nor any of its leaders ever approved, aided, or advised such a scheme. In view of this labored and expensive effort to prove that the exodus was "not inspired by a sense of oppression and injustice," but that it was originated by leaders of the republican party and stimulated and encouraged by them for political purposes, let us hastily review all the evidence which the Senator from Indiana has been able to produce to sustain his proposition. Be assured that the Senator has omitted nothing which a six months' search could discover in confirmation of his theory. Every circumstance which he thought would tend to create a suspicion has been dressed in dramatic costume by the Senator's rhetoric and paraded before the Senate as the means of securing for it free passage through the mails on its mission to Indiana. All that ingenuity could invent or imagination conceive tending to produce an impression that the republican party is guilty of colonizing negro voters into Indiana is before us.

The honorable Senator first quotes from the testimony of General Thomas W. Conway, a gentleman who was for many years connected with the Freedmen's Bureau at the South, and who interested himself very earnestly in finding employment and furnishing relief for the refugees. General Conway informed the committee that he traveled over various parts of the country, visiting Washington, Kansas, the South, and a portion of Indiana, endeavoring to organize the philanthropic sentiment of the country in behalf of the suffering emigrants. The evidence disclosed the fact that on one of his trips he stopped for three days at Indianapolis. When the honorable Senator from Indiana found General Conway at that interesting point of the Republic, he at once assumed that his mission there was to induce the leading republican politicians of that State to furnish means for the encouragement of negro migration for political purposes. After asking General Conway whether he met certain prominent republican politicians at Indianapolis, the following colloquy ensued between him and the chairman:

> Q. Well, General Conway, you know we have a prying curiosity in this committee. I want to know of you now why you staid there these three days?
>
> A. Well, sir, I was tired, and the journey was a tiresome one, and Indianapolis is a pleasant city, *and I wished to see what could be done regarding these laborers, as to getting employment for them*, and I thought these gentlemen would know about that as well as anybody I could find.
>
> Q. Did you meet with reasonable encouragement?
>
> A. Yes, sir; a good deal of it. I was told, and information came in there, that five or ten thousand could find employment in Indiana.
>
> Q. Was that the opinion of these gentlemen?
>
> A. Yes, sir; I think it was. I also met two or three Quakers there, and one of them said he had been through the State, and he showed me a long list of names of farmers who would give them employment.

It will be observed from this testimony that the purpose which General Conway had in visiting Indianapolis, as stated by himself, was "to see what could be done regarding these *laborers as to their getting employment*." Then follows the question, "Did you meet with reasonable encouragement." To which General Conway replied, "Yes, sir; a good deal of it," and then proceeded to state that he had met with persons who informed him that five or ten thousand people could find employment in Indiana, and also that he "met Quakers there who showed him a long list of names of farmers who could give them employment." All this merely proves that General Conway received "encouragement" in his effort to find *employment* for the emigrants, and for no other purpose. That his mission was philanthropic and

not political was fully explained by himself. I saw on the examination that the chairman was putting words into the mouth of the witness from which he intended to argue that General Conway had gone to Indianapolis to interest the republican leaders in a scheme of political negro colonization, and I said to him:

You did not find any very vigorous co-operation in your project of colonizing Indiana with colored people for voting purposes?

A. *You misunderstand me; I never had any project of colonizing Indiana with colored people for voting purposes.*

Mr. WINDOM. I did not misunderstand you, but that was the impression that the chairman seemed to be desirous of making.

The CHAIRMAN. Oh, no; I did not try to convey any such impression; I understand the gentleman's position very well.

And yet after this full understanding of General Conway's position that his purpose was merely and only one of charity, and that colonization for voting purposes was no part of his mission, the Senator quotes disconnected portions of his testimony to create the impression that the "encouragement" he received was for the very purpose which he swears he never entertained, and which he therefore could not have communicated to any one.

On page 444, part 3 of the testimony, will be found General Conway's explanation of his purpose, which he says he explained wherever he went:

Q. What has been your purpose, General Conway—to colonize the States to which you have referred with voters, or to find homes for these colored people?

A. *My purpose was to aid the colored people to find homes and employment.*

Q. Whatever occurred in the way of seeing these politicians was merely incidental?

A. Yes, sir.

Q. You regarded the negroes as being forced out of the South in a suffering condition, and you were trying to find homes for them?

A. Yes, sir.

Q. And expressed that purpose wherever you went?

A. Yes, sir.

Q. You were trying to find men who would sympathize with their sufferings and with your purpose?

A. Yes, sir.

Q. How much money in all did they contribute, to the best of your knowledge, to take these people to Indiana?

A. *I have no knowledge of their contributing a single cent.*

Q. Do you know of a single dollar being contributed by anybody to aid in colonizing Indiana, or any other State, with colored people for voting purposes?

A. I do not.

It is thus conclusively shown that whatever "encouragement" was given was merely and only as to the probability of "finding homes and employment" for the emigrants who were destitute and suffering. Not one dollar was ever contributed by these gentlemen to induce or encourage them to come to Indiana.

In connection with General Conway's testimony I beg to remind the Senator that he did, however, make some positive statements as to democratic colonization of white voters into Indiana from Kentucky. He said: "I have been in Indiana and have known of men going over from Kentucky to vote in that State, which I consider an unfair thing to do, but that these men should go there to live, and living there vote there, seems to me entirely proper."

Q. Were they negroes?

A. No, sir; they were white people; connected with the democratic party, so they said.

Q. Tell us all about it.

A. During the election, or, rather, just prior to the election, I was on my way back and forth from North to South and from South to North. I stopped in Louisville, at the Galt House, where I generally put up. I am in the habit of keeping my eyes and ears open to see and hear all I can. While there I heard two or three times sufficient to satisfy me that that work was going on. I mention it now merely because I am satisfied that the thing was done, from hearing people talk about what was going on.

The Senator will hardly feel at liberty to dispute this statement, for he has indorsed in the most unqualified manner the character and truthfulness of General Conway, whom he declares to be "the peer in character and position and influence in the republican party of any man from Indiana mentioned by him in his testimony."

The next witness by whom the Senator endeavors to convict the republican State central committee of Indiana of the crime of importing negro voters is Mr. W. H. Mendenhall, a gentleman who is now employed as a twelve-hundred-dollar clerk in the Treasury Department. The Senator quotes from him in the following dramatic style:

I proceed to other facts now which establish the existence of an infamous political plot to subvert the will of the people of Indiana by the procurement of an objectionable negro population.

Now, what was proved by Mr. Mendenhall? Only the astounding fact that at one of the meetings of the Washington Aid Society, when there were a half dozen persons present, nearly all of whom were colored, and while they were standing around the stove before the meeting was organized, he, Mendenhall, a citizen of Indiana and a republican office-holder, drawing the enormous as well as magnificent salary of $1,200 per annum, made the startling declaration that he "thought the persecution of the negroes was as much as they could bear," and that "if Indiana could offer inducements to these people he felt like a great number of them would go there." He even went so far as to express his own "independent views" by saying that he was in favor of their going to Indiana to vote. *His* views, however, received no response from the persons present, and were never indorsed nor again mentioned in the society, nor approved by any other member of it, so far as the committee could learn. In this casual remark of the Quaker Treasury clerk the honorable Senator from Indiana discovers the inception of an "infamous political plot to subvert the will of the people of the State of Indiana," and in his most impressive style exclaims:

Here we find a representative man of the republican party of Indiana who holds office under the administration striking out at once at the earliest possible moment for the political advantages arising out of the transportation of negroes from the South to the North.

Astonishing disclosure! On what a slender thread must hang the destiny of the democracy of Indiana when a casual remark such as this can send a thrill of terror through its ranks. But what did this "representative man" do in the execution of his "infamous plot?" The Senator says he wrote a letter to General Martindale. True, but he never received a reply. He also wrote a letter to Marshal Dudley on the subject, says the Senator. Very true, and he did receive an answer from Marshal Dudley, saying that "*as a political movement the republican party of Indiana did not approve it*," and that "*the republicans as a party could have nothing to do with it.*" He also received a postal card from Dr. Elbert, a colored citizen of Indianapolis, but what evidences of the "infamous plot" were contained on that card the testimony does not disclose.

By extracting four lines from the body of Mr. Mendenhall's testimony, and excluding the explanations which the witness himself made with respect to them, the honorable Senator from Indiana succeeds in putting words into his mouth to the effect that Marshal Dudley seemed to think that he would like to have negroes there for voting purposes, but the whole testimony taken together shows that Marshal Dudley never uttered such a sentiment, and that the impression conveyed by the extract from the testimony found in the speech of the Senator from Indiana wholly misrepresents the evidence of the witness, as well as the sentiments which Marshal Dudley has always entertained and expressed with reference to this matter. There is therefore no proof in the testimony of Mr. Mendenhall that anybody in the society to which he belonged, nor in the State of Indiana, or elsewhere, ever approved the policy which he had suggested. He spoke for himself, and for no one else, and so far as the committee could learn he never received a favorable response from any human being.

Proceeding further with the evidence of this "wicked conspiracy," the Senator quotes from J. W. Cromwell, a colored clerk in the Treasury Department, who proves that himself and a Mr. Adams, secretary of the Washington Aid Society, advised a company of North Carolina emigrants, who were stranded in this city, to change their destination from Kansas to Indiana. This witness, when asked why he advised them to go to Indiana, said "they could get work in Indiana and not in Kansas, because Kansas was a new State, and the people there are making their first struggles, and are not in a condition to employ laborers as largely as in old States like Indiana." The witness says that he was induced to believe this from a circular he had read, issued by J. H. Walker, a colored man, of Indianapolis, Indiana. Not a word is said in his testimony about political motives, and there is no evidence that they were ever thought of in connection with this advice of Mr. Adams and Mr. Cromwell. The only motives which seem to have actuated them were that by going to Indiana the colored emigrants could find employment more readily than in Kansas.

The next startling discovery made by the honorable Senator implicating "officials" of the republican party was the fact of one Reynolds, holding the influential position of "transfer mail agent" at the Indianapolis depot, was actually caught with tickets in his possession for colored emigrants over the road from Indianapolis to Greencastle, which must have cost the enormous sum of $42. In a burst of patriotic indignation the honorable Senator exclaims, "Who furnished Reynolds with that money? It is not pretended that it was his own. Where did he get it?" After wandering through a page or two of testimony he triumphantly announces that the "clerk of the State central committee of the republican party" had been discovered, about that time, "making special inquiries as to how much it would cost to send these negroes from Indianapolis to Greencastle." Can it be possible! How shall the republican party survive such a disclosure? Pause and reflect for a moment upon the enormity of this "conspiracy." Here were a dozen negroes stranded at Indianapolis and wanting work. It was known that certain parties at Greencastle had provided employment for them, and the gentleman who acts as clerk of the republican State central committee not only inquired the cost of transportation to Greencastle, but a "transfer mail agent" was found with $42 in his possession to help them on their way. How the democracy of Indiana will open their eyes with amazement when they read this astounding discovery of their honored Senator! Surely they will not fail to erect to his memory a monument of enduring brass as the savior of Indiana. I shall insist upon *brass* as the only appropriate material for the monument.

But this is not all the honorable Senator has discovered. Passing from the disclosure regarding the $42 to a further revelation of the "infamous political scheme" in the alleged fact that one Heath, an ignorant colored man from North Carolina, had traveled all the way from Indianapolis to Greencastle in a postal car, and that he had carried with him a scrap of paper supposed to be signed by Postmaster Holloway, of Indianapolis, containing these portentous words:

Postmaster LANGSDALE and Mr. CLAY (colored) at Greencastle, Putnam Co., Indiana:

Tell these gentlemen more are coming.

What more convincing proof of a conspiracy could be adduced!

Here was a poor destitute, ignorant negro seeking some place where work could be found. He procured from the postmaster at Indianapolis an introduction to the postmaster at Greencastle, who is a known friend of the colored people. It was also suspected, though not proved, that Heath rode in a postal car. Thereupon the honorable Senator from Indiana assumes that the "Post-Office Department" and the postal service generally has been placed at the disposal of this "infamous political scheme" to colonize Indiana with negroes.

At this point he waxed extremely wrathful at the criminal violation of the postal laws involved in the unproven suspicion that Heath traveled in the postal car, and his indignation was fearful to contemplate, as he painted the complicity of the Post-Office Department, and of the republican administration generally, in this midnight movement of the lone negro in pursuit of employment. I may pause a moment to say that there is something supremely ludicrous in the terror which seems to have convulsed the democracy of that noble State on the arrival of Heath. He was a lone, destitute, ignorant negro, seeking a home on his own account, representing nobody, and caring for nothing but to find some place to work. It was whispered about in democratic circles at Indianapolis that he was about to visit Greencastle. Whereupon, after a council with his associates, John Manson, the State auditor, dispatched one of his trusted deputies to that city to announce the fact that Heath would arrive on the midnight train. Sheriff Lewman, a democrat of the straitest sect, but by no means without guile, was selected to receive him. On his arrival at midnight he was promptly met by Lewman, who introduced himself as the postmaster, received from him the note of introduction intended for Mr. Langsdale, and took him to the sheriff's office, where until about three o'clock in the morning the wily democrat, falsely pretending to be his friend, plied him with all sorts of suggestions and questions with the hope of eliciting something to be used against the republican party. After thus playing the hypocrite for about three hours, and vainly endeavoring to obtain from him some evidence of the supposed conspiracy, Lewman left him, promising to return next morning. In the mean time another democrat called on Heath and told him he had been betrayed and that the man with whom he had talked was a democrat, whereupon Heath, supposing that the Ku-Klux were after him, took the next train for Saint Louis and has not since returned. We may form some idea of the desperate determination to manufacture evidence for this investigation when such distinguished democrats as Manson, Lewman & Co. will thus dog the track of an ignorant negro and resort to the basest kind of falsehood and treachery to induce him to say something which could be reported to the committee, and yet this disgraceful performance utterly failed of its purpose, and the Senator from Indiana has not been able to quote anything from this confidential communication of Heath tending to prove his theory of the exodus.

Two other points made by the honorable Senator in proof of the alleged conspiracy of republican leaders to colonize Indiana may be passed with a single remark.

Thomas P. Mills, a ticket-scalper of Indianapolis, who endeavored to be very witty in giving his testimony, swore that he would be glad to see "twenty thousand bucks" come into the State for political purposes, but he failed to quote one word from any other republican agreeing with him on that point. It is true he expressed the opinion that there were others who agreed with him, but he furnished no proof that they have ever done or said anything to that end.

One Scott Ray, who impressed the minority of the committee as not being very reliable, read a paper which purported to be a conversation between himself and Captain Henry S. Byers, in which the latter was alleged to have made certain remarks to the effect that the "exodus was a political movement of the republican party." Ray says that after the talk with Byers he went to his room and wrote down what was said. This memorandum was of course brought to the committee, as was intended when it was written. This serves to illustrate still further the anxiety of the democracy and the means to which they resorted to manufacture evidence. The minority of the committee did not regard Ray's statement as worth the trouble and expense of refutation.

The Senator from Indiana triumphantly stated what he seemed to regard as the strong point in his case in these words:

In connection with the movement after it was fully launched and under way the evidence of a political plot thickens and deepens on all sides. Take the testimony of William B. Tinney, the passenger agent of the Baltimore and Ohio Railroad at Indianapolis. A party of colored emigrants had reached Washington City and were here stranded for the want of money to carry them farther. Mr. Tinney swears that thereupon he received a telegraphic dispatch from Mr. Koontz, the passenger agent of the same road at this point, instructing him to collect the sum of $625 to pay for the transportation of these negroes from Washington to Indianapolis. He was instructed to call on three active republican colored politicians in order to obtain this money. He did so. They did not have the money that evening, but it was promptly raised the next day, placed to the credit of negro transportation, and the negroes were promptly landed in Indiana. There is not an intelligent person in Indianapolis who for a moment believes that the colored people of that city raised this very considerable contribution among themselves. Their slender resources were already sorely taxed for charity in behalf of the destitute of their own race. They were in no condition to promptly pay down $625, nor does any one pretend they did. Every circumstance goes to show that it was paid by the republican State central committee.

Though I had been somewhat curtly informed by the honorable Senator that "this is not the kind of a speech which is usually interrupted," I could not believe that he wished to distribute among his constituents a charge so utterly groundless as that contained in the passage just quoted. I therefore ventured to interrupt him, when the following colloquy occurred:

Mr. WINDOM. Is the Senator willing to have the fact stated?
Mr. VOORHEES. I am not willing to be interrupted.
Mr. WINDOM. I have an affidavit——
Mr. VOORHEES. I decline to yield.
Mr. WINDOM. The Senator's statement——
Mr. VOORHEES. If the Senator thinks he can force himself into this debate against my will, he is mistaken. He will have his time to answer.
Mr. WINDOM. I do not wish to interrupt——
Mr. VOORHEES. I decline to yield.
Mr. WINDOM. The Senator from Indiana——
Mr. VOORHEES. I call the Senator from Minnesota to order.
The PRESIDING OFFICER. The Senator from Indiana cannot be interrupted without his consent.
Mr. WINDOM. The Senator is very much afraid of the truth.
Mr. VOORHEES. I am not at all afraid of the truth. I see that the Senator is nervous to-day.

Failing to obtain permission of the Senator to correct his statement, I took the floor immediately after the close of his speech and read the following affidavit, showing conclusively *where* the money was raised, who raised it, and that it was utterly impossible that it should have come from Indiana:

WASHINGTON,
District of Columbia, ss:

George S. Koontz, of Washington, District of Columbia, general agent of the Baltimore and Ohio Railroad Company, being duly sworn, deposes and says:

On the 3d day of December, 1879, there was a large lot of colored persons here who had come from North Carolina to Washington *en route* to Indianapolis, Indiana. They had been in the depot of the Baltimore and Ohio Railroad Company for several days. I called on a colored man, S. L. Perry, who had them in charge, and urged him to do something to have them forwarded from Washington. He said to me that if he could get word to Professors Bagby, Brayles, and Elbert, at Indianapolis, they would deposit the money to pay their fare from Washington to Indianapolis. I suggested that he should telegraph them. He said he had no money, and asked me to telegraph for him. At his dictation I prepared and sent our agent at Indianapolis a telegram, of which the following is a copy:

"WASHINGTON, D. C., *December* 3, 1879.

"To W. B. TINNEY,
"*Agent Baltimore and Ohio Railroad, Indianapolis, Indiana:*

"Call on Professors Bagby, Brayles, and Elbert, and say that S. L. Perry and Williams want them to deposit with you $600, for a party they have here from the South for Indianapolis. Answer.

"GEO. S. KOONTZ,
"*General Agent Baltimore and Ohio Railroad Company.*"

To this dispatch I received no response. In a few days afterward, the fares of this party were paid by Mr. Wall, a colored man, of Washington, District of Columbia. *The greater part of this money was paid in pennies, in three, five, and ten cent pieces, done up in packages of from fifty cents to $5. Wall informed me that the sum of money was made up from contributions by Sunday-schools, churches, and other organizations, as well as from charitable persons.* No part of this money, to my knowledge, came from Indianapolis. No money, to my knowledge, ever came from Indianapolis or elsewhere outside of Washington City, to pay transportation of these people.

GEO. S. KOONTZ.

Subscribed and sworn to before me this 4th day of June, A. D. 1880.

R. B. NIXON,
Notary Public.

It will be observed that the affidavit of Mr. Koontz left the charge of the honorable Senator without a shadow of foundation or excuse; and I supposed, as a matter of course, he would correct it in his printed speech. Judge of my astonishment, Mr. President, when, after withholding the speech an entire day for revision, it appeared on the 6th of June containing the statement I have just quoted. The extreme difficulty under which the Senator labored, as well as his anxiety to make out a case against the republican party in Indiana, will be appreciated when, in the face of the affidavit of Mr. Koontz, showing conclusively that the money was raised in this city from small contributions by Sunday-schools, churches, &c., he could still deliberately publish and circulate the charge that "every circumstance goes to show that it was paid by the republican State central committee of Indiana."

The majority of the committee directed their fruitless efforts for days and weeks to prove that Mr. New, Mr. Dudley, and Mr. Holloway, of Indianapolis, all active members of the republican State central committee, had encouraged this movement into that State for political purposes, and though there was no evidence which even raised a suspicion against these gentlemen or against any other recognized party leader, yet the minority thought it only fair to call these gentlemen before the committee in order that no possible excuse might be left for a repetition of the charge. The statements of all these gentlemen under oath contained a full, complete, and unequivocal denial of any participation, politically or otherwise, in this movement. On page 21, part second of the testimony, Hon. John C. New, chairman of the republican State central committee, says:

A gentleman came to me, as chairman of the State central committee, and wanted to know what the course of the republican committee would be in regard to it. *We stated to him most emphatically that the republican party, as a party, was not in favor of it, and not only so, but that we were earnestly and vigorously opposed to it as a party movement and as a political movement.*

Q. State, if you know, whether any money has ever been contributed by your committee, or by any member of it, or by any other official in the republican party—I mean the republican party organization—for the purpose of bringing these people into your State.

A. Not one dollar by the committee or by myself, or by any member of the committee to my knowledge.

Q. Do you know of any money having been contributed by any other leading republicans for the purpose of bringing these people there?

A. *I know of no republican, not a single one, either white or black, in the State of Indiana, who has contributed money to bring these emigrants into the State.*

Q. The matter of this immigration into the State has been discussed, I suppose, by the committee in your consultations together, and you would probably have every opportunity to know, and do know, what the sentiments of your committee were on that subject?

A. *Yes, sir; the matter has been frequently and fully discussed, not only by our committee, but by prominent republicans and active party workers in the State, and there has been one universal opinion in opposition to it.*

From page 28 of the same volume of the testimony I extract the following from the evidence of Colonel William R. Holloway, postmaster at Indianapolis, and treasurer of the republican State central committee, which showed not only that the committee never made any contributions to induce colored people to go into Indiana, but also clearly expresses the position of the republican party of that State as to the right of citizens of this country to emigrate from one State to another:

Q From all the information you have on the subject, then, colonel, do you believe that the republican party, as a party, in any of its organizations, or any of its leading members, has contributed by money or otherwise to induce these people to come to Indiana?

A. I have no idea that they have. *I know that they have not.* The State central committee I know has not. It could not have done so. I was its treasurer. And all the contributions that any of the members gave was given individually and solely as a charity.

Q. As a charity solely?

A. Yes, sir; solely for charitable purposes.

Q. From what you know of the sentiment of the people on their coming—as to their right to come, and as to the right of anybody to oppose their coming—what is the position of the republican party on that question?

A. The position of the republican party is that any one has the right to emigrate from one State to another. They have in Indiana reprinted two or three times a pamphlet for circulation in Europe, setting forth the advantages of Indiana as a State to emigrate to. When Morton was governor he had this pamphlet reprinted twice, and we sent the State geologist to Vienna and to Paris, I think, with a large number of these pamphlets.

Q So that efforts have been made without reference to party to induce people to come to your State?

A. Yes; and we had an organization in Indianapolis for years, and printed this pamphlet, inviting immigration into the State. I know that, for I printed one myself.

Q And it was circulated broadcast, and it had no reference to color, or race, or locality in its invitations?

A. Yes, sir; its purpose was nothing other than to induce emigration to the State.

Q. So that has been the desire in your State for years, has it, to induce immigration into it?

A. Yes, sir.

The examination of Colonel William W. Dudley, also connected with the State central committee, on page 4 of same volume, contains the following:

Q. State whether you yourself or any one in connection with your committee, so far as you know or have heard, has ever in any way encouraged this immigration into Indiana for political purposes.

A. I think not, sir. So far as I myself am concerned, I did not; nor did any one n connection with the committee.

Q. Have they encouraged this movement in any other way so far as you know?

A. No, sir; I think not, either directly or indirectly; at least, not that I am aware of. I am speaking now for the committee.

Q. I am aware of that, colonel. And you speak for yourself absolutely?

A. Yes, sir; I speak for myself and for those whom I talked with on the committee.

Q. Has any money to your knowledge ever been raised by your committee or by any member of it individually for the purpose of bringing these people into the State?

A. No, sir; not a cent that I know of.

I believe I have now followed the honorable Senator from Indiana step by step through all the evidence he could produce to prove a "republican conspiracy" to overthrow the democracy of Indiana by the importation of negro votes. He says: "Men have been hung, and justly hung, on evidence far less conclusive of crime." Possibly colored men may have been hung in the South upon such evidence, for in some parts of that country only two things are necessary to convict a negro: one is that a crime has been committed, and the other is that a negro was in the neighborhood. But he will search in vain among communities where justice is not a mockery for any court that would for a moment entertain a charge even of assault and battery upon proof such as he has produced in this case.

Having now shown that the theory of the committee is wholly groundless and utterly unsupported either by the evidence or by common sense, I will now briefly state the

REAL ORIGIN OF THE EXODUS MOVEMENT AND THE ORGANIZATIONS WHICH HAVE PROMOTED IT.

I do not now speak of the *causes* of the exodus, but only of the organizations and instrumentalities which originated and carried it on. These are well stated by some of the witnesses who have been most active in promoting it.

Henry Adams, of Shreveport, Louisiana, an uneducated colored laborer, but a man of very unusual natural abilities, and, so far as the committee could learn, entirely reliable and truthful, states that he entered the United States Army in 1866 and remained in it until 1869; that when he left the Army he returned to his former home at Shreveport, and, finding the condition of his race intolerable, he and a number of other men who had also been in the Army set themselves to work to better the condition of their people.

In 1870—

He says—

a parcel of us got together and said we would organize ourselves into a committee and look into affairs and see the true condition of our race, to see whether it was possible we could stay under a people who held us in bondage or not.

That committee increased until it numbered about five hundred, and Mr. Adams says:

Some of the members of the committee was ordered by the committee to go into every State in the South where we had been slaves and post one another from time to time about the true condition of our race, and nothing but the truth.

In answer to the question whether they traveled over various States he said:

Yes, sir; and we worked, some of us, worked our way from place to place, and went from State to State and worked—some of them did—amongst our people, in the fields, everywhere, to see what sort of a living our people lived—whether we could live in the South amongst the people that held us slaves or not. We continued that on till 1874.

Every one paid his own expenses, except the one we sent to Louisiana and Mississippi. We took money out of our pockets and sent him, and said to him you must now go to work. You can't find out anything till you get amongst them. You can talk as much as you please, but you have got to go right into the field and work with them and sleep with them to know all about them.

I think about one hundred or one hundred and fifty went from one place or another.

Q. What was the character of the information that they gave you?

A. Well, the character of the information they brought to us was very bad, sir.

* * * * * * *

Q. Do you remember any of these reports that you got from members of your committee?

A. Yes, sir; they said in several parts where they was that the land rent was still higher there in that part of the country than it was where we first organized it, and the people was still being whipped, some of them, by the old owners, the men that had owned them as slaves, and some of them was being cheated out of their crops just the same as they was there.

Q. Was anything said about their personal and political rights in these reports as to how they were treated?

A. Yes; some of them stated that in some parts of the country where they voted they would be shot. Some of them stated that if they voted the democratic ticket they would not be injured.

Q. Now, let us understand more distinctly, before we go any further, the kind of people who composed that association. The committee, as I understand you, was composed entirely of laboring people?

A. Yes, sir.

Q. Did it include any politicians of either color, white or black?

A. No politicianers didn't belong to it, because we didn't allow them to know nothing about it, because we was afraid that if we allowed the colored politicianer to belong to it he would tell it to the republican politicianers, and from that the men that was doing all this to us would get hold of it too, and then get after us.

* * * * * * *

Q About what time did you lose all hope and confidence that your condition could be tolerable in the Southern States?

A. Well, we never lost all hopes in the world till 1877.

Q. Why did you lose all hope in that year?

A. Well, we found ourselves in such condition that we looked around and we seed that there was no way on earth, it seemed, that we could better our condition there, and we discussed that thoroughly in our organization along in May. We said that the whole South—every State in the South—had got into the hands of the very men that held us slaves—from one thing to another—and we thought that the men that held us slaves was holding the reins of government over our heads in every respect almost, even the constable up to the governor. We felt we had almost as well be slaves under these men. In regard to the whole matter that was discussed it came up in every council. Then we said there was no hope for us and we had better go.

Q. You say, then, that in 1877 you lost all hope of being able to remain in the South, and you began to think of moving somewhere else?

A. Yes; we said we was going if we had to run away and go into the woods.

Q. About how many did this committee consist of before you organized your council? Give us the number as near as you can tell.

A. As many as five hundred in all.

Q. The committee, do you mean?

A. Yes; the committee has been that large.

Q. What was the largest number reached by your colonization council, in your best judgment?

A. Well, it is not exactly five hundred men belonging to the council that we have in our council, but they all agreed to go with us and enroll their names with us from time to time, so that they have now got at this time ninety-eight thousand names enrolled.

Q. Then through that council, as sort of subscribers to its purpose and acts and for carrying out its objects, there were ninety-eight thousand names?

A. Yes; ninety-eight thousand names enrolled.

Q In what parts of the country were these ninety-eight thousand people scattered?

A. Well, some in Louisiana—the majority of them in Louisiana, and some in Texas, and some in Arkansas. We joins Arkansas.

Q. Were there any in Mississippi?

A. Yes, sir; a few in Mississippi.

Q. And a few in Alabama?

A. Yes, sir; a few in Alabama, too.

Q. Did the organization extend at all into other States farther away?

A. O, yes, sir.

Q. Have you members in all the Southern States?

A. Not in every one, but in a great many of the others.

Q. Are these members of that colonization council in communication as to the condition of your race, and as to the best thing to be done to alleviate their troubles?

A. Oh, yes.

Q. What do you know about inducements being held out from politicians of the North, or from politicians anywhere else, to induce these people to leave their section of country and go into the Northern or Western States?

A. There is nobody has written letters of that kind, individually—not no white persons, I know, not to me, to induce anybody to come.

Q. Well, to any of the other members of your council?

A. No, I don't think to any of the members. If they have, they haven't said nothing to me about it.

It appears also from the evidence of Samuel L. Perry, of North Carolina, a colored man, who accompanied most of the emigrants from that State to Indiana, and who had more to do with the exodus from that quarter than any other man, that the movement had its origin as far back as 1872, as the following questions and answers will show:

Q. You have heard a good deal of this testimony with reference to this exodus from North Carolina. Now begin at the beginning and tell us all you know about it.

A. Well, the beginning, I suppose, was in this way: The first idea or the first thing was, we used to have little meetings to talk over these matters. In 1872 we

first received some circulars or pamphlets from O. F. Davis, of Omaha, Nebraska.

Q. In 1872?

A. Yes, sir; in 1872—giving a description of Government lands and railroads that could be got cheap; and we held little meetings then; that is, we would meet and talk about it Sunday evenings—that is, the laboring class of our people—the only ones I knew anything about; I had not much to do with the big professional negroes, the rich men. I did not associate with them much, but I got among the workingmen, and they would take these pamphlets and read them over.

Mr. Perry says that the feeling in favor of migrating subsided somewhat, but sprung up again in 1876. From that time down to 1879 there were frequent consultations upon the subject, much dissatisfaction expressed respecting their condition, and a desire to emigrate to some part of the West. He says about "that time I was a subscriber to the New York Herald, and from an article in that paper the report was that the people were going to Kansas, and we thought we could go to Kansas, too; that we could get a colony to go West. That was last spring. We came back and formed ourselves into a colony of some hundred men." They did not, however, begin their westward movements until the fall of 1879, when it being ascertained by the railroad companies that a considerable number of people were proposing to migrate from North Carolina to the West several railroad companies, notably the Baltimore and Ohio, offered to certain active and influential colored men $1 per head for all the passengers they could procure for the respective competing lines.

By reference to the evidence, part 3, page 136, it will be seen that the emigration movement in Alabama originated as far back as the year 1871, when an organization of colored people, called the State Labor Union, delegated Hon. George F. Marlow to visit Kansas, and other parts of the West, for the purpose of examining that country and reporting back to a future convention his views as to the expediency of removing thereto. A convention of colored people was held again in 1872, at which Mr. Marlow made the following glowing report of the condition of things in Kansas and the inducements that State offered to the colored people. He said:

In August, 1871, being delegated by your president for the purpose, I visited the State of Kansas, and here give the results of my observations, briefly stated.

It is a new State, and as such possesses many advantages over the old.

Is much more productive than most other States.

What is raised yields more profit than elsewhere, as it is raised at less expense.

The weather and roads enable you to do more work here than elsewhere.

The climate is mild and pleasant.

Winters short and require little food for stock.

Fine grazing country; stock can be grazed all winter.

The population is enterprising, towns and villages spring up rapidly, and great profits arise from *all* investments.

Climate dry, and land free from swamps.

The money paid to doctors in less healthy regions can here be used to build up a house.

People quiet and orderly, schools and churches to be found in every neighborhood, and ample provision for free schools is made by the State.

Money plenty, and what you raise commands a good price.

Fruit of all kinds easily grown and sold at large profits.

Railroads are being built in every direction.

The country is well watered.

Salt and coal are plentiful.

It is within the reach of every man, no matter how poor, to have a home in Kansas. The best lands are to be had at from $2 to $10 an acre, *on time*. The different railroads own large tracts of land, and offer liberal inducements to emigrants. You can get good land in some places for $1.25 an acre. The country is mostly open prairie, level, with deep, rich soil, producing from forty to one hundred bushels of corn and wheat to the acre. The corn grows about eight or nine feet high, and I never saw better fruit anywhere than there.

The report was adopted.

The feeling of the colored people in that State in 1872 was well expressed by Hon. Robert H. Knox, of Montgomery, a prominent colored citizen, who, in addressing the convention, spoke as follows:

I have listened with great attention to the report of the commissioner appointed by authority of the State Labor Union to visit Kansas, and while I own the inducements held out to the laboring-man in that far-off State are much greater than those enjoyed by our State, I yet would say let us rest here awhile longer; let us trust in God, the President, and Congress to give us what is most needed here, personal security to the laboring masses, the suppression of violence, disorder, and ku-kluxism, the protection which the Constitution and laws of the United States guarantee, and to which as citizens and men we are entitled. Failing in these, it is time then, I repeat, to desert the State and seek homes elsewhere where there may be the fruition of hopes inaugurated when by the hand of Providence the shackles were stricken from the limbs of four million men, where there may be enjoyed in peace and happiness by your own firesides the earnings of your daily toil.

Benjamin Singleton, an aged colored man, now residing in Kansas, swears that he began the work of inducing his race to migrate to that State as early as 1869, and that he has brought mainly from Tennessee and located in two colonies—one in Cherokee County, and another in Lyons County, Kansas—a total of 7,432 colored people. The old man spoke in the most touching manner of the sufferings and wrongs of his people in the South, and in the most glowing terms of their condition in their new homes; and when asked as to who originated the movement, he proudly asserted, "I am the father of the exodus." He said that during these years since he began the movement he has paid from his own pocket over $600 for circulars, which he has caused to be printed and circulated all over the Southern States, advising all who can pay their way to come to Kansas. In these circulars he advised the colored people of the advantages of living in a free State, and told them how well the emigrants whom he had taken there were getting on. He says that the emigrants whom he has taken to Kansas are happy and doing well. The old man insists with great enthusiasm that he is the "whole cause of the Kansas immigration," and is very proud of his achievement.

Here, then, we have conclusive proof from the negroes themselves that they have been preparing for this movement for many years. Organizations to this end have existed in many States, and the agents of such organizations have traveled throughout the South. One of these organizations alone kept one hundred and fifty men in the field for years, traveling among their brethren and secretly discussing this among other means of relief. As stated by Adams and Perry, politicians were excluded, and the movement was confined wholly to the working classes.

The movement has doubtless been somewhat stimulated by circulars from railroad companies and State emigration societies which have found their way into the South, but these have had comparatively little effect. I have here a specimen of these emigration documents, which was gotten up and circulated by Indiana democrats, printed at a democratic printing office, and written by a democrat, which in my judgment appeals more strongly to the imagination and wants of the negro than any I have been able to find. Let me read a short extract from it:

In every county of the State there is an asylum where those who are unable to work and have no means of support are cared for at the public expense.

Laborers who work by the month or by the year make their own contract with the employer, and all disputes subsequently arising are settled by legal processes in the proper courts, *everybody being equal before the law in Indiana.* The price of farm labor has varied considerably in the last twenty years. *About $16 per month may be assumed as about the average per month, and this is understood to include board and lodging at the farm-house.* This amount is *paid in current money at the end of each month*, unless otherwise stipulated in the contract. Occasionally a tenement house is found on the larger farms where a laborer lives with his family, and either rents a portion of the farm or cultivates it on special contract with the landlord. *With us there is no class of laborers as such. The young man who to-day may be a hired laborer at monthly wages may in five years from now be himself a proprietor, owning the soil he cultivates and paying wages to laborers. The upward road is open to all*, and its highest elevation is attainable by industry, economy, and perseverance.

What a Paradise for the negro! Sixteen dollars per month, with board! Everybody equal before the law! No class of laborers as such! The hired man of to-day himself the owner of a farm in five years! No cheating of tenants, but everything paid in current money. And if all this will not attract the negro he is told there is an "asylum" in every county to which he can go when unable to support himself. The document also promises to everybody "free schools" in "brick or stone school-houses," and says they have "$2,000,000 greater school fund than any State in the Union." These democratic documents have been circulated by the thousand, and doubtless many of them have found their way into the negro cabins of North Carolina. It is not surprising that the negro looks with longing eyes to that great and noble State. All the evidence found by the Senator and his committee as to inducements for negro emigration to his State has not a feather's weight in comparison with such a document as this.

I now come to the

CAUSES OF THE EXODUS.

There is surely some adequate cause for such a movement. The Senator from Indiana has utterly failed to find it, or, if found, to recognize it. Indeed, the whole investigation showed that he did not wish to find it. All the witnesses he called were examined with a view to proving that it has no cause, or else the fictitious one which for partisan purposes he has endeavored to prove. When it was found that any of his own witnesses were ready to state causes which did not accord with his theory they were dismissed without examination, as in the cases of Ruby and Stafford, to whom I have already referred, and a half dozen others who were brought from Kansas, but who on their arrival here were found to entertain views not agreeable to the majority.

I am aware that I cannot discuss the real causes of the exodus without exposing myself to the favorite charge of "flaunting the bloody shirt," but I shall not shrink from my duty on that account. That democratic catch-word has served its purpose well in preventing a discussion of the real condition of things at the South, but it will not stop the negroes from migrating unless the outrages which it would conceal are stopped. The only embarrassment I feel is in the fact that I approach such a mountain of hideous injustice and cruel wrong that I know not where to begin nor what part to exhibit. To take a single act of outrage and hold it up as an illustration is like measuring the size of a mountain by a single stone. To present a score or even a thousand of the shocking acts of barbarity which have been practiced upon the unoffending colored race during the last fifteen years seems to belittle their wrongs because of the vastly greater number which cannot be presented.

I regret that a faithful and honest discussion of this subject compels me to open the darkest, bloodiest, and most shameful chapter of our history. Gladly would I avoid it, but candor compels me to say that the volume which shall faithfully record the crimes which, in the name of democracy, have been committed against the citizenship, the lives, and the personal rights of these people, and which have finally driven them in utter despair from their homes, will stand forever without a parallel in the annals of Christian civilization. In discussing these sad and shameful events I wish it distinctly understood that I do not arraign the whole people, nor even the entire democratic party of the States in which they have occurred. The colored and other witnesses all declare that the lawlessness from which they have suffered does not meet the approval of the better class of democrats at the South. They are generally committed by the reckless, dissolute classes who unfortunately too often control and dominate the democratic party and dictate its policy. I have no doubt

there are many democrats in the South who deeply regret this condition of things, and who would gladly welcome a change, but they are in a helpless, and I fear a hopeless, minority in many sections of that country.

The unfortunate and inexcusable feature of the case is that, however much they may deplore such lawlessness, they have never, so far as I can learn, declined to accept its fruits. They may regret the violence and crimes by which American citizens are prevented from voting, but they rejoice in the democratic victories which result therefrom. So long as they shall continue thus to accept the fruits of crime the criminals will have but little fear of punishment or restraint, and the lawless conduct which is depopulating some sections of their laboring classes will go on. There is another unfortunate feature of this matter. So long as crimes against American citizenship shall continue to suppress republican majorities, and to give a "solid South" to the democracy, there will be found enough democrats at the North who will shut their eyes to the means by which it is accomplished, and seek to cover up and excuse the conduct of their political partisans at the South.

This is well illustrated by the report of the majority of the committee, and especially by the speech of the Senator from Indiana. In the presence of most diabolic outrages clearly proven; in the face of the declaration of thousands of refugees that they had fled because of the insecurity of their lives and property at the South, and because the democratic party of that section had, by means too shocking and shameful to relate, deprived them of their rights as American citizens; in the face of the fact that it has been clearly shown by the evidence that organizations of colored laborers, one of which numbered ninety-eight thousand, have existed for many years and extending into many States of the South, designed to improve their condition by emigration—in the face of all these facts the purblind partisanship of the Senator from Indiana can see no cause for the exodus growing out of the conduct of his partisan friends.

In view of this fact, it is my painful duty to point out to that Senator and those who think with him some of the real causes of the exodus. It is, however, as I have said, quite impossible to enumerate all or any considerable part of the causes of discontent and utter despair which have finally culminated in this movement. To do so would be to repeat a history of violence and crime which for fifteen years have reddened with the blood of innocent victims many of the fairest portions of our country; to do so would be to read the numberless volumes of sworn testimony which have been carefully corded away in the crypt and basement of this Capitol, reciting shocking instances of crime, crying from the ground against the perpetrators of the deeds which they record. The most I can hope to do in the limited time at my command is to present a very few facts which shall be merely illustrative of the conditions which have driven from their homes, and the graves of their fathers, an industrious, patient, and law-abiding people whom we are bound by every obligation of honor and patriotism to protect in their personal and political rights and privileges.

I begin with the State of North Carolina because the migration from that State has been comparatively insignificant, and also because the conditions there are more favorable to the colored race than in any of the other cotton States of the South. Owing to the lack of funds, and to the time employed in the examination of witnesses called by the majority, the republican members of the committee summoned no witnesses from the State of North Carolina, and were obliged to content themselves with such facts as could be obtained from one or two persons who happened to be in this city, and such other facts as were brought out upon cross-examination of the witnesses called by the other side. By the careful selection of a few well-to-do and more fortunate colored men from that State the majority of the committee secured some evidence tending to show that a portion of the negroes of North Carolina are exceptionally well treated and contented, and yet upon cross-examination of their own witnesses facts were disclosed which showed that even there conditions exist which are ample to account for the migration of the entire black population.

I can only take time now to mention some of these conditions in general terms. There are three things in that State which create great discontent among the colored people: first, the abridgment of their rights of self-government; second, their disadvantages as to common schools; third, discriminations against them in the courts; and, fourth, the memory of democratic outrages. Prior to democratic rule the people of each county elected five commissioners, who had supervision over the whole county, and who chose the judges of elections. The democrats changed the constitution so as to take this power from the people, and gave to the General Assembly authority to appoint these officers. This they regard not only as practically depriving them of self-government, but, as stated by one of the witness, Hon. R. C. Badger, as placing the elections, even in republican townships, wholly under the control of the democrats, who thereby "have the power to count up the returns and throw out the balance for any technicality, exactly as Garcelon & Co. did in Maine." This creates much dissatisfaction, because they believe they are cheated out of their votes. The negro values the ballot more than anything else, because he knows that it is his only means of defense and protection. A law which places all the returning boards in the hands of his political opponents necessarily and justly produces discontent.

Next to the ballot the negro values the privileges of common schools, for in them he sees the future elevation of his race. The prejudice, even in North Carolina, against white teachers of colored schools seems to have abated but little since the war. Mr. Badger, when cross-examined on this point, said:

Q. Is there any prejudice still remaining there against white teachers of colored schools?
A. I think there is.
Q. Will you explain it?
A. I cannot explain it, except by the prejudices between the races.
Q. You mean, white persons teaching a colored school lose social status?
A. Yes, sir.
Q. Now, a white lady who comes from the North and teaches a colored school, to what extent is she tabooed?
A. I don't think she would have any acquaintances in white society.
Q. Would she be any quicker invited into white society than a colored woman?
A. Just about the same.

This fact contains within itself a volume of testimony. It shows that the negro is still regarded as a sort of social and political pariah, whom no white person may teach without incurring social ostracism and being degraded to the level of the social outcast he or she would elevate in the scale of being. Do you wonder that the negro is dissatisfied with his condition and desires to emigrate to some country where his children may hope for better things?

The most serious complaints, however, which are made against the treatment of colored citizens of North Carolina is that justice is not fairly administered in the courts as between themselves and the whites. On this point the evidence of Mr. R. C. Badger reveals a condition of things to which no people can long submit. Here is an illustration of the manner in which justice is usually meted out as between the negroes and the whites:

Q. How about the discrimination in the courts as between the whites and blacks?
A. That is principally in matters of larceny. In such cases the presumption is reversed as to the negro. A white man can't be convicted without the fullest proof, and with the negroes, in matters between themselves, such as assault and battery, they get as fair a trial as the whites. At the January term of our court Judge Avery presided. A white man and a colored woman were indicted for an affray. The woman was in her husband's barn getting out corn; they were going to move, and the white man came down there and said, "You seem to have a good time laughing here this morning," and she said, "Yes, she had a right to laugh." He said, "You are getting that corn out, and you would have made more if you had stuck to your husband." She seemed to be a sort of termagant, and she said nobody said that about her unless you told them. He made some insulting remark, and she made something in return him, and he took a billet of wood and struck her on the shoulder, and he pulled a pistol and beat her with it, and she went for him to kill him. *They found the man not guilty and they found her guilty*, but Judge Avery set the verdict aside and ordered the case *nolle-prossed* against her.
Q. Do you think that is a fair sample of the justice they get?
A. Yes, sir.
Q. Do you think they will convict a colored woman in order to get a chance to turn loose a white man?
A. Yes, sir.

The Senate must bear in mind that Mr. Badger was not our witness. He was called by the majority, but he is a gentleman of high character, the son of an ex-member of this body, and thoroughly acquainted with the condition of things in his State. He puts the case just mentioned as a "fair sample" of North Carolina justice toward the negro. It is true the judge set aside the verdict, but this does not change the fact that before a North Carolina jury the negro has but little hope of justice.

Back of all these things lies the distrust of democracy which was inspired during the days when the "Ku Klux," the "White Brotherhood," the "Universal Empire," and the "Stonewall Guard" spread terror and desolation over the State in order to wrest it from republicanism to democracy. The memory of those dark days and bloody deeds, the prejudice which still forbids white ladies to teach colored schools and denies "even-handed justice" in the courts, and the usurpations which place the returning boards all in the hands of democrats, have inspired a feeling of discontent which has found expression in the efforts of a few to leave the State. These facts, taken in connection with the bonus of one dollar per head offered by the Baltimore and Ohio Railroad Company (a democratic corporation represented by a democratic agent) to leading colored men who would secure passengers for their road, has led to the emigration of some seven or eight hundred colored people from that State, and the only wonder is that thousands instead of hundreds have not gone.

LOUISIANA AND MISSISSIPPI.

The States of Louisiana and Mississippi have furnished the larger portion of the migration to Kansas, and as the conditions which caused the exodus are about the same in both of those States I may speak of them together. No single act of wrong has inspired this movement, but a long series of oppression, injustice, and violence, extending over a period of fifteen years. These people have been long-suffering and wonderfully patient, but the time came when they could endure it no longer, and they resolved to go. I can convey no adequate idea of what they endured before adopting this desperate resolve, but will mention a few facts drawn from well-authenticated history, from sworn public documents, and from the evidence taken by the Exodus Investigating Committee. Writing under date of January 10, 1875, General P. H. Sheridan, then in command at New Orleans, says:

Since the year 1866 nearly thirty-five hundred persons, a great majority of whom were colored men, have been killed and wounded in this State. In 1868 the official record shows that eighteen hundred and eighty-four were killed and wounded. From 1868 to the present time no official investigation has been made, and the civil authorities in all but a few cases have been unable to arrest, convict, or punish the

perpetrators. Consequently there are no correct records to be consulted for information. There is ample evidence, however, to show that more than twelve hundred persons have been killed and wounded during this time on account of their political sentiments. Frightful massacres have occurred in the parishes of Bossier, Caddo, Catahoula, Saint Bernard, Saint Landry, Grant, and Orleans.

He then proceeds to enumerate the political murders of colored men in the various parishes, and says:

Human life in this State is held so cheaply that when men are killed on account of political opinions the murderers are regarded rather as heroes than as criminals in the localities where they reside.

This brief summary is not by a politician, but by a distinguished soldier, who recounts the events which have occurred within his own military jurisdiction. Volumes of testimony have since been taken confirming in all respects General Sheridan's statement, and giving in detail the facts relating to such murders, and the times and circumstances of their occurrence. The results of the elections which immediately followed them disclose the motives and purposes of their perpetrators. These reports show that in the year 1868 a reign of terror prevailed over almost the entire State. In the parish of Saint Landry there was a massacre of colored people which began on the 28th of September, 1868, and lasted from three to six days, during which between three and four hundred colored men were killed. "Thirteen captives were taken from the jail and shot, and a pile of twenty-five dead bodies were found burned in the woods." The result of this democratic campaign in the parish was that the registered republican majority of 1,071 was wholly obliterated, and at the election which followed a few weeks later not a vote was cast for General Grant, while Seymour and Blair received 4,787.

In the parish of Bossier a similar massacre occurred between the 20th and 30th of September, 1868, which lasted from three to four days, during which two hundred colored people were killed. By the official registry of that year the republican voters in Bossier Parish numbered 1,938, but at the ensuing election only *one* republican vote was cast.

In the parish of Caddo during the month of October, 1868, over forty colored people were killed. The result of that massacre was that out of a republican registered vote of 2,894 only one was cast for General Grant. Similar scenes were enacted throughout the State, varying in extent and atrocity according to the magnitude of the republican majority to be overcome.

The total summing-up of murders, maimings, and whippings which took place for political reasons in the months of September, October, and November, 1868, as shown by official sources, is over one thousand. The net political results achieved thereby may be succinctly stated as follows: The official registration for that year in twenty-eight parishes contained 47,923 names of republican voters, but at the presidential election held a few weeks after the occurrence of these events but 5,360 republican votes were cast, making the net democratic gain from said transactions 42,563.

In nine of these parishes where the reign of terror was most prevalent, out of 11,604 registered republican votes only 19 were cast for General Grant. In seven of said parishes there were 7,253 registered republican votes, but not one was cast at the ensuing election for the republican ticket.

In the years succeeding 1868, when some restraint was imposed upon political lawlessness and a comparatively peaceful election was held, these same republican parishes cast from 33,000 to 37,000 republican votes, thus demonstrating the purpose and the effects of the reign of murder in 1868. In 1876 the spirit of violence and persecution which, in parts of the State, had been partially restrained for a time, broke forth again with renewed fury. It was deemed necessary to carry that State for Tilden and Hendricks, and the policy which had proved so successful in 1868 was again invoked and with like results. On the day of general election in 1876 there were in the State of Louisiana 92,996 registered white voters and 115,310 colored, making a republican majority of the latter of 22,314. The number of white republicans was far in excess of the number of colored democrats. It was therefore well known that if a fair election should be held the State would go republican by from twenty-five to forty thousand majority. The policy adopted this time was to select a few of the largest republican parishes and by terrorism and violence not only obliterate their republican majorities, but also intimidate the negroes in the other parishes. The sworn testimony found in our public documents and records shows that the same system of assassinations, whippings, burnings, and other acts of political persecution of colored citizens which had occurred in 1868 was again repeated in 1876 and with like results.

In fifteen parishes where 17,726 republicans were registered in 1876 only 5,758 votes were cast for Hayes and Wheeler, and in one of them (East Feliciana) where there were 2,127 republicans registered but 1 republican vote was cast. By such methods the republican majority of the State was supposed to have been effectually suppressed and a democratic victory assured. And because the legally constituted authorities of Louisiana, acting in conformity with law and justice, declined to count some of the parishes thus carried by violence and blood, the democratic party, both North and South, has ever since complained that it was fraudulently deprived of the fruits of the victory, thus achieved, and it now proposes to make this grievance the principal plank in the party platform.

I hold in my hand a message of President Grant bearing date December 6, 1876, in which he transmits the evidence of these horrible crimes against the colored race, committed in the name and in the interest of the democracy. They are not mere estimates nor conjectures, but the names of the persons murdered and maimed and whipped, and of the perpetrators of the crimes, the places where they occurred, and the revolting circumstances under which they were committed, are all set forth in detail. This shocking record embraces a period of eight years, from 1868 to 1876 inclusive, and covers ninety-eight pages of fine type, giving an average of about one victim each line. I have not counted the list, but it is safe to say that it numbers over four thousand.

These crimes did not end in 1876 with the accession of the democracy to control of the State administration. The witnesses examined by your committee gave numerous instances of like character which occured in 1878. Madison Parish may serve as an illustration. This parish, which furnished perhaps the largest number of refugees to Kansas, had been exceptionally free from bulldozing in former years. William Murrell, one of the witnesses called by the committee, states the reasons for the exodus from that parish as follows:

You have not read of any exodus yet as there will be from that section this summer, and the reason for it is that, for the first time since the war in Madison Parish, last December we had bulldozing there. Armed bodies of men came into the parish—not people who lived in the parish, but men from Ouachita Parish and Richland Parish; and I can name the leader who commanded them. He was a gentleman by the name of Captain Tibbals, of Ouachita Parish, who lives in Monroe, who was noted in the celebrated massacre there in other times. His very name among the colored people is sufficient to intimidate them almost. He came with a crowd of men on the 28th of December into Madison Parish, when all was quiet and peaceable. There was no quarrel, no excitement. We had always elected our tickets in the parish, and we had put democrats on the ticket in many cases to satisfy them. There were only 238 white voters and about 2,700 colored registered voters.

Mr. Murrell says that David Armstrong, who was president of the Third ward republican club, a man who stood high in the community, and against whom no charge was made except that of being a republican, made the remark:

"What right have these white men to come here from Morehouse Parish, and Richland Parish and Franklin Parish to interfere with our election?" And some white men heard of it and got a squad by themselves and said, "We'll go down and give that nigger a whipping." So Sunday night, about ten o'clock, they went to his house to take him out and whip him. They saw him run out the back way and fired on him. One in the crowd cried out, "Don't kill him!" "It is too late, now," they said, "he's dead." The Carroll Conservative, a democratic newspaper, published the whole thing; but the reason they did it was because we had one of their men on our ticket as judge, and they got sore about it, and we beat him. They killed Armstrong and took him three hundred yards to the river, in a sheet, threw him in the river, and left the sheet in the bushes.

Proceeding with the account of that transaction, Mr. Murrell swears that the colored people had heard that the bulldozers were coming from the surrounding parishes, and that he and others called on some of the leading democrats in order to prevent it, but all in vain. He says:

We waited on Mr. Holmes, the clerk of the court, and we said to him, "Mr. Holmes, it is not necessary to do any bulldozing here; you have the counting machinery all in your hands, and we would rather be counted out than bulldozed; can't we arrange this thing?" I made a proposition to him and said, "You know I am renominated on the republican ticket, but I will get out of the way for any moderate democrat you may name, to save the State and district ticket. We will not vote for your State ticket; you cannot make the colored people vote the State ticket; but if you will let us have our State ticket we will give you the local offices." We offered them the clerk of the court, not the sheriff and the two representatives. We told him we would not give them the senator, but the district judge and attorney. After this interview Holmes sent us to Dr. Askew, ex-chairman of the democratic committee, and he said to me, "Now, Murrell, there is no use talking. I advise you to stand from under. When these men get in here we can't control them. We like you well enough and would not like to see you hurt. I will see you to-night at Mr. Holmes's." We had an interview with Mr. Holmes and made this proposition and Holmes asked me this question: "Murrell, you know damned well the niggers in this parish won't vote the democratic ticket—there is no use to tell me you will give us the clerk of the court, you know the niggers won't do it. You can't trust the niggers in politics; all your eloquence and all the speeches you can make won't make these niggers vote this ticket or what you suggest, even if we was to accept it. No, by God, Murrell, there's no use talking, we are going to carry this parish; we have found a way to carry it. There ain't no use talking any more about it. *No, by God, we are going to carry it.* Why," he said, "*there is more eloquence in double-barreled shot-guns to convince niggers than there is in forty Ciceros.*" I said to him, "Well, do you suppose the merchants and planters will back you up," and he said, "Oh, by God, they have got nothing to do with it. We have charge of it. *We three men, the democratic committee, have full power to work.*"

The result of this "work" was, as stated by the witness, and not disputed by any one before the committee, that in this parish, containing 2,700 registered republican voters and only 238 democrats, the democrats returned a majority of 2,300. The witness, who was a candidate on the republican ticket, swears that not more than 360 votes were cast. Democratic shot-gun eloquence did its work as prophesied by Mr. Askew, ex-chairman of the democratic committee, but it also served as a wonderful stimulus to migration from Madison Parish.

I cite this case for two reasons: first, because it has been said that the negroes have not emigrated from bulldozed parishes; and, secondly, because it serves as an illustration of the many similar cases which were given to the committee. It is impossible, in the brief time at my command, to even refer to the vast number of like cases which were proven.

I desire also to invite attention to the evidence of Henry Adams, a colored witness from Shreveport, Louisiana. Adams is a man, as I have already said, of very remarkable energy and native ability. Scores of witnesses were summoned by the majority of the committee from Shreveport, but none of them ventured to question his integrity or truthfulness. Though a common laborer, he has devoted

much of his time in traveling through Louisiana, Mississippi, and Texas, working his way and taking notes of the crimes committed against his race. His notes, written in terse and simple language, embrace the names of six hundred and eighty-three colored men who have been whipped, maimed, or murdered within the last eight or ten years, and his statement of these crimes covers thirty-five pages of closely printed matter in the evidence. I am sure no one can read it without a conviction of its truthfulness, and a feeling of horror at the barbarous details he relates. Adams is the man who has organized a colonization council, composed of laboring colored people, and rigidly excluding politicians, which numbers ninety-eight thousand who have enrolled themselves with a view to emigration from that country as early as possible. He details the character and the purpose of the organization and the efforts it has made to obtain relief and protection for its members. "First," he says, "we appealed to the President of the United States to help us out of our distress, to protect us in our rights and privileges. Next, we appealed to Congress for a Territory to which we might go and live with our families. Failing in that," says he, "our other object was to ask for help to ship us all to Liberia, Africa, somewhere where we could live in peace and quiet. If that could not be done," he adds, "*our idea was to appeal to other governments outside of the United States to help us to get away from the United States and go and live there under their flag.*" What a commentary upon our own boasted equality and freedom! Finding no relief in any direction they finally resolved to emigrate to some of the Northern States. He says they had some hope of securing better treatment at home until 1877, when "we lost all hopes and determined to go anywhere on God's earth, we didn't care where; we said we was going if we had to run away and go to the woods." Perhaps I can best summarize the condition of affairs in Louisiana, and the causes of the exodus from that State, as the negroes themselves regarded them, by quoting a brief extract from the report of the business committee to the colored State convention held in New Orleans on the 21st of April, 1879:

NEW ORLEANS, *April* 21, 1879.

MR. PRESIDENT: Your committee on business have the honor to submit this their final report. Discussing the general and widespread alarm among the colored people of Louisiana, inducing so potent a fear that in many parishes, and in others perhaps largely to follow, there is an exodus of agricultural labor which indicates the prostration and destruction of the productive, and therefore essentially vital, interests of the State. *The committee find that the primary cause of this lies in the absence of a republican form of government to the people of Louisiana. Crime and lawlessness existing to an extent that laughs at all restraint and the misgovernment naturally induced from a State administration itself the product of violence have created an absorbing and constantly increasing distrust and alarm among our people throughout the State. All rights of freemen denied and all claims to a just recompense for labor rendered or honorable dealings between planter and laborer disallowed, justice a mockery, and the laws a cheat, the very officers of the courts being themselves the mobocrats and violators of law, the only remedy left the colored citizen in many parishes of our State to-day is to emigrate. The fiat to go forth is irresistible. The constantly recurring, nay, ever-present, fear which haunts the minds of these our people in the turbulent parishes of the State is that slavery in the horrible form of peonage is approaching; that the avowed disposition of the men in power to reduce the laborer and his interest to the minimum of advantages as freemen and to absolutely none as citizens has produced so absolute a fear that in many cases it has become a panic. It is flight from present sufferings and from wrongs to come.*

Here are the reasons for the exodus as stated by the colored people themselves. In view of the facts which I have stated and of the terrible history which I cannot repeat, does any one believe their statement of grievances is overdrawn? Is there any other race of freemen on the face of the earth who would have endured and patiently suffered as they have? Is there any other government among civilized nations which would have permitted such acts to be perpetrated against its citizens?

I will not dwell upon the conditions which have driven these people from Mississippi. It would be but a repetition of the intolerance, persecutions, and violence which have prevailed in Louisiana. The same democratic "shot-gun eloquence" which was so potent for the conversion of colored republicans in the one has proven equally powerful in the other. The same "eloquence" which wrested Louisiana from republicans also converted Mississippi. And in both the same results are visible in the determination of the colored people to get away.

Nearly all the witnesses who were asked as to the causes of the exodus answered that it was because of a feeling of insecurity for life and property; a denial of their political rights as citizens; long-continued persecutions for political reasons; a system of cheating by landlords and storekeepers which rendered it impossible for them to make a living no matter how hard they might work; the inadequacy of school advantages, and a fear that they would be eventually reduced to a system of peonage even worse than slavery itself.

On the latter point they quoted the laws of Mississippi, which authorize a justice's court to inflict heavy fines for the most trivial offenses, and authorize the sheriff to hire the convicts to planters and others for twenty-five cents a day, to work out the fine and costs, and which provide that for every day lost from sickness he shall work another to pay for his board while sick. Under these laws they allege that a colored man may be fined $500 for some trifling misdemeanor, and be compelled to work five or six years to pay the fine; and that it is not uncommon for colored men thus hired out to be worked in a chain-gang upon the plantations under overseers, with whip in hand, precisely as in the days of slavery. And some of the witnesses declared that if an attempt be made to escape they are pursued with hounds, as before the war.

Henry Ruby, a witness summoned by the democratic members of the committee, swore that in Texas under a law similar to that in Mississippi a colored man had been arrested for carrying a "six-shooter" and fined $65, including costs, and that he had been at work nearly three years to pay it. The laws of that State do not fix the rate for hiring, but "county convicts" may be hired at any price the county judge may determine. He mentioned the case of a colored woman who was hired out for a quarter of a cent per day. Describing this process of hiring, he says:

They call these people county convicts, and if you have got a farm you can go and hire them out of the jail. They have got that system, and the colored men object to it. I know some of these men who have State convicts that they hire and they work them under shot-guns. A farmer hires so many of the State, and they are under the supervision of a sergeant with a gun and nigger-hounds to run them with if they get away. They hire them and put them in the same gang with the striped suit on, and, if they want, the guard can bring them down with his shot-gun. Then they have these nigger-hounds, and if one of them gets off and they can't find him they take the hounds, and from a shoe, or anything of the kind belonging to the convict, they trail him down.

Q. Are these the same sort of blood-hounds they used to have to run the negroes with?

A. Yes, sir.

These things need no comment. To the negro they are painfully suggestive of slavery. Do you wonder that he has resolved to go where peonage and blood-hounds are unknown?

Several witnesses were called from Saint Louis and Kansas, who had conversed with thousands of the refugees, and who swore that they all told the same story of injustice, oppression, and wrong. Upon the arrival of the first boat-loads at Saint Louis in the early spring of 1879 the people of that city were deeply moved by the evident destitution and distress which they presented, and thousands of them were interviewed as to the causes which impelled them to leave their homes at that inclement season of the year. In the presence of these people, and with a full knowledge of their condition and of the causes of their flight, a memorial to Congress was prepared, and signed by a large number of the most prominent and respectable citizens of Saint Louis, embracing such names as Mayer Overholtz, (a democrat,) Hon. John F. Dillon, judge of the United States circuit court, ex-United States Senator J. B. Henderson, and nearly a hundred other leading citizens, in which the condition and grievances of the refugees are stated as follows:

The undersigned, your memorialists, respectfully represent that within the last two weeks there have come by steamboats up the Mississippi River from chiefly the States of Louisiana and Mississippi, and landed at Saint Louis, Missouri, a great number of colored citizens of the United States, not less than twenty hundred, and composed of men and women, old and young, and with them many of their children.

This multitude is eager to proceed to Kansas, and without exception, so far as we have learned, refuse all overtures or inducements to return South, even if their passage back is paid for them.

The condition of the great majority is absolute poverty; they are clothed in thin and ragged garments for the most part, and while here have been supported to some extent by public, but mostly by private charity.

The older ones are the former slaves of the South; all now entitled to life and liberty.

The weather from the first advent of these people in this northern city has been unusually cold, attended with ice and snow, so that their sufferings have been greatly increased, and if there was in their hearts a single kind remembrance of their sunny southern homes they would naturally give it expression now.

We have taken occasion to examine into the causes they themselves assign for their extraordinary and unexpected transit, and beg leave to submit herewith the written statements of a number of individuals of the refugees, which were taken without any effort to have one thing said more than another, and to express the sense of the witness in his own language as nearly as possible.

The story is about the same in each instance: great privation and want from excessive rent exacted for land, connected with murder of colored neighbors and threats of personal violence to themselves. The tone of each statement is that of suffering and terror. Election days and Christmas, by the concurrent testimony, seem to have been appropriated to killing the smart men, while robbery and personal violence in one form and another seem to have run the year round.

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We submit that the great migration of negroes from the South is itself a fact that overbears all contradiction, and proves conclusively that great causes must exist at the South to account for it.

Here they are in multitudes, not men alone, but women and children, old, middle-aged, and young, with common consent leaving their old homes in a natural climate and facing storms and unknown dangers to go to Northern Kansas. Why? Among them all there is little said of hope in the future; it is all of fear in the past. They are not drawn by the attractions of Kansas; they are driven by the terrors of Mississippi and Louisiana. Whatever becomes of them, they are unanimous in their unalterable determination not to return.

There are others coming. Those who have come and gone on to Kansas must suffer even unto death, we fear; at all events more than any body of people entitled to liberty and law, the possession of property, the right to vote and the pursuit of happiness, should be compelled to suffer under a free government from terror inspired by robbery, threats, assaults, and murders.

We protest against the dire necessities that have impelled this exodus, and against the violation of common right, natural and constitutional, proven to be of most frequent occurrence in places named; and we ask such action at the hands of our Representatives and our Government as shall investigate the full extent of the causes leading to this unnatural state of affairs and protect the people from its continuance, and not only protect liberty and life, but enforce law and order.

It is intolerable to believe that with the increased representation of the Southern States in Congress those shall not be allowed freely to cast their ballots upon whose right to vote that representation has been enlarged. We believe no government can prosper that will allow such a state of injustice to the body of its people to exist any more than society can endure where robbery and murder go unchallenged.

The occasion is, we think, a fit one for us to protest against a state of affairs thus exhibited in those parts of the Union from which these negroes come, which is not only most barbarous toward the negro, but is destructive to the constitutional rights of all citizens of our common country.

Accompanying this memorial are numerous affidavits of the refugees fully confirming all its statements. Time will not permit me to

read them, but if any one doubts that there are ample causes for the exodus I hope he will read their pitiful story of injustice and abuse.

As to the future of the exodus, I can only say that every witness whose opinion was asked upon this point declared that it has only begun, and that what we have seen in the past is nothing compared to what is to come unless there shall be a radical change on the part of democrats in the South. They say that the negro has no confidence in the democratic party, and that if a democratic President shall be elected there will be a general stampede of the colored race.

There is but one remedy for the exodus—fair treatment of the negro. I fear, however, that we may as well expect the "Ethiopian to change his skin" as the democratic bulldozer to change his habits. If the better class of white men at the South would retain the laborer, they must recognize his manhood and his citizenship and restrain the vicious and lawless elements in their midst. If northern democrats would check the threatened inundation of black labor into their States, they must recognize the facts which have produced the exodus, and unite with us in removing its causes.

The Senator from Indiana may convince some of his credulous constituents that no cause exists for discontent at the South, but he will not so convince the negro who is preparing to fly from his persecutors.

Mr. President, I have already spoken much too long, and yet I have hardly touched the great body of injustice and crime which is driving those people by tens of thousands from their southern homes. Let me present in conclusion a brief summary of the results of the investigation:

First. It is not proven that this movement was instigated, aided, or encouraged by republican leaders at the North. The only aid they have ever given was purely as a matter of charity, to relieve the distress of the destitute and suffering emigrants who had already come to the North.

Second. It is not proven that one dollar has ever been contributed, by anybody at the North, to bring these people from their homes. On the contrary, the only contributions shown to have been made for such purpose were made by the Baltimore and Ohio Railroad Company, a democratic corporation, which employed agents to work up the emigration from North Carolina, paying $1 per head therefor.

Third. It is not proven that the emigrants are dissatisfied in their new homes and wish to return to the South. On the contrary, a standing offer to pay their expenses back to the South has not induced more than about three hundred out of thirty thousand to return.

Fourth. It is not proven that there is no demand for their labor at the North, for nearly all those who have come have found employment, and even in Indiana hundreds of applications for them were presented to the committee.

Fifth. It is not proven that there is any sufficient reason for the grave apprehensions of Indiana democrats, for it was shown by Mr. Dukehart, who sold all the tickets to those who came from North Carolina, that not more than *two hundred voters had gone to Indiana.* This fact is mentioned with the hope that it may tend to soothe the nerves of our democratic brethren in that State.

Sixth. It is proven that the exodus movement originated entirely with the colored people themselves, that for many years they have been organizing for the purpose of finding relief in that way, and that the colored agents of such organizations have traveled all over the South consulting with their race on this subject.

Seventh. It is proven that a long series of political persecutions, whippings, maimings, and murders committed by democrats and in the interest of the democratic party, extending over a period of fifteen years, has finally driven the negro to despair, and compelled him to seek peace and safety by flight.

Eighth. It is proven that in some States a system of convict hiring is authorized by law, which reinstates the chain-gang, the overseer, and the bloodhound substantially as in the days of slavery.

Ninth It is proven that a system of labor and renting has been adopted, in some parts of the South, which reduces the negro to a condition but little better than that of peonage, and which renders it impossible for him to make a comfortable living, no matter how hard he may work.

Tenth. It is proven that the only remedy for the exodus is in the hands of southern democrats themselves, and that if they do not change their treatment of the negro, and recognize his rights as a man and a citizen, the movement will go on, greatly to the injury of the labor interests of the South if not of the whole country.

Mr. LAMAR. Mr. President, I ask the attention of the Senate for a very few moments to reply to some of the remarks made by the Senator from Minnesota, [Mr. WINDOM.] I do this with reluctance, because I am departing from a purpose I had formed not to address the Senate upon any subject at this session if I could possibly avoid doing so. Nor would I depart from that purpose upon this occasion but for two considerations:

In the first place, the Senator from Indiana, whom I am proud to call my friend, has requested me to give my views upon the subject under discussion, doing me the honor to think that they will aid in dispelling the errors and prejudices with which persistent misrepresentation has surrounded it. In the second place, if the extraordinary speech just delivered had been intended to produce any impression or influence upon this body, or to affect its legislation in any manner, I should have allowed it to pass in silence; but, sir, the words which the Senator has uttered this day do not die upon his lips. They do not perish in the echoes of this Chamber. They are indeed winged words; and where do they go? Far hence amid the great cities of the West; all over the broad farms and in the prosperous villages of that center of the future power and life of the country. And for what purpose? If, sir, one tithe of what he has said will be believed, men and women bound to us of the South by the sacred ties of race, of blood, of country, and of a common Christianity will be led to believe that over that vast section of country there is a population and a land in which justice has no courts, religion no temple, humanity no home.

But they go farther. Charged with a poison more subtle and fatal than our own native malaria, they are borne on the wings of the lightning to every broken hearthstone in the South. The planter who in poverty and amid difficulties is striving to upbuild the waste places, where labor is the only salvation of the negro as well as of the white man, turns away in despondency, feeling that this burden of hate is too heavy to bear. The untutored and impulsive negro hears them and waxes reckless in the belief that in the law, property, and order of society there, he finds the agencies of his own oppression and degradation. The shrewd political adventurer, who once subjected that people to all the suffering and oppression which corruption could invent and tyranny inflict, catches their sound with joy, for they are to him a new hope for a new lease of plunder and spoliation.

I do not object, and never have objected, to the utmost scrutiny (provided it be fair and truthful) into the affairs of the southern people, especially in their relations to the black race; and while I should not have asked such an investigation as this, I do not regret that the Senator from Indiana [Mr. VOORHEES] has called it forth, and I feel indebted to him, as the whole country will, for the facts which that investigation has developed, and his fair and masterly exposition of them.

I can add nothing to his argument, and will not detract from its force and conclusiveness by any attempt to follow on the same line. In order that I may not be misunderstood, I wish to assert once for all that this movement of emigration, which has been so falsely and so ridiculously styled the "exodus" of the negroes from the South, never had any terrors for me, nor have I looked upon it with either alarm or deprecation. If it be a normal movement of emigration growing out of a healthful demand for that kind of labor at the North, and a healthful sufficiency of its supply in the South to meet the demand, it should be regarded as a natural and vigorous play of the industrial forces of this country, fraught with no permanent evil either to the country which they leave, the emigrants themselves, or the land to which they go. If it be as the Senator from Indiana has demonstrated it to be in this instance, a movement inaugurated and carried on by combinations and associations for political purposes and for party ascendency, in a great measure, while I would regret the injury suffered by the victims of the delusion, I should nevertheless think that there are benefits of an equivalent and compensating character attached to this movement.

Sir, the exposure of these negroes to hunger and the rigors of a northern climate, to the conflicts with the hostile forces of nature to which they are subjected for a bare subsistence, though painful and lamentable to contemplate, will develop a force of character, an energy of will, and a spirit of perseverance under difficulties and misfortunes—qualities which their easy life in the genial climate, bounteous soil, under indulgent employers of the South, has suffered to lie dormant.

If it is good for those people to go, the voice of every patriot and of every statesman and of every man whose heart is not callous to the claims of humanity will be, joy go with them. Even if they are deluded, the movement will still be an indication of aspiration, of energy, of a desire to improve their condition, which is always a hopeful and favorable sign of progress in any people. And it is certain, if it is a delusion on their part, the movement will be of short duration; for the means of exposing that delusion are abundant and easily applied.

I was reading the other day a work upon the subject of new departures in political economy, in which the author traced the causes of great revolutions that had been wrought in the methods of producing and accumulating and distributing the wealth of the world. The chief of these he said were the electric telegraph and the application of steam to locomotive machinery; that they had brought the ports of demand and the ports of supply all over the world into such immediate and direct contact, as to dispense with the old instrumentalities of commerce, and brought producers and consumers into speaking distance.

Sir, the same agencies are at work more powerfully and producing more striking results in the distribution of labor. They are producing revolutions greater than any that have hitherto been produced in the exchange of the world's commodities. The quickness with which communication can be sent to different parts of the world is bringing laborers everywhere into direct contact with employers, so that whenever the price of wages is depressed in one locality immediately a demand for labor is found in another and without the intervention or the aid of any associations, political, benevolent, railroad, or otherwise.

That agency is at work upon this very point at this very time. Even now, while the Senator was reading his diatribe before this body, the planters of Mississippi, as I know well, are in direct communication with the emigrant laborers who are in Kansas and in Indiana, and they look upon those bodies of laborers as more accessible sources of supply, from which laborers can be obtained on better terms and with more facility than either Alabama or Georgia. While these gentlemen are negotiating and plotting, the laborer and the planter face to face are talking with each other over their heads, and they have only to listen to the tickings of the telegraph to hear the death-watch of their own departing schemes and opportunities.

The Senator from Minnesota, confessing in advance the weakness of his case, endeavors to shield his failure behind the paltry complaint that his side had not a full and fair opportunity to be heard. Such a charge in the face of the facts is only puerile and petulant. Admitting that the number of witnesses called by the minority of the committee was less than that called by the majority, an examination of the record will show that in actual amount of testimony attentively and patiently heard, far more than one-half was from witnesses who avowed their republican sentiments and affiliations. The printed testimony amounts to 1,568 pages; of that the democrats occupy only 368 pages, the republicans 1,152 pages, the greenbackers 36, and the railroad men 12.

Eleven of the witnesses which the minority called, poured forth into this record over five hundred pages of their twaddle, and whatever of deficiency existed was amply made up by another species of statements which will strike the future examiner of this record with surprise, but will not be, I presume, embodied among the valuable results of his researches. They consist of certain very dogmatic assertions, made by some of the gentlemen of the committee who seemed to have supposed they were appointed to state facts and not to inquire into them. Under the form of an interrogatory there were assertions of a very positive character, to which the assent of the witness was invited or his denial challenged. The "facts" thus suggested are indeed the most startling and striking in the book, and nothing which any witness testified to equaled the statement that forms the pregnant suggestions of the questions which the honorable Senators put to the witnesses.

But so far as the real testimony is considered, no one can read it with close attention without coming to the conclusion that there was nothing in the condition of the States from which this emigration proceeded, to produce such a result as driving its labor from the employments in which it was so actively and profitably engaged, and nothing in the condition of the States to which this current of emigration moved that invited such an influx of labor there; upon the contrary, that there was much in the pressure of labor upon employment in these States last mentioned, and the consequent depression of wages and want of employment, to discourage and repel such influx, and even to roll it back to the locality from which it started. It also, sir, discloses, beyond any question or cavil, that the emigration itself was in large measure one of those instances becoming very frequent in modern times, of powerful combinations entered into for the aggrandizement and enrichment of their projectors, which by the magnitude of their operations can contravene for a time the natural laws and economic principles which govern the production and distribution of a country's wealth—combinations that never fail to result in mischief and disaster, as this one did, to all except those for whose benefit they were formed. The proof, sir, which the Senator from Indiana has brought together upon this subject, is absolutely impregnable and stands unshaken by the angry rhetoric of the Senator from Minnesota, which, in dashing against it, has only foamed out its own imbecility.

There is no doubt about the fact that the testimony which has been adduced is contradictory. Gentlemen can bring witnesses here who will swear whatever is wanted for the benefit of their party. It is not the first instance in which the records of investigating committees are made the channel through which falsehood and slander and calumny throughout that section empty all their kennels of pollution upon the floor of the Senate.

But, sir, no man can read this testimony without coming to the conclusion beyond a doubt that this exodus, so called, or migration of twenty-five thousand people (to put it at the biggest figure that they state)—an exodus from a country of four million blacks, no one I say can come to the conclusion that it was caused by any demand for this labor either in Kansas or Indiana or by any oppression and suffering of laborers in the States from which they are coming.

I shall not here go over the testimony on one side or the other of these two theories. I did not rise for that purpose. I rise to-day, Mr. President, to call the attention of Senators, and, if necessary, of the whole people, to the testimony of men who are not brought before investigating committees, men who are neither republicans nor democrats, men who give their testimony not with a view to a presidential election or to party results in this country.

I will take first the views of an intelligent Englishman, a member of the British Parliament, who has had great experience in the administration of affairs in his own country; and who, having traveled through the United States, published for the edification of his own countrymen the result of his observations upon the relations of the black and white races here as compared with the relations of the same classes in the British colonies. In his work entitled White and Black; a Visit to the United States, Sir George Campbell says:

I was, as I have there stated, led to look particularly into the relations between the black and white races in the Southern States, for the sake of the lessons that might be learned as bearing on our management of British possessions where white and black races are intermingled.

I do not here speak—

Said Sir George—

of our great dependency, India, where our system has been to rule both races by a government avowedly absolute and despotic. In regard to that system, I am one of those to be judged rather than to judge others.

* * * * * * *

In the course of my tour I have had opportunities of conversing with many men of many classes, (and quite as much on one side of politics as the other,) who have had the greatest experience of the blacks in various aspects—educational, industrial, political, and other.

He did not confine his attention to the statements of political adventurers and jail-birds, and thus violated some of the precedents so faithfully followed in many investigations heretofore.

I am indebted to them for information given to me with a freedom, frankness, and liberality for which I cannot be sufficiently grateful.

He goes on to say:

I have visited not only the towns but the rural districts of four of the principal States formerly slave-holding, namely, Virginia, North Carolina—

The very State that is now the subject of this investigation—

South Carolina, and Georgia; and it so happened that I was in South Carolina on the day of the late general election. I have seen and conversed with the negroes in their homes and in their fields, in factories, in churches, and in political meetings.

Now, let us see what he says about it.

Mr. TELLER. When did he travel through the South?

Mr. LAMAR. In 1879. He was prevented from going through Mississippi and Louisiana by the yellow fever. After some introductory remarks he makes this statement:

After the war the Southerners accepted the situation as few but Americans can accept a defeat, and, instead of throwing up their hands and crying to Heaven, sought to make the best of the lands that remained to them. It seemed not impossible that, the property in slaves being written off as lost, the land might be as cheaply and effectively cultivated by hired labor, if the negroes could be got to work; at any rate, it was a necessity to get it cultivated somehow. The negroes, on the other hand, found that they must work or starve; and the feeling between them and their former masters being, as I have said, not unfriendly, the matter was arranged in one way or another.

Here is what he says upon the subject of the labor relation of the two races to each other:

On small farms, where black men work in small numbers, in company with and under the immediate control of their employers, they do exceedingly well; also when they work on their own account they do very well. It is only where they are employed in large numbers, under insufficient supervision, as on very large farms, that they are apt to take it easy and idle away their time, as is the case with most such races.

Not only—

Says Sir George Campbell—

is the negro labor excellent, but also there is among the southern proprietors and leading men accustomed to black labor—

I call the attention of the Senate to this paragraph. Let it go forth and refute a thousand slanders:

Not only is the negro labor excellent, but also there is among the southern proprietors and leading men accustomed to black labor, and not so used to whites, a disposition greatly to rely on black labor as a conservative element, * * * and on this ground the blacks are cherished—

The blacks are cherished—

and protected by democratic statesmen, who now hold power in the South.

He then proceeds to discuss the question of wages, and no one can read this book without seeing the precise accordance with the conclusions which the facts developed in this investigation will bring any fair and impartial mind to, whether you consider the rate of wages, or the opportunities of employment, or the cost of living, or the security of person and property in that section. Here is what he says:

Nothing so much brings home to me the poverty and lowness of living of our Indian population as to hear these wages talked of as low; being, as they are, six or eight times the wages of a coolie in India, while food is scarcely, if at all, dearer. In truth, the negroes are very well off.

Let me read you more:

More important than the rate of wages is the question whether the black laborers show any disposition to providence and saving.

I read this because it bears upon the single question that has been so much mooted, *i. e.*, the accumulations by the negroes of the South. Says he:

There is a good deal of discrepancy in the evidence on this subject. * * * It seems pretty clear that providence is as yet the exception, and that the rule is a light-hearted way of spending their money as they get it.

Here is another important observation which he makes upon the subject of the relations of laborer and landlord:

Not only are large farms generally unsuccessful in America, but in the South there is very great deficiency of capital to work such farms; and so it has come about that most of the land is cultivated on a sort of co-operative or Metayer tenant system.

* * * * * * *

First there is a mere co-operative arrangement under which the owner supplies

land, seed, mule, implements, and all, and exercises a general supervision over the culture, giving the laborer a share of the crops rather than taking a share from him. The laborer's share is, moreover, subject to deduction for food supplied to him during the cultivating season. Then we have regular Metayer tenants, who themselves find the mule and implements, the crop being divided with the landlord; and again many tenants who pay a fixed rent in cotton—so many bales—and a few (comparatively rare) who pay money rents. Sometimes white men rent land and cultivate with negro laborers, but most frequently the owner deals direct with the negro.

I have said that the cotton cultivation is suited to the blacks; it is easily carried on upon a small scale—as slaves they have learned to raise it. A single mule and a light plow suffice for the operations of a small farm. The cotton gives employment almost all the year round, especially at the season unfavorable to white labor.

* * * * * * *

Although after the war the proprietors and the ex-slaves came to terms to carry on the cultivation, it must not be supposed that the former slaves have generally remained with their old masters. In some cases no doubt this is so, but it is the exception. Not only have war and revolution caused considerable migrations, but there seems to have been a general feeling that freedom was not practically realized till the slaves had left their masters, if it were only for a time. Both parties seem to have felt that it should be so; and it often happened that while remaining on quite friendly terms with their old masters, and even coming to them for advice and assistance, A's former slaves would prefer to cultivate under B, and B's slaves under A. Altogether, somewhat migratory habits were set up, which the existing system of agriculture has not tended to diminish.

So, sir, it seems that migrations were not only frequent in the South, but encouraged by both classes, employers and employés. He also directed his inquiries to the subject of the acquisition of land. He says, speaking of the negroes:

They have become accustomed to independent labor and to raising valuable staples for the market. So far from neglecting these latter in order to raise a low and lazy diet, the common accusation against them now is that they cultivate the staples, which bring money, too much, to the exclusion of food supply. I have heard much said of the folly of negro farmers in buying western corn and bacon instead of raising these things. This is partly the consequence of the system of cotton rents, which makes a large cotton cultivation obligatory; but also, I dare say, these people know by experience what pays them best. At any rate, it is clear that they are not now inclined to lapse into a low style of living; their fault and difficulty is just in the opposite direction. Unfortunately they live too freely and generously, and do not save money to buy land, and make themselves independent, *as they might.*

Yes, sir, well may he say that they might, if they would, buy land and make themselves independent farmers.

Throughout the Southern States there are already a good many negroes (though very few compared to the whole number) who cultivate land of their own, and there are very many more who own houses and small patches, especially in the vicinity of towns, &c.

He has already stated, as quoted above, why there are few in proportion to the whole number who have become land owners, showing the cause to be, not any difficulty in the acquisition, but in the habits of the negroes themselves.

I next call attention to the statement of this enlightened observer which every Southern Senator and resident knows to be true:

Many proprietors in South Carolina and elsewhere, far from thinking, as some of our colonists seem to think, that the best way to make sure of hired labor is to debar the laboring population from any independent place on the land, have followed a much wiser course, and encourage by all means in their power the settlement of the negroes on small holdings owned by themselves. They have rightly deemed that this is the best way to fix a permanent population from which they can draw labor when needed.

He then goes on and states how these parcels of land are allotted. Here is what he says again:

On the whole I am very agreeably surprised to find the position of the emancipated blacks so good, and the industrial relations between them and the whites so little strained and difficult.

It seemed to me that the present situation gives very good ground of hope, and I am sanguine of a favorable issue. The position of the cultivators is such that they may well, with a little kindly aid, become independent farmers; and any man inclined to work honestly and well can earn sufficiently good wages.

* * * * * * *

Supposing things to settle down peaceably, as I hope they may, I go so far as to say that, though nothing is perfect in this world, the American blacks are in a fair way of becoming a comfortable, well-to-do population to a degree found in very few countries.

Now, sir, how could this intelligent and observant traveler labor under such a delusion if the one-thousandth part of the falsehoods which have been poured into this Senate, in the shape of testimony before investigating committees, were not falsehoods but truths?

I go so far as to say that, though nothing is perfect in this world, the American blacks are in fair way of becoming a comfortable, well-to-do population to a degree found in very few countries; a condition which may compare very favorably not only with the Indian ryot, the Russian serf, or the Irish tenant-farmer, but also with the Dorsetshire laborer. I doubt whether, on the whole, a better laboring population, more suited to the climate and country in which they find themselves, is anywhere to be found. The whites certainly cannot do without them; already the great drawback to the Southern States is the want of that great influx of foreign population which causes the North and West to progress in a geometrical ratio.

* * * * * * *

My advice would certainly be to the blacks in America: "Stay at home and make the best of an excellent situation;" to the whites: "Do all you can to keep these people, conciliate them, and make the most of them." I am confident that this may and will be done if only political difficulties and unsettlements do not mar the prospects.

I may recur to this author upon another branch of this subject if I have the strength to continue my remarks. I wish now to call another witness to the stand. I know that Sir George Campbell, if he were before this committee, would undergo a very severe cross-examination and be plied with all sorts of skeptical and somewhat derisive questions, as were the intelligent and honest gentlemen who were brought here to testify upon the state of things in that region. I propose next to call to the stand, not before this investigating committee but before this whole country, a witness who occupies among the religious communities of this country at least a position as commanding as that which any other living man ever occupied in America, and I do not see what the minority of this committee will be able to do about this testimony, unless they summon Bishop Simpson before them, and subject him to the tortures of a cross-examination. Bishop Simpson, after having been on a visitation to the churches in the South connected with the Northern Methodist Church, said:

The general impressions which I received upon this trip were of a pleasant and favorable character.

If that land was a scene of tumult and disorder and murder, if injustice and oppression stalked through its length and breadth, would not this grand and good man have seen it, and would he not have cried aloud and spared not? He did not have his eyes upon the votes that were to be cast in the presidential election. He had other and higher and grander objects. He is a man the motives of whose actions are God, truth, conscience, and posterity! Now let us see what he says:

1. I am satisfied that the South is gradually but surely improving financially; business is reviving, and every indication points to a period of financial ease and comfort. This revival of business has tended to soften and smooth some of the asperities which have heretofore existed. The people are more contented and more happy; the commercial intercourse between the North and the South constantly increasing; people know each other better and find less cause for unkindness and complaint.

2. While political difficulties have existed, and do still exist, it is evident to me that a day of greater safety and of more free expression of opinion is rapidly approaching.

I shall not be able to read the whole of this letter; I find that my strength is going very rapidly; but I will publish the whole of it, with the unanimous consent of the Senate, in my remarks.

I invoke the attention of the Senator from Minnesota, and the Senator from New Hampshire, to these noble utterances:

I conversed freely with our intelligent colored ministers, and I did not hear from any one of them—

Not one—

I did not hear *from any one of them* any expression of apprehension of danger in his work. The only fears which I think need to be entertained are by those whose influence is supposed to be exerted in political directions.

What does he say about that?

Our white ministers are greatly disliked by some because they are supposed to exercise a strong influence over a portion of the colored population. Those who are unscrupulous toward the colored people—as some there are in every community—

Well might the bishop have said "as some there are in every community," for where is the Senator that can rise and say that his community is free from such unscrupulous persons?—

either maltreating them personally, or defrauding them of the wages for their labor—regard our ministers with aversion, as being the friends and protectors of the colored race.

Now here is his summary:

While I deplore all wrong-doing, and while I sympathize deeply with those who have suffered, yet I cannot but think it is almost a miracle that even so much of quiet, good order, and kindly feeling prevails so soon after the total revolution which occurred in southern society.

Sir, put these just and charitable sentiments side by side with the ungenerous, unjust, and partisan outpourings that we have just listened to. What else does the bishop say?

Anti-slavery as I always was from early youth—

And I call attention to this—

Anti-slavery as I always was from early youth, had my friend asked me twenty years ago to express *my utmost wish for the colored people, I should not have dared to ask for so much advancement as has been made.*

Why, sir, think of it one moment. Here are people just liberated from slavery and invested with freedom and citizenship and suffrage and the right to participate in government. The world looks on with concern and misgiving at the experiment. Here an anti-slavery man from his youth, one who has indulged the brightest visions as to the future of this race, comes forward and puts upon record that the most sanguine wishes of his heart are transcended by the actual result in the Southern States, and yet we are heralded to the world as a land of inhumanity and murder by gentlemen who have political capital to make.

Now, sir, let Senators no longer declare that we, on this side of the Chamber, are defending wrong and perjury, and apologizing for lawlessness and murder, unless they are prepared also to hurl their denunciation upon the head of this venerable man.

That a race, comprising four millions, should be changed at once from slaves to citizens—

Mark it, sir, this learned and venerable minister of the Gospel recognizing that which these gentlemen refuse to recognize as having existence in the South, the citizenship of the negro—

should have not only the right to vote, but also to sit as representatives in the State Legislature and in Congress, and yet dwell in the midst of their former masters, I

should have thought would occasion convulsions of the most terrible kind. To me it is matter of surprise that, at this comparatively early day after such a revolution, so little friction exists. It would have been impossible but for the general Christian sentiment of the people.

What! "Christian sentiment" among a people who are whipping negroes and shooting them, and actually dragging the rivers and the ponds for their dead bodies! "Nothing," says this grave and reverend preacher of the gospel, "could have produced such a miracle except the general Christian sentiment of the people and the calming and controlling power of the gospel of Jesus Christ." He continues:

To-day there is more enmity between the landholders and ruling portions of Ireland and its peasantry, though so many years have passed away since the union with the British Crown, than there is between the former slaveholders and the emancipated slaves. While I write this, however, I see there is great room for improvement, and years will probably pass before there is that protection of individual rights and that scrupulous regard for the interests of the colored people which ought to prevail.

I am not unwilling that every word should go upon the record, nor is it necessary for me to controvert this last statement. We all have to learn and unlearn from each other on this subject, and we can do so when the subject is approached in a spirit of fair, calm, equitable, personal confidence, and not in a spirit of hatred and malignity.

Though our people are proud and sensitive—smarting under a sense of injustice on this subject—they will neither resent nor disrespect what such a man may say in a spirit of Christian admonition and reproof. Now, sir, suppose the bishop had been before that committee, how would these unprejudiced utterances have looked by the side of that foul slush which has been poured upon them? I am not speaking of the remarks of the Senator, but of the testimony which he has reproduced here in this Chamber.

I propose to bring another witness to the stand. I pledge myself that every witness that I bring here before the Senate will compare not unfavorably with Avery, Ruby, Henry Adams, Langsdale, Horne, Kennedy, and the other gentlemen whom you have brought before this body, and for the first time, and it is to be hoped for the last time, before this country. I believe, however, that Eliza Pinkston was not invoked on this occasion. But she was not needed; there were other witnesses whose testimony would have put even Eliza to the blush.

Now, let us have the next. Here is a sketch which I take from the New York Tribune of May 17, 1880:

A preacher on his travels—The Rev. Dr. W. F. Hatfield at the Washington Square Methodist Episcopal church.

At the Washington Square Methodist Episcopal church yesterday evening the Rev. Dr. W. F. Hatfield told about his recent visit to the South, giving his "impressions of the country and the people." His text was Numbers xiii, 17 and 18; and some of the passages in the sermon were as follows.

I believe Dr. Hatfield is a republican. I have heard that his sympathies were intensely Northern, and that for a long time after the war and before he visited the South his prejudices against that people were strong and deep. I believe that Bishop Simpson also is a decided republican. Now, here is what Dr. Hatfield says:

The agricultural and mineral resources of the South are immense. Fine farms can be bought there at prices so low that almost any man can own one, and help can be obtained at much lower wages than in the North. Young men and those having large families, who with difficulty earn a living here, should by all means go South and buy farms.

If that be so, if land can be got there upon which a living can be made so cheaply, why is it that these people are so oppressed?

It is a mistake to suppose that northern people are not wanted there. Some are not wanted—those who boast a great deal; who think the southerners do not know anything; that all the learning and wealth are in the North; who go down there to tell them that the Union soldiers whipped them in battle, and that a black man is as good as a white man. Such are not wanted; but earnest, industrious, enterprising men will be kindly received.

In regard to the political situation in the South, so far as my observation went, there is a great deal more agitation in regard to the coming election in the North than in the South. The fact is, the better class of people in the Southern States have suffered so severely in the loss of their property and friends in the late war, which they believe to have been brought about largely through the machinations of politicians North and South, that the very name of politician is offensive to them, and the person bearing that name no longer occupies the position that he did before and during the days of the confederacy. The fact is, that if fifty of the politicians in the South and a hundred of those of the North could be transported to Siberia or Botany Bay, it would be one of the greatest blessings that could be conferred upon our country, for so long as these agitators, these restless and dissatisfied spirits, are in the nation they will keep the country in commotion.

Mr. TELLER. I should like to inquire whose communication that is?

Mr. LAMAR. Rev. Dr. Hatfield, of the Washington Square Methodist Episcopal church, New York, as reported in the New York Tribune of the 17th of May, 1880:

As to the condition of the colored people, I found them industrious, happy, and contented. They have all the work they want and are paid liberally. I never met one among them who complained that his lot was hard, that he had to work too long, and that wages were too small. I never heard of a strike or revolt or dissatisfaction between capital and labor, and that is more than I can say of the North. I did not meet with any who talked of going to Kansas or the West—they were all satisfied with their homes in the Atlantic States, and there they preferred to live and die.

Now, sir, here is a report of the same sermon as made in the World of the same day. It has one point in it that I do not notice in the report in the Tribune, and I will read it:

It has been said that there is as much bitterness toward the North as at the close of the war, and that the people of the South do not care to mingle with northern men and women. This charge he contradicted and said that although he went there a stranger he never was more kindly received.

Mr. President, murderers, cheating, fraudulent, deceptive oppressors of a meek and lowly race, do not receive such men kindly.

In conclusion, he paid a glowing tribute to the Christian courtesy, public morality, and patriotism of the people of the South.

I know, sir, that I am accumulating testimony upon this point. I could bring just as much as these gentlemen have cited this day, and I think the quality of my witnesses is fully as good. In all that constitutes moral, intellectual, and social worth they certainly will not suffer by comparison with them. I will read next from Dr. Talmage, who is well known as a distinguished minister of the gospel in Brooklyn. He says:

I had all the doors of information opened to me. I talked with high and low, governors and water-carriers, clergymen and laymen, lawyers, doctors, editors, and philanthropists, with the black and the white, old residents of the South and new settlers from the North, and I found that there have been the most persistent and outrageous misrepresentations in regard to the South by many of the correspondents of secular and religious journals, and by men who, overbearing and dishonest in their behavior at the South, have had information given to them that their company was not desirable. If a man go South and behave well he will be treated well. There is no more need of rigorous governmental espionage in Atlanta, Augusta, or Macon than there is in Boston or New York. The present disposition of the South has been so wrongly set forth that I propose now, so far as I am able, to correct the stereotyped slanders concerning it.

First, it has often been represented to us that the South was longing for the old system of negro slavery. So far from that being true, they are all glad to have got rid of it. The planters told me that they can culture their fields with less expense under the new system than the old. A gentleman who had one hundred and twenty-five slaves before the war told me that the clothing and feeding of them, the taking care of the aged who could not work, and the provision for helpless colored children, was an expense and anxiety and exhaustion. Now the planters have nothing to do but pay the wages when they are due, the families look after their own invalids and minors. So they all say, without one exception that I could find. If at the ballot-boxes of the Southern States the question should now be submitted: "Shall negro slavery be reinstated?" all the wards and all the counties and all the States would give thundering negatives. They fought to keep it eighteen years ago, but there is universal congratulation at its overthrow. Thank God the North and South are at last one on that subject, and this effort of our northern politicians to keep the subject of slavery rolling on is as useless and inapt as to make the Dorr rebellion of Rhode Island, or Aaron Burr's attempt at the overthrow of the United States Government, the test of our fall elections.

The whole subject of American slavery is dead and damned. I inquired everywhere: "How do the colored people work under the new plan?" The answer was: "Well, very well; we have no trouble. Just after the war there was the disorganization that naturally came of a new order of things, but now they work well. They work far better than northern laborers that come here, because our colored people can better endure our hot climate, and on a warm summer's day, at the nooning, they will lie down in the field to enjoy the sun." My friends, all that talk about dragging the rivers and lakes of the South to haul ashore black people murdered and flung in, though seriously believed by many people at the North, is a falsehood too ridiculous to mention in a religious assembly.

The white people of the South feel their dependence on the dark people for the cultivation of their lands, and the dark people feel their dependence on the white people for wages. From what I have observed here at the North of the oppression of some of our female clerks in dry-goods stores and the struggle of many of our young men on insufficient salaries, which they must take or get nothing at all, I give as my opinion that to-day there is more consideration and sympathy for colored labor at the South than there is consideration and sympathy for employés in some of the stores on Fulton avenue, Brooklyn, or Broadway, New York; Washington street, Boston, or Chestnut street, Philadelphia. All the world over, there are tyrannical employers, and for their maltreatment of subordinates, white or black, they are to be execrated; but the place for us to begin reformation is at home.

Another misrepresentation in regard to the South I cure when I say they are not antagonistic to the settlement of northern men within their borders. We have been told that northerners going there are kukluxed, crowded out of social life, unrecognized, and in every way made uncomfortable. But the universal sentiment as I found it was, "send down your northern capitalists; send down your northern farming machines; buy plantations, open stores, build cotton factories and rice mills; come, come right away; come by tens of thousands and by millions."

* * * * * * *

Again, I have to correct the impression that the South are bitterly against the Government of the United States. The South submitted to arms certain questions, and most of them are submissive to the decision. Why, sirs, I never saw more placid people, some of them with all their property gone and starting life at forty or sixty years of age with one leg or one arm or one eye, the member missing sacrificed in battle! It is simply miraculous that those people feel so cheerful and so amiable. It is dastardly mean to keep representing them as acrid and waspish and saturnine and malevolent. I have traveled as much as most people in this and other lands, and I have yet to find a more affable, delicately sympathetic, wholehearted people than the people of the South. They are to-day loyal and patriotic; and if a foreign foe should attempt to set foot on this soil for the purpose of intimidation and conquest, the forces of Bragg, Geary, McClellan and Beauregard, Lee and Grant would go shoulder to shoulder, the blue and the gray, and the cannons of Forts Hamilton, Sumter, and Pickens would join one chorus of thunder and flame.

* * * * * * *

This side of heaven there is no more hospitable people than the people of the South, and now I bring a message from all the States of the South which I visited, inviting immigration thither. The South is to rival the West as an opening field to American enterprise. Horace Greeley's advice to go West is to have an addenda in "Go South."

* * * * * * *

The South beckons you to come. Stop cursing the South and lying about the South, and go and try yourselves the cordiality of her welcome and the resources of her mines, her plantations, and her forests.

I ask unanimous consent to publish further extracts from this sermon. I could give other evidences just as strong as those which I have read, but must discontinue these quotations for want of strength and time.

The Senator from Minnesota, to show the cause of this recent movement of emigration, so called, which if I am able I will discuss directly, goes back to a message of President Grant in 1875. I admit

that General Grant, with the information laid before him by the reports which were submitted, sent that message to Congress. No man is more isolated than the President of the United States from actual contact with the people whom he governs, and especially was this the case with General Grant when President. But why does the Senator go to General Grant in 1875? Why does he not take General Grant's last utterances upon that subject? Why does he rake up that old message, when here, fresh from General Grant's lips, are declarations that will confound him?

Mr. WINDOM. The Senator will allow me. The message I read from was in 1876, the very last year he was in the presidential mansion.

Mr. LAMAR. Very well. I will give you a message from General Grant now, in 1880.

In response to an address of welcome at Cairo, General Grant, being introduced, spoke as follows—and if my speech has no other merit, it shall at least have this gem in it:

GENTLEMEN, FRIENDS, AND FELLOW-CITIZENS: After an absence of seventeen years from Cairo, the point from which I might almost date the beginning of my late military career, it affords me great pleasure to come back, and instead of a camp, addressing a prosperous city, built up and devoted to the interests of peace. It has been my good fortune to have just passed through a little bit of every one of the Southern States lately in rebellion.

"*Every one;*" and in Mississippi and Louisiana he went through especially those settlements that were considered the most disturbed and the most violent on account of the murders which are said to have "stalked unwhipped of justice" over that land.

It has been my good fortune to have just passed through a little bit of every one of the Southern States lately in rebellion, and it is gratifying to me, and I know it will be to you—

But he was not speaking then to the Senator from Minnesota, otherwise he would have said, "I know it will be disappointing to you, Mr. Senator"—

it is gratifying to me, and I know it will be to you, that in every one of them, scenes, decorations, and speeches were much the same as we see and hear to-day. The Stars and Stripes were floating everywhere. A great portion of the speakers in every instance were men who in the conflict wore the gray, and the speeches which they made show their present devotion to the flag for which we fought, and which is all we asked of them, that they should respect and honor the flag and become good citizens, and hereafter if it should be assailed by a foreign foe that they should unite with us as one people.

Mr. President, whatever may be said of General Grant, he is not a man that uses words of duplex meaning. He is no popularity hunter who, under smooth and honeyed phrases, conceals his real sentiments of antagonism. He would, if he had witnessed any indication of the things described by the Senator from Minnesota, have exposed it and denounced it with a frankness and terseness characteristic of the man. On the contrary, he speaks in this language:

From the assurances they give I believe they are sincere, and I hope they expressed the sentiments of the great majority.

The Senator from Minnesota says he does not believe in our sincerity as long as we vote the democratic ticket. With General Grant upon one side and the Senator from Minnesota upon the other what am I to do, and what are the people to do in deciding such a question?

For, united as one people, united as generous rivals in building up our several States for the whole Union, and in a feeling of loyalty for that flag, we are a great people, the greatest nation in the whole world. To stand divided we are too nearly equal, man to man, to be a great and prosperous people. Let us hope that there may be a genuine union of sentiment, a generous rivalry in the building up of our several States and national pride above State pride. I had no idea I should say so much; it was the remarks made to me that brought this out.

The New Orleans speech of General Grant is as follows:

GENERAL AND CITIZENS OF NEW ORLEANS: After an absence of a great many years from your State I am happy to return to it and very proud of the reception I am receiving at your hands, and very glad that it is given by your citizens irrespective of former relations.

What! Ulysses S. Grant, the ex-President of these United States, féted and courted all over Europe, proud to be received by a band of assassins and cut-throats and murderers! No, sir, he was proud because he knew that there stood before him a people imbued with the sentiments of American patriotism and faithful to the parole of honor pledged to him at Appomattox.

The scenes of the war are now passed; we are a united people.

Yes, sir, in spite of the efforts to estrange these sections and to cultivate hate between them, we *are* a united people, and of that Union we all exclaim "*esto perpetua.*"

I believe that if this country should unfortunately become involved in war we will all wear the same uniform and fight under the same flag. [Cheers.] I hope for New Orleans and this section the prosperity it deserves. What benefits this city, benefits the adjoining section. This State is capable of producing millions of dollars' worth of sugar more than at present. I rejoice with you in the prosperity you have. I am glad to hear that this city has been so much benefited by the improvements at the mouth of the river. What helps you helps a large section of our country, and the entire Mississippi Valley in fact. I wish New Orleans and the entire South increased and long-continued prosperity, believing and knowing that it is the best cure for disorders and sectional animosities. Industrious people are always happy and contented. Again let me thank you, Mr. Chairman and friends, for this kind reception, and, in conclusion, I hope that the blue and the gray may never again be arrayed against each other. The past is gone. Again I thank you. [Loud and continued applause.]

Why did not the Senator from Minnesota put these speeches in with the remarks which he made to-day? Why did he not let these words go to the broad fields, and cities, and villages of the mighty West, so that when those people should read what he and his witnesses said they might also read what General Grant had said? I will tell you why. These words of General Grant would fall in that country like the gentle snow sent to mellow the soil for the growth of peace and good-will, while the Senator's words will fall like the fiery snow of the Italian poet's hell, scorching and withering the returning feelings of love between the sections. [Applause in the galleries.]

Now, sir, having shown from these witnesses the circumstances of peace, order, and growing prosperity in the South, the question is easily answered as to the cause which led to this so-called exodus. It was a movement concocted outside of the South, having no connection with the wants of labor or the demands of capital, but set on foot for the purpose in part to obtain partisan ascendency in a Northern State; in part to diminish the basis of representation in the South in the approaching census; and, lastly, to renew the agitation of "southern outrages" in the coming presidential election.

In view of these facts as developed by the testimony before the committee, I concur fully with the Senator from Indiana, [Mr. VOORHEES,] in the sentiment that while his State is ready to give the protection of her laws to the black people who seek homes in her borders, in the natural course of emigration, she will not tolerate a rush gotten up to convert her into a colony of colored voters for political ends.

Mr. President, there is one point on which I differ with Sir George Campbell. He says:

My advice would certainly be—to the blacks in America: "Stay at home, and make the best of an excellent situation;"—to the whites: "Do all you can to keep these people, conciliate them, and make the most of them. I am confident that this may and will be done."

I am not prepared to say to the blacks, stay at home; I am prepared to say to them, Go forth if you have aspirations to better your condition, and think you can do so by throwing yourselves into the conflicts and active competitions incident to the civilization of the North. We know that for every one that leaves the South we shall have a white immigrant from the North better skilled in labor and more advanced in intelligence and political experience. They are already coming to us from Indiana and Kansas and Michigan, and are contributing no little to the material development of our country.

Sir, movements of population possess qualities of interest in our country apart from that which now attaches to this mere local question. The activities of the present age are scientific and mechanical. Among the nations of the world this country is one of the most scientific and mechanical taken as a population. As a result from this we are a vigorous, active, restless people, abridging even human life by the attrition and waste incident to our perpetual activities. This has been so characteristic of the country and so uniform that it ceases to be novel with us. We not only bring emigrants here in excess of all other people in the world, but when they come they move, and the native population moves, and the whole country, if we look at it in reference to this question, is a popular ocean, whose waves are never at rest. This motive to movement and migration is the result of the growth of intelligence and mechanical development.

Now, in this tendency of the negro to emigrate we have a hopeful sign that he is catching the spirit of American energy and enterprise, and taking on American habits and ideas, and there is therefore nothing in the movement which is not creditable to the institutions of the country and creditable to the race that is immediately affected.

There is another cause which has contributed to the migratory tendency of the negro. There has been some disappointment among the negroes arising from their failure to realize the sanguine expectations of acquiring homesteads and accumulating property. This has originated in the very nature of things and is not chargeable to any political consideration, nor does it reflect at all unfavorably upon the people of the South. The impression is sought to be made that their disappointment arises from inadequate wages and from dishonest and oppressive treatment by their employers. Neither is true. As a class they are the best paid laborers to-day of the same grade in the world. Statistics will conclusively show this to be the case.

The negro is disappointed because of the condition of things in the South that would exist in any other country under the same circumstances, and because of the disposition and habits the negro himself has acquired, the purchase of his supplies on credit. Getting credit so readily as he does, he runs up that credit too high, he uses it too recklessly, as is shown by the very accounts which were produced before the committee. The traders who charge him extravagant prices for these supplies do not belong to the native communities there, whether of planters or small white farmers, native merchants, or the negroes themselves; they generally come from foreign lands or the North. From this habit of not paying cash for what they get they do not really know how greatly their accounts are growing, and buy beyond their means without being conscious of the fact. They are not cheated, legally and technically, but they make needless and extravagant purchases in the use of the license of credit with those cross-road traders, who would take and do take the same advantage of ignorance and credulity in the white man. Ignorant and credu-

lous people, white or black, are treated in the same way at the North and the world over.

Under such circumstances the negroes cannot but find difficulties in acquiring homesteads or accumulating property; in fact, the race is yet in its infancy and simply going through its novitiate experience, an experience that all people have to go through. The negro is really learning in a school that will ultimately teach him more effectually than academies and colleges; and in this connection the lesson is being taught to our planters as well. Their attention is being brought to this subject, and conventions and associations are held for the purpose of protecting their laborers from the greed and avarice of the small traders.

If this or any other cause, however, shall create a desire among them to try their fortunes in other sections of the country, there is no reason to believe that our northern brethren would find such a population, even in considerable numbers, a drawback or drag upon their civilization. They are physically an extraordinary race, and stand, either in work or play, exposure to any kind of weather; and I believe they have already shown they can endure the rigors of a northern climate. They are excellent laborers in a certain sphere. It is true they are awkward and infacile as agricultural laborers outside of cotton culture, and not adapted to food-producing husbandry, but upon public works or any large undertakings which require the supervision of intelligent superintendents, there is not a more efficient class of laborers in the world.

They are getting educated also—not as well educated as the laboring population of the North, for our country is sparsely settled and our people poor from the desolations of the late war. We have not as good school systems; but in every State we have colleges, and academies, and schools, and the facilities for education are as good for the black as for the white, and they are under the influence of the Christian religion, as Bishop Simpson says; they are believers in it and cannot be considered a barbarian race or a barbarian immigration wherever they go. For that reason I would not, as a southern man, hinder their emigration, nor, as a northern man, repel it.

As to the emigration of twenty-five thousand from the South, why, sir, it is a drop in the bucket. There are more white men that have gone out of Mississippi than that number, and many more than that number have come into the State since the war, and fully fifty thousand negroes have come into Mississippi during the same period. This late movement, therefore, is no indication of deep, grievous wrong perpetrated upon the one side or great suffering on the other. Taking the most unfavorable view of it, it will prove a state of things at the South precisely similar to that which exists at the North and in every part of the civilized world, to wit, a depression and want of prosperity among those who work for wages and a desire to better their condition by summary methods, by abandoning the work in which they are immediately engaged and embarking into other and new fields of enterprise and industry. It is no evidence of wrong and oppression; for if so, wrong and oppression run riot at the North, where every day's paper tells of the strikes of laborers in larger numbers and of longer duration than that which has been signalized at the South by the name of exodus.

I have an account that I have just clipped from a paper before me of a strike of five thousand laborers in one community, and the daily papers come laden with notices of strikes and lock-outs in that section. But a short time ago there was a strike which ran through many great northern commonwealths, and it resulted not only in armed mobs but in the burning and pillaging of $5,000,000 of actual productive capital and the derangement of the entire transportation of the country.

There is one difference in the treatment of these industrial disturbances. All the literature of the North, all the reviews, all the philosophical discussions, all the appeals from the pulpit, all the harangues from the stump, and all the speeches from senate chambers and houses of representatives are against the strikers there, and in favor of the interests of property and order. Sir, bring to bear upon the laborers in the North the same enginery that is brought to bear against the industrial system of the South, and yours would topple into irreparable ruin in a short time and carry with it the most precious institutions of society in that section; and the very fact that with all these appliances against southern labor only twenty thousand men have been jostled out of three States into two, shows the firm basis upon which capital and labor stand in relation to each other in the Southern States. And what they teach in this way is true in point of fact.

The fact that Sir George Campbell refers to is one which cannot be argued around, nor argued under, nor argued over, and that is that the production of the South in the articles to which negro labor is directed, is greater now than it ever was when they were slaves, and is constantly increasing. Look at the vast amount of the product of the cotton crop which constitutes the basis of your exchanges and commerce with the nations of the earth, and tell me if such a product of labor applied to capital can be shown in any country where tumult, disorder, insecurity of person and insecurity of property and insecurity of labor, prevail. It is an impossibility. The Senator from Indiana never uttered truer words than when he said that the very existence and presence of that man Stubblefield here was itself a refutation of all the charges against Mississippi of oppression and injustice; "that he is a great fact that could not have existed in his prosperous condition and honorable station but for the protection of equal and just laws." It is one of those facts which like a single pulsation reveals to the skillful physician the condition of an entire organism, and enables him to say that "in this constitution there is no disease, no decay, no symptom of convulsion."

Sir, no man, no laboring population, will plow the earth and work under a southern sun, and live upon stinted means, toiling from morning till night, and laying his wearied limbs upon the bed of rest only to resume the same round of labor with the morning light, unless he feels secure in the result of every stroke with which he smites the yielding earth. Security of property, security of person, perfect serenity of mind and brave hopefulness of heart are necessary conditions of a successful application of labor and capital, and as necessary to the laborer as to the capitalist.

Sir, who can contemplate for a moment this vast production of the South, giving so large a proportion of the exports of this country, really the basis of our exchanges with the world, in the midst of tumult and strife, and the conflict of races, and of fraud, force, murder, and arson?

I notice, sir, that the witnesses who have been brought to prove the oppression and the fraud perpetrated upon the negro labor of the South, have introduced what they called "specimen contracts," showing the lien of the employer upon the product of the laborer for his rent and advances; and long accounts have been laid before the committee as those which were brought against the negro laborer and tenant. Sir, these accounts tell their own story. Whatever may have been the relative status of the two parties at the end of the year, they show that during the entire year the laborer had command of such supplies as he and his family needed. They show, sir, that he could get flour and meat and sugar and coffee and clothing for himself and his children, and medical supplies; so that the total result proves that, whatever misfortune may sweep over the planter, whatever losses he may incur by the venture, the laborer through the whole year has shelter, food, raiment, medical supplies, and the comforts of life free from any contingencies and any misfortune, and an assurance of the same during the next year.

But, sir, there is another fact connected with this matter which is of profound interest. You may talk, sir, of the dignity of labor, but labor can be put nowhere upon such a dignified and equitable basis as it is in Mississippi, where every laborer has an indefeasible lien upon the products of the farm, paramount to that of the landlord or the supply-man, for payment of his wages or of his reward. Happy the country and happy the people where the toiling man has in the law of the land a mortgage upon everything which bears the impress of his toiling hand; and the result is, sir, that in that country so much abused, there is not a man, woman, or child that suffers from the pangs of hunger. There is not a man, sir, who has muscle and a willingness to use it, even though he may be out of employment and out of means, that cannot earn his breakfast, or his dinner, or his lunch whenever he chooses to do so, and that in advance of the work to be performed. Say what you please, sir, that must be a happy condition of society which is free from that leprosy of nations, chronic pauperism.

The Senator from Minnesota has referred to the laws of Mississippi. I assure the Senator that there is no law in Mississippi framed with any reference to the end which he has intimated. He can say that by a certain sort of construction and perversion such a result as he speaks of is possible; no such results are actually produced, and no such objects were ever had in view by the legislators of Mississippi.

In looking over this testimony and seeing that this point was made in regard to the statutes of Mississippi, I took occasion to examine the code of Minnesota to compare it with that of my own State. I must confess that in going over that code I found it admirable in all of its provisions. I could find no fault with it as a code of laws. I pronounce it "simply perfect in its own resource," and the gentleman is beyond the reach of my retort on this subject. I can say, however, that I take as much pride in whatever honors his State as he does himself. At the same time, there are some things, which, under the perverting criticism that the Senator has applied to the statutes of Mississippi would render his State an unfit place for negro immigration.

Why, sir, under the code of Minnesota whoever cuts down or in any way injures a tree growing upon the private lot of another, or carries away any wood from such lot, is punishable with ninety days' imprisonment or $100 fine. If he should take fruit of any kind from an orchard in another man's inclosure he is subject to two months' imprisonment and a fine of $50. If he cuts down a tree, if one of our negroes should go in there shivering with cold, and should do what he always does in Mississippi, take enough fuel to warm himself and little ones, he would be indictable and punishable with fine and imprisonment.

Now, sir, if I was to follow the style of the Senator's criticism of Mississippi statutes, I could show that these laws of Minnesota would produce a sad havoc among our negroes emigrating there, accustomed as they are to helping themselves to the fruits and fuel of their employers and landlords.

Mr. President, the Senator is simply mistaken. The people of Mississippi are not the people he thinks them. If he will examine the statistics of 1870 the Senator will be surprised that of all the States in this Union there are but few, perhaps not any, that show a larger pro-

portion of people above the age of ten years actually engaged in productive industry than Mississippi. Here are the figures:

States.	Population, 1870.	Population ten years old and over.	Number engaged in all classes of occupations.	Number engaged in agriculture.
Alabama	996,992	706,802	365,258	291,628
Arkansas	484,471	341,737	135,349	109,310
California	560,247	430,444	238,648	47,863
Colorado	39,864	30,340	17,583	6,462
Connecticut	537,454	425,896	193,421	43,653
Delaware	125,015	92,586	40,313	15,973
Florida	187,748	131,119	60,703	42,492
Georgia	1,184,109	835,929	444,678	336,145
Illinois	2,539,891	1,809,606	742,015	376,441
Indiana	1,680,637	1,197,936	459,369	266,777
Iowa	1,194,020	837,959	344,276	210,263
Kansas	364,399	258,051	123,852	73,228
Kentucky	1,321,011	930,136	414,593	261,080
Louisiana	726,915	526,392	256,452	141,467
Maine	626,915	493,847	208,225	82,011
Maryland	780,894	575,439	258,543	80,449
Massachusetts	1,457,351	1,160,666	579,844	72,810
Michigan	1,184,059	873,763	404,164	187,211
Minnesota	439,706	305,568	132,657	75,157
Mississippi	827,922	581,206	318,850	259,199
Missouri	1,721,295	1,205,568	505,556	263,918
Nebraska	122,993	88,265	43,837	23,115
Nevada	42,491	36,655	26,911	2,070
New Hampshire	318,300	260,426	120,168	46,573
New Jersey	906,096	680,687	296,036	63,128
New York	4,382,759	3,378,959	1,491,018	374,323
North Carolina	1,071,361	769,629	351,299	269,238
Ohio	2,665,260	1,953,374	840,889	397,024
Oregon	90,923	64,685	30,651	13,248
Pennsylvania	3,521,951	2,597,809	1,020,544	260,051
Rhode Island	217,353	173,751	88,574	11,780
South Carolina	705,606	503,763	263,301	206,654
Tennessee	1,258,520	890,872	367,987	267,020
Texas	818,579	571,075	237,126	166,753
Vermont	330,551	258,751	108,763	57,983
Virginia	1,225,163	890,056	412,665	244,550
West Virginia	442,014	308,424	115,229	73,960
Wisconsin	1,054,670	751,704	292,808	159,687

Let us examine some of the facts which this table demonstrates. Take the State of Illinois for instance, a State wonderful in its growth and development. Its population above the age of ten years in 1870 was 1,809,606, of which 742,015 were employed. In Mississippi a population of 581,206 above the age of ten years was reported, of which number 318,850 were employed in bread-getting. But, sir, let us compare the Senator's own State with mine. Minnesota, according to the census of 1870, had a population of 305,568 above the age of ten years, and but 132,657 of them were employed in productive industry. I do not desire to make a point in this connection against Minnesota, but only to show that whatever else we may be, and in whatever else lacking, we are an industrious and hard-working people, which we would not be, and could not be, unless we were secure in the enjoyment of the fruits of our labor.

I submit another suggestive fact for the consideration of the Senator from Minnesota. From the Report on Labor in Europe and America, by Edward Young, Chief of the United States Bureau of Statistics, pages 745, 746, and 747, the following figures are obtained in relation to the average daily wages paid mechanics in the States of Minnesota and Mississippi in 1870 and in 1874:

Occupations.	Minnesota.		Mississippi.	
	1870.	1874.	1870.	1874.
Blacksmiths	$3 03	$3 00	$3 11	$3 00
Masons	3 69	3 00	3 96	3 00
Carpenters	2 92	2 50	3 43	2 50
Painters	2 92	3 00	3 32	3 00
Plasterers	3 50	.....	4 11	3 00
Shoemakers	2 66	2 50	3 00	.....
Tailors	2 48	2 50	2 83	.....
Tanners	2 85	.....	3 17	.....
Tinsmiths	2 81	2 50	3 19	.....
Wheelwrights	3 11	.....	3 63	.....

It is almost impossible to make any estimate in regard to the wages of field hands in Mississippi, for the reason that all hands are employed by the year and work for a certain portion of the crop. They are all, however, provided with houses, fuel, water, land for kitchen-gardens, &c., free of charge; and inasmuch as the employer usually furnishes team, implements, seed, &c., and advances supplies, the laborer is certain of at least making a living for the entire year, while the chances of actual loss are all incurred by the employer.

The Senator has referred to the violence and intimidation which he alleges have been employed to deter the blacks from the exercise of their rights as citizens and voters. The sound of martial music which floats to us through that eastern door most opportunely suggests a fitting response. If he will step to that door he will see four southern companies full-armed, uniformed, and equipped, indeed with all the appointments of war, two of them from my native State, Georgia, and one each from North Carolina and Virginia, and presenting, perhaps, the most martial, gay, and gallant victims of oppression and wrong that his senatorial eyes ever gazed upon. [Laughter.]

The truth is, all these statements, so far as they represent the condition of things at the South, are unjust and deceiving. The South is no such country as is represented. I do not deny that there has been violence there. I deplore it, I condemn it. Respecting these cases of violence, you will find when you get down to the bottom facts that they are generally precipitated by unscrupulous political demagogues and tricksters, who inflame the prejudices and passions of the races for their own political purposes. But these cases of violence no longer occur to any appreciable extent.

The great trouble has been that the investigating committees which have been sent to the South, and have brought hither their reports, went with purposes hostile to the character of that people. Accordingly their entire social and political system has been uncovered to hostile eyes; every evil, every fault has been searched out as with a microscope and dragged pitilessly into view; all that is good has been utterly ignored. Sir, no society on earth can undergo such a process of investigation as that to which the South has been subjected, without becoming a spectacle of shame.

Sir, you may distort the most perfect specimen of human beauty, by searching only for its blemishes and defects and looking at these through a magnifying and refracting glass, into a hideous deformity.

Sir, the enemies of the South have pursued this course; every act of violence, every murder, every uprising of an angry mob, which has neither the head to think nor the heart to feel; every instance, every incident which can bring reproach upon a community, has been hunted out and magnified and multiplied and grouped together and presented to the world as the portrait of the South.

The just and equitable operation of equal laws; the administration of justice; the Constitution, safe in the affections of the people; the colleges, academies, and schools; the busy hum of industry; the plenty that rewards the toil of the laborer; the worship that ascends to Heaven from thousands of Christian churches; the flame of domestic love, ever burning and ever pure upon the altars of happy homes, have been steadily ignored and concealed.

And, sir, I say to-day with all the emphasis of truth, that if, in the history of the last ten years, the coming of peace has been delayed; if in that time the good have been disheartened and the base encouraged; if the two races have not moved forward with the progress which was expected toward a common prosperity, it is because the Senators and public men who wielded the powers of this great Government, and had the confidence of the mighty constituencies behind them, have not risen to the level of their duty and opportunity to bring, as they could have done, rest and quiet and love and universal patriotism over this troubled land.

Mr. President I can pursue this subject no further, as my strength is entirely exhausted.

[APPENDIX.—BISHOP SIMPSON AND THE SOUTH.

Bishop Simpson, who has been on a visitation to the churches in the South connected with the Northern Methodist Church, says:

"The general impressions which I received upon this trip were of a pleasant and favorable character.

"1. I am satisfied that the South is gradually but surely improving financially; business is reviving, and every indication points to a period of financial ease and comfort. This revival of business has tended to soften and smooth some of the asperities which have heretofore existed. The people are more contented and more happy. The commercial intercourse between the North and the South constantly increasing, people know each other better, and find less cause for unkindness and complaint.

"2. While political difficulties have existed, and do still exist, it is evident to me that a day of greater safety and of more expression of opinion is rapidly approaching. I conversed freely with our intelligent colored ministers, and I did not hear from any one of them any expression of apprehensions of danger in his work. The only fears which I think need to be entertained are by those whose influence is supposed to be exerted in political directions. Our white ministers are greatly disliked by some because they are supposed to exercise a strong influence over a portion of the colored population. Those who are unscrupulous toward the colored people—as some there are in every community, either maltreating them personally, or defrauding them of the wages for their labor—regard our ministers with aversion, as being the friends and protectors of the colored race. In South Carolina the colored population is largely in excess of the whites, and were elections conducted fairly their vote would always outnumber the votes of the whites; but, by various processes, the most of which are under color of law, this vote is so counted that the colored influence is greatly diminished, if not destroyed. But as time wears away, as sectional differences shall cease, as local issues shall rise on which the colored people, as well as the white people, shall be divided, there will probably be an opportunity given for a fuller and freer expression of sentiment at the polls.

"While I deplore all wrong-doing, and while I sympathize deeply with those who have suffered, yet I cannot but think it is almost a miracle that even so much of quiet, good order, and kindly feeling prevails so soon after the total revolution which occurred in southern society. Anti-slavery as I always was from early youth, had my friend asked me twenty years ago to express my utmost wish for the colored people, I should not have dared to ask for as much advancement as has been made. That a race, comprising four millions, should be changed at once from slaves to citizens, and should be granted, not only the right to vote, but also to sit as representatives in the State Legislature and in Congress, and yet dwell in the midst of their former masters, I should have thought would occasion convulsions of the most terrible kind. To me it is matter of surprise that, at this comparatively early day after such a revolution, so little friction exists. It would have been impossible but for the general Christian sentiment of the people, and for the influence of the calming and controlling power of the Gospel of Jesus Christ. To-day there is more enmity between the landholders and the ruling por-

tions of Ireland and its peasantry, though so many years have passed away since the union with the British Crown, than there is between the former slaveholders and the emancipated slaves. While I write thus, however, I see there is great room for improvement, and years will probably pass before there is that protection of individual rights, and that scrupulous regard for the interests of the colored people, which ought to prevail.]

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 2328) to provide for the settlement of all outstanding claims against the District of Columbia, and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore:*

A bill (H. R. No. 5153) to change the name of the steamboat L. Boardman to River Belle;

A bill (S. No. 1726) regulating the pay and appointment of deputy marshals;

A bill (H. R. No. 2270) to pay for expert services relating to the metric system rendered the Forty-fifth Congress;

A bill (H. R. No. 1846) relating to the public lands of the United States;

A bill (S. No. 1771) to establish post-roads;

A bill (H. R. No. 3291) for the allowance of certain claims reported by the accounting officers of the United States Treasury Department; and

A bill (S. No. 1509) to accept and ratify the agreement submitted by the confederated bands of Ute Indians in Colorado for the sale of their reservation in said State, and for other purposes, and to make the necessary appropriations for carrying out the same.

CLAIMS AGAINST THE DISTRICT.

Mr. HARRIS submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 2328) to provide for the settlement of all outstanding claims against the District of Columbia and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes, after a full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from its disagreement to Senate amendments numbered 1, 2, 3, 4, 6, 7, 8, 9, 10, and 14, and agree to the same.

That the Senate recede from its amendment numbered 12.

That the House recede from its disagreement to Senate amendment numbered 5, and agree to the same with an amendment as follows: After the word "contractor" insert the words "his personal representatives;" and that the Senate agree to the same.

That the House recede from its disagreement to Senate amendment numbered 11, and agree to the same with an amendment as follows: After the word "of" strike out "claims based on contracts and extensions of contracts made by the commissioners of the District of Columbia subsequent to the passage of the act of June 20, 1874" and insert "judgments rendered as aforesaid on the claims aforesaid;" and that the Senate agree to the same.

That the House recede from its disagreement to Senate amendment numbered 13, and agree to the same with an amendment as follows: Strike out the word "delivery," at the end of the section, and insert the word "certificates;" and that the Senate agree to the same.

ISHAM G. HARRIS,
R. E. WITHERS,
JOHN J. INGALLS,
Managers on the part of the Senate.
EPPA HUNTON,
W. J. SAMFORD,
HENRY S. NEAL,
Managers on the part of the House.

Mr. HARRIS. I move that the Senate concur in the report of the committee of conference.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. WHYTE, from the Committee on Printing, to whom was referred the bill (H. R. No. 2658) to regulate the award of and compensation for public advertising in the District of Columbia, reported it with an amendment.

Mr. HAMPTON, from the Committee on Military Affairs, to whom was referred the joint resolution (H. R. No. 309) authorizing the Secretary of War to lend to the Gate City Guard, a military company of Atlanta, Georgia, four hundred Government tents under certain circumstances, reported it without amendment.

BILL INTRODUCED.

Mr. WALLACE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1838) granting a pension to Mrs. Elizabeth Long; which was read twice by its title, and referred to the Committee on Pensions.

PAPERS WITHDRAWN.

On motion of Mr. HAMPTON, it was

Ordered, That A. H. Von Luettwitz be allowed to withdraw his papers from the files of the Senate, by leaving copies of the same, there having been an adverse report in the case.

AGRICULTURAL DEPARTMENT APPROPRIATION.

Mr. WINDOM submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 6207) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1881, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its amendments numbered 13 and 20.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 4, 5, 7, 8, 9, 14, 16, and 21, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$3,500;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment as follows: In lieu of said Senate amendment substitute the following: "one assistant chemist at $1,200;" and the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 10, 11, and 12, and agree to the same with an amendment as follows: Strike out all after the word "and," where it first occurs in line 10, page 3, of the bill down to and including the word "constituencies," in line 13, page 3, of the bill, and insert the following in lieu thereof, namely, "an equal proportion of three-fourths of all seeds, plants, and cuttings shall, upon their request, be supplied to Senators, Representatives, and Delegates in Congress, for distribution among their agricultural constituents, or shall by their direction be sent to their constituents;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$3,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment as follows: In lieu of the sum proposed, insert "$4,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$4,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment as follows: In lieu of "$15,000" in said Senate amendment insert "$7,500;" and the Senate agree to the same.

WILLIAM WINDOM,
H. G. DAVIS,
WILLIAM A. WALLACE,
Managers on the part of the Senate.
JAMES W. COVERT,
G. G. DIBRELL,
JOHN A. ANDERSON,
Managers on the part of the House.

The PRESIDING OFFICER, (Mr. CAMERON, of Wisconsin, in the chair.) The question is on concurring in the report.

The report was concurred in.

HENRY C. DE AHNA.

Mr. McDONALD. I move that the present and all prior orders be laid aside for the purpose of taking up Senate bill No. 1725. It will not take five minutes. It is an act of charity as well as justice.

Mr. CONKLING. What is the present order?

The PRESIDING OFFICER. The Chair is informed that it is the bill in charge of the Senator from Kentucky, [Mr. WILLIAMS,] called the Mexican pension bill.

Mr. McDONALD. This bill cannot lead to any debate.

Mr. HOAR. What has become of the Kellogg case that we were to vote on so certainly?

The PRESIDING OFFICER. The Chair is unable to inform the Senator.

Mr. McDONALD. I believe there has been no objection to taking up Senate bill No. 1725.

The PRESIDING OFFICER. The Chair hears no objection.

Mr. HOAR. What is it?

Mr. McDONALD. It is a little bill for the relief of Henry C. De Ahna.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1725) for the relief of Henry C. De Ahna.

The bill was reported from the Committee on the Judiciary with amendments, in line 6, before "thousand," to strike out "five" and insert "one," and in line 6, after "Alaska," to add "which amount shall be in full satisfaction of all claims of said De Ahna against the United States;" so as to make the bill read:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed, out of any moneys in the Treasury not otherwise appropriated, to pay to Colonel Henry C. De Ahna $1,000 for valuable information obtained and furnished and important service rendered the Government respecting the resources and condition of Alaska; which amount shall be in full satisfaction of all claims of said De Ahna against the United States.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PENSIONS TO SOLDIERS OF MEXICAN WAR.

Several Senators addressed the Chair.

Mr. WILLIAMS. I ask for the regular order.

The PRESIDING OFFICER. The Senator from Kentucky calls for the regular order.

Mr. CAMERON, of Pennsylvania. I ask that the regular order be set aside for a moment. I have not been here for a week or two and should like to get a matter before the Senate.

Mr. WILLIAMS. I must insist on taking up the Mexican veterans' pension bill and going on with it. We shall be here till midnight if I do not.

Mr. TELLER. Let us stay till midnight.

Mr. CAMERON, of Pennsylvania. Mr. President——

The PRESIDING OFFICER. The Senator from Pennsylvania appeals to the Senator from Kentucky.

Mr. WILLIAMS. I cannot yield any more. I must stop somewhere.

Mr. CAMERON, of Pennsylvania. I ask the Senator to make his stopping-place after I get my bill before the Senate.

Mr. WILLIAMS. I have yielded out of kindness of feeling on several occasions and I cannot yield any more, if we can hope to reach a vote on the pension bill.

Mr. PADDOCK. I think the Senator from Kentucky would make quite as great progress with his bill if he would yield and allow us to go on with the Calendar for an hour to-day.

Mr. CAMERON, of Pennsylvania. The bill I wish to bring before the Senate can be passed in five minutes. Will the Senator give way?

The PRESIDING OFFICER. The regular order, being the bill (S. No. 1753) granting pensions to certain soldiers of the Mexican and other wars therein named, and for other purposes, is before the Senate as in Committee of the Whole. The question is on the amendment of the Senator from Georgia [Mr. BROWN] to the amendment of the Senator from Kansas, [Mr. INGALLS.]

Mr. CAMERON, of Pennsylvania. I thought the Senator from Kentucky gave way to me for a moment to call up a bill in which I feel a deep interest. It will not take any time to pass it. It ought to have been passed long since.

Mr. WILLIAMS. I cannot do that.

Mr. CAMERON, of Pennsylvania. It will not take more than five minutes.

Mr. WILLIAMS. I insist on the regular order.

The PRESIDING OFFICER. The Senator from Kentucky declines to yield.

Mr. CONKLING. I wish to make a motion for which I think everybody will vote; I move that the Senate do now adjourn.

Mr. GARLAND. Will the Senator give way and let us have a short executive session?

Mr. CONKLING. Yes, sir, I yield for that.

Mr. GARLAND. I move that the Senate proceed to the consideration of executive business.

The PRESIDING OFFICER. The motion to adjourn being withdrawn, the Senator from Arkansas moves that the Senate proceed to the consideration of executive business.

Mr. WILLIAMS. I hope that will not be done.

Mr. GARLAND. We have some important executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After thirty minutes spent in executive session the doors were reopened, and (at five o'clock and forty minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *June* 14, 1880.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of Saturday was read and approved.

ORDER OF BUSINESS.

Mr. SPRINGER. I move to suspend the rules, which of course includes the rule requiring a call of States for the introduction of bills and joint resolutions for reference; and I will state, if that motion carries, I will then move the morning hour be dispensed with, and that two hours be set apart for the reception of requests for unanimous consent.

The SPEAKER. The latter motion requires unanimous consent. The two former motions require a two-thirds vote.

Mr. SPRINGER. And I shall ask for unanimous consent.

The SPEAKER. The Chair will submit first the motion the gentleman makes to suspend the rules and dispense with the call of States for the introduction of bills and joint resolutions for reference, which is provided for this day under the rules.

Mr. FROST. Does that require unanimous consent?

The SPEAKER. It does not. The Chair recognizes the motion because this is one of the last six days of the session when, under the rules, a motion to suspend the rules is in order. If it were not one of those days, the Chair would not entertain the motion to suspend the rules. Perhaps it would have been as well for the Chair to have asked unanimous consent for this motion.

Mr. NEW. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. NEW. I wish to know whether from and after the close of the morning hour of to-day until the close of the session the right or privilege given by clause 1 of Rule XXVIII to suspend the rules upon a two-thirds vote and pass bills is not absolute and imperative on the Chair as to recognitions for suspensions?

The SPEAKER. The rule to which the gentleman from Indiana [Mr. NEW] refers is in the nature of a restriction on the Chair as to suspensions and not compulsory on the Chair as to recognitions for suspensions of the rules by a two-thirds vote. A careful reading of the language of the rule will show this is the proper construction which should be placed on the rule. Otherwise, if general legislation could be absolutely and peremptorily interrupted by such motions during the last six days of a session many appropriation bills and other important legislation would necessarily fail. The Chair thinks the terms of the rule leave to his discretion the matter of such recognitions, and he feels it is his duty to give preference to bills which are in part or in whole necessary to carry on the administration of the Government.

ENROLLED BILL SIGNED.

Mr. KENNA, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 4435) making appropriations for the payment of claims reported allowed by the commissioners of claims under the act of Congress of March 3, 1871, and acts amendatory thereof; when the Speaker signed the same.

MESSAGE FROM THE SENATE.

A message from the Senate by Mr. BURCH, its Secretary, announced that the Senate further insists upon its amendments to the bill (H. R. No. 6266) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, disagreed to by the House of Representatives, and asks a further conference on the disagreeing votes of the two Houses thereon; and further, that the Senate had appointed Mr. BECK, Mr. WITHERS, and Mr. ALLISON as the conferees on the part of the Senate.

ORDER OF BUSINESS.

The SPEAKER. The question is on the motion to suspend the rules to dispense with the call of States.

The House divided; and there were—ayes 92, noes 28.

Mr. FORT. I make the point of order that no quorum has voted.

The SPEAKER. The Chair will order tellers, and appoints Mr. FORT and Mr. SPRINGER.

The House again divided; and the tellers reported—ayes 101, noes 47.

So (two-thirds having voted in favor thereof) the rule was suspended and the call of States dispensed with.

The SPEAKER. Several gentlemen have requested the Chair to recognize them for the introduction of bills for reference.

Mr. TOWNSHEND, of Illinois. I understand it is the purpose of the motion of my colleague from Illinois, if this motion prevails which he has suggested, that it will enable all gentlemen to have that privilege.

Mr. SPRINGER. I move to dispense with the morning hour to-day.

The motion was agreed to; two-thirds voting in favor thereof.

Mr. SPRINGER. I now move that by unanimous consent two hours be devoted for the suspension of the rules to enable the Chair to recognize members on each side alternately to introduce or have bills acted upon which may be upon the table or on the Calendar.

The SPEAKER. The Chair understands the gentleman from Illinois to ask unanimous consent.

Mr. WRIGHT. I object.

Mr. SPRINGER. Then I move to suspend the rules and devote two hours to motions to suspend the rules and take up and consider bills upon the table or Calendars on the recognition of the Speaker.

Mr. RYON, of Pennsylvania. I move to enlarge that motion until all are recognized.

COUNTING ELECTORAL VOTE.

Mr. BUCKNER. Was it not the understanding that by unanimous consent certain political bills upon the Speaker's table should be taken up and considered until they were disposed of? I understand that the unfinished business now prevailing is the bill to regulate the electoral count.

The SPEAKER. If the gentleman from Indiana in charge of the bill does not choose to call it up as unfinished business it will not necessarily interfere with the consideration of other matters under the motion of the gentleman from Illinois.

Mr. BLAND. I shall object to all other business until the unfinished business is disposed of.

Mr. RYON, of Pennsylvania. It is a waste of time to spend any further time on that bill, as it is evident we cannot get a vote upon it.

Mr. BLAND. Well, the only way to get a vote upon it is to keep trying. I demand the regular order.

Mr. CABELL. Cannot we have unanimous consent to refer bills?

Mr. BUCKNER. I demand the regular order.

The SPEAKER. The regular order being demanded, the Chair has no option but to recognize that demand under the rules.

Mr. ROSS. I renew the demand for the regular order.

Mr. BICKNELL. Then I insist upon going on with the unfinished business.

The SPEAKER. The unfinished business is the demand for the previous question upon the pending bill.

Mr. BRIGHT. I hope the gentleman from Indiana will yield to me for a moment.

The SPEAKER. The gentleman from Indiana has not the right to yield at this time, the regular order being demanded by several members and insisted on.

The question is on seconding the demand for the previous question.

TRESPASSES ON THE PUBLIC LANDS.

Mr. HERBERT. I desire to present a conference report.

The SPEAKER. The Chair will entertain that.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 1846) relating to the public lands of the United States, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows, namely:

The following shall be a substitute for, and enacted in lieu of, section 1 of the bill as amended by amendments of the Senate thereto, to wit:

"That when any lands of the United States shall have been entered, and the Government price paid therefor in full, no criminal suit or proceeding by or in the name of the United States shall thereafter be had, or further maintained, for any trespasses upon, or for or on account of any material taken from said lands; and no civil suit or proceeding shall be had or further maintained for or on account of any trespasses upon or material taken from the said lands of the United States in the ordinary clearing of land, in working a mining claim, or for agricultural or domestic purposes, or for maintaining improvements upon the land of any *bona fide* settler, or for or on account of any timber or material taken or used by any person without fault or knowledge of the trespass, or for or on account of any timber taken or used without fraud or collusion by any person who in good faith paid the officers or agents of the United States for the same, or for or on account of any alleged conspiracy in relation thereto: *Provided*, That the provisions of this section shall apply only to trespasses and acts done or committed, and conspiracies entered into, prior to March 1, 1879: *And provided further*, That the defendants in such suits, or proceedings, shall exhibit to the proper courts or officer the evidence of such entry and payment, and shall pay all costs accrued up to the time of such entry."

The Senate shall recede from its amendment striking out section 3, and agree to said section with an amendment, which amendment shall be as follows: Strike out the words "more than twenty years prior to the passage of this act" and insert in lieu thereof the words "and put in market prior to January, eighteen hundred and sixty-one (1861.")

That the House recede from its disagreement to the amendment made by the Senate to section 4 of the bill, and agree thereto.

H. A. HERBERT,
GEO. D. ROBINSON,
W. D. WASHBURN,
Managers on the part of the House.
CHAS. W. JONES,
JOHN T. MORGAN,
NEWTON BOOTH,
Managers on the part of the Senate.

The conferees on the part of the House on House bill No. 1846 respectfully report that the effect of the agreement made and reported to the two Houses by the conferees is as follows:

As to the first section of the bill, the limitations and restrictions as made by House bill and amended by the Senate are made to apply to civil and not to criminal suits and proceedings.

There is no important change made in the third section of the bill as it passed the House. By that section the date to which it was to apply was twenty years before the passage of the bill. By agreement of the conferees this date was slightly changed and the section made to apply to lands put in market at $2.50 per acre prior to 1861. With this change the Senate conferees agreed to permit the section to remain as it passed the House.

The conferees on the part of the House agreed to recede from the disagreement of the House to amendments made by the Senate to section 4 of the bill, the effect of which is to strike out the exception as to California, Oregon, Nevada, and Washington Territory, and make the provisions of the bill applicable to all the States and Territories alike.

H. A. HERBERT.
GEO. D. ROBINSON.
W. D. WASHBURN.

The SPEAKER. The question is on agreeing to the report of the committee of conference.

Mr. CONGER. I desire to have the changes proposed by the committee of conference in the original bill read for the information of the House.

The SPEAKER. The bill will now be read as proposed to be amended by the conference report and as it would go to the President.

The bill was read at length.

Mr. CONGER. Now, Mr. Speaker, the committee of conference have agreed to and reported back to this House the original proposition which was contested here and defeated by a vote of the House. On that committee are the names of three gentlemen who advocated that bill in the House and there is not the name of one of those who represented the majority of this House when the vote was taken; not one.

Mr. ROBINSON. Will the gentleman from Michigan allow me a minute?

The SPEAKER. The Chair will state that he named the conferees on consultation with and at the instance of the gentleman who had charge of the bill. The Chair did in this case as he does as to the appointment of all conference committees.

Mr. CONGER. I will yield to the gentleman from Massachusetts for a question.

Mr. ROBINSON. I only wish to set the gentleman from Michigan right. He is in error when he asserts the conferees on the part of the House were not of the majority that passed the bill. It must be in his recollection that the amendments were adopted on my own motion.

Mr. CONGER. One of the amendments was.

Mr. ROBINSON. I will allow the gentleman from Michigan to go on, and will make a statement afterward.

Mr. CONGER. Now, the question was raised distinctly in this House between the proposition to which this committee of conference has assented and the other proposition. The committee were instructed by this House, by a yea-and-nay vote repeated in different forms; but composed, a majority of them at least, of the men who advocated the original bill and were defeated in this House, they surrendered in the committee of conference the proposition which the House maintained after a close and hard contest by a large majority, and have reported back the original bill here. I do not propose now to discuss it, but I do say the dignity and honor of this House are involved in this matter

Mr. HERBERT. I rise to a question of order. I have not yielded the gentleman from Michigan my time.

The SPEAKER. When the Chair recognized the gentleman from Michigan the gentleman from Alabama [Mr. HERBERT] did not object to his taking the floor.

Mr. HERBERT. If the gentleman will wait a moment, I wish to say this——

Mr. CONGER. I will hear any question the gentleman may ask me when I get through.

The SPEAKER. The Chair recognized the gentleman from Alabama as having charge of the conference report; and when the gentleman from Michigan rose and was recognized the gentleman from Alabama did not object.

Mr. HERBERT. I am willing the gentleman from Michigan should go on in my time.

Mr. CONGER. I go on in my own time; there is no use caviling about that; I have been recognized by the Chair, and that gives me a tolerably good start.

Mr. HERBERT. I did not consider I was yielding the gentleman from Michigan the floor.

Mr. CONGER. I simply say this, that the essential features of this bill, after a contest, were adopted by the House in opposition to at least two of the members of that committee. I do not care for that, however. The House remains here, and gentlemen who voted on these propositions remain here in the House; and, unless they have changed their views, they can prevent the surrender of the proposition which the House favored, and I hope they will do it.

I will not go over again the argument against this proposition. I will not do more than refer to the hundreds of thousands of dollars involved in these trespasses upon the public lands which are all given away, first, on the bill we defeated in the House, and now by this surrender on the part of the committee of conference. Those arguments are of record. The votes of members are of record. And the country will inquire why it is that Congress shall surrender to trespassers all the property and the values and the rights of the people of the United States in their public lands and in the timber upon their public lands. The country will inquire why it is that, having once voted by a large majority against the bill which surrendered the property of the United States, this conference committee should have the temerity to come in here and recommend a surrender of all we fought for and all we obtained. The yeas and nays were taken. The record is made up. The assertions in regard to the cost to the Government and the surrender which is made here to trespassers are of record. I do not desire to prolong this debate. The yeas and nays will again be called for, and the consistency of the House and of its members will be tested before we get through this report.

Mr. PAGE. I would like the Chair to state what is the question that is being debated. I do not understand whether the motion is to concur in all of the conference report or to concur in one portion of it.

The SPEAKER. The motion is to concur in the report of the conference committee.

Mr. ROBINSON. If I may have the attention of the gentleman from Michigan as well as the attention of the members of the House generally for a few moments, I think I can dispose of this matter so that all shall be satisfied. My friend from Michigan has, in my judgment, discussed it somewhat hastily without information of its exact condition. I cannot, of course, consent that he shall say of the conference committee that they come in here with any sort of temerity to impose on this House any report.

I think I understand the bill and the proposition. It was this: The bill as reported in the first place from the Committee on the Public Lands provided that for trespasses committed upon and for material taken from the public lands, whether the prosecutions were civil or criminal, a settlement might be made by entry upon the land and payment of the Government of the price in full, and payment of the costs of the suit.

During the discussion I had the opportunity to offer an amendment restricting somewhat the opportunities for settlement in these cases. An amendment offered by me, and amended on motion of my friend from Michigan, [Mr. CONGER,] was adopted, restricting the opportunities for settlement by certain provisions; providing that the trespass should have been committed in certain specified ways, which it is not necessary for me now to enumerate. As the bill left the House these restrictions applied as well to the civil prosecutions as to the criminal prosecutions.

When the bill came to be acted upon by the Senate that body further amended the first section so as to enlarge these restrictions. The committee of conference had doubts whether these restrictions ought to be enlarged against criminal as well as civil prosecutions, and they took that matter into consideration. I myself had doubts upon that subject. The House will bear in mind that the provisions of this bill do not apply to any acts done subsequent to March 1, 1879.

Mr. CONGER. Of course not.

Mr. ROBINSON. Not "of course not," but the bill does not touch them; not as a matter of course, but because the bill in terms does not touch them.

In order that I might be right about it, and in order that the gentleman from Michigan and all here might be right about it, I myself went to the Secretary of the Interior and had a conference with him

upon this matter submitted to us in conference. I thought that while it was said he was so vigilant in protecting the interests of the United States, and I believe he is, I thought the House would like to have his suggestions. I laid before him exactly the provisions which the conferees of the House and Senate had under consideration.

I do not hesitate to say that the Secretary of the Interior stated that it accorded with his views; that he thought all criminal prosecutions begun for acts committed prior to March 1, 1879, might properly be settled by the entry of the land and the payment of the Government price therefor and the cost of the prosecution. He said he believed that would be entirely right, and he had no objection to it. He said that the House and the Senate were evidently desirous of retaining the civil remedies, and that under those civil remedies he believed the interests of the United States would be fully protected. There was no question about the matter in his mind, as he expressed himself. He distinctly said to me that if the civil prosecutions were separated from the criminal prosecutions, and the criminal prosecutions left to be settled on the terms originally provided in the bill, and the civil prosecutions retained under the restrictions imposed by the House and amended by the Senate, it would meet with his approval.

I reported that to the committee of conference, and the committee of conference have so reported to the House. If any gentleman wishes to ask me a question I shall be glad to answer it. [After a pause.] If not, then I will move the previous question.

Mr. DWIGHT. That would be very nice, would it not?

Mr. ROBINSON. Some gentleman says "that would be nice." I have waited for anybody to ask me a question or for further debate. I will withdraw the demand for the previous question.

Mr. DWIGHT. That is right. If I understand this report it means that a man may go on the very best timber land in the country, commit all the depredations he possibly may, and then, if he is detected and arrested, he is to be permitted to go scot-free by paying the original price of the land. Such a principle as that, if carried out, would empty every penitentiary in the land. If that matter can be thoroughly understood by the House I am satisfied this report will not be adopted.

Mr. BAYNE. It is general amnesty.

Mr. DWIGHT. Yes, and general amnesty of the very worst character. This House, when discussing this matter in Committee of the Whole, where the yeas and nays could not be had, adopted the principle contained in this report. But when we came out of the Committee of the Whole into the House, where the yeas and nays could be had and were had, this principle was voted down, as it will be now, I believe, if the House shall understand it.

I hope this House will disagree to this conference report, and send this matter back again to the committee of conference, where it may be further considered. Let some of the rest of us go and see the Secretary of the Interior. Let this matter be examined very fully, so that it may be better understood than it is possible for the House to understand it now. If that is done, I am satisfied this conference will be disagreed to.

The SPEAKER. The Chair desires to state that in the appointment of committees of conference he uniformly consults with those in charge of the bills upon which conferences are ordered, and rarely, if ever, in fact never, exercises solely his own will and judgment in the appointment of the conferees. The names of the conferees in this case were written on paper and handed to the Chair, and he appointed them, supposing that they truly represented the views of the House, as they came from the gentlemen who discussed the bill in the House *pro* and *con*.

Mr. DWIGHT. It is strange that they have reported to the House the very provisions of the bill which the House voted down.

The SPEAKER. If there has been an error the House has at this time its remedy, and can vote down the report.

Mr. DWIGHT. That is what I hope the House will do.

Mr. WASHBURN. I wish to say that the committee of conference has not reported the same bill that was voted down in the House. I will state the only change made in this report. To the bill as passed in the House, with the amendment of the gentleman from Michigan, [Mr. CONGER,] the Senate has made simply the following addition:

Or for or on account of any timber taken or used without fraud or collusion by any person who in good faith paid the officers or agents of the Government of the United States for the same.

This is all the change that has been made in the bill since it left the House; that is to say, it relieves parties who have actually paid for the timber and have their receipts, which the Government heretofore has declined to recognize. The bill in its present form simply relieves those parties; but the real trespasser has no relief whatever. The bill is substantially the same as when passed by the House.

The SPEAKER. The Chair wants to say that according to the practice a committee of conference is always in accord with the voice of the majority of the House; and if the Chair had supposed for a moment that the gentlemen constituting this committee were not in harmony with the majority of the House he never would have appointed them. A committee of conference should be in accord with the majority of the House, but it is utterly impossible for the Chair to know in all cases how the fact is, and he has to take the recommendations of gentlemen who have charge of bills respectively.

Mr. ROBINSON. I happen to have been one of the majority of the House, so that I presume my appointment, at least, may be conceded to have been entirely regular.

The SPEAKER. It was; and the gentleman ought to have had an associate representing the same sentiment.

Mr. ROBINSON. There need be no difficulty about this matter——

The SPEAKER. The Chair dislikes to have a reflection made upon the composition of the committee of conference.

Mr. CONGER. The Chair will allow me a moment. I meant to make no reflection on the Chair. I had no doubt about the good faith of this proceeding; but in view of the result I felt bound to speak of the simple fact that two members of the committee of conference were in favor of the original bill.

The SPEAKER. The Chair thinks the gentleman had a right to complain, and this House can now remedy the mistake, and of course will if the House does not approve the committee's action.

Mr. ROBINSON. Mr. Speaker, my friend from New York [Mr. DWIGHT] has said something about "emptying jails" and "universal amnesty;" but I do not think he brings up those expressions as arguments against this section of the bill, because they are not applicable. I submit that the simple question is whether or not this House is willing to allow the settlement of criminal prosecutions for offenses committed prior to March 1, 1879, by the entry of the land and paying for it at the regular price. That is the sole question—not whether "jails" are to be "emptied" or "amnesty" granted "universally." My friend should bear in mind the fact which the Secretary of the Interior has stated—I assume it to be a fact because he states it—that there are very few of these criminal prosecutions prior to March 1, 1879; so that the waiving of these prosecutions is a matter of very small consequence. We do not by the bill as now reported interfere with anything subsequent to that date; nor do we, as my friend from New York seems to think we do, permit anybody to go and steal timber and afterward come in here and get excused.

Mr. DWIGHT. Would it not result in that? Does it not encourage such depredations?

Mr. ROBINSON. It does not. It simply fixes a date, and gives notice that up to that date we are willing to waive these criminal prosecutions. There it stops. The civil remedy remains intact. The future is in our hands.

Now, when the Secretary of the Interior says that he is satisfied with this measure, and this fact is communicated to the committee of conference and to the House, I am willing to adopt the measure.

Mr. CONGER. Allow me to ask a question. Did not the House distinctly exclude from the benefit of this act those who had willfully committed trespasses; and has not the committee of conference extended the privilege to everybody—to those who trespassed knowingly and willfully as well as to those who trespassed inadvertently or involuntarily through the action of others, if I may so express it? Was not that point raised in this House? Was not the distinction clearly drawn in the bill which we passed between these two classes of trespassers, and is not that distinction in this report removed? That is the point.

Mr. ROBINSON. In answer to the gentleman, I wish to say that the action of the Senate was to enlarge the restriction adopted by the House. The House conferees were not willing to agree to that as affecting both classes of prosecutions, but were willing to waive the criminal prosecutions prior to a certain date, leaving the civil remedy intact. It then became our business to ascertain whether the Secretary of the Interior was satisfied with the measure in this form, and I announce that he is.

Mr. HUMPHREY. I want to ask the gentleman a question. If the bill should pass in the form now reported and these parties be allowed to enter the lands from which timber was taken, will not the criminal cases be discharged, and the Government have simply a civil action against the parties for the value of the logs taken by them?

Mr. ROBINSON. The civil remedy will stand precisely as it is now.

Mr. HUMPHREY. The Government can pursue the civil remedy?

Mr. ROBINSON. Certainly; we do not interfere with that.

Mr. HUMPHREY. In other words, if this bill be passed, there will be two years from now another amnesty bill for the benefit of the hundreds or thousands who have grown rich off of the Government by taking logs unlawfully. Another amnesty of this kind will let them out.

Mr. ROBINSON. We do not touch that question.

Mr. BAKER. I wish to ask a question. If the parties who are affected by these prosecutions should come forward and enter the lands, will they still be liable to prosecution, civilly, criminally, or in any way, for the value of the timber removed by them?

Mr. ROBINSON. The answer to that is just this: It is very plain in the bill, if any person committed a trespass on the public lands prior to March 1, 1879, the Government had two remedies: one a criminal, and one a civil; the civil to recover the damage, the criminal to punish him. This bill allows the settlement of the criminal prosecution; that is, waives the punishment upon his entering the land and paying the Government price and paying the costs. It does not affect the civil suit for damages at all. He stands liable to that under this bill as heretofore.

Mr. BAKER. I wish to inquire whether or not, in the judgment of the gentleman from Massachusetts, if the party who is thus indicted should come forward and purchase the land and pay the Government

price, he would be liable to any further civil prosecution for the value of the timber? Would it not merge the right to prosecute civilly for the value of the logs which have been removed when the Government had accepted the price of the land from the party as purchaser?

Indeed, if I may be pardoned for making the observation, it seems to me it ought to go to that extent if it is intended as an act of amnesty for the past. It seems to me if the party comes forward and pays the value of the land he ought not after that be subjected to a civil prosecution for the value of the timber that he may have removed from the land.

Mr. DWIGHT rose.

Mr. ROBINSON. One at a time. The answer to that, if I understand it, is this: That the only settlement which can be made on the civil side of this question will be in accordance with the terms of this bill, and with this bill before us it seems to me there will be no waiver of the civil right.

Mr. HUMPHREY. The bill exempts——

Mr. BAKER. I am satisfied with that, but I wish to ask the gentleman a further question, and it is this: Whether he believes under any fair legal construction of the section in question it is possible to make it apply to any future trespasses after March 1, 1879?

Mr. ROBINSON. The bill distinctly says: This bill shall not apply to anything done subsequent to the 1st of March, 1879, and if the English language is powerful of expression, you have it here distinct and clear.

Mr. DWIGHT. A single word, if the gentleman will permit me.

Mr. ROBINSON. Certainly.

Mr. DWIGHT. Does not the gentleman understand these trespasses are committed on the very best land the Government possesses?

Mr. ROBINSON. I answer the gentleman that I have not that information, although it may be the fact.

Mr. DWIGHT. Every one who understands anything of the matter knows that to be the fact.

Mr. ROBINSON. It is apparent, then, I do not understand the matter, as I do not know that to be the fact.

Mr. DWIGHT. It is true, nevertheless.

Mr. ROBINSON. Very well; go on.

Mr. DWIGHT. Now, you permit these men to go and trespass upon the most valuable lands of the Government, and after they have trespassed upon these valuable lands you consent they may come in and, on making entry of the land, dismiss all suits against them. In other words, you say you have a legal claim against them under the provisions of this bill. These men, as a rule, are men of straw, and that legal claim is not worth a farthing. If you have no claim against them in a criminal sense your bill amounts to nothing whatever.

Mr. ROBINSON. My friend will allow me to suggest that the Secretary of the Interior says to the contrary. He says on the civil suits he is obtaining large sums of money from these parties.

Mr. DWIGHT. I venture to say, if the Secretary of the Interior understands fully all the provisions of this bill and their full effect, I can get another opinion from him. It is not in accordance with his theory, it is not in accordance with common sense, it is not in accordance with the way any one does business, and I must insist it seems to me that the Secretary of the Interior has not fully understood the scope of the inquiry, or you could not bring such an opinion here from him.

Mr. ROBINSON. Very well; whether the gentleman will succeed in getting another opinion I cannot say, but I know this opinion was expressed to me after conference with his assistant who is in special charge of that division; his name I have forgotten at the moment, but he was called in and conference had in my presence, and they both said at that time the criminal matters were very few in number prior to that date, and they said that while they had gone so far as to notify the people of this country they must not trespass on the public lands, they believed it would be good policy to overlook those matters and allow them to be disposed of in the way proposed in this bill. I wish to say further we know it is the practice in the Internal Revenue Bureau to allow such matters to be settled with the parties in the first few instances on slight payment. We know that is the practice.

Mr. HAZELTON. Will the gentleman allow me to ask him one question?

Mr. ROBINSON. In one moment. In the same line this seems to me to be suggested.

Mr. HAZELTON. Mr. Speaker, I wish to ask the gentleman a question for my own information, inasmuch as he is the representative of the minority of the conference committee, and it is, Does not this language in the bill, to wit, "or for or on account of timber or material taken or used by any person without fault or knowledge of the trespass," cut off all civil remedy as to that class deriving the largest pecuniary advantage from timber taken from the public lands without the consent of the Government? If it is not so expressed in the bill, and if that does not leave out of all power of prosecution civilly or criminally every man who has accumulated a large portion of logs, timber, or ties through purchase from those persons who actually did commit the depredations or trespass upon the public lands? In other words, if those persons who stand to-day, not only under indictment for the crime, but against whom large civil prosecutions are now pending for property which they have obtained indirectly through poor men who went upon the lands and cut the material, and have accumulated it in this way, will not be relieved by this bill from all such proceedings? Every suit under this Government to-day, every civil suit falls dead under this law, because there are no prosecutions worth mentioning in the courts against the poor laborers who have cut and taken away small amounts of timber, but against these gigantic companies and rich individuals who have accumulated and have in their hands to-day twenty-five, thirty, fifty, or one hundred thousand dollars' worth of public property, and who say now that they have no knowledge of the trespass under this very clause to which I have referred and which is the most important to the friends of the original bill. This very clause is the most important one in all the bill in securing this class of men from prosecution, civilly or criminally.

Mr. ROBINSON. Does the gentleman see any difference in that respect in the bill as it passed the House and in its present form?

Mr. HAZELTON. Under the bill as it originally passed the House there was, as I understand, a provision which to some extent remedied this objection, applicable to those cases of necessity, actual settlers, miners, and non-speculators.

Mr. ROBINSON. Will the gentleman be kind enough to point out the clause in the bill which will have the effect to which he now calls attention?

Mr. HAZELTON. Gentlemen argue that there is no difficulty as to the meaning of this bill as to criminal prosecutions, but there is doubt as to that part covering civil prosecutions. In a word, the force of this debate now seems to turn on the civil power under this bill, and that is the point I want to understand, whether that clause covers the difficulty to which I have alluded or not.

Mr. ROBINSON. So far as I felt the force of this debate myself I think it was on the criminal part, but as it has gone now to the civil point, and as gentlemen seem to discuss that, I want to say to the gentleman from Wisconsin, and to other gentlemen, that unless my memory is at fault the very provision that is spoken of here was adopted by the House and went to the Senate, and the conference committee had nothing whatever to do with it.

Mr. HAZELTON. Did not your amendment restrict this very provision?

Mr. ROBINSON. I think not.

Mr. HAZELTON. I so understand it.

Mr. ROBINSON. As my friend has made the statement, I wish he would point out the provision and not leave it to me to prove a negative.

Mr. HUMPHREY. I wish to have the first section of the bill read again.

Mr. WASHBURN. Will the gentleman from Illinois permit me to ask him if he does not know the amendment which he criticises is the one which was offered by the gentleman from Michigan, [Mr. CONGER?]

Mr. HUMPHREY. Let the first section be read.

The Clerk read the first section of the bill again.

Mr. HUMPHREY. Now, Mr. Speaker, I wish simply to remark that that section is so blended together, including parties who have trespassed willfully and parties who have trespassed without knowledge, or claimed that they did not know it was Government land, that if the act passes any party who settles the criminal case against him and entered the land cannot be tried in the civil action because he can plead in bar of the civil action against him the title to the land acquired by such entry; the damages claimed in the civil action to the realty would be merged in the acquired title by entry and payment for the land. This seems to me is beyond dispute.

Mr. HERBERT. I move to concur in the conference report.

The House divided; and there were—ayes 65, noes 49.

Mr. WHITE. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 133, nays 42, not voting 117; as follows:

YEAS—133.

Acklen,	Dickey,	Hutchins,	Poehler,
Atkins,	Dunnell,	Johnston,	Pound,
Bachman,	Elam,	Ketcham,	Reagan,
Barber,	Evins,	Klotz,	Richardson, J. S.
Beale,	Felton,	Knott,	Robertson,
Beltzhoover,	Fisher,	Ladd,	Robinson,
Bicknell,	Ford,	Le Fevre,	Russell, Daniel L.
Blackburn,	Forney,	Lewis,	Russell, W. A.
Bland,	Fort,	Lowe,	Ryon, John W.
Bowman,	Frost,	Manning,	Samford,
Bright,	Frye,	Martin, Benj. F.	Sawyer,
Buckner,	Geddes,	Mason,	Scales,
Cabell,	Goode,	McCoid,	Shallenberger,
Caldwell,	Gunter,	McKenzie,	Shelley,
Carlisle,	Hammond, N. J.	McLane,	Simonton,
Carpenter,	Harris, John T.	McMillin,	Singleton, J. W.
Chittenden,	Haskell,	Mills,	Singleton, O. R.
Clark, John B.	Hatch,	Morrison,	Smith, William E.
Coffroth,	Hawk,	Morse,	Speer,
Cook,	Henderson,	Muldrow,	Springer,
Cravens,	Henkle,	Myers,	Steele,
Culberson,	Henry,	New,	Stephens,
Daggett,	Herbert,	Nicholls,	Talbott,
Davis, George R.	Hiscock,	Norcross,	Taylor,
Davis, Joseph J.	Hooker,	O'Connor,	Thompson, P. B.
Davis, Lowndes H.	Hostetler,	Pacheco,	Tillman,
Deering,	House,	Page,	Townsend, Amos
Dibrell,	Hunton,	Philips,	Townshend, R. W.

Tucker,	Van Aernam,	Washburn,	Willis,
Turner, Oscar	Vance,	Wellborn,	Wise,
Tyler,	Van Voorhis,	Wells,	Wright.
Updegraff, Thomas	Voorhis,	Whiteaker,	
Upson,	Waddill,	Whitthorne,	
Valentine,	Wait,	Williams, Thomas	

NAYS—42.

Aldrich, William	Caswell,	Hayes,	Overton,
Anderson,	Cobb,	Hazelton,	Sherwin,
Baker,	Colerick,	Horr,	Sparks,
Bayne,	Conger,	Hubbell,	Stevenson,
Bingham,	Crapo,	Humphrey,	Stone,
Bouck,	Dwight,	Kelley,	Thomas,
Boyd,	Errett,	Lounsbery,	White,
Brewer,	Ferdon,	McCook,	Williams, C. G.
Briggs,	Godshalk,	Mitchell,	Willits.
Browne,	Hall,	Monroe,	
Cannon,	Hawley,	Osmer,	

NOT VOTING—117.

Aiken,	De La Matyr,	Kimmel,	Reed,
Aldrich, N. W.	Deuster,	King,	Rice,
Armfield,	Dick,	Kitchin,	Richardson, D. P.
Atherton,	Dunn,	Lapham,	Richmond,
Bailey,	Einstein,	Lindsey,	Robeson,
Ballou,	Ellis,	Loring,	Ross,
Barlow,	Ewing,	Marsh,	Rothwell,
Belford,	Farr,	Martin, Edward L.	Ryan, Thomas
Berry,	Field,	Martin, Joseph J.	Sapp,
Blake,	Finley,	McGowan,	Slemons,
Bliss,	Forsythe,	McKinley,	Smith, A. Herr
Blount,	Garfield,	McMahon,	Smith, Hezekiah B.
Bragg,	Gibson,	Miles,	Starin,
Brigham,	Gillette,	Miller,	Thompson, W. G.
Burrows,	Hammond, John	Money,	Turner, Thomas
Butterworth,	Harmer,	Morton,	Updegraff, J. T.
Calkins,	Harris, Benj. W.	Muller,	Urner,
Camp,	Heilman,	Murch,	Ward,
Chalmers,	Herndon,	Neal,	Warner,
Claflin,	Hill,	Newberry,	Weaver,
Clardy,	Houk,	O'Brien,	Wilber,
Clark, Alvah A.	Hull,	O'Neill,	Wilson,
Clymer,	Hurd,	O'Reilly,	Wood, Fernando
Converse,	James,	Orth,	Wood, Walter A.
Covert,	Jones,	Persons,	Yocum,
Cowgill,	Jorgensen,	Phelps,	Young, Casey
Cox,	Joyce,	Phister,	Young, Thomas L.
Crowley,	Keifer,	Pierce,	
Davidson,	Kenna,	Prescott,	
Davis, Horace	Killinger,	Price	

So the report was concurred in.

During the roll-call,

Mr. LEWIS said: I am paired with Mr. THOMPSON, of Iowa. On consultation with his colleagues they concede the propriety of my voting. I vote "ay."

The following pairs were announced:

Mr. LORING with Mr. GIBSON.

Mr. ALDRICH, of Rhode Island, with Mr. SLEMONS, on this vote.

Mr. ATHERTON with Mr. EINSTEIN.

Mr. ARMFIELD with Mr. MARTIN, of North Carolina.

Mr. BRIGHAM with Mr. CLARK, of New Jersey.

Mr. PRICE with Mr. SMITH, of New Jersey, for the remainder of the session.

Mr. HEILMAN with Mr. EWING.

Mr. DAVIDSON with Mr. FARR.

Mr. DUNN with Mr. PRESCOTT.

Mr. FINLEY with Mr. MILLER.

Mr. LE FEVRE with Mr. MARSH, on political questions.

Mr. COWGILL with Mr. BRAGG.

Mr. NEWBERRY with Mr. ELLIS.

Mr. THOMAS TURNER with Mr. MCGOWAN.

Mr. MCKINLEY with Mr. HURD.

Mr. CALKINS with Mr. PHISTER.

Mr. ORTH with Mr. MYERS, on political questions.

Mr. WALTER A. WOOD with Mr. MULLER.

Mr. JAMES with Mr. O'BRIEN.

Mr. GUNTER with Mr. BURROWS.

Mr. STARIN with Mr. RICHMOND.

Mr. BAILEY with Mr. YOUNG, of Tennessee.

Mr. CLARDY with Mr. SAPP.

Mr. HUBBELL with Mr. FERNANDO WOOD, on all political and revenue questions.

Mr. SMITH, of Pennsylvania, with Mr. MARTIN, of Delaware.

Mr. THOMPSON, of Iowa, with Mr. LEWIS.

Mr. O'REILLY with Mr. NEAL, on political questions and on questions concerning the revenue, excepting the sugar question, to the close of the session.

Mr. CLAFLIN with Mr. WARNER.

Mr. BLAKE with Mr. CLYMER, for to-day, Mr. CLYMER being on the conference on the sundry civil bill.

Mr. JONES with Mr. JOYCE, on all questions, for the remainder of this day.

Mr. AIKEN with Mr. WARD, for the remainder of the session, with leave to vote to make a quorum.

Mr. KING with Mr. HARRIS, of Massachusetts.

Mr. COVERT with Mr. YOUNG, of Ohio.

The result of the vote was then announced as above recorded.

Mr. ROBINSON moved to reconsider the vote by which the conference report was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

GENERAL DEFICIENCY BILL.

Mr. COBB. I ask unanimous consent that the bill (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and for prior years, and for those certified as due by the accounting officers of the Treasury in accordance with section 4 of the act of June 14, 1878, heretofore paid from permanent appropriations, and for other purposes, with amendments by the Senate, be taken from the Speaker's table, and move that the amendments of the Senate be non-concurred in and that the House ask for a committee of conference.

Mr. BAKER. I have some remarks which I desire to submit on that bill. I do not propose to detain the House, and if I can have leave to print them in the RECORD that will be satisfactory, otherwise I shall feel constrained to make a point of order on the amendments and have them go to the Committee of the Whole on the state of the Union.

The SPEAKER. Is there objection to the request of the gentleman from Indiana, [Mr. BAKER,] that he have leave to print some remarks on this bill in the RECORD?

There was no objection. [See Appendix.]

There being no objection, the motion of Mr. COBB, that the House non-concur in the Senate amendments and ask for a committee of conference, was agreed to.

Mr. COBB moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER subsequently announced as the conferees on the part of the House Mr. COBB, Mr. FORNEY, and Mr. MONROE.

SUNDRY CIVIL BILL.

Mr. BLOUNT. I rise to make a conference report.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House (H. R. No. 6266) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, having met, after full and free conference, have been unable to agree.

J. H. BLOUNT,
HIESTER CLYMER,
FRANK HISCOCK,
Managers on the part of the House.
JAMES B. BECK,
R. E. WITHERS,
W. B. ALLISON,
Managers on the part of the Senate.

The detailed statement accompanying the report was read, as follows:

The conferees on the part of the House on the sundry civil appropriation bill make the following statement to accompany the report of the conference committee herewith submitted:

The conferees of the House have been unable to agree with the Senate conferees upon any of the differences between the two Houses.

The Senate conferees throughout have insisted there should be a full concurrence upon every point or they would concur as to none, and therefore, while the House conferees are compelled to report no agreement, yet, in fact, as to many items there is a practical concurrence.

The conferees of the House are of the opinion if the House again express its judgment upon the Senate amendments its conferees and those of the Senate will be able to adopt a basis for concurrence that will be satisfactory to the two Houses.

J. H. BLOUNT,
HIESTER CLYMER,
FRANK HISCOCK,
Managers on the part of the House.

Mr. BLOUNT. I move that the report be received and that the House agree to the further conference asked for by the Senate on the disagreeing votes of the two Houses.

The motion was agreed to.

Mr. BLOUNT moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER subsequently announced as the conferees on the part of the House Mr. BLOUNT, Mr. CLYMER, and Mr. HISCOCK.

COUNTING THE ELECTORAL VOTE.

Mr. BICKNELL. I call for the regular order.

The SPEAKER. The regular order is the consideration of the Senate concurrent resolution in relation to the joint rule for counting the votes of electors for President and Vice-President, upon which the gentleman from Indiana [Mr. BICKNELL] demands the previous question.

Mr. VAN VOORHIS. I move that the further consideration of the resolution be postponed until the first Monday of December next.

Mr. ATKINS. Has the gentleman from New York the floor to make that motion?

The SPEAKER. The demand for the previous question excludes that motion.

Mr. VAN VOORHIS. Is not my motion in order?

The SPEAKER. It is not, pending the demand for the previous question. The Chair so stated before.

Mr. FRYE. I move that the resolution be committed to the committee having this question in charge, with instructions to report it back on the first Monday of the next session of Congress.

The SPEAKER. A motion to commit with instructions, as allowed by rule pending the demand for the previous question, has already been made and was rejected.

Mr. VAN VOORHIS. Not that precise motion.

The SPEAKER. The Chair understands but one motion to commit can be entertained under the rule pending the motion for the previous question, or after the previous question shall have been ordered. The Chair thinks the gentleman from Maine will concur in the judgment of the Chair in that respect.

Mr. FRYE. Undoubtedly. The rule permits one motion to commit, and only one.

Mr. VAN VOORHIS. My motion was simply to postpone.

The SPEAKER. The rule says "a" motion, with or without instructions, shall be permitted. That motion has been made, and it cannot be renewed. The gentleman from Indiana demands the previous question.

Mr. CONGER. I call for a division.

The House divided; and there were—ayes 77, noes 5.

Mr. CONGER. No quorum!

The SPEAKER. The Chair will order tellers, and appoints the gentleman from Ohio, Mr. KEIFER, and the gentleman from Indiana, Mr. BICKNELL.

Mr. WHITE. In the mean time I desire to introduce a bill.

The SPEAKER. The House not having a quorum cannot transact any business unless by unanimous consent.

The House again divided; and the tellers reported that there were—ayes 79, noes none.

Mr. CONGER and Mr. KEIFER. No quorum.

Mr. BICKNELL. I move that there be a call of the House.

The motion was agreed to.

The Clerk proceeded to call the roll, and the following members failed to answer:

Aiken,	Einstein,	Knott,	Pierce,
Aldrich, N. W.	Errett,	Le Fevre,	Prescott,
Armfield,	Ewing,	Loring,	Price,
Atherton,	Farr,	Marsh,	Reed,
Bailey,	Ferdon,	Martin, Benj. F.	Richmond,
Barlow,	Finley,	Martin, Edward L.	Rothwell,
Belford,	Fisher,	McCook,	Sapp,
Blount,	Ford,	McGowan,	Slemons,
Bowman,	Forsythe,	McKenzie,	Smith, A. Herr
Bragg,	Frost,	McKinley,	Smith, Hezekiah B.
Brigham,	Garfield,	McLane,	Starin,
Burrows,	Gibson,	Miles,	Thompson, P. B.
Butterworth,	Gillette,	Miller,	Thompson, W. G.
Calkins,	Hall,	Mitchell,	Turner, Thomas
Camp,	Haskell,	Muller,	Updegraff, J. T.
Claflin,	Heilman,	Murch,	Upson,
Clardy,	Herbert,	Myers,	Urner,
Clark, Alvah A.	Hostetler,	Newberry,	Van Voorhis,
Covert,	Houk,	O'Brien,	Weaver,
Cowgill,	Hull,	O'Connor,	Wilber,
Crowley,	Hutchins,	O'Neill,	Wood, Fernando
Daggett,	James,	Orth,	Wood, Walter A.
Davidson,	Jorgensen,	Page,	Yocum,
De La Matyr,	Killinger,	Persons,	Young, Thomas L.
Dick,	Kitchin,	Phister,	

The SPEAKER. The call of the roll develops the fact that more than a quorum is present, one hundred and ninety-three responding to the call of their names.

ENROLLED BILLS SIGNED.

Mr. WARD, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 1509) to accept and ratify the agreement submitted by the confederated bands of Ute Indians in Colorado, for the sale of their reservation in said State, and for other purposes, and to make the necessary appropriations for carrying out the same; and

An act (S. No. 1726) regulating the pay and appointment of deputy marshals.

Mr. KENNA, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes.

COUNTING THE ELECTORAL VOTE.

Mr. BICKNELL. I move that all further proceedings under the call of the House be dispensed with.

The motion was agreed to.

The SPEAKER. The question recurs upon seconding the demand for the previous question.

The question was taken; and upon a division there were—ayes 59, no 1.

Mr. CONGER. No quorum has voted.

Tellers were ordered; and Mr. KEIFER and Mr. BICKNELL were appointed.

The House again divided; and the tellers reported that there were—ayes 43, no 1.

Mr. CONGER. No quorum has voted.

Mr. BICKNELL. The last call of the House developed the fact that a quorum was present. The same fact was developed by a call of the House last Saturday. It is perfectly evident that our friends on the republican side do not mean to vote on this question.

Mr. CONGER. I object to that kind of argument. According to the report of the tellers just made only 43 have voted for seconding the demand for the previous question. Where are the democrats?

Mr. BICKNELL. The democrats have repeatedly voted on this question.

Mr. CONGER. The gentleman has no right to say to the country that which will lead it to understand that the only law-abiding men here are the republicans. Where are the democrats?

Mr. HUNTON. If the other side will vote there will be a quorum.

Mr. ROBESON. Yes; but the gentleman has a majority on his own side.

Mr. HUNTON. No matter, we have not a quorum on this side here now.

Mr. ROBESON. Where are they?

Mr. HUNTON. If gentlemen on the other side will vote I will guarantee that there will be a quorum.

Mr. CONGER. Who will excuse the democrats for not being in their places?

Mr. HUNTON. Who will excuse the republicans for filibustering?

Mr. CONGER. There is nothing on the record to show that there is any filibustering.

Mr. ROBESON. We have not a majority in this House.

Mr. WHITE. I for one am opposed to this matter, and I feel that I am justified in filibustering. I have committed myself in favor of some bill for this purpose, and I am ready at any time to consider such a bill.

Mr. KEIFER. Is debate in order?

Mr. CONGER. I call for the regular order.

Mr. WHITE. I say filibustering is justified.

The SPEAKER. The regular order is called for by the gentleman from Michigan, [Mr. CONGER,] and the tellers will resume their places and the Chair will endeavor to obtain a quorum.

Mr. HUNTON. The Chair will have no difficulty in getting a quorum if the other side will vote.

Mr. CONGER. I hope gentlemen over there will vote.

The SPEAKER. The Chair requests gentlemen on both sides to vote, according to the suggestion of the gentleman from Michigan, which the Chair hopes will have weight with members on that side of the House.

Mr. CONGER. I shall certainly advise those who vote with me to do their duty.

The SPEAKER. As the gentleman understands it.

Mr. CONGER. Certainly.

The tellers resumed their places and the count again proceeded, the tellers reporting 76 in the affirmative.

The SPEAKER. Complaint is made by gentlemen on the minority side of the House that members on the majority side do not vote.

Mr. CONGER. Is that a point to be decided by the Chair?

The SPEAKER. It is not a point of order raised by any one, but a mere reminder.

Mr. CONGER. Then I hope the Chair will not decide it.

The SPEAKER. The Chair suggests only.

Mr. HERBERT. There are at least sixty gentlemen on the republican side who have not voted, and the country must know that they are acting as obstructionists.

Mr. CONGER. I call for the regular order, and I insist that there shall be no further debate, either from the Chair or on the floor. [Laughter.]

The tellers, continuing their count, reported—ayes 84, noes 2.

The SPEAKER. No quorum has voted. Gentlemen are requested to vote on the one side or the other.

Mr. BICKNELL. I think it has now appeared sufficiently that our friends on the other side do not intend to vote. I believe the responsibility of defeating this measure rests upon them.

Mr. CONGER. Mr. Speaker, is debate in order?

Mr. BICKNELL. Therefore I now move that this resolution be made a special order for the first Monday in December next.

Mr. ROBESON. Is that motion debatable?

Mr. PAGE. Does not that require unanimous consent?

Mr. VAN VOORHIS. Does the gentleman withdraw the demand for the previous question?

The SPEAKER. The gentleman from Indiana withdraws the demand for the previous question on the adoption of the resolution and now moves to postpone the resolution and make it a special order for the first Monday of December next, on which motion he demands the previous question.

Mr. KEIFER. We would like to debate this question.

Mr. DAVIS, of North Carolina. How long do gentlemen on that side want to debate it?

Mr. KEIFER. Some gentlemen here would be glad to speak at once.

The previous question was seconded and the main question ordered.

Mr. BICKNELL moved to reconsider the vote by which the main question was ordered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The main question has been ordered on the motion of the gentleman from Indiana, [Mr. BICKNELL,] that this reso-

lution be postponed and made a special order for the first Monday of December next, after the morning hour.

Mr. KEIFER. That would be the first day of the session?

Mr. SPRINGER. I desire to know whether this is moved as a special order from day to day until disposed of, or as a special order for one day only?

The SPEAKER. If taken up it would continue before the House as unfinished business.

The question being taken on the motion of Mr. BICKNELL, there were—ayes 90, noes 26.

Mr. WHITE. No quorum.

Mr. BICKNELL. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 90, nays 75, not voting 127; as follows:

YEAS—90.

Acklen,	Dickey,	Hurd,	Robeson,
Bachman,	Dunnell,	Hutchins,	Russell, Daniel L.
Barber,	Elam,	Johnston,	Scales,
Beale,	Evins,	Kelley,	Shelley,
Beltzhoover,	Felton,	Kenna,	Sherwin,
Bicknell,	Ferdon,	Kimmel,	Speer,
Blackburn,	Field,	King,	Springer,
Boyd,	Forney,	Knott,	Steele,
Brewer,	Frost,	Lindsey,	Taylor,
Briggs,	Frye,	Lounsbery,	Thompson, P. B.
Buckner,	Geddes,	Lowe,	Tillman,
Caldwell,	Godshalk,	McCoid,	Tucker,
Cannon,	Hall,	McKenzie,	Turner, Oscar
Carlisle,	Harris, John T.	Morrison,	Upson,
Chittenden,	Hawk,	New,	Urner,
Cobb,	Hayes,	Nicholls,	Vance,
Coffroth,	Henkle,	Norcross,	Wells,
Colerick,	Henry,	Pacheco,	Williams, Thomas
Cox,	Hiscock,	Phelps,	Willis,
Crapo,	Hooker,	Reagan,	Wilson,
Cravens,	Hostetler,	Rice,	Young, Casey.
Davis, Joseph J.	House,	Richardson, J. S.	
Dibrell,	Hunton,	Robertson,	

NAYS—75.

Anderson,	Davis, Lowndes H.	McMahon,	Singleton, O. R.
Atkins,	Deering,	McMillin,	Smith, William E.
Baker,	Errett,	Mills,	Sparks,
Ballou,	Fisher,	Mitchell,	Stevenson,
Bayne,	Hammond, John	Monroe,	Thomas,
Bingham,	Harmer,	Muldrow,	Updegraff, Thomas
Browne,	Harris, Benj. W.	O'Neill,	Van Aernam,
Cabell,	Haskell,	Osmer,	Van Voorhis,
Carpenter,	Hawley,	Overton,	Waddill,
Caswell,	Herbert,	Page,	Wait,
Chalmers,	Humphrey,	Persons,	Wellborn,
Clark, John B.	Keifer,	Philips,	White,
Conger,	Klotz,	Richardson, D. P.	Whitehead,
Converse,	Ladd,	Ross,	Whitthorne,
Cook,	Lapham,	Ryan, Thomas	Williams, C. G.
Culberson,	Manning,	Ryon, John W.	Willits,
Daggett,	Martin, Benj. F.	Samford,	Wise,
Davis, George R.	Mason,	Shallenberger,	Wright.
Davis, Horace	McLane,	Simonton,	

NOT VOTING—127.

Aiken,	Dick,	Killinger,	Richmond,
Aldrich, N. W.	Dunn,	Kitchin,	Robinson,
Aldrich, William	Dwight,	Le Fevre,	Rothwell,
Armfield,	Einstein,	Lewis,	Russell, W. A.
Atherton,	Ellis,	Loring,	Sapp,
Bailey,	Ewing,	Marsh,	Sawyer,
Barlow,	Farr,	Martin, Edward L.	Singleton, J. W.
Belford,	Finley,	Martin, Joseph J.	Slemons,
Berry,	Ford,	McCook,	Smith, A. Herr
Blake,	Forsythe,	McGowan,	Smith, Hezekiah B.
Bland,	Fort,	McKinley,	Starin,
Bliss,	Garfield,	Miles,	Stephens,
Blount,	Gibson,	Miller,	Stone,
Bouck,	Gillette,	Money,	Talbott,
Bowman,	Goode,	Morse,	Thompson, W. G.
Bragg,	Gunter,	Morton,	Townsend, Amos
Brigham,	Hammond, N. J.	Muller,	Townshend, R. W.
Bright,	Hatch,	Murch,	Turner, Thomas
Burrows,	Hazelton,	Myers,	Tyler,
Butterworth,	Heilman,	Neal,	Updegraff, J. T.
Calkins,	Henderson,	Newberry,	Valentine,
Camp,	Herndon,	O'Brien,	Voorhis,
Claflin,	Hill,	O'Connor,	Ward,
Clardy,	Horr,	O'Reilly,	Warner,
Clark, Alvah A.	Houk,	Orth,	Washburn,
Clymer,	Hubbell,	Phister,	Weaver,
Covert,	Hull,	Pierce,	Wilber,
Cowgill,	James,	Poehler,	Wood, Fernando
Crowley,	Jones,	Pound,	Wood, Walter A.
Davidson,	Jorgensen,	Prescott,	Yocum,
De La Matyr,	Joyce,	Price,	Young, Thomas L.
Deuster,	Ketcham,	Reed,	

So the motion of Mr. BICKNELL was agreed to.

The following pairs were announced from the Clerk's desk:

Mr. SINGLETON, of Illinois, with Mr. MILES.

Mr. TALBOTT with Mr. ROBINSON, on this question.

Mr. HERNDON with Mr. CAMP, until further notice.

Mr. KETCHAM with Mr. STEPHENS, on all political questions.

Mr. BOUCK with Mr. BELFORD, on all political questions, reserving the right to vote to make a quorum.

Mr. STARIN with Mr. MONEY, for this day, on all questions except that of a quorum.

Mr. BLISS with Mr. HAMMOND, of New York, until three o'clock to-day.

Mr. BERRY with Mr. BAILEY.

Mr. HENDERSON with Mr. TOWNSHEND, of Illinois.

The result was announced as above stated.

Mr. BICKNELL moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. WRIGHT. I ask to be recognized in reference to the enforcement of the eight-hour law.

The SPEAKER. The other day when the gentleman from Pennsylvania [Mr. WRIGHT] was on the floor and this subject was pending under a suspension of the rules the Chair said if the gentleman would withdraw the motion at that time, a quorum having failed to appear, and all other business being thereby prevented, that the Chair would again recognize the gentleman during the six days when motions to suspend the rules were in order. The arrangement was made with the concurrence of the House. The Chair now executes and fulfills that understanding.

Mr. WRIGHT. I move, then, to suspend the rules and pass the joint resolution in reference to the eight-hour law.

The SPEAKER. The Chair is advised, by reference to the RECORD, there is a pending motion to suspend the rules which the Chair overlooked and which the Clerk will first read.

Mr. BUCKNER. May I inquire whether it was not the understanding the other day, when we took up the bills other than political bills on the Speaker's table, that when those political bills were taken up they should be acted on in their order?

The SPEAKER. Two have been acted upon, and there remains now another, in fact two, as the tariff-commission bill was indicated as one of the political bills. Those bills are on the Speaker's table. To give a solution to the matter, the Chair would prefer to entertain a motion at this time to go to the business upon the Speaker's table.

Mr. SPRINGER. Let us go there.

Mr. HOOKER. The proposition of the gentleman from Missouri is not exactly what transpired in the House. When we went to the table on the order of the House, and came finally to the bill of my friend from Pennsylvania, [Mr. WRIGHT,] it was said we would not take up the political bills on the table, and nothing was said and no agreement made they should be taken up in preference to any other matter.

The SPEAKER. They can be reached to-day by a motion to go to the business on the Speaker's table.

Mr. HOOKER. That would require a vote of the House.

JUDICIAL ASCERTAINMENT OF CLAIMS.

The SPEAKER. Yes; a majority vote. The Clerk will read the pending business.

The Clerk read as follows:

Mr. O'CONNOR moved to suspend the rules and take from the Private Calendar and pass House bill No. 5385, providing for the judicial ascertainment of claims against the United States, when no quorum voted.

Mr. SPRINGER. Is it in order to move to go to business on the Speaker's table?

Mr. HOOKER. Can the gentleman from Pennsylvania be taken off the floor by any such motion now?

Mr. SPRINGER. I did not know any one had the floor.

Mr. HOOKER. Yes; the gentleman from Pennsylvania.

The SPEAKER. As there is a motion to suspend the rules coming over as unfinished business, the Chair thinks it should first be disposed of. Then the Chair will recognize the gentleman from Pennsylvania to submit his motion. The Chair will cause to be read the exact motion now pending.

The Clerk read as follows:

JUDICIAL ASCERTAINMENT OF CLAIMS.

The SPEAKER. The gentleman from South Carolina, [Mr. O'CONNOR,] from the Committee on Reform in the Civil Service, moves that the rules be suspended for the purpose of taking up a bill (H. R. No. 5385) providing for the judicial ascertainment of claims against the United States.

Mr. O'CONNOR. I move to suspend the rules for the purpose of making that bill the special order for next Monday after the call of the roll of States and Territories. It is too important a bill to pass under a suspension of the rules.

Mr. BOUCK. I move the House adjourn.

The House divided; and there were—ayes 74, noes 71.

Mr. WILSON demanded tellers.

Tellers were ordered; and Mr. CONGER and Mr. O'CONNOR were appointed.

The House again divided; and the tellers reported—ayes 64, noes 58.

The SPEAKER. The Chair will again submit the motion to suspend the rules made by the gentleman from South Carolina [Mr. O'CONNOR] coming over as unfinished business.

The motion was disagreed to; two-thirds not voting in favor thereof.

EIGHT-HOUR LAW.

Mr. WRIGHT. I now move to suspend the rules and pass the joint resolution (H. R. No. 239) to provide for the enforcement of the eight-hour law.

The resolution was read, as follows:

Resolved, &c., That, according to the true intent and meaning of section 3738 of the Revised Statutes, all laborers, workmen, and mechanics, employed by or in behalf of the Government, shall hereafter receive a full day's pay for eight hours' work; and all heads of Departments, officers, and agents of the Government are hereby directed to enforce said law as herein interpreted.

Mr. CONGER. I demand tellers on the seconding of the motion to suspend the rules.

The SPEAKER appointed as tellers Mr. WRIGHT and Mr. CONGER.
The House divided; and the tellers reported—ayes 90, noes 15.
So the motion to suspend the rules was seconded.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, announced concurrence in the amendment of the House to the bill (S. No. 1726) regulating the pay and appointment of deputy marshals.

It further announced the passage of the following bills without amendment:

An act (H. R. No. 559) to constitute the city of Portsmouth, in the State of Ohio, a port of delivery;

An act (H. R. No. 753) granting a pension to Thomas J. Jackson;

An act (H. R. No. 952) for the relief of the Fifteenth and Sixteenth Missouri Cavalry Volunteers;

An act (H. R. No. 1023) making an appropriation for the erection of a naval wharf at Key West, in the State of Florida;

An act (H. R. No. 1076) for the relief of Amanda M. Cook;

An act (H. R. No. 1291) creating the Yakima land district in Washington Territory;

An act (H. R. No. 2567) for the relief of E. K. Snead, deceased, and his sureties, for the loss of certain books of special stamps and coupons;

An act (H. R. No. 2793) for the relief of Rachael Martin;

An act (H. R. No. 3171) for the relief of certain settlers on the public lands and to provide for the repayment of certain fees, purchase-money, and commissions paid on void entries of public lands;

An act (H. R. No. 3544) granting a pension to John Fisher, guardian of the infant heirs of William Dakin, deceased;

An act (H. R. No. 3656) for the relief of John Hohstadt;

An act (H. R. No. 3708) to grant to the State of Nevada lands in lieu of the sixteenth and thirty-sixth sections in said State;

An act (H. R. No. 4842) to reinstate R. W. Barkley as cadet-midshipman in the United States Naval Academy at Annapolis;

An act (H. R. No. 5502) granting to the Territory of Dakota section 36, in township No. 56 north, of range No. 94 west, in the county of Yankton, in said Territory, for the purpose of an asylum for the insane, and granting to said Territory one section of land in lieu of said thirty-sixth section for school purposes; and

An act (H. R. No. 6109) to amend the sixth subdivision of section 3244 of the Revised Statutes of the United States.

EIGHT-HOUR LAW.

The SPEAKER. No further count being insisted on, there is a second. The gentleman from Michigan demanded a count, and under the rule if it is now desired there can be fifteen minutes' time for discussion on each side of this question.

Mr. WRIGHT. I do not want any debate upon it.

Mr. COX. No friend of the bill proposes to debate it, as I understand.

Mr. CONGER. I propose to occupy a part of the time, but will yield five minutes to the gentleman from Illinois, [Mr. CANNON.]

Mr. CANNON, of Illinois. Mr. Speaker, section 3738 of the Revised Statutes, which is proposed to be amended, is as follows:

Eight hours shall constitute a day's work for all laborers, workmen, and mechanics who may be employed by or on behalf of the Government of the United States.

I am informed that prior to the passage of the law ten hours' labor was required from such employés; now the employés can work only eight hours and still receive employment, while the Government, especially in the navy-yards, gives the privilege by contract to the employés to work two hours more per day, making ten hours in all, and receive pay for such two hours' extra work; that is, two-tenths more pay than those who work only eight hours. In my opinion this is right. Now, then, I am informed an employé who had been working ten hours per day and receiving ten hours' pay therefor brought suit in the Court of Claims against the Government for the two hours' extra work, which he had already been paid for, claiming that eight hours was a legal day's work, and that he ought to have ten hours' pay for eight hours' work, and the court very properly refused to give him a judgment, for the Government did not owe him anything. There was an appeal taken to the Supreme Court of the United States, and there the judgment of the Court of Claims was affirmed.

Mr. GOODE. What case does the gentleman refer to?

Mr. CANNON, of Illinois. Martin's case. With this construction I do not see that the law harms either the Government or the employé; the Government pays for all the work done and no more, and the employé can work only eight hours a day and still receive employment, if he chooses, taking only eight hours' pay therefor; or he can work ten hours and get ten hours' pay therefor. So I would not repeal the law.

Mr. COX. Would you enforce the law?

Mr. CANNON, of Illinois. Certainly; the law is now being enforced.

Mr. PAGE. Where?

Mr. CANNON, of Illinois. Certainly in all the navy-yards, and I understand as to Government employés generally.

Now, the object of this bill is to so amend the existing law as to pay all the employés of the United States Government ten hours' pay for eight hours' work.

Mr. COX. Will the gentleman allow me to ask him a question?

Mr. CANNON, of Illinois. I cannot yield. I have but a very few minutes.

Mr. COX. I only want to ask a question.

Mr. CANNON, of Illinois. I will yield, then, only for a question.

The SPEAKER. It will come out of the gentleman's time.

Mr. CANNON, of Illinois. I will yield for a question only.

Mr. COX. Does not my friend from Illinois know that the Departments, even in this city, have made a different interpretation of that law, some holding to eight hours and some to ten? And the idea I have in going for the bill is to secure uniformity.

Mr. CANNON, of Illinois. I cannot yield for a speech.

Now, then, if some of these Departments pay ten hours' wages for eight hours' work; I say if that be true, of which I am not informed, but if it be a fact, I will vote for an act which will stop the Departments from doing that any longer.

I say again, the object of this bill is to pay people who work for the Government ten hours' wages for eight hours' work; it might well be entitled "A joint resolution to give something for nothing," to tax the people who are not fortunate enough to work for the Government to pay those who are, not only all they earn, but to each man each day two full hours' wages for doing nothing. Every one has a right to give away his own substance if he desires, but no one has a right to give away the substance of his neighbor without the neighbor's consent, nor have we a right as legislators to tax the many to carry on the Government and then give away the proceeds to the favored few for no service whatever. I take it there is not to exceed twenty thousand of the proposed-to-be-favored class, they are principally to be found about Washington and at the different navy-yards. There are two hundred and ninety-two congressional districts represented here, and in two hundred and seventy of them probably you will not find a single employé to be affected by this act, and in the navy-yards where they are employed they get better pay for eight hours' work than is generally received the country over for ten hours' similar work; but notwithstanding this it is proposed to go still further and give ten hours' pay for eight hours' work. Why, sir, I am informed that these appointments are largely made upon the recommendation of members of Congress, it being esteemed a favor to get this profitable employment. Then, why make it still more profitable?

Mr. Speaker, in my own State of Illinois, as well as in all the other States, wherever men labor, whether in the mine, factory, or shop, upon the railroad or farm, they work from ten to twelve hours a day. Now, the navy-yards, in fact the whole Government, is run for the benefit of these toiling fifty million of people, and belongs to them, and is supported by taxes paid by them, and I will not now or at any other time vote for this bill or any other bill which taxes the toiling millions who work from early morn to dewy eve to pay a select and privileged class of less than twenty thousand souls each day two hours' pay for no work at all, or ten hours' wages for eight hours' work.

Mr. CONGER. I yield five minutes to the gentleman from South Carolina, [Mr. TILLMAN.]

Mr. TILLMAN. I regret very much, inasmuch as this is the only subject on which I proposed to address the House during the present session, that I have barely time on this great demagogical question to merely ask the House for the privilege of printing a speech which I have prepared, in which I have endeavored to trace the history of this legislation from its origin, and in which I think I have almost demonstrated from the record that demagogues proposed it at first; that it was conceived in sin and brought forth in iniquity by the republican party for the purpose of carrying both the presidential elections at which General Grant was elected President; that a Massachusetts statesman introduced the first bill in this House in 1868, and another Massachusetts statesman likewise introduced the second bill in 1872; and that a third Massachusetts statesman was its chief advocate in the other end of the Capitol; that a Massachusetts statesman, as Secretary of the Treasury, executed most of the infamous contracts under the eight-hour law, which secured 15 per cent. commission to the contractor in the erection of all public buildings that have been erected since the war, by which this Government has been plundered over perhaps $20,000,000.

Sir, the question is so vast and the infamies connected with it are so shocking and startling that I hardly know within five minutes where to begin; and therefore, having stated that I have dealt with personalities in making charges in the speech I propose to publish, I regret that the debate had not come up here in regular order, that I might have delivered my speech as logically and consecutively as I could, and that I might have given those who chose to controvert it the opportunity to have done so on this floor.

Yes, sir, I have made the charge that a fifth Massachusetts man by his connection with the administration of this eight-hour law, as it seems from the record, obtained most of the money by which he erected yonder stone palace on the south boundary of the Capitol grounds.

Mr. HAZELTON. He is a democrat now.

Mr. TILLMAN. Why, sir, the very sites of the public buildings have cost three times as much as the law authorized, and the extravagance and peculation in the erection of the structures under the eight-hour law appear to have furnished the excuse for it.

Mr. Speaker, as I have said, it is idle to undertake to cover the

ground that this subject occupies in five minutes' time. I therefore shall ask the House the privilege of permitting me to print my speech.

Mr. KEIFER. Will the gentleman from South Carolina allow me to ask him a question?

Mr. ROBINSON. The gentleman from South Carolina states he proposes in the speech he asks leave to print to indulge in personalities in regard to Massachusetts members.

Mr. TILLMAN. Not Massachusetts members of the present House, as far as I know. I said Massachusetts statesmen, [great laughter;] Massachusetts Christian statesmen. The gentleman who has just risen I do not believe claims to belong to that class. At least I do not rank him as such.

Mr. KEIFER. I hope the gentleman from South Carolina will allow me to ask him a question.

The SPEAKER. Does the gentleman from Massachusetts [Mr. ROBINSON] object to the request of the gentleman from South Carolina that he have leave to print his remarks?

Mr. ROBINSON. Certainly I should not wish to do such an ungracious thing as to object to the gentleman's printing his speech, but I hope it will not be put beyond the power of reply. Inasmuch as the gentleman has said that the speech he asks leave to print indulges in personalities, I think members of the Massachusetts delegation should have an opportunity to make a reply. I only suggest that for the gentleman's consideration.

The SPEAKER. Is there objection to the gentleman from South Carolina having leave to print his remarks?

Mr. TILLMAN. I hope there will be no objection.

Mr. PAGE. I ask unanimous consent that the gentleman be permitted to read his speech now.

The SPEAKER. The gentleman from California asks unanimous consent that the gentleman from South Carolina be permitted to make his speech now. [After a pause.] The Chair hears none.

Mr. TILLMAN, (holding up a manuscript.) I have the speech here.

Several MEMBERS. Go ahead.

Mr. TILLMAN. It is due to the House that I should state it is a very large manuscript.

The SPEAKER. The Chair will state to the gentleman that the unanimous consent does not extend beyond an hour.

Mr. TILLMAN. I will get through within an hour.

Mr. ATKINS. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ATKINS. I ask whether the rule does not allow fifteen minutes merely to each side?

The SPEAKER. That is the rule; but unanimous consent was given that the gentleman from South Carolina should have an opportunity to speak for one hour.

Mr. ATKINS. I did not see the Speaker rise and put the question.

The SPEAKER. The Chair put the question, and the record shows it.

Mr. FROST. I objected at the time.

Mr. TILLMAN. I insist I have the floor. Although I am a modest member, I assert my right.

The SPEAKER. The gentleman from Missouri [Mr. FROST] now states that he objected. The Chair certainly did not hear him.

Several MEMBERS. Too late.

The SPEAKER. The gentleman from Missouri states that at the time the Chair submitted the question for unanimous consent he rose and objected.

Mr. FROST. I rose where I am now standing and objected.

The SPEAKER. The gentleman says he rose and objected; and the Chair takes the word of a gentleman always.

Mr. ATKINS. The word of the gentleman from Missouri needs no confirmation. If it did, half a dozen gentlemen here saw and heard him.

Mr. LAPHAM. I ask why the gentleman from Missouri sat all this time without insisting on his objection until the gentleman from South Carolina had addressed the Chair? I think he certainly waived his objection, if he did make it at the proper time.

Mr. FROST. The reason why I did not call the attention of the Speaker and the House to my objection was that there were twenty-five gentlemen all talking at once.

The SPEAKER. That is the reason why the Chair did not hear.

Mr. TILLMAN. I have no disposition to force myself on the House. I wished to speak only in discharge of a solemn duty imposed upon me as a member of a committee on which I was appointed.

The SPEAKER. The Chair will again submit the request to the House. The Chair always takes the word of a member. Is there objection to the gentleman from South Carolina [Mr. TILLMAN] proceeding to address the House at this time?

Mr. FROST. I object.

Mr. McCOOK. Would it be in order for me to move a suspension of the rules so that the gentleman may be allowed to proceed?

The SPEAKER. It would.

Mr. McCOOK. Then I make that motion.

The SPEAKER. The Chair corrects himself. There is now pending a motion to suspend the rules; another cannot be made until that shall have been disposed of.

Mr. McCOOK. I thought we were proceeding under the rule which allows fifteen minutes' debate on each side.

The SPEAKER. The Chair will examine the question. [After a pause.] The Chair will cause to be read an extract from the Manual which bears upon the case, and to which no doubt many members refer when they suppose that a motion to suspend the rules, as in this case, can be supplemented by another motion to suspend the rules.

The Clerk read as follows:

It is not in order to move a suspension of the rules while the House is acting under a suspension of the rules unless connected with the business immediately before the House, nor while considering a special order, it having been made under a suspension of the rules, [unless connected with the consideration of such special order,] nor while the previous question is operating.

The SPEAKER. The Manual evidently refers to a suspension of the rules for the consideration of a bill. The Chair recollects very distinctly where a bill was brought before the House for consideration under a suspension of the rules, as in the case of a revenue bill, a motion to suspend the rules was allowed for the purpose of cutting off discussion or of cutting off amendment; but the Chair has never known in his experience a motion made to suspend the rules and pass a bill which was supplemented by another motion to suspend the rules in some other respect, such as allowing the debate to be extended. The Chair therefore rules that the motion suggested by the gentleman from New York [Mr. McCOOK] is not in order. The gentleman from South Carolina [Mr. TILLMAN] asks leave to print in the RECORD his remarks. The Chair thinks that permission to print was given prior to the question just raised.

Mr. YOUNG, of Ohio. I object to the printing of the speech of the gentleman on the ground that he has declared beforehand that it is full of personal invectives. I shall never consent to the printing of any such speech, not delivered on this floor where it can be answered.

Mr. ATKINS. That objection comes too late.

Mr. TILLMAN. I hope that any gentleman who may think proper to do so may be permitted to print a reply.

The SPEAKER. To print or deliver a reply.

Mr. WARNER. I object to delivering a reply; I object to discussion on this floor being extended beyond the time fixed by the rule.

Mr. KELLEY. I object to printing personal invectives at this late hour of the session, when no reply can be made.

The SPEAKER. Objection is made to the printing of the remarks of the gentleman.

Mr. ATKINS. Do I understand the gentleman from Cincinnati [Mr. YOUNG] to say that he objects to printing any speech not delivered on this floor?

Mr. YOUNG, of Ohio. I do not say that. I object to the printing of a speech where the gentleman preparing it declares beforehand that it is full of personal invectives.

Mr. CONGER. How much time have I remaining?

The SPEAKER. Five minutes.

Mr. CONGER. I yield three minutes to the gentleman from Massachusetts, [Mr. RICE.]

Mr. RICE. The gentleman from South Carolina [Mr. TILLMAN] has seen fit to say that this demagogical bill, as he calls it, has been supported by a statesman of Massachusetts. Why did he not say that that statesman of Massachusetts was the candidate of the democratic party in the last election of Massachusetts for governor? Why did he not state that when this demagogical bill was up in the last Congress——

Mr. TILLMAN. I merely desire to know if I am to be taken off the floor by another gentleman to make a speech?

The SPEAKER. The gentleman from South Carolina occupied the floor for the five minutes' time yielded to him by the gentleman from Michigan, [Mr. CONGER.] That gentleman now yields three minutes to another gentleman.

Mr. RICE. Why did not that gentleman state that when this bill was under discussion in the last Congress it was a Representative from Massachusetts who first opposed it, and the republican Representatives from Massachusetts voted together in opposition to it?

If the gentleman means merely to show his feeling and his prejudice against the State of Massachusetts by this statement, then I am happy and my colleagues are happy not to be included in any classification of statesmen which that gentleman may see fit to make. I desire to pay no further attention to the remarks of the gentleman, or to take any further notice of them.

I am opposed to this bill, because it seeks to give a favored class who are employed by the Government the same pay for eight hours' work that other mechanics and laborers receive for ten hours' work. It seeks to deprive the Government of the power of running its shops for ten hours a day and employing its laborers for ten hours a day, alongside of other employés who are engaged in the same kind of labor, and some of them upon the very same buildings. For this reason I oppose this bill, as I did when it was up before, and I believe the Representatives from Massachusetts will concur with me in that opposition.

Mr. CONGER. I now yield two minutes to the gentleman from Pennsylvania, [Mr. BAYNE.]

Mr. TILLMAN. I would like to ask the gentleman from Massachusetts [Mr. RICE] what democratic candidate he alluded to.

Mr. RICE. General Butler.

Mr. TILLMAN. Why, General Butler never introduced either of the eight-hour measures which were passed by Congress.

Mr. RICE. I supposed the gentleman referred to him.

Mr. TILLMAN. General Banks introduced one, and Mr. DAWES the other.

Mr. RICE. General Banks was a democratic candidate for Congress at that time.

Mr. COX. What General Banks did in that regard was to his credit.

Mr. RICE. It was not General Banks who built the stone mansion referred to by the gentleman; it was General Butler.

Mr. TILLMAN. When I spoke of dealing in "personalities" I only intended to imply that I should quote from the record with some comments. As to any prejudice against the gentleman's State, I disclaim it. All my remarks are based upon the record, and are made in the discharge of what I regard as a duty.

Mr. BAYNE. Mr. Speaker, in two minutes I can say very little. I believe that this is simply a demagogical measure, calculated and intended to seduce men from the paths of political virtue. It has not a particle of merit in it, or a particle of sense, or a particle of right. It would be a shame and a disgrace to this Congress to enact it. It is discreditable to the mind and the heart of the man who conceived it. It is unjust toward all the workingmen of this country who are not engaged in Government employ. In my own district there are a great many workingmen who delve down in the bowels of the earth to dig coal, or who work in the hot air of the mills—men who toil ten hours every day, earning their bread by hard labor. This measure is not calculated to ameliorate the condition of that class, but simply to help the favored classes now in Government employ—occupying positions which men are seeking every day. Members are constantly importuned to put men into these places, to get them these easy jobs.

The resolution proposes now to attempt to thwart the decision of the Supreme Court, to attempt to thwart the laws of trade, and to confer upon these favored classes still greater favors. It is entitled to no consideration from fair and just men. I do not think there is a man who is honest in his purposes and convictions who would propose such a measure as this.

I believe the Government of the United States ought to regulate its contracts with its employés as individuals do; it ought to act with the same honesty and economy toward its employés; it ought to deal just as fairly with them as private employers do throughout the country. These special favors should not be distributed. This Government should not be made paternal in its relations with those whom it employs.

I hope that this measure will be voted down. I trust every man here who has respect for himself will vote against it, and show by his vote that he means to do justice to the workingmen of the country, not to discriminate unfairly in behalf of classes already favored.

Mr. PAGE. The gentleman from Pennsylvania [Mr. BAYNE] is not paying a very high compliment to the Senate and House of his own party who some years ago passed this law, or to the republican President who signed it.

Mr. BAYNE. I cannot help who passed the law. Whoever the shoe fits, let him put it on.

Mr. COX. It fits General Grant; who by his proclamation as President carried out this law.

Mr. BAYNE. No doubt he did it because it was the law. General Grant said that the best way to secure the repeal of a bad law was to enforce it.

Mr. COX. General Grant signed this law; and all the gentleman's talk about "demagogism" applies to that great man of his own party, so recently discarded.

Mr. TILLMAN. Under the existing law claims are being made to the amount of millions of dollars. It is a shame that such a question as this should be decided upon half an hour's debate.

Mr. FROST. I would like to ask the gentleman from Pennsylvania [Mr. BAYNE] a question. Does he believe it to be honest to enforce the law as it now stands on the statute-book?

Mr. BAYNE. The law, as I have already said, has been decided voidable by the Supreme Court of the United States.

Mr. FROST. Is there now a proposition to avoid it?

Mr. BAYNE. The Supreme Court of the United States, in a case coming before it, has held that the Departments of the Government have the right to employ men for eight hours and pay them for eight hours; and when it employs men for ten hours it has the right to pay them an additional sum for their services. That is common sense, common honesty, fair-dealing; anything short of that is not.

The SPEAKER. The gentleman from Pennsylvania [Mr. WRIGHT] is now entitled to the floor for fifteen minutes.

Mr. ROBESON. Will the gentleman permit me for one minute?

Mr. WRIGHT. The gentleman shall have a minute of my time.

Mr. ROBESON. I thank the gentleman from Pennsylvania.

Now, Mr. Speaker, I favor this law because it is only the enforcement of a statute which is written upon the statute-book of our country and has been there for many years, and which when it was passed was passed with a full understanding of all its scope and meaning, and was full notice to the country and all the Departments of the Government and to everybody that was employed under it. Therefore, sir, I am in favor as long as it stands upon the statute-book of executing it by all the powers of the Government. [Applause.]

The SPEAKER. The gentleman's one minute has expired.

Mr. WRIGHT. I will limit myself to three minutes of the time left me, as the rest of it I have divided among gentlemen who wish to say something on the merits of the pending proposition.

Now, sir, it is rather unkind in my friend from the Allegheny district of Pennsylvania [Mr. BAYNE] to charge the framers of this bill with being demagogues. I do not know whether he has alluded to me, nor do I care the snap of my finger. It is too common, Mr. Speaker, when a member rises on this floor to talk in favor of the rights of labor to have it thrown up as demagogism. I did not introduce this bill, but I am its advocate, and I will stand by it from the beginning to the end according to the law. In plain language the law is written in these very words:

Eight hours shall constitute a day's work by all laborers, workmen, and mechanics who may be employed by or on behalf of the Government of the United States.

Is there any difficulty in putting a construction upon that language? It is written as plainly as the English language can express an idea. And it does me good when the ex-Secretary of the Navy rises in his place on this floor and states that while he had charge of that Department he carried out the law. Ordinarily we do not give men credit for carrying out the law, but here there has been an attempt to evade the law, and it has been wantonly done.

Gentlemen must not tell me the Supreme Court have decided this law does not mean eight hours for a day's work. All that court has said is that the man who does the labor may make a special contract and is bound by it. That is what the court has decided.

With regard to the character of this law, if it be not the law of the land, strike it from your statute-book; but do not evade it, do not attempt to get around it because it favors a class of men who have not the means to defend themselves in courts of justice or have not the money to come here and lobby this House for the purpose of protecting their own rights.

Let the law stand or let the law be repealed. It has been here for a period of some twelve years, for I think the law was passed in 1868. It has been regarded as almost a dead-letter upon the statute-book. I tell you that a construction against labor and laboring-men in the manner in which this thing is done is wrong; and I tell you so before God and in the light of all men that that law should be carried out and enforced. I yield now for three minutes to the gentleman from Virginia.

Mr. HAZELTON. Does this law apply to any of your constituents?

Mr. WRIGHT. It does not apply to my constituents.

Mr. HAZELTON. Then, why do you not have one that does apply to your constituents?

Mr. WRIGHT. It applies to every man who is employed in the Government workshops throughout the land.

Mr. HAZELTON. Why do you not introduce one, then?

Mr. TALBOTT. I ask unanimous consent to offer this amendment.

Mr. COX. An amendment cannot be made under a suspension of the rules.

Mr. TALBOTT. I ask to have it read, and I think then it will be adopted by unanimous consent.

Mr. PHILIPS and Mr. FROST objected.

Mr. GOODE. Mr. Speaker, as a member of the Committee on Education and Labor, I desire to say one word to the House. This resolution passed the Forty-fifth Congress by a majority of 127 to 20, and, from the beginning of this Congress, we have had memorials from a large number of workingmen throughout the country, not confined to navy-yards, but workingmen generally, calling on Congress to say what was meant by the eight-hour law; and, in response to those memorials, the Committee on Education and Labor have reported this resolution.

What are the facts? On the 25th of June, 1868, Congress passed a law providing, in terms, that from and after that time eight hours shall constitute a day's labor. During the Presidency of General Grant he felt called upon on two occasions to declare by presidential proclamation that this was the law of the land and must be enforced. And again in 1872 the matter came up here upon an appropriation bill, and the Congress by a legislative interpretation declared that it was the law binding upon the Departments. Now, I undertake to say that if any gentleman here upon this floor will read the debate which occurred in June, 1868, he cannot doubt the intention of the law-making power at that time. He may doubt as to the policy of the law or he may doubt as to its wisdom, but no sane man can read that debate and doubt for a solitary moment that Congress intended to fix eight hours as the limit for a day's work. But upon what ground? Upon this ground: that the experience of mankind showed that in the long run men could accomplish as much work by working eight hours steadily as could be done by attempting to work for ten; that man's physical capacity for manual labor was limited, and that it was not wise to attempt to extend it beyond its reasonable capacity; that the time had come in this country to restrict the number of hours of labor, and that the experience of mankind showed that eight hours was enough in view of the fact that machinery in this country had begun to accomplish a great deal of work that had been done by manual labor theretofore, and upon that theory the law was passed.

I want to say about the decision in the suit which was referred to in the discussion of the gentleman from Illinois, and has been alluded to in this discussion by other gentlemen, that it was instituted by a man named Martin. It seems that this man had accepted his pay and receipted in full to one of the Departments of the Government, but subsequently filed a claim for additional pay under the law. They

refused to pay him the additional sum and the case went to the Court of Claims. The Court of Claims decided against him. Then he took an appeal to the Supreme Court, and the Supreme Court decided against him also, on the ground that he had received pay for which he had given a receipt in full, and it was a bar against him in the prosecution of any further claim for the same services.

Mr. HAZELTON. Will the gentleman permit me to ask him a question?

Mr. GOODE. Certainly.

Mr. HAZELTON. Do you understand that under this law the wages are graded according to eight hours' work or more?

Mr. GOODE. The wages are fixed by a proper system. There is a law of 1862 providing that in the navy-yards employés shall be paid according to the rates paid in neighboring workshops for the same character of work, and a board is constituted which goes into the neighborhood, examines into the rates of wages paid in shops for this class of work, and the rates of pay in the navy-yards are fixed in accordance with the report of that board. In other words, they are fixed at the same rates as for a corresponding class of work done in establishments in the neighborhood. But the object of this law is to say that a man shall have a full day's pay for eight hours' work.

Mr. HAZELTON. That is what I understand it to be, exactly.

Mr. WARNER. These men are receiving the same pay as is paid in corresponding private establishments in the same neighborhood.

Mr. GOODE. Yes, sir; the board fixes the rate in accordance with that.

Mr. WRIGHT. I yield now to the gentleman from New York [Mr. COX] for five minutes.

Mr. TILLMAN. I wish to ask the gentleman if he does not know that the Supreme Court decided that case to which he has referred upon three other grounds as well as the one to which he has mentioned?

Mr. WRIGHT. I did not yield to the gentleman from South Carolina. I have yielded to the gentleman from New York, [Mr. COX.]

Mr. COX. I object to the gentleman proceeding any longer. He has already occupied his own time. He has attacked the motives of other gentlemen who favor this measure. The gentleman from Pennsylvania [Mr. BAYNE] has also indulged in personalities. He has attempted to refer to the law upon the subject. It is a pity the gentleman did not read something before he commenced.

In 1872 Congress passed a law in a general appropriation bill, in which provision was made in the following words. It is in the Revised Statutes, page 727:

> Allowance for reduction of wages under eight-hour law:
> Of such sum as may be required in the settlement of all accounts for the services of laborers, workmen, and mechanics employed by or on behalf of the Government, between the 25th day of June, 1868, the date of the act constituting eight hours a day's work for all such laborers, workmen, and mechanics, and the 19th day of May, 1869, the date of the proclamation of the President concerning such pay, to settle and pay for the same without reduction on account of reduction of hours of labor by said act, when it shall be made to appear that such was the sole cause of the reduction of wages.

This was the law. When, as I say, that General Grant carried out this law, which no one upon this floor has had the courage to attempt to alter or repeal, he is put down with the rest as a common demagogue——

Mr. HAZELTON. Grant?

Mr. COX. Yes, sir; because he held to such an interpretation of the law as to effectuate it.

Mr. HUMPHREY. That is the first time I ever heard of a man being called a demagogue because he carried out a law.

Mr. COX. Now, nobody ever referred to you or to the other gentleman from Wisconsin who has interrupted me. You are from Wisconsin. You have already had great subsidies for railroads and corporations.

Mr. HUMPHREY. Not from you.

Mr. COX. No, sir. The gentleman from Pennsylvania has had large bounties, too, in the shape of tariff. You have had all large largesses from the Federal Treasury, but when twenty thousand working people come up here and ask their rights fixed by law to be enforced at your hand you have not a generous word or a kind thought toward them.

Mr. HAZELTON. Have you ever sought to extend this privilege to any of your constituents except Government employés?

Mr. COX. I never respond to any one who does not first ask me to give way to him for a question.

Mr. HAZELTON. I did not suppose you would respond.

Mr. COX. One remark more. These workingmen have not the leisure, not the comfort, not the time, or the means for relief and culture which other and favored people in other professions and occupations have. They are entitled to respect. They are the foundation of our greatness. This system of shortening hours of labor has been successfully tried in England. It was tried in the Springfield arsenal. It was found there that at the end of the year, by reducing the hours of labor from ten to eight hours, the Government got more work from the employés. It was found that eight hours a day produced more of value to us in the Springfield arsenal than ten hours a day under the old system. The facts are as I state. No ignorance and no impudence can change them.

[Here the hammer fell.]

Mr. KELLEY. I desire to say that with free trade, as advocated by the gentleman from New York, [Mr. COX,] our workingmen would soon be without work or wages.

Mr. WRIGHT. I now yield to the gentleman from Kentucky, [Mr. WILLIS.]

The SPEAKER. But two minutes of the gentleman's time remain.

Mr. WILLIS. Mr. Speaker, as a member of the committee reporting this resolution, I desire briefly to state the reasons for my support of it. The most casual reading of the law referred to in the resolution will, it seems to me, determine its real meaning and scope. It reads as follows:

> Eight hours shall constitute a day's work for all laborers, workmen, and mechanics now employed, or who may be hereafter employed, by or on behalf of the Government of the United States.

Plain as are the terms of this law, it has from time to time been either unenforced or nullified by general orders from the heads of Departments. In view of this fact, it became necessary to ask a legislative interference in order to secure the proper enforcement of the law. Resolutions construing the meaning of the law were presented in this House and referred to the Committee on Education and Labor. That committee, after full argument and consultation, has reported back, as a substitute, the resolution upon which we are now called to vote. The resolution does not comprise a single word of new legislation. It is simply declaratory of the law as it stands upon the statute-book. Whence came that law? Is it true, as stated by the gentleman from South Carolina, [Mr. TILLMAN,] that it was enacted by republican votes and was repudiated at the time by the democratic party? Sir, I deny that proposition. I stand here with the official record before me, and assert that when that bill was passed in the Senate of the United States every democratic member cast his vote in its favor. In the House it was passed under a suspension of the rules, and there is no way of ascertaining how any one voted.

Mr. TILLMAN. How many democrats were members of the Senate at that time?

Mr. WILLIS. Unfortunately for the country only seven or eight, but all of them, with one exception, voted for the bill.

Mr. TILLMAN. Were there more than two democrats who actually voted—Mr. Hendricks and Mr. Buckalew?

Mr. WILLIS. I have the record before me. Here is Mr. Buckalew. Here is Mr. McCreery, of my own State. Here is Mr. Hendricks.

Mr. TILLMAN. Go on; can you read any more names?

Mr. WILLIS. If the gentleman will possess his soul in patience and read over his own speech and not interrupt me in mine I will be obliged to him. Mr. Patterson, of Tennessee, was another; and I may say every democrat in the Senate. On the other hand, among the opponents of the bill we find the distinguished Secretary of the Treasury, who recently by an accident was prevented from becoming the standard-bearer of the republican party. He was the main opponent of the measure, and introduced an amendment to that bill which, as I shall presently show, would have defeated it if it had been adopted; and when it passed, he offered this amendment: that the title be amended so as to read: "A bill to give Government employés 25 per cent. more wages than employés in private establishments receive."

Mr. HAZELTON. That is what it amounts to.

Mr. WILLIS. He said that then, and you gentlemen say it now. You, by your action two weeks ago, indorsed the position which your Secretary of the Treasury assumed when the bill was under discussion. But we, a democratic committee, representing the democratic party, say that all laws should be enforced. We are opposed to nullification.

Mr. PAGE. Except in the case of the marshals-at-elections law.

Mr. WILLIS. If we want to repeal the law, there is an open, honorable way to do it. Any gentleman upon this floor who thinks the law is unjust or improper can introduce a bill for its repeal. Such a bill would bring the House face to face upon the merits of this legislation. A vote against this resolution, on the ground that such legislation is improper, will, it seems to me, be a cowardly effort to accomplish by indirection what has not been attempted openly and aboveboard. This law was passed, as we all know, on the 25th of June, 1868. It means simply what it says: that the employés of the Government shall work eight hours only, and for that eight hours they shall receive a full day's pay. If this is the meaning of the law, what reason can the American Congress give for refusing to declare that meaning to the world? If any doubt as to this meaning could exist, it would be removed when we recall the circumstances which preceded its introduction and the debate at the time of its passage.

Petitions had been sent to Congress from all parts of the country, petitions not only from the arsenals, navy-yards, and other places under the charge of the Government, but from the laboring-men as a class. One large petition, I see from the record of that time, came from my own city, Louisville, in which there never has been an arsenal or navy-yard. These petitioners claimed that eight hours of labor, faithfully applied, were quite sufficient, and that as full results would be secured to the Government within that time as within ten or fourteen hours.

Passing to still higher considerations, these laboring-men contended that as our Republic was based upon the intelligence of the people it was the duty of every man who was a voter to fit himself for the proper discharge of his duties as such, and for this purpose he should have a portion of each day to devote to his education and improvement. Contending, therefore, that the health of the laborer and the

general interests of society would be promoted by this reform, these petitioners came to Congress asking that the Federal Government should put their theories to the test, hoping and knowing that if it proved successful in the case of the Government the example would be followed in all private establishments. It was in response to such appeals and arguments that this eight-hour law was passed. Even if it had not been passed in response to such appeals the contemporaneous debate in the Senate puts all doubts to rest as to its true meaning.

And this debate, Mr. Speaker, possesses additional present interest from the fact that three or four of those who participated in it are now or have recently been prominent candidates for the highest office in the gift of the people. As there are now 800,000 voters in this country who advocate the enforcement of this law, it may be a matter of interest to them to know the names both of their friends and their enemies. Messrs. EDMUNDS and Sherman endeavored to postpone and defeat the bill, and Mr. Hendricks advocated its passage. Mr. Sherman offered an amendment providing that "the rate of wages paid by the United States shall be the current rate for the same labor, for the same time, at the place of employment." Mr. Conness, who had charge of the bill, declared that with this amendment the "passage of the bill" would amount to nothing. Mr. Morton and Mr. Stewart and Mr. Wilson agreed with him, Mr. Wilson declaring that he would "vote against the amendment submitted by the Senator from Ohio [Mr. Sherman] for the reason that he wished to give the eight-hour-labor movement a fair trial."

The Government of the United States—

He continued—

employing a few hundred mechanics and laborers, can afford to try this experiment, and I shall vote to try the experiment. It may not be for the permanent interest of those who have nothing but their labor to sell to lessen the hours of toil from ten hours to eight hours. If it is not, they will feel it and discover it quite as soon as any other portion of the people, and they can readily abandon an experiment that has failed. It may be for the material, intellectual, and moral interest of the masses of the people whose lot it is to toil for their subsistence to reduce the hours of labor, and if the reduction of the hours of labor will be conducive to the interests of the laboring classes that reduction will be a source of gratification to every benevolent heart and generous mind. We are made for something higher and better in this country than to pile up annually $1,000,000,000. What we want to grow in this Christian land of achieved free institutions is a strong, healthy race of men and women, with cultivated heads and hearts and consciences. Whatever tends to dignify manual labor or to lighten its burdens, to increase its rewards or enlarge its knowledge, should receive our sympathies and command our support. Animated by these sentiments, I shall vote against the amendment and for the bill as it came from the representatives of the people.

Mr. Sherman, in advocating his amendment, said:

All I desire is, if the United States Government chooses to take the lead in making eight hours a day's work, that it shall not be compelled to pay for that eight hours' work more than any private individual would pay. To vote against this amendment would be to declare that a laborer for the United States is a privileged character, is entitled to higher wages than he would be if he worked for an individual. There is no justice in this; no righteousness in it; and it seems to me that any Senator who votes to pay more for work done for the Government than would be paid if the same work was done for an individual votes to make a discrimination in favor of the Government employés which would be unjust, improper, and unpopular

Mr. Hendricks said:

I have supported this measure because in very large numbers the workingmen of the United States have petitioned Congress for it. The extent of this law, the field of its operation, is not very large. Of course it only reaches to those who are employed by the Government of the United States, but, as is suggested by the gentleman from California, it may be very valuable as an example. Its influence upon the private employments of the country may be beneficial to the laboring classes. My opinion is that eight hours of labor are enough, and that the health of the laborer and the general interests of society will be promoted by this reform.

After an effort to prevent action the amendment was rejected, and upon the demand of Mr. EDMUNDS the yeas and nays on the passage of the bill were ordered; and being taken, resulted—yeas 26, nays 11; Mr. Hendricks voting yea, and Messrs. Sherman and EDMUNDS voting nay. Mr. Sherman thereupon suggested a change of the title of the bill as I have before stated.

With this history of the bill before him, in the light of these preliminary petitions and contemporaneous debate, can any member doubt or deny the meaning of the law? Here, then, is a plain statute. How has it been enforced? Only a short while ago it became necessary to tear down the houses in this city where the Army and Navy Departments were located, and workmen were employed for that purpose. I stated upon the floor of this House at the time, upon information which I doubt not was reliable, a fact which to this day has never been contradicted, and that is that the men thus employed by the Government were paid precisely the same wages, and yet in one Department they worked only eight hours, while in the other they were required to work and did work ten hours per day.

Do gentlemen wish by their votes to perpetuate such gross injustice and inequality as this? Do they want the laws of the land to be treated in this thimble-rig, "now-you-see-it-and-now-you-don't-see-it" style? Will such double-dealing on the part of the executive branch of the Government secure that respect for and obedience to the law upon which more than anything else the harmony and perpetuity of our free institutions depend? Sir, if there were no question of private right involved, if there were no merit whatever in the original proposition, I should feel it to be my duty to demand the enforcement of this law as an example to be placed before the country. If we in this place ignore, nullify the solemn statutes of the land, how can we look elsewhere for anything but riot, anarchy, and insubordination?

[Here the hammer fell.]

Mr. WRIGHT. I give two minutes to the gentleman from Missouri, [Mr. PHILIPS.]

The SPEAKER. There are not two minutes remaining.

Mr. PAGE. As a member of the committee I would like to have the opportunity of saying a word.

Mr. WRIGHT. The time has not expired according to my limitation of it in yielding to different gentlemen.

The SPEAKER. The gentlemen to whom the gentleman from Pennsylvania yielded did not adhere strictly to that limitation. There have been occupied already seventeen minutes in the advocacy of the bill.

Mr. ATKINS. I hope the gentleman from Missouri [Mr. PHILIPS] will be allowed two minutes.

Mr. TALBOTT. I should also like to have a minute.

The SPEAKER. Unanimous consent is asked that the gentleman from Missouri [Mr. PHILIPS] have two minutes; that the gentleman from California [Mr. PAGE] have two minutes; and that the gentleman from Maryland [Mr. TALBOTT] have one minute.

Mr. HAZELTON. I want to know on what side those gentlemen are?

The SPEAKER. The Chair thinks they are all on one side. The Chair hears no objection to the request he has just submitted.

Mr. PHILIPS. If this were an original proposition to regulate by law the hours of labor, there is much I might say that is not pertinent to the pending measure. This bill is reported by the committee of which I am a member, and is not new legislation. It is simply declaratory of what is the present statute on the subject. It adds not a word to the law as it stands; it takes not a word from it. Its purpose is to meet the violation of law by those whose duty it is to administer it.

When the original eight-hour law was pending in the Senate for discussion Mr. Sherman, then a Senator, offered this amendment, which I will read for the information of the House:

And unless otherwise provided by law, the rate of wages paid by the United States shall be the current rate for the same labor for the same time at the place of employment.

That amendment of Senator Sherman was voted down by the Senate and was left out of the law; and now the party in power proceeds to enforce the law as if the amendment were a part of the law.

This bill reported by the committee simply says that the law as it stands upon the statute-book shall be enforced and respected; and the simple question now before the Congress of the United States is nothing more and nothing less than this: Shall a law upon the statute-book be respected and enforced by the executive power of this Government, or shall it be disobeyed and disregarded? This is a Government of law. All are in subjection to its mandates; the lowly as feeling the need of its protection—the highest as not exempt from its power.

If the Executive and his appointees may substitute their will and their caprice by evasion for this law, then they may substitute their will and their opinions for any other law upon the statute-book; and we will thus indeed have the arbitrary private will of the Executive of the country substituted not only for the statutes, but eventually the Constitution.

The question we are to vote on here to-day is not the enactment of an original statute, but it is whether the law of the land while it stands unrepealed shall be enforced. Those who vote against this bill will vote to uphold the violation of law, while those who vote for it will vote to respect the law. That is the whole of it.

[Here the hammer fell.]

Mr. PAGE. I have been surprised, Mr. Speaker, at hearing some of my friends on this side of the House declare that this bill originated in a spirit of demagogy. It simply provides that employés by or on behalf of the Government shall hereafter receive a full day's pay for eight hours' work, and that such is the true intent and meaning of section 3738 of the Revised Statutes. That is all there is in the bill.

When this law was originally enacted the intention was that the laboring classes of this country might have some time for mental improvement. Therefore a law was passed declaring that eight hours' labor should constitute a day's work. What gentleman is there on this floor on either side who will contend that eight hours in a day is not enough for men to labor either with their hands or with their heads? If you now pay for eight hours work more than you ought, then cut down your wages. The law says that eight hours' labor shall constitute a day's work. My friend from Pennsylvania [Mr. BAYNE] denounces that as a piece of demagogy.

My friend from Kentucky [Mr. WILLIS] says that the democrats on his committee, of which I have the honor to be a member, reported this bill; that it is a democratic measure, and that the democrats will be entitled to all the credit and honor if it shall pass. Let me tell my friend from Kentucky that he is not always in favor of enforcing the law. There are laws on the statute-book to-day which gentlemen on that side of the House declare shall not be enforced, and that money for the enforcement of those laws shall not be appropriated by Congress. I want to see those gentlemen consistent.

I am in favor of the enforcement of this law as I have been in favor of the enforcement of the election laws which throw around each citizen of this country the protection of the law and guarantee to him his right to cast his vote on election day. I am for the enforcement of the law.

I believe that eight hours' labor is sufficient for a day's work. If you are paying more wages for eight hours' work than you ought to pay, then reduce the rate of your wages. Those who get up here and call a demagogue the man who stands up for the law, the man who occasionally speaks upon this floor and says a few words in behalf of men who labor for their support, those very men will sit here for months and listen to discussion in favor of the rich and of the favored classes without saying a word in opposition. Yet, when a man speaks a word here in favor of his own kind, of the laboring classes of the country, he is denounced as a demagogue.

[Here the hammer fell.]

Mr. TALBOTT. I ask to have read as a portion of my remarks an amendment which I desire to offer to this resolution.

The Clerk read as follows:

SEC. 2. That it shall not be lawful for any person or corporation in the United States to employ or cause to be employed in any factory any minor child under the age of sixteen years at labor more than eight hours in any one day: *Provided*, That the provisions of this section shall not apply to agricultural, household, or mercantile pursuits,

Mr. TALBOTT. I desire to say simply that all that has been said in favor of this joint resolution applies with double force in favor of the amendment which I have just had read.

To my knowledge children employed in factories (and I have had some experience in regard to that subject) are dwarfed in intellect and dwarfed in stature. I know that fact because in my own county I prosecuted a man for violating a law, not in the exact language of the amendment which I have just had read, because it was declared to be imperfect and the indictment was not sustained. But in my intercourse with children brought into that court as witnesses in that case I found them unhealthy and dwarfed in intellect and stature.

I say now to gentlemen of this House that if we propose to pass an act to enforce the law as it now stands with regard to eight hours' labor every word which can be said in favor of this joint resolution applies to the amendment which I now ask leave to offer.

The SPEAKER. Does the gentleman from Pennsylvania [Mr. WRIGHT] yield for the amendment?

Mr. GOODE. We have jurisdiction only over the Government employés.

Mr. WRIGHT. I would like to yield, but I cannot do so.

Mr. BARBER. I ask consent to be heard for one minute.

The SPEAKER. Is there objection to the gentleman from Illinois [Mr. BARBER] speaking for one minute?

Mr. RYON, of Pennsylvania. I object.

Mr. PAGE. It would seem, then, that the gentleman from Illinois [Mr. BARBER] was not included, as I thought he was, in the arrangement that was made.

The SPEAKER. He was not included; but the Chair thinks he might as well have been.

Mr. HAZELTON. He is evidently excluded now.

The SPEAKER. The question is upon the motion to suspend the rules and pass the joint resolution which has been read.

Mr. PAGE. On that question let us have the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 130, nays 51, not voting 111; as follows:

YEAS—130.

Acklen,	Davis, Lowndes H.	Kimmel,	Ross,
Aldrich, William	Deuster,	King,	Russell, Daniel L.
Anderson,	Dickey,	Klotz,	Russell, W. A.
Atkins,	Errett,	Ladd,	Ryan, Thomas
Bachman,	Ewing,	Lowe,	Ryon, John W.
Baker,	Ferdon,	Manning,	Sawyer,
Ballou,	Fisher,	Martin, Benj. F.	Shallenberger,
Barber,	Ford,	Martin, Joseph J.	Sherwin,
Beale,	Frost,	Mason,	Simonton,
Beltzhoover,	Geddes,	McCoid,	Singleton, J. W.
Berry,	Goode,	McCook,	Sparks,
Bicknell,	Hall,	McLane,	Springer,
Bingham,	Harmer,	McMahon,	Stevenson,
Blackburn,	Harris, Benj. W.	Morse,	Talbott,
Bland,	Haskell,	Morton,	Taylor,
Bliss,	Hatch,	Myers,	Thomas,
Bouck,	Hawley,	Neal,	Townsend, Amos
Bowman,	Hayes,	New,	Townshend, R. W.
Boyd,	Henderson,	Nicholls,	Tucker,
Briggs,	Henkle,	Norcross,	Upson,
Browne,	Henry,	O'Connor,	Urner,
Caldwell,	Hill,	O'Neill,	Van Aernam,
Chittenden,	Hooker,	O'Reilly,	Voorhis,
Clark, John B.	Hostetler,	Osmer,	Waddill,
Coffroth,	House,	Overton,	White,
Colerick,	Humphrey,	Pacheco,	Whiteaker,
Converse,	Hunton,	Page,	Whitthorne,
Cox,	Hutchins,	Phelps,	Williams, C. G.
Cravens,	Johnston,	Philips,	Willis,
Daggett,	Jones,	Pound,	Wilson,
Davis, George R.	Keifer,	Robertson,	Wright.
Davis, Horace	Kelley,	Robeson,	
Davis, Joseph J.	Kenna,	Robinson,	

NAYS—51.

Bayne,	Culberson,	Field,	Joyce,
Brewer,	Deering,	Frye,	Lapham,
Bright,	Dibrell,	Godshalk,	Lindsey,
Cabell,	Dunnell,	Hammond, John	Lounsbery,
Cannon,	Dwight,	Hammond, N. J.	McMillin,
Carpenter,	Elam,	Hawk,	Mills,
Conger,	Evins,	Hazelton,	Mitchell,
Cook,	Felton,	Horr,	Muldrow,
Persons	Singleton, O. R.	Turner, Oscar	Wellborn,
Reagan,	Smith, William E.	Tyler,	Williams, Thomas
Rice,	Steele,	Updegraff, Thomas	Willits,
Samford,	Thompson, P. B.	Vance,	Young, Casey.
Scales,	Tillman,	Washburn,	

NOT VOTING—111.

Aiken,	Davidson,	Kitchin,	Richmond,
Aldrich, N. W.	De La Matyr,	Knott,	Rothwell,
Armfield,	Dick,	Le Fevre,	Sapp,
Atherton,	Dunn,	Lewis,	Shelley,
Bailey,	Einstein,	Loring,	Slemons,
Barlow,	Ellis,	Marsh,	Smith, A. Herr
Belford,	Farr,	Martin, Edward L.	Smith, Hezekiah B.
Blake,	Finley,	McGowan,	Speer,
Blount,	Forney,	McKenzie,	Starin,
Bragg,	Forsythe,	McKinley,	Stephens,
Brigham,	Fort,	Miles,	Stone,
Buckner,	Garfield,	Miller,	Thompson, W. G.
Burrows,	Gibson,	Money,	Turner, Thomas
Butterworth,	Gillette,	Monroe,	Updegraff, J. T.
Calkins,	Gunter,	Morrison,	Valentine,
Camp,	Harris, John T.	Muller,	Van Voorhis
Carlisle,	Heilman,	Murch,	Wait,
Caswell,	Herbert,	Newberry,	Ward,
Chalmers,	Herndon,	O'Brien,	Warner,
Claflin,	Hiscock,	Orth,	Weaver,
Clardy,	Houk,	Phister,	Wells,
Clark, Alvah A.	Hubbell,	Pierce,	Wilber,
Clymer,	Hull,	Poehler,	Wise,
Cobb,	Hurd,	Prescott,	Wood, Fernando
Covert,	James,	Price,	Wood, Walter A.
Cowgill,	Jorgensen,	Reed,	Yocum,
Crapo,	Ketcham,	Richardson, D. P.	Young, Thomas L.
Crowley,	Killinger,	Richardson, J. S.	

So (two-thirds voting in the affirmative) the motion to suspend the rules and pass the bill was agreed to.

The following pairs were announced from the Clerk's desk:

Mr. YOUNG, of Ohio, with Mr. COVERT. If Mr. COVERT were present, Mr. YOUNG would vote for the passage of the joint resolution.

Mr. LORING with Mr. HERBERT, on this question.

Mr. GIBSON with Mr. CRAPO.

Mr. FORNEY with Mr. WAIT.

Mr. MCKENZIE with Mr. MURCH.

Mr. RICHARDSON, of South Carolina, with Mr. RICHARDSON, of New York, for three days.

Mr. STONE with Mr. SHELLEY, on this question.

Mr. COBB with Mr. MONROE, for the remainder of the day on account of absence on a conference committee.

Mr. ALDRICH, of Rhode Island, with Mr. SLEMONS, on this question.

Mr. CHALMERS with Mr. VAN VOORHIS, until the end of the session.

The result of the vote was announced as above stated.

ENROLLED BILLS SIGNED.

Mr. WARD, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 1771) to establish post-roads;

An act (H. R. No. 2270) to pay for expert services relating to the metric system rendered the Forty-fifth Congress;

An act (H. R. No. 3291) for the allowance of certain claims reported by the accounting officers of the United States Treasury Department; and

An act (H. R. No. 5153) to change the name of the steamboat L. Boardman to River Belle.

CLAIMS AGAINST DISTRICT OF COLUMBIA.

Mr. HUNTON, from the committee of conference on the disagreeing votes of the two Houses upon the bill (H. R. No. 2328) to provide for the settlement of all outstanding claims against the District of Columbia, and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes, submitted a report; which was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to bill (H. R. No. 2328) to provide for the settlement of all outstanding claims against the District of Columbia, and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from its disagreement to Senate amendments numbered 1, 2, 3, 4, 6, 7, 8, 9, 10, and 14, and agree to the same.

That the Senate recede from its amendment numbered 12.

That the House recede from its disagreement to Senate amendment numbered 5, and agree to the same with an amendment as follows: After the word "contractor" insert the words "his personal representatives;" and that the Senate agree to the same.

That the House recede from its disagreement to Senate amendment numbered 11, and agree to the same with an amendment as follows: After the word "of" strike out "claims based on contracts and extensions of contracts made by the commissioners of the District of Columbia subsequent to the passage of the act of June 20, 1874," and insert "judgments rendered as aforesaid on the claims aforesaid;" and that the Senate agree to the same.

That the House recede from its disagreement to Senate amendment numbered 13, and agree to the same with an amendment as follows: Strike out the word "delivery," at the end of the section, and insert the word "certificates;" and that the Senate agree to the same.

EPPA HUNTON,
W. J. SAMFORD,
HENRY S. NEAL,
Managers on the part of the House.
ISHAM G. HARRIS,
R. E. WITHERS,
JOHN J. INGALLS,
Managers on the part of the Senate.

The accompanying statement required by the rule was read, as follows:

Report of conference committee on bill (H. R. No. 2328) to provide for the settlement of all outstanding claims against the District of Columbia, and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes.

The effect of agreeing to Senate amendment No. 2 excludes from action before the Court of Claims certificates awarded by the board of audit as having been already adjudicated, and allows the issue of 3.65 bonds for the same. It does include claims against the levy court as among those allowed to be brought before the Court of Claims for adjudication and settlement in similar bonds.

Amendment No. 7 limits amounts from which appeals may be taken to not less than $3,000, being the limit now prescribed by law.

Amendment No. 11 limits the time at which interest on the 3.65 bonds shall begin, to the date at which the contract became due and payable, the coupons prior to such date to be detached before the delivery of the bonds.

All other amendments are simply verbal and explanatory.

EPPA HUNTON.
W. J. SAMFORD.
HENRY S. NEAL.

The report was adopted.

Mr. HUNTON moved to reconsider the vote by which the conference report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILL.

Mr. ALDRICH, of Rhode Island, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (H. R. No. 1846) relating to the public lands of the United States; when the Speaker signed the same.

ORDER OF BUSINESS.

The SPEAKER. The Chair recognizes the gentleman from Maryland [Mr. MCLANE] for the purpose of moving to suspend the rules.

Mr. HAZELTON. Mr. Speaker, I ask the Chair to recognize me for the purpose of making a motion to suspend the rules and pass a general pension bill, which I will say will relieve the Calendar of a very large number of pension bills.

The SPEAKER. The Speaker would be glad to yield to any proposition the effect of which would be to relieve the Calendar of pension bills.

Mr. HAZELTON. The proposition I refer to is a bill (H. R. No. 4023) to amend an act approved June 18, 1874, entitled "An act to increase pensions in certain cases and to further increase and regulate pensions for the loss of a leg or arm," which has been reported from the Committee on Invalid Pensions unanimously.

Mr. SIMONTON. I ask, Mr. Speaker, unanimous consent to make a statement in reference to the request made recently by the gentleman from South Carolina [Mr. TILLMAN] to print his remarks in the RECORD. I think there was a misapprehension from the use by that gentleman of the word or term to which objection has been taken. The gentleman from South Carolina has informed me, and I know he will state the same thing to the House, that he does not mean by the word "personality" to use any unparliamentary language in reference to anybody. He will state that he does not in his judgment, in the remarks which he asks be printed in the RECORD, use any unparliamentary language or anything reflecting in any improper manner upon any member. This is a courtesy which has been extended to other gentlemen here, and I hope it will not be denied now to the gentleman from South Carolina, who has occupied so little of the attention of the House by speech-making. It is a mere criticism on the part of the gentleman upon those who have been connected with the eight-hour law.

Mr. KELLEY. I made the objection. I did not make it rashly, but with deliberation. We are within a few hours of the adjournment. To-morrow's RECORD will be the last one which will come before the House, and I cannot consent any gentleman shall embody in that RECORD criticisms of members who can make no response. And still more do I object to making criticisms so marked as the gentleman had to admit he was going to make them, and that without challenge being made, against men who even next December cannot reply to criticisms on the subject. I insist on my objection.

The SPEAKER. The Chair cannot allow gentleman at this late day of the session to debate objections, as it consumes the time of the House which might be devoted to other business. Does the gentleman from Pennsylvania insist on his objection?

Mr. KELLEY. I do insist on my objection.

Mr. TILLMAN. I ask the House to indulge me for a few minutes while I make a brief explanation.

Mr. YOUNG, of Ohio. I move that the gentleman from South Carolina have an hour in which to deliver that speech.

Mr. KELLEY. I hope that will be done.

SUGAR.

The SPEAKER. The Chair recognized the gentleman from Maryland [Mr. MCLANE] to move a suspension of the rules, and the Chair understood the motion was for the purpose of suspending the rules and passing the sugar bill as it was reported from the Committee on Ways and Means. The Chair is now advised the bill which the gentleman seeks to suspend the rules and pass was not reported by the Committee on Ways and Means. The Chair makes haste to present this explanation to the House.

Mr. MCLANE. The bill I send to the Clerk's desk to be read is the bill Mr. CARLISLE reported from the Committee on Ways and Means.

The SPEAKER. But that is not the bill reported by the Committee on Ways and Means. The Chair only desires to correct his former statement. The Chair thought he was advised it was the report of the committee.

Mr. MCLANE. It is not only not the report of the committee, but I offer it as an individual bill, asking to have it read, and I shall move to suspend the rules and pass it.

Mr. CONGER. But does the Chair recognize a member, not a member of the committee, to take charge of the committee's bill?

The SPEAKER. The Chair has already stated he supposed it was the bill reported from the Committee on Ways and Means. That the gentleman now disclaims.

Mr. HAZELTON. I rise to a parliamentary inquiry.

Mr. MCLANE. I ask for the reading of my bill.

Mr. HAZELTON. Is it in order to raise the question of consideration with the bill I hold in my hand against the other; that is, to raise the question of consideration on behalf of a general pension bill, which ought to be passed to relieve the Calendar?

The SPEAKER. It is not in order at this time to raise the question of consideration. This is a motion to suspend the rule which allows the question of consideration to be raised, and to suspend all rules and pass the bill.

Mr. MCLANE. I ask for the reading of my bill.

Mr. CONGER. I supposed from the statement of the Chair that members of committees might report their public bills in preference to private matters. If that is not so——

The SPEAKER. The bill the committee did report on this subject has gone to the Calendar, and, as the Chair understands, the gentleman from Kentucky [Mr. CARLISLE] submitted the views of the minority in the shape of an amendment thereto. It is competent, therefore——

Mr. CARLISLE. I desire to state that I have never reported that bill to the House either as a majority or minority proposition, but that it was simply offered by me in the Committee on Ways and Means as the substitute for the bill which that committee finally reported to the House.

The SPEAKER. The Chair thinks the gentleman from Maryland had better confer with the members of the Committee on Ways and Means on this subject.

Mr. MCLANE. Permit me a word of explanation. That conference has been had.

Mr. ACKLEN. Is debate in order?

The SPEAKER. The Chair would prefer to hear the statement of the gentleman.

Mr. MCLANE. The misapprehension which arises in reference to this bill is simply from want of attention on the part of gentlemen. I proposed this bill as my own individual bill and in my own individual right, stating that it was a bill originally proposed by the gentleman from Kentucky [Mr. CARLISLE] as a substitute for the bill of the Committee on Ways and Means. I propose to have it read, and my motion is to suspend the rules and pass it as my own individual bill. The only reason that I offer it in that way and in my individual right is that the honorable gentleman from Kentucky has another bill upon which he intends to move to suspend the rules and put upon its passage.

The SPEAKER. The Chair would ask the gentleman from Maryland to waive the recognition until he can ascertain whether or not there can be some arrangement in reference to the matter. The Chair will now recognize the gentleman from Ohio, [Mr. HURD.]

Mr. HURD. Mr. Speaker, I move to suspend the rules and pass the following bill.

Mr. CONGER. Mr. Speaker, before the gentleman proceeds I wish to say that it has been considered customary for the Chair to recognize one side and then the other. Thus far there has been no recognition of gentlemen upon this side.

The SPEAKER. The Chair will give due attention to both sides of the House.

Mr. MCLANE. Mr. Speaker——

Mr. HURD. I will withdraw that bill for the present.

Mr. SPRINGER. I have a bill that will relieve both sides of the House.

The SPEAKER. The Chair will endeavor to recognize both sides of the House equally. He now recognizes the gentleman from Massachusetts, [Mr. RICE.]

INCREASE OF PENSIONS.

Mr. RICE. Mr. Speaker, I move to suspend the rules and discharge the Committee of the Whole House on the state of the Union from the further consideration of the Senate bill No. 815, and ask to put the same upon its passage. This bill proposes to give entirely disabled soldiers additional pay; men who have lost both arms or both legs or otherwise totally disabled. It passed the Senate, and was favorably reported from the House committee. I hope there will be no objection to its present consideration and passage.

Mr. MCLANE. Mr. Speaker, I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MCLANE. Why am I not entitled to recognition at this time?

The SPEAKER. The Chair suggested to the gentleman that because there seemed to be some want of understanding among the members of the Committee on Ways and Means in reference to the subject and the bill when he sought to introduce it, it would be better

to waive the recognition for a while and let him confer with the members of that committee, as they seemed to be resisting it.

Mr. McLANE. Oh, no.

The SPEAKER. The gentleman from Michigan, [Mr. CONGER,] the Chair understood, was resisting it, and the Chair thought it better for the time being to waive the recognition and let the gentleman have an opportunity of a conference in order that there might be concurrence between them, rather than that the gentleman from Maryland should run counter.

Mr. McLANE. Mr. Speaker, the misapprehension seems to be in this, that I have not the least desire or expectation to get the concurrence of the Committee on Ways and Means in this matter—not the least. The bill that I offer is upon my own individual responsibility. Now I have the recognition of the Chair, and all I ask is to have that bill read and the sense of the House tested upon it.

Mr. CONGER. I understood that the Chair had already recognized gentlemen upon the other side, and that it was his intention to recognize gentlemen alternately.

The SPEAKER. The Chair will recognize the gentleman from Maryland hereafter.

Mr. YOUNG, of Ohio. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. YOUNG, of Ohio. After the Speaker had decided a question in relation to the bill presented by the gentleman from Maryland, a short time ago, I made a motion which the Chair recognized, as I understand. I wish to know if that motion is still pending.

Mr. SPARKS. The gentleman from Maryland still has the floor.

The SPEAKER. The gentleman from Ohio [Mr. HURD] on the right of the Chair was recognized, and not the gentleman from Ohio on the left.

Mr. WHITE. But before that the Chair recognized the gentleman from Ohio on the left.

The SPEAKER. The Chair did not recognize the gentleman to make the motion to suspend the rules. The Chair did listen to the motion to allow an hour's speech by the gentleman from South Carolina, but the Chair preferred to recognize the gentleman from Massachusetts, who desires to reach a bill in reference to relieving totally disabled soldiers.

Mr. YOUNG, of Ohio. I thought a member on this floor had some rights, however, which the Speaker was bound to respect.

The SPEAKER. The Chair recognizes the rights of every member, but in the exercise of what the Chair regards as his public duty he thinks he has the right to justly discriminate between the various efforts for recognition.

Mr. SPARKS. Why is not the gentleman from Maryland entitled to the floor?

The SPEAKER. Because the Chair requested the gentleman from Maryland to withdraw his request for a moment in order to settle a controversy which the Chair believed was pending among several gentlemen on the floor as to the subject introduced by the gentleman from Maryland.

Mr. SPARKS. That is merely a suggestion of the Chair. Has not the gentleman a right?

The SPEAKER. The Chair will protect the gentleman's right.

Mr. SPARKS. The gentleman from Maryland has no connection with the committee the gentleman from Michigan is on.

The SPEAKER. The Chair is aware of that. The Clerk will now read the bill in reference to which the gentleman from Massachusetts has made his motion.

The Clerk read as follows:

Be it enacted, &c., That all soldiers and sailors who are now receiving a pension of $50 per month under the provisions of an act entitled "An act to increase the pension of soldiers and sailors who have been totally disabled," approved June 18, 1874, shall receive, in lieu of all pensions now paid them by the Government of the United States, and there shall be paid them, in the same manner as pensions are now paid to such persons, the sum of $72 per month.

SEC. 2. All pensioners whose pensions shall be increased by the provisions of this act from $50 per month to $72 per month shall be paid the difference between said sums monthly, from June 17, 1878, to the time of the taking effect of this act.

Mr. WARNER. Is there a report accompanying that bill?

Mr. BUCKNER. I move that the House adjourn.

Mr. TUCKER. I desire to make a single observation in reference to the remarks made by the gentleman from Maryland.

Mr. ACKLEN. I rise to a point of order. Is there not a motion to adjourn pending?

The SPEAKER. The Chair will be compelled to entertain the motion to adjourn.

The House divided; and there were—ayes 28, noes 92.

So the motion to adjourn was not agreed to.

Mr. TUCKER. I now desire, Mr. Speaker, to make a brief statement in respect to the motion of the gentleman from Maryland to suspend the rules and pass a bill which I understand relates to sugar. I have only to say that bill was not reported from the Committee on Ways and Means, but a bill which that committee reported through me is now pending upon the Calendar and is a different bill from that reported by the gentleman from Maryland.

I have only to say that I understood after the motion of the gentleman from Pennsylvania [Mr. WRIGHT] was disposed of my friend from Ohio [Mr. HURD] was to be recognized upon the subject of a public building. Understanding that, I went and asked the Speaker whether the gentleman from Ohio [Mr. HURD] was to be recognized or the gentleman from Maryland [Mr. McLANE] on a tariff bill. The Speaker then asked me whether that bill was reported from the Committee on Ways and Means. I stated it was not.

The SPEAKER. The conference with the Speaker, to which the gentleman from Virginia alludes, took place after the recognition. It is very material that fact should be stated.

Mr. TUCKER. Unquestionably.

The SPEAKER. And then it was the Chair found it necessary to correct a statement he had made at the time of the recognition of the gentleman from Maryland.

Mr. TOWNSHEND, of Illinois. What difference did it make whether the bill came from an individual or from a committee?

The SPEAKER. The Chair did not suppose the bill would override the voice of the Committee on Ways and Means.

Mr. McLANE. I submit that individual members have rights under the rules of this House, as well as committees. I think there is a great misapprehension in the mind of the Chair as to this. It never entered my mind and I never said a word to indicate that this was a bill from the Committee on Ways and Means; and the gentleman from Virginia, when he went to the Chair to call in question the right of the Chair to recognize the gentleman from Maryland——

The SPEAKER. The gentleman from Virginia did not question that right. The gentleman from Maryland stated it was a proposition reported by the gentleman from Kentucky, who is a member of the Ways and Means Committee.

Mr. McLANE. Invaded the right of the Chair and mine. I ask the Chair now to review his decision. [Cries of "Regular order!"]

Mr. McLANE. This is the regular order.

Mr. HOOKER. I insist debate is out of order. The gentleman from Massachusetts [Mr. RICE] has been recognized by the Chair. Let us vote on his bill and be done with it.

Mr. McLANE. A word of explanation I think will place this matter right.

Mr. VALENTINE. Wait till the bill of the gentleman from Massachusetts [Mr. RICE] is passed. It is now pending.

Mr. McLANE. It is only pending because the Chair overlooked the fact that I had the floor. However, I withdraw my bill for the present.

The SPEAKER. The Chair asked the gentleman from Maryland to withdraw the bill temporarily and to come to some arrangement if possible with the Committee on Ways and Means, and the Chair then recognized the gentleman from Massachusetts, [Mr. RICE.]

Mr. HOOKER. The gentleman from Maryland does withdraw his bill temporarily, as I understand.

The SPEAKER. The question is on the motion of the gentleman from Massachusetts, [Mr. RICE,] that the rules be suspended so as to discharge the Committee of the Whole on the state of the Union from the consideration of the bill which has been read, and that the same be passed.

The bill was passed, two-thirds voting in favor thereof.

DUTIES ON SUGAR AND MOLASSES.

Mr. McLANE. I now move that the rules be suspended and that the bill which I send to the desk be passed.

The Clerk read as follows:

A bill to regulate the duties on sugar and molasses.

Be it enacted, &c., That all tank-bottoms, sirup of sugar-cane juice and melada, shall pay a duty of one cent and fifty hundredths of a cent per pound; that concentrated melada or concrete, and all sugars not above No. 13 Dutch standard in color shall pay a duty of two cents per pound; above No. 13 and not above No. 16 Dutch standard in color shall pay a duty of two cents and twenty-five hundredths of a cent per pound; above No. 16 and not above No. 20 Dutch standard in color shall pay a duty of two cents and sixty hundredths of a cent per pound; above No. 20 Dutch standard in color, and all refined loaf, lump, crushed, powdered, and granulated sugar, shall pay a duty of three cents and twenty-five hundredths of a cent per pound. Molasses five cents per gallon.

SEC. 2. That melada shall be known and defined as an article made in the process of sugar-making, being the cane juice boiled down to the sugar point, and containing all the sugar and molasses resulting from the boiling process and without any process of purging or clarification. And any and all products of the sugar-cane imported in boxes, mats, baskets, or other than tight packages, shall be considered as sugar and dutiable as such. And that sirup of sugar, sirup of sugar-cane juice, melada, concentrated melada, or concentrated molasses, entered under the name of molasses, shall be forfeited to the United States: *Provided*, That the above schedule of duties shall apply to all goods hereinbefore described held in bond in warehouses, public stores, or on bonded wharves, at the date of the passage of this act: *And provided further*, That of the drawback on sugars exported, allowed by section 3019 of the Revised Statutes of the United States, only 1 per cent. of the amount so allowed shall be retained by the United States.

SEC. 3. That at interior ports where there are no customs warehouses, or public stores, for the storage of imported goods in bond, there shall be allowed on concentrated melada, or concrete, and on all cargoes of sugars imported before the passage of this act, and on hand in original packages at the time of the passage of this act, and upon which the duties shall have been then paid, a drawback equal to the difference between the amount of duties actually paid and the duties hereinbefore prescribed; and the Secretary of the Treasury shall make such rules and regulations as may be necessary to ascertain the amount of such drawback and to facilitate the payment of the same.

SEC. 4. That nothing herein shall be construed to alter or repeal the act entitled "An act to carry into effect a convention between the United States of America and His Majesty the King of the Hawaiian Islands," signed on the 30th of January, 1875, which act was approved August 15, 1876.

Mr. ACKLEN. I demand a second.

Mr. KING. I move that the House do now adjourn.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate agreed to the concurrent resolution of the

House of Representatives for printing 15,000 copies of the annual report of the director of the Bureau of Ethnology, Smithsonian Institution, with the necessary illustrations.

The message also informed the House that the Senate had passed a concurrent resolution authorizing the joint committee on the Yorktown centennial celebration to sit during the recess of Congress; in which the concurrence of the House was requested.

The message further announced that the Senate had passed without amendment bills of the House of the following titles:

A bill (H. R. No. 751) granting a pension to Harvey Burk;

A bill (H. R. No. 2407) granting a pension to Belinda Curtis;

A bill (H. R. No. 4753) to correct the military record of Byron Rosecranz; and

A bill (H. R. No. 4907) to confirm to John Hepting and others title to certain lands.

The message further announced that the Senate had passed, with amendments in which the concurrence of the House was requested, a joint resolution and bills of the following titles:

A joint resolution (H. R. No. 186) authorizing the Secretary of the Treasury to furnish States, for the use of agricultural colleges, one set of standard weights and measures, and for other purposes;

A bill (H. R. No. 1128) for the relief of James M. Ruby;

A bill (H. R. No. 1894) authorizing the employment of an inspector of plumbing in and for the District of Columbia, and for other purposes;

A bill (H. R. No. 2290) granting a pension to William Bowman;

A bill (H. R. No. 2269) for the relief of Calvin Bronson;

A bill (H. R. No. 3047) to authorize the commissioners of the District of Columbia to recommend a proper site for the union railroad depot in the city of Washington, and for other purposes;

A bill (H. R. No. 3100) granting relief to Samuel B. Hutchinson;

A bill (H. R. No. 5047) relating to the appointment of professors of mathematics in the Navy; and

A bill (H. R. No. 5627) to amend section 1486 of the Revised Statutes, in order to preserve the meaning of the original law from which it was taken, with reference to the rank of engineer officers, graduates of the Naval Academy.

The message further announced that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

A bill (S. No. 182) granting a pension to Mary A. Shemelia;

A bill (S. No. 465) granting an increase of pension to George Smith;

A bill (S. No. 562) granting an increase of pension to Thornton Smith;

A bill (S. No. 972) granting a pension to Mrs. Anna I. Guest;

A bill (S. No. 992) granting an increase of pension to Mrs. Julia Gardner Tyler, widow of Ex-President Tyler;

A bill (S. No. 1114) granting a pension to Luman Case;

A bill (S. No. 1334) for the relief of Charles H. Frank;

A bill (S. No. 1521) granting a pension to David W. Combs;

A bill (S. No. 1676) granting an increase of pension to Saint Clair A. Mulholland;

A bill (S. No. 1776) granting a pension to Margaret S. Heintzelman;

A bill (S. No. 1802) granting a pension to Ann M. Paulding;

A bill (S. No. 1809) granting a pension to Amos Chapman, scout;

A bill (S. No. 1810) granting a pension to Mary E. Ambrester;

A bill (S. No. 1815) granting a pension to Cecil Clay; and

A bill (S. No. 1837) to change the name of the schooner-yacht Cornelia.

DUTIES ON SUGAR AND MOLASSES.

The SPEAKER. The motion recurs on the motion of the gentleman from Maryland, to suspend the rules and pass the bill which has been read.

Mr. ACKLEN. I demand a second.

The SPEAKER. The demand being made for a second, the Chair appoints the gentleman from Maryland, Mr. McLANE, and the gentleman from Louisiana, Mr. ACKLEN, to act as tellers.

Mr. KING. I insist upon my motion, that the House now adjourn.

The question was taken on the motion to adjourn; and upon a division there were—ayes 68, noes 89.

Before the result of the vote was announced,

Mr. KING called for the yeas and nays.

The question was taken upon ordering the yeas and nays; and there were thirty in the affirmative.

So (the affirmative not being one-fifth of the last vote) the yeas and nays were not ordered.

The motion to adjourn was not agreed to.

The SPEAKER. The question recurs on seconding the motion to suspend the rules, and the tellers will take their places.

The House divided; and the tellers reported that there were—ayes 80, noes 8.

Mr. ACKLEN. No quorum has voted.

The SPEAKER. No quorum having voted, of course there is not a second, it requiring a majority of a quorum to second.

Mr. SPRINGER. As we cannot pass beyond this point, as there is evidently a quorum in the Hall——

The SPEAKER. The Chair thinks the gentleman from Maryland [Mr. McLANE] may be willing to relinquish his effort to pass——

Mr. KELLEY. It is not a question of a quorum; there is not a second.

Mr. WHITE. I think we had better adjourn.

The SPEAKER. The Chair thinks the pending question had better be got out of the way by action, so other business may come up.

Mr. SPRINGER. I move to call up——

Mr. McLANE. I object to any other proposition until mine is disposed of.

Mr. ROSS. I move that the House now adjourn.

Mr. FORT. I hope that the gentleman from Maryland [Mr. McLANE] will withdraw his motion.

Mr. McKENZIE. I object to his withdrawing it.

The SPEAKER. That is a question for the gentleman from Maryland [Mr. McLANE] to determine.

Mr. McLANE. I hope the House will vote upon my bill. I shall not withdraw my motion to suspend the rules.

The SPEAKER. The gentleman from New Jersey [Mr. ROSS] moves that the House now adjourn.

The question was taken; and upon division there were—ayes 76, noes 80.

Before the result of the vote was announced,

Mr. ROSS and Mr. KELLEY called for tellers.

Tellers were ordered; and Mr. ROSS and Mr. McLANE were appointed.

The House again divided; and the tellers reported that there were—ayes 60, noes 77.

So the motion to adjourn was not agreed to.

Mr. ACKLEN. I trust the gentleman from Maryland will now withdraw his bill.

The SPEAKER. The question recurs upon seconding the motion to suspend the rules, upon which a quorum did not vote.

Mr. ACKLEN. No quorum having voted on seconding the motion to suspend the rules, and the House having refused to adjourn, the only motion now in order is for a call of the House.

The SPEAKER. The Chair suggests that the tellers again take their places upon the question of seconding the motion to suspend the rules.

Mr. KELLEY. Does it require a quorum to defeat a second on the motion to suspend the rules?

The SPEAKER. On the last vote the ayes had the majority; but a point of order was made that a quorum had not voted. It comes back now to the want of a quorum.

Mr. HOOKER. It must be very apparent to the gentleman from Maryland [Mr. McLANE] that he cannot possibly get a vote on his bill; and there are measures here to which there will be no objection.

Mr. FORT. There are other measures on which we can get a vote.

The SPEAKER. The tellers will resume their places.

Mr. ATKINS. I rise to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ATKINS. The question is now upon seconding the motion to suspend the rules?

The SPEAKER. It is.

Mr. ATKINS. If that motion is seconded, it will then be in order to discuss the bill?

The SPEAKER. If the second is carried the debate upon the motion will be in order for fifteen minutes on each side.

The House again divided upon seconding the motion to suspend the rules; and the tellers reported that there were—ayes 90, noes 2.

Mr. CONGER. No quorum has voted.

Mr. FORT. I suggest to the gentleman from Maryland to withdraw his bill.

Mr. McKENZIE. I object to that.

The SPEAKER. It is for the gentleman from Maryland [Mr. McLANE] to determine as to withdrawal.

Mr. McLANE. Does the gentleman ask me to withdraw my bill?

Mr. FORT. I do, because there are other measures which the House will vote upon.

Mr. McLANE. Shall I withdraw the bill, and thereby encourage such a demonstration as has just been made? If the House is opposed to my bill let it vote it down.

Mr. BREWER. Is debate in order?

The SPEAKER. It is not, in the absence of a quorum.

Mr. BREWER. Then I object to debate, and move that the House now adjourn.

The question was taken; and there were—ayes 85, noes 71.

Before the result of the vote was announced,

Mr. STEVENSON called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 66, nays 109, not voting 117; as follows:

YEAS—66.

Acklen,	Coffroth,	Jones,	Overton,
Bachman,	Conger,	Joyce,	Page,
Ballou,	Davis, Horace	Keifer,	Pound,
Barber,	Dickey,	Kelley,	Robertson,
Bayne,	Dwight,	King,	Robeson,
Beale,	Ellis,	Klotz,	Robinson,
Beltzhoover,	Errett,	Ladd,	Ross,
Bicknell,	Fisher,	Lapham,	Russell, W. A.
Bingham,	Godshalk,	Lindsey,	Ryon, John W.
Bland,	Hall,	McMahon,	Shallenberger,
Brewer,	Harmer,	Mitchell,	Simonton,
Briggs,	Horr,	Neal,	Singleton, J. W.
Carpenter,	Humphrey,	O'Neill,	Singleton, O. R.
Chittenden,	Hurd,	Osmer,	Smith, A. Herr

Stone,	Wait,	Willits,	Young, Casey.
Tyler,	Wells,	Wise,	
Valentine,	White,	Wright,	

NAYS—109.

Aldrich, N. W.	Ferdon,	Knott,	Shelley,
Aldrich, William	Field,	Le Fevre,	Sherwin,
Anderson,	Fort,	Lowe,	Sparks,
Atkins,	Frye,	Martin, Benj. F.	Speer,
Baker,	Geddes,	Martin, Joseph J.	Springer,
Berry,	Goode,	Mason,	Stephens,
Blackburn,	Gunter,	McCook,	Stevenson,
Bowman,	Hammond, N. J.	McKenzie,	Talbott,
Boyd,	Harris, Benj. W.	McLane,	Taylor,
Bright,	Harris, John T.	McMillin.	Thomas,
Browne,	Haskell,	Mills,	Thompson, P. B.
Cabell,	Hatch,	Morse,	Tillman,
Caldwell,	Hawk,	Muldrow,	Townshend, R. W.
Carlisle,	Hawley,	Myers,	Tucker,
Clark, John B.	Hazelton,	New,	Turner, Oscar
Colerick,	Henderson,	Norcross,	Updegraff, Thomas
Cook,	Henkle,	O'Connor,	Upson,
Crapo,	Henry,	O'Reilly,	Vance,
Cravens,	Hill,	Persons,	Waddill,
Davis, George R.	Hooker,	Phelps,	Washburn,
Davis, Joseph J.	Hostetler,	Philips,	Wellborn,
Davis, Lowndes H.	Houk,	Pochler,	Whitthorne,
Deering,	House,	Reagan,	Williams, Thomas
Dibrell,	Hutchins,	Rice,	Willis,
Dunnell,	Johnston,	Russell, Daniel L.	Wilson
Evins,	Kenna,	Ryan, Thomas	
Ewing,	Ketcham,	Sawyer,	
Felton,	Kimmel,	Scales,	

NOT VOTING—117.

Aiken,	Culberson,	Kitchin,	Richmond,
Armfield,	Daggett,	Lewis,	Rothwell,
Atherton,	Davidson,	Loring,	Samford,
Bailey,	De La Matyr,	Lounsbery,	Sapp,
Barlow,	Deuster,	Manning,	Slemons,
Belford,	Dick,	Marsh,	Smith, Hezekiah B.
Blake,	Dunn,	Martin, Edward L.	Smith, William E.
Bliss,	Einstein,	McCoid,	Starin,
Blount,	Elam,	McGowan,	Steele,
Bouck,	Farr,	McKinley,	Thompson, W. G.
Bragg,	Finley,	Miles,	Townsend, Amos
Brigham,	Ford,	Miller,	Turner, Thomas
Buckner,	Forney,	Money,	Updegraff, J. T.
Burrows,	Forsythe,	Monroe,	Urner,
Butterworth,	Frost,	Morrison,	Van Aernam,
Calkins,	Garfield,	Morton,	Van Voorhis,
Camp,	Gibson,	Muller,	Voorhis,
Cannon,	Gillette,	Murch,	Ward,
Caswell,	Hammond, John	Newberry,	Warner,
Chalmers,	Hayes,	Nicholls,	Weaver,
Claflin,	Heilman,	O'Brien,	Whiteaker,
Clardy,	Herbert,	Orth,	Wilber,
Clark, Alvah A.	Herndon,	Pacheco,	Williams, C. G.
Clymer,	Hiscock,	Phister,	Wood, Fernando
Cobb,	Hubbell,	Pierce,	Wood, Walter A.
Converse,	Hull,	Prescott,	Yocum,
Covert,	Hunton,	Price,	Young, Thomas L.
Cowgill,	James,	Reed,	
Cox,	Jorgensen,	Richardson, D. P.	
Crowley,	Killinger,	Richardson, J. S.	

So the motion to adjourn was not agreed to.

The following pairs were announced from the Clerk's desk:

Mr. CULBERSON with Mr. CANNON, of Illinois, upon the pending bill.

Mr. STEELE with Mr. HAYES, on all questions from this date until the close of the session.

Mr. SAMFORD with Mr. REED, for this day.

Mr. NICHOLLS with Mr. MORTON, for this day.

Mr. LORING with Mr. HERBERT, on this question.

Mr. FORNEY with Mr. HISCOCK.

The result of the vote was announced as above stated.

The SPEAKER. The question recurs on seconding the motion of the gentleman from Maryland [Mr. MCLANE] to suspend the rules and pass the bill indicated by him. The gentleman from Maryland and the gentleman from Louisiana [Mr. ACKLEN] will resume their places as tellers.

ENROLLED BILLS SIGNED.

Mr. UPSON, from the Committee on Enrolled Bills, reported that the committee had examined, and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 3544) granting a pension to John Fisher, guardian of the infant heirs of William Dakin, deceased; and

An act (H. R. No. 3656) for the relief of John Hohstadt.

Mr. WARD, from the same committee, reported that the committee had examined, and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (S. No. 1371) to authorize the Mississippi River Logging Company to construct and operate sheer-booms at or near Straight Slough.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, announced that the Senate had passed without amendment bills of the following titles:

An act (H. R. No. 4268) in relation to the mileage of jurors and witnesses in the State of Colorado;

An act (H. R. No. 3990) to remove the political disabilities of John S. Maury; and

An act (H. R. No. 989) for the relief of John H. Standish.

The message also announced that the Senate had passed a bill of the following title; in which the concurrence of the House was requested:

An act (S. No. 1819) for the relief of William Bowen.

ORDER OF BUSINESS.

Mr. HUNTON. My friend from Maryland [Mr. MCLANE] yields to me, as I understand, that I may ask the appointment of a conference committee on a bill returned from the Senate with amendments.

Mr. MCLANE. I must decline to yield, if by yielding I lose the right to the floor.

Mr. BREWER. I object, and call for the regular order.

Mr. HUNTON. Mr. Speaker, if the gentleman from Maryland yields to me that I may ask unanimous consent will he lose control of the floor after I am through?

The SPEAKER. If the gentleman from Virginia [Mr. HUNTON] was on the floor without dispute, asking the appointment of a conference committee, his motion at this time would still require unanimous consent.

Mr. HUNTON. I am aware of that.

The SPEAKER. But the gentleman from Michigan [Mr. BREWER] has objected.

Mr. HUNTON. I hope the gentleman from Michigan will withdraw his objection.

Mr. BREWER. I withdraw the objection, if the object is the appointment of a conference committee.

Mr. MCLANE. I do not object if my rights are not disturbed.

Mr. HUNTON. I would not interfere in any way with the rights of my friend from Maryland.

Mr. MCKENZIE. I reserve the right to object.

The SPEAKER. The title of the bill upon which the gentleman from Virginia desires the appointment of a committee of conference will be read.

The Clerk read as follows:

A bill (H. R. No. 1381) to authorize the construction of a bridge across the Potomac River at or near Georgetown, in the District of Columbia, and for other purposes.

Mr. MCLANE. I desire to call the attention of the Chair to the fact that I do not yield for this business, except upon the understanding that it can be introduced without disturbing my right to the floor.

Mr. HUNTON. I understood the Chair so to rule.

The SPEAKER. The Chair has already stated that it requires unanimous consent to take this bill from the Speaker's table at the present time.

Mr. MCKENZIE. Will it interfere with the position now occupied by the gentleman from Maryland?

The SPEAKER. Only temporarily.

Mr. KLOTZ. I object to the request of the gentleman from Virginia.

Mr. ACKLEN. I rise to a parliamentary inquiry. Has there been such intervening business since the last motion to adjourn that another motion to adjourn would now be in order?

The SPEAKER. There has been a request for unanimous consent, which has been objected to. The Chair cannot regard that as "intervening business" within the terms of the rule. The gentleman from Maryland and the gentleman from Louisiana will resume their places as tellers.

The House again divided; and the tellers reported—ayes 62, noes 4.

Mr. ACKLEN. I make the point that no quorum has voted, and move the House adjourn.

GEORGE W. BOSTICK.

Mr. HATCH, by unanimous consent, introduced a bill (H. R. No. 6483) for the relief of George W. Bostick; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

DAVID FRAYNE.

Mr. PHELPS, by unanimous consent, introduced a bill (H. R. No. 6484) granting a pension to David Frayne, of Middletown, in the State of Connecticut, late a private soldier in Company I, in the Twenty-first Regiment of Connecticut Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JAMES COLLINS.

Mr. PHELPS also, by unanimous consent, introduced a bill (H. R. No. 6485) granting a pension to James Collins, of New Haven, Connecticut, late a private soldier in Company I, Sixteenth Regiment Connecticut Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

The SPEAKER. If there be no objection, the Chair will recognize other gentlemen desiring to introduce bills for reference.

Objection was made.

Mr. ACKLEN. Objection being made, I now insist on my motion that the House adjourn.

The House divided; and there were—ayes 106, noes 22.

So the motion was agreed to; and accordingly (at five o'clock and five minutes p. m.) the House adjourned.

PETITIONS.

The following petitions were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. CALDWELL: The petition of Ransom H. Dillard, Benjamin C. Huntsman, and other soldiers, for legislation equalizing bounties to soldiers of the late civil war—to the Committee on Military Affairs.

By Mr. CARLISLE: The petition of citizens of Louisville, Kentucky, for a reduction of the duty on earthenware—to the Committee on Ways and Means.

Also, the petition of citizens of Ohio, of similar import—to the same committee.

By Mr. CHALMERS: The petition of Melvin Parkhurst, of Natchez, Mississippi, for a pension—to the Committee on Invalid Pensions.

By Mr. COFFROTH: The petition of Elisha M. Luckett, late second lieutenant Company B, Second Regiment Pennsylvania Volunteers, Mexican war, for arrears of pension—to the Committee on Pensions.

By Mr. DICKEY: The petition of A. F. Shriver and 23 others, ex-soldiers, of Brown County, Ohio, for the passage of a law granting one hundred and sixty acres of land to soldiers and sailors of the late war—to the Committee on the Public Lands.

By Mr. HATCH: The petition of George W. Bostick, postmaster at Kahoka, Missouri, to be relieved from accounting for Government property stolen from the post-office at said place by burglars—to the Committee on the Post-Office and Post-Roads.

By Mr. HOUSE: The petition of Cumberland Iron Works Company of Stewart County, Tennessee, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. HUBBELL: The petition of J. N. Woodcock and 25 others, soldiers of the late war of the rebellion, of Marly, Michigan, for a readjustment of their pay on a gold basis—to the Committee on Military Affairs.

By Mr. KLOTZ: The petition of William Painter, of Danville, Pennsylvania, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. MYERS: The petition of D. D. Johns and 33 others, soldiers, for the passage of the Geddes pension bill—to the Committee on Invalid Pensions.

By Mr. WILLIAM A. RUSSELL: The petition of Butler & Robertson and others, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. VANCE: The petition of Mark Hainey, of North Carolina, for compensation for injuries sustained while in the discharge of his duties as a deputy United States marshal—to the same committee.

By Mr. CHARLES G. WILLIAMS: The petition of M. Gavett and 66 others, citizens of Walworth County, Wisconsin, that a pension be granted Mrs. Abby Flint—to the Committee on Invalid Pensions.

Also, the petition of D. S. Bancroft and 42 others, citizens of Dodge and Fond du Lac Counties, Wisconsin, for the amendment of the patent laws so as to protect innocent purchasers—to the Committee on Patents.

Also, the petition of D. S. Bancroft and 40 others, citizens of the same counties, for relief against transportation monopolies—to the Committee on Commerce.

IN SENATE.

TUESDAY, *June* 15, 1880.

The Senate met at eleven o'clock a. m. Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting a report of the Chief of Engineers, in regard to the cost of giving an increased depth of water to the city of Baltimore, made in accordance with a resolution of the Senate of the 11th instant; which, on motion of Mr. WHYTE, was referred to the Committee on Commerce, and, with the accompanying exhibits, ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. DAVIS, of Illinois. I present some affidavits in support of the petition of Sarah S. Flagg, widow and executrix of W. C. Flagg, deceased, late collector of internal revenue for the twelfth district of Illinois, praying payment of a balance claimed to be due her late husband for compensation for services as such collector, which was reported adversely on the 10th of March last from the Committee on Claims. I ask that they be received and be placed on file with the papers in that case.

The PRESIDENT *pro tempore*. That order will be made.

Mr. LOGAN presented a letter of Hon. Edward C. Lowell, of Elgin Illinois, asking that 40 per cent. be added as duty on the Swiss milk imported to America to protect the American enterprise known as the Illinois Condensing Company, under the Gail Borden process for preserving milk; which was referred to the Committee on Finance.

He also presented three petitions of citizens of Illinois, praying the passage of the Eaton bill providing for the appointment of a tariff commission; which were ordered to lie on the table.

He also presented a memorial of citizens of Illinois, tobacco dealers, in relation to the Regie contracts; which was ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. HARRIS, from the Committee on Claims, to whom was referred the bill (S. No. 305) for the relief of Thomas B. Wallace, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. PENDLETON, from the Select Committee to make provision for taking the Tenth Census, to whom was referred the message of the President of the United States, in relation to the removal of supervisors of the census and the appointments to fill vacancies caused by such removals, submitted a report; which was ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, to whom was referred the bill (H. R. No. 2603) to place upon the pension-roll the name of Masach Finn, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. TELLER, from the Committee on Claims, to whom was referred the petition of Henry P. Rolfe, praying payment of moneys claimed to be due him from the United States for services rendered by him as United States district attorney for the district of New Hampshire, from December 22, 1873, to July 23, 1874, submitted a report thereon, accompanied by a bill (S. No. 1839) for the relief of Henry P. Rolfe.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. BROWN, from the Committee on Pensions, to whom was referred the bill (H. R. No. 591) for the relief of Eliza K. Ashby, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. CALL, from the Committee on Pensions, to whom was referred the bill (S. No. 1808) granting a pension to Earl S. Rathbun, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. LOGAN, from the Committee on Military Affairs, to whom was referred the bill (H. R. No. 3151) for the relief of Francis W. Maxwell, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 3191) to authorize the Secretary of the Interior to dispose of a part of the Fort Dodge military reservation to actual settlers under the provisions of the homestead laws, reported it with an amendment.

Mr. KIRKWOOD, from the Committee on Pensions, to whom was referred the bill (H. R. No. 5918) granting a pension to Thomas Pettijohn, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. BURNSIDE. I am directed by the Committee on Military Affairs, to whom was referred the bill (S. No. 1833) to remove the charge of desertion from the military record of William Hull, to report it without amendment. Inasmuch as it is the same kind of a bill that has been reported several times and passed in reference to the removal of charges of desertion, I ask for the immediate consideration of the bill.

Mr. INGALLS. I object.

The PRESIDENT *pro tempore*. Objection is made, and the bill will be placed on the Calendar.

Mr. EATON. I am directed by the Committee on Foreign Relations to report a bill, and I shall ask to suspend the rules that the bill may be passed. If action is to be had at all, it is necessary that it be acted upon to-day, as will be seen from the reading of the title of the bill.

The bill (S. No. 1840) to constitute a joint commission for carrying into effect the convention between the United States and the French Republic, for the settlement of certain claims of the citizens of either country against the other, signed at Washington on the 15th day of January, 1880, was read twice by its title.

The PRESIDENT *pro tempore*. The Senator from Connecticut asks for the immediate consideration of the bill.

Mr. BECK. I shall object to any interference with the Calendar at present. We shall get through in half an hour with the Calendar of House bills.

Mr. EATON. Let it lie on the table.

The PRESIDENT *pro tempore*. The bill will lie on the table for the present.

Mr. McDONALD. The Committee on Public Lands, to whom was referred the bill (S. No. 1825) to provide for the survey of certain public lands in the State of Ohio, have directed me to report it without amendment, and to recommend its passage. I ask for the present consideration of the bill. It is very short, and the reading of it will satisfy every Senator that it ought to pass.

Mr. WITHERS. Let us go on with the Calendar.

Mr. McDONALD. The bill authorizes the survey of a little sand beach along the Lake Erie front above the City of Cleveland that is at present unsurveyed, and it is valuable only as a hunting-lodge and place to shoot ducks.

The PRESIDENT *pro tempore*. The Senator from Virginia has objected.

Mr. WITHERS. I have no objection to the bill itself, but I object to its consideration until we get through the Calendar.

GOVERNMENT RECORDS AND FILES.

Mr. BUTLER (by request) submitted the following resolution:

Resolved, That the President of the United States be requested to furnish a statement of the amount of money which has been annually expended for the preservation and safe-keeping of the records and files of the Government by each Department from 1860 to the present time, giving in detail the items of expense, the name of every person to whom any money has been paid, and for any article furnished, the quantity, and the appropriation from which such expenditures have been made, together with such recommendations as he, in his judgment, may deem most advisable for the better protection and security of the Government records and files.

Mr. COCKRELL. Let that be printed and lie over.

The PRESIDENT *pro tempore*. The resolution will be printed and will lie over.

JAMES MONROE HEISKELL.

The PRESIDENT *pro tempore*. The routine business of the morning hour is at an end, and the first case on the Calendar under the Anthony rule will be reported.

Mr. WHYTE. I ask the consent of the Senate to take up a bill which, during my illness, came up in the Senate and was postponed on account of my absence, with the understanding, as I learn from the RECORD, that on my return it might have a hearing.

The PRESIDENT *pro tempore*. The Senator from Maryland asks unanimous consent to take up a bill which was passed over on account of his absence.

Mr. BECK. There are only eight or ten House bills on the Calendar, which can be passed in half an hour, I think, and then I will aid the Senator to take up the bill to which he refers.

Mr. WHYTE. I ask to take up the bill (S. No. 1191) for the relief of James Monroe Heiskell, of Baltimore City, Maryland.

The PRESIDENT *pro tempore*. Is there objection?

Mr. HARRIS. I am not inclined to object to the Senator's bill, but if we begin to call up bills in this way we shall go from the Calendar, and I give notice that no matter who may ask I shall object until after the expiration of the morning hour after this one time.

Mr. WHYTE. If the Senator from Tennessee will excuse me, this bill came up when I was ill.

Mr. HARRIS. I am aware of that, and I do not object to this bill, but I give notice that I shall object to every other out of its order.

By unanimous consent, the Senate resumed the consideration of the bill (S. No. 1191) for the relief of James Monroe Heiskell, of Baltimore City, Maryland.

The PRESIDENT *pro tempore*. The question is on the passage of the bill as amended.

Mr. WHYTE. I ask unanimous consent for a reconsideration of the vote by which the bill was ordered to a third reading.

Mr. CAMERON, of Wisconsin. I object to that.

Mr. WHYTE. I hope the Senator from Wisconsin will not object.

The PRESIDENT *pro tempore*. The Senator from Maryland asks unanimous consent that the vote by which this bill was ordered to a third reading may be reconsidered.

Mr. CAMERON, of Wisconsin. To which I object.

Mr. WHYTE. I appeal to the Senator from Wisconsin. Only a few days ago we passed a similar bill relieving the disabilities of Mr. Powell. This is identically the same case. There was no objection there, and I appeal to the Senator from Wisconsin to allow this gentleman to get through by himself without being encumbered with any general bill.

Mr. CAMERON, of Wisconsin. The Senator from Maryland was here when the amendment was adopted, and my recollection is that he voted for that amendment making it a general bill instead of making it applicable to this gentleman alone.

Mr. WHYTE. I was here, and I will state the way in which the amendment was adopted. The Senator from Vermont [Mr. EDMUNDS] proposed that the bill ought to be general in its character. The Senator from Arkansas [Mr. GARLAND] accepted that proposition and offered the amendment, and then when the vote was taken my friends upon the other side know what the result was. I was led into voting for it upon the same principle that everybody else was, of making it, if that was the disposition, a general amnesty to all these southern people. I am willing to vote for a general bill because I believe the time will come—I hope it is far off—whenever there is a war with a foreign nation that we shall only be too glad to welcome into the Army of the United States those men who fought so bravely under the confederate flag. I do not see, when we send General Longstreet to Turkey and also when we appoint prominent gentlemen who were in the southern army, why this humble gentleman cannot be relieved from this disability, and enable the President, if he thinks proper, to send his name into the Senate, and then we can vote upon it as to whether he deserves confirmation or not. I appeal to the generosity of the Senator from Wisconsin.

Mr. CAMERON, of Wisconsin. I am more liberal than the Senator from Maryland, because this amendment having been adopted we are at present insisting that it shall not be reconsidered.

Mr. WHYTE. Will the Senator from Wisconsin object to our taking up the bill as it stands, then?

Mr. CAMERON, of Wisconsin. Oh, no; not at all.

Mr. WHYTE. Then let us vote on the whole bill.

The PRESIDENT *pro tempore*. The bill has been taken up, and the question is on its passage.

Mr. GARLAND. I offered an amendment to the bill under a conviction that it was high time to get rid of section 1218 of the Revised Statutes, and I judge that was the view also of the Senator from Vermont [Mr. EDMUNDS] who really invited the amendment, as stated by the Senator from Maryland, [Mr. WHYTE.] I did not offer it with a view of obstructing or weighting down the bill, because this is a very meritorious and very worthy young man, and I am very anxious that he should be relieved. If there is any difficulty in the way of passing the bill as amended, I appeal to the Senator from Wisconsin to withdraw his objection and let us pass the bill for this young man, who was hardly old enough really to have incurred the disability from which we now seek to relieve him; but if that cannot be done I think we all better shake hands on this and pass the amended bill and relieve all of this class from the operations of section 1218.

Mr. CAMERON, of Wisconsin. I withdraw my objection.

The PRESIDENT *pro tempore*. The Senator from Wisconsin withdraws his objection. The question now is, Will the Senate give unanimous consent to reconsider the vote by which this bill was ordered to a third reading?

Mr. ALLISON. Why is that necessary?

The PRESIDENT *pro tempore*. Because more than two days have elapsed since the third reading of the bill. Is there objection? The Chair hears none, and the vote by which the bill was ordered to be read a third time is reconsidered. The question now is upon the amendment offered by the Senator from Arkansas, [Mr. GARLAND.]

The amendment was rejected.

The PRESIDENT *pro tempore*. The question is, Shall the bill be engrossed and read a third time?

The bill was ordered to be engrossed for a third reading, and read the third time.

The PRESIDENT *pro tempore*. Shall the bill pass?

Mr. CAMERON, of Wisconsin. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. GARLAND, (when his name was called.) I am paired on all subjects of this sort with the Senator from Vermont, [Mr. EDMUNDS.] If he were here, I suppose he would vote "nay;" I should vote "yea."

The roll-call was concluded.

Mr. RANSOM. I am paired on party questions with the Senator from Maine, [Mr. HAMLIN,] but I have just conferred with the Senator from Illinois, [Mr. LOGAN,] who is paired with my colleague, [Mr. VANCE,] and we concluded that this is not a party question. I vote "yea."

Mr. MAXEY. My colleague [Mr. COKE] is necessarily absent on account of sickness, and is paired with the Senator from Michigan, [Mr. BALDWIN.] If present and not paired, my colleague would vote "yea."

Mr. HARRIS, (after having voted in the affirmative.) The Senator from New Hampshire [Mr. ROLLINS] is detained from his seat by illness, and sent me word yesterday that he was ill and desired me to pair with him upon party questions. I agreed to do so. If any Senator regards this as a party question I must withdraw my vote.

Mr. RANSOM. It has not been so regarded.

Mr. LOGAN. I do not think it ought to be so regarded.

Mr. HARRIS. I so presumed and I voted, and unless some Senator on the other side will say it is a party question I shall let my vote stand, as there may be doubt about a quorum.

Mr. DAWES, (after having voted in the negative.) I am paired with the Senator from Delaware, [Mr. BAYARD.] I do not know how he would vote, and therefore I withdraw my vote.

Mr. WHYTE. The Senator from Delaware if here would vote "yea." He reported the bill.

Mr. DAWES. If he was in favor of the bill, unless I voted the other way I think I ought to withdraw my vote.

Mr. RANSOM. I would not withdraw the vote.

Mr. DAWES. I have no desire to break up a quorum.

Mr. WHYTE. I ask the Senator from Massachusetts to vote to insure a quorum. We will protect him on this side of the Chamber.

Mr. RANSOM. We will take care of him.

Mr. TELLER. I inquire whether this debate is not out of order when the roll has been called, before the result is announced. We spend more time than it takes to call the roll.

Mr. LOGAN, (after having voted in the negative.) I merely desire to say that I voted, and on consultation I will leave my vote stand in order to make a quorum. I am paired with the Senator from North Carolina, [Mr. VANCE.] I do not think this is a party question, and therefore I do not withdraw my vote.

Mr. CAMERON, of Wisconsin, (after having voted in the negative.) I am paired with the Senator from New York, [Mr. KERNAN.] I have voted, but if there is a quorum without me perhaps I had better withdraw my vote.

The PRESIDENT *pro tempore*. The Chief Clerk wishes to know whether the Senator from Wisconsin withdraws his vote or not.

Mr. CAMERON, of Wisconsin. I have not withdrawn my vote. Upon consultation with Senators on the other side, I have concluded to let it stand.

The result was announced—yeas 29, nays 12; as follows:

YEAS—29.

Bailey,	Eaton,	Pendleton,	Voorhees,
Beck,	Groome,	Pryor,	Wallace,
Brown,	Hampton,	Randolph,	Whyte,
Butler,	Harris,	Ransom,	Williams,
Call,	Hereford,	Saulsbury,	Withers.
Cockrell,	Jonas,	Slater,	
Davis of Illinois,	Maxey,	Thurman,	
Davis of W. Va.,	Morgan,	Vest,	

NAYS—12.

Allison,	Booth,	Dawes,	McMillan.
Anthony,	Burnside,	Kirkwood,	Saunders,
Blair,	Cameron of Wis.,	Logan,	Teller.

ABSENT—35.

Baldwin,	Farley,	Johnston,	Paddock,
Bayard,	Ferry,	Jones of Florida,	Platt,
Blaine,	Garland,	Jones of Nevada,	Plumb,
Bruce,	Grover,	Kellogg,	Rollins,
Cameron of Pa.,	Hamlin,	Kernan,	Sharon,
Carpenter,	Hill of Colorado,	Lamar,	Vance,
Coke,	Hill of Georgia,	McDonald,	Walker,
Conkling,	Hoar,	McPherson,	Windom.
Edmunds,	Ingalls,	Morrill,	

So the bill was passed.

CHARLES H. NICHOLS.

Mr. VOORHEES. The bill (S. No. 523) for the relief of Charles H. Nichols, late superintendent of the Government Hospital for the Insane, authorizing him to close and settle his accounts, ought to be passed. It was reported unanimously from the Committee on the Revision of the Laws asking that it be passed. It was a case where Dr. Nicholls drew according to the law as it was in existence his salary, but it had been changed by a mistake in the revision of the laws which revived an old law that provided a less salary. He went on drawing in all some thirty-odd hundred dollars more than the revision allowed, but drawing according to the law that was on the statute-books, and would be there now except for the blunder that was made in the revision of the laws which revived the former law. I think I have stated correctly the fact. The chairman of the Committee on the Revision of the Laws is here.

Mr. WALLACE. That is undoubtedly correct. The reason was that the last statute on the subject was not taken by the revisers.

Mr. HARRIS. I regret exceedingly the necessity of keeping my pledge, but I gave notice a few minutes ago that I should object to everything during the morning hour but the Calendar.

Mr. VOORHEES. I move to postpone the present and all prior orders for this purpose. The bill was objected to early in the session by the Senator from Missouri, [Mr. COCKRELL,] and I have been waiting on him ever since.

Mr. WITHERS. I have several such cases.

Mr. ALLISON. This will only take a minute.

Mr. VOORHEES. It will only take a moment, less time than is taken in talking about it. This is a case that ought to be passed. There is no objection to it whatever; there cannot possibly be any. I move to postpone the present and all prior orders for the purpose indicated by me.

Mr. BECK. I submit whether that is in order. I have understood that during the morning hour under the Anthony rule such a motion cannot be made.

The PRESIDENT *pro tempore*. It has been the practice of the Senate to entertain a motion of that kind pending the call of the Calendar under the Anthony rule. It is in violation of the unanimous agreement of the Senate made yesterday, but the Chair cannot enforce unanimous agreements. If the Senator from Indiana insists upon his motion, the Chair must put it to the Senate.

Mr. INGALLS. I understood it was unanimously agreed yesterday, in consequence of the lateness of the session and there being but one day more, to act on House bills——

Mr. VOORHEES. Upon assurances here that we can get through with the House bills on the Calendar in time to pass this bill I withdraw my motion.

Mr. BECK. We can finish the House bills on the Calendar in half an hour.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the bill (S. No. 815) to increase the pensions of certain pensioned soldiers and sailors who are utterly helpless from injuries received or disease contracted while in the United States service.

The message also announced that the House had passed a joint resolution (H. R. No. 239) to provide for the enforcement of the eight-hour law; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes;

A bill (H. R. No. 3544) granting a pension to John Fisher, guardian of the infant heirs of William Dakin, deceased;

A bill (H. R. No. 3656) for the relief of John Hohstadt; and

A bill (S. No. 1371) to authorize the Mississippi River Logging Company to construct and operate sheer-booms at or near Straight Slough.

BENJAMIN BABB AND OTHERS.

The PRESIDENT *pro tempore*. The Senate proceeds to consider the House bills on the Calendar, beginning with the one succeeding the House bill reached yesterday on the call of the Calendar.

The bill (H. R. No. 6018) for the relief of Benjamin Babb and others was considered as in Committee of the Whole. It proposes to direct the Commissioner of Internal Revenue to re-examine and settle certain claims for tax on rope and bagging, alleged to have been illegally assessed and collected, upon the separate application of the parties named, and the Secretary of the Treasury is to pay the several amounts of taxes so found by the Commissioner of Internal Revenue to have been illegally and improperly assessed and collected.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. HARRIS. I move to indefinitely postpone the bill (S. No. 1735) for the relief of Benjamin Babb and others, which was introduced by myself on the 7th of May last, as the Senate has just passed a House bill which is an exact copy of it. I move that it be indefinitely postponed.

The motion was agreed to.

GOVERNMENT LAND AT VINCENNES.

The bill (H. R. No. 3742) to authorize the Secretary of the Treasury to sell certain real estate belonging to the United States, and vesting the title to certain other lands in the city of Vincennes, in the State of Indiana, and for other purposes, was considered as in Committee of the Whole.

The bill was reported from the Committee on Public Lands with amendments.

The first amendment was, in section 1, line 20, after the word "city," to insert "and cause the same to be appraised at its fair cash value;" so as to read:

And shall cause a plat of said streets, alleys, blocks, and lots to be made, and cause a duly certified copy of the same to be filed in the office of the clerk of said city, and cause the same to be appraised at its fair cash value.

The amendment was agreed to.

The next amendment was, in section 1, line 32, after the word "cash," to insert "at not less than the appraised value;" so as to read:

And shall sell the same to the highest and best bidder for cash at not less than the appraised value.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. KIRKWOOD. I should like to know how much land there is by this bill donated to the city of Vincennes. What is the extent?

Mr. PLUMB. I think I can answer. The amount of land is about eighty acres. The matter was before the Public Lands Committee——

Mr. VOORHEES. My colleague, [Mr. MCDONALD,] who has had charge of the bill, is not present at this moment, but I am assured that it is entirely correct by the fact that he reported it.

Mr. KIRKWOOD. My inquiry was how much land is donated.

Mr. PLUMB. About sixteen acres is donated for a park, and a portion of that is overflowed land which has no commercial value.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

UNIVERSITY LANDS TO TERRITORIES.

The consideration of the bill (H. R. No. 1327) to grant lands to Dakota, Montana, Arizona, Idaho, and Wyoming for university purposes was resumed as in Committee of the Whole.

Mr. INGALLS. I move to amend the bill by striking out all after the word "Territories," in line 9, and inserting the words "when they shall be admitted as States into the Union."

Mr. TELLER. I want to inquire now if there is any question about the Territories being allowed to take the land now?

Mr. INGALLS. I propose to amend, if this is agreed to, by inserting the word "immediately" between "be" and "selected," in line 6, so that the land may be immediately selected and withdrawn from sale and held for this specific purpose.

The PRESIDENT *pro tempore*. The amendment of the Senator from Kansas will be reported.

The CHIEF CLERK. It is proposed to strike out all of the bill after the word "Territories," in line 9, and to insert, "when they shall be admitted as States into the Union;" so as to make the bill read:

Be it enacted, &c., That there be, and are hereby, granted to the Territories of Dakota, Montana, Arizona, Idaho, and Wyoming, respectively, seventy-two entire sections of the unappropriated public lands within each of said Territories, to be selected and located under the direction of the Secretary of the Interior, and with the approval of the President of the United States, for the use and support of a university in each of said Territories when they shall be admitted as States into the Union.

The amendment was agreed to.

Mr. INGALLS. I move to amend further by inserting, in line 6, between the words "be" and "selected," the word "immediately;" so as to read "to be immediately selected."

The amendment was agreed to.

Mr. INGALLS. In line 6, after the word "selected" and before the word "and," I move to insert "and withdrawn from sale;" so as to read:

To be immediately selected and withdrawn from sale and located under the direction of the Secretary of the Interior.

The amendment was agreed to.

Mr. COCKRELL. I should like to hear an explanation of the bill. What is the effect of the bill, and what change does it make in existing law?

Mr. PLUMB. The effect of the bill, as amended, is simply to authorize these Territories to immediately select the university lands to which they will be entitled on their admission as States, in order to prevent their rights being postponed, or rather wiped out, by the wholesale entry of the land which is going on in these Territories now. The object is simply that the Territories named may select the land to which under their organic act on admission as States they will be entitled.

Mr. COCKRELL. What number of sections?

Mr. PLUMB. Seventy-two, the usual number. It does not add anything to the right; it only authorizes them to select the land now.

Mr. COCKRELL. Does this apply to the sixteenth and thirty-sixth sections for school purposes?

Mr. PLUMB. No; the seventy-two sections for university purposes.

Mr. PADDOCK. It is the usual grant for university purposes.

Mr. PLUMB. The bill only authorizes them now to select the land, rather than wait until they are admitted as States.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

SCHOOL LANDS IN KANSAS.

The joint resolution (H. R. No. 123) authorizing the Secretary of the Interior to certify school lands to the State of Kansas was considered as in Committee of the Whole. The preamble recites that the United States has sold and disposed of sections 16 and 36 in certain Indian reservations embraced within the territorial limits of the State of Kansas, in pursuance of treaty obligations; that the State of Kansas, in pursuance of a decision of the General Land Office, dated August 14, 1877, has selected for school purposes other equivalent lands in lieu of such sections 16 and 36 so disposed of. The resolution therefore confirms the lands so selected by the State of Kansas to that State, and authorizes the Secretary of the Interior to certify the same to the State, in lieu of sections 16 and 36, sold and disposed of by the United States, within the limits of any former Indian reservation.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SURETIES OF JOHN P. HALL.

The bill (H. R. No. 6380) for the relief of the estate and sureties of John P. Hall, deceased, was considered as in Committee of Whole. The bill directs the proper accounting officers of the Treasury to credit the accounts of John P. Hall, deceased, late collector of internal revenue for the first collection district of Kentucky, with $3,701.96, being the amount due the United States of America, as shown by the Treasury statements, and releases the estate and sureties of Hall from liability on his bonds as collector and from any judgment which may have been rendered on the bonds or either of them.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

DELLA BENNER.

The bill (H. R. No. 3980) authorizing the Secretary of the Interior to place upon the pension-roll the name of Della Benner, widow of the late Lieutenant Hiram H. Benner of Company C, Eighteenth Infantry, was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

TREATY WITH GREAT AND LITTLE OSAGES.

The bill (H. R. No. 6112) to carry into effect the second and sixteenth articles of the treaty between the United States and the Great and Little Osage Indians, proclaimed January 21, 1867, was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, and read the third time.

Mr. PENDLETON. Mr. President, it is perhaps well known to most of the Senators present that there exists against either this fund or the Osage Indians a claim for compensation by two gentlemen, named Adair and Vann, to the amount of $180,000, for services rendered to these Indians in the disposal of these lands and in negotiating various treaty stipulations. That claim has been before Congress for a number of years. I am not prepared to say that it is not an entirely just claim. I am not prepared to say that it is. I know nothing upon that subject; but I desire to state to the Senate, and I feel that I am in duty bound to do it, that the language employed in the eighth and ninth lines of the second section of this bill, "other expenses contracted by the United States or the Osage Nation in the execution of said trust," was inserted in the bill for the express purpose of enabling that claim to be paid.

A bill to effectuate the several general purposes as this was reported by the Committee on Indian Affairs of the Senate and is on the Calendar. This bill which came from the House differed from the Senate bill chiefly, if not entirely, in these few words. These words were inserted as I have reason to know for the purpose of enabling the Secretary of the Interior or requiring him to allow this claim. I have been told, and it may be true, that under these words the claim will not be allowed and cannot be allowed by the Secretary of the Interior. I do not know how that may be. I only have reason to know that the intention was to permit the allowance of this claim under these few words put in the bill, and as a member of the committee by which this bill was reported I feel that fair dealing with the Senate and good faith on my part require that I should state to the Senate that that is the purpose of the language put in the bill; and having discharged that duty I have done with it.

Mr. VOORHEES. Mr. President, I am entirely conversant with the question presented in this bill. I have endeavored for some time past to obtain such legislation as this as an act of justice to the Osage Indians. A bill was reported from the Committee on Indian Affairs of the Senate which was not open to the point sought to be made by the Senator from Ohio. The House bill which came over here gave rise to the conjecture which the Senator from Ohio has expressed to the Senate. I ask now that a letter which has reached me from the Secretary of the Interior may be read to show that the claim of Adair and Vann spoken of cannot be considered under the section of the bill as it comes to us from the House. Let the letter be read.

The Chief Clerk read as follows:

SIR: In reply to your verbal inquiry of this date, asking a construction of section 2 of H. R. No. 6112, I have the honor to state that in the adjustment of the funds of the Osage Nation, as provided in said bill and section, the claim of Adair and Vann cannot be considered.

Very respectfully,

C. SCHURZ, *Secretary.*

Mr. VOORHEES. I happen to know that that is correct, and I thought I ought to let the Senate know that that measure is not in the bill. I am asked to state what the bill is. In the act providing for the admission of Kansas into the Union and by subsequent legislation, certain lands that had been set aside by treaty with the Osages were turned over to the State of Kansas for school purposes, whereas by treaty the Government had bound itself to hold these lands and sell them in trust for the Indians and use the money arising from the sale for their benefit. It is the plainest, simplest proposition that ever came before this body, that lands the proceeds of which we had pledged ourselves to hold as a trust fund for the Osage Indians were by act of Congress turned over to the State of Kansas, and we ought to account to the Indians for them. There is no difference of opinion on this subject, and as to there being any other purpose in this bill than that, I apprehend nobody will have any trouble on that point now.

Mr. BOOTH. Is it in order to object to the further consideration of this bill? If it is in order, I object to the further consideration of this bill until I can look at it.

The PRESIDENT *pro tempore.* The Chair supposes, according to the usage of the Senate, that it is in order. Does the Senator object?

Mr. BOOTH. I object.

The PRESIDENT *pro tempore.* The bill will be passed over.

Mr. BOOTH subsequently said: I rise to withdraw the objection I made to the consideration of the House bill No. 6112. After examining the bill I have come to the conclusion that it is not subject to the construction that I thought it was, and I therefore withdraw the objection.

The PRESIDENT *pro tempore.* The objection being withdrawn, the Senate resumes the consideration of the bill (H. R. No. 6112) to carry into effect the second and sixteenth articles of the treaty between the United States and the Great and Little Osage Indians, proclaimed January 21, 1867. The question is on the passage of the bill.

The bill was passed.

DISTRICT ADVERTISING.

The bill (H. R. No. 2658) to regulate the award of and compensation for public advertising in the District of Columbia was considered as in Committee of the Whole.

The bill was reported from the Committee on Printing with an amendment, to strike out all after the enacting clause and insert:

That all advertising required by existing laws to be done in the District of Columbia by any of the Departments of the Government shall be given to one daily newspaper of each of the two principal political parties and one neutral newspaper, and, in the discretion of the head of the respective Departments, to the two weekly newspapers having the largest regular circulation, to be ascertained by the sworn statements of the publishers thereof: *Provided*, That the rates of compensation for such service shall in no case exceed the regular commercial rate of the newspapers selected; nor shall any advertisement be paid for unless published in accordance with section 3828 of the Revised Statutes.

SEC. 2. All laws or parts of laws inconsistent herewith are hereby repealed.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

GATE CITY GUARD, OF ATLANTA.

The joint resolution (H. R. No. 309) authorizing the Secretary of War to lend to the Gate City Guard, a military company of Atlanta, Georgia, four hundred Government tents, under certain circumstances, was considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PENSION BILLS.

The PRESIDENT *pro tempore*. This ends the House bills on the Calendar.

Mr. WITHERS. There are four pension bills, two of them for blind men, reported this morning, and one for a widow. I ask that they be taken up and considered now.

Mr. PLUMB. Will the Senator from Virginia permit me to suggest that I think under the order the House bills reported this morning from committees will come up?

Mr. WITHERS. These are House bills reported this morning from the Senate Committee on Pensions, and I want them to get through.

Mr. PLUMB. I do not want this to interfere with calling the remainder of the House bills.

The PRESIDENT *pro tempore*. The Chair will state to the Senator from Kansas that all the House bills on the Calendar have been acted on.

Mr. PLUMB. There are some bills that were reported this morning, and have gone on the Calendar by order of the Senate.

The PRESIDENT *pro tempore*. The Senator from Virginia asks unanimous consent to proceed to the consideration of the pension bills reported from the Committee on Pensions this morning. Is there objection? The Chair hears none, and the first pension bill will be read.

MASACH FINN.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 2603) to place upon the pension-roll the name of Masach Finn. It provides for placing upon the pension-roll the name of Masach Finn, late corporal of Company F, Fifty-second Regiment of Kentucky Mounted Infantry Volunteers, on account of disabilities, equivalent to the total loss of his eyesight, received while in the service of the Government.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

THOMAS PETTIJOHN.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 5918) granting a pension to Thomas Pettijohn. It proposes to place the name of Thomas Pettijohn, late corporal of Company D, Ninth Regiment Minnesota Volunteers, on the pension-roll.

The bill was reported from the Committee on Pensions with an amendment, in line 7, after the word "laws," to strike out "the pension to commence from the date of his disability" and insert "for total blindness."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

ELIZA K. ASHBY.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 591) for the relief of Eliza K. Ashby. It proposes to place upon the pension-roll the name of Eliza K. Ashby, widow of John P. Ashby, deceased, late a private in Company B, Seventeenth Regiment Kentucky Cavalry Volunteers.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

EARL S. RATHBUN.

Mr. WITHERS. There is also a Senate bill reported by the Committee on Pensions.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1808) granting a pension to Earl S. Rathbun. It provides for placing on the pension-roll the name of Earl S. Rathbun, at the rate of $8 per month, to begin at the date at which he was honorably discharged from the military service of the United States.

The bill was reported from the Committee on Pensions with an amendment, in line 7, after the word "month," to strike out "to begin at the date at which the said Earl S. Rathbun was honorably discharged from the military service of the United States" and insert "from and after the passage of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MACHINISTS IN THE NAVY.

The PRESIDENT *pro tempore*. The order having been executed, so far as the unanimous consent was concerned, the Senate goes back to the Calendar, and the first bill in order is the first bill on the Calendar under the Anthony rule.

Mr. BUTLER. There is a little matter I should like to have taken up. It is simply to change the name of a yacht. I ask that it be taken up and passed, as it has to go to the House to be acted on.

The PRESIDENT *pro tempore*. The Senator from South Carolina asks unanimous consent to proceed to the consideration of the bill he has named.

Mr. WHYTE. Objection was made to it yesterday—to a House bill, No. 5628, reported by the Naval Committee. My friend, the Senator from Missouri, [Mr. COCKRELL,] objected because the Senator who reported the bill was not present, but as a member of the Naval Committee I will take charge of it. The Senator withdraws his objection this morning.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 5628) relating to machinists in the Navy.

Mr. COCKRELL. I ask for the reading of a letter from the Secretary of the Navy, addressed to me this morning, which explains the matter.

The Chief Clerk read as follows:

NAVY DEPARTMENT,
Washington, June 15, 1880.

SIR: I have the honor to acknowledge the receipt of your letter of the 14th instant, in relation to House bill No. 5628, concerning machinists in the Navy.

The bill was drawn up and is identical with a draught furnished by this Department and meets with its approval.

A statement of the number of persons that would be affected by it, and the probable amount of pay involved, was furnished to the Committee on Naval Affairs of the House. A copy of the statement cannot now be found, and a new one could not be prepared in time to enable the Senate to take action this session.

I therefore take the liberty of suggesting that the original statement referred to can probably be obtained from the Committee on Naval Affairs of the House.

Very respectfully,

R. W. THOMPSON,
Secretary of the Navy.

Hon. F. M. COCKRELL,
United States Senate.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CHANGE OF NAME OF A YACHT.

The PRESIDENT *pro tempore*. The Senator from South Carolina [Mr. BUTLER] asks unanimous consent to proceed to the consideration of the bill he has named. Is there objection? The Chair hears none.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1583) to change the name of the schooner-yacht Nettie to Nokomis.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ORDER OF BUSINESS.

Mr. PLUMB. I rise to a point of order under the rule of proceeding. It was stated by the Chair yesterday in these words:

The Senator from Kentucky asks unanimous consent that when the Senate proceeds to the consideration of the Calendar under the Anthony rule the bills and joint resolutions that have come from the House of Representatives shall have precedence in the order they stand on the Calendar.

The point I make is that the order is unexecuted. There are bills on the Calendar, although not appearing on the printed Calendar, which have been placed there by order of the Senate this morning, which I think should be considered under this agreement.

The PRESIDENT *pro tempore*. They could only be considered, if they were reported this morning, by unanimous consent.

Mr. SAULSBURY. I object.

Mr. BLAINE. Let the Calendar go on. I think that is the quickest way.

Mr. SAULSBURY. There are bills on the Calendar for over a week that cannot be considered.

The PRESIDENT *pro tempore*. The regular business is the first bill on the Calendar under the Anthony rule.

Mr. HEREFORD. There is but one pension case left upon the Calendar. They were all disposed of yesterday but one.

Mr. WITHERS. They are all disposed of.

Mr. HEREFORD. There is one left. True, it is reported adversely.

Mr. WITHERS. There are a dozen adverse reports on pension bills yet on the Calendar. I object to the consideration of any pension case reported adversely.

Mr. HEREFORD. I will move to take it up anyhow. I move, then, to lay aside the present and all other orders——

Mr. WITHERS. I raise the point of order that that is not according to the rule.

The PRESIDENT *pro tempore*. It has been decided from the first—so decided by the Vice-President and it has been followed ever since—that a motion to postpone all prior orders and proceed to the consideration of a bill is, notwithstanding the Anthony rule, in order. If it were a new question the Chair might have doubts about it; but it has been so decided.

Mr. HEREFORD. I move, then, to lay aside the present and all prior orders and take up Senate bill No. 1186 and place it on its passage.

Mr. HOAR. Does the Chair hold that that motion is in order?

The PRESIDENT *pro tempore*. Senators will suspend until the question is before the Senate. What is the order of business?

Mr. HEREFORD. Order of business No. 248.

The PRESIDENT *pro tempore*. The Senator from West Virginia moves to postpone all prior orders that he may move the Senate to proceed to the consideration of the bill (S. No. 1186) granting a pension to John Snider. Now, the Chair will hear the Senator from Massachusetts.

Mr. HOAR. The Chair has stated now the question as I understand it to be.

The PRESIDENT *pro tempore*. The question is, Will the Senate postpone all prior orders to proceed to the consideration of this bill?

Mr. HOAR. I now rise to the point of order. My poinnt of order is that those two motions cannot be coupled in one. The Senator may move to postpone other orders; when that is done any Senator who can get the floor is at liberty to move to take up anything.

Mr. HEREFORD. No, Mr. President, the motion has been made in the usual form.

The PRESIDENT *pro tempore*. If the Senator from Massachusetts had paid attention he would have found that the Chair only stated the motion to postpone.

Mr. HOAR. The Chair will pardon me. The Chair stated the motion correctly. Then after stating it correctly the Chair said the question is, Will the Senate postpone prior orders and take up this bill?

The PRESIDENT *pro tempore*. No; if the Chair so stated it was not intentional. The question is, Will the Senate postpone all orders prior to No. 248?

The question being put, it was decided in the negative.

DEFICIENCY APPROPRIATION BILL.

Mr. EATON. I rise with privileged business, a conference report.

The PRESIDENT *pro tempore*. The Chair will receive it. The report will be read.

The Chief Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and for prior years, and for those certified as due by the accounting officers of the Treasury in accordance with section 4 of the act of June 14, 1878, heretofore paid from permanent appropriations, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its amendments numbered 13, 21, 23, 28, and 34.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, 22, 24, 25, 26, 27, 29, 30, 31, 32, 33, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 57, 58, 59, 61, 62, 63, 64, 65, 66, 67, 68, 69, and 70.

That the House recede from its disagreement to the amendment numbered 8, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$300,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 56, and agree to the same with an amendment as follows: Add at the end of the said amendment the following: "And to pay Isaac R. Hill for services as a messenger to the House of Representatives during the first session of the Forty-sixth Congress, $150;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 60, and agree to the same with an amendment as follows: Strike out the words "for public schools" and insert in lieu thereof the following: "To complete the erection of the school building near Stanton Square;" and the Senate agree to the same.

WILLIAM W. EATON,
WILLIAM A. WALLACE,
N. BOOTH,
Managers on the part of the Senate.
T. R. COBB,
WM. H. FORNEY,
JAMES MONROE,
Managers on the part of the House.

Mr. CONKLING. I wish one of the managers would tell us what that report means.

The PRESIDENT *pro tempore*. The first question which the rule requires to be put specially is, Will the Senate proceed to the consideration of the report?

The question was determined in the affirmative.

The PRESIDENT *pro tempore*. The report is before the Senate.

Mr. EATON. Mr. President——

EIGHT-HOUR LAW.

The PRESIDENT *pro tempore*. Before the Senate proceeds the Chair will lay before the Senate a joint resolution from the House of Representatives.

The joint resolution (H. R. No. 239) to provide for the enforcement of the eight-hour law was read the first time by its title.

The PRESIDENT *pro tempore*. Shall the joint resolution be referred, and if so, to which committee, the Committee on the Judiciary or on Education and Labor?

Mr. COCKRELL. Education and Labor.

Mr. LOGAN. I move that the Senate take up that resolution now.

Mr. DAVIS, of West Virginia. Let it go to a committee.

The PRESIDENT *pro tempore*. If objection be made it can only be considered now by unanimous consent.

Mr. DAVIS, of West Virginia. I think it ought to go to the Committee on the Judiciary. It involves a question of law that ought to be considered.

Mr. CONKLING. It involves also a question of fact which ought to send it to a jury.

The PRESIDENT *pro tempore*. The resolution will be considered as read the second time and referred to the Committee on Education and Labor.

Mr. LOGAN. I ask whether the motion I made does not have precedence; that is, to take up the resolution for present consideration?

The PRESIDENT *pro tempore*. It cannot be considered on the same day that it comes from the House, except by unanimous consent. If the Senator asks unanimous consent, the Chair will put the question.

Mr. LOGAN. I ask unanimous consent that it be considered today.

The PRESIDENT *pro tempore*. Then the reference will be considered as rescinded, in order that the Senator may ask unanimous consent after this conference committee report shall have been disposed of.

Mr. WHYTE. I hope unanimous consent will be given. Almost every Senator must be prepared to vote on a simple proposition of that character.

Mr. WITHERS. I object.

Mr. CONKLING. Mr. President, I rise to make a parliamentary inquiry. What has become of the motion of the Senator from West Virginia to refer this joint resolution to the Committee on the Judiciary?

The PRESIDENT *pro tempore*. The Chair did not understand that the Senator did anything more than express his opinion that that was proper.

Mr. CONKLING. I thought the honorable Senator moved that it go to the Committee on the Judiciary.

The PRESIDENT *pro tempore*. The Chair did not so understand.

Mr. CONKLING. Merely for curiosity I was anxious to know what became of such a motion if it was made.

The PRESIDENT *pro tempore*. The Chair did not understand him to make a motion, but only to express his opinion.

Mr. CONKLING. Did not the Senator from West Virginia move to refer it to the Committee on the Judiciary?

Mr. DAVIS, of West Virginia. I say to my friend from New York that I made the suggestion and came pretty near making a motion.

Mr. CONKLING. Until the Senator from Indiana [Mr. McDONALD] who sits next to the Senator shook his head, I had no doubt that a motion was made; but a shake of that head always gives me a certain consternation, and I sit down.

The PRESIDENT *pro tempore*. The Senator from Connecticut is entitled to the floor.

Mr. JONES, of Florida. Do I understand that the House resolution goes over under one objection?

The PRESIDENT *pro tempore*. A bill or joint resolution which comes from the House cannot be considered in the Senate except after it has had a first and second reading, and it cannot have a second reading on the same day with its first reading unless by unanimous consent.

Mr. JONES, of Florida. I understand that; but to what committee has it gone?

The PRESIDENT *pro tempore*. It is before no committee now, because the Chair said it would be referred to the Committee on Education and Labor but at the request of the Senator from Illinois [Mr. LOGAN] the Chair asked if there was any objection to rescinding that order. No objection was made, and the Chair considered it rescinded, and the joint resolution lies on the table of the Senate.

Mr. CONKLING. May I inquire whether the objection which we heard was to the second reading of the joint resolution? Has objection been made to the second reading?

Mr. WITHERS. I objected to the consideration of the joint resolution.

Mr. CONKLING. Will the honorable Senator inform me whether he does object to the second reading of the joint resolution?

Mr. WITHERS. I have just stated that my objection originally was to its consideration; and if the second reading has not been had I object to its second reading.

DEFICIENCY APPROPRIATON BILL.

The PRESIDENT *pro tempore*. The Senator from Connecticut [Mr. EATON] is entitled to the floor upon the conference report on the deficiency appropriation bill, being House bill No. 6325.

Mr. EATON. Mr. President, I will state generally that the Senate recede from its amendments numbered 13, 21, 23, 28, and 34, each of which I can explain if desired, and that the House recede from its disagreement to some seventy amendments made by the Senate.

Mr. CONKLING. Will the honorable Senator take the trouble to group them together and state what they are generally?

Mr. EATON. I can hardly group together seventy amendments.

Mr. CONKLING. The Senator can do it as well as anybody.

Mr. EATON. I shall have to take the bill and pretty thoroughly go through with it. The House recedes from its disagreement to an amendment appropriating a small sum of a few thousand dollars asked for by the State Department in regard to the exposition at Melbourne, and agree with the Senate. There are larger items that I had perhaps better turn to rather than go through the various little matters.

One hundred thousand dollars was appropriated for the custom-house, court-house, and post-office at Chicago, Illinois. The Senate added to that $25,000, believing that $125,000 would entirely complete

the building. The House recedes from its disagreement to that amendment.

There were various small matters—a few hundred dollars asked for by the Treasury Department for little items, which are agreed to finally.

There is a very large item on which there was some discussion in committee:

For the repayment to importers the excess of deposits for unascertained duties, or duties or other moneys paid under protest, including interest and costs in judgment cases.

The appropriation originally from the House was the sum of $200,000. From information received from the Treasury Department the Committee on Appropriations of the Senate recommended that that be increased to $350,000, and the Senate committee have no doubt that it would have been quite as well to retain the $350,000, but the House insisted that we should strike off $50,000 and leave it at $300,000. We did so for the purpose of accomplishing an agreement, though I think it would have been wiser for the House to have agreed to the larger sum.

There are very many little matters that I do not know that the Senate care about my taking up time by reading, paying a little rent, paying our clerks, employés, &c. There is one large item of $57,000. The Senate added this amendment:

For salaries and commissions of registers of land offices and receivers of public moneys, being a deficiency for the fiscal year 1880, $57,900.

The House were strongly averse to concurring with the Senate in that, but on thorough examination of the matter in conference they have receded from their disagreement and concurred in the Senate amendment.

Then the Senate made this amendment:

For salaries and commissions of registers of land offices and receivers of public moneys, being a deficiency for the fiscal year 1878, $8,219.09.

Then there were small advertising bills; items for furniture; deficiencies in the office of the surveyor-general in Washington Territory; contingent expenses of the Post-Office Department. In that Department there was an item for letter-carriers during the month of June, 1879, $22,000. That item was omitted by the House originally, but there is this deficiency for the entire month of June, 1879, $22,000 for letter-carriers. After examination the House conferees have concurred with the Senate in that amendment.

There was also an amendment in these words:

To enable the Attorney-General of the United States to pay for certain books purchased October, 1878, for use of the circuit and district courts held at Frankfort, Kentucky, $505.50.

That is agreed to. There was also an item of $6,000 "for defraying the expenses of the territorial courts in Utah for the current year." They concur with us in that.

The Senate concur with the House in certain amendments as to paying officers of the House. Twelve amendments the Senate concur in.

One very large item about which there was a very great difference of opinion to begin with in the conference committee is to be found on the last four pages of the bill, an appropriation of $221,257 for the Miami Indians. The Senate objected; and after argument the House committee have concurred with the Senate and stricken that item from the bill. It is legislation in short at the last hours of the session on a deficiency bill in regard to the Miami Indians of Indiana, and upon full conference and after full argument the House committee have receded and concurred in the Senate amendment striking out the section.

Mr. ANTHONY. May I ask the Senator from Connecticut if the House has receded from its disagreement to the amendment of the Senate for enlarging the Printing Office?

Mr. ALLISON. That is in another bill.

Mr. EATON. This is the deficiency bill. There is no such item in this bill.

The PRESIDENT *pro tempore*. Does the Senator from Connecticut move a concurrence in the report?

Mr. EATON. I move that the report be concurred in.

The report was concurred in.

COUNT OF ELECTORAL VOTES.

Mr. MORGAN. I offer the following resolution:

Resolved by the Senate, (the House of Representatives concurring,) That the President of the Senate is not invested by the Constitution of the United States with the right to count the votes of electors for President and Vice-President of the United States so as to determine what votes shall be received and counted or what votes shall be rejected.

Mr. INGALLS. Let that lie over.

Mr. MORGAN. I hope the Senator will withdraw his objection to the resolution. It is a very important matter, and the failure of the House to consider the joint rule adopted by the Senate leaves the public mind necessarily in a state of agitation and somewhat of alarm in regard to the count of presidential votes.

The PRESIDENT *pro tempore*. The resolution can only be considered now by unanimous consent.

Mr. CONKLING. Mr. President, has this resolution passed from the consideration of the Senate?

The PRESIDENT *pro tempore*. It was read, and the Senator from Kansas, as the Chair understood, objected to its further consideration to-day.

Mr. INGALLS. Yes, sir; I asked that it might lie over.

Mr. MORGAN. I asked unanimous consent that the Senate consider it, but the objection cuts it short, of course.

The PRESIDENT *pro tempore*. Does the Senator from Kansas withdraw his objection?

Mr. INGALLS. I do not know how many times a Senator is called upon to object. I have objected twice already.

Mr. CONKLING. Mr. President——

The PRESIDENT *pro tempore*. The resolution is not before the Senate. It has gone over.

DUTY ON MALT.

Mr. CONKLING. The resolution not being before the Senate, I beg leave to make an inquiry, and I will venture to address my inquiry to the Senator from Kentucky, [Mr. BECK,] who I see is in his seat. I have under my hand a large number of dispatches which come continually relating to the so-called malt bill. I wish only to inquire of the Senator from Kentucky whether it is the intention of the Senator or of the Committee on Finance to give further consideration at this session to the malt bill?

Mr. BECK. Mr. President, I can only say that yesterday when for the first time we had the bill before the Senate I offered what I regard a reasonably good amendment, reducing the number of articles which shall not pay over 50 per cent. *ad valorem*, making materials for paper free; and if that amendment can be agreed to, I am willing that the bill shall pass; otherwise, until I get a vote on my amendment, it will not pass, and I hardly think it will pass in the short time, only about twenty-three hours, remaining of the session.

Mr. CONKLING. Mr. President, speaking for all those for whom I am authorized to speak, that being unfortunately nobody but myself, I wish to say to the honorable Senator from Kentucky that I should be very glad if we might have a vote upon the malt bill. I am ready myself to vote also upon any amendment the Senator may suggest; but I would be very glad if we might take action upon the bill and upon all amendments which Senators choose to offer.

Mr. BECK. I am very willing that the bill should be taken up and the amendments acted upon.

Mr. CONKLING. Then why should we not take it up?

Mr. BECK. I have no objection at all.

Mr. WALLACE. I have something to say upon that subject. While I am entirely satisfied that the malt bill as such should be taken up and considered, yet with the amendments submitted by the Senator from Maryland [Mr. WHYTE] and the Senator from Kentucky, [Mr. BECK,] which have not been considered in committee at all, and are appended to this bill and must be considered on the floor of the Senate without consideration by the committee at all, I think it would be unwise for the Senate to take up that bill and consider these amendments now. It is not proper to take the opportunity of the malt bill to revise the tariff in the short period left of this session. We cannot dispose of these amendments, so general and so far reaching, in the short time left us. I am ready to take up the question and have these matters considered properly in committee.

Mr. CONKLING. The Senator from Pennsylvania assigns good reasons for opposing such amendments as he describes, amendments not considered or ill-considered, but the reasons he gives are only reasons for voting down such amendments. They are not reasons for voting down a bill which has been considered and in favor of which the Senator himself may be, and I hope that the Senate will not be deterred from considering a bill proper in and of itself to be voted upon from the fear that some Senator may offer an amendment which would not command the approval of the Senate. Let us vote them down, but let us take up the bill itself and vote upon that and improve it if we can. If we cannot let us vote upon it as it is.

I wish only to add that a very deep and wide-spread interest is felt in the so-called malt bill. Anxiety is felt by those who seem to labor under the delusion that members of the minority of the Senate can do something effectual in advancing this bill and having it finally acted upon. I know, as they seem not to know, that we are quite powerless on this subject to do anything except to appeal to Senators who have the rod and staff in their hands to allow us to vote on this bill. That appeal I feel warranted in making, and in addressing it specially to the Senator from Kentucky as having the bill in charge. I wish we might take it up and act upon it. I do not intend to commit myself for or against any amendment. If an amendment is offered to the bill which seems to me wise, certainly I shall vote for it, and I shall vote for as much of this bill or any other as I think reasonable and expedient.

I agree with the Senator from Pennsylvania that we ought not now, in the dying hours of this session, to enter upon a general or miscellaneous revision of the tariff even if it needs revision. I am with him upon that. But here is a single topic which has been considered itself, now awaiting final action, and I confine my appeal to that. I ask that we may take up the bill and act upon it. If the Senator from Kentucky can offer amendments improving it, let us vote with him. If the amendments he offers do not improve it, let the Senator from Pennsylvania and I vote against them in the hope that enough other Senators will vote with us to defeat improper amendments; but do not let us shun the whole thing for fear some Senator will offer amendments.

Mr. BECK. I only desire to say to the Senator from New York that——

The PRESIDENT *pro tempore*. The Chair begs leave to remind Senators that this discussion is by unanimous consent. There is nothing before the Senate.

Mr. CONKLING. Doubtless I shall have unanimous consent to correct an error of my own. I beg pardon for saying that the Senator from Kentucky had charge of the bill. I have been absent several days from the Senate; and I was informed that he had; but it seems that the Senator from Pennsylvania [Mr. WALLACE] has it in charge. So much the better, and I appeal to that Senator to take it up, and let us face the amendments of the Senator from Kentucky.

Mr. WALLACE. The Senator does not need to appeal to me. As the organ of the committee I reported the bill. I am anxious to take it up.

Mr. CONKLING. Then why not take it up now?

Mr. WALLACE. The Senator from Kentucky gives distinct notice that he will speak two days on his amendment.

Mr. CONKLING. I am not afraid of hearing the Senator from Kentucky speak two days. I have heard him speak a great many days first and last. He always speaks bravely, and I always like to hear him. Let him speak.

Mr. SAULSBURY. I rise to a point of order, and ask what is the question before the Senate?

The PRESIDENT *pro tempore*. The Senator from Delaware rises to a point of order, which he will please state.

Mr. SAULSBURY. The point of order I make is that there is nothing before the Senate to debate, and I call for the regular order. There are cases on this Calendar which ought to be disposed of.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 6207) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1881, and for other purposes.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 6266) making appropriations for sundry civil expenses for the Government for the fiscal year ending June 30, 1881, and for other purposes.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. BECK. I rise to make a privileged report.

The PRESIDENT *pro tempore*. The Senator from Kentucky.

Mr. BECK. I present the report of the conference committee on the sundry civil appropriation bill.

The PRESIDENT *pro tempore*. Will the Senate proceed to the consideration of this conference report?

The question was determined in the affirmative.

The PRESIDENT *pro tempore*. The report is before the Senate and will be read.

The Chief Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 6266) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 17, 18, 28, 29, 30, 31, 46, 57, 71, 72, 79, 81, 89, 103, 111, 116, and 122.

That the House recede from its disagreement to the amendment, of the Senate numbered 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 19, 20, 21, 22, 23, 25, 26, 27, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 47, 48, 50, 51, 55, 56, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 76, 80, 82, 86, 87, 88, 91, 92, 93, 94, 95, 96, 98, 99, 100, 102, 104, 105, 106, 107, 108, 109, 110, 112, 114, 115, 117, 118, 119, 120, 121, and 123, and agree to the same.

Amendment numbered 24: That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment as follows: In lieu of "fifty" insert "forty;" and the Senate agree to the same.

Amendment numbered 49: That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$8,500;" and the Senate agree to the same.

Amendment numbered 52: That the House recede from its disagreement to the amendment of the Senate numbered 52, and agree to the same with an amendment as follows: Strike out "forty" and in lieu thereof insert "thirty;" and the Senate agree to the same.

Amendment numbered 53: That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$90,000;" and the Senate agree to the same.

Amendment numbered 54: That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment as follows: Add after the word "service," where it first occurs, the following: "The pay and bounty laws;" and the Senate agree to the same.

Amendment numbered 58: That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment as follows: Strike out "seventy-five" and insert "twenty-five;" and the Senate agree to the same.

Amendment numbered 59: That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment as follows: Restore the paragraph proposed to be stricken out amended as follows: In lieu of "$75,000" insert "$50,000;" and the Senate agree to the same.

Amendment numbered 70: That the House recede from its disagreement to the amendment of the Senate numbered 70, and agree to the same with an amendment as follows: In lieu of the proposed paragraph insert the following: "For military surveys and reconnaissances in the military divisions and departments west of the Mississippi River, $12,500;" and the Senate agree to the same.

Amendment numbered 73: That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment as follows: In lieu of "$50,000" insert "$40,000," and strike out all of said amendment after the word "dollars;" and the Senate agree to the same.

Amendment numbered 74: That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment as follows: In lieu of said amendment insert the following: "For the construction of necessary buildings, including officers quarters, for the headquarters already commenced of the military Department of Texas on the military reservation at San Antonio, Texas, $75,000; the total cost thereof shall not exceed $125,000;" and the Senate agree to the same.

Amendment numbered 75: That the House recede from its disagreement to the amendment of the Senate numbered 75, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$25,000;" and the Senate agree to the same.

Amendment numbered 77: That the House recede from its disagreement to the amendment of the Senate numbered 77, and agree to the same with an amendment as follows: Strike out the words "and completion," and in lieu of the sum proposed insert "$80,000;" and the Senate agree to the same.

Amendment numbered 78: That the House recede from its disagreement to the amendment of the Senate numbered 78, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$10,000;" and the Senate agree to the same.

Amendment numbered 83: That the House recede from its disagreement to the amendment of the Senate numbered 83, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$112,500;" and the Senate agree to the same.

Amendment numbered 84: That the House recede from its disagreement to the amendment of the Senate numbered 84, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$150,000;" and the Senate agree to the same.

Amendment numbered 85: That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$20,000;" and the Senate agree to the same.

Amendment numbered 90: That the House recede from its disagreement to the amendment of the Senate numbered 90, and agree to the same with an amendment as follows: Add at the end of said Senate amendment the following: "Or of any corridor:" and the Senate agree to the same.

Amendment numbered 97: That the House recede from its disagreement to the amendment of the Senate numbered 97, and agree to the same with an amendment as follows: In lieu of the amended paragraph insert the following: "For the settlement of claims for swamp lands and swamp-land indemnity, $15,000;" and the Senate agree to the same.

Amendment numbered 101: That the House recede from its disagreement to the amendment of the Senate numbered 101, and agree to the same with an amendment as follows: Strike out "$175,000" and insert in lieu thereof "$143,000;" and the Senate agree to the same.

Amendment numbered 113: That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment as follows: Strike out all of said amendment, together with the amended paragraph commencing on line 13, page 39 of the bill, down to and including line 5, page 40, of the bill; and the Senate agree to the same.

JAS. B. BECK,
R. E. WITHERS,
W. B. ALLISON,
Managers on the part of the Senate.

J. H. BLOUNT,
HIESTER CLYMER,
FRANK HISCOCK,
Managers on the part of the House.

Mr. CONKLING. I venture to suggest that the Senator from Kentucky state what the substance of the report is.

Mr. BECK. Mr. President, I am obliged to say that the report just made is not such a report as I had hoped we might be able to present. It fails to commend itself to me in many regards, but I will say, at the same time, it is the very best arrangement we could possibly make. We were in conference from two o'clock on Saturday afternoon until perhaps half past one at night, and then disagreed. We met again yesterday afternoon early, and it was after nine o'clock last night before we agreed to the report now presented. Indeed, I feared we should have a second disagreement. The difficulty grows out of a matter that, perhaps, the Senate has no control over. The Senate amendments were all carefully considered and voted upon separately. We sat in sub-committees night after night; we referred the result of our investigations to the whole committee; the proposed amendments were all carefully considered there; all the amendments were submitted to the Senate and considered, full debate being had thereon. They went to the other end of the Capitol; some one there made a motion to non-concur without even reading them, and a committee of conference was appointed.

We were therefore obliged to confer upon what was assumed to be the disagreeing votes of the two Houses, when, in fact, the other House had never seen our amendments, and there was no possibility of saying that they would have disagreed to them if they had an opportunity of examining or voting upon them. They did not see fit to take that opportunity, and therefore we did not know what their real position was. It was the Senate against the opinion of the House conferees. Perhaps that was the main reason why we disagreed the first time, hoping that the House yesterday would take up the bill *seriatim* and act upon our amendments. That, however, was not done. The bill was sent back again with a resolution of general non-concurrence. Therefore, as we are to adjourn to-morrow at twelve o'clock, there was nothing left for us except to do the best we could, and lay our action before the Senate for the Senate to determine whether we have done right or not.

I can state in a few words, if Senators have the bill before them, the meaning of the amendments, and I think the effect of the report will be easily understood.

As a general rule, all the Senate amendments relative to public buildings were agreed to. We thought it would be good policy to complete, for example, the post-office and custom-house at Hartford, Connecticut, by giving $125,000, instead of $75,000, to continue the work; the House agreed to that. We thought it was equally important to give $61,000 to complete the court-house and post-office at

Utica, New York, instead of the small amount of $25,000, to continue the work; and the House agreed to that. All the action taken in regard to public buildings by the Senate the House agreed to; that is, concurrence was had in nearly all our amendments on that subject.

So the House agreed with us in the amendment providing for purchasing additional ground for the Bureau of Engraving and Printing, which, if purchased by any one else, would cut us off from an alley that is indispensable, and would destroy the light and usefulness of our large building by the erection of other buildings.

The Senate by a vote taken by yeas and nays increased the salary of the postmaster at Washington to $4,000; after a good deal of discussion the House conferees agreed to that. The Senate by a yea-and-nay vote having directed us to adhere, we felt it to be our duty to do so, and we finally succeeded in obtaining it.

The Senate had provided for and had inserted in the bill an item of $117,000 to improve the City Hall. The House conferees would not agree to that. Great difference of opinion exists. They contended that the House had refused to pass our original bill originally appropriating $117,000 for that purpose, and that the present old building ought to be pulled down and a new one erected. They seemed to express a willingness to do something in another form, but they desired further time to see what was best to be done, and we were compelled to recede or not have an agreement at all.

We insisted upon an increase for the Life-Saving Service beyond what the House had given on what I thought was very good ground. They ought to have seven men instead of six at each station, because it requires six to man the life-boat, and they have now no one at the station to keep up the fires or help boats to land, or indeed do anything else; but it was impossible to obtain an agreement to give more than the House had given, and therefore we had to recede.

For the contingent expenses, so as to furnish fuel, supplies, and provisions, repairs and outfits, freight, storage, repairs to apparatus, &c., for these life-saving stations, the House conferees agreed to increase the amount $15,000 on our demand, so as to make the sum appropriated $65,000; and that seemed as important as the other, perhaps more so. There is a fair division there.

The next important amendment was on page 11. We believed the House had not given enough for lights and placing buoys in the Mississippi, Ohio, and Missouri Rivers, and we compromised between the two Houses by dividing the difference. The amount appropriated by the House bill was $130,000. We increased the amount in the Senate to $150,000. The House conferees advanced $10,000, as we insisted on $140,000. Thus we split the difference.

So with a number of smaller amendments. The only two that I confess I gave up with great reluctance were two light-houses, one at Stannard's Rock, Lake Superior, to which the House had appropriated $50,000, and we increased the sum to $123,000 to finish the work, and one at Tillamook Head, Oregon, where the House allowed $50,000 to continue the work, and we made it $75,000 to complete the work. We had to surrender these. The difficulty seemed to be that the sums estimated by the Department were given by the House and the House conferees were not quite well pleased that, after giving the Departments all they asked and having arranged the bill from their own estimates, they should come to us and ask us to exceed the estimates. There was just enough in that to make the House feel that they had not been quite properly treated, that the increased estimates should have been submitted to the House and not sent to the Senate after the House had acted. So we had to reduce the appropriation for these two important lights, which I think ought to be finished now, to what the House originally gave.

Mr. FERRY. Do I understand the Senator to say that the appropriation for the completion of the light-house on Stannard's Rock has been stricken out?

Mr. BECK. The House appropriated $50,000 for continuing the erection of the light-house on Stannard's Rock, and the same amount for the light-house on Tillamook Head, but they did not give enough to finish them. We desired to make them useful at once by finishing the work and putting up the lights, and so we increased the appropriation; but to that the House would not yield and we had to recede.

Mr. FERRY. I express my regret that in the case of Stannard's Rock the conferees could not agree on the amount to complete it. It is a very important light.

Mr. BECK. So we regarded it, but we were unable to secure it. The Light-House Board said to us that their present steam-tenders were of little or no value, and that the most important aid they wanted was to have two good steam-tenders that could go out in storms and be safe and useful to them, and they assured us that without them the service would be very much crippled. The House had allowed one steam-tender; we demanded two, or the Light-House Board demanded two, and as they said they required these more than anything else to make the service complete, the House receded and there are two steam-tenders provided for at $90,000, instead of one at $45,000, as provided by the House bill. That being allowed, we thought would aid the service very much and, perhaps, (if I may use the expression,) paid us for giving away some of the other things.

I pass over a number of smaller items which follow. We gave officers of light-house vessels police powers, so as to enable them to arrest smugglers if they come across them.

In order to prevent light-houses from being built without proper surveys, and to prevent Senators and Representatives from going and asking that light-houses be established and inserting amendments in the bill for that purpose, we appropriated for the examination and survey of sites for proposed light-houses, and preparing plans for proposed structures, $10,000. The House agreed to this amendment. We all thought it would be very useful in the future.

Again, passing over minor matters, which, perhaps, the Senate does not care to know much about, when we came to the furniture of the new building at Chicago, Illinois, for which the Senate had voted $100,000, we had to reduce that down to $90,000. Indeed, $75,000 was demanded very urgently for a long time, but we finally settled it at $90,000; I think $100,000 or $150,000 will be needed. The estimate is $200,000, but there is a good deal of old furniture there, not as good as it ought to be perhaps, but some of it can be used. Ninety thousand dollars will enable them to furnish the more material parts of the building, and we thought we ought not to differ on this point.

Passing along over the bill, there is no issue of any great importance until we come to the National Board of Health. That we called attention to specially in our first disagreement, and we desired special attention called to it in the House. That seemed to be a point of difference we could not overcome. We feared that we could get nothing at all from the House conferees in the way of concurring. We had stricken out the proviso from line 575 to line 580, that the House had inserted, making it contingent:

For aid to local quarantine stations and for aid to local and State boards of health, to be used in case of epidemic, $100,000.

The proviso stricken out by the Senate was in the following words:

Provided, That $75,000 of the appropriation made by act of June 2, 1879, entitled "An act to prevent the introduction of contagious or infectious diseases into the United States," shall be applied to the same purposes.

We had changed it so as to give the National Board of Health the right to use that $75,000 for the general purposes of the board, and we had at last to compromise in this way by amending both our amendments and theirs, to allow $25,000 of that $75,000 to be used by the board for ordinary purposes, which, in addition to the $75,000 given by the general appropriation, makes $100,000 they have for the management of their affairs; their estimate being about $150,000, I think. The report now allows them $100,000, and the remaining $50,000 is added to the other section, to be used in aid of local quarantine stations and local State boards of health in case an epidemic should appear. The amount is not changed, but instead of the National Board of Health having only $75,000 for the uses of the board for its officers, its clerks, its general printing and survey, as the House bill proposed, they now have $100,000 under this report. They would have had $150,000 under the Senate action, and $100,000 could have been used to aid local boards of health and quarantine stations in case of epidemic. That is now $150,000. I hope the Senate comprehends fully my statement of the change. They have now got $100,000 instead of $75,000 given by the House, and $150,000 as given by the Senate, and to aid local quarantine stations and State boards of health. They now have $150,000 instead of $100,000 as given by the Senate amendment. That is the very best we could agree on. There would have been no report if we had not yielded to that; indeed it was almost impossible to get the $25,000 added to the expenses of the board by the House conferees.

Mr. GARLAND. Do I understand the Senator from Kentucky to say they get all they estimated for?

Mr. BECK. In one form or another. They get what both Houses originally agreed on.

Mr. HARRIS. Their estimate was about $150,000, or a trifle over, for current ordinary expenditures. They asked for a contingent fund, to be used in the event of an epidemic, of $164,860.

Mr. BECK. Passing over some other minor matters such as those agreed to in regard to completing repairs on wharf for Benicia arsenal, California, $5,000, &c.; and $15,000 given to aid in filling in and improving the White Lot, as it is called, near the President's House, that the Senate raised from five to fifteen thousand dollars, and which the House agreed to at last, and passing over others as to which we made a compromise in regard to some small matters, such as to allow the department commanders at military headquarters to have a small sum to make surveys to indicate the character of the country where Indians might be approaching or have to be met, a very small sum, $12,500, was agreed to instead of $25,000, as the Senate fixed it, and a portion of the clause making the appropriation was stricken out again. The Senate conferees receded from the amendment appropriating $15,000 for maps and reports of the geographical and topographical survey, and we had to yield also in relation to the purchase from Addison M. Sawyer of his patent right for canister-shot. I say to the Senator from Massachusetts [Mr. DAWES] that we were unable, after an earnest effort, to retain that provision. The House conferees seemed to regard it as a claim, as a matter that ought not to be made a part of the sundry civil bill, and while we asked them to call the attention of the House specially to that, in our first disagreement, we failed in our efforts. When the House conferees came back they insisted earnestly upon striking it out. We told them the Senate agreed to it by a yea-and-nay vote in the Senate; that we had asked the House to look at it and see whether there would be an agreement by taking a separate vote upon it, but not being able to do that, and determining that we could not afford to lose the bill, we had to surrender that as well as other matters.

Next a word as to forts. Fifty thousand dollars was given for a

new military post near Musselshell River, in the Territory of Montana. That is by the report reduced to $40,000, and the proviso in regard to Fort Logan, Montana Territory, stricken out.

For the construction and completion of headquarters at San Antonio, Texas, although we endeavored to show the propriety of giving the whole $125,000 which the Senate appropriated, that we were paying $21,000 a year for rent there now, that it would really pay for itself in six years, we could not persuade the conferees on the part of the House to give more than $75,000 to carry on that work.

Mr. McMILLAN. May I ask the Senator from Kentucky to state the difference in the appropriation made for Musselshell Fort?

Mr. BECK. It is now $40,000 instead of $50,000, as agreed to by the Senate, and the proviso in regard to Fort Logan is stricken out, so that it is now obsolete, and the law passed before at $50,000 may perhaps apply; but I do not know.

For continuing the construction of quarters at Fort Omaha, Nebraska, we had to strike down the appropriation from $50,000, the amount the Senate appropriated, to $25,000.

The House conferees agreed to the appropriation for the repair of the Government quarters at Fortress Monroe, Virginia, $20,000.

"For the continuance and completion of Fort Assinaboine, Montana Territory," $80,000 is by this report appropriated instead of $100,000 as agreed to by the Senate. We were advised, after a good deal of careful investigation, (for that seemed the most important of all the forts and the place where the most danger is,) we thought that for $80,000 perhaps we could erect the fort, although it would not be quite complete.

In regard to the item "to enable the Secretary of War to continue the tests of iron and steel, $20,000," it was very hard to obtain any concurrence, but finally we agreed on $10,000. We either had to take that or strike it all out.

We had given $100,000 for arrears of pay and bounty due white and colored soldiers and their heirs. The House conferees insisted that that was provided for in the deficiency bill; and so it was stricken out.

Other small matters come next in order that I will pass over. Then at Mare Island, California, navy-yard, where we are now building a dry-dock, the Senate thought instead of giving $75,000 we ought to allow $150,000, that being the only navy-yard on the Pacific coast; but we had to compromise by making the amount $112,500, about half way between the two. So at Pensacola, the only navy-yard in the Gulf of Mexico, for which the Senate had allowed $200,000, we had to strike off $50,000, and make the amount $150,000.

For the navy-yard at New London, Connecticut, the Senate had voted $30,000 for repairs and improvements, &c., and we had to make it $20,000.

The Senate allowed the Department of State $14,300 for the purpose of gathering and publishing commercial statistics. That the House conferees agreed to.

The House agreed with us in giving $80,000 for fire-proof cases for models in the Patent Office.

As to improvements for the National Museum they concurred in all our amendments. There are a good many other minor matters following in this part of the bill which I pass over.

When we came to the question of providing for the Government Hospital for the Insane, where the Senate had allowed $175,000 the House had provided $143,000. After a good deal of consultation, backward and forward, $143,000 was agreed to, in addition to what was given in the District of Columbia bill. It is pretty sure we cannot complete the service of the year for the sum appropriated but it corresponded with the estimates and it was difficult to come to a correct understanding, and we therefore agreed with the House and allowed $143,000, knowing that next December, if there is likely to be any difficulty about it, we can make the deficiency good, they insisting that that was enough, we doubting whether it was or not; but as there was nothing in the estimate beyond that, we could not afford to make any trouble about it.

So they agreed to the amendment giving the Columbia Institution some privileges in regard to feeble-minded children to be sent elsewhere, &c.

In relation to the cotton-worm, on which there was some discussion here, the House insisted on striking out the words "and other insects injurious to the cotton-plant." They said that would start a new investigation, and we could not get clear of Professor Riley and those gentlemen in the Interior Department; and while they allowed the amount to remain they determined that it should close up this year, and no new investigation be started. To that we agreed.

For expenses of Indian commissioners, no bill having been passed repealing the existing law on that subject, the amendment of the Senate was agreed to.

The conferees also agreed to the Senate amendment authorizing the Secretary of the Interior to pay the rent for that part of the Freedman's Bank building occupied by the Court of Claims, and they also agreed to the amendment offered by the Senator from Illinois, [Mr. Davis,] in regard to $25,000 for the payment of the necessary expenses incurred in the examination of witnesses in the matter of claims against the United States pending in any Department, &c.

There were small provisions to enable the Attorney-General to furnish law books to courts. There was much discussion about them, but they are stricken out altogether.

There was a small item which the House conferees agreed to:

For repairs and furniture for the United States court-house, Charleston, South Carolina, $2,500.

The House had originally inserted a long and somewhat complicated provision about the Public Printer keeping his books, &c. The Senate had amended it by giving him a bookkeeper at $1,800 a year, and prescribing certain things that the Public Printer should do. We were afraid on examination it would complicate matters somewhat, and we struck out the addition made by the House and our amendment thereto, so the law in that regard remains as at present.

We agreed to buy a lot near the Printing Office, because we could not afford to allow any one else to own it; but as to putting up a house at $36,000 the House conferees refused to agree with the Senate as to that, and we had to let it go.

There are some items, very small, in relation to the improvement of the Senate Chamber, which the Senator from Vermont [Mr. Morrill] laid before our committee; they are agreed to. As to the amendment in relation to Statuary Hall, that was agreed to. But amendment numbered 122, which was inserted by the Senate, providing that the stationery, files, and books of the House were to be removed from the rooms connected with the old hall, the House conferees protested, as I believed they would, that they could not have their files placed down in the basement; that we had no power to require them to do so. They did not want this requirement put upon them, and I am bound to say that I receded from that somewhat willingly, although the Senator from Vermont was very anxious about it. The House was determined not to change their committee-rooms except on careful examination of what was best to have done themselves, and as it pertains solely to them their arguments were very good, I think. At any rate, they would not listen to this amendment being made part of the bill.

This disposes of all the amendments except a small amount paid to Charles H. Evans for preparing a book by direction of the Finance Committee of the Senate under arrangement and contract made.

That is the substance of the report; it is for the Senate to accept or reject it; I think it had better be agreed to.

Mr. ANTHONY. I understand that the amendment for enlarging the Printing Office was defeated.

Mr. BECK. The lot was purchased, but the amendment for the building of the house was defeated.

Mr. ANTHONY. That is very much to be regretted for the public interests, I think. Did the House recede from its disagreement to the amendment making an appropriation for the harbor of New London?

Mr. BECK. Twenty thousand dollars, instead of $30,000, is the amount agreed on.

Mr. ANTHONY. There can be no objection to the Government putting any reasonable improvement upon its property at New London which was given to it by the State of Connecticut, but this must not be accepted as indicating any disposition of Congress to locate the training-school at that harbor. The subject is under the consideration of the naval authorities, who, when they have concluded their investigations, will give their views to Congress through the President. Whenever that subject comes up we are prepared to offer to the Government, in the neighboring waters of Narragansett Bay, a site which has advantages which, without derogation to the beautiful and capacious harbor of New London, are unsurpassed and unrivaled by any waters on the coast.

Mr. BECK. The Senator will remember that the amendment was not inserted at the request of the Committee on Appropriations of the Senate. It was inserted by a vote on the motion of the Senator from Connecticut, [Mr. Eaton.]

Mr. ANTHONY. I know. It was recommended by the Department, I think, as an improvement for temporary purposes.

Mr. BECK. I know—and reported to the House. No difficulty occurred about that.

Mr. ANTHONY. Whenever the training-school is permanently located we expect to have it in Narragansett Bay.

Mr. CONKLING. Has the Senator from Kentucky concluded?

Mr. BECK. Yes, I have made the statement. If there is anything else of which explanation is needed, I should be glad to have the Senator from New York call attention to it.

Mr. CONKLING. Mr. President, I have no disposition to make any captious or censorious comments upon the very important report now pending, or upon the clear and candid statement made by the Senator from Kentucky. That statement, however, is only an explanation. I ought not perhaps to say an apology, for a most important piece of legislation, imperfect, unsatisfactory, and erroneous in the judgment of the Senate and of the Senator from Kentucky, as he has so candidly and fully said.

The only substantial excuse assigned for this legislation is that the two Houses of Congress by resolution have agreed to terminate the session to-morrow; and of that excuse I have this to say: Should a court of justice, with one single cause untried before it, fix arbitrarily and stand by an hour to adjourn, and then render a judgment which the organ of the court in its rendition should declare unsatisfactory, unjust, and imperfect, assigning as a reason that the court did not choose to take the hours necessary to reform that judgment and make it consonant with law and justice, such a court I think would be visited by the universal public reprobation; and yet this bill, involving many millions, dealing with grave and lasting interests, is to become

law, damned by the comment of those who act upon it, for the sole reason that those who act do not choose to take the requisite time to remove its imperfections and supply its defects. I confess that seems to me very extraordinary and very violative of the genius and theory of our Government.

The Senator from Kentucky tells us that a large part of this bill has never undergone at all the judgment of one of the two Houses; it has never come to the knowledge of one of the two Houses. In the language of the Senator, when the amendments of the Senate reached the other House, some member was making a speech and momentarily giving way, *en masse*, without reading them, without hearing them, without knowing them, a black eye was given to every amendment adopted by the Senate after long and careful consideration; the whole thing *en bloc* was committed to a committee of conference; and the result was, not that six men, but that three men representing one House, upon their mere *ipse dixit*, between a late hour on Saturday and the time when this report was signed, determined irrevocably what should be and what should not.

Mr. President, what a comment that is upon the theory of parliamentary proceeding and of legislation as ordained by the Constitution! The honorable Senator says that seven men are necessary at a life-saving station, six being needed for active service and one being necessary remaining behind in order to give efficiency to the safeguards of life and property. Three men, or in reality two of the three, representing the House, say "no;" and accordingly, having fixed an hour to adjourn, we sit here, not even to weigh in the balance money against life, but without weighing it at all, to say "let it go," no matter if every life-saving station in the country is paralyzed or crippled, no matter if we stand in the presence of a recent horror which has sent a shudder around the world—"let it go." Why? Because we have agreed to adjourn to-morrow. That is the great overtopping fact which rises above every other. I should say with great respect that this bill should be made right, even though we do not adjourn until day after to-morrow, even though in place of adjourning at noon, if that be the hour of adjourning, we should not adjourn until the sun has gone down.

So I should say of many of these other amendments, matured in the Senate, brought forward by committees, discussed, affirmed, some of them, by all but unanimous votes, to be not only right, but urgent, serious, and requiring there should be a better reason for brushing them away as we would brush away a fly than that we have agreed to adjourn at a certain hour to-morrow, and, therefore, good, bad, or indifferent, regardless of merits this great bill must go through unchallenged and untouched.

Mr. President, I should like to make one other suggestion, and especially I should like to do it if I thought no Senator in the opposition would regard it as wanting in respect or courtesy. This session has continued I do not stop to count how many months more than six, has it not?

Mr. ALLISON. Six.

Mr. CONKLING. The Senator from Iowa says six months. During two-thirds of that time, adjournments from Thursday until Monday would have been the distinguishing feature of the session but for an almost vacuum from Monday until Thursday. When the two Houses sat they sat to proceed with almost no business, and they adjourned from Thursday until Monday; and now, not with a majority in one House of one persuasion and a majority in the other of another persuasion, which neutralizes and impedes business somewhat, but with a clear working majority of the same political persuasion in both Houses, the tide has been allowed to ebb and ebb until we have reached the dying hours of the session, and within the last few days have come together all the measures of serious moment for final action.

The PRESIDING OFFICER, (Mr. WITHERS in the chair.) The Chair announces that the hour of half past one having arrived, the proceedings under the Anthony rule are at an end.

Mr. BECK. This is a question of privilege.

The PRESIDING OFFICER. It is a privileged question, but the Chair desired the fact of the expiration of the morning hour to be made known to the Senate.

Mr. CONKLING. I am not going to detain the Senate long. I beg pardon for having detained it so long, and my apology is that I am giving very brief utterance to what has been a subject of thought with me for a good many weeks. At the end of a long and leisurely session, more wanting, I think I may say, in the consideration of important measures than any other session of Congress which I can recall, without the appropriation bills and other bills having been advanced when there was time to give them full consideration, we come now to a hasty and imperfect consideration not only of this bill but of a good many other bills which have gone to final action and are to go to final action without one member of the Senate being willing, I venture to say, to state for himself as an individual that he believes either of those bills was made and perfected as it should be.

I make this observation not in a party spirit, not for party effect; I make it to apply, if it has any weight or truth, wherever its application is due, to one side or to both or to neither side, if there is no application; but I express as my own opinion that it is little better than a satire and parody upon the processes which our fathers borrowed from the British procedure and the British constitution and ordained in our Constitution. It never was intended, in my belief, that the two Houses of Congress should come here in December for a period of leisure for months and then in the end to thrust through by the *vis a tergo* of numbers, right or wrong, such bills as shall be made by six men, nay, by three men, nay, by two men, a majority of the three, consisting of provisions never read in one House and never receiving either the intelligence, the judgment, or the passing impression of a majority of the two Houses.

But, Mr. President, I have said enough about this; very likely I have said too much, and I shall not detain the Senate any longer.

Mr. BECK. Mr. President, I have only a word to say, not in reply, because I agree with very much the Senator from New York has said, but in explanation. There is no use, I say now to the Senate, in rejecting this report in the hope of obtaining a better—certainly not from the conferees of the two Houses, who have been in session so long. There is no power that I know of to require the House of Representatives to take up the Senate amendments *seriatim* and vote upon them so that we could act intelligently upon the disagreeing votes of the two Houses. The custom has grown up I do not know how long ago, but I know for the last twelve years it has prevailed. I have sat night after night with gentlemen I see on the other side, my friend from Massachusetts [Mr. DAWES] and from Minnesota, [Mr. WINDOM,] in the closing hours just doing the same thing that we are doing now, discussing with two men, as the Senator very well said, what we ought to do.

I have repeated over and over again, and repeat it now, that if I had my way in the Senate, when a bill like this with so many amendments was sent to the House of Representatives I would not go into a conference until the House of Representatives had carefully considered each of our amendments, and by its action had presented a disagreeing vote between the two Houses; and if a conference were asked when that consideration had not been given, I should send the bill back and refuse a conference until such a vote was taken.

Mr. CONKLING. I agree with the Senator about that.

Mr. BECK. But I cannot control the matter.

Mr. CONKLING. Will the Senator allow me to make an inquiry for information? Was this conference report made in the House first?

Mr. BECK. It was.

Mr. CONKLING. And may I ask the Senator, was the report of the committee made first in the House as first made here?

Mr. BECK. It was first made here. We disagreed after a twelve hours' session.

Mr. CONKLING. It was made first here?

Mr. BECK. We made the first report here in the first instance.

Mr. CONKLING. Will the Senator tell me whether this report which we are considering was made first here or first in the House?

Mr. BECK. It was made first in the House, because we asked for a continuance of the conference, hoping that we could get the House to act on the amendments *seriatim*.

Mr. CONKLING. Has the House acted upon the report?

Mr. BECK. The House has acted upon it and concurred in it.

Mr. CONKLING. So that we are now acting on the report which came from the House?

Mr. BECK. We are acting on the report which came from the House, which was acted on by them, and is the final report.

I am glad the Senator from New York has called attention to the imperfect methods of winding up legislation in the closing hours of a session, but the Senate has no power to force the House to act upon bills in a particular way. It is a misfortune that they do not do it; it is a wrong to the Senate and the country. It has been the practice for twelve years; it grew up, perhaps, much longer ago; I do not know, but certainly that long, for I have been serving on these committees in one way or another during all that period, except a short period of two years when I was not here.

This debate may have a tendency to call the attention of the House to the imperfect methods we have to resort to; and the Senate advises them, of course in a kindly way, that we desire them to act upon each of our amendments, and then send them back to us. If not, then the Senate will be driven to this method: when an appropriation bill comes here from the House we shall have to amend every one of their provisions, strike out, if you please, half of all they put in, and then put our own amendments in, and send it back to the House *en bloc*. Then we shall have half of their provisions to quarrel over, and they will have half of ours to quarrel over, and there will be a swap on both sides. As it is now the Senate gives in to whatever the House says is right, and the House disputes everything the Senate inserts, and the whole quarrel is over the Senate amendments, as though Senators were trying to do some wrong, or impose something that ought not to be imposed, the items having been passed upon by us after careful consideration. The method is bad, the whole proceeding is vicious. We cannot help it now, but we ought in the future to do whatever is possible to change the system. That is all I desire to say.

The PRESIDING OFFICER. The question is on concurring in the report of the committee of conference.

The report was concurred in.

REPORTS OF COMMITTEES.

Mr. HAMPTON, from the Committee on Military Affairs, to whom was referred the bill (H. R. No. 6033) to pay Hiram Johnson and

other persons herein named the several sums of money herein specified, being the surplus of a military assessment paid by them and accounted for to the United States in excess of the amount required for the indemnity for which it was levied and collected, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. WHYTE. I am instructed by the Committee on Printing, to whom was referred the joint resolution (S. R. No. 123) authorizing the payment of wages to the employés of the Bureau of Engraving and Printing, to report it back and ask that the committee be discharged from its further consideration. It does not need to be printed; the names appear in the Blue Book.

The report was agreed to.

Mr. HOAR. I was directed by the Committee on Claims the other day to make a favorable report on the bill (S. No. 1181) for the relief of Dodd, Brown & Co., of Saint Louis. By accident the wrong document was handed in as the report. I ask, therefore, an order of the Senate that the copies of the report in that case which have been printed may be withdrawn from the files and the present report substituted.

The PRESIDING OFFICER, (Mr. CARPENTER in the chair.) If there be no objection that order will be made.

Mr. McDONALD, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 2165) to amend section 2297 of title 32 of the Revised Statutes relating to homestead settlers, reported it with an amendment.

BILLS INTRODUCED.

Mr. BRUCE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1841) for the relief of William Hawes Harris; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. INGALLS asked, and, by unanimous consent obtained, leave to introduce a bill (S. No. 1842) to repeal the provisions of the Revised Statutes relative to the board of Indian commissioners; which was read twice by its title, and referred to the Committee on Indian Affairs.

RAWSON'S PATENT.

The PRESIDING OFFICER, (Mr. WITHERS in the chair.) The Chair will lay before the Senate the regular order, which is the bill (S. No. 1753) granting pensions to certain soldiers and sailors of the Mexican and other wars therein named, and for other purposes.

Mr. HOAR. The Senator from New York, [Mr. KERNAN,] the chairman of the Committee on Patents, who was obliged to be absent, asked me to request the Senate to take up a bill which he reported, Senate bill No. 1082. It is one of the three or four cases where the Committee on Patents have advised the extension of a patent. I ask that the report, which is a few sentences only, may be read, and if any Senator objects, after hearing the report, I shall not further press it.

The PRESIDING OFFICER. The Chair understands the request of the Senator from Massachusetts to be that by unanimous consent the order of the day be informally laid aside for the purpose of proceeding to the consideration of the bill he has mentioned. Is there objection?

Mr. WILLIAMS. There is no objection with that understanding.

The Chief Clerk read the title of the bill (S. No. 1082) for the relief of Smith E. G. Rawson.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. SAULSBURY. Before I consent to have that bill taken up I should like to know whether there are any special reasons applicable to this case why the patent should be extended. As a general thing I am opposed to the extension of patents.

Mr. HOAR. This was one of three or four cases only. The committee rejected almost all the applications that were made. In this case there had been no remuneration derived from the patent, and all the persons who took an interest in the case seem to be in favor of it. The report can be read.

Mr. BAILEY. What is the patent?

Mr. HOAR. It was read in the bill.

Mr. SAULSBURY. We could not hear, and I do not know what it is for.

Mr. HOAR. It is a medical contrivance of a private nature.

Mr. BAILEY. I ask that the bill be reported again. What is the patent?

Mr. HOAR. Let the report be read.

The Chief Clerk read the following report, submitted by Mr. KERNAN April 19, 1880:

The Committee on Patents, to whom was referred the bill (S. 1082) for the relief of Smith E. G. Rawson, have had the same under consideration and made sundry amendments thereto, and report the same, as amended, favorably, and submit the following report:

The report of the House Committee on Patents correctly states the facts of the case. That report is as follows:

"[H. Report No. 537, Forty-sixth Congress, second session.]

"The Committee on Patents, to whom was referred bill H. R. No. 2537, submit the following report:

"In this case the committee has decided to report a substitute, and recommend favorable action on the bill, because they find exceptional circumstances connected with it and believe that no precedent can thereby be established to make a general rule for the extension of patents.

"The subject-matter of this patent is exceptional in itself. It is a surgical appliance of a delicate and private nature, and its beneficial effects have been in the direction of relieving the suffering and sustaining the weak.

"Of its value as an invention there can be no doubt. This is fully established by the testimony submitted to your committee, of such eminent surgeons as Drs. Van Buren, Belcher, and Linsly, of New York City; Hall, of Saratoga; Bulkley, of Washington, and Bliss and Connor, surgeons in the United States service.

"The evidence shows that the patent was originally granted on August 4, 1863, for the period of seventeen years; that for the first eight years there were virtually no returns, notwithstanding the inventor and his family worked faithfully, laboriously, and constantly to introduce the invention, investing all his own means, the separate estate of his wife, and borrowing funds from friends and relatives in the enterprise. But the article was of a character that confined it to a necessarily restricted market, and closed to it the ordinary channels to publicity by advertisement and exhibition.

"As soon as these indefatigable efforts had produced results by establishing a business in 1871, the hostility of infringers was manifested, followed by a long course of litigation and expenses to the inventor of about $3,500.

"About this period, also, the extraordinary exertions of years, and the anxieties of the business and litigation, preyed upon the health of Mr. Rawson, and he was prevented by illness for a considerable time from giving such care and attention to the promotion of his business as would develop it to the full extent. Nevertheless, he worked to the utmost of his strength, and with the assistance of his family maintained the manufacture of the patented article. Mr. Rawson died on July 9, 1879.

"It is further to be noticed that Mr. Rawson gave his whole time and effort to the introduction of his invention. He did not speculate by disposing of licenses, but himself manufactured; he did not sell his invention, but struggled himself to make it a success. His accounts, verified by affidavit, show that for the entire life of the patent the profits realized both from the patent and the business of manufacturing, representing the aggregated labors of himself, wife, and children, amount to $19,177.12. But the long illness, with the consequent heavy expenses, have left the inventor's family without money or property.

"The widow of Mr. Rawson is the petitioner for the extension of the patent proposed by this bill. She is entitled to consideration, having invested her private estate in the enterprise at its inception, and having faithfully assisted her husband by her manual labor, her encouragement, and advice during all the long years of his struggles. Believing, therefore, that the exceptional character of the invention, its benefit to the public, and the peculiar circumstances of difficulty that attended its introduction to public use, render it a case eminently entitled to the consideration of Congress, the committee recommend that the substitute to the bill do pass.

"Wherefore, your committee recommend the passage of the amended bill herewith presented."

The Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on Patents with amendments, in line 4, to strike out "Smith E. G. Rawson" and insert "Mrs. Frances A. Rawson, widow of Smith E. G. Rawson, deceased;" in line 6, after "extension," to strike out "for the term of sixteen years;" in line 18, before "patent," to strike out "reissue;" in the same line, after the word "to," to strike out "the said Smith E. G. Rawson, his executors, administrators, or assigns" and insert "Mrs. Frances A. Rawson, the widow of said Smith E. G. Rawson, in trust for herself and his children;" in line 22, before "years," to strike out "sixteen" and insert "seven;" and in line 24, after the words "Patent Office," to strike out "and thereupon the said patent shall have the same effect in law as though it had been originally granted for the term of thirty-three years;" so as to make the bill read:

Be it enacted, &c., That the Commissioner of Patents be, and hereby is, authorized to hear and determine the application of Mrs. Frances A. Rawson, widow of Smith E. G. Rawson, deceased, for an extension of letters-patent for an improvement in testicle supporters, granted to him the 4th day of August, 1863, numbered 39452; and if upon such hearing the Commissioner shall be satisfied that the said Smith E. G. Rawson, without fault or neglect on his part, has failed to obtain, from the use or sale of his invention, or discovery, a reasonable remuneration for the time, ingenuity, and expense bestowed upon it, and its introduction into use, and that it is just and proper that the term of the patent should be extended, the said Commissioner shall make a certificate upon said patent, renewing and extending the same to Mrs. Frances A. Rawson, the widow of said Smith E. G. Rawson, in trust for herself and his children, for the further term of seven years from the 4th day of August, 1880, which certificate shall be recorded in the Patent Office.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill for the relief of the widow and children of Smith E. G. Rawson."

ORDER OF BUSINESS.

Mr. DAVIS, of West Virginia. I believe by unanimous consent the floor was allowed to me for to-day at half past one, but as a conference report was under consideration of course I did not insist on my right at that hour.

The PRESIDING OFFICER. The Chair did not understand the announcement made by the Senator from West Virginia.

Mr. DAVIS, of West Virginia. Yesterday I gave notice that to-day after the usual morning hour I should ask the Senate to hear me while I submitted some remarks on what is known as the Treasury-accounts report.

The PRESIDING OFFICER. The Senator from West Virginia desires unanimous consent that the regular order be laid aside informally for the purpose of enabling him to submit remarks on the subject he has mentioned.

Mr. CONKLING. I wish to say, now that I have the ear of the Senator from Pennsylvania and I think of the Senator from Kentucky, that if neither of those Senators makes a motion in regard to the bill touching malt, if they will not deem it an intrusion, if I can get the floor, not to interfere with the Senator from West Virginia who by the courtesy of the Senate is entitled to the floor, but afterward, I will watch my opportunity to make a motion to postpone whatever order may be pending to take up the so-called malt bill. I would

much rather the Senator from Pennsylvania should do it, of course, but if he will not deem it an intrusion I will venture to submit that motion myself in order that we may have one vote of the Senate on the subject.

Mr. WALLACE. I will say that I shall deem it no intrusion whatever. I should have moved to take up the bill myself but for the fact that there is not time to have it passed in view of the amendments submitted.

Mr. CONKLING. Then I will so move myself whenever I get the opportunity.

CLAIMS BETWEEN FRANCE AND THE UNITED STATES.

Mr. EATON. I ask the Senate, with leave of my friend from West Virginia, to take up a bill I reported this morning from the Committee on Foreign Relations. It must be passed by unanimous consent, for the rules must be suspended if there be any action upon the bill. It has been read twice. It is necessary that it should be passed, as every Senator will see when the bill comes to be read. If there is a word of debate or discussion I have said to my friend from West Virginia that I will ask that it be laid on the table.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1840) to constitute a joint commission for carrying into effect the convention between the United States and the French Republic for the settlement of certain claims of the citizens of either country against the other, signed at Washington on the 15th day of January, 1880.

Mr. EATON. I only desire to say in regard to this bill that it is to carry out properly the convention between the United States and the French Republic. I believe it to be entirely right. I have submitted it to the consideration of such members of the Judiciary Committee as I could see.

Mr. CONKLING. And the Committee on Foreign Relations.

Mr. EATON. The Committee on Foreign Relations also. It must be passed and acted upon to-day of course. I believe it is entirely correct. I might state certain things regarding the expenses incurred here except that the convention has not been promulgated, and therefore I am not at liberty to state. It is sufficient for me to say that there will be no cost to the United States in this matter.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and read the third time.

Mr. CONKLING. Making no opposition to this bill, I wish to say for myself, as I imagine the honorable chairman of the Committee on Foreign Relations would say, if he said anything, that the bill proceeds largely upon the faith and credit given to the recommendation of the State Department. The measure is one which at this time it has been impossible to consider in a just and thorough sense, and making no opposition to it myself I rest my action chiefly upon the recommendation and assurance of the State Department.

The PRESIDING OFFICER, (Mr. FERRY in the chair.) The question is on the passage of the bill.

The bill was passed.

COMMITTEE CLERKS, PAGES, ETC.

Mr. DAVIS, of West Virginia. Before I proceed to make my remarks I should like to call the attention of the Senate to House joint resolution No. 328, which passed both the House and Senate, in regard to the payment of the per diem employés of the two Houses. I understand that yesterday during my temporary absence from the Chamber the Senator from Maine [Mr. BLAINE] moved to reconsider the vote by which the joint resolution was passed, and that it has the effect of preventing the per diem employés from getting their pay. I saw the Senator from Maine this morning and told him I intended to ask the Senate to take it up and dispose of it. As I do not see him in his seat I hardly know how to proceed. If there is a Senator here who has had conversation with him on the subject I should be glad to know it. I think the per diem employés ought to have the thirty days' extra pay.

The PRESIDING OFFICER. If the Senator will allow the Chair he will state that he had a conversation with the Senator from Maine and he designs to offer an amendment. That was the object of his moving a reconsideration of the vote by which the joint resolution was passed. The Chair does not observe the Senator from Maine in the Chamber, but that having been stated this morning as his object the Senator from West Virginia will be advised of it.

Mr. HARRIS. The Senator from Maine was here half an hour or three-quarters of an hour ago. I saw him in the Chamber. I suppose he is about the building.

Mr. WHYTE. The Senator from Maine told me he was going to leave, and asked me to watch another matter pending, and I presume he has gone up town. I do not suppose that he is about the building.

Mr. KIRKWOOD. Did I understand the Chair to say that the Senator from Maine does not intend to offer an amendment?

The PRESIDING OFFICER. He does intend to offer an amendment.

Mr. KIRKWOOD. I submit that the joint resolution had better be taken up and the motion to reconsider disposed of.

Mr. DAVIS, of West Virginia. I dislike to move to take it up in the absence of the Senator from Maine, and I hardly know how to act. I do not want to keep these employés out of their salaries. Probably it had better not be taken up until I finish my remarks, and if the Senator from Maine is not then present we can move then to take it up and dispose of it.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and for prior years, and for those certified as due by the accounting officers of the Treasury in accordance with section 4 of the act of June 14, 1878, heretofore paid from permanent appropriations, and for other purposes.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 559) to constitute the city of Portsmouth, in the State of Ohio, a port of delivery;

A bill (H. R. No. 753) granting a pension to Thomas J. Jackson;

A bill (H. R. No. 952) for the relief of the Fifteenth and Sixteenth Missouri Cavalry Volunteers;

A bill (H. R. No. 1023) making an appropriation for the erection of a naval wharf at Key West, in the State of Florida;

A bill (H. R. No. 1076) for the relief of Amanda M. Cook;

A bill (H. R. No. 1291) creating the Yakima land district in Washington Territory;

A bill (H. R. No. 2567) for the relief of E. K. Snead, deceased, and his sureties, for the loss of certain books of special stamps and coupons;

A bill (H. R. No. 2793) for the relief of Rachael Martin;

A bill (H. R. No. 3171) for the relief of certain settlers on the public lands and to provide for the repayment of certain fees, purchase-money, and commissions paid on void entries of public lands;

A bill (H. R. No. 751) granting a pension to Harvey Burk;

A bill (H. R. No. 2407) granting a pension to Belinda Curtis;

A bill (H. R. No. 4753) to correct the military record of Byron Rosecrans;

A bill (H. R. No. 4907) to confirm to John Hepting and others title to certain lands;

A bill (H. R. No. 3708) to grant to the State of Nevada lands in lieu of the sixteenth and thirty-sixth sections in said State;

A bill (H. R. No. 4842) to reinstate R. W. Barkley as cadet-midshipman in the United States Naval Academy at Annapolis;

A bill (H. R. No. 5502) granting to the Territory of Dakota section 36, in township No. 56 north, of range No. 94 west, in the county of Yankton, in said Territory, for the purpose of an asylum for the insane, and granting to said Territory one section of land in lieu of said thirty-sixth section for school purposes;

A bill (H. R. No. 4268) in relation to the mileage of jurors and witnesses in the State of Colorado;

A bill (H. R. No. 3990) to remove the political disabilities of John S. Maury; and

A bill (H. R. No. 989) for the relief of John H. Standish.

TREASURY ACCOUNTS.

Mr. DAVIS, of West Virginia. I ask the Senate to take up report No. 539, known as the report of the Select Committee to Investigate the Finance Reports, Books, and Accounts of the Treasury Department.

The PRESIDING OFFICER, (Mr. FERRY.) If there be no objection the report is before the Senate, and the Senator from West Virginia is entitled to the floor.

Mr. DAVIS, of West Virginia. It is my purpose to be as brief as the circumstances will permit, and to confine myself entirely to the facts and the evidence, avoiding all personal remarks of any form.

It is a fact of no little importance that the majority and minority reports substantially agree as to all facts and evidence, and that the minority report admits nearly all that the majority contends for. The Committee on Treasury Accounts was appointed in November, 1877, and during the present Congress has consisted of Messrs. BECK, WHYTE, INGALLS, DAWES, and myself. The immediate cause of the appointment of the committee was statements made by me in several speeches in the Senate, stating that the figures and statements made to Congress in official finance reports did not agree, and that there were many apparent alterations and changes in official finance reports to Congress, involving large amounts. I pointed out many differences which apparently made many large increases and changes in the amounts of receipts and expenditures, which caused the totals of the public debt to be much larger than formerly officially reported to Congress. The committee's examination fully sustains every statement previously made by me, including the one that the public debt had apparently been largely increased; also the following taken from official finance reports:

PENSION EXPENDITURES.

In the report of 1870 the expenditures for pensions are stated for the year 1864-'65 at	$16,347,621 34
In the report of 1869 the same expenditures for the same year are stated at	9,291,610 48
Showing an increase in the report of 1870 over the figures in the report of 1869 of	7,036,010 86

Mr. INGALLS. What two years does the Senator now compare?

Mr. DAVIS, of West Virginia. The expenditures for pensions as stated from 1865 to 1869 for the year 1864-'65, and then as stated in

the report of 1870. The two reports differ to the extent of $7,000,000, I say, in round numbers.

Mr. INGALLS. The Senator compares the pension statement for 1864–'65 as contained in the reports of 1869 and 1870?

Mr. DAVIS, of West Virginia. Yes, that is it.

Mr. INGALLS. What does the Senator say the difference is in round numbers?

Mr. DAVIS, of West Virginia. The difference of increase in round numbers is $7,000,000; the latter reported it at $16,000,000 and the former at $9,000,000. Further:

In the report of 1870 the expenditures for pensions in the year 1870 are stated at	$28,340,202 17
In the report of 1874 the same expenditures for the same year (1870) are stated at	28,402,241 20
Showing an increase in the report of 1874 over 1870 of	62,039 03

NAVAL EXPENDITURES.

In the finance report for 1871 the expenditures in the Navy Department are put down for the year 1865 at	$122,617,431 07
In the report for 1869 these same expenditures are stated for the same year at	122,567,776 12
Showing an increase in the report of 1871 over the report of 1869 in the naval expenditures for the year 1865 of	49,654 95

WAR DEPARTMENT.

In the report of 1871 the expenditures of the War Department are put down in the annual statement of Government expenditures for the year 1862-'63 at	603,314,411 82
In the report of 1869 the same expenditures for the same year, as appears in the annual statement of expenditures, is stated at	599,298,600 83
Showing an increase in the figures of the report of 1871 over the report of 1869 for the year 1863 of	4,015,810 99

EXPENDITURES IN INDIAN DEPARTMENT.

In the report for the year 1870 the expenses in the Indian Department for the year 1863 are reported in the statement of annual expenditures at	$3,152,032 70
While in the report for the year 1868 the same expenses are reported for the same year at	1,076,326 35
Showing an increase in the figures of the report of 1870 over the report of 1868 in the Indian expenditures for the same year of	2,075,706 35

REVENUE COLLECTED.

In the finance report for 1863, in the annual statement of revenue collected for that year, we find the internal revenue stated at	$37,640,787 95
The total revenue, exclusive of loans and Treasury notes, at	132,889,746 95
And the total receipts from all sources stated for the same year at	889,379,652 52
Now, in the report of 1864 for the same year the internal revenue is stated at the same figures	37,640,787 95
Total revenue, exclusive of loans and Treasury notes, at	112,687,290 95
And the total receipts from all sources at	889,379,652 52

LOANS AND TREASURY NOTES.

The loans and Treasury notes for the year 1863 are stated as follows in the various finance reports of the annual statements of revenue collected:

In the report of 1863	$756,489,905 57
In the report of 1864	776,682,361 57
In the report of 1870	814,925,494 96

It will be seen that the receipts from loans and Treasury notes for the year 1863 differ $58,000,000. This is for the same year, but stated in different reports.

Mr. INGALLS. Will the Senator explain what reports he quotes from as showing the difference in the statements?

Mr. DAVIS, of West Virginia. Certainly. I refer to the report of 1863. I thought I had before said that in the report of 1863 the amount of loans and Treasury notes is set down at $756,000,000.

Mr. INGALLS. In what report?

Mr. DAVIS, of West Virginia. The report of 1863.

Mr. INGALLS. In the report of what officer?

Mr. DAVIS, of West Virginia. In the Secretary's finance report, the official report to Congress. At that time only the Register made the report, I believe, but it is in the finance report to Congress of 1863. In the report of 1864 it is put at $776,000,000; in the report of 1870 at $814,000,000 for the year 1863, the same year.

Mr. INGALLS. Reports by the same officer?

Mr. DAVIS, of West Virginia. The report made in 1870 was not made by the Register, the other two were. As the Senator will recollect, he having served with me upon the committee, the report of 1870 was made by the Secretary and not by the Register.

Mr. INGALLS. The Senator will observe, of course, that it is very important that he should preserve the distinction and advise the Senate whether these discrepancies appear in the reports made by the same officer, or by different officers.

Mr. DAVIS, of West Virginia. The reports all came from the Secretary of the Treasury, officially, to Congress. I speak of the reports officially sent to Congress.

Resuming, look at the statements as to net revenue collected:

For year 1864:	
Report for 1866 states net revenue collected for 1864	$264,626,771 60
Report for 1870 states net revenue collected for 1864	262,742,354 32
Showing a decrease of	1,884,417 28
For year 1865:	
Report for 1866 states net revenue collected for 1865	$333,714,605 08
Report for 1870 states net revenue collected for 1865	323,092,785 92
Showing a decrease of	10,621,819 16

Is it not strange that the revenue collected and paid into the Treasury in 1865 should in 1870, five years after, in revising statements, be found to have decreased more than ten millions? The Treasurer, Register, and Secretary all agree and state in 1865 the net revenue of the Government was in round numbers $333,000,000; but in 1870, five years afterward, it has decreased to $323,000,000. More than ten millions decrease, and which is unaccounted for!

The following is a comparison of the amounts paid on account of pensions between 1860 and 1870:

DEPARTMENT OF THE INTERIOR, PENSION OFFICE,
Washington, D. C., July 25, 1876.

SIR: In compliance with your request of the 24th instant, I have the honor to transmit the inclosed table of the amount paid for Army and Navy pensions from 1860 to 1870, inclusive.

Inclosed is also the annual report of this office for the year 1865; the copies for the year 1864 are exhausted.

Very respectfully, your obedient servant,

O. P. G. STARKE,
Chief Clerk.

Hon. H. G. DAVIS,
United States Senate.

Statement showing the total amount paid in each fiscal year for Army and Navy pensions, as per finance report for 1870 and letter of the Commissioner of Pensions of July 25, 1876.

Years.	From Secretary's table, (finance report of 1870, page 30.)	From letter of Commissioner of Pensions.	Increase.	Decrease.
1860	$1,100,802 32	$1,154,321 73		$53,519 41
1861	1,034,599 73	1,089,218 75		54,619 02
1862	852,170 47	800,819 94	$51,350 53	
1863	1,078,513 36	1,044,364 47	34,148 89	
1864	4,985,473 90	4,521,622 18	463,851 72	
1865	16,347,621 34	8,542,885 27	7,804,736 07	
1866	15,605,549 88	13,250,980 17	2,354,569 71	
1867	20,936,551 71	18,681,711 79	2,254,839 92	
1868	23,782,386 78	24,079,403 18		297,016 40
1869	28,476,621 78	28,445,089 09	31,532 69	
1870	28,340,202 17	27,780,811 81	559,390 36	
Total	142,540,493 44	129,391,228 38	13,554,419 89	405,154 83

This shows that the Secretary of the Treasury says in round numbers $142,000,000 was expended for pensions from 1860 to 1870, inclusive. The Commissioner of Pensions says the amount is $129,000,000, or about $13,000,000 less. The Treasury has $13,000,000 more charged than the Commissioner says he received, and yet we are told the books and accounts are all right! Further:

Pension expenditures.

Year.	Report for 1869.	Report for 1870.	Increase.
1846	$1,809,739 62	$1,811,097 56	$1,357 94
1849	193,695 87	1,328,867 64	1,135,171 77
1859	161,190 66	1,222,222 71	1,061,032 05
Total increase			2,197,561 76

War expenditures.

Year.	Report for 1869.	Report for 1871.	Increase.
1844	$5,192,445 05	$5,218,183 66	$25,738 61
1846	10,362,374 36	10,413,370 18	50,995 82
1847	35,776,495 72	35,840,030 33	63,534 61
1860	14,472,202 72	16,472,202 72	2,000,000 00
Total increase			2,140,269 04

Expenditures in Indian Bureau.

Year.	Report for 1869.	Report for 1871.	Increase.
1848	$1,103,251 78	$1,252,296 81	$149,045 03
1849	509,263 25	1,374,161 55	864,898 30
1854	1,413,995 08	1,550,339 55	136,344 47
1855	2,708,347 71	2,772,990 78	64,643 07
1856	2,596,465 92	2,644,263 97	47,798 05
1857	4,241,028 60	4,355,683 64	114,655 04
1862	2,223,402 27	2,327,948 37	104,546 10
1864	2,538,297 80	2,629,975 97	91,678 17
1865	4,966,964 90	5,059,360 71	92,395 81
1866	3,247,064 56	3,295,729 32	48,664 76
Total increase			1,714,668 80

Statement showing total receipts as stated for the same year.

Year.	Report for 1869.	Report for 1871.	Decrease.
1837	$27,947,142 19	$27,883,853 84	$63,288 35
1840	25,069,662 84	25,032,193 50	37,469 34
1847	55,401,804 58	55,338,168 52	63,636 06
1848	57,006,889 65	56,992,479 21	14,410 44
1850	47,669,766 75	47,643,388 88	20,377 87
1853	61,803,404 58	61,500,102 81	303,301 77
1859	81,773,965 64	81,758,557 30	15,408 34
Total decrease			517,832 17

Miscellaneous receipts.

Year.	Report for 1869.	Report for 1871.	Decrease.
1837	$5,625,479 15	$5,562,190 80	$63,288 35
1848	627,021 13	577,775 99	49,245 14

It will be seen that expenditures for the same year for pensions, war, and Indians all differ, and that the receipts as stated in finance reports of 1869 and 1870 differ widely.

STATEMENTS IN SPEECH NOVEMBER 16, 1867.

Public debt.

The annual statement of the public debt from 1835 to 1871, as appears in the finance reports for 1869 and previous reports, and 1871 and subsequent reports, shows the difference in each year and the total difference between the two reports, (see pages 12 and 368, finance reports for 1871, and page 317, finance Reports for 1868 :)

Year.	Reports for 1869 and of previous years.	Reports for 1871 and subsequent years.	Increase in report of 1871 over 1869.	Decrease.
1835	$351,289 05	$37,513 05		$313,776 00
1836	291,089 05	336,957 83	$45,868 78	
1837	1,878,223 55	3,308,124 07	1,429,900 52	
1838	4,857,660 46	10,434,221 14	5,576,560 68	
1839	11,983,737 53	3,573,343 82		8,410,393 71
1840	5,125,077 63	5,250,875 54	125,797 91	
1841	6,737,398 00	13,594,480 73	6,857,082 73	
1842	15,028,486 37	20,601,226 28	5,572,739 91	
1843	27,203,450 69	32,742,922 00	5,539,471 31	
1844	24,748,188 23	23,461,652 50		1,286,535 73
1845	17,093,794 80	15,925,303 01		1,168,491 79
1846	16,750,926 53	15,550,202 97		1,200,723 39
1847	38,956,623 38	38,826,534 77		130,088 61
1848	48,525,379 37	47,044,862 23		1,481,517 14
1849	64,704,693 71	63,061,858 69		1,642,835 02
1850	64,228,238 37	63,452,773 55		775,464 82
1851	62,560,395 26	68,304,796 02	5,744,400 76	
1852	65,131,692 13	66,199,341 71	1,067,649 58	
1853	67,340,628 78	59,803,117 70		7,537,511 08
1854	47,242,206 05	42,242,222 42		4,999,983 63
1855	39,969,731 05	35,586,956 56		4,382,774 49
1856	30,963,909 64	31,972,537 90	1,008,628 26	
1857	29,060,386 90	28,699,831 85		360,555 05
1858	44,410,777 66	44,911,881 03	1,103 37	
1859	58,754,699 33	58,496,837 88		257,861 45
1860	64,769,703 08	64,842,287 88	72,584 80	
1861	90,867,828 68	90,580,873 72		286,954 96
1862	514,211,371 92	524,176,412 13	9,965,940 21	
1863	1,098,793,181 37	1,119,772,138 63	20,978,957 26	
1864	1,740,690,489 49	1,815,784,370 57	75,093,881 68	
1865	2,682,593,026 53	2,680,647,869 74		1,945,156 79
1866	2,783,425,879 21	2,773,236,173 69		10,189,705 52
1867	2,692,199,215 12	2,678,126,103 87		14,073,111 25
1868	2,636,320,964 67	2,611,687,851 19		24,633,113 48
1869	2,489,002,480 58	2,588,452,213 94	99,449,733 36	
1870	2,386,358,599 74	2,480,672,427 81	94,313,828 07	
Total	19,973,622,423 71	20,221,399,098 42	332,843,228 59	85,076,553 88
		19,973,622,423 71	85,076,553 88	
Increase		247,766,674 71	247,767,674 71	

And the increased figures appear in *all* finance reports since 1871.

This table shows the differences in the public-debt statements in the finance reports of 1869 and previous years and in the finance reports of 1871 and subsequent years. It will be seen there are many millions of difference, and as reported in 1870 the debt is much larger than as stated in the previous reports.

LOANS AND TREASURY NOTES.

Under this head I call the attention of the Senate to the great difference in the finance reports as to what they were for the year 1863. They are stated differenty in four annual reports for same year, as follows:

In the report of 1863, for 1863	$756,489,905 57
In the report of 1864, for 1863	776,682,361 57
In the report of 1870, for 1863	814,925,494 96
In the report of 1876, for 1863	717,284,707 01

EXPENDITURES.

The various finance reports differ widely as to the annual expenditures of the Government, as the following table will show:

Year.	Total annual expenditure as stated in financial report for—		Increase in report of 1870 over 1869.	Decrease in report of 1870 over 1869.
	1869 and of previous reports, (pp. 320, 321)	1870 and subsequent reports, (pp. 274, 275.)		
1860–'61	$85,387,313 08	$85,387,363 08	$50 00	
1861–'62	570,841,700 25	565,667,358 08		$5,174,342 17
1862–'63	895,796,630 65	899,815,911 25	4,019,280 60	
1863–'64	1,208,144,656 00	1,205,541,114 86		2,603,541 14
1864–'65	1,897,674,224 09	1,906,433,331 37	8,759,107 28	
1865–'66	1,141,072,666 09	1,139,344,081 95		1,728,584 14
Total	5,898,917,190 16	5,892,189,160 59	12,778,437 88	9,506,467 45
Increase			3,271,970 43	

Increase of expenditures in report of 1871 *as compared with report of* 1869.

Year.	Military service.	Pensions.	Indians.	Naval establishment.
1860	$2,000,000 00			
1862			$104,546 10	
1863	4,015,810 99		2,075,706 35	$50,130 04
1864		$5,840 73	91,678 17	
1865		7,056,010 86	92,395 81	49,657 95
1866		197 53	48,664 76	
Total	6,015,810 99	7,062,049 12	2,412,991 19	99,787 99

Increase:	
Military service	$6,015,810 99
Pensions	7,062,049 12
Indians	2,412,991 19
Naval establishment	99,787 99
Total	15,590,639 29

The above table shows that the new statement made for the first time in 1870 changes and increases the statement of expenditures largely, and that between the years 1860 and 1867 the increases amount to millions.

The Register is and has been from the beginning of our present system of government the official bookkeeper of the Treasury Department and of the Government.

The Revised Statutes, chapter 6, section 313, says that it shall be the duty of the Register—

First. To keep all accounts of the receipts and expenditures of the public money, and of all debts due to or from the United States.

Second. To receive from the First Comptroller and Commissioner of Customs the accounts which shall have been finally adjusted, and preserve such accounts with their vouchers and certificates.

Third. To record all warrants for the receipt and payment of moneys at the Treasury, and certify the same thereon, except those drawn by the Postmaster-General and those drawn by the Secretary of the Treasury upon the requisitions of the Secretaries of the War and Navy Departments.

This shows plainly that the Register is the only official bookkeeper of the Government, and is also the custodian of the warrants, vouchers, &c., and that his reports to Congress ought to be correct and final, and beyond the reach of the Secretary of the Treasury or any one else.

The testimony taken by your committee and the facts show that the fiscal year of the Government ends June 30, and that the reports of the Secretary of the Treasury and other officers are made to Congress in December, giving four or five months to close up the accounts of the year. Major Power, Mr. Saville, and others testified that sixty days was enough time to close and correctly state all accounts; yet it will be shown that many alterations and changes of figures have been made after accounts have been closed for years and *officially reported to Congress*. Register Scofield, on page 5 of the testimony, was asked the following questions, to which he gave the answers stated:

Q. You speak of an order from the Secretary to the then Register, who I believe was Mr. Allison, to make the changes you have referred to in this debt statement. Will you give the committee that order?

A. Yes, sir; this is the original order, and I will hand you a copy.

Q. Read us the original.

A. I will.

"TREASURY DEPARTMENT, *November* 24, 1871.

"SIR: I have to request that the statement of the public debt on the 1st day of January in each of the years from 1791 to 1842, inclusive, and at various dates in subsequent years, to July 1, 1870, as printed on page 276 of the finance report for 1870, may be omitted from your tables in the forthcoming reports, or else that it be corrected to conform to Table H on page xxv of the same report for the same year.

"This request is made in consequence of a letter from the Assistant Secretary of the Treasury, now in London, who complains that these different tables are frequently referred to in England, and the discrepancies between them constantly and unfavorably commented upon.

"The table found on page 25 is, I believe, as nearly correct as the examination of the accounts up to the present time will enable it to be made, though I am under the impression there will be some changes necessary in order to make it absolutely reliable.

"Very respectfully, "J. H. SAVILLE,
"*Chief Clerk.*

"Hon. JOHN ALLISON,
"*Register of the Treasury.*"

This letter is indorsed: "Secretary of the Treasury; chief clerk; 24, 171. Asks statement of the public debt may be made to correspond with statement made in Secretary's office. Memorandum. As published for the fiscal year ending June 30, 1871, the statement is the same as the Secretary's."

Here we have a written order from the Secretary of the Treasury, through his chief clerk, to the Register to change his former official reports to Congress and to state them so as to correspond to new statements made up in the Secretary's office, which increased the public debt. Mr. Titcomb, assistant register, page 13, and Major Power, page 65, testified that the Register protested against making the changes for past years, but the order was obeyed, and the amounts reported to Congress differ materially from former official reports to Congress.

The Register, from the beginning of the Government to 1870, has made an official statement each year to Congress of the amount of the public debt and the receipts and expenditures. Now they are made only by the Secretary of the Treasury, and differ from the amounts reported by the Register previous to 1870.

The Constitution of the United States, in the seventh clause of section 9, article 1, provides that "no money shall be drawn from the Treasury, but in consequence of appropriations made by law; and a

regular statement and account of the receipts and expenditures of all public money shall be published from time to time;" and section 313 of the Revised Statutes of the United States makes it the duty of the Register "to keep all accounts of the receipts and expenditures of the public moneys, and of all debts due to or from the United States."

The law makes it the duty of the Register to keep accounts of the receipts and expenditures of the public money; yet, by order of the Secretary of the Treasury the Register is ordered to change his statements and figures to suit those of the Secretary's Office, and this was done after they had been officially reported to Congress and stood for many years as correct.

Dr. Guilford, who has been fifteen years in the Register's Office, and who has charge of making up the debt statements in the Register's Office, testifies as follows, (page 26:)

Q. I see in a column headed "Amounts to be added to receipts," marked "b," $2,019,776.10; and another one marked "c," $1,000,000.00; and then one marked "d," $3,274,051.69, making a total of $6,293,827.79, which you say is "to be added to receipts." What is meant by that?

A. That is in accordance with the Secretary's report of 1871. Those *amounts do not appear upon our books.* They are added in accordance with the Secretary's order, in order to harmonize the two, as is shown in the report of 1871.

Q. I understand that these three items, amounting to between six and seven million dollars, do *not appear upon your books?*

A. *They do not.*

Q. But are added here by order of the Secretary?

A. So I understand.

Again, (page 33:)

Q. Now, do I understand that the public debt as stated to us is from the books or not?

A. It is a synopsis of the books, with the exception of those notes, *a*, *b*, *c*, and *d*, on Statement No. 2.

Q. With the exception of the $6,293,827.79 not on your books as public debt?

A. Yes, sir.

This shows plainly and clearly that Dr. Guilford, a Treasury clerk who has charge of a set of books from which the public-debt statements are made, added to the debt statement by order of the Secretary of the Treasury "to make the statement harmonize;" in other words, forced a balance by adding the following amounts: $2,019,776.10, $3,274,051.69, $1,000,000.00—$6,293,827.79.

The real amount added in this instance to receipts was over $8,000,000, and to expenditures over $2,000,000. This is shown by the Secretary's Table No. 2, on page 28 of the testimony.

Doubt was expressed by the minority of the committee as to whether or not Dr. Guilford in his testimony said the above amounts of six or seven million dollars were not on the books, and he was recalled after notice and requested if the amounts were on the books to show what books and their dates, and he repeated his former statement, which was, that the amounts were not on the books. (See testimony, page 232.)

Major Power, now chief clerk of the Treasury Department, furnished the following statement to the committee:

SECRETARY No. 2.—*Statement of the receipts, expenditures, and outstanding principal of the public debt, interest and premium paid, and the expenses of loans and Treasury notes, and refunding national debt, for each year, from* 1860 *to* 1877, *inclusive.*

Year.	Received from loans during the year.	Paid on account of loans during the year.	Amounts to be added to receipts.	Amounts to be added to expenditures.	Principal of debt at close of the year.
1859	*a* $58,496,837 88				$58,496,837 88
1860	20,776,800 00	$14,431,350 00			64,842,287 88
1861	41,861,709 74	18,142,900 00	$2,019,776 10		90,580,873 72
1862	529,692,460 50	96,096,922 09			524,176,412 13
1863	776,682,361 57	181,086,635 07			1,119,772,138 63
1864	1,128,834,245 97	432,822,014 03			1,815,784,370 57
1865	1,472,224,740 85	607,361,241 68			2,680,647,869 74
1866	712,851,553 05	620,263,249 10			2,773,236,173 69
1867	640,426,910 29	735,536,980 11			2,678,126,103 87
1868	625,111,433 20	692,549,685 88	1,000,000 00		2,611,687,851 19
1869	238,678,081 06	261,912,718 31		$1,000 00	2,588,452,213 94
1870	285,474,496 00	393,254,282 13			2,480,672,427 81
1871	268,768,523 47	399,503,670 65	5,338,768 09	2,064,716 40	2,353,211,332 32
1872	305,047,054 00	405,007,307 54	250 00		2,253,251,328 78
1873	214,931,017 00	233,699,352 58			2,234,482,993 20
1874	439,272,535 46	422,065,060 23			2,251,690,468 43
1875	387,971,556 00	407,377,492 48			2,232,284,531 95
1876	397,453,808 00	449,345,272 80			2,180,395,057 15
1877	348,871,749 00	323,965,424 05			2,205,301,392 10
Total	8,893,429,873 04	6,694,421,558 73	8,358,794 19	2,065,716 40	2,205,301,392 10

Year.	Net increase.	Net decrease.	Interest paid.	Premiums paid.	Expenses of national loans.	Refunding national debt.
1859	*a* $58,496,837 88					
1860	6,345,450 00		$3,177,314 62		$4,332 34	
1861	25,738,585 84		4,000,173 76		14,840 73	
1862	433,595,538 41		13,190,324 45		507,318 67	
1863	595,595,726 50		24,729,846 61		1,782,456 99	
1864	696,012,231 94		53,685,421 69		2,040,127 97	
1865	864,863,499 17		77,397,712 00	$1,717,900 11	6,657,417 71	
1866	92,588,303 95		133,067,741 69	58,476 51	2,909,036 00	
1867		$95,110,069 82	143,781,591 91	10,813,349 38	1,786,568 56	
1868		66,438,252 68	140,434,045 71	7,001,151 04	2,017,822 43	
1869		23,235,637 25	130,694,242 80	1,674,680 05	1,851,314 11	
1870		107,779,786 13	129,235,498 00	15,996,555 60	2,792,465 12	
1871		127,461,095 49	125,576,565 93	9,016,794 74	2,897,858 92	$332,173 04
1872		99,960,003 54	117,357,839 72	6,958,266 76	2,490,912 26	644,169 12
1873		18,768,335 58	104,750,688 44	5,165,919 99	2,806,863 94	54,726 83
1874	17,207,475 23		107,119,815 21	1,395,073 55	1,878,569 55	702,726 85
1875		19,405,936 48	103,093,544 57		20,559 07	150,255 51
1876		51,889,464 80	100,243,271 23			708,353 15
1877	24,906,324 95		97,124,511 58			489,405 36
Total	2,815,349,973 87	610,048,581 77	1,608,650,149 92	59,738,167 73	32,458,462 37	3,081,809

a Outstanding.

It will be seen that the amount added to the public debt was $8,358,794.19, and called receipts, and there was added to expenditures $2,065,716.40. The two amounts added made more than ten millions, and when neither of these amounts was upon the book in the Register's Office. The premium paid on debt in 1870 was $15,996,555.60. The expenses on national loan, 1870, were $2,792,485.92, and for refunding loan, 1870, were $332,173.04.

Dr. Guilford, on page 33, testified:

Q. When did the Secretary first begin making up his public-debt statement, do you remember?

A. I think it was in the year 1870.

Q. Up to that time nothing had ever come from the Secretary's Office, I believe; he had no organized bureau required by law to do that work?

A. No, sir.

Q. The Register alone did it?

A. Yes, sir.

Here is again proof that the Register made up the public debt and the receipts and expenditures statements up to 1870. The Secretary in 1870 made up his new statement in a new way, which changed the total amount of the public debt for nearly every year between 1835 and 1870, which in a number of years largely increased the public debt, and the new and increased statement of the public debt still remains in each annual report made to Congress.

Major Power, on pages 83 and 84, testified as follows:

Q. Could a correct statement of the public debt be made up for each year, beginning with the organization of the Government and coming down to 1870, from the issues and redemptions alone?

A. Yes, sir.
Q. If the debt was kept by receipts and expenditures alone, how could you manage with such items as the revolutionary debt, Mississippi, Louisiana, Texas, Massachusetts, Eads' jetties, &c., where no receipts come into the Treasury?
A. By making a book-keeper's entry under a title as "public debt for which no receipts come into the Treasury."

* * * * * * *

Q. Do I understand that you could not make a correct debt statement commencing with 1833 and coming to 1870 by issues and redemptions?
A. I could do it.
Q. Would it be correct?
A. It would be correct.

This shows that the present chief clerk of the Treasury Department thinks that a correct statement of the public debt could be made up from issues and redemptions. If so, why in 1870 introduce a new system which changed and increased the public debt and the expenditures? There must have been a cause for it. Let those who made the changes explain.

On pages 71 and 72 of the testimony, Major Power tells us that the Secretary and Register, previous to 1870, agreed as to the amount of the public debt and the receipts and expenditures, and that they substantially agree since 1871; and that the changes and alterations took place between 1869 and 1871; and that there were none before and have been none since.

In referring to the Pacific Railroad debt, on pages 73 and 74 of the testimony, Mayor Power testifies:

Q. You spoke a short time ago of the Pacific Railroad debt in 1869. Was the Pacific Railroad debt considered a part of the public indebtedness in 1869?
A. It is so reported in that report, under the head of "Statement of the indebtedness of the United States, June 30, 1869." On page 22 of the finance report for 1869 the item "Pacific Railroad Companies' bonds, $58,638,320," is included.
Q. There is an increase of the Secretary's statement over the Register's of $94,000,000; add the $58,000,000 and the increase would have been $152,000,000, would it not?
A. Yes, sir; about that.
Q. That being so, if the Pacific Railroad debt had not dropped out, but had been kept in the statement as it appeared in 1869, the increase in the debt of 1870, as stated by the Secretary, would have been about $152,000,000 instead of $94,000,000, would it not?
A. I believe that is correct.
Q. Were those bonds in the Register's statement?
A. No, the Register never included them.
Q. What would have been the increase of the Secretary's statement over the Register's in 1870 if the Pacific Railroad debt were left there as it appeared previously-would it not have been $93,887,428.09 plus the $58,000,000 of the Pacific Railroad debt?
A. One hundred and fifty-two million dollars in round numbers.

This shows two important facts: First, up to and including 1869 what is known as the Pacific Railroad debt, amounting to about $58,000,000, was included in the debt statement of the Secretary, but was dropped out in 1869. Second, if it had been included, instead of the Secretary's statement of 1870 increasing the debt $94,000,000 the increase would have been $152,000,000.

Again, Major Power testifies, on page 77:

Q. Then I understand that, from your information, since the organization of the Government, once every month and every quarter all four of your offices or all three make this comparison?
A. Every appropriation is compared every month, and then there is a general quarterly account, which is the aggregation of all accounts.
Q. These offices are the Secretary's, the Register's, the Comptroller's, and the Treasurer's?
A. Yes, sir.
Q. And they have always been compared at the end of each month, and at the end of each quarter, and I suppose also at the end of each year?
A. They have; and, in addition, the cash account of the Treasurer is gone over by the accounting officers quarterly, in which every warrant is compared and checked.

The above shows that the books and accounts in the Secretary's, Register's, Comptroller's, and Treasurer's offices are compared each month, quarter, and year; and yet in 1870 this new system was introduced and adopted, and the official statements of the public debt and of the receipts and expenditures were changed for nearly every year from 1833 to 1870.

Major Power, on page 80, says:

Q. Look at the report of 1871, at page 20, and state what the total receipts of the Government up to June 30, 1871, were?
A. The total receipts received into the Treasury on account of loans were $7,094,541,041.38.
Q. The net expenditures?
A. $4,857,434,540.51, leaving a balance of $2,237,106,500.87.
Q. State what the difference is between that and the actual amount of the public debt at that time.
A. The actual public debt was $2,253,211,332.32.
Q. What is the difference between the actual debt and what it would appear be on the basis of receipts and expenditures?
A. $116,104,831.45.

Thus Major Power tells us that there is a difference of $116,104,831.45 between the receipts and expenditures and the public-debt accounts. So, if you take the receipts and expenditures from the beginning of the Government to 1870 and state the debt it will be short $116,104,831.45, which amount was added in the new debt statement.

The minority report, (page 59,) quoting from the finance report of 1871, says:

Revolutionary debt of the several States (estimated)...	$76,000,000
Same report, quoting Bayley's testimony, says:	
Domestic debt of the Revolution (estimated)	63,000,000
Difference in stating the same item.....	13,000,000

This shows, in stating the estimated amount of the revolutionary debt, it is made $76,000,000, then $63,000,000, to suit and make statements agree.

During the examination of Major Power, the following question and answer concerning the issue of bonds occurred, (pp. 88, 89:)

Q. What check is there on the loan branch of the Secretary's office as to the amount of the bond that has been ordered by the Treasurer? In other words, if a bond for $1,000 was subscribed for and the loan division gives an order for a two-thousand-dollar bond, where is the check to prevent that two-thousand-dollar bond from going upon the public?
A. If the order to the Register for the bond recites the certificate of deposit as $2,000 deposit in place of $1,000, I believe there would be nothing to prevent the bond being issued. There would have to be collusion to falsify the record.
Q. All in the same office?
A. Yes.
Q. An order comes from the Treasurer's office to the loan branch of the Secretary's office to issue a bond for $1,000; the loan division directs a two-thousand-dollar bond to be issued instead of one-thousand-dollar bond, which the Treasurer directed to be ordered. That order goes to the Register, I understand. The Register issues a two-thousand-dollar bond, and it comes back to the same office that ordered it for the seal; that office puts the seal on it and the bond then goes back to the Register for delivery?
A. That is the practice.
Q. Then there is no check outside of that particular office as to whether or not the bond was a one-thousand-dollar or a two-thousand-dollar bond?
A. I believe not.

William Fletcher, chief of the loan division, and Treasurer Gilfillan, each agrees with Major Powers, that there is little or no check on the loan division in issuing bonds.

The bonds ought to be sent to the Treasurer to see if the money received agrees with the amount named in the bond. The minority report says:

The present method of handling securities of the Government, including notes, bonds, and stamps, would be greatly improved by having all securities pass through the office of the Register.

In regard to legal-tender or greenback notes, Major Power, on page 92, testifies:

Q. The Register's name is on the notes, I believe?
A. Yes, sir.
Q. Does the Register ever see the notes?
A. Not until they are redeemed.
Q. Then a note issued, though it is signed by the Register, never passes through the Register's office?
A. That is, the notes bear the fac-simile of the Register's signature.
Q. I understand that the Superintendent of the Printing Bureau delivers to the Treasurer direct the notes, legal-tenders or fractional currency when the latter was in existence. Do they pass through any other hands but those two?
A. They do not.
Q. They are ready for circulation when the Treasurer receives them from the Printing Bureau?
A. They are then ready for circulation.

This shows that the Register's name is on the legal-tender notes, but he does not see them before they are put into circulation. They are delivered direct by the Printing Bureau to the Treasurer, and there is no check upon either of these officers; and this is an admitted fact.

BONDS AND INTEREST.

Treasurer Gilfillan, in relation to accrued interest on bonds, testifies on page 105:

Q. No separate account on the books was kept of principal and interest?
A. Of the receipts, no, sir.
Q. Can your office give the exact amount of bonds now in circulation?
A. No, sir.

This shows that no separate account is kept by the Treasurer of accrued interest on bonds; the only year's accrued interest that can be given is 1879, when it amounted to about $1,700,000. No officer has kept an account of accrued interest collected or can tell the amount heretofore collected. The Treasurer, from his books, cannot tell the amount of bonds now or heretofore in circulation.

Mr. Gilfillan also says that so far as his office is concerned coupons on bonds may be paid more than once, if genuine:

Q. Then you might, so far as your office is concerned, pay coupons of duplicate numbers, or a greater amount of coupons than were out?
A. If they were genuine coupons.

If the coupons of duplicate bonds were genuine they might be paid at the different sub-treasuries. At New York and Washington they might pay coupons on the same numbers, and if there were twenty bonds issued of the same or duplicate numbers the coupons on all would be paid.

On the question of alteration, changes, and erasures of the Treasury books, William Woodvill testifies on page 112:

Q. Did you find upon those books alterations or errors or erasures in figures?
A. Yes, sir; I found alterations, scratches, canceled warrants.
Q. To what extent?
A. In the Treasurer's books from 1860 to 1867, inclusive, the alterations, scratches, and canceled warrants amounted to about twelve hundred in round numbers.
Q. Twelve hundred different alterations?
A. Alterations, scratches, and canceled warrants, anything like a change from the original amount.
Q. Just explain generally what you found upon the books in regard to erasures or alterations of figures?
A. Amounts scratched and new figures substituted.

You see from the above that the testimony shows on the Treasury books between 1860 and 1867 in round numbers twelve hundred alterations, changes, erasures, &c., affecting amounts ranging from a few dollars to many millions. Mr. Saville, former chief clerk of Treasury Department, (page 122,) answered:

Q. Do you think it would be good bookkeeping to carry erasures into the ledger? Of course a ledger is made up from the day-books and journals, and do you think it would be good bookkeeping to make "lots" of erasures and alterations, as you expressed it, in the ledgers?
A. I should not call it good bookkeeping. I would not employ a bookkeeper who did much of it.

On the same point let me read from Mr. Gentry's testimony, page 174:

John W. Gentry sworn and examined.

By the CHAIRMAN:

Q. Have you made a careful examination of certain ledgers of the Register and Secretary of the Treasury?

A. I have.

Q. You selected one of the number that you have examined as an example of all that you examined?

A. I did of those mentioned in this statement.

Q. Is the statement before you the statement you wish now to offer as being a correct statement of the erasures and apparent alterations on the books you examined?

A. It is.

The eight (8) ledgers enumerated below have also been examined, with the results as stated.

Three (3) ledgers from office of Register.

Title of ledger.	Period.	Number of erasures and apparent alterations.
1. Interior appropriation, ledger No. 4.	From July 1, 1861, to June 30, 1868.	One hundred and fifty-three.
2. Naval appropriation, ledger No. 6.	From July 1, 1861, to June 30, 1866.	One hundred and thirty-seven.
3. Military appropriation, ledger No. 13.	From July 1, 1867, to June 30, 1871.	One hundred and thirty-eight.

Six (6) ledgers from office of Secretary of the Treasury.

Title of ledger.	Period.	Number of erasures and apparent alterations.
4. Interior appropriation, ledger No. 3.	From July 1, 1860, to June 30, 1868.	Two hundred and ninety-six.
5. Naval appropriation, ledger No. 5.	From July 1, 1860, to June 30, 1863.	One hundred and ninety-three.
6. Naval appropriation, ledger No. 6.	From July 1, 1863, to June 30, 1867.	Six hundred and sixty-eight.
7. Naval appropriation, ledger No. 7.	From July 1, 1867, to June 30, 1875.	Four hundred and fifty-seven.
8. Military appropriation, ledger No. 10.	From July 1, 1859, to June 30, 1863.	One hundred and sixty-eight.

Three ledgers from Register's Office, containing ..... 428 erasures and apparent alterations.

Six ledgers from Secretary's Office, containing ..... 1,782 erasures and apparent alterations

Total in nine ledgers..... 2,210

I certify that I have carefully examined the nine ledgers enumerated above, and that the foregoing is a true statement of the erasures and apparent alterations.

JNO. W. GENTRY, *Clerk.*

Thus it appears that on the nine ledgers named there are 2,210 alterations, changes, and erasures, involving amounts from a few dollars to twenty millions or more. The books referred to are the great ledgers of the Treasury Department, not the day-books or journals. The erasures and changes on the day-book and journals are so numerous that we did not count them. The ledgers of the Treasury Department have thousands of apparent alterations, &c., involving many hundred millions of dollars, and no person in the Department can tell why it was done or who did it.

Major Power, on page 91, says no scratch or misentry should appear on the ledgers. Mr. Saville says he would not retain a bookkeeper who made changes on the ledgers. Yet thousands of changes are now on the ledgers of the Treasury Department, and no one can tell or has told who did it or why it was done.

On the subject of leaves being cut out of the books, William Woodville, on page 113, says:

Q. Do you know of any leaves being entirely out of the books that appeared to have been cut out?

A. Yes, sir. In the beginning of the war some of the Treasurer's accounts are that way, about 1861 and 1862.

Q. In how many instances?

A. Two—four leaves in one case, and five in the other. I can produce the books, if you wish.

This shows that not only changes, &c., in amounts have been made but that entire leaves are out of books and cannot be accounted for—no one can tell what amounts they affected, why the leaves were cut out, or what became of them—it has not been explained. The minority report admits the above and says:

Numerous alterations and erasures upon the books of the Secretary, Treasurer, and Register were discovered, and in some instances entire leaves were found to be cut or torn from some of the books.

Major Power (page 73) testifies that to examine the debt statement carefully to find errors, if any, for a year during the late war would require four or five clerks a year. On the same page we find the following:

Q. Going into the warrants and transactions of the Government to show whether or not there were errors in the accounts?

A. To not go beyond the stated accounts as stated and certified by the Comptrollers, it would not be a task of much difficulty. It would take four or five years.

Q. For how many clerks?

A. With a corps of seven or eight clerks.

Thus it appears that this experienced officer of the Treasury Department testifies that it would take seven or eight clerks four or five years to examine carefully the accounts of the Government between 1860 and 1870. Notwithstanding this the testimony is that a new and inexperienced clerk examined the books from 1833 to 1870 in four or five months, and upon that examination wholesale changes were made. Mr. Bayley, a clerk in Treasury Department, (page 116,) testified, and that he was a new clerk, and the first work he did in the Department was to make up statements:

Q. Did you, in 1870, assist Mr. Saville, chief clerk of the Treasury Department, in making up a revisory statement of the accounts in the Secretary's office?

A. I did.

Q. How long were you at it?

A. About four months and a half.

* * * * * * *

Q. How many were engaged at it in all?

A. *No one but myself at that time in the actual work.* If I wanted any advice or assistance from either Mr. Fish or Dr. Guilford, I asked for it, and it was always furnished me.

Q. Did you do the entire work yourself?

A. I did: that is to say, I understand you are speaking now of the tables in the Secretary's report.

It has often been said, and it ought to be so, that the books, accounts, and statements of the Secretary's office, the Comptroller's office, the Treasurer's office, and the Register's should agree at the end of each quarter, and especially at the end of the fiscal year. The law allows forty-five days to close up each fiscal year's accounts, and the testimony of Mr. Saville and others says that sixty days is ample. The usage is to take from June 30 to about December 1—five months; notice is given from the Secretary's office of the number of the last warrant issued in each quarter and year, so the Secretary, Comptroller, Treasurer, and Register ought to agree to a cent. If you examine the statement of the Secretary and Register of interest paid each year from 1860 to 1870, you will find six different statements (see page 153) made by the Secretary and Register; all differ, ranging from a few thousand dollars to many millions.

The Treasurer does not keep an account of interest paid. The minority report says:

The statement of the amount of interest on the public debt paid as reported by the Secretary, Treasurer, and the Register, respectively, do not agree, but the committee did not investigate the cause of this discrepancy. The Treasurer does not keep a separate account of the interest paid.

There are millions of dollars difference between the Secretary, Treasurer, and Register as to cash in the Treasury at the end of fiscal years. This is shown by table 4, on page 153 of the testimony. It is a fact that the statements of the Secretary, Register, and Treasurer all differ widely at the end of fiscal years between 1860 and 1870 as to cash in the Treasury, interest paid, receipts and expenditures, and the amount of the public debt. Yet we are told that the books are all right, and that they are checks upon each other. How can this be when they differ so widely? No explanation is given by the minority report or the Treasury officials.

Major Power testifies that it would require seven or eight clerks four or five years to carefully examine the receipt and expenditure accounts between 1860 and 1870; yet upon four and a half months' work of Mr. Bayley the statements officially reported to Congress from 1789 to 1870 were changed and restated, which largely increased the receipts and expenditures and the public debt.

It is the intention and belief that the Secretary's, Comptroller's, Treasurer's, and Register's books and statements are checks upon each other, and that no money can go into or out of the Treasury without the knowledge of each. I call attention to the following table, from page 152 of the testimony:

No. 4 C.—*Comparative statement of the total receipts and expenditures and balances in the Treasury, for the fiscal years* 1860 *to* 1870, *inclusive, in Treasurer's and Secretary's and Register's statements to committee.*

[Prepared by the Senate Committee on Treasury Accounts.]

TOTAL RECEIPTS.

Year.	Treasurer's statement to committee.	Secretary's and Register's statements to committee.	Treasurer's as compared with the Secretary's and Register's statements.
	Total receipts.	*Total receipts.*	*Increase.*
1860	$80, 544, 805 71	$76, 841, 407 83	$3, 703, 397 88
1861	88, 694, 545 03	83, 371, 640 13	5, 322, 904 90
1862	589, 301, 545 86	581, 679, 915 93	7, 621, 629 93
1863	896, 396, 040 45	889, 379, 652 52	7, 016, 387 93
1864	1, 408, 474, 234 51	1, 393, 461, 017 57	15, 013, 216 94
1865	1, 826, 075, 237 14	1, 805, 939, 345 93	20, 135, 881 21
1866	1, 326, 610, 336 25	1, 270, 884, 173 11	55, 726, 163 14
1867	1, 176, 776, 082 57	1, 131, 060, 920 56	45, 715, 162 01
1868	1, 075, 324, 046 89	1, 030, 749, 516 52	44, 574, 530 37
1869	658, 467, 731 68	609, 621, 828 27	48, 845, 903 41
1870	774, 464, 430 01	696, 729, 973 63	77, 734, 456 38
Total	9, 901, 129, 026 10	9, 509, 719, 392 00	
	9, 569, 719, 392 00		
Increase in Treasurer's as compared with Secretary's and Register's statements	331, 409, 634 10		331, 409, 634 10

This table shows that from 1860 to 1870 the Treasurer reports and accounts for $331,409,634.10 more of receipts than the Secretary charges him with.

If you take the expenditure of the Government, as shown by the table on page 152, you will see that the Treasurer says the expenditures of the Government between 1860 and 1870 were $330,981,109.65 more than the Secretary's and Register's statements show.

The minority report says:

The total and the net receipts and expenditures, as reported by the Secretary, Comptroller, and Register at the close of each fiscal year, all agree, the one with the other, but the same statement as made by the Treasurer differs materially from the others.

The following table shows the differences between the Secretary and Register as to the public debt between 1833 and 1870, (page 149 of testimony:)

No. 1 C.

Secretary's and Register's tabular statements of the outstanding public debt for the fiscal years 1833 *to* 1870, *inclusive.*

[Prepared by Senate Committee on Treasury Accounts.]

Copied from the finance reports of 1870 *and* 1871.

Year.	Secretary's statement, (finance report, 1870, p. xxv.)	Register's statement, (finance report, 1870, p. 276.)	Secretary's compared with Register's statement.		Register's statement, (finance report, 1871, p. 368.)
			Increase.	Decrease.	
1833	$7,001,698 83	$7,001,032 88	$665 95		$7,001,698 83
1834	4,760,082 08	4,760,081 08	1 00		4,760,082 08
1835	37,513 05	351,289 05		$313,776 00	37,513 05
1836	336,957 83	291,089 05	45,868 78		336,957 83
1837	3,308,124 07	1,878,223 55	1,429,900 52		3,308,124 07
1838	10,434,221 14	4,857,660 46	5,576,560 68		10,434,221 14
1839	3,573,343 82	11,983,737 53		8,410,393 71	3,573,343 82
1840	5,250,875 54	5,125,077 63	125,797 91		5,250,875 54
1841	13,594,480 73	6,737,398 00	6,857,082 73		13,594,480 73
1842	20,601,226 28	15,028,486 37	5,572,739 91		20,601,226 28
1843	32,742,922 00	27,203,450 69	5,539,471 31		32,742,922 00
1844	23,461,652 50	24,748,188 23		1,286,535 73	23,461,652 50
1845	15,925,303 01	17,093,794 80		1,168,491 79	15,925,303 01
1846	15,550,202 97	16,750,926 33		1,200,723 36	15,550,202 97
1847	38,826,534 77	38,956,623 38		130,088 61	38,826,534 77
1848	47,044,862 23	48,526,379 37		1,481,517 14	47,044,862 23
1849	63,061,858 69	64,704,693 71		1,642,835 02	63,061,858 69
1850	63,452,773 55	64,228,238 37		775,464 82	63,452,773 55
1851	68,304,796 02	62,560,395 26	5,744,400 76		68,304,796 02
1852	66,199,341 71	65,131,692 13	1,067,649 58		66,199,341 71
1853	59,803,117 70	67,340,628 78		7,537,511 08	59,803,117 70
1854	42,242,222 42	47,242,206 05		4,999,983 63	42,242,222 42
1855	35,586,956 56	39,969,731 05		4,382,774 49	35,586,956 56
1856	31,972,537 90	30,963,909 64	1,008,628 26		31,972,537 90
1857	28,699,831 85	29,060,386 90		360,555 05	28,699,831 85
1858	44,911,881 03	44,910,777 66	1,103 37		44,911,881 03
1859	58,496,837 88	58,754,699 33		257,861 45	58,496,837 88
1860	64,842,287 88	64,769,703 08	72,584 80		64,842,287 88
1861	90,580,873 72	90,867,828 68		286,954 96	90,580,873 72
1862	524,176,412 13	514,211,371 92	9,965,040 21		524,176,412 13
1863	1,119,772,138 63	1,098,793,181 37	20,978,957 26		1,119,772,138 63
1864	1,815,784,370 57	1,740,690,489 49	75,093,881 08		1,815,784,370 57
1865	2,680,647,869 74	2,682,593,026 53		1,945,156 79	2,680,647,869 74
1866	2,773,236,173 69	2,783,425,879 21		10,189,705 52	2,773,236,173 69
1867	2,678,126,103 87	2,692,199,215 12		14,073,111 25	2,678,126,103 87
1868	2,611,687,851 19	2,636,320,964 67		24,633,113 48	2,611,687,851 19
1869	2,588,452,213 94	2,489,002,480 58	99,449,733 36		2,588,452,213 94
1870	2,480,672,427 81	2,386,358,599 74	94,313,828 07		2,480,672,427 81

The table is from the official finance report of 1870, and is the result of the Secretary's new system or order to change the official statements which appear for the first time in 1870. It will be seen that the changes, alterations, and differences commence in 1833 and continue until 1870; but up to 1861 the difference is very small, only $72,584.80, which shows that the debt was stated substantially correct up to 1861, and between 1861 and 1870 the great differences appear.

In 1862 the difference or increase was near $10,000,000
In 1863 the difference or increase was near 20,000,000
In 1864 the difference or increase was near 75,000,000
In 1869 and 1870 each, the difference or increase was near 100,000,000

I next come to the appropriation warrants missing.

M. C. Hooker is custodian of warrants in the Treasury Department. I read from page 138:

The witness, Mellen C. Hooker, after being absent for some time, returned, and his examination was continued as follows:

By the CHAIRMAN:

Q. What report do you make?

A. The warrants for which your memorandum calls, namely, No. 895, dated June 30, 1868, and No. 947, dated June 30, 1870, do not appear on the files, neither have they been on the files since I have been custodian of the warrants.

Q. Can you direct us to any place where we should be likely to get information connected with them?

A. I cannot.

The two very large warrants Nos. 895 and 947, respectively covering permanent and indefinite appropriations for the years 1868 and 1870—

Amounting in the year 1868 to $847,209,450 80
Amounting in the year 1870 to 540,760,511 95

Amounting in two years to 1,387,969,962 75

have disappeared.

No one in the Treasury could give your committee information as to the whereabouts of these two large warrants which transferred from the Treasury more than a billion of dollars.

The corresponding warrant for 1869 transfers from the Treasury about $400,000,000, and is scratched and apparently altered in several places, involving many millions of dollars. Mr. Hooker also states that the appropriation warrants for 1870, No. 921 to 947, inclusive, twenty-seven in all, are missing. Pages 196 to 198 contain a copy of appropriation warrant No. 919, dated August 7, 1869, and signed "Geo. S. Boutwell," which takes from the Treasury $397,945,900.96. This warrant has numerous scratches and apparent alterations on it, involving large amounts. There are many other warrants apparently altered; some have as many as thirty or forty apparent alterations upon them.

Much has been said about the loan division. Mr. Daskam, chief of the division of public moneys, says:

But in loan matters the division of loans has the original certificate of deposit, and we send the list there for check.

Q. How long after the transaction closes in your office is the warrant issued in the division of Mr. Power?

A. There is no regular time.

Q. As a matter of experience in loan matters, particularly?

A. I think they have been sometimes quite a long time, particularly during these heavy loan transactions; they could not get time up there to check them.

Q. What do you mean by "a long time"?

A. Perhaps a list has been up there a month or six weeks.

Q. Ever longer than that?

A. I do not know but they may have been longer.

* * * * * * *

Q. Then, if the loan division issued a bond of $20,000 instead of $10,000, and chose to check that $10,000 when it came back, that would be all in the loan division?

A. Yes; we have no check on the loan division in such a transaction.

By reference to page 156 of the testimony it will be seen that Treas-

urer Gilfillan substantially agrees with Mr. Daskam. It has been claimed that the public-money division is a check on the loan division. The above shows that it is sometimes a month or six weeks before a list of transactions is made and sent to the loan division. The above testimony also shows that a bond for $10,000 might be ordered and a bond for $20,000 issued, and there is no check on the loan division.

All warrants for covering in or paying out money are issued from the warrant division of the Secretary's office. It would be safer if receiving or covering-in warrants and expenditure warrants were issued from a different office or division.

As to accrued and unclaimed interest, Treasurer Gilfillan (page 157 of testimony) says the year 1879 is the only year for which that accrued interest on bonds can be given. In that year it amounted to $1,720,677.21.

Large as this amount is, there is no officer in the Treasury Department that can give an account of it. Of all the bonds sold, no account of accrued interest is given, and if you examined the column of interest received in the finance reports no amount is accounted for.

It will be seen by Treasurer Gilfillan's testimony, on pages 157 and 158, that only about one-seventh of the bonds issued by the Government go through or are paid for through the Treasurer's Office. Six-sevenths of the bonds issued are ordered direct from the Secretary's Office, and the order is given to the loan division of the Secretary's Office to issue the bond, and the Treasurer knows nothing of the transaction until he is notified that the money is deposited in the First National Bank of New York or some other depository. The Treasurer should have more to do with issues of bonds and the Secretary and the loan division less.

On page 191 of testimony is table No. 9, which shows that the Treasurer, in the finance report for 1870, says he held June 30, 1870, purchased on account of sinking and specie fund, $123,429,100; on page 194 the Treasurer gives the character of the bonds and adds up and makes $123,429,100; finance report, 1870, page xiv, the Secretary says the amount was $121,429,100; the Secretary furnishes a statement to the committee in which he states the same fund to be $117,740,000; showing a difference between the statements of about $6,000,000. If you examine the statement of reduction of the public debt issued by the Treasury Department it shows that the reduction of debt for 1870 was $102,643,880.84. This makes a difference in the statement of nearly $20,000,000. In the debt statements of the Secretary and Register as reported in the finance report for 1870 there is a difference or increase of $94,313,828.07 according to official statements, instead of a reduction of the public debt of $123,429,100, which was the amount of bonds bought and paid for. If you compare the statements of the public debt made by the Register and the Secretary of the Treasury, there is an increase of the public debt of between ninety and a hundred millions in 1870.

The minority report on this subject says, which substantially admits all I claim:

> The Secretary's statement of the sinking fund and of the bonds purchased therefor in the years 1869 and 1870 does not agree with the Treasurer's statement on the same subject.

The testimony of William Woodville (pages 178 to 190) shows that there are many and large changes in the receipts and expenditures between 1860 and 1870 which are unaccounted for.

If the testimony and tables from pages 192 to 195 are examined they show that the different Departments disagree as to amount of money received from the Treasury; that is, the amounts charged by the Treasury Department differ widely from the amounts acknowledged and credited by the Departments of State, War, Navy, Interior. As to the amount relating to pensions between 1860 and 1870, the difference or increase in the statement of the Secretary of the Treasury as compared with the statement of the Secretary of the Interior is $11,384,403.74. The books or accounts between the Treasury and other Departments will not agree by large amounts.

I come now to the printing division. The testimony (pages 229, 230, and 231) shows that about 5 per cent. of the paper used by the Printing Bureau is returned to the loan division, which is the same office that issues the paper. National-bank notes, legal-tenders, bonds, and internal-revenue stamps are delivered ready for use to the Comptroller, the Treasurer, the loan division, and the Commissioner of Internal Revenue, and there are no checks between the Printing Bureau and those receiving these printed impressions. All ought to pass through the Register or some other office before delivery for use. I think there is room for fraud in the above deliveries. I am told the Secretary of the Treasury has lately made a change such as was suggested by the committee.

Mr. Saville, who was chief clerk of the Treasury Department in 1870 when the many changes in the statements and official finance reports were made, on page 201 of the testimony, says:

> Q. Now state the reasons that induced the changed statement of the public debt in 1871?
>
> A. The primary reason was that we desired to be accurate. We wanted to be able to put before the world a statement that we could swear to, if necessary.

Here it is stated that the reason for making the wholesale changes in official statements and finance reports to Congress was that they wanted a statement they could swear to. It will be recollected that the written order to Register Allison to make the great changes was on the ground that the different statements were unfavorably commented upon abroad.

Mr. Saville says in answer to a question, (page 208:)

> Q. Am I to understand, or not, that you examined each book, each entry on account of the public debt from the organization of the Government down to 1870?
>
> A. Oh, no, sir; I did not examine each entry. I examined each book and each account, but not in detail, so as to go to each entry. It would have taken years to have examined each entry. I had expected, I may say, to do that before I got through.

This shows that Mr. Saville says there was not a careful examination of the books before the many changes were made. Mr. Bayley told us in his testimony that he alone did the work of examination of books in four months and a half; that he took the footings from printed documents, &c. Now Mr. Saville tells us he did not examine each entry, but made the changes and expected afterward to examine more carefully.

On pages 212 and 213 Mr. Saville says the system of bookkeeping was changed in 1870, and the changes, when compared with the amounts previously reported by the Register, increased the debt statement in—

1862 (about)	$10,000,000
1863 (about)	20,000,000
1864 (about)	75,000,000

There has been no attempt by any one to explain the above increases in the public debt. On page 214 Mr. Saville says that, in order to keep the public debt correctly by receipts and expenditures, it is necessary to make entries not warranted by law. Yet in 1870 the Hamilton system of keeping accounts by "issues and redemption" was changed and a different one adopted, and the result is an apparent increase in the public debt of many millions. On that point I would like to have read a quotation from a speech that Mr. Sherman made in the Senate in 1876.

The Secretary will please read the statement of the present Secretary of the Treasury, and let it be seen what he thinks about the changes in the finance reports.

The Chief Clerk read as follows:

> I have often heard it complained that the system of keeping accounts in some branches of the service ought to be changed; but it is a very difficult and a very dangerous process, and I invite the careful scrutiny of any man who undertakes to improve on the work of Alexander Hamilton and Albert Gallatin, and all the great men who have filled the office of Secretary of the Treasury, and to devise a better system of accounting than they with their mature minds and long experience established, and which has been enlarged with the gradual growth of our Government. Their system has been the frame-work of our finances for more than eighty years. The gradual additions to the mode of accounting that have been made by law have probably made as perfect a system as can be devised. But he must be a bold man and a wise man who will undertake, without study and experience, to step in and devise a better system than this. If we had such a man, if there is such a one who is willing to undertake the task, I shall be very glad to co-operate with him. I doubt very much the propriety of any tinkering with so complicated a machine as the Treasury Department.

Mr. DAVIS, of West Virginia. It will be seen that the present Secretary of the Treasury doubted very much the propriety of tinkering with these Treasury accounts at the time. I believe the word "tinkering" is his own and not mine.

The report of the committee on page 50 gives a statement compiled from Senator EDMUNDS's report from the Committee on Retrenchment made to the Senate March 3, 1869, it showing that there were partially unaccounted for about $49,000,000 in United States bonds and about $10,000,000 in Treasury notes, legal-tenders, &c. In 1869 the Senator from Vermont thought then as other Senators now think, that there were many millions to be accounted for. The Senator then said, on page 102 of his report:

> The books and accounts between the various subdivisions of the printing establishment have been, until recently, (to say nothing of defects still existing,) so irregularly kept, and contain many of them on examination so many *erasures and alterations*, as considerably to diminish confidence in the accuracy of results derived from such sources.

On page 97 the EDMUNDS report says:

> The methods of accountability and comparison between the various bureaus in the Treasury Department, as well as their own operations, have been, since the war began, as it seems to us, quite imperfect and deficient, and in some respects grossly careless.

Again:

> To put the best face on it, it is evident that the course of things there has not been such as to merit commendation in many respects, as will be seen from the evidence herewith returned. Many things have been done which, although perhaps innocent in themselves, could but have a demoralizing tendency, and to suggest opportunities and methods of fraud to employés.

So it appears that the EDMUNDS committee found a large amount of notes and bonds not satisfactorily accounted for by the Printing Bureau or Treasury Department.

Deducting the excess, the total of notes and bonds unaccounted for was $59,379,669.

This was the report of a committee made in 1869, of which the Senator from Vermont was chairman, and he admits there was nearly

$60,000,000 in doubt, and says the imperfect methods of keeping the accounts "suggest opportunities and methods of fraud."

Now, what are our conclusions? The testimony shows, and the facts are, that each month, quarter, and year, the Secretary's office, the Comptroller's, and Register's have compared statements and accounts, and if they did not agree they were made to agree.

It has often been said that the Secretary, Comptroller, Treasurer, and Register are checks upon each other. Up to 1869 and since 1870 all statements substantially agree. Nothwithstanding the comparisons, checks, and agreements, the statements made in official finance reports previous to 1870 and since do not agree by hundreds of millions of dollars.

From the days of Washington and Hamilton to Grant and Boutwell the official accounts and statements to Congress and the country agreed, but there are large and many changes during the Grant and Boutwell administration. I think it doubtful whether half the facts connected with the wholesale changes in official finance reports, books, and accounts will ever be known, certainly not until there is a political change in the administration and the Treasury Department of this Government.

The many changes, scratches, and apparent alterations in official statements and in figures were made by some one and for an object. Who did it or why it was done has not been explained. Why did not the Treasury officials or the minority of the committee call the party or parties who did the work and explain?

Mr. INGALLS. The Senator does not state that the books were changed?

Mr. DAVIS, of West Virginia. I said that the accounts and statements were changed.

Mr. INGALLS. In the original books?

Mr. DAVIS, of West Virginia. I said that the official statements as made to Congress from the earliest days of the Government down to 1870 continued one and the same without alteration or without change, but between 1869 and 1870 the many changes that I have spoken of and many others that I have not alluded to appear to have taken place.

When these figures were restated in 1870, under the new system, they appeared much larger than they had appeared previously, and so they remain in the reports to-day.

Mr. INGALLS. I do not wish to interfere with the Senator, of course, as I presume he is incubating a document for circulation for campaign purposes.

Mr. DAVIS, of West Virginia. An interruption will be no interference.

Mr. INGALLS. If it will not be disagreeable to him, I should like to ask him a question.

Mr. DAVIS, of West Virginia. Not at all.

Mr. INGALLS. I recognize the right of the Senator to present his side of the case as he sees fit; but if it will not be disagreeble to him or interfere with the design that he has in the presentation of his case to the country, I should like to ask him if he desires to be understood as wishing to intimate that there ever has been, or that any evidence was given before the committee tending to show that there ever has been, any change in the original books of the Treasury Department after they had been closed?

Mr. DAVIS, of West Virginia. The answer to that is that there were thousands of erasures and apparent alterations upon the ledgers.

Mr. INGALLS. The Senator evades an answer to the question.

Mr. DAVIS, of West Virginia. I will try to answer my friend if I have not done so.

Mr. INGALLS. I will withdraw the question and consider that the Senator does not want to answer.

Mr. DAVIS, of West Virginia. I will answer it.

Mr. INGALLS. Or if he desires to answer at some other time, I will permit him to do so, but I should like a specific answer to that interrogatory, if the Senator sees fit to give it now.

Mr. DAVIS, of West Virginia. If the Senator means to ask me my opinion, that is one thing, and I hope he will not press for my opinion. If he means to ask me whether or not there were alterations and erasures by thousands upon the ledgers of the Government, and that no man can tell what they were or what they are now, or whether the original amounts have been replaced there, and if he means to ask me whether or not the official reports to Congress agree with those reports previously made, of course I shall answer they do not, and the Senator certainly will agree with me.

Mr. INGALLS. Still the Senator does not answer my question. It was evident to the most casual scrutiny that, as in the books of all great mercantile concerns, there had been erasures, there had been in some cases mutilations, there had been apparent alterations of figures, but I ask the Senator whether there was any evidence going to show that those alterations, changes, and erasures were not contemporaneous with the original entries, and that none of them were made after the accounts were closed.

Mr. DAVIS, of West Virginia. There was no evidence, as the Senator has said, in that particular, but the minority of the committee and the Treasury Department could have presented, if they thought proper, evidence upon that point, but none was presented. These things were found by us to exist. No attempt was made by either one, as my recollection is, to go beyond the facts as they existed. The Treasury officials were brought before the committee and they answered very properly and very ably; all who were before us I thought explained with great truth. No evidence whatever was taken outside of the Treasury Department; that is, no one other than those in the employ of the Government was asked to give evidence except Mr. Saville, who was chief clerk at the time these alterations or changes or restatements took place.

Since I first called attention to the condition of things in the Treasury Department the ex-Senator from Massachusetts (Mr. Boutwell) and the Senator from Kansas [Mr. INGALLS] each has introduced bills in the Senate to correct evils and make lawful what has been done without law. It has been said all was right and square. If so, why introduce bills to correct things?

I am informed that some of the recommendations of your committee have already been adopted by the Treasury Department. I believe the books and accounts of the Treasury Department are now much better kept than formerly, and that the true amount of the public debt is now reported.

The present Secretary appears ready and willing to correct evils and improve the service when he is convinced that good will result from it.

In our report and in the tables I have used no fact has been stated or figures used not taken from official documents or proven by some Treasury official.

The Treasury Department and the minority of the committee had full and ample opportunity to explain or contradict all statements and figures of the majority report, but in nearly every instance failed to do so.

The minority report, (page 59,) in referring to the changes, discrepancies, &c., in official statements, books, and accounts, says:

> The undersigned are of opinion that the differences in these statements are unfortunate, and they can think of no remedy for the trouble but the establishment of a rule in the Department that all tables and statements shall emanate from one source and shall invariably be made from the same data and upon the same principle.

This is a square admission by the minority of the committee that there are differences in Treasury statements and they regret it.

The following table will show the great difference or increase in the amount of public debt between 1862 and 1870, as stated by the Secretary and Register of the Treasury:

Year.	Public debt, as stated in the finance report for—		Increase.	Decrease.
	1871 and subsequent reports—Secretary's statement.	1870 and previous reports—Register's statement.		
1862	$524,176,412 13	$514,211,371 92	$9,965,040 21	
1863	1,119,772,138 63	1,098,793,181 37	20,978,957 26	
1864	1,815,784,370 57	1,740,694,489 49	75,093,881 08	
1865	2,680,647,869 74	2,682,593,026 53		$1,945,156 79
1866	2,773,236,173 69	2,783,425,879 21		10,189,705 52
1867	2,678,126,103 87	2,692,199,215 12		14,013,111 25
1868	2,611,687,851 19	2,636,320,964 67		24,633,113 48
1869	2,588,452,213 94	2,489,002,480 58	99,449,733 36	
1870	2,480,672,427 81	2,386,358,599 74	94,313,828 07	
Total	19,272,555,561 57	19,023,595,208 63	299,801,439 98	50,781,087 04
			50,781,087 04	
Increase			249,020,352 94	

It will be seen that the apparent increase in each year is larger. The year 1864, $75,000,000; in 1869 and 1870, nearly a hundred million in each year, which has not been and perhaps cannot be explained.

Mr. INGALLS. May I ask the Senator one further question?

Mr. DAVIS, of West Virginia. Certainly.

Mr. INGALLS. I believe that I am not wrong in assuming that all these Treasury accounts appear in duplicate and triplicate and in some instances in as many as in five different books or statements before they are finally closed in the Department. Now, I ask the Senator if it did not appear affirmatively in the testimony taken before the committee that there were no instances in which the erasures or apparent alterations ran through the entire series, and if it was not true that in every instance the footings and the statements of the accounts agreed in all these different departments?

Mr. DAVIS, of West Virginia. I cannot answer the Senator's question in that way. Take, if you choose, the year 1862. In that year the debt had been stated to Congress as $514,000,000; it had been so restated by four different Secretaries; had remained at $514,000,000 up to 1870, and when it was restated under the new system in 1870 it was put at $524,000,000 in round numbers, and remains there to-day.

Mr. INGALLS. What was the apparent increase?

Mr. DAVIS, of West Virginia. Ten millions.

Mr. INGALLS. Does not the Senator know that there was in the finance report of that year a full and detailed statement of all the discrepancies and how they occurred?

Mr. DAVIS, of West Virginia. Oh, no, sir; I have not seen in any finance report such an explanation, certainly not that year; but in the year 1871 there was an attempted explanation of these discrepancies.

If the Senator will recollect when the receipts and expenditures were added together and the deductions made, there was $116,000,000 difference——

Mr. INGALLS. Made up of certain specific items.

Mr. DAVIS, of West Virginia. Then there was an effort made, and with some success, to explain the $116,000,000; in other words, if you take the receipts of the Government from the beginning down to June, 1870, and the expenditures, and deduct one from the other, and then take the amount of the public debt, you will find that there is $116,000,000 unexplained on its face. Then there was an attempt to explain away the $116,000,000, and, as I say, with some success; but still there is part of that $116,000,000 not explained.

Mr. INGALLS. In what particulars does the Senator think that the explanation is unsatisfactory?

Mr. DAVIS, of West Virginia. There was no effort to explain a part of it at all, and the Senator will recollect very well that the witness, Dr. Guilford, whom we recalled before the committee, stated that between six and seven millions in the year 1870 had been added to the public debt for the purpose of making the statements harmonize.

Mr. INGALLS. Not added to the public debt. The Senator does not want to be understood as saying that it was an addition to the public debt?

Mr. DAVIS, of West Virginia. To the public-debt statement. If you add it to the statement it adds it to the debt apparently because the statement would not agree and would not be as large as it is now if that was not added. The witness tells you so. There is no question between the Senator and me on that.

Mr. INGALLS. There is certainly a very great question.

Mr. DAVIS, of West Virginia. If the Senator will look at the very last question asked at the end of the testimony he will find that the witness Guilford says that that six or seven million had no other existence than the order of the Secretary to put it there.

Mr. INGALLS. What page does the Senator refer to?

Mr. DAVIS, of West Virginia. The very last page in the testimony, page 239. I recollect it very well. Let me read it:

By the CHAIRMAN:

Q. The only existence that those three amounts have to your knowledge is that you were ordered to put them there to make the accounts harmonize?

A. That is so.

The Senator will recollect that at his instance Guilford was recalled, he thinking that there was some mistake as to his saying whether it was on it or not.

Mr. DAWES. Will the Senator allow me to understand what he intends to have the public understand?

Mr. DAVIS, of West Virginia. Certainly, I have no objection to any question either of my colleagues choose to ask.

Mr. DAWES. The Senator has stated that it was found by the committee that at some time or other some figures had been changed on the books, found that by inspection. He says that the minority of the committee in no instance called any witnesses to show that that was an honest transaction. Now, I should like to know of him——

Mr. DAVIS, of West Virginia. I did not quite say that. I said no witnesses were called to explain or to show who made the alterations. It was in the power of the Department to send us the man who did the act.

Mr. DAWES. I want the Senator to tell the country, in connection with this indictment of the Treasury Department, whether in any single instance the committee called any witness to show that it was not an honest transaction?

Mr. DAVIS, of West Virginia. The committee called the employés of the Treasury Department before them, pointed out these erasures and alterations, and each and every one of them, my recollection is without being able to put my hand just on the place, answered that he knew nothing about them, and some of them said, until they were shown them, that there were no erasures on the books; and the Senator will recollect that both Mr. Saville and Major Power, who is now chief clerk of the Department, said that erasures ought not to occur upon ledgers, though they might occur upon the day-books.

Mr. DAWES. After that statement of what the witnesses did testify, can the Senator answer me directly, whether the committee called a single witness to show or whether a single witness called by anybody did show that in any one of those apparent erasures upon the books there was anything wrong?

Mr. DAVIS, of West Virginia. The erasures were there. They were there by the thousand upon the ledgers.

Mr. DAWES. There is no dispute between the Senator and myself about the fact that erasures were there; but that does not meet my question. I want the Senator to look the question in the face and answer the question. There is no dispute between him and me about the fact that erasures were there.

But the interrogatory which I wish to put him, and that is what I want an answer to, is, did the committee call any witness, or did any witness appear before the committee called by anybody, who testified that in any one of these erasures there was anything wrong?

Mr. DAVIS, of West Virginia. Whether they were wrong or not it was in the power of those who made them to explain them if they had desired to do so. No Treasury official, nor the majority nor the minority of the committee to my knowledge undertook to explain who did it. Why was it not in the power of the Treasury Department, if they had thought proper, to have brought the man forward who did make them?

Both the Senators will recollect that the witnesses were asked whether they knew anything about these alterations, and each one of them said he did not, neither could any one of them explain why they were made, how they were made, for what purpose they were made, or anything about them.

Mr. DAWES. Does the Senator agree with me, then, that there was not a single witness who testified in respect to any one of them that there was anything wrong in it? Does the Senator agree with me in that statement?

Mr. DAVIS, of West Virginia. I agree thus far, that there were no witnesses before the committee who stated that the alterations which appear were wrong and made for a fraudulent purpose. No witness said that, because each and every witness said that he knew nothing about them; did not know who made them, or what they were made for.

Mr. DAWES. I asked this question for the sake of putting another, and that is: Is it worth while for an honorable man to charge anything wrong upon the Treasury officials unless there is some evidence that there is something wrong?

Mr. DAVIS, of West Virginia. Mr. President, I have stated the facts. I said in the beginning that I should confine myself to the facts and to the evidence. Now, I ask either the Senators if I have stated one fact or one figure that is not sustained by the evidence and by the books? Not a single one to my knowledge. They may disagree with me as to what the conclusions are or what the effect of these facts is, but I ask either of these gentlemen if I have stated a single fact that does not appear on the evidence.

Mr. INGALLS. If the Senator will allow me, I will say to him that there is a legal maxim with which I have no doubt he is entirely familiar which runs something as follows: *Suppressio veri, suggestio falsi.*

Now, the Senator from West Virginia in the speech that he has just closed——

Mr. DAVIS, of West Virginia. Not quite closed yet.

Mr. INGALLS. Well, that ought to be closed at any rate, I will say. In that speech he has referred to discrepancies in the statements in regard to the accounts of pensions. The Senator from West Virginia stated the fact so far as he went, but he sedulously omitted all reference to the other very important supplemental fact that in the publication of the annual net expenditures on account of pensions from the foundation of the Government down to 1876, which he himself called for by resolution and which was communicated to the Senate by the Secretary of the Treasury, there is a statement year by year from the year 1800 down to 1876, showing precisely the occasion and the cause of the discrepancies that exist in the statement of accounts in regard to expenditures of the Navy and Army pensions, exhibiting the fact that those discrepancies arose not from any change in the accounts, not from any malappropriation of the public funds, but simply from the fact that the statements in some years contain certain items that were omitted in others, and that in some years there were typographical errors unavoidable to all statements of accounts that in a system such as ours pass through a great printing office, that in subsequent years were corrected. I hold in my hand a long table and it is a very significant table; and I say, therefore, to the Senator from West Virginia that in alleging that there were discrepancies in regard to the payments on account of the naval pension funds, although he was correct as far as he went, he omitted the very important fact that the Secretary of the Treasury had explained, and explained innocently, every one of these discrepancies to which he had referred. I will not weary the Senate by reading this statement in detail, but it is so important as showing the nature of this whole transaction to which the Senator from West Virginia refers that I will send it to the Reporter and ask that it may be incorporated as a portion of my remarks, or if that is objectionable to the Senator I will send it to the Secretary and ask that it may be read from the desk.

Mr. DAVIS, of West Virginia. Certainly; take your own course.

Mr. INGALLS. And in that same connection I will say that there have been sent down from the Treasury Department——

Mr. DAVIS, of West Virginia. I should like a word on the pension matter if my friend is through with it.

Mr. INGALLS. I leave that now, presenting for publication the statement to which I have referred.

The statement referred to is as follows:

Expenditures on account of pensions—Explanation of differences.

In making a comparison of the annual net expenditures on account of pensions, as shown by the recapitulation by annual appropriations and the table in the finance report for 1876, (pages 600 and 602,) several differences appear, the causes of which are as follows:

Year.	Cause of difference.	Pension table.	Reference.	Amount.
1800	Navy pension fund, not included in the pension table in finance report	Minus...	R. and Ex., p. 47	$29,884 20
1801		...do	R. and Ex., p. 51	51,154 73
1802		...do	R. and Ex., p. 51	40,639 44
1806		...do	R. and Ex., p. 42	207 19
1811		...do	R. and Ex., p. 58	7,106 25
1812		...do	R. and Ex., p. 58	478 00
1813		...do	R. and Ex., p. 54	112,668 25
1813	Privateer pension fund, not included in the pension table in finance report	...do	R. and Ex., p. 53	8,197 27
1813	Pensions of widows, &c., of officers, &c., killed in 1811 on the Wabash, not included in the pension table in finance report	...do	Ledger No. 4, p. 347	5,517 27
1814	Navy pension fund, not included in the pension table in finance report	...do	R. and Ex., p. 68	108,089 50
1814	Privateer pension fund, not included in the pension table in finance report	...do	R. and Ex., p. 68	50,000 00
1815	Navy pension fund, not included in the pension table in finance report	...do	R. and Ex., p. 71	93,448 10
1815	Privateer pension fund, not included in the pension table in finance report	...do	R. and Ex., p. 70	15,000 00
1816		...do	R. and Ex., p. 81	97,251 57
1817		...do	R. and Ex., p. 87	41,622 91
1817	Navy pension fund, not included in the pension table in finance report	...do	R. and Ex., p. 87	87,482 75
1818	Navy pension fund, not included in the pension table in finance report	...do	R. and Ex., p. 72	78,307 47
1818	Privateer pension fund, not included in the pension table in finance report	...do	R. and Ex., p. 72	3,406 90
1818	Repayment on account of military invalids, erroneously credited to military establishment and not in pension-table	...do	R. and Ex., p. 148	73 60
1819	Privateer pension fund, not included in the pension table in finance report	..do	R. and Ex., p. 75	889 19
1820	Privateer pension fund, not included in the pension table in finance report	...do	R. and Ex., p. 56	2,105 11
1820	Navy pension fund, not included in the pension table in finance report	...do	R. and Ex., p. 56	8,013 28
1821	Privateer pension fund, not included in the pension table in finance report	...do	R. and Ex., p. 55	1,961 54
1822	Privateer pension fund, not included in the pension table in finance report	...do	R. and Ex., p. 58	1,231 62
1822	Navy pension fund, not included in the pension table in finance report	...do	R. and Ex., p. 58	634 20
1822	Repayments on account of military pensions, treated as receipts	Plus	R. and Ex., p. 12	2,087 29
1823		...do	R. and Ex., p 13	1,828 84
1824		...do	R. and Ex., p. 13	563 00
1825	Repayments on account of military pensions and in excess of expenditures	...do	R. and Ex., p. 101	67,879 76
1826	Navy pension fund, not included in the pension table in finance report	Minus ..	R. and Ex., p. 76	4,297 55
1827	Navy pension fund, not included in the pension table in finance report	...do	R. and Ex., p. 81	2,202 50
1829	Navy pensions, not included in the table in finance report, (repayments in excess of expenditures)	...do	R. and Ex., p. 168	15,524 83
1830	Navy pensions, not included in the table in finance report, (repayments in excess of expenditures)	...do	R. and Ex., p. 164	6,146 95
1830	Repayment on account of military pensions, treated as a receipt, (entered as "Pensions to military invalids")	...do	R. and Ex., p. 8	353 24
1831	Navy pensions, not included in the table in finance report, (repayments in excess of expenditures)	...do	R. and Ex., p. 204	38,733 83
1832	Navy pensions, not included in the table in finance report	Plus	R. and Ex., p. 192	159,055 65
1833		...do	R. and Ex., p. 216	599 01
1834	Navy pensions, not included in the table on finance report, (repayments in excess of expenditures)	Minus ..	R. and Ex., p. 198	894 35
1835		...do	R. and Ex., p. 196	8,089 91
1835	Repayment on account of military pensions, treated as a receipt, (entered as "Pensions to military invalids")	...do	R. and Ex., p. 9	694 60
1835	Virginia claims, erroneously entered as pensions in the table in finance report	...do	R. and Ex., p. 178	16,686 46
1836	Repayment on account of military pensions, treated as a receipt, (entered as "Pensions to military invalids")	...do	R. and Ex., p. 7	970 63
1836	Virginia claims, erroneously entered as pensions in the table in finance report	...do	R. and Ex., p. 196	55,994 85
1836	Navy pensions, not included in the table in finance report	Plus	R. and Ex., p. 214	6,954 98
1837	Virginia claims, erroneously entered as pensions in the table in finance report	Minus ..	R. and Ex., p. 218	40,852 32
1837	Navy pensions, not included in the table in finance report, (repayments in excess of expenditures)	...do	R. and Ex., p. 238	198,732 15
1838	Virginia claims, erroneously entered as pensions in the table in finance report	...do	R. and Ex., p. 226	42,638 50
1838	Navy pensions, not included in the table in finance report	Plus	R. and Ex., p. 248	190,198 59
1839	Virginia claims, erroneously entered as pensions in the table in finance report	Minus ..	R. and Ex., p. 246	4,805 12
1839	Navy pensions, not included in the table in finance report, (repayments in excess of expenditures)	...do	R. and Ex., p. 268	11,081 75
1840	Virginia claims, erroneously entered as pensions in the table in finance report	...do	R. and Ex., p. 208	1,193 78
1840	Navy pensions, not included in the table in finance report	Plus	R. and Ex., p. 238	21,151 56
1841	Virginia claims, erroneously entered as pensions in the table in finance report	Minus ..	R. and Ex., p. 226	1,108 76
1841	Navy pensions, not included in the table in finance report	Plus	R. and Ex., p. 252	117,057 84
1842	Virginia claims, erroneously entered as pensions in the table in finance report	Minus ..	R. and Ex., p. 218	16,915 53
1842	Navy pensions, not included in the table in finance report	Plus	R. and Ex., p. 244	104,995 09
1843	Virginia claims, erroneously entered as pensions in the table in finance report	Minus ..	R. and Ex., p. 186	6,572 50
1843	Navy pensions, not included in the table in finance report	Plus	R. and Ex., p. 214	24,603 90
1844	Virginia claims, erroneously entered as pensions in the table in finance report	Minus ..	R. and Ex., p. 226	18,404 78
1844	Navy pensions, not included in the table in finance report	Plus	R. and Ex., p. 252	13,837 70
1844	Typographical error in the table in finance report	Minus ..		7,000 00
1845	Virginia claims, erroneously entered as pensions in the table in finance report	...do	R. and Ex., p. 286	33,861 47
1845	Arrearages prior to 1815 and 1817, erroneously entered as pensions in the table in finance report	...do	R. and Ex., p. 286	1,920 82
1845	Navy pensions, not included in the table in finance report	Plus	R. and Ex., p. 306	135,743 21
1846	Virginia claims, erroneously entered as pensions in the table in finance report	Minus ..	R. and Ex., p. 270	26,731 45
1846	Arrearages prior to 1815, erroneously entered as pensions in the table in finance report	...do	R. and Ex., p. 270	1,357 94
1846	Navy pensions, not included in the table in finance report	Plus	R. and Ex., p. 286	122,327 25
1847	Virginia claims, erroneously entered as pensions in the table in finance report	Minus ..	R. and Ex., p. 298	23,160 08
1847	Arrearages prior to 1815, erroneously entered as pensions in the table in finance report	...do	R. and Ex., p. 295	2,062 78
1847	Navy pensions, not included in the table in finance report	Plus	R. and Ex., p. 318	117,463 08
1848	Virginia claims, erroneously entered as pensions in the table in finance report	Minus ..	R. and Ex., p. 270	26,906 01
1848	Arrearages prior to 1815, erroneously entered as pensions in the table in finance report	...do	R. and Ex., p. 270	1,197 18
1848	Typographical error in the table in finance report	...do		1,000 00
1848	Navy pensions, not included in the table in finance report	Plus	R. and Ex., p. 284	91,447 07
1849	Virginia claims, erroneously entered as pensions in finance report	Minus ..	R. and Ex., pp. 280, 296	80,906 69
1849	Repayment to Virginia of money paid by her to revolutionary officers and soldiers for half-pay, &c., erroneously entered as pensions in the table in finance report	...do	R. and Ex., p. 280	77,216 28
1849	Navy pensions, not included in the table in finance report	Plus	R. and Ex., p. 308	75,536 00
1850	Virginia claims, erroneously entered as pensions in finance report	Minus ..	R. and Ex., p. 254	244,500 61
1851		...do	R. and Ex., p. 258	66,807 91
1852		...do	R. and Ex., p. 230	18,986 78
1853		...do	R. and Ex., p. 476	20,043 75
1854		...do	R. and Ex., p. 552	296 99
1853		...do	R. and Ex., p. 590	4,013 00
1857	Navy pension fund, not included in the table in finance report	Plus	R. and Ex., p. 595	1,264 77
1861	Navy pension fund, not included in the table in finance report, (repayments in excess of expenditures)	Minus ..	R. and Ex., p. 464	1,831 51
1864	Error in the table of pensions in finance report	...do	R. and Ex., p. 277	200 01
1865	Navy pensions, not included in the table in finance report, (repayments in excess of expenditures)	...do	R. and Ex., p. 328	9,466 19
1868	Navy pension fund, not included in the table in finance report, (repayments in excess of expenditures)	...do	R. and Ex., p. 360	535,767 51
1869	Navy pension fund, not included in the table in finance report	Plus	R. and Ex., p. 388	192,391 60
1870	Error in the table in finance report, caused by adding "Pay of superintendents and Indian agents" to pension expenditures	Minus ..	R. and Ex., p. xxxv	58,729 09
1870	Navy pension fund, not included in the table in finance report, (repayments in excess of expenditures)	.. do	R. and Ex., p. 380	420,000 00
1871		...do	R. and Ex., p. 462	419,762 13
1872		...do	R. and Ex., p. 484	490,893 60
1873		...do		194,279 99
1874	Navy pension fund, not included in the table in finance report	Plus		73,772 56
1875	Relief of heirs of Mary B. Belfield, erroneously entered as pensions in finance report	Minus ..		173 33
1875	Difference in outstanding warrants	...do		70 30
1875	Navy pension fund, not included in the table in finance report	Plus		96,163 53
1876	Difference in outstanding warrants	Minus ..		36 08
1876	Navy pension fund, not included in the table in finance report	Plus		44,937 14

Mr. DAVIS, of West Virginia. On page 195 of the testimony will be found a table in regard to pensions. It will be found that between 1860 and 1876 each year's pensions are given, the amount paid, and the difference between the statement of the Secretary of the Interior of the amount of money that he receives and the amount the Secretary of the Treasury says he charged him. The Treasury Department charges $321,623,678.60, and the Interior Department admits the receipt of $310,239,274.80. In other words, the Treasury Department has the Pension Office charged with $11,384,403.74 more than the Interior Department says it received. The table is on page 195. It will be found that the accounts between the Departments do not agree by eleven or twelve million dollars, and that the Secretary of the Treasury says they received from him or he has them charged with between eleven and twelve million dollars more than they say they received and paid out for pensions.

Mr. INGALLLS. Now, if the Senator from West Virginia is through on that point, I would call the attention of the Senator to the fact that in each one of those years in the table to which I have referred, there is a statement as to how these discrepancies occurred, showing that in some years the Navy pension fund was included and in others excluded.

Mr. DAVIS, of West Virginia. The Senator from Kansas will understand that this is now not so much a question of accounting for discrepancies as the fact of the difference between the two Secretaries.

Mr. INGALLS. The Senator from West Virginia appears to be incapable of understanding the fact that these two statements of accounts in these different offices never can appear to be identically the same. Although they deal with the same subject, they do not deal with it identically from the same stand-point. I should be glad if we could reach some understanding on that subject, and I state again that in every one of those years to which that table refers there is an explanation of the differences between the statements of account as contained in the books of the Secretary of the Treasury and the books of the Secretary of the Interior.

Mr. DAVIS, of West Virginia. Now, the Senator knows that in the Treasury Department the last warrant belonging to the year or quarter is numbered and each Department is notified of its number, and therefore the same warrant and the same account ends on the year or ends on the quarter and they ought to agree, as I submit. The Secretary of the Treasury originates all warrants, and the last warrant issued in this quarter or this fiscal year is notified by number to all the rest of the officers and they all stop when they get to that. Therefore the books ought always to agree, no matter when that comes in.

Mr. President, I was about concluding my remarks. I shall do so in a few minutes.

No good, substantial, or satisfactory reason has been given by the Treasury Department or the minority of the committee for the following:

First. Why the order to Register Allison was issued in 1871 to change his official tabulated statement in the finance reports, going back thirty or forty years.

Second. Why the new mode or system of stating the public debt, apparently largely increasing the debt in 1870, was adopted.

Third. Why six to seven millions of dollars *not on the books* were added to the public debt in 1871.

Fourth. Why statements which had been officially made to Congress for many years were in 1870 restated at different amounts, and apparently largely increased the receipts, expenditures, and public debt.

Fifth. Why the bonds issued to the Pacific Railroad companies amounting to more than $58,000,000, were in 1870 dropped from the statement of the public debt, and why the statement of the public debt in 1869 failed to show a decrease corresponding to the amount of these bonds.

Sixth. Why thousands of scratches and alterations, and missing or mutilated leaves, appear in the ledgers of the Treasury Department between 1860 and 1870, when the books are comparatively clean since and before.

Seventh. Why scratches and alterations appear on the appropriation warrant of 1869, or why the appropriation warrants of 1868 and 1870, and a number of other warrants, should have been missing for years from the files of the Register of the Treasury.

Eighth. Why the reports of the cash in the Treasury, the interest paid on the public debt, or the sinking fund, do not agree by many millions of dollars.

Ninth. Why the Treasurer's report, between 1860 and 1870, of the receipts and expenditures differs largely from the reports of the Secretary and Register.

Tenth. And why the charges on the books of the Treasury Department of sums received by the other Departments do not agree by millions with the books of the Department so charged.

Eleventh. Why, in 1870 the public-debt receipts and expenditures previously officially reported to Congress, and accepted as correct, were restated or altered, largely increasing the amounts.

The majority and minority reports substantially agree upon all the leading facts stated.

Now, Mr. President, as there is no objection, and I do not wish to prolong the debate, I will ask that the resolutions of the committee which I believe we were very unanimous upon may be read so that they may be acted upon and that the information asked from the Department may be given by the next session of Congress.

The PRESIDING OFFICER, (Mr. CAMERON, of Wisconsin, in the chair.) The resolutions will be reported.

Mr. INGALLS. Before the Senate acts upon those resolutions, I will ask the Senator from West Virginia to answer me a question which, considering the magnitude of this subject and its importance to the country as affecting the public faith and the national credit, I think he ought to answer. This committee conducted its operations over a period of two years and a half. It had unlimited authority to examine into all matters affecting the Treasury accounts under the resolution. It found certain alleged irregularities and discrepancies which, so far as the minority of the committee are concerned, it is believed were satisfactorily accounted for and explained. My question to the Senator from West Virginia, as the chairman of that committee, is this: Does he believe, from the evidence taken before the committee, that there has been a single dollar of the public money misappropriated, or misapplied, or corruptly diverted from its proper function, in connection with any of these matters concerning which testimony has been taken? I ask him whether he believes it in view of the testimony that was taken?

Mr. DAVIS, of West Virginia. I say to the Senator that I have stated the facts to the country, and the country can draw its own conclusions. I have made no charges one way or the other. The facts are as I have stated them. It would be impossible, if I desired, to answer the question knowingly and directly. I cannot tell whether these things have been corruptly done or not; I make no charge of that kind; but I do say that the restatement of these accounts makes large differences, and there are a great many alterations on the books.

Mr. INGALLS. I ask the Senator whether the evidence taken before the committee convinced him that there was any corrupt misappropriation of the public funds in connection with these transactions concerning which this testimony was taken?

Mr. DAVIS, of West Virginia. Let me answer the Senator, for I desire to be frank and fair. The testimony of the chief clerk of the Treasury Department at present, and of the chief clerk at the time these alterations took place, shows that it would take seven or eight clerks four or five years to examine into the details of the Treasury between 1860 and 1870. Your committee had two clerks, and, as the Senator has stated, were engaged two years and a half. It was impossible, if we had desired to make the examination, to go into details and to know whether there were frauds or not. I do not know that; I cannot answer the question. I will say to the Senator further that no such testimony was taken, no question of that kind was asked of any one that I know of. My recollection is now, and I appeal to my colleague on the committee, the Senator from Maryland, [Mr. WHYTE,] that there was no question leading to the points the Senator has asked put by the majority of the committee in any form or manner. I stated when the report was previously under discussion that no testimony looking to fraud had been taken, that no question had been asked by the majority of the committee in that direction. We were appointed for the purpose of examining whether or not there were apparent alterations, scratches, and erasures upon the accounts or the books, and not to look into frauds.

Mr. INGALLS. What impression does the evidence leave on the mind of the Senator from West Virginia as to the occasion of that change in the statement of the accounts or the cause of the admitted erasures and alterations on the books? Does he believe that they were innocent or that they were fraudulent?

Mr. DAVIS, of West Virginia. The Senator will excuse me from expressing a belief on that.

Mr. INGALLS. Has the Senator any conviction on the subject?

Mr. DAVIS, of West Virginia. The Senator will excuse me from expressing any. I will say to the Senator that no question was asked and no effort was made to prove fraud.

Mr. INGALLS. Why not?

Mr. DAVIS, of West Virginia. That is another question, Why not?

Mr. INGALLS. Does not the Senator believe that if there was fraud, if there was a corrupt mutilation of the books of the Treasury, the committee ought to have inquired into it? Now, I ask the Senator again if he will state whether there was any evidence taken before that committee that tended to show that these changes in the statements of the public debt and these alterations on the books of accounts in the Treasury were in any particular whatever fraudulent or corrupt?

Mr. DAVIS, of West Virginia. I would say that the debt now appears much larger than it did in the years named by myself. In a single year, the year 1864, it is $75,000,000 larger on the statement which appears on the official report to-day than it appeared that year. I said to my friend just now that the testimony of the chief clerk in the Treasury Department was that it would take seven or eight clerks four or five years to go through the details and make a correct statement and see whether frauds had been committed or not, or whether any moneys had improperly gone out of the Treasury. The Senator knows that the committee made no effort in that line, and I can make no answer as to my belief.

Mr. INGALLS. The Senator can inform the country whether any fraud was disclosed or not.

Mr. DAVIS, of West Virginia. I said to the country that no question was asked in that line that I know of by any one of the committee.

Mr. INGALLS. But was any fraud disclosed? Whether the ques-

tion was asked or not, was there any fraud disclosed in any of the testimony taken before the committee?

Mr. DAVIS, of West Virginia. I have stated that no question was asked, no effort made in that direction, and I deem it proper to say that so far as the erasures and alterations appear on the books they are very numerous and appear to be very large, and the debt appears to have been increased very largely in different years, as the Senator knows; the accounts of the different Departments do not agree with one another. The Secretary's, the Register's, the Treasurer's accounts do not agree, when you compare them, by hundreds of millions of dollars. It would be impossible to tell whether there had been anything wrong without going into the details and seeing what made up all these accounts.

Now take the Treasurer's reports, take the Secretary's reports, take the Comptroller's reports, and you will find between 1860 and 1870 that the Treasurer's accounts of receipts were $331,000,000 more than either of the others had charged him with; and he accounts for the expenditure of $330,000,000 of that sum. Therefore they are not a check on each other. They differ widely as the Senator knows. Take the interest paid on the public debt, take the total of net expenditures, or any other item, the expenditures of the War Department, the Navy Department, the expenses of pensions, and compare the books one with another in the different offices, and they do not agree. Unless you go down and examine for four or five years and engage seven or eight clerks it will be impossible to tell what the meaning of these alterations was.

Mr. INGALLS. Now that the Senator has concluded, I wish he would again, if he can, give me an answer to my question. Of course I do not expect that he can say whether there was fraud or whether there was incorrect conduct on the part of the officials of the Treasury; but the question I asked him was not that question. I asked him whether the evidence that was taken, so far as it went, disclosed any fraud on the part of the officials of the Treasury or any misappropriation of the public funds.

Mr. DAVIS, of West Virginia. I will answer my friend (as he appears to press that question greatly) in this way, that there were very large differences in the accounts——

Mr. INGALLS. The Senator has said that a thousand times.

Mr. DAVIS, of West Virginia. That is the only answer the Senator can get from me. He can get no other if he keeps asking from now until to-morrow morning. It is a question the committee did not examine. It is a question it would be impossible to answer without four or five years' examination by seven or eight clerks, as the chief clerk of the Department has said.

Mr. INGALLS. The Senator can answer as far as we did go with our two and a half years and four clerks, whether there was any fraud disclosed.

Mr. DAVIS, of West Virginia. Did the Senator say four clerks?

Mr. INGALLS Yes.

Mr. DAVIS, of West Virginia. What does the Senator mean by that?

Mr. INGALLS. I meant what I said.

Mr. DAVIS, of West Virginia. That we had four clerks?

Mr. INGALLS. Yes, sir.

Mr. DAVIS, of West Virginia. We had at no time more than two.

Mr. INGALLS. I did not say that. I said we had the service of four clerks.

Mr. DAVIS, of West Virginia. One month when one was sick we got another in his place. The committee had but two clerks.

Mr. INGALLS. We had four clerks.

Mr. DAVIS, of West Virginia. Four individually, but never more than two at the same time.

Mr. INGALLS. We do not differ about that. Now I ask the Senator to say whether as far as we went with two and a half years of labor and the services of four clerks, any fraud was disclosed in regard to these matters before the termination of our labors?

Mr. DAVIS, of West Virginia. A great many alterations and apparent changes were disclosed. What they meant I am not able to say.

Mr. INGALLS. Mr. President——

TITLES AT HOT SPRINGS.

Mr. McDONALD. I rise to a privileged question, the report of a committee of conference.

The PRESIDING OFFICER, (Mr. CAMERON, of Wisconsin, in the chair.) The Senator from Indiana makes a report from a committee of conference, which will be read.

The Chief Clerk read as follows:

The committee of conference on the part of the Senate and the committee of conference on the part of the House appointed to take into consideration the points of disagreements between the Senate and the House with respect to the Senate amendments to House bill No. 4244, entitled "An act for the establishment of titles in Hot Springs, and for other purposes," have had the same under consideration, and make the following report:

They recommend that section 1 of said amendment be amended by striking out "12," in line 8, and inserting "18," and by striking out "50," in line 14, and inserting "40," and that said section, so amended, be concurred in.

Also that section 2 be amended by inserting in line 1, after the word "certificate," the following:

"Except certificate No. 162, issued to Samuel H. Stilt, De Witt C. Rugg, and Samuel W. Fordyce, for $22,000, which exceptions shall not prejudice the rights of the United States or the holders of said certificate."

Also add to the end of section 6 the following:

"*Provided, however*, That nothing in this act shall be so construed as to impair the rights or equities conferred upon claimants to said land by an act of Congress approved March 3, 1877, and an act approved December 16, 1878, in relation to the Hot Springs reservation, in the State of Arkansas."

J. E. McDONALD,
N. BOOTH,
J. D. WALKER,
Managers on the part of the Senate.
P. DUNN,
THOS. RYON,
Managers on the part of the House.

Mr. McDONALD. I move that the report be concurred in.

The report was concurred in.

TREASURY ACCOUNTS.

The PRESIDING OFFICER. The report of the Select Committee on the Treasury Accounts is before the Senate.

Mr. INGALLS. Mr. President, it is very important that the country should know whether the discrepancies that have long been admitted to exist in the statements of the public debt were innocent or fraudulent in their origin. The Senator from West Virginia has said, with persistent and invincible evasion at every point in declining to answer the question whether there was any evidence of fraud or not in the testimony taken before this committee, that the committee did not go into the question of fraud. Now, will he answer me this question: Why did the committee not go into the question whether there had been fraud or not in these changes?

Mr. DAVIS, of West Virginia. I said to the Senator twice that the present chief clerk of the Treasury Department and the former chief clerk, who was there at the time these changes and alterations were made, both testified that it would take four or five years with seven or eight clerks to go through the details, and it was impossible for two clerks in two years and a half to do what each of those officials stated would take four or five years with seven or eight clerks. They had to take and did take from the face of the books as they appeared the facts. Those facts show that there were very large and great differences in all the Departments.

Mr. INGALLS. What does the Senator think those differences are from?

Mr. DAVIS, of West Virginia. The books further show that there were thousands of apparent alterations and scratches and several leaves gone from the books. They also show that the scratches and apparent alterations were so numerous in the day-books or blotters that the committee did not undertake to count them. They only counted those in seven or eight of the principal ledgers. They also show that when two of the bureaus were compared none of them agreed. The only way the committee or anybody else could have told all the facts was by having four or five years with seven or eight clerks to do it, and it cannot be told until that careful examination is gone through. The testimony is that the alterations that were made were done principally by a new clerk in four or five months instead of four or five years. The alterations were numerous and great, as the Senator has said and as the minority report admits, and until a careful examination has been made I do not wish, nor can I nor will I say there was fraud. I express no opinion upon that, but I do say that it may be that some day or other there may be a change in administration, when there will be a fairer opportunity of examining than at present.

I want to state just here that I believe the proper amount of the public debt is now shown. I believe the books are now kept very well indeed. The system there now is much more perfect than it was from 1860 to 1870. I think it is much less liable to error or change now than it was then.

Mr. INGALLS. Take the report of 1871, where the discrepancy the Senator has referred to, amounting to about $116,000,000, appears: does the Senator think that that apparent discrepancy arose from a difference in statement of the accounts of the Treasury, or that it arose from any improper attempt to cover up defalcations or wrongdoing on the part of the officers?

Mr. DAVIS, of West Virginia. That $116,000,000 I have stated to the Senator once or twice was explained to a very considerable extent satisfactorily. I have made no point on that; but I have made a point several times, which the Senator avoids and has not said a word about yet, that bonds to the extent of $123,000,000 were paid for, according to the Treasurer, in 1870, and when we come to deduct that from the public debt six millions are missing. A witness states that six or seven millions were added to the public-debt statement for the purpose of making it harmonize. This committee could not and did not go through the whole examination to see just where these things occurred or why it was that they did occur. Certainly they are so, and the Senator must admit it.

Mr. INGALLS. Mr. President, at the instance of the Senator from West Virginia, compilations of the appropriations and expenditures of the different Departments of the Government from its foundation down to 1876 were called for and four of them have been transmitted, one of them relating to the expenditures of the Army and Navy pension fund, which I have already incorporated in my remarks; the other three are the appropriations and expenditures of the Department of State, of the Navy Department, and in the District of Columbia. Added to each one of these aggregate statements is an appendix containing an explanation of the differences from year to year, by which it appears that in every instance those differences and discrepancies are satisfactorily accounted for, and that they had an innocent origin, leaving the inference, as it appears to me, irresistible, that when we obtain the other statements we shall find a similar condition of affairs to exist. I will not trouble the Senate to read, but will

ask to have added to my remarks the appendices showing the occasion of these differences annually in the three Departments to which I have referred, the Department of State, the Navy Department, and in the District of Columbia. The statements are as follows:

Appropriations and expenditures of the Department of State.

APPENDIX.—*Explanation of differences.*

In making a comparison of the annual net expenditures on account of foreign intercourse, as shown by the table on pages 102 and 103, and the table in the finance report for 1876, pages 600 and 602, several differences appear, the causes of which are as follows:

Year.	Causes of difference.	Reference.	Amount.
1802	Repayment in excess of expenditures,	R. and Ex., p. 15	$249 09
1803	Repayment in excess of expenditures,	R. and Ex., p. 15	62,243 15
1804	Repayment in excess of expenditures,	R. and Ex., p. 14	79,063 86
1804	Repayments "for public property sold,"	R. and Ex., p. 14	1,403 51
1806	Repayment in excess of expenditures,	R. and Ex., p. 14	160 00
1810	Repayment in excess of expenditures,	R. and Ex., p. 15	900 69
1814	Repayment in excess of expenditures,	R. and Ex., p. 16	341 67
1816	Repayment in excess of expenditures,	R. and Ex., p. 15	3,614 65
1822	Repayments in excess of expenditures, Entered as receipts and credited appropriation account	R. and Ex., p. 12	1,025 00
1826	Repayments in excess of expenditures,	R. and Ex., p. 13	327 45
1827	Repayment in excess of expenditures,	R. and Ex., p. 12	85 00
1829	Repayments in excess of expenditures,	R. and Ex., p. 8	2,902 89
1830	Repayment in excess of expenditures,	R. and Ex., p. 8	98 49
1835	Repayment in excess of expenditures,	R. and Ex., p. 9	302 21
1837	Repayment in excess of expenditures,	R. and Ex., p. 8	150 28
1838	Repayment in excess of expenditures,	R. and Ex., p. 8	103 92
1839	Repayments in excess of expenditures,	R. and Ex., p. 11	1,208 34
1842	Typographical error in table of expenditures in finance report for 1876	Page 600	90 00
1843	Repayment in excess of expenditures, Entered as receipts and credited to appropriation account	R. and Ex., p. 9	500 00
1845	Repayment in excess of expenditures,	R. and Ex., p. 18	67 38
1861	Typographical error in table of expenditures in finance report for 1876	Page 600	100 00
1864	Preparing maps of boundaries, &c., included in civil-list expenditures	R. and Ex., p. 242	3,000 00
1864	Expenses under *habeas corpus* act, Included in miscellaneous expenditures	R. and Ex., p. 266	6,100 00
1865	Expenses under *habeas corpus* act,	R. and Ex., p. 308	3,000 00
1866	Expenses under *habeas corpus* act,	R. and Ex., p. 376	21,350 00
1867	Expenses under *habeas corpus* act,	R. and Ex., p. 358	5,000 00
1869	Purchase of Alaska, included in civil-list expenditures	R. and Ex., p. 322	7,200,000 00
1871	Outstanding warrant, relief of N. P. Trist	R. and Ex., p. 420	14,559 90
1874	Geneva award, included in miscellaneous expenses in finance report for 1876	Page 602	15,500,000 00
1874	Difference in classification between "Inquiries into depredations on Texan frontier," (page 93, *ante*,) included in "Miscellaneous expenses," in finance report for 1876, and "Relief of W. H. Vesey," (page 38, *ante*).	Page 602	533 43
1875	Difference in outstanding warrants		418 75
1876	Difference in outstanding warrants		1,265 35
1876	Judgments of court of Alabama claims, included in miscellaneous expenses in finance report for 1876	Page 602	6,438,071 44

Appropriations and expenditures of the Navy Department.

APPENDIX.—*Explanation of differences.*

In making a comparison of the annual net expenditures on account of the Navy Department, as shown by the table on pages 156 and 157, and the table in the finance report for 1876, pages 600 and 602, several differences appear, the causes of which are as follows:

Year.	Causes of difference.	Reference.	Amount.
1791	Expenses of revenue-cutters	R. and Ex., p. 45	$570 00
1792		R. and Ex., p. 44	53 02
1799		R. and Ex., p. 48	10,000 00
1822	Survey of the coast, $430.38, excess of repayments	R. and Ex., p. 123	430 38
1823	Survey of the coast	R. and Ex., p. 191	1,739 50
1824		R. and Ex., p. 199	4,375 19
1825		R. and Ex., pp. 208, 209	1,972 39
1826		R. and Ex., p. 167	1,299 43
1827		R. and Ex., p. 170	4,078 43
1828	Survey of the coast, $1,114.87; breakwater, $6,000	R. and Ex., pp. 174, 176, 199	7,114 87
1828	Navy hospital fund, heretofore classified as miscellaneous civil	R. and Ex., p. 79	46,217 14
1829	Survey of the coast, $34.07; breakwater, $7,872; pensions, $15,524.83, excess of repayments	R. and Ex., pp. 129, 131, 132	7,617 76
1829	Navy hospital fund, heretofore classified as miscellaneous civil	R. and Ex., p. 27	125,000 00
1830	Survey of the coast, $98.27, excess of repayments; pensions, $6,146.95, excess of repayments	R. and Ex., pp. 114, 117, 118	6,245 22
1831	Pensions, excess of repayments	R. and Ex., pp. 141, 142	138,733 83
1832	Survey of the coast, $6,802.67; pensions $159,055.65	R. and Ex., pp. 135–137	165,858 32
1833	Survey of the coast, $1,217.99; pensions, $599.01	R. and Ex., pp. 155, 156	1,817 00
1834	Survey of the coast, $23,939.96; pensions, $894.35, excess of repayments	R. and Ex., pp. 140, 141, 142, 148	23,065 61
1835	Survey of the coast, $34,386.60; pensions, $8,089.91, excess of repayments	R. and Ex., pp. 147, 148, 152	26,296 69
1836	Survey of the coast, $2,801.25, excess of repayments; pensions, $6,954.98	R. and Ex., pp. 161, 162	4,153 73
1837	Survey of the coast, $5,570; pensions, $198,732.15, excess of repayments	R. and Ex., pp. 178, 179	193,162 15
1838	Survey of the coast, $166.50; pensions, $190,198.59	R. and Ex., p. 185	190,365 09
1839	Survey of the coast, $1,500; pensions, $11,081.75, excess of repayments	R. and Ex., pp. 202, 204	9,581 75
1840	Survey of the coast, $1,196.78; pensions, $21,151.56; statue of Washington, $2,000	R. and Ex., pp. 173–175, 178	24,348 34
1841	Survey of the coast, $5 699.15; pensions, $117,057.84; statue of Washington, $990.74	R. and Ex., pp. 192, 193, 194, 197	123,747 73
1842	Survey of the coast, $15,270.67; pensions, $104,995.09; statue of Washington, $4,000	R. and Ex., pp. 184, 185, 186, 189	124,265 76
1843	Survey of the coast, $3,923.53; pensions, $24,603.90	R. and Ex., pp. 146, 147, 148, 152	28,527 43
1844	Survey of the coast, $2,840.97; pensions, $13,837.70	R. and Ex., pp. 181, 182	16,678 67
1845	Survey of the coast, $4,129.95, excess of repayments; pensions, $135,742.21; grading University Square in Washington, $12,500	R. and Ex., pp. 231, 232, 233, 234	144,112 26
1846	Survey of the coast, $46.97, excess of repayments, pensions, $122,327.25	R. and Ex., pp. 212, 213, 214	122,280 28
1847	Pensions	R. and Ex., pp. 227, 228, 229, 230	117,463 08
1848	Pensions	R. and Ex., pp. 215, 216, 217, 218	91,447 07
1849	Survey of the coast, $3,497.32; transportation of mails, $681,500; pensions, $75,536; grading University Square in Washington, $10,043.77	R. and Ex., pp. 224, 226, 227	770,577 09
1850	Survey of the coast, $297.45; transportation of mails, $188.569.45	R. and Ex., p. 204	188,866 90
1851	Survey of the coast, $275.23; transportation of mails, $1,302,365.09	R. and Ex., p. 196	1,302,640 32
1852	Transportation of mails	R. and Ex., p. 167	944,062 02
1853	Transportation of mails, $1,564,933,61; survey of the coast, $2,926.54	R. and Ex., pp. 342, 348	1,567,860 15
1854	Transportation of mails	R. and Ex., p. 425	1,534,769 14
1955	Transportation of mails, $1,170,035.19; survey of the coast, $719.77, excess of repayments	R. and Ex., pp. 421, 430	1,169,315 42
1856	Transportation of mails, $1,399,284.87; survey of the coast, $348.18	R. and Ex., p. 411	1,399,633 05
1857	Transportation of mails	R. and Ex., p. 437	1,059,866 67
1858		R. and Ex., p. 394	885,322 20
1859		R. and Ex., p. 373	457,985 91
1860		R. and Ex., p. 332	196,154 09
1762	Typographical error in table in finance report	Finance Report, p. 601	100 00
1868	Pensions, excess of repayments	R. and Ex., p. 274	535,767 51
1869	Pensions	R. and Ex., p. 270	192,391 60
1870	Pensions, excess of repayments	R. and Ex., p. 293	420,000 00
1871		R. and Ex., p. 344	419,762 13
1872		R. and Ex., p. 345	490,893 60
1873			191,279 99
1874	Pensions		73,772 56
1875	Pensions, $96,163.53; difference in outstanding warrants, $1,407.31		97,570 84
1876	Pensions, $44,937.14; difference in outstanding warrants, $1,598.01		43,339 13

Appropriations and Expenditures in the District of Columbia.

RECEIPTS ON ACCOUNT OF THE DISTRICT OF COLUMBIA.

Copyright fees (section 92, act July 8, 1870; 16 Statutes, 213:)

1871	$7,280 01	1874	$14,413 91
1872	11,673 16	1875	12,426 64
1873	12,317 39	1876	12,495 00
Total			70,606 11

From money bequeathed by the late James Hamilton, of Carlisle, Pennsylvania, to the Smithsonian fund:

1874	$1,000 00

Letters-patent fees (act February 21, 1793; 1 Statutes, 318:)

1793	$660 00	1815	$5,850 00
1794	570 00	1816	5,760 00
1795	600 00	1817	4,680 00
1796	1,380 00	1818	4,740 00
1797	1,470 00	1819	3,060 00
1798	870 00	1820	3,720 00
1799	1,260 00	1821	4,770 00
1800	1,230 00	1822	6,900 00
1801	1,410 00	1823	4,740 00
1802	2,100 00	1824	6,270 00
1803	2,910 00	1825	8,940 00
1804	2,670 00	1826	9,420 00
1805	1,710 00	1827	10,560 00
1806	2,400 00	1828	10,860 00
1807	2,850 00	1829	12,990 00
1808	4,860 00	1830	16,350 00
1809	6,690 00	1831	17,280 00
1810	6,660 00	1832	14,160 00
1811	6,810 00	1833	17,730 00
1812	6,660 00	1834	23,160 00
1813	5,880 00	1835	28,320 00
1814	6,090 00	1836	17,100 00
Total			304,200 00

Patent fund (act July 4, 1836, 5 Statutes, 117; act March 2, 1861, 12 Statutes, 246:)

1836	$14,579 58	1857	$212,753 39
1837	28,901 08	1858	185,086 93
1838	41,490 45	1859	228,962 89
1839	39,061 95	1860	246,546 99
1840	38,405 39	1861	213,198 16
1841	33,938 76	1862	161,227 81
1842	35,670 96	1863	170 946 73
1843	16,390 40	1864	217,839 64
1844	39,145 19	1865	279,970 50
1845	48,472 44	1866	411,118 56
1846	53,178 14	1867	568,688 29
1847	54,749 07	1868	694,505 11
1848	66,609 53	1869	714,801 18
1849	74,777 41	1870	682,717 98
1850	87,226 87	1871	620,319 11
1851	94,164 28	1872	708,005 36
1852	95,653 08	1873	693,929 83
1853	122,636 44	1874	714,760 19
1854	121,327 50	1875	728,919 80
1855	145,916 89	1876	785,398 80
1856	183,163 96		
Total			10,675,156 62

Fees for copies furnished by the Patent Office:

1834	$640 52
1835	665 31
1836	1,300 68
Total	2,606 51

Sale of old sash by Commissioner of Patents:

1856	$33 00

NOTE.—Prior to the year 1820, moneys received from the sale of public lots and disbursement of the same do not appear upon the books of the Treasury Department, having been received by the commissioners and their successors in office, and expended by them, under the direction of the President of the United States, by virtue of authority contained in the acts of July 16, 1790, (1 Statutes, 130,) and May 1, 1802, (2 Statutes, 175.)

Mr. ALLISON. I wish to ask the Senator from Kansas a question. It has been intimated by the Senator from West Virginia that some time in the distant future there may be a change of administration, and if so, greater opportunities will present themselves for investigation. I would like to ask the Senator from Kansas or the Senator from West Virginia if any impediment has been thrown in the way of this committee in its efforts to make a thorough and complete investigation of these accounts and books?

Mr. INGALLS. That question is a very pertinent one, and I am glad that the Senator from Iowa has asked it. So far from the interposition of any obstacle, or the attempt to thwart any inquiry, the Secretary of the Treasury afforded the widest and the broadest opportunity and invited the minutest scrutiny; all the books of the Department were thrown open to inspection; and not only that, but the Treasury Department furnished clerks from its own force which were paid for at an expenditure of more than $10,000 to furnish to the committee abstracts and copies from every book that was desired to be inspected, and afforded the widest opportunity for investigation in every Department where it was asked for; and no matter what change of administration there may be—I am very sure it will not be a political change; it may be a personal one—it is obvious to every member of the committee that there never will be an administration that will offer more certain apparent indications of innocence than the administrations that we were called upon to investigate. There was no attempt to cover; there was no attempt to conceal; there was no attempt to evade investigation; but, on the contrary, they offered every opportunity and turned on the light into the most secret recesses of that Department. I may say in addition to that, although the Senator from West Virginia is unwilling to say it, there never was discovered not only any actual or existing fraud but there never was discovered even an intimation of fraud. There never was discovered a single fact that was not susceptible of an explanation upon the theory of the absolute and entire innocence and good faith of every officer of the Government.

Mr. DAWES. Mr. President, I can well understand that the Senate is tired of this subject, and I regret that I am under the necessity of feeling obliged for a few minutes to occupy their valuable time in these closing hours of the session; but whatever time of the Senate has been consumed on this subject I think that this side of the Chamber, and those who have participated in it on this side, are not held responsible.

The Senator from West Virginia seems never to be able to satisfy himself with what he had done in this matter. He continually recurs to it without invitation or provocation. This is the fourth time since I have been a member of this body that the Senator from West Virginia has addressed the Senate at length upon this subject. Intervening he has had a committee appointed at his own suggestion, and at the head of which he has been placed, and two years and a half of incessant labor have been imposed upon that committee. Its results have been submitted to the Senate and printed for the information of the country. Its report was supplemented at the time by a speech from the Senator from West Virginia, and still so dissatisfied has he been with his own work that here in the expiring hours of the Senate he again calls our attention to and rehearses the old matter.

When he made his first speech in the Senate on the subject, the gentleman who was Secretary of the Treasury at the time these transactions occurred was a member of this body, and he answered the Senator upon the spot fully and completely. Not satisfied with that, when that distinguished gentleman (Mr. Boutwell) had left this body, the Senator from West Virginia returned to the subject again, and was answered here and then by the distinguished gentleman who now holds the office of Secretary of the Treasury, (Mr. Sherman.) Then after he had left this body the Senator called it up again and freshly, and got such answers at the time as those familiar with the general subject, but without special experience or knowledge of the matter, were able to give the country. Then came his committee, and after two years and a half, as I have said, came forth his report. Along with it came the answer of such a character that the Senator was unwilling to leave it there, and supplemented the presentation of his report and the answer to it with a new repetition of the old statements which had had their examination and their explanation and their answer laid before the Senate and the country as often as they had been made, and he was then and there answered by the distinguished Senator from Kansas, with such statement as one of the members of that committee was able to give. Five or six weeks he has slept upon these answers and this condition of things. Unwilling to let the session end and the opportunity go without once more coming to the old charge, still harping upon it, the Senator puts himself on the courtesy of the Senate when important means are pending to read here once more what he has repeated over and over again, and has had the answer as many times as he has repeated it.

Sir, why this anxiety, why this intense zeal from one who cannot when upon his feet answer whether he himself believes or has any cause to believe that there is anything wrong in the subject-matter submitted to him and his committee for examination, instructed by the resolution which created the committee to examine and report to this body what were the reasons which induced every matter that he was called upon or has ventured upon arraigning the Treasury Department for? He comes here and says that he did not take one particle of testimony upon the reasons, and not having taken one particle of testimony to show that any official of this Government has committed any wrong upon it, tell me, Mr. President, if you can, why it is that the Senator from West Virginia rolls this charge as a sweet morsel under his tongue the livelong days and weeks and months of this session of Congress and announces to the public as the last of the statements he has made that though he has had two years and a half and every facility and every door open to him, being unable to find one scintilla of evidence that he can produce here, he prays that there is soon to be such a change of administration as will enable him in the future, as he has been unable as he confesses he has been to this moment, to bring forth something evil out of that in which up to this time he has found nothing that he dare call evil.

Sir, there are some things about the subject-matter of this investigation which it amazes me that the Senator from West Virginia has taken no note of. The subject committed to him and his committee was the Treasury accounts of this great nation, covering a period not only the most remarkable in its career but the most remarkable in the career of any nation in history, covering transactions upon a larger scale and more rapid in their operations than are recorded of the transactions of any nation that has a history. During the time covered by this investigation such had been these immense transactions that figures can hardly measure them. One stands appalled at the greatness of these transactions and the wonderful amounts that they embrace.

Upon the table of the Senate is the official report which shows that during this period from 1861 to 1879 these transactions covered the immense sum of more than six thousand million dollars—$6,769,792,509! These were the expenditures of this Government during that time. These expenditures were from a like sum covered into the Treasury

to be expended, so that the accounts which passed into review before the eyes of the Senator from West Virginia cover more than thirteen thousand millions of dollars covered in and disbursed all over this wide country, much of it at points thousands of miles from the eye of accountability here at the Treasury Department. More than ten thousand millions of dollars of this sum were covered and disbursed within the short period of four years of war, internal war such as history nowhere else records in the rapidity of its movements, in the vastness of its operations, and in the amounts which day by day were expended.

Sir, the Senator from West Virginia, it seems to me, ought to have taken note that the account of every dollar of this vast sum is kept in the Treasury Department, so that any man can go there and know where every dollar of it has gone. That is what amazed me, an humble member of that committee. I know that there are books in that Department which were not kept in such artistic taste as to gratify the eye of the Senator from West Virginia. I know that he found blots upon pages of ledgers that would have looked better if they had been kept with the neatness which sometimes is found in the ledgers of counting-houses in large establishments in the great cities, where a clerk at night runs off sometimes with all the operations of months, and yet leaves to gratify the eye books as perfect as art can make them.

I know, sir, that while we found three sets of books of double-entry covering identically the same transactions, in the original entries of some of these books at some time before they were balanced a figure had been changed from what it was when it was put there to something else; but what amazed me was that all these books covering these grand transactions balanced once each month, and all balanced with each other once in three months, covering the whole of this period of eighteen years and these grand totals that measured more than any transactions in the world ever called for the use of figures like these to measure; that there was not a figure upon a book of the Treasury Department that was not there just exactly as we found it when the book was balanced at the end of each month; that there was not an entry which indicated that it had been changed; that there was not a warrant which covered a penny into the Treasury that, when compared with the amount that dropped into the Treasury under its authority, did not agree; that there was not a warrant which authorized the payment of a penny from the Treasury that did not agree to a penny with the amount which had actually been paid out; that no figure about the public debt had ever been changed one iota; that no figure about balances had been altered one penny.

But because the Secretary of the Treasury in 1870 and 1871 stated what he believed the actual amount of the public debt at that time, and his statement did not agree with but differed from the statement which another Secretary had made at another time, notwithstanding the Secretary told you that the reason his differed from the other was because he put items into his sum of the public debt from books of the Treasury Department which the other man did not, and explained his reasons for so doing, the Senator from West Virginia, refusing to answer here frankly what his own belief is about the necessity of it, contents himself, as a public man dealing with the credit of this nation, with saying, "I state these facts; I leave everybody to draw his inferences; I was charged myself to draw an inference, and I spent two years and a half drawing it, and I cannot draw it at last, and will only hope in the providence of God that a change of administration will give me strength and courage to draw it hereafter!"

Sir, is not the Treasury Department entitled at the hands of the Senator from West Virginia to his opinion upon its honesty when charged upon his own motion to inquire as to that fact? If he has found nothing the Treasury Department is entitled to a fair and frank statement of that fact, and not to this picking up of little things, not to this concentration of his great mind upon specks and blots and scratches that he cannot explain and which he has no evidence but that they are perfectly honest and fair. Somewhere, sir, (I cannot tell just now where,) I have read of a class of people denominated pickers-up of bird-seed. I hope none of them are here in this body. I hope that this great nation and its grand operations are to be taken care of and administered and passed upon by a different order of talent.

Now, sir, the whole arraignment of the Treasury Department has been made. The answer to it has been laid before the Senate, and the public and the Treasury Department are willing to abide by that judgment which holds the balance evenly and fairly, and are willing to take that verdict; but the eyes into which whatever of it passes through the distorted media of colored gangrene will seek in vain to find anything to hold up to the gaze of the public in the Treasury Department since 1861 that calls for commendation.

I submit to my good friend from West Virginia to give over this subject, to look for something grander and better in the coming administration, into whosoever hands this Government may fall on the 4th of March next, than the continuation of a proceeding of the character of this which we have witnessed here in the last two years and a half.

Mr. WHYTE. Mr. President, before this subject passes away I should like to say one word. I went upon this committee of Treasury accounts somewhat impressed with the idea from what I had heard of the manner in which the accounts had been kept according to the theory of Alexander Hamilton and the other financiers of the past time who had presided over the destinies of that Department, that I was to find a set of books kept in a scientific and artistic manner. I presumed that the Register of the Treasury, who was the official book-keeper of the Government, had upon his books an accurate statement of the issues and redemptions of the public debt, of the receipts and the expenditures of the public money. I had been taught myself at home in the establishment of the treasury department of my own State in 1851, which had come from the hand of Louis McLane, that it was based upon the accurate manner in which the books of the Treasury Department at Washington were kept, and I expected to find the same safeguards and protections for the public there which in my own State had been erected through the skill of Mr. McLane. I was shocked, Mr. President, to find such a condition of things in the Treasury Department as an inspection of their books discloses.

The distinguished Senators who acted as the minority of the committee seem to complain greatly because the chairman of the committee will not express his belief that there was wrong perpetrated by somebody in the past, some robbery, some public plunder committed by some of the officials who have heretofore had charge of that Department. It was not necessary for the Senator from West Virginia to express any such opinion. He would have been culpable in the highest degree if he had given utterance to an opinion which had not some evidence upon which it could be based. But he found, and we all found, a condition of things in the Treasury Department not creditable to the financial department of this Government. We found discrepancies between the statements of the public debt made by the Secretary of the Treasury and by the official book-keeper, the Register of the Treasury Department. We found large sums constituting those differences, and we found that, for the purpose of removing from the minds of the foreign people who invest in our bonds doubts as to the accuracy of our accounts, the Secretary of the Treasury, or his chief clerk acting under his authority, ordered and directed the official book-keeper of the Government to change his public statement, to add to it such an item in round numbers, aggregating $6,000,000, for the purpose of assimilating and making agree the statement emanating from his office and the statement emanating from the office proper of the Secretary of the Treasury. We found more than that, that the Register of the Treasury was directed to enter upon the books $6,000,000 as a part of the public debt for which his clerks admitted they knew of no items on the books of the Register's office which justified the entering of that $6,000,000. We found, also, such looseness, such carelessness, such negligence in the condition of public affairs connected with the administration of the financial department as left the entire protection of this people in the issue of bonds and in the issue of Treasury notes to the honesty and integrity of the officials.

Mr. President, I know that we are at the close of the session and that gentlemen are anxious to dispose of other matters of business; but I cannot leave my colleague on the committee, the Senator from West Virginia, without bearing testimony to the condition of things of which he has spoken; and I will say further that when he declined here on this floor to charge impropriety of conduct against the officers, merely stating the facts, which he has not stated in the slightest degree of exaggeration, to the letter as they exist in regard to these discrepancies in the statement of the public debt, in regard to the erasures and alterations upon the books, upon the ledgers of the finance department, discreditable to a corner grocery, I felt it due to him to bear witness to the truth of his assertions. Mr. President, he has followed only in the steps of an illustrious predecessor when he has refused to charge crime or wrong against Treasury officials. He has done only what the distinguished Senator from Vermont [Mr. EDMUNDS] did when he examined into the workings of the Printing Bureau in 1869. He found a deficit of $59,000,000 unaccounted for of bonds issued. He made no charge against the Department, but he said that the erasures and alterations upon the books of that Department were such as entitled them to little consideration for accuracy. I hold in my hand his report made to the Senate from the Committee on Retrenchment, in which he makes this statement: that the carelessness and negligence of the conduct of that Department was such that it opened the door to fraud, and if there was no proof of actual fraud before him there was proof of the grossest negligence which might have permitted any fraud to have been committed.

Now, Mr. President, I do not wish to go into the details of these transactions. The reports were before the committee. Some of the discrepancies were explained. The discrepancy of $116,000,000 was in part explained, but there was, to use the language of the witness, an elastic item of $10,000,000 that was not explained—quite an elastic item; $10,000,000 that was left to probability; that was left to conjecture; that if he had time to go through he might be able to explain it in digging up interest unaccounted for and moneys expended in the changes of bonds.

Mr. DAWES. Will the Senator state what that $10,000,000 related to?

Mr. WHYTE. It related to the difference of $116,000,000 in regard to the report of 1871. He only accounted for $106,000,000, and then he said there was an elastic item of $10,000,000 that he had not explained.

Mr. DAWES. Does not the Senator know that it referred to the debt of the Revolution, and that they had not got through with examining it?

Mr. WHYTE. He included the revolutionary debt to make up his

$106,000,000, and included everything that he could rake and scrape, and still that elastic sum of $10,000,000 was unexplained.

Mr. DAWES. Is not his statement contained in a note to his report?

Mr. WHYTE. No, sir; he does not explain it all. He explains it up to the extent of $106,000,000, and then says if he has time hereafter probably he can explain it. Here is his testimony; we will not have any misunderstanding about it.

Mr. DAWES. The Senator has stated it accurately now after I put the question to him. He explained it up to $106,000,000, and said he was in process of examination of the rest.

Mr. WHYTE. I said that he stated the balance of the $10,000,000 to be in the process of examination, and in all probability it was evidently to him an aid to fame.

Mr. DAWES. Then he did not deceive anybody about it; he stated all about it. He said it was very difficult to find out the exact debt of the Revolution which the Government assumed, and that they had sent persons abroad to ascertain what it cost to negotiate it in order to give an accurate history of every dollar of the indebtedness of the Government.

Mr. WHYTE. No, Mr. President. He gave us the accurate statement of the revolutionary debt, and my friend will find it on page 202. He gives the revolutionary debt at $76,000,000. He gives all the items.

Mr. DAWES. I allude to the official report.

Mr. WHYTE. I am alluding to the testimony explanatory of the official report. He gives us items amounting to $106,000,000, and then he says—this is his own language:

And then an elastic item of $10,057,406.41 which was the resulting error from comparison, concerning which, in a note printed in the finance report of 1871, I state "a further investigation of the details will enable a more accurate itemized statement to be made."

That was in 1871, and now he is testifying in 1879 that he has not found it out. He goes on to say:

Q. In your judgment, what did that elastic item represent?
A. It probably represented discount suffered in the placing of loans, errors in calculation made by clerks in settling loans, and transpositions of figures and errors in copying, and a thousand and one little items which would work backwards and forwards in the accounts until finally the difference would have been explained, if I had continued my examination.

There is where he left them. They thought an elastic item of $10,000,000 was not worth explaining to the people of the United States.

Mr. President, we discovered enough to put the people on their guard, and to induce, I trust, Congress to throw around the Treasury Department checks and safeguards to protect the people in the issue of notes and the issue of bonds, so that it will not depend upon the honesty of the official, but he will be protected in his honesty by proper checks which will show that not a dollar is printed that is not rightfully printed, not a dollar issued that is not lawfully put before the people.

Mr. CAMERON, of Wisconsin. I move to postpone the present and all prior orders——

Mr. DAVIS, of West Virginia. This report is before the Senate.

The PRESIDING OFFICER, (Mr. CARPENTER in the chair.) The Chair will state that this debate is out of order. There is no question before the Senate.

Mr. DAVIS, of West Virginia. This report was taken up regularly and the resolutions of the committee are to be acted on.

Mr. CAMERON, of Wisconsin. There is no action to be taken in regard to the report.

Mr. CONKLING. Is not a motion to postpone in order?

Mr. DAVIS, of West Virginia. Certainly.

The PRESIDING OFFICER. The Chair will state his understanding of the matter. The report was called up for the purpose of enabling the Senator from West Virginia to submit remarks, but no motion was made about it.

Mr. DAVIS, of West Virginia. Now, Mr. President——

Mr. CAMERON, of Wisconsin. I have the floor, I believe.

Mr. DAVIS, of West Virginia. Of course the Senator can make his motion and I can speak on the motion. If the idea is to cut off this report when both the majority and the minority wish the resolutions appended to the report acted on, we can speak as long as we please on the motion to postpone. I believe there is no division between the majority and the minority as to the resolutions. They simply ask the Department to give certain information by the meeting of the next session of Congress, and I can see no objection to having them read and adopted.

Mr. CAMERON, of Wisconsin. If the Senator from West Virginia desires to have the resolutions read for the purpose of having action taken upon those resolutions, I certainly have no objection.

Mr. DAVIS, of West Virginia. That is it.

The PRESIDING OFFICER. Does the Senator from West Virginia submit any motion?

Mr. DAVIS, of West Virginia. I have called up the report, and the report contains the resolutions. I now ask the Senate to proceed to consider the resolutions for the purpose of passing them.

The PRESIDING OFFICER. The Senator from West Virginia moves that the Senate proceed to consider the resolutions appended to the report, as the Chair understands.

Mr. DAVIS, of West Virginia. Yes, sir.

Mr. COCKRELL. Let the resolutions be read.

The Chief Clerk read as follows:

Resolved, That a copy of this report be furnished the Secretary of the Treasury, and he be directed to report to the Senate, at the next regular session, whether or not changes could be made in the mode of conducting the business in his Department which would provide additional checks and secure greater safety in the issuing and keeping of public moneys and securities; whether the present system of keeping accounts and books, issuing warrants, and of receiving, keeping, and paying money can be improved; also whether any employés in any bureau or division of the Department can be dispensed with, or transferred to other bureaus or divisions, where additional force may be needed; and generally to submit his views as to what changes will add to the safety of the public moneys and securities, and tend to efficiency, economy, and security, and the general good of the public service.

Resolved, That the Secretaries of State, War, Navy, and Interior Departments, Postmaster-General, and Attorney-General be directed to report to the Senate at its next regular session what changes, if any, of the laws regulating the management of their several Departments, or of the divisions and bureaus thereof, are necessary or would be beneficial in promoting the efficiency or economy of their administration or management; to state what additional guards or checks, if any, would conduce to the greater security of the public money disbursed by any of them, or of the public property and its proceeds which is in their charge. They are directed to set forth the mode in which the accounts for their Departments are kept with the Treasury, and in what mode the present system can be improved, if change is needed, and to state what changes, if any, in the clerical and other force in the various bureaus of the several Departments could be made in the public interest. They are directed generally to furnish the Senate with such information as in their judgment would enable it to pass the necessary laws and regulations to carry out their recommendations.

The PRESIDING OFFICER. Will the Senate proceed to the consideration of these resolutions?

The motion was agreed to.

Mr. DAVIS, of West Virginia. I move that the resolutions be adopted.

The PRESIDING OFFICER. The resolutions are before the Senate, and the question is on agreeing to them.

The resolutions were agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 4244) for the establishment of titles in Hot Springs, and for other purposes.

The message also announced that the House had concurred in the amendments of the Senate to the bill (H. R. No. 1128) for the relief of James M. Ruby.

COMMITTEE CLERKS, PAGES, ETC.

Mr. CAMERON, of Wisconsin. I move to postpone the present and all prior orders; and I will state that if this motion be agreed to by the Senate I will then move to take up the bill (S. No. 231) for the relief of Ben Holladay.

Mr. DAVIS, of West Virginia. Yesterday the Senate passed the joint resolution (H. R. No. 328) in relation to committee clerks, pages, and other employés of the Senate and House of Representatives, the joint resolution giving them thirty days' extra compensation. The Senator from Maine, [Mr. BLAINE,] as I understand, moved to reconsider the vote by which the joint resolution was passed. I appeal to the Senator from Wisconsin, [Mr. CAMERON,] and ask him to allow the question to be taken on that motion before he presses his motion.

Mr. CONKLING. Why not first vote on this bill as the motion is first made? It will not take any longer to consider that afterward.

Mr. BLAINE. I assure the Senator from West Virginia that the matter he has at heart shall not be damaged any by yielding the floor and by not urging his opposition to the Senator from Wisconsin.

Mr. DAVIS, of West Virginia. It is not opposition. It will be recollected that the joint resolution will have to go to the President.

Mr. CONKLING. So has the other.

Mr. DAVIS, of West Virginia. An appropriation has got to be made for money.

Mr. CONKLING. So has the other.

Mr. DAVIS, of Virginia. It ought to be considered.

The PRESIDING OFFICER. The question is on the motion of the Senator from Wisconsin, to postpone the present and all prior orders.

Mr. DAVIS, of West Virginia. Then I move as a substitute——

Mr. CONKLING. That is not in order.

Mr. BLAINE. I think I can clear this up in a moment. A joint resolution came from the House giving to the employés of the Senate and House, who are not annual, thirty days' extra pay. It passed certainly with my concurrence as cordially as that of any other Senator. I entered a motion to reconsider, because there was a desire on the part of a good many members of the Senate to add thereto a little benefit to those who were not included in it. It was not from any hostility to the resolution as it came from the House. I am assured by the Senators, partly at whose instance I moved to reconsider, that it will not result in achieving what I desired, and that it will be impossible to combine the two with any hope of success; that it will be easy to kill both, but not on this resolution to promote both. Therefore I shall accomplish what the honorable Senator from West Virginia desires by withdrawing my motion to reconsider, and let that joint resolution go.

Mr. DAVIS, of West Virginia. That is perfectly satisfactory; I am glad the Senator has done that.

The PRESIDING OFFICER. The motion to reconsider is withdrawn.

ORDER OF BUSINESS.

Mr. CAMERON, of Wisconsin. I renew my motion.

Mr. EATON. I move that the Senate proceed to the consideration of executive business. ["No! no!"]

Mr. HOAR. I rise to a question of order.

The PRESIDING OFFICER. The Senator from Massachusetts rises to a point of order. He will state the point of order.

Mr. HOAR. I desire to know whether the Chair has put first the motion of his colleague, the Senator from Wisconsin.

The PRESIDING OFFICER. The pending question is on the motion of the Senator from Wisconsin, to postpone the present and all prior orders.

Mr. HOAR. That is the pending question, subject to the privileged question of going into executive session.

The PRESIDING OFFICER. The question before the Senate is the motion of the Senator from Wisconsin, pending which the Senator from Connecticut moves that the Senate proceed to the consideration of executive business, which is not debatable.

Mr. CONKLING. I beg the Chair to state the motion.

The PRESIDING OFFICER. The motion is to proceed to the consideration of executive business.

The question being put, there were on a division—ayes 20, noes 21.

Mr. COCKRELL and others. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary called the roll.

Mr. CAMERON, of Wisconsin, (after having voted in the negative.) I voted when my name was called. At that moment I did not remember that I am paired on the Holladay claim with the Senator from New York, [Mr. KERNAN.] I therefore withdraw my vote.

The PRESIDING OFFICER. The vote will be withdrawn if there be no objection.

Mr. BALDWIN, (after having voted in the negative.) I voted when my name was called. I am paired with the Senator from North Carolina, [Mr. VANCE,] and I withdraw my vote.

Mr. HOAR. My colleague [Mr. DAWES] desires me to announce that he is paired on all questions with the Senator from Delaware, [Mr. BAYARD.] Although this is not a political question he prefers to have the pair stand.

The result was announced—yeas 24, nays 30; as follows:

YEAS—24.

Bailey,	Davis of W. Va.,	Maxey,	Slater,
Brown,	Eaton,	Morgan,	Thurman,
Butler,	Farley,	Pendleton,	Vest,
Call,	Hampton,	Pryor,	Wallace,
Cockrell,	Hill of Georgia,	Ransom,	Whyte,
Davis of Illinois,	Lamar,	Saulsbury,	Withers.

NAYS—30.

Allison,	Conkling,	Ingalls,	Platt,
Anthony,	Ferry,	Jonas,	Saunders,
Blaine,	Garland,	Kellogg,	Teller,
Blair,	Groome,	Kirkwood,	Voorhees,
Booth,	Harris,	Logan,	Walker,
Bruce,	Hereford,	McDonald,	Williams.
Burnside,	Hill of Colorado,	McMillan,	
Cameron of Pa.,	Hoar,	Paddock,	

ABSENT—22.

Baldwin,	Dawes,	Jones of Nevada,	Rollins,
Bayard,	Edmunds,	Kernan,	Sharon,
Beck,	Grover,	McPherson,	Vance,
Cameron of Wis.,	Hamlin,	Morrill,	Windom.
Carpenter,	Johnston,	Plumb,	
Coke,	Jones of Florida,	Randolph,	

So the motion of Mr. EATON was not agreed to.

The PRESIDING OFFICER. The question recurs on the motion of the Senator from Wisconsin, to postpone the present and all prior orders for the purpose of taking up the bill for the relief of Ben Holladay.

Mr. HARRIS. I hope the Senator from Wisconsin will not insist upon his motion to postpone all prior orders and take up the Holladay bill. The bill proposes to appropriate more than half a million dollars, and whatever its merits may be we certainly cannot satisfactorily consider it in these expiring hours of the session. I had hoped that in lieu of the motion the Senator from Wisconsin has submitted he would have asked the Senate to make it the special order for the first Wednesday in December. I do not feel at liberty to state the action of the committee, but I had expected the Senator from Wisconsin to make that motion, and I hope he will now make it in lieu of the motion he has submitted.

I cannot and will not vote with the Senator to take up for consideration at this time a bill of that importance. A bill that requires the length of time for its consideration that that bill requires cannot satisfactorily be considered at this late hour of the last day of the session. I am informed by the Senator from Pennsylvania [Mr. WALLACE] that the House has already adjourned until to-morrow at ten o'clock. I hope the Senator will change his motion. I will gladly co-operate with him in the motion that I supposed he intended to make to fix it as the special order for that named day early in December.

Mr. CONKLING. The Senator from Tennessee refers to some information that he has privately——

Mr. HARRIS. Private to the extent that the action of the committee has not been reported, as I expected the Senator from Wisconsin to have reported.

Mr. CONKLING. No message has been received from the House stating that it has adjourned or to what hour it has adjourned——

Mr. DAVIS, of Illinois. It adjourned till ten o'clock to-morrow.

Mr. CONKLING. I am much obliged to the Senator for any information he gives me, but at this moment I have information enough to make the remark I was about to make. I infer from that that the Senator from Illinois, if he has the information and the Senator from Tennessee if he has it, has some private information about the adjournment of the House.

Mr. DAVIS, of Illinois. I have no private information at all——

Mr. CONKLING. I beg my friend not to interrupt me; I decline to yield. I rose to make a remark which I wish to make, which contains no offense to any Senator.

Mr. DAVIS, of Illinois. I was just going to state what information——

Mr. CONKLING. It is a matter of no importance, if my honorable friend will pardon me, how he knows or what information he has, as he will see if he listens to me for a moment.

Mr. DAVIS, of Illinois. That is a very ungracious style of remark.

Mr. CONKLING. That may be. I rose to say that the Senator from Tennessee having stated on private information something that the House has done, I judge that what we may learn privately is suitable in this debate, and therefore I intend to make the statement that whether the House has adjourned or not, whether any action beyond this body can be had on this claim or not, it is a matter of vast and vital importance to this claimant, if he has a meritorious claim, that the Senate should say so, and say so at this session. That vote, although it may not be in time for the messenger of the Senate to announce it in the House, may be for this claimant a decision of the question of ruin to him in respect of his affairs. My honorable friend from Illinois will see that I did not mean to be ungracious when I said that I would offset one piece of private intelligence with another piece of private intelligence, and I know whereof I speak quite as reliably as the Senators can know what the House has done.

The Senator from Tennessee says that he will not vote to take up a bill at this hour so important as this, needing so much discussion. I will, and I will vote to take it up because, with great respect to the Senator from Tennessee, it is not open at all to the observation which he makes. Instead of being a bill which requires discussion as if we did not understand it, it is a bill which has been discussed over and over again, which came here, as was said the other day by the Senator from Massachusetts, on the report of a committee, and an elaborate report, proposing that it should go to the Court of Claims. After a discussion, and an elaborate discussion in the Senate, the Senate said no, it shall go back to the committee with instructions to ascertain and bring here certain things pointed out in addition to the report already made, and upon that we will act. The committee considered it, brought it here, and discussion occurred. Once, twice, the Senator from Wisconsin will correct me if I am wrong when I say three times recently, at the present session, has all this matter been discussed—the last time a discussion in which certain Senators who I think I may say never saw the western plains, whose business it has not been to deal either in horses or in mules, occupied the Senate, while they considered, each Senator for himself, whether at a particular time $125 probably was, as the committee had found, just the price that a mule at that place and at that time would have been likely to cost. I thought when the debate went to that length it had become tolerably attenuated; I thought we had reached the confines of the discussion; and with great respect I think so now.

I believe it is a matter of sheer justice to this claimant and those dependent upon him, either that this claim is, so far as the Senate is concerned, to be allowed or that it is not. If it is not to be allowed say so and let this man and his creditors go to something else, if they can. If it is to be allowed, let us, so far as the Senate is concerned, say that. I repeat that although that action stops with the Senate and never reaches the House, if it be a declaration that this is a just claim it will save this man and those dependent upon him and those connected with him from impending ruin financially. That is the point which I beg to urge upon the justice, and if need be, upon the mercy of the members of this body.

Mr. GARLAND. Two or three weeks ago, when this question was before the Senate, I gave a reason for voting to take up the bill for the relief of Ben Holladay. I have nothing now to add to that for the vote that I shall give now upon this proposition. We have the report of the committee, a unanimous report so far as shown upon the papers, made by the Senator from Wisconsin, beginning in this wise:

On the 26th day of November, 1877—

Over two years and a half now—

the Senate Committee on Claims, having had this case under consideration, reported a bill (S. No. 346) referring the said claim of Mr. Holladay to the Court of Claims.

That was debated here elaborately, I recollect. I took no part in the debate. Instead of concurring with the report of the committee the Senate referred the case back to the committee to take depositions, upon notice and cross-examination. The report that was then submitted was upon *ex parte* affidavits. The Senate referred it back to the committee to take depositions in form. They were taken, thirteen depositions, including that of the claimant himself. Now it

comes back to the Senate. This man has been here now, according to the figures upon these papers, fourteen years, pretty nearly one-half of the judicially ascertained average life of a human being, asking for the Government to settle with him. If the bill is not taken up at this time, but postponed until the first Wednesday, or the first Tuesday, or the first Sunday or the second Sunday or some other day in the next session, something else will be in the way.

I am considering this proposition now as an independent proposition of the business of the Senate. The House can adjourn when it pleases, as the Senate may adjourn, but here is the business. This has been called, it has been before the Senate already at this session upon three or four day's debate, and the question now is for the Senate to decide whether it will consider it when it is in point of fact standing over upon all rules of parliamentary law as the unfinished business, not technically so truly, but in the common-sense acceptation of the term. Will we consider it the remainder of this evening, or what will we do?

It is a large claim, it is said. Whether it is large or small it ought to be considered. It is not worth while for Senators to say that they do not know anything about it. I should like to see any claim go through the Committee on Claims unanimously without, as any person can see, the Government's interest being scrutinized and examined into. It is utterly impossible otherwise. Take for example the present chairman of this committee, [Mr. COCKRELL.] When did ever any Senator fail to hear him object to anything that took money from the Government? He is the present chairman of the Committee on Claims. Take the former chairman, his predecessor, the Senator from Minnesota, [Mr. MCMILLAN.] Has he not been just as scrutinizing? Has he not been all the time, at least since I have been in the Senate, as exacting on the part of the Government? When, then, is the Senate going to be any better advised as to this claim? When will the Senate be any better prepared to consider it? If the Senate does not proceed to consider it now, my honest judgment is that those splendid fictions are not altogether fictions of Bleak House and the estate of Yeaton. They will dwindle into insignificance compared with Ben Holladay standing in the Congress of the United States for what he claims to be justice.

I am not speaking of the justice of his claim, but I ask the Senate to consider the claim and determine it one way or the other, and there is no better time, I think, than now. It cannot be called a novel case; it cannot be called a case of first impression, or anything of that sort, for we have had reports upon reports on the subject. If they were bound in volumes they would almost equal the volumes of the Senator from Colorado, called the report of the Teller committee, and followed afterward by those of my friend from Pennsylvania, known as the report of the Wallace committee. The Ben Holladay case now if put into book form would almost equal in volume that report. It is not a new case; it cannot be called a new case. Let us consider it. Let us turn him out if he is not entitled to something; let us give him what he is entitled to if he is entitled to anything; and the House may take care of its proceedings as it sees proper.

Mr. COCKRELL. In regard to the remarks of the Senator from Arkansas about this being a unanimous report of the Committee on Claims, it is true there is no dissenting report. It is further true that the bill was agreed to be reported to the Senate unanimously, but it is not true that the amount to be paid to the claimant was unanimously agreed upon by the committee.

The PRESIDING OFFICER. The Chair would remind the Senator that it is improper to refer to what took place in committee. The Chair should also make the further concession that he ought to have called Senators to order when they spoke of what took place in the House in reference to adjournment. It was all out of order, and the Chair should have impressed it on the minds of Senators at that time.

Mr. COCKRELL. I recognize the ruling of the Chair, but I recognize the right of any individual member of a committee, when it is charged that the members of that committee are unanimous, to express his dissent from their report under the rules of the Senate or any other rules.

The PRESIDING OFFICER. His present dissent undoubtedly, but not to refer to what took place in committee.

Mr. GARLAND. Mr. President——

The PRESIDING OFFICER. The Senator from Missouri has the floor; does the Senator from Missouri yield?

Mr. COCKRELL. No, sir.

The PRESIDING OFFICER. The Senator from Missouri declines to yield.

Mr. COCKRELL. There is no controversy between me and the Senator from Arkansas in regard to this matter upon the face of the papers——

Mr. GARLAND. That is what I said.

Mr. COCKRELL. As I understood the Senator to speak from the face of the papers, as a matter of course the report was made from that committee; but every Senator knows perfectly well that it is an every-day occurrence in committees that a majority of the committee directs a report to be made, and those who may not agree fully with it do not always get upon the floor of the Senate and state their dissent and the particularities of their dissent.

I am not averse to considering this case whenever there is a proper opportunity for considering it. I think it is impracticable, unwise, and unjust to attempt to force the consideration of this case upon the Senate at this late hour. We have not the time to give to it that consideration which is due to it. I do not desire to oppose the allowance to this claimant of a reasonable and proper amount. In my judgment the amount in the bill is entirely too large. I am satisfied that there is some amount due. It has been a very difficult case. It has been here in Congress year after year. It has been reported heretofore favorably, when the honorable Senator from New York and other Senators upon that side had an absolute and unqualified majority in the Senate, and they could have passed a bill for the relief of this claimant at any time if they had urged it with the seeming vehemency and interest which they now take. It does seem to me that it could have been done then. It was never undertaken to be called up then at the very closing hours of the session and a vote attempted to be taken upon it when it was simply impossible that it should go to the House and be acted upon by the House during the session.

Mr CONKLING. Does the Senator think that is a fair statement?

Mr. COCKRELL. I think it is, certainly.

Mr. CONKLING. If the Senator will pardon me I will tell the Senator why I think it is not.

Mr. COCKRELL. Certainly.

Mr. CONKLING. I know the Senator does not mean to be unfair.

Mr. COCKRELL. Certainly not.

Mr. CONKLING. At the time those the Senator refers to were in a majority here, the bill was taken up; it was fully discussed; it was recommitted to the committee—by a vote voting down the proposition to send it to the Court of Claims, and instructing the committee to do what the committee since has done. That was the action of those then in a majority and a large majority of the Senate. When the committee had acted and it came here nobody waited until this time to take it up, but on the contrary, as we have noticed, the Senator from Wisconsin has tried over and over again, while there was the time, to get it up, and succeeded three or four times in getting it up, and it has been debated until with great respect to everybody who took part in the debate I must say I thought debate was pretty nearly exhausted. I do not think the Senator ought to speak as if those favoring this claim have purposely held it up until the last hour to spring it on the Senate when there is no time to send it to the House.

Mr. COCKRELL. I am not talking about springing it on the Senate at all.

Mr. CAMERON, of Wisconsin. If the Senator will allow me to state the position of the bill, it is this: The bill is now in the Senate and the proposed amendments have been agreed to. It has been reported from the committee to the Senate.

Mr. COCKRELL. It has been that way before?

Mr. CAMERON, of Wisconsin. It has been reported from the Committee of the Whole and is now in the Senate, and the proposed amendments have been agreed to.

Mr. COCKRELL. I do not think, as I have said before, that this bill ought to be taken up at this time. I think that, as a matter of justice and right and fair dealing, a particular day should be fixed when the case will be taken up and finally disposed of, and I do not doubt when a day is fixed, and each Senator knows it, that the bill will be taken up and disposed of within a very reasonable time. I assure the Senator from Wisconsin and the Senate that if a day, say the first Wednesday in December next, shall be fixed as the day when this case shall be taken up, and continued from day to day until it is disposed of, I believe there will be no trouble in the world, and I believe that the Senate would unanimously agree to a proposition of that kind, fixing a day very early in the session when there would be ample time.

Mr. President, I am not disclosing the secrets of the committee. I do not claim that the action of the committee in such a case is binding, as a matter of course, but it is very natural and proper that committees should discuss among themselves their business before the Senate. The question of the consideration of this case was before the Senate Committee on Claims this morning and the committee——

The PRESIDING OFFICER. The Chair reminds the Senator that what he states as having taken place in the committee is out of order.

Mr. CONKLING. Doubly out of order, that is.

Mr. COCKRELL. I want to know of the Chair if the chairman of a committee cannot report to the Senate the action which that committee has taken upon any subject-matter which has been legitimately before them and which they have acted upon?

Mr. HEREFORD. Not unless instructed to do it, and this is not such a case.

The PRESIDING OFFICER. In the order of business when reports of committees are called the chairman of a committee may report anything that is proper to report from a committee.

Mr. COCKRELL. I do not insist upon that point.

The PRESIDING OFFICER. Such a report is therefore out of order at this time.

Mr. COCKRELL. It is known to members of the committee what action was taken. The Senator from Wisconsin and the Senator from West Virginia were both present at the meeting this morning. I am not disclosing any of the secrets of the committee, and I did not intend to disclose anything except what the Senator from Wisconsin, who has had the bill in charge, was directed to do.

Mr. BAILEY. May I ask the Chair, can a committee appointed by the Senate to make an investigation and an inquiry have secrets that

it cannot disclose to the body that has authorized it to make that inquiry and that investigation?

The PRESIDING OFFICER. The Chair understands the rule to be this: one of the regular orders of business is reports from committees in the morning hour. That is the time when the chairman of a committee may report anything he pleases to the Senate, and the Senate will receive it; but after that order of business has passed, and in debate, it is not in order for a Senator to state what took place in committee.

Mr. TELLER. I should like, with the consent of the Senator, to suggest that the Committee on Claims had not any more business with this matter this morning than any other committee.

Mr. CONKLING. Not the slightest.

Mr. TELLER. They had disposed of the bill by reporting it to the Senate, and whatever that committee may have done or may not have done this morning is not of the slightest consequence in any way.

Mr. COCKRELL. I do not conceive that it is of the great consequence which the Senator from Colorado seems to attach to it.

Mr. TELLER. I do not attach anything to it. It is not of any consequence at all.

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Colorado?

Mr. COCKRELL. With pleasure.

Mr. TELLER. The honorable Senator says that I attach importance to the action of the committee. I say that no importance can be attached to anything that the committee may have done when the bill was not before them, and had been reported and their jurisdiction over it had ceased.

Mr. BAILEY. It seems to me that if the committee did not have authority to act upon this matter or jurisdiction to inquire into it, the statement made by the Senator from Missouri cannot be subject to the exception that the President of the Senate has made, namely, that it is a statement of what occurred in committee. I respectfully submit that the Senator from Missouri is in order and has a right to speak of what occurred in any committee when the committee had no jurisdiction of the matter, for it is not a committee communication.

Mr. KIRKWOOD. Suppose any other half dozen Senators had been talking about it?

The PRESIDING OFFICER. The Chair thinks the Senator from Tennessee may be right on that point, but the Chair understood the Senator from Missouri to state what took place in committee in reference to a subject before it, and not a conversation that took place between a half dozen gentlemen in some committee-room.

Mr. COCKRELL. I think that justice to this claimant, justice to the Senate, and justice to the tax-payers of this country require that this bill should be postponed until the time I have named. I say for one, and I believe every member of the Senate will heartily indorse me in saying it, that if this bill is made the special order for the first Wednesday after the first Monday in December next, with the understanding that it shall be taken up and considered from day to day to the exclusion of all other business until disposed of, it will facilitate very much the passage of the bill and be of service to the claimant. I ask the friends of the claimant in this case, those who are especially espousing his cause, that they may consent to that arrangement, because I assure them from my knowledge of the case that it will be to his interest as well as to the interest of all parties that it should be done. Nobody wants to do him any injustice in this case. I have no doubt that when the case then comes up the Senate would determine the amount that ought to be paid him and pass a bill with a reasonable and just amount inserted in the bill, in lieu of the amount that is now in it.

Mr. CONKLING. The Senator will see that no such arrangement can be made until the bill is taken up, and yet he is opposing the motion to take it up. We cannot postpone it until December until it is taken up.

Mr. COCKRELL. It may be fixed and set for that particular day without further action.

Mr. CONKLING. Not till we take up the bill.

Mr. COCKRELL. I do not desire to have the bill passed over so that it shall be thrown with the mass of business that is to come up in that session. I am not asking that. I am making the suggestion that this bill be fixed as the special order for a certain day, and that it then be taken up and considered from day to day to the exclusion of all other business.

Mr. WHYTE. By unanimous consent.

Mr. COCKRELL. By unanimous consent. I believe that a motion to that effect would be in order, would it not?

The PRESIDING OFFICER. It would be after the bill is taken up.

Mr. COCKRELL. Would it not be in order now?

The PRESIDING OFFICER. The Chair thinks not.

Mr. COCKRELL. A motion has been made to take up the bill. Would it not be in order now to move that instead of the bill being taken up it be made the special order for the first Wednesday after the first Monday in December next?

The PRESIDING OFFICER. The Chair thinks such a motion would not be in order until the bill is before the Senate.

Mr. CAMERON, of Wisconsin. No motion has yet been made to take it up. The motion now is to postpone the present and all prior orders.

Mr. COCKRELL. I certainly understood the Chair to announce two or three times distinctly that question, and to be about to announce the vote on it.

Mr. CAMERON, of Wisconsin. The Senator may be correct about that.

The PRESIDING OFFICER. The motion is to postpone the pending and all prior orders. That is all there is to the motion. The Senator from Wisconsin stated as his reason for making it that he proposed then to move to consider the bill.

Mr. CONKLING. That is it; and the other vote was on the motion to go into executive session.

The PRESIDING OFFICER. The vote taken was on the motion for an executive session.

Mr. COCKRELL. I understand that the vote taken by yeas and nays was on the motion to proceed to the consideration of executive business. That was voted down, and then the Senator from Wisconsin, as I understood, moved that the Senate lay aside the pending and all other orders and proceed to the consideration of this case.

Mr. CONKLING. No, he could not make that motion.

Mr. COCKRELL. With a view to proceed to the consideration of the case.

Mr. CAMERON, of Wisconsin. Yes, with a view; that is correct.

Mr. COCKRELL. He put it in that form.

Mr. CAMERON, of Wisconsin. That motion was made prior to the motion to go into executive session.

The PRESIDING OFFICER. That motion was made before the motion was made by the Senator from Connecticut to go into executive session. The Senator from Wisconsin could make his motion to postpone the pending and all prior orders, and if the Senate should agree to that the Senate could then proceed to consider the Holladay bill or any other bill on another motion.

Mr. COCKRELL. So I understand; but it always is understood, and it never has been departed from in the Senate since I have been a member of it, that when a Senator makes a motion to lay aside the pending and all other orders with a view to proceed to a certain case he is always recognized by the Chair, and then he is entitled to make the motion; and so it is in effect a motion to proceed to the consideration of this case. I hope that the Senator from Wisconsin and the Senator from New York and others will agree to this arrangement, and that the bill will be made a special order for the first Wednesday after the first Monday in December, with a distinct understanding that it shall be taken up and considered from day to day until it is finally disposed of. We can then meet and have before us Executive Document No. 211, which was just submitted to the Senate and laid on our table to-day. It contains evidence which has not been considered in this case and which is not quoted in the report of the Committee on Claims, and it was not before the Committee on Claims. It is the written contracts between the United States represented by the Post-Office Department and the claimant in this case.

Mr. GARLAND. May I interrupt the Senator?

The PRESIDING OFFICER. Does the Senator from Missouri yield?

Mr. COCKRELL. With pleasure.

Mr. GARLAND. That paper was laid on the tables of Senators yesterday, and I examined it. That seems to be the payments under his contracts as a contractor, but no payment for property taken or destroyed.

Mr. COCKRELL. This document contains the contracts themselves.

Mr. GARLAND. Of course.

Mr. COCKRELL. And then all sums and amounts that were paid on these contracts. As a matter of course, it is not a settlement of the matters claimed.

Mr. GARLAND. The point I wish to get at is that it has no connection with the claim that is now made by Holladay. I examined it closely yesterday. It was laid on my table at least yesterday. If it was not before the Committee on Claims until now, as the chairman of that committee says, I ask the Senator from Missouri why it was not, if it was important to the case?

Mr. COCKRELL. The Senator from Arkansas must understand very distinctly that in all these cases each member of the committee is a sub-committee and makes an investigation in regard to the matter. There was no point raised when the case was before the Senate before in regard to the contracts and the amount which the claimant here was receiving as affecting the amount that he ought to be paid. That question was made since, and becomes an important question in determining the amount which shall be paid to the claimant under the contracts, because, as the Senator from Arkansas will see at once, if these risks and casualties and dangers and liabilities to loss were calculated in the amount of the contracts for this service and were a part of it, as a matter of course to that extent they should be deducted from this amount.

Mr. HOAR. I am very sorry to interrupt my honorable friend from Missouri, who never wastes any time and never says anything on any subject that is not pertinent; but as to what he is saying now, although pertinent at some time, I desire to raise the point of order whether this is debatable on the motion to lay aside all pending orders.

The PRESIDING OFFICER. The Chair understands that the business before the Senate is the pension bill. The motion is to postpone

that bill for the purpose of proceeding to some other business, which is debatable, because it involves the bill before the Senate, and the Chair understands this debate to be strictly confined to the pension bill. It is therefore in order.

Mr. HOAR. I understood that this was a motion to lay aside all prior orders.

The PRESIDING OFFICER. But that motion has always been held to be debatable, because it involves the merits of the bill to be laid aside.

Mr. HOAR. But I understand that upon that question it is the custom of the Senate to enforce strictly through the presiding officer the rule that the discussion must be germane to the motion to lay aside, and that the merits of the matter to be taken up afterward are not to be discussed. Still I shall not press the point.

The PRESIDING OFFICER. The question was frequently raised while Mr. Colfax was Vice-President and was always ruled by him, and the ruling always sustained by the Senate, that on a motion to postpone the pending order, there being an unfinished bill before the Senate, debate upon that motion was in order, because the Chair was bound to presume that it was upon the bill that was pending, although it might trouble anybody except the Chair to find out that fact.

Mr. CONKLING. We can all see that this bears upon the pension bill.

Mr. COCKRELL. As to the point that was suggested by the Senator from Arkansas in regard to the contracts, I state that this document is pertinent to this case for the reason that it contains the written contracts between the Government and the claimant, which have not been considered by the Senate and have not been discussed in the report. If a contractor undertakes to carry the mails from one point to another, and that is considered a very hazardous and dangerous route, and he charges five, ten, fifteen, or twenty dollars more for carrying the mails over that route than he would if there were no danger, I say then that as a matter of course he is paid to that extent for the risks and losses and damages which may accrue to him. Now in this case if Mr. Holladay was paid only the same amount for transporting the mails from the point of beginning to the point of terminus that he would have been paid for transporting them from a country where there were no Indians and no risk of Indian raids, depredations, or damages, and where there were no other damages beyond the ordinary damages of travel by dirt roads, then as a matter of course the contract has nothing to do with the amount he should be allowed; but if in making this contract he has charged three, five, eight, nine, or ten times as much and has received more than he otherwise would have received, than he would have charged if there had been no risks and no casualties and no dangers of Indian depredations and losses, then he is not entitled to be compensated for the whole amount, and he can only be compensated justly and equitably the amount which his losses aggregate over and above the amount that was considered in the contract as a part indemnity. In view of that fact this becomes an important measure.

I understand that the bill to pension the soldiers of the Mexican war, the bill which has enlisted the earnest enthusiasm and the inspiration of the distinguished Senator from Kentucky, is now the pending order. I know that it must be exceedingly painful to that leader of the soldiers of the Union in the Mexican war to see their claims for pensions, their claims for recognition by the Senate, when they constitute a large and influential portion of the population of over half the States in this Union—I say it must be painful to the distinguished Senator from Kentucky to see his bill, his pet measure, thrust aside that an individual claim may be taken up and considered by the Senate.

Mr. WILLIAMS. I will state to the Senator——

The PRESIDING OFFICER. Does the Senator from Missouri yield?

Mr. COCKRELL. Certainly, with pleasure.

Mr. WILLIAMS. I do not know any gentleman who has contributed more to defeat my pet measure than the honorable Senator from Missouri himself.

Mr. COCKRELL. No, sir.

Mr. WILLIAMS. He voted against taking it up.

Mr. COCKRELL. I am very sorry, indeed, that my distinguished friend from Kentucky is so forgetful. He says that I voted against taking up the Mexican pension bill. That is true; I did one morning vote against it, and I gave my reasons for it. The charge that the Senator makes creates the necessity for me to state the reasons again. At the time when the consideration of the Mexican pension bill was voted down there was a motion pending to proceed to the consideration of the cases on the Calendar in their regular order. The Senator from Kentucky antagonized that motion by moving to lay the Calendar aside and take up the Mexican pension bill inside of the morning hour and before the hour of half after one had arrived. I stated then and state now that I am in favor of the Mexican pension bill, and that I would vote to take it up just as soon as the morning hour expired. The motion of the Senator was voted down. The Senator does himself injustice and me injustice when he states that I had thrown more obstacles in the way of his bill than almost any one else.

Mr. WILLIAMS. If the Senator will allow me, he will recollect that the appropriation bills were coming in and I was crowded out by those ever afterward, and that is the reason why I now feel compelled to let that bill go over to the next session, as there is no possibility of getting it before the Senate and getting a vote upon it at this session. Therefore I shall vote to take up the Holladay bill.

Mr. COCKRELL. Yes; but the Senator forgets another point, and that is that after we had finished the appropriation bill I took the floor and yielded to the Senator from Kentucky that he might make the motion to take up the Mexican pension bill. He did make the motion and I voted for it, and the bill was taken up.

Mr. WILLIAMS. And cut out by an appropriation bill.

Mr. COCKRELL. It has not been cut out yet at all.

Mr. WILLIAMS. It was.

Mr. COCKRELL. It is to-night the pending business before the Senate, and I confess astonishment at the Senator from Kentucky in his announcement that he will vote to take up another bill, and thereby lay aside the Mexican pension bill. There is much more time to consider the Mexican pension bill than there is to consider the claim which is proposed to be taken up. When the distinguished soldier from Missouri and brother officer of the distinguished Senator from Kentucky occupied a seat upon the floor of the Senate, it was I believe nearly twelve o'clock at night before the hour which had been fixed for twelve o'clock the next day, just as it is now, when he called up a Mexican pension bill and passed it. It was discussed then and passed. This measure of the Mexican pensioners has been before the Senate; it has been passed once, and there is ample time for the consideration of it now. I say that it could be more readily and more easily disposed of than can the bill which is proposed to be substituted for it, and I ask the friends of that measure how they will justify their course when it has been kept here before the Senate from day to day and only suffered to be disposed of by appropriation bills and by the speeches of the Senator from Minnesota and the Senator from West Virginia?

Mr. WILLIAMS. Will the Senator allow me to interrupt him again.

Mr. COCKRELL. Certainly.

Mr. WILLIAMS. The very reason is that I know now that it is impossible that the Mexican pension bill shall become a law during this session. It cannot possibly become a law.

Mr. COCKRELL. How is it any more impossible to pass it than to pass the Holladay bill?

Mr. WILLIAMS. The end of the session is so near that if the pension bill should pass the Senate to-night there is no possibility of its getting through the House.

Mr. COCKRELL. How will this Holladay bill get through the House if it passes to-night?

Mr. WILLIAMS. I do not suppose the expectation is that it will get through the House, but everybody knows one thing, (if the Senator does not know it himself I do,) that if this bill gets through the Senate alone it will save Mr. Holladay and his household from ruin, and delay to him is as great wrong and as great injustice as denial itself. Let us have a vote upon the question upon its merits.

Mr. COCKRELL. We have certainly much more time for the consideration of the pension bill than we had before when we passed it. I think it is but justice that it should be passed.

It is true it has been stated here that the claimant is in a financial strait and a recognition of this claim by the Senate would be of great service to him. I say to the distinguished Senator from Kentucky and to those who are the special champions of the Mexican pension bill that to my personal knowledge there are fifty men in Missouri who were soldiers in the Mexican war, as brave as ever marched under the old flag, who are infinitely more destitute and deserving and needy than this claimant dares to be. As I said before, there is scarcely a county in the State of Missouri where there is not a veteran of the Mexican war who is more destitute, more needy, and more deserving, if possible, than the claimant in this case, and, consequently, Senators and Representatives are receiving letters describing their condition and urging the passage of this bill.

Now, Mr. President, will the Senator from Kentucky, and other Senators upon this floor, turn their backs upon their gallant comrades who marched shoulder to shoulder and side by side with them through the Mexican war, won glory and honor and renown, and placed chaplets and wreaths of victory upon the brow of the Senator from Kentucky, the Senator from Texas, and others; will they now turn their backs upon them, and because this claimant is present here alleging his necessities, forget the necessities, the sufferings, the destitution, and the real wants of these gallant soldiers? Why, Mr. President, I have sent broadcast through Missouri the eloquent speech of the distinguished Senator from Kentucky urging the consideration and the importance of the consideration of the pension bill and pleading the gallantry, the devotion, and the patriotism of his comrades in that war as reasons why they should be pensioned. And now are those applicants for pension, the widows and the orphans; are those maimed, old, helpless, needy, and deserving soldiers to be told that after that speech the distinguished Senator voted to postpone the consideration of the Mexican pension bill in order to proceed to the consideration of a private claim, the whole and sole ground of considering that claim being that the claimant was in a destitute and needy condition, and if he were not recognized by the Senate now would suffer immense pecuniary loss?

Mr. WILLIAMS. I want to say to the Senator again that it may go in the same RECORD where his speech will go, which strongly inti-

mates a willingness on my part to abandon the cause of the veteran soldiers of the Mexican war, that if there were a possibility of getting the pension bill into a law, I would not postpone it a day or an hour for every other measure on the Calendar of the Senate, but I know it cannot be got through both Houses of Congress, and therefore I do not oppose laying it aside. I have agreed to this course on consultation with most of its friends in the Senate and I yield to it with great regret. It gives me pain to see the Senate adjourn without passing that measure of such justice to men who have rendered such valuable services to their country.

Mr. COCKRELL. Mr. President——

Mr. BUTLER. Mr. President, will the Senator from Missouri hear me a moment? I would ask the Senator from Missouri to yield to me to make a motion for an executive session? It is very well known that there is a vast amount of executive business to be transacted, and we have to adjourn to-morrow at twelve o'clock. It seems to me unless we can have an executive session immediately it will be impossible to finish the executive business, and justice to the Executive requires that it be attended to.

Mr. CAMERON, of Wisconsin. The Senator from South Carolina forgets that the Senator from Missouri has a speech which he is determined to inflict on the Senate, and we may as well bear the infliction now as at any other time.

The PRESIDING OFFICER. Does the Senator from Missouri yield?

Mr. COCKRELL. I thank the distinguished Senator from Wisconsin for the remark about inflicting a speech on the Senate. I have not been making a speech, but occasion may require that I shall make a speech upon this case before it is disposed of. I am simply discussing now the propriety of considering it, and I will advise the Senator when the time comes that I propose making a speech on the bill. Now, if the Senate desire, I do not yield simply for the purpose of postponing this case——

Mr. BUTLER. Nor I.

Mr. COCKRELL. If the Senate desire to go into executive session I will yield, as I understand there is executive business.

Mr. BUTLER. I make the motion.

Mr. CONKLING. I raise a question of order. The Senator from Connecticut, [Mr. EATON,] a short time ago after the Senator from Wisconsin [Mr. CAMERON] made his motion, made the motion now put. The Senator from Wisconsin moved to postpone the present and prior orders and stated why he wished to do it. The Senator from Connecticut then moved that the Senate proceed to the consideration of executive business, and on the yeas and nays he was voted down. My point of order is that no business has intervened meanwhile, not even a motion, and that therefore the motion to go into executive session is out of order, and I object to it.

The PRESIDING OFFICER. The Chair overrules the point of order.

Mr. CONKLING. On what ground, may I ask?

The PRESIDING OFFICER. On the ground that debate is one of the most important branches of business in this body.

Mr. CONKLING. Does the Chair hold that debate will satisfy the rule?

The PRESIDING OFFICER. The Chair thinks so.

Mr. BUTLER. I submit the motion that the Senate proceed to the consideration of executive business.

The question being put, there were on a division—ayes 20, noes 23.

Mr. BUTLER called for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. BALDWIN, (when his name was called.) On this question I am paired.

Mr. CAMERON, of Wisconsin, (when his name was called.) I am paired with the Senator from New York, [Mr. KERNAN.]

Mr. FERRY, (when his name was called.) I am paired with the Senator from Vermont [Mr. MORRILL] on this question.

The roll-call having been concluded, the result was announced—yeas 25, nays 28; as follows:

YEAS—25.

Bailey,	Farley,	Maxey,	Vest,
Brown,	Hampton,	Morgan,	Wallace,
Butler,	Harris,	Pendleton,	Whyte,
Call,	Hill of Georgia,	Randolph,	Withers.
Cockrell,	Jonas,	Ransom,	
Davis of Illinois,	Jones of Florida,	Saulsbury,	
Davis of W. Va.,	Lamar,	Slater,	

NAYS—28.

Allison,	Cameron of Pa.,	Hoar,	Paddock,
Anthony,	Carpenter,	Ingalls,	Platt,
Blaine,	Conkling,	Kellogg,	Saunders,
Blair,	Dawes,	Kirkwood,	Teller,
Booth,	Garland,	Logan,	Voorhees,
Bruce,	Hereford,	McDonald,	Walker,
Burnside,	Hill of Colorado,	McMillan,	Williams.

ABSENT—23.

Baldwin,	Edmunds,	Jones of Nevada,	Rollins,
Bayard,	Ferry,	Kernan,	Sharon,
Beck,	Groome,	McPherson,	Thurman,
Cameron of Wis.,	Grover,	Morrill,	Vance,
Coke,	Hamlin,	Plumb,	Windom.
Eaton,	Johnston,	Pryor,	

So the motion of Mr. BUTLER was not agreed to.

Mr. HOAR. Mr. President——

Mr. COCKRELL. I believe I have the floor.

Mr. HOAR. The Senator yielded the floor.

The PRESIDING OFFICER. The Senator from Massachusetts has been recognized.

Mr. COCKRELL. Was I taken off the floor by the fact of yielding to the motion for an executive session?

The PRESIDING OFFICER. Undoubtedly that is the rule.

Mr. COCKRELL. All right.

Mr. HOAR. I wish to occupy the floor but one moment, and it is in regard to the comments that have been made in relation to the delay of the bill to pension the Mexican-war soldiers. It is proper that the country should understand who it is that delays that bill, who it is that opposes the pensioning the class of men that have been described by the Senator from Missouri. No voice has been raised either at this session or any other against pensioning liberally, to their satisfaction, every soldier of the Mexican war who is disabled, as we pension the soldiers of the late war. No voice has been raised against pensioning the veterans of the Mexican war who are in need, as more than forty years after the close of the revolutionary war we did for the first time for the veterans of the Revolution. But this bill which those who have it in charge adhere to, refusing to listen to any suggestion of modification, pensions the rich, pensions the man in vigorous middle life, strong, hearty, hale, vigorous, while the disabled soldier of the late war for the Union is receiving a miserable pittance of $8 a month, and the country denies a reasonable enlargement of the pension to him. The men who are standing in the way of pensions to the veterans of the Mexican war are the strong, hale veterans of that war who are not in need, who demand that the country shall do for them what it has not done for anybody else. The framers and the managers of this bill are the men who keep the veteran of the Mexican war who is needy and maimed from the bounty of the Government; nobody else. Let them bring in a bill like that which the veterans of the Revolution had, or like that which the veterans of our late war had, and it will go through without a dissenting voice.

The Senator from Georgia [Mr. BROWN] with great ingenuousness informed us that he thought this bill ought to pass because the maimed soldiers who would be benefited by it largely dwelt in a certain section of the country where they needed the money. That is no objection to the passage of the bill in my mind, as I believe it is not any objection in the mind of any Senator; but I do object to putting the soldiers of these wars into a position which the veterans of the Revolution, the veterans of 1812, and the veterans of the war for the Union never asked for themselves.

If the honorable Senator from Kentucky will leave out of the bill the rich and strong who are not in need I guarantee him that in ten minutes he will get relief for the rest of his comrades, and as long as he refuses that proposition it is upon the friends and not the opponents of this bill that any responsibility for the refusal rests.

Mr. WILLIAMS. Mr. President, the Mexican veterans do not come as beggars to the Congress of their country; they do not come before the bar of the nation as mendicants begging alms. They come as brave old men who have given the prime of their young manhood to their country's service, and they come upon its pledges in a thousand ways made to them from the revolutiontary war down to the present day that all who volunteered to defend their country's honor and its integrity should, when they became old and infirm, be placed on the pension-roll. It was a policy inaugurated by the confederated States before the formation of our Union; it was the policy of Virginia; it has been the policy of our country to do this, instead of building up a vast military establishment at an enormous expense and burdening the people with taxation.

Sir, I have in my hand the amendment offered by the Senator from Massachusetts, and I will read it:

Provided, That no person shall receive a pension under this act who would not be entitled to a pension under the provisions of law relating to the soldiers of the late war, unless he shall make oath and prove that he actually needs such pension for the support of him.

This is gotten up in the usual scholarly style of the distinguished Senator from the State of Massachusetts, but sir, it proposes to limit the benefits of this bill to paupers——

Mr. HOAR. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kentucky yield?

Mr. WILLIAMS. In a moment, as soon as I get through my sentence. It is a proposition that none but paupers shall enjoy the benefit of this bill. It differs only from the amendment offered by the Senator from Maine in that he proposes that in addition to being paupers they shall also be invalids. Now, sir, let me say to you that I do not know a Mexican war soldier living who would not scorn to accept a pension under conditions so degrading. It is hard, Mr. President, to be poor, but it is harder——

Mr. HOAR. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from Massachusetts?

Mr. WILLIAMS. Am I not in order, Mr. President?

The PRESIDING OFFICER. Yes; but the Chair asked if the Senator would yield to be interrupted by the Senator from Massachusetts?

Mr. WILLIAMS. No, sir; I do not. I shall occupy the floor but a

moment. Sir, my comrades in arms, every one of them, would scorn to accept a pension on the condition proposed by the honorable Senator from Massachusetts. It is hard, as I said, to be poor, but harder still to be compelled to swear to it and make public before your neighbors the fact. I will tell you, sir, a little anecdote on that subject.

We had a famous bandit in the western country by the name of Murrell some years ago, and as a fellow was traveling through Murrell's country one day he fell in company with him without knowing it, and he said to Murrell—he did not know it was Murrell—"I am glad to meet a stout, fine-looking fellow like you here because I understand these are dangerous woods; it is the haunt of Murrell and his gang, and, as I carry a large amount of money belonging to the Brandon bank, I am glad to have you with me to help protect it." Said he, "I am no fighting man, and all in this country whenever they meet Murrell just hand in their checks." "Well," said he, "you are a stout fellow and I think will be some protection." They rode on until they came to a spring of water about noon. The man said to his companion "I have a lunch in my satchel and I will be very glad to share it with you." They got down. He had his haversack, pulled out something, and when they had lunched Murrell took out his pistol, put it to his head and said to him, "Now, deliver your money!" The fellow was a stout man and made a brave fight. Finally Murrell, who was a very powerful man, got the advantage of him and said, "Deliver that money!" He got his satchel and there was not a dollar in it. Said he, "I have not got any money." "Where is your money?" "I have not got a cent." "Why, you scoundrel, what did you fight so for?" Said he, "I fought, sir, to defend my reputation against poverty and against pauperism. I do not intend it shall be understood here or anywhere else that I have no money at all." [Laughter.]

There is not a soldier of the Mexican war that would accept a pension upon these terms. They do not regard it as alms. It is not charity they ask. They look on a pension as a badge of distinction, as a testimonial of honorable service rendered their country. It is only on this condition that they would receive it. I say to the Senator and to the country that no man has done so much as he to defeat this measure. I remember his speech a few weeks ago on this subject, in which he generously proposed to all the old veterans if they would wait until they were about eighty years old, then he might be willing to consider their case. Well, sir, when I came to speak I said that I was sorry the Senator was not in his place; that I should like, in the name of all the veterans of the Mexican war, to return him our sincere thanks for this prodigious offer of generosity and magnanimity toward them.

While I am on this subject let me say one other thing. It is not pertinent to the question but it is pertinent to the assault which the honorable gentleman has made upon me. It was not said by him alone, it was said by the honorable Senator from Maine also, backed by the Senator from Kansas, who supported the assertion, that in every respect under the state of our laws the Mexican war soldiers stood on exactly the same footing with the soldiers of the late war. That is not the fact. Here is what you call the arrearages of pension bill under which thirty millions of money have been paid out to the wounded and disabled soldiers of the late war. Not a dollar of it has ever gone to the wounded and disabled soldiers of the Mexican war. Not only that, sir, but section 4716 of the Revised Statutes expressly denies to many wounded and disabled soldiers of the Mexican war any benefit whatever under any of the pension laws of Congress. By this section, which this bill that I introduced proposes to repeal, every one of the maimed and wounded and disabled soldiers of the Mexican war who lives south of Mason and Dixon's line was stricken from the roll and remains to-day stricken from the roll. A few have got back, but only those who proved their loyalty, and even when they were put back upon the roll they were not allowed any pay for the time they were dropped from the roll. And yet gentlemen would have the country believe, they have thrown it broadcast over the land, that the Mexican war soldier and the Union soldier stand exactly on the same footing. It is not so, sir.

With this explanation I have nothing more to say on this question. Everybody in the Senate knows and the country knows that if I believed it were possible to pass this pension bill, I would postpone it for no other measure on the Calendar of either House.

Mr. HOAR. Mr. President, the Senator from Kentucky with all his zeal does not answer the point I make. He says that these wounded gentlemen south or north of Mason and Dixon's line who were veterans in the Mexican war would scorn to establish as a condition of a pension the fact that they were in need. Are they better than their fathers and our fathers of the Revolution? By what right, gallant as they were, honorable as their service to the Republic was, do they come in here to say that they are to be an exception to the rule which this country prescribes to all its soldiers. Forty years and more after the war of the Revolution ended for the first time did Congress give a general pension imposing as a condition upon that pension that the soldier should be in need. The wounded soldier of the war for the Union must be under disability, unable to earn his own living in whole or in part in consequence of his wounds; and while that rigid rule is applied to him the Senator from Kentucky comes in and demands a pension for himself.

Mr. WILLIAMS. I do not care about that.

Mr. HOAR. He comes in whether he cares about it or not. I do not impute to him——

Mr. WILLIAMS. Sir, the Senator——

Mr. HOAR. The Senator from Kentucky declined to yield to me. I do not impute to that gallant gentleman anything but zeal for his comrades; he has no personal motives about it. I take him simply as an illustration of the class. I say, he comes and asks for the rich, the strong, the vigorous, the man drawing a large salary from the Government, the man in hale middle life, that money which we refuse to the poor, beggared, wounded, disabled soldier of the war which saved the country's life. I saw in my native town the other day the family of a soldier who had been shriveled by wounds which he received in the late war so that his once vigorous and manly frame is now but four feet in length, condemned to lie on a bed during the remainder of his life, requiring the constant attendance of a member of his family and a nurse, who said that the one ambition he had was to be able to build a little four-foot verandah on the outside of his house and to have his window cut down to the floor so that his wife might draw him out there to enjoy the sun and air in the summer; and the pension we give him is not enough to enable him to accomplish that.

Now, I will not pension the class of men of whom the gallant Senator from Kentucky is the type, and refuse to this man and men like him an increase of their pension. Is the soldier of the Mexican war better than the widow, the dependent mother of the soldier who gave his life to save the Union? If he is no better than she, by what right does he toss his head and say he will scorn to submit to the condition which the law of the land now imposes upon her? All I stand here to plead for is equal and exact justice to the soldier, and the mother, and the widow of the soldier of the war which saved the Union, and I say again, "bring in your bill, provide for the dependent soldiers disabled, whether by age or battle, of the Mexican war, and we will pass it unanimously and without a dissenting vote, and then we will debate this question afterward; and the men who refuse to do that are the men upon whom the responsibility of the defeat of this measure or the delay of this measure rests.

I do not understand that the honorable Senator from Kentucky is right in his history. I understand that the pensions paid to the soldiers of the Mexican war date from their disability. I am so informed by my colleague, who has examined the statute; I have not.

Mr. WILLIAMS. I examined the law thoroughly, and I know how it is.

Mr. HOAR. Very well, let that matter pass. I have not examined the law in person and have it not in my memory. The point which I make and reiterate is this: I say to the honorable and gallant Senator from Kentucky, my gallant and honorable friend—if I may honor myself by the use of that term—that I differ with him in the opinion that it is a degradation to any soldier who asks a pension to prove his disability or his need. Need is not one of those things which degrade a man in the eye of the law of the American Republic, and the man is neither beggar nor disgraced who makes known the fact that he needs this assistance. Disagreeing with him, I cannot consent to put men of whom the five Mexican war veterans in this Senate, men like my honorable and gallant friend from Rhode Island, are the types, upon the pension lists of this country until the resources of the Treasury enable us to extend them very far in favor of the needy and disabled soldiers of the late war.

Perhaps I am wrong; perhaps the zeal of the Senator from Kentucky is a zeal in favor of what is right and true; but about that we differ, and he differs with a very large number of this body and of the other legislative body of this Capitol. If he will bring in his bill providing for that large class concerning whom we are agreed, he can give them their pensions and go on his way rejoicing to-morrow morning, and we will debate and discuss the question as to the others, and let that be decided by a majority hereafter; but if he refuses to do that he must take the risk that somewhere, in one of the three branches whose concurrence is necessary to a law, his bill will fail, and if he takes that risk the responsibility of its results rests with him.

Mr. WALLACE. Mr. President, I think we are wasting a great deal of valuable time here which will amount to nothing. We have a large amount of business to transact in executive session, and I move that the Senate proceed to the consideration of executive business.

Mr. DAVIS, of West Virginia. If my friend will give way a minute I will renew the motion.

Mr. WALLACE. I withdraw the motion.

Mr. DAVIS, of West Virginia. I rise only to offer a resolution to enable the employés to have their salaries before the 1st of July. I offer the resolution, and if there is any objection I shall withdraw it.

Mr. CONKLING. I shall not object to this resolution at the proper time, but I want the regular order. If the time is to be worn out here by motions to go into executive session after repeated efforts, let us understand it. I want to see whether a majority of the Senate can govern its business or not, and I demand the regular order.

Mr. WALLACE. Then, Mr. President, I insist on my motion.

The PRESIDING OFFICER. The Senator from Pennsylvania moves that the Senate proceed to the consideration of executive business.

Mr. WALLACE. I call for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. BALDWIN, (when his name was called.) I am paired on this question.

Mr. CAMERON, of Wisconsin, (when his name was called.) I am paired.

Mr. WHYTE, (when his name was called.) The Senator from Iowa [Mr. ALLISON] left the Chamber a moment ago and asked me to pair with him upon this case. I presume it had reference to a motion of this character, and therefore I withhold my vote.

The roll-call was concluded.

Mr. SAULSBURY. I desire to state, as is perhaps known to the Senate, that my colleague [Mr. BAYARD] is detained.

Mr. WITHERS. My colleague [Mr. JOHNSTON] is detained from his seat by sickness.

Mr. DAWES, (after having voted in the negative.) I am paired on the Holladay case with the Senator from Delaware, [Mr. BAYARD,] and I think under the circumstances I ought to withdraw my vote. I withdraw my vote.

The result was announced—yeas 27, nays 26; as follows:

YEAS—27.

Bailey,	Davis of W. Va.,	Jones of Florida,	Saulsbury,
Brown,	Eaton,	Lamar,	Slater,
Butler,	Farley,	Maxey,	Thurman,
Call,	Hampton,	Morgan,	Vest,
Carpenter,	Harris,	Pendleton,	Wallace,
Cockrell,	Hill of Georgia,	Randolph,	Withers.
Davis of Illinois,	Jonas,	Ransom,	

NAYS—26.

Anthony,	Conkling,	Kellogg,	Saunders,
Blaine,	Garland,	Kirkwood,	Teller,
Blair,	Groome,	Logan,	Voorhees,
Booth,	Hereford,	McDonald,	Walker,
Bruce,	Hill of Colorado,	McMillan,	Williams.
Burnside,	Hoar,	Paddock,	
Cameron of Pa.,	Ingalls,	Platt,	

ABSENT—23.

Allison,	Dawes,	Jones of Nevada,	Rollins,
Baldwin,	Edmunds,	Kernan,	Sharon,
Bayard,	Ferry,	McPherson,	Vance,
Beck,	Grover,	Morrill,	Whyte,
Cameron of Wis.,	Hamlin,	Plumb,	Windom.
Coke,	Johnston,	Pryor,	

So the motion was agreed to; and the Senate proceeded to the consideration of executive business. After two hours and thirty minutes spent in executive session the doors were reopened.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed a bill (H. R. No. 6492) to constitute a joint commission for carrying into effect the convention between the United States and the French Republic for the settlement of certain claims of the citizens of either country against the other, signed at Washington on the 15th day of January, 1880; in which it requested the concurrence of the Senate.

RELIEF FOR SUFFERERS IN IRELAND.

The PRESIDENT *pro tempore* laid before the Senate the following communication from the Secretary of the Navy:

NAVY DEPARTMENT,
Washington, June 14, 1880.

SIR: I have the honor to inform the Senate that in obedience to the act approved February 25, 1880, I caused the United States ship Constellation to be fitted out for the purpose of transporting from New York to Ireland such supplies as were donated by the liberal-minded citizens of that city to the starving people of that country. That vessel, under the command of Commander Edward E. Potter, left New York on the 30th day of March, and has just returned.

The Constellation reached the port of Queenstown on the 20th day of April and delivered the supplies to the proper authorities at that city, whereupon they were immediately distributed to those most in need of them. The authorities and people were impressed in an extraordinary degree by the fact that the Government of the United States had fitted out a national vessel upon this mission of benevolence, and demonstrated their gratitude by continued acts of courtesy and kindness to the officers in charge. The government of Great Britain, through its minister plenipotentiary to the United States, has also expressed its high appreciation of this act of international comity. Evidences of these are herewith inclosed.

The act of Congress contained an indefinite appropriation of "any sum of money" I might consider necessary for the purposes of this expedition. But I have the honor to inform the Senate that I have not drawn from the Treasury a single dollar for the purpose, having paid the whole expense out of the ordinary appropriations for the support of the Navy for the present fiscal year.

Very respectfully, your obedient servant,

R. W. THOMPSON,
Secretary of the Navy.

Hon. WILLIAM A. WHEELER,
Vice-President of the United States.

The communication was laid on the table, and ordered to be printed.

CLAIMS CONVENTION WITH FRANCE.

The PRESIDENT *pro tempore* laid before the Senate the bill (H. R. No. 6492) to constitute a joint commission for carrying into effect the convention between the United States and the French Republic for the settlement of certain claims of the citizens of either country against the other, signed at Washington on the 15th day of January, 1880; and it was read twice by its little.

Mr. EATON. I ask unanimous consent that the bill be put on its passage now. The Senate passed a similar bill of its own this morning.

By unanimous consent, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

PRESIDENTIAL MESSAGE.

Mr. HOAR. I move that the Senate do now adjourn.

The PRESIDENT *pro tempore*. The Chair has a communication to lay before the Senate.

Mr. HOAR. It may as well be read in the morning. It is very late.

Mr. CONKLING. Let us hear that now.

The PRESIDENT *pro tempore*. Does the Senator from Massachusetts withdraw his motion?

Mr. HOAR. I make the motion to adjourn.

Mr. ALLISON. I ask the Senator from Massachusetts to withdraw his motion for a moment until I offer a resolution.

Mr. CONKLING. May I inquire is there a veto message on the table?

The PRESIDENT *pro tempore*. There is a message. The Chair has not looked into it.

Mr. CONKLING. I hope we shall not adjourn until we hear it read.

Mr. HOAR. I withdraw the motion.

The PRESIDENT *pro tempore*. The Chair lays before the Senate a message from the President of the United States.

Mr. GARLAND. I move that the message be laid on the table.

Mr. CONKLING. Let us hear it read first.

Mr. GARLAND. I move that it be laid on the table and printed. It can be called up to-morrow.

The PRESIDENT *pro tempore*. The Senator from Arkansas moves that the message be laid on the table and printed.

Mr. CONKLING. I wish to ask a question of the Chair. I asked that that message be read before the Senator made his motion, and I submit to the Chair that if anybody objects to the reading of the message the question is on that objection, and the Senator from Arkansas cannot take the floor from me to move to lay on the table a message which I am in the act of asking to have read.

The PRESIDENT *pro tempore*. It is the opinion of the Chair that the motion to lay on the table is in order at any time.

Mr. CONKLING. When another Senator has the floor?

The PRESIDENT *pro tempore*. The Chair did not understand the Senator from New York to have the floor.

Mr. CONKLING. The honorable presiding officer recognized me and I said "I ask to hear the message read;" and nobody objected.

The PRESIDENT *pro tempore*. That is very true. The Senator from New York said he asked to have the message read, but that did not continue the Senator on his feet on the floor.

Mr. CONKLING. It did, I submit, unless somebody objected to the reading. Anybody could object to the reading, and then the question was on that.

The PRESIDENT *pro tempore*. In the opinion of the Chair the motion to lay on the table and print is in order.

Mr. CONKLING. That is a very respectful disposition to make of the message.

Mr. GARLAND. We want to get full consideration of it after it is printed.

The PRESIDENT *pro tempore*. It is moved that the message lie on the table and be printed.

The motion was agreed to.

PAY OF EMPLOYÉS FOR JUNE.

Mr. ALLISON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 129) relating to the pay of the employés of the Senate and House of Representatives; which was read three times and passed, as follows:

Be it resolved, &c., That the Secretary of the Senate and Clerk of the House of Representatives be, and they are hereby, authorized and directed, immediately after the adjournment of the present session, to issue to the officers and employés of the Senate and House borne on the annual roll their respective salaries for the month of June, 1880, which shall be in anticipation of their pay for the month of June.

MAGNUS S. THOMPSON.

Mr. McDONALD. I desire the Senate to do an act of grace before adjourning this evening, and therefore I ask unanimous consent to consider the bill for the relief of Magnus S. Thompson.

By unanimous consent, the bill (S. No. 1737) for the relief of Magnus S. Thompson was considered as in Committee of the Whole. It proposes to relieve Magnus S. Thompson, of Sioux City, Iowa, from the operation of section 1218 of the Revised Statutes of the United States.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

RESTORATION OF NAVAL OFFICERS.

Mr. FARLEY. I ask the Senate to take up Senate bill No. 1210. It will not take over two minutes to pass the bill, and it is a very just measure and one that ought to pass for the relief of certain naval officers. There is no money involved in the matter at all, but an act of justice. It is sustained by the entire committee, and I am told that if the bill is passed here this evening there is very little doubt about its passing the House to-morrow. It is to restore certain gentlemen to a certain rank in the Navy who were overlooked by a board that passed upon their case and afterward overlooked in the House. The Senator from Florida [Mr. JONES] made a report in the matter heretofore, and the bill is the unanimous action of the committee. It does nobody any injustice.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1210) for the relief of certain

officers of the Navy. In conformity with and to carry into effect the recommendations and conclusions of the board of officers organized in pursuance of the "joint resolution for the relief of Bushrod B. Taylor and other naval officers," approved February 5, 1879, the bill authorizes the President, by and with the advice and consent of the Senate, to promote Commodore Timothy A. Hunt to be rear-admiral on the retired list, when a vacancy occurs in that grade, in conformity with sections 1460 and 1461 of the Revised Statutes; to restore Captain Henry Erben to his original position on the active list of the Navy next below Captain George Brown; to restore Commander Henry Glass to his original position on the active list of the Navy next below Commander Edwin M. Sheppard; to promote Lieutenant-Commander James H. Sands to be commander, and restore him to his original position on the active list of the Navy next below Commander Charles McGregor; to promote Lieutenant-Commander Charles D. Sigsbee to be commander, and restore him to his original position on the active list of the Navy next below Commander Robley D. Evans.

Mr. LOGAN. I think it is a very late hour to consider the bill. I do not know anything about the merits of it, but, unless I am very much mistaken, it is restoring certain officers of the Navy, thereby overriding certain other officers that now are entitled to promotion under the law. I may be mistaken about that, but that is my understanding of it.

Mr. ANTHONY. I think the Senator from Illinois is mistaken. A board of admirals recommended certain officers for promotion, and they were all promoted except these, and they were omitted in the House—two of them—by an erroneous statement that they had already been promoted. It is only carrying into effect the action of the Navy Department which ought to have been carried into effect originally. I think the bill is a very just one. I suggest an amendment, that instead of the President being authorized to promote it should be to nominate, and, by and with the advice and consent of the Senate, to appoint.

Mr. LOGAN. I wish to understand it. I do not want to make any opposition to the bill if it is correct, but I know a certain gentleman in the Navy who is now entitled to promotion. If there was a blunder, I cannot understand how these men are to be promoted by an act of Congress if they were entitled to promotion otherwise.

Mr. ANTHONY. Congress passed an act that all officers who thought themselves entitled to promotion might apply to a board of admirals that was organized, and this board of admirals recommended a number of officers, among them these, but they were not promoted at the time; and in the case of two of them it was stated in the House that they had been promoted—perhaps that it is true of three—and by mistake. For that reason they were left out in the bill.

Mr. LOGAN. But did the law authorize the Secretary of the Navy to promote these men by examination before a board?

Mr. ANTHONY. They were examined before a board of admirals and recommended for promotion.

Mr. LOGAN. Then why did Congress have to act on it?

Mr. ANTHONY. The President was authorized to nominate them, and by and with the advice and consent of the Senate to appoint.

Mr. LOGAN. But if they were authorized to be promoted after examination by a board of admirals, Congress had nothing to do with it. The President only sends names to the Senate. Then why does this bill have to pass?

Mr. ANTHONY. The names of two of these men, three of them I think, were omitted in the original bill authorizing the President to nominate and, by and with the advice and consent of the Senate, to appoint. They were omitted by mistake.

Mr. LOGAN. I should like to look into it a little and if the Senator will allow it to lie over until to-morrow morning, if it is all correct, I shall make no objection to it; but I must object until I know something about it for the reason that I am impressed with the idea that it interferes with a very good officer of the Navy entitled to promotion at this time. If it does not, of course I will withdraw any objection. I shall know by morning, and will then withdraw my objection if it does not interfere with him. If it does, I shall certainly object.

Mr. ANTHONY. I do not think we can pass the bill unles we pass it now.

Mr. LOGAN. You cannot pass it now.

Mr. FARLEY. The only objection to the suggestion of the Senator from Illinois is simply that by postponing the consideration of this bill from now until to-morrow the result will probably be to defeat its passage at this session of Congress.

Mr. LOGAN. Not at all. Why should it? Is it a House bill or a Senate bill?

Mr. HOAR. A motion to reconsider will reserve to the Senator from Illinois all his rights until to-morrow.

Mr. LOGAN. It would reserve the right to me to discuss it, but it would not reconsider it.

Mr. HOAR. But the bill would not pass while that motion was pending.

Mr. LOGAN. I will examine it to-night if I am allowed, and in the morning will withdraw any objection to it if I find that it does not interfere with the rights of officers of the Navy.

Mr. ANTHONY. If the Senator will allow the bill to pass, and as the Senator from Massachusetts suggests, enter a motion to reconsider, he will have all his rights reserved. If the motion to reconsider is not acted on, the bill falls.

Mr. LOGAN. If the gentleman will enter a motion to reconsider, that will do. I will not vote for the bill, and therefore may not be able to enter the motion.

Mr. FARLEY. I will enter the motion if the Senator wishes.

Mr. LOGAN. And leave it to me to bring it up?

Mr. FARLEY. I will leave it to the Senator to withdraw the motion or press it.

The PRESIDENT *pro tempore*. There are amendments reported from the Committee on Naval Affairs.

The amendments reported from the Committee on Naval Affairs were, in section 1, line 16, after the word "original," to insert the word "relative;" in line 20, after the word "original," to insert the word "relative;" and in line 23, after the word "original," to insert "relative;" so as to read:

To restore Commander Henry Glass to his original relative position on the active list of the Navy next below Commander Edwin M. Sheppard; to promote Lieutenant-Commander James H. Sands to be commander, and restore him to his original relative position on the active list of the Navy next below commander Charles McGregor; to promote Lieutenant-Commander Charles D. Sigsbee to be commander, and restore him to his original relative position on the active list of the Navy next below Commander Robley D. Evans.

The amendments were agreed to.

The PRESIDENT *pro tempore*. The Senator from Rhode Island offered an amendment to amend section 1, in line 9, after the word "authorized," by inserting the words "to nominate and;" and in line 10 to strike out the word "promote" and insert "appoint;" so as to read:

The President of the United States be, and he is hereby, authorized to nominate and, by and with the advice and consent of the Senate, to appoint Commodore Timothy A. Hunt to be rear-admiral on the retired list.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. LOGAN. I now enter a motion to reconsider the vote by which the bill was passed.

The PRESIDENT *pro tempore*. The motion will be entered.

GREENLEAF CILLEY.

Mr. BLAINE. As we are running the Calendar out of order, I ask to take up a bill which the Senator from North Carolina [Mr. VANCE] if present would have charge of, a bill for the relief of Greenleaf Cilley. It is numbered in the order of business 581. I do not think it will be objected to or take a single moment.

The PRESIDENT *pro tempore*. The Senator from Maine moves to postpone all orders prior to order of business No. 581.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Senator from Maine now moves to proceed to the consideration of this bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 49) for the relief of Greenleaf Cilley.

Mr. ANTHONY. Is there a report in this case?

The PRESIDENT *pro tempore*. There is no report.

Mr. CONKLING. Let us hear from somebody what this is.

Mr. BLAINE. I will explain the bill in a moment. Cilley was one of the officers who were left off by the Welles board of 1866. He has been very strongly recommended for restoration. Several times I believe the House has passed a bill or the Naval Committee of the House has reported one to give him the rank which he would have held if he had been left on the list. This does not go that far. It only gives him the rank which he had when he was retired. He is a man of full, active, strong constitution. He was charged at the time he was dismissed with intemperate habits. I do not think the charge was sustained. He has been as sober a man for twelve years as any man in the United States. He was a gallant officer. He comes of fighting blood. He is the son of Jonathan Cilley who was well-known in connection with an unfortunate affair at the national capital here, served with great credit throughout the war, as his brother did in the military service, and is altogether a meritorious man, and of high personal character.

Mr. BUTLER. What rank was he?

Mr. BLAINE. Commander in the Navy. That is the whole case, and the Senate has once, if not twice, already on formal reports from the Naval Committee, of which my friend from Rhode Island [Mr. ANTHONY] is a member, passed this bill. I have stated the whole case. I have no more interest in it than any other human being on the face of the earth.

Mr. BLAIR. I wish to say just one word in regard to this case. This officer is one of the most gallant men who ever trod ship. He was charged with drunkenness several years ago, but he has been a sober man for some twelve or fifteen years. He is of the best fighting blood ever raised in our State. His uncle was a man who under Miller charged a battery, an incident that has become so famous in our history, in the war of 1812. He has very numerous family connections in our State and other States who are largely interested in his restoration. They feel keenly the disgrace inflicted on the family name. His ancestry back as far as the Revolution have been among the most distinguished in our State and in New England, and I do hope that this act of simple justice may be done to this man. I hope the bill will not be objected to further, and that it may pass.

Mr. ANTHONY. It is not my right now to object to the bill because it is before the Senate; but I cannot support it. This man was dismissed from the service for intemperance. I think the restoration of men who have been guilty of drunkenness on duty is destructive to the *morale* of the Navy, breaks down the *esprit*, and is altogether disastrous.

Mr. COCKRELL. Does the Senator know how old this gentleman is? Is the object of the bill simply to place him back on the active list of the Navy and then retire him?

Mr. BLAINE. Oh, no; he is fourteen or fifteen years this side of retirement. I could not answer as to his actual age, but I should say a man of forty-seven or forty-eight years.

Mr. BLAIR. A man who has twenty-five years good working ability in him. The bill is for his restoration to active service. That is all. He is ambitious to restore his reputation.

Mr. COCKRELL. Was he actually dismissed or simply placed on the retired list?

Mr. BLAINE. On the retired list; that is all.

Mr. COCKRELL. He is on the retired list of the Navy now?

Mr. BLAINE. Yes, sir.

Mr. COCKRELL. And this is to place him on the active list?

Mr. BLAINE. Yes; he is on the retired list now.

Mr. COCKRELL. What is his rank on the retired list?

Mr. BLAINE. Just the same as is proposed here.

Mr. LOGAN. I desire to make a suggestion to the Senator from Maine in reference to the bill. I do not know anything about the merits of it, but I do think that it is stretching the point a good deal to authorize the President to restore. You may authorize the President to nominate him on the active list and let him be confirmed by the Senate. The President certainly has no power to appoint him without the action of the Senate.

Mr. BLAINE. I have no objection to the change; but the honorable Senator from Illinois will observe that the assent of the Senate has to be given to this and cases of similar character, which may be looked upon as tantamount to a confirmation. This bill cannot pass now without the assent of the Senate, and that is all the Senate can give in case of confirmation; so that I think the language of the bill, which I had no hand in drawing, is after the pattern almost universally employed in similar cases, it being held that the assent of the Senate is the same as its confirmation.

Mr. LOGAN. I beg the Senator's pardon; it is not in the usual form. There is but one single instance, and that was by mistake, in which such a bill as that passed the Congress of the United States after four days' labor. I certainly shall object to a bill of that kind passing the Senate.

Mr. BLAINE. Well, move the amendment.

Mr. LOGAN. I cannot vote for a bill of that kind. I merely suggest that because I think the President has no more right to put a man on the active list than I have—not a particle.

Mr. COCKRELL. In view of the suggestion of the Senator from Illinois, I move to strike out the word "restore" and insert "be authorized to nominate and, by and with the advice and consent of the Senate, to appoint."

Mr. BLAINE. Let that go in.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Missouri.

The amendment was agreed to.

The PRESIDENT *pro tempore*. To make the bill read right the amendment should go further. It ought to be "to be a commander on the active list."

Mr. COCKRELL. Let that amendment be put in.

The PRESIDENT *pro tempore*. The bill will be so modified if there be no objection.

Mr. CONKLING. I am not one of the critics of this bill, but I suggest to the Chair that would be a very odd bill as it reads now. If it is reported at length, I think every Senator will see that it is quite incongruous.

Mr. BLAINE. Let it be read just as it stands.

The Chief Clerk read as follows:

That the President of the United States be, and is hereby, authorized to nominate and, by and with the advice and consent of the Senate, to appoint Greenleaf Cilley, now a commander on the retired list of the Navy, to be a commander on the active list: *Provided*, That in case of such restoration said Cilley shall take rank at the foot of the list of commanders: *And provided further*, That no claim for arrearages of pay shall accrue to said Cilley by reason of restoration under the provisions of this act.

Mr. THURMAN, (Mr. PADDOCK in the chair.) I do not know in what form these bills have usually passed, but it strikes me the bill was in the right form at first.

Mr. BLAINE. So it struck me.

Mr. THURMAN. Suppose this man is nominated, what is he nominated for? To be a commander in the Navy. He is a commander in the Navy now, but on the retired list. He can be restored to the active list without a nomination. That is not an appointment to an office. The President appoints to an office by and with the advice and consent of the Senate; but to change a man from one branch of the service to another, from the retired list to the active list, seems to me to be a matter that may be accomplished by law without any nomination at all. That would seem to me the proper way.

Mr. BLAINE. I ventured to suggest that this bill was in the usual form at first, but the honorable Senator from Illinois thought not, and I deferred to his request about it.

Mr. LOGAN. I differ with the Senator from Ohio.

Mr. THURMAN. I may be entirely wrong about it.

Mr. LOGAN. I differ with the Senator very materially. The retired list and the active list in the Army and Navy are as separate as any two offices possibly can be. An appointment to a place on the active list is a new appointment to a new service. The retired list is no part of the service proper. It is merely a list. We use the word "retired officer" instead of "pensioned officer" when an officer is retired from service. The active list is a list of officers appointed by the President of the United States and confirmed by the Senate. That is the rule, and always has been the rule, and in my judgment it is the law. I do not wish to discuss it, for it has been discussed frequently in the Senate.

Mr. BLAINE. I do not think it makes a particle of difference which way it passes, I am frank to say. It is merely giving the Senate a double review of the case. It is going through one now. It will have another when he is nominated. If the bill passes in the form in which it now stands the President will in the course of time nominate Greanleaf Cilley to be a commander on the active list, to take rank at the foot of the list of commanders. That will be the form of it, and it will all regulate itself and come out right. I hope there will be no attempt to change it from the way it stands now.

Mr. LOGAN. I do not wish to change it; it is all right now so far as that point is concerned; but I do not like questions of this kind that are of some importance to be passed over so slightly and wrong precedents to be set here in the Senate to be followed hereafter.

Now, I will illustrate this proposition of mine. Suppose we passed an Army bill to-day and designated certain persons who might be on the list. The President would have to appoint them on the list as Army officers, or else Congress takes the appointment out of his hands and provides that certain persons are officers of the Army. If that power exists in Congress, then the bill was correct; if that power does not exist in Congress, it was not correct. If the President has the appointing power, with the advice and consent of the Senate, then the President alone has no power to restore. It is Congress that has the power to authorize the restoration. The power of restoration does not belong to the President at all. His power is the power of appointment, with the advice and consent of the Senate. That is the distinction.

Mr. CONKLING. I move to strike out the word "restoration," where it occurs in the proviso, and put in its place the word "appointment." "Restoration" was used when that word was used in the prior provision of the bill and now it relates to nothing; and I can see how it might be construed so as entirely to neutralize the provisions of the bill.

The PRESIDING OFFICER, (Mr. CAMERON, of Wisconsin, in the chair.) The question is on the amendment moved by the Senator from New York.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

A. SIDNEY TEBBS.

Mr. HAMPTON. I move to postpone all prior orders to take up the bill (S. No. 1599) for the relief of Dr. A. Sidney Tebbs.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Mr. CONKLING. What is the bill?

The Chief Clerk read the bill, as follows:

Be it enacted, &c., That Dr. A. Sidney Tebbs, of Leesburgh, Virginia, be, and he is hereby, relieved from the operation of section 1218 of the Revised Statutes of the United States, being in chapter 1, title 14, of said Revised Statutes.

Mr. CONKLING. What is that provision of the Revised Statutes?

The PRESIDING OFFICER. The section will be reported by the Secretary.

The Chief Clerk read as follows:

SEC. 1218. No person who has served in any capacity in the military, naval, or civil service of the so-called Confederate States, or of either of the States in insurrection during the late rebellion, shall be appointed to any position in the Army of the United States.

The PRESIDING OFFICER. The bill is before the Senate as in Committee of the Whole, and if there are no amendments it will be reported to the Senate.

Mr. BLAINE. Let it be read in full.

The PRESIDING OFFICER. The bill will be read in full.

The Chief Clerk read the bill.

Mr. McMILLAN. Is there any report accompanying the bill?

The PRESIDING OFFICER. There is no report.

Mr. McMILLAN. The bill had better go over until we hear more about it.

Mr. HAMPTON. It is reported from the Committee on Military Affairs. The matter was brought before the Military Committee and they made a favorable report upon it. Senators will find by referring to the Calendar that it is order of business No. 610 and was reported favorably from the committee.

Mr. KIRKWOOD. Who was the person named.

Mr. HAMPTON. He was a private in the confederate army.

HOUR OF MEETING.

Mr. THURMAN. I am perfectly satisfied after looking over the Calendar that if we do not meet until ten o'clock to-morrow, as has been suggested, we shall have to extend the time of adjournment after twelve, to which I am very much averse. I move that when the Senate adjourns to-day it be to meet at nine o'clock to-morrow.

Mr. CONKLING. I move to amend that motion by saying "ten" instead of "nine." Nine is too early. Senators cannot get here so early and you will have to start off without a quorum.

Mr. THURMAN. We shall get through with the routine business.

Mr. CONKLING. What routine business?

Mr. THURMAN. The reading of the Journal, laying communications before the Senate, and so on. I hope the Senate will adopt my motion. The question is on the amendment, if the Senator insists.

Mr. CONKLING. If the Senator will allow me to say so, there will be no routine business in the morning. Nobody will have petitions to present, nobody will have reports from committees, nobody will have bills to introduce. There will be no routine business unless the Journal is to be read at length, which will not be done in all probability. Unless somebody insists upon it, the reading of the Journal will be dispensed with. I say again to the Senator from Ohio that nine o'clock is an earlier hour than a quorum of the Senate will meet here, and I say further, from my observation of such occasions, that the three hours thus to be afforded to-morrow morning will be as dangerous and may be as pernicious a three hours as have occurred during the whole session. The worst acts of legislation that ever I have seen in Congress have been those which go through in the promiscuous chase of Senators to get the floor, each one to get something up and willing to have that which is in advance pressed out of the way. We do not need three hours for anything that is to be done to-morrow morning.

Mr. THURMAN. I hope it may turn out so, if the Senate agree with the Senator from New York; but the reading of the Journal cannot be dispensed with except by unanimous consent. That will take fifteen or twenty minutes. The reading of the message of the President will take twenty minutes or thirty minutes.

Mr. CONKLING. What message?

Mr. THURMAN. That which was laid before the Senate to-night.

Mr. CONKLING. That is not to be read at all. The Senate has directed it to be laid on the table and printed. What is the use of reading it?

Mr. THURMAN. It will have to be read to-morrow, and the Senate will vote on it.

Mr. CONKLING. Not at all.

Mr. ANTHONY. Why not read it now?

Mr. THURMAN. We are tired now.

Mr. LOGAN. We are passing bills, and we may as well have it read as to pass bills.

Mr. THURMAN. Those who have been down stairs and had good dinners may be willing. I am perfectly willing to stay here until midnight, if necessary, and then adjourn to ten o'clock.

Mr. ANTHONY. That does not apply to me. I have had no dinner.

Mr. CONKLING. Nor to me. I have had no dinner.

Mr. THURMAN. Let the question be put on the amendment of the Senator from New York. Nobody will be more inconvenienced by getting here at nine o'clock than myself; but I prefer that to having the hour of adjournment extended.

The PRESIDING OFFICER. The Senator from Ohio moves that when the Senate adjourns to-day it be to meet at nine o'clock to-morrow morning. The Senator from New York moves to amend by striking out "nine" and inserting in lieu thereof "ten." The question is on the amendment of the Senator from New York.

The amendment was rejected, there being on a division—ayes 15, noes 24.

The PRESIDING OFFICER. The question now is on the motion of the Senator from Ohio.

The motion was agreed to.

ORDER OF BUSINESS.

Mr. BUTLER. I move that the Senate adjourn.

Mr. PADDOCK. I hope the Senate will not adjourn.

Mr. RANDOLPH. Will the Senator from South Carolina withdraw his motion, that I may move an executive session?

Mr. BUTLER. I withdraw the motion.

Mr. RANDOLPH. I move that the Senate proceed to the consideration of executive business.

Mr. HAMPTON. Is not Senate bill No. 1599 before the Senate? Final action has not been taken on it.

The PRESIDING OFFICER. It was superseded by the motion to proceed to the consideration of executive business.

Mr. RANDOLPH. I have no objection to withdrawing the motion.

The PRESIDING OFFICER. The motion is withdrawn. The bill is still in Committee of the Whole and open to amendment.

Mr. CONKLING. What bill?

The PRESIDING OFFICER. The bill called up by the Senator from South Carolina, [Mr. HAMPTON.]

Mr. CONKLING. How did that bill get up?

Mr. THURMAN. It was taken up by unanimous consent.

The PRESIDING OFFICER. It was before the Senate and was superseded by the motion made by the Senator from Ohio, that when the Senate adjourns it be to meet at a certain hour to-morrow.

Mr. CONKLING. I do not think the bill is before the Senate. A request was made that it be deemed before the Senate.

The PRESIDING OFFICER. The Chair declared that it was before the Senate.

Mr. CONKLING. For one I did not hear it. I heard the Senator from Minnesota make an inquiry about the bill, and then I understood him to object to taking it up. Certainly no unanimous consent was given and certainly no vote passed. Surely the reading of the bill for information and the section of the statute was demanded, because I asked for it myself.

The PRESIDING OFFICER. Before any of these things occurred the Chair declared that the bill was before the Senate.

Mr. CONKLING. I did not hear that.

Mr. McMILLAN. I move that the Senate adjourn.

Mr. RANDOLPH. I gave way, as I thought, with the understanding that the Senator from South Carolina would test whether his bill was before the Senate, and only for that purpose.

Mr. HAMPTON. And the Chair ruled that it was before the Senate.

The PRESIDING OFFICER. Certainly; the bill is before the Senate.

Mr. RANDOLPH. Of course the motion of the Senator from Minnesota is in order, but I beg that the Senate will go into executive session, and Senators understand the reason why. Sixty or eighty nominations are before us, and we cannot, as it seems to me, with propriety adjourn without taking action with reference to these nominations.

Mr. McMILLAN. I will withdraw the motion for the purpose of permitting the Senator from New Jersey to interpose his motion if he desires it.

EXECUTIVE SESSION.

Mr. RANDOLPH. I renew the motion to proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After ten minutes spent in executive session the doors were reopened, and (at nine o'clock and fifty-four minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *June* 15, 1880.

The House met at eleven o'clock a. m. Prayer by Rev. W. MORTON POSTLETHWAITE, of Baltimore, Maryland.

The Journal of yesterday was read and approved.

LEAVE TO PRINT.

Mr. WILLITS, by unanimous consent, was granted leave to print as a part of the debate some remarks he had prepared on the subject of the Hostetler bill, prohibiting political assessments. [See Appendix.]

Mr. LAPHAM, by unanimous consent, was granted leave to insert in the RECORD remarks upon the proposed joint rule for counting the votes of electors for President and Vice President. [See Appendix.]

Mr. ANDERSON, by unanimous consent, obtained leave to print some remarks on the same subject. [See Appendix.]

Mr. HISCOCK, by unanimous consent, was granted leave to print remarks in the RECORD on the subject of the revenue bill. [See Appendix.]

Mr. BAYNE, by unanimous consent, was granted leave to print some remarks on the joint rule for counting the electoral vote. [See Appendix.]

Mr. HOSTETLER, by unanimous consent, was granted leave to print some remarks on House bill No. 2266, prohibiting political assessments. [See Appendix.]

Mr. DIBRELL. I ask, Mr. Speaker, by unanimous consent that permission also be granted to the gentleman from South Carolina [Mr. TILLMAN] to print his speech in reference to the eight-hour rule. [See Appendix.]

The SPEAKER. The Chair hears no objection; and it is ordered accordingly.

ABRAHAM DEAL.

Mr. KELLEY, by unanimous consent, introduced a bill (H. R. No. 6486) granting a pension to Abraham Deal; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ROBERT HUFF.

Mr. CABELL, by unanimous consent, introduced a bill (H. R. No. 6487) for the relief of Robert Huff, of Floyd County, Virginia; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

REPEAL OF EXPORT TAX ON MANUFACTURED TOBACCO, ETC.

Mr. CABELL, by unanimous consent, introduced a bill (H. R. No. 6488) to repeal so much of section 3385 of the Revised Statutes as fixes an export tax on manufactured tobacco, snuff, and cigars going

out of the country; which was read a first and second time, referred to the Committee on Ways and Means, and ordered to be printed.

JAMES H. AYRES, OF MARYLAND.

Mr. KIMMEL, by unanimous consent, introduced a bill (H. R. No. 6489) for the relief of James H. Ayres; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

MARY HEINZERLING.

Mr. KIMMEL also, by unanimous consent, introduced a bill (H. R. No. 6490) granting a pension to Mary Heinzerling, widow of George Heinzerling, deceased, private of Company C, First Maryland Infantry Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HEIRS OF ESTHER M'MULLIN AND JAMES M'GLOIN.

Mr. UPSON, by unanimous consent, introduced a bill (H. R. No. 6491) for the relief of the heirs of Esther McMullin and James McGloin; which was read a first and second time, referred to the Committee on Claims, and ordered to be printed.

ORDER OF BUSINESS.

Mr. HUNTON. Mr. Speaker, I want to be recognized for the purpose of moving to dispense with the morning hour, and I will state my object in doing so is to immediately follow it, if successful, by moving to go to the business upon the Speaker's table and taking up all the bills as they are reached, except those containing political matters.

Mr. ROBINSON. And revenue bills.

Mr. TUCKER. I wish in the morning hour to report from the Committee on Ways and Means, for action at this time, the bill in reference to cotton-ties.

Mr. PACHECO. I wish to introduce a bill.

Mr. HUNTON. I will, if my motion succeeds, yield to gentlemen for the purpose of asking unanimous consent for the introduction of bills.

Mr. BUCKNER. I wish to make a parliamentary inquiry.

Mr. McKENZIE. What is the regular order of business?

The SPEAKER. The regular order of business is the unfinished business coming over from yesterday.

Mr. TOWNSHEND, of Illinois. Let the States be called to-day for unanimous consent.

Mr. RYON, of Pennsylvania. I desire to say a word in support of the proposition of the gentleman from Illinois, [Mr. TOWNSHEND.] I think it will be perfectly fair in view of the fact that we have proceeded on two or three occasions here under arrangements in which certain members were recognized and permitted to introduce bills. I think we ought to continue that arrangement until all have had an opportunity.

The SPEAKER. That would be a great relief to the Chair, inasmuch as it would permit the recognition of one from each State in the order of the roll of States instead of to the whole House.

Mr. TOWNSHEND, of Illinois. Let that be done so as to enable each State to have an opportunity.

Mr. HUNTON. That is not the pending motion as I understand. The pending motion is to dispense with the morning hour.

The SPEAKER. There is a motion pending to dispense with the morning hour, on which the question will now be taken.

The House divided; and there were—ayes 71, noes 28.

So (two-thirds voting in favor thereof) the morning hour was dispensed with.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. BLOUNT. I desire to make a conference report which I send to the desk.

The SPEAKER. The Clerk will read the report of the conferees.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House No. 6266, making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 17, 18, 28, 29, 30, 31, 46, 57, 71, 72, 79, 81, 89, 103, 111, 116, and 122.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 19, 20, 21, 22, 23, 25, 26, 27, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 47, 48, 50, 51, 55, 56, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 76, 80, 82, 86, 87, 88, 91, 92, 93, 94, 95, 96, 98, 99, 100, 102, 104, 105, 106, 107, 108, 109, 110, 112, 114, 115, 117, 118, 119, 120, 121, 123, and agree to the same.

Amendment numbered 24: That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment as follows: In lieu of "fifty" insert "forty;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment as follows: In lieu of the sum proposed, insert "$8,500;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 52, and agree to the same with an amendment as follows: Strike out "40" and in lieu thereof insert "30;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$90,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment as follows: Add after the word "service" where it first occurs the following: "And pay and bounty laws;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment as follows: Strike out "75" and insert "25;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment as follows: Restore the paragraph proposed to be stricken out amended as follows: "In lieu of "$75,000" insert "$50,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 70, and agree to the same with an amendment as follows: In lieu of the proposed paragraph insert the following: "For military surveys and reconnaissances in the military divisions and departments west of the Mississippi River, $12,500;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment as follows: In lieu of "$50,000" insert "$40,000." And strike out all of said amendment after the word "dollars;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment as follows: In lieu of said amendment insert the following: "For the construction of necessary buildings, including officers' quarters, for the headquarters already commenced, of the military Department of Texas, on the military reservation of San Antonio, Texas, $75,000; the total cost thereof shall not exceed $125,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 75, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$25,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 77, and agree to the same with an amendment as follows: Strike out the words "and completion," and in lieu of the sum proposed insert "$80,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 78, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$10,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 83, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$112,500;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 84, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$150,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$20,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 90, and agree to the same with an amendment as follows: Add at the end of said Senate amendment the following: "Or of any corridor;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 97, and agree to the same with an amendment as follows: In lieu of the amended paragraph insert the following: "For the settlement of claims for swamp lands and swamp-land indemnity, $15,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 101, and agree to the same with an amendment as follows: Strike out "$175,000" and insert in lieu thereof "$143,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment as follows: Strike out all of said amendment, together with the amended paragraph commencing on line 13, page 39 of the bill, down to and including line 5, page 40 of the bill; and the Senate agree to the same.

JAMES H. BLOUNT,
HIESTER CLYMER,
FRANK HISCOCK,
Managers on the part of the House.
JAMES B. BECK,
ROBERT E WITHERS,
WILLIAM B. ALLISON,
Managers on the part of the Senate.

Mr. BLOUNT. I ask that the accompanying statement be read.

The Clerk read as follows:

The managers on the part of the House on the conference on the sundry civil appropriation bill submit the following statement in explanation of the report agreed upon by the conference committee:

The effect of the action recommended by the committee on the Senate amendments will be, if ratified by the two Houses, as follows:

On amendment 1, makes the appropriation for completion of public building at Austin, Texas, $13,000.

On amendment 2, appropriates $25,000 for approaches to public building at Evansville, Indiana.

On amendments 3 and 4, appropriates $125,000 for completion of public building at Hartford, Connecticut.

On amendments 5 and 6, extends limitation of cost of public building at Kansas City from $200,000 to $300,000.

On amendment 7, appropriates $47,000 for public building in New Orleans.

On amendments 8 and 9, appropriates $75,000 for public building in Nashville, Tennessee.

On amendment 10, inserts the following after appropriation for public building at Topeka, Kansas:

"*Provided*, That iron joists for floors may be used, and that the limit of cost for the entire building be extended $20,000 to cover increased cost therefor."

On amendments 11 and 12, appropriates $61,000 for completion of public building at Utica, New York.

On amendment 13, inserts the following:

"For completing the grade, sidewalks, fences, and other necessary improvements on the grounds of the United States court-house and post-office at Lincoln, Nebraska, $5,000."

On amendment 14, appropriates $15,732.70 for purchase of additional ground for Bureau of Engraving and Printing.

On amendment 15, reappropriates $4,000 to prepare plans for public building in Baltimore.

On amendment 16, increases salary of postmaster in Washington City from $3,500 to $4,000.

On amendment 17, strikes out appropriation for enlarging City Hall in Washington City.

On amendments 18 and 19, makes appropriation of $376,960 for pay of crews of experienced surfmen and $65,000 for contingent expenses of Life-Saving Service.

On amendments 20, 21, 22, and 23, makes verbal changes in the clauses making appropriations for the Light-House Establishment.

On amendment 24, appropriates $140,000 for "lighting and buoyage" on the Mississippi, Ohio, and Missouri Rivers.

On amendment 25, appropriates $21,000 to purchase land and for repairs and dredging at Staten Island depot, New York.

On amendment 26, strikes out the following:

"For establishing lights on the Delaware River, in addition to existing appropriations, $15,000;" the same being provided for elsewhere in the bill.

On amendment 27, authorizes purchase of additional land for Cape Henry light-house.

On amendments 28 and 29, appropriates $50,000 for continuing work on light-house on Stannard's Rock.

On amendments 30 and 31, appropriates $50,000 for continuing work on Tillamook Head light-house.

On amendment 32, strikes out the following:

"For completing a light-house and establishing a fog-signal at Point no Point, Admiralty Inlet, Washington Territory, $5,000."

On amendments 33, 34, and 35, provides $95,000 for construction of two steam light-house tenders, and inserts the following:

"*Provided*, That masters of light-house tenders shall have police powers in matters pertaining to Government property and smuggling."

On amendments 36 and 37, appropriates $1,200 for a light at the mouth of Sampit River, South Carolina.

On amendments 38 and 39, strikes out the following:

"For commencing a light station on Sanabel Island, Punta Rassa Harbor, Florida, $20,000.

"For the erection of a light-house and fog-bell on Bloody Point Bar, Kent Island, Chesapeake Bay, $25,000."

On amendments 40 and 41, strikes out provision for day mark on harbor ledge, and provides for a light on Forked Rock, Stamford Harbor, Connecticut.

On amendment 42, to establish lights at the mouths of Red River at a cost of $3,000.

On amendment 43, inserts the following:

"For the examination and survey of sites for proposed light-houses, and preparing plans for proposed structures, $10,000."

On amendment 44, inserts the following:

"For the continuation of the resurvey of Delaware Bay and River, $10,000."

On amendment 45, provides $12,000 for additional carp pond on Monument lot.

On amendments 46, 47, 48, and 49, makes the total appropriations for standard weights and measures, $8,500.

On amendments 50, 51, 52, and 53, makes the total appropriation for furniture for public buildings, including $90,000 for the one at Chicago, $220,000.

On amendment 54, makes the clause for "suppressing counterfeiting and other felonies" read as follows:

"Suppressing counterfeiting and similar felonies: For expenses of detecting and bringing to trial and punishment persons engaged in counterfeiting Treasury notes, bonds, national-bank notes, and other securities of the United States, as well as the coins of the United States, and robbing mails, and other felonies committed against the laws of the United States relating to the postal service, the pay and bounty laws, and against the laws relating to the revenue service, and for no other purpose whatever, $80,000."

On amendments 55 and 56, strikes out two assistant agents at seal fisheries in Alaska, at $2,190 each.

On amendment 57, appropriates $20,000 for use of revenue steamer in Alaska.

On amendments 58 and 59, makes total appropriation of $100,000 for salaries and expenses of Board of Health; and makes available $50,000 of a former appropriation, to be used in event of epidemic for aid to State and local boards of health.

On amendment 60, strikes out the following:

"To enable the Secretary of the Treasury to provide suitable and sufficient accommodation for the storage of the coin of the United States, he is hereby directed to pay the sums appropriated by this act in lawful silver coin of the United States."

On amendment 61, inserts the following:

"There shall be added to the Signal Corps fifty privates; and from and after the passage of this act the Chief Signal Officer shall have the rank and pay of a brigadier-general."

On amendments 62, 63, and 64, increases the appropriation for general care, preservation, and improvement at Rock Island arsenal $9,000.

On amendments 65 and 66, inserts the following:

"For completing repairs on wharf for Benicia arsenal, California, $5,000.

"For continuing boring the artesian well at Benicia wharf, California, $5,000."

On amendment 67, appropriates $15,000 for filling and improving grounds south of the Executive Mansion.

On amendment 68, makes immediately available the appropriation for State, War, and Navy Department building.

On amendment 69, appropriates $147.85 to pay for procuring plans for Washington Monument.

On amendment 70, appropriates $12,500 for military surveys in military divisions west of the Mississippi River.

On amendment 71, strikes out appropriation to prepare reports, maps, &c., of the geographical survey west of the one hundredth meridian.

On amendment 72, strikes out appropriation to purchase patent-right for canister-shot.

On amendment 73, appropriates $40,000 for a new military post near Musselshell River, Montana.

On amendment 74, appropriates $75,000 for headquarters buildings at San Antonio, Texas.

On amendment 75, appropriates $25,000 for quarters at Omaha, Nebraska.

On amendment 76, appropriates $20,000 for repair of quarters at Fortress Monroe.

On amendment 77, appropriates $80,000 for continuance of Fort Assinaboine, Montana.

On amendment 78, appropriates $10,000 to continue tests of iron and steel.

On amendment 79, strikes out appropriation to pay certificates for arrears of pay and bounty issued since January 1, 1880.

On amendment 80, inserts the following:

"That the buildings and grounds adjoining the Washington Asylum in the District of Columbia, heretofore used as a naval and Army magazine, be, and the same hereby are, added to the grounds of the asylum, and subjected to the control of the commissioners of the District of Columbia as part of the asylum until otherwise ordered."

On amendment 81, strikes out the following:

"That the Secretary of War be, and he is hereby, authorized and directed to collect and maintain in his office all the title-papers, records, and other data relating to the military reservations, arsenals, forts, and other real property of the United States under jurisdiction of the War Department, and cause to be prepared abstracts of title to said property, and to defray the expenses thereof out of the contingent fund of the Army."

On amendment 82, reappropriates $22,336.69 for repair of marine barracks at Washington, Norfolk, and Annapolis.

On amendments 83, 84, and 85, appropriates for the following navy-yards: at Mare Island, $112,500; Pensacola, $150,000; and New London, $20,000.

On amendment 86, appropriates $14,300 for publication of consular and other commercial reports.

On amendment 87, appropriates $15,000 for repairs of Interior Department building.

On amendment 88, appropriates $80,000 for fire-proof model cases.

On amendment 89, strikes out appropriation to publish centennial map.

On amendment 90, makes the proviso on the appropriation for elevator in the Capitol read as follows:

"*Provided*, That the location of such elevator shall not in any wise interfere with the use or occupation of or communication between any of the offices or committee-rooms of the House, nor with the lighting or ventilation thereof or of any corridor."

On amendment 91, appropriates $1,500 for furniture for Library of Congress.

On amendment 92, provides for a night watchman in the Botanic Garden.

On amendments 93, 94, and 95, increases the appropriation for the National Museum buildings $8,500.

On amendment 96, appropriates $10,000 for Howard University.

On amendment 97, simply changes the language of a clause without altering its effect.

On amendment 98, inserts the following:

"And the Secretary of War is hereby authorized to detail not exceeding two officers of the ordnance corps to serve with the geological survey: *Provided*, That in his judgment it can be done without injury to the service."

On amendments 99 and 100, increases the appropriation for the census to $960,000.

On amendment 101, fixes appropriation for Government Hospital for the Insane at $143,000.

On amendment 102, inserts the following:

"*Provided*, That when any indigent applicant for admission to the institution, belonging to the District of Columbia, and being of teachable age, is found on examination by the president of the institution to be of feeble mind, and hence incapable of receiving instruction among children of sound mind, the Secretary of the Interior may cause such person to be instructed in some institution for the education of feeble-minded children in Pennsylvania, or some other State, at a cost not greater for each pupil than is, or may be for the time being, paid by such State for similar instruction, and the sum necessary therefor is appropriated out of the sum above provided for current expenses of the institution."

On amendments 103, 104, and 105, appropriates $25,000 for entomological commission; strikes out the words "and other insects injurious to the cotton plant;" and provides for transfer of the work to the Agricultural Department after June 30, 1881.

On amendment 106, appropriates $10,000 for expenses of Indian commission.

On amendment 107, appropriates $3,600 for rent of Court of Claims.

On amendment 108, strikes out the following:

"Defending suits and claims for seizure of captured or abandoned property: For payment of the necessary expenses incurred in defending suits against the Secretary of the Treasury or his agents for the seizure of captured or abandoned property, and for the examination of witnesses in claims against the United States pending in any Department, and for the defense of the United States in the Court of Claims, to be expended under the direction of the Attorney-General, $25,000."

And inserts:

"For payment of the necessary expenses incurred in the examination of witnesses in the matter of claims against the United States pending in any Department, and for the necessary expenses incurred in defending suits in the Court of Claims, to be expended under the direction of the Attorney-General, $25,000."

On amendments 109, 110, and 111, strikes out all appropriations for purchase of law-books for United States courts.

On amendment 112, appropriates $2,500 for repairs and furniture for public building in Charleston, South Carolina.

On amendment 113, strikes out the provision relative to manner of keeping the books of the Government Printing Office.

On amendments 114 and 115, provides for the purchase of additional lot of land for the Government Printing Office.

On amendment 116, strikes out appropriation for fire-proof extension of the Government Printing Office.

On amendments 117, 118, 119, and 120, appropriates $10,000 for repairs of heating apparatus in the Senate Chamber, provides for an annual clerk to the Senate Committee on Naval Affairs at $2,220 and for an assistant librarian in the Senate at $1,440.

On amendment 121, appropriates $722 for cleaning Statuary Hall.

On amendment 122, strikes out proposition for fire-proofing and alterations in Statuary Hall.

On amendment 123, appropriates $2,000 for compilation of a book ordered by the Senate.

JAMES H. BLOUNT,
HIESTER CLYMER,
FRANK HISCOCK,
Managers on the part of the House.

Mr. BLOUNT. The bill as it passed the House appropriated $21,556,647.36; the amendments of the Senate added $1,740,764.24. From these the Senate have receded to the amount of $773,540. The amount of the bill as it now stands is $22,523,871.60, making an increase on the bill over the amount as it passed the House of $967,224.24.

I think with the accompanying statement I have given such information as the House would desire. I ask the previous question on the adoption of the report.

The previous question was seconded and the main question ordered; and under the operation thereof the report of the committee of conference was concurred in.

Mr. BLOUNT moved to reconsider the vote by which the report of the committee of conference was concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 6207) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1881, and for other purposes.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 2328) to provide for the settlement of all outstanding claims against the District of Columbia, and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes.

The message further announced that the Senate had passed a bill (S. No. 1725) for the relief of Henry C. De Ahna; in which the concurrence of the House was requested.

AGRICULTURAL APPROPRIATION BILL.

Mr. DIBRELL. I rise to make a conference report.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 6207) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1881, and for other purposes, having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its amendments numbered 13 and 20.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 4, 5, 7, 8, 9, 14, 16, and 21, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$3,500;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment as follows: In lieu of said Senate amendment substitute the following: "One assistant chemist at $1,200;" and the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 10, 11, and 12, and agree to the same with an amendment as follows: Strike out all after the word "and," where it first occurs in line 10, page 3 of the bill, down to and including the word "constituencies," in line 13, page 3 of the bill, and insert the following in lieu thereof, viz: "an equal proportion of three-fourths of all seeds, plants, and cuttings shall upon their request be supplied to Senators, Representatives, and Delegates in Congress for distribution among their agricultural constituents, or shall by their direction be sent to their constituents;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$3,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$4,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$4,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment as follows: In lieu of "$15,000" in said Senate amendment insert "$7,500;" and the Senate agree to the same.

JAMES W. COVERT,
G. G. DIBRELL,
JOHN A. ANDERSON,
Managers on the part of the House.
WILLIAM WINDOM,
H. G. DAVIS,
WILLIAM A. WALLACE.
Managers on the part of the Senate.

The detailed statement accompanying the report was read, as follows:

Statement to accompany report of conference committee on H. R. No. 6207, the bill making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1881, &c.

The effect of the report herewith submitted is as follows:

As to Senate amendment No. 1, the amendment to the amendment as agreed to by the conference committee establishes the salary of the Commissioner of Agriculture for the ensuing fiscal year at $3,500, instead of $4,000 as proposed by the Senate amendment.

As to amendment No. 2, the action had simply strikes out the title given to one of the employés of the Department—"the assistant disbursing clerk"—and the adoption of amendments Nos. 3 and 4 ranks said officer among the clerks of class 2, and dispenses with the requirement that two of the clerks of said class shall be practical printers, this requirement being deemed unnecessary.

Amendment No. 5 authorizes the payment of clerks, with the other employés named, out of the general appropriation made in the bill for the pay of such employés, it being thought that the Commissioner might make better disposition of the employés engaged in the Department if the word "clerks" was inserted as proposed by the amendment.

Amendment No. 6, as amended upon the conference and as so amended agreed to, provides for the employment and salary of one additional assistant chemist, instead of three assistant chemists, for the ensuing year, at $1,200.

Amendment No. 7 merely creates a separate division, and gives it the title of "microscopical division," without adding to the appropriation.

The agreement to amendment No. 8 reduces the salary of the librarian from $1,800 to $1,400 for the coming fiscal year.

Amendment No. 10 has reference to the matter of seed distribution, and strikes out the provision requiring that "an equal proportion" of seeds be distributed among Senators, Members, and Delegates, and provides that an equal proportion of three-fourths of all seeds, plants, and cuttings shall, upon their request, be supplied to Senators, Representatives, and Delegates in Congress for distribution among their agricultural constituents, or shall, by their direction, be sent to their constituents.

The effect of the action of the Senate committee in receding from amendment No. 11 is to make it obligatory on the part of the Commissioner thus to supply seeds to Senators, Members, and Delegates, instead of leaving it as a matter of construction whether such action is obligatory on his part.

Amendment No. 12 provides in terms that Senators shall participate in such distribution, and determines in this respect the construction of the paragraph.

The effect of the action of the Senate committee in receding from amendments Nos. 13 and 15, and of the House in receding from No. 14 with amendments, is to appropriate $5,000 for experiments in connection with the culture and manufacture of tea, as provided originally in the House bill, to be available immediately; and to appropriate $3,000 for experiments in connection with cotton.

Amendment No. 16 appropriates $5,000 for labor, implements, and materials. This item has formerly found place in the sundry civil appropriation bill. For convenience it has been thought best to insert it in the agricultural appropriation bill and omit it in the sundry civil bill; from which last-named bill it will be stricken out in the Senate.

The agreement upon the amendments to Senate amendments Nos. 17 and 18 has the effect to appropriate $4,000 for chemicals and chemical apparatus, and to provide an appropriation of a like amount to test the peculiarities of wools and animal fibers on exhibition at the approaching international sheep and wool exposition, both of said sums to be available immediately.

Senate amendment No. 19 as amended in conference, and as so amended agreed to, provides for the purchase of machinery and apparatus, and for experiments in the manufacture of sugar from sorghum and corn-stalks and other sugar-producing plants, and appropriates for this purpose $7,500 instead of $15,000, as provided by the original Senate amendment, and out of this sum $1,000 is established as extra salary for the chief chemist for the ensuing fiscal year.

The agreement to recede from Senate amendment No. 20 has the effect to restore the appropriation of $5,000 for the investigation of the agricultural needs of the arid region of the United States.

Senate amendment No. 21 provides that reports as to the progress, &c., of the work of sinking the artesian wells provided for by the bill shall each week be forwarded to instead of filed with the Commissioner of Agriculture.

The other amendments agreed to are formal in character, and simply give the totals of the various classes of appropriations.

The Senate amendments as amended upon the conference, and as so amended agreed to, increase the total appropriations over the amount appropriated in the House to the amount of $13,300, making the total appropriations for the Department amount in the aggregate to the sum of $251,300.

JAMES W. COVERT,
G. G. DIBRELL,
JNO. A. ANDERSON,
Managers on the part of the House.

Mr. WHITE. If my friend from Tennessee will allow me just one moment, I ask that there be read again that part of the report which relates to the distribution of seeds, shrubs, &c.

Mr. DIBRELL. Let the paragraph in the accompanying statement relating to that matter be read. It explains it fully.

The paragraph was again read.

Mr. WHITE. All right. That seems to be satisfactory.

Mr. DIBRELL. I move the previous question on the adoption of the report.

The previous question was seconded and the main question ordered; and under the operation thereof the report of the committee of conference was concurred in.

Mr. DIBRELL moved to reconsider the vote by which the conference report was concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

BRIDGE ACROSS POTOMAC.

Mr. HUNTON. I renew the request I made yesterday for unanimous consent to take from the Speaker's table the bill (H. R. No. 1381) to authorize the construction of a bridge across the Potomac River at or near Georgetown, in the District of Columbia, and for other purposes; my object being to move that the House non-concur in the Senate amendment to the bill and ask for a committee of conference.

Mr. CRAPO. I object.

Mr. ALDRICH, of Rhode Island. I hope my friend will not object to the bill going to a conference committee.

Mr. CRAPO. Let the gentleman move concurrence in the amendment.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. ATKINS. I ask the attention of the House for a single moment while I make a statement in regard to the public business. It will be remembered that the conference committee on the legislative, executive, and judicial appropriation bill made two reports. In the first report made by them they concurred in certain amendments of the Senate relating principally to the salaries of the employés in this Capitol. That report was made to the House, and this resolution was offered by the gentleman from Pennsylvania, [Mr. CLYMER,] I having left the Hall:

Resolved, That the foregoing report be accepted, and the request of the Senate for a further conference on the disagreeing votes of the two Houses on the said bill be agreed to.

The conference committee disagreed with regard to the salaries of the employés of the two Houses, but agreed as to the salaries of departmental clerks. This resolution used the word "accepted" instead of the words "concurred in." I move now, although it may not be necessary, but for fear there might be some criticism upon the legality of the bill as passed, I ask unanimous consent to strike out the word "accepted" and to insert the words "concurred in."

The SPEAKER. The Chair desires to state that the motion made by the gentleman from Pennsylvania [Mr. CLYMER] was the correct one to have been made. In the judgment of the Chair then and in the judgment of the Chair at this time it was not proper for the House to concur in a partial report from a conference committee. In view of the fact that the second conference report, which in the opinion of the Chair should have embraced all that was in the first, did not do so, it having been an omission by the clerk who prepared that report, it is competent, perhaps, for the House to rectify the matter in the way suggested, with the unanimous consent of the House.

Mr. CLYMER. I desire to say in reference to the part which I took in the matter that the resolution which I offered was prepared after consultation with those whose duty and pleasure it was to direct in such matters.

The SPEAKER. The Chair has no doubt that the proposition submitted by the gentleman from Pennsylvania [Mr. CLYMER] was absolutely correct and the one that should have been offered as it was written. In regard to the omission from the second conference report of the amendments which were originally agreed to by the conferees, the difficulty can perhaps be rectified by unanimous consent at this time. The Chair thinks it would have been a much better way to have passed a concurrent resolution and to have embraced in that resolution an agreement to the amendments in question. The Chair, however, will ask unanimous consent of the House that the words "concurred in" be substituted for the word "accepted."

Mr. ATKINS. The Senate has already agreed to the recommendations contained in both reports in regard to the amendments.

The SPEAKER. The Senate has agreed under their own decision, which is not in accord with the decision of the Chair as to the power of the House to concur in a portion of the amendments to a bill by a partial report from a conference committee. The House has perhaps

the power to correct the difficulty in this way, although it is unusual.

There was no objection, and it was ordered accordingly.

Mr. PAGE. Is this bill still in conference?

The SPEAKER. It is not. The bill has been engrossed, but the Chair has delayed signing it for this purpose.

ENROLLED BILL SIGNED.

Mr. KENNA, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the House of the following title; when the Speaker signed the same:

An act (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, announced that the Senate had passed, without amendment, joint resolution and bills of the following titles:

Joint resolution (H. R. No. 123) authorizing the Secretary of the Interior to certify school lands to the State of Kansas;

A bill (H. R. No. 3980) authorizing the Secretary of the Interior to place upon the pension-roll the name of Della Benner, widow of the late Lieutenant Hiram H. Benner, of Company C, Eighteenth Infantry;

A bill (H. R. No. 6018) for the relief of Benjamin Babb; and

A bill (H. R. No. 6380) for the relief of the estate and sureties of John P. Hall, deceased.

The message also announced that the Senate had passed a bill of the following title, with amendments in which the concurrence of the House was requested:

A bill (H. R. No. 3742) to authorize the Secretary of the Treasury to sell certain real estate belonging to the United States and vesting the title to certain other lands in the city of Vincennes, in the State of Indiana, and for other purposes.

The message further announced that the Senate had passed a bill of the following title; in which the concurrence of the House was requested:

A bill (S. No. 1191) for the relief of James Monroe Heiskell, of Baltimore City, Maryland.

ORDER OF BUSINESS.

Mr. McLANE. I call for the regular order.

The SPEAKER. The regular order is the unfinished business coming over from yesterday.

Mr. TUCKER. I ask my friend from Maryland [Mr. McLANE] to yield to me to introduce a resolution and have it acted on now.

Mr. WHITE. I desire to introduce a couple of bills for reference.

Mr. McLANE. I would rather have the House dispose of the unfinished business.

The SPEAKER. The gentleman objects. The regular order comes up by reason of the objection.

DUTIES ON SUGAR AND MOLASSES.

The SPEAKER. The unfinished business is the motion of the gentleman from Maryland, [Mr. McLANE,] to suspend the rules and pass a bill to regulate the duties on sugar and molasses, which has been read. The pending question is upon seconding the motion to suspend the rules; and the Chair appoints Mr. McLANE, of Maryland, and Mr. ACKLEN, of Louisiana, as tellers.

Mr. ELLIS. Will the gentleman from Maryland accept an amendment to his bill?

Mr. McLANE. I cannot yield for an amendment.

Mr. ELLIS. I ask that it be read for the information of the House.

Mr. BREWER. Does that require unanimous consent?

The SPEAKER. It requires consent of the gentleman from Maryland, and he refuses to give his consent.

Mr. BREWER. Then I object.

Mr. McLANE. I will save the time of reading the amendment by objecting to it, because I have already said that I would not accept any amendment at all to the bill.

Mr. ELLIS. Let the amendment be read.

Mr. BREWER. I object to its being read.

Mr. McLANE. I object to its being read for I cannot accept it.

Mr. ELLIS. My amendment will affect chrome-ore and another peculiar industry of the State of Maryland. I wanted to ascertain whether the crusade of reform on the part of that gentleman was of the order of Artemas Ward's patriotism, who was willing to sacrifice all the able-bodied male relatives of his wife on the altar of his country. [Laughter.]

The SPEAKER. The tellers will take their places.

The question was taken upon seconding the motion to suspend the rules; and the tellers reported that there were—ayes 105, noes 2.

Mr. ACKLEN, (one of the tellers.) No quorum has voted.

Mr. CONGER. There is no second.

Mr. KING. No quorum has voted.

The SPEAKER. The point of order is made by the gentleman from Michigan [Mr. CONGER] and the gentlemen from Louisiana [Mr. ACKLEN and Mr. KING] that no quorum has voted.

Mr. WILSON. It is to be hoped that after this exhibition the whole thing will be dropped. [Laughter.]

Mr. ACKLEN. I trust that the gentleman from Maryland will now see the propriety of withdrawing his motion.

Mr. STEVENSON. I move a call of the House.

The motion of Mr. STEVENSON was agreed to.

The roll was called; when the following-named members failed to answer:

Aiken,	Deuster,	Lewis,	Richardson, D. P.
Armfield,	Dick,	Loring,	Richardson, J. S.
Atherton,	Einstein,	Marsh,	Richmond.
Bailey,	Ewing,	McGowan,	Rothwell.
Barlow,	Finley,	McKinley,	Sapp,
Beltzhoover,	Forsythe,	Miles,	Smith, Hezekiah B.
Bragg,	Garfield.	Miller,	Starin,
Brigham,	Gibson,	Morrison,	Steele,
Browne,	Gillette,	Muldrow,	Thompson, W. G.
Burrows,	Harris, Benj. W.	Muller,	Turner, Thomas
Butterworth,	Hayes,	Murch,	Updegraff, J. T.
Calkins,	Hazelton,	Neal,	Updegraff, Thomas
Camp,	Heilman,	Newberry,	Van Aernam,
Chalmers,	Hill,	Norcross,	Weaver,
Claflin,	Hiscock,	O'Brien,	Wilber,
Clardy,	Hooker,	Orth,	Williams, C. G.
Clark, Alvah A.	Hull,	Phister,	Wood, Fernando
Covert.	James,	Pierce,	Wood, Walter A.
Cowgill,	Jorgensen,	Pound,	Yocum.
Crowley,	Killinger,	Prescott,	
Davidson,	Kitchin,	Price,	
De La Matyr,	Le Fevre,	Reed.	

The SPEAKER. The call of the roll develops the fact that two hundred and six members are present.

Mr. McLANE moved to dispense with further proceedings under the call.

The motion was agreed to.

The SPEAKER. The gentleman from Maryland [Mr. McLANE] and the gentleman from Louisiana [Mr. ACKLEN] will resume their places as tellers. The question recurs on seconding the motion to suspend the rules to pass the bill relative to the duty on sugar.

Mr. McLANE. I ask to make an explanation. I have been appealed to on the right and on the left—[cries of "Regular order!"]

Mr. ACKLEN. I do not see the necessity of any debate on this subject.

Mr. TUCKER. I hope the gentleman from Maryland will be allowed to make a brief statement.

Mr. ACKLEN. I shall not object. [Cries of "Regular order!"]

Mr. KING. I hope the gentleman from Maryland will be allowed a word of explanation.

The SPEAKER. Is there objection to allowing the gentleman from Maryland to make a statement?

Mr. ACKLEN. How long?

Mr. McLANE. One minute.

The SPEAKER. The Chair hears no objection.

Mr. McLANE. I have been appealed to by gentlemen on the right and on the left to give way to this opposition, for the reason as claimed that it has been made apparent by sundry votes that there are not two-thirds of the members present in favor of this bill. Now, if that be true, Mr. Speaker, let the bill be taken up and let two-thirds fail to suspend the rules; and there is an end of this controversy. Why should the House ask me to take for granted what it is in the power of the House to make manifest by one vote?

Mr. KELLEY. It has been made manifest twenty times.

Mr. McLANE. I decline to withdraw my motion.

Mr. ACKLEN. If the gentleman from Maryland desires to put members of the House on record upon a bill which has never yet received the sanction of the appropriate committee of this House—a bill affecting the revenues of this country to the extent of many millions of dollars—a bill which demands at the hands of this House for its fair consideration many hours of debate, he should not have brought it in here at this late hour when we are within twenty-four hours of the final adjournment. This is not a fit time for the consideration of such a question. Nor has the bill ever been printed for the information of the House, as I am informed.

Mr. ALDRICH, of Illinois. That is a mistake. [Cries of "Regular order!"]

Mr. HUMPHREY. One question, Mr. Speaker. Does not this bill simply take off the 25 per cent. which was put on a few years ago in an emergency to help the revenue?

Mr. ACKLEN. No, sir; not at all. This bill is in the interest only of a few importers.

Mr. HUMPHREY. An industry that cannot live on a protection of 50 per cent., but demands 80 per cent., ought not to be protected.

The SPEAKER. The tellers will resume their places. This discussion is all out of order, as the House is dividing.

The tellers reported—ayes 105, noes 1.

Mr. ACKLEN. No quorum has voted.

Mr. MITCHELL. I would like to know whether this debate, which was allowed to go on out of order, will be published in the RECORD?

The SPEAKER. The Chair does not hear in the confusion of the House the criticism made by the gentleman from Pennsylvania on the Chair.

Mr. MITCHELL. I do not desire to make any criticism on the Chair as a matter of State pride.

The SPEAKER. The Chair does not shelter himself behind State pride. The discussion which took place was out of order, and the remarks which were made by gentlemen were in defiance of the Chair's hammer.

Mr. MITCHELL. Then I hope they will be stricken from the RECORD.

The SPEAKER. The Chair thinks if the matter is left to the gentlemen themselves there will be an amicable and satisfactory adjustment.

Mr. MITCHELL. But it is for this House to decide.

Mr. PAGE. Remarks that are out of order ought not to be allowed to go into the RECORD.

The SPEAKER. A great deal goes into the RECORD which occurs on the floor of the House out of order.

Mr. SPARKS. Can the Chair and the parties make any record different from what actually occurred?

The SPEAKER. That is not the point before the House.

Mr. SPARKS. I wish to have it understood that I object to any change of the RECORD.

The SPEAKER. Very often, in the heat of debate, remarks are made by members which ought to be, and on agreement of members are beneficially, omitted from the RECORD.

Mr. COX. But they will go into the newspapers.

Mr. SPARKS. The Chair has not the right to correct the RECORD.

DEFICIENCY BILL.

Mr. COBB. I submit a report from a committee of conference, which I ask the Clerk to read.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to bill of the House No. 6325, making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and for prior years, and for those certified as due by the accounting officers of the Treasury in accordance with section 4 of the act of June 14, 1878, heretofore paid from permanent appropriations, and for other purposes, having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its amendments numbered 13, 21, 23, 28, and 34.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, 22, 24, 25, 26, 27, 29, 30, 31, 32, 33, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 57, 58, 59, 61, 62, 63, 64, 65, 66, 67, 68, 69, and 70.

That the House recede from its disagreement to the amendment numbered 8, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$300,000;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 56, and agree to the same with an amendment as follows: Add at the end of said amendment the following: "And to pay Isaac R. Hill for services as messenger to the House of Representatives during the first session of the Forty-sixth Congress, $150;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 60, and agree to the same with an amendment as follows: Strike out the words "for public schools" and insert in lieu thereof the following: "To complete the erection of the school building near Stanton Square;" and the Senate agree to the same.

THOMAS R. COBB,
WILLIAM H. FORNEY,
JAMES MONROE,
Managers on the part of the House.
WILLIAM W. EATON,
WILLIAM A. WALLACE,
N. BOOTH,
Managers on the part of the Senate.

The SPEAKER. The statement to accompany the report under the rule will now be read.

The Clerk read as follows:

To accompany report of conferees on amendments of Senate to the bill H. R. No. 6325.

EXPLANATION OF REPORT.

The effect of the foregoing report will be to increase the amount appropriated by the bill $31,567.61 over the amount as recommended by the House, being the net difference between the amounts added and deducted by the Senate amendments as agreed to.

Amendment 1 gives Dr. Emil Bessels, of the Arctic expedition, $8,000.

Amendment 2 adds $2,000 to the amount for international exhibition at Melbourne, making it $8,000.

Amendment 4 adds $25,000 to the amount for public building at Chicago, Illinois, making it $125,000.

Amendments 5, 6, and 7 add $9,450 for miscellaneous items for Treasury Department.

Amendment 8 adds $50,000 for "repayment to importers excess of deposits," making amount $300,000.

Amendment 9 reappropriates $7,800 for maintaining lights in the Ohio River.

Amendments 10 and 11 give $746 to pay two claims presented, House Executive Document No. 30, Forty-fifth Congress.

Amendment 12 gives $207.31 to pay for water furnished marine barracks, Brooklyn.

Amendment 14 gives $120 for rent of Freedman's Bank.

Amendment 16 gives $57,900 for salaries of registers and receivers of land offices for year 1880.

Amendment 17, same purpose, for year 1878 gives $8,219.09.

Action on amendment 21 rejects the appropriation for Wyandotte Indians $28,109.51.

Amendments 22, 23, 24, and 25, concerning Post-Office Department, increased appropriation for horses and repairs of wagons $300, and pay of assistant engineer $100.

Amendments 26 and 27 give $22,000 for letter-carriers for June, 1879.

Action on amendment 28 refused increase of $50,000 for expenses of United States courts, 1880.

Amendment 29 gives $550 for books for use of courts in Frankfort, Kentucky.

Amendment 30 gives $3,500 more for expenses of United States courts, Utah, making the amount $6,000.

Amendment 31 pays late United States marshal District of Columbia $1,123.28.

Amendment 32 pays late marshal of western district of Arkansas $2,916.27.

Amendments 34 to 46, both inclusive, give $2,352 to various employés of the Senate.

Amendments 47 to 56 give $3,334.43 to various employés of the House.

Amendments 59 and 60 give $49,152 additional for the District of Columbia.

Amendment 61 gives B. K. Lewis, late consular agent in China, for expenses incurred by him in 1872, $550.

Amendment 62 gives $128 for relief of persons for damages sustained at the hands of certain Sioux Indians.

Action on amendment 66 rejects the third section, concerning Miami Indians.

Mr. ATKINS. I ask unanimous consent to print some remarks on this deficiency bill and on the appropriation bills generally during this session.

The SPEAKER. The Chair hears no objection, and it is ordered accordingly. [See Appendix.]

Mr. COBB. I demand the previous question on the adoptoin of the report.

The previous question was seconded and the main question ordered.

Mr. COBB. I will now yield for a few minutes to the gentleman from Indiana.

Mr. BAKER. I desire, Mr. Speaker, to occupy three or five minutes in reference to one matter which is contained in the report of the conference committee. I feel as though the report of the conference committee ought not to be concurred in by the House. I think that there ought to be another conference committee appointed which would not be disposed to yield to the courtesy of people elsewhere quite so readily as the conference committee which has just reported.

Mr. ATKINS. Will my friend explain what he means by "people elsewhere?"

Mr. BAKER. I will before I sit down.

Mr. ATKINS. Perhaps that is a quotation from a distinguished gentleman in the other end of the Capitol.

Mr. BAKER. In 1854 the Government of the United States entered into a treaty with the Miami Indians of Indiana, by virtue of which they purchased the land of those Indians in Northern Indiana, paying a certain portion of the stipulated price down and agreeing, in the most solemn form, that on the 1st day of July, 1880, they would pay the full sum of the balance of the purchase price of that land to these Indians.

In the mean time the principal sum was to run for twenty-five years and bear 5 per cent. interest. This House, by a decisive and definite vote, put into the deficiency bill an appropriation of $223,000 for the purpose of meeting this obligation, which was due on the 1st day of July next.

Now, Mr. Speaker, we are confronted with the singular spectacle at this time of the House conferees agreeing to surrender that provision in this bill, which was inserted by the House, and agreeing to making a forced loan of two hundred and twenty-odd thousand dollars from these Miami Indians at 5 per cent. interest, when we can borrow money from people who loan it voluntarily at 4 per cent. interest, or we have the money lying in the Treasury not bearing any interest at all. This arises, as I am led to believe, from the technical punctilios entertained on the part of some gentlemen that this is not, strictly speaking, a deficiency, and therefore that it should come in some other bill.

Now, Mr. Speaker, I do not know enough about the narrow lines that divide deficiency bills from others or that define the distinctions between a deficiency of this character and those items which go into the sundry civil appropriation bill, but the fact is clear that certain gentlemen elsewhere have doubts as to whether this belongs to a deficiency or to the sundry civil bill. I do know one thing: that this Congress cannot afford to adjourn and repudiate its plighted faith to these Indians who sold their lands twenty-five years ago for this money which is to be paid, and ought to be paid under the agreement then made, on the 1st day of July. I want say to this House to that it will not be viewed as a creditable thing by the people of this country, and by the people of Indiana certainly, if in consequence of such a triviality as this, or of such a technicality as this question presents, they refuse to appropriate the money and to comply with the treaty made by this Government with the Indians to pay them their money on the 1st of July.

Another thing, if the Government refuses to appropriate that money now and repudiates this debt which is due, and the Government insists upon making a forced loan for another year of the money due to these Indians, you will necessarily incur an expenditure of between eleven and twelve thousand dollars in the shape of interest to be paid by the Treasury of the United States and the people that should not be incurred, as the money is on hand and idle in the Treasury.

I hope, Mr. Speaker, and I have said all I desire to say upon this point—I hope that this conference report will be voted down, and that another conference will be appointed and stand by this proposition of justice and honesty and fair dealing to these Indians, and see to it that this money is appropriated so that it may be paid on the 1st day of July in accordance with the letter of the bond.

Would a motion to recommit this bill be in order?

The SPEAKER. The motion to concur has preference.

Mr. ATKINS. I suggest to the gentleman from Indiana that at the next session of Congress this appropriation can be passed. I do not think if I were in his place I would insist now, and interfere with this bill and possibly defeat its passage altogether. At the next session of Congress it will be ample time to make an appropriation for the payment of this money. I am under the impression that the money is not due until the 1st day of January, 1881.

Mr. BAKER. The gentleman is entirely mistaken. This money is due on the 1st day of July next. The terms of the original agreement are that on July 1, 1880, the full amount of the purchase-money shall be paid to these Miami Indians.

Mr. ATKINS. Well, I only make a suggestion. I sympathize fully with the gentleman from Indiana.

Mr. BAKER. If we postpone this appropriation until next winter they will not get their money until July, 1881, and yet in the mean

time we repudiate a claim that is honestly due on the 1st day of July next, and refuse to pay them the money they are expecting and that is their due. It seems to me that it will impose an unnecessary tax upon the people of eleven or twelve thousand dollars for interest while we have the necessary money in the Treasury without borrowing a cent from anybody.

Mr. ATKINS. It endangers the passage of the bill, and it is important that we should pass it. These Indians can get their money at some other time. I entirely sympathize with the gentleman from Indiana. I think we have the money in the Treasury and that it ought to be paid, but it will not be a hardship to them to wait a little while longer, while it would be a hardship if this bill is defeated.

Mr. BAKER. It will be a hardship to these Indians in this respect, because their lands are becoming subject to taxation, and they will not have the means to pay the taxes. The lands, by the provisions of the treaty on the 1st of July next, will be liable to taxation, and they need the money to assist in paying the tax. The same treaty stipulates that they shall be paid on the 1st of July. Now you say repudiate the bill for the payment of their money, and yet you insist on the other provisions of the treaty which subject their property to taxation, and insist that those provisions shall be carried out.

Mr. COBB. The Government will have to pay, after the 1st of July, interest on this debt and that will pay their taxes.

Mr. BLOUNT. I ask my friend from Indiana [Mr. COBB] whether there is any probability that another conference upon this bill would reach a different result in this respect.

Mr. COBB. None, whatever.

Mr. BAKER. We could tell better as to that when we make a trial.

Mr. COBB. I will state the Senate has agreed to the conference report; and I think it is too late now to proceed to undo the action which has been taken.

Mr. BAKER. That amounts to nothing unless the House concur.

Mr. HASKELL. I ask the gentleman from Indiana to yield to me for a few moments.

Mr. COBB. I yield to the gentleman.

Mr. HASKELL. I desire to continue with just a word or two of remark upon the line indicated by the gentleman from Indiana, [Mr. BAKER.] Coupled with this Miami Indian appropriation clause was one placed in the bill by the Senate, to pay to the Wyandotte Indians of the Indian Territory the last installment of payments due them by the United States. Twelve years ago, by sacred treaty obligations, the amount due from the Government to those Indians was defined and adjudicated. Under law after that a commission was appointed to examine those items, one by one, and report to Congress and to the Interior Department. That was done. They come here, then, with a doubly adjudicated claim, passed upon under treaty stipulation, agreed to by a commission solemnly appointed, recommended to Congress by the Secretary of the Interior year by year for the last ten years. And there is to-day standing at the portals of this House an old, gray-haired Indian, employing no lawyer, employing no lobbyist, the last surviving member of that treaty-making power, asking that the four hundred poor and destitute people whom he repesents may be paid the sum of money that has thus been twice found due. He asks it in the name of the widows and children of his people that are to-day suffering for lack of bread to eat.

And, Mr. Speaker, this is not the only instance——

Mr. ATKINS. I rise to a question of order.

The SPEAKER. The gentleman will state it.

Mr. ATKINS. Is it in order for the gentleman from Kansas to discuss general Indian affairs on this conference report?

The SPEAKER. The Chair understands the gentleman is discussing a portion of the conference report.

Mr. ATKINS. The gentleman from Kansas is not discussing the question as to the Miami Indians.

Mr. HASKELL. The gentleman from Kansas is not discussing the question as to the Miami Indians, but he is discussing a claim of $28,000 stricken out of this bill by the conference committee for the Wyandotte Indians, a most just and righteous claim. Congress sits here year by year disregarding this claim and others of a like character and refusing to pay moneys justly due to claimants from one end of the country to the other.

It would astonish gentlemen not familiar with the circumlocution offices of the various Departments of this Government to know the labor men must perform before they can stand upon this floor and ask for their just dues. You file a claim in the Indian Office; you present your case. Before you can get a recommendation to this Congress, or any other, it passes through nineteen different desks. From the office of the Indian Commissioner you must follow it to the Secretary of the Interior; then back to the Indian Office; then to the Indian commission; then back to the Secretary of the Interior; then back to the Indian commission; then to the Second Auditor; then to the Second Comptroller; then back to the Secretary of the Interior; then down to the Indian Commissioner; then to the Second Comptroller again; then down again to the Second Auditor; then into the general bond and warrant room; and so it passes from desk to desk before the legitimate claimants upon this Government can receive even the certification of the amount found due.

Why, sir, it is a continual bid for lobbyists. There is no government on the face of the earth but our own that will thus treat its claimants; there is no government in the civilized world but will pay to the individual citizens thereof their just dues when lawful and presented in proper form. We stand here and refuse claimants their dues; and yet we can block business for three days of a session of Congress to make a brigadier-general. You take bread from the widows and orphans of this country and refuse the money due your own people; then you turn round and vote hundreds and thousands of dollars into the pockets of wealthy men and clothe them with commissions in the United States Army from motives, many times I fear, of merely personal favoritism. Why cannot a government of the people and for the people be as just or approximately as just as a despotism?

Now, these Indians to-day are asking for nothing but their dues, the payment of their adjudicated claims. We have other claims just like these before Congress. Year by year they are passed over as this is passed over. Year by year they grow old and moss-grown, and then when we bring them before the House we are met with the reply, "Ah, here comes an old soldier;" old because the Congress of the United States tramples on justice and right and equity every day of its session, and causes claimants to grow gray with age waiting the routine of mockery of justice. I concur in the remarks of my friend from Indiana [Mr. BAKER] that the conference report on this bill should not be adopted until the House in its aggregated manhood and dignity shall put itself right upon the record with reference to these lawful claims so carefully examined, so thoroughly accredited to this House, so just and so equitable and so much needed by a poor and worthy people.

Mr. COBB. I now yield five minutes to my colleague, [Mr. COLERICK.]

Mr. COLERICK. On the 25th day of January last a bill was introduced into this House making an appropriation of $221,000 to pay the debt that the Committee on Appropriations admit is due to the Indiana branch of the Miami tribe of Indians. That bill was referred to the Committee on Appropriations on the 26th day of January last, and they have not yet reported it back to this House.

That committee now tell us that the provision for the payment of these Indians which was incorporated into this deficiency bill was not germane to the bill; that it was not a deficiency, and therefore they could not insist upon it when in conference. I desire to ask the Committee on Appropriations why it was, when they framed the Indian appropriation bill, they did not put in it a provision appropriating the money they admit to be due? Why, when they formulated the sundry civil bill, did they not incorporate this provision in that bill? They can give no explanation. They permitted every bill that was formulated after that time to be reported to this House without making any appropriation for these Indians until this last bill was reported, and in that a provision of this character was inserted. That provision met the unanimous approval of this House. When it went to the Senate what was its fate there? The Committee on Appropriations of the Senate reported amendments to the bill adding $433,312 to the amount appropriated by the House; and all those amendments were agreed to by the Senate. Not satisfied with that, the Senate added $45,000 more, making an aggregate increase in the appropriations as passed by the House of $478,000. Then, becoming alarmed at the excessive appropriations which they had made, they commenced to whittle down the appropriations which had been made by the House. Where did they begin? With the poor Indians. In the judgment of this House, in the judgment of the Senate, the Indians have no rights that white men are bound to respect.

If this was a debt that was due to some of our bondholders whose bonds would mature on the 1st day of July next, how promptly and how gallantly would our conference committee have stood up to the work and insisted that an appropriation should be made to pay the bonds when matured, so that the honor of the Government might not be tarnished! Not so with regard to a debt due to Indians. In their opinion it makes no difference whether a debt due them is paid or not. What false economy is this! What are we asking you to do? We are asking the Government to pay a debt that will be due on the 1st day of July next. You do not propose to pay that debt. It does not dishonor the Government to refuse to pay the Indians; but it does dishonor the Government not to pay the sanctified bondholder.

Mr. Speaker, these Indians surrendered their lands in Indiana, the choicest and most fertile lands that the sun shines upon. In return for that they were to have this money. They have received their interest on it each year—5 per cent. on the amount of the principal. Now, the principal, which the Government sacredly pledged and promised should be paid to them on the 1st day of July next, is not to be paid.

When the Government bought these lands it owed these Indians a balance of $221,000. Instead of paying them the money then, under the terms of the treaty the Government was to retain that amount for twenty-five years, and pay these Indians an annuity at the rate of 5 per cent. interest on the fund. That 5 per cent. interest has been paid to these Indians annually. It is among the annuities which have been appropriated for each year for the last twenty-five years.

The principal of the debt becomes due on the 1st day of July next. The Committee on Appropriations now refuse to appropriate for the payment of that principal. Even the interest for the next year is not allowed these Indians. They are to receive neither principal nor interest.

The House may refuse to pay this debt; but if it does so it will not be with credit or honor to us. When we read of Indian outrages no palliation is found for the poor Indians. We do not think of the provocation given them by just such legislation as this.

[Here the hammer fell.]

Mr. COBB. I have but a few words to say in regard to the appropriation spoken of by my colleagues from Indiana, [Mr. BAKER and Mr. COLERICK.] The Committee on Appropriations put into this bill a provision making an appropriation to pay this debt to these Indians. Some of the members of that committee had some doubts about doing so. It certainly was not a deficiency, and this is a deficiency bill, a bill making provision for debts now due. But the Committee on Appropriations determined to put in the provision and did so, making an appropriation for the payment of the Miami Indians. They left out the appropriation for the Wyandotte Indians for a different reason, of which I will speak in a moment. This bill containing the provision for the Miami Indians went to the Senate. Gentlemen will remember that the portion of the bill relating to the Miami Indians embraced several long sections. Those sections were stricken out by the Senate upon the ground that it was legislation upon an appropriation bill, and therefore it ought not to remain in the bill.

When my colleague [Mr. COLERICK] says that the Committee on Appropriations had referred to it a separate bill containing these provisions for the Miami Indians, which bill they have not reported to the House, he is mistaken. The provisions of the original bill introduced into the House, I believe indeed in the identical language, were reported back to the House in this bill, and were afterward amended by permission on the part of my colleague.

Mr. BAKER. Will my colleague allow me to ask him a question?

Mr. COBB. Certainly.

Mr. BAKER. I desire to ask if there is a shadow of doubt in the mind of the gentleman that the Government in all honesty and fair-dealing ought to appropriate this money and have it ready to pay these Indians on the 1st of July next? Does the gentleman have a shadow of doubt upon that point?

Mr. COBB. I will answer the gentleman in this way: I have not examined the law on the question, but at the time the matter was brought up in the sub-committee of which I was a member I believed that it ought not to be put into this bill.

Mr. BAKER. I was speaking about the payment to the Miamis.

Mr. COBB. I understand; that is what I am speaking about. The provision for that purpose was not put in the bill by the sub-committee: but when the bill was reported back by the sub-committee to the full Committee on Appropriations, then through the reasoning of the gentleman this provision was put into the bill. That having been done I gave the matter no further consideration, but stood by the action of the committee. The bill was afterward passed by the House with that provision in it, as I have said.

Mr. BAKER. Let me ask the gentleman one other question. When he heard me read that treaty as it was amended by the Senate of the United States was there still a lurking suspicion left on his mind that we were not in honor bound to pay that money on the 1st of July, 1880?

Mr. COBB. I answer the gentleman's question just as I answered it before. He did not read the whole treaty; I have not read it; and it was not necessary that I should do so. I say to the gentleman that so far as these provisions are concerned they were not stricken out by my consent, but they were stricken out; and it was insisted that they should be stricken out. I submit to the House the fact that the committee of conference, in my judgment, could not have agreed to leave them in. We had to agree in some way; and we did it. With regard to the payment of the Wyandotte Indians, we disagreed about that. We could not agree, I may say, without delay, which we believed might endanger the passage of this bill. For that reason the provision was left out.

In my judgment, this conference report ought to be adopted. I do not think we are doing the Indians great wrong when we say to them that their debt is not due at the time this bill passes; when we say to them that they ought to wait, as other creditors of the Government wait, until Congress has an opportunity of acting after their debt is due.

Mr. HASKELL. May I say a single word?

Mr. COBB. Yes, sir.

Mr. HASKELL. The amount found to be due is a debt over ten years old.

Mr. BAKER. I want to ask the gentleman another question.

Mr. COBB. I had better answer one gentleman at a time.

Mr. BAKER. I ask the gentleman whether there is an honest debtor on the face of the earth who ever carries out the proposition just suggested by the gentleman? He says that the United States should wait until after the debt matures before making provision for its payment. Such a principle as that would disgrace any business man in the world.

Mr. COBB. I do not yield for an argument. I can answer the gentleman's question. The Government of the United States, and perhaps other governments, do not act upon precisely the same principles with regard to paying debts that individuals do, or perhaps not as my colleague does. But we propose to act in this case just as we are acting with all our creditors.

Mr. BAKER. We do not act so with the bondholder.

Mr. COBB. Well, that is not my fault; it is the fault of the gentleman and his party, not mine, that they so fixed the law by which the bonds and the interest upon them are paid.

Mr. BAKER. If that has been fixed wrongly, why have not you helped to unfix it?

Mr. COBB. I do not yield further. The gentleman and his party have made by law a continuing appropriation by which, when the people have paid their money into the Treasury, it is paid out to the bondholder without any action on the part of Congress. They have made provision for the bondholder that they have not made for the common private debtor. The gentleman need not complain of me in that regard. I had no vote or voice in the matter.

Now, Mr. Speaker, in regard to the Wyandotte Indians, that matter was presented to the committee at a late day; and I very frankly say to the gentleman from Kansas that so far as I was concerned I had not time to examine it. I saw that appropriations had heretofore been made and action taken on the question by former Congresses; but I had not time, nor had the committee the time after the matter was presented to us to look into the question and determine whether the claim was rightfully due to those Indians or not. I do not pretend to say that it is not. If it is due, as the gentleman asserts, it ought to be paid; and for one I shall be found at the proper time casting my vote to pay it, for I believe the Government of the United States, like a private individual, ought to pay its debts promptly. I call for a vote.

Mr. BAKER. I demand a division on agreeing to the report of the committee of conference.

The House divided; and there were—ayes 82, noes 53.

Mr. BAKER. I demand the yeas and nays. I think we ought to have the yeas and nays on this proposition.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 103, nays 71, not voting 118; as follows:

YEAS—103.

Acklen,	Dickey,	Ladd,	Shelley,
Bachman,	Dunn,	Lapham,	Simonton,
Barber,	Evins,	Lounsbery,	Singleton, O. R.
Bayne,	Felton,	Manning,	Slemons,
Beale,	Ford,	Martin, Benj. F.	Smith, A. Herr
Bicknell,	Forney,	Martin, Edward L.	Smith, William E.
Blackburn,	Fort,	Mason,	Sparks,
Blount,	Frost,	McCoid,	Speer,
Bouck,	Geddes,	McLane,	Springer,
Bright,	Goode,	Mills,	Talbott,
Buckner,	Gunter,	Mitchell,	Thompson, P. B.
Caldwell,	Hammond, John	Money,	Tillman,
Carlisle,	Hammond, N. J.	Morse,	Tucker,
Chittenden,	Hatch,	New,	Upson,
Clark, John B.	Henry,	Nicholls,	Vance,
Clymer,	Herbert,	Norcross,	Waddill,
Cobb,	Horr,	O'Connor,	Washburn,
Coffroth,	Hostetler,	O'Reilly,	Wellborn,
Converse,	House,	Persons,	Wells,
Cook,	Hunton,	Philips,	Williams, Thomas
Cox,	Hutchins,	Reagan,	Willis,
Cravens,	Johnston,	Rice,	Wilson,
Daggett,	Joyce,	Robinson,	Wise,
Davis, Joseph J.	Kimmel,	Ross,	Wright,
Davis, Lowndes H.	Klotz,	Ryon, John W.	Young, Casey.
Dibrell,	Knott,	Samford,	

NAYS—71.

Aldrich, William	Davis, Horace	Jones,	Sawyer,
Anderson,	Dunnell,	Keifer,	Scales,
Baker,	Elam,	Kelley,	Shallenberger,
Ballou,	Errett,	Kenna,	Sherwin,
Bingham,	Ferdon,	Lindsey,	Stevenson,
Blake,	Field,	Martin, Joseph J.	Stone,
Bowman,	Fisher,	McCook,	Thomas,
Boyd,	Frye,	McKenzie,	Townsend, Amos
Brewer,	Godshalk,	McMahon,	Turner, Oscar
Briggs,	Hall,	Morton,	Tyler,
Cabell,	Harmer,	Myers,	Van Aernam,
Cannon,	Harris, John T.	O'Neill,	Van Voorhis,
Carpenter,	Haskell,	Osmer,	Wait,
Caswell,	Hawk,	Overton,	Whiteaker,
Colerick,	Hawley,	Pacheco,	Whitthorne,
Conger,	Hazelton,	Phelps,	Williams, C. G.
Crapo,	Hiscock,	Poehler,	Willits.
Davis, George R.	Houk,	Ryan, Thomas	

NOT VOTING—118.

Aiken,	Deuster,	Le Fevre,	Robeson,
Aldrich, N. W.	Dick,	Lewis,	Rothwell,
Armfield,	Dwight,	Loring,	Russell, Daniel L.
Atherton,	Einstein,	Lowe,	Russell, W. A.
Atkins,	Ellis,	Marsh,	Sapp,
Bailey,	Ewing,	McGowan,	Singleton, J. W.
Barlow,	Farr,	McKinley,	Smith, Hezekiah B.
Belford,	Finley,	McMillin,	Starin,
Beltzhoover,	Forsythe,	Miles,	Steele,
Berry,	Garfield,	Miller,	Stephens,
Bland,	Gibson,	Monroe,	Taylor,
Bliss,	Gillette,	Morrison,	Thompson, W. G.
Bragg,	Harris, Benj. W.	Muldrow,	Townshend, R. W.
Brigham,	Hayes,	Muller,	Turner, Thomas
Browne,	Heilman,	Murch,	Updegraff, J. T.
Burrows,	Henderson,	Neal,	Updegraff, Thomas
Butterworth,	Henkle,	Newberry,	Urner,
Calkins,	Herndon,	O'Brien,	Valentine,
Camp,	Hill,	Orth,	Voorhis,
Chalmers,	Hooker,	Page,	Ward,
Claflin,	Hubbell,	Phister,	Warner,
Clardy,	Hull,	Pierce,	Weaver,
Clark, Alvah A.	Humphrey,	Pound,	White,
Covert,	Hurd,	Prescott,	Wilber,
Cowgill,	James,	Price,	Wood, Fernando
Crowley,	Jorgensen,	Reed,	Wood, Walter A.
Culberson,	Ketcham,	Richardson, D. P.	Yocum,
Davidson,	Killinger,	Richardson, J. S.	Young, Thomas L.
Deering,	King,	Richmond,	
De La Matyr,	Kitchin,	Robertson,	

So the conference report was adopted.

The following pairs were announced from the Clerk's desk:
Mr. WARNER with Mr. CLAFLIN.
Mr. MORRISON with Mr. HENDERSON.
Mr. MULDROW with Mr. DWIGHT, on this question.
Mr. CHALMERS with Mr. VAN VOORHIS.
Mr. VAN VOORHIS. Mr. Speaker, I am paired with the gentleman from Mississippi on political questions, and not regarding this as a political question I have voted.
Mr. HERNDON with Mr. CAMP.
Mr. CLARK, of New Jersey, with Mr. BRIGHAM.
Mr. COVERT with Mr. YOUNG, of Ohio.
Mr. RICHARDSON, of South Carolina, with Mr. RICHARDSON, of New York.
Mr. STEELE with Mr. HAYES.
Mr. ATHERTON with Mr. EINSTEIN.
Mr. ARMFIELD with Mr. MARTIN, of North Carolina.
Mr. PRICE with Mr. SMITH, of New Jersey.
Mr. HEILMAN with Mr. EWING.
Mr. DAVIDSON with Mr. FARR.
Mr. DUNN with Mr. PRESCOTT.
Mr. FINLEY with Mr. MILLER.
Mr. LE FEVRE with Mr. MARSH, on political questions.
Mr. COWGILL with Mr. BRAGG.
Mr. NEWBERRY with Mr. ELLIS.
Mr. THOMAS TURNER with Mr. MCGOWAN.
Mr. MCKINLEY with Mr. HURD.
Mr. CALKINS with Mr. PHISTER.
Mr. ORTH with Mr. MYERS, on political questions.
Mr. WALTER A. WOOD, with Mr. MULLER.
Mr. JAMES with Mr. O'BRIEN.
Mr. GUNTER with Mr. BURROWS.
Mr. STARIN with Mr. RICHMOND.
Mr. BAILEY with Mr. YOUNG, of Tennessee.
Mr. CLARDY with Mr. SAPP.
Mr. HUBBELL with Mr. FERNANDO WOOD, on all political and revenue questions.
Mr. THOMPSON, of Iowa, with Mr. LEWIS.
Mr. O'REILLY with Mr. NEAL.
Mr. AIKEN with Mr. WARD, for the remainder of the session.
The vote was then announced as above recorded.
Mr. COBB moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.
The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, notified the House that that body had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 6266) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes.

ENROLLED BILLS.

Mr. WARD, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:
An act (H. R. No. 559) to constitute the city of Portsmouth, in the State of Ohio, a port of delivery;
An act (H. R. No. 751) granting a pension to Harvey Burk;
An act (H. R. No. 753) granting a pension to Thomas J. Jackson;
An act (H. R. No. 952) for the relief of the Fifteenth and Sixteenth Missouri Cavalry Volunteers;
An act (H. R. No. 989) for the relief of John H. Standish;
An act (H. R. No. 1023) making an appropriation for the erection of a naval wharf at Key West, in the State of Florida;
An act (H. R. No. 1076) for the relief of Amanda M. Cook;
An act (H. R. No. 1291) creating Yakima land district, in Washington Territory;
An act (H. R. No. 2407) granting a pension to Belinda Curtis;
An act (H. R. No. 2567) for the relief of E. K. Snead, deceased, and his sureties, for the loss of certain books of special stamps and coupons;
An act (H. R. No. 2793) for the relief of Rachael Martin;
An act (H. R. No. 3171) for the relief of certain settlers on the public lands, and to provide for the repayment of certain fees, purchase-money, and commissions paid on void entries of public lands;
An act (H. R. No. 3708) to grant to the State of Nevada lands in lieu of the sixteenth and thirty-sixth sections in said State;
An act (H. R. No. 3990) to remove the political disabilities of John S. Maury;
An act (H. R. No. 4268) in relation to the mileage of jurors and witnesses in the State of Colorado;
An act (H. R. No. 4753) to correct the military record of Byron Rosecrans;
An act (H. R. No. 4842) to reinstate R. W. Barkley as cadet-midshipman in the United States Naval Academy at Annapolis;
An act (H. R. No. 4907) to confirm to John Hepting and others title to certain lands; and
An act (H. R. No. 5502) granting to the Territory of Dakota section 36, in township No. 56 north, of range No. 94 west, in the county of Yankton, in said Territory, for the purposes of an asylum for the insane, and granting to said Territory one section of land in lieu of said thirty-sixth section for school purposes.
Mr. SPRINGER. I call for the regular order.

TITLES IN HOT SPRINGS RESERVATION

The SPEAKER. The Chair recognizes the gentleman from Arkansas to make a conference report.
Mr. DUNN. Mr. Speaker, the conferees on the part of the House and Senate on the bill of the House No. 4244, for the establishment of titles in Hot Springs, have met, and I desire now to present a report of the conferees, on which I call the previous question.
The SPEAKER. The conference report will now be read.
The Clerk read as follows:

The committee of conference on the part of the Senate and the committee of conference on the part of the House appointed to take into consideration the points of disagreement between the Senate and the House with respect to the Senate amendments to House bill No. 4244, entitled "An act for the establishment of titles in Hot Springs, and for other purposes," have had the same under consideration, and make the following report:
They recommend that section 1 of said amendment be amended by striking out "12," in line 8, and inserting "18," and by striking out "50," in line 14, and inserting "40;" and that said section so amended be concurred in.
Also that section 2 be amended by inserting in line 1, after the word "certificate," the following: "(except certificate 102 issued to Samuel H. Still, De Witt C. Rugg, and Samuel W. Fordyce, for $22,000, which exceptions shall not prejudice the rights of the United States, or the holders of such certificate.)"
Also add to the end of section 6 the following:
"*Provided, however*, That nothing in this act shall be so construed as to impair the rights or equities conferred upon claimants to said lands by act of Congress approved March 3, 1877, and the act approved December 16, 1878, in relation to the Hot Springs reservation, in the State of Arkansas."

P. DUNN,
THOMAS RYAN,
J. E. MCDONALD,
NEWTON BOOTH,
J. D. WALKER.

The SPEAKER. The accompanying statement will now be read.
The Clerk read as follows:

Statement accompanying conference report on House bill No. 4244.

The effect of the amendments agreed upon by the committee of conference to the Senate amendment are: First, that entries may be made by parties to whom the right of entry was awarded by the commissioners, at 40 per cent. of the appraisement made by the commissioners, instead of 50, as provided by the Senate amendment. Second, that only certificates for condemned buildings, to the amount of $52,696, are receivable at the land-office at Little Rock in the entry of the lands awarded, while the Senate amendment provided that all such certificates should be receivable, amounting in the aggregate to $74,696. The certificate awarded to Still, Rugg & Fordyce for $22,000 being excepted, makes the reduction in the aggregate amount, and enabled the committee to reduce the price at which entries may be made from 50 to 40 per cent. of the appraised value. Third, the time within which entries may be made is extended from twelve to eighteen months, from the date of opening the land-office for entries. Fourth, provision is made against this act prejudicing in any degree rights or equities in claimants under the previous enactments of Congress. The bill as amended more than reimburses the Government for all its expenditures, taking into account moneys heretofore received into the Treasury, and finally settles titles.

Mr. CONVERSE. I rise to a parliamentary inquiry.
The SPEAKER. The gentleman will state it.
Mr. CONVERSE. If the previous question is sustained, I desire to know whether any time will be allowed for debate?
The SPEAKER. The gentleman in charge of the conference report can at this time have debate for one hour if he desires before the previous question is called. The gentleman from Arkansas gives notice that he calls the previous question. Under the other rule, if the demand for the previous question is seconded, there will be fifteen minutes for debate allowed on each side for and against the report, if claimed.
Mr. YOUNG, of Tennessee. Would it be in order to offer an amendment to the conference report at this time?
The SPEAKER. It would not.
The previous question was seconded.
The SPEAKER. If the gentleman from Ohio desires debate, now is the time. Fifteen minutes are allowed on each side under the rule.
Mr. CONVERSE. Mr. Speaker, I only desire about five minutes to state my opposition to this conference report. I was a member of the conference committee and declined to sign the report, and desire to state simply my reasons for declining to do so. The Senate amendment provides for the payment of $74,500 of what is known as "land scrip," which was created under a former law by the commission appointed to adjudicate land titles at Hot Springs. It will be remembered by the House that my colleague [Mr. FINLEY] a few days ago introduced a resolution which was referred to the Committee on the Public Lands, which resolution charged that fraud had crept into this award and adjudication, and I believe it is conceded on the part of the conference committee, as well as on the part of every member of this House who knows the facts, that there is $22,000 of this scrip that is fraudulent. That amount, ($22,000,) it is true, has been left out of this conference report. They simply provide that this sum of $22,000 shall not be paid now. But I submit, Mr. Speaker, that when it is once ascertained that fraud has crept into the award at all, that is a sufficient reason for not paying any of the claims, at least until there is an investigation; and for this reason I am opposed to the payment of any of this scrip at this time. The original bill did not provide for the payment of any of the scrip. It only extended relief to the settlers at Hot Springs. The Senate amendment changes that and provides for the payment of this scrip, ($74,500,) which, in my judgment, is wrong.
There is another objection, Mr. Speaker, to this report. It provides that there shall be no appeal from the decision of the commission that is thus charged with fraud. I desire to call the attention of the

House to the fact that the honorable Secretary of the Interior in his report called the attention of Congress to the fact that charges of fraud under oath had been made against the commission in the adjudications that were made at Hot Springs. He stated that he had not the power to investigate the charges, but called the attention of Congress to them, thus suggesting investigation, and yet under this Senate amendment all appeal is cut off from any adjudication that they may have made in relation to these lands, while the House bill provided that there might be an appeal on the part of those who felt themselves aggrieved on account of the decisions of that commission.

There is another objection which I have to make. It is that the Senate amendment to this bill does not deal with the citizens of Hot Springs as the Government has always dealt with the citizens of this Republic settling on the public lands. Even under the conference report it charges 40 per cent. of the present value of those lands upon the people. The Government has never charged more than $5 an acre for town-site purposes. These people at Hot Springs not only settled upon the land, but they bought it; they paid for it; they improved it; they supposed it was their own, but after thirty years of litigation, it turns out that away back thirty years ago by some means or other this land at Hot Springs had been reserved from sale, and although a certificate of purchase and entry had been given by the land officer to a pretended purchaser of the lands, which induced the sales of the lands that followed, yet that in fact the title did not pass from the Government.

If an individual stood in the place of the Government, that individual would be estopped from ever asserting a title to these lands. But against the Government no plea of estoppel can be set up. The Government not only permitted these sales to go on for thirty years, but the land officer gave a certificate for the lands, by which the sales were made, and by which the settlers were induced to make their purchases and their improvements.

I believe it is unconscionable now for the Government to take any portion of the present value of this town site at Hot Springs over and above the $1.25, or at the highest $5 an acre for the land. As I said when the House bill was up for passage, of the one hundred and fifty town sites that have been located on the public lands in not a single instance has this hard rule ever been enforced against the citizens of the United States. And for one I am unwilling to go on record as enforcing so hard a rule against the people of Hot Springs.

Mr. YOUNG, of Tennessee, rose.

Mr. DUNN. I yield to the gentleman from Tennessee the remainder of the fifteen minutes. Does he desire to speak in opposition to the report?

Mr. YOUNG, of Tennessee. I hardly know, but do not care whether you call it for or against; I simply want to state my views. I suppose the report will be adopted any way, whatever I may say.

Mr. DUNN. Then I suppose the gentleman will take his time out of the fifteen minutes allowed for opposition to the report.

Mr. YOUNG, of Tennessee. When this bill was before the House originally I gave my assent to it, after having tried in vain to amend it, not because I thought it was by any means such a measure as ought to be passed, but because I could then secure nothing better, and I thought it did partial justice to the people of Hot Springs; but as it is now amended I think it a monstrous iniquity, and I have more than once denounced it as such. I have, however, withdrawn the opposition I have been making to its being considered at all at the earnest solicitation of my friends, the Representatives from Arkansas, who are more immediately and directly interested in the matter than I am, and possibly their judgment in respect to it is entitled to more influence with the House than mine; but I cannot permit the bill to pass without calling attention to some facts which should be considered.

We are told that the people of Hot Springs desire the passage of this bill, but I have in my desk now a petition signed by more than a hundred of the most reputable ones, with the mayor of the town at the head, asking Congress to send a committee there to make an investigation before any further legislation is had. They have been asking this House for six months past by petitions, letters, and telegrams to investigate certain alleged abuses of the most shameful character upon the part of the commissioners before legislating further in the matter, but nothing has been done in response to this demand.

Charges of the grossest corruption have been freely made for months in the streets of Hot Springs through the local papers and by sworn affidavits presented to Congress against the commissioners and their *attachés*, and yet a deaf ear has been turned to these things and a constant clamor has been kept up for the passage of this bill. I do not make or indorse these charges myself. I make no complaint of the manner in which things have been conducted at Hot Springs, but I simply call attention to facts known to exist, and I say it is the duty of this House to investigate them and see whether or not injustice has been done to anybody. This is due to the commissioners in order that they may be vindicated if wrongfully charged; due to the Government to ascertain whether or not its interests have been betrayed by unfaithful servants, and due to the people of Hot Springs in order that any injustice to them may be corrected.

I wish it distinctly understood that I myself prefer no charge of wrong-doing against any one, but everybody here knows that there has been the loudest complaint upon the part of those most nearly interested in the settlement of Hot Springs matters, and that many of them have declared and yet declare that the greatest wrong and injustice has been done them. They are entitled to an inquiry into the matter and to have reparation for any injury that may have been inflicted upon them. We owe it to ourselves and to the public to see to it that strict and impartial justice is done to every citizen of the country, whatever may be his rank or condition.

I know the people of Hot Springs; they are my friends and I am at home among them; hence I am familiar with their wants and wishes, and I hazard the assertion that there are not twenty of them who want this bill passed, if it were not for the fact that they have been led to fear that if they do not accept this they will get nothing. If this is true, perhaps this bill had better be passed, for I suppose it is better than none at all, and certainly something ought to be done.

But I do not believe that this is true, or that there is the slightest ground for any such apprehension, but on the contrary I do not have the least doubt that this House will cheerfully pass any fair bill, grant any reasonable measure of relief to the people of Hot Springs that the gentleman from Arkansas will join me in advocating. So certain am I of this that I cannot concur in the belief that it is either proper or right to concur in the conference report. As I have before said, the gentlemen from Arkansas are more directly interested, as Representatives, in this matter than I am, and are possibly more competent to judge correctly of it than I am; but while I know that they are actuated by the highest regard for the best interest of the people of Hot Springs, I cannot think otherwise than that they are mistaken. My judgment is that this bill should go no further until we can ascertain from the conflicting evidence now before us or from other proof which we may take what are the real wants and wishes of the Hot Springs people, the interests of the Government, and the requirements of justice. Nobody can suffer very much while this is being done, and we can then act more advisedly in the matter, and will no doubt be vastly better satisfied with our work when assured that we have done wrong or injustice to no one. I believe with the gentleman from Ohio, [Mr. CONVERSE,] a member of the conference committee, but who refused to sign this report, that it is a very great wrong to compel the people of Hot Springs to pay more for the land awarded than has been exacted from others who have settled and made improvements on public lands. They should have it at the mere nominal price fixed in this bill as it passed the House, and there is no justice in increasing it, as is done in the Senate amendments.

Mr. CANNON, of Illinois. Will the gentleman yield to me for a question?

Mr. YOUNG, of Tennessee. Yes, sir.

Mr. CANNON, of Illinois. I want to know if the objections of the gentleman from Tennessee to this report arise from the fact that the report is not liberal enough toward the people of Hot Springs in allowing them to purchase those lands at a sufficiently low price?

Mr. YOUNG, of Tennessee. That is one objection, but there are many others. I do not think the people of Hot Springs ought to be required to pay anything save a mere nominal price for the land upon which they have settled and made improvements. Such a demand has never been enforced by the Government elsewhere, and I do not see why it should be done there. Wherever settlements have been made or town sites located upon public lands the people have never heretofore been required to pay more for them than the usual Government price, and I can conceive of no reason why a different rule should obtain at Hot Springs.

But, Mr. Chairman, this burden is not laid upon the people of Hot Springs for the benefit of the Government. If it were it would be less objectionable. The truth about the whole matter is that it is a very clearly contrived device by which a few persons are to be benefited at the expense of the whole people of Hot Springs, under the pretense of protecting the public interest. The amount which it is proposed to make the people of Hot Springs pay for what they ought to have for nothing is simply to reserve the payment of the certificates given by the commissioners for the appraised value of condemned property, and which is provided for in this bill. And who is this to benefit? The Government, it may be answered; and this answer would be natural, but it would not be true. If the Government was any party to this scheme of wrong and outrage to the people of Hot Springs it could easily be shown that it is being greatly overreached in this entire transaction by being made to assume a liability which could not be made to attach upon any principle of law or equity. But the Government is really a very inconsiderable factor in this business. These certificates are held, I am informed, by a small number of speculators who have bought them up at a very heavy discount, and their agents have filled these galleries and corriders for six months past seeking to influence legislation upon this subject. Of course they must be paid, and in order that it may be done this tribute must be levied upon the people of Hot Springs. This is all there is in the proposition. The many are made to suffer for the benefit of the few.

I will not undertake to say whether these certificates were honestly issued or not, nor whether or not they ought to be paid. For myself I am entirely willing that they should be, but I do not want it done at the expense of the people at Hot Springs. Let them be paid from the proceeds arising from the sale of the unappropriated lands there. This would not hurt the Government nor do any injustice to the people. But I suppose the gentlemen interested want their money and cannot wait this slow and tedious process.

Mr. CANNON, of Illinois. I would inquire of the gentleman if these

assessments are paid by the people of Hot Springs, will the money go into the hands of speculators or into the Treasury of the United States?

Mr. YOUNG, of Tennessee. I do not charge that the money will go primarily into the hands of speculators, but I do say that a large portion of it will take that direction after a formal passage through the Treasury; and I say, moreover, that but for the influence of these persons and their agents this extortion upon the people of Hot Springs would have found no favor here.

Mr. WHITE. May I ask the gentleman from Tennessee [Mr. YOUNG] or some other gentleman interested in this bill wherein it differs from the House bill? I recollect that very distinctly.

Mr. YOUNG, of Tennessee. It differs very widely in every respect, so much so that there is scarcely any similarity between the two bills. The House bill provided that the people of Hot Springs should receive title to their homes by paying a mere nominal sum to the Government.

Mr. WHITE. Ten dollars an acre, I believe.

Mr. YOUNG, of Tennessee. Something like that. Then no provision was made in the House bill for the payment of these certificates, but there was a provision in it granting an appeal from the judgment of the commissioners, which was of vastly more importance to the Hot Springs people than any other feature of it; but this is stricken out in the Senate amendments, and nothing really is left but a provision imposing a most unjust and oppressive burden upon the people for whose interest we profess to be legislating. The legislation of the present session of Congress in reference to Hot Springs was for the sole purpose of securing an appeal to persons dissatisfied with the finding of the commissioners, but that is omitted in the Senate bill, and nothing really substituted for it except the privilege of paying an enormous price for what ought to be had for nothing.

Mr. CONGER. Did not the law appointing these commissioners declare that their decisions should be final?

Mr. YOUNG, of Tennessee. I believe that term is used in the act, but it was certainly never designed by Congress that the awards of these commissioners should be final and irrevocable without regard to whether they are just or unjust, honest or dishonest. But if such was the purpose and intent of the former act, it would, I suppose, be competent for Congress to repeal it, and in this view of the case the sooner it is done the better. I believe myself that a right of appeal already exists under the former law, and I have no doubt but its proper judicial construction would give this right. It is for this very reason that the manner and method of appeal should be precisely and definitely fixed by law, otherwise it is my judgment that there will be no end to litigation in relation to Hot Springs within fifty years. It has already lasted about that long, and I see nothing now to prevent its continuance.

Mr. WHITE. What does the Government get by the provisions of this bill as it came from the Senate?

Mr. YOUNG, of Tennessee. Really nothing. The whole thing is a sham, a shallow device to enable a few persons to realize a handsome profit upon an originally hazardous investment; that is all. The bill pretends to secure to the Government 50 per cent. of the appraised value of all the property awarded at Hot Springs to claimants, but then it is made to assume the payment of quite as large a sum. So I confess I am unable to perceive the profit that is to result to the Government from this arrangement.

Mr. DUNN. The Government will get about $150,000.

Mr. WHITE. Who gets the title to the land?

Mr. YOUNG, of Tennessee. Those to whom the commissioners awarded it.

Mr. DUNN. And the balance to be sold by the Government at auction to the highest bidder.

Mr. WHITE. Who gets the springs?

Mr. DUNN. They are reserved by the Government.

Mr. YOUNG, of Tennessee. It is but too evident to me that this report will be concurred in by the House. The influences favoring it are too strong for us to resist, even if I were disposed to urge a further opposition to it; but I shall tell the House what I think should be done. Let a committee be sent to Hot Springs to investigate the whole matter and report to us at the next session what ought to be done. We need not be in such hot haste about imposing the burden and hardship upon the people of Hot Springs of paying $150,000 for the privilege of remaining in their homes, nor in fastening upon the Government a liability of $100,000. Perhaps all these certificates ought to be paid; I am entirely willing myself that they should be, only I do not want the people to do it who are least able to bear the exaction.

I trust it will not be thought that I am thrusting myself officiously into a controversy in which I have no interest. The people of Hot Springs are my friends. A large number of them formerly lived in the city where I reside myself, and I feel that I have a right to say a word in their behalf here.

The SPEAKER. The fifteen minutes' time allowed under the rule in opposition to the report has been exhausted.

Mr. DUNN. I yield five minutes to my colleague from Arkansas, [Mr. CRAVENS.]

Mr. CRAVENS. It is difficult for me to believe, Mr. Speaker, that there is upon this floor any better friend to the people of Hot Springs than I am, I being their Representative.

We come before this Congress asking a modification of a burdensome law. This House passed an extremely liberal bill, one which I heartily supported, and which was passed by a fair majority. When that bill went to the Senate, that body with all the facts before it adopted the amendment now under consideration. The idea controlling that body was that it was right to make such modifications of the law as could be made and keep the Government whole in regard to its expenditures. The matter went to a conference committee, and that conference has reported a reduction of 10 per cent. Having stricken out $22,000 of the certificates a reduction of 10 per cent. can be made, and the Government still be reimbursed for all its expenditures.

I hope this House will agree to this report. It is all that we can expect to obtain under the circumstances. Of course I would take more if I had any hope of getting it.

In answer to the gentleman from Ohio, [Mr. CONVERSE,] who charges that there is fraud in connection with the issuance of the certificates for the condemned buildings, I state here upon this floor that the only complaint I have ever heard made on that subject was that they were not valued high enough.

Mr. CONVERSE. Will the gentleman allow me to ask a question?

Mr. CRAVENS. Yes, sir.

Mr. CONVERSE. Why are $22,000 of that scrip left out by the conference committee?

Mr. CRAVENS. Not because it is fraudulent.

Mr. CONVERSE. Is it not because it was known to be fraudulent?

Mr. CRAVENS. No, sir. The law compelled the issuance of those certificates, which were in fact for a less sum than the cost of the building and less than it is actually worth. But it is upon the permanent reservation. The owners of that building are now occupying the grounds under lease from the Government. Whenever the Government sees proper it can pay for the building, and it will then have a building of the full value of the amount paid, $22,000.

As to the other charges of fraud, we have a sort of indistinct affidavit sent here, communicated to this House by the Secretary of the Interior—an affidavit such as it was not deemed proper upon the part of either committee of the House to consider at all in the settlement of these Hot Springs titles. No report was made upon this subject. This original bill was reported to the House without any recommendation in favor of an investigation or anything of that kind. If there had been gross fraud shown upon the face of that affidavit (which I undertake to say has not been shown) it seems to me that prior to any action on the part of the Committee on the Public Lands of this House there should have been some steps taken to investigate that fraud if it had been deemed necessary to the settlement of the titles of Hot Springs. No such report was made. The statements set out in this mere affidavit of an individual were not regarded as sufficient to demand an investigation.

I do not come here for the purpose of justifying the action of the commissioners. I do not know exactly what they did; but whatever they did was just what the registers and receivers of the land offices of the Government ordinarily do when parties go upon any public lands. If the commissioners did wrong, or if gross fraud existed, the courts are open, as they always are to the appeals of equity and justice.

Mr. CONVERSE. May I ask another question?

Mr. CRAVENS. Yes, sir.

Mr. CONVERSE. Will the courts be open after the Government has paid this $74,000 of scrip? After the money has been paid out, where will be the remedy to get it back if the scrip is fraudulent?

Mr. CRAVENS. Who pays it? The people of Hot Springs pay it; and I undertake to say that every claimant to whom the right of entry was awarded has petitioned this House (and the petition was referred to the gentleman's committee) asking that these certificates be paid, although the parties knew the money was to come out of their own pockets. My people ask that this be done; and they pay the money.

Mr. CONVERSE. I will ask my friend whether these certificates which this conference report provides shall be paid are not to be paid out of the Treasury of the United States, or the certificates received into the Treasury in lieu of money?

Mr. CRAVENS. They are; but the Government, as I have said, is fully reimbursed.

Mr. DUNN. I now yield three minutes to the gentleman from Kansas, [Mr. RYAN.]

Mr. RYAN, of Kansas. Mr. Speaker, it is true the Senate did raise the price of these lands considerably. The conference report reduces the rate fixed by the Senate. Upon that proposition it is enough for me to state that, according to my best information, 99 per cent. of the persons who have this money to pay are clamorous for Congress to pass this bill as quickly as possible. They are anxious to have a title to their property, and to have that title quieted forever.

So far as the question of fraud is concerned, I do not think there has been any testimony adduced before any committee of this House showing any fraud upon the part of any one of the commissioners. There has been some fault found by disappointed claimants, and some assertions in a general way of fraud.

So far as the scrip is concerned, I am not aware that it has been claimed in any tangible way that any of it is fraudulent, except $22,000 which was issued to the proprietors of the Arlington Hotel. It is maintained that that scrip ought not to have been issued.

Mr. YOUNG, of Tennessee. I wish to say that is the only honest scrip, that and the Grand Central Hotel, the only honest scrip issued. That should be paid if any is paid.

Mr. RYAN, of Kansas. With the exception of the gentleman who has just taken his seat I have never heard it claimed by any disinterested person that the Arlington Hotel scrip ought to be paid. I have never heard it imputed to the other scrip that it was fraudulent. The Arlington Hotel scrip is excepted from the operation of this bill and remains unaffected by it.

Mr. DUNN. I yield for one minute to the gentleman from Minnesota, [Mr. WASHBURN.]

Mr. WASHBURN. Mr. Speaker, this question with reference to the adjustment of titles at Hot Springs was before the Committee on the Public Lands for a long time early in this session, and I then became somewhat familiar with the facts in the case, and am free to say I think, both in the interest of the people living at Hot Springs and in the interest of the Government, the report of this committee should be concurred in.

This whole question is in a nut-shell. Under the original law by which commissioners were appointed and awards made, there was about $215,000 which was to have been paid by the settlers who occupied the lands in question. Under the bill reported by the Committee on the Public Lands that was reduced to a nominal amount. Under the action of the commissioners there were some $75,000 or $100,000 of scrip issued as against damages awarded by commissioners for condemned buildings, &c. How much was there of this scrip?

Mr. DUNN. Seventy-four thousand five hundred dollars.

Mr. WASHBURN. Seventy-four thousand five hundred dollars. No provision was made for the payment of the scrip under the bill which passed the House. Now, as I understand it, the amount that will be realized under the operation of the bill as agreed upon by the conference committee will be something over $100,000, which amount will be sufficient to pay off this scrip and at the same time reduce the amount which the settlers have to pay so that it will not be onerous to them and will settle this vexed question of titles forever, which I think above all considerations the most important, because it will at last relieve these settlers and the people who wish to improve Hot Springs property who have been bedeviled for the last thirty years. This will make a settlement of the whole question which I regard as the most important of all the considerations in reference to it.

Mr. DUNN. Mr. Speaker, I have no disposition to enter into a lengthy argument on this question. I am not here as the defender of the commission. I have yielded my assent to this conference report because I am satisfied it is the best that can be gotten and is as much as the Senate would yield to. They will make no further concession.

I yield in assenting to it many convictions which I have of what is right and what ought to have been done. The House bill originally passed embodied my views of what ought to be the law in the settlement of this matter. But the Senate has taken a different view of it, and I have surrendered my judgment of the full measure of justice to those people in deference to stern necessity and the anxious wish and prayer of the people of Hot Springs, who are interested more than any other people in this country in this matter.

The story of their anxiety and unrest in the matter of their titles is an old story in this House and well known to everybody. They have been for thirty years on the "rugged edge of apprehension" as to the tenure of their lands. This bill, I frankly confess, is a hardship upon them, but they ask for it. They write to me and dispatch to me most piteous appeals to yield my judgment as to their rights and let this bill pass and deliver them from the suspense which destroys the happiness of their lives. They have built their homes there. It is the workmanship of their life-time of toil, and they are constantly unsettled as to the tenure by which they hold their title. They were first delivered up to receivers and fleeced and skinned and disturbed as few people ever were. They were transferred from the hands of the receivers and delivered to the tender mercies of a commission which proceeded to handle them two years longer, swearing them, surveying them, changing their boundary-lines, tearing down and removing their houses so that they did not know when they laid down at night whether they would have a roof over them in the morning. They were unhappy. They ask to be secured in what they believe to be their rights. They ask to be delivered from receivers, commissioners, investigators, and from Congress and the courts. I ask this House to do this measure of justice to these people. I surrender my convictions of much of what I believe to be right.

As to this certificate for $22,000 I would not concede that, because I am convinced it is wrong in all its features and ought not to be paid.

The simple history of that Arlington Hotel condemnation is this: The first condemnation was made during the first year of the administration of those commissioners and all the buildings were removed from the streets and from the reservation that were obstructions. The proprietors of the Arlington Hotel did not take a condemnation then, but came to Congress at the end of that year and asked for the passage of the act of December, 1878. It was argued that their buildings were worth $100,000, and the Government ought not to pay for them; that it was too great a sum to ask the Government to pay; they asked that Government should rent them the ground upon which the buildings stood and give them a lease of ten years and allow them to retain the ownership. The act was passed and the lease was entered into in pursuance of this act in April, 1879. Then, in December, 1879, before the term of the commission expired, they asked and obtained a condemnation for $22,000. They hold the building at a rent of $1,000 a year and they claim they will still hold it for ten years by virtue of the lease, and they ask the payment of this certificate also. Now, if that is not wrong, the taking from the Government of $22,000 without a consideration, I know nothing of right and wrong; and upon that ground the certificate is left for future investigation and settlement. All the other certificates are provided for, to be taken in payment for these lands at private entry in accordance with the award and at public auction, and their payment is not otherwise provided for. The whole receipts of the Government at private entries and sales at auction, with what it received as rent thereafter, it is estimated will exceed the expenditures of the Government by $20,000, or about that sum. I endeavored to obtain a further concession of the amount to be paid in consequence of that, but the Senate refused to yield and insisted upon this provision, and I assented to that in order to obtain the passage of the bill, as the best thing that could be done.

Mr. YOUNG, of Tennessee. Will the gentleman permit me to ask him a question?

Mr. DUNN. I will answer the gentleman.

Mr. YOUNG, of Tennessee. I want to ask the gentleman from Arkansas if he does not know that there is now pending before the committee a petition, signed by the mayor of Hot Springs and some one hundred of the best and most reputable citizens there, asking that there shall be a further investigation of this matter before any further action is taken upon it?

Mr. DUNN. I do not know of any such petition.

Mr. YOUNG, of Tennessee. I ask for the reason that there is some discrepancy in the statements which have been made here in reference to it.

Mr. DUNN. I have a telegram from the mayor and board of aldermen of Hot Springs, and also signed by the county judge in which county Hot Springs is situated, in about these words: "For God's sake pass the Senate bill and give us quiet titles to our homes."

Mr. YOUNG, of Tennessee. That is not an answer to my question.

Mr. DUNN. That telegram is from the mayor and aldermen and the county judge.

Mr. YOUNG, of Tennessee. But was not that previous to the sending of this petition to which I have referred?

Mr. DUNN. No, sir.

The SPEAKER. The time for debate has expired. The question now is on the adoption of the conference report.

Mr. CONVERSE. I ask the yeas and nays on that.

The yeas and nays were ordered.

The question was taken; and there were—yeas 127, nays 38, not voting 127; as follows:

YEAS—127.

Acklen,	Dunnell,	Martin, Joseph J.	Samford,
Aldrich, N. W.	Elam,	Mason,	Sawyer,
Aldrich, William	Evins,	McCoid,	Shallenberger,
Anderson,	Ewing,	McCook,	Shelley,
Bachman,	Fisher,	McKenzie,	Singleton, O. R.
Baker,	Forney,	McLane,	Slemons,
Ballou,	Frost,	Mills,	Smith, A. Herr
Barber.	Frye,	Mitchell,	Smith, William E.
Belford,	Goode,	Monroe,	Speer,
Bicknell,	Gunter,	Morton,	Stone,
Blackburn,	Hall,	Myers,	Thompson, P. B.
Bouck,	Harris, John T.	New,	Tillman,
Buckner,	Haskell,	Nicholls,	Townsend, Amos
Cabell,	Hatch,	Norcross,	Tucker,
Caldwell,	Hawk,	O'Connor,	Turner, Oscar
Cannon,	Henry,	O'Neill,	Tyler,
Carlisle,	Hostetler,	O'Reilly,	Upson,
Carpenter,	House,	Osmer,	Valentine,
Caswell,	Hubbell,	Overton,	Vance,
Chittenden,	Hunton,	Pacheco,	Voorhis,
Coffroth,	Johnston,	Page,	Waddill,
Conger,	Jones,	Persons,	Wait,
Cook,	Joyce,	Phelps,	Washburn,
Cravens,	Kelley,	Philips,	Wellborn,
Davis, George R.	Kenna,	Poehler,	Wells,
Davis, Horace	Ketcham,	Pound,	Whiteaker,
Davis, Joseph J.	Klotz,	Robertson,	Whitthorne,
Davis, Lowndes H.	Ladd,	Robeson,	Willis,
Deering,	Lindsey,	Robinson.	Willits.
Dibrell,	Lowe,	Russell. W. A.	Wilson,
Dickey,	Manning.	Ryan, Thomas	Wise.
Dunn,	Martin, Edward L.	Ryon, John W.	

NAYS—38.

Bayne,	Converse,	Martin, Benj. F.	Springer,
Bingham,	Crapo,	McMillin,	Stevenson,
Blake,	Errett,	Money,	Thomas,
Bowman,	Field,	Reagan,	Townshend, R. W.
Boyd,	Geddes,	Rice,	Updegraff, Thomas
Briggs,	Harmer,	Russell, Daniel L.	Urner,
Bright,	Hazelton,	Scales,	Williams, Thomas
Clark, John B.	Horr,	Sherwin,	Young, Casey.
Cobb,	Humphrey,	Singleton, J. W.	
Colerick,	Hurd,	Sparks,	

NOT VOTING—127.

Aiken,	Browne,	Daggett,	Garfield,
Armfield,	Burrows,	Davidson,	Gibson,
Atherton,	Butterworth,	De La Matyr,	Gillette,
Atkins,	Calkins,	Deuster,	Godshalk,
Bailey,	Camp,	Dick,	Hammond, John
Barlow,	Chalmers,	Dwight,	Hammond, N. J.
Beale,	Claflin,	Einstein,	Harris, Benj. W.
Beltzhoover,	Clardy,	Ellis,	Hawley,
Berry,	Clark, Alvah A.	Farr,	Hayes,
Bland,	Clymer,	Felton,	Hellman,
Bliss,	Covert,	Ferdon,	Henderson,
Blount,	Cowgill,	Finley,	Henkle,
Bragg,	Cox,	Ford,	Herbert,
Brewer,	Crowley,	Forsythe,	Herndon,
Brigham,	Culberson,	Fort,	Hill,

Hiscock,	Lounsbery,	Pierce,	Thompson, W. G.
Hooker,	Marsh,	Prescott,	Turner, Thomas
Houk,	McGowan,	Price,	Updegraff, J. T.
Hull,	McKinley,	Reed,	Van Aernam,
Hutchins,	McMahon,	Richardson, D. P.	Van Voorhis,
James,	Miles,	Richardson, J. S.	Ward,
Jorgensen,	Miller,	Richmond,	Warner,
Keifer,	Morrison,	Ross,	Weaver,
Killinger,	Morse,	Rothwell,	White,
Kimmel,	Muldrow,	Sapp,	Wilber,
King,	Muller,	Simonton,	Williams, C. G.
Kitchin,	Murch,	Smith, Hezekiah B.	Wood, Fernando
Knott,	Neal,	Starin,	Wood, Walter A.
Lapham,	Newberry,	Steele,	Wright,
Le Fevre,	O'Brien,	Stephens,	Yocum,
Lewis,	Orth,	Talbott,	Young, Thomas L.
Loring,	Phister,	Taylor,	

So the conference report was concurred in.

On motion of Mr. DUNN, by unanimous consent, the reading of the names was dispensed with.

The following pairs were announced:

Mr. LORING with Mr. HERBERT.

Mr. HAWLEY with Mr. HOOKER, on this vote.

Mr. LAPHAM with Mr. CULBERSON, for this day.

Mr. MULDROW with Mr. DWIGHT.

Mr. HOUK with Mr. TAYLOR, on all questions for the remainder of the session.

Mr. SIMONTON. Mr. Speaker, I desire to state that I should have voted "ay" on this bill, but was temporarily absent when my name was called.

The result of the vote was then announced as above recorded.

Mr. DUNN moved to reconsider the vote by which the conference report was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

JAMES M. RUBY.

Mr. McMAHON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. No. 1128) returned from the Senate with a verbal amendment or correction, to strike out "M" and insert "N;" so that it will read, "James N. Ruby."

There was no objection; and the bill was taken from the Speaker's table and the amendment concurred in.

Mr. McMAHON moved to reconsider the vote by which the amendment was concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ENROLLED BILLS SIGNED.

Mr. WARD, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 6109) to amend the sixth subdivision of section 3244 of the Revised Statutes of the United States; when the Speaker signed the same.

Mr. ALDRICH, of Illinois, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 6207) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1881, and for other purposes; when the Speaker signed the same.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses upon the bill (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and for prior years, and for those certified as due by the accounting officers of the Treasury in accordance with section 4 of the act of June 14, 1878, heretofore paid from permanent appropriations, and for other purposes.

The message also announced that the Senate had passed, without amendment, bills and joint resolution of the following titles:

A bill (H. R. No. 5628) relating to machinists in the Navy;

A bill (H. R. No. 6112) to carry into effect the second and sixteenth articles of the treaty between the United States and the Great and Little Osage Indians, proclaimed January 21, 1867;

A bill (H. R. No. 2603) to place upon the pension-roll the name of Masach Finn;

A bill (H. R. No. 591) for the relief of Eliza K. Ashby; and

Joint resolution (H. R. No. 309) authorizing the Secretary of War to lend to the Gate City Guard, a military company of Atlanta, Georgia, four hundred Government tents under certain circumstances.

The message also announced that the Senate had passed with amendments, in which the concurrence of the House was requested, bills of the following titles:

A bill (H. R. No. 1327) to grant lands to Dakota, Montana, Arizona, Idaho, and Wyoming, for university purposes;

A bill (H. R. No. 2658) to regulate the award of and compensation for public advertising in the District of Columbia; and

A bill (H. R. No. 5918) granting a pension to Thomas P. Pettijohn.

The message further announced that the Senate had passed bills of the following titles, in which the concurrence of the House was requested:

A bill (S. No. 1583) to change the name of the schooner-yacht Nettie to Nokomis; and

A bill (S. No. 1808) granting a pension to Earl S. Rathbun.

DUTIES ON SUGAR AND MOLASSES.

Mr. TALBOTT. I call for the regular order.

The SPEAKER. The regular order being demanded, the gentleman from Maryland [Mr. McLANE] and the gentleman from Louisiana [Mr. ACKLEN] will resume their places as tellers; the question being on seconding the motion of the gentleman from Maryland to suspend the rules and pass the bill relating to the duties on sugar and molasses.

The House again divided; and the tellers reported, ayes 32.

Mr. ACKLEN. I do not think that gentlemen understand that this is a new count.

The SPEAKER. The Chair will state that this is a new count. Gentlemen who desire to vote will pass between the tellers.

Mr. ACKLEN. I apprehend all who desire to vote in the affirmative have not yet voted.

The SPEAKER. The tellers will proceed with the count. Gentlemen who desire to vote in the negative will now pass between the tellers.

The tellers resumed the count.

Mr. CONGER. I desire the votes in the affirmative and in the negative shall be taken separately instead of gentlemen passing through and indicating on what side they vote as they pass.

Mr. ACKLEN. The tellers have not disagreed on the count. The vote now stands 38 in the affirmative and 22 in the negative.

Mr. McLANE. It is quite impossible to keep count in the manner in which gentlemen are voting.

The SPEAKER. The Chair thinks the tellers will see that the count is properly made.

Mr. McLANE. It is proceeding in this way: Two in the affirmative, two in the negative, and one in the affirmative. It is impossible to keep correct count in that way.

The SPEAKER. Whatever is announced by the tellers is recorded by the Clerk at the desk.

Mr. McLANE. Let the Clerk state the result as it now stands.

The SPEAKER. The count, as reported, is now—ayes 39, noes 23.

Mr. TOWNSHEND, of Illinois. There were 77 in the affirmative awhile ago, and now there are only 39.

The SPEAKER. That is the fault of the gentlemen who are not voting.

The count was resumed.

Mr. McLANE. I have again to report it is impossible to keep the count. There is very evidently a determination on one side of the House not to vote until they ascertain the effect of their vote.

Mr. CONGER. I submit the tellers should not comment on what the House, or either side of it, is doing, but should proceed with the count.

The SPEAKER. It is the duty of the tellers to count. Debate is not in order at this time.

Mr. McLANE. I am doing my duty in reporting to the Chair.

The SPEAKER. The Chair will cause a recount to be made. Gentlemen who have voted will take notice that their votes have been vacated by reason of the difficulty of the count as reported by one of the tellers. As many as are in favor of seconding the motion to suspend the rules will pass between the tellers.

The count was resumed; and the tellers reported ayes 38.

The SPEAKER. Those opposed to seconding will now pass between the tellers.

The negative vote was counted; and the tellers reported noes 19.

Mr. WHITTHORNE. I move that the House do now adjourn.

Mr. KLOTZ. I ask unanimous consent to pass the bill which I hold in my hand.

Mr. CLYMER. I suggest the motion should be for a recess until to-morrow at ten o'clock.

Mr. COX. I desire to move that the House take a recess until eight o'clock this evening.

Mr. TOWNSHEND, of Illinois. If the opposition will give us a vote on this bill we will be perfectly content.

The SPEAKER. That is the difficulty—to obtain a vote on the bill.

Mr. CONGER. Let the gentleman from Illinois come over to this side and present his request personally.

Mr. WHITE. Is it in order now to make a motion to adjourn?

The SPEAKER. The House is dividing. As soon as the Chair receives the report of the tellers he will entertain a motion to adjourn.

The tellers reported—ayes 50, noes 22.

Mr. ACKLEN. No quorum!

RESIGNATION OF HON. BURWELL B. LEWIS.

The SPEAKER laid before the House the following communication, which was read by the Clerk:

WASHINGTON, D. C., *June* 15, 1880.

Mr. SPEAKER: I respectfully request that you will make known to the House of Representatives, over which you preside, that I have tendered my resignation as a member thereof to the governor of Alabama, to take effect on the 1st day of next October.

Very truly, your obedient servant,

BURWELL B. LEWIS.

Hon. SAMUEL J. RANDALL,
Speaker of the House of Representatives.

ORDER OF BUSINESS.

The SPEAKER. The gentleman from Pennsylvania on the left [Mr. WHITE] and the gentleman from Tennessee on the right [Mr. WHITTHORNE] move that the House do now adjourn.

Mr. COX. Is it in order to move a recess until eight o'clock this evening?

The SPEAKER. It is not, pending a motion to adjourn.

Mr. COX. There is business that must be disposed of.

Mr. GOODE. There is very important business on the Speaker's table.

The SPEAKER. The Chair desires to state that the appropriation bills are all right.

Mr. HUBBELL. The chairman of the Committee on Appropriations will present a bill in a few moments for the action of the House.

The SPEAKER. The Chair was speaking of the general appropriation bills. The regular order is the motion to adjourn.

Mr. WHITE. Can that not be changed into a motion for a recess?

Mr. WHITTHORNE. I withdraw the motion to adjourn.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

A bill (S. No. 1082) for the relief of the widow and children of Smith E. G. Rawson; and

A bill (S. No. 1840) to constitute a joint commission for carrying into effect the convention between the United States and the French Republic for the settlement of certain claims of the citizens of either country against the other signed at Washington, on the 15th of January, 1880.

ORDER OF BUSINESS.

Mr. SPRINGER. I ask unanimous consent to call up a joint resolution to pay on account some election expenses which have occurred during this Congress. The parties are very much in need of this money, and it is only a question of time when we are to pay it, now or at the end of this Congress.

Mr. BRIGHT. I object, on the ground that there are other necessitous cases that have been standing for years, which I have been trying for several weeks to get submitted to the House.

The SPEAKER. The motion to adjourn having been withdrawn, the Chair entertains the motion of the gentlemen from New York, [Mr. COX,] that the House take a recess until eight o'clock this evening.

FRENCH CLAIMS COMMISSION.

Mr. ATKINS. I ask the gentleman from New York [Mr. COX] to yield to me for a moment.

Mr. COX. I will yield for public business.

Mr. ATKINS. I ask unanimous consent to report for action at this time from the Committee on Appropriations a bill to constitute a joint commission for carrying into effect a convention between the United States and the French Republic for the settlement of certain claims of the citizens of either country against the other, signed at Washington the 15th day of January, 1880.

Mr. HARRIS, of Virginia. There is a Senate bill on that subject which has just come over.

Mr. ATKINS. I do not care about that. I will make a point of order against the Senate bill, so as to send it to the Committee of the Whole.

Mr. McLANE. This, I understand, is a money bill, and will have to receive its first consideration in Committee of the Whole on the state of the Union.

The SPEAKER. It will if the point of order is made against it.

Mr. McLANE. I give notice that I will——

Mr. ATKINS. I ask the gentleman to reserve his point of order while I send to the Clerk's desk a letter from the Secretary of State which I received a few moments ago.

The Clerk read as follows:

DEPARTMENT OF STATE,
Washington, June 15, 1880.

SIR: I had the honor yesterday to invite the attention of the respective Committees on Foreign Relations and Affairs of the Senate and House to the need of making suitable provision, before the adjournment of Congress, for enabling the President to carry into effect the claims convention which was concluded between the United States and France on the 15th of last January and ratified by the Senate on the 29th of March following, and which, as I now learn officially from the French minister, was ratified by the French Chambers a few days ago.

The probability that the exchange of ratifications and the proclamation of this convention will soon take place, and the near prospect of an adjournment of Congress, makes it very desirable that proper action in the direction of fulfilling the recognized obligations of the convention should be had without delay.

I have the honor to invite your attention to the inclosed draught of the bill to that end which I submitted to the Foreign Committees of Congress yesterday. This bill follows in most respects the precedent set in the act of April 6, 1869, for the fulfillment of the claims convention with Mexico. The total amount suggested to be appropriated is $140,000, as the result of a careful estimate of the outlays necessary under the convention for salaries, rent, contingencies, stenographing, printing, taking of testimony, &c.

I have the honor, therefore, to commend the matter to your urgent attention, with a view to action before adjournment.

I am, very respectfully, your obedient servant,

WM. M. EVARTS.

Hon. JOHN D. C. ATKINS,
Chairman of the Committee on Appropriations,
House of Representatives.

[Inclosure.]

Draught of a bill to provide for carrying into effect the French claims convention of January 15, 1880.

Mr. ATKINS. I will say to the House that this bill has been before the Committees on Foreign Affairs of the two Houses, and the Committee on Appropriations of this House have also had the same subject under consideration. I suppose there will be no objection to this bill, as it is necessary that this appropriation be made now in order that the convention between the two countries may be carried out.

Mr. HARRIS, of Virginia. What is the difference between the Senate bill and this bill?

Mr. ATKINS. The sum is about the same.

Mr. HARRIS, of Virginia. Why not pass the Senate bill?

The SPEAKER. The gentleman from Tennessee [Mr. ATKINS] wants to avoid the controversy as to the right of the Senate to originate appropriation bills.

Mr. HARRIS, of Virginia. If that is the only objection to the Senate bill——

Mr. ROBESON. It is very important that this bill should pass.

Mr. ATKINS. I have introduced this bill by direction of the Committee on Appropriations. It is for the House to pass upon it or not, as it pleases. I shall make every point of order that can be made on the Senate bill when it comes up.

Mr. HARRIS, of Virginia. If it is important that this bill should pass before the House adjourns, and the point is raised against the Senate bill that it makes an appropriation, how do we know that the Senate will take up the House bill and act upon it if we refuse to consider their bill?

Mr. ATKINS. If the gentleman wants to get on his knees to the Senate let him do it.

Mr. COX. Unless this bill is passed now this mixed claims commission will be a failure, for it must be organized this session. It is in the interest of our people more than in the interest of the people of France.

Mr. SPARKS. Let us act on this bill and send it to the Senate.

Mr. ROBESON. That is right.

Mr. McLANE. I will make no objection to this bill if it is to be considered in the House.

The SPEAKER. The bill will be read.

The bill was read, as follows:

A bill to constitute a joint commission for carrying into effect the convention between the United States and the French Republic for the settlement of certain claims of the citizens of either country against the other, signed at Washington on the 15th day of January, 1880.

Be it enacted, &c., That the President shall nominate, and by and with the advice and consent of the Senate appoint, a commissioner on the part of the United States to hear and decide, conjointly with a commissioner to be appointed on the part of the French Republic, and a third commissioner to be appointed by his Majesty the Emperor of Brazil, the claims comprehended in the provisions of the convention of January 15, 1880, between the United States and the French Republic.

SEC. 2. That the compensation of the said commissioner on the part of the United States shall be at such rate, not exceeding $8,000 a year in money of the United States, as may be determined by agreement between the executive departments of this Government and of the French Republic. The compensation of said third commissioner, to be determined according to the provisions of said convention, not to exceed $8,000 a year, shall be paid as to the one-half part thereof by the United States. The compensation of the secretary to be appointed on the part of the United States under the provisions of the said convention shall be at said rate, not exceeding $3,000 a year in money of the United States, as may be determined in the manner aforesaid.

SEC. 3. That the President be, and hereby is, authorized to appoint a suitable person as agent on behalf of the United States to attend the commissioners and present and support claims on behalf of this Government and answer claims made upon it, and to represent it generally in all matters connected with the investigations and decisions thereof. The compensation of such agent, not to exceed $5,000 a year, shall be determined by agreement between the executive departments of this Government and of the French Republic. The President is hereby authorized to make such provision for the contingent expenses of the commission and for the taking of testimony on the part of the United States to be used before the same as to him shall appear reasonable and proper. To defray the above-mentioned expenses, salaries, and compensation, and to permit the agent of the United States to collect and produce such needful testimony on the part of this Government, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $100,000, or so much thereof as may be necessary under the provisions of this act, to be expended under the direction of the Secretary of State with the approval of the President.

SEC. 4. That the commissioner on the part of the United States, in conjunction with the other commissioners appointed under the provisions of the said convention, is hereby authorized to make all needful rules and regulations for conducting the business of the commission, such rules and regulations not contravening the Constitution of the United States, the provisions of this act, or the convention.

SEC. 5. That the Secretary of State is hereby authorized and required to transmit to the commissioners through the agent on the part of the United States such papers and records relating to the commission as he may deem proper, or as may be called for by the commissioners; and at the termination of the commission all the records, documents, and other papers which shall have been brought before the commissioners, or which may be in possession of their secretaries, shall be deposited in the Department of State: *Provided*, That this section shall not be so construed as to prevent the commissioner on the part of the United States or of the French Republic from depositing in the Department certified copies or duplicates of papers produced on behalf of this Government instead of originals.

SEC. 6. That upon suggestion by either party that a witness whose testimony is deemed important refuses or is unwilling to testify it shall be competent for the commissioners to issue a commission to some suitable person to take the testimony of such witness, who, if in the United States, may be compelled to appear and testify in the same manner as is now provided by law in the case of commissions issued from the courts of the United States.

Mr. ATKINS. I ask unanimous consent that this bill be received for immediate consideration in the House.

There being no objection, the bill (H. R. No. 6492) was received, read a first and second time, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ATKINS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FUNERAL EXPENSES, ETC., OF WILLIAM HEMPHILL JONES.

Mr. MARTIN, of Delaware, by unanimous consent, reported from the Committee on Accounts a resolution authorizing payment of the funeral expenses of the late William Hemphill Jones and six months' pay to his widow.

The resolution was read, as follows:

Resolved, That the Clerk of the House be, and he is hereby, authorized and directed to pay the expenses of the last illness and funeral of William Hemphill

Jones, late clerk to the Committee on Ways and Means of this House, to an amount not exceeding $500; and he is hereby further authorized and directed to pay to the widow of said Jones a sum equal to his pay as clerk as aforesaid, for six months; and all payments herein authorized and directed shall be made out of the contingent fund of the House, subject to the approval of the Committee on Accounts.

There being no objection, the resolution was considered and adopted.

Mr. MARTIN, of Delaware, moved to reconsider the vote by which the resolution was adopted, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

[Cries of "Regular order!"]

Mr. KNOTT. I move that the House do now adjourn.

The motion was not agreed to; there being—ayes 67, noes 85.

Mr. COX. I now call for a vote on my motion for a recess till to-night at eight o'clock.

ENROLLED BILL SIGNED.

Mr. ALDRICH, of Illinois, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (S. No. 815) to increase the pensions of certain pensioned soldiers and sailors who are utterly helpless from injuries received or disease contracted while in the United States service.

PAY OF HOUSE EMPLOYÉS.

Mr. O'CONNOR. I ask unanimous consent to report from the Committee on Accounts a joint resolution for the pay of certain employés of the House. I hope that it will be acted on at once.

Mr. CLYMER. Let points of order be reserved.

The joint resolution was read, as follows:

Joint resolution providing for the payment of certain claims found to be just and proper by the Committee on Accounts.

Resolved, &c., That the Clerk of the House of Representatives be, and he is hereby, authorized and directed to pay L. Q. Washington the sum of $234 for services as clerk to the Committee on Interoceanic Canal from January 23 to March 1, 1880; to John E. Kelly the sum of $30 for services as messenger to the Committee on Ways and Means from December 1 to December 11, 1879; to Watson Boyle the sum of $200, balance due him as messenger to the Speaker for the current fiscal year; to James C. Courts the balance due him as clerk to the Committee on Appropriations for the current fiscal year, $400; to H. T. Burrows the sum of $786 for services as assistant clerk and messenger to the Committee on the Payment of Pensions, Bounty, and Back Pay from February 7, 1880, to the end of the session; to Silas Carr the sum of $100 as one month's extra pay from the date of his discharge from the messengers' roll of the House employés; to Alvah W. Hicks the sum of $100 as one month's extra pay from the date of his discharge from the disabled soldiers' roll of House employés; to J. S. Jones for services as messenger from December 15, 1879, to June 15, 1880, the difference between the pay of watchman received by him and that of messenger, $50; and an amount sufficient to pay the above claims is hereby appropriated out of any money in the Treasury not otherwise appropriated, and shall be immediately available.

The SPEAKER. Is there unanimous consent that this resolution be reported now for consideration?

Mr. MILLS. Why does this resolution rearrange the pay of these clerks? Are they not annual clerks?

Mr. O'CONNOR. There is no rearrangement.

The SPEAKER. Is there objection to the resolution?

Mr. WHITE. I understand this comes from the Committee on Accounts.

The SPEAKER. It does; but it is not in order at this time except by unanimous consent.

Mr. WHITE. But it shows that the resolution is right.

Mr. O'CONNOR. I understand there is no objection to the resolution.

Mr. GUNTER. Is the resolution subject to amendment?

The SPEAKER. It is not yet before the House.

Mr. O'CONNOR. There was no objection.

The SPEAKER. The Chair thought some member objected, but the question will be submitted again. Is there objection to the introduction of this resolution?

Mr. BAYNE. I want to ask a question. Is the clerk of the Committee on the Interoceanic Canal still employed, and will a further appropriation be required to pay him?

Mr. O'CONNOR. None whatever. This resolution is specific. The appropriation is confined to the time specified in the resolution.

Mr. BAYNE. That canal seems to have run out [laughter] and it can hardly be necessary for the committee to have a clerk any longer.

Mr. MILLS. I make no objection to the resolution.

Mr. O'CONNOR. These men ought to be paid.

Mr. GUNTER. Is the resolution subject to amendment?

The SPEAKER. It is not yet before the House.

Mr. WHITE. If the resolution is to be amended I object to its introduction.

Mr. O'CONNOR. I shall resist any amendment. I am directed by the Committee on Accounts to report this resolution. It is their unanimous action.

Mr. GUNTER. Mr. Lane, an employé of the House——

Mr. KEIFER. I have an amendment to offer.

Mr. DWIGHT. I object.

The SPEAKER. There is objection.

PAYMENT OF HOUSE EMPLOYÉS IN ADVANCE.

Mr. ATKINS. I now submit the following resolution:

Resolved, That the Clerk of the House be, and he is hereby, authorized and directed to pay the employés of the House their respective compensations for the month of June as soon as practicable after the adjournment of Congress.

The SPEAKER. Is there objection to the introduction of that resolution?

Mr. GUNTER. Is this subject to amendment?

The SPEAKER. It is not if the previous question is called and sustained.

Mr. GUNTER. Will the gentleman submit to an amendment? Mr. Lane, one of the employés of the House, has due him a small amount of money which ought to be paid.

The SPEAKER. The gentleman from Tennessee must answer that question; the Chair cannot.

Mr. ATKINS. If the House will come to order I will explain it in a minute.

Mr. VAN VOORHIS. Is debate in order on this question?

The SPEAKER. The resolution is not yet before the House.

The resolution was again read.

The SPEAKER. The Chair hears no objection.

Mr. ATKINS. I demand the previous question on the adoption of the resolution.

Mr. FRYE. I wish to ask the gentleman a question; and that is whether or not this includes the Capitol police?

Mr. ATKINS. It includes all the employés of the House of Representatives.

Mr. FRYE. It has been ruled twice before it did not include them, and they did not get their month's pay.

Mr. ROBESON. Will the gentleman put in the Capitol police?

Mr. ATKINS. I have no objection.

Mr. McMAHON. They are here all the time.

Mr. TOWNSHEND, of Illinois. This does not provide for extra pay, but only provides for the payment of this month's pay as soon after the adjournment as practible. That is, it provides that they shall be paid now what they will be paid anyhow at the end of the month.

Mr. FRYE. I am mistaken in the resolution. This is not the resolution paying the ordinary thirty days' extra pay.

Mr. ATKINS. No; this simply provides for anticipating a month's pay due the employés.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. ATKINS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. CONGER. I move the House proceed to the consideration of the business upon the Speaker's table. [Cries of "Regular order!"]

Mr. COX. I move the House take a recess until eight o'clock this evening.

Mr. WARNER. I move to amend that by saying nine o'clock to-morrow morning.

The SPEAKER. The question will first be taken on the amendment of the gentleman from Ohio, that the House take a recess until nine o'clock to-morrow morning.

Mr. CONGER. I propose to move to go to the business upon the Speaker's table for the purpose of taking up and considering all bills in their order, with the exception of political and revenue bills.

The SPEAKER. When the Chair is able to submit the motion suggested, he will submit it in the form stated by the gentleman from Michigan.

Mr. SPRINGER. Will the Chair submit a request for unanimous consent?

Mr. KNOTT. I move to strike out "nine o'clock" and insert "ten o'clock," so that when the House takes a recess it will be until ten o'clock instead of until nine o'clock to-morrow morning.

Mr. COX. Is a motion to go to business upon the Speaker's table in order pending the motion of the gentleman from Maryland [Mr. McLANE] in reference to the sugar bill?

The SPEAKER. Not if the gentleman from Maryland insists on the regular order, which is on the second to suspend the rules.

Mr. COX. If the gentleman from Maryland will consent to withdraw his motion, I will then withdraw my motion that the House take a recess, in order that we may go to the business on the Speaker's table. [Cries of "Regular order!"] If not, I will insist on it.

Mr. McLANE. I will not consent to any such thing.

The SPEAKER. The first question is on the amendment of the gentleman from Kentucky, to take a recess until ten o'clock to-morrow morning.

Mr. WARNER. I accept that as a modification of my motion.

Mr. COX. Can there be more than one amendment to my motion?

The SPEAKER. The gentleman from Ohio accepts the modification of his motion made by the gentleman from Kentucky, and the question now is on the amendment that the House take a recess until ten o'clock to-morrow morning.

The House divided; and there were—ayes 99, noes 80.

Mr. WHITE demanded tellers.

Mr. HUNTON demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 93, nays 90, not voting 109; as follows:

YEAS—93.

Acklen,	Beale,	Bouck,	Caswell,
Bachman,	Bicknell,	Bowman,	Clymer,
Baker,	Bingham,	Briggs,	Cook,
Barber,	Bland,	Buckner,	Crapo,
Bayne,	Blount,	Cannon,	Daggett,

Davis, Horace	Horr,	Nicholls,	Sparks,
Davis, Lowndes H.	House,	Norcross,	Speer,
Dibrell,	Humphrey,	O'Neill,	Stone,
Dickey,	Hutchins,	Overton,	Townsend, Amos
Errett,	Jones,	Pacheco,	Tyler,
Felton,	Keifer,	Persons,	Updegraff, Thomas
Field,	Kelley,	Philips,	Valentine,
Fisher,	Kenna,	Pound,	Van Aernam,
Forney,	Klotz,	Reagan,	Van Voorhis,
Fort,	Knott,	Rice,	Wait,
Frye,	Ladd,	Robinson,	Ward,
Godshalk,	Lindsey,	Ross,	Warner,
Hall,	Lounsbery,	Scales,	Wellborn,
Hammond, John	Lowe,	Shallenberger,	Wells,
Hammond, N. J.	McCoid,	Sherwin,	White,
Harmer,	McMahon,	Simonton,	Williams, C. G.
Hawk,	Mills,	Singleton, J. W.	
Hawley,	Mitchell,	Smith, A. Herr	
Hiscock,	Morton,	Smith, William E.	

NAYS—90.

Aldrich, N. W.	Converse,	Joyce,	Springer,
Aldrich, William	Cox,	Ketcham,	Stevenson,
Anderson,	Cravens,	Martin, Benj. F.	Talbott,
Atkins,	Davis, George R.	Martin, Edward L.	Thomas,
Ballou,	Davis, Joseph J.	Mason,	Thompson, P. B.
Berry,	Deering,	McKenzie,	Tillman,
Blackburn,	Dunn,	McLane,	Townshend, R. W.
Blake,	Dunnell,	McMillin,	Tucker,
Bliss,	Elam,	Money,	Turner, Oscar
Boyd,	Evins,	Myers,	Urner,
Brewer,	Ewing,	New,	Vance,
Bright,	Ferdon,	O'Connor,	Voorhis,
Browne,	Ford,	O'Reilly,	Washburn,
Cabell,	Geddes,	Osmer,	Whitthorne,
Caldwell,	Goode,	Phelps,	Williams, Thomas
Carlisle,	Gunter,	Poehler,	Willis,
Carpenter,	Haskell,	Robertson,	Willits,
Chittenden,	Hatch,	Russell, Daniel L.	Wilson,
Clark, John B.	Henry,	Ryan, Thomas	Wise,
Cobb,	Hostetler,	Samford,	Wright,
Coffroth,	Hunton,	Sawyer,	Young, Casey.
Colerick,	Hurd,	Shelley,	
Conger,	Johnston,	Singleton, O. R.	

NOT VOTING—109.

Aiken,	Farr,	Le Fevre,	Richardson, J. S.
Armfield,	Finley,	Lewis,	Richmond,
Atherton,	Forsythe,	Loring,	Robeson,
Bailey,	Frost,	Manning,	Rothwell,
Barlow,	Garfield,	Marsh,	Russell, W. A.
Belford,	Gibson,	Martin, Joseph J.	Ryon, John W.
Beltzhoover,	Gillette,	McCook,	Sapp,
Bragg,	Harris, Benj. W.	McGowan,	Slemons,
Brigham,	Harris, John T.	McKinley,	Smith, Hezekiah B.
Burrows,	Hayes,	Miles,	Starin,
Butterworth,	Hazelton,	Miller,	Steele,
Calkins,	Heilman,	Monroe,	Stephens,
Camp,	Henderson	Morrison,	Taylor,
Chalmers,	Henkle,	Morse,	Thompson, W. G.
Claflin,	Herbert,	Muldrow,	Turner, Thomas
Clardy,	Herndon,	Muller,	Updegraff, J. T.
Clark, Alvah A.	Hill,	Murch,	Upson,
Covert,	Hooker,	Neal,	Waddill,
Cowgill,	Houk,	Newberry,	Weaver,
Crowley,	Hubbell,	O'Brien,	Whiteaker,
Culberson,	Hull,	Orth,	Wilber,
Davidson,	James,	Page,	Wood, Fernando
De La Matyr,	Jorgensen,	Phister,	Wood, Walter A.
Deuster,	Killinger,	Pierce,	Yocum,
Dick,	Kimmel,	Prescott,	Young, Thomas L.
Dwight,	King,	Price,	
Einstein,	Kitchin,	Reed,	
Ellis,	Lapham,	Richardson, D. P.	

So the amendment was agreed to.

Mr. HORR. I move to dispense with the reading of the names.

Mr. SPRINGER. I object.

The following additional pair was announced:

Mr. MULDROW with Mr. DWIGHT, on this question.

The result of the vote was then announced as above recorded.

The SPEAKER. The question recurs now on the original resolution of the gentleman from New York, as amended.

The question being put,

The SPEAKER stated that the ayes had it.

Mr. SPRINGER. On that I demand the yeas and nays.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House No. 4244, to establish titles in Hot Springs, and for other purposes.

ORDER OF BUSINESS.

Mr. BOUCK. I understood the gentleman from Ohio had accepted the amendment which was offered to his original amendment.

The SPEAKER. The original proposition was the amendment of the gentleman from New York, fixing eight o'clock this evening as the hour at which the House should assemble after the recess. That was amended by the gentleman from Ohio, [Mr. WARNER,] and the gentleman from Missouri, [Mr. PHILIPS,] as the Chair understands, fixing nine o'clock to-morrow morning, and the gentleman from Kentucky then suggested a further amendment fixing ten o'clock to-morrow as the hour, which amendment was accepted by the gentleman from Ohio and the gentleman from Missouri.

Mr. PAGE. The gentleman from Ohio accepted the amendment of the gentleman from Kentucky.

The SPEAKER. The Chair so understands and has so stated. The vote was taken on the proposition of the gentleman from Kentucky which was accepted by the gentleman from Ohio, and this amendment was accepted by the House as indicated by the last vote. The question now recurs on the motion of the gentleman from New York as amended by the substitution of ten o'clock to-morrow morning for his original motion.

Mr. SPRINGER. I ask unanimous consent to fix nine o'clock to-morrow morning. [Cries of "Regular order!"]

Mr. KENNA. I ask to make a brief statement in reference to the public business before the Committee on Enrolled Bills. [Cries of "Regular order!"]

The SPEAKER. The gentleman from Illinois [Mr. SPRINGER] demands the yeas and nays on the last vote.

The question being taken, there were ayes 26; not one-fifth of the last vote.

Mr. SPRINGER. I demand a further count on the other side.

The negative side being counted, there were noes 115.

The SPEAKER. On the demand for the yeas and nays the ayes are 26 and the noes 115—not a sufficient number; and the yeas and nays are not ordered. [Cries of "Regular order!"]

Mr. HUNTON. I ask for tellers on the yeas and nays.

Mr. SPRINGER. I make the point of order that no quorum voted on the last vote, [cries of "Too late!"] that there was no quorum upon the other proposition, and I was entitled to tellers. I made the point at the time, and made it before the Speaker began the count.

The SPEAKER. But not before tellers were demanded by the gentleman from Virginia [Mr. HUNTON] in his own right.

Mr. SPRINGER. I made the point that no quorum had voted when the Chair announced the vote.

The SPEAKER. The Chair did not hear the gentleman, but of course his statement is sufficient.

Mr. COX. I rise to a parliamentary inquiry. Is the proposition as amended amendable?

The SPEAKER. The Chair thinks it is not, as the time to have done so is passed.

Mr. KENNA. What is the pending proposition?

The SPEAKER. The pending proposition is the motion of the gentleman from New York for a recess, as amended.

Mr. KENNA. I hope the House will permit me to make a brief statement in reference to the public business in the hands of the Committee on Enrolled Bills.

Several Members objected. [Cries of "Regular order!"]

Mr. ATKINS. I hope the House will have no objection to the gentleman from West Virginia making the statement that he desires. In the interest of the transaction of public business, I hope there will be no objection.

Mr. KENNA. Mr. Speaker, I have not sought to thrust myself on the House without proper reason, and I desire to say to the House now, what is well understood, that every member of the Committee on Enrolled Bills is expected to attend to his duty on that committee, but also to be on this floor and vote upon all propositions which come up here for consideration. I wish to say that it is absolutely necessary, in order to enable the House to adjourn to-morrow, as it is expected to do, that this committee, and every member of it, may have an opportunity of being as much as possible in the committee-room examining the enrolled bills and comparing them. They will need to be there almost continuously from now until the hour fixed for adjournment. These bills have been accumulating there largely in the last two or three days, and there is now half a car-load of them to be examined and reported upon, and this notwithstanding the fact that every member of that committee, so far as I know, has been spending three-fourths of his time in the committee-room comparing bills. I say now to the House, without regard to any pending legislation or any bills which may come in during the last few hours of the session, that it will not be within the range of human possibilities for that committee to get through with the work which it has before it and get these bills to the President for his signature by twelve o'clock to-morrow unless the House agrees to meet at some reasonable hour to-morrow morning. Every bill, after passing through enrollment and comparison by the Committee on Enrolled Bills, must be signed by the Speaker and go to the Senate for the signature of the presiding officer.

The SPEAKER. The Chair is informed that there are but two appropriation bills remaining unsigned, and the Chair is also informed that they are already enrolled.

Mr. KENNA. That may be true, that they are enrolled, but the enrollment of bills is only a portion of the labor that has to be done in reference to them. They must be compared word for word by the Committee on Enrolled Bills, and I have myself to-day devoted six hours consecutively to the reading of one of them.

Mr. KELLEY. Let us fix the hour for the recess so as to give the Committee on Enrolled Bills sufficient time.

Mr. ATKINS. If the House takes a recess I think we had better meet at nine o'clock to-morrow morning.

The SPEAKER. The Chair has stated that he would prefer to allow tellers on the question of ordering the yeas and nays.

Mr. KNOTT. I rise to a question of order. The question was taken on ordering tellers, and tellers were refused.

The SPEAKER. But the gentleman from Illinois [Mr. SPRINGER] states on his word that he made the point of order, when a quorum

did not vote on the demand for the yeas and nays, that there was not a quorum, and claimed that he was entitled to have tellers. The Chair therefore preferred, notwithstanding a majority of the House had voted to take a recess, to allow tellers on the yeas and nays rather than administer the rule too strictly.

Mr. BAYNE. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BAYNE. Does the gentleman from Illinois say he made the point of order against the vote upon taking a recess?

The SPEAKER. The gentleman states that he made the point of order immediately after the Chair announced the result of the vote, which was 26 to 115.

Mr. SPRINGER. That was not on the question of taking a recess, but on the question of ordering the yeas and nays.

Mr. BAYNE. I desire to raise a question of order as to that. I ask the Chair whether it is necessary that there should be a quorum in a division on the question of ordering the yeas and nays. It is simply a parliamentary expedient to decide in what manner the vote shall be taken. I submit to the Chair that the point of order is good as against the demand of the gentleman from Illinois for tellers, and that, although there may not have been a quorum voting for and against the yeas and nays, the refusal of the House to order the yeas and nays must stand.

The SPEAKER. It has always been held that the yeas and nays may be ordered by one-fifth of those present. And yet, less than a quorum could not take a recess. The Chair always tries to give to the majority the full expression of its will, and in case of doubt the Chair submits the question to the determination of the House itself.

Mr. MILLS. But the question on which the gentleman from Illinois demands tellers is not on taking a recess but on ordering the yeas and nays.

The SPEAKER. The Chair will cause the Clerk to read from the Digest.

The Clerk read as follows:

The yeas and nays of the members of either House on any question shall, at the desire of one-fifth of those present, be entered on the Journal.—*Constitution*, 1, 5, 9.

["One-fifth of those present" has always been construed to mean *one-fifth of those who vote* on the question of ordering the yeas and nays, regardless of the fact as to whether or not a quorum is present.]

The SPEAKER. The practice of the House has been that a quorum is not necessary on the question of ordering the yeas and nays. The Constitution provides in article 1, section 5, that the yeas and nays of the members of either House, on any question, shall, at the desire of one-fifth of those present, be entered on the Journal. Ordering tellers, on the contrary, by terms of rule requires one-fifth of a quorum. The Chair therefore rules that the point made by the gentleman from Pennsylvania [Mr. BAYNE] is well taken. [Cries of "Regular order!"]

Mr. COX. The question, as I understand, has not been taken on the resolution as amended.

The SPEAKER. The amendment was adopted on a call of the yeas and nays, and subsequently the resolution as amended was agreed to by a much larger vote. The ayes have it, and——

Mr. CONGER. I move to reconsider the vote.

Mr. BAYNE. The gentleman did not vote on the prevailing side.

The SPEAKER. What does the gentleman from Michigan move to reconsider?

Mr. CONGER. I move to reconsider the vote by which the House determined to take a recess.

The SPEAKER. Does the gentleman move to reconsider the action of the House in voting in the affirmative on the proposition as amended?

Mr. CONGER. Yes, sir.

Mr. BAYNE. On what side did the gentleman vote?

Mr. CONGER. The record will show.

Mr. HOUSE. How did the gentleman from Michigan vote?

The SPEAKER. There is no record of the vote.

Mr. BOUCK. I move to lay the motion to reconsider on the table.

Mr. CONVERSE. I rise to a question of order.

The SPEAKER. The gentleman will state it.

Mr. CONVERSE. The motion to reconsider was made pending the announcement of a vote. I submit that the motion to reconsider is not in order till after the vote is announced.

The SPEAKER. Immediately on the announcement of the vote the House would go into recess.

Mr. CONVERSE. But until the announcement is made the motion to reconsider is not in order.

The SPEAKER. The Chair stated, if his recollection be correct, "the ayes seem to have it." And then a point of order was raised. The question is on the motion of the gentleman from Wisconsin, to lay on the table the motion to reconsider.

The question being taken, there were—ayes 107, noes 45.

Mr. HUNTON. I call for the yeas and nays.

Mr. McLANE. Before the Chair announces the vote I desire to submit a question of order.

Mr. CONVERSE. I rise to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. CONVERSE. If the vote was taken for a recess and was carried, and if the Speaker announced the motion carried, I want to know by what authority further votes are now being taken?

The SPEAKER. The Chair stated "the ayes seem to have it." He did not declare the House in recess. The Chair always hesitates for a moment, because it gives the House due notice and preserves the right of any member of the House to have a further count.

Mr. KNOTT. I make the point of order that the motion for a recess having prevailed, and the Chair having so announced, the House is now in recess.

The SPEAKER. The Chair overrules the point of order for reasons just given.

Mr. ROBESON. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ROBESON. I desire to know whether, after the House has adjourned or is in recess, a motion to reconsider is in order?

Mr. HUNTON. That point as to recess has been made and overruled.

Mr. ROBESON. I want to ask the Chair whether, when he has declared the House in recess——

The SPEAKER. The Chair did not declare the House in recess. The Chair declared that he believed the ayes had it on the proposition as amended.

Mr. ROBESON. If the House has not taken a recess how can we reconsider a thing that has not been done?

The SPEAKER. The Chair always gives time sufficient for any member who thinks his announcement is not correct or wishes a further count to have it.

Mr. ROBESON. I desire to make another parliamentary inquiry.

Mr. HUNTON. I also desire to make a parliamentary inquiry.

The SPEAKER. The gentleman from Virginia [Mr. HUNTON] has called for the yeas and nays on laying on the table the motion to reconsider.

Mr. HUNTON. Is it in order for me to make a parliamentary inquiry?

The SPEAKER. That seems to be in order on all sides. [Laughter.]

Mr. HUNTON. I desire to know whether it is in order for the gentleman from Maryland [Mr. McLANE] now to withdraw the bill which has created all this difficulty?

Mr. BOUCK. I object, and call for the regular order.

The SPEAKER. The regular order is the question on ordering the yeas and nays.

The question was taken; and there were 28 in the affirmative.

The SPEAKER. That is not one-fifth of the last vote.

Mr. COX. I call for a count on the other side.

Mr. KENNA. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. KENNA. Would it be in the power of the House by common consent to agree that reports from the Committee on Enrolled Bills, from this time on to the final adjournment, might be received even pending a roll-call?

The SPEAKER. The rule is that such reports may be received at any time.

Mr. KENNA. In the ordinary acceptance of that term it would not authorize their being received pending a roll-call.

The SPEAKER. The Chair always takes care that no enrolled bill shall fail on that account. The roll-call has frequently been interrupted by the reporting of enrolled bills during the last days of a session.

Mr. KENNA. I simply desire to say that the assurance of the Chair relieves the Committee on Enrolled Bills from considerable anxiety.

The SPEAKER. The gentleman from New York [Mr. COX] calls for the negative vote on ordering the yeas and nays.

The negative vote was taken; and resulted, 122.

The SPEAKER. Upon ordering the yeas and nays the ayes are 28, the noes 122; not one-fifth in the affirmative.

Mr. COX. I call for tellers on ordering the yeas and nays.

Tellers were not ordered, there being but 27 in the affirmative; not one-fifth of a quorum.

So tellers were refused, the yeas and nays were refused, and the motion to reconsider was laid on the table.

The House accordingly (at four o'clock and forty-five minutes p. m.) took a recess until ten o'clock a. m. to-morrow.

MORNING SESSION.

The recess having expired, the House reassembled at ten o'clock a m., (Wednesday, June 16.)

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate had passed, without amendment, a bill and a joint resolution of the House of the following titles:

A bill (H. R. No. 6492) to constitute a joint commission for carrying into effect the convention between the United States and the French Republic for the submission of certain claims of the citizens of either country against the other, signed at Washington on the 15th day of January, 1880; and

A joint resolution (H. R. No. 328) in relation to committee clerks, pages, and other employés of the Senate and House of Representatives.

The message also announced that the Senate had passed, and requested the concurrence of the House in, bills and a joint resolution of the following titles:

A bill (S. No. 49) for the relief of Greenleaf Cilley;

A bill (S. No. 1737) for the relief of Magnus S. Thompson; and

A joint resolution (S. R. No. 129) relating to the pay of the employés of the Senate and House of Representatives.

PERMANENT APPROPRIATIONS.

Mr. ATKINS. I ask unanimous consent that Senate bill No. 1424,

to repeal certain laws relating to permanent and indefinite appropriations, be made a special order for the second Monday of December next.

There was no objection; and accordingly the bill was taken from the Speaker's table, read a first and second time, postponed until the second Monday in December next, and made the special order for that day after the morning hour.

COMMITTEE ON APPROPRIATIONS.

Mr. ATKINS, from the Committee on Appropriations, reported the following resolution; which was read, considered, and adopted:

Resolved, That the Committee on Appropriations, or such sub-committee as they may designate, are hereby authorized to sit during vacation for the purpose of considering and facilitating the proper business of the committee in advance of the next regular session; to be convened at such time as the chairman of said committee may order.

WITHDRAWAL OF PAPERS.

By unanimous consent, leave was granted for the withdrawal from the files of the House of papers in the following cases:

To Mr. BLISS, in the case of Kelsey & Loughlin;

To Mr. MARTIN, of West Virginia, in the case of the Methodist Episcopal church at Webster, Taylor County, West Virginia, referred to the Committee on War Claims, no adverse report; and in the case of the county of Randolph, West Virginia, referred to the Committee on War Claims, no adverse report;

To Mr. WHITEAKER, in the case of House bills Nos. 1316, 1317, 1318, and 1768, no adverse reports; and

To Mr. SHERWIN, in the case of Adelbert C. Fassett, the papers having been filed in support of his claim for relief in House bill No. 1338 at the first session of the Forty-fourth Congress, no adverse report.

LEAVE TO PRINT.

By unanimous consent, Mr. TUCKER obtained leave to have printed in the RECORD remarks upon the tariff bills reported by the Committee on Ways and Means; Mr. TOWNSHEND, of Illinois, remarks touching the tariff; and Mr. ACKLEN, remarks on the sugar bill presented by Mr. MCLANE. [See Appendix.]

RESTORATION OF ARMY OFFICERS.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, relative to the restoration to the Army of certain former officers; which was referred to the Committee on Military Affairs.

PACIFIC RAILWAYS SINKING FUND.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, relative to the sinking fund of the Union Pacific and Central Pacific Railroads; which was referred to the Committee on Pacific Railroads.

SUPPLIES FOR PEOPLE OF IRELAND.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Navy, informing the House that, in obedience to an act of Congress approved February 25, 1880, the United States ship Constellation was fitted out and has transported from New York to Ireland supplies donated for the starving people of that country; also inclosing reports of the commanding officer of that ship and other papers, and stating that no money was expended under the act which authorized such expenditure; which was referred to the Committee on Foreign Affairs, and, on motion of Mr. COX, ordered to be printed.

ENROLLED BILLS AND JOINT RESOLUTIONS.

Mr. WARD, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (H. R. No. 591) for the relief of Eliza K. Ashby;

An act (H. R. No. 1128) for the relief of James N. Ruby;

An act (H. R. No. 2328) to provide for the settlement of all outstanding claims against the District of Columbia, and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes;

An act (H. R. No. 2603) to place upon the pension-roll the name of Masach Finn;

An act (H. R. No. 3980) authorizing the Secretary of the Interior to place upon the pension-roll the name of Della Benner, widow of the late Lieutenant Hiram H. Benner, of Company C, Eighteenth Infantry;

An act (H. R. No. 4244) for the establishment of titles in Hot Springs, and for other purposes;

An act (H. R. No. 5628) relating to machinists in the Navy;

An act (H. R. No. 6018) for the relief of Benjamin Babb and others;

An act (H. R. No. 6112) to carry into effect the second and sixteenth articles of the treaty between the United States and the Great and Little Osage Indians, proclaimed January 21, 1867;

An act (H. R. No. 6266) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes;

An act (H. R. No. 6380) for the relief of the estate and sureties of John P. Hall, deceased;

Joint resolution (H. R. No. 123) authorizing the Secretary of the Interior to certify school lands to the State of Kansas; and

Joint resolution (H. R. No. 328) in relation to committee clerks, pages, and other employés of the Senate and House of Representatives.

Mr. KENNA, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bill and joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and for prior years, and for those certified as due by the accounting officers of the Treasury in accordance with section 4 of the act of June 14, 1878, heretofore paid from permanent appropriations, and for other purposes; and

Joint resolution (H. R. No. 309) authorizing the Secretary of War to lend to the Gate City Guard, a military company of Atlanta, Georgia, four hundred Government tents under certain circumstances.

STATE, WAR, AND NAVY DEPARTMENTS BUILDING.

Mr. KENNA. In regard to the deficiency appropriation bill, just reported as duly enrolled, I deem it my duty to call attention to a discrepancy between the printed bill and the engrossed copy. The printed bill under the head of "War Department" contains this clause:

For contingent expenses of the portion of the State, War, and Navy Departments building occupied by the War Department, $2,000, for the current fiscal year.

In the official copy of the bill, which has been followed in the enrollment, the words "occupied by the War Department" are omitted. This cannot perhaps affect the construction of the bill, as the clause comes under the head of "War Department," but I felt it my duty to call attention to the fact.

The SPEAKER. In the enrollment of a bill the official copy is the one which must be followed.

Mr. KENNA. I have no doubt the committee has pursued the right course. While on the floor I hope I may be pardoned for the further statement, which I make on behalf of the committee, that the clerks of the House who have had charge of the business of enrollment for this session of Congress have been remarkably prompt, expeditious, and accurate in all their work.

The SPEAKER. And the Chair will add that there is no bill thus far passed by both Houses which is not now enrolled.

PORT HURON AND NORTHWESTERN RAILWAY COMPANY.

Mr. CONGER. I ask unanimous consent to have taken from the Speaker's table for immediate consideration the joint resolution (S. R. No. 67) to authorize the Secretary of War to sell or lease to the Port Huron and Northwestern Railway Company a portion of the Fort Gratiot military reserve, and to authorize the city of Port Huron to grant to said railway company the right of way through Pine Grove Park. This joint resolution has been passed by the Senate; and the Committee on Military Affairs of this House, who have had the subject under consideration, will, I think, recommend the passage of the same measure. I hope the joint resolution will be taken up and passed.

The joint resolution was read, as follows:

Resolved, &c., That the Secretary of War is hereby authorized to sell to the Port Huron and Northwestern Railway Company all of the Fort Gratiot military reserve remaining unsold or undisposed of; and the value of said remaining reserve shall be appraised by a board, appointed by the Secretary of War, consisting of three competent and disinterested officers of the United States Army; and the price at which the same shall be sold shall not be less than the appraisal by said board, and the sale shall be made only under the direction and approval of the Secretary of War. And the city of Port Huron is hereby authorized to grant said railway company the right of way through the easterly portion of that part of the military reserve granted to said city for use as a park, and known and described as Pine Grove Park.

There being no objection, the joint resolution was taken from the Speaker's table, read three times, and passed.

Mr. CONGER moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. MCLANE. Before calling the regular order, Mr. Speaker, I desire to yield to the gentleman from Ohio whom I took off the floor when I made my motion to proceed to the consideration of the bill, which is the pending order—the unfinished business.

Mr. COX. I rise to a point of order. If the gentleman from Maryland yields at all he must yield without qualification. I have been trying to get bills here before the House for two months.

Mr. ACKLEN. I wish to ask, Mr. Speaker, if the gentleman from Maryland yields at all if he does not yield unqualifiedly and takes his bill out of the regular order?

Mr. COBB. I have a bill which is of great public importance. It will take but a moment to concur in the Senate amendments, and I hope there will be no objection to its present consideration.

The SPEAKER. If gentlemen would restore order and permit the Chair to state the condition of business before the House, it would expedite matters considerably.

Mr. MCLANE. I have yielded to the gentleman from Ohio, [Mr. HURD.]

The SPEAKER. Does the gentleman from Maryland withdraw his bill?

Mr. MCLANE. I have yielded to every proposition heretofore to which there was no objection. I have up to this time refused to yield to other propositions, but now I yield unqualifiedly to the gentleman from Ohio whom I took off the floor when I made my motion.

Mr. ACKLEN. Then it is understood the gentleman withdraws his proposition.

The SPEAKER. That is, the Chair thinks, the result if the gentleman from Maryland yields as he suggests. The gentleman from Maryland had better take note that if he yields the floor now without qualification it vacates the unfinished business finally.

Mr. MCLANE. I understand that.

The SPEAKER. The Chair will recognize the gentleman from Ohio, [Mr. HURD.]

Mr. JOYCE. I wish to make a parliamentary inquiry, and that is if the gentleman from Ohio is allowed to move to suspend the rules for public buildings whether or not other gentlemen will be accorded the same privilege for other measures?

The SPEAKER. Undoubtedly.

Mr. JOYCE. I have been trying here for weeks to get the floor in order to have a bill passed, but without success. I hope now there will be an opportunity afforded to all gentlemen if any are recognized.

The SPEAKER. The gentleman is not singular in that respect. Other gentlemen have also been trying to get bills through.

Mr. JOYCE. I have been constantly seeking to get recognition to have a bill passed, for weeks.

Mr. O'NEILL. I have been on the floor for four weeks trying the same thing.

Mr. REAGAN. Would it not be in order to move to go to business on the Speaker's table?

The SPEAKER The Chair would entertain that motion after the gentleman from Ohio has been recognized.

Mr. JOYCE. I do not think other gentlemen should be recognized until there has been an opportunity given to those who have not heretofore received the recognition of the Chair.

The SPEAKER. The Chair will endeavor to recognize all gentlemen in order.

PUBLIC BUILDING AT TOLEDO, OHIO.

Mr. HURD. I move to suspend the rules and pass Senate bill No. 1320 for the construction of a building for the use of the United States at Toledo, Ohio.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

That the Secretary of the Treasury be, and hereby is, authorized and directed to purchase, at private sale or by condemnation in pursuance of the statute of Ohio, a suitable lot of ground contiguous to the land now owned and occupied as a post-office site by the United States in the city of Toledo, State of Ohio, and to cause to be erected on the grounds, as enlarged by the purchase aforesaid, a building suitable for the accommodation of the courts of the United States, and of the custom-house, bonded warehouse, and other Government offices in that city; and for the purposes herein mentioned the sum of $75,000 is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of the Treasury. The lot of land to be purchased, and the building hereby authorized to be constructed, when completed, upon plans to be previously made and approved by the Secretary of the Treasury, shall not exceed the cost of $250,000: *Provided*, That no money to be appropriated for this purpose shall be available until a valid title shall be vested in the United States, nor until the State of Ohio shall cede its jurisdiction over the same and relinquish the right to tax or assess the same while the United States shall be owners thereof. And the site shall be of sufficient extent to leave an open space upon every side of the building to be erected, including streets and alleys, of at least fifty feet.

The SPEAKER. The question is on seconding the demand for the previous question.

The previous question was seconded; and under the operation thereof the rules were suspended and the bill read a third time and passed, two-thirds voting in favor thereof.

ORDER OF BUSINESS.

The SPEAKER. The gentleman from Mississippi representing the Jackson district is the next in order of recognition, but he does not appear to be in his seat.

Mr. COX. I rise to a point of order. The point of order or parliamentary inquiry which I desire to make is this: The Chair has just stated that there is a list for suspending the rules.

The SPEAKER. The Chair did not state that, but that the gentleman from Mississippi was the next in order, as the Chair is under obligation to recognize him.

Mr. COX. Will the Chair hear me for a moment?

The SPEAKER. The Chair will hear the gentleman.

Mr. COX. For two months I have been using every exertion to get a bill passed, the Irish bill which I was instructed by the Committee on Foreign Affairs to report. [Cries of "Regular order!" "Regular order!"]

The SPEAKER. Gentlemen are only occupying the time of the House needlessly. If they will allow those bills to which there is no objection to be taken up and gotten out of the way it will facilitate their own measures.

Mr. COX. But I was entitled, Mr. Speaker, to the first recognition because my name has been on the list for a long time.

The SPEAKER. The Chair has no list. The Chair has endeavored to recognize gentlemen without the least partiality, and will recognize them in the order of their requests as far as practicable.

Mr. MANNING. In the absence of my colleague, [Mr. HOOKER,] who is detained from the House on account of illness, I desire to offer the bill for the erection of a public building at Jackson, and move a suspension of the rules on its passage. It is a meritorious bill, and ought to pass.

The SPEAKER. The gentleman's colleague from the other district [Mr. SINGLETON, of Mississippi] the Chair is informed will present the bill.

Mr. SPARKS. I think recognitions ought to alternate between the sides.

The SPEAKER. If that is demanded the Chair will go to the gentleman from Kansas [Mr. HASKELL] who has a bill, not for the erection of a public building, however.

Mr. BOYD. I desire to raise the question that the gentleman from Kansas has been recognized already to suspend the rules.

The SPEAKER. The Chair thinks the gentleman has not been recognized for any public measure, but if he has been, the Chair will revoke the recognition.

Mr. JOYCE. I wish to ask again if gentlemen who have bills other than those for the erection of public buildings will be entitled to recognition, and if it is the intention of the Chair to recognize only those gentlemen who have such bills for consideration?

The SPEAKER. That is not the intention of the Chair.

Mr. HASKELL. I desire to call the attention of the House to this bill. Its object is to divide the United States jurisdiction over the Indian Territory and attach one part to Kansas and one part to Texas. It is earnestly urged by the Secretary of the Interior and unanimously recommended to the House by the committee. It is a measure of much importance, and I hope it will be taken up now.

Mr. JOYCE. I am attempting to have a bill passed which is urged just as persistently as that.

The SPEAKER. The Chair is advised that the gentleman from Kansas has had a recognition.

Mr. HASKELL. Not upon a public matter save at the instance of my committee. I ask this as a personal matter to myself.

The SPEAKER. The Chair is unwilling to recognize gentlemen who have heretofore had recognition. The Chair thinks that, in justice to other gentlemen, all should be recognized as far as practicable who have not heretofore had recognition.

Mr. COX. I rise to a point of order. I ask if it would be in order to move to go to business on the Speaker's table?

The SPEAKER. The Chair will entertain that motion.

Mr. COX. I make that motion.

Mr. TUCKER. I ask that the bill which I have sent up be put upon its passage.

The SPEAKER. The Chair will recognize the gentleman from Mississippi, [Mr. SINGLETON,] and then the gentleman from Virginia if he has an opportunity.

Mr. JOYCE. I make the motion that the House now proceed to business on the Speaker's table.

The SPEAKER. The Chair will entertain that motion in a few moments.

COMMITTEE ON DEPRESSION OF LABOR.

Mr. HENRY. I ask to submit a privileged report from the Committee on Accounts, which I ask the Clerk to read.

Mr. VAN VOORHIS. I rise to make a point of order.

The SPEAKER. The Chair cannot interrupt this privileged report.

Mr. HENRY. It is a privileged report from the Committee on Accounts, requiring no action by the House, and it is due to a member of this House that it should be received, laid upon the table, and ordered to be printed.

Mr. VAN VOORHIS. I rise to a point of order, and it is this: It was announced by the Speaker a few days ago as having been settled by this House, the question having been submitted to it, that these public building bills should be taken up in their order on the Calendar. In pursuance of that the bill for Rochester, which was the first in order, was called up, but the motion to suspend the rules was not seconded. It passed over. On the next day, when the gentleman from Ohio desired to bring up his bill, I was asked to waive for the time being my right, and let him come in next, which I did, with the statement that my right should be saved. I understood my bill was to come in next. Now it is here, and I insist that the Speaker shall recognize gentlemen with these bills in their order on the Calendar.

The SPEAKER. The Chair did recognize the gentleman for a public building several days, and there was what the Chair thinks was adverse action.

Mr. COX. I insist on my motion to go to business on the Speaker's table.

Mr. HENRY. I ask for the reading of my privileged report.

The Clerk read as follows:

The Committee on Accounts respectfully report that they have examined and audited the account of HENDRICK B. WRIGHT, chairman of the select committee to inquire into the causes of the depression of the industries of the country, and especially labor.

The chairman of the committee is charged with the appropriation of the House, out of the contingent fund, of $5,000. He is allowed credit for disbursements, which are accompanied with the proper vouchers and his own statement, for the sum of $4,549.23; balance due, $450.77. To meet this Mr. WRIGHT exhibits the receipt of the Treasurer of the United States for $450.77, paid by him into the Treasury, which $450.77 settles this account in full.

Mr. HENRY. I move that the report be laid upon the table and ordered to be printed.

The motion was agreed to.

REQUEST TO SIT DURING RECESS.

Mr. MARTIN, of Delaware. I also have a privileged report, from the Committee on Accounts, which I ask the Clerk to read.

The Clerk read as follows:

Resolved, That the Committee on Accounts be, and they are hereby, authorized to sit during the ensuing recess, with all the power and authority they now have, and the necessary expenses shall be paid out of the "miscellaneous items" of the contingent fund of the House.

Report from the Committee on Accounts to accompany a resolution authorizing the said committee to sit during the ensuing recess.

The Committee on Accounts, in submitting the resolution authorizing to sit during the ensuing recess, explaining the same, respectfully report:

That during the recesses of Congress the furniture about the House and in the committee-rooms requires examination, and much of it repairs and cleaning. There may be new carpets to purchase and lay, and many things to do pertaining to the comfort and cleanliness of the House, the nature and extent of which cannot be

determined beforehand. In addition to this, often in the hurry of adjournment resolutions and orders are passed by the House difficult to interpret. Because of these circumstances the officers of the House are greatly embarrassed in the absence of a competent authority to guide them, and are sometimes scarcely able to determine what their duty is. These embarrassments have been seriously felt in the past. It is to avoid them in the future that the permission now sought is desired, and for these reasons it is hoped there will be no objection to the resolution.

Mr. SMITH, of Pennsylvania. I object to the reception of that resolution, as a member of the Committee on Accounts.

The SPEAKER. Objection being made, the resolution is not before the House.

TWO SESSION LABORERS.

Mr. BOYD. I submit from the Committee on Accounts the following resolution:

Resolved, That two of the session laborers now employed in the House cloak-room, one from each side, be continued in the service of the House during the ensuing recess at their present rate of compensation, and be paid from the contingent fund of the House.

Mr. BRIGHT. I object to that.

The SPEAKER. Objection being made, the resolution is not before the House.

ONE MONTH'S PAY TO EMPLOYÉS OF HOUSE.

Mr. KEIFER. I offer the following resolution relating to the employés of the House——

Mr. JOYCE. Does not my motion take precedence of that?

Mr. KEIFER. Wait a moment.

Mr. JOYCE. I made the motion some time ago to proceed to the consideration of the business upon the Speaker's table.

The SPEAKER. The Chair will hear the gentleman's motion in a moment. The Chair entertains the resolution introduced by the gentleman from Ohio [Mr. KEIFER] for the reason that there is an alleged difference between the salaries of the employés of the two Houses, and there seems to be some discrimination against the officers of the House, and this, the Chair is advised, is an effort to equalize the compensation of the employés of the two Houses. The Chair therefore recognizes the resolution in order that the question may be submitted to the judgment of the House.

The Clerk read as follows:

Joint resolution (H. R. No. 333) to pay the officers and employés of the House of Representatives borne on the annual roll one month's extra pay.

Resolved, That the Clerk of the House be, and he is hereby, authorized and directed to pay to the officers and employés of the House borne on the annual roll one month's extra pay at the same compensation as now paid them by law, and an amount sufficient to pay the same is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. KLOTZ. Does that include the Capitol police?

The SPEAKER. The Chair is not advised.

Mr. KLOTZ. Then I shall object.

Mr. ROBESON. There will be no objection if it includes the Capitol police.

The SPEAKER. The question is on seconding the motion to suspend the rules.

The motion to suspend the rules was seconded.

Mr. KLOTZ. I wish to move an amendment to include the Capitol police.

The SPEAKER. The motion to suspend the rules is not open to amendments or the Chair would recognize the gentleman.

Mr. KLOTZ. Mr. Speaker, I do hope the House will not pass this resolution without including in it the Capitol police. There are some men borne on the annual roll of this House who get more than these policemen, and the policemen stay here all the year, while those borne on the annual roll stay here only during the session of Congress. The Capitol police are employed here and remain at their post of duty all the week, Sundays as well as week days, and they do not get as much pay for a whole year's service as most of these men get for six months' service. It is entirely just that these eighteen officers employed to protect the property of the United States in this great Capitol during the vacation as well as during the session of Congress should share in the benefits of this resolution.

The SPEAKER. Does the gentleman from Ohio yield for the modification of his resolution?

Mr. KEIFER. I do not know that it would be wise to change it now; but I have no objection myself to the amendment.

Mr. KLOTZ. Why should it not be accepted by unanimous consent?

Mr. KEIFER. I will accept it if it can be agreed to by unanimous consent.

The SPEAKER. Is there objection?

Mr. ATKINS. This resolution, I believe, is debatable, is it not?

The SPEAKER. It is. The Chair has recognized the gentleman from Pennsylvania, [Mr. KLOTZ,] who has already addressed the House on the subject. It is debatable to the extent of fifteen minutes on each side.

Mr. KLOTZ. I understand there is no objection to the amendment. And I will say, further, that in asking that the policemen be included I am entirely disinterested, for I have been unable to obtain the employment of a single person in this House or in the District of Columbia, save one man in the folding-room at $2 a day, and he was appointed by my predecessor, and therefore I am entirely disinterested in this matter.

Mr. HUMPHREY. There is no objection to the amendment. If we are as just in everything else as in this we will not make any great mistake.

There being no objection, the joint resolution was amended by inserting after the words "borne on the annual roll" the words "and the Capitol police."

The question being taken on suspending the rules, there were—ayes 118, noes 8.

So (further count not being called for) the rules were suspended and the joint resolution, as amended, was passed, two-thirds voting in favor thereof.

ORDER OF BUSINESS.

The SPEAKER. The gentleman from New York [Mr. COX] now moves that the House proceed to business on the Speaker's table.

Mr. HASKELL. Before that question is put I rise to a question of order.

Mr. SINGLETON, of Mississippi. I thought I had the floor.

Mr. HASKELL. I desire to ask the Chair was I not recognized?

The SPEAKER. Complaint was made by the gentleman from Vermont [Mr. JOYCE] and others that the gentleman from Kansas [Mr. HASKELL] had been recognized once already.

Mr. HASKELL. I have not been recognized for a suspension of the rules except upon the passage of the Ute agreement bill, which the whole country demanded to be passed by this Congress.

Mr. JOYCE. Other gentlemen have stood here for weeks and not been recognized upon any measure.

Mr. HASKELL. I was recognized merely as representing a committee.

Mr. JOYCE. Other gentlemen have failed to be recognized once who have an equal right with the gentleman from Kansas or anybody else.

Mr. WHITE. I call for order.

Mr. SPARKS. I hope that order will be regular.

The SPEAKER. When gentlemen are willing to be seated the Chair will endeavor to conduct the public business.

Mr. JOYCE. There is order enough if gentlemen would not talk so loud.

Mr. BRIGHT. I made objection a short time ago to the consideration of a resolution to retaining two employés in the cloak-room, one on either side, during the recess. I withdraw the objection.

The SPEAKER. The question is on the motion of the gentleman from New York, that the House proceed to the consideration of business on the Speaker's table.

Mr. HASKELL. And pending that I desire the attention of the House. [Cries of "Regular order!"]

The SPEAKER. If the gentleman from Kansas will not occupy time by debating he may probably reach his object. But if he debates, it never will be reached, because he will exhaust the time.

Mr. SINGLETON, of Mississippi. I rise to make an inquiry of the Chair. I want to know how I lost the floor, having been recognized?

The SPEAKER. The Chair does not think the gentleman from Mississippi should lose the floor. But the gentleman from New York [Mr. COX] is insisting on his motion, and the remedy is to vote it down.

The question being put on Mr. COX's motion, the Speaker stated that the "noes" appeared to have it.

Mr. COX. I call for a division.

The House divided; and there were—ayes 67, noes 63.

Mr. SPARKS. I call for the yeas and nays.

On the question of ordering the yeas and nays there were—ayes 28, noes 97.

So (the affirmative being more than one-fifth of the whole vote) the yeas and nays were ordered.

Mr. ROBESON. If the gentleman from New York will withdraw his motion in its present form and move to proceed to the consideration of business on the Speaker's table, excepting political and revenue measures, I think it would be agreed to.

Mr. SPARKS. Regular order.

Mr. WILSON. Hear him. It may save half an hour possibly.

Mr. SPARKS. We do not want to hear him. [Cries of "Regular order!"]

The question was taken; and there were—yeas 71, nays 104, not voting 117; as follows:

YEAS—71.

Aldrich, N. W.	Cook,	Ladd,	Rice,
Anderson,	Cox,	Lapham,	Robinson,
Ballou,	Cravens,	Mason,	Ryan, Thomas
Bicknell,	Deering,	McKenzie,	Samford,
Blackburn,	Dibrell,	McLane,	Sparks,
Bouck,	Dickey,	McMillin,	Stephens,
Brewer,	Ford,	Morse,	Stevenson,
Bright,	Gunter,	Myers,	Talbott,
Browne,	Hammond, John	New,	Townsend, Amos
Caldwell,	Hatch,	Nicholls,	Townshend, R. W.
Cannon,	Hawk,	Norcross,	Turner, Oscar
Carpenter,	Hawley,	O'Connor,	Van Aernam,
Caswell,	Henry,	Pacheco,	Wait,
Chittenden,	Humphrey,	Page,	Washburn,
Clark, John B.	Hunton,	Persons,	Whiteaker,
Clymer,	Joyce,	Philips,	Willits,
Cobb,	Ketcham,	Poehler,	Young, Thomas L.
Colerick,	Kimmel,	Pound,	

NAYS—104.

Acklen,	Bingham,	Coffroth,	Dunnell,
Aldrich, William	Blake,	Covert,	Dwight,
Atkins,	Bliss,	Culberson,	Eiam,
Baker,	Blount,	Daggett,	Errett,
Barber,	Boyd,	Davis, George R.	Evins,
Bayne,	Briggs,	Davis, Joseph J.	Ewing,
Belford,	Cabell,	Davis, Lowndes H.	Felton,
Berry,	Carlisle,	Dunn,	Ferdon,

Field,	Jorgensen,	Reagan,	Thompson, P. B.
Fisher,	Keifer,	Robeson,	Tillman,
Forney,	Kelley,	Russell, W. A.	Tucker,
Frye,	Kenna,	Ryon, John W.	Tyler,
Geddes,	Klotz,	Sawyer,	Updegraff, Thomas
Godshalk,	Lounsbery,	Scales,	Upson,
Goode,	Lowe,	Shallenberger,	Urner,
Hall,	Manning,	Shelley,	Valentine,
Hammond, N. J.	Martin, Benj. F.	Sherwin,	Vance,
Haskell,	Martin, Edward L.	Simonton,	Warner,
Hiscock,	McCook,	Singleton, J. W.	Whitthorne,
Horr,	Mills,	Singleton, O. R.	Williams, C. G.
Hostetler,	Mitchell,	Smith, A. Herr	Williams, Thomas
Houk,	Money,	Smith, William E.	Willis,
House,	Muldrow,	Springer,	Wilson,
Hutchins,	Muller,	Stone,	Wise,
Johnston,	O'Neill,	Taylor,	Wright,
Jones,	Phelps,	Thomas,	Yocum.

NOT VOTING—117.

Aiken,	Dick,	Knott,	Richardson, J. S.
Armfield,	Einstein,	Le Fevre,	Richmond,
Atherton,	Ellis,	Lewis,	Robertson,
Bachman,	Farr,	Lindsey,	Ross,
Bailey,	Finley,	Loring,	Rothwell,
Barlow,	Forsythe,	Marsh,	Russell, Daniel L.
Beale,	Fort,	Martin, Joseph J.	Sapp,
Beltzhoover,	Frost,	McCoid,	Siemons,
Bland,	Garfield,	McGowan,	Smith, Hezekiah B.
Bowman,	Gibson,	McKinley,	Speer,
Bragg,	Gillette,	McMahon,	Starin,
Brigham,	Harmer,	Miles,	Steele,
Buckner,	Harris, Benj. W.	Miller,	Thompson, W. G.
Burrows,	Harris, John T.	Monroe,	Turner, Thomas
Butterworth,	Hayes,	Morrison,	Updegraff, J. T.
Calkins,	Hazelton,	Morton,	Van Voorhis,
Camp,	Heilman,	Murch,	Voorhis,
Chalmers,	Henderson,	Neal,	Waddill,
Claflin,	Henkle,	Newberry,	Ward,
Clardy,	Herbert,	O'Brien,	Weaver,
Clark, Alvah A.	Herndon,	O'Reilly,	Wellborn,
Conger,	Hill,	Orth,	Wells,
Converse,	Hooker,	Osmer,	White,
Cowgill,	Hubbell,	Overton,	Wilber,
Crapo,	Hull,	Phister,	Wood, Fernando
Crowley,	Hurd,	Pierce,	Wood, Walter A.
Davidson,	James,	Prescott,	Young, Casey.
Davis, Horace	Killinger,	Price,	
De La Matyr,	King,	Reed,	
Deuster,	Kitchin,	Richardson, D. P.	

So the motion to proceed to business on the Speaker's table was not agreed to.

The following additional pairs were announced:

Mr. LORING with Mr. HERBERT, for the remainder of the session, except on political bills.

Mr. CRAPO with Mr. GIBSON, except on the tariff.

Mr. POUND with Mr. WADDILL, on all political questions.

Mr. HARRIS, of Massachusetts, with Mr. KING, for remainder of day.

The result of the vote was then announced as above stated.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate had passed without amendment a bill of the House of the following title:

A bill (H. R. No. 3151) for the relief of Francis W. Maxwell.

The message also announced that the Senate had passed, and requested the concurrence of the House in, bills of the following titles:

A bill (S. No. 1181) for the relief of Dodd, Brown & Co., of Saint Louis, Missouri; and

A bill (S. No. 1724) to provide for the construction of a public building at the city of Fort Wayne, in the State of Indiana.

ENROLLED BILL SIGNED.

Mr. ALDRICH, of Illinois, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 6492) to constitute a joint commission for carrying into effect the convention between the United States and the French Republic for the settlement of certain claims of the citizens of either country against the other, signed at Washington on the 15th day of January, 1880.

Mr. WHITE. I move that the House now adjourn.

The motion was agreed to; and accordingly (at ten o'clock and fifty-nine minutes a. m) the House adjourned.

PETITION.

The following petition was laid on the Clerk's desk, under the rule, and referred to the Committee on Military Affairs:

By Mr. EWING: The petition of William Holston, jr., late private in Company F, Thirty-third Regiment Ohio Infantry Volunteers, for an honorable discharge.

IN SENATE.

WEDNESDAY, *June* 16, 1880.

The Senate met at nine o'clock a. m. Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

REPORTS OF COMMITTEES.

Mr. JONES, of Florida. I am instructed by the Committee on Naval Affairs to report back, with an amendment, the joint resolution (S. R. No. 127) authorizing and instructing the Secretary of the Navy to take the necessary steps to secure adequate naval stations and harbors for the use of the naval forces of the United States at proper points on the Atlantic and Pacific coasts of Central America and of the American Isthmus; and I ask unanimous consent for its consideration at this time.

Mr. COCKRELL. What is the necessity for the present consideration of the joint resolution?

Mr. JONES, of Florida. It is known to the country that the President has been in communication with Congress and has announced, as far as he was able to announce it, the policy of this country with respect to the control of any interoceanic water-way between the two great oceans, and affirming the propriety of this Government taking a stand upon the subject.

There is nothing in the joint resolution to indicate that it is the disposition of the Government to interfere with the construction of a canal by any person, but it is clearly set forth in the President's communication to Congress, to which reference is made in the joint resolution, that it is the policy of this Government to give notice to the world that that water-way shall be under the control of the American Government and not to divide authority. In furtherance of that object the Secretary of the Navy, from time to time since then, has ordered vessels of war to that locality, and after conference with him he thinks that some authority should be given to him to secure the necessary means to sustain his vessels there in the future between now and the meeting of Congress.

Mr. COCKRELL. What expense will attend it?

Mr. JONES, of Florida. There is no appropriation at all proposed to be made.

Mr. TELLER. The vessels might as well be there as anywhere else.

Mr. COCKRELL. If there is no appropriation to be made, what can the Secretary of the Navy do if he has got no money? Must he not necessarily incur a liability?

Mr. JONES, of Florida. There is a general fund at the disposal of the Navy Department which I suppose in case of an emergency the Secretary might be able to use. The Committee on Naval Affairs of the House has recommended a like resolution.

Mr. BURNSIDE. I desire to say that my feelings are in entire accord with the expression of the resolution, and I should deem it a most fortunate step in the direction of a wise public policy if a declaration of that kind should be made by Congress. I think no more important resolution and no more wise resolution could possibly be passed than that.

Mr. PLUMB. I call the attention of the Senator from Florida, who reported this resolution, to the fact that in the recital he omits ship-railroads, which is a factor in the question of communication between the two oceans.

Mr. JONES, of Florida. I do not think that is material.

Mr. PLUMB. If we want to have our American enterprises protected, as that is exclusively an American enterprise, it should be incorporated in the resolution at this stage of the proceeding.

The PRESIDENT *pro tempore*. The question is, Will the Senate give unanimous consent for the present consideration of the joint resolution?

Mr. COCKRELL. No, sir; I object to its present consideration, and shall simply give my reasons for objecting. This matter was brought before Congress early in the session. We have now been in session something like six months, and the Committee on Naval Affairs I believe has had this matter under consideration for some time. At least it has had before it, as Congress has had before it, and the country has had before it, the message of the President to which reference has been made, for six months, and within two hours and a half of the final adjournment of this session of Congress this resolution is presented to the Senate for the first time, and we are asked to consider it and to declare the policy of this Government and be committed to it. For that reason, and that only, I object to its consideration. I may favor it when the time comes and we shall have an opportunity to examine it.

Mr. JONES, of Florida. I have a word to say in reply to the Senator from Missouri. The Committee on Naval Affairs have not had this matter under consideration. At an early period of the session, Mr. President, as you may well remember, the subject was brought forward here by an effort to secure the appointment of a special committee. Finally the subject was referred to the Committee on Foreign Relations. The House of Representatives (which I suppose it is not improper to allude to in this connection) has had the matter under consideration there, and the Naval Committee reported a similar joint resolution. We thought it proper, even at this late day, to take this action, not knowing what might occur during the recess of Congress if we should leave the Secretary of the Navy without the authority which this resolution would give him to carry out the American policy on this subject. With regard to the matter I have done my duty and am willing for it to go to the country.

Mr. McDONALD. One objection carries the joint resolution over?

The PRESIDENT *pro tempore*. The Senator from Missouri objects, and one objection carries it over.

Mr. McDONALD. I ask unanimous consent of the Senate to consider the bill (S. No. 1724) to provide for the construction of a public building at the city of Fort Wayne, in the State of Indiana; a very short bill, and which will not take long.

Mr. HARRIS. Has the routine business of the morning hour been gone through?

The PRESIDENT *pro tempore*. Not yet.

Mr. McDONALD. It has been called.

The PRESIDENT *pro tempore*. Not all of it. We are on the order of reports of committees.

Mr. HARRIS. I desire to suggest to my friend from Indiana, before we commence calling for anything, would it not be best to take up the House bills that were reported yesterday, and which are now on the Calendar under the order under which we have proceeded for the last few mornings?

The PRESIDENT *pro tempore*. Reports of committees are still in order. If there are no other reports of committees the introduction of bills and joint resolutions is in order.

BILLS INTRODUCED.

Mr. CAMERON, of Wisconsin, asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 130) to pay to the employés of the two Houses of Congress borne on the annual rolls fifteen days' extra pay; and it was read the first time by its title.

Mr. CAMERON, of Wisconsin. I ask for the present consideration of the joint resolution.

The joint resolution was read the second time at length.

The PRESIDENT *pro tempore*. The Senator from Wisconsin asks unanimous consent for the immediate consideration of this joint resolution. Is there objection?

Mr. INGALLS. Is it the practice in the transaction of business in the Senate to give those who are on the annual roll additional pay? If a person gets twelve months' pay in the year it seems that it ought to be sufficient. If there is any immemorial custom or practice which entitles these gentlemen who are on the annual roll to extra compensation of course I shall not object; but if this is an innovation I should like to have some explanation given for it. Unless there is some explanation I shall object to it.

The PRESIDENT *pro tempore*. Does the Senator object to its present consideration?

Mr. INGALLS. Yes, sir; I said that unless some explanations were given I should object. If it is the custom I shall not object to it. If there has been any precedent for it I shall not object.

Mr. CAMERON, of Wisconsin. I do not know whether there is any precedent for it or not. I thought it was a very proper thing to do whether there be a precedent or not. If there be not, let us make one.

Mr. INGALLS. I am very sure unless there is it ought not to be done. If there is no precedent, I should like to hear some reason for it. I am willing to submit even to that.

Mr. COCKRELL. I ask that the resolution which was introduced by the Senator from Virginia [Mr. JOHNSTON] yesterday, and which was at my instance laid over, providing for the preparation of an index to all the private claims that have been presented to Congress since 1867, to which date it was completed——

Mr. CAMERON, of Wisconsin. Let this matter be disposed of.

Mr. COCKRELL. I thought it was disposed of.

Mr. CAMERON, of Wisconsin. I do not understand that it is.

The PRESIDENT *pro tempore*. The Chair does not understand whether the Senator from Kansas objects to the consideration of the joint resolution or not.

Mr. INGALLS. It seems to be very difficult to understand whether I do object to it. I said three or four times I did object, as I said yesterday in regard to a similar proposition.

The PRESIDENT *pro tempore*. The Senator said he objected unless an explanation was made. The Chair was not aware whether he was satisfied with the explanation or not. The Senator from Kansas objects, and the joint resolution cannot be considered at this time.

LIST OF PRIVATE LAND CLAIMS.

The PRESIDENT *pro tempore*. If there are no other bills or joint resolutions, the introduction of concurrent and other resolutions is in order. The Senator from Missouri calls for the consideration of a resolution which will be read.

The Chief Clerk read the following resolution, submitted by Mr. JOHNSTON on the 14th instant:

Resolved, That the Secretary of the Senate cause to be prepared an alphabetical list of all private claims which have been before the Senate, with the action of the Senate thereon, since the 3d of March, 1867, and that he communicate the same to the Senate at the commencement of the next session.

The PRESIDENT *pro tempore*. Will the Senate consider the resolution? The Chair hears no objection, and it is before the Senate.

Mr. HOAR. What is the date?

Mr. COCKRELL. Eighteen hundred and sixty-seven. That was the last compilation, and this is to bring the list of claims from 1867 up to the present time, and I hope the Secretary will be able to include every claim of every kind.

The resolution was agreed to.

DODD, BROWN & CO.

Mr. HOAR. I ask unanimous consent of the Senate to take up order of business No. 796. It is a matter about which there can be no possible doubt, I believe, in the mind of any Senator. It is the bill for the relief of Dodd, Brown & Co., of Saint Louis, Missouri.

Mr. HARRIS. I must insist upon the regular order, which is the call of House bills on the Calendar. I think it will not consume half an hour.

Mr. PADDOCK. That order has been exhausted.

Mr. HOAR. I desire to say to the Senator from Tennessee that this is a bill which I think he will remember, which ought to have been reported two or three months ago, but was delayed for the sake of making inquiry at the Department of the Interior. It is a bill to pay the assignees of some Indian claims, and the committee——

Mr. HARRIS. I remember, and I have no opposition to the Senator's bill, if I did not propose to object to everything but the first thing in order. The first thing that I desire to accomplish is the taking up of the House bills on the Calendar.

The PRESIDENT *pro tempore*. The routine business of the morning hour is not yet through. The introduction of resolutions is still in order. If there are no other resolutions the routine business of the morning hour is at an end.

Mr. HARRIS. The regular order.

The PRESIDENT *pro tempore*. The Senator from Massachusetts moves to postpone all orders prior to order of business No. 796.

Mr. HARRIS. I hope the Senator from Massachusetts will not insist on his motion. We can get through with the House bills on the Calendar while we are squabbling about what we shall take up.

Mr. HOAR. I will not press this motion against the wish of the Senate.

Mr. McMILLAN. There is no such order as that.

Mr. PADDOCK. That order does not now obtain. That order was exhausted yesterday, and we went to another order.

Mr. McMILLAN. There is no such order made by the Senate that we shall dispose of House bills.

Mr. HOAR. I shall not press my motion against the dissent of the Senator from Tennessee.

The PRESIDENT *pro tempore*. The Chair is informed by the Secretary that the House bills which came over yesterday have not with a few exceptions been returned from the Printer. They are expected very soon, but they are not yet here, so that those bills cannot be considered at this time.

Mr. HOAR. Perhaps while we are waiting for those the bill I wish to have taken up may be disposed of.

The PRESIDENT *pro tempore*. The Senator from Massachusetts moves to postpone all orders prior to No. 796.

The motion was agreed to.

The PRESIDENT *pro tempore*. Will the Senate proceed to the consideration of the bill indicated by the Senator from Massachusetts?

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1181) for the relief of Dodd, Brown & Co., of Saint Louis, Missouri, which had been reported from the Committee on Claims with an amendment to strike out all after the enacting clause of the bill and to insert a substitute.

The Chief Clerk proceeded to read the amendment.

Mr. BUTLER. I dislike extremely to interpose an objection at this juncture, but that bill it seems to me is a matter of too much importance to be passed now.

Mr. HOAR. If the Senator from South Carolina will hear the bill read through and will then hear my statement he can make his objection if he sees fit.

The PRESIDENT *pro tempore*. The bill is before the Senate as in Committee of the Whole. The Senate voted to take it up, and it has now been taken up.

Mr. HOAR. It will take but a moment, and while we are waiting for the regular order to come from the Printer we can pass it.

Mr. BUTLER. It is a very long bill, it seems to me.

Mr. HOAR. It is a very brief bill, and has been more than half read through now.

The Chief Clerk resumed and concluded the reading of the matter proposed to be inserted in lieu of the original bill, as follows:

That the sum of $58,659.46 be, and is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, for the payment of Dodd, Brown & Co., of Saint Louis, Missouri, as assignees of E. H. Durfee & Co., Durfee & Peck, John Shirley, Durfee & Peck, William Shirley, and Lemuel Spooner, respectively, said claims having been severally approved by the Commissioner of Indian Affairs, and by him reported to the Secretary of the Interior and transmitted to Congress for allowance.

To reimburse said sums there shall be withheld from the moneys due or to become due to the Comanche Indians, $7,541.75, under the treaty with that tribe; and from the moneys due or to become due to the Sioux Indians, $3,085 and $24,694.62, respectively; and from the moneys due or to become due to the Kiowa Indians, $5,520; and from the moneys due or to become due to the Kiowa and Comanche Indians, $3,900 and $13,918.09, respectively, the proportion of the two last-named sums to be charged against the said Kiowa and Comanche tribes as may be ascertained by the Commissioner of Indian Affairs to be justly chargeable against them respectively.

Mr. HOAR. A brief statement, I think, will save the necessity of reading the report, although that is very brief. These are claims for damages for depredations by certain Indian tribes. The claims have been audited, the damages allowed, the payment recommended by the Indian Office, and the sums are to be under the treaty retained from the money to become due to those tribes. The claim would have gone through as a matter of course on the estimates without any question were it not for the fact that these claims have been assigned to Dodd, Brown & Co. The statute prohibits the assignment of claims against the United States before a Treasury warrant has actually issued; and the Committee on Claims are disposed to enforce that statute with great rigor, it being a statute which prevents dealing and speculating in claims against the Government. But it appears that Dodd, Brown & Co. furnished these stocks of goods to the merchants who were despoiled by the Indians, the merchants' stocks

being entirely ruined, and their business, by the Indian raid. Instead of going into bankruptcy, when of course these claims would have been assigned to them, they assigned the claims to Dodd, Brown & Co. in payment of their previous debts.

Under those circumstances the committee thought it did not come within the spirit of the statute and that the Government might with great propriety waive the letter of the statute. Therefore this bill is simply to permit Dodd, Brown & Co. to receive in their own names as assignees what otherwise the Indians would receive under the report of the Indian Office. That is the whole of it.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment reported by the Committee on Claims.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PUBLIC BUILDING AT FORT WAYNE.

Mr. McDONALD. I ask for the present consideration of Senate bill No. 1724. It will not take five minutes to consider it. It is a bill reported from the Committee on Public Buildings and Grounds, and simply provides for the erection of a public building in the city of Fort Wayne, the second city in my State. I therefore earnestly ask that it be considered.

The PRESIDENT *pro tempore*. The Senator from Indiana moves to postpone all orders prior to that which he has named.

The motion was agreed to.

Mr. ANTHONY. There is a message from the President of the United States, and we should proceed to its consideration.

Mr. McDONALD. We can take that up presently.

The PRESIDENT *pro tempore*. The question is on proceeding to the consideration of the bill indicated by the Senator from Indiana.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to the consideration of the bill (S. No. 1724) to provide for the construction of a public building at the city of Fort Wayne, in the State of Indiana.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

EXECUTIVE SESSION.

Mr. RANDOLPH. I move that the Senate proceed to the consideration of executive business.

Mr. ANTHONY. Will the Senator withdraw that motion in order to let us proceed to the consideration of a message from the President of the United States?

Mr. RANDOLPH. That can be done——

Mr. ANTHONY. Then I hope the motion for an executive session will be voted down.

The PRESIDENT *pro tempore*. The question is not debatable. The Senator from New Jersey moves that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After twenty minutes spent in executive session the doors were reopened.

NEW YORK CENTRAL RAILROAD DIVIDEND TAX.

Mr. HARRIS. I move that the Senate proceed to the consideration of the House bills on the Calendar.

Mr. PADDOCK. I appeal to the Senator from Tennessee——

The PRESIDENT *pro tempore*. Senators will suspend. The Chair will lay before the Senate a communication from the Secretary of the Treasury.

The Chief Clerk read as follows:

TREASURY DEPARTMENT, *June* 15, 1880.

SIR: In response to the resolution of the Senate of the 3d instant, in the following words and figures, namely—

"That the Secretary of the Treasury be, and he hereby is, directed to report to this body, within ten days from the passage of this resolution, true copies of all papers, figures, decisions, opinions, with all other records of interest in his Department relating to the claim of the United States against the New York Central and Hudson River Railroad Company for 5 per cent. tax on the scrip dividend of 80 per cent. declared by the New York Central Railroad Company in 1869 on its stock capital, and that the Commissioner of Internal Revenue suspend all action thereon until instructed by Congress as to the manner of its settlement"—

I have the honor to transmit herewith a copy of a report of the Commissioner of Internal Revenue, relative to matters in controversy between the United States and the New York Central and Hudson River Railroad Company, together with true copies of all the papers to my knowledge on file in this Department connected therewith. The three printed volumes herewith constitute a part of the records of the Treasury Department, and being too voluminous to be copied within the short time named in the resolution they are forwarded for the information of the Senate. I will thank you to return them when they shall have served the purposes of the Senate, in order that they may be restored to their appropriate places among the public records.

Very respectfully, JOHN SHERMAN,
Secretary.

Hon. WILLIAM A. WHEELER,
President of the Senate.

Mr. BUTLER. I move that such of the documents as are not printed be printed and referred to the Committee on Finance.

The motion was agreed to.

Mr. ALLISON. What is the order? I did not quite hear it.

The PRESIDENT *pro tempore*. That the communication be referred to the Committee on Finance, and that the communication and so much of the accompanying papers as have not already been printed be printed.

ORDER OF BUSINESS.

Mr. ANTHONY. Mr. President, I move that the Senate proceed to the consideration of the message of the President of the United States, now upon the table.

Mr. HARRIS. I hope the Senate will proceed to the consideration of the House bills on the Calendar.

The PRESIDENT *pro tempore*. The Senator from Rhode Island made the first motion. He moves that the Senate proceed——

Mr. HARRIS. If the Chair will remember, I made the motion before the Chair laid the communication from the Secretary of the Treasury before the Senate. My motion was made prior to that of the Senator from Rhode Island, and I hope that it will take precedence having been made prior.

The PRESIDENT *pro tempore*. The Chair stands corrected. The Chair had forgotten that the Senator had made that motion. The Senator from Tennessee moves that the Senate proceed——

Mr. HOAR. The Senator from Tennessee, I think, will perhaps be willing to have this uniform act of courtesy which is always performed.

Mr. HARRIS. It will not take twenty minutes in my opinion to dispose of the House bills on the Calendar. There are only four of them. I beg that they be acted upon either one way or the other, and then I am quite ready to go with the Senator from Massachusetts or any other Senator to consider the executive communication.

Mr. HOAR. It is merely proposed to read this brief document.

Mr. ANTHONY. It is not respectful to the President to omit the reading of the message. It should have been read properly when it came in although it was so late. I shall vote against the motion of the Senator from Tennessee with a view to proceed to the consideration of the President's message. Then I shall have no objection to taking up the House bills.

Mr. TELLER. I wish to inquire whether these bills will be subject to objection as in other cases?

Mr. ALLISON. Undoubtedly.

Mr. HARRIS. They were reported yesterday.

The PRESIDENT *pro tempore*. They will not be subject to objection.

Mr. TELLER. Will they not be subject to objection under the Anthony rule?

The PRESIDENT *pro tempore*. The motion is not to proceed to them under the Anthony rule.

Mr. HOAR. They cannot be read twice the same day against a single objection.

Mr. HARRIS. They have been read twice, and are on the Calendar regularly. They were reported yesterday, and stand as every other bill stands on the Calendar.

The PRESIDENT *pro tempore*. The Senator from Texas moves to proceed to the consideration of the first House bill on the Calendar.

Mr. ANTHONY. On that question I ask for the yeas and nays.

The PRESIDENT *pro tempore*. The motion is to postpone all prior orders in order to proceed with the consideration of the first House bill on the Calendar.

Mr. ANTHONY. I have no objection to postponing prior orders, but I object to taking up anything but the President's message.

The PRESIDENT *pro tempore*. Is there a second to the call for the yeas and nays? [A pause.] There is not. All in favor of postponing prior orders to the first House bill will say "ay;" of the contrary opinion "no." [Putting the question.] The ayes have it. Will the Senate now proceed to the consideration of that bill?

Mr. ANTHONY. On that question I ask for the yeas and nays.

Mr. PLUMB. I understood the question was on the motion of the Senator from Tennessee to proceed to the consideration of House bills on the Calendar succeeding those passed on yesterday, and not to proceed to a particular one.

Mr. HARRIS. I move to proceed to the first House bill on the Calendar. There are only four.

The PRESIDENT *pro tempore*. On this question the Senator from Rhode Island demands the yeas and nays.

The yeas and nays were ordered and taken.

Mr. WINDOM, (after having voted in the negative.) When I voted I had forgotten that I am paired with the Senator from West Virginia, [Mr. DAVIS.] I withdraw my vote.

Mr. BALDWIN, (after having voted in the negative.) I am paired with the Senator from Texas, [Mr. COKE.] I gave my vote forgetful of the fact. I withdraw it.

Mr. LOGAN, (after having voted in the negative.) I am paired with the Senator from North Carolina [Mr. VANCE] on all political questions. I do not know that this can be considered such; but at the same time I prefer to withdraw my vote.

The PRESIDENT *pro tempore*. The vote will be withdrawn.

Mr. RANSOM, (after having voted in the affirmative.) I am paired with the Senator from Maine [Mr. HAMLIN] on all political questions. If this has any party character to it, I withdraw my vote.

The result was announced—yeas 30, nays 17; as follows:

YEAS—30.

Bailey,	Garland,	Jones of Florida,	Thurman,
Beck,	Groome,	McDonald,	Voorhees,
Booth,	Hampton,	Morgan,	Walker,
Butler,	Harris,	Pendleton,	Wallace,
Call,	Hill of Colorado,	Plumb,	Williams,
Cockrell,	Hill of Georgia,	Pryor,	Withers.
Davis of Illinois,	Johnston,	Saulsbury,	
Eaton,	Jonas,	Slater,	

NAYS—17.

Allison,	Cameron of Pa.,	Ingalls,	Saunders,
Anthony,	Cameron of Wis.,	Jones of Nevada,	Teller.
Blair,	Farley,	Kirkwood,	
Bruce,	Ferry,	McMillan,	
Burnside,	Hoar,	Paddock,	

ABSENT—29.

Baldwin,	Dawes,	Logan,	Sharon,
Bayard,	Edmunds,	McPherson,	Vance,
Blaine,	Grover,	Maxey,	Vest,
Brown,	Hamlin,	Morrill,	Whyte,
Carpenter,	Hereford,	Platt,	Windom.
Coke,	Kellogg,	Randolph,	
Conkling,	Kernan,	Ransom,	
Davis of W. Va.,	Lamar,	Rollins,	

So the motion was agreed to.

FRANCIS W. MAXWELL.

The PRESIDENT *pro tempore*. The motion prevails, and the first House bill on the Calendar at the point reached yesterday will be read.

Mr. ALLISON. Yesterday we were at House bill No. 4585, fixing the rate of duty on barley malt at twenty-five cents per bushel; and it was not disposed of.

Mr. WALLACE. That bill went over.

The PRESIDENT *pro tempore*. The Chair is informed that all the House bills except those reported yesterday have been acted on. The Secretary will call the first bill reported yesterday.

The bill (H. R. No. 3151) for the relief of Francis W. Maxwell was announced as the first in order.

Mr. HOAR. What has become of the bill named by the Senator from Iowa? The Chair put the question to the Senate to proceed to——

Mr. HARRIS. The bill announced by the Secretary is the first House bill on the Calendar now.

Mr. HOAR. I was addressing the Chair, if the Senator please. I understood the Chair to put the motion to take up the first House bill on the Calendar.

The PRESIDENT *pro tempore*. The first House bill on the Calendar after the bill last read and acted upon yesterday was what the Chair put.

Mr. HOAR. The malt bill is the bill I have named, is it not?

The PRESIDENT *pro tempore*. All the House bills on the Calendar were acted upon one way or the other except those which were reported yesterday. House bill No. 3151 is before the Senate.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 3151) for the relief of Francis W. Maxwell. It provides for the payment to Francis W. Maxwell, late first sergeant of Company I, Eightieth Regiment Illinois Infantry Volunteers, of the full pay and allowance of second lieutenant of infantry, commanding company, from the 19th of April, 1863, to the 15th of May, 1865, after deducting all pay and allowance received by him for that time.

Mr. HOAR. Is there a report?

Mr. LOGAN. I will just state that the bill is following the line of precedents of the House and Senate. Where a non-commissioned officer performs the duty of a commissioned officer and serves without muster, and so cannot draw the pay, it has been universally the case that the pay has been allowed by special act where the duty was performed.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

FORT DODGE RESERVATION.

The bill (H. R. No. 3191) to authorize the Secretary of the Interior to dispose of a part of the Fort Dodge military reservation to actual settlers under the provisions of the homestead laws was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with an amendment, to add the following proviso:

Provided, That the said Atchison, Topeka, and Santa Fé Railroad Company shall have the right to purchase such portion of said reservation as it may need for its use adjoining that now owned by it, not exceeding eighty acres, by paying therefor the price at which the same may be appraised, under the direction of the Secretary of the Interior.

Mr. PLUMB. I move to amend the amendment by striking out the word "eighty," before "acres," and inserting "one hundred and sixty." It is not to exceed that amount. I think we had better have the amount large enough to cover the possible necessities of the case.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read the third time.

The bill was read the third time, and passed.

Mr. PLUMB. I move to amend the title by adding "and for other purposes."

The PRESIDENT *pro tempore*. If there is no objection that amendment will be made.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. T. F. KING, one of its clerks, announced that the House had passed the following bill and joint resolution:

A bill (S. No. 1320) for the construction of a building for the use of the United States at Toledo, Ohio; and

A joint resolution (S. R. No. 67) to authorize the Secretary of War to sell or lease to the Port Huron and Northwestern Railway Company all of the Fort Gratiot military reserve, and to authorize the city of Port Huron to grant to said railway company the right of way through Pine Grove Park.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolution; and they were thereupon signed by the President *pro tempore*:

A bill (S. No. 815) to increase the pensions of certain pensioned soldiers and sailors who are utterly helpless from injuries received or disease contracted while in the United States service;

A bill (H. R. No. 591) for the relief of Eliza K. Ashby;

A bill (H. R. No. 2603) to place upon the pension-roll the name of Masach Finn;

A bill (H. R. No. 5628) relating to machinists in the Navy;

A bill (H. R. No. 3980) authorizing the Secretary of the Interior to place upon the pension-roll the name of Della Benner, widow of the late Lieutenant Hiram H. Benner, Company E, Eighteenth Infantry;

A bill (H. R. No. 2328) to provide for the settlement of all outstanding claims against the District of Columbia, and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes;

A bill (H. R. No. 6380) for the relief of the estate and sureties of John P. Hall, deceased;

A bill (H. R. No. 6112) to carry into effect the second and sixteenth articles of the treaty between the United States and the Great and Little Osage Indians, proclaimed January 21, 1867.

A bill (H. R. No. 6266) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes;

A bill (H. R. No. 6109) to amend the sixth subdivision of section 3244 of the Revised Statutes of the United States;

A bill (H. R. No. 6207) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1881, and for other purposes;

A bill (H. R. No. 4244) for the establishment of titles in Hot Springs, and for other purposes;

A bill (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and for prior years, and for those certified as due by the accounting officers of the Treasury in accordance with section 4 of the act of June 14, 1878, heretofore paid from permanent appropriations, and for other purposes; and

A joint resolution (H. R. No. 309) authorizing the Secretary of War to lend to the Gate City Guard, a military company of Atlanta, Georgia, four hundred Government tents under certain circumstances.

HOMESTEAD SETTLEMENTS.

The bill (H. R. No. 2165) to amend section 2297 of Title 32 of the Revised Statutes, relating to homestead settlers, was considered as in Committee of the Whole. It proposes to amend section 2297 of Title numbered 32 by adding thereto the following proviso:

Provided, That the settler shall be allowed twelve months from the date of filing in which to commence his residence on said land.

Mr. HOAR. I hope that will be explained.

The PRESIDENT *pro tempore*. The amendment of the Committee on Public Lands will be reported.

The amendment reported was to substitute for the proposed proviso the following:

Provided, That where there may be climatic reasons the Commissioner of the General Land Office may, in his discretion, allow the settler twelve months from the date of filing in which to commence his residence on said land under such rules and regulations as he may prescribe.

Mr. McDONALD. The law and the regulations of the Department at present give a homestead settler six months to begin his actual residence upon the land, and that in ordinary cases is long enough; but it has been found that in Minnesota and Dakota and those northern sections the rigors of the winter frequently prevent a settler from doing that, virtually taking away from him the right and privilege of making a homestead settlement, as he is unable without very considerable preparation to pass the winter upon his selection. The House bill as it came to the Senate gave to all pre-emption settlers twelve months in which to make their actual location and residence upon the land. In considering the bill the Committee on Public Lands thought that such a provision operating generally might be injurious, and might open the door to making locations for the purpose of holding the property merely out of sale for twelve months or for taking off timber or otherwise committing waste upon the land. Therefore, feeling, however, that there was a necessity for some discrimination in the class of cases I have referred to, they have reported the bill back to the Senate with an amendment which has been read, which simply vests in the Commissioner of the General Land Office a discretionary power, where climatic reasons exist or where causes render it necessary to do so, to extend the time six months longer than is now given in the present laws and regulations, under such regulations as he may make on the subject. In that form we thought the bill ought to pass.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

REFUNDING OF A MILITARY ASSESSMENT.

The next House bill on the Calendar was announced to be the bill (H. R. No. 6033) to pay Hiram Johnson and other persons herein named the several sums of money herein specified, being the surplus of a military assessment paid by them and accounted for to the United States in excess of the amount required for the indemnity for which it was levied and collected.

Mr. MCMILLAN. Are we proceeding under the Anthony rule to the consideration of the Calendar?

The PRESIDENT *pro tempore*. No; these bills are taken up by order of the Senate, not under the Anthony rule. This is the last one of them.

Mr. HOAR. Has the question been put on taking up this bill?

Mr. PADDOCK. The question was put in the first instance.

The PRESIDENT *pro tempore*. The Chair put the question really on taking up the first House bill, but the Senate has gone on, there being but four of them, and this is the last.

Mr. HOAR. I desire to be heard on taking up this one, at the proper time.

The PRESIDENT *pro tempore*. The Senator from Tennessee moves to proceed to the consideration of this bill, postponing all prior orders for that purpose.

Mr. HOAR. I hope the Senate will not undertake in the closing hours of this session to lay aside other orders and take up a bill of this character. It is a bill involving most grave and important principles, and it is a bill, as I understand it, which authorizes the repayment to persons on whom an assessment was made by a military officer for damages caused by a raid during the war in 1862, on the ground that the assessment was not in accordance with the proper construction of the orders of the commanding officer. Now, whether we should go into all the acts of the war and undertake to retry the judgment and discretion of the local commanding officers, is a very serious question. This class of war claims ought to be settled and determined by general permanent principles of public policy, not by dealing with individual cases in the whirl and excitement and haste of the closing hours of the session.

I appeal to my friends on the other side of the Chamber, I appeal to the cautious, conservative Senator from Missouri [Mr. COCKRELL] whether he deems it fitting to ask the Senate to settle the questions which should govern this class of cases at this time by laying aside the other business of the Senate and taking this up. It is a matter which was reported to the Senate only yesterday. We have had no opportunity to consult the authorities on public law or to inquire how many other cases will come under the same principle. This is a bill, as I judge from a hasty examination of it and of the report, which is based on these facts: There was a raid and a destruction of certain public and private property by some rebel marauders or raiders. Thereupon the officer in command of the locality proceeded to assess, as is done often under the laws of war, the damages upon the sympathizers with the rebellion in the neighborhood. And the claim now is that under the general orders of General Grant it was rightful to assess the injury to public property so done in that way, but it was wrongful to assess the injury done to the private property of Union men at the same time. Whether that be true or not does not appear; General Grant's orders are not here in the report; and if it be true whether it is one of the incidents of war to be exposed to the errors and imperfections of judgment of military officers in such cases for which a person in the theater of war can have afterward no redress, is a very grave and serious question. Government acts by human instrumentality; and a man who is injured by the error of judgment of a commanding officer has no more claim against the Government for redress than a man who is injured by the bursting of an imperfectly made piece of ordnance. It is one of the liabilities and casualties of public war.

Now, whether this be a sound view of it or not, my point is that this is not the time to settle the question whether the view be sound or not. Nobody can give to this matter an hour and a half before the close of the session the consideration it would deserve. There is no reason why this bill should not wait until next winter, when we can deal with this question thoroughly. My democratic associates upon the Committee on Claims will bear me witness that I am not one of those who seek to resist every southern war claim. My friend, the chairman of that committee, [Mr. COCKRELL,] I am sure, and my friend, the Senator from Tennessee, [Mr. HARRIS,] will bear witness that I have endeavored to establish general principles which in a large portion of the southern claims that are now disputed and that have remained unpaid will insure a liberal payment by the Government. But I submit to them whether they ought to ask me, whether they ought to ask the Senate to deal with a question of this character at this time.

Mr. HARRIS. Mr. President——

The PRESIDENT *pro tempore*. The Chair will remind Senators that upon this question of postponing prior orders and proceeding to the consideration of this bill, debate on the merits of the measure is not in order.

Mr. HOAR. The character of the measure may be stated.

Mr. HARRIS. Mr. President, I hope this bill will be considered now for the reason that these moneys, improperly assessed and collected of the citizens, have been withheld from them seventeen years, quite long enough: and if we are at all prepared to act upon the subject, I think we should act upon it at the earliest possible moment.

Briefly as to the facts of the case: There was a raid and certain public and private property was destroyed. General Grant issued an order authorizing and requiring an assessment, not for the purpose of indemnifying private losses, but for the purpose of indemnifying the Government of the United States for the property destroyed which belonged to it. Instead of acting upon the literal terms and spirit of General Grant's order, his subordinates levied a tax of near $22,000 or $30,000 and collected it of the citizens to indemnify the Government for the loss of three or four thousand dollars. That is the exact state of fact. The proof shows the property of the Government that was destroyed to have been worth some three or four thousand dollars, and it shows an amount of $28,000 assessed and collected. General Grant repudiated that construction which the subordinates placed upon his order. He said he ordered the assessment and collection of money enough to indemnify the Government, but did not undertake to indemnify the private citizen for his losses by reason of the burning of that depot; and now the whole question to be considered——

The PRESIDENT *pro tempore*. The Chair must remind the Senator that debate on the merits of the bill is not in order.

Mr. HARRIS. And General Grant refused to allow the money to be paid over to these citizens. This bill simply proposed to appropriate the amount of money that is in excess of that amount required to indemnify the Government. I hope the Senate will proceed to its consideration now.

The PRESIDENT *pro tempore*. The question is, Will the Senate postpone all orders prior to this bill.

Mr. HOAR called for the yeas and nays, and they were ordered.

Mr. MCMILLAN. It is now within an hour and a quarter of the time set for the adjournment of Congress. This bill was reported yesterday from the Committee on Military Affairs. So far as the subject-matter of this bill is concerned, it seems to me its proper reference should have been to the Committee on Claims. We have various classes of claims pending before that committee which, if the Government can pay them at all, ought to have been paid long before this. It occurs to me now that there is one class of claims for property taken by a general of the Union Army during the war. General Burnside on his entry into Knoxville took large amounts of cotton from men who were loyal citizens at the time, who were always loyal, and who surrendered their property at that time to the commanding general, and it was used by the Union forces for the defense of the Army there. These men have not been paid one dollar for the property taken, and it is because the Committee on Claims in their examination of that class of cases have been unable to say that the Government should pay for property taken under those circumstances. Here is property destroyed by rebel raiders during the war, the property of the Government destroyed by these raiders, and the value of the property or an assessment was levied upon those who sympathized with the raiders, and now we are called upon at this late hour of the session to determine all the important questions involved in paying to them what is alleged to be a surplus of money remaining after paying for the public property destroyed. It seems to me that it is an unreasonable and improper time to dispose of such an important question.

Mr. HARRIS. If the Senator from Minnesota will allow me, I wish to say that I see a fixed resolve, on the part of that side of the Chamber at least, not to allow the consideration of this bill by the consumption of all the remaining time of the session, in view of which fact I will withdraw the motion in order that the public business to be done may proceed.

Mr. MCMILLAN. I think that is commendable.

The PRESIDENT *pro tempore*. The motion is withdrawn.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed a joint resolution (H. R. No. 333) to pay the officers and employés of the House of Representatives borne on the annual roll one month's extra pay; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 1128) for the relief of James N. Ruby;

A bill (H. R. No. 6018) for the relief of Benjamin Babb and others;

A joint resolution (H. R. No. 123) authorizing the Secretary of the Interior to certify school lands in the State of Kansas; and

A joint resolution (H. R. No. 328) in relation to committee clerks, pages, and other employés of the Senate and House of Representatives.

HENRY O. WAGGONER.

Mr. TELLER. I ask the attention of the Senate for a moment on a resolution which I offered and which comes in here printed as a bill. I stated the other day to the Senate that I had sent an amendment to the Committee on Appropriations with a letter from the Secretary of State. The letter stated that there was a claim made by the creditors of Henry O. Waggoner for about $500, occasioned by his sickness and death at Lyons, France, while a consular clerk. The letter, unfortunately, cannot now be presented, but the Senator from Connecticut, [Mr. EATON,] who examined the matter, will bear me out in stating that that is the statement of the Secretary of State. I move to take up Senate bill No. 1834, to pay the creditors of the late Henry O. Waggoner, late consular clerk at Lyons, France.

The PRESIDENT *pro tempore*. The question now is on the motion to proceed to the consideration of the bill.

Mr. COCKRELL. Has that been to a committee?

Mr. TELLER. This bill has not been to a committee, but the subject has been before the Committee on Appropriations. They have examined it, and while they objected to putting it on the appropriation bill, the honorable Senator from Connecticut said he had examined it, and was satisfied, and would vote for a resolution or bill of this kind.

Mr. COCKRELL. It is certainly not fair to take this up now. It is a claim that may be exceedingly just, but there are many claims that have received the consideration of the Senate and are now upon the Calendar. This is not reported by any committee, and I hope the Senator will not insist upon taking it up.

Mr. TELLER. I will insist on it. I have not asked much and I propose to ask this.

The PRESIDENT *pro tempore*. The Senator from Colorado moves to postpone all prior orders.

Mr. COCKRELL. Let us know whether this bill was introduced and referred to any committee.

The PRESIDENT *pro tempore*. It was introduced June 12, 1880, and read twice.

Mr. TELLER. The subject-matter was before the Committee on Appropriations, and the Senator from Connecticut will bear me out in the statement I have made. It has not been reported and there is no necessity for referring it. The Senate can act upon it just as well without a report as with. If they do not choose to pass it, of course they can defeat it.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Colorado.

Mr. COCKRELL. This bill should go to a committee. This is not the regular way of doing business. The Senator from Colorado has cases that he has reported from the Committee on Claims upon the Calendar; I have cases that have been reported favorably; and other Senators have cases that have been reported favorably. It is gross injustice to them to let this bill come in now without any consideration whatever and be passed. I object to it and ask that it be referred to a committee.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Colorado.

Mr. COCKRELL. This bill never has been referred yet. I object to the third reading of it, and move that it be referred to a committee.

The PRESIDENT *pro tempore*. The Senator can move its reference after it is taken up. It is not yet taken up. The question is on the motion of the Senator from Colorado to postpone all prior orders in order that he may move to take the bill from the table where it now is.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Senator from Colorado now moves to proceed to the consideration of the bill (S. No. 1834) to pay the creditors of the late Henry O. Waggoner, late consular clerk at Lyons, France.

The motion was agreed to.

The PRESIDENT *pro tempore*. The bill is before the Senate as in Committee of the Whole.

Mr. COCKRELL. Now I move that the bill be referred to the appropriate committee—I presume the Committee on Claims, of which the Senator is a member.

Mr. TELLER. The Committee on Foreign Relations.

Mr. COCKRELL. Well, the Committee on Foreign Relations; I move to refer it to that committee.

Mr. TELLER. It does not seem to me that it is worth while to refer this bill to the Committee on Foreign Relations. The chairman of the Committee on Foreign Relations, who was chairman of the subcommittee of the Committee on Appropriations on the deficiency bill, examined the matter, and I believe will state that he thinks the money ought to be paid. It is a little matter. The creditors have waited for some time. As I stated before, the father of this young man is an old man and very poor and very proud and very anxious to pay his son's debts, and he will pay them I suppose between this and the next session if he concludes that the Government is not going to pay. There are precedents for it, plenty of them, and it ought to be paid. Now if the Senate is not willing to do it, of course I have done my duty in the matter.

Mr. EATON. Only a word. I ask my friend to withdraw the bill rather than refer it to the committee at this late hour. This matter was before the sub-committee of the Committee on Appropriations, of which I was chairman. We did not think it was a proper matter to go upon the deficiency bill. This gentleman died a consular clerk in France, and was taken care of during his illness by the people of France, and incurred expenses amounting to a little over $500. The Secretary of State recommended that these debts should be paid. He thought the honor of the country was involved to a greater or less extent; but the Committee on Appropriations did not regard it as a proper matter to go upon the deficiency bill, and therefore they rejected it.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Missouri.

Mr. COCKRELL. I hope Senators will not insist on this. It is a gross injustice to other claimants here.

Mr. TELLER. I insist upon the passage of the bill.

Mr. COCKRELL. Other claims of men just as meritorious, our own citizens, whose claims have been acted on by the appropriate committees of the Senate, are here upon the Calendar. They are entitled to consideration. Respect to the committees of the Senate which have reported these cases entitles them to consideration in preference to this one; and now I do hope that the Senate will not, in violation of their rules and precedents, at this late hour take up and undertake to consider and pass this bill without a reference to any appropriate committee of the Senate. The Committee on Appropriations have considered it. They have not yet been willing to report an appropriation to put it on the deficiency bill. That is where it properly belonged if it belonged anywhere. I hope the Senator will not insist on it, and I hope that the motion to refer it to the Committee on Foreign Relations will prevail.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Missouri to refer the bill to the Committee on Foreign Relations.

The motion was agreed to.

EIGHT-HOUR LAW.

Mr. LOGAN. I move to take up the House joint resolution (H. R. No. 239) to provide for the enforcement of the eight-hour law, that was read in the Senate yesterday.

Mr. COCKRELL. Before that motion is submitted to the Senate, I ask that the Senator yield to the Senator from Wisconsin.

Mr. CAMERON, of Wisconsin. Mr. President, I endeavored yesterday to get up the bill called the Holladay bill for action. It was suggested at that time that it would be well to postpone the consideration of it until some day early in the next session of Congress. I did not adopt the suggestion at that time because I thought we could get action upon it yesterday, but now I ask that the bill be taken up and I will move, if taken up, that its further consideration be postponed until the first Wednesday after the first Monday of December next, and that it be made the special order for that day and that its consideration be continued from day to day until disposed of.

The PRESIDENT *pro tempore*. The Chair cannot put the motion of the Senator from Wisconsin now, because there is a prior motion. The Senator from Illinois moves that——

Mr. CAMERON, of Wisconsin. The Senator from Illinois will give way for a moment.

Mr. LOGAN. This agreement can be made at any moment. It will take but a few minutes to dispose of the joint resolution I have called up.

The PRESIDENT *pro tempore*. The Senator from Illinois moves that the Senate proceed to the consideration of the joint resolution (H. R. No. 239) to provide for the enforcement of the eight-hour law.

The motion was put and declared to be agreed to.

Mr. WITHERS. After the announcement of the vote it is scarcely necessary to say anything. I was going to make an inquiry as to whether the joint resolution had had a second reading.

The PRESIDENT *pro tempore*. No; but it can be taken up in order that it may have a second reading.

Mr. WITHERS. That was the object of my inquiry, in order to determine my vote.

The joint resolution was read the second time by its title.

The PRESIDENT *pro tempore*. The Senator from Illinois moves that the joint resolution be put on its passage.

Mr. WITHERS. I move that it be referred to a committee.

The PRESIDENT *pro tempore*. The Senator from Illinois asks unanimous consent to proceed further with the consideration of the joint resolution.

Mr. WITHERS. I object to the present consideration of the joint resolution and ask the reference of it to such committee as the Chair may designate.

Mr. LOGAN. Does the Senator object to the second reading of the joint resolution?

The PRESIDENT *pro tempore*. It has been read the second time.

Mr. LOGAN. I now move——

The PRESIDENT *pro tempore*. But it cannot be read twice on the same day without unanimous consent.

Mr. LOGAN. Very well; that disposes of it.

Mr. WITHERS. The joint resolution can have but one reading on the same day under our rules——

The PRESIDENT *pro tempore*. So the Chair has stated.

Mr. WITHERS. Except by unanimous consent.

Mr. LOGAN. I understood that the honorable Senator would allow a vote to be taken on it.

Mr. WITHERS. My object is to prevent a vote being taken.

Mr. BLAINE. Oh!

Mr. HOAR. I ask unanimous consent that it be taken up and voted on.

The PRESIDENT *pro tempore*. The Senator from Massachusetts asks unanimous consent to continue the consideration of the joint resolution. The Chair has already put that request once. He will put it again. Is there objection?

Mr. WITHERS. I thought I had objected twice. As the Senator from Kansas [Mr. INGALLS] said awhile ago, I should like to know how many objections it is necessary to make.

Mr. HOAR. I desire to have the objection appear.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. T. F. KING, one of its clerks, announced that the Speaker of the House had signed the enrolled bill (H. R. No. 6492) to constitute a joint commission for carrying into effect the convention between the United States and the

French Republic for the settlement of certain claims of the citizens of either country against the other, signed at Washington on the 15th day of January, 1880; and it was thereupon signed by the President *pro tempore*.

EXTRA PAY OF EMPLOYÉS.

Mr. ANTHONY. If the business which has been pending is disposed of, the Senator from Tennessee said that when we had concluded the House bills upon the Calendar he would move to proceed with the consideration of the President's message.

Mr. HARRIS. Mr. President——

The PRESIDENT *pro tempore*. The Chair lays before the Senate a joint resolution from the House of Representatives.

The joint resolution (H. R. No. 333) to pay the officers and employés of the House of Representatives borne on the annual roll one month's extra pay was read the first time by its title.

Mr. WITHERS. I move the reference of the joint resolution to the Committee on Appropriations.

Mr. HARRIS. I move that the Senate do now proceed to the consideration of the President's message, which lies on the table.

Mr. DAVIS, of Illinois. The joint resolution from the House is to be disposed of first.

The PRESIDENT *pro tempore*. The joint resolution has been read the first time. It will be read the second time.

The joint resolution was read the second time.

The PRESIDENT *pro tempore*. Is any motion made in respect to it?

Mr. INGALLS. The Senator from Virginia has moved to refer it.

Mr. WITHERS. I move that it be referred to the Committee on Appropriations.

Mr. WHYTE. Let it be read for information.

The PRESIDENT *pro tempore*. It will be read again. It has been read the first and second times.

The Chief Clerk read the joint resolution.

Mr. BLAINE. I move to amend the joint resolution by adding:

And the Secretary of the Senate is authorized and directed to pay to the employés of the Senate borne on the annual roll one month's extra pay at the same compensation as now provided by law.

This is to put the officers of the two branches on precisely the same basis.

Mr. WITHERS. I withdraw the motion to refer.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Maine.

Mr. SAULSBURY. I understand that this is a joint resolution to pay the annual employés of the Senate and House of Representatives a month's extra compensation. I ask gentlemen if they seriously propose to-day to pay men thirteen months' salary for twelve months' work, and to pay it, not out of our own pockets, but out of the money of the people? I am disposed to pay the employés of the Senate and the employés of the House liberally for their services. If they are not paid liberally, let us meet the question properly and give them proper compensation; but this indirect mode of doing what we have not done if we have not paid them sufficiently is all wrong. For one, I shall vote against it.

I appreciate the gentlemen who are employed in the service of the Senate and the House of Representatives as highly as other gentlemen, but I shall not vote to pay any class of men thirteen months' pay for a year's service, when not one-half of them are engaged six months in the year. So far as I am concerned, I shall record my vote on the yeas and nays upon the proposition.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Maine, [Mr. BLAINE.]

Mr. EATON. Unless I am greatly mistaken, on the original resolution the Senator from Virginia [Mr. WITHERS] moved its reference to the Committee on Appropriations.

Mr. WITHERS. I subsequently withdrew the motion to refer when the amendment was offered.

Mr. EATON. I did not hear that.

The amendment was agreed to.

Mr. WHYTE. This resolution, as amended, now covers all the annual employés of the two Houses except the official reporters, whose labor and work we all will bear witness is greater probably in proportion than that of any other employés of either branch of Congress. I therefore offer the following additional amendment:

And the benefits of this resolution shall extend to and include the official reporters of the two Houses by their being allowed respectively one-twelfth part of the amount annually paid to them by the United States, and the sum necessary for this purpose is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. HILL, of Georgia. I should like to hear some gentleman who favors the resolution give a reason for it. I understand that in consequence of a controversy between the two Houses on the subject of equalizing the salaries at the last session, for the purpose of accommodating the difficulty we did agree in the spirit of compromise to give the House employés, the annual employés, a month's salary to equalize them on some controversy. Now that is sought to be made a permanent precedent every year, and we are to have a month's salary added to the annual employés. If it is passed now we shall never get rid of it in the world, and the next thing it will be two months, and then three months, and then twelve months.

If somebody will give me a good reason, it may be that I shall vote for it. I concede that if the House employés are to have it the Senate employés ought to have it. I think the amendment of the Senator from Maine was right if the measure itself is right.

It would be very pleasant to accommodate these gentlemen; we all like them; but I apprehend that if we were to vote every dollar in the Treasury to the public officers, ourselves among the rest, they would be no better than they are and no worse; but is it right? I want to hear some reason for it.

I do not think it is right; I think it is wrong. I have heard no reason for it in the world. There is a reason why the session employés should have an entra month's pay. They have to close up here and have a good deal of work to do after we have gone. It has been the habit, as I understand, for years to give the session employés a month's extra pay; but it is not the habit to give the annual employés a month's extra salary. Why should it be? Do they have more work after adjournment than they have before adjournment? Do they not have less work, and are they not getting their regular pay?

I feel as kindly to these employés as anybody, but I believe if you wou'd put the question to the gentlemen themselves, to the honest sense of right of the annual employés, they would tell you that they do not believe it is right. If any others should have a month's pay, I agree that they should have it; but I do not see any reason for it. I should vote most cheerfully for it if I could see the reason for it.

Mr. BAILEY. I move, as an amendment to the amendment proposed by the Senator from Maryland, to add the following:

And shall also extend to all persons in the military, naval, and civil service of the Government.

Mr. PADDOCK. I offer the following amendment——

The PRESIDENT *pro tempore*. Two amendments are already pending. The question is on the amendment of the Senator from Tennessee [Mr. BAILEY] to the amendment of the Senator from Maryland, [Mr. WHYTE.]

Mr. BAILEY. I offer the amendment for the reason that if the officers of the House of Representatives and of the Senate who are employed by the year, whose salaries have been fixed by the two Houses upon due consideration, should at this late hour of the session have their salaries increased, I see no reason why we should not increase the salaries of all the officers of the Government employed in the Army or the Navy or in civil life. If it be just to increase the pay of the officers of the two Houses of Congress, it is also just to increase the pay of all who are in the service of the country, wherever they may be.

I do not think that the joint resolution which came from the House should be passed. I find it still more objectionable since the amendment offered by the Senator from Maine has been adopted. I want to make it still more objectionable by having the amendment adopted that I have offered.

Mr. MORGAN. I move to lay the joint resolution and the amendments on the table.

The motion was agreed to.

NOTIFICATION TO THE PRESIDENT.

Mr. WHYTE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That a committee consisting of two members be appointed, to join such committee as may be appointed by the House of Representatives, to wait upon the President of the United States and inform him that, unless he may have some further communication to make, the two Houses of Congress, having finished the business before them, are ready to adjourn.

By unanimous consent, the President *pro tempore* was authorized to appoint the committee on the part of the Senate; and Messrs. WHYTE and ANTHONY were appointed.

THANKS TO THE VICE-PRESIDENT.

Mr. GARLAND. I offer the following resolution, and ask for its present consideration:

Resolved, That the thanks of the Senate are due, and hereby are tendered, to Hon. William A. Wheeler, Vice-President, for the uniformly able, courteous, and impartial manner in which he has presided over their deliberations.

The resolution was considered by unanimous consent, and agreed to unanimously.

EMIGRATION OF NEGROES TO NORTHERN STATES.

Mr. WINDOM. In accordance with consent previously given, as I understand it, I present the views of the minority of the committee appointed to investigate the migration of colored people from the Southern to the Northern States, and I ask that it may be printed in connection with the report of the majority.

Mr. DAVIS, of Illinois. There is some executive business to be done, and I think we ought to go into executive session.

Mr. HOAR. I rise to a question of order.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) The Senator from Massachusetts will state his question of order.

Mr. HOAR. The Senator from Minnesota presented a minority report and made a request of the Senate.

Mr. DAVIS, of Illinois. That was granted.

Mr. HOAR. That has not been stated to the Senate. Nothing has been done about it.

The PRESIDING OFFICER. The Chair did not hear the request of the Senator from Minnesota. Will Senators resume their seats and cease conversation so that the Chair and the clerks may hear?

Mr. WINDOM. I presented the views of the minority of the committee appointed to investigate the exodus of colored people from the

Southern to the Northern States, in accordance with the previous understanding and the unanimous consent, and I requested that the minority report might be printed in connection with the report of the majority.

The PRESIDING OFFICER. Without objection it will certainly be so ordered. It is so ordered.

THANKS TO PRESIDENT PRO TEMPORE.

Mr. ANTHONY. I take advantage of the absence of the permanent presiding officer from the chair to offer a resolution which I am sure will meet with the prompt and unanimous assent of the Senate:

Resolved, That the thanks of the Senate are due, and are hereby tendered, to Hon. ALLEN G. THURMAN for the ability, dignity, and impartiality with which he has discharged the duties of President *pro tempore*.

The resolution was considered by unanimous consent, and agreed to unanimously.

COMMITTEE ON PRINTING.

On motion of Mr. WHYTE, it was

Ordered, That the Committee on Printing have leave to sit during the recess of Congress.

ENTRY OF AGRICULTURAL LANDS.

Mr. PADDOCK. I move that the Senate proceed to the consideration of the bill (S. No. 1519) to amend an act entitled "An act to provide additional regulations for homestead and pre-emption entries of public lands."

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. EATON. I object.

The PRESIDING OFFICER. The consideration of the bill is objected to.

Mr. PADDOCK. I hope the Senator will not object to the bill. It is simply a bill eliminating a very foolish requirement that was put in the homestead act a year ago.

Mr. MORGAN. I ask leave to make a report from the Committee on Rules.

The PRESIDING OFFICER. The Senator's bill is objected to, and debate is out of order.

Mr. PADDOCK. I hope the Senator who made the objection will recall it.

M'DONALD'S MANUAL.

Mr. MORGAN. I report from the Committee on Rules the following resolution:

Resolved, That the Chief Clerk be directed to prepare a new edition of the Manual, and that 1,000 copies of the same be printed for the use of Senators.

I ask the reference of the resolution to the Committee on Printing, and I desire to say to the Senate that on the 4th day of March next, when the new Senators come in, there will not be one single copy of the Manual for them.

The PRESIDING OFFICER. Without objection the resolution will be referred to the Committee on Printing.

DUTY ON MALT.

Mr. CONKLING. I move to postpone the present and all prior orders and proceed to consider the House bill fixing the duty on malt, and on that I ask for a vote.

Mr. VOORHEES. Will not the Senator from New York allow the Senator from Wisconsin and the Senator from Missouri to fix a little arrangement in regard to the Holladay bill, as to when it shall be taken up at the next session?

Mr. CONKLING. I will after I get a vote on this motion. I feel bound to ask one vote from the Senate on this bill.

The PRESIDING OFFICER. The question is on the motion of the Senator from New York.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 4585) fixing the rate of duty on barley malt at twenty-five cents per bushel.

Mr. COCKRELL. Mr. President——

Mr. CONKLING. Wait one moment, if my friend will pardon me. Let us hear the bill reported.

The Chief Clerk read the bill.

Mr. CONKLING. There are amendments pending.

The PRESIDING OFFICER. The Clerk will report the amendment offered by the Senator from Kentucky [Mr. BECK] and the amendment offered by the Senator from Maryland [Mr. WHYTE] to the amendment of the Senator from Kentucky.

The CHIEF CLERK. The amendment of Mr. BECK is to add at the end of the bill the following:

That on and after July 1, 1880, no duty shall be levied, assessed, and collected on merchandise imported into the United States in excess of 50 per cent. *ad valorem* on any article embraced in the following schedules of section 2504 of the Revised Statutes, and not subject to tax under the internal-revenue laws, to wit:

Schedule A.—Cotton and cotton goods.
Schedule B.—Earths and earthenware.
Schedule C.—Hemp, jute, and flax goods.
Schedule E.—Metals.
Schedule F.—Provisions.
Schedule G.—Sugars.
Schedule H.—Silks and silk goods.
Schedule K.—Wood.
Schedule L.—Wool and woolen goods.
Schedule M.—Sundries, except bay-rum, or bay-water, and other perfumery of which alcohol forms a component part, rum essence, or oil, and bay-rum essence or oil, fusel-oil, or amylic alcohol, opium, and all preparations of opium, and playing-cards.

And that wood-pulp, for manufacture of paper, and paper unsized, used for books and periodicals exclusively, shall be admitted free of duty.

The amendment of Mr. WHYTE to the amendment is to insert the following additional sections:

SEC. —. That all tank-bottoms, sirup of sugar-cane juice, and melado, shall pay a duty of one cent and fifty hundredths of a cent per pound; that concentrated melado or concrete, and all sugars not above No. 13 Dutch standard in color, shall pay a duty of two cents per pound; above No. 13 and not above No. 16 Dutch standard in color, shall pay a duty of two cents and twenty-five hundredths of a cent per pound; above No. 16 and not above No. 20 Dutch standard in color, shall pay a duty of two cents and sixty hundredths of a cent per pound; above No. 20 Dutch standard in color, and all refined loaf, lump, crushed, powdered, and granulated sugar, shall pay a duty of three cents and twenty-five hundredths of a cent per pound. Molasses, five cents per gallon.

SEC. —. That melado shall be known and defined as an article made in the process of sugar-making, being the cane-juice boiled down to the sugar-point and containing all the sugar and molasses resulting from the boiling process and without any process of purging or clarification; and any and all products of the sugar-cane imported in boxes, mats, baskets, or other than tight packages, shall be considered as sugar, and dutiable as such. And that sirup of sugar, sirup of sugar-cane juice, melado, concentrated melado, or concentrated molasses, entered under the name of molasses, shall be forfeited to the United States: *Provided*, That the above schedule of duties shall apply to all goods hereinbefore described held in bond in warehouses, public stores, or on bonded wharves at the date of the passage of this act: *And provided further*, That of the drawback on sugars exported, allowed by section 3019 of the Revised Statutes of the United States, only 1 per cent. of the amount so allowed shall be retained by the United States.

SEC. —. That nothing herein contained shall be construed to alter or repeal the act entitled "An act to carry into effect a convention between the United States of America and His Majesty the King of the Hawaiian Islands," signed on the 30th of January, 1875, which act was approved August 15, 1876.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Maryland to the amendment of the Senator from Kentucky.

Mr. HOAR. I rise to a question of order. My question is, is that as announced an amendment to the amendment or is it a separate amendment to the bill?

The PRESIDING OFFICER. It is an amendment to the amendment.

Mr. CONKLING. Mr. President, a debate either on the merits of these propositions or on the question whether the Senate has a right to originate even by way of amendment a sweeping revenue measure like one of these amendments, will be fatal to all of these propositions, because in forty minutes the hammer falls which terminates this session. I wish, and I rose to express that wish, that we might have a vote on the question of fixing the duty on malt, on the question in respect of sugar, and if the Senator from Kentucky offers the amendment, if he pleases, a vote on the question of wood-pulp or anything else concerning paper, or if he will, the amendment at large. I say to debate this proposition is for the Senator who debates to take in his hands the power to postpone it for this session. I wish we might have a vote.

Mr. COCKRELL. I hope that the Senator from New York will momentarily lay this aside informally until an agreement may be announced as to the Holladay claim.

Mr. CONKLING. Let the Senator state his agreement if he will. I presume nobody will object. We can lay the bill aside for that purpose.

The PRESIDING OFFICER. The bill will be laid aside temporarily if there be no objection.

BEN HOLLADAY.

Mr. COCKRELL. Yesterday evening the question of the consideration of the bill (S. No. 231) for the relief of Ben Holladay was before the Senate, and the Senate went into executive session before the determination of it. That is an important case. It cannot be considered at this session. It should be considered at the very earliest practicable day. Therefore, I ask that unanimous consent be given that that case may be made the special order for the first Wednesday after the first Monday in December next, and that it be then taken up and disposed of without the intervention of other business, in its regular order.

Mr. CAMERON, of Wisconsin. That is, that its consideration be continued from day to day.

Mr. COCKRELL. Yes, that its consideration may be continued from that time on. I desire to say that there is no question but what there is merit in that bill to some extent. The question is in regard to the amount. I do not want to throw obstacles in the way of the consideration of the bill at that time, but shall aid in securing action upon it. I think there is a very considerable amount due to him, but not the amount specified in this bill; probably at least $100,000, but I would be unwilling to fix an exact figure, because it might do injustice to him and it might do injustice to the tax-payers.

Mr. DAVIS, of Illinois. Nobody will object.

Mr. COCKRELL. If the Senator will please permit me to finish my remarks, as I have the floor, I think the Senate ought certainly to act upon it then and continue until the case shall be disposed of. I hope there will be no objection to the motion which was made by the Senator from Wisconsin.

The PRESIDING OFFICER. Is there objection to making the bill mentioned by the Senator from Missouri the special order for the first Wednesday after the first Monday in December? The Chair hears no objection.

Mr. HOAR. I rise to a question of order.

The PRESIDING OFFICER. The Senator from Massachusetts will state the question of order.

Mr. HOAR. The Chair did not state the whole proposition, which was to make the bill the special order for that day and so from day to day until disposed of.

The PRESIDING OFFICER. The Senator from Massachusetts is correct, and the Chair will put the question again. Is there objection

to making the bill mentioned the special order from day to day from the first Wednesday after the first Monday in December next, to continue until disposed of?

Mr. BUTLER. I shall object to that.

Mr. HOAR. It will be in the power of a majority of the Senate then to lay it aside.

The PRESIDING OFFICER. The Senator from South Carolina objects.

Mr. CONKLING. The other order I submit is just as well, that it be the special order for that day. It is a distinction without a difference. It is in the control of two-thirds of the Senate.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the Speaker of the House had signed the following enrolled bill and joint resolution; and they were thereupon signed by the President *pro tempore:*

A bill (S. No. 1320) for the construction of a building for the use of the United States at Toledo, Ohio; and

A joint resolution (S. R. No. 67) to authorize the Secretary of War to sell or lease to the Port Huron and Northwestern Railway Company all of the Fort Gratiot military reserve, and to authorize the city of Port Huron to grant to said railway company the right of way through Pine Grove Park.

DUTY ON MALT.

Mr. GARLAND. Last evening when the message from the President was laid before the Senate I moved that it lie upon the table with a view of having it taken up and read this morning. I would now be glad that, in the nature of a privileged question, the Senate would take it up and dispose of it.

Mr. CONKLING. Last evening when I tried to induce the Senate to hear the message, I failed. Now, with great respect, I insist upon the regular order in the hope that we may have a vote on this very important measure. For one I do not consent to lay it aside.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 4585) fixing the rate of duty on barley malt at twenty-five cents per bushel, the pending question being on the amendment of Mr WHYTE to the amendment of Mr. BECK.

Mr. BECK. Leaving out of view the merits of the amendment of the Senator from Maryland, and the merits of the amendment that I offered, which I think has great merit as giving relief to the country and volume to the revenue, and speaking solely in regard to the malt bill, I desire to say in the absence of the Senator from New York, [Mr. KERNAN,] who originally had charge of it, and in the absence of the Senator from Pennsylvania, [Mr. WALLACE,] who left this morning supposing that the bill would not be called up, and saying that he believed it would not—I desire only to lay before the Senate as reasons why it should not be considered hastily the protest of a large number of brewers of New York against the passage of the bill, which is in these words:

We, the undersigned, brewers, doing business in the city of New York and vicinity, respectfully protest against the passage of a bill introduced by Hon. L. P. MORTON, of New York, imposing a specific duty of twenty-five cents per bushel on imported malt, which bill they are informed has been favorably considered by the Committee on Ways and Means of the House of Representatives, and ordered reported to the House for action. They respectfully represent that the effect of the said bill would be a practical prohibition of the use of imported malt, to the great detriment of both brewers and consumers of ale and beer, and to the practical advantage of nobody, except in increasing the already ample profits of a few maltsters.

Dated New York, March 13, 1880.

John Kress, 211 to 221 East Fifty-fourth street; David G. Guengling, jr., One hundred and twenty-eighth street and Tenth avenue, New York City; Joseph Doelger, No. 228 East Fifty-fourth street; Rubsam & Houmann, Staten Island; Peter Dreiger, Fifty-fifth street and First avenue, New York; Jacob Houmann, Fifty-fifth street, between Second and Third avenue; Geo. Bechlis, Staten Island; Joseph Burger, Brooklyn; Chas. Bischoff, Staten Island; O'Reilly, Skelly & Fogarty, 409 West Fourteenth street; Henry Ferris & Sons, No. 249–251 Tenth avenue; De La Vergne & Burr, 221 to 225 West Eighteenth street; Kerr & Smith, 135 to 143 West Eighteenth street; John Raber, corner Scholes and Farmer streets, Brooklyn; Henry Kiefer, 136 to 142 Scholes street, Brooklyn; Orks u. Lehnert, 172 Bushwick street; Urban & Abbott, Bushwick avenue and Mescrole street; Otto Harber, Bushwick avenue and Mescrole street; M. Seitz's Son, 258–264 Mangin street, Brooklyn; Joseph Tallert, 60 to 66 Mescrole street; Elias & Metz, 403 East Fifty-fourth street; A. Hüpfel's Sons, 229 East Thirty-eighth street and One hundred and sixty-first street and Third avenue; John M. Leicht, Newburgh, New York, of Leicht Brothers.

I will next read eight or ten telegrams addressed to Hon. FRANK H. HURD, a member of the House of Representatives from Ohio, some of them from New York, some from other points, which will perhaps convince Senators that this is not a one-sided proposition, even if the amendments offered by myself and the Senator from Maryland were out of the way.

BROOKLYN, NEW YORK, *June* 13, 1880.

To Hon. FRANK HURD,
House of Representatives, Washington, D. C.:

The subscribers, who are brewers, object to any increased duty on malt, and confirm their petition to the House of Representatives introduced by Hon. A. M. BLISS. We are not in accord with the action of the brewers' convention held at Buffalo. It was composed almost entirely of maltsters and brewers, who are all maltsters; any increased duty at the present time is ruinous and in the interest of maltsters and is intended to crush out brewers not in their interest, and to tax the mass of consumers.

JOSEPH BURGER.
DAHLBENDENT GREINEL.
HENRY KIEFER.
OCHS & LEHNERT.
M. ZITZS SONS.
OTTO HUBER.
CLAUS LIPSIUS.
WM. MANPAI.
JOHN RABER.

TOLEDO, O., *June* 13 1880.

To Hon. FRANK HURD, *W., D. C.:*

Free trade no special protection; brewers want no increase duty.

D. COGHLIN.

NEW YORK, *June* 13, 1880.

To FRANK H. HURD, *H. of R., W.:*

We are opposed to the increase of duty on malt to twenty-five cents.

BERNHEIMER & SCHMID.

NEW YORK, *June* 13, 1880.

To FRANK H. HURD,
House of Reps., Wash., D. C.:

The action of the brewers' convention, favoring a duty of twenty-five cents per bushel on malt, does not represent the sentiment of the brewers. They are opposed to any increase of duty on malt. The convention was composed almost entirely of maltsters and brewers, who are also maltsters. A duty of twenty-five cents per bushel is practically prohibitory, and should not be imposed.

JACOB HOFFMAN.

NEW YORK, *June* 13, 1880.

To FRANK HURD,
H. of R., Wash'n., D. C.:

I am strongly opposed to action of brewers' convention indorsing increase of duty on malt to twenty-five cents. As one of the very largest consumers of malt in the country this bill is very injurious to me.

PETER DEELGER.

NEW YORK, *June* 13, 1880.

To FRANK H. HURD,
House of Reps., Wash'n., D. C.:

I am opposed to the action of brewers' convention at Buffalo favoring a duty of twenty-five cents per bushel on malt. The convention was controlled by the maltsters, and the question was sprung on convention; this duty of twenty-five cents is practically prohibitory, and will greatly injure us and all other brewers.

JOHN KRESS.

GUTTENBERG, N. J., *June* 14, 1880.

To Hon. FRANK HURD, *H. R.:*

An increase of duty on malt from fifteen per cent. to twenty-five cents, as passed the House, is ruinous to brewers who are not maltsters, and is detrimental to the mass of consumers.

KOHLER & SON.

Some of these gentlemen furnished a written argument to me as a member of the Finance Committee which I will not take time to read, giving at least plausible reasons why the original bill should not pass. I will hand it to the Reporter, so that it may appear upon the RECORD as one of the objections to the bill. They propose the following amendment, which is worthy of consideration:

Proposed amendment to bill H. R. No. 4585.

"Strike out 'twenty-five,' in line —, and insert 'sixteen.'"

[Argument mentioned above.]

The present rate of duty on malt should not be increased as proposed by bill H. R. No. 4585; it should on the contrary be reduced.

First. The statistics show that during the past ten years the duty on malt at the present rate of 20 per cent. *ad valorem* has never amounted to more than 22.54 cents per bushel, and that at this rate importation ceased and the revenue of the Government from this source diminished.

Second. It results, therefore, that the rate of 25 cents per bushel, proposed by the bill, is prohibitory—will deprive the Government of revenue, place the consumer at the mercy of the producer, and create a monopoly of the most offensive kind.

Third. No increase of the duty on malt is necessary, desirable, or wise.

a. Fifty million bushels of malt are consumed in this country annually.

b. No more than five hundred thousand bushels have ever been imported in any one year.

c. The idea of "*protecting*" the manufacturer of an article when ninety-nine out of each one hundred consumed *must* be produced by him is absurd.

d. Canada, the only country from which malt can be imported, cannot produce more that six hundred thousand bushels per annum.

e. The only persons to profit by an increase are the maltsters, few in number, and uniformly rich.

f. The sufferers by an increase would be:

1. The Government, which would lose revenue.
2. The brewers, who would be compelled to pay more for malt.
3. The poor man, who would have to pay more for his beer.

Fourth. The present rate of duty should be changed to 16 cents per bushel.

a. Barley pays 15 cents per bushel.

b. Malting costs as much in Canada as it does in the United States.

c. Barley gains 15 per cent. in malting; *i. e.*, one hundred bushels of barley make one hundred and fifteen bushels of malt.

d. At 16 cents per bushel this result would ensue: one hundred bushels barley would pay duty $15. This barley, if malted in Canada, would make one hundred and fifteen bushels of malt and pay duty $18.40; a discrimination of $3.40 per hundred bushels in favor of domestic malt, certainly a sufficient protection. The cost of malting one hundred bushels of barley, however, is only about $12 to $15. A duty of 16 cents per bushel would therefore add about one-fourth to the expense of malting, certainly ample protection to the American maltster. A duty of 25 cents would add about 100 per cent. to the cost of malting; that is, would make the brewer pay the cost of malting twice over, once to the maltster who did the work, and next to the Government. This is monstrous.

Fifth. The value of the resolution in favor of the bill passed by the brewers' convention is easily appreciated, when it is understood that every man in the convention was (with four exceptions) a *maltster.*

I oppose it—even if the objections to the bill itself in the two Houses were all removed and it had been considered in the committee, because it is an increase of 33 per cent., according to the best information I have, on this article, and I oppose all increase of tariff taxation, and it is only for the benefit of a few maltsters who, while they have been very urgently represented here by their respective agents, denouncing all those who opposed the measure, have impressed upon Senators that all they want is fair consideration. The truth is, this bill was thrown before the Senate when the Committee on Finance had no time to consider it, and it has never been considered, yet I am called an obstructionist because I will not obey the orders of these importunate men and pass the bill without giving those who oppose

it a hearing. Those who oppose it sent also a petition asking us to give them time to present their objections, saying, "We will send committees to Washington to show that this bill is all wrong," and it was only because they were advised, and therefore believed there was no possibility of its friends getting it through now, that those men did not come in great force to protest against this measure.

Therefore I repeat, desiring to take as little time as possible, that, independent altogether of the amendments, the merits of which I cannot debate in the thirty minutes of the session remaining, it seems to me that the wishes of all the men who oppose the measure ought not to be disregarded and this bill pushed through in this way, nor ought I to be censured for desiring to give them fair play and an honest hearing. That is all I care to say. I am glad to have been able to say it, and am content to take whatever abuse may be heaped on me for what will doubtless be called an obstructive course. My interest is only in the general welfare.

Mr. DAWES. I have not heard the Senator from Kentucky indicate his purpose whether he intends to adhere to his amendment or not, but if the Senator from Kentucky adheres to his amendment and insists on a vote of the Senate upon it as well as the Senator from Maryland, it is quite useless for us to undertake to pass this bill. The Senator from Kentucky embarrasses me very much by the course he is pursuing. A few days ago the Senator was in distress lest the Senate should assume the prerogative of the House.

Mr. BECK. I insist on the amendment. Of course I shall insist upon a vote upon each item in its class.

Mr. DAWES. The Senator and myself in times past have stood together in vindicating, or attempting to vindicate, the prerogative of the House against what was deemed by the House to be a violation of the spirit and intent of the Constitution itself.

The Senate will recollect that a few years ago when the House sent up a bill continuing the income tax, the Senate attached to it an amendment precisely like the one that the Senator from Kentucky has proposed to this bill; and after a long controversy between the two Houses, the difference being upon the question whether it was not a violation of the true spirit and intent of the Constitution for the Senate to attach a tariff bill like that to a simple measure continuing the income tax, a committee of conference was appointed, to which the ablest members of both Houses were appointed, and the controversy resulted in the failure entirely of the measure.

Subsequently, when the Senator from Kentucky and myself were upon the Committee of Ways and Means, the House sent up to the Senate a bill repealing the duty upon tea and coffee, and the Senate attached to that a tariff bill like the one which the Senator from Kentucky has proposed to attach to this bill on the question of form; and at that time the Senator from Kentucky told the House and told the Senate that it was a violation of the true spirit and intent of the Constitution to place a general revision of the tariff, like that he has offered to-day, upon a bill simply repealing the duty on tea and coffee; that while it was within the letter of the Constitution to authorize the proposing of amendments to a revenue bill, yet it was a violation of its spirit to have a whole revenue system originate in this branch and thus deprive the House of Representatives of its authority. The Senator from Kentucky told us then—and we followed him and his advice—that that was an infringement upon the prerogative of the House which it was the duty of the House of Representatives to resist, and to maintain its prerogative. Here, the other day, the Senator told us that the House of Representatives would never tolerate even a proposition from the Senate to propose a mode of revising the tariff. A mode like that suggested by the Senator from Connecticut [Mr. EATON] the Senator from Kentucky told us was such as that the House of Representatives, standing upon its prerogative under the Constitution, could not for a moment tolerate, and would not. Now the Senator comes and offers a revision of the tariff here in the Senate precisely like that which he denounced in the House of Representatives. It is said that our views change as we change places, and I am convinced that must be so and that the Senator from Kentucky has revised his convictions which he entertained at that time of the prerogative of the House.

I only suggest that difficulty in the way of a consideration of such a measure as he has proposed, sweeping over the whole tariff system, and I submit that this had better not be attempted in the last twenty-five minutes of this session. It is a matter of such a character that no Senator can permit it to pass this body without expressing his views upon the merits of it.

Mr. BECK. I am not asking it to be done.

Mr. GARLAND. I move that the further consideration of this measure be postponed, and that it be made the special order for the second day of the next December session. Evidently we have not time now to consider and act upon it, and I make the motion with a view of taking up the President's veto message and having it read.

The PRESIDING OFFICER. The question is on the motion of the Senator from Arkansas, to postpone the consideration of the bill until the second Monday of December.

Mr. CONKLING. I wish to say that malt evidently stands no chance against talk, and therefore although I want to vote upon this bill I do not want in a hopeless struggle to attempt to defy the judgment of a majority. I think we ought to vote upon the bill and not upon the motion of the Senator from Arkansas, but I am powerless to enforce that opinion, and I do not wish to waste the time of the Senate, if Senators are determined upon the question of prerogative and order as well as upon the merits to so debate that no vote can be taken.

The PRESIDING OFFICER. The question is on the motion of the Senator from Arkansas.

The motion was put, and declared to be agreed to.

Mr. GARLAND. Now I move to take up the message of the President and have it read.

Mr. EATON. I addressed the Chair, I thought earnestly and loudly, before any vote was taken on the motion to postpone the malt bill. I intended to move to lay the whole matter upon the table, and not send it to the next session of Congress as a special order; but owing to the confusion, doubtless, the Chair did not notice it, but I think I ought to have been heard.

The PRESIDING OFFICER. It was the misfortune of the Chair not to hear the Senator. The result of the vote has been announced.

Mr. HOAR. The Senator from Connecticut clearly addressed the Chair two or three times. I rise to a question of order. My point of order is that the Senator from Connecticut having in fact risen and addressed the Chair to make his motion before the question was put, in the hearing of several Senators, and stating that he so did, it is the duty of the Chair to treat the question as not having been put.

The PRESIDING OFFICER. By unanimous consent it can be done, but the Chair will rule that it cannot be done otherwise.

Mr. HOAR. I will move to reconsider the vote if there is any objection.

The PRESIDING OFFICER. Will the Senate reconsider the vote?

Mr. THURMAN. Why in the world should it be reconsidered? In the short time we have here, why should this matter be called up again? It has gone over to next winter. That can do no harm.

Mr. DAWES. If a Senator rises in his seat and exercises his lungs to the utmost capacity in addressing the Chair, but in the confusion the Chair does not hear him, I should think courtesy required the question to be put again.

Mr. THURMAN. Undoubtedly; but it is not very important in this case.

The PRESIDING OFFICER. The Chair will state that a dozen Senators were on their feet addressing the Chair while the Senate was dividing. The Chair recognized none of them until the vote was announced. He did not know the object of any of them.

Mr. HOAR. The Senator from Connecticut clearly made his motion before the Chair put the question.

The PRESIDING OFFICER. The Chair has decided the question of order. The Senator from Massachusetts has moved that the vote be reconsidered by which the consideration of the bill was postponed. The question is on that motion.

The motion to reconsider was not agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had agreed to the resolution of the Senate for the appointment of a committee, consisting of two members of the Senate to join such committee as may be appointed by the House of Representatives, to wait upon the President of the United States and inform him that unless he may have some further communication to make the two Houses of Congress, having finished their business, are ready to adjourn, and had appointed Mr. J. D. C. ATKINS of Tennessee, Mr. JOHN W. RYON of Pennsylvania, and Mr. J. WARREN KEIFER of Ohio, the committee on the part of the House.

PAPERS WITHDRAWN.

On motion of Mr. CARPENTER, it was

Ordered, That Robert Strachan be authorized to withdraw from the files of the Senate his papers presented in support of a claim for damages done to his property by improvements in the city of Washington.

EXECUTIVE SESSION.

Mr. THURMAN. I have a motion to make, and before I make it I want to say one word about that instrument called the Constitution. The Constitution provides that if the President approve a bill—

He shall sign it, but if not he shall return it, with his objections to that House in which it shall have originated, who shall—

The words appear to be mandatory—

enter the objections at large on their Journal, and proceed to reconsider it.

That seems to be a mandatory provision on this body where the bill originated that has been vetoed. Of course the Constitution does not provide when they shall proceed to reconsider it; that must be left within the discretion of Congress, but it has to be done some time or other. Whether it may very well go over to the next session may be another question, but I see no constitutional difficulty in our considering it at the next session, although it would be a little late in the day; but as there is so little time left, not time enough to read the message, and as there is an executive message upon the table and some executive matter on the Calendar, I move that the Senate proceed to the consideration of executive business.

Mr. PADDOCK. I ask the Senator to withdraw that motion.

The PRESIDING OFFICER. Before putting the question on the motion of the Senator from Ohio the Chair will recognize the Senator from Maryland.

NOTIFICATION TO THE PRESIDENT.

Mr. WHYTE. Mr. President, the committee appointed by the Senate to join the committee appointed by the House of Representatives to wait upon the President of the United States and inform him that

unless he had some further communication to make to Congress the Senate and House were ready to adjourn, have performed that duty and have been informed by the President that he has no further communication to make.

EXECUTIVE SESSION.

The PRESIDING OFFICER. The question is on the motion of the Senator from Ohio, that the Senate proceed to the consideration of executive business.

Mr. EATON. I hope not yet.

The PRESIDING OFFICER. The question is on the motion.

The motion was agreed to.

M'DONALD'S MANUAL.

Mr. WHYTE. While the doors are being closed I ask leave to report from the Committee on Printing a resolution, and ask that it be adopted.

The resolution was considered by unanimous consent, and agreed to, as follows:

Resolved, That the Chief Clerk be directed to prepare a new edition of the Manual, and that 1,000 copies of the same be printed for the use of the Senate.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed a bill (H. R. No. 6493) to provide for the construction of a public building at Jackson, in the State of Mississippi; in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. No. 3151) for the relief of Francis W. Maxwell; and it was thereupon signed by the President *pro tempore*.

HOMESTEAD AND PRE-EMPTION ENTRIES.

Mr. PADDOCK. Before the Reporter retires, I rise to a question of privilege.

The PRESIDING OFFICER, (Mr. HARRIS.) The Senator from Nebraska will state his question of privilege.

Mr. PADDOCK. Some time ago, by unanimous consent of the Senate, order of business No. 662, on my motion, was taken up. The Senator from Connecticut [Mr. EATON] interposed an objection to the consideration of it, which objection does not under the rule at this time obtain; but I was unable to obtain the hearing of the Chair, and therefore was unable to enter my protest against the ruling which ruled me out. It is a bill of very great importance to my section of the country and important to me. Therefore I ask that the consideration of the bill may be concluded.

Mr. EATON. I regret that I made the objection, and I hope the bill may be considered. I have looked at it and think it is all right.

The PRESIDING OFFICER. Shall the Senate be considered as in legislative session and proceed with the consideration of the bill mentioned by the Senator from Nebraska? The Chair hears no objection.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1519) to amend an act entitled "An act to provide additional regulations for homestead and pre-emption entries of public lands." It proposes to amend the "act to provide additional regulations for homestead and pre-emption entries of public lands," approved March 3, 1879, so as to read as follows:

That before final proof shall be submitted by any person claiming to enter agricultural lands under the laws providing for pre-emption and homestead entries such person shall file with the register of the proper land office a notice of his or her intention to make such proof, stating therein the description of lands to be entered and the names of the witnesses by whom the necessary facts will be established. Upon the filing of such notice, the register shall post a notice in some conspicuous place in his office for the period of thirty days that such application has been made. Such notice shall contain the names of the witnesses, as stated in his application. At the expiration of said period of thirty days the claimant shall be entitled to make proof in the manner heretofore provided for by law. The Secretary of the Interior shall make all unnecessary rules for giving effect to the foregoing provisions.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, announced that the President had yesterday approved and signed the following acts:

An act (S. No. 1509) to accept and ratify the agreement submitted by the confederated bands of Ute Indians in Colorado for the sale of their reservation in said State, and for other purposes, and to make the necessary appropriations for carrying out the same;

An act (S. No. 1771) to establish post-roads;

An act (S. No. 1801) for the relief of Clement C. Clay, of Alabama;

An act (S. No. 194) to provide for the disposal of the Fort Harker military reservation; and

An act (S. No. 1315) making appropriation for the erection of a light-house and fog-bell on Old Gay Rock, at entrance of Wickford Harbor, Narragansett Bay.

The message also announced that the President had this day approved and signed the following acts:

An act (S. No. 815) to increase the pensions of certain pensioned soldiers and sailors who are utterly helpless from injuries received or disease contracted while in the United States service;

An act (S. No. 1371) to authorize the Mississippi River Logging Company to construct and operate sheer-booms at or near Straight Slough;

An act (S. No. 1320) for the construction of a building for the use of the United States at Toledo, Ohio; and

A joint resolution (S. R. No. 67) to authorize the Secretary of War to sell or lease to the Port Huron and Northwestern Railway Company all of the Fort Gratiot military reserve, and to authorize the city of Port Huron to grant to said railway company the right of way through Pine Grove Park.

EXECUTIVE SESSION.

The Senate proceeded to the consideration of executive business. After fifteen minutes spent in executive session the doors were reopened.

MISSISSIPPI RIVER IMPROVEMENT COMMITTEE.

Mr. LAMAR submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Select Committee on the Improvement of the Mississippi River and its Tributaries is hereby authorized to sit during the recess, and to visit such points on the Mississippi River above Saint Louis as it may deem proper; said committee to have power to retain its clerk and to employ a stenographer, and that the necessary expenses for this purpose be paid out of the contingent fund of the Senate.

JOINT COMMITTEE ON LIBRARY ACCOMMODATIONS.

Mr. VOORHEES submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the joint committee on additional accommodations for the Library of Congress be, and it is hereby, authorized to employ a messenger.

FINAL ADJOURNMENT.

The hour of twelve o'clock having arrived,

The PRESIDENT *pro tempore*. Senators, I return you my sincere thanks for your approval of the manner in which I have discharged the duties of the Chair during my occupancy of it at this session. Your uniform courtesy toward each other and toward your presiding officer, your practice of suspending the rules by unanimous consent when they should be suspended, and your abstinence from raising unnecessary points of order, make the Senate one of the most agreeable legislative bodies in the world in which to hold a seat, and one of the easiest and most agreeable to preside over.

Wishing you, Senators, a safe and pleasant return to your homes, I now, in obedience to the resolution of the two Houses, declare the Senate adjourned without day.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *June* 16, 1880.

The House met at eleven o'clock a. m. The Chaplain, Rev. W. P. HARRISON, D. D., offered the following prayer:

We desire to thank Thee, Almighty God, our Heavenly Father, for the gracious providence which has attended us during this session. We thank Thee that Thou hast graciously preserved the health and the lives of Thy servants, the Representatives of the people; and we offer unto Thee thanksgiving for Thy loving kindness and Thy continual goodness. Continue unto us, O God, Thy mercy and Thy goodness, and may Thy gracious providence attend these Thy servants to their several homes. Do Thou protect them and aid them in all their public labors, and may every effort to promote the public welfare be crowned with success.

So help us to fear Thy name and keep Thy law and walk in Thy commandments that we may in all our ways acknowledge Thee, and that Thou mayst ever direct our paths.

And to Thy name be the praise, through Jesus Christ our Redeemer. Amen.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, informed the House that the Senate had passed, with amendments in which the concurrence of the House was requested, bills of the following titles:

A bill (H. R. No. 2165) to amend section 2297 of the Revised Statutes, relating to homestead settlers; and

A bill (H. R. No. 3191) to authorize the Secretary of the Interior to dispose of a part of the Fort Dodge reservation to actual settlers under the provisions of the homestead laws.

ENROLLED BILLS SIGNED.

Mr. WARD, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill and a joint resolution of the Senate of the following titles; when the Speaker signed the same:

An act (S. No. 1320) for the construction of a building for the use of the United States at Toledo, Ohio; and

Joint resolution (S. R. No. 67) to authorize the Secretary of War to sell or lease to the Port Huron and Northwestern Railway Company a portion of the Fort Gratiot military reserve, and to authorize the city of Port Huron to grant to said railway company the right of way through Pine Grove Park.

READING OF THE JOURNAL.

Mr. WILSON. I ask consent that the reading of the Journal of yesterday be dispensed with.

Mr. WARNER. I object to that, and call for the reading of the Journal.

Mr. McKENZIE. In view of the fact that there is but an hour of the session remaining, I move to suspend the rules, so as to dispense with the reading of the Journal of yesterday.

The SPEAKER. The Journal of yesterday's proceedings is not yet prepared, for reasons that members will well understand. The clerks report that it was physically impossible to prepare it. This is not an unusual occurrence on the last day of the session.

Mr. ROBESON. In view of the fact that the Journal is not ready, I ask that the reading of it be dispensed with.

Mr. SPARKS. I object to dispensing with the reading of the Journal.

Mr. ROBESON. It is not ready.

Mr. SPARKS. If it is not ready, let the responsibility rest where it belongs.

The SPEAKER. The Chair would much prefer to have it read, but the clerks report that it could not be prepared.

The reading of the Journal of yesterday was dispensed with.

CHARGE OF BRIBERY IN AN ELECTION CASE.

Mr. CARLISLE. I am directed by the select committee appointed by the House to ascertain the authorship of a certain anonymous letter addressed to Hon. WILLIAM M. SPRINGER, chairman of the Committee on Elections, to submit a report and move that it be printed and recommitted to the select committee, with leave to the members of the minority of the committee to present their views and have them printed and recommitted.

Mr. KEIFER. I desire to ask the gentleman from Kentucky a question.

Mr. CARLISLE. What is it?

Mr. KEIFER. We will not be able to get the reports here before the final adjournment. I would inquire of the gentleman in what respect, if any, the committee is unanimous in this report?

Mr. WILSON. The two reports will show.

Mr. KEIFER. But both reports are not here.

Mr. CARLISLE. I am authorized to say that the committee, after considering all the evidence given by the experts and others, have unanimously come to the conclusion that the weight of the testimony shows that the anonymous letter was written and sent by H. H. Finley. Beyond that, I am not authorized to make a statement, because there is a probability of disagreement among members of the committee as to some of the other points involved in the investigation.

I ask that the report be printed and recommitted, with leave to the minority of the committee to present their views, to be likewise printed and recommitted.

There being no objection, it was ordered accordingly.

ORDER OF BUSINESS.

The SPEAKER. There is a morning hour this morning, which, the Chair supposes, may as well be dispensed with.

Mr. ACKLEN. I move that the morning hour be dispensed with.

There being no objection, the motion was agreed to.

ELECTION CONTEST—DONNELLY VS. WASHBURN.

Mr. MANNING. I rise to a question of privilege. I was not in the Hall at the moment the gentleman from Kentucky [Mr. CARLISLE] made his report from the special committee in reference to a matter arising out of the Donnelly and Washburn contested-election case. I understand that the gentleman did not make any statement in reference to the report, so far as Mr. Donnelly is concerned. When I asked the appointment of the committee to investigate this matter of the anonymous letter, I stated that a portion of the members of the Committee on Elections had prepared a report, which was ready to be submitted to the House, but that in view of the charge of the gentleman from Illinois, [Mr. SPRINGER,] that Mr. Donnelly was implicated, and that he had inspired that letter, I would not submit the report until the committee charged especially to investigate the authorship of the letter had submitted its report.

Now, I should be glad to know, before submitting the report which I have in my hand and the submission of which will depend upon the statement of the honorable gentleman from Kentucky, whether or not the committee of which he is chairman has reached a conclusion touching Mr. Donnelly's connection with the authorship of that anonymous letter. If there is no reflection cast upon Mr. Donnelly by that committee or by the report which it will submit hereafter and which is now perhaps ready, I propose to submit the report which I hold in my hand. I make this inquiry because it is important and because the gentleman from Ohio [Mr. KEIFER] who represents certain members of the committee, myself representing others, agrees with us in desiring to get those papers before the House.

Mr. CARLISLE. I am not authorized to speak for the minority upon the point suggested by the gentleman from Mississippi; but I can say for the majority of the committee that they have come to the conclusion that Mr. Donnelly had no personal connection with the writing or sending of the anonymous letter.

Mr. MANNING. Then, as I understand there is no reflection upon Mr. Donnelly, I submit this paper containing the views of certain members of the Committee on Elections.

The SPEAKER. This, as the Chair understands, is a question of privilege—a report touching the right of a member to his seat.

Mr. BAKER. I wish to ask a question. I understand the gentleman from Kentucky to say that his committee has reached the conclusion that Mr. Donnelly had no personal connection with the anonymous letter. Is it their opinion that he had no connection through any third party with that letter?

Mr. CARLISLE. I dislike of course to be subjected to these questions as the organ of the committee; and I feel somewhat embarrassed in answering them; but I can say to the gentleman from Indiana that so far as concerns the majority of the committee, having no authority, as I have said, to speak for the minority, they do not find that Mr. Donnelly had any connection personally or otherwise with the writing or sending of the anonymous letter. Mr. Finley was the attorney and friend of Mr. Donnelly; but the committee does not find that Mr. Donnelly had any knowledge whatever of the writing or sending of that letter.

Mr. MANNING. With this vindication of Mr. Donnelly from the majority of that committee, I ask that the resolutions appended to my report may be read at length, and that they and the report be printed.

Mr. WILSON. I object to the reading.

Mr. MANNING. I have not asked that the report be read, but only that the resolutions accompanying it be read.

The SPEAKER. The gentleman from Mississippi claims that this is a report touching the right of a member to a seat, which the Chair recognizes as a question of privilege.

Mr. MANNING. I ask that the resolutions be read and that the report be printed.

The Clerk read as follows:

Views of certain members of the Committee on Elections in the contested-election case of Donnelly *vs.* Washburn, from the third congressional district of Minnesota.

* * * * * * *

Resolved, That William D. Washburn is not entitled to his seat as a member of the Forty-sixth Congress of the United States, as Representative from the third congressional district of the State of Minnesota.

Resolved, That Ignatius Donnelly is entitled to his seat as a member of the Forty-sixth Congress as Representative from the third congressional district of the State of Minnesota.

VAN H. MANNING.
S. L. SAWYER.
R. F. ARMFIELD.
F. E. BELTZHOOVER.
W. G. COLERICK.

Mr. MANNING. I will state that Judge PHISTER, a member of the committee, handed me a paper, in which he concurred with those of us who have signed this report, as to the first proposition therein contained. As to the second proposition he dissents as to a certain matter. I have unfortunately mislaid that paper, and at this moment cannot put my hands upon it. Hereafter Judge PHISTER will submit his own report.

Mr. FIELD. That is a report of the minority of the committee, and not a report of the committee.

Mr. MANNING. I will say to the gentleman from Massachusetts, I have already stated they are the views of certain members of the committee.

The SPEAKER. Is it the design to make any report from the committee?

Mr. KEIFER. Permit me to say, Mr. Speaker, the report of the gentleman from Mississippi and the one I hold in my hand we are severally ordered to report, although neither of them is signed by a majority of the committee.

Mr. MANNING. That is true; and that is a full answer to the statement of the gentleman from Massachusetts.

Mr. KEIFER. The report I now submit——

Mr. MANNING. I ask the gentleman from Massachusetts to correct his statement.

Mr. FIELD. The gentleman from Mississippi thinks I meant to impute something to him.

Mr. MANNING. I did not mean that. I only meant to say that the gentleman had fallen into an error.

Mr. FIELD. I did not hear the first statement and believed some one might think his report was the report of the majority of the committee. I am informed he did not present it as the report of the majority.

Mr. MANNING. I presented a report which is concurred in but not signed by a majority as to the first proposition, and a report of the minority as to the second.

The SPEAKER. The gentleman from Ohio [Mr. KEIFER] now presents a report from the committee.

Mr. KEIFER. I present from the committee two resolutions. The first submitted in this report declares that William D. Washburn, of Minnesota, is entitled to his seat. That resolution has the support of seven members out of fifteen of the committee. The second resolution declares Ignatius Donnelly is not entitled to his seat, and that is supported by ten members out of the fifteen members of the committee. I ask the Clerk to read those two resolutions, and then I shall ask that the report be printed.

The Clerk read as follows:

Resolved, That William D. Washburn is entitled to retain his seat as a member of the Forty-sixth Congress of the United States as a Representative of the third congressional district of the State of Minnesota.

Resolved, That Ignatius Donnelly is not entitled to a seat as a member of the Forty-sixth Congress of the United States as a Representative from the third congressional district of the State of Minnesota.

The SPEAKER. What action does the gentleman desire?

Mr. KEIFER. I ask that it be printed.

The SPEAKER. And recommitted?

Mr. KEIFER. I do not know that it is necessary to recommit it; but if that is the order with reference to the other report, perhaps this had better take the same course.

Mr. MANNING. I think this should properly be recommitted.

Mr. KEIFER. Whatever action was taken in the other, I have no objection to this following in the same course.

The SPEAKER. The motion is to print and recommit.

The motion was agreed to.

PUBLIC BUILDING AT JACKSON, MISSISSIPPI.

Mr. SINGLETON, of Mississippi. If the House will give me its attention for a few moments I desire to make a brief statement in reference to the bill which I now ask to have passed. There never has been in the State of Mississippi a single shanty built or a brick laid or a dollar expended for a public building on the part of the United States Government for the use of the Federal courts, for the post-office, for the collection of revenue, or for any purpose whatever. My colleague [Mr. HOOKER] is sick to-day, and I stand here in his place and ask that a substitute which I now present for the bill of the House No. 5069, for the erection of a public building at Jackson, Mississippi, shall be taken up and passed. I do not think anybody here will object under the circumstances.

Mr. JOYCE. If gentlemen on this side of the House can be recognized alternately who have no bills for public buildings I shall certainly not object, and hope there will be some arrangement by which each side can be recognized alternately.

Mr. SINGLETON, of Mississippi. I certainly have never objected, and the RECORD will show that I have made no objection to requests of gentlemen on the other side. I hope there will be no objection to this bill.

The SPEAKER. The Chair desires to say in behalf of gentlemen upon the left that they ask to be recognized alternately for the introduction of bills other than those providing for the erection of public buildings. It is the intention of the Chair, as far as practicable, to comply with that wish. Is there objection to the request of the gentleman from Mississippi?

Mr. BELFORD. I hope there will be no objection. Let us proceed with some business by consent.

Mr. COX. I insist upon carrying out the order of the House, which is that these bills shall be taken up in the order in which they appear upon the Calendar.

Mr. McKENZIE. I hope the motion of the gentleman from Mississippi will prevail, and that other gentlemen upon the floor will have an opportunity to present requests of the same character.

Mr. KELLEY. I appeal to gentlemen to let this bill pass.

The SPEAKER. The Clerk will read the bill.

The Clerk read as follows:

Substitute for House bill No. 5069, a bill (H. R. No. 6493) to provide for the construction of a public building at Jackson, in the State of Mississippi.

The bill was read a first and second time, the second reading being in full, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to purchase or otherwise procure a suitable site for a public building, which site shall leave the building unexposed to danger from fire in adjacent buildings by an open space not less than fifty feet, including streets and alleys, and cause to be erected thereon, at the city of Jackson, in the State of Mississippi, a substantial and commodious public building, with fire-proof vaults, for the use of the United States district and circuit courts, the land office, internal-revenue service, and post-office; the plans and estimates for said building having first been prepared, examined, and approved as required by section 3734 of the Revised Statutes of the United States, upon calculations and specifications that will insure the completion of the building at a cost not to exceed the sum of $100,000; *Provided*, That no money to be appropriated for said building shall be used until a valid title to the site selected shall be vested in the United States, nor until the State of Mississippi shall have ceded to the United States jurisdiction over the same for all purposes during the time the Government shall be or remain the owner thereof, except for the enforcement of the criminal laws of the State and the service of civil process therein.

Several MEMBERS. Regular order!

Mr. SINGLETON, of Illinois. I wish to ask did not the Speaker announce that by instructions of the House he would take up these bills in the order in which they were reported from the Committee on Public Buildings and in the order in which they appeared upon the Calendar.

The SPEAKER. The Chair has absolutely done so up to this time and made a suggestion a moment ago to the House that gentlemen upon the other side claim that they ought to have recognition alternately, although they have no bills for public buildings to offer and it is for the House to say whether that shall be done or not. The Chair will not change his action in the least, but will follow uniformly what the House directs, having that for his guide of action in relation thereto.

Mr. SINGLETON, of Illinois. The Chair will remember when I was recognized to call up a bill which I reported I yielded in order that the Chair might alternate between the sides. I gave way; and now I think it is only due to myself, if this recognition is to be made without reference to the order of the House, that I shall be entitled to stand in the same position I did before I yielded the floor.

The SPEAKER. The Chair recognized the gentleman.

Mr. SINGLETON, of Illinois. But I yielded at the time I had the floor because I thought I was not in order on the Calendar or because I had called up a bill out of my order on the Calendar; and it was right that I should yield to the objections of the Chair and wait my turn.

The SPEAKER. The question is on seconding the demand for the previous question on the suspension of the rules and the passage of the bill submitted by the gentleman from Mississippi.

The previous question was seconded; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed, two-thirds voting in favor thereof.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. BURCH, its Secretary, announced that the Senate had appointed a committee to join such committee as might be appointed on the part of the House to wait upon the President and inform him that unless he had other business to communicate Congress was ready to adjourn; and further that the Senate had appointed as such committee on its part Mr. WHYTE and Mr. ANTHONY.

ORDER OF BUSINESS.

Mr. WILSON. Mr. Speaker, I move to suspend the rules and put upon its passage a bill to provide for a public building and court-house in the city of Clarksburgh, West Virginia. I do not agree to the subsequent arrangement of the House to call up those bills in their regular order, thereby overriding the promise the Speaker made a month ago to recognize me to call up this bill for consideration.

This bill passed the Committee on Public Buildings and Grounds unanimously. I am sure there is not a more meritorious case pending before the House upon its Calendars. Nowhere is a public building more needed. The amount of money asked for is small and the revenue paid to the Government at that point is very great. I feel sure it will meet the unanimous indorsement of gentlemen upon the floor if I can get an opportunity to bring it before the House. I hope there will be no objection at this time to its consideration.

The SPEAKER. The Chair obeys the order of the House on the subject of considering public buildings.

Several members objected.

Mr. WISE. Inasmuch as they failed to agree upon a postal bill, I hope now they will consider Senate bill No. 148, granting a pension to a very worthy and meritorious man.

Mr. ATKINS. I ask that the resolution just received from the Senate be taken from the Speaker's table.

Mr. McKENZIE. I do not know why I cannot receive a recognition.

The SPEAKER. The Chair will hear what the gentleman from Kentucky has to say.

Mr. McKENZIE. I wish to say I have given my attention since I have been a member of Congress to the preparation of reports favoring the construction of public buildings in other parts of the country, and I think in common fairness this House should permit me now to call up a bill for the construction of a public building in my own district.

Mr. ALDRICH, of Rhode Island. It was understood that the next recognition should be on this side of the House.

Mr. McKENZIE. If I am recognized for that purpose I move to suspend the rules and pass the bill I have indicated.

Mr. SPARKS. I do not think that the other side of the House will be satisfied to have all these propositions entertained from this side without a recognition being given to them.

The SPEAKER. The gentlemen on the left side have notified the Chair that they desire to be recognized in alternation.

Mr. SPRINGER. Would it be in order to bring up the Peoria bill next?

Mr. SPARKS. The proper way is to alternate.

NOTIFICATION TO THE PRESIDENT.

The SPEAKER. The Chair will cause to be read the resolution of the Senate called up by the gentleman from Tennessee.

The Clerk read as follows:

IN THE SENATE OF THE UNITED STATES,
June 16, 1880.

Resolved, That a committee of two members be appointed, to join such committee as may be appointed by the House of Representatives, to wait upon the President of the United States and inform him that, unless he may have some further communication to make, the two Houses of Congress, having finished the business before them, are ready to adjourn.

Ordered, That Mr. WHYTE and Mr. ANTHONY be said committee.

Mr. ATKINS. I offer the following resolution:

Resolved, That a committee of three members of the House be appointed, to join a similar committee on the part of the Senate, to wait upon the President of the United States and inform him that the two Houses of Congress are ready to adjourn, if he has no further communication to make to them.

The resolution was adopted.

The SPEAKER announced the appointment of Mr. ATKINS, Mr. RYON of Pennsylvania, and Mr. KEIFER as the committee under the resolution just adopted.

ORDER OF BUSINESS.

The SPEAKER. The Chair desires to make a statement to the House. The real difficulty about these bills relating to public buildings is that the gentlemen on the left state that they have not been recognized. The reason why they have not been recognized is that bills in which they are interested are not on the Calendar in the order in which the Chair is authorized under the vote of the House to give recognition. The Chair thinks that if some adjustment could be made

between the two sides as to the order of recognition there would be no difficulty in passing several of these bills for public buildings.

Mr. WARNER. I rise to a question of order. Is it in order now to move to proceed to business on the Speaker's table?

Mr. McKENZIE. I desire to say to gentlemen on the other side of the House that whenever a gentleman on that side has appealed to me as a member of the Committee on Public Buildings and Grounds I have made a report in favor of the building in which he was interested.

Mr. BREWER. I move that the House take a recess for fifteen minutes.

ENROLLED BILL SIGNED.

Mr. COFFROTH, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 3151) for the relief of Francis W. Maxwell.

ORDER OF BUSINESS.

The SPEAKER. If the Chair is compelled to proceed in the order in which the bills for public buildings stand on the Calendar, he must recognize the gentleman from Virginia, [Mr. TUCKER.]

Mr. BREWER. Does not the Chair entertain my motion that the House take a recess for fifteen minutes?

Mr. JOYCE. I desire to make a proposition to the House. I propose that the Speaker shall recognize the gentleman from Kentucky [Mr. McKENZIE] for a motion to suspend the rules and pass his bill; that he then recognize the gentleman from Illinois [Mr. FORT] for a motion to suspend the rules and pass his bill; and that the Speaker shall then allow me to make my motion.

The SPEAKER. The question is on the motion of the gentleman from Michigan, [Mr. BREWER,] that the House take a recess for fifteen minutes.

The question being put, the Speaker stated that in the opinion of the Chair the "noes" had it.

Mr. BREWER and Mr. WHITE called for a division.

Mr. FORT. That is merely wasting time.

The House divided; and there were—ayes 44, noes 91.

Mr. BREWER. No quorum!

The SPEAKER. The Chair has no volition and will order tellers. He appoints the gentleman from Michigan, Mr. BREWER, and the gentleman from Virginia, Mr. TUCKER, to act as tellers.

Mr. McKENZIE. I desire to make a proposition to the House. There having being two recognitions on this side for bills relating to the construction of public buildings, I suggest that there be now two recognitions on the other side of the House.

Mr. VAN VOORHIS. I submit that I have a right to be recognized for one. The State of New York, which I have the honor to represent in part, pays nearly one-half of the cost of every public building in any State, and she has a right to be recognized for one building now.

Mr. WILSON. I desire to take from the Speaker's table a bill relating to the public advertising for the District of Columbia. It ought to be acted on immediately.

Mr. HUTCHINS. That bill ought to be passed. I think there will be no objection to it.

The SPEAKER. The Chair desires to recognize the gentleman but the House is now dividing and nothing else is in order.

The tellers reported—ayes 17, noes 83.

Mr. BREWER. No quorum!

The SPEAKER. Gentlemen are requested to vote so as to make a quorum.

Mr. TOWNSHEND, of Illinois. Pending this, will it be in order to ask unanimous consent——

The SPEAKER. It is not; the House is dividing.

The count was resumed; and the tellers reported—ayes 17, noes 101.

Mr. BREWER. No quorum! I move that there be a call of the House.

Mr. STEVENSON. I suggest that that motion be withdrawn and that the Chair recognize the gentleman representing the Peoria district in regard to the Peoria bill.

Objection was made.

Mr. STEVENSON. This side has been twice recognized and the other side should now be recognized.

Mr. COX. It is too late to pass any bill now.

BILLS AND JOINT RESOLUTIONS APPROVED.

A message from the President of the United States, by Mr. PRUDEN, one of his secretaries, announced that the President had approved and signed bills and joint resolutions of the following titles:

An act (H. R. No. 393) authorizing the Treasurer of the United States to refund to W. B. Farrar, of Whitfield County, Georgia, illegal taxes collected from him in the year 1877;

An act (H. R. No. 559) to constitute the city of Portsmouth, in the State of Ohio, a port of delivery;

An act (H. R. No. 591) for the relief of Eliza K. Ashby;

An act (H. R. No. 698) to establish a district and circuit court at Chattanooga, Tennessee, and to add the county of Grundy to the eastern district of Tennessee;

An act (H. R. No. 710) to refund to Jackson Grubb, or his legal representatives, internal-revenue tax wrongfully collected;

An act (H. R. No. 751) granting a pension to Harvey Buck;

An act (H. R. No. 753) granting a pension to Thomas J. Jackson;

An act (H. R. No. 776) refunding to the University of Notre Dame du Lac, of Saint Joseph County, in the State of Indiana, the sum of $2,334.07, that being the amount paid on certain imported articles, &c.;

An act (H. R. No. 952) for the relief of the Fifteenth and Sixteenth Missouri Cavalry Volunteers;

An act (H. R. No. 989) for the relief of John H. Standish;

An act (H. R. No. 1023) making an appropriation for the erection of a naval wharf at Key West, in the State of Florida;

An act (H. R. No. 1076) for the relief of Amanda M. Cook;

An act (H. R. No. 1128) for the relief of James N. Ruby;

An act (H. R. No. 1291) creating the Yakima land district in Washington Territory;

An act (H. R. No. 1305) abolishing the military reservations of Fort Abercrombie, Fort Seward, and Fort Ransom, all in the Territory of Dakota, and authorizing the Secretary of the Interior to have the lands embraced therein surveyed and made subject to homestead and pre-emption entry and sale the same as other public lands;

An act (H. R. No. 1846) relating to the public lands of the United States;

An act (H. R. No. 2208) to change the name of the schooner J. H. Dusenberry.

An act (H. R. No. 2270) to pay for expert services relating to the metric system rendered the Forty-fifth Congress.

An act (H. R. No. 2328) to provide for the settlement of all outstanding claims against the District of Columbia, and conferring jurisdiction on the Court of Claims to hear the same.

An act (H. R. No. 2359) for the relief of William D. Oyler;

An act (H. R. No. 2407) granting a pension to Belinda Curtis;

An act (H. R. No. 2508) to regulate the compensation of night inspectors of customs;

An act (H. R. No. 2528) to change the name of the steam-yacht Kate Sutton, of Buffalo, to that of Loraine, of Oak Orchard.

An act (H. R. No. 2567) for the relief of E. K. Snead, deceased, and his sureties, for the loss of certain books of special stamps and coupons;

An act (H. R. No. 2569) to remove the political disabilities of William Sharp, of Virginia;

An act (H. R. No. 2603) to place upon the pension-roll the name of Masach Finn;

An act (H. R. No. 2793) for the relief of Rachael Martin;

An act (H. R. No. 2799) to remove the political disabilities of Abner Smead, of Oregon;

An act (H. R. No. 2800) to remove the political disabilities of John M. Brooke, of Virginia;

An act (H. R. No. 2801) to remove the political disabilities of Walter R. Butt, of California;

An act (H. R. No. 3109) to remove disabilities of I. Wilkinson;

An act (H. R. No. 3171) for the relief of certain settlers on the public lands, and to provide for the repayment of certain fees, purchase-money, and commissions paid on void entries of public lands;

An act (H. R. No. 3274) to change the name of the steam-yacht E. R. Bryant, of Rochester, to Summerland;

An act (H. R. No. 3275) to change the name of the sloop-yacht Mariah, of Rochester, New York, to that of Tourist;

An act (H. R. No. 3291) for allowance of certain claims reported by the accounting officers of the United States Treasury Department;

An act (H. R. No. 3328) to remove the political disabilities of John Owins, of Portsmouth, Virginia;

An act (H. R. No. 3544) granting a pension to John Fisher, guardian of the infant heirs of William Dakin, deceased;

An act (H. R. No. 3656) for the relief of John Hohstadt;

An act (H. R. No. 3708) to grant the State of Nevada lands in lieu of the sixteenth and thirty-sixth sections, in said State;

An act (H. R. No. 3794) authorizing the City National Bank of Manchester, New Hampshire, to change its name;

An act (H. R. No. 3832) to remove the political disabilities of Joseph A. Seawell of Virginia;

An act (H. R. No. 3980) authorizing the Secretary of the Interior to place upon the pension-roll the name of Della Benner, widow of the late Lieutenant Hiram H. Benner, of Company C, Eighteenth Infantry;

An act (H. R. No. 3988) to remove the political disabilities of Charles Carroll Simms, of Virginia;

An act (H. R. No. 3990) to remove the political disabilities of John S. Maury;

An act (H. R. No. 4244) for the establishment of titles in Hot Springs, and for other purposes;

An act (H. R. No. 4268) in relation to the mileage of jurors and witnesses in the State of Colorado;

An act (H. R. No. 4435) making appropriations for the payment of claims reported allowed by the commissioners of claims under the act of Congress of March 3, 1871, and acts amendatory thereof;

An act (H. R. No. 4606) authorizing the President of the United States to nominate Drs. Thomas Owens and William Martin assistant surgeons, United States Navy;

An act (H. R. No. 4753) to correct the military record of Byron Rosecrans;

An act (H. R. No. 4842) to reinstate R. W. Barkley as cadet-midshipman in the United States Naval Academy at Annapolis;

An act (H. R. No. 4907) to confirm to John Hepting and others title to certain lands;

An act (H. R. No. 4908) for the relief of the heirs and legal representatives of Israel Dodge, deceased;

An act (H. R. No. 4911) to amend the statutes in relation to immediate transportation of dutiable goods, and for other purposes;

An act (H. R. No. 5153) to change the name of the steamboat L. Boardman to River Belle;

An act (H. R. No. 5304) authorizing the changing the name of the sloop-yacht America;

An act (H. R. No. 5502) granting to the Territory of Dakota section 36, in township No. 56 north, of range No. 94 west, in the county of Yankton, in said Territory, for the purposes of an asylum for the insane, and granting to said Territory one section of land, in lieu of said thirty-sixth section, for school purposes;

An act (H. R. No. 5628) relating to machinists in the Navy;

An act (H. R. No. 6018) for the relief of Benjamin Babb and others;

An act (H. R. No. 6036) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1881, and for other purposes;

An act (H. R. No. 6109) to amend the sixth subdivision of section 3244 of the Revised Statutes of the United States;

An act (H. R. No. 6112) to carry into effect the second and sixteenth articles of the treaty between the United States and the Great and Little Osage Indians, proclaimed January 21, 1867;

An act (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes;

An act (H. R. No. 6207) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1881, and for other purposes;

An act (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes;

An act (H. R. No. 6266) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes;

An act (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and for prior years, and for those certified as due by the accounting officers of the Treasury in accordance with section 4 of the act of June 14, 1878, heretofore paid from permanent appropriations, and for other purposes;

An act (H. R. No. 6380) for the relief of the estate and sureties of John P. Hall, deceased;

An act (H. R. No. 6447) to change the name of yacht Niantic to that of Hildegarde;

An act (H. R. No. 6471) to amend an act entitled "An act to create the northern judicial district of the State of Texas, and to change the eastern and western judicial districts of said State, and to fix the time and places of holding courts in said districts," approved February 24, 1879;

An act (H. R. No. 6472) to amend an act entitled "An act to amend the statutes in relation to immediate transportation of dutiable goods, and for other purposes;"

An act (H. R. No. 6492) to constitute a joint commission for carrying into effect the convention between the United States and the French Republic, for the settlement of certain claims of the citizens of either country against the other, signed at Washington on the 15th day of January, 1880;

A joint resolution (H. R. No. 123) authorizing the Secretary of the Interior to certify school lands to the State of Kansas;

A joint resolution (H. R. No. 153) authorizing the remission or refunding of duty on a stained-glass window from Munich, Germany, for All Saints church, in Saint Michael's parish, Talbot County, Maryland;

A joint resolution (H. R. No. 255) for the relief of Robert L. Martin;

A joint resolution (H. R. No. 293) providing for the printing of the reports of the Commissioner of Education for the years 1878 and 1879;

A joint resolution (H. R. No. 309) authorizing the Secretary of War to lend to the Gate City Guard, a military company of Atlanta, Georgia, four hundred Government tents, under certain circumstances;

A joint resolution (H. R. No. 316) granting the use of artillery, muskets, and tents at the soldiers' reunion at Decatur, Illinois;

A joint resolution (H. R. No. 322) for the relief of certain persons in respect of duties demanded of them upon the import of certain articles named therein;

A joint resolution (H. R. No. 327) to authorize the Secretary of the Navy to loan flags and bunting to the city of Boston; and

A joint resolution (H. R. No. 328) in relation to committee clerks, pages, and other employés of the Senate and House of Representatives.

REPORT OF COMMITTEE TO WAIT ON PRESIDENT.

Mr. ATKINS. The committee appointed on the part of the House to join a similar committee on the part of the Senate to wait upon the President and inform him that the two Houses are ready to adjourn have performed that duty, and conveyed to him the expression of the two Houses of a desire to know if he had any further communication to make to them during the present session. It is my duty to report to the House that the President informed us that he had no further communication to make to Congress at this session.

ORDER OF BUSINESS.

The SPEAKER. No quorum having voted on the motion for a recess, the gentleman from Michigan [Mr. BREWER] moves a call of the House.

Mr. WILSON. There is a bill on the Speaker's table in relation to the public advertising. I ask that that matter be taken up at this time. There is a disagreement on the part of the Senate to the amendments of the House, and the matter can be disposed of in a few moments.

Mr. TUCKER. I desire to say that on the suggestion of the Speaker that there should be an alternation between the two sides of the House of recognitions for the purpose of calling up bills in regard to public buildings, I stated that I was perfectly willing for that course to be followed. If, therefore, the Chair will now recognize the gentleman who has charge of the Peoria bill [Mr. FORT] and then recognize me I would be satisfied.

Mr. SCALES. I object to any arrangement of that sort.

Mr. SINGLETON, of Illinois. The House has instructed the Chair and the Chair has announced that instruction. I will not yield either to Peoria or to Virginia.

Mr. EVINS. I ask consent to take up the centennial celebration bill

Mr. SINGLETON, of Illinois. I object, and call for the regular order.

The SPEAKER. The regular order is the motion that there be a call of the House.

Mr. SINGLETON, of Illinois. I make the point of order that no quorum appearing, a call of the House follows as a matter of course.

The SPEAKER. It requires fifteen members to order a call of the House. The Constitution declares that a smaller number than a quorum may compel the attendance of absent members, and the rule of the House declares that in the absence of a quorum fifteen members, with the Speaker, may direct a call of the House.

The question was taken upon ordering a call of the House; and there being more than fifteen in the affirmative, it was ordered.

The Clerk proceeded to call the roll, but before concluding,

FINAL ADJOURNMENT.

The SPEAKER said: The hour fixed by the concurrent resolution for the final adjournment of the two Houses has arrived. And now, with an expression of good-will toward every Member and Delegate on this floor, and with a hope for their safe return to their homes, I declare the House of Representatives, in its second session of the Forty-sixth Congress, adjourned without day.

PETITIONS.

The following petitions were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. CONGER: The petition of H. N. Hammond and 50 others, citizens of East China, Michigan, for relief from damages caused by the wearing away of the banks of the Saint Clair River—to the Committee on Commerce.

By Mr. COOK: The petition of citizens of Georgia, for a post-route from House Creek to Wolf Creek, Wilcox County, Georgia—to the Committee on the Post-Office and Post-Roads.

By Mr. HAWLEY: The petition of John P. Hurley, for the passage of the bill known as the District claim bill—to the Committee on the District of Columbia.

By Mr. KETCHAM: The petition of Edward Merrett and 34 others, citizens of Poughkeepsie, New York, for the passage of a law granting land titles to Indians in severalty on their reservations—to the Committee on Indian Affairs.

By Mr. KNOTT: The petition of Harriet Ann Walker, of Washington County, Kentucky, for bounty, &c., due her as the widow of Pius D. Walker, deceased, late of Company C, Fifth United States Colored Cavalry—to the Committee on the Judiciary.

By Mr. MILLS: The petition of citizens of Texas, supervisors of the census in that State, for increased pay—to the Committee on the Census.

By Mr. THOMAS UPDEGRAFF: The petition of Asahel Chapin, for the passage of an act for the relief of certain settlers on public lands—to the Committee on the Public Lands.

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APPENDIX.

APPENDIX

TO THE

CONGRESSIONAL RECORD.

Armament of Fortifications.

SPEECH OF HON. S. S. COX,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Friday, December 12, 1879,

On the bill (H. R. No. 2787) making appropriations for fortifications and other works of defense, and for the armament thereof, for the fiscal year ending June 30, 1881.

Mr. COX. Mr. Chairman, this is an age of mechanical forces. The nation which is laggard in their application will lack in maintaining its interests and honor. The nation which is not provident by its legislation in the use of recent inventions is in constant peril. Even powers weaker, in many respects, with the improved armament of our time become superior to those who are greater in other resources. It will not do to rely on Divine Providence altogether for our future defenses. Ericssons, with their monitors, are not to be improvised every day against the surprises of Merrimacs. The engineer may contrive, mechanical processes take time; but the nation that has both is the victor. The needle-gun gave Germany its triumph over France; the American rifle, in Turkish hands, held Russia back at Plevna. Whitworth, Whitehead, Krupp, and Armstrong, with the great establishments for making ordnance on the continent and in Great Britain under their auspices and direction, are the real heroes of the future. They are organizing victories at their desks. Even Peru and Chili fight with weapons forged in Europe.

How much, sir, depends on the evolving of certain gases in chambers of iron; how much of destiny to nations! The problem of the invulnerable, represented by "Thunderers" and "Inflexibles," and solved by the penetrable, under certain chemical, explosive forces, is the problem of national greatness. *Maxima e minimens suspendis.*

If gentlemen would know the great controlling element in our own civil war, they will find it in General Meigs's quartermaster's report of the amounts expended in mechanical forces. The superior enginery and invention of the North gave victory on many a hard-fought field to the North, despite the most conspicuous chivalry and self-sacrificing personal bravery of the South.

I make these remarks *in limine*, so as to illustrate the necessity of providing for our defense against the day of trouble and against those nations who have already superior means of warfare.

From chance remarks about my seat, I fear that the defenselessness of our coasts is not appreciated. Here is a picture of a possible peril taken from the Army and Navy Journal:

In New York Harbor stands a fort whose largest artillery has a range of four and a half miles and throws a missile weighing four hundred and fifty pounds; a few feet beyond the four and a half miles is a European iron-clad, which, unreached by the missiles of the fort, throws from its forward guns, which have a range of nine miles, twenty-five-hundred-pound shells into the heart of New York, while with its after guns it sinks a few little American iron-clads, penetrating their armor with ease.

Let this picture stand for every other exposed city on our coast. It shows at a glance what the situation may be in case of foreign complications and war. As a member from the city of New York, is it not my duty to call the attention of Congress to its peculiar exposed condition? The monster guns and gun machinery of other nations turned out on the Mersey, Clyde, and Tyne, and the heavy steel armor of the ships, even of such second-class powers as Brazil, Italy, and Spain, warn us to be provident, vigilant, and progressive if we would protect our seaports and cities and vindicate our national position.

When it is considered that the city of New York for the past five years has paid over two-thirds of the Federal revenues; that three-fifths of the foreign exports leave the port of New-York; that for the past quarter of a century she has received three-fifths of the merchandise imported into the United States, and that during that period one-half of our domestic exports have left that port; and when the immense aggregate of hundreds of millions of these interests are considered, a Representative of that city would be faithless if he did not present the startling facts connected with the unguarded condition of such immense interests thus concentrated in New York City.

I do not, Mr. Chairman, criticise the sum reported by the Appropriations Committee for the armament of sea-coast fortifications. It might have been increased, especially in view of the need of improved rifled cannon, which other nations already have.

Gentlemen have asked for information as to the conversion of smooth-bore guns into rifles. Some doubts were thrown over the feasibility and utility of such "conversion." Allow me, if not for the present yet for a future occasion, to insert here a statement which will remove these doubts:

The Ordnance Bureau has very judiciously applied the meager appropriations which have been annually made by Congress for the last few years for the construction of heavy ordnance ("cutting the coat according to the cloth") to "converting" a few of the cast-iron smooth-bore guns now useless and otherwise valueless except as old material, of which the Government has many hundreds on hand, into rifled cannon of somewhat reduced caliber by boring them out to receive an interior barrel constructed of wrought-iron bars coiled into a spire and then solidly welded together by a peculiar process into a compact mass, for the manufacture of which one of the existing gun factories has, fortunately, the requisite machinery and experienced workmen.

The barrels or tubes are inserted into the old cast-iron casings and secured in place by a ring or collar screwed on to the muzzle of the piece, on a system adopted by the Ordnance Department after a course of preliminary experiments made at the recommendation of a commission of its officers which was sent to Europe in 1873 to examine the different systems of rifled ordnance adopted by Great Britain, Prussia, France, and other countries, and select such as they should consider preferable, or at least most suitable, for use in our country in respect to efficiency, and, pre-eminently, economy.

In the manner described have been converted, since 1874, some one hundred and fifty of the one thousand or more of the cast-iron guns (market value one cent per pound) of ten inches diameter of bore, belonging to the War Department, into rifled cannon of eight inches diameter of bore, and some fifty of the eleven inches bored guns of the Navy Department into similar eight-inch rifles.

It may be mentioned in passing that these fifty guns are the only pieces possessed by the Navy Department of modern construction, except a dozen breech-loading rifles of about six and one-half-inch caliber, which have been made by "converting" one-hundred-pounder "Parrott" muzzle-loading rifled guns, the most serviceable of their day in use anywhere, but not calculated to sustain the heavy battering charges now necessary for service against heavily armored vessels. Being reinforced by insertion of an interior steel barrel from the rear, and supplied with breech-loading mechanism, they become again very serviceable and effective pieces of their caliber, equal to the requirements of present service.

The cost of conversion of the ten or eleven-inch guns into eight-inch rifles is about thirteen cents per pound of the finished weight of the piece, and adding one cent per pound for value of the useless smooth-bore gun converted we have, at the cost of fourteen cents per pound, a good serviceable rifle of about eight tons weight, throwing projectiles of from one hundred and fifty to two hundred pounds, fairly comparable as to range and effective force with the best guns of similar class of the systems of Krupp, Woolwich, or Armstrong, and far below any of them in cost. Their missiles are capable of perforating the armor of most of the iron-clad war-ships of Europe at a distance of two thousand yards, but of course they could not successfully contend against the mammoth cannon of thirty-five, fifty, seventy-five, and one hundred tons weight, mounted upon some of those great floating batteries.

I trust that this statement will remove any uncertainty or doubt as to the utility of this process of "conversions."

There are other facts and suggestions referring to the armament of our fortifications which concern New York City which should be understood by the House, if not for present action, then for future consideration.

The Chief of Ordnance of the United States has again called the attention of Congress to the defenseless condition of the country. He has for many years, in his annual report, furnished to the Secretary of War and through him to Congress important facts touching the coast defenses.

In 1873, President Grant in his annual message referred particularly to the needs of the Ordnance Department, and in January, 1875, he sent a special message to Congress urging that body to furnish the needed legislation. No notice was taken of this appeal.

Upon Congress now rests the responsibility, and it is one of no ordinary import, looking to possibilities near or remote.

The Chief of Ordnance this year asks for less than a million of dollars, to be used for the conversion of old, and for making new guns of suitable force for coast and harbor defense. (See his report for 1877, 1878, 1879, and for previous years.) The bill before us gives less than one-fifth of this sum, and therewith out of economic reasons we must be content.

At present the country is at the mercy of even the most unimportant maritime nations in the world.

It takes nearly two years to complete and test a gun of large dimensions. The first and last and only large rifled cannon ever cast in this country was delivered to the Government in January, 1878. It took just eighteen months to finish this gun. Krupp requires two years or more to make a large gun. Up to 1866 most of the improvements in ordnance originated in this country. The same is true of projectiles, powder, and gun metals.

It appears from official reports that we have on hand three hundred 15-inch smooth-bore cannon. When these were made they were the largest in the world, and up to 1866 the most powerful. They are comparatively useless now, except for conversion into 11-inch rifles, which are very effective guns.

Every city, large and small, situated on our sea-coast from Maine to California is directly interested in this question of coast defense. Under no conceivable circumstances could we arm our coast fortifications effectively in a less time than three or four years, even if all the available gun-making machinery in this country and all the money in the Treasury were to be placed at the disposal of the ordnance officers.

England is already bountifully supplied with modern ships and guns. She appropriates every year nearly $10,000,000 for new guns and equipments for them.

Krupp, in Germany, employs in his works about fourteen thousand men, and Sir William Armstrong, in England, about half that number. Our works, General Benét says, are and have been practically idle for nearly ten years.

China is keeping up with the times, and is sending agents abroad to look up improvements. For some time she has been giving orders for war material of modern description.

All the gun factories in France are at work, and some of the most skillful American workmen and successful inventors, having nothing to do at home, are employed by them.

The Italian government has the largest and most powerful guns in the world to-day, and a few of the most formidable iron-clad ships afloat. Several guns, each of one hundred tons weight, were made at the works of Sir William Armstrong. The guns of the iron-clad Italian ship Duilio will pierce twenty-two inches of solid iron at a distance of two thousand yards. By this armament Italy becomes at one bound worthy of the rank, prowess, and renown of ancient Rome along the blue sea.

The British iron-clad Inflexible carries guns that will do the same work as the Duilio's. The Inflexible carries four of eighty tons weight each, throwing a projectile weighing nearly a ton.

If complications, at any time possible, should arise between the United States and any foreign naval power, great or small, what could we do except to submit if we were unable to resist an attack on the sea-coast or the sea?

Torpedoes are useful for defense, and I am glad to see that the committee have appropriated something for the possible conflicts under water; but torpedoes, to be useful, must be protected by guns. For assault they are useless. Whether or not they would, if operated on a large scale, prove a safe and reliable instrument of warfare within the limit claimed for them, is not yet a settled question. Who that is intelligent doubts that the method of destroying torpedoes is perfectly understood by naval and engineer officers of all nations? (See page 5, report of United States Engineers for 1879.)

River and harbor improvements are regarded as expedient and important, but if our coast and the entrance to our great rivers and harbors are not protected, internal improvements will not amount to much.

The maximum of iron plating for ships having been reached, and the guns that will pierce the heaviest armor that a ship will float having been made and proved to be sufficient, what is to be gained by waiting, at great risk, to see if other improvements are to be introduced, when we are sure that we are already very far behind all foreign naval powers in respect to both ships and guns? I am thinking only of defensive war now. Preparations for offensive war need not of necessity be hurriedly made.

The Spanish navy is much superior to ours in the number of vessels and their grade. It is made up of one hundred and forty-eight vessels of all classes, and eight hundred and nine guns, mostly rifles and heavy Rodman smooth-bores. Six of these ships are first-class iron-clad frigates, and seven others are of the second class of armored ships.

In our own navy, according to the report of the Secretary, we have eighty-one ships of all classes; and to this number is to be added four monitors and eight tugs, which can be fitted for cruisers or torpedo-boats, making a total of ninety-three vessels that could in time be fitted for service.

We have not a sea-going iron-clad in our Navy. Monitors cannot remain at sea, even if they could be kept afloat in all weather; they cannot carry a supply of fuel for more than a few days and do not carry sail. Their turret ports are so near the water that in rough weather they could not be opened; and, more than all, an 8-inch rifle at sixty yards can riddle their turret plating in half an hour.

The piercing power of an 8-inch rifle is, theoretically, nine and eight-tenths inches at five hundred yards and nine and five-tenths at one thousand yards. A target of 11-inch laminated plates is equal in resistance to six inches of solid iron platings. Our monitors are covered with eleven inches of plates, each of one inch thickness, laid one over another, and at short range could not resist the 8-inch rifle of the Spanish navy, or any other, and would be destroyed by a gun of larger caliber at long range.

The cost of a steel gun is about double that of a cast-iron gun of equal dimensions, and, in the opinion of experts, the steel has not proved as good as the iron gun.

Krupp's steel guns have broken in several instances. Some years since a 10-inch cast-iron smooth-bore was tested to the utmost of its strength. It was loaded with an extra charge of powder and double shotted, and in various ways severely tried, and not until the tenth round, when the gun was filled nearly to the muzzle with powder, shot, and shell, was it broken. Of course such a test, in the legitimate use of any gun, would not be made.

Our one large rifle, (12½-inch,) now at Sandy Hook, cost about $28,000. This gun has proved the equal, if not the superior, of any gun of foreign manufacture of equal caliber. It throws a shot weighing from six hundred to seven hundred pounds. (See report of Chief of Ordnance for 1878, in which, for results, the American gun is pronounced "decidedly" superior to the Krupp and Italian guns, which use heavier charges than are required for ours to do the same work that they do.)

Herr Krupp, in response to a proposal from our officers to give a price for a 12-inch rifle, offered to manufacture and place on board ship for transportation a 12-inch rifle for the sum of $50,000 in gold, the conditions being that the gun should be tested under his own supervision. This is nearly double the cost of an American cast-iron gun of superior capacity and, as experience proves, equally safe and effective.

But it is doubtful if a steel gun can be made in this country. We lack the necessary machinery to do the work even if suitable metal were at hand. Nor is it in any respect important or desirable to substitute steel for iron in the fabrication of heavy ordnance even if the cost of material were the same in one case as in the other. Expert officers have demonstrated this fact over and over again, and no better authority than this can be found or is needed.

Whether guns should be made of steel or iron is a question for the responsible officers of the Government to determine and not one for interested parties outside to deal with. Upon such a subject one who is not an expert should defer to those who have given the best study of their lives to the technics belonging to this subject.

Because we have escaped the penalties of our indifference so many years is no guarantee of such good fortune in the future. The property-owners of New York, Boston, Philadelphia, and Baltimore, and the coast cities generally, north and south, will hold somebody responsible for this perilous condition when the situation is thoroughly understood.

Economy based upon the idea that we can afford to postpone the work of suitably equipping our fortifications until a crisis arises, may prove a delusion, and of course will, if we postpone action long enough.

If a foreign power desires to bring on a war with us, for any purpose whatever, the fact that we are helpless and unprepared will stimulate the motive to hunt for a pretext.

A government based upon the will of fifty millions of people, rich, prosperous, and abounding in resources, without the common means of defense of its honor and interests, presents a sorry spectacle to the world.

Of course, Mr. Chairman, a member of this House of my economic notions, yesterday expressed, both as to domestic frugality and foreign trade—loving and believing in the persuasive influences of free intercourse and reciprocal advantages—would naturally be disinclined to vote inordinate outlays for harbor defenses. He would prefer the cheap defense of fair customs duties and enlarged liberalities; but the millenium which ushers in his idealities has not yet begun to dawn, and he must consider contingencies of ominous aspect.

Am I told that there is no danger of a breaking out of hostilities with other countries, and therefore no need of making appropriations for the armament of our forts? The time has not yet come for the lion and the lamb to lie down together; the plowshare and pruning-hook are liable at any time to be converted into the bayonet and sword. The history of recent wars in Europe, Asia, and Africa is a lesson of warning to us. Our increasing trade and growing relations with other countries admonish us to be ready at least for defense, if not for aggression.

Think of our critical relations with Spain. How often in late years have we been on the verge of conflict with Spain! Her present commercial relations with us are a perpetual menace. Her tariff so discriminates against this country that it is almost robbery. When we consider our exports and imports to Cuba alone, the discrimination against us is so marked an evidence of selfishness and enmity that it is almost a *casus belli*. For five years, from 1872 to 1876, we bought of Cuba on an average each year goods to the value of $71,364,327, while we sold but $15,466,139. This leaves the enormous balance against us of $55,898,188. During these years we purchased of Cuba to the amount of $356,821,638, while Cuba only bought in all $77,330,690, leaving a trade balance against us of $279,490,940. During the past twenty years Cuban exports to the United States have increased at least 100 per cent. over our exports to Cuba, which have remained stationary. We have been Spain's best customer, especially in sugars. Yet how shabbily and meanly are we treated

by her. The Spanish tariff favors her own vessels to such an extent as to deny to us advantages given other countries. Here is a statement of this rank injustice:

A barrel of flour of Spanish production imported in a Spanish vessel would pay a duty of $2.25.

The same flour imported in a foreign vessel would pay $4.50.

A barrel of flour of foreign production imported in a Spanish vessel from any country except the United States would pay $4.69½.

The same flour imported in a foreign vessel would pay $5.51.

The discrimination against the United States can be realized when it is understood that a barrel of flour imported thence direct, either in a Spanish or foreign vessel, would have to pay the last-named duty, while if it were sent to Canada and shipped from there it would be subject only to the third class, or $4.69½, if shipped under the Spanish flag. Or, in other words, flour shipped direct from the United States, even in a Spanish vessel, would pay 40 per cent. more than Canadian flour, or the same flour shipped by way of Canada, in a similar vessel.

Do you say that this kind of tariff will be ameliorated? Never while we are at the mercy of Spain's eight hundred rifled guns, her six first-class iron-clads, and her armored ships; never, while the city of New York can be placed under these guns and exactions made by the hundred millions.

Is it not, therefore, wise and prudent to prepare, even by so small an appropriation, for the armament of our fortifications, that we may back our negotiations by proper force, and make our country respected for its position as a power on the earth?

Committee on Levees and Improvements of the Mississippi River.

SPEECH OF HON. J. FLOYD KING,

OF LOUISIANA,

IN THE HOUSE OF REPRESENTATIVES,

Wednesday, January 21, 1880.

The House being in Committee of the Whole, and having under consideration the report of the Committee on Rules—

Mr. KING said:

Mr. CHAIRMAN: It is impossible to be otherwise than impressed with the importance of a Committee on the Improvements of the Mississippi River. The simple fact of the creation of such a committee by a previous Congress, did no other fact exist in that relation, would alone call attention to the importance of such a committee.

Our shores extend for thousands of miles on the Atlantic and Pacific, along the lakes and upon the Gulf coast, and we are told that on the Mississippi River and its tributaries there are sixteen thousand miles of navigable streams. The problems to be solved by the engineers who have endeavored to benefit commerce on the former are widely different from those involved in the questions of the navigation of the latter, whose water system has been termed by many an enigma. The celebrated Prentiss once said of the Mississippi River that it was created on Saturday evening, and was told to take care of itself.

That river is a viaduct, you may say a great canal dug by nature to carry off the material products of the great valley it traverses. Bounded on the east by the Alleghany Mountains, on the west by the Rocky Mountains, on the north by the lakes, and on the south by the Gulf of Mexico, that valley produces three-fourths, at least, of the raw material transported on this continent. Its great system of rivers culminating in the Mississippi should naturally carry to the seacoast these products. The neglect, it may be said the utter disregard, by this Government of these great natural arteries of commerce has led to the construction of a system—I may use the expression—of artificial rivers of iron across this continent to bear to the ocean the product of that vast region. This has been done at an outlay by this Government of millions upon millions, in money and in public lands, sums far exceeding any estimate yet made for projected improvements upon the Mississippi or its tributaries.

But the problem to be solved is not simply that of navigation; it has also within it the protection of the numerous harbors and the prevention of destructive floods. In the reverse order this might be expressed as necessitating a compound system embracing levees to prevent destructive floods, the protection of banks for the preservation of the harbors and channels, and the deepening and clearing of the river by the removal of sand-bars and snags. The system is one connected throughout; none who look at the map would doubt it; and, sir, it is also a complex system, embracing all the most difficult features of hydraulic engineering: the giving of ease and safety to commerce, and the protection of a vast fertile and productive territory from overflows—a vast territory! Yes, the greater part of States from overflow. With its curving banks, its meandering currents, its ever-varying shores, this great natural canal has so far been to the engineer a paradox. This was the light evidently in which the previous Congress regarded this great subject; it deemed it wise to order a special committee to study the whole matter and evolve some plan from which satisfactory results might be obtained.

There sits to-day in Saint Louis a commission composed of renowned engineers, civil and military, who are discussing this problem. That commission is the work of this committee. Well, then, might it be said that this committee has already accomplished a great work. The eyes of the entire country are turned to that commission. In a few days it will report, and to whom would you have it report? I say it should report to the committee that created it. I take it, sir, that that was the motive which instigated the creation of that committee; that it was formed to study the Mississippi River and to have this Government to which it belongs take it in hand and make it behave itself.

The Committee on Commerce is an able committee, and I have no words of reproach for it. Its chairman is a distinguished statesman and known for his fidelity, his ability, and his industry. I will here say that I do not think my distinguished friend from Mississippi, [Mr. CHALMERS,] whom I do not now see in his seat, intended any reflection upon that committee. But we know, sir, that men can be overtasked, and we believe that that committee can be given more work than it can accomplish. Besides, sir, we in the Mississippi Valley believe in that valley. Whether our belief is correct or not, statistics alone can indicate; but we do believe that the Mississippi River has not had its due consideration at the hands of this Government. It ramifies a territory more extensive than any within the limits of this Union. It is, in fact, a great inland sea, with peculiarities of its own. By an examination of the public records it has been ascertained that since this Government was established some $200,000,000 have been spent upon the rivers and harbors within its dominions, and other vast sums; and yet but $30,000,000 have been spent in the Mississippi Valley. This great discrepancy is evidently so unjust to the Mississippi River that it must be rectified.

In the establishment of a committee under the name of the Levees and Improvements of the Mississippi River, if it accomplish but the fact alone of the centralizing and concentrating of public attention upon this subject, a work of great merit has been accomplished, and perhaps great ultimate safety to the prosperity and peace of this Union. I hope that this committee will not only be maintained in its full powers, but will have conferred on it the power to exercise the same supervision over all the tributaries forming a part of this great system. Should this not be done by this Congress, I feel that the day is not far distant when this Government will be made to experience the wisdom of such a course.

[Here the hammer fell.]

Enforcement of Revenue Laws in Georgia.

SPEECH OF HON. EMORY SPEER,

OF GEORGIA,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, February 10, 1880,

On the following resolution:

Resolved, That the Secretary of the Treasury be requested to lay before this House all evidence on file in the Internal Revenue Office, and all papers, reports, letters, and other documentary evidence from official sources going to show the true state of affairs touching the enforcement of the internal-revenue laws in Northeast Georgia, and tending to explain the necessity for raiding expeditions of armed men at the instance of the Internal Revenue Bureau, and which may give information to the House of Representatives on this subject.

Mr. SPEER. Mr. Speaker, I am glad that this resolution has received the unanimous recommendation of the distinguished committee to which it was referred. I trust that it will be adopted. I introduced the resolution to defend the people whom I have the honor to represent. Reports have been industriously circulated that the officers of the Government have been continuously resisted by lawless people in the mountainous section of my district; that they have been fired upon by bands of illicit distillers; that they have returned the fire, and driven off their assailants by the desperate valor of the officers and by the superior efficacy of their improved weapons. Sir, it would appear from these *ex parte* reports that they have been besieged; that lines of circumvallation and contravallation have been formed; that their enemies have subjected them to "regular approaches," and indeed to all the horrors of "the assault;" and that all or nearly all the conditions of literal warfare exist in what I protest with all sincerity is as peaceful, law-abiding, law-loving, and harmless population as there is upon the American continent.

Sir, so alarming is this alleged condition of affairs to the internal-revenue authorities that they have of late directed three columns of invasion upon this belligerent territory, and it has been traversed by three columns of attack, armed with all of the modern implements of war. The gallant officers of the Government found no head and front of offending. They dispersed no armed multitudes, and the only shot fired was accidentally fired by a careless deputy, who had the misfortune to shoot his comrade. The officer in command of this raid, it is stated by responsible parties, reports that the result of his vigorous

operations is the capture of two small copper stills, with the capacity of twelve gallons each, a capacity which could have been exhausted by the officers and men of the expedition in a day's travel. This excellent officer—he is a good man—also reports that he found the people law-abiding and disposed to assist the revenue authorities; that there was much less violation of the law than heretofore.

Sir, is not this an argument that there is but little necessity for these armed expeditions? Have gentlemen any idea what these raids cost the Government? Permit me to give a tabulated statement of a few of these excursions in Georgia, which I am informed is authentic and can be verified:

Raid from Atlanta, Gainesville, and Athens, made by deputy collectors during January, 1880, through the counties of Forsyth, Cherokee, Pickens, Gilmer, Fannin, Union, Towns, and White, in the State of Georgia, and cost of same.

From Atlanta:

Deputy Collectors J. C. Hendricks and E. M. Brown and twelve men, out twelve days at following expense:	
Cost of twelve men, twelve days, at $4 per day each, $48 each	$576 00
Cost of two deputy collectors, twelve days, at $125 per month, $50 each	100 00
From Athens:	
Deputy Collector George W. Ware and one man, out twelve days:	
Cost of one man, twelve days, at $4 per day	48 00
Cost of one deputy collector, twelve days, at $125 per month	50 00
From Gainesville:	
Deputy Collector W. T. B. Wilson and twelve men, out ten days:	
Cost of twelve men, ten days, at $4 per day each, $40 each	480 00
Cost of one deputy collector, ten days, at $125 per month	41 65
From Dahlonega:	
Deputy Collector S. W. Murray and eight men, out ten days:	
Cost of eight men, ten days, at $4 per day each, $40 each	320 00
Cost of one deputy collector, ten days, at $125 per month	41 65
Total amount of trip	1,657 30

Raid started from Atlanta and Gainesville and met at Long Swamp, in Pickens County.

RESULT OF RAID.

One distillery, (capacity one hundred and twenty gallons,) eighteen stands of beer, and six bushels of meal seized in Gilmer County.

One one-horse wagon and fifteen gallons of whisky seized in Pickens County.

Sir, this is a very expensive luxury to the Government. Besides, these companies of armed men, unaccustomed to the restraints of discipline, rapidly collected about a large city like Atlanta and sent on a raid throughout a secluded country where the people are unaccustomed to such displays of force, is not unlikely to terrify the citizens and indeed to provoke resistance in some quarters where resistance to the officers of the law would not have been contemplated. I ask any gentleman upon the floor of this House who represents a rural population to imagine the consternation and alarm which would be produced among his constituents if thirty or forty men, armed to the teeth, selected principally from the loafers and loungers of a large city, should make an incursion of this sort in their midst. Sir, the people of these United States have never relished an undue exhibition of armed strength on the part of the Government in time of peace, and such visitations are not more palatable to the people of the mountains of Georgia than to any other section of this free country. I desire to record my unqualified denial of the charge that has been so frequently made that the people are banded with those who violate the law, and that they give aid and comfort to those who seek to evade the collection of the internal revenue.

Sir, the charge is untrue in itself, and is likely to injure that entire section and to retard the development of perhaps the finest, most healthful, and most generally fruitful region of the entire South. The tide of emigration is just beginning to turn toward the salubrious climate, the vast mineral and metallic resources, the pure water, the inexhaustible water power, the vast primeval forests of Northern Georgia. Everywhere new industries are springing up. Gold mines are being successfully operated. New veins of rich ore are being discovered. Northern capital is finding investment there. Manufactories of the royal staple of the South are yielding large profits to those who have had the enterprise and the sagacity to seize the opportunity to spin the thread and weave the cloth in the favored spot where the raw material grows with luxuriant profusion at the very door of the factory.

Sir, it may well be doubted whether any section of this highly favored land, from the shores of the great lakes to where the spray of the Gulf is dashed upon the golden fruitage of the orange and the snowy blossoms of the magnolia, can boast of so many and such varied advantages as that magnificent territory whose people I have the honor to represent. Sir, malarial diseases are there unknown. This Piedmont region is the refuge of those who dwell in malarial sections, where the summer's heat engenders the maladies of semi-tropical climates.

Sir, in natural scenery, to the lovers of the beautiful, the picturesque, and the grand, the mountains of Georgia afford rich and varied pleasures, which are unsurpassed even in this land of the grand, the picturesque, and the beautiful. There the mountains of "Tray" and "Yonah" and "Currahee" lift their towering summits toward the heavens. There the Falls of Tallulah, of wondrous yet terrible beauty, attract thousands to gaze with admiration and awe upon the fearful force with which the shining river is hurled into the abyss of the grand chasm. There the Tocoa—the Cherokee for beautiful—in its precipitous leap down the side of the mountain dashes its translucent wave to spray; and the legend-haunted falls of Amicalola—all add to inexhaustible natural charms.

Sir, the people of this country are not a lawless population, as they have been represented; they do not merit that aspersion. To make the charge is to do their future great injury. Principally employed in agricultural and pastoral pursuits, far removed from the temptations and vices of large cities, they are an honest, virtuous people. They pursue the even tenor of their way in their quiet homes on the slopes of the great Blue Ridge, and adown the fertile valleys of the Tugalo and Chattooga, the Tenora and Turora, the Hiwassee, Toccoa, and Soquee, and where the bright waters of the Chattahoochee with rythmical murmuring winds away from fabled vale of sweet Nacoochee. The mountaineers of the Tyrol are not more ardently attached to their native land. The "Green Mountain boys of Vermont" were not more devoted than they to the Constitution of our common country.

I admit that they do not like the internal-revenue laws; I admit that they find it difficult to understand why a freeman is not permitted to sell the leaf-tobacco of his own production without paying a tax which completely destroys his opportunities of profit; I admit that they do not recognize the wisdom of a law which effectually prevents them from utilizing the products of their labor, which makes the citizen amenable to the punishment of felony if he makes a not immoral use of his own property; I admit that these laws bear with great harshness upon the people of that mountain country, who, because of their remoteness from railway transportation, cannot ship their crops with any hope of profit; but, sir, I utterly deny that there is any general resistance to the constituted authorities; I utterly deny that there is the necessity that my district should be forayed by the armed levies of the Internal Revenue Bureau, as if the state of affairs resembled the whisky rebellion of '93 in Pennsylvania.

So believing and so thinking, I have introduced this resolution. I will at least demonstrate that as the Representative of that people I do not fear the investigation. Sir, I trust that the resolution will be adopted.

Free Navigation of the Ohio River.

SPEECH OF HON. ALBERT S. WILLIS,

OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

Friday, February 6, 1880,

On the bill making an appropriation for continuing the improvements of the Louisville and Portland Canal at the falls of the Ohio.

Mr. WILLIS. Mr. Speaker, if any apology is needed for availing myself at this time of the courtesy of the House it is found in the fact that under that marvelous system, the "gathered wisdom" of a hundred years known as the "rules of the House," by which we now so successfully illustrate "how not to do it," there is no provision whatever for calling attention to a pending subject of legislation except in this way and by unanimous consent.

During the present session of Congress I introduced a bill which is now before the Committee on Commerce, appropriating $125,000 for completing the improvements at the falls of the Ohio River. As the bill to which I allude directly concerns the commerce of fourteen States of the Union and is therefore of national if not of international importance, I desire to direct attention very briefly to the justness and necessity of the appropriation it asks for. To understand the subject some reference to the history of the improvements at the falls of the Ohio, and their relation to the Government of the United States, is essential.

THE LOUISVILLE AND PORTLAND CANAL.

It is well known to the House that there exists at the city of Louisville a natural impediment to commerce and navigation caused by the rapids or falls of the Ohio River. In the year 1825, for the purpose of overcoming this impediment, the Louisville and Portland Canal Company was chartered under the laws of the State of Kentucky, and proceeded by an expenditure of over $1,000,000 to construct a canal around the falls, with suitable locks, docks, and basins.

The first boat passed through the canal on the 22d day of December, 1830, and in the following year it was regularly opened for business. In this company the United States was an original stockholder to the amount of $233,500. In a report to Congress in 1845 some singular facts were brought to light in regard to this investment. It appeared that up to that time the Government had not only been paid back by profits upon its stock every dollar of its investment, but had received the sum of $314,278 in addition. The Government, therefore, instead of giving the sum of $233,500, the amount of its original subscription, to remove the obstructions to the commerce of the Western States, had in fact imposed a burden or tax upon that commerce, and collected and received into the Treasury, in cash and in valuable stock, the munificent sum above stated. In no other instance has the Government ever received a single dollar from its investments in internal improvements. In this case it not only got back all it invested, but more than double the amount. In addition to this,

as I shall presently show, millions of dollars were subsequently received in the shape of tolls by the Federal Government and its co-partner, the Portland Canal Company.

Satisfied with the result of its previous action, and recognizing the national importance of the improvement, the United States gradually purchased, with its accrued dividends, the residue of the stock. In the year 1846 it had purchased a majority of the stock, and at the close of the year 1855 it owned the whole property except five shares worth $500. Subsequently these five shares were bought, and on the 11th day of June, 1874, the Government assumed, and has ever since retained, the sole management and control.

COST TO THE COMMERCE OF THE WEST.

Up to the time when the Government took charge of the canal the tollage demanded and received on all vessels propelled by steam was fifty cents per ton. The oppressive and ruinous character of this tax may be realized from the statement that within five or six years, which is the "natural life" of a steamboat on the western waters, the amount of tolls received would be more than three-quarters of the original cost. The large amount which has been thus collected may be seen from the following table:

Year.	Amount.	Year.	Amount.	Year.	Amount.
1831	$12,750 77	1845	$138,291 17	1859	$90,905 63
1832	25,706 12	1846	149,401 84	1860	131,917 15
1833	60,736 92	1847	139,900 72	1861	42,650 02
1834	61,848 17	1848	158,067 96	1862	69,936 90
1835	80,165 24	1849	129,953 46	1863	152,937 02
1836	88,343 23	1850	115,707 88	1864	164,476 26
1837	145,424 69	1851	167,066 49	1865	175,515 49
1838	121,107 16	1852	153,758 12	1866	180,925 40
1839	180,364 01	1853	178,869 39	1867	114,961 35
1840	134,904 55	1854	149,640 43	1868	155,495 88
1841	113,944 59	1855	94,356 19	1869	167,171 60
1842	95,005 10	1856	75,791 85	1870	139,175 09
1843	107,274 65	1857	110,015 38	1871	159,838 90
1844	140,389 97	1858	75,479 21	1872	207,025 19
Total	1,368,015 17	Total	1,836,300 09	Total	1,952,931 79

RECAPITULATION.

1831 to 1844	$1,368,015 17
1845 to 1858	1,836,300 09
1859 to 1872	1,952,931 79
Total	5,157,247 05

Of this enormous sum the Federal Government, up to the year 1855, was the principal, and subsequent thereto the sole recipient. Under the liberal policy inaugurated since the Government assumed exclusive control the tolls have been reduced to one-fifth of the former amount. But even with this reduction over $300,000 has been collected, thus swelling the grand total which has been paid to pass an obstruction of less than two miles on one of our national highways to nearly $6,000,000.

It is immaterial, Mr. Speaker, for present purposes what became of this money. The important fact to which I call the attention of the House is that the producers and shippers of a portion of our country, representing one-third of its population, have at this one point been compelled to surrender of their earnings this vast sum in the shape of tolls. That this has been and still is a most onerous and

UNJUST BURDEN UPON THE WEST AND SOUTH

cannot be denied. This canal, of which the Government is now the sole owner, is the lock and key to the whole system of river navigation from the headwaters of the Ohio to the Gulf of Mexico. Over three thousand boats and barges pass through its locks in the descending and ascending navigation of the Ohio River. Some idea of the immense amount of this trade may be formed from the official statement that in the year 1879 the number of tons which these boats carried through the canal was 999,610.

Every bushel of wheat, every sack of corn, every barrel of produce from fourteen States of this Union, which goes down the Ohio River, is now compelled, under a law upon your statute-books, to pay tribute in the shape of tolls to the Treasury of the United States. Elsewhere throughout our land the Federal Government appears as the benefactress and encourager of commerce, widening its channels, deepening its harbors, and broadening its great thoroughfares of business. At the falls of the Ohio, and there only, has our Government laid aside this beneficent policy; there upon the banks of one of her noblest highways, there at the gateway of the great Mississippi Valley, amid surroundings which should excite the most generous and liberal action, there only does she present herself in the pitiable attitude of a mendicant stretching forth her hands for alms from every passing boat and barge.

PROTESTS AGAINST THIS ILLIBERAL POLICY.

It is not surprising that a spectacle so unusual, representing a policy so unjust and short-sighted, should long since have called forth the remonstrance, not only of the people immediately affected, but of commercial bodies throughout the whole country. The Cincinnati Chamber of Commerce, the merchants and steamboat-men of Louisville, Pittsburgh, and throughout the Ohio and Mississippi Valleys, have often and earnestly protested against this heavy tax. At the annual meeting held last October at Cincinnati of the National Board of Steam Navigation, a body composed of delegates from all parts of the Union and representing a capital of $600,000,000, a special committee upon this subject was appointed, which, through its chairman, Colonel Will. S. Hays, promptly recommended the adoption of a resolution "that the Louisville and Portland Canal be made free from all tolls." Hon. James S. Negley, of Pittsburgh, in supporting this resolution, very aptly remarked:

I cannot comprehend why the tonnage of the Ohio Valley should be taxed for its protection to the exclusion of that of the lakes and on the ocean. Their property is placed at greater risks than that of any other industry, and they should certainly be relieved of all burdens which it is in the power of the Government to relieve.

LEGISLATIVE DEDICATION OF THE OHIO RIVER TO FREE NAVIGATION.

This view is not only just and equitable but is in accord with the plighted faith and policy of the Government, as evidenced by solemn treaties and confirmed by repeated legislative enactments upon the subject. It is also in accord with the action of the State of Kentucky, through her Legislature, and of the board of trustees of the canal company preliminary to the surrender of the property.

The treaty of Paris, negotiated in 1783; the treaty with Spain, negotiated in 1795; the ordinance of 1797, and many subsequent acts of Congress, provide for the absolute freedom of the Mississippi River and its tributaries, and dedicate them to the world as great national highways, to be kept forever free from any toll, tax, or duty of any kind whatever.

As the Government has voluntarily become the sole owner of this canal, holding exclusive jurisdiction over it as a part of a great national water-way, it might be seriously questioned whether, under these treaties, the navigation of the Ohio River free from all toll is not a legal right. But without pressing such a view as between our own and foreign governments, the declarations of these treaties and general acts of Congress are at least evidence of a governmental policy looking to such a result. When, however, we examine the acts directly declaring the relations of the canal to the Government, the conclusion is irresistible that the purpose of the United States was to make it a free highway, or that only sufficient tolls should be collected to pay operating expenses and keep it in repair.

PREVIOUS ACTS AND REPORTS UPON THE SUBJECT.

From the numerous acts and reports upon this subject, all of which up to the year 1867 may be found in an able and voluminous report of Hon. W. D. Gallagher, special agent of the Treasury Department, (second session, Fortieth Congress, Mis. Doc. No. 83,) I make one or two citations.

As far back as the 4th of March, 1834, in this House, Mr. Pope, from the Committee on Roads and Canals, in response to "numerous petitions and memorials praying that the stock of the canal might be purchased by the United States and the navigation of the Ohio *made free to all*," reported back a bill to carry those objects into effect, upon certain specified conditions. The bill was not then passed, but a brief extract from the report which accompanied it will indicate the sentiment of Congress upon the subject at that time:

The committee have diligently investigated the nature and merits of the numerous memorials and petitions referred to them, and have determined that the views of the petitioners are reasonable and just. * * * In adopting the views of the memorialists, the committee do not consider that they are promoting the interests and wishes of a limited or peculiar section, in opposition to the general welfare, but that they are advocating a measure of universal convenience and national utility. They deem it national, not sectional. * * * An object of such national concernment, it seems to the committee, is entitled to the most respectful and liberal consideration of the Government. The great and increasing commerce and trade of a vast portion of the country is subjected to unjust and distressing exactions, and it is the province, as it is the duty, of the Government to relieve it of the burden. The munificence of the Government has been often extended to the Atlantic States, in expenditures on the seaboard and elsewhere, and now every sentiment of justice and impulse of patriotism plead for the exercise of the same liberality toward those who inhabit the valley of the Mississippi.

On the 31st of December, 1845, Mr. Tibbatts, from the Committee on Commerce in this House, to whom had been referred "a petition of the merchants and steamboat owners of the valley of the Ohio and Mississippi, praying Congress to purchase the individual stock in the Louisville and Portland Canal for the purpose of *making it free from toll*," the committee having had the subject under consideration reported in favor of the measure, accompanied by a resolution which was well sustained by argument, making provision for carrying into effect the object of the petition. In the Senate, February 27, 1851, Mr. Bright, from the Committee on Roads and Canals, to whom had been referred a bill "*to make the navigation of the canal free*," submitted a report in which he said:

There can be no question that the object is essentially national in its character, and it is a subject of regret that this canal has been so long continued an instrument of oppressive exaction on the trade and commerce of the West, and that the United States by being an extensive stockholder has been a party to this oppression, and the committee believe that the universal public sentiment calls loudly for an immediate abatement of this stupendous monopoly, and for an adequate provision by the General Government to insure the free navigation of the Ohio River in which so many States of this Union are so deeply interested.

On the 2d day of August, 1852, Mr. B. Stanton, from the Committee on Roads and Canals, submitted a bill to the same effect, with an elaborate report. The report acknowledges "the importance of granting relief from the onerous tax imposed upon the trade of the Ohio River at Louisville," and it finds abundant evidence of the "great national importance" of the subject in the numerous papers before the committee, consisting of "legislative instructions from State Legislatures,

memorials from the chambers of commerce of large cities, resolutions of public meetings at various points, petitions from steamboat owners and captains, and from merchants and private individuals from all points of the compass" expressing, the committee believes, "the public sentiment of at least twenty States of the Union." The collection of tolls upon it is declared to be an act of "great injustice," which the people have exercised much "forbearance" in "submitting" to, and the Government of the United States is arraigned before the judgment of the nation for "having claimed usurious interest" on its investment in the stock of the canal company.

Again, on the 8th day of August, 1856, Mr. Kennett, from the House Committee on Commerce, having this matter under consideration, reports that "the committee believe that Congress has full power over the subject, and that speedy and efficient means should be applied to render the navigation of the Ohio *easy and free*." So also, on the 24th of May, 1860, when Congress, through the persevering and most praiseworthy exertions of Hon. Robert Mallory, then representing the Louisville district, passed a joint resolution for the enlargement of the canal and the construction of a branch thereof, it contained a proviso that "no more tolls shall be collected than an amount sufficient to keep the canal in repair and pay for all necessary superintendence and management."

Aside from the purpose indicated by the purchase of original stock, these various reports, acts, and official declarations clearly indicate that for nearly half a century it has been the desire and intent of the Government to secure the absolute, or at least qualified, free navigation of the Ohio.

In this the State of Kentucky and the board of directors of the canal company cordially co-operated. By an act of the Legislature, approved February 21, 1842, the canal company was authorized to sell "the shares owned by individuals, or the State of Kentucky, or the city of Louisville, for the purpose of eventually making the said canal free of tolls." On the 14th of December, 1867, Hon. James Guthrie, then president of the canal company, in reply to a note of General Weitzel, declared that the object of the trust which the company held was to "make the canal sufficient for the requirements of the Ohio River, and, finally, to make it a free canal."

The most cursory view of these numerous acts and resolutions, which might be multiplied if necessary, will show that the Louisville and Portland Canal, by the action of the corporation itself, by the Legislature of Kentucky, and by the Congress of the United States, has been dedicated to the use of the whole public, to be absolutely free of all charges, unless it be those necessary to keep it in operation. This indeed is the decision, in terms, of Mr. Justice Miller, of the Supreme Court, rendered on the 29th day of August, in the case of the United States *vs.* The Louisville and Portland Canal Company.

I shall presently endeavor to show that, whatever be the meaning of former acts and resolutions, the time has now arrived when, as a matter of right as well as of policy, every restriction or tax should be removed and this canal be declared free to the whole world. The most limited construction, however, which can be given to the law does not authorize the collection of more tolls than will meet the repairs and operating expenses of the canal. And yet, in order to meet the necessities of the case, a sum amounting to thousands of dollars every year has been collected in excess of the repairs and operating expenses, and devoted to permanent improvements at the canal and in its vicinity. It is clear that these *permanent* improvements should be provided for by a general appropriation, and not be a charge upon the commerce and industry of the country.

CONGRESS SHOULD COMPLETE THE IMPROVEMENTS AT THE FALLS OF THE OHIO.

Since 1867 Brevet Major-General Weitzel has had the supervision of all the improvements at the falls of the Ohio, including the canal. His skill and ability as an engineer are well known to the country. His long and thorough acquaintance with the wants of Western commerce and his judicious and successful management of its interests at this point entitle him to the fullest confidence and gratitude of the whole Mississippi Valley. He has, however, not met with that hearty co-operation of Congress in this particular improvement which its importance deserved. From time to time, as his observation and experience suggested, he has, through his official reports, called upon Congress in behalf of further improvements at the falls of the Ohio. No appropriation for the purpose has been made since March 3, 1873.

The appropriation asked for in the bill which I have introduced will, if granted, complete the improvements at the falls of the Ohio. The nature and necessity of these improvements is explained in a letter from General Weitzel to Chief of Engineers, General H. G. Wright, which will be printed with these remarks. A part of the work referred to by General Weitzel, the reconstruction of the old locks, was paid for, as he states, "from the tolls collected on the canal." Every year, for seven years past, permanent improvements have been needed and have been made, but the whole burden of their construction has been borne, not by the Federal Government, but exclusively by a tax on commerce. After paying operating expenses there still remains in the treasury to the credit of the canal company over $25,000, which sum, added to the amount asked for in the bill, will finish these works according to the estimates furnished by General Weitzel.

When the facts are inquired into by the Committee on Commerce this result will, I doubt not, be secured. It is the first step in the right direction, and should be promptly taken. Serious obstacles and annoyances are now experienced at certain seasons of the year because of the inadequate capacity of the canal. Those can and ought to be removed. A transit safe, speedy, and at the same time free of charge is demanded by the marine interests of the Ohio and Mississippi Rivers. Free and uninterrupted navigation of the Mississippi and all its tributaries should be the watchword of the West.

THE QUESTION NOT LOCAL, BUT OF NATIONAL IMPORTANCE.

The district, Mr. Speaker, which I have the honor to represent feels a deep interest in every effort to improve the navigation of these great channels of commerce. Louisville, its chief city, has a river frontage of twelve miles and a river navigation to the South and West of over twelve thousand miles. No less than thirty navigable streams are accessible by steamers from her wharves and are tributary to her commerce. Through her river facilities she has opened avenues of trade to a vast and wealthy domain, comprising fifteen States and embracing a population of over seven millions of people.

But, sir, while my district and its metropolis occupy, geographically, the line of this great highway, and while it has partly because of this fact become the largest tobacco market in the world and has approximated the same position in its leather, furniture, whisky, and other industries, yet it is to-day less dependent upon its water communications than any city in the West. Its railroad system, always excellent, has within the last few months, by the masterly policy of its chief railroad officers, been extended until now it comprehends over four thousand miles, extending from the great lakes of the North to the Atlantic seaboard and the Gulf of Mexico in the South. The people of my district and State are not, therefore, so directly interested in this question as at first blush might appear. But conceding for the sake of argument that they are, what State in the Union, upon the principle of the equitable distribution of public appropriations, can present a better claim to the American Congress than the State of Kentucky? What State has received less in proportion to the amount it has covered into the Treasury? From a report of the Secretary of the Treasury, made in obedience to a call of Congress in the year 1835, Kentucky was the only State which, during the forty years of its existence in the Union, had never had one dollar appropriated within her limits to the great national objects of fortification, light-houses, or internal improvement of any kind whatever. During the forty years or more following that report the demands of our people, as compared with other States, have been exceedingly few and insignificant, and yet a single district of our State, the one which embraces these proposed improvements, pays to the Government revenue every year more than $4,000,000! If, therefore, Kentucky was the only State to be benefited, no one upon these facts could challenge the validity of her claim.

But sir, whatever local interests the people of my State may have are merged in the higher and more national considerations which give to this question its proportions and its grandeur. The completion of these improvements and the abolition of all tolls at the falls of the Ohio concern not one city or State, but the whole nation.

The Louisville and Portland Canal is the connecting link in the great chain of commerce between the cities of New York, Philadelphia, Baltimore, and other places east of the Alleghany, and the cities of Pittsburgh, Wheeling, Cincinnati, Louisville, Saint Louis, and numerous other important points west and northwest of the Appalachian range.

The tonnage which passes in this direction—already, as we have seen, of such magnitude—is destined in the near future to attain even more gigantic proportions.

The completion of the Eads jetties, the cry for cheap food, ready markets, and economic transportation, point to the time when the States bordering on the Mississippi River and its tributaries will ship a large portion of their products to foreign markets through this channel. The enormous quantity and value of these products is graphically set forth in the memorial of the Quincy River convention, recently presented to this House, from which I make the following extract:

> In 1879 the total production of wheat in the United States and Territories was about four hundred and fifty million bushels. Of this amount the Mississippi system produced over three hundred million bushels, nearly twice as much as the others combined. Of corn the whole country produced, in round numbers, fifteen hundred million bushels; the Mississippi system produced nearly twelve hundred million, or four times as much as the others combined. Of other cereals, of cotton and hay, of tobacco, sugar, and rice, of cattle and hogs, and of all products not included in manufactured articles, there was produced in the river system an amount in value exceeding one and one-half billions of dollars, a sum that staggers the imagination to contemplate.
>
> The summary would not be complete without considering the manufacturing interests and capabilities of this region. Careful calculations, recently given to the public by an eminent statistician, detailing the growth and progress in this particular, shows that it will soon equal, if it does not surpass, the older communities in the North and East. A few facts of growth will indicate what the near future will be. In 1878 the State of Illinois alone, which in 1850 had less than one hundred miles of railroad, and few or no furnaces, produced as many iron rails as the entire country did in any year prior to 1860.
>
> In the same year the four States of Illinois, Indiana, Missouri, and Kansas produced 266,703 tons of rails, more than 30 per cent. of all made in the United States. In that year the total production of rolled iron of all kinds in this country was 1,555,576 tons, of which the States of Illinois, Indiana, Wisconsin, Michigan, Mississippi, and Kansas produced one-seventh.

Thus stand the figures, the result and the witness of the wonderful energy and industry of that portion of our country which has thus far been burdened by these onerous and unjust tolls. Will Congress longer deny to these vast and various interests a free and open way

to the markets of the world? Should it not be granted, both as a matter of right and of sound policy?

"The right of way," a distinguished statesman once declared, "is the right of the million. The sovereign holds it in trust, and can exercise it only for their benefit, and has no right to make a revenue or permit revenue to be made out of it. Such a course must engender the worst oppression and the worst corruptions, and soon realize the view of the worst governments, taxation on all we consume, which will allow nothing to go to or from the markets without tribute to the State."

Will not Congress recognize this great popular right and put an end to all such results? At every other point in the Union this has been done. Why should an exception be made in this single instance? The United States has expended on breakwaters, harbors, lighthouses, rivers, and canals, in various sections of the country, vast sums of money, amounting to hundreds of millions. From none of these works, of which the Government is the sole owner, has any toll or tax ever been demanded; and yet not one of them is of more importance or more national in its character than this canal. Several millions of dollars have been appropriated to open Hell Gate to the commerce of the world. How long would the Representatives of the Empire State be silent if every vessel entering the harbor of their metropolis was compelled to pay a toll or tax to the Government because of this improvement? Several hundred thousands of dollars have been expended at the "overslaugh" in the Hudson River. Has the commerce which was benefited by this improvement ever been called upon to pay for it? A canal, at great expense, has been constructed to improve the upper and lower rapids of the Mississippi River at Keokuk, and yet not a dollar of tolls has ever been collected because of it.

Why, then, should Congress withhold in this case the benefits of that policy which has been so fully pursued to the advantage of commerce at every other point in the Union? Sound political economy and true patriotism dictate that the same liberal policy should be applied to all.

MISSISSIPPI RIVER COMMISSION.

I have thus, Mr. Speaker, presented some considerations which in my judgment should influence this House to declare for the free navigation of the Ohio River. I am glad to know that public attention has been recently and favorably directed to the improvement of the Mississippi and all of its tributaries. Great conventions have been held during the past year at Quincy and at Louisville—the latter presided over by a distinguished citizen of my native State, Hon. Eugene Underwood—and their voice is now coming to this Capitol "with an array of facts, with a power of argument and force of demonstration, that can be no longer turned aside or disregarded."

Before the labors of this Congress shall have been concluded, it is to be hoped that the commission appointed by its authority will present a comprehensive plan for the general and permanent improvement of these important arteries of trade, and that this House, acting with a wise regard to the interests of the Mississippi Valley as well as of the whole country—as represented by these conventions, will promptly accept that plan, so that these great national highways shall be thrown open and made navigable at all seasons of the year "without money and without price," thus stimulating wholesome competition and healthy commercial relations, cheapening food, developing new resources of wealth, and securing a "more perfect union" by bringing together into closer affinity all parts of our country. Any plan which promises such magnificent results should be immediately adopted and made the permanent policy of our Government.

Letter of General Weitzel to Chief of Engineers.

UNITED STATES ENGINEER OFFICE,
Detroit, Michigan, January 12, 1880.

GENERAL: In compliance with the request contained in the first indorsement, dated office of Chief of Engineers, December 26, 1879, on a letter to you from Hon. ALBERT S. WILLIS, United States House of Representatives, Washington, District of Columbia, December 22, 1879, (which is herewith respectfully returned,) I have the honor now to state that the following further appropriations should soon be made for the improvement of the falls of the Ohio River:

First. For removing the worst of the places (marked W) in the Indiana chute. (See inclosed tracing.) Portions of these were removed during the past low-water season. The result of this improvement would be of great benefit to the descending navigation. The amount of such excavation will be 11,641 cubic yards, and the cost, at $4.25 per yard, would be $49,474.25.

Second. For enlarging the dry-dock. The present dock has only the capacity of the old lock-chambers. It should have the capacity of the new lock-chambers. It has the best location for a dry-dock on the Ohio River, and would, if enlarged, be of great benefit to commerce as well as for use of the Government vessels. The estimated cost of the work is as follows:

Nature of work.	Cubic yards of material.	Price per cubic yard.	Amount.
Earth excavation	84,240	$0 25	$21,060
Removing old wall	1,117	1 00	1,117
Removing old pavement	680	0 50	340
Laying new pavement	4,666	4 00	18,664
Building new wall	767	3 00	2,301
Masonry for gate recess	1,888	6 50	12,272
New lock-gates			4,300
Timber-blocks			2,000
Total			62,054

Third. To widen both chambers of the reconstructed old locks fifty feet. The old lock-chambers were reduced in number from three to two, from the tolls collected on the canal.

This proposed improvement will convert these two chambers into two basins and triple their capacity for locking coal-boats through in cases of coal runs, and assist materially in avoiding delay on such occasions. The estimated cost will be as follows:

22,906 cubic yards earth excavation, 30 cents	$6,871 80
8,595 cubic yards rock excavation, $2.50	21,488 00
Removing 1,203 cubic yards old wall, $1.50	1,805 00
2,334 square yards paving, at 50 cents	1,167 00
Total	31,331 80

RECAPITULATION.

Removing worst places in Indiana chute	$49,474 25
Enlarging dry-dock	62,054 00
Widening old locks	31,331 80
Total	142,860 05
Contingencies	12,139 95
Grand total	155,000 00

Neither of these improvements were included in the original project, and experience alone since then has demonstrated their value and importance.

Very respectfully, your obedient servant,

G. WEITZEL,
Major of Engineers.

Brigadier-General H. G. WRIGHT,
Chief of Engineers, United States Army, Washington, D. C.

The Propriety of making the Commissioner of Agriculture an Executive Officer of the Government.

SPEECH OF HON. MORGAN R. WISE,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, February 14, 1880.

The House being in Committee of the Whole on the state of the Union, and the proposition of making the Commissioner of Agriculture a Cabinet officer being under consideration—

Mr. WISE said:

Mr. CHAIRMAN: The arguments in this Chamber to-day for and against the legal-tender quality of money, as compared with other theories of finance, have been interesting and instructive. I propose, however, to offer a few remarks upon another subject of interest and of much importance to the people of this country, namely, the propriety of making the Commissioner of Agriculture an executive officer of the Government.

The science which explains the mode of cultivating the ground so as to cause it to produce in plenty and perfection those vegetable products which are useful—more, which are essential—to man, is the most ancient, the most universal, and the most important of the arts. It is indeed the basis of all the arts.

In proportion as Congress will by the enactment of laws facilitate the progress of agricultural interests, so will they benefit and elevate the people and strengthen the Union. It is clear to my mind that not only as a policy of Government, but as a duty to their constituents, the representatives of the people should devote more time and give more attention to the subject of agriculture. From the remotest ages it has been esteemed worthy of general attention. The simplicity of ancient manners rendered it an object not inconsistent with the rank and station of persons of the greatest eminence. Gideon, "the renowned champion and judge of Israel," quitted the thrashing-floor to preside in the public assembly of his countrymen; and Cincinnatus left his plow to lead the Roman armies to battle, and afterward declined the rewards gained by his victories to return to his native fields. One of the most successful emperors of China, during the early part of the present century, at the beginning of every spring, went to plow in person, attended by the princes and grandees of his empire; he celebrated the close of the harvest among his subjects, and created the best farmer in his dominions a mandarin. Washington found the most pleasing relaxation of public care in the superintendence of his own estate.

An art like this, which from its obvious utility must necessarily claim not only the patronage of the great but the general attention of mankind and the promotion and protection of the legislative power, in proportion as they are civilized and enlightened, has been the subject of eminent authors. At the revival of learning in England Fitzherbert, Hartlib, Evelyn, Tull, Marshall, Anderson, Young, and others wrote well to explain its principles and celebrate its excellence.

A more modern English writer says:

Much to the honor of this art, we find that all the nations of old which were celebrated for their progress in it were free and independent. In the most glorious times of Greece and in the most virtuous period of the Roman Republic agriculture flourished and was held in great estimation. The face of nature has felt the bad effects which have arisen from the degeneracy of this heroic people; for ever since idleness, despotism, and superstition have spread their pernicious influence

over Italy, the rural arts have declined, and the fertile fields which once supplied vast multitudes with employment and sustenance are now changed into barren heaths and pestilential marshes.

It is clear that no other method of procuring the means of subsistence can be so well adapted to an increase of population. This is a point of the greatest political importance; for provided a people be industrious and well employed, they cannot increase with too much rapidity.

Monarchs may vainly imagine that their glory consists in extent of territory, the pomp of state, the greatness of their revenues, or the terror of their armies; but an accurate knowledge of mankind will convince them that true glory can only arise from ruling a people who, free from weight of oppression and reaping the fruits of their industry, are induced to multiply their species from a desire of communicating to their descendants the blessings of security and comfort which they themselves enjoy. Under such circumstances a population is the safeguard of the country as well as the glory of its ruler. Every encouragement which can be given to it is strictly conformable to the constitution of nature, as she seems to have provided for an indefinite increase of mankind. And as the fruitfulness of the earth is likewise indefinite, there seems to be no natural obstacle to their united advancement and progression far beyond the point they have at present reached.

Nature has an immediate tendency to the multiplication of the human species, as I have before observed, and her influence is more particularly visible in the country where pure air, plain diet, and regularity of rural employments conduce to this great end. It is said the country is the prolific seminary of cities. Farms and villages are the nurseries of mankind, and their inhabitants can alone make up for the vast and rapid consumption of the human species caused by the luxury, celibacy, prostitution, and impure atmosphere of large cities. In agricultural districts there is more equality of ranks and fortunes of men; more health, purity, patriotism, virtue, than in cities. The cities are the sores on the body-politic; the salubrious country is the remedy for the ills. The flowers, the birds, the brooks, the waving grain, "the crystal streams that murmur through the meads," heaven's unobstructed light, the gentle breezes, the pure atmosphere where

> The rich, ripe season, gratifies the sense
> With summer's sweets and autumn's redolence.

give peculiar health and vigor to the husbandman.

Commerce is a great and important interest of this and every other country that is worthy of the name of nation, but it is, comparatively speaking, of a precarious and fluctuating nature; particularly as it takes its rise from artificial as well as natural wants.

But where agriculture is made the great object of pursuit the inhabitants of a country are not exposed to such vicissitudes; their employments are less transient, and they are not under the necessity of having recourse to other places for supply of their immediate wants. Therefore the latter is the greater and more important interest of the two great interests, to the people, and should have the more especial attention, promotion, and protection of Congress. The agricultural pursuits of this country cannot be afforded too many facilities; cannot be too rapidly advanced nor too highly dignified. Whatever we do in this direction will be done in the true interest of the people.

Mr. Chairman, I have consumed but little of the time of this House, but upon this subject, to which I have given some attention during the major part of my life, I will be pardoned, I trust, for urging at some length my views in relation to its importance.

The business of agriculture was for a long time confined to those who from their contracted sphere of life were exposed to the imputation of ignorance and narrowness of mind. The improving spirit of the times and self-interest have given new dignity to the occupation. Now persons of independent fortune, men of liberal education, of liberal views, and patriotic feelings are attending to rural occupations. The people of this country have done much during the last few years in the advancement of the great agricultural interests; the Legislatures of many of the States have legislated wisely; the numerous county and State agricultural societies are performing an important part; writers and lecturers are casting much light upon the subject. Congress has done something, but not enough; it ought, it must do more. The difficulty appears to be that the representatives in Congress are not as far advanced in agricultural knowledge and its progressive movement, or at least of its importance, as the people who are engaged in its pursuits, and they constitute a large majority of our population.

The signs of wisdom, however, without regard to Congress, are apparent in the fact that up to 1870 there were fifteen agricultural colleges organized in the following States: California, at San Francisco; Illinois, at Urbana; Iowa, in Story County; Kansas, at Manhattan; Kentucky, at Lexington; Maine, at Orono; Maryland, at Hyattsville; Massachusetts, at Amherst; Michigan, near Lansing; New Jersey, at New Brunswick; New Hampshire, at Hanover; New York, at Ithaca; Pennsylvania, in Centre County; Rhode Island, at Providence; Vermont, at Burlington; West Virginia, at Morgantown. There may have been others organized since 1870; if so, I am not in possession of the fact. Certain it is that every State should have one or more of such institutions. There is much more to be done and to be learned.

With all the progress our people have made in agriculture, there yet exist doubts and uncertainties which render the subject peculiarly suitable for discussion; it is always advantageous to sift our knowledge and to examine it in different points of view, so as to ascertain what may be relied on as correct and what requires further proof or experimental elucidation. People are too apt to forget that in the investigation of a subject in which the complex phenomena of life are involved a great deal depends upon the peculiar point of view in which the matter is considered. Intelligent and patient observers accumulate facts, and each founds his conclusions on the results of his own experience; but when these conclusions are compared and discussed, and they are found to be incompatible with one another, although the first impulse may be to maintain the inaccuracy of the observations by which one or the other of them was substantiated, the more legitimate method is to examine them more minutely, and, if both are found, as will often be the case, to rest on equally good evidence, to seek for their reconciliation in a more extended knowledge of the considerations they involve, which thus becomes the starting point for a new series of inquiries by which some general principle or principles are established.

Agriculture is going through this phase of its history. Much acute and patient labor and observation have established certain rules which must be observed if the cultivation of the soil is to continue to be successfully pursued. But other discoveries are yet to be made, and those already made should be facilitated. The good farmer should be assisted in the improvement in stock, cultivation of cereals, grasses, fruits, cotton, wool; the reclamation of waste lands, irrigation, the settlement of unoccupied lands, &c. Great progress has been made, but there is yet much more to do, not only in advancement but in the retention and proper application of what has already been achieved. The importance of this fact cannot be too fully impressed.

A writer aptly says:

> When the progress of any art is examined, and the successive steps by which the improvement of its practice is accomplished are carefully traced, its development is seldom found to be the simple and peaceful occupation of our fields. It most generally involves, not merely a succession of conquests gained with greater or less difficulty, but a constant and watchful struggle to maintain the vantage ground which has been obtained. Every difficulty which has been overcome carries new difficulties in its train, opens up new problems to be examined, and entails the more study of facts, which in a less advanced state of knowledge may have appeared of little moment, but which acquire increased importance as a means of fortifying us in the position we have gained.

All this is very forcibly illustrated in the practice of agriculture, in which we may be said to maintain a constant struggle with nature, for we seek to obtain from the soil an amount of produce greater than it yields in its natural state; and when it has been brought into a condition in which this result is obtained, there is a constant tendency to revert to its original state, which must be resisted by artificial means, and this object is arrived at, not by forcing nature or attempting to run counter to the fixed and immutable laws by which the universe is governed, but by studying the principles on which their action depends, and thus learning how to modify the conditions under which they operate, so as to suit the ends we have in view.

Mr. Chairman, the bill under consideration, if it become a law, will make the Commissioner of Agriculture a Cabinet officer of the Government; thus placing the department of this paramount interest in a higher, more important, and substantial position. And why should not such a course be taken? The people of all parts of the country have petitioned Congress to enact such a law; the incalculable and unbounded wealth and diversified agricultural interests require it; the people demand it. I fail to see how any sound argument can be adduced against its consummation.

Contrast, if you will, this moderate request with what has been done by Congress within the last two decades in the way of subsidies and land grants for various corporations and monopolies, and draw your own conclusions.

Taking into account the importance of agriculture as compared with other vocations of life, it should receive the first consideration of the Government.

The variety of climate and soil of our States and Territories that span a continent and extend from the high latitude of the North far to the South, affording a planting season of two-thirds of the year, and fruit ripening in some sections during the twelve months.

The amount of wealth in this country, real and personal, resulting from the agricultural interests aggregated, in 1870, over $30,000,000,000. Taking the same ratio of increase, as from 1860 to 1870, and the amount the present year, is $50,000,000,000, a sum beyond comprehension.

I will give some facts and figures in relation to the principal articles of agriculture, &c., which may be of interest.

The number of acres in farms in the United States in 1870 was 407,735,041 acres, of which but 188,921,099 acres were improved, leaving 218,813,942 acres unimproved. The value of farms in 1870 was $9,262,803,861. According to the ratio of increase from 1860 to 1870, the value now is $13,000,000,000. The average size of farms was one hundred and fifty-three acres. The largest farms are in California, which average four hundred and eighty-two acres; the smallest in Connecticut, which average ninety-three acres. The value of farm

productions in 1870, according to the tables of the ninth census, was $2,447,538,658; the animals slaughtered, $398,956,376; forest products, $36,808,277; market-garden products, $20,719,229; orchard products, $47,335,189. The amount of farm wages paid during the same year was $310,286,285. The above is an undervaluation, as Mr. Spofford states that "the census of agriculture in the United States (for 1870) must be received with many grains of allowance, because of the very imperfect character of the forms or schedules under which it was taken. These excluded farms of less than three acres in extent, unless producing vegetables, &c., to the amount of $500 or upward in value. Very large products must therefore have been excluded from the census of agriculture by its very terms. It will not, perhaps, at this point, be improper to suggest that the Committee on the Census, of Congress, see that this defect is remedied in the taking of the census for 1880.

The public lands of the United States, according to the report of the Commissioner of the General Land Office of 1879, amounted to 1,814,769,656 acres; the total number surveyed, 734,591,236 acres; the total number unsurveyed, up to 1879, 1,080,197,686. In 1879 there were 8,026,685 acres entered by individuals under the homestead and timber-culture acts. The public lands of the United States which are still undisposed of and open to settlement lie in nineteen States and eight Territories. The States are Alabama, Arkansas, California, Colorado, Florida, Illinois, Indiana, Iowa, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, Ohio, Oregon, and Wisconsin.

Principal cereal productions of the United States, 1870.

[From the official report of the Ninth Census, 1870.]

States and Territories.	Wheat.	Indian corn.	Oats.	Barley.	Rye.	Buckwheat.
	Bushels.	*Bushels.*	*Bushels.*	*Bushels.*	*Bushels.*	*Bushels.*
1. Alabama	1,055,048	16,977,948	770,866	5,174	18,977	144
2. Arizona	27,052	32,041	25	55,077	.....	.....
3. Arkansas	741,736	13,382,145	528,777	1,921	27,645	226
4. California	16,676,702	1,221,222	1,757,507	8,783,490	26,275	21,928
5. Colorado	258,474	231,903	332,940	35,144	5,235	178
6. Connecticut	38,144	1,570,364	1,114,595	26,458	289,057	148,155
7. Dakota	170,662	133,140	114,327	4,188	.....	179
8. Delaware	845,477	3,010,390	554,388	1,799	10,222	1,349
9. District of Columbia	3,782	28,020	8,500	.....	3,724	7
10. Florida	.....	2,225,056	114,204	12	545	.....
11. Georgia	2,127,017	17,646,459	1,904,601	5,640	82,549	402
12. Idaho	75,640	5,750	100,119	72,316	1,756	.....
13. Illinois	30,128,405	129,921,395	42,780,851	2,480,400	2,456,578	168,862
14. Indiana	27,747,222	51,094,538	8,590,409	356,262	457,468	80,231
15. Iowa	29,435,692	68,935,065	21,005,142	1,960,779	505,807	109,432
16. Kansas	2,391,198	17,025,525	4,097,925	98,405	85,207	27,826
17. Kentucky	5,728,704	50,091,006	6,620,103	238,486	1,108,933	3,443
18. Louisiana	9,906	7,596,628	17,782	1,226	984	260
19. Maine	278,793	1,089,888	2,351,354	658,816	34,115	466,635
20. Maryland	5,774,503	11,701,817	3,221,643	11,315	307,089	77,867
21. Massachusetts	34,648	1,397,807	797,664	133,071	239,227	58,049
22. Michigan	16,265,773	14,086,238	8,954,466	834,558	144,598	436,755
23. Minnesota	18,866,073	4,743,117	10,678,261	1,032,024	78,888	52,438
24. Mississippi	274,479	15,637,316	414,586	3,973	14,852	1,619
25. Missouri	14,315,926	66,034,075	16,578,313	269,240	559,532	36,252
26. Montana	181,184	320	149,367	85,756	1,141	988
27. Nebraska	2,125,086	4,736,710	1,477,562	216,431	13,532	3,471
28. Nevada	228,866	9,660	55,916	295,452	310	985
29. New Hampshire	193,621	1,277,768	1,146,451	105,822	47,420	100,034
30. New Jersey	2,301,433	8,745,384	4,009,830	8,283	566,775	353,983
31. New Mexico	352,822	640,823	67,660	3,876	42	10
32. New York	12,178,472	16,462,825	35,293,625	7,434,621	2,478,125	3,904,030
33. North Carolina	2,859,879	18,454,215	3,220,105	3,186	352,006	20,109
34. Ohio	27,882,159	67,501,144	25,347,549	1,715,221	846,890	180,341
35. Oregon	2,340,746	72,138	2,029,909	210,736	3,890	1,645
36. Pennsylvania	19,672,967	34,702,006	36,478,585	529,562	3,577,641	2,532,173
37. Rhode Island	784	311,957	157,010	33,559	20,214	1,444
38. South Carolina	783,610	7,614,207	613,593	4,752	36,165	312
39. Tennessee	6,188,916	41,343,614	4,513,315	75,068	223,335	77,437
40. Texas	415,112	20,554,538	762,663	44,351	28,521	44
41. Utah	558,473	95,557	65,650	49,117	1,312	178
42. Vermont	454,703	1,699,882	3,602,430	117,333	73,346	415,096
43. Virginia	7,398,787	17,649,364	6,857,555	7,259	582,264	45,075
44. Washington	217,043	21,781	255,169	55,787	4,453	316
45. West Virginia	2,483,543	8,197,865	2,413,749	50,363	277,746	82,916
46. Wisconsin	25,606,344	15,633,998	20,180,016	1,645,019	1,325,294	408,897
47. Wyoming	.....	.....	.....	.....	.....	.....
Total, United States	287,745,626	760,944,549	282,107,157	29,761,305	16,918,795	9,821,721

The following statistics of the agricultural products of the United States give the leading crops for eight years since 1870. The figures here given do not represent a census of agriculture, but are the estimates made by the Department of Agriculture. While the results cannot possess the authority of an accurate census, they are as nearly correct as possible, and are all we have since 1870, except in a few States where agricultural statistics are collected by law, which, if I be allowed to interject the remark, should be the law of every State.

Crops of principal products of the United States, 1870–1877.

[Condensed from the reports of the Commissioner of Agriculture.]

Years.	WHEAT.						INDIAN CORN.					
	Bushels.	Acres.	Value.	Yield per acre.	Average price.	Value per acre.	Bushels.	Acres.	Value.	Yield per acre.	Average price.	Value per acre.
1870	235,884,700	18,992,591	$245,865,045	12.4	$1 04.2	$12 94	1,094,255,000	38,646,977	$601,839,030	28.3	$0 54.9	$15 57
1871	230,722,400	19,943,893	290,411,820	11.5	1 25.8	14 56	991,898,000	34,091,137	478,275,900	29.1	48.2	14 02
1872	249,997,100	20,858,359	310,180,375	11.9	1 24.0	14 87	1,092,719,000	35,526,836	435,149,200	30.7	39.8	12 24
1873	281,254,700	22,171,676	323,594,805	12.7	1 15.0	14 50	932,274,000	39,197,148	447,183,020	23.8	48.0	11 41
1874	308,102,700	24,967,027	291,107,895	12.3	94.4	11 66	850,148,500	41,036,918	550,043,080	20.7	64.7	13 40
1875	292,136,000	26,381,512	294,580,990	11.0	1 00.0	11 16	1,321,069,000	44,841,371	555,445,980	29.4	42.0	12 38
1876	289,356,500	27,627,021	300,259,300	10.4	1 03.7	10 86	1,283,827,500	49,033,364	475,491,210	26.1	37.0	9 69
1877	365,094,800	26,193,407	395,153,375	13.9	1 08.2	15 08	1,342,558,000	50,369,113	480,643,400	26.6	35.8	9 54
Total	2,252,548,900	187,135,486	2,451,155,605	.....	.....	.....	8,908,749,000	332,742,864	4,024,070,860	.....	.....	.....
Annual average	281,743,612	23,391,936	306,394,451	12.0	1 08.8	13 09	1,113,593,625	41,592,858	503,008,857	26.7	45.1	12 09

Crops of principal products of the United States, 1870–1877—Continued.

Years.	Bushels.	Acres.	Value.	Yield per acre.	Average price.	Value per acre.
OATS.				*Bushels.*	*Cents.*	
1870	247,277,400	8,792,395	$107,136,710	28.1	43.3	$12 18
1871	255,743,000	8,365,809	102,570,030	30.5	40.1	12 26
1872	271,747,000	9,000,769	91,315,710	30.1	33.6	10 14
1873	270,340,000	9,751,700	101,175,750	27.7	37.4	10 37
1874	240,369,000	10,897,412	125,047,530	22.0	52.0	11 47
1875	354,317,500	11,915,075	129,499,930	29.7	36.5	10 86
1876	320,884,000	13,358,908	112,865,900	24.0	35.1	8 44
1877	406,394,000	12,826,148	118,661,550	31.6	29.2	9 25
Total	2,367,071,900	84,908,216	888,273,110			
Annual average	295,883,990	10,613,527	111,034,139	27.9	38.4	10 56
OTHER PRODUCTS.						
Barley: annual average, eight years	31,814,724	1,477,809	25,082,158	21.5	78.8	16 97
Rye: annual average, eight years	16,890,950	1,225,307	12,543,888	13.7	75.2	10 33
Buckwheat: annual average, eight years	9,010,737	524,755	6,927,429	17.1	76.8	13 20
Potatoes: annual average, eight years, 1870–'77	127,827,337	1,440,856	74,290,614	88.7	58.1	52 04
Hay: crop of 1877, tons	31,629,300	25,367,708	271,934,950	*1.24	$8 60.0	10 72
Cotton: crop of 1877, bales	4,750,000	12,056,855	209,000,000	†176.0	10.0	17 60

*Tons. †Pounds.

Table showing the average cash value per acre of the principal crops of the farm, taken together, in each State, for the year 1877.

[From the report of the Commissioner of Agriculture for 1877.]

States.	Average value per acre.	States.	Average value per acre.	States.	Average value per acre.
Maine	$13 49	South Carolina	$7 97	Indiana	$11 42
New Hampshire	17 02	Georgia	8 18	Illinois	10 04
Vermont	13 18	Florida	9 32	Wisconsin	11 10
Massachusetts	17 54	Alabama	8 25	Minnesota	12 79
Rhode Island	22 59	Mississippi	9 77	Iowa	9 09
Connecticut	21 43	Louisiana	9 86	Missouri	9 68
New York	14 79	Texas	11 45	Kansas	8 39
New Jersey	19 06	Arkansas	10 51	Nebraska	7 89
Pennsylvania	14 30	Tennessee	9 75	California	13 73
Delaware	13 65	West Virginia	12 46	Oregon	20 75
Maryland	15 30	Kentucky	10 46	Nevada, Colorado, and the Territories	18 10
Virginia	9 96	Ohio	13 34		
North Carolina	8 01	Michigan	15 63		

Agricultural crops of 1878 *in the United States.*

[Estimate by the Department of Agriculture.]

1. Wheat, (bushels)	420,122,000
2. Corn, (bushels)	1,388,218,000
3. Oats, (bushels)	413,000,000
4. Barley, (bushels)	42,000,000
5. Rye, (bushels)	26,000,000
6. Potatoes, (bushels)	124,000,000
7. Hay, (tons)	37,955,300
8. Cotton, (bales)	5,200,000
9. Tobacco, (pounds)	393,000,000

Cotton crop of the United States for 50 *years, ending September* 1, 1879.

[From the Commercial and Financial Chronicle.]

Year.	Bales.	Year.	Bales.	Year.	Bales.	Year.	Bales.
1829	870,415	1842	1,683,574	1855	2,847,339	1869	2,439,039
1830	976,845	1843	2,378,875	1856	3,527,845	1870	3,154,946
1831	1,038,848	1844	2,030,409	1857	2,939,515	1871	4,352,317
1832	987,487	1845	2,394,503	1858	3,113,962	1872	2,974,351
1833	1,070,438	1846	2,100,537	1859	3,851,481	1873	3,930,508
1834	1,205,324	1847	1,778,651	1860	4,669,770	1874	4,170,388
1835	1,254,328	1848	2,347,634	1861	3,656,006	1875	3,832,991
1836	1,360,752	1849	2,728,596	1862	No record	1876	4,669,288
1837	1,422,930	1850	2,096,706	to		1877	4,485,423
1838	1,801,497	1851	2,355,257	1865		1878	4,811,265
1839	1,360,532	1852	3,015,029	1866	2,193,987	1879	5,073,531
1840	2,177,835	1853	3,202,882	1867	2,019,774		
1841	1,634,945	1854	2,930,027	1868	2,593,993		

NOTE.—The average net weight per bale is 440 pounds.

As I ascertain from the official reports of the European nations the combined annual yield of wheat of Great Britain, Ireland, Austria, Prussia, Turkey, Bavaria, Belgium, Holland, Portugal, Servia, Greece, Baden, Wurtemberg, Sweden, and Switzerland was 349,100,969 bushels, while that of the United States for 1877 was 365,094,800 bushels, or 15,993,831 bushels more than that produced during the same length of time by all the above-enumerated European nations combined. France and Russia are the two great wheat-growing nations of Europe, yet in 1873 (the last official report) France produced 237,998,066 bushels of wheat, being 127,196,122 bushels less than that of the United States. Russia produced 221,714,919 bushels of wheat, being 142,479,267 bushels less than that of the United States. We produce more oats than any other nation except Russia, more potatoes than any other except Prussia, France, Russia, and Austria, Prussia leading in this product. The United States produce more Indian corn than any other nation in the world, if not, indeed, more than all others combined. However, I cannot make a comparison in this regard, as the product of corn is not given in the statistics of other nations as published in this country, or, if so, I have not seen them. The amount of Indian corn raised in the United States in 1877 was 1,342,558,000 bushels. Making a fair estimate of increase, the yield of corn in this country during the last past year was 1,800,000,000 bushels. Taking the population of the world, as given by Mitchell, to be 1,139,142,000 souls, we produced during the year a sufficient amount of corn to give more than one and a half bushels to each man, woman, and child of the entire globe.

I make these comparisons because it is alone by comparison and contrast that the magnitude of our products and the importance of our agricultural interests can be comprehended.

The debt of the United States *per capita* is $52.56; the annual expenditure *per capita*, $6.13; the annual imports *per capita*, $12.64; the annual exports *per capita*, $16.92. These figures are indicative of health and prosperity; and agriculture, the real prolific source of this flow of wealth, should be, as far as possible, strengthened by legislation. It is true our public debt is large, but it will be but little felt if the balance of trade continues so largely in our favor.

By the following table it will be seen that the public debt *per capita* of Great Britain, France, Spain, Netherlands, Portugal, and Italy is greatly in excess of that of the United States, while the balance of trade is against them all, except France and Spain, in which two last named the scales of trade are nearly equally divided between imports and exports. Thus comparing our Government with other powers of the earth we have every reason to be encouraged and should receive a fresh impetus in our agricultural progress by the action of Congress.

National debts, expenditure, and commerce, per capita.

[Computed from the official census and finance statements of each country.]

Country.	Debt per head.	Annual expenditure per head.	Annual imports per head.	Annual exports per head.
Belgium	$48 08	$10 13	$53 41	$46 06
Brazil	36 43	6 70	8 71	10 31
Canada	31 16	6 69	25 87	24 94
Chili	24 49	10 66	18 21	17 95
Denmark	27 19	6 83	26 31	17 95
France	127 23	14 07	4 17	26 05
German Empire	70	3 15	21 54	14 21
Prussia	10 55	6 33	.....	.....
Great Britain and Ireland	114 62	12 35	59 11	40 59
Greece	27 50	5 35	16 49	10 30
Italy	71 94	10 12	9 67	8 85
Mexico	42 63	2 68	3 13	3 41
Netherlands	101 21	11 37	71 27	67 70
Norway	7 48	5 91	28 77	18 77
Peru	79 82	12 62	.....	14 02
Portugal	96 84	6 70	8 60	5 97
Roumania	11 82	3 85	3 19	5 60
Russia	26 33	4 83	4 22	3 23
Servia	$3 61	$1 43	$4 58	$4 06
Spain	142 71	7 83	3 96	4 48
Sweden	8 86	4 93	19 39	14 11
Switzerland	2 25	3 08	.....	.....
Turkey	31 70	4 38	2 23	1 59
United States	52 56	6 13	12 64	16 92

The United States in 1879 exported merchandise to the amount, in value, of $710,439,441, and imported articles valued at $445,777,775; exports in excess of imports in favor of the United States, $264,661,666

According to the report of the Bureau of Statistics our exports of agricultural products for the same year was $543,691,174, being 77.72 per cent. of our entire domestic exports. The United States exported more merchandise than any other nation in the world except Great Britain and France. We export $130,907,578 more than Germany, and $29,590,778 more than Austria, China, Brazil, and Russia combined, and so far as agricultural products are concerned more than any other nation in the world. The balance of trade is more largely in favor of the United States than of any other nation. The imports exceed the exports of all the nations of Europe except France and Spain. Our large exports are attributable to our superior agricultural interests.

I have heard the remark made that "our Government should not exercise a paternal care over any branch of productive industry." How manifestly absurd! It is the policy, the duty, and should be the pleasure of the Government to nurture, sustain, and protect, and thereby promote the health and growth of all her industries. In proportion as they grow in strength and utility, so will she become rich and powerful. She cannot exist without them. They are a part and parcel of her life and being. It is as natural and as necessary for the Government to nurture and protect her industries as it is for a mother to nurture and protect her child. Those who oppose this bill or who are indifferent about it say, "You have an Agricultural Department and a Commissioner of Agriculture, and you ought to be satisfied." True we have, but we are not satisfied with its "stand-still" condition. We want more colleges, more experimental farms, more seeds to distribute, more scientific and more practical writings on the subject to disseminate among the people. General Le Duc, the Commissioner of Agriculture, I believe is an efficient officer and is doing all within his power to advance the interests of the producers of the soil. But I understand he complains, and I think with good reason, that he has not the proper means nor support afforded him in order to enable him to do the amount of work he desires and that the interest requires. The clerical force is too small and poorly remunerated.

Some Congressmen complain that they do not at all times receive the seeds, the information, and attention from the Department that they desire. The fault is with the Congressmen, and not with the Commissioner, in my opinion.

If the bill under consideration becomes a law it will not, of course, at once remove all the obstacles that are in the way of advancement, but it will be a step in the right direction, and will lead to the placing of agriculture in its proper position. It will make the interest national in its character, and bring it into contact with the most practical men and best thinkers of our country.

It requires no stretch of the imagination to see with what interest the annual report of the secretary of agriculture to Congress would be perused by the farmers of the country, and what benefit would accrue to them in consequence thereof. Coming from so high a source, it would tend to bring about a unanimity of action and oneness of purpose that would eventuate in equal justice to those concerned in this fountain of wealth.

With such prominence the incommodious building and little plot of ground that surrounds it would soon be supplemented by such buildings and such an experimental farm as would be commensurate with the importance of this branch of our industries.

In conclusion allow me to briefly recapitulate the argument. That the real power and grandeur of a nation consist in the number of its inhabitants well supplied with the necessaries of life; subsistence is the proper measure of population, and the earth is the source of subsistence. All other means of wealth and dominion, such as commerce, the precious metals, and extent of colonies, promote the true prosperity of a nation *only in proportion as they encourage agriculture*, which is the *most valuable of the arts* as well as *the most solid and most durable basis of plenty and power*.

As we have grandly and appropriately completed the first centennial period of our history, let us, in accordance with the general intelligence and progressive spirit of our agricultural people, in this the last quarter of the nineteenth century and of the fourth year of our second centennial, make a new departure in the direction indicated in the provisions of the bill under consideration.

Education of the Colored Race.

SPEECH OF HON. J. R. CHALMERS,

OF MISSISSIPPI,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, February 24, 1880,

On the bill (H. R. No. 334) to apply the proceeds of sales of public lands for the education of the people.

Mr. CHALMERS. Mr. Speaker, it has been the boast of our Government since its foundation that it was the home of the oppressed and the asylum for the distressed of every land. Under this belief and in response to the invitation thus extended the people of every nation have flocked to our shores; and although there have been spasmodic exhibitions of hostility toward foreigners, attended by occasional outbreaks of violence, the white races have as a general rule been gladly welcomed, and have been and are now being gradually absorbed into our body-politic, infusing new blood into our veins and giving new strength to our system. But the white race is not here alone. Voluntary immigration brought the yellow man from China, involuntary immigration brought the black man from Africa, and the red man of America was here before us. What we shall do with these colored races is now one of the greatest problems to be solved by American statemanship.

Treaty after treaty has been made with the red man, and broken whenever the white man's greed for the Indian's land has demanded it. The Indians have thus far been treated as independent tribal nations, and whole tribes have been held responsible in war for the crimes of a few. But the question is now being seriously agitated whether we shall continue to treat them as tribal nations or endeavor to absorb them as individual citizens—whether we shall continue to hold whole tribes responsible even to extermination for the crimes of a few, or whether we shall incorporate them into our body-politic, making each man personally responsible for his own misdeeds and each capable of receiving the blessings and rewards as well as the duties of citizenship. I do not propose now to enter into the merits of this controversy, and allude to it simply to say that philanthropists on both sides of the question, whether they believe the Indians should be held as tribes or converted into citizens, all agree that they should be educated and that it is the duty of the Government to attempt to educate them.

The Chinese question is equally as troublesome, equally as interesting to the white people of the Pacific slope, and equally demands calm and impartial statesmanship to settle it. A people vast in number, skilled in science and education, and wonderful in ingenuity, industry, and frugality are denied the blessings of American citizenship because their skins are yellow and because it is feared that they may come in such numbers as to pollute our religion and retard our civilization. But whether these are the well-grounded fears of statesmen or the interested declarations of demagogues I will not now discuss. I leave this question to those who are more directly interested in its decision and turn to the African race, which has given rise to the most absorbing, most irritating, and most disturbing questions in American politics. Yankee ship-owners demanding a continuance of the African slave trade caused disturbance in the constitutional convention when it was stubbornly resisted by southern States. The avarice and cupidity of northern men made them slaves and brought them here in their slave-ships through all the horrors of a middle passage. Southern men bought and held them in bondage. The descendants of those who had enslaved the African agitated his emancipation until the manacles melted from his limbs in the fierce fires of civil war. Enfranchisement followed emancipation. The descendants of those who had sold the African into bondage, where the laws of slavery held him in ignorance, conferred the right of suffrage upon the uneducated and recently emancipated black man, while they denied it to the free-born red man and the free and educated yellow man. That this was an act of malice toward their conquered foe few will deny. That it was intended to strengthen the republican party in the South every honest man must admit. That it failed to accomplish its purpose is but another evidence of a just and overruling Providence. There are many now both in the North and the South who believe that this enfranchisement of the black men was not only a political blunder, but a crime against civilization and an absolute injury to the emancipated slaves themselves.

A most striking evidence of this opinion is to be found in the address recently delivered before a northern literary society by a distinguished northern man, General Armstrong, who has been for many years in charge of the colored school at Hampton, Virginia. Upon this subject he says:

> The war and the act of emancipation created the most terrible and profound social revolution of this century. The North, covered with the blood and dust of the war, does not even now realize the wild chaos it made. When the war closed the North was more accustomed to fighting than to thinking. It had its dead to bury, and its temper was bad. It has hardly got itself in an attitude of deliberation yet. * * * The tendency of the system under which they lived was to root out all intellectual and moral strength, and keep them as they came from Africa. Suddenly, in 1865, this despotism which had covered them with ribs of iron was lifted up. They were made free. The Anglo-Saxon has been in training for civil liberty for five hundred years; the negro not an hour. Utterly destitute of even the rudiments of self-government, out of paganism in Africa into servitude in America, they are made free, and in the twinkling of an eye the ballot was thrust upon them. There was no gradual ascent, no wardship, no tuition.
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> If, at the moment they were marshaled up to receive the ballot, Gladstone, and Beaconsfield, and Bismarck had landed here, and asked for citizenship, we would have said "no, stand aside, wait five years; make your declarations and we will see how you behave." But to the negro we said "take the ballot—it is a political necessity." Massachusetts said to South Carolina: "I permit no man to vote who cannot read, but I must insist that you allow men to vote whether they can or cannot read. They may be in a majority, and may raise havoc; but it is a political necessity." The giving of the ballot to the negro was a brilliant historical picture, but it was not statesmanship; "magnificent, but not war," as the French general said of the wild cavalry charge.

Whether this is true or false the deed has been done and will never be undone as long as we remain a republic.

Suffrage may be limited by educational qualification, as it is now in Massachusetts, and as General Grant recommended it should be in the United States, but the negro as a race cannot be again excluded from voting without a change of the Constitution. All admit, when a

solid mass of voters of any color are unable to understand the questions at issue, unable to read even the ballots they cast, and are led to the polls through passion and prejudice and voted by a few partisan leaders, that this is a disgaceful prostitution of the elective franchise. It was opposition to such voting that induced Masschusetts to adopt an educational qualification for the elective franchise, and the same motive induced General Grant to recommend the same thing in his last annual message for the whole United States. The possibility that some such qualification may be adopted makes it necessary that something should be done to assist the freedmen in becoming qualified to discharge intelligently the duties of their new position. They were made voters by the Government without any act on their part, and when they were not qualified to exercise this privilege properly. It is therefore the duty of the Government to assist them now, so that this right of suffrage may produce the least possible present harm and lead to the greatest possible good in the future. This can only be accomplished by their education, and this is due not only to the freedman himself but is due to the white man, whose political rights and whose property interests are to be affected by the black man's vote.

General Armstrong says:

In the county in which I live the blacks have a majority. The taxes are 50 per cent. higher than in the adjoining counties controlled by the whites. Northern men who have property and live in the South dread negro rule.

Again, speaking of the inability of the South to do this work unaided, he says:

So, for a period of fifteen years, up to the present time, the North directly and indirectly, through private charity and through the Federal Government, has not spent, in lifting the black out of his ignorance, as much money as it spent in supporting the Army for five days in the year 1864. The poverty-stricken State of Virginia spends more each year for negro education than is spent throughout the entire South by northern charitable institutions.

The States of the South have each contributed everything in their power to educate the colored citizens in their borders. Mississippi has expended over $200,000 for this purpose, while thousands of her white citizens were being sold out of their homes for taxes they were unable to pay. She established the Alcorn University for the education of the colored race alone. It is now in a flourishing condition and presided over by Hon. H. R. Revels, the first colored man who ever sat in the United States Senate, who had as bright a political career before him as any colored man in the United States if he had been a partisan and chosen to follow it, but who abandoned politics and with Christian devotion is struggling to elevate his race to the position assigned them by law. While other educated men of his color have been seeking their own personal advancement and keeping alive the race jealousies to ride into office on the wave of passion, Ex-Senator Revels, recognizing the claims of a free and educated people to control their own destiny, has attempted to allay rather than excite the passions and prejudices of his race.

Mississippi has also established free schools in every county for colored children, and since the democratic party came into power in that State the facilities for education have been increased, the length of the school term has been extended, and the school fund, which the republican party wasted on school superintendents and school teachers who were political wire-pullers in the different counties, is now honestly appropriated to the education of the colored children.

But while the Southern States have contributed all the aid in their power much remains to be done. The Government which made citizens and voters of four millions of emancipated slaves against the consent of the States in which they resided should not leave those States to bear all the burdens of educating them up to the proper standard of citizenship. On this subject I again quote from the address of General Armstrong:

You may say that the South is bound to educate the negro. So is Massachusetts. When Federal bayonets dragged Burns out of the shadows of Faneuil Hall, and handed him over to the shackles, Massachusetts had her hand on the hammer which clinched the rivets, and she has her obligations in this matter.

There is work for us all in this business. The North has its obligations to perform. The nation is one, and the national character will always be that of its average citizens. If we do not bring Sambo up to us, we shall go down to him, just as the national Congress, on the Chinese question, went down and stood on the sand lots. As we have given the ballot to the negro, we must educate him to use it, though it takes a century to do so. I do not believe that there is fatal danger ahead, only retardation, an arrested growth. The ship of state will quiver to her keel sometimes, and may sail under jury-masts for a while, and the negro watch on deck may run her close upon a lee shore, but the hand of the Anglo-Saxon is strong and steady at the helm, and will keep her to her course.

The bill now under consideration should pass. It is the same bill introduced by the Committee on Education and Labor in the Forty-fifth Congress, the passage of which I then advocated.

If this bill should pass, it would distribute the proceeds of the sales of the public lands for the first ten years to the States in proportion to the illiteracy of their citizens. This would inure to the benefit of the colored people, who, by many acts of Congress, have been treated as "the wards of the nation," and at the same time it would inure to the benefit of the whites in the States where these people reside, upon whom the burdens of taxation for educational purposes now fall. While this would be but equity and justice, it might be called a gratuity from the Government, and I desire to call attention to another measure introduced by myself to set apart for colored education the unpaid bounties and back pay due to colored soldiers, which stands upon a wholly different footing. In the Forty-fifth Congress I introduced the following bill upon this subject:

[Forty-fifth Congress, second session. H. R. No. 5006. In the House of Representatives, May 27, 1878. Read twice, referred to the Committee on Education and Labor, and ordered to be printed.]

Mr. CHALMERS, on leave, introduced the following bill:

A bill to encourage and aid the higher education of the colored race in the District of Columbia and in the several States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from the sums which have been deposited to the credit of the United States, and which shall hereafter be so deposited, by the War Department on account of the Freedmen's branch of the Adjutant-General's office, for claims in which, at the end of seven years, all practicable effort to discover the claimant has failed, the Secretary of the Treasury shall, on January 1, 1879, invest, and thereafter keep permanently invested, $200,000 in bonds of the United States, the interest of which, as it shall fall due, shall be paid by him to the treasurer of Howard University, in the District of Columbia, an educational institution chartered by act of Congress approved March 2, 1867.

SEC. 2. That in consideration of receiving the benefits named in the first section of this act, the said university shall furnish the educational advantages of all its existing departments, except those of theology, law, and medicine, without charge for tuition, to all students of the colored race who shall have completed the course of study in the common schools of the District of Columbia, and shall furnish similar educational advantages, without charge for tuition or for room rent, to two colored students annually from each State in the Union, the designation of such students, from time to time, as vacancies may occur, to be made by the superintendent of public schools in each State, or, in default of such officer, by the Senators from such State in the United States Senate; all such students to be subject, equally with others, to the general rules and regulations of the said university.

SEC. 3. That section 4 of "An act to incorporate the Howard University in the District of Columbia," approved March 2, 1867, be amended in its first sentence so as to read: "That the government of the university shall be vested in a board of trustees of not less than thirteen members, two of whom shall be appointed every two years, one by the President of the Senate of the United States for the time being, and a second by the Speaker of the House of Representatives of the United States for the time being; the terms of service of the two thus appointed to commence on the 1st day of January, 1879."

SEC. 4. That section 2 of the said act of incorporation be amended by adding at the end thereof the following words: "And all the property held by said university strictly for educational purposes shall be forever exempt from all taxation."

SEC. 5. That section 8 of the said act of incorporation be amended so as to read: "That the board of trustees shall annually publish a catalogue of trustees, officers, and students, with an official report of its condition."

SEC. 6. That the board of trustees of said university shall insert sections 1 and 2 of this act in the annual catalogue published by them, and shall furnish a copy of said catalogue and report to the President of the Senate and to the Speaker of the House of Representatives.

During the extra session of the Forty-sixth Congress I introduced almost the same bill, which was referred to the Committee for the District of Columbia, as I was unable to get any report on it from the Committee on Education and Labor in the Forty-fifth Congress.

After the meeting of the regular session of the Forty-sixth Congress other gentlemen introduced bills for the distribution of the fund upon a different basis. Mr. BAILEY, of Tennessee, introduced into the Senate, and Mr. GOODE, of Virginia, into the House, bills asking the distribution of this fund to five institutions named in the bill. When I saw this, fearing that Mississippi might be left out in the distribution, I introduced a bill to include the Alcorn University of Mississippi, as follows:

[Forty-sixth Congress, second session. H. R. No. 2890. In the House of Representatives, December 15, 1879. Read twice, referred to the Committee on Education and Labor, and ordered to be printed.]

Mr. CHALMERS, on leave, introduced the following bill:

A bill to encourage and aid the education of the colored race in the several States and Territories.

Whereas $510,000 have recently been covered back into the Treasury of the United States from the War Department of moneys originally appropriated for pay and bounties of colored soldiers, but which remain unclaimed after seven years, from the impossibility of discovering claimants; and

Whereas it is in the circumstances equitable and expedient that the colored people should have the benefit of said moneys for their educational improvement and elevation; and

Whereas justice to them demands that these moneys shall be so distributed as to reach in the best way the largest number, and wisdom forbids such a dissipation of them as would defeat the end proposed; and

Whereas the following-named institutions for the education of said people are so located, with reference to centers of population, and have so approved themselves efficient in this work as to render it eminently fit and proper that they should be intrusted with the disbursement of said moneys for said purpose: Therefore,

Be it enacted, &c., That the Secretary of the Treasury be, and he hereby is, empowered and directed, on the passage of this act, to purchase United States registered 4 per cent. bonds to the amount of said moneys, to wit, $510,000, and deliver the same in equal sums to the treasurers of the said following several institutions, to wit: To the treasurer of Howard University, in the city of Washington, District of Columbia, one part; to the treasurer of the trustees of Hampton Normal and Agricultural Institute, in Hampton, Virginia, one part; to the treasurer of Fisk University, in Nashville, Tennessee, one part; to the treasurer of Atlanta University, in Atlanta, Georgia, one part; to the treasurer of Straight University, in New Orleans, Louisiana, one part; to the treasurer of Alcorn University, in Jefferson County, Mississippi, one part, the interest of which shall be used, as the trustees of said several institutions may direct, to promote the end for which they have been chartered; and while these bonds may be exchanged for other United States securities, the trustees shall have no power to use any part of the principal of said bonds.

After this bill had been introduced by me Mr. BRUCE, of Mississippi, introduced the same bill in the Senate, except that he asked that the distribution should be extended to some normal schools, which in my judgment would dissipate the fund too much and prevent any material benefit to any institution. This bill introduced by me should pass, for it is in no sense a gratuity, but an act of simple justice.

The colored soldier whose back pay remains unclaimed may be dead, and if so he gave his life to the service of his country. He may have fallen upon some battle-field, unknown and alone, and his

name may stand upon the fearful roll of "missing"—a list which brings to the mourning family all the horrors of death without even the relief which the painful certainty of "killed" gives; or he may have fallen a victim to some deadly disease in camp, and his family, ignorant and uninformed as to their rights, have made no claim for his pay; or the soldier may still live, and, ignorant as to his own rights, has made no claim for bounty or pay.

The simple question is, shall that money be covered back into the Treasury to pay the ordinary expenses of the Government, or shall it be held as a sacred trust fund for the benefit of the children of the colored soldier's race? There are legal decisions that might be cited to show that this is properly a trust fund, and should not be covered back for general use into the Treasury.

In the case of Jackson *vs.* Phillips, (14 Allen's Massachusetts Reports,) where a bequest had been made to promote emancipation and to take care of fugitive slaves, it was held by Gray, judge, after all slaves had been emancipated by the thirteenth amendment to the United States Constitution, that this was a trust fund, and should be applied to the education of the children of emancipated slaves. Other cases of a similar import might be cited, but this great Government should need no opinions of courts to teach it justice and equity in such a case. If there is any one thing more than another which the ignorant man of ambition and energy exaggerates the value of and has an undying longing to possess it is education. It is like the blind man's craving for a knowledge of light, the deaf man's yearning for a knowledge of sound, and the longing of a repentant and regenerated soul for a taste of that knowledge which passeth all human understanding.

It is the first wish of every enterprising father who cannot read himself that his child shall be educated, and if the dead to whom any part of this money may be due were here to speak for themselves they would doubtless say, "Let my child and the children of my race enjoy the blessings of education that were denied to me." The exact amount that is due from this fund has been variously stated from the Department, and is variously stated in the bills that have been introduced; but whatever the amount may be, it should be held as a sacred trust and devoted to the education of colored children. I am proud to claim that I had the honor to introduce the first bill ever introduced into Congress on this subject, and I shall press it as long as I am a member here. If I have done no other good by its introduction, I have at least attracted attention to the subject, and many soldiers, we are told, are now coming forward and claiming their money who were ignorant of the fact that they had any money here.

This is no new sentiment with me, formed since I became a member of Congress from a district having a majority of colored voters. As a member of the Mississippi senate I endeavored to obtain a State appropriation to assist in educating one colored cadet from each senatorial district in the State at the Alcorn University. I have always claimed that the southern democrat was and is the truest and best friend to the colored race, and I point with pride to my record to show that I have acted in accordance with my professions. But while I am and always have been willing and anxious to do equal and exact justice to the colored man, I have contended that the best interest of both races would be promoted by placing the more important offices of the Government in the hands of educated white men who will be just to the blacks and who have the confidence and support of the tax-paying property-holders of the State.

If there is any class or large portion of the southern white men disposed to act harshly or unjustly toward the colored people, I never believed that denunciation or abuse of such men was the proper remedy for the evil. Time, patience, forbearance, and education are all necessary to secure great and radical reforms. Mr. Calhoun wisely said:

A deep popular excitement is never without some reason and ought ever to be respected.

No free people ever calmly submitted to a loss of liberty, and no free people were ever subjected to such a test of their willingness to obey the law as that imposed on the white men of the South by a forced creation of negro voters in States where the negroes were in a majority. Free men were deprived of the control of their own affairs under the forms of law by this forced injection of an uneducated and recently emancipated majority into their political body. There is a deep popular feeling among them that this was an injury and an insult inflicted on them by Federal bayonets, and that they are justified in resorting to any remedy to avert the horrors of negro supremacy.

This is an unfortunate state of affairs, but no statesman should overlook a fact or fail to consider "the honest prejudices" of a people in endeavoring to reconcile them to an obedience to law.

There is also a deep-seated horror in the northern mind of seeing this Government pass into the control of what they are pleased to call "red-handed rebels," and many otherwise good men in the North tolerated if they did not approve the fraudulent seizure of the Presidency by the republican party as an evil less to be feared than the other.

It may be wrong in southern white men to attempt by force to control the management of their States against ignorant majorities, but it is equally wrong in a great government to interfere in local affairs and attempt by force to subject free and intelligent minorities to the control of ignorant majorities of their former slaves. And yet this is the sole object of the present demand for a strong man and a strong government. Force should form no element in a government supposed to be founded on the consent of the governed. "A strong man" and "a strong government" are terms at war with republican ideas and belong alone to the Russian theory of "passive submission or violent insurrection."

The public mind has not recovered from our terrible struggle, and time and education are necessary for us all; education that will teach forbearance and not force to the prejudices of our neighbors; education that will teach that obedience to law is the first and highest duty of every citizen in a republican government.

When the heroic sons of Greece reared an impassable wall with their dead bodies in the pass of Thermopylæ against the invading hosts of Persia, a grateful government inscribed above them, as the most fitting monument to their valor:

Go, stranger, and tell to the Lacedæmonians that we lie here in obedience to their laws.

Jurisdiction of Circuit Courts and Granger Legislation.

SPEECH OF HON. C. G. WILLIAMS,

OF WISCONSIN,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, February 24, 1880.

The House having under consideration the bill (H. R. No. 4219) to amend sections 1, 2, 3, and 10 of an act to determine the jurisdiction of the circuit courts of the United States, and for other purposes, approved March 3, 1875, reported from the Committee on the Judiciary—

Mr. WILLIAMS, of Wisconsin, said:

Mr. SPEAKER: The act of March 3, 1875, amended the judiciary act of 1879, and in some respects extended the jurisdiction of the United States circuit courts.

The present bill seeks to amend the act of 1875, and if it become a law will in some measure curtail the jurisdiction of the circuit courts. These amendments do not relate to matters of criminal jurisdiction, to cases in admiralty, to civil rights or elective franchise laws, to the prosecution of revenue or other officers of the United States, nor to patent or copyright cases, but are confined exclusively to cases of a civil nature at common law or in equity; so that if the question of State rights, or State sovereignty, or any other matter of a partisan or political nature, comes into this discussion, it would seem to be far-fetched and out of place.

The bill proposes to amend sections 1, 2, 3, and 10 of the act of 1875. The amendments are substantially these:

First. The circuit courts shall have original and concurrent jurisdiction with the State courts in cases where the sum or value of the matter in dispute, exclusive of interest and costs, shall exceed $2,000, instead of $500 as heretofore.

Second. The defendant or defendants only shall have power to remove causes from the State to the circuit courts, except when the plaintiff makes affidavit that he has good reason to believe that from prejudice or local influence he cannot obtain justice in the State court.

Third. No circuit or district court shall have cognizance of any case founded on contract in favor of an assignee or the holder of a promissory note which has been negotiated under the law merchant, unless the assignee or former holder could have brought suit upon the same in said courts.

The fourth amendment in full is as follows:

That the circuit courts of the United States shall not take original cognizance of any suit of a civil nature, either at common law or in equity, between a corporation created or organized by or under the laws of any State and a citizen of any State in which such corporation, at the time the cause of action accrued, may have been carrying on any business authorized by the law creating it, except in like cases in which said courts are authorized by this act to take original cognizance of suits between citizens of the same State. Nor shall any such suit between such a corporation and a citizen or citizens of a State in which it may be doing business be removed to any circuit court of the United States, except in like cases in which such removal is authorized by the foregoing provision in suits between citizens of the same State.

The effect of this amendment in brief would be to place corporations organized under the laws of one State and doing business in another on an exact equality with the citizens of the latter State as to the jurisdiction of the circuit courts. Now, the first question embraced in these amendments is whether matters in controversy where the amount involved is $2,000 or less shall be disposed of in the State courts as matters involving $500 or less are disposed of now; or, in other words, whether the amount to which the circuit court jurisdiction can attach shall be carried up from $500 to $2,000.

Mr. Speaker, with the highest regard for those who advance it, I have but little respect for the argument that this jurisdiction is very ancient, and therefore should not be disturbed; that it was fixed by the fathers at $500 over ninety years ago, and out of respect to their wisdom should be suffered to remain.

When the gentleman from Massachusetts, [Mr. ROBINSON,] who first put forth this argument, was asked by the gentleman from Georgia [Mr. HAMMOND] why the fathers fixed the amount at $500, he with

characteristic frankness replied that he did not know; but added that the practice and experience of ninety years had demonstrated the wisdom of the fathers.

If my friend from Massachusetts will pardon me, and I know he will, it seems to me that that was simply assuming the whole question in dispute, for the very question we are trying to determine here, as I understand it, is whether experience, practice, and wisdom do not all demand that this jurisdiction now be changed.

Mr. Speaker, if all wisdom had died with the fathers, if population were never to increase, wealth never to develop, commercial values never to change; if aggregate wealth and corporate powers were always to sustain the same relations to the masses of the people and subjects of litigation, then I could appreciate the force of this reasoning.

But, sir, we all know that such is not the case. Why, when this jurisdiction was originally fixed $1,000 was regarded as quite a competency in this country; fifty thousand was a wonder; and a millionaire of that day was simply an American Crœsus. How is it now, with fortunes towering into the fifty, sixty, and one hundred millions? Will it be urged that the facilities of the courts have kept pace with the development of the country? Then look at the changed condition of things; when this jurisdiction was originally fixed there were six judges, three circuits, and thirteen districts. The Supreme Court judges presided in the circuit as well as in the Supreme Court. Now we have nine Supreme Court judges, nine circuits, nine circuit judges, and forty-nine district judges. Of course judges, clerks, and marshals had to be paid then as now; but if salaries, fees, and compensations bear any relation whatever to the amounts involved in litigation we have only to compare the salaries of that day with this.

Then your Chief-Justice received a salary of $4,000; now he receives $10,500. Then the justices of the Supreme Court received $3,500; now they receive $10,000. Then the district judges, for, as I have said, there were no circuit judges as such, received from $800 to $1,000 salary; now our circuit judges receive $6,000, and the district judges on an average $3,500; and I want to add, by way of parenthesis, that the pay allotted to this last class of hard-worked judges falls little short of parsimony, when we consider that from necessity they have to perform the great bulk of the labor, both in the district and circuit courts.

But again, as to the facilities of the Federal courts: Why, sir, if you will look at the eighth circuit, west of the Mississippi River, you will find that Judge McCrary presides over a judicial empire! If gentlemen will examine the figures they will see that this one circuit excels in population, if indeed it does not equal in wealth, the whole thirteen States when this jurisdiction was originally fixed. The city of Saint Louis to-day has a population greater by at least ninety thousand than the entire State of New York had then. Now, whether this jurisdiction shall be changed from $500 to $2,000 may admit of dispute, but that all the relations and conditions have changed admits of no dispute whatever.

If, therefore, the dockets of the circuit courts are loaded, if the places of trial are remote, the time uncertain, and the costs of litigation oppressive, then both a sound discretion and an enlightened public policy demand that this change be made.

As to the second amendment, which provides that defendants only shall remove cases from the State to the circuit courts, except where from local prejudice or influence the plaintiff is in danger of not obtaining justice, there would seem to be no question. In all other cases the plaintiff himself having selected his tribunal should abide by it, and not be allowed to experiment in this regard.

So as to the third amendment. The cormorants in human form who have swarmed over the country and swindled the people by the sale of county and town rights, of bogus patents for drive-wells, automatic gates, and almost every other patentable implement the farmer or any one else uses, should not be allowed by transferring notes and obligations thus obtained to their pals in other States to use the Federal courts to complete the swindle.

And, sir, this amendment serves notice upon all the above class of gentry that hereafter, if they propose to pursue their nefarious calling, they shall meet their victims face to face in the courts of the vicinage where the fraud was perpetrated and the facts are known.

This brings us to the fourth, and really most important amendment. Mr. Speaker, had I any doubt here, the legislation of my own State and the evils sought to be remedied thereby would be a sufficient light and guide. Wisconsin thought that if her consent was necessary to admit corporations created under the laws of another State to transact business within her borders, that she had the right to attach to such consent such reasonable conditions as would at least, so far as the jurisdiction of the courts was concerned, place them on an equal footing with her own citizens and the corporations created under her own laws. She thought if she opened her field of enterprise to these foreign bodies, threw about them the protection of her laws, and granted to them all the privileges and immunities enjoyed by her own citizens and her own corporations, that she had gone as far as either reason, comity, or justice could require.

And, sir, she acted in the fullness of this belief until she was met by the Supreme Court, in the Home Insurance Company *vs.* Morse, 20 Wallace, and told that she had no right to impose such conditions and that these corporations had no power to assent to them, but that her answer as to admitting them to do business must be "yea, yea, and nay, nay." And although two of the ablest judges on the bench, one the Chief-Justice, dissented, and fortified their dissent by the doctrine contained in Paul *vs.* Virginia, 8 Wallace; Ducat *vs.* Chicago, 10 id., and Bank of Augusta *vs.* Earle, 13 Peters, already decided by the court, yet of course the decision had to be accepted as binding and final. But, sir, while the court thus decided that a State had no power to prohibit these corporations from thus bringing suit in the circuit courts of the United States, the court did not decide, nor has it ever yet decided in any case before it, that Congress does not possess this power. And I respectfully submit that that is the precise and legitimate question for discussion here.

The gentleman from Massachusetts [Mr. ROBINSON] contends that the Supreme Court having held that for the purposes of jurisdiction in the Federal courts these corporations are citizens of the State in which they were created, upon the presumption that the individual members of the corporation were such citizens; that, although Congress has the power to "ordain and establish inferior courts," under section 2, article 3, of the Constitution, it has no power to exclude these artificial citizens from the courts it thus creates, but that they must be admitted under the clause giving jurisdiction in controversies "between citizens of different States;" and, if I understand the argument, it is that Congress, in conferring this jurisdiction, must not discriminate between classes of citizens, their rights being equal in that regard.

From what source does this equality of right come? What points of comparison are there between these law-created citizens and the natural citizen? Are they so obvious as to lead inevitably to an identity of rights? The natural citizen has a volition of his own and can manifest his intent; and through such intent can put off and put on citizenship, can these corporations do that? Not if this argument be sound. There is no power on earth which can either directly or indirectly change this citizenship when once established. The State that created the corporation cannot do it. The State where such corporation goes to do business cannot do it; the corporation itself cannot do it; and now we are told that Congress, even in the jurisdiction of its own courts, cannot affect it in the slightest degree; but that this one fact, fixed, unalterable, and in a sense everlasting, establishes a jurisdiction in the United States circuit courts which even the power that ordained and created these courts cannot disturb!

Mr. Speaker, the clear and masterly manner in which the gentleman from Kentucky, [Mr. KNOTT,] the chairman of the committee, the other day drew the line of distinction between these artificial bodies and the natural citizen renders it unnecessary to pursue this matter further. And, sir, it seems to me that my esteemed colleague and friend, the gentleman from New York [Mr. LAPHAM] who has just taken his seat, has not only touched the very core of this question of jurisdiction but has made it so plain that even he who runs may read.

Section 1, article 3, of the Constitution provides that—

> The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish.

Section 2 reads:

> The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority;—to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants of different States, and between a State or the citizens thereof, and foreign States, citizens or subjects.
>
> In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact; with such exceptions and under such regulations as the Congress shall make.
>
> The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

Now one of two things is true. Either Congress has only the power to ordain and establish the inferior courts here named, to which all this jurisdiction, save the original jurisdiction of the Supreme Court attaches *instanter*, or it has full power and discretion over such jurisdiction, both as to the subject-matter and parties litigant, and if as to one, then as to both.

That it has this power, and may confer or withhold from these "inferior courts" the jurisdiction thus described admits of no doubt. The authorities just cited by the gentleman from New York [Mr. LAPHAM] (Turner *vs.* The Bank of North America, 4 Dall., 10; Clarke *vs.* The City of Janesville, 4 American Law Register, 593, and others to like effect) place the question beyond the domain of doubt. If, then, Congress has the power to say that citizens whose claims do not exceed the value of $500 shall not be heard in the United States circuit courts, while citizens whose claims amount to $500.10, or even one cent, shall be heard, are not the first citizens thus classified as virtually discriminated against and excluded as the corporations named in this bill? It may be replied that it is not fair thus to classify them, but the answer to that is, that Congress itself has in effect thus classified them, and virtually attached a property qualification to the subject of jurisdiction.

Now, how could it do that if it had no discretionary power? Take the following clause of section 2, which reads: "In all cases affecting ambassadors, other public ministers and consuls, &c., the Supreme Court shall have original jurisdiction." Would anybody contend that Congress could exclude any of these parties from such jurisdiction even though the value of the matter in controversy was but a penny? Yet, as we have seen, whole classes of citizens are excluded under the power to regulate the jurisdiction of these inferior courts. And, so far as the naked question of plenary power goes, why may not the character of the citizen or the party be taken into consideration as well as the subject-matter itself? For instance, supposing a corporation is organized under the laws of a given State for the purpose of engaging in the lottery business, in which State such business is lawful and not a crime. Now, supposing such corporation is permitted to carry on its business in another State where such business is also lawful, will it be contended that the Congress of the United States, in the exercise of a sound discretion and in furtherance of a wise public policy, has not the power to deny to such a party the jurisdiction of the circuit courts? If it has not, then the legislation of two States overrides the power of Congress even as to the jurisdiction of its own courts. So as to other parties or other enterprises which may affect the public good, has not Congress the power to inquire and judge whether it would be right, just, or proper to exclude such parties by the exercise of a sound legislative discretion in that regard?

But passing by the question of naked power my friend from Massachusetts thinks it would be an injustice almost unparalleled to discriminate against this class of incorporate citizens, and he cites the Dred Scott decision as the only instance where the attempt has been made to discriminate between citizens in the courts. If he will allow me, I must regard the illustration as a most unfortunate one. Why, sir, what was the Dred Scott decision, and what did it assume to do? Not to waste words about it, it took a man, stripped him of his manhood, and reduced him to a *thing!* Now, what would State legislation do under the construction contended for by the opponents of this amendment? It would take a *thing* without body, soul, or spirit, elevate it to the dignity and potentility of manhood, and then not only clothe it with personality but invest it with citizenship irrevocable, and these two cases are presented as parallel to each other.

Mr. Speaker, of course a discussion of this nature, involving the rights, privileges, and powers of great corporations, would never be complete without some reference to the "granger laws and granger excitements" at the West; to an elective judiciary, or "judges who sit on the bench elected by the votes of the people who pay the taxes," and "who expect to be elected next time, sometimes because they make this decision or the other that may suit the popular whim;" to long-suffering and patient "capital" needed to "build up the undeveloped West," but prejudiced by "sectional bitterness," "narrow prejudices," "or local indifferences to integrity and honor." I said all this was inevitable in a discussion like the present. And my friend from Massachusetts, whom I admire as a lawyer and esteem as a man, has proved himself equal to the emergency, for I have already quoted his exact expressions. And I do so without feeling, and only for the purpose of alluding for a moment to these stock phrases and suggestions which have so long done duty and can be so easily and carelessly flung about. It is true, Mr. Speaker, that we have had granger excitements and granger legislation in the West. It is also true that our ideas have been pronounced crude and even utopian. And this has been done in a spirit of such magnificent patronage and lofty condescension that it almost takes away our breath. Yet it is a significant fact that the very arguments, ideas, reasons, facts, and logic employed by grangers in the West six years ago are coming in pamphlet form to this House to-day from your trained men of business in chambers of commerce and boards of trade from Boston to California. If our facts and theories in the West were so wild and vague, how is it that these wise men of the East have so eagerly revamped and appropriated them?

We knew that the "granger movement," so called, was encumbered and embarrassed by scores of impractical schemes, as popular movements ever are. We realized that unexpected men were popping up at unexpected times and places with unexpected propositions. But, sir, the great central principle on which that movement was founded never yielded to any pressure. It was this, and only this, *that corporations created by legislation must be subject to legislative control.* The people, with that instinct and that logic which never deserts them when their rights are endangered, clung to this as to the sheet-anchor of their hope. They conquered, and, in a certain sense, their victory was as important and far-reaching in its consequences as any ever won on the battle-fields of war. Opposed to them was the avowal that these corporations should be subject to no control whatever save their own interests and their own will. In the light of the facts and the experience of the last ten years, which proposition seems the most wild and chimerical to-day?

Sir, I am glad to be able to say here that the results of that contest have been most salutary in their effects. A better understanding, and therefore a better feeling, exists between these corporations and the people of the West to-day than ever before.

On the one hand the people have learned what things are practical and what impracticable. On the other, these corporations have learned that the popular will is not a thing to be arrogantly defied or lightly disregarded. There are great and serious evils still complained of, which it will take time and the very highest wisdom to remedy.

But all parties, of all variety of interests, have started on the better road to practical results. Two of the great trunk lines of the West, the Chicago, Milwaukee and Saint Paul and the Chicago and Northwestern Railroad Companies, were chartered in Wisconsin. They submit willingly to the jurisdiction of its courts; and if they why not these foreign corporations as well? What hardship if they be made to submit? If there is really any doubt as to the power of Congress to make them submit the gentleman in charge of this bill has only to bring forward an amendment raising the value of matters in controversy as to these corporations to $5,000 or $10,000, and all doubt is surmounted and the purposes of the bill practically provided for.

Yes, Mr. Speaker, our judiciary in the West is elective, but is it corrupt? Do gentlemen of the East desire to institute comparisons in that direction? I will not dwell upon this more than to say that there does not exist on this continent a judiciary more pure, independent, or able than that to be found in our Western States. Their opinions are everywhere quoted in elucidation of the law, and from their number the Federal judiciary has not only been reinforced but greatly strengthened. Our people are content with the elective system. They believe that in the open field of non-partisan elections there is quite as much safety as there is in the favoritism and the secret and subtle influences which will always surround the appointing power, however pure. And experience has confirmed their judgment. They believe further that when judges realize that they are amenable to the people, they are not only more apt to study their wants, share their sympathies, and administer both justice and equity more broadly and intelligently, but they are more apt to avoid that bigotry and those "narrow prejudices" which mere book-learning, isolation, and advancing age are sure to bring.

Mr. Speaker, it is not necessary to eviscerate a man or take the soul out of him in order to make him a good judge. If our judges in the West have sympathized with the people, it is because the people have been swindled and robbed. The same class of men who have swindled the East have swindled the West. They are not the men who run our railroads to-day. But when money could be borrowed, when farms could be mortgaged, and towns bonded upon false and fraudulent representations, when men on lines of road merely projected could issue bonds before a shovelful of earth had been moved, sell them in the East and in Europe, procure funds, form construction-rings, issue stock and sell it for what it would bring, and when these different issues of paper had been transferred and purchased at a discount and the face values then demanded, and when the victims had to be told that though they had been defrauded and robbed yet the iron rules of law excluded their equitable defense, is it any wonder that our judges, if they were not less than men, seeing all these things pass before their eyes, should sympathize with the victims?

Why, sir, I have seen with my own eyes gray-haired pioneers driven from the farms which their own hands reclaimed from a state of nature by these hard necessities of the law. And through misrepresentation, fraud, and unmitigated scoundrelism whole towns and counties in the West have been bonded for railroad purposes where no car-wheel revolves to-day.

That there have been cases of individual wrong in the East as there have in the West no one doubts. But the West sheds no tears and spends no sleepless nights over the aggregate returns she has made for the use of eastern capital; 10, 12, and 15 per cent. tell the story! And while the East has indeed helped build up the West, she should never forget that her gold had to be kneaded with the sweat and toil, the brawn and brain of the West before those fair young States could be builded which are to-day the crowning glory of the Republic, and in which I add, without desiring to be offensive, dwells its main hope for the future.

Eastern capital went West to make money, and did it. Men in the West borrowed it for a like purpose, and, whether they succeeded or failed, there was no beneficent motive on either side. Both capitalists and corporations will tell you that they have no time for sentiment; that they conduct business on strict business principles. And they are right. They run their business matters on the straight line of purpose, and freed from all nonsense; they never turn aside except when some cherished privilege or darling prerogative is touched; then indeed they can emit groans of iron and shed tears of silver over the trust funds of the widow and orphan, such as should move a heart of stone. I speak of them, of course, in a business way, and not as individuals, for as individuals many of them stand among the most generous in the land. And that there is often a public benefit connected even with selfish ends, of course, I do not forget.

But, Mr. Speaker, let us have done with this mode of complaint or appeal. Let the causes for sectional bitterness be removed, and sectional bitterness will pass away. Let the reasons for prejudice against great moneyed corporations, now almost universal, be remedied, and it shall become narrow indeed. Let integrity, honor, and fair dealing be the unvarying rule between all ranks and classes of the people, and indifference to it shall never enter the portals of a court. Let us all remember that we have our faults as we have our virtues, and that diversity of interests, tastes, and education demand forbearance and comity of intercourse. In short, let the nation itself move on harmoniously in all of its parts, and it shall realize the hope of its founders and the bright ideal of all who love and defend it.

Post-Office Deficiency Bill.

SPEECH OF HON. HIESTER CLYMER,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, February 26, 1880.

The House being in Committee of the Whole and having under consideration the bill (H. R. No. 4736) to provide for a deficiency in the appropriations for the transportation of the mails on star routes for the fiscal year ending June 30, 1880; the bill being in the following terms:

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That out of any moneys in the Treasury not otherwise appropriated, so much thereof be, and the same hereby is, appropriated as may be required to meet the expenses of inland mail transportation on star routes for the remainder of the current fiscal year at or within existing contract prices: *Provided*, That upon any route where there has been an increase of the original contract price during the last or the current fiscal year exceeding $5,000, the compensation on such route shall be reduced to the terms of the original contract on and after the 1st day of March, 1880; but nothing herein contained shall be construed to forbid the payment to contractors of the one month's pay, as is usual, in case of reduction or termination of contract.

"SEC. 2. That the further sum of $100,000 be, and the same is hereby, appropriated, as aforesaid, to enable the Postmaster-General to place new service as authorized by law, and the further sum of $100,000 to increase the service on existing routes, including those on which a reduction has been provided for by the preceding section: *Provided*, That no increase shall exceed the rate of $5,000 a year upon any one route."

And the Committee on Appropriations having directed a substitute to be offered therefor, as follows:

"That the sum of $970,000, or so much thereof as may be necessary, be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to meet the expenses of inland mail transportation on star routes for the remainder of the current fiscal year, at or within the contract prices as they existed on February 1, 1880: *Provided*, That upon any route where there has been an increase of the original contract price during the last or the current fiscal year for expediting the delivery of mails on any such route at the rate of more than $2,500 per annum, the compensation for expediting service on such routes shall be reduced to the terms of the original contract on and after the 1st day of March, 1880; and nothing herein contained shall be construed to require the reduction of the number of trips per week over any such route below the present number. During the remainder of the current fiscal year no further expediting of service on any postal star route shall be made.

"SEC. 2. That the further sum of $100,000 be, and the same is hereby, appropriated as aforesaid to enable the Postmaster-General to place new service as authorized by law."

Mr. CLYMER said:

Mr. CHAIRMAN: The committee is brought to confront a pressing public exigency. An order has been, or is about to be, issued by the Postmaster-General which will bring widespread destruction to the material interests of the country, unless we by some enactment prevent it. The stoppage of the mails on the star routes is threatened, and it cannot be regarded other than as a great public calamity. I propose, sir, in the very few moments which I have reserved for myself in this discussion, to inquire into the cause of this impending calamity and to see whether we may adopt a remedy.

Mr. Chairman, I do not believe that there is a member of this committee who would willingly by his act or vote impair the efficiency of the star, steamboat, or railroad postal service of the country. It enters so closely into the very core of our civilization, it is so intimately connected with all the interests, public and private, social and political, of the country, that no man could be other than false to his own interests and to those of his constituents were he so to vote or act.

Therefore it was that in the last Congress, when it was called upon to determine the amount required to maintain the vast machinery of the Post-Office Department, it voted the sum of $5,900,000, the last cent asked by the Post-Office Department in its estimates for the current fiscal year for the star service, and I beg to remind the committee that the sum asked was in effect $1,200,000 more than had been voted for that service during the preceding year, when the appropriation was $5,400,000. It arose in this way, that the new contracts for the star service for the present fiscal year and the three following years had been made at much lower than previously existing rates, and the $5,900,000 in that view represented an increase of at least $1,200,000 over and above the appropriations for the former fiscal year? We felt certain that we had discharged our whole duty in the premises—that we had been liberal to the last degree—who may say that we had not? But the startling fact is made manifest by the report of the Postmaster-General for this year that at the very time this appropriation of $5,900,000 was voted for the support of this star service for this year on the estimates made by the Department itself, the Postmaster-General was expending upon it $6,401,830 a year.

If blame attaches to any one for the existence of the alleged deficiency and for the threatened stoppage of the mails by reason of the exhaustion of the appropriation for this year, it is unquestionably with the Department, which deceived Congress as to the amount required. Every dollar asked for was voted, although at the very time the estimates were made the report of the Postmaster-General proves that the cost of the star service was then at least $500,000 greater than his estimates. Did any of us know—was it possible in the nature of the case to know—could we have entertained a suspicion, when we had appropriated every dollar asked for, that there would be a deficiency of any amount for this year? We had given all that was asked, a sum representing a greater amount than was demanded by the average growth of the star service in former years; we had in no wise attempted to stint it; therefore, in the judgment of all candid men of all parties, it must be admitted that there is no responsibility upon us—that we have discharged our duty fully, and that our skirts are clear.

We were in session when the present fiscal year began, adjourning on the 2d of July, meeting again the first Monday of December, and in the report of the Postmaster-General, made to us at that time, there is no warning of any threatened deficiency for the current fiscal year, and none for the past fiscal year, save a small one amounting to about $150,000. It was not great; it caused no alarm—it was not large enough to put any man on his guard.

The appropriation for the current year was so great relatively, as compared with that for the past year, that no one acquainted with the affairs of the Department could have supposed that there could by possibility be a deficiency during this year. Mr. Chairman, was this silence of the Postmaster-General in his report intentional; did he design thereby to conceal facts; had he so administered the affairs of his Department that he was either afraid or ashamed to avow it? I cannot answer; but, sir, the statement of a fact which may not be gainsaid is conclusive that there was a design to deprive Congress and the public of every means of information regarding the administration of the affairs of the Post-Office Department.

By law there is published every two years what is known as the "Blue Book," containing the names of all the officers in the civil and military service of the Government and also a detailed statement of the affairs of the Post-Office Department—its officers, its offices, its mail routes, its contracts and contractors, and the cost thereof. And the fourth sub-section of section 510, Revised Statutes, provides for "a statement of all allowances made by the Postmaster-General within the same period of two years to each contractor on contracts for carrying the mail, designating the sum paid as stipulated by the original contract and the sums paid as additional allowance." This statement is to be published in the Blue Book "as soon as practicable after the last day of September in each year in which a new Congress is to assemble." But, sir, there was a notable omission in the last edition of this book—all information regarding the Post-Office Department was omitted; and this, sir, for the first time since the book was ordered by law to be published. Each member of this House has a copy, and by an examination of a note on its third page the alleged cause for this singular and startling omission is given.

The note is as follows, namely:

It has been found impossible on the part of those having the matter in charge to supply the statistics relating to the postal service of the United States in time to admit of the publication of the Official Register, in its usual form, earlier than March or April, 1880.

It is therefore deemed expedient to issue the work in two volumes, in order that such portion of it as could be prepared might be available for the use of Congress at its convening in December.

It is believed that the public convenience will in this way be best subserved, and that the division of the work into two volumes will be acceptable to those who have occasion to consult it.

The second volume will embrace only such statistics as relate to the Post-Office Department and the postal service, and will be issued as soon as practicable.

I will leave each gentleman judge for himself whether the reason assigned is satisfactory. Suffice it for me to say that had the omitted information—which is required by law—been published this committee and the country would not have been in doubt as to the affairs of the Post-Office Department. From it it would have clearly appeared that there was a vast and increasing deficiency; that not only the estimates for the year but the appropriation also had been greatly exceeded, and that there must of necessity be a deficiency. But, sir, the information was deliberately suppressed and withheld, the law was violated by this suppression, and neither this committee nor the country could have knowledge of the existing condition of affairs.

I do not wonder, sir, that those who were responsible for the maladministration of the affairs of the Post-Office Department hesitated to make the avowal. They withheld it until exposure became inevitable in order, in my judgment, that they might have opportunity to avert the indignation and reprobation which would have followed an earlier acknowledgment. And it was not, sir, until the 8th day of December last that we received the following communication from the Postmaster-General and his Second Assistant informing us of the wretched condition of affairs:

POST-OFFICE DEPARTMENT,
Washington, D. C., December 8, 1879.

SIR: I have the honor to transmit herewith a communication from the Second Assistant Postmaster-General, calling attention to the insufficiency of the appropriation for inland mail transportation for the present fiscal year, and asking that the sum of $2,000,000 be appropriated out of the unexpended balances of former appropriations for that purpose during the past four years, which have been covered into the Treasury, and be made available to meet the necessities of the service and of the country during the current fiscal year.

I cordially indorse the request, and take this occasion to suggest that the business interests of the country would be promoted by the prompt and favorable action of Congress.

Very respectfully,

D. M. KEY,
Postmaster-General.

The honorable the PRESIDENT OF THE SENATE.

POST-OFFICE DEPARTMENT,
OFFICE OF SECOND ASSISTANT POSTMASTER-GENERAL,
Washington, D. C., December 6, 1879.

SIR: I have the honor to state that the appropriation for inland mail transportation on star routes, for the current fiscal year, has proved insufficient to meet the wants of the rapidly growing service.

The annual cost of the service now in operation is $7,620,004, while the appropriation is but $5,900,000. Not only will the present appropriation allow no increase of mail facilities during the year, but it will be necessary to curtail the existing service in order to bring its cost within the appropriation.

Believing that this cannot be done without great injury to many deserving communities, and, further, that pressing necessity exists for increased service in many places, I venture to suggest a method of relief.

During the four fiscal years last past, namely, 1876 to 1879, there has been covered back into the Treasury of unexpended balances of appropriations for inland mail transportation $3,965,468.27.

In view of this fact, I have the honor to request your recommendation to Congress that about one-half this amount, say $2,000,000, be reappropriated for mail transportation on star routes.

This will enable the Department to maintain the present service, and besides afford a margin for reasonable and necessary increase during the remaining half of the fiscal year.

Very respectfully, &c., THOS. J. BRADY,
Second Assistant Postmaster-General.

Hon. D. M. KEY, *Postmaster-General.*

These statements startled the country and this House; and in view of the fact that by law—

No Department of the Government shall expend, in any one fiscal year, any sum in excess of appropriations made by Congress for that fiscal year, nor involve the Government in any contract, (Revised Statutes, section 3679,)

and—

No contract or purchase on behalf of the United States shall be made, unless the same is authorized by law or is under an appropriation adequate to its fulfillment, (Revised Statutes, section 3732,)—

the Appropriations Committee—that much abused committee of this House—that committee which is capable in the judgment of many of all wrong and no good, asked the right to investigate. We have partially made that investigation, but under the ruling of the Chair yesterday I may make no reference to what has transpired during it. But, sir, an article appeared in one of the public prints this morning (which I will publish with my remarks) from an authority which may not be doubted which illustrates and demonstrates the attitude of the Post-Office Department in regard to this subject.

Mr. PAGE. Is the gentleman going to have that read?

Mr. CLYMER. I ask to have it printed as a part of my remarks. I do not propose to consume my time by the reading of the interview. If it is not correct I beg some friend of the Second Assistant Postmaster-General to make denial.

The position, sir, of the Post-Office Department is this: That it has the right—I state it upon authority—to take an appropriation for a given object, say for the star service, expend every dollar of it within thirty days after the commencement of the fiscal year, and to deprive the country entirely of the star mail service during the remainder of the year. That, sir, is the position of the Department, boldly, broadly stated, without reservation and without hesitation. That is the claim made by the Second Assistant Postmaster-General. He says there is no limitation upon his discretion. Methinks he would find he is a bold and willful violator of the law making the appropriation if he would but read it. We appropriated $5,900,000, not for six months, or three months, or thirty days, but we appropriated it for the star service for the fiscal year ending the 30th of June, 1880. And, sir, I say that he who lays his hand on that fund and so uses it as to defeat that intention is a violator of the law, and were it in my power he should suffer as other malefactors. In the interview referred to, the Second Assistant Postmaster-General speaks of the "general policy of the Department," and asserts it to be "simply his business to vindicate it," and that "if Congress does not indorse that policy, well and good; it can create a policy of its own. That if the policy created by Congress is more satisfactory to the people at large than his, [mine,] I am sure I shall have no reason to complain."

His policy, forsooth! Congress, the law-making power, ordained its policy in and by the enactment of the law making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1880, and for other purposes, approved March 3, 1879. And yet this bold and willful violator of the law would set up "his policy," costing two millions more than that ordained by law, and ask for it justification and approval. What necessity is there for a legislative or executive department of the Government, with a Second Assistant Postmaster-General, all-wise, all-powerful?

What! shall a mere clerk in this or any other Department override the express will, the clear intent of the legislative power of this Government? Has it come to this, that we are the servants of a clerk? Shall he strike us down and override us by coming into this House and by promises, by log-rolling, by threats of withdrawing postal service, interfere with us and our duties as Representatives? Are we in this way to be driven into what he thinks right, into the support of his policy, no matter what may be our opinions as to the necessities of the public service? Has it come to this? Is the American Congress the slave of a clerk of the Postmaster-General? Yet, sir, that is his claim. The article I shall incorporate in my remarks sustains it; and if the report of that interview be not correct, I beg some gentleman——

Mr. CONGER. If the gentleman from Pennsylvania has sent anything to be read that is not read, I shall object to its being published. I shall object to anything being published in this speech that is not read.

Mr. CLYMER. It is too late for the gentleman to make his objection, and I trust he will possess his soul in patience.

We found ourselves in this position in the Appropriations Committee; we did not propose to strike down the star service; we proposed to continue it in all its just efficiency. But, sir, if we might by possibility curb this assumed power and the apparent extravagance—I use no more offensive term—of the Department, we designed to do it. And it is my high pleasure here before the American people to say that, no matter how widely on that committee we may differ on other questions, never yet have I seen its members differ or falter when it was a question of economical and honest administration of the Government. And therefore it is, sir, that this committee comes to-day into this House with a united front asking the passage of the proposition as just submitted by the gentleman from Indiana, [Mr. BAKER.]

After the discussion in the Committee of the Whole yesterday it was very evident that the sense of this committee was against the radical measure contained in the original bill. It was evident that we had drawn a line which did not commend itself to the sense of justice or of fairness of a majority of this body, and, obedient to what we conceive to be its will when in the right direction, we did not hesitate during this morning so to modify the bill that all service of every kind everywhere on each coast, north and south, wherever the presence of the Federal Government is manifest in its mails, the same number of trips should be maintained as they now exist. What we did say, gentlemen of the committee, and we said it with united voice, was that in all cases everywhere, wherever the service had been expedited at a cost in any one case of more than $2,500, the service should go back to where it was when the contract was expedited.

I can assure gentlemen, from a statement which I hold in my hand, that in all the States and in all the Territories there will be no expedited service touched, save in Louisiana, the Indian Territory, the Territories of Dakota, Wyoming, Arizona, Utah, Idaho, and the States of Colorado, Oregon, and California. The rest of the postal service machinery is left everywhere untouched and unbroken.

We have done this so as to give Congress time before the close of the session in which to provide a remedy for what is confessedly a great and ever present evil, an evil which the Postmaster-General himself has condemned, and for which he has asked a remedy. He says that he is powerless himself to provide it.

In order to show how outrageous and enormous are the increases made on original contracts for expedition and increased number of trips, I will incorporate in my remarks a table prepared by the Second Assistant Postmaster-General, whereby it appears that on the twelve routes set forth the cost of the original letting was for the sum of $248,326, which has been increased, without notice and without competition, to $1,183,316.19, the present pay.

Statement showing increased pay on twelve star routes for expedition and increased number of trips.

State or Territory.	Number of route.	Termini.	Length as let.	Present length.	Number of trips as let per week.	Present number of trips per week.	Original pay.	Increase.	Present pay.	Number of offices in 1877–'78.	Number of offices in 1878–'79.	Number of offices at present.	Pay last term.
			Miles.	*Miles.*									
Indian Ter..	32024	Vinita, Las Vegas.....	638	810	1	7	$6,330 00	$144,262 03	$150,592 03	.....	21	27	New service.
Dakota.....	35051	Bismarck, Fort Keogh.	303	310	1	6	2,350 00	67,650 00	70,000 00	.....	3	4	Do.
Texas	31454	Fort Worth, Yuma....	1,560	1,426	7	7	134,000 00	165,000 00	299,000 00	33	35	36	Pro rata for like service, $321,000.
Montana ..	36107	Bozeman, Fort Keogh..	326	361	3	7	16,500 00	68,766 81	85,266 81	8	16	16	Three times a week, $29,400.46.
Wyoming...	37110	Rock Creek, Ft. Custer.	331	331	3	7	10,507 25	78,260 87	88,768 12	4	8	9	New service.
New Mexico.	39109	Las Vegas, Las Cruces.	442½	424	3	7	14,900 00	76,311 68	91,211 68	17	19	19	Three times a week, $27,181.81.
Arizona	40101	Prescott, Santa Fé.....	460	460	3	7	13,313 00	122,662 00	135,975 00	11	14	14	Three times a week, $42,033.
Do.....	40103	Prescott, Mohave City.	190	190	2	7	7,440 00	59,519 99	66,959 99	7	8	9	Once a week, $4,600.
Do.....	40116	Phœnix, Prescott.....	140	140	1	7	680 00	31,960 32	32,640 32	4	7	7	New service.
Oregon	44155	The Dalles, Baker City.	275	275	2	7	8,288 00	64,232 00	72,520 00	17	14	15	Twice a week, $9,725.
California ..	46120	Soledad, Newhall	304	332	7	7	29,000 00	26,424 33	55,424 33	20	22	23	Seven times a week, $45,990.29.
Do.....	46247	Redding, Alturas	179	179	2	6	5,988 00	29,940 00	35,928 00	14	13	13	Three times a week, $11,486.71.
Total ...	.....	.....	.....	.....	.....	.....	248,326 00	934,990 03	1,183,316 19				

THOS. J. BRADY, *Second Assistant Postmaster-General.*

We know that all about this Capitol, in its every corridor, everywhere, we meet the agents of what is known as the mail star-service syndicate. They drive all honest men from bidding on post-routes. For a route over which it will cost $100,000 to carry the mails they will bid $6,000, knowing that the price is utterly inadequate, and that the wants of the people, the public necessities, the petitions of citizens, judges, soldiers, and others, will come in for an expedited and increased service. Like birds of prey, they sit watching for the plunder they know will come to them; that, having the contract, say, for a weekly service and slow time, they can have no competitors for an increased and expedited service, which surely must come.

It is this way that this mail-letting business has become a disgrace, a shame, and the bane of our system. It is not for me at this time in this committee to fully express my opinion upon this subject. During the course of future proceedings the time may come, and then I will go into it as fully as the subject may demand. Until then I will refrain from any further discussion of the matter.

What is the proposition now before this committee, as set forth in the proposed substitute of the gentleman from Indiana, [Mr. BAKER?] It is to give $970,000 for the purpose of continuing the mail service on the star routes as it now exists as to number of trips and expedition, save in cases where expedition has cost over $2,500. Every gentleman will ask, not only in the interest of his own district but in the interest of the country generally, if that sum is enough. I think I can demonstrate that it is.

The sworn statement of the Second Assistant Postmaster-General shows beyond question or doubt that if all the expedition and all the increase of service be cut off the money he would require to carry on the postal service until the 1st day of July next would be a little less than $700,000. Regarding this there can be no question, if he may be believed under oath. I have taken some pains to ascertain what is the cost of expedition and what the cost of increased number of trips. Together the two amount to about $2,225,000, of which sum $1,145,000 is required for expedition, and the proportionate amount of that sum we propose to cut off.

Mr. BINGHAM. Will my colleague allow me to ask him a question?

Mr. CLYMER. Not now. The cost for additional service is $1,079,000. Now, if you take one-fourth of the first sum for expedited service, which will be $286,000, you will have the cost of expedition for the remainder of the present fiscal year; and one-fourth of the sum for the cost of additional service, being $269,000, will give you the cost provided for in the pending proposition. Add that amount to the $700,000 which the Second Assistant Postmaster-General said was necessary when the Committee on Appropriations proposed to cut off both the expedition and increased service, and you will have the sum necessary to be appropriated for continuing the service precisely as it now is, except the cutting off the expedited service. These are the figures, and they are so plain and simple, so direct and positive, that no gentleman need ask further what should be his vote on this bill.

I have discharged imperfectly, I fear, the trust which was committed to me by the committee of which I am a member. If I have done anything to show to the House and to the country the evils which exist, and have pointed out the remedy to be applied, then my whole purpose has been accomplished. The work immediately before us is of high importance to the constituency of every gentleman here, and we can perform no better service to them than by discharging it promptly. We must save the star service, so necessary and important to the whole people, from the maladministration which threatens its destruction.

Mr. PAGE. I rise to demand the reading of the paper which the gentleman said he would have printed in his remarks. He proposed to send up to be read an account of an interview with some official of the Post-Office Department. That account was not read, and I now submit to the gentleman that it is contrary——

Mr. CLYMER. If I have time.

The CHAIRMAN. The gentleman has several minutes of his time left.

Mr. CLYMER. Then I will ask that the paper be read. The only objection I had to its being read was that it would take up unnecessarily the time of the committee.

Mr. CONGER. I insist upon its being read, if it is to be included in the gentleman's speech.

Mr. CLYMER. It is too late, I think, to make that objection.

Mr. CONGER. As the gentleman voted to curtail the time for debate, let him abide the consequences.

Mr. CLYMER. I am perfectly willing.

Mr. BLOUNT. Is it not too late to call for that now?

Mr. PAGE. I insisted at the time that it should be read.

Mr. CLYMER. Very well; let it be read.

The Clerk read as follows:

STAR-SERVICE LEGISLATION—WHAT GENERAL BRADY HAS TO SAY ABOUT THE BILL NOW UNDER DISCUSSION.

In view of the interest which centers in the pending discussion of the star-service deficiency bill the Post called on Second Assistant Postmaster-General Brady last evening to obtain his views. In reply to the question, "What do you think of the bill as reported from the committee?" General Brady said:

"I do not understand from its provisions what the committee propose or expect to accomplish unless they intend by it to assume the executive function as to details of departmental management. So far as I can see any meaning in it at all it is that the committee propose to take charge of my bureau. I should call it something like the appointment of the committee by the committee as receiver of the Contract Bureau of the Department!"

"Suppose this becomes a law, General, how would it affect your bureau? Where would it strike, and what would it hit?"

"It isn't at all clear to me what would be the effect of the bill. As it stands I don't see how the Department, in view of existing law, could act upon it without an exhaustive opinion from the legal adviser of the Administration. On its face it would compel indefinite reductions of service on, say, from one hundred to one hundred and twenty-five routes—it would be impossible to say now just how many. And then, if the last clause be construed as mandatory, it would compel me to turn around and reincrease service on some routes that I had just cut down. But that is hardly the point. Perhaps I could sum the matter up most intelligibly by simply saying that the bill as it stands is wholly unintelligible, and the practical effect of it would be to entail upon me a wholly impracticable duty. If you can condense more of the *reductio ad absurdum* than that in a single sentence you will come just as much nearer describing that bill than I am able to do."

"What would be its effect on the contractors who hold those one hundred or one hundred and twenty-five contracts?"

"That is none of my business. I suppose it would bankrupt such of them as have invested all or nearly all of their resources in stocking their routes up to the present standard. But, as I said, that is not my affair. My business is simply to vindicate so far as may be the general policy of the Department. If Congress does not indorse that policy, well and good. It can create a policy of its own. Then, if the policy created by Congress is more satisfactory to the people at large than mine, I am sure I shall have no reason to complain. It becomes, in that event, a question to be settled between members and their constituents exclusively. The Department will obey whatever laws Congress may pass, so far as the laws are intelligible. When they are unintelligible the Department will of course remain quiescent until some other authority solves the enigma."

"How does the introduction of the pending bill affect the order of reduction recently issued?"

"Why, it can't affect that order at all until it becomes a law. If the question of appropriation is settled before the order takes effect, then, of course, the effect of the order will be modified exactly in conformity to the spirit and letter of the law making the appropriation."

"You will not, then, suspend the operation of your order pending action on the present bill?"

"I cannot. The bill pending is not law. I cannot assume that it will be law. If I suspend the operation of the order beyond the 1st of March and no appropriation whatever should be passed, say before the 1st of April, I should create an actual deficiency during that time, and thus violate section 3732 of the Revised Statutes. Thus far there is no deficiency, and I am hence within the law. But should I continue the existing service beyond the 1st of March, including the month's extra pay provided as indemnity, I could not then prevent an actual deficiency, more or less, except by discontinuing service altogether. You must bear in mind that up to this time the deficiency is only prospective. I gave official notice of the prospective deficiency nearly three months ago. Now, at the last moment, after doing nothing all that time, the committee comes in with a subterfuge to give more time. Possibly a part of their hope was that this subterfuge would lead me into suspending the order, thus creating an actual deficiency."

"Which you will not do?"

"Which I cannot do. The Department has no discretionary power when an appropriation is once exhausted. While an appropriation exists the discretion vested in the Department enables it to apportion service according to the demands of the country to be served. But the Department has no discretionary power to apportion service when there is no appropriation. There is money enough remaining of the regular appropriation to run the service through the year on the basis fixed in the order. Of course no other basis is practicable until Congress provides further appropriation. Hence, until that is done and signed by the President the order must of necessity remain in effect."

"Reverting to the pending bill——"

"There is no use reverting to the pending bill. There is nothing to be said about it more than I have said. It is just about as sensible or as practicable a solution of the question as a resolution turning the management over to some member of the Appropriations Committee *ad interim* would be. Perhaps it is a method of enforcing the authority assumed by Mr. BLOUNT, when at the outset of the investigation he advised the Postmaster-General to suspend service on all expedited routes!"

"Have you any anxiety as to the result of the pending discussion?"

"Why, of course. I would like to see the service maintained. I would like to see the policy of the Department seconded by Congress. But I have no other anxieties; none in any personal sense."—*Washington Post*, February 26, 1880.

Encroachments and Greed for larger powers of the Federal Judiciary.

SPEECH OF HON. THOMAS M. GUNTER,

OF ARKANSAS,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, March 4, 1880,

On the false principles and vicious processes by which the Supreme Court of the United States has sustained the usurpation of jurisdiction in suits by and against corporations, in defiance of law, logic, and common sense; corporations not citizens of the United States.

Mr. GUNTER. Mr. Speaker, I shall vote for the bill under consideration, in the hope that it may lead to further measures of reformation. I am familiar with the mischiefs which it will go a little way to remedy; and I know them to be intolerable. In Arkansas suits are being continually instituted by citizens of other States, against counties and cities, on county warrants, city bonds and scrip, and other depreciated evidences of indebtedness, and judgments obtained in such suits are being enforced by writs of mandamus commanding the proper officials of city and county to levy taxes on the people and collect them, and to pay the moneys into the court for payment of the judgments.

These suits are instituted in the circuit court of the United States, which thus usurps the legislative power of taxation, and making the county courts and other officials, *ad hoc* its own agents and officers, compels them to harass and oppress the people. To its judicial functions it has annexed those of the tax-gatherer and publican, distresses whole communities, and visits with impoverishment and ruin counties

and cities, calling into exercise when necessary its irresponsible and tremendous power of punishing the courts and officers of the State for contempt if they fail to register its edicts and become its lictors to harass the people at its commanding.

Men resident in a county buy up and gather together its old warrants, paid out by the county, perhaps, at the rate of four dollars for one, and purchased by them at still lower rates, and use the names of citizens of other States as plaintiffs in suits upon such warrants brought against these municipal corporations, in which suits they obtain judgment for the full amount of the warrants in moneys of the United States; and this jurisdiction is exercised under that clause of the Constitution of the United States which extends the judicial power of the United States to controversies between citizens of different States—a provision so plain, so utterly free of ambiguity that for thirty and more years after the establishment of the Government, it was not imagined that it gave the least room for the exercise of the ingenuities and audacious usurpations of judicial construction.

The word "citizens" needed no judicial ascertainment of its meaning. It is not used in one sense here and in another sense there, in the Constitution. Always it means persons, nowhere corporations; always natural persons, nowhere artificial ones. "The citizens of each State," the Constitution says, "shall be entitled to all privileges and immunities of citizens in the several States."

For many years counsel before the Supreme Court and the judges of the court said "a corporation is not and cannot be a citizen of any State." The proposition was thus simply stated, not enlarged upon, and never disputed. The Supreme Court does not now hold the contrary, but judicial ingenuity has found a way by which corporations may sue as if they were citizens, nevertheless.

The conclusion may be briefly and accurately stated thus: First, the presumption is that a corporation created by the Legislature of a State, and having its domicile there, is wholly composed of citizens of that State; second, that presumption is conclusive, and the defendant shall not be permitted to prove that the fact is otherwise. Thus the corporation is made a citizen for judicial purposes.

When a corporation sues or is sued, none of its corporators are parties to the suit. It is an artificial person, totally distinct in law from each and all of them. If the corporators are reduced to a single person, he and it are different persons in law, and when it is a party in court, he is not, and the citizenship of the corporators can have nothing to do with the case. They are as foreign to it as the King of Spain is.

But the Supreme Court, at an early day, fell into the grave error of inquiring as to the citizenship of the corporators, of the corporation, plaintiff or defendant, in order to ascertain whether the controversy was between citizens of different States. But the controversy was between the parties to the suit; and the corporators were not parties. The corporation could sue or be sued by one or more of them. The court had to hold that the corporators were the corporation, and that *they* sued in *its* name. That is to say, it annulled the law that makes a corporation a totally different person in law from those who are the corporators. The very purpose of the law was that the contract of the corporation should *not* be in law the contract of the corporators, and that when *it* sued, *they* should not be deemed parties to the suit, or known to the court for any purpose whatever. They do not exist for it at all. I will shortly show to what consequences this unfortunate error led. When a court avoids a legal principle, because its application seems in the given case a hardship, the ultimate consequences are always deplorable.

No power is so likely to become dangerous in a republic as the judicial power. The other powers of the government are jealously watched, are not independent of the people, are always suspected of desiring and intending to enlarge their power. The judiciary is not suspected. Corruption is rarely imputed to it; and it is not supposed to wish by crooked devices or bold usurpation to overleap the limits of its jurisdiction.

But it is of the nature of the judicial power to grow, to seek new realms of jurisdiction, to conquer and annex. It is always ready to encroach and usurp; and whatever it captures it holds in perpetuity.

The history of the English courts is the history of judicial usurpation, of judicial legislation, under the guise of interpretation. Every one knows from what small beginnings the enormous jurisdiction of chancery grew up, and how Lord Coke endeavored in vain to confine and restrict it. The English judges long endeavored to destroy the right of trial by jury by denying to juries the right to decide both law and fact in criminal prosecutions. They annulled by false construction the statute of uses and a large portion of the statute of frauds.

The judiciary of the United States, more trusted by the people, has emulated that of England and won as many trophies. It has grown to exorbitant proportions, fostered by improvident and sometimes passionate legislation, but more by its own assumptions of jurisdiction. The Supreme Court of the United States possesses greater powers than any judicial tribunal that ever existed; and it has inordinately enlarged them by enlarging the powers of the inferior courts.

The assumption of jurisdiction by these, in suits by and against corporations, has given them immense powers over the fortunes of individuals, and to reduce to ruin whole communities, by sequestrating railroads and transferring their ownership and management to receivers. By judicial construction the admiralty jurisdiction has ascended above tide-water and followed up fresh-water streams, like the Yazoo, to their heads. After a long struggle it has finally been pronounced that the admiralty jurisdiction extends to all cases of marine and fresh-water insurance; the right of the State courts to try men guilty of offenses against the criminal laws of the States is denied by Federal judges, and their commitments for contempt are annulled by those judges on *habeas corpus*. Why, we have actually seen a State government overturned by a Federal judge upon a bill to perpetuate testimony!

Fortunately the enormous powers given by the bankrupt law are in process of extinction; but nothing checks the growth of the equity jurisdiction, which like a huge devil-fish wraps its arms around corporations created by the States, unfortunately for themselves coming within its reach, and drags them down into the depths to be devoured at leisure. The will of one man suffices for the ruin of the vital interests of a State.

I cannot conceive of anything so well calculated to make a court odious as the exercise by it of the power of taxation. It involves the necessity for the exercise of other powers in regard to the levy and collection of tribute that ought not to be intrusted to a court of justice, powers of supervision over the bodies that at its command levy the tax, and the officers charged with the collection of it. It cannot require the latter to give bonds, and their ordinary official bonds do not cover money collected by them as the instruments of a Federal court. It cannot prevent the resigning of the judges of the county court and the collectors, and it would be no extraordinary stretching of power and prerogative in it to appoint and commission judges and collectors in their places. It is a jurisdiction exercised in fraud of the Constitution, a jurisdiction oppressive and tyrannical, a jurisdiction unfit for a court of justice to exercise.

We say, and it is true, that the Government created by the States continually takes to itself powers not conceded to it by the States, but which belong to them, and are essential to even their respectability; powers, too, which the Federal Government is singularly unfitted to exercise beneficially or usefully. But no one seems to consider how much of this unhealthy concentration of powers has been owing to the decisions of the judicial tribunal of last resort. It guards vigilantly the rights and listens indulgently to the claims of the United States, asserting imperial prerogatives and the attributes of sovereignty, and has not been in the habit of considering itself as specially commissioned to vindicate the rights of the States or individuals against the United States. It is less so now than ever, when of the nine judges not one is a native or resident of a State south of Pennsylvania and Kentucky.

The Supreme Court has solemnly decided that the legislative power of the United States may, if it sees fit, pass retroactive laws and laws that impair the obligation of contracts, holding it perfectly competent for Congress by a general provision of an act to repudiate an article of a treaty containing a formal contract on the part of the United States; and this conclusion flows legitimately, perhaps, from the early decision that *ex post facto* laws, which Congress is forbidden to enact, are criminal laws alone and not laws affecting contracts. Yet a law that retroacts upon a contract, varying its terms or impairing its obligations, is as much an *ex post facto* law in the language of Rome and the Roman law, in which the phrase originated, as a law that creates a new or additional punishment or penalty for an offense committed before its passage, or which after an innocent act is done makes it to have been a crime.

The power, for example, to make anything except gold and silver coin a legal tender is denied to the States and is not denied to the General Government; therefore the Congress of the United States has that power. That is the whole argument by which the power to make paper promises-to-pay a legal tender in payment of existing debts and the power to enact other laws violating the pledges of the United States solemnly given and impairing the obligation of contracts is maintained; and its fallacy is too obvious to need comment.

So the same court, at an early day, held that a tax upon carriages kept for use was not a direct tax, the conclusion of some of the judges being really the conclusion of the court, that the only possible direct tax is that upon land. What is or is not a direct tax is not a question of law, any more than the question whether potash is an acid or an alkali. It is a technical term of the political economists and its meaning is settled by them. A tax on carriages manufactured or kept for sale is an indirect tax, because what is paid as tax by the manufacturer or vendor is supposed to be added to the price of the thing, and so repaid to him by the purchaser, who virtually and indirectly pays the tax. A tax on carriages owned and kept for use is a direct tax. So is a tax on land. So is a tax on incomes. A tax on cotton raised for sale is not, and the court might as well undertake to decide that the bowsprit of a ship is the rudder as to decide that a tax on a carriage owned for use is not a direct tax.

And what imperial powers these decisions give to and create for the General Government!—power to impair the obligation of private contracts; power to compel creditors to receive a depreciated currency in payment of pre-existing debts; power of the nation to repudiate its own solemn contracts and make the public faith a cracked credit; power of unlimited direct taxation of everything except land. Add to these the power to compel the producer or manufacturer or

vendor to put a one-dollar or a five-dollar stamp on every ham or barrel of flour or cooking-stove, (which exists if the power exists to require that a one-cent stamp shall be stuck on every box of matches offered for sale,) and the power to impose an onerous and cruel tax on an agricultural product, when manufactured, although the species is not changed by the process of manufacture any more than it is changed when wheat is ground into flour, or a ham ceases to be meat when salted and smoked, and you invest this imperial despotism with the unlimited power of taxation, and it has every industry and interest in the country by the throat.

The Supreme Court has lately decided that when the country is engaged in a war, a citizen and inhabitant of a State remote from the arena of hostilities, and in which the civil government remains wholly undisturbed, may, by the exercise of arbitrary power on the part of an official of the United States having no judicial authority, be with impunity arrested and imprisoned for months, and shall have no remedy by action against the doer of the wrong. It thus arms the central Government with absolute power over the liberty of the citizen, and he becomes a slave. A nation that possesses and can exercise unchallenged these enormous powers will with difficulty restrain itself from becoming a licensed malefactor.

It does not need, for this, that there should be an ill motive. The worst acts are done with the best intentions, and it is when these are good that the exercise of a usurped or doubtful power is most dangerous. The grant of power to Congress by the Constitution to regulate commerce among the several States has been so construed by Congress and so interpreted by the Supreme Court as to confer powers that the makers of the Constitution never dreamed of, and with which they would never have invested the General Government. It is a mantle which seems capable of being stretched to any conceivable extent; has greatly enlarged the jurisdiction of the Federal courts, especially in the matter of bridges; has sanctioned legislation that seriously encroaches on the powers of the States, and the exercise of powers which the General Government cannot wield usefully or without doing infinite mischief. The result is that the governmental machine has become too big and complicated for Congress to manage. We are overwhelmed with business enough for half a dozen such bodies, and yet continually seeking out new modes and means of increasing a burden already intolerable. "We will not sell, we will not deny, we will not delay justice to any one," Magna Charta promised; and yet he who asks justice at our hands must purchase it in the lobby, of the cormorants that flock there. We deny justice to more than half of those who, being entitled to it, ask us for it; and if the Supreme Court does not sell it or deny it, it so delays it that the consequences are nearly as disastrous to those who are unfortunate enough to be suitors there. We are at sea in a craft that is water-logged and cannot obey the helm; and we run to and fro on the deck, helpless, each in the other's way, with huge noise and clamor, effecting little with great ado, and quite as much makers of mischief as doers of good.

The history of the process by which corporations became competent parties in the Federal courts is both curious and instructive.

The question whether a corporation could sue or was suable in the courts of the United States under the clause of the Constitution which gave to those courts jurisdiction of "controversies between citizens of different States" was first passed upon by the Supreme Court of the United States in 1809, in the cases of The Bank of the United States *vs.* Deveaux, and The Hope Insurance Company of Providence *vs.* Boardman and others, which were argued together and are reported in 5 Cranch, 61 and 57.

In The Bank *vs.* Deveaux the petition alleged that the plaintiffs, the president, directors, and company of the Bank of the United States, were citizens of the State of Pennsylvania. In the other case, the insurance company was described only as a company legally incorporated by the Legislature of Rhode Island and established at Providence in the district where it was sued. The insurance company did not object to the jurisdiction in the circuit court, but it raised the question in the Supreme Court. Boardman's counsel broadly admitted that "the term citizen could not with propriety be applied to a corporation aggregate." It could only be a citizen, he said, by intendment of law; it was only a moral person, but might be a citizen *quoad hoc—i. e.* in the sense in which the term "citizen" was used in that part of the Constitution which speaks of the jurisdiction of the judicial power of the United States. The term, he said, was indeterminate in its signification, and had different meanings in different parts of the Constitution, having in the clause declaring the citizens of each State entitled to all the privileges and immunities of citizens of the several States a meaning different from that in which it is used in describing the jurisdiction of the court. This was audaciously to beg the whole question; for the very question to be decided first was whether the word *was* used in different senses; and that it was there is nothing in the world to show. In the other case, Mr. Binney argued for the bank and the jurisdiction. He insisted, first, that the individual character of the corporators was not so wholly lost in that of the corporation that the court could not take notice of it; and second, that although the suit was by the corporation, the fact of citizenship of the individual members of it could be brought into question by the pleadings.

He did not venture to take the ground that the corporation could sue, because it was a citizen without reference to the character of its members; and Mr. Binney was a great lawyer. On the contrary he urged that—

> The spirit of the Constitution and laws of the United States demands that the citizenship of the members of a corporation should be noticed, in order to decide the question of jurisdiction.

He insisted that the question must always be who were the real litigants, and that the court would allow no fiction to give jurisdiction when the substance was wanting. Nobody controverted what Mr. Ingersoll said in argument, in favor of the jurisdiction on the ground that the corporators were citizens of Pennsylvania: "It is clear that a corporation aggregate cannot be a citizen." Nor what Mr. Key said of a corporation:

> It cannot be a citizen of any State, because it cannot owe allegiance. * * * It cannot come within the description of those who are entitled to sue in the circuit courts of the United States. Neither residence nor inhabitancy is sufficient to give jurisdiction. It must be a citizen possessing political rights, and owing allegiance to some State.

The court, all the justices concurring except Mr. Justice Livingston, who, having an interest in the question, gave no opinion, said by Chief-Justice Marshall:

> That invisible, intangible, and artificial being, that more legal entity, a corporation aggregate, is certainly not a citizen; and, consequently, cannot sue or be sued in the courts of the United States, unless the rights of the members, in this respect, can be exercised in their corporate name.

The right of the corporation to sue depended, the court held, on the citizenship of its members; which might be averred, and if averred would give the jurisdiction.

It was so clear that when the Constitution used the word "citizens" it meant citizens, and that it did not use the same word in one sense in one place, and in another sense in another; and that if the Constitution had intended to extend the jurisdiction of the Federal courts to controversies between the *inhabitants* of different States or persons *resident* in different States, it would have said so; or if it had intended to give the jurisdiction between corporations and corporations in different States, or corporations and citizens of different States, it would have said so; that no one hinted the contrary, and the court did not conceive argument necessary on these points.

In Breithaupt & Shultz *vs.* The Bank of the State of Georgia, (1 Peters, 238,) where citizenship of the corporators of the bank was not alleged, Mr. McDuffie, for the bank, did not pretend that the bank was a citizen, but only that it did appear that it was in Georgia; and it did not appear that any of its corporators were not citizens of Georgia. He did not controvert what Mr. Berrien and Mr. Wilde said, that "a body-corporate, as such, is incapable of citizenship, according to the true meaning of the law giving jurisdiction;" and the court held that it had no jurisdiction, because the bill did not aver that the corporators were citizens of the State of Georgia.

Among the judges then composing the court were Marshall, Washington, Story, and Thompson. These are great names, and their concurrent opinion on the question should have settled it forever. Settled it! They did not consider that there could be any question that "citizen" meant "citizen," and that a bank or insurance company was no more a citizen of a State than a house or horse.

In 1840 Taney was Chief-Justice, and with him were Justices Story, Thompson, McLean, Baldwin, Wayne, Barbour, Catron, and McKinley. That year the court decided the case of The Commercial and Railroad Bank of Vicksburgh *vs.* Slocomb, Richards & Co., reported in 14 Peters, 60. The president, directors, and company were sued, being styled citizens of the State of Mississippi, living and resident in the southern district thereof. It was pleaded in abatement by the president, directors, and company that two of the corporators were citizens of Louisiana. It was not contended that the substance of the plea was not good, nor that the corporation was a citizen of Mississippi. The court unanimously decided that, as it had always been held, "a corporation aggregate was not a citizen, as such, and therefore could not sue in the courts of the United States as such;" but its right to sue there must depend on the citizenship of all its corporators.

In 1844 this had been the uniform decision of the court for thirty-five years, and nobody had ever been heard to suggest in the court that a corporation was, within the meaning of the Constitution, "a citizen of a State," entitled to sue in the Federal courts as a citizen. Then came up the case of the Louisville Railroad Company *vs.* Letson, reported in 2 Howard, 497. It was pleaded to the jurisdiction that some of the members of the corporation were citizens of North Carolina, and that the State of South Carolina and the Bank of Charleston were corporators.

Mr. Mazyck relied upon the uniform decisions of the court. Mr. Petigru, with Mr. Lesesne, replying, did not pretend that the company was a citizen and could sue as such, but that it was sufficient that all the officers of it were citizens of South Carolina, and the citizenship of other corporators was immaterial. His answer to the objection "that the Bank of Charleston was a defendant in its corporate character, and that, against a corporation as such, the Federal court has no jurisdiction," was, "in answer, it is sufficient to say that the court has jurisdiction, because all the persons who are sued are citizens of South Carolina." Mr. Legaré insisted that the two North Carolina corporators were to be considered dormant partners, and that it was only necessary for the officers and managers of the corporation to be citizens, but saying that in The Bank of The United States *vs.* The Planters' Bank of Georgia, (9 Wheaton, 962,) Chief-Justice Mar-

shall and the court ruled that the State of Georgia, when it laid aside its sovereignty and became a stockholder in a private company, became a citizen, and might be sued as such.

But [he said] if a State, which is a corporation, and the greatest of all, can be sued as being, under certain circumstances, a citizen in legal contemplation, why should not any other corporation be considered, for the furtherance of a plain constitutional remedy, as a citizen for judicial purposes?

Mr. Legaré was much too accomplished and sound a lawyer to do more than touch and glance off from this point. If he had argued it he would have been demolished. And Mr. Mazyck, replying to him and the other counsel, truly and forcibly said:

The whole argument for the defendant in error is an effort to construe the Constitution and the judiciary act, or rather to evade their natural sense, by means of legal subtleties and fictions. The Constitution declares that the party shall be a citizen: that is, a natural person, having a domicile and a certain civil status in a State. The argument is, a corporation is a judicial or legal person. Why might it not as well be a legal or judicial citizen? Let it be called so, and it will come within the constitutional requisition.

The court seeing that its decisions had put it into a *cul-de-sac*, and that it must in some way get out of its difficulty, resorted to the bold course of tampering with the Constitution. The error which had led it into difficulty was, that when the Bank of the United States, which was not a citizen, sued, the court (although the corporators were not parties to the suit) was so desirous to prevent what it seemed to it would be the hardship of deciding at once that under the Constitution a corporation could not sue or be sued, no matter what might be the citizenship of its corporators, different persons in law from itself, that they held it sufficient if these were citizens of Pennsylvania. In 1844 they found that this had opened a very wide gate, and instead of at once going back to the Constitution and giving effect to its plain language, they proceeded to argue that a corporation was a "good enough" citizen to sue as such in the Federal courts. Necessarily, the argument repeated by Mr. Justice Wayne was not very clear. But anything can be established by argumentation when a court is bent on it; and so the court said in substance: "It may be that the members of a corporation are citizens; and if they are, though the corporation must sue and be sued as such, yet if a controversy arises between it and a citizen of another State, and the residence of the corporation is in the State where the suit is brought, is not the suit substantially between citizens of different States?" The plain answer to this is, "No; it is not." To say that it is, is a mere impudent assault on common sense. Then the court straggled off to inquire whether it was necessary that all the corporators must be citizens of the State in which the suit is brought; and so revolved until it said:

Then the question occurs, if the corporation be only suable where its locality is, and those to whom its operations are confided are citizens of that State, and a suit is brought against it by a citizen of another State, whether by a proper interpretation of the terms giving to the circuit court jurisdiction it is not a suit between citizens of the State where the suit is brought and a citizen of another State?

Then it straggled off again to inquire whether the words, "if the State where the suit is brought," limit the jurisdiction to a case in which all the defendants are citizens of the same State. Then getting back again, it argued:

A suit by a citizen of one State against a corporation by its corporate name, in the State of its locality, by which it was created, and where its business is done by any of the corporators who are chosen to manage its affairs, is a suit, so far as jurisdiction is concerned, between citizens of a State where the suit is brought and a citizen of another State.

The corporators are not parties to the suit, it said, but they are parties having an interest, and as some of them are citizens of the State where the suit is brought jurisdiction attaches over the corporation though other members of it reside in other States. We cannot look to the corporators in respect to the subject-matter and judgment, but if we can look to the members to see about the jurisdiction, want of citizenship of some cannot take it away when there are others who have the citizenship necessary. And so, after another excursion, the court said:

A corporation created by a State to perform its functions under the authority of that State and only suable there, though it may have members out of the State, seems to us to be a person, though an artificial one, inhabiting and belonging to that State, and therefore entitled, for the purpose of suing and being sued, to be deemed a citizen of that State.

To term the disjointed chatter by which the court arrived at this extraordinary conclusion an argument, would be to do it entirely too much honor. It possesses neither logic nor coherency, and does not in the least tend to establish the conclusion arrived at. In fact it reaches a decision of one question by arguing others that have no bearing on it, and is every way so feeble that one cannot help wishing that the leaves on which it is printed could be torn out of the reports and burned. Mr. Legaré must have been amazed at a decision which he had hardly dared even to suggest.

The only authorities on which the court relied were those in England which had held that a corporation could be considered an occupier or inhabitant; and, after quoting these, it asked, "If it be so for the purpose of taxation, why is it not so for the purposes of a suit, when the plaintiff has the proper residence?" It could not, it said, reconcile these qualities of a corporation, residence, habitancy, and individuality, (all of which a horse, cow, or sheep has,) with the doctrine that a corporation aggregate cannot be a citizen for the purposes of a suit. The court has not found it at all difficult in other cases to find and define the difference between citizenship and habitancy or residence. Every school-boy knows it, and to determine in what respects one differs from the other is not the exercise of a judicial power any more than it is an exercise of judicial power to define the difference between a vessel and a wagon.

The bar and the court, the court said, had long been dissatisfied with the former decisions. Yes, Mr. Legaré said so, but it was with the illogical resort to the corporators not parties to the suit, to sustain it by their citizenship. There was the error and the trouble. Nobody had ever ventured, until Mr. Legaré did it, even to suggest to the court or on the bench that a corporation was, within the meaning of the Constitution, a citizen of a State. The Supreme Court of the United States has no right to so tamper with and change the Constitution. It was sheer usurpation. There were no doubtful words to be construed. There was nothing to decide. Caligula made his horse a consul, but the Supreme Court of the United States cannot make citizens of States out of corporations by saying that they are so. It is simply a falsehood.

In Marshall *vs.* The Baltimore and Ohio Railroad Company, (16 Howard, 314,) the court justified the later decisions, treating the insistance upon the plain letter of the Constitution as "unnecessary refinements," a syllogism or rather sophism, which deals subtly with words and names without regard to the things or persons they are used to represent. The court argued *ab inconvenienti*, that to read the Constitution as written would deny to the citizens of one State the right to sue in the Federal courts citizens of another State, if the latter had incorporated them. It may come to pass that more than inconvenience will result from permitting powerful corporations created by one State to resort to the Federal tribunals in others, without regard to the alienage or citizenship of their members, to sue their citizens.

When the court came to the very point it said that a corporation has its habitat and domicile and dwells where it is created. It may justly be presumed to be resident there, and is estopped to aver a different domicile.

The presumption arising from the habitat of a corporation in the place of its creation being conclusive as to the residence or citizenship (are the two synonymous then?) of those who use the corporate name and exercise the faculties conferred by it, is a sufficient averment that the real defendants are citizens of that State.

The argument is audaciously fallacious and false. Residence is not citizenship. The law may make one result from the other immediately or after a prescribed time, but no length of habitancy or residence will make a corporation a citizen. Every citizen of a State is, by being so, a citizen of the United States. Are all the State corporations, civil, commercial, and political—banks, insurance companies, railroad companies, cities, and counties—citizens of the United States? *Proprietas verborum est salus proprietatum*, Justinian said, and accuracy in the use of words is essential to judicial declaration of truth. When a law is to be perverted, a constitution mutilated, or the rights of suitors annihilated, nothing so efficient can be resorted to as juggling with words and using as synonymous those that mean different things.

In The Covington Draw-bridge Company *vs.* Shepherd and others, (20 Howard, 233,) Mr. Chief-Justice Taney said that what the court had held was that the company being chartered by the State of Indiana it necessarily had its home and place of business in that State, and the only averment in the declaration necessary to show a case for jurisdiction was that of the citizenship of the parties who composed the company; and he said:

In the case of The La Fayette Insurance Company *vs.* French the declaration stated that the corporation itself was a citizen of Indiana. Now no one, we presume, ever supposed that the artificial being created by an act of incorporation could be a citizen of a State in the sense in which that word is used in the Constitution of the United States, and the averment was rejected because the matter averred was simply impossible.

But that which "no one ever supposed" is precisely what the court, by Mr. Justice Wayne, expressly and more than once said in The Louisville Railroad Company *vs.* Letson, which Mr. Legaré had, for the first time, merely suggested, and the court eagerly seized upon. What the court does, Mr. Chief-Justice Taney said, is to presume that the members of the corporation are citizens of the State where it abides. The citizenship of the corporators is regarded as the necessary and legal consequence of the act of incorporation and of the place of business of the company. But the court had here again got into the same difficulty out of which it had endeavored to scramble by the decision in Bank of Louisville *vs.* Letson.

If the averments and facts as to the creation and domicile of the corporation create a presumption that all its corporators are citizens of the State where it abides, (which they do not,) the presumption is not conclusive. There may be plea to the contrary, and then if part of them are not citizens how is the jurisdiction to be maintained? When the court said that the supposed presumption was conclusive it said a very foolish thing. No law creates the presumption. It is based solely on the maxim, *præsumptio oritur ex eo quod plerumque fit*—presumption arises from that which most generally happens; and this presumption may, *of course*, be rebutted.

Mr. Justice Daniel understood that the court was laboring to give corporations the benefits of citizenship, while not claiming it for them, by establishing the presumption of citizenship of their corporators, and therefore he said that the decisions of the court had wholly failed to bring conviction to his mind that a corporation could be a citizen, or that the term citizen could be correctly understood in any other

sense than that in which it was understood in common acceptation when the Constitution was adopted, and as it was universally explained by the writers on government, without a single exception.

In the very next volume of the Reports, 21 Howard, 123, in The Covington Drawbridge Company *vs.* Shepherd, the averment in the bill was that the Drawbridge Company was "a corporation and citizen of the State of Indiana," and it was held sufficient.

Mr. Justice Daniel dissented in Marshall *vs.* Baltimore and Ohio Railroad Company, (16 Howard, 338,) as he had done in Rundle *vs.* The Delaware and Raritan Canal Company, (14 Howard, 95.) In the case in 16 Howard he said that he was relieved of the necessity for enforcing the general fundamental proposition that under the constitutional provision citizens only—that is to say, men, material, social, moral sentient beings—must be parties, in order to give jurisdiction to the Federal courts, "by the virtual, obvious, and inevitable concessions comprised in the attempt now essayed to carry the provision of the Constitution beyond either its philological, technical, political, or vulgar acceptation." "For," he said, "in no one step in the progress of this attempt is it denied that a corporation is not and cannot be a citizen, nor that a citizen does not mean a corporation. Nothing of this kind is attempted. But an effort is made to escape from the effect of these concessions by assumptions which leave them in all their force, and show that such concessions and assumptions cannot exist in harmony with each other." He further said, (page 340:) "The language of the Constitution refers expressly and conclusively to the civil or political character of the party litigant, and constitutes that character the test of his capacity to sue or be sued in the courts of the United States." And he went on to say:

In strict accordance with this doctrine has been the interpretation of the Constitution from the early, and what may in some sense be called the contemporaneous, interpretation of that instrument, an interpretation handed down in an unbroken series of decisions until crossed and disturbed by the anomalous ruling in the case of Letson *vs.* The Louisville Railroad Company. (Pages 343, 344.)

Perhaps the most singular circumstance attending the interpolation of this new doctrine is the effort made to sustain it upon the rule *stare decisis*. After the numerous and direct authorities before cited, showing the inapplicability to this case of this rule, it would have been thought *a priori* that the very last aid to be invoked in its support would be the maxim, *stare decisis*. For this new class of citizen corporations, incongruous as it must appear to every legal definition or conception, is not less incongruous, nor less novel to the relation claimed for it, or rather for its total want of relation to the settled adjudications of this court. It is strictly a new creation, an alien, and an intruder, and is at war with almost all that has gone before it, and can trace its being no farther back than the case of Letson *vs.* The Louisville Railroad Company. The second section of the third article of the Constitution prescribes citizenship as an indispensable requisite for obtaining admission to the courts of the United States, prescribes it in language too plain for misapprehension. This court, in the case of Deveaux and the Bank of the United States, yielded obedience, professedly at any rate, to the constitutional mandate, for they asserted the indispensable requisite of citizenship; but in an unhappy attempt to reconcile that obedience with an unwarranted claim to power, they utterly demolished the legal rights, nay, the very existence of one of the parties to the controversy, thereby taking from that party all standing or capacity to appear in any court. This was *ignis fatuus* No. 1.

This was succeeded by the case of Letson *vs.* The Cincinnati and Louisville Railroad Company, in which, by a species of judicial resurrection, this party (the corporation) was *deterré*, raised up again, but was not restored to the full possession of life and vigor, or to the use of all his members and faculties, nor even allowed the privilege of his original name, but semi-animate, and in virtue of some rite of judicial baptism, though "curtailed of his natural dimensions," he is rendered equal to a release from the thralldom of constitutional restriction, and made competent at any rate to the power of commanding the action of the Federal court. This is *ignis fatuus* No. 2.

Next in order is the case of Marshall *vs.* The Baltimore and Ohio Railroad Company. This is indeed the *chef-d'œuvre* among the experiments to command the action of the spirit in defiance of the body of the Constitution.

Mr. Justice Campbell, dissenting, in the same case said, (page 394:)

Since the decision of Letson's case there have been cases of corporations suing in the Federal courts beyond the State of their location in which this question might have been considered in this court. But there was no argument at the bar, and no notice of it in the opinion of the court. In one of these one of the six judges who assisted in the decision of Letson's case expressed strongly a disapprobation of its doctrine, while another limited the conclusions of the court to the decision of the case then before it, Rundle *vs.* Delaware Canal Company, (14 How., 80.)

The case of The Indiana Railroad Company *vs.* Michigan Railroad Company, (15 How., 233,) presented the question now before us, and at that time I was favorable to its re-examination; but this was expressly waived by the court and the case decided upon another question of jurisdiction.

Page 350:

I have been thus specific in the statement of the precedents in the court that it may appear that this dissent involves no attempt to innovate upon the doctrines of the court, but, on the contrary, to maintain those sustained by time and authority in all their integrity.

Page 351:

The inquiry now presented is, shall I concur in a judgment which removes the ancient landmarks of the court in reference to its jurisdiction, and which it established with care and solemnity and maintained for so long a period with consistency and circumspection? I am compelled to reply in the negative. A corporation is not a citizen. It may be an artificial person, a legal entity, a faculty, an intangible, invisible being; but Chief-Justice Marshall employed no metaphysical refinement nor subtlety nor sophism, but spoke the common sense, "the universal understanding," as he calls it, of the people, when he declared the unanimous judgment of the court "that it certainly is not a citizen."

Page 352:

The supreme court of Kentucky (12 B. Mon., 212) * * * thus refers to Letson's case, which had been relied on for their support: "There are some expressions in that opinion which indicate that corporations may be regarded as citizens to all intents and purposes. But in saying this the court went far beyond the question before them, and to which it may be assumed that their attention was particularly directed."

Page 353:

The supreme court of Kentucky says, truly, the apparent reciprocity of the power would prove to be a delusion. The competition for extra-territorial advantages would but aggrandize the stronger to the disparagement of the weaker States. Resistance and retaliation would lead to conflict and confusion, and the weaker States must either submit to have their policy controlled, their business monopolized, their domestic institutions reduced to insignificance, or the peace and harmony of the States broken up and destroyed.

To this consummation this judgment of the court is deemed to be a progress. The word "citizen" in American constitutions, State and Federal, had a clear, distinct, and recognized meaning, understood by the common sense, and interpreted accordingly by this court through a series of adjudications. The court has contradicted that interpretation, and applied to it rules of construction which will undermine every limitation in the Constitution, if universally adopted. A single instance of the kind awakens apprehension, for it is regarded as a link in a chain of repetitions.

Page 354:

I am not willing to strengthen or to enlarge the connections between the courts of the United States and these litigants. I can consent to overturn none of the precedents or principles of this court to bring them within their control or influence. I consider that the maintenance of the Constitution, unimpaired and unaltered, a greater good than could possibly be effected by the extension of the jurisdiction of this court, to embrace any class either of cases or of persons.

Mr. Justice Catron authorizes me to say that he concurs in the conclusions of this opinion.

In Ohio and Mississippi Railroad *vs.* Wheeler, (1 Black, 286,) the court made corporations citizens to all intents and purposes of jurisdiction by again deciding that the legal presumption of citizenship of their members, and the presumption by or against them is by or against their members, are conclusive, "and that no averment or evidence to the contrary is admissible for the purposes of withdrawing the suit from the jurisdiction of a court of the United States."

The decisions to this effect are simply frauds upon the Constitution. They enable corporations to sue in the Federal courts, a right only conceded to citizens, and they refuse to the opposite party the right to aver and prove that the artificial presumption that the corporators are citizens of the State in which the corporation is, is contradicted by the facts. To such strange lengths can courts go to turn the flank of a constitutional provision and interpolate new clauses into the supreme law. Certainly, judicial usurpation is the most audacious as it is the most dangerous of all. The Supreme Court did not state the truth when it denied that it had ever held that corporations were for the purposes of jurisdiction citizens of the United States. But its crooked mode of usurping an immense jurisdiction is more to be discountenanced and more to be feared as an ill precedent than so bold an outrage as the holding corporations to be citizens was. When a corporation is party to a suit its corporators are not so thereby. It is an independent and distinct party in law, and changes of corporators do not change its identity. To-day the corporators may be one set of men, to-morrow entirely another set; but the corporation is the same; to-day they may be citizens of one State, to-morrow of another. The corporation may sue its own stockholders as individuals, and it cannot be pleaded that the same persons are both plaintiffs and defendants. One man may be a corporation and as such corporation may sue himself. The inevitable conclusion is, that when a corporation sues, its corporators are not before the court for any purpose whatever; and to inquire as to their citizenship, in order thereby to maintain or defeat a suit by the corporation, is both an absurdity and an outrage on the law. This is an indisputable proposition.

Equally as indisputable is this: that there is no presumption of law, and no court has a right to set up such a presumption of fact, that when a State incorporates a number of persons they are all its own citizens. It may in the majority of cases be so, and it may not. No court judicially knows anything about it; and if it does, there is not sufficient universality of practice to warrant setting up the presumption. But if such a presumption can legitimately have any effect and be relied on at all, it is but a presumption of fact *ex eo quod plerumque fit;* and such a presumption can never amount to more than *prima facie* evidence of the fact presumed, which of course may be destroyed by proof to the contrary.

It is equally indisputable that the Supreme Court of the United States might as well have decided that the presumption is conclusive that a sheriff has complied with the law in making a sale, as to have decided, as it did, that the presumption that the stockholders of a corporation chartered by a State were always citizens of such State was conclusive and could not be rebutted by absolute proof of the contrary. Every presumption of fact may be rebutted by proof. The court might as well undertake to decide that what a particular person says is true cannot be proven by other testimony *not* to be true. The presumption is offered or used to prove a fact, to prove the citizenship of the corporators. It is ridiculous to say that this proof should be listened to, and better proof to the contrary excluded. Such a decision is a shame and disgrace to the court that made it; and all that has been done under it in the way of exercising jurisdiction has been as completely *coram non judice* and absolutely null and void as the conviction of a man for murder would be in a justice's court, in an action upon a promissory note.

There never was by any court in any country a more flagrant, defenseless, impudent usurpation of jurisdiction. It is so bold, naked, shameless, that one hardly believes it has been done when the judges themselves plainly tell him so. What are to be the ultimate results of this usurpation of this jurisdiction may be seen plainly enough for him who runs to read, by the present condition of what was a little while ago a city of forty thousand inhabitants. The charter of the city of Memphis, Tennessee, has been repealed by special act of the

Legislature, and expired at ten o'clock on the 31st of January, 1879. This action was deemed necessary to rid the people of the heavy burdens of taxation resulting from the enormous debt contracted during the years immediately succeeding the war. The mayor and city officers resigned on the evening preceding the day on which the charter expired. Upon receiving the announcement of that fact the governor immediately signed the bills repealing the charter and providing a tax-district government. He then appointed two commissioners to administer the affairs of the tax district, leaving the selection of a third to the people. The judge of the circuit court of the United States in equity appointed a receiver to take charge of and administer as an officer of the courts the affairs of that city; and another judge may appoint a receiver and take into the hands of the court for administration of its affairs the city of Chicago or the city of New York, in order that a tax may be levied in obedience to a mandate of the court for the payment of a particular debt in preference to all others, and in preference to the payment of the expenditures necessary to maintain municipal government.

An appeal last year issued to the citizens of Memphis says:

We must clean and pave our streets and sewer them. And every dollar of back taxes should be collected. These taxes should be collected, not by an unauthorized reduction of assessments, or in Nicolson pavement scrip, which is bought at twenty-five cents on the dollar for that purpose, but in greenbacks. Hitherto it has been too much the case that delinquent tax-payers have not only been given their own time, but have been permitted, when they got ready to pay, to do so in their own way. To this, the greatest of all evils we have had to endure, we largely owe our condition, and to it we invite the special attention of our representatives in the hope that they will secure us a tax law that will give the tax collector the power to collect taxes from tenants by the diversion of rents, and make tax titles better than any others in the State. We must have money to clean and pave and sewer with, and to prepare for a possible visitation of the plague. Whichever government we are fated to live under, whether that of commissioners or receiver, there should be no law to impede the work that must be done within the next few weeks, if it is to be done at all.

Live under the government of a receiver! The phrase sounds strangely in the ears of one who remembers that his forefathers were English freemen. And this is to be a portion of the fruit of that eccentricity of judicial lunacy which has established it as law, that a suit by or against a corporation is a suit by or against the corporators, and if these possess the necessary qualification of citizenship it is a suit under the Constitution between citizens of different States; that citizenship of the corporators in the State which created the corporation is presumed, and that this presumption is conclusive, and shall not be controverted by proof.

The court is honest, no doubt, and the judges are upright; but one is amazed at such aberrations of the intellect; such perverseness of judgment; such utter lack of judicial wisdom. Compared with these vagaries the opinions sustaining the right of James II to dispense with the penalties and disqualifications imposed by act of Parliament, which that king procured from judges created by him for that service, become respectable. And this the more because in other cases the court clearly enough sees that a State remains a State in the Union and loyal when all its people are at war with the United States, and well knows that no individual citizen is a party to a suit by or against a State, a county, or a city.

That citizenship, and not mere residence, is essential to the exercise of Federal jurisdiction, and that it is not enough to allege the latter, was settled at the very beginning of the Government in the cases reported in 3 Dallas, 382; 4 Dallas, 8; 1 Cranch, 343; 2 Cranch, 1; 1 Binney, 351. As Mr. Justice Washington said in Butler *vs.* Farnsworth, (4 Washington Circuit Court Reports:)

It is not sufficient to state that the plaintiff or defendant is of, or resident, or carrying on trade within a particular State, because he may truly be what is asserted and yet not be a permanent resident or domiciled citizen of that State.

Neither the Constitution nor any act of Congress gives any sanction to the later decisions of the Supreme Court. By judicial Constitution-making that tribunal has set corporations among the "citizens of different States" entitled to sue and liable to be sued in the Federal courts. To do this it has raised a presumption that is in these days seldom true, without any other authority to do so than that which its being ordinarily the case gives, and has then made that presumption conclusive, which it had no power at all to do.

The remedy is for the legislative authority to exclude corporations and declare that they are not to be considered citizens of any State for judicial purposes under the Constitution. The Supreme Court of the United States is staggering under the burden of its business. With a docket of eleven hundred or more cases, it can dispose annually of not more than three hundred; and the docket grows larger every year. Its most troublesome cases are those by or against corporations, brought in the Federal courts in violation of the Constitution.

With nine judges required to consider every case, it has been compelled to limit the time for argument of counsel to two hours on each side, a rule of itself sufficient to breed errors by far too numerous; and when a suitor now carries his case to the Supreme Court, he knows that a decision is not possible until fully three years shall have elapsed. It is therefore high time that the jurisdiction of the Federal courts should be strictly limited to the cases permitted by the Constitution.

Nor should this House, the only representative in this Government of the actual majorities of the people, of the Commons of the United States, as well as of the States themselves, permit, if by the exercise of its legitimate powers it can prevent it, the destruction of constitutional provisions by judicial perversion and vicious judicial construction. The rights of the States and the property and liberty of the citizen depend upon adhering to the proper meanings of the words of the Constitution, to the meanings in which they were used by the fathers and understood by the people.

Political Contributions.

SPEECH OF HON. B. BUTTERWORTH,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

Wednesday, March 10, 1880.

The House having under consideration the bill (H. R. No. 2266) to prohibit Federal officers, claimants, and contractors from making contributions for political purposes—

Mr. BUTTERWORTH said:

Mr. SPEAKER: I am a member of the committee which reported this bill, but was not present when it was considered; and I desire now to present such objections to the bill as I would have presented to the committee had I been present.

The bill has been read in the presence of the House; and every member is entirely conversant with its provisions. It looks simply to preventing every employé of the Government, in whatever capacity employed, from contributing in any wise, either directly or indirectly, any money or other thing of value for any political purpose whatever.

The scope of the bill has been already stated by my friends from New York, [Mr. RICHARDSON and Mr. CROWLEY.]

In considering the provisions of this bill I desire to call attention first to the fact that the bill does not appertain to nor is it intended to fix or prescribe what shall be the qualifications of an individual for office; nor does it seek in any wise to control, limit, or prescribe his *official* action. That I concede to be within the power of Congress; and even that power is by no means unlimited; but I utterly deny that Congress has the power to limit, restrict, or control his political rights and privileges as a citizen, as contemplated by this bill. As my colleague [Mr. GARFIELD] well suggests, this is a bill to create political disabilities. Congress may deal with the *civil* rights of *individuals;* Congress may not deprive them of their political rights as *citizens* except, certainly, in the manner fixed by the Constitution, and such deprivation must result from some act of the citizen in contravention of some law constitutionally enacted. Their civil rights they may surrender as individuals; their political rights they may not surrender; they may disregard them if they will, and fail to discharge them.

I suppose, Mr. Speaker, a substitute for this bill may be offered at this time and be considered as pending. Am I right?

The SPEAKER *pro tempore.* I know of no reason why it should not be so considered.

Mr. BUTTERWORTH. Then I desire to offer as a substitute for the pending bill the proposition which I hold in my hand and which I desire to have read at the Clerk's desk. This substitute I conceive to be clearly within the limits of the Constitution, and certainly works a cure for the evils of which gentlemen have a right to complain.

The Clerk read as follows:

Strike out all after the enacting clause and insert in lieu thereof:

SEC. 1. That it shall be unlawful for any person in the service of the United States, whether such person holds an elective office or holds his position in the service of the Government by appointment, and having clerks or other employés of the United States under his charge or control, to levy or permit to be levied or collected from such clerks or employés any assessment for any political purpose whatever; and any officer or appointee who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof in any court of competent jurisdiction shall be fined in any sum not exceeding $1,000 and imprisoned for a term not exceeding one year, in the discretion of the court: *Provided, however,* That nothing herein shall be so construed as to prevent any and all officers and employés of the United States from making such voluntary contributions for political purposes as they may see fit.

SEC. 2. That if any candidate for Representative in Congress or other person shall pay, give, or cause to be paid or given, either directly or indirectly, any money or other valuable thing to or for the use of any person or persons with the intent and purpose corruptly to influence the vote or political action of such person or persons at any election at which Representatives in Congress or presidential electors are voted for, such candidate or other person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof by any court of competent jurisdiction shall be fined in any sum not less than $100 nor more than $5,000, and be imprisoned in the penitentiary, at hard labor, for a term not less than one nor more than five years, and shall, in the discretion of the court, stand committed until such fine and the costs are paid.

SEC. 3. Any person who shall either directly or indirectly accept or receive to or for his use any money or other valuable thing as the price, consideration, or inducement paid, offered, or promised to corruptly influence or control the vote or political action of such person at any election at which Representatives in Congress or presidential electors are voted for, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof by any court of competent jurisdiction, be fined in any sum not exceeding $1,000 and imprisoned not less than three months nor more than two years.

SEC. 4. Any person or persons who shall by menaces, threats, intimidation, or violence made or offered on the day of or within thirty days preceding any election at which Representatives in Congress or presidential electors are voted for, with the intent or for the purpose of influencing the votes of citizens having the legal right to vote at said election, or for the purpose of preventing or hindering

such citizens from voting, shall be deemed guilty of a misdemeanor, and on conviction thereof in any court of competent jurisdiction shall be fined in any sum not less than $100 nor more than $1,000, and shall be imprisoned for not less than three months nor more than three years, and, in the discretion of the court, shall stand committed until the fine and the costs are paid.

Mr. BUTTERWORTH. Mr. Speaker, instead of addressing ourselves to depriving the citizen of a right which he holds and exercises as a citizen by virtue of the Constitution; instead of condemning and striking down the exercise of a right, nay, prohibiting the discharge of a duty, we had better address ourselves to the prevention of the outrages on the ballot of which gentlemen complain—and these result—not from contributions of money for legitimate and proper purposes, which this bill would prohibit, but the *corrupt* use of money; not only the corrupt use of money, but the corrupt and controlling influence of the bowie-knife and shot-gun as well.

HISTORY OF DEMOCRATIC LEGISLATION ON THIS SUBJECT.

The provisions of this bill are not new. There is not a suggestion contained in the first sections which has not been discussed in these halls at great length. The provision contained in the fourth section was never heard of before in any intelligent legislative assembly. When this bill was first introduced as a democratic measure I was perfectly satisfied that a search of the records would prove the democratic party to have been consistent with its history and practice in having been on both sides of this identical question at some period of its political history; and I immediately addressed myself to the work of ascertaining where the democracy stood heretofore touching the objects and purposes of this bill. I was some time in finding the record. I struck the first trace in a speech delivered by Mr. Calhoun in the Senate of the United States, in 1839, in which he denounced every suggestion, thought, and provision contained in this bill as unconstitutional, tyrannical, and unjust in every particular. That gave me a lead, and I, following that lead, found the bill to which Mr. Calhoun was addressing himself. I have it here and desire to call the attention of the House to it, because it is largely on all fours with the bill now before the House.

It would seem that the testimony of such eminent democratic statesmen as Mr. Calhoun ought to have weight with my brethren on the other side of this Chamber. When I call as witnesses against the provisions of the pending bill such men as John C. Calhoun, Thomas H. Benton, James Buchanan, Franklin Pierce, and others of like character and ability, I trust it will have a tendency at least to reach the political consciences of my brethren on the democratic side, and give them pause to consider whether this bill is either constitutional, wise, or expedient; for it will be observed that all those learned men, conspicuous for their ability and patriotism, and conspicuous as well for their partisan devotion—all those men, I think in set speeches, have denounced every provision in the pending bill as unconstitutional, tyrannical, unjust, unequal, and unpatriotic.

Before referring more at length to the origin and history of the bills introduced and considered in the Twenty-fifth Congress I desire to refer, for a single moment, to the effort of my friend from Tennessee, [Mr. HOUSE,] and I submit to the House that if the subject of this bill had had the small-pox I am quite sure the gentleman's speech would never have caught it. [Laughter.] It certainly did not come near enough to the subject under discussion to be infected, unless at the close of his remarks where he attempted to point a moral.

I am grieved to find my brother in such anguish touching the outrages committed upon the employés and clerks in the several Departments, but I may say to him, in all candor, that so far as the Tennessee delegation in these Departments is concerned, if they follow the example set by his own State of Tennessee, they need not be seriously troubled about political assessments, for if assessed they would probably, acting on the established usage of their State, first scale the assessments 50 per cent. and then submit the question of repudiating the balance to a vote to be cast by themselves. [Laughter and applause on the republican side.]

Mr. Speaker, I think it is well "to beware of the leaven of the Pharisees, which is hypocrisy." Why, sir, if the gentleman suffers such keen anguish when he meditates on these purely imaginary coercive assessments for political purposes, practiced upon clerks and other Government employés, what would be his mental pangs to find the whole rank and file of clerks and employés mustered out of service altogether, a thing which the gentleman knows would inevitably be the case if a change in the administration should occur? He never would survive it. [Applause.] I suppose he is not aware of the fact that the very thing he affects to condemn, and which calls for such feeling lamentation, is practiced upon the democratic employés, who sweep the floors in this Capitol. I doubt, sir, if there is an employé connected with this House—certainly not in the Senate—I doubt if there is one man who has not been compelled to contribute of his pittance for the purpose of installing modern democracy in power throughout the length and breadth of this land; but of course the gentleman does not know it, and I want in kindness to keep the knowledge from him. [Laughter.] Why, sir, while he is talking about fraud, while he is lamenting a condition of affairs which, if it existed, all just men ought to condemn, I would be glad to have him search democratic history, and in so doing read the speech of a man in whom he must have had entire confidence, Henry A. Wise, of Virginia, delivered in this House on the 21st of December, 1838, on defalcations of democratic officials, and in which he assailed the administration of that democratic patron saint, Andrew Jackson. It would be interesting reading. Though possibly it would be better to withhold it from our brothers because it might wound their feelings and I would much prefer to soothe them. [Laughter.]

Beyond that I trust that the gentleman has not been permitted to read the Covode investigation made during Buchanan's administration, wherein is shown not only the history but the practice of the democratic party, touching political assessments, &c., which was not simply to levy a contribution upon the wages of the employés of the Government, but to appoint agents and employ clerks and pay them, not to do service for the Government, for they were not needed, but to detail them to engage in political work in the States. Assess them! Why, they used to assess them twice a year; it was only a question of how much they could pay, and not how much they ought to pay. I cannot say that such practices were right; on the contrary I condemn them, and the substitute I have offered prohibits them and provides for punishing the offenders.

But I submit that when gentlemen rise in their place and condemn a great political party, or any single individual, for political delinquencies, real or imagined, they should be careful to see in their own eyes there are not beams.

Arbitrary assessments such as the democratic party always levied and collected of the clerks and employés of the Government, ought not to be permitted, and I have introduced a substitute, not to strike down the privilege of the citizen to voluntarily contribute of his means for political purposes, which within the constitutional limits we cannot strike down, but to correct abuses wherever they may be found to exist in every department of the Government.

I have said the propositions contained in this bill are not new. I will read the bill which was introduced into this House in the Twenty-sixth Congress by Mr. Bell, of Tennessee—1839 or 1840:

Be it enacted, &c., That from and after the 1st day of July next no officer, agent, or contractor, or other person holding any office or employment of trust or profit under the Constitution and laws of the United States shall, by the contribution of money or other valuable thing, or by the use of the franking privilege, or its abuse, or any other official privilege or function, or by threats or menace, or in any other manner, intermeddle with the election of any member of either House of Congress or of the President and Vice-President, &c.

Now, sir, I do not question that it was perfectly legitimate for this House to pass that bill, for many of its provisions were constitutional, and yet there was not one democratic voice raised in its behalf; not one. But they insisted then—they did not limit themselves to dealing with the employés of the Government touching voluntary contributions; on the contrary, the bill looked to preventing *officers* of the Government from exercising their *official* power to control elections; they insisted that the bill was unconstitutional. Clearly not so, as to many of its provisions, I think.

The question as to the power of this House to control or, rather, to make and alter regulations touching the election of members of Congress and presidential electors was then fully discussed. And the bill then pending was opposed on the particular ground (going beyond what I claim) that Congress had no right to interfere in these matters at all.

Mr. FRYE. But the gentleman seems to ignore the old hymn:

> That while the lamp holds out to burn,
> The vilest scoundrel may return.

[Laughter and applause on the republican side.]

Mr. THOMAS TURNER. And that ought to be a source of consolation to gentlemen on the other side. [Laughter.]

Mr. BUTTERWORTH. After full discussion the bill introduced in the House, which I have read, was defeated by a strict party vote.

"Shall the bill be rejected?" Yeas 108, nays 53.—*See Appendix to Congressional Globe*, Twenty-sixth Congress, first session, page 515, A. D. 1840.

In the Senate of the United States a bill was introduced which is on all fours with the bill before this House, in many respects. It differs in that it went far beyond this so as to prohibit officers of the Government from electioneering or interfering in any way with elections. That bill was intended to prohibit them from speaking or writing, or doing anything, or using any means, for the purpose of controlling elections or intermeddling therewith in any State or Territory of the Union. That bill was referred to the Judiciary Committee of the Senate. That committee of the Senate which had the bill under consideration was composed of Mr. Wall, democrat, of New Jersey, Mr. Morris of Ohio, Mr. Clayton of Delaware, Mr. Strange of North Carolina, and Franklin Pierce of New Hampshire, afterward President of the United States; each one a democrat and all men of culture and ability and I suppose well-tried patriotism. They reported upon that bill, and in their report they used the following language, to which I call the attention of the House:

> Under every aspect that the committee have been able to view the provisions of this bill, it appears to them that it is unjust, unequal, impracticable, impolitic, tyrannical, and unconstitutional; that it is founded on an assumption of power by the Federal Government not granted by the Constitution, and destructive of the rights of the several independent States composing the Union, and of the constitutional rights of the citizens of those States, and that its provisions are of a most alarming and dangerous tendency—not called for by any existing mischief, and could not afford an appropriate remedy if such mischief existed. They, therefore, respectfully report the said bill, without amendment, and recommend that the same shall not be passed.

Mr. HOSTETLER. Who offered that bill?

Mr. BUTTERWORTH. Mr. Bell, of Tennessee, offered one. I

cannot say at this moment who offered the Senate bill; but it was offered by a whig—that you can rely on.

Mr. HOSTETLER. It was not offered by a republican.

Mr. BUTTERWORTH. The republican party was not in existence at that time. Its principles, however, were alive at that time, and have since triumphed.

Mr. HOSTETLER. Does the gentleman say that the members of that committee were all democrats?

Mr. BUTTERWORTH. Certainly; if I mistake not, they were all democrats, and all denounced this bill as unconstitutional from first to last.

Mr. HOSTETLER. I think the gentleman is mistaken.

Mr. BUTTERWORTH. I may be. I am informed by gentlemen that Clayton, of Delaware, was a whig.

Mr. HUMPHREY. Yes, Mr. Clayton, of Delaware, was a whig.

Mr. BUTTERWORTH. I commend his judgment. He decided that the bill as presented was unconstitutional.

Mr. HUMPHREY. Every whig's judgment was good in those days.

Mr. BUTTERWORTH. Subsequently, in order to strike off some of the objectionable features contained in that bill and to do away with the clause which was confessedly unconstitutional, in that it restricted the liberty of speech and of the press, Mr. Tallmadge moved to amend as follows:

To amend the bill by striking out all after the enacting clause and inserting the following: "That from and after the 1st day of April, in the year 1839, no marshal or deputy marshal, or postmaster or deputy postmaster, no receiver or register of a land office, or any of their deputies or clerks, no surveyor-general of the public lands, or any of his deputies or assistants, no collector, surveyor, naval officer of a port, weigher, gauger, appraiser, inspector, or other officer or person whatsoever concerned or employed in the charging, collecting, levying, or managing the customs, or any branch or part thereof, no engineer officer or agent employed or concerned in the execution or superintendence of any of the public works, shall pay or advance, directly or indirectly, any money toward the election of any public functionary, whether of the general or State government; and every person offending therein shall be forthwith removed from office by the President of the United States, upon his receiving satisfactory information or evidence of said offense: *Provided, however*, That this act shall not be considered as applying to any postmaster or deputy postmaster whose salary, or the income of whose office, does not amount to so much as $200."

Now, mark you, this amendment of Mr. Tallmadge was defeated—yeas 15, nays 26.

Mr. Calhoun in each instance, with the view of purifying the service and correcting abuses on the part of the Administration, which he confessed existed, voted for these amendments, but he voted finally against the bill. His desire was, if the bill had to pass, that it should be improved as much as possible. The affirmative votes on the amendment, I understand, with the exception of Mr. Calhoun, were whigs. The nays were Allen, Benton, Clay of Alabama, Clayton, &c., all, with a few possible exceptions, democrats.

Following on the heels of that, this recommendation of Mr. Tallmadge not having met the favor of the Senate, Mr. Rives, of Virginia, submitted the following:

Whereas the constitutional remedy by the elective principle becomes nothing if it may be smothered by the enormous patronage of the General Government; and

Whereas, also, freedom of election is essential to the mutual independence of the State and Federal Governments and of the different branches of the same governments, so vitally cherished by American institutions:

Resolved, therefore, That in the opinion of the Senate it is highly improper for officers depending on the Executive of the Union to attempt to control or influence the free exercise of the elective right.

Resolved, also, That measures ought to be adopted by Congress, so far as their constitutional powers may extend, to restrain by law all interference of Federal officers with elections otherwise than by giving their own votes.

Now one would have thought that the resolution of Mr. Rives would have commended itself to every patriotic man in the Senate, but it was voted down—yeas 13, nays 26; the affirmative vote including the whigs, and the negative the democrats.

What I want to urge upon the attention of my friends on the other side of the House is this: If these measures comprised in the bill and resolution mentioned and which looked to the prevention of official interference with and the use of official power to control elections were unconstitutional, and could not receive, in the judgment of the ablest men the democratic party ever produced, their support, how is it that this bill which looks not to controlling *official* interference, not to controlling official action, not to regulating the duty of officials or that of the clerks and employés of the Government, but to the deprivation of certain citizens of political rights because they happen to be in the public service—how is it that this bill can be regarded by the democratic side of this House as constitutional? Or is this simply a partisan measure, gotten up for the purpose of making a display of virtue and in the hope of depriving the republican party of a part of its political campaign revenue?

Gentlemen upon the other side of the House suggest that if these employés of the Government are permitted to make contributions for a political purpose they are thereby paying out the money of the people for political and partisan purposes. What an absurd proposition; how perfectly and thoroughly absurd for any lawyer to make such a suggestion. I submit that no lawyer will candidly make any such suggestion as that. There is not a man here, certainly not a lawyer, who will pretend for a moment that a clerk may not pay out the money he has earned and received for services rendered to the Government just as he would pay out that money if he had earned it by dredging the oyster-beds on the Lower Potomac, and as free from legal restrictions.

The gentleman from Maryland spoke of the money received by these employés as *Government* money! If that is so, then, in legal contemplation, when a clerk goes to market and buys a cabbage with which to feed his family, there must be a resulting trust as to that cabbage in favor of the Government; the Government ought to have the "usufruct" of the cabbage. If it is Government money, and if when the clerk pays it out he pays out Government money, then when he buys a cabbage with that money there must be a resulting trust in favor of the owner of the money. That is good law, is it not?

Then, if that is so, I apprehend that a large proportion of the inhabitants of this capital have been for a long time eating food purchased with Government money and consequently eating Government rations, and if that rule applies to the employé of the Government, it would apply with equal force to the man who sells the Government paper or other supplies, and to every man who renders any service to the Government, whatever that service may be, and receives compensation for it. Sir, such a proposition is worse than absurd.

The money paid to an employé of the Government for service rendered is the money of the individual, and he may do with it as he will.

The distinction that John C. Calhoun took in considering the proposition contained in this bill was this: That the Senate must see to it that it drew the proper distinction between the acts of the *individual* and the acts of the officer, clerk, or employé of the Government.

I agree that you may control the official acts of officers; that you may control the hours of labor of employés engaged in the public service; that you may say what they may or may not do in connection with the discharge of their duties; but it is sheer folly to pretend that you can say what a man may or may not do with the hundred dollars which he receives for services he has rendered the Government.

I desire to say again that this bill looks to controlling the political action of the *citizen*, and in no wise relates to the mode or manner of discharging his duty as an officer or employé of the Government.

Gentlemen on the other side say that this is a Government of limited powers, and we on this side acknowledge that to be correct. We hear at all times and on all occasions the assertion from democratic mouths that this is a Government of limited powers; that every power which this Congress can exercise must be found in an express grant in the Constitution, or must be clearly implied from an express grant for the purpose of carrying that grant of power into effect.

Now, will some gentleman tell from whence this Congress derives the power to control the action of men in the disposition of their property after they have acquired it? Where is the power given them to prohibit me from contributing of my salary for the purpose of advancing my *religious* or my *political* principles? My friend from Tennessee, [Mr. HOUSE,] in all his two hours' time, did not refer to it once. My friend from Maryland, [Mr. MCLANE,] who spoke for an hour, did not refer to it.

I want to see whether this democratic House will on the questions presented by this bill walk in the highway of precedent as marked out by their democratic fathers, or whether they will depart from it.

Mr. Speaker, I will not flinch from enacting the severest penalties that this Congress may constitutionally enact to preserve the purity of the ballot-box. I recognize that the freedom and purity of the ballot-box is the only hope of this Republic. Nay, more; I go as far as any democrat in favor of a strict construction of the Constitution. I believe it is indeed the palladium of our liberties; it is the shield which every citizen ought to be able to hold up between himself and any trespass upon his rights, not only by an individual, but by the Congress of the United States as well.

I have heard a great deal said here touching the propriety and the importance of this bill as a means of preventing corruption at elections. Gentlemen, that is a fraudulent pretense on its face. I am not astonished to find the democratic party that pretends, and I submit that it is a mere pretense, to be the champion of the Constitution insisting upon striking down, as contemplated by this bill, the political rights of the Government employés, when they stand by and witness without compunction—possibly not without compunction—but they nevertheless stand by and, without attempting to afford any legal redress, witness the utter destruction of all the political rights of citizens in a number of the States of this Union, not simply by the illegal and improper use of money, but by that which is vastly more terrible and destructive. This Congress has looked on complacently, and seemingly with a satisfied air, while the republican party in nearly one-half of this Republic has been literally wiped out in blood.

The substitute which I have offered looks to the correction of prevalent abuses on the ballot-box.

My honorable friend from Maryland has held the democratic party up, as it were, on dress parade, as having always been the champion of the purity of the ballot-box and the freedom of all our people. I am here to assert that the democratic party never fought a political battle that was not in the interest of slavery rather than of freedom. I assert that every advance of an enlightened civilization which looked to freeing the soil of this Republic from the presence and contaminating influence of human slavery has been accomplished in the face of the protest and over the prostrate form of resisting democracy.

I assert that through all the southern part of our territory, where live

the controlling men of the democratic party, and from whence they issue their mandates to the northern wing of that party, through all that territory, freedom never had an altar where her votaries could worship in peace and safety. There never was a time when I could read in that portion of our country the Sermon on the Mount, in the spirit in which it was delivered, without taking my life in my hand. There is not a free school in the United States to-day which does not exist in spite of the desires and in the face of the opposition of one wing of the democratic party, and without that wing the democratic party could not control the local government in a single county north of the Ohio or the Potomac.

The gentleman from Tennessee, instead of addressing himself to the merits of this bill, has been pleased here to assail the President of the United States—to speak of him as "a fraud."

I will say to the honorable gentleman that he might as well go out and fire poisoned arrows at the sun in the hope of infecting its pure light as to undertake by what he has uttered to befoul the record of the President of the United States. [Applause.] His record is seen and read of all men in this Republic.

Sir, when he was a candidate for the Presidency you put sleuth-hounds upon his track; even his hearth-stone was not free from their insolent intrusion; but you found everything as pure as light. There was nothing that even the tongue of slander could seize upon with which to assail the republican candidate. You followed him through his Army career, and there you found him a true and well-tried soldier, always at his post—willing, if need be, to lay down his life in defense of the Republic, which those who now control the democratic party were seeking to destroy. You followed him to the White House, and he is there assailed from this Hall.

Mr. Speaker, if President Hayes is justly censurable for anything, it is for extending an overweening confidence to the men who subsequently, in the extra session of this Congress, when they had obtained control in both branches, betrayed that confidence. [Applause.] He was denounced because he refused while occupying the presidential chair to permit Congress to strike down the constitutional prerogatives of his office; because he refused to surrender the powers and authority conferred, for the protection of the people, by the Constitution and acts of Congress upon George Washington, and exercised by him as President of the Republic—conferred upon and exercised by every President, whenever an emergency requiring it arose, down to the inauguration of Rutherford B. Hayes. Nay, gentlemen, because he trusted you, you had the idea that you might with impunity oust him from the presidential chair and trespass upon the rights of the people.

You were mistaken. He knows very well, as you do, that within the limits of the Constitution he is as sovereign in his sphere of official action as this Congress is in the discharge of the duties committed to it by the same Constitution. It rests with the President on his oath to determine when he shall approve, and when he shall dissent from, any bill which it may please this House and the other House to pass; nor will he be coerced to submit his judgment to the control of the democratic majority of either House.

The democratic party the champion of freedom indeed! Why, it is a bundle of inconsistencies. It has been fitly described as "an organized appetite, an embodied hunger." [Laughter.] I am not speaking of individual members.

I have reason to know something of the democratic party. I lived along the border where it reigned supreme and where freedom could not erect an altar within twenty-five miles of the Ohio River.

The canvass of this bill, as made by my friend from Tennessee, had in view, after all, only to cripple, if possible, by its passage the chances of the republican party's continuation in power, and to install the democratic party in full control of the Government. In that view my friend, of course, touched the merits of this bill. He canvassed these party agencies; I agree that the canvass was proper; I do not find fault with it. But when he attempted to canvass he should have been careful not to engage in a work which he could not pursue with profit to his own side of the House.

The gentleman addressed himself at great length to the matter of "frauds." He told how this old man, as he calls the President, was foisted into the Presidential Mansion by "fraud," and how Secretary Sherman was mixed with it; and he read extensively from a report known as the report of the Potter committee. Now I want to read what has been said by a democratic oracle about this matter, Mr. A. C. Buell, who is alike forcible and brilliant.

Mr. FINLEY. May I inquire of the gentleman from what paper he is about to read?

Mr. BUTTERWORTH. The gentleman may do so. I will tell him.

Mr. FINLEY. It is the Capital, is it not?

Mr. BUTTERWORTH. Yes, sir; it is the Capital, which is as nearly democratic as a *Sunday* paper could be. [Laughter.]

Now, Mr. Speaker, I desire to read for the edification of the House what this writer says. He is speaking of the investigation by the Potter committee. He says:

Melancholy as has been the fate of investigations in the average during the last five years, those which were immediately chaperoned by Mr. Gibson have been particularly fatal to the democratic party. I need not go back of the lamented affair which bears the name of Mr. Potter in order to point my moral. Mr. Gibson was the author of that investigation. We all followed him with docility and seconded his efforts at every step with whatever poor ability we were masters of. He promised us at the outset that when he got through Hayes would be drummed out of the White House and John Sherman and J. Madison Wells drummed into the penitentiary to the Rogue's March. He managed the thing to suit himself. The witnesses he pointed out were subpœnaed. The sources of information that he indicated were drained dry. In short, he sat all the time a veritable *deus ex machina* in the background of the Potter committee, and what was the result? Why simply that toward the last, instead of getting John Sherman and J. Madison Wells into the penitentiary, it was apparently nip and tuck with us to keep Manton Marble and Colonel Pelton out!

[Laughter.]

Instead of proving bribery against the Louisiana returning board, we had hard work to keep the Gramercy Park cipher bureau from being indicted for conspiracy.

[Laughter.]

Now, Mr. Speaker, I do not read that because it is from a Sunday paper; I do not read it because it is from a democratic pen; I read it because the writer has stated the truth with such scrupulous exactness.

Now I think we may well suspect the candor of any democratic member of this House when he appears to be very anxious touching political assessments upon the pay and emoluments of clerks and employés in the different Departments. I think they will take such an exhibition of sympathy on the part of my friend at its true value and estimate it as an old Quaker lady out West did a glass of soda-water. I suppose I must give a history of that little transaction. At one of our yearly meetings an aged sister, as she passed from the meeting, stopped to get a glass of that effervescing fluid known as soda-water; she went up and said, "I wish thee would give me a glass of soda." The vendor filled the glass and the old lady drank it and found it mostly froth. She said, "What does thee make that article of?" He went on to explain that it contained syrup, acids, sugar, water, &c. "Ah! well, upon my word I am glad thee told me, else I would have always thought it was nothing but sweetened wind." [Laughter.] I submit, Mr. Speaker, that the employés in the different Departments will take that part of my friend's speech which affects commiseration for them when they contribute what they may be called upon to pay in the shape of political assessments, as "sweetened wind." They know and understand perfectly well that the precise object of the gentleman is not only to relieve them of assessments, but to relieve them of their situations and salaries altogether.

CIVIL SERVICE.

I am not much in love, Mr. Speaker, with a certain phase of civil service. I believe there was sound sense and wise policy in what George Washington said touching appointments to office. I want to call the attention of the House to it, whatever weight it may have with my brethren on the other side. James Buchanan quoted it, Thomas Jefferson quoted it, and approved it, and conformed his practice to it; and all political parties, whatever their professions, have acted on the suggestion. These are the words of Washington:

I shall not, while I have the honor to administer the Government, bring a man into any office of consequence knowingly whose political tenets are adverse to the measures which the General Government are pursuing, for this in my opinion would be a sort of political suicide; that it would embarrass its movements is most certain. But of two men equally well affected to the true interests of their country, of equal abilities, it is the part of prudence to give the preference to him against whom the least clamor can be excited. (See Appendix to Congressional Globe, Twenty-sixth Congress, first session, page 511.)

You may seek to put stress upon the words "important office;" that he said he would not appoint to any *important* place; but the democratic party has long since by official action determined the import of those words, and the republican party has acted very largely on the rule prescribed by their adversaries. The democracy have always drawn the line so as to exclude all republicans from office and appointment; so that every place is found to be too important, entirely too important, to be filled by a republican.

Take the officers and employés of this House.

What must have been the agony of my friend to see the crippled soldiers mustered out and turned upon the common to feed in order that their places might be filled by democrats—good men, it is true, but yet I submit by men who had hardly rendered more efficient service to the Republic than those who were displaced. I do not know that I can or ought to find fault with it. Until human nature changes, until we all change, I do not doubt that in politics the same rule of action will be adopted and adhered to so long as political parties are the agencies through which the control of the government of the State or the nation is sought and maintained. It always has been so and it always will be so.

THE SUBSTITUTE FOR THE BILL.

I desire to call attention for a moment to the substitute I have just offered, and then I will have done. It looks in the first place to preventing arbitrary assessments. And why? Because these are extorted under color of official power.

It provides that assessments shall not be levied in any branch of the service nor in any department. With that I am perfectly satisfied. What else? It provides that no man shall pay money to corruptly influence a voter or to corruptly influence his political action. What else? That no man shall receive money or other valuable thing with a view to having his vote or action corruptly influenced. What else? It provides further that everywhere within the broad domain of this Republic, every citizen having a right to vote shall be permitted to go to the ballot-box and deposit his ballot without fear or molestation.

If there is a man here who is opposed to that, I denounce him as

unworthy to have a seat on this floor. Gentlemen may differ as to the constitutional power to enact that law. I make no question about it. But we cannot differ as to merit of the proposition. And here I desire to call the attention of the House to a decision of the Supreme Court of the United States, which I hold in my hand, whether it will be regarded by this House I do not know; I have in my hand the syllabi of a decision of the Supreme Court of the United States which decides the questions which were controverted on this floor at the extra session relative to the right of Congress to make and alter the regulations for conducting elections of members of Congress and presidential electors. The decision is as follows:

WASHINGTON, *March* 8.

No. 7 (original) *ex parte* Albert Siebold *et al.* Petitions for writs of *habeas corpus* and *certiorari*. The petitioners in this case are judges of election in the city of Baltimore. They were appointed by authority of the State law, and discharged the duties as such judges at the election of Representatives to Congress November 5, 1878. Under sections 5515 and 5522, Revised Statutes, they are indicted in the circuit court of the United States for the district of Maryland on the charge of interfering with and resisting supervisors of election and deputy marshals of the United States while the latter were engaged in the performance of their duties at said election. Upon this charge they were tried, convicted, and sentenced to imprisonment. They therefore appealed to this court with a petition for writs of *habeas corpus* and *certiorari*, upon the ground that the statutes under which they were tried and convicted are unconstitutional and void. This court, in a careful and elaborate opinion by Justice Bradley, holds:

First. That the question of the constitutionality of said laws is good ground for this court to issue a writ of *habeas corpus* to inquire into the legality of imprisonment under such conviction, and if the laws are determined to be unconstitutional the prisoners should be discharged.

Second. That Congress had power by the Constitution to pass this resolution referred to, namely: section 5515, Revised Statutes, which makes it a penal offense against the United States for any officer of election, at an election held for Representative in Congress, to neglect to perform or to violate any duty in regard to such election, whether required by the law of the State or of the United States, or knowingly to do any act unauthorized by any such law, with intent to affect such election, or to make a fraudulent certificate of the result; and section 5522, which makes it a penal offense for any officer or other person, with or without process, to obstruct, hinder, bribe or interfere with a supervisor of election, or marshal, or deputy marshal, in the performance of any duty required of them by any law of the United States, or to prevent their free attendance at place of registration or election, &c. Also, sections 2011, 2012, 2016, 2017, 2021, and 2022, title 26, Revised Statutes, which authorize circuit courts to appoint supervisors of such elections, and the marshal to appoint special deputies to aid and assist them, and which prescribe the duties of such supervisors and deputy marshals, these being the laws provided by Congress in the enforcement of the acts of May 31, 1870, and supplemental thereto, of February 28, 1871, for supervising the election of Representatives and for preventing frauds therein.

Third. That circuit courts have jurisdiction of indictments under these laws, and a conviction and sentence in pursuance thereof is a lawful case of imprisonment, from which this court has no power to relieve on *habeas corpus*.

Fourth. That, in making regulations for the election of Representatives, it is not necessary that Congress should assume entire and exclusive control thereof, by virtue of that clause of the Constitution which declares that the times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but Congress may at any time by law make or alter such regulations, except as to the place of choosing Senators; Congress has supervising power over the subject, and may either make entirely new regulations, or add to, alter, or modify regulations made by any State.

Fifth. That in the exercise of such supervisory power Congress may impose new duties on officers of election or additional penalties for breach of duty, or for the perpetration of fraud; or provide for the attendance of officers to prevent frauds and see that elections are legally and fairly conducted.

Sixth. That the exercise of such power can properly cause no collision of regulations or jurisdiction, because the authority of Congress over the subject is paramount, and any regulations it may make necessarily supersede inconsistent regulations of the State. This is involved in the power to "make or alter."

Seventh. That there is nothing in the relation of State and national sovereignty to preclude the co-operation of both in the matter of elections of Representatives. If both were equal in authority over the subject, collisions of jurisdictions might ensue, but the authority of the National Government being paramount, collisions can only occur from unfounded jealousy of such authority.

Eighth. That Congress had power, by the Constitution, to vest in circuit courts the appointment of supervisors of election. It is expressly declared that "Congress may, by law, vest the appointment of such inferior officers as they think proper in the President alone, in courts of law, or in heads of departments," while, as a question of propriety, the appointment of officers, whose duties appertained to one department, ought not to be lodged in another. The matter is nevertheless left to the discretion of Congress.

Ninth. That the provision which authorizes deputy marshals to keep the peace at elections is not unconstitutional. The National Government has the right to use physical force in any part of the United States to compel obedience to its laws and to carry into execution powers conferred upon it by the Constitution.

Tenth. That the concurrent jurisdiction of the National Government with that of States, which it has in the exercise of its powers of sovereignty in every part of the United States, is distinct from that exclusive jurisdiction which it has by the Constitution in the District of Columbia, and in those places acquired for the erection of forts, magazines, arsenals, &c.

Eleventh. That the provisions adopted for compelling State officers of election to observe the State laws regulating the elections of Representatives, not altered by Congress, are within the supervisory powers of Congress over such elections. The duties to be performed in their behalf are owed to the United States as well as to the State, and their violation is an offense against the United States which Congress may rightfully inhibit and punish. This necessarily follows from the direct interest which the National Government has in the due election of its Representatives, and from the power which the Constitution gives to Congress over this particular subject.

The petitions for *habeas corpus* and *certiorari* are denied.

That decision would seem to recognize in Congress all the power over elections which I claim, and covers the provision of my substitute for the pending bill.

Why shall we not all join to throw around the ballot-box that protection which is our security?

I do not want to transcend the limits of the Constitution. I believe, sir, that strict adherence to its provisions is our only safety. Our fathers, in the main, enforced this by their example, and always enjoined it by their precept. And I cannot doubt that any departure from the plain letter and spirit of its provisions will be attended with peril to our liberties which will far outweigh any inconvenience which might reasonably result from a strict adherence to them.

I desire to say, Mr. Speaker, something more touching the practical application of this bill, and then I am through. And in this connection I wish my friends on the other side of the Chamber would read the report of the committee of the Senate on the bill to which I have referred touching the enforcement of a measure of this character.

Who will decide under this bill what is a thing of value? Who shall decide, gentlemen? Shall I be punished, if I hold an office, for distributing Bibles among my democratic neighbors? Shall I be punished for so doing, although, confessedly, it ought to be done?

Shall an employé be punished for purchasing ten thousand of the speeches of my learned friend from Tennessee, in order that he may by circulating them disgust a certain constituency with the political views and opinions of that gentleman, and thereby strengthen the republican cause?

Shall you be censured because you purchase, if it should please you to, a number of any speech I might make to show I was filled with bitterness and unkindness, (that I am either bitter or unkind, I deny?) This bill so provides. A man employed in the Government service does not dare to distribute Bibles with the intent to purify political morals; he dares not to distribute political literature of any character; in fact, he does not dare to distribute anything of value and hope to escape the penalties of this bill. He is actually emasculated as a political factor in this country, by the terms of your bill. Is that constitutional? I think not.

It is said that to allow voluntary contributions is really to authorize assessments; that if you allow voluntary contributions such contributions necessarily go for corrupt purposes. Why, my friend from Maryland is too good a logician to insist on so absurd a proposition as that. Why does it follow, because money is given for a laudable and honest purpose, that it is to be used for a corrupt one? Certainly not. If such a rule of conduct was established it must follow that every agency intended for the promotion of good and the vindication of right would be absolutely stricken down. Why? Because those agencies *may* peradventure be used for some corrupt purpose.

Now, Mr. Speaker, I do not oppose this bill on the ground that its defeat will tend to the triumph of the republican party. I desire the triumph of that party only as an instrument of good to our people.

I say here candidly as I ever said anything in my life that if I believed or could be induced to believe that the welfare of my country demanded the inauguration of the democratic party in power, I should, with all the ability I possess, labor to that end, but its history and its administration of the Government give us no such promise and inspire no such hope. If it did I am sure I would labor to install it in power. But, sir, it passes credulity that I could suggest the possibility of such an agency being useful and promotive of good in this Republic. [Laughter.]

I do not assail my democratic brethren as individuals. They do well as individuals. It is only collectively they are engaged in mischief. Outside of the caucus they talk well and reason fairly; they vote well; but when they go into caucus and the fiat of that tribunal is issued they bow their heads implicitly and obey its decree. You may say we do the same. I think we do in a large degree, but I do insist that there is more independence of thought and of action in the republican than in the democratic party, or else we would not have our George William Curtis pulling in one way and Cornell in another; I beg pardon—CONKLING in another. You are all acting harmoniously together in one way, and that not the right one.

In what I have said here I speak to my democratic brethren in no bitterness. I have been accused sometimes of being bitter. I submit to my friend from Kentucky [Mr. CARLISLE] whether I am bitter.

I have been taught to hate all the influences that grew out of the institution of slavery. I was taught when a boy that it was my duty to feed the man, black or white, who was fleeing to lay his hands on freedom's holy altar-horns wherever they might be. I was taught as well to stand between your baying hounds and the human victims they would tear. I was taught as well to feed the pursued and pursuer, not because one was black nor because the other was white, but because they were both men.

It is not in such a school that tyrants or their minions are trained.

It is not among school-houses and churches that the genius of liberty is stifled, but it is down where freedom of speech and freedom of thought have no shield or protection.

It occurs to me as most strange that to learn lessons of patriotism we must train in the school of treason. In order to learn to defend the integrity of the Republic we must act with those who attempted to destroy it; yet these are the propositions to which the democracy seem to be devoted. And these are the men who come now and assert that only in their triumph the integrity of this Government and its national honor are to be secure.

Against any such conclusion I protest. Their history attests this cannot be so. Their practices attest this cannot be so.

The democratic party has been a bundle of contradictions from first to last—a war party in peace, and a peace party in war; nominating first a man devoted to war upon a platform of peace, and then nominating a man in time of peace upon a platform suggestive of war.

We behold that party attempting to ride into power on the back

of a man who never said a kind thing to or of them—politically, I mean; who said of them that their political "creed was to love rum and hate niggers." To this good old man they said, spreading before him the whole presidential domain, "Uncle Horace, all this will we give unto thee if thou wilt but fall down and serve us." That party and Horace Greeley had and held nothing in common—not a thought in common; not a sentiment in common; not an act in common. In the whole history of Horace Greeley there was no common sympathy or action between him and the democratic party. And yet, for the purpose of gaining power, they consented to stultify themselves by nominating that gentleman as the democratic candidate for the Presidency. And I regret to record that that good old man fell down and served as he was bid. [Laughter and applause.]

[Here the hammer fell, Mr. BUTTERWORTH's time having expired.]

Fitz-John Porter.

SPEECH OF HON. J. E. McDONALD,

OF INDIANA,

IN THE SENATE OF THE UNITED STATES,

March 9 and 10, 1880,

On the bill (S. No. 1139) for the relief of Fitz-John Porter, late major-general of the United States volunteers and colonel of the Army.

Tuesday, March 9.

Mr. McDONALD said:

Mr. PRESIDENT: On the 10th day of January, 1863, Fitz-John Porter, colonel of the Fifteenth Infantry of the United States Army and major-general of volunteers, was sentenced by court-martial to be cashiered and to be forever disqualified from holding any office of trust or profit under the United States. This sentence went into force and effect by the approval of the then President of the United States. On the 5th of June, 1879, the President of the United States transmitted to Congress this message:

To the Senate and House of Representatives:

I transmit herewith the "proceedings and report" of the board of officers, convened by Special Orders No. 78, headquarters of the Army, Washington, April 12, 1878, in the case of Fitz-John Porter. The report of the board was made in March last, but the official record of the proceedings did not reach me until the 3d instant.

I have given to this report such examination as satisfies me that I ought to lay the proceedings and conclusions of the board before Congress.

As I am without power, in the absence of legislation, to act upon the recommendations of the report further than by submitting the same to Congress, the proceedings and conclusions of the board are transmitted for the information of Congress, and such action as in your wisdom shall seem expedient and just.

R. B. HAYES.

EXECUTIVE MANSION, *June 5, 1879.*

The conclusions of the board are as follows:

Having thus given the reasons for our conclusions, we have the honor to report, in accordance with the President's order, that, in our opinion, justice requires at his hands such action as may be necessary to annul and set aside the findings and sentence of the court-martial in the case of Major-General Fitz-John Porter, and to restore him to the positions of which that sentence deprived him—such restoration to take effect from the date of his dismissal from service.

Very respectfully, your obedient servants,

J. M. SCHOFIELD,
Major-General U. S. Army.
ALFRED H. TERRY,
Brigadier-General U. S. Army.
GEO. W. GETTY,
Brevet Major-General U. S. Army, Colonel 3d Artillery.

Why is the President without power in the absence of legislation to act upon the recommendations of this report? The answer to that is very plain. It is because the main recommendations are that Fitz-John Porter be restored to the position of which he was deprived by the sentence of the court-martial of January 10, 1863, and that such restoration take effect from the date of his dismissal from the service. Neither of these things can the President do under existing law. In the first place, there are no vacancies in these places and positions; and if any vacancy should now occur, the existing law requires it to be filled by recognizing the line of promotion, and therefore the President has no power under existing law to appoint Fitz-John Porter to the commission and rank of colonel in the Army. He at least, so far as the legal effect of the court-martial trial is concerned, is a citizen, not in the military service, not in the line of promotion as fixed by existing law, and therefore the President, however much he might deem that justice should require it, possesses no power, as the law now stands, to restore him to his former rank in the Army.

In the second place, if there was such a vacancy, if it was in the power of the President to fill it by selecting from the civil list, from persons in civil life, he would have no power under existing law to antedate that commission so as to make it take effect as of the 10th of January, 1863.

Therefore the President in transmitting this report to Congress, giving it, however, by that transmission his approval so far as the findings of fact were concerned, was right in saying that it was not in his power under the law as it now stands to do that justice which the conclusions of this board requested and suggested at his hands; and hence he transmitted it to the law-making power to be dealt with as in the wisdom of that body might seem "expedient and just."

There is something unusual attached to this military sentence, about which I shall have occasion to speak before I have closed my remarks. It not only imposes upon this officer the military punishment of breaking him of his commission, of dismissing him in disgrace from the Army, but it undertakes to follow him through life.

Mr. KIRKWOOD. Allow me——

Mr. McDONALD. Mr. President, I shall have to decline to-day—and I shall do it in no disrespect at all—to permit any interruptions unless it may be for the purpose of correcting any error into which I may fall in my statements of fact.

But it is not that point that the President presents to us when he says he is without authority to act in this case; it is not that question that he has submitted to Congress; it is the question of restoration to the Army, not the civil disqualification, because he possesses plenary power over that himself. Therefore, having in effect said that this former judgment and sentence was unjust and wrong, in transmitting this report and proceedings to us to be dealt with by us, he did not undertake to turn over to us in any form or in any sense the question of civil disfranchisement, because that was in his own hands, in his own power; it was the other question that he was powerless to act in for the reasons that I have already stated.

Now, sir, can Congress correct this; can Congress enlarge the President's power so as to embrace the whole measure of justice which he says, in transmitting this message to us and his indorsement of the action of the board, ought to be meted out in this case? That is the question. What is the power of Congress over this subject? It possesses plenary power over the Army and the Navy of the United States. There is no limitation placed upon it in the Constitution. It is full and complete, brief but comprehensive, and embraces the whole subject.

The Congress shall have power—

Says the Constitution—

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

To provide and maintain a Navy;

To make rules for the government and regulation of the land and naval forces.

That whole subject is placed completely in the power of Congress; and by the fifth amendment to the Constitution it is again, by the strongest possible implication, taken out of the ordinary division of power by the express provision that the civil tribunals, organized for the purpose of administering justice in civil affairs, shall not extend to crimes arising in the land and naval forces of the United States. That is under the power of Congress; there is where it is lodged, and it is plenary. In Great Britain that power was lodged in the king; it was a part of his prerogative, the power to raise and equip and maintain armies, and it was unlimited down to 1688, when in the Bill of Rights it was stipulated that, while this power should not be interfered with in time of war, but should remain unshorn, in time of peace the army should not be increased without the consent of Parliament.

When the framers of our Constitution came to consider this great question of the military arm they vested in Congress the power to control it. They gave to the President simply and alone its chief command. He was made the Commander-in-Chief of the Army and Navy of the United States. That made him simply the first officer of the Army, the first admiral of the Navy, and that was all, and he exercises these powers in connection with armies by virtue of his military command and authority, and not simply as the chief magistrate of the United States, the chief of the executive department of the United States.

Now, sir, how complete is that power to raise and equip armies, to create and maintain navies, to make rules and regulations for their government? It embraces the whole question. The Constitution gives to the President, as the chief of the executive department of the Government, the power to make appointments, by and with the advice and consent of the Senate, except in certain specified cases; but that does not embrace the Army. He makes no appointments in the Army under that authority; he makes them under the authority which Congress confers upon him in the exercise of its plenary power, and in no other way. He cannot be divested of his authority to command as Commander-in-Chief, because that is fixed and secured to him by the Constitution; but it is in the power of Congress to appoint every officer under him by other means and other instrumentalities than the President; and the mode of appointment, by and with the advice and consent of the Senate, is simply in analogy to the civil administration of our affairs and not because we are bound to do so.

In 1846, in creating a volunteer army to be used in the Mexican war, Congress conferred upon the several States the power to appoint all the officers in that volunteer force except the general officers, reserving the power to appoint the general officers, and thus incorporating them as national forces, not State forces. Congress may confer the power to appoint all these subordinate officers upon the General of the Army; it may confer the power to appoint the General of the Army upon the Vice-President of the United States, the Speaker of the House of Representatives, ay, or upon the Supreme Court.

Congress has regulated this question again and again, and now upon our statute-book to-day the President, while he is authorized to make these appointments by and with the advice and consent of the Senate, is limited to making selections from particular classes; and all this because Congress possesses plenary power over this subject.

There are at present under existing laws no vacancies in the position of colonel in the United States Army but what must be filled by the line of promotion. Can we not change that? Can we not pass a law increasing the number? Can we not pass a law cutting down the forces? Can we not do all these things; and if we do what is there, so far as the law is concerned, to prevent the President of the United States from appointing Fitz-John Porter to any one of these positions? Oh, it is said, this disfranchisement stands in the way. I have already said that if that is of any validity, which I think I shall be able to show before I conclude my remarks that it is not, if we confer the power upon the President or if we do not confer it upon him but some one else, it is not difficult to remove that disability. He has not called on us to exercise the pardoning power or to discharge any duty in connection with this case that he possesses the power to discharge.

Suppose we should pass a law reorganizing the Army and legislating men out of office; for these offices in the Army are mere legislative offices; the occupants of them have no vested rights in them; a breath has made and a breath can unmake them—suppose we should do that and change the whole machinery of the Army, turn out the present officers and make provision for filling the places again, where is the want of authority in making selections to fill them to take citizen Fitz-John Porter as well as citizen my distinguished friend to my right, the Senator from Illinois, [Mr. LOGAN,] who, I have no doubt, would make a very good major-general or general or something of that kind?

But it is said that this is trenching upon the pardoning power. I admit that the legislature as organized in this country does not possess the direct pardoning power, because the Constitution of the United States and the constitutions of most of the States have vested that in the executive department of the Government.

Mr. EATON. Not in all the States.

Mr. McDONALD. In most of them; in many of them qualifiedly. But their constitutions regulate that. I admit there cannot be a direct exercise, so far as Congress is concerned, of the pardoning power; but I insist that Congress can do more than that; it can obliterate the law under which the penalty is being suffered, and whatever of that penalty remains unsuffered has to stop when the law no longer exists authorizing the punishment.

Mr. LOGAN. If the Senator will allow me, because he said he would yield for the purpose of allowing a correction of any misapprehension or misunderstanding unintentionally made by himself, I desire to call his attention to one proposition which he has laid down, and that is that in the organization of the militia during the Mexican war Congress authorized the appointment of the officers in the militia by the governors of the States. I wish to read one clause of the Constitution to the Senator to show exactly where that authority came from. Following what he read himself, if he had read a little further he would have seen among the powers of Congress:

To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.

There the Constitution provides expressly that the States shall appoint these officers.

Mr. McDONALD. While they remain State militia that is true; but these became national forces.

Mr. THURMAN. And the President appointed the general officers.

Mr. LOGAN. The Senator will allow me to say this: Volunteer forces are called the militia in the Constitution, and have always been called so, and are distinguishable from the regular Army in that way. The national forces are the regular Army; but in the militia of the States the officers are appointed by the State governor, under this section of the Constitution. The two have always been so distinguished; and that clause provides for the appointment by the States of the officers of the militia.

Mr. McDONALD. Then, Mr. President, during all the late war that principle was violated again and again, over and over. I understood, at least I thought I did, the section of the Constitution to which my attention has been called; but there is a distinction between that and the other power to raise armies. Whenever they become national forces in the sense of raising armies and equipping them, then they are under the control of Congress.

Now, Mr. President, I want to see for a few moments what the Legislature may do. While the Legislature may not perform merely judicial acts, it may make laws to govern courts, and so control in that way the action of the courts and the punishment of crime, and by repealing the laws for the punishment of crime can arrest their execution, even after conviction. This the Legislature may do in reference to the civil administration of affairs; this it may do with reference to that third distinct co-ordinate branch of our Government, the judiciary; this it may do in the administration of the criminal law, and it has done it again and again, and it has been recognized by the courts.

On that point I wish to call the attention of the Senate to a few decisions that seem to me to very well settle that question, notwithstanding the able and distinguished Senator from Wisconsin [Mr. CARPENTER] based almost his entire legal argument upon the proposition that it could not be done. The first case that I shall call the attention of the Senate to is the case of Hartung *vs.* The People, in 22 New York Reports. The syllabus of the case is as follows:

The act in relation to capital punishment, (chapter 410, of 1860,) in so far as it attempts to subject to the new punishment of death and previous imprisonment at hard labor persons already under conviction for murder, is *ex post facto*, and void.

That is for the new law "*ex post facto* and void."

It seems that any law changing the punishment for offenses committed before its passage is *ex post facto*, and void under the Constitution, unless the change consists in the remission of some separable part of the punishment, before prescribed, or is referable to prison discipline or penal administration as its primary object.

It seems, though all the provisions for inflicting death as the punishment of murder are repealed by the act of 1860, that it is the intention of the act to retain such punishment.

In what manner death is to be inflicted and whether the mode is in the discretion of the court, the sheriff, or the governor, *Quære.*

The repeal of a law imposing a penalty, though it takes place after conviction, arrests the judgment; and when the repeal is after judgment, the judgment is to be reversed upon writ of error.

The opinion in the case fully sustains that syllabus, and the authorities cited in support of it are of the very highest, embracing decisions by the Supreme Court of the United States:

After conviction, the Legislature passed an act declaring that no person should be subject to prosecution by indictment for any publication as to the official conduct of officers or men in a public capacity. It was held that no judgment could be pronounced, and the defendant was discharged. (1 Binney, 601.)

That reference is to a Pennsylvania authority.

The same doctrine has been held in the Supreme Court of the United States, (Yeaton *vs.* United States, 5 Cranch, 281; and The Schooner Rachel *vs.* The United States, 6 Cranch, 329.) In each of these cases, judgment of forfeiture upon proceedings in admiralty had been pronounced in the court of original jurisdiction before the repeal of the statute which gave the forfeiture, and both judgments were reversed, on account of such repeal, by the Supreme Court. In the first case, Chief-Justice Marshall said: "After the expiration or repeal of a law no penalty can be enforced nor punishment inflicted for violations of the law committed while it was in force, unless some special provision be made for that purpose by statute."

Therefore I say that by the repeal of the law imposing punishment or penalties, as to all that part of the punishment or penalties not yet executed, it is broader and more comprehensive than the President's pardon. The learned judge in this case goes on to say:

We have come to the conclusion lastly that we are bound to make these results the basis of our judgment upon this writ of error.

It was admitted that there was no error in the proceedings in the case. They had been all regular, perfectly so. Judgment had been passed upon the party while the law was in force, and the proceedings before the court of appeals were upon a regular record, a record regular in all things, but they say that in such a case as this it was the duty of the appellate court to reverse, because there was no law authorizing the imposition of the punishment. They say the same thing might have been reached by a writ of *habeas corpus*, but the statute was in the way by declaring that no party should sue out a writ against the final process of a court where it was the final judgment.

To the same effect are the authorities in Massachusetts, and I know of no dissenting authority, and it would be strange if there was. If it could be held by any court that punishment could be inflicted without law when there was no law to enforce it, it would be a very strange condition of things simply because there was law at the time the party was tried and convicted. It is true that in most of the repealing statutes there is a saving clause that continues the law in force as to existing cases, &c., because that is the only law that a party in this country can be tried by, the law in force at the time the offense was committed. The Constitution of the United States prohibits to the States and prohibits to Congress the power to pass an *ex post facto* law.

Again, it is said there can be no review of this decision because the court that pronounced it has gone out of existence. Mr. President, according to my judgment and as I have viewed this case there is but slight analogy between military and civil courts.

Mr. LOGAN. Will the Senator allow me to correct him there? He says the argument was on the ground that the court had gone out of existence. Nobody made that argument.

Mr. McDONALD. I make it, then.

Mr. LOGAN. You are applying it to those who argued on this side.

Mr. McDONALD. Perhaps somebody will make it.

Mr. LOGAN. The argument was this, if the Senator will allow me to state it, that inasmuch as the law allowed no appeal from that court, when the sentence was approved it was a finality, the same as the judgment of any other court, and not because the court was out of existence.

Mr. McDONALD. And the repeal of a law providing for the punishment could not reach it, so that this military court called into existence for a special purpose, that goes out of existence as soon as that special purpose is disposed of, and that has no successor, in which there is no succession, not like our civil courts where there can be no interregnum in the administration of justice,—this military tribunal, which has been called a court in the highest sense in the discussion of this case, having passed sentence upon one who

is brought before it for trial, and that sentence having gone into approval, has put it beyond the power of the Government in all its departments to relieve that person from the injustice of that sentence. That is to say, the Government between itself and its own citizen can inflict that punishment and that injury which, although the citizen may still be alive, it has no power in the future in any way or in any shape to review, and do justice to him.

Mr. LOGAN. By pardon.

Mr. McDONALD. That does not restore.

Now, Mr. President, one or two words more in reference to the power of legislation as bearing upon the amendment that has been suggested by a member of the Military Committee, the Senator from Rhode Island, [Mr. BURNSIDE,] a new trial, a rehearing. It has been argued that this is not within the power of legislative authority. If it be intended to claim that the legislature has no power to act judicially in declaring a new trial, I am not here for the purpose of controverting it. But if it be intended to mean that the legislature cannot confer on that department or branch of government where this proceeding had its beginning and determination power to review it, then I deny the proposition. I say that the legislative power goes further than that, much further. It goes to the extent of authorizing the granting of a new trial in civil causes in the civil administration of justice after the right has been debarred by the law as it then stood, and when the court is no longer authorized to exercise the power. Let me call the attention of the Senate to the decision of the Supreme Court of the United States upon this point in 10th Howard. The case that I refer to will be found on page 395. It is the case of The Baltimore and Susquehanna Railroad Company, plaintiff in error, *vs.* Alexander Nesbit and another, defendants in error:

The State of Maryland granted a charter to a railroad company, in which provision was made for the condemnation of land to the following effect: namely, that a jury should be summoned to assess the damages, which award should be confirmed by the county court unless cause to the contrary was shown.

The charter further provided that the payment, or tender of payment, of such valuation should entitle the company to the estate as fully as if it had been conveyed.

In 1836 there was an inquisition by a jury, condemning certain lands, which was ratified and confirmed by the county court.

In 1841 the Legislature passed an act directing the county court to set aside the inquisition and order a new one.

On the 18th of April, 1844, the railroad company tendered the amount of the damages with interest to the owner of the land, which offer was refused; and on the 26th of April, 1844, the owner applied to the county court to set aside the inquisition and order a new one, which the court directed to be done.

The law of 1841 was not a law impairing the obligation of a contract. It neither changed the contract between the company and the State, nor did it divest the company of a vested title to the land.

The charter provided that, upon tendering the damages to the owner, the title to the land should become vested in the company. There having been no such tender when the act of 1841 was passed, five years after the inquisition, that act only left the parties in the situation where the charter placed them, and no title was divested out of the company, because they had acquired none.

The States have a right to direct a rehearing of cases decided in their own courts. The only limit upon their power to pass retrospective laws is, that the Constitution of the United States forbids their passing *ex post facto* laws which are retrospective penal laws. But a law merely divesting antecedent vested rights of property, where there is no contract, is not inconsistent with the Constitution of the United States.

The Supreme Court in this decision have fully sustained the statement contained in this syllabus, and they refer to another case somewhat more remarkable still:

If it were necessary to sustain by precedent the authority or practice of the State Legislature in awarding a new trial, or in ordering a proceeding in the nature of an appeal after litigation actually commenced, or even after judgment, and as to which provision for new trial or appeal had not been previously made, a very striking example from this court might be adduced in the case of Calder and wife *vs.* Bull and wife, decided as long since as 1798, and reported in the third of Dallas, page 386. The facts of that case are thus stated by Chase, Justice, in delivering his opinion: "The Legislature of Connecticut, on the 2d of May, 1795, passed a resolution or law, which, for the reason assigned, set aside a decree of the court of probate for Hartford on the 21st of March, 1794, which decree disapproved of the will of Norman Morrison, made the 21st of August, 1779, and refused to record said will; and granted a new hearing by the said court of probate, with liberty of appeal therefrom within six months. A new hearing was had in virtue of this resolution or law before the said court of probate, who, on the 27th of July, 1795, approved the will, and ordered it to be recorded. In August, 1795, appeal was had to the superior court of Hartford, who at February term, 1796, affirmed the decree of the court of probate. Appeal was had to the supreme court of errors of Connecticut, who, in June, 1796, adjudged that there was no error."

"The effect," says this same judge, "of the resolution or law of Connecticut above stated is to revise a decision of one of its inferior courts, and to direct a new hearing of the case by the same court of probate that passed the decree against the will of Norman Morrison. By the existing law of Connecticut, a right to recover certain property had vested in Calder and wife in consequence of a decision of a court of justice, but in virtue of a subsequent resolution or law, and the new hearing thereof, and the decision in consequence, this right to recover certain property was divested, and the right to the property declared to be in Bull and wife, the appellees." Upon a full examination of this case, the court being of the opinion that the resolution or law of Connecticut awarding the new trial, with right of appeal, did not fall within the technical definition of an *ex post facto* law, and there being no contract impaired or affected by that resolution, they by a unanimous decision sustained the judgment founded upon that resolution.

But it is said that should a new trial be granted now it would be impossible to try the accused, because under the law none can be tried by court-martial except those who are in the land or naval forces, and under the Constitution no person can be tried for such offenses as would be involved in these charges except persons connected with the land or naval forces or with the militia in time of actual war. All I have to say in reference to that is simply this: I learned very early in the study of the law that a new trial vacated the verdict and set aside the judgment, and for the purposes of the retrial placed the parties where they were before there was any verdict or judgment. The effect and force of a new trial is, for the time being and until that new trial shall be determined, to arrest the former trial, the former verdict, the former judgment, and the proceedings that followed upon that down to the granting of a new trial. In other words, if a new trial should be granted in a case like this, it would remit the accused back to his former position and the United States to its former position, and they would start there just where they were the time this proceeding was tried in 1862-'63.

I know sometimes in the earlier practice, when technicalities were more observed than they are now—and perhaps it is so to some extent yet—now and then even a good practitioner was caught on the point of moving in arrest of judgment before he had moved for his new trial, thereby waiving his right to move for a new trial inasmuch as the arrest of judgment was in affirmance of the verdict while the new trial was against the verdict, asking for a *venire de novo;* and even in capital cases where the defendant seeks it and obtains it and goes back again and takes the risks of a second trial, it is not for him to say that he has been once already put in jeopardy and that he cannot be put twice in jeopardy for the same offense, because in contemplation of law there has been no jeopardy, for that which has stood as jeopardy has been erased, and he stands before the court as he stood when he was first accused.

Then, Mr. President, it seems to me that there is no legal bar to accomplishing what the President of the United States suggests in this message, that there is no legal bar to the power of Congress to authorize that restoration which this commission says is only due to this man, who was tried in 1862-'63. I should certainly not be inclined to give higher authority and a more sacred character to the proceedings of a court-martial than I should to those of the civil courts of the country. What is a court-martial? It is one of the instrumentalities (and that is all it is) provided by law for the government of the Army. It is no part of the judicial department of the Government.

Mr. CONKLING. As I see the Senator is about to leave the point he has discussed, is it disagreeable to him to allow me to ask a question?

Mr. McDONALD. I think not. I may not be able to answer it, but I will listen.

Mr. CONKLING. I beg to inquire of the Senator whether he means to affirm or argue this to be the law, that after sentence, after judgment, and after judgment pronounced and executed, a repeal of the statute under which that judgment takes place destroys or impairs the judgment?

Mr. McDONALD. As to all of the judgment that has been executed, that is like everything of the past; it cannot be recalled. As to all that remains to be executed, when there is no law commanding it, there can be no execution of it.

Mr. CONKLING. Then may I understand the Senator. Suppose in the Hartung case, to which he has referred—a very familiar case in the State from which I come—the sentence had been imprisonment for a term of years, and it had been executed by incarcerating the convict, does the Senator mean that a repeal of the statute under which that took place would enlarge the party or entitle him to be enlarged?

Mr. McDONALD. No, sir; for that is one of the cases that require no saving clause. But I say further, that an act of the Legislature declaring that that punishment should no longer be inflicted would would relieve the party.

Mr. CONKLING. I asked the Senator this question, because I inferred that he intended to measure his position by what was decided by the court of appeals in the Hartung case; and, as it will take but a single moment, I beg to call the Senator's attention to what I understand that decision to be, in order that he may correct me if I am wrong.

Mr. McDONALD. I would rather not go into it now.

Mr. CONKLING. It will take but a single moment, and will show wherein I differ with the Senator in my apprehension of the law. Mrs. Hartung was convicted of the killing of her husband. She was sentenced to be hanged, and the day was fixed; her counsel filed a bill of exceptions; and pending the settlement of the bill and a hearing of the case in the court above, which was the general term of the supreme court, the day of execution passed, so that there was no day on which she could be executed. After that time, and before the hearing on the writ of error in the court of appeals, the Legislature repealed the law, and, as the court held, destroyed all laws under which the death penalty could be inflicted. The court of appeals decided that the judgment could not be executed; that is, a day on which to hang this woman could not be fixed, and she hang on that day, because there was no statute then of the State of New York, under which such a proceeding could take place.

But as I understand the decision and the others to which the honorable Senator has referred, they do not intimate that if a disqualification were fixed and the judgment had been executed, if a term of imprisonment was denounced and the judgment had been executed by incarcerating the party albeit the term had not run, any repeal of the law would affect, even in the estimation of a hair, the validity or force or effect of that judgment. And as I am listening with great pleasure and with great respect to the honorable Senator from Indiana, if he will show either by an argument upon principle or by a reference to authority that any court, English or American, has ever held the point that I have now endeavored to present which

arises in this case, namely, whether a repeal or denunciation in any form of the law takes effect to vitiate an executed sentence, although it so happens that as matter of fact like a term of imprisonment it is still running, after it has been executed, pronounced, and done—if he will read authority or cite us to principles to show that, he will, I assure him, relieve me very much of one of the difficulties that I find in this case.

Mr. McDONALD. I do not think that there is any ambiguity about this decision any more than the Senator does; and therefore, that I may be understood exactly on my point, I wish to read what I did not read before. After having passed upon the case the learned judge says this:

Final judgment in the Supreme Court against the plaintiff in error was rendered on the 9th day of January, 1860. The day appointed for her execution had passed, and before a new day had been appointed the case was brought to this court. After the return to the writ of error, which was made February 14, 1860, and previous to the argument, viz: on the 14th of April, 1860, an act passed the Legislature (ch. 410 of 1860) "in relation to capital punishment." The determination of the case turned upon the operation of that act. The judgment was reversed, and the court not being able judicially to see that upon a new trial the prisoner might not be convicted of manslaughter, in some inferior degree, a new trial was ordered.

Now, in reference to having determined that this intervening act was an *ex post facto* law and that the former law had been repealed, the learned judge goes on to say:

We have come to the conclusion, lastly, that we are bound to make these results the basis of our judgment upon this writ of error. Generally the question in a court of review is, whether the judgment of the subordinate tribunal was erroneous when pronounced upon the law as it then stood. This is so I think upon appeals arising under the code where the jurisdiction conferred is "to review on appeal every *actual* determination" of the subordinate courts. On this writ we proceed under the common law, and the judiciary act of 1847, where the power is "to correct and redress all errors that may happen" in the supreme court, &c.; and all laws relating to the late court of errors are made applicable to this court. (Laws of 1847, p. 321, sec. 8.) The question upon writs of error at the common law is, whether there is error *in the record*. This is ascertained by applying the law to the judgment contained in the record, and ascertaining whether the latter is supported by the former. If we do this in the present case, in connection with the doctrine laid down by Lord Tenterden in *Surtees vs. Ellison*, and approved of in *Regina vs. The Inhabitants of Denton*, that when a statute is repealed it must be considered as if it had never been enacted, we cannot fail to see that the judgment is erroneous. We may admit that the court did not err in pronouncing the judgment, at the same time that we determine that it ought not now to stand, or to be executed. I think it clear that a judgment ought not to be affirmed on error, where it must have been arrested on the record in the court of original jurisdiction if a motion for that purpose had been made.

In each of the cases of *Reg. vs. The Inhabitants of Denton, The Same vs. the Inhabitants of Mawgan, The Commonwealth vs. Marshall, The Same vs. Kimball, and The Same vs. Duane*, before mentioned, the judgments were arrested because the laws which gave the penalties or created the offense had been repealed. In the last of these cases the repealing statute was passed after the trial and conviction. It is therefore a precise precedent for the judgment we propose to give in this case, if the errors in the record which would cause a judgment to be arrested would lead to its reversal or error; and we think the law applicable to each of these proceedings is the same. In the two cases referred to, from the fifth and sixth of Cranch's Reports, the sentences of the circuit court were reversed on appeal by the Supreme Court of the United States, and in one of them restitution was ordered, though it was not questioned but that the judgments were wholly free from error when they were pronounced.

In conclusion, therefore, we determine that the judgment under review is erroneous because there is not at this time any law which authorizes or sustains it, or which would warrant its execution. We have come the more readily to this determination upon the matter of form, because we do not perceive any remedy which the plaintiff in error would have if we should affirm the judgment of the Supreme Court.

If the repeal of a law is to put the condition of things as if that law never had existed, as if there had never been a law upon the statute-book, I ask how it can be said that the judgment of a court in the part of it which remains unexecuted is still subject to be executed notwithstanding the law is repealed?

Mr. President, as to the past, that of course is beyond the possibility of remedy. If this woman had been executed the reversal of her case would have been of no value to her, there would have been no case to reverse, nothing for the court to act upon. But if there is any part of the sentence yet to be carried into execution and the legislative power see proper to repeal the law, to strike down the statute, to erase it from the statute-book as though it never had existed, I am unable to see how that is to stand as any disqualification in the future for anything that the party who has thus been under the ban of the law may desire to seek at the hands of his countrymen, or to in any manner disqualify him from any rights, privileges, and prerogatives that he would otherwise have enjoyed if no such law had ever been passed.

But now, Mr. President, we come to the next question: *Are these recommendations made by this board to the President of the United States, and by him transmitted to us, sustained by the facts in the case?* And here let me say we should give to these recommendations great consideration. Without stopping now to inquire into the question whether this was a board of inquiry or a court of inquiry, whether there was any law authorizing the President to make the appointment, whether these officers had the power to administer oaths or not, we have before us a record which discloses the fact that three distinguished officers of the Army well versed in military law, one of them well versed in the law of the land, have engaged their attention in the examination of this case for almost twelve months. In that time they have reviewed all that took place on the former trial by the court-martial that condemned General Porter, they have heard additional evidence, they have heard the arguments of counsel, they have had the advantage of a recorder appointed on account of his known ability and learning in connection with military trials, and they have examined critically all the testimony, not merely such parts of it as my distinguished friend from Illinois may read, not such parts of it as I may read, not extracts taken here and there, but they have examined this whole question; they have weighed all this testimony, and after mature deliberation and mature consideration they find the facts on which they base their recommendation to the President, in favor of the accused, and therefore their findings are entitled to great consideration at our hands.

In our zeal, our desire, our anxiety to establish some pet propositions that may arise in the course of our investigations of the case, we may ourselves become partisans; we may take a biased view of the question; but is there any Senator here who is ready to stand up and say that General Schofield, that General Terry, and General Getty were the partisans of the United States on the one part, or of Fitz-John Porter on the other?

Mr. President, I have given——

Mr. LOGAN. Before the Senator proceeds to the testimony, will he allow me to call his attention to one point which will not interfere with the line of his argument that has been a disputed point—he merely refers to it—and that is in reference to this board. I will read right here from the report of the board itself, and I read it more in answer to what the Senator from Delaware [Mr. BAYARD] said last night about this being a lawful board than what the Senator from Indiana has said now. You will find on page 67 of this board's report the language of the president of the board himself, General Schofield, which I will now read:

The President of the board—

General Schofield—

said: The board will be glad to have counsel present the whole case, reading the record, with comments upon it if they so desire. We will regard all the official papers relating to the case as part of the record.

There is one other matter in regard to which the board would like to hear what counsel have to say: That is in respect to receiving testimony in a case like this, this being a board—

Mark the language—

having no organization under the law, no power to summon witnesses or administer oaths.

That is what the president of the board himself said. Now, if the Senator will allow me to continue a moment, I will read what the counsel said:

Mr. Bullitt—

Who was the counsel for Fitz-John Porter—

Mr. Bullitt (of counsel for the petitioner) said: It is true that the board have no power to administer oaths, as far as we can ascertain, yet we suppose that it is entirely proper that the board should have oaths administered. Our idea was that the oaths to witnesses should be administered by some officer constituted by the laws of the United States and authorized to administer oaths; a commissioner of the United States to take testimony would be an entirely competent person.

I merely read that to show the misapprehension of Senators who have taken the ground that this board was a lawful board, and to show that the board itself said it was acting without any authority of law, and so did the counsel.

Mr. McDONALD. It does not make any difference so far as the view I take of this case is concerned.

Mr. LOGAN. The Senator knows I did not read it in reference to his remarks, but in reference to the remarks of another Senator.

Mr. McDONALD. Whether this board whose proceedings have been placed before us by the President was clothed with the power to administer judicial oaths or not, or whether it was clothed with any particular power, so far as the mere question of power is concerned, its members were making inquiry, and I am taking the inquiries they have made as they have brought them to us, or rather as the President has transmitted them, and I insist that from the character of the men who were concerned in this investigation, the labor, and care, and pains that they took to make it, the long and anxious sittings of the board, they are entitled in the consideration of the question as to whether their recommendations should be regarded, if we possess the power to do it, to the very highest consideration.

Mr. President, I now propose to show, if I can, that what they found in regard to the facts of the case upon which they based their recommendations is sustained by the proof. But, first, I wish to examine for a few moments the original trial, the trial that condemned Fitz-John Porter to be broke of his commission in the Army, that sought to disfranchise him during his life, and to render him incapable of holding any office of trust or profit under the United States during his life. In the proceedings the President has transmitted to us, returned to him by the board, we find that the following order was issued by General Halleck, who was then the general commanding the forces of the United States:

HEADQUARTERS OF THE ARMY, ADJUTANT-GENERAL'S OFFICE,
Washington, November 25, 1862.

SPECIAL ORDERS No. 362.

[Extract.]

3. The military commission ordered to assemble on the 20th instant by Special Orders No. 350, November 17, 1862, from Headquarters of the Army, is hereby dissolved, and a general court-martial is hereby appointed, to meet in this city on the 27th instant, or as soon thereafter as practicable, for the trial of Major-General Fitz-John Porter, United States volunteers.

Then follows the detail of the court. When General Porter came to be arraigned before that court he was arraigned upon charges and specifications subscribed by George D. Ruggles, as colonel and chief of staff of Major-General John Pope; but he was tried upon the pre-

cise charges that had been, not formally made but announced against him by General Pope after the battles of the 29th, 30th, and 31st August, 1862; that is, he was tried for the disobedience of three orders issued to him during that period, three military orders issued by his commanding officer, General Pope, and the party who subscribed to these charges and specifications was the chief of staff of General Pope.

Mr. LOGAN. I suppose the Senator does not wish to have go into the RECORD an error of statement. If he will examine, he will find that he is certainly mistaken in reference to his statement now.

Mr. McDONALD. As to Ruggles?

Mr. LOGAN. In reference to the charges being preferred by Ruggles.

Mr. McDONALD. Not Ruggles, but Roberts. I mean Roberts.

Mr. LOGAN. Yes, Roberts.

Mr. McDONALD. I mean Roberts, inspector-general of General Pope's army, one of the staff of General Pope.

Mr. LOGAN. Certainly.

Mr. McDONALD. Now, Mr. President, the law provides:

> Whenever a general officer commanding an army, or a colonel commanding a separate department, shall be the accuser or prosecutor of any officer in the Army of the United States under his command, the general court-martial for the trial of such officer shall be appointed by the President of the United States, and the proceedings and sentence of such court shall be sent directly to the Secretary of War, to be laid by him before the President for his confirmation or approval or orders in the case.

That was at that time the sixty-fifth article of war. If General Pope had subscribed these charges, if he had come forward and by his signature sustained the charges—charges that he made repeatedly, that he afterward embraced in his official report made or at least dated after the action of this military tribunal—if he had done that the court would necessarily have to be ordered by the President of the United States, because the articles of war expressly so required; but by having them subscribed by his chief of staff, the Judge-Advocate-General held he was not the accuser, and therefore the General of the Army claimed and exercised the right and power of appointing this court. The accused raised this objection at the time. He pointed out the fact that this man who was nominally subscribing these charges and specification had no complaint against him, that the complaint had come from his commanding officer, the man who had given him these orders and who had charged him with violating them, and therefore he asked that he be dealt with according to the law and that the authority to appoint the court to try him should be the highest authority in the Army, the Commander-in-Chief, the President of the United States. But his plea was disregarded, and one who was not authorized except upon this mere technical quibble to exercise this power did exercise it; and how was that court-martial constituted? Two of the officers composing it, no doubt worthy men, were division commanders of the corps of General McDowell who was the second in command under General Pope in this campaign. McDowell was his lieutenant, and General Ricketts and General King respectively commanded the two divisions that formed McDowell's corps; and one of them, General King, was brought from the bench—if you may call him a judge—from his seat, from the place where he was sworn to act impartially in the decision of this case, and placed upon the witness stand to contradict one of the accused's principal witnesses, his chief of staff, in reference to the delivery of an important message. This was the composition of that court.

Mr. CONKLING. If the Senator will pardon me—I think I am not wrong about the fact that at the time when this transaction took place Roberts (if that is the name) was on the staff of General Pope; but he was not on the staff of General Pope when these charges were made. He could not have been because for a considerable period, I will state to be sure at least sixty days, before that, General Pope had been relieved of the command, had gone to the West, and this officer was not on his staff and could not have been on his staff; and when he put, as I notice he did by the record, his former title by way of description of himself, I submit to the Senator that it will hardly do in the face of the dates to say that at the time when he preferred these charges he was a staff officer of General Pope, and upon that to construct an argument that the statute was evaded in some way or other.

Mr. McDONALD. I do not see that the statement makes any correction of what I have said. General Pope may have been removed from his command. As a matter of course this trial took place after these events. Where these parties were and how they were assigned particularly in the Army at that time, I have not stopped to inquire, nor is it necessary that I should. At the time these orders that the accused was charged with having violated were under execution, the man who signed the charges was an officer on General Pope's staff.

Mr. CONKLING. That is true.

Mr. McDONALD. And they embraced the charge of violating Pope's orders.

Mr. CONKLING. But the Senator also said—perhaps he did not mean it—that the charges were made by a member of Pope's staff, thereby carrying the idea that at the time he made the charges he held that relation to General Pope.

Mr. McDONALD. That is the way he subscribed them.

Mr. CONKLING. I simply call attention to the fact that at the time he made the charges he was not and could not have been connected with Pope's staff, because Pope was not then connected with that army.

Mr. McDONALD. This is the way he signed the charges: "B. S. Roberts, Brigadier-General Volunteers, and Inspector-General Pope's Army."

Mr. LOGAN. If the Senator will allow me——

Mr. McDONALD. I would rather get on.

Mr. LOGAN. I did not wish to disturb the Senator, but I merely thought that perhaps I might explain that so that he would understand it a little better. If not, of course I have no desire to interpose; but there is a matter in connection with armies that he perhaps may not understand as well as some of us.

Mr. McDONALD. There are a good many things about armies that I do not understand.

Mr. LOGAN. Then I suppose the Senator would like to be correct in reference to them. General Roberts signs his name as brigadier-general and inspector-general of Pope's army, not on the staff of Pope. He was inspector-general at the time that Pope had command of it. If he continued as inspector-general, then, Pope being the commanding officer, he by reason of that became of course temporarily a staff officer of Pope. When Pope was relieved from that army, if Roberts continued as inspector-general, he was no longer the inspector-general on Pope's staff, but merely inspector-general of the army and would be assigned to the staff of any officer who took command of that army. That would be the reason of it; or he might have been assigned to that duty by Pope; how that was, I do not know. But the fact that he signs himself as inspector-general of Pope's army does not prove at all that he was on the personal staff of Pope after that time.

Mr. McDONALD. I must insist on my right to the floor.

Mr. LOGAN. Certainly, I was only trying to help the Senator along; I was not trying to interfere with him.

Mr. McDONALD. It is a matter of no consequence to me what he was at the time he subscribed these charges. The point I am endeavoring to present is that the charges were Pope's, but that the hand that subscribed them was another's, and put there for a purpose. And I state again that when this court was organized there were placed on it those two distinguished officers who were commanders of divisions of General McDowell's corps, and the two officers, too, as will appear in the progress of what I have to say, who were more than any others involved in that movement that withdrew all the Union troops between Thoroughfare Gap and the rear of the army of General Jackson.

Mr. LOGAN. I must interpose there, if the Senator will allow me.

Mr. McDONALD. No; I cannot allow you.

Mr. LOGAN. The Senator said he wished his statements to be correct. He has just made an important statement that he certainly does not want to go into the RECORD.

Mr. McDONALD. Not a bit of it do I take back. The fact is just as I have stated it.

Mr. LOGAN. It is not; for General King was not in command at all; he was sick.

Mr. McDONALD. I know he was sick, but not on that day.

Mr. LOGAN. Very well; go on and state it, if you want to put it in the RECORD that way.

Mr. McDONALD. Yes, sir; I will state it exactly that way.

Mr. LOGAN. It is not the fact, however.

Mr. McDONALD. I will establish it to be the fact.

Mr. LOGAN. Very well.

Mr. McDONALD. I want to have the very best relations with my friend over there.

Mr. LOGAN. Of course.

Mr. McDONALD. But I cannot permit such interruptions as that.

Mr. LOGAN. I do not rise to interrupt the Senator any further. I only wished to correct him in this, that General King was not in command at all.

Mr. McDONALD. General King was not in command on the 30th, but he was in command on the 28th, and down to the night of the 28th, when he retired from near Groveton after dark to Manassas Junction. He is brought upon the witness stand to testify in regard to the morning of the 29th, and a certain message, which General Porter said he sent to General McDowell, and which was delivered to General McDowell when he was at the head of King's corps in company with King on the morning of the 29th, and General King said that to his recollection no such message was delivered, although he testified to being with his corps at that time on the morning of the 29th. He was not with his corps on the 30th; it was commanded by Hatch on the 30th. But down to the 29th and down to the time that the entire force that had been interposed between Thoroughfare Gap and the rear of General Jackson had been withdrawn, General King was in command of his corps, or else I have not studied this testimony to any purpose whatever. I will show, before I get through, that General Pope said General King was in command and sent messages to him.

I have been stating these matters for the purpose of showing that in the original trial General Pope was the real accuser. I do not think that any person can read the proceedings of that trial and not come to that conclusion. After the objection of the accused to the formation of the court had been overruled, upon the statement of the Judge-Advocate-General that General Pope was not the accuser and had never filed charges, and when the trial was entered upon, the Judge-Advocate-General called General Pope as the first witness to sustain these charges. He began the trial by placing Pope upon the

witness-stand as his first and chief witness, and all the testimony that went in on the part of the prosecution, for I will not call it on the part of the Government, was simply to sustain and support the testimony of General Pope delivered in support of the charges of violating the orders that he had issued to Fitz-John Porter on the 27th and 29th of August.

Now I come to these charges and to the orders. I have said that there were three orders. The first is as follows:

HEADQUARTERS ARMY OF VIRGINIA,
August 27, 1862—6.30 p. m., Bristoe Station.

GENERAL: The major-general commanding directs that you start at one o'clock to-night and come forward with your whole corps, or such part of it as is with you, so as to be here by daylight to-morrow morning. Hooker has had a very severe action with the enemy, with a loss of about three hundred killed and wounded. The enemy has been driven back, but is retiring along the railroad. We must drive him from Manassas and clear the country between that place and Gainesville, where McDowell is. If Morell has not joined you, send word to him to push forward immediately; also send word to Banks to hurry forward with all speed to take your place at Warrenton Junction. It is necessary, on all accounts, that you should be here by daylight. I send an officer with this dispatch, who will conduct you to this place. Be sure to send word to Banks, who is on the road from Fayetteville, probably in the direction of Bealeton. Say to Banks, also, that he had best run back the railroad trains to this side of Cedar Run. If he is not with you, write him to that effect.

By command of Major-General Pope.

GEO. D. RUGGLES,
Colonel and Chief of Staff.

Major-General F. J. PORTER,
Warrenton Junction.

P. S.—If Banks is not at Warrenton Junction, leave a regiment of infantry and two pieces of artillery as a guard till he comes up, with instructions to follow you immediately. If Banks is not at the Junction, instruct Colonel Clary to run the trains back to this side of Cedar Run, and post a regiment and section of artillery with it.

By command of Major-General Pope.

GEO. D. RUGGLES,
Colonel and Chief of Staff.

I wish to state as clearly as I can from the testimony the military situation at the time the order of 6.30 on the evening of the 27th was dated. The military board whose proceedings we are examining have given it perhaps in as brief a form as it is possible. After stating some matters in regard to what seemed to be a confusion in reference to who should become the military commander in the field of the forces operating in this part of the country and between Washington and Richmond, Virginia, the board go on to state:

It appears that General Pope was notified on the 25th of August that an active campaign was soon to be commenced, without waiting for a union of all the forces, and under some commander other than either of those before named. But this information appears to have been of a secret character, afterward suppressed, and not made known to General McClellan and his subordinates until five days later, when the order appeared from the War Department, depriving McClellan of the command of all his troops then between the Potomac and the Rappahannock, although leaving him in nominal command of the Army of the Potomac.

Thus General Porter, who joined General Pope's army about that time, was left under the impression, which all had previously shared, that the operations of the Army were to continue of a defensive character until all the forces should be united and proper preparations made for the commencement of an offensive campaign under a general designated by the President to command the combined armies. But just then the confederate general, Jackson, with three divisions of infantry, one of cavalry, and some artillery, commenced his movement to turn the Union right through Thoroughfare Gap, which gap he passed on the 26th, and that night struck the rear of the Union Army at Bristoe and Manassas Junction. The next morning, August 27, the Union Army changed front to the rear, and was ordered to move on Gainesville, Greenwich, and Warrenton Junction.

Now, that was the situation. On the 27th, General Pope with General Hooker's command, which became the advance of the army in this retrograde movement, reached Bristoe Station, and in that neighborhood encountered a part of General Jackson's force under General Ewell, and a very sharp action took place. The dispatch to Porter written at 6.30 in the evening. After that action closed General Pope commenced making his preparations for the next day in encircling, if it was in his power so to do, the army of General Jackson which had thus audaciously come in upon his rear and captured his depot of supplies. When the order changing front to the rear was given, General McDowell with General Sigel's corps and his own was ordered to march and take possession of Gainesville and that vicinity. General Kearney and General Reno were ordered to march upon Greenwich. General Pope himself with General Hooker's division returned back upon the road leading from Warrenton Junction to Manassas Junction, and reached Bristoe, where this fight took place. So that the evening of the 27th when he commenced to make his preparations for the next day his forces were distributed as follows: Hooker was with Pope at Bristoe Station, with his division numbering fifty-five hundred men. Porter was at Warrenton Junction with his troops, including Piatt's, numbering some nine thousand six hundred. Reno and Kearney were at Greenwich and its neighborhood with their respective corps amounting to about twelve thousand. McDowell and Sigel were at Gainesville and Buckland Mills, and including Reynolds's division and Bayard's cavalry numbered thirty-one thousand and five hundred. Banks was at Fayetteville, south of Warrenton Junction, with five thousand. Buford's cavalry was near Thoroughfare Gap, and numbered some three thousand; so that within that circle and within these limits on the evening of the 27th of August, 1862, General Pope had at his command some sixty-five thousand men. General Jackson with his left wing of Lee's army was then within the lines east of Thoroughfare Gap. He had seized upon Manassas Junction and Centreville on the night of the 26th and the morning of the 27th. The force under his command according to the testimony before the board was, perhaps, twenty-one thousand men.

After General Pope had written this order and started it on its way to Porter he sent the following order to General McDowell; it is dated Bristoe Station, August 27, 1862, nine p. m., two hours and a half after he had written the order sent to Porter:

MAJOR-GENERAL MCDOWELL: At daylight to-morrow morning march rapidly on Manassas Junction with your whole force, resting your right on the Manassas Gap Railroad, throwing your left well to the east. Jackson, Ewell, and A. P. Hill are between Gainesville and Manassas Junction. We had a severe fight with them to-day, driving them back several miles along the railroad. If you will march promptly and rapidly at the earliest dawn of day upon Manassas Junction, *we will bag the whole crowd.* I have directed Reno to march from Greenwich at the same hour upon Manassas Junction, and Kearney, who is in his rear, to march on Bristoe at daybreak. Be expeditious, and the day is our own.

JOHN POPE, *Major-General.*

Therefore you will see that two hours and a half after he had sent this dispatch to General Porter he penned a dispatch and sent it on its way to General McDowell at Gainesville, and that dispatch informed McDowell that he had called in Kearney and Reno, one to march on Manassas Junction and the other to march to Bristoe Station, where he then was with Hooker; so that the order to General Porter to march at one o'clock that morning was not the only marching order outstanding. On the contrary, the whole force, except that under Banks, which he proposed to station for the time being at Manassas Junction, was to converge as rapidly as possible upon Manassas Junction, on the assumption that he was going to *bag Jackson* there.

Mr. President, I want to give a few distances, so that this question will be more clearly understood as we proceed with this testimony. If the Warren map is correct, for these measurements are taken from that, the distance from—

	Miles.
Warrenton Junction to Bristoe is	9½
Bristoe to Manassas Junction	4
Manassas Junction to Gainesville	9
Gainesville to Buckland Mills	4
Bristoe to Greenwich	4
Manassas Station to Centreville	6
Centreville to Groveton Heights	5
Groveton to Thoroughfare Gap	9
Groveton to Gainesville	4
Centreville to Bethlehem Church	9½
Pope's headquarters at 4.30 p. m. of 29th to Porter's headquarters.	4½
Porter's right to Reynolds's left	2

These distances have more especial reference to the situation on the 29th, and I put them in now because I do not desire to go back to it.

General Porter received the order that I have just read about nine o'clock at night, so that it took the officer who delivered it two hours and a half if he started immediately upon its being written, to carry it to General Porter.

Mr. LOGAN. To what order does the Senator refer?

Mr. MCDONALD. I refer to the first order, the order of 6.30. At that time sunrise was about 5.26 in the morning. General Porter did not move with his force or make an effort to move until three o'clock in the morning, when he did move, and we have it in proof, brought out by the prosecution, that he himself at least was at Bristoe Station at 9.30 the next morning, for he writes one of these remarkable letters, that have been so much commented upon, to the Senator from Rhode Island, [Mr. BURNSIDE,] dated at 9.30 on the morning of the 28th, at Bristoe Station.

General Porter has given the reasons why he did not march, and those reasons are sustained by as high military authority as perhaps it would be possible for any man to sustain his acts. He was under the charge of a criminal disregard of the order, and he has stated the reason why he did not commence moving at one o'clock. It was because of the darkness of the night and the encumbered condition of the road, and a belief that by waiting until near daylight, so as to get out upon the road by the time it was light, he would lose no time and bring his troops into position in better condition and in better order. That was his belief. Who sustains him in that belief? Who is it that comes forward to say that is so undoubtedly? One who at that time commanded one of the divisions of the corps under the command of General Porter, now no longer upon this earth, but one who cannot be forgotten in a day or in an hour. It has not been more than two weeks since the Senate of the United States stopped in the orderly progress of its business and by unanimous consent took up and passed a bill to carry into effect his last dying wish by having his remains removed from the frontier, where he fell a victim to duty, to be placed in their last resting-place at West Point, the place where he had been nurtured and trained in the school of arms. A fortnight has not passed by since that act of respect was paid to the memory of General George Sykes. Here is what he says:

Q. State the character of the night, and any reports made to you by your aides as to the difficulties in starting before daylight, if any such were made?

A. The night was unusually dark. Before I directed the advance to be sounded, I sent an aid-de-camp to find the road, so as to lead the column upon it. He returned in a short time and told me that the darkness was so great that he could not distinguish the road. He also told me that he was assisted in that search by several soldiers.

This was the march after they started, and he says that he gave his advice as one of the division commanders of the corps under the charge of the accused that it would be better not to attempt to start at the hour named in the dispatch:

Q. In your judgment would anything have been gained by starting at one o'clock, in the way of early arrival or efficient service at Bristoe Station?

A. Nothing whatever. And I may add, if there was any military necessity for the movement to be at one o'clock a. m. on the 28th, it did not appear on the 28th when we reached Bristoe Station. As I understood it, General Pope was there in person when we arrived, about half past ten o'clock. My command was thrown in position a little in advance of Bristoe; remained there all that day; we camped there that night, and we did not leave until an early hour on the 29th. General Pope being there in person, the only inference was that he sanctioned our camping at that place. My men, when they reached there, were fresh, and could have gone wherever it was desired.

General Morell, who commanded the other division of General Porter's corps, fully sustains the testimony of General Sykes upon that same point. This board of officers, I may call them that at least, this board of careful men, trained to arms, one of them holding the distinguished position in that school of arms that the nation has maintained and is maintaining, have examined these questions, and in the reasons for the conclusion that they have given to the President they have gone over this same ground, and they have affirmed in their finding what these two distinguished officers sustain by their testimony. They did get in between half past nine or half past ten o'clock; they got there at least in the forenoon. They had nine miles and a half to march.

Let us see how some others of these orders were carried out for speed. I have read you the order to McDowell. Let us see what General McDowell himself says in regard to the execution of that order. He says that before he had received the order he had issued an order to General Sigel directing him to take up certain positions looking to the defense of Thoroughfare Gap, and to be on the alert on the morning of the 29th; but when this order, written at nine o'clock at night from Bristoe Station and sent to him, directing him to bring his whole force to Manassas was received, then he issued another order in regard to that force, and the very first part of his order was a disobedience of the order he had received from General Pope, for in place of bringing his whole force as he was ordered to do, he directed Ricketts's division, nearly ten thousand strong, to remain there and put themselves in a position to defend Thoroughfare Gap. Perhaps he was right about that, but he went exactly against the order he had received. His order was to bring his entire force, and to march upon Manassas Junction, because Pope said that Jackson was between Manassas Junction and Gainesville. Now let us see what he says about it:

My preliminary order of August 27 was based on this order of General Pope's and on the information I had received at Buckland Mills, and on my way there, which information was then unknown to General Pope, who was now away from telegraph lines. I directed the holding of the strong position of Buckland Mills and Hay Market, with a support at Gainesville, (the three places being nearly equidistant from each other,) so as to hold or check any force coming through either gap, while two of my divisions, with the corps of Heintzelman and Reno, should go against Jackson in the direction of Manassas. I sent to General Pope, soon after I received it, the information I had obtained of the near approach of Longstreet, and informed him of the dispositions I had made.

This all preceded the order of nine o'clock, which came after this disposition was made, and he shows what he did on the receipt of that latter order:

My communication had hardly gone before I received his (Pope's) order to march my whole force to Manassas. Hence my General Order No. 10, changing the arrangements I had made, and conforming them to General Pope's order. It will be seen that while I did so, I provided for the contingency of an attack from Longstreet from the direction of Thoroughfare Gap, which the information I received left no doubt would be made if we did not get forward most expeditiously and at the earliest moment. To make sure of this, I ordered the troops to march at two o'clock a. m.

He wants to show how expeditious he was. His order was to march at daylight. He says that he ordered the troops to march at two o'clock.

General Sigel's rear division had been ordered in my preliminary order of 11.30 p. m. of the 27th to march upon Gainesville immediately, and should have been in motion before the others. The orders I gave General Sigel at Warrenton to march on the turnpike from that place (see January 7) directed him as follows: "No wagons but for ammunition will accompany your corps on this road. Your baggage trains will immediately proceed to Catlett's."

Notwithstanding this order, which was also given to my own command and enforced in it, (I had myself nothing but my horse,) General Sigel had with his corps nearly two hundred wagons, which kept blocking up the road and retarding the movement; and notwithstanding I had seen him on the morning of the 28th before he left, and had urged on him personally to march immediately and rapidly, and had shown him General Pope's orders to me requiring this to be done, yet his advance was so slow that the note written to me by Captain Leski at Thoroughfare Gap, at 10.15 a. m., and received by me near Gainesville and then sent to General Ricketts—

What time it reached Ricketts it does not appear, but it was written at Thoroughfare Gap at 10.15 a. m—

Reached him just this side of Buckland Mills, a distance of about three miles from his bivouac of the night before. His division had been on their feet since two o'clock a. m., over nine hours, and in that time had not gone twice the length of the division front from where they started.

In nine hours the division of General Ricketts had not gone twice the length of their division front:

For an account of the efforts made to get the troops forward over this fine turnpike road, which General Sigel states had no obstructions on it, see evidence of General Ricketts, Colonel Schriver, Major Barstow, and Captain Haven, from which it will be seen that the provision I had made for Longstreet, and which General Pope says was not in compliance with his orders, and could only be justified by the danger I might find myself in from an attack on the rear of my column, was owing entirely to the delays for which certainly I was not responsible.

What time do you suppose they got down to Manassas Junction? McDowell says, speaking of his own execution of the order to him:

It cannot be said the order was fully carried out. In the first place, though the troops were started early enough in the morning, the march, in spite of every effort on my part, was not a rapid one. It was, on the contrary, a slow one. There is much evidence to show that by noon General Sigel's column was about two miles only from Gainesville, where his advance had been the night before.

Thus you will see that here was one commander, General Porter, with his immediate supporting officers, who decided that it was best to wait until he could see at least, by the time his troops would get in position, and he came in to Bristoe Station, a march of nine miles and a half, by ten o'clock or shortly after. Here was the other, General McDowell, who says he started his troops at two o'clock in the morning, although he was directed to start at daylight, and that there was plenty of evidence that General Sigel's corps that was his advance had not progressed two miles from Gainesville at twelve o'clock that day. He said that that was not a very fast march. On the contrary he thinks it was a very slow one. His division commander, General Ricketts, whom he had directed to close up Thoroughfare Gap, had been marching nine hours and had not made three miles in that time, not twice the length of his division front.

The board of officers, in reviewing this order in the light of surrounding circumstances, said it was certainly designed and intended that General Porter should reach Bristoe Station as soon as it was practicable for him to reach it in a condition to engage in the execution of military orders, in battle, or whatever might be necessary, and they find that he did so. The facts, as disclosed by General McDowell, when he comes to review the testimony given in the case of the court of inquiry, called by himself, show most conclusively that of the two the man condemned had acted in the most prudent and military manner, by considering the surroundings and consulting the condition of his troops and the road. We we have it from McDowell himself, that two hundred of Sigel's wagons so blocked up the road—a good road Sigel says it was—that Sigel's advance had not gotten two miles from Gainesville at twelve o'clock at noon that day. At what time General Ricketts reached Thoroughfare Gap has not, so far as this testimony is concerned, been demonstrated at all. He got there some time in the afternoon, but when or at what time there is no evidence, except that which comes from the other side, from the rebel advancing forces.

Let us see what General Pope says about this. In his report, dated New York, January 27, 1863, after the finding of the court-martial in Porter's case, this is what he says in reference to those movements:

On the morning of the 27th, in accordance with the purpose previously set forth, I directed McDowell to move forward rapidly on Gainesville by the Warrenton turnpike with his own corps, and Sigel's, and the division of Reynolds, so as to reach that point during the night. I directed General Reno, with his corps, followed by Kearney's division of Heintzelman's corps, to move rapidly on Greenwich, so as to reach there that night, to communicate at once with General McDowell, and to support him in any operations against the enemy in the vicinity of Gainesville. I moved forward along the railroad toward Manassas Junction with Hooker's division of Heintzelman's corps, leaving orders for General Porter to remain with his corps at Warrenton Junction until relieved by General Banks, who was marching to that place from Fayetteville; and as soon as he was relieved to push forward also in the direction of Gainesville, where at that time I expected the main collision with the enemy would occur.

In regard to his orders to concentrate on Manassas Junction for the purpose, as he says in his order to General McDowell, of "bagging" Jackson, he has this to say:

There were but two courses left open to Jackson in consequence of this sudden and unexpected movement of the Army.

Bear in mind that from Gainesville around through Greenwich and Bristoe down to Manassas Junction General Pope had sixty thousand men under his command occupying these different points, Gainesville, Buckland's Mill, Bristoe Station, and Manassas Junction, or converging on Manassas Junction. In that condition of affairs he says that "there were but two courses left open to Jackson in consequence of this sudden and unexpected movement of the Army."

He could not retrace his steps through Gainesville, as it was occupied by McDowell, having at command a force equal, if not superior, to his own.

It was very considerably superior to his own:

He was either obliged, therefore, to retreat through Centreville, which would carry him still farther from the main body of Lee's army, or to mass his force, assault us at Bristoe Station, and turn our right.

With the supporting columns of Reno, Kearney, and Porter, and with Hooker's division under the immediate command of Pope!

He pursued the former course, and returned through Centreville.

I should be inclined to think he would, although I am not much of a military man.

This mistake of Jackson's alone saved us from the consequences which would have followed this flagrant and inexcusable disobedience of orders on the part of General Porter.

That movement of Jackson in going back through Centreville and up the Sudley Springs Road, and up through the valley of Bull Run and around to the heights of Groveton, where he finally made his stand, bringing himself in the nearest and most direct communication that was possible for him to do with the passes of Bull Run Mountain, through which his succor had to come, was a mistake, said Pope, a grave mistake of Jackson in thus going back where he had nobody to encounter, and reaching his position at Groveton and Sudley Church and along there, reaching out his hand, as it were, to Longstreet and General Lee, who were coming forward to his succor and support. Pope says that that mistake of Jackson saved Pope from the disaster which Porter's failing to arrive there might otherwise have entailed, although he had twelve thousand men at Greenwich,

only four miles away from Bristoe, who were also ordered to march to Bristoe and Manassas Junction that same morning, and who did not get there much sooner than Porter did, but they were within supporting distance. It seems to me that when the military critic comes to review this whole question he will not set this down as a mistake of Jackson. Whoever blundered on that occasion it does not appear that Jackson did.

Now, what does he say about McDowell?

General McDowell reported to me afterward that he had given orders for the movement of his command upon Manassas Junction at two o'clock at night, in accordance with the directions I had sent him; but General Sigel—

Now, there must be a scape-goat somewhere—Sigel and "the men that fit mit Sigel" must answer now—

but General Sigel, who commanded his advance, and was at Gainesville, instead of moving forward from Gainesville at daylight, as he was ordered, was absolutely with his advance in that town as late as half past seven in the morning—

That was almost two hours after sunrise—

Meantime, beginning about three o'clock in the morning of the 28th, Jackson commenced evacuating Manassas Junction, and his troops were marching from that point in the direction of Centreville until ten or eleven o'clock in the day. If the whole force under McDowell had moved forward as directed and at the time specified, they would have intercepted Jackson's retreat toward Centreville by eight o'clock in the morning, and I do not believe it would have been possible for Jackson to have crossed Bull Run, so closely engaged with our forces, without heavy loss.

Therefore it seems the escape of Jackson was owing to McDowell not having been able to comply with the order, and McDowell throws the responsibility on Sigel. It turned out afterward that General Pope was entirely mistaken in regard to the movements of General Jackson, and that he had retired at a much earlier hour. General McDowell furnishes that information to us. In showing how everybody was mistaken at that time about Jackson's movements and where he was, McDowell says:

Fortunately for a true understanding of the matter of Jackson's position, we have the account of Captain Pell, aid-de-camp to General Burnside, who was taken prisoner on the 27th, and was with the enemy's army all of the 28th and 29th.

Here is what Pell says, as given by McDowell:

Captain Pell, fortunately for this case, can give us precise information, free from all speculative error. He states that he left Manassas Junction about nine o'clock in the evening of the 27th. The rebel troops commenced their march previous to that time; that he was with Ewell's division of Jackson's army, which consisted, he says, of three divisions of about twenty-one thousand men; that at about ten o'clock a. m. of the 28th he was with the column of Ewell's division on Cub Run, somewhere near the crossing of a road to the north of the Centreville and Gainesville road.

Mr. LOGAN. That shows that they marched all night.

Mr. McDONALD. Yes, they did not have two hundred wagons to block the road.

Mr. LOGAN. It was a dark night, yet they marched.

Mr. McDONALD. But it shows another fact, that before Pope sat down to write the order to McDowell to call in his entire force from Gainesville, which McDowell did not obey, in which Pope says that Jackson was between Gainesville and Manassas—before, I say, that order was written Jackson's forces were on their march from Manassas Junction to where they took up their stand the next day, in the neighborhood of Groveton Heights, across Bull Run, and in the best point of communication that it was possible for them to place themselves for the troops that were marching to their succor and support. So that the very hour that General Pope was spreading this bag, as he said, to bag Jackson, and calculating in his own mind that Jackson would attempt to turn his right wing and get around in that direction, General Jackson was already passing beyond his reach and had taken the measures that rendered all these orders perfectly nugatory. Now, whether Pope should have known that Jackson was retiring or not I do not know, but he spoke with great confidence when he said that Jackson was between Gainesville and Manassas Junction; but at that very time, according to this prisoner, his troops had been moving some time, and this man, who was with Ewell's corps, left Manassas Junction about nine o'clock, and at ten o'clock the next morning they were beyond Bull Run. He says:

The troops I was with halted there for some hours.

They were in no great hurry; they did not give themselves a great deal of trouble about the pursuit; they halted there some hours, and then moved on to Groveton Heights, where Jackson took up his position.

Now, what took place in regard to military operations that day? Ricketts did get into position at Thoroughfare Gap some time in the afternoon or evening, and when Longstreet's division, or corps, or wing, or whatever they called it, with General Lee reached Thoroughfare Gap on the evening of the 28th, they found it occupied by Federal troops. At once General Longstreet detached General Hood to take a country road around and get over the hills, and at the same time detached General Wilcox with his division to pass up through Hopewell Gap or Hopeville Gap, whatever it may be called, some four miles further up the mountain range. Each of these officers executed the order, and along in the evening General Ricketts found himself likely to be caught between the forces that had passed around in his rear and General Longstreet's main force in front, and on the night of the 28th he retreated to Bristoe Station, a distance of some nine miles. That left Thoroughfare Gap wide open without a Union soldier there to guard it.

What further? In the attempted march of McDowell's troops from Gainesville and its neighborhood they finally broke up into about three divisions. The order was to march to the left of the Manassas Junction Railroad, keeping that on their right, and extending their force well to the left for the purpose of inclosing, I suppose, as large a pound to bag Jackson in as possible. But Sigel broke off and struck south of the road with his left to the Manassas Railroad. Reynolds followed him for a short distance and turned and went in between where Sigel was marching and the division of McDowell under King. King's division seems to have followed the direction it had been ordered, kept still further along the Warrenton pike. It formed, you may say, the left wing of McDowell's forces. But along in the evening, after Jackson's army had reached Groveton Heights, General King with his division became engaged. He was then commanding his entire division there and he was at its head. He became engaged with a part of Jackson's forces under Ewell, it was thought, and that engagement continued until nightfall; and that was the only engagement of any consequence that occurred anywhere on the 28th.

That night Pope says he sent orders to McDowell and to King both to hold that position. He says at one time he sent one of McDowell's staff officers with orders to that effect. Whether they received these orders does not appear; but that night King broke up his encampment and retired to Manassas Junction. So, on the morning of the 29th, there was not one Union soldier except the cavalry that were there for the purpose of observation; there was not one single Union musket between Groveton and Thoroughfare Gap, between Jackson's rear and Longstreet's advance—not one. The retreat of Ricketts to Bristoe, the retirement of King to Manassas—their united forces amounted to about fifteen thousand men—left that approach, upon which from the review that I have read McDowell knew that Longstreet was coming, entirely open to his advance.

Now, that I may not do injustice to General Pope or to General McDowell, or any one else on that subject, I will read what Pope says. I will state that this date here is, of course, as any one can see, a misprint; it means the 28th, although it is put in the 29th:

I felt sure then, and so stated, that there was no escape for Jackson. I accordingly sent orders to General McDowell, as also to General King, several times during the night of the 29th—

As it is written here; but it was the 28th—

and once by his own staff officer to hold his ground at all hazards and prevent the retreat of Jackson to the west, and that at daylight in the morning our whole force from Centreville and Manassas Junction would be up with the enemy, who must be crushed between us. I also sent orders to General Kearney to push forward at one o'clock that night cautiously from Centreville along the Warrenton turnpike, to drive in the pickets of the enemy, and to keep closely in contact with him during the night; to rest his left on the Warrenton turnpike and throw his right well to the north, if possible across Little River turnpike.

He concludes:

To my great disappointment, however, I learned, toward daylight on the morning of the 29th, that King's division had fallen back in the direction of Manassas Junction, thus leaving open the road to Thoroughfare Gap and making new movements and dispositions of troops immediately necessary.

He learned toward daylight of the morning of the 29th that King's division had fallen back from the position it occupied at the close of the contest on the evening of the 28th, to Manassas Junction. He did not know at that time, it seems, anything at all about Ricketts, and therefore he did not bother his mind as to where Ricketts was; but the fact was that while King was falling back from the neighborhood of Groveton Heights toward Manassas, Ricketts was retreating from Thoroughfare Gap, and that the rebel forces, under Hood and Wilcox, had passed over and through the other positions and turned his flank.

Mr. President, I insist that, taking these facts all together, what this board of officers have said with regard to Fitz-John Porter's movements on the night of the 27th and on the morning of the 28th, with regard to that order to move at one o'clock, is fully and entirely sustained. They say that there is not anything to be laid to his charge on that account, that he had acted soldierly in the matter and exercised a good and sound discretion such as under the circumstances he ought to have exercised.

Now, Mr. President, let us come to the order that is called the joint order to McDowell and Porter, disobedience of which is the second of Porter's alleged offenses. It will be remembered that Porter's forces, the Third Army Corps, remained at Bristoe, after reaching there in the forenoon of the 28th, the rest of that day and until early the next morning, when General Porter received marching orders to march upon Centreville, and at once put his forces into line for that purpose, and moved in the direction of Centreville until he had passed Manassas Junction; just how far does not very clearly appear from the testimony. At that point, King's division being at Manassas, General Porter received an order from General Pope to turn and take with him King's division and march in the direction of Gainesville. Something has been said about his requiring a written order. I do not think there is anything in that particularly. The court-martial did not find him guilty of anything on that account. The person who delivered the verbal order to him may (and I believe that was the fact) have been a stranger to him, and it may have seemed strange to him, having been ordered in the morning to march to Gainesville, that he should so soon be put upon his back-track, for he had to retrace his steps again to Manassas Junction, that part of his force which had passed beyond it. At all events, a written order was given. It does not appear, however, that he waited in taking the necessary

steps for the execution of this order, for the written order, for certainly there was no want of expedition on his part in turning at once and in taking up the line of march indicated, because we find him—and there is no dispute about that—between eleven and twelve o'clock that day well on his way to Gainesville; we find him at Dawkins Branch, three miles from Manassas Junction and about midway between Manassas Junction and Gainesville.

Mr. LOGAN. No, five miles from Manassas Junction, and three miles from Gainesville. The maps show that.

Mr. McDONALD. I have not taken that measurement, and the Senator may be right.

Mr. LOGAN. I beg the Senator's pardon; I only called his attention to the fact that that is the measurement.

Mr. McDONALD. I merely take it in from my eye, and I may be mistaken about that. At all events, he had passed beyond Manassas Junction and he returned upon receiving that order, and at half past eleven or twelve o'clock that day we find him in that position. He must have been pretty active; his forces must have moved with a good deal of rapidity to have made this march and reached that point at the time he did. When he got to that position he found himself confronted with a force of the enemy on the other side of this branch, of what numbers as a matter of course it was not in his power to say, but at once he threw out his skirmish line and deployed the head of his column for the purpose of placing them in battle order.

The head of his column, or first division, was commanded that day by General Morell. It was his division that had been deployed when General McDowell came to General Porter at the head of his command. General McDowell that morning found himself without any command at all. Ricketts had been driven back and retreated to Bristoe Station. He had lost General King's division in some way or other, until he found it in the morning at Manassas Junction. He had passed the night somewhere in the neighborhood of the Warrenton pike, but about nine o'clock in the morning he finally found King. When he found him he learned that an order from General Pope had attached King's division to Porter's corps, and it was ordered to aid Porter in executing the movement he was then engaged in. McDowell sent at once—that is his own statement—to General Pope to get him to countermand the order so far as attaching King's division to Porter's corps was concerned; but before any order of that kind came, and in fact no order of that kind, I believe, ever did come, but in lieu it came a joint order that nominally, and actually as well as nominally, placed McDowell in command of both corps. Here it is:

HEADQUARTERS ARMY OF VIRGINIA,
Centreville, August 29, 1862.

GENERALS McDOWELL AND PORTER:

You will please move forward with your joint commands toward Gainesville. I sent General Porter written orders to that effect an hour and a half ago. Heintzelman, Sigel, and Reno are moving on the Warrenton turnpike, and must now not be far from Gainesville. I desire that, as soon as communication is established between this force and your own, the whole command shall halt. It may be necessary to fall back behind Bull Run to-night. I presume it will be so on account of our supplies.

I have sent no orders of any description to Ricketts, and none to interfere in any way with the movements of McDowell's troops, except what I sent by his aid-de-camp last night, which were to hold his position on the Warrenton pike until the troops from here should fall on the enemy's flank and rear.

I do not even know Ricketts's position, as I have not been able to find out where General McDowell was until a late hour this morning.

General McDowell will take immediate steps to communicate with Ricketts, and instruct him to join the other division of his corps as soon as practicable. If any considerable advantages are to be gained by departing from this order it will not be strictly carried out. One thing must be held in view: that the troops must occupy a position from which they can reach Bull Run to-night or by morning. The indications are that the enemy is moving in this direction at a pace that will bring them here by to-morrow night or the next day. My own headquarters will for the present be with Heintzelman's or at this place.

JOHN POPE.
Major-General Commanding.

That is a very instructive order. In the light of subsequent events and in the light of facts that have been shed upon it since the time it was written, it is very instructive to consider it. The receipt of the order by General McDowell caused him, of course, to go forward at once to the head of this column of which, for the time being, he became the commander. That he and Porter both understood that is very clearly established and stated in the testimony McDowell has given before the late examining board. He starts out by the declaration that he was for the time being the commander of Porter's corps as well as his own, and that of course must be so from the nature of things. I am no military man, but I understand on principle that such a thing as a double-headed army is something that in strict military parlance cannot exist at all; there must be some person who has the chief command. It is a principle of superior and subordinate from the highest down to the lowest; and these men both understood that. McDowell got to the head of Porter's column where he found General Porter. General Porter had just received his copy of this joint order. What does it say? Now let us look at it for a moment.

You will please move forward with your joint commands toward Gainesville. I sent General Porter written orders to that effect an hour and a half ago. Heintzelman, Sigel, and Reno are moving on the Warrenton turnpike—

That is this road here. [Indicating on the map.] The order was written at Centreville—

and must now be not far from Gainesville—

That is, Heintzelman, Sigel, and Reno must now not be far from Gainesville—

I desire that, as soon as communication is established between this force and your own, the whole command shall halt.

Here were the joint commands of McDowell and Porter. [Indicating.] In the light of this order what were they expected to do? Move so as to form communication with the troops that Pope said were moving on the Warrenton turnpike, and that, in his opinion, were near Gainesville, which is that point. [Indicating.]

I desire that, as soon as communication is established between this force and your own, the whole command shall halt. It may be necessary to fall back behind Bull Run at Centreville to-night. I presume it will be so on account of our supplies. I have sent no orders of any description to Ricketts, and none to interfere in any way with the movements of McDowell's troops, except what I sent by his aid-de-camp last night, which were to hold his position on the Warrenton pike until the troops from here should fall on the enemy's flank and rear.

That is, to hold his position up here on the Warrenton pike, where he had been the night before, from which he fell back to this point at Manassas Junction. [Indicating.]

I do not even know Ricketts's position, as I have not been able to find out where General McDowell was until a late hour this morning.

When this order was received, and General McDowell came to Porter's front, what did he know? What information was there in possession of General McDowell that conflicted directly with the statement contained in this dispatch? In the first place he knew that the day before Longstreet's corps was approaching Thoroughfare Gap from the southwest. He knew that morning that the force he had placed there to intercept him had retreated to Bristoe Station; he knew that General King had fallen back from near Groveton to Manassas Junction, so that when he sat upon his horse in company with General Porter, with their faces directed toward the Warrenton pike, he knew that there was not a Union soldier between Groveton and Thoroughfare Gap. He knew, also, that General Buford had sent him a dispatch, which he read to Porter, informing him that as early as 8.30 in the morning, seventeen regiments, a section of artillery, and five hundred cavalry of the rebel forces had marched through Gainesville to the support of Jackson. He knew that. And he knew, furthermore, that the statement in this dispatch that Reno and Sigel and Heintzelman were moving on the Manassas and Warrenton turnpike, and were probably near Gainesville, was all a delusion. He knew that perfectly well, and right in front of him he saw the evidence that ought to have satisfied any man, that the whole of Longstreet's corps, whatever that might be, was there within supporting distance of Jackson's army, which was the fact.

The distinguished Senator from Illinois, [Mr. LOGAN,] in commenting upon this part of the testimony, said that there was no force over there of any consequence, so far as he could understand, and that J. E. B. Stuart in his report had said that he had detailed a few men to cut brush and drag it along the road, to raise a dust and make it appear that there were a great many people coming there. That was a sight that General McDowell saw as well as General Porter, whatever there was in it. Whatever there was of it or in it, it was seen by them both, for they saw the dust rising up above the tree-tops extending along the pike for a very considerable distance, and McDowell knew that there was nothing to obstruct Longstreet's march there; and did he not suppose that Longstreet was coming for that purpose? For what other purpose was he coming? Was he dallying by the wayside? Had McDowell any right to believe that or think that? Follow his testimony throughout this case, and he is compelled again and again to admit that he knew that there was no obstruction to the increase of the rebel forces, but he says that he did not technically know that they were under the command of Longstreet.

Then again he knew that when General Pope said in the concluding part of this dispatch—

The indications are that the whole force of the enemy is moving in this direction at a pace that will bring them here by to-morrow night or the next day—

Pope was mistaken by from twenty-four to thirty-six hours. That is a good while in military operations. He knew it because Buford's cavalry had seen them at White Plains on the 27th; Buford had reported them from that time forward. He knew they were approaching Thoroughfare Gap on the evening of the 28th, for he sent a force there for the purpose of guarding it. He knew on the morning of the 29th that they had passed through Thoroughfare Gap unobstructed, and that seventeen regiments had passed through Gainesville before nine o'clock in the direction of Jackson's right wing. And yet he held a dispatch from Pope saying that Heintzelman and Sigel and Reno were moving down on this same turnpike and he expected they were near Gainesville by that time.

Now, who did not obey this order? In the first place it was found impracticable. This order did not contemplate any attack. Of course it is said by military men, and I suppose it is all right, that when a fight is going on a man ought to go in wherever he gets a chance, order or no order; I do not know anything about that. But the main point in that order, so far as a military movement is concerned, if I am any judge, is that they were to move, still keeping in the direction that these other corps were moving, until they could lock hands with Reynolds. That is what they were ordered to do. They were to move in that general direction, bearing to the right perhaps, until they could lock hands with Reynolds; and when they had done so, General Pope informs them that he expects to call a halt of the whole line.

Mr. LOGAN. They never did lock hands.

Mr. McDONALD. No, sir; they did not; it was not possible for them to do it; and the further fact that there was no particular effort made to do it in that direction was because these two corps commanders, after riding off to their right as far as the Manassas Gap Railroad, found that they could not move their troops through that forest. I know the distinguished Senator from Illinois said that infantry can go through any kind of a forest. That may be after a fashion. I had an experience once up here in Virginia, in one of their fields, several years ago, in undertaking to cross from Little Falls to a road only about half a mile distant, and I got into one of these thickets, and it took me about two hours to get out, single and alone, and at times I had to crawl for a hundred yards before I could rise at all. I had that kind of experience. I do not know what kind of a thicket this was; but these two men on whom devolved the execution of this order, when they rode up to that railroad line for the purpose of making an examination, were satisfied that they could not put their forces through there as officers desire to put their troops through who are expected to be brought into battle.

The consequence was that right there at that point McDowell galloped off down the railroad, went to the rear near Manassas Junction, and there took with him, in the mean time, Ricketts having come up from Bristoe, his two divisions, brought his corps together again. He says that when he went away he told Porter to put in his troops there and he would take King and go down and pass around and fall in on the left of Reynolds so as to bring his forces that much nearer joining with those of Porter and filling up that gap. It is two miles according to the map from where the right wing of Porter's troops were to the left wing of Reynolds, with the forest intervening between. Finding that they should not march forward to Gainesville or anywhere in that direction, they undertook to form this communication; that is, McDowell did, for he was the party who was acting at that time. He says to Porter, "put in your troops here;" and they now undertake to construe that as an order for Porter—left there with his own corps, and that alone, without a single soldier to support him outside of his own corps, with King taken away, with Ricketts ordered to follow—to cross over here and make an attack if he found anybody to attack in his attempt to get to that road [indicating] for the purpose of forming the junction with Reynolds, and when the junction was formed to expect to be in a position to come to a halt and be where he could retire behind Bull Run that night or in the morning. That is what was expected. Now, let us see what Longstreet says about the condition of things right over there at that time. I read from his letter, and his testimony is to the same effect:

COFFEEVILLE, MISSISSIPPI, *September* 23, 1866.

F. J. PORTER, Esq., *New York City:*

SIR: Your letter of the 7th instant reached me at this point a few days ago. I have no objections to the questions contained in your letter, if my answers are not to be made use of in the public prints, and should have no objection to that but for the peculiar position which I now occupy. So far as I am able to do so I shall answer your questions, relying upon your discretion in the use you may make of the matter.

Answer first. My command arrived within supporting distance of Jackson's command about nine a. m., 29th August, near Groveton.

Second. Do not remember the time at which I heard that my right was threatened—

That was where Porter's troops were placed, threatening his right—

but remember to have moved a column to my right to meet such threatened force, or rather to have moved a column to re-enforce my right.*

Third. My command was deployed in double line, for attack, between ten a. m. and twelve p. m., on the 29th, extending from Jackson's right across Turnpike and Manassas Gap Railroad. Do not remember definitely the strength, but all of my command proper was up. R. H. Anderson arrived that night with three or four brigades, and was then assigned to my command.

Fourth. My command was ready to receive any attack after eleven o'clock a. m.; and *we all were particularly anxious to bring on the battle after twelve m.;* General Lee more so than the rest.

Fifth. My recollection of the ground on my right is that artillery could not be handled on it, and that infantry could not have been handled so as to make a formidable attack.

Sixth. If you had attacked any time after twelve m., it seems to me that we surely would have destroyed your army. That is, if you had attacked with less than twenty-five thousand men.

When I return to New Orleans I may be able to furnish more satisfactory information than I can at this distance from my papers, &c.

I am, sir, very respectfully, your obedient servant,

J. LONGSTREET.

His testimony in the second volume of this report, found at page 115 to 129, substantially supports that statement that by nine o'clock that day his whole force was between Gainesville and Groveton; that by eleven o'clock they were in position, and that from twelve o'clock on during the rest of the day they were not only ready for a fight, but anxious for it, and that to attack after that time with less than twenty-five thousand men would have proved disastrous to the attacking party. Now, when could that attack have been made? When was that force there? When could it have been there? When McDowell was in command; when McDowell was with Porter with the joint order in his hand. Then they had twenty-five thousand men—something above that, it is said to have been twenty-seven thousand—but McDowell withdrew over seventeen thousand of them, his entire corps, and left Porter there with less than ten thousand men. The statement of his force at that time was nine thousand, which included Piatt's brigade.

It is said somebody blundered. Who was it? If that order was so important to be executed General McDowell had the power to do it, for he commanded both corps until he withdrew.

It seems that it is not necessary for me to say anything more about that order. Now, let us come to the last order. McDowell started, I have no doubt, in good faith. I have no doubt they were all acting in good faith so far as that is concerned. I am not here to impeach either the good faith or the patriotism of any one of these men. I do not believe it behooves a man who was not within reach of the longest-range gun that the rebels fired in the war (and I am one of that kind of men, for I was not) to undertake to impeach the loyalty, the bravery, or the patriotism of those men who stood under fire; and I am not going to do it.

McDowell started down by this railroad, [indicating,] to reach Manassas Junction, where King's division still lay, for it had not moved up here to the front, [indicating.] Sykes was between him and King, and Morell's division occupied the front. In the mean time Ricketts's division, coming in from Bristoe, united with King's and reformed McDowell's corps again, and he started with his corps, he said, to go after and join on to Reynolds's left, and thus enable Porter through that means to unite his force with the left wing of the forces immediately under the command of Pope, and thus form a continuous line. He never got there; it is not pretended that he ever got there. He says that he was met by an order from General Pope that directed him to move on the Centreville and Manassas turnpike, and late in the evening he did find himself up there, and late in the evening King's division marched forward and engaged gallantly and bravely in the fight which closed that day, but it was not on Reynolds's left. Porter never again got sight of him, nor could he hear of him. Dispatches were sent through the intervening country and by roundabout ways everywhere to see if he could get in communication with him. Porter said at one time that he would have to fall back on Manassas, but there is not anything in this proof that shows that Porter's corps ever retreated one rod that day. They remained there. Whether it was right or wrong, whether their commander committed a blunder or not, they remained in that position, with Porter's headquarters at Bethlehem Church, until the sun went down, and there was no retreat from there, no retirement until three o'clock the next morning.

Mr. KERNAN. And then it was by a direct order?

Mr. McDONALD. Yes; by an order from General Pope.

Mr. PENDLETON. Where is Bethlehem Church?

Mr. McDONALD. Bethlehem Church is in here, [indicating,] very near the junction of the Sudley Springs road and the Gainesville road, that he was on.

Now we come to the last order that is involved in this inquiry.

Mr. LOGAN. I should like to ask the Senator when he says that Porter's troops did not retreat if he means to say that no part of them retreated or that the whole did not retreat?

Mr. McDONALD. I mean his corps.

Mr. LOGAN. You mean that the whole corps did not retreat?

Mr. McDONALD. I mean the corps under his command. There was a very small portion of troops that went back as far as Manassas Junction, Piatt's.

Mr. LOGAN. Griffin's.

Mr. McDONALD. No, Griffin's was the next day.

Mr. LOGAN. Part of them.

Mr. RANDOLPH. May I interrupt the Senator from Indiana for a moment? Some eight or ten hundred troops that were temporarily under General Porter's command were sent back or did go back toward Manassas, and the Schofield board report that that was the orderly and proper disposition of those troops, having in mind the joint order of that day, in which General Pope said that they must be prepared to fall back behind Bull Run that night. The Piatt brigade or Sturgis brigade, whatever it may be called, was sent back, or went back, as the case may be, and took up a defensive position toward Manassas.

Mr. PENDLETON. How many?

Mr. RANDOLPH. Eight hundred or a thousand.

Mr. McDONALD. That is the fact.

[The honorable Senator from Indiana here gave way to an adjournment.]

Wednesday, March 10.

Mr. McDONALD. Mr. President, before proceeding to discuss the questions arising upon the order of 4.30 of the 29th of August, I wish to recur for a moment to a legal proposition that was discussed on yesterday for the purpose of answering more succinctly and more clearly, if I can, the question submitted by the distinguished Senator from New York, [Mr. CONKLING.] I hold that the legislative power may be exerted to arrest the punishment, either before or after conviction and judgment; if before judgment, by the simple and unconditional repeal of the law authorizing the conviction and punishment; if after judgment, by providing means for the discharge of those who are under the sentence, under the final processes of the court.

My propositions, to restate them, are that the legislative authority and power may be exercised to arrest the punishment, either before or after conviction and judgment, whatever punishment the party has not yet suffered under the sentence of the law. That is what I mean by arresting the punishment; whatever remains yet to be exe-

cuted of punishment, either in time, or in money, or in any other way, under the sentence of the law. If before judgment, by the simple and unconditional repeal of the law authorizing the conviction and punishment; that arrests it before judgment. If after judgment, by providing means for the discharge of those who are undergoing the sentence on the final processes of the court. The only necessity of making any such provision is simply to enable the party entitled to his discharge to seek it in a legal and regular way; that the unconditional repeal of a penal statute is, in the language of the distinguished judges cited in the case of 22 New York, a wiping out of that statute, as if it had never been, and therefore, from the very necessity of the case, from the inexorable logic of the case, the parties under its ban are to be discharged. If the party is in prison, serving a term of imprisonment, he might, under the ordinary proceedings open to him, if the time had not passed by for him to sue out a writ of error, take the cause from the court that had finally condemned him to a higher court and have it reversed upon the sole ground that there was no longer any law for his punishment. If that door was closed to him, it is within legislative authority, and ought to be exercised where it is the design and purpose of the Legislature to accomplish that end, to give him the right of the writ of *habeas corpus* against the final process of the court, which is not usually done in ordinary cases.

Let me illustrate this. We have upon our statute-books laws providing for the collection of internal revenue that are bristling with penalties. Hundreds of men have been condemned under them; hundreds perhaps to-day are undergoing the sentences of the law under those acts, sentences that involve imprisonment, forfeiture, and fine. Suppose we had reached a period in our history and in our progress, which I hope we shall reach before a very great while, when we could repeal these laws, when we can look once more to the external sources of revenue, to the impost duties, that so long supported our Government, for all the revenue necessary for the expenses of the Federal Government, and therefore may dispose at once of this whole machinery of internal revenue with its one hundred and one penal statutes. Suppose that time should come and the law is repealed, are those who continue in prison to remain there until their terms expire? It may be the will of Congress so to do, and therefore to repeal with a saving clause as to cases already tried and convicted. But it may be the will of Congress, and it would comport more with humanity, to say that when these vocations that are now penal may be prosecuted as honestly as any other, when the moonshiner is no longer required to hide himself in the hills and smother the smoke that goes up from his small establishment to keep it out of sight of the revenue officers, when the rings that have been formed for the purpose of defrauding the revenue are no longer of any use, can accomplish no purpose, can reach no end—I say that if it is the will of Congress when this time shall arrive, when the repeal of this law may be right and proper, that on its repeal the doors of the prisons that have closed upon these men shall also be opened and they shall go free, Congress can so will. It is within the legislative power that has been vested in it on the subject of raising and collecting revenue. I ask that this question now, when discussion comes from the other side, shall be considered just in the position and on the propositions I have stated.

I say that such a repeal would stop the execution of any sentence that had not yet been passed, stop any verdict from going into a sentence. A motion in arrest of judgment in the court where the conviction had been had, on the ground that there was no longer any law for the punishment of the offense, would stop it there; or, if the parties were in prison and no writ of error could be prosecuted, Congress could provide, and it would be its duty to do so, that those persons thus held should be entitled to discharge upon their writs of *habeas corpus*. And this is legislative power, legitimate, proper legislative power. It does not send these parties to the Executive for mercy; it acts upon their cases itself directly, effectually, potentially, and they are set free.

I wish now, Mr. President, to recur to that most eloquent and beautiful tribute which was paid to what was called the "Iron Brigade" by the distinguished Senator from Wisconsin, [Mr. CARPENTER.] It is necessary for me to recur to that, not that I wish to mar the beauty of that picture or to detract from the just and righteous meed of praise that it metes out to that Iron Brigade, but, unfortunately for the Senator's side of this case, that memorable contest in which the Iron Brigade played so conspicuous a part did not occur on the 29th of August, did not occur on the 30th of August, did not occur at all at the time when these particular operations were involved, but it was that fierce contest which took place on the evening of the 28th of August between Jackson's forces and King's division of McDowell's corps when it was finding its devious way from Gainesville to Manassas Junction under the order that its commander had received the night before, the order of nine o'clock on the night of the 27th. And who was its commander, and who were its officers? Its commander was the brave and gallant Gibbon; its next chief officer was the brave and gallant and dashing BRAGG, now a member of the other branch of this Congress, an honored member from the State of Wisconsin that he so gallantly represented at that time in the military field. These were the men that had charge and command of the Iron Brigade, and they have been from that hour until this, and are now, the warm and fast friends of Fitz-John Porter. It is like stealing a feather from the wing of the eagle with which to direct the arrow that is to pierce him, that these men are brought in here and seized upon, and this gallant action that occurred some twenty-four hours before the time that Fitz-John Porter is charged with not coming to the rescue, for the purpose of meting out condemnation to him.

One word in regard to these charges. I have said that they were charges of Pope. The specifications and charges drawn out were signed by another, but they were the charges of Pope. He claimed the honor of them when in his letter to the Committee on the Conduct of the War he said that he felt it his duty to bring Fitz-John Porter to justice. He claimed the reward of them when, after that court had rendered its finding and the sentence had been executed upon General Porter, he went to the Chief Magistrate of the country and asked that he should be recognized for his services. Oh, but he did not sign these charges! Oh, no; another signed them. Ah! it was the hand of Esau, but it was the voice of Jacob. The hand that signed these charges was the hand of Esau, but the voice that directed them and dictated them was the voice of Jacob.

The proceedings of such a court, so ordered, so organized, are not entitled in my opinion to the very highest weight and consideration. I have not that very high and exalted respect for courts-martial that has been expressed by some. I do not think that they always come within the definition which the distinguished commentator on the law of England has given in his definition of a court when he says it is "a place where justice is judicially administered." In this particular instance I do not think that it is at all entitled to be so regarded.

I wish now to continue what I was saying in regard to these orders, for the violation of which Fitz-John Porter was found guilty by that court, cashiered by that court, dismissed the Army by the judgment of that court, and disfranchised and rendered incapable of holding any office of trust or profit under the United States for life by that court, the latter part of which is a wholly unmilitary sentence, and in my judgment unauthorized, if the court had been as pure and as honest and as disinterested as it is possible to constitute human tribunals.

When General McDowell withdrew from the position of commander of the two corps under the joint order to McDowell and Porter and took with him King's division with orders for Ricketts's division to follow also as it came up from Bristoe and started on that devious march of his to find connection somewhere to the right, it left Porter there with less than nine thousand men. He had as available and under his immediate command two most gallant divisions, the one leading his column and deployed on the banks of this small stream or branch under command of General Morell, the other in supporting positions extending down to Bethlehem Church—at which point Porter made his own headquarters—under that gallant man whose memory has been so recently recognized and revered by the action of the Senate, General George Sykes. He received no further orders until the order of 4.30 came; and yet he was not idle, as his own dispatches show and his own movements disclose; and while he did not feel that it was right and proper with the information and knowledge he had of the forces in front of him and that might be concentrated there to involve his whole corps in a desperate attempt to turn the right wing of the rebel army, he still continued to make such demonstrations as undoubtedly had the effect of holding a very considerable portion of that army from advancing and still further sustaining Jackson. At six o'clock in the evening of that day he sent a dispatch to McDowell that was received by him in these words:

GENERAL MCDOWELL: Failed in getting Morell over to you. After wandering about the woods for a time I withdrew him, and while doing so artillery opened on us. My scouts could not get through. Each one found the enemy between us, and I believe some have been captured. Infantry are also in front. I am trying to get a battery, but have not succeeded as yet. From the masses of dust on our left, and from reports of scouts, think the enemy are moving largely in that way. Please communicate the way this messenger came. I have no cavalry or messengers now. Please let me know your designs, whether you retire or not. I cannot get water and am out of provisions. Have lost a few men from infantry firing.

F. J. PORTER,
Major-General Volunteers.

AUG. 29, 6 p. m.

This dispatch, written by General Porter at six o'clock on the evening of the 29th, is the last dispatch that he undertook to send through, so far as the testimony shows, to communicate with General McDowell. It is claimed now, and was claimed before the court-martial, that before that dispatch had been sent, as early as five or half past five o'clock, General Porter had received at his headquarters this dispatch:

HEADQUARTERS IN THE FIELD,
August 29, 1862—4.30 p. m.

MAJOR-GENERAL PORTER: Your line of march brings you in on the enemy's right flank. I desire you to push forward into action at once on the enemy's flank, and, if possible, on his rear, keeping your right in communication with General Reynolds.

The enemy is massed in the woods in front of us, but can be shelled out as soon as you engage their flank. Keep heavy reserves and use your batteries, keeping well closed to your right all the time. In case you are obliged to fall back, do so to your right and rear, so as to keep you in close communication with the right wing.

JOHN POPE,
Major-General Commanding.

Before considering the time when this dispatch was received by General Porter I wish to call the attention of the Senate for a short time to the situation, for the purpose of showing that General Pope when he wrote this dispatch misunderstood that situation so completely and entirely as to be evidence to the mind of any one who knew better that he was writing it in an error. He had said in the

morning of that day when he wrote the joint order to McDowell and Porter that he had information of the advance of the enemy in such manner as would bring them on that field or here—he said something like that—by to-morrow evening or the next day. His information, as General McDowell knew, was at fault on that subject by from twenty-four to thirty-six hours. When the dispatch of 4.30 was written at his headquarters it is now no disputed fact, it cannot be, it is impossible if facts can be established by evidence to dispute it, that the entire army of Virginia of the confederacy, that entire rebel army—one division excepted—both wings—the left wing under Jackson, with which he had been contending for a day or two, and the right wing under Longstreet, with General Lee to overlook and command the whole—was in full accord and communication, and had been arranged in battle order from twelve o'clock that day, and that army numbered about fifty-five thousand men, according to the report of Marshall, a member of the staff of Lee.

It is in proof here, and was before this board of inquiry, that on that morning at the early dawn, when the first glance of the sun gilded the mountain tops, Longstreet and Lee, unobstructed, rode through Thoroughfare Gap at the head of Longstreet's forces, not then through. It is in clear and indisputable proof that the evening before Hood had crossed a spur of the mountain with his division, and Wilcox had passed through Hopewell Gap, and by their movements had caused Ricketts to retreat to Bristoe; and yet, sir, at 4.30 in the afternoon the commander of as grand and as brave an army as ever faced an enemy, the combined Army of Virginia, with a portion of the Army of the Potomac, was penning a dispatch to one of his corps commanders that indicated he had no other knowledge or belief except that he was still contending with Stonewall Jackson and his twenty thousand men, and that he had almost a day yet within which to bag him before Longstreet would come up!

McDowell knew otherwise, and that morning had hunted for Pope to tell him. He did not, it seems, find him. He had been hunting for him also all the afternoon of the day before by the most devious wanderings that I have ever seen marked out on a map. They are traced here [exhibiting a map] from McDowell's testimony, from the time he left King on the Warrenton and Alexandria pike and struck off down to Manassas Junction, and then went up some distance in the direction of Centreville, then retraced his steps, and some time in the night found himself up here almost alone at the Dogan house where he passed the rest of the night, and on the morning of the 29th he retraced his steps down to Manassas Junction. He says himself his purpose was to find Pope, but he did not find him, and if he made any communication with him it is not to be found in the testimony.

Mr. LOGAN. Who is that, McDowell?

Mr. McDONALD. McDowell. He had no direct communication with Pope.

Mr. LOGAN. Will the Senator allow me to call his attention to the testimony of Heintzelman, who was with Pope?

Mr. McDONALD. I mean that night.

Mr. LOGAN. On the 29th he says McDowell's troops arrived at forty minutes after three.

Mr. McDONALD. Where?

Mr. LOGAN. At Pope's headquarters, where Heintzelman was.

Mr. McDONALD. Sigel's corps——

Mr. LOGAN. I beg the Senator's pardon.

Mr. McDONALD. I understand that refers to the afternoon of the 29th.

Mr. LOGAN. General Heintzelman says:

> At forty-five minutes past three McDowell's troops reported arrived. Firing closed at fifteen minutes past four. At half past four General Reynolds's troops arrived. Five p. m. our troops engaged on the enemy's right.*

Mr. McDONALD. But I am speaking now of the time that he went alone when he said in his review of the proceedings before the court of inquiry called by himself, that while he gave out these orders to all, himself included, he had nothing but his horse. I am speaking now of the 28th.

Mr. LOGAN. I thought you were speaking of the 29th.

Mr. McDONALD. No; of the 28th.

Mr. LOGAN. You were speaking of where Porter was on the 29th.

Mr. McDONALD. I know; but if my friend had followed me closely he would have found that I was returning for the purpose of calling attention to that very remarkable trip of McDowell's on the 28th, when he left Reynolds and struck off for Manassas Junction to see Pope, and then wandered around and found himself some time in the night up by the Dorgan house.

Mr. LOGAN. "Dogan" would be better.

Mr. McDONALD. Now, look at the position of the rebel army at that time. Here is a map that places the position of Longstreet's forces on the 29th, [exhibiting.] He says that from twelve o'clock on they were ready for action. I suppose this discloses his position when he found himself in battle order, [indicating.] It does not show the advance of Hood later in the evening, nor the pressing forward of Wilcox's division still later in his support. It does not show that, but it shows the force as it deployed upon the field, as I understand it. Longstreet's left hand was linked with Jackson's right, and Jackson's troops extended up to Sudley Church. They were in that position when the commander of the Union army still was laboring under the belief from anything that appears in this testimony—and certainly that is the mildest consideration we can give to this order—that Longstreet was still somewhere west of Thoroughfare Gap; that he had some twenty-four hours' march yet ahead of him, and that therefore Pope with his combined army—and a magnificent army it was, too—had twenty-four hours within which to ensnare Jackson and his corps and capture them. Therefore he issued this order. Let me read it again in the light of these statements that I have made:

> Your line of march brings you in on the enemy's right flank.

How could he get there with Longstreet's thirty thousand men interposed from Gainesville, or in front of Gainesville, on down the Warrenton pike and connecting with Jackson's flank and rear?

Mr. LOGAN. Longstreet was not on Porter's road at all.

Mr. McDONALD. Longstreet was exactly *between* the rebel forces that Pope thought he had to contend with and Porter's corps, if I am right in my statement, and I will make it again. You can only excuse such an order as this on the assumption that Pope believed that he had nothing before him yet, of any consequence at least, except the twenty-one thousand men with which Jackson had entered that valley on the night of the 26th and struck his rear on the 27th; that that was all he had before him; and that therefore if these eight or nine thousand men were continuing on their march unobstructed (for he was engaging the attention of these twenty thousand men with the gallant force under his immediate command) they would have been in all probability where he supposed them to be; but they were not there.

Then, again, let us see how this order could be carried out under the condition of things that then existed.

Mr. LOGAN. I will ask the Senator right there if he can show from Longstreet's own map that there was a solitary soldier of Longstreet's between Porter and Gainesville except Robertson's cavalry?

Mr. McDONALD. Yes, sir. Of course he could have made a detour.

Mr. LOGAN. On the straight road, I mean.

Mr. McDONALD. But the Senator must remember that the order under which he was supposed to be acting directed him to move to the right. In place of opening the gap between the left wing immediately under Pope and his own forces he was directed to move to the right and if possible form that connection. That is the substance of the joint order to McDowell and Porter. If he had done that there would not have been any of his force to have saved the day on the 30th, for they would all have been dead or captives.

Mr. LOGAN. Eaten up! It is an easy thing to eat up ten or twelve thousand men, of course!

Mr. McDONALD. General Pope's order, dated 4.30 p. m. on the 29th of August, says:

> I desire you to push forward into action at once on the enemy's flank, and, if possible, on his rear, keeping your right in communication with General Reynolds.

At that very time Porter's right was just two miles from Reynolds's left, and if he had moved in that direction it would have brought him exactly in front of the massed forces of Longstreet. He had two things to do here. He was ordered to attack the flank and rear of the enemy and at the same time keep in communication with the left of Reynolds, two miles away to his right.

Mr. LOGAN. You do not mean to say that keeping in communication was to join on to Reynolds?

Mr. McDONALD. I will read it again: "Keeping your right in communication with General Reynolds."

Mr. LOGAN. Does the Senator mean to say that that order intended that he should join his right with Reynolds?

Mr. McDONALD. I will answer that by asking a question of my military friend, as well as my civil friend.

Mr. LOGAN. I will answer if I can.

Mr. McDONALD. Does he mean to say that he was keeping in communication with Reynolds if he was two miles away from that officer's left?

Mr. LOGAN. Certainly, if he keeps communication up. That is the meaning of the military order. Communication does not mean that you shall join your forces together, but that you shall keep in communication so as to understand the movements of one another. Any military man will say that.

Mr. McDONALD. I am not versed in military affairs, but I supposed that to be in communication meant to be within supporting distance.

Mr. LOGAN. Two miles is supporting distance. Everybody understands that. In order that this shall be perfectly understood, I will suggest to the Senator that if he will inquire of, I do not care who, he may take the commanding-general of the Army, or any other man who understands military affairs, and if I am not sustained in my statement I will then give up the argument I have made.

Mr. McDONALD. I should suppose that what was supporting distance would depend somewhat upon circumstances.

Mr. LOGAN. If the Senator will allow me, I will tell him what I mean by supporting distance. If I was going to assault an enemy to-day, and had ten thousand troops, and there were five thousand or two thousand that I called my support within two, three, or four

* General Heintzleman says McDowell was "*reported* arrived."
General Pope says, (Official Report, page 21): "*By this time* (about half past four o'clock) General McDowell had arrived on the field, &c., which fixes the hour more definitely."

miles, where they could march to me, I would consider that supporting distance, if there was any way for them to get there, because there is no army that can demolish that many men in the time that it would require men to march that distance.

Mr. McDONALD. Then you would have regarded McDowell's corps that was marching on the Sudley pike as being within supporting distance also.

Mr. LOGAN. Supporting distance of what?

Mr. McDONALD. Of Porter.

Mr. LOGAN. Not at all. I said if there was any way that they could march I should consider it supporting distance. McDowell was in supporting distance of the army that was fighting Jackson over to the right, and he went into the fight. He was not supporting Porter.

Mr. McDONALD. But he was in that supporting distance that my distinguished friend speaks of. But I shall not undertake to bandy military criticism with him.

Mr. LOGAN. I will show the Senator what I mean. Reynolds was near the Warrenton pike. By Porter's moving over, as directed, his force would have struck the Warrenton pike. Then the communication was open between them, and two miles is no distance at all, so far as supporting distance is concerned, where the communication is open, as it would have been if he had moved as he was directed and struck the Warrenton pike.

Mr. McDONALD. Struck the Warrenton pike! His direction, so far as striking the Warrenton pike was concerned, was to strike it up in the neighborhood of Gainesville.

Mr. LOGAN. The Warrenton pike or any other road; there are plenty of roads. I only mentioned that to show what I meant.

Mr. McDONALD. He was ordered to strike it in the neighborhood of Gainesville, where General Pope said in his order to McDowell and Porter the other corps were driving the enemy as early as nine o'clock in the morning. But further:

The enemy is massed in the woods in front of us, but can be shelled out as soon as you engage their flank.

I am reading this for the purpose of showing the misinformation of General Pope under which this order was written. I state again, and I desire that to be distinctly understood, that he could not have supposed that he was then confronting the united forces of Jackson and Longstreet, with Lee in command. He still believed that he had twenty-four hours within which to capture Jackson's forces or disperse them. Every particle of this order, from beginning to end, indicates that most clearly. Look at these words:

Keep heavy reserves and use your batteries.

Was this to be a dashing attack and a going to death? Was this dooming the gallant Fifth Army Corps to destruction for the safety of the rest of the Army? Not at all. "Keep heavy reserves." What was he to keep them out of? Out of the nine thousand men that he had there. What was he to do? "Use your batteries." Was it to be an artillery duel? This was what he was to make rather than a dashing attack such as has been so graphically again and again described by my friend, the Senator from Illinois, so that I could almost see the dash. I never did see anything of the kind and I hope I never shall.

The order continues:

In case you are obliged to fall back, do so to your right and rear, so as to keep you in close communication with the right wing.

That shows how important a part of this quite important question that dispatch plays of Porter to McDowell, dated at six o'clock that evening, which had remained in the possession of General McDowell from the time he had received it until it was brought out before this board, and brought out then because he thought it made some point in his favor, and when the date came to be examined these distinguished officers say that it is impossible to read that dispatch and believe that half an hour before, or any time before it bears date, General Porter had received the order dated 4.30 in the afternoon from General Pope, and that this singularly corroborates and strengthens and fortifies the testimony of these distinguished witnesses here arrayed.

Mr. LOGAN. Will the Senator allow me to ask what time General Morell swears that he received the order to attack?

Mr. McDONALD. Yes, sir; I will do that. I am coming to that. Of course I have not overlooked that. Let me read what one of these witnesses said. General George Sykes, he who commanded the regulars on that occasion, and in the battle of the 30th, says:

Q. Passing now to the afternoon of the 29th. Were you with General Porter when, in the afternoon or in the beginning of the evening of that day, a messenger, an officer, came from General Pope, bringing to General Porter a written order? If so, about what hour did he arrive?

A. I was with General Porter nearly throughout that whole day; that officer arrived as near sunset as I can remember; certainly within a little before sunset, or about sunset.

And then he follows it up by stating that he and Porter were sitting together at the time the order came.

Now, as to General Morell, he was at the front, he was in command of the troops stationed in front of this small stream that has been so often named; he was directing their operations; he was receiving communications, verbal and written, from Porter or visits in person all that afternoon. When he was examined on this point he stated that he received an order, he thought at first it was a verbal order, to make a certain disposition of his forces for the purpose of making an attack, and here is just what he said upon that subject:

Q. Will you state what action you took in obedience to No. 37, which directed you to push up two regiments supported by two others preceded by skirmishers, the regiments at intervals of two hundred yards, and attack the section of artillery opposed to you—what you did with the four regiments indicated, and what you did with the rest of your division in connection with what you did or what you ordered?

A. When I received that order—the latter part says: "The battle works well on our right; the enemy said to be retiring up the pike"—I said immediately to the person who brought it that the order was given under a misapprehension. We knew the enemy were not retiring; and I believe I sent that message to General Porter. I immediately gave orders *to move the whole of my division to the front to be in readiness to support the four regiments. While that was going on I received a verbal order from Colonel Locke to make an attack—*

He received two orders in quite quick succession—

When I received this order it was quite late in the afternoon, *just before sunset*; the sun was almost touching the tops of the trees. *Then came a verbal order from Colonel Locke, and soon after that an order in writing, which is No. 38, to put the men in position and remain during the night.* That I construed into a virtual countermand of the previous order to attack. *While I was engaged in this General Porter came up. Then it was quite dark.*

When General Porter came up it was quite dark. That was the testimony of General Morell. But there was other testimony given, other testimony brought forward, and his memory was refreshed in regard to the order in which these different dispatches had been received by him; and when he came to examine it in that light, in the light of the testimony of Earle and the statement of Locke, here is what he said:

Now, in the light of Major Earle's testimony, what have you to say about the two orders, the written order and the verbal order?

A. My impression is now—my opinion—that the order to make this attack with four regiments was brought to me *by Major Earle before General Porter received the 4.30 order, and that Colonel Locke's message to me was in consequence of his having received that 4.30 order. I knew nothing of this 4.30 order until just before the trial of General Porter in Washington.*

We have General Pope's construction of what he meant by that communication with the right wing "keep yourself in close communication."

Mr. LOGAN. That was when they fell back.

Mr. McDONALD. And he was to do that all the time. He was to keep himself in close communication with the right wing. That was the order.

Now, let me see what these distinguished military men—and I put their criticism of this order at the time of its reception against that of my distinguished military friend from Illinois—have said in regard to this. The three distinguished military men who were appointed by the President, as it is said, without authority, and directed to inquire into all the facts connected with these transactions, have considered this, and here now is what they say. The question for the Senate to determine is whether they have truthfully said it or not; and I am, therefore, putting military authority against military authority. It is true I have got 3 to 1, and, perhaps, the one will outweigh the three.

Mr. LOGAN. The Senator, I hope, will correct that statement that he has three to one. He has three to nine. There were nine on the court-martial and three on this board.

Mr. McDONALD. I do not take much stock in that court-martial.

Mr. LOGAN. I see you do not.

Mr. McDONALD. No, I do not.

This order, though dated at 4.30 p. m., was not received by Porter, at Bethlehem Church, before 6.30 p. m.

Why do they say that?

The evidence before the court-martial tending to show that Porter received the 4.30 order in time to execute it is found in the testimony of the officer who carried the order, and of one of the orderlies who accompanied him. Neither of these two witnesses appears to have carried a watch, and their several statements of the time when the order was delivered were based on estimates of the time occupied by them in riding from General Pope's headquarters to the place where they found General Porter. One of them at least knew from an inspection of the order that it was dated at 4.30; he, and probably both of them, therefore assumed that it was then that they started to deliver it, and adding to that hour the estimated time occupied by them, they severally fixed the hour of delivery. It is now proved by the testimony of the officer who wrote the dispatch that 4.30 was not the hour when the messenger started, but was the hour when he began to write the dispatch, and consequently that it was after that hour that the officer started to deliver it.

It is also shown that these messengers did not and could not, if other parts of their own testimony are true, have traveled over the route which they supposed they had taken. Moreover, it was proved by unquestionable testimony that since the court-martial trial one of these witnesses had made statements and admissions inconsistent with and contradictory of his former testimony, and the other witness confessed before us that recently he had deliberately made false statements in regard to the route taken while carrying the dispatch. We have therefore felt compelled to lay the testimony of these witnesses out of the case. An attempt was made to support these witnesses by the testimony of another person who, as it was alleged, also accompanied as an orderly the officer charged with the dispatch, but his testimony was so completely broken down by cross-examination that we regard it as entitled to no weight whatever.

On the other hand, the testimony of General Sykes, Lieutenant-Colonel Locke, Captain Monteith, Lieutenant Ingham, and Lieutenant Weld before the court-martial, that the order in question was not delivered until about sundown, either a little before or a little after that hour, has now been supported by a new and entirely independent witness, Captain Randol, and has been singularly confirmed by the production, for the first time, of the dispatch from Porter to McDowell, dated six p. m., the terms of which utterly forbid the supposition that at that time Porter had received the order.

Therefore, having sent forward a written order to make this attack, either feigned or real, to make this diversion—to what extent of course events would have to determine it should be carried—then

General Porter after that received Pope's order dated 4.30, and then he sent his chief of staff, Colonel Locke, forward with a verbal order. He did not wait to write one, but sent forward a verbal order to if possible carry this order of 4.30 into execution, and he followed that himself; and when he got there on the ground it was growing dusk, according to the testimony of General Morell; and according to the testimony of General Morell the first order, the order that Porter had given without waiting for this other, was given under a misapprehension of the condition of affairs and Morell was making but a very reluctant effort on his part to carry it into execution.

After reviewing all that testimony these distinguished officers say, having found, as they were compelled to find, that it was after six o'clock—they say at 6.30, or about that; from that to sundown; and then sundown was about 6.36—they say:

If the 4.30 order had been promptly delivered a very grave responsibility would have devolved upon General Porter. The order was based upon conditions which were essentially erroneous, and upon expectations which could not possibly be realized.

It required an attack upon the enemy's flank or rear, which could not be made, and that the attacking force keep closed on Reynolds, who was far to the right and beyond reach. Yet it would have been too late to correct the error and have the order modified. That order appeared to be part of a general plan. It must be executed promptly or not at all. If Porter had made not the impossible attack which was ordered, but a direct attack upon the enemy's right wing, would he have been blameless for the fruitless sacrifice of his troops? We believe not.

These gentlemen, high in military position, of known military renown, well versed in the laws and principles that relate to military movements—one, as I have already said in the course of my remarks, having charge of that institution that the Government supports for the purpose of educating its military men—say this. Of course I would not put my opinion against the opinion of the Senator from Illinois on this question, but I am permitted to put theirs:

It is a well-established military maxim that a corps commander is not justifiable in making an apparently hopeless attack in obedience to an order from a superior who is not on the spot, and who is evidently in error in respect to the essential conditions upon which the order is based.

And then they conclude their review of this part of General Porter's conduct—and I may leave this part of his case there—with this statement:

Any attack which Porter could have made at any time that afternoon must necessarily have been fruitless of any good result. Porter's faithful, subordinate, and intelligent conduct that afternoon saved the Union Army from the defeat which would otherwise have resulted that day from the enemy's more speedy concentration.

I put that declaration of these three distinguished military men against the cruel declaration of the Senator from Wisconsin that this gallant man by his misconduct had sacrificed the lives of twenty thousand Union soldiers. I send forth their judgment upon that question to counteract his naked, unsupported declaration.

This, then, finished up the charges against General Porter, and there the military court-martial left the investigation. They did not look beyond this. It is true, I believe, they did introduce by way of showing the condemnation of General Pope of what he claimed to be the misconduct of his subordinate that last order issued to General Porter that day, which I will now proceed to read as a link between what I have said and what I propose to say. It is the last order of the 29th August:

HEADQUARTERS ARMY OF VIRGINIA,
IN THE FIELD NEAR BULL RUN,
August 29, 1862—8.50 p. m.

GENERAL: Immediately upon receipt of this order, the precise hour of receiving which you will acknowledge, you will march your command to the field of battle of to-day and report to me in person for orders. You are to understand that you are expected to comply strictly with this order, and to be present on the field within three hours after its reception, or after daybreak to-morrow morning.

JOHN POPE,
Major-General Commanding.

Major-General F. J. PORTER.

[Received August 30—3.30 a. m.]

Dated at 8.30 p. m. on the 29th, received by General Porter on the 30th at 3.30 a. m., General Porter's headquarters then being at Bethlehem Church, where they had remained from the time he had taken up his position on the 29th of August, with his forces extending from Bethlehem Church to Dawkins Branch, where he had remained without retreating or withdrawing any portion of his corps; and there at 3.30 on the morning of the 30th this order of the night before reached him from the commanding general's headquarters. It had been six hours and forty minutes in its passage. Six hours and forty minutes it had taken General Pope to send this red-hot dispatch that commanded this officer, charged then almost with insubordination, to move his troops so as to be on the battle-field within three hours from the time he received it, or at daylight. Six hours and forty minutes that dispatch was on its way; but when it was finally delivered, fortunately General Pope said to him: "Receipt for this and give the time of its receipt; note the time you receive this." If he had said that in the former dispatch, or if perchance General Porter had thought of so noting it, much of the mist that has gathered around these transactions would have been brushed away.

But I said that the military tribunal which cashiered this man, broke him of his commission, and undertook to place, and in the judgment of many good men did place, him under the ban of disfranchisement, deprived him of the privilege which the poorest citizen of the United States is entitled to enjoy during his life, and so deprived him that there is no power, it is claimed, in this Government to lift that weight from his shoulders—I say they stopped in their examination of the questions concerning his guilt or innocence right there, and they drew around their eyes a thick, dark veil to shut out what he did the day following. But these three distinguished military men composing the board of inquiry thought that in judging of the conduct of General Porter as connected with these orders it was right and proper to look into what he did afterward, that it might reflect some light back on these transactions to know how he conducted himself the next day, and so on. Therefore they lifted this veil by their investigation.

This strangely constituted military court had gone over each one of the dispatches he was charged with violating, each carrying it to his eye and his eye to the paper on which it was written, a magnifying glass; they had carefully traced out everything that everybody else had done in connection with these transactions except General Porter, and they undertook to fasten on him the entire responsibility of that momentous failure that staggered this country from one end to the other, and when they had closed on the evening of the 29th, leaving General Porter around his camp-fire ready to receive the other orders for the next day, they took no note of what transpired afterward. But the report we are considering did not stop at that; it entered into and traced the actions of the next day. We are informed—and there is no dispute about that—that upon the receipt at 3.30, on the morning of August 30, General Porter immediately put his forces in motion to comply with that order. General Sykes's division, of course, became the advance. It was in the rear in the position that he occupied. He sent orders to General Morell to withdraw from his position and to follow Sykes, and started at once along Sudley's road to communicate with the headquarters of the commanding general and to report in person for duty.

Some portion, not a very large portion, of the troops that were with the rear, reaching a point where the road turned off too late to see any part of the advance division, and took the road to Centreville, the troops under Piatt, and some few under one of the other commanders, Griffin, I believe; but the great body of General Porter's corps, the Fifth Army Corps—that has a name and a record in the military annals of this country that will live, ay, and carry along with it its gallant commander when those who have undertaken to break him down shall have passed out of the sight and memory of man—got there, were put in position upon the left wing along up in the neighborhood of the Warrenton pike, and they found almost the whole of General Pope's army there gathered. It was gathered there, forming a parallel line, extending from up near the left wing of Jackson's division down to and across the Warrenton pike to about the position, or near that, Reynolds had held the evening before. It remained there until after twelve o'clock resting on its arms. Across in the direction of Gainesville, beginning at the Sudley church, extending down again in parallel lines across the Gainesville pike, was the army of General Lee. It was not Jackson; it was not Longstreet; it was the rebel army of Virginia under its great commander. It had marched rapidly in its different detachments from the time it crossed the Rappahannock until it reached that position. It had reached that position, and was in line at twelve o'clock the day before. Jackson's force was over twenty thousand strong, Longstreet's over thirty thousand, and artillery and other detached troops made an army of between fifty-five and sixty thousand men, with Lee to command it. As gallant an army was confronting them. As brave men stood across on the opposite line, as true soldiers, for they were culled and taken from the States. Wisconsin was represented there, Illinois was represented there, the East was represented there, the West was represented there. My own State had a gallant regiment upon that field, and there, too, were the regulars, the tried and trained men of the Army, under that gallant spirit who has so lately departed, General George Sykes. Again, under the command of Fitz-John Porter, who commanded that corps, Warren was there. At twelve o'clock that day what did the commander of the Union army do? Let us see:

[Special Order No. —.]

HEADQUARTERS NEAR GROVETON—

Any one who will look upon this map, or any of these maps, will see at a glance how the position then was—

HEADQUARTERS NEAR GROVETON,
August 30, 1862—12 m.

The following forces will be immediately thrown forward in pursuit of the enemy and press him vigorously during the whole day: Major-General McDowell is assigned to the command of the pursuit; Major-General Porter's corps will push forward on the Warrenton turnpike, followed by the divisions of Brigadier-Generals King and Reynolds. The division of Brigadier-General Ricketts will pursue the Hay Market road, followed by the corps of Major-General Heintzelman. The necessary cavalry will be assigned to these columns by Major-General McDowell, to whom regular and frequent reports will be made. The general headquarters will be somewhere on the Warrenton turnpike.

By command of Major-General Pope.

GEO. D. RUGGLES,
Colonel and Chief of Staff.

Is not that, in the light of the facts before us, the most amazing military order that was ever issued? During the Mexican war the country glowed with pride all over at the order issued by General Scott at Cerro Gordo, for it was an order of attack accompanied at the same time by an order for pursuit, and assigning the pursuing corps and divisions their particular line. Ah, said the country, that grand old man knew what his plans were; he had laid his plans so well for attack that he knew he could not fail, and he backed his

confidence and his judgment by directing the pursuit before the attack began by issuing the order to pursue at the same time. But General Pope eclipses all that. He had not yet ordered the attack upon the enemy. He had before him one of the most renowned, and I take some pride in the name because he was an American, of the military men of this or any other age, aided by two able lieutenants with an army of from fifty-five thousand to sixty thousand men, who had come there to fight, to deliver battle, who had been ready and stripped for the fight from twelve o'clock the day before. Yet these gallant men of the Union Army were ordered in pursuit: "Throw off your haversacks, strip yourselves to the buff, advance!"

Mr. LOGAN. Knapsacks! I guess they would not throw off their haversacks.

Mr. McDONALD. Knapsacks. I do not know much about military phrases; but "strip for the race is all you have got to do; I have assigned you, each one a particular place. All you have got to do is to rush forward and drive these men through Thoroughfare Gap and beyond the Rappahannock, achieve a glorious victory, and end this fratricidal war."

What wonderful dreams there were in the head of this man when he wrote that order! This was well into the second year of the war; it had been terrible and bloody, but now it was to be ended by the pursuit and capture of Lee's army. But some one will say that he did not know that Lee was there. I think that is true, if he did know that that junction had been formed between those two wings of Lee's army, and that Lee was there in person, then he was worse than a jibbering idiot.

McDowell issued an order, too, because you see he was placed second in command. He was to carry on this pursuit, and he issued this order to Major-General Porter:

HEADQUARTERS THIRD CORPS, ARMY OF VIRGINIA,
August 30, 1862.

Major-General McDowell being charged with the advance d forces ordered to pursue the enemy, directs me to inform you that your corps will be followed immediately by King's division, supported by Reynolds. Heintzelman with his corps, preceded by Ricketts's division, will move on your right, on the road from Sudley Springs to Hay Market. He is instructed to throw out skirmishers to the left, which is desirable you should join with your right. General McDowell's headquarters will be at the head of Reynolds's division, on the Warrenton road. Organize a strong advance to precede your command, and push on rapidly in pursuit of the enemy, until you come in contact with him. Report frequently. Bayard's brigade will be ordered to report to you; push it well to the left as you advance.

Very respectfully, your obedient servant,

ED. SCHRIVER,
Colonel and Chief of Staff.

Major-General PORTER,
Commanding, &c.

Under these orders that pursuit began along about three or four o'clock in the afternoon.

Mr. LOGAN. Of the 30th?

Mr. McDONALD. Of the 30th. These forces dashed forward to the capture of Jackson. They had scarcely got into action when their flank was assailed by Longstreet, his artillery and his infantry, and it doubled back. Throughout the rest of that day one of the fiercest, one of the bravest, one of the bloodiest battles that has ever been fought on this continent took place. In the night this grand army that at twelve o'clock was ordered in pursuit of what was supposed to be a flying enemy was driven back mangled and bleeding at every pore, with its thousands left dead upon the field, and in a brief time afterward found it necessary to take shelter in the defenses made for the purpose of guarding the capital of the nation.

Who saved that army? General Jackson has given some evidence on that subject in which he attributes the critical period of that fight to a movement that took place shortly after four o'clock that afternoon, which he describes most graphically and for several years was published and heralded and circulated all over the country as having occurred on the 29th. It was published in slips as an extract from the rebel records of the war detailing Jackson's report in that battle, and attributed to the 29th, when it took place on the 30th. Now I want to read from that report:

About four o'clock in the evening the Federal infantry advanced in several lines, first engaging the *right*, but soon extending its attack to the center and left. As one line was repulsed another took its place, and pressed forward as if determined, by force of numbers and fury of assault, to drive us from our positions. So *impetuous and well-sustained* were these onsets as to induce me to send to the commanding general for re-enforcements; but the timely and gallant advance of General Longstreet on the right relieved my troops from the pressure. As Longstreet pressed upon the right, the Federal advance was checked, and soon a general advance of my whole line was ordered.

Who commanded these forces? Let the accusers in this case speak. Let McDowell say who it was who was in command of the forces at that time, and did this gallant service to save the army and save the nation. In his cross-examination before this board, General McDowell was confronted with that extract. I have already said that excerpts had been made from the rebel archives and published and circulated as if this thing had taken place on the 29th, to prove that there was a furious battle that day. McDowell was confronted with it. He was confronted with the book from which it had been taken, and was compelled to admit that it did refer to the 30th, and not to the 29th, and when he had reluctantly made that admission, the counsel who was pressing him upon that cross-examination asked him this question:

Q. Referring again to General Jackson's report, an extract from which was printed and circulated by you, and now knowing that it refers to the 30th, I want to ask you to what troops of the Federal Army you understand this passage to refer:

"So impetuous and well sustained were these onsets as to induce me to send to the commanding general for re-enforcements, but the timely and gallant advance of General Longstreet on the right relieved my troops from the pressure of overwhelming numbers."

Now, who was the immediate commander of that portion of the Federal troops that made those "impetuous and well-sustained onsets" on the 30th?

A. I have no doubt in my own mind, at least have had no doubt, that those onsets referred to there were largely—I will not say exclusively, but were largely—due to the troops under the command of General Porter.

How could that man ever lift his head after this reluctant confession thus wrung from him that these very actions which had been paraded as evidence of the guilt of Porter had been the very act under Porter's own eye and under his own command? He was compelled to admit that this report of General Jackson in regard to the gallantry of the Union troops and their terrible and impetuous onsets that day applied, as he says, largely to those commanded by General Porter. How did that terminate? Let us see in the testimony of Randol.

Mr. CONKLING, (in his seat to Mr. LOGAN.) Did McDowell circulate that?

Mr. McDONALD. He furnished it to General Pope, and General Pope put it in his communication and sent it all over the country.

Mr. LOGAN. That was long after the court-martial.

Mr. McDONALD. Of course it was long after the court-martial, because this document was not found until long after the court-martial. The Senator from Illinois said that it was found among the papers of General Jackson after his death.

Mr. CONKLING. The honorable Senator from Indiana is kind enough to answer a question that I asked in a low tone of voice from my seat of another Senator.

Mr. McDONALD. That is right.

Mr. CONKLING. I infer that he will not object to being interrupted a moment, as he has done that.

Mr. McDONALD. Not at all.

Mr. CONKLING. I listened to him with some interest and some concern when, by intimation at least, he imputed to General McDowell, first, that he knowingly circulated a false report injurious to General Porter, and that then he reluctantly admitted, when he was forced to admit, that he had done so. Then the Senator inquired of the Senate how could this man—meaning I suppose General McDowell—hold up his head after that. I should like to know of the Senator from Indiana whether he means, by statement or imputation, to convey the idea that General McDowell circulated this extract knowing it to be false, and that he reluctantly made the correction when an error was ascertained?

Mr. McDONALD. No, sir; I do not state nor have I stated that he circulated it knowing it to be false, but I say now that the means of making that correction were at any time at his command if he had done it in person by simply putting down this excerpt that was circulated by the book from which it was taken, for there was the date that disclosed the fact that it was the 30th and not the 29th.

I will state further that it was ignorance, for which he is not excusable under the facts of this case; and as to his reluctant admission upon that subject, if the Senator from New York will take this book and read General McDowell's cross-examination, embracing a hundred or more pages in reference to that question, and if he will then tell me, after he has read it as I have read it word for word, that it was not reluctant, then I will give up that question.

Mr. LOGAN. I will call the Senator's attention to one fact now. I suppose none of us wishes to do injustice to any gentleman on either side.

Mr. McDONALD. No, I do not.

Mr. LOGAN. The Senator just now used the word "reluctant." Does not the evidence clearly disclose the fact that General McDowell did not know that fact until his attention was called to it then, and that he testified right there that he never did know it until his attention was then called to it?

Mr. McDONALD. Yes, he said he did not know it until about fifteen minutes before he made the statement, but it required all the skill of one of the most skillful examiners that I have read for a long time to get him to admit the difference between that which had been published as an action of the Union forces on the 29th and that which took place on the 30th.*

Mr. CONKLING. Will the Senator allow me a moment?

Mr. McDONALD. Yes.

Mr. CONKLING. I do not believe it is necessary in the lawyer-like or the political disposition of this case to cast mud upon as many people who have nothing to do with it except as witnesses, as it is

* General McDowell, on page 735, volume 2, admits that his attention had been called to the error of using the 29th in place of the 30th.

And on page 738, he further said—

Q. When was it that a question was raised as to whether it did refer to the 29th or 30th, and that the question came to your knowledge?

A. I don't know whether it *was one, two, three, or four years ago.*

And again, page 738—

Q. Did it occur to you at that time that if it was a mistake, an injustice had been done General Porter by that which might and should then be corrected—at that time?

A. No, it did not; because I did not think it my province to do it.

possible to do. I listened in the opening of this debate to a very severe and injurious insinuation cast upon General McDowell.

Mr. McDONALD. Mr. President, of course I cannot give way for the Senator to reply to somebody else's speech. If he wants to ask any question of me, I will hear it.

Mr. CONKLING. The honorable Senator controls the floor; I intended to occupy it not more than one minute, and I will forego that if the Senator wishes me to do so.

Mr. McDONALD. Unless it has reference to something that I have just been saying I do not care to yield for any statement by the Senator from New York.

Mr. CONKLING. It has direct reference to what the Senator from Indiana has just been saying.

Mr. McDONALD. I cannot, as a matter of course, give way for the Senator to reply to a speech of another Senator.

Mr. CONKLING. The Senator will decide whether he gives way or not. I do not wish to trespass upon him. [A pause.] I resume my remark: At the commencement of this discussion I listened with concern to an injurious imputation upon General McDowell. Not deeming it necessary to read the whole of this record, if that is what the Senator meant, touching all things, I did deem it necessary to look to so much of it as bore upon General McDowell, and upon the part he played in this behalf; and now, I venture to say, for whatever the testimony may be worth, recurring to what the Senator from Indiana at first charged a moment ago, and afterward to some extent modified——

Mr. McDONALD. I do not want it understood that I charged that he had circulated this as a forgery.

Mr. CONKLING. I am very glad to hear the Senator say that.

Mr. McDONALD. I made no such charge; but I said it was so circulated.

Mr. CONKLING. But in that regard General McDowell is just as guilty as the Senator from Indiana, neither more nor less, for it was as much his business to know it was circulated and to correct it as it was General McDowell's business so long as General McDowell had nothing to do with the circulation; but I say, having looked at this record to ascertain by how much right or how much wrong General McDowell has been impeached, that I find nothing in it, nothing whatever, that shakes the judgment I have, after an acquaintance with General McDowell of many, many years, that his character and his rectitude in this and other transactions ought to exempt him from all these imputations. As to this particular point, I understand the whole truth to be that there had been a confusion between the 29th and the 30th, and this particular mistake had been published. General McDowell's attention was called to it, and he somewhere says that the first time it ever was called to his notice was about fifteen minutes before the examination took place. Therefore he had nothing to do with it; and I submit to the Senator and to the Senate that it is not only unjust and entirely beside the purpose, but possibly in the end not in the interest of Fitz-John Porter, to seek for other and blameless men upon whom to cast imputations sidewise or otherwise. If I were advocating the cause of Fitz-John Porter, I should at least doubt whether that was germane or proper.

Mr. McDONALD. I have only to repeat that any one who will take the trouble to read this long extended cross-examination will be satisfied of the correctness of my statement. General McDowell was brought forward in this examination for the purpose of making proofs of certain points that were supposed to be favorable to the prosecution. His examination in chief was limited designedly to the narrowest limit that the recorder could place it, consistent with the purpose for which he was called. The examination in which these matters were brought out necessarily had to extend itself over inquiries and into fields that the recorder had undertaken to close up by his manner of bringing out the facts in the examination in chief. If any person will read this as I have read it, and not say that any of the facts that bear in any degree in favor of Fitz-John Porter that came out in this examination were grudgingly given, then I will give up this whole question. The very answer that I have read shows in the very terms in which it is given, the very circumstance under which the question is asked, that he is made a reluctant and unwilling witness of the gallantry, patriotism, and devotion of Fitz-John Porter and his men on the 30th of August, 1862.

Mr. CONKLING. To which answer does the Senator refer?

Mr. McDONALD. To the one I read.

Mr. CONKLING. Will you lend the book to me?

Mr. McDONALD. Yes, sir; it is on page 785. [The book was handed.]

Mr. CONKLING. May I read it?

Mr. McDONALD. Certainly.

Mr. CONKLING. Aloud?

Mr. McDONALD. Certainly.

Mr. CONKLING. The honorable Senator allows me to read aloud this answer, which I am very glad to do, which he refers to as disclosing a grudging disposition on the part of this officer to award credit due to the officer on trial.

Mr. McDONALD. It is down at the bottom of the page.

Mr. CONKLING. Let me read it——

Mr. McDONALD. Read the question all through, because that is necessary in order to understand it fully.

Mr. CONKLING. I will read the whole question:

Q. Referring again to General Jackson's report, an extract from which was printed and circulated by you, and now knowing that it refers to the 30th, I want to ask you to what troops of the Federal Army you understand this passage to refer:

"So impetuous and well sustained were these onsets as to induce me to send to the commanding general for re-enforcements, but the timely and gallant advance of General Longstreet on the right relieved my troops from the pressure of overwhelming numbers.'

Now, who was the immediate commander of that portion of the Federal troops that made those "impetuous and well-sustained onsets" on the 30th?

This is the answer of McDowell:

A. I have no doubt in my own mind, at least have had no doubt, that those onsets referred to there were largely—I will not say exclusively, but were largely—due to the troops under the command of General Porter.

Mr. President, with less experience in conducting trials than the honorable Senator from Indiana, I say to him that looking upon that answer as I listened to it when he read it, I should say in place of testifying to the reluctance of the witness it testified to a generous disposition to give the benefit of all doubts to the accused man, and to say, "If I cannot say that this reference was exclusively to him, I am willing to say that largely it was due to him." What more, in the nature of the question, was it possible that any individual mortal man could say? How could McDowell know that exclusively it was due to the troops under Porter's command? How could he know anything more than he states by the word "largely" it is to be attributed and credited to him? If that be a stingy, reluctant, and grudging witness, I submit it is not to be inferred from the answer to which the honorable Senator has called attention.

Mr. McDONALD. We all know the distinguished skill and ability that the distinguished Senator from New York has in reference to the use of language, the intonation of voice, and all that; but if General McDowell had been desirous of occupying the position that the Senator from New York now desires to assign to him, of vindicating the character, the stained character, of Fitz-John Porter, let me ask why it required the most skillful and twisting cross-examination and the most direct interrogatory possible for a skillful attorney to make in order to twist this answer from him?

Mr. CONKLING. I deny the fact.

Mr. McDONALD. Well?

Mr. CONKLING. If my honorable friend will pardon me, the question was not even a leading one. It was the most simple and elemental sort of question; it was not even a leading question.

Mr. McDONALD. I will read the question:

Referring again to General Jackson's report, an extract from which was printed and circulated by you, and now knowing that it refers to the 30th, I want to ask you to what troops of the Federal Army you understand this passage to refer.

The passage is read, and the questioner does not stop by reading the passage, but he continues:

Now, who was the immediate commander of that portion of the Federal troops that made those "impetuous and well-sustained onsets" on the 30th?

Is that not a direct question?

Mr. CONKLING. Certainly, but not a leading question.

Mr. McDONALD. Is not that a direct question?

Mr. CONKLING. If my honorable friend will pardon me——

Mr. McDONALD. Is it not an attempt to harness up this witness, and not only to harness him up but to draw a direct response from him?

Mr. CONKLING. No, sir.

Mr. McDONALD. If it is not——

Mr. CONKLING. The honorable Senator will pardon me. If he had been cross-examining that witness and believed him to be an unwilling witness, he never would have let him come at it in that way, but he would have said to him, "Do you not know that Fitz-John Porter was stationed there?" "Yes." "Have you any doubt that he commanded the troops referred to?" That is the sort of question that the Senator would have put to an unwilling witness, being questions which he could not dodge, never an inquiry which would have committed to him at large the discretion to make any sort of answer that he pleased.

Mr. McDONALD. If it was true that Fitz-John Porter was the commander, how could he answer that somebody else commanded? The question brought him directly and squarely to the answer.

Mr. CONKLING. Not unless the truth——

Mr. McDONALD. I shall ask the Senator to answer me at some other time.

Mr. CONKLING. I beg the Senator's pardon.

Mr. McDONALD. I shall not get through with my speech if I permit constant interruptions.

Mr. CONKLING. I thought I might be assisting the Senator a little.

Mr. McDONALD. So the Senator did for a while, but after that it was not any assistance.

Mr. CONKLING. The Senator does not need any help, and I withdraw.

Mr. McDONALD. So that, whether reluctantly or otherwise, there is the witness, there is the statement of the gallantry of those troops, and there is the statement of the witness. Now, I want to call another witness who was not reluctant in testifying, but testified simply

to facts that passed within his view. This is Captain Randol's testimony, as descriptive of one part of the battle of the 30th:

I at once rode to General Porter, and he ordered me in person to take my battery and cross Young's Branch, pointing to a house on the left, to go over a hill in this direction, southeast across Young's Branch—southeast of Young's Branch.

I moved off at once, but I found all along the slope in the rear of this house our troops had fallen back and were gathering in there very rapidly. They were endeavoring to reorganize. I found great difficulty in passing through them. As I struck the pike I saw General Warren with the colors and fifteen or twenty men.

General Warren with his brigade! He had his colors and fifteen or twenty men:

He asked me where I was going. I said to this hill. I asked him to come with me. He says, "I can't; this is all I have left of my regiment." I don't think he had two dozen men with him. He halted for me until I passed him. I passed in front of him and attempted to go up this hill. This is about the position, because I recollect crossing near that spring.

Now, Mr. President, following again the report of the distinguished officers composing the board, they say, prefacing the recommendation that they sent to the President and that he has transmitted to us:

The reports of the 29th and those of the 30th of August have somehow been strangely confounded with each other. Even the confederate reports have, since the termination of the war, been similarly misconstrued. Those of the 30th have been misquoted as referring to the 29th, thus to prove that a furious battle was going on while Porter was comparatively inactive on the 29th. The fierce and gallant struggle of his own troops on the 30th has thus been used to sustain the original error under which he was condemned. General Porter was, in effect, condemned for not having taken any part in his own battle. Such was the error upon which General Porter was pronounced guilty of the most shameful crime known among soldiers. We believe not one among all the gallant soldiers on that bloody field was less deserving of such condemnation than he.

Mr. CONKLING. Will the Senator tolerate a question for information there?

Mr. McDONALD. Yes; if it does not lead to a discussion.

Mr. CONKLING. I only want to find out a fact. I understand the Senator to have stated that the report of Jackson was not published until after the promulgation of the findings of the court-martial. Is that true?

Mr. McDONALD. That is my understanding.

Mr. CONKLING. I also understand the law to make it an offense for any member of a court-martial to disclose the opinions of any member of it, even his own, unless he is called to testify as a witness. Now, I want the Senator, if he will, to inform me by what process these three gentlemen, whom he calls a board, arrived at the fact, first, that a piece of information, which did not see the light until after the court-martial had convened, considered, found, and been dissolved had probably any influence upon its decision; and, second, how that board arrived at the fact that one thing or another thing, whatever it may be, influenced the decision of sworn men, who never have and never could legally have revealed the foundation of their judgment; is it not just like some man sitting in court and undertaking to surmise what a jury thought in consequence of a verdict that they had rendered, except that in this case there is a still further difficulty growing out of the fact that the information upon which they say they have no doubt this court acted and were confused, never saw the light or existed until long after the court-martial thus alleged to have been misled had concluded its deliberations and dissolved.

Mr. McDONALD. I have no objection to answering that and many other questions; but the Senator will see that it is somewhat fatiguing after a man has spoken some two hours and a half to-day to have to set in and answer a series of questions that might necessarily carry him back over the whole of this subject again. The Senator will undoubtedly address himself to this question when he comes to discuss this case before the Senate, as I have no doubt he will, and discuss it ably. But it is a little too much like, after a horse has been running four miles on a four-mile heat, putting in a fresh horse at the last quarter to run him down.

Mr. CONKLING. I am sure my honorable friend will allow me to thank him for the very luminous and satisfactory answer that he has made to my question.

Mr. McDONALD. I will now proceed to answer the Senator's question. In the first place, the Senator did not exactly understand the reading of this extract.

Mr. CONKLING. Oh yes, I have read it a good many times.

Mr. McDONALD. It is said here that this misconception of what transpired on these two days was on our own side as well as on the other. I apprehend if the Senator will read with care the proceedings of the court-martial, and especially that review of the case before it made by the Judge-Advocate-General, he will see pretty clearly how that court-martial might have fallen into error in regard to this part of the transaction. How it got out is not a question for me to say. We have here in this Senate what is called an executive session. That is to be kept from the world. The honor of seventy-six men is involved in it; and yet we do not have an executive session that somebody does not report what occurs.

Mr. CONKLING. The honor of seventy-six men is not good for much, then, is it?

Mr. McDONALD. I do not know. I do not know how it gets out; I read it in the papers. They do not always get it right; of course you cannot expect them to be precise; but they get at something. These things leak out.

But now I come down to the very last thing that I expect to notice in this case. In the course of this discussion the dispatches that General Porter from time to time sent to General Burnside, who had been his immediate commander and with whom he felt still that he was in some degree connected, have been produced as evidence of a purpose on his part criminally to disobey the orders of his then superior. These letters undoubtedly do show that he entertained a very strong contempt for the military capacity and skill of his superior, and that may have been a very unmilitary act on his part; in fact it might be, perhaps, almost a military offense for him to entertain that feeling of contempt. It is not so in civil life. It may be necessary in order to maintain that strict discipline and subordination upon which the whole structure of the Army hinges, that every man in it should stifle his feelings, should not undertake to speak for himself upon such a question, should have respect where respect is not due, and should under no circumstances entertain a contempt for his superior. As I said, in civil life we are not so bound down. The poorest citizen of the United States may entertain a most sovereign contempt for the highest, and express it too, and it is done very frequently and very freely. This, however, may not be a right that extends itself to the Army and to men in military authority, but how these letters written by General Porter to General Burnside can be brought forward here as proving an *animus* on his part unfriendly to his country, ready to betray it, is more than I can understand. If he had selected a confidant on that subject, I am satisfied that the gentleman who then was regarded by him as his superior commander, and who now occupies an honored place in this Senate Chamber, is the very last man in the United States that he would have selected as his confidant. No, he was giving him his impressions; to use a medical term in a military sense, he was giving him a diagnosis of the condition of affairs as near as he could, in terms frequently not very complimentary to those who were above him. General Burnside was questioned by the court-martial on this subject. These letters were produced; here they are. I shall not take up the time of the Senate now in reading them; but this is General Burnside's testimony as to them:

Q. Will you state whether at the time those dispatches were received from General Porter, say between the 26th and the 29th of August, inclusive, any of them excited in your mind the apprehension that General Porter might not be inclined to do his whole duty as a subordinate under the command of General Pope?

A. I received no such impression as that from the dispatches. I saw in General Porter's dispatches exactly what I heard expressed by a large portion of the officers with whom I happened to be in communication at the time; a very great lack of confidence in the management of the campaign. It was not confined to General Porter. I saw in his dispatches, and I told General Porter himself so, what may have been indiscreet language, but nothing that led me for one moment to feel that he would not do his whole duty. So much was I impressed with that, that I consulted my chief of staff on two or three occasions in reference to forwarding those telegrams, and we both decided—I certainly decided without any impression that there was anything expressed in them more than a lack of confidence—to send them, because they were the only means of communication with General Pope that we had. The President of the United States came to the telegraph office every morning, at seven o'clock, to request me to send him any information that I might have; and I did not feel myself authorized to withhold anything from him that would tend to give him a correct impression of what was doing on that line, and I sent the telegrams to General Halleck and to General McClellan, a copy to each.

I think that disposes of that whole charge of disloyalty appearing from these letters, and that brings me to the conclusion of what I had intended to say, much later than I had hoped to reach it when I started out. It was not my purpose to have engaged the Senate for so long a time, but I have felt that here was a man who for over sixteen years had been suffering under an unjust sentence; that a ban had been placed on him by it; that he stood disfranchised before his fellow-men; that he was no longer a full citizen of the United States, no longer entitled to its emoluments, its offices, and its gifts; that he was here simply to do and suffer, and that his case had been brought to us—we had not gone to it. The President of the United States had appointed a board to make the inquiry, they had made their report to him, and he had sent it to us, saying that without our aid, without legislative authority, he could not redress the wrong.

Mr. CONKLING. Did the President say that without legislative aid he could not redress the wrong?

Mr. McDONALD. I would have been through in half a minute, if I had not been interrupted.

Mr. CONKLING. But I do not want the Senator to be through. I like to hear him.

Mr. McDONALD. Here is what the President said, to be exact as to terms:

I transmit herewith the "proceedings and report" of the board of officers, convened by Special Orders No. 78, headquarters of the Army, Washington, April 12, 1878, in the case of Fitz-John Porter. The report of the board was made in March last, but the official record of the proceedings did not reach me until the 3d instant.

I have given to this report such examination as satisfies me that I ought to lay the proceedings and conclusions of the board before Congress. I am without power in the absence of legislation to act upon the recommendations of the report further than submitting the same to Congress, the proceedings and conclusions of the board are transmitted for the information of Congress and such action as in your wisdom shall seem expedient and just.

That is what he says. That is the way it came to us; as I have already said, we did not seek it; it is here, and if it is right, let right be done. If it is wrong, then let us pass it by forever and say to this man that he has no remedy at the hands of any department of his country's Government.

Fitz-John Porter.

SPEECH OF HON. JOHN A. LOGAN,

OF ILLINOIS,

IN THE SENATE OF THE UNITED STATES,

March 2, 3, 4, *and* 5, 1880.

Tuesday, March 2, 1880.

The Senate, as in Committee of the Whole, having under consideration the bill (S. No. 1139) for the relief of Fitz-John Porter, late Major-General of the United States volunteers and colonel of the Army, the pending question being on the amendment proposed by Mr. RANDOLPH by way of substitute—

Mr. LOGAN said:

Mr. PRESIDENT: I ask for the reading of the bill as originally presented.

The VICE-PRESIDENT. The original bill will be reported.

Mr. LOGAN. The preamble need not be read. It is the same as the preamble of the amendment.

The Chief Clerk read as follows:

Be it enacted, &c., That the President be, and is hereby, authorized to annul and set aside the findings and sentence of said court-martial, approved by the President January 19, 1863, and published in general orders numbered 18, dated War Department, Adjutant-General's Office, Washington, January 22, 1863, if he shall deem it right and proper so to do.

SEC. 2. That in the event of the findings and sentence of the said court-martial being annulled and set aside, as provided for in the first section of this act, the President be, and is hereby, further authorized to restore the said Fitz-John Porter to the Army of the United States, with all the rank, rights, title, and privileges to which he would have been entitled if there had been no court-martial.

SEC. 3. The position of colonel, to which the said Fitz-John Porter shall be restored by the action of the President under section 2 of this act, shall be held by him as a supernumerary until a vacancy shall occur, when he shall be assigned to the regiment to which it pertains; but if the said Porter shall so elect, the President of the United States may retire him on the rank of colonel, that being the rank held by him while in service.

SEC. 4. That in the event of the finding and sentence of the said court-martial being annulled and set aside as provided for in the first section of this act, there shall be paid to the said Porter the pay and allowances of a major-general on the retired list of the Army from the 28th day of January, 1863, (date of last payment,) to the 31st day of August, 1866, both dates inclusive, and the pay and allowances of a colonel on the retired list of the Army, entitled to credit for twenty years' service from the 1st day of September, 1866, to the date of the passage of this act; and the entire sum or sums so estimated and determined shall be paid to the said Porter, by the Secretary of the Treasury, immediately upon the passage of this act; the sum required for the purpose being hereby appropriated from any moneys in the Treasury not otherwise appropriated.

Amendment proposed by Mr. RANDOLPH to the bill (S. No. 1139) for the relief of Fitz-John Porter, late major-general of the United States volunteers and colonel of the Army, namely:

Whereas a board of Army officers was convened by order of the President, by special orders numbered 78, dated "Headquarters of the Army, Washington, April 12, 1878," to examine, in connection with the record of the trial by court-martial of Major-General Porter, such new evidence relating to the merits of said case as was then on file in the War Department, together with such other evidence as might be presented to said board, and to report, with the reasons for their conclusion, what action, if any, in their opinion, justice required should be taken on said application by the President, and said board reported that they had made a very thorough examination of all the evidence presented, and bearing in any manner upon the merits of the case, in addition to that which was before the court-martial; and also reported with entire unanimity, and without doubt in their own minds, with the reasons for their conclusions, that, in their opinion, justice required such action as might be necessary to restore Major-General Fitz-John Porter to the positions of which that sentence deprived him, such restoration to take effect from the date of his dismissal from the service; and

Whereas the President did heretofore transmit the proceedings and conclusions of the board to Congress with a message declaring that, as he was without power in the absence of legislation to act upon the recommendation of the report further than by submitting the same to Congress, the said proceedings and conclusions were transmitted for the information of Congress, and for such action as in their wisdom should seem expedient and just: Therefore,

Be it enacted, &c., That the President is hereby authorized to nominate and, by and with the advice and consent of the Senate, to appoint Fitz-John Porter a colonel of infantry in the Army of the United States, his commission to bear date January —, 1863, with the pay and emoluments of that rank from that date until he shall be retired according to law or as hereinafter provided.

SEC. 2. That at any time after the granting of such commission it shall be lawful for the President to place said Fitz-John Porter upon the retired list of the Army, with the pay of a retired colonel of infantry.

Mr. LOGAN. Mr. President, the questions which are presented for the consideration of the Senate by this bill and the amendment are important, not only to be considered in reference to the individual who asks relief at the hands of Congress but as regards the establishment of a precedent. In order that we may properly understand this case and the questions presented therein, I give notice that in this discussion, if at any point any Senator desires to interrupt me for the purpose of obtaining information, or for the purpose of having light thrown upon the case, it will give me great pleasure to throw open the gates, so that we may have the matter fairly and honestly understood. I have no desire to appeal to prejudice or passion, but my only desire is that the case may be fairly understood by the Senate, that neither sympathy for the individual shall carry us away from our duty, nor shall prejudice against him warp our judgment in forming our conclusions.

I listened yesterday to the Senator from New Jersey [Mr. RANDOLPH] with great pleasure. I could find in his appeal a warm heart and a strong degree of friendship toward the man who asks Congress for its action, truly commendable, and I can join hands with him to-day in eulogizing the brave conduct of any man, no matter upon what field or at what time that conduct has been exhibited in the right manner. I would not for one moment detract from the honor to which Fitz-John Porter was entitled by reason of his gallant demeanor in the war with Mexico, or on account of his soldierly conduct in the recent war, at any time where that conduct was proper. I am willing to give to him the meed of praise which he deserves on all occasions where he did well for his country. No man will say that I shall attempt in this argument to detract from him or his reputation in any improper manner. There is nothing, in my judgment, of which a man should be more justly proud than that character he has attained by vindicating and upholding the flag of his country. No man should be willing to detract from that reputation improperly, nor shall I. The faithful soldier or citizen who stands in time of his country's trial by his country and by its flag, true to the end, will never find me seeking to detract from his well-won reputation. But, Mr. President, unfortunately it sometimes happens in the career of men that there is a stopping point at which their reputation does not shine out so brightly as it did in former years.

My friend, the Senator from New Jersey, yesterday alluded to Benedict Arnold as being by the side of this man in accusation if this man were guilty. I do not bring forward the name of Benedict Arnold for the purpose of making invidious comparisons; but I say, in response to what was said by the Senator, that at one time during the revolutionary war the star of Benedict Arnold shone as brightly in the galaxy of good commanders as the planet of any other general. Sir, at the battle of Saratoga, scaling the breastworks, leading the forlorn hope, and receiving almost a mortal wound, General Benedict Arnold proved himself as gallant a soldier as ever drew a blade in the service of any country. So, sir, up to the time that Benedict Arnold failed in allegiance to his country, he enjoyed as eminent a reputation as the historian ever gave to any American soldier. So when my friend says that former reputation should be taken into account, I agree with him. Former reputation is properly received in the trial of all criminals where there is a doubt; then a man's good reputation shall be cast in the scale in his favor, and so I am willing to treat this case or any other case. But former reputation has never been and never can be a defense for the violation of law. Good reputation is no defense or excuse for violated law or violated justice. If General Porter be not guilty of the offenses charged, then his reputation should not be tarnished; but if he were guilty of the offenses of which he stood accused, no reputation, however bright it may have been, can wipe out the stain of violated law.

Mr. President, I wish to consider this proposition at this time from a legal stand-point. I state the law to be, first, that Congress has no power under the Constitution to set aside the verdict of a court-martial, when it has been once approved by the President of the United States, where that court-martial was held in conformity with the law. I state, secondly, that the only power in existence, under the Constitution, to restore Fitz-John Porter to the Army is not by the action of Congress, but by the President of the United States first pardoning him. Part of the sentence now resting upon him is that he shall never hold office under the Government. That being to-day a part of the sentence under the law, prohibiting him from holding any office of profit or trust under the Government, the President must first pardon him, and when pardoned then Congress may authorize the President to do what? To appoint him an officer in the Army, but not to relate back and pay him while he was not such officer. I state this to be the law, and I will demonstrate it so clearly to the Senate before I conclude my argument that no person may gainsay it unless he closes his eyes and avows his determination to remain blind to all law and all facts.

Before I proceed I will call the attention of the Senator from New Jersey to one statement he made yesterday. The Senate will remember that the Senator took exception to the report I made in this case because I stated that Congress had no power to open the judgment of this court-martial that the Supreme Court had so adjudged, (and so it has;) that the President has no power to open this judgment of the court-martial, but that he might pardon; and that this board of review, so called, performed no office whatever except that of procuring testimony to present to the President upon which his mind might be convinced that Fitz-John Porter was or was not entitled to a pardon. That is my position, and was the position taken by me in the report submitted. The Senator quoted yesterday from Daniel Lord, an eminent lawyer of New York, to prove that the President had power to review and set aside this sentence, and that Congress had also this power. Now I am willing to stake this whole case on the very letter of Daniel Lord that the Senator quoted yesterday. Let me read it:

Major-General Porter, Washington City:

DEAR SIR: As your sentence is still being executed it is as much within the reach of the President as any case of pardon from after-discovered proof of innocence, and if the President can pardon, and the lesser includes the greater, he may refer it to a board of officers to find out the facts, and the truth, and the justice, on whose report he may act.

Act how? On which report he may pardon—

This must necessarily be so, or a pardon from after-proof never could be granted except from mere executive reinstructed clemency.

Your friend and servant,

DANIEL LORD.

The Senator selects very strange law to apply to his side of the case.

Daniel Lord takes the same ground that I do now; but the Senator read it as supporting his view of the case. He says that a board may be authorized to ascertain facts. Why? That upon these facts the President may act. In what respect? In reference only to a pardon, because without other facts than the court-martial presented to him before, he could merely pardon under his own exercise of clemency without reference to newly discovered evidence.

Then the Senator called the attention of the Senate to several cases, and I have them here, and I wish to brush away some of the cobwebs that were left, or sought to be left, over this case yesterday, before I proceed to the argument I intend to make on the legal propositions. The Senator said there was precedent for this. I assert here in the presence of this intelligent Senate that he may search the records from the beginning of this Government down to the present day and he can find no precedent for authorizing a man to be appointed and receive back, present, or future pay as an officer of the Army while he is suffering the sentence of a court-martial which has deprived him of the right to hold office, except he be first pardoned.

He cited several cases—the cases of Armes, of Wyse, of Stanhope, of Surgeon-General Hammond, and so on. What are those cases? There was not a single one of them that had in it the fact of a dismissal by the judgment of a court-martial with a part of the sentence that the party should never after hold office under the Government, except in the Hammond case, which fact was studiously kept concealed. But under the law that we have in our statute-books to-day it is provided that no person shall be restored to the Army who has been dismissed by the sentence of a court-martial, except by nomination of the President and confirmation by the Senate. That is the law now. Where a court-martial merely dismisses a person from the Army, if that person by age be qualified to re-enter the Army, the President may renominate him and he may be confirmed by the Senate. But where he is deprived of the right to hold office, there is a part of the sentence requiring executive pardon, and Congress has nothing to do with it. If it attempts otherwise, it exercises the pardoning power which belongs to the President under the Constitution, and which is no part of the prerogatives of Congress.

So the cases are not alike by any means. But, sir, let us examine and see upon what basis a court-martial stands in this country. The Senator from New Jersey says he would be very sorry if there were no power to set aside a court-martial; he would be very sorry if the law is as I have stated it, that the decision of a court-martial stands on the same basis as does the decision of the Supreme Court. I reassert that proposition and I will maintain it here. Why, sir, let us examine and see the reason for it. Our Government is divided into three departments, and its powers are vested in the legislative, executive, and judicial branches, each separate and distinct from the other, with the powers and duties of each clearly defined by the Constitution, by which it is intended that each shall be kept within its appropriate sphere. Each derives its power from the same source—the people—and when either shall attempt the exercise of any of the powers or functions of the other, it steps upon forbidden ground and thereby effects a revolution, not in the forms of law, but in its action.

That being the case, each department of the Government being required to retain and exercise its powers within its own sphere. In article 3, section 1, of the Constitution we find:

> The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

Many persons—and there is the error into which I presume the Senator from New Jersey has fallen—come to the conclusion that because a court-martial is not a court or repository of powers mentioned in the language of the Constitution which provides for our judicial courts, therefore it is not a court of competent and proper jurisdiction. Out of the provision of the Constitution authorizing Congress to "make all needful rules and regulations respecting the territory or other property belonging to the United States" grow what are known as territorial courts. A court in a Territory, consisting of judges appointed by the President and confirmed by the Senate for a term of years, having jurisdiction to try causes, is not such a court as is contemplated by the third article, first section, of the Constitution, which provides for our judiciary; but what kind of a court is it? It is a court growing out of the necessity under that property provision of the Constitution, and has so been held by the Supreme Court of the United States, and is called a legislative court.

So, too, in reference to courts-martial. Courts-martial do not originally grow out of the provision of the Constitution, (article 3, section 1,) but grow out of the provision "to make rules and regulations for the land and naval forces;" but they are courts established by our laws which grow out of those provisions of the Constitution like those which support the territorial courts, from the necessity of the case. The necessity existing, Congress then provides for the organization of such a court, how it may be organized, what authority it shall have, and what it may determine, and therefore it becomes a legislative court under the Constitution. Being a legislative court it is recognized by the Supreme Court of the United States, and whenever it decides a case within its jurisdiction, within the scope of its authority and power within the law, that case when decided and approved by the President is a finality, and no court or legislature or President has the power to annul it, there being no appeal provided by law. This is the law as I understand it.

The laws of peace and war bear a relative and just relation to each other, as in time of peace the law is the paramount authority which preserves the order and well-being of society, so in time of war its laws are the paramount authority which preserves the order of the nation and protects and perpetuates its existence. There is a common law of war as there is a common law of peace; both come from real necessities and from the same source.

Our common law is the result of the experience, necessities, customs, and decisions of the English speaking races. Martial law, the common law of war, is the result of the experience, necessities, customs, and decisions of all civilized nations. The occasions for the use of martial law are less frequent and more exceptional than the other, but the sources are more varied and more universal; for peace is the natural and customary state; war is unusual and frequently unexpected. When a state of war exists martial law comes at once into force, and martial law has its own tribunal as well as its own code.

Ordinary tribunals are insufficient to meet the emergency, and therefore the proper ones are at once constituted, and thus martial law in our country when war exists, being part of the law of nations, is held by some writers to be beyond the Constitution, by others, more advisedly, to become part of the Constitution. It is not an uncertain exercise of arbitrary authority, but is well defined and thoroughly fitted for its duties, which are exercised through competent tribunals of final jurisdiction. Among these tribunals are courts-martial. What we call military law in this country is mainly statutory and consists of the rules and regulations for the government of the Army, the articles of war, and the practice, decisions of courts, and opinions of judge-advocates-general. But it receives its principles from martial law, adopts its tribunals, and, so far as it goes, confirms and establishes, by the approval of Congress, the rules, courts, and methods designed and adopted by usage in martial law. And thus courts-martial, having their origin in the necessities of war and as exponents of the jurisprudence of that state of affairs, are recognized and determined as courts of special and final jurisdiction by our statutory enactments. The judgment and finding of a court-martial, properly constituted, on matters within its clear jurisdiction, when once approved by competent authority is absolutely final, and there exists no authority which can review or annul it.

I state that as the law sustained by every court that has ever passed on courts-martial in this country. It is as full of binding efficacy and as thoroughly entitled to respect as the judgment of the Supreme Court, within its proper jurisdiction, for it is the final judgment of the highest court known to the system of law which it administers. No future Commander-in-Chief can annul the act of his predecessor in confirming such finding; no act of Congress can declare void the proceeding and sentence, especially when the condition of war has ceased and the condition of peace has returned. When the military tribunal has perished with the state of war it is incompetent for any authority, or all authorities combined, to re-examine with a view to annulling the former sentence. The President has no power to revoke and annul a sentence—treat it as if it had never been—and restore to rank, place, and pay, to date from the time of the loss of each of these; nor can Congress confer such a power on the President, either by direct law commanding him, or by indirection authorizing him.

The first is direct contravention of his constitutional freedom of action; the second is to reverse by law the final decision of a competent court, and to give rank and pay where there has been no service to earn either the rank or the pay. The one would be usurpation of the constitutional rights of the Executive, the other equal usurpation of a recognized judiciary.

For the purpose of sustaining myself as I go along I will read in reference to legislative courts from 1 Peters the case, which will be found on page 511, of The American Insurance Company and The Ocean Insurance Company, (of New York,) appellants, *vs.* Three hundred and fifty-six bales of cotton, David Canter claimant and appellee. The summing up of the court on page 546 is as follows:

> We have only to pursue this subject one step further to perceive that this provision of the Constitution does not apply to it—

That is, the provision in reference to our judiciary—

> The next sentence declares that "the judges both of the Supreme and inferior courts shall hold their offices during good behavior." The judges of the superior courts of Florida hold their offices for four years. These courts, then, are not constitutional courts, in which the judicial power conferred by the Constitution on the General Government can be deposited. They are incapable of receiving it. They are legislative courts, created in virtue of the general right of sovereignty which exists in the Government, or in virtue of that clause which enables Congress to make all needful rules and regulations respecting the territory belonging to the United States. The jurisdiction with which they are invested is not a part of that judicial power which is defined in the third article of the Constitution, but is conferred by Congress in the execution of those general powers which that body possesses over the Territories of the United States.

So, just as I stated the law to be in reference to territorial courts, those courts become legislative courts under that provision of the Constitution which authorizes Congress to make rules and regulations for the territory and other property; so out of that same necessity under the provision to make rules for the government of the Army grows the law which authorizes the organization of a court-martial and

gives it jurisdiction, and makes it a finality so far as its decision is concerned by not providing for an appeal.

Then, if I am correct, the question is, Was the court which tried Fitz-John Porter a lawfully constituted court? It was authorized by the statutes of the United States; it was in accordance with the law. It convened in accordance with law. The order convening it followed the statute. It was convened by proper authority; it had authority to swear witnesses, to issue process, to bring them before it, to bring the accused before it and require him to answer, which he did. It was a court, when organized, to which he made no objection whatever. It was organized not as the Senator from New Jersey stated yesterday, of men prejudiced and biased on one side or the other, but organized of as good men as could then be found, or as can to-day be found within the confines of this great country. No man can stand on this floor and charge this court with being a court made up of inferior men; with being a court made up for the purpose of convicting, as was insinuated yesterday; nor can the Senator charge that this court was brought together by order of a person who was the accuser of Fitz-John Porter, for that is not true. This court was not organized by General Pope. It was not organized by the enemies of Fitz-John Porter. This court was organized by reason of information coming to the President of the United States upon which he thought General Porter ought to be tried, and on that information he was arraigned. It was no such court as the Senator insinuated.

Now, in order that this case may be properly understood—for I do not intend, if my strength will last me, that the case shall be misunderstood, as I believe I do understand something about it, and we will have it understood from the beginning to the end before we are through—I will ask that the Secretary read the orders organizing this court, the names of the court, their findings, down to the approval by the President of the United States, Abraham Lincoln, and the order dissolving the court.

The Secretary read as follows:

Proceedings of a general court-martial which convened at the city of Washington, in the District of Columbia, by virtue of the following special order:

[Special Orders No. 352.]

HEADQUARTERS OF THE ARMY,
ADJUTANT-GENERAL'S OFFICE,
Washington, November 25, 1862.

[Extract.]

III. The military commission ordered to assemble on the 20th instant by Special Orders No. 350, November 17, 1862, from headquarters of the Army, is hereby dissolved, and a general court-martial is hereby appointed, to meet in this city on the 27th instant, or as soon thereafter as practicable, for the trial of Major-General Fitz-John Porter, United States volunteers.

Detail for the court.

Major-General D. Hunter, United States volunteers.
Major-General E. A. Hitchcock, United States volunteers.
Brigadier-General Rufus King, United States volunteers.
Brigadier-General B. M. Prentiss, United States volunteers.
Brigadier-General James B. Ricketts, United States volunteers.
Brigadier-General Silas Casey, United States volunteers.
Brigadier-General James A. Garfield, United States volunteers.
Brigadier-General N. Buford, United States volunteers.
Brigadier-General J. P. Slough, in place of Morris.
Colonel J. Holt, Judge-Advocate-General, United States Army, judge-advocate and recorder of the court.

No other officers than these named can be assembled without manifest injury to the service.

By command of Major-General Halleck.

E. D. TOWNSEND,
Assistant Adjutant-General.

WASHINGTON, D. C., *January* 10, 1863.

The court met pursuant to adjournment. Present: Major-General D. Hunter, United States volunteers; Major-General E. A. Hitchcock, United States volunteers; Brigadier-General Rufus King, United States volunteers; Brigadier-General B. M. Prentiss, United States volunteers; Brigadier-General James B. Ricketts, United States volunteers; Brigadier-General Silas Casey, United States volunteers; Brigadier-General James A. Garfield, United States volunteers; Brigadier-General N. B. Buford, United States volunteers; Brigadier-General J. P. Slough, United States volunteers; and Colonel Joseph Holt, Judge-Advocate-General.

The accused, with his counsel, was also present.

The minutes of the last session were then read and approved.

The accused then presented a written address (marked "Defense of Accused," and appended hereto,) which was read by his counsel in his defense.

The judge-advocate then submitted the case to the court, with the following remarks:

"I will simply remark that this case has been thoroughly and most patiently investigated. A continuous session of some forty-five days sufficiently attests this. Indeed, the greater part of the evidence touching the more important and the more severely contested points has, by re-examination and cross-examination, been again and again impressed upon your minds, so that I now feel entirely satisfied that it is completely comprehended and appreciated by you in all its bearings.

"Whatever, therefore, of inaccuracies of interpretation of testimony, and whatever of illogical deduction from it may have found a place in the very elaborate defense of the accused, which has been read, may be safely left for their correction to the recollection and the judgment of the court.

"To prepare a written reply in keeping with the gravity of this proceeding to the argument of the accused would require several days, thus involving a delay which it is most important to avoid. From this consideration, and from the urgent demand which exists for the services of members of this court in other and more active fields of duty, it is felt that the public interests will be best subserved by asking, as I now do, that you will proceed at once to deliberate upon and determine the issues which are before you."

The court was thereupon cleared for deliberation, and, having maturely considered the evidence adduced, find the accused, Major-General Fitz-John Porter, of United States volunteers, as follows:

Of the first specification of first charge, guilty.
Of the second specification of first charge, guilty.
Of the third specification of first charge, guilty.
Of the fourth specification of first charge, not guilty.
Of the fifth specification of first charge, not guilty.
Of the first charge, guilty.
Of the first specification of second charge, guilty, except so much of the specification as implies that he, the accused, "did retreat from advancing forces of the enemy" *after* the receipt of the order set forth in said specification.
Of the second specification of second charge, guilty.
Of the third specification of second charge, guilty, except the words "to the Manassas Junction."
Of the second charge, guilty.

And the court do therefore sentence him, Major-General Fitz-John Porter, of the United States volunteers, to be cashiered, and to be forever disqualified from holding any office of trust or profit under the Government of the United States.

D. HUNTER,
Major-General, President.
J. HOLT,
Judge-Advocate.

There being no further business before them, the court adjourned *sine die.*

D. HUNTER,
Major-General, President.
J. HOLT,
Judge-Advocate.

HEADQUARTERS OF THE ARMY,
Washington, January 13, 1863.

In compliance with the sixty-fifth article of war, these whole proceedings are transmitted to the Secretary of War, to be laid before the President of the United States.

H. W. HALLECK,
General-in-Chief.

The following are the orders of the President: "The foregoing proceedings, findings, and sentence in the foregoing case of Major-General Fitz-John Porter are approved and confirmed; and it is ordered that the said Fitz-John Porter be, and hereby is, cashiered and dismissed from the service of the United States as a major-general of volunteers, and as colonel and brevet brigadier-general in the regular service of the United States, and forever disqualified from holding any office of trust or profit under the Government of the United States.

"ABRAHAM LINCOLN.

"JANUARY 21, 1863."

III. The general court-martial, of which Major-General Hunter is president, is hereby dissolved.

By order of the Secretary of War.

L. THOMAS,
Adjutant-General.

Official:

———,
Assistant Adjutant-General.

Mr. LOGAN. Now, Mr. President, it will be seen that this general court-martial, if I am correct as to its being a court authorized by law, having competent authority to try the accused, he having been tried without objection to the court, without any error in the finding, without any error so far as carrying out the provisions of the law is concerned, no exception can be taken so far as the court itself is concerned. It was composed of nine general officers, nine officers of high character and high repute, and I will ask the Secretary to read—because it will tire me less—extracts in my report in reference to the character of these officers, the brief following what he has just read.

The Secretary read as follows:

These nine general officers were:

1. Major-General David Hunter, United States volunteers, of the District of Columbia. Graduated at United States Military Academy, 1822; colonel and brevet major-general United States Army; now on retired list.

2. Major-General Ethan Allen Hitchcock, of Vermont. Graduated United States Military Academy, 1817; now deceased.

3. Brigadier-General Rufus King, United States volunteers, of New York. Graduated United States Military Academy, 1833; subsequently resident minister to Rome; now deceased.

4. Brigadier-General Benjamin Mayberry Prentiss, United States volunteers, of Virginia; subsequently appointed major-general of volunteers, to date November 29, 1862. [Eulogized by Hon. Reverdy Johnson in 1863 (printed pamphlet, page 11) for "skillful defense of Helena, Arkansas."]

5. Brigadier-General James Brewerton Ricketts, United States volunteers, of New York. Graduated at United States Military Academy 1839; brevet major-general, United States Army; now major-general United States Army; on retired list.

6. Brigadier-General Silas Casey, United States volunteers, of Rhode Island. Graduated at United States Military Academy 1826; subsequently appointed major-general of United States volunteers, to date May 31, 1862, in acknowledgment of service in battle of "Fair Oaks;" brevet major-general United States Army, and now on retired list.

7. Brigadier-General James Abram Garfield, United States volunteers, of Ohio, formerly chief of staff to Major-General Rosecrans; afterward major-general United States volunteers for gallant and meritorious services in the battle of Chickamauga. Representative in Congress from Ohio since 1862, and recently elected to the United States Senate.

8. Brigadier-General Napoleon B. Buford, United States volunteers, of Kentucky. Graduated at United States Military Academy 1827; brevet major-general United States volunteers; subsequently special United States commissioner for Indian affairs.

9. Brigadier-General John P. Slough, United States volunteers; afterward chief-justice Territory of New Mexico; now deceased.

The Judge-Advocate was Hon. Joseph Holt, Judge-Advocate-General, who had been Secretary of War under President Buchanan, and is now a brigadier-general on the retired list of the Army.

These comprised the court, the judicial body, which convicted the accused of grave crimes.

Mr. LOGAN. Taking into consideration the composition of this court-martial, and the fact that Fitz-John Porter was defended by one of our ablest lawyers, Reverdy Johnson, and the character of the men who tried him, I must say that gentlemen of more exalted reputation in this country never before were called together as a court or tribunal for the trial of any man, be he high or low, for the violation of either civil or military law. And when we come before this body to impeach the judgment and verdict of a court of that character for the purpose of reinstating a man in the Army, and con-

tributing to him a sum of about $60,000, more or less, for services never performed, it seems to me at least it should call for attention and calm consideration at the hands of a body so eminent as the Senate of the United States.

You are asked to overturn the judgment of nine distinguished officers who were sworn to hear, try, and determine the case, and to do justice therein, with all the evidence before them. And to overturn it! Why? Forsooth, because three gentlemen no more skilled in war and certainly not more versed in the law have, sixteen years afterward, from enemies' evidence, from testimony that has been shadowed and shaded and mildewed by time, say that they believe injustice has been done. An unsworn board of three officers, without authority in law, without any jurisdiction of the case, without the right to try or determine any fact whatever, without the power to send for or swear a witness under the laws of the country, make a certain report, and Congress is asked thereupon to overturn the previous decision upon this statement of an empty and inchoate board of this kind. And our friend, the Senator from New Jersey, appeals to us in behalf of these three honorable gentlemen. I do not dispute their being honorable men; for all men are honorable until the contrary be shown. But their judgments are no better than ours—no better than the judgments of any other men.

But on the report of this board the Senator from New Jersey and those who agree with him on the Military Committee propose to the Congress of the United States a bill. I have had that bill read because I want the record in this case not to be lying around loose in scraps, but I wish the whole to appear in the CONGRESSIONAL RECORD, where it will live as long as this country has a history. I now ask the Secretary to read the order convening the board, together with its conclusions.

The Secretary read as follows:

[Special Orders No. 78.]

HEADQUARTERS OF THE ARMY,
ADJUTANT-GENERAL'S OFFICE,
Washington, April 12, 1878.

The following order has been received from the War Department.

An appeal has been made to the President, as follows:

"NEW YORK, *March* 9, 1878.

"To his Excellency RUTHERFORD B. HAYES,
"*President of the United States:*

"SIR: I most respectfully, but most urgently, renew my oft-repeated appeal to have you review my case. I ask it as a matter of long-delayed justice to myself. I renew it upon the ground heretofore stated, that public justice cannot be satisfied so long as my appeal remains unheard. My sentence is a *continuing sentence*, and made to follow my daily life. For this reason, if for no other, my case is ever within the reach of executive as well as legislative interference.

"I beg to present copies of papers heretofore presented, bearing upon my case, and trust that you will deem it a proper one for your prompt and favorable consideration.

"If I do not make it plain that I have been wronged, I alone am the sufferer. If I do make it plain that great injustice has been done me, then I am sure that you, and all others who love truth and justice, will be glad that the opportunity for my vindication has not been denied.

"Very respectfully, yours,

"FITZ-JOHN PORTER."

In order that the President may be fully informed of the facts of the case of Fitz-John Porter, late major-general of volunteers, and be enabled to act advisedly upon his application for relief in said case, a board is hereby convened, by order of the President, to examine, in connection with the record of the trial by court-martial of Major-General Porter, such new evidence relating to the merits of said case as is now on file in the War Department, together with such other evidence as may be presented to said board, and to report, with the reasons for their conclusion, what action, if any, in their opinion, justice requires should be taken on said application by the President.

Detail for the board.

Major-General J. M. Schofield.
Brigadier General A. H. Terry.
Colonel G. W. Getty, Third Artillery.
Major Asa B. Gardner, judge-advocate, recorder.

The board will convene at West Point, New York, on the 20th day of June, 1878, and is authorized to adjourn from time to time, and to sit in such place as may be deemed expedient.

By command of General Sherman.

E. D. TOWNSEND,
Adjutant-General.

Official:
L. H. PELOUZE,
Assistant Adjutant-General.

After this board had been in session for some two months they come to the following conclusions:

"The evidence of bad animus in Porter's case ceases to be material in view of the evidence of his soldierly and faithful conduct. *But it is our duty to say that the indiscreet and unkind terms in which General Porter expressed his distrust of the capacity of his superior commander cannot be defended.* And to that indiscretion was due, in very great measure, the misinterpretation of both his motives and his conduct and his consequent condemnation.

"Having thus given the reasons for our conclusions, we have the honor to report, in accordance with the President's order, that, in our opinion, justice requires at his hands such action as may be necessary to annul and set aside the findings and sentence of the court-martial in the case of Major-General Fitz-John Porter, and to restore him to the positions of which that sentence deprived him—such restoration to take effect from the date of his dismissal from the service.

"Very respectfully, your obedient servants,

"J. M. SCHOFIELD,
"*Major-General United States Army.*
"ALFRED H TERRY,
"*Brigadier-General United States Army.*
"GEO. W. GETTY,
"*Brevet Major-General United States Army, Colonel Third Artillery.*"

Mr. LOGAN. Mr. President, it is very clear, from an examination of the order issued by the President convening the board, that it was not convened for the purposes for which its members conclude they were convened. The President says:

In order that the President may be fully informed of the facts of the case of Fitz-John Porter, late major-general of volunteers, and be enabled to act advisedly upon his application for relief in said case, a board is hereby convened, by order of the President, to examine, in connection with the record of the trial by court-martial of Major-General Porter, such new evidence relating to the merits of said case as is now on file in the War Department, together with such other evidence as may be presented to said board, and to report, with the reasons for their conclusion, what action, if any, in their opinion, justice requires should be taken on said application by the President.

What action could the President take? No action could be taken by the President, because there was no law authorizing this board to be convened. There was no law authorizing the President to take any action except the action to which he was entitled by virtue of his power under the Constitution, as the Executive of this nation; that is, to exercise the pardoning power. Hence, there can be no inference drawn from the order that the board was to examine and reverse the proceedings of the court-martial and recommend that its proceedings should be annulled or set aside. The board was to bring such testimony to the notice of the President as it might find in the War Department, or such as might come to its attention to show the President the justice of what? Of his action, if he should undertake to exercise the pardoning power! There could be no other inference drawn from the order. The board proceeded to examine witnesses for two or three months, and then resolved in its report that the President should do what? That he should set aside the proceedings of a court-martial that had been approved by a President sixteen years before! Yet my friend, the Senator from New Jersey, said that some of the members of that board were good lawyers. I hope, if any of them were good lawyers, that charity at least will lead us to believe that in the exercise of their duty as military men they had forgotten the law they once knew; for if there be a man so ignorant of the law in this country as to recommend the President to set aside and annul the action of a court-martial, sixteen years having passed, where the sentence had been approved by a former President, I pity the ignorance of that lawyer. Yet the board asked the President as a legal proposition to do this.

Let me ask, in what capacity was this board to act? and I will give what I have written in reference to this point as concisely as possible.

In what capacity was this board to act, under the order convening it? It seems that by that order they were merely to report such evidence as was on file in the War Department, and such other as might be presented to the President, so that he might be informed as to what action he should take in the premises.

The board, however, as I say, recommend that the President shall annul the findings and sentence of the court-martial. No commission created by the President has power to review for any purpose except for the purposes I have stated. They do not and cannot act as a court in any sense whatever. Such a commission is simply an association of gentlemen convened for the purpose of collating the facts to be presented to the President, not for the purpose of making reports and suggesting to the President to do an unlawful act, but merely for the purpose of performing a labor, to take it off his hands, to collect evidence in reference to a certain point upon which he desires to be advised. I do not desire to criticise that board severely, but I do say that its action in the premises is unwarranted. In the case of Hammond a law was enacted authorizing the appointment of a board, and the board was appointed, but none was ever authorized in the case of Fitz-John Porter. It was an *ex parte* proceeding, without authority in law, and without precedent.

Yesterday my friend the Senator from New Jersey criticised remarks in the report that I had made. He referred to that portion of the report where I said that the conscience of Congress may be prepared for sundry raids on the Treasury in favor of officers who had been dismissed from the service. I said this, and I do not take one word of it back. This was my language:

Possibly it may be said by some that by such means the consciences of Congress may be prepared for sundry raids upon the Treasury in favor of officers who have been duly dismissed from the service of the United States.

And I said more than that, to which the Senator did not allude, but I will read it:

When by lapse of time, death of witnesses, failure of memory, &c., a case may be made on *ex parte* testimony by which they may be restored to rank and pay for services never rendered.

I said that; I repeat it to-day, and I am justified in repeating it upon the ground that there is no law, precedent, power, or authority for any such proceeding as this. Hence, if the President has not the power to annul a court-martial which has acted in accordance with authority, and if Congress shall restore a dismissed officer to the Army, the act to date from the time he was dismissed, with pay and allowances back for sixteen years, during which he performed and could perform no service, then I say it is a walking-plank upon which Congress steps to an easy conscience, by which it may reward men by appropriating $50,000 or $60,000 to them because of a feeling or sentiment that there has been some laceration of their character.

I said more than that. If the Senator will give me his ear I will tell him more that I said. I said:

In this minority report we will not undertake to examine as to incorrect statements upon which the unwarranted conclusions of the board of officers are based who have attempted to review and pass judgment upon the proceedings of the court-martial which tried General Porter. Neither the legal status of the board nor the facts in the case would warrant such a course. Their report—

Mark my language, which I repeat here to-day—

Their report is an assumption of superior information and sound judgment on their part, and an assertion of erroneous opinions on the part of the court-martial. These assumptions are not borne out or justified by the records of the case. How could this board know what facts brought the minds of the court-martial to its conclusions? How could the board tell what evidence had weight and what did not? The record did not give such information, and how could they obtain it? They assume that after the lapse of a short time witnesses become confused, but that after a lapse of sixteen years the confusion ceases and that then their minds become clear.

Further than that, I said:

The whole appearance of this case indicates that it was made up by those who desired to introduce confusion and misconception into it; who knew that the board which was to hear it was composed of gentlemen who were not lawyers, and whose minds consequently, for lack of legal training, would be the more easily satisfied.

I repeat that to-day in reference to this board. I repeat that the whole report of the board shows from beginning to end, if you will compare it with the arguments of the counsel on the part of Fitz-John Porter, that it adopts almost the very language of his counsel. I do say that it was a misconception on its part; I do say that confusion was thrown into the case; I do say that it was deceived in reference to the facts and as to its authority in the premises, and made a report upon pretended facts that did not justify the board to come to the conclusion it did.

On the point which I have discussed in reference to the legal proposition which I asserted in the outset, I desire to call attention to a fact to which I referred in the early part of my remarks. The Senator from New Jersey spoke of precedents, and cited the Hammond case. I am willing to concede for the sake of argument that the Hammond case was precisely such a case as the present, in this: that the decision of the court-martial was the same. I am willing to admit that, for the purpose of giving the Senator all the advantage that he can derive from that precedent. That act was passed through the Senate, I believe, by a vote of fifty-five to one. Take it all for granted, and it only proves that the Senate of the United States, like any other body which has not examined a question, may pass by a unanimous vote that which is palpably in violation of law.

Suppose that the Hammond case should be entirely "on all fours," as lawyers commonly term it when they find a case in point and accord with that under discussion. Because the act appears to have been called up without examination and to have passed Congress without reading the report or understanding the case before it, is that any reason why another act should pass when it is squarely in the face of the law?

I have previously said, and I repeat it now, let the Fitz-John Porter case be a case understood by the Congress of the United States, and then let action be had after full understanding and the law be that which shall determine us hereafter.

Let me see if I am correct. I asserted first that Congress had no power to set aside the action of a court-martial; I asserted, second, that the President had no power to do it; and, third, that the decision of a court-martial is as final as a decision of any other court of the United States, and could no more be interfered with than a decision of the Supreme Court of the United States. I assert these three propositions. I do not wish to weary the Senate, but I have here decision after decision, and in order that Senators may understand the side of the case that I advocate I want their attention while I refer to the law.

In sixth volume of Opinions of Attorneys-General, pages 513 and 514, you will find the case of Howe, who had been convicted by a court-martial and the sentence approved by the President. The Attorney-General cites quite a number of authorities, and I ask your attention now to what is said, to see whether it be "on all fours" with this case:

The decision of the court-martial upon the case of Captain Howe was within its proper jurisdiction and rightful cognizance; and even if the point had been erroneously decided it would have been an erroneous decision only, not a void judgment. The error would have been subject to be reviewed, and corrected only by the commanding general.

As the general in command affirmed the sentence, and it has been carried into execution, there is now no longer any power competent to review and reverse that sentence. This point is considered in my opinion of the 13th of March, 1854, in the case of Lieutenant Devlin, (*ante*, p. 369.) That is in accordance with the opinions of Attorney-General Wirt, (October 1, 1823, 1 vol. Opinions, ed. 1851, p. 486;) Legaré, (3d April, 1843, *ante*, vol. 4, p. 170;) Nelson, (6th Nov., 1843, same vol., p. 274;) and Toucey, (Sept. 8, 1848, vol. 5, p. 28.)

A decision made and *executed under one President* is not liable to be reviewed and annulled under the administration of another.

Mark the language. I think that is pretty well "on all fours" with this case. The Attorney-General proceeds:

Mr. Wirt said, (in the opinion before cited,) "If a decision made, in regard to these gentlemen, eight years ago, during the Presidency of Mr. Monroe, is open to review and reversal, I do not see upon what principle of discrimination we can refuse to review and reverse a decision made during the Presidency of Mr. Washington."

Nor do I see upon what principle we could refuse to do so. The opinion of Attorney-General Toucey, and the opinions of Attorneys-General after Attorneys-General are here cited, to the number of eight or ten, reviewing cases of courts-martial, and they each and every one decide that there is no power to either review, annul, or reverse the decision after it has once been approved.

Mr. JONES, of Florida. No power whatever?

Mr. LOGAN. They say no power can review it or annul it, and then finally that the President of one administration following another has no power to review the acts of a former administration. In the case of the court-martial of Lieutenant Devlin, let me read, on page 369 of the same volume, the opinion of Attorney-General Caleb Cushing again. I desire to have the Senate mark these cases as I go along, for I intend to follow them up with decision after decision sustaining the very same propositions that I have laid down as the law. Hence I appeal to the Senate if there be a case in point where the Senate has done wrong before, that is no reason why it should continue to repeat that wrong in the face of the decisions of all the courts of the country. In the case of Devlin the Attorney-General said:

It appears that Mr. Devlin, being at the time a lieutenant in the Marine Corps, under the new appointment referred to in my opinion of September 20, 1853, was tried by a general court-martial on certain charges, on which being found guilty by the court, he was, on the 15th of September, 1852, sentenced to be dismissed, which sentence was afterward approved by the President and carried into execution.

That was a case exactly like this, except that in this case there was appended to the sentence a provision that the person should never hold office afterward. The Attorney-General proceeds:

This, then, is the question: Whether the proceedings of that court-martial can lawfully, at this time, be reopened, reviewed, and set aside for any of the causes alleged.

This question has been repeatedly considered by my predecessors, and decided by them.

Mr. Attorney-General Legaré holds that a sentence, once confirmed by the competent authority, cannot be reopened. "It is a vain conceit," he says, "that because the proceedings (of a court-martial) are irregular, and fatally irregular, if the exception be taken in proper time, therefore, the judgment once suffered to be entered up is void." (Opinion April 3, 1843.)

In another case, where the proceedings of the court were confessedly irregular, and the sentence was not accounted a just one, Mr. Attorney-General Nelson says: "I know of no revisory power by which that sentence can now be rescinded, annulled, or modified. It has been passed upon by the competent authority, from whose decision the law has provided no appeal. It must, therefore, forever stand as the judgement of the court."

Now, then, tell me what provision there is in the law to-day, what provision has ever been made, for an appeal from the decision of a court-martial? None has ever been attempted. There is decision after decision stated that you can not annul, set aside, re-examine, or review a court-martial after once the report of its proceedings has been approved by the proper approving authority.

Mr. HILL, of Georgia. Will the Senator allow me to interrupt him?

Mr. LOGAN. Certainly I will.

Mr. HILL, of Georgia. I assure the Senator I am taking a great interest in his remarks.

Mr. LOGAN. I am very glad, for, as I said, I wish this to be a free discussion.

Mr. HILL, of Georgia. I simply want to ask a question, because I see the Senator has been examining the authorities. The opinions of the Attorneys-General to which the Senator refers, as I understand those opinions, relate to the power of the President, or the power of any other authority under the law as then existing, to annul or review the decision of a court-martial, after that decision had been pronounced and approved by the President?

Mr. LOGAN. Yes, sir.

Mr. HILL, of Georgia. Has the Senator found any authority anywhere which denies to Congress, the law-making power, authority to annul such a decision?

Mr. LOGAN. I understand——

Mr. HILL, of Georgia. Let me get through with the question; I will make myself thoroughly understood. The Senator has said, as I understand him, that the decision of a court-martial is as valid and binding, as final in its character and as irreversible, as a decision of the Supreme Court of the United States itself. Assume that to be true—I do not concede it, but assume it to be true—suppose in a contest between the United States and a citizen involving a question of title to property, putting it in its strongest sense, a civil question involving a question of title to property, the Supreme Court should decide that the title to the property was in the United States. There is no appeal from that decision; it is the decision of the highest judicial tribunal and it is final. Suppose afterward, by any means whatsoever, it should be ascertained that that decision was rendered under a partial state of facts, or under a misapprehension of facts, that real injustice had been done, and that in point of fact as well as law, as it then existed, the title to that property was really in the citizen and not in the United States. It is very clear that under a certain contingency the courts would have no power to review and change that decision. It is very clear that the executive power of the Government could not annul that decision. But does the Senator say that the Congress of the United States would be estopped by virtue of a decision of the court from declaring that the title to that property ought to be in the citizen, and should be in him, as though an erroneous opinion of the court had never been pronounced? I assure the Senator I have put this question solely for information.

Mr. LOGAN. Very well, I will answer it.

Mr. HILL, of Georgia. I am not indicating in the slightest degree my opinion of the Senator's argument or the conclusion at which he has arrived.

Mr. LOGAN. The Senator will see exactly, as I shall show him, where his point carries him. The Senator admits that Congress has no power to set aside the decision of the Supreme Court, it having decided the title.

Mr. HILL, of Georgia. Yes, in one sense.

Mr. LOGAN. But the Senator asks me if it be found that a wrong decision has been made in reference to the title, whether that would prohibit Congress from acting so as to give the title to the party who ought to have it. I say it would not. Why? Because if Congress granted that land to him again it would be a new grant. The decision of the court once affirmed it in the Government and there is no power to appeal from it, but Congress may grant it over, and so far as Congress acts in making the grant it would be action by the Government.

Mr. HILL, of Georgia. My question is, has not Congress the power to not only grant that land to the citizen but to say that it shall be the citizen's, with all its incidents, after a wrong decision, as effectually as if that erroneous decision had not been pronounced at all? That is the question.

Mr. LOGAN. If the Supreme Court has decided that the title of the property is in the Government, it then belongs to the Government, and Congress can dispose of it as it sees proper, and if it restores the property it is a new grant. That is exactly the distinction. That is a very simple proposition; there is no trouble in answering that question. So I say that Congress to-day may dispose of all the money it has in the Treasury, but it cannot dispose of that money constitutionally for services never performed. So I say again, Congress has no power to reopen either a civil or criminal action decided by the courts. That power does not lie in Congress, and I will show the Senator a number of decisions sustaining exactly my proposition, because the decisions go to this point, that whenever the legislative power of a State shall interfere with the decisions of a court, that moment the courts are wiped out and the power transferred from that department of the government. The courts have also decided in numerous instances that where a sentence has attached, where the last judicial power has been appealed to, legislative action is then in the nature of a pardon, and the exercise of that power by Congress is an infringement upon the constitutional power of the Executive. Court after court has made this decision in different States, and I will refer the Senate to decisions of the Supreme Court of the United States before I am through.

No, sir; it is dodging the question when you say that after a court has once decided a question the Legislature may go behind it. If the legislative department of the Government desires to dodge the decisions of the courts and go behind them and appropriate the money without annulling the decisions of the courts, without interfering with their decisions, Congress as much violates the Constitution of the United States, indirectly, as if they struck it square in the face.

Mr. HILL, of Georgia. For myself, the Senator will allow me to say——

The PRESIDING OFFICER, (Mr. COCKRELL in the chair.) Does the Senator from Illinois yield to the Senator from Georgia?

Mr. LOGAN. Certainly.

Mr. HILL, of Georgia. I see the force of the Senator's argument in a case where citizens are parties, plaintiffs and defendants. Where two citizens have litigated before the courts and the final tribunal has decided in favor of one, although it may be an erroneous decision, Congress unquestionably has no power to go behind that decision and change the title as declared by the courts. So Congress has no power to go behind a decision of the courts where the United States is a party as against a citizen, and change the decision for the benefit of the Government. But the question I put is this: Even in a civil case where the United States is a party and a citizen is a party, and error has been committed by the courts, as afterward ascertained, in favor of the Government against the citizen, has not Congress the power to pass an act which will restore the rights of that citizen? Call it annulling, call it reversing, as you please, has not Congress the power to change an erroneous decision of that character, even in a civil case pronounced by the Supreme Court, and restore the right of the wronged party as completely as if the decision had not been pronounced,—I mean as against the United States?

Mr. LOGAN. The Senator is a very good lawyer and he will see exactly the dilemma that he would be placed in with the country. The very moment you give Congress the authority to review a decision of the Supreme Court, that moment you take the power out of the hands of the judiciary, that moment you are trampling upon the Constitution, that moment you put the judiciary under the feet of the legislative department of the Government. The supreme court of every State where the question has ever been decided say that the Legislature cannot interfere with civil cases or with their decisions. The Supreme Court of the United States say the same thing. The power of Congress to make a grant when the Supreme Court have decided that property inures to the Government and that the title is in it, is one thing, and setting aside the decision of the Supreme Court is another.

So I say in this case; and I will put this question to the Senator, and it is "on all fours" with this case: Suppose a United States court had power conferred on it to try a case of murder. We will put that case. If that power could be conferred upon it, suppose it had the power and it tried the case of murder, and the jury found the defendant guilty, and he appealed to the court for a new trial and the court refused to grant him a new trial. He takes his case up to the highest court, and the highest court affirms the decision and orders him to be hanged on a certain day. Could Congress interfere with that decision, I ask the Senator?

Mr. HILL, of Georgia. I will say to the Senator very frankly that in cases of crime of that sort there is a distinct provision made for the exercise of the pardoning power by the Executive.

Mr. LOGAN. Exactly.

Mr. HILL, of Georgia. That is a very different thing.

Mr. LOGAN. No, sir.

Mr. HILL, of Georgia. I am not deciding on the merits of this case; but the Senator was taking the broad proposition that under the opinions of the Attorneys-General, because they said that no power can reverse a court-martial——

Mr. LOGAN. I beg the Senator's pardon, I was not saying that it was merely the opinion of the Attorneys-General. I said all the time that I would support their opinions by the decisions of the Supreme Court.

Mr. HILL, of Georgia. But I am not prepared to go into the argument with the Senator now and analyze the case of courts-martial or of civil courts. Trying one for murder, I think, is a very different thing.

Mr. LOGAN. The case is exactly the same, for this man was on his trial for life; the law authorized that court-martial to shoot him.

Mr. HILL, of Georgia. For treason?

Mr. LOGAN. Yes, sir; it is precisely a parallel case. Murder and treason are the same under our Constitution and under the law. Therefore I put a case to the Senator that is parallel with his, and I ask his opinion as a lawyer if Congress could interfere with the case when a court had sentenced the person to be hanged. The Senator says that he thinks not. I know it could not.

Mr. BLAINE. As the Senator from Illinois is being so generously asked questions, I desire to get in one for my own enlightenment. I ask the Senator, is there any doubt in the minds of lawyers anywhere that the President of the United States has the power to-day to pardon Fitz-John Porter from that part of the sentence which leaves upon him a disability?

Mr. LOGAN. I have never heard a doubt expressed of that myself. I have none. I have said all the time that the President could pardon him.

Mr. BLAINE. Whatever Congress does in its legislative capacity goes upon the presumption, I suppose at least, that if the President does not concur by giving his approval, then two-thirds of Congress can pass it over his veto. The presumption is that the President is unwilling to pardon Fitz-John Porter, because he has not done it with all this evidence before him. Suppose we pass this bill and the President should fail to sign it, could Congress by a two-thirds vote, passing this bill over his head, pardon Fitz-John Porter?

Mr. LOGAN. I do not think the pardoning power belongs to Congress, directly or indirectly. That is what I have said all the time. Congress has no right to interfere with the power of the President to pardon under the Constitution.

Mr. BLAINE. Then I ask the Senator, for I am in the line of his argument, does not that present an obstacle at the very outset?

Mr. LOGAN. That is just what I have been arguing, that dodging around the court-martial is as much in violation of the Constitution of the United States as if you declare squarely that you will set the court-martial aside, passing beyond it. It is as much in violation of the Constitution as if you strike it square in the face and undertake to annul it. There is no circumventing the pardoning power of the President. He has it by virtue of the Constitution, and all legislative enactments that encroach upon that right are in violation of the Constitution of the United States. Hence I have said all the time that if the Senate has ever trampled the Constitution under foot by passing an act of this kind, it is time now that it should understand what belongs to the legislative department of the Government and what belongs to the executive department of the Government.

Mr. HILL, of Georgia. I say to the Senator that I recognize a vast difference between the prerogative act of pardon and a legislative act of government. I am not going to get into a discussion about what is a mere prerogative act of pardon. That is nothing but a prerogative executive act. Very well. But do I understand the Senator to take the position that if the legislative department of the Government are satisfied that injustice was done Fitz-John Porter by the court-martial, according to the facts as they now exist, there is no power by act of Congress to restore to Fitz-John Porter the rights that he would have had if he had not been dismissed by the judgment of that court-martial?

Mr. LOGAN. The Senator wants me to answer him frankly, of course.

Mr. HILL, of Georgia. Yes.

Mr. LOGAN. I say in answer to the Senator's question that Congress has no such power. Now, let me put a case. Suppose a man is to-day convicted of murder, which is just the case I put before, and this Congress should be satisfied that the conviction was wrong, where would Congress get the power to set the verdict aside? Will the Senator answer me?

Mr. HILL, of Georgia. I will say to the Senator, I do not wish to delay him but I do not think that has any application to the question.

Mr. LOGAN. Suppose then that the court-martial had sentenced Fitz-John Porter to be shot, what power is there to stop that sentence unless the pardoning power?

Mr. HILL, of Georgia. I think if he had been shot, he would have had to go.

Mr. LOGAN. I think he would have had to go, but I am asking if

such had been the sentence, what power do you find to set that sentence aside except the pardoning power of the President, any more than you would in a case where the person had been sentenced under a trial for murder to be hanged, the President having the power to pardon, where would Congress get the power to pardon him if the President refused to do so?

Mr. HILL, of Georgia. Do I understand the Senator to say then, broadly, that if a court-martial should sentence an officer to be shot and Congress should be thoroughly satisfied that that sentence was upon a mistake, and incorrect, and the President himself should refuse to pardon him, there would be no power in Congress to prevent him from being shot?

Mr. CONKLING. Do you say there is?

Mr. HILL, of Georgia. I am not answering questions now; I only put the question.

Mr. LOGAN. The Senator has put the question. If there is any such power in Congress, if the President refuses to pardon him, will the Senator please point it out to me in the Constitution or anywhere else? Will he tell me where Congress derives such a power? From whence does it come?

Mr. HILL, of Georgia. As I told the Senator, I have only asked him these questions for information, and nothing else. I do not indicate what my opinion is at all, but if he wants me to point out a clause in the Constitution where I might locate such a power I would say it is in the power of Congress "to make rules for the government and regulation of the land and naval forces." I do not say that applies, and I do not say that the power exists. I assure the Senator he is mistaken when he is trying to get me into an argument with him. I am simply asking him questions for my own satisfaction.

Mr. LOGAN. I should certainly not try to get the Senator into an argument with me, because I would surely be overwhelmed in an argument of that kind, but I do like to argue with a good lawyer, because I always learn something from him. The Senator said in response to my question that if he were to hunt for that power he would find it in the Constitution where it provides that Congress shall provide regulations for the Army and Navy.

Mr. HILL, of Georgia. To make all rules and regulations.

Mr. LOGAN. Now let me ask the Senator a question. Congress has power to make rules and regulations for the government of the Army and Navy. The power is not that Congress shall provide rules and regulations now for the government of the Army of the Revolution; I presume the Senator does not mean that; but it is that Congress shall provide rules and regulations to-day, for what? For the Army and Navy, to operate upon them in the future, not in the past. Congress has provided rules and regulations for courts-martial. Under those rules and regulations Fitz-John Porter was tried. Does the Senator say that we can pass a law now to regulate an army fifteen years ago under the provision of the Constitution which gives Congress power to make rules and regulations for the government of the Army? Will the Senator say that? He certainly would not say such a thing. That clause of the Constitution gives the power to Congress to do what? To make rules and regulations for the government of the Army. When it makes the rules and regulations Congress then takes its hands off of the Army, and the Army then becomes subject to the rules and regulations made by Congress and is governed by them, and Congress cannot interfere with that government. After Congress has made the rules and regulations the Army then is governed by them, and Congress cannot interfere with it.

Mr. HILL, of Georgia. There is a vast difference, I will say to the Senator, between Congress interfering to prevent the execution of a judgment passed by a legitimate tribunal and the power of Congress to repair the wrong of such an execution after that wrong has been ascertained, especially where the United States is a party.

Mr. LOGAN. I was looking over this opinion, and I did not fairly understand the Senator. Will he state his proposition again?

Mr. HILL, of Georgia. I simply say that in my judgment there is a vast difference between the power here asserted and claiming for Congress the power to prevent the execution of a sentence, especially a sentence which has already been executed such as this. Of course Congress cannot pass a law now to prevent that court-martial from trying Fitz-John Porter; it cannot pass a law now preventing that court from convicting him; it cannot pass a law to prevent the President from dismissing him from his position. All that has been done; and of course when the Senator asks me if Congress can pass a law now to prevent a thing from being done which has already been done, I cannot say that Congress has such a power as that; but I say this—and that is the question I propounded and which I think with all due deference to the Senator is a very different one—where the execution has been erroneous, that is where the decision was erroneous and the execution of that decision has been unjust, has not Congress the power to repair it by a restoration of such rights as are claimed in this bill to the injured citizen?

Mr. LOGAN. No, sir.

Mr. HILL, of Georgia. I only put the question.

Mr. LOGAN. I say not, and I will show the Senator now exactly why that is the pardoning power. Congress has provided a remedy for just such a case as far as Congress has the power. Congress has provided that where a person has been dismissed by sentence of a court-martial he may again be appointed by nomination of the President to the Senate and by confirmation, if he has not been excluded by the judgment of the court-martial. That is all; but nowhere has Congress ever attempted and nowhere will Congress, I hope, attempt to annul that which is past, and which has been done by virtue of the law authorizing it passed by Congress. The Senator might as well say that Congress has power to say a fine shall not be entered by a court after it has been entered. Certainly Congress has not the power to say that. Has Congress the power to remit the fine after the fine has been paid? Certainly not, I think the Senator will say.

Mr. HILL, of Georgia. Can it not repay the fine?

Mr. LOGAN. That is a different proposition. Appropriating money to a man and remitting a sentence are very different propositions. Congress may waste all the money of the nation if it chooses, so far as its power is concerned. Although it may violate the Constitution in wasting money, there is no power to stop it. But here is the question, has it the power to do this thing? I say no, and I can show the Senator a decision from, not his own State, but an adjoining State, the State of Alabama, that goes right in the face of what he says. There, where a man had been fined by a court, after conviction under an indictment, the Legislature passed a law refunding that fine, and the supreme court of Alabama decided that law unconstitutional and said that the Legislature had no such power, because that belonged to the pardoning power of the State's executive.

Mr. HILL, of Georgia. I think the court in that case decided correctly.

Mr. LOGAN. Very well, then; if the court decided correctly in that case, I ask you now if Fitz-John Porter had been fined by this court-martial, and had paid the fine, what power would Congress have to remit it? It is "on all fours" with the case.

Mr. HILL, of Georgia. Did not Congress remit or restore to General Jackson a fine imposed by somebody in New Orleans?

Mr. LOGAN. That is a very different thing. They did not remit it, but they reimbursed by appropriation the money he had paid. They expunged the resolution from the record they had passed censuring him, and they appropriated the money, but they did not change the judgment of the court.

Mr. HILL, of Georgia. If Congress in this case shall pass a law expunging the resolution or the decision of the court-martial and restore General Porter to his rights otherwise, as they did General Jackson——

Mr. LOGAN. The Senator begs the question. Let me say to him, Congress expunged its own resolution and not the resolution of a court. It was its own resolution.

Mr. HILL, of Georgia. I want to say to the Senator once more that by these questions I have not indicated any opinion of my own on the subject.

Mr. LOGAN. Of course not!

Mr. HILL, of Georgia. I am only asking the opinion of the Senator for my own information.

Mr. LOGAN. I see that the Senator has not indicated any opinion; I discover that he has no opinion on this particular question! [laughter,] no bias at all—none whatever! He is just simply hunting for opinions, and he will get mine.

Mr. HILL, of Georgia. I say to the Senator very frankly that I have no opinion on earth on the merits of this case; I have never examined it; but I understood the Senator to be arguing a legal proposition.

Mr. LOGAN. I am trying to do so.

Mr. HILL, of Georgia. You are arguing a legal proposition as to the power of courts-martial and the power to review and reverse the findings of courts-martial, and you went so far as to take the position that a court-martial in this country was in every sense as dignified and as valid in its decision as the Supreme Court of the United States.

Mr. LOGAN. I did.

Mr. HILL, of Georgia. I simply propounded to you some questions upon that subject. That is all. I am simply asking some questions on a legal proposition. I do not know Fitz-John Porter; I do not know anything about the first court or the second court; I have never read the testimony before either. I do not propose to have anything to do with it any further than I may have to vote; but I was simply wanting to understand your legal propositions. That is all.

Mr. LOGAN. Very well; the Senator heard them, I believe.

Mr. HILL, of Georgia. Yes; but I do not know that I agree with them altogether, though I do partially.

Mr. LOGAN. Now, I will for the benefit of the Senator read him a decision of a court in this country that I suppose he ought to have some respect for. It is called the Supreme Court of the United States.

Mr. HILL, of Georgia. I have great respect for it.

Mr. LOGAN. He will find it in 20 Howard, page 81, the case of Dynes *vs.* Hoover. I presume he has read it:

> But the case in hand is not one of a court without jurisdiction over the subject-matter, or that of one which has neglected the forms and rules of procedure enjoined for the exercise of jurisdiction. It was regularly convened—

Speaking of a court-martial—

> its forms of procedure were strictly observed as they are directed to be by the statute, and if its sentence be a deviation from it which we do not admit, it is not absolutely void.
>
> Whatever the sentence is or may have been, as it was not a trial by court-martial taking place out of the United States, it could not have been carried into execution but by the confirmation of the President had it extended to loss of life, or in cases not extending to loss of life, as this did not, but by the confirmation of the Secretary of the Navy, who ordered the court. And if a sentence be so confirmed, it becomes final, and must be executed, unless the President pardons the offender.

Mr. HILL, of Georgia. That is a correct decision.

Mr. LOGAN. It must be executed unless the President pardons the offender. Now, you propose by law to stop the execution of this sentence.

Mr. HILL, of Georgia. Oh, no; I do not propose it at all.

Mr. LOGAN. I mean this bill does. This sentence is that he shall never hold an office under the Government. The Supreme Court of the United States says that the President is the only power that can relieve him, that is, by a pardon; but now the proposition is to relieve him by legislative action. The Supreme Court, I suppose, must have been mistaken!

Mr. HILL, of Georgia. That decision certainly goes upon the ground that there was no power to relieve him under the law then existing. Does the Supreme Court mean to say that Congress cannot grant any relief so that he may hold a position in the Army in the future?

Mr. LOGAN. The Supreme Court means to say exactly that; and why? Because the remission of the sentence belongs to the pardoning power of the President, and not to Congress. There is no power to say otherwise. I say to the Senator that the law as to courts-martial to-day is just the same as it was then, except in detail or something of that kind. The power of the court-martial is the same to-day as it was then. The power of the court has not been changed, its jurisdiction has not been changed, its right of trial has not been changed, the persons to be tried have not been changed. There is no change in the courts-martial of this country that this decision of the Supreme Court does not apply to to-day as it did the day it was rendered.

Mr. JONES, of Florida. Will the Senator permit me to ask him a question?

Mr. LOGAN. Certainly.

Mr. JONES, of Florida. If the decision of the court-martial in this case had been simply dismissing the officer from the service, I ask the Senator would Congress have had the power to restore him after such decision while that sentence remained?

Mr. LOGAN. Restore him you mean to his original rank?

Mr. JONES, of Florida. To a position in the Army.

Mr. LOGAN. Back behind the court-martial? I think not; clearly not. Where a person has been dismissed from the Army by a court-martial which does not affect him any more than the mere dismissal from the Army, very frequently Congress has passed laws authorizing the President, if he deem the man a proper person, to reappoint him in the Army. That is frequently done. The law now authorizes it, and the reason why Congress authorizes the President to do it is, that the President has no authority, inasmuch as officers of the Army are promoted up to the rank of colonel, and persons cannot enter the Army over a certain age, and those who have been dismissed are generally over the age when they can be appointed to the Army, and, therefore, Congress has to authorize the President, so that by the authority of Congress promotion is stopped at a certain point that this man may be appointed to fill a certain niche in the Army.

That is done by authority of Congress. That is not to authorize the President to appoint him, for the President has the power already to appoint him if he is not prohibited, but it is merely to authorize the President to appoint him because there are other reasons why he cannot be appointed, reasons of age, promotion, and so forth. That is the cause of it. That power exists and always has existed. That is not the question here at all. It is not the question here as to the power of the President to appoint Fitz-John Porter to the Army. The President can pardon Fitz-John Porter to-morrow, and then if Congress opens promotion by allowing it to him on account of his being over age and permits him to be put in as a lieutenant if it chooses, it may authorize the President to do it. That is within the power of Congress; but until that pardon is granted to him relieving him of the disability that stands in the way of Congress, he has no power to put him in the Army in any rank whatever.

[At this point the honorable Senator gave way to permit an executive session to be held.]

Wednesday, March 3.

Mr. LOGAN. Mr. President, I desire, before proceeding in continuation of the legal proposition I was discussing yesterday when the Senate went into executive session, to call the attention of my friend from New Jersey to a statement he made in his remarks in the opening of this case; and I do this for the reason that I think great injustice was done, unintentionally of course, by the Senator to General McDowell, who was a witness in this case. Noticing the dispatches in the newspapers of yesterday in reference to it, I think they are well calculated to reflect upon his character unless the statement be corrected. This is the statement of the Senator from New Jersey:

Mr. RANDOLPH. I say that General McDowell swore on Porter's trial that he had no knowledge of the force in front of him, that is as to whether it was Longstreet's or Jackson's or either. That is his testimony before the court-martial that convicted Porter; and yet there is on file in the War Department, or ought to be—God only knows what there is there—a report from General McDowell himself, dated a month earlier, showing that he actually knew of these forces which on the court-martial he swore he knew nothing about.

I thought I was not mistaken at the time, and I desire now to state——

Mr. RANDOLPH rose.

Mr. LOGAN. Of course I will give way to the Senator from New Jersey——

Mr. RANDOLPH. May I interrupt the Senator?

Mr. LOGAN. Certainly.

Mr. RANDOLPH. Mr. President, I did state in my remarks the day before yesterday—

That General McDowell swore on Porter's trial that he had no knowledge of the force in front of him; that is, as to whether it was Longstreet's or Jackson's or either.

I restate that on the trial General McDowell made that statement, and if the Senator from Illinois will give me a very few minutes I shall endeavor to substantiate my statement.

Mr. LOGAN. I desired to know if the Senator had anything to say in reference to it. I will attempt to show the report he spoke of, and then if he has anything to say in reply I shall be very glad to hear him.

Mr. RANDOLPH. Mr. President, I have been asked by the Senator from Illinois to prove the accuracy of my statement——

Mr. LOGAN. Oh, no; I did not ask the Senator to prove it.

Mr. RANDOLPH. That is the substance of——

Mr. LOGAN. Very well; I will listen to the Senator if he will take only a few minutes. I desire to know what his proof is.

Mr. RANDOLPH. From the first volume of the report in this case containing the proceedings of the court-martial there will be found on page 87 this question, addressed by General Porter or by his counsel to General McDowell, and that officer's answer:

Question. When you left the accused where you found him on the 29th of August, were you at that time advised that Longstreet's corps or any other corps of the confederate army was marching on to unite with the right of Jackson?

Answer. I did not know anything about *Longstreet's* corps or *Jackson's* corps. I have mentioned before that I received a note from General Buford that seventeen regiments, a battery, and five hundred cavalry were marching from Gainesville upon Groveton. To whom they belonged or to whom they were going was not a matter of which I was informed.

On page 88, at the top of the page, are the question and answer:

Q. Have you a knowledge *now* of what was the actual force of the enemy under the command of Jackson, or did you know that Jackson was in command of the enemy?

A. I did not know that Jackson was there; I have been told that he was there. I do not know what his force was.

Now, if the Senator will turn to the third volume of these proceedings, on page 1722——

Mr. LOGAN. I desire right here to have this thing understood. The Senator said that McDowell swore on the court-martial one thing and reported before that date another thing.

Mr. RANDOLPH. If the Senator will permit me to go on for a very few minutes, I will sustain all that I have said.

Mr. LOGAN. That is what you stated, and that is exactly what I want the Senator to prove.

Mr. RANDOLPH. I submit it is but just to me, having made a statement, the accuracy of which is in dispute, I may be permitted to sustain it if I am able to do so, as I shall prove that I am.

Mr. LOGAN. Very well, let us see whether you are or not.

Mr. RANDOLPH. On page 1722, under the head of "Exhibits," are extracts from the official report of Major General Irvin McDowell to Major-General John Pope, late commanding Army of Virginia, dated November 6, 1862. General McDowell says, in his official report dated a month before Porter's trial took place—the emphasized parts being my own:

"The night of the TWENTY-SEVENTH——

Two days, it will be observed, before the 29th, the eventful day of which McDowell testified he knew nothing of *Longstreet* or *Jackson*—

The night of the 27th I saw General Sigel at Buckland Mills, and informed him that *Longstreet* would be coming through the gap next morning.

On the next page, 1723, in McDowell's report, will be found these words:

Knowing that *Longstreet* would be coming through Thoroughfare Gap I sent early in the morning—

That is the 28th, the day before the 29th, therefore—

Colonel Wyndham's First New Jersey Regiment of Cavalry to the gap, and sent up other cavalry as fast as I could get hold of it; and on receiving word the enemy was coming through, I detached Rickett's division to hold him in check.

On page 1728, from an address by General McDowell dated Washington, February 9, 1863, "Extracts from the closing address of Major-General Irvin McDowell in review of the evidence before the court of inquiry instituted at his request in Special Order No. 353, headquarters of the Army, of 1862," McDowell says:

It was *known* to us by telegram from General Pope at Warrenton Junction that *Jackson's* corps *had* come through Thoroughfare Gap, and was at or near Manassas, and by a reconnaissance made by General Buford in the direction of Salem, that *Longstreet* was marching in the same direction after *Jackson*.

These are General McDowell's statements made by him with reference to what he knew two days before the 29th, upon which he afterward testified he did *not* know concerning these forces.

Mr. LOGAN. Not after this report.

Mr. RANDOLPH. On page 1729, in an order from General McDowell to General Sigel, quoted by General McDowell in his closing address to his own court of inquiry, he says, referring to the 27th again:

BUCKLAND MILLS, *August* 27, 1862—11.30 p. m.

It being understood that a large division of the enemy, under *Longstreet*, left Salem at four o'clock p. m. for the enemy's position in the direction of Manassas,

through Thoroughfare Gap, and is now on the march, the following preliminary movements of the left wing of the Army will be immediately made.

* * * * * * *

By command of Major-General McDowell.

S. F. BARSTOW,
Assistant Adjutant-General.

Again, on page 747, volume 2, General McDowell, testifying before the board of review, and being asked by General Porter's counsel this question—

Question. On the morning of August 28, did you know that *Longstreet* would that day be coming through Thoroughfare Gap?—

Answered:

Answer. That is putting it a little too strong. I had been told that he was coming through, but whether he would get through was another question.

Q. Did not you on that morning, because of knowing that, send Colonel Wyndham's New Jersey cavalry to the gap?

A. I did. I told you that I had taken precautions to prevent his coming through the gap. *Longstreet* was reported to me as coming through the gap, and I took measures to resist his coming through. I stated *Longstreet* there, because Longstreet's name was mentioned to me by Buford.

By the PRESIDENT OF THE BOARD:

Q. When you say Longstreet, you in general mean the troops on the other side of the mountain?

A. Buford told me at that time of four different persons commanding four different divisions, and he mentioned Longstreet coming through the gap.

Now one more extract, and I shall not further detain the Senate. There is on page 783 of the same volume some other and very suggestive and important evidence given by General McDowell touching this very point, and if the Senator will give me the time I shall be very glad to read it. If not——

Mr. LOGAN. The Senator asked permission—and I yielded to him—to sustain what he had stated.

Mr. RANDOLPH. I am endeavoring to do so.

Mr. LOGAN. The statement was that McDowell knew Longstreet was in front of Porter on the 29th. Any other evidence has nothing to do with it. The Senator asked for five minutes. He has had fifteen.

Mr. RANDOLPH. The Senator from Illinois will bear in mind that it was he that called me to answer his question.

Mr. LOGAN. Well, go on now and get through. That is the best way. I do not want extraneous matter injected here to take up my time.

Mr. RANDOLPH. The Senate will have to be the judge as to whether the matter is extraneous or not.

Mr. LOGAN. The Senate is not the judge of this particularly. There is a difference between you and I.

Mr. RANDOLPH. I beg the Senator's pardon. I differ——

Mr. LOGAN. Never mind the pardon; go on with your statement.

Mr. RANDOLPH. The case is that of the Senate of the United States; it is not the case of the Senator from Illinois and myself. It is of the honor of the Government; it is the case of the public.

On page 783 General McDowell testified:

Question. Can you tell me when that dispatch to Sigel of 11.30 p. m. of August 27 was first filed in the War Department at Washington?

Answer. This order was written by me in General Sigel's room at Buckland Mills, after a full conversation with him, and embodied that conversation.

Q. I did not ask you when it was written, but when it was first filed in the War Department?

A. I don't know.

Q. Was it not attached to your official report?

A. The official report is there. My impression about this is that this order was introduced by General Sigel.

Q. Introduced where?

A. In the court of inquiry.

Q. What is called your court of inquiry?

A. Yes, sir. My impression is that that order was introduced by him.

Q. Then that dispatch—

The dispatch from McDowell to Sigel stating his knowledge of Longstreet's force on the 27th—

was first produced by General Sigel, to your knowledge, in your court of inquiry, after the evidence on General Porter's court-martial had closed?

A. Wait until I see. [Court-martial record examined by witness.]

Q. The question is whether you knew of that dispatch being produced or made public and filed in the War Department until it was produced by General Sigel on your court of inquiry after the evidence in the Porter court-martial was closed?

A. I am trying to find out.

The RECORDER—

This is significant testimony, Mr. President:

The RECORDER. I would like to know the object of this line of examination. I see nothing as to it in the original direct examination in 1862 and 1863. I know nothing of it in my examination.

Mr. CHOATE. It is chiefly for the enlightenment of the learned judge-advocate that I ask for this information. He has been very strenuous several times in trying to draw a sharp line between newly discovered evidence and evidence in the possession of General Porter at the time of his former trial. I propose to show that this important fact was unknown and could not have been known to General Porter and proved by his counsel on that trial. Then I propose to show that General McDowell's report dated November 9 was not promulgated so that General Porter could get hold of it until after the sentence of his court-martial had been pronounced.

The RECORDER. Why is it put in the nature of newly discovered evidence?

Mr. CHOATE. Very important as to the effect of the weight to be given by this board to the judgment of the former court.

The PRESIDENT OF THE BOARD. Has this newly discovered matter been introduced into evidence?

Mr. CHOATE. Yes; it is General McDowell's dispatch to General Sigel.

The PRESIDENT OF THE BOARD. It is proper to show why it was not introduced before.

The RECORDER. It was my intention to object to its admissibility. I suppose I may consider my objection overruled?

The PRESIDENT OF THE BOARD. Yes.

Question repeated.

A. I see from the papers I have that that dispatch was first published in Washington on January 7, brought before the court of inquiry in my case by General Sigel.

Q. Do you know that then the evidence in the Porter court-martial was closed?

A. I do not know.

The PRESIDENT OF THE BOARD. That is a fact of record.

The RECORDER. Closed on the 10th of January.

Mr. MALTBY. On the 6th.

Mr. CHOATE. The evidence was closed on the 6th of January; and the day after this dispatch was introduced.

The evidence in Porter's case was closed on the 6th day of January, and this most important dispatch for him was introduced the day thereafter on the McDowell board, and for the first time.

The RECORDER. But the record says the 10th of January was the last day of the sitting in the case.

Mr. CHOATE. There were three days given to prepare a statement.

Q. You made a report on the 9th of November, 1862, dated that day; to what authority did you make that report?

A. I don't know that I made one on the 9th of November.

Q. There is a report of yours that is a public document, dated November 9, 1862?

A. I have one here which says November 6, 1862.

Q. Well, probably it is the same one that I refer to; to whom did you make that report?

A. It was made to Major-General John Pope, commander of the late Army of Virginia.

Q. Was it your duty to file it in the War Department or in the Adjutant-General's Office?

A. My duty was to make my report to General Pope.

Q. And there your duty ended?

A. In what connection?

Q. Had you anything more to do with or about that report as major-general, after you had delivered it to General Pope?

A. I really do not understand you. There was my report of my operations. I do not know what you mean by asking whether that is all I had to do.

Q. Had to do with that report. When you delivered it to your superior officer, that was the end of your duty in regard to it?

A. Certainly.

Q. When did you deliver it to General Pope?

A. I do not know.

Q. Can you tell about when, from its date?

A. I cannot tell anything about it except what the date would indicate. I did not know the date until I refreshed my memory by looking to where General Pope was at that particular time.

Q. Do you know how it happened that it never reached the War Department until after General Porter's trial was closed?

The RECORDER. The counsel assumes something that has not been proven.

Mr. CHOATE. I have a certificate to that effect from the War Department which I will prove by and by. Of course these things would have been of immense value to General Porter on his former trial.

The RECORDER. Could not he have asked for them then?

Mr. CHOATE. He did not know of their existence.

The WITNESS. I do not know that it did happen. I cannot tell how it happened.

I submit, Mr. President,—and I will only detain the Senate a moment longer,—I submit that by General McDowell's own testimony, by his own report and address to his own court of inquiry, and by his admission to the board of review subsequently, that every word I asserted is proved to be true. I show also that the report of General McDowell dated November 6, was written one month and six days before he testified on the Porter court-martial that he had no knowledge of Longstreet's corps. I supposed his report was then put on file in the War Department. I may have been mistaken about that, however, but if so, my immaterial error happened in this way: It was in General Pope's possession, and was not filed by him in the War Department until just after the proceedings in Porter's court-martial had closed.

Mr. LOGAN. Now, Mr. President, after this remarkable exhibition we have had of attempting to read a great deal of matter that is not pertinent at all to what the Senator said, I will proceed, if the Senator will allow me, to show what was his statement, which I desired he should have an opportunity to correct, for if there be anything in the world I do desire to have in this or in any other case it is fairness. Inasmuch as the Senator has attempted not to correct and not to support it, but to try to confuse, I will show the fact to be exactly the contrary of what he stated. Now, what did he state? He stated that at the Fitz-John Porter trial General McDowell swore he did not know anything about what troops were in front of General Porter on the 29th.

Mr. RANDOLPH. Whether Longstreet's or Jackson's.

Mr. LOGAN. Here is your statement. I will read it, and we will take the RECORD.

I say that General McDowell swore on Porter's trial that he had no knowledge of the force in front of him, that is, as to whether it was Longstreet's or Jackson's or either.

And what else? That at the same time he had a report in the War Department showing that he did know. That was your statement.

Mr. RANDOLPH. "Or ought to have been in the War Department;" that was part of my statement.

Mr. LOGAN. Very well. I ask the Senator if he has not read that report in the War Department?

Mr. RANDOLPH. I beg pardon. I did not hear.

Mr. LOGAN. Has not the Senator read that report in the office of the War Department?

Mr. RANDOLPH. I have not read it *in* the office of the War Department; I have read the report, and I have a certified copy from the War Department of it.

Mr. LOGAN. Very well. Then why insinuate that it may or may not be there?

Mr. RANDOLPH. Mr. President, I will answer.

Mr. LOGAN. No, sir; the Senator will just allow me to retain the floor for this moment.

Mr. RANDOLPH. The Senator must not ask me a question unless he allows me to answer it.

Mr. LOGAN. I have given the Senator almost half an hour to try and explain what he meant by this strange statement.

Mr. RANDOLPH. And I will sustain it if the Senator will allow me——

Mr. LOGAN. The Senator has explained it, or tried to.

Mr. RANDOLPH. Not as to the other statement whether I did or not know of its presence in the War Department.

Mr. LOGAN. It is immaterial whether you did or not.

Mr. RANDOLPH. I must differ again, and——

Mr. LOGAN. I assert that General McDowell swore before the court-martial—and I have his evidence here—and he reiterated it before this board, and not a scintilla of testimony can be found to contradict that statement, which I shall now read:

I cannot say that at that time the order occupied my mind in connection with the question of subordination or otherwise—

That was the joint order to him and Porter—

In starting out on this road, as I mentioned before, General Porter had started out ahead of me, under the order he had himself received from General Pope to move with his corps and one of my divisions on a certain road, and, I think, for a certain purpose, though I am not certain as to that. At that time I conceived General Porter to be under me. When the joint order reached us we were doing what that joint order directed us to do. That joint order found the troops in the position in which it directed them to be. That joint order gave a discretion to the effect that if any considerable advantages were to be gained by departing from that order it was not to be strictly construed. I decided that considerable advantages were to be gained by departing from the order, and I did not strictly construe it, or strictly carry it out. That order contemplated a line being formed which was to be joined on to a line that was to come up from the east to the west, and have the troops on the Gainesville road to attack the flank and rear of the enemy, as I understood it, in moving along on the Gainesville road. This long line of troops—those who were ahead of me, General Porter's corps—coming to a halt, I moved along and rode by his corps to the head of the column. On the way up to the head of the column I received a note from General Buford, addressed to General Ricketts, and to be forwarded to me. This note was addressed primarily to General Ricketts, and then to myself, for I do not think General Buford knew of General Porter's being there at the time he wrote it. I will read the note:

"HEADQUARTERS CAVALRY BRIGADE—9.30 A. M.

"Seventeen regiments, one battery, five hundred cavalry passed through Gainesville three-quarters of an hour ago, on the Centreville road. I think this division should join our forces now engaged at once.

"Please forward this.

"JOHN BUFORD,
"*Brigadier-General.*

"General RICKETTS."

In his statement there, before the court-martial, he said his only knowledge of troops in front of General Porter, or the place where he went, and claimed that Longstreet's corps was in his front, was the information given to him by General Buford. He swears that in the evidence before the board, and the Senator here attempts to make out that General McDowell stated falsely, because he said he had knowledge prior to that, that that corps was coming through Thoroughfare Gap, miles away from where this battle was. The whole evidence shows that Longstreet's corps took the Centreville road. All through the statement it so appears, and nowhere will the Senator find that General McDowell could have made any other statement than that made before the court-martial.

What else? The Senator said he had read a report in the War Department, and that report would conflict with this statement. And, mark you, he confined his statement to what General McDowell swore before the court-martial, not before the board, but there is no contradiction in either, and he said a report in the War Department showed that he did know. I say the Senator is mistaken; he is not sustained by the record. There is no such report in the War Department, and never has been. The Senator cannot find it, and he has never seen it. If he has the certified copy of a report, I demand that he produce it, if it contradicts the one that I have in my hand. No, sir; here is General McDowell's report made to General Pope in reference to the operations of his command, dated "Washington, D. C., November 6, 1862," his whole report, giving his campaign all through this time, and on the 29th of August, 1862, the very time that this evidence in the court-martial refers to, General McDowell says that which I will read:

Early in the morning of the 29th General Sigel, who had come up the night before from near Manassas, and who was on Reynolds's right, made demonstrations against the enemy, who seemed to be on the north of us. I directed Reynolds to support General Sigel on the left in the movements he might make, and then proceed to join Generals King's and Ricketts's divisions.

At Manassas I found Major-General Fitz-John Porter's corps coming up, and soon after, in answer partly to a message of mine, I received your order—

That is, speaking of the order from Pope—

your order of the 29th from Centreville, addressed jointly to General Porter and myself. In compliance with it, King's and Ricketts's divisions were directed, as soon as they could be placed on the road from Manassas Junction to Gainesville, which runs nearly west, to follow in the rear and close to General Porter's corps. Both these divisions had been on foot night and day for several days past, had marched most of the night before, and were separated from their baggage and subsistence. They moved forward, however, cheerfully. The column coming to a halt, I rode forward and found General Porter at the head of his corps, on a slight eminence.

I ask the Senator's attention to this:

In front was an open piece of ground, and beyond it the woods skirting the Warrenton road, down which, as we could see from the dust above the trees, the enemy was moving from Gainesville upon Groveton, where the battle was now going on.

Just before reaching General Porter I received a note from General Buford, commanding cavalry brigade, who was on our then left and front, acquainting me with the strength of the enemy, which he had seen as they passed through Gainesville, then moving down the road. It consisted of seventeen regiments, one battery, and five hundred cavalry.

Just precisely, word for word, what he testified before the court-martial, and that is every word in that whole report which makes any mention of or reference to the force in front of General Porter. So I say the statement that his evidence is contradictory is not true and is not borne out by any of the facts. I gave the Senator an opportunity that he might, as an honorable man, if he thought he was in error, correct it. He fails to do so, and I say he cannot sustain the statement.

Now, sir, what report does he refer to in the War Department? Here, in the volume in my hand, are the printed reports of every officer who made a report during that campaign, as taken from their own manuscript, and not one word will he find in any of these reports that sustains his statement in reference to this evidence. So again, Mr. President, if this case is to go before the country on false and manufactured statements, I will try to find it out before we get through.

I have said this much this morning in justification of General McDowell, an honorable and high-minded gentleman; and I say now, repeating, that nowhere in the testimony before the court-martial or before the board, or in General McDowell's report, will the Senator from New Jersey find that which will sustain his statement.

Enough in reference to that statement, Mr. President. I was, yesterday when the Senate adjourned, discussing this case from a legal stand-point as well as I could present it. I was on the point then that neither the President of the United States nor the Congress of the United States had the power to review, or reverse or annul the judgment of a court-martial lawfully authorized, following in the track of the law in its proceedings, the verdict being consonant with law and approved by the President of the United States. I had read some authorities on that point. I desire to continue, and I now give the Senator from New Jersey this notice. I did not intend when I commenced this debate to do anything except follow out the legal propositions; but inasmuch as I see that evidence is to be distorted, I now give him notice that before I am done with this case I will examine the evidence and lay it before the Senate; and I say now, more than I have said before, in the examination of the evidence I will make it so clear to this country that his friend, Fitz-John Porter, intentionally disobeyed orders that he would probably have obeyed if they had been issued by some other commander, say General McClellan, that the country cannot mistake his intention.

I will now read in support of the proposition I was attempting to maintain yesterday an opinion given by Attorney-General Bates, and I will say to Senators that I read these opinions of Attorneys-General to show what their view of the law was and is in reference to the power of the President or any power to review the action of a court-martial. Afterward I will follow that up with other decisions. This was the case of a trial and conviction by a naval court-martial of an officer of the Navy. Attorney-General Bates says:

"Undoubtedly the President, in passing upon the sentence of a court-martial and giving to it the approval without which it cannot be executed, acts judicially. The whole proceeding from its inception is judicial. The trial, finding, and sentence are the solemn acts of a court organized and conducted under the authority and according to the prescribed forms of law. It sits to pass upon the most sacred questions of human rights that are ever placed on trial in a court of justice; rights which, in the very nature of things, can neither be exposed to danger nor entitled to protection from the uncontrolled will of any man, but which must be adjudged *according to law*. And the act of the officer who reviews the proceedings of the court, whether he be the commander of the fleet or the President, and without whose approval the sentence cannot be executed, is as much a part of this judgment, according to law, as is the trial or the sentence. When the President, then, performs this duty of approving the sentence of a court-martial dismissing an officer his act has all the solemnity and significance of the judgment of a court of law. As it has to be performed under the same sanctions, so it draws with it the same consequences. Now, one of these consequences is that where a judgment has been regularly entered in a case properly within the judicial cognizance, from which no appeal has been provided or taken, and it has been followed by execution, it is final and conclusive upon the party against whom it is entered. And this effect attaches, in my opinion, to the action of the President in approving the sentence of a court-martial dismissing an officer, after that approval has been consummated by actual dismissal. Undoubtedly if the sentence should be disapproved and the action of the President result in establishing the innocence of the officer, all the legal consequences of such action in favor of the officer would follow. No man would assert the power of the President to reverse his judicial decision afterward to the prejudice of the accused. But why should that judgment be any less permanent because it establishes his guilt? It must be accepted as final and conclusive in the one case as in the other, because it is the judgment which the law authorizes to settle the rights in controversy, from which no appeal has been given. And it may be added that if it be open to subsequent consideration and reversal, the same principle would entitle a dissatisfied party to demand any number of reconsiderations and decisions; so that the subject would practically be open to endless controversy and litigation."

This is the opinion of Attorney-General Bates, on page 19, volume 11, of Opinions of Attorneys-General. The opinion supports entirely that which I have asserted to be the law, that the President has no power to reverse, annul, review, or re-examine the judgment of a court-martial after it has once been approved by that officer. If the President has no power to do it as Commander-in-Chief, as the Executive of this nation under the Constitution, Congress has no power to make itself an appellate court. How can Congress give the President a power which it does not possess, and which the President does not possess? I should like some lawyer to explain to me, if the power exists not in any department of the Government to do it, how can it be conferred?

But, Mr. President, without taking up further time by quoting opinions of the Attorneys-General, another question arises in this case; one which I discussed yesterday, and one to which I now desire to turn my attention, and this is in reference to the theory of courts-martial, whether or not courts-martial are of such dignity, and whether their judgments are entitled to the same respect, and are in the same sense not reviewable by legislative authority as the judgments of any other court, there being no appeal provided by law. In the case I read yesterday, of Dynes *vs.* Hoover, in 20 Howard, page 81, you will find that the court held thus:

Persons, then, belonging to the Army and the Navy are not subject to illegal or irresponsible courts-martial, when the law for convening them and directing their proceedings of organization and for trial have been disregarded.

That we all agree to. Where the law has been disregarded, where in the proceedings of the court they have not followed the law, and where they have given a decision under such circumstances, that such decision is a nullity of no force and effect, and is not binding.

Courts-martial derive their jurisdiction and are regulated with us by an act of Congress, in which the crimes which may be committed, the manner of charging the accused, and of trial, and the punishments which may be inflicted, are expressed in terms; or they may get jurisdiction by a fair deduction from *the definition of the crime* that it comprehends, and that the Legislature meant to subject to punishment one of a minor degree of a kindred character, which has already been recognized to be such by the practice of courts-martial in the army and navy services of nations, and by those functionaries in different nations to whom has been confided a revising power over the sentences of courts-martial. And when offenses and crimes are not given in terms or by definition, the want of it may be supplied by a comprehensive enactment, such as the thirty-second article of the rules for the government of the Navy, which means that courts-martial have jurisdiction of such crimes as are not specified, but which have been recognized to be crimes and offenses by the usages in the navy of all nations, and that they shall be punished according to the laws and customs of the sea. Notwithstanding the apparent indeterminateness of such a provision, it is not liable to abuse; for what those crimes are, and how they are to be punished, is well known by practical men in the Navy and Army and by those who have studied the law of courts-martial, and the offenses of which the different courts-martial have cognizance. With the sentences of courts-martial which have been convened regularly and have proceeded legally, and by which punishments are directed, not forbidden by law, or which are according to the laws and customs of the sea, civil courts have nothing to do, nor are they in any way alterable by them. If it were otherwise, the civil courts would virtually administer the rules and articles of war, irrespective of those to whom that duty and obligation has been confided by the laws of the United States, from whose decisions no appeal or jurisdiction of any kind has been given to the civil magistrates or civil courts.

Then the court goes on to say:

In this case, all of us think that the court which tried Dynes had jurisdiction over the subject-matter of the charge against him; that the sentence of the court against him was not forbidden by law; and that, having been approved by the Secretary of the Navy as a fair deduction from the seventeenth article of the act of April 23, 1800, and that Dynes having been brought to Washington as a prisoner by the direction of the Secretary, that the President of the United States as constitutional Commander-in-Chief of the Army and Navy, and in virtue of his constitutional obligation, that "he shall take care that the laws be faithfully executed," violated no law in directing the marshal to receive the prisoner Dynes from the officer commanding the United States steamer Engineer, for the purpose of transferring him to the penitentiary of the District of Columbia; and, consequently, that the marshal is not answerable in this action of trespass and false imprisonment.

In this case—and this is one of the leading cases—you will find by reading it clear through that the court sustained from beginning to end the court-martial of this culprit, as being, first, a court-martial growing out of the necessities of war among nations; and second, as being under the enactment of law in this country, having jurisdiction conferred on it by the legislative power of this Government, and that the decisions of such a court are as final as the decisions of any court in this land where they are made in conformity with law. Now let me follow that up. It is somewhat tiresome to me to read, and I shall ask the Secretary to read a rather long opinion from the Supreme Court not yet published, which was delivered at the October term, 1879, the unanimous opinion of the court.

The Secretary read as follows:

SUPREME COURT OF THE UNITED STATES.

No. 5, (original.)—October term, 1879.

Ex parte Alvin R. Reed—application for a writ of *habeas corpus*.

Mr. Justice Swayne delivered the opinion of the court.

There is no controversy in this case about the facts. The questions we are called on to consider are all questions of law. A brief summary of the facts will, therefore, be sufficient.

The petitioner, Reed, was the clerk of a paymaster in the Navy of the United States. He was duly appointed, and had accepted by a letter, wherein, as required, he bound himself "to be subject to the laws and regulations for the government of the Navy and the discipline of the vessel." His name was placed on the proper muster-roll, and he entered upon the discharge of his duties. While serving in this capacity charges of malfeasance were preferred against him, and on the 26th of June, 1878, he was directed by Rear-Admiral Nichols to appear and answer before a general court-martial, convened pursuant to the order of that officer, on board the United States ship Essex, then stationed at Rio Janeiro, in Brazil. The court found the petitioner guilty, and sentenced him accordingly. The admiral declined to approve the sentence and remitted the proceedings back to the court that the sentence might be revised. The court thereupon pronounced the following sentence in substitution for the former one:

"That the said Alvin R. Reed, paymaster's clerk, United States Navy, be imprisoned in such place as the honorable Secretary of the Navy may designate, foh the term of two years; to lose all pay which may become due him during suer confinement, excepting the sum of $10 per month, this loss amounting to $1,960; to be fined in the sum of $500, which fine must be paid before or at the end of the term of confinement; should such fine not be paid at end of the term of confinement, to be detained in confinement without pay until such fine be paid, and at the expiration of the term of confinement to be dishonorably dismissed from the naval service of the United States."

This sentence was different from the preceding one in two particulars, and in both it was more severe. It was approved by the admiral and ordered to be carried out. The court was subsequently dissolved. While in confinement under the sentence, on board a naval vessel at Boston, the petitioner sued out a writ of *habeas corpus* and brought his case before the circuit court of the United States for the district of Massachusetts. After a full hearing that court adjudged against him, and ordered him back into the custody of the naval officer to whom the writ was addressed. The petitioner thereupon made this application in order that the conclusions reached by the circuit court may be reviewed by this tribunal.

It is supposed that courts-martial were intended originally to be a partial substitute for the court of chivalry of former times. (3 Christian's Bl., 68, 108; Bouv. Law Dic., tit. "Courts-martial.") The difference between military law and martial law is too well known to require any remark. (1 Kent's Com., twelfth edition, 241, note A.)

* * * "The common law * * * knew no distinction between citizen and soldier; so that if a life-guardsman deserted, he could only be sued for a breach of contract; and if he struck his officer, he was only liable to an indictment or an action of battery." (2 Campbell's Lives of Ch. Justices, 91.)

The constitutionality of the acts of Congress touching Army and Navy courts-martial in this country, if there could ever have been a doubt about it, is no longer an open question in this court. (Constitution, article 1, section 8, and amendment 5.) In Dynes *vs.* Hoover, 20 How., 65, the subject was fully considered and their validity affirmed.

The regularity of the original organization of the court here in question is not denied.

Three points in support of the petition have been brought to our attention. It is insisted—

1. That the court had no jurisdiction to try a paymaster's clerk.

2. That when the first sentence was pronounced the power of the court was exhausted and that the second sentence was, therefore, a nullity.

3. That the court could revise its former sentence only on the ground of mistake, and that there was no mistake, and consequently no power of revision.

The first of these propositions is clearly not maintainable.

Where the punishment is death, or fine and imprisonment, the jurisdiction in question is extended to all persons "in the naval service of the United States," (Revised Statutes United States, section 164, articles 4 and 14,) and it embraces besides the frauds enumerated, "any other fraud against the United States." (Ibid., art. 14.)

In case of conviction adequate punishment is required to be adjudged. (Ibid., art. 51.)

Except where the sentence is death or the dismissal of a commissioned or warrant officer, it may be executed when confirmed by the officer ordering the court. (Idem, art. 53.)

The place of paymaster's clerk is an important one in the machinery of the Navy. Their appointment must be approved by the commander of the ship. Their acceptance and agreement to submit to the laws and regulations for the government and discipline of the Navy must be in writing, and filed in the Department. They must take an oath and bind themselves to serve until discharged. The discharge must be by the appointing power, and approved in the same manner as the appointment. They are required to wear the uniform of the service; they have a fixed rank; they are upon the pay-roll, and are paid accordingly. They may also become entitled to a pension and to bounty land. (Navy Regulations of August 7, 1876, p. 95; *In re* Bogart, 2 Sawyer, 406; United States *vs.* Bogart, 3 Benedict, 258; Rev. Stat., secs. 4655 and 2426.)

The good order and efficiency of the service depend largely upon the faithful performance of their duties.

If these officers are not in the naval service, it may well be asked who are?

The second and third points will be considered together.

The Secretary of the Navy is authorized to establish "Regulations of the Navy," with the approval of the President. (12 Stat., 565; Rev. Stat. sec. 1547.) Such "Regulations for the Administration of Law and Justice" were issued on the 15th of April, 1870. Thereby it is declared as follows:

"The authority who ordered the court is competent to direct it to reconsider its proceedings and sentence for the purpose of correcting any mistake which may have been committed.

"It is not in the power of the revising authority to compel a court to change its sentence, where, upon being reconvened by him, they have refused to modify it, nor directly or indirectly to enlarge the measure of punishment imposed by sentence of a court-martial.

"The proceedings must be sent back for revision before the court shall have been dissolved." (Reg., ch. 5, secs. 262, 263, 264.) Such regulations have the force of law. (Gratiot *vs.* U. S., 4 How., 117.)

The proceedings with respect to the revision of the second sentence were in conformity to these provisions.

It is clear that the court was not dissolved until after the approval of the second sentence by the admiral.

The court had jurisdiction over the person and the case. It is the organism provided by law and clothed with the duty of administering justice in this class of cases. Having had such jurisdiction, its proceedings cannot be collaterally impeached for any mere error or irregularity, if there were such, committed within the sphere of its authority. *Its judgments, when approved as required, rest on the same basis, and are surrounded by the same considerations which give conclusiveness to the judgments of other legal tribunals, including as well the lowest as the highest, under like circumstances.* The exercise of discretion, within authorized limits, cannot be assigned for error and made the subject of review by an appellate court.

We do not overlook the point that there must be jurisdiction to give the judgment rendered, as well as to hear and determine the cause. If a magistrate, having authority to fine for assault and battery, should sentence the offender to be imprisoned in the penitentiary, or to suffer the punishment prescribed for homicide, his judgment would be as much a nullity as if the preliminary jurisdiction to hear and determine had not existed. Every act of a court beyond its jurisdiction is void. (Cornell *vs.* Williams, 20 Wall., 250; Windsor *vs.* McVeigh, 93 U. S., 274; 7 Wait's Actions and Defences, 181.) Here there was no defect of jurisdiction as to anything that was done. Beyond this we need not look into the record. Whatever was done, that the court could do under any circumstances, we must presume was properly done. If error was committed in the rightful exercise of authority, we cannot correct it.

A writ of *habeas corpus* cannot be made to perform the functions of a writ of error. To warrant the discharge of the petitioner, the sentence under which he is held must be, not merely erroneous and voidable, but absolutely void. (*Ex parte* Kearney, 7 Wh., 38; *Ex parte* Watkins, 3 Pet., 193; *Ex parte* Milligan, 4 Wall., 2.)

The application of the petitioner is, therefore, denied.

Mr. LOGAN. This was a case where a person had been tried by a court-martial in the Navy. The commander concluded that the sentence was harsh. He sent it back to the court-martial for revision and modification. Instead of that, the court-martial refused to modify it, but made it more severe. The party then went before the Supreme Court on a writ of *habeas corpus*. This decision was made by the Supreme Court of the United States within the last few months on this court-martial case coming up from the Navy; and in reviewing it the Supreme Court say that the sentence of a court-martial, when approved by the proper officer, has the same conclusiveness that belongs to the judgment of any court in this land, from the lowest to the highest. If

that be so, I ask the lawyers in the Senate to tell me what conclusiveness there is to a decision of the Supreme Court of the United States as far as the Congress of the United States is concerned? Is there a man here who will pretend that Congress can review, set aside, or annul a decision of the Supreme Court or any other civil court? If so, I want to know from whence this power comes. If the legislative department of this Government can encroach upon the rights of the Supreme Court or the Executive of this nation in one instance, why can it not in every instance? If you can set aside a decision in one instance, why not in all instances? If the legislative department by passing a law in the nature of a pardon can acquit, set aside, or turn loose a man convicted by a court-martial, I ask why it cannot turn loose every man in the penitentiary to-day who has been convicted by one of the United States courts? Why not? If the Congress is going to undertake the pardoning business for the relief of men who have been convicted of crime, why not open the doors of the penitentiaries and turn them all out? We have the same right to do it; and if we are to use this power for political favorites, let the democrats turn their friends out now, we ours when we get the power. Sir, is such a rule as this to be established? I hope not for the honor of our country.

Why, sir, there have been one hundred and six cases in our Army where officers have been dismissed the service for gross misconduct, and where the penalty has been attached, that they shall hold no office of profit or trust under the Government. Many of them may be poor men. I do not know who they are; they may all say their honor has been touched; their honor has been clouded by calumny and abuse. Ah, sir, "touch not my honor!" Some of them come and ask you, saying, "touch not my honor;" but they do not come begging for the doors of the Treasury to be opened to them. When you speak about the honor of your friend, tell me what honor there is attached to coming before this Congress to have violated honor smoothed over and cured, if it is wounded, when along with it comes the payment of $60,000! "Oh, my honor has been injured; but $60,000 will repair the breach!" Merely "honor!" This man wants his "honor" untarnished, he says. Well, sir; if *my* honor is assailed by having a court punish me, and *I* come before my country and say, "my honor is assailed, *I* want you to restore my reputation," and if at the same time Congress says, "if wrong has been done to your honor we are ready to correct that wrong if we find we have the power," I ought to be glad when Congress says that; but *he* sticks his hand behind him and says, "$60,000 will correct it better than merely a restoration of my honor!" Well, that may be the way in this country to patch up a man's broken reputation. I shall have more to say about this before I am done.

Yesterday I was asked a question whether or not the legislative department of the Government could remit sentences, could remit fines, could remit punishments imposed by judgments of courts. I answered that, in my judgment, they could not. Now let us see whether I am correct. I had been speaking of military courts; now let us turn our attention to civil courts. The two Tennessee Senators, both being lawyers and good ones, I presume will have some respect for a decision from their own State. I do not say this intimating any idea of what their opinion may be on this subject, but merely because it is a decision from their State. They know more about its courts than I do, and will naturally respect their decisions more than I might be expected to without knowing the courts.

In the case of The State *vs.* Fleming *et al.*, 7 Humphrey's Tennessee Reports, page 152, the court say:

> The Legislature has no power to discharge a criminal by resolution. The Legislature cannot, by resolution, direct that an individual who stands charged with crime in a court of justice shall be discharged.

The court delivers the following opinion, which I ask the Secretary to read.

The Secretary read as follows:

> Turley, J., delivered the opinion of the court.
>
> This was a prosecution on behalf of the State against Andrew Fleming and Alfred G. Cosby, for retailing spirituous liquors contrary to the provisions of the act of 1838, (chapter 120.) Pending the prosecution, and before conviction, the Legislature passed the act of 1846, (chapter 90,) by which, under certain restrictions, it became lawful to retail spirituous and other liquors. At the same session, and subsequent to the passage of the act, it was resolved that "no fine, forfeiture, or imprisonment should be imposed or recovered for the offense of tippling under the act of 1837, and that all causes pending in any of the courts for such offense should be dismissed." Subsequent to the passage of this statute and resolution, but before their promulgation, the defendants were tried and convicted of the offense with which they were charged in the circuit court of Rutherford, and fined; before the judgments were executed the defendants, by petition, superseded them upon the ground that the resolution of 1846 freed and discharged them from all responsibility for the offense for which they were indicted, and asked that judgments against them might be vacated. This the circuit judge, upon hearing the petition, directed to be done. From which the attorney-general appeals to this court. The question presented for our consideration is whether the resolution of the Legislature passed in 1846 is a constitutional exercise of power. And we think it is not. The passage of the act of 1846 authorizing, under restrictions, the sale of spirituous and other liquors, did not upon any principle operate so as to discharge persons guilty of retailing under the act of 1838, but they were left liable to punishment under the provisions of the act, and the question reduced to simplicity is this: Can the Legislature, by resolution, direct that an individual who stands charged with crime in the court of justice be discharged therefrom? The mere statement of the question, it seems to us, answers it necessarily in the negative.
>
> The powers of the State of Tennessee are vested in legislative, executive, and judicial departments, each separate and distinct from the other, with their power and duties well defined by the constitution, and by which each is kept within its appropriate sphere of action. The Legislature can make the law, but the courts must expound it and execute it, with the aid of the executive, when his action may become necessary for that purpose. The Legislature has no power to interfere with the administration of justice, either criminal or civil, in the courts; a resolution that a criminal or class of criminals shall be discharged by the court is, then, necessarily an assumption of power not warranted. After conviction the governor may pardon, but before conviction the attorney-general and the court are the only power that can discharge without acquittal, and this by *nolle prosequi*.
>
> We are therefore constrained to hold that the resolution under which these defendants claimed their discharge is void for want of power in the Legislature to pass it.

Mr. LOGAN. This case is one in point, and I have one I will follow it with that is much stronger. Here is a case in the State of Tennessee where persons were fined for violating a law against the sale of spirituous liquors. The Legislature of the State undertook to release them from the fine. The supreme court decided that they could not do it; that before the trial the court and the prosecuting-attorney were the only parties having the authority to release them, and that was by entering a *nolle prosequi*, and after that it then inhered to the power belonging to the executive known as the pardoning power; and the Legislature had no authority to interfere with civil courts either before or after judgment.

By parity of reasoning, if the Legislature of a State cannot remit the penalty or fine against parties for violating a law in reference to selling liquors without infringing upon the prerogative of the governor of the State under a constitution separating the departments of the State the same as ours separates the departments of the Government, I want to know upon what principle the Congress of the United States can do the same thing?

But we find that we are not only supported in that instance, but in many other cases. I will take a case found in 15 Pennnsylvania Reports, page 18, the case of De Chastelleux *vs.* Fairchild, where the court in delivering their opinion in reference to the power to order a new trial say:

> If anything is self-evident in the structure of our government, it is that the Legislature has no power to order a new trial, or to direct the court to order it, either before or after judgment. The power to order new trials is judicial; but the power of the Legislature is not judicial. It is limited to the making of laws; not to the exposition or execution of them. The functions of the several parts of the government are thoroughly separated and distinctly assigned to the principal branches of it, the Legislature, the executive, and the judiciary, which, within their respective departments, are equal and co-ordinate. Each derives its authority, mediately or immediately, from the people; and each is responsible, mediately or immediately, to the people for the exercise of it. When either shall have usurped the powers of one or both of its fellows, then will have been effected a revolution, not in the form of the government, but in its action. Then will there be a concentration of the powers of the government in a single branch of it, which, whatever may be the form of the constitution, will be a despotism—a government of unlimited, irresponsible, and arbitrary rule. It is idle to say the authority of each branch is defined and limited in the constitution if there be not an independent power able and willing to enforce the limitations. Experience proves that it is thoughtlessly but habitually violated; and the sacrifice of individual right is too remotely connected with the objects and contests of the masses to attract their attention.
>
> From its every position, it is apparent that the conservative power is lodged with the judiciary, which, in the exercise of its undoubted right, is bound to meet every emergency, else causes would be decided not only by the Legislature, but sometimes without hearing or evidence. The mischief has not yet come to that, for the Legislature has gone no farther than to order a rehearing on the merits; but it is not more intolerable in principle to pronounce an arbitrary judgment against a suitor than it is injurious in practice to deprive him of a judgment, which is essentially his property, and to subject him to the vexation, risk, and expense of another contest.
>
> It has become the duty of the court to temporize no longer, but to resist, temperately though firmly, any invasion of its province, whether great or small.

Mr. JONES, of Florida. Will the Senator permit me to interrupt him on that point?

Mr. LOGAN. Yes, sir.

Mr. JONES, of Florida. I should like to know whether, in his opinion, any part of the judicial power of the United States can be vested in a tribunal presided over by an officer who does not hold his office during good behavior?

Mr. LOGAN. If the Senator had paid attention to that point yesterday he would have understood exactly what I said; that the judicial power of this Government under the Constitution is vested by article 3, section 1, in courts, the judges thereof holding their office during good behavior, and having a salary fixed. But I will now call the Senator's attention to what I said yesterday. A court-martial is a legislative court growing out of the necessities of war and of the provision of the Constitution authorizing Congress to make rules and regulations for the government of the Army and the Navy, just the same as a territorial court grows out of the provision of the Constitution known as the property provision in reference to the Territories. Although a territorial court is a judiciary appointed by the President and confirmed by the Senate, it is no more a part of the courts referred to by the Senator than is a court-martial.

Mr. JONES, of Florida. The case cited by the Senator from 1 Peters goes to establish that, for it was there held that a court created in the Territory of Florida was not the repository of any of the judicial power of the United States which was delegated by article 3, section 1, of the Constitution.

Mr. LOGAN. Certainly not. That is exactly what they held and it is exactly what I stated. Legislative courts and the judiciary under that provision of the Constitution are distinguishable in this, that the judiciary under the Constitution have reposed in them certain powers and certain jurisdictions that are not conferable on other courts, but the legislative courts grow, as I said, out of certain other provisions of the Constitution and the necessity of the case, and be-

come courts having authority just the same as the courts mentioned to hear, judge, and determine cases which are referable to them under the law.

The Senator from Florida is a lawyer versed in legal learning, and he well understands it to be true that courts have existed outside of and beyond the Constitution, not only in this, but in other constitutional governments; and that courts-martial grow out of the laws of war, not the written laws, but the unwritten laws. The judgments, the customs, the theories, the opinions of courts-martial have been delivered for hundreds of years. Courts-martial existed prior to our Government. Courts-martial existed before we had the United States of America. Courts-martial existed before we had a Constitution. The lives and liberties of men were determined by courts-martial before our Constitution was framed. Under our Constitution, which gives the power to the Congress of the United States to prescribe rules for the government of the Army and Navy, it becomes a necessity that these courts shall be organized. They are organized by legislative authority, and when organized by that authority, as says the decision of the Supreme Court, which I read a few moments ago, delivered in the case of *ex parte* Alvin R. Reed, at the last October term, where a case is within their jurisdiction, where they have followed the law, where they have complied with it, their judgments and decisions are upon as high a plane as the judgments and decisions of any court in the land, either under our constitutional or legislative system.

In reference to the case of De Chastelleux *vs.* Fairchild, which I have just read from the fifteenth volume of Pennsylvania Reports, found on page 18, that is a case precisely "on all fours" with this case. There the supreme court of that State decided that the legislative department, under the constitution forming its State government, like the Government of the United States, had no power to interfere with a civil court or any other court, to grant a new trial before or after judgment. It is not one of the prerogatives or powers of the legislative department to interfere with the judiciary of the land.

The Senate of the United States, under the Constitution, may be organized into a court, but that is provided for expressly. It may be organized into a court for the trial of certain impeached officers of the Government, but that is the only instance in which the Senate of the United States becomes a trial court. It is the only instance in which the Congress of the United States have power to act as a judicial body in reference to questions before the people.

When we speak about the legislative department of the Government authorizing the President to revoke, annul, or set aside the sentence of a court-martial, or when we ourselves undertake by legislative authority to place on the Army roll a man, no matter who he may be, without appointment and confirmation, when we undertake to pay a salary for labor never performed; when we undertake to set aside the decision of a legal tribunal of this land, we go beyond the proper sphere of our action, and beyond the scope of our authority.

I will cite a case from the Supreme Court Reports (Allen) of Massachusetts, which will be found in volume 2, page 361. I read from the decision on page 378. Speaking of the principle which I have been attempting to discuss, here is what the court say:

> It is the exclusive province of the courts of justice to apply established principles to cases within their jurisdiction, and to enforce their decisions by rendering judgments and executing them by suitable process. The legislature have no power to interfere with this jurisdiction, in such manner as to change the decision of cases pending before courts, or to impair or set aside their judgments, or take cases out of the settled course of judicial proceeding. It is on this principle that it has been held that the legislature have no power to grant a new trial or direct a rehearing of a cause which has been once judicially settled. The right to a review, or to try anew facts which have been determined by a verdict or decree, depends on fixed and well-settled principles which it is the duty of the court to apply in the exercise of a sound judgment and discretion. These cannot be regulated or governed by legislative action. (*Taylor vs. Place*, 4 *R. I.* 324, 327; *Lewis vs. Webb*, 3 *Maine*, 326; *De Chastelleux vs. Fairchild*, 15 *Penn. State R.*, 18.) *A fortiori*, an act of the legislature cannot set aside or annul final judgments or decrees. This is the highest exercise of judicial authority. Lord Coke calls judgment and execution "the fruit of the law." To vest in the legislature the power to take them away, or to impair their effect on the rights of parties, would be to deprive the judiciary of its most essential prerogative. It could then no longer finally adjudicate and determine the rights of litigants. The will of the legislature would be substituted in the place of fixed rules and established principles, by which alone judicial tribunals can be governed. The power to correct errors and revise and reverse judgments, which in the strictest sense of the word has always been deemed essentially judicial, would be transferred to the legislative branch of the government, even to the extent of controlling the final decrees of the tribunal of last resort. It is obvious that such an exercise of authority would lead to the entire destruction of the order and harmony of our system of government and to a manifest infraction of one of its fundamental principles. Indeed, it is difficult to see how the Legislature could more palpably invade the judicial department and effectually usurp its functions than to pass statutes which should operate to set aside or annul judgments of courts in their nature final, and which would otherwise be conclusive on the rights of parties. Upon this ground we are of opinion that the *St.* of 1860, *c.* 78, cannot be held to extend to a case like the present, in which a judicial decree declaring the proceedings void had been entered at the time of the enactment of the law. If such was the intent of the Legislature in passing the act it cannot be carried into effect, because it would operate to annul or reverse a final judgment of this court which has conclusively settled the rights of persons who are parties and privies to the present proceeding.

If that case is not "on all fours" with this case then I do not understand what kind of a case would be, for the court say that it would be difficult to see how a Legislature could more palpably invade the judicial department and effectually usurp its functions than by passing statutes which would operate to set aside or annul the judgments of a court having competent jurisdiction.

Did not this court have competent jurisdiction? Did not this court have authority to try? Did not this court have authority to find guilty? Did not this court try and find guilty? Was not the sentence approved by the President? Not only that, but I say to the Senate to-day that the President who approved the final decision of this court-martial in the case of Fitz-John Porter was the peer of any man in this land as a lawyer. President Lincoln was a man who stood high as a lawyer where he lived as any man in this nation. He was the appellate power; he was the court of final resort, and to him the application should have been made for a stay of the sentence, to him the application should have been made for a new trial or for a rehearing before his final approval and before the order of publication was promulgated to the world.

When that was done a seal was put upon the case, and it was then closed and made final. It was decided; it passed beyond the power of the President, and beyond the power and control of any one save, as I said yesterday, that the power that then existed for the purpose of restoring Fitz-John Porter was the same power that exists to-day. It is the power under the Constitution that is vested in the President of the United States to pardon all criminals convicted under the laws of the United States. That power is there to-day, and will rest there so long as this Constitution and this Government stand. Time does not prevent the appeal of Fitz-John Porter to the Executive of the United States for vindication of his honor, if that is what he desires. If he can convince the President that he has been unfairly dealt with, the President can pardon him.

Not only that, sir, but when I speak of the pardoning power resting in the Executive, it is a power that cannot be interfered with; it is a power that the Congress may not assume. In the trial of a cause in which one of our honored Senators was before the court on his own relation, the Supreme Court of the United States decided that the legislative power of this Government could not impair, could not extend, could not abridge the power of the President, so far as the power of pardon is concerned. Hence there is no power that exists that can estop the President of the United States from relieving General Porter from his disability, if he sees fit so to do. Why, then, is this measure pressed here? Ah, Mr. President, the pardon of the President does not carry $60,000 with it. The pardon of the President takes nothing with it save the certificate that he has forgiven him the crime, and that he goes free henceforth. That is the pardon. It takes nothing with it except the free pardon of his Government for the crime he has committed. Then, sir, if it be his honor which he desires repaired, the President can repair it to that extent. But the President has not repaired it. No, sir, he has not. I have been told, however, that pardon has never been sought. I know not whether that be true. I have not been told so by the President. If I had I should not say so here.

Mr. KERNAN. Allow me to ask the Senator a question by way of suggestion?

Mr. LOGAN. Certainly.

Mr. KERNAN. If I am convicted by a court-martial of very grave crimes, and as I believe erroneously, does the Senator think a pardon would place me where I should be placed if I were to have a rehearing, and could show that I was innocent originally?

Mr. LOGAN. How is that?

Mr. KERNAN. Take the case of Porter. If he gets a pardon, is that equivalent to a man having a rehearing or a retrial and then being acquitted? Is not he, though pardoned, convicted still, when by a rehearing, if he can do so, he may show that he is innocent? I only say that it is very different which of the two a man gets.

Mr. LOGAN. I will answer the Senator with great pleasure. The Senator is a little unfortunate, however, in putting his case. I do not see that General Porter is asking a rehearing here before the Senate. That is not in the bill at all.

Mr. KERNAN. That is in the bill, as I understand.

Mr. LOGAN. Sixty thousand dollars is in the bill; there is no rehearing in it.

Mr. KERNAN. I am talking about the substitute for the bill, and the question is whether a pardon answers the purpose of an innocent man who has been convicted, if he can get a rehearing and show that he is innocent? A pardon may be granted because there are mitigating circumstances. But I would desire, if I could have it, a retrial if I thought I could show that I was innocent.

Mr. LOGAN. Now, the Senator asks me if a retrial would not be preferable to a pardon. Let me put a case to the Senator. He is a good lawyer, or at least he ought to be; and I presume he is; he has that reputation. Will the Senator tell me what kind of a rehearing could be had before a court that would have authority to bring Fitz-John Porter before it and retry him? Will the Senator, as a lawyer, tell me that?

Mr. KERNAN. I was going to take this bill as a bill——

Mr. LOGAN. I am not going to take anything; I ask that question. The Senator talks about a rehearing, and I ask him as a lawyer if any rehearing could be given General Porter by Congress or otherwise, since he was convicted, that would bring him before a tribunal for trial?

Mr. KERNAN. Originally the President, if he had been so convinced, could have annulled this finding.

Mr. LOGAN. That is a different proposition.

Mr. KERNAN. I want to give the President a chance now to

review the case on the finding of a board of inquiry which finds that the other finding was erroneous.

Mr. LOGAN. I do not wish to use the word dodge, for I do not desire to apply that term to anybody, but the Senator does not come square up to the question. He put a question to me. He said he wanted a new trial. In fairness I answered him, and I will answer him now as I did yesterday and to-day, that there is no power to grant a new trial, and the Senator knows it; at least he ought to know it. But if there were power to grant a new trial, I ask the Senator as a lawyer if, by act of Congress or by order of the President or by any power of this Government, a new trial could have been granted after the President approved the sentence that would have had authority to bring this man before it and retry him? That is a fair question, and I ask the Senator for a frank answer, if he will give it.

Mr. KERNAN. My answer is that, in my view of the law, where there has been a judgment by a court created by a statute, Congress may pass a law authorizing a review, a rehearing, of that case. That is my view.

Mr. LOGAN. That is not the question. The Senator evades the question. I asked a plain, simple question in this way: Is there any power in this Government to-day, or has there ever been, to authorize a new trial since the approval of that sentence, that would have had the authority to bring Fitz-John Porter before it and try him?

Mr. KERNAN. I believe there is sufficient power in this Government on the application of the accused to enable Congress to authorize a tribunal to rehear the case.

Mr. LOGAN. Is it proposed that Congress shall rehear the case?

Mr. KERNAN. Oh, no, there is a tribunal to rehear it.

Mr. LOGAN. I do not agree with the Senator, but taking it that Congress has authorized a tribunal, what power would there be in that tribunal to try Fitz-John Porter for this offense? That is what I mean.

Mr. KERNAN. He has a right to avail himself of it.

Mr. LOGAN. He has a right to avail himself of it. The Senator is talking about a trial, and a trial means a court with power to bring the defendant before it and try him. I assert that there is no such power in this Government, and the Senator well knows it. He evades the question and has done so all the time.

Mr. KERNAN. I do not evade it.

Mr. LOGAN. Then I will give way for the Senator to answer.

Mr. KERNAN. I will answer at the proper time.

Mr. LOGAN. Now is the most seasonable time, if the Senator can answer the question. I will sit down, if the Senator can answer the question, until he does answer it.

Mr. KERNAN. I have stated that, in my judgment, there is in the legislative authority of this Government power to authorize a man to ask to be reheard and retried.

Mr. LOGAN. Who asks it?

Mr. KERNAN. The man who has been tried once and condemned.

Mr. LOGAN. That is not the question at all. I put the question, where is there any power in this Government to retry this man? His asking would not confer jurisdiction, and no power existing having jurisdiction, I cannot see how it can be done.

Mr. KERNAN. If this bill passes, as it is proposed to be amended, it authorizes the President to review this case; and by a retrial I mean a review of the former finding.

Mr. LOGAN. I beg the Senator's pardon.

Mr. KERNAN. That is what I mean.

Mr. LOGAN. Certainly if the Senator has read the bill and amendment in that way he has misread it. The amendment provides for no such thing.

Mr. KERNAN. Certainly it does.

Mr. LOGAN. The amendment does not provide for a review; it does not provide for setting the finding aside; it merely provides that he shall be paid $60,000 and get back into the Army. That is all there is of it.

Mr. KERNAN. I speak of the bill as it is proposed to be amended.

Mr. LOGAN. There is no such provision in it.

Mr. KERNAN. It says this——

Mr. LOGAN. I know what it says.

Mr. KERNAN. It authorizes the President in his discretion to do what he might have done before; he approved it; to annul the finding which was made.

Mr. LOGAN. No, I beg your pardon; the amendment provides for no such thing.

Mr. KERNAN. Just have it read, please.

Mr. LOGAN. Very well, read it.

Mr. KERNAN. I have it here, if I can lay my hand upon it.

Mr. LOGAN. I will wait until you get it.

Mr. KERNAN. Passing by the recital, the proposed substitute——

Mr. LOGAN. Do not read the preamble; read the amendment.

Mr. KERNAN. I will skip that preamble; I have it here.

Mr. CONKLING. The bill is at the desk, and the Secretary can read it.

Mr. KERNAN. Let the Secretary read it from the desk; that is the better way.

Mr. LOGAN. Very well; let the Secretary read it.

Mr. KERNAN. Without the preamble?

Mr. LOGAN. Yes, without the preamble.

The Secretary read as follows:

Be it enacted, &c., That the President is hereby authorized to nominate and, by and with the advice and consent of the Senate, to appoint Fitz-John Porter a colonel of infantry in the Army of the United States, his commission to bear date January —, 1863, with the pay and emoluments of that rank from that date until he shall be retired according to law or as hereinafter provided.

SEC. 2. That at any time after the granting of such commission it shall be lawful for the President to place said Fitz-John Porter upon the retired list of the Army, with the pay of a retired colonel of infantry.

Mr. LOGAN. Now the Senator sees that he has been going it blind.

Mr. KERNAN. No; I understand that by the preamble the President, if he sees fit in his discretion, may annul this finding.

Mr. LOGAN. I beg the Senator's pardon.

Mr. KERNAN. That is what I understand.

Mr. LOGAN. The Senator had better read bills before he advocates and votes for them.

Mr. KERNAN. I have read it.

Mr. LOGAN. The best way to understand bills is to read them. I understood this bill, and the Senator did not; that is the difference between us. It is just as I stated. The Senator has been arguing something that did not exist. I put the question again. The courts-martial of this country, by the authority of law, in a case of disobedience of orders, if they have a mind to do so, have a right by their sentence to order a man to be shot. I ask the Senator if he believes, since General Porter has been tried and convicted and the sentence approved, there is any power in this Government that could retry and convict him and shoot him, or sentence him again as he has been sentenced?

Mr. KERNAN. If the Senator will allow the preamble to be read in connection——

Mr. LOGAN. The preamble is no part of the bill.

Mr. KERNAN. I know that; but it shows what the bill means.

Mr. LOGAN. The preamble shows a kind of a stump speech that does not become any part of the law. We were talking about the bill, and not about the preamble.

Mr. KERNAN. Oh, no, Mr. President——

Mr. LOGAN. Oh, yes, Mr. President.

Mr. KERNAN. I do not want to get any stump speech before the country.

Mr. LOGAN. I did not say the Senator did. I said that the preamble of the bill was a stump speech.

Mr. KERNAN. I have read the preamble of the bill, and the effect of it is to let the President now annul that finding and reappoint General Porter to the Army.

Mr. LOGAN. The effect of it is not to annul anything. The effect of it is to direct the President to send his name to the Senate to be made a colonel, and that is to date back to 1863, when he was dismissed, and to give him a colonel's pay from that date to the present. That is the bill. That is exactly what it means; that is what it says, and all there is of it. There is nothing about annulling decisions or anything of the kind. You walk blindfolded over the court-martial without wiping it out, without annulling it, without changing it in any way. You go boldly, and by this bill drive him into the Army, leaving the finding of the court-martial standing there as it did the day the sentence was placed upon him.

That is the object of your bill. It is to ignore law; it is to ignore judgments; to ignore courts-martial, and to go blindly and do a thing in violation of law. That is what you propose by your bill, and the country *will like very much to see it done.* They are terribly troubled to have it done. You will hear from the country when you perpetrate this wrong upon the people, in tones, too, that will not be misunderstood.

I wish to say to my friend, the Senator from New York, or to any other Senator, what I said yesterday. I commenced this debate by opening the gates to everybody, for I wanted it to be a free and fair discussion, so that we may understand it when we get through. Hence, it affords me pleasure at all times to permit any question or any discussion on any point arising in the course of the debate.

I now desire to call the attention of Senators to a proposition that was stated yesterday in reference to the power of Congress to remit fines. I said I did not think Congress had that power; perhaps other Senators thought differently. I then said that I would cite a case from the State of Alabama. It is the case of Haley and others *vs.* Clark, and will be found in 26 Alabama Reports, page 439. The opinion of the court explains the case. Hence I will merely read the opinion, delivered by the chief-justice, a gentleman who not very long ago occcupied a seat in this body. I refer to Judge Goldthwaite:

The appellants claim under a private act, (acts 1849-'50, page 452,) by the first section of which it is enacted "that the treasurer of Marion County be, and he is hereby, directed to pay Allen Haley, John M. Frederick, John T. Sanders, and William Warren, the securities of John Douglass, late clerk of the circuit court of Marion County, the sum of $500, that being the amount of a fine which they have paid for said Douglass, in consequence of said Douglass having failed to comply with the requisitions of the second section of the act of 1834." The second section provides for the payment of the amount out of the funds of the county, arising from fines and forfeitures, upon making it appear that they have paid off and settled the fine, and all costs and damages in relation thereto, and also that Douglass has accounted for and paid all public moneys for which he as such clerk was liable.

The principal question is, whether this act is unconstitutional. By article 4, section 11, of the constitution of Alabama the power to remit fines and forfeitures is given to the governor, and by the second article the powers of the government are divided into three distinct departments—the legislative, executive, and judicial—and no one of these departments, or person belonging thereto, can exercise

any power properly belonging to either of the others, unless expressly directed or permitted by the constitution. The power to pardon offenses, except in case of treason and impeachment, and to remit fines and forfeitures, being, as we have seen, confided by the fundamental law to the executive branch of the government alone, this power is virtually denied to any other department, and cannot, therefore, be exercised by the Legislature. The only question is, whether the act referred to is, directly or indirectly, an attempt to remit a fine; for if it be so, the mode or manner in which it is to be done is entirely immaterial. It is the right which the constitution denies, without reference to the mode in which it may be exercised. We regard the act in question as a donation to the parties therein named of the amount of a fine which had been imposed on them in pursuance of law, upon making proof to the treasurer that they had paid it. A pardon is nothing more than relieving one from the penalty which the law has placed him under, and has the effect of restoring him to his condition before conviction.

It is impossible for any one to read the first section of the act without seeing that its purpose is identical with a pardon. The plain intention is to relieve the parties against a fine which the law has imposed on them—to place them, by the repayment of the money, in the same condition they occupied before conviction; and this being the case it matters not whether the act is passed before or after the fine is paid. It is the substance of the thing we must look at; and certainly it could never have been the intention of the framers of the constitution to prohibit the Legislature from remitting a fine and yet allow that body to accomplish the same result by compelling the fine, when paid, to be refunded. If that could be done the prohibition would be nugatory. The governor might refuse to pardon, and the Legislature direct the treasurer to pay the party the amount of his fine. We can see no real difference between the two cases. If the Legislature have the right to give away the public money—in relation to which we say nothing—they at least have not the constitutional right to give it for the purpose of enabling an offender to relieve himself against a fine; and if that purpose appears upon the face of the act courts could not do otherwise than declare it invalid. This is the case here: Certain parties have been fined; it is not pretended the fine has been remitted by the governor; it is conceded that the Legislature has not the authority to remit; but after payment it is insisted that body may legitimately refund the fine. To sustain this position would be to allow one department of the government to trench upon the powers of another, and to defeat the purpose which the constitution contemplated in confining the pardoning power to one branch of the government by permitting it to be indirectly exercised by another.

The act we have considered being void the judgment of the court in refusing to sustain any legal proceeding based upon it was correct.

So say the court. So in this case when you attempt by your legislative power here to appropriate money as they say in this bill for the purpose of putting the man back where he was, you thereby deny the right of the Executive of this Government to pardon the offender, by which pardon, as a condition precedent, he might be reinstated. You deny that right, and undertake indirectly to exercise that right by legislative action. Therefore that legislative action is void. That legislative action finds no warrant or authority in the Constitution or in the powers of the legislative department of the Government.

I find in the State of Missouri a case exactly, I think, in point, in 4 Jones, or volume 25 of the Missouri Reports, page 293. I will ask the Secretary to read for me the opinion of the court. The opinion of the court states the case.

The Secretary read as follows:

In 1857 the General Assembly passed an act to the purport that all persons in the State of Missouri who are not indicted for the violation of the act to regulate dram-shops committed before the 15th of December, 1856, be, and they are hereby, released from said prosecution: *Provided*, Each individual shall pay all the costs in said case and a fee of $2 to the circuit attorney.

The defendant was one of the individuals embraced within the purview of this act and produced to the court satisfactory evidence that he had complied with the conditions of its proviso, and thereupon, upon his motion, the court dismissed the cause and entered judgment for the defendant. To this action of the court below the State excepted and took an appeal to this court.

The powers of the General Assembly are not unlimited. All the departments of our government are confined in their operations. They have prescribed limits, which they cannot transcend. The union of the legislative, executive, and judicial functions of government in the same body, as shown by experience, had been productive of such injustice, cruelty, and oppression that the framers of our Constitution, as a safeguard against those evils, ordained that the powers of government should be divided into three distinct departments, and that no person charged with the exercise of powers properly belonging to one of these departments should exercise any powers properly belonging to either of the others, except in the instances expressly directed or permitted by the Constitution.

Although questions have sometimes arisen whether a power properly belonged to one department of government or another, yet there is no contrariety of opinion as to the department of the government to which the power of pardoning offenses properly appertains. All unite in pronouncing it an executive function. So the framers of our Constitution thought, and accordingly vested the power of pardoning in the chief executive officer of the State.

There can be no question as to the nature of the act under consideration. It is as effectually a pardon as though it were one in form under the great seal of the State. Its being clothed with the forms of legislation cannot vary its nature and effect. If such laws are warranted by the Constitution, it is plain that the power of granting pardons is as fully in the General Assembly as though it had been in express terms conferred on that body. The exercise of power involved in the passage of the act under consideration is not to be likened to that exerted in passing laws releasing sheriffs, collectors, and others from forfeitures incurred for failing to collect and pay over the public money. The existence of such a power is incident to the relation of creditor and debtor and to the authority to pass laws for the management of the public revenue. The operation of the act under consideration is confined entirely to the release of individuals from prosecution who stand indicted for offenses. That is its sole object. The justice or propriety of the act of pardon has nothing to do with the question of its constitutionality. We are not to presume that the governor, under suitable circumstances, will not exercise the power with which he has been clothed by the Constitution. He is the sole judge of the propriety of granting a pardon. The conditions prescribed in order to obtain the benefit of a release under the act do not the less make it a legislative pardon; they only change it from an absolute into a conditional pardon.

The time at which the act was passed renders it obnoxious to the objection that it interferes with the judicial department. The act, before trial and conviction, directs the disposition that shall be made of the cause. Where is the warrant in the constitution for the General Assembly to direct what disposition shall be made of causes depending in the courts? Is not the exercise of such a power a judicial function? The governor can pardon both before and after conviction. His pardon before conviction being pleaded would be a defense to the accusation. Here is a prosecution depending in court, and the Legislature comes in and orders the party to be released from it. What is that in effect but entering a judgment of acquittal?

In the case of The State *vs.* Fleming, 7 Humph., 152, a law very similar in its effects to that under consideration was examined, and the court did not doubt but that it was unconstitutional.

Judgment reversed and cause remanded.

Mr. LOGAN. In fact, I could stand here and read cases from the courts of the different States of this Union from now until to-morrow of the same character, declaring, under State constitutions dividing the departments of the government just as the Constitution of the United States does, that the legislative department cannot interfere with the courts before or after the decisions or with the decisions; that it cannot set them aside, nor remit penalties, which would be in the nature of a pardon, because that power belongs to the executive of the State, as it does here to the Executive of the nation. In the case just cited, precisely like the one before us, where parties asked to be relieved of punishment by act of the Legislature restoring them, the courts say it is an infringement upon pardoning power and is unconstitutional. So, too, in every instance where the demand has ever been made and where the case has been before the courts of the country they have universally decided that the legislative department of the government had no such power. Not only has it been so held in New York and many other States, but I could cite a number of other cases. I do not wish to detain the Senate by reading over and over the same principle, but in every State, as I have said, where the question has been brought to the notice of the courts, the supreme court of the State has so decided. It so decided in the State of New York in a case—I do not remember exactly the number now, but I have the report before me—where the question came up as to the power of the Legislature in reference to an act concerning spirituous liquors, where the same principle was involved that was at point in the case just read, and that is involved here, as to the power of the Legislature of a State, and they say this power does not belong to the Legislature, but to the executive and to the judiciary.

[At this point the honorable Senator yielded to a motion that the Senate proceed to the consideration of executive business.]

Thursday, March 4.

Mr. LOGAN. Mr. President, I certainly owe the Senate an apology for having taken up so much time in the discussion of this case; and were it not that it is a case of great interest as well as great importance, I certainly should not ask the Senate to listen to me further. But when Senators come to know the fact that the three volumes before me contain the testimony, they will understand it requires no short time to make a fair examination of the case. I have attempted in my feeble way to discuss questions of a legal character that I deem important in their bearings upon the questions here presented If the Senate will give me its attention, I will now attempt to lay before it the evidence as I understand it; and that there shall be no mistake about quotations of testimony, I have taken pains to examine the volumes, and have clipped what I shall quote from them, so that I shall not make any mistakes in stating the testimony to the Senate.

Fitz-John Porter was tried on charges for disobedience of orders in the face of the enemy. I do not know that I shall be able to convince any one other than myself that he was guilty of these offenses; but I at least am satisfied. I say it not out of any feeling against him; but if the evidence does not show him to be a guilty man there never has been testimony adduced before any court that did prove the guilt of any criminal or any one charged with crime. In order that we may have an understanding of the question it is well to know something in reference to the positions. General Pope being in command of the Army of Virginia, had withdrawn from or relinquished what is known in military parlance as his former line of operations and began his movement against Jackson on the evening of the day on which he sent the first order to Fitz-John Porter. General Hooker's division of Heintzelman's corps having moved along the railroad from Warrenton Junction toward Manassas Junction, and, meeting Ewell's division of Jackson's forces at Bristoe Station in the afternoon, after a sharp fight drove him out in the direction of Manassas Junction. General Pope made his headquarters with this division. In his rear, at Warrenton Junction, was Porter's command, the gallant Fifth Army Corps, anticipating an attack from the confederate forces on the morning of the 28th, and Hooker's command being nearly out of ammunition at that time, he issued the following imperative order at 6.30 p. m. to General Fitz-John Porter, and sent the same by Captain Drake De Kay, one of his (Pope's) aids-de-camp. The order is in the following language, which will be found on page 7 of the general court-martial record:

HEADQUARTERS ARMY OF VIRGINIA,
Bristoe Station, August 27, 1862—6.30 p. m.

GENERAL: The major-general commanding directs that you start at one o'clock to-night, and come forward with your whole corps, or such part of it as is with you, so as to be here by daylight to-morrow morning. Hooker has had a very severe action with the enemy, with a loss of about three hundred killed and wounded. The enemy has been driven back, but is retiring along the railroad. We must drive him from Manassas and clear the country between that place and Gainesville, where McDowell is. If Morell has not joined you, send word to him to push forward immediately; also send word to Banks to hurry forward with all speed to take your p'ace at Warrenton Junction. It is necessary, on all accounts, that you should be here by daylight. I send an officer with this dispatch, who will conduct you to this place. Be sure to send word to Banks, who is on the road from Fayettville, probably in the direction of Bealeton. Say to Banks, also, that he had best run back the

railroad trains to this side of Cedar Run. If he is not with you, write him to that effect.

By command of Major-General Pope.

GEORGE D. RUGGLES,
Colonel and Chief of Staff.

Major-General F. J. PORTER,
Warrenton Junction.

P. S.—If Banks is not at Warrenton Junction, leave a regiment of infantry and two pieces of artillery as a guard till he comes up, with instructions to follow you immediately. If Banks is not at the junction instruct Colonel Cleary to run the trains back to this side of Cedar Run, and post a regiment and section of artillery with it.

By command of Major-General Pope.

GEORGE D. RUGGLES,
Colonel and Chief of Staff.

Before proceeding further, allow me at this juncture to call attention to the map, as I presume there are very few here who have examined it. We find here Warrenton Junction, where Porter was, [indicating;] Bristoe Station here, [indicating,] where Pope was, and from whence he sent the order. Manassas Junction here, Centreville here, Groveton here, Gainesville here, and Thoroughfare Gap here, [indicating.] It was nine and one-half miles from Warrenton to Bristoe Station. Pope issued this order at Bristoe Station, where this action had taken place, on the evening of the 27th, McDowell being at Gainesville. The intention was, Jackson being in here, Manassas, [indicating,] at that time, to move up here, McDowell being here, and to strike him before he could escape through Thoroughfare Gap. That was the object, and I must say that with the position of the troops, I would submit the question to any military man that the plan or arrangement of Pope was a good one.

Drake De Kay, a witness on the stand before the court-martial and before this board, swears that he was the bearer of this order to Fitz-John Porter; that he delivered the order to Fitz-John Porter at nine o'clock and thirty minutes that evening. He was directed by Pope to stay with Fitz-John Porter and conduct his command along the road to Bristoe Station.

When Porter received this order, what was his duty? There is no use of talking about excuses. He was ordered to move at one o'clock at night, and be at Bristoe Station at daylight in the morning. Now, sir, I will ask any one conversant with military affairs what his first duty was when he received the order. Not to inquire as to the night or the roads, but his first duty was to order his adjutant-general at once to issue an order to his two divisions that were then there, Morell's and Sykes's, to be ready to move promptly at one o'clock at night. But what does he do? The evidence, as sworn to before the court-martial and the board, is that he read the order indifferently and said to General Butterfield and other officers around him, "There's a chance for a short nap." That was his response to this order. That is exactly his language sworn to by Drake De Kay, sworn to by Butterfield, one of his own commanding officers.

What was the result? He consulted with his officers. For what purpose? For the purpose of finding out if there were not some way to avoid the order and not for the purpose of executing it. What was his action? He issued no order at that time to his command; but he decided himself, after consultation, that he would not move at one o'clock but at three o'clock in the morning, a difference of two hours. Having to go nine miles and a half, a difference of two hours would count a great deal in the march of an army or in the march of a corps.

It will not do to say that General Porter did not have knowledge or information in reference to the necessity of his being present next morning at daylight, because the very order issued to him required him to be there at daylight; and why? Because an attack was expected; because the arrangement was so made that there was a necessity for his force being at Bristoe Station for the purpose of consummating the plans of the general in command.

I now proceed to read the testimony of Captain De Kay, on page 43 of the general court-martial record:

Captain DRAKE DE KAY was then called by the Government, sworn, and examined as follows:

By the JUDGE-ADVOCATE:

Question. Will you state what position you hold in the military service?

Answer. First lieutenant of the Fourteenth Infantry.

Q. What position did you hold during the campaign of the Army of Virginia under the command of General Pope?

A. Aid-de-camp to General Pope.

Q. Did you, or not, on the 27th of August last, bear a written order from Major-General Pope to Major-General Porter, who was then, I believe, at Warrenton Junction?

A. I did.

Q. Do you remember distinctly the character of that order, and would you be able to recognize it again upon having it read to you?

A. I did not read it.

Q. Did you, or not, after its delivery to General Porter, learn from him its character?

A. I was aware of its character by word of mouth, either from General Pope or from his chief of staff.

Q. Will you state its character as you understood it?

A. That he was to proceed at one o'clock that night to move up to Bristoe Station with his command.

Q. Do you mean at one o'clock on the morning of the 28th of August?

A. Yes, sir.

Q. At what hour of the 27th of August did you deliver this order to General Porter?

A. Between nine o'clock and half past nine p. m.; I think about half past nine; I could not say within half an hour.

Q. Had you any conversation with General Porter at the time in relation to the order or the execution of the order by him?

A. Yes, sir; some conversation.

Q. Will you please state it, as far as you can recall it?

A. I arrived, as I have said, about half past nine o'clock, at his tent, and found General Porter and two or three generals there - General Sykes and General Morrill, and, I think, General Butterfield, though I am not sure whether he came in afterward or not. I handed General Porter the order, which he read and then handed to one of the generals, saying as he did so, "Gentlemen, there is something for you to sleep upon."

Butterfield says he thinks he said "there is something for a short nap;" but that is immaterial.

I then said that the last thing that General Pope said to me on leaving Bristoe Station was that I should remain with General Porter and guide the column to Bristoe Station, leaving at one o'clock, and that General Pope expected him certainly to be there by daylight, or relied upon his being there by daylight; something of that nature; those may not be the exact words; I only give to the best of my recollection, of course. General Porter then asked me how the road was. I told him that the road was good, though I had had difficulty in getting down on horseback, owing to the number of wagons in the road; but I told him I had passed the last wagon a little beyond Catlett's Station from this direction. I told him that as they were moving slowly he would probably be up with them by daylight. I also stated to him that his infantry could take the railroad track, as many small squads of men had gone up that way. These small squads, I would state here, though I did not state that to General Porter, were stragglers from Hooker's corps; I should think some six or eight hundred of them, which we passed in going down to Bristoe Station; they all took the railroad track as the shortest and easiest road.

Q. What remark, if any, did General Porter make, either to you or to the generals with him, in reply to this statement in reference to the road and the expectation of General Pope?

A. He stated—I do not think to me; he spoke generally to all who were in the tent—that his troops had just got into camp; that they had been marched hard that day; that they would be good for nothing if they were started at that time of night; that if their rest was broken they would be good for nothing in the morning on coming up with the enemy.

Q. Did you or not make known to him that you were there for the purpose of conducting him under the order of General Pope?

A. I did.

Q. Did he or not, at the moment, announce any purpose either to obey the order or not to do so?

A. I do not recollect precisely.

Q. From the remarks made by General Porter, in your hearing, in reply to these statements of yours, was or was not the impression made upon your mind that it was not his purpose to march in obedience to the order?

(Question objected to by the accused.

The judge-advocate stated that he merely wished to arrive at the fact whether there was any determination made known to the witness in regard to this order in any way; he was not particular as to the form of the question to be asked.

The accused withdrew his objection.)

A. There was no order issued to my knowledge, of course, one way or the other. That would have been done through General Porter's assistant adjutant-general. I can only say that I was aware of the determination not to start until daylight, inasmuch as I laid down and went to sleep.

Q. Do I or do I not understand you, then, to say that there was an evident determination on the part of General Porter not to march until daylight?

A. There was.

Q. Have you any knowledge as to the time at which his troops had arrived at Warrenton Junction?

A. Only the fact that the regulars—Sykes's division—were in camp at Warrenton Junction at about ten o'clock in the morning of that day, which fact I am aware of from having visited several officers of my regiment in their camp.

Q. These regulars were a portion of General Porter's command, were they not?

A. Yes, sir.

Q. Have you any knowledge how far the troops under General Porter had marched on that day?

A. I have not.

Q. What was the character of the night of the 27th of August?

A. To the best of my recollection, it was a cloudy night, but not rainy.

Q. What was about the distance between Warrenton Junction and Bristoe Station?

A. I supposed it to be ten miles; they say nine miles.

Q. What was the distance from Bristoe Station to Catlett's Station, when you passed the last of the wagons?

A. I cannot tell you exactly; six miles, I should think.

Q. At what hour did you pass the last of those wagons?

A. Half past eight p. m., I should think.

Q. Did you remain over night, and wait until the march of General Porter's command the next day?

A. I did.

Q. At what hour, in point of fact, did he move from Warrenton Junction?

A. I should think the head of the column left about four o'clock in the morning; I am not positive about the hour.

Q. At what rate did the command march after it left Warrenton Junction?

A. I could not say at what rate. We started at or about four o'clock in the morning, and marched along quietly, without any apparent haste, meeting with no obstruction or detention, except that arising from the wagons we found in the road. The head of the column arrived at Bristoe Station about ten o'clock, I should judge.

Q. At what point did you overtake the wagons, and how many of them do you suppose there were?

A. I do not recollect. There was a large park of wagons near Warrenton Junction—about half way between Catlett's Station and Warrenton Junction—which left for Bristoe Station at daylight. We overtook those wagons. They were in park when I passed down to Warrenton Junction the previous evening; therefore I cannot tell when we overtook the end of the train which I had passed near Catlett's Station the evening before.

Q. What is the meaning of the term "in park?"

A. In camp.

Q. Had General Porter's command marched at one o'clock in the morning would he or would he not have passed those wagons in camp?

A. He would have passed them in camp, probably.

Q. Was or was not the march throughout at the usual rate at which troops move, or was it slower?

A. It was at the rate at which troops would move if there was no necessity for rapid movement.

General Sykes, one of Porter's own division commanders, testified, on page 170 of the general court-martial record:

Brigadier General GEORGE SYKES called by the accused and sworn, and examined as follows:

By the ACCUSED:

Question. Will you state your rank and position in the Army?

Answer. I am a brigadier-general of volunteers and major of regulars.

Q. To what corps were you attached in August last?
A. I commanded a division under General Fitz-John Porter, of the Fifth Army Corps.
Q. If you were in General Porter's tent on the evening of the 27th of August, at the time when Captain De Kay brought General Porter an order from General Pope, will you state the conversation which then occurred, or immediately afterward, as nearly as you can recollect it, and what was done about that order?
A. *About ten p. m., on the 27th of August, General Porter sent for me; we were then encamped at Warrenton Junction, Virginia. In his tent I met General Morell, General Butterfield, and Captain Drake De Kay. General Porter informed me that he had received an order by the hands of Captain De Kay, directing his corps to march at one o'clock a. m. on the 28th.* We talked it over among ourselves, and thought nothing was to be gained by moving at midnight or one a. m. rather than at dawn. I was very positive in my opinion, and gave General Porter my reasons.

General Sykes's command arrived at Warrenton Junction that morning at ten o'clock. They had rested from ten o'clock, and would have rested until one o'clock at night. The last of General Morell's division got in there late in the evening, so that the divisions would have had rest, ample and sufficient, for a march of nine and a half miles, especially when there was any necessity for it.

General Morell says, on page 138 of the general court-martial record:

Question. Do you know anything of an order received by General Porter from General Pope on the evening of the 27th of August?
Answer. Yes, sir. I was present when he received one brought by Captain De Kay.
Q. About what hour?
A. About ten o'clock.
Q. Who else, as you recollect, was present at the time?
A. General Sykes and General Butterfield were either present or came in a very few minutes after. I do not know which.
Q. State what occurred at the time of the receipt of the order, or immediately afterward, between the accused and yourself and the other generals.
A. General Porter said to us that he had received this order to march at one o'clock that night. We immediately spoke of the condition of our troops—they being very much fatigued—and the darkness of the night, and said that we did not believe we could make any better progress by attempting to start at that hour than if we waited until daylight. After some little conversation, General Porter said: "Well, we will start at three o'clock—get ready." I immediately left his tent and went back to my division and made preparations for moving.

As I said, at that time Porter's corps was composed of two divisions, Sykes's and Morell's. One of the excuses for not obeying this order is that it was dark; another is that there were wagons in the road, and therefore the march could not be completed. You will find on page 106 of the general court-martial proceedings the evidence of Colonel Frederic Myers, of the Quartermaster's Department, who is now dead:

Lieutenant-Colonel FREDERIC MYERS was then called by the Government and sworn, and examined as follows:

By the JUDGE-ADVOCATE:

Question. Will you state to the court in what capacity you served in the Army of Virginia, under Major-General Pope, during its late campaign in July and August last?
Answer. I was chief quartermaster to General McDowell.
Q. Where were you on the night of the 27th of August last?
A. I was with the trains of the Army, about a mile and a half from where General Hooker had his battle on the 27th.

He was with the trains about a mile and a half from where General Hooker had the battle of the 27th. General Hooker's battle on the 27th was at Bristoe Station, where these troops were to be marched that night.

Q. Did you, or not, receive any instructions from General Pope on that day, relating to your train along the road from Warrenton Junction to Bristoe Station? If so, state what they were.
A. I was ordered to move the trains in rear of General Hooker.

Away from Warrenton Junction; not in the direction of Warrenton Junction.

Just before dark General Pope with his staff rode up, and I reported to him that General Hooker was in action ahead of me, and asked him if I should go into park with my trains. He replied that I could do so, or go on, as I thought best.
Q. What did you do; did you go into park, or did you continue on?
A. *I went into park, and gave directions to all the quartermasters to go into park.*
Q. At what hour on the following morning were those trains upon that road put in motion?
A. *The head of the train commenced moving just at daylight.*
Q. What was the condition of the road between Warrenton Junction and Bristoe Station at that time, so far as regards the passage of wagons, artillery, &c.?
A. *It was in excellent condition at that time.*
Q. Do you remember the character of that night—the night of the 27th of August? If so, will you please state it?
A. I was up nearly all that night. It was quite dark; there was no moon.
Q. Did the night change in its character toward the morning, or was it the same throughout?
A. It was a dark night. I could not state about it toward morning particularly.
Q. In view of the condition of the road as you have described it, and also the character of the night, was or was not the movement of troops along that road practicable that night?
A. I do not know of anything to hinder troops moving along the railroad there. There was a road running each side of the railroad. I should think it would have been easy for troops to move along there, although I may be mistaken in that.

Thus, from the testimony of Colonel Myers, then in charge of the wagons that it is claimed were in the road, it is clear he ordered them to go into park, that is to go into camp, to keep off the road; that they did so, and that the head of the train entered the road the next morning at daylight, and not until daylight. At one o'clock General Porter was to start with his command, and I will say this evidence discloses the fact that General Porter took no steps whatever except merely to send out officers, and he dispatched two aids to Pope for the purpose of asking Pope to clear the road for him. He took no steps whatever to clear the road himself of wagons. Now, sir, I have had a little military experience, not very much, but I should be very sorry if I were marching at the head of a corps if I had to depend on somebody else to clear the road of wagons for me.

I have cut roads through the woods and marched an army corps much larger than this; I have marched an army corps where wagons were on the road, and I have marched it on as dark a night, and no man need tell me there is any excuse for a commander, because a night is dark or wagons are in the road, to prevent his moving an army corps or a division. If wagons are in the road, a general who wants to fight will put the wagons off the road, and very quickly, too. Wagons are no impediment to a soldier who desires to fight. They are only an impediment to him who seeks an excuse for not fighting. Why, sir, an order of that kind should have been obeyed if he had to burn the wagons in the road, when he was told by an order that a battle was taking place, and he was expected at daylight. No, sir; you can find no gentleman, unless he seeks to palliate this conduct, who will say that was a tangible excuse.

Oh, but another excuse is made by some of the witnesses. They say the artillery could not have been got along that night. Suppose they could not; they could have marched the infantry and left the artillery. It is not always necessary to have your artillery up. You want it, but it is immaterial in one aspect; you can fight without artillery; but here two heavy divisions were to wait because the artillery could not come up through the mud!

Now, let us see what General Porter did by way of clearing out these obstructions on that dark night. It did not rain; the moon did not shine, but it was starlight, say the witnesses, nearly all of them, except when a cloud would obscure for a time. There were roads on either side of the railroad. There was a railroad from Warrenton Junction to Bristoe Station, with a wagon-road on either side, say the witnesses. They ran the trains behind Cedar Run. Those trains at the time they were running might have prevented the troops from marching on the railroad track; but the trains were run back there before two o'clock. So the testimony of the person in charge shows. Then the railroad was no obstruction; but there were wagons and the night was dark. General Butterfield, when he was sworn, stated, on page 179 of the general court-martial record:

Brigadier-General DANIEL BUTTERFIELD called by the accused and sworn, and examined as follows:

By the ACCUSED:

Question. What was your rank in the Army of Virginia, commanded by General Pope?
Answer. Brigadier-general of volunteers and lieutenant-colonel of the Twelfth United States Infantry.
Q. Do you remember whether you were present on the evening of the 27th of August last at the headquarters of General Porter when an order was received by him, through Captain De Kay, from General Pope?
A. I was present a few moments after it was received.
Q. Will you state what was said by General Porter in relation to that order, and what the order was?
A. The order, I believe, was for General Porter to move his forces at one o'clock in the morning to Bristoe Station. He handed the order to General Morell, or to General Sykes, who were present, *and said there was a chance for a short nap*, or something of that sort, (I do not remember the exact words,) indicating that there was but little time for preparation. General Sykes or General Morell, I do not remember which, (one or both of them,) spoke with regard to the fatigue our troops had endured, the darkness of the night, and the fact that, in their judgment, the troops would be of more service to start at a later hour than they would be to start at the hour named. In reply to these remarks General Porter spoke rather decidedly, that there was the order; it must be obeyed; that those who gave the order knew whether the necessities of the case would warrant the exertions that had to be made to comply with it. I do not state that as his exact words, but as the substance of what he said. Captain De Kay, who brought the order, was then present, and was asked some questions about the road. He stated that it was very dark, and that the road was full of teams. General Sykes, I think, suggested that it would be impossible for us to move at the hour named, if the road was full of teams; that they could not find the way. General Porter called two aids—

Here I invite the attention of Senators who are prosecuting this claim, who are making these excuses for this man—

General Porter called two aids, *and sent them off to investigate the condition of the road, and to ask General Pope to have the road cleared, so that we could come up.*

He sent off two aids, not two men to clear the road, but sent two aids through to Bristoe Station to ask General Pope to have the road cleared for him, so that he might come up the next morning. General Butterfield continues:

Q. Did you see the order of the 27th from General Pope, or know anything about the urgency of its terms?
A. I did not read it.
Q. Did you learn of Captain Drake De Kay that General Pope had taken measures to have the road cleared?
A. I did not.
Q. Can you state that, in point of fact, the road had not been cleared by General Pope's orders, or that at one o'clock at night and until later in the morning the road was all cleared; and can you state that the wagons that obstructed the road when you passed had not moved on to the road after daylight?
A. I cannot; I have no knowledge upon that subject.

The fact is, and the evidence discloses it, that General Porter did not leave his tent or his headquarters until after sunrise that morning, and a captain of an escort company stood in front of his headquarters from three o'clock in the morning waiting until sunrise and then got his breakfast before General Porter himself started from his headquarters, although this order was imperative; and after they had started the wagons that had been parked by the roadside during the night under the order of Colonel Myers, as he says, came into the road at daylight after these troops came on to it. Of course the wagons entered the road for the purpose of going to Bristoe Station, and then they were an obstruction. This shows that there was no attempt whatever made by Fitz-John Porter to clear the road or to

move his troops in the direction of Bristoe Station at night when the road had been cleared by parking the wagons.

Further, this evidence of General Butterfield shows another fact: it shows that General Porter did not explain this order to his commanders, because General Butterfield swears that he did not know what the order was except that they were to move at one o'clock at night, and the order was changed to three o'clock by Fitz-John Porter. He did not explain to his commanding officers that General Hooker had been in a fight, and that General Pope wanted his army corps there the next morning, because he expected an attack from the confederate general, Jackson. He made no such explanation; hence Sykes and Morell and Butterfield thought it made no difference so that they got there the next morning. He did not read the order to them, made no explanation whatever, except merely to inquire what their desires were in reference to moving that night.

Francis S. Earl, the assistant adjutant general of General Morell, swears as follows:

Question. When did you, as acting assistant adjutant-general for Major-General Morell, on the 27th of August, first receive intimation that you were to move the next morning?

Answer. That was the day we moved to Warrenton Junction; I knew nothing of it until the next morning.

Q. About daybreak?

A. The order came to General Morell that we were to move in the morning; that was all I knew—that we were to move in the morning.

Q. When did you receive the first intimation that you were to move on the morning of the 28th?

A. I could not say whether it was the night before or whether it was during the night. I think it must have been before, because I knew we were to move at three o'clock in the morning.

Q. Were you up at three o'clock?

A. Yes; I was up at that time, and before, probably.

Q. You are quite positive you were?

A. Yes, sir.

Q. Have a distinct recollection of it?

A. Yes; I recollect being up at that time.

Q. At what time did you arrive at Bristoe Station?

A. I should judge somewhere about ten o'clock, between nine and ten.

Q. Do you know of any orders having been given the night before, or any effort made to clear that road from Warrenton Junction to Bristoe Station?

A. No, sir.

Q. From your position, would you have been likely to have known?

A. If I had really been acting as assistant adjutant-general of division, or feeling that I was in that position, I probably may have known of it.

Q. You considered you were acting in that capacity?

A. I considered myself more acting as an aid to General Morell, because I had not been announced as assistant adjutant-general.

Q. Who was acting as assistant adjutant-general?

A. Nobody but myself; he so considered me, though I had not been announced.

The adjutant-general of General Morell, by whom the order should have been issued to the division, and through whom it should have passed, knew nothing about the movement until the next morning; and that was the manner in which the orders of General Pope were executed by Porter, who claimed that he did not, in any sense whatever, refuse to obey the orders of his superiors.

General Chauncey McKeever, chief of staff of General Heintzelman, on page 151 of the board record, as it is called. The records are distinguished between the general court-martial record and the board record; two of these large volumes are the board record, and the first, the smaller one, the record of the general court-martial. General McKeever says:

Question. If a peremptory order had been received at Warrenton Junction to move from that place to Bristoe at one a. m. on the night of the 27th and 28th of August, is it your opinion, as a military man, that the troops at Warrenton could have been put in motion on the road to Bristoe in order to comply with such a command?

Answer. They could have been put in motion, I presume. I know nothing to prevent their being put in motion.

Q. Do you recollect about what time it was daylight on the 28th of August?

A. I should think about four o'clock; maybe a little later—not much.

And this is the fact; and if Porter had obeyed that order—and I put it to any one who understands what obedience to orders means—if the wagons had been blocked, as my friend from New Jersey says, like an iceberg on the road, it was his duty to call his troops up and attempt to make the march. If he failed, then he would not have failed on account of bad intentions; it would have been by reason of impossibilities. But, sir, an officer who receives an order must attempt at least to comply with it; and when he does not so attempt in any sense, he then cannot give excuses if it has not been executed. The excuse that justifies the non-execution of a military order is when you attempt to execute it and the impossibility develops itself. It is not that you can find imaginary obstructions, not that you can yourself make up obstructions to the execution of an order, but you must attempt to execute and find the obstructions to its execution, or you fail in the performance of your duty.

Colonel Robert E. Clary, called by accused, swears that he received a note from General Porter about ten o'clock to run the railroad trains east beyond Cedar Run; and in answer to question says, page 119, G. C. M.:

Question. You speak of pushing forward the trains. Do you mean the trains upon the railroad, or ordinary wagon trains?

Answer. I mean railroad trains loaded with our own stores, and I think some sick and wounded.

Q. In your opinion, could or could not General Porter, after the receipt of his order to move, which receipt was at 9.30 p. m. of the 27th of August, have cleared the road entirely of wagons by one or two o'clock that night, so that his march would not have been much impeded?

A. I think the troops could have passed over during the night, had a sufficient force been sent in advance to have cleared the road of its obstructions, which, at the time I passed over it, extended only three miles, I think. When I passed over the road it was between two and three o'clock in the morning; what the obstructions had been previously to that time I am unable to say.

The examination by the judge-advocate here closed.

Examination by the COURT:

Q. Will you state whether at one o'clock the character of the night and the state of the road were such as, in your judgment, to render practicable the march of General Porter's troops to Bristoe Station to arrive at or about daylight?

A. Not without the preliminary steps which I have previously stated ought to have been taken.

Q. Were or were not the first three or four miles of the road from Warrenton unobstructed?

A. They were, as I passed over it.

Solomon Thomas, of the Eighteenth Massachusetts Regiment, Martindale's brigade, being a part of Morell's division, swears, on page 841 of the board record, as follows:

Question. On the 27th of August where were you?

Answer. We were moving on the Warrenton road toward Bristoe Station. I should think that we were encamped on that night some six to eight miles from Bristoe Station. We went in before sundown; probably the sun was an hour or an hour and a half high when we halted there.

Q. When did you move from there?

A. I was corporal of the guard that night, and was ordered to wake the men at one o'clock, which I did; and we were formed and moved out from our camp immediately after one o'clock.

Q. At what time did you start on your march?

A. We then started immediately from that, and marched a mile, probably, when we were halted.

Q. How long did you remain there before you proceeded on your journey?

A. I know at nine o'clock we were still there. We had halted in the first place expecting to stop for a moment, and halted in position. Then we were ordered to rest at will, and did so, and then were ordered to lie down, and then we lay down.

Q. That was the morning of the 28th?

A. Yes, sir; and lay in that position, as we felt disposed, until, I should think—according to the best of my judgment it was ten o'clock before we were called to company. Then we started and marched for Bristoe Station.

Q. Do you recollect what the character of that night was, the 27th, and morning of the 28th of August?

A. I do. I recollect the roads were in good condition, and that as we moved out there was no obstruction whatever in our way.

Q. You were wounded on the 30th?

A. On the 31st.

I ask, why was this delay? The command to which this witness belonged had marched there in the evening; they were ready to move at one o'clock; they remained there until nine o'clock in the morning without any orders, and without any motion, and then moved out and forward. If there were any reason for that I should like some one to explain to me what it was. It cannot be, as is said, that the wagons were in the road; it cannot be that artillery was in the way, for, let me say right here, that when it was daytime, if a battle was going on, or if there were the expectation of a battle, infantry could move through woods and go in single file. They can move anywhere where a man can go on horseback, if it be absolutely necessary. They cannot move in regular order, as we usually move, but they can find their way through if there be any necessity for it; and infantry, wherever the commanding officer desires to get them, unless streams or something of that kind intervene, can always find a way around or a way through. "Wherever there is a will there is a way."

But Porter concluded it was best to hold a council of war. Councils of war never fight. That is generally known to be true in armies. If councils of war never fight, councils of war will never move on a dark night either. I should like to give my friend from New Jersey an illustration of this. I have had occasion once or twice in my life to be a part of a council of war. I remember one once, without giving names at all, but I believe there were thirteen general officers in the council. I know there are persons present who hear me now who will remember what I am going to state. They were summoned to General Grant's headquarters at Vicksburgh; thirteen, I think. They sat down on two benches in front of his tent. General Grant submitted the proposition to them as to what they thought about making an assault on the works of Vicksburgh. We had made one assault on the 22d of May, and failed. This was on or about the 2d of July. When the question was put to the thirteen generals, if I am correct about the number, and I believe I am, there were but two out of the thirteen who thought fight was a good thing. What did General Grant do? Not what General Porter did; but when eleven out of the thirteen general officers had decided against fighting, he pulled an order out of his pocket and said: "Gentlemen, you will execute this order." What was it? To assault the lines of the enemy the next morning at four o'clock. That was his order, and that was the work of a general. [Applause in the galleries.]

And, sir, that order caused the fall of Vicksburgh. The very preparation to carry out that order against the judgment of the generals then caused Vicksburgh to surrender when they saw the preparations being made, and that war was meant and fight was intended.

So, too, let me tell the Senator that councils of war never fight and councils of war never move to the sound of cannon. No general who wants to move will call his officers around him and ask them. "Must I move?" No, sir; if he be a true general, a brave man, and a good soldier, with his heart in the cause, he will issue his order first, and then consult his generals afterward. That is the way a good general will act if he intends to fight. I am not saying that Porter was afraid to fight, but I will show before I get through that he did not intend to fight under Pope, and that every obstruction that could be put in the way of it was interposed.

In the board record, page 583, will be found the evidence of William W. Macy:

WILLIAM W. MACY, called by the recorder, being duly sworn, testified as follows:

Direct examination:

Question. Where do you reside?
Answer. Winchester, Indiana.
Q. Were you in the military service of the United States in August, 1862; if so, in what capacity?
A. I was in the military service at that time; a sergeant, I believe.
Q. What regiment?
A. Nineteenth Indiana Volunteers, Gibbon's brigade, King's division.
Q. When you finally left the service, what rank did you hold?
A. I held the rank of captain, A Company, Twentieth Indiana, our regiment having become consolidated.
Q. Where were you on the 27th of August, 1862?
A. With Gibbon's brigade, on the march most of the day from Sulphur Springs toward the old Bull Run battle-ground.
Q. How long did your brigade continue its march that day?
A. About ten o'clock, I think, or half past ten that night.
Q. You then arrived at what place, as near as you can recollect?
A. I think it was called New Baltimore. We laid near a little town.
Q. What was the character of that night—the night of the 27th and 28th of August?
A. *Rather a dark night; starlight dark night.*
Q. Do you know what the character of that night was toward morning?
A. I am a little indistinct as to just the time. I was up at some time in the after part of the night.
Q. Once, or more than once?
A. Once that I recollect very distinctly, and I think only once.
Q. What was the character of the night then, so far as distinguishing objects?
A. I could see how to get a little way from the camp. I could see where the men laid as I went past the line where the soldiers were lying without running over them.
Q. How far could you see?
A. I do not know that I could state how far I could see to distinguish things. I could see when I passed the wagon-trains enough to stay away from the horses' heels. I could see that the wagon-teams were hitched up.
Q. In marching that night up to ten o'clock, what difficulty, if any, did you experience on account of the character of the darkness of the night?
A. Most too dark to march pleasantly. We marched many nights as dark, though; some nights that were a good deal darker than it was that night we were on the march; but of course it is unpleasant marching after night.
Q. Your regiment, in the march—how was it as to keeping its formation?
A. Could keep the ranks, as far as that was concerned.
Q. What was the character of the roads, as to whether muddy or the reverse, on the night of the 27th of August?
A. They were not muddy unless we ran into a branch.

This evidence is corroborated by William E. Murray, of Company C, Nineteenth Indiana Volunteers; also by Samuel G. Hill, of the same company and regiment; also by Captain William M. Campbell, of that company, who marched that night until ten o'clock across that country, and made the march without interruption or obstruction.

On page 597 of the board record you will find that sustained by J. H. Stine, Company C, Nineteenth Indiana, and Colonel Rufus Daws, of the Sixth Wisconsin, Gibbon's brigade, swears that he marched with his regiment until after dark, and also *marched* before daylight, and experienced no difficulty.

General William Birney, commanding the Fifty-seventh Pennsylvania, swears, page 683, board record, that he marched his regiment the night of the 27th from Greenwich, and arrived at Bristoe at an early hour, say an hour after daylight next morning.

General Thomas F. McCoy, of the One hundred and seventh Pennsylvania, board record, page 640, swears that he marched with his command all night, and had no difficulty whatever, and that his whole division marched all night.

Thus a part of the command show that they marched during that night, and had no difficulty whatever in making it.

On page 860 of the board record Major J. H. Duvall testifies that he rode from Warrenton Junction by way of Catlett's Station to Bristoe, near Manassas Junction, to Pope's headquarters on the night of the 27th, arriving there at three o'clock in the morning, and met with no difficulty on the road whatever. This is the same road that Porter was to travel over.

Now, sir, I want to call the attention of the Senator from New Jersey especially to this one fact. In his defense of Fitz-John Porter, he spoke of the impossibility of his marching that night. Here let me draw the line between Union generals and confederate generals. If a confederate general had heart enough in his cause to march on the night of the 27th, the whole night, with his whole army, bag and baggage, and form a line to receive our troops next morning—if he had thus much heart in his cause I can compliment him and give him praise for his energy and zeal for the cause he had espoused.

Then take the case of General Jackson, the confederate general, Henry Kyd Douglass, of the confederate army, one of General Jackson's staff officers, an inspector, &c., testifies before this board that on the night of the 27th August, 1862, General Jackson moved his entire army from Manassas Junction to a line between Centreville and Groveton and there took his position. General Jackson, of the confederate army, having heart in his cause, moved out of the way of Pope's troops on the night of the 27th from Manassas Junction around to Centreville and back between that and Groveton to a line, with his whole army, bag and baggage, ammunition, and everything else. Now, sir, if a confederate general could do that I ask you why not a Union general?

Sir, it will not do to say that the darkness would prevent it, for the same kind of darkness would have equally affected the confederate army. But, sir, if you have no heart in a cause then you can find excuses. I will not say Porter had no heart in the Union cause, but he had no heart in the cause at that time to win a victory under General John Pope. He did not intend it; he did not intend to move and he did not intend to give his support. Why, sir, not only that, but his counsel, unfortunately for him, called witnesses from the confederate soldiers. On the board record, page 822, General Jubal A. Early, a confederate general, swears that he marched his command on the night of the 27th of August and experienced no difficulty whatever in so doing. I believe General Jubal Early was a division commander. I am not sure. If any of my friends on the other side will tell me I shall be obliged to them.

Several SENATORS. He was.

Mr. LOGAN. He marched his command, which was a division, during the night of the 27th, and swears that he experienced no difficulty whatever in making the movement. Movements of armies in the night-time are sometimes the most important that are made. The very movement that was made by Jubal Early and by General Jackson on the night of the 27th gave them the position they occupied when Pope's forces attacked them and when Fitz-John Porter's forces failed to attack along with them.

The Senator from New Jersey says that Fitz-John Porter under the command of General McClellan did gloriously. I infer that if this order had been issued by General McClellan instead of by General Pope he would not have found the night quite so dark. Perhaps he would have found the way more easy for the purpose of getting his army on the field of battle. But it was not issued by the chief whom he admired, but by a general for whom he had contempt, and for that reason he intended that that man should be baffled if he could baffle him and yet escape the clutches of the law.

Let me call the attention of the Senate to the evidence of Lieutenant-Colonel Buchanan, of the Third Indiana Cavalry, on page 603 of the board record, in reference to Porter's movement from Warrenton Junction to Bristoe. He testifies as follows:

Question. What conversation had you with General Porter before he started off to Bristoe Station?
Answer. On the evening before he started somebody gave me an order to be in readiness to move at three o'clock in the morning. I was in front of General Porter's headquarters at three o'clock in the morning, but I saw no one until after the break of day. Then some one came to me and told me to let the men get their breakfasts and let their horses be fed. That was done, and I immediately went back to the place I occupied. Some time afterward, after sunrise, I saw General Porter. I wanted to go back to Fredericksburgh to my regiment. I only had about ninety men with me, and I expected to go back the day before. I rode out with him in the woods, where he was in camp, until we got into an open field. He asked me to send a detachment of the command I had forward to clear the road toward Bristoe Station—

That, mark you, is away after sun-up. So that this man who had a detachment of ninety cavalry was ordered to send part of that cavalry to clear the road, when Porter had over thirteen thousand strong and stalwart men, infantry and artillery, to move along and to put the wagons out of the road—

He asked me to send a detachment of the command I had forward to clear the road toward Bristoe Station two or three miles. This was done. I waited some little time, and the infantry began to move—

Mark you, this was after sunrise; he was there at Porter's headquarters until after sunrise, and not until he had eaten his breakfast, after he had fed his horses and went into an open field and got back again, did the infantry begin to move. Not at three o'clock in the morning, but after sunrise the first movement was made by the troops of Porter—

I waited some little time, and the infantry began to move. About that time he handed me a letter, and directed me to give it to General Burnside, and told me I could go. I started toward Fredericksburgh; he sent an aid after me and brought me back, and told me he was apprehensive that I might be captured. He told me to say to General Burnside—I cannot get his language—but the idea was that there was no disaster that was very threatening as yet, and he hoped for the best.

For the information of those who insist that Fitz-John Porter was in good faith in supporting General Pope I desire to call their attention to the character of letters he wrote to General A. E. Burnside, criticising his commanding officer; and this he commenced with the first order he received from General Pope. On this point I present a letter written on the 26th day of August to General Burnside in connection with an order showing that on the 26th, when he first received orders, he at that time commenced his mean assaults upon General Pope. That letter I will now read; and I wish to say here that when I speak of these letters written to General Burnside it should be borne in mind that General Burnside immediately communicated each one of these letters to the head of the Army for him to judge of, without any criticism on the letters themselves. This only shows that General Burnside at that time was performing his duty in this respect as he ought to have done. This letter is as follows:

[No. 16.]

FROM ADVANCE, 11.45 P. M., *August* 26,
Received August 27, 1862.

MAJOR-GENERAL BURNSIDE:

Have just received orders from General Pope to move Sykes to-morrow to within two miles of Warrenton, and to call up Morell to same point, leaving the fords guarded by cavalry. He says the troops in rear should be brought up as rapidly as possible, leaving only a small rear guard at Rappahannock Station, and that he cannot see how a general engagement can be put off more than a day or two. I shall move up as ordered, but the want of grain and the necessity of receiving a supply of subsistence will cause some delay. Please hasten back the wagon sent down, and *inform McClellan that I may know I am doing right.* Banks is at Fayetteville; McDowell, Sigel, and Ricketts at and immediately in front of Warren-

ton; Reno on his right; Cox joins to-morrow, Sturgis next day, and Franklin is expected. So says General Pope.

F. J. PORTER,
Major-General.

HEADQUARTERS ARMY OF VIRGINIA,
Warrenton Junction, August 26, 1862—7 o'clock p. m.

GENERAL: Please move forward with Sykes's division to-morrow morning through Fayetteville to a point two and a half miles of the town of Warrenton, and take position where you can easily move to the front, with your right resting on the railroad. Call up Morell to join you as speedily as possible, leaving only small cavalry forces to watch the fords. If there are any troops below, coming up, they should come up rapidly, leaving only a small rear guard at Rappahannock Station. You will find General Banks at Fayetteville. I append below the position of our forces, as also those of the enemy. I do not see how a general engagement can be postponed more than a day or two.

McDowell, with his own corps, Sigel's, and three brigades of Reynolds's men, being about thirty-four thousand, are at and immediately in front of Warrenton; Reno joins him on his right and rear, with eight thousand men, at an early hour to-morrow; Cox, with seven thousand men, will move forward to join him in the afternoon of to-morrow; Banks, with six thousand men, is at Fayetteville; Sturgis, about eight thousand strong, will move forward by day after to-morrow; Franklin, I hope, with his corps, will, by day after to-morrow night, occupy the point where the Manassas Gap Railroad intersects the turnpike from Warrenton to Washington City; Heintzelman's corps will be held in reserve here at Warrenton Junction until it is ascertained that the enemy has begun to cross Hedgeman's River. You will understand how necessary it is for our troops to be in position as soon as possible. The enemy's line extends from a point a little east of Warrenton Sulphur Springs around to a point a few miles north of the turnpike from Sperryville to Warrenton, with his front presented to the east, and his trains thrown around well behind him in the direction of Little Washington and Sperryville. Make your men cook three days' rations and keep at least two days' cooked rations constantly on hand. Hurry up Morell as rapidly as possible, as also the troops coming up in his rear. The enemy has a strong column still further to his left toward Manassas Gap Railroad, in the direction of Salem.

JOHN POPE,
Major-General Commanding.

Major-General FITZ-JOHN PORTER,
Commanding Fifth Army Corps.

This order of Pope on the 26th shows that Porter was thus early notified of what was expected.

HEADQUARTERS ARMY OF VIRGINIA,
Warrenton Junction, August 27, 1862—4 o'clock a. m.

GENERAL: Your note of eleven p. m. yesterday is received. Major-General Pope directs me to say that under the circumstances stated by you in relation to your command he desires you to march *direct to this place* as rapidly as possible. The troops behind you at Barnett's Ford will be directed by you to march at once direct to this place or Weaverville, without going to Rappahannock Station. Forage is hard to get, and you must graze your animals as far as you can do so. The enemy's cavalry has intercepted *our railway communication near Manassas*, and he seems to be advancing with a heavy force along the Manassas Gap Railroad. We will probably move to attack him to-morrow in the neighborhood of Gainesville, which may *bring our line further back toward Washington.* Of this I will endeavor to notify you in time. You should get here as early in the day to-morrow as possible, in order to render assistance should it be needed.

I am, general, very respectfully, your obedient servant,
GEO. D. RUGGLES,
Colonel and Chief of Staff.

Major-General F. J. PORTER,
Commanding Fifth Army Corps.

[No. 19.]

WARRENTON, 27TH, P. M.

To GENERAL BURNSIDE:

Morell left his medicine, ammunition, and baggage at Kelly's Ford. Can you have it hauled to Fredericksburgh and stored? His wagons were all sent to you for grain and ammunition. I have sent back to you every man of the First and Sixth New York Cavalry, except what has been sent to Gainesville. I will get them to you after a while. Everything here is at sixes and sevens, and I find I am to take care of myself in every respect. *Our line of communication has taken care of itself, in compliance with orders.* The army has not three days' provisions. *The enemy captured all Pope's and other clothing; and from McDowell the same, including liquors.* No guards accompanying the trains, and small ones guard bridges. The wagons are rolling on, and I shall be here to-morrow. Good night!

F. J. PORTER,
Major-General.

I call attention to these letters to show that, prior to his receiving any order from Pope whatever to move forward to Bristoe Station, these criticisms were going on in his mind, and he was communicating to General Burnside all the time about the commander of the army. Speaking of the capture of Pope's clothing and McDowell's clothing and whisky, was a criticism showing a disposition to make sport of these generals. This alleged capture turns out, however, to be untrue; but still I have no comment to make in reference to that. At the same time I put it in merely to show the character or bent of Porter's mind at that time.

Now follows the letter delivered by Colonel Buchanan. This was the second letter, Porter having sent one August 26—11.45 p. m.:

WARRENTON JUNCTION, *August* 27, 1862—4 p. m.

GENERAL BURNSIDE, *Falmouth:*

I send you the last order from General Pope—

That is the order he had received before, not this 6.30 order that he had received the night before but another order directing him to move up the troops—

which indicates the future, as well as the present. Wagons are rolling along rapidly to the rear, as if a mighty power was propelling them. I see no cause for alarm, though I think this order may cause it. McDowell moves on Gainesville, where Sigel now is. The latter got to Buckland bridge in time to put out the fire and kick the enemy, who is pursuing his route unmolested to the Shenandoah, or Loudoun County. The forces are Longstreet's, A. P. Hill's, Jackson's, Whiting's, Ewell's, and Anderson's (late Huger's) divisions. Longstreet is said by a deserter to be very strong. They have much artillery and long wagon trains. The raid on the railroad was near Cedar Run, and made by a regiment of infantry, two squadrons of cavalry, and a section of artillery. The place was guarded by nearly three regiments of infantry and some cavalry. They routed the guard, captured a train and many men, destroyed the bridge, and retired leisurely down the road toward Manassas. It can be easily repaired. No troops are coming up, except new troops, that I can hear of. Sturgis is here with two regiments. Four were cut off by the raid. The positions of the troops are given in the order. No enemy in our original front. A letter of General Lee, seized when Stuart's assistant adjutant-general was taken, directs Stuart to leave a squadron only to watch in front of Hanover Junction, &c. Everything has moved up north. I find a vast difference between these troops and ours. But I suppose they were new, as they to-day burnt their clothes, &c., when there was not the least cause. I hear that they are much disorganized, and needed some good troops to give them heart, and, I think, head. *We are working now to get behind Bull Run, and, I presume, will be there in a few days, if strategy don't use us up. The strategy is magnificent, and tactics in the inverse proportion. I would like some of my ambulances. I would like, also, to be ordered to return to Fredericksburgh and to push toward Hanover, or, with a large force, to strike at Orange Court House. I wish Sumner was at Washington, and up near the Monocacy with good batteries. I do not doubt the enemy have large amounts of supplies provided for them, and I believe they have a contempt for this Army of Virginia. I wish myself away from it, with all our old Army of the Potomac, and so do our companions.* I was informed to-day by the best authority that, in opposition to General Pope's views, this army was pushed out to save the Army of the *Potomac, an army that could take the best care of itself.* Pope says he *long since wanted to go behind the Occoquan.* I am in great need of ambulances, and the officers need medicines, which, for want of transportation, were left behind. I hear many of the sick of my corps are in houses on the road very sick. I think there is no fear of the enemy crossing the Rappahannock. The cavalry are all in the advance of the rebel army. At Kelly's and Barnelt's fords much property was left, in consequence of the wagons going down for grain, &c. If you can push up the grain to-night please do so, direct to this place. There is no grain here to-day, or anywhere, and this army is wretchedly supplied in that line. Pope says he never could get enough. Most of this is private.

F. J. PORTER.

But if you can get me away, please do so. Make what use of this you choose, so it does good.

F. J. P.

There is a letter written on the very evening that Porter received the order to support General Pope, in which he gives the most discouraging account possible for the purpose of demoralizing our army, and discouraging our commanders; and at the same time he says that "strategy is magnificent, and tactics in the inverse proportion," showing that he has a contempt for the army, and contempt for the commanding officer. He presents that to General Burnside. General Burnside sends it to Washington, as a proper officer should have done, that they might see what was going on. In the conclusion he says, "please;" he supplicates, he begs. Please do what? "Please get me out of this." Out of what? He had not got his order to fight. What does he want to get out of? Out of the Army of Virginia, I suppose; back under the wing of General McClellan—I presume that was it—showing by this very letter that he started in with this command under General Pope determined to criticise the army, determined to criticise its movements, determined to be hostile to his commanding general, and determined to be disobedient if he could do it without being detected in violating the law. He begged to be taken away.

General Pope, the commander of that army, testified as follows, pages 12 and 13, general court-martial:

Major-General JOHN POPE was called by the Government, sworn and examined, as follows:

By the JUDGE-ADVOCATE:

Question. Will you state to the court what position you occupy in the military service of the United States?

Answer. I hold a commission as brigadier-general in the regular army, and as major-general of volunteers.

Q. What was your position and command, and what the field of your operations on the 27th of August last?

A. Do you mean my military position as commander?

Q. Yes, sir.

A. I commanded the Army of Virginia, which, as originally constituted, consisted of the army corps of McDowell, Banks, and Frémont. These, by the 27th of August, had been reinforced by a portion of General Burnside's command, by General Heintzelman's corps, and on the morning of the 27th by a part of General Porter's corps. A portion of my command also consisted of the troops under General Sturgis, which had begun to come up to Warrenton Junction. I was myself, on the morning of the 27th, at Warrenton Junction. The field of operations of the Army at that time covered the region of country between the Warrenton turnpike and the Orange and Alexandria Railroad.

Q. At what time on the 27th did you leave Warrenton Junction, and in what direction did you march?

A. I left Warrenton Junction before midday, I think, though the precise hour I do not remember, and moved east along the railroad, following the movements of Hooker's division, toward Manassas Junction.

Q. At what time did General Porter arrive with his command, or the portion of his command of which you speak, at Warrenton Junction?

A. I think between the hours of seven and ten o'clock in the morning of the 27th of August.

Q. How many troops had he then with him?

A. He reported to me that he had brought up Sykes's division of regulars, numbering forty-five hundred men.

Q. Did you see his troops; and, if so, what was their condition?

A. I only saw them at a distance as they passed along; not sufficiently near to ascertain anything about that.

Q. Did you, or not, after you left Warrenton Junction and proceeded along the road east, issue to Major-General Porter an order in reference to the movements of his troops; and, if so, what was the character of that order?

A. I issued an order to General Porter late in the afternoon of the 27th, directing him to move with his command at one o'clock that night to the position I then occupied at Kettle Run; that if General Morell with his other division was not up to Warrenton Junction when he received that order, to send back and hurry him up, and to come forward himself with the troops which he had. That is my remembrance of the order. I gave him some further directions concerning General Banks's movement, the substance of which I remember very well, but not the precise words.

Q. Will you look at this order, which is dated "Headquarters Army of Virginia, August 27, 1862, 6.30 p. m., Bristoe Station. To Major-General F. J. Porter, Warrenton Junction," and state whether or not that is the order to which you refer in your answer?

A. That is the order I issued.

(The accused admitted that the order shown to witness is the order a copy of which is set forth in the first specification of first charge.)

Q. Will you explain to the court the reasons for the urgency of the order, as indicated by the following words of the order: "It is necessary on all accounts that you should be here by daylight. I send an officer with this dispatch, who will conduct you to this place?"

A. General Hooker's division had had a severe fight along the railroad, commencing some four miles west of Bristoe Station, and had succeeded in driving the division of General Ewell back along the road, but without putting it to rout; so that at dark Ewell's forces still confronted Hooker's division along the banks of a small stream at Bristoe Station. Just at dark Hooker sent me word, and General Heintzelman also reported to me, that he, Hooker, was almost entirely out of ammunition, having but five rounds to a man left, and that if any action took place in the morning, he would, in consequence, be without the means of making any considerable defense. As it was known that Jackson, with his own and the division of A. P. Hill, was at or in the vicinity of Manassas Junction, and near enough to advance to the support of Ewell, it was altogether probable that if he should learn the weakness of our forces there, he would unite and make an attack in the morning. It was for that purpose that I was so anxious that General Porter's corps should be present by daylight, the earliest moment at which it was likely the attack would be made.

Q. What distance would General Porter have had to march to have obeyed your order?

A. About nine miles.

Q. And within what time; from one o'clock until when?

A. He would have had until daylight. I do not remember exactly what time daylight was; perhaps four o'clock, perhaps a little earlier. I directed him to move at one o'clock, in order to give his command as much time to remain in their beds at night as possible; supposing that it would occupy him perhaps three hours to get up on the ground. I had expected him there certainly by four o'clock.

Q. You had just passed over the road along which he was required by this order to march; will you state its condition?

A. The road was in good condition everywhere. At most places along the road it was a double road on each side of the railroad track. I am not sure it was a double road all the way; a part of the way I know it was.

Q. Did General Porter obey that order?

A. He did not.

Q. At what time on the 28th did he arrive at Bristoe Station, the point indicated in your order?

A. As the head of his column came to Bristoe Station I took out my watch; it was twenty minutes past ten o'clock in the morning.

Q. Did he at that time, or at any time before his arrival, explain to you the reason why he did not obey the order?

A. He wrote me a note, which I received, I think, in the morning of the 28th; very early in the morning, perhaps a little before daylight. I am not quite sure about the time. The note I have mislaid. I can give the substance of it. I remember the reasons given by General Porter. If it is necessary to state them I can do so.

The accused asked if the witness had looked for the note.

The WITNESS. I looked for it, but have not been able to find it.

The JUDGE-ADVOCATE. I will not press the question.

The ACCUSED. I do not object to it. The witness says he has looked for the note and cannot find it. I only want to know when and where he has searched for it.

By the JUDGE-ADVOCATE:

Q. What was the character of the night; was it starlight?

A. Yes, sir; as I remember, it was a clear night; that is my recollection.

Q. If there were any obstacles in the way of such a march as your order contemplated, either growing out of the night or the character of the road, will you please state them?

A. There was no difficulty in marching, so far as the night was concerned. I have several times made marches, with a larger force than General Porter had, during the night. There was some obstruction on the road in a wagon train that was stretched along the road, marching towards the Manassas Junction, in rear of Hooker's division; *not sufficient, in my judgment, to have delayed for a considerable length of time the passage of artillery. But even had the roads been entirely blocked up, the railroad track was clear, and along that track had passed the larger portion of General Hooker's infantry. There was no obstruction to the advance of infantry.*

Q. *Whatever obstacle, in point of fact, may have existed to the execution of this order, I ask you, as a military man, was it, or not, the duty of General Porter, receiving this command from you as his superior officer, to have made efforts, and earnest efforts, to obey?*

A. Undoubtedly it was his duty.

Mr. President, this is the particular excuse, (darkness of the night,) and the one to which I direct the most of my remarks; because unless there be a justification for the disobedience of this order the finding of the court-martial in this respect was certainly proper and certainly lawful. It is well known and well authenticated in history that some of the greatest battles have been fought succeeding night marches. We may take, for instance, the history of olden times and come down to the present. When we go back to the ancient days of warfare, as Senators will remember, we find that the Athenian general, Demosthenes, led the Athenians against the Syracusans in daytime and was repulsed, but when darkness had set in Demosthenes formed his men in columns, each soldier taking five days' provisions. Thus equipped he led his troops to the interior of the island, wending their way up along the face of the cliff, and succeeded in completely surprising the Syracusan outposts, and Demosthenes placed his troops fairly on the extreme summit of the all-important Epipolae. We find, too, that prior to the great battle of Arbela, fought between Alexander the Great and Darius, Alexander made his long march at night, starting at dark, and, arriving on some high ground overlooking the camp of Darius at daylight, remained one day before attacking the Persians. So we find that in the battle of the Metaurus, where Nero, Livius, and Porcius succeeded in taking Hasdrubal, the Carthagenian, the marches made by the Romans were successively after night. Night and day their marches were made until they came to the camp of the enemy and fought that great battle where Hasdrubal, the son of Hamilcar and the brother of Hannibal, fell.

So, too, we may take some of our own battles. We may cite, for instance, the battle fought near Saratoga, which is commonly known as the battle of Saratoga. After a hard battle, we remember well, that at nightfall Colonel Brooks turned Burgoyne's right, and Burgoyne had to escape, withdrawing his whole force in the night to some heights near the Hudson. So, too, we find that the assault on and capture of Stony Point on the 15th of July, 1779, was made at twelve o'clock at night by Anthony Wayne. Both preparation and assault were made in the night-time. So, too, we might cite many other instances.

Fitz-John Porter, according to my friend the Senator from New Jersey, has no equal in this country and never has had, so far as patriotism and soldierly bearing are concerned, yet he could not march nine miles in the dark with two divisions. But there once was a man in this country, now passed away and gone, but yet remembered by all, George Washington, who crossed the Delaware in small boats on the night of the 25th of December, 1776, when the ice was gorging and floating and crushing everywhere. He made his passage-way clear in the night and captured Trenton, the Hessians surrendering under Colonel Rolf on the 26th. [Applause in the galleries.] There was no ice in the way of Porter; there was no Delaware in his march; there were no small boats in which to convey his troops over the waters, but he had the solid *terra firma* to stand and move upon.

We might continue these illustrations. We well remember the history of our country when Washington, on the night of the 29th of August, 1776, withdrew from the front of the enemy and crossed from Long Island to New York, over a broad river.

Let us, then, come down to our recent war. Within the sound of my voice there are many who well remember the marked instances that transpired in the night-time. I remember well when our transports, rickety old Mississippi River steamboats, ran the batteries of a hundred heavy guns at Vicksburgh, in the darkness of the night. I remember well when we set out from the bank, the fog so dense that you could hardly see your hand before you, and under the rain of shot and shell as if it were pouring down from the heavens, these boats with supplies passed the batteries and following them our commands marched on the other side of the river. I had the honor to command one of these divisions. We marched at night from Hard Times Landing, a distance of eight miles, and arrived at Bruinsburgh next morning. I crossed the river on a boat and marched to the battle-field of Port Gibson, arriving at that battle, a distance, I believe, of twelve miles, by twelve o'clock. [Applause in the galleries.] Talk about troops not performing marches in the night-time! Here, after eight miles march in the night, I crossed in the morning eight thousand men, horses, artillery, &c., on a steamboat, the Mississippi River, and marched twelve miles and was engaged in battle by twelve o'clock.

But, sir, we were willing to fight. We loved our country, and we believed in obeying orders. [Applause in the galleries.] I do not speak of myself in this connection, except that my division was the rear division and we had to march in the night-time.

I could give other instances, and plenty of them. The first battle of Jackson, in Mississippi, is well remembered, which was fought on the confederate side by General Joseph E. Johnston, a very brave general, too, who, I think, hardly had a peer on that side. Opposed to him was the now General of the Army, commanded then by General Grant. I remember McPherson's command coming up that day. Hearing the sound of the guns, McPherson marched forward to that sound. Pemberton had come out from Vicksburgh, and was on our rear. We turned and marched to the rear, and the night before the battle of Champion Hills, at one o'clock in the morning, we moved promptly and marched some twenty-two miles, and at twelve o'clock that day my division was in the battle at Champion Hills. They went into line of battle, forming in an open field, singing:

Old John Brown's body lies moldering in his grave.

[Applause and hisses in the galleries.]

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) The Senator from Illinois will suspend a moment. The Chair will take occasion to warn the galleries that if there is any further demonstration of applause or disapproval, the Chair will order the Sergeant-at-Arms to clear that portion of the galleries where such disorder occurs. The Senator from Illinois will proceed.

Mr. LOGAN. Do men make excuses about a man not obeying orders to march nine miles and a half in the night, when required? Nobody ever gave as an excuse for not being on the battle-field when our commander said we must be there, that it was dark, or that wagons were in the way. No, sir; these excuses will not do.

The idea of a man putting in an excuse that when a general is within the sound of the enemy's guns he must sit down by the road and wait for somebody to order him to fight, is simply absurd. In the battle of Champion Hills I remember well when the divisions were drawn along up in the skirts of timber, a cotton-field to our rear, General Grant off by an elm tree for his headquarters. Late in the afternoon a certain officer with one orderly, without orders, rode down through the woods for a mile and a half and found where the left of the enemy rested. He rode back to General Grant and said: "My division is not all needed where it is; let me take part of it and go there, and I will get to the rear of the enemy." General Grant said "go." That officer did go; he went to their flank and rear, and in a very short time, thirteen guns had been captured with two or three regiments, and Pemberton's army was in retreat. That officer had no orders; he asked to do this.

Mr. President, I should like to call your attention to the first act performed by Fitz-John Porter at the time he arrived at Bristoe Station. Certainly it was not a patriotic act. It was not putting any batteries in position, nor drawing up the troops in line for battle, but

it was wielding that which is mightier than the sword, that is, the pen. He arrived at Bristoe Station before his command. He wrote this beautiful letter, and sent it at once to General Burnside. Let me read it; it is good reading:

BRISTOE, 9.30 A. M.,
August 28, 1862.

He must have written it before he got down from his horse; certainly before he got up to headquarters—

My command will soon be up—

It had not got there then, for he says so—

My command will soon be up, and will at once go into position. Hooker drove Ewell some three miles, and Pope says McDowell intercepted Longstreet, so that without a long detour he cannot join Ewell, Jackson, and A. P. Hill, who are, or supposed to be, at Manassas. Ewell's train, he says, took the road to Gainesville, where McDowell is coming from. We shall be to-day as follows: I on the right of railroad, Heintzelman on left, then Reno, then McDowell. He hopes to get Ewell, and push to Manassas to-day.
I hope all goes well near Washington—

His mind seemed continually to go back to Washington and Alexandria or somewhere else except to the field—

I think there need be no cause of fear for us. I feel as if on my own way now, and thus far have kept my command and trains well up. More supplies than I supposed on hand have been brought, but none to spare, and we must make connection soon. I hope for the best, and my lucky star is always up about my birthday, the 31st, and hope Mc's is up also. You will hear of us soon by way of Alexandria.
Ever yours,
F. J. P.

GENERAL BURNSIDE, *Falmouth*.

What did he mean by hoping that Mc's star is up, and "you will hear of us soon by way of Alexandria?" If you will take other evidence that I shall read after awhile in connection with this you will see that his whole mind was on retreat all the time, and that Alexandria was his objective point.

He was not satisfied with that. Let me give you a little more of this literary composition. You see he did not rest there long. At 9.30 he writes one letter to General Burnside; then he had an itching very soon for writing another, and at two p. m. he writes again. But this is what General Burnside says to General Halleck when he sends the letter forward, (general court-martial, p. 232:)

FALMOUTH, *August* 29, 1862—1 p. m.

To Major-General H. W. HALLECK, *General-in-Chief*, and
Major-General G. B. MCCLELLAN, *Alexandria*:

The following just received from Porter, four miles from Manassas, the 28th, two p. m.:
"All that talk *about bagging Jackson, &c., was bosh*. That *enormous* gap—*Manassas*—was left open, and the enemy jumped through; and the story of McDowell having cut off Longstreet *had no good foundation*. The enemy have destroyed all our bridges, burnt trains, &c., and made this army rush back to look at its line of communication, and find us bare of subsistence. We are far from Alexandria"—

See, Alexandria comes in again—

"Considering the importance of transportation"—

Could not walk, of course—

"your supply train of forty wagons is here, but I can't find them."

I suppose he wanted General Burnside to come clear from Falmouth to hunt the wagon train for him.

"There is a report that *Jackson is at* Centreville, which you can believe or not. The enemy destroyed an immense amount of property at Manassas—cars and supplies. I expect the next thing will be a raid on our rear by way of Warrenton by Longstreet, who was cut off.

"F. J. PORTER,
"*Major-General*."

This is the latest news.

A. E. BURNSIDE,
Major-General.

Let us examine General Porter's conduct. That was on the 28th, mark. I am going to follow him through all the days to this battle. His principal occupation was writing letters of this kind, at the very time that he should have been preparing for battle. He was communicating all the time, and trying to discourage in reference to the success of the Army. Not one word of encouragement can be found in a solitary letter or note that he wrote. All the time he was preparing for a retreat; all the time endeavoring to discourage General Halleck here at Washington and General Burnside, and the men of his command, against the Army of Virginia, and against General Pope's success.

That brings us to the 28th of August at two o'clock, and on this order given to General Porter by Captain Drake De Kay at 9.30 on the evening of the 27th he was charged with disobedience. If there has been in the whole history of this order, from the time he received it up to the time that he wrote this last note at two o'clock on the 28th of August, any attempt in any way whatever to carry out strictly that order or to obey it or to show any intention on his part of co-operating with General Pope, I cannot discover it. They found him guilty of disobeying that order. Why should they not find him guilty, I ask? He did not obey it; he did not attempt to obey it; he refused to obey it. He changed it himself with a full knowledge that he was required to be present at a certain time. The obstructions were not an excuse, for he made no attempt to carry the order out. He must attempt to obey the order before he can put in an excuse or a plea that will justify his disobedience, which he did not do.

The Senator from New Jersey said, however, that there was no necessity for him on the 28th when he arrived at Bristoe Station. That is true, but did he bring about that result himself? Was he the cause of there being no necessity? He did not know there was no necessity. It was not within his knowledge. Hence he could not justify himself for anything that failed or that was not within his own knowledge.

Then having failed to obey that order, I will pass on to the 29th of August. I do not presume that I can make this matter clear to many minds except those who desire to understand it thoroughly; but I started out with the proposition that he disobeyed the first order, and that in all these three volumes of reports or evidence that has been taken, there is nowhere to be found where he tried to comply with one solitary order he received during that whole campaign. The only order that he attempted to obey was an order that Pope had issued to him on the night of the 29th when he intended to arrest him and was dissuaded from it. He intended to arrest him on the field and was persuaded not to do it. He then issued an order that night for him to report in person to him with his command on the battle-field the next day. That is the only order he obeyed or tried to obey, and then when he did report he left one of his brigades behind.

"To fully understand the condition of affairs at this time, a little explanation is desirable. On the 27th of August General McDowell with his corps and Reynolds's division and Sigel's corps were interposed between Jackson and Thoroughfare Gap, and Jackson's supports were beyond that range of mountains, pushing forward with all their might lest he should be captured, and Heintzelman's corps, comprising Hooker's and Kearney's divisions and General Reno's detachment of the Ninth Army Corps, were within easy striking distance, and Porter's corps was but a few miles away, between Manassas Junction and Bristoe, while Banks's corps was behind Porter's in charge of the trains. In order to envelop Jackson, Kearney's division of Heintzelman's corps and Reno's detachment on the same night received orders which brought them, one to Bristoe and the other to Manassas Junction; but as Jackson had retired to Centreville, these forces and Hooker's division of Heintzelman's corps were pushed up toward Centreville. On the 28th they became separated, Sigel moving to Manassas Junction, Rickett's division of McDowell's corps being sent back to hold Thoroughfare Gap, arriving too late to make it effectual, King's division of McDowell's corps pursuing the Warrenton, Gainesville, Groveton, and Centreville pike toward Groveton, running into Jackson, who had abandoned Centreville and taken up a concealed defensive position just north of Groveton within a few hundred yards of the Independent line of the Manassas Gap Railroad, having a fight there on the night of the 28th, then King's division quitting that pike and moving down to Manassas Junction by the very road on which Porter was next day, in view of this falling back, ordered to advance; Reynolds's division meanwhile having come down between Sigel and King partially across the country and down to Bethlehem Church and then up the Sudley Springs' road and out to the left, south of the Warrenton road. General Reynolds was within supporting distance of King on the night of the 28th, because he testified he rode over across the country from Newmarket to the Warrenton pike near Groveton and then westward to General King's position along the Warrenton pike, (G. C. M. Record, p. 170.) His troops followed him, as is plain from Brevet Brigadier-General Charles Barnes's evidence, (board's record, p. 660.) The fight of the 28th has nothing to do with this case; but on the morning of the 29th, when it was found by the commanding general, Pope, that King's division, one of the finest in the Army, had left its position of the night before, where it was interposed between General Jackson and Thoroughfare Gap, (General King being himself ill at the time,) and had come down to Manassas Junction and left the door open, he undertook to close that door by sending Porter's corps, a fresh body of troops, right out on that road with the greatest expedition.

"On the morning of the 29th of August at 5.30 o'clock Porter had received an order from General Pope, dated three a. m. near Bull Run, 'to move upon Centreville at the first dawn of day with your [his] whole command, leaving your train to follow. It is very important that you should be here at a very early hour in the morning. A severe engagement is likely to take place and your presence is necessary.' (Accused's Exhibit No. 4, G. C. M. Record, p. 235.)"

It has been sought on behalf of Porter's friends, in the argument, to put the receipt of this order at a later time for the reason that in a communication which he dated at six a. m. to General Burnside he said he had just received the order, and also to put the time of his departure from Bristoe toward Manassas Junction at half past six o'clock because Porter in the same dispatch to General Burnside said, "I shall be off in half an hour." As to the time of the receipt of the order it is sufficient to say that his own exhibit presented to the general court-martial on his trial shows the hour of receipt to be at 5.30 a. m. His own witness, General Morell, on that trial (G. C. M. Record, p. 146) said the dispatch was received between daylight and sunrise, not *after* sunrise as narrated in Porter's statement, and that the leading division (Sykes's) did not march until seven o'clock, and his own division followed immediately.

The fact remains, therefore, even on Porter's own showing in evidence that the first order he received on the 29th of August, 1862, was not promptly obeyed. At the hour of its receipt as the troops were merely in bivouac it seems quite plain that they were prepared for immediate movement and already had their breakfast.

This order, the first, was issued at three a. m. by General Pope, and is as follows:

[No. 24.]

HEADQUARTERS ARMY OF VIRGINIA,
Near Bull Run, August 29, 1862—3 a. m.

GENERAL: McDowell has intercepted the retreat of Jackson. Sigel is immediately on the right of McDowell. Kearney and Hooker march to attack the enemy's rear at early dawn. Major-General Pope directs you to move upon Centreville at the first dawn of day with your whole command, leaving your trains to follow. It is very important that you should be here at a very early hour in the morning. A severe engagement is likely to take place, and your presence is necessary.

I am, general, very respectfully, your obedient servant,

GEORGE D. RUGGLES,
Colonel and Chief of Staff.

MAJOR-GENERAL PORTER.

Immediately on the receipt of this order, Porter, instead of starting at once, as he was required to do in obedience to the order to move at the dawn of day, at six o'clock takes time to write and send a letter to General Burnside. In that order he is required to start at the dawn of day. The sun rose then about five o'clock. Instead of moving at the dawn of day, or instead of moving at sunrise, at six o'clock a. m. that day, August 29, he wrote:

GENERAL BURNSIDE: Shall be off in half an hour.

He writes the note at six and says he will leave in half an hour. His men were in bivouac, as heretofore stated, and ready to march at a moment's warning, and he, notified to move at dawn of day, by four o'clock at least, sat down at six o'clock and wrote this letter to General Burnside:

[*Received* 5.30 *p. m., August* 29, 1862.]

FALMOUTH, *Virginia*, 5½ *p. m., 29th.*

General H. W. HALLECK, *General-in-Chief:*

The following message has just been received:

"BRISTOE, 6 *a. m., 29th.*

"GENERAL BURNSIDE: Shall be off in half an hour. The messenger who brought this says the enemy had been at Centreville, and pickets were found there last night.

"Sigel had severe fight last night; took many prisoners. Banks is at Warrenton Junction; McDowell near Gainesville. Heintzelman and Reno at Centreville, where they marched yesterday. Pope went to Centreville with the last two as a body-guard.

Mark this language, as you find it in all of his letters: "Pope went to Centreville with the last two as a body-guard." Who were the last two? Heintzelman and Reno. Heintzelman's command and Reno's went to Centreville. He says Pope took these two as his body-guard. No general officer ever spoke of his commanding officer in such disrespectful terms as did this man from the time he first put pen to paper up to the very last day, and after the battle of the 30th of August. It is criticism from beginning to end, sport-making, insinuations, and holding him in contempt. Had I been the commander of that army, and had a man obeyed me as Porter did pretend to obey General John Pope, there would have been no Fitz-John Porter at the portals of this Congress to-day clamoring for $60,000.

Pope went to Centreville with the last two as a body-guard, at the time not knowing where was the enemy and where Sigel was fighting—within eight miles of him and in sight.

Comment is unnecessary.

The enormous trains are still rolling on. Many arrivals not having been watched for fifty hours, I shall be out of provision to-morrow night. Your train of forty wagons cannot be found—

He still had not found it. It was up, he said, the day before, but he had not found it. It would seem, from Porter's statement of the enemy, that he was wandering around loose—

but I expect they know what they are doing, which is more than any one here or anywhere knows.

That is a beautiful communication for a general to make about his commander to send to an officer to be forwarded to Washington! When he was ordered to move at the dawn of day, he sits down at six o'clock and writes that scandalous letter against his commanding officer instead of obeying his orders.

The fact is, the night before, he (Pope) expected King's division and a part of his army would be through and would be disposed between Jackson and Thoroughfare Gap or between Jackson and Gainesville, so that they would be in Jackson's rear, having Porter up then at this point and with the other army to assault in front. But King's division failed. In fact King's division that night fell back. It fell back, I believe, to Manassas. Hence, when Pope ordered this man to move at the dawn of day on Centreville, he then had no knowledge that King's division had not taken the position he ordered it to take, and when he ascertained that fact he had to change the order. How? Instead of King's division having taken possession of Gainesville in the rear of Jackson it became necessary for Pope then to interpose with some other troops in the rear of Jackson, or on his flank, by taking the Gainesville road and occupying Gainesville. That being the fact, General Pope issued another order. He sent an officer to Fitz-John Porter, and told him to move at once on Gainesville. What did General Fitz-John Porter do? The order was not in writing, as many times occurs, as military men know. In a case of this kind, where troops have failed you, and in the excitement of the moment, you send a staff officer to direct one of your division or corps commanders to make a certain move. The division commander knows the order is correct, or it would not be given in that way. So General Pope sent a staff officer to General Porter, directing him to move at once on Gainesville. General Porter concludes that he wants it in writing.

Mr. CARPENTER. Certified?

Mr. LOGAN. Yes; and probably with a revenue-stamp on it. But, anyhow, he wanted it in writing. Then General Pope sends the order to him in writing. What is it?

HEADQUARTERS ARMY OF VIRGINIA,
Centreville, August 29, 1862.

Push forward with your corps and King's division, which you will take with you, upon Gainesville. I am following the enemy down the Warrenton turnpike. Be expeditious, or we will lose much.

JOHN POPE,
Major-General Commanding.

Major-General FITZ-JOHN PORTER.

The order was directed to Major-General Fitz-John Porter; was given to him in lieu of the verbal order. General Pope swears, in his evidence in reference to this order, that the order was given to General Porter between eight and nine o'clock. He issued the first order early in the morning for him to move at the dawn of day. Let me ask what was the duty of Fitz-John Porter under that order? It was an imperative order, "Push forward at once." Where? On Gainesville—Gainesville, the objective point, the place where Pope supposed he had troops before, but the troops having failed him, he wanted to get possession at once before support could come to Jackson through Thoroughfare Gap and Gainesville. What does Porter do? Porter takes it leisurely. How far had he to go? From Manassas to Gainesville is eight miles and a half. He was not as far back, but we will take it that he was at Manassas, that he had not moved in the direction of Centreville, because, in fact, he had only started. He had eight and a half miles to go to Gainesville.

Now, let us follow that up and see what was done. The movements were so strange to Pope, such an enigma to him, no order being obeyed, no order being taken as though he were in earnest, but Porter taking his own time to do everything, that General Pope sent a joint order to him and McDowell for them both to move on Gainesville. The theory of the Senator from New Jersey, in discussing this order was that General Pope intended to turn the command over to General McDowell, and that General Porter was to report to McDowell. I will only say to the Senator from New Jersey that if he understood perhaps a little better the rule among military commanders he would not understand it in that way. There are certain circumstances that may arise in a battle or in a movement where two commands come together and the senior officer may assume command, but where an officer sends an order to another one to take command he directs him to take the command of certain troops. If General Porter is directed to report to General McDowell as under him he then will be directed to report and take orders from General McDowell; but the only thing in this was that they were to co-operate. It was a joint order, an order for co-operation, to move on the same line, to act in unison, so far as taking that road and moving to Gainesville is concerned. But it is immaterial. I ask the Clerk to read the order; I am getting so tired reading.

Mr. BURNSIDE. Perhaps the Senator would like to give way for an executive session?

Mr. LOGAN. No, I do not want to give way now. Let the order be read.

The Secretary read as follows:

[General Order No. 5.]

HEADQUARTERS ARMY OF VIRGINIA,
Centreville, August 29, 1862.

GENERALS MCDOWELL AND PORTER: You will please move forward with your joint commands toward Gainesville. I sent General Porter written orders to that effect an hour and a half ago. Heintzelman, Sigel, and Reno are moving on the Warrenton turnpike, and must now be not far from Gainesville. I desire that, as soon as communication is established between this force and your own, the whole command shall halt. It may be necessary to fall back behind Bull Run, at Centreville, to-night. I presume it will be so on account of our supplies. I have sent no orders of any description to Ricketts, and none to interfere in any way with the movements of McDowell's troops, except what I sent by his aid-de-camp last night, which were to hold his position on the Warrenton pike until the troops from here should fall upon the enemy's flank and rear. I do not even know Ricketts's position, as I have not been able to find out where General McDowell was until a late hour this morning. General McDowell will take immediate steps to communicate with General Ricketts, and instruct him to rejoin the other divisions of his corps as soon as practicable. If any considerable advantages are to be gained by departing from this order, it will not be strictly carried out. One thing must be had in view, that the troops must occupy a position from which they can reach Bull Run to-night or by morning. The indications are that the whole force of the enemy is moving in this direction at a pace that will bring them here by to-morrow night or next day. My own headquarters will be, for the present, with Heintzelman's corps or at this place.

JOHN POPE,
Major-General Commanding.

Mr. LOGAN. Mr. President, the theory of the Senator from New Jersey was that this order could not have been obeyed strictly, because he said that if General Porter had moved forward from where he did stop—at Dawkins Branch, which was only five miles from where he started in the morning, and within three miles of Gainesville—he could not have got behind Bull Run that night. That only shows the necessity of gentlemen examining the question a little before they discuss it. The object of this order was that the falling behind Bull Run should occur from the execution of the order; that is to say that if McDowell's corps and Porter's corps went on through to Gainesville, which you will see there, [pointing on a map,] then the road falling back is this road coming down through Groveton, [indicating.] Bull Run is over here. The intention was that they should come in the rear there, [indicating,] at or near Gainesville, striking this road, and

then on the Warrenton road they would find Bull Run much easier than to find it in this way [indicating] coming back. The expectation was that the connection would be made on the Warrenton road. That was the order, and in order to fall back behind Bull Run the order would have to be executed—that is in order to have fallen back easily and to have had the shortest road. So it shows that the Senator did not understand it. He supposed, I presume, that Bull Run was here behind him, [Porter,] and he could fall back to Bull Run in two or three miles from where he was when Bull Run runs down in this way, [indicating.] General Pope's idea was to have them come back near Groveton, the place near where Jackson's right rested, or near where the fight did occur; that these parties should move forward on this road until they struck this Gainesville and Groveton road running on to Centreville on the turnpike and down; that they would cross Bull Run passing down that way in the direction of Centreville; so that the intention of Pope was to move on Gainesville and then to fall back and they would fall back on that Groveton road down behind Bull Run.

Let us see the excuse that is made for not carrying out this order. It is that when General Porter got to Dawkins Branch, that is, when the head of his column got there—his forces in a body never did get there—he and General McDowell looking over the ground, General McDowell said, "Put your forces in here." Why not? Porter says the enemy was in front there. If they were in his front there, that was the place to put them in. It is not necessary to put your troops in where there is no enemy, but it is necessary to put them in where there is an enemy. He says that inasmuch as General McDowell told him to stop here and put his forces in here, therefore General McDowell ordered him not to go any farther. Now, that is not so. General McDowell undertook to carry out the order. How? By an examination of this map it will be easy for any one to understand how General McDowell was acting. When they came up to Dawkins Branch there was a little two-gun section throwing shells over occasionally, and that seemed to stop this whole corps. General McDowell could not pass by Porter's corps on the road, and Porter's corps was stopped. The order contemplated General McDowell and General Porter moving on to Gainesville, the other forces being over toward Groveton. When General McDowell struck the head of Porter's column and Porter stopped there at Dawkins Branch, McDowell naturally undertook to find a road on which he could travel and get to a position where he was required—a battle then going on. What does McDowell do?

Mr. McDONALD. Will the Senator allow me to ask him a question?

Mr. LOGAN. Certainly.

Mr. McDONALD. When those forces were thus massed and General McDowell was there, who commanded?

Mr. LOGAN. Commanded what?

Mr. McDONALD. The massed forces of the two corps. Did General McDowell or General Porter command them?

Mr. LOGAN. I will answer that.

Mr. McDONALD. Who was in command at that time when this order was to have been executed?

Mr. LOGAN. General Pope.

Mr. McDONALD. At that point?

Mr. LOGAN. At that point. Each corps commander commanded his own corps unless he was ordered to report to some other corps commander. A corps is an independent command, commanded either as a part of the Army or a wing of the Army under the commanding general of the Army, and unless the commanding general puts the command under some other commander the commanding officer of the corps commands himself, under orders from the superior commander of the forces, unless the death or disability of the commanding officer, or separation so as to make necessary the assuming command by the senior officer present.

Mr. McDONALD. I will ask the Senator further if both General Porter and General McDowell did not understand that General McDowell was in command?

Mr. LOGAN. No, sir; they did not.

Mr. McDONALD. I should like to hear the Senator on that.

Mr. LOGAN. Very well; you will hear me on that point before I get through. But what I was talking about was this: General McDowell undertook to get to the battle-field. He could not get there by passing General Porter, for General Porter's troops occupied the road. So he went back to Bethlehem Church, I believe it is called, and there the road branched off to Groveton. He took that road at Bethlehem, or near there, and moved his corps on that road up in the direction of Groveton and put them in line of battle in the afternoon, and moved his troops forward.

Now I will answer the Senator. Generals McDowell and Porter being corps commanders, General McDowell took his own corps and moved off, and entirely separated himself from Porter; he went over to where Pope was, moved into line of battle, and went into action. I ask the Senator who then commanded Porter's corps?

Mr. McDONALD. Porter, undoubtedly, after that.

Mr. LOGAN. He undoubtedly commanded himself, did he not?

Mr. McDONALD. Yes, sir.

Mr. LOGAN. Very well. Then if he commanded himself why did he not move forward?

Mr. McDONALD. That is what I understand to be the difficulty.

Mr. LOGAN. That is it exactly. I wish I did know why he did not move forward. That is what we have all been trying to find out. We say it is because he did not want to.

Mr. McDONALD. Most people say it was because there were twenty-five thousand rebels across there, between him and the point he wanted to reach.

Mr. LOGAN. Do you say that was the reason?

Mr. McDONALD. I say some people do.

Mr. LOGAN. Very well; if some people say that I will give the Senator this answer: No good soldier ever disobeyed an order by taking time to count the enemy. No man has a right to inquire how many are in his front if he is ordered to go on. Right there, let me give a fact; I am glad the Senator put the question. George Washington, in an order that still remains as part of the history of the country, said that it was not for the officer receiving the order to inquire as to its practicability or impracticability, but it was his duty to obey the order as it was written. Another thing is well to be remembered, that it is sometimes necessary for an officer's whole command to be sacrificed in order to gain a battle.

Mr. McDONALD. Does the Senator, from his military knowledge, say that it was necessary at that time that Porter's command should be sacrificed?

Mr. LOGAN. I was not on the ground; how could I say that.

Mr. McDONALD. Then how does the instance the Senator cites illustrate this case?

Mr. LOGAN. I will tell the Senator that it is no excuse for a military commander to say that he was afraid that he would be sacrificed. It is not for you nor I to determine whether he would have been sacrificed. He was not sacrificed, and he does not know whether he would have been sacrificed if he had gone in, because he did not go in.

Mr. McDONALD. Does the Senator say he would have been sacrificed?

Mr. LOGAN. No, sir; but I say that it is sometimes necessary. I say from what my little experience has been, and with the evidence before me I will demonstrate it if I have time, that there were never twenty-five thousand confederate troops in Porter's front, and at any time from ten o'clock up to three o'clock he could have struck Jackson on his flank before Longstreet's forces came up in any great numbers, and if he had done so Pope would have won that battle.

Mr. McDONALD. General Pope did not get to that point until about October.

Mr. LOGAN. What point?

Mr. McDONALD. Dawkins Branch.

Mr. LOGAN. Between twelve o'clock and three o'clock there were three hours in which Porter could have learned the state of the enemy before him. The evidence shows that there were two guns over by a house. An old gentleman swears that he took dinner there, and he swears there was nothing but a small body of cavalry and two little guns firing on Porter until late in the afternoon. Most of his own command swore that they only saw a few troops in his front during the whole day. One of his own general officers swears that. The report of General Lee and the report of Longstreet show that they sent but three brigades of their command down on the Manassas Railroad anywhere near Porter's road. But there is a very strange little piece of evidence to the effect that a general of the confederate army by the name of Stuart did take it into his head that day very ingeniously that the man who was at Dawkins Branch was not very anxious to fight, and ordered Colonel Rosser to put his men to cutting brush and dragging it up and down that dusty road to raise a heavy dust, so as to make it appear as though there was a large body of troops coming, and Porter sent off a dispatch reporting that there was an army corps coming down. That is in evidence, as well as in the confederate reports. While Rosser was dragging brush up and down that road between Gainesville and Dawkins Branch, making a big dust, and firing off pieces of railroad iron, Porter thought there were twenty-five thousand men across that branch. This was the most amusing battle, up there at Dawkins Branch, that I ever read of. It was equal to a play.

I remember once during the recent war an order of this kind being issued. I presume some of our friends here will remember the battle whether they were in it or not. I was not in it myself. At the time General Price attacked Corinth we had a force inside of Corinth. General Grant was at Jackson. I was then in command of a division at Jackson. General Hurlburt was at Bolivar in command of a division. General Grant issued an order to General Hurlburt to move across a certain bridge on the Hatchee River and strike Price in the rear. General Hurlburt telegraphed back to Grant and said, "If I understand your order correctly, and if I obey it, the result will probably be the sacrifice of my whole command." Grant telegraphed back to him, "I am glad you understand the order." [Laughter.] And that was the order, and that was perhaps the expectation—that this whole division would be sacrificed; but by the sacrifice of them the army in Corinth would be saved. Hurlburt obeyed the order. He went to the bridge at the Hatchee, and he struck Price, helped to save Corinth, and saved his own command also; and Price retreated. If Porter had done so, we should have saved the day on the 29th of August, and there would have been no trial of Fitz-John Porter.

There was a case where the General of the Army expected the sacrifice of a division, but by the sacrifice of that one division he would save an army. There are times in war when generals expect to sac-

rifice a part of their troops to save the balance. General Porter himself gave testimony before the court of inquiry on General McDowell in Washington City. General Porter appeared before that board and gave testimony as follows, (page 1010, board record:)

Question. (By General McDowell.) Under what relations as to command did you and General McDowell move from Manassas and continue prior to the receipt of General Pope's joint order?

Answer. I did not know that General McDowell was going from Manassas, and I have no recollection of any relations whatever, nor of any understanding.

Q. (By General McDowell.) Was there nothing said about General McDowell being the senior, and of his commanding the whole by virtue of his rank?

A. Nothing that I know of.

Q. (By General McDowell.) What time did you take up your line of march from Manassas Junction for Gainesville?

A. The hour the head of the column left, I presume, was about ten o'clock; it may have been earlier. Ammunition had been distributed to the men, or was directed to be distributed, and the command to be put in motion immediately.

Q. (By General McDowell.) When you received the joint order, where were you personally and where was your command?

A. I was at the head of my column, and a portion of the command or the head of the column was then forming line in front. One regiment as skirmishers was in advance and also a small party of cavalry which I had as escort. The remainder of the corps was on the road. The head of my column was on the Manassas road to Gainesville at the first stream, as previously described by me.

Q. (By General McDowell.) Please state the order of your divisions, &c., in the column at that time.

A. First, Morell's; next Sykes's; the other brigade, Sturgis's or Piatt's, I knew nothing of, having left it, in compliance with orders from General Pope, at Warrenton Junction, with orders to rejoin as soon as possible.

Q. (By General McDowell.) Where was King's division?

A. I left King's division getting provisions and ammunition near Manassas Junction. I gave, personally, direction to General Hatch, in command, to move up as quickly as possible. I did not see General King at all.

Q. (By General McDowell.) The witness says he received an order from General McDowell, or what he considered an order, when General McDowell first joined him, which order he did not obey—

Mark the language. He says he received the order, but he did not obey it. If he had that would have been the first order he had obeyed during the whole time—

Will witness state why he disobeyed what he considered an order?

A. *The order I have said I considered an order in connection with his conversation, and his taking King's division from me. I therefore did obey it.*

He did not obey it at first, but he did obey it, because he did not move in contravention of it. That is all he means by that, that he acted the same as if he had obeyed it, and yet he did not do that because he received the order. That is his meaning. What else did he state?

Q. (By General McDowell.) What did you understand to be the effect of General McDowell's conversation? Was it that you were to go no further in the direction of Gainesville than you then were?

A. The conversation was in connection with moving over to the right, which necessarily would prevent an advance.

He does not say that McDowell gave him an order to stop there, but he says they had a conversation, and that conversation was in reference to moving over to the right; that if he moved over to the right in pursuance of that conversation then he would not have moved forward.

Q. (By General McDowell.) You state you did not think General McDowell's order (if it was one) a proper one, and that for that reason you continued your movement, as if you had not seen the joint order. Is the witness to be understood that this was in obedience of what he has stated to be General McDowell's order?

A. *I did not consider that an order at that time, and have tried to convey that impression*, but it was an expression of opinion which I might have construed as an order; but when General McDowell left me he gave no reply to my question, and seeing the enemy in my front, I considered myself free to act *according to my own judgment, until I received notice of the withdrawal of King.*

There is General Porter's own evidence. What becomes of all the talk about McDowell giving him an order that he had to obey? He swears first that he did not obey it. Then he says it was a conversation that he might have construed into an order, but he did not consider it an order. I should like to know, with that sworn to by himself, how gentlemen can stand up here in the face of his own statement under oath and declare that he was obeying General McDowell's order? He proves by his own (Porter's) testimony that he did not move from Manassas until ten o'clock, and by twelve he was at Dawkins Branch, which is shown to be five miles; from there to Gainesville was but three miles. Now, if Porter had moved by seven in the morning even, he would have struck Gainesville by ten, and then with McDowell's corps following, Longstreet could not have joined Jackson.

General Pope testifies in reference to this order on page 14:

Question. Will you state what orders, if any, you gave to General Porter, on the 29th of August, in reference to the movements of himself and his men, and the grounds upon which those orders were based?

Answer. In answer to that question, it will perhaps be necessary for me to state, at least partially, the condition of things on the afternoon of the 28th, and during the night of the 28th and 29th of August, for the reason that the information from the front, upon which the dispositions of the army were made, varied at different periods of the day and night. And it was not until toward daylight in the morning of the 29th that I became thoroughly satisfied of the position of the enemy, and of the necessary movements of the troops to be made in consequence. The orders that I gave to General Porter on the 29th of August, as I remember them, were four. One of them was dated in the night, I think; I do not remember the time. That order I think required him, in consequence of information we had received of the enemy's forces beyond Centreville, to move upon Centreville. But about daylight in the morning I sent General Porter an order to take his own army corps, which was then at Manassas Junction, and which by my order had been reenforced by the brigade of General Piatt, which had come up there in the command of General Sturgis, and King's division of McDowell's corps, which had withdrawn to Manassas Junction, or to that vicinity, during the night of the 28th, and move forward in the direction of Gainesville.

An hour and a half later I received a note from General McDowell, whom I had not been able to find until that hour in the morning, requesting that King's division of his corps be not turned over to General Porter, but that he be allowed to conduct it himself. I then sent a joint order to Generals Porter and McDowell, directed to them at Manassas Junction, specifying in detail the movement that I wished to be made by the troops under their command—the withdrawal of King's division, of McDowell's corps, which, during the greater part of the night, I had understood to be *on the Warrenton turnpike, and west of the troops* under Jackson. *Their withdrawal to Manassas Junction, I feared,* had left open Jackson's retreat in the direction of Thoroughfare Gap—

Exactly as I stated awhile ago—

to which point the main portion of the army of Lee was then tending to re-enforce him. I did not desire to pursue Jackson beyond the town of Gainesville, as we could not have done so on account of the want of supplies—rations for the men and forage for the horses.

This explains exactly the meaning of that order. That order was that they should not go beyond a certain point that day because they might have to fall back behind Bull Run for the purpose of getting supplies. What is the explanation? That he did not desire to pursue Jackson further than Gainesville. His object was to drive him out in that direction before his supports could come up. Hence he sent McDowell and Porter in that direction for that purpose under this joint order that it is claimed here was an order putting McDowell in command. He says:

My order to Generals Porter and McDowell is, therefore, worded that they shall pursue the route to Gainesville until they effect a junction with the forces that are marching upon Gainesville from Centreville—the forces under Heintzelman, Sigel, and Reno; and that when that junction was formed, (as I expected it would have been very near to Gainesville,) the whole command should halt, it being, as I stated before, not feasible with my command in the condition it was in, on account of supplies, to pursue Jackson's forces further. During the whole morning the forces under Sigel and Heintzelman had kept up a skirmishing with the rear of Jackson's forces, they retiring in the direction of Gainesville. They were brought to a stand at the little town of Groveton, about eight miles, I think, from Centreville, and perhaps five or six miles from Gainesville. When I rode on to the field of battle, which was about noon, (having been delayed at Centreville,) I found that the troops had been sharply engaged, and were still confronting each other. General Sigel reported to me that he needed re-enforcements in the front; that his line was weak, and that his troops required to be withdrawn from the action. I told him (as I did General Heintzelman, who was present on the ground) that I only wished them to maintain their positions, *as the corps of McDowell and Porter were then on the march from Manassas Junction toward the enemy's right flank and ought in a very short time to be in such position as to fall upon that portion of his line. I desired them, therefore, only to maintain the positions they occupied. We waited for the arrival of Generals McDowell and Porter.* At four o'clock, or some little after that time, (perhaps at half past four in the afternoon,) finding that neither McDowell nor Porter had made their appearance on the field, *I sent an order to General Porter informing him generally of the condition of things on the field,* and stating to him that I desired him to push forward and attack the enemy in flank, and, if possible, in rear, *without any delay.* This order was sent to General Porter *about half past four in the afternoon.* Finding that General Porter did not comply with this order, and receiving a dispatch which he sent to Generals McDowell and King, *stating to them that he was about to fall back, or was falling back to Manassas Junction,* and that he did so *because he saw clouds of dust,* showing that, in his judgment, *the enemy was advancing on the road he was occupying,* and stating that it appeared to him from the fire of the battle that he had been listening to that *our forces were retreating and the enemy advancing, and he had determined to fall back to Manassas Junction, and recommend Generals McDowell and King to send back their trains also*—receiving this note, purporting to be from General Porter to Generals McDowell and King, I sent an order to General Porter directing him, immediately upon the receipt of the order, to march his whole command to the field of battle, and to report to me in person for orders, stating to him that I expected him to comply strictly with that order.

Why did Pope issue that order? Because he could not get Porter to obey any order, he had to direct him to report in person to him on the battle-field with his whole command, and so he did require him to do so that he might be under his immediate eye:

I put it in such form (perhaps not entirely courteous) because *I had understood General Porter, upon two several occasions, to have disobeyed the orders that I had sent him. These are all the orders that I issued on that day and night to General Porter.* I will state, in addition to what I have already said, that the first of these orders to which I have referred, being subsequently superseded, is not perhaps *referred to here.* I will also state that the corps of Sigel, Heintzelman, and Reno were formed in line of battle across the Warrenton turnpike, *facing to the west, and near the little town of Groveton, or at it, almost at the point where the road from Manassas Junction to Sudley Spring—the Sudley Spring road I think it is called—crosses Warrenton turnpike a little in advance of that road.*

(The judge-advocate stated that the first order, referred to by the witness in his answer to the last interrogatory, is not referred to in the specifications, being superseded by a subsequent order.)

Q. Excluding from view the first order given on the morning of the 29th of August, and which directed General Porter to fall back upon Centreville, and which, you say, was superseded by a subsequent order, are or are not the other three orders which you have enumerated in your last answer, given to General Porter on that day, the same which are set forth in the second, third, and fourth specifications of the first charge preferred against him? (Handing witness the charges and specifications.)

A. (After examining them.) They are the same orders.

Q. Do you mean to say that the order set forth in the second specification, addressed to Generals McDowell and Porter, is the one that superseded that first order?

A. No, sir. There was one sent to General Porter previously to that time, giving nearly the same directions, and which is referred to in that joint order as having been given an hour and a half before. I repeated that second order in detail, because I was not sure that General Porter had received the order referred to there as having been sent to him an hour and a half before.

Q. At what hour in the *morning was this order issued,* addressed to Generals McDowell and *Porter, and set forth* in the second specification of the first charge?

A. *I do not remember distinctly.* I think it was somewhere between *eight and nine o'clock in the morning.*

Q. Was there any *engagement then pending?*

A. Fighting was then going on along the turnpike that *led from Centreville* to Warrenton—fighting was going on *quite sharply.*

Q. Did the march of General Porter's command, as indicated in that order, lead him toward that battle?

A. Yes, sir; it led him toward the flank of the enemy.

Q. What forces had he under his command that morning when that order was issued?

A. He had, or should have had, at Manassas Junction the whole of his own corps, which, from his report to me at Warrenton Junction, I understood to be between 8,500 and 9,000 men. I had added to his command the troops forming the brigade commanded by General Piatt; they were to belong to the division of General Sturgis, and I think they numbered about 3,500 men. Their exact strength I do not know. That was the impression I got from General Sturgis.

Q. Was that his entire command?

A. That was his entire command. I understood him to have had from 12,000 to 12,500 men at Manassas Junction.

Q. What was the distance between Manassas Junction and the scene of this engagement of which you speak?

A. Between *five and six miles*, I think, though I had not been myself over the road.

Q. Do you know the character of the road? Had you passed over it?

A. I had not passed over it.

Q. Did General Porter obey the order addressed to him and General McDowell?

A. I do not know whether he obeyed it; he did not obey it fully; how far he obeyed it I am not able to say; he certainly did not obey *the order fully*.

Q. If he had obeyed it, would it not have brought him up with the enemy before *half past four in the evening*?

A. *Yes, sir.*

Q. On your arriving on the battle-field, where was he reported to you to be?

A. I arrived on the battle-field at twelve o'clock, about noon. *At 4.30 p. m. nobody on the field knew where General Porter was at all.*

Q. Did or did not General Porter obey the second order to which you refer, issued at four and a half o'clock on the 29th of August, directing him to engage the enemy in flank, and if possible, in rear?

A. *He did not, so far as my knowledge of the fact goes.*

Q. You have no knowledge of his having made any attack then?

A. I should have known it if he had attacked.

Q. Will you state to the court and describe the condition of the battle-field at that hour, and the importance of his obedience of that order to the success of your troops?

A. Late in the afternoon of the 29th, perhaps toward half past five or six o'clock—about the time that I hoped that General Porter would be in his position and be assaulting the enemy on the flank, and when General McDowell had himself arrived with his corps on the field of battle—I directed an attack to be made on the left of the enemy's line, which was handsomely done by Heintzelman's corps and Reno's corps. The enemy was driven back in all directions, and left a large part of the ground with his dead and wounded upon it in our possession. *Had General Porter fallen upon the flank of the enemy, as it was hoped, at any time up to eight o'clock that night, it is my firm conviction that we should have destroyed the army of Jackson.*

Q. You have stated that General McDowell obeyed that order so far as to appear upon the battle-field with his command?

A. Yes, sir. *He arrived on the battle-field, I think, about five o'clock, and immediately pushed forward his corps to the front; the division of General King having a very sharp engagement with the enemy along the Warrenton turnpike, in advance of the position that we had occupied during the day.*

Q. To reach the battle-field, had or had not General McDowell as great a distance to march *as General Porter*?

A. Yes, sir; I should think fully as great.

Q. I believe you have stated the distance from Manassas Junction to the battle-field as about four or five miles?

A. Five or six miles; I am not quite sure; that is my impression.

Q. Is or is not that about the distance which the command of General Porter would have had to have marched to have obeyed your order?

A. It would have had to march less than that. You refer, I suppose, to *the order I issued about half past four* in the afternoon?

Q. Yes, sir.

A. General Porter was reported to me, by the aid-de-camp who delivered him that order, to be two miles or more from Manassas Junction, in the direction of the field of battle.

Q. In point of fact, did or did not General McDowell, in obeying that order, pass General Porter and his command on the way?

A. I so understood. General McDowell can tell that better than I can myself.

Q. I will ask you now in regard to the last order, that which purports to be dated on the 29th of August, at 8.50 p. m., and is set forth in the fourth specification of the first charge. I will ask you if General Porter obeyed that order or not?

A. General Porter appeared himself on the field the next morning with a portion of his command. Two brigades, however, were not present with him, but were reported by aid-de-camp to me as being at Centreville.

Q. Do you or not know at what point those brigades were separated from his command?

A. I do not.

Q. What brigades were they?

A. One was General Griffin's brigade; the other was General Piatt's brigade. I would say, however, of the latter brigade, that when they reached Centreville, and found that there was a battle going on in the advance, they marched forward to the field, and made their appearance on the ground, and took part in the action late in the afternoon of the 30th of August. That is, the brigade of General Piatt. They did so without orders to that effect from anybody.

Q. Do you know what became of General Griffin's brigade, or where it was during the battle of the 30th of August?

A. Of my own knowledge I do not know, except what was reported to me by my aid-de-camp from Centreville, that the brigade was there.

Q. It took no part in the action?

A. No, sir.

Q. Will you state what effect, if any, was produced, or was liable to be produced, on the fortunes of that battle by the absence of that force?

A. A very great effect. I do not know the strength of General Griffin's brigade; but a brigade of four regiments, and a battery of artillery, as I understand it. That was utterly withdrawn from the field; took no part in the action. General Piatt's command got up very late; too late to do anything, except, indeed, to contribute to enable us to maintain our ground until the darkness closed the fight. The presence of the other brigade would undoubtedly have been of immense benefit.

Q. Did or did not you regard the withdrawal of these brigades from General Porter's command, under the circumstances, a clear violation of the order issued to him to report with his command on the battle-field?

(Question objected to by a member of the court.)

The room was cleared, and the court proceeded to deliberate with closed doors. After some time the doors were reopened. Whereupon—

The judge-advocate stated the decision of the court to be that the question should be propounded to the witness.

Q. (Repeated.) Did *or did not you regard* the withdrawal of those brigades from General *Porter's command*, under the circumstances, a clear violation of the order issued *to him to report with his command* on the battle-field?

A. *Undoubtedly.*

Q. Will you state to the court whether or not you had made known to General Porter the position of the enemy's forces, and your plans and intentions so far and so fully that he knew the critical condition of your army, and the importance of rapid movements, and prompt and energetic action to secure your supplies and to guarantee success?

A. It has been my habit to talk very freely with all officers having large commands in the army which I commanded. How far I informed General Porter I am not now able to say. But I should presume, from my habitual practice, and from conversations that I had with him, that he understood pretty fully the condition of the army and the position of the various corps of the army. What I regarded as a necessity it is altogether possible he might have had a different opinion about. Therefore I cannot say that he understood the necessity which I understood.

After Pope learned of Porter's conduct on the field, Pope determined to arrest Porter, but was persuaded not to do so, but issued the following order, which clearly shows that Pope knew Porter was not obeying his orders. This order was issued on the night of the 29th to appear next morning or within three hours from its reception:

Major-General Porter:

GENERAL: Immediately upon receipt of this order, the precise hour of which you will acknowledge, you will march your command to the field of battle of to-day, and report to me in person for orders. You are to understand that you are expected to comply strictly with this order, and to be present on the field within three hours after its reception, or after daybreak to-morrow morning.

Up to the time of this positive order, requiring him to report to Pope on the field with his command, he obeyed no order, and in obeying this order he left part of his command, and did not bring it on the field at all; so he did not even obey this one strictly.

Now I ask if such an order as that was ever issued before to a general on a battle-field? If it was, I have never read it. Why then? Because it was necessary, absolutely necessary, to issue this order to him, to obey it strictly, to acknowledge its receipt, and to report in person with his command to Pope himself, so that Pope could see that the orders were executed; and this order, as I say, was issued by him after his staff officers and some of his generals had persuaded him not to arrest Porter that day on the battle-field for disobedience.

I have the evidence of General McDowell here. I know that it is very tedious and tiresome for Senators to listen to the reading of this large amount of testimony, but it is necessary to a thorough understanding of the case. General McDowell, in speaking of the order, says, (court-martial record, pages 82, 83, and 84:)

That was the only order I received from General Pope that day.

Q. How did you regard that order; as placing General Porter in subordination *to you, or as indicating that you were both* to act independently of *each other, and each of you in subordination* to General Pope?

A. I cannot say *that at that time the order* occupied my mind in connection with the *question of subordination or otherwise*. In starting out on this road, as I mentioned before, General Porter had started out ahead of me, *under the order he had himself received from* General Pope to move with *his corps and one of my divisions on* a certain road, and, I think, for a certain purpose, though I am not certain as to that. At that time I conceived General Porter to be under me. When the joint order reached us we were doing what that joint order directed us to do. That joint order found the troops in the position in which it *directed them to be*. That joint order *gave a discretion to the effect that if any considerable advantages were to be gained by* departing from that order it *was not to be strictly construed*. I decided that considerable advantages were to be gained by departing from that order, and I did not *strictly construe it, or strictly carry it out*. That order contemplated a line *being formed which was to be joined on* to a line that was to come up from the east to the west, and have the troops on the Gainesville road to *attack the flank and rear of the enemy*, as I understood it, in moving *along on the Gainesville road*. This long *line of troops*—those who were ahead of me, General Porter's corps—coming to a halt, I moved along and *rode by his corps to the head of* the column. On the way up to the head *of the column I received a note from* General Buford, addressed to General Ricketts, and to be forwarded to me. This note was addressed primarily to General Ricketts, and then to myself, for I do not think General Buford knew of General Porter's being there at the time he wrote it. I will read the note:

"HEADQUARTERS CAVALRY BRIGADE—9.30 A. M.

"Seventeen regiments, one battery, five hundred cavalry passed through Gainesville three-quarters of an hour ago on the Centreville road. I think this division should join our forces now engaged at once.

"Please forward this.

"JOHN BUFORD,
"*Brigadier-General.*

"GENERAL RICKETTS."

This was addressed to General Ricketts, who commanded a division. I do not know whether it went to General Ricketts direct, or came to me direct, or came to me from General Ricketts. I infer it had reference to that division. General Buford belonged to General Banks's corps, but had been temporarily under my orders the day before, and had gone up to Thoroughfare Gap with Ricketts's division at the time I expected a force of the enemy to come through that gap; and he had fallen back with Ricketts, and at that time, as I understood, occupied a position to our left and front.

Q. Did you or not communicate to General Porter the contents of the note from General Buford, which you have read?

A. Yes, sir; I did communicate it to him.

Q. Where was General Porter's command at that time?

A. On this road leading from Manassas Junction, by way of Bethlehem chapel or church, toward Gainesville. The rear of his column had passed by Bethlehem chapel, which is at the junction of the Sudley Spring road with the road from Manassas Junction to Gainesville.

Q. Bethlemem church enables you to identify that position?

A. Yes, sir. It is at the junction, or the crossing rather, a little beyond the crossing of the Sudley Spring, or Gum Spring, or old Carolina road, with the road from Manassas Junction to Gainesville. The rear of General Porter's command was beyond that road, the head of it stretching out here in this direction, [indicating on the map.]

Q. Can you speak with any confidence as to the hour of the day at which you communicated to General Porter the contents of this note from General Buford?

A. It was somewhere before noon, I think. It is impossible for me to keep the hours of the day in my mind on such occasions. I have tried it several times but have never succeeded except some important things, such as daylight and darkness. It was communicated a short time after it was received.

Q. Did you or not, upon communicating this note, confer with General Porter in reference to his movements and your own?

A. I did.

Q. Will you state fully what occurred in that conference?

A. On passing the head of General Porter's column, which was on the road I have before mentioned, General Porter was in advance of the head of his column,

I think, on a slight eminence or knoll or rise of ground, with some of his staff near him.

* * * * * * *

The other day my friend from New Jersey stated that General McDowell had sworn one thing before the court-martial and made a different statement in his report; but by presenting that report yesterday, and reading both his report and testimony, I find that his testimony is almost *verbatim* with the report, and he copies the very same order and quotes the very same language in the report that he does in his testimony, showing that he understood at the time when he was there at the head of Porter's corps at Dawkins Branch, from this note of Buford, which he had read or informed Porter of, that seventeen regiments had passed through Gainesville—not on the road on which Porter was, but on the turnpike going down through Groveton, and in the direction of Centreville. They passed through Gainesville. He reported that to McDowell; McDowell reported it to Porter, and these are the confederate troops, and the only confederate troops, that any evidence in the whole case as shown were known to any of our officers that day to be anywhere near where General Porter was; and he cannot show, and never has shown, nor can his friends, from any testimony that was ever adduced before the court-martial or elsewhere, that any one on that day knew of any troops passing there or being near his front, save those troops that Buford spoke of, except the two guns and a very small force. Since that time, as a matter of course, developments may have shown some different state of facts, but I speak of the time when he claims that from his knowledge he disobeyed the order, that it was impossible for him to have any knowledge on the subject except this knowledge which was imparted to him by General McDowell of the seventeen regiments. In fact, he says in his own statement, in his own evidence, that the information of the troops in his front that day he gained from General McDowell. If so, that is the information and none other.

General McDowell says:

I rode up to him, [Porter;] I saw that he had the same order as myself in the joint order.

What order? The order to push on to Gainesville, the joint order.

Soon after *my attention* was directed to some *skirmishing*, I think some dropping shots *in front* of us. The country, in front of the position where General Porter was when I joined him, was *open for several hundred yards*, and near, *as I supposed*, by seeing the dust coming *up above the trees*, the Warrenton turnpike, which was covered from view by the woods. *How deep those woods were I do not know.* It did not seem at that time to be a great distance to that road—the Warrenton turnpike. I had an impression at the time that those skirmishers were engaged with some of the enemy near that road. I rode with General Porter from the position he occupied, eastward, to the right—that is, the column being somewhat west of north, and I going east, made an angle with the line of troops on the road. The joint order of General Pope was discussed between us—the point to be held in view, of not going so far that we should not be able to get beyond Bull Run that night; that was one point, the road being blocked with General Porter's troops *from where the head of his column was back to Bethlehem church; the sound of battle, which seemed to be at its* height on our right *toward Groveton; the note of General Buford, indicating the force that had passed through Gainesville, and, as he said, was moving toward Groveton, where the battle was going on—*

Not toward where Porter was, but in the direction of "Groveton, where the battle was going on"—

the dust ascending above the trees seeming to indicate that force to be not a great distance from the head of General Porter's column. I am speaking now of that force of the enemy referred to by General Buford as passing down the Warrenton turnpike, toward Groveton. I understand this note of General Buford to refer to a force of the enemy. The question with me was how, soonest, within the limit fixed by General Pope, this force of ours could be applied against the enemy. General Porter made a remark to me which showed me that he had no question but that the enemy was in his immediate front. *I said to him: "You put your force in here, and I will take mine up the Sudley Spring road*, on the left of the troops engaged at that point with the enemy," or words to that effect. I left General Porter with the belief and understanding that he would put his force in at that point.

That is what General McDowell swears.

I moved back by the shortest road I could find to the head of my own troops, who were near Bethlehem church, and immediately turned them up north on the Sudley Spring road, to join General Reynolds's division, which belonged to my command, and which I had directed to co-operate with General Sigel in the movements he (General Sigel) was making at the time I left him in the morning. After seeing the larger part of my troops on the Sudley Spring road, I rode forward to the head of the column. I met a messenger from General Pope. I stopped him and saw that he had an order addressed to General Porter alone. I do not recollect more than the general purport or tenor of that order. It was to the effect that he should throw his corps upon the right flank or rear of the enemy from the position he then occupied. When I say right flank, I do so merely because of my knowledge of the position of the forces, not from any recollection of what that order contained on that point.

Q. Was or was not the messenger to whom you refer who bore that order a staff officer—Captain Douglas Pope?

A. I do not recollect; I do not think it was.

Q. You did not meet on the way, or take from the hands of any other staff officer on that day, an order from General Pope to General Porter, except this one, did you?

A. No, sir; and I did not take this from his hands in one sense. I examined it, gave it back to him, and he went on his way.

Q. Is Captain Pope personally known to you?

A. Yes, sir; he is. My impression is that it was not Captain Pope, but I will not be confident. I do not remember who it was.

Q. I will read you an order which is set forth in specification 1 of charge 2. (The order was read accordingly.) Do you or not recognize that as the order which you saw and read?

A. I can only say that the order that I saw in passing was of that same import. Whether that was the order or not, I cannot say.

Q. You have said that the accused made an observation to you which showed that he was satisfied that the enemy was in his immediate front; will you state what that observation was?

A. I do not know that I can repeat it exactly, and I do not know that the accused meant exactly what the remark might seem to imply. The observation was to this effect—putting his hand in the direction of the dust rising above the tops of the tree—"We cannot go in there anywhere without getting into a fight."

Q. What reply did you make to that remark?

A. I think to this effect: "That is what we came here for."

Q. Were there any obstacles in the way of the advance on the part of General Porter's command upon the flank of the enemy?

A. That depends upon what you would call obstacles. A wood is an obstacle.

Q. I mean insuperable obstacles, in a military sense.

A. I do not think *we so regarded it at that time. I did not.*

Q. Was or not the battle raging at that time?

A. The battle was raging on our right; that is, if you regard the line of the road from Bethlehem church to Gainesville to be substantially northwest, the battle was raging to the right and east of that line at Groveton.

Q. At what hour did you arrive upon the battle-field with your command and take part in the engagement?

A. I cannot say as to hours.

Q. As nearly as you can?

A. It was in the afternoon. I do not know at what time the sun set. I should not be able to fix the hour. It may have been four o'clock or five o'clock. One of my divisions, which had been the day before up to Thoroughfare, and the day before that on a long march, extending to late in the night, and which had started that day, Friday, and had marched since one o'clock in the morning, had its rear guard some distance behind, and that rear guard did not get up to Manassas until the next morning, though it got within a couple of miles of that place. That was the rear guard of the corps, in that instance a brigade.

Q. Did you, or not, afterward see General Porter during that engagement of the 29th?

A. No, sir; I did not.

Q. Did he, or not, with his command, take any part in that battle?

A. I do not know, of my own knowledge.

Q. What would probably have been the effect upon the fortunes of that battle if, between five and six o'clock in the afternoon, General Porter, with his whole force, had thrown himself upon the right wing of the enemy, as directed in this order of 4.30 p. m. of the 29th of August, which has been read to you?

A. It is a mere opinion that you ask?

Q. Yes, sir.

A. I think it would have been decisive in our favor.

Q. Did any considerable portion of the confederate forces attack General Pope's left on Saturday, passing over the ground that General Porter would have passed over had he attacked the enemy's right on Friday?

A. I cannot say. They may have done so. I do not know.

Q. All the localities of which you have spoken in your testimony are in the State of Virginia, are they not?

A. Yes, sir.

Examination by the judge-advocate here closed.

Examination by the ACCUSED:

Q. Will you say whether you found General Porter's corps in the position where you expected to find it when you joined him the first time you saw him on the 29th of August?

A. I did not think anything about it; it was not a question with me.

Q. State if, when you found him at the place where the joint order required him to be, you stated to him, or thought, that you found in his front a different state of affairs than you had expected to find.

A. I do not recollect of such a statement.

Q. Try to recollect if, upon that occasion, you did not say to him, in substance, that he was too far in the front, and that the position in which he was was not a position in which to fight a battle, or anything to that effect?

A. I do not recollect.

Q. Are you sure you did not?

A. I have no recollection of any question about that place not being the one to fight a battle. Something may have been said about not going further toward Gainesville, with reference to falling behind Bull Run that night.

Q. If anything was said in relation to the facility of getting back to Bull Run that night, do you remember whether it was that the accused was too far in the front, or would be too far in the front if he moved further on?

A. It was hardly a question of going further on. It was more a question of turning to the right and going against the enemy then passing down the Warrenton turnpike.

Q. You say that something might have been said by the accused about getting back to Bull Run; are you to be understood as saying from recollection that he was told to keep in view his ability to get back to Bull Run?

A. That was the expression in the joint order.

Q. Was it used by you?

A. We referred to that point.

Q. When did you first see the order of which you have spoken in your testimony in chief, that of 4.30 p. m. of the 29th of August, which directed the accused to turn the right flank and attack the enemy in the rear? You have been understood as saying that that was the effect of the joint order. That is not your meaning, is it?

A. It was the effect of the joint order as modified by me, when I left General Porter, so far as I had the power to modify that order, and so far as the understanding with which I left him at the time.

Q. Are you to be understood as saying that before you saw the order to General Porter of 4.30 p. m. of the 29th of August, you, under the discretion you supposed was reposed in you by the joint order to yourself and General Porter, had directed him to attack the enemy's right flank and rear?

A. To that effect, yes, sir; I *knew* I had that discretion: I did not *suppose* it. This is the clause under which I *supposed*, if you prefer that term, I had that discretion: "If any considerable advantages are to be gained by departing from this order, it will not be strictly carried out." That joint order contemplated General Porter's corps and my own to be employed differently from the way I had arranged when I left General Porter, which arrangement was to separate them, leaving him alone on the Gainesville road, whilst I went up the Sudley Spring road.

Q. Did you under that joint order suppose that you were authorized to take any part of General Porter's command and place it in such a position that it would not have been in the power of his command to reach Bull Run that night or the following morning?

A. That question, if I understand it, did not come up in my mind. The order itself stated that one thing was to be held in view. I will read that part of the order. "One thing must be held in view, that the troops must occupy a position from which they can reach Bull Run to-night or by morning."

Q. Was it your understanding of that joint order of the 29th of August that you could, under that order, direct General Porter to take his command into a position from which that "one thing" could not be accomplished?

A. Certainly not. The order does not say that I should disobey the order, and that is what the question amounts to.

Q. Have you any recollection that after you left the accused on the 29th, and took with you King's division, the accused sent a message to you requesting that that division should be permitted to stay with his command?

A. I received no such message.

Q. Will you say, whether, in consequence of a message, or otherwise, you sent a message to the accused with your compliments, telling him that you were going

to the right and should take King with you, and that he, the accused, should remain where he was for the present, and if he had to fall back to do so on your left?

A. I do not recollect.

Q. Are you able to say that you are certain that you did not send such a message?

A. That is my impression, that I did not.

Q. What distance did you march with that portion of your command which you took to the battle-field from the point where you left the accused to the point upon the battle-field that you reached with that portion of your command?

A. Somewhere about four miles.

Q. What road did you travel, or did you travel any route known as a road?

A. The troops went by the Sudley Springs road from Bethlehem church.

Q. When you left the accused where you found him on the 29th of August, were you at that time advised that Longstreet's corps or any other corps of the confederate army was marching on to unite with the right of Jackson?

A. I did not know anything about Longstreet's corps or Jackson's corps. I have mentioned before that I received a note from General Buford that seventeen regiments, a battery, and five hundred cavalry were marching from Gainesville upon Groveton. To whom they belonged or to whom they were going was not a matter of which I was informed.

Q. Do you know now whether the information given by General Buford in the note to which you have just referred was correct?

A. I know nothing more now than I knew then; I believed it then to be correct.

Q. Will you state, if the force to which General Buford referred in his note actually passed through Gainesville at thirty minutes past nine o'clock on the 29th of August, how long you suppose it would have taken it to have joined the force in front, which, as we have supposed, was commanded by Jackson?

A. It would depend upon how fast they marched.

Q. I know that.

A. I do not know how fast they marched, so I cannot tell.

Q. How long would it have taken them if they had marched as fast as you think they could have marched?

A. I have formed no estimate as to how fast those troops can march.

Q. If those troops, in fact, marched as fast as you have marched your own troops upon any occasion, how long would it have taken them?

A. To go from Gainesville?

Q. Yes, sir.

A. Without stops, without obstacles, formations, or checks of any kind, simply marching along the road?

Q. The question has reference to the country as it is, a distance of, as you say, about four miles.

A. It was somewhere between four and six miles. Troops march readily from two miles to two miles and a half an hour, if there is nothing to prevent them, if they are not disturbed by stopping up the roads with wagons, getting breakfast, or something of that kind.

Q. From your knowledge of the actual condition of the country over which that force was supposed to be passing, can you tell whether there were any obstacles to their march, and if there were any, what were they?

A. Not having gone over the road, I do not know anything about the obstacles, one way or the other.

Q. Do you know what was the average number of the regiments of the confederates, each regiment, I mean?

A. Do you mean the strength of each regiment?

Q. Yes, sir.

A. They consisted of all the way from two hundred, or even as low as one hundred and fifty, up to one thousand or even twelve hundred. I have taken a great deal of pains at different times in examining deserters, scouts, spies, negroes, and prisoners, to ascertain that matter, and I find that nothing varies so much as the strength of the regiments on the other side. I have the impression that they were not very strong; that their average was certainly not greater than our own, if it was as great; but that it varies at different times. Before they had their conscription it was very low; after the conscription their regiments were quite full. I have no personal knowledge of the matter at all. I give the sources from which I obtained this estimate.

Q. Have you a knowledge now of what was the actual force of the enemy under the command of Jackson, or did you know that Jackson was in command of the enemy?

A. I did not know that Jackson was there; I have been told that he was there. I do not know what his force was.

Q. And do you know, or not, what was the amount of the confederate force that was coming up?

A. Coming up when and where?

Q. As stated in the note from General Buford?

A. Nothing more than he told me in that note.

Q. How long had you left the accused, on the 29th of August, when you saw the order dated at 4.30 p. m. of that day, which was handed you by some officer?

A. I cannot tell; I do not recollect. I rode from the head of his column back to the head of my own column, and as rapidly as I could get my troops into position on the other road, and waited until the larger part of them had entered upon that road. Then, on riding by them to go to the head of my column on the Sudley Springs road, I met this messenger. I cannot tell how long all this took. I cannot fix the time when I left General Porter, and of course cannot fix the time when I saw this messenger.

Q. How often during this campaign of General Pope in Virginia, of which you have spoken, had you seen the accused before you saw him on the 29th of August?

A. I had not seen him during that campaign before I saw him on the 29th of August.

Q. How long were you together during that interview of the 29th of August?

A. I cannot fix the exact time. We rode together some distance; perhaps a mile; perhaps it may have been more; I do not recollect now.

Q. Was it five, ten, fifteen, or twenty minutes?

A. Yes, sir.

Q. Which?

A. You may put it at fifteen minutes, or at twenty minutes.

Q. During that conversation, that interview, did the accused say anything, or do anything, from which you inferred disloyalty upon his part, or unwillingness to perform his duty under the command of General Pope?

A. No, sir; what he said was the reverse. He professed to have but one feeling, which was that for the success of his country. This was said, I think, in reference to the embarrassment which I have before alluded to, about General King's division going under him, General Porter. It was not a question with me about loyalty or disloyalty; I never think of such things; what I mean is this: I assume everybody to be loyal; my suspicions do not run that way. The suspicion that persons who hold commissions as general officers in the Army are disloyal does not occur to me.

Q. It is not recollected what you said in relation to the embarrassment you speak of growing out of King's division being under General Porter's command. Will you state what it was that you understood him to refer to?

A. The embarrassment was rather on my side than on his; the embarrassment I refer to was this: I came down to take King's division and bring it up along with my other division, that is, with Reynolds's division, then engaged at Groveton. I found it with an order to go, under General Porter, in another direction; that was what produced the embarrassment. General Porter had nothing to do with that embarrassment; I may say that we were both embarrassed; I at finding one of my divisions under his command, and he at finding himself under my command. I do not know that "embarrassment" is the proper word to use; what I meant was that I found things different from what I expected to find. When I spoke of one of my divisions going under him, he suggested that I was the senior officer, as between himself and myself, and that I could take the command of the whole force—his corps and my own force—and we went forward at first in that way before the joint order reached us. I did not go to that place expecting to find General Porter; I went there to find my own division and I found General Porter there with an order to take one of my divisions under his command. That was not foreseen by the general-in-chief of that army, who was absent, and the matter was solved in the way I have stated, I commanding General Porter's corps and my own division. We then received the joint order, which directed the very things which we had ourselves done. The order was sent by General Pope upon the receipt of a note from me, in reference to this matter of my division.

Q. Do you know from what point King's division had marched on that day, or the day before, in order to get to the point where you found it on the 29th of August?

A. It had marched from some point or some place on the Warrenton turnpike, between Gainesville and Groveton, where it had an engagement with the enemy, back to Manassas Junction, having left, as I was informed by General Reynolds, about one o'clock on the morning of Friday, the 29th of August. It had been ordered the day before to march from Buckland Mills, which is beyond Gainesville, to Manassas Junction. Before it had reached Bethlehem church it was ordered to move on to Centreville, in compliance with orders from General Pope, and had been sent from the road—or I do not know that it was on any road, but from the position where the order reached it—north to the Warrenton turnpike, and thence to move along that pike to Centreville. It had become engaged with the enemy in the evening, and then, as I have before stated, fell back the next morning, starting at one o'clock, as I understood from General Reynolds. These facts I learned on the morning of Friday, the 29th, from General Reynolds, who had been personally with King's division; had ridden over to it the night before.

Q. Do you recollect whether you informed the accused at that interview that General Ricketts had been driven from Thoroughfare Gap, and that General King had been driven from Gainesville, by the enemy?

A. I do not recollect having used such expressions; I recollect having informed him of the fact that General King's division, as I had learned from General Reynolds, had fallen back that morning, and also that General Ricketts's division had fallen back from Thoroughfare Gap. At the time I saw General Porter I had not got up with either of these divisions; I found them after my interview with him.

Q. Did you then know that Generals Ricketts and King had met with the enemy, the one at Thoroughfare Gap and the other at or near Gainesville, and that they were then falling back in consequence of the enemy?

A. I knew they had met the enemy the night before, but at the time I met General Porter I knew nothing of the details of the engagements which they had had with the enemy, nor do I recollect having said to General Porter, or having known, anything about the motives for General King's falling back to Manassas from this position on the road between Gainesville and Groveton. I have an idea that there was a question of supplies connected with the falling back from that point. General Reynolds had told me that he had told General King that he would be alongside of him in the morning. At the time I saw General Porter the whole subject of the engagements of the evening before, except the mere fact that there had been engagements, was unknown to me; I mean the details in regard to those engagements.

Q. You have stated, or have been understood to have stated, that when you were with the accused, on the 29th of August, the battle was going on, and you could hear it; will you state if you heard any other firing than that of artillery?

A. I do not recollect about that now; the noise was very decided, and distant from where we were, I should suppose, about four miles.

Q. Do you know when the infantry firing on that day commenced; was it, or not, about four o'clock?

A. I think it was much earlier than that; I have only one thing to guide me, and that is General Reynolds's report; I can refer to that and find out more particularly if it is desired.

The examination by the accused was here closed.

Thereupon the court adjourned to eleven a. m. to-morrow.

The examination of Major-General Irvin McDowell was then resumed, as follows:

Examination by the COURT:

Question. Did or did not General Porter put his troops in action at the point indicated by you, at the time he said he could not go in anywhere there without getting into a fight?

Answer. Of my own knowledge I know nothing of what General Porter did after I left him.

Q. In departing from a strict obedience to the joint order of the 29th of August, did you or not extend that departure beyond your own immediate command? That is, did you change the order with respect to General Porter's corps?

A. General Porter and I started out from Manassas with the understanding that under the article of war applicable to such cases, I had the command of the whole force—his own and my own. We each of us received a joint order from General Pope, our then commander-in-chief, which order, whilst it did not at the time change the relations between General Porter and myself, seemed to imply that those relations were not to be constant, were not to continue. I decided under the latitude allowed in that order, that General Porter should post his troops in to the right of where the head of his column then lay, and that I would take mine away from the road on which our two commands then lay, up the Sudley Springs road into the battle, in this way dissolving the joint operations of our two corps, and from the moment I left General Porter I considered he was no longer under my immediate control, or under my immediate command, or my direct orders, but that he came under those of our common commander-in-chief, we not then being on the same immediate ground. The article to which I refer is the sixty-second article of war, which directs that when troops happen to meet, the senior officer commands the whole. I considered that article of war to apply up to the time that I left General Porter and broke my command away from his, after which I conceived that his relations were direct to the commander-in-chief; therefore, in answer to the question, to that extent I did interfere with his corps, by separating mine from it, and also by indicating where I thought his corps ought to be applied against the enemy.

Q. Did you report to General Pope any change you had made in the operations of that joint order?

A. No further than by bringing my troops up, reporting to him that they were there, and receiving his orders. His order to General Porter direct, met me on my way to join the main army. I did not know at that time that General Pope was at that particular place.

Q. When you saw the order from General Pope to General Porter, the one subsequent to the joint order, did you give or had you given any order to General Porter which would interfere with his obedience to it?

A. None.

Q. The orders you had given to General Porter were not in opposition, or, at least, not of a different character from the one that came to him from General Pope?

A. They concurred. The arrangements that I supposed to exist when I left Gen-

eral Porter concurred with the order which I afterward saw from General Pope to General Porter. They were to the same effect, except as to details, which General Pope may have given. I gave no details.

Q. Would or would not the presence of General Pope, an officer superior in command to both yourself and General Porter, render inoperative or inapplicable the article of war to which you have referred?

A. It would depend upon his presence, whether it was immediate or not.

Q. We speak of such presence as existed then.

A. We did not so consider it. General Pope, according to the note we received, was at Centreville, which I suppose was some six miles off, and we were going away from him. I will mention further that the day before nearly a similar case happened, when General Sigel and myself were together at Buckland Mills, and I commanded General Sigel. That was done by a direct order from General Pope, before given. Still, it would have been the same if he had not given that order.

Q. Could the accused have engaged in the battle according to your order and according to the subsequent order of General Pope, and still have fallen back to Bull Run within the time named in the joint order to yourself and the accused?

A. Yes, sir.

Q. From your knowledge of the nature of the country between General Porter's column and the forces engaged on the 29th of August, was there anything to have prevented the accused from making an attack upon the enemy's right or rear, as directed by General Pope? If so, state what it was.

A. My knowledge of the country is derived principally, first, from having gone over the railroad from Manassas to Gainesville in a car, or in a locomotive, which gave me but little idea of it, as I was engaged whilst going over with matters which prevented my paying attention to the country; next, in marching from Buckland Mills to Gainesville, and from Gainesville east along the Warrenton turnpike for a mile or two—I do not remember the exact distance—then turning off to the right and south, and going across the country to Bethlehem church, and thence to Manassas; then from the fact that General Reynolds's division, which had the lead on the occasion that I refer to, going from Gainesville toward Groveton, had gone further on that road than I went myself, had turned to the right and gone toward Bethlehem church; and from the fact that General King's division, which had gone on that same road toward Groveton from Gainesville, and had turned down south of that road, had again gone north on to that road, had engaged the enemy at a certain place, had fallen back to Manassas from that place, *which place I learned was nearly reached, if not quite, on Friday, the day of the battle, by the troops moving from Groveton west; and from the fact that the enemy's force had moved to the south on Saturday, and turned our left on that day. These movements by two divisions of my corps, my own movements, and the movements of the enemy, gave me the belief that troops could move through the country comprised between the Warrenton turnpike and the Sudley Springs road and the road from Bethlehem church to Gainesville.* I will mention, further, that that country is a mixture of woods, cleared ground, and hills, and that it is easy for troops to march without being seen or seeing the enemy.

Q. Does the country which you have just described include that over which General Porter was required to march in obeying the order of 4.30 p. m. from General Pope to attack the enemy?

A. Yes, sir. I would say that I do not know that order by that hour.

Q. Please state the ground on which you formed the opinion that if the accused had attacked the right wing of the rebels, as he was ordered, the battle would have been decisive in our favor.

A. *Because on the evening of that day I thought the result was decidedly in our favor, as it was. But, admitting that it was merely equally balanced, I think, and thought, that if the corps of General Porter, reputed one of the best, if not the best, in the service, consisting of between twenty and thirty regiments and some eight batteries, had been added to the efforts made by the others, the result would have been in our favor very decidedly.*

Q. Was there anything besides mere advantage in numbers from which that result would have followed?

A. And position.

Q. What particular advantage in position was there?

A. The position in which that force would have been applied, while the main body was so hotly engaged in front, would have been an additional powerful reason for so supposing.

Q. When the accused said to you that he could not go anywhere there without getting into a fight, did he or not appear to be averse to engaging the enemy?

A. I cannot say that it made that impression on me, though in giving my answer I took the view that he did so imply, and made the remark; but I did not think he was averse to engaging the enemy. I mean by that that that was not seriously a question with me, for when I left him I thought he was going to engage and would engage the enemy.

Q. Had General Porter taken part in the action of August 29 would you not have been likely to have known it?

A. *I heard that he did fire some artillery, and I did not hear his fire;* so that he might have gone into *action without my knowing it* at that time, because where I was there was *a great deal of noise;* and the noise that his engagement *might have made might have been* in a direction which would have confounded *it with other noise.*

Q. Up to what hour did the battle continue on that day, and how long was your command engaged in it?

A. It continued till after dark, or continued to such an hour in the evening when you could see the flash rather than the smoke. Of my command part of King's division was actively engaged to the front for, I should think, something like an hour, it may have been more, before the battle terminated. I speak of the active collision.

In the same connection, here spoken of, General McDowell swears that General Porter said, when he told him to put his force in here, "If I put them in there I will get into a fight." McDowell said, "Was not that what you came here for?" That is exactly the language—"If I put them in here I will get into a fight." Well, if an army is not put in for the purpose of fighting, in God's name what is it put in for, I should like to know? I suppose that the army of General Porter was not taken up there to hold a dress parade that day for the benefit of the boys who were in battle and getting shot. It could not have been for that purpose. If it could not have been for that purpose, I do not see what other purpose there could have been, except to fight; and yet he said, "If I go in here I will get into a fight." He did not get into a fight because he did not go in, and that is the only reason, perhaps.

McDowell also swears that Porter had from twelve to fifteen thousand troops in his corps. The Senator from New Jersey the other day said that McDowell had taken seventeen thousand men away from Porter. He certainly did not understand what he was saying. McDowell took no troops from Porter that belonged to Porter. McDowell took his own corps, including King's division. King's division did not belong to Porter's corps; it belonged to McDowell's corps, but, both moving together, Pope had put King's division in motion with Porter's corps on that day, and when McDowell moved to the right he took King's division with him, and took it away from Porter, if you choose to say so, and put King's division in over by Groveton, and they went into battle that evening about four or five o'clock, but Porter had left at the time, according to his own morning report. His own report is published in these books, and there are three different statements in reference to it; but the report that he published himself shows that he had thirteen thousand men in his command outside of King's division, but say twelve thousand or ten thousand—I do not care which, it is immaterial—ten thousand men thrown on the flank or the rear of any army will double it up like a knife-blade until they can get in position again to repel. Give a general ten thousand troops, and let him see the flank or rear of an enemy, and if he does not strike it then he does not know the use of troops and ought not to have a command.

Ten thousand men! General Washington would have been very glad to have had Porter's corps almost any time during the Revolution in a battle. The idea that a general with twelve thousand men shall say, "If I go in here I will get into a fight;" or, "If I go in here I will be destroyed!" In other words, "My whole twelve thousand men will be eaten up bodily, flesh and bones, by the confederates before I can get out!" I do not think there was much danger of their all being eaten up that day; because our troops did get out very frequently and got back to camp without all being destroyed. I have never seen the time in my life, if commanding ten thousand men, unless surrounded—I have never seen woods so thick or a night so dark that I could not retreat with that many men, and escape with the most of them, too; and I have never seen any one that could not. You need not be a commanding officer to see to it. Just tell the boys to retreat, and they will take care of themselves. They do not need any Fitz-John Porter to look after them. When you tell them to get out of the way, they will get out.

General Roberts, who has testified in this case, swears that he had reason from his observations—he was in a place too that day where he could see the different parts of the field; he was in a direction where he could see where Porter was, where he could see the battle, where he could see the movements of the troops—he swears that he had reason to believe that Longstreet's corps did not go down in front of Porter, as has been represented or stated, but that the majority of it when it came, joined on with Jackson in the battle near Groveton, and so quite a number of officers swear. The confederate reports sustain this statement. This is the testimony of General B. S. Roberts, (court-martial record, p. 50:)

Question. What do you know, if anything, in regard to the order issued by General Pope to General Porter, set forth in the third specification of the first charge, bearing date 4.30 p. m. of the 29th August?

Answer. About 4.30 p. m. of the 29th of August it was supposed by General Pope that General Porter was near the field of battle. The direction in which the first order required him to move would have brought him, as was supposed, near the field of battle before that hour; and I had noticed, in the direction where I knew General Porter was expected, the flash and the smoke from some pieces of artillery, and I inferred it to be artillery from General Porter, who was expected to attack there about that time. But it very soon ceased, and General Pope then wrote another order to General Porter which, according to my recollection, stated that the direction of his movements would bring him on the enemy's right flank or rear, and that he wished him to press forward and attack immediately.

Q. Is or is not the order to which you now refer the one set forth in the third specification of the first charge?

A. That is the order to which I refer.

Q. Will you state what you know, if anything, in regard to General Porter's having either obeyed or disobeyed those orders?

A. I know that General Porter did not attack as he was directed to attack in that order. I was on that part of the field several times, and was expecting every moment that the attack would be made, and was watching for it with a great deal of anxiety, but it was not made.

Q. Did you continue upon the field until the engagement closed?

A. I was on the field all day and remained on the field all that night.

Q. What were the results of the battle when the night closed in?

A. General Pope's troops, when night closed in, occupied quite a portion of the field from which the enemy had been driven, and, in my opinion, although the battle was not a decisive one, the advantages of the day were in favor of General Pope's army.

Q. In view of what the army had accomplished during the battle of the day in the absence of General Porter's command, what do you suppose would have been the result upon the fortunes of the battle if General Porter had attacked, as ordered by the order of 4.30 p. m., either on the right flank or the rear of the enemy?

(The accused objected to the question.

The court was thereupon cleared.

Some time after the court was reopened, the judge-advocate announced that the court determine that the question shall be answered.

The question was again propounded to the witness, as follows:)

Q. In view of what the army had accomplished during the battle of the day in the absence of General Porter's command, what do you suppose would have been the results upon the fortunes of the battle if General Porter had attacked, as ordered by the order of 4.30 p. m., either on the right flank or the rear of the enemy?

A. I do not doubt at all that it would have resulted in the defeat, if not in the capture, of the main army of the confederates that were on the field at that time.

Q. Between four and five o'clock p. m. of the 29th of August did the witness know whether or not Longstreet's forces, in whole or in part, had made junction with Jackson on Jackson's right?

A. I did not know; but I *had reason to believe that they had not made junction,* as I had been requested *by General Pope, before going on to* the field, while at Centreville in the *morning, to take a position and* with a glass to observe whether troops *were moving from the direction* of Thoroughfare Gap to Gainesville; *and having closely observed* that country for a long time, I became convinced *from the clouds of dust* that arose above the Bull Run range beyond Thoroughfare Gap, toward a gap north of Thoroughfare Gap, the name of which I now forget, that Longstreet was moving very rapidly to get through that northern gap and to re-enforce Jackson. But, from the distance from the head of the column of dust to Gainesville, I did not believe that he would be able to effect a junction before late in the evening, and so reported to General Pope.

Q. From what you know of the position of General Porter's command and of Jackson's right, would that junction of Longstreet's troops bring the enemy in front of General Porter's force?

A. If General Porter's force was on the road leading from Manassas Junction to Gainesville, where I supposed it was, and they had moved toward the right of Jackson's forces, it would have brought him upon the leading columns of Longstreet's forces that came in.

Captain Douglas Pope was attacked the other day, and before I get through with the evidence I propose to say a word for that dead man. In fact there has been an attack all along the line on the witnesses against General Porter. First against General Pope, and then General McDowell, and then against this dead captain who carried the order from General Pope to General Porter. Douglas Pope swears, and when I say he swears I mean that where he testifies to a fact he is sustained in it by General Pope, by General McDowell, and by the two persons who were with him when he took the order—he swears that he took an order at 4.30 to General Porter from General Pope, directing him to at once throw himself upon the right or rear of the enemy, and that that order was delivered to General Porter by five or half past five o'clock. Reverdy Johnson, in the examination before the court, undertook to confuse this witness, and try to make him say that he was on two different roads and got lost; but an examination of that report will show that he never stated any such thing. It was the attorney who stated it, and not the witness. He never testified to any such thing, but stated the facts clearly and distinctly. Then I have the testimony of the two men who were with him, Charles Duffie and Archolas Dyer.

On the way to General Porter General McDowell stopped Douglas Pope and looked at the order. The order was for Porter to attack. The order was taken to Porter. Porter was not found at Dawkins Branch where it was stated he was. He was not at the head of his column. He was down back nearly to Bethlehem church. The order was given to him, and one of his own officers swears that he took the order, read it, got off his horse, sat down with his back to a tree, and put the order in his pocket. Douglas Pope left him. After he started back General Porter sent an officer after him and brought him back again; what for, I do not know. He did not see Porter after he was brought back. He then afterward went back to Pope again.

The following is Captain Pope's testimony:

Captain DOUGLAS POPE was then called by the Government and sworn and examined, as follows.

By the JUDGE-ADVOCATE:

Question. Will you state what is your rank in the military service?

Answer. I am captain and additional aid-de-camp.

Q. Were you with the Army of Virginia in its late campaign under Major-General Pope?

A. I was.

Q. In what capacity?

A. As additional aid-de-camp to General Pope.

Q. Were you or not on the field of the battle of Manassas on Friday, the 29th of August?

A. *I was.*

Q. Did you or not on that day bear any order from General Pope to General Porter; and if so, what was its character, and at what hour did you bear and deliver it?

A. I received an order from General Pope, to be delivered to General Porter, at half past four o'clock. The purport of the order I did not know at the time. I went directly to General Porter with that order, and it reached *him by five o'clock.*

Q. Was or was not that the only order which on that day you had to General Porter from General Pope?

A. *It was.*

Q. Where did you find General Porter with his command?

A. I found him at the *forks of the road leading from Manassas to Gainesville* and Groveton, on the railroad.

Q. What distance was that from Manassas Junction?

A. I do not know, of my own *knowledge; but I have heard that it was* between two and *three miles.*

Q. What distance from the battle-field where the engagement was then pending?

A. *When I received the order I was to the right of the* battle-field, and I suppose it was a distance of about three miles from General Porter.

Porter was not with the head of his column, but back within two miles of Manassas Junction.

Q. Did you or not, on delivering the order, learn its character?

A. I did not.

Q. What statements, if any, did General Porter make to you in regard to the movements which the order contemplated he should make?

A. In a conversation which I had with General Porter, after his reading the order, he explained to me on the map where the enemy had come down in force to attack him, and had established a battery. I understood him to say that the enemy had opened upon him; but what he had done I do not now remember.

Q. How long did you remain with General Porter?

A. About fifteen minutes, I suppose.

Q. While you were there, or at any time before you left, did you observe any orders given or any indication of preparation for a movement in the direction of the battle-field?

A. I did not.

Q. In what condition were the troops there at that time?

A. I saw only a portion of them; the portion that I saw I believed belonged to General Sykes's division. They were on the road between the forks of the road and Manassas—what small portion of the troops I saw that belonged to General Porter's corps. It was my impression they were halted there; I saw the arms of some of them stacked.

Q. They had their arms stacked?

A. Yes, sir.

Q. Was not the sound of the artillery of the battle then pending distinctly audible at that point?

A. It was.

Q. And was the sound of the small-arms distinctly audible at that point?

A. In regard to the small-arms I do not remember; but I could hear the artillery very plainly, very distinctly.

Q. Was it continuous, indicating a continued action?

A. It was.

Q. Did or did not General Porter make any inquiry of you at all as to the condition of the forces then engaged in battle?

A. There were inquiries made of me by an officer—one of General Porter's aids-de-camp, I think. I do not think that General Porter said anything to me about it.

* * * * * * *

Page 58, G. C. M.:

Q. As you have passed over the road and know the distance, will you state within what time General Porter and his command could have reached the battle-field after the delivery of that order?

A. To have reached where I had received the order would have taken him two or three hours, I suppose—that is, to the extreme right of our army.

Q. Within what time would it have required him to reach the right flank of the enemy?

A. I could not state, because I do not know where the right flank of the enemy then was. My impression, though, from what General Porter said, was that the enemy were nearly in his front. I supposed them about a mile from him. That was merely my impression from the conversation I had with General Porter.

Q. Did you or not have another interview with General Porter after that time?

A. I did not. After receiving a written reply to the order I had delivered to General Porter, I started on my way back, and I suppose I had got a mile or a mile and a half from where General Porter was, when I was overtaken by an orderly, who said General Porter wished to see me. I got part way back when I met an officer, I supposed an aid-de-camp of General Porter, who said that General Porter wished to see me. I went back, and this aid-de-camp told me I better wait a few minutes. I did not see General Porter then.

This evidence shows conclusively that Porter did not intend to fight, and is supported by that of Charles Duffie, orderly, who was with Captain Pope, on page 609 of board record, who fully sustains Captain Pope in every particular in reference to the delivery of this order.

Also, Archolas Dyer, page 1178 board record, sustains Captain Douglas Pope fully in reference to this order and its time of delivery. This is the evidence. All of them swear to the same facts, but now it is attempted to show that this order was not received until six o'clock or afterward, so that it was too late for him to attack. But the Senate will remember that after General Pope sent that order to General Porter, some time afterward, because McDowell was on the way then moving up to where Pope was, and saw the order, and read it, and afterward he got up to Pope, and when he arrived Pope was on the line of battle. He went into the battle-field with his corps after that time, after five o'clock; yet after Porter received this order he said it was too late to go into battle. But others went into battle, and the battle lasted, as the evidence shows, until nearly eight or nine o'clock at night, continued along the line; along Groveton. Schurz's command and Sigel's and different commands were in this fight that day. King's command was in it until late at night; other commands of McDowell's and the rest were in it, but Porter could not go in because it was too late!

Mr. BLAINE. How far apart were Porter and Pope then?

Mr. LOGAN. Not over three miles. The Senator from New Jersey said the other day that Douglas Pope had admitted—and I want to call the attention of the Senate to it—he says that Douglas Pope admitted to two officers that he had stated falsely. Now, I say he never admitted any such thing. There was a Captain Moale who was there that day in that battle. Afterward he and young Pope were together in Santa Fé, and at different times they talked about this battle, and Captain Pope swears that he never said to this man Moale or anybody else that he got lost and did not deliver that order for two hours after he received it. Captain Moale swears that in a conversation with Douglas Pope he said something about meeting some person on the road, but it was indistinct in his mind, and he did not recollect precisely what he did say, but something of that kind was said, he did not know what. So the other witness swears; but no witness swears that Douglas Pope ever told him that he had not told the truth on that occasion; and when the statement is made here it is doing injustice to a dead man, and it ought not to be made, for there is no such statement to be found in the record.

Mr. President, I desire to read the testimony of a gentleman who is a little more frank than most of men, and I believe every word he said. He was then Lieutenant-Colonel but afterward Brigadier-General Thomas C. H. Smith. The board and some others have tried to insinuate that this officer swore a little strongly. Let us see. After speaking of the conversation he had with General Porter, he was asked to state it.

Lieutenant-Colonel THOMAS C. H. SMITH was then called by the government and sworn and examined, as follows:

By the JUDGE-ADVOCATE:

Question. Will you state in what capacity you were serving in the Army of Virginia in its late campaign under General Pope in August last?

Answer. I was aid-de-camp on the staff of General Pope.

Q. Did you or not, on the 28th or 29th of August, carry any orders from Major-General Pope to Major-General Porter which concerned his movements on those days?

A. I did not.

Q. Did you or not see General Porter during either of the days of the 27th, 28th, and 29th of August?

A. I saw General Porter on the afternoon of the 28th.

Q. At what place and under what circumstances did you see him?

A. I had been sent back to the ammunition on the train at Bristoe, and charged with its distribution. General Porter wished over four hundred thousand rounds; General Hooker something over ninety thousand rounds. About two or three o'clock I had sent forward to General Porter some three hundred and twenty thousand rounds, and had seized wagons to forward the balance, and left Captain Piatt in charge. The business being then sufficiently forward, I went on to find General Pope. On getting to the point where I had left General Pope in the morning, I found he had moved on, and, to inquire the road he had taken, I went to General Porter's headquarters, near the Manassas water-station. I found General Porter in his tent, and asked him which road General Pope had taken, and he informed

me. I had some ten minutes' conversation with him. One of his staff was present; I forget his name.

Q. Will you state that conversation?

A. After asking him about the road, I told *General Porter the amount of ammunition that I had sent forward to him, and also that the balance would come immediately forward. I asked him if he had received it, or made some remark; I cannot remember the exact expression.* General Porter said that he had not; that was the substance of his reply—either that he had received hardly any of it, or none of it, if I remember aright. I expressed some surprise, and *said that it had been sent forward to the front as ordered; and, either in reply to some question of mine or to some remark, or of himself, he said that he had no officers to take charge of it and distribute it, or look it up, or something of that kind.* I remarked that he could *hardly expect us at headquarters to be able to send officers to distribute it in his corps; that it had been sent forward on the road in the direction where his corps was. He replied that it was going where it belonged; that it was on the road to Alexandria, where we were all going.* I do not know as it is evidence to give the spirit in which this was said—the way it impressed me. Those remarks were made in a *sneering manner, and appeared to me to express a great indifference.* There was then a pause for a moment. General Porter then spoke in regard to the removal of the sick and wounded from the field of Kettle Run. He said it would hurt Pope, leaving the wounded behind. I told him that they were not to be left behind; that I knew that a positive order—an imperative order—had been given to General Banks to bring all the wounded with him, and for that purpose to throw property out of the wagons if necessary. To this General Porter made no reply in words; but his manner to me expressed the same feeling that I had noticed before. This conversation, from General Porter's manner and look, made a strong impression on my mind. I left him, as I have said, after an interview of about ten minutes, and rode on, arriving at our headquarters on Bull Run just as we entered them and pitched our tents for the night. After my tent was pitched, and I had had something to *eat, I went over to General Pope and reported to him briefly* what I had *done in regard to the ammunition. I then said to him, "General, I saw General Porter on my way here." Said he, "Well, sir."* I said, "*General, he will fail you.*" "*Fail me,*" *said he; "what do you mean? What did he say?"* *Said I, "It is not so much what he said, though he said enough; he is going to fail you." These expressions I repeat. I think I remember them with exactness,* for I was excited at the time from the impression that had been made upon me. Said General Pope, "How can he fail me? He will fight where I put him; he will fight where I put him;" or, "*He must fight where I put him; he must fight where I put him*"—*one of those expressions.* This General Pope said with a great deal of feeling, and impetuously and perhaps overbearingly, and in an excited manner. I replied in the same way, saying that I was certain that Fitz-John Porter was a traitor; that I would shoot him that night, so far as any crime before God was concerned, if the law would allow me to do it. I speak of this to show the conviction that I received from General Porter's manner and expressions in that interview. I have only to add that my prepossessions of him were favorable, as it was at headquarters, up to that time. I never had entertained any impressions against him until that conversation. I knew nothing with regard to his orders to move up to Kettle Run. I knew nothing of any failure on his part to comply with any orders.

Q. State more distinctly the point where you saw General Porter on the 28th of August.

A. *He was encamped at the Manassas water-station, between Bristoe and the junction. The water-station was a short distance from his headquarters.* (The witness indicated upon the map before the court where he thought the place to be.) I do not think the water-station is more than *one-third the distance from Bristoe to Manassas Junction.* That is my impression; I cannot speak positively about it.

Q. In the conversation to which you refer, did or did not General Porter manifest any anxiety to get possession of and have distributed in his corps the ammunition of which you speak?

A. No, sir; I thought he showed an utter indifference upon the subject; showed it very plainly.

Q. At what hour of the day did this conversation between you and General Porter take place?

A. *I think it must have been about four o'clock in the afternoon; half past three or four o'clock.*

Q. In anything that was said in that conversation, or in the manner of General Porter, was there evidenced any desire or any willingness on his part to support General Pope in the military operations in which he was then engaged?

A. *Quite the contrary to that.*

Q. Can you state whether the disinclination to support General Pope, which you thought he manifested, was the result of disgust with the immediate service in which he was then engaged, or of hostility to the commanding-general, or upon what did it seem to rest?

A. It seemed to me *to rest on hostility. But I do not know that I could analyze the impression that was made upon me. I conveyed it to General Pope in the words that I have stated.* I had one of those clear convictions that a man has a few times perhaps in his life as to the character and purposes of a person whom he sees for the first time. No man can express altogether how such an impression is gained from looks and manner, but it is clear.

Q. Had you passed over the road between Bristoe Station and Warrenton Junction on that day or on the previous day?

A. *On the previous day, the 27th, I came over it after General Pope.*

Q. At what hour of the day did you pass over it?

A. I should say that I left our headquarters, about a mile from Warrenton Junction, *about half past four or five o'clock* in the afternoon. I should say it was *past the middle of the afternoon.*

Q. *What was the condition of the road then?*

A. For the first mile and a half, until you got to Cedar Run, the road was bordered on either side by open fields or open woods, over which troops could march easily, in great part without going on the road. Indeed I doubt whether there is any regular road a good part of the way up. The troops marched through the fields to Bristoe Station.

Q. Were you or not present at the battle of the 29th of August?

A. Yes, sir; I was present.

Q. Throughout the engagement?

A. I left with General Pope when he rode on to the field, but on the way out he sent me with an order off the road, so that I did not get on the field for two or three hours after that.

Q. At what time did you regard the battle as commencing?

A. The smoke was rising over a considerable portion of ground, I should say a mile, plainly in view, when we were at Centreville; and there was some heavy cannonading. I should say it was about ten or eleven o'clock when I first came to Centreville, and it was about eleven or twelve o'clock when I saw the appearance of which I speak—the sign of a heavy action, from the smoke rising. It was very plainly in view from Centreville; you looked right down upon it, and you could hear the sound of the guns. I did not ride up to the town at first, but finding that General Pope had not ridden on, as I had supposed, I rode back to Centreville, and then it was I saw the appearance I speak of, about eleven or twelve o'clock. I should mention, too, in order that it may be clearly understood in regard to the action, that at the time I was sent off from the road, while General Pope was riding on the field, there was a cessation of cannon firing for a considerable time, I should say for certainly a half an hour.

Q. Was or was not the battle raging at five p. m. on that day?

A. Yes, sir; severely.

This officer, following, as I have said, other testimony, shows that this was the animus of General Porter from the beginning to the end of this whole case. Even when his ammunition was sent forward to him he would not order a man to distribute it, but asked that Pope should send an order to distribute it to his corps. Not only that, but he said in a sneering manner, "it has gone where it belongs, gone to Alexandria, where we shall all be soon." If any general officer will continue to make expressions "that we are going to be whipped, we are bound to retreat," and sneer at everything, it must prove injurious and result disastrously.

Following Porter up to Dawkins Branch, where his head of column was on the day of the 29th, General Daniel Butterfield, one of his own commanders, testifies as follows:

Question. State whether the point at which you were directed was on the same side of the Manassas Railroad or on the other side from the one upon which you were at the time.

Answer. The point at which I was directed was across the railroad.

Q. Which direction from the point from which you were moving?

A. To the right, between Groveton and Gainesville; I understood it to strike between Groveton and Gainesville, keeping the movement toward Gainesville, covering this road that led up to Gainesville, a dirt road; and the leaning, if anything, was to be to the right rather than to the left, (road marked on the map.) And in pursuance of *that order I put my brigade in motion, saw that it started out, and then proceeded in advance myself with my staff* to make a personal reconnaissance—

This was after they had arrived at Dawkins Branch—

to look up a position and see whatever difficulties might be in the way. I understood myself not at liberty to bring on this engagement *until the division could be deployed behind, unless I could gain a position, finding affairs that I could handle in front of me.* I went out personally with my staff after seeing the head of my column in motion, leaving it in charge of the senior colonel, Lansing, of the Seventeenth New York. *I proceeded until I came up in close proximity to the enemy's skirmishers, when one of my staff officers asked me if I proposed to tackle the enemy alone. I said no;* I had troops behind; I turned around, and, to my astonishment, saw that my brigade that I had put *in motion, and seen well out over toward this dry branch,* were not there—had returned and were out of sight. I returned with great *rapidity and considerable temper. I did not understand why my command had left me; I came back and found that my brigade had moved off to the right in these woods;* which were very thick. There was a little road running along here, and they were out in front of this and had come to a halt. *That is, they were back of Dawkins Branch, back on the high land, on this side of the railroad—south side of the railroad—in the woods.* I asked my senior officer what it meant—his returning without any orders from me; he said he had received orders directly to return, and not to make the advance. I was in no very pleasant humor about that method of proceeding. He offered as his excuse that the orders had come direct from a staff officer of General Porter, or from *General Porter himself.* I asked *where General Porter was.* He said he had gone in this direction, in the woods, with General McDowell. I met one of General Porter's staff officers, and entered a complaint against his order withdrawing my troops without the order coming from me when I was in front. *I received answer that it was a sudden movement in consequence of something that had occurred between General Porter and General McDowell.*

Q. You were informed by the staff officer that that was the reason it was given?

A. That that was the reason the order was given. We then were moved a little farther to the right, then returned to the left; then we went up and took position again under same order over on the same ground, *and were withdrawn again. These different movements occupied until dark. Then we went into camp rather with the expectation, as I judged from what came to me from General Morell, of an attack from the enemy upon us.*

Q. About what force had you under you in the battle of the 30th? What was your command in the battle of the 30th?

A. I commanded two brigades of the division. General Morell, with General Griffin's brigade, had gone to Centreville. I proceeded with my brigade to Sudley church and Groveton, in that vicinity.

General Butterfield was then and there attempting to move across Dawkins Branch and to find a position to bring on an engagement, but not until his brigade was all ready and he found himself and one of his staff officers out there alone, and when he looked back his brigade had been taken off without notifying him and put into the woods back to the rear. What else? Solomon Thomas testifies that he was with Fitz-John Porter's corps, in the Eighteenth Massachusetts, Martindale's brigade:

SOLOMON THOMAS, called by the recorder, being duly sworn, testified as follows:

Direct examination:

Question. Where were you on August 29, 1862?

Answer. With General Fitz-John Porter's corps, Eighteenth Massachusetts, Martindale's brigade, Morell's division

Q. Do you recollect being at Manassas Junction on that day?

A. I do.

Q. Did you move off on the Gainesville road?

A. We moved up on the line of the railroad. We moved more in a direct line in front, though we were intending to move to the right.

Q. How far upon that road did your regiment go?

A. We went upon that road nearly to a small creek, or what had been originally a small creek; it was dry or nearly so at that time.

Of course, referring to Dawkins Branch.

Q. *What did you do there?*

A. *We then halted, and the Thirteenth New York, or a part of it which was thrown out as skirmishers—a battery was planted in our front a little to our right—*

This testimony is very interesting. It shows the intention of General Porter—

in the fields, and as the skirmishers of the Thirteenth advanced we were deployed to the right, into the woods; our right rested in the woods. We halted and lay down. This was probably *ten o'clock in the morning* I should say; might have been a little later.

Q. How long did you remain there?

A. We remained in that position—I should say it was half past four when we were called to attention and right-about-face, and moved out from that position, left in front, upon the same road that we moved down on in the morning. *I don't know the distance, but we had been marching some time.*

Q. *Back toward Manassas Junction?*

A. Yes; toward Manassas Junction—*when an officer came riding from the Manassas Junction way, having a dispatch, and rode up to General Porter, and handed him the dispatch. Then we were commanded to halt; we did. General Porter dismounted,*

and sat down by the side of the road, and leaned his back against a tree—quite a large tree—and read the dispatch, and went up and remounted and called us to attention and right-about-face. We marched back upon the same road we had come on, moving then right in front, until we came near the position of the road where we had moved into the woods on the right, in the morning. We then moved out to the left, into an open field. The artillery was brought into the field, and parked in our front. We were formed in line, and were ordered to stack arms; we did so. Orders were received that there should be no fires made to make any coffee; that we were to remain perfectly quiet. The adjutant received orders that if there were any orders received during the night he should deliver those orders to the commander of each regiment in person, so there should be no loud words spoken; and we were to remain. Me and some of my comrades spread our blankets and were preparing to lie down for the night. *As we sat down, before we got ready to lie down, we heard upon our right a shout which we knew was a charge—from the shout; then we heard musketry discharges.*

Q. *What did you understand at that time?*

A. I felt at that time that we were *expected to charge on the rear and flank in conjunction with what was going on in front.*

Q. About what time of the day, in reference to sunset, was it that you were halted on your way back to Manassas Junction, and that an officer came up with a dispatch?

A. I should judge from the position of the sun it must have been somewhere from five to half past five o'clock.

That was the very order that Douglas Pope brought to Mr. Porter, and this soldier was present and saw him receive the order, and he turned his command back, and moved them again on the road, putting them into the woods, and ordering them to lie down and make no fires. They did not attack, but were to lie down and kindle no fires to cook coffee or anything else.

Q. During *the day did you hear any indications of a battle* going on; if so, what were they, and where were they?

A. In our immediate front *we heard an occasional discharge of musketry,* and, in fact, there were pieces of railroad iron fired from a rebel battery right over our right, and two pieces lodged in the rear of where I lay, probably forty feet in *our rear.* Some of *the boys went and dug them up,* and one of them was *eighteen inches in length, the other was about fifteen.* We thought of bringing *them home, but they were rather heavy,* so we left them on the field. Then, while we were lying there, beside that we heard, upon our right, distant firing all day, but not continuous; there were intervals that we could hear artillery distinctly.

Q. On the 27th of August where were you?

A. We were moving on the Warrenton road toward Bristoe Station. I should think that we were encamped on that night some six to eight miles from Bristoe Station. We went in before sundown; probably the sun was an hour or an hour and a half high when we halted there.

Q. When did you move from there?

A. I was corporal of the guard that night, and was ordered to wake the men at one o'clock, which I did, and we were formed and moved out from our camp immediately after one o'clock.

The statement of this witness shows that he himself expected that they were to attack, and expected so all day. From ten o'clock up to the time he was moved back on the road he was expecting they were to attack this little squad in their front.

Mark J. Bunnell, on page 678 of the board record, says:

I called to an orderly and stated to him what I wanted. He called Colonel Marshall, and they came down within a few paces of where I was, and Colonel Marshall then received his orders to deploy his regiment as skirmishers in front.

Q. Did you hear the order?

A. I stood right there so I could hear.

Q. What were the orders that General Porter gave Colonel Marshall?

A. I could not hear all the conversation, but to deploy his regiment as skirmishers, as we were about ready to move out; not to bring on a general engagement, but the idea was that we had to do duty only as skirmishers.

General Sturgis, one of Porter's officers, swears that on the 29th of August he moved on the Gainesville road, (board record, page 711:)

Question. You say you went a mile and a half beyond Bethlehem church toward Gainesville?

Answer. That is my recollection.

Q. What did you then do?

A. I reported to General Porter. I rode in advance of my brigade. I found troops occupying the road, and I got up as near as I could get and then halted my command, and then rode forward to tell General Porter that they were there. He said "For the present let them lie there."

Q. What did you do then individually?

A. Well, I simply looked about to see what I could see. I was a stranger to the lay of the land, and the troops, and all that; so without getting off my horse I rode about from place to place watching the skirmishers, and among other things I took a glass and looked in the direction of the woods; about a mile beyond which seemed to be the object of attention—beyond the skirmishers; there I saw a glint of light on a gun; and I remarked to General Porter that I thought they were probably putting a battery in position at that place, for I thought I had seen a gun

Q. State what the conversation was.

A. I reported this fact of what I had seen to the general; he thought I was mistaken about it, but I was not mistaken, because it opened in a moment—at least a few shots were fired from that place—four, as I recollect.

Q. What force of the enemy did you see in that direction at that time?

Page 712, board record:

A. I didn't see any of the enemy at all.

Q. Then what did you do?

A. Then when they had fired, as near as I can recollect, about four shots from this piece, General Porter beckoned to me; I rode up to him and he directed me to take my command to Manassas Junction, and take up a defensive position inasmuch as the fire seemed to be receding on our right.

Q. What firing do you mean?

A. I mean the cannonading that had been going on for some time on our right, probably in the direction of Groveton.

Q. How long had you heard that cannonading?

A. I don't recollect exactly where I heard it first. My impression has been that I heard it all along the march from Manassas to General Porter's position. I do not recollect distinctly that I did hear it, but I know I heard it all the time after I arrived there until I left.

Q. What time of day was this that you received the order to move back with your command to Manassas Junction?

A. I have no way of fixing the time of day. I have carried in my mind the impression that it was more about the middle of the day—about one o'clock.

Q. What did you do when you received that order?

A. I sent word to General Piatt to move back to Manassas Junction, and that I would join him there.

Q. Do you know whether your order was obeyed?

A. Yes; it was obeyed.

And that is the fact, that on that day at the very time it was expected a fight would come on, General Porter ordered Piatt's command back to Manassas Junction to take up a defensive position; and yet he says he did not send his troops to the rear! Now, what else? In order to show how determined this gentleman was to bring on and have a fight that day, let me read the evidence of another of his division commanders, also one of his orders given to General Morell and an order to Colonel Marshall:

Colonel Marshall reports that two batteries have come down in the woods on our right, toward the railroad, and two regiments of infantry on the road. If this be so, it will be *hot* here in the morning.

Q. Was that returned with this indorsement of General Porter? "Move the infantry and everything behind the crest, and conceal the guns. We must hold that place and make it too hot for them. Come the same game over them that they do over us, and get your men out of sight?"

This is General Porter's indorsement on that order.

A. Yes; that was the next one.

Instead of moving forward and attacking the enemy, he gives orders to his division commander to hide his men in the woods, and take his batteries under cover—hide them away, keep them out of sight. Why? He says to come the same game over the enemy that they do over us. That is not soldierly. I do not know what he intended; nobody can tell; but he wanted the men hid from the enemy!

Q. When that was received by you, directing you to move your infantry and everything behind the crest, and conceal the guns, where were your infantry and the other troops?

A. At that time they were deployed in line, mostly two brigades, along the crest that leads to the descent toward Dawkins Branch.

At the very time Porter ordered this officer to hide his men in the woods, put them under cover, and play hide-and-seek with the enemy, it appears he had a whole brigade deployed in line of battle for the purpose of moving upon the enemy.

Q. It was from there that you were directed to move?

A. From there I was directed to put the men under cover. On this left-hand side of the road, as we advanced, it was all open ground; on the right-hand side, bushes. One of my batteries, supported by a brigade, was on the right-hand side of the road, just on the crest of the ridge, the other battery on this side. When General Porter sent me that order I put them back into this fine bushes; and the other two batteries on this side of the road were on a slight depression; I supposed the ridge in front would conceal them from the enemy. I had three batteries, and one was in position all the time.

General Morell continues, on page 423, board record:

Question. Why is it that on No. 30, the communication from General Porter to yourself, and on those that follow, there is no memorandum of the hour and minute of the receipt?

Answer. It was always my practice to note the hour of the receipt. Two days previous to that, on the march from Kelly's Ford to the Junction, I injured my watch, and then I had to guess at the time.

Q. And you did not put on the guess?

A. I did not put on the guess.

Q. Will you state whether the indorsement of General Porter on No. 31 was received by you as appears upon it?

A. Yes, sir.

Q. Your communication to him is this:

"GENERAL PORTER: I can move everything out of sight except Hazlett's battery. Griffin is supporting it, and is on its right, principally in the pine bushes. The other batteries are retired out of sight. Is this what you mean by everything?

"GEO. W. MORELL,
"*Major-General.*"

A. Yes, sir.

The indorsement was read, as follows:

"I think you can move Hazlett's, or the most of it, and post him in the bushes with the others, so as to deceive. I would get everything, if possible, in ambuscade. All goes well with the other troops."

That is, this fighting on that day.

"The WITNESS. Yes, everything was out of sight except Hazlett's battery. That was exposed all day long."

Q. Then, on the receipt of No. 31 from General Porter, you did not succeed in getting Hazlett's battery under cover?

A. No, I didn't attempt to. I wanted to keep one battery in position. That was in front of the bushes, with a brigade immediately behind it. The other two brigades were massed in the rear of that.

Comment is unnecessary in reference to this. When General Porter was ordered to move forward, when he was ordered to attack, when he was ordered in every order that was given him to press forward, to push forward, to attack, to assault, to go to Gainesville, he was trying to hide his men in the woods by the roadside, behind a branch.

Now, let us see the interest that General Fitz-John Porter took in this battle. He was away from the front, down on the road, away from the head of his column. Morell and Sykes were near Dawkins Branch. He sends to Morell this dispatch:

GENERAL MORELL: Tell me what is passing, quickly. If the enemy is coming, hold to him, and I will come up. Post your men to repulse him.

F. J. PORTER,
Major-General.

After he had gotten them hid in the woods, then he sends a dispatch, "tell me what is passing, quickly. If the enemy is coming, hold him." Hold him! I will come as quickly as I can. Hold him out there in the brush! What next? "Colonel Marshall reports a movement in front of his left." This is Morell's testimony. Morell then begins to find out what Porter wants to do. Porter could not tell him what he wanted to do, but Morell begins to take the hint by that time that Porter did not intend to fight, and in order, I suppose, to test his commanding officer, sends him this dispatch:

Q. What next?

A. Then, I think, 35; which is a note from me to General Porter:

"GENERAL PORTER: Colonel Marshall reports a movement in front of his left. I think we had better retire. No infantry in sight"—

That is, there is no infantry of the enemy in sight—

"and I am continuing the movement. Stay where you are, to aid me if necessary.
"MORELL."

Now, he says:

Colonel Marshall reports a movement in front of his left. I think we had better retire.

What does Porter say?

GENERAL MORELL: I have all within reach of you. I wish you to give the enemy a good shelling, without wasting ammunition—

Do not waste ammunition; shell them, but hold your ammunition—

and push at the same time a party over to see what is going on. We cannot retire while McDowell holds his own.

F. J. P.

"I want to retire," he says; "but hold on until McDowell is whipped; I cannot retire while he holds his own." Morell finding out that Porter wants to retire, he intimates to him: "Let us retire." He, Porter, says: "Yes, but we cannot do it just now, while McDowell holds his position!"

Now, sir, you may follow every order and every movement of this man, from the night of the 27th of August, 1862, up to this last order I have read, and there is not one single line that he has written, not one single order he has given, not one word he has uttered, but what has been in the direction and presupposition of a defeat for our troops and a retreat of his own without a fight.

You will find in this evidence a communication from General Porter to Generals McDowell and King on that day, which is printed on page 243 of the record of the court-martial. This is very interesting and goes exactly in the same line with all the rest:

GENERALS MCDOWELL AND KING: I found it impossible to communicate by crossing the fords to Groveton. The enemy are in great force on this road, and as they appear to have driven our forces back, the force of the enemy having advanced and ours retired, *I have determined to withdraw to Manassas.* I have attempted to communicate with McDowell and Sigel, but my messengers have run into the enemy. They have gathered artillery and cavalry and infantry, and the advancing masses of dust show the enemy coming in force. I am now going to the head of the column to see what is passing and how affairs are going. Had you not better send your train back?

F. J. PORTER,
Major-General.

I will communicate with you.

He says this much to McDowell and King, while McDowell and King were engaged in moving forward to attack the enemy. Why does he do that? If you are about to assault, and expect a division to support you on your left and be ready to come to you, and that you may need their support, if at that time you get word from that division that they are going to retreat, I ask what effect it must have when you are thus notified at the very moment you are going into battle that the troops you expected to support your left have determined to retreat without firing a single gun? Yet Porter notifies King and McDowell at the very moment they were moving to assault the enemy that he had determined to retreat, and not only to retreat, but to retreat clear back to Manassas; and yet we are told that this man was determined to fight. Why, sir, every communication of his was calculated to impair and discourage the *morale* of the army; to impress upon it the irresistible conclusion that it was bound to be whipped, that he was not going to support the troops, that he intended to retire and leave them without the support to which they were entitled from his corps.

[At this point the honorable Senator yielded to a motion that the Senate proceed to the consideration of executive business.]

Friday, March 5.

Mr. LOGAN. I must again apologize to the Senate for prolonging this debate. I desire to discuss to-day, in the presence of the Senate, two propositions that have not been under discussion heretofore, except incidentally.

I propose to speak, first, to the question whether or not on the 29th day of August, 1862, there was a battle at Groveton, or near there; and, second, as to whether or not there was any considerable force in front of Fitz-John Porter during that day. He claims, and in fact the Senator from New Jersey claims, that there was a force of twenty-five thousand confederates in his front. I intend at least to try to show, and not from evidence that my friend from New Jersey will be likely to dispute, but from the maps of the War Department of this battle, and from the evidence of confederates who were that day in Porter's front, that there was no force of infantry in his immediate front during the whole day. I will demonstrate by indisputable evidence that the only force in his front consisted of a small battery of artillery and a force of cavalry. If I do not, then I am at fault. It will be observed that yesterday I introduced the evidence of General Porter himself, sworn to before the board of inquiry called the McDowell board, and in answer to the Senator from Indiana, showing that General Porter did not consider himself at all under the command of Major-General McDowell at any time really, but especially after McDowell had left him with his head of column at Dawkins Branch. That was about twelve o'clock. After that he considered himself his own commander, under the order from General Pope, and his testimony so shows.

The second excuse was that there was no general engagement on the 29th of August—no general battle, in other words. This statement is most astonishing to any man who has ever read the reports of both sides, both of Union and confederate officers. It is a most astounding statement to any one who has been conversant with the history of the war and its battles. If, for instance, you take the battle known as the first Bull Run or Manassas, where our forces retreated in hot haste, that has always been called a battle; it has always been called a general engagement; and yet if you will examine the reports in connection with the first battle of Bull Run, or Manassas, you will find that the losses in killed and wounded and prisoners were a mere bagatelle compared with the losses in killed and wounded and prisoners on the 29th of August, 1862.

To show how fallacious was the statement of the Senator from New Jersey—of course not intentionally made to deceive—that there was no general engagement or battle on the 29th of August, 1862, suppose we examine the facts. The killed and wounded on that day—and when I say killed and wounded on that day, I do not leave it to vague conjecture—but from the reports of both sides carefully compared together we find our losses to have been about 8,000 killed and wounded and missing on the 29th of August. If any one will say that where an engagement occurs between forces not amounting to over 30,000 or 40,000 on either side, and the killed and wounded are from 6,000 to 8,000 on one side, that does not constitute a battle, that person misunderstands what we comprehend a battle to be.

In order to show the misunderstanding of gentlemen and of the Senator from New Jersey in reference to this particular matter, let me call attention to some of the divisions that were engaged on our side that day against Jackson's and Longstreet's forces. The heavy losses were from the following divisions: General Hooker's division, of Heintzelman's corps; Kearney's division, Reno's division, of Burnside's corps; King's division, of McDowell's corps, commanded by General Hatch; and Reynolds's division, of McDowell's corps. I am speaking of the 29th. The losses of these divisions were heavy. At that very time Porter's corps was lying in the road between Manassas Junction and Gainesville and at Dawkins Branch, stretched all along that road. McDowell was not able to pass by him; he had to take another route, and went all the way back to the rear to Bethlehem church, and moved his command on a road from there in the direction of Groveton. And while General Porter, who claims up to twelve o'clock to have been a part of McDowell's command, was lying there McDowell moved up in the direction of Groveton, going to Porter's extreme rear, engaged in this battle on the 29th, and two of his divisions, to wit, King's and Reynolds's, lost heavily. In the evening, between five and seven o'clock, they lost over fifteen hundred men. This shows McDowell was trying to obey orders by endeavoring to find his way into the fight; while the other party was trying to disobey orders by finding a way how not to fight.

Having made this statement about the losses, I do not care to go further to show that this was a battle, a general engagement. I find in the board record, as it is called, made up by this board, facts sworn to by officers under command of General Porter in reference to the matter of which I was speaking yesterday; that is, as to hiding his troops, and not moving forward. I desire in this connection to call the attention of the Senate to the following facts. General Morell, in his testimony, says:

Question. Did the putting of those that were foremost under cover cause any movement of those behind them?

Answer. I think not. I think those immediately behind Hazlett's battery remained where they were, and the others went to the rear.

* * * * * * *

Q. Will you look at the communication from General Porter to Generals McDowell and King, on that day, which is printed on page 243 of the original record?

After reading this dispatch I desire to follow it up and show, as I will show, the effect of these dispatches of Porter upon a part of our army that day.

About four o'clock in the afternoon Porter sent the following dispatch to Generals McDowell and King:

Generals MCDOWELL and KING:

I found it impossible to communicate by crossing the fords to Groveton. The enemy are in great force on this road—

Mark the language: "The enemy are in great force on this road." What road? The road that he was upon, in the direction of Gainesville—

and as they appear to have driven our forces back, the force of the enemy having advanced and ours retired, I have determined to withdraw to Manassas. I have attempted to communicate with McDowell and Sigel, but my messengers have run into the enemy.

Take that report sent to Generals McDowell and King late in the afternoon intimating—he does not say so, but he clearly intimates—that his forces were compelled to retire, from the fact that a strong force was in his front and pushing him back; and that on that account he would fall back—where? Not to Bethlehem church but to Manassas Junction! You will see that heretofore he remains where he could get behind Bull Run; now he is going to Manassas, not to Bull Run, as his pretense was. And let me here say, as I said yesterday, that one brigade of that command did go back to Manassas Junction, and did remain there during the day and that night, and one went to Centreville, but not to Bull Run.

This witness, General Morell, was asked if he had any knowledge of this communication. What does he say:

Question. What I want to ask is, whether you had any knowledge of that communication being made that day?

Answer. I don't remember it.

Q. Did you receive or know of any order indicating a withdrawal to Manassas?
A. No, sir; nothing of the kind.
Q. Or any movement in that direction?
A. Nothing of the kind.
Q. Will you look at a copy of a communication from General Warren to General Sykes, dated 5.45 p. m., August 29, 1862, which has been put in evidence? [Paper shown witness.] In this General Warren uses these words. I will read the whole of it:

"GENERAL SYKES: I received an order from Mr. Cutting to advance to the support of Morell; I faced about and did so. I soon met Griffin's brigade withdrawing, by order of General Morell, who was not pushed out, but retiring. I faced about and marched back two hundred yards or so; I met then an orderly from General Porter to General Morell saying he must push on and press the enemy; that all was going well for us and he was retiring. Griffin then faced about and I am following him to support General Morell, as ordered. None of the batteries are closed up to me.

"Respectfully,

"G. K. WARREN."

At that point of time, after Griffin had been ordered to retire, Warren comes along for the purpose of supporting Morell, and Morell then had a communication showing that the battle was going *well* to his right at Groveton, and then he orders an assault to be made; but mark what follows. It was not intended that the assault should be made, and the evidence shows that clearly.

Q. Do you know anything of that allusion to yourself in it?

Morell is asked if he knew anything of the allusion to his retiring. He says he did not.

A. No, sir; I never gave General Griffin any order of that kind.
Q. What kind?
A. That he should retire or retreat. There was no order to leave the front, except to get under cover of those bushes.
Q. State whether during the whole of the 29th you had your whole division in command ready to meet any attack that might be made by the enemy.
A. Yes; I did.
Q. Although they were under cover, as you have described?
A. Within reach at any rate of the batteries, just at the other side of the road—within a few minutes' call.
Q. Were your advanced regiments and skirmishers in such position in the neighborhood of Dawkins Branch that if any movement toward attacking you had been made by the enemy you would have known it in time to receive it with the whole of your division?
A. I think so.
Q. Will you state what action you took in obedience to No. 37, which directed you to push up two regiments supported by two others preceded by skirmishers, the regiments at intervals of two hundred yards, and attack the section of artillery opposed to you—what you did with the four regiments indicated, and what you did with the rest of your division in connection with what you did or what you ordered?
A. When I received that order—the latter part says, "the battle works well on our right"—

Showing that it was the same communication—

"the battle works well on our right; the enemy said to be retiring up the pike"—I said immediately to the person who brought it that the order was given under a misapprehension. We knew the enemy were not retiring; and I believe I sent that message to General Porter. I immediately gave orders to move the whole of my division to the front to be in readiness to support the four regiments. While that was going on I received a verbal order from Colonel Locke to make an attack. When I received this order it was quite late in the afternoon, just before sunset; the sun was almost touching the tops of the trees.

The order was sent by Porter to Morell to attack. That proves conclusively that Porter had received the 4.30 order from Pope, and then in obedience to that he ordered Morell to attack. He sent the order to Morell to attack in order to comply with Pope's order; but how does he comply with it? Then there came a verbal order from Colonel Locke, the same one who brought Morell the order from Porter to attack, and what is that?

And soon after that an order in writing, which is No. 38, "to put the men in position and remain during the night."

Here Porter first orders him to attack; then immediately afterward, before he could put his men into position, he gets an order in writing to remain in position there that night. That is the manner of obeying the order of Pope. That shows clearly that he had received the order, but was determined not to attack and determined not to obey.

Mr. President, I desire to be entirely correct in reference to all this testimony, because what I say will appear in the RECORD. Attention was called to Locke's statement on the former trial, and then this follows:

He (that is, the messenger from General Pope)—

Mark you how it comes in—

He handed the general a note, which I afterward ascertained was an order for him to attack the enemy at once.

This shows that the order given to Morell by Locke to attack was in obedience to the 4.30 order of Pope, because Locke himself says that:

"He (that is, the messenger from General Pope) handed the general a note, which I afterward ascertained was an order for him to attack the enemy at once. He very soon afterward ordered me to ride up to General Morell and direct him to move forward and attack the enemy immediately, and to say that he would be up himself right after me."

Then on page 223:

"Toward the close of the day, when I was sent by General Porter to General Morell with the order for him to move forward his division and attack the enemy, on my way up to General Morell I passed Colonel, now General, Warren."

Is that, as you now understand it, the verbal order which General Locke finally brought to you to attack after you had received and were proceeding to execute No. 37?

A. I think now that it is, from conversations that I had had with Major Earle. At the time I knew nothing about this 4.30 order.
Q. You merely received this written and verbal order directing an attack in succession?
A. Yes; and when Colonel Locke came to me with that order I was engaged in getting my men up to the front, and I supposed it was rather supplementary to the written order, and perhaps to expedite the movement. After this investigation was begun I tried very hard to recollect who brought me that written order to attack with four regiments, and until I conversed with Major Earle and saw the letter of his I could not fix it. But upon talking with him I am very well satisfied now that he did bring the order, and that Colonel Locke's order referred to the 4.30 p. m. order.
Q. Colonel Locke's order that he describes as being for you to attack with your division?
A. As Colonel Locke states in his testimony on page 223. I cannot speak positively, but from conversation with Major Earle and my recollection, I have no doubt that it is so.

There is the evidence of his own staff officer showing that he saw him receive the order, and that he immediately sent an order to Morell to attack, and so soon as he gave the order for Morell to attack, then he dispatched a written order to Morell directing him not to attack but to remain in *statu quo* all night. Hence all of the statement made by the Senator from New Jersey or that which may be made by anybody else, that General Porter did not receive that order until late, after six o'clock, so that he could not attack, is not true, and there is no foundation in fact for it. Here his own staff officer testifies that he received the order, and in obedience to it he directed Morell to attack, and then afterward ordered Morell not to attack, but to remain in place all night. I ask Senators to explain what there is in this quibble, or attempt to get out of or evade that order which directed that he should attack, when the evidence clearly shows, from the beginning to the end, that the battle of that day continued until nine o'clock at night, and one of the assaults made by the confederates was after seven o'clock. And at this very time when he was ordered to attack, Morell testifies that the sun was just over the top of the trees when he received the order to attack, but afterward not to attack. There is the testimony of Porter's own officers and his own witnesses who were the bearers of his orders and his dispatches.

Now follows the evidence of Colonel Benjamin F. Smith, of General Sykes's division, and the attention of the Senators is called to the fact that in my selection of the testimony, in order to convict General Porter before the Senate of failing, in obedience to orders, to attack the enemy, I have quoted the evidence of his own command, men who were with him and under him, to show that his statements and excuses have no foundation in fact. Colonel Smith testifies:

By the JUDGE-ADVOCATE:

Question. Will you state your position in the military service of the United States?
Answer. I am a captain of the Sixth Regular Infantry and colonel of the One hundred and twenty-sixth Regiment of Ohio Volunteers.
Q. Will you state to the court whether you were serving with any part of the Army of Virginia, commanded by Major-General Pope, on the days of the 27th, 28th, 29th, and 30th of August last; and, if so, in what brigade and division?
A. I was serving in Colonel Chapman's brigade of General Sykes's division.
Q. In what direction did that brigade march on Friday, the 29th of August last?
A. We had marched from Fredericksburgh by way of Warrenton Junction, and arrived at Manassas Junction, I think, on the 29th of August, the day before the battle of Bull Run. We arrived exactly at the place where the railroad had been destroyed; the wreck of the train was there, and there we halted. Late in the day, in the morning, we retraced our steps to the branch railroad running, I think, toward Gainesville or Manassas Gap, and followed the direction of that road some few miles. We then halted on some rising ground, where we could see the country beyond, over the woods, the tops of the trees. It was a wooded country. While we were halted there a battery of the rebels opened upon us, but fired some three or four shells only, I think; there may have been a half a dozen. Our brigade then marched into a field and the regiments were placed in order of battle. I recollect that General Morell's division was in our advance, on the lower ground.

That is where Morell had testified about Dawkins Branch.

Some of our pieces replied to this rebel battery. I received permission *from the commanding officer* of my regiment to go to a more elevated piece of ground, a few rods distant, and while there I saw our batteries reply. *A short time afterward (probably a half an hour) we received orders to retrace our steps and march back in the direction we had come.*

That was in the direction of Manassas Junction.

We then marched back to near Manassas Junction, and camped in the woods alongside this branch railroad I have mentioned. That night I was placed on duty as the field officer of the pickets of Sykes's division. About daybreak the pickets were called in, and we marched toward the battle-field of Bull Run, and were engaged in that battle.
Q. What was the effect of the reply of your guns to this attack of the rebel battery?
A. It seemed to silence that battery, and it withdrew. At least that was the impression I had at the time.
Q. What amount of infantry force, if any, did there seem to be supporting this rebel battery?
A. I did not see them.
Q. *Before you received orders to fall back and retrace your steps along this road, had or had not this rebel battery been completely silenced?*
A. I think it had been.
Q. Were there or not at that time clouds of dust in view, showing an advance of the enemy?
A. Clouds of dust were distinctly visible further over beyond the trees. Whether there were troops advancing, or whether they were moving in another direction, I could not tell. I could see distinctly the clouds of dust, as if there was a large body of troops moving.
Q. Did you or not see the accused, General Porter, at the head of the column on that day?
A. No, sir; I do not recollect of seeing General Porter at all that day.

There is one of General Porter's own command, Colonel Smith, of Sykes's division, of Chapman's brigade, who testifies that he was up in supporting distance on rising ground just behind Morell's division with his command, and that he received orders to retire to Manassas Junction, and that he did retire to Manassas Junction and staid there until the next day when he marched to the battle-field on the 30th.

And yet it is insisted that there was no retirement of any of the troops of Fitz-John Porter on the 29th. I will show before I am through that he left nothing there; and nothing remained but a mere picket line, and that his troops did retire, some to Manassas Junction, some to Centreville, and some to Bethlehem church. If General Porter did not wish them to retire he ought to have ordered them to stay there, but they all say that they retired under orders. Retired from what? Not from the sound of battle in their front; not because of any enemy in their front. Why, then, did they retire, and why were they ordered to retire? No battle was going on in their front. Why was it? Ah, sir, tell me why. Why are troops sent back from where you expect an assault, if the assault is to be repelled?

Then again, take the evidence of General Griffin. General Griffin commanded one of the brigades of Morell's division. Griffin retired with his brigade to Centreville. He says:

In the evening a little after dark there were some very heavy volleys of musketry, the enemy evidently driving our troops right before them. That musketry was to our right and front, I should say two miles, may be not so far; may be further. I should have stated, when I stated that I heard no other firing but artillery, that in marching we had some skirmish firing.

Q. You spoke of having returned from the movement you made to your right in consequence of obstacles that you encountered. What was the character of those obstacles, and what efforts did you make to overcome them?

A. I led off my column. We ran up into some little thick pine bushes. We halted there. The next order I got was to move back again. Some one reported that we could not get through. I made no reconnaissance whatever myself.

Here is one of General Morell's brigade commanders who started to move off to the right, and ran into some little pine bushes. He calls them "little thick pine bushes." He says he then received an order to go back, which he did. Now, mark what he says following that:

Q. You say that you had failed to get through to the right during the day of the 29th of August. Will you state what efforts were made by you, or by General Porter, to get through on the right during that day?

A. I merely obeyed orders.

He does not say that he made any effort, but "I merely obeyed orders." Orders from whom?

My position was at the head of my brigade. What efforts General Porter made I am not aware of.

Now, follow this witness; Captain J. J. Coppinger, of the Twenty-third United States Infantry, then a captain of the Fourteenth United States Infantry, testifies: "That at the firing of three shots his command was ordered to the rear, and retired from one to two miles, and lay there until next morning."

Here is a captain in the regular Army who gives evidence that after the firing of three shots his command was ordered to the rear and he retired from one to two miles and lay there until the next day. Let me follow this up, and we will see that every officer who showed a disposition that day to move to the front to open a gun or fire a gun or do anything looking toward a battle was immediately ordered to the rear—why, I leave to some one else to explain. Here is Captain A. P. Martin, commanding the artillery of Morell's division on the 29th of August, who swears as follows:

Examination by the COURT:

Q. Do you know of any order having been given by General Porter to make an attack upon the enemy during that day?

A. I did not. I received orders from him to put the batteries in position.

Q. How long did the artillery firing continue?

A. The firing of the first section of the enemy's battery that opened from the woods in front continued perhaps twenty minutes; they fired very slowly. An hour later, perhaps, there was a battery opened further to our right, and they were engaged by Hazlett's battery of Morell's division.

Q. At what distance from each other were these batteries that were engaged?

A. I should think not over a thousand yards; *it might have been a thousand* or one thousand two hundred yards.

Q. Do you know whether any effect was produced on either side by this artillery fire?

A. *They were in the woods and we could not see, except that the first battery that was opened was silenced, I should think, in about twenty minutes or half an hour.*

Q. Was there any loss on our side?

A. Yes, sir; *one man was killed—*

Heavy loss that day!—

A. Yes sir; one man was killed by the first shot that the enemy fired. I saw him fall.

Q. On which side of the Manassas Gap Railroad, north or south, were the enemy's batteries, that you were then engaging?

A. They were on the side toward us—the south side, I suppose.

The examination of this witness was here closed.

The evidence of this officer, who was in command of the artillery that day, shows that the only firing done during the day was from two guns, that did not last over twenty minutes, and only one man was killed, and that by the first shot; that is all the battle that amounted to anything, so far as the artillery (Porter's) was concerned.

I ask to read, so that there may be no mistake, some of the different orders and communications that were made all that day by General Porter:

[No. 37.]

AUGUST 29.

GENERAL MORELL: I wish you to push up two regiments supported by two others, preceded by skirmishers, the regiments at intervals of two hundred yards, and attack the section of artillery opposed to you. The battle works well on our right, and the enemy are said to be retiring up the pike. Give the enemy a good shelling as our troops advance.

F. J. PORTER,
Major-General Commanding.

I have just read the statement in Morell's testimony, and here is the order in writing that I substantially quoted, ordering him to make his advance and make an assault. Then again, immediately after that:

[No. 38.]

GENERAL MORELL: Put your men in position to remain during the night, and have out your pickets. Put them so that they will be in a position to resist anything. I am about a mile from you. McDowell says all goes well, and we are getting the best of the fight. I wish you would send me a dozen men from the cavalry. Keep me informed. Troops are passing up to Gainesville, pushing the enemy. Ricketts has gone; also King.

F. J. PORTER,
Major-General.

Mark this: in the dispatch which he sends to McDowell preceding this, in which he tries to excuse himself, he says, "I have tried to get communication with you, I cannot get my couriers through, they have run into the enemy, and I have no information from you;" and then right here he sits down and writes an order that he *has* information from McDowell that all is going well on the right, showing that he states a falsehood in the report from beginning to end, that his statements will not hang together, and just as any man does who is guilty of an offense, he usually convicts himself by contradictory statements.

First he says he could get no communication with McDowell, and then sends an order to Morell in writing saying he has a communication from McDowell and that all is going well on the right and that Ricketts's division and McDowell's are driving the enemy in their front. What follows? Then he sends a note to McDowell that he has failed to get Morell's division over to him. Now I ask Senaters to scrutinize this. He says:

[No. 38 *a*.]

GENERAL MCDOWELL OR KING: I have been wandering over the woods, and failed to get a communication to you. Tell how matters go with you. The enemy is in strong force in front of me, and I wish to know your designs for to-night. If left to me, I shall have to retire for food and water, which I cannot get here. How goes the battle? It seems to go to our rear. The enemy are getting to our left.

F. J. PORTER,
Major-General Volunteers.

[No. 38 *b*.]

GENERAL MCDOWELL: Failed in getting Morell over to you. After wandering about the woods for a time I withdrew him, and while doing so artillery opened upon us. The fire of the enemy having advanced and ours retired, I have determined to withdraw to Manassas. I have attempted to communicate with McDowell and Sigel, but my messages have run into the enemy. They have gathered artillery and cavalry and infantry, and the advancing masses of dust show the enemy coming in force. I am now going to the head of the column to see what is passing and how affairs are going, and I will communicate with you. Had you not better send your train back?

F. J. PORTER, *Major-General.*

Here he tries to cover up the fact that he had received a communication from McDowell, when just preceding that he tells Morell that he has heard from McDowell. So he determined to retire to Manassas.

Sir, to show that he did communicate with McDowell, and that not only he communicated with McDowell but the depressing effect that it had on our troops in the front at Groveton, where the battle was going on, let me read from General Heintzelman's testimony. General Heintzelman, who lives here in Washington City, a retired officer of the Army, kept a diary of all that was going on. Let me read from it. It comes in right here, and shows they did receive a communication from General Porter. In the board record, on page 610, he says:

Question. Will you read to the board from the diary those events which you noted at the time, August 29, 1862?

Answer. "Centreville, Friday, August 29, 1862: Kearney did not get off until after daylight" that night. The night before the 29th General Kearney was advanced as far as Centreville. I think General Pope was quite near on the opposite side of the river from Centreville. In the night an order came for Kearney to advance at one a. m. and attack the enemy. Hooker at three a. m. was to support him. The report was General McDowell had intercepted the enemy, and the next morning I started at daylight, as I was directed. When I got to where Kearney was, his division had not started, and he was killed not long afterward, before I made my report.

Q. Now, will you be good enough to read what you made notes of on the 29th of August as to the events of that day?

Here are his notes about what went on during the battle:

The witness read as follows:

"Kearney did not get off till after daylight. We are all detained by him. There is a heavy cloud of dust on the road to Leesburgh, upon which the rebels are retreating or rather advancing. It is now a quarter past seven a. m.; arrived at the bridge at nine a. m. Firing commenced some two hours ago, and has just ceased. Report that we are driving the enemy. At ten a. m. reached the field, a mile from the stone bridge. Firing going on, and I called upon General Sigel. General Kearney was at the right. Part of General Hooker's division I sent to support some of Sigel's troops. General Hooker got up about eleven a. m.; General Reno nearly an hour later. Soon after General Pope arrived—about quarter to two. I rode to the old Bull Run battle-field, where my troops were. The enemy we drove back in the direction of Sudley's church, and they are now making another stand. We are hoping for McDowell and Porter. *I fear we will be out of ammunition.* We have sent for it. At 3.30 p. m. our troops driven back. At forty-five minutes past three McDowell's troops reported arrived. Firing closed at fifteen minutes past four. At half past four General Reynolds's troops arrived. Five p. m. our troops engaged on the enemy's right. Twenty minutes past five p. m. musketry firing commenced on our center. General Kearney has held his position. Forty-five minutes past five General McDowell on the field at headquarters. Heavy firing on our center. Kearney reports he is driving the enemy back."

Mark the time, five o'clock.

General Porter reports the rebels driving him back, and he retiring on Manassas.

At five o'clock he says he could not get any communication; but here General Heintzelman, at five o'clock, on the battle-field, while the battle was going on, notes the receipt of a report from General

Porter intimating to Pope and all of them that he was attacked and retreating on Manassas. At five o'clock, the very time that our army had commenced its severest attack on the enemy, this report comes to headquarters: "Porter has been driven off the field, and is retiring to Manassas;" and this report comes over his own signature, all of which, as you all know from the evidence, was not true; not a word of it. Now mark as we go on:

Twenty minutes past six very heavy musketry and artillery. McDowell's troops just entering the battle-field. Kearney on the right with General Stephens's troops, and our artillery drove the enemy out of the woods they temporarily occupied The firing continued until after night, but left us in possession of the battle-field.

This shows that after five o'clock General McDowell's troops made an attack upon the enemy; and until the battle closed General McDowell was engaged with two divisions, King's and Reynolds's, both of which lost heavily in that engagement; they did not enter the engagement until after five o'clock. So at the time that General Porter was trying to retire from the front of no enemy whatever General McDowell was putting his command into action and fought a severe battle, continuing until eight or nine o'clock. General Longstreet's, General Lee's, and other reports on the confederate side show that the battle did not cease until eight or nine o'clock at night, and one of them says not until ten; and yet Porter could neither move nor strike the enemy.

As I said, I will use scarcely any testimony in convicting Porter save that of his own officers and of confederates. Now let me read the evidence of a gentleman who lived on the confederate side in Virginia, who was there and saw the battle, or at least as much of it as a citizen would consider it healthy to see—Lewis B. Carrico, who resides on the battle-ground. I can show you exactly by the map where his house is. At his house this battery was established about which there has been so much talk.

Lewis B. Carrico, who resides on the battle-ground, called by Government, testified as follows, (board's record, page 982:)

Question. Where do you reside?
Answer. Prince William County, Virginia.
Q. Where did you reside on the 29th of August, 1862?
A. Where I now reside, very near the Manassas Gap Railroad.
Q. Were you there on that day?
A. I was.
Q. Up to what hour in the day did you remain there?
A. I was there until very late Friday evening.
Q. During that day did you see any confederate forces? If so, where?
A. I saw some cavalry scouts during that day, and in the evening there was a battery firing some seventy-five or eighty yards back of my house, just west of my house, and an officer came there and told me I was in danger, and to take my family and go back of the line.

I want Senators to examine this map, so that they will clearly understand it. They will find by looking on it right here where Carrico's house is, [indicating.] Here was the position of Porter's troops. Here on that side of the Manassas Gap Railroad, and then right down here, in all the maps, is placed the position of Porter. There is where the battery was, in this direction, across here, [indicating.] These are the cavalry videttes, no infantry at all. There is the infantry back here, not across on this road at all, but in another direction. Let me now proceed with Carrico's statement:

Q. Where did you go then?
A. I went up the road about a mile, to a farm owned now by Major Nutt.
Q. Toward Gainesville?
A. Between there and Gainesville.
Q. Did you meet any confederate force on that trip? If so, about where?
A. I saw them a little beyond Hampton Cole's, a very small number. They were sitting down on the side of the railroad, and their battery, that was planted at the back of my house; that opened upon the Federal troops directly after I passed it; and when I got up there against them, they got up and took shelter on the embankment of the railroad.
Q. Did you at that time see any troops to the south of the railroad?
A. None at all, except a little picket force that was a little to the south of the railroad, just above there; a small picket force.

Mark the time of day. There were no troops whatever south of the railroad; that is, on the side on which General Porter was:

Q. Did any confederate force pass to the east of your house during the day? If so, in what direction did they go?
A. I saw none pass to the eastward. I saw some shelling from the back of what is called the Britt farm, and a disabled Federal wagon at the mouth of a lane called Compton's lane.
Q. About what time in the day was that?
A. I could hardly say; twelve or one o'clock.
* * * * * * *
Q. What do you mean by the expression "evening?"
A. I mean something like three or four o'clock; somewhere thereabouts.
Q. How do you fix the time?
A. I fix the time by having to leave home, and having to go the small distance I did go.
* * * * * * *
Q. What room did you stay in?
A. I was all over the house; very often up-stairs, looking out of the window.

That is, the window of Carrico's house.

Q. Which way?
A. Toward Dawkins Branch.

Exactly in the direction of Porter's command.

Q. What time was the cannon posted there?
A. Possibly four o'clock.
Q. You are positive about that?
A. I am not positive; but according to the best of my judgment it was probably as late as four.
Q. Was it earlier or later than four?
A. It was not earlier, I do not think; not earlier than three *I am very sure.*
* * * * * * *
Q. Were there any soldiers of any description about your house, except the battery?
A. On Friday there was a Federal force in Mr. Lewis's field, to the east of my house.
Q. Where was Lewis's field?
A. Within three hundred or four hundred yards to the east of my house.
Q. Were there any about your house?
A. Yes; there were some of the Federal forces; two men that I had had some acquaintance with, who were in my house when this wagon was disabled at the end of Compton's lane.
* * * * * * *
Q. About where is the place where you carried your family?
A. Immediately at the Manassas Railroad, one mile past Hampton Cole's.
Q. You say you did not meet any considerable body of the confederate force on your way there?
A. Yes, I do say it; and I saw no considerable body there, as I stated to you and General Porter, if he was with you, until I got home next morning, about sun-up. They came there to my house and destroyed a great deal.

That is, the confederates did.

There is the statement of a man who lived at the house where this battery which did such terrible execution was playing on the head of Porter's column. He staid all day up in his house, looking out of the window, and the only troops there was a small force with that battery and the cavalry videttes that ran along over here to the right, [indicating.] That was all the force there, as the evidence, confederate and Union, shows, until very late in the afternoon.

Then I ask to follow that up with the evidence of B. S. White, (board record, page 983.) B. S. White, on August 27, 1862, held the position of major in the assistant inspector-general's department of the confederate Major-General J. E. B. Stuart's staff:

Question. That morning, after Major Patrick had those orders to charge, what did you do?
Answer. The enemy were driven away.
Q. Then what was the next event that transpired?
A. We moved off across the country to find out what had become of Longstreet's corps—

To see what had become of it; it had not arrived, Major White swears. They were going along to see if they could discover it—

We moved off in this way, toward Thoroughfare Gap.
Q. Did you find General Longstreet's column or corps advancing?
A. We did, between Hay Market and Gainesville.
Q. What did General Stuart then do?
A. General Stuart then threw his command on Longstreet's right and moved down with his right flank in the direction of Bristoe to Manassas Junction.
Q. What did you then observe?
A. We took the road leading directly down the Manassas Gap Railroad; there is a road running parallel with it.

Showing that they came down the Manassas Gap Railroad, and not down the road that Porter was on at that time, moving up to Gainesville on a road running parallel with the Manassas Gap Railroad.

Q. How far down did you go?
A. General Stuart threw his command on the right of Longstreet, and passed down the Manassas Gap Railroad to about that point, [west of Hampton Cole's; point marked "W."]
Q. Then what did you do?
A. We discovered a column in our front—discovered a force in our front coming from the direction of Manassas Junction to Bristoe.
Q. What sort of a point was that where you discovered this column coming, so far as observation is concerned?
A. It was a good point for observation; a high position, elevated ground. We could see Thoroughfare Gap and Gainesville and all the surrounding country.
* * * * * * *
Q. When you got back to General Stuart, where was he?
A. Where I left him, on that hill.
Q. At that time where was General Longstreet's command?
A. They had come down and were forming *here.* [Witness indicates a point back westerly of Pageland lane.]

If anybody will examine the map as to Pageland lane, which is right here, [indicating,] they will find that Longstreet was forming there, away beyond the Manassas Railroad, and not at all upon this road that Porter was traveling. Pageland lane runs down right there, [indicating,] and there is where the forces were forming on Pageland lane, making Manassas Gap Railroad the right of Longstreet's line, and not running across upon this road upon which Porter was at all, and nowhere near it.

Q. About what time of day was it that this affair occurred at Sudley Springs; before you and General Stuart started to cross the country toward Thoroughfare Gap?
A. Early in the morning.

That is, before they started from Sudley Springs, away off to the left of Jackson's command.

Q. At what would you fix the time?
A. I suppose eight or nine o'clock in the morning.
Q. Did you remain at this point with General Stuart after you got back on this hill?
A. I did.
Q. What became of this column of troops that you saw advancing?
A. I don't know what became of them; they disappeared from our front.
Q. Do you know of any other position being taken up by General Longstreet's command during the day in advance of the position that you have indicated? If so, when and where? You indicated a position back of Pageland lane.
A. I do not.
Q. How long were you down in the neighborhood of this hill which you have marked with a cross during that day; up to what time?
A. We were down there the greater part of the day; we were on the extreme right all the time afterward. The cavalry remained on the extreme right until the morning of the 30th.

So that the cavalry was the only force, from the evidence as is shown here, that was then on this road upon which Porter was traveling. Longstreet's force never crossed until at six o'clock. One

brigade only was thrown down here in support of the cavalry at a distance of over two miles from where Porter's command was.

Q. What time do you think you met General Longstreet between Hay Market and Gainesville?
A. It was about eleven o'clock.
Q. Was General Longstreet at the head of his column?
A. He was near the head of the column.
Q. Were there many troops in front of his command?
A. Not many.
Q. Were they advancing?
A. They were.
Q. Rapidly?
A. They were marching at an ordinary pace.

Major White was there as staff officer to General Stuart. General Stuart was in command of the cavalry and moving up the road to Longstreet. General Stuart stayed on his right all day, occupied his right from the time that Longstreet passed from Gainesville up to the close of that battle, until the next morning, the 30th of August. The evidence shows that none of these troops except cavalry were on that road at all. That is all that was in front of Porter, who had twenty-five thousand infantry in his front, as he states and tries to demonstrate.

Now, let us continue with Mr. White's evidence:

Q. State the style of march; how many front?
A. They were marching in column.
Q. How many front?
A. Marching in column of regiments, perhaps four abreast.
Q. Were they in close order?
A. Yes, sir.
Q. Would you swear it was eleven o'clock?
A. It was about eleven o'clock.
Q. You are confident that none of Longstreet's forces had passed through Gainesville before eleven o'clock?
A. I don't think they had.
Q. How did they appear to you; to be on top of a hill, or in a depression, or in woods, or by woods, or in an open field?
A. The position we occupied was a commanding one, of course. They were in a depressed situation from the position we occupied. We were on this hill and they were *here*. [Witness indicates.]

Pointing out to show where the confederates were. Here he indicates the line here marked on the map. [Indicating.]

Q. In column, marching along the Manassas Gap Railroad?
A. Yes.
Q. Did you see the Manassas Gap Railroad right in their vicinity?
A. The road they were marching on was parallel to the Manassas Gap Railroad.

That is Porter's force marching on a road parallel to the Manassas Gap Railroad, as I indicated marked on the map, running to the left of the Manassas Gap Railroad all the way to the intersection there at Gainesville. [Indicating.]

Q. When you came back to that position did you see any Federal troops anywhere?
A. Yes. There were Federal troops off here. [Indicating the lines of the regiments.]
Q. When you came back did you see Longstreet's command?
A. I saw Longstreet's command on my way back from General Stuart; they came and formed in here. [Pageland lane.]

Here is the place [indicating] where they formed. There is Pageland lane over beyond that railroad:

Q. Did you remain in that position all day?
A. We were there most all day. Do you mean me individually.
Q. Yes.
A. No. I was backward and forward several times during the day. I went with messages from Stuart to Lee and Longstreet and to Jackson.
Q. Then, during that whole day, you were in the vicinity of Longstreet's troops and knew of their position?
A. Yes; we were on his right.
Q. What time do you put it that you came back from General Jackson after being sent over by General Stuart?
A. Half past two or three o'clock.
Q. Do you know of any action that occurred along the Warrenton pike—infantry?
A. I heard firing.
Q. What time was that?
A. In the evening.
Q. About what time?
A. General Jackson's command was engaged all the time.
Q. Was Hood's command engaged at all?
A. That evening they were.
Q. What time that evening?
A. I suppose about three o'clock in the evening they were engaged; two and a half to three o'clock.
Q. Were they engaged vigorously?
A. Quite a severe fight.
Q. Describe the action so far as you observed it.
A. I was not present. I didn't see it. I heard the firing; it lasted, I suppose, half to three-quarters of an hour.
Q. Was it very vigorous?
A. It was a very sharp fight.
Q. Was that the only occasion in which Hood's command was engaged that day, to your knowledge?
A. To my knowledge that is the only one until next morning.
Q. You say it was three o'clock?
A. Between two and three o'clock. It may have been after three. It was after he had got in position.
Q. How long after he got in position?
A. He got in position, I suppose, about twelve or one o'clock. This engagement took place about two and a half, or may be three, or three and a half.
Q. Was it as late as five?
A. I can't recollect. I don't think it was.

You will remember that Hood's division was a part of Longstreet's corps, and the part of Longstreet's corps that was not in front of Porter, but engaged up by Groveton, fighting against the division of Reynolds, and not over in this other direction:

Q. What is your recollection about the time that that engagement took place upon the Warrenton turnpike by Hood's troops?
A. I was away on the right. Of course there was fighting on the line. I don't know what troops were engaged, but I know that Hood's troops had a fight there that evening. I don't know whether it was three or three and a half; it may have been five o'clock. I know they had a sharp fight there, and I heard it.

* * * * * * *

Q. Assuming Hood's division to be in the place you have indicated by W^3, and suppose there had been a battery placed on this rise of ground marked C, would that have fulfilled what you understood was the position of a battery firing off in the direction of "W^5?"
A. Yes. Just beyond a small branch there was a hill, a very fine position for artillery, and it was firing off in the direction of "W^5." The highest ground of that hill is where that battery was placed, or rather a park of artillery; nineteen or twenty of our guns were in that position.
Q. Suppose that the column of troops that you saw on that morning, or on the noon of Friday, August 29, had been coming up the dirt road from Manassas Junction to Gainesville and was in the neighborhood of Dawkins Run, would that have been the position of the column that you saw according to the map?
(Objected to as leading.)
A. The troops that we saw approaching came more from the direction of Bristoe than from Manassas.
Q. Therefore, what road indicated on this map best fulfills the direction from which you saw those troops coming?
(Objected to as leading.)
A. They were approaching more in the direction from Bristoe than from Manassas.
Q. Therefore what road best of the roads you see on this map shows the direction from which you saw those troops coming? [Map explained to the witness.] Now, where were the Federal troops?
A. I remarked a while ago that the column that was advancing advanced more from the direction of Bristoe than Manassas.
Q. *Here* is Bristoe and *there* is Manassas. Now, where do you put it, what direction? Make a line indicating the direction.
A. They must have come in *here* or in *here*.
Q. Then you are not positive that you saw them on the Manassas Gap Railroad?
A. I never said I saw the Manassas Gap Railroad. I said I saw them on the road running parallel with the Manassas Gap Railroad. They were not marching on the railroad. They were marching on a road that I supposed, from the position I occupied, was a line parallel with the Manassas Gap Railroad; they may have been on this road [from Gainesville to Stuart's Hill] and took position there [at + 2.] From that position we saw the columns coming up, but they were not on the railroad.

* * * * * * *

Q. Did you see the railroad in conjunction with seeing them, or at the same time in connection with seeing them?
A. I could not say. I was not looking for railroads. I was looking for troops. I don't recollect now whether I saw the railroad or not, because my attention was directed to more important matters.
Q. Would you swear that those troops, Bristoe being *here* and Manassas *there*—that those troops were not on this road to Milford?
A. No; they were not in that direction at all. They were off here, [witness indicates in the direction of the Manassas and Gainesville dirt road.]
Q. Had you been to Bristoe that day?
A. No, sir; we had been there the day before.
Q. How do you know where Bristoe was?
A. Because I have been there a thousand times since.
Q. Could you see it from that position?
A. I don't know that you could see the station, but I knew the general direction, and had been all over that country time and again.
Q. Did you see any of the shot fired fall near that column?
A. Yes, sir.
Q. What did the column do?
A. The column seemed to retire.
Q. Did you see them retire?
A. Yes; I saw them give back.
Q. How did they retire?
A. You know how troops retire. They gave back into a *piece of woods;* and just at that time I went off with a message, as I stated before—went off with a message to General Jackson from General Stuart.

Mark this language. It shows that Major White was talking of the very thing that Morell and Griffin were speaking of, about hiding their men in the woods, because White swears that when this piece of artillery, placed as I have shown, fired at the head of the column, that column retired. How did it retire? They retired in the woods, and where they were kept the whole day by the orders of Porter.

By Mr. MALTBY:

Q. You say that the artillery were stationed on the right of Jackson at the highest point on the ridge. Now, did Longstreet's line bend back from the line of Jackson, or did they make an angle more nearly approaching right angles?
A. I had nothing to do with Longstreet's position.
Q. But you saw it?
A. I passed in his rear several times.
Q. Take a pencil and mark Longstreet's line.
A. There was an angle formed between Jackson and Longstreet's line; Jackson's line ran along here. [Witness indicates.]
Q. Draw it in pencil. There is the Independent line of the Manassas Gap Railroad. [Indicated to the witness.]
A. Jackson's artillery was posted on this stony ridge.
Q. Draw a line where the nineteen or twenty guns were posted.
A. I had no connection with Longstreet's command or Jackson's. I passed in the rear of both lines several times with messages. I did not inspect their lines. I just speak from general recollection of their lines.
Q. Then you do not recollect precisely where any one line was?
A. I do; yes. I have indicated there is Jackson's line; his artillery was posted on this range of hills; General Longstreet formed here. [Witness indicates the different positions.] Their lines did not join; there was an angle there, an opening, and there is where the battery of artillery was.
Q. Draw Jackson's line and the cannon of Longstreet.
A. I have indicated it. [Witness indicates the line of the Independent line of the Manassas Gap Railroad.] His line did not go down that far [indicating Sudley Church]; it went to about there.
Q. Where do you run Jackson's line?
A. Jackson's line ran about in this direction. [Marked with a pencil.] That is about the direction of Jackson's line.
The line indicated by the witness by means of a pencil is followed in ink by the Recorder.
Q. Where were these eighteen or twenty guns of Jackson's?
A. That did not have reference to Jackson's command; Jackson's artillery was posted on this range of hills back of his line of battle. This park of artillery is where W^5 is and W^6.

Q. You still say that Hood occupied that position, and that his right was where + and ++ are?
A. There is where Hood was; right there.
* * * * * * *

Mr. President, I have here the evidence of Rev. John Landstreet, (board's record, p. 996.) He was a minister, called in both armies a chaplain; he was a chaplain in the confederate service belonging to this cavalry command. He saw the same thing, and here is what he says, after stating his residence to be in Baltimore County, Maryland:

Question. What did you do or see there which has impressed itself upon your attention?
Answer. There was considerable dust in this direction, [witness indicates,] indicating a body of troops; there was considerable down in this direction somewhere. At any rate, General Stuart ordered some of the Fifth Cavalry to go and cut brush and drag it along the road.

I desire Senators who wish to understand some of the tricks of warfare to listen to this testimony.

Q. [By Mr. MALTBY.] Did you hear the order?
A. Yes; to drag the brush along the Gainesville road, so as to serve as a feint and to convey the impression that there was a force coming down the Gainesville road. It was given, I distinctly recollect, to a member of the Fifth Virginia Cavalry.
Q. Who was the colonel of that regiment?
A. T. L. Rosser. We frequently after that conversed about it.
Q. What was done after that, while you were in the neighborhood of Hampton Cole's?
A. There was some firing from this position [+²] in the direction of this approaching force; and from my recollection of it the force was a considerable distance down. If 3 inches indicate a mile here, and if it was a life and death case, I would say that it was inside of a mile that they were off.
Q. You should say it was a distance of about a mile?
A. I should say it was inside of a mile. It was not beyond a mile, certainly. [Witness indicates from Hampton Cole's.] There were several shots fired from this point in the direction down there.
Q. In what direction?
A. That depends entirely upon where the man was standing at the time, and what he was looking at. I did not charge my mind much with this Manassas Gap Railroad, though I knew it very well. But I would not say whether it was here or there, [whether right or left.] It was pretty much in line with this railroad, [Manassas Gap Railroad.]
Q. What became of this column of troops upon those shots being fired?
A. I did not see them.
Q. They disappeared from your sight?
A. Yes, sir.
Q. Did they remain in the position they were in when they were fired upon?
A. No, sir. When my attention was directed to them they were where I could see the column, or a considerable portion of it; and they were marching in good order, close column.
Q. Do you recollect how many shots were fired at them?
A. I do not; but I am positive I didn't hear half a dozen; I know I did not.
Q. How long did you remain in that position in the neighborhood of Hampton Cole's that day?
A. I was sent off after that to hunt up the First Virginia Cavalry, not very far from there at that time; and I paid very little attention, indeed, from that time. When Longstreet came and formed there, General Jackson being in position, I came out from the command, and I was not in any of the fight at all except in the cavalry movements—skirmishing.
Q. Where did General Longstreet form his command?
A. It seems to me I struck a portion of Hood's command on General Longstreet's left before I got anywhere in the direction of Longstreet's right. They seemed to come in a good ways in the direction of General Longstreet's left, if they were not immediately on his flank.
Q. About where would you put them, north of the pike, across the pike, or south of the pike?
A. Which?
Q. Hood's division of that command.
A. From my recollection, there was a portion of Longstreet's command that crossed the Manassas Gap Railroad, [the witness marks a point with a pen;] crossed it, I am sure, some distance, but how far I don't know. I do not think it was far. It extended, I think, up in this way. Hood's was in front of it; part of it in the body of the woods. My impression is that Hood came in a little in advance of Longstreet's left. I am certain I came to Hood before I came to Longstreet's force in position. [Marked "Longstreet" and "Hood."]
Q. What time of day was that that they were all in position? * * *
A. It is my recollection that it was somewhere between two and three o'clock.
Q. Do you know whether or not either Hood or the remainder of Longstreet's command were in advance to the east of Pageland lane at any time that day?
A. I do not.
Q. Was your position such that you could see the location of Hood and Longstreet during the afternoon?
A. O, yes; I could go where I pleased.
Q. How long did this action of that day continue?
A. The firing to my recollection continued up to about dark. It was near dusk. At times it was heavier than at others; and at times severer than I ever heard it in any engagement.
Q. What were your opportunities during that day of knowing the fact, provided General Hood had advanced east of Pageland lane? [Points of compass upon the map explained to the witness.]
A. My answer is, that if I had a desire to know it, I could have known it very easily; but I didn't think about it at all. It was not in my mind. I was well acquainted with Hood and his command, and that made the impression upon me in coming to this point. I came from the direction where Jackson's command was, and passed this heavy battery at the time, though I think there were a few more guns there than I have heard stated to-day.
Q. In which direction, as you stood at Hampton Cole's facing the enemy, was Longstreet's command from you, with reference to your own person—to the left, right, front, or rear?
A. Looking down in the direction from which the enemy were coming, a portion of it was in my rear and a portion of it was not.
Q. At the time you arrived there at Hampton Cole's?
A. No, sir. They did not get in this position at the time I arrived at Hampton Cole's. I arrived at Hampton Cole's about ten or eleven in the morning.
Q. Where were the guns stationed in reference to Hampton Cole's?
A. The guns were pointed down a little to the left of the railroad.
Q. How near were you to the guns?
A. Right up by them.
Q. How much of that column did you see?
A. I could not say how many regiments there were. The column indicated that it was the head of a considerable body of men.
Q. What was that indication?
A. They were marching in close column.
Q. Would not a regiment march in close column?
A. Might not in as close column as that, and in good order. My judgment in the matter was that it was the advance of a large army.
Q. Did you see a quarter of a mile of that column?
A. No, sir.
Q. An eighth of a mile?
A. That is somewhere near it.
Q. Was it marching upon a plain?
A. I cannot tell you that. It did not appear to me as if they were coming up a hill, nor as if they were coming down a hill.
Q. As if they were marching upon a plain?
A. It looked pretty much as if they were on a level.
Q. Can you state whether any bushes were to their right or left, or trees?
A. No, I could not. My impression is that the country was pretty well open left and right of where I first saw them.
Q. Did you see them in flank at all?
A. No, sir.
Q. I don't know whether it is a military expression or not.
A. Do you mean did I see the rear of the enemy?
Q. No, sir; I mean the side of the column as it advanced.
A. No, sir; it was the shortest space of time before the firing commenced here at Hampton Cole's before I saw them no more.
Q. Was this column to your right or left?
A. From the position I was in, it was almost directly in my front. I think if I had advanced in a straight line I would have come up face to face with them. I was a little to the right of Hampton Cole's and looking right straight down.
* * * * * * * *
Q. Did you see troops in the neighborhood of the Leachman house?
A. I knew there were troops there, but how I knew it I am not now prepared to say.
Q. How did they disappear? Did they march out of sight in the rear, or did they retire in the bushes?
A. If you will let me use an illustration: It was a very common thing for a column of cavalry to advance, and one shot into a column of cavalry would make them disappear in the woods, and that was the end of it. I never saw a column that got out of sight quicker than this column did.
Q. How long did you remain at Hampton Cole's?
A. I suppose I staid there until—well, it was just after the brush expedition; shortly after that; and I went in the direction of Gainesville from there. I don't know but what I went right across to Gainesville; I think I did.
Q. How did you go?
A. I struck out on this Gainesville road that I had traveled hundreds of times toward Gainesville; pretty much along the line of the railroad.
Q. How long did you say that it was that you were at Hampton Cole's?
A. I said I was there until after twelve o'clock.
Q. Were you there about an hour in all?
A. I was there more than an hour; I was there fully an hour and a half.
Q. You passed along the Manassas Gap Railroad?
A. I passed along the Gainesville turnpike.
Q. What did you see on your route in the shape of troops?
A. I met some of, I think, Longstreet's forces on the Warrenton pike.
Q. Did you see any of Longstreet's troops?
A. I have no recollection of seeing them.
Q. Were there any troops marching on that turnpike?
A. There may have been. I did not pay any attention to it.
Q. How long did you stay away in the direction of Gainesville?
A. I staid away until about three or half-past three o'clock, I think.
Q. Then what did you do?
A. Then I returned to the First Regiment of Virginia Cavalry.
Q. Where was that?
A. If my recollection serves, it was between Hampton Cole's and Sudley.
Q. Was that the detachment that had been sent off to drag brush there that day?
A. No, sir. That was the Fifth Virginia Cavalry, commanded by Colonel Rosser.
Q. When did you first see the place where Longstreet's line was formed after you went off toward Gainesville?
A. I saw it for the first time a little after three o'clock.
Q. Was it then formed?
A. Yes; it was then formed in good order.
Q. All along the whole line?
A. Well, I did not ride along the whole line.
Q. Where were you?
A. I could not tell you how it was along the whole line. I rode in along *here* and I passed on out *here*. I passed around on Longstreet's left, and I found Hood's division in front of Longstreet, and rather extending beyond his left. [Witness indicates near Pageland Lane.]
Q. Then what did you strike?
A. I didn't know what the name of the road was. I made for Sudley neighborhood, and there I met a portion of the First Virginia.
Q. On Hood's left or Longstreet's left did you find artillery?
A. Yes, sir.
Q. Did Hood's line extend quite up to the artillery?
A. No, sir; it did not. *There was a gap.*
Q. How much of a gap?
A. I don't recollect how much it was, but it was a considerable gap.
Q. Half a mile?
A. I don't know whether it was that much, but it was a considerable gap, a considerable elevation.
Q. Do you know where that artillery was in reference to the Browner or Douglass house?
A. No, sir; I know nothing about houses there.
Q. Were the batteries in advance of Hood's line?
A. Well, rather.
Q. Much?
A. No, sir; they were rather a little in advance of his left.
Q. Was the distance between Hood's left and the right of the artillery as great as the gap?
A. According to my recollection, the battery was pretty nearly in the center of the gap.
Q. Did the line of the battery run in the same direction that Hood's line ran, or did Hood's line form an angle with the battery?
A. It was at an angle.
Q. Was the right of the battery much in advance of Hood's left?
A. No, sir; it was not much in advance, but still it was in advance.
Q. Was it a half-mile in advance?
A. Oh, no.
Q. Was it a quarter of a mile?
A. No, sir; I don't think it was that.
Q. Or an eighth?
A. I don't think it was that. It was a very short distance in advance. I would not say positively that it was in advance at all.
* * * * * * *
Q. About what time of day did you first see Longstreet's troops in position after that?

A. I saw them in position, I think, somewhere about three o'clock, or a little after three, or a little before three.

* * * * * * *

When the witness was asked to mark the position of Longstreet upon the map, he did so, and he put it almost exactly in the same position that Major White did, across over to the left of the Manassas Gap Railroad, with Stuart's cavalry on the right on this other road. It will be noticed that he speaks of this command coming down there, in this direction, meaning Porter's command of that day. He says, after they saw them coming, they having no troops they wanted to spare—the battle going on so hot on the left, General Stuart ordered Rosser, of the Fifth Virginia Cavalry, to cut brush to haul up and down the Gainesville road, upon which Porter's command was going—to kick up a dust as we might call it—so that Porter might think that the whole confederate army were coming. Rosser cut and hauled brush up and down that road. I suppose the order was like that of Malcolm, in Macbeth:

Let every soldier hew him down a bough,
And bear't before him; thereby shall we shadow
The numbers of our host, and make discovery
Err in report of us.
* * * * *
Fear not till Birnam wood
Do come to Dunsinane;—and now a wood
Comes toward Dunsinane.—Arm, arm, and out.

General Fitz-John Porter, without seeing the soldiers and without seeing the brush, saw the dust, and he reports twenty-five thousand infantry in his front, and the Senator from New Jersey rises on this floor and repeats it! Here is the evidence. General Stuart in his report says (I have his report here) that he ordered brush to be hauled up and down that road in order to make Porter believe (for he knew who was in his front) that he was marching there with a heavy force; and he says Porter did believe it, because Porter in his report gave a heavy force in front, and Stuart in his report makes fun of it. He speaks of the fact that all of the force there was his own cavalry and Rosser's regiment dragging brush up and down the road, stirring up the dust that scared Porter so badly. If it did not scare him, it gave him an excuse to say that Longstreet was marching to attack him with twenty-five thousand infantry at the very same time that Longstreet's command was formed over beyond the Manassas Gap Railroad, part of his command engaged in fighting on Jackson's right, over beyond that railroad, in front of our forces up by Groveton. Longstreet's report and General Lee's report both show that fact; yet we are told that Longstreet was directly in front of Porter.

Then, in reference to this same question, I have General Schenck's testimony. As I said I intend to convict General Porter from confederate testimony and from the testimony of his own officers, but I put General Schenck's evidence in merely to show that General Schenck occupied a position which was called Gibbon Woods, where Gibbon had fought the night before, the night of the 28th. General Schenck occupied that wood and was driven or retired therefrom to the next wood, his testimony showing the position. I give it merely for the purpose of showing the position, and I show it on the map, so that you can see from General Schenck's testimony that he occupied a position right in here [indicating] in the wood, making up a center between the force of McDowell, where he came in on our left, and connecting there with General Reynolds's division, who formed on Schenck's left. I cite it for that purpose and for no other. It will be found in the board's record, page 1007:

ROBERT C. SCHENCK, called by the recorder, and examined in the city of Baltimore, October 22, 1878, (present, the recorder, and Mr. Maltby of counsel for the petitioner,) being duly sworn, testified as follows:

Question. Where do you reside?

Answer. Dayton, Ohio; temporarily residing in Washington, District of Columbia.

Q. What rank and command did you hold in the military service of the United States on the 29th August, 1862?

A. Brigadier-general of volunteers, commanding the first division, Sigel's corps.

Q. Finally you left the service with what rank?

A. Major-general. I was promoted to take effect August 30, 1862.

Q. In moving up to this position, did you have in the morning of the 29th August any enemy in front of you?

A. None that we felt, throwing forward skirmishers and supposing the enemy was present somewhere. Pretty early in the day a force of the enemy was developed upon this ridge, where there were a number of batteries placed to our right; that would be to the north of the turnpike road.

Q. Do you recollect passing that lane, Lewis lane No. 1?

A. I have a very indistinct impression of it. I have a remembrance floating in my mind having crossed some road which was not the turnpike, but I don't recall it distinctly.

Q. At what time of the day did you reach your farthest point in advance?

A. I think it must have been somewhere about the middle of the day; perhaps a little earlier than the middle of the day.

Q. Did you see General Reynolds's division during that day?

A. No; but I understood he was off on my left?

Q. Did you see General Reynolds himself during the morning or afternoon?

A. No; I think not. I don't recollect.

Q. How far did you get beyond the Gibbon's wood in which the wounded of the night before were?

A. I don't know that we got beyond the Gibbon woods. My remembrance is that the farthest point we reached was somewhere about the west edge of the Gibbon wood—that is, the wood in which Gibbon's troops were engaged the night before. We found there his wounded and the evidence of the battle that had taken place.

Q. Was anything done with these wounded that you found there?

A. I ordered all the men in that and the piece of woods this side of that, where there were, I think, a few scattered, to be sent to the rear and taken care of. I don't know that that is the Gibbon wood; I mean the wood farthest in advance that I reached was the wood in which the engagement took place. My impression is we did not at any period go farther in that direction than to, perhaps, the west edge of that wood.

Q. Look at the map; which piece of timber is it that you consider to be the Gibbon wood?

A. *This* I suppose to be the wood. [In which the word "Warrenton" ends; marked "S" on the Landstreet map.] That I suppose is intended for the wood in which Gibbon's engagement took place.

Q. How long did your division remain in that woods?

A. We must have been in that wood, altogether, two or three hours.

Q. Did you see any battery of the enemy while you were in that position? If so, where was it?

A. There was a battery off to our right somewhere which I recollect all the more distinctly because it seemed to me to be detached from the general line of the enemy, and I conceived the purpose of attempting to capture it, and sent one of my staff over to reconnoiter with a view to see how it might be approached. But about that time Milroy, who was engaged with the enemy off to my right, communicated with me, or General Sigel for him—I think the message came from Milroy himself—begging assistance, and I detached Stahel's brigade to support Milroy northeast of the pike, and then gave up the idea of attempting to capture that battery.

Q. That battery was in the neighborhood of where?

A. It was on a hill on my right, to the right of the wood where Gibbon's fight had taken place. It was upon elevated ground, and seemed to be the spur of a hill. I thought we might by a sudden and decisive movement upon it capture it.

Q. While you were up in this position, McLean's brigade, I understand, was on the left. What was the position of Reynolds's division of Pennsylvania Reserves as reported to you at that time in reference to your own position?

A. I did not see them, but they were reported to me as being upon our left, and I may add that it was reported to me that they had stationed a battery somewhere in advance of Gibbon's wood, I think Cooper's battery.

Q. In which direction was that battery operating?

A. I did not see the battery.

Q. At what time did you quit with your division this Gibbon wood?

A. I should think, to the best of my recollection, somewhere between one and three o'clock. I don't think I can be more positive than that. My recollection is that it was some time after noon.

Q. To what point did you go then with your division?

A. In consequence of reports made to me in reference to the movements of General Reynolds, I thought it best for me to fall back, and I came into a strip of woods which I suppose to be these, [south of the syllable "ville" in "Gainesville."] I formed in line of battle near the west edge of that woods. There we lay most of the afternoon.

Q. Up to what time?

A. I can scarcely tell you. I should think at least until the middle of the afternoon, perhaps later. I recollect withdrawing from that point from wood to wood as we had advanced. We found it quite late in the afternoon, or quite sunset, by the time I reached my original position. The whole distance, I should think, was about two miles from the point where we started in the morning to the furthest point to which we advanced.

Q. While you were in the Gibbon wood, what enemy, if any, did you see in your immediate front?

A. I cannot say that I saw any enemy in our immediate front. There were skirmishers in that direction, and as my skirmishers were thrown forward we would have an occasional shot, but there seemed to me at that time to be no enemy in front, in my immediate front. The first intimation that I had that the enemy in considerable force were upon our left, was through Colonel McLean, the commander of my second brigade, who told me that a messenger, or staff officer, or orderly, or some one from Reynolds, apparently with authority, had come to him, as he was in command of a brigade, and communicated the fact that the enemy were upon our left, and I think that was coupled with the information that Reynolds intended to fall back. I tried to communicate with Reynolds again, but did not succeed, but I thought there was no occasion for immediately falling back; but not finding any response from General Reynolds, I concluded to withdraw slowly to at least a short distance and then come across an open space into the next wood, [into a little strip marked S^2,] where I rested the troops in line.

Q. While you were holding position in that little strip of woods, do you know whether or not the enemy obtained the possession of the Gibbon wood?

A. I am satisfied that they were not there in any force; they had their skirmishers thrown forward as I had men toward the Gibbon wood, and there were occasional shots fired with or without good cause for them, but there was no movement in force, nor was there indicated to me any presence of an enemy in force.

Q. Can you fix with any degree of relative certainty the time in the afternoon when you quit the little fringe of woods marked "S^2;" whether it was two or three or four or five or six o'clock?

A. The days in August are pretty long. I should say it was at least the middle of the afternoon, or probably later. I reached my conclusion from measuring it by the movement forward and the gradual withdrawal of the troops. I should think it was after the middle of the afternoon.

I desire also to follow this evidence by putting in the report of the commander of the army, merely to show the position of our own troops during the day, and for no other purpose except to corroborate the fact which I have stated to be true, that Griffin's brigade retreated back to the point that I have stated, and to show the cause of the censure placed upon him in connection with being part of Porter's command, for his ignominious retreat that night, without any enemy whatever being in his front.

The document is as follows:

[Indorsement:] Report of Major-General Pope, commanding Army of Virginia. Operations of the Army of Virginia from August 9, till September 2, 1862. Received at headquarters of the Army September 6, 1862. War Department, Adjutant-General's Office, Washington, September 30, 1878. Official copy: E. D. Townsend, Adjutant-General.

HEADQUARTERS ARMY OF VIRGINIA, *September* 3, 1862.

GENERAL: I have the honor to submit the following brief sketch of the operations of this army since the 9th of August.

I moved from Sperryville, Little Washington, and Warrenton, with the corps of Banks and Sigel and one division of McDowell's corps, numbering in all thirty-two thousand men, to meet the enemy who had crossed the Rapidan and was advancing on Culpeper.

The movement toward Gordonsville had completely succeeded in drawing off a large force from Richmond, and in relieving the Army of the Potomac from much of the danger which threatened its withdrawal from the Peninsula.

The action of August 9, at Cedar Mountain, with the forces under Jackson, which compelled his retreat across the Rapidan, made necessary still further re-enforcements of the enemy from Richmond; and by this time it being apparent that the Army of the Potomac was evacuating the Peninsula, the whole force of the enemy concentrated around Richmond was pushed forward with great rapidity to crush the Army of Virginia before the forces evacuating the Peninsula could be united with it. I remained at Cedar Mountain, and still threatened to cross the Rapidan

until the 17th of August, by which time General Robert Lee had assembled in my front, and within eight miles, nearly the whole of the rebel army.

As soon as I ascertained this fact and knew that the Army of the Potomac was no longer in danger, I drew back my whole force across the Rappahannock on the night of the 17th and day of the 18th, without loss of any kind, and one day in advance of Lee's proposed movement against me. The enemy immediately appeared in my front at Rappahannock Station and attempted to pass the river at that bridge and the numerous fords above and below, but without success.

The line of the Upper Rappahannock, which I had been ordered to hold that the enemy might be delayed long enough in his advance upon Washington to enable the forces from the Peninsula to land and effect a junction with me, was very weak, as it could be crossed at almost any point above the railroad bridge by good fords.

By constant vigilance and activity, and much severe fighting for three days, the enemy was gradually forced around from the railroad crossing to Waterloo Bridge, west of Warrenton.

Meantime my force had been much diminished by actual loss in battle, and by fatigue and exposure, so that although I had been joined by a detachment under General Reno and the other division of McDowell's corps, my force barely numbered forty thousand men. On the 22d a heavy rain fell, which rendered the fords of the river impassable for twenty-four hours. As soon as I discovered this, I concentrated my forces and marched rapidly upon Sulphur Springs and Waterloo Bridge to drive back the forces of the enemy which had succeeded in crossing at those points. This was successfully done, and the bridges destroyed. I passed one day, or, rather, part of one, at Warrenton and beyond. The enemy still continued to move slowly around along the river, masking every ford with artillery and heavy forces of infantry, so that it was impossible for me to attack him even with the greatly inferior forces under my command, without passing the river over fords strongly guarded, in the face of very superior numbers.

The movement of Jackson toward White Plains, and in the direction of Thoroughfare Gap, while the main body of the enemy confronted me at Sulphur Springs and Waterloo Bridge, was well known to me; but I relied confidently upon the forces which I had been assured would be sent from Alexandria, and one strong division of which I had ordered to take post in the works at Manassas Junction. I was entirely under the belief that these would be there, and it was not until I found my communications intercepted that I was undeceived. I knew that this movement was no raid, and that it was made by not less than twenty-five thousand men under Jackson.

By this time the Army corps of Heintzelman, about ten thousand strong, had reached Warrenton Junction, one division of it, I think, on the very day of the raid. But they came without artillery, with only forty rounds of ammunition to the man, without wagons, and even the field and general officers without horses.

Fitz-John Porter also arrived at Bealeton Station near Rappahannock, with one of his divisions, forty-five hundred strong, whilst his other divisions were still at Barnett's and Kelly's Fords.

I directed that corps, about eighty-five hundred strong, to concentrate immediately at Warrenton Junction, where Heintzelman already was. This was accomplished on the evening of the 26th. As soon as it became known to me that Jackson was on the railroad it became apparent that the Upper Rappahannock was no longer tenable. I could not detach a sufficient force to meet Jackson and at the same time attempt to confront the main body of the enemy. I accordingly at once evacuated Warrenton and Warrenton Junction, directing McDowell with his own corps and Sigel's, and the division of Reynolds, to march rapidly by the turnpike upon Gainesville, so as to intercept any re-enforcements coming to Jackson through Thoroughfare Gap; and instructing Reno with his command, and Kearney with one division of Heintzelman's, to march on Greenwich so as to support McDowell in case of necessity. With Hooker's division of Heintzelman's corps I moved back along the railroad upon Manassas Junction. Near Kettle Run, Hooker came upon the advance of Ewell's division in the afternoon of the 27th. A severe action took place, which terminated at dark, Ewell being driven from the field with the loss of his camp and three hundred killed and wounded. The unfortunate oversight of not bringing more than forty rounds of ammunition became at once alarming. At nightfall Hooker had but about five rounds to the man left. As soon as I learned this I sent back orders to Fitz-John Porter to march with his corps at one o'clock that night so as to be with Hooker at daylight in the morning. The distance was only nine miles, and he received the dispatch at 9.50 o'clock, but did not reach the ground until after ten o'clock next morning. He can probably explain better than I can the reason for this delay. Fortunately Hooker had handled the enemy so severely the evening before, and the movement of McDowell had begun to be so apparent, that the enemy, fearful of being surrounded, had retired precipitately from Manassas Junction, directing his retreat through Centreville, as McDowell, Reno, and Kearney had made the road through Gainesville impracticable. I immediately pushed forward to Manassas, and thence to Centreville, which was occupied by Kearney that night only a few hours after the enemy had left it.

Reno had reached Manassas Junction, and Fitz-John Porter was immediately ordered up from Broad Run, where he had stopped. McDowell's movement, conducted with vigor and speed, had been completely successful, the enemy being intercepted at Gainesville and part of his forces driven through Thoroughfare Gap. With King's division and Sigel's corps, McDowell continued his march along the turnpike toward Centreville, leaving Ricketts with his division in observation of Thoroughfare Gap.

Late in the evening of the 28th, McDowell's advance (Gibbon's brigade) met the force of Jackson retiring from Centreville and about six miles west of that place. A very sharp skirmish took place, ended by the darkness, in which the brigade of Gibbon behaved very handsomely, and suffered heavy loss. Sigel was close at hand with his corps, but did not join the action.

I instructed Kearney to move forward at early day-dawn, from Centreville toward Gainesville, closely followed by Hooker and Reno, and engage the enemy thus placed between McDowell and Sigel, on the west, Heintzelman and Reno on the east, and Fitz-John Porter on the south. I also instructed F. J. Porter, with his own corps, and King's division of McDowell's corps, which had, for some reason, fallen back from the Warrenton turnpike toward Manassas Junction, to move at daylight in the morning upon Gainesville along the Manassas Gap Railroad, until they communicated closely with the force under Heintzelman and Sigel, cautioning them not to go further than was necessary to effect this junction, as we might be obliged to retire behind Bull Run that night for subsistence, if nothing else. Heintzelman marched early from Centreville toward Gainesville, closely followed by Reno. Meantime, shortly after daylight, Sigel, and Reynolds's division of McDowell's corps had become engaged with the enemy, who was brought to a stand, and he was soon joined by Heintzelman and Reno, and the whole line became actively engaged.

Porter marched as directed, followed by King's division, which was by this time joined by Ricketts's division, which had been forced back from Thoroughfare Gap by the heavy forces of the enemy advancing to support Jackson. As soon as I found that the enemy had been brought to a halt, and was being vigorously attacked along Warrenton turnpike, I sent orders to McDowell to advance rapidly on our left and attack the enemy on his flank, extending his right to meet Reynolds's left, and to Fitz-John Porter to keep his right well closed on McDowell's left, and to attack the enemy in flank and rear, while he was pushed in front. This would have made the line of battle of McDowell and Porter at right angles to that of the other forces engaged. The action raged furiously all day, McDowell, although previously in rear of Porter, bringing his whole corps on the field in the afternoon, and taking a conspicuous part in that day's operations. To my surprise and disappointment I received, late in the afternoon, from Porter, a note saying that his advance had met the enemy on the flank in some force, and that he was retiring upon Manassas Junction without attacking the enemy or coming to the assistance of our other forces, although they were engaged in a furious action only two miles distant, and in full hearing of him. A portion of his force fell back toward Manassas, and he remained, as he afterward informed me, where he was, looking at the enemy during the whole of the afternoon of Friday, and part of Friday night, passing down in plain view to reinforce the troops under Jackson, without an effort to prevent it or assist us. *One, at least, of his brigades, under General Griffin, got round to Centreville, and remained there during the whole of next day's battle without coming on the field, though in full view of it, while General Griffin himself spent the day in making ill-natured strictures upon the general commanding* (see paper marked D) *the action in the presence of a promiscuous assemblage.* Darkness closed the action on Friday, the enemy being driven back from his position by Heintzelman's corps and Reno, concluded by a furious attack along the turnpike by King's division of McDowell's corps, leaving his dead and wounded on the field. I do not hesitate to say that if the corps of Porter had attacked the enemy on the flank on the afternoon of Friday, as he had my written order (marked B) to do, we should have crushed Jackson before the forces under Lee could have reached him. Why he did not do so I cannot understand. Our men, much worn down by hard service and continuous fighting for many previous days, and very short of provisions, rested on their arms. Our horses had had no forage for two days. I had telegraphed and written urgently for rations and forage to be sent to us, but on Saturday morning, before the action was resumed, I received a letter (marked A) from General Franklin, written the day previous at Alexandria, stating to me that he had been directed by General McClellan to inform me that rations and forage for my command would be loaded into the cars and available wagons as soon as I would send a cavalry escort to Alexandria to bring them up. All hope of being able to maintain my position, whether victorious or not, vanished with this letter. My cavalry was utterly broken down by long and constant service in the face of the enemy, and, bad as they were, could not be spared from the front, even if there had been time to go back thirty miles to Alexandria, and await the loading of trains. At the time this letter was written, Alexandria was swarming with troops, and my whole army interposed between that place and the enemy. I at once understood that we must, if possible, finish what we had to do that day, as night must see us behind Bull Run if we wished to save men and animals from starvation.

On Friday night I sent a peremptory order (marked C) to General Porter to bring his command on the field and report to me in person within three hours after he received the order. A portion he brought up, but as I before stated one of his brigades remained the whole day at Centreville, and was not in the engagement. The enemy's heavy reinforcements having reached him on Friday afternoon and night he began to mass on his right for the purpose of crushing our left, and occupying the road to Centreville on our rear. His heaviest assault was made about five o'clock in the afternoon, when, after overwhelming Fitz-John Porter, and driving his force back on the center and left, mass after mass of his forces were pushed against our left. A terrific contest with great slaughter was carried on for several hours, our men behaving with firmness and gallantry, under the immediate command of General McDowell. When night closed our left had been forced back about half a mile, but still remained firm and unbroken, whilst our right held its ground. General Franklin with his corps arrived after dark at Centreville, six miles in our rear, while Sumner was four miles behind Franklin. I could possibly have brought up these corps in the morning in time to have renewed the action, but starvation stared both men and horses in the face, and broken and exhausted as they were, they were in no condition to bear hunger also. I accordingly retired to Centreville that night in perfect order.

Neither on Sunday nor on Monday did the enemy make any advance upon us. On Monday I sent to the army corps commanders for their effective strength, which, all told, including Sumner and Franklin, fell short of sixty thousand men. Instead of bringing up thirty thousand men, Franklin and Sumner united fell short of twenty thousand men, and these added to the force I had, already wearied and much cut up, did not give me the means to do anything else for a day or two than stand on the defense. The enemy during Monday again began to work slowly around to our right for the purpose of possessing Fairfax Court House, and thus turning our rear.

Couch's division and one brigade of Sumner's had been left there, and I sent over Hooker on Monday afternoon to take command and to post himself at or in front of Germantown, at the same time directing McDowell to take position along the turnpike from Centreville to Fairfax Court House, about two miles west of the latter place. Heintzelman was directed to post himself in rear and support of Reno, who was pushed north of the road at a point about two miles and a half east of Centreville, to cover the turnpike, it being my purpose in the course of the night to mass my command on the right, in the direction of Germantown, where I felt convinced the next attack of the enemy would be made. Late in the afternoon of Monday the enemy made his demonstration upon Germantown, but was met by Hooker at that place, and by Reno, reinforced by Kearney, further west. The battle was very severe though short, the enemy being driven back a mile with heavy loss, leaving his dead and wounded.

In this short action we lost two of our most valuable and distinguished officers Generals Kearney and Stevens.

By morning the whole of my command was massed behind Difficult Creek, between Flint Hill and the Warrenton turnpike, with the advance under Hooker in front of Germantown.

With the exception of Sumner, the commanders of the army corps of the Army of the Potomac had continued persistently to inform me that their commands were and had been demoralized ever since they left Harrison's Landing; that they had no spirit, and no disposition to fight.

This latter statement their conduct in the various actions fully contradicted; but the straggling in those corps was distressing.

The full facts having been reported to you, I received on Tuesday afternoon the order to retire to the intrenchments near Washington, which was accordingly done on that day and the next in good order, and without the slightest loss. Banks, who had been left with the railroad train, cut off at Bristoe by the burning of the bridge, was ordered to join me on Monday at Centreville, which he did on the afternoon of that day.

This brief summary will explain sufficiently in detail the whole of the operations of the forces under my command during sixteen days of continuous fighting by day and marching by night.

To confront a powerful enemy with greatly inferior forces, to fight him day by day without losing your army, to delay and embarrass his movements, and to force him by persistent resistance to adopt long and circuitous routes to his destination, are the duties which have been imposed upon me.

They are of all military operations the most difficult and the most harassing, both to the commander and to his troops.

How far we have been successful, I leave to the judgment of my countrymen.

The Armies of Virginia and of the Potomac have been united in the presence and against the efforts of a wary and vigorous enemy, in greatly superior force to either, with no loss for which they did not exact full retribution. Among the officers whom I feel bound to mention with special gratitude for their most hearty, cordial, and untiring zeal and energy are Generals McDowell, Banks, Reno, Heintzelman, Hooker, and Kearney, and many others of inferior rank, whom I shall take great satisfaction in bringing to the notice of the Government.

The troops have exhibited wonderful patience and courage, and I cannot say too much for them. Our losses have been very heavy, but so far I have been unable to get accurate returns. I was informed by Generals Kearney and Hooker, who

examined the field of battle on Friday, that the enemy's dead and wounded were at least double our own.

I am, general, respectfully, your obedient servant,

JNO. POPE,
Major-General, Commanding.

Major-General H. W. HALLECK,
General-in-Chief.

I desire now to follow up my statement, and shall try to support it by evidence of general officers of the confederate army. I repeat again I have introduced no witness here to-day against Fitz-John Porter except officers of his own command and the evidence of confederates or men on the opposite side, so that at least I may not be accused of trying to create a prejudice by quoting the evidence of those who might be possibly influenced against him on account of the position they occupied on our side. These witnesses I have quoted could have had no prejudice against General Porter. His own command had none, and the confederates certainly could have had none.

It will be remembered that General A. P. Hill's forces were a part of General Jackson's command; he was up with him prior to the arrival of Generals Lee and Longstreet. General Hill gives his different movements on the 24th, 25th, 26th, and 27th, and then refers to the 29th, the day on which General Porter failed to accomplish anything by disobeying the order of his commanding general. This is the report of Major-General A. P. Hill:

HEADQUARTERS LIGHT DIVISION,
Camp Gregg, February 25, 1863.

Lieutenant-Colonel C. J. FAULKNER, A. A. G.,
Second Army Corps:

COLONEL: I have the honor to submit the following report of the operations of my division from the crossing of the Rapidan, August 20th, to the repulse of the enemy at Castleman's Ferry, November 5th, inclusive.

* * * * * * *

The march was without incident of importance until arriving at the ford opposite Warrenton Springs. The morning after arriving (Sunday, the 24th) I was directed to occupy the hills crowning the ford.

* * * * * * *

Wednesday morning (August 27th,) at Manassas Junction, Branch's brigade had a sharp encounter with a battery supported by the Twelfth Pennsylvania Cavalry. They were soon dispersed. * * * That night, about twelve o'clock, the depot buildings, with an immense amount of commissary stores, and about two miles of loaded freight-cars, were burned, and at one o'clock I moved my division to Centreville; at ten a. m. (Thursday) moved upon the Warrenton pike, toward the stone bridge, when I received an order from General Jackson, dated battle-field of Manassas, eight a. m., that "the enemy were in full retreat, and to move down to the fords and intercept him." But, having just seen two intercepted dispatches from Pope to McDowell, ordering the formation of his line of battle for the next day on Manassas plains, I deemed it best to push on and join General Jackson. That evening (Thursday) there was a little artillery practice by some of my batteries on the enemy's infantry.

Friday morning, in accordance with orders from General Jackson, I occupied the line of the unfinished railroad, my extreme left resting near Sudley's Ford, my right near the point where the road strikes the open field, Gregg, Field, and Thomas in the front line, Gregg on the left, and Field on the right, with Branch, Pender, and Archer as supports.

Friday being the 29th, you will see that the line of Jackson was behind the unfinished railroad, running from Sudley's Ford to Gainesville, or connecting with the Manassas Gap Railroad, which would throw the troops of Longstreet, supporting Jackson's command, away from Porter instead of in the direction of his corps.

To this point I desire to call especial attention. There are very few who, unless they examine this question, can thoroughly understand the position that the troops occupied on both sides that day. Most of the persons with whom I have conversed upon this subject, without having examined critically the evidence on both sides, imagine that General Jackson's line was drawn square across the turnpike, here, [indicating,] so that Porter's line would have struck him if he had moved right off to his (Porter's) right.

Senators will see that the Manassas Gap Railroad runs down in this direction. This road from Gainesville to Centreville [indicating] is called the turnpike, passing through Groveton. The railroad behind which Jackson formed his line is dotted here on the old map as a new cut railroad, which has not as yet been finished, running down by Sudley's Springs and tapping the Manassas Gap Railroad before it enters Gainesville. Here is the Gainesville pike, running down to Centreville, [indicating.] Here comes the Manassas Gap Road, running up here, [indicating.] Jackson says that his line was formed behind the cut of this railroad on the 29th; that is, on the hill behind that railroad. That threw him away back here in this direction, [indicating;] Porter was here, [indicating;] and Longstreet was here, [indicating;] so that by Porter making this connection he would have been exactly in a position to strike Jackson on the flank as Pope directed he should, not that he was down this way, [indicating,] as the argument would have you deceived into believing. From the argument made here you would suppose that Jackson stretched down this way, [indicating,] and that Longstreet was right in here, [indicating,] ready to attack Porter, when in fact Jackson was off in this direction [indicating] and Longstreet was here [indicating] and Porter was down here, [indicating.]

The evidence shows this fact. I have called the attention of Senators to this because statements have been made in this case which are at variance with the proof of confederate and Union officers, and by every map that has been made by the War Department. Afterward, as a matter of course, late in the evening, and the next day, when Pope's forces were driven back, the line was changed. There were Pope's forces in that shape, [indicating.] Here is where Porter was expected to come up [indicating] and join on these forces so as to strike this flank. There is where he was to join, [indicating,] not here, [indicating.] He was to strike them in flank; but after our forces were driven back, then, later in the battle, Jackson advanced and his line stretched here, [indicating,] and ours was further back. I am speaking of the line when Porter was ordered to attack. I allude to the position of the troops when Porter was lying here at Dawkins Branch, where he could attack, and not after they had driven our forces back, and Jackson had formed his line in this position when Porter was then away back behind here, [indicating,] after having retreated or fallen back.

Therefore at the time that Porter was directed to attack on the right flank of Jackson or to attack the right flank of Longstreet—which he could have done; they were in a position where he could have done so if he had marched forward before ten o'clock in the morning; he marched but five miles, he had but three and one-half more to Gainesville—if he had marched but eight and a half miles as he should have done, at a quick pace, he would have struck the cavalry and Jackson's right before Longstreet could come up to his relief. That was Pope's object.

If Porter had done that Jackson would have been forced to retire on Longstreet instead of Longstreet coming up to support him. That would have been the effect, and that was exactly the intention of General Pope.

The Senator from New Jersey may criticise General Pope as much as he pleases in this Chamber, but if the Senator from New Jersey had as much military experience as General Pope, if he had as much knowledge as General Pope, he would have made no such criticism on him as he has. I stand here and do say that General Pope is as gallant and accomplished an officer as any in the Army of the United States; and that is not all. I wish to God that every officer in the Army to-day were blessed with as large a brain as General Pope. No man has ever been maligned or traduced more undeservedly than General Pope. His plan of that battle was perfect. If his plan had been carried out on the 28th, if these men had carried out his directions, if King's division and Ricketts's had held Thoroughfare Gap on the 28th, he would have bagged Jackson. If Porter had marched at daylight that morning, Jackson could not possibly have gotten out before Longstreet and Lee came to his relief. But they failed. When I say they failed, I mean that they fell back in the night from this position, and Pope was then forced to take the other course, which was to send Porter to occupy the position that they had previously occupied, to come in the rear of Jackson, and to interpose between him and Gainesville, and strike him in the flank and rear early that morning. If Porter had obeyed the order, Jackson could not have gotten out of there except with great loss. It would have been an easy matter then for Pope to have withdrawn his forces behind Bull Run, if necessary. Porter would have you understand that he did not want to go further than he did that day because he expected to withdraw behind Bull Run.

There is where he expected to fall back, [indicating.] Here is Bull Run, [indicating.] How could he get to Bull Run by falling back there? That was not the intention. Pope's intention was to go on and to make the connection where he directed, and then here on the Warrenton pike he would fall back behind Bull Run, [indicating Bull Run on the map.] It is said that he could not fall back behind Bull Run if he moved forward. The way to get to Bull Run, the nearest route, was to move forward, get on the Warrenton pike, and then to go back through Groveton.

Let me read further from General Hill's reports to show what was the intention of Jackson then, and what they thought was our intention. General Hill, of the confederate army, says:

The evident intention of the enemy—

Speaking of "the enemy" he means the Union forces—

this day was to turn our left and overwhelm Jackson's corps before Longstreet came up—

Showing he thought he understood what we were doing or trying to do, and he was mistaken. He thought Pope's idea was to overwhelm Jackson's left. Jackson's left was up here by Sudley Springs, [indicating] not down here, [indicating.] There was his left, [indicating.] So that it shows that Pope had deceived the confederates. He made them believe he was going to attack their left flank for the purpose of overwhelming their left. Hill says they drew their forces to Jackson's left because Pope evidently intended to overwhelm his left. The truth is General Pope made them believe that, and they moved here to overwhelm his right. That was his position. He drew the forces from Jackson's right to defend his left while he intended to attack Jackson's right with Porter. And this very report of Hill shows that Pope had succeeded in deceiving them as to where he intended to make his main attack on Jackson's forces. But where he intended to make his attack, where he intended to gain his victory, where he expected to overwhelm Jackson, he failed to have an officer who had a heart in his cause or would be obedient to his orders, and that officer was Fitz-John Porter. General Hill says:

The evident intention of the enemy this day was to turn our left and overwhelm Jackson's corps before Longstreet came up, and, to accomplish this, the most persistent and furious onsets were made by column after column of infantry, accompanied by numerous batteries of artillery. Soon my reserves were all in, and up to six o'clock my division, assisted by the Louisiana brigade of General Hays, commanded by Colonel Forno, with an heroic courage and obstinacy almost beyond parallel, had met and repulsed six distinct and separate assaults, a portion of the time the majority of the men being without a cartridge.

Following that up, let me call your attention to the report of General D. R. Jones, who commanded a division of Longstreet's corps at the second battle of Manassas. You will find that Jones occupied the extreme right of General Longstreet, and inasmuch as it has been claimed that Longstreet was in front of Porter, and as General Jones was on the extreme right of Longstreet, I read from Jones's report to show where he was and what he did:

RICHMOND, VA., *December* 8, 1862.

* * * * * * *

After the repulse of his efforts at flanking, the enemy withdrew his artillery to the plateau on which he had first appeared and kept up a very heavy fire till dark, when, appearances indicating his retreat, I advanced my command and bivouacked beyond the gap unmolested by the enemy. The intense darkness and ignorance of the fords over the creek in my front prevented pursuit.

My entire loss in this engagement was not more than twenty-five.

The number of the enemy engaged amounted to over eleven thousand, under the command of General Ricketts, as appeared from Northern papers. My division of three brigades was alone engaged on our side.

This was the 28th.

Early on the morning of the 29th I took up the line of march in the direction of the old battle-ground of Manassas—

Mark this language—

whence heavy firing was heard.

Early in the morning of the 29th Jones took up his line of march, having been back—in fact, he had been back with Longstreet's command beyond Gainesville, up near Thoroughfare Gap.

Arriving on the ground about noon, my command was stationed on the extreme right of our whole line—

What he means by that is the infantry line, not the cavalry line. He is speaking of their command as a command of infantry. He had the extreme right, he says, of their whole line—

and during the balance of that day was subjected to shelling, which resulted in a few casualties.

What shelling? Not the shelling from Porter's batteries, because the evidence shows that they fired but few shots. Jones's position at that time on the extreme right of Longstreet when they moved forward in the evening to take up their position again, threw him down here, [indicating,] where he came in contact with a battery from these woods. They were delivering a cross-fire over there from the left of our line which was in battle.

Of course it is impossible for me to read all of the evidence to show this, but I state the fact. The report of General Reynolds, who was on the left of General Schenck, General Schenck's evidence, and the evidence of others shows that on the approach of the infantry here [indicating] they manned a battery and shelled it from this position to protect their left, and it was after that shelling that Jones remained there at that time, and not the shelling from Porter.

I will follow that by reading what Major-General J. E. B. Stuart, who commanded the cavalry that day, says in his report. I take it that General Stuart stated it truthfully, as I believe he did, looking from his stand-point. Now, what does he say? This is his report of operations immediately preceding and including the battle of Groveton:

HEADQUARTERS STUART'S CAVALRY DIVISION,
ARMY OF NORTHERN VIRGINIA,
February 28, 1863.

* * * * * * *

That night (25th) I repaired to the headquarters of the commanding general, and received my final instructions to accompany the movement of Major-General Jackson, already begun. I was to start at two a. m., and upon arriving at the brigades that night at one a. m. I had reveille sounded and preparations made for the march at two. In this way I got no sleep, but continued in the saddle all night. I followed, by direction, the route of General Jackson through Amissville, across the Rappahannock at Hinson's Mill, four miles above Waterloo, proceeded through Orlean, and thence on the road to Salem, till, getting near that place, I found my way blocked by the baggage trains and artillery of General Jackson's command. Directing the artillery and ambulances to follow the road, I left it with the cavalry and proceeded by farm roads and by-paths parallel to General Jackson's route to reach the head of his column, which left Salem and The Plains early in the morning for the direction of Gainesville. The country was exceedingly rough, but I succeeded by the aid of skillful guides in passing Bull Run Mountain without passing Thoroughfare Gap, and without incident worthy of record passed through Hay Market, and overtook General Jackson near Gainesville and reported to him. Ewell's division was in advance, and to my command was intrusted guarding the two flanks during the remainder of the pending operations, (26th.)

As Lee's brigade passed Hay Market he received information of a train of forage-wagons of the enemy, and sent out promptly a regiment and captured it. Having made disposition above and below Gainesville on the Warrenton road with cavalry and artillery, I kept with the main portion on General Jackson's right, crossing Broad Run a few miles above Bristoe and intersecting the railroad to the right (south) of that point.

* * * * * * * *

As soon as practicable I reported to General Jackson, who desired me to proceed to Manassas, and ordered General Trimble to follow with his brigade, notifying me to take charge of the whole. The Fourth Virginia Cavalry (Colonel Wickham) was sent around to gain the rear of Manassas, and, with a portion of Robertson's brigade, I proceeded by the direct road to Manassas. I marched until challenged by the enemy's interior sentinels and received a fire of canister.

* * * * * * * *

As soon as day broke the place was taken without much difficulty, and with it many prisoners and millions of stores of every kind.

* * * * * * * *

During the 27th, detachments of Robertson's and Lee's brigades had great sport in chasing fugitive parties of the enemy's cavalry. General Jackson, having arrived early in the day, took direction of affairs, and the day was occupied mainly in rationing the command; but several serious demonstrations were made by the enemy during the day from the north side, a part of the command marching by Centreville and a part directly to Stone Bridge, (over Bull Run,) detachments of cavalry were so arranged as to guard both flanks.

* * * * * * *

The next morning (28th) the main body of Robertson's rendezvoused near Sudley church. General Jackson's were massed between the turnpike and Sudley Ford, on Bull Run, fronting toward Manassas and Gainesville. Colonel Brien (First Virginia Cavalry) had to retire, being hard pressed by the enemy from the direction of Warrenton, and was on the turnpike covering Jackson's front toward Gainesville, and Rosser toward Manassas, where the enemy had also appeared in force early. The remainder of Lee's brigade were still detached on an expedition toward Alexandria. Early in the day a dispatch from the enemy had been intercepted, giving the order of march from Warrenton toward Manassas, and directing cavalry to report to General Bayard at Hay Market. I proposed to General Jackson to allow me to go up there and do what I could with two fragments of brigades I still had. I proceeded to that point, capturing a detachment of the enemy *en route*. Approaching the place by a by-path I saw indications of a large force there prepared for attack. About this time I could see the fight going on at Thoroughfare Gap, where Longstreet had his progress disputed by the enemy, and it was to establish communication with him that I was anxious to make this march. I sent a trusty man with the dispatch to the right of Hay Market. I kept up a brisk skirmish with the enemy, without any result, until in the afternoon, when, General Jackson having engaged the enemy, I quietly withdrew and hastened to place my command on his right flank. Not reaching General Jackson's right till dark, the fighting ceased, and the command rendezvoused as before, but the cavalry under Colonel Rosser had played an important part in attacking the enemy's baggage train. Captain John Pelham's battery of horse artillery acted a conspicuous part on the extreme right of the battle-field, dashing forward to his position under heavy fire.

Now he comes to speak of the 29th. Here is the statement of Stuart. You will find that Stuart makes this kind of a report: He commences on the 25th, goes over his operations on the 25th, then to the 26th, then to the 27th, and then to the 28th. He gives his operations on each day, and then he comes to the 29th.

The next morning, (29,) in pursuance of General Jackson's wishes, I set out again to endeavor to establish communication with Longstreet, from whom he had received a favorable report the night before. Just after leaving the Sudley road, my party was fired on from the wood bordering the road, which was in rear of Jackson's lines, and which the enemy had penetrated with a small force it was afterward ascertained, and captured some stragglers. They were between General Jackson and his baggage at Sudley.

That part of the force I am speaking of, that Pope had undertaken to get between Longstreet and Jackson. Stuart shows that part of Pope's force on the 29th was over there, a straggling part of the force, however, that had fallen back the night before.

I immediately sent to Major Patrick, whose six companies of cavalry were near Sudley, to interpose in defense of the baggage, and use all the means at hand for its protection, and order the baggage at once to start for Aldie. General Jackson, also, being notified of *this movement in his rear, sent back infantry* to close the woods. Captain Pelham, always at the right place at the right time, unlimbered his battery, and soon dispersed that portion in the woods. Major Patrick was attacked later, but he repulsed the enemy with considerable loss, though not without loss to us, for the gallant major himself, setting the example to his men, was mortally wounded. He lived long enough to witness the triumph of our arms, and expired thus in the arms of victory. The sacrifice was noble, but the loss to us irreparable.

I met with the head of General Longstreet's column between Hay Market and Gainesville.

Mark, this report sustains exactly what White said, and what Longstreet, Carrico, and all testify in reference to Longstreet's corps.

I met with the head of General Longstreet's column between Hay Market and Gainesville, and there communicated to the commanding-general General Jackson's position and the enemy's.

The commanding-general was General Lee. He was in company with Longstreet at that time, as the evidence shows.

I then passed the cavalry through the column so as to place it on Longstreet's right flank, and advanced directly toward Manassas—

That is, Stuart advanced with his cavalry toward Manassas—

while the column kept directly down the pike to join General Jackson's right.

Mark what he says. He says he passed by the column. What column? Longstreet's column. He says the column kept directly down the pike. What pike? This is the pike, [indicating.] Stuart says that he went with his cavalry down this road, [indicating.] Here was Porter, [indicating,] but Longstreet kept on from Gainesville down the pike in the direction where the battle was being fought at Groveton. What else?

I selected a fine position for a *battery on the right and one having been sent to me, I fired a few shots at the enemy's supposed position, which induced him to shift his position.* General Robertson, who with his command was sent to reconnoiter farther down the road toward Manassas, *reported the enemy in his front.* Upon repairing to that front, I found that *Rosser's regiment was engaged with the enemy to the left of the road, and Robertson's videttes had found the enemy approaching from the direction of Bristoe Station toward Sudley.*

I wish to call your attention to a fact. It has been argued here that the enemy he found approaching from Bristoe was Porter's command. I wish to correct that. It was Banks's command. Banks was sending a small detachment from Bristoe up here to Landstreet's Mill, and directly from Bristoe. It was Banks's command that Robertson saw moving, and not this other command. I have another map here which shows that Banks got a small portion of his command up there. Banks was at Bristoe within supporting distance of Porter that day.

The prolongation of his line of march would have passed through my position, which was a very fine one for artillery as well as observation, and *struck Longstreet in flank.*

Stuart says, that watching this command, afterward seeing this command of Porter by extending its line of march, it would have struck Longstreet in the flank. What then did he do?

I waited his approach long enough to ascertain that there was *at least an army corps, at the same time keeping detachments of cavalry dragging brush down the road*

from the direction of Gainesville, so as to deceive the enemy, (a ruse which Porter's report shows was successful,) *and notified the commanding general, then opposite me on the turnpike,* that Longstreet's flank and rear were seriously threatened, and of the importance to us of the ridge I then held.

Mark this: General Stuart says that when he saw this command by moving forward would have struck General Longstreet on the flank and rear, he continued to keep brush dragged up and down to create a dust. "From the direction of Gainesville so as to deceive the enemy, (a ruse which Porter's report shows was successful.)" A ruse which Porter's own report shows was successful! How does it show that it was successful? Because Porter reports twenty-five thousand infantry in his front, and here General Stuart says there was nothing in his front. But they were dragging brush up and down the road, and making believe that there was a heavy force there. My friend, the Senator from Indiana, [Mr. McDONALD,] yesterday said that they said twenty-five thousand men were in front of General Porter. I told him I would show him that it was nothing but brush, instead of men.

Mr. CARPENTER. Dust.

Mr. LOGAN. It was dust and brush by which he was attacked, and not men. He was not attacked by an army, but with pine brush, mules dragging them perhaps. Twelve thousand infantry stopped at Dawkins Branch twenty-four hours with a mule drawing brush up and down the road, a few cavalry watching it and laughing at it, and one or two old pieces of artillery shooting cut-off pieces of railroad iron over at the boys. General Stuart goes on to say:

Immediately upon the receipt of that intelligence Jenkins's, Kemper's, and D. R. Jones's brigades and several pieces of artillery were ordered to me by General Longstreet, and being placed in position fronting Bristoe, awaited the enemy's advance.

They were placed in position, and he shows the position in which they were placed. There were three brigades and that is what I said yesterday. But three brigades ever pretended to oppose the advance of this force, and it was after the brush was drawn in the road that they were thrown in position, and the position was up here on the railroad. They were thrown there, [indicating,] one brigade in advance, not on the road Porter was coming, but between the railroad and the road on which he was approaching.

After exchanging a few shots with rifle-pieces this corps withdrew toward Manassas, leaving artillery and supports to hold the position till night.

Brigadier-General Fitz-Lee returned to the vicinity of Sudley, after a very successful expedition, of which his official report has not been received, and was instructed to co-operate with Jackson's left. Late in the afternoon the artillery on this commanding ridge was, to an important degree, auxiliary to the attack upon the enemy, and Jenkins's brigade repulsed the enemy in handsome style at one volley, as they advanced across the cornfield. Thus the day ended, our lines having considerably advanced.

You see that late one of these brigades (Jenkins's) was engaged and repulsed the enemy, which shows that they were far up on the left of our troops that were in battle, and not on the road of Porter, as the troops that advanced on him advanced through the cornfield. Only a few shots were fired at Porter, and he withdrew into the woods. Part of them went to Manassas—a part to one place and a part to another, leaving a few infantry and artillery in support during the night.

There are the facts, and you may take the strongest testimony there is in this case on either side—if General Porter's friends will claim that these three brigades that were sent down there were placed straight across the road to meet his advance, they were not on his road, and one of them engaged in battle with another force, I will venture the assertion that the three brigades did not have in them over five thousand infantry. But, suppose the three brigades had ten thousand men in them, it would have been an even fight, and Porter certainly ought not to have refused to fight. There are the twenty-five thousand confederates who stood in his front and impeded his onward march, according to his statement! But these men were not in his front; they were on the Manassas Railroad, and not the Gainesville dirt road.

General Longstreet, in his report, sustains this proposition. He says:

HEADQUARTERS NEAR WINCHESTER, VIRGINIA,
October 10, 1862.

* * * * * * *

Early on the 29th (August) the columns were united, and the advance to join General Jackson was resumed. The noise of battle was heard before we reached Gainesville. The march was quickened to the extent of our capacity. The excitement of battle seemed to give new life and strength to our jaded men, and the head of my column soon reached a position in rear of the enemy's left flank and within easy cannon-shot.

On approaching the field some of Brigadier-General Hood's batteries were ordered into position, and his division was deployed on the right and left of the turnpike, at right angles with it, and supported by Brigadier-General Evans's brigade. Before these batteries could open the enemy discovered our movements and withdrew his left. Another battery (Captain Stribling's) was placed upon a commanding position to my right, which played upon the rear of the enemy's left and drove him entirely from that part of the field. He changed his front rapidly, so as to meet the advance of Hood and Evans.

Three brigades, under General Wilcox, were thrown forward to the support of the left, and three others, under General Kemper, to the support of the right of these commands. General D. R. Jones's division was placed upon the Manassas Gap Railroad—

Not on this road [indicating] that Porter was on, but the Manassas Gap Railroad. That is where these three brigades were ordered that are reported in Stuart's report, so that only cavalry, brush, and dust are all that have yet appeared on Porter's road—

upon the Manassas Gap Railroad, to the right and in echelon with *regard to the three last brigades.* Colonel Walton placed his *batteries in a commanding position between my line and that of General Jackson,* and engaged the enemy for several hours in a severe and successful artillery duel. At a late hour in the day *Major-General Stuart reported the approach* of the enemy in heavy *columns against my extreme right.* I withdrew General Wilcox with his three *brigades, from the left, and placed his command in position to support Jones in case of an attack against my right. After some few shots the enemy withdrew his forces, moving them around toward his front, and about four o'clock in the afternoon began to press forward against General Jackson's position. Wilcox's brigades were moved back to their former position, and Hood's two brigades,* supported by Evans, were quickly pressed forward to the attack. At the same time Wilcox's three brigades made a like advance, as also Hunton's brigade, of Kemper's command.

These movements were executed with commendable zeal and ability. Hood, supported by Evans, made a gallant attack, driving the enemy back till nine o'clock at night. One piece of artillery, several regimental standards, and a number of prisoners were taken. The enemy's entire force was found to be massed directly in my front, and in so strong a position that it was not deemed advisable to move on against his immediate front; so the troops were quietly withdrawn at one o'clock the following morning. The wheels of the captured piece were cut down, and it was left on the ground. The enemy seized that opportunity to claim a victory, and the Federal commander was so impudent as to dispatch his Government, by telegraph, tidings to that effect. After withdrawing from the attack, my troops were placed in the line first occupied, and in the original order.

During the day Colonel S. D. Lee, with his reserve artillery, placed in the position occupied the day previous by Colonel Walton, and engaged the enemy in a very severe artillery combat. The result was, as the day previous, a success. At half past three o'clock in the afternoon I rode to the front for the purpose of completing arrangements for making a diversion in favor of a flank movement then under contemplation. Just after reaching my front line I received a message for re-enforcements for General Jackson, who was said to be severely pressed. From an eminence near by, one portion of the enemy's masses attacking General Jackson were immediately within my view and in easy range of batteries in that position. It gave me an advantage that I had not expected to have, and I made haste to use it. Two batteries were ordered for the purpose and one placed in position immediately and opened. Just as this fire began I received a message from the commanding general, informing me of General Jackson's condition and his wants. As it was evident that the attack against General Jackson could not be continued ten minutes under the fire of these batteries, I made no movement with my troops. Before the second battery could be placed in position the enemy began to retire, and in less than ten minutes the ranks were broken and that portion of his army put to flight. A fair opportunity was offered me, and the intended diversion was changed into an attack. My whole line was rushed forward at a charge. The troops sprang to their work, and moved forward with all the steadiness and firmness that characterize war-worn veterans. The batteries continuing their play upon the confused masses completed the work of this portion of the enemy's line, and my attack was, therefore, made against the forces in my front. The order for the advance had scarcely been given when I received a message from the commanding general, anticipating some such emergency, and ordering the move which was then going on, at the same time offering me Major-General Anderson's division. The commanding general soon joined me, and a few moments after Major-General Anderson arrived with his division. The attack was led by Hood's brigade, closely supported by Evans. These were rapidly re-enforced by Anderson's division from the rear, Kemper's three brigades, and D. R. Jones's division from the right and Wilcox's brigade from the left. The brigades of Brigadier-Generals Featherston and Pryor became detached and operated with a portion of General Jackson's command. The attacking columns moved steadily forward, driving the enemy from his different positions as rapidly as he took them. My batteries were thrown forward from point to point, following the movements of the general line. These, however, were somewhat detained by an enfilade fire from a battery on my left. This threw more than its proper share of fighting upon the infantry, retarded our rapid progress, and enabled the enemy to escape with many of his batteries, which should have fallen into our hands. The battle continued until ten o'clock *at night, when utter darkness put a stop to our progress.* The enemy made his escape across Bull Run before daylight. Three batteries, a large number of prisoners, many stands of regimental colors, and twelve thousand stands of arms, besides some wagons, ambulances, &c., were taken.

I asserted this morning that during the whole time Porter was there he never had anybody in his front except a picket line of cavalry and one little battery over by the Carrico house, supported by Stuart's cavalry, and late in the evening three brigades of infantry were thrown up here on the railroad. That is all there was to support Jones, not on Porter's road and not in Porter's way, and we find by this report that the three brigades were late in the evening withdrawn and pressed forward into battle on Pope's left, leaving only Jones upon the Manassas Railroad, and on Porter's road Stuart's cavalry was the only force in front of Porter.

I now desire to call attention to the report of General Robert E. Lee of the first day, second Bull Run, August 29, 1862. It is as follows:

The next morning, the 29th, the enemy had taken a position to interpose his army between General Jackson and Alexandria, and about ten a. m. opened with artillery upon the right of Jackson's line. The troops of the latter were disposed in rear of Groveton, along the line of the unfinished branch of the Manassas Gap Railroad, and extended from a point a short distance west of the turnpike toward Sudley Mill, Jackson's division, under Brigadier-General Starke, being on the right; Ewell's, under General Lawton, in the center, and A. P. Hill on the left. The Federal Army was evidently concentrating upon Jackson, with the design of overwhelming him before the arrival of Longstreet. The latter officer left his position, opposite Warrenton Springs, on the 26th, being relieved by General R. H. Anderson's division, and marched to join Jackson. He crossed at Kinson's (Hinson's) Mill in the afternoon and encamped near Orlean that night. The next day he reached the White Plains, his march being retarded by the want of cavalry to ascertain the meaning of certain movements of the enemy from the direction of Warrenton, who seemed to menace the right of his column.

On the 28th, arriving at Thoroughfare Gap, he found the enemy prepared to dispute his progress. General D. R. Jones's division being ordered to force the passage of the mountain, quickly dislodged the enemy's sharpshooters from the trees and rocks and advanced into the gorge. The enemy held the eastern extremity of the pass in large force, and directed a heavy fire of artillery upon the road leading through it and upon the sides of the mountain. The ground occupied by Jones afforded no opportunity for the employment of artillery. Hood, with two brigades, and Wilcox, with three, were ordered to turn the enemy's right—the former moving over the mountain by a narrow path to the left of the pass, and the latter farther to the north, by Hopewell Pass. Before these troops reached their destination the enemy advanced and attacked Jones's left, under Brigadier-General G. T. Anderson. Being vigorously repulsed, he withdrew to his position at the eastern end of the gap, from which he kept up an active fire of artillery until dark, and then retreated. Generals Jones and Wilcox bivouacked that night east of the mountain, and on the morning of the 29th the whole command resumed the march, the sound of cannon at Manassas announcing that Jackson was already

engaged. Longstreet entered the turnpike near Gainesville, and moving down toward Groveton, the head of his column came upon the field in rear of the enemy's left, which had already opened with artillery upon Jackson's right, as previously described. He immediately placed some of his batteries in position, but before he could complete his dispositions to attack, the enemy withdrew, not, however, without loss from our artillery. Longstreet took possession (position?) on the right of Jackson, Hood's two brigades, supported by Evans, being deployed across the turnpike, and at right angles to it. These troops were supported on the left by three brigades under General Wilcox, and by a like force on the right under General Kemper. D. R. Jones's division formed the extreme right of the line, resting on the Manassas Gap Railroad. The cavalry guarded our right and left flanks, that on the right being under General Stuart in person. After the arrival of Longstreet, the enemy changed his position, and began to concentrate opposite Jackson's left, opening a brisk artillery fire, which was responded to with effect by some of General A. P. Hill's batteries. Colonel Walton placed a part of his artillery upon a commanding position between Generals Jackson and Longstreet, by order of the latter, and engaged the enemy vigorously for several hours. Soon afterward General Stuart reported the approach of a *large force from the direction of Bristoe Station, threatening Longstreet's right. The brigades under General Wilcox were sent to re-enforce General Jones, but no serious attack was made, and after firing a few shots the enemy withdrew. While this demonstration was being made on our right a large force advanced to assail the left of General Jackson's position, occupied by the division of General A. P. Hill.* The attack was received by his troops with their accustomed steadiness, and the battle raged with great fury. The enemy was repeatedly repulsed, but again pressed on the attack with fresh troops. Once he succeeded in penetrating an interval between General Gregg's brigade, on the extreme left, and that of General Thomas, but was quickly driven back with great slaughter by the Fourteenth South Carolina Regiment, then in reserve, and the Forty-ninth Georgia, of Thomas's brigade. The contest was close and obstinate; the combatants sometimes delivered their fire at ten paces. General Gregg, who was most exposed, was re-enforced by Hays's brigade, under General Forno, and successfully and gallantly resisted the attack of the enemy until, the ammunition of his brigade being exhausted and all its field officers but two killed or wounded, it was relieved, after several hours of severe fighting, by Early's brigade and the Eighth Louisiana Regiment.

General Early drove the enemy back with heavy loss, and pursued about two hundred yards beyond the line of battle, when he was recalled to the position on the railroad, where Thomas, Pender, and Archer had firmly held their ground against every attack. While the battle was raging on Jackson's left, General Longstreet ordered Hood and Evans to advance, but before the order could be obeyed Hood was himself attacked, and his command became at once warmly engaged. General Wilcox was recalled from the right and ordered to advance on Hood's left, and one of Kemper's brigades, under Colonel Hunton, moved forward on his right. The enemy was repulsed by Hood after a severe contest, and fell back, closely followed by our troops. The battle continued until nine p. m., the enemy retreating until he had reached a strong position, which he held with a large force. The darkness of the night put a stop to the engagement, and our troops remained in their advanced position until early next morning, when they were withdrawn to their first line. One piece of artillery, several stands of colors, and a number of prisoners were captured. Our loss was severe in this engagement. Brigadier-Generals Field and Trimble and Colonel Forno, commanding Hays's brigade, were severely wounded, and several other valuable officers killed or disabled, whose names are mentioned in the accompanying reports.

Here General Lee shows that Jones was the extreme right of Longstreet, and that Jones's right rested on the Manassas Gap Railroad, which was far from being on Porter's road, so that by no witness of all the confederates can Porter get anything but a small force of cavalry in his front.

Mr. President, I hope at least that in the examination of this testimony I have treated it fairly. One thing at least ought to strike the mind forcibly in reference to the very point that I have been attempting to maintain in this case: Porter's disloyalty to his commander and his willful disobedience of his orders. The argument which I have made is that under our articles of war disloyalty to his commanding officer shown by disobedience of orders was just as criminal as disloyalty to his Government, and by his disobedience of orders I assert the fact that he is responsible for the loss of the battle of the 29th. And the fact that he failed to strike the enemy as he was ordered to strike him, lost us the courage the men should have had, and lost us the battle of the next day and the next, and our losses on account of his failure in those three engagements were twenty thousand men, thirty guns, and an immense amount of property. When I say thirty guns, I mean thirty cannon; how many small arms I do not know. I attribute this whole loss to Fitz-John Porter; for by obeying the first order on the night of the 27th of August, 1862, he would have struck terror into Jackson's forces by moving and being there promptly at daylight; their scouts would have known the force that was coming, and Jackson would have, in my judgment, retreated that day. But by failing then, first, he gave Jackson a chance to prepare for battle; by failing, second, during the battle he gave Jackson a chance to re-enforce himself with twenty-five thousand more men under Longstreet, which gave the battle to the confederates and produced a great disaster to us.

Sir, our troops were dispirited on the 29th. "Oh, but," they say, "he fought gallantly on the 30th." Yes, sir; the Fifth Army Corps would have fought gallantly at any time, and if he had allowed the Fifth Army Corps to go in and fight on the 29th, they would have fought gallantly. The Fifth Army Corps may have fought gallantly a thousand times; but the failing on the 28th and 29th was the cause of the failure of this whole force, and he is responsible for it. It will not do to say that he came up next day and fought. I read the order last night that caused him to go up the next day. General Pope directed him to report with his command in person to him on the field of battle, which he obeyed, not strictly, but that was the reason he came up on the 30th.

It will not do to charge as the Senator from New Jersey has charged General McDowell with bad faith when General McDowell went in on the 29th and fought gallantly late in the evening and his losses were heavy. It will not do to charge General Pope with being an ignoramus or with going around without knowing what his command was doing. General Pope is not on trial. Every officer of the Army who knows General Pope knows better than this. I served in the Army with him as well as many others here. I know him to be a gallant soldier and, in my judgment, an officer of great merit. It will not do for the Senator from New Jersey to charge Douglas Pope, the poor man who is dead, with having committed perjury. I say to him that by that charge, which is unsustained, he has created a feeling in the town of Springfield in my State, where Douglas Pope resided, anything but friendly toward the person who ventured to put forth such a calumny.

Why, sir, Douglas Pope's family is well and favorably known in the West. That, however, does not protect him if he did wrong. But he is sustained by divers and sundry witnesses, and even by the dispatches of General Porter himself, which show that General Porter received that order in accordance with the statement of Captain Douglas Pope. The Senator intimated that Douglas Pope had acknowledged to two officers of the Army that he swore falsely. The evidence is here; and the Senator's statements are no better sustained in that particular than they were in regard to General McDowell having made a false report or having sworn falsely; and the Senate knows how illy he was sustained in that statement when the evidence was produced.

Now, sir, I have always understood when a man in his cool, sober moments acknowledged that he did a wrong, that was no reason why he should be excused from it; but, before I proceed to that, I will reply to the statement of the Senator from New Jersey in reference to Abraham Lincoln before his assassination having himself repented of his action in this case. Abraham Lincoln is dead. In my judgment few greater or purer men ever lived in this or any other country, and but few better lawyers. No kinder or more generous heart ever beat in human breast. One thing I do know: Abraham Lincoln approved this sentence. He never changed that order. If Abraham Lincoln had repented he would have said so publicly. He had manhood and moral courage sufficient to do it. I only say I do not credit the statement.

Further, I say, that the accusation against General Pope or General McDowell in reference to pressing the prosecution against Porter before the court martial is equally untrue. The letters written to General Burnside, sent by him to General Halleck, and laid before the President, produced conviction on their minds that Porter disobeyed the orders intentionally because he did not intend that Pope should win the battle, and that was the reason why he was tried, and by proper testimony he was condemned. It was because the evidence sustained that fact before nine high officers, as competent and as honorable as any who have graced any position.

Ah, sir, prejudice produced this conviction, it is said! What kind of prejudice? Here is the evidence, here is the long story which has been told by confederates and by Union men. The same story is told and repeated o'er and o'er again, that he failed to do his duty; and yet this country is asked to clothe him with honors by saying he was improperly convicted, to restore him to the Army and pay him a large amount of money for loss of time.

Now let me read in the conclusion of this evidence a little testimony. You have all read it, I presume, but I will read it here inasmuch as it has been sworn to before this board of three officers that certain Senators think was so high, so great, so noble, so patriotic, so powerful, so learned that it shall overturn the decision of nine sworn men equally as noble, as honorable, as learned as themselves! And inasmuch as they think this board had such great power, when in fact it had no power whatever, let me read some of the evidence in reference to Fitz-John Porter's own statement.

William B. Lord testified before this board that at the time Fitz-John Porter was being tried he told him (Lord) that he was not loyal to Pope. That was exactly what we tried him for. I see one of my friends smiles. Let us see what Lord swore to. Here is a letter that he wrote at the time to his own wife. He did not write it to be made public. He was a friend of Fitz-John Porter, and he says:

Question. Will you state, substantially, what that interview was, and what General Porter said?

Answer. I had been directed by the judge-advocate of the court to proceed to the rooms of General Porter and to look for some telegrams that had been introduced in evidence that day, and that had been mislaid in some way. While there looking over some papers General Porter made the remark, "I was not loyal to Pope; there is no denying that."

Q. Do you recall anything else that he said in that connection?

A. I cannot say that I do, and I doubt if I should recall that now but for the peculiarity of the circumstance, and the fact that I made a record of it myself a few days afterward; otherwise, I think likely I should have forgotten it.

Q. That was during the progress of his trial before a general court-martial?

A. It was.

The PRESIDENT OF THE BOARD. The decision is that the letter is admissible for the purpose stated by counsel, namely, not to prove the fact, but to test the credibility of the witness.

By the RECORDER:

Q. You have stated in your cross-examination that the feelings which had actuated you you expressed at the time you wrote that letter to your wife. It was not called for by the counsel for the petitioner; I will call for it. Please let me know what you stated on the subject, if you have that letter here.

(Witness produces a book.)

A. Shall I read?

Q. Just that part and no more.

The witness read as follows:

"I have been a little bothered about General Fitz-John Porter. I had to go to his room on Monday to get some papers that belonged to the court that he had had to

copy. One of the reporters of the New York Times was along with me. While in the room, after some conversation, General Porter made the remark, Well, I wasn't loyal to Pope; there is no denying that.' Now, that is really the charge against him before the court-martial—that he did not do his duty as an officer before the enemy, and that he did not act rightly toward General Pope, his commanding officer. General Porter said what he did in the privacy of his own room; without thinking of the effect of his words. After thinking it over, I have concluded it better not to say anything about it now, though I would not promise as much for that newspaper correspondent."

Q. That is your letter-press copy of your letter to your wife?

A. It is.

Q. Do you retain usually letter-press copies of your letters to your wife?

A. All of my correspondence.

Q. Do you know whether or not some one may not have heard the same language, at some other time, or an affidavit made on the subject and communicated to Senator Chandler?

A. I know nothing about that.

That is what Lord wrote to his wife. He was called before this board to testify, and he testified to these facts. If Fitz-John Porter admitted to his own friends—because Lord was his friend—if Fitz-John Porter would make such a statement to any party during his trial, that he was not loyal to General Pope, I ask the Senate how they then can say that he was loyal when he himself has said he was not. I ask if there is any Senator here who can tell me or who will tell me why it is that this evidence does not prove what we have stated, and from his own mouth.

But without that evidence—throw it all out—facts cluster around this case in such abundance, no one can dispute the proposition that Porter was disloyal to Pope and disobeyed his orders because he did not intend that Pope should win a victory.

I would like to ask Senators what they would think of any one in command of an army who would send a note to one of his own officers telling him to be faithful to his commanding officer? Would it not imply that he suspected him? He would take it as an insult. Suppose I were in the Army, under the command of the General of the Army, a brilliant soldier as he is, and he should write to me, "LOGAN, be faithful; support your commanding officer;" how do you suppose I would take it? General as he is, I would tell him to attend to his own business. I would take it as an insult for any man to tell me to be faithful to an officer under whom I was serving. It would be an insinuation against my character, against my loyalty, against my integrity, and so any honorable man would view it. I know that the General of the Army would say no such thing to any subordinate of his, for he would expect him if he were a subordinate to do his duty, and if he did not do his duty he would arrest and try him for the dereliction. He would not engage in little notes to suggest to him to be loyal.

On the 1st day of September, 1862, after Fitz-John Porter had performed, as he did on the 28th and 29th of August, General McClellan wrote Porter a letter. McClellan is a gentleman against whom I have naught to say, but he is the officer of whom Porter kept speaking all the time in his dispatches to General Burnside, saying: "My star is up, and I hope Mc's is too." "Mc" was ever foremost in his mind, and "Mc" writes him a note on the 1st of September, three days after the battle. He says:

WAR DEPARTMENT,
September 1, 1862—5.30 p. m.

I ask you for my sake, that of the country, and of the old Army of the Potomac that you and all friends will lend the fullest and most cordial co-operation to General Pope in all the operations now going on.

This three days after the battle of the 29th.

The distresses of our country, the honor of our arms are at stake, and all depends now upon the cheerful co-operation of all in the field. This week is the crisis of our fate. Say the same thing to all my friends in the Army of the Potomac, and that the last request I have to make of them is that for their country's sake they will extend to General Pope the same support they ever have to me. I am in charge of the defenses of Washington. I am doing all I can to render your retreat safe, should that become necessary.

GEORGE B. McCLELLAN,
Major-General.

Major-General PORTER,
Centreville, Commanding Fifth Corps.

General McClellan, the shining star in the eye of Porter all the time, whom he almost worshipped, had become so suspicious of Porter's conduct and so well satisfied of his bad faith toward General Pope, that on the 1st day of September he says: "Be faithful for my sake and for the country's sake; be honest; support Pope." Why did General McClellan tell Porter to support Pope if he thought he had supported him? Why did he say: "I am in charge of the defenses of Washington and will make your retreat safe if you have to retreat?" To give Porter encouragement, to keep him from running away before the time. It may have been from that and to keep his mind off Alexandria, for it seemed to be running in that direction all the time, to let him know they were fixing a place for him in Washington City if he had to come back.

Mr. President, it will not do for Senators to stand up before this country and justify the conduct of Porter. There is no justification for it; and, more than that, I say to my friends on the other side of the Chamber, who fought us like men and stood by the cause they espoused, that for them to restore to our Army officers whom we punished for treachery during the war, is a piece of bad faith; it is an appeal which ought not to be made; it is a position in which they ought not to be placed. I should dislike very much to have my friends undertake to place me in a position of this kind toward them in reference to the manner in which they dealt with their army or their disobedient officers if the case were reversed.

Sir, I say it not out of any criticism; I say it not out of any feeling, not out of any desire to call up the past—but I say that you of confederate fame are the last men who ought to restore to the Army those who were expelled from it, against the will of those who opposed you. If we desire to restore them let us ask it to be done and request you to help us; but, as I said, it does not come with good grace from you because a majority, forsooth, is on that side of the Chamber to-day to commence putting back in the Army the men whom the loyal people of this country dismissed from the Army on account of misbehavior. When I say misbehavior I mean misconduct during the war. After that period, of course, it is a matter we all have the right to look at in the same way. I say this not by way of censure, but simply to call to the mind of my friends that it is not in very good taste on the part of those who engaged on neither side in the Army to ask those who did, to do that turning of the dirt for them that they were not able to do themselves.

Mr. President, since armies were known and since battles were fought there have been failures on the march, in the line, and in terrible conflict. I state it now as a rule that the man in command of troops, whether a small command or a large one, who will sit down under the very muzzles almost of the guns of the enemy while his brother officers and soldiers are struggling in the heat of conflict with an enemy, and fail to succor them, is unworthy the name of soldier. Talk to me about orders! Why, sir, I would not wait for orders. What man would want orders if he were sitting with ten thousand men under the very sound of the guns of the enemy and, seeing his comrades worsted, yet refuse to go in and fight? Who would say, "I have received no orders?" Half of the battles that were fought during the late war and other wars were fought without express orders to subordinates.

Why do I say this? Because the battles were sudden, and the enemy struck suddenly. In one of the greatest battles in which I was ever engaged there were no orders on the battle-field that day except as orders passed from one to the other in reference to movements, and not a solitary general order was issued at the hotly contested battle of Atlanta. Why? Because every officer who commanded a division that was in line of battle, wherever he saw he could fight, did go in and fight, and by night every commander was in the fight without being ordered except by sending to him to say, "Put your men in here, or if you find a place to go in, do it." Why, sir, it is a thing impossible to do, except as you can see the movement of troops, and the commanding general will only give general orders to his officers and let them exercise their judgment when they get into a fight. They must exercise their judgment; they are compelled to do it. The general commanding cannot see the whole line; he cannot understand the whole movement. Judgment must be exercised. Hence I say the officer who wants orders for every movement he makes in battle, when he sees that he can assist or aid his comrades, is not a good general, is not a good soldier, and ought not to be in command of troops. Yet it is insisted Porter was a good general. I do not dispute that he was a brave man; I have not disputed it; but I only say that he failed at that time. If he be a brave man, if he be a good soldier, so much the worse for him then, so much the more strongly does he prove that he did not intend to fight for General Pope; that he did not intend to obey him. If he were a good soldier and a truly brave man, so much the worse for him in this case.

We have some notable cases in history and my smiling friend yonder, [Mr. EATON,] being a good historian, will well remember them. I do not single him out for any reason except that I see he is always in a good humor. We remember well the history of the battle of Waterloo. Grouchy failed Napoleon Bonaparte. Napoleon lost that battle, and with the loss of that battle his empire. Porter failed Pope, and with that failure Pope lost the battle of Groveton. The loss of that battle and the loss of the next day postponed the success of the Union cause much longer than it would have been, and brought untold suffering and loss of life upon the country.

Now, sir, for myself alone I speak. In conclusion I wish to enter my protest against this bill. I desire to say before I conclude that I am deeply grateful to the Senate for its kindness in giving me audience for four days, not because of what I have said, but because of the interest that is manifested in having this case fairly understood. I shall ever remember it with gratitude to my brother Senators, who have not paid me an empty compliment but have given me their ear and their attention. My only excuse is, as I have said, these immense volumes in which every word has to be read, examined, and the evidence culled bearing upon the case.

Then, sir, in conclusion I say as an American citizen, as a Senator of the United States, I do most sincerely and earnestly protest against the passage of this proposed bill.

By every remembrance of gratitude and loyalty to those whose faithful devotion preserved their country, I must protest against this stupendous reward to him who, the judgment of the court say, faltered in duty and failed in honor in the hour of peril and climax of battle.

I protest because the precedent sought to be established would prove a source of unknown evils in the future. It would stand hereafter as an incentive to military disobedience in the crisis of arms, and as an assurance of forgiveness and emolument for the most dangerous crime a soldier can commit.

I protest because every sentence heretofore executed upon subordinates in the service for minor offenses would stand as the record of a cruel tyranny if this supreme crime is to be condoned and obliterated and its perpetrator restored to rank and rewarded with pay.

I protest because the spirit of patriotism, upon which alone we must rely in the nation's need, hereafter will be shamed and subdued by inflicting this brand of condemnation upon those patriotic men who began and conducted the original proceedings, and sanctioned the original sentence, as well as upon others equally patriotic, who affirmed the sentence and refused to annul its just decree.

I protest because the money appropriated by this act will be money drawn from the Treasury in furtherance of an unauthorized purpose, and in defiance of the rules of law.

I protest because the bill is loaded with startling innovations. It overrides statutes, and is the exercise of unconstitutional power. It subverts the order of military promotion, and postpones the worthy to advance the unworthy. Its tendency is to applaud insubordination. Its effect will be to encourage dereliction of duty. The soldier and the civilian will alike feel its baneful influence; for such an error, if once permitted to creep into our system of laws, can never be eradicated. Upon every motive for the public good, without one impulse personal to myself against the subject of the bill, with every proper remembrance of the past tempered by every proper conciliation in the present, but looking sternly at the inevitable consequences in the future, I protest against this enactment as a duty I owe to the country, which I cannot and would not avoid.

Liberalities of Trade—Consular and Diplomatic Relations.

SPEECH OF HON. SAMUEL S. COX,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Monday, March 29, 1880,

On the bill (H. R. No. 3035) making appropriations for the consular and diplomatic service of the Government for the fiscal year ending June 30, 1881.

Mr. COX. Mr. Chairman, I regret that I was mistaken as to the time fixed for the debate on the diplomatic bill. My absence on Saturday, when the debate began, seems to have been noticed; the more so as I am a member of the Foreign Affairs Committee. It seemed proper to my friends to indulge in certain criticisms on the non-action of that committee as to any reform in this foreign service.

I have failed in no duty as a member of that committee or of this House. There is scarcely a bill or petition sent us but has had consideration, and the body of the preliminary work required of us has been carefully done. We have sent to the House more bills, and have had better success with them than is customary. On behalf of the committee, I desire to thank the House for its good opinion of this committee, with, however, some reservations. When the House last week sent to us the pregnant issues about the isthmian connection between the two grand oceans of this planet—even to the extent of ignoring somewhat the engineering and canalization *projets* referred to another honorable committee, we felt that we had in an unbounded degree the confidence of this House. That confidence will not be disregarded.

But when this House gave us in charge the larger question of sending to them our opinion of the power of making conventional treaties as to tariff affairs, why did it, *in medias res*, and while we were studiously examining authorities and reaching our conclusions on a resolution from my colleague, [Mr. WOOD,] cut us off by passing the resolution of the gentleman from Pennsylvania [Mr. KELLEY] declaring against the treaty-making power as to reciprocity or tariff treaties? If there is a lawyer in this House, will he look to Rawle, 58 *et seq.* for the authority?

It is not for a committee to criticise the action of the House: but when we began to find that the best decisions and authorities allowed the Executive to exercise the supreme prerogative of making treaties, was it just to throttle our inquiries or estop our conclusions? If tariff legislation here is concluded, if the House is to be shut off from aiding commerce by enlarging its liberalities and opportunities, why should we not be allowed, without the *ukase* of the House under a two-thirds vote, to perform the functions assigned us? Mark me, Mr. Chairman, this question is just on the threshold, and if the majority of the Foreign Affairs Committee sustain its chairman, this Congress will yet have the coveted chance of passing something that will relieve the American people from odious restrictive and prohibitory tariff laws. If there be no other remedy, I trust that the Foreign Affairs Committee will have the nerve to find and the pluck to report it. If the voice of the people cannot find its vent in one way, it may in another and quite an unexpected way.

It is useless and unkind in gentlemen to say that the Foreign Affairs Committee are not timely in their duty, and dutiful up to all the instructions of the House.

Suppose, sir, we had reported a bill for reciprocal trade with France, Canada, or Mexico—all referred to us! Where and how, under the rules, could such a bill have been brought up? Why sir, my immigration bill, reported before the holidays, was sent to this House and from thence to the Committee of the Whole; and there it sleeps! For weeks I endeavored, as chairman of the Census Committee, to forward the preparation and printing of the schedules, indispensable for 1880, and for the representation and ratio on which this Government is founded, with what result, consult the RECORD and the efforts of my colleague [Mr. THOMPSON, of Kentucky] to consummate this most urgent work.

It was easy for my good friend from Illinois [Mr. TOWNSHEND] to write at his desk, on a little bit of paper, a resolution to instruct the Committee on Foreign Affairs to reconstruct the whole consular and diplomatic system. But it is not so easy to go through the labyrinths of the State Department and of the Fifth Auditor's Office to ascertain where to lop off and where to ingraft, so as to give vigor to the growth of an honest foreign system. It was not easy when the committee itself—not speaking for myself—was not inclined to such a task. It was not easy for a conscientious member or committee to do it in haste, for waste would follow hurried and immature legislation.

ABSURDITY OF FOREIGN MISSIONS.

But, sir, on this occasion I speak for myself alone, when I say that it is no new idea with me, nor is its expression unfamiliar to our RECORD, that the lessons as to the inutility, expensiveness, obsoleteness, unrepublicanism, and absurdity of the present diplomatic system are those which are ingrained as a part of the simplicity of our people and our dignity as a Republic!

Do you want, sir, to know why we have outgrown the silly systems of gold lace, cocked hat, silver buckles, knightly sword, circus spangles, and endless etiquette and formality, such as hedged about the kings and princes of the Old World, when embassadors presented their pregnant hinges before the thrones which fraud and force erected upon the petrefaction of human liberty?

Our minister to England receives $17,500. Is it too small? According to the New York Tribune, $40,000 ought to be appropriated. Why? Let this extract from that influential journal answer:

> The salary is $17,500, and the minimum additional expense is placed by those who have the means of knowing at $24,000 per annum. This added sum makes provision only for such style of living and entertaining as are inseparable from the position. Some of the American ministers to England have expended about $40,000 above their salaries, but it is regarded as possible to do all that the position calls for by an extra outlay of $24,000. These figures were supplied two years ago to friends of a gentleman who was named in connection with the place, and who desired before deciding whether he could accept to know the extra expense, so as to determine whether he could afford to incur the necessary outlay from his private means.

Living and entertainment! Shades of Franklin, Jay, and Livingston! The reasons given should lead to a reduction of salary or to the expunging of the mission entirely. Why not?

From the New York Evening Post I find that our eminent poet, Mr. Lowell, complains that his business at Madrid is to tell the people when the museums are open, what theaters to go to, who are the best milliners and tailors, and when presentations are to be made at court. And this it is to be representative of the new order of this new hemisphere, with its progress and liberties! It must be a relief to the eminent author, the master of Yankee wit and happy verse—this friend of our younger days of literature—to be transferred from useless and silly work, in the bull-ring at Madrid, to the gentler duty of ringing the nose of John Bull, at Saint James!

The overruling necessity of this Republic is not ostentation at foreign courts, nor deference to foreign kaisers, kings, czars, or sultans. Our continent was made of rich loamy valleys, and rich mineral mountains, for a better purpose than to deck popinjays, or gratify vanities. God meant our land as an asylum, a refuge, a home, and more, a land overflowing with milk and honey, food overflowing into other lands where armies muster by millions and taxes eat up the substance of toil. Our destiny, and our comfort too, lies in our interchanges between peoples, not governments, between men not manikins! Yet, with all our surplus of opulence, and our inventive genius, provoked into restless activity by our farming energy and our marine enterprise, we have allowed our carrying trade to be done by others, by our rivals! How much have we lost by our legislative inactivity and stupidity? In the past fifteen years, sixty millions a year. Why, sir, in 1879, our exports were 11,149,160 tons surplus; our imports, 3,782,530. What was their value? Over one billion and a half. Of this immense trade, what proportion did we transport? One-third! Foreign vessels shipped for us—the enterprising nation of the new hemisphere—$1,133,000,000.

What a comparison might I not here institute as to the utility of our dilettant embassadors and their *suites*, and the consulates whose duty is to look up and look after our commerce! Why, in 1851 the ocean trade with us was $433,000,000; but then, sir, we did carry under our Star-and-Stripe ensign three hundred and sixteen millions of this sum. What was it in 1877? Our trade had grown colossal. It was $1,173,000,000, but the foreign flag sheltered $858,000,000. Before our civil war, in 1857, we built ships—twenty-five millions' worth; in 1879 only eleven millions, and that, too, while navigation laws were in full effect. Was it our exclusive navigation laws that effected such results, or was it—was it, sir, the restrictive and prohibitive system which forbade a vessel to be made in Maine, New York, or Delaware, unless at a cost 33 per cent. more than in Nova Scotia or on the Clyde?

The object of these remarks is not to make a satire on the "decayed politicians" who represent us abroad. True, it seems that wealth, and not a knowledge of foreign languages, politics, economy, or

affairs seem to be a prerequisite for embassadorial honors. If it were not so, why should the English and Russian missions have been huckstered about among shoddy folk? Once, scholars and statesmen were selected to honor our nation at such posts. What statesmen we once had! Livingston, Jefferson, Franklin, Monroe, Buchanan, Dallas, the elder Adams, Bancroft, Everett, Motley. They did not need long purses. Then diplomatic profession did not lead to or follow the miserable piles of pelf. Whenever European governments sent their gewgaw representatives, decked in their gay plumage, and gave them palatial residences in spacious gardens, at Paris, London, Rome, or St. Petersburg, the American minister did not lose by his frugality and simplicity. Fine clothes did not represent the nation. "*L'habit ne fait pas le moine.*" Our nation was not embroidered to suit the foreign taste. Even Monsieur *Ennui* loved Franklin for his plain garb. The American minister, if he is at all conscious of representing our fifty millions of honest people, must feel lost in the gorgeous outlay and sumptuous luxury of a diplomatic plutocracy.

NECESSITY OF FREER TRADE.

No, Mr. Chairman, our supremacy is not to be fought around a diplomatic *menu*. Our struggle is for the markets of the world; our relations are not ministerial, but commercial; our foresight is in seizing by barter and industry the wealth of the nations; our advancement lies in the systematic guidance of our trade, under the best direction of science; our problem is to gather into one grand total the golden resources of the Orient and Occident, and reach for them by all the energies of gallant endeavor! Let us provide for arranging, analyzing, combining, deducing, and presenting our social, agricultural, and mechanical problems, so that we may know where and how to trade—how to put the girdle around the earth for our own prosperity and that of the world.

What a splendid tournament of trade are we not invited to enter! The battle is just beginning. Its herald announces "freedom of intercourse" as the sign of conquest. Reduce this table, printed below, to a graphic picture and see the knights of the nations enter for the prize! Great Britain by her superior liberalities, shows us with her colonies, a trade of imports of $2,526,000,000 last year; and of exports, nineteen hundred and ten millions. Her trade with us is of imports, four hundred and thirty-nine millions; and one hundred and forty-four millions exports! Our trade is only four hundred and thirty-seven millions imports, and six hundred and ninety-five millions of exports; but we have a balance of two hundred and fifty-eight millions! Yet are we not below Germany, France, and Great Britain?

But if we would look to our probabilities what an opportunity for splendid rivalry is opening. Let this table answer:

Countries.	Trade with the world.		Balance.		Trade with the United States.	
	Imports.	Exports.	For.	Against.	Imports.	Exports.
Great Britain and Ireland	$1,917,000,000	$1,226,000,000	.....	$690,000,000	$378,000,000	$97,000,000
Australia	228,000,000	215,000,000	.....	13,000,000	7,000,000	1,000,000
British India	182,000,000	297,000,000	$115,000,000	.....	4,000,000	14,000,000
British North America	99,000,000	76,000,000	.....	23,000,000	38,000,000	22,000,000
All other British dependencies	100,000,000	96,000,000	.....	4,000,000	11,000,000	10,000,000
Total of British Empire	2,526,000,000	1,910,000,000	115,000,000	731,000,000	439,000,000	144,000,000
Germany	1,177,000,000	905,000,000	.....	272,000,000	55,000,000	33,000,000
France	709,000,000	663,000,000	.....	46,000,000	58,000,000	42,000,000
United States	437,000,000	695,000,000	258,000,000	.....	.....	.....
Russian Empire, (1876)	367,000,000	308,000,000	.....	59,000,000	11,000,000	1,000,000
Netherlands	300,000,000	217,000,000	.....	83,000,000	11,000,000	3,000,000
Austria-Hungary	260,000,000	297,000,000	37,000,000	.....	25,000,000	4,000,000
Belgium	275,000,000	207,000,000	.....	68,000,000	3,000,000	3,000,000
Italy	223,000,000	187,000,000	.....	36,000,000	8,000,000	7,000,000
Turkish Empire, (estimated)	150,000,000	120,000,000	.....	30,000,000	2,000,000	12,000,000
Sweden and Norway, (1876)	145,000,000	108,000,000	.....	37,000,000	1,000,000	500,000
China	107,000,000	99,000,000	.....	8,000,000	10,000,000	3,000,000
Spain	110,000,000	90,000,000	.....	20,000,000	8,000,000	43,000,000
Brazil, (1876)	94,000,000	100,000,000	6,000,000	.....	1,000,000	333,000
Denmark	56,000,000	41,000,000	.....	15,000,000	2,000,000	.....
Argentine Republic	39,000,000	43,000,000	4,000,000	.....	2,000,000	2,000,000
Chili, (1876)	35,000,000	38,000,000	2,000,000	.....	1,000,000	14,000,000
Portugal, (estimated)	30,000,000	25,000,000	.....	5,000,000	2,000,000	500,000
Japan	25,000,000	28,000,000	2,000,000	.....	2,000,000	1,000,000
Greece, (1876)	17,000,000	11,000,000	.....	6,000,000	.....	1,000,000
Central America, (1876)	15,000,000	8,000,000	.....	6,000,000	1,000,000	3,000,000
Colombia	10,000,000	9,000,000	.....	1,000,000	5,000,000	6,000,000
Siam	6,000,000	9,000,000	3,000,000	.....	.....	.....
Total	7,114,000,000	6,118,000,000	428,000,000	1,423,000,000	.....	.....

CONSULAR REPORTS.

The work of generous rivalry in trade cannot be accomplished merely by ostentatious ministers. It must be done, if at all, by consular agencies, consuls-general, vice-consuls, deputy consuls, commercial agents, clerks—anything but the mere show and seeming of republicanism. The American mind disdains to be hampered in its outgoings and incomings around our star by the frippery and foolishness of formalities "at court."

Hence, sir, I praise our consular regulations; for do they not command commercial reports, (Regulations, page 95,) reports up to certain dates? Is it not directed that each consul-general send to the Department on the 1st day of November in each year in like manner in duplicate a full report upon the trade and industry of the kingdom or district under his supervision, arranged and systematized so as to show, first, its agriculture; second, its manufactures; third, the condition of its mines; fourth, its fisheries; fifth, the products of its forests; sixth, its commerce, showing the number of vessels, domestic and foreign, entered and cleared, and the amount of tonnage, the amount and value of imports and duties thereon, the amount and value of exports, its trade with the United States, seventh, its revenues, separating customs from other sources of revenue; and that these returns should be, if possible, for the fiscal year ending June 30 of the current year, or, at the furthest, for the calendar year ending on the 31st day of the preceding December?

Have not these reports been of great utility to our trade, and especially as an incentive to its revival?

Let us not depreciate our consular service as classified by the Department of State and appreciated by our merchants. Scrutinize the pages of regulations and observe the reports made under them. Is there a rare invention or a useful seed? it must be sent to us. Is there an element of commerce from the dates of Arabia or Syria to the dates of foreign new tariffs which must not be reported? What better manner of introducing and developing American trade to other countries is of more avail to us than this consular system, if executed?

Mr. Chairman, I only ask, while you consider the relative usefulness of embassador and consul, not to forget that our great need is a market, and that the consul is a factor in this connection and the minister a cipher.

SELL AND BUY.

Our adversities in commerce and navigation make it imperative that we should look abroad for our trade. That trade must be barter. If we sell our surplus abroad, we must, in the end, to keep the market, buy. This is the principle of political economy laid down by John Stuart Mill. (Cap. 21, Principles of Pol. Econ.)

It is undeniable that without imports there can be no exports, and *vice versa*. There is no economy in exporting as much as we can and bringing nothing back except money. Trade will cease if there be not real compensations. There must be two parties to be benefited, otherwise trade will die.

AGRICULTURE PARAMOUNT.

As agriculture must always be the basis of our prosperity and the chief vocation of our people; as its resources have helped to relieve us from panics and revive our trade, there is no solution of our foreign commerce which does not make our agriculture the chief element.

It is scarcely thirty years ago since we imported wheat from the Black Sea; and men are living who remember bread riots in our cities. Now, it is a matter of discussion whether this year our surplus crop of wheat will be 160,000,000 bushels or 200,000,000! This year the production will be even larger than last. Within two years there has been an increase of one-fifth of our wheat acreage. Experts count upon a wheat yield of 420,000,000 bushels. Deduct for seed and home consumption and for the quantity left over from last year, and we shall have 200,000,000 bushels for export. This is worth to us, say, $150,000,000 or more; but will other countries continue this

one-sided trade? Will they always pay us the cash, or must we, to hold this splendid prize, cultivate mutuality? There are many capricious contingencies of sun and sky in connection with our grain harvest and trade. Is it not wisdom to begin the barter, if not directly, commodity for commodity, yet with the money received for our grain buy the goods we need in the best and cheapest markets, and thus keep our customers and improve our custom?

We need not consult our consular reports to ascertain our trading energies. When our farmers are carrying oatmeal from Iowa to Scotland and beef to England; when stock on the hoof never stops till it lands in Europe on a through bill of lading, we are certain that the smallest elements as well as the greatest of our farm product are seeking a profitable market.

What is needed for the development and increase of our trade is the capital relief which freedom gives. This no consul abroad, and *a fortiori* no minister, can give.

LET THE BANNER OF FREEDOM FOR OUR TRADE BE RAISED! FREEDOM!

Still we may study the returns made under consular regulations of other lands with profit. Their authoritative data as to the wants of different peoples and of their markets and of the best means of reaching them becomes doubly useful.

We have had returns from ministers as to their dancing with queens and the number of the wax candles at refreshments; but this information does not contribute to commerce. One dispatch as to the price of Zante currants is worth all the information we might have from our Greek minister who describes the queen's satin robes. When we are told in embassadorial dispatches that a lord this or a lady that smiled and wore a certain kind of lace, it is not of so much real interest to our farming people as the price of butter in Liverpool or of mules in Glasgow.

POSSIBILITIES OF FUTURE TRADE.

In vain does the eloquent head of the State Department advise with chambers of commerce for a "full trade" with museums of samples for its guidance. These are well enough, but they will always fail until the gyves are removed from commerce. It is a provocation, a tantalization to spread out the kingdoms of the earth as our consular reports do, and yet know that trade must come home empty and bankrupt unless it interchanges.

These reports serve one purpose; and because of that purpose I have within the week reported a resolution in Congress for their more frequent publication. That purpose is to enforce an argument against our restrictive policies. With so many undeveloped possibilities, the argument is cogent. Austria sells us yearly a million of dollars' worth of buttons, which we might make; Australia is opening her ranges and pastures to give us wool; Belgium imports our raw cotton through Germany and France, amounting to eight millions annually; Brazil sells to us and buys from others; Colombia imports sixteen millions per year for home consumption and buys but little, though we buy eight millions of her; Great Britain sends fifty steamers to Chili—we, none; China wants our good cottons to take the place of English mildewed goods; Denmark can teach us dairy thrift; France—70 per cent. rural and 30 per cent. urban, industrious, provident, and recuperative—should be mutual with us as she was with England for reciprocal advantage; Germany goes everywhere for profit and benefit, and our consuls give us from her much technical education and display enlarging opportunities; Greece desires our petroleum, canned fruits, and sewing-machines, yet our flag is not known at the Piræus. Under our eyes are the West Indies and the Guianas, with a trade of three hundred millions which other nations control.

Italy seeks reciprocity for our grain, coal, and cotton; but her silks and other industries are barred here by a heavy duty. The Netherlands are recovering their economies, looking for and supplying the wants of others. Persia buys four millions of cottons from England, when we could compete and furnish a better quality of fabrics; Russia buys ten times more from Great Britain than from us—iron, machinery, coal, cottons, chemicals, and copper. She, too, failed last year in her crop of wheat at the rate of 21 per cent. Siam has a trade equal to South America, to which we are strangers. Spain exaggerates on our system by tariff discriminations against our cargoes of fifty cents per ton against twenty-five cents of European cargoes, and we have no redress. Sweden and Norway are a part of Great Britain, as nearly allied in trade as our own States. Switzerland through consular "declared exports" and return of imports shows a trade with us of ten millions annually, which has infinite possibility of enlargement. Syria sends us a little olive oil and some rags.

Turkey rivals us in taxing her own industries; Uruguay, Paraguay, and Venezuela furnish fine fields for our exportations in return for their coffee; Africa is holding out her hands unto us, as to all the world, bidding us open up her opulency, which other nations with more liberal ideas will enjoy; while Great Britain the last fifteen years has had an excess of imports over exports of $5,000,000,000 in merchandise, and yet has received an excess in specie of $500,000,000 and retains besides an investment of $3,000,000,000, while we have in that period exported an excess of $629,000,000 over imports in merchandise and $788,000,000 in specie; while India, like Japan, an anomaly in trade, exceeds largely in exports over imports, and yet receives largely an excess of specie, making a profit of $120,000,000, one-half of which goes to England.

UNLOOSE THE BANDS.

From these thirty and more countries upon our earth we may learn lessons for unloosing the bands which bind trade; for nothing is so certain as that these markets will never be ours until we learn the lesson of John Stuart Mill, namely, that to sell we must buy.

Before taking such an extended view of mankind from China to Peru, it might be well to look close at home and observe the microscopic *insectivora* which are preying on our generous body-politic. Congress has forgotten the virtues, the skill, and frugality of 1846, which enabled us to attain material advancement under a tariff averaging only 23½ per cent. *ad valorem*, which was reduced in 1857 to 19 per cent.

THE INSECTIVORA OF PROTECTION.

To what a humiliating discussion of great principles are we reduced! Do the people arise here, as in England they arose in 1846, and thunder their demand as consumers for cheapness and against scarcity, against high prices, and for abundance? No; it is the maker and vendor of wearing apparel who ask to cheapen it by placing the basis of chemical colors, chrome iron ore and bichromate of potash, for dyeing cotton and wool, on the free list. Why not demand freedom for the goods themselves and for the same reason?

SALT, SUGAR, PAPER, AND STEEL RAILS.

The demand is pitched in the same bated breath for free salt, sugar, steel rails, paper, &c. Salt yields only $800,000 per annum to the Government. The tax on this article in sacks, barrels, and packages is over 30 per cent., and in bulk over 60 per cent. Benton regarded a tax on salt as an impious contrivance to frustrate the beneficence of God, for was it not born of the sea and sun? Is the tax on sugar less impious and flagrant? The *ad valorem* duty on sugar of the average type, which costs from three to five cents per pound, is 54½ per cent., not for revenue merely, but to help a few plantations in a remote section. As sugar is only next to salt or bread as a necessity, is it not time the people were making their leagues against sugar and salt taxes?

To gratify a few firms who make steel rails, already protected by patents and duties, eighty thousand miles of railway in the United States are made tributary, not to the Treasury, but to the firms. If the price of steel rails at the English mills is $32 per ton less than at our mills, do not our consumers pay $28 per ton more, calculating for duty and transportation? Who in the end pays this tax? Who paid it for the four thousand miles of railway constructed in the United States the past year? The toilers of the soil. Is it asked of us who are in Congress why these burdens are not removed? My answer is that the people are indifferent and their representatives are supple before corporations and other combinations. These extend through the whole range of protected industries. They are so potential that they have discrowned the railroad kings even except those who manufacture Bessemer rails.

Were there hope of relief by act of Congress this appeal would not be made in this peculiar and indirect way upon a question of consuls and their reports. The people must send representatives to Congress, and to be representative they should be instructed by popular votes on distinct issues.

A majority of the seven thousand newspapers of this country have upheld this bounty system or did uphold it until white printing-paper advanced 60 per cent. Now they desire the 20 per cent. tariff on paper removed. But the paper-makers plead the tariff. They say: "Is not the material, like pulp, and the chemicals, carbonate of soda, quicklime, soda-ash, and chloride of lime, which enter into the manufacture of paper, heavily taxed?" Take that burden from us first and we will see about it. The revenue on pulp for 1878–'79 was only $152.80. Put pulp on the free list and one pretext is gone. To be sure other component parts of paper manufacture pay greater custom dues, but is our Treasury in distress? Is not cheap paper a desideratum? Should not knowledge prevail? Why not, then, remove the duty? Why not protect book and newspaper making, and the manufacturers of paper also by repeal? And certainly if the tariff is abolished on type, why not on raw materials, lead, copper, tin, and antimony, which compose the type material?

NO DELAYS OR COMMISSIONS.

The whole tenor and effect of the commercial and statistical reports which we simple democrats vote money to print and circulate; the result of Paris and other expositions; the tang, tendency, and trouble of all our diplomacy has been to favor protection in order to glut the greed of our home monopolies. The men who now appeal to Congress for a commission to consider the tariff revision so wisely and carefully, are Philadelphia capitalists and steel-rail grabbers, helped by patents and other "ways and means." Such men mean delay when they ask for commissions. Justice requires execution of the culprit. Respite is breath, and to such, breath is added chance for robbery and riches at the expense of our people.

Do you want illustrations of our modes of diplomacy or commissions, as recently administered? Was there ever, before the tribunal of the nations, or of the Eternal, such a swindle as the fishery award? All now confess and know it was conceived in fraud, consummated in forgery.

Remember the scene when alternately a member from Massachusetts [General Butler] and myself were arrested with alternate alacrity, in the night session, by the Sergeant-at-Arms, for contumacious

rivalry in opposing this scheme of robbery! There was no ground for the fishery award—none. The Geneva award was reduced a third by the perfidy—$5,500,000, a grand larceny, only to be repented of and not yet punished. Yet members who ought to hide their heads in eternal shame, forced by riders or something worse this tax and sin on our gentlest gentlemen in midnight hours, against their best judgment. The result, as we know it now, is only equaled in its enormity by the crime through which it passed to success.

DIPLOMATIC FRAUD.

I hate diplomacy. It is a badge of fraud. "Distinguished considerations" are too often mercenary considerations. Our ancestral worthies thought we should keep aloof from them. Their jealousy of foreign ministers and political alliances would have had greater reason, could they have foreseen steam and telegraph. Since we might, by one minister, reach any capital in Europe in a day, why use so many instruments which are not of a republican temper and origin.

For a greater reason than that of our best men of the early day, I denounce the ministerial system. One of our statesmen, Mr. Nicholas, (1798,) believed that Europe ought to be only our buyers and sellers. Gallatin thought we ought to abolish diplomatic intercourse with Europe altogether, and others I could name were of the same opinion.

Political relations were separated in the thought of these early statesmen from commercial ideas. General Washington recognized this, in his farewell address. Mr. Pinckney, in 1798, thought that no foreign ministers ought to be kept in Europe, and Mr. Livingston concurred. Dr. Franklin went so far as to say that there "ought to be no offices of profit in a democratic government." (Sparks, volume 1, page 517.) He illustrated his generous thoughts by bestowing all the money he received as president of Pennsylvania for three years for purposes of general utility. The Pennsylvanians of the present have forgotten the grand teaching of their grandest civic and scientific hero.

ENLARGED INTERCOURSE.

In conclusion, let me call attention to the proposition which I have made to the House, and which will hereafter come up for action, namely, the more frequent publication of our consular reports. The Chamber of Commerce of New York has asked it. Our needs demand it. The grand surplus of agricultural wealth which must have a permanent and reciprocating market demands it. The very soil and sun, seed-time and harvest, and the necessities of other lands which desire our abundant products for comfort and life, demand publicity for the enlarged views which our consular reports display. The splendid opportunities which are therein presented will be embraced with avidity.

Then, if generous policies prevail, the partitions or boundaries which nations prescribe, will be obliterated, and the federation of the world in one grand Zollverein, *bund*, or community, will be accomplished, and the hateful and selfish monopolies of the restrictive and prohibitory system be only known to history, to be denounced, as one of the absurdities and impediments in the path of human happiness.

Star-Route Deficiency Appropriation.

SPEECH OF HON. WILLIAM D. HILL,

OF OHIO.

IN THE HOUSE OF REPRESENTATIVES,

Wednesday, March 31, 1880,

On the bill (H. R. No. 4736) to provide for a deficiency in the appropriation for the transportation of the mails on star routes for the fiscal year ending June 30, 1880.

Mr. HILL said:

Mr. CHAIRMAN: The amendments proposed by the Senate to this bill meet my approval. I believe that the postal star service should be maintained in all its efficiency. If I understand the postal star service correctly, it is the mail service of the United States which has to be carried by other means than by the railroads. In other words, it is that branch of the mail service which must be carried on by the stage-coach, on horseback, and by other means than transportation by steam. Sir, a large number of the people I have the honor to represent here have no other means of mail transportation than by horseback-riders; others receive their mails by hacks and coaches, and the larger number by rail. But it so happens that every post-office in this country cannot have a railroad, and I am unwilling to see any portion of my constituents deprived of any portion of their mail facilities because they are not so fortunate as to live on the line of a railroad; nor am I willing that their mail facilities should be curtailed even to the smallest extent by act of Congress.

NEED OF STAR SERVICE.

All through Northwestern Ohio there are large villages and prosperous wealthy communities which are supplied with the mails solely by the star service. They pay taxes like others for the support of the State and Federal Governments, and are as much entitled to daily mail facilities as those who receive their mails by railroad lines. As to the frauds charged in the Post-Office Department we have nothing to do in the consideration of this bill. If there are frauds there, as is alleged, let those guilty of the frauds be brought to punishment, but do not deprive the people of their mails because some dishonest official has violated the law. It may be that too much money has been expended in the star service. There doubtless has been. But it must be admitted that the Postmaster-General should be invested with a wide discretion in the direction and execution of that service. Take the town of Leadville for instance, what would the people of that young city now do with a weekly mail?

All over our western States and Territories new towns, cities, and communities are springing up as if by magic. A wilderness this year becomes a populous community next year. A semi-monthly mail this year grows with the tide of emigration and the grand strides of American enterprise to a daily mail next year, involving a greatly increased cost of transportation and increased revenues to the Government also. In such a country as ours, with its restless, changing population, augmented annually by hundreds of thousands from the Old World, we cannot wait for the tardy action of Congress. That there are frauds sometimes committed is altogether probable; but the remedy is not to punish our innocent constituents for the misdeeds of a few rascals in Washington. Let us remove the rascals if they can be found, and if they cannot, let us stop these complaints about frauds. The true remedy for all these evils is that proposed by the gentleman from Texas to the civil-service bill. Pass that bill, as amended by the suggestion of my friend [Mr. UPSON] from Texas, and you stop all the inducements and motives on the part of Government officials to commit fraud. So long as they are plucked of the last feather for campaign purposes they will look around for some means to replenish their purses made empty by the inexorable demands of the party henchman.

CIVIL SERVICE.

And this leads me, Mr. Chairman, to submit some remarks in this connection upon that subject, as a remedy for many of the very evils of which my distinguished friend from Kentucky [Mr. BLACKBURN] so eloquently complains. Let the civil-service bill be passed. It protects the office-holder from onerous exactions, and it protects the people from the rapacity of hungry office-holders, hungry because their salaries have been taken from them to corrupt elections. It will also prevent combinations with mail contractors and other contractors to rob the Treasury in order that a part of the robbery may be applied to a campaign electioneering fund. That money has been obtained in this way and used in all our elections for many years past cannot be denied. The subject itself is not a new one. It has engaged the attention of Congress and State Legislatures many times before.

HEROIC OHIO—TREATMENT OF THE ELECTION FRAUDS.

So alarming and dangerous had the practice become in Ohio that only one year ago the Legislature of that State having a democratic majority in both branches passed a most stringent law making it a penal offense for any candidate for any office to use money to procure votes, and also penal for any elector to receive money in any way whatever for such purposes. I will read the first, second, third, fourth, and fifth sections of that law:

Senate bill No. 221.—An act supplemental to "An act to preserve the purity of elections."

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be unlawful for any person who is a candidate for any office of trust or profit, under the constitution or laws of this State, or of the United States, to loan, give, directly or indirectly, offer, or promise to give, any money or other thing of value to any elector within the district in which he is a candidate, for the purpose of influencing or retaining the vote of such elector, or give, or promise to give, to any person or persons any of the above considerations of value to secure or retain the influence of such person or persons in his behalf as such candidate, or to be used by such person or persons to influence the vote of any individual elector, or of electors generally, or to influence him or them to vote or to refrain from voting: *Provided*, That nothing in this section shall be construed to apply to hospitality at his own residence.

SEC. 2. Any person found guilty of any of the acts named in section 1 shall be deemed guilty of bribery, and, upon conviction thereof, shall be fined in any sum not less than $500 nor more than $1,000, or be imprisoned in the penitentiary not exceeding three years; and if such offender shall have been elected to the office for which he was a candidate, his office shall be made vacant by conviction, and filled as in other cases of vacancy; and such person shall, moreover, be forever ineligible to any office of trust or profit within this State.

SEC. 3. Any person not a candidate for office who shall disburse or give, or promise to give, any money, or other thing of value, or gives or treats to any spirituous, malt, or other liquors, either directly or indirectly, to influence any voter in giving or withholding his vote, or seeks by violence or threats of violence, or threatens to enforce the payment of a debt, or to begin a criminal prosecution, or to injure the business or trade of any elector; or if any employer of laborers, or agent of such employer, threatens to withhold or reduce the wages, or to dismiss from service, or refuse to allow the necessary time to employés to attend at the place of election and vote, as an inducement to such elector to vote contrary to his inclinations; or any person selling or offering to sell his influence with other voters, or who, for or with any consideration of value enumerated in section 1, shall seek to influence the vote of any elector, or to influence him to vote, or to refrain from voting, shall be deemed guilty of a felony, and, upon conviction thereof, shall be fined in any sum not less than one hundred nor more than two thousand dollars, or imprisoned in the penitentiary not more than three years, at the discretion of the court.

SEC. 4. Any candidate for nomination by any political party in this State, for any office of trust or profit, who shall commit any of the acts named in section 1 of this act, for the purpose of securing the influence of any person in his behalf, or to influence any delegate voting upon the question of his nomination, shall be deemed guilty of bribery, and shall be fined not less than $100, and shall be disqualified from holding the office though he be thereafter elected according to law. The commission of any of the acts named in section 1, during the candidacy of such person for nomination for office as aforesaid, shall be *prima facie* evidence of intent to influence the votes of delegates.

SEC. 5. That whoever asks, demands, or receives from any candidate for the nomination, by any political party or convention, to any office, or from any candidate for any office under any law, any money or other thing of value, not then due and owing, or makes application to any such candidate to purchase any ticket to,

or to give any money or other thing of value for any pretended ball, picnic, fair, entertainment, or charitable enterprise, with the expectation or belief that such demand, request, or receipt will influence any vote, shall be fined not less than fifty nor more than three hundred dollars, or imprisoned sixty days in the county jail, or work-house, if there be such an institution in the county, or both, and such demand or request of any candidate shall be deemed *prima facie* proof of such expectation or belief. No prosecution shall be instituted under any of the provisions of this act unless the same shall be commenced within six months after the commission of the offense.

SEC. 6. The prosecuting attorney may frame his indictment with any number of counts for different offenses against this act that may be committed to affect any one election by any one candidate, and may offer evidence tending to support any or all of said counts, and the jury shall take into consideration all the evidence offered on each of said counts for the purpose of establishing the guilt of the accused on all or any of said counts.

This is the boldest and most effectual step yet taken by any Legislative Assembly in Ohio to preserve the purity of elections, and even this is alleged to have proved ineffectual at the last election in that State. The republican party now has control in the Legislature of Ohio, but no member has dared to introduce a bill to repeal the law which I have quoted.

As I understand the amendment of my friend from Texas to that bill it simply forbids assessments and collections of money from those employed in the public service, but permits voluntary contributions. Thus amended I can see no objection to the bill; on the other hand there are many good reasons why it should pass. It is agreed that a free and pure ballot is desirable at all elections, however unimportant. Any measure looking to that end is meritorious in itself and deserves the favorable action of Congress. The substitute offered by my colleague [Mr. BUTTERWORTH] recognizes the necessity of some action, or he probably would have made his fight against the original bill. I, too, believe in the old Jacksonian theory that to the victors belong the spoils, and I have never blamed any administration for taking into its confidence and appointing to office men who were in accord with the principles and policy of that administration; nor have I blamed the democratic majority in this House for appointing crippled democratic soldiers to places formerly occupied by republicans. So long as we have political parties in this country these things are to be expected.

HOW SOLDIERS ARE TREATED BY BOTH PARTIES.

Every day I see men standing around the doors and corridors of this Capitol who lost their limbs in the Army of the United States in the late war. They, doubtless, some of them, occupy places formerly occupied by republicans in the same condition; but how long, I ask, would these maimed patriots remain in their places if the republicans had a majority in this Hall? No longer than they could be turned out and their places supplied by those of different politics. We had an exemplification of the love of the republican party to the soldiers in Ohio at the last State election. On the democratic ticket were five soldiers; the standard-bearers of the democratic party were two as gallant soldiers as ever bore the flag of the Union to victory; one of them formerly a member of this House, who lost his leg at Kenesaw. The republicans nominated another distinguished ex-member of this House as their standard-bearer. He had never smelt gunpowder in battle, yet he was held up to the people of Ohio by the republican newspapers and orators as a paragon of loyalty, while they denounced Generals Ewing and Rice from one end of the State to the other as unworthy of the confidence of the people, because they were not loyal to that Government for which they had risked their lives. My colleague [Mr. BUTTERWORTH] in his speech on the civil-service bill, while claiming to indorse the principle that to the victors belong the spoils, was, I think, guilty of unfairness, to put it mildly, when he commented upon the changes made in the officers of this House. His language was most severe. I will read what he said:

> Take the offices in this House. What must have been the agony of my friend to see the crippled soldiers mustered out and turned upon the common to feed in order that their places might be filled by democrats—good men, it is true, but yet I submit by men who had hardly rendered more efficient service to the Republic than those who are displaced. I do not know that I can or ought to find fault with it. Until human nature changes, until we all change, I do not doubt that in politics the same rule of action will be adopted and adhered to so long as political parties are the agencies through which the control of the government of the State or the nation is sought and maintained. It always has been so and it always will be so.

The impression is left here that crippled soldiers of republican politics had been turned out of office to make room for democrats who are not crippled. Does not my colleague know that for every soldier displaced by a change in the politics of this House a democratic soldier was put in his place; that a man who braved the same dangers, suffered the same hardships and risks in battle in the war for the Union, had been installed into places on the soldiers' roll?

DEMOCRATIC SOLDIERS.

Why, then, mislead the country on this as well as on other subjects? Or has the republican party got a patent on all the loyalty in this country? Cannot a man be loyal, cannot he be a patriot, cannot he be allowed to pay taxes and fight for the Government unless he votes the republican ticket? When the war broke out in 1861 the question was never asked, to what party a man belonged, when he enlisted. That war of the sections you call the democratic rebellion. Why? Because some democrats fought on the other side. But you give us no credit for those democrats who fought with you against their former political associates. Where did you get your generals? From what party did they go forth? There was Slocum and Rosecrans, McClellan, Hancock, and Steedman, the hero of Chickamauga, and Ewing and Rice, and a hundred others whom I could name.

But where are these decapitated crippled soldiers of whom my colleague speaks? When they lost their places here were they provided for elsewhere? My colleague says these maimed veterans were turned out on the commons to feed. What, sir, a crippled soldier turned out on the commons to feed here under the very shadow of the White House, where sits a soldier President, with whom they had shared the privations, dangers, and toils of war; in sight of the Treasury Department, whose coffers they are taxed to fill; in sight of the Post-Office Department, with its fat places—its route agencies and postal clerkships and fat contracts in the star service—in sight of all these Departments of the Government, the vast patronage which belongs to them? Why, sir, the Postmaster-General is about the only soldier in the Cabinet who did a very great amount of fighting. He has his reward, and is not very badly crippled, either. Now, sir, I do not mention these things for the purpose of criticising the appointments of the President. I believe he is a better President than the one who immediately preceded him, and I concede his constitutional right to make his own appointments, with the advice and consent of the Senate. I mention them to expose the inconsistency and hypocrisy of those who are continually expressing sympathy for soldiers from whom they withhold the patronage they are able to bestow. Sir, this question has been discussed over and over again, and I have no desire to pursue it further. My colleague, in that same speech, used these words:

> I am here to assert that the democratic party never fought a political battle that was not in the interest of slavery rather than of freedom. I assert that every advance of an enlightened civilization which looked to freeing the soil of this Republic from the presence and contaminating influence of human slavery has been accomplished in the face of the protest and over the prostrate form of resisting democracy.
>
> I say that through all the southern part of our territory, where live the controlling men of the democratic party, and from whence they issue their mandates to the northern wing of that party, through all that territory, freedom never had an altar where her votaries could worship in peace and safety. There never was a time when I could read in that portion of our country the Sermon on the Mount, in the spirit in which it was delivered, without taking my life in my hand. There is not a free school in the United States to-day which does not exist in spite of the desires and opposition of one wing of the democratic party, and without that wing the democratic party could not control the local government in a single county north of the Ohio or the Potomac.

Mr. Chairman, these are harsh words and strong assertions. They dissipate the idea that one-half at least of this country was ever the land of the free or the home of the brave.

SLAVERY AGAIN—WHO RESPONSIBLE.

Here my colleague again perverts the truth of that history, with which he ought to be familiar. He seems to forget the fact that the democratic party was never at any period of its history responsible for the existence of human slavery on this continent. He seems to forget the fact that the institution of slavery existed here long before the organization of the Government itself; long before there was ever any democratic party or any other party on this continent; that when the Government was organized slavery was protected by constitutional provision, for which no party of this day and time can justly be held responsible. Now, let us see whether freedom ever had an altar in any portion of the South where her votaries could worship in peace and safety. It seems to me, sir, that the voice of Patrick Henry, which electrified and united the Colonies when he pleaded for liberty or death, first echoed from freedom's altar and south of the Potomac. Then there is an old document which we sometimes hear read on the Fourth of July, called the Declaration of Independence. Thomas Jefferson, a Virginian, who lived south of the Potomac, had some little part in proclaiming it to the world. Then we are told that after a Washington, who lived south of the Potomac, and who suffered the "contaminating influence of human slavery," had led the armies of the North and the armies of the South to victory, that still another Virginian, contaminated by the same influence, James Madison, was allowed the honor to furnish the organic law for the best government "the world ever saw." Later still battles have been fought for white men as well as for black men. Not far anterior to the late war—as late as the year 1854—there was a great war waged in this country for the freedom of conscience, for the freedom of religious toleration, for that freedom which Jefferson proclaimed in the great Declaration, which he provided for in the ordinance of 1787, which was protected by the Constitution. It was then that a party called the know-nothing party, a party of oaths and signs and grips, a party which held their meetings in the darkness of the night-time, sprung up in this country and captured for a time every State capital north of the Ohio and the Potomac.

KNOW-NOTHINGS.

Well, sir, that party had for its objects the disfranchisement of foreigners, the extension of the period of naturalization to twenty-one years, the destruction of the Catholic churches in this country, the establishment of the doctrine that foreign-born citizens should not hold office, that none but Americans should be put upon guard; and after that party had swept over the entire North and established for a time its despotism of opinions it invaded the sacred soil south of the Potomac, where was still left some love and reverence for free government, and under the fierce and fiery denunciations of Henry A. Wise it received its fatal stab. If my colleague could not worship at freedom's altar there, ever at any time, let me remind him here and now that thousands of his constituents in Cincinnati are this day indebted to the democratic party of this country for the right to worship at sacred altars of their own selection.

FREEDOM AND EDUCATION.

And yet my colleague flippantly asserts that the democratic party

never fought a battle in the interests of freedom and education Why, sir, the very first grant of land ever made in this country for educational purposes was made by the founders of the democratic party, by a man who lived south of the Ohio and south of the Potomac. In the ordinance of 1787, supported if not written by Thomas Jefferson, it was provided that the territory northwest of the river Ohio should be free. It was further ordained that "religious morality and knowledge being necessary to good government and the happiness of mankind, schools and means of education shall forever be encouraged." Here, sir, in the very beginning, and before our great State had its being, a Virginia democrat had ordained that Ohio should be christened at her birth with free soil, public morals, and free schools forever.

Afterward, in 1803, while that Virginia democrat was President of the United States, section 16 in every township of Government lands was set apart for school purposes. I find, sir, in the report of the Commissioner of Education for the year 1871, which I hold in my hand, that up to this time there had been set apart by act of Congress 67,883,662 acres of school lands for the support of common schools, and 1,119,480 acres for universities and colleges, and that of this amount over fifty-two millions of acres were donated and set apart for this purpose under democratic administrations—under Jefferson, Madison, Monroe, Jackson, Polk, Pierce, and Buchanan—all the way from Jefferson's administration to March 2, 1861; and that one of the last acts which James Buchanan signed was a grant of land for school purposes, and that it was voted for by both wings of the democratic party, by men who then lived and now live south of the Ohio and the Potomac. The following table is instructive as showing the number of public lands granted to the several States of the Union, and reserved in the several Territories for educational purposes:

Statement showing the quantity of public lands granted to the several States of the Union and reserved in the several Territories, by acts of Congress for educational purposes, with dates of acts granting or reserving the same.

Names of the States and Territories in which public lands have been granted or reserved for educational purposes.	Lands granted in States and reserved in Territories for support of common schools therein.		Lands granted or reserved for universities.		Lands granted for agricultural and mechanical colleges.		Total acres granted or reserved.
	Acres, (estimated.)	Dates of the acts of Congress by which granted or reserved.	Acres.	Dates of the acts of Congress by which granted or reserved.	Acres.	Dates of the acts of Congress by which granted or reserved.	
Ohio	704,488	Mar. 3, 1803	69,120	Apr. 21, 1793; Mar. 3, 1803			779,608
Indiana	650,317	Apr. 19, 1816	46,080	Apr. 19, 1816; Mar. 26, 1804			696,397
Illinois	985,066	Apr. 18, 1818	46,080	Mar. 26, 1804; Apr. 18, 1816			1,037,146
Missouri	1,199,139	Mar. 6, 1820	46,080	Feb. 17, 1818; Mar. 6, 1820	330,000	July 2, 1862	1,575,219
Alabama	902,774	Mar. 2, 1819	46,080	Apr. 20, 1818; Mar. 2, 1819			948,854
Mississippi	837,584	Mar. 3, 1803; May 19, 1852; Mar. 3, 1857.	46,080	Mar. 3, 1803; Feb. 20, 1819			883,664
Louisiana	786,044	Apr. 2, 1806; Feb. 15, 1843	46,080	Apr. 21, 1806; Mar. 3, 1811; Mar. 3, 1824.			832,124
Michigan	1,067,397	June 23, 1836	46,080	June 23, 1836	240,000	July 2, 1862	1,353,477
Arkansas	886,460	June 23, 1836	46,080	June 23, 1836			932,540
Florida	908,503	Mar. 3, 1845	92,160	Mar. 3, 1845			1,000,663
Iowa	905,144	Mar. 3, 1845	46,180	Mar. 3, 1845	240,000	July 2, 1862	1,191,224
Wisconsin	958,649	Aug. 6, 1846	92,160	Aug. 6, 1846	240,000	July 2, 1862	1,290,809
California	6,719,324	Mar. 3, 1853	46,080	Mar. 3, 1853	150,000	July 2, 1862	6,915,404
Minnesota	2,969,990	Feb. 26, 1857	82,640	Mar. 2, 1861; Feb. 26, 1857; July 8, 1870.	120,000	July 2, 1862	3,172,630
Oregon	3,329,706	Feb. 14, 1859	46,080	Feb. 14, 1859; Mar. 2, 1861	90,000	July 2, 1862	3,465,786
Kansas	2,891,306	Jan. 29, 1867	46,080	Jan. 29, 1861	90,000	July 2, 1862	3,027,386
Nevada	3,985,428	Mar. 21, 1864	46,080	July 4, 1866	90,000	July 2, 1862; July 4, 1866	4,121,508
Nebraska	2,702,044	Apr. 19, 1864	46,080	Apr. 19, 1864	90,000	July 2, 1862; July 23, 1866	2,838,124
Washington Territory	2,488,675	Mar. 2, 1853	46,080	July 17, 1854; Mar. 14, 1864			2,534,755
New Mexico Territory	4,309,368	Sept. 9, 1850; July 22, 1854	46,080	July 22, 1854			4,355,448
Utah Territory	3,003,613	Sept. 9, 1850	46,080	Feb. 27, 1855			3,049,693
Dakota Territory	5,366,451	Mar. 2, 1861					5,366,451
Colorado	3,715,555	Feb. 28, 1861					3,751,555
Montana	5,112,035	May 26, 1864					5,112,035
Arizona Territory	4,050,350	Sept. 9, 1850; Feb. 21, 1863					4,050,350
Idaho Territory	3,068,231	Mar. 3, 1863					3,068,231
Wyoming Territory	3,450,281	July 25, 1868					3,480,281
Totals	67,983,922		1,119,440		1,680,000		70,783,362

But, Mr. Chairman, this charge that the democratic party is the enemy of education is no new charge. The republican party made the same charge in Ohio in 1875, and elected Governor Hayes by it. They did it because a democratic Legislature had provided that the inmates of the penitentiary and the benevolent institutions should have the right to call a clergyman of their own denomination to administer to them the last rites upon a death-bed. They charged us with turning the whole State over to the Pope of Rome, and with the intent to abolish the schools. And yet the constitution and laws under which nearly every school-house in Ohio was built, under which every dollar of tax is collected for the support of schools, was framed by a constitutional convention and Legislative Assemblies having a democratic majority in each.

SLAVERY AND FREEDOM OF LAND—WHO RESPONSIBLE.

Having shown what disposition the democratic party made of the public lands when it was in power, let me call the attention of the House for a moment to republican legislation on that subject. Since the election of Abraham Lincoln to the Presidency there have been donated by republican Congresses to railroad corporations and monopolies alone thirty millions of acres of land. Seventeen millions of this had been given to five railroad corporations, and nearly ten millions to the Pacific railroads alone.

DID DEMOCRATS FIGHT? HOW?

While we are testing the truth of my colleague's broad assertions by figures, let me call his attention to another array of facts to be found in the report of the Secretary of War. It shows that the thirteen slave States of the Union contributed nearly a half a million of volunteer soldiers to the Union Army during the war, the actual number of each State being as follows:

Missouri	199,111	Delaware	13,670	Florida	2,190
Kentucky	79,025	Arkansas	8,289	Texas	1,965
West Virginia	32,068	Louisiana	8,224	Mississippi	545
Tennessee	31,092	North Carolina	8,155		
Maryland	50,316	Alabama	2,576	Total	432,227

It shows also that the six New England States furnished for the same army the following number of troops:

Massachusetts	152,048	Vermont	35,262
Maine	72,114	Rhode Island	23,699
New Hampshire	36,629	Connecticut	57,379

Rebel Missouri, 47,000 more men for the Union than loyal Massachusetts; rebel Kentucky more than New Hampshire and Vermont combined; Michigan, 89,372; Missouri, formerly a slaveholding State, 110,000 more men than Michigan. It shows that Indiana, a democratic State before the war, and a democratic State now, furnished 197,147 volunteer soldiers for the Union Army, and more than Michigan and Wisconsin combined, although the population of those two States combined is far greater than the State of Indiana. It is also a notorious fact, Mr. Chairman, that these States of Indiana, Missouri, West Virginia, New Jersey, and New York, democratic before the war, and which contributed so largely of men and money to the war, were overwhelmingly republican while their soldiers were absent fighting for the Stars and Stripes, and have been democratic almost ever since their volunteer soldiers returned to their homes; while Ohio, a doubtful State before the war, was republican by hundreds of thousands during the war, has gone democratic several times since the war, and is now by the voice of her own people represented in the other end of this Capitol by two of her most eminent democratic statesmen; that since the year 1872, under a most atrociously unfair republican gerrymander, recently restored, Ohio has sent to this House thirty democratic members of Congress and thirty republicans; and this does not include the election of 1878 under the democratic law, recently repealed.

Again, sir, the States which rallied to the rescue of Pennsylvania when she was invaded, almost as soon as Pennsylvania arose to protect herself, were the States of New York and New Jersey—the one under the lead of Horatio Seymour and the other of Joel Parker, who were the only two democratic governors then in power.

LIVING ISSUES—TAXATION, ETC.

But, sir, I would not indulge in this review of past events except to vindicate the truth of impartial history. Far better would it be to turn our attention to the living issues of the present. The country to-day is suffering from the oppressive burdens of unequal taxation laws. High tariffs protect monopolies at the expense of the laboring and producing classes of the South and West. The means of knowledge which Jefferson demanded should be forever encouraged is taxed for the purpose of swelling the coffers of paper monopolies at the expense of every newspaper publisher and the subscriber who reads his paper. The type upon which it is printed is taxed. The salt with which the farmer preserves his meat; sugar, iron, steel, family medicines, and a thousand other articles too numerous to mention here are taxed. Consolidated railroad corporations change the rates of freight every week and rob the farmer of the West, while gamblers and robbers in Wall street laugh and fatten on the rise and fall in stocks. Petitions come here from every township, and when a bill is proposed to repeal a law enacted during the war under the plea of necessity, which perhaps then existed but does not exist now, the only argument we hear raised against it, the only argument we hear in favor of a continuation of this robbery system, is that confederate brigadiers are in the majority and should not be trusted. Under this plea Government employés are robbed out of money, little by little, to raise a corruption fund. Newspaper men and their patrons are robbed little by little to maintain monopolies; farmers robbed for the benefit of railroads, and the whole people are robbed to keep the republican party in power four years longer.

GENEROSITIES OF POLITICS.

Repeal this law, say they, and you take away the liberties of the people. Does it abridge a man's liberty when you say it shall be unlawful for political sharks to fleece him out of his wages? It is also said you cannot enforce the provisions of the bill if it becomes a law. That was also said of the Seitz law in Ohio, but men are being indicted and tried, and, if I am correctly informed, convicted, under it in Ohio. There are laws against murder, arson, grand larceny, horse-stealing in all the States, imposing heavy penalties of various degrees. These laws do not entirely prevent the commission of those crimes, but they effect wholesome and necessary restraints absolutely essential to the preservation of life and the rights of property. Because a murder is occasionally committed is no reason why the law punishing homicide should be repealed; because a horse is stolen now and then is no reason why the statute punishing that crime should be repealed; because men may violate the provisions of this bill once in a while is no reason why it should not be passed. Offensive allusions to southern members on this floor do not discuss the merits of any measure pending here. Why are these men here? Under what law did they come? Under what constitution and under what prescribed oath do they act and discharge the important trusts committed to them? Is it not a fact that a large number of them were disabled politically, and is it not the boast of the republican party that these disabilities were removed by that party? Did you not do it when every department of the General Government was under your control? Why bring these men here? Why make it possible for them to be here? Why invite them here and then insult them daily by hurling in their faces their former acts? If they were guilty of treason why did you not hang them when you had them in your power? You even refused to try Jefferson Davis while closely guarded for months in your custody.

Sir, the doctrine of secession which was incubated at the Hartford convention, afterward boldly asserted in Massachusetts in 1812, again upon the admission of Texas into the Union, and afterward in open war by nearly all the Southern States, is dead forever. Nobody asserts it now; nobody wants it now. The South is no longer a slave mart for speculators from any part of the world. She, too, is free by her own act as well as ours. But, sir, I do not wish to pursue this subject further. It affords me no pleasure to rake up the follies of the past in order that the errors and inconsistencies of this party or that party may be exposed. I would place upon the records of this House one good act, one noble deed of any American citizen, of any party or association of men, rather than expose to our enemies at home or abroad a thousand bad ones. All human governments are weak at best. All parties and associations of men make mistakes. Let us rather cultivate the spirit of New England's greatest orator: "If we have none of that spirit which would raise mortals to the skies, I trust we have none of that other spirit which would drag angels down." After four years of bloody war and fifteen years of troubled peace, by slow and watchful processes, under the control and guidance of the republican party and the constant appeals to reason of the democratic party, the old Union of the fathers is but partially restored. Men of the Southern States who but a few years ago were not citizens of any country now occupy high places in this Capitol on terms of perfect equality, and if here at all they should be here on no other terms.

SOUTHERN MEMBERS.

My colleague complains that the southern men on this floor are the dominant wing of the democraric party. This I deny. And here let me impress upon this House and the country that the extra session of this Congress and the attempts then made to repeal certain laws did not have their origin with southern men. The voice which first proclaimed for free elections, for impartial juries, and for the abolition of Federal espionage came from Ohio. In that extra session we asked for the enactment of no new laws. We simply demanded the repeal of laws without which this country grew and prospered for nearly a century. We simply demanded that all the people of every creed and every section should be placed upon terms of perfect equality in the jury-box and at the ballot-box. We sought to deprive you of political advantages which you took when you had the power, but claimed none for ourselves. But you were not satisfied with the enormous patronage of the Federal Government and the corruption fund which it gives. You wanted the strong arm of the law, the Army and Navy, bayonets and spies, and petty despots and hirelings paid out of the Federal Treasury to aid you in perpetuating that power which you have abused for nearly twenty years. The voice of the people of the whole country as expressed through their Representatives here has been stifled for a time by the presidential veto; but that fact has not discouraged the democratic party, nor will it deter that party from again appealing to the people for a vindication of its principles. Frantic appeals to passion and prejudice, and the recital of the horrors of a war which should be buried in oblivion, will not aid you much longer. My colleague even complains that at a certain time south of the Ohio he would not have been permitted to read the Sermon on the Mount in the spirit in which it was delivered.

I doubt, sir, if my colleague can anywhere, or at any time or place, read that sermon in the spirit in which it was delivered. He was never constituted for any such holy purpose—but that is no fault of the democratic party. As he saw proper to illustrate the speech of the distinguished gentleman from Tennessee [Mr. HOUSE] by a humorous allusion to a Quaker friend in Indiana, he will pardon me if I illustrate his failure to read the Sermon on the Mount in the spirit in which it was delivered with a dialogue I once heard of between a young Protestant clergyman and a Catholic priest. My Protestant friend upbraided his Catholic adversary for his worship of the Virgin Mary. "Why," said he, "the Virgin Mary was only a woman, and no better perhaps than his mother." "Well," replied the humble Catholic, "I did not know your mother. She was doubtless a very good woman; but there is a great deal of difference between the two sons." Now, I supposed my colleague would charge the democratic party with all the crimes in the catalogue, but I hardly supposed he would have the audacity to blame the democratic party for preventing even him from being the equal of the Saviour of Mankind, either in the Christian virtues or in eloquence. He complains of the Southern wing of the democratic party.

CONCLUSION.

I thank Heaven the democratic party has two wings, which, like those of America's proudest bird, can hover over every nook and corner of the Republic. Unlike its rival for power here, it does not draggle its one wing over one section of the country, stirring up the bitterness of party strife and sectional hate because it cannot comprehend and appreciate the other section.

The Currency Question.

SPEECH OF HON. ALFRED M. SCALES,

OF NORTH CAROLINA,

IN THE HOUSE OF REPRESENTATIVES,

Monday, April 5, 1880,

On the following resolution:

Resolved, That it is the sense of this House that all currency, whether metallic or paper, necessary for the use and convenience of the people, should be issued and its volume controlled by the Government, and not by or through the banking corporations of the country, and when so issued should be a full legal tender in payment of all debts, public and private.

2. *Resolved*, That, in the judgment of this House, that portion of the interest-bearing debt of the United States which shall become redeemable in the year 1881, or prior thereto, being in amount $782,000,000, should not be refunded beyond the power of the Government to call in said obligations and pay them any at any time, but should be paid as rapidly as possible, and according to contract. To enable the Government to meet these obligations, the mints of the United States should be operated to their full capacity in the coinage of standard silver dollars, and such other coinage as the business interests of the country may require.

Mr. SCALES said:

Mr. SPEAKER: When the above resolution was introduced into the House I desired to obtain the floor to amend and explain my vote. This was denied me, and I was compelled to vote for it as a whole without explanation. I desired so to amend as to strike out all after the words "should be," in next to the last line of first paragraph, and insert "received for all Government dues;" so that it would read, that "the money so issued should be received in payment of all public dues." This would have given currency and value to the money, and would have evaded a very grave constitutional question, to wit, the power of the General Government to make paper money a legal tender for the payment of private debts. The mover was asked to so modify his resolution as to get clear of this difficulty in the minds of many, but he declined to change it, and thus took the responsibility of driving from its support many who would otherwise have sustained it.

The mover himself may have had no difficulty, but if he was sincere in continuing to the Government the power to issue paper money and to profit by it, instead of the national banks, then surely he should have addressed himself to this end and called to his aid all the support that this principle unencumbered would command. That he did not do it was evidence to my mind that his resolution was more in the interest of party than principle, and he is in part responsible for the failure of the resolution. I voted for it as a whole because there was more to commend than to condemn; and, as I do not wish to be considered as indorsing the constitutional power of the Government to issue paper money and make it a legal tender in payment of all private contracts, I am forced to make this explanation. There are some other criticisms which should be made upon the resolution, but it is not important now to go further into detail. My position has been, and is now, that since the Government assumes to issue money, she should see to it that there is enough to answer all the demands of trade, and that she should especially see to it that it should be a good and stable currency; and that she should pay her own debts according to the contract.

Extension of Public Building at Cleveland, Ohio.

SPEECH OF HON. AMOS TOWNSEND,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

Monday, April 5, 1880,

On the following bill:

A bill to authorize the Secretary of the Treasury to repair and extend the public building owned by the Government at Cleveland, Ohio.

Be it enacted, &c., That the Secretary of the Treasury be, and he hereby is, authorized and directed to repair and extend, for the use of the Government offices at Cleveland, Ohio, in accordance with plans and specifications submitted by the Supervising Architect of the Treasury, the Government building at Cleveland, Ohio: *Provided*, The cost of the same shall not exceed $150,000.

Mr. TOWNSEND, of Ohio, said:

Mr. SPEAKER: The subject of enlarging and adapting the post-office building at Cleveland, Ohio, to meet the growing business of the post-office, United States court, customs and internal-revenue offices of the Government, was formally brought before the Forty-fifth Congress by the plans, specifications, and estimates of the Secretary of the Treasury, which were called for by a resolution of this House. These papers were referred to the Committee on Public Buildings and Grounds. They have been carefully considered by that committee, and their report is now before the House, recommending the passage of the accompanying bill, granting authority to have the work done. I desire to furnish this body with reliable information and facts touching the necessity of having more room for the proper transaction of the business of these various departments of the Government, that the House may vote understandingly.

The Government building in Cleveland occupied by the post-office, custom-house, United States courts, &c., which was built about twenty years since, is entirely too small for the proper transaction of the public business, a fact which has long been apparent to every one connected with the service, and at this time the erection of a new building or the enlargement of the old one is a public necessity.

I propose to submit a few facts and figures in reference to the business of the post-office, as well as the custom-house, United States courts, and other branches of the service, and to make such showing of their wants as the facts may seem to justify. The present building was occupied on the 1st of January, 1859. To the post-office was assigned a portion of the basement, all the first floor, and a portion of the second floor. Even at that time there was no spare room in the building, and at the expiration of a little more than a year the postmaster was required to relinquish the rooms which he occupied on the second floor, thus confining the post-office to the first floor and a portion of the basement. At the time that the new building was first occupied the population of Cleveland was supposed to be about forty thousand; now, in 1880, it is computed by the best judges to be fully one hundred and seventy-five thousand. It will be apparent to all that a Government building which was barely adequate to the public wants of a city of forty thousand inhabitants would be entirely too small for a city of one hundred and seventy-five thousand, provided the increase of business corresponded with the growth of the city.

That the post-office business has increased in a still greater ratio I am abundantly able to show. For instance, the gross receipts of the Cleveland post-office for the year ending June 30, 1859, from the sale of stamps and stamped envelopes, postages, &c., were $32,320.75. For the year ending June 30, 1877, the gross receipts from the same sources were $188,217.30, an increase of almost *six hundred per cent.* These figures are obtained from the Auditor of the Treasury for the Post-Office Department. To show that the sale of stamps is a fair indication of the business done by an office, I mention the fact that Congress has provided by law for fixing the compensation of postmasters by a commission on the stamps sold.

An official record of the amount of mail dispatched from the principal offices of the United States for the first four weeks of the year 1877 was made by the Department, and it appears from the report of Theodore N. Vail, general superintendent of railway mail service, that the average number of pieces dispatched from the Cleveland office daily was 39,127. That the business of this office was fully equal to that of other offices in cities of about the same size is shown by the following statement copied from the same report:

Milwaukee	20,435
Louisville	24,357
Detroit	25,050
Buffalo	25,518
Cleveland	39,127

The letter-carrier branch of the service has been established since the building was first used, and considerable room is required for that very important department, which now employs thirty-four carriers and seven or eight clerks. The post-offices at East Cleveland and Newburgh have recently been made letter-carrier stations, supplied from the Cleveland office, and it is now proposed to dispense with the stations, inasmuch as the territory is all supplied by the carrier service. This is in the upper portion of the city, which is rapidly increasing in population, and will require the services of an additional number of letter-carriers. That department is now very much cramped for space, and there is positively no room for expansion inside the building. The room or the lobby for the use of the public who may call at the carriers' windows on Sunday is entirely too small, and the complaints are loud and numerous.

The money-order system is also a new department added to the service since the construction of the post-office building. The space set apart for this branch of the service is too small, and is only separated from the other branches by a low railing. There are regularly employed three money-order clerks, and the amount of money received for the sale of orders, for deposits, &c., for the year 1877, was $807,188.94. The money-order business ought to be provided with a separate room, of ample dimensions, with a vault for the safe-keeping of books, money, &c.

The department for the registration of mail matter only required the service of one clerk one-half the time in 1859; now four clerks are constantly employed, and the value of registered packages passing through the office must exceed $4,000,000 per annum. The present registry-room is a mere pen in the middle of the office, separated only by a low railing. The service requires a separate room provided with a vault, for the safe-keeping of the money, valuable packages, and pouches of registered matter which lie over at this office.

The clerks employed in the sale of stamps are now crowded into a corner of the money-order office, and the vestibule where the public congregate for the purchase of stamps is entirely too small. The same is true of the space allotted to the public at the general and box deliveries. More room and better light is also needed by the clerks employed in mailing letters. Their work requires the best facilities, so that letters may be dispatched up to the latest possible moment before the departure of mails. The Cleveland post-office has been made the national depository for mail-catchers and the supplies connected with that branch of the service. This requires all the space in the basement, so that the work of the office is now done exclusively on the first floor.

During the past twelve years there have been many changes made in the office to meet the demands of the service, and in 1875 the demand for room became so imperative that it was found necessary to include nearly the whole of the lobby, which extended across the west front of the building, into the working department of the office.

This office pays to the Government a net annual revenue of more than $152,000, as shown by a report of the Auditor of the Treasury for the Post-Office Department which I herewith submit, and it does not seem unreasonable to ask such an extension of the public building as will facilitate the transaction of business.

Statement of post-office receipts for the years 1859 *and* 1877 *at Cleveland, Ohio.*

WASHINGTON, *October* 27, 1877.

Fiscal year ending—	Gross receipts.	Net receipts.
June 30, 1859	$32,320 75	$14,267 15
June 30, 1877	188,217 30	152,826 05

Taken from the official returns of the post-office at Cleveland, Ohio.

J. M. McGREW, *Auditor.*

Many of the details in this statement in regard to the business of the post-office at Cleveland I have obtained from the present postmaster, N. B. Sherwin. The law passed at the last session classifying mail matter has so greatly increased the business in this department as to make it almost impossible to properly attend to the work in the present Government building, and he has called upon the Postmaster-General for authority to rent an outside building for that purpose. This authority has not been granted, for the reason that it is undesirable to have this business done in a detached building, and that the Postmaster-General believes that Congress will pass this bill for the extension of the building and thereby procure sufficient room for all the purposes of the Government under one roof. The Post-Office Department is now renting a room for the headquarters of the

ninth division of the railway-mail service, there being no place in the Government building that can be spared for that purpose.

The business of the United States courts for the northern district of Ohio has grown to such proportions that it cannot be satisfactorily and properly transacted in the limited quarters now assigned them in the present building, as will be more clearly shown by the following statement furnished by Earl Bill, esq., for many years the efficient clerk of the court:

In the construction of this building the architect of the United States followed the plan, which seems to have been a favorite one, namely, of making one structure serve the purposes of all the various Government officers of the district in which they were located. At the time of its construction, and some years after, the present building afforded ample and convenient accommodation for the thus limited business of the United States necessary to be done here, but owing to the growth of the population and business interests in this section of the State, which has been very considerable, especially within the past decade, and to a greater extent owing to the changes in the laws of the United States during the same period, by the enlargement of the jurisdiction of the national courts, the business of the Government has been very sensibly augmented, and in no one of its branches has the increase been more apparent than in the judicial. This will more clearly appear from the following statement of the comparative number of suits in the national courts in the first, tenth, twentieth, and last years of the existence of this judicial district, which now completes the twenty-second year:

In 1855, from March 21, the number of suits commenced was as follows:	
In the circuit court	155
In the district court	12
Total	167
In 1865 the number of suits commenced was as follows:	
In the circuit court	111
In the district court	107
Total	218
In 1875 the number of suits commenced was as follows:	
In the circuit court	182
In the district court, (exclusive of bankruptcy)	194
Number in bankruptcy	66
Total	442
In 1877 the number of suits commenced was as follows:	
In the circuit court	304
In the district court, (exclusive of bankruptcy)	313
Number in bankruptcy	79
Total	696
The number of suits pending at the close of the year 1877 is as follows:	
In the circuit court	641
In the district court, (except bankruptcy)	129
In bankruptcy	320
Total	1,090

In the above statement it appears that in the last year of the first decade of this district the increase in the number of suits in the national courts amounted to about 31 per cent. above the first year. In the last year of the second decade the percentage rose to over 100. The number of suits commenced in 1877 still shows an increase of 57 per cent. over the number commenced in 1875.

Since the organization of the courts of this district the circuit and district courts have been held at the same time, both in one room, and substantially by one judge, with occasional attendance of the judge of the supreme court allotted to this circuit, or the circuit judge. The labor of disposing of all suits in both courts has consequently devolved upon the district judge.

It will be seen from the foregoing statement that, owing to the increase of the judicial business, and the now more regular attendance of Judge Baxter, the circuit court judge, who has already appointed an additional clerk and applied for additional room and necessary furniture, the necessity already exists for increased accommodation for this particular department so as to prevent a grievous delay of justice. The two courts should be separately held, and this cannot possibly be done without enlarging the building.

The collector of customs of this port also has his quarters assigned to this building. The business connected with this department at the time of the construction of the building was quite small, but has grown with the increasing business of the city until the net revenue received from this port in the six years ending December 31, 1877, was considerably over $1,000,000. The number of vessels entered and cleared for the same period was over twenty-two thousand, having an aggregate tonnage of more than seven million tons, which will show the magnitude and importance of this office and the necessity for much larger quarters than are now assigned it, or is possible for it to obtain in the present building.

A very important office, namely, that of internal revenue, which should have its quarters in the Government building, is compelled to rent quarters elsewhere, at a considerable cost, which are in no sense fire-proof, and the valuable property of the Government is constantly exposed to loss. When the magnitude of the business of the eighteenth internal revenue district is considered, it will be conceded by every one that this department should be in the Government building.

The following statement from the collector of internal revenue will show the extent and importance of this branch of the Government service:

This office is not in the Government building, because there is no room therein which could possibly answer the necessities of the office. In addition to the stamps kept on hand, as hereinafter stated, there are the accumulations of the files of the collector's office of the old eighteenth district, to which were added the files of the assessor's office of that district on the abolishment of that office. Subsequently the former fourteenth, seventeenth, and nineteenth districts were consolidated with the eighteenth district, adding the accumulated files of the assessors' and collectors' offices of these districts, so that there are now seventeen counties in this district, being the northeastern corner of the State, extending down the Ohio River below Steubenville.

The extent and business of the territory necessitates the employment of twenty-five to twenty-seven persons in various ways in the district. The average value of spirit, tobacco, beer, and proprietary stamps that it is required to keep constantly on hand is about $160,000. To this should be added special-tax stamps, received annually in April, to the amount of about $200,000. These are, however, mostly issued in the months of April, May, and June.

The importance of having not only an abundance of room for the transaction of business, but of having that which is *fire-proof* for the protection of the public property, will be readily appreciated. The estimated collections for the present fiscal year, based on former collections, are $1,000,000. The entire collection in the district to December 31, 1877, was $20,684,344.51, and as this office for many years will be a permanent one it is very important that it should have a place in the Government building.

At the date of the erection of this building the Government contemplated its enlargement at some future day, and with that end in view purchased sufficient ground to meet that contingency, and, fortunately, it now owns an area of land sufficient for all contemplated additions, and the amount of money to be appropriated will only be for the additions to the present building. From these statements it will be seen that the business of the Government at this point, in its various branches, is not only large but rapidly increasing. The space in the building is too small for the proper and safe transaction of the Government business. This has been felt for some years past, and more room has now grown to be a necessity, and is demanded for the best interests of the Government.

The Secretary of the Treasury, in response to a note addressed to him by Senator THURMAN, strongly recommends the passage of this bill and urges the importance of this improvement, and says additional room is required for the safe and economical transaction of the Government business at that point.

It will be observed from the statements that I have made that the annual receipts of the Government at Cleveland from internal revenue, customs, and the post-office are $1,294,774, to wit, post-office, over expenses, $152,000; from customs duties, $142,200, and internal revenue, $1,000,000; and all that I ask for this improvement to give the amount of room necessary to do the business economically and properly is $150,000; which is less than the receipts for one year from the post-office, and but little more than the amount received for customs in the same time at this point. The Committee on Public Buildings and Grounds in the Forty-fifth Congress, after full investigation, unanimously recommended the passage of the bill, but the session closed before it was reached on the Calendar. The same committee in this Congress, after full consideration, unanimously recommend the passage of the same bill. I have endeavored to place before the House a plain statement of the facts, relying on the justice and wisdom of the House for a unanimous vote in favor of the passage of the bill.

The Indian Question.

SPEECH OF HON. S. W. DOWNEY.

OF WYOMING TERRITORY,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, April 3, 1880.

The House being in Committee of the Whole, and having under consideration the bill (H. R. No. 5092) to accept and ratify the agreement submitted by the confederated bands of Ute Indians in Colorado, for the sale of their reservation in said State, and for other purposes, and to make the necessary appropriation for carrying out the same—

Mr. DOWNEY said:

Mr. CHAIRMAN: The true and proper function of law, both in its enactment and administration, is the preservation of the good against the approaches of the evil, the supplanting of that which is evil by that which is good, and, when possible, that which is good by that which is better. To discern the better from the worse is the first step; the promotion of the former and inhibition of the latter by adequate legal provisions the next step; vigorous and effective enforcement of those provisions the indispensable complement. Is civilization and enlightenment a better stage of society than the savage or barbarous state? This question meets us at the very threshold of investigation into the Indian problem. The answers from the two stand-points contradict each other. It would seem a general answer to say that if the civilized state is not better, then the most stupendous blunder of humanity has been the building up of a nation of forty million civilized beings upon the ancient hunting-grounds of a few hundred thousand savages.

Investigation and argument are not necessary in order to a declaration in favor of enlightenment. In the discussion of the Indian question it has been customary to assume the superiority of the civilized state as an axiom. But while the people and Government have uniformly declared in favor of such assumption, a policy has been almost

as uniformly pursued, tending in the main to conserve the savage state of the aborigines. Wherein civilization and barbarism have clashed, the sympathy of the dominant majority, both by utterance and action, has gone to the support of barbarism and against civilization—often without investigation, and with no knowledge of the facts upon which the merits of the case depended. Such policy, so steadily pursued, in the face of its natural tendency, outborne by long-continued results, such clearly uttered, active sympathy are sufficient to raise the suspicion that abstract declarations in favor of the enlightened state are insincere, or subject to numerous mental reservations.

The evolution of the white race from primitive barbarism to the present state of civilization and enlightenment has been in progress since the prehistoric ages; that of the Mongolian race perhaps even longer. Upon the discovery and first occupancy of our continent by the white race, less than four hundred years ago, that portion of North America now embraced within the United States, exclusive of Alaska, contained a population of about three hundred thousand savages. Authorities differ somewhat in regard to the number, but the weight of the most reliable authority points to the number stated. These savages were divided into many small bands, for each of which the passion of the hour was the law. The chief visible means of their support was the chase, which with predatory and vindictive warfare constituted the employment of the men, while the women performed the servile labor. Such mode of life, the only one known to them, the only one desired by them, and, as many even now believe, the only one to which they are by nature adapted, is incompatible with rapid increase; nor would the resources of the territory over which they roamed be sufficient to support a greatly increased population from the fruits of the chase. Prodigal in the extreme, knowing no principles of economy, caring only for the gratification of present desire, and the supply of present want, often slaying for pastime, increased population with increased want brought corresponding diminution of supplies. Diminution of supplies provoked predatory and vindictive war, and war in turn restored the equilibrium of demand and supply. The culture and economies learned and practiced in a state of enlightenment produce a surplus, so that increased demand is satisfied by more than commensurate increase of supply. The territory which supported less than half a million aborigines, and was scarcely capacious for more, in their savage mode of life, now supports forty million civilized human beings, is scarcely half occupied, and the occupied portion is capable of supporting a population indefinitely increased.

The preservation of and provision for life is and must always be the consideration of prime and chief importance. Of two stages of society, therefore, otherwise equally commendable, that whose practices result in the support of fifty persons upon the same territory whereon the practices of the other stage will result in the support of but one, must be adopted to the exclusion of the other. The only alternatives from such choice are massacre or systematic prevention of natural increase. In this all-important particular, then, the civilized state is to be preferred to the savage.

The savage state, like brute life, is non-progressive. Removed from contact with civilization, no foundation is laid by one generation to be built upon by the next succeeding generation. The savage of a thousand years ago is the savage of to-day and of a thousand years hence. Such, at least, is the tendency of the mode of life in the savage state. Fortuitous events may give a new direction to barbarous ambition, and thus the first germs of civilization may be sown; germs which in the lapse of ages mature and yield their fruit. Progression, then, is another important particular in which civilization is to be preferred before barbarism.

The gratification of animal desire and appetite, triumph by force, and vindictive glory, constitute the savage idea of happiness. Those intellectual and spiritual delights which are classed among the higher orders of enjoyment in enlightened society necessarily occupy little or no space in the barbarian's catalogue of enjoyments.

The savage mode of life, contrasted with the civilized and enlightened state, presents a happiness made up of the lower order of enjoyments; is in its nature and tendency antagonistic to advancement toward a higher estate, and its unchanged continuance renders impossible the growth and expansion of population beyond a certain limit.

Taking the narrowest possible view of the innumerable benefits of civilization and enlightenment, of the grand progress of a single century, of the great and well-grounded hopes yet to be fulfilled; taking the most magnified view of the sins of civilization, and the most partial view of the savage state, the three named particulars of inferiority inseparable from the latter state are alone sufficient to answer affirmatively the question, "is civilization and enlightenment a better stage of society than the savage or barbarous state?"

If in the determination of the national policy the question that meets us at the threshold of investigation be thus answered, the contrary answer, from the stand-point of the savage should no longer weigh or be considered in shaping our policy. That savage opinion and savage desire have obtained great weight, that they have blunted discernment, warped legislation, and clogged administration, notwithstanding oft-repeated declarations of the opposite purpose, is true, and thence have arisen some of the incongruities which have marked our policy.

The recognition of the various nomadic tribes as sovereign nations, with all that the term implies, was the prime error of governmental policy. Out of this the most delicate matters of legislation and administration and the most complex judicial issues have grown. With recognized sovereignty come recognized equality, domain of territory, and the treaty-making power; the exercise of the latter power with such an application has been an oft-repeated burlesque of one of the highest acts of sovereignty; yet it has dragged its grotesque length through nearly a century, twining its serpentine folds about every transaction between the Government and the Indians, occasionally presenting the pitiable spectacle of a joint high commission composed of distinguished embassadors of a great government on one side, and upon the other of a half naked ignorant chief, the present representative of a hundred or a thousand equally repulsive followers, (which number makes no difference in principle, and little difference in fact.) Thus constituted, the commission begins negotiations, which often terminate in binding the honor of the Government for all time to a tribe whose members have no conception of the obligations of the treaty and only see in it a government grant of some coveted privilege or bauble. Perhaps the most ridiculous feature of the whole transaction is seen in the fact that, upon the day following the treaty, this personal, royal embodiment of sovereignty, which yesterday the United States of America met with such formal circumstance, might be deposed and shorn of all his power by the subordinate officer of a subordinate branch of the Government who is charged with the execution of the details of the solemn international treaty. What a travesty upon diplomacy!

Another extraordinary infraction of the conventional forms of treaties has characterized some of the later of these diplomatic triumphs, that of amending the provisions of the treaty in the United States Senate, and holding the amended treaty binding upon both sovereigns without the formality of submitting the Senate amendments to the savage sovereign for approval. Concession of mutual right so to amend would have produced some astounding obligations undoubtedly. The exercise of the right by one of the treating parties and the denial of the same right to the other party is essentially a denial of equal sovereignty. Equal sovereignty is the foundation upon which treaties are built; its denial destroys that foundation.

No wonder that the treaty-making power founded upon a fiction, wrongly assumed as a fact, should in its exercise and practice have evolved compacts and transactions as incongruous and contradictory as the foundation was fictitious. The wonder is that the practice should have been so long maintained; the greater wonder that it should have begun at all. Happily since the act of 1871 the treaty-making practice has ceased, apparently with the acquiescence of all parties concerned. So long as this acquiescence continues it is scarcely worth while to inquire how an act of Congress could take from the President and Senate a right vested in them by the Constitution.

There is much of fiction in the idea of the right of Indian domain over territory. Upon the first arrival of the whites, the pretended title in many instances had no better foundation than right of conquest. A usufructuary right seems to have been the only right in lands understood or appreciated by the natives. Had our ancestors taken by conquest instead of by purchase, the Indians in many cases would only have lost by force what they gained by force.

From the foundation of the Government only the right of occupancy has been conceded to them, the ultimate fee being in the Government. Such usufructuary right may result, first, from such exclusive occupancy and use as constitute adverse possession, which is probably the original, and best foundation for property in lands; or, second, from definite and distinct grant by treaty or otherwise.

The validity of the right, in the first case, depends upon the character of occupancy. It is well known that the Indian tribes were nomadic in their habits, and that upon a very large portion of the lands conceded to them they did not define their boundaries; they did not establish homes; they did not cultivate the soil; they did not habitually gather the indigenous and spontaneous productions; they did not even institute or maintain any measures for conserving the wild game, whose pursuit constituted their occupation; they did not exercise any industry, or perform any acts ordinarily recognized as the exercise of possession. They merely roamed over the territory occasionally in pursuit of game, as hunters and trappers of the white race have roamed over the public domain for the same or similar purpose both in the United States and British America. It has never been maintained that such hunters and trappers had a valid title, or any title, to the lands over which they exercised their vocation. The plea of modern so-called philanthropists that the Indians in hunting put the lands to the only use they knew or understood, and that therefore they believed they had the right of exclusive possession, is not good. The belief of any party in the validity of a right claimed by or for him may constitute good grounds for his own action in accordance with his belief, but no grounds for forcing the actions of others to accord with the same belief. The twenty-five hundred well-armed Sioux warriors of Red Cloud's band, at Pine Ridge agency, Nebraska, have in their possession about twelve thousand war ponies grazing upon the plains about the agency—a well-mounted, finely appointed cavalry brigade, sufficiently imposing to overawe any indiscreet enthusiasm in bureau measures of civilization. These warriors undoubtedly believe their title to their war ponies good; yet a great portion of them were captured from white citizens, many of whom were murdered and mutilated by these stalwart warriors.

If the right of occupancy, conceded to the Indians in the early

days of the Republic, and which has been, from time to time, extinguished at great cost to the Government, was held by definite grant, under treaty provisions, such grant is obnoxious to adverse criticism as operating in several important particulars to obstruct the civilization of the tribes, which has always been professed and declared to be a paramount object. Such grant being made in common to a tribe, and not to individuals, swelled the pride of the petty chiefs, strengthened the tribal relation, tended to destroy the individuality of the members, especially their individual responsibility to the Government, enabled the tribes to pursue their former mode of life, and, not least, separated from close and frequent private contact the individual members of the two races. The Government seems to have aimed at the accomplishment of all these particulars. That the tendency of all was to obstruct civilization and conserve barbaric instincts, tastes, and habits, seems so apparent as scarcely to require argument. Especially has the Government insisted upon the separation of the whites from the Indians, lest the latter should be contaminated by contact with the former.

An act of Congress of 1796 provided for the establishment of trading-posts, to be carried on as Government institutions, in the Indian country, by agents appointed for that purpose, who were to buy of the Indians only furs and skins. By another act of the same year all unauthorized white persons were to be rigidly excluded from crossing the boundary into the Indian country. The only commodities which the Indians might vend under the provisions of the trading-house act bound them still faster to the only semblance of industry with which, in their savage state, they were acquainted, and consequently still faster to their savage state. The exclusion of the whites from their Territory deprived them of the force of civilized example and that frequent intercourse which is a most important factor in remolding habits of life and fixing them anew. While the effect of the act was to break off intercourse between the savages and those law-abiding citizens, whose example and influence would have been good, because this class habitually obeys the law, it increased the opportunities of the lawless, who habitually disregard the requirements of law, to make their pernicious influence felt, there being nothing with which their bad example could be contrasted except savage life, equally or more pernicious. This irrational policy appears more striking considered in connection with the provisions of the act of 1793. The latter act provided, among other things:

> That in order to promote civilization among the friendly Indian tribes, and to secure the continuance of their friendship, it shall and may be lawful for the President to cause them to be furnished with useful domestic animals and implements of husbandry, and also to furnish them with goods and money in such proportions as he shall judge proper.

If these provisions were duly executed, and during the succeeding three years domestic animals and implements of husbandry were distributed to the Indians, who must have had no idea, or only the most vague and crude idea, of their proper use, were not the acts of 1796 above cited strangely inconsistent with the motives and ends of the act of 1793? The restriction of trade and intercourse to the Government trading-posts, and confining this trade not to the products of husbandry, but to the fruits of the chase, seems, mildly speaking, a peculiar way of subsidizing the arts of peace.

We are prone to exalt the policy of the fathers of the Republic, because it was their policy, without examination of the grounds for such exaltation. Professing ardent zeal in promoting the civilization of the Indians, without doubt holding an honest and hopeful desire to make their professions good and their zeal effective, they adopted that policy from the beginning and pursued that course persistently whose natural tendency and whose proved effects have been adverse to the end in view. As an educator precept is less powerful than example, and example less powerful than experience. The first is hearsay, the second sight, the third knowledge. If the civilization of the Indian was the paramount object, his separation from the example and experience of civilization was the chief of blunders. The promotion of communication between the two races would have been the promotion of civilization. The closer that communication, the more continuous and uninterrupted, and upon a basis as nearly approaching equality as their great disparity would permit, the more rapid would have been the process of civilization. That a proposition so self-evident, so much in harmony with the known principles of social evolution, should have been doubted, should not have been received without trial and proof, seems surprising, but trial and proof are not wanting.

The history of the past two hundred and fifty years has proved that those tribes or parts of tribes which have been in closest communication with the white race have made most rapid improvement, almost if not quite without exception, and that in proportion to the separation and obstruction to communication, whether forced by the mistaken national policy or happening from other causes, has the progress toward enlightenment been retarded, notwithstanding the contamination of the untutored sons of the forest, through subjection to the pernicious influence of the whites, which our worthy ancestors so much dreaded. The history of our country furnishes another broader and weightier illustration of the same principle.

While the yet unsolved problem of the future social, intellectual, and political status of the native race of America was in the incipient stages of investigation, another and a different race of savages was imported from Africa. It is not clearly proved that the same humane designs were entertained toward the latter that were declared toward the former. True they had not furnished us the same cue for the practice of the golden rule and the Christian virtue of forgiveness. They had not slaughtered our defenseless women and children; they had not allied themselves with our enemies in war; they had not in times of peace made unprovoked war upon our frontier settlements. The relations of these two savage races to the dominant race of America, their status and their destiny, have constituted important elements in the *rationale* of our politics since the establishment of the Republic. Their characteristics, the purpose and policy of the Government toward them, and the result, so far as reached, contrasted briefly, shed some light upon the question of communication as a civilizer.

The native races have been the avowed wards of the nation and people of the United States. Their fictitious virtues, wrongs, and misfortunes have been published in the prose and sung in the poetry of the land until they have become household lore and fall from the lips of babes. They have been endowed with surplus lands. They have been permitted to enjoy in their own way the entire fruits of their own labor while drawing largely for food and raiment from the labor products of the dominant race, whose counsel, instruction, and sympathy they have had in turning their desire from barbarism, and shaping and supporting their efforts toward civilization. Their valor has been praised, and their crimes and misdemeanors have been condoned; but they have been systematically separated from the white race. They have been furnished opportunity to pursue their primeval mode of life. The fruits of the chase have been supplemented by gifts from the products of industry, enabling them to indulge their natural indolence; and in the main they are still savages, leading the same mode of life, moved by the same passions, ignorant, unclean, treacherous, and brutal as when the war-whoop echoed along the Atlantic and among the Alleghanies. The imported savages were brought here by force, destined to a life of slavery. They were held by force; they were forced to labor under the tutelage of those who enjoyed the fruits of their labor; they were not educated at public expense; they were not permitted to educate themselves—literary instruction was barred from them by penal statute—but they were held in close communication with the civilized and dominant race; they learned industry and many of the civilized arts in the hard school of experience. Rigidly enforced within defined limits, the second generation lost all knowledge of nomadic life. Under this harsh regimen the race has become thoroughly civilized, and is now on the road to enlightenment.

On the one hand, separation from civilized life, indulgence in idleness, opportunity to practice the modes of barbarism, condonation of crime, abstinence from force, abrogation of individualism, instruction by precept and continued barbarism. On the other hand close communion, enforced industry, exclusion of barbaric pursuits, swift, sharp punishment of offenses, constant pressure of force, maintenance of individualism, instruction in the stern school of experience and civilization. The results were inevitable. The laws of social evolution, like all the laws of nature, are fixed. Is slavery better than freedom then? No; but it is better than lawless license in the savage state. Despotism is better than anarchy. Less extortion and less severity, not to say cruelty, toward the black race; less generosity and less indulgence, not to say license, toward the copper-colored race, would have hastened the enlightenment of both races.

The policy of separation which had hitherto been carried out by establishing more or less definite lines of demarkation, during the administration of President Monroe took a more comprehensive scope, and contemplated the removal of all the eastern and midland tribes to the west of the Mississippi River. In July, 1817, a portion of the Cherokees agreed to go, the Government furnishing lands in Arkansas. The succeeding year the Delawares ceded to the Government their Indiana lands. President Monroe made general removal the subject of a special message to Congress, claiming that the welfare of the Indians demanded such action, which alone would speed their civilization, insure their prosperity, and preserve their nationality. Not all who agreed with Mr. Monroe as to the policy to be adopted based their agreement upon the same ethics. Calhoun says:

> It cannot be doubted that much of the difficulty of acquiring additional cessions from the Cherokees and other southern tribes results from their growing civilization and knowledge.

Wisdom seemed, therefore, to dictate to the land-acquisition party that the Cherokees go, and go at once. From that time the work of removal went steadily on.

Although the policy of President Monroe and others who, from humane or other motives, agreed with him, finally prevailed, there were not wanting many strenuous opponents of the policy, who maintained upon rational principles that the banishment of partially civilized Indians far from the example, the industries, institutions, and beneficial influences of civilization would not foster the germination of the seeds sown, nor promote the maturity of the wished-for fruit. That the latter views were altogether right, though opposed by many eminent men of that day and overruled by the dominant majority, has been abundantly proved by the sequel. The New York Indians, who, after entering by treaty of 1838 into an agreement to migrate, were permitted by the Government, upon petition of their white neigh-

bors, to remain, have made with less Government aid greater advancement in civilization than any of the tribes removed beyond the Mississippi. The difference between their advancement and that of emigrating Indians was observed and commented upon by the Secretary of the Interior as early as 1851, and even then, notwithstanding their constant subjection to all the pernicious and destructive influences incident to the contiguity of the whites, and notwithstanding they were living under their own governments, they were making advancement in husbandry and other civil pursuits, and bade fair to outstrip their formerly more favored southern brethren.

The more advanced tribes of the Indian Territory had made considerable progress before their removal, and the most favored have made but slow progress since. The Cherokees are pointed out as illustrating the admirable civilizing policy of the Indian Bureau. They, in fact, present the anomaly of a people enlightened but uncivilized. To speak with greater exactness, they are only partially civilized, while their enlightenment is the result of the forcing, hot-house policy to which they have been subjected. It is said by the officers of the bureau that more money *per capita* is annually expended by the Cherokees in the education of their children than is expended in the education of the white children of any State or Territory, and that there is a smaller percentage of the Cherokee people who are unable to read than of the white people of the whole country. Other equally marked evidences of enlightenment are paraded in bureau and department reports, to manufacture or hold popular sentiment in favor of a continuance of the policy. There are other facts appurtenant to these evidences, which are not so conspicuously published, but which are of the scheme, and without a consideration of which no just judgment can be eliminated.

Under the provisions of treaties the United States Government holds in trust a large sum of money due the Cherokees, the interest of which under the stipulations can only be devoted to their education. This interest is sufficient not only to maintain the schools at the high annual rate of $35 *per capita*, but also to yield a large surplus, which has been devoted in part to the erection of costly buildings. In addition to this they have been provided with abundance of land of exceeding fertility in a delightful climate. They are provided with a Government without taxation, leaving them the entire fruits of all enterprises in which they engage or labors which they perform to minister to their own personal comfort and gratification. The total population of the Cherokees is about nineteen thousand souls, men, women, and children; of which number less than one-half are of pure Cherokee blood, the remainder being of mixed races, by amalgamation with both the white and black races. This people has been brought to the present state of advancement at a cost to the United States of about $2,500 each. Their natural inclination toward indolence and the practices of savage life are far from being eradicated; and if they were now to be left to their own enterprise and industry to support their schools, their government, their churches, and other institutions of civilization and enlightenment, notwithstanding all that has been lavished upon them they would in all human probability relapse into barbarism.

The bureau men and friends of the system try to persuade the people that the partial success thus far achieved should encourage the continued pursuit of the same course until all the wild tribes shall have been reclaimed. Let us see. The wild Indian population is estimated at three hundred thousand. At the Cherokee rate, the money cost of the enterprise will be $750,000,000. Is the country prepared to make the investment? Before deciding affirmatively it should be remembered that before the revolutionary war the Cherokees were far in advance of the Utes, the Sioux, and other wild tribes of to-day. As early as 1750 the former, or a portion of them, were living in comfortable houses, surrounded by cultivated fields, and their children in schools. The enthusiasm, the faith, the assertion of our ancestors, who founded their convictions upon a fiction and for more than three-quarters of a century have been vainly endeavoring to force the facts to testify to the truth of their convictions, cannot avail against the real facts, which prove their enthusiasm ill-directed, their faith illusory, and their assertion unfounded.

President Van Buren, in his message of 1838, says of the removal:

> This has not been the policy of particular administrations only, but of each in succession, since the first attempt to carry it out under Mr. Monroe.

Then admitting conflicts of opinion in regard to the manner of carrying out the policy, he further says:

> But in respect to the wisdom and necessity of the policy itself, there has not from the beginning existed a doubt in the minds of any calm, judicious, disinterested friend of the Indian race, accustomed to reflection and enlightened by experience. And if in future time a powerful, civilized, and happy nation of Indians shall be found to exist within this northern continent, it will be owing to the consummation of that policy which has been so unjustly assailed.

Mr. Tyler, in his messages of 1842 and 1844, speaks in a similar strain. In the latter he says:

> We may fondly hope that the remains of the formidable tribes which were once masters of this country will, in their transition from a savage state to a condition of refinement and cultivation, add another bright trophy to adorn the labors of a well-directed philanthropy.

Mr. Polk's administration approved and advocated the same policy. In 1847 Secretary Marcy says:

> The wise policy of separating the Indians residing in States and organized Territories from contiguity to and intermingling with the white population, and of settling them in a quiet home removed as far as practicable from the reach of influences so pernicious to their well-being, has been steadily pursued, and generally with favorable results.

From these and similar state papers may be seen with what high hopes the policy was inaugurated; with what ardent zeal and blind faith it was prosecuted. It is lamentable that these glorious anticipations of results which so outstripped the speed of fact should have been destined to remain unfulfilled, and that so soon as 1853 the Secretary of the Interior should be compelled to say in his report:

> It is folly to attempt to conceal the fact that under the present system the Indians have not, for many years past, advanced in morality, integrity, or intelligence. * * * Much of the philanthropy and charity manifested for them has been wrongly directed. The Commissioner of Indian Affairs, who had that year returned from a visit to the Indian Territory, reported that what had been said about the advancement of the Indians was, in a great measure, false.

If the policy of removal failed of anticipated benefits to the Indians, it may still be maintained that great and almost incalculable good resulted to the white citizens of the States and Territories from which they were removed, and through them, indirectly, to the country. The first part of the proposition I shall not attempt to controvert. I have no reason to doubt, on the contrary I have every reason to believe, that the civilized citizens of any region would be greatly, if not incalculably, benefited by the removal of savages from their midst. The second part of the proposition, the indirect benefit to the country is a different question. Instead of eradication of the disease from the body-politic, it may prove that only a change of seat has been effected.

The prophetic vision of the politicians of fifty years ago seems to have been as much at fault in regard to the increase and spread of settlements beyond the Mississippi as in regard to the transformation of Indian character. The idea that the transportation of ninety thousand Indians from the East to their new home in the West, which, in the language of the treaty of 1828, "should never, in *all future time*, be embarrassed by having extended around it the lines, or placed over it the jurisdiction of State or Territory," would forever relieve the citizens of the nation from the evils and perils of proximity to the savages, and the savages themselves from the bane of contiguity to civilization, shows that neither anticipation nor fevered conjecture of future national growth and expansion could keep pace with that political evolution which was destined within twenty years to add so largely to our national domain.

The great States and Territories of the far West have now the same practical relations with the Indians that harassed and imperiled the lives of our fathers in the colonial days and in the early days of the Republic. The problem is yet unsolved. It is facing, with all the perils and evils of close contiguity, a people endeavoring to found and build up the industries, enterprises, and institutions of civilization in a newly occupied region, just as our ancestors labored for the same purpose, in past years, amid similar perils in the East.

Whether these perils shall be continued with the sanction of congressional action or inaction, and the development of so vast a region be consequently impeded, or whether those perils shall be at once dissolved and the spirit of enterprise have as free scope in the new West, where the necessity is greater, as in the old East, where the necessity is less, is the question which the West brings to Congress for decision.

What is the remedy, and how shall it be applied? If the policy of the past, which has been so much praised, of removing the eastern tribes to the Indian Territory, is still to be adhered to in principle; if the system of pampered pauperism which advises civilization while pandering to barbarism, counsels industry while ministering to indolence, is still to be the chief element in the Indian policy in the future as it has been in the past, the remedy suggests itself at once. Every principle of convenience, safety, and economy dictates that one single Territory be devoted to all the Indian wards of the nation, and that they all be placed there, with the greatest possible celerity, there to be held with the same rigidity that the whites have hitherto been excluded from trespassing upon their reservations. This course will prevent clash and outbreaks between advancing civilization and hostile savages, or greatly reduce the field of such strife. It will greatly diminish the cost of supplying these pensioners upon Government bounty with food, raiment, and agricultural implements. It will release territory now partially supporting about three hundred thousand savages by the fruits of the chase, sufficient to support millions of civilized human beings by its mineral, agricultural, and pastoral resources. The inducements to this course are certainly stronger by far in case of the wild Indians of the plains and mountains than in the case of the eastern Indians. But if the treatment of the Indian has been a mistake from the beginning, as Charles Sumner and other statesmen have insisted in the Senate, when the time comes to reverse it, the change should be radical and from the very foundation. In the application of future remedies for our Indian difficulties, the mistakes of the past should be avoided.

Human law universally recognizes the principle that the restraint of fear is stronger than the restraint of hope. In recognition of this principle, as well as from motives of economy, laws are made remedial through penalties rather than through rewards. The remedy can only be applied through the exercise of force. By how much the enactment and administration of laws makes the exercise of vindicatory agencies certain, by so much will the laws be effective. If this be true when the governed are civilized and habitually shape present action with a view to future good, in the nature of the case, it must be true in a vastly more striking degree when the governed

are savages, improvident, forecasting no future, to whom preservation from impending and imminent harm is the paramount object. The higher the state of civilization and enlightenment the more is fear supplanted by hope as a motive agent. Force, then, ever present, visible, tangible force must be an all-important ingredient in a successful Indian policy. The wild Indian left to his own bent will not civilize himself. Reason teaches this and experience proves it. Entreaties, arguments, bounties, appeals to gratitude, have been tried in vain. They have not accomplished the object of their mission. No other result from the employment of such agents could reasonably have been expected. Example alone cannot accomplish the work. Experience is the important factor and must be forced into the problem before it can be wrought out.

Agent Meeker's recent melancholy experience with the Utes is but a re-enactment of the old fable of Agricola warming the serpent in his bosom. By the testimony of all, whether friends or foes of the policy he was pursuing, the very paragon of Indian agents, in whom was reached the acme of persuasiveness, of brotherly love, of faithfulness and self-devotion, he fell a sacrifice on the altar which the fiction of Indian gratitude had built; his wife and daughter, thus widowed and orphaned, ravished by the blood-stained slayers of the husband and father. There was no shadow, semblance, or pretense of cause for this violence of the Utes except a mild effort to plant the first seeds of civilization and enlightenment in obedience to the Government which for years has fed and clothed them in their savage indolence; the Government which has set apart twelve million acres of land devoted to their savage pastime, upon which no white man has been allowed to trespass, while they have been permitted to roam at will, often plundering, robbing, and murdering peaceable citizens a hundred miles beyond the boundaries of their reservation.

Upon what principle of social, political, moral, or religious ethics can it be maintained that only mild measures shall be employed to curb such natures and bring them to a realization of and desire for the benefits of civilization? Force wisely directed, humanely exercised, but still force, is inevitable if any success is to be achieved. A blow at the field and the armament for the pursuit of the business, the pastime, and the depredation of savage life, reason teaches to be among the prime efforts at civilization.

Does the inebriate asylum place its patient in a gilded saloon supplied with choice wines and liquors free for his use; remove him from the example and companionship of the temperate; surround him with habitual drunkards, and there ply him with homilies upon the beauties of abstinence and sobriety? Would a reformatory school place the "artful dodger" in the companionship of thieves, amid a display of treasures within his reach, and convert him by persuasive insinuations that "honesty is the best policy?" Would a devotee at the shrine of Aphrodite, consigned to the voluptuous society of half disclosed beauty and within the persuasive influence of her siren voice, learn virtue from the oft-repeated maxims of an anchorite?

Such have been, essentially, the means employed to civilize the savage Indian. The tribal relation should be broken up and all distributions, so long as made at all, be made to individual Indians, and each be held to individual responsibility. Lands should be parceled out to individuals according to individual ability to cultivate and in no greater quantity than required for the support of each by pastoral or agricultural pursuits. The best way to teach the Indian to become self-supporting by civilized industry is to make him support himself by civilized industry. I do not argue that this can be accomplished in a year or in ten years, but it can be inaugurated at once. The policy cannot be carried out without force, and for the first few years, in all probability, a more extensive and active employment of force would be necessary than has availed to secure such partial restraint over the hostile bands of marauders as has been maintained during the past few years.

General action affecting simultaneously all the wild tribes would be impracticable. Upon legislation necessary to inaugurate a sterner policy, measures of force in locating, and exacting industrial labor, could be applied to a limited number, to be taken from the more rebellious; for example the White River Utes, the more turbulent of the Sioux, and other recalcitrant tribes. In the beginning, a widespread, general understanding should be systematically disseminated, and deeply impressed upon the Indian mind, that the Government has determined upon a sterner and more definite policy to be strictly enforced, mildly and peaceably if possible, forcibly if the Indians so elect; that in the administration of the policy the principle of "help to those that help themselves," an all-pervading principle of natural and divine providence, will be firmly adhered to by the Government in the dispensation of its bounties; that as rapidly as possible the tribal relation is to be ignored, and each individual to be held to accountability for his conduct to no chief or savage council, but to the properly constituted officers of the law; that labor and individual self-maintenance is the law of life, and that the strength of the Government will be directed to the vindication of this law, by voluntary acquiescence and obedience on the part of the Indians if possible, by compulsory labor if necessary; that the generation now in infancy and succeeding generations are to be educated, by voluntary attendance at school if possible, by compulsory attendance if necessary. Loss of knowledge and facilities for the pursuit of savage modes should accompany, and, as far as possible, precede acquisition of knowledge and facilities for the pursuit of civilized modes.

Both long-established habit and hereditary tendency will obstruct advancing success. The former of these impediments may, by humane but earnest and rigid enforcement of the policy, be removed in a single generation. The hereditary tendency is more occult, and will more stubbornly resist the approach of civilization. Perfect success cannot reasonably be expected until many years, perhaps several generations, shall have passed. The most difficult part of the task will have been accomplished when they shall come to know, experimentally, that the putting off of barbarism, with its pastimes, its cruelties, and its indolence, and the putting on of civilization with its duties, its sympathies, and its industries, is destiny for them, and that from the fiat there is no appeal.

The details of the plan are inappropriate to this discussion. That the principles upon which the policy is based are correct is not only demonstrable by sound logic, but has already been demonstrated by the sterner logic of past experience. The extremes of the mild and the severe, exerted on the two distinct savage races before cited, declare the truth of the principles. He who was before the Seminole's slave is now the Seminole's superior.

The bill presented to Congress by the Secretary of the Interior to sanction and carry into effect a settlement of the Ute question, makes no provision for the application of force in the contingency of its becoming necessary to forward the policy disclosed. It does not even recognize such future contingency as possible. It assumes that general acquiescence is to follow the three-fourths rule; that the Indians will voluntarily take up the line of march to their respective allotments in severalty, and there quietly abide, employing in good faith the means, implements, and facilities for the pursuit of agriculture and self-maintenance which it is proposed to furnish them at Government expense. It makes the payment to them of the annual dividend of $50,000 absolute, forever, without limitation or condition, regardless of the fidelity or treachery, increase or decline of the race. In these respects the scheme is built upon the same or similar fragile foundation of the faith in fictions, and contemplates the same or similar extravagant expenditures that have characterized similar transactions in the past. To those who have studied the character and history of the Indians, and their relations to the white race dispassionately, carefully, thoroughly, and without bias, the present scheme, in so far as the particulars enumerated are concerned, will promise little of permanent advancement in civilization for the race. But there are other features of the bill which are new and provide for steps in the right direction. Allotment of lands in severalty, the establishment of permanent individual homes, the establishment of individual accountability, all forcibly and directly assail the foundation of the nomadic habits and tribal relations, both of which have impeded efforts at civilization. The withdrawal of the field for barbarous pursuits and pastimes is a direct step toward their discontinuance. In these respects the scheme embodies some of the best elements, some of the prime essentials of a rational policy for the advancement of the Indians toward a higher plane of manhood; and in this connection I beg to call attention to the following extract from the argument of the honorable Secretary of the Interior made before the committee in support of the bill referred to. He says:

> It has seemed to me, and, I think, to a great many who have studied the Indian problem with care, that the system of large reservations, as has hitherto prevailed, is not only no longer desirable either in the interest of the Indians or of the whites, but will, in the course of time, become utterly untenable. As our white settlements in the West multiply, as the development of the country advances, available lands become more and more scarce and valuable, and so it is not unnatural that the withholding of large tracts from settlement and development so as to maintain a savage aristocracy in the enjoyment of their chivalrous pastimes, should be looked upon by many as a system incompatible with the progress of civilization and injurious to the material interests of the country. As an inevitable consequence, we have witnessed many encroachments, lawless and wrongful in character, upon Indian lands and rights, and constant efforts to drive the red men from the reservations belonging to them. This has kept the Indians in a state of uncertainty and restlessness, and led to many deplorable outrages and Indian wars. As a matter of course, this state of things has retarded the progress and impaired the well-being of the Indians themselves. However well disposed the Government may be to maintain the title of the Indians to their reservations—and undoubtedly the Government is and will remain so disposed—still it is evident that the Governmeni will not always be able in all things to control the action of our western people, and as sensible men we must make up our minds to the fact that as long as the Indians hold very large tracts of land, in great part useless to themselves and useless to other people, their tenure will, under existing circumstances, become practically more and more precarious. It is most desirable for the interests of the Indians themselves, therefore, that we should substitute for the system of large reservations another system that will protect the rights and interests of the Indians without standing in the way of the progress and development of the country.
>
> The ultimate end of this new system, in my opinion, must necessarily be that the Indians be gradually assimilated to and merged in the body of citizens. In the direction of this end some things are necessary which have been done as far as the Executive could do them under the laws of the country as they stand: First, to set the Indians to work; second, to educate them; and, third, to individualize the Indians by settling them in severalty, with the expectation of giving them fee-simple title by patent to their allotments, the same title by which white citizens hold their lands under the protection of law.

Summing up, the objectionable features of the bill are no more obnoxious to adverse criticism than similar features in prior statutes, agreements, and treaties. The commendable features take a new departure, and afford some promise of permanent benefits.

In the foregoing comments upon this bill I have considered exclusively the ultimate paramount interests of the Indians, to whom the future holds up no well-grounded hope, except in civilization and absorption.

To the citizens of Colorado, it seems to me that the provisions of

the bill are peculiarly favorable. Even if the Utes were all to be settled within the State, the land to be occupied by them is reduced from twelve million acres to less than one million, and this to be held in separate homesteads, among which public thoroughfares are to be unobstructed, while the Indians themselves are subjected like other men to the obligations, penalties, and protection of the laws so far as civil conduct is concerned. The change of the locus and legal status of the Ute proposed in this bill from those which now exist ought certainly not to meet the most opposition from Colorado.

In framing this bill three great considerations naturally presented themselves: first, that it should so commend itself to Congress as to secure a majority vote in both branches; second, that it should fairly protect the rights and interests of the Indians and tend toward their advancement in civilization; third, that in the interest of increasing population and advancing civilization the extinguishment of Indian title to a vast area should be effected.

In view of the difficulties which these combined considerations presented, perhaps the bill comes as near meeting the various requirements as any that could secure the sanction of Congress. Perhaps every member of the House and Senate could have drawn an Indian bill more in accordance with his own approval than the one pending; whether any could have framed one more nearly meeting the general approval, is quite another question. Believing that the measures proposed, if carried into effect, will be an improvement upon the present status, I think the bill should pass. Subsequent legislation may remedy defects which experience shall disclose and prove.

I have cited but few wrongs and outrages perpetrated by the Indians. The history of the West teems with them, and he who will may read. The records originally written in blood cannot be effaced by the sneers of incredulity. The impression is too deep. The present may close its eyes to the facts and revel in the fiction that all is serene. But the records will be correctly read and rightly interpreted hereafter, when those who now repose blind faith in the guidance of such as make discreet investments in fictitious humanity pay will be properly catalogued on the roll of infamy and consigned to merited obloquy.

Star-Route Deficiency Appropriation.

SPEECH OF HON. GEORGE AINSLIE,

OF IDAHO,

IN THE HOUSE OF REPRESENTATIVES,

Friday, April 2, 1880,

On the bill (H. R. No. 4736) to provide for a deficiency in the appropriation for the transportation of the mails on star routes for the fiscal year ending June 30, 1880, with amendments of the Senate.

Mr. AINSLIE said:

Mr. CHAIRMAN: I did not expect that an opportunity would be afforded me in which to indulge in any remarks upon the question now pending before the House, at the limited time allowed for debate and the number of eminent gentlemen who have expressed a desire to participate in this discussion led me to believe that it would look like presumption on my part to request even a few minutes' time in which to say that which I knew could be so much better said by the distinguished gentlemen who have preceded me; but as my friend from Montana has kindly yielded me a portion of his time I deem it a duty which I owe to my constituents to enter my appearance in this cause and file my protest against what I conceive to be a fatal blow at the star mail service throughout the country—a service by means of which, almost alone, the people whom I have the honor to represent hold communication with what we term in frontier parlance "the outside world."

I do not deny but that frauds have been perpetrated, and glaring abuses grown up under the present system in vogue regulating the star service; and that unless some restrictive legislation be adopted by Congress curtailing the discretion vested by existing law, in the Postmaster-General, such frauds and abuses will continue, and may probably grow worse; but admitting such to be the fact, is that any good or sufficient reason to warrant the withholding or denial of a sufficient appropriation to meet the requirements of the star service as contracts let under the law? If the Postmaster-General or his Second Assistant has exercised unwisely the discretion vested in him by the postal laws, or if they have fraudulently expended the appropriation made for the fiscal year, why attempt to reach them by striking down the star service, the only channel through which the pioneers of the West receive their mails?

That service has never yet been adequate to the wants and requirements of the people. Had it not been for Wells, Fargo & Co.'s express all the newly discovered mining camps on the Pacific coast would for a time have been without any mail facilities whatever, and yet we hear that a movement is now on foot to prohibit that company, and all other express companies, from carrying letters; which, together with a curtailment of the star service, would be equivalent to a total deprivation of mail facilities to thousands who reside on the frontiers and in new mining settlements. It has been said by gentlemen who are opposed to a concurrence in the Senate amendments that the bill as it passed the House does not curtail or abridge or in any manner interfere with the star service as it exists. If it does not, then the representatives of the people who depend almost, if not entirely, upon that service, are incapable of understanding the legitimate results that would follow from the enactment of the House bill without the Senate amendments.

The amount proposed to be allowed for the remainder of the fiscal year, to be expended on increased service either with or without any expedition of schedule time, is totally inadequate. The Western States and Territories, as is well known, are rapidly filling up through immigration from the older States; and new mining camps spring up as by magic in many of them; and where six or twelve months ago a section of country was almost a wilderness, within the year we find it teeming with a population of thousands; tents and log cabins give way quickly to permanent buildings of a substantial character; the camp grows to be a village, and from a village to a city; the private express charging from twenty-five cents to a dollar for carrying letters and papers is partially superseded by a weekly United States mail; and the business interests and necessities of the people soon require an increase of service to a tri-weekly, then to a daily. Millions of dollars of the precious metals are shipped to the United States mints and assay offices, and finding its way through all branches of business and avenues of trade and commerce into general circulation, add to the wealth of the country. A cosmopolitan population, drawn from all sections of our common country and from every region of the globe, daring, energetic, and enterprising—I say, without fear of contradiction, that no class of our people anywhere are greater readers than the miners and the people generally who reside in mining communities, and no measure that has been brought forward in Congress for years would bear more heavily upon that class of our people than an abridgment or curtailment of their mail facilities. They consider that they already have many causes of complaint against the General Government; and, as a resident for twenty years of the Territories, I insist that our grievances have never been properly understood or considered by Congress. In its course toward the Territories, Congress has but aped the policy pursued by Great Britain in the government of her colonies. Acting on the assumption that it possesses absolute and unlimited powers under section 3, article 4, of the Constitution, which provides that "The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States," the people resident in the Territories have been treated as property, and not as citizens of the United States, possessing rights which even Congress is rightfully bound to respect. We are regarded as aliens, trespassers on the public domain, living, as it were, on Government reservations, not treated as well even as the Indian wards of the nation, for the latter are not taxed, and are fed and clothed at Government expense.

Congress has utterly ignored the free system of local self-government in the Territories, and has established over us an arbitrary, despotic, and absolute rule, unknown to the Constitution and foreign to the spirit of American institutions. We are denied any voice or vote in the Government under which we live; bearing all the responsibilities and burdens of citizenship, but denied the privileges and immunities of such. We are regarded as incapable of self-government; political lazzaroni; warts on the body-politic, who, by immigrating from our old homes, in crossing State lines into the territory of the United States, left our brains and intelligence behind us, and forfeited all our rights and privileges as American citizens. Swarms of carpet-baggers selected from the grand army of broken-down old political hacks and professional office-seeking bummers alien to the country and the people by instinct as well as by nature, are foisted upon us as officers, such as governors, judges, marshals, &c.; and they come among us "to harass our people and eat out their substance." Taxes are imposed on us without our consent. The right is claimed, and sometimes exercised by Congress, of annulling at pleasure laws enacted by our territorial Legislatures. The number of members of our local Legislatures is reduced by a rider on an appropriation bill, and full power is claimed in this body to legislate for us in all cases whatsoever. Yet we are expected to endure in uncomplaining silence all the wrongs and indignities thus heaped on us. We must contribute of our hard-earned wages to the national coffers without receiving anything in return. We are compelled to pay tribute, but given no voice in the levy.

Is it not about time that the people of the Territories should be reinvested with all their political rights and privileges as citizens of which they have been so unjustly divested, and that American citizens upon American soil should enjoy equal rights under the Constitution and the laws of the United States which should be made in pursuance thereof? I insist that it is time the present system of vassalage in the government of the Territories should be abolished, as was slavery in America and serfdom in Russia; that no discrimination should exist in citizenship in any portion of our country, but equal rights should be accorded to all, as every citizen should stand equal before the law.

But to return to the main question under discussion. Why, Mr. Speaker, gentlemen on this floor who live in States where every section of land almost is traversed by a railroad, and who receive their mails not only daily, but two and even three times a day, seem to

think that no section of the West should have any mail service unless that service should prove self-supporting. They forget that in years past their own sections depended entirely on what is now known as the star service, and that it was far from being self-supporting then. In the enjoyment of railroad communication with every section of the country they are not only indifferent as to the postal affairs of their less fortunate fellow-citizens who live distant from railroads, but are selfish enough to grumble at the expense incurred in affording them the uncertain and inadequate facilities supplied by the much-abused star service.

At the special session of Congress last summer some time was consumed in the discussion of a bill, which finally became a law, increasing the salary of letter-carriers in the cities—a very proper measure, too—when there was neither an expedited schedule of time nor an increase of service shown as an argument in favor of such increase of pay, yet when a contractor in the West, who carries the mails by stage-coach, is required to increase the number of trips and carry the mails through in a shorter time, a howl is raised over the fact of his receiving additional pay for such increased work and service. Persons who receive their mail two or three times a day—brought to their own doors by letter-carriers—have no sympathy for those whose main reliance is on the star service; but, sir, I am mistaken in the temper of this House, and of the sense of justice which, I believe, is inherent in the bosoms of a majority of the members of this body, if the pioneers of the West, who are laying the foundations of future commonwealths in our hitherto waste-places, are to be deprived of the only blessing conferred on them by the General Government—an uninterrupted means of communication with their fellow-men more fortunately situated, so far as postal facilities are concerned, and that by the star mail service.

I do not believe, sir, that the public moneys could be invested more advantageously or expended more beneficially to the people and to the country than by giving to the residents of every section all the mail facilities they may demand. Wherever you find the people praying for additional mail facilities it is an evidence of their prosperity and of their intelligence. An ignorant class of people do not ask for an increase of service or for an expedited schedule of time. And if the future welfare and prosperity of our country depend on the education and intelligence of its citizens, then for God's sake give the people all the mail facilities they may ask for, even if it costs millions over and above any estimates of the Post-Office Deparment under any administration.

The Independence of State Courts must be Preserved; the State Tribunals have Exclusive Jurisdiction of Offenses against the Peace, Dignity, and Sovereignty of States. The Attempted Usurpations of the Federal Judiciary.

SPEECH OF HON. GIBSON ATHERTON,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, April 3, 1880.

The House being in Committee of the Whole for general debate and having under consideration the bill (H. R. No. 1715) to repeal certain sections of the Revised Statutes, and to amend certain sections of the Revised Statutes and of the Statutes at Large relating to the removal of causes from State courts—

Mr. ATHERTON said:

Mr. CHAIRMAN: The bill to which the attention of the House is now called was introduced at the extra session of the present Congress and was then very ably explained and discussed by gentlemen upon both sides. But as the principal question involved has been so long out of view, a restatement of it becomes important, if not a necessity. The bill, among other things, proposes to strike from existing statutes the provisions for the removal of criminal prosecutions from State to United States courts where the prosecution charges offenses against the peace and dignity of the State wherein they are brought.

By the letter of the statute as it now stands, any criminal suit brought against any officer appointed under or acting by the authority of any revenue law of the United States, or against any person acting under or by the authority of any such officer, or on account of any act done under color of his office, or of any such law, or on account of any right, title, or authority claimed by such officer or other person under such law, or is commenced against any officer of the United States, or other person, on account of any act done under the chapter of the Revised Statutes entitled "The elective franchise," or on account of any right, title, or authority claimed by such officer or other person under any of said provisions, such prosecution may, at any time before the trial or final hearing thereof, be removed for trial to the circuit court of the United States, upon a petition of the defendant, to the circuit court, setting forth the nature of the prosecution, and verified under oath and accompanied by the certificate of some attorney-at-law, stating that he had examined the matters alleged in the petition, and believed them to be true.

All the accused has to do to procure this removal is to file his verified petition and get the indorsement of counsel. He need not prove his right to remove to the satisfaction of the State court nor to the United States court, or at all. If his petition is formally correct and verified and indorsed, he is absolutely entitled to remove his case, even though the State court from which and the United States court to which the removal is sought have the most overwhelming evidence that his allegations are false.

The right to remove is not confined to a case against an officer of the United States, but every person claiming that he was acting under the authority of such officer is given the same right. It goes further, and extends the same privilege to every person claiming to be acting under the revenue and election laws of the United States or under color of an authority derived therefrom.

And now, Mr. Chairman, I may say in the outset, without the danger of contradiction, I think, that the advantages of the proposed repeal are so apparent and manifest, as regards both the convenience of suitors and their witnesses and the economical administration of the judicial affairs of the General Government, that the proposition must command the approval and enlist the earnest support of the representatives of the people, unless the objections thereto so earnestly presented by gentlemen on the other side of this House appear to be well taken.

At the extra session of Congress the proposed legislative appeal met with the most violent opposition from the republican side of the House. So turbulent and factious was that opposition that it resorted to all those questionable methods of parliamentary tactics usually termed "filibustering," by which a minority, under our rules, may for the time being defeat the action of the majority and thwart the will of the people.

The objections to proposed legislation justifying or even excusing such extreme and quasi revolutionary practices and methods should be of the most grave and weighty character. Now, what are they, and can they be successfully answered and removed?

The gentleman from Indiana, [Mr. ORTH,] who opened this discussion on behalf of the objectors, has ably summarized his objections to this proposed repeal, and based his argument principally upon the necessity of the Government to collect its revenue, its duty to protect its officers charged with the execution of its laws, the necessity of having the laws of the United States construed and expounded by its own courts, and the assumption that the revenues cannot be successfully collected, the officers of the Government so protected, and the statutes of the United States so expounded unless this power of removal exists. And he answers the objection of the other side, wherein they claim that if criminal causes punishable only by the statutes of the several States are so removed the courts of the United States will be without jurisdiction of the subject-matter and powerless to try and punish an offender if the immunity claimed by him under the statutes of the United States is rightfully denied, by saying that the transfer of criminal causes from a State to a United States court carries to the latter as a "necessary incident" the criminal laws of the State, so that the United States court into which the prosecution is removed has jurisdiction to try and power to punish under the State law. And if the United States court have not that power now, it may be conferred by appropriate legislation.

Now, I fully concur with gentlemen that the laws of the United States—I mean its statutes—should be in all cases subject to be brought under review and construed and expounded by the Supreme Court of the United States; that the officers of the General Government charged with the collection of its revenue and the execution of its laws should be amply protected in every case where they are unjustly accused of crime. And I think I can conclusively show by authority, as well as by the reason of the thing, that all that can be amply and fully done without resorting to the machinery of removal, and that while the power of removal in criminal causes may exist from State to the United States courts, the result of such removal is simply to put an end to the prosecution and to protect the defendant from punishment whether innocent or guilty; to shield him not only when he has been acting within the laws of the United States, and is legally justified, but when, being guilty of crime, he unjustly claims an immunity from punishment to which he is not entitled; that not only does the removal of a criminal prosecution not carry with it the criminal statutes of the State, but that it is not within the constitutional power of Congress by the most express legislation to arm the United States courts with a jurisdiction to convict and punish under the State law, and especially that no such power is given by the legislation proposed by the gentleman from Indiana.

The judicial power of the United States is derived from the grant contained in its Constitution. By article 3 it is provided that the judicial power of the United States shall be vested in a Supreme Court, and such inferior courts as Congress may ordain.

In section 2 it is provided that—

The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority, &c.

There are other cases to which it extends mentioned, but none of them are applicable to or affect the question under consideration.

The judicial power, then, of the United States, vested by its Constitution in the Supreme and such inferior courts as Congress may ordain, extends simply to its Constitution, its laws, its treaties, and not to the statutes of the States.

And now, in the first place, what would be the result of the doctrine that upon a mere suggestion of the defendant that his defense contained a "Federal ingredient," and without proof thereof, a removal could be compelled from a State to the United States court, and upon finding the suggestion false the latter court could retain the case and execute against the defendant the criminal law of the State. The Federal court would then construe the criminal statutes of the States. The State would be shorn of its power *pro tanto*, and at the election of the defendant, to punish crimes against its peace and dignity. The modes of punishment and the incidents to conviction, the pardoning power, the restoration of citizenship, would all be transferred to another sovereignty and executive.

Such doctrine was long since declared not to be the law of the land. In the case of The United States *vs.* Burr, which arose in the circuit court of Virginia in 1807, the Chief-Justice of the United States declared that the laws of the several States could not be regarded as rules of decision in trials for offenses against the United States, because no man could be condemned or prosecuted in the Federal courts on a State law. The expression "trials at common law," used in the thirty-fourth section of the judiciary act, was not applicable to prosecutions for crimes. It applied to civil suits as contradistinguished from criminal prosecutions, and to suits at common law as contradistinguished from those which came before the court sitting as a court of equity and admiralty. For this doctrine see 1 Kent's Com., 333.

A similar proposition has been determined by the Supreme Court of the United States. The question was presented to that court whether the courts of the several States might, by the consent of the United States, execute and enforce the criminal statutes enacted by Congress.

In respect to that matter, Story, in his Commentaries on the Constitution, says:

> In regard to jurisdiction over crimes committed against the authority of the United States, it has been held, that no part of this jurisdiction can, consistently with the Constitution, be delegated to State tribunals. It is true that Congress has in various acts conferred the right to prosecute for offenses, penalties, and forfeitures in the State courts. But the latter have in many instances declined the jurisdiction and asserted its unconstitutionality; and certainly there is at the present time a decided preponderance of judicial authority in the State courts against the authority of Congress to confer the power.—2 *Story on Cons.*, 567, sec. 1756.

The reason for this rule is given by Chancellor Kent in his Commentaries, in these words:

> The jurisdiction of State courts of Federal causes is, however, confined to civil actions or to enforce penal statutes; and they cannot hold criminal jurisdiction over offenses exclusively existing as offenses against the United States. Every criminal prosecution must charge the offense to have been committed against the sovereign whose courts sit in judgment upon the offender and whose executive may pardon him.—1 *Kent Com.*, (8 ed.,) 442, mar. pg. 403.

If Congress has no power to invest the State courts with such a jurisdiction even when the States have consented to receive it, it follows conclusively by a parity of reasoning that the United States court can exercise no criminal jurisdiction over offenses punishable, and made a crime by the statutes of a State, and for a greater reason they would not have such power when the State had not consented to its exercise.

Another consideration strengthens the argument. The courts of the United States have no common-law powers to punish offenses. If they had, it might be contended that having a common-law jurisdiction to try and punish offenders, upon a prosecution being removed for trial from a State court, the United States court might try and punish by virtue of that power, resorting by comity to the statute of the State for the methods and measure of punishment, transplanting the whipping-post from Delaware or substituting the penitentiary from New Jersey for the same offense, as the cases might come from one or the other State. But it has been fully determined that the courts of the United States in the exercise of a criminal jurisdiction are courts of statutory powers alone, and while the common law may govern the mode of procedure, and may be resorted to in ascertaining the meaning of statutes, that no act is a crime, or can be made so, except by the act of the legislative power of the Government. (State *vs.* Wheeling Bridge, 13 How., 518; United States *vs.* Worrall, 2 Dal., 384; Cooley's Cons. Limitations, 4 ed., 26; *Ex parte* Bollman, 4 Cranch, 75.)

It was decided that the courts of the United States had no common-law jurisdiction in case of criminal libel, or generally in criminal cases, (The United States *vs.* Hudson *et al.*, 7 Cranch, 32,) and that "to exercise criminal jurisdiction in common-law cases was not within their implied powers, and it was necessary for Congress to make the act a crime, to affix a punishment to it, and to declare the court that should have jurisdiction."

This case having been determined by a divided court the discussion of the same matter was renewed in the case of The United States *vs.* Coolidge in the circuit court for Massachusetts, and that case having been brought into the Supreme Court of the United States they refused to review their former decision, and declared they "would not disturb its weight as authority."

But, says the learned gentleman on the other side, [Mr. ORTH,] "the courts of the United States enforce the statutes of a State in civil cases, and why cannot they, then, enforce the criminal statutes as well?" They say "the removal of a case, civil or criminal, carries with it alike to the United States court the civil and criminal law as an incident."

In answer to this, I affirm that the transfer of a civil case does not, legally or properly speaking, carry with it the statutes of the State at all. The courts of the United States in a proper case can and will enforce and adjudicate rights created or existing by virtue of the statutes of the States of the Union or by virtue of the laws of any foreign government. It will enforce them just as well, however, in cases originally instituted in those courts as in causes removed into them from State courts, so that these statutes are not carried to them, as an incident, by the removal.

The several States, in a proper case, will in like manner enforce rights growing out of the statutes of the other States and in civil cases growing out of the statutes of the United States or of foreign governments.

This doctrine is aptly stated in the Federalist:

> The judicial power of every government looks beyond its own local or municipal laws, and in civil cases lays hold of all subjects of litigation between parties within its jurisdiction, though the causes of dispute are relative to the laws of the most distant parts of the globe. Those of Japan not less than those of New York may furnish the objects of legal discussion to our courts.—*Federalist*, No. 82; *Id.*, 81.

It is erroneous and illogical to say that because the courts of the United States enforce rights growing out of the civil statutes of the State, therefore they may enforce and execute directly its criminal statutes. Strictly speaking, they do not enforce either the civil or criminal statute of a State. In civil cases they adjudicate rights growing out of or that have their origin by virtue of a State law. But to try, convict, and punish for crime requires that the court directly execute and enforce the very statute alleged to have been violated against the peace and dignity of the State enacting the statute. This cannot be done unless the judicial power of the court—the judicial power by which it is invested by the law of its creation—is extended to the execution and enforcing of such a statute. Without that it may have jurisdiction of the person of the defendant, but can have none of the subject-matter, and is wholly powerless to act.

And for the reason that no power has been delegated to the United States courts in its Constitution to execute and enforce the criminal laws of the States, Congress has no constitutional power to enact such a law as is proposed by the gentleman from Indiana [Mr. ORTH] or any other for a like purpose.

We come next to the consideration of the question whether or not the laws of the land (other than those providing for the removal of a criminal prosecution from a State to a United States court) now furnish a sufficient shield and protection to a defendant unjustly accused, when the supposed criminal act is sought to be justified under some authority derived from the statutes of the United States.

It is claimed by gentlemen, in the argument, that if this power to remove a criminal case does not exist, "then the United States has no power to protect its officers in the discharge of duties imposed upon them by its legislation, and is at the mercy of any State government which may in its discretion enforce or disregard the laws of the United States." (CONGRESSIONAL RECORD, volume 9, page 1359.)

This I deny; and in view of the legislation of Congress almost coeval with the adoption of the Constitution, and the judicial history of the Government, familiar alike to the legal profession and the general reader, this declaration by one so eminent both as a lawyer and politician is at least a little remarkable.

What is the remedy furnished by the United States to her citizens to protect them against the erroneous judgment of State courts in both civil and criminal cases where the defense rests upon some United States statute, or immunity or authority under the same?

It is furnished by a statute, as before suggested, enacted very shortly after the ratification of the Constitution, and that has remained in force, substantially the same, during the entire existence of the American Union. It is certainly familiar to every lawyer and to the politician and general reader, but that we may have the exact terms of it before us, I ask that it shall be read. It will be found in sections 709 and 710 of Revised Statutes.

The Clerk read as follows:

> A final judgment or decree in any suit in the highest court of a State, in which a decision in the suit could be had, where is drawn in question the validity of a treaty or statute of, or an authority exercised under, the United States, and the decision is against their validity; or where is drawn in question the validity of a statute of, or an authority exercised under any State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision is in favor of their validity; or where any title, right, privilege, or immunity is claimed under the Constitution, or any treaty or statute of, or commission held or authority exercised under, the United States, and the decision is against the title, right, privilege, or immunity specially set up or claimed, by either party, under such constitution, treaty, statute, commission, or authority, may be re-examined and reversed or affirmed in the Supreme Court upon a writ of error. The writ shall have the same effect as if the judgment or decree complained of had been rendered or passed in a court of the United States.
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> The Supreme Court may reaffirm, reverse, modify, or affirm the judgment or decree of such State court, and may, at their discretion, award execution, or remand the same to the court from which it was removed by the writ.—*Revised Statutes*, section 709.
>
> Cases on writ of error, to revise the judgment of a State court in any criminal case, shall have precedence, on the docket of the Supreme Court, of all cases to which the Government of the United States is not a party, excepting only such cases as the court, in its discretion, may decide to be of public importance.—*Revised Statutes*, section 710.

Mr. ATHERTON. Here is found the most plenary power, the fullest authority of the Supreme Court, to protect its officer whenever the laws of the United States can be successfully invoked for his protection, and whenever and wherever he can rightfully claim an immunity from punishment on the ground of the act being justified because

he was lawfully acting under the laws of the United States, or by virtue of an authority derived from them; and his case is privileged and entitled to priority in the highest court in the land.

Gentlemen assume that the judges of the State courts will feel at liberty, in their discretion, to disregard or enforce the laws of the United States. We should remember that they, equally with the judges and officers of the General Government, are bound by the sanction of their official oaths to observe and obey the laws of the United States even against State constitutions and State laws.

In article 7 of the Constitution it is provided that—

> This Constitution, and the laws of the United States which shall be made in pursuance thereof, * * * shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding.

The judges of our State courts are able, learned, and honest jurists. Without detraction or disparagement, I can truthfully say that in ability and legal learning many of them compare most favorably with the very distinguished judges that have adorned and that now adorn the Supreme Bench, and are no more likely to render an eight to seven decision. All courts are fallible and liable to err. Not all, but nearly all. I wish to except the supreme judicial court of the State of Maine, whose judgments on all subjects, like that of the Pope on things spiritual, are infallible, and import absolute verity. But I admit that if equally honest and capable, in order to attain uniformity of decision, it is proper in every case, wherever originating, that the Supreme Court of the United States should have appellate and supervisory power and control wherever a statute of the United States may be drawn in question.

By an examination of the various cases found in the Supreme Court reports showing the manner of correcting errors in the judgments of the State courts upon writs of error by the exercise of the appellate power of that court, it will be seen that, without any removal of criminal prosecutions to the Supreme Court for trial on the facts, that court may, upon an inspection of the record and in the undisputed exercise of its appellate jurisdiction, correct any and every error intervening in the State court where under existing statutes the defendant is entitled to protection by the laws of the Union. Under such a system the Federal court is not burdened with the determination of the facts. If the judgment is erroneous, it is reversed, and the cause remanded for trial. If the authority or immunity claimed did not constitute a defense and if the evidence legally justified the verdict and judgment thereon, the judgment is affirmed.

This system protects the innocent and punishes the guilty, while the one advocated by gentlemen on the other side allows all to escape. An officer may commit a deadly assault, arson, or murder, and on being indicted in a State court may file his application for removal, alleging the act was done by him in the exercise of the duties of his office, or under and by virtue of an authority derived from the statutes of the United States. The State court has no power to investigate the truth of the facts alleged. If the application is correct in form the removal must take place, and the prosecution is forthwith removed to the United States court. That court, if it has power at all in the premises, has only jurisdiction to investigate the charge for one purpose, and that is to determine and declare whether or not the act was excusable or justifiable under the statutes of the United States or under some authority derived therefrom. If yea, the defendant goes acquit, and if nay, he goes unpunished, and the courts of the United States, having no power to convict and punish the offense as one at common law, and no constitutional jurisdiction to execute the criminal statutes of a State, and no authority being contained in the statute to remand the cause to the State court for trial, the guilty defendant escapes scot-free, unwhipped of justice.

I have attempted diligently to search the reports to see if any adjudicated case could be found within the range of judicial literature in which a conviction was ever had in a Federal court where the complaint contained simply allegations of a violation of the criminal statutes of a State. Perhaps cases may be found—I do not assert whether they can or not—where criminal prosecutions have been removed from a State to the Federal court and the parties afterward indicted and punished, but they are cases where the State courts had attempted to execute and enforce the criminal statutes of the United States, and where, upon removal, the Federal court had jurisdiction of both the person and the subject-matter of the prosecution.

Formerly, as we have seen, Congress attempted to invest the State courts with such authority, and legislation of that kind may still be found on the statute-book, though now pronounced unconstitutional. Has the superior diligence of the advocates of existing statutes been crowned with better success, and have they found the record of any reported case from the foundation of the Government up to February 1, 1880, where a United States court has been bold enough to declare that the transfer of a criminal prosecution carries with it as an incident the criminal statutes of the State, with the jurisdiction and power to execute them; transfers the pardoning power to another executive, and thus attacks and fatally stabs the highest prerogative and sovereignty of the State? If so, why are we not referred to such a case?

If, as gentlemen assert, (and which I deny so far as the practice of any courts can be found,) the removal of criminal prosecutions from State to United States courts for trial has been the settled policy of the Government for sixty years, why cannot some reported case be found before February 1, 1880, where in the United States courts a defendant has been tried and convicted for an offense made a crime only by the statutes of a State? The fact can only be accounted for, I suppose, by another conceded fact, that all officers of the United States are immaculate, born without sin, not tempted as others, with the incense of a pure religion on their garments and in their integrity waiting only for a golden chariot to bear them like the patriarch of old through realms of ether to the mansions beyond the stars.

Otherwise in sixty years' practice of the Government some victim would have been found whose cupidity or passions would have led him astray while wearing the mantle of office, and the record of his lapse from virtue and of his conviction would be found embalmed in the annals of some Federal court.

My attention has been called to the case of The State *vs.* Hoskins, 77, N. C., 530, and the gentleman from Indiana has said he regarded the case as one extremely valuable, because it came from a portion of the country where we might expect to find a strict construction of the act of Congress, or probably a denial of the rights of the Government in the premises. It is unfortunate that a suggestion can truthfully be made that the section of country where a particular question is to be adjudicated should indicate the probable legal construction and result. It is a terrible commentary on the independence and impartiality of our judiciary.

I admit that the source from which this decision emanates would very likely indicate the nature of the decision. I concur with the gentleman in his conclusions thus far.

Another thing, I suppose, will be admitted, that during the earlier stages of reconstruction, when the elements were rudely upheaved by the earthquake from below, when the froth ran wild on the crusted wave, that the unlearned, unlettered, bigoted, prejudiced, and unworthy lodged in the higher places of trust, honor, and profit, even to the most exalted seats in the temples of justice. There has been nothing that needed to be reconstructed in this country more than some of its reconstruction.

It is perhaps enough to say that the supreme court of North Carolina is a part of the unreconstructed reconstruction of the country, and if you are expecting to find great learning, or wonderful judicial wisdom, or any of the conservative greatness that once crowned its earlier chancellors and judges, you are doomed to a bitter disappointment.

The case was this: Hoskins and others were indicted in the State court for an assault and battery on one Levi Humble. The defendants applied to that court for the removal of the case to the circuit court of the United States on the alleged ground that he was an officer of the United States and what he did was by virtue of his office. An order of removal was made, and from that order the attorney for the State appealed to its supreme court. The question raised was as to the constitutionality of the act of Congress authorizing the removal. The court held the act constitutional, and based its opinion principally on the fact that Congress had power to "lay and collect taxes," and upon the assumption that unless the power of removal of criminal causes existed the General Government could not collect its taxes; that the Government had no efficient mode to protect the governmental tax-gatherer other than that. I will not say that a court drawing such a conclusion from such a premise is incapable of reasoning and writes itself an ass; but I do say that such a conclusion from such a premise is so far-fetched, and so illogical that by exactly similar modes of reasoning and judicial construction the entire sovereignty and existence of State governments could be blotted out. In the same remote degree every act of sovereignty on the part of the State would infringe, and in some measure impede, the admitted rights and privileges of the General Government. And in the very case the objection was pressed, that if removal was allowed in such a case, and the case was tried in the Federal court and the supposed offense was not justified under the plea that the defendant was an officer of the United States and the supposed inculpatory facts were done under and by virtue of his office, he could not be punished, for want of jurisdiction of the subject-matter, and the weak, puerile, inefficient, and unsatisfactory answer was given that "how the Federal courts will dispose of the case and of the officer is for them to determine." "All the State has to do is to send the case when demanded by the Federal court." "The question as to how the circuit Federal court will proceed or what it should do is not before us." "If there is any defect in the machinery Congress may supply it."

It does not weigh with this learned court who rendered this valuable opinion and decision, that an order was made sending the case to a tribunal where if the trial demonstrated guilt and found no justification of the accusatory facts the court could impose no penalty.

The case is only important for this reason. The sapient North Carolina court has found willing pupils in the republican members of the Supreme Court of the United States. In the case of Davis *vs.* The State of Tennessee, decided February 1, 1880, the judges composing the majority of that court—a majority in numbers, not in learning, acumen, or judicial fairness—taking the cue from the North Carolina court, also determined that a murderer could cause his prosecution to be transferred from State to United States court for trial by alleging he was a revenue officer of the United States, and that he killed his assailant in his necessary self-defense in the execution of the duties of his office. The statement itself is simply ridiculous. How could it be a part of his duty as a collector of the revenue laws to take a

human life? If attacked while collecting the revenue and he killed a man in self-defense it would be justifiable homicide; but the killing would be no part of his duty as revenue collector. He would defend because under the circumstances he would be remitted to his primal right of self-defense, and the case would contain no "Federal ingredient" whatever. If one of the members of this House is assailed while in the discharge of his duty as such, and he defends himself, is he doing an official act in knocking his assailant down? If a minister of the Gospel is assailed while preaching and he commits a homicide in his necessary self-defense, is the homicide not only justifiable, but is it a part of his religious ministration?

The illogical majority that sit in the seats of Jay, Taney, and Chase say so. How would you expect much else of them? What exigency of party brought them into being? Some years ago a majority of the Supreme Court were supposed to entertain opinions against the constitutionality of the legal-tender act. What was to be done? The Supreme Court of the United States had never allowed its judicial ermine to be stained in the slimy pool of party politics; it occupied a higher plane. It was justly revered as the independent, conservative genius of the land that would execute justice and maintain the right unswayed by faction and unawed by power. What did the republican party do to encompass their purpose? They "reorganized" the Supreme Court; that is, they found how many of its members would decide as they wished, and then they added enough of judges pledged to their views to make the minority a majority and secure the decision they wanted. Appointed as the slaves of party, it is not strange that majority should continue to do the dirty work of its masters. Now the demand is for a nation with a big N. Two decisions rendered February 1, 1880, show most clearly what that means. In one they determined that a murderer might take his case to the Federal court for trial if he only alleged that he killed his man in collecting the revenue; in the other, that a judge of a State court could be dragged from the bench with his judicial robes around him, hurried before a Federal court, tried, convicted, fined, imprisoned, and disgraced, simply because in his lawful discretion he did not put negroes on the panel of grand and petit juries in his court.

The two cases illustrate what the republican party means by "nation" with a big N. It means the State court shall be deprived, at the instance and election of law-breakers and criminals, of the right to try and punish offenses against the peace and dignity of the State. It means that their judges shall be disgraced and punished and their independence destroyed. It means that the States shall be reduced to mere political divisions, provinces, and dependencies, possessing only the shadow and form of a lost sovereignty. It means revolution and a destruction of the Union of our fathers as they made it. It means we are no longer to have an indissoluble Union of indestructible States, but that local self-government is to be supplanted by consolidation.

The decision of the Supreme Court in the case of Davis *vs.* The State of Tennessee was determined by a divided court. It was assented to by the republican members of the court alone. Its conservative members, too, pointed out the conclusive arguments against such a decision. They insisted that the jurisdiction of the United States courts of crimes and offenses was limited to cases cognizable under the authority of the criminal statutes of the United States and was not among the implied powers of the court. They referred to the rule that the legislative power of Congress must declare an act a crime, affix a penalty, and prescribe what court shall have jurisdiction before any court could punish any act as a crime; and they fortified their position in that regard with an unbroken array of judicial precedents reaching down from the remote to the latest times. It was shown by an unbroken chain of authority that acts could only be punished as crimes when committed either in places where the United States had exclusive jurisdiction or where the offense was in violation of national authority and made an offense by statute.

The question was aptly stated by the dissenting judges. That it was not a question whether a man could be tried in the United States court for murdering or attempting to murder a revenue officer, but whether a revenue officer could commit murder and defy the laws of the State; that no statute gave to the United States courts jurisdiction to execute the laws of the State; that they had no common-law jurisdiction to punish an act as a crime; that the Supreme Court in the exercise of its appellate jurisdiction never re-examined the record of the highest court of a State unless it contained a "Federal question."

The difficulties attendant upon such removals were also pointed out. If such a removal is authorized, who shall prosecute? Shall the district attorney, or the prosecuting attorney of the State? Who shall serve the process for witnesses? Shall it be the sheriff or the marshal? Shall the process of the court run in the name of the State or the United States? Who shall pay for the travel and attendance of witnesses? Who shall furnish to the prisoner a copy of the indictment? Shall the prisoner be entitled to thirty-five peremptory challenges under the laws of the United States, or twenty under the statute of Tennessee? Who shall arraign him? If he is tried, shall the jury be the judge of the facts only, as under the laws of the United States, or shall they be the judges of both the law and the fact under the State law? Whose system of procedure and evidence shall furnish the rules to apply in the trial, State or Federal?

Attention was called to the fact that the punishment of crime was a part of the police regulations of States, and belonged to the State by all judicial authority; and many other arguments, not persuasive alone, but absolutely conclusive, were urged against the threatened crusade upon the reserved rights of the States.

What was urged upon the other side? No objection was answered; no difficulty removed; no argument met. The determination was arrived at by the *ipse dixit* of the court without reason, argument, or authority. The decision is authority for the litigants in that case. It is not authority for us. The legislature is an independent, co-ordinate branch of the Government, and we must determine the constitutional, as well as every other question involved, for ourselves. The existing legislation, even if constitutional, may be impolitic. The effort is made through and by that legislation to overturn and destroy the legitimate jurisdiction of State courts. Repeal the objectionable statute, and the judicial usurpation resting upon it will, in this instance, be successfully met.

The danger to the reserved rights of the States by the effort of the Supreme Court to aggrandize its power and enlarge its jurisdiction has long since been pointed out. Jefferson, in 1821, wrote:

> The great object of my fear is the Federal judiciary. That body, like gravity, ever acting with noiseless foot and unalarming advance, gaining ground step by step, and holding what it gains, is ingulfing insidiously the special governments into the jaws of that which feeds them.—*Jefferson's Works*, volume 7, page 212.

Again, in 1825, he wrote:

> One single object, if your provision attains it, will entitle you to the endless gratitude of society—that of restraining judges from usurping legislation. And with no body of men is this restraint more wanting than with the judges of what is commonly called our General Government.
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> * * * * * * *
>
> This member of the Government was at first considered as the most harmless and helpless of all its organs. But it has proved that the power of declaring what the law is, *ad libitum*, by sapping and mining slily and without alarm the foundations of the Constitution can do what open force would not dare to attempt.

It is silent, insidious revolution. Neither the legislative or executive branch can ordinarily meet it successfully, and the people are powerless. No recurring election comes to their aid in respect to the members of that court. The authority of the court is as potential as it is irresponsible.

It is time for a free people, jealous of their ancient institutions, to call a halt. Let all that favor an indissoluble union of indestructible States, each sovereign in its own sphere and in respect to the powers necessary for its self-preservation, promptly and efficiently act. Let us repeal every statute of the United States that seems to sanction these judicial usurpations and return to the doctrines of the earlier and better days of the Republic.

Currency—National Debt—Coinage.

SPEECH OF HON. E. H. GILLETTE,

OF IOWA,

IN THE HOUSE OF REPRESENTATIVES,

Monday, April 5, 1880,

On the following resolution:

Resolved, That it is the sense of this House that all currency, whether metallic or paper, necessary for the use and convenience of the people, should be issued and its volume controlled by the Government, and not by or through the bank corporations of the country; and when so issued should be a full legal tender in payment of all debts, public and private.

2. *Resolved*, That, in the judgment of this House, that portion of the interest-bearing debt of the United States which shall become redeemable in the year 1881, or prior thereto, being in amount $782,000,000, should not be refunded beyond the power of the Government to call in said obligations and pay them at any time, but should be paid as rapidly as possible, and according to contract. To enable the Government to meet these obligations, the mints of the United States should be operated to their full capacity in the coinage of standard silver dollars, and such other coinage as the business interests of the country may require.

Mr. GILLETTE said:

Mr. SPEAKER: After thirteen weeks of patient waiting, at last the Trojan horse has been admitted into this House. He has been recognized, and we are to see how many warriors come forth from his loins.

The Weaver resolutions are before us. Every effort has been made to prevent this result, until even the newspapers, without regard to party, were alarmed at the absolute despotism of this House, and called us a Congress of cowards. My colleague who presents them has been derided and persecuted and cartooned as a jackass by the organs of the capitalist, in order to create prejudice against these resolutions. Nevertheless, with unbounded faith in the great principles of his party, he has risen week after week in his place to demand a right, which has been denied him until this hour, under rules which have well nigh destroyed the representative feature of this Government. Is there anything wrong, unfair, or unjust about these resolutions? I defy any man to show it. Men do not appeal to prejudice and abuse and adjournment and iron-clad rules for protection until argument and reason fail them. These resolutions contain doctrines which are fundamental and must prevail, if democratic principles are to prevail. They are as conservative as the Constitution, and so plain and simple, they can be read and understood of all men.

The national-bank party pre-eminent has spoken through its leader and chief, the gentleman from Ohio, [Mr. GARFIELD.] In this emergency the ablest advocate on the floor has been called out to crush these resolutions. He commenced by saying "I never heard their provisions until they were read from the desk a few moments ago." They have been advertised by the associated press, commented upon by leading papers of all parties, read to the House by the Clerk over a month since, and printed in the RECORD at the same time for the information of the House. The gentleman admits in the next breath, they have, "however, attained some historical importance by being talked about a good deal in the newspapers and by blocking other business of the House for some weeks," yet he was ignorant of their contents.

In replying to the proposition "that all currency should be issued and its volume controlled by the Government, and not by or through the banks," he says never was there a measure offered to Congress of so vast and far-reaching centralism. It would convert the Treasury of the United States into a manufactory of paper money; it makes the House of Representatives and the Senate the absolute dictator of the financial and business affairs of this country. Centralism, indeed! Every act of sovereignty is an act of centralism, if the issue of the currency is. Like Egypt, we better farm out our taxes, selling them to the highest bidder, for fear of centralism, rather than to farm out our money manufacture; for, to collect taxes requires an army, a navy, and thousands of officials, but to issue the currency is the simplest, easiest, least expensive duty of Government. We better give capitalists the power to declare war and make peace, because that power carries with it a thousand-fold more of "Cæsarism" than does the issue of the currency.

The monetary commission, composed of three Senators and three Representatives, half democrats and half republicans, with a republican Senator for chairman, said in their report, (volume 1, page 10,) "an increasing value of money and falling prices have been and are more fruitful of human misery than war, pestilence, or famine; they have wrought more injustice than all the bad laws that were ever enacted;" yet the gentleman scouts the idea that the American people should through Congress have any control over a subject more fruitful of misery than war, pestilence, or famine, and this is the position of his party. The people must submit in silence while suffering supreme injustice.

If this is a republic, our Government is simply the people. Its laws are their voice. Its officers are constantly changed in order that these laws shall be made and executed precisely as they desire. The Government is their right arm. It is the people in council. Can the people fear the people? Can the head fear the power of the hand? The very object of this Government is to protect the masses from the cunning tricks and usurpations of the few. As Daniel Webster said: "To that very end, (the protection of labor,) with that precise object in view, power was given to Congress over the currency and over the money system of the country."

No power of government is dangerous in a true republic. To deny this is to affirm that the people may become too strong, the nation too great. The only centralization to be feared is the centralization of power in the hands of corporations and capitalists, who usurp government authority and fasten themselves like parasites upon the people, and by cunning schemes under the forms of law, defeat the representative character of this Government, "winning us with honest trifles to betray us in deepest consequence." The cry of *centralism* ill fits the lips of the gentleman from Ohio or his party, just after he has recommended, and they have helped to adopt, rules, for the government of this House that practically give a half dozen committees, appointed by *one* member, (the Speaker,) and hence amenable to him, the control of all important legislation and a veto upon this House. It comes with poor grace from these advocates of a *one*-man power in this Government who have tied the hands of the majority on this floor in the interest of corporations, to howl *centralism*. The founders of this Republic well understood where the danger lay. Jefferson said, in a letter to Mr. Kerchival in 1816:

I am not among those who fear the people; they, and not the rich, are our dependence for continued freedom, and to preserve our independence we must not let our leaders load us with perpetual debt.

And again, to John Taylor, in 1816:

I sincerely believe that banking establishments are more dangerous than standing armies.

The gentleman is alarmed lest our Treasury become a manufactory of paper money. Will he advise the House what the Treasury now is, if not a vast manufactory of *national-bank paper money* and interest-bearing bonds? Over one thousand persons, employed there at Government expense, are devoted to this work. Every paper dollar that circulates in the country is made in that factory. Every mutilated or worn note is replaced at Government expense by this factory. A legal application from any national bank, new or old, will set every machine and every hand at work printing and preparing bank money. This is all done in the interest of corporations that already boast greater power than this Government, and defy it, and control its officers from president down to many members on this floor. The gentleman does not object to the Treasury being a great money factory so long as it receives its orders from rich bankers and syndicates, and not from the representatives of the people. He is afraid Congress will become the master of that department, instead of the bondholders as now. And if it should, it would make Congress the "absolute dictator" of the financial and business affairs of this country. Oh, yes; so the gentleman admits that the power that controls the volume of our currency is the "absolute dictator" of the financial and business affairs of the nation; so he acknowledges that we have made the national banks, that now control it, the "dictators" of our affairs! It is true! the gentleman's party has surrendered this Government, surrendered the people and their most sacred interests into the hands of national-bank "*dictators*." It is true! he who controls the purse controls the nation; and the national banks control the purse.

It is simply a question whether the people will have a representative government or be governed by self-appointed "*dictators*." The national party stands by the people; the republican party stands by the banks. He says, "without fear of contradiction, that prior to 1862 the wildest dreamer in American finance was never wild enough to propose such a measure of centralization as that single proposition implies." What child-like innocence! "Ah Sin," the "heathen Chinee," is outdone by the gentleman from Ohio. Did he never read Thomas Jefferson, so eloquently quoted by the gentleman from Pennsylvania, [Mr. KELLEY?] Did he never hear of Albert Gallatin, Secretary of the Treasury for the first dozen years of this century, who said:

The right of issuing paper money as currency, like that of gold and silver coin, belongs exclusively to the nation.

Or of Daniel Webster, another "wild dreamer," who said in the United States Senate, January 31, 1833:

The constitutional power vested in Congress over the legal currency of the country is one of its very highest powers, and the exercise of this high power is one of the strongest bonds of the union of the States. It is not to be doubted that the Constitution intended that Congress should exercise a regulating power, a power both necessary and salutary, over that which should constitute the actual money of the country, whether that money were coin or the representative of coin. So it has always been considered; so Mr. Madison considered it.

He then quotes from President Madison's message, December, 1816:

It is essential that the nation should possess a currency of equal value, credit, and use wherever it may circulate. The Constitution has intrusted Congress exclusively with the power of creating and regulating a currency of that description.

He further said in a speech in the Senate, September 28, 1837:

The Constitution does not stop with this grant of the coinage power to Congress. It expressly prohibits the States from issuing *bills of credit*. * * * The States therefore are prohibited from issuing paper for circulation, on their own credit; and this provision furnishes additional and strong proof that all circulation, whether of coin or paper, was intended to be subject to the regulation and control of Congress. * * * The Constitution declares that Congress shall have power to regulate commerce, not only with foreign nations, *but between the States*. This is a full and complete grant and must include authority over everything which is part of commerce, or essential to commerce. And is not money essential to commerce? No man in his senses can deny that. * * * If Congress, then, has power to regulate commerce, it must have a control over that money, whatever it may be, by which commerce is actually carried on, whether that money be coin or paper. * * * The regulation of money is not so much an inference from the commercial power of Congress as it is a part of it. Money is one of those things without which, in modern times, we can form no idea of commerce. * * * I insist that the duty of Congress is commensurate with its power. * * * A general and universally accredited currency, therefore, is an instrument of commerce, which is necessary to its just advantages, or, in other words, which is essential to its beneficial regulation. Congress has power to establish it, and no other power can establish it, and therefore Congress is bound to exercise its own power. It is an absurdity on the very face of the proposition to allege that Congress shall regulate commerce, but shall nevertheless abandon to others the duty of sustaining and regulating its essential means and instruments.

By the national-bank act we have "abandoned" to bondholders the duty and power of "regulating" not only the volume of our currency but also its value, for the value of the circulating medium, of whatever material made, depends upon its volume—hence they are able to control the value of coin by the increase or decrease of its substitute. Mr. Dallas, Secretary of the Treasury, in his report in 1816, said:

Whenever the emergency occurs that demands a change of system, it seems necessarily to follow that the authority which was alone competent to establish the national coin is alone competent to create a national substitute.

President Madison, in his annual message, December 5, 1815, said:

It may become necessary to ascertain the terms upon which the notes of the Government (no longer required as an instrument of credit) shall be issued upon motives of general policy as a common medium of circulation.

Or of John C. Calhoun, who said in the United States Senate, September 18, 1837:

I would ask, then, why should the Government mingle its credit with that of private corporations? No one can doubt but that the Government credit is better than that of any bank—more stable and more safe. Why, then, should it mix it up with the less perfect credit of those institutions? Why not use its own credit to the amount of its own transactions? Why should it not be safe in its own hands while it shall be considered safe in the hands of eight hundred private institutions scattered all over the country, and which have no other object but their own private profits, to increase which they almost constantly extend their business to the most dangerous extremes? And why should the community be compelled to give 6 per cent. discount for the Government credit, blended with that of the banks, when the superior credit of the Government could be furnished separately, without discount, to the mutual advantage of the Government and the community? Why, let me ask, should the Government be exposed to such difficulties as the present, by mingling its credit with the banks when it could be exempt from all such by using by itself its own safer credit? It is time the community, which has so deep an interest in a sound and cheap currency, and the equality of the laws between one portion of the citizens of the country and another, should reflect seriously on these things, not for the purpose of oppressing any interest, but to correct gradual disorders of a dangerous character, which have insensibly in the long course of years, without being perceived by any one, crept into the state.

This question is not between credit and no credit, as some would have us

believe, but in what form credit can best perform the functions of a safe and sound currency. On this important point I have freely thrown out my ideas, leaving it for this body and the public to determine what they are worth, believing that there might be a sound and safe paper currency founded on the credit of Government exclusively. * * * My aversion to a public debt is deep and durable. It is in my opinion pernicious, and is little short of a fraud on the public. I saw too much of it during the late war not to understand something of the nature and character of public loans. Never was a country more egregiously imposed on. * * * I shall oppose strenuously all attempts to originate a new debt; to create a national bank; to reunite the political and money power—more dangerous than that of church and state—in any form or shape.

Time forbids further reference to the "wild dreamers" of the past that believed in the principles of these resolutions. The gentleman is alarmed lest the Government pay its debt in "manufactured money," a frank confession that he never wants it paid, for neither this nor any other money debt can be paid unless paid with "manufactured money." He screams, "Print it to death!" He would have the printing-presses all run, but instead of printing it to death he would have them forever continue to print it into new life to suck the blood from the people, and for that purpose has introduced a bill to issue new interest-bearing bonds, to run thirty years before they can be paid, with which to meet the seven hundred and eighty-two millions soon to mature. He would print new bonds and bank-notes, the tools of oppression, caste, and slavery forever, but greenbacks and silver, the symbols and agents of prosperity and freedom *never!* He proposes this Government shall meet its debts with interest-bearing, irredeemable bonds. He knows every bond could be paid with greenbacks before the silver now in the Treasury would be taken, because bondholders would prefer, as everybody else prefers, legal-tender paper to legal-tender silver. He knows that bonds are now paid in that way, and so he shouts repudiation at a proposal to pay these bonds according to contract.

The gentleman is pleased to refer to ours as the "dying party." How strange that these simple resolutions embodying principles of a "dying party" should create such a flutter in this House, leading it to fight off their consideration by adjournment and other devices, for over three months. His wish is father of his thought. Truth never dies. Our young party, representing principles of justice, will survive old parties that represent only oppressive systems, monopolies, and spoils. The national greenback party will never die until its principles are ingrafted into the laws of the land, until this Government discharges its duty to the people by supplying them with a perfect money and ceases to farm out the labor of the millions to bankers and bondholders. The only possible way of postponing the day when we shall take control of Government is by inflaming anew the sectional prejudices and hatreds of the war.

The gentleman closes with an appeal to democrats and republicans, in the name of "honesty, peace," &c., to throttle "this beast." He in substance said: If there remains in your bosoms, republicans and democrats, one spark of freedom's fire, a single desire to overthrow this bond-holding, national-bank dynasty, that my party has fastened upon the country, a single hope that you may yet restore to the people their rights under the Constitution, then, in the name of honesty and peace, crush it out and throttle it forever.

Honesty and peace are good. There never was a despotism that did not appeal to the people for support in the name of *honesty and peace.* American slavery for over two centuries had no stronger prop than "honesty and peace." Does the gentleman mean to intimate what Joseph Cook and Senator SHARON say in plain English, that before this national-bank oligarchy can be overthrown with the party that created it, this land will again be drenched in blood? If he does, let the people understand it! for come what may, it *shall be overthrown!*

How are the mighty fallen! I appeal from the republican party of to-day, owned and controlled by banking and other corporations, to the republican party of 1868, when it spoke with no uncertain sound, and in convention in the gentleman's own State, after pledging itself to the payment of the public debt according to law, and then declaring that the 5-20 bonds were payable in greenbacks, it resolved "that we heartily approve the policy of Congress in stopping the contraction of the currency, and believe that the issue of currency should be commensurate with the industrial and commercial interests of the country." Similar resolutions were passed in Indiana, Iowa, and other States. John Sherman was so "wild a dreamer" that, in February, 1868, in a speech in the United States Senate, he said:

The whole public debt should be made to assume such form as to be a part of the circulating capital of the country.

The greatest exhibition of power ever shown by this Republic was in speaking freedom to four millions of slaves. In one supreme moment the people, Samson-like, broke through the cob-webs of court decisions and precedents and red tape, and their combined voice was truly the voice of God. For one moment we rose up, shook off the shackles of class, of combination of the rich and powerful, and did justice, only to relapse into the toils of an anaconda more dangerous than slavery, because more wealthy, more stealthy, more subtle, and less sectional. Oh, for a supreme moment now in which Congress shall speak freedom to fifty millions of people from the domination of centralized capital in all its forms! Will you do it? This House can now show the world, without violating court decisions, precedents, or laws, whether it most regards the people or their task-masters. Choose you this day whom ye will serve, the people or the banks! I rejoice that from this hour it can be known who wears the earmark of the national banks. I call attention to the votes, and shall append them to my remarks, that all may know where the different parties and members stand upon this supreme issue. Especially do I call the attention of the people of Iowa to the votes of her Representatives, that they may understand in future who have been true and who false to their pledges. If these resolutions are defeated it can only be by a fusion of the republicans and the bank wing of the democracy, whose union will thus be consummated and their marriage should be celebrated.

The question was taken; and there were—yeas 85, nays 117, not voting 90; as follows:

YEAS—85—Democrats 72, Nationals 12, Republican 1.

Armfield, *	Dibrell, *	Lowe, ‡	Singleton, O. R.*
Atherton, *	Dickey, *	Manning, *	Slemons, *
Atkins, *	Dunn, *	McKenzie, *	Smith, William E.*
Beale, *	Elam, *	McMillin,	Sparks, *
Belford, †	Ewing, *	Mills, *	Speer, *
Berry, *	Felton, *	Muldrow, *	Steele, *
Bicknell, *	Finley, *	Murch, ‡	Stevenson, ‡
Blackburn, *	Ford, ‡	Myers, *	Taylor, *
Bland, *	Forney, *	New, *	Tillman, *
Cabell, *	Forsythe, ‡	Nicholls, *	Turner, Oscar*
Clardy, *	Frost, *	Persons, *	Turner, Thomas*
Clark, John B. *	Geddes, *	Phelps, *	Vance, *
Cobb, *	Gillette, ‡	Philips, *	Waddill, *
Coffroth, *	Gunter, *	Reagan, *	Weaver, ‡
Colerick, *	Harris, John T. *	Richmond, *	Wellborn, *
Cook, *	Hatch, *	Robertson, *	Whitthorne, *
Cox, *	House, *	Rothwell, *	Williams, Thomas*
Culberson, *	Hull, *	Russell, Daniel L. ‡	Willis, *
Davidson, *	Jones, ‡	Ryon, John W. *	Wilson. *
Davis, Joseph J. *	Kelley, ‡	Sawyer, *	
Davis, Lowndes H. *	Kenna, *	Scales, *	
De La Matyr, ‡	Ladd, ‡	Singleton, J. W. *	

NAYS—117—Republicans 87, Democrats 30.

Aldrich, N. W. †	Davis, Horace †	Johnston, *	Reed, †
Aldrich, William †	Deering, †	Joyce, †	Robinson, †
Anderson, †	Deuster, *	Keifer, †	Ross, *
Bachman, *	Dunnell, †	Kimmel, *	Russell, W. A. †
Baker, †	Errett, †	Lapham, †	Ryan, Thomas †
Barber, †	Evins, *	Lewis, *	Samford, *
Bayne, †	Farr, †	Lindsey, †	Shallenberger, †
Beltzhoover, *	Ferdon, †	Lounsbery, *	Shelley, *
Blake, †	Field, †	Mason, †	Smith, A. Herr †
Boyd, †	Fisher, †	McCoid, †	Stone, †
Brewer, †	Frye, †	McGowan, †	Thomas, †
Briggs, †	Garfield, †	McLane, *	Thompson, P. B. *
Brigham, †	Goode, *	Mitchell, †	Thompson, W. G. †
Browne, †	Hall, †	Money, *	Townsend, Amos †
Buckner, *	Harris, Benj. W. †	Monroe, †	Tucker, *
Burrows, †	Haskell, †	Morrison, *	Tyler, †
Butterworth, †	Hawk, †	Morse, *	Updegraff, J. T. †
Calkins, †	Hawley, †	Morton, †	Updegraff, Thomas †
Cannon, †	Hayes, †	Neal, †	Upson, *
Carlisle, *	Hazelton, †	Newberry, †	Valentine, †
Carpenter, †	Henderson, †	Norcross, †	Van Aernam, †
Caswell, †	Herbert, *	O'Neill, †	Voorhis, †
Chittenden, †	Herndon, *	O'Reilly, *	Wait, †
Clymer, *	Hiscock, †	Overton, †	Washburn, †
Conger, †	Houk, †	Page, †	White, †
Covert, *	Hubbell, †	Phister, *	Wilber, †
Crapo, †	Humphrey, †	Pierce, †	Williams, C. G. †
Cravens, *	Hunton, *	Pound, †	
Daggett, †	Hurd, *	Prescott, †	
Davis, George R. †	James, †	Price, †	

NOT VOTING—90.

* Democrats; † Republicans; ‡ Nationals.

I add an article written by the greatest philosopher and statesman this country has produced, which called into existence the best financial system ever adopted, with a short account of it:

BENJAMIN FRANKLIN'S GREAT ARGUMENT FOR GOVERNMENT LEGAL-TENDER PAPER MONEY, APRIL 3, 1729; AND A SHORT ACCOUNT OF THE SYSTEM WHICH RESULTED AND PREVAILED FOR FIFTY YEARS IN THE COLONY OF PENNSYLVANIA.

(Sparks's Works of Franklin, volume 2, pages 255-257.)

There is a certain proportionate quantity of money requisite to carry on the trade of a country freely and currently; more than which would be of no advantage in trade, and less, if much less, exceedingly detrimental to it.

This leads us to the following general considerations:

First. *A great want of money in any trading country occasions interest to be at a very high rate.* And here it may be observed that it is impossible by any laws to restrain men from giving and receiving exorbitant interest where money is suitably scarce; for he that wants money will find out ways to give 10 per cent. when he cannot have it for less, although the law forbids to take more than 6 per cent. Now, the interest of money being high is prejudicial to a country several ways. It makes land bear a low price, because few men will lay out their money in land when they can make a much greater profit by lending it out upon interest. And much less will men be inclined to venture their money at sea when they can, without risk or hazard, have a great and certain profit by keeping it at home; thus trade is discouraged. And if in two neighboring countries the traders of one, by reason of a greater plenty of money, can borrow it to trade with at a lower rate than the traders of the other, they will infallibly have the advantage and get the greatest part of that trade into their own hands; for he that trades with money he hath borrowed at 8 or 10 per cent. cannot hold market with him that borrows his money at 6 or 4. On the contrary, *a plentiful currency will occasion interest to be low;* and this will be an inducement to many to lay out their money in lands rather than put it out to use, by which means lands will begin to rise in value and bear a better price. And at the same time it will tend to enliven trade exceedingly, because people will find more profit in employing their money that way than in usury; and many that understand business very well, but have not a stock sufficient of their own, will be encouraged to borrow money to trade with when they can have it at a moderate interest.

Secondly. *Want of money in a country reduces the price of that part of its produce which is used in trade;* because, trade being discouraged by it as above, there is a much less demand for that produce. And this is another reason why land in such a case will be low, especially where the staple commodity of the country is the

immediate produce of the land; because, that produce being low, fewer people find an advantage in husbandry or the improvement of land. On the contrary, *a plentiful currency will occasion the trading produce to bear a good price;* because, trade being encouraged and advanced by it, there will be a much greater demand for that produce, which will be a great encouragement of husbandry and tillage, and consequently make land more valuable, for that many people would apply themselves to husbandry who probably might otherwise have sought some more profitable employment.

As we have already experienced how much the increase of our currency by what paper money has been made has encouraged our trade, particularly to instance only in one article, *ship-building*, it may not be amiss to observe under this head what a great advantage it must be to us as a trading country, that has workmen and all the materials proper for that business within itself, to have ship-building as much as possible advanced; for every ship that is built here for the English merchants gains the province her clear value in gold and silver, which must otherwise have been sent home for returns in her stead; and likewise every ship built in and belonging to the province not only saves the province her first cost but all the freight, wages, and provisions she ever makes or requires as long as she lasts, provided care is taken to make this her *pay-port* and that she always takes provisions with her for the whole voyage, which may easily be done. And how considerable an article this is yearly in our favor every one the least acquainted with mercantile affairs must needs be sensible; for, if we could not build ourselves, we must either purchase so many vessels as we want from other countries or else hire them to carry our produce to market, which would be more expensive than purchasing and on many other accounts exceedingly to our loss. Now, as trade in general will decline where there is not a plentiful currency, so ship-building must certainly of consequence decline where trade is declining.

Thirdly. *Want of money in a country discourages laboring and handicraft men (who are the chief strength and support of a people) from coming to settle in it, and induces many that were settled to leave the country and seek entertainment and employment in other places, where they can be better paid.* For what can be more disheartening to an industrious laboring-man than this, that, after he hath earned his bread with the sweat of his brows, he must spend as much time and have near as much fatigue in getting it as he had to earn it? *And nothing makes more bad paymasters than a general scarcity of money.* And here again is a third reason for land's bearing a low price in such a country, because land always increases in value in proportion with the increase of the people settling on it, there being so many more buyers, and its value will infallibly be diminished if the number of its inhabitants diminish. On the contrary, *a plentiful currency will encourage great numbers of laboring and handicraft men to come and settle in the country*, by the same reason that a want of it will discourage and drive them out. Now, the more inhabitants the greater demand for land, (as is said above,) upon which it must necessarily rise in value and bear a better price. The same may be said of the value of house-rent, which will be advanced for the same reasons, and by the increase of trade and riches people will be enabled to pay greater rents. Now, the value of house-rent rising and interest becoming low, many that in a scarcity of money practiced usury will probably be more inclined to building, which will likewise sensibly enliven business in any place, it being an advantage not only to brickmakers, bricklayers, masons, carpenters, joiners, glaziers, and several other trades immediately employed by building, but likewise to farmers, brewers, bakers, tailors, shoemakers, shopkeepers, and, in short, to every one that they lay their money out with.

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Thus we have seen some of the many heavy disadvantages a country (especially such a country as ours) must labor under when it has not a sufficient stock of running cash to manage its trade currently. And we have likewise seen some of the advantages which accrue from having money sufficient or a plentiful currency.

The foregoing paragraphs being well considered, we shall naturally be led to draw the following conclusions with regard to what persons will probably be for or against emitting a large additional sum of paper bills in this province:

1. Since men will always be powerfully influenced in their opinions and actions by what appears to be their particular interest, therefore all those who, wanting courage to venture in trade, now practice lending money on security for exorbitant interest, which in a scarcity of money will be done notwithstanding the law—I say all such will probably be against a large addition to our present stock of paper money, because a plentiful currency will lower interest and make it common to lend on less security.

2. All those who are possessors of large sums of money and are disposed to purchase land, which is attended with a great and sure advantage in a growing country as this is—I say the interest of all such men will incline them to oppose a large addition to our money; because their wealth is now continually increasing by the large interest they receive, which will enable them (if they can keep land from rising) to purchase more some time hence than they can at present; and in the mean time, all trade being discouraged, not only those who borrow of them but the common people in general will be impoverished and consequently obliged to sell more land for less money than they will do at present. And yet, after such men are possessed of as much land as they can purchase, it will then be their interest to have money made plentiful, because that will immediately make land rise in value in *their* hands. Now, it ought not to be wondered at if people, from the knowledge of a man's interest, do sometimes make a true guess at his designs; for *interest*, they say, *will not lie*.

3. Lawyers and others concerned in court business will probably many of them be against a plentiful currency; because people in that case will have less occasion to run in debt, and consequently less occasion to go to law and sue one another for their debts. Though I know some even among these gentlemen that regard the public good before their own apparent private interest.

4. All those who are any way dependents on such persons as are above mentioned, whether as holding offices, as tenants, or as debtors, must at least *appear* to be against a large addition, because if they do not they must sensibly feel their present interest hurt. And besides these there are doubtless many well-meaning gentlemen and others who, without any immediate private interest of their own in view, are against making such an addition through an opinion they may have of the honesty and sound judgment of some of their friends that oppose it, (perhaps for the ends aforesaid,) without having given it any thorough consideration themselves. And thus it is no wonder if there is a *powerful* party on that side.

On the other hand, those who are lovers of trade and delight to see manufactures encouraged will be for having a large addition to our currency. For they very well know that people will have little heart to advance money in trade when what they can get is scarce sufficient to purchase necessaries and supply their families with provisions. Much less will they lay it out in advancing new manufactures; nor is it possible new manufactures should turn to any account where there is not money to pay the workmen, who are discouraged by being paid in goods, because it is a great disadvantage to them.

Again: Those who are truly for the proprietor's interest (and have no separate views of their own that are predominant) will be heartily for a large addition; because, as I have shown above, plenty of money will for several reasons make land rise in value exceedingly. And I appeal to those immediately concerned for the proprietor in the sale of his lands whether land has not risen very much since the first emission of what paper currency we now have, and even by its means. Now, we all know the proprietary has great quantities to sell.

And since a plentiful currency will be so great a cause of advancing this province in trade and riches and increasing the number of its people; which, though it will not sensibly lessen the inhabitants of Great Britain, will occasion a much greater vent and demand for their commodities here, and allowing that the Crown is the more powerful for its subjects increasing in wealth and number, I cannot think it the interest of England to oppose us in making as great a sum of paper money here as we, who are the best judges of our own necessities, find convenient. And if I were not sensible that the gentlemen of trade in England, to whom we have already parted with our silver and gold, are misinformed of our circumstances, and therefore endeavor to have our currency stinted to what it now is, I should think the government at home had some reasons for discouraging and impoverishing this province which we are not acquainted with.

It remains now that we inquire *whether a large addition to our paper currency will not make it sink in value very much.* And here it will be requisite that we first form just notions of the nature and value of money in general.

As Providence has so ordered it that not only different countries but even different parts of the same country have their peculiar most suitable productions, and likewise that different men have geniuses adapted to a variety of different arts and manufactures, therefore *commerce*, or the exchange of one commodity or manufacture for another, is highly convenient and beneficial to mankind. As for instance, A may be skillful in the art of making cloth and B understand the raising of corn. A wants corn and B cloth; upon which they make an exchange with each other for as much as each has occasion for, to the mutual advantage and satisfaction of both.

But as it would be very tedious if there were no other way of general dealing but by an immediate exchange of commodities, because a man that had corn to dispose of and wanted cloth for it might perhaps in his search for a chapman to deal with meet with twenty people that had cloth to dispose of but wanted no corn, and with twenty others that wanted his corn but had no cloth to suit him with, to remedy such inconveniences and facilitate exchange men have invented MONEY, properly called a *medium of exchange*, because through or by its means labor is exchanged for labor or one commodity for another. And whatever particular thing men have agreed to make this medium of, whether gold, silver, copper, or tobacco, it is to those who possess it (if they want anything) that very thing which they want, because it will immediately procure it for them. It is cloth to him that wants cloth and corn to those that want corn, and so of all other necessaries it *is* whatsoever it will procure. Thus he who had corn to dispose of and wanted to purchase cloth with it might sell his corn for its value in this general medium to one who wanted corn but had no cloth, and with this medium he might purchase cloth of him that wanted no corn, but perhaps some other thing, as iron, it may be, which this medium will immediately procure, and so he may be said to have exchanged his cloth for iron; and thus the general change is soon performed to the satisfaction of all parties with abundance of facility.

For many ages those parts of the world which are engaged in commerce have fixed upon gold and silver as the chief and most proper materials for this medium, they being in themselves valuable metals for their fineness, beauty, and scarcity. By these, particularly by silver, it has been usual to value all things else. But as silver itself is of no certain permanent value, being worth more or less according to its scarcity or plenty, therefore it seems requisite to fix upon something else more proper to be made a *measure of values*, and this I take to be *labor*.

By labor may the value of silver be measured as well as other things. As suppose one man employed to raise corn while another is digging and refining silver; at the year's end or at any other period of time the complete produce of corn and that of silver are the natural price of each other, and if one be twenty bushels and the other twenty ounces, then an ounce of that silver is worth the labor of raising a bushel of that corn. Now, if by the discovery of some nearer, more easy, or plentiful mines a man may get forty ounces of silver as easily as formerly he did twenty, and the same labor is still required to raise twenty bushels of corn, then two ounces of silver will be worth no more than the same labor of raising one bushel of corn, and that bushel of corn will be as cheap at two ounces as it was before at one, *cæteris paribus*.

Thus the riches of a country are to be valued by the quantity of labor its inhabitants are able to purchase and not by the quanty of silver and gold they possess, which will purchase more or less labor, and therefore is more or less valuable, as is said before, according to its scarcity or plenty. As those metals have grown much more plentiful in Europe since the discovery of America, so they have sunk in value exceedingly; for, to instance in England, formerly one penny of silver was worth a day's labor, but now it is hardly worth the sixth part of a day's labor, because not less than sixpence will purchase the labor of a man for a day in any part of that kingdom, which is wholly to be attributed to the much greater plenty of money now in England than formerly. And yet perhaps England is in effect no richer now than at that time, because as much labor might be purchased or work got done of almost any kind for £100 then as will now require or is now worth £600.

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As those who take bills out of the banks in Europe put in money for security, so here and in some of the neighboring provinces we engage our land. Which of these methods will most effectually secure the bills from actually sinking in value comes next to be considered.

Trade in general being nothing else but the exchange of labor for labor, the value of all things is, as I have said before, most justly measured by labor. Now, suppose I put my money into a bank and take out a bill for the value, if this bill at the time of my receiving it would purchase me the labor of one hundred men for twenty days, but some time after will only purchase the labor of the same number of men for fifteen days, it is plain the bill has sunk in value one-fourth part. Now, silver and gold being of no permanent value, and as this bill is founded on money, and therefore to be esteemed as such, it may be that the occasion of this fall is the increasing plenty of gold and silver, by which money is one-fourth part less valuable than before, and therefore one-fourth more is given of it for the same quantity of labor, and if land is not become more plentiful by some proportionate decrease of the people, one-fourth part more of money is given for the same quantity of land, whereby it appears that it would have been more profitable to me to have laid that money out in land which I put into the bank than to place it there and take a bill for it. And it is certain that the value of money has been continually sinking in England for several ages past, because it has been continually increasing in quantity. But if bills could be taken out of a bank in Europe on a land security, it is probable the value of such bills would be more certain and steady, because the number of inhabitants continues to be near the same in those countries from age to age.

For as bills issued upon money security are money, so bills issued upon land are in effect *coined land*.

Therefore, (to apply the above to our own circumstances,) if land in this province was falling, or any way likely to fall, it would behoove the legislature most carefully to contrive how to prevent the bills issued upon land from falling with it. But as our people increase exceedingly, and will be further increased, as I have before shown, by the help of a large addition to our currency, and as land in consequence is continually rising, so in case no bills are emitted but what are upon land security, the money acts in every part punctually enforced and executed, the payments of principal and interest being duly and strictly required, and the principal *bona fide* sunk according to law, it is absolutely impossible such bills should ever sink below their first value or below the value of the land on which they are founded. In short, there is so little danger of their sinking that they would certainly rise as the land rises if they were not emitted in a proper manner for preventing it. That is, by providing in the act *that payment may be made either in those bills or in any other bills made current by any act of the legislature of this province*, and that the interest as it is received may be again emitted in discharge of public debts, whereby, circulating, it returns again into the hands of the borrowers and becomes part of their future payments, and thus, as it is likely there will not be any

difficulty for want of bills to pay the office, they are hereby kept from rising above their first value. For else, supposing there should be emitted upon mortgaged land its full present value in bills, as in the banks in Europe the full value of the money deposited is given out in bills, and supposing the office would take nothing but the same sum in those bills in discharge of the land, as in the banks aforesaid the same sum in their bills must be brought in in order to receive out the money, in such case the bills would most surely rise in value as the land rises, as certainly as the bank bills founded on money would fall if that money was falling. Thus, if I were to mortgage to a loan-office or bank a parcel of land now valued at £100 in silver and receive for it the like sum in bills, to be paid in again at the expiration of a certain term of years, before which my land, rising in value, becomes worth £150 in silver, it is plain that if I have not these bills in possession and the office will take nothing but these bills, or else what it is now become worth in silver, in discharge of my land—I say it appears plain that those bills will now be worth £150 in silver to the possessor, and if I can purchase them for less, in order to redeem my land, I shall by so much be a gainer.

I need not say anything to convince the judicious that our bills have not yet sunk, though there is and has been some difference between them and silver, because it is evident that that difference is occasioned by the scarcity of the latter, which is now become a merchandise, rising and falling like other commodities as there is a greater or less demand for it or as it is more or less plenty.

Yet further, in order to make a true estimate of the value of money, we must distinguish between money as it is bullion, which is merchandise, and as by being coined it is made a currency. For its value as a merchandise and its value as a currency are two distinct things, and each may possibly rise and fall in some degree independent of the other. Thus, if the quantity of bullion increases in a country, it will proportionably decrease in value; but if at the same time the quantity of current coin should decrease, (supposing payments may not be made in bullion,) what coin there is will rise in value as a currency; that is, people will give more labor in manufactures for a certain sum of ready money.

In the same manner must we consider a *paper currency* founded on land, as it is land and as it is a currency.

Money as bullion or as land is valuable by so much labor as it costs to procure that bullion or land.

Money as a currency has an additional value by so much time and labor as it saves in the exchange of commodities.

If as a currency it saves one-fourth part of the time and labor of a country, it has on that account one-fourth added to its original value.

When there is no money in a country all commerce must be by exchange. Now, if it takes one-fourth part of the time and labor of a country to exchange or get their commodities exchanged, then in computing their value that labor of exchanging must be added to the labor of manufacturing those commodities. But if that time or labor is saved by introducing money sufficient, then the additional value on account of the labor of exchanging may be abated and things sold for only the value of the labor in making them, because the people may now in the same time make one-fourth more in quantity of manufactures than they could before.

From these considerations it may be gathered that in all the degrees between having no money in a country and money sufficient for the trade it will rise and fall in value as a currency in proportion to the decrease or increase of its quantity. And if there may be at some time more than enough, the overplus will have no effect toward making the currency, as a currency, of less value than when there was but enough, because such overplus will not be used in trade, but be some other way disposed of.

If we inquire *how much per cent. interest ought to be required upon the loan of these bills*, we must consider what is the natural standard of usury. And this appears to be, where the security is undoubted, at least the rent of so much land as the money lent will buy. For it cannot be expected that any man will lend his money for less than it would fetch him in as rent if he laid it out in land, which is the most secure property in the world. But if the security is casual, then a kind of insurance must be interwoven with the simple natural interest which may advance the usury very conscionably to any height below the principal itself. Now, among us, if the value of land is twenty years' purchase, 5 per cent. is the just rate of interest for money lent on undoubted security. Yet if money grows scarce in a country, it becomes more difficult for people to make punctual payments of what they borrow, money being hard to be raised; likewise trade being discouraged and business impeded for want of a currency, abundance of people must be in declining circumstances, and by these means security is more precarious than where money is plenty. On such accounts it is no wonder if people ask a greater interest for their money than the natural interest, and what is above is to be looked upon as a kind of *premium* for the insurance of those uncertainties as they are greater or less. Thus we always see that where money is scarce interest is high, and low where it is plenty. Now, it is certainly the advantage of a country to make interest as low as possible, as I have already shown, and this can be done no other way than by making money plentiful. And since in emitting paper money among us the office has the best of security, the titles to the land being all skillfully and strictly examined and ascertained, and as it is only permitting the people by law to coin their own land, which costs the government nothing, the interest being more than enough to pay the charges of printing, officers' fees, &c., I cannot see any good reason why 4 per cent. to the loan-office should not be thought fully sufficient. As a low interest may incline more to take money out, it will become more plentiful in trade, and this may bring down the common usury in which security is more dubious to the pitch it is determined at by law.

If it should be objected *that emitting it at so low an interest and on such easy terms will occasion more to be taken out than the trade of the country really requires*, it may be answered that, as has already been shown, there can never be so much of it emitted as to make it fall below the land it is founded on, because no man in his senses will mortgage his estate for what is of no more value to him than that he has mortgaged, especially if the possession of what he receives is more precarious than of what he mortgages, as that of paper money is when compared to land. And if it should ever become so plenty by indiscreet persons continuing to take out a large overplus above what is necessary in trade, so as to make people imagine it would become by that means of less value than their mortgaged lands, they would immediately of course begin to pay it in again to the office to redeem their land, and continue to do so till there was no more left in trade than was absolutely necessary. And thus the proportion would find itself, (though there were a million too much in the office to be let out,) without giving any one the trouble of calculation.

It may perhaps be objected to what I have written concerning the advantages of a large addition to our currency *that if the people of this province increase and husbandry is more followed we shall overstock the markets with our produce of flour*, &c. To this it may be answered that we can never have too many people, (nor too much money.) For when one branch of trade or business is overstocked with hands there are the more to spare to be employed in another. So if raising wheat proves dull more may (if there is money to support and carry on new manufactures) proceed to the raising and manufacturing of hemp, silk, iron, and many other things the country is very capable of, for which we only want people to work and money to pay them with.

Upon the whole it may be observed that it is the highest interest of a trading country in general to make money plentiful, and that it can be a disadvantage to none that have honest designs. It cannot hurt even the usurers, though it should sink what they receive as interest, because they will be proportionably more secure in what they lend, or they will have an opportunity of employing their money to greater advantage to themselves as well as to the country. Neither can it hurt those merchants who have great sums outstanding in debts in the country, and seem on that account to have the most plausible reason to fear it, to wit, because a large addition being made to our currency will increase the demand of our exporting produce and by that means raise the price of it, so that they will not be able to purchase so much bread or flour with £100 when they shall receive it after such an addition as they now can and may if there is no addition. I say it cannot hurt even such, because they will get in their debts just in exact proportion so much the easier and sooner as the money becomes plentier; and therefore, considering the interest and trouble saved, they will not be losers, because it only sinks in value as a currency proportionally as it becomes more plenty. It cannot hurt the interest of Great Britain, as has been shown, and it will greatly advance the interest of the proprietor. It will be an advantage to every industrious tradesman, &c., because his business will be carried on more freely and trade be universally enlivened by it. And as more business in all manufactures will be done by so much as the labor and time spent in exchange is saved, the country in general will grow so much the richer.

It is nothing to the purpose to object the wretched fall of the bills in New England and South Carolina, unless it might be made evident that their currency was emitted with the same prudence and on such good security as ours is, and it certainly was not.

As this essay is wrote and published in haste, and the subject in itself intricate, I hope I shall be censured with candor if, for want of time carefully to revise what I have written, in some places I should appear to have expressed myself too obscurely and in others am liable to objections I did not foresee. I sincerely desire to be acquainted with the truth, and on that account shall think myself obliged to any one who will take the pains to show me or the public where I am mistaken in my conclusions. And as we all know there are among us several gentlemen of acute parts and profound learning who are very much against any addition to our money, it were to be wished that they would favor the country with their sentiments on this head in print, which, supported with truth and good reasoning, may probably be very convincing. And this is to be desired the rather because many people, knowing the abilities of those gentlemen to manage a good cause, are apt to construe their silence in this as an argument of a bad one. Had anything of that kind ever yet appeared perhaps I should not have given the public this trouble. But as those ingenious gentlemen have not yet (and I doubt never will) think it worth their concern to enlighten the minds of their erring countrymen in this particular, I think it would be highly commendable in every one of us more fully to bend our minds to the study of *what is the true interest of Pennsylvania*, whereby we may be enabled not only to reason pertinently with one another, but, if occasion requires, to transmit home such clear representations as must inevitably convince our superiors of the reasonableness and integrity of our designs.

The assembly of Pennsylvania were so influenced by the above article that the measures proposed by it were soon adopted.

The following description of the system established is taken from Pownall's Administration of the Colonies, fourth edition, pages 234–236:

As the paper-money act made and passed in Pennsylvania in 1739 was the completest of the kind, containing all the improvements which experience had from time to time suggested in the execution of preceding acts, an account of that act will best explain and recommend the measure contained in the following proposal:

The sum of the notes by that act directed to be printed was £80,000 proclamation money. This money was to be emitted to the several borrowers from a loan-office established for that purpose.

Five persons were nominated trustees of the *loan-office*, under whose care and direction the bills or notes were to be printed and emitted.

To suit the bills for a common currency they were of small and various denominations, from twenty shillings downward to one shilling.

Various precautions were taken to prevent counterfeits, by peculiarities in the paper, character, manner of printing, signing, numbering, &c.

The trustees took an oath and gave security for the due and faithful execution of their office.

They were to lend out the bills on real security of at least double the value for a term of sixteen years, to be repaid in yearly quotas or installments, with interest. Thus one-sixteenth part of the principal was yearly paid back into the office, which made the payment easy to the borrower. *The interest was applied to public services;* the principal during the first ten years let out again to fresh borrowers.

The new borrowers from year to year were to have the money only for the remaining part of the term of sixteen years, repaying by fewer and of course proportionably larger installments, and during the last six years of the sixteen the sums paid in were not to be emitted, but the notes burnt and destroyed, so that at the end of the sixteen years the whole might be called in and burnt and the accounts completely settled.

The trustees were taken from all the different counties of the province, their residence in different parts giving them better opportunities of being acquainted with the value and circumstances of estates offered in mortgage.

They were to continue but four years in office, were to account annually to committees of assembly, and at the expiration of that term they were to deliver up all moneys and securities in their hands to their successors before their bonds and securities could be discharged.

Lest a few wealthy persons should engross the money, which was intended for more general benefit, no one person, whatever security he might offer, could borrow more than £100.

Thus numbers of poor new settlers were accommodated and assisted with money to carry on their settlements, to be repaid in easy portions yearly as the yearly produce of their lands should enable them.

For fifty years the paper-money system or the issue by the colonial government of legal-tender "proclamation money," as it was at first called, and afterward "resolve money," was continued with marvelous results. This money bore no promise of redemption in coin, but a promise to receive it for all dues. It never was redeemed in coin. It rested upon the credit of the tax-payers and wealth producers of Pennsylvania, and was loaned to the extent of the demand, upon land and plate—not to bankers, not to corporations in immense sums, but to farmers and business men, in sums not exceeding £100. Phillips' Paper Currency, a book published in 1865 opposed to paper money, says on page 36: "No great fluctuations are recorded in this province, (Pennsylvania.)" The money was so good it circulated in neighboring provinces as well as at home. The volume was governed by the necessities of individuals and of the public, and was always sustained in value by taxation.

There were thirty-five issues of this money either to redeem old issues or supply the demand for increased circulation, and so universally was this system commended by the wonderful development and prosperity of Pennsylvania that it conquered all opposition. Even Englishmen were forced to approve it, and Pennsylvania was made an exception to the law of Parliament prohibiting the issue of paper

money in the Colonies, passed in 1751. But for paper money this country never could have acquired the resources necessary to enable it to cope with England and overcome her in the revolutionary war.

In 1759 there were nearly £385,000 in circulation of "proclamation money," an immense sum for those days and for a single Colony. The population of Pennsylvania, with Delaware, was estimated at one hundred and ninety-five thousand in 1754, (Bancroft's History of the United States, volume 3, page 91.) Benjamin Franklin received the gratitude of the people for his efforts to establish the system. His article quoted above caused its origin, and he was its architect. The richest men in Philadelphia sought the office of signers of these bills to gratify their pride.

Thomas Pownall, M. P., of England, who had served the Crown as governor and commander-in-chief of the provinces of Massachusetts and North Carolina, and also as lieutenant-governor of New Jersey, in a book written by him on the Administration of the Colonies, published in London in 1768, says, on page 185, after condemning a proposed plan for a *provincial bank:*

I will recommend to the consideration of those who take a lead in business, a measure devised and administered by an American assembly, and I will venture to say that there never was a wiser or a better measure, never one better calculated to serve the uses of an increasing country, and there never was a measure more steadily pursued or more faithfully executed for forty years together than the loan office in Pennsylvania, formed and administered by the assembly of that province.

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In a country under such circumstances money lent upon interest to settlers creates money. Paper money thus lent upon interest will create gold and silver principal, while the interest becomes a revenue that pays the charges of government. This currency is the true Pactolian stream which converts all into gold that is washed by it. It is on this principle that the wisdom and virtue of the assembly of Pennsylvania established under the sanction of government an office for the emission of paper money by loan.

It was universally accepted and regarded as an axiom by our colonial fathers, that it was not only the right but the duty of government to provide the people with a sufficient supply of money for the wants of trade.

Dr. Franklin gave this account in his autobiography of the introduction of his system in Pennsylvania, (Weld's Autobiography, pages 112–114:)

About this time (1729) there was a cry among the people for more paper money, only £15,000 being extant in the province, and that soon to be sunk. The wealthy inhabitants opposed any addition, being against all paper currency. * * * I was on the side of an addition, being persuaded that the first small sum, struck in 1723, had done much good by increasing the trade, employment, and number of inhabitants in the province, since I now saw all the old houses inhabited, and many new ones building, whereas I remembered well when I first walked about the streets of Philadelphia, (eating my roll,) I saw many of the houses in Walnut street, between Second and Front streets, with bills on their doors "to be let," and many likewise in Chestnut street and other streets, which made me think the inhabitants of the city were one after another deserting it. Our debates possessed me so fully of the subject that I wrote and printed an anonymous pamphlet on it, entitled The Nature and Necessity of a Paper Currency. (Quoted above.)

It was well received by the common people in general, but the rich men disliked it, for it increased and strengthened the clamor for more money, and they, happening to have no writers among them that were able to answer it, their opposition slackened, and the point was carried by a majority in the house. * * * The utility of this currency became by time and experience so evident that the principles upon which it was founded were never afterward much disputed, so that it grew soon to £55,000, and in 1739 to £80,000, trade, building, and inhabitants all the while increasing, though I now think there are limits beyond which the quantity may be hurtful.

Dr. Franklin never changed his convictions as to the necessity and utility of a Government legal-tender paper-money system for America. At the age of fifty-eight years (in 1766) he went before a committee of Parliament to answer a report of the board of trade, dated February 9, 1764, containing reasons for restricting the issue of paper bills of credit in America "as a legal tender," and in his unanswerable argument against the restriction, he said, (Sparks's Works on Franklin, volume 2, pages 342–354:)

If carrying out all the gold and silver ruins a country, every Colony was ruined before it made paper money. But far from being ruined by it, the Colonies that have made use of paper money have been and are all in a thriving condition. * * * Pennsylvania, before it made any paper money, was totally stripped of its gold and silver, though they had from time to time, like the neighboring Colonies, agreed to take gold and silver coins at higher and higher nominal values, in hopes of drawing money into and retaining it for the internal uses of the province; * * * but this practice of increasing the denomination was found not to answer the end.

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The difficulties for want of cash were accordingly very great, the chief part of the trade being carried on by the extremely inconvenient method of barter; when, in 1723, paper money was first made there, which gave new life to business, promoted greatly the settlement of new lands, (by lending small sums to beginners on easy interest, to be repaid in installments,) whereby the province has so greatly increased in inhabitants that the export from hence thither is now more than tenfold what it then was, and by their trade with foreign colonies they have been able to obtain great quantities of gold and silver to remit hither in return for the manufactures of this country.

Speaking of the price of coin in paper money, he said:

On the emission of the first paper money, a difference soon arose between that and silver; the latter having a property the former had not, a property always in demand in the colonies, to wit: its being fit for a remittance. This property having soon found its value by the merchants bidding on one another for it, and a dollar thereby coming to be rated at eight shillings in paper of New York, and 7*s.* 6*d.* in Pennsylvania, it has continued uniformly at those rates in both provinces, now near forty years, though in Pennsylvania the paper currency has at times increased from £15,000, the first sum, to £600,000, or near it. Nor has any alteration been occasioned by the paper money in the price of the necessaries of life when compared with silver.

In summing up the case, he says:

On the whole, no method has hitherto been formed to establish a medium of trade, in lieu of money, (coin,) equal in all its advantages to bills of credit, founded on sufficient taxes for discharging it, or on land security of double the value for repaying it at the end of the term, and in the mean time made a *general legal tender*. The experience of now nearly half a century in the Middle Colonies has convinced them of it, among themselves, by the great increase of their settlements, numbers, buildings, improvements, agriculture, shipping, and commerce, and the same experience has satisfied the British merchants who trade thither that it has been greatly useful to them, and not in a single instance prejudicial.

The Pennsylvania legal-tender paper-money system, like that of her sister Colonies that had adopted it, in whole or in part, was overthrown by the revolutionary war. The Continental Congress was powerless to levy and collect duties and taxes, and could not even make its money a legal tender, but was compelled to appeal to the Colonies to do it. The Colonies were already supplied with paper money, and the vast influx of continental bills, (and of counterfeits put out by the English,) with no proportionate tax to call them back, issued by a helpless Congress, struggling for life with the mightiest nation in the world, forced them down, and with them the colonial bills, also greatly increased, to purchase the munitions of war. Notwithstanding this, we owe to paper money the independence of the United States from Great Britain as absolutely as we owe the preservation of our Union in the recent struggle to the greenback.

Franklin afterward said in an article on the paper money of the United States, (Sparks's Works on Franklin, volume 2, page 421:)

When Great Britain commenced the present war upon the Colonies they had neither arms nor ammunition, nor money to purchase them, or to pay soldiers. The new government had not immediately the consistence necessary for collecting heavy taxes; nor would taxes that could be raised within the year during peace have been sufficient for a year's expense in time of war; they therefore printed a quantity of paper bills, each expressing to be the value of a certain number of Spanish dollars, from one to thirty. With these they paid, clothed, and fed their troops; fitted out ships, and supported the war during five years against one of the most powerful nations of Europe.

The Currency of this Country should be Durable, Stable, and Convenient.

SPEECH OF HON. W. H. CALKINS,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

Monday, April 5, 1880,

On the following resolutions offered by Mr. WEAVER, of Iowa, namely:

Resolved, That it is the sense of this House that all currency, whether metallic or paper, necessary for the use and convenience of the people, should be issued and its volume controlled by the Government, and not by or through the bank corporations of the country; and when so issued should be a full legal tender in payment of all debts, public and private.

2. *Resolved*, That, in the judgment of this House, that portion of the interest-bearing debt of the United States which shall become redeemable in the year 1881, or prior thereto, being in amount $782,000,000, should not be refunded beyond the power of the Government to call in said obligations and pay them at any time, but should be paid as rapidly as possible, and according to contract. To enable the Government to meet these obligations, the mints of the United States should be operated to their full capacity in the coinage of standard silver dollars, and such other coinage as the business interests of the country may require.

Mr. CALKINS said:

Mr. SPEAKER: I have been a member of this body for three years. During all that time I have never taken an active part in the debates on the subject of finance, nor had I intended to try to enlighten the country upon this vexed question. It has always seemed to me that persons who talk most on the subject of finance know the least about it.

There are two clauses in the Constitution of the United States relative to monetary standards. The first one is, substantially, that Congress shall have the power to coin money and regulate the value thereof. This is an express grant to Congress over the whole subject. The next provision in the Constitution is an inhibition against the States, or either of them, from making any thing a legal tender, except gold and silver of the standard which has been fixed by Congress. In its natural order the first question arises as to what the fathers who framed the Constitution meant by saying that Congress should have the power to coin money and regulate the value thereof. One of the best methods of interpreting legislative action is to place ourselves, so far as possible, in the same position occupied by the legislators at the time the enactment was under consideration; surround ourselves by the same influences which surrounded them, and look at the subject from the same stand-point occupied by them.

The language used is unmistakably plain. The words "to coin money" can hardly be misunderstood by any person who understands the English language; but they have a wider significance as here used than any lexicon would probably give them. In addition to the meaning which the words import it was intended to grant the power to Congress at any time to raise the standard of gold or silver in our coins to such an amount as Congress might think best; that is to say, if the Latin union should at any time alter the number of grains to be used in gold or silver coins, or change the basis of relative value between gold and silver, Congress might have the power to follow it, or might fix an entirely different number of grains, or basis of relative value. The words also evidently carry with them a power to Congress to provide for cutting off into convenient shapes pieces of

metal, and to stamp such pieces of metal, whether square or round, with its government stamp, and to pass laws protecting such coinage from counterfeits, and to punish persons guilty of the crime of counterfeiting.

It will be seen, then, that in the use of these simple words many things were granted to the Government beyond that which the mere definition of the words themselves convey. At the time of the adoption of the Constitution the States were passing from a colonial government into that of a dual government, such as has existed since the adoption of the Federal Constitution. The General Government having by its Constitution supreme jurisdiction over subjects therein enumerated, and all other powers which necessarily attach to those enumerated, and in express terms declares it, and the laws passed in pursuance thereof, to be the supreme law of the land. There was expressly reserved to the States certain sovereign jurisdiction. When the States act within that jurisdiction they are supreme and exclusive. There is no concurrent jurisdiction between the different States and the General Government over the subjects which the Constitution places within its own exclusive jurisdiction and the subjects which are reserved to the States. Each is supreme in its sphere.

I am only alluding to these considerations for the reason that there is an express inhibition in the Constitution against the States coining money out of anything. The whole question is vested in the Government, acting through its Congress. I have also adverted to the fact that at the time the Constitution was formed the thirteen Colonies had just yielded their colonial government to a federal union, that union being a government—a nation. As my friend from New York expressed it, "a nation with a big 'N,'" with sovereign power, dominion, and jurisdiction, which power, dominion, and jurisdiction, lawfully exercised, is supreme not only over all the States, but all the Territories then owned, or thereafter acquired.

Among the questions to be dealt with at the close of the Revolution was that of a wrecked financial system. The continental money used during the progress of the Revolution had become valueless, and it is to be regretted that the young republic did not rescue its currency, which in a meager way assisted to its success, from the perils of repudiation to which it soon sunk. But whatever may be said of this financial system, and the degradation to which it sunk, one thing was impressed upon the minds of the fathers, and that was, that the use of paper money as a legal tender for the payment of private dues was not a success, and as a governmental system ought not to be tolerated, and, so far as it was comprehended by the framers of the Constitution, was intended to be expressly prohibited. I am led to this conclusion for the reason, among others, that the original clause of the Constitution as it now stands is not as it was reported to the convention which adopted it, there being at that time a clause added which authorized the Government to "emit bills of credit and make them a tender."

This question was discussed quite ably, and the words I have quoted were stricken out, leaving the clause as it now stands, and as an interesting historical question I refer my greenback friends and the latter-day democracy of soft-money proclivities to that debate, where they will find that if there was reasonable unanimity on any one subject among the framers of the Constitution, it was that the duty of the Government was to deny itself the power to emit full legal-tender notes or bills. When this particular clause under consideration was inserted in the Constitution the framers of that instrument were legislating under the light of existing and historical facts. The money of the world then, as now, was gold and silver. All balances between nations were adjusted and paid in the precious metals. The unit and unification of symbols was not as perfect then as it was made later, but all commercial nations then as now recognized the obligation and duty to pay their debts and to enforce payment between the citizens of different nations in the precious metals. With a view, then, to a general and harmonious monetary system throughout the States of the Union, and a harmonious union between it and other nations, it must be conclusively presumed that it was meant and intended by the term "to coin money" to refer solely to the precious metals, and that not having expressly put into the Constitution the right to emit notes and bills with legal-tender qualities, that right was excluded purposely from the powers which the General Government seized upon or clothed itself with.

I do not deny that all commercial countries have resorted to the use of paper in their commercial transactions, and that the people of all commercial countries have largely dealt and paid debts with issues of paper money, but I deny that any paper money has ever been used by any government with legal-tender qualities which has not been confined exclusively to the country issuing it, unless that paper issue was convertible into gold or silver coin at the pleasure of the holder. I am now referring to modern history. I assert that all money, or the symbols of money not composed of the precious metals, have fluctuated in purchasing power in the country where it was issued according to the ability of the powers which issued it to pay or redeem the same in coin. Constant fluctuation is the history of all money not based upon those metals. There is nothing so universally recognized throughout the world as the value of the precious metals.

Various authors who have treated and have written on the subject of political economy agree that there has never been so widely and universally accepted opinions on any one subject relating to commerce as the value of the precious metals, and I maintain that while this universally accepted opinion prevails and while the United States remains one member in the family of nations, with commercial relations existing between it and its sister states and countries, her people must acquiesce in this universality of sentiment. While our Government may make a local currency which will circulate freely among our own citizens, as a medium of exchange for articles of value, yet that currency, if not convertible at the pleasure of the holder into gold and silver, must be local in its nature and cannot circulate freely among any other people except our own. It must also fluctuate constantly in its purchasing power, and being unsteady in value will tend to drive from our midst the money of the world.

It is stoutly maintained that the Government of the United States having issued a legal-tender paper money, in time of war, and the Supreme Court of the United States having affirmed its validity, it is a precedent and may be followed either in times of depression and financial embarrassment, when panics sweep over the country, or at any other time whenever, in the judgment of Congress, such issue should be made, and that the money issued by the Government should be a legal tender for all debts, both public and private. My answer to the first proposition is that Congress did authorize and there was issued a legal-tender paper money for war purposes, and for war purposes only. This was a forced loan from the people. The loan was forced in this way and under the following circumstances. We had an army of many hundred thousand men then in the field. Our country's coffers were empty; the public credit had sunk so low that the Government was not able to sell her obligations in the open market and procure from the moneyed men of the world sufficient gold and silver to maintain her war expenses. The armies were unpaid; the families of the soldiers at home were either suffering for want of sufficient means to buy food and raiment, or imminent destitution was staring them in the face. Restlessness and sorrow spread its pall over every camp, and the cry went out from every regiment and troop of soldiers, "We must have our pay!" A hundred guns almost in sight of the dome of the Capitol pointed their rebellious mouths at the very halls of Congress, then in session. Disquietude and a rebellious spirit was manifested by a large number of citizens who remained at home, known then as now, as "peace men" or "anti-war men." With these and many other alarming conditions Congress was called upon to deal. It authorized the issue of these greenbacks, and in effect said, "We pledge to you who are in the Army that as soon as you defeat the rebel armies and secure peace we will redeem these pledges in the money of the world." It said to the farmer whose horses and grain it took, "You take these in lieu and stead of your horses and grain, and when the war is terminated the Government pledges itself to redeem them in coin." It said the same to the manufacturer of arms, clothing, shoes, powder, lead, cannon-balls, and cannon. Now, it is clear that if the Government had been overturned these legal-tender notes would have been of no more value than were the confederate notes of like character when the confederacy was destroyed.

Patriotism at this day would seem to suggest that there should be no cavil nor severe comment upon the issue of the legal-tenders during the war. Patriotism ought to silence the tongues of all individuals as to the reasons why this act was resorted to; and I assert that the Supreme Court of the United States in affirming by a decree the validity of the issue of this money expressly put it upon the ground of *ex necessitate*, a doctrine well understood by all lawyers, and I need hardly say was in my judgment extra-constitutional.

I might here advert to another legal question which is sometimes discussed in connection with this question. It is this: Where a power is vested in a legislative body, and that body acts within and in pursuance of that power, it is not subject to review by any other department; as where questions are remitted to the Legislature by a written constitution either of a State or government, and the Legislature acts within its constitutional sphere on those questions, its action is neither reviewable nor reversible by the judicial or executive departments.

By analogy, I may say that if a power is well vested in a national legislature to say when and under what circumstances it may resort to extra-constitutional measures, certainly the courts nor the Executive can be heard to reverse or review that legislative act, and I have never heard it contended, until of late, that the National Legislature could act in a case like that in which legal-tenders were issued unless it were to preserve the very instrument and country which the act assumed to and which it in fact did do. It may be said that this is a higher law than the Constitution itself—a resort to all means and all methods for the preservation of itself. Be it so. Such an act could not be maintained on any less ground than this. All will agree, however, that the danger of such precedents is imminent, and that nothing but the loftiest patriotism and the wisest counsels, in the face of dangers such as I have described, could or would attempt to maintain any act which does not find express authority in the Constitution, under and within which the National Legislature must act. I submit whether if it should act, where there was no real or apparent necessity for such measures, whether the Supreme Court would not at once declare all such acts null and void and of no effect.

The general view I have expressed with regard to the unconstitutionality of legal-tenders is acquiesced in, I believe, by the wiser and better class of soft-money men. General THOMAS EWING, the distinguished member from Ohio, recognizing this as being at least de-

batable ground, introduced into the Forty-fifth Congress an amendment to the Constitution expressly authorizing such issue. If the present Constitution authorizes it of course such an amendment would be wholly unnecessary.

From what I have said on this subject I do not wish it understood that I am in favor of redeeming and retiring any of the present issue of greenbacks or contracting its present volume. They are now practically redeemable in coin at the pleasure of the holder, and upon their redemption by the Secretary of the Treasury the law authorizes him to reissue them and keep them in circulation, thus making them to all intents and purposes gold and silver notes, and the Secretary of the Treasury is authorized by law to keep on hand a sufficient amount of coin to maintain this equivalency.

So long as any part of our public debt remains unpaid, this being a non-interest-bearing debt, I believe in maintaining it as it is without increasing or decreasing its volume.

I may add that I do not believe that the people of the country can stand further experiments with the currency question. It is safe to say, at least, let well enough alone.

What is money, and what office does it perform? Money is simply the go-between between different articles of value; the medium of exchange in exchanging one article of value for another. To illustrate it: I have one hundred bushels of wheat for sale and my neighbor has a horse for sale. I want the horse and he wants my wheat. If our residences are in close proximity the intervention of money need not be used to consummate the exchange, if the two are of the same value; but if a distance intervenes between the purchaser and seller, money at once becomes an article of necessity, and becomes the symbol or representative of the thing bought and sold.

It is the happy medium of expressing values. It is valuable simply for its purchasing power, and this leads me to consider a remark made by the honorable gentleman from Pennsylvania, Mr. KELLEY, in the course of a debate last session in which he said that legal-tender notes were money "because they would pay debts." This is but one of the qualities of money. It has many more. It is true legal-tenders would pay debts within the United States, but they would not pay debts in Canada, or in any place beyond the territorial jurisdiction of the Government. Neither can there be a law by which any money shall be taken in discharge of debt except within the jurisdiction of the Government asserting that power. The world's money, however, will discharge debts anywhere.

What should money be and of what should it be composed? This is answered by a writer on political economy when he declares that "three things should unite in any currency, namely: stability, durability, and convenience." The world has never found any substance which combined within itself these three qualities save the precious metals.

I have no doubt of the constitutional power of the Government to make a paper money and clothe it with the characteristics of a tender for public dues; but for a government to say that one of its citizens in time of profound peace, or when there is no imminent danger to the life of the nation, shall be compelled to take the promissory note of another citizen, or of a corporation, or of a State, or of the General Government, in discharge of any private obligation existing between two or more individuals, is to assert the right of the Government to become a robber; it is placing a supremacy in the hands of all of the individuals bound together as an artificial person—a government, in derogation of the rights of the individual members thereof. In a government like ours individual rights are the most sacred. Governmental prerogatives and usurpations are watched and guarded with jealous care; and to launch this doctrine upon the country as an economic or political measure is more dangerous and threatening to the life of the Government, than any other one which has been fulminated since the rebellion. It leads to agrarianism, to socialism, to communism. There is no escape from it. And if the people yield to the Government this right, their liberties are jeopardized, and it marks the first mile-stone in the permanent decay of American institutions.

I believe in the unlimited coinage of the standard silver dollar. First, because the obligations of the Government and the bonded debt was created when the standard silver dollar was a full legal tender for all public and private dues. The contract expressed on the face of the bond in terms declares that it shall be payable in coin; silver dollars (of a standard) then, as now, were money. It must be conclusively presumed that all persons taking the bonds of the Government knew that they could be paid in this coin, and it is no excuse or affords no reason why the Government should now be compelled to discharge its bonded debt in gold coin, because the present value of that much standard silver is depressed. Bondholders are not a favored class. If it should so happen that in a few years the standard gold dollar should fall below the standard silver dollar in purchasing power, it would afford no good reason for Congress to declare that these bonds should then be payable in silver and not in gold. I am in favor of the highest standard of honesty between the Government and its citizens, and this is attained when you pay the bond according to the letter and spirit, and this can be done in anything that was known as coin at the time the bond was executed. I have no patience with that class of men who claim that the bondholder should be paid in the highest-priced article, and none but the citizen should suffer in consequence of the fluctuation in value between the two metals.

I assert it to be a proposition beyond cavil or dispute that you may take a term of years, say twenty, in the last two centuries, and there is no time during that term of years when there would not be a fluctuation between the purchasing power of gold and silver dollars at their present standard; but history will also show that the ratio of 15½ to 1 is nearer the actual value or standard between gold and silver than any other one ever established. One may depreciate for a time, but the two will draw together again and maintain an equivalence at that ratio nearer than any other which has ever been acted upon. I am therefore in favor of maintaining the present standard, and making the coinage of silver dollars free. The internal commerce of this country will absorb at least two hundred millions in standard silver dollars. This money if paid out among the people will remain among them, and not flow into or through the Treasury, as the present Secretary fears they will.

The mistake that the present Secretary of the Treasury has made with reference to this silver-dollar question in my judgment is, that he could never get his eyes off the banks or from the money centers of the country long enough to consider what the internal commerce of the country demanded. His fear has seemed to be that in the payment of customs these silver dollars would be hoarded and would simply pass through the money centers back into the Treasury; that it would abolish gold from the shores of our country and be the only kind of coin left in circulation. This fear is entirely unfounded. The working classes of the country need their money in small denominations and amounts; it must be kept on hand to pay them and for them to pay out. It is a necessity, and whenever you strike at the small coinage of any country you strike directly at the working classes and small traders.

It is said that the silver dollars are heavy and cumbersome. This is true; but I beg leave to remind Congress and the people that whenever the market is glutted and the people begin to experience any inconvenience in consequence of their issue they will not hesitate to instruct their servants to change and alter the law; but until there is a sufficient amount of them in circulation to do the smaller business this objection is not well taken.

There ought to be some process by which these silver dollars could be sent to the inland towns and cities of the country, and avoid the heavy expense which now attends their transportation in large quantities, as, for instance, the Secretary of the Treasury ought to be authorized by law to exchange in the towns and cities through which shipments of silver are passing to the sub-treasuries of the United States, say in sums of $5,000 or upward, for legal-tender or national-bank currency free of cost to such persons as desired such exchange. It is an absurdity to say that all the towns between New York and Chicago should be obliged to pay expressage or exchange on silver dollars from one of those points when the same money passes through these cities and towns on its way to and from such sub-treasuries at Government expense. Some arrangement should be made by which it could be put off at the intermediate points free of cost to the persons desiring to take the same in exchange for the money I have alluded to, and thus facilitate its diffusion through the country.

AS TO NATIONAL BANKS.

I say to my friends and to my political adversaries that I am in favor, and I believe the people are in favor, of maintaining the present national-bank currency until some currency which is equally as good, or better, can be given in lieu and place of it. I am unalterably opposed to returning to the old State-bank system and the issue of paper bills by chartered State banks. Any party in the North and West that undertakes to again curse the people with that pernicious evil and system will be crushed out by an almost unanimous voice of all parties. The "wild-cat gimcracks" of that notorious system are yet too fresh in the minds of the people for them to tolerate it. Nor do I believe that the people desire the abolition of the national banks, until some wise and prudent system shall be devised by which an equally good currency can be given to them as that which the national banks furnish. For myself I say that I am not sure but that a Treasury note similar to a greenback note, with a legal-tender quality so far as it refers to public dues, might not be as good a currency as that of the national-banking system. This, however, is purely speculative, and if resorted to should be guarded by the wisdom of conservatism, and not launched upon the country suddenly and hastily.

In conclusion, I may say that I am aware of the adverse views existing in the minds of the people relative to the financial question. In my judgment it is a question which should be eliminated from the politics of the day and left to rest upon commercial relations and the inexorable law of supply and demand which always and necessarily exists among commercial people. Such general laws should be framed as will give course and amplitude to the diffusion of a sufficient supply of money without confining it within narrow bounds or fixing arbitrary limits. I do not believe this question ought to be left to a changing political body like that of the Congress of the United States. They should simply by legislation mark out its course, prescribe wholesome rules, and let the business interests of the country do the rest. I do not believe Congress can take absolute control of it and maintain it properly any more or with any greater degree of safety than they could undertake to regulate specifically the food which the great city of New York should daily have or the particular clothing which its citizens should wear. Congress can

provide means of transportation by which both can be brought there; it can adjust the laws so that it can be furnished cheaply; it can make avenues by which the tide may sweep on uninterrupted; and business interests must take care of the rest.

If I have one wish above another it is that the citizens of my country, being now soldered together by the blood and sacrifice of recent war, reunited in common interests, its people held together by the strong ties of consanguinity, bound not only by the great natural arteries and channels of commerce which cross it, but by a network of railways that extinguishes distances and brings from the remotest parts all of its people into close commercial relations; by its systems of telegraph and telephones the citizens of San Francisco are brought into talking distance—I might almost say whispering distance—with the people of New York—should be left untrammeled to work out their own material interests, regulate their own volume of currency, live together for a common destiny, and make the United States in fact what it is in name, the asylum of the oppressed of all people.

The Currency Question.

SPEECH OF HON. G. DE LA MATYR,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

Monday, April 5, 1880,

On the following resolutions, submitted by Mr. WEAVER, of Iowa:

Resolved, That it is the sense of this House that all currency, whether metallic or paper, necessary for the use and convenience of the people, should be issued and its volume controlled by the Government, and not by or through the bank corporations of the country; and when so issued should be a full legal tender in payment of all debts, public and private.

2. *Resolved*, That, in the judgment of this House, that portion of the interest-bearing debt of the United States which shall become redeemable in the year 1881, or prior thereto, being in amount $782,000,000, should not be refunded beyond the power of the Government to call in said obligations and pay them at any time, but should be paid as rapidly as possible, and according to contract. To enable the Government to meet these obligations, the mints of the United States should be operated to their full capacity in the coinage of standard silver dollars, and such other coinage as the business interests of the country may require.

Mr. DE LA MATYR said:

Mr. SPEAKER: The short, terse, and comprehensive resolutions under discussion, and the equally terse, clear, and comprehensive speech of the gentleman from Ohio, [Mr. GARFIELD,] who is unquestionably the ablest leader of the hard-money party of the country, present the vital issues pending in our politics.

The resolutions state—

First. That the people through their Government should resume their constitutional right to issue and control the volume of currency.

Second. That the money thus issued and controlled in volume shall be full legal tender, making it of uniform value.

Third. That the portion of the bonded debt soon to be payable at the option of the Government should be paid as rapidly as practicable and not refunded in a manner to forbid the Government the option of paying it for a long term of years.

Fourth. That to pay this debt in accordance with the contract the mints should be utilized to their full capacity in coining silver dollars.

The gentleman from Ohio states that the proposition that all money, whether coin or paper, that is to circulate in this country ought to be "manufactured"—he must mean coined or stamped—"and issued directly by the Government," is a scheme of centralization "surpassing all the centralism and Cæsarism that were ever charged upon the republican party in the wildest days of the war or in the events growing out of the war." "It makes the House of Representatives and the Senate the *absolute dictator* of the financial and business affairs of this country." He characterizes the proposition to make all money issued by the Government legal tender as dishonorable repudiation. He charges that the proposition to pay the portion of the debt which is soon becoming due—some $780,000,000—according to the contract, from the resources of the Government, would be dishonest. He sums up his view of the resolutions in the following characteristic language:

I have only to say that these three make the triple-headed monster of centralization, inflation, and repudiation combined. This monster is to be let loose on the country as the last spawn of the dying party that thought it had a little life in it a year ago. It is put out at this moment to test the courage of the two political parties; it is offered at this moment when the roar of the presidential contest comes to us from all quarters of the country. In a few moments we shall see what the political parties will do with this beast. All I have to say, for one, is, meet it and throttle it; in the name of honesty; in the name of the public peace and prosperity; in the name of the rights of individual citizens of this country against centralism worse than we ever dreamed of, meet it and fight it like men. Let both parties show their courage by meeting boldly and putting an end to its power for mischief. Let the vote be taken.

We will pass as unworthy of notice the distinguished gentleman's allusion to the greenback labor party in the elegant phrase, "the last spawn of the dying party that thought it had a little life a year ago," and accept the challenge he throws down.

Mr. Speaker, I like the blunt, rugged statement of the position of his party, by the gentleman. There is no duplicity, no dodging, no equivocation, about it. We know where to find him and how to meet him. He and the party he represents, and the democrats who will vote with him, would centralize the power to issue the currency and control its volume in national-banking associations, and make them "the *absolute dictators* of the financial and business affairs of this country." They have already delegated the enormous power of issuing the paper currency to these associations, with the exception of the greenbacks now outstanding. It is well known that they propose as soon as practicable to retire these remaining greenbacks, and stop the coinage of silver, so as to pass over to the bank corporations the issuing of all the currency the people shall use and the absolute control of its volume, except what gold circulates.

We propose to retire the national-bank currency and forbid any corporation to issue money. We propose that the Government shall exercise that great power instead of corporations. The simple question at issue, stripped of all unnecessary verbiage, is, shall the Government, which is the whole people acting together, or shall the national-banking associations be "the *absolute dictators* of the financial and business affairs of the country?" His view is that the people are incapable of governing themselves in their "financial and business affairs," and need an "*absolute dictator*" in the persons of a banking oligarchy. Our view is that the people are able to take charge of these matters of such vital interest to their prosperity, and are far more likely to manage them for their own interests than a selfish, sordid, irresponsible oligarchy. This is the issue squarely stated.

Now let us examine the results of the hard-money plan as far as it has been executed. Dr. E. P. Miller, of New York, in an important tract, entitled The Maelstrom of Error, says:

From the organization of the first bank up to the present time, banks and banking institutions have been a sort of vortex in which the fortunes of the people have been sunk. All over the world bankers and banking corporations either become very rich from the profits they obtain from the people, or they fail, entailing heavy losses upon all who have dealings with them. Commercial panics, which usually cause the shipwreck of thousands of our business men, are generally brought on by the failure of banks. Inflation of the currency by issuing a larger volume of bank-notes, and the loaning of such stuff to the people as money, without real money behind it, the subsequent failure of banks to redeem these notes, and the contraction and repudiation of these notes, which have followed, has caused every great financial crisis which this country has passed through since the United States Government was first organized.

TESTIMONY OF EMINENT MEN.

We have abundant testimony to prove the truth of these statements, from men who are well known to the whole people, and who have been personally interested in banking and financial affairs.

Mr. John Knox, the present Comptroller of the Currency, says:

"In nearly all of the States banks especially chartered were favorite organizations. The amount of currency issued was frequently *twice* and in many instances *three* times the amount of the *nominal* capital of such banks."

The nominal capital was frequently six times the amount of the real capital, so that these favorite organizations often had a circulation from eight to ten times the amount of their real capital. The Comptroller says further:

"These charters were thus very valuable, and the State Legislatures were besieged by applicants for such privileges. Governor Snyder, of Pennsylvania, in 1813, vetoed a bill granting charters to twenty-five banks, with an aggregate capital of nine millions. In the ensuing year a bill was passed by a two-thirds vote over the second veto of the governor, authorizing forty-one banks, with an aggregate capital of seventeen millions, of which *only one-fifth part* was required to be paid in. Of this number thirty-seven went into operation. Many of these institutions had but a *nominal* capital, consisting chiefly of notes given by the stockholders for the amount of their shares. Fifteen of this number failed within four years of the date of their organization.

"In other cases charters of banks authorized by the New England and Southern States were disposed of to non-residents, who organized banks of circulation with little or no capital, and the citizens of other remote States suffered great loss from the worthlessness of such bank issues."

Mr. Albert Gallatin, a prominent banker in 1831, says:

"The creation of new State banks in order to fill the chasm was a natural consequence of the dissolution of the Bank of the United States and the withdrawal of its $7,000,000 of foreign capital, and, as is usual under such circumstances, the expectation of great profits gave birth to a much greater number than was wanted. From the 1st of January, 1811, to the 1st of January, 1815, not less than one hundred and twenty new banks were chartered and went into operation, with a capital of forty millions."

Mr. Gallatin estimates the bank notes in circulation in 1811, including those of the United States banks, at $28,100,000, and in 1816, at $68,000,000, an increase of nearly $40,000,000. In 1820 this amount had been reduced to $44,863,000. Now, what the effect of this expansion and contraction of the currency was upon the business men of the country, who virtually had to stand the losses, we let Mr. Gallatin tell in his own words. He says:

"Debts contracted during the suspension of specie payments and while the currency was depreciated became payable at par. The distress, therefore, that took place at that time may be chiefly traced to the excessive number of State banks incorporated subsequent to the dissolution of the first United States Bank and to their improvident issues. The numerous failures which had preceded the year 1819, or have since taken place, have also been principally due to the same causes. We have an account of one hundred and sixty-five banks that failed between the 1st of January, 1811, and the 1st of July, 1831. The capital of one hundred and twenty-nine of these amounted to more than twenty-four millions, stated to have been paid in. Of the actual loss incurred we can give no account. There are instances in which the stockholders, by paying for their shares of stock in their own notes and afterward redeeming these notes in the stock in their names, suffered no loss, the entire loss falling upon the bill-holders and the depositors."

Mr. Charles Dinscombe, a writer of note in 1841, says:

"The currency of the United States consists of a small amount of gold and silver coin and bullion, a larger amount of State-bank notes exchangeable for specie, a far larger amount of bank notes not convertible into specie, composed of notes of non-specie-paying banks, the notes of banks of other States, unauthorized paper of individuals, of companies, and of associations, in the similitude of bank notes, issued and circulated as money, and post notes, deposit notes, checks, State scrip, and bills of exchange."

Such was the character of the currency in 1841, only four years after the panic of 1837, and at a time when the currency had been readjusted on what was considered a sound basis. And what remedy had the people for this state of things? Mr. Dinscombe says in reference to this point:

"Bank notes compose so large a proportion of the circulating medium that those

who will not take them in payment of their debts cannot collect their dues or carry on business requiring the use of money. The efforts of State Legislatures to correct the defects of the currency must ever be as unavailing as their attempts to suppress small bills have hitherto proved. Their actions are desultory, unconnected, and temporary; liable to the influence of private interests or political party feelings that may vary in the several States and prevent their uniform action. * * * The people are the only legitimate source from which to expect permanent and radical relief. Congress is the only proper party possessing legitimate power and authority to organize them for that purpose."

This writer hits the nail squarely on the head when he says State Legislatures are unavailing to correct the defects of the currency, and that Congress is the only party having the power to correct the evils.

HUGH M'CULLOCH'S TESTIMONY.

But we have another authority, of our own times, whose opinions are considered by the pretended advocates of honest money as of the greatest value on such matters, Mr. Hugh McCulloch, ex-Secretary of the United States Treasury, ex-Comptroller of the Currency, and formerly president of the State Bank of Indiana, one of the soundest banks ever organized. In an address delivered before the Bankers' Association in Philadelphia in 1876, in reference to the State banks, he says:

"In some States banks were chartered with proper restrictions as to their discounts and circulation; in other States without any restrictions. In some there was individual liability; in others no liability whatever, not even in cases of gross mismanagement. In some States the circulation of the banks was secured, partially at least, by mortgages and bonds; in others there was no security except the capital, which was frequently a *myth*. In some States banking was a monopoly; in others it enjoyed the largest liberty. The consequence was that we had a bank-note circulation frequently worthless, and, when solvent, lacking that uniform value which was needed in business transactions between the citizens of different States. It is enough to say that the circulation of the State banks was entirely unfitted for a country like ours; that by it the people were subjected to enormous losses, not only in the way of exchange, but in the inability of a great many of the banks to redeem their notes."

We publish these statements of Mr. Hugh McCulloch for the purpose of giving unimpeachable evidence of the manner in which the fortunes of the people have been heretofore swallowed up by bankers, and before we get through we shall give facts and figures which will show that however much they were plundered under the old State-bank system it was but a small per cent. of the robberies now going on under the present system of national banks. Where the old State banks plundered the people of thousands the national banks will take millions from them.

COMPTROLLER KNOX'S STATEMENTS.

Comptroller Knox says, again:

"Many of the organizations were not banks in any true sense of the word, but were associations without capital, located at places not easily accessible, and owned by non-residents, who availed themselves of ill-considered legislation to convert their bonds into currency at rates higher than the market value, drawing the interest on their bonds but transacting little or no business at the place of issue. When the bonds depreciated in value or any considerable amount of notes was presented at their counters for redemption the bank failed, the securities were sold by the authorities of the State, and the avails were divided among the note-holders."

The governor of Indiana, in 1853, said:

"The speculator comes into Indianapolis with a bundle of bank notes in one hand and the stock in the other; in twenty-four hours he is on his way to some distant part of the Union to circulate what he denominates a legal currency authorized by the Legislature of Indiana. He nominally locates his bank in some remote part of the State, difficult of access, where he knows no banking facilities are required, and intends that his notes shall go into the hands of persons who will have no means of demanding their redemption."

Comptroller Knox says, again:

"The losses under the old bank system were estimated to equal in twenty years the entire amount of the circulation."

WHAT SENATOR BLAINE SAYS.

Senator BLAINE said in his Cooper Institute speech:

"When the war broke out we had thirty-three kinds of paper currency in this country. We thought we had a good system in New England, called the Suffolk Bank system. We thought we enjoyed it down in Maine, and yet regularly, with great periodicity, which beat the equinoctial storm, these banks would turn up defunct. I remember perfectly well, as if it were yesterday, on a pleasant summer morning in 1853, that a large bank in Maine, known as the Ship Builders' Bank, was announced as having failed, with $357,000 of circulation out—and it is out yet. That was a good thing about the old State Bank, that when it failed it made a clean thing of it."

We could fill volumes with statements of eminent men as to the swindling character of the old State banks. Every bank that failed defrauded the people of many thousands of dollars, but those that were considered sound, if possible, robbed the people more than those that failed. Everywhere over the country the bankers grew rich without work by having the control of the paper currency and loaning it to the people at high rates of interest. Bonds, stocks, and mortgages, on which the people paid interest, were used as a basis for the issue of bank-notes, and on them such notes were issued to the extent of two to four times the amount of capital the bankers had, and this stuff was loaned to the people at high rates of interest, to be used as the money of the country.

Could there be a scheme devised that would legally enable a certain class of men to get money without work, to grow rich by robbing the people, to swallow up the fortunes of the masses more effectually than the system of banking pursued in this country up to the time of the introduction of the greenbacks?

If it is possible to inaugurate a greater system of robbery of the people's money, that system has been inaugurated in the present system of national banks. The money lost by the people under the old system of State banks is a mere bagatelle when compared to that which has been and will be taken from them under the present system of national banks.

Such has been the result of giving the power of issuing currency to banking corporations, and making them "the *absolute dictators* of the financial and business affairs of the country" before the war. The gentleman from Ohio affirms that up to 1862 the wildest dreamer never thought of having the Government issue paper money. His language is:

Now I say, without fear of contradiction, that prior to 1862 the wildest dreamer in American finance was never wild enough to propose such a measure of centralization as that single proposition implies. The Government should prescribe general laws in reference to the quality and character of our paper money, but should never become the direct manufacturer and issuer of it.

He was mistaken. Thomas Jefferson appears to have been wild enough to have cherished such thoughts and to have expressed them. He said:

Bank paper must be suppressed, and the circulating medium must be restored to the nation, to whom it belongs. It is the only fund on which they can rely for loans. It is the only resource which can never fail them, and it is an abundant one for every necessary purpose. Treasury bills, bottomed on taxes, bearing or not bearing interest, as may be found necessary, thrown into circulation, will take the place of so much gold or silver, which last, when crowded, will find an efflux into other countries, and thus keep the quantum of medium at its salutary level.

The extreme folly of the people trusting their "financial and business affairs" to bank corporations instead of holding control of those great interests through their representative government, as the Constitution dictates, is thus clearly stated by the eminent men whose words we have quoted. The remedy is as clearly stated by that great statesman, Thomas Jefferson, characterized by the gentleman from Ohio as the wildest of wild dreamers.

During the war the nation was forced to practice on the wild, visionary scheme so roundly and flippantly denounced by the gentleman from Ohio, and found it so successful that some of us are wild enough to desire its continuance.

We will examine the experiment and its beneficent results.

When the nation was plunged into war coin money failed us utterly as a circulating medium or as the basis of a circulating medium, as specie always does in a great emergency. And the Government was forced to issue paper money based solely on its authority—that is, its fiat.

On the 30th of June, 1866, as will appear from the financial report of that year, pages 26 and 27 and pages 38 to 43 and page 65, there was afloat in various forms of Treasury notes the following amounts:

Demand notes	$272,162
United States notes, (greenbacks)	400,619,206
Temporary loan, (ten-day notes)	120,176,196
One and two year Treasury notes	3,459,230
Certificates of indebtedness	26,391,000
Postal currency	7,030,700
Compound-interest Treasury notes	159,012,140
Fractional currency	20,040,176
7.3 Treasury notes, August and September, 1864	139,301,700
7.3 Treasury notes, 1864 and 1865	806,251,550

Making the vast sum of $1,682,554,080 of paper money issued by the Government directly. Much of this paper was legal tender for the payment of private debts, and a part of it full legal tender, and all of it was pushed into circulation by the exigencies of the war. All of it that was interest-bearing and promised redemption at a given time was abnormal currency, yet it was used for the time as currency.

It was a currency that cost the whole people only the expenses of printing it. It answered, as far as it was made legal tender, all the purposes of currency. It inspired intense industrial enterprise. It set all the people at work creating wealth and inspired the devotion of capital and skill to preparing for larger production and creating facilities for transportation. It enabled producers to do a cash business and evade the ruin which large interest is sure sooner or later to cause. Notwithstanding the measureless wastes of the war, that activity in creating wealth made the country prosperous as never before. That prosperity was real and not balloonish, as it is so flippantly charged. Every farm opened or improved, every house built or reconstructed, every factory erected, every railroad constructed, in short, every stroke which helped to turn nature to man's benefit, added to *real prosperity*.

The cheap and abundant currency was the inspiration of that activity in creating wealth. If that activity had been kept steady up to the present, aided by the machinery and facilities of distribution, and provided with the ever-unfolding stores of nature which it commanded, the results would have amazed the world. If the volume of currency had been kept steady, changed in volume only by being increased as population increased, and interest on it could have been kept at a rate which would have made production profitable, there is no reason why it should not have continued unabated.

Just to the extent that the Government was the "*absolute dictator* of the financial and business affairs of the country" by directly issuing its currency, so long the people prospered. This is a stubborn fact. Unfortunately, under the leadership of men who believe that to trust the people's government, over which they have control, with their "financial and business affairs," so far as issuing and controlling the volume of their currency is concerned, is wilder dreaming than the story of the Arabian Nights, and that the height of prudence and wisdom is to commit the *absolute dictatorship* of "their financial and business affairs" to a money oligarchy, a change was inaugurated. The money issued by the Government was contracted, and the issuing of currency was largely committed to banking corporations with the determined purpose to eventually retire all national currency except gold.

By the 30th of June, 1873, the money issued directly by the Government was contracted to the following amounts:

Demand notes	$79,967
United States notes, (greenbacks)	356,000,000
Temporary loan, (ten-day notes)	78,560
One and two year notes	142,105
Certificates of indebtedness	678,000
Compound-interest notes	479,400
Fractional currency	44,799,365
7.3 Treasury notes	274,100
Total	402,531,497

Amount of contraction in seven years, $1,280,022,583. This amount was taken out of the channels of trade and mostly refunded in long-time interest-bearing bonds. The active business men of the country

being embarked on large productive enterprises in which immense capital was invested, were forced to fill its place with notes and mortgages bearing ruinous rates of interest.

But a more fearful drain of the profits of the labor performed in those days of prosperity was the change of the relative value of money and those products by the enormous contraction of the volume of money. It lessened all values in which producers could pay their debts and lessened the profits of their labor full one-half, impoverishing producers and enriching money-loaners that much.

There was added the still further and very great drain of money by bondholders and bankers, in consequence of the depreciation of the national currency by the Government refusing to receive it for customs dues, and suffering the creditors to refuse it for the interest on their bonds.

Senator BECK, after careful and thorough research, presents the following startling facts:

The bondholders had up to 1869 received $100,000,000 of profits before they got the principal of their bonds made payable in gold!

It can be shown by the Treasurer's report from year to year giving the amount of bonds sold each year, and the premium on gold from 1862 to 1869, that the purchase of the bonds with paper at its face value and the purchase of the paper at the discounts gave a profit to the bondholders as follows:

An account of the bondholders' clear profits arising from no investments at all may therefore be stated in the following tabular form:

1862	$28, 138, 989
1863	94, 555, 713
1864	366, 554, 532
1865	110, 159, 367
1866	53, 757, 183
1867	167, 915, 741
1868	253, 159, 765
On account of 5 per cent. bonds	98, 297, 864
Total	1, 012, 536, 204

This enormous profit was taken out of the products of labor and from the capital invested in property and business other than money and money-loaning.

But a more fearful drain still has resulted from turning over the issuing of currency to banking corporations. On this matter I quote from Mr. Stephen Dillaye, of Trenton, New Jersey:

Centralized power is the never-failing enemy of civil liberty. There now exists in the United States an association wider in its scope, stronger in its resources, and more thoroughly hedged in its respectability than ever before was organized in human society. It is known as the National Bank Association. I propose to analyze its power and make known its purposes. This one association is composed of twenty-three hundred corporations and more than one thousand private bankers.

The corporations have a fixed capital of $500,000,000, and control a subsidiary fund of $1,500,000,000 of money, making, with their deposits and the funds of the private bankers identified with it, a central colossus of moneyed power wielding the influence of $2,000,000,000 of concentrated capital, centralized under one supreme central head, favoring the most boundless and uncontrolled monopoly that ever united to master the destinies of a free and independent people. Its object is twofold.

1. To prolong the existence of the national banks into an endless monopoly of banking privileges.

2. To control the money and the currency of the nation by defeating all legislation tending to lessen the power or diminish the monopoly of the national banks.

To understand its purposes it is essential to understand the history of its growth, the extent of its profits, and the power it can exercise for good or evil.

When the United States Government was battling with rebels; when our very existence was trembling on the verge of exhausted coin; when banking resources gave out; when public confidence had weakened into suspicion; and when desolating war was demanding millions daily to sustain our armies in the field, there seemed but one resource left; it was an appeal for financial aid to the capitalists of the nation. Capital, always selfish, knew the situation and comprehended its power. While the bold, manly, and generous youth of the country were rushing to the battle-fields, capital hid itself behind the selfishness of human greed to dicker and bargain for usury as the price of yielding to our necessities. In this hour of national combat the national-banking system had its birth. The Government was forced into becoming the fawning, borrower slave to the lender, capital. Then it was that money dictated a system of monopolies, privileges, and profits such as no Shylock had ever before conceived.

Then, when it had fashioned its law, when it had consummated its conditions and panoplied its usury into congressional monopolies, lender-like, it yet held back, creating suspicions, magnifying the power of gold, and depreciating the national credit, till it forced coin to more than double its value. Then United States bonds having been fixed as the basis, and gold as the standard of their value, capital commenced to purchase the bonds. The bank bill passed March 23, 1863. To get at just what the bankers paid for their bonds we must establish the price of gold at the periods when the bonds were sold by the Government and purchased by the bankers. The price of gold from April 1, 1863, to January 1, 1864, varied from $1.30 to $1.60, averaging $1.45.

During this time sixty-six banks were organized, with a capital stock of $7,188,393, making a profit to the bankers of	$2, 322, 388 00
From January 1, 1864, to January 1, 1865, five hundred and eight banks were organized, with a capital of $86,782,802. The average price of gold was $2.10, making a profit to the bankers of	47, 729, 542 90
From January 1, 1865, to January 1, 1866, one thousand and five banks were organized, with a capital of $306,374,404. The price of gold averaged $1.69.½, making a profit to the bankers of	107, 484, 228 60
From January 1, 1866, to January 1, 1867, one hundred and thirty-one banks were organized, with a capital of $22,315,163. The price of gold averaged $1.42, making a profit to the bankers of	6, 694, 548 90
From January 1, 1867, to January 1, 1870, the increase of capital was $10,316,886; currency was worth 70 per cent. The banks made a profit of	3, 095, 068 80
Making the aggregate of profit	167, 325, 777 20

Showing the absolute profit made on the investment to have been more than four times the capital of the Bank of the United States, when it controlled the Senate, Congress, and the money of the Union, and more than $17,000,000 more than the entire capital of the Bank of England, which controls the finances of the British Empire.

Not contented with this enormous bounty, the United States was forced to obligate the people to exempt all of the bonds from taxation and to pay interest in gold on the face of the bonds, namely:

On United States bonds to secure circulation	$392, 563, 300
United States bonds to secure deposits	17, 753, 650
United States bonds for reserve	24, 517, 059
Total	434, 834, 009

This represents the bonds held by the banks in 1871, and the amount does not materially vary. Assuming the interest to have been 6 per cent. in gold, and the average premium from 1864 to 1874 on gold to have been 50 per cent., the interest would equal 9 per cent. in currency, or an annual sum of $39,135,060.81 as a yearly bounty, which, taking the fourteen years the banks have been in operation, foots up to the sum of $547,890,851.34, which, added to the profits on the bonds, $167,325,777.20, make an aggregate of profits of $715,216,628.54. These figures, enormous as they are, are but the simple enumerators of the most gigantic swindle that ever was imposed upon a civilized people. There is nothing in the history of the world to compare with it in enormity, and every dollar of it *has been stolen from the taxed* and patient people *to be given to the untaxed monopolists.*

But thus far I have only reached the corner-stone of the temple of the bankers' privileges. The entire investment in the purchase of the $410,316,950 of United States bonds for banking purposes was but $197,508,239. This represents the sum in money invested as capital by the national banks. They thus started with a 20 per cent. investment. The next step in their monopoly was for the United States to issue to these banks 90 per cent. of national-bank notes, representing the credit of the United States, amounting to the sum of $350,000,000, to lend; for this currency was money, which the bankers received from the Government to use for banking purposes. This shows what the bankers got for their

Investment	$197, 508, 239
Receipts—United States bonds	434, 834, 009
National-bank currency	350, 000, 000
Making the sum on which they received interest	784, 834, 009

The interest received has been as follows:

On United States bonds	39, 135, 060 81
On national-bank currency	33, 250, 000 00
Total	72, 385, 060 81

This is not all. The Government not only lent the banks its credit, so that they at once drew to their vaults deposits which have averaged $600,000,000, but they gave the banks the chartered right to loan these deposits. So that the aggregate of their loans have averaged the sum of $783,250,000, which makes the amount of their loan on their deposits $433,250,000, which at 9½ per cent. per annum—that being the percentage the Comptroller of the Currency reports the banks to have realized on their loans—makes the annual sum of their interest on their deposits $38,992,500. So that the national-bank interest account on an investment of $197,508,239 is demonstrated to be as follows:

On United States bonds	$39, 135, 060 81
On national-bank bills	33, 250, 000 00
On national-bank deposits	38, 992, 500 00
Total	111, 377, 560 81

or more than 50 per cent. annual profit.

Nor does this give the full measure of the most infamous privileges these chartered cormorants are enjoying.

They were made agents of the Government to sell bonds, given the right to sell, exchange, and do all the discounts the most favored bank charters ever allowed; and, beyond this, there is still another feature of their profits which should not be overlooked, namely, the premium on their bonds, which to-day, at the lowest figures reported in the money markets, amounts to an additional sum of $21,184,254, which, deducted from the actual investment, shows that the investment of capital is only $176,323,985, on which their interest annually received is $111,377,560.81, or about 65 per cent. These annual bounties paid to the "barons of the purse," saying nothing of compound interest, in the fourteen years of bank depredations, figure up to the sum of $1,559,285,941.34.

Having thus shown how the national banks originated, the money that they have actually realized as profits on the money they actually invested, and that they now hold the United States bonds valued at $456,018,263 for the original investment of $197,508,239, I proceed to show the objects and purposes of the huge combination which is now organized as the National Bank Association. The incorporated national banks in October, 1876, numbered two thousand and eighty-nine. The amount of their capital stock, surplus funds, undivided profits, circulation, deposits, and other items, swelled their resources to the enormous sum of $1,823,469,723.44, the largest combination of capital ever embraced in any oligarchy known to the world. These two thousand and ninety corporations, in the full panoply of soulless power, combined into a single leviathan monopoly to override all restraint; to compass all control; to rule Congress; to dictate to the nation its laws, to the people their rights, and to the United States her money and finances. Born out of the storms of rebellion, cradled into immense wealth by monopolized subsidies, its object is to make the Government its servant and the people its slaves. Having thus characterized its objects, let us now see how it is composed.

The stock of the national banks is represented by 5,054,828 shares of $100 each, and about 1,500,000 shares less than $100 each. These shares are owned by 208,000 shareholders. Massachusetts holds 988,700 shares. The remaining New England States 1,030,126 shares. New York holds 1,482,746 shares; the other Middle States 1,568,632 shares; the Southern States, entire, 429,393 shares, or less than one-half held by Massachusetts, and the whole number of the Western States 937,333 shares, or less than one New England State. The Pacific States and Territories, 69,000 shares.

The number of shareholders in the Eastern States is 86,975, of whom 46,564 reside in Massachusetts. In the Middle States there are 68,126, of whom 26,339 reside in New York, 28,612 in Pennsylvania. In the Southern States there are 11,004. In the Western States 17,170. In the Pacific States and Territories there are 721. Canadians hold 6,519; Great Britain, 6,728, and other portions of Europe, Asia, and the Islands, 23,000.

Thus it is seen that more than four-fifths of this moneyed power is held by the Atlantic States. They have combined and controlled it. It is a power which, to use the words of Thomas H. Benton when speaking of the old United States Bank, which had a capital of but $35,000,000, or less than the people are now annually forced to pay as a bounty to the national banks, "is too great to be tolerated in a government of free and equal laws." It is a power massed and concentrated by a central conclave in New York, "to make the rich richer and the poor poorer," to multiply nabobs and paupers, and to deepen and widen the gulf which separates Dives from Lazarus. It has been combined by capital to make capital master. Its leaders have already made two public declarations:

1. That the association is dedicated to reducing all employés to the lowest measure of compensation, and

2. That its machinery is now in operation so that in any emergency the financial corporations of the East can act together at a single day's notice and with such power that no act of Congress can overcome or resist their decision.

Its standard of wages is that which constitutes European pauperism. Its edict of power is that the American laborer must be contented with low wages; and its purpose is to open an unsparing war against all interests which resist it.

From its policy in the past, its policy in the future is easily deduced. At the birth of the greenback the originators of the Bank Association started their nefarious work. It was necessary to their purpose that they discredit it, and they were powerful enough to subjugate it to gold speculators by making the Government hang the chain of repudiation round its neck by printing on every bill its refusal to receive it for duties on imports and interest on the public debt. Unless this was done it would be equal to gold, and if equal to gold the bonds could not be reduced to forty-two cents on the dollar as they were. Again, if equal to gold, as they were in value but for this repudiation, gold speculators could not speculate on the misfortunes of the people by continually magnifying the price of gold and as continually decrying the price of greenbacks. The second step was to change the contract by which our bonds, made payable in lawful money, were made payable in gold. This they forced Congress to do. It was a felony, but they were guilty of it. The third step was to demonetize silver by an infamous fraud. They did this because we had silver in abundance, knowing that gold was scarce, and that we had but little of it; for, with our bonds payable in gold, they knew they were masters of the people. The fourth step was to fix a time when specie payment should be resumed as a forced law, and when, at the will of the money power, no debt could be liquidated except in gold.

These were the initiatory and preparatory measures to organize and consummate the aristocratic and oligarchic power of the national-bank monopoly. It was essential to make them masters of the finances of the nation and of the people:

1. To discredit the greenback, in order to dissatisfy the people with it by making it inferior to gold. The foundation was laid in two ways: By direct action, first, by stamping its inferiority on the back of every bill, as a positive repudiation of its power to pay duties or interest on the public debt, and thus to create a constant demand for gold, so as to keep the commercial world advertised of its inferiority and its inability to perform the highest functions of money.

2. By making a superior through which it should be compelled to redeem itself; thus constituting gold as the sovereign and superior, and the greenback as the inferior subject; keeping this inferiority as the weapon with which the gold speculator could daily assail the uncertainty in value of the greenback, and hourly agitate public credit for its redemption.

These were the direct means by which the money power forced the Government to recognize and proclaim the fluctuating and uncertain value of its own money. The indirect attack which this direct means supported was the Wall street cry of "rag baby," "paper balloons," "inflation," which hard-money knaves hourly resorted to, invoking the terrible losses which peoples and nations had been forced to submit to in depreciated paper money, citing to sustain their diabolical purpose the worthless millions of "French assignats," "continental currency," and "southern confederacy money," as if they were omnipotent to defeat our national resources, our honor as a people, and our credit as a Government.

To make this constant outcry a matter of constant alarm, they undertook to intensify the danger. Under the specious, but false and infamous, declaration that American credit was in danger, and that this danger could only be met and resisted by declaring that our bonds, which had been bought and paid for in greenbacks, and which were issued as payable in greenbacks or lawful money, should be paid in gold, and in this congressional declaration thus secure another legislative repudiation of the greenback and a further national recognition of its inferiority.

Having secured these fortifications to establish that gold was the sovereign and the Government its subject, they yet saw that they would not possess the full power they coveted so long as silver, which we produced in greater abundance than any other nation, could be used as a means of liquidating debts and as a measure of value. Therefore, to take from the people their last and most potent means of sustaining credit and regulating exchanges, they perpetrated the contemptible and overwhelming outrage of demonetizing silver. This done, the whole credit, property, prosperity, and power of the nation were in the hands of the men who could control the gold, provided they could take one more step and induce Congress to pass a law for the forced resumption of specie payment. This they succeeded in doing, so that on the 1st day of January, 1879, there should be no recognized money but gold. The greenback repudiated, silver demonetized, gold made king, and the bankers controlling the gold, the Government would be at their mercy, property subject to their value, credit to their dictation, and the people their slaves.

These foundations for autocratic control having been thus secured to concentrate and wield the power so obtained, the next step was to organize the banker's association, and they have organized it—organized it for the purpose of perpetuating an infamous monopoly; a monopoly to tax the mass of the people for the support of a bondholding aristocracy of bankers exempt from taxation; a monopoly to force from circulation the sovereign money of the sovereign people; a monopoly to dictate the currency, control the finances, and issue the money of the nation. It has organized, knowing that it can control the gold, and knowing that it has to root out, discredit, and kill the greenback, or that the greenback will root out, discredit, and overthrow the national banks and their monster offspring, this national devil-fish, this lophius piscatorius, fashioned into a leviathan money vampire. The creatures who gave it birth were conceived in war. The eggs out of which it was hatched were warmed into animated life by the contraction of money to make ready to sacrifice the nation to the monster, forced specie payment. It has already laid waste every enterprise. Three millions of laborers, without labor and without bread, are now waiting to know whether by its continuance they are to be without hope. It is now organized as a vampire to suck out the blood and life and liberty of the people.

The issue is unmistakable. Either the bank association has got to give up its sovereignty of money and yield to the sovereignty of the greenback, or the Government of the United States has got to give up its sovereignty and become the subject, borrower, slave to the bank association. There is no room for equivocation; there is no dodging the issue or the battle which is to decide the issue. Which side, then, shall we take? It is the bank association and slavery, or the greenback and liberty.

Mr. Speaker, the republican party has enthroned the bank association over the people. That party has degenerated to the low position of a lackey to that association. All its leaders and press are the servants of this imperious master. Oh, how has the mighty fallen!

Sir, we antagonize the crushing oppression. We declare relentless war against it. The results of its brief sway are before us.

Sir, this mad policy of the party represented by the gentleman from Ohio has arrested by paralysis productive enterprise for six long years, wasting all that continued activity would have created. It has thrown out of employment millions of men who depend upon wages to support their families, and has caused hunger, cold, disease, and despair enough to doom any party. It has bankrupted or caused to fail in business more than one hundred and sixty thousand men and firms. Worse still, it has fastened on the people a debt which will oppress them for all time unless there is a change in policy.

PUBLIC DEBT FROM 1860 TO 1879.

The following table contains a statement made annually on the 1st day of July, of the amount of the public debt, and also of the interest paid on the same each year from 1860 to 1879:

Year.	Principal of debt.	Annual interest.
1860	$64, 842, 287 88	$3, 144, 120 94
1861	90, 580, 873 72	4, 030, 157 30
1862	524, 176, 412 13	13, 190, 344 84
1863	1, 119, 772, 138 63	124, 729, 700 62
1864	1, 815, 784, 310 57	53, 685, 421 69
1865	2, 680, 647, 869 74	77, 395, 090 30
1866	2, 773, 236, 173 69	133, 067, 624 91
1867	2, 678, 126, 103 87	143, 781, 791 91
1868	2, 610, 687, 851 19	140, 424, 042 71
1869	2, 588, 472, 213 94	130, 694, 242 80
1870	2, 480, 672, 472 81	129, 335, 408 00
1871	2, 353, 211, 332 32	125, 576, 565 93
1872	2, 253, 251, 328 78	117, 357, 839 72
1873	2, 234, 482, 993 20	104, 750, 088 44
1874	2, 251, 690, 468 43	107, 119, 815 21
1875	2, 232, 284, 531 95	103, 093, 544 57
1876	2, 180, 395, 067 15	100, 343, 271 23
1877	2, 205, 301, 392 10	97, 124, 511 58
1878	2, 286, 205, 892 73	102, 500, 874 65
1879	2, 349, 767, 482 04	105, 327, 949 00
Total interest		1, 916, 577, 099 35

Senator JOHN P. JONES, in an official capacity, estimates the indebtedness of our country, public and private, as follows:

National	$2, 000, 000, 000
States	350, 000, 000
Cities, towns, and counties	850, 000, 000
Railroads	2, 439, 000, 000
Canals	145, 000, 000
Banks, insurance, individuals, &c	13, 244, 000, 000
Total	19, 028, 000, 000

The interest of this sum at 7 per cent. per annum will amount to $1,333,360,000. It requires the labor annually of 5,424,649 able-bodied men at $250 each to pay the interest on these debts. This terrible drain is a permanent tax on labor. Worst of all, it has enthroned over this nation an "*absolute dictatorship* of its financial and business affairs."

Andrew Johnson, in an interview with Charles G. Halpine, on the 5th of March, 1867, characterizes that dictatorship thus:

But what do we find? The aristocracy based on 3,000,000 of slaves south of Mason and Dixon's line has disappeared; but an aristocracy based on over $2,500,000,000 of national securities has arisen in the Northern States to assume that political control which the consolidation of the great financial with political interests formerly gave to the slave oligarchy of the late rebel States.

The aristocracy based on negro property disappears at the southern end of the line, but only to reappear in an oligarchy of bonds and national securities in the States which suppressed the rebellion. We all read history, and is it not certain that of all aristocracies that of mere wealth is the most odious, rapacious, and tyrannical? It goes for the last dollar the poor and helpless have got; and with such a vast machine as this Government under its control that dollar will be fetched. It is an aristocracy which can see in the people only a prey for extortion. * * * To an aristocracy existing on the annual interest of a national debt the people are only of value in proportion to the docility and power of patiently bleeding golden blood under the tax-gatherer's thumb-screws.

Mr. Speaker, such is the horrible despotism that the gentleman from Ohio and the party he represents propose to establish permanently over this country. I ask when and where in the world's dark history has there arisen a "wilder dreamer" than he who makes such a proposition. Sir, he exhibits amazing ignorance of the spirit of American freemen, and supreme contempt for their courage, when he suggests that these resolutions are their last spawn, emitted just as they are dying to freedom and to manhood. I beg leave to assure the gentleman that he is engaged in the wildest of wild dreaming. There is a lesson for him in the chaste and elegant figure he uses. Spawning is a very prolific way of propagation. A single fish may spawn eggs enough to multiply its kind by the million.

These resolutions are but one expression of the incipient movements of a revolt of the people from toiling as serfs of the *absolute dictator* his party has enthroned over them.

The people are just beginning to call to account their servants, who have bartered their sacred rights and shared the profits. They have resolved to wrest their Government from the control of the traitors who have desecrated its power to the enriching of themselves and a class of money-brokers. These traitors, conscious of guilt, have been putting forth frantic efforts to turn the aroused sufferers from their stern purpose. By an unlimited use of their ill-gotten gains and desperate appeals to slumbering sectional passions they partially succeeded in the last election. Since then they affect to regard the people as whipped into obsequious submission, and treat them contemptuously, sneering at their poverty, and characterizing them as tramps and communists, and threatening them with grape and canister if they do not keep quiet. Regarding the revolt against their rule as a spasm which has spent its force, they anticipate another four years of plunder, and are interested only in who shall share it.

With emphasis we assure the robbers of the people that the war is not ended. The great conflict has only begun. It will be well for them not to "reckon without their host." There is stern work awaiting them. American freemen will never consent to have such a des-

potism as they are attempting to fasten permanently upon them. Partial defeat, like Bull Run, will only arouse Americans to more relentless purpose and determined exertion. The check of last fall has rid them of cowards and bummers, which is a good riddance in such a movement. This revolt against the money despotism, in its bearing upon the disenthrallment of the race, has no parallel in the revolutions accomplished thus far by the Christian civilization. In its vastness and grandeur it surpasses them all. Such a revolution must of necessity be slow in getting fully under way. Its incipient movements may be easily checked temporarily; but when the force of momentum is once secured it will become resistless.

The uprising of peoples to effect great revolutions in their affairs have always been slow and unsteady at first, but when fully aroused they have made short work with their oppressors. As the intensity of civilization increases revolutions develop and push to their end in the same ratio of speed. Our civilization has reached a momentum of amazing force. The facilities and means for the spread of intelligence and awakening of masses have been increased immeasurably within the last quarter of a century. Intelligent thinking by the people is the inspiration and force of revolutions. Our whole people are now reading and thinking upon the oppression of the money power. They are daring to look into the awful mysteries of finance. They are fully aroused to the inquiry why this matter which is of such vital moment to them has been secreted from their inspection by the priests of Shylock. Their audacious study is rapidly dissipating the superstition concerning money which has been so sedulously cherished by those who have profited by manipulating it. Ignorance resulting from superstition has been the hiding-place of every form of tyranny. When superstition has been dispelled and the tyranny veiled by it exposed, that form of oppression has been speedily overthrown. So it will be with the money power, so long oppressing the people by blinding them with the awful mysteries its priests have thrown around it.

History is repeating itself with the ratio of speed our civilization has made. The right assumed and so long maintained by the high priest of mammon to control the life-currents of all industries and to reverse the Jewish system of tithing, taking nine-tenths instead of one-tenth of the results of the world's toil, is being seriously questioned by the robbed producers. The bugbear of awful intricacies and inexplicable mysteries assumed to surround this worship is losing its power to frighten. The suffering peoples are fully resolved to understand finance, their medium of exchange, their currency, and no power can stop their investigations. Sneers and blackguardism and awful upturning of eyes resorted to for the purpose of stopping this agitation by the people have about spent their force. The frantic shaking of the bloody shirt has also lost much of its power. I do not believe it possible to make the coming election a scene for the delectation of money princes, like a bull-fight for the pleasure of Spanish grandees.

The people are learning that this infamous bloody-shirt show is designed to attract their attention from the robberies of the money power by inciting them to goring each other with as little sense as bulls exhibit when maddened by the skillful shaking of a red rag. These varied ruses, so energetically used as to raise a tempest of passion, did stagger the people a little last fall, but they have fully rallied and are investigating now with an earnestness that bodes no good to their oppressors.

THIS STUDY WILL GO ON.

All the fury of the maddened priests and their lackey army of pampered editors and orators cannot prevent it.

Revolutions may be checked and hindered and made fearfully costly, but can never be turned back, nor prevented from pushing on to their appointed results. You may dam up a stream, but cannot stop its gathering force. It will inevitably either break away your obstruction or flow over it. You may so guide its accumulating waters as to cause them to carry power to the machinery of your industries and refreshing to your fields, or to make its course a scene of desolation only.

So this great movement of oppressed peoples may be guided in peaceful channels to enormously increase the productions of wealth for the comfort, culture, and happiness of all; spreading beauty, fragrance, and fruitage everywhere; or it may be so obstructed and forced into abnormal channels as to make it repeat the destructive and sanguinary sweeping of former revolutions.

The irrepressible conflict between the system of African slavery and the genius of our form of government might have been peacefully settled by a wise and just plan of emancipation. But it became an immense moneyed and political power in a few hands, and those who wielded that power for personal benefit refused to consider any adjustment. That God who made man in his own image suffered the horrible civil war, with its measureless wastes and woes, to settle that conflict. Now a more determined and unreasoning oligarchy has *absolute control* of the issuing of the people's currency, and that gives them control of the Government. They hold a double power, moneyed and political. Control of the Government gives them control of the currency, and control of the currency helps them to hold the power of Government. They wield a tremendous power, and so use it as to make the people serve them as fully as the colored slaves toiled for their masters. This slavery for the masters is far more desirable than African servitude. It pours into their coffers the results of skilled labor supplemented by machinery, and releases them from supporting their serfs when too young or old or sick to work. No marvel that the money oligarchy grow fabulously rich. Within a decade many of them have become millionaires, and some of them have scores of millions. Very few, if any, Southern slave-owners ever accumulated a million of money, or that value in property.

This tremendous power has infatuated those who wield it, and they are following the mad course which made a desert of the South and veiled the North in deepest mourning. They are putting forth desperate efforts to suppress agitation. They exhibit the hatred of light that has characterized tyrants always. They cannot abide discussion; they furiously demand the suppression of agitators. They are frenzied in efforts to control the supply of information to the people. They gnash their teeth in rage toward those who are rousing the people to think. On all such their lackey press pours ceaseless streams of slimy slander. Failing to stop agitation, they grow defiant and threaten a strong government wielded by a military chieftain to suppress the rising revolution. It is the old process. The divine right of kings and slaveholders was thus sought to be maintained. The outcome of the madness is recorded for the instruction of oppressors of the people. Let them take warning. A revolution in the finances of the world has commenced, and no power can check it. The campaign is fully inaugurated in this country. The immediate task before our people is to rescue their "financial and business affairs" from an "absolute dictator," which, by the treason of the republican party, has assumed sway. We are to rescue the Government and "all the financial and business affairs of this country" from national-banking associations, to whom republican leaders have surrendered them under the potent influence of "love of money."

This is the only vital issue in our politics. On this issue the lines are being drawn. On other issues lines are breaking, and parties are disintegrating or are merging. On one side of this issue are arrayed all who live and fatten off the products of the toil of others, securing these products by means of usury and speculations, made easy by a currency only a part of which is money and which is ever fluctuating in volume. With them are associated a large lackey army, composed of editors, orators, sycophants, and an ignorant, brutal mass, who, like Hessians, serve for money. On the other side are slowly gathering all who devote their capital, brains, or muscles to producing wealth.

The struggle between these formidable hosts will be desperate, and perhaps, like the civil war, continued for four years, but the outcome is not doubtful. We contemplate it with calm determination and unquestioned assurance, receiving with supreme contempt such impotent sneers as is expressed in the chaste language of the gentleman from Ohio: "The last spawn of a dying party that thought it had a little life a year ago."

Diseases of Domesticated Animals.

SPEECH OF HON. PHILIP C. HAYES,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, April 13, 1880,

On the following resolution, reported from the Committee on Printing:

Resolved by the House of Representatives, (the Senate concurring therein,) That there be printed 100,000 copies of Special Report No. 22, of the Commissioner of Agriculture, containing the reports of the veterinary surgeons appointed to investigate diseases of swine, and infectious and contagious diseases, and other diseases of domesticated animals; of which 65,000 copies shall be printed for the use of members of the House, 20,000 copies for the use of the members of the Senate, and 15,000 copies for the use of the Commissioner of Agriculture.

Mr. HAYES said:

Mr. SPEAKER: I am instructed by the Committee on Printing to report back to the House concurrent resolution No. 58, with a recommendation that the same do pass. That resolution provides for printing 100,000 copies of Special Report No. 22, of the Commissioner of Agriculture, in regard to the diseases of farm animals. It will be remembered that for several years past investigations into the various diseases which afflict these animals have been conducted in different parts of the country under the direction of the Commissioner of Agriculture. These investigations have been made as thorough as it was possible to make them under the circumstances, and have been the means of gathering much information which has been of great value to the farmers and stock-raisers of the country. The results of the first year's investigations are contained in the Annual Report of the Commissioner of Agriculture for the year 1877, and those of the second year appear in a condensed form in his report for 1878. Besides

this, the Commissioner made a special report, containing a full account of his investigations for the second year, of which the present Congress at its first session ordered printed 100,000 copies. The information gathered by these investigations has been of such a valuable nature as to create a great demand for the reports containing it, and already the supply is exhausted.

The report which we now ask to have printed contains the results of the third year's investigations, which are, if possible, more interesting and attractive than those of either of the two preceding years. The subjects treated of in this report are as follows: Further investigations of swine plague, by Dr. Detmers; investigations of splenic or Texas fever among cattle, by Dr. Salmon; investigations of pleuro-pneumonia and extent of its prevalence, by Drs. Law and Lyman; paper on rinderpest or cattle-plague; investigation of glanders; investigation of chicken cholera, and letters on remedies, preventives, and sanitary and hygienic treatment of farm animals. This list of subjects shows that the investigations have extended to all the dangerous diseases to which domesticated animals are liable. This fact, together with the further fact that these investigations have been conducted by some of the most eminent veterinarians in the country, is proof sufficient that this report is one of exceedingly great value and should be scattered far and wide among the farmers and stock-raisers of the country.

It is a fact, Mr. Speaker, that until quite recently our stock-raising interests have commanded but little attention. They have sprung up almost spontaneously in our midst, growing with our growth, and strengthening with our strength, until to-day, as we contemplate them, we find to our surprise that they are among the most important interests in our country. So quietly has been their growth that we have scarcely given them a thought, and had it not been for the immense destruction among swine, during the past two years, by the disease known as hog cholera, or more appropriately swine plague, probably our attention would not have been turned toward them now. As it is, however, our attention has been attracted in this direction, and not only have we learned something in regard to the magnitude, importance, and value of these interests, but we have learned something in regard to the immense losses which our farmers and stock raisers have been patiently sustaining for years past on account of the fearful ravages made among their flocks and herds by contagious and infectious diseases. It may be interesting to look at these losses for a moment, and see how extensive they have been.

From a statistical table contained in the Annual Report of the Commissioner of Agriculture for the year 1877, it will be seen that the whole number of counties in the United States and Territories at that time was 2,447. Of this number 1,193, or about one-half, reported to the Agricultural Department, giving the number of hogs annually raised in each county, the number affected by disease, the per cent. of those affected that died, and the value of those thus lost. From this table it is further seen that the number of hogs produced in the 1,193 counties was 19,932,114. Of this number, no less than 2,727,278 were affected by disease, and of those affected over one-half died, entailing a loss upon the producers for a single year of $10,451,071. If the counties not reporting lost as heavily as those that did report—and there is every reason to believe that they did—then the aggregate loss from the death of hogs alone for that year would amount to over $20,000,000. This is an immense sum of money to be lost annually in any branch of business, but it is only a part of the annual loss sustained by the stock-raisers of this country. Other domesticated animals besides hogs are destroyed by infectious and contagious diseases. Hundreds and thousands of these are carried off every year, increasing our aggregate annual losses in all kinds of farm stock to almost, if not quite, $50,000,000. The magnitude of such losses we can scarcely realize, yet the fact that we are suffering such losses every year should lead us to do everything in our power to lessen or prevent them by circumscribing or stamping out their cause.

Many of the diseases which afflict and destroy our domesticated animals are of an infectious and contagious nature, and if they cannot be cured, in many instances they can be prevented. The epidemics which prevail among these animals sometimes become so widespread and general that it is entirely useless for individuals to attempt to suppress them. Take the disease known as swine-plague, for instance. This disease, so fatal in its results, now seems to be at home and acclimated in every State and Territory of the Union where swine are raised. The experiments conducted under the direction of the Department of Agriculture by some of the foremost veterinarians of the age have conclusively demonstrated that this disease is highly infectious and contagious. Being so fatal in its results, and covering such a vast extent of country as it now does, what can individual enterprise do toward its extirpation? It may be suppressed on one farm, in one county, or in one State, but so long as it is allowed to exist on neighboring farms, in adjoining counties, or in contiguous States, it is liable to be carried back almost any day to the territory from which it was extirpated. These diseases can be carried in so many different ways that all efforts for their suppression will prove abortive unless there is some sort of harmony and concert of action. And such harmony and concert of action will never be secured so long as the matter is left to individual citizens. There must be some central power to take hold and direct the crusade against these diseases, and this power should be the National Government, which should not only direct the crusade but should endeavor to make it successful by proper legislation and pecuniary aid.

But, Mr. Speaker, among the more recent investigations instituted by the Commissioner of Agriculture and treated of in the report which I ask to have printed are those relating to what are known as contagious pleuro-pneumonia, or lung-plague, and splenic or Texas fever among cattle. As regards the disease first named, perhaps a short history of its nature, its introduction into this country, and its progress here may not be out of place. The disease is purely contagious, and can only be reproduced by infection or inoculation. In its nature it is exceedingly malignant, and is communicated from excretions from the bowels, kidneys, skin, and lungs of other cattle. It has never originated in this country, all the first cases here having been clearly traced to foreign sources. It differs very widely from ordinary pneumonia or lung-fever, with which it is sometimes confounded, in this, that the latter originates from exposure to cold or similar causes and is not contagious. It also differs from what is known as Texas fever, which, although it is bad enough, is not, in the strictest sense of the terms, either contagious or infectious. "In Texas, it is said, cattle of all ages are afflicted with this malady in a somewhat latent and mild form. It is communicated to other cattle by feeding upon the ground over which the Texas cattle have been driven. This disease, though sometimes destructive, has no symptoms in common with pleuro-pneumonia, from which it may readily be distinguished."

Pleura-pneumonia seems to be indigenous to Asia, whence it was brought into Europe near the end of the seventeenth century. Here it gradually spread from Eastern Russia westward until about 1840, when it first appeared in England, Scotland, and Ireland. In the year 1843 it was introduced into this country in the system of a cow shipped from England and landed at Brooklyn, New York. In the year 1859 the plague was introduced into the State of Massachusetts by four Holland cows landed at Boston. From these animals the infection was transmitted to a number of other cattle, and before any efficient repressive measures could be undertaken the disease had spread over a considerable extent of territory. The Legislature of the State was at once called together in extra session for the purpose of providing ways and means for the extirpation of the disease. Such measures as were deemed most effective were promptly adopted, and the work of stamping out the disease began. Commissioners were appointed and empowered to destroy all cattle in herds where the plague was known or suspected to exist. After a long and severe battle of six years' duration the commissioners came off victorious, reported that the last remnants of the plague had disappeared, and in 1866 resigned their offices. The records show that during these six years no less than eleven hundred and sixty-four head of cattle were slaughtered by order of the commissioners, in addition to many others disposed of by the selectmen of the different towns during a period in 1863 when the commission was temporarily suspended. The money disbursed by the State in carrying on this work was $67,511.07, and by the infected towns $10,000, making a total of $77,511.07. I allude to the history of this disease in this State in order to show that, if prompt and vigorous measures are adopted, it can be extirpated, as not a case of it has been known in Massachusetts since 1866.

The active measures so promptly inaugurated and carried out by the authorities of Massachusetts appear in strong contrast with the indifference shown by the authorities of the State of New York. The cow landed in Brooklyn in 1843 communicated the disease to other cattle; and it was not long until the entire western portion of Long Island was infected. From this first case the disease has gradually spread for thirty-seven years until it has infected seven States, to wit, New York, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia, together with the District of Columbia. Under the direction of the Commissioner of Agriculture a competent veterinarian has visited all these States and located the disease in various herds in each of them, with the exception of Virginia and the District of Columbia. As the disease existed in the two last localities last season, it is not doubted that it will be discovered to be there still when the examination is made. Recently the States of Connecticut, New York, New Jersey, and Pennsylvania have adopted measures for the suppression of the plague; but their efforts to stamp it out have not thus far been crowned with success. The disease has already become too widespread to be controlled even by State authority. While some of the States infected with the plague have adopted vigorous measures and expended large sums of money to suppress it, and while they have been several times in a fair way to entirely free themselves from its ravages, it has been reimported from adjoining territory, and has again spread far and wide among their herds.

When the disease first appeared on Long Island, and before it had spread abroad so extensively, the State of New York might easily have suppressed it. But as it is now, it is entirely beyond the control of that great State. Indeed, it is extremely doubtful if a combination of all the infected States could now accomplish its extirpation. What is needed is some action on the part of the General Government which will apply the same vigorous and efficient measures in all the infected States at the same time, and which will prevent the transmission of the disease from one State to another, while

efforts for its suppression are being made. In this way, and in this way alone, can we expect to eradicate this fatal malady from among us.

But, sir, there is another thought to which I wish to direct attention, and that is the immense loss that would inevitably follow in case this disease should once work its way across the Alleghany Mountains and spread among the large herds of cattle in the Mississippi Valley and the far West. At present this disease is circumscribed in comparatively narrow limits, but unless it is promptly stamped out, it may be communicated to the countless herds in the West, and if that should be done, it will be impossible to even conjecture the magnitude of losses that would surely follow. The tendency of the disease is to spread. During its prevalence in this country it has traveled a distance of three hundred miles southward, directly in opposition to the current of cattle traffic. It has traveled slowly, it is true, because it has only been communicated from farm to farm and from herd to herd, as the animals came naturally in contact with each other. But the very fact that it has maintained a foothold among us for so many years, and has spread over such a wide extent of country in spite of all the efforts put forth to circumscribe and suppress it, is sufficient ground for the gravest apprehension. "A disease poison which shows such an obstinate vitality and such persistent aggressiveness cannot be allowed to exist among us without the certainty of future losses" that must be immense.

In addition to this spreading tendency, the disease is one of the most deceptive and insidious as well as destructive diseases known among neat cattle. Its period of incubation is from five to sixty days, and its first affection of the animal is so slight as to escape detection even by an expert. Indeed, the poison may be retained in the system in a latent form that defies detection for the period of one or two months, and even longer. The infected animal, during all this time, may appear to be in the best of health and may be transported as a sound animal from one side of the continent to the other, yet carrying and scattering the seeds of this dreaded pestilence wherever it is taken. This being the case, how almost inevitable it is that this disease at no distant day will be carried beyond the Alleghanies to the great stock-ranges of the West. Such a thing might occur almost any day by a stock-breeder taking an infected animal from the East to the West for the purpose of improving his stock. Such an animal might mingle with a western herd for a month or more before his own infection became apparent, thus scattering the seeds of this dreaded disease among hundreds and thousands of cattle, which in their turn would convey them to thousands and tens of thousands more, and thus wider and wider the disease would spread until it reached all the great stock-ranges of the West.

To give a clearer idea of the great danger there would be in case this disease should once get a foothold among our western herds, let us compare the cattle interests of the seven infected States in the East with a like number of non-infected States in the West. From the Annual Report of the Commissioner of Agriculture for the year 1878 I take the following, which shows the number of cattle in these States:

Infected States.	Number of cattle.	Non-infected States.	Number of cattle.
New York	2,135,500	Ohio	1,514,100
Connecticut	237,300	Indiana	1,219,200
New Jersey	236,700	Illinois	1,925,500
Pennsylvania	1,515,400	Iowa	2,033,000
Delaware	55,200	Missouri	2,148,200
Maryland	219,700	Tennessee	659,700
Virginia	669,300	Texas	5,344,500
Total	5,069,100	Total	14,844,200

By a comparison of the above figures we find that there are almost three times as many cattle in the non-infected States as there are in the infected States. The State of Texas alone contains a greater number than all the infected States together. Should this terrible disease be once carried among the vast herds of these Western States, who can estimate the immense losses that would necessarily follow? Once located there it will be almost impossible to remove it, but it will remain for years, scattering destruction and death wherever it goes, and paralyzing the great cattle interests of that section.

To show how much we have to fear if this disease should once be carried west of the Alleghanies I wish to call attention to the terrible ravages it has made in England. The people of that country have had a sad experience with this fearful plague, and have from its widespread devastations lost many millions of dollars.

As I have before stated, this plague made its first appearance in England about 1840, and in the course of a few years had spread over all parts of that country. Since then it has not ceased its work of destruction, and the losses occasioned by it have been enormous. Up to 1869 the number of deaths among cattle, caused almost exclusively by this disease, is estimated to be 5,549,780, valued at not less than $400,000,000. From 1869 up to 1878 the deaths were fully as great in proportion as they were prior to 1869, so that we may safely conclude that since this disease first appeared within her borders England has sustained a loss of $500,000,000 from deaths alone, without counting the loss in money and time expended in attempting to suppress the disease, the loss from deteriorated health in cattle attacked which did not die, and the loss of progeny. This is an enormous sum for a people to lose in so short a period of time, and the worst feature of it is that the loss has been sustained almost exclusively by the farming community. But this loss in England is but a trifle to what ours would be if this disease should spread over all portions of our land and remain with us for thirty-five or forty years as it has remained in that country. We may safely conclude that our loss under such circumstances would exceed hers in fully as great a proportion as the number of our cattle exceeds hers. That we may see how our farm-stock interests compare not only with those of England, but with those of the other European nations, I call attention to the following table:

Official statement from the International Statistical Journal of Agriculture for 1876, *showing the number of domesticated animals in Europe.*

Countries.	Horses.	Mules and asses.	Cattle.	Sheep.	Swine.
Great Britain	2,101,100	.....	6,002,100	29,495,900	.....
Ireland	532,100	.....	4,142,400	4,482,000	.....
Denmark	316,570	.....	1,238,898	1,842,481	.....
Norway	149,167	.....	953,036	1,705,394	290,985
Sweden	438,090	.....	2,026,330	1,636,201	124,673
Russia	16,160,000	.....	22,770,000	46,432,000	1,700,000
Finland	254,820	.....	997,960	921,745	30,639
Austria	1,367,023	42,976	7,425,212	5,026,398	979,104
Hungary	2,158,819	33,746	5,279,193	15,076,997	572,951
Switzerland	105,792	.....	992,895	445,400	374,481
Germany—					
Prussia	2,278,724	9,708	8,612,150	19,624,758	1,477,335
Bavaria	351,669	228	3,066,263	1,342,190	193,881
Saxony	115,792	112	647,972	206,833	105,847
Würtemberg	96,970	199	946,228	577,290	38,305
German dukedoms	133,122	674	1,114,178	544,611	212,388
Holland	253,393	3,466	1,469,937	898,715	146,169
Belgium	283,163	11,849	1,242,445	586,097	197,138
France	2,742,708	705,943	11,721,459	25,035,114	1,794,837
Portugal	79,716	188,640	520,474	2,706,777	936,869
Spain	680,373	2,319,846	2,967,303	22,468,969	4,531,228
Italy	477,906	718,222	3,489,125	6,984,049	1,690,478
Greece and Ionia	69,787	93,688	109,904	1,200,000	1,339,538
Roumania	426,859	6,734	1,842,786	4,786,317	194,188
Total for Europe	31,573,663	4,136,031	89,678,248	194,026,236	42,686,493
To which is appended—United States, returns for 1878 to Department of Agriculture	10,938,700	1,713,100	33,234,500	38,123,800	34,766,100
Balance in favor of Europe	20,634,563	2,422,931	56,443,748	155,902,436	7,920,393

A glance at the above table will show us that our interests in all classes of farm animals are immeasurably greater than those of any European government. It will show us, also, that in cattle alone we have nearly two-fifths as many as all Europe combined, and more than five and a half times as many as England, the latter having 6,002,100, while we have 33,234,500. Now, if England with six million head of cattle has lost in deaths from this disease alone during the past forty years the immense sum of $500,000,000, or an average of $12,500,000 each year, who will be able to estimate our losses with our thirty-three or thirty-five million head, if this disease should once secure a foothold on our western plains, and spread generally throughout the country? Under such circumstances and in the same length of time, we should lose not less than $2,000,000,000 (allowing still a wide margin for the lower average value per head in this country) or at the average rate of $50,000,000 per year. Happily for us this disease is as yet confined to a few of the Eastern States, from

which, by proper effort, it is quite possible to eradicate it. What is wanted is vigor and uniformity of action, and these can be secured only through the General Government. Speaking on this point, the National Live Stock Journal uses the following earnest and pointed language:

The United States Government is as much called upon to defend her possessions against an enemy like this—so implacable, so relentless, and so certain, if not repelled, to lay us under an incubus which will increase with the coming centuries and dwarf the prosperity to which we are entitled—as against the less insidious one who attacks us openly with fire and sword. Let the National Congress consider this matter well. Let every stock-owner press it upon his Representative as a matter that cannot be safely ignored, even for a single day. Let boards of agriculture, farmers' clubs and conventions, granges, and all citizens who value the future well-being of the nation, unite in a strong representation on the subject. If the present Congress should neglect it, let citizens make it a test question to every future candidate for their suffrages, and elect only such as are pledged to carry suppressive measures into effect. The danger threatens all classes alike, though the first sufferers will be the stock-owners; for every tax upon production necessarily enhances the value of the product; and, as agricultural progress must be seriously retarded, the tax will not fall upon meat alone, but upon every product of the farm. Nothing can excuse a continued neglect of this subject, the dangers surrounding which increase from day to day, and the final results of which, if once it reaches our Western and Southern States and Territories, can only be computed by the prospective increase of our population and our herds of cattle. For this is not like an evil preying on our currency, banking, trade, or manufactures, the full extent of which may be in a great measure seen from the beginning, and the repair of which may be at any time inaugurated by legislative enactment. The animal plague only increases its devastations as we increase the numbers of our herds, and threatens soon to acquire an extension to which no legislation can oppose a check, and a prevalence in the face of which the most desperate efforts of the nation will prove of no avail. Thus our cattle are increasing at the rate of 13,500,000 every ten years, so that by the end of this century they may be exactly doubled, with a prospective loss, if our western and southern ranges are infected, of $130,000,000 yearly in deaths alone.

The choice is now in our power. So far as we know, our stock-raising States and Territories are still unaffected. We can still successfully meet and expel the invader; next year it may be too late.

Having said thus much in regard to this disease, I wish now to say a few words in regard to the disease known as splenic or Texas fever. This is one of the strangest of all the strange diseases to which farm stock is liable, and its nature is so little understood that thus far it has baffled the skill of many of the foremost veterinarians in the country who have attempted to treat it. Its striking peculiarity consists in this, that it does not seem to affect the cattle from the South and Southwest that communicate it to the cattle of the North. Hitherto it has been regarded as a disease that could be destroyed by frost or cold weather, but I am told by those who ought to know that such is not the case. Recent investigations, conducted under the direction of the Commissioner of Agriculture, show that the disease as it goes north in warm weather becomes acclimated, as it were, in localities of a higher latitude than that in which it naturally belongs, and that, although it may disappear at the approach of cold weather, it will make its appearance again when warm weather returns without any renewal of the infection from further south. If this be so, this disease is to be dreaded almost as much as pleuro-pneumonia, and we cannot be too prompt and energetic in devising and applying remedies to circumscribe and suppress it.

But, Mr. Speaker, not only are these diseases to which I have referred destroying vast numbers of farm animals here at home, but the fact that they exist among us so extensively is having a serious effect upon our live-stock trade abroad, and more especially upon our cattle trade. It is well known that during the past few years the shipping of neat cattle from this country to Europe has become a business of great magnitude and importance. From small beginnings it has gone on increasing year by year until now our annual shipments amount to many thousands. Our trade with Great Britain is especially large. During the year 1879 we shipped a larger number of cattle to that nation than to all the other European countries combined. The following table shows the number and value of cattle exported from the United States both to the United Kingdom of Great Britain and to all other countries from July 1, 1872, to December 31, 1879:

Fiscal year ended June 30—	United Kingdom.		All other countries.		Total.	
	Number.	*Dollars.*	*Number.*	*Dollars.*	*Number.*	*Dollars.*
1873	....	.....	35, 455	695, 957	35, 455	695, 957
1874	123	113, 800	55, 944	1, 037, 057	56, 067	1, 150, 857
1875	110	73, 000	57, 101	1, 030, 085	57, 211	1, 103, 085
1876	244	31, 220	51, 349	1, 079, 483	51, 593	1, 110, 703
1877	5, 091	546, 829	44, 910	1, 046, 251	50, 001	1, 593, 080
1878	24, 982	2, 408, 843	55, 058	1, 487, 975	80, 040	3, 896, 818
1879	71, 794	6, 616, 114	64, 926	1, 763, 086	136, 720	8, 379, 200
Six months ended December 31, 1879	45, 556	4, 144, 304	64, 926	827, 028	77, 576	4, 971, 332

From this table it will be seen that our cattle trade with foreign nations has already grown to very large proportions. Nevertheless it can be immensely increased, and will be, provided we take hold and stamp out the pleuro-pneumonia which now exists among us. The fact that this disease prevails so extensively in several of our States is no doubt retarding the growth of this trade very materially. Especially is this the case in regard to our trade with Great Britain. That nation has suffered so long and so severely from the ravages of this disease that, in self-defense, it has felt called upon to adopt some very stringent measures in order to prevent its introduction into her territory from other nations. These measures consist at the present time of orders to the effect that all live cattle brought to her shores shall be slaughtered at or near her principal ports of entry. As might be expected, these restrictions on the part of the British government have caused much dissatisfaction among our exporters, as under their operation the profits of the cattle trade are very largely reduced.

A writer in a late number of the American Live Stock Journal says that extensive cattle exporters in this country estimate that the difference between the returns from cattle slaughtered at the docks at Liverpool and the returns from cattle taken inland and killed when and where they may be wanted, is not less than half a cent per pound, live weight, or $1 per hundred pounds net, in favor of the latter. On an average this would make a direct loss of not less than $7 upon every animal slaughtered at the port of entry. Some exporters fix the average as high as $10 per head. But whether it be seven or ten, the loss is sufficiently great to have a serious effect upon our cattle trade. The exports from the port of New York alone during the year 1879 amounted to 95,370 head. The loss on these at $7 per head would be $667,590, and at $10 per head would be $953,700, or nearly $1,000,000. If we add to this sum the loss on exports from Boston, Philadelphia, Portland, and Baltimore, the amount will reach almost, if not quite, $1,500,000 for this one year.

Such an immense loss can be saved to our exporters, and through them to our cattle-raisers, if we will take hold and stamp out the disease which has compelled the British government to impose these restrictions upon our cattle trade. No one can justly blame the British government for doing what it has done in this regard. It has only acted in self-defense, just as our own Government or any other government which consults the interests of its people would do under similar circumstances. Great Britain is disposed to encourage this trade so far as may be consistent with her own safety. Her people need the beef that we have to sell, and just so soon as we show her that there is no such disease as the pleuro-pneumonia among us which our exported cattle are liable to carry to her shores, she will remove all restrictions on our trade, throw open her ports to us, and allow us to take our cattle to any inland point we may desire before we slaughter them.

I have thus, Mr. Speaker, referred to the three principal diseases which are spreading such havoc among our farm stock at home, and which are interfering so seriously with our trade abroad. There are many other diseases of a fatal nature which I might mention, and to which all kinds of farm stock, such as horses, cattle, sheep, swine, fowls, &c., are subject; but I think I have said enough to show how exceedingly important it is for the farm-stock interests of this country that something be done at once to extirpate all these diseases from our midst. Up to the present time the National Government has manifested but little interest in this matter. It is true the Commissioner of Agriculture has been authorized to investigate these diseases, but he has been greatly crippled in his work, and his investigations have been limited to a few localities, on account of the niggardly appropriations made by Congress for this purpose. What he has done, however, has been done thoroughly, and the facts which his investigations have brought to light will prove of great benefit to the farmers and stock-raisers of the country. These facts are embraced in the report which I ask to have printed, and which I hope may be circulated far and wide all over this country. Every particle of information in regard to the symptoms, nature, and causes of these diseases which is given to our farmers and stock-raisers must result in good. It is true that no infallible remedies for the cure of all these diseases have as yet been discovered, but the preventive measures and sanitary treatment recommended in this report by the veterinarians in charge of the investigations must result, if carried out in practice, in the saving of hundreds of thousands of dollars every year.

But the question naturally arises, in view of what I have said, as to what more can be done than has already been done toward eradicating these diseases. Hitherto what has been done in this direction has been done by the individual States, and while their efforts have been deserving of all praise they have failed to accomplish the desired end simply because there was no concert of action among them. Speaking of the difficulties in the way of State action, Dr. James Law, of New York, uses these words:

The isolated action by individual States is eminently unsatisfactory. In New York we are working at the extermination of the disease, but after we have accomplished this we can only preserve our immunity by subjecting all New Jersey cattle to a quarantine of one or two months at our frontier. If New Jersey on her part kills it out, she must quarantine against Pennsylvania, Pennsylvania against Maryland and Virginia, and so on as far as the disease is found to extend. Isolated action will be incomparably more expensive, tardy, and uncertain than a uniform movement under one central head, and everything ought to give way to secure such a desirable result. The question involves tens of millions of dollars of our foreign commerce annually, and the trade has been steadily increasing, so that it is surely a matter in which the Central Government can properly act.

Under the circumstances, not only do I indorse what Dr. Law says in regard to this being "a matter in which the Central Government can properly act," but I go further and say that it is a matter in which the Central Government ought to act and act vigorously and promptly. With so many fatal diseases abroad in the land, working such destruction among our farm animals and causing such heavy losses on the part of their owners, our Government will fail in doing its duty if it does not at once go to work and adopt some measures to put a

stop to these diseases, which, as we have seen, amount to a national calamity. What the nature of these measures shall be is for Congress to determine. I would suggest, however, as a preliminary step, the appointment of a commission, to consist of three persons, who shall be skilled veterinarians or experts in the diseases of farm animals. This commission should have authority to employ as many assistants as may be necessary to promptly investigate all cases of the more fatal diseases which may exist to any alarming extent in any part of the country; to collect information in regard to all these diseases; to study their nature and test proposed remedies, and to report the facts gathered to the Commissioner of Agriculture for publication and distribution among farmers and stock-raisers in various parts of the country. Speaking in regard to the appointment of a commission similar to the one I have suggested, the Secretary of the Treasury, in a recent communication to the Speaker of this House, uses the following language:

From such a commission, even with no greater powers than have been above indicated, much good might result. Owners of suspected herds and their neighbors would at once be informed whether the contagious disease was really present or not. If it were found to exist State and municipal authorities might be invoked for its suppression. If found not to exist, publication of that fact would be of very great value, not only to the suspected neighborhood, but to the country and world in general.

Going a step further, Government might invest such commission with authority, in proper occasions, to aid municipal and State authorities in the suppression of the disease, and, by means of appropriation for the purpose, grant proper indemnity to the owners of cattle condemned to slaughter. Such proceedings would be in a close analogy with the methods adopted for the prevention and suppression of the yellow fever in the acts establishing the Board of Health.

In conclusion, Mr. Speaker, I would urge Congress to take action in regard to this matter without further delay. The diseases of farm animals is a matter which interests not merely the farmer and stock-raiser, but every person in the country. A large portion of the cattle, sheep, hogs, and fowls raised in this country are raised for food, and we are all interested in having these animals in a sound and healthy condition when they are slaughtered and their meat put into the market. We are all interested, too, in procuring this meat at a moderate price. If a quarter or an eighth of the farm animals designed for the market this year should be destroyed by disease the supply would be lessened by just that much and the price proportionately increased. In view of these considerations and others that might be mentioned, the duty of Congress is plain; early and efficient action should be taken, and all we can do should be done to circumscribe and stamp out these diseases which are working so much evil among us to-day. Speaking in regard to this matter, the Commissioner of Agriculture, in a letter to the Senate in February, 1878, uses the following words, which I most heartily indorse and with which I close my remarks:

Our wide extent of country and its great diversity of temperature and variation of climate, the severity of frosts in some sections, and the intensity of heat in other localities, render farm stock liable to the attacks and ravages of almost every disease known in the history of domestic animals. So general and fatal have many of these maladies grown that stock breeding and rearing has, to some extent, become a precarious calling instead of the profitable business of former years. This would seem especially true as it relates to swine. Year by year new diseases, heretofore unknown in our country, make their appearance among this class of farm animals, while older ones become permanently localized and much more fatal in their results. Farmers, as a rule, are neglectful of their stock, and pay but little attention to sporadic cases of sickness among their flocks and herds. It is only when diseases become general, and consequently of an epidemic and contagious character, that active measures are taken for the relief of the afflicted animals. It is then generally too late, as remedies have ceased to have their usual beneficial effects, and the disease is only staid when it has no more victims to prey upon.

This interest is too great to be longer neglected by the General Government. Not only the health of its citizens, but one of the greatest sources of our wealth, demands that it should furnish the means for a most searching and thorough investigation into the causes of all diseases affecting live stock.

Cannon to Blair Monument Association.

SPEECH OF HON. R. GRAHAM FROST,

OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, April 10, 1880,

On the bill (S. No. 837) to donate twelve bronze cannon to the Blair Monument Association.

Mr. FROST said:

Mr. SPEAKER: I take advantage of this occasion to offer a slight tribute to the memory of one of Missouri's foremost citizens, whose public services and reputation were confined by the pent-up boundaries of no State lines, but were coextensive with the limits of the Union.

It is, sir, I conceive, eminently fitting and proper to revive the recollection of the great men that have gone before us into the abysm of the unknown, and to perpetuate in some visible manner their fame. It is true that men's acts and the emanations of their intellects speak louder and longer than monuments of marble or bronze, but the character of the human mind is such that for the most part the spiritual, the immaterial, are only suggested through the visible and the tangible.

A statue, the counterfeit presentment of what was once living, breathing manhood, irresistibly calls to the mind of the observer the character and qualities of the original it personates. He who is acquainted with the history of him commemorated will pause for reflection and admiration; he who is ignorant of that career will find in an excited curiosity an incentive to the acquisition of knowledge. It is in order that the good men do may not be interred with their bones, to share with them the corruption of the grave, that we see in all times and all nations the custom of monumental honors to departed virtue and greatness. Animated by these considerations, the friends of Francis P. Blair, jr., have formed an association for the purpose of constructing a statue which shall outlast his surviving friends, and transmit to posterity the semblance of his features and the memory of his deeds. In their name I ask of this House that on the part of the American people, whom General Blair served so long and so faithfully, it do now pass this bill, which asks for the donation of some condemned cannon to be used in the erection of the proposed memorial.

It is not my purpose to dwell at length upon the incidents in the life of General Blair. But there are some salient features of his career which to omit were to give but a meager conception of his true character. Of democratic ancestry, his father was Jackson's trusted friend and champion; yet we find him in 1852 a republican, of a slave-holding family; we see him at the very commencement of his political course identified with the free-soil party. During the war, still as a republican, he battled bravely for the Union; but, victory achieved, we see him again in the van of the democratic party.

Notwithstanding these seeming fluctuations of opinion, it will not be difficult to show that his political conduct was on the whole consistent and based upon fixed and stable principles. Returning from the war with Mexico, young Blair entered at once upon the most stormy era of our political history. To one who is acquainted with that period only through tradition and the literature of the day, it seems indeed strange that men's minds should have been agitated, their passions aroused, and the deepest animosities engendered by the discussion of questions of almost metaphysical subtilty and apparently of little or no practical application.

It is true that there may be easily discovered quite sufficient causes for the widest divergence of opinion while the most important interests were involved; but where there was unity in so many points, difference in so few, and these few of such apparent insignificance, it becomes difficult to conceive how the tangled skein of politics should have become so inextricably knotted as to refuse to yield to any power save the sword. Leaving out the abolitionists from 1848 to 1856, few in numbers, however earnest and zealous, the rest of the country through both its great parties had repeatedly declared that the General Government had no right of interference with slavery in the States.

It was conceded on all hands that slavery was legally established in Texas, legally prohibited in California, while nature had placed its irrefragable bar against any extension of the system to New Mexico and the Territories north of the Missouri compromise line. So that Kansas alone was left debatable ground between those two parties, one of which claimed that the Constitution carried slavery into the Territories, while the other asserted that Congress had power to exclude it from the Territories. The question then became practically, Shall the extension of slavery to Kansas be permitted? And out of the general principle of constitutional construction involved in the settlement of this question grew the civil war, the loss of thousands and tens of thousands of lives, the desolation of countless homes, the expenditure of untold treasure, and an aftercrop of hatred and enmity, which seems not yet to have been reaped and garnered. It is difficult, sir, I repeat, for one who is a stranger to those stormy times to conceive how such dreadful consequences should ensue upon an occasion apparently so trifling.

But the philosophical writer who looks beneath the surface and finds there the secret springs which move men's minds will discover some other more adequate, more dignified cause for such momentous events than the mere economical question whether or not a few hundreds or even thousands of slaves should be transferred to the prairies of Kansas. He who cannot do so would see in Hampden's refusal to pay the ship-money no higher motive than avarice; in the mock Indians who flung the tea into Boston Harbor no more exalted impulse than a riotous or a frolicsome spirit. No, sir; the question of slavery was but the immediate cause of the storm in which it was swept away forever. It was but the spark applied to the pile already prepared for burning. The efficient cause, the real foundation of all the differences, must be sought at a period anterior to the time when the slavery agitation first commenced.

There were from the foundation of the Government two great parties, which still exist, and which seem to be essential to the maintenance of the harmony of our somewhat complicated political system. The tendency of the one is to exalt the power of the Executive and of Congress; of the other, to bring into greater prominence the influence of the State governments—centralization on the one hand, State rights on the other. The logical result of the one theory is despotism; of the other, disunion and ultimate anarchy. The conflict between these two antagonistic theories had been constantly increasing in intensity and virulence. It threatened the existence of the Union as early as Washington's administration. It almost brought on civil strife in the prolonged contest which ended in Jefferson's

election by the House of Representatives. It was considered by our wisest statesmen an ever-present source of danger to the peace of the country. The prophetic eye of De Tocqueville saw germinating there the seeds which brought forth later such a bloody harvest.

So long as the struggle was but one of theory the danger might have been averted, but when the practical application of these diverse principles was invoked for the settlement of a question so vitally interesting as that of slavery, reason and argument lost their power, and the only resource was an appeal to arms or the peaceable dissolution of the Union. The repeal of the Missouri compromise in 1854 precipitated the issue. This repeal aroused intense opposition in the bosom of the democratic party; by many it was considered as the first step toward the dissolution of the Union and the formation of a slave confederacy.

It will thus be seen that it will not do to subordinate the part which slavery played in this great drama. In their hatred and abhorrence of a system which they considered at once a violation of divine law and human rights, many believed themselves forced to affiliate with a political party with which they had little else in common. On the other hand, those were not few who, with an equal detestation of slavery, cast their fortunes with its adherents in defense of what they believed a great constitutional question.

Frank Blair was a democrat who looked on slavery as a social, moral, and economical evil, injurious alike to the master and bondman. Furthermore, the repeal of the Missouri compromise, to his mind, was a blow at the Union. He saw in this act all the evils foreshadowed in the message of President Polk approving the Oregon bill, where he says:

> Ought we now to disturb the Missouri and Texas compromises? Ought we at this late day, in attempting to annul what has been so long established and acquiesced in, to excite sectional divisions and jealousies, to alienate the people of different portions of the Union from each other, and to endanger the existence of the Union itself?

Entertaining such views, Frank Blair could no longer find room in the democratic party. With his distinguished father and his brother Montgomery, he abandoned the friends of his childhood and allied himself with the free-soil party, to become at once its leader in Missouri.

It is my purpose, so far as I can in these remarks, to identify myself with the mind of Blair and to depict the motives influencing it, not to give expression to my own ideas or sentiments.

He foresaw the war years before it occurred, and the war he well knew could only result in the destruction of slavery. One of his friends relates that, riding with him to Jefferson Barracks, in 1856, he exclaimed, "In ten years there will not be a slave in the United States."

When the war finally broke out it found him acting with the republican party, which had absorbed free-soilism. At that moment there can be no doubt that the great majority of the people of Missouri were opposed to secession. A convention presided over by General Sterling Price had unequivocally declared in favor of the Union. But at that time Missouri, in common with other border States, entertained the fallacious idea that by a policy of armed neutrality on their part the impending conflict between North and South might be averted. Preparations for war were therefore begun; a camp was formed near Saint Louis, known as Camp Jackson, where the flag of the Union floated over some six hundred militia, about half of whom, perhaps, were afterward identified with the Union cause. Blair realized that the die was cast, an appeal to arms inevitable, and that Missouri would be forced to throw her lot with one side or the other.

The State administration was known to be secession. If it were permitted to strike the first blow Missouri would be lost to the Union and the control of the Mississippi pass into the hands of the confederates. With his accustomed boldness and decision of character he determined that the first blow should be struck for and not against the Union. As early as February, 1861, he secretly enrolled a full regiment of volunteers, the nucleus of the force afterward known as the "home guards." In May he had five regiments formed, and in May he determined that his plan was ripe for execution. In command of the arsenal was Captain Lyon, a man who might have served as a model for one of Cromwell's Ironsides. Prompt, bold, energetic, with but scant knowledge of the law, and caring less for its subtleties, he seemed an instrument ready made to the hand of Blair. He entered heartily into the plans of the latter, and promised his active co-operation. On May 10 Captain Lyon, with a hundred regulars, and Blair, at the head of his volunteers, marched from the arsenal, and in a few hours Camp Jackson and its material of war, of no great value, was delivered into their hands without resistance, and Missouri was preserved to the Union.

In order that we may form a proper conception of the cool and calculating and yet impetuous and courageous nature of Blair, we must recollect that these measures were of a purely revolutionary character, his "home guards" were mere voluntary organizations, unauthorized by any law, State or Federal. He was self-commissioned, and he marched his followers, a mob in the eyes of the law, against men who were in the peace of the United States and their own Commonwealth; against a camp over which floated the same flag that his columns bore at their front. This violent act can find no legal justification, but Blair sought no such support. He felt that he was thrown into a revolutionary emergency, whence only revolutionary measures could extricate him and achieve a victory for the cause he advocated. It has been generally conceded, whatever may be the judgment upon the means employed in this instance, that the result was of the greatest moment, and without detracting at all from the eminent services of Lyon, it may be fairly claimed that to Blair more than any other man belongs the credit of having retained in the Union the State of Missouri, with its important city of Saint Louis, the commercial center of the West, afterward so valuable as a base of supplies to the army of the Mississippi.

Before the attack upon Camp Jackson was decided upon a meeting of the principal leaders of the home guards was held and to them Frank Blair communicated his plan of operations. They were almost unanimously opposed to his views as unwarranted by law, however necessary in fact; but with that strength of mind and magnetic influence which rarely failed to carry with him the timid and the hesitating, Blair overrode all objections.

It is natural to suppose that the years passed in familiar intercourse with such decided and arbitrary minds as those of Jackson and Benton were not without effect in forming the character of the subject of my remarks. It is not my intention to give a detailed account of General Blair's military career during the late civil war; indeed it gives me no pleasure to recur to that melancholy period of our history. I have always considered it the highest evidence of the magnanimity and wisdom of Rome that all monuments commemorative of victories won in civil strife were required to be constructed in wood, whose perishable nature should not outlive the generation that reared them, and if we propose now to erect a memorial of Blair, it is not to preserve the recollection of his feats of arms further than these bear witness to the qualities of cool courage and ardent devotion to principle, of which, to the credit of American valor and integrity of purpose, brilliant examples were not wanting on either side in the late unhappy civil strife.

It is enough to say that Frank Blair was not and did not pretend to be a great general, but as a brigade, division, and corps commander he distinguished himself for gallantry and sagacity on many a hard-fought field. At Chickasaw Bayou, Arkansas Post, and Vicksburgh he earned and received the public thanks of both Grant and Sherman. At Chattanooga, Lookout Mountain, and Missionary Ridge he added to the honors he had already won. On the march to the sea his patience, promptness, and persistence contributed materially to the rapidity of that famous movement. With the close of the war General Blair returned to the walks of private life. When he doffed his epaulets he put aside all the passions, all the animosities, which the dreadful conflict had engendered; he realized that the Union which he had done so much to save, if it were to be worth anything, must be a union founded on mutual trust and confidence between the recently antagonistic sections, a union of equality under the Constitution, and not of northern political supremacy and correlative southern subjection; a union of love, and not of force. He realized that the security of the Union was indissolubly connected with the sanctity of the Constitution.

With that keen political vision which had stood him in such good stead he saw that if the doctrine of secession threatened both the Union and the Constitution, on the other hand the doctrine of centralization, in subverting the Constitution, would, if triumphant, ultimately prove no less fatal to the Union. As has been well said by a member of this House, the gentleman from Mississippi, [General CHALMERS,] there were some who prized the Union higher than the Constitution; others who placed the Constitution above the Union; but Blair loved both the Union and the Constitution. Having proved his devotion to the one in war, he was now ready to proffer the same ardent love to the other in peace.

Nowhere were services such as his more needed, more priceless, than in his adopted State of Missouri. He found on his return thither the great majority of the people of that Commonwealth groaning under the odious proscription of the "Drake constitution," by which they were totally deprived of any share in the administration of the government. A test oath was required as a prerequisite to voting, which exacted a specific denial of no less than eighty-six *ex post facto* provisions, covering every imaginable phase of thought or action.

The disfranchised majority were utterly powerless; their only hope lay in the magnanimity of their adversaries. Fortunately for them this hope was not misplaced, so far as concerned, at least, Frank Blair. At this time he was undoubtedly the most prominent man in the republican party. He had earned this distinction in the halls of legislation, and confirmed it by his eminent services in the field. Crowned with the laurels of civic and military victories, there was no position within the gift of his party that was not within his reach; nay, that would not have been thrust upon him. But he spurned the glittering prize which to his mind could only be purchased by the sacrifice of his constitutional principles. His first political act after his return was to refuse the test oath at the next ensuing election, believing it to be in violation of the organic law of the Union. This act, characteristic of his bold, uncompromising nature, severed his connection with his party. For this he was then charged with inconsistency; but now, when the lapse of time has cooled the passions of his adversaries, few impartial judges will reiterate the accusation. At least if there were any inconsistency it was of that kind which is amply redeemed by the generous, unselfish motives prompting it.

The test oath General Blair regarded as a violation of the Constitution in this, that it was a proscription of political opponents for opinion's sake by depriving them of a valuable right without due process of law, and within the terms of the Constitution forbidding *ex post facto* laws and bills of attainder. He accordingly brought an action against the registrar of elections who refused to inscribe his name. The case was finally lost by a division of the Supreme Court of the United States, although the decision in the Cummings case substantially asserted the principle for which he contended. Another cause for General Blair's abandonment of the republican party was the intention of the radical element of that organization to establish negro suffrage. It was this class of politicians who opposed Mr. Lincoln's renomination, whose opposition to negro suffrage was manifested by his refusal to sanction the Wade-Davis bill, by which Congress assumed the right to reconstruct the so-called Confederate States. Mr. Lincoln's proclamation invited the people of the South to take the oath of allegiance to the United States and to reorganize their State governments. After his death the policy which the extremists of his party had relinquished during his life-time was resumed. Herein was another reason for General Blair to return to the party in which he had been born.

To him is largely due the re-establishment of free speech in Missouri, by the bold canvass which he made in 1865, a canvass unexcelled in bitterness before or since the war. His life was frequently endangered by armed mobs, who surrounded the hustings and sought to intimidate him from the utterance of his opinions. But there never lived a braver man than Francis Preston Blair. He was as calm, cool, collected, and unyielding of purpose before the raving mob at Warrensburgh as in the charge on Vicksburgh or under the hail-storm of bullets which swept over Missionary Ridge. When that canvass was completed the enfranchisement of the white people of Missouri was but a question of a short time; freedom of discussion, which his daring assured, was shortly to sweep from the State the last relics of a tyranny which could not exist in the light of argument and reason. Blair has two claims to the gratitude of his countrymen: the one, that he saved Missouri to the Union; the other, that he inaugurated the only policy by which that Union can be made perpetual.

In 1868 the democracy recognized his distinguished services by nominating him for the Vice-Presidency on the ticket with Seymour, but the seed of reconciliation he had commenced to sow were not yet to ripen, nor was he to survive to see their full fruition. In 1871, he was elected to the Senate of the United States to fill out the term of Charles D. Drake. During his short term in the Senate he added to his reputation by his steady resistance to the "enforcement act," the "civil-rights act," and notably the Ku-Klux act, against which he delivered a powerful speech. About this time his health began to fail, and until his death he was more or less an invalid. On April 8, 1875, while holding the office of superintendent of the insurance department of Missouri, he peacefully breathed his last, leaving to his children, after a long life spent in offices of the highest trust, no other legacy than a stainless name and a memory still revered and loved by the people of his adopted State. Since that time two of his successors, the lamented Bogy, the genial, gallant, glorious Shields, have joined him among the "silent majority."

The good knights are dust;
Their swords are rust;
Their souls are with the saints, we trust.

Tariff Revision.

SPEECH OF HON. JAMES W. COVERT,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, April 3, 1880.

The House being in Committee of the Whole for general debate—

Mr. COVERT said:

Mr. CHAIRMAN: Every system of government, no matter what the form of that government may be, involves a system of taxation. The problem how the burdens and expenses of maintaining a government may be lightened and rendered easier to the individual citizen, has always been a question which has demanded the best thought of the wisest statesmen of every age and country.

With unvarying regularity year after year large sums must be collected to meet our national obligations and to carry on the purposes of government. How shall these amounts be collected and from what sources derived, so that the burden shall fall as lightly as possible upon those who are called upon to meet these demands? A well-considered system of internal revenue and a well-digested tariff of duties upon foreign imports, together producing sufficient amounts for the purpose desired, seem to be the only means by which the desired result can be accomplished.

The combined experiences of all nations have demonstrated that it would be an exceptional condition of affairs if any one country was absolutely and in all things self-sustaining. Just as in small communities one man is dependent upon his neighbor for aid in various directions, one State is dependent upon another and one nation upon some other nation, to some extent at least, for that infusion of new labor or new material or new thought which makes that State or nation prosperous and healthful. I am not here to-day, Mr. Speaker, to discuss what may perhaps be termed the abstractions of the absolute free trader. While I may concede that upon paper and in theory the principle of absolute free interchange as between different countries seems most admirable and perfect, I am forced to believe that the era has not yet arrived when this doctrine of absolute freedom as between nations can be successfully carried out. Upon the theory that ours was an infant nation and that the native manufacturer could not succeed unless his youthful labors were tenderly and carefully fostered, the services of the nurse Protection were called early into requisition, and through all the infant days of our manufacturing industries every step was carefully guarded and the advances and assaults of older and stronger manufacturers from abroad were resisted and controlled by the strong arm of the national nurse whose services had been thus invoked. It is useless now perhaps to review in this connection the arguments of those who claim that a mistake was made in this regard at and from the inception of our national existence.

Admit the fact to be true that our individual nation was located in the midst of an immense area of fertile land, requiring only labor to develop it; that there was a strong demand for that labor, which was rewarded with high rates of pay; that all our national conditions and surroundings were such that high wages might be and were paid, and yet resulted in the cheap production of articles which foreign countries were glad to receive, giving for them such articles as our young nation could not produce except at much greater cost—admit that under these circumstances our commerce might have been carried on with the best results and our working power have been discreetly and profitably developed; admitting the truth of these theories, the fact yet remains that those who guided and governed the affairs of our infant nation deemed it best to protect our struggling manufactures, and the result is that to-day a radical and absolute change could not be made from at least some sort of partial protection or incidental protection without bringing in its train and as its direct results failure and ruin and misery which it would be impossible to estimate.

We have to deal not with abstractions in this regard; not with the idealities of theorists who look upon this subject with other than practical eyes. We have to take conditions as we find them and to do the best we can with these conditions surrounding us. I repeat the proposition that apart from the consideration just advanced the greivous results which would follow a radical and sweeping change from partial or incidental protection—a well-regulated tariff, as fair and as equitable as can be devised under the peculiar circumstances which surround us—in connection with a judicious system of internal revenues, seems the only legitimate method of meeting the annually-recurring demands made upon us for means to carry on and maintain our Government. I believe that the existing tariff is in many respects most unjust and inequitable. I believe that the list of dutiable articles contains many items on which duties are levied and collected, not for purposes of revenue only but for purposes of absolute protection. Perhaps I put this statement too strongly. What I mean to say is that if absolute protection be not the purpose, such at least is the result following the imposition of excessive duties upon some of the items included in the tariff list. And whatever may have been the purpose which inspired the imposition of these high duties, I assert that in very many instances the protection which follows the result of this excessive imposition is absolutely unnecessary; and its results are burdensome and oppressive to the people.

I am in favor, sir, for this reason, of a revision of the tariff—a complete revision, if it can be had; not a revision which shall necessarily bring about a radical change and lead to the evil results I have mentioned, but a complete, judicious revision of the whole list, if it can be secured; and in any event of a partial revision, to the end that gross abuses under existing regulations may be corrected and some successful effort be made at reform in this regard.

The abortive efforts at tariff revision made in the Forty-fifth Congress convinced me at least that no complete, perfect, and entire revision can be made under ordinary circumstances at any one time by any body of men, however able they may be and however sincere may be their desire to improve and perfect the regulations governing the importation of foreign merchandise. I believe, sir, that the only method by which anything tangible can be accomplished in this direction is by singling out the articles upon which excessive duties are imposed and by reducing, through appropriate legislation, the duties on such articles or by placing them absolutely on the free list, as circumstances may dictate.

I am glad, Mr. Chairman, to be permitted to explain, at this time and in this connection, the reason which induced me to vote as I did the other day upon the proposition to send a bill looking in this direction—I refer to what is known as the Townshend bill—to the Committee on the Revision of the Laws. While, as I have stated, I am heartily in favor of tariff revision; while I was and am in favor of the bill in question, I yet recognize the fact that under all legislation certain proprieties and certain forms are absolutely necessary to be observed in order to insure the passage of safe and prudent laws. The Committee on Ways and Means is the committee and the only

committee of this House charged with the consideration primarily of all measures relating to the tariff and revenue. It was this consideration that induced me to vote as I did, in favor of a reference of the bill to that committee. I have no fears that the Committee on Ways and Means, made up as it most properly is of representative gentlemen from every section of the country, and therefore necessarily representing different interests, will in due time report upon all the measures submitted to them. The people demand action of some character upon these measures, and the committee will I am sure in due time listen to and obey this behest of the people.

I am in favor of a tariff revision, and I am in favor of it now and at once. Not only do gross iniquities exist in the present regulations, iniquities which ought in common justice to be remedied, but the time, it seems to me, is opportune for such revision, even though it be of a partial character only. When any suggestion is made involving a reduction in duties on foreign imports, one of the first questions asked would naturally be, Can we afford to reduce the duty, provided the increased demand for the article does not make up for the loss of revenue?

For answer to this question I beg leave to produce here some figures kindly furnished me by Mr. Nimmo, the able and exact Chief of the Bureau of Statistics of the Treasury Department.

The estimated receipts of the Government for the fiscal year ending June 30, 1880, are:

From customs	$152,000,000
From internal revenue	116,000,000
From other sources	20,000,000
Making a total of	288,000,000

The estimated expenditures for the year are:

For governmental expenses	119,122,590
For interest on public debt	93,877,410
For pensions	51,000,000
Making a total of	264,000,000

and leaving a balance in favor of the Government, and to be applied to the sinking-fund account, of $24,000,000.

It seems to me, sir, from the above exhibit that we may at this time with entire security try the experiment of a revision of the tariff without the fear of disastrous results so far as the interests of the Government are concerned. I have said that recent experience has demonstrated the futility of attempting at one time and by one measure to correct all existing evils in this connection, and that the only course remaining is to select from the list those articles upon which grossly excessive duties are imposed and to promptly reduce those duties.

It was in this spirit, sir, and in this belief that quite early in the session of the present Congress I offered for the consideration of the House some measures looking to reform in this particular, and which are now before the Committee on Ways and Means. I allude more especially to these two measures, because they illustrate in themselves the wrongs which exist under the present tariff and the necessity for change and improvement.

The first of these measures is a bill to reduce the duty on steel rails. Referring back to what I said but a moment ago as to the duty incumbent upon Congress to determine how far the material interests of the whole country—the interests of the whole people rather than the interests of the few—would be benefited by reduction, let me detain the House for a short time while I show or attempt to show how the whole country, the whole people, would be benefited by a reduction of duty upon this special article.

Permit me to say first that this measure was not presented in the interest of railway corporations as such, and its passage is not advocated now in that interest. The fact is that the passage of the measure is opposed by some of the older and more powerful railroad corporations. This measure is most emphatically a people's measure, as I shall attempt very briefly to demonstrate. It would be idle, it would be but repeating a more than twice-told tale to enter here upon any extended statement of the full and rich results that have almost uniformly followed the successful completion of railroad enterprises. The progress made in railway construction in this country would seem to us simply astounding were it not for the faculty so largely possessed by the American citizen of becoming at once accustomed to existing conditions and the taking of surroundings as simple matters of course.

We have to-day about eighty-six thousand miles of railroad in the United States. What have been the results of this construction? Our rivers would have been inadequate to serve as highways over which the immense transportation business of the country could be conducted. The projection of new lines of road has built up business centers in almost every section of the land. These roads have caused markets to grow up far removed from our seaboard and from our river banks. They have kept pace and more than kept pace with the emigration of our people to new and far-off sections. They have been in many instances the advance guards of civilization and have brought with them the blessings which follow in the train of civilized progress. In populous districts the producer takes his goods to the open market. The sale and delivery is there. In what a few years ago was the far West, the farmer and manufacturer take their products to the railroad station, and that is really his market, just as complete and as perfect as if the stalls and booths and buyers were at hand. He sells his products and delivers them at the station. The railroad companies, the real marketmen of our day, do the rest. During the past year two hundred and fifty million tons of goods and produce were transported over our lines of railroad. The value of these products has been estimated at the enormous sum of $15,000,000,000, more than a dozen times as much as our foreign commerce. I am not one of those who seem to think it their duty to decry corporations simply because they are rich and powerful. The shriek of the locomotive has been the magic signal that has awakened into life the prostrate energies of thousands upon thousands of our people, and the railroad track has been the path to prosperity in every section of our land.

Now the question occurs, and it is a vital one: Shall Government by retaining an excessive duty, a duty which amounts to protection, retard the development of the country by the construction at reasonable cost of new lines of railroad?

Competent authorities have determined that steel rails have an economic value fivefold greater than that of iron rails. The same authorities have demonstrated that steel rails can be produced at the cost of iron.

The duty at present existing on steel rails is $28 per gross ton, and this duty was imposed something over nine years ago upon the plea of the manufacturers that they then needed exceptional protection. At the close of the last year the price then demanded by the American manufacturer varied from $50 to $70 per ton. The average price of steel rails in England the past year has been about $24 per ton—the duty being $4 per ton more than the value of the article abroad! The bill under consideration proposes to reduce the duty to $10 per ton. The claim is made that the native manufacturers of this article have been abundantly protected in the past. They have built up a gigantic business and can now afford to deal fairly and equitably with the people whom they have so long subjected to extortion. Reference has been made to the fact that some of our oldest and strongest railroad corporations are opposing this reduction. I can scarcely divine their reasons for this course, but I imagine that these reasons are not expressed in the heading of the memorials they have laid before Congress and to which I now desire to call the attention of the House as a curiosity of railway literature:

To the honorable the Senate and the House of Representatives of the United States of America in Congress assembled:

The undersigned, believing that any modification or material changes in our tariff system, to be productive of any benefit to the people and not unjust and injurious to the industrial interests of the country, should be general in character, and that attacks upon special interests cannot with safety be made, respectfully remonstrate against the passage of House bill No. 3234, known as the "Covert bill," which proposes to reduce the duty on imported steel rails from $28 per ton to $10 per ton.

We believe that the proposed reduction would seriously cripple the great interest represented in the manufacture of steel rails, and would result in no compensating benefits or advantages to the Government or to the country at large.

For these among other reasons we are opposed to the passage of the bill mentioned.

These remonstrances are signed by the representatives of twenty-one well-established and doubtlessly well-equipped steel-railed roads.

Mr. McKENZIE. Where are these roads located?

Mr. COVERT. In the Middle and near Western States.

I have called this form of remonstrance a "curiosity of literature." The signers may possibly see somewhere in the dim future some prospect of a complete tariff revision, but, if so, their attention must have been so completely engrossed in the study of their tariff of railroad rates that they have failed to take note of the proceedings of this and of the preceding Congress upon the general tariff question. If they cannot see that the proposed reduction in duty would result "in any compensating advantage," the people can see it, and do see it. Companies whose lines of road are not yet equipped with steel rails, and companies in process of formation, with people to be transported over lines yet to be built, who desire the best and safest means of construction at equitable prices, can see it, and do see it. The general public, sincerely desirous that every section of our common land may be developed by legitimate means, and that the residents of far-off sections may find a market by means of railway transportation, can see it, and do see it. Eighty different railroad and transportation companies have sent memorials to this House praying for a reduction of this specific duty, and these corporations represent every section of the Union, and, I may safely add, the sentiment as well of the people of every section.

But I am admonished that I must pass on to the consideration of the other measures I have mentioned. They propose to permit the importation of chrome ore and bichromate of potash free of duty. It may be explained that chrome ore is the substance from which the bichromate is derived, and that the latter article is the most valuable chemical salt used in dyeing and printing. The present duty on chrome ore is fixed at 20 per cent. *ad valorem*, and upon bichromate at four cents per pound. I shall be very brief in presenting a few of the reasons why chrome ore should be admitted free, and a modification at least be made in the duty on bichromate.

There is to-day but one manufactory of bichromate in this country. By putting the ore free the consumer will secure his supply at the minimum of cost, and being unfettered he produces bichromate at the lowest point, and supplies his customers at the lowest price. The

benefit of all this goes not only to the manufacturer and printer and dyer of textile goods, to the thousands of workmen employed by them, but to every family in the land into which a single yard of printed or dyed goods enters. The natural tendency would be to lessen the price of every single piece of these goods, which enter so largely into the trade of the country and into general use by the people. If the ore is entered free of duty an increased demand would rapidly follow, and our manufacturers and merchants would secure a large amount of foreign trade in these goods. The fact seems to be admitted that the existing duty on bichromate enables the sole American maker to ship it abroad, selling it there to net ten or eleven cents to precisely the same class of manufacturers to whom he charges fifteen cents here. A discrimination is thus made against the great American cotton and woolen interests. By this process our foreign dealers in cotton and woolen goods get cheaper material and are enabled to undersell those engaged in what are admitted to be two at least of the leading representative interests of the country. I am sure, sir, no stronger argument than this need be advanced in favor of immediate reduction in bichromate and in the admission of the ore free of duty.

There are other duties in the tariff list which need revision. I wish I had the time to speak of them more in detail. The proposition to admit printing paper and type free of duty ought to be adopted, it seems to me, because it is a people's measure and is for the benefit of the whole people. Upon the principle that public schools are made free to all should every agency and every instrument by which thought and intelligence are disseminated among the people be made as general and inexpensive as possible. Private interests may suffer to some extent, perhaps, by this change; but in a measure like this the principle of "the greatest good to the greatest number" is most emphatically of application.

I am in favor, sir, of a tariff revision; but I am in favor of having such revision brought about in an orderly and legitimate way. I am opposed to the creation of a commission to examine into the subject and to suggest how and in what way the revision shall be made. The suggestion, it seems to me, means simply delay. The proposition coming from the other end of the Capitol is, as I understand it, that a commission shall be appointed by the President to conduct this work. If this idea shall be carried out, the commission, to be a just and fair one, must be constituted of gentlemen representing different sections and necessarily representing diverse interests and entertaining opposite views. The Ways and Means Committee of this House is constituted in precisely the same way. Can we hope for greater unanimity of sentiment on the part of this commission when constituted than exists now in our own House committee? I venture the assertion, sir, that if this commission is ever created, the immediate effect will be to injure trade and commerce by begetting doubt and uncertainty until the coming in of their report. I venture the further assertion that when the report of their work is submitted, if it ever shall be submitted, it will be a divided and therefore inoperative report, and the whole vexed question of tariff revision, after this season of doubt and uncertainty—after the expenditure of much time and money—will remain precisely as it stands to-day.

It is the duty, sir, of the representatives of the people upon this floor to act in this matter. They stand nearer to the people than any arbitrary commission would stand. They know, or ought to know, the wants and the wishes of the people in this regard better than any arbitrary commission could know them. It is the duty of the people's representatives standing thus closely to those for whom they act—knowing exactly their necessities and their desires—not to shirk the responsibilities resting upon them, but to act and to act promptly in this matter. The people demand reform in this direction, and they look to their immediate representatives to carry out that reform. There should be no delegation to others of the duties which the people have enjoined upon us. It would seem weak and cowardly to attempt to escape these duties and the responsibilities which they bring with them.

Let there be a tariff revision, but let the reform be made not by a commission appointed over the heads of the people. Let it be made by the people themselves, speaking and acting through their representatives upon this floor.

Shall a Regal House Dispense with Laws?

SPEECH OF HON. MOSES A. McCOID,

OF IOWA.

IN THE HOUSE OF REPRESENTATIVES,

April 10, 1880.

The House being in Committee of the Whole, and having under consideration the bill (H. R. No. 5523) making appropriations for the support of the Army for the fiscal year ending June 30, 1881, and for other purposes—

Mr. McCOID said:

Mr. CHAIRMAN: I only want to say upon this rider that it is remarkable in one thing. It does not pretend to repeal any law authorizing the use of the Army for the protection of American citizens and electors in certain cases, but it does go to the extent of saying that although the law exists it shall not be carried into execution on election day. Five or six sections of the statutes, I believe, have been quoted during this debate under which the use of the Army might, in emergency, be legally used to execute the laws on election days. Some of them are as follows:

USE OF ARMY IN EXECUTION OF LAWS.

SEC. 5298. Whenever, by reason of unlawful obstructions, combinations, or assemblages of persons, or rebellion against the authority of the Government of the United States, it shall become impracticable, in the judgment of the President, to enforce, by the ordinary course of judicial proceedings, the laws of the United States, within any State or Territory, it shall be lawful for the President to call forth the militia of any or all the States, and to employ such parts of the land and naval forces of the United States as he may deem necessary to enforce the faithful execution of the laws of the United States, or to suppress such rebellion, in whatever State or Territory thereof the laws of the United States may be forcibly opposed, or the execution thereof forcibly obstructed.—Act of 1798, approved by George Washington, President.

SEC. 2002. No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control, any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States, or to keep the peace at the polls.—Act of 1865.

NATIONAL ELECTION LAWS.

SEC. 2004. All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding.

SEC. 2005. When, under the authority of the constitution or laws of any State, or the laws of any Territory, any act is required to be done as a prerequisite or qualification for voting, and by such constitution or laws persons or officers are charged with the duty of furnishing to citizens an opportunity to perform such prerequisite, or to become qualified to vote, every such person and officer shall give to all citizens of the United States the same and equal opportunity to perform such prerequisite, and to become qualified to vote.

Bill passed at this session as a rider for the deficiency bill by the democratic party and democratic votes:

For special deputy marshals of elections, the sum of $7,600: *Provided*, That hereafter special deputy marshals of elections, for performing any duties in reference to any election, shall receive the sum of $5 per day in full for their compensation; and that all appointments of such deputy marshals shall be made by the judge of the circuit court of the United States for the district in which such marshals are to perform their duties, or by the district judge in the absence of the circuit judge; said special deputies to be appointed in equal numbers from the different political parties. And the persons so appointed shall be persons of good moral character, and shall be well-known residents of the voting precinct in which their duties are to be performed.

The pending rider, denying to the Executive the aid of "land forces" to enforce these laws, is as follows:

SEC. 2. That no money appropriated in this act is appropriated, or shall be paid, for the subsistence, equipment, transportation, or compensation of any portion of the Army of the United States to be used as a police force to keep the peace at the polls at any election held within any State.

This amendment does not seek to repeal any one of these laws, but to leave them on the statute-books in their full force and effect exactly as they now exist. But the opposition only seek by this amendment to

DISPENSE WITH THE LAWS

now in force and on the statute-books, or to nullify them instead of repealing them.

Now, Mr. Chairman, I make this point: that the House of Representatives, the Senate of the United States, and the President, all combined, have not the power in this country to dispense with a law remaining on the statute-book. There was a time once in English history when the King, exercising the highest tyrannical power, undertook to dispense with the laws; and I ask to print, as my time is limited, a page of English history giving that instance in which King James undertook to dispense with the laws, and Chief-Justice Herbert held that the laws belonged to the King and could be dispensed with as he chose.

The "test act" forbade the appointment of Catholics to office. The King wanted to appoint some to the army.

Therefore the test act must go from the statute-book. The Parliament refused. The King tried the law-courts by appointing a Catholic gentleman to a colonelcy, and ordering that a servant of the gentleman should prosecute him, and so force a decision. Solicitor-General Finch and four judges remonstrated against this attempt to break the law. They were dismissed from office. Eleven judges decided in favor of the colonel. One, Lord Chief-Justice Herbert, said that *the laws were the King's, and that he could dispense with them when he thought proper.* If, however, the reader will ponder over the chief events of English history, he will find that *the King had here feloniously touched the one thing which the English people never yet for any long time suffered to be so touched with impunity.* The people have forced Parliaments, kings, law-courts, and mobs to observe the law. They have again and again, down to our own time, stood quietly under a load of oppression while bad laws were being maintained. They may have rioted, but they never have rebelled till the law was broken. It was this feeling that gave Mary and James the throne; that held back willing and eager spirits from violence in the reign of the first Charles and at the reign of Charles II. It was exactly the same feeling that held back vast numbers of wildly excited in 1816-'17 and in 1830-'32. There was "no cause" till the law was broken. At last James broke the law. Trimmers, political and religious—trimmers in name or trimmers merely in fact—would now, unless utterly infatuated, move with the heartiness and decision of men who had the law on their side.—*Popular Progress in England*, pages 39, 40.

King James had the same power then to dispense with law as this House now has; no less, and no more; and the act here attempted is as felonious as his. So great was this act of tyranny considered two hundred years ago that it was made a clause in the Bill of Rights—the great charter of English liberty—that "it is illegal for the sovereign to dispense with the laws." (Popular History of England, page 44.)

Can you expect now to be suffered to assume this power and dispense with laws for a fiscal year and not be overwhelmed by a people upon whose liberty you thus lay your felonious hand? The act was such as to arouse and unite as one body the whole English-speaking people, and this act of the House of Representatives to-day assuming to have power to dispense with laws without repealing them will have a like effect.

A REGAL HOUSE.

We have reached in our history, Mr. Chairman, a time when the House of Representatives has assumed the tone of mastery. They have seized upon that clause of the Constitution of the United States giving them the power to originate money bills, as a scepter of supreme, centralizing power, and they propose with that scepter in their hands and in the tone of mastery to dictate to the whole country, and not only that, but they claim the power under it to dispense with laws on the statute-books without repealing them; to annul laws that they cannot repeal, laws that they have made no attempt to repeal. Why, sir; it is written even of an Egyptian King four thousand years ago that "his power over the lives and property of his subjects was strictly limited by law, and nothing was left to caprice and passion. The right to enact new laws, however, resided in the sovereign." Swinton's Outlines of History, p. 20. These laws are still in force and upon the statute-books, and yet they say that they shall be dispensed with for the time being. Sir, if the humblest citizen in this country invokes the protection of the law of this land as it exists upon the statute-books, the whole powers of the Government, the House of Representatives, the Senate, and the President united cannot by any kind of legislation short of absolute repeal prevent him from having the protection that law was intended to give him. And it is in the highest degree tyrannical to attempt in this way to dispense with an unrepealed law.

What do you expect to do?

If you should elect a President, under the Constitution, which says it shall be his duty to "see that the laws are faithfully executed," will you place him on the steps of the Capitol out there, bare his head to the heavens, cause him to uplift his hand and swear that "he will faithfully execute the laws of the United States, perform the duties of President, and preserve, protect, and defend the Constitution," and yet have the statute-books filled with laws dispensed with, but not repealed, which he cannot execute? I ask you, is it the policy of the legislative power of this country not to repeal the laws any more? That was the old way of doing with laws on the statute-books which were objectionable. But it is not now proposed to repeal the law, but just simply say that although the law is in existence there shall be no means given to carry it into execution. If that is the policy of the legislation in this country, this act is carrying it out legitimately.

ENCROACHMENT ON THE EXECUTIVE.

Now, Mr. Chairman, not only do you assume this tone of mastery in the House of Representatives, dictated by a caucus and ruled by a bare majority, and attempt to dispense with laws on the statute-books, but you go still further, and in doing so you encroach upon the prerogatives of another branch of the Government. The President of the United States, under the Constitution, is made the Commander-in-Chief of the Army. This House assumes in this amendment to dictate the movements of our Army, where it shall go, and where it shall not go, thus centralizing power in the legislative branch of the Government in opposition to the express terms of the Constitution. Such a law is unconstitutional, for it violates the provision of the Constitution which gives this power as Commander-in-Chief of the Army to the President of the United States.

This question of the right of the President to control the movements of the Army and the right of Congress to deny money on the ground of his objectionable exercise of his constitutional power arose at the opening of the Mexican war. Congress had the constitutional right to declare war. The President had, it was claimed, brought on war in violation of this clause of the Constitution, by pushing the Army into a foreign territory, and it was claimed that Congress might and should deny supplies to carry on that war; but that discussion led to the wise conclusion that to so deny supplies would be an encroachment upon his constitutional power as Commander-in-Chief. And democracy was found on that side of the question then.

CONDEMNED BY THE PEOPLE.

This amendment was passed last spring. It went to the people. The issue was made upon it before the people, and it was condemned by the people.

WHY REPUBLICANS VOTED FOR IT.

The strongest point gentlemen on the other side seem to have is, that republicans have voted for this bill with this amendment upon it. Any man on this side who voted for the bill last spring in the extra session with this amendment upon it simply voted for it as a choice between two great evils. Rather than endanger the existence of the Army and stop its supplies they were willing to take the lesser evil, as they deemed it, for one year, hoping it was not a precedent that would be practiced again by the democratic House. But you seek now to adopt it as a regular practice of the House. Against that we will stand, I hope, as a solid phalanx. Once we have submitted to an evil; but never again ought we to submit to it so as to make it a practice in this country.

The character and consequence of placing riders upon general appropriation bills has become exposed, is recognized, acknowledged upon all sides, and condemned, and yet this is a deliberate sin of that kind. It is in violation of the true spirit and better practice of free legislation. Whether that practice shall be changed in the Constitution of the country and rules of the House, as well as in the constant practice, has become a national issue between the two great parties. The dominant party has refused to stop it in the rules. They now undertake to repeat and continue it in practice. Its tendency is to concentrate in the House more power than was granted to it by the people. It makes the majority in the House a tyrannical oligarchy, whether that power is exercised for good or bad purposes.

FREE LEGISLATION.

We have, I hope, a country that will adopt the highest science of legislation and parliamentary practice, and not the poorest and weakest and most unworthy. In the three hundred and eighty years of modern history no people has been as famous as our own, and no nation is exercising to-day a greater influence upon the general current of events in the world. It becomes us to adopt sound political principles by which to govern our legislation. Gentlemen, and the most distinguished gentlemen, too, on the democratic side of the House have declared this practice of placing riders upon appropriation bills to be against the highest science of legislation, against the opinions of the best legislators and the latest constitutions of the States to-day. It is an intrusion upon us of British precedents and practices against American constitutional principles. These have no application in our Government. Our Senate is not a House of Lords, our President is not a monarch or a queen. To say you have a right, by withholding supplies, to bring them to submission to your partisan demands is a flagrant insult to our institutions and popular government.

It may be possible that troops may be used at the polls; but the President has never attempted to use them, and no man claims upon the floor that he will so use the troops in any objectionable manner at the elections this fall. American troops at American polls to protect American citizens have no alarm for me. The American uniform terrifies no man from the legal exercise of his privileges, but the American flag protects every freeman in his rights.

[Here the hammer fell.]

The Geneva Award.

SPEECH OF HON. WILKINSON CALL,

OF FLORIDA,

IN THE SENATE OF THE UNITED STATES,

Wednesday, April 14, 1880.

The Senate having under consideration the bill (S. No. 1194) for reviving and continuing the court of commissioners of Alabama claims, and for the distribution of the unappropriated moneys of the Geneva award—

Mr. CALL said:

Mr. PRESIDENT: The bill now before the Senate provides for the distribution of $9,553,800, the portion of the Geneva award now remaining in the Treasury of the United States.

The question presented by the bill and now before the Senate is, to whom shall this money be distributed, what class of sufferers from captures on the high seas by Confederate cruisers during the late civil war, shall receive this money; what principle shall regulate its distribution, and in what order of distribution, and in what proportions shall the distribution be made.

The bill reported from the Judiciary Committee by the Senator from Ohio [Mr. THURMAN] provides for the creation of a court for the adjudication and distribution of the remainder of the Geneva award now in the Treasury, and prescribes the rules which shall control and direct the distribution of this money. In the first order of distribution it places the insurance companies or insurers of vessels and cargoes captured by the inculpated cruisers, namely, the Alabama, Florida, Shenandoah, Tuscaloosa, Clarence, Tacony, Archer, Retribution, Georgia, Sumter, Nashville, Tallahassee, Chickamauga, Sallie, Jefferson Davis, Music, Boston, and V. H. Joy, and claimants for losses from captures on the high seas within three miles of the coast by other confederate cruisers, in the second class or order of payment, and pays them *pro rata* if the fund should be insufficient for satisfaction or payment in full.

The amendment of the Senator from Indiana [Mr. MCDONALD] provides that all damage done by Confederate cruisers on the high seas to property belonging to citizens of the United States within four miles of the coast or by forced sale of vessels in port shall stand in the first order of payment, and gives 10 per cent. additional compensation on value of vessel and outfit in cases of loss of whaling, fishing, or packet vessels.

This amendment leaves in force the former act, which excludes the insurers and places in the third order of payment claims for the payment of premiums for war risks.

The amendment of the Senator from Massachusetts [Mr. HOAR] provides for the revival of the provisions of the act of 1874, which

excludes the insurance companies and insurers except as to the net total of the losses in the business of war risks after deducting profits of their business. It provides for the distribution of the fund to sufferers from captures of ships and cargoes on the high seas, including those within three miles of shore, by confederate cruisers, whether inculpated or exculpated, that is recruited, armed, and fitted out in the ports of Great Britain or otherwise, and as in the first order of distribution.

These are the material provisions of the bill and amendments in respect to the class of persons to whom it is proposed this fund shall be distributed. The bill reported from the Judiciary Committee by the Senator from Ohio [Mr. THURMAN] asserts a preferred right of payment or distribution in the underwriters or insurers of American ships and cargoes captured and destroyed on the high seas by the eighteen inculpated cruisers.

I propose to endeavor to examine this proposition in the light of reason and the authorities, and in doing so, Mr. President, I question the correctness of the conclusions to which I have arrived only because of the great learning and ability of the Senator from Ohio, [Mr. THURMAN,] of whom it may be justly said *Nihil quod tetigit non ornavit*, and of the ability and learning of the Senator from New York, [Mr. KERNAN,] and the Senator from Illinois, [Mr. DAVIS,] and of the Senators from Delaware and Arkansas, who always have a right to deference and respect for their opinions on legal subjects. The facts on which the propositions of the bill rest are these: An American ship and cargo are captured on the high seas by a Confederate cruiser, and reparation demanded and received by the United States from Great Britain because of her omission of duty as a neutral nation to the United States. From these facts two consequences result: one a wrong to the nation, the other a loss to the citizen—the owners of ship and cargo.

The bill asserts a right of property or an equity in the nature of a right of property to the reparation demanded and received by the Government of the United States in the owners of the ship and cargo, and in the underwriters or insurers.

The Senator from Ohio [Mr. THURMAN] has stated, with that clearness and ability with which he treats every subject, the whole ground of the argument upon which the proposition of the bill rests. He asserts it to be *a right of contract* sustained by the adjudications of the courts and clearly a part of the contract of insurance. His language as delivered on a former occasion is as follows:

> These, then, are the men whose claims are presented for consideration. Now, let us see upon what foundation their claims rest. They rest upon the foundation of a law almost as old as commerce itself in modern times; a law that prevails in every civilized country of this globe where there is such a thing as underwriting known. It is the law which subrogates the underwriter to the rights of the assured upon an abandonment of the property lost and payment by the insurer.
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> The underwriter does not insure for the premium only. The law of the land is written in that contract as effectually as if it were written in express words; and that law of the land is that the insurer shall have not simply the premium, but also what the law calls the *spes recuperandi*, the hope of recovery of anything that can be recovered, either of the thing that was lost *in specie* or from any wrongdoer who has occasioned the loss.

This is the foundation, then, for this claim of right, a claim resting in contract. The adjudicated cases which have been cited and the opinions of the eminent judges do not by any means conclusively establish the proposition upon which the bill rests. In approaching the consideration of this subject I submit, Mr. President, the following remarks from a writer upon the law of marine insurance (Austin's Lectures, Crump) in reference to the application of the decisions of the courts to propositions like that asserted by this bill. This writer says:

> A law (or rule of law) made by judicial decision exists nowhere in general or abstract form. It is implicated with the peculiarities of the specific case or cases to the adjudication or decision of which it was applied by the tribunals; and in order that its import may be correctly ascertained, the circumstances of the cases to which it was applied, as well as the general propositions which occur in the decisions, must be observed and considered. The reasons given for each decision must be construed and interpreted according to the facts of the case by which those reasons are elicited, rejecting as of no authority any general propositions which may have been stated by the judge, but were not called for by the facts of the case or necessary to the decision.

The great commentator upon the laws of England, (Blackstone,) in defining the particular species of property known as an incorporeal hereditament, says that it is not the object of sensation, "that it exists in contemplation only; it is intangible, invisible." The contract of insurance and the *spes recuperandi* which is alleged in this argument of the distinguished Senator from Ohio to be the consideration for that contract, delicate and impalpable as is the class of property defined in this description, is far more so. What is it that is alleged here to be the consideration for this contract of marine insurance, this *spes recuperandi* which is said to be contracted for and which is the basis of the argument?

It is said that the underwriter and the assured in a case of marine insurance in time of war stipulate the one with the other for the payment of a premium to insure against the contingency of capture, and include by operation of law in that contract *a hope of recovery or possible indemnity*, termed *spes recuperandi* in the law. What was that hope of recovery in this case? Let us examine it and see how intangible, how unreal, how uncertain it was at the time when the contract is alleged to have been made.

It was the hope, the possibility, that the confederate authority would be overturned in the civil war, the hope of the possibility that the government of Great Britain *might* be guilty of some omission of duty, some wrong by which Confederate cruisers would escape from her ports and capture the insured ship and cargo and by reason of which a national demand might be made upon her, a demand for national reparation, the hope that a commission would be appointed and a peaceful arbitration instead of an arbitrament of the sword, *the hope* that the commission would agree upon an award, and in that award would make indemnity to the owner of the ship and cargo, and the underwriter as the owner either by operation of law, or express assignment of all these hopes.

We are told that it was this *hope of a possibility* which was the subject of contract, and which was assigned by operation of law in this contract of marine insurance. We are cited to the opinion of the Supreme Court of the United States in the case of Comegys *vs.* Vasse as the authority for this opinion. I will not delay the Senate by reading that authority, which has been so often read to the Senate. That decision does not refer, in the point adjudicated, to the case presented by the bill. It is a case which simply affirms that the right of a bankrupt to the proceeds of an indemnity awarded for a capture passed to his assignee, and there was no question raised in that case as in the bill here between the assured, the persons owning the ship and the cargo and paying the war premium, and the underwriter or insurer. The question in that case was simply whether Vasse being a bankrupt, the proceeds of an indemnity awarded for a captured ship which he had insured and for which he had underwritten should pass to his assignee. The court treated this as a fund, as money already in possession, allowed by the commission under a treaty duly authorized by the Government, to Vasse as an underwriter, and paid to his assignee. The hope, the *spes*, had been realized and the question was whether after being so realized, after having become money awarded and paid to the assignee of Vasse as a bankrupt, Vasse could not recover it from his creditors for his own use.

I have no reason to question the entire correctness of the decision of the court in that case and on that point, and I as freely admit that the reasoning of the court in the case does, while the proposition was not really involved, sustain the proposition of the Senator from Ohio in this bill.

But there must be something more than the mere authority of a single decision of a court to control and govern the mind and conscience of the Senate and of the Congress of the United States on this subject. To me it appears that the proposition that there can be a right of property or an equity in the *hope of a* possible recovery of something as the result of negotiation or foreign war, is the most intangible and unreal of all speculations. It seems to me that whatever decision or authority of whatever court may have affirmed *that to be a right of property which has no existence* and which is dependent *upon the possibilities, and the undeveloped possibilities, of the future*, is susceptible of the gravest criticism and cannot be a foundation for an argument which should influence the judgment of a legislator in the distribution of this fund.

This proposition, it seems to me, is denied by the positive declaration of every system of law that has ever existed either in ancient or modern times and is violative of every principle of reason: *a hope of a possibility*, the subject of assignment, a claim of right of property in a *hope* of possible and gratuitous compensation for private *losses* as a result of negotiations between sovereign nations.

The law is not a mere arbitrary series of propositions without authority of reason, and without connection with the great and fundamental principles of right.

Its unreasoning and unreasonable application by its expounders may have made its most manifest and plain principles seem obscure, and furnish authority in adjudicated cases for almost every side of every question, but the principles of law which justly control all cases which arise in human affairs are as fixed and certain as that moral law, "one jot or tittle of which cannot fail, although the heavens and the earth should pass away."

The principles which control and regulate and limit the law of contracts seem to be plain and indisputable.

Pothier, a writer of correct analysis and approved learning and authority, says: "It is of the essence of obligations, first, a cause from which the obligation proceeds, second, persons between whom it is contracted, and, third, *something* which is the object of it. Chitty on Contracts, page 8:

> Whenever a promise is alleged to have been made in consideration of the release of any interest, if it appear that the promisee *had in fact no interest*, which passed by the release, there will be no consideration for the promise alleged.

Chitty on Contracts, page 41:

> A mere moral consideration cannot support an assumpsit.

Page 45:

> The consideration also must be such as the plaintiff has the means of performing, or causing to be performed, and it will therefore be insufficient if its performance be naturally impossible.

Page 54:

> The general rule of the law of England is that a man who *has no* property in goods cannot, by making a sale, transfer the property to another.

Page 405:

> These citations might be multiplied indefinitely to establish the proposition that the law and contracts relate only to rights in things, in something certain and tangible, something which is capable of being reduced to possession.

I do not find the force of the argument as conclusive as it seems to some others upon the proposition that the owner of a captured ship or cargo, by demanding the payment of the contract of insurance as for a total loss, by operation of law abandons whatever right or interest he has in the possible future recovery, and that it is by that contract (an implied contract) transferred to the underwriter. I do not find either the authorities cited or the reasoning upon this proposition to be as conclusive as they address themselves to the minds of others.

It is true the reasoning in the case of Comegys *vs.* Vasse, in the first volume of Peters's Reports of the Supreme Court of the United States, in the opinion of Judge Story does assert this proposition in unlimited terms; but I find that in other cases a better reasoning and more correct, and to my mind more conclusive, examination of that question is presented, a conclusion clearly sustained by the reason of the law and by all the principles and distinctions on which the law of property rests.

It will be observed that the proposition of this bill is that there is a right of property or an equity in the nature of a right of property existing by virtue of contract between the underwriter and the assured, that the *spes*, the *hope* of the possibility of recovery, of indemnity, of reparation in some form as the result either of war or of negotiation, or in this case of some omission of duty by a sovereign nation—that this possibility, this *spes recuperandi*, is the subject then of an actually existing contract. This is a bare and naked proposition of law. It carries no equity with it. It is, if true, true simply because the law so affirms it, because it has become settled as a matter of adjudication.

The fact is that in this contract of insurance the *hope of possible and ultimate recovery* can never be regarded as a part of the contract. The fact is that the business of marine insurance in time of war and of war risks imperatively demands that it be made upon the basis of the payment of the premium by the assured party, that no contemplation can be had in the conduct of that business of the indemnity upon possibilities such as these, but that in the ordinary legitimate transaction of its business it must be based upon the consideration of an average loss and of payment by the assured in the shape of premiums.

If that be so, while technically it may be true that the owner of a captured ship and cargo and the underwriter in effecting their contract of insurance or by operation of law consent that the possibility of a recovery and ultimate indemnity shall be transferred by that act, it is equally true that the underwriter stipulated at the time and received a compensation for the risk which he undertook, and in the adjustment of his business that he said to the owner, "I must apportion this premium which I demand of you, not upon the possibility of a *spes recuperandi*, but upon the proposition that you must pay me a sufficient sum of money, together with others whose ships will not be captured, to make my business profitable and restore the loss which I may suffer in any one case."

I say, then, that while it may be technically true that there was, if this authority of Story be correct, an inference of that description, it was not true in fact, and would not be a part of the contract or a part of the consideration which the assured gave to the underwriter for the assurance.

Mr. THURMAN. May I be allowed to interrupt my friend a moment?

Mr. CALL. Certainly.

Mr. THURMAN. While I totally dissent from his view just expressed, I want to call his attention to the fact that in every single case, I believe without exception, where the insurance companies paid the loss the owner made a formal written assignment to the insurers.

Mr. CALL. That would not alter the case at all.

Mr. THURMAN. I do not think it was at all necessary, but that is the fact.

Mr. CALL. If such is the fact, my proposition is this, which I think is a very clear one, that when the owner of this subsequently captured ship and cargo stood before the underwriter and they together made the contract of assurance, the underwriter said to him, "I must demand of you a premium sufficient to cover my possible loss and the use of my money; I must apportion that from time to time between you and others whose ships are insured;" and when the assured said to him, "What of the *spes recuperandi;* what allowance will you make in the estimate of this for this *possibility of a possibility*, this *hope* that there might be success on the part of the Government of the Union, defeat on the part of the Confederacy, an omission of duty on the part of the English government, and an arbitration and an award; what of this *spes recuperandi* and these facts; what are you going to allow me for this?" The underwriter said: "I say again, I will allow you nothing; I cannot base my business on such vague and uncertain and fugitive and shadowy hopes and expectations." I say, therefore, that it was not and could not have reasonably been any portion of the actual consideration of the contract of insurance in that case.

But let us see, Mr. President, if such is the law. Let us see if the reasoning in the decision of Judge Story in the case of Comegys *vs.* Vasse, applies here. That decision was that a bankrupt had no right to stand up and say to his assignee and to his creditors, "I was an insurer. The treaty between Spain and the United States, and the commission under it, have awarded to me by virtue of the authority given to it, indemnity for my losses, and have substituted me to the position of the assured in the vessels and cargoes for which I was the underwriter, and I demand, as this could not have been property, and was not assignable, that it shall be paid to me, and not to my creditors." The court in that case decided that it was assignable; that it vested in his creditors and his assignee, and not in him, and in so doing they held that this *spes recuperandi*, when realized in money, was property; but the distinction between that case and the one now before the Senate is that in that case there had been an adjudication by a commission, there had been a decision and an award. The *spes*, the hope, the possibility, had become money. In that case there was a treaty with Spain; there was a commission appointed and authority conferred upon it to award compensation to persons who had sustained losses; there was an award made, and the money actually paid. But in this case the Senate is asked to decide that there exists by virtue of general law not binding upon the Senate, but creating an equity in the underwriters—they are asked to decide what that commission did decide without objection, so far as we are advised on the part of the assured, without any conflicting claims. We are asked to decide that the underwriter has in all cases a right of property, by virtue of a technical abandonment, in what is called the *spes recuperandi;* this vague, shadowy, uncertain possibility.

In the case before the Senate at this time, in the case of the Geneva award, there was no specific determination which is absolutely binding. It is entirely inferential. But let us, before we go into that, look somewhat into this question of abandonment. Let us see if the authorities are conclusive, for there must be a standard of right, a legal right first established in the assured himself. There must be a legal right established by virtue of his technical abandonment. I read a definition, from Crump's Marine Insurance, of abandonment, as follows:

> Abandonment is the act by which the assured, declining as a prudent owner uninsured who exercises a reasonably sound judgment, to prosecute the adventure, cedes to his insurer the subject-matter of the insurance affected by a peril insured against but still existing *in specie*, in order to acquire the right to claim for a total loss.

Now, my proposition, as contradistinguished from that stated by the honorable Senator and those who maintain the right of the underwriter, is that this technical abandonment is not a positive and absolute and fixed fact, which transfers by operation of law the title and ownership of the assured in the property, or in the *spes recuperandi*. I affirm that it is within the control of the parties and judicial tribunals; that it is a right of equity, and that because a man has demanded and received payment for a total loss, and a case has been mentioned in the argument here where a premium of 40 per cent. was demanded and the underwriter agreed in the event of capture and loss to pay 60 per cent. for and in consideration of 40 per cent. of premium paid—60 per cent. in case of capture and loss. I say that the technical abandonment by the parties is not conclusive and operative and absolute upon the demand and the receipt of payment, as for a total loss. But it is a rule of equity and it is within the control of the parties, and it is within the control of the courts; and it will not be allowed to be enforced to transfer absolutely the right of property, and to give to the underwriter twice payment for that which he had stipulated to receive payment for but once, which would be the effect of the proposition contained in this bill.

It is said in this text-book:

> Abandonment may be revoked by consent, waived by the act of the assured, and *defeated by the recovery of the property before action.*

These are all cases in which this technical right of abandonment is controlled by subsequent events, by the relations of the parties, by the act of the parties, "defeated by the recovery of the property before action."

> Abandonment will be defeated if subsequent events show that it was made on insufficient grounds. (Hamilton *vs.* Mendes, 2 Burr, 1198.)

Again:

> The assured on ship has a right to give notice of abandonment immediately he hears that his vessel has been forcibly taken out of his possession and control by seizure or capture.
>
> There is a total loss by seizure, although the assured might have prevented a sale by giving bail, which a prudent owner would not have given.
>
> If before action the ship be recaptured and restored to the possession of her owners either undamaged or only partially damaged, the assured cannot recover as for a total loss, even though the loss was total at the time he gave such notice.
>
> After recapture the question of partial and total loss is to be decided according to the situation of the property, the degree of damage by the disaster, and the amount of liens by reason of the perils insured against.

These affirmations of the law only serve to show that the status of the argument upon which the proposition of this bill rests cannot be maintained, to wit: that a right of property, a right of contract exists in what is called the hope of a recovery, or indemnity or reparation, and that this hope is transferred by technical abandonment by operation of law upon the capture and destruction of a ship and cargo.

Mr. THURMAN. Will my friend allow me to interrupt him?

Mr. CALL. Certainly, with a great deal of pleasure.

Mr. THURMAN. My friend cites certain authorities that limit the right of the insured to abandon his property, which show that under certain circumstances he cannot abandon the property as a total loss; but can he find any authority that where the owner has abandoned it and the insurer has agreed to the abandonment and is paid for a total loss, the insurer is not subrogated to all the rights of the owner?

Mr. CALL. That is just the point I was endeavoring to meet, perhaps unsuccessfully. I say that the proposition of the bill which the learned Senator has reported, and which he sustains with so much power and learning and ability, is that upon a capture of a ship and cargo and a demand for payment by the underwriter as for a total loss, there is a technical abandonment and a transfer by operation of law. I read this authority to him to show that there was not absolutely and in all cases such a technical abandonment; that it was qualified; that it was in the control of the parties and of the court, and qualified and restrained and determined by subsequent events, and notably by the fact of a recapture or restoration; which latter fact finds its reasonable and legal equivalent in the allowance of the value of the ship and cargo as is sought here in this bill.

I think the proposition of the Senator from Ohio that when there has been an abandonment by a contract in writing there is a substitution cannot be disputed; but even then if a case of hardship it would be qualified and restrained. The case presented in the argument of the Senator from Ohio, which I have quoted from, was a technical abandonment inferred from a demand for payment, or for a total loss, and a transfer of the *spes* by operation of law.

The authority that I have read is that in the case of recapture the abandonment is within the control of the assured; that if any circumstance of equity should exist, it is within the control and the power of the courts. My proposition is that we, in looking at this as a status of positive right, even looking at it without reference to the parties who were engaged in the transaction, without regarding it in its national character, seeking only to find the status of right which should rest upon the conscience and judgment of Senators here to induce them to vote that these underwriters have a preferred claim over all other persons—that even looking at it in that light the argument fails when it is asserted that by this technical abandonment there was an actual transfer, an abandonment, made before there was scarcely a possibility, certainly any contemplation, of recovery. The result is that the underwriter who had been paid his premium, who took no account of the *spes recuperandi*, with whom it was no element of value in the determination of the amount of premiums which he should demand, and which he did demand, the underwriter who stipulated for payment in premiums and has received payment in premiums, and yet by virtue of a naked abstraction of law he stands here asserting a claim for preferred payment, not upon the ground of loss, not upon the ground of hardship or injustice, but upon the plain, naked ground of a technical right transferred by operation of law, without hardship, loss, or injury. In that I think he has failed, and I say that the authorities are that the abandonment, whether technical or written, will be controlled in the interest of equity, in the interest of both parties, and if there be hardship and injustice, even as to private parties it will not be allowed to prevail and have effect.

The Senator from Ohio and the learned Senator from New York, with whom I differ with great diffidence and hesitation, read from the opinion of Chief-Justice Kent, in the case of *Gracie vs. The New York Insurance Company*, a short paragraph as clearly evidencing the rights of the underwriters, the insurance company, to substitution and subrogation, to all the rights of the assured in case of a subsequent indemnity or reparation. The words were as follows:

> If France should at any future period agree to and actually make compensation for the capture and condemnation in question, the Government of the United States, to whom the compensation would in the first instance be payable, would become trustee for the party having the equitable title to the reimbursement, and this would clearly be the defendants (the underwriters) if they should pay the amount.

Mr. President, that was unquestionably true in that case, and that decision was a correct decision; but it was a correct decision because in that case the assured had paid the amount of a bond which had been exacted by the prize court upon his ship and cargo, and under the policy of insurance he was required to pay whatever losses were sustained; and if the loss sustained by the assured should be reimbursed, there being no loss then, the court held that the money paid by the underwriter should be returned to him.

This decides nothing more than that; but the reasoning of the learned chief-justice in my opinion entirely dissents from the argument of the learned Senators from Ohio and New York, and conclusively affirms the right and the duty of an *equitable apportionment and distribution of this fund* to those who have sustained the greatest real hardship and loss. It denies the absolute transfer of this *spes recuperandi*. It denies the force of a technical abandonment without consideration as making an absolute transfer of title under any and all circumstances.

Now let us see:

> An abandonment, then, as to this point, would have been as idle as if the property had perished at sea. It is settled, that if a *total loss actually exists* the assured may recover as for a total loss without abandonment. To make an abandonment when there is nothing to abandon is absurd.
>
> The case, then, comes to this, whether the plaintiff cannot recover the amount of his loss—

That is, the assured—

> without abandoning the proceeds at *Leghorn*. If he cannot, he must either be content to bear the heavy loss of the amount of the bond, or content himself with the prime cost and charges, *and suffer the insurer to reap the gain and profit of the voyage.*

It will be observed that in this bill and the argument it is claimed that *as an incident* of the contract of insurance, the *spes recuperandi*, the hope of ultimate indemnity and reparation, is transferred absolutely, without regard to its amount, to the underwriter, that this is a part of the contract. In this case before Judge Kent there was a contract of insurance, there was a capture of the ship and cargo, there was a condemnation for prize, there was a bond of indemnity given, and the cargo allowed to be reshipped and sold, and it was sold by the assured at a large profit. The underwriter said, "You have demanded from me the payment of this indemnity; you have dealt with me as upon a total loss, as upon an abandonment. There has been a technical abandonment, and if you will actually abandon now the proceeds of this cargo I will pay the contract of insurance and the indemnity." But what does the court say? It says he must pay; that the assured has a right to retain the profits of his voyage and also to recover the assured loss. Under any other construction of the law, says the court, the assured must—

> Suffer the insurer to reap the gain and profit of the voyage. *Neither alternative is within the spirit or equity of the contract.*

Again, Judge Kent says:

> I do not perceive any principle that requires the assured to abandon the property so reclaimed when the amount of the money paid exceeds the prime cost of the article, and which does not require it when the amount is less. He is only to abandon when he goes for the whole subject as lost, and part of it remains, or the hope of its recovery exists.

In this case, says the judge, if the underwriter paid the loss and the money paid by him is subsequently returned to a third party, (the Government,) it would equitably be the property of the underwriter who paid it. Now, granting for the argument all the premises of the bill and of the Senator from Ohio, [Mr. THURMAN,] and treating this case only on the status of these legal propositions asserted in this case, would the underwriter claim anything more than the amount he had paid? Could he claim the amount of the premiums already received from the owner and also the amount of his own money paid on the risk for a total loss?

To show, Mr. President, how varied is the law of marine insurance I read the following remarks of the court in that case:

> I am aware that the French law of insurance is different, as the ordinance of the marine has a particular and very equitable provision on this subject. If the insurer, under that ordinance, be called upon to pay the amount of a ransom or composition he is entitled to take the profit of it, by becoming proprietor of a portion of the effects redeemed in a ratio to the amount of his subscription. (*Ord. des Assurances*, article 67, 98; 1 Emerig, 467, 472.) But the English rule is otherwise. The insurer must pay the amount of the composition, if it be reasonable and *bona fide*, without being entitled to any interest in the proceeds. This not only appears from the cases already referred to, but from the decision in Berens *vs.* Rucker, (1 Black. Rep., 313; Park, 89, 6th ed.,) which has always been regarded as good law. Nor is the assured, in this case, to be limited to the prime cost of the subject. That is only resorted to when it becomes necessary to ascertain the value of the subject insured, or, what is the same thing, *the amount of the loss*. It is a rule of computation which ceases when the parties have fixed the value, or it can be ascertained, as in this case, by another and more obvious rule, namely, *the sum actually paid*. The latter is in this case the just and certain test of the amount of the loss, and I do not know of any decision or principle which forbids us to resort to it.

Mr. President, this is the status of right which this bill asserts and upon which it proposes to make this distribution. It will be observed that these authorities, such as they are, relate to cases between individuals; that they are an assertion and an application of the rules of law to cases occurring between individuals and in respect to individual rights. It would be manifestly unjust to an underwriter who has made a contract of insurance and has paid as for a total or a partial loss that the assured should recover and retain the property and also recover the loss. The court in all cases properly endeavors to adjust that equity, that right, fairly between the parties, and so interprets the contract. But how about this case? Here is a case in which a contract of insurance is made, in which a war premium, we will say, of 40 per cent. is paid upon the assured value of the ship and cargo. Here is a proposition that full indemnity shall be allowed for the repayment of the entire value of that ship and cargo, the 40 per cent. and the 60 per cent., to whom? To the underwriters, who have paid only 60 per cent. Is that equity? Is that contemplated in the contract? If it be a hard legal right, is it an equitable right which should govern the conscience and judgment of Senators in the distribution of this fund? Shall the underwriter be twice paid? Shall he receive both the 60 per cent. of his own money which he paid under his contract and the 40 per cent. of the owner's money? If so, he has received not only the profits of his general business, but he has received 80 per cent. for the 60 per cent. used in this case.

Mr. THURMAN. Will my friend allow me to interrupt him there?

Mr. CALL. Certainly.

Mr. THURMAN. If hard, upon whom is it hard? Take a single instance. There was the ship Brilliant. She was insured in one of the New York insurance companies. She was lost. If there is any hardship in that insurance company recovering the value of the property that was thus destroyed, upon whom does that hardship bear? Is it not upon the owner who paid the insurance? Is there anybody else? Does it bear hard on me or my friend from Florida or some third person who had nothing of ownership in the ship and never paid a cent of premium of insurance? Upon whom does the hardship bear if there is hardship, if the insurer gets the value of that ship and her cargo? Is it not upon the owner of the ship and of the cargo? But here the owners of the ship and cargo do not claim a dime. They never claimed a dime before the Geneva tribunal; they do not claim a dime before Congress. Not one of them is here asking us to give him a cent. They would scorn to ask it.

Mr. CALL. Mr. President, I am not arguing this case for any class of people. I do not know whom these propositions will benefit or whom they will injure. All that I say is that the underwriter who has received 40 per cent. in the shape of premium for the insurance of a ship, upon the contract that he will pay the remaining 60 per cent., if it amounts to that, or that he will pay the assured value of the ship in case of capture, and who has paid that amount, and who now comes here and says, "I want to be paid the whole value of this ship and cargo without reference to the 40 per cent. that I have already received," I say that underwriter is being twice paid for the same contract, and I do not see how this conclusion can be avoided. It may be his legal right, but I say, if it is his legal right, from which I dissent, that it is a bare and naked and hard legal right. It is a legal right which it is not incumbent upon the conscience and judgment of the Senate to carry into effect, for we are not bound by the strict status of mere technical right, but are seeking to distribute this fund according to equity, according to the highest equity, for the purpose of relieving the greatest hardship and the most meritorious loss and suffering resulting from captures by Confederate cruisers.

I say then that if this *spes recuperandi* was transferred by operation of law or by express contract to the underwriter and he received 40 per cent. and afterward paid 60 per cent. under his contract, and he now stands here by virtue of that contract or that technical transfer by operation of law to demand payment out of this fund, both the 40 per cent. and the 60 per cent. and interest upon it, that he is exacting the performance of a hard and an inequitable contract, and that if it had been considered as the basis of his business, if the *spes recuperandi* had been a living, actual, practical fact, it never would have been tolerated as a basis of business operations in marine insurance upon war risks. If it had been known that every loss from a captured vessel would have been indemnified, that indemnity would be paid for it, and full reparation made, there would have been no 40 per cent., nor 30 per cent., nor 20 per cent., nor 10 per cent. accepted as a premium for insurance. The delay would have been merely temporary; it would have been a consideration not of ultimate loss, not of absolute loss, but a consideration of inconvenience of time and expense, of delay, of the temporary use of money.

I say, therefore, that the contract as stated by the honorable Senator, and stated technically, perhaps, with some degree of correctness under the reasoning of Judge Story's decision cannot be sustained when regarded in an equitable point of view. Such evidently was the opinion of Judge Kent in the case referred to. Now, what does Chief-Justice Shippen say in the case cited from Pennsylvania. I regard this case also as by no means sustaining the proposition contained in this bill, but rather the contrary? He says:

> An insurance is a contract of indemnity for a loss within the policy, and the law imposes no *arbitrary penalty* upon either party, but proceeds upon just and uniform principles: *thus where the loss sustained is such as that the assured by an abandonment* might consider it as a total loss, yet waits till it appears part of the property is saved, he then loses his right of recovering as for a total loss, and must look to that part of the property saved according to its value for part of his indemnity, and has recourse to the underwriter for the remainder of the sum insured as an average loss. So where the loss is such as might be considered as total from the beginning, and continues so to the time of the demand, it is then that the two kinds of total loss are to be considered; if the loss is of that kind as to be attended with a total destruction of the property, as being consumed by fire, or sunk in the sea, the insured in that case may recover from the underwriter *without any abandonment*, as there is nothing left to abandon; but if it is said a capture and condemnation is not a loss of that kind, but leaves a *spes recuperandi* in the assured, and therefore something is left, although only a chance, for the abandonment to operate upon, what will be the effect of not abandoning? *Exactly the same as in the former case, where the loss must be paid after deducting the value of the thing saved.* So in this case the loss must be paid after deducting the value of the thing not ceded, which value is the estimated benefit which the assured may receive from retaining the chance either of a recapture or the reversal of the decree of condemnation. It is true *this benefit* is not so easily calculated as when goods are saved and sold; *but the principle is the same.*—(1 *Binney Reports*, 54.)

If the principle is the same, and the benefit, now that it is realized, can be exactly calculated, just as it would be where goods are saved and sold, would the rule of distribution under this case give the underwriter repayment for the amount of insurance paid, and also payment again of the premiums already received? If so the underwriter's rights are governed by one rule and the assured by another.

Mr. President, the simple question presented by the bill is whether we shall pay these underwriters twice, that is all, for the performance of their contract of insurance; and the ground alleged for it, as I have said before, is that there is an iron rule of law, that a *spes recuperandi* is a right of property, and that this intangible, uncertain, shadowy, and indefinite possibility of possibilities is the subject of assignment either expressly or by operation of law in every contract of marine insurance. This proposition is derived from an analogy to marine insurance in time of peace where there is a total loss from fire, from destruction, from burning, from the casualties of the sea. The analogy and the reason do not hold good; they do not support the case; they have no logical or reasonable connection with the conclusion reached and sought to be made the law for the distribution of this fund.

The ordinary case of marine insurance in time of war is that a vessel being a captured prize of war, according to the laws of war, is taken into a prize court and there condemned, and only destroyed when the necessities of war demand it for the purposes of preservation of the captors or the impossibility of saving the property. She must undergo a determination of the question of the legality of her capture. The contract of course contemplates that as an ordinary incident. It contemplates that there may be a determination of that question which will leave some tangible and real right in the parties, which may be the subject of a moneyed indemnity, which may be the subject of restoration, which may be the subject of contract. The French law and the laws of some other maritime nations provide for a restoration of the property under certain circumstances and conditions. The marine law provides for a case of repurchase. All these are contingencies; but here is a case in which this rule of analogy is sought to be transferred, under the authority of Judge Story's opinion in the case of Comegys *vs.* Vasse, of his general reasoning, to be transferred to the absolute loss and destruction by virtue of a capture upon the high seas resulting from what? From an omission of a duty by a foreign nation, a third person and a neutral party, a duty not to these insured parties, a duty to the nation, a duty resulting from international law, and a status for a right of property is drawn from these facts. These facts can give no origin to any right of property except to the captors. The omission of a duty on the part of Great Britain can create no right of property in any citizen of this country.

I do not see that either in reason or in the authorities the proposition that a status of legal or equitable right arising from these facts can be sustained. I admit that in the authority cited from the Supreme Court of the United States—Comegys *vs.* Vasse—the *spes recuperandi* in the reasoning of the case is asserted to be a right of property and a subject of contract. I admit that the reasoning of that case provides that in the case of a technical abandonment it passes to the underwriter; but there was before the court no other party and no opposing interest. The owner of the ship and cargo was not there contesting the right; he was not there asking for restoration of the premium. We have no evidence of that. The simple question before the court was that which I have stated, the question whether the right was assignable or not; but the reasoning of the court certainly sustains the proposition advanced by the Senator from Ohio, the proposition asserted in this bill, of a right of property by virtue of the *spes recuperandi* of an equitable right to this fund thus awarded.

I deny the other branch of the proposition. I deny that this fund is in any sense of the word the subject of property or legal right. It is claimed that the treaty and the award made have determined the status of right; that they have determined it by the fact that they have made a compensation for certain specific losses. That fact is denied; but admit for the sake of the argument that the award was made for certain specific losses, for vessels destroyed by certain specific cruisers, and that the value of these vessels so destroyed was taken as the measure of damages, what consequence results from the fact that certain losses of property shall be taken as the measure of damages? What obligation rests on the Government? What connection is there between the cases of individual loss, the loss by a private citizen, and the reparation made to the Government? When did it become the law, and where will the learned Senators who support this bill find an authority for this proposition, which is necessary to their argument, that a capture by a belligerent creates a right of property, a right of indemnity in the owner of the captured ship and cargo, and against the captor of a lawful prize of war? And where will be found the law or any analogy of law, or any just reasoning, to sustain the proposition that an omission of a duty by a neutral nation to another nation at war, in allowing the use of her ports as recruiting stations to her enemy, will create a legal or equitable right to indemnity in the citizens of the belligerent State as against the neutral for losses sustained from captures by the ships of the belligerent which made use of the ports of the neutral?

This conclusion asserted by the bill as a proper rule of distribution is without any authority either in reason or law; and yet it is a necessary proposition to sustain the bill reported by the committee. The pecuniary liability for damages of the wrong-doer to the person wronged is the subject of municipal law alone, and is created by municipal law and without it cannot exist. Municipal law is entirely intra-territorial and cannot apply to international rights and relations. In this case to establish even a connection between the loss of the citizen by the capture of the inculpated cruiser, it would be necessary to show that the inculpated cruisers would not have made those captures unless they had been allowed to make use of the neutral ports. It would also be necessary to establish the proposition that the inculpated cruisers, that is, those fitted out in the ports of Great Britain, lost their rights as the ships of a belligerent by reason of this omission of duty on the part of Great Britain, and that captures made by them created a right of indemnity not belonging to those made by others.

The right of a citizen to indemnity or compensation for losses sustained by the act of war or for any wrong done by a sovereign power, which is not the subject of redress in the courts of the sovereign committing the wrong by virtue of her municipal laws, can only be through his own government and by a demand for redress made in its national character. This demand must of necessity be for redress and not for the assertion of a legal or an equitable right. The only right the citizen has to make this demand on the Government results from the duty of the Government to protect the citizen. This right is general and belongs to all citizens in the same degree, and can only justly be exerted in favor of one to the exclusion of another by circumstances of greater hardship and loss in the one more than the other. No foreign tribunal can measure and determine this sovereign discretion

and duty of a government to its own people. No previous Congress can rightfully deprive a subsequent Congress of its power, or estop it in the performance of its duty to grant this protection equally and impartially to its citizens, and to apportion indemnity which may be obtained, whether by war or negotiations, among them, so as to reimburse them for actual loss and real hardship.

Is there a connection either in law or in morals? It is true that in municipal law the wrong-doer is held responsible by virtue of the municipal law to the person who is wronged, and that he is required to pay the loss sustained by virtue of his wrongful act, but is that a principle of abstract justice? Is it not merely a proposition of municipal law, and would it not be quite as competent for a municipal law to say that the Government will recompense damages to the wronged party and we will hold the wrong-doer responsible to ourselves? Is not that the necessary principle of international law? What municipal law can control and limit with the force and effect of law the sovereign power and discretion of the government of a sovereign nation in demanding or in awarding reparation for a national wrong committed, even though the injury to the citizen, the loss to the citizen is the occasion and the measure of the damages?

I find to my mind as the justification for my vote the opinion rendered by the Master of the Rolls in the case which has been much cited both in Judge Story's decision and others of Campbell *vs.* Mullet entirely conclusive. In that high court where the judges derive no luster from their high place but whose learning and judicial integrity and high character do rather reflect honor upon their high place of power, they have rendered a decision upon this subject, which seems to me to be entirely conclusive on the question whether or not a sum of money demanded as a national reparation is subject as of right to the claims of citizens who have sustained losses and where this loss has been the measure of the damages for the award. It is affirmed in that opinion that there can be no right of property in such a *spes recuperandi*. It is affirmed that the reasoning by which property has been distinguished and known at all times and under all systems of law something tangible, something susceptible of certainty, something not resting merely in hope, in the hope of recovering something which depends upon the contingency of national power, which depends upon the contingency of the disposition and willingness of a foreign nation to make an award, which depends upon the question of the power of government to enforce, persuade, or procure a reparation to be made,—the idea of a right of property subject to sale and conveyance in a contingency resting not only upon natural events, but resting upon the contingencies of war and peace, of national power and national defeat, to be entirely unreasonable and without foundation. Now, what says the court? It is said in the case of Campbell *vs.* Mullet:

> What is right? That which may be enforced in a court of justice. Had the parties whose property was condemned by irrevocable sentence any right? What they obtain after that condemnation, is not founded in right, but in policy between the nations, providing compensation to individuals who have lost property by sentences, which are thought unjust.

I ask is that not the case here? How was the Geneva award made? Upon what ground was it demanded, and by what measure was it justified? Was it not founded in policy between this nation and Great Britain? What could we have demanded private property in, before that court in the demand made by the United States? In the disposition and willingness of the government of Great Britain to grant redress? According to the argument of this bill the underwriters stood there in the person of the representatives of the United States, and demanded compensation. Compensation for what? For a loss. Upon what ground did they ask the government of Great Britain in that tribunal, through the representatives of the United States, to award them compensation? Was it on the ground of private property? Private property in a wrong sustained? Private property in a right of the United States to enforce redress? There is no foundation for these arguments. There can be nothing real in them. When they are analyzed it seems to me that this court is entirely right when it says:

> Whatever the individual obtains is not on the ground of right or private property, but of hardship and injustice. Though this, therefore, is not a case of pure donation, as of a gift without anything in the nature of a consideration, yet for the purpose of being contrasted with property or right it is a donation, not a restoration of a former right, but from a new fund belonging to an independent authority, *a grant to the sufferer for what he lost.*

In my judgment there can be no question whatever of the truth of the propositions contained in that decision. There can be no right as property. There can be no transfer by virtue of this shadowy *spes recuperandi* of a right to full indemnity out of this fund to the underwriters. The question, I think, is simply one of equity: who sustained the greatest hardship and injustice; who connected with this loss by these confederate cruisers sustained the greatest loss? I think that it should not be limited to the inculpated cruisers. I think that the assured should receive restoration of the premium which they paid, and that there should be an equitable distribution of this fund between all the parties who were sufferers, excluding the speculators who may have bought these claims for little or nothing, and distributing the money to the original sufferers, those who sustained actual loss.

At all events, I shall not, with my present convictions, vote for the payment of this sum as a preferred claim in the first class to the underwriters, but shall vote for the amendment to the bill upon the ground that the underwriters, if the bill from the Judiciary Committee be passed, will receive twice payment for the performance of their contract of insurance. They will have received the 40 per cent. premium for the payment of the 60 or 70 or 80 per cent., whatever it was, of the assured value, and under the provisions of this bill, if I am right in my judgment, they would again receive payment of the entire amount of the value of the cargo and the ship.

The principles which must regulate the exercise of the sovereign legislative power for the protection of the individual right of the citizens and the redress of their wrongs are the same as those which control the judicial power in the application of the law. In both, these principles are eternal as justice and as broad as right. Whether applied by one or the other they are only for the redress of wrong and for the protection of right. It is therefore immaterial to the question of the proper distribution of this fund that the arbitration of Geneva was a suit between nations. Neither at Geneva nor elsewhere will justice and right permit reparation to be made to him who has sustained no loss, or redress to him whose right has not been violated, or payment to him who has already been paid. These principles demand compensation for actual loss, relief for real hardship. They cannot be governed by the reasoning which would distribute the fund to those who, if they had suffered wrong would have suffered it without loss or injury. "*Damnum absque injuria*," as the law itself expresses it.

"This country is free because this House is free; which this House can never be but from the freedom of elections to it."—[Arthur Onslow, Speaker of the House of Commons, A. D. 1741.]

SPEECH OF HON. THOMAS EWING,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, April 13, 1880.

The House having under consideration the bill (H. R. No. 5523) making appropriations for the support of the Army for the fiscal year ending June 30, 1881, and for other purposes—

Mr. EWING said:

Mr. SPEAKER: There has been a great deal of unfavorable comment by gentleman on the other side and by the republican press, on the fact that democratic members have failed to defend in debate the amendment to the pending bill, which provides:

> That no money appropriated in this act is appropriated or shall be paid for the subsistence, equipment, transportation, or compensation of any portion of the Army of the United States to be used as a police force to keep the peace at the polls at any election held within any State.

What reason had we to suppose that this section would meet with serious opposition on the republican side? It is in the exact language of a provision of the law now on our statute-books, making appropriations for the support of the Army for the year ending 30th June next. That provision was adopted in June last in a very full House by the votes of all but twelve of the republicans present. It was crowed over by the leaders of that side, and we democrats were taunted that we did not give it as many votes as the republicans gave it. As there is at least as much reason for putting that provision on this year's Army bill as there was on the bill of last year, how could we anticipate and prepare to meet their furious assaults on the identical provision which ten months ago they so unanimously and enthusiastically supported?

Their objections come now in a Babel of cries. They are all distressed at the amendment, but each wears his rue with a difference, from my colleague, [Mr. GARFIELD,] whose vacant chair is an eloquent protest against the unseemly somersault of his party, down through all degrees of opposition to the gentleman from New Jersey, [Mr. ROBESON,] who, having been absent when the vote was taken last June, escaped making a record in favor of the amendment, and is therefore free to dip his pencil in the blackest colors in painting its purpose and effect.

Their chief objection, however, is that so elaborately urged by the gentleman from Connecticut, [Mr. HAWLEY.] He says:

> The more important question concerns the alleged right to place general legislation on appropriation bills. It is a persistent endeavor to incorporate here a revolutionary policy; a policy revolutionary of the parliamentary history of Great Britain and of the United States. It is subversive of the freedom of debate and of the freedom of voting. * * * It is logically, clearly, distinctly, A REVOLUTION IN FREE GOVERNMENT, AND IS TO BE RESISTED ACCORDINGLY.

Mr. Speaker, how utterly and absurdly preposterous this is. The republican party from the time it first obtained control of the House of Representatives, for twenty years, session after session, put general legislation on appropriation bills. That party initiated its control of the House by putting on the Army bill, in 1856, a political "rider" declaring that the troops should not be used in the Territory of Kansas to enforce the laws—a Territory under the sole jurisdiction of the United States. That "rider" was adhered to by the republicans of the House, led by Mr. Sherman, resulting in a failure of the Army bill, and an extra session of Congress. We all recollect the political rider which the republican Congress put on the Army bill in 1868; a provision which deprived the President of his right of command, and

gave him the alternative of a disbandment of the Army or a surrender of his constitutional authority. In twelve years—as my friend from Texas [Mr. REAGAN] and my friend from Pennsylvania [Mr. BELTZHOOVER] have shown—in twelve years, from 1863 to 1875, the republican party have put on and enacted three hundred and eighty-seven provisions of general legislation on appropriation bills.

If the gentleman from Connecticut [Mr. HAWLEY] were an entirely new member, one might be disposed to overlook his monstrous and distorted arraignment of the democratic House. But he was a member of the Forty-third Congress—a Congress that put more political "riders" on money bills than any two Congresses that ever sat here. Forty-four political riders were put on in that Forty-third Congress, and I have no doubt that, with a party fidelity which never flinches or fails, the gentleman from Connecticut voted for every one of them. Only think of it! Forty-four revolutions in one republican Congress!

I think it was the gentleman from Minnesota, [Mr. DUNNELL,] who, growing hot on this subject, warned us that the republican party would make this issue—the issue of parliamentary reform—against the democracy, and carry it before the people at the polls this fall. I am not much of an advocate of general legislation on money bills. I greatly prefer the more usual and orderly methods of legislation; but I do not shake in my shoes at the sober and solemn threat that the republican party will appeal to the people on this issue. We can safely compare records with it whether we consider the frequency or the purpose of a resort to such general legislation.

Mr. Speaker, prior to the Forty-fifth Congress, in which sat the first democratic House chosen in twenty years, the rules gave wide latitude to legislation on appropriation bills. The democracy at once amended the rules so as to provide that no provision changing existing law should be placed on such a bill unless it was germane and retrenched expenditures. Here was the first check on the inveterate practice of republican Congresses of resorting to riders on appropriation bills. It was wise statesmanship in the democracy to check such indiscriminate legislation and at the same time welcome all amendments tending to economy in public expenditures.

What is the character of the legislation placed by the democratic House on money bills which has so excited the indignation of the republican party? It includes but four disputed measures. First, the provision on an appropriation bill in 1878 prohibiting the base and degrading use to which the Army had been put in dispersing it in petty squads, and placing each squad at the beck and call of a United States deputy marshal as part of his ordinary *posse comitatus*. When the republicans arraign the democracy for this "rider" let them show the people wherein it is better to rely on a standing army instead of on the people for the force needed in arresting offenders; and also show why a republican Senate and a republican President approved this democratic measure.

The next offensive democratic rider was the provision in the judicial appropriation bill of last session, which repealed the odious and unjust jurors' test oath and abolished packed partisan juries in United States courts. Before the gentleman from Minnesota [Mr. DUNNELL] puts himself on the country on this issue, let him first explain how and why it was bad to give to the whites of the South an equal chance with the negroes to sit on juries; and also why the provision was only feebly resisted by the republicans in Congress and was promptly approved by the republican President?

Our next act of "revolution" was the rider on the immediate deficiency bill which we passed the other day, providing that when deputy marshals are hereafter appointed to intermeddle with State elections they shall be chosen by United States courts instead of by partisan marshals, and shall be citizens of good character taken equally from each political party, thus giving the country the best practical assurance that these officers will not be appointed or used as mere instruments of party triumph. Several of you republicans voted for that amendment. Your most distinguished leader [Mr. GARFIELD] framed it with his own hand and sent it to the Clerk's desk, declaring he would support it if he were the only man in the House to do it. But when the pressure of party interest was brought to bear on him—when he reflected that sectional agitation was essential to republican success—he lost the courage of his convictions, and voted against the very amendment he had framed and offered and pledged himself to support. Will you take issue with us on this Garfield amendment? Do you think the masses of the republican party are so debauched by partisanship that they do not feel that it is just and fair to provide that if there must be marshals at the polls they shall be so chosen that they will not be, as they were in 1876, made up chiefly of the ruffian scum of our large cities—bullies and bribe-takers—whose conduct, as shown by congressional investigations in New York, Philadelphia, Cincinnati, and Saint Louis, was only less disgraceful to the Administration than the reckless partisanship which dictated their selection and employment.

You will go to the country, I suppose, on these democratic measures of reform and on the amendment to the pending Army bill prohibiting the use of troops as a police force to keep the peace at the polls—an amendment which at the extra session received almost every republican vote—and that, too, as a rider on the Army appropriation bill. Very well. Go to the people! Show them your Rule 120 regulating general legislation on appropriation bills—a rule which your republican Speaker held was *intended* to permit *increase* of expenditures—and contrast it with the same rule as modified by the first democratic Congress in 1875 which forbids such legislation unless it *decreases* expenditures. Without intending to challenge your rider in 1856 prohibiting certain uses of the troops in Kansas, for that rider was in the interest of freedom and fair play, and I have therefore no adverse criticism to make of it—without I say criticising that rider, or any other, which belonged to the period of the war and its settlement, I challenge you to contrast the democratic riders with those for which you are responsible. Contrast our riders in favor of economy, restoration of impartial juries, rescuing the Army from base and degrading party uses, and so regulating the appointment of deputy marshals as to give hopes of reformation of the grossest abuses to which the power to intermeddle with State elections has been put; contrast, I say, these riders, every one of them in the interest of good, impartial, and economical government, with the riders you have placed on appropriation bills. Contrast them with your rider on the Army bill in 1868 robbing President Johnson of his command of the Army because he adhered to Lincoln's policy of reconstruction. Contrast them with the salary-grab rider which passed a republican House and Senate and was signed by a republican President—who thus with the same pen approved a rider which doubled his own salary and vetoed a separate bill equalizing bounties among the soldiers whose valor lifted him to honor and glory. Contrast them with your rider on an appropriation bill which took thousands of dollars from the hard-earned treasure of the people to pay the expense of a political parson on a junketing tour around the world. Contrast them with your political amendments on an appropriation bill in 1871, by which the worst features of the marshals and supervisors laws were ingrafted on our code——

Mr. MITCHELL. Will the gentleman yield one moment?

Mr. EWING. No; my time is too short.

Mr. MITCHELL. Just one remark, for I suppose the gentleman does not wish to misrepresent——

The SPEAKER. The gentleman from Ohio [Mr. EWING] declines to yield.

Mr. MITCHELL. I simply desire to say—— [Cries of "Order!"]

The SPEAKER. The gentleman from Ohio declines to yield; and the gentleman from Pennsylvania surely knows that he has no right to interrupt the member on the floor without his consent.

Mr. EWING. Irregular and objectionable as the practice of general legislation on appropriation bills may be, it certainly does not lie in the mouth of the republican party to arraign the democracy for it. When we shall have put three hundred and eighty-seven riders on money bills in twelve years and forty-four in a single Congress, when we shall have used that power to degrade and break down a co-ordinate branch of the Government, to squander the people's treasure, to overthrow their time-honored methods of election, and to impair and put in peril their inherited liberties; when we have put it to the bad and base uses to which the republican party has so often put it, then may my republican friends with less brazen effrontery than now appeal to the people to condemn the democracy for putting general legislation on appropriation bills.

Our republican friends during their control of this House and when putting "riders" on money bills at an average rate of thirty-two a year for the last twelve years of their power never once reflected that they were guilty of the crime of revolutionizing free government. In fact, so accustomed had they become to that method of legislation that in casting about for objections to the wholesome reforms the democracy were inaugurating it never occurred to them until the extra session to object because those reforms were put on appropriation bills. But now they know of nothing so shocking as this general legislation. The gentleman from Connecticut, [Mr. HAWLEY,] after voting for riders all his congressional life, now declares that—

> Whatever the amendment may be, whether it be altogether bad or only tainted and colored with badness, or whether it be altogether good, whether it be the devil's creed or the New Testament, I vote against any political amendment on an appropriation bill, and vote against that bill when the amendment shall have been put on it.

We have here an illustration, Mr. Speaker, of the beneficent effect of frequent changes in the control of our Government. Gentlemen on the other side would never have seen the terrible tendency of indiscriminate legislation on appropriation bills had not the people taken from them the power and the temptation to keep on at that sort of work. Should the republicans be turned out of the executive department also, they would very soon see the evils of that extravagance, corruption, and assumption of extraordinary and dangerons powers which have characterized the last three Administrations, and to which they are now utterly blind. They would then be found fighting for the rights of the States as declared in the Constitution—for honest and economical government—for free elections—and, reformed by the wholesome discipline of adversity, might possibly grow fit for power again.

Mr. Speaker, my friend from New Jersey [Mr. ROBESON] arraigns the democracy most savagely, not because we have put a rider on an appropriation bill, but because, he says, to prohibit the use of the Army as a police force to keep the peace at the polls will destroy civil government. I read from his speech as published in the RECORD. Addressing this side of the House, he said:

> Gentlemen, pause. Some of you have formerly been arrayed against this Constitution and this Government; * * * but now you are enlisted under the ban-

ner of that Government; you are its chosen representatives; you are sworn into its service; you have pledged your honors and your oaths that you will maintain its Constitution and carry out its laws; you are armed with its weapons, admitted inside the defenses of its strength, have control of its citadel, make its defensive garrison. Would you now saw off its flag-staff, undermine its walls, spike the cannons of its strength, *bind its defenders hand and foot*, and poison the pure well-spring of its power at its source?

This is certainly an appalling question! [Laughter.]

Mr. ROBESON. I thank the gentleman for giving it democratic circulation.

Mr. EWING. Yes; we will both circulate and answer it. Here is the act of June 23, 1879, making appropriations for the Army for the current fiscal year, the sixth section of which is in the very words of this amendment:

SEC. 6. That no money appropriated in this act is appropriated, or shall be paid, for the subsistence, equipment, transportation, or compensation of any portion of the Army of the United States to be used as a police force to keep the peace at the polls at any election held within any State.

Who enacted this treasonable section? The other side of the House cast more votes for it than we did. Where was the gentleman from New Jersey [Mr. ROBESON] when the bad republicans who surround him were thus binding the defenders of the Constitution hand and foot, undermining its walls, poisoning its well-springs, and sawing off its flag-staff? [Laughter.] He was not off junketing, surely, at such an hour of peril to his country as that. [Renewed laughter and applause.]

Mr. ROBESON. I was paired with the leader of the opposition on the other side, the gentleman from New York, [Mr. FERNANDO WOOD.]

Mr. EWING. Ah! sir; no pair is valid when treason is binding the defenders of the Constitution hand and foot [laughter] and sawing off its flag-staff. [Renewed laughter.]

Now, Mr. Speaker, what is this terrible amendment? It merely enacts here in the United States what has been the constitution of Great Britain for hundreds of years—that troops shall not be brought to the polls, nor be stationed so near them that the most timid voter seeing them might, by any misapprehension or threat, be shaken one particle in the freedom of his suffrage. One might suppose we were inserting in this bill some new provision placing an unexampled and unconstitutional check on the powers of the Executive in the use of the Army. No, Mr. Speaker, it is only a declaration of one of the most ancient liberties of our race. The declaration would be wholly superfluous but for the fact that section 2002 of the Revised Statutes, enacted in 1865, by implication authorizes the stationing of troops at the polls as a police force.

I send to the Clerk's desk to be read a few passages from the report of the committee in the contested-election case of Tillman *vs.* Smalls, showing the use to which the Army was put in South Carolina in the congressional and presidential election in 1876.

The Clerk read as follows:

After stating many cases of violence and intimidation toward colored democrats by colored republicans in Aiken County, Mr. Croft says, (see record, page 641:)

"In regard to the United States soldiers, I will say this, that at the election held in November last, and for some time previous thereto, there were quartered in this county some five or six companies; that preceding the election some four weeks the United States marshals, accompanied by soldiers, and many times in the night, paraded the lower portion of our county, making numerous arrests of old and young white and colored democrats."

* * * * * * * *

Saint Julien Yates, (page 633,) says:

"Q. Did you attend any political meetings during the canvass in Aiken County?

"A. I was present at every democratic meeting in the lower campaign; and all but two of the republicans.

"Q. Did you meet any United States soldiers at those meetings?

"A. I met a squad of United States soldiers at every republican meeting, and two United States marshals at most of the meetings."

* * * * * * * *

Abraham Jones, who voted at Edgefield Court House, (testimony, page 596,) swears:

"I saw the United States soldiers as a guard around the door outside, and a crowd of voters outside pressing this guard, who kept them back with their guns, and, an officer in command, with his sword drawn; and he would select with his sword by touching those who were to go in next to vote. As the colored man at the door would call out, 'Send in ten men,' the officer would again select by touching with his sword those to go, not taking them as they came, but selecting them from the crowd, sometimes reaching over to touch one behind another, and sometimes skipping two or three. I was selected from the crowd with another white man at the same time, and none dared go in but those who were so touched by this officer."

* * * * * * * *

Joseph Meriwether, manager at Shaw's Mill precinct, Edgefield County, says, (page 600:)

"Q. Was the box removed at any time from where you first proposed to have the voting; and, if so, by whose orders?

"A. It was; and by the order of the commander of the post.

"Q. At whose instance did the commandant of the post order the box to be removed to another place?

"A. At the instance of United States deputy field-marshal, Cole Kinner."

* * * * * * * *

IN BEAUFORT COUNTY.

Philander McC. Zeane (colored) swears, (page 125:)

"There was a general talk among colored republicans that Chamberlain and Grant would send troops on day of election to make the colored men who wanted to vote democratic tickets vote republican ticket. Colored republicans said if colored men voted the democratic tickets they would be taken up by the troops. This deterred them from voting—that is, many from voting—and caused others to vote republican tickets who desired to vote democratic tickets."

Zack Daniels (colored) testifies, (page 119:)

"Republicans said that at the election would have United States troops to support them, and would show democrats that colored men should not vote democratic ticket; would get troops from Grant and Chamberlain. Said also that the colored men who voted democratic ticket were voting to put the negro back into slavery."

Andrew Howard (colored) says, (page 117:)

"Mack Patterson and these colored men brandished their sticks and said that they had heard that Grant would send out troops in a few days to protect them in their undertaking; that they were now at Gillisonville, and would divide the land—cut it up and divide it so that every republican would have a home, and no democrat should have one."

Stephen Black (page 156) says:

"I know of threats made by colored republicans that if any colored men voted the democratic ticket they would whip them; that a *troop* was coming from Brunson Station to see that they should not vote the democratic ticket. By the threats made I was afraid to vote the democratic ticket. I intended to vote the democratic ticket and left home with the intention of doing so, and after I got to the precinct at Brighton I was afraid to do it from the threats."

Mr. EWING. Mr. Speaker, I have had read but a small number of the instances given in this testimony of the bad use to which the Federal troops were put in that congressional district. In the contested-election case of Richardson *vs.* Rainey the testimony shows that a like attempt was made in that district by intimidating black and white democrats. The occasion of the interference and the method of operating, as shown from this uncontradicted testimony, were as follows: The votes of South Carolina in Congress and especially in the electoral college were of the utmost importance to both parties. The negroes had a clear majority in the State, but a very large proportion of them had been won over to the democracy by the wise and conciliatory policy of Governor Hampton. For the purpose of demoralizing and alarming the white and black democrats several regiments of infantry were sent to South Carolina and scattered in petty squads in *sixty-seven voting precincts*. The white and black deputy marshals, with these soldiers at their back, scoured the country night and day for a week or two before the election, arresting or putting to flight white and black democrats—taking charge of the political meetings and the polling places—and by their open partisanship and display of military force intimidating democrats and giving an air of official sanction to the violent threats made by republicans against colored democrats.

Now, if gentlemen want to know the exact meaning of this amendment, I tell them that it is to stop that sort of interference by Federal troops in the elections. That is the meaning of it. It does not mean any abandonment or abridgment of the powers of this Government exercised consistently with the traditions of liberty which belong to our race, and which condemn the use of the Army not only as a police force at the polls but also in the ordinary enforcement of the laws. What is the Army for? It is to guard against and repel invasion; it is to suppress insurrections against the authority of the State when the United States is asked by the State to suppress them; it is to overcome open and armed revolt against the authority of the United States anywhere and on any day where such revolt is too great for suppression by the civil officers aided by the civil posses. But, Mr. Speaker, it is a monstrous and shocking abuse, insulting and degrading alike to the Army and the people, to put troops behind each writ or around each poll, on the pretext that the masses in any locality may or will resist the civil officers of the United States or refuse to aid them in the enforcement of the laws. Such are the methods and pretexts of despotism; and, if they be tolerated by the people, they will lead to the overthrow of self-government and the establishment of arbitrary power.

Gentlemen on the other side protest that the republican party has no intention to put the troops to such use. Then why retain the power? Such use brought you near enough to a majority in three Southern States in 1876 to suggest your audacious seizure of their electoral votes. I confess, Mr. Speaker, that the unanimity and readiness of the republicans last June, when no important elections were pending, to prohibit that use of troops, contrasted with their eagerness to retain the power now, when we are entering the penumbra of the presidential contest, impresses one with the belief that they expect and intend to use troops this year to control elections in some of the Southern States.

The pretext for using them is an alleged necessity for protecting blacks in the free exercise of suffrage. The real purpose is to keep up the color line; to command all the colored people to fall into republican ranks—using the troops to inflame the passions of the majority of the negroes and enable them to force colored democrats back to their old allegiance.

The claim that the political rights of white and colored republicans cannot be maintained in the South without Federal troops is a false pretense. They are protected both by the Government and by the public sentiment of almost every precinct in the South, and by an exacting public sentiment in the North, which avenges a thousand-fold on the democratic party every sporadic outrage on the political rights of the colored people. These are the safe and effective methods of correcting offenses against the political rights of the minority; while interference by the soldiery at elections breeds greater wrong and mischief.

I was greatly surprised, Mr. Speaker, to hear my friend from Kansas [Mr. HASKELL] say that troops had never been used to interfere with elections in the United States—not even in the Territory of Kansas. The passage I have had read as to the South Carolina election in 1876 will inform him better. I guess many of his constituents, with whom I fought shoulder to shoulder for a free State in 1856-'57-'58, will correct the error of his encomium of the Federal troops in Kansas as having been "always a blessing." Sometimes they were a blessing, as when Colonel Joe Johnston saved Lawrence, and then

again they were a curse, as when Colonel Sumner dispersed the free-State legislature at Topeka, and when the troops "kept the peace at the polls" at Kickapoo, in 1858, by changing their jackets and voting the pro-slavery ticket over and over and over again.

Mr. KEIFER. What ticket?

Mr. EWING. I said the pro-slavery ticket. I am glad to state this instance from my own memory, in connection with instances where the troops have been corruptly used for the benefit of the republican party, in the hope that I may more strongly impress on my fellow-citizens the fact that the only thing the organized soldiery should have to do with elections is to keep away from them. They cannot be used at or in sight of the polls for any good purpose which may not be as well accomplished without them; and when brought there they are almost sure to become the base instruments of the party whose President commands them.

The fact that the constitution of England forbids the mere presence of troops at the polls and the reasons of the prohibition are stated by Blackstone (volume 1, page 178) as follows:

Mr. Locke ranks it among those breaches of trust in the executive magistrate which, according to his notions, amount to a dissolution of the government, if he employs the force, treasure, and offices of the society to corrupt the representatives or openly to pre-engage the electors and prescribe what manner of persons shall be chosen. * * * As soon therefore as the time and place of election, either in counties or in boroughs are fixed, all soldiers quartered in the place are to remove, at least one day before the election, to the distance of two miles or more, and not return until one day after the poll is ended.

To show that that jealousy of the use of troops at the polls has not died out in the British heart, I mention, Mr. Speaker, that at the late exciting elections in Great Britain, although they occurred at the time of the annual drills, orders were issued that the militia should not convene until after the elections were entirely over.

Is the reason of this jealousy of the use of troops at the polls any less strong as applied to us and our institutions than to those of Great Britain? Not at all. The law—the people's collected will—is made and declared by the people's representatives. King and President alike must bow to it. But if the executive interfere with and control the election of legislators he becomes at once the maker of the laws and the master of the people. Hence it has always been an axiom in politics that free government can only be preserved against executive power by utterly and resolutely forbidding the slightest display of such power at the polling places when the people are choosing their representatives.

Mr. Speaker, we Americans have even greater reasons than the British to forbid the presence of troops at the polls. They have an executive for life, with succession of blood, and the sovereign can have no motive to control parliamentary elections other than a desire to carry out some policy of administration. But with us, as members of Congress are chosen in almost all the States on the same day, at the same ballot-box, and on the same ticket with the presidential electors, not only has the President a motive to interfere in the desire to carry out a favorite policy, but he has a stronger and more propelling motive in the desire to re-elect himself.

Some gentleman on the other side said in this debate that we should not impute to Mr. Hayes that he would use the Army wrongfully. Sir, if George Washington were President he should not have, as I am sure he would not exercise, the power to use troops at the polls. Possibly the present Executive would not put the Army to such base uses; but you know our next President might not be such a goody-goody as Mr. Hayes is. He might be a man of ordinary flesh and blood—of ordinary ambition and willfulness. Patrick Henry warned his countrymen a century ago that "there never was an age or country where the rights and liberties of the people were placed on the sole chance of their rulers being good men without a consequent loss of liberty."

My friend, Mr. McCOID, of Iowa, said in this debate that "American troops at American polls, to protect American citizens, have no alarms for me." And another gentleman, I think it was my friend from New Jersey, [Mr. ROBESON,] said that "American bayonets think." However much it may think, the bayonet, whether carried by Christian or Turk, Russian serf or American freeman, *obeys*. Did the bayonet obey less because it thought when the republican soldier, Colonel Sumner, dispersed the free-State legislature in Kansas, or when De Trobriand dispersed the Legislature of Louisiana, or when Ruger prevented the Legislature of South Carolina from assembling? No, no, Mr. Speaker, the spirit of obedience, which is essential to any discipline, makes the soldier, like his musket, a mere instrument in the hands of whomsoever has supreme command.

Mr. Speaker, as I sat listening for two days to the speeches on the republican side of the House and noticed the eagerness of one and all to vindicate the act of Congress which sanctions the use of troops at the polls, I questioned whether the love of liberty is not decaying in our midst. How can that sentiment exist, and what is it worth, if we are willing to see every safeguard of liberty destroyed? The dread of the use of troops at elections was rooted in the hearts of our forefathers ere they touched the sands of Jamestown or the rock of Plymouth. Interference with elections was one of the charges which cost Richard the Second his crown. An act to prohibit such executive interference was passed in the reign of Edward the First five hundred years ago. In 1741, at an election for a member of Parliament for the borough of Westminster, three magistrates of the city, apprehending a riot, sent for a detachment of soldiers and had them stationed near the polls in Saint Paul's church-yard, Covent Garden. It was not claimed or pretended that the troops were brought to or in sight of the polls or that their presence in the neighborhood had the slightest effect on the elections; but Parliament, then being in session, at once declared the election void; and further declared "that the *presence* of a regular band of armed soldiers at an election of members to serve in Parliament is a high infringement of the liberties of the subject, a manifest violation of the freedom of elections, and an open defiance of the constitution and laws of the kingdom." The house also brought to its bar the three magistrates who sent for the troops and compelled them *on their knees* to beg pardon for their offense against the majesty of British law. In his lofty and eloquent rebuke of the magistrates the speaker of the House of Commons, Mr. Arthur Onslow, said:

This country is free because this house is so, which this house can never be but from the freedom of elections to it!

Mr. Speaker, seven years before the Declaration of Independence, at an election in Boston, Samuel Adams, John Hancock, James Otis, and Thomas Cushing were candidates to represent that city in the colonial assembly. There was a British post in Boston commanded by General Mackay. Before proceeding with the election the people assembled in Faneuil Hall and by resolution required the selectmen to demand of the general that he remove his troops two miles from the voting precinct as required by the British constitution. The commanding officer replied that he could not leave his post ungarrisoned; but that he would bring every armed man into the barracks and confine them there throughout the election day. When this answer was made public, the citizens assembled again in Faneuil Hall, and passed a resolution saying "that they cannot proceed to the election without declaring their clear and full sense that the residence of an armed force in the town during an election of so great an importance is a gross infringement of their constitutional rights."

And now, Mr. Speaker, beneath this Dome of freedom, in the glory of the nineteenth century, the people's representatives stand up and defend a law which tramples in the dust the priceless jewels of our race, which destroys the defenses of liberty which were ancient and sacred before our independence was won, which puts it in the power of the President to re-elect himself time and again regardless of the will of the people. Ay, and they assail all who maintain the axioms of liberty as inaugurating revolution and destroying civil government. Oh, Mr. Speaker, I would despair of the Republic if I believed that one-half or one-fourth of the people really entertain such sentiments as their representatives have uttered here. Can it be that the diffusion of knowledge, the splendors of civilization, the power to explore the hidden depths of the universe, to learn all its harmonies, to seize the subtile and invisible forces of earth and air and harness them to the chariot of progress—that the wonderful triumphs of the human intellect have been achieved at the cost of the love of liberty in the human heart. If I felt that they had, I would pray to God to take back the steam and the lightning and let us return to the wooden plow and the log-cabin of our liberty-loving sires. [Applause on the democratic side.]

But no, Mr. Speaker, I too devoutly believe in the high destiny ordained for man to fear that as the human race is gaining knowledge and power it is losing the nobler sentiments and aspirations of the soul. And above all I cannot apprehend that America, the torch-bearer of freedom, will so soon sink liberty in luxury, and—

> This fair mountain leave, to feed
> And batten on that moor.

No doubt, Mr. Speaker, a very large number of wealthy and influential men dislike our democratic institutions and would gladly overthrow them. They ally themselves with the republican party—the party of extravagance, subsidies, exemptions, and privileges, which holds fast to these extraordinary executive powers to prevent its overthrow at the polls, and which makes every attempt to restore and preserve the ancient methods of election a pretext for fresh tirades of denunciation and slander against the South. A thousand presses with millions of circulation stand at its back, ready to—

> Distort the truth, accumulate the lie,
> And pile the pyramid of calumny.

And so the republican party, surrounding itself with all the powers which ambition, corruption, fear of change, hatred of equality, and distrust or dread of the South can muster, has in effect established a dynasty, and laughs at all attempts to overthrow it at the polls.

Mr. Speaker, I believe the day is not distant when that sectional hatred which is now the strength of the republican party will become its weakness and its shame. The grand and fatal mistake of that party has been its forcing the country to look only to the democracy to unite the discordant sections and restore the Government to its purity and simplicity. To have done this work itself promptly and nobly, as Lincoln intended, would have immortalized the republican party. But it chose rather to foment discord between the races and sections, and preach the gospel of hate, not charity. It deliberately adopted a policy hostile to the principles of Christianity, civil liberty, and national prosperity. It has made a losing fight. Year by year it has lost prestige and power—from 1868, when, on the popular vote, Grant had a majority over Seymour of more than 300,000, to 1876, when Tilden had a majority over Hayes of more than 250,000; from 1872, when it elected a President and held both branches of Congress, to 1876, when

the people commanded it to surrender every department of power. I believe that in the great and decisive contest of 1880 the people will approve the noble fight the democracy has made since the war and teach the republican party that the bloody chasm is not wide or deep enough to ingulf our liberties or to longer prevent the restoration of that fraternal union for which the best blood of the North was shed.

Internal Revenue—Sale of Leaf Tobacco.

SPEECH OF HON. J. A. McKENZIE,

OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, April 29, 1880.

The House being in Committee of the Whole, and having under consideration the bill (H. R. No. 4812) to amend the laws in relation to internal revenue and the following amendment offered by Mr. McKENZIE:

"Add as a new section the following:

"'That the producers of leaf-tobacco shall be allowed, without the payment of any tax, to sell leaf-tobacco, the product of their own lands or of lands of which they are the tenants or lessees, to other than licensed dealers, manufacturers, or exporters, provided they do not sell exceeding one thousand dollars' worth in any one year'"—

Mr. McKENZIE said:

Mr. CHAIRMAN: I want to say a word in regard to this amendment. The House will bear me witness that I have not exhausted much of its time; and while feeling that I have but little claim to its attention, I shall venture to ask its indulgence when a measure of such importance to my people is before the committee. I think it about time this House was legislating in the interest of the farming class of this country. We have devoted ourselves for a long period of time to the consideration of bills in the interest of manufacturers, in the interest of protected industries, in the interest of holders of the public securities of the United States, but we have not devoted a single hour since this Congress assembled to the consideration of any measure that looks to the betterment of the condition of the farming class.

I represent on this floor a district that produces more tobacco than any similar geographical area in the world, and I want my people and the producers of tobacco everywhere to have the liberty to sell it to whomsoever they please, just as the producers of the West are allowed to sell their corn, wheat, and other products. I claim that no gentleman on this floor would contend that corn, wheat, rye, oats, or any other product of the soil should be taxed and invidiously discriminated against as is this great product which pays nearly $50,000,000 per annum into the Treasury. No staple on earth pays so much revenue, and still the producer is paid but little, if any, more than the bare cost of production. The total value of the tobacco crop of the United States is about $22,000,000, at least this is all the planter gets for it. Now let us see what amount of revenue this crop yields for purposes of government, not alone in this country but in Europe:

United States	$41,000,000
England	35,000,000
France	30,000,000
Italy	22,000,000
Austria	15,000,000
Spain	20,000,000

Thus giving a total revenue derived from American tobaccos of $163,000,000. So, Mr. Chairman, it can be seen that a crop which only brings the producer $22,000,000 pays nearly eight times that amount in revenue to the different governments I have enumerated. Think of the manifest injustice of crippling an industry that pays such an amount of revenue as this. While we are protecting everybody else, for God's sake let us protect the producer of tobacco, at least to the extent of allowing him to sell what his own muscle and labor has produced wherever he pleases, to whomsoever he pleases, and for the best price he can get.

Under the operation of the present law requiring a license to purchase the raw product, the licensed tobacco buyers of Kentucky in the great markets of Louisville, Hopkinsville, Owensboro, Henderson, and other places are monopolists in the purchase of that article. The farmer producing it is not allowed to exchange it with his neighbor, either in the payment of debts, or in exchange for any other commodity of which he may be in need. I desire to ask in all candor and fairness why may not corn, wheat, oats, rye, and all the great products of the West be discriminated against as this great product is discriminated against under the operation of our present revenue system? What the people of my district and the people of Kentucky and the producers of tobacco everywhere want is the privilege of selling their tobacco unrestricted by invidious revenue laws. That is the fair principle. It applies to the products of Kansas, the products of the great West, and should apply to all the products of the district which I have the honor to represent.

This House has legislated in the interest of manufacturers, bankers, bondholders, and protected monopolies long enough. Let us call a halt. Let us legislate at least to the extent of one small amendment in the interests of the people who pay nine-tenths of all the taxes, who fight the battles of the country whenever it is menaced by war, and who constitute the hope and the stay of the Republic.

Mr. Chairman, quite a number of us here have during this session endeavored to secure some legislation in the interest of the people, but every such effort has come to naught. There are two places of interment in this House in which all legislation looking to a reform in our revenue or custom duties is buried. One is the gorgeous mausoleum of the Ways and Means Committee, a tomb as magnificent as that which Artemisia built at Halicarnassus to the memory of Mausolus, and the other is the Calendar of this House.

A member introducing a bill here can decide whether he prefers to have it buried with that sort of splendid interment which the Ways and Means afford, or that it should go to the Calendar, which is the potter's field of legislation. [Laughter and applause.]

[Here the hammer fell.]

Mr. CONGER rose.

Mr. McKENZIE. I hope my distinguished friend will not interrupt me.

Mr. CONGER. I thought the gentleman's time had expired.

Mr. McKENZIE. I think I have taken up less of the time of the House than the gentleman from Michigan.

Mr. PAGE. I move to strike out the last word, and yield my time to the gentleman from Kentucky.

Mr. McKENZIE. I thank the gentleman from California for his courtesy.

I desire to repeat that the gentleman who introduces any legislation here proposing a revision of the tariff, or any other matter affecting the revenues of the Government, has the privilege of deciding—and that is the only poor privilege he does have—whether it shall be buried in that tomb presided over by the gentleman from New York, [Mr. FERNANDO WOOD,] or whether it shall go upon the Calendar, where the Speaker of this House would have it in his power, if so disposed, to forever smother every bill which looks to the relief of the people. [Applause.]

It were perhaps invidious to discriminate for or against either of the tombs of legislation to which I have adverted. On the whole, however, I am inclined to favor the Calendar as being more thoroughly in accord with my democratic tastes. There is a quiet and rest about it which is at once suggestive and attractive. Repose ought to form the essential quality of monumental sculpture, and God knows there is a repose about the Calendar of this House which meets the most exacting requirements of art. Solemnity of feeling and overpowering awe are excited by viewing this solemn depository of the dead. It is astonishing to me that the Speaker of this House and the members thereof display no tremor when surveying this moonlit grave-yard.

In preferring the Calendar as a place of interment for relief measures, I do not wish to be understood as invidiously discriminating against the Ways and Means Committee, for I desire here and now to say that as a place of permanent and reliable sepulture it is the equal if not the superior of any grave-yard that has existed since the ancient and unknown artificer conceived the idea of the Catacombs of Egypt. But it is too pretentious in the matter of architectural embellishment to suit the simple tastes of the average tariff reformer. The chief mausoleums besides the one at Halicarnassus are the mausoleum of Augustus; that of Hadrian, now called the Castle of Saint Angelo at Rome; that erected in France by Catherine de Medicis to Henry II; that of Saint Peter, the martyr in the church of Saint Eustatius, and that erected to the memory of Louis XVI. But none of these compare in architectural splendor, in uniqueness of design, in gorgeousness of execution, nor are any of them so suggestive of death without benefit of clergy or hope of resurrection, as the Ways and Means Committee of this House. [Laughter.]

When an ambitious member drafts a measure looking to revenue reform and presents it to the House in the morning hour of Monday, it is no stretch of the imagination to say that he can detect the dolorous notes of the "Dead March in Saul" as the Clerk sings out, "Ways and Means, and printed." [Laughter.] I can recollect but one instance of vivification where the cadaver had either lain or was about to be deposited in the tomb of the Ways and Means, and that was the case of Mr. TOWNSHEND, of Illinois, who was discovered trying to galvanize the corpse in the Committee on Revision of Laws, was tried on a charge of burking or body-snatching, and the somewhat mutilated remains were restored by the solemn vote of this House to its family vault. [Laughter.]

We have legislated here to tax the poor man's salt and the widow's pension, to tax the clothing that covers the poor man's nakedness, to tax everything that enters into the domestic consumption of nine-tenths of the people of this country. At the same time, under the operation of law, the entire bonded debt of the country and all forms of permanently invested capital are exempt from any of the burdens and exactions of Government. The bonded interest, the banking interest, the protected and subsidized interests, all go scot-free or comparatively so under our legislation, while the farming interest, under operation of our tariff and internal-revenue systems, pays taxes directly and indirectly upon everything that the laborer wears, upon the house in which he lives, and upon the agricultural implements with which he extorts a living, sometimes from an unwilling and inhospitable soil. I say that it is time to reform these abuses.

This tariff system, of which the people everywhere complain, was

conceived in sin and brought forth in iniquity. It is defined to be a table of duties, drawbacks, bounties, &c., charged or allowed on exports and imports. It derives its name from the Spanish town Tarifa, a town some twenty miles from Gibraltar, where during the Moorish domination in Spain exactions from every passing vessel were made. [Applause.] And our American system, disguised by a species of delicate euphemism under the name of tariff, is nevertheless as downright and unquestionable robbery as it was on the part of the Moors to extort tribute from the unlucky merchant who chanced to fall within their reach. [Applause, and cries of "Go on!" "Go on!"] Do not hurry me, gentlemen; I am not in the habit of doing this sort of thing. [Laughter.] I tell you that the people of this country are tired of this sort of legislative jugglery. They ask relief; and whether you give it to them or not, the time is not far distant when they will have it. They are tired of being discriminated against. The great mass of producers are inspired by no feeling of unkindness or hostility toward the bondholding and more favored classes. They have no disposition to unsettle values or destroy public confidence by endeavoring to impair the value of United States securities. But they ask equal protection with the bondholder, the banker, and the manufacturer at the hands of the people's representatives in the enactment of legislation affecting our internal-revenue and tariff systems.

The CHAIRMAN. By the previous order of the House, the committee will now rise, as the time has nearly arrived when a recess is directed to be taken.

Mr. McKENZIE. I do not want to say more than half a dozen other things, and I greatly prefer to say them now. [Cries of "Go on!" "Go on!"]

The CHAIRMAN. The gentleman must suspend, for the time has arrived when the House must take a recess.

Mr. COVERT. I desire to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. COVERT. Will the gentleman from Kentucky [Mr. McKENZIE] be entitled to the floor when the House reassembles to-morrow?

The CHAIRMAN. He will be.

Mr. McKENZIE. I do not want to occupy the floor when the House reassembles in the morning. I want to speak now, while the thing is hot. [Great laughter.]

Now, Mr. Chairman, to lay aside all efforts at pleasantry or criticism of any of the committees of this House, I desire briefly to discuss the operations of our present tariff system, its unjust exactions and discriminations.

The time was in the days of Henry Clay when the advocacy of what was known as the American system, or the system of protection, may have been proper and demanded by the requirements of our then comparatively young Republic. But the times have changed, and men and measures and policies have changed with them.

In endeavoring to discuss a measure of such gravity and importance as the revision of our tariff system and a modification of our internal-revenue laws it is not my purpose to elaborately argue the details of either system, but in a plain, unpretentious way to attempt to convince this House and the country that reforms of the most radical character are demanded to secure equality in the distribution of the public burdens and that general prosperity which is the safeguard and substructure of free institutions. It is not needed that exaggeration should be resorted to in order to exhibit the gravity of the subject or the monstrosity against the masses flowing from our unjust revenue system.

Adam Smith presents as the fundamental measure for revenue recovery—

> That the subjects of every state ought to contribute to the support of the government as nearly as possible in proportion to their respective abilities; that is, in proportion to the revenue they enjoy under the protection of the state.

Is this correct philosophy? Does it not award the protection to labor that it ought to enjoy as the author of capital? Is it not in the interest of a class whose claims I am endeavoring to advocate? Do we follow its teachings? It is my purpose to endeavor to show that our whole revenue system has been so shaped that the application of this maxim of Adam Smith should be avoided, and that while the producing millions are indirectly tortured the rich few are made the beneficiaries of all the products of the labor of the masses.

As the public debt diminishes the necessity for public expenditure becomes less, and we find the income tax, which at one time amounted to many millions of dollars annually, repealed. We find the tax on manufactured articles and on sales repealed; the tax on transfers made by brokers repealed; in short, every tax that the necessities of war demanded against the rich and prosperous repealed, and every tax that went to the homes of the laboring masses retained on the statute-books, thus carrying out the policy that I announced in the outset of my remarks that the effort of legislators from the close of the war to the present time seems to have been to exempt the rich and the powerful from the exactions of Government and cast its burdens upon the shoulders of the poor. The theory that lies at the foundation of our revenue system is by indirect means to reach every hovel and subtract a tithe from the hard earnings of its inhabitants, and to relieve from taxation the great accumulations of capital in the hands of manufacturers and monopolists.

One of the expedients resorted to is the revenue derived from customs dues. The duties on salt, on sugar, on woolens, on paper, on type, on agricultural implements, trace and other chains, hoes, plows, axes, saws, files, anvils, and almost everything that enters into the every-day life, use, and consumption of the six millions of people who till the soil and perform the ordinary mechanical labor of the country for a livelihood, are by operation of law made to assist in supporting the burdens of the Government, while the large accumulation of capital in the hands of bankers, brokers, railroad magnates, and monopolists is exempted from all of such burdens.

I realize, Mr. Chairman, that it is necessary so long as our public debt remains at its present volume to resort to this means to produce a portion of our revenue. But I believe the true principle upon which all governmental affairs should be conducted is the principle of taxation based upon valuation. In this connection I desire to ask if it would not have been better for the general mass and more in harmony with justice and the spirit of our institutions to have restored the income and all other taxes to which I have adverted and thus have subtracted from the necessary volume to be raised by the system of customs dues, which, however framed, must of necessity be odious and unequal in its exactions?

A tariff for revenue only is the nearest approximation to justice that can ever be obtained by it. Had we established this as the basis it could be defended, but the policy that constructed the system made the doctrine of revenue recovery a subordinate condition, and introduced a new phase in financial philosophy. They made duties on imports so high on many articles of manufactures at home that importing them became impossible, and therefore no revenue was derived from them, thus enabling the home manufacturers in numerous instances to more than double the price at which they sell their products to the consumers, and following out this policy of protection, which has always had as its base and substructure the theory of making the rich richer and the poor poorer, there has been foisted upon the American people a system of exactions more onerous to the laboring and producing classes than exists in any other country on earth.

What the laboring masses of this country want is a system by which they can buy such articles as they need without paying, in the form of tribute to the manufacturer, one-half their value as a bonus. It can be shown conclusively by official facts and figures that a suit of clothing, including coat, pants, vest, hat, boots, &c., should cost without the present onerous custom duties the sum of $11.80, whereas by the additional burdens imposed under our system of protection the amount paid in custom dues alone is $19.04. Almost twice the entire cost of the suit of clothes goes into the pockets of the manufacturer, and not one cent into the Treasury of the United States.

Protective duties, by which I mean such protection as will secure revenue, is a permanent feature of our tariff system. Investigation of the results of the imposition of these duties will demonstrate, however, that for every dollar paid into the Treasury the consumer is compelled to pay 43 per cent. to the home manufacturer; and if this be true, is it not our duty to resort to every expedient consistent with justice to lessen the volume to be derived through such a source? While the Government realizes less than two hundred millions of dollars from the customs revenues it costs the people more than six hundred millions annually by reason of the enhanced prices of the protected articles. Why abolish the income tax, which was a just exaction for the security which the Government gives to property and business, and destroy all confidence by the imposition of onerous and oppressive customs dues on such articles of prime necessity as salt, sugar, agricultural implements, medicines, &c., and compel the consuming millions to pay nine-tenths of it to the home manufacturer in the shape of protection rather than to the Government in the form of revenue? Protection is bad enough, in Heaven's name, but prohibition is a crime that disgraces the age in which we live. "It is the synonym of aristocracy, monopoly, and debt."

The fact that this philosophy of protection of the rich and robbery of the poor lies at the very foundation of our revenue system is demonstrated when we consider that the whole bonded debt of the United States is exempted from taxation, which in the annals of legislative enormity is without any sort of peer or parallel. Two thousand millions of the available wealth of this country is directly withdrawn from State and national taxation, thereby imposing additional burdens on the remaining values, and the consumers and producers of wealth being without that great credit, having no power to effect extensive combinations or to resist the exactions of tax-gatherers, are thus left to defray the burdens imposed under our unjust revenue system.

This is a direct evil resulting from the existence of such a system. By it bankers and capitalists are enabled to withdraw their whole personal assets from taxation in the States. A purchase of bonds can be secured from the brokers within an hour from any business point in the country, representing the whole available capital of the banking corporations and individuals, and be sold an hour after the assessment has passed, thus enabling the capitalist to withdraw his assets the day before assessment and recover it the day after, while the poor owner of a homestead of sixty acres, with not more than $500 of personal property all told, with the burden of a large family on his hands, being required to toil in season and out to put bread into the mouths of his wife and children, is taxed for county and State purposes upon everything that he possesses, and indirectly pays tribute to the General Government upon everything that he wears, everything that he eats, the house that shelters him, the school-books from which his children learn to read, the weekly newspaper from which

he learns of current events, in short on everything that enters into the domestic economy of every fireside in the land.

The stock boards of our great cities exhibit the fact that monthly sales of Government securities in excess of the whole issue are made. The capitalist can do this; take an oath to the correctness of his schedule and retire his personal assets from taxation, while the poor man without credit and having to labor for his daily bread pays taxes on his house and farming implements and everything he possesses, for the reason that he has not the credit of the capitalist to utilize Government securities. By such a scheme as this millions of personalty in excess of the volume of the public debt may be withdrawn, and the exaction against the producer and laboring consumer are in the proportion of this abstraction increased.

But among the many schemes formed to protect capital and crush labor to the earth none have been more potent for mischief than the national banks, and in regard to them this theory of protection, cursed by man as it should be accursed of God, applies with more force than to anything else. The system sprung into life during the existence of the grandest civil convulsion known to history, and was conceded to the greed of capital, when the outside world believed that our country was in the throes of dissolution. It represents the genius and avarice of that class who, in the olden times, were driven from the temple, and in all subsequent ages have been the worst and most dangerous enemies of human liberty. They exacted first as their stock in trade a Government security, exempt from taxation, bearing in gold an interest of 6 per cent., payable semi-annually, when one dollar in gold was worth from two to two and a half in greenbacks and from two to two and a half times the face value of the bond. Buying in their bonds with gold at from 40 to 60 per cent. of their face values, they secured first from the Government an interest on their investment ranging from 12 to 15 per cent., payable semi-annually; but this extortion, which has no parallel in the history of solvent governments, did not satiate the greed that consumed them. Ninety per cent. of an issue predicated upon these securities was authorized by the Government, and 90 per cent. was loaned to the people at an average rate of 10 per cent. per annum, thus increasing their privileges independent of the other privileges granted by their charters, 9 per cent. per annum on the whole volume of the bonds. The manifold evils that have resulted from this whole national banking system would require a very large volume to explain and fully set forth.

It was solemnly enacted into a law that the face value of these bonds, bought at ruinously low rates during the period of the war, and which the whole world had theretofore recognized as being payable in greenbacks, should be paid, principal and interest, in gold. They had been purchased by their owners at an average of one-half their face value, and by this act alone the holders of these bonds were enriched over $750,000,000 in gold. Who ever heard of an act of Congress that legislated into the pockets of hunger-stricken, hard-working men of muscle $750,000,000? Who ever heard of a great lobby, rich in brains, in influence, and in money, working in or out of the corridors of Congress in the interest of depressed and down-trodden labor? Would it not be at least an act of equal justice if the same Congress that enacted this law should have provided that the great body of the American people, the men who fought its battles and saved its credit, who went from fields of carnage to resume their occupations either in the workshops or in the harvest-fields, should have an equal right to the gratitude of the nation, for they were entitled, with a much higher and grander show of justice, to a legislative bonus of $750,000,000.

But instead of giving them $750,000,000 by an act of Congress, as was given to the bondholders, our present tariff system was devised, which taxes them upon every article of prime necessity—the shoes they wear, the clothing, hats, cottons, woolens, salt, coal-oil, calico, hosiery, tableware, combs, linens, gunpowder, iron, trace-chains, nails, steel, handsaws, pocket-knives, leather, gloves, paper, pins, needles, shawls, flannels, blankets, sugar, spices, books, &c., all of which articles pay an average tribute of over 45 per cent. to the manufacturers, every dollar of which comes out of the pockets of the consumers.

Had it not been for the existence of national banks and the greed that possessed the class that controlled them and the tremendous volume of money and capital deposited in their control, approximating two thousand millions of dollars, no man would have been so audacious and so criminal as to have presented such a proposition. It was an act of spoliation and robbery that cries to Heaven for vengeance. Many of the leading republicans, East and West, denounced it as unparalleled robbery, prominent among whom were Thaddeus Stevens and Oliver P. Morton. But the irresistible power of corruption of such a volume of wealth swept every obstacle from its pathway and the infamy was accomplished. Apprehensive that this legislative dicta would be repudiated by the people and that their spoils would be wrested from them, a system of contraction of the greenback currency was resorted to, the purpose being to bring the greenback on a par with gold, thus preventing payment except upon a gold basis. This policy was absolutely, unconditionally, and remorselessly pursued until every valuable industry was prostrated, until property had shrunk one-third of its value, until insolvency hung over the business interests of the country filling nearly every fireside in the land with misery and disaster.

By this policy they destroyed not only the best of our citizens, but the hopes and the usefulness of a future generation, contracted the business of the country to a purely cash basis, destroying that legitimate credit system that is always the concomitant of prosperity; for it is a well known fact that 95 per cent. of all great business transactions are based on commercial credits. They so violently destroyed the field for labor and its value that thousands in the most bountiful country on earth were driven by non-employment to the verge of starvation, and often those employed were pinched to secure the commonest necessities of life. Out of this infamous system the tramp, a new feature in American politics, was evolved, and dangerous riots and strikes threatened the public security throughout the length and breadth of the land. Sitting upon their ill-gotten piles of gain they dictated the bayonet and the bullet as the panacea of their evils, and remorselessly shot down men clamoring for work and bread. These banks are the deadliest enemies of the American public and the greatest beneficiaries of the system of protection that have ever figured in the legislative history of this country. Their interests are all the same. What benefits one sustains the whole.

So much for the national banks, which are a fair illustration of the whole theory of our system of protection, a system which with a sort of devilish ingenuity seems to have been framed for the benefit of the rich and the discomfiture of the poor. The time is coming and now is when the great mass of the American people, the unpurchasable, hard-fisted, tax-paying yeomanry of this land will come forth in their might and dignity and throw off the oppressive burdens that have been imposed upon them by this whole system of unjust and discriminating legislation, and fearlessly assert that they are entitled by the laws of nature and under the Constitution of the Government under which they live to as many favors, as many exemptions, and as many blessings as the soulless corporations which for fifteen long years have dominated and oppressed them.

The people do not care for metaphysical abstractions and ingenious disputations in regard to political economy, and the law of supply and demand, the horrors of protection, or the beauties of free trade. They know, without inquiring why or caring why, that under our present system their burdens are greater than they can bear, and upon the principle that revolutions never argue, but always act, they will, in the fullness of time, by a process of which they are themselves the masters, under our system of government, rise in their strength, their majesty, and their power, and throw off this galling yoke that is as infamous as it is oppressive.

The American Navy.

SPEECH OF HON. W. C. WHITTHORNE,

OF TENNESSEE,

IN THE HOUSE OF REPRESENTATIVES,

Wednesday, April 14, 1880.

The House being in Committee of the Whole on the state of the Union, and having under consideration the bill (H. R. No. 3983) to provide for a permanent construction fund for the Navy, and for other purposes—

Mr. WHITTHORNE said:

Mr. CHAIRMAN: So far as I am advised it is not the intention of the Committee on Naval Affairs to consume any considerable length of time in the discussion of the merits of this bill.

The condition of the American Navy is, at least in its general aspects, well understood by the members of this House. The necessity of its reconstruction into some degree of efficiency has engaged the attention and enlisted the thought of the Committee on Naval Affairs for the last four years.

But in taking the floor at this time to ask the passage of the present bill, I declare my individual purpose to be, in anything that I may say in its consideration, to make no reference to the short-comings or any defects that may have existed in the former administration of the naval service. That belongs to another and different occasion from this, and when the discussion thereof will not tend to embarrass the consideration of a measure so vital to the interest of the Navy as we deem the present one to be.

The Committee on Naval Affairs, as I have stated, earnestly appreciate the condition in which the United States Navy is at this time, and as earnestly desire to do what they believe to be their duty in regard thereto—that is, to promote its efficiency, to make it responsive to the demand, resources, and wants of the country, its trade, and its commerce, and in doing so to make that preparation which the protection and defense of its great and rapidly increasing interests demand. In order to do this the committee have had suggested to them various methods and plans: one embracing the organization of a board of admiralty or assistants outside and independent of the heads of bureaus; another which contemplated the inclusion of these chiefs of bureaus as part of the board; and another which looked to Congress as the "expert body" to determine the type and character of vessels to be constructed. After mature consideration the Committee on Naval Affairs resolved upon the present bill as the best solution of conflicting ideas. This bill leaves the determination of type and character of vessels to be built in the first place to the

Secretary of the Navy, and secondly to Congress. The Secretary may, under existing laws, avail himself of the assistance of any board of naval officers he may choose to organize, and with their judgment determine class and type of vessels. And Congress may in its appropriations approve or disapprove of these vessels, or hereafter find it wise to provide a permanent board of assistants. Believing from their information that the present bill, so far as it goes, meets the general concurrence of all interested in an economic reconstruction of the Navy, and that it contemplates a permanent policy in order to do so, it has the unanimous support of the Committee on Naval Affairs.

Now, another premise I suggest for the consideration of the committee before going to the merits of the bill. It is this, that under existing laws (see sections 1540 and 1541 of the Revised Statutes) it is within the power of the President and the Secretary of the Navy to sell all of the material of the Navy (and this includes ships of war) that may be condemned as unfit for use. But when sold under existing law, it should pass into or in technical language "be covered into" the Treasury. As will be shown further on in this discussion, there are a large number of vessels borne on the Naval Register that are utterly useless. And it is equally true that there is a large quantity of material not fit for any present or future use. This material in its care and protection is costing the Government large sums of money, and yet is daily deteriorating in value. Manifestly, it should be disposed of. To this all will agree. And the Committee on Naval Affairs deem it just and proper that the proceeds of the sale of such material should be used in the work of reconstructing the Navy. With directions and safeguards to secure proper and safe condemnation, a correct and honest exhibit of the manner of sale, and a just account of the amount and expenditure of proceeds, this becomes and is one of the principal features of the bill.

Just now not one dollar is sought to be appropriated from the Treasury. Nor, pursuing the policy that gives birth to this bill, and which controls the present Committee on Naval Affairs, is it intended now or hereafter to make any large increase in the amount of the annual appropriations of money for the support of the Navy. They have believed and do believe that commencing in this way—utilizing the material and *débris*, or the greater part of it at least, (which, as before stated, is now fast going to decay or becoming utterly useless, costing the Government, in fact, large sums of money for its care,) in the manner proposed—a commencement in the work of constructing an efficient navy is made.

Starting with this as a nucleus and persevering in the policy, it is my idea, and I feel assured that of the committee, that hereafter, when the Houses of Congress shall come to make the annual appropriation for the support of the naval establishment, a part of the amount which annually has heretofore been set apart for "construction and repair," "steam engineering," "equipment and recruiting," and "ordnance"—a great deal of the repairing now being done under the policy here and now adopted will become useless and unnecessary—shall go to the credit of "the construction fund of the Navy."

Mr. PRICE. In other words, if the gentleman will permit me, the bill proceeds upon the principle that you propose to open an account, and charge it with everything sold in the shape of old vessels or materials and also appropriations of Congress, and credit it with whatever is paid out of it?

Mr. WHITTHORNE. Yes; these proceeds of sales and appropriations shall go to the credit of "the construction fund of the Navy"—that is, the fund for the purpose of building a new navy—and this fund shall be credited with whatever is paid out for such purpose.

Mr. Chairman, the committee further believe that in the work of reconstructing the Navy no large sums of money ought at any time to be appropriated; that no large number of vessels ought in any short period of time to be built. Why? The experience of the last eighteen years, not only in this country, but in every maritime nation, has demonstrated that the immense sums of money given to naval establishments have been practically thrown away. The vessels of war of one decade are superseded by those of the succeeding decade. Rapid changes have been made in construction and armament. This has resulted from the struggle between aggressive and defensive armament. The victory of one to-day scores the victory of the other with the coming of the next day; until at last the combatants, so to speak, have paused, with the honors of triumph resting with the offensive side; that is to say, "heavy ordnance" as against defensive armament, or rather armor. In this pause the students in naval defense have turned their attention to the study of aggressive or offensive forces in the power of steam-rams and torpedoes, as well the power of destruction to be found in speed. And hence in view of all this, as well as the indebted condition of the country and that no war is imminent, all that we ought to do now is to keep alive the spirit of industry and the genius or art of ship-building in this country in the construction of a moderate-sized navy, aligning ourselves with the progress and improvements of the day and taking advantage of newly developed ideas.

This much, Mr. Chairman, I felt it due to say in behalf of the details of the bill now before the Committee of the Whole. I come now to speak of the proposition involved by this bill in its more general and controlling spirit.

The Committee on Naval Affairs, charged as they are with the consideration of questions affecting our naval interests in all their relations, could not avoid looking at the actual condition of the Navy, and in doing so to compare its present with its past, and then to determine whether it was in such position as to respond to the demands of the great interests as well as defense of the country.

In 1860 the Navy of the United States occupied a position among the first of the great naval powers of the world. Indeed, in several respects it may be rightfully claimed it was the first, but to-day it is rated as the ninth or tenth; indeed, some have placed it below that. In fact, but for the courage and superiority of its *personnel*, in view of the improved and heavy armaments possessed by the ships of other naval powers, it scarcely deserves to be ranked among them at all in material—that is, for fighting purposes. And a navy not built or intended for such purposes is Falstaffian. That the committee and the country may see that I do not either idly or wickedly make this criticism on the condition of our Navy, I ask your attention, Mr. Chairman, to the following exhibit of the actual Navy of the United States. I quote now from the report of the committee, No. 169, second session Forty-sixth Congress, in which the committee say that—

We have now completed our analysis of the 142 vessels of the Navy so called, and by bringing the result into tabular form, we shall realize what a dissolving view our Navy presents.

RECAPITULATION.

Steam-vessels.	Whole number.	In service.	Receiving-ships.	Training-ships.	Store-ships and hulks.	Being repaired or awaiting repairs.	In ordinary or obsolete.	Unfinished and good.	Unfinished and worthless.	Worthless and to be sold, &c.	Sold.
First-rates	5	....	3	1	.....	.....	.....	.....	.....	1	....
Second-rates	27	8	....	....	1	5	1	1	3	8	....
Third-rates	29	15	....	....	.....	6	2	.....	.....	6	....
Fourth-rates	6	4	....	....	.....	.....	.....	.....	.....	1	1
Sailing-vessels	22	5	3	4	2	.... ..	.....	.....	1	7	....
Iron-clads	24	14	....	....	.....	6	.....	.....	3	1	....
Torpedo-boats	2	2	....	....	.....	.....	.....	.....	.....	.....	....
Tugs	27	18	....	....	.....	.....	.....	.....	.....	9	....
Total	142	66	6	5	3	17	3	1	7	33	1

Here are 48 vessels and no more belonging to the Navy to-day capable of firing a gun, and of these 5 are old obsolete sailing-vessels. If to these we were to add the 11 steam-vessels repairing or awaiting repairs, the 6 iron-clads repairing and awaiting repair, the 3 steam-vessels in ordinary, and the 1 unfinished second-rate steam-vessel, and assume that they can be all made fit for duty, the whole Navy of the United States would at any one time number only 69 vessels capable of carrying guns and doing naval duty. Such an assumption, however, will not be made by men of ordinary judgment. This is the whole of the Navy of the United States so far as it relates to fighting-vessels. The fact may be disagreeable to contemplate and humiliating to American pride. In presenting it, however, we do but discharge a duty we owe to the House and the people. The remedy and responsibility are not with the committee. But we are weak in guns as well as in ships. We have less than 350 guns afloat in our entire Navy, and of these less than 60 are rifles, (a few 8-inch, a few 100-pounders, and a few 60-pounders,) all the rest are antiquated smooth-bores.

This is a depressing exhibit, but for which the fighting part of the Navy is not censurable. The responsibility belongs to the civil administration of the naval establishment, and of which much could be said if the occasion were a proper one.

Now let me invite the attention of the committee to the size of the navies of other powers, remarking that in iron-clads and armored ships their armor is superior to that of the United States, and that in the armament of their ships the superiority is vastly in excess of that of our vessels:

Countries.	Iron-clads.	Other vessels.	Total.
Austria	14	37	51
France	59	380	439
Germany	22	63	85
Great Britain	*48	†200	248
Russia	29	194	223
Italy	‡16	70	86
Netherlands	17	68	85
Spain	10	79	89
Turkey	§33	45	78
Brazil	18	39	57

*Great Britain is building twenty iron or steel clad vessels not included in this number.

†Great Britain has other vessels not included in this number, not in commission, and are not deemed serviceable.

‡Italy has two of the largest and heaviest armed vessels known to the naval service, namely, the Duillo and Dandolo.

§Of this number 15 are large and 18 are small armor-clad vessels.

Now, sir, keeping in mind this manifest weakness of the American Navy, we turn for a few moments to look at the great interests of our country, which are to a large extent dependent upon its usefulness and efficiency. I assume, Mr. Chairman, somewhat axiomatically, that civilization is the elevation and improvement of the human race, and that commerce is the great agent of civilization. At least they are propositions that I need not argue before this intelligent committee or before the people of the United States. I assume again that the wealth, progress, and improvement of a nation or people is evidenced to a large degree by its merchant marine or commerce, and that the health and wealth of the commerce of any country are sup-

ported first by its resources in production, and secondly by the means given for its defense and protection.

It is singular to note what is the seeming lesson in the history of those nations which have attained the highest rank in dominion, power, and civilization that they have flourished most in wealth and prosperity when they had powerful navies and commercial marine. I need not ask you in order to establish this to review in detail the history of Phœnicia, Carthage, Rome, Venice, Naples, Spain, Portugal, France, and England. The mere mention of these names in this connection will make manifest the proposition I assert. Pause for a moment and grasp the rank and power of the civilized nations of today; and in doing so you with but an exception or two fix the rank and power of their navies and commercial marine. And while it is true the United States ranks as an inferior power in ships of war, yet she ranks second or third in commercial marine; and thus serving as no exception to the lesson of the past history of the world.

Then I argue, Mr. Chairman, that the commercial marine of any country is dependent upon its military marine for defense and protection. To say that it is not is to premise that wrong, injustice, and oppression have no longer lodgment with mankind—that "war hath indeed smoothed his wrinkled front," and "deep in the ocean buried all his arms." I do not believe it; nor will such an event happen until ambition hath no office to perform, and human nature hath rid itself of pride and passion. That it is so dependent, we are taught by all the experience of the past and the facts of the present time. I therefore announce as a truth that the demands of our extensive and growing foreign trade as well as that of our very large and increasing coastwise trade require the security and protection of an efficient navy.

It is not, I trust, improper here to inquire into the extent of American commerce and the American carrying trade. Pardon me, Mr. Chairman, if in doing so I make comparisons with its past and note its growth.

In making this comparison I do not go back further in our commercial history than the year 1860, as I mark this period as the one in which our commercial marine and naval strength was strongest, at least in times of peace.

I exhibit here, Mr. Chairman, a table showing our exports and imports for the years 1860, 1868, and 1869:

Commerce of the United States.

Year.	Total exports.	Total imports.	Total exports and imports.
1860	$400,122,296	$362,166,254	$762,288,550
1868	375,737,001	371,624,808	747,361,809
1869	343,256,077	437,314,255	780,570,332

Now, looking at this picture, turn to the other, which I present you for the years 1878 and 1879:

Year.	Total exports.	Total imports.	Total exports and imports.
1878	$728,605,891	$466,872,846	$1,195,478,737
1879	735,436,882	466,073,775	1,201,510,657

This exhibit should be accompanied with the statement that during the four years closing with the 1st day of July, 1879, the excess of our exports over our imports was the large sum of $753,271,475; a fact which bears alike evidence of our capacity of production and habits of economy. And I beg especially to call attention to another fact which will be shown by an analysis of this exhibit of our commerce. It is the immense and rapid growth in the export trade of agricultural products. In the years given in the following table this is seen:

Exports of agricultural products.

1860	$256,560,972
1870	361,188,483
1879	543,691,174

This table shows an increase of over 100 per cent. since 1860, and that nearly three-fourths of the exports of the country come from its agricultural producers.

Sir, may I not pause to invoke and arrest the attention of this large class of producers of national wealth to the deep interest they have in the due and proper protection of that wealth as it wends its way into the markets of the world? Reflect for a moment how onerous the tax or burden would be upon these producers if we had no commercial marine, or a commercial marine without the power to command respect for its rights wherever it might sail or anchor.

Now, let us look to our carrying trade and tonnage.

Tonnage.

Year.	Sail.	Steam.	Total.
1860	4,485,931	867,937	5,353,868
1879	2,993,429	1,176,172	4,169,601

Now this tonnage of vessels of the United States was employed as follows:

Year.	Foreign.	Coastwise.	Whale.	Codfish.	Mackerel.
1860	2,379,396	2,644,867	166,841	136,653	26,111
1879	1,451,505	2,598,183	40,028	79,885	.....

It will be noted by the committee that the falling off in American tonnage has been nearly wholly in those vessels engaged in the foreign trade. It is singular to notice that notwithstanding the immense increase in our commerce, foreign and domestic, yet American tonnage has not regained the position it held in the year 1860. It becomes the American statesman to look these facts and others that I will present in a moment fully in the face, and while ascertaining the cause, apply the remedy. Remembering the decrease of American tonnage, I now invite your attention to the state of the carrying trade, in the years mentioned, as it is shown in the following tables:

American and foreign tonnage entered at our seaports.

Year.	American.	Foreign.	Total.
1860	3,301,903	1,698,291	5,000,194
1879	3,049,743	10,718,394	13,768,137

Now, this disparity in tonnage at our expense does not as fully manifest the balance of the carrying trade against us as is shown and will be seen in the following table, namely:

Value of exports and imports carried in American and foreign vessels.

Year.	American.	Foreign.
1860	$482,268,274	$159,336,576
1879	272,015,697	911,269,232

Mr. Chairman, this state of facts should not exist. The causes which produced them, as well as the proper remedy to correct them, should enlist the earnest thought of this Congress. I am content now simply to call attention to the coincident fact that during this decadence of our commercial marine our Navy has almost hand in hand, as it were, grown weaker and weaker; and to my mind it is apparent that as the sense of security and protection is withdrawn or lost from any business or trade, that capital and labor will avoid its ventures and risks. And while we canvass the causes of decay in our carrying trade, no thinking man can escape the conclusion that one of its contributing causes was and is the weakness of our Navy, and the inability or indisposition of our Government, in consequence of this, to demand and enforce full respect for the rights of our citizens engaged in foreign trade.

Of the other contributing causes, this is not the time or occasion to speak, and I can only say now that when the labor of this country is relieved of that taxation, which, under the name of protection, enhances the cost of living to the laborer, but enriches the capitalist, then and not till then can we build vessels as cheaply and as successfully as our rivals in the carrying trade, and thus fully recover our position. But to return, Mr. Chairman, to the presentation of the exhibits of our vast and increasing commerce, representing over $1,000,000,000 annually, seeking every market of the habitable globe, with at least $250,000,000 of our citizens invested in our commercial marine, and with thousands of our sailors engaged therein, risking life and liberty daily, and depending directly on these is the wealth and prosperity of all our coast and many of our interior cities, and yet behind and greater in magnitude is the wealth and industry of our vast farm-fields and great manufacturing establishments.

Weigh well, sir, the presentation of this exhibit, and let the committee answer, if in our present weak and inefficient Navy we are affording that security, care, and protection which we feel bound to give to the care and custody of other property and interests. Your cities, towns, and States pay tenfold more for police force annually than your Navy costs, yet they have not greater interests to guard than your Navy. Your Army costs from two to three hundred per cent. more per annum than your Navy, yet the relative importance of their duties to the national interests are inferior to those exacted of and to be performed by your naval force.

Looking not alone to the present commercial interests of our country, but its future—when your millions, as now counted, shall be reckoned in billions—when we shall, by our increased productions, challenge competition in all the markets of the world, and when by the justice and fraternity of our intercourse with foreign nations we shall make more consumers than Great Britain now boasts of in her dependent colonies, your committee dares to believe, sir, that they have not mistaken their duty, in view of the weakness of our Navy, in reporting the necessity of a reconstructed navy; and to declare that it is not the persons of the Navy but the interests of the whole people which demand that this work shall be speedily entered upon.

Add to these considerations a view of the immense line of our sea-

coast, extending on the Atlantic from Canada to the Isthmus of Darien, and on the Pacific from the Isthmus to British Columbia, which must be guarded. While it is true that nature has done much to insure the protection of the American coasts, and while the engineer may by his land fortifications add much to its security, yet there remains beyond a duty which none but a naval force can perform. Of course this consideration weighed much with the Committee on Naval Affairs. It was these considerations that induced that committee to enter upon the preparation of the bill now submitted to the favorable judgment of the House and the country. As I have already intimated, there was some collision of opinion as to the method and manner of this work of reconstruction; but after thorough canvass and amicable concession, the present bill is reported with the entire concurrence of the committee.

I detain the committee but a moment longer to state that while the character and type of the future ship of war has been freely discussed, no recommendation in regard thereto has been made. The committee, however, were almost if not entirely unanimous in the opinion that "we should possess and be able rapidly to put afloat, in case of war, a few ships of not more than two thousand tons burden, armed with rifled guns of great power and range and so swift as to be entitled to be called 'the cavalry of the sea.'" Such vessels being built with such uniformity in class or type as to make fleet combination possible and desirable, with great ramming power, would, in the opinion of your speaker, make an efficient navy.

An efficient navy is demanded by the great interests as well as sure defense of the country. I trust it will be made to the end that wherever American energy, American labor, and American capital may go and wherever sought the protection of the American flag may insure respect for its rights and a speedy redress for any injury done. I now yield to my colleague on the Naval Committee, the gentleman from Massachusetts, [Mr. HARRIS,] who will explain more at length the details of the pending bill.

Mr. ATKINS. Before the gentleman from Tennessee takes his seat, and before the gentleman from Massachusetts proceeds, I would like to ask my colleague how many ships at this time are sufficiently out of repair to be sold under the provisions of this bill?

Mr. HARRIS, of Massachusetts. If the gentleman will not anticipate the discussion I will give him a table of all the vessels that ought to be taken out of the Navy.

Mr. ATKINS. I will be glad to hear the gentleman's statement.

Mr. WHITTHORNE. Before taking my seat, having yielded to the gentleman from Massachusetts, I wish to say that I think the committee and the country are indebted much to that gentleman for the patient labor and research he has given this question. To him I commit an explanation of the details of the bill.

Public Building at Louisville.

SPEECH OF HON. ALBERT S. WILLIS,

OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, April 3, 1880.

The House being in Committee of the Whole on the state of the Union, and having under consideration the bill (H. R. No. 3545) to provide for the erection of a public building in the city of Louisville, Kentucky—

Mr. WILLIS said:

Mr. CHAIRMAN: During the present Congress I introduced a bill (H. R. No. 3545) calling for the construction of a building at Louisville, Kentucky, commensurate with the needs of its public business. The Committee on Public Buildings and Grounds unanimously reported back and recommended the passage of the bill, and it is now upon the House Calendar, to be voted upon when reached.

CONGRESSIONAL ORATORY.

According to popular idea the "whole duty" of a member of Congress is to make speeches and draw his salary. The thousand matters of departmental business; the careful and conscientious examination of pending legislative measures; the preparation, presentation, and advocacy of bills and resolutions; the correspondence with constituents, averaging from twenty to thirty letters every day; the consideration of bills and other business in committee—these various duties and responsibilities, which occupy almost the entire time and attention of a Representative, are utterly ignored or deemed of minor importance as compared with that of debate or mere speech-making. Such I know was my own impression of the subject. I had often pictured to myself the stirring scenes of a great debate—the gallery crowded with interested and enthusiastic auditors, the legislative seats filled with "grave and reverend seigniors," and a rapt silence prevailing while some noted statesman was expounding a great constitutional question or vindicating some important principle of national polity.

Not six weeks of my congressional career had passed until upon five different occasions I heard the most distinguished representatives of both political parties deliver able and eloquent speeches to an average audience of a dozen members on the floor and thirty or forty drowsy spectators in the gallery, who had casually lounged in from motives of comfort or curiosity. The reasons for this apparent indifference are obvious. Questions of revenue, finance, tariff, &c., entered into the canvass and were the subjects upon which members were elected. It cannot, therefore, be expected, and it is seldom if ever the case, that these general or political debates can boast a single convert.

If the bill which I have introduced belonged to this class of subjects I would not occupy a single moment in its discussion. It, however, involves data which should be in the possession of the House before it is called upon to vote. Nor have I felt at liberty to hold back these data until the bill comes up for discussion. I wish to present them now, so that any gentleman desiring it may have ample time and opportunity for investigating their truth and applicability. When thus inquired into and substantiated, the facts and principles which underlie this application for a public building will, I feel assured, secure as favorable consideration for the bill in the House as they did before the committee, and at the same time furnish some information which may prove valuable for future reference.

A DELICATE AND DIFFICULT DUTY.

No committee of this House, Mr. Chairman, has a more delicate and difficult duty before it than that of determining the location, the value, and character of the public buildings in the United States. It is a duty, too, in the performance of which the committee charged with it, unlike other committees, is left almost entirely to its own unaided judgment. When it is proposed to erect a public building at a particular point, the proposition is not necessarily antagonized by the claims of any other point. There is no conflict of interests, as in other appropriations, which would elicit the exact facts. Each city hopes in its turn to be found worthy of a similar recognition, and in any view of the subject it would be a gratuitous and most ungracious task for any one not a member of the committee to contest or deny the necessity and propriety of the desired result.

THE RULE ADOPTED BY THE COMMITTEE FOR ITS GOVERNMENT.

Appreciating these facts, the Committee on Public Buildings and Grounds adopted, upon the motion of my colleague, [Mr. MCKENZIE,] the following resolution:

Resolved, That this committee, in considering all bills for the erection of public buildings or for the extension of the same, will require of the member introducing the bill a statement in writing showing the amount of revenue received from all sources whatever; the post-office statistics, business of the United States courts, &c., at the city or town where said public building is proposed to be erected. And further, that the sub-committee will address a letter of inquiry to the Secretary of the Treasury in each case as to whether the needs of the public service require the construction or extension of said public building, and if so, what amount in his judgment should be appropriated; and also for a statement of the amount of rent paid annually by the Government for the use of public buildings at such place.

The committee evidently thought that by ascertaining the amount of internal revenue, the amount of postal receipts, and the amount of receipts from customs, the total amount of public business transacted at any point would be approximately known, and a rule thus established which would be just and uniform in its application and results. That this conclusion of the committee is correct can be demonstrated by a reference to the official reports of the Government.

SOURCES OF GOVERNMENT REVENUE.

From the last annual report of the Secretary of the Treasury, it appears that the ordinary revenues, from all sources, for the fiscal year ended June 30, 1879, were $273,827,184. Of this amount $11,195,829 were made up from the items "repayment of interest by Pacific Railroad Company," "revenues of the District of Columbia," "profits on coinage," and other sources, which in no way affect the question of public buildings, as the sums referred to are received at the Treasury Department and nowhere else. Deducting this sum of $11,195,829, the amount remaining is $262,631,355. The whole of this, except $11,820,303, is made up of two items, to wit, customs, from which the receipts during the last year were $137,250,047, and internal revenue, from which the receipts were $113,561,610.

In other words, from these two sources of customs and internal revenue there was collected last year the sum of $250,811,658, which is six-sevenths of all the receipts that are paid to the Government at the various cities where buildings are owned or rented by the Government. Therefore, by ascertaining the amount paid into the Treasury from these two sources, we have a criterion, so far as *receipts* of money are concerned, for the establishment of public buildings. Another and very important branch of the public service which involves much business, and whose gross receipts are quite large, is the Post-Office Department. As its expenses are greater than its receipts it yields no revenue, and is not included in the report of the Secretary of the Treasury. These three sources—internal revenue, postal receipts, and customs dues—when aggregated show the amount of public business at any given point, and furnish the principal if not the only rule for determining the necessity and character of its public buildings. Of course there are exceptional features in the claims of some cities, such as the existence of a United States court, pension agency, &c. But after a careful review of the subject I am convinced that the rule just stated is a fair and just one when applied to the whole country.

Desiring, therefore, to comply with the wish of the committee, I sent

letters to the heads of Departments having control of these subjects and obtained answers, of which the following will serve as an illustration:

TREASURY DEPARTMENT,
OFFICE OF INTERNAL REVENUE,
Washington, February 18, 1880.

SIR: In reply to your letter, in which you request that I furnish you with the number of the district in which the cities therein named are located, &c., I have the honor to return the list herewith, with the number of collection district, location of collector's office, and amount of collections for the year 1879, added thereto.

By order of the Commissioner.

Very respectfully,

A. H. HOLT, *Chief Clerk.*

Similar answers from the Secretary of the Treasury and from the Post-Office Department were received.

The official data thus furnished show the amount of internal revenue, the postal receipts, and customs dues paid at the city of Louisville, to which the bill I have introduced refers. In addition to this I have prepared a tabular statement of all the cities in the United States where public buildings are located whose cost exceeds $150,000. This table, which I append, gives first the populations of these cities, as shown by the census of 1870. That there has been a great increase of population since then, we all know; but as the increase will apply to all cities alike, no complaint of unfairness can be made upon this score. The second column of the table gives the amount of public business. This "amount" is made up of the three items of internal revenue, postal, and customs receipts, thus:

Boston:	
Internal revenue	$1,190,589
Postal	1,028,664
Customs	13,572,737
Total	15,791,990

In the same way, the total amount of public business at each city, as given in this column, has been ascertained. The third column of the table is taken from the Supervising Architect's report for 1879, and shows the total value of public buildings now at those points. The amounts given exhibit the total cost of work, including alterations and repairs and cost of site, to June 30, 1879. The fourth column of the table shows what the city of Louisville would be entitled to if Congress gave to it public buildings in the same ratio to the amount of its public business, as has been allowed to other cities in the Union.

Comparative table.

Cities.	Population.	Amount of yearly public business.	Value of public buildings.	Ratio expended.
New York	942,292	$107,633,392	$10,978,172	$321,687
Boston	250,526	15,791,990	5,994,476	1,198,890
Philadelphia	674,022	12,244,011	5,623,147	1,495,793
Cincinnati	216,239	11,693,261	4,473,687	1,240,661
Chicago	298,977	10,847,616	5,744,000	1,727,921
San Francisco	149,473	8,588,877	1,807,425	687,232
Saint Louis	310,864	5,998,735	5,443,053	2,960,944
Baltimore, Maryland	267,354	4,550,424	1,631,733	1,263,433
Louisville, Kentucky	100,753	3,263,673	372,690	.....
Covington, Kentucky	24,505	2,899,127	258,686	2,897,283
Milwaukee, Wisconsin	71,440	2,435,203	243,777	316,910
Richmond, Virginia	51,038	2,240,551	307,131	309,895
New Orleans	191,418	2,156,841	4,191,810	6,287,715
Buffalo, New York	117,714	1,766,128	331,008	611,584
Detroit, Michigan	79,577	1,596,161	233,913	477,182
Pittsburgh, Pennsylvania	86,076	1,272,692	1,194,494	3,069,823
Raleigh, North Carolina	7,790	955,014	338,000	1,149,200
Omaha, Nebraska	16,083	924,419	355,021	1,242,500
Albany, New York	76,216	803,650	445,000	1,780,000
Nashville, Tennessee	25,865	765,573	328,000	1,377,600
Indianapolis, Indiana	48,244	724,287	401,145	1,804,500
Portland, Maine	31,413	398,951	952,277	4,950,400
Utica, New York	28,804	376,935	292,085	2,511,200
New Haven, Connecticut	50,840	337,390	235,287	2,166,000
Dubuque, Iowa	18,434	329,848	200,000	1,980,000
Wheeling, West Virginia	19,280	309,252	138,559	1,454,869
Saint Paul, Minnesota	20,030	282,520	436,000	5,077,600
Atlanta, Georgia	21,789	262,673	211,705	2,548,928
Evansville, Indiana	21,830	224,760	315,000	4,567,500
Savannah, Georgia	28,235	211,990	200,846	3,093,028
Memphis, Tennessee	40,226	169,761	216,000	4,168,800
Madison, Wisconsin	9,176	169,274	353,328	5,912,900
Grand Rapids, Michigan	16,507	157,301	182,320	3,755,792
Little Rock, Arkansas	12,380	134,113	200,000	4,860,000
Des Moines, Iowa	12,035	133,504	238,000	5,831,000
Mobile, Alabama	32,034	119,621	449,136	12,216,499
Knoxville, Tennessee	8,682	119,051	398,840	10,905,200
Columbia, South Carolina	9,298	117,244	413,000	11,564,000
Charleston, South Carolina	48,956	109,868	2,944,573	83,453,718
Portland, Oregon	8,293	104,915	385,000	12,050,500
Hartford, Connecticut	37,180	96,595	675,000	22,507,500
Port Huron, Michigan	3,973	84,011	246,000	9,544,800
Norfolk, Virginia	19,229	77,076	266,009	11,544,790
Harrisburgh, Pennsylvania	23,104	57,977	290,000	16,588,000
Trenton, New Jersey	22,874	36,464	403,613	37,055,400
Bangor, Maine	18,289	29,057	211,012	23,758,600
Fall River, Massachusetts	26,766	25,659	440,000	55,880,000
Lincoln, Nebraska	2,441	23,532	183,508	25,986,000
Cairo, Illinois	6,267	13,975	281,533	70,531,000
Parkersburgh, West Virginia	5,546	9,049	243,000	88,087,500

ANALYSIS OF THE ABOVE TABLE.

From the last report of the Supervising Architect it appears that there are one hundred and six cities in which the Government owns and has charge of public buildings. The tabular statement which I have just given, being one-half of the whole number, comprises all cities where the value of the buildings is over $150,000. An analysis of the facts presented by that statement, in connection with those of the other cities reported by the Supervising Architect, discloses some unique and interesting results. The names of the cities are arranged in order, according to amount of public business annually transacted. New York, it will be seen, stands first, and Louisville is eighth in the list. Twelve of the one hundred and six cities, it will be seen, do a public business which, as compared with Louisville, would give that city buildings valued at between one and two millions of dollars, or averaging the amount it would be $476,300. Five, Saint Louis, Utica, New Haven, Covington, and Atlanta, have a public business which would give Louisville between two and three millions of dollars, or an average of $2,616,871. Three cities, Pittsburgh, Pennsylvania; Savannah, Georgia; and Grand Rapids, Michigan, give Louisville between three and four millions, or an average of $3,306,214. Four cities, Portland, Maine; Evansville, Indiana; Memphis, Tennessee; and Little Rock, Arkansas, would give Louisville between four and five millions, or an average of $4,636,675. Three cities, Saint Paul, Minnesota; Madison, Wisconsin; and Des Moines, Iowa, would give it between five and six millions, or an average of $5,600,500. Only five cities, New York, San Francisco, Detroit, Richmond, and Milwaukee, would give Louisville for public buildings an amount *less* than one million. The last three cities have no pension agencies, are of much smaller population, and in other respects, as I shall presently show, are distinguishable. I have thus given the status of Louisville as compared with thirty-two cities where public buildings are now located. As to the remaining seventy-four cities, if the public buildings of Louisville, as elsewhere, were proportioned to the amount of business done, their value would range from *six* to *one hundred millions of dollars*. In other words, if the same ratio had been observed at Louisville as at *three-fourths* of the cities in the United States it would now have public buildings costing from *six* to *one hundred millions of dollars!*

The public business of the cities which are not included in the table is very much less in proportion to the value of their public buildings. But limiting the calculation to the cities which I have tabulated, and averaging them, Louisville would, upon the same basis, be entitled to an appropriation of $11,763,000. It must also be borne in mind that at a large number of the cities contained in the table the buildings are yet in process of erection, and their ultimate cost is not stated. This is the case in six of the eight cities which precede Louisville in the list. At another one of the eight—Baltimore—a new building is contemplated, for whose site this Congress has already appropriated $500,000.

Can any city in the United States, Mr. Chairman, make out a stronger case than this? The mere statement of the figures is, I submit, a conclusive argument in favor of the bill which I have introduced. This statement is based upon the official data contained in the reports of the last fiscal year. Highly favorable as it is to the city whose interests I advocate, I will now proceed to show that it is an

UNDERESTIMATE OF THE FACTS,

and that the total public business of Louisville, instead of being $3,263,673, as given in the table, should be between five and six millions of dollars. To this proposition I challenge attention and contradiction. The above amount of $3,263,673 is composed of three items: internal revenue, for which the receipts last year were $3,069,691; postal receipts, $158,689; and customs receipts, $35,293.

The receipts from internal revenue of the Louisville district three years ago amounted to $4,033,377. Under the provisions of a joint resolution of Congress, approved March 28, 1878, the time during which distilled spirits entered into distillery warehouses was extended to three years. Since the passage of that law withdrawals have only been made to meet the wants of trade, and consequently a large per cent. of whisky has been left in bond, thus creating a temporary reduction of the internal revenue. The whisky which was placed in bond nearly three years ago must soon be withdrawn, and under the stimulus of trade is being now withdrawn. From this time forth, therefore, the amount of internal revenue in the district will be largely increased.

The records of the office since the last report of the Commissioner of Internal Revenue show an increase of over 50 per cent. as compared with the corresponding months of last year. And this increase will, in the opinion of the collector, continue throughout the year. Should this be so, the internal revenue alone of the Louisville district will approximate $5,000,000.

But, Mr. Chairman, it may be asked, does not the law affect all districts alike? Most certainly not; and the explanation is at hand. The distilleries of the Louisville district manufacture fine whiskies, which need age to make them valuable. Outside of Kentucky the products of the distilleries are generally ready for the market at once. An examination of the last report of the Commissioner of Internal Revenue will illustrate and confirm this statement. On page 60 of the report is a "statement of the quantity in taxable gallons of each kind of spirits, as known to the trade, remaining in distillery warehouses June 30, 1879." From this it appears that outside of the State

of Kentucky the aggregate number of gallons in bond at that time was 14,008,537. In fifty-two districts the number of gallons thus left in bond is under 100,000; in only six is it over 500,000; and in only one, the Pittsburgh district, is the number over 1,000,000. The number of gallons in the Louisville district is stated at 4,717,290, which is more than one-third of all the other districts in the United States, outside of Kentucky, combined. The Louisville district is therefore exceptional. At ninety cents per gallon, the amount of tax thus ready to be paid from that district on the 30th of June last, the first full fiscal year during which the act of March 28, 1878, has been in operation, was $4,245,561. The estimate, therefore, of $5,000,000 per annum from receipts of internal revenue is within the official statements.

A comparative idea of the amount which is collected from the Louisville district from this service may be formed when it is known that the States of Alabama, Arkansas, Colorado, Florida, Georgia, Kansas, Minnesota, Maine, New Hampshire, Vermont, Rhode Island, Connecticut, Mississippi, Nevada, Oregon, South Carolina, and Texas, and the Territories of Arizona, Dakota, Idaho, Montana, New Mexico, Utah, Washington, and Wyoming paid last year the aggregate amount of $2,929,020, which is $140,671 less than that district paid. In other words, this single district at Louisville had more public business in this direction than seventeen States and all the Territories of the Union combined. The aggregate receipts from the State of Kentucky for the same time were $7,672,945. The receipts from Kentucky for the last seventeen years from internal revenue amount to $108,685,245. Of this immense sum, the Louisville district, formed by the consolidation of the fourth and fifth districts, paid $42,840,300. Of the one hundred and twenty-six collectors' offices in the United States the Louisville office ranks ninth in importance, paying one-thirty-third of the total amount of internal revenue collected.

THE LARGEST MARKET FOR TOBACCO AND FINE WHISKIES IN THE WORLD.

An examination of the report of the Commissioner of Internal Revenue will show that the proportion of the enormous revenue business of Kentucky which is transacted at Louisville, always great and now nearly one-half of the whole amount, has been steadily on the increase. Nor is this surprising to any one familiar with the facts. On the 8th of January, 1876, the fourth internal-revenue district, composed of fourteen counties, was consolidated with the fifth district. Louisville thus became the commercial center of the largest whisky-producing district in the State. The counties of Nelson, Owen, Bullitt, La Rue, Marion, Washington, and Anderson, which are included in this district, have for half a century been noted for the manufacture of fine whiskies. The product of more than one-half the State of Kentucky comes to Louisville, thus making it the first market in the United States if not in the world for this class of goods. This concentration of trade has given increased activity to the business. New distilleries have been opened and the capacity of the old ones in almost every instance has been enlarged. The statement is equally true as to the manufacture of beer, both common and lager. The storage capacity of most all the lager-beer breweries have been increased—some 50 per cent., some 75 per cent., and two of the largest more than double that of 1878.

As to another chief source of internal revenue—tobacco—it is well known that Louisville holds precedence over all other markets. It is, indeed, the largest and best leaf-tobacco market in the world, and is a center where the whole buying interest both of Europe and America is represented. A comparison with Cincinnati, Saint Louis, Clarksville, and Nashville will show the advantage which Louisville has. The total number of hogsheads received at these cities during the last six years are given in the first column, which I read, and the sales in the second:

Cities.	Receipts.	Sales.
Louisville	311,943	345,585
Cincinnati	197,817	194,565
Saint Louis	97,377	76,059
Clarksville	83,531	81,065
Nashville	33,449	29,209

It will thus be seen that the business of Louisville for the past six years has been ten times greater than Nashville, five times greater than Clarksville, four times that of Saint Louis, and one and one-half times that of Cincinnati. This immense trade in leaf-tobacco has had its influence in stimulating the manufacturing interests. New factories have been established every year, and old firms have enlarged their capital and capacity, so that the revenue from this source has been and will continue steadily on the increase.

CUSTOMS AND POSTAL RECEIPTS.

The collections of custom duties for the past year were as follows:

	Value.	Duty.
Total entered for warehousing	$23,159	$13,326
Total entered for consumption	95,288	44,033
Grand total	118,447	57,359

Next in importance to customs and internal revenue is the postal business. The total receipts for the whole country from this source during the fiscal year ended June 30, 1879, were $30,041,982. Of this amount the Louisville office paid $186,832. Of the fifty thousand post-offices in the United States, New York ranks the first both in point of receipts and in amount of business, while Louisville is the thirteenth city in amount of business, and the sixteenth in receipts.

The following statistics taken from the last report of the Postmaster-General will show the postal business of Louisville as compared with several cities of equal or greater population. The first column gives the number of carriers employed and the second the number of pieces of mail handled per annum:

Cities.	Carriers.	Number of pieces.
Pittsburgh	34	7,378,508
New Orleans	47	8,828,249
Washington	44	8,071,334
Milwaukee	26	8,537,070
Indianapolis	28	8,068,267
Louisville	30	9,425,429

It thus appears that Louisville more than holds her own in the amount of business done. The above cities have been selected as being approximately the population of Louisville. Of the eighty-eight free-delivery offices in the United States three-fourths of them do not return one-half as much and one-half of them do not return one-third as much receipts as the Louisville office, and yet in all of them, as shown by the preceding table, the buildings in which their business is transacted are upon an average fifty times larger and more expensive than the one in Louisville. The amount and character of business in this branch of the service at Louisville may be further realized from the following statement of the past year:

Receipts:	
Stamps sold	$114,007 08
Stamped envelopes sold	37,475 30
Postal cards sold	17,490 00
Newspaper and periodical stamps sold	13,061 08
Postage-due stamps	717 00
	182,750 46
Box rents	47 90
Waste paper sold	897 50
Fees on money-orders issued	2,237 00
Total receipts	185,932 86
Increase over 1878	31,028 08
Registered-letter business of 1879:	
Registered letters originally mailed here	14,708
Registered letters received for distribution and delivery	66,467

PENSION BUSINESS AT LOUISVILLE.

Another and very important branch of the public service at Louisville, which has not been considered in the tabular estimate of the public business, and which is daily increasing, is that of pensions. The pension list of the United States on the 30th of June last amounted to 242,755 persons. The aggregate amount paid last year for pensions was $29,942,781, and for arrears of pensions $21,880,008, making a grand total of $51,822,789. This enormous business was formerly transacted by fifty-eight officers, but on the 7th of May, 1877, an order was issued by the President reducing the number of agencies to eighteen, the consolidation to take effect July 1, 1877. Subsequent to this the number of agencies was reduced to seventeen. One of these seventeen offices is at Louisville. Of the eight cities which exceed Louisville in the aggregate amount of their public business Cincinnati and Baltimore have no offices. Besides the remaining cities there are six cities, Milwaukee, Detroit, Pittsburgh, Indianapolis, Des Moines, and Knoxville, which have offices. The remaining four offices, Washington, Canandaigua, Columbus, and Concord, are not in the tabular list, as their business is transacted in rented offices. The Louisville office during the last year disbursed to sixty-three hundred and twenty Army and Navy pensioners the sum of $971,570. In addition to this it disbursed for arrears of pensions $670,533, making a total of $1,632,104. In making the tabular estimate of the amount of public business this important element was omitted, because it entered into only a small portion of the whole number, there being, as we have just seen, only twelve other cities which have such public business.

SUMMARY.

The aggregate amount of public business attended to in Louisville during the past year is therefore as follows:

Internal revenue	$3,399,411
Customs	57,359
Post-office	186,832
Annual amount to pensioners	971,570
Total	4,615,172

But, as we have seen, the amount of internal revenue from this time forth in that district will at the lowest estimate be 50 per cent. greater than it has been for two years past. Adding this to the above, we find the ordinary annual public business of that city to be $6,314,877. All the estimates in the table which I have given exclude

the pension business, and also exclude this 50 per cent. of internal revenue which has been under the law retained in the warehouses. If these are included, the public business of Louisville will be, as just stated, $6,314,877 instead of $3,263,673, or nearly double, and the average value of her public business, as compared with all the other cities in the United States, would be over $20,000,000!

UTTER INADEQUACY OF ACCOMMODATIONS.

To accommodate her immense business there is only one public building at Louisville, which was built in the year 1851, at a cost of $246,640. Alterations and repairs have since increased its value to $350,690. This one structure is made to serve the purposes of all the various governmental offices of the district. Constructed originally according to a plan which prevented the utilization of more than one-half of the space, the building at this time, aside from its dilapidated and insecure condition, does not and cannot be made to afford half the proper facilities for the transaction of public business. The lower floor, which is used for post-office and appraiser's office, is, as the report of the committee shows, badly arranged and entirely too contracted for the proper dispatch of a large and steadily increasing business. The first floor is also used as a storehouse for imported goods, and bales and boxes constantly blockade the entrance hall leading to the other two floors. The second floor is crowded with the surveyor's office, the collector of internal revenue, the pension agency, steamboat inspectors, and railway mail service. The third floor is occupied by the United States court-room, grand and petit jury-rooms, United States marshal's office, library, United States district attorney's office, judges, private chambers, and United States district and circuit clerks' offices. The United States court-room, thus located on the third floor, is difficult of access, inconveniently arranged, noisy, contracted, devoid of suitable accommodations, and utterly unfit for the large and growing business of the courts. For years these court-rooms have been thronged with crowds of officials, attorneys, prisoners, witnesses, and other attendants at trials of Ku-Klux, moonshine distillers, and other violators of the law.

The officials in the building justly complain of the great annoyance of these attendants on the courts, as they lounge and swarm through the corridors, and the confusion of these crowds ascending and descending four long flights of iron stairs is not only a serious interruption to court proceedings, but to all other public business. The elevator does not more than accommodate the regular officials of the building. Ladies must come daily and hourly for mail matter, to look after pension claims, &c., and grievously complain of the rude annoyances of these crowds, who are usually very rough, noisy, and intrusive. Not a single officer of the Government has sufficient room or facilities for the discharge of his duties. The district attorney has been compelled to rent an office in another building. The clerks of the district and circuit courts are so crowded that they find it utterly impossible to make a systematic arrangement of their books and documents. Under the bankrupt act the titles to millions of dollars have passed, and the records and proceedings establishing them are in such confusion that it is the work of days for an attorney to find and examine them.

Only a few weeks ago a prominent member of the Louisville bar informed me that he was thus engaged ten days when half an hour should have sufficed. Two thousand records of these courts have been, from want of space, removed to another place. For the same reason the records of both courts are kept in one room. When both district and circuit courts are in session, one of the judges is compelled to use the library, which is entirely unsuited to such a purpose. The marshal and his deputies, who are also on the third floor, have equally cramped and insufficient offices. On the second floor the surveyor of customs has a small room, about fifteen by eighteen feet, in which to make his examination of goods. The basement and cellar, which he uses for storerooms, are inadequate and unsuited to the purpose. The collector of internal revenue, Colonel James F. Buckner, who is located on this floor, has no rooms which answer the necessities of his office. From a letter upon the subject to Hon. J. M. Wright, superintendent of the Louisville Board of Trade, I read the following extract:

On the 8th of January, 1876, the fourth district internal revenue, composed of fourteen counties, was consolidated with this fifth, and all the records and papers of both districts are now crowded into this office, except about fifty large boxes stored in the cellar for want of other room for them. You will see from the above that the space occupied by the collector and ten clerks, crowded into two rooms, (separated from each other,) with the necessary desks, presses for papers, &c., is entirely too small. The space allotted to the cashier, who receives daily large sums of money, is in the midst of all. The space occupied by the tax-payers, who assemble in crowds on certain occasions, is cramped and uncomfortable, and does not afford the proper convenience for the prompt transaction of business, and is the cause of much delay and confusion.

Furthermore, for want of room and other conveniences, the records, books, and other public property connected with this office are necessarily exposed and unsafe. The whole building is now crowded, too small, and unsuited to the purposes for which it is principally used. Its interior structure is made of very combustible material; it is filled with combustible matter, and liable to take fire at any moment, in which case heavy loss will fall on the Government. I cannot too strongly urge the propriety of erecting a new and large building entirely fireproof.

The importance of having a building not only large enough but *fire-proof* for the protection of the public property will be readily seen from this statement and the facts which it suggests. The average value of spirit, tobacco, beer, and proprietary stamps that the collector of such an office is required to keep on hand is over $250,000. To this is to be added the special-tax stamps, received annually in April and held for several months, which amount to a still larger sum. In this one branch of the public service over half a million dollars of property could be destroyed in a single hour. The court and other official records connected with the post-office, &c., cannot be estimated in money.

The want of suitable accommodations for the postal service I have already incidentally alluded to, but an extract from a letter written by Mr. E. S. Tuley, assistant postmaster, will more fully and clearly present the facts:

Great need exists for increased accommodations for the business of this office. While it is possible for our present condition to be improved by alteration of the present building, it never can be properly arranged for permanent occupancy as a post-office. The large entrance hall running through the center of the building causes the business of the office to be divided into three different apartments, by reason of which great delay occurs in transacting business.

A post-office should as far as possible occupy one room; then the mails can be handled with much greater facility, and, what is essential in this business, the employés can be kept under the immediate supervision of the postmaster and assistants. Such was the original purpose on the part of the Government concerning this office, which was originally intended to occupy that portion of the building lying east of the hall. But before the building was completed it was found necessary that the post-office should occupy the whole ground floor, except that portion used as an entrance hall. That was in 1857, at which time but eighteen persons were employed in the office, and but one railroad being then completed, but three mail-route agents reported at the office.

I shall ask to print with these remarks the letters in full from which I have read these extracts, and also letters from Colonel R. H. Crittenden, United States marshal, Colonel B. O. Carr, supervising inspector of steam-vessels, and Captain H. B. Jenks, head clerk of the railway mail service, together with resolutions of the Legislature of Kentucky, the board of trade, and the common council of the city of Louisville, which relate to the same subject.

"OLD THINGS HAVE PASSED AWAY."

But, Mr. Chairman, it is not necessary to present these minute details. The time when the building at Louisville was constructed should convince any mind of its entire inadequacy to the present pressing needs of the service. It answered the purpose for which it was built in 1851, but since then the character of our public business has changed, and its amount enormously increased. The briefest reference to some of the points will suffice. Then the population of Louisville was 43,194. Now it is 175,000, or over four times as large. At that time the laws of the General Government came in contact with the citizen once where now they touch and concern him in a hundred ways. From this fact—this increase of the subject-matters as well as of the jurisdiction of the Federal courts—has come an immense increase in the number of suits and a consequent necessity for enlarged accommodations. This increase of Federal business all over the country has been at least tenfold.

Then the sales of postage-stamps and stamped envelopes amounted to $27,000. Now the receipts from the same source are $168,255, an increase of over 600 per cent. The sales of stamps are a fair indication of the amount of business done in a community. This is so fully recognized that the compensation of postmasters is fixed under law by a commission on the stamps sold. There was then no money-order system, no railway mail service, and no letter-carriers. Now, as per last report, there are annually 110,606 money-order transactions, amounting in value to $2,648,746; thirty-five postal clerks, route agents, and mail-route messengers report at the Louisville office; thirty-two carriers are employed in the free delivery, who collected and delivered last year 9,499,685 pieces of mail matter. How utterly insufficient the present building is for these new branches of the postal service may be realized when it is known that the only accommodations provided for these clerks, &c., with their mails and registered matter, is a space equal to about ten by twelve feet. In addition to these striking changes, which so loudly demand an increase of facilities, two of the largest and most important branches of the public business then had no existence. The amount of business transacted by these, the pension agency and Internal Revenue Office, last year, as we have seen, exceeded $4,000,000, and in future years will exceed $6,000,000.

The simple statement of these facts, supported as they are by the unanimous report of the committee, should secure for Louisville the same prompt and favorable action which the other cities of the Union have received.

RECAPITULATION.

With this view, Mr. Chairman, I have submitted to the House such considerations as seemed to me relevant to the subject. I have presented the statements of the officials representing the Government, whose position affords them the best opportunity for information, which declare that the building at Louisville, defective in its original construction, is now old, insecure, and dilapidated, the roof leaking in over twenty places, combustible and filled with combustible material, and that it is wholly unsuited for the purposes to which it is devoted. I have shown further that since that building was erected, over a quarter of a century ago, there has been an enormous increase in customs receipts, postal transactions, and Federal court business, while the free-delivery and money-order systems, railway mail services, pension disbursements, and internal-revenue collections have come into existence, and that the demand for office room has thus been increased more than one hundred fold. I have also, by a tabular statement carefully prepared from official sources, called attention

to the fact that upon last year's business as a basis Louisville would be entitled to public buildings whose average value, as compared with all other cities, would exceed $11,000,000; or, by adding the annual pension business and the revenue on whisky in bond, the average would be increased to $20,000,000.

At all other cities in the United States, Mr. Chairman, facts such as these have been given their proper weight, and the Government has constructed suitable edifices for the transaction of its business. Why should their force and legitimate result be denied in this single instance? Why should not Louisville be placed upon an equal footing with her sister cities of the Union? At Chicago, Saint Louis, Cincinnati, Boston, New York, Philadelphia, and numerous other points large and commodious edifices have been erected or are in course of erection. Cleveland, Pittsburgh, and other cities have been voted large appropriations by this Congress, and yet their public buildings now exceed those of Louisville by over a million of dollars. I voted for the bills in their behalf and rejoiced at their success, for I knew it was deserved.

ARCHITECTURE A SOURCE OF PATRIOTISM AND AN INDEX OF CIVILIZATION.

Such edifices, aside from their practical utility and necessity, serve wise and patriotic purposes. They are impressive and attractive evidences of the majesty of our country, speaking to the eyes and hearts of its people, inspiring at once respect for its power and grateful appreciation of its beneficence. Not only do such buildings make the Government familiar to the senses and affections of the people, thus promoting their love of country, but they furnish the complement and completion of its political history. Civilization has no exponent more sensitive than architecture. It is at once its index and type. All structures, whether religious or civic, whether of pomp or necessity, are deliberate and unconscious expressions of the prevailing sentiments, the social and political condition of the people who erect them. They are enduring monuments of the national taste, skill, and power. The buildings constructed by the ancient Romans in their provinces contributed largely to spread the area of civilization and to diffuse ideas of order, wealth, and comfort, and to-day their ruins are the best record we have of the power and affluence, the skill, intrepidity, and fertility of genius which characterized that ancient commonwealth.

Not only does architecture inspire patriotism, cultivate taste, and advance civilization, but it may and does often exercise a conservative influence upon society. In the shifting, impetuous life of this new and rapidly expanding country our architecture should be a conservative element, possessing a permanency of structure that should provide for posterity, which should furnish resting-places in the march of American life—unmoved columns around which the tides of innovation will sweep in vain. The spirit which likes only the new should be educated by our stable architecture into loving reverently that which is old. When our feverish national life under this and kindred influences shall become more calm, when we shall have in our midst temples of justice or religion at whose shrine the affections and memories of centuries shall gather, we will have taken a grand step toward securing the perpetuity and integrity of our free institutions.

Giving due weight to these general considerations, and recognizing the fact that the buildings in the cities to which I have alluded were called for, not by a mere desire for pompous display, but to fulfill certain serious and actual requirements of the public service, I cheerfully gave them my vote, and I consider their proposed construction a tribute at once to the judicious liberality and enlightened statesmanship of this House. I have referred to them, therefore, not to condemn their claims, but only by the comparison to secure justice to the city which I have the honor to represent. I appeal to the members upon this floor to investigate the facts to which I have called attention and govern themselves accordingly.

PROSPECTIVE GROWTH OF LOUISVILLE.

This appeal I make with more confidence because the urgent necessity for prompt action which now exists will increase with every coming year. The steady growth of population and business which has marked the past career of Louisville will hereafter not only continue but be even more rapid.

Certainly very few cities on the continent can compare with it in natural advantages and geographical position or can point with surer hope to greater possibilities in the future. With rich and exhaustless treasures of mineral wealth at her very doors; with immense beds of ore, producing the best qualities of iron; with boundless supplies of the finest building stone, and the two greatest coal-fields of the world within her easy reach; with a climate whose salubrity and healthfulness are almost without a parallel in the world; with the necessaries of life abundant in quantity and superior in quality; with a vast water-power which, if utilized, could turn the spindles and drive the machinery of the world; upon what more solid foundation than these could any city rest its hopes of prospective growth and greatness. Superadded to these advantages, however, Louisville occupies a geographical position whose commanding importance in the political and commercial future of our country can hardly be exaggerated. It is the key, the gateway, to the South and Southwest. It is the center of the Ohio Valley, and also of that great Mississippi Valley of which the Ohio forms a part. The fertility, the boundless resources, the agricultural and mineral wealth, the rapidly increasing population of this part of our continent needs only to be suggested. That it is destined to be the seat of political supremacy and commercial greatness requires no prophet's ken to foresee.

Thus centrally located with reference to these two great valleys, with every part of which as well as the whole Union she has direct communication by her comprehensive railway system of over four thousand miles and her river navigation of over twelve thousand miles, Louisville can confidently look forward to an annual decided increase of her public business, whose demand for sufficient accommodations is already so urgent and so well founded.

Resting, then, upon these facts, I now, Mr. Chairman, submit this bill to the decision of the House, with the full reliance that it will do whatever is just and right in the premises.

The proceedings of the Board of Trade of Louisville, Kentucky, the statements of the Government officials, the resolutions of the board of common council, and petition of the members of the bar are as follows:

LOUISVILLE BOARD OF TRADE,
Louisville, Kentucky, March 15, 1880.

At a meeting of the board of directors, held March 10, 1880, the following resolutions were adopted:

Whereas the United States Government building in this city was erected many years ago, when the business of the General Government had not developed to its present magnitude, and when the business of the city of Louisville was comparatively small; and

Whereas by the expansion of national and local affairs said building is totally inadequate to the various uses to which it is now devoted, being overcrowded and inconvenienced by the occupancy of the internal-revenue, customs, and pension offices, the United States court and the several offices, and the post-office: Therefore,

Be it resolved, That the Committee on Appropriations in Congress are respectfully and earnestly requested to recommend a sufficient appropriation for the erection of a new and suitable building in this city adopted to the advanced and rapidly increasing necessities of this locality.

Resolved, That the superintendent be directed to correspond with the several heads of departments in the custom-house and obtain from them statements in regard to the necessity for a more suitable Government building, and that he forward such communications, with a copy of the foregoing resolutions, to the Representative in Congress from this district, with the request that he lay the same before the Appropriation Committees.

From the minutes of the board.

J. M. WRIGHT, *Superintendent.*

Under the above resolutions a committee of three active and prominent members of the board, William A. Robinson, W. H. Dillingham, and Logan C. Murray, was appointed. These gentlemen, in connection with Hon. J. M. Wright, the superintendent of the board, addressed letters to which the following responses were received:

[From the collector.]

UNITED STATES INTERNAL-REVENUE COLLECTOR'S OFFICE,
Fifth District of Kentucky, Louisville, March 12, 1880.

SIR: In compliance with the request of the Louisville Board of Trade, communicated through you, I make the following statements, giving my opinion of the necessity for the erection of a new Government building in this city to meet the wants of the present large and rapidly expanding trade concentrated here.

I will confine myself to matters of internal revenue, with which I have been connected for ten years past, the collector's office being in the present custom-house building. We occupy two rooms, separated from each other.

The present building is old, very much out of repair, and leaks badly, so much so that the roof must be taken off and changed, and many other changes and repairs made, in order to make it fit to be occupied even temporarily. The expense of this must certainly be great. Even then the greatest evil will not be remedied. The heating arrangements and ventilation, drainage, water-closets, and sewers are contracted and imperfect, making it dangerous to the health of persons employed in the building.

The building was constructed long before the internal-revenue system was inaugurated, and of course no provision was made for a collector's office. The business to be conducted in it was then very small compared with what it is now. The post-office occupies the entire first floor, and I understand is cramped and crowded for room. I see it is likewise the case with all the other offices in the building.

In the internal-revenue department, which sprang up within the last seventeen years, while the subjects of taxation have diminished in number and the rate of taxation reduced, yet the aggregate amount collected has greatly increased.

Internal-revenue taxes are now confined almost exclusively to three leading articles, whisky, tobacco, and fermented liquors, the first two peculiarly the production of our section of the United States.

The manufacture of whisky in this district is now 50 per cent. greater than in any preceding year. The product of more than one-half the State of Kentucky is concentrated here. Much comes from other States, paying taxes in some shape.

We have the largest leaf-tobacco market in the world, twelve warehouses making daily sales of leaf-tobacco.

As a consequence, the manufacture of tobacco in all its branches—plug, smoking, and cigars—is now very large and rapidly growing.

The manufacture of malt liquors is at least ten times larger than it was ten years ago. The same is true of other industries, subject to the internal-revenue tax payable at this office.

On the 8th of January, 1876, the fourth district internal revenue, composed of fourteen counties, was consolidated with this, (fifth,) and all the records and papers of both districts are now crowded into this office, (except about fifty large boxes,) stored in the cellar, for want of other room for them.

You will see from the above that the space occupied by the collector and ten clerks, crowded into two rooms, (separated from each other,) with the necessary desks, presses for papers, &c., is too small. The space allotted to the cashier, who receives daily large sums of money, is in the midst of all. The space occupied by the tax-payers, who assemble in crowds on certain occasions, is cramped and uncomfortable, and does not afford the proper convenience for the prompt transaction of business, and is the cause of much delay and confusion.

Furthermore, for want of room and other conveniences, the records, books, and other public property connected with this office are necessarily exposed and unsafe. The whole building is now crowded, too small and unsuited for the purposes for which it is principally used. Its interior structure is made of very combustible material; it is filled with combustible matter, and liable to take fire at any moment, in which case heavy loss will fall on the Government. I cannot too strongly urge the propriety of erecting a new and large building, entirely fireproof.

I trust that the board of trade will sustain our able and worthy representative, Mr. WILLIS, in procuring the appropriation for such a building.

Respectfully,

J. F. BUCKNER,
Collector.

Major J. M. WRIGHT,
Superintendent Board of Trade, Louisville.

[From the postmaster.]

LOUISVILLE, KENTUCKY, *March* 12, 1880.

DEAR SIR: In answer to your communication of 11th instant, I have to inform you that great need exists for increased accommodations for the business of this office. While it is possible for our present condition to be improved by alteration of the present building, it never can be properly arranged for permanent occupancy as a post-office. The large entrance hall running through the center of the building causes the business of the office to be divided into three different apartments, by reason of which great delay occurs in transacting business.

A post-office should, as far as possible, occupy one room. Then the mails can be handled with much greater facility, and, what is essential in this business, the employés can be kept under the immediate supervision of the postmaster and assistants. Such was the original purpose on the part of the Government concerning this office, which was originally intended to occupy that portion of the building lying east of the hall. But before the building was completed it was found necessary that the post-office should occupy the whole ground floor except that portion used as a public entrance hall. That was in 1857, at which time but eighteen persons were employed in the office, and, but one railroad being then completed, but three mail-route agents reported at the office. There was then no money-order business and no letter-carrier service. Now there are thirty-six clerks and thirty-five letter-carriers employed in the office, and twenty route agents and postal clerks regularly report here with their mails. In the year 1860 the sales of postage-stamps and stamped envelopes amounted to $32,140, while the sales for 1879 were $168,255. The sales of stamps are a fair indication of the amount of business done in a community. These figures plainly show that since this building was first occupied as a post-office the business has increased to such proportions that increased accommodations are essentially necessary for the proper conduct of the business.

Very respectfully,

E. S. TULEY,
Assistant Postmaster.

[From the supervising inspector.]

OFFICE OF UNITED STATES SUPERVISING INSPECTOR OF STEAM-VESSELS,
Louisville, March 12, 1880.

MY DEAR SIR: Replying to yours of the 11th instant, asking my opinion as to the necessity for a new Government building in this city, would say: The present custom-house is not near large enough to accommodate the requirements of the public business, and belongs to a style of architecture (long out of use) which will not allow the utilization, for business purposes, of half the space it occupies. In fact, the Post-Office Department needs at this time the whole of the first and second floors. The public buildings at Memphis and Nashville, Tennessee, at Evansville, Indiana, and Cairo, Illinois, all ports in my district, and either completed or now in process of construction, although intended for cities less than one-fourth the size of Louisville, have now available room, are much superior to our building, and are planned and constructed with a wise forethought for the future needs of the public business incident to increasing population and importance.

This building was erected before the war, when the population of Louisville was scarcely one-third what it now is, and when the most far-seeing legislator had not comprehended the great growth of public as well as private business already realized.

It is a matter of surprise to strangers visiting us that the people of Kentucky have been so long satisfied with the present building, while in cities of less importance all over the country the Government has erected, or is erecting, commodious and elegant buildings for the transaction of the public business.

I am, sir, very truly, &c., your obedient servant,

B. O. CARR,
Supervising Inspector Steam-Vessels.

Major J. M. WRIGHT,
Board of Trade Rooms, Louisville, Kentucky.

RAILWAY MAIL SERVICE,
Louisville, Kentucky, March 16, 1880.

The following was received at the board of trade this morning:

"No branch of the public service is so badly off for suitable quarters as the railway mail service. The importance of this arm of the postal service has scarcely been recognized anywhere until within a few years, and in this respect Louisville has been no exception to the rule. In 1874 an office of this service was established here, but owing to the crowded condition of the Government building suitable quarters have never been obtained. Thirty-five postal clerks, route agents, and mail-route messengers report at this office, and for the purpose of transacting the business for which they are employed, as well as to provide suitable quarters for those men who arrive from and depart on their trips at all hours of the day and night, much more room is required than can be furnished without a radical change in the interior plan of the present building."

Very respectfully,

H. B. JENKS,
C. H. C., Railway Mail Service.

[From the marshal.]

LOUISVILLE, *March* 12, 1880.

SIR: In reply to your inquiry as to the suitableness and sufficiency of the accommodations of the United States district and circuit courts in the United States building now occupied by them, I will state that they are insufficient, unsuitable, and in every way unworthy of the court and the Government.

With respect,

R. H. CRITTENDEN,
United States Marshal.

Hon. J. M. WRIGHT,
Superintendent Board of Trade, Louisville, Kentucky.

In addition to this action on the part of the board of trade, the citizens of Louisville have spoken, through the municipal government, by petition of the members of the bar, and by joint resolution of the General Assembly of the State.

RESOLUTIONS OF BOARD OF COMMON COUNCIL.

Whereas it is a patent and well-known fact that the Government buildings in the city of Louisville are totally inadequate in size and appointments for the purposes for which they are used: Therefore, be it

Resolved by the general council of the city of Louisville, That we are pleased to see the efforts being made by Hon. ALBERT S. WILLIS, our Representative in Congress, looking to an appropriation for larger and better buildings for Government purposes.

That we respectfully call the attention of Congress and the Government authorities to these facts, and request that such steps be immediately taken as will insure the purchase of a site and the erection of such buildings in this city as the increasing business transacted by the Government in this State demands.

Resolved, That the mayor be requested to send a copy of these resolutions to Hon. ALBERT S. WILLIS for presentation to Congress.

L. R. MCCLEERY, *C. B. C.*
OLIVER LUCAS, *C. B. A.*
LAF. JOSEPH, *P. B. C.*
JAS. C. GILBERT, *P. B. A.*

Approved March 20, 1880.

JNO. G. BAXTER,
Mayor.

A copy. Attest:

L. R. MCCLEERY, *C. B. C.*

PETITION OF MEMBERS OF THE BAR.

To the Committee on Appropriations of the House of Representatives:

The undersigned, members of the bar at Louisville, Kentucky, beg to respectfully urge upon your honorable body the importance and necessity of larger and better quarters for the officers and courts of the United States at this place, and join in the request of other departments of business in this city that suitable appropriations be made for a new Government building adapted to the increased and increasing wants of the Government service and courts at Louisville.

ISAAC CALDWELL,
HENRY J. STITES,
And two hundred others.

Illinois and Michigan Canal.

REMARKS OF HON. GEORGE R. DAVIS,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, April 24, 1880,

On the following resolution:

With a view to the improvement of the water communication between the Mississippi River and Lake Michigan by the Illinois River, Illinois and Michigan Canal, and Chicago River,

Be it resolved by the House of Representatives, (the Senate concurring,) That a committee, consisting of two Senators and three members of the House, be appointed, authorized and empowered to ascertain upon what terms the State of Illinois will relinquish and transfer to the United States all and singular its property and rights of property in and to the line of water communication known as the Illinois and Michigan Canal, between Chicago, Illinois, and the Illinois River, at La Salle, Illinois, including its locks and dams, canal franchises, and rights of way, or so much of the same as shall in the judgment of the said committee be needed for such purpose, and report its findings to this Congress on or before the 1st day of February, 1881.

Mr. DAVIS, of Illinois, said:

Mr. SPEAKER: Upon the 8th day of March last past I introduced the foregoing resolution, to which I ask the attention of the House at this time.

It will be observed that the resolution provides for the appointment of a committee by Congress to ascertain upon what terms the State of Illinois will relinquish its control of the Illinois and Michigan Canal, and cede the same to the United States, with a view to the improvement of that great water-route connecting the waters of the Mississippi and its tributaries and the waters of the Gulf with those of the northern lakes and the Saint Lawrence.

It will also be observed that the committee contemplated by this resolution is required to report to the present Congress, necessitating early action by the House if the benefits sought to be obtained by this measure are to be secured.

It is believed that the provisions of the resolution give to the committee authority of sufficient scope to enable it to ascertain and report in full upon the method to be pursued to secure to the Government the control of this important work and the desirability on the part of the Government of such control.

The attention of the House is also called to the fact that no appropriation is asked for by this resolution, and it is proper to mention that there is none in contemplation, unless the committee to be appointed ascertain that the Government can secure the control of this canal and that such control is desirable.

In offering this resolution I must believe that good and sufficient reasons exist why the Government should take early action in an effort to secure control of the improvement referred to, and this House must be so impressed to warrant me in asking and this body in appointing a committee for the purpose proposed.

I will therefore briefly refer to some of the reasons which have actuated me in this regard.

The importance of a ship-canal or deep-water navigation connecting the Saint Lawrence and the lake system with that of the Mississippi and the Gulf, by a direct practicable and feasible route received early consideration by the National Government, and its construction has been hopefully looked for by the Government and by the people residing in the great Mississippi Valley for more than half a century.

After decades of investigation, of surveys, and of experiments, it is clearly demonstrable and is so found by our most experienced and skillful engineers that the only practicable and feasible route for deep-

water communcation between the lakes and the Gulf is by the route indicated in the preamble of this resolution.

The French traders, with a limited portage, passed their boats by this route from the northern lakes to the Gulf more than two hundred years ago.

It is altogether probable that formerly in centuries past the waters of the northern lakes had a natural outlet to the Gulf by this route.

The Government gave the subject early attention, and the importance of a route of this character for military purposes was urged upon the National Government as early as 1812, and it formed an important topic in the message of the President of the United States to Congress in 1814. At this early date it was reported upon by a select committee of Congress as "the great work of the age for military and commercial purposes."

During the session of Congress in 1817 this subject was reported upon to Congress by an eminent engineer, (who had under authority made a careful examination,) as follows:

> That a canal uniting the waters of the Illinois River with those of Lake Michigan may be considered the first in importance of any in this section of the country, and the construction would be attended with very little expense compared with the magnitude of the object.

Mr. Calhoun, Secretary of War, in 1819 called the attention of Congress to this improvement on account of its great importance for military purposes.

It is seen that from the earliest days of the Republic the importance of this connecting link, uniting the Saint Lawrence and the lake system with that of the Mississippi and the Gulf, has been regarded as of great consequence, national in its character, and urgently required for both commercial prosperity and national defense.

The State of Illinois immediately subsequent to admission into the Union, mindful of the great benefits to be secured from a route of this character, urged upon Congress through her representatives the necessity for action, and during the year 1822 Congress granted to the State the right to lay out and survey through the public lands a route for a canal.

In 1827, Congress, by act of March 2, gave to the State, to aid in the construction of the canal, alternate sections of land on either side for five miles, its entire length, which were subsequently ascertained to contain 290,915 acres.

Upon securing the right of way granted in the act of 1822, and the subsequent donation of land under the act of 1827, the State undertook the enterprise of constructing a canal. It was not until 1836 that arrangements were perfected and the necessary means provided for a vigorous prosecution of the work. From this time forward for a period of twelve years the improvement, despite political controversies, was pushed forward by the State with great energy. Surmounting and overcoming all obstacles, furnishing the required means secured by the issue of bonds, pledging the credit and faith of the State, and by the sale of lands, until finally in 1848, the stupendous work to be undertaken by a State so young and of so limited a population was completed, and it stands to-day as a monument to the industry, patience, and characteristic pluck of her citizens.

It was not completed as originally designed, or as a ship-canal, but for a short distance the original plan was changed from a deep to a shallow cut plan, the datum-line on the summit being twelve feet above the level of Lake Michigan. On this level from Chicago to Lockport the water was supplied by pumping from the Chicago River.

This level was cut down under authority of an act of the Legislature of 1865, supplemented by the act of 1867, which gave to the city of Chicago the right to deepen that portion of the canal known as the summit level, and this work was completed at an expense of nearly $3,000,000 during the year 1870. The State subsequently assumed this charge and paid this indebtedness, relieving the canal of all liens upon its income.

The canal is ninety-six and a half miles long; surface width, sixty feet; six feet in depth, and has seventeen locks. It connects at La Salle, Illinois, directly with the Illinois River, and is open on an average eight months of the year. The aggregate cost of the improvement to date of opening in 1848 was $6,409,509; the appraised value of the land granted by the Government at the time of the grant was $2,126,355, but the State realized a much greater sum.

The canal and the lands granted by the Government were by an act of the Legislature placed in the hands of a board of trustees, and this board in August, 1871, after serving a period of twenty-five years, turned over the canal to the State with the original cost, interest, and entire debt (including subsequent improvements made by them) paid, with a surplus of $92,000.

The improvement by deepening the summit level by the city of Chicago was at an expenditure of nearly $3,000,000, and the subsequent permanent improvements aggregate a cost of something like $3,000,000 in addition, making the cost of the canal aggregate some $12,000,000. The tolls collected upon this canal from date of opening in 1848 to the close of last season amounted to the sum of $5,512,748. The ordinary expenses and repairs during the same period amount to the sum of $1,373,387.

The receipts and shipments at Chicago by this route for 1879 were as follows: 7,054,359 bushels of grain, 40,668,000 feet of lumber, 22,891,000 shingles, 59,965 barrels flour, salt, &c., 43,000 cubic yards of stone, and 700,000 tons of miscellaneous freight. Though completed, as I have shown, it only answers in a certain measure the immediate wants of the people, providing cheap and easy transportation for the products of the surrounding country and limited through traffic from Chicago to the Mississippi and *vice versa;* yet the question of the enlargement of the canal to the dimensions originally designed for deep-water connection has been constantly agitated and discussed by the public and in Congress, and the Government has constantly looked upon its importance and its necessity as an improvement devoutly to be wished.

In corroboration of the position I take upon this subject—that the people and the Government regard this work as necessary and national in its character—I will submit a few illustrations in this regard in addition to those I have already cited.

Upon the 5th of July, 1847, a convention convened at Chicago in compliance with previous arrangements, consisting of representatives of some seventeen States of this Union, for the purpose of making a demonstration and uniting in a demand to be made upon the General Government for the improvement of the rivers and harbors of the Northwest. It was designated as the northwestern harbor and river convention. Edward Bates, of Missouri, was president of that convention and Abbott Lawrence, of Massachusetts, chairman of its executive committee, and the representative men of the country were its delegates. It was a remarkable gathering.

The convention discussed the necessity for improving our western rivers and harbors and the importance of the Illinois and Michigan Canal as a connecting link between the two great systems.

The assembly listened to the discussion of this subject by Senator Corwin, Governor Bibb, of Ohio; Erastus Corning, James L. Barton, and John C. Spencer, of New York; Thomas J. Bigham, of Pennsylvania; Thomas Allen, of Missouri, and other distinguished representatives, and it determined that the National Government should make immediate provision for the improvement of such of the harbors and water courses of the Northwest as were eminently public in their character and over which the Government exercises control; and the Illinois and Michigan Canal was so regarded. The sage of Marshfield, too ill to attend, wrote that—

> I hope the convention may do much good by enforcing the necessity of exercising these just powers of the Government. * * * This power, in my opinion, is not partial, limited, obscure, * * * but is * * * general, and limited only by the importance of each particular subject and the discretion of Congress.

Thomas H. Benton approved of the action contemplated by the convention, and being unable to attend, wrote as follows:

> The lake and river navigation of the great West, to promote which the convention is called, very early had a share of my attention, and I never had a doubt of the constitutionality or expediency of bringing that navigation within the circle of internal improvement by the Federal Government, when the object to be improved should be one of general and national importance.
>
> The junction of the two great systems of waters which occupy so much of our country—the northern lakes on one hand and the Mississippi River and its tributaries on the other—appear to me to be an object of that character, and Chicago the proper point for effecting that union, and near thirty years ago I wrote and published articles in a Saint Louis newspaper in favor of that object, indicated and accomplished by nature herself, and wanting but a helping hand from man to complete it. * * * I mention this to show that my opinions on this subject are of long standing, and that the nationality of the Chicago Canal, and, of course, the harbor at its mouth, are by no means new conceptions with me. * * * Thus, on the important items of the Chicago Canal, the rapids of the Upper Mississippi, and the Missouri River I was the first to propose to include them within the circle of internal improvement by the Federal Government. I had always been a friend to that system, but not to its abuse; and here lies the difference and the danger and the stumbling-block to success. Objects of general and national importance can alone claim the aid of the Federal Government; and in favor of such objects I believe all the departments of the Government to be united. Confined to them, and the Constitution can reach them and the Treasury sustain them; extended to local or sectional objects, and neither the Constitution nor the Treasury can uphold them. National objects of improvement are few in number, definite in character, and manageable by the Treasury.

There seems to have been no conflict of opinion in the minds of the great statesmen and experienced business men of this period who had given the subject thought regarding the national character of this improvement.

The subject was subsequently discussed in several Congresses, and at great length in the Thirty-eighth Congress, during the recent rebellion, and its great necessity ably presented by Hon. I. N. Arnold and Hon. Mr. Norton, of Illinois, and a bill appropriating or loaning to the State of Illinois $5,000,000 to prosecute this work to completion as originally designed passed the House of Representatives.

The Senate of the same Congress passed a resolution directing the Secretary of War to make immediate survey with a view to its enlargement to such dimensions as would admit of the passage of the naval fleet upon the Mississippi to the lakes. By authority given by the act of June 23, 1866, this line of water communication from Lake Michigan to the mouth of the Illinois River was surveyed by the Engineer Department for the purpose of ascertaining the feasibility of improving the canal and river to the dimensions of a ship-canal, and in the report submitted the 13th of June, 1867, by the Chief of Engineers to the Secretary of War, General Wilson, the officer in charge of the survey, says:

> As this is a matter of vast importance to the national defense as well as to the agricultural and commercial interests of a large and productive portion of the country, I have taken the liberty of giving my investigation the widest scope consistent with the object in view.

General Wilson, comprehending the great national advantages to be gained by this improvement, spared no pains in his thorough and complete investigation and survey. He consulted the officers of the State, the engineers in charge of the canal, and availed himself of

every accessible source of information within the State and in the adjoining States. He made careful examinations of all the documents and information upon the subject contained in the archives of the Bureau of Engineers. He was convinced early in the investigation that no system of improvement would be efficient or commensurate with its national importance that would not provide good navigation for the largest Mississippi steamers plying upon the Mississippi, to pass easily from the Mississsippi to Chicago. He says:

The distance from the mouth of the Illinois River to Bridgeport, near Chicago, by river and canal is about three hundred and twenty miles, and the lockage between the two points is, as nearly as may be, one hundred and seventy feet, all of which will become descending lockage with the lake as a summit by making a through cut from the Chicago River to Lockport.

In this respect the improvement will be almost unique and will possess an advantage in its inexhaustible summit which will make it superior to any other artificial navigation of like extent ever constructed.

From this report it is conclusively shown that this route from the lakes to the Gulf is the only route capable of furnishing for any reasonable expenditure the navigation from the lakes to the Mississippi of sufficient magnitude to prove a national defense and for military, naval, and commercial purposes.

It is shown to be the direct route—the river and the entire line being remarkably direct, and it will furthermore provide an inexhaustible reservoir of inestimable value to the navigation of the lower Mississippi during a dry season.

By the act of March 2, 1867, a board of engineers was created under direction of the Chief of Engineers "to conduct surveys and examinations and to prepare plans and estimates for a system of navigation by way of the Illinois River between the Mississippi and Lake Michigan adapted to military, naval, and commercial purposes."

This board reported, upon the 17th of December, 1867, (Report of the Secretary of War, volume 2, 1868 and 1869,) after a careful examination of all plans and surveys heretofore submitted to the Department, and after making a personal examination of the surrounding country, with the information that had been gathered upon the subject for the past thirty years—

That they are decidedly of the opinion that in constructing such a system of navigation as the interests of the country require, the Government must follow the line of the Illinois and Michigan Canal and the Illinois River.

When it is considered that the summit of the Fox and Wisconsin River line is three hundred and fifteen feet and that of Lake Winnebago and Rock River is two hundred and eighty-five feet above the level of Lake Michigan, it will be seen that the line recommended by us is the only feasible route for deep water communication between the great lakes and the Mississippi River, equally adapted to military, naval, and commercial purposes.

* * * * * * *

In making our surveys and estimates, we have deemed it our duty to obtain such data as would enable us to recommend the proper route for an improvement of the capacity indicated beyond a question.

For a canal and river improvement of a capacity sufficient to pass such gun-boats as required and river steamers of eight hundred to one thousand tons burden from the Mississippi to Lake Michigan, no other route in our judgment can be compared with that by the Illinois River and the Illinois and Michigan Canal.

It follows the course of what was unquestionably the great outlet of the lakes toward the Gulf of Mexico, and through which only it is practicable to again turn their waters in that direction.

It is not necessary to introduce statistics to show the commerce of Chicago, the northern terminus of this canal, or to refer to this great focal center of railway and water transportation to establish its peculiar fitness as a terminus of a work of this character.

The southern terminus of this immediate system is Saint Louis; but the actual southern terminus is at La Salle, Illinois, where the canal enters the Illinois River. As this river and its commerce is immediately and essentially a portion of the system, to comprehend the advantages of a deep-water connection with Lake Michigan requires a word in relation to the transportation facilities of this river. In 1852 it was first brought to the attention of the public that the Illinois River needed artificial aid to render it navigable the entire season, and the fact that it has needed this aid has interfered and reduced the tonnage and curtailed the through carrying trade of the canal to a great extent.

The General Government made a small appropriation this year (1852) for the improvement of the river, and has since that period, in connection with amounts appropriated by the State for the same purpose, greatly improved the river, so that it is reported by the Engineer Department in a report to Congress for 1879 and 1880 that at not exceeding an expenditure of $1,000,000 for preparing the bed of the river and the construction of two additional locks and dams, there will be secured permanently seven feet of water the entire distance from La Salle to Grifton, the mouth of the river, a distance of two hundred and twenty-four miles. It was recommended by the board of engineers in a report to the Chief Engineer of the Government, and by him approved and submitted to Congress, that the permanent improvement of the river demanded the construction of locks and dams, and that a slack-water system should be adopted, to execute which certain amounts should be appropriated. Congress failing to make the needed appropriation, the State proceeded to improve the river upon the plan suggested by the Engineer Department, and after an expenditure of nearly $1,000,000 in improving the navigation and constructing two locks and dams, (the Government putting in the foundation for one and the Engineer Department expending the remaining amounts of the sums appropriated by the Government for the improvement of the river in preparing the bed of the stream, building wing-dams, dredging, &c.,) has secured by this means permanent improvement, giving seven feet of water for nearly one hundred miles. It only remains for the construction of two additional locks and dams (which should be constructed at an early date) to render navigable for the largest steamers upon the Mississippi the Illinois River from the mouth to La Salle—a distance of two hundred and twenty-four miles—the southern terminus of the Illinois and Michigan Canal.

It will be observed that the State of Illinois has already constructed two of the four locks and dams required, each three hundred and fifty feet long by seventy-five feet wide. The National Government has appropriated in all $619,150 for the improvement of this river. The locks and dams constructed by the State are under its management the same as the Illinois and Michigan Canal.

In the annual report of the Engineer Department, (Appendix BB, page 1577, 1879,) Captain Lydecker, United States engineer officer, states that "the interests involved in its completion," (the Illinois River improvement,) "are not local simply, but widespread, and it is eminently right that the Government should assume the entire cost and direction of the river improvements; that this should be done when the national importance and general commercial value of the route are considered," and "that it would be far better to build the necessary locks and dams at once, and not do any more dredging." He also states that seven feet of water with any desired width can be obtained.

The importance of this river to the great commercial interests of the country cannot be appreciated in its present condition with no connection with the lake except by barges; yet in the year 1878 the number of arrivals and departures of steamers and barges at the port of Saint Louis, Missouri, was as follows:

	Arrived.	Departed.
Upper Mississippi	965	974
Lower Mississippi	737	760
Illinois	263	265
Missouri	160	171
Ohio, Cumberland, and Tennessee	197	178

The freight in tons received at the port of Saint Louis from the Illinois River for the year 1878 was, 124,785, nearly three times more than was received from the Missouri River. The enrolled tonnage of the river aggregates 20,000 tons. It will be seen that the State of Illinois has expended in the improvement of this public highway (the Illinois River) something like $400,000 more than the National Government; and attention is also directed to the important fact that the State improvements have been of a permanent and lasting character.

It is believed by many that this Government may be required, and possibly at an early date, to furnish a prompt armament for its northern or lake frontier. The readiness or ability of the Government to do this may prevent a war or greatly lessen the expense and loss of life and property in a war already begun.

Under the treaty existing between the United States and the British Government no armed vessels of the government are permitted upon the lakes, excepting, I believe, one upon Lake Ontario and two upon the upper lakes, which must be of inferior armament designed only for service in the lake marine, and the treaty provides that none can be constructed or their construction commenced except upon a six months' notice to such effect. While this provision of the treaty may have been a wise one fifty years ago, when the naval vessels to be operated upon the lakes by either government had from necessity to be constructed upon them, and when our chief cities, commercial centers, and population were in the East and South, it is very evident that a change in that provision would be required if a new treaty were to be entered into at the present day.

Here upon the thousands of miles of lake border upon the American side have sprung up within the last thirty years large and important commercial cities, immense in their proportions and grand in their achievements. Here upon these waters is found a commerce of such magnitude and of such growth as to challenge the admiration of the world. No inland seas of any continent can be compared with them—none promise so much for the future. Here lie invitingly near our great railway systems, the through trunk lines from East to West. Through these waters and the narrow channels connecting the system a large portion of the products of the West must pass, the closing of which, or its serious interruption, would be attended with a cost to our people equal to the expense of a war.

These interests are not secondary to those of our seaboard cities, which are provided with land and naval armament of immense cost.

How is the situation upon the lake border? The naval armament by this Government is not of that character or magnitude which would command the attention of any one. The force or power to be exerted would not seriously embarrass fast-sailing unarmed schooners, and this Government cannot increase that force or power except by the construction of vessels upon the lakes.

The British government, on the contrary, can send into those waters, if need be, naval vessels and gun-boats drawing ten to twelve feet of

water, and of sufficient armament to sweep from the face of the lakes every vestige of our lake commerce and lay every city upon its border in ashes without let or hinderance. She can also by this means prevent us from constructing a fleet with which to oppose them. The canal system of Canada has been constructed by its government with a view to its adaptation to military as well as commercial purposes. The British provinces are confederated and their entire consolidated strength can be made effective in any conflict with this Government, and the government of Canada and Great Britain justly feel the importance of being in a condition to defend its border. They are still prosecuting and improving their canal system with an avowed purpose of military as well as commercial benefit.

It may be argued that in the event of a war the United States would readily take possession of the canals in Canada and either destroy or command them, yet it may be mentioned in this connection that it has been reported by the Engineer Department, in a report heretofore referred to, that—

> It will not do to depend upon permanent defenses for the purpose of barring the entrance to the lakes, for unfortunately they cannot be so situated nor so constructed as to completely subserve the object in view.

This Government has no need of a permanent navy upon the lakes; the expense of its maintenance would be great and unbearable; it has a necessity, however, of being in a position to protect the commerce of the lakes and the cities upon their borders in case of an emergency, and the completion of this canal will place the Government in that position.

The Government has happily located one of its great arsenals and outfitting depots at Rock Island, Illinois, situated in the center of the continent upon navigable waters, capable of any required enlargement and absolutely secure from a foreign enemy. It can be made at little expense, should necessity require, the great outfitting depot for an army and for an inland navy, sending down the river its ships of war to re-enforce the forces at the entrance of the Mississippi and up the Illinois to the lake—a naval force capable of giving ample protection to the lake frontier.

During our last war we had, as shown by the Report of the Secretary of the Navy, more than one hundred vessels of war upon the Mississippi and its tributaries; a larger naval force on these waters alone than the entire Navy of the Government at the breaking out of the war. Such a force could be passed through this canal to the lake system if necessity required it, saving the millions it would cost to construct a navy for the protection of the lake border.

The military importance of this canal to which I have alluded is but a decimal when contrasted with the demand made by commerce for its enlargement.

While the entire product to be moved from the interior to market will never pass over our water-routes, large quantities going by rail, yet the improvement of our natural routes of transportation, their being kept free from obstruction, and their connection by short and necessary canals will do more to regulate the tariff upon the railway lines, prevent discriminations, and require justice to be accorded to all parties, the shipper and the carrier, than all the interstate-commerce bills that the minds of this body can conceive or the will of Congress enact into law.

One of the great questions of the day which will require all the wisdom and sagacity of Congress to solve, and which the public demand shall be immediately adjusted, is the question of transportation rates. In this connection I wish to call attention to the fact that this canal, with its limited and contracted space, to-day regulates to a great extent the tariff rates of freights from Missouri, Kansas, Iowa, and Minnesota to Chicago. If railway rates are advanced beyond a proper amount between Saint Paul and Chicago, the grain is shipped via the Mississippi and Illinois Rivers and this canal. The same is true of freights between other western points and Chicago; and though but a limited quantity may be shipped by the river and canal, it is owing to the fact that it can be so shipped that the railway lines charge only a reasonable tariff, and the entire public is benefited.

This canal is located in a latitude sufficiently far south to permit of its being open more than eight months during the year, and, with its Illinois River connection to the Mississippi, it passes for a distance of three hundred and twenty miles through one of the most productive regions of the continent, through the center of the granary of the world.

The single State of Illinois, through which it passes, produced during the year 1879, among other products, 305,914,000 bushels of corn, 2,579,000 tons of hay, 45,418,000 bushels of wheat, 54,665,000 bushels of oats, 7,126,000 bushels of potatoes, 990,000 bushels of flaxseed, 1,525,000 gallons of sorghum, and marketed 1,984,194 head of hogs, 410,000 head of fat cattle, 175,000 head of sheep—valued to the producer in the sum of $220,000,000; a State which in the fiscal year of 1879 paid to the Government in internal revenue alone nearly $20,000,000, almost one-fifth of the entire receipts by the Government from this source of revenue, and exported eleven and one-half millions of untaxed alcohol.

The city of Chicago, the northern terminus of this canal, exported direct on through bills of lading 14,631,295 bushels of grain, 717,863 barrels of flour and meal, 1,656,012 tierces, barrels, and packages of hams, pork, beef, lard, &c., a total of 768,153 tons—an increase of 600,000 tons in five years.

I make this statement to exhibit the amount of internal revenue paid direct to the Government by the State and the quantity of domestic produce exported direct, as an evidence of the ability of this State, through which this water system is required, to pay her proportion of the annual expenditures made by the Government for the improvements throughout the country and the energy and enterprise of Chicago, the northern terminus of the canal, in assisting in creating a balance of trade in favor of the Government, both of which statements it seems proper for me to refer to, that it may be understood that the people of this State have much of the expenditure required for the contemplated improvement to pay themselves. This canal will connect the South and West by water with a great commercial center—the city of Chicago—whose manufactures for the past year amounted in value to some $300,000,000, and with a State which has large mechanical industries, manufacturing in the single item of farm machinery more than one half of all that is fabricated in this country.

It will connect by navigable waters for steamboat transportation the great inland cities of the country, Chicago and Saint Louis, the former the northern and the latter the southern terminus of this immediate system.

It will afford easy, direct, and cheap water transportation for all surplus products of the fields, of the forests, and of the mines in the great West tributary to the Mississippi system to Chicago, the great lumber, provision, cattle, hog, and grain market of the world, where these products will find a direct water communication with the seaboard.

It opens up a market for the staples of the extreme South by water with all points upon the lake system. The Mississippi steamer, laden with its rice and coffee, its cotton, sugar, tobacco, and products of the tropics, can unlade upon the docks of the port of Chicago and proceed to the large elevators, warehouses, and lumber-yards, receiving a full cargo of manufactured supplies, and lumber, flour, grain, pork, and other products of the farm, for the South.

It completes the system of the great Mississippi Valley with that of the great chain of northern lakes, and, as remarked by his excellency Governor Cullom in a recent effort—

> The actual saving to the producer and consumer by this improvement and those contemplated by the Government upon the Mississippi in the price of wheat and corn alone would be enough to pay the cost of the improvement in one year upon a liberal scale.

It unites the 3,087 American vessels upon the northern lakes with the 2,576 American vessels of the western rivers; the 597,377 tons tonnage of the lakes with the 501,809 tons of tonnage of the Mississippi system, which is more than one-fifth of the total number and more than one-fourth of the total tonnage of the shipping of the United States. A system of navigation embracing on the one side more than fifteen thousand miles of navigable waters flowing into the Gulf of Mexico, and upon the other the great lake system flowing through the Saint Lawrence into the Atlantic, (with immediate connection with the Erie Canal and Hudson River to New York,) separated now only by a short canal, upon the construction of which nearly $12,000,000 have been expended with gratifying results, and the completion of which as designed will not cost as much more.

I have stated that the Government in 1827 gave to the State of Illinois a grant of land to aid in the construction of this canal, and I wish to simply place on record now the fact that in doing this and in granting to the State the munificent donation of some two and a half million acres of land to aid in the construction of our Central Railway the Government, singular as it may appear, has derived in the rise and sale of lands withheld a large amount in excess of the value of the total lands granted to the State and those withheld. In the grant for the Illinois Railway in 1850 the Government realized something near $9,000,000 in excess of the value of the total quantity granted and withheld. To this may be added the amount saved to the Government during the war for the transportation of that vast number of troops and the great quantity of supplies forwarded to the seat of war, the cost for the transportation of which was 33½ per cent. less than it would have been had this been other than a land-grant road. I call attention to this fact at this time to show the great benefit the Government has derived directly, in dollars and cents, from the liberality which characterized the Government's action toward this State in its early history.

So with this improvement the Government can, if it should so determine, by exacting for a limited period a moderate tariff in tolls, soon reimburse itself for every dollar expended upon it.

I have endeavored to present in a plain and matter-of-fact manner, without embellishment or rhetorical display, such facts and ideas as this subject has suggested, which are conclusive to my mind that a necessity exists for the enlargement of this canal; that such a necessity is not local but widespread; that the State of Illinois is relieved of this duty since the enlargement of the canal is conferring a greater benefit upon others than upon the citizens of that State; that the Government cannot derive the greatest benefit from its expenditures upon the Mississippi and the lake system, and permit a connecting link to be owned, controlled, and operated by a separate corporation, making the said improvements feeders to such connecting link; that the duty of the Government commences where the magnitude of the enterprise and the benefits to be gained are so universal and of such colossal proportions; and that the Congress which has surveyed

so much and reported so often and recommended so lavishly, but has never appropriated a dollar, will be loath to do so until the improvement is controlled by the General Government. With a view to such control I introduced this resolution as the first practicable step to be taken by the Government, which action is in conformity with congressional precedent in such cases.

The canal belongs to the State of Illinois and cannot be sold or leased except in compliance with the following section of the constitution of the State:

CANAL.

The Illinois and Michigan Canal shall never be sold or leased until the specific proposition for the sale or lease thereof shall first have been submitted to a vote of the people of the State at a general election and have been approved by a majority of all the votes polled at such election.

The General Assembly shall never loan the credit of the State or make appropriations from the treasury thereof in aid of railroads or canals: *Provided*, That the surplus earnings of any canal may be appropriated for its enlargement or extension.

I believe that the committee to be appointed will find upon investigation that the necessity for this improvement exists as I have endeavored to show, and that the people of the State will, from the fact that the Government has contributed in land something toward its present construction and that it is to become a public highway, see it to their interest and to the interest of the National Government to cede this canal to the United States, provided the Government will improve it in accordance with the plans I have referred to and complete the work so far advanced by the State.

The Legislature of the State, it is believed, will, if the subject is properly presented to it, agree to submit to the people a proposition which will authorize the Legislature of the State to transfer the canal and its property to the General Government, providing that the Government will accept the same and proceed to its immediate improvement commensurate with its importance as a national military, naval, and commercial highway. The action and the step to be taken by Congress, as provided for in this resolution, should be at once. The State will not endeavor to push a matter of this character. The canal is a large and important work, now in successful operation and paying annually a large revenue to the State. It is controlled by State officers, and it cannot be expected that the State will take the initiative in this matter. I do not expect the Government to buy this property or pay to the State the amount it has expended upon it; to purchase stock or buy a canal, as it has done in other instances of routes of an inferior character to this; but if found to be, as represented, of such national importance and consequence as to warrant its improvement as suggested, that it may be undertaken by the Government.

The adoption of this resolution and the creation of this committee will not in any manner commit or bind the Government. It is in the nature of an official and authorized inquiry, and it is regarded by me as one of the most important measures to the commercial interests of the country, and especially to the great Northwest and Mississippi Valley that has or is likely to be presented to this Congress. It is directly in the line of national defense and commercial enterprise, and I ask that the resolution be adopted and that the committee be appointed to ascertain upon what terms the Government can secure the control of this canal, and if on the part of the Government such control is desirable.

Post-Office Appropriations.

SPEECH OF HON. H. H. BINGHAM,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, May 6, 1880,

On the bill (H. R. No. 6036) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1881, and for other purposes.

Mr. BINGHAM said:

Mr. CHAIRMAN: In view of the general discussion the pending section of this bill has provoked, and the absence of any consistent recommendations suggested by the Committee on Appropriations, it would seem necessary that a brief history of the legislation pertaining to the star mail service, so far as this session of Congress is concerned, should be submitted for the calm consideration of the committee, in order that the subject may be fully understood, as well as the absolute necessity of great care and critical examination before accepting any proposed legislation presented by the committee having this bill in charge. From the 26th day of February last, when the gentleman from Georgia [Mr. BLOUNT] presented House bill No. 4736, to provide for a deficiency in the appropriations for the star routes for the fiscal year ending June 30, 1880, up to the discussion of the bill now before us, the Committee on Appropriations has notoriously failed to bring to this House that complete and thorough familiarity with the legislation proposed, the wants of the people, and the requirements of the service that this body has the right to look for and expect.

By special reference the House of Representatives, under date of January 8, 1880, directed a sub-committee of the Committee on Appropriations "to inquire into the causes and the extent of the probable deficiency of the postal star service for the fiscal year ending June 30, 1880, and the facts which relate to said deficiency." Full power was given the committee to send for persons and papers.

Had the reference of this investigation been made to the Committee on the Post-Office and Post-Roads, I am confident that long before this an intelligent report would have been completed, resulting in wise and consistent recommendations being submitted to the House.

The Committee on Appropriations presented, after six weeks of investigation and examination, on the 26th day of February last, the following bill, and the gentlemen whom the House had indicated as the special committee under its resolution of January 8, 1880, had the direct and open charge of it. The bill reads as follows:

A bill (H. R. No. 4736) to provide for a deficiency in the appropriations for the transportation of the mails on star routes for the fiscal year ending June 30, 1880.

Be it enacted, &c., That out of any moneys in the Treasury not otherwise appropriated, so much thereof be, and the same hereby is, appropriated as may be required to meet the expenses of inland mail transportation on star routes for the remainder of the current fiscal year at or within existing contract prices: *Provided*, That upon any route where there has been an increase of the original contract price during the last or the current fiscal year exceeding $5,000, the compensation on such route shall be reduced to the terms of the original contract on and after the 1st day of March next; but nothing herein contained shall be construed to forbid the payment to contractors of the one month's pay, as is usual in case of reduction or termination of contract.

You will observe that the bill proposes to reduce on and after the 1st day of March next to the terms of the original contract all service upon routes where there has been an *increase* of over $5,000 during the last or current fiscal year. In other words, where the route has been allowed additional or multiplication of trips or increase of expedition, either or both are to be reduced to the original contract price.

The gentleman from Georgia [Mr. BLOUNT] opened the debate and sustained his bill by two propositions in argument, first, that the Postmaster-General and the Second Assistant Postmaster-General have deliberately gone on and made contracts, in violation of law, to the extent of $1,700,000, and therefore the demand for the deficiency; second, that the bill affected but one hundred and seven routes, and that the Committee on Post-Offices and Post-Roads in a bill before the House "marked the sum of $5,000 as the arbitrary line of proposed legislation to correct abuses in the expediting of schedule or increase of trips in contracts for star service in the future." He commended the Committee on Post-Offices and Post-Roads most generously for their suggested wise legislation, and warmly condemned the Post-Office Department for their alleged illegal administration of the appropriations for star service.

The gentleman reached his climax of eloquence and argument when he proclaimed:

There is a question involved in this bill larger than the mere amount of money. There has been an audacity exhibited on the part of one of the Departments of this Government that no potentate in Europe where there is any pretense of rights on the part of the people would have shown toward the legislative branch of the government. The Queen of England would not have dared to have gone to her Commons as we have been approached by this Department of our Government.

I trust, therefore, the House will see fit to pass the bill in its present shape.

The gentleman from Georgia [Mr. BLOUNT] gave the key-note in his argument to the entire discussion of the bill by its advocates, and was followed by the gentleman from Kentucky, Mr. BLACKBURN, Mr. CANNON, from Illinois, Mr. HAWLEY, from Connecticut, and Mr. CLYMER, from Pennsylvania.

All attacked the administration of the Post-Office Department, and all clamored for the passage of the bill.

Mr. CANNON proclaimed the committee's purpose "to cut off the increased and expedited service, so as to give the original service as it was on the 1st day of July last as to a part of the routes and as it was on the 1st day of July, 1878, on the other parts. Do that, and you will save over $1,000,000. If you do not do that, walk up like men and vote the $1,700,000."

The gentleman from Illinois [Mr. CANNON] also gave to the House a carefully prepared statement which exhibited the increase of star service on seventy-five routes where the increase exceeded $5,000 for fiscal year 1879: Cost of additional trips, $636,525.51; cost of expedition, $836,819.26. Also, statement of thirty-two routes on which star service was increased over $5,000 since July 1, 1879: Cost of additional trips, $443,366.02; cost of expedition, $308,946.53.

The increase of cost for additional trips amounted, by the gentleman's carefully prepared statements, to $1,079,891.53; increase for expedition, $1,145,765.79. *These figures impressed the House and seemed to be worthy of the most careful analysis and consideration.* But one gentleman, Mr. HASKELL, of Kansas, spoke in opposition and in reply to the five honorable gentlemen representing the committee in charge of the bill. Certainly if the investigation the gentleman had been intrusted with could instruct and make them familiar with their subject and their well-digested bill they of all men would be prepared to defend their own proposed legislation. But, Mr. Chairman, mark the result. Five gentlemen of the committee defend the bill, but one gentleman opposes it. After the gentleman from Connecticut had uttered his eloquent and scathing denunciation of the administration of the Post-

Office Department and argued for the passage of the bill, Mr. BAKER—I read from the RECORD—submitted the following:

That the sum of $500,000, or so much thereof as may be necessary, be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to meet the expenses of inland mail transportation on star routes for the remainder of the current fiscal year at or within existing contract prices: *Provided*, That upon any route where there has been an increase of the original contract price during the last or the current fiscal year for expediting the delivery of mails on any such route, the compensation on such route shall be reduced to the terms of the original contract on and after the 1st day of March next; but nothing herein contained shall be construed to require the reduction of the number of trips per week over any such route below the present number.

The next morning (February 27) the bill was severely attacked by the eloquent gentleman from California, [Mr. PAGE,] the gentleman from Illinois, [Mr. HAWK,] and the gentleman from Colorado, [Mr. BELFORD,] when Mr. BAKER, of Indiana, was recognized by the Chair, and (I again quote from the RECORD) said:

Under instructions from the Committee on Appropriations I now send to the Clerk's desk to be read a substitute for the entire bill reported on yesterday.

The Clerk read as follows:

"That the sum of $970,000, or so much thereof as may be necessary, be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to meet the expenses of inland mail transportation on star routes for the remainder of the current fiscal year, at or within the contract prices as they existed on February 1, 1880: *Provided*, That upon any route where there has been an increase of the original contract price during the last or the current fiscal year for expediting the delivery of mails on any such route at the rate of more than $2,500 per annum, the compensation for expediting service on such routes shall be reduced to the terms of the original contract on and after the 1st day of March, 1880; and nothing herein contained shall be construed to require the reduction of the number of trips per week over any such route below the present number. During the remainder of the current fiscal year no further expediting of service on any postal star route shall be made.

"SEC. 2. That the further sum of $100,000 be, and the same is hereby, appropriated as aforesaid to enable the Postmaster-General to place new service as authorized by law."

What is it, Mr. Chairman, the committee accepted, and wherein did it differ from the original bill?

Understand, sir, they directed Mr. BAKER to report the bill; not defeated by vote, but convinced by debate. The subject they had deliberated upon for six weeks, specially commissioned by the House to examine and investigate, full power to call for persons and papers, is radically and materially changed.

The Post-Office Department, that had violated the law, and the *imperial Second Assistant Postmaster-General*, "who should be driven from place," are at once accepted by the committee as being worthy of considerate legislation to the extent of allowing *all increased service to stand;*" but the expedited service, at a rate of more than $2,500 per annum, shall be returned to the original contract price. The eloquent gentleman from Georgia [Mr. BLOUNT] had forgotten all about his defense for the five-thousand-dollar basis, "so wisely recommended by the chairman of the Committee on the Post-Office and Post-Roads," "*that arbitrary line from which he* (the Postmaster-General) *may proceed to correct this abuse*," and willingly accepts a basis of $2,500, without any reason vouchsafed the House for the change. The violation of law on the part of the Postmaster-General and Second Assistant is forgotten to the extent of increased trips, during the last and current fiscal year, amounting to the insignificant sum of $1,079,896.53. What has the gentleman from Illinois [Mr. CANNON] to say when his own figures rise up and condemn him by his accepting the $1,079,891.53 for increased-trip service, ordered and contracted for by the Department that had shocked the country by its maladministration?

The whole argument of the gentlemen who advocated the bill rested upon the propositions of the gentleman from Georgia, [Mr. BLOUNT,] and every figure and statement of routes affected rested upon the five-thousand-dollar claim. Yet in a day the question is changed, and no single gentleman gave the House the statistics upon the Baker basis of $2,500 for expedition.

The bill as submitted by the gentleman from Indiana [Mr. BAKER] passed the House. The bill was materially changed by the Senate, and as passed by the Senate was concurred in by the House. The bill as passed reads as follows:

That the sum of $1,100,000, or so much thereof as may be necessary, be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to meet the expenses of inland mail transportation on star routes for the remainder of the current fiscal year. During the remainder of the current fiscal year no further expediting of service on any postal star routes shall be made.

SEC. 2. That the further sum of $100,000 be, and the same is hereby, appropriated as aforesaid to enable the Postmaster-General to place new services authorized by law: *Provided*, That the Postmaster-General shall not hereafter have the power to expedite the service under any contract either now existing or hereafter given to a rate of pay exceeding 50 per cent. upon the contract as originally let.

Observe that in the final passage of the bill every paragraph and detail that this Committee on Appropriations contended for was ignored and defeated—a most unusual procedure—the Committee on Appropriations reporting unanimously in favor of the passage of a bill and Congress ignoring their every recommendation.

A marked and singular feature in the discussion of the deficiency bill for the star service in this House was the complete and entire—I will call it forgetfulness on the part of the Appropriations Committee to give information upon the important questions as to the business requirements of the people along the twenty-three thousand miles of route, as well as the amount of mail matter carried, the industrial interests depending upon mail communications, the revenue resulting from the same, and all the social questions of domestic and national life. In fact, these same considerations, that should first present themselves for the attention of this body, are marked by their absence in the debate upon the bill now before the House. No one of the eloquent gentlemen has gone beyond the question of the cost of the service. They think only of the Treasury.

The growing wants and demands of the western people in their relations to all the other sections of the country are not worthy of being presented to this House. Carefully prepared statistics are ignored. The section in the bill now before us reads as follows; and I desire the attention of this committee, in order that we may remember the faltering, wavering, and finally the complete surrender of the committee who had charge of the deficiency bill in February last, and determine, therefore, in view of that fact, how far we are prepared to follow the recommendations of the same committee in a measure defended by the same gentlemen:

For inland transportation by star routes, $7,375,000: *Provided*, That on all star mail-routes upon which increased compensation for increased expedition beyond 50 per cent. over original contract price has been allowed during the years ending June 30, 1879, and June 30, 1880, such service shall be decreased, curtailed, or discontinued thereon to such rate of compensation for increased expedition as shall not be in excess of 50 per cent. of original contract price.

The amount specified I concur in because the Book of Estimates indicates it as the amount requested by the greatly condemned Postmaster-General, based upon figures evidently submitted by that bold man, the Second Assistant Postmaster-General.

The gentleman from Illinois [Mr. CANNON] has become the special champion of the proviso, and elaborates his argument with figures and computations. The one hundred and seven great routes that seem to have been affected by the passage of the deficiency bill have given place, according to the gentleman's statement, to eighty-six routes, aggregating a cost sum of $613,000 per annum. Since the date of contracting for service upon these routes additional trips at a cost of $477,906 have been added, since which date the schedules have been expedited at a cost of $1,149,000 per annum. The gentleman having submitted these figures, speaks with great force and emphasis. I will read his words:

That increase resulted in a deficiency. Estimates came in to Congress; an investigation was had; the House acted and the Senate acted; and what was the result? These increases had so alarmed Congress at the unwise exercise of discretion by the Department that you solemnly enacted into law these words:

"That the Postmaster-General shall not hereafter have the power to expedite the service under any contract either now existing or hereafter given to a rate of pay exceeding 50 per cent. upon the contract as originally made."

That is as to the future. You let alone these contracts and abuses which made you enact that legislation. In my opinion that legislation was right, and you should take hold of this ring of contractors and make them loose their hold upon the swag they have got already by, under existing contracts, virtue of the abuses which led you to pass that law.

I very much fear the gentleman in his statements has either failed to read the report of the Postmaster-General for the year 1879, as well as having failed to read the report of his own committee upon the pending bill, or presumes this Committee of the Whole to be in entire ignorance of the question at issue.

If the gentleman will refer to page 13 of the Postmaster-General's Report for 1879 he will read these words:

I would therefore recommend that section 3960 be so amended as to permit the increased service to be awarded to the lowest responsible bidder, as usual. Section 3961 *should be so amended that when the cost of increased speed would amount to more than 50 per cent. of the original service the Postmaster-General should advertise for service at the increased speed.*

If he will turn to page 55 of the Report of the Second Assistant Postmaster-General he will find almost the identical words; and on page 27 of report for 1877 he will find "the Postmaster-General expressed his views fully and partly to the same purpose."

The language of the Senate amendment which so "alarmed Congress," as the gentleman states, is almost identical with the language submitted by the Postmaster-General and his Second Assistant in December last, coupled with the request that it be enacted into law. But one criticism can be made upon the enactment. The Postmaster-General asked not only for legislation upon expedition of service, but also for increased or multiplication of trips. You have not given the Department the full protection desired. Your work should be complete and not partial. The legislation of *alarm* has not gone to the extent of the fair request made by the Second Assistant Postmaster-General.

As you have corrected section 3961 of the Revised Statutes in accordance with the recommendation of the Department, be consistent and make perfect section 3960.

It is not, therefore, the enactment of "*alarm* and *fear*," as the gentleman states, but the well-considered words of a Cabinet officer asking for legislation upon an existing statute, found defective and needing revision after trial and experience.

But the proviso the gentleman defends is not in the language of the act of April 7, 1880. The proviso proposes to "decrease, curtail, or discontinue wherever there has been increased compensation for increased expedition beyond 50 per cent. over original contract price during the last and present fiscal year."

It is retroactive and annuls existing obligations. There has been no averment that the provisions of section 613 postal laws and regulations have been violated. Neither has there been any violation.

Nor has it been charged that a single route of the eighty-six interdicted has been in manner, form, or fact expedited contrary to law. You say you give the contractors, by regulation of the Department, *not by statute*, one month's pay because you discontinue service. The contractor may have an appeal, which is an issue well worth the consideration of the lawyers of this body.

I will take the figures submitted by the gentleman from Illinois [Mr. CANNON] and see to what conclusions they will carry us. He states:

> This is a proposition not to put back the service to $613,000, at which it was let, not to take off the $478,000 for additional trips, but to let all that stand and to give one-half of the gross sum of $545,000 in addition a year for this expedition, and to cut off the expedition above that. What does it cut off? It makes a reduction at the rate of $603,000 per annum, and after paying the month's extra compensation for decreasing the contracts it will result in a saving this year of $553,000.

Carry out the proviso, and the gentleman states it will result in a saving this year of $553,000, after paying contractors, if they will accept it, one month's pay for cancellation of contracts. In his own strong way he states:

> I mean just what I say. I mean this undue compensation which has swollen in less than eighteen months from $613,000 to $2,240,000. I would be reprehensible, faithless, and worse than faithless, if I sat in my place and permitted without protest, in the name of the *development of the country*, contracts to go on at $2,240,000 per annum which eighteen months ago were let at $613,000.

Let us see how reprehensible and faithless the gentleman's own figures make him. Faithless that contracts should go on at $2,240,000? How far and to what extent does the gentleman allow the contracts to proceed?

1. Original cost	$613,000
2. Increased trips	477,906
3. Fifty per cent. of increased expedition	574,500
Extra month's pay for contractors	50,000
	1,715,406

Of the $2,240,000 for routes contracted for the gentleman is willing to appropriate $1,715,406. That figure marks the gentleman's obligation "*to the development*" *of the country*; that constitutes his conception of fidelity—non-reprehensibility—true faithfulness; but beyond that not one cent. The gentleman gives us no better reason for his faithlessness than for his faithfulness. Every route, he says, of the eighty-six must be cut down just 50 per cent. They all need exactly the same and identical pruning process. Every route needs precisely the same expedition, just 50 per cent. on the original contract price. Not one word about the people; their wants, their requirements, development, growth, progress, all go for nothing. All must suffer because this monster Post-Office Department has contracted outside of the law. Yet at this very moment the Postmaster-General sits in his office and reads that his recommendations for star service are accepted by Congress, and to *crown it all* the same Committee on Appropriations accept for the coming fiscal year the very figures, the exact amount in dollars and cents, asked for by the Second Assistant Postmaster-General. Congress acted wisely in April last in not following the recommendations of the Committee on Appropriations, therefore let us refuse to follow them now.

The sum of $7,375,000 has been requested by the Postmaster-General for star routes. Your committee *gives that amount in this bill, but adds a proviso which, if carried out, accepting the figures of the gentleman from Illinois, gives* $553,000 *more money than the alleged corrupt Second Assistant Postmaster-General asks or estimates for the coming fiscal year.* If you carry out the proviso you save from existing contracts just 50 per cent., which can be and is to be expended by the very Department you have been charging with extravagance and maladministration. I say the estimates for star service were based upon existing contracts. You have given the full amount estimated, and yet your bill includes a proviso that will throw into the control of the Post-Office Department $553,000 saved from and by virtue of the partial annulment of the contracts made during the years 1879 and 1880—*just that much more than required, one-half million of dollars more than estimated*; the exact amount that makes the gentleman from Illinois either faithful or faithless "to the development of the country."

If your paragraph $7,375,000 is correct and required, then the $553,000 saved by your proviso is a gratuity to that violator of law, the Second Assistant Postmaster-General. If your proviso prevails, the appropriation should be reduced exactly the amount saved by the proviso. If my statement is correct—and I challenge contradiction—I claim that the committee in charge of the bill has learned nothing since February last of their high responsibility in framing legislation for a service and its administration that from the commencement to the end of this debate has evoked their bitter, extreme, and scathing condemnation.

I aver, Mr. Chairman, that the review I have submitted of the course of the committee in charge of this bill has and will justify this body in condemning any legislation for the star service that the gentlemen may commend for our consideration.

They have been consistent in two things: First, their positive antagonism to the contracts of 1879 and 1880, made under the Second Assistant Postmaster-General in accordance with law, and which this Congress has approved; second, their ignorance and uncertainty as to the wants of the people and the legislation required.

I hope this committee will accept the amendment of the gentleman from Ohio, [Mr. EWING.]

Public Building at Pittsburgh.

SPEECH OF HON. THOMAS M. BAYNE,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

Monday, May 10, 1880,

On the subject of a public building at Pittsburgh, Pennsylvania, and in reply to the speech of Hon. ALBERT S. WILLIS, of Kentucky, published May 8, 1880.

Mr. BAYNE said:

Mr. SPEAKER: Yesterday, in looking over the RECORD, my attention was attracted to the speech of the gentleman from Kentucky [Mr. WILLIS] on the bill providing for the construction of a public building at Louisville. Having at heart a similar enterprise for Pittsburgh, I began perusing the speech with the expectation that a sympathetic coincidence of views would be the pleasing sequel. I found, however, that the speech was largely devoted to a presentation of the claims of Louisville as compared with fifty other cities, and I was surprised to find Pittsburgh placed in the very forefront of unfavorable comparison.

The fifty cities are first presented in what is called a "comparative table," in this form:

Comparative table.

Cities.	Population.	Amount of yearly public business.	Value of public buildings.	Ratio expended.
New York	942,292	$107,633,392	$10,978,172	$321,687
Boston	250,526	15,491,990	5,994,456	1,198,890
Philadelphia	674,022	12,214,011	5,623,147	1,495,793
Cincinnati	216,239	11,693,261	4,473,687	1,240,661
Chicago	298,977	10,847,616	5,744,000	1,747,921
San Francisco	149,473	8,588,817	1,807,425	687,232
Saint Louis	310,864	5,998,735	5,443,053	2,960,944
Baltimore, Maryland	267,354	4,550,424	1,631,733	1,263,433
Louisville, Kentucky	100,753	3,263,673	372,690	.....
Covington, Kentucky	24,505	2,899,127	258,686	2,897,283
Milwaukee, Wisconsin	71,440	2,435,203	243,777	316,910
Richmond, Virginia	51,038	2,249,551	307,131	309,895
New Orleans	191,418	2,156,841	4,191,810	6,287,715
Buffalo, New York	117,714	1,776,128	331,008	611,584
Detroit, Michigan	79,577	1,596,161	233,913	477,182
Pittsburgh, Pennsylvania	86,076	1,272,692	1,194,494	3,069,823

I omit all below Pittsburgh. Louisville is given a population of 100,753, which is taken from the census of 1870, and is credited with a yearly public business, made up of internal revenue, postal, and customs receipts, of $3,263,673.

The value of the United States Government public buildings at Louisville is put at $372,690.

The population of Pittsburgh is taken from the census of 1870. Her yearly business, embracing the same items, is estimated at $1,272,692. The value of her United States Government buildings is stated to be $1,194,494.

The gentleman then argues that if Louisville had public buildings in proportion to her public business and the value of the public buildings at Pittsburgh, Savannah, Georgia, and Grand Rapids, Michigan, she would be entitled to between three and four millions, or an average of $3,306,214.

He then devotes his attention to some other matters, but soon returns to Pittsburgh in comparing the postal business in this manner:

Cities.	Carriers.	Number of pieces.
Pittsburgh	34	7,378,508
New Orleans	47	8,823,249
Washington	44	*8,671,334
Milwaukee	26	8,537,070
Indianapolis	23	8,068,267
Louisville	30	9,425,420

The superior claims of Louisville are here left to inference. After giving some postal statistics, he states that six thousand three hundred and twenty Army and Navy pensioners were paid last year at the Louisville agency.

Now, I fully agree with the gentleman that there should be constructed at Louisville a public building adapted to the needs of that important business mart. I appreciate his anxiety to make potent his appeal to Congress in that behalf. But I object to the method of an appeal which places my own locality in such an unfavorable and unjust light. I must therefore be excused for substituting facts for the mistakes and fancies of the gentleman respecting Pittsburgh, whose actual necessities are far greater than those of any other city

in the Union, and whose claims on the score of equivalence of obligation are surpassed by none.

In the first place, instead of the Government buildings at Pittsburgh being worth $1,194,494, there is but one Government building there, and I hazard nothing in saying that it is not worth $20,000. The site on which it is located is valuable, but it is expected that the Government will sell that and apply the proceeds to the construction of the building to be placed on the new site.

The old site cost, May 8, 1851, when it was purchased, $41,000. The building now on it and in use cost $68,666.87. During the twenty-eight years it has been there, and in constant use, there has been expended for alterations and repairs $34,827.37.

The new site cost the Government $300,000. A site for a marine hospital cost $30,331.13. These items constitute the total amount expended for Pittsburgh, amounting to $474,825.37. The total for similar purposes for Louisville, is $476,262.04, notwithstanding my friend's table. This does not include the cost of the new site contemplated, nor the realization of a handsome sum by the sale of an old one.

Now, as to the yearly amount of public business, as the table characterizes it. In order to understand the needs of Pittsburgh it must be noted that the city of Allegheny, with her population of eighty thousand, though a separate corporation, is substantially a part of Pittsburgh, so intimately are their business interests interlinked. I procured some time since and had referred to the Committee on Public Buildings and Grounds a statement from the deputy commissioner of internal revenue which shows succinctly and clearly the entire collections for the western judicial district of Pennsylvania to June 30, 1879, and the amounts collected at Pittsburgh and Allegheny, which are the headquarters respectively of the twenty-second and twenty-third internal-revenue districts. The letter is as follows:

TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,
Washington, December 31, 1879.

SIR: I have the honor to acknowledge the receipt of your letter of the 27th inst., requesting to be informed what is "the total amount of taxes paid by that portion of Pennsylvania which is embraced in the western judicial district."

In reply I inclose herewith a statement showing the collections from internal revenue from 1862 to June 30, 1879, for that portion of the State. Carbon, Northumberland, Monroe, Pike, and Wayne, five counties of the twelfth district, and one county (Dauphin) of the fourteenth district, are embraced in the eastern judicial district, but as the collections as reported to this office and recorded upon the books make no separation of the amounts collected in the different counties in the same district, it is impossible to state what part of the amount stated in the inclosed as collected in those districts came from the counties not in the western judicial district, but it is presumed that this statement will be sufficiently exact for the purpose desired.

Respectfully,

H. C. ROGERS,
Deputy Commissioner.

Hon. THOMAS M. BAYNE,
House of Representatives.

Statement showing the amount of internal-revenue taxes collected in the western judicial district of Pennsylvania from 1862 *up to June* 30, 1879.

Collected in twelfth internal-revenue district	$6,343,542 84
Collected in the thirteenth internal-revenue district (was part of twelfth)	1,832,465 92
Collected in fourteenth internal-revenue district (old and new)	4,170,305 80
Collected in sixteenth internal-revenue district	2,748,366 18
Collected in seventeenth internal-revenue district (now part of sixteenth)	2,194,831 18
Collected in eighteenth internal-revenue district (now part of fourteenth)	2,138,278 46
Collected in nineteenth internal-revenue district	3,828,175 11
Collected in twentieth internal-revenue district	8,263,776 93
Collected in twenty-first internal-revenue district (now consolidated with twenty-second and twenty-third)	7,291,268 53
Collected in twenty-second internal-revenue district	29,089,982 71
Collected in twenty-third internal-revenue district	11,155,234 95
Collected in twenty-fourth internal-revenue district (now consolidated with twenty-second and twenty-third)	3,733,719 22
Total	82,789,947 83

OFFICE INTERNAL REVENUE,
Washington, D. C., December 2, 1879.

No comment is necessary.

Now, as to postal receipts. The last report of the Postmaster-General shows that the excess of receipts over expenditures in Pennsylvania was $403,421.64 for the fiscal year ending June 30, 1879, and that for the same period the excess of expenditures over receipts in Kentucky was $112,407.67. The same pages of that report and the same lines from which the gentleman quoted the number of carriers and pieces to boost Louisville at the expense of Pittsburgh show that the postage on local matter at Louisville amounted to $15,528.67, while at Pittsburgh it amounted to $17,256.49, and at Allegheny, which, as I said, is substantially identical with Pittsburgh in the general business, it amounted to $5,039.02. The net revenue yielded by the Louisville office was $101,737.92; the net revenue of Pittsburgh was $137,663.39; add net revenue of Allegheny, $7,677.10, and the amount is $145,340.49, or nearly $44,000 a year of net income more from Pittsburgh than Louisville.

The customs receipts for the same fiscal year at Pittsburgh were $55,544.69; at Louisville, $35,293.09. Against the sixty-three hundred and twenty Army and Navy pensioners paid at Louisville, 12,225 are paid at Pittsburgh an aggregate amount of nearly $1,200,000, not including arrears.

Pittsburgh fears no rival, but she courts only generous competition. The resources of Western Pennsylvania, whose business center is Pittsburgh, are wonderful. We supply the States which border on the Ohio and Mississippi Rivers with seventy million bushels of coal annually. We export about sixty million dollars' worth of petroleum, besides furnishing all that is desired for home consumption at low rates. We send out in all directions from our founderies, mills, and factories all kinds of manufactures. Our business is so varied and so great as to defy anything like an accurate computation, and is a large factor in the development of the splendid civilization of this great Republic.

Contested Election—Curtin vs. Yocum.

SPEECH OF HON. W. G. COLERICK,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

Monday and Tuesday, May 10 *and* 11, 1880.

The House having under consideration the resolution reported from the Committee on Elections in the case of Curtin *vs.* Yocum—

Mr. COLERICK said:

Mr. SPEAKER: As a member of the Committee on Elections, to whom was referred the case of Andrew G. Curtin against Seth H. Yocum, it became my duty to examine the evidence presented to the committee and investigate as fully and carefully as I could the law applicable to the questions involved in this case. This duty I endeavored to perform faithfully and impartially, uninfluenced by partisan sympathies or considerations, and animated and controlled alone by a desire to reach a conclusion in harmony with the evidence and in accord with the law by which we are to be governed.

The evidence relates to a variety of subjects, and is very voluminous, covering over four thousand pages of printed matter. Much of this evidence, in view of the character of the reports that have been made by the committee, is now of no importance. The committee in their examination of this case were greatly aided by the distinguished counsel who represented the parties, and who, in their arguments before the committee, in a spirit highly commendable, vied with each other in their efforts to present alone the true and vital questions, by making just concessions, abandoning untenable positions, discarding frivolous subjects, and eliminating from the record irrelevant and immaterial evidence, and reducing and crystallizing that which was important into form and intelligence, and which finally resulted in the presentation of a few pertinent and important questions of law and fact, which the committee have submitted to the House to be solved and determined by us as impartial judges, and not as partisans.

The election out of which this contest arises was held in the twentieth congressional district of Pennsylvania, which is composed of the counties of Centre, Clinton, Elk, Clearfield, Mifflin, and Union, on the 5th day of November, 1878. According to the official returns of said election, Yocum received 13,454 votes, and Curtin 13,381, making Yocum's returned majority 73.

The constitution of the State of Pennsylvania, which was adopted in 1873, provides:

ARTICLE VIII.—SUFFRAGE AND ELECTIONS.

SECTION 1. Every male citizen twenty-one years of age possessing the following qualifications shall be entitled to vote at all elections:

First. He shall have been a citizen of the United States at least one month.

Second. He shall have resided in the State one year (or if, having previously been a qualified elector or native-born citizen of the State, he shall have removed therefrom and returned then six months) immediately preceding the election.

Third. He shall have resided in the election district where he shall offer to vote at least two months immediately preceding the election.

Fourth. If twenty-two years of age, or upward, he shall have paid within two years a State or county tax, which shall have been assessed at least two months and paid at least one month before the election.

SEC. 7, [of the above Article 8.] All laws regulating the holding of elections by the citizens or for the registration of electors shall be uniform throughout the State, but no elector shall be deprived of the privilege of voting by reason of his name not being registered.

In 1874, after the adoption of this constitution, the Legislature of that State passed an act regulating the manner of holding elections in the State. By that act it is provided:

A further supplement to the act regulating elections in this Commonwealth.

(See Pamphlet Laws, 1874, page 33.)

Sections 1 and 2 direct the mode and manner of making and returning the registry and assessment of electors.

SEC. 3. After the assessments have been completed on the sixty-first day before the Tuesday next following the first Monday of November in each year, the assessor shall on the following day make a return to the county commissioners of the names of all persons assessed by him since the return required to be made by him by the first section of this act, noting opposite each name the observations and explanations required to be noted as aforesaid; and the county commissioners shall thereupon cause the same to be added to the return required by the first section of this act, and a full and correct copy thereof to be made containing the names of all persons so returned as resident taxables in said election district, and furnish the same, together with the necessary election blanks, to the officers of the election in such election district on or before seven o'clock on the morning of the election; *and no man shall be permitted to vote at the election on that day whose name is not on said list, unless he shall make proof of his right to vote as hereinafter required.*

The proof so required is specified in section 10 of this act as follows:

SEC. 10. On the day of election any person whose name shall not appear on the registry of voters, and who claims the right to vote at said election, shall produce at least one qualified voter of the district as a witness to the residence of the claimant in the district in which he claims to be a voter, for a period of at least two months immediately preceding said election, which witness shall be sworn or affirmed and subscribe a written or partly written and partly printed affidavit to the facts stated by him, which affidavit shall define clearly where the residence is of the person so claiming to be a voter; and the person so claiming the right to vote shall also take and subscribe a written or partly written and partly printed affidavit, stating, to the best of his knowledge and belief, when and where he was born; that he has been a citizen of the United States for one month, and of the Commonwealth of Pennsylvania; that he has resided in the Commonwealth one year, or, if formerly a qualified elector or a native-born citizen thereof, and has removed therefrom and returned, that he has resided therein six months next preceding said election; that he has resided in the district in which he claims to be a voter for the period of at least two months immediately preceding said election; that he has not moved into the district for the purpose of voting therein; that he has, if twenty-two years of age or upward, paid a State or county tax within two years, which was assessed at least two months and paid at least one month before the election. The said affidavit shall also state when and where the tax claimed to be paid by the affiant was assessed, and when and where and to whom paid; and the tax receipt therefor shall be produced for examination, unless the affiant shall state in his affidavit that it has been lost or destroyed, or that he never received any; and if a naturalized citizen, shall also state when, where, and by what court he was naturalized, and shall also produce his certificate of naturalization for examination.

The evidence clearly and conclusively shows that many persons whose names were unregistered were permitted to vote at this election without furnishing the proof required by the statutes, and that those who thus illegally voted greatly exceeded in number the majority returned for the contestee.

The questions presented to the House by the reports of the committee for our determination are:

First. Is the third section of the statute to which I have referred mandatory or directory in its character?

Second. If mandatory, is the provision constitutional?

Third. If it is constitutional and mandatory, can votes cast in disregard of its prohibition be counted; and if not, then how many votes were so cast and for whom were they given?

Fourth. If the number of votes that were cast in disregard of this statute are sufficient in number to overcome the majority returned for the contestee, and the evidence fails to show for whom they were given, then is it not our duty to declare the seat vacant?

I desire to discuss these questions in the order presented.

First. Is the provision of the statute mandatory or directory?

The language is: "No man shall be permitted to vote * * * unless his name is on said list" referring to the registry list "unless he makes proof of his right to vote as hereinafter required," the requirements being that he shall present a written or partly written and partly printed affidavit, subscribed and sworn to by him, showing that he possesses all the qualifications of an elector as prescribed in the constitution, and also an affidavit, in like form, of a qualified elector of the precinct that the claimant has resided in the district in which he claims to be a voter for a period of at least two months immediately preceding the election. This language is imperative and mandatory in its terms, and imposes upon the voter a duty to be performed by him as a condition-precedent before he can legally cast his ballot.

The intention of the Legislature is clearly expressed by the language used. Manifestly the intention was that the proof produced in support of the right of the claimant to vote shall be in the form of affidavits, so that the same may be preserved, and shall not rest in parol. This is a just and reasonable regulation. Just because it operates as a guard to protect the purity of the ballot-box, and reasonable because it imposes no hardship on the voter. A legal voter will gladly make the affidavit required of him so as to dispel or remove any doubt that may arise or suspicion that may be cast as to his right to vote, and can and will promptly furnish the affidavit of his neighbor as to his residence. An illegal voter will hesitate in furnishing for preservation the written evidence of his perjury, and thus this statute accomplishes its purpose in operating as a salutary restraint in deterring illegal voters from voting. Similar statutes exist in many of the States. Certainly it was not the intention of the Legislature that this statute should be considered as merely directory, to be complied with or disregarded at the option of those whose duty it is to execute it. The phraseology used forbids such a construction.

It is not a statutory provision directing or instructing election officers as to their duties. If it merely imposed a duty upon such officers, which they failed to perform, and over whose acts the voter had no control, the person so voting ought not to lose his vote by the failure of the officer to perform his duty. This statute is not of that character. It imposes a duty upon the voter alone. It says to him: "You shall not vote unless you comply with this statute by furnishing the proof which it requires, and if you fail to comply with this condition and perform this duty, you must, as the penalty for your failure, forfeit your vote. If he votes in defiance of this statute, by the permission or consent of ignorant, corrupt, or unfaithful election officers, his vote, because it reaches the ballot-box, is not legalized. It is there illegally, and must be excluded; it cannot be counted.

The language used in the statute is free of ambiguity. It is clear, plain, and concise, and expresses the intention of the Legislature in a manner incapable of being misunderstood. Evidently the intention of the Legislature was to prevent unregistered persons from voting until they first establish their right to vote, in the manner specified in the statute. Such being the intention of the Legislature, what rule is to be applied in determining whether this statute is mandatory or directory?

Sedgwick, in his Treatise on Statutes, page 325, says:

The *intention* of the Legislature should control *absolutely* the action of the judiciary. Where that *intention* is clearly ascertained, the courts have no other duty to perform than to execute the *legislative will*, without any regard to their own views as to the wisdom or justice of the particular enactment.

No principle is more firmly established, or rests on more secure foundations, than the rule which declares when a law is plain and unambiguous, whether it be expressed in general or limited terms, that the Legislature shall be intended to mean what they have plainly expressed, and consequently no room is left for construction.

It is not until the attempt to ascertain the legislative intent is hopeless that the judiciary can with propriety assume any power of construing a statute strictly or liberally with reference either to the particular character of the statute or to their own ideas of policy or equity; where the meaning of the statute as it stands is clear they have no power to insert qualifications, ingraft exceptions, or make modifications.

In Stayton *vs.* Huling (7 Indiana R., page 145) the supreme court of Indiana truly said that "where a statute expressly prohibits a thing until another has been done the prohibition cannot be disregarded without judicial legislation."

Mr. Speaker, I now desire to call the attention of the House to several cases where statutes similar to the one under consideration have been construed by the courts as mandatory, and that votes cast in violation of their provisions were illegally cast.

In the Philadelphia election cases, reported in 1 Brewster, page 162, Judge Allison, referring to a statute of Pennsylvania enacted in 1839, and then still in force, and which provided that "no person shall be admitted to vote whose name is not contained in the list of taxable inhabitants furnished by the commissioner aforesaid" unless he furnished certain proof specified in the statute, said:

These requirements are in no proper sense *directory* merely: they are in *all* particulars, in which the law directs that they *shall* be ascertained *before* the vote shall be received, *absolutely essential to a due election.* * * * The elector's privilege is not a mere abstraction, but it is to be exercised in subordination to law and *on proof of the title* of the person claiming its exercise. The right, however well founded in fact, may be lost *for want of such evidence of title as the law demands*, just as the possession and enjoyment of property secured by the declaration of rights to the citizen may be taken away or withheld from him for the want of the necessary evidence of ownership.

The case of Doerflinger *vs.* Hilmantel (21 Wisconsin Reports, page 574) is exactly in point and completely covers this question. It was an action to try Hilmantel's title to the office of clerk of the board of supervisors of the county of Milwaukee, it being alleged that a portion of the votes cast for him, greater in number than his majority, were received in violation of the following provision of the statutes of Wisconsin, which in substance is similar to the provision of the statute of Pennsylvania which I have read:

No vote shall be received at any annual election in this State unless the name of the person offering to vote be on the registry made on the Tuesday or Wednesday preceding the election, unless the person offering to vote shall furnish to the board of inspectors his affidavit in writing giving his reasons for not appearing on the day for correcting the alphabetical list, and prove by the oath of a householder of the district that he knows him to be an inhabitant of the district, and, if in an incorporated city or village, giving the residence of such person within said district. (Section 7, statute 445, Laws of 1864.)

Chief-Justice Dixon, delivering the unanimous opinion of the supreme court of Wisconsin as to the proper construction to be given to this statute, said:

It is essentially an imperative statute, and deprives the inspectors of all jurisdiction to receive the votes of unregistered voters unless the conditions as to the affidavit and oath are fully complied with.

* * * * * * *

In this matter of a voter whose name has been omitted, and who has not appeared on the day for the correction of the register, the burden of answering the requirements of the law by furnishing the affidavit and proof is thrown upon the voter himself. He is presumed to know the law, and must go to the polls prepared to comply with its conditions; and if he does not, and his vote is lost, it may, so far as it is the fault of any one, with justice be said to be his own fault. It is in the nature of a penalty imposed by the law for his neglect to do what is required of him. The inspectors cannot receive his vote; and, if they cannot, *it cannot afterward be received and counted by the courts.*

And next it is to be observed that it is a negative statute. It has been said on very high authority that negative words will make a statute imperative. (Dwarris on Statutes, 715; 7 Law Lib., 55, and cases cited.) The words of the act are: "No vote shall be received at any annual election in this State, unless," &c. It is difficult to conceive any language more strongly imperative than this.

Again, if we consider the mischief complained of and the remedy provided, it will be seen that the forms prescribed are of *the very essence of the statute.* * * * Abuses cannot be guarded against nor rights preserved by statute without resorting to proceedings more or less formal. *Forms thus prescribed are the substance of the thing enacted.* * * * Hold the act to be directory, and allow the electors to vote without their names being registered, and without the affidavit and oath prescribed in case they are not, and the object of the Legislature would be entirely defeated. The effect of such construction would be fatal to all protective legislation.

Second. Is the provision of the statute to which I have referred constitutional? It has been said by three of the members of the committee in their minority report that the provision which declares that—

No man shall be permitted to vote at the election on that day, whose name is not on said (registry) list, unless he shall make proof of his right to vote as hereinafter required—

Is unconstitutional, so far as it restricts his right to vote, if he is

otherwise qualified, because it is repugnant to that provision of the constitution which declares that—

No elector shall be deprived of the privilege of voting by reason of his name not being registered.

It is not true that it adds another test to the qualifications of electors which the constitution has prescribed.

In the case of Capen *vs.* Foster *et al.* (12 Pick. R., p. 485) the supreme court of Massachusetts held that the provision of the statute (of that State) requiring that previous to an election the qualifications of voters shall be proved, and their names be placed on an alphabetical list or register, is not to be regarded as prescribing a qualification in addition to those which by the constitution entitle a citizen to vote, but only as a reasonable regulation of the mode of exercising the right of voting, which it was competent for the Legislature to make.

Sir, this statute does not prohibit or deprive an unregistered voter from voting, but on the contrary clearly and expressly authorizes and permits him to do so. It merely requires him to prove, in a certain manner, that he possesses the qualifications of an elector *as specified in the constitution*, and this the constitution does not forbid; and in the absence of such prohibition the Legislature possessed the power to determine the mode and character of the proof by which these qualifications shall be shown. No person under this statute is deprived of his right to vote, if qualified, by the omission of his name from the registry list through the inadvertence, mistake, or fraud of the officer whose duty it is to prepare such list. The constitution recognizes the right of the Legislature, and impliedly vests it with power to enact laws providing "for the registration of electors," "which shall be uniform throughout the State," (article 8, section 7,) and the only restriction placed upon this power is that "no voter shall be deprived of the privilege of voting by reason of his name not being registered." (*Ibid.*) The Legislature in the exercise of this power conferred by the constitution did provide for the registration of voters, and the statute so enacted aids the voter in exercising the right so guaranteed to him by the constitution, and furnishes him an easy mode by which he may establish his right to vote although his name is unregistered.

Judge Cooley, in his valuable work on Constitutional Limitations, says:

Participation in the elective franchise is a privilege rather than a right, and it is granted or denied on grounds of general policy.—*Page* 753.

While it is true that the Legislature cannot add to the constitutional qualifications of electors, it must nevertheless devolve upon that body to establish such regulations as will enable all persons entitled to the privilege to exercise it freely and securely, and exclude all who are not entitled from improper participation therein.—*Page* 756.

All such reasonable regulations of the constitutional right *which seem to the Legislature important* to the preservation of order in elections, to guard against fraud, undue influence, and oppression, and to preserve the purity of the ballot-box, are not only within the constitutional power of the Legislature, but are commendable and at least some of them absolutely essential.—*Page* 758.

Mr. Speaker, the Committee on Elections, with the exception of three of its fifteen members, Messrs. CALKINS, KEIFER, and OVERTON, unanimously concurred in holding that this statute is constitutional and mandatory. Messrs. FIELD, CAMP, and OVERTON, in their minority report, say:

We think, however, that the registry law of 1874 is a valid law under the constitution of 1873. We think also that the requirements of that law of affidavits from persons not on the registry list in order to enable them to vote are mandatory.

In view of this admission, and the fact that in my judgment this body will so construe this statute, I will pass to the next question.

Third. Does the proof show that votes were cast in violation of the prohibition contained in the statute? If so, how many, and for whom were they cast?

It has been said that the majority of the Committee on Elections in declaring the seat vacant rest their conclusion that unregistered persons voted at that election without complying with the requirements of the statute, in furnishing proof of their right to vote, on the presumption that the affidavits so required were not made, because they were not returned to the prothonotaries of the several counties in the district as directed by the statute; and after thus erroneously assuming that the decision of the committee is so predicated, it is urged that if any such presumption can so arise it has been in this case overcome by proof that affidavits were made, and that by the mistake of the election officers they were deposited in the ballot-boxes with the ballots, instead of being returned to the custodians designated in the statute, and that these affidavits remained in the ballot-boxes until the next election, which was held in February, 1879, when they were destroyed as required by the statute.

It is unquestionably true that the presumption referred to does reasonably arise, by the absence of these affidavits from the depositaries provided by law for their reception, and it is equally true that this presumption, like other presumptions, may be dispelled and overcome by proof, and that in this case it has been, in many instances, so overcome. But, sir, I desire to call the attention of the House to the fact that the committee do not rest their decision upon this presumption alone, as charged, but base their action on the fact that the evidence affirmatively, clearly, and conclusively shows that in hundreds of instances no such affidavits were in fact made. If we can satisfy the House that this provision of the statute, which is generally conceded to be constitutional and mandatory, was violated, and that ballots were cast in defiance of its provisions sufficient in number to overcome the majority returned for the contestee, then we are justified, by precedents and law, in demanding that the seat in controversy be declared vacant.

The following statement, which has been carefully prepared, shows the number of votes that were cast in eight precincts in the district by unregistered persons, who failed to furnish proof of their right to vote as required by the statute:

Woodward Township, in Clearfield County	51
Chest Township, in Clearfield County	27
Jordan Township, in Clearfield County	22
Morris Township, in Clearfield County	14
White Deer Township, in Union County	18
Bratton Township, in Mifflin County	17
Wayne Township, in Mifflin County	27
Granville Township, in Mifflin County	74
Number of such votes cast in eight precincts	250

I have a list giving the names of these two hundred and fifty persons. The registry lists show that these persons were not registered. The poll-books show that they all voted, and the evidence affirmatively shows that they did not furnish the affidavits required by the statute.

The fact that such affidavits were not furnished has been strenuously and persistently denied. An examination of the evidence in the record will verify the truth of the assertion that in the eight precincts named in this statement such proof was not made, required, or received. To prove this assertion I will briefly refer to the evidence relating to these precincts.

WOODWARD TOWNSHIP.

George W. Quinn, the judge of the election, testifies, (pages 1874 and 1875, record:)

Question. How many persons voted the day of said election whose names were not upon the registry list?

Answer. I cannot remember; I suppose about ten or twelve; there may have been more or some less.

Q. Were each of these persons whose names were not upon the registry list required to subscribe and swear to a partly written and partly printed affidavit setting forth their legal qualifications as voters and produce a legally qualified voter of the district to vouch for them?

A. No, sir.

CHEST TOWNSHIP.

Alfred Stevens, one of the clerks of the election, testifies, (pages 2143 and 2144, record:)

Question. Where parties claim the right to vote and whose votes were challenged or whose names were not upon the registry list, were they required to make and sign any affidavit?

Answer. There was no affidavits made out to my knowledge; it was the judge's business. I don't know whether the judge did so or not; he did not, to the best of my knowledge.

JORDAN TOWNSHIP.

Frank M. Burch, who was present at the election, testifies, (see record, page 216:)

Question. Were persons who claimed the right to vote, whose names were not on the registry list, or who had been challenged, required to make and sign any affidavit?

Answer. None, to my knowledge.

WHITE DEER TOWNSHIP.

Samuel M. Ranck, one of the inspectors of the election, testifies, (see record, pages 1196 and 1197:)

Question. State whether said election board required written or partly written and partly printed affidavits to be filed with said election board from persons claiming the right to vote in said election district of White Deer, whose names were not on the registry list for said election district.

Answer. They did not.

Q. Was it in accordance with the resolution that the election was held November 5, 1878? If so, did you protest against that manner of holding an election?

A. It was held in accordance with said resolution, and I did protest against it, but they carried it over my head.

Charles A. Dieffenderfer, one of the clerks of the election, testifies, (see record, pages 2996 and 2997:)

Question. Did the board administer an oath to every person who voted at the election held November 5, 1878, whose names did not appear upon the registry list of voters for said township?

Answer. A good many persons voted whose names were not on the registry list, and they were not sworn.

Q. At what time in the evening were the polls closed?

A. About ten minutes after seven o'clock.

Q. Did the board pass a resolution in the morning that they would not require written or partly written and partly printed affidavits from persons claiming the right to vote whose names did not appear upon the registry list of said township?

A. Not in the morning. I made the proposition because there were so many voters. I think I made the proposition after dinner, when the votes were coming in pretty fast, and the board acted upon my suggestion.

Q. Were any affidavits taken at all?

A. Not a great many. I think eight or ten oral oaths, but no written or printed ones.

Recross-examined:

Q. For whom did you vote for member of Congress at the election held November 5, 1878?

A. I voted for Seth H. Yocum.

BRATTON TOWNSHIP.

William M. Atkinson, the judge of the election, testifies, (see record, page 4111:)

Question. Were there any persons offered to vote at that election who were not on the registry list?

Answer. Yes, sir; there were.

Q. Did you require those persons who were not registered, and who offered to vote, to make and subscribe an affidavit, partly written and partly printed, or written or printed, as to their qualifications and right to vote at said election?
A. No, sir; I did not.

WAYNE TOWNSHIP.

J. L. Postlethwaith, one of the inspectors of the election, testifies, (see record, page 4185:)

Question. Did any other persons vote at that election whose names were not on the registry list of qualified voters, other than those voting on age?
Answer. There was.
Q. Did each of such persons whose names were not on the registry list and did not vote on age make and subscribe an affidavit, printed or written, or partly printed and partly written, of his qualifications and right to vote at said election?
A. No, sir.

GRANVILLE TOWNSHIP.

Sylvester Brought, one of the inspectors of the election, testifies, (page 4171, record:)

Question. Was there furnished to you a registry list of the qualified voters of said election district?
Answer. I think there was.
Q. Were there any affidavits made and filed with the board by persons claiming the right to vote, as required by law?
A. There were none.

This evidence emanates from the officers who conducted the election in those precincts, and whose sworn duty it was to require the production of affidavits by unregistered persons in support of their right to vote. If these officers omitted to perform this duty, they rendered themselves liable under the statute to criminal prosecution. Therefore the strongest motive that could influence or govern man would have prompted them to deny, if untrue, the charge that such proof was not required or received by them. If this duty had been performed by them, how promptly would they have vindicated themselves of the charge that they failed to perform that duty. Their frank and honest admission establishes conclusively the fact that no such affidavits were furnished, and the evidence so rendered by them is uncontradicted, and therefore the unpleasant duty that so often devolves upon the triers of causes to weigh conflicting evidence in the scales created by the law for that purpose, so as to determine its preponderance, is not imposed upon us, as no conflict exists in the evidence as to these eight precincts. The fact that such affidavits were not furnished is not inferred or presumed so far as these precincts are involved by their absence from the proper depositaries, but is clearly and convincingly established beyond doubt or dispute by affirmative evidence, and it is equally well established by the evidence that 250 votes were thus illegally cast, the votes so cast being four times greater in number than the contestee's returned majority. This being true, what possible difference can it make that in other precincts the necessary affidavits were made. If we concede for the sake of the argument that in every other precinct in the district every unregistered person who voted established his right to vote in the manner required by the statute, and that the affidavits so furnished by them were by the mistake of the election officers deposited with the ballots in the ballot-boxes, where they remained until the next election, when they were destroyed, as required by the statute, still we are met and confronted by the incontrovertible fact that 250 unregistered persons voted in the eight precincts that I have named without furnishing such proof.

By an examination of the briefs prepared by the parties in this contest it will be seen that the fact is conceded that hundreds of unregistered persons voted without establishing their right to vote. The contestant in his brief presents tabulated statements containing the names of unregistered persons who voted in precincts giving majorities for the contestee without furnishing proof of their qualifications as electors, and he charges this entire vote to the contestee, because they were cast in precincts in which the contestee received majorities. And the contestee in his brief reproduces the list so presented by the contestant and revises and corrects the same by striking therefrom the names of those whom he asserts were in fact registered or furnished proof of their right to vote, and in this manner he reduces the number of these votes with which he is charged by the contestant to 324, which he admits to be the true number which he received, and then he seeks to overcome this number by charging to the contestant all votes cast by unregistered persons in precincts that gave majorities for the contestant, and presents a list of the persons who so voted in those precincts. In this manner votes so cast in each precinct are by the respective parties charged to the candidate who received a majority in the precinct, upon the assumption that they were cast in favor of the dominant party.

Such an assumption is not only conjectural and fallacious, but is glaringly inconsistent with the acknowledged fact that neither candidate commanded the united support of his party. In view of the evidence that party allegiance was not closely observed at the election, and that hundreds of votes were cast by persons regardless of their political affiliations, it is impossible for us to determine how many unregistered republicans voted for Curtin in republican precincts, or how many unregistered democrats voted for Yocum in democratic precincts. If not absurd, it is at least unjust to charge a candidate with all the illegal votes cast in a certain precinct merely because he received a majority of all the votes that were cast therein, in the absence of proof showing or tending to show that they were cast for him. While this evidence fails to accomplish its desired purpose, yet it is of vital importance in furnishing us with data as to the number of the votes illegally cast by unregistered persons in the district. The number, as shown in the brief of the contestee, is as follows:

Statement of alleged unregistered voters in the district.

Counties.	Curtin.	Yocum.
Centre County:		
Number of alleged unregistered votes in election districts giving Curtin a majority	536	.....
Same in districts giving Yocum a majority	.....	63
Clearfield County:		
Same in districts giving Curtin a majority	207	.....
Same in districts giving Yocum a majority	.....	71
Clinton County:		
Same in districts giving Curtin a majority	571	.....
Same in districts giving Yocum a majority	.....	31
Elk County:		
Same in districts giving Curtin a majority	110	.....
Same in districts giving Yocum a majority	.....	45
Mifflin County:		
Same in districts giving Curtin a majority	371	.....
Same in districts giving Yocum a majority	.....	59
Union County:		
Same in districts giving Curtin a majority	53	.....
Same in districts giving Yocum a majority	.....	55
Total number in Curtin districts	1,848	.....
Total number in Yocum districts	.....	324

By this statement the contestee estimates the entire number of unregistered persons who voted in the district without making proof of their right to vote at 2,174. He admits that 324 of this number voted in precincts that gave him a majority, and this admission is made by him after first correcting and revising the list of unregistered voters with which he is charged by the contestant. He has largely over-estimated the number that voted in precincts that gave contestant majorities. Yet it is undoubtedly true, as admitted by the contestee and as shown by the evidence which I have recited, that hundreds of unregistered persons voted without establishing their right to vote. This brings me to the last question involved in this case.

Fourth. Does the evidence show for whom these votes were cast? According to the official returns the contestee's majority was 73, and upon these returns his certificate of election rests. If the evidence convinces us that he received more than 73 of the votes so illegally cast, then the verity and validity of his certificate of election, which constitutes his *prima facie* right to the seat in controversy, is destroyed, and to maintain his seat in the absence of this certificate he is driven to the necessity of establishing by other proof the fact that he received a majority of all the legal votes that were cast, and this he has failed to do.

I hold in my hand a statement which contains the names of ninety unregistered persons who failed to furnish proof of their right to vote, and who swear that they voted for the contestee, and they are sufficient in number to overcome his returned majority. This proof, in connection with that to which I have referred, destroys the verity of his certificate of election and deprives him of the seat in controversy, as he has failed to prove that he received a majority of the legal votes that were cast in the district.

I think that it is already established by the law and the evidence that the contestee is not entitled to the seat in dispute, and in my judgment the only question for the House to determine is whether the seat shall be awarded to the contestant or shall be declared vacant, as recommended by the majority of the committee in the resolution which they have submitted to the House. With due respect for the judgments of those of my political associates on the committee who may now differ with me as to the propriety of adhering to our report, I shall vote in favor of declaring the seat vacant, in accordance with the recommendation contained in our report.

If the contestant had clearly shown the fact that he received a majority of the legal votes that were cast, the Committee on Elections, instead of recommending that the seat be declared vacant, would certainly have reported in favor of awarding it to him. Or if the contestee had shown that the number of the illegal votes so received by him were insufficient to overcome his official majority, the committee would have reported in favor of his retaining the seat now occupied by him. But neither of them have, to my satisfaction, shown for whom a majority of the legal votes of the district were cast, and for that reason, in the absence of the certificate of election, which has been destroyed, by the proof to which I have referred, neither of them, in my judgment, is entitled to the seat in controversy.

Their failure to produce such evidence is attributable, partially at least, to the arduous labor imposed upon the parties of calling the vast number of unregistered persons who voted without furnishing proof of their right to vote, within the short time allowed by the statute for that purpose, and proving by them for whom they voted, and the questionable power of compelling these persons to testify as to that fact. The methods adopted in disposing of ballots cast by illegal voters and those irregularly cast by legal voters widely differ. A legal voter is under no compulsion to disclose for whom he voted, while an illegal voter enjoys no such immunity, but may be compelled to make such disclosure. In this case I have not assumed nor is it nec-

essary for us to determine that the unregistered persons who voted without furnishing proof of their right to vote were illegal voters. For aught that appears, many of them in fact may have been legal voters who by their neglect in complying with the requirements of the statute forfeited their votes, not because they had no legal right to vote, but because they failed to avail themselves of their right by omitting to perform the duty imposed upon them by the statute. Assuming that many of these persons were in fact legal voters who irregularly voted, it would have been a burdensome, expensive, barren, and fruitless task for either party to have called them as witnesses for the purpose of proving by them for whom they voted, a fact which no legal obligation required them to disclose. Nor could that fact without their consent be proved in any other manner.

It has been charged upon this floor that Governor Curtin opposed certain applications that were made by the contestee to the courts to preserve the contents of the ballot-boxes. This charge is unfounded and untrue. The record shows that the contestee did make applications in the counties of Centre, Clearfield, and Elk for orders upon the election officers of all or some of the voting precincts in those counties, requiring them to preserve the contents of the ballot-boxes in their custody to answer the call of any court or tribunal authorized to try the merits of this contest. These applications were *ex parte* in their nature. No notice thereof was issued or served upon the contestant, and he did not appear thereto, either in person or by attorney, and they were summarily disposed of by those courts. The application in Centre County was refused. The reason assigned by the judge for refusing to grant the order was "because in the opinion of the court it is not within the jurisdiction of the court to grant the prayer of the petitioner." (See evidence, part 2, page 1454.)

In Clearfield County the application was made on the day preceding the last day of the term. Senator WALLACE, who resides in that county and who was present when the application was made, suggested that the granting of the order would necessitate the purchase of new ballot-boxes for the election to be held within a few days thereafter. The judge said he would take the petition home with him and look up the law on the subject, as he was not sure that he had the power to make such an order. The contestee seeks to hold Governor Curtin responsible for the observation so made by Senator WALLACE merely because it appears that Mr. WALLACE was a partner of Mr. Krebs, who has acted as one of Governor Curtin's attorneys in this case, although Mr. WALLACE was not in fact an attorney for Governor Curtin, and did not pretend to act in that capacity; and this is the entire evidence upon which the contestee bases his unjust charge that Governor Curtin prevented the preservation of the ballots.

In Elk County the application was granted on the 28th of January, 1879, twenty days prior to the February election, which was held on the 18th of February, 1879, and all the election officers were required to preserve the ballots and the contents of the ballot-boxes. But the contestee, after he procured this order, without any resistance or opposition thereto on the part of Governor Curtin, failed to avail himself of the benefits of the order. He either knew the contents of the ballot-boxes, or did not desire to know, as he took no evidence in relation to the same. His anxiety to preserve for inspection the contents of these ballot-boxes suddenly subsided and vanished. Possibly he concluded upon calm reflection that their disclosure would not inure to his benefit, and prudently omitted to expose them to public view. It is fair to infer that he would have pursued the same course in Centre and Clearfield Counties had his applications there been granted. The charge is merely made to create prejudice against Governor Curtin by inducing the belief that it was by reason of his conduct that the ballots were not preserved, and this in the face of the evidence that no resistance thereto was made by him and that the contestee was not sincere in his pretended desire for their preservation. The attempt to excite such prejudice is unjustifiable, and will not commend itself to the approval of intelligent and impartial men.

In conclusion, I now desire to call the attention of the House to a case which was decided in the State of Pennsylvania, where the election in controversy in this case occurred, and which for that reason augments the importance of the decision. I refer to the Locust Ward election case, reported in 4 Pennsylvania Law Journal, page 341, which was an application to test the legality of an election held in Locust Ward, in the city of Philadelphia, for aldermen and other officers. The only ground of complaint was that the polls were not closed at ten o'clock in the evening as then required by the statutes of Pennsylvania, but were kept open after that hour, during which time a large number of votes were received and counted with those cast before that hour, by which means the candidate for the office of alderman was illegally elected. The court held that these votes were illegally cast, and declared the election void. Judge Parsons, whom the counsel for both parties in this contest in their arguments before the committee indorsed as a gentleman eminent for the purity of his character and legal attainments, in rendering the opinion of the court, said:

The next subject for inquiry is, what results follow where an election has been kept open after the hour fixed by law for closing it and votes have been received? Is the entire election void, and must such election, when contested, always be set aside? In our opinion, the true principle is this: where an election has been kept open after the hour required by law when it should be closed, and the number of votes received after that time are clearly ascertained, and those votes, if all had been given to the majority candidate, could in no event have changed the result, we would not purely on that ground set aside the election. To illustrate the rule, if the candidate returned had a majority of 100 votes over his competitor, and it was clearly proven to the satisfaction of all that there were but 50 votes polled after ten o'clock, in such a case we would not for that reason declare the election void. * * * But where the majority for the candidate is small, and the evidence is of such a character as to render it uncertain as to the number of votes polled after the hour when the election should have been closed; where there is imprecision as to the true state of the case, and the result is thereby rendered uncertain, and it is doubtful who has a majority of the votes polled within the time prescribed by law, then, in such a case, it is *unquestionably* our duty to set the election aside and refer the question back to the people. In all these principles the whole court fully concur and settle it as the law, so far as our judgment makes it certain.

* * * * * * *

Such being the state of facts before us, it appears to me there is but one course the court can safely pursue, which is to set the election aside and refer the subject back to the people—the source from whence all official power is derived in this country, and who are the constitutional arbiters to determine who are best qualified to fill the station now vacant. By this act no injustice can be done. If the majority of the citizens of the ward desire the candidate on the return elected, he has nothing to fear, for he is safe in their hands, and if he is satisfied there is not a majority in his favor, I presume he does not wish to hold the office.

Mr. Speaker, guided by these precedents, which, in my judgment, constitute a correct and just exposition of the law, I think that the resolution which has been submitted by the majority of the Committee on Elections to the House should be adopted, as the evidence, in my judgment, fails to show with sufficient certainty for whom a majority of the legal votes of the district were cast, and, in the absence of such proof, we are unable to ascertain the true and correct result of the election. It is clouded in doubt and uncertainty, and, in view of this fact, no other just alternative is presented, except to declare the seat vacant and remit the controversy back to the legal voters of the district, so that they may determine who shall represent them here. This conclusion will certainly meet with their approval and ought to be satisfactory to the parties, as neither of them, as honorable men, should desire to occupy the seat in dispute unless his right thereto is clear and free of doubt. Such a decision will not be partisan in its character, and will commend itself to the judgment and approval of the country.

A pension for the surviving Soldiers and Widows of the Mexican and old Indian Wars is demanded by Justice, Mercy, and a Sound Policy.

SPEECH OF HON. C. B. SIMONTON,

OF TENNESSEE,

IN THE HOUSE OF REPRESENTATIVES,

Monday, May 10, 1880.

The House having under consideration the bill (H. R. No. 3257) granting a pension to certain soldiers and sailors of the Mexican and other wars therein named, and for other purposes—

Mr. SIMONTON said:

Mr. SPEAKER: I am glad of this opportunity to offer some reasons, briefly, why I think the bill before us should be favorably considered by the House, passed by Congress, and made the law of the land. I am in favor not only of its purposes but of the bill itself, for it seems to me to be carefully and accurately drawn, well adapted, in fact, for the purposes intended. It contains no occult or hidden measures, nothing that is not apparent on its face. It proposes to pension the persons plainly designated therein at the amount specified and to secure it certainly to them. It guards the Treasury against frauds in the payment of the pensions under the law, in case the bill should become a law, as carefully as it seems practicable to do.

The question for our consideration, then, is, ought the persons designated in this bill, to wit, the soldiers and sailors of the Mexican, the Florida, the Creek and Black Hawk wars, and the widows of such soldiers and sailors, to be pensioned according to the provisions of the bill? Sir, this seems to me so reasonable and just a thing, so in keeping with the rule adopted by our Government for the pensioning of her soldiers, and so in keeping with the natural impulses of a free, brave, and grateful people, as scarcely to need reasons offered in its support. Why not, Mr. Speaker? Do these persons not want the pension? We, in this country, at least, naturally think of a pension as something which a grateful government voluntarily bestows as a mark of her gratitude and as a reward for services rendered, as well as to aid and support her defenders, who may have been disabled in her service or have fallen or are about to fall into circumstances that require assistance. But in this case, these old veterans who linger among us, and the widows of their dead comrades, are here either by their own or the petition of others, and are humbly asking at our hands that which, if given at all, should be given voluntarily, cheerfully, and gratefully.

Do they need it? Must I remind the House that these men are growing old and rapidly passing away? Sir, it is forty-seven years since the termination of the Black Hawk war, it is forty-two years since the termination of the Creek, and thirty-seven years since the termination of the Florida war. It was thirty-two years the 2d of February last since the treaty of peace of Guadalupe-Hidalgo, which terminated the Mexican war. The average period of time since the

termination of all these wars is more than forty years. If we should estimate the average age of enlistment of soldiers in all these wars at twenty-six years, it would give the average age of the survivors of these wars to be now over sixty-six years. But again, if we estimate the average age of enlistment of the soldiers of the Mexican war at twenty-six years, and it was even greater in the late war, it will make the survivors of that war to be now in their sixtieth year. I think we may safely estimate the average age of the survivors of the Indian wars at seventy-six years; and I will not detain the House by citing the data upon which I arrive at such conclusion, believing it will not be seriously controverted, and then if the survivors of the Mexican war be, as doubtless they are, in about the proportion of two to one of the survivors of the Indian wars, it will give us the average age of all soldiers to be pensioned under this bill at sixty-five years. Sir, we are old at sixty-five, not many, comparatively, of the human family live to see that age, and if they do it is to find their strength impaired, their energy and activity gone or greatly diminished.

Sir, I take it that we who are in robust health and vigor of manhood, and even our colleagues who pass among us for old men but whom fortune has favored and upon whom the anxiety and toils that belong to a life of labor and poverty have never fallen, we, I say, doubtless know little of the feelings of helplessness and dependence which crowds upon those in the humble walks of life who have been compelled to depend upon their physical exertions for a maintenance and support when they have added so many links to their chain of life, when they have advanced down its pathway beyond the boundary where old begins, and when they see the lengthening shadows of life's evening falling around them and feel the ever-increasing infirmities of age gathering heavier and heavier upon them. We know but little of the anxiety with which these old men have followed their petitions to Congress, or with what solicitude they wait and wait and wait from Congress to Congress, or how their hearts would swell with gratitude if we should make a proper recognition of their services and bestow a suitable reward.

Last spring, just after I took my seat as a Representative in this House, I received a letter from a venerable old citizen in one of the counties in the district which I have the honor here to represent. He had been a soldier in the old Creek war; he had heard that the Forty-fifth Congress had pensioned him and his comrades, and he wrote me asking that his name be put on the pension-roll forthwith, that he might enjoy this kindness of his country for his few remaining days. His letter was written in a palsied and trembling hand, but it was full of gratitude and thanks. "I am old," says he, "and poor and worn out, and sadly in need of this kindness of my country." Now, it may seem to gentlemen like a little thing, but to me it was a sad duty to write to that old man and tell him his thanks and gratitude, if not misplaced, were at least premature, and his hopes of being aided and supported in his declining years by a grateful country was for the present at least but a dream and delusion.

But some one may say that I make the age of these men too great; that my figures are not exactly correct; that the average I am giving is too high. Sir, I believe my figures are correct and the average I have indicated to be the true one; but I have little pride in my figures or calculation. Throw them to the wind if you wish, and still our observation will confirm my theory. It tells me that these men are getting to be the old men of the country; that their hair is gray, their eyes are dim, their steps are heavy and faltering; with them the silver cord of life is loosening, the golden bowl and pitcher at the fountain are breaking; they belong not to the present but to a former generation, and, figure it as you will, they are unable to cope in the toil and struggles of life with the younger and more stalwart generation just now in the prime of its manhood that follows hard after them and is crowding them not only from the avocations but from the very stage of life itself. If they will ever need assistance from their country they are needing it now, and if their hearts are ever to be gladdened and their lives brightened by any act of recognition or kindness the bill should be passed forthwith, for they are rapidly passing beyond the reach of any mark of recognition or reward and beyond the reach of any words of praise that we may speak. Even since their petitions have been here these years on file in this House many of them, officers and men, have died waiting the tardy action of Congress. And we are told by the National Association of Mexican Veterans, in their petition on file in this House, that many of their number are in need and many of them in absolute want, and without benefit, as they add, of asylum in that home prepared from a fund in which every Mexican soldier had an interest. If this is true in regard to the survivors of the Mexican war, it can be none the less true in regard to the survivors of the Indian wars, for they are older and feebler.

Who will rise in his seat here and deny this declaration made by the National Association of Mexican Veterans and bring with him the proofs of his denial? None, sir, I take it, for, alas! it is only too true; and shall these men who responded to the call of their country in her hour of need, who gave it the morning of their lives, leaving home and wife and children and happiness, all that was dear, at her bidding—shall these men, who with brave hearts and strong arms vanquished their country's foes, now in the evening of their life, with the infirmities of age gathering on them, be abandoned by that same country to the unequal contest with want and penury? Will Congress still continue to disregard their petitions? I, for one, shall not believe it until I have seen it.

But, sir, can the Government afford to pay these pensions? Is it able to meet the liabilities which the passage of this bill would involve? If not, it sets at rest all the other questions of the expediency and necessity of such relief as this bill proposes; for it matters not how much these old veterans and the widows of their dead comrades may desire the pensions, or how necessitous their conditions, or how poor or infirm they may be, we, as the representatives of the people, ought not to pass the bill if it involves an expenditure which the country cannot meet. To answer these inquiries we must ascertain, if possible, what sum would be needed to pay the pensions annually, and what are the resources of the Government for meeting such expenditure.

I have an estimate of the Commissioner of Pensions, which bears date December 22, 1879, and which was furnished at the request of the chairman of the Committee on Revolutionary Pensions. This estimate is not, however, of the cost of pensions under this bill, but under House bill No. 720, which I introduced and which provides for pensioning substantially the same persons as the bill before us. In this estimate the Commissioner says, if the bill should pass forthwith, and all the persons whom he supposes to be entitled to pension should apply and be admitted to the roll at once, the sum required for the first year would be $5,235,000. This estimate, it seems to me, is very greatly in excess of the true amount that would be required. The Commissioner, as he informs us, has made his calculation upon a basis of a pension to every soldier who was enlisted and served for one day, whereas the bill before us provides for pensioning only such Mexican soldiers as served sixty days, and such soldiers of the Indian wars as served thirty days. This restriction very materially lessens the number to be pensioned and decreases the sum required. Again, this estimate is upon the theory that all the persons supposed to be pensionable should apply immediately and be forthwith admitted to the roll. This could not, in fact, happen. Experience has shown that many who are entitled to pension are slow in making application; a large number, in fact, never apply at all, and of those who do apply it requires time to hear and determine their applications. So that it is unreasonable to estimate that the whole number pensionable under the bill would apply at once and be admitted to the roll. If they should not, then the sum estimated by the Commissioner is too large—would in fact never be required the first or any subsequent year, for it must be borne in mind that the persons to be pensioned are, as we have shown, well advanced in life, and according to the life tables have but a few years of expectancy, perhaps not more than twelve, and the sum necessary, therefore, to pay the pensions under the bill would be a constantly and rapidly decreasing amount.

Now, I desire it to be understood that I am making no war upon Mr. Commissioner Bentley. He may be a very faithful and efficient officer for aught I know. But he is a human being, liable to have his judgment warped and his conclusions affected by his prejudices, his likes, and dislikes, just as other men are; and my purpose is to ascertain the value to be given to his estimate. It has been charged upon this floor during a former Congress, and never denied, so far as I know, that he is hostile to the objects and purposes which this bill seeks to effect. Moreover, this estimate, and those heretofore furnished on this subject to Senators and Representatives of former Congresses, are not official acts in any proper sense, though they bear the marks and signatures of official documents. The pensioning of the Mexican and other soldiers, as contemplated in this bill, is not a matter within the jurisdiction of the Commissioner; the data upon which his estimate is founded is not even in the keeping or under the control of his department, and the preparing and furnishing the estimate is a matter no more covered by his official oath than any act of mine would be. So that the estimate is the act of Mr. Bentley, or of some clerk in his department, as an individual, and is not the official act of the Commissioner of Pensions. Again, this estimate is professedly based upon a calculation made in the Pension Department in 1877, which calculation, in my judgment, is grossly erroneous. I cannot take the time to point out in detail the errors and inaccuracies of that calculation as they appear to me, but I refer gentlemen who may wish further information on this particular matter to the published report of the fourth annual reunion of the National Association of Mexican Veterans, pages 29 and 30, for a careful analysis. I submit, therefore, that the so-called estimates of the Commissioner of Pensions on the subject-matter of this bill may very properly be received with a degree of caution by this House, and I for one would hesitate very long to make it the basis of my action in any important matter, as the one before us, even if there was no other information accessible. But there is, and I invite the attention of the House to it.

The chairman of the Committee on Invalid Pensions, which reported the bill under consideration, in his report, after giving in detail the reasons which influenced the conclusions of the committee, says:

The committee therefore present the following tabulated statement, showing the number of survivors of all classes who should be entitled to pensions under this bill:

Surviving veterans of Mexican war	7,000
Widows	900
Sailors and widows	700
Surviving soldiers and widows of the Black Hawk war	200
Soldiers and widows of Creek and Florida wars	3,000
Total	11,800

Which at $8 per month, or $96 per annum, would aggregate $1,132,800, the cost for the first year. Let it be borne in mind that this report was made by a committee of this House, the members thereof being upon their oaths as members of this House; that all the necessary data to enable them to arrive at the proper conclusions were as accessible to them as to the Commissioner of Pensions, and that they had full knowledge that the Commissioner of Pensions had made an estimate widely different from the calculations to which they had arrived, the difference in the estimates resulting mainly from the wide difference in the estimated number of survivors and widows of the Mexican war.

Under such circumstances we would naturally expect the report of the committee to be the result of careful and exhaustive consideration and the conclusions reached such as the House might rely on confidently. I think this report will bear the test of the closest scrutiny, and I will detain the House but a short time in its consideration. I beg to refer to some facts which to my mind very strongly corroborate the conclusion reached.

During the Forty-fifth Congress Mr. Hewitt, of Alabama, on behalf of the Committee on Invalid Pensions, made a report, No. 69, to accompany House bill No. 257, which bill contained substantially, if not identically, the same provisions of the one now under consideration. In that report, after giving in detail the reasons that influenced the committee in arriving at their conclusion as to the number of persons to be pensioned under the bill and the cost per annum, he says:

To recapitulate:	
Surviving citizen soldiers of the Mexican war	6,000
Widows	1,000
Surviving soldiers Regular Army	2,700
Surviving soldiers and widows of Black Hawk war	200
Surviving soldiers and widows of the Creek and Florida wars	3,500
Making a total of	13,400

that will receive a pension at the rate of $8 per month, or $96 per annum, aggregating $1,286,400 per annum, which sum will be constantly decreasing, * * * and the whole cost to the Government will not exceed seventeen or eighteen millions of dollars, covering a period of twenty-five or thirty years in the disbursement of the same.

After a careful examination of the subject, with the official records before them, the committee are satisfied that the foregoing estimates will cover the entire amount of money required by the bill.

These estimates by committees of this House, acting independent of each other and differing in detail, are substantially the same in their result and conclusion, and corroborate and confirm each other. No minority report was filed in either case differing from the conclusions arrived at by the committee. In confirmation and support of their estimate the committee quote from a letter written by General George W. Morgan, of Ohio, December 15, 1873, in which he says:

After the maturest reflection, it is my conviction, comrades, that of the men who served with us on the fields of Mexico less than six thousand are alive to-day.

And in further confirmation of this theory, the National Association of Mexican Veterans, after several years of existence, have only 5,095 members, and after systematic and careful inquiry have been able to obtain the names of only about seven thousand persons as surviving soldiers of the Mexican war, all of whom would not be pensionable under this bill, for a considerable number of them are now on the invalid pension-roll.

Sir, that the report of the committee is substantially correct I have no sort of doubt. I am thoroughly satisfied that the amount which the committee estimate, to wit, $1,132,800, will be amply sufficient to pay the pensions under this bill for the first year after its passage, and the required sum for each succeeding year will be less and less. It is true these estimates, by whomsoever made, are approximations, and not susceptible of exact and certain proof. I am willing, in the discussion of this matter, to be abundantly fair and to make the most liberal allowance. Since the path of safety lies generally between the extremes I am willing, and I speak for myself alone, that you shall consider the estimate of Mr. Bentley, unofficial and unsupported as I maintain it is, as the extreme upon the one hand, and the official report of the committee of this House, corroborated and sustained as it is, as the extreme upon the other, and select the mean between them as the place of safety—as the true amount required. The mean between the estimate of Mr. Bentley and the committee of this House is $3,183,900—the amount that would be required the first year. Now, then, is the Government able to pay this sum? This seems to me a question that scarcely admits of discussion.

Ours is a Government of vast and ever-increasing resources; and it has entered upon a tide of prosperity which I trust and believe will be enduring, and in which her industries and enterprises will be greatly enlarged and her wealth increased, so that without the levy of any new impost or duties or any additional taxes there must be large gains in the annual revenue. The net revenue for the fiscal year 1878 was $257,000,000; for the succeeding fiscal year $273,000,000, showing an increase in one year of $16,000,000. The Secretary of the Treasury at the commencement of the fiscal year 1880 estimated that the revenue would be $288,000,000, or a further increase of $15,000,000 for this fiscal year. The actual receipts the past months of the present fiscal year show an increase far in excess of the Secretary's estimate. The annual increase of net revenue for the present fiscal year over that of 1878 will not be less than $40,000,000. But the sum collected in 1878, in those darkest of the dark hours, just before the dawning of the day of better times, was sufficient to meet the current expenses of the Government, pay the interest on the public debt, and provide the necessary sum for the sinking fund. There has been no permanent increase of expenditures since corresponding with the increased revenue. The expenditures for 1879, it is true, are near $30,000,000 greater than for the preceding year, but this is the result of the passage of the arrears-of-pension act, which of course involved only a temporary expenditure, belonging mainly to that fiscal year.

Again, of the sum of $257,000,000 of revenue collected for the fiscal year 1878, $102,300,000 was used in paying the interest upon the public debt. The Secretary of the Treasury, in his report to this Congress, informs the House and the country that by the funding operations of the Government there has been saved in the matter of reduced interest since the 23d of November, 1878, the sum of nine and a quarter millions dollars per annum; and he further informs the House that there will mature by the 1st of July, 1881, bonds bearing 5 and 6 per cent. interest amounting to $782,000,000, which may be funded in four percents, and the calculation shows that by this operation there would be saved the further sum of more than $11,000,000 per annum.

But gentlemen on this side of the House, with the gentleman from New York at their head, believe that these bonds so to mature may be funded in three-and-a-half instead of four percents, and doubtless it can be done if the Secretary of the Treasury and the Administration do not array themselves on the side of capital and against the people, which would be by no means a new thing in the history of republican administration. If the funding of the bonds yet to mature should be at 3½ instead of 4 per cent. there will be a further saving of more than $4,000,000 per annum. Let us recapitulate.

At the close of the present fiscal year the increase of revenue per annum over or since the fiscal year 1878 will be about $40,000,000. Since 1878 there has been saved by the funding operations of the Government about nine and one-quarter millions of dollars per annum; there may yet be saved by continuing the funding operations the further sum of more than $11,000,000, or if at 3½ instead of 4 per cent. $15,000,000 per annum. Why not take a small portion of the sum so derived from the increased revenue or saved by reduced interest upon the public debt, and to be saved by a further reduction, if it shall be deemed wise to continue the funding operations—why not take a small portion of these sums and apply it to the payment of this most just obligation of the Government to these surviving soldiers and widows who are here asking it at our hands? It is folly to talk of the Government not being able to pay these pensions. It is abundantly able, even if Mr. Bentley should be correct in his estimate of $5,235,000; though, as I have said before, I am thoroughly satisfied that $1,132,900 will be ample to meet all the liabilities of the Government under this bill. In this estimate of the resources of the Government I have not taken into consideration the reduced annual expenditure resulting from the lessened amount of interest consequent upon the reduction of the public debt, which is being effected at the rate of $10,000,000 per month.

But I hear some one say that it will never do to incur such liabilities; it is a reckless waste of the people's money, and we must economize. Sir, I am for economy; I desire to see the most rigid principles of economy applied to our public expenditures, and my vote and my counsel during my short course in this House sustain me in this declaration. I am ready now and ever to join hands with any one on either side of this House in any and every wise measure of economy. Sir, it seems to me there is an inviting field for it. This is not only a Government of vast and ever-increasing resources, but it is one of bountiful, almost boundless, liberality and munificent expenditures. We are told that in a little more than a decade since the war it has donated to corporations a vast area of public lands—vast enough to found empires in—greater in extent than the States of Tennessee, Mississippi, Louisiana, Georgia, Florida, and South Carolina all combined. It has granted subsidies and enriched steamship lines; for instance, one to Brazil for years at $150,000 per annum, on the pretense of carrying the mails and with the avowed purpose of increasing our exports to that country, whereas, in fact, our trade constantly declined during the existence of the subsidy, and our mails could then and are now actually being carried for $1,500 per annum.

In almost all the cities in the Union she has erected marble palaces for the current business of her post-office and customs, and for holding the sittings of her courts. She has heretofore, is still, spending millions of dollars improving rivers and harbors. Sir, this magnificent city of concrete-paved streets, with its public gardens and parks, the magnificent grounds attached to the Capitol, and the Capitol itself of pretentious and imposing architecture, its costly equipments and adornments, its splendid libraries, its elevator and marble baths, its long aisles and arches adorned with works of art, where Kent and Story, and Fulton and Fitch, amid a bewildering profusion of Cupids and birds and a thousand fantastic frescoes, look down on you in the twilight of the lower corridors, and paintings and statuary and gems of art and marble columns and domes—all these things attest the liberality and munificence of the Government and make its Capitol the admiration of all her people.

A member of this House has but to raise his hand, and the politest of little pages waits on his call; he has but to order, and genteel employés or obsequious servants wait on him or aid him in the discharge of all his duties. It has been beautifully said that "Providence tempers the wind to the shorn lamb," but it seems that in the method of republican government the strong and mighty, and espe-

cially the place-holders, monopolize the tender care and solicitude of her guardianship. The whole list of Government officials—and their name is legion—from the President down to the meanest of the despised deputy marshals, who, under pretense of discharging official duty, perform the meanest of partisan rascality, the whole list is not only liberally but bountifully rewarded. The Government has not adopted the wise rule which obtains among prudent men, of compensating for services, experience, fidelity, and skill by what they are actually worth and will command, but she bestows her compensation with a lavish hand, and seemingly without any rule or guide; hence Federal officials are regarded as a fortunate class. And they are fortunate, for it so happens that men usually hold Federal positions but a short time until they grow dainty, and well become liveried servants and splendid equipages. How the simplicity and purity of the Republic as our fathers founded it has given place to the aristocracy of wealth, to splendor, magnificence, and corruption! Sir, if our liberties are ever lost it will likely be in a sharp and desperate contest for official position.

Can the Government, so liberal in its past history, so generous to its officials and employés, so lavish in its expenditures—can this Government afford to deny the petition of these poor old men, her former brave soldiers, who by their chivalric deeds brought her riches and wealth and renown; can she disregard their petitions on the ground of economy? God forbid it. Can we who enjoy the liberality and munificence of our Government disregard the petition of these men on the ground of economy? I am ready and willing to begin the application of more rigid principles of economy, but I will not begin by applying them to these old soldiers and widows. Yes! economize. Cut down salaries, if you please, by the wholesale, from President down; stop for a while the erection of marble palaces; let the weeds grow in the public parks if need be; or, what is better, go catch the thieves in the revenue department; bring dishonest officials and swindling contractors in the postal and other departments to a strict account; but do not deny to these men and women this pittance which they ask from an overflowing Treasury on the ground of economy.

The people of this country appreciate the value of the services of these men, and desire that Congress shall make a suitable recognition and bestow upon them an appropriate reward. As an evidence of it, the following States have passed resolutions instructing their Senators and recommending the members of Congress to grant a pension to the survivors of the Mexican war, to wit: Pennsylvania, Ohio, Illinois, Indiana, Minnesota, Wisconsin, California, Oregon, Nevada, Kentucky, Texas, North Carolina, Virginia, Maryland, Alabama, Louisiana, Mississippi, Tennessee, Arkansas, Georgia, and Washington Territory.

Has the Government no duty to discharge to these soldiers? Is she under no obligations to grant these pensions? Who are they, and what have they done? The country knows very well who they are and what their splendid achievements have been. The surviving soldiers of the Indian wars are they who responded to the call of their country and braved the perils of a savage warfare—not, as has been asserted, as mere pioneers in defense of their own firesides, but at the call of their country, in a regular enlistment, and for the protection of the firesides of our fathers and mothers. That chapter in American history which records the deeds of the Mexican veterans is one of the most thrilling and interesting in all her book of annals; its details are rather like romance than recitals of sober history. I know of no conquest of modern times in which so vast and rich a territory was obtained as was acquired by the United States as the result of the Mexican war. It is greater in extent in fact than are the territorial limits of most of the great nations of the earth; it will furnish homes for our children for generations to come.

The acquisition of this territory gave us command of the Pacific Ocean; it is the key to the commerce of Australia, China, India, and the whole East. Here are found the largest and securest harbors on the Pacific coast. This vast area of territory is fertile, adapted to the arts of husbandry and agriculture, abounding in beautiful vales, gigantic forests, deep cañons, and lofty mountains; here are found the richest mines of silver and gold on the habitable earth. "Between 1848 and 1880 her gold and silver mines have produced $50 *per capita* for our fifty millions of people, an amount equal to one-third of the world's supply, and they are now producing as much bullion as the rest of the world combined, or enough to transact daily $10 *per capita* of the globe. And here is not only the largest and richest precious-metal territory known, but the most extensive system of precious-metal mining in the world."

Sir, to my mind there is a fit association between this vast extent of territory, with its singular capacity for commerce, agriculture, husbandry, mining, manufacturing, and all the useful arts and pursuits in civilized life, abounding as it does in the picturesque, the beautiful, and the sublime—I say that to my mind there is a fit association between this remarkable territory and the strangely brilliant achievements by which it was acquired. They blend not only in historical association but in fitness and adaptation to each other. And it may be that the country will hold on to these vast and rich possessions, this territory with its utility and beauty, its commerce and productions, and still spurn the petition of these men by whose valor it was achieved. Yet while the Pacific lashes the shores of California, while her beautiful valleys remain and her mines yield up their stores of precious ores, as long as her mountains stand, these men will at least have a fitting monument to their brilliant achievements that time cannot efface or ingratitude destroy.

Granting a pension to the persons designated in this bill cannot be successfully resisted on the ground of establishing any new and dangerous precedent. Nothing is better established than the rule of the bestowment of pensions upon the citizen soldiers of the Republic. The true reason of this rule is doubtless found in these facts: that a standing army is dangerous in a republic, being a constant menace to the liberties of the people, as well as eating up their substance. Our fathers, recognizing these truths, determined to and did commit to the valor, patriotism, and devotion of the citizen soldiers the guardianship and defense of the Republic, and constituted them the bulwarks of the country's safety, undertaking for their services rendered at her call to insure and protect them from want and the misfortunes of poverty if disabled in the line of duty and during the infirmities of age. This obligation the country has faithfully discharged toward the soldiers and widows of the revolutionary war and of the war of 1812. This has therefore become the established rule of the Government, and the survivors of the Indian and Mexican wars have a just right to expect this compensation and support from the Government.

But it has been objected heretofore in the discussion of this subject, and will doubtless be urged again by gentlemen on the other side of the Chamber, that a bill like the one before us ought not to pass because it would bestow a pension upon some southern men who were engaged in the rebellion, and who thereby forfeited all right to pension. This bill of course can have no effect to bestow a pension upon any person who is under the political disabilities imposed by the fourteenth amendment to the Constitution. If the objection we are now considering is a valid one at all it certainly cannot apply to any large number of the survivors even of the Mexican war. I submit that it is the height of refined cruelty and injustice to impose upon these old soldiers of the Indian and Mexican wars, against whom no such objection can be urged, a penalty of the most grievous character, the denial of their petition, the refusal to acknowledge their services, and the exclusion of them from rules and obligations of government applicable to all other soldiers of the Republic—all because of an alleged disqualification of other persons whose acts they were in no way responsible for.

But I maintain that the objection is not valid against any person whom this bill provides for. Gentlemen on that side of the Chamber frequently remind us of the great clemency of the Government toward all who opposed it in arms during the late war. I wish the professions of admiration for such clemency were as sincere and genuine as their oft and loud repetitions by gentlemen would indicate; for then, in my judgment, there would be no difficulty in the passage of this bill. The very offense of these petitioners, which gentlemen set up as the stumbling-block in their way, has been removed by that very clemency which they extol. The President, in the exercise of that prerogative of mercy which the Constitution reposed in him, saw proper in behalf of the whole people of the United States, you gentlemen included, to pardon this very offense and sweep away all penalties therefor. There can be no question concerning the scope, force, and effect of the pardon. This House and the country is familiar with the repeated interpretations which our Supreme Court has given to these executive pardons.

In the case of *Ex parte* Garland, 4 Wall., 381, the court say:

> A pardon reaches both the punishment prescribed for the offense and the guilt of the offender, and when the pardon is full it releases the punishment and blots out of existence the guilt, so that in the eye of the law the offender is as innocent as if he had never committed the offense.

In Klien's case, 13 Wall., 137, the court say:

> There has been some difference of opinion among the members of the court as to cases covered by the pardon of the President, but there is none as to the effect and operation of the pardon in cases where it applies. All have agreed that the pardon not merely releases the offender from punishment for the offense, but that it obliterates in legal contemplation the offense.

The proclamation of pardon by Mr. Lincoln, and all by Mr. Johnson prior to December, 1868, were restrictive in their application, and the only question with the court was not as to the effect and operation of the pardons, but as to the cases where they applied. The pardon of December, 1868, was unrestricted, universal, and unconditional, and there can be no longer any question as to its application. It is in these words:

> Now, therefore, be it known that I, Andrew Johnson, President of the United States, by virtue of the power and authority in me vested by the Constitution, and in the name of the sovereign people of the United States, do hereby proclaim and declare, unconditionally and without reservation, to all and to every person who directly or indirectly participated in the late insurrection or rebellion, a full pardon and amnesty for the offense of treason against the United States, or of adhering to their enemies during the late civil war, with the restoration of all the rights, privileges, and immunities under the Constitution and the laws which have been made in pursuance thereof.

Mr. Speaker, wherever Christianity has extended and the Christian religion been preached there has also been told the story of that boldest of all the disciples, how he deserted his Master in the hour of his greatest extremity, and how the Master, with only a look for reproof, graciously forgave him. Who has not admired that pardon, so full, free, perfect, and god-like, restoring him to all his former relations, to the confidence and trust of his fellows and of his Master, so that he was esteemed worthy still to hold the keys of the kingdom of heaven, and whatever he bound upon earth was also bound in heaven?

That act of mercy brought its natural and appropriate result. After a life-time of service that disciple died a martyr to the name and cause of Him whom he had thrice denied.

Sir, why should not this great act of clemency on the part of government be carried out in good faith by the House and the country? Why should gentlemen seek to narrow, contract, and dwarf it—mar its sublime resemblance to the perfection of the Master's mercy? Why should it not be maintained just as the Executive spoke it—free, universal, and unconditional, just as the Supreme Court has interpreted it—sufficient, reaching and sweeping away both the guilt of the offender and the offense itself?

I have but little disposition to reply to or even protest against the bitter and irritating words uttered in this House and in the press of the country for partisan purposes against the people of the South, for it serves to provoke still bitterer retorts, and our people can and will patiently wait the certain vindication of their sincerity and devotion to the Union of these States and constitutional liberty which time is bound to bring. But it affords me pleasure here to call attention to the manly utterances of the ex-President in his late visit through the South, when he said: "In the crowds of people I met and the greetings I received I saw that the feelings of the past were gone," and their "speeches showed their devotion to the flag for which we fought." Sir, the passage of this act will be a beautiful recognition of that state of feeling which the ex-President so frankly avows, and will be in the line of a faithful fulfillment of the proffered clemency of Government and will serve to cement the union of these States. Eleven recurring seasons have come and gone since the Chief Executive proclaimed unconditional amnesty to the people of the South, with the restoration of all their rights, privileges, and immunities, and the flowers have bloomed in peace for fifteen recurring years on the graves of our dead. Shall the animosities of the past never be forgotten? Sir, General Grant spoke the simple truth of our people when he said, "I saw that the feelings of the past were gone." They are ended in the country in the hearts of the people; let us end them here. The passage of this bill is an act of justice and mercy, and will be a graceful pledge of the perfect good faith of the whole country in obliterating the past and maintaining for the future fraternal relations and enduring peace.

Curtin vs. Yocum—Contested Election.

SPEECH OF HON. HORATIO G. FISHER,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 11, 1880,

On the resolution reported from the Committee on Elections, in the case of Curtin *vs.* Yocum.

Mr. FISHER said:

Mr. SPEAKER: The questions presented for our consideration in this case are: was there a fair and honest election held in the twentieth congressional district of Pennsylvania in November, 1878, and who received the majority of the legal votes cast at that election. The majority report does not claim under any principle of law that the contestant was fairly elected. That position they have abandoned; but they come in here alleging that they have thrown such a cloud of doubt upon the claim of the right of the contestee to a seat upon this floor that the proper thing to do is to refer the matter back to the people of the district by declaring the seat vacant, and thus compel a new election.

I desire to say, Mr. Speaker, that during the first session of the Forty-sixth Congress, and frequently since that time, owing to representations made to me by friends of the contestant of their ability to prove a large number of fraudulent votes, exceeding many times the majority returned for the contestee, that I have frequently said to the friends both of the contestee and contestant that I would on such a showing vote to refer the whole question back to the people of the district. I had, on taking my seat in this body, fully determined that no political considerations should induce me to cast my vote for any man who I did not believe was fairly elected; nor would I vote to unseat any man that I considered was fairly elected a member of this House.

In the Forty-fifth Congress the democratic majority committed an outrage not only upon the Representative of the State of Colorado, but upon the nation, by unseating the Representative of that State, and Colorado very properly returned the ejected member to the Forty-sixth Congress by such a decisive vote that the meaning could not be misunderstood. The republicans when in power may have been equally guilty of similar inexcusable outrages, very probably they were; but these high-handed precedents cannot and will not justify us in inflicting a wrong upon the contestee in this case.

But, sir, is it not high time that members of this body should look into these cases of contest with the full intention of doing what is right and being actuated by principles of justice and equity, and not content themselves with asking "Which is our fellow," and voting accordingly?

How does the contestant undertake to show that Seth H. Yocum was not fairly elected to a seat upon this floor? He can and does only show 29 material illegal votes cast for the contestee. On the other hand, the contestee shows 76 illegal votes cast for the contestant, and which are admitted. Now, it is conceded that there was a clerical error of 7 votes in Yocum's majority in Union County which, added to his returned majority of 73, increases it to 80. Now, deduct the clearly proven illegal votes that were cast for both contestant and contestee, and we find that the actual and true majority for the latter is 127.

It is also shown that there are really only 105 illegal votes cast in the entire district on both sides on a vote of almost twenty-seven thousand.

But if there was such a large number of fraudulent or illegal votes cast in this district as is alleged, we would naturally look for and expect to find them in the mining sections of the district and in the large centers of population; but having carefully examined the returns of the polling places embraced within the limits of the mining district, as well as those of the only three towns of any size within the district, we find the result as follows:

Woodward Township, Clearfield County, contestant claims 12 illegal votes cast for contestee, all for non-payment of taxes, one of which is clearly proven legal, and admits 11 illegal votes cast for himself.

Decatur, contestant claims 2 illegal votes cast for contestee, both of which are proven by contestee to be legal voters, and admits 1 illegal vote cast for himself.

Houtzdale Borough, contestant claims 3 illegal votes for contestee, while he admits 8 illegal votes cast for himself.

Osceola Borough, contestant claims 1 illegal vote for contestee, for non-payment of tax, but proven clearly taxes were paid.

Morris Township, contestant claims 4 illegal votes for contestee, but 3 are shown qualified voters.

Philipsburgh Borough, contestant claims 2 illegal votes cast for contestee, John Nuttall and Reuben Freeman, for non-residence, both clearly proven. Admits 1 illegal vote for himself.

Snow Shoe, contestant claims 1 illegal vote for contestee.

Lock Haven, contestant claims 6 illegal votes for contestee, 3 of which are proven qualified. Admits 1 cast for himself.

Lewisburg, contestant claims 4 illegal votes cast for contestee, 3 of which are clearly proven qualified voters.

Bellefonte, contestant claims 2 illegal votes cast for contestee, both of which are clearly proven qualified.

This exhibit shows but 39 illegal votes proven in this section of territory, embracing the entire mining population, as well as the only three towns of the district that exceeds two thousand inhabitants, and of these 39 illegal votes the contestant admits 22 were cast for himself.

Does any member of this House believe from the evidence that there was any intentional fraud? If fraud cannot be discovered in the mining districts or in the large towns, where else can they find a floating vote to invite the perpetration of fraud? It is no surprise, therefore, that the majority in their report do not claim the election of the contestant, but in their desperation they come in here and ask us to believe that hundreds upon hundreds of voters cast their ballots at that election who were not qualified voters; they want us to believe this was done in the agricultural districts where the population is stable and where in all probability the election officers knew personally all the voters in their respective districts, and where five out of six of the election boards were controlled by the friends of the contestant, and after it has been clearly shown that this contestant was a party to the destruction of hundreds of affidavits of non-registered voters, owing to the fact that election officers meaning well enough, and honest as far as we knew, had placed them in the ballot-boxes instead of inclosing them to the prothonotaries of their respective counties.

In corroboration of this I have only to call your attention to the fact that of twelve hundred names claimed as non-registered (and I would remind you the contestant could in all probability select his strongest and best witnesses) they were all proven legal voters but thirteen.

How do they base this claim of non-registry? They take the poll list of voters and compare it with the registry list prepared by the assessor; and when the lists differ in spelling the name of the voter, contestant claims it a non-registered vote.

I now read the extracts from the recent decision of the supreme court of the State of Maine:

This Government rests upon the great constitutional axiom that "all power is inherent in the people. It is a Government of the people, by the people, and for the people," and, if administered in the spirit of its founders, "it shall not perish from the earth." Its Constitution was formed, to use the apt expression of one whose memory is embalmed in the hearts of his countrymen, "by plain people," and "plain people" must administer it. The ballot is the pride as well as the protection of all; it is the truest indication of the popular will. The official returns required from the municipal officers of the several plantations, towns, and cities are and will be made by "plain people," and made, too, in the hurry and bustle and excitement of an election. They are not required to be written with the scrupulous nicety of a writing-master, or with the technical accuracy of a plea in abatement. The sentences may be ungrammatical, the spelling may deviate from the recognized standards, but returns are not to be set at naught because the penmanship may be poor, the language ungrammatical, or the spelling erroneous. It is enough if the returns can be understood, and if understood, full effect should be given to their natural and obvious meaning. They are not to be strangled by idle

technicalities, nor is their meaning to be distorted by carping and captious criticism. When the meaning is ascertained there should be no hesitation in giving it full effect.

And again:

The returns should be received with favor and construed with liberality, "for," he adds, "from the men who usually are, and necessarily must be, employed to make them, great formality and nicety cannot be expected, and should not be required. The general principle which governs is that while there should be a strict compliance with provisions of a statute, yet when they are merely directory, such strict compliance is not essential to the validity of proceedings under such statute, unless it is so declared to be therein. This is specially applicable when the rights of the public or of third persons are concerned."

Observe now, the decision says that—

The general principle which governs is that while there should be a strict compliance with the provisions of a statute, *yet when they are merely directory such strict compliance is not essential to the validity of the proceedings under such statute*, unless it is so declared to be therein. This is especially applicable when the rights of the public or of third persons are concerned.

Covering this case fully.

Now I submit, Mr. Speaker, that in view of the decision of Judge Briggs quoted here by the gentleman from Indiana, [Mr. CALKINS,] a Pennsylvania decision on Pennsylvania law, the recent decision of the supreme court of the State of Maine, from which the Clerk has just read an extract, and from the evidence produced in this case, there is not left a foot of ground here for the contestant to stand upon.

A word now in regard to these alleged non-registered voters. I will compare some of the registered names with the names as they appear upon the poll list, and which contestant holds are not the names of the same persons, and submit a portion of the list only of unregistered voters claimed by contestant in his brief:

Poll list, Josiah Fute; registered Josiah Toot.
Poll list, John H. Hahn; registered Henry J. Hahn.
Poll list, Byers Price; registered E. B. Price.
Poll list, I. W. Shope; registered J. W. Shope.
Poll list, J. C. Braden; registered John Bradin.
Poll list, Andrew Clare; registered Rev. Dr. Clerce.
Poll list, John Fish; registered John Funk.
Poll list, Lucie Frank; registered Lewis Frank.
Poll list, W. H. Imboden; registered H. Imboden.
Poll list, Haymer Saway, (no such voter;) qualified (affidavit) Haymer Sankey.
Poll list, Samuel J. Atlee; registered J. S. Atlee.
Poll list, Andrew Firns; registered Andrew Fimms.
Poll list, J. G. Hess; registered John Hess.
Poll list, J. C. Houser; registered Cyrus Houser.
Poll list, W. C. Myers; registered Calvin Myers.
Poll list, Jonathan Musser; registered Jno. Musser.
Poll list, A. R. Markle; qualified.
Poll list, J. H. Ross; registered J. Ross.
Poll list, Henry Webb; registered Henry Nebb.
Poll list, R. P. Craig; registered R. B. Craig.
Poll list, Henry A. Garner; registered H. D. Garner.
Poll list, J. C. Johnson; registered Joel Johnson.
Poll list, J. H. Deaver; registered J. H. Levier.
Poll list, Frank Stevens; registered Blair Stevens.
Poll list, J. W. Bean; registered Jacob Beans.
Poll list, John M. C. Miller; registered John Milter.
Poll list, J. F. Payne; registered Fletcher Payne.
Poll list, B. A. Swoop; registered P. W. Swoop.
Poll list, T. W. Gray; registered J. W. Gray.
Poll list, Stuart Reid; registered S. Reid; qualified.
Poll list, Wash. Daughenbaugh; registered J. W. Daughenbaugh.
Poll list, Jesse Lucas; registered J. W. Lucas.
Poll list, Geo. W. Behrer; registered George Bhres.
Poll list, Alfred Miller; registered Albert Miller.
Poll list, Caleb Kephart; registered C. H. Kephart.
Poll list, I. A. Crissman; registered Crissman.
Poll list, Pat'k Heaton; registered J. P. Heaton.
Poll list, Philip Krollman; registered Philip Crollman.
Poll list, John Redley; registered John Riley.
Poll list, Alfred Thompson; registered James A. Thompson.
Poll list, H. M. Watson; registered Mitchell Watson.
Poll list, Philip Walker; registered Potter Walker.
Poll list, S. A. Bell; registered A. J. Bell.
Poll list, Wm. Bitler; registered William Bartlett.
Poll list, John Corman; registered as John W. Corman.
Poll list, Henry Everly; registered Henry Heverly.
Poll list, J. Milton Furey; registered Morris Furey.
Poll list, G. P. Gentzell; registered Perry Gentzell.
Poll list, H. K. Hoy; registered Harvey Hoy.
Poll list, John Pease; registered John Spease.
Poll list, Irwin Taylor; registered H. J. Taylor.
Poll list, George Eby; registered George Evey.
Poll list, G. W. Noll; registered George Noll.
Poll list, John Roundtree; registered John Roundtop.
Poll list, Jonah Griffith; registered John Griffith.
Poll list, A. R. Price; registered Ruas Price.
Poll list, D. R. Price; registered D. A. Price.
Poll list, Wm. Prettyleaf; registered Wm. Prettyleaf.
Poll list, Jos. Bushman; registered Jas. Bushman.
Poll list, R. Barger; registered Reuben Barger.
Poll list, S. Chestnut; registered Isaac Chestnut.
Poll list, J. C. Cubbison; registered B. C. Cubbison.
Poll list, James Dreese; registered Jas. Druse.
Poll list, R. C. Graham; registered Robert Graham.
Poll list, E. F. Gross; registered Edmund Gross.
Poll list, Jas. Stewart; registered Jos. Stewart.
Poll list, J. W. Sayer; registered J. W. Sager.
Poll list, J. Stuck; registered Jacob Stuck.
Poll list, James Smith; registered Robert J. Smith.
Poll list, S. J. Myers; registered Irwin Myers.
Poll list, P. T. Mertz; registered Philip Mertz.
Poll list, Millord Muthersbaugh; registered Millard Muthersbaugh.
Poll list, D. H. Meek; registered David Meek.
Poll list, D. S. Price; registered Samuel Price.
Poll list, T. S. Reddy; registered Thadius Ready.
Poll list, S. Strail; registered Isaac Strailey.
Poll list, W. J. Yeager; registered Jonathan Yeager.
Poll list, James C. Negney; registered Jas. C. Negney.
Poll list, Frederick Pecht; registered Fred Pecht.
Poll list, W. D. Ramsey; registered J. D. Ramsey.
Poll list, Robert Shaw; registered R. J. Shaw.
Poll list, George Bell; registered Geo. Brun.
Poll list, John Bell; registered John M. Bell.
Poll list, Jos. Galbraith; registered Joseph Galbraith.
Poll list, Henry Harmon; registered Henry Harman.
Poll list, John W. Hunt; registered J. W. Hunt.
Poll list, John M. Tunison; registered J. M. Trunison.
Poll list, G. F. Miller; registered Frank Miller.
Poll list, H. T. Peters; registered H. T. Peachey.
Poll list, Jas. Reed; registered Jos. Reed.
Poll list, John H. Taylor; registered Henry J. Taylor.
Poll list, J. B. Morrison; registered John Morrison.
Poll list, M. P. Weaver; registered Thompson Weaver.
Poll list, Simon K. Yoder, "sr.;" registered Simon H. Yoder.
Poll list, John D. Yoder; registered John K. Yoder.
Poll list, L. Hollingsworth; registered Lem F. Hollingsworth.
Poll list, J. S. Norton; registered Jas. D. Norton.
Poll list, J. W. Robinson; registered John Robinson.

Let me illustrate: If I had voted, and a clerk of German descent serving upon the board should write my name upon the poll list "H. G. Fischer," then, by the construction put upon the clerical discrepancy between the registry and poll lists by the contestant, H. G. Fisher did not vote, and therefore, through no fault of mine and from no intentional wrong on the part of the election board, the injecting of an extra letter in my name makes me an illegal voter. Can you conceive anything more absurd? They do this very thing when they hold that Henry Harman, on the registry, is not Henry Harmon, as his name appears on the poll list; or more unreasonable still, that the registered voter, J. W. Shope, is not the same man whose name appears on the poll list as I. W. Shope. How many are there here who do not make their I's and J's similar?

These discrepancies between the names on the two lists bear unmistakable evidence upon their face that they are simply clerical or typographical errors and nothing more. "Jas." for James confounded with "Jos." for Joseph, owing to similarity of writing a and o; "Jno." for John and Jonathan—these appear in a score or more of instances. C for K, as in Philip Krollman; P for B where the sound of these two letters is so nearly the same that the poll-clerk could readily catch the wrong sound.

But it is no fault of the contestee that every name is not accounted for and shown to be a qualified voter, as I believe they were with few exceptions. Take the largest list of any election district, Woodward Township, in the mining district of Clearfield County. Contestant claims 104 non-registered votes cast, but contestee accounts for 62 of them, when it was beyond his power to produce the affidavits. And why could he not show the affidavits?

First. Because they were deposited in the ballot-box and not returned to the prothonotary's office. The testimony of George W. Quinn, the democratic judge of the election, page 1873, is conclusive upon this point.

Second. Contestee presented a petition to the court of Clearfield County, setting forth that the affidavits were in the ballot-box and asking that they might be preserved.

Third. This application was resisted by contestant's counsel. (See testimony of A. M. Bloom, prothonotary, page 1603.)

Fourth. In corroboration of the testimony of the judge of the election, that the affidavits had been deposited in the ballot-box, a man sent by contestant's counsel clandestinely examined the contents of this box and found there were affidavits therein.

Here is an abstract of the testimony on above points:

George W. Quinn affirmed.

(Counsel for contestant objects to the examination of this witness because contestant was notified his examination would take place upon the 27th day of March, A. D. 1879.)

Question. Were you the judge of election held in Woodward Township election district on November 5, 1878?

Answer. Yes, sir.

Q. Was that election honestly, fairly, and legally conducted, so far as you know or could observe?

A. Yes, sir.

Q. Do you know of any interference of any person or persons outside of the board during the time you received votes or counted off, or at any other time?

A. No, sir.

Q. Did you require of persons whose names were not on the registry list before voting that they swear to and subscribe a partly written and partly printed affidavit as to residence and payment of tax, and that they produce another witness, who also swore to and subscribed a partly written and partly printed affidavit that the person offering to vote was a citizen resident for at least two months within the district which witness was a qualified elector in that district?

A. Yes, sir.

Q. Where were these affidavits deposited after you counted off?

A. They were deposited in the ballot-box, I believe.

Q. They were not then forwarded with the returns to Clearfield?

A. I think not.

Q. Did you require of persons born out of the United States before voting that they produce their naturalization papers?

A. Yes, sir.

Q. If there were any cases in which you did not so require them, why was it?

A. It was in cases where they had shown their papers before.

Q. Do you mean or not that it was cases where the board or some members of it had seen their papers produced at preceding election?

A. Yes, sir.

Q. Were the ballots numbered as received by a number corresponding in each case with the number opposite the name of the voter on the list of voters?

A. Yes, sir.

Q. Were the persons who voted on age required to sign and swear to a partly written and partly printed affidavit as to their age, and to produce a qualified elector of the district who also was required to sign and swear to a partly written and partly printed affidavit as to the citizenship of the voter, his residence for one

year in the State and for two months in the district, immediately preceding said election?

A. No, sir; I believe not.

Q. Did you require of such persons that they make oath to their age, citizenship, and residence in the district?

A. Yes, sir.

Q. Were such affidavits in writing, sworn to and subscribed to by the voter?

A. No, sir; such affidavits were taken orally.

Q. When a voter had lost or failed to produce his tax-receipt, what proof did you require of him of his payment of tax?

A. We required the collector to state whether he had paid the tax or not.

Q. Who were the collectors present?

A. Joseph G. Higgins and Thomas Henderson.

Q. What were their politics, democrats or republicans?

A. Democrats.

Q. If any doubt existed as to payment of tax, did you or not require the voter to make oath?

A. Yes, sir; we received no vote when we were not satisfied that his tax had been paid.

Q. Had you been on election boards before?

A. Yes; three different times.

Q. How did this election in Woodward district, in respect to fairness, honesty, and legality, compare with other elections where you have been on the board and which you have witnessed?

A. It was the same as the other elections were conducted that I was on.

A. M. Bloom, prothonotary of Clearfield County, sworn:

Question. Do you remember that Thomas H. Murray, of counsel for contestee, on the day preceding the adjournment of that court *sine die* presented to the court a petition in behalf of the contestee, Hon. S. H. YOCUM, asking an order to be made by the court for the preservation of the ballots cast at the general election of November 5, 1878, in the disputed districts to which this contest relates, in Clearfield County, on the ground that at the approaching district election for township and borough officers then to be held, and which was held on February 18, 1879; and were you not requested by Mr. Murray, at the time of presenting the petition, to mark it "Filed," and did you not mark it "Filed" before it was presented to the court?

(Objected to as leading, irrelevant, incompetent, immaterial, and contestant will ask the committee to strike out the testimony.)

Answer. I answer "Yes" to all of that.

Q. Do you recollect what attorney opposed that petition and the making of the order asked for?

A. I believe Mr. Wallace made some opposition to it.

Q. Do you or not mean Mr. Wallace, of the United States Senate, who is the partner of D. L. Krebs, esq., who conducts the cross-examination for the contestant, and is of counsel for contestant?

A. Yes, sir.

Q. Do you remember any of the reasons urged by Mr. Wallace against this application?

A. There were several reasons. I believe one of them was it would be *too expensive to furnish new ballot-boxes.*

Q. Do you remember whether the court then made that or any other order relative to the preservation of the ballots?

A. I believe they did not, as I have no knowledge of his ever making any.

Q. Who was the presiding judge?

A. Hon. C. A. Mayer.

Q. Do you recollect what, if anything, Judge Mayer said in reference to taking the petition home with him and considering it before making any order?

A. I remember that he said he would take the petition home and look up the law on the subject; that he was not sure that he had the power to make such an order, or something to that effect.

Q. Do you remember when the petition was first presented to him, and before any opposition was made to it, he stated that he had no question or doubt as to his power to make the order?

A. No, sir; I don't remember that.

Q. Was it not after the opposition was made that he said he would take the petition home with him?

A. I believe it was after the attorneys had a say on both sides.

Q. Were you not sitting immediately in front of the judge's bench at your desk when the petition was presented and the arguments made?

A. Yes, sir.

Q. Where does Judge Mayer reside, and how far is it from this place?

A. He resides in Lock Haven. I don't know the distance.

Q. About how far is it, as near as you can tell?

A. I suppose it is about one hundred miles, as near as I can tell.

Q. Has Judge Mayer ever been here since then, that you know of?

A. He has not, that I know of.

Q. Has that petition ever been returned, or any order made, that you know of?

A. It has not.

After the contestee has spent nearly $10,000 upon this case and four thousand pages of testimony have been taken, and when, owing to lack of both time and means, it was absolutely impossible to pursue the matter further, when no one who looks into this brief will doubt for a moment that an investigation of these non-registered voters would produce the same result precisely as the examination of the twelve hundred names investigated, it is ridiculously absurd to ask this House upon such a showing to unseat the contestee.

But a few days ago the gentleman from Illinois, [Mr. SPRINGER,] chairman of the Committee on Elections, charged the republican party with grand larceny, when the gentleman knew in his own heart that he was even then impatiently awaiting his first opportunity to perpetrate this act of petty larceny by stealing from this body an innocent member of the greenback fold. During the same debate the gentleman from Ohio [Mr. MCMAHON] asserted that they were invited to suck the dugs of the republican wolf. I would say, sir, there is no republican wolf stalking through these halls; but we have abundant evidence of the fact that the old she-wolf of democracy is skulking around here, whetting her thirst for blood, and having nursed and fondled on this little third party, endeavoring to use them for her own base and nefarious purposes, she now attempts to strangle one of the flock and thereby increase her own following; and when once the old she-devil of blind party spirit has tasted blood she will, under the direction of the honorable gentlemen composing the majority of the Committee on Elections, be turned loose on the republican fold to destroy such Representatives as stand in the way of her ambitious designs, trampling under foot the honest verdict of the American people and placing an indelible stain upon our national escutcheon.

Mr. Speaker, is it possible that Pennsylvania's great war governor, whom we have all delighted to honor in the days that are past, should seek to obtain a seat in this Congress upon testimony such as we have considered. Remembering what he has been, I would vote to declare the election void if I could do so conscientiously. I confess when I obtained the briefs and investigated the facts I was both astounded and humiliated; astounded at the utter weakness of contestant's case, and humiliated that a man so high should stoop so low as to attempt to force himself into the occupancy of such an honorable position, to which he has shown no title, not even the color of title if I may be allowed the expression.

By this testimony and from all the evidence produced the contestee is shown to be as fairly elected as myself or any other member of this body, and I sincerely trust that the House will say here to-day that if his political friends here are few in number, yet that we, as democrats and republicans, can subordinate partisanship to right and mete out to him that exact justice which is his due and which he has a right to expect and demand, and in so doing we shall reflect honor not only upon ourselves but upon our common country.

Star-route Deficiencies.

SPEECH OF HON. C. E. HOOKER,

OF MISSISSIPPI,

IN THE HOUSE OF REPRESENTATIVES,

Friday, April 2, 1880.

The House having under consideration the bill (H. R. No. 4736) to provide for a deficiency in the appropriation for the transportation of the mails on star routes for the fiscal year ending June 30, 1880, and being in Committee of the Whole to consider the Senate amendments thereto—

Mr. HOOKER said:

Mr. CHAIRMAN: The House limited the debate on the motion of the gentleman from Kentucky, [Mr. BLACKBURN.] I desire to say I have no feeling on this question. I do have a feeling, however, that it seems to be very difficult for any gentleman on this floor to be permitted to express an opinion who does not chance to belong to the committee which happens to be in charge of a bill, whatever that bill may be.

I wish to separate the actual question before the committee as submitted on the motion of the gentleman from Kentucky to non-concur in the Senate amendments—to separate that from the question whether any official in the Post-Office Department, whether the head of that Department or any other man, has been guilty of improper conduct. A sub-committee of the Appropriations Committee has been appointed to consider that question. If the Postmaster-General or any of his subordinates have been guilty of wrong and violation of law, and fraud, then it is the duty of that committee to report that fact to the House and let the House proceed against them in due form of law by impeachment of the Postmaster-General or indictment of his subordinates. But that is not the question before the committee at all. It is a simple question as to whether or not the deficiency now called for by the amendments of the Senate is needed for the purpose of carrying on the service. The gentleman from Kentucky himself in opening the debate conceded twice in the speech he made there was only an excess in the appropriations made by the Senate over the House bill of $130,000; the House appropriating $970,000 and the Senate merely increasing it to $1,100,000. So that the whole debate is legitimately confined to the question as to whether or not the appropriation recommended by the House committee or the appropriation recommended by the Senate committee is the proper one. And how are you to find that out? The gentleman from Kentucky even said he did not object to that.

Mr. BLACKBURN. I said it was not the question.

Mr. HOOKER. I say it is the question, and it is the sole question.

Mr. BLACKBURN. We differ.

Mr. HOOKER. And the other question is the question which the gentleman's committee can determine, whenever they report, charging the Postmaster-General or any subordinate with improper conduct. I am not here to defend them. That a deficiency exists is conceded by the report of the House committee, and the only difference between the Senate and the House is the difference between $970,000 and $1,100,000.

Mr. BLACKBURN. I care nothing about that.

Mr. HOOKER. I know you do not; but that is the question before the Committee of the Whole. The Senate proposes certain amendments to which I will refer briefly. But before that I will say the star service of the country where the mail is not carried by steamboats or railroads embraces fifty thousand miles of mail-routes. These steamboat routes embrace only twenty-one thousand miles; the railroad routes embrace only seventy-nine thousand miles. Now, though that matter is not connected with this bill, though I have not referred to one single member of the Post-Office Department and do not know what any single contractor may have, yet whenever the Committee on Appropriations or any other committee of this House proposes by

a bill to directly stab this great interest or to injure it by thrusting at it covertly I intend to stand upon this floor in defense of this system.

A few hundred thousand dollars more or less ought not to be considered at all where the great mail service of the country is to be interfered with. Last year there was appropriated $5,900,000 for the star-route service. For the steamboat service and railroad service, only one-half that number of miles, there was appropriated $11,300,000. Now, suppose that you were to change by the fraction of a minute the expedited route between Philadelphia and New York on your railroad; your whole Treasury operations would be thrown into confusion if you disturbed that relation for only thirty-six hours. We should consider the interests of the rural districts of the country where population is just now going, the pioneer with ax in hand to subdue the wilderness; the interest of the great West, where these contractors, sometimes so much abused, and unjustly abused, have carried your mails through the dense wilderness to the people who have gone there to settle the lands of the Government, carried the mails at great personal risk and oftentimes at great loss. So far from listening with indulgence to the abuse of those men, I say they deserve credit for carrying there, along with the population that is going there, that great civilizer of the nineteenth century—the mails from all portions of the country.

[Here the hammer fell.]

The CHAIRMAN. The time of the gentleman has expired, and the gentleman from Georgia [Mr. BLOUNT] is entitled to the floor.

Mr. HOOKER. As I have not had time to present my views as I would desire to do, I ask permission to print the remainder of my remarks.

There was no objection.

Mr. HOOKER. To recapitulate in tabular form:

There are of star routes, (miles)	215,000
Steamboat routes, (miles)	21,000
Railroad routes, (miles)	79,000
Amount appropriated for present fiscal year for star service	$5,900,000
Amount for all other means of transporting mails	$11,300,000

The Department says that this deficiency arises, first, because of the establishment of star routes numbering two thousand, for which they nave expended $434,000, and that this expenditure has been caused by expediting old routes demanded by the rapidly increasing population in our Western States and Territories, and that this was not calculated for in the estimates submitted for the present fiscal year. There were one hundred and seven routes expedited during this fiscal year, all being west of the Mississippi River. The total increase on existing routes in the last fiscal year amounted to $836,819; total amount of increase in the present fiscal year, $308,946.

The power of the Post-Office Department to make this increase in routes is to be found in sections 3960 and 3961, as follows:

SEC. 3960. Compensation for additional service in carrying the mail shall not be in excess of the exact proportion which the original compensation bears to the original service; and when any such additional service is ordered, the sum to be allowed therefor shall be expressed in the order, and entered upon the books of the Department; and no compensation shall be paid for any additional regular service rendered before the issuing of such order.

SEC. 3961. No extra allowance shall be made for any increase of expedition in carrying the mail unless thereby the employment of additional stock and carriers is made necessary, and in such case the additional compensation shall bear no greater proportion to the additional stock and carriers necessarily employed than the compensation in the original contract bears to the stock and carriers necessarily employed in its execution.

These provisions of the law give a large discretion to the Postmaster-General. But still this is the law; and it is but justice to him to say that he called the attention of Congress to this matter in his last annual report, and recommended a restriction of the power conferred in the following language:

The operation of the present laws regulating the increase of compensation for increased speed and increased frequency of service upon star routes results in great loss to the Government. These laws (sections 3960 and 3961 of the Revised Statutes) have been in force for many years, and are the source of nearly all the deficiencies in the appropriations for star service which have ever been created.

It frequently happens, especially in the mining regions of the West, that at the time of advertising service is not required upon new routes more frequently than once or twice a week; but after the contracts have been made and service begun population increases along the line, and an increase of speed and more frequent service become necessary. Under such circumstances it is clear that the rate that was reasonable for service once or twice a week, through a sparsely settled region, becomes exorbitant when multiplied by three or six to cover daily service. I would therefore recommend that section 3960 be so amended as to permit the Postmaster-General to advertise for new proposals for the increased service, the contract to be awarded to the lowest responsible bidder, as usual. Section 3961 should be so amended that when the cost of increased speed would amount to more than 50 per cent. of the cost of the original service the Postmaster-General should readvertise for service at the increased speed.

The following are the Senate amendments to the House bill:

In section 1, after the word "year," in line 8, strike out the following words:

"At or within contract prices as they existed on February 1, 1880: *Provided*, That upon any route where there has been an increase of the original contract price during the last or the current fiscal year for expediting the delivery of mails on any such route, at the rate of more than $2,500 per annum, the compensation for expedited service on such route shall be reduced to the terms of the original contract, on and after the 1st day of March, 1880; and nothing herein contained shall be construed to require the reduction of the number of trips per week over any such route below the present number."

* * * * * * *

"That the sum of $1,100,000, or so much thereof as may be necessary, be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to meet the expenses of inland mail transportation on star routes for the remainder of the current fiscal year. During the remainder of the current fiscal year no further expediting of service or increase of trips on any postal star route shall be made.

"SEC. 2. That the further sum of $100,000 be, and the same is hereby, appropriated as aforesaid to enable the Postmaster-General to place new service as authorized by law: *Provided*, That the Postmaster-General shall not hereafter have the power to expedite any contract either now existing or hereafter given to a rate of pay exceeding 50 per cent. upon the contract as originally let."

Under the proviso of the House bill one hundred and seven routes would be stricken down and the pay of a single month which would have to be paid by this compulsory forfeiture of the routes would be $268,120. The amount required to continue the service on the present basis, as shown by the figures of the Sixth Auditor of the Treasury, is $1,100,000. And this is what the Senate amendment proposes; and considering the pay of one month's service if these routes are discontinued the Senate bill, as amended, would have a saving to the Government of $137,000 over the House bill.

The rapidly growing commerce of the great West demands rapid transportation of the mail. A single day's cessation of the mail in the great commercial and money centers of the East would produce a convulsion which would result in a loss of millions to the great business industries of the country. The hardy pioneers who with ax in hand have gone to fell your forests, and the humble miner developing the untold wealth of our scarcely touched mineral regions, are entitled to ask of the Government equal mail facilities with other portions of the land. As water poured upon the alkali lands of our great American desert, as in Utah and other Territories, causes it to blossom as the rose and smile with plenty, so is the mail-carrier, the stream of intelligence, and culture, and thought, to the people of the frontier; and all expenditures will be returned tenfold to our national Treasury as rapid immigration fills your Territories, soon swelling into the proportions of sovereign States, and clamoring at the doors of Congress for admission into the family of States.

Let not one single star route, then, be struck down on the false plea of economy. The people will never object to the expenditure of their money for so legitimate a purpose. "Westward the star of empire still takes its way," over forest, and mountain, and desert; and the great school-teacher and civilizer of the nineteenth century, the rapid-transit mail, must keep pace and progress with the hardy pioneer of our frontier.

Court of Pensions.

SPEECH OF HON. A. H. COFFROTH,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 18, 1880.

The House being in Committee of the Whole, and having under consideration House bill No. 5394, to organize a court of pensions, reported from the Select Committee on Pensions, Bounty, and Back Pay, as a substitute for House bill No. 4652—

Mr. COFFROTH said:

Mr. CHAIRMAN: At the beginning of this Congress the Speaker honored me with the position of chairman of the Committee on Invalid Pensions. This position has to a great extent familiarized me with the complaints against the Commissioner of Pensions in his construction of the pension laws and his decisions on the facts as presented by the applicants for pension.

The charges against the Pension Department were so frequent and of such a serious character that I came to the conclusion that the applicants for pension not only needed but should have a tribunal in which the decisions of the Pension Department might be reviewed. Therefore, on the 23d of February last, I introduced a bill (No. 4652) to organize a court of pensions. This bill was referred to the Select Committee on Pensions, Bounty, and Back Pay, and, after a full consideration of the bill by said committee, it was deemed just and right that a court of pensions should be organized, and the bill reported by Judge GEDDES, and now under consideration, was adopted as a substitute for the bill I introduced. The bill reported had a careful consideration by the committee, and, in my opinion, if it becomes a law, it will do more to expedite the settlement of pension claims, to administer justice to the wounded and disabled Union soldiers, and to relieve Congress of the great burden of examining and passing upon the thousands of pension bills introduced at every session, than any law that has ever yet been put upon the statute-books.

The bill proposes to establish a court of pensions, to consist of three persons learned in the law, or, in other words, three able lawyers, who will be fully competent to examine and give a just construction to the pension laws, and who will see that the well-settled rules of evidence be applied to the proofs presented in support of a pension claim. This court will review the decisions of the Pension Department on law and facts in all cases of original applications, increase of pen-

sions, applications for restoration to the pension-roll, and for arrears of pension arising under the pension laws when an appeal is taken, and the judgment of the court is to be final upon the parties.

The court is also empowered to examine and pass upon claims which do not come within any of the provisions of the pension laws and which cannot be adjudicated and allowed by the Commissioner of Pensions, and in this class of claims, if in the opinion of the court the applicant has an equitable right to relief, the court shall recommend the allowance of the same by Congress.

The court is given jurisdiction and power to hear and determine whether the record of the War Department, which shows the applicant to be a deserter, should be amended; and if in the opinion of the court the record should be amended and the charge of desertion removed, then the claim for pension shall be considered the same as if said record did not exist.

The bill provides for an appeal from the decisions of the Pension Department, and requires that all papers, affidavits, exhibits, and testimony filed in each claim in which an appeal is taken shall be delivered by the Secretary of the Interior to the court, and that all the testimony filed in the claim shall be made a part of the evidence to be considered by the court in its adjudication; and also allows the taking of additional evidence, either by the applicant or the Government, and when any claim is determined and allowed it shall be certified to the Secretary of the Interior, and the name of the applicant shall be placed upon the pension-roll with the same effect as if the applicant's name had been placed on the pension-roll by the Secretary of the Interior in pursuance of the pension laws in force when the application was pending in the Department.

It is alleged by able lawyers, who have large experience in the pension practice, that the rulings of the Department on the different claims are in conflict with one another, and in violation of the plainest principles of law and rules of evidence. Now, sir, if this be true, then a court of pensions is needed. If even the court cannot expedite the adjudication of pension claims, it at least will be a satisfaction to the soldier to know that in the matter of passing upon his pension claim he will be placed on the same equality with litigants in the courts of law, with the right of appeal to a superior tribunal if he believes a wrong has been done him. In my opinion the pension claim of the Union soldier is paramount to all other claims, and is entitled to immediate consideration. He claims for loss of limb, for wounds, for injuries, and for disability contracted while he was in the military service of his country in sustaining the best form of human government ever given by God to man. It is our duty as the representatives of the people to see that a court is provided where the law shall be fairly administered, and where the rules of evidence shall be observed.

Sir, I say this bill will not only provide a court satisfactory to the soldier, but it will expedite the adjudication of pension claims. The fact alone that there is a court to review the decisions of the Pension Department will make that Department more careful in its decisions and more stable in the rules and regulations of the office. Principles of law and rules of evidence will be laid down that will do much to lighten the burden of the afflicted pension applicant, in having his pension granted at an early day. Then, sir, it will take from Congress the flood of bills now demanding our attention.

Mr. FARR. I should like to ask the gentleman if he is in favor of denying to this class of pensioners the right to appeal to Congress?

Mr. COFFROTH. I am not. The purpose of this bill is to compel the Pension Department to decide cases with respect to the law and the evidence adduced, and if the court says the applicant does not come within the pension laws, but has an equity against the Government of the United States, then the court will so declare, and send the claimant to Congress for relief, and then we will grant his pension without delay.

Mr. Chairman, one of the complaints I hear nearly every day is that the Pension Department strikes from the pension-roll worthy pensioners on the secret reports of detectives or special agents; that these detectives or special agents go through the country taking the statements of the enemies of the pensioners, and then without any notice to him or her of the nature of the charges or the names of the witnesses the special agent makes his report, and on this *ex parte* statement the Commissioner of Pensions drops from the pension-roll the name of the pensioner. In many cases these detectives or special agents strike at the virtue of the widow of the dead soldier, and retail in their reports the foul slander and scandal of the licentious and the villifier with avidity in order to have her name dropped from the pension-roll. In other instances, on vague statements and on hearsay declarations, upright and exemplary persons have been stricken from the roll. Now, sir, should there not be a court to review the action founded upon this kind of affidavits, or must the wounded soldier, the wife and children of the man who gave his life to save the nation, rest under the condemnation pronounced by the Pension Department, which resorts to the detestable and damnable system of secret spies, detectives, or special agents to take the bread out of the mouth of the poor and destitute pensioner? This mode of striking pensioners from the pension-roll became so odious that Congress last year at the extra session enacted on an appropriation bill that "in no case shall a pension be withdrawn or reduced except upon notice to the pensioner and a hearing upon sworn testimony."

In other instances these special agents arrest pension applicants for presenting what they call "fraudulent claims against the Government," and when the case is tried the charge is not sustained and the accused is acquitted after suffering inexpressible torture. Hon. Oliver M. Wilson, in his testimony before the Select Committee on the Payment of Pensions and Back Pay, recited a case recently tried at the United States court at Indianapolis, Indiana. He said:

My attention was drawn to a strange case some weeks ago, which illustrates the danger there is of doing injustice in this matter of pensions. I have been writing some communications descriptive of scenes in the war, and in that connection I had occasion to confer with General Macaulay some time ago, and he expressed the wish that I write an account of the mysterious panic that our forces had after we crossed the river and were going to the rear of Grand Gulf, and then he told me of this case. He said that a few weeks before he had happened to go accidentally into the United States court, where there was a man being prosecuted for perjury committed in an application for a pension. This man had sworn that he had received an injury on the night of the 30th April, 1863, after we had crossed the river and were marching up to get in the rear of Grand Gulf, and in the presence of the enemy. Upon examining the records it appeared that no enemy was present on that occasion, and that there was no engagement; so the man was prosecuted for perjury. General Macaulay was called as a witness, and asked if he knew of any action that occurred on the night of the 30th of April, 1863, between the Thirteenth Army Corps and the enemy, and he replied that he did not. He was then asked what, if any, knowledge he had of the presence of any enemy or of any attack of any kind on that night. He said he had none at all, but, said he, "I know that on that night about eleven or twelve o'clock, or probably a little later, we had the most mysterious panic that ever struck an army." I remember that panic; Captain Myers was in it and I was in it. Suddenly the alarm came down the line from the head of the column (there were four divisions of us) that there was firing in the advance. Pretty soon a shot was fired and the firing commenced all along the line; and in the consternation and tumult of that night it appears that this man slipped and broke his ankle joint, or put it out of place, and he had suffered from that injury ever since. Upon that ground he made application for a pension, but as it appeared from the War Department records that there was no engagement that night and no enemy in front of us, he was indicted for perjury, and would probably have been convicted if General Macaulay had not happened in to testify to the fact of the panic. The court and all concerned were perfectly amazed, and the man was acquitted, as a matter of course. No one knows the cause of that panic; it never has been ascertained to this day.

This bill makes the affidavits of the applicant competent evidence. In the courts of the United States and in the courts of nearly all of the States interested parties are allowed to testify, and their evidence is accepted as competent testimony; but, strange to say, that the affidavit of the applicant in the Pension Department has scarcely the weight of a *feather*, unless, perhaps, it contravenes in some way the applicant's claim or contradicts the evidence in its support, *then* it has the weight of a *millstone*. If this court is organized the soldier will know that his claim is before learned judges who will give his sworn statement full credit, and that his testimony will be considered as if it had been given in a court of justice. I would not ask the Government to place upon the pension-roll the name of any soldier unless he is entitled to and deserves a pension.

We are daily reminded of the large appropriations made to pay pensions and of the constantly increasing pension-roll. Congress cannot appropriate money for a more worthy or just purpose. Congress appropriates millions upon millions of dollars for other purposes that do not have a tithe of the merit of the pension appropriations.

Now, how many members of this House, when the great civil war was convulsing the country, made speeches inducing men to go to the tented field? Do we remember now what inducements we held out to our fellow-citizens to volunteer? We promised them that our great Government should be a husband to the widow of the fallen soldier, a guardian to the soldier's orphans, and the supporter of the wounded and disabled. We appealed to the patriotism of our people, to their love of country, and we held up before them the everlasting honor that would be given to the men who would put down the rebellion and who would save the Government from dismemberment and our homes from devastation and destruction. From every hillside and from every valley volunteers flew to the rescue. The husband bid his wife farewell and looked into the bright eyes of his little children in the hope that he would soon return to his family, and that he would merit and receive the gratitude of his countrymen; but, alas, he never returned; he fell upon the battle-field; perchance he sleeps in one of the "unknown graves," or, if he returned, he shortly thereafter died from wounds or disease contracted in the service. The son took leave of his dependent parent and went in the full hope of a safe return; but he, too, fell in battle or died from disease.

Hundreds of thousands of others, full of life, health, and vigor, went out to battle manfully for their country, but returned diseased and disabled, and many of them to-day are not far from being a walking corpse. The widow of the dead soldier applied for pension, and her name was placed on the pension-roll; but because some envious or malicious person residing in her neighborhood wrote to the Pension Department throwing doubt upon her right to her pension a special agent was dispatched, and while intoxicated prepared and took statements, without any notice to her, and then made his report, and now her name is dropped from the pension-roll. The soldier himself by the same means, and without notice to him, has had his name stricken from the pension-roll. Thousands of others have been struggling through poverty and in want for years in the hope of having their pensions granted. Over two hundred thousand of the brave soldiers who aided in crushing out the rebellion are now anxiously and in painful suspense waiting for action on their pension applications on file in the Department. Many thousand of these applications have been pending there for an inexcusable length of time—

from five to twelve years. The applicants have not been able to supply the affidavits demanded, from commissioned officers and surgeons, or to comply with the peculiar rulings of the Pension Office in regard to the evidence demanded. Already in this Congress two thousand and five hundred bills granting pensions to soldiers have been referred to the Committee on Invalid Pensions. Now, I appeal to the members of this House if this long delay in doing justice to the wounded and disabled soldier is right, and if it is complying with the promises made to him when he volunteered?

Interstate Commerce—Improvement of our natural Water-ways.

SPEECH OF HON. MORGAN R. WISE,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, May 18, 1880,

On the bill (H. R. No. 6236) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors and for other purposes.

Mr. WISE said:

Mr. SPEAKER: I ask the indulgence of the House for the purpose of submitting some remarks in favor of the following bill, introduced by me at the extra session of the present Congress:

A bill to authorize an appropriation to begin the improvement of the Youghiogheny River, in the State of Pennsylvania, between McKeesport and Connellsville.

Whereas the improvement of the Youghiogheny River with an artificial canal extended on the same line to connect the waters of the Potomac and Mississippi Rivers will conduce to open the richest and most extensive field of inland commerce in the world,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of $150,000 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to begin the improvement of the Youghiogheny River, in the State of Pennsylvania.

Mr. Speaker, I will first briefly view general principles, and then consider local or partial peculiarities and advantages; first consider the outlines and then descend to the details. I will give my ideas and make my arguments according to my best understanding of the subject, and if they should be somewhat disjointed by an occasional digression, I trust the House will pardon me.

THE THREE IMPORTANT INTERESTS.

The first and most important interest of a nation is agriculture, the mode and means of producing from the earth—the mother of all the materials for the use of man. The second is the manufacture and preparation of the materials thus produced. The third is the transportation from locality to locality, from State to State, or from nation to nation in the cheapest and most expeditious manner, the materials thus produced and manufactured under the generally accepted term of commerce. Therefore agriculture, manufacture, and commerce are the three great interests of every civilized and prosperous nation; and they are so interwoven as to be, to a great extent, dependent one upon the other. Some one has said:

Three orders of men are vitally necessary to the existence of the State, for our national independence is triune, resting upon the welfare of the agriculturist, the manufacturer, and the merchant.

Although agriculture justly claims the ascendency over manufacture and commerce, yet it is a truth founded upon experience that the only method to encourage agriculture is to excite other kinds of industry and afford a ready market for the exchange of its products for other commodities. Therefore it follows that by encouraging these industries we benefit our people and strengthen our Union, the two principal objects that every legislator should have constantly in view. It is a truism that should be recognized and acted upon by all that in proportion as labor is plenty and well paid, intelligence, virtue, contentment, and their sure sequence, happiness, are increased; and proportionately ignorance, prejudice, idleness, and suffering are decreased.

While the immediate improvement indicated in the bill will be made in my own district, yet it will largely benefit the manufacturing and commercial interests of the Mississippi Valley, and hence either directly or indirectly the entire Republic. It will very much lessen the price of coal along the Mississippi River and its tributaries by opening a new, continuous, and cheaper channel from the inexhaustible coal-fields of Western Pennsylvania to the Ohio River, and from thence through the natural water-ways to all the States bordering on the Mississippi and to the Gulf of Mexico.

COAL THE IMPORTANT FACTOR.

The importance of establishing manufactories in the Western and Southwestern States must be manifest to the Representatives of that fertile and highly-favored section. It must also be clear to all that, in order to successfully operate manufactories to any great extent, it is necessary to have an ample supply of cheap coal. Therefore, upon this incontrovertible fact, I principally base my argument in favor of the passage of the bill. The wealth and power of the districts, cities, and nations that are abundantly supplied with good, cheap coal, as compared with those that are not thus supplied, show clearly the importance of the commodity.

England is the great coal country of Europe, of the eastern hemisphere, though she is otherwise small; as a writer of some distinction once said, perhaps oversaid, "A sand-bank covered with fog;" yet her coal has been her principal factor in making her not only the manufacturing center of the world but master of the seas, almost master of the eastern world. Without the facilities she has so wisely and so abundantly afforded for supplying her iron, cotton, and woolen factories, as well as increasing her commerce by supplying other nations with the coal nature deposited in her "little island," England to-day in many respects would be but little superior to other petty states and independent governments in Europe, settled as they are with similar people, with equal territory, and with equal advantages, other than the supply of coal. Great Britain in 1877, with a coal area of but 11,900 square miles, produced 134,179,968 tons of coal, more than half of the production of the world. The same year she produced 6,300,000 tons of cast or pig iron, nearly half of the production of the world; 1,000,000 tons of steel, more than one-third of the production of the world. She also excels all other nations in the manufacture of cotton and woolen goods. These great industries, based upon the utilization of her coal-fields, give to England principally the greatness she possesses, and to some extent compensate for her ruinous perpetuated funded debt, and the unfair control of her lands by a few aristocrats.

Let us next take Germany, the second nation of Europe in greatness; with a coal area of but 1,770 square miles, she produced during the same year 48,337,950 tons of coal; 1,566,600 tons of cast or pig iron; 370,000 tons of steel.

France, the third nation of Europe, during the same period came next in order in the amount of coal produced, and also in the amount of iron and steel, being 1,322,869 tons of iron and 250,000 tons of steel. So we find that in every nation of Europe, in proportion to the amount of coal produced, is the amount of iron and manufactured goods. Belgium has an area of but five hundred and ten square miles of coal lands, yet she produced during the same time 14,099,281 tons of coal, and rates fourth in production of iron, steel, &c. She is small, but wealthy and prosperous, almost solely in consequence of manufacturing industries.

Russia is eighth in the list of the European nations in her production of coal, iron, &c. With an area of thirty thousand square miles of coal lands, she produced in 1877 but 1,152,850 tons of coal, 420,484 tons of iron, and 15,000 tons of steel, showing an almost total neglect of the utilization of the materials with which nature has supplied her. Russia's greatness consists in her immense territory, with her numerically powerful army of involuntary soldiers and her tens of millions of servile subjects—half starved, discontented, but helpless serfs.

There is more wretchedness and discontent in Russia than in any other part of Europe—with the exception, perhaps, of Ireland. Why? Because of the despotic system of government, with a large population insufficiently remunerated for their labor. The despotic and tyrannical power of the Czar is necessarily exercised, in order to keep the greatly wronged and discontented masses in subjection; and the reason the masses are poorly fed and clothed is the comparative absence or rather the neglect of the government to promote and encourage the three great interests before mentioned. When Russia mines her coal, makes her iron, at least for her own use, and manufactures her clothing, her people will have employment and be more contented; education and real manhood will increase; her laws will naturally become more liberal, and will be more justly administered. Then, and not until then, will Russia even assume the character and standing of a great nation, in the true sense of the term.

ADEQUATE REMUNERATION OF LABOR.

While an increase of well provided for, intelligent, and industrious population is of the greatest political importance to a government, and every proper means should be resorted to to accomplish such a grand end, yet excessive population, if unattended by adequate means of support—lack of employment or labor inadequately compensated—so far from proving a blessing to a country, is calculated to produce the most deplorable scenes of wretchedness. This condition of affairs is evidenced at the present time in many parts of Asia and Europe. Indeed it appeared to some extent in our own country during the last few years past. The late civil war, with the immense amount of money that was necessarily put in circulation, caused an inflation which naturally begat extravagances among the people. This was followed by the opposite extreme—the sudden, too sudden, financial contraction. The great reaction that ensued destroyed with a crash, as it were, tens of thousands of our best business men, and hundreds of thousands of our laboring-men were thrown out of employment. Much suffering, discontent, and serious local disturbances resulted. The same principle applies in a greater or less degree to all countries and peoples. In order to have the masses country-loving they must be employed, well fed, and clothed; and in order to be employed our lands must be cultivated, our iron-works and forges must be fired up, the machinery of our factories put in operation, our interstate commerce improved and extended. In order to maintain for any considerable length of time

a republican form of government the masses must be educated, and in order to educate them they must not only be employed but fully remunerated for the work they perform. So in whatever way we view the subject the same grand principle is presented. Give employment to the people and pay them for their labor what is commensurate with the skill and intelligence of freemen. This is so essential to the well-being—more, to the existence, or rather to the maintenance, of republican institutions, that it cannot be too often nor too earnestly presented for the consideration of our representative men.

Fortunately the business of our country is reviving, and the suffering and distress of our people are being much alleviated—not so much on account of the just management of our rulers as the general intelligence and patriotism of the people; not so much on account of the correctness of our financial policy as the beneficence of Providence, as manifested in our abundant crops, and the markets created for our surplus products by the misfortunes of other nations; not so much on account of the wisdom of our law-makers as the fertility of our soil and the unparalleled natural resources of our country. Were we less favored in these regards the condition of our people would today be less ameliorated.

PARTIES.

Mr. Speaker, in politics I am a liberal democrat, and believe in and will sustain the doctrines enunciated by Jefferson, Madison, Monroe, Jackson, and other pure and eminent patriots and statesmen of the party. I believe the principles they laid down are fundamental and imperishable. I will vote with my democratic colleagues on *real* party questions, which should, indeed, very seldom arise. Mere party questions, as a rule, in legislation are pernicious. Laws should be enacted with the grand object in view, namely, the proper government of society; for the benefit of the people of all classes and conditions—"the greatest good to the greatest number;" for the elevation of the masses to as high a plane of intelligence, morality, and comfort as possible; to facilitate the cultivation of our fertile fields, improve and extend our interstate commerce, encourage the mining of our coal and ores so abundantly deposited in our mountains and valleys, sustain and protect our manufacturing industries, and avoid by all means acts that may have a tendency to "make the rich richer and the poor poorer." The rich and powerful need but little legislation. They are already upon an eminence so fortified with wealth and independence as to require but few additional laws. There is no country so strong, no people so virtuous and happy, as when the working classes generally own their homes, and in order to own their homes they must be furnished with employment and receive an equivalent for their labor. Any act that tends to this "consummation so devoutly to be wished" is just and righteous.

It is said the question of reducing the pay of the Government employés is being discussed by some committee. Such a thing should not and I trust will not be seriously considered. If it is deemed necessary to reduce the pay of any, take from the high officials, beginning with the President. It would be a bold piece of selfishness indeed to retain our own adequate salaries and cut down the pay of the ordinary employés, many of whom are now receiving scarcely a sufficiency to properly support their families. So far as my observation has extended the employés in the Government Printing Office, the clerks, &c., in the different Departments, are an intelligent, well-behaved, and hard-worked people, and at least some of them are not at present receiving an equivalent for the labor they render the Government. My vote shall never be given to reduce the small stipend of these deserving people.

If you would have a strong government, a wealthy government; if you would have the people prosperous and happy; if you would have them obey and defend your Constitution and laws; if you would have them virtuous and contented in time of peace, courageous, irresistible in time of war, give them well-remunerated employment, the panacea for all their troubles and discontents.

THE LABORING-MAN,

although he may be disregarded by the superficial, viewed with contempt by the vain, or despised by the aristocrat, will be placed by those who judge of things not by their external appearance but their intrinsic worth in the most useful class of mankind. His occupation is conducive not only to the prosperity but to the existence of society. He prepares the ground, scatters the seed, and reaps the harvests of those vegetable productions which form the principal support of human life; he manufactures the articles of comfort and necessity, and carries the articles of commerce to the doors of the consumers. For this end he braves the rigor of the winter, endures the heat of summer, and supports all the vicissitudes of weather. He is placed at a distance from many of the objects which can excite his ambition or satisfy his curiosity. His life is one unwearied course of hardy exertion and persevering toil. The vigor of his youth is exhausted by labor; and what are the hopes and consolations of his age? Sickness may deprive him of the opportunity of providing the least supply for the closing years of his life. *By his condition may be estimated the prosperity of a nation;* the wealth, strength, and security of the public are proportionate to the comfort which he enjoys, and *his wretchedness the sure criterion of a bad administration of government.* The enjoyment of the wealthy and great are produced by the sweat of his brow; by his toils they are enabled to indulge their pleasures. Justice, humanity may inquire what ought to be the recompense of so useful a member of society? He ought to be rendered as comfortable as his situation in life will allow. Our Representatives in Congress ought to contribute all in their power to alleviate his necessities and amply reward his labor, enlarge the circle of his comforts, supply his board with more provision, clothe him more effectually against the inclemency of the weather, and enable him to lay up a competent supply for the day of sickness and the infirmities of age. In proportion as this course is pursued by our law-makers, rulers, and employers will he take an interest in the Constitution and laws of his country.

POLITICAL PARTIES NECESSARY CHANNELS.

In a democratic-republican form of government like ours parties are necessary as channels for the conveyance of the peculiar opinions of the different factions of the people, and the manner of applying the principles they entertain to the laws and the mode of administering the laws when enacted. The people are free to judge which is the cleanest, the surest, and safest vehicle with which to intrust their principles. Whether they make the proper selection depends upon the soundness of their judgment and the honesty and sincerity of their purposes. If they discover their mistake, or that deception has been practiced upon them, they ought, they will, sooner or later, discard the one and select or form another; thus the political party machinery is worked. Parties are the mere instruments with which to execute the principles, and the importance of any party is secondary to the principles of the country. One party can be substituted for another, or old ones dissolved and new ones formed—principles never. They are unchangeable, irrevocable—truth is ever truth. There is as much difference between parties and principles as between the casket and the precious jewel it contains.

Mr. Speaker, therefore the conclusion to be drawn is that our representatives, our politicians, if you will allow the expression, the leaders and managers of the parties, should be true to the people that intrusted them with the responsible duties. They ought to devote their time and direct their attention mainly to the application of these principles.

The doctrines contained in party platforms are generally sound; the speeches made by politicians and Congressmen are often eloquent and contain some good sentiments; persons running for office make big and fair promises to the people of what great things they will do if elected to the positions they seek. Platforms are easily made and as easily broken; talk is cheap and deceptive; promises are conveniently made and not fulfilled. Party platforms, speeches, promises are all well enough, but they are merely preliminary. They are the draught of what the building should be, the preface of the work that is to follow, the mere survey for the great highway to be opened. Standing alone and inert they amount to nothing but deception.

LESS TALK AND MORE WORK NEEDED.

The country needs, the people need acts—acts that can be seen and felt, acts that will add to the business prosperity of the country and the comfort of the people.

Mr. Speaker, the party, in my opinion, that does the most to encourage and promote our interstate commerce, to open our coal-fields to the markets, to mine our ores, to operate our factories, to fire up our furnaces and founderies, to cultivate our lands, not only ought to do right, but will most indubitably receive the indorsement and support of the people.

This appears to be a period of "war of words." The good of the country would be much promoted by less crimination and recrimination; less demonstration of sectional bitterness; less filibustering and gerrymandering to delay the work of the majority; less partisan tactics; more work for the peace and prosperity of the whole country, North, South, East, and West. If one part of the whole is benefited or injured the whole will in exact ratio be benefited or injured. If the arm or leg is wounded the whole man is injured and suffers. So with the converse of the proposition.

Liberty will not descend to a people, a people must raise themselves to liberty; it is a blessing that must be earned before it can be enjoyed. * * * That nation cannot be free where the rulers will not feel for the people until they are obliged to feel with the people, and then it is too late.

REFUNDING THE PUBLIC DEBT.

I am opposed to perpetuating the public debt by refunding. We are now reducing it, and have the resources to extinguish it, without oppressing the people in the least during the present generation, with the proper financial management. We should by no means emulate the European system. The nations of Europe are steadily increasing their governmental expenses, and with but two exceptions their national debt. Mr. Lee, consul-general of the United States at Frankfort-on-the-Main, recently sent to the State Department a statement on the debts of the European nations in 1865 and 1879. Compared with the United States the figures are interesting to our people. In all of Germany the expenditures rose from $151,606,000 in 1865 to $314,398,000 in 1879, or more than double. The course of expenditures in this country during the last few years has been downward, and will likely continue. It costs more than four times as much to govern Germany as it does the United States, and the annual expenditures of little Spain are double ours.

Mr. Lee furnishes the following table, giving the national debts of Europe for the two periods mentioned:

States.	1865.	1879.
Germany	$610, 470, 000	$1, 047, 200, 000
Austria-Hungary	1, 473, 220, 000	2, 005, 150, 000
France	2, 646, 560, 000	3, 927, 000, 000
Great Britain	3, 848, 460, 000	3, 704, 470, 000
Russia	990, 080, 000	2, 856, 000, 000
Italy	871, 080, 000	1, 944, 460, 000
Spain	999, 600, 000	2, 499, 000, 000
Netherlands	414, 120, 000	390, 320, 000
Belgium	119, 000, 000	296, 072, 000
Denmark	45, 220, 000	48, 790, 000
Sweden	21, 420, 000	57, 120, 000
Norway	9, 044, 000	24, 990, 000
Portugal	190, 000, 000	392, 700, 000
Greece	34, 510, 000	95, 200, 000
Turkey	228, 480, 000	1, 190, 000, 000
Turkish Protectorate	952, 000	90, 900, 000
Switzerland	714, 000	6, 664, 000
Totals	12, 503, 330, 000	20, 585, 096, 000

The table shows that only England and the Netherlands have reduced their debt since 1865, and they but triflingly. It also shows that the total public debt of Europe has risen from $12,503,330,000 in 1865 to $20,585,096,000 in 1879. In 1865 the United States debt, as then audited, was $2,680,647,869, whereas on the 1st of December, 1878, it was $2,027,414,325, a reduction during thirteen years of over $653,000,000. Since that date the ratio of reduction has been much greater, and from present indications will continue to be. In my humble opinion the refunding of our public debt would not only perpetuate the debt, but would benefit a few to the injury of the many. We have ample resources from which to draw to liquidate the debt, remove the burden, and we ought to do so in this the time of our peace and prosperity, and not prolong the payment by a refunding system of the non-taxpaying bonds, alone for the benefit and convenience of a well-known class.

THE TARIFF.

Mr. Speaker, perhaps I have dwelt too long in making an application of general principles to the subject under consideration; yet I must be allowed to briefly submit a few thoughts in regard to the tariff question, which reaches, it is true, the proposition of the bill rather obliquely, but nevertheless it is germane to the subject-matter. While I am a Pennsylvanian and take peculiar pride in her resources and prosperity, yet it seems to me, if I were a resident of any other State of the Union, I would be a tariff man. Free trade is very pretty in theory, and affords a prolific subject for eloquent orations, and would be well in practice were all the nations of the earth the same in their form of government. Then the superiority of one nation over another in articles produced by labor would solely depend upon the superiority of skill and machinery and the frugality and industry of the people. Such uniformity does not exist.

To successfully maintain a republican form of government the working classes must be intelligent, prosperous, and contented. The great bulk of our lands and houses should be distributed among and owned by them; the manufacturing and mercantile business, as a rule, should be conducted by them. The greater, safer, and more honest part of the aggregated business of this country is transacted by our working people, with small amounts of capital, from the savings of their wages. Monarchies are different.

Kings, emperors, sultans, and czars, according to the absoluteness of their despotism, principally constitute the governments they rule. The laboring people have but little to do with the enactment of the laws by which they are to be governed or the administering of them. The lands are owned by the noblemen and aristocrats, who have no sympathy with and are not in any way beholden to the common people. The manufacturing and mercantile business is carried on by a wealthy class who labor not, but control the labor and make servile the laborers. The consequence is the laboring classes are poorly paid, and therefore poorly fed and clothed, and can rarely save any considerable amount of money to enable them to conduct business on never so small a scale. They are politically shackled, and in a practical sense are physically and mentally in bondage, from the condition of which they have no power to extricate themselves except by revolutions, which, as a rule, fail in nations where the governmental machinery and the wealth are in the possession of a very few. The more completely the masses in a despotic government are under the subjection and control of the rulers the stronger and more secure the despotism. In a republic, the more the rulers—whose offices are created by and whose tenure of office depends upon the people—enact and administer laws in consonance with the best interests of the masses the freer and more enduring is the government. Therefore the logical conclusion is, in order to maintain the high standing of our working people and at the same time compete with the low-priced and degraded labor of monarchies, we must have a sufficient tariff to keep the price of our products proportionate with the labor that produces them.

To compete with the manufacturers of those nations without the intervention of tariff laws our working people would have to be brought upon a level with those of the monarchies; would have to live upon oatmeal and potatoes, and be deprived of the fruits of the liberty vouchsafed to them by our Magna Charta—to which they ought not and will not submit so long as they are allowed to exercise the franchise of electors.

I favor a properly adjusted tariff. Articles that we can abundantly produce should be adequately protected by tariff laws. Articles that enter into the necessary consumption of or add to the comfort of our people and that we cannot produce—such as coffee and tea—should be free of duty. The internal-revenue tax should also be removed from all articles that necessarily enter into the consumption of the people. The millionaires and the wealthy non-producers should be reached. Either their bonds or the income from their bonded wealth should be taxed to help support the General Government. The latter, perhaps, would be the better. A certain percentage of tax on every annual income of $2,000 and upward, added to the amount of tariff duties and internal taxes from articles of luxuries, would be sufficient not only to defray the expenses of the Government but to soon liquidate the public debt and lessen the onerous indirect tax now imposed upon the people; would enable us to appropriate more to improve our canals and slack-water navigation; to pay more promptly and liberally the brave defenders of our country what they so justly deserve; to place our Navy in an adequate condition to protect our flag at home and in every part of the world; and thus give more labor to the people, and put a greater amount of money more equably in circulation.

CONCENTRATION OF MONEY AND POWER.

It must be manifest to all that the money of the country is concentrating too rapidly in the hands of a few, who, in many cases, lock it in their coffers, never to be disturbed except on interest-drawing days, and it therefore is non-producing. To encourage this state of affairs is not to conduce to the good of the country.

It is said that at the present time one-half of the wealth of the country is in the hands of a hundred and fifty thousand, or, allowing five to a family, less than 2½ per cent. of the population, who, to say the most, have not done more labor toward the production of the wealth than the average of 97½ per cent. among whom is distributed the other half of the wealth. Is this not approximating to the condition of the monarchies of which we have already spoken?

Edward Kellogg, in his work entitled A New Monetary System, speaking on this subject, says:

> A moderate amount of labor readily produces an abundant supply of necessaries and comforts for man; but the present distribution of these products is such that a large number of those who labor much more than their share in the production receive a very small proportion of the products, while the larger proportion accumulates in the possession of those who are employed neither in producing nor in distributing them. The greater portion of the human family toil day by day for a scanty subsistence and are destitute of the time and means for social and intellectual culture. The industrious poor, as a class, do not obtain even a competence. Their destitution often induces them to trespass against existing laws to obtain a small proportion of that which, under just laws, would be abundantly awarded to them as a fair compensation for their labor. All candid men will acknowledge this truth, that the wealth is not distributed in accordance with either the physical or the mental usefulness of those who obtain it. Opposed to the masses who live in toil and poverty is a small proportion of the human race surrounded by all the appliances of luxury and living in comparative idleness, while their abundant means of social and intellectual culture are too often neglected or rendered useless by indolence and self-indulgence. These extremes of wealth and poverty, of luxury and want, of idleness and labor, are great, somewhat in proportion to our mistaken monetary system.

Recently the gentleman from Texas, [Mr. MILLS,] in an able speech delivered in this House, gave the following for our consideration:

> A New York paper, The Monetary World, published the following:
>
> NEW YORK MILLIONAIRES.
>
> No street in the world, except possibly in London, represents in the short space of two miles and a half anything like the enormous aggregate of wealth represented by Fifth avenue (New York) residents between Washington Square and Central Park. We give the names:

Mr. Rinelander	$3, 000, 000
Marshall O. Roberts	5, 000, 000
Moses Taylor	5, 000, 000
August Belmont	8, 000, 000
Robert S. and A. Stuart	5, 000, 000
Mrs. Paran Stevens	2, 000, 000
Amos R. Eno	5, 000, 000
John Jacob and William Astor	60, 000, 000
Mrs. A. Stewart	50, 000, 000
Pierre Lorillard	3, 000, 000
James Kernochan	2, 000, 000
William H. Vanderbilt	75, 000, 000
Mrs. Calvert Jones	2, 000, 000
Mrs. Mary Jones	2, 000, 000
James Gordon Bennett	4, 000, 000
Fred. Stevens	10, 000, 000
Louis Lorillard	1, 000, 000
Total	248, 000, 000

Surely this wealth accumulated and held by eighteen families ought to pay its proportionate share of the governmental expenses. He says:

> Here are eighteen families who have $248,000,000, not a dollar of which contributes anything to the support of the Government. They all live on one street. There are other streets that count their wealth by millions, but there is not a laborer in that great city of a million of people who does not contribute as much to support the Government as the wealthiest in that list. The wealth that is gathering in the hands of a few is not only large, but enormous. We were told a few days ago that a distinguished lady from New York attended a reception at the

White House with $800,000 of diamonds on her person, accompanied by two policemen and a detective. Is this republican simplicity? Is it not coming events "casting their shadows before?"

The gentleman, [Mr. MILLS,] however, makes a mistake when he attributes this state of things to our tariff system. The persons he gives as an example of non-producing and non-tax-paying wealth are free-trade advocates. He speaks of the workingman having to pay more for his hat, his coat, and so on, in consequence of the tariff. Of course, the hat costs the operative more, and the coat costs the hatter more, and so throughout all the vocations. But the hatter gets more constant employment and a better reward for his labor; the operative gets more steady work and higher wages; so our mechanic and laborer. The prices are as nearly reciprocal and equable as possible. Suppose the hatter could buy his coat 25 per cent. cheaper, and the operative his hat 25 per cent. cheaper, under the operations of a free-trade system, but at the same time receive 50 per cent. less pay for his labor, and consequently change his mode of living to the less comfortable one of Europe; where would the beauties and advantages of free trade come in?

It is not so surprising to hear the distinguished gentleman from New York City [Mr. COX] speak in favor of free trade if the interests of the "eighteen families" and scores of other millionaires of that great city are taken into consideration. If Europe were allowed to bring her goods produced by cheap labor into this country free of duty, New York would become the grand emporium for their reception, the great depot from which they would be distributed, and thus flood the country with cheap foreign goods, to be followed by the inevitable consequence—low wages and European habits and mode of living by our work-people. New York might be immediately benefited by free trade, but not so in other parts of our Union. The financial theories of New York City are not in harmony with the interests of other parts of the country.

The free-trade doctrine has its ablest and most urgent advocates in Great Britain. The rulers of that nation are anxious to make America the great market for their cheap-labor goods. They are also jealous of the large number of their laborers and skilled workmen who come annually to this country. London, Liverpool, and New York promulgate the doctrine through their subsidized press and by their interested public men. New York may have an ambition to become the modern Tyre of the world, and with free-trade opened up to the world she doubtless would become such, which would be a magnificent thing for New York, but a sad one for our laboring people and our republican institutions.

It is true, while many persons engaged in the manufacture of iron, cotton, and woolen goods fail in the business, yet a fair percentage of them get rich. But those who thus accumulate money do not hoard it, but, on the other hand, use it to extend their business, build mills, villages, and towns, and employ more hands and keep the money they acquire in circulation. The stock-gamblers and bondholders take an opposite course.

PHILADELPHIA AND NEW YORK.

The great manufacturing city of Philadelphia, though less in population, has many more houses than New York, and her houses are owned by many more individuals than are those in New York. New York has, comparatively speaking, concentrated the bulk of her wealth in the hands of a few. The wealth of Philadelphia is distributed among the many. One city has a small class of immensely rich and a large class of miserably poor; the other has few rich, few poor, and a large middle class, in comfortable circumstances, many of whom own their homes; one has more pomp and luxury among the few, and more wretchedness among the many; the other has less superfluity among the rich, and more happiness and contentment among the masses. One is a commercial city (foreign commerce) with a free-trade interest; the other a manufacturing city with a tariff interest. If the non-producing $248,000,000 in the hands of the "eighteen families" of New York were in the hands of Pennsylvania manufacturers, they would employ with it one hundred and ninety-five thousand hands, and produce manufactured goods to the value of $450,000,000. I make this calculation at the ratio of the manufactures of the United States, as given in the census of 1870.

THE FARMERS.

The farmers are appealed to by the free-trade advocates. In my opinion the tariff is of great advantage to the farmer. Our coal mines, iron furnaces, and manufacturing establishments build up towns, villages, cities, and furnish a home market for the products of his farm, and greatly enhance the value of his land. Our home market is the first and most important consideration for the farmer; the foreign market merely takes the surplus. As for our friends from the Southern and Western States, looking into the near future, they are deeply interested in a tariff. They must, to a greater or less extent, soon become manufacturing States. Then will towns and cities spring up and make home markets for the cultivators of the land; then will their people become more industrious and prosperous? Instead of manifesting a spirit of jealous opposition to the flourishing and prosperous manufacturing districts their example should be emulated.

Enough upon this branch of my subject. The few remarks I have here submitted constitute the only tariff speech I will make during this session.

RESOURCES OF PENNSYLVANIA.

It will not be deemed inappropriate to refer to the resources of Pennsylvania, especially the western portion of the State. In 1877, of the 54,396,250 tons of coal produced in the United States, Pennsylvania produced 36,119,911 tons, and during the same year, of the 2,314,585 tons of iron produced in the United States, Pennsylvania produced 1,153,356 tons, or nearly one-half of the whole amount.

Area of the coal-fields of the United States, and annual production.

States and Territories.	Area in square miles.	Tons produced, 1877. (Estimate of Saward.)
1. Pennsylvania, { anthracite	472	23,619,911
1. Pennsylvania, { bituminous	12,302	12,500,000
2. Ohio	10,000	5,250,000
3. Illinois	36,800	3,500,000
4. Maryland, bituminous	550	1,574,339
5. West Virginia	16,000	1,000,000
6. Iowa	18,000	1,500,000
7. Indiana	6,450	1,000,000
8. Missouri	26,887	900,000
9. Kentucky	12,871	850,000
10. Tennessee	5,100	750,000
11. California	.....	600,000
12. Colorado	.....	300,000
13. Kansas	22,256	200,000
14. Oregon	.....	200,000
15. Alabama	5,330	175,000
16. Washington	.....	150,000
17. Wyoming	.....	100,000
18. Virginia	185	90,000
19. Michigan	6,700	30,000
20. Nebraska	3,000	50,000
21. Utah	.....	45,000
22. Rhode Island	500	14,000
23. Arkansas	12,000	.....
24. Texas	20,000	.....
Total	.....	54,398,250

Production of pig-iron in 1877, *by States.*

[Statistics collected from the manufacturers by The American Iron and Steel Association.]

States.	Furnaces, December 31, 1877.	Condition of furnaces on December 31, 1877.		Make of pig-iron in tons of 2,000 pounds.
		In blast.	Out of blast.	
Pennsylvania	278	131	147	1,153,356
Ohio	107	49	58	400,398
New York	59	24	35	230,442
Michigan	32	9	23	82,216
Missouri	18	2	16	73,565
Illinois	12	2	10	61,358
New Jersey	19	7	12	52,909
Kentucky	22	7	15	47,607
Alabama	13	7	6	41,241
West Virginia	12	2	10	34,905
Maryland	24	6	18	26,959
Tennessee	22	6	16	25,940
Wisconsin	15	4	11	22,205
Indiana	8	1	7	15,460
Connecticut	10	5	5	14,443
Georgia	11	2	9	13,223
Virginia	33	5	28	12,434
Massachusetts	6	.....	6	2,904
Maine	1	1	.....	1,960
Texas	1	.....	1	525
North Carolina	7	.....	7	325
Vermont	2	.....	2	210
Oregon	1	.....	1	.....
Utah	3	.....	3	.....
Total	716	270	446	2,314,585

The amounts of coal and iron produced during the present year will largely exceed the estimate of 1877 as above given.

PETROLEUM.

Petroleum is another product of great importance, and is principally produced in Western Pennsylvania. We can produce enough to lubricate the machinery and illuminate the homes of the world. In 1870 Western Pennsylvania produced for market 5,659,000 barrels, 237,678,000 gallons, a daily average of 15,350 barrels or 544,700 gallons of petroleum. After supplying the demands of our own country, during the same year we exported 3,279,951 barrels or 137,757,942 gallons of crude and refined petroleum, 287,333 gallons of benzine, and 562,770 gallons of naphtha to England, Ireland, France, Germany, Austria, Holland, Belgium, Italy, Spain, Portugal, Russia, Denmark, Sweden, the West Indies, Brazil, Venezuela, and Mexico. It is fair to say that West Virginia and Ohio (principally West Virginia) produced during the same period 511,000 barrels, or less than one-eleventh of Pennsylvania, and Canada produced 365,000 barrels, or about one-sixteenth of

Pennsylvania. In other words, the petroleum produced in all other parts of America was, in 1870, less than one-sixth of the amount produced in Pennsylvania during the same period.

The production of petroleum has increased immensely since that period. The amount taken from the oil-wells of Pennsylvania during the month of April of this year, as reported from the most authentic sources of the oil regions, was 2,037,319 barrels. The shipments during the same month were 856,074 barrels, and the total stock then held by the lines was 10,545,125 barrels.

MANUFACTURERS.

According to the census of 1870 Pennsylvania had 37,200 manufacturing establishments, in which were employed 319,487 hands, to whom was paid $127,976,594; the capital invested to carry on these establishments during the year was $406,821,845, and the value of the material produced $711,894,344. She exceeded every other State in number of establishments, and every other in value of manufactured products except New York. The immense aggregate manufacturing interests of the United States, in 1870, were: Number of establishments, 252,148; number of hands employed, 2,053,996; capital invested, $2,118,208,769; wages paid, $775,584,343; value of articles manufactured, $4,232,325,442. These figures have been increased, up to the present time, perhaps 20 per cent. New York and Pennsylvania produced in value $1,497,088,992, more than one-fourth of the entire amount of the United States. Eight States produced more than three-fourths of the manufactured articles of the United States in 1870, as follows:

New York	$785, 194, 651
Pennsylvania	711, 894, 341
Massachusetts	553, 912, 568
Ohio	269, 713, 610
Missouri	206, 213, 429
Illinois	205, 620, 672
New Jersey	169, 237, 732
Connecticut	161, 065, 478
Total	1, 497, 088, 992

Next to the above States, in order of amount of manufactured goods, are Michigan, Rhode Island, Indiana, Maine, Wisconsin, Maryland, and New Hampshire, each of which exceeds $70,000,000. How nobly Ohio, Illinois, Missouri, Indiana, Michigan, Wisconsin, and Maryland are increasing their manufacture? How, proportionately, their population, wealth, and general prosperity have increased the census of 1880 will indicate. When the Southern and Mississippi Valley States realize the paramount importance of utilizing the natural resources—of manufacturing their iron, cotton, wool, &c.—they will increase in wealth and prosperity at a ratio with the States I have mentioned.

The improvement the United States are asked to assist to make, indicated in the bill under consideration, will greatly facilitate those States in such a desideratum by furnishing them cheaper coal, coke, and lubricating oils, which are necessary articles these days in the manufacturing business. I will show before I conclude my remarks that coal of the best quality can be furnished to the stations on the Mississippi and its tributaries, speaking clearly within bounds, 50 per cent. cheaper than at present.

Pennsylvania has 27 colleges, with 315 instructors, 3,844 students, and college libraries of 130,349 volumes; a school population of 1,300,000, of which over a million are enrolled in the public schools, with an average daily attendance of about seven hundred thousand. Her public-school system is excellent. In 1870 her improved farm land was valued at a higher rate per acre than any other agricultural State in the Union. She has but one county (Fulton) that has not heard the shriek of the iron-horse within her borders, and has more miles of railroad than any other State except the prairie State, Illinois.

I briefly cite these things to show that Pennsylvania's manufactories have been an important factor in the prosperity and good government of the State. She has utilized her natural resources, which, if imitated by other States, will make them great and prosperous to a greater or less degree. While we feel proud of Pennsylvania's superior coal-fields, manufacturing products, iron ore, agricultural interests, oil-wells, educational institutions; her topography, climatology, geology, mineralogy; her rich mountains and fertile valleys; yet I may be allowed to remark parenthetically that we cannot boast so much of her political management at the present period of time.

We will now come to Western Pennsylvania, where it is proposed to make the improvement of the slack-water navigation in order to convey the coal, &c., more cheaply down the Ohio and Mississippi Rivers.

THE PROPOSED IMPROVEMENT.

What we propose in this bill is an appropriation to improve, or to begin to improve, the slack-water navigation from the mouth of the Youghiogheny River at McKeesport to Connellsville, Fayette County, a distance of forty-two miles, the center of the coal-fields.

There are 3,500 coke-ovens in this county in full blast, and 2,500 in course of construction. The production of the ovens in blast is 560,000 bushels. If the improvement were made the production would increase threefold.

I will give you statistics, and show you charts and maps that will, I believe, satisfy you of the importance of the improvement desired, and of its high character both as a local and national highway for commerce.

The importance of an outlet from the Youghiogheny has long been appreciated by those who examined the locality. This is by no means a new project. A route which included the improvement contemplated in this bill was suggested by General Washington, as the following from the early official reports will show:

GENERAL WASHINGTON'S REPORT.

This idea originated with George Washington about one hundred years ago. Washington recommended that a great highway should be opened through from the Ohio to the Potomac by clearing out the channel of the Youghiogheny to its head-waters and the Potomac to Cumberland, Maryland, so that goods could be transported in *batteaux* either way to the mountains, and taken across by pack-saddle. In pursuance of Washington's original design, work was begun at Great Falls and at Harper's Ferry on the Potomac, but afterward abandoned. The traces of the progress made are plainly visible at these points to this day. Nothing more was done in furtherance of this grand project until Congress, in 1824, authorized a system of national internal improvements by the passage of an act empowering the President "to cause the necessary surveys, plans, and estimates to be made of the routes of such roads and canals as he may deem of national importance in a commercial or military point of view, or necessary for the transportation of the public mails." In pursuance of this act John C. Calhoun, then Secretary of War, constituted a board to survey such routes as were contemplated by Congress. The board made surveys and reports of a number of canal routes, among which was one for a canal to connect the Chesapeake Bay with the Ohio River by the valley of the Potomac on the eastern and the Monongahela and Youghiogheny Valleys on the western slopes of the Allegheny Mountains.

Colonel Merrill, Corps of Engineers, in his official report, made to the War Department, of his survey, I believe in 1873, said:

ENGINEER'S REPORT.

Along the entire length of the Youghiogheny, from its mouth to Connellsville, there are heavy deposits of bituminous coal, and Connellsville itself is the center of a district widely known for its excellent gas-coal, coke, and iron. These products are in great demand both east and west, and their only outlets are by the Pittsburgh and Connellsville Railroad, and by a branch of the Pennsylvania Central which has been built within the past year. The producers are therefore unanimous in their desire to have cheap water transportation both east and west. Canal-boats will answer their purpose for communicating with eastern markets, but as a large portion of the West can best be reached by way of the Ohio River they naturally desire either to have Connellsville made the head of steamboat navigation, or else to have such a water connection with the Ohio as will enable them to load their products at their mines into such barges as are used on the Ohio for transporting coal and coke in fleets. These barges are from one hundred and twenty-five to one hundred and thirty feet long, and twenty-five feet wide, and it is evident that any navigation that will pass these will also pass the boats that ply on a canal whose locks are one hundred and twenty by twenty. If, therefore, we can arrange, matters satisfactorily for Ohio River coal-barges we will have ample space for the regular canal navigation. Coal-barges may be brought to Connellsville through river locks large enough to accommodate a tow-boat with one or more barges, or through river locks accommodating only one barge at a time, or through an independent canal.

Relating to the same matter, Colonel Sedgwick, Corps of Engineers, speaks of the improvement as of more national than local importance. I call especial attention to his brief but forcible argument. He says:

COLONEL SEDGWICK'S REPORT.

The great importance of this route is the opening of that large part of the Youghiogheny coal-fields lying on the south side of the river to cheap transportation, and by that much enhancing the coal commerce of the Ohio River in one of its most important features, the supply of coal from Pittsburgh and adjacent territory. It is of as much importance to get this coal to market as the development of the coal-fields lying along the Monongahela River by slackwater navigation has been. This improvement seems to be called for in consequence of the fact that the coal-beds on the south side of the Youghiogheny, between Connellsville and West Newton, are not worked or developed because it will not bear the cost of delivery to the railroad on the north side of the river. As this development awaits the improvement of river navigation, and being of more importance in a national than in a local point of view, it must be made at some early day, and it would seem but just that while the Government is making very extensive improvements for the navigation of the Kanawha in a wild and unsettled region of country, that this quite as important national improvement as that should now be commenced.

It is proper to say at this juncture that the first examinations and surveys of this route, made in 1824, were, as is learned from the Government reports, chiefly to determine the practicability of the undertaking, and were confined to an examination of the mountain or summit section between Cumberland, on the north branch of the Potomac, and the junction of the Youghiogheny and Castleman Rivers, at what is now the town of Confluence.

COKE TRADE.

The American Manufacturer recently stated, in regard to the Connellsville coke trade, that furnaces have been coming into use and have increased, to some extent, the demand for coke; but, by driving the manufacture, the producers are still able to meet the calls of consumers, though prices are becoming firmer, but no material change has as yet taken place. Several new ovens will soon come into use, which will assist in increasing the production, which is still rated at about thirty-three thousand tons a week. "We continue quotations, as heretofore, for large furnace supplies—$1.40 to $1.50 per ton of two thousand pounds on board cars at the ovens."

Mr. T. W. Watt, Colonel C. E. Swearingen, H. C. Frick & Co., and Mr. John F. Dravo, intelligent business men, of Western Pennsylvania, have given some important facts in regard to the coke trade along the line of the proposed improvement. The latter gentleman says:

PITTSBURGH, *March* 23, 1880.

DEAR SIR: I exceedingly regret that my engagements are such that I cannot command the necessary time to appear before the Committee on Rivers and Harbors and demonstrate the importance of the speedy improvement of the Youghiogheny River. The river in its present condition is not navigated and cannot be. The river passes through one of the richest gas-coal fields of America, and also the celebrated Connellsville coke-field, from which there is daily shipped five thousand

tons of the best coke in the world. The magnitude of the coke trade in this particular section may be indicated when I state that in the last six months more than $3,000,000 have been invested in coal lands and works projected that will double the output and cost in their construction $2,000,000. This vast trade seeking markets, eastern and western, is subject to railroad taxation, while an improved water-way would greatly increase the facilities for shipments and lessen the cost of transportation 50 per cent. I sincerely hope you may be successful in securing the necessary appropriation for the speedy commencement of this important work. The products which would pass over this improved water-way would be shipped in large quantities to Cincinnati, Louisville, Saint Louis, Nashville, New Orleans, completing an unbroken water-way from the mines to these great commercial and manufacturing centers. I write in great haste, and have only time to merely hint at the important facts.

Yours truly,

JOHN F. DRAVO.

Hon. MORGAN R. WISE,
House of Representatives, Washington City.

The following letter of H. C. Frick is right to the point:

PITTSBURGH, *December* 26, 1879.

DEAR SIR: Replying to your favor of 17th, monthly shipments of Connellsville coke are at present 9,360,000 bushels. It is shipped to all points east and west, north and south. It is acknowledged to be the best fuel in the world for blast-furnace use and for founderies.

In my opinion the present shipment will be doubled in less than two years.

Wheeling, Ironton, Cincinnati, Louisville and Saint Louis, and New Orleans are large markets for our coke. Saint Louis alone will use over 18,000,000 bushels yearly, and with the improvement of the Youghiogheny she would become the largest iron center in the world. As you know, they have the ore, and the only thing needed is cheap fuel.

Yours very truly,

H. C. FRICK.

Hon. MORGAN R. WISE,
Washington, D. C.

At the annual meeting of the stockholders of the Pittsburgh and Connellsville Railroad the president, John King, jr., in his annual report, stated that there were transported (from the line of the proposed improvement) during the year 702,444 tons of coal, yielding to said road a revenue of $366,925.73, of which 545,674 tons were gas coal, yielding $318,263.93. Of coke, 897,551 tons were transported, yielding a revenue of $454,349.34. The revenue from coal-oil was $40,510.31. Thus this branch road carried 1,599,995 tons of coal and coke, charging for freight the sum of $821,275.07. The annual shipment of coke from the coke-fields of Western Pennsylvania is 112,320,000 bushels. Coke is not only an important commodity, but an indispensable material. Coke was reported a short time since at $50 a ton at Leadville.

PITTSBURGH COAL AT NEW ORLEANS.

The statement of the Pittsburgh coal business in New Orleans for the year ended December 1, 1879, contains the following statistics:

Total consumption, 243 boats and 53 barges; price, ranging from 25 to 27 cents in January, up to 60 and 70 cents in November. Stock on hand January 1 was 166 boats, 17 barges; December 1, 16 boats, 7 barges. Consumption of Pittsburgh coal during previous years is given as follows:

Year.	Bushels.	Year.	Bushels.
1869	3,317,000	1875	2,448,000
1870	3,203,500	1876	2,802,700
1871	3,112,000	1877	3,014,200
1872	2,991,500	1878	2,999,600
1873	2,841,500	1879	2,421,100
1874	2,749,500		

The decrease in the consumption can be attributed to the high prices prevailing the latter half of the year, and the importation of English and anthracite coal, which were brought to this market quite freely during the fall months, and sold at rates that not only checked the demand, but prevented a still further advance in price of Pittsburgh coal.

PITTSBURGH COAL TRADE.

There are 3,300 vessels at Pittsburgh engaged in carrying coal and coke to the markets, with a capacity of 691,000 tons, namely: 800 flat-boats, 75 tons each; 1,500 barges, 200 tons each; 1,000 coal-boats, 335 tons each. The following letter from Hon. James S. Rutan, surveyor of the port at that place, will show the extent and importance of the coal trade at Pittsburgh, which, with the completion of the improvement we are urging, would be at least doubled:

CUSTOM-HOUSE, PITTSBURGH, PENNSYLVANIA,
Surveyor's Office, May 6, 1880.

SIR: In reply to your letter of May 3, 1880, requesting information in reference to flats, barges, and coal-boats engaged in business on the rivers other than those documented at this port, I am enabled to give the following, obtained from those engaged in the business of transporting coal and coke to western and southern markets. The following will show the size and capacity in tons at our rate of advancement, namely, one hundred cubic feet inside: flats, 90 by 15 by 5, 800, 75 tons each, 60,000 tons; barges, 130 by 24 by 7½, 1,500, 200 tons each, 300,000 tons; coal-boats, 170 by 25 by 9½ 1,000, 335 tons each, 335,000 tons. The flats are exclusively engaged in carrying coal from the mines to the city and surrounding works and constantly employed. The barges are for carrying coal and coke to western cities and average about five trips per annum. The coal-boats or broadhorns, as commonly called, are used for carrying coal and coke to extreme southern markets below Louisville, and when not broken up at destination average about one trip during the year.

Of course these vessels carry much more than the tonnage would indicate. The flats usually carry 3,000 bushels each, at 76 pounds to the bushel; the barges an average of 11,000 bushels each, and coal-boats 25,000 bushels each, or of coke, flats 4,000 bushels, barges 15,000 bushels.

There are also a few barges, perhaps 15 or 20, 160 by 24 by 8, which carry for the Saint Louis market, say 1,600 bushels coal or 3,000 coke, making from three to four trips per annum.

It is estimated the various crafts carry from the mines to markets about 75,000,000 bushels coal and coke per year.

Very respectfully, your obedient servant,

JAMES S. RUTAN,
Surveyor.

THE ROUTE SURVEYED.

The Pittsburgh Telegraph of December 26, 1879, published many interesting facts compiled from the official reports upon this subject, from which I copy the following and other extracts:

The route thus surveyed in 1824 was by the north branch of the Potomac to the mouth of Savage River, and by Savage River, Crabtree Creek, and a branch of Crabtree Creek to Bear Creek and Deep Creek, and thence by the Youghiogheny to Turkey Foot. That part of the route from Cumberland to the mouth of Savage River was surveyed by Major J. J. Abert, Topographical Engineers, and the remaining portion by Captain William G. McNeill, Topographical Engineers. The Baltimore and Ohio Railroad now occupies a portion of this route from Cumberland, but in ascending the mountain it diverges to the south, its summit being about eight miles south of the summit of the canal route. During the next year a more careful and detailed survey was made "to determine the route to be recommended, as also to determine the data necessary to frame a general plan of the work and a preparatory estimate of the expense." The report of this year (1826) was more complete than the former one, and discussed the character and general features of another route—that by the valley of Will's Creek, leading northerly and easterly from Cumberland, and crossing the mountains to the valley of Flaugherty Creek, which empties at Meyer's Mill into Castleman River, a branch of the Youghiogheny River, which it joins at Turkey Foot, near Confluence.

In 1873 the river and harbor bill passed by Congress contained a clause appropriating $5,000 to be expended in an exploration of the routes for the extension of the Chesapeake and Ohio Canal, &c. In compliance with his instructions, Colonel Sedgwick, an experienced engineer, in the summer of 1873 made a survey of the route, and continued the survey in 1874–'75. This survey was made in detail for a canal with locks one hundred and twenty feet long by twenty feet wide, with the canal seventy feet wide at water surface and seven feet deep. The survey for the canal ended at Connellsville, but the river was also surveyed from Connellsville to West Newton, to connect with a survey made by Lieutenant Mahan of the river from West Newton to McKeesport, with a view to establishing slack-water navigation between the points. We have already given extracts from his report. In his report to the Secretary of War, February 10, 1876, he says of the survey between Connellsville and West Newton:

LIEUTENANT MAHAN'S REPORT.

Thinking that it would be practicable to establish a slack-water navigation on the Youghiogheny as far up as Connellsville, and knowing the strong desire of the inhabitants to have such a navigation, I directed Colonel Sedgwick to stop the canal survey at Connellsville, and beyond that place to survey the river to a connection at West Newton with the work done in 1873 by Lieutenant Mahan, engineer. This was done and the results are given in the accompanying maps.

Between the suspension bridge at Connellsville and the bridge at West Newton, a distance of 26½ miles, the fall of the river surface is 122.6 feet. As a rule, there is a narrow strip of bottom-land on one side and an abrupt hill on the other throughout this distance. There are a few points on the line where the construction of either slack-water or canal would be troublesome, but there is no place that compares in difficulty with points above. The worst section is in the narrows below Connellsville. Here we have the Little Falls, 8¼ miles below Connellsville, Middle Chute, 10 miles below, and Great Falls, 11½ miles below. If a slack-water navigation is established, one dam will come at the head of Little Falls, one at the foot of the Middle Chute, and one in the rapids above Great Falls. The last-named site is objectionable on account of the narrow bed of the river at this place, but the others are good.

Concerning the survey of the Youghiogheny from McKeesport to West Newton he says in his report:

Having no special instructions as to the limits of the survey, I directed Lieutenant Mahan to commence at West Newton and work down stream to the mouth of the river. I selected West Newton as the starting-point, because I understood that the wishes of those at whose instance this survey was ordered were to have an extension of the Monongahela slack-water system up the Youghiogheny; and therefore I thought it best to limit the survey to a length of river that could be examined thoroughly, and not to go above a point that could be reached by three dams of ten feet lift each, believing that there would be ample time to continue the survey after these dams were built. I had no instructions to make this survey a part of the examination for the extension of the Chesapeake and Ohio Canal route, and therefore treated the question as a purely local one.

THE ESTIMATED COST OF THE LOCKS AND DAMS.

The entire cost of the improvement, from beginning to end, is estimated by Engineer Mahan as follows, (it will also be seen by the following that the slack-water navigation of Youghiogheny is no new scheme:)

The river in times past has been slack-watered, but I have so far been unable to obtain any satisfactory information about its history or its work. I could only find traces of two locks and dams, one about a mile below Osceola, the other at Buena Vista, but they had long been lying in ruins, the dams completely broken through, and the locks almost totally destroyed. Nothing of them is now standing save small portions of the chamber walls. So far as I could learn from conversation with persons living in the neighborhood of the river, the great cause of failure was in the dams having been built too high. What this height was exactly I could not learn, but the lift from pool to pool was about thirteen feet.

Lieutenant Mahan ascertained that three pools and three dams would be required to permit the running of steamboats to West Newton. He gives the location of the dams, and the *modus operandi* of their construction, with the estimates of their cost at an average length of 532 feet for each dam which he proposes, the cost of the dam would be $61,060.27. Each dam would have an abutment of stone extending 30 feet above and below the dam, with wing-walls 40 feet in length, which would cost $16,565.33. The estimate for the foundation of the lock, 250 feet long by 55 feet wide, is $43,316.15. The lock to be of stone, with lock 250 by 56 feet; lift 10 feet; walls, 22.5 feet high, 10 feet thick at top, 13.5 feet thick at bottom; 350 feet total length, would cost $85,216.80. This would make the total cost of each lock $206,158.65, and of the dams, comprising the entire improvement, $688,023.21. This estimate will carry the full depth of water (6 feet) to the lower end of the town of West Newton.

The Youghiogheny River rises near the boundary-line of the States of Maryland and West Virginia. Its course is about due north as far

as Confluence, where its direction changes to west-northwest, preserving this general direction unchanged until it joins the Monongahela at McKeesport. A few small streams empty into it above Confluence, at which point it is joined by its two most prominent tributaries, Castleman's River and Laurel Hill Creek. Below Confluence three other streams flow into it, but they are also small. The Youghiogheny runs very nearly parallel with the Monongahela; just below its headwaters it is crossed by the Baltimore and Ohio Railroad. At Confluence the Pittsburgh, Washington and Baltimore Railroad comes on its right bank, which it follows thence to McKeesport.

The distances of the principal towns from Pittsburgh are as follows:

	Miles.
McKeesport, on the right bank	15.7
Boston, on the left bank	19.4
Osceola, on the right bank	21.7
Alpsville, on the right bank	22.5
Shaner's, on the right bank	26.2
Buena Vista, on the left bank	27.7
Armstrong's, on the right bank	27.7
Moore's, on the right bank	28.8
West Newton, on the right bank	34.5

In times of very high water steamboats could go up to West Newton, and perhaps even farther were it not for the bridge that here crosses the river and is about 10 feet above high water.

DETAILED STATEMENT OF LIEUTENANT MAHAN OF THE COST OF THE SLACK-WATER NAVIGATION PROPOSED.

To form three pools, three dams will be required. Taking that point on each pool where there will be 6 feet of water, and measuring the distance from the top of the bank on one side to the top of the bank on the other, we find the sum of the three distances to be 1,850 feet, which, deducting 85 feet for width of lock, gives the total length of the three dams of 1,595 feet, or an average length of 532 feet for each dam.

These dams I propose to construct as follows: First, to build strong timber cribs, about 6 feet in height and 50 feet in width, and place them in line across the stream. Second, to drive a row of heavy square piles along the down-stream side of the cribs, for the purpose of keeping them in position, the tops of the piles to be flush with the upper surface of the cribs. Third, to drive on the up-stream side of these cribs two rows of eight-inch sheeting piles in juxtaposition, the rows to break joints. These piles to be driven so that their tops shall be flush with the top surfaces of the foundation-cribs, the up-stream row of sheeting piles to support the lower ends of the timbers composing the apron of the dam. Fourth, to build a strong crib on top of these foundation cribs, and make it a continuous structure from one end of the dam to the other. This super-crib to be 10 feet in height, the down-stream side being built in three steps, of 3½ feet each, the up-stream side being an apron formed of heavy timbers, wrought to true faces, and laid as close together as possible. The apron to have a slope of 1 perpendicular to 2.5 base. Fifth, the crest of the dam will be formed by a timber 12 by 18, thoroughly bolted and fastened to the crib-work. Sixth, to fill in all the crib-work with riprap. Seventh, to cover the entire up-stream side of the dam, from the top of the apron down, with gravel, the top surface of which is to have a slope of 1 perpendicular to 6 base.

ESTIMATE FOR ONE DAM 532 FEET IN LENGTH.

14,167 linear feet of piles, 12½ cents per foot	$1,770 87
90,720 feet (board-measure) sheet-piles, at 35 cents per M	3,175 20
848,400 feet (board-measure) timber in crib-work, at $35 per M	29,694 00
127,000 feet (board-measure) timber in apron, at $35 per M	4,445 00
532 piles, driving, at $2.50 each	1,330 00
1,064 sheeting-piles, driving, at $2.50 each	2,660 00
11,000 cubic yards riprap, at $1.25 per yard	13,750 00
10,588 cubic yards gravel, at 40 cents per yard	4,235 20
Total cost of dam	61,060 27

MASONRY ABUTMENT.

At the end of the dam opposite the lock will be an abutment of stone, extending 30 feet above and below the dam, with wing-walls 40 feet in length. The abutment is to be 5 feet thick at the top and 10.5 feet thick at the bottom, the side next the bank to be vertical, the height 22 feet. It is to rest on a foundation of piles in four equidistant rows parallel to the face of the abutment, the piles in each row to be 5 feet apart. A capping-piece 12 by 12 inches will be laid on each row of piles, and the grillage thus formed covered by a platform of 5-inch plank laid crosswise upon it. The top of the platform to be laid on a level with the bottom of the foundation-crib of the dam. On this platform will be built the abutment.

ESTIMATE FOR ABUTMENT.

3,040 linear feet of piles, at 12½ cents per foot	$380 00
9,120 feet (board-measure) grillage, at $35 per M	319 20
9,975 feet (board-measure) platform, at $35 per M	349 13
438 cubic yards quarry-face masonry, at $9.60	4,204 80
636 cubic yards rubble masonry, at $7.20	4,579 20
5,000 cubic yards riprap for protecting banks, at $1.25	6,250 00
152 piles, driving, at $2.50 each	380 00
Laying grillage	33 00
Laying platform	70 00
Total for abutment	16,565 33

The foundation adopted for the lock is similar to that of the lock recently built at Henry, on the Illinois River, the bed in each case being permeable soil. In this case, however, additional precautions have been taken to guard against leakage on account of the scantiness of the water-supply.

Before going further it may be well to give a brief description of the Henry lock.

Cost of pass and weir.

Cost of weir 382 feet long	$86,985 22
Cost of pass 150 feet long	51,666 00
Total cost	138,651 22

If a maneuvering boat be used for the weir, we can omit the trestle-bridge above the wickets. This would effect a saving of ninety-five trestles, which, at an average cost of $128, would amount to $12,160. From this we must take the cost of the boat, which will be about $300, leaving a total saving of $11,860. The suppression of the wickets would also greatly reduce the cost of the foundation of the weir, as the latter would not then be so wide. Assuming that this would reduce the cost of foundation by one-third, we have a saving from this source of $48 per running foot, or of $18,336 in the length of the weir.

Under this condition, the total diminution of cost would be—

On the foundation	$18,336 00
On the trestles	11,860 00
Or, in all	30,196 00
Subtracting this from the cost before given, which is	138,651 22
We obtain as the cost when the boat is used	108,455 22

Cost of five dams, giving a total elevation of 35 feet, $542,276.10.

The locks attached to the movable dams, having a less lift by three feet than those in the permanent dams, will cost about one-fifth less than those used with the permanent dams, so far as the superstructure is concerned. The foundation will be unchanged. Hence we shall have for cost of the foundation of the lock, $43,316.15; for the superstructure, $68,173.44. The cost of the abutment will remain as before.

SUMMARY.

Cost of dam	$108,455 22
Cost of abutment	16,565 33
Cost of lock	111,489 59
Cost of one lock and dam	236,510 14

ESTIMATE FOR ENTIRE IMPROVEMENT.

Five locks and dams, at $236,510.14 each	1,182,550 70
Removing obstructions already existing	7,000 00
Ten per cent. for contingencies	118,955 07
Total cost of improvement	1,308,405 77
Total cost of improvement by permanent locks and dams	688,023 21
Or the improvement by movable dams will cost more than that by permanent dams by	620,382 56

But in this connection we must notice that by the permanent dams we only reach a height of 30 feet above the surface of the second pool of the Monongahela slack-water, whereas by movable dams we reach a height of 35 feet above the same surface.

The cost per foot of lift with the movable dams is	$37,383 02
And for the permanent dams it is	22,934 11
Or	14,448 91

in favor of the improvement by permanent dams per foot of rise. Hence the cost per foot of rise by the system of permanent dams is approximately only two-thirds of what it would be by movable dams.

In view of the above figures, I would most certainly recommend that the permanent dams be adopted for the improvement of the Youghiogheny River.

Very respectfully, your obedient servant,

F. A. MAHAN,
First Lieutenant of Engineers, U. S. A.

Major W. E. MERRILL,
Corps of Engineers, U. S. A.

I have copied copiously from official reports, yet every extract is pertinent and very important to a full understanding of the national advantages of the improvement under consideration. They will convince any reasonable-minded man, I believe, that the bill ought to pass and the work be done.

THE EXTENT OF THE COAL-FIELDS.

Pennsylvania has within her border not only all the valuable anthracite coal in America, but also the finest field of bituminous coal, not surpassed by any for extent and quality, affording every variety of that description, and in a very accessible form. The area of this superior quality of bituminous coal in Pennsylvania alone is about 12,245 square miles, greater in extent than that of Great Britain, and nearly equal to Great Britain and Germany combined. As exaggerated estimates of the size of the coal-fields of some of the States are often published, it is proper to state that this is the result of surveys and careful measurements made by Professor H. B. Rodgers.

The western or bituminous coal district of Pennsylvania occupies one-half the area of the State, being bounded on three sides by State lines of West Virginia, Ohio, and New York, and on the east by the face of the Alleghany Mountains; one hundred and fifty miles wide from north to south, it is one hundred and seventy-five miles long at the New York line, and eighty miles at the West Virginia line. But this does not represent all of its area, for it includes mountain lands of Tioga, Lycoming, Bradford, Sullivan, and Wyoming counties, and extends to the extreme end of the Elk Mountain, within twenty miles of the northeast corner of the State. A line drawn straight from this point to the southwest corner of the State would be two hundred and ninety miles in length. Three-fourths of this area is drained by the Allegheny and Monongahela water-courses and their tributaries into the Ohio River. The different kinds of coal produced in Pennsylvania are: 1, anthracite, containing less than 11 per cent. of volatile combustible matter; 2, semi-bituminous, containing more than 11 and less than 18 per cent.; 3, bituminous, containing as much as 18 or 20 per cent.; 4, splint or block coal, containing from 32 to 37 per cent. of volatile combustible matter and 58 to 62 per cent. of carbon; 5, cannel coal exists in Western Pennsylvania, but as yet has attained but little commercial importance. Macfarlane gives six axioms of the coal trade: 1, a good quality of coal; 2, in sufficient quantity; 3, cheapness and regularity of production; 4, cheapness of transportation; 5, a sufficiency of transportation; 6, a good market. We have in Western Pennsylvania a superior quality of coal, in sufficient quantity, cheapness of production, and a good market. But what we need now, both for the producer and consumer, is cheapness of transportation; this, and this only. It is principally to reach this great end that we ask for the small appropriation indicated in the bill under consideration.

BITUMINOUS COAL OF WESTERN PENNSYLVANIA.

Nearly all the bituminous coal of Pennsylvania is produced in the five counties of Fayette, Greene, Washington, Westmoreland, and Allegheny—three of which constitute my congressional district—where the Pittsburgh or first and main seam of the upper coal measure is found. This rich and magnificent coal-field stretches along the Monongahela and Youghiogheny, and an important portion of it will be reached by the contemplated improvement of the slack-water navigation.

J. Peter Lesley, in his interesting geological writings, makes an estimate, in which he is supported and corroborated by Professor Rodgers, that the endurance of the anthracite region under a waste equal to that of the present British coal trade—100,000,000 tons per annum—would be about two centuries. On the other hand, the Pittsburgh bed in Southwestern Pennsylvania, after all the erosion that it has undergone, still underlies an area of about three thousand square miles in extent, containing 20,000,000,000 tons of coal. From this single bituminous coal-bed, therefore, the present British coal trade could be supplied continuously for twenty centuries. This is the region in which our improvement is to be made.

The Upper Freeport coal-bed underlies an area twice as extensive as that of the Pittsburgh bed, and the large bed of the lower bituminous coal series underlies an area three times as extensive. But whereas the Pittsburgh bed is so situated that every square yard of it can be reached, there are many sections of the areas of the lower beds lying too deep for mining. The salient point of interest in this subject is that every part of Western Pennsylvania is supplied with good bituminous coal throughout an extent of country little short of fifteen thousand square miles. In other words, if the bituminous coal-field of Western Pennsylvania were subdivided into one-hundred-acre farms, each farm would constitute a feasible colliery, commanding within its own limits one or more coal-beds capable of yielding to judicious mining operations from one million to twenty millions, and in some cases even thirty millions, of tons of coal, provided that the coal of all its beds were taken out.

These coal-fields are wonderful—grand. Observe their immense extent, the wide range and thickness of some of the coal seams, and the great variety in the character of the mineral itself, showing every known gradation. The excellent qualities of these coals we do not realize until we compare them with those of the Western States.

CHEAP TRANSPORTATION NEEDED.

The people from all parts of the country, more especially from the West, have petitioned that Congress enact such laws as will alleviate the oppressions imposed upon the people by transportation monopolies that now control the interstate commerce of the country.

It is manifest that the establishment of additional cheap water-transportation lines is one of the most imperative demands of the day. The Ohio River is, with the Mississippi, a water route already provided by the hand of Nature from the East to the West, and what is now needed to complete this great water line is the improvement of the slack-water navigation of the Youghiogheny River forty or fifty miles to the great coal and coke field of America. There is left but this to complete the route so much needed by the mining and other industrial interests of the whole country.

In the pressing demand of the nation for cheap transportation every day that the conferring of that blessing can be hastened is as important a consideration as the cost—more so—to the end that the saving of freight may repay the expense. That the construction of this work, shown by all the Government surveys that have been made to be not only entirely practicable but of vital importance, is a matter of so small a cost in comparison with the benefits that would ensue as to demand of Congress such immediate action as will insure the speedy completion of this great national water line.

With this improvement the coal and coke can be loaded in the barges and flat-bottomed boats and delivered from 50 per cent. to 100 per cent. cheaper than they are at present delivered by the railroads. Fifty per cent. is the minimum and 100 per cent. the maximum estimate made that the improvement will lessen the cost of freight from the coal-fields to points on the Ohio and Mississippi. I take the lowest estimate made, so as to avoid any possible exaggeration. Think of it, 50 per cent. saved to the consumer upon his coal and coke! What, I ask, would do more to "alleviate the oppressions imposed upon the people by transportation monopolies that now control the interstate commerce of the country" than this improvement? It must be transparent to you, gentlemen, that the most available mode of alleviating the oppressions of the people that they complain of to you, in their constant and numerous petitions, is to improve and extend the natural water-ways and thereby lessen the freights.

The members of the Committee on the Improvement of the Rivers and Harbors, the majority of the members on either side of this House doubtless, are satisfied that the improvement I ask is important and should be made. If, however, they are not fully convinced that the reports of the surveys made by the engineers, as given in my remarks, are not sufficiently clear and explicit, then make an appropriation for a *resurvey*. This, at least, I am entirely persuaded will be done. With this beginning the continuation of this important and too-long neglected improvement will be assured. If I have added anything to the consummation of this great work I will feel well compensated for the time and labor devoted upon the subject.

Chesapeake and Atlantic Ship-Canal by the Choptank Route.

SPEECH OF HON. WILLIAM KIMMEL,

OF MARYLAND,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, May 20, 1880,

On the bill (H. R. No. 300) to aid in the construction of the Maryland and Delaware Ship-Canal, and to secure to all vessels of the United States service for all time the right of navigation through said canal free of tolls and charges.

Mr. KIMMEL said:

Mr. SPEAKER: This bill provides for subsidizing a corporation to construct a canal by the Sassafras route to connect the Chesapeake and Delaware Bays, with power to collect toll on vessels passing through the canal. I object to the corporation, to the route, and to the toll.

THE CANAL AS A MEANS OF DEFENSE.

I hold that a canal to connect these great inland seas is a necessity for the defense and for the commerce of the country, and therefore should be constructed by the Government free for the use of the people.

The following are my reasons for these objections:

A glance at the map on page 177 will show that these two great inland seas running northerly and westerly are separated by a peninsula about two hundred miles long, and at places less than twenty miles wide capable of connection by ship-canal at a cost comparatively insignificant in view of the great benefits to be derived from such a work.

Information obtained at the Bureau of Coast Survey shows that these bays, their tributaries, and the sounds of North Carolina and their tributaries, now connected with the Chesapeake by canal, have a length of navigable waters extending more than three thousand miles.

Within this area are some of the most populous, rich, and important cities in the Union. Of these are Philadelphia and Chester, in Pennsylvania; Wilmington and Dover, in Delaware; Trenton, in New Jersey; Baltimore and Annapolis, in Maryland; Alexandria, Fredericksburgh, Richmond, Petersburgh, Portsmouth, and Norfolk, in Virginia, and the city of Washington, the capital of the country.

Information obtained from the municipal authorities and from the census shows that the population of these cities is nearly fifteen hundred thousand, and that the basis of taxation therein exceeds $1,000,000,000, which basis is always far below the true value. This amount does not include the large exemptions which everywhere exist, nor the value of the public buildings, municipal, State, and national, which latter in Washington alone exceeds $100,000,000.

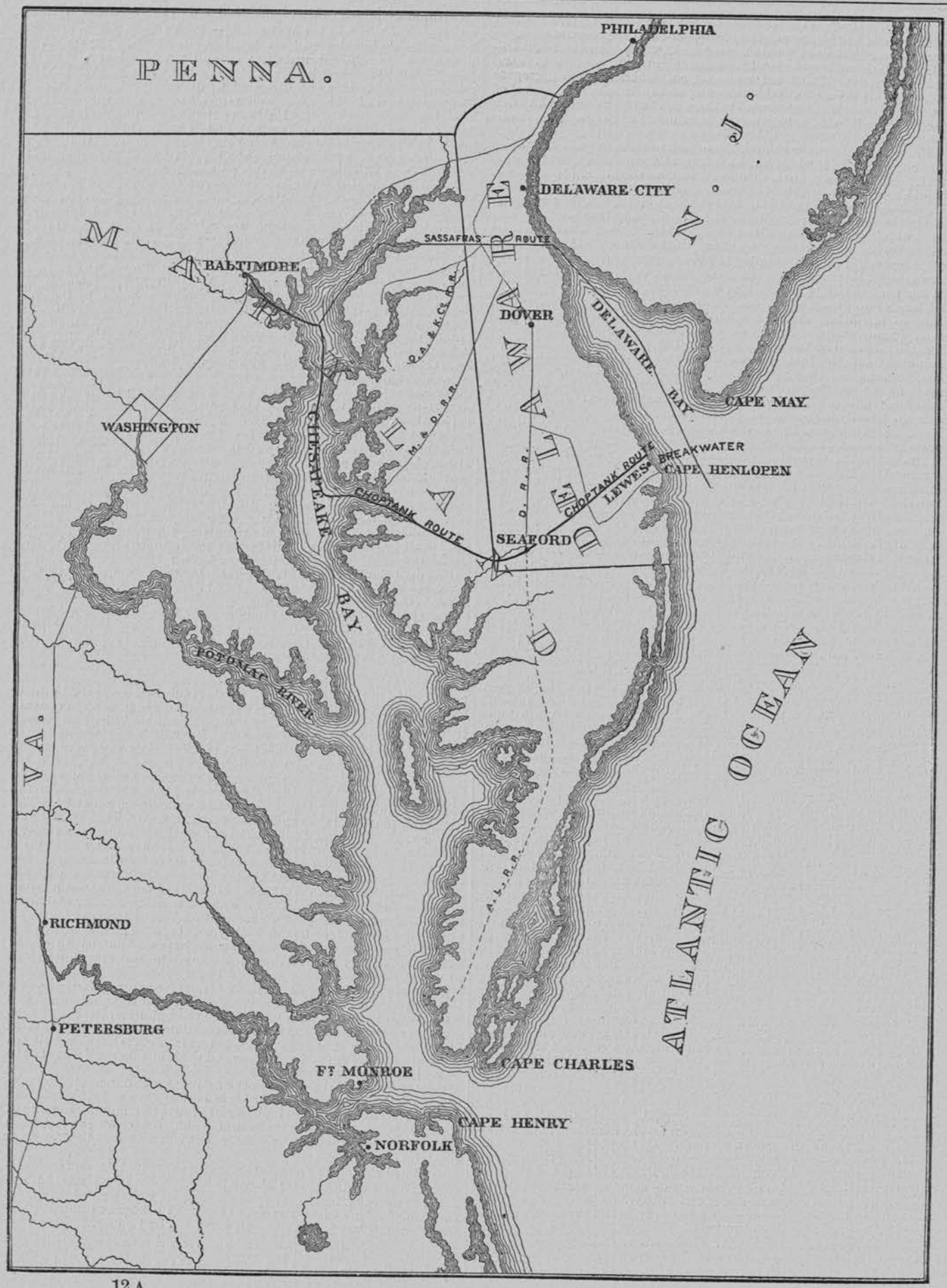
To this must be added both the population and property in towns, villages, and rural districts not ascertainable.

By reason of the fact that the waters of the Chesapeake approach nearer the waters of the Ohio River and the lakes than any other inlet from the Atlantic Ocean, some of the most important lines of transportation between the East and the West have their termini in some of the cities named. Furthermore, the great railroad lines connecting the centers of trade and population of the North and East with the South pass over the navigable waters of these bays and their tributaries.

These facts demonstrate the importance of this region; the reports of the Departments and of the committees of Congress show how defenseless it is. The coast-lines of the United States, ocean, bay, and river, are far greater than those of any other country; its naval power with that of other nations is rated only as eleventh; as compared with the coast-line to be defended the disparity is too great to be measured. The greatest activity sustained by very large appropriations could not within many years create the means necessary to an adequate defense of these lines.

The science of modern warfare is endeavoring to ascertain what quality and thickness of armor is necessary to resist the force of the largest available gun. This science accepts for the present the theory that torpedoes are the best ascertained means for harbor defense against these heavy guns. But as the science progresses it seems as though monitors are as necessary for the defense of the torpedoes as are the torpedoes for the defense of the harbors; therefore, monitors are for the present the element to be estimated for when considering the cost of harbor defense.

The best informed among those whose duty it is to consider this subject know that this most important region can be defended only by the aid of naval armament, except at such cost as would impose very heavy burdens on the revenue of the country. It is too plain for argument that the cost of this naval defense would be largely decreased by a means of transferring the vessels for defense of either bay to the defense of the other, because thereby the expense of the defense of one could be saved; such a means of transfer would be a ship-canal connecting these bays. The following statement demonstrates what would be the saving to the people by this canal, as shown by the report of William P. Craighill, major of Engineers, United States Army, detailed by the War Department to survey the several routes for a ship-canal to connect these bays. The cost of such canal, fully adequate to this purpose, would not exceed sixteen and one-half million dollars, including 10 per cent. for contingencies. As stated by W.


PENNA.
PHILADELPHIA
DELAWARE CITY
N. J.
SASSAFRAS ROUTE
MARYLAND
BALTIMORE
DOVER
P. & R. C. R. R.
M. & D. R. R.
DELAWARE BAY
CAPE MAY
WASHINGTON
CHESAPEAKE BAY
CHOPTANK ROUTE
BREAKWATER
CAPE HENLOPEN
LEWES
SEAFORD
D. R. R.
POTOMAC RIVER
VA.
A. L. R. R.
ATLANTIC OCEAN
RICHMOND
PETERSBURG
FT MONROE
CAPE CHARLES
CAPE HENRY
NORFOLK

12 A

H. Shock, commodore United States Navy, engineer in chief, and Chief of Bureau of Steam Engineering, the cost of six double-turreted monitors of four guns each would aggregate $3,831,000; the cost of maintaining these monitors, exclusive of wear and tear for seventeen years, would aggregate $12,210,420; cost and maintenance would aggregate $16,041,420, within $500,000 of the cost of this canal. At the end of seventeen years the canal would remain, but the monitors would have decayed, that period being the life of a monitor. *Ships decay, canals endure.*

Six such monitors for each of these bays would be but a weak defense against the force of a first-rate naval power. The expense of such defense, if expense is to enter into the calculation, would not be disproportioned to the importance of the region to be defended: six thousand miles of shore-line, more than one and a half millions of people, one thousand millions of assessed values, twelve cities and the capitals of three States, the capital of the United States, and the outlet for one-sixth of the productions of the country. These twelve monitors would cost the people $2,000,000 a year, or one-seventh of the annual appropriation for the naval service of the country. This canal, as has been shown, would reduce this expense $1,000,000 per annum.

The common sense of the country will recognize the fact that defense of the Atlantic region will demand construction of a line of canals connecting the inland seas which lie contiguous to the ocean. A canal connecting the Chesapeake and Delaware Bays is the most important link in that line, because it aids in the defense of the largest area, containing more important interests than can be defended elsewhere for even a much larger sum, and because, if properly located, it will, in connection with the Delaware breakwater, enlarge the only harbor of refuge from hostile cruisers between Sandy Hook and Hampton Roads, a distance of two hundred and ninety miles on a most dangerous coast.

The extension of this line of canals northeastwardly from the Delaware to the Hudson and southwestwardly from the sounds of North Carolina to the Gulf of Mexico via the Saint John's River would complete a line of defense which no enemy, however strong, could successfully assail, and protect outlets too numerous for blockade. On the score of economy this means of defense appeals to the reason of every American statesman. The consideration of this line of defense and the commercial facilities and economies incidental thereto began in the earlier days of the Republic, and has been continued by its ablest statesmen from Albert Gallatin to General Francis P. Blair. But the digging of canals along this lengthening line was appalling at that time. Manual labor was their only means, and all that labor was necessary to make turnpikes for overladen wagons and to clear water-ways for flat-boats.

The Erie Canal, which has made De Witt Clinton immortal, was derided as Clinton's ditch, and accepted as the evidence of a distempered mind. When these appalling difficulties diminished somewhat, "westward the march of Empire" took "its way;" the power of that march subjugated to its necessities one hundred and ninety-two million acres of public lands and other appropriations and subsidies which for the time absorbed the wealth and credit of the country. A foreign commerce amounting to $1,300,000,000 per annum may justify the lavish expenditure. This commerce and the population and wealth it sustains on the seaboard demand protection and facilities.

Defense of the eastern termini of western railroads is as necessary to western prosperity as is the sunshine and the rain to its crops.

Happily American genius and enterprise has invented and provided the means whereby the digging of canals has been so cheapened as to make that which seemed impossible to our fathers easy to their sons. Steam has been made to dig canals, and at such cost as to promise early reimbursement. Two hundred millions of dollars would not create an American navy equal to the navies of first-rate powers. Half that sum would dig canals from New York to New Orleans. In seventeen years the navy would die; in seventeen years the canal would pay for its cost, prove its usefulness, and establish its permanence.

The report of William P. Craighill, major United States Engineers, as to the several routes by which a ship-canal may be constructed across the peninsula to connect these great inland seas reports five routes. Of these the Choptank appears to me to be the most eligible. This able and experienced engineer thus describes such a canal as its uses would require:

DIMENSIONS OF CANAL, ETC.

The estimates herewith embrace for all the routes a canal 100 feet wide at bottom, which is 26 feet below mean low water, with a width of 178 feet at low-water level, and a berme, 30 feet above bottom, 12 feet wide, (on one side only,) all slopes being 1½ to 1. The locks are estimated to be 60 feet by 600 feet in the chambers, and are intended to pass vessels drawing from 22½ to 23 feet.

And this the cost of it:

Ferry Creek (or Choptank) route:	
Excavation above high-water, 38,243,512 yards, at 20 cents	$7,648,702
Excavation between high and low water, 6,034,109 yards, at 15 cents	905,116
Excavation below low water, 29,175,000 yards, at 12½ cents	3,646,875
Dredging in Delaware Bay to 24 feet depth, 2,100,000 yards, at 10 cents	210,000
Dredging in Nanticoke, 10,000,000 yards, at 10 cents	1,000,000
Dredging in Choptank and Ferry Creek, 860,000 yards, at 10 cents	86,000
Protection walls on Delaware Bay, 1,000 feet long, 20,000 yards, at $3	60,000
Piling across Lewes Creek, 3,000 feet, at $7	21,000
Road bridges, 4, at $52,500	210,000
Railroad bridges, 3, at $90,000	270,000
Tide locks, 3, at $229,500	688,500
Land damages, 3,500 acres, at $50	175,000
Ten per cent. for contingencies	1,492,119
Total estimated cost	16,413,312

Fortunately for the vast interests involved the formation of the peninsula which divides these bays presents a location so well adapted to the construction of this ship-canal as to render its accomplishment a work of no great magnitude.

About midway the length of the Chesapeake Bay, and about equidistant from the mouth of the Patapsco and the Potomac Rivers, nearly due west from Cape Henlopen, the southern cape of the Delaware Bay, is the Choptank River. This river, so called, is a deep salt-water estuary, extending from the Chesapeake on the line of the proposed canal twenty-five miles easterly toward the headwaters of Broad Creek, a salt-water estuary of the Delaware Bay. Between these estuaries is dry land aggregating over thirty miles in length.

On the west of the western terminus of this canal the Choptank forms a deep and commodious harbor, on the east the Delaware breakwater affords the greatest safety. This breakwater was constructed by the United States Government at great cost; it forms an artificial harbor behind Cape Henlopen, where vessels find the only refuge from storms on this dangerous coast between Sandy Hook and Hampton Roads, a distance of two hundred and ninety miles. The water in the Choptank is quite salt, and much of Broad Creek as salt as the ocean. The tide in the Delaware rises some feet higher than does the tide in the Chesapeake; high water in the Delaware is low water in the Chesapeake, consequently the salt water of the Delaware must flow toward the Chesapeake. This condition will contribute to check the formation of ice in these waters, which even now seldom freeze sufficiently to impede navigation. Such ice as forms in the Choptank is not strong enough at any time to resist the power of an ordinary ice-breaker. These conditions present great advantages for the construction of this ship-canal by this route.

The theory of defense, as stated by military men, is to meet the enemy at the greatest distance possible from the ascertained object of his attack. By means of this canal at this locality the defending forces of both bays can be most advantageously and expeditiously concentrated at the mouth of either, some distance beyond where there is much to invite attack. A more northern location would seriously impair this advantage. By this canal merchant vessels may escape from either bay if blockaded there to the other and thence to the ocean. From the mouth of the Delaware Bay to the mouth of the Patapsco River on the Chesapeake Bay, via the Sassafras Route Canal, is one hundred and seventeen miles, fourteen miles of which will be by canal, wherein the speed of vessels must be diminished. From the mouth of the Chesapeake to the mouth of the Patapsco River is one hundred and seventy-three miles, all open water. This disparity in distance is nearly equalized in time by the slower speed through the Sassafras Canal, even though there be no ice to obstruct the passage through the canal. Under cover of darkness, fogs, or storms, or by the many devices familiar to skillful commanders, a hostile fleet may reach the mouth of the Chesapeake before the commander of the defensive fleet in the Delaware would be aware of the fact, nor could the defensive fleet in the Delaware leave that bay for the defense of the Choptank, via the Sassafras route, lest the demonstration on the Chesapeake proved to be a feint to draw off the forces from the Delaware.

In the mean time the attacking fleet may reach any point on the Chesapeake, Baltimore, or Washington, and of course any of the intermediate points, before a combination of the defensive forces could be made. A canal by the Sassafras would aid in the defense of the Delaware, but only by leaving the Chesapeake open to attack. The Choptank route obviates this fatal disadvantage. That so large an area, containing so much population and wealth, the outlet of so large a proportion of the products of the land, and dignified by the presence of the capital of the country, should be defenseless as it is, testifies with great force against the prudence of the Representatives of the people. More than six thousand miles of ocean, bay, and river shore, no efficient guns to defend it by land, no efficient navy to defend it by water, no provision to economize such means as on sudden emergency the Government might hastily collect.

Is this prudent statesmanship, even though no danger threatens now? Yet history teaches this lesson, *no people have enjoyed unbroken peace.*

A tithe of the loss by desolation of these cities, or the tribute necessary to purchase their safety, would provide for their defense. Time is an element which enters largely into the building of monitors, the manufacture of guns, and the construction of canals. Improvised navies are things of the past. Steam and iron-clads have annihilated the militia of the seas. Paul Jones and the Bon Homme Richard have faded into the misty past.

Prudent statesmanship accepts the present and prepares for the future; it does not await the voice of hostile guns to break its slumber. That voice has sometimes been the first to announce a state of war. It may be that Europe in arms could not conquer the people of the United States, yet the smallest navy there might destroy their capital.

The late Franco-German war teaches a lesson which American statesmen may read with profit; they will learn there how German preparation wrenched from French negligence its most valued provinces and compelled her to pay the cost of the war she began; prudent preparation might have saved money, territory, and honor.

THE CANAL—ITS RELATIONS TO FOREIGN COMMERCE.

It is most fortunate for the country that the construction of a work

so necessary for its defense as to be a question only of time will by its aid to commerce reimburse the people for its cost.

As has been stated, the waters of the Chesapeake approach nearer to the waters of the Ohio River and the lakes than those of any other inlet from the Atlantic Ocean. The completed and projected lines of railroads and canals demonstrate the value of this geographical position.

The people of thirty-two States, Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Ohio, Indiana, Illinois, Michigan, Wisconsin, Minnesota, Iowa, Nebraska, Missouri, Kansas, Arkansas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, Virginia, West Virginia, Kentucky, Tennessee, Maryland, and Delaware, have commercial relations and transportation by land and by water with these bays. These relations in connection with foreign and domestic commerce involve hundreds of millions of dollars, the transaction of which this canal would facilitate and cheapen.

The Northern Central Railroad, now a Pennsylvania work, extends through the fertile regions of Northern Maryland, Central Pennsylvania, and Western New York. It delivers in Baltimore, where great shipping facilities have been created for its use, the coal, anthracite and semi-bituminous, petroleum, lumber, agricultural and manufactured products of that area, and the products of the Northwest, via the lakes, at rates of transportation as low as to Philadelphia and lower than to New York.

By the aid of its connections, one of which is the great Pennsylvania Central, this Northern Central Railroad delivered at Baltimore in 1878 14,812,066 bushels, and in 1879 25,812,279 bushels of grain, an increase of 74 per cent. in one year, and an increase of 500 per cent. in five years. This and the great increase in the general business of this road attests the value of the Chesapeake outlet even as it is.

By this line and its connections Rochester, Buffalo, and Dunkirk, in New York, and Erie, in Pennsylvania, all on the lakes, are nearer to Baltimore than to New York City.

By the Pennsylvania Central, via the Northern Central, which the Pennsylvania Central controls and connects with at Harrisburgh, all the trade centers west and northwest of Harrisburgh are nearer to Baltimore than to New York, so much nearer that the time cannot be far distant when the force of competition will compel this great corporation to use its shortest road to tide. *Necessity knows no law.* The evidence of this is to be found in the fact that the Northern Central, the Baltimore branch of the Pennsylvania Central, delivered in 1879 25,812,279 bushels of grain, only 16,000,000 less than were delivered in Philadelphia from all sources during that year, although Philadelphia is the main terminus of that road, and although Harrisburgh, the diverging point on the Pennsylvania Central, is only twenty-one miles nearer to Baltimore than to Philadelphia. The significance of this fact no one can misunderstand.

By the Baltimore and Ohio Railroad Pittsburgh and all the trade centers west of Pittsburgh on and south of the lakes are nearer to Baltimore than to New York. Pittsburgh is 117 miles nearer to Baltimore than to New York; Erie is 103 miles nearer; Chicago is 156 miles nearer; Omaha is 172 miles nearer; Kansas City is 259 miles nearer; Saint Joseph is 112 miles nearer; Saint Louis is 259 miles nearer; Louisville is 262 miles nearer; Cincinnati is 255 miles nearer, and consequently all those vast regions having their centers in these cities or having their transportation through them—all the centers south and southwest of Baltimore—are 196 miles nearer to Baltimore than to New York.

The Baltimore and Ohio Railroad runs through that immense belt, reaching from the waters of the Atlantic to near the Rocky Mountains, whereon is produced a very large proportion of the winter wheat, corn, tobacco, and provisions constituting the exports which make the United States the most prosperous country on earth. Sooner or later it will reach the Pacific Ocean by a southern route, the cheapest, and will be the most remunerative. For many miles it passes over the semi-bituminous coal it burns in its engines, and transports more than a million tons of it to tide. It steadily reduces its grades, straightens its curves, and shortens its lines. Its tonnage of 1879 exceeded that of 1878 19 per cent., and the rate of its working expenses reduced $1\frac{81}{100}$ per cent. as compared with 1878, and $4\frac{71}{100}$ per cent. as compared with 1877. Its sinking fund constantly decreases its debt. Its capital stock is less than $15,000,000. Its gross earnings approach $15,000,000 per annum. Its working expenses are only $7,700,000; to this add 12 per cent. on $15,000,000 for dividends and taxes, say, $1,800,000, and it appears that exclusive of debt and interest now in process of payment $9,500,000 will defray all the necessary expense of this short-line road, only 70 per cent. of its present gross earnings. This condition of facts justifies the calculation that the short lines to the Chesapeake, aided by this short line to the ocean, may at no distant day reduce their charges 30 per cent. below the present rates, and consequently reduce the rate throughout the country to that extent.

If prices are maintained abroad this reduction must to this extent increase the profit of the American producer. If not maintained, it will enable American productions to command the foreign markets notwithstanding the higher price of American labor.

A much shorter line than either of those before mentioned is the Western Maryland Railroad. It is in operation for eighty-five miles, and is pushing on its work toward Pittsburgh and the lakes.

On the line of this road lies in untold quantities the best steam-generating coal in America. It lies nearer to tide than any other coal of the same quality, only one hundred and sixty-five miles from the Baltimore wharfs. This is the shortest possible route between the waters of the Atlantic and the lakes, and fortunately by moderate grades. Opposing interests cannot much longer obstruct its utilization; production demands the cheapest possible transportation. These shorter lines have procured an average discrimination in favor of Baltimore of more than four cents on each hundred pounds of freight eastward and westward bound. The effect of this discrimination appears in the large increase of merchandise exported from Baltimore. This enormous increase is shown by the following tables:

Tables extending over ten fiscal years, June 30, 1869, to June 30, 1879.

Exports of breadstuffs from Baltimore:	*Bushels.*
Year ended June 30, 1879	45,098,216
Year ended June 30, 1869	1,879,397
Increase in ten years	43,218,819

Rate of increase in ten years, 2299 per cent.

Exports of provisions and tallow at Baltimore:	*Pounds.*
Year ended June 30, 1879	55,694,422
Year ended June 30, 1869	3,156,085
Increase in ten years	52,538,337

Rate of increase in ten years, 1665 per cent.

Tables showing increase in one year from Baltimore.

	Bushels.
Exports of breadstuffs, 1878	31,036,182
Exports of breadstuffs, 1879	56,414,848
Increase in 1879 over 1878	25,378,666

Rate of increase in one year, 82 per cent.

	Pounds.
Exports of provisions and tallow, 1878	37,615,338
Exports of provisions and tallow, 1879	55,694,422
Increase in 1879 over 1878	18,079,084

Rate of increase in 1879 over 1878, nearly 50 per cent.

This table extends over ten years:

	Tons.
Tonnage in 1870	223,955
Tonnage in 1879	1,481,971
Increase in ten years	1,258,016

Rate of increase in ten years, 600 per cent.

The following tables will show this increase as compared with the increase at New York:

Breadstuffs at New York for ten years:	*Bushels.*
Exports for year ended June 30, 1879	101,719,249
Exports for year ended June 30, 1869	17,887,096
Increase in ten years	83,832,153

Rate of increase in ten years, 469 per cent.
Rate of increase at Baltimore in ten years, 2299 per cent.
Rate of increase in favor of Baltimore over the rate of increase at New York for same ten years, 1830 per cent.

Provisions and tallow from New York for ten years:	*Pounds.*
Exports for year ending June 30, 1879	1,117,400,979
Exports for year ending June 30, 1869	176,894,942
Increase in ten years	940,506,037

Rate of increase in ten years, 532 per cent.
Rate of increase at Baltimore in ten years, 1665 per cent.
Rate of increase in favor of Baltimore over the rate of increase at New York for same ten years, 1133 per cent.

Although this marked increase in the business of Baltimore is due mainly to the short lines, yet somewhat of it ought to be credited to other causes.

The Baltimore Harbor, although not so accessible as that of New York, has some compensation. The Patapsco River, an estuary of the Chesapeake Bay, forms its harbor; it is ten miles long, and for much of this distance more than three miles wide, having many deep estuaries, which add much to its capacity. The shore-line is more than thirty miles long, all of which is approachable by rail at small cost and applicable to mercantile uses, therefore water-front is and must forever be cheap; the city may expand in all directions, therefore land is and must forever be cheap; the supply of fowl, fish, and shell-fish, and of vegetables and fruit is illimitable as the water and land from which these come, therefore these are and must forever be cheap; the health of the city is unsurpassed, taxes are low, and for these reasons living is and must forever be cheap. With cheap living comes cheap service from the ship's merchant to its stevedore. In addition to all of which, a first-class steamship can coal with Cumberland coal, the best semi-bituminous coal in America, for a voyage to Liverpool for $1,500 cheaper from Baltimore than from New York. For these reasons a ship's expense at Baltimore is and must forever be low, and vessels can go to Baltimore for freight at less advance over New York prices than the difficulties of Chesapeake navigation would otherwise require. Very great must be the benefits accruing from these short lines and local advantages to attract to Baltimore this vast and constant increase in business notwithstanding its long, circuitous, dangerous, and consequently expensive outlet to the ocean.

The distance from Baltimore southerly to the ocean, near Cape Henry, at the mouth of the Chesapeake Bay, thence northerly to a point on the route to Europe twelve miles east of Cape Henlopen, at the mouth of the Delaware Bay, is three hundred and forty-seven miles, most of which, as has been shown, is circuitous in a voyage to

Europe. From the north of the Choptank River to the same point, twelve miles east of Cape Henlopen, is two hundred and ninety-four miles. Within these two hundred and ninety-four miles are the shoals and currents which make navigation difficult, and the fogs and storms which delay steamships sometimes as much as 7 per cent. and sailing-vessels as much as 15 per cent. of the time of their voyage.

To this extent these two hundred and ninety-four miles deprive the country of the benefits which these short lines and local advantages would otherwise confer. A canal by the Choptank route would save two hundred and four miles of this distance, and all the attendant delays, dangers, and losses; it would place Baltimore on equality with New York in charges for European freights, and thereby secure to the country the benefits which the long, circuitous, dangerous, and expensive outlet from Baltimore now counteracts.

It will not be denied that by this canal ocean freights to Europe will be equalized at the terminus of the long lines at New York and the short lines at Baltimore, nor that thereby the country will be benefited to the extent of the discriminations in favor of the short lines.

After the memorable, long, and arduous struggle between these long and short lines a conference consented to an arrangement which conceded to the short lines the benefits of their geographical position. This arrangement provides for this discrimination in favor of the short or Baltimore lines, viz: three cents per one hundred pounds on all East-bound freight, and three cents per one hundred pounds on first and second class, and eight cents per one hundred pounds on all third and fourth class West-bound freights, an average of more than four cents on all freights by the short lines. Of course the difficulties of the short-line outlet to the ocean militated against the claims of the short lines. This canal, by overcoming this difficulty, would enable the short lines to enforce still greater discriminations. Greater discriminations will increase the volume of freight. The greater the volume the cheaper it can be transported. The cheaper transported the greater the return or West-bound freight, thereby facilitating competition, the benefit of which to the country no man may predict.

Although it may not be possible to ascertain the exact percentage which even the present discrimination in favor of the short lines saves to the country, it is clear that this saving amounts to more than 2 per cent. on grain.

The imports and exports of merchandise to and from the United States to and from European ports north of Cape Henlopen exceed in value $800,000,000 per annum. Deduct from this $800,000,000 $200,000,000 as being imported and exported from ports south of Cape Henlopen, and $200,000,000 as produced and consumed in the East, there remains as transported to and from the West $400,000,000, a very low estimate of the total of the merchandise imported and exported to and from the United States to and from European ports north of Cape Henlopen.

Even 2 per cent., which would be saved by this unobstructed competition by the short lines, applied to this $400,000,000 entering into this foreign commerce, would save to the country the large sum of $8,000,000 per annum by opening for the short lines this short route to the ocean.

This $8,000,000 saved by this canal would in two years reimburse the people its cost, as estimated by Major William P. Craighill, major United States Engineers.

THE CANAL—ITS RELATIONS TO INTERNAL COMMERCE.

Nor should we overlook the benefits that must accrue to the coastwise trade from the construction of this canal. All along the western and southern shores of the Chesapeake Bay and the sounds of North Carolina are safe, deep, and commodious harbors at the mouths of deep rivers and estuaries. These rivers extend far toward the west and northwest, through fields of great fertility, immense forests of valuable timber, and near to inexhaustible mines of coal and metals. These rivers supply fish, these fields fruit and vegetables, these forests and mines materials for manufactures to every city of the Union north of Cape Henlopen and adjacent to the Atlantic coast.

A large proportion of these products, particularly those of a perishable nature, seek northern and eastern markets by rail at a cost far exceeding the cost of water transportation, because the dangers of the coast from Cape Lookout south of Cape Hatteras on the coast of North Carolina to Sandy Hook at the harbor of New York, a distance of four hundred and sixty-five miles, are too great for the strength of such vessels as can be profitably employed in this transportation. More than this, should these vessels be strong enough to outlive the dangers of this coast their cargoes would perish by delay on account of the storms. The insurance alone is a burden too heavy to be borne.

In the transportation of coal from the Potomac and the James Rivers for the use of Northern consumers, whether for domestic, commercial, or manufacturing purposes, the saving by this ship-canal would aggregate a very large sum. One million five hundred thousand tons is a low estimate of this coal shipped north of Cape Henlopen, and twenty-five cents per ton a low estimate of the saving by this canal, making $375,000 on this article alone, or more than half the interest on the cost of this canal, at sixteen and a half million dollars, as estimated by the United States engineer.

For the development of the timber and mineral wealth lying in the region above the navigable waters of the James River the State of Virginia has expended very large sums. For the same purpose in the region above the navigable waters of the Potomac the Chesapeake and Ohio Canal was constructed. This canal follows the Potomac, the boundary between Maryland and Virginia, one hundred and eighty-four miles, equally available to both States, and has its terminus not in Maryland but in the District of Columbia.

This Chesapeake and Ohio Canal is the rival of the great Maryland work, the Baltimore and Ohio Railroad, for the bituminous coal trade of Maryland and Virginia, and has made Georgetown, in the District of Columbia, the rival depot of Maryland's great emporium, Baltimore City. This canal has cost the State of Maryland $22,000,000, principal and interest. So that this State, with less than one million population, has contributed this large sum (more than is necessary to build this ship-canal) to the development of the coal which moves much of the machinery that creates the wealth of the Northeastern States. From this investment Maryland has never received one dollar either as interest or dividend. So far as this State is concerned, this costly work is a *free* canal.

The experience of each succeeding year demonstrates more and more conclusively that our sister States of the North and East must rely more and more on commerce and manufactures for maintenance of that prosperity which commands universal admiration.

The longer winters, the shorter summers, the less productive soil of New England as compared with that of her sister States of the South, will compel her enterprise to demand the employment of every facility calculated to cheapen the cost of manufactures, in order that she may cope with the new-born industries of the South. The cost of food, fuel, and material must be cheapened. Transportation is a large element in this cost; this canal will assist in its reduction.

Reduction in the cost of manufactures cheapens the cost of living at home and facilitates competition with cheaper labor abroad. Increased exports pay for increased imports. This diversifies labor, multiplies employment, enriches the people, and thus reimburses them the cost of this canal. If we buy we must sell. Trade is exchange. Equipoise of the balance is evidence of true adjustment. Transportation is weight in this scale. This canal assists cheap transportation; it is better than reduction of wages. Canals never strike.

Manifestations indicate that English foresight seeks other sources for the supplies so vital to the maintenance of England's commercial and manufacturing supremacy. It has not escaped observation that her statesmen are cultivating the opinion that Western Canada is more favorable to the production of wheat than are the Northwestern States of this Union. With the intent of directing migration in that direction English capitalists are devising means for transporting by land and water the products of the territory to which this migration is invited. Nor has it been concealed that these projected lines via the lakes and the Saint Lawrence may attract during six months of the year large quantities of our western products.

The means which have transferred so large a share of American products to English bottoms on the ocean are to tap the arteries of our internal commerce at almost the very source of its supply. English ships are to be loaded at every port on the lakes from Toledo to Duluth.

The cheaper capital and the skill and labor of England are equal to more than this. However injurious to the people of the United States this enterprise may be, it cannot form ground for complaint. Its value to English interests may be estimated by the expenditures made and proposed for its accomplishment. It appears from recent information that these expenditures are to exceed $30,000,000, in order that ships may pass through the Canada canals from lake ports to Europe without breaking bulk, whereby all intermediate expense, as now, may be saved. The advantage in favor of the Saint Lawrence route improved by this vast expenditure for canals cannot, for six months in the year, be ovestimated in discussion of the rivalries in transportation for the future. The New York papers show more dread of the Saint Lawrence than of the Chesapeake.

The New York Herald of April 10, in a very able article on this subject, says:

If railroads had not been invented New York would have had a perpetual monopoly of the commerce of the interior of the continent. But in spite of railroads this city retains most of its natural advantages. The coast cities north of us, like Boston and Portland, are a little nearer to Europe; but lacking our advantages for cheap communication with the West they can never be feared as rivals. The cities south of us, like Philadelphia and Baltimore, are nearer by rail to the great grain marts of the West, but they are at a considerable distance from the ocean, and when vessels freighted at their docks emerge into the open sea they have still a longer voyage to Europe than vessels clearing from this port. For steamships this is a great disadvantage. Every additional ton of coal required for completing the voyage is a ton deducted from their capacity for freight. It is therefore safe to conclude that New York would have little to fear from such rivals even if it had not the great advantage of its water-ways.

A more threatening danger looms up beyond our northern frontier. Canada has geographical advantages superior in some respects to our own. The great mountain range, which sinks to tide-level for the passage of the Hudson, terminates before it reaches the banks of the Saint Lawrence. This broad and mighty river drains those vast inland seas which feed the Erie Canal. The Welland Canal, twenty-seven miles in length, will, when enlarged, open a continuous voyage for large vessels between the ports of the upper lakes and the ports of Europe. Can we stand this competition and the diversion of business at which it aims? This is the great question which excites so much uneasiness, and which it is the purpose of our correspondence to elucidate. The letter which we print to-day gives the view of Buffalo, which is the lake port that has the greatest stake in the result. Like all the letters of the series, it deserves the attention of business men who wish to understand this most important of the questions which bear on the commercial future of New York City.

This self-gratulation by this organ of New York opinion shows that New York relies on the difficulties of Chesapeake navigation for safety against short-line competition, a very safe reliance so long as the

country submits to long-line influence against short-line outlet. The voyage from Baltimore to Liverpool is one day longer than from New York to Liverpool. A first-class steamship consumes one hundred tons of coal per day; this one hundred tons of coal displaces three thousand bushels of wheat, and costs for the coal $460. The expense of such steamship per day is more than $600, exclusive of cost of coal. The rate of freight per steamship is now about sixteen cents per bushel, the cargo of such steamship, if all wheat, would be somewhat over one hundred thousand bushels. This shows a loss on a voyage of a steamship from Baltimore as compared with a steamship from New York, all else being equal, of $1,500, or nearly 10 per cent. on the freight bill of the cargo, and adds to the cost of steamship freight from the Baltimore or the short-line terminus one and one-half cents per bushel, or 75 per cent. of the saving made by the short lines to the country. These are the figures: Cargo of steamships from New York, say one hundred thousand bushels—one hundred thousand bushels, at sixteen cents freight, makes the market value of the freight bill $16,000; cargo from Baltimore, ninety-seven thousand bushels, because one hundred tons more coal displaces three thousand bushels of wheat—ninety-seven thousand bushels, at sixteen cents freight, makes the freight bill only $15,520.

Loss in value of freight bill	$480 00
Loss by cost of 100 tons of coal on account of one day longer voyage	460 00
Loss by one day expense of steamship	600 00
Loss to Baltimore steamships on voyage as compared with New York steamships	1,540 00

Or 10 per cent. on the Baltimore steamships' freight bill. This makes one and one-half cents on each bushel of wheat in favor of New York as against Baltimore.

If further evidence were needed to establish the fact that supply and demand regulate values the futile attempt made last fall to control the price of grain in Europe by combinations in America, known as corners, furnishes all that the most skeptical can desire. The effect of this attempt was to draw out remote supplies until prices fell below the cost of obtaining these remote supplies. Under the effect produced by these unlooked for supplies wheat in America fell from $1.56 per bushel in December, 1879, to $1.36 per bushel in March, 1880, at which latter price export of American wheat was resumed and continues. This result teaches the wholesome lesson that American grain can command the markets of Europe only when it can be sold at prices not above the cost of obtaining it elsewhere.

If the United States is to hold its present footing in the markets of Western Europe it must be prepared to meet grain from the fields of Eastern Europe, Asia, and Africa. The price of grain in Western Europe during the years of great scarcity is not the standard on which America is to depend. On the Balkan Peninsula, on the Black Sea and its tributaries, in the valley of the Nile, are tracts of grain-bearing lands fertile as those in the United States, and labor cheaper by far.

The war, pestilence, and famine, the tyranny, anarchy, and rapacity, the ignorance, indolence, and unthrift which degrade and desolate these granaries of ancient Europe cannot endure. The necessities of Western Europe will command the regeneration of the East. Austria will expel the Turk, England will compel the cultivation of the valley of the Nile, and Russia be made to tread the paths of peace. Transportation will develop the power of production. American machinery, introduced by American enterprise and directed by American skill, will utilize the dormant power of the sluggards of those plains. Eastern productions will flood the markets of Western Europe at prices below those which America can now afford to accept. Therefore, while yet the present conditions endure, it behooves American statesmen to employ all possible means to meet these too probable contingencies.

Generations pass away, peoples endure forever.

In discussing this question I decline to descend to the consideration of merely local advantages. It belongs to the higher plane of national policy, the expansion of the commerce of the country. It does not appeal to the interests of a section or strike at the rights of a class. The herdsman on the plains, the plowman in Nebraska, the miner in Missouri, the collier in the Alleghanies, the planter on the Gulf, the lumberman in Maine, the manufacturer in New England, the merchant in New York, all who have anything to sell or anything to buy, in which transportation forms an element of cost, in all sections and in every occupation, the tax-payer and the tax-consumer, have interest in the rivalries of transportation, deep, immediate, and tangible as have the dwellers on these great inland seas which this canal is intended to connect. Every means which reduces the cost of production and transportation improves the means for competition in the markets of the world, thereby swelling the volume of exports and adding to the wealth of the people.

The Legislature of Maryland has at its session of 1880 created a corporation for the construction of a canal by the Choptank route, which may by the act of the United States Government be made an easy mode of constructing this canal for defense and free for the commerce of the country. None other than a free canal will serve the public need; none other than a free canal will public opinion accept. It can be constructed only by the Government, by the money of the people, for the benefit of the people.

THE CANAL AS PROPOSED BY THIS BILL.

The history of the corporation which this bill is intended to subsidize shows that it was chartered by the Legislature of Maryland in 1872 and by the Legislature of Delaware in 1873. These charters authorize a capital of $4,000,000 and the issue of bonds for $4,000,000, and the establishment of tolls not to exceed twenty cents per ton.

Section 13 of the Delaware charter provides that the route of said canal shall be located within one year from the passage of the act, and the work of construction shall be *actually* commenced within two years from the passage of this act, or the corporation thereby created shall thereupon terminate and all the rights thereunder shall thereupon cease.

Section 10 provides that the power to revoke this act is hereby reserved to the Legislature. How far the corporators have proceeded under their several charters does not appear in the testimony had before this committee.

June 18, 1878, Congress made an appropriation to defray the expense of a survey, under the direction of the War Department, of the several routes for a ship-canal to connect the waters of the Chesapeake and Delaware Bays.

April 29, 1879, the bill known as H. R. No. 300 was introduced into the House. This provides for the indorsement of the interest coupons of the bonds of the Maryland and Delaware Ship Canal Company, amounting in the aggregate to four millions of dollars, with interest at the rate of 5 per cent. per annum, the United States to be secured and indemnified for its indorsement by a mortgage on all the property of said company. That we may arrive at right conclusions, it is necessary to inquire—

First. Whether, including the aid by the subsidy to be provided by this bill, other means sufficient for the early completion of this canal have been secured.

Second. Whether the security offered by this corporation is such as the Government can safely accept.

Third. Whether the route *claimed* and proposed by this corporation is an eligible one.

Fourth. Whether this canal, constructed under the provisions contained in the charters of this corporation, will be productive of the benefits which it is admitted a canal connecting these great inland seas ought to produce.

Fifth. Whether the Government in a matter of so much national importance ought to extend its aid to a work about the efficiency of which any reasonable doubt exists.

Sixth. Whether this Sassafras-route canal could not be owned by, used by, and obstructed by long-line combinations.

Seventh. Whether the United States Government ought to use its credit to construct a canal for defense, with incidental benefits resulting to a corporation rather than to the people.

First. Whether, including the aid by the subsidy to be provided by this bill, other means sufficient for the early completion of this canal have been secured.

Three estimates of the cost of this canal by the route known as the Sassafras route, claimed and proposed by this corporation, have been made by three different persons at three different times.

The first was made by Mr. Benjamin H. Latrobe, consulting engineer of the Maryland and Delaware Canal Company, dated July 4, 1874—*an undoubted authority.* Mr. Latrobe estimates the cost as follows:

Fifteen-foot canal costs	$8,064,829
Twenty-one-foot canal costs	10,545,064
Twenty-five-foot canal costs	12,473,643

The second was made by Colonel J. A. Hayden, who was invited to make and did make an estimate, dated April 20, 1876. Colonel Hayden reports as follows:

Cost of the canal	$10,068,993
Cost of dredging approaches to the canal	2,450,000
Total cost	12,518,993

September 30, 1879, Mr. N. H. Hutton, assistant engineer to William P. Craighill, major of Engineers, United States Army, detailed by the United States Government to make the surveys for a canal between these bays, reported as follows:

The cost of the Sassafras route, $8,085,330.

Thus it appears that the money to be obtained by the subsidy to be provided by this bill is less than 50 per cent. of the lowest estimate made as the cost of this canal.

No evidence has been presented to show that the additional means necessary to complete this canal has been secured.

The history of this corporation exhibits the discouraging fact that seven years after the date of its incorporation it fails to present evidences of its financial success. This fact shows that it relies solely on Government aid to enable it to enter on *an actual* commencement of its work.

Is it to be presumed that individuals will supply the additional $4,085,000 to complete the canal after the execution of a mortgage on all its estate for half its cost? Is such presumption admissible as against the testimony of experienced merchants of Baltimore, whose business this corporation claims to facilitate and economize, who show it to be valueless to commerce and therefore cannot be self-sustaining?

They declare that the toll necessary to defray its expenses is so great as to prohibit its use. It is admitted by those corporators that three-fourths of all the Baltimore tonnage must use the canal to enable it to pay. It is shown by these experienced merchants that the canal will not offer inducement to any considerable portion of that tonnage.

In view of all this, I do not hesitate to express the opinion that the money necessary to complete this canal will not be furnished by individual subscription, and that it can be completed and sustained only by Government aid, a free canal on an ineligible route.

The excavation and dredging for this canal by the Sassafras route will cost, as shown by Major Craighill's report, $6,960,816.

The subsidy provided for in this bill goes to the indorsement of interest coupons on $4,000,000 of bonds, leaving $2,960,816 to be provided for to pay for this excavation and dredging as the work progresses. That is, three-sevenths of this work is to be paid for by private subscription. Is it likely that a mortgage on this canal to the amount of $4,000,000, half its cost when completed, will inspire the confidence which seven years of persistent effort has failed to inspire? If the private capital cannot be obtained, then there remains but one other solution of this problem, which is this: It is hoped by these corporators that this excavation and dredging can be done for a sum very far below the estimate of the United States engineer. In other words, that the $4,000,000 of bonds will pay for the excavation and dredging, so that the Government furnishes all the money therefor.

This view of the case is strengthened by a proposition made to contract for the construction of the proposed Harlem River improvement for a sum very far below the estimates of the United States engineer.

The estimate made for the Harlem River improvement by Colonel John Newton, United States engineer, is	$2,777,571 44
In 1880, February 10, Mr. CAMERON presented for Mr. Charles Stoughton an amendment to Senate bill No. 327, which proposes to complete the work on the Harlem River before January 1, 1883, for the sum of.	1,050,000 44
A saving of	1,727,571 44

or 63 per cent. of the estimate.

Thus the people's credit is to be loaned to a corporation to dig a canal whereby, if it pays, the corporators may gather toll from the people's commerce. If it fails to pay, in that case the Government is to pay every six months for fifty years one interest coupon of $100,000, making in all $10,000,000, which with the interest thereon calculated at simple interest will amount to $19,900,000, or at compound interest to $31,233,000, for the chance of profit to these corporators who risk nothing in the enterprise.

Section 4 of this bill provides for reserving to the Government a right to purchase this canal. This provision seems to be a concession to the well-known public opinion which revolts at this attempt to construct a canal by aid of the people's credit, whereby this corporation is to tax the people's commerce. Whatever might have been the probability that public opinion might, in the future, compel the purchase of this canal, that probability has been dispelled by the evidence in the case. There never can be justification for the purchase of a canal by a route which makes it inefficient for defense and impracticable for commerce.

Second. Whether the security offered by this corporation is such as the Government ought to accept.

As no evidence has been offered that means have been secured to complete this canal, on what reasonable grounds are we to believe the means will be secured in the future? If the means cannot be found the work must cease. If so, will an unfinished canal be adequate security for an indorsement for $100,000, maturing every six months, for fifty years, which, with its interest on this $100,000 so paid, will amount to $19,900,000 at simple interest, and at compound interest to $31,233,000 or for any part thereof.

Third. Is the route claimed and proposed by this corporation an eligible one?

This corporation claims that it has located a route for its canal. This route extends from the Sassafras River on the west to the Delaware Bay on the east, at or near Liston's Point. It is nearly parallel to and about ten miles south of the Chesapeake and Delaware Canal, which was constructed more than fifty years ago. It has and does now accommodate the smaller-sized vessels which find markets for their cargoes at Philadelphia and, via the Raritan Canal, at New York. These vessels seldom, if ever, descend the Delaware Bay on a north or northeastern coastwise voyage.

The western terminus of this Sassafras Canal is only twelve miles south of the Susquehanna River, whence comes the ice that floats in large unbroken fields as far south as the Patapsco River. Its eastern terminus is nearer yet to the mouth of the Delaware River, whence come like fields of ice, which have been met near the mouth of the Delaware Bay, fifty miles south of that terminus. Well-attested records show that the Chesapeake and Delaware Canal, only ten miles north of the Sassafras route, has been closed by ice more than sixty days in one winter.

The obstructions between the mouth of the Patapsco and the Sassafras are thus described by Major Craighill:

Mr. Hutton has pointed out the relative advantages and disadvantages of the several routes. A very formidable objection to the more northern routes would be the necessity of maintaining a deep channel directly across the natural set of the currents of Chesapeake Bay, where it would be almost certainly filled rapidly by the profuse sedimentary deposit to be expected there. Experience with the lower end of the Brewerton Channel has taught an important lesson in that direction. This would be very expensive if practicable. This difficulty led to the abandonment of the line of the old ship channel and to the opening of the new channel south of the seven-foot knoll. The attempt to cross the bay off the mouth of the Patapsco and to navigate it north of that point during the periods of fast and running ice would be next to impossible even with the use of ice-boats, whereas the approaches to the Choptank route are in the direction of the existing navigation and usable at all times.

Colonel Hayden estimates the cost of removing these obstructions at $2,450,000. From its eastern terminus at Liston's Point to the mouth of the Delaware Bay is fifty miles, by a channel so tortuous that the Government found it necessary to establish a line of range-lights in order that the larger vessels now in use may navigate this bay at night. The entire absence of safe harbors north of the breakwater increases the perils of the route.

Fourth. Will this canal, constructed under the provisions contained in the charter of this corporation, be productive of the benefits which it is admitted a canal connecting these great inland seas ought to produce?

The charter of this corporation, whose canal is *claimed* to have been located on the Sassafras route, provides for a toll not to exceed twenty cents per ton. The testimony shows that all of that limit will be necessary to pay the expenses of the company.

Twenty cents per ton toll on a ship of one thousand tons will be $200. Other expenses on such ship using that route will be, as shown by competent witnesses, as follows: Pilotage on the Delaware, $100; tonnage on the Delaware, $75; tonnage through canal and to Baltimore, $100. Total cost from the capes of the Delaware Bay to Baltimore City, on vessels of one thousand tons burden, $475.

The rate charges by this Sassafras route would be greater on smaller vessels. A charge of $475 on fifty-six thousand bushels of grain, the cargo of a one-thousand-ton ship, is nearly one cent per bushel, or about 50 per cent. of the saving by the short lines. This rate applied to the fifty-three million bushels received at Baltimore even now is more than half a million of dollars to be lost to the producer. This rate of loss would accrue on all merchandise imported and exported by the Sassafras route.

Can a canal which imposes by its toll and necessitates by its location such charges as these be described as a facility and economy in commerce? Most intelligent witnesses declare that such charges would prohibit its use.

Fifth. Ought the Government of the United States in a matter of so much national importance extend its aid to a work in the interest of a corporation about the beneficial effect of which any reasonable doubt exists?

The evidence and arguments presented in this case reaffirm the judgment so often and so clearly expressed by some of the ablest statesmen of the country that a ship-canal connecting these great inland seas, the Chesapeake and Delaware Bays, is of the very first importance to the whole country as a means of defense and as a facility and economy in commerce.

The evidence and arguments presented affirm the controlling fact that a ship-canal by the Sassafras route would not be such a means of defense and such a facility and economy in commerce, and that the Sassafras route is impracticable on account of obstructions by ice, of difficulties of navigation, and of the cost of tolls, pilotage, and towage, and that for these reasons the expenses of the corporation, among which expenses must be reckoned the interest coupons which this bill proposes to indorse; and that the construction of a canal by this impracticable route by Government aid would forever prevent the construction of a free canal by another and most practicable route, both as a means of defense and as a facility and economy in commerce.

Sixth. Whether this canal could not be owned by, used by, and obstructed by the long-line combinations.

No argument is needed to establish the fact, so plain to all who examine this subject, that a canal to connect these bays is the only missing link between the great West and the ocean necessary to secure to all interests the full benefit of the short lines. These benefits on grain alone go to the extent of three cents per one hundred pounds, and in times of great competition to much more, or nearly two cents on each bushel, amounting to more than $1,000,000 now and to be indefinitely increased. This great sum, on this one article of transportation, would be an enormous temptation to the long lines to purchase the stock of the canal, and after the expenditure of the money raised on the bonds to abandon the work. The charter seems to be a New York inspiration.

Seventh. Whether the United States Government ought to use its credit to build a canal for defense with incidental benefits resulting to a corporation rather than to the people.

If the Sassafras Canal is to be completed by private capital, that private capital is to be compensated by tolls.

These tolls are to be imposed on the commerce of the country, and to that extent a tax induced by the use of the Government credit based on the labor of the people, or in other words the Government lends the people's credit to enable a corporation to tax the people's labor.

If the enterprise fails to induce the investment of private capital, the Government, in the interest of this corporation, takes the risk of being compelled to finish this canal, or to pay the interest coupons it has indorsed to the amount of $100,000 every six months for fifty years, which with simple interest thereon will at the payment of the

last coupon amount to $19,900,000, and with compound interest amount to $31,233,000. For which risk this corporation offers as compensation to the Government free passage for its vessels through the canal.

If this canal, located on a route which the engineer appointed by the United States Government to survey the several routes for a ship-canal does not recommend, and which the merchants whose business is to be facilitated and cheapened by its construction do not approve, is of sufficient importance to take the risk of such compensation, would it not be wiser in the Government in a matter of so much importance to select its own route for its own canal, to be paid for by the people, for the defense of the people, and to facilitate and cheapen the commerce of the people, whereby the people will be reimbursed for its cost?

THE CANAL—THE POWERS, THE DUTIES, AND PRECEDENTS OF THE UNITED STATES GOVERNMENT IN RELATION TO THIS SUBJECT.

It has been shown that a canal to connect these great inland seas is a facility and economy for the defense of the population, property, and commercial outlets on and adjacent thereto, so great as to make it almost a military necessity.

The right and duty of the Government to do all things necessary for the defense of the country is indisputable, observing only the provision of the Constitution in regard to the exercise of this right, power, and duty, viz:

ARTICLE V.

Nor shall private property be taken for public use without just compensation.

It may be safely assumed that the States of Maryland and Delaware will pass such laws as will facilitate the action of the United States Government in the construction of this canal.

The incidental benefits which this canal would confer on the commerce of the country are such as under the precedents of sixty years would justify the construction of this canal under that clause of the Constitution which confers on Congress the power "to regulate commerce with foreign nations and among the several States."

The history of the Government shows that under this clause of the Constitution aids in some form have been granted for the construction of turnpike roads, railroads, canals, removal of obstructions from rivers, and making and deepening harbors, amounting in the aggregate to more than $400,000,000, as the following table exhibits:

Grants of public lands to railroads and canals 192,253,997 acres, equal to the area of all New England, New York, New Jersey, Pennsylvania, Maryland, Delaware, and West Virginia; average value per acre, $1.25; total value of these public lands	$240,253,997
Bonds indorsed by Government for railroads	84,627,181
Balance of interest over charges for transportation by these railroads	31,994,245
Expenditures for rivers and harbors, exclusive of the Mississippi River	8,500,000
Expenditures for Mississippi River, expended and to be expended for said river	14,500,000
Des Moines Canal or Lower Mississippi Rapids	4,281,277
New York—Harlem River improvements	1,600,000
Louisville and Portland Canal	4,200,000
Other appropriations to the national turnpike road and for stock in various other improvements not ascertained.	
To which add, as estimated for unascertained amounts appropriated for 1879, $8,000,000, to be appropriated for 1880 over $8,000,000	16,000,000
Total to date	405,956,700

For the purpose of making this large expenditure in the West fully available to that portion of the Union it has been found necessary to place the eastern termini of the long lines and the short lines on equality as nearly as possible as to outlets to the ocean, in order that the country may have all the benefits which the competition of rival lines may afford. Legislation within constitutional limitations, wisely directed, can be made to encourage rival routes by the Mississippi, the lakes, railroads, and canals, which will reduce the cost of transportation to a minimum consistent with all the interests involved.

Chicago Harbor.

SPEECH OF HON. GEORGE R. DAVIS,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, April 24, 1880,

On the bill providing for an appropriation for the improvement of the Chicago Harbor.

Mr. DAVIS, of Illinois, said:

Mr. SPEAKER: Upon the 8th of March I introduced a bill in this House providing for an appropriation of $350,000 for the improvement of the harbor at Chicago, $100,000 of which should be expended in the improvement of the inner harbor, which bill was referred to the Committee on Commerce and is now being considered by that committee.

From the general belief that the bill known as the river and harbor bill is likely to pass this House under a suspension of the rules, I asked for and, upon the 16th instant, obtained a hearing before the Committee on Commerce, and I urged the adoption by the committee of the provisions of this bill, and asked for their insertion in the river and harbor bill, to be reported by the committee, presenting such facts in the discussion of the subject as were regarded pertinent, which I now desire to submit for the consideration of this House.

It is a lamentable fact, but nevertheless true, that there are no adequate facilities at the present time for the accommodation of the lake commerce at the port of Chicago; the improvements of the outer harbor and the limited accommodations of the inner harbor are entirely insufficient for the security of vessels, or for their safe, easy, and rapid entrance and departure; there is therefore a demand not only by Chicago but by the ports of the entire lake system, that increased facilities be at once provided at this port, and I believe, upon an examination of the subject, that it will be admitted that the Government should, at the earliest practicable moment, provide the commerce of this port with accommodations in some measure commensurate with its importance and magnitude.

From a careful examination of the acts appropriating money for the improvement of rivers and harbors I do not find that one dollar has ever been appropriated for the improvement of the Chicago River, which constitutes the harbor or port of Chicago. Something like $1,000,000 have been appropriated from first to last for the improvement of the harbor of Chicago, but it does not appear that any portion of this sum was expended upon improvements of the river, the harbor of Chicago, for which the appropriations have been made, having been construed to mean only the outer harbor.

The Chicago River, main branch, is a bayou, its channel running directly west from the lake to the forks of the north and south branches, a distance of something like three-fourths of a mile, and the waters of the lake set back in this bayou its entire length, and during a brisk east wind a strong current is created, flowing outward from the lake. Through this narrow channel the twelve thousand vessels arriving annually at Chicago pass to the miles and miles of wharfs and docks located upon the north and south branches of the river and repass to the lake.

There are many private wharfs upon this river, but for much of the distance the rear walls of the large business blocks are built within a few feet of the river wall, sufficient space being left only for a narrow walk. The commerce of the city demands that the entire space in the river from wall to wall should be of full depth. During last season much trouble and danger was occasioned and great anxiety felt by the vessel owners owing to the filling in from the lake of sand washed up and deposited in the river during severe eastern storms, and the channel has not been kept at full depth except for a space of some sixty feet in the center, which has been done at the expense of the city of Chicago. I believe that this work should be performed by the Government, and am at a loss to know how it happens that no attention has ever been given to this matter by the Government, or why a portion of the amounts appropriated for the improvement of the harbor has not been expended upon this part of it. This river not only forms a portion of the harbor, but is the through channel connecting the lake with the canal and Illinois River.

The Government has been and is now extending its aid to projects of this character and at localities which promise no greater return for amounts expended or where there is greater need. The Charles River at Boston and Charlestown, Massachusetts, has had large sums expended upon it, and has but recently received an appropriation of some $50,000 for dredging and other improvements. Also, under and by virtue of an act of Congress the War Department has made examination, survey, and estimate of cost for the improvement of the Charles River for a distance of some nine miles, as far up as Newton, Massachusetts. It appears from the report of the Chief of Engineers that the number of vessels which passed above East Cambridge, where benefits are to be derived from the improvement, was thirteen hundred, delivering five hundred thousand tons of freight.

The Schuylkill River at Philadelphia is another noticeable instance. Here the Government has constructed a channel twenty-four feet deep and two hundred feet wide from the Delaware to Girard Point, and a channel twenty feet deep and one hundred and sixty feet wide to Gibson Wharf, a distance of some five or six miles, for the benefit of the commerce of Philadelphia. And the Government is also to deepen the channel and secure eighteen feet of water from Gibson Wharf to Chestnut Street Bridge. From the report of the Chief of Engineers, 1878-'79, it appears that the number of vessels at and shippers of grain from Girard Point Elevator from June 30, 1877, to June 30, 1878, was: total number of vessels, 386; total bushels of grain, 12,258,141. Number of vessels at and estimated shipments of petroleum from Gibson's Point between above dates was: total number of vessels, 110; total number of barrels of petroleum, (estimated,) 65,000; total estimate of project, $374,700; total amount appropriated, $195,000; total amount expended, $164,676.

The act of Congress of June 18, 1878, making appropriation for the improvement of the harbor at Michigan City, provided that $25,000 should he expended in improving the inner harbor, and that improvement is now being made. The project contemplates dredging Trail

Creek for a distance of twenty-seven hundred feet, one hundred and twenty feet wide, and fifteen feet deep, at an estimated cost of $50,000, of which $25,000 was appropriated in 1878, the greater portion of which has been expended. From the report of the Chief of Engineers, 1878-'79, it appears that the entrances at this place were 421, clearances 415, tonnage 114,164, and revenue stated to be about $41.87. Precedent after precedent can be cited where the Government has given its aid and made improvements similar to those asked for by this bill for the improvement of our inner harbor, and I have cited only the Schuylkill River, Charles River, and Michigan City, and given the amount of shipping to be benefited in each instance, that a comparison may be drawn between the total number of vessels and quantity of freight benefited at these localities, and that of Chicago, where twelve thousand vessels arrive annually, all of which are required to pass through the narrow and shallow channel of the Chicago River to the elevators, lumber docks, and warehouses, and repass to the lake, a detailed statement of which I will give when I speak of the improvement of the outer harbor. From the fact that it is not customary to make, except in very rare cases, an appropriation for the improvement of rivers and harbors until a survey and an estimate of cost has been submitted to Congress by the Chief of Engineers, I have requested the Committee on Commerce to insert in the second section of the river and harbor bill to be reported to this House the following paragraph, which, if it is not deemed advisable to make the appropriation asked for, may receive your favorable consideration, namely:

That with a view to secure increased facilities and greater area for commercial purposes the Secretary of War is hereby directed, at his discretion, to cause examination or survey, or both, and estimate of cost to be made for improving, by dredging and otherwise, the Chicago River from its mouth to the junction of the north and south branches of said river.

Mr. Speaker, I wish now to ask the attention of the House for a few moments to the provision of this bill providing for an appropriation for the improvement of our outer harbor. The appropriations heretofore made by Congress, from and including the first appropriation made in 1833 to date, aggregate $1,159,005 for the improvement of the harbor at Chicago. From 1833 to 1869, inclusive, an average of some $11,000 per annum was appropriated. The usual and customary parallel piers from mouth of river to deep water were constructed and the channel between the piers dredged out. It was not until 1870 that the character of the improvement was determined upon by Congress. By the act of July 11, 1870, "for the enlargement of harbor facilities at Chicago, Illinois, according to the plans of the Engineer Department," the sum of $100,000 was appropriated, and for harbor of refuge $50,000.

The subsequent acts making appropriations for Chicago Harbor provided simply for the improvement of the harbor, with the exception of the act of 1878, which provided for "extending the breakwater and dredging channel."

The improvements at the present date consist of two parallel piers running from the mouth of the river directly east to deep water, the dredging between these piers; a breakwater extending south at right angle with the south pier, and distant from the shore, and dredging within the inclosure formed by the south pier, the breakwater, and the shore, denominated a harbor of refuge.

The improvements at Chicago, valuable, necessary, and fully appreciated, and possibly believed to be adequate and suitable when designed in 1870, are in no sense suitable for the increased and increasing tonnage at this port, and are not what our people have a right to expect from the Government when contrasted with the public improvements of other cities.

The basin intended for a harbor of refuge, will, when completed, afford our citizens an opportunity to construct wharfs upon the lake shore, which they will proceed soon to do, but it is of little value as a harbor of refuge or as a roadstead; it is improperly located, and of too limited capacity for this purpose.

The great and increasing tonnage crowding into this port and the larger vessels soon to make their appearance by reason of the improvement and enlargement of the Canadian canals demand that Congress immediately provide for increased facilities and protection. It will be hardly possible for the Government by the most energetic measures and lavish hand to more than keep pace with the increase of shipping and the consequent demands of commerce at this port. To illustrate: The arrivals at this port during the year 1879 were 11,859 vessels; cleared during same period, 12,014 vessels; more than fifty vessels arriving and more than fifty vessels departing each day during navigation. The tonnage of the vessels was as follows: Arrivals, 3,887,095 tons, and departures, 3,870,300 tons, which is an increase on the tonnage arriving and tonnage departing in 1870, when the present works were projected, of over 1,000,000 tons.

The situation to-day is simply this: no sailing-vessel dare attempt to enter the river during a severe storm; few will round the southern end of the breakwater and drop anchor; the limited capacity of the basin between the breakwater and the shore only affords shelter for a limited number. There is a great commercial center, the chief port upon the great lake system, with sometimes hundreds of vessels arriving and departing daily, with no harbor, no place of security or of safety for vessels arriving during a severe storm that is at all commensurate with its importance and magnitude.

A board of engineer officers was convened by Special Order No. 80, July 24, 1878, to investigate and report the requirements of commerce at the city of Chicago, and in the report of this board I find as follows:

That the importance of this harbor, where the number of arrivals and departures is much greater than at any other port on the great lakes, requires some additional work which will facilitate the arrival and departure of vessels and afford additional security. The board would therefore recommend the construction of a breakwater to the north and east of the present north pier, behind which vessels seeking this port can anchor in security, and be enabled to select a favorable opportunity to enter the river.

The report also shows the marine casualties for the four years ending July 1, 1878, to aggregate $151,318.

Captain Lydecker, engineer officer, United States Army, in a letter to the board under date of November 14, 1878, in referring to the proposed work, states as follows:

This breakwater would cause a good anchorage of ample extent for all comers, of easy access in the most severe storms, and directly on the route to the port; tugs lying under its protection would be in good position to reach vessels arriving in distress, and the entrance to the inner harbor would at all times be safe. The cost of such a breakwater would not be excessive when compared with the interests at stake and with the expenditures already made and contemplated at other places. For example, comparing the harbors of Buffalo, Cleveland, and Chicago, the number of vessels entered and cleared at these places from 1872 to 1877, inclusive, were: Buffalo, 47,784; Cleveland, 40,209; Chicago, 127,479, or about 50 per cent. more at Chicago than at both other places combined. The amounts heretofore appropriated and the estimated cost of completing existing projects for the same places are shown in the following statement:

	Buffalo.	Cleveland.	Chicago.
Total appropriated to date, November, 6, 1878	$1,162,034 00	$555,224 00	$1,033,005 00
Estimated cost of completing existing projects	1,735,000 00	1,600,000 00	225,000 00
Aggregates	2,897,034 00	2,155,224 00	1,258,005 00

If we should increase the aggregate for Chicago Harbor by $600,000, it would still be less than that for either of the other places, and should be sufficient, in addition to completing the outer harbor, to construct a detached breakwater a mile long, located as herein suggested.

Of the present work he says:

That it was designed to give increased facilities for commerce and to relieve the overcrowded condition of the river. The plan of the work proclaims that it was not designed as a harbor of refuge.

The present work, as I have stated, is not regarded by our vessel men as adapted to the requirements of a harbor of refuge.

The Engineer Department recommend that the present work be completed, that the new work be commenced immediately, and that the sum of $250,000 can be profitably expended in this direction during the next fiscal year.

It has been shown that for the year 1879 the arrivals and departures of vessels number 23,873, with a total tonnage of 7,757,395 tons. (The tonnage passing through the Suez Canal, a work costing $81,000,000, is but a trifle more than half as much.) There are owned in Chicago three hundred and sixty-four vessels, with a tonnage of 67,988 tons.

The marine collections at Chicago, for the year 1879, amounted to the sum of	$28,681 00
Duties collected by collector of customs	1,807,052 00
Internal-revenue collections	8,609,629 00
Aggregating	10,445,362 00

The direct export trade with Europe for the year 1879, on through bills of lading, was 768,153 tons, valued at $45,000,000, which, in the language of Hon. Charles Randolph, secretary of the Chicago Board of Trade, from whose elaborate and exhaustive reports I have obtained much of the statistical information I have given, "is sufficient to load a steamer of twenty-five hundred tons capacity every business day in the year."

The value of direct exports to Canada from Chicago during the year 1879 amounted to $2,962,263.

The capacity of our elevators, which is being greatly increased, exceeds seventeen million bushels of grain, and they are full owing to the fact that our people are not so impoverished as to be compelled to force their grain upon an unwilling market at the rate of forty cents per one hundred pounds for transportation, which with the opening of navigation will hardly exceed twenty cents per one hundred pounds. More than one-half of the thirty-one million bushels of wheat and more than two-thirds of the sixty-one million bushels of corn shipped from Chicago last year went by the lake.

The rate of freight from Chicago to Liverpool on grain in June, 1879, was from twenty-eight to thirty-four cents per one hundred pounds; in the following December it was fifty-five to fifty-six and three-quarters cents per one hundred pounds. The rate of freight on grain from Chicago to New York, June 20, 1879, all rail, was fifteen cents per one hundred pounds; in December it was forty cents per one hundred pounds.

But I will not detain you further with the table of statistics which I have prepared, or refer in detail to the receipts and shipments by lake, which includes thirteen hundred and fifty million feet of lumber, nearly six hundred million shingles, a million tons of coal; nor in detail to our great commercial transactions, except to give an idea of their magnitude by stating that the clearances of the associated banks

of Chicago at the clearing-house amounted to the sum of $1,257,756,124. The increase of our business, year by year, has been so great that it is simply marvelous, requiring the full and characteristic enterprise of our business community to properly handle it. The shipments by lake from Chicago have been so great that the vessel-men controlling the entire commerce of the lakes have been driven to their greatest efforts to supply the necessary carrying capacity.

I will not detain you to speak in detail of the commerce of this great market, Chicago, in the products of the farm and of the forests, or of the great and rapidly increasing manufacturing industries giving employment to more than forty thousand mechanics and artisans. I will not refer to the great expenditures of public moneys in the dredging of streams of which it has been said that it were better that they were paved. I speak only of the wants of the commerce of this great metropolis.

There is not a city or port upon the great lake system that is not specially interested in this: that the chief port of the lakes shall have adequate harbor facilities; and there is not a farmer in the West and great Northwest who raises a bushel of grain, or a family in New England that consumes a barrel of flour, that is not interested in this: that every facility and security shall be given that is practicable, and every protection afforded to the commerce entering and departing from this port that the transportation of provisions and breadstuffs from the great and fertile prairies of the West to the East and the seaboard may be reduced to the minimum cost; and I ask in this interest and in the interest of the hardy sailor who risks his life upon those treacherous lakes in the interest of commerce; I ask in the interests of the enterprising vessel owner, the shipper, and the underwriter; I ask in the interest of more than half a million of citizens, residents of my city; I ask in the name of that marvelous city which contributes ten and one-half million dollars in treasure annually to the support of this nation; I ask in the name of commerce that this work be authorized; that the full estimate of the Engineer Department, which is not 2½ per cent. of the amount which Chicago alone pays annually to the Government, be allowed, and that the War Department be furnished the necessary means to push this work, not with ordinary force, but with the greatest skill and energy. I ask this in the name of my people as a right, and as an eminently proper demand to be made by them upon the Congress of the United States.

The Irrepressible Conflict—The People vs. Privileged Classes.

SPEECH OF HON. JAMES B. WEAVER,

OF IOWA,

IN THE HOUSE OF REPRESENTATIVES,

Monday, May 10, 1880.

The House having under consideration the bill (H. R. No. 4592) to facilitate the refunding of the national debt—

Mr. WEAVER said:

Mr. SPEAKER: The system of funding the public debt, now the ruling policy of this Government, affords the most startling evidence of the domination of the privileged classes, and marks our total and melancholy departure from the teachings of the founders of our Republic. It is not a plant of American growth, but is borrowed from the effete aristocracies and monarchies of the Old World. This system has been ingrafted upon our simple republican polity by men who are hostile to democratic institutions, and who believe in an aristocracy of wealth whose privileges and exemptions guarantee to the few the greatest possible accumulation of property and the widest control of public affairs. Their object is apparent and undisguised.

No reasonable man can for a moment believe that a financial system that administers to the exactions and wants of the classes who direct public affairs in an aristocracy or a monarchy is suited to the life and wants incident to genuine republican simplicity. The bare existence of this bonded debt, now almost twenty years since much of it was created, is within itself, either the badge of a government too weak to maintain its revenue laws and collect its taxes from the rich and powerful, or of the existence within that government of an all-powerful class, whose members are determined, through vicious legislation, to shirk their fair share of public burdens at any and all hazard to civil liberty. This type of man is the same the world over, whether you find him in England, France, Germany, Italy, America, or elsewhere. He is an aristocrat, hostile to free institutions, a free ballot, fair play, and equal rights before the law. Let the advocates of the funding bill now pending before this House stand with uncovered heads and listen while a few of the great founders of our Republic shall repeat for our admonition and instruction their prophetic warnings against this pernicious system.

Just prior to the war of 1812 our debt amounted to about $57,000,000. It was increased by that war to $127,000,000. This so alarmed Mr. Jefferson that he addressed a letter to the chairman of the Ways and Means Committee of this House, urging in a most forcible manner the duty of the complete payment of the debt within the life-time of that generation. Let us quote his exact language:

It is a wise rule and should be fundamental in a government disposed to cherish its credit, but at the same time to restrain the use of it within the limits of its faculties, "never to borrow a dollar without laying a tax at the same instant for paying the interest annually, and the principal within a given term; and to consider that tax as pledged to the creditors on the public faith." On such a pledge as this, sacredly observed, a government may always command, on a reasonable interest, all the lendable money of their citizens, while the necessity of equivalent tax is a salutary warning to them and their constituents against oppression, bankruptcy, and its inevitable consequence, revolution. But the term of redemption must be moderate, and at any rate within the limits of their rightful powers. But what limits, it will be asked, does this prescribe to their powers? What is to hinder them from creating a perpetual debt? The laws of nature, I answer. The earth belongs to the living, not to the dead. The will and the power of man expire with his life, by nature's law.

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In seeking, then, for an ultimate term for the redemption of our debts, let us rally to this principle and provide for their payment within the term of nineteen years at the farthest.—Volume 6, pages 136, 137.

In another letter to the same committee he says:

We must raise, then, ourselves the money for this war, either by taxes within the year, or by loans; and if by loans, we must repay them ourselves, proscribing forever the English practice of perpetual funding; the ruinous consequences of which, putting right out of the question, should be a sufficient warning to a considerate nation to avoid the example.—Volume 6, page 197.

To Mr. Monroe, then a member of President Madison's Cabinet, he wrote, in the year 1815:

The misfortune is, that in the mean time we shall plunge ourselves in unextinguishable debt, and entail on our posterity an inheritance of eternal taxes, which will bring our Government and people into the condition of those of England, a nation of pikes and gudgeons, the latter bred merely as food for the former.—Volume 6, page 409.

To our minister in France, Mr. Gallatin, he also wrote, in 1815, as follows:

Put down the banks, and if this country could not be carried through the longest war, against her most powerful enemy, without ever knowing the want of a dollar, without dependence on the traitorous classes of her citizens, without bearing hard on the resources of the people or loading the public with an indefinite burden of debt, I know nothing of my countrymen.—Volume 6, page 498.

In 1816 he writes to John Taylor, an eminent political writer of Virginia:

And I sincerely believe, with you, that banking establishments are more dangerous than standing armies; and that the principle of spending money to be paid by posterity, under the name of funding, is but swindling futurity on a large scale.—Volume 6, pages 605–608.

To William H. Crawford, Secretary of the Treasury, in 1816, he writes:

No earthly consideration could induce my consent to contract such a debt as England has by her wars for commerce, to reduce our citizens by taxes to such wretchedness, as that laboring sixteen of the twenty-four hours, they are still unable to afford themselves bread, or barely to earn as much oatmeal or potatoes as will keep soul and body together.—Volume 7, page 7.

Again, in 1816, he wrote to Mr. Kerchival:

I am not among those who fear the people. They and not the rich are our dependence for continued freedom. And to preserve their independence, we must not let our rulers load us with perpetual debt. We must make our election between *economy and liberty, or profusion and servitude.* If we run into such debts as that we must be taxed in our meat and in our drink, in our necessaries and our comforts, in our labors and our amusements, for our callings and our creeds, as the people of England are; our people, like them, must come to labor sixteen hours in the twenty-four, give the earnings of fifteen of these to the Government for their debts and daily expenses; and the sixteenth being insufficient to afford us bread, we must live as they now do, on oatmeal and potatoes; have no time to think, no means of calling the mismanagers to account, but be glad to obtain subsistence by hiring ourselves to rivet their chains on the necks of our fellow-sufferers. Our landlords, too, like theirs, retaining indeed the title and stewardship of estates called theirs, but held in trust for the Treasury, must wander, like theirs, in foreign countries, and be contented with penury, obscurity, exile, and the glory of the nation. This example reads to us the salutary lesson that private fortunes are destroyed by public as well as by private extravagance. And this is the tendency of all known governments. A departure from principle in one instance becomes a precedent for a second, that second for a third, and so on till the bulk of the society is reduced to be mere automatons of misery, to have no sensibilities left but for sinning and suffering. Then begins, indeed, the *bellum omnium in omnia*, which some philosophers, observing to be so general in this world, have mistaken it for the natural instead of the abusive state of man. And the forehorse of this frightful team is public debt. Taxation follows that, and in its turn wretchedness and oppression.—Volume 7, page 14.

To Governor Plumer, in 1816, he writes:

I place economy among the first and most important of republican virtues, and public debt as the greatest of the dangers to be feared. We see in England the consequences of the want of it, their laborers reduced to live on a penny in the shilling of their earnings, to give up bread, and resort to oatmeal and potatoes for food; and their landholders exiling themselves to live in penury and obscurity abroad, because at home the government must have all the clear profits of their land. In fact, they see the fee-simple of the island transferred to the public creditors, all its profits going to them for the interest of their debts. Our laborers and landholders must come to this also, unless they sereneiy adhere to the economy you recommend.—Volume 7, page 19.

The class of men who stand behind this funding system are as merciless as the grave, and utterly regardless of the rights and interests of those who pay the taxes and bear the burdens of society. They have in all countries and at all times exhibited the same heartless characteristics. In 1816 England was in a most deplorable financial crisis. It grew out of the attempt of her stock-gamblers and security-holders to convert her legal-tender paper money, that had carried her safely through the Napoleonic wars, and which had been used as a substitute for coin, into a currency representing coin. This could only be done by contraction of the volume. When that was accomplished, England's marvelous prosperity at once vanished like a

dream; and yet the cormorants were not satisfied. To absolutely impoverish the people and to render them unable to ever pay their enormous debt the managers of the English funding system in 1816 procured the demonetization of silver and the limitation of its coinage. That stupendous crime was repeated in 1873 on this continent in this capital, and for the same purpose. In a letter to John Adams, written in 1816, concerning the British panic, Mr. Jefferson says:

What do you think of the present situation of England? Is not this the great and fatal crash of their funding system, which, like death, has been foreseen by all, but its hour, like that of death, hidden from mortal prescience? It appears to me that all the circumstances now exist which render recovery desperate. The interest of the national debt is now equal to such a portion of the profits of all the land and the labor of the island as not to leave enough for the subsistence of those who labor. Hence, the owners of the land abandon it and retire to other countries and the laborer has not enough of his earnings left to him to cover his back and to fill his belly. The local insurrections, now almost general, are of the hungry and the naked, who cannot be quieted but by food and raiment. But where are the means of feeding and clothing them?—Volume 7, page 40.

Writing to Edward Everett, in 1822, he states:

I have long considered the present crisis of England and the origin of the evils which are lowering over her as produced by enormous excess of her expenditures beyond her income. To pay even the interest of the debt contracted she is obliged to take from the industrious so much of their earnings as not to leave enough for their backs and bellies. They are daily, therefore, passing over to the pauper list, to subsist on the declining means of those still holding up, and when these also shall be exhausted, what next?

Hear what Andrew Jackson, that enemy of monopolies and friend of the poor and of free government, said concerning a national debt. In his inaugural address, in 1829, he said:

The unnecessary duration of a national debt is incompatible with real independence.

And in 1833, in his official message:

If Providence permits me to meet you in another session, I shall have the high gratification of announcing to you that the national debt is extinguished. I cannot refrain from expressing the pleasure I feel at the near approach of that desirable event.

What a contrast between the present Secretary of the Treasury and Secretary Ingham, who presided over the Treasury under President Jackson. In his report the latter says:

Whatever the considerations of public policy that have made the *rapid* extinguishment of the public debt a *favorite object of the nation*, it is known that the public creditor regards it, individually, as a hardship to be paid off.

Public creditors thought it a hardship then to have the debt paid, and they think so to-day, and are determined that it shall not be done.

Our public debt is about $2,000,000,000. That of England is almost double that amount. It should be remembered, however, that hers has been accumulating for about two centuries, while ours is scarcely twenty years old. England's debt began in war; so did ours. In its general sweep and history the debt of England has steadily grown by every extraordinary contingency incident to national life. Ours is destined to run a like career, unless there is virtue enough left within the hearts of our people to demand that it shall be extinguished at the earliest possible day consistent with public honor.

All legislation looking to the perpetuation of our national debt, and of the national-banking system which feeds and fattens upon it, should be universally discouraged and denounced as a crime against the people, and all laws looking to their existence should be immediately repealed.

The bill under consideration reported from the Committee on Ways and Means by the distinguished gentleman from New York [Mr. FERNANDO WOOD] relates to about seven hundred and eighty millions of the public debt. This amount will become redeemable during this year and the next. To be more specific, $700,000,000 of the following bonds are to be refunded should the present bill become the law:

Six percents redeemable December 30, 1880	$18,400,000
Six percents redeemable June 30, 1881	254,000,000
Six percents redeemable July 1, 1881	823,000
Five percents redeemable May 1, 1881	508,440,000

Such has been the management of our finances, that it is conceded we cannot pay at the date these bonds become redeemable. The pretext upon which they were issued was, that the Government was not then able to pay, but would certainly be at the expiration of the time for which they were then to be issued. The expectation that we would ever be able to pay all these bonds at once was never for a moment entertained by the managers of this funding scheme, and if the people ever entertained such an idea they have been signally disappointed.

The national party is opposed to funding this debt. We say that it is our great duty to demand that it shall be paid. How can it be done, and when? We answer:

First. By applying the surplus revenue to its extinguishment, which now amounts to over $50,000,000 per annum after defraying all expenses of the Government.

Second. By paying out the silver now in the Treasury, amounting to $70,000,000. Twenty-three million dollars of this consists of subsidiary coin 7 per cent. light, which would have to be coined over into standard dollars.

Third. By operating our mints to their full capacity in the coinage of standard silver dollars.

Fourth. By levying a judicious income tax upon the wealthy, who now bear none of the burdens of taxation.

Fifth. By substituting legal-tender greenbacks for national-bank notes and canceling the bonds now held by the Treasury to secure their circulation.

There is no lack of ability to pay. The trouble is that the bond interest has control of Government, and are determined their investment shall not be disturbed. The great question with them is how to prevent payment.

But, Mr. Speaker, for what were these bonds issued? The first item of $18,400,000 was issued under the act of February, 1861, for the purpose of taking up Treasury notes then in circulation as money; the result of a little funding scheme, of course. The $823,000 item was issued under the act of March 2, 1861, to defray the expenses of an Indian war in Oregon. The $254,000,000 consist of war bonds issued under acts of July 17 and August 5, 1861, and March 3, 1863. The large item of $508,000,000 was issued under the acts of July 14, 1870, January 20, 1871, and January 14, 1875, known as the resumption act. Let us look carefully into the sum last named and see where it came from. Seventeen million dollars of it are bonds issued under the resumption law to buy the silver bullion that was manufactured into subsidiary coin. This coin was issued in redemption of our much-loved and convenient fractional currency, which was thus converted into interest-bearing debt. Five hundred thousand dollars of this sum consist of bonds issued to James B. Eads in payment of his Mississippi jetty contract, thus forcing our industries to pay an annual interest upon the very water that flows through the mouth of the Mississippi River, and upon every vessel and cargo that enters the mouth of that stream from, or that passes out of it to the Gulf of Mexico.

The remainder of this large item, about $490,000,000, was issued under the funding act of 1870 in exchange for 5-20 bonds issued under the law of 1861. Let us look into this closely. The 5-20 bonds taken up when the present bonds were issued became redeemable in 1867, at the option of the Government, but were not due until 1882. They drew 6 per cent. coin interest, but the principal was payable in currency. The present bonds were made irredeemable until 1881, (ten years,) and were made expressly payable in coin. Thus, under the pretext of saving 1 per cent. interest, the right of the people to gradually call in these bonds and pay them in currency was wickedly stricken down. Let us get under this flimsy mask and expose the villainy and hypocrisy of this funding scheme. The five-twenties could have been paid in installments during the whole of the last thirteen years, and our surplus revenues during the time were ample to have met every dollar of these obligations. They were funded into the present bonds, and all made redeemable May 1, 1881. The framers of that law understood perfectly that we could not provide for the redemption of these bonds on the 1st of May, 1881, unless we resorted to hoarding, and that could not be thought of at all. Thus we are furnished again, as was the intention, with another pretext for refunding the present bonds.

They tell us we are unable to pay and hence must fund. They ask by this bill that the people shall for the second time surrender their right to pay any part of these bonds for twenty years, and then, as now, they are all again to become redeemable at once. In this very feature lurks the deadly gangrene of the system. It is the gilded vice of the measure which will lure to destruction. Who can foresee the vicissitudes likely to befall this nation within the next twenty or forty years? "Who can look into the seeds of time and say which grain will grow and which will not?" All history teaches that it is hard enough to meet the current expenses incident to the surge and flow of national life for a period of forty, or even twenty years. Under such management this debt will inevitably, like its English prototype, continue to grow, and, like a cancer, draw the best blood of the life which sustains it.

The gentleman from Minnesota [Mr. DUNNELL] says no one wishes to adopt the English system of finance here. I beg the gentleman's pardon. What is the British system? The whole of it is bound up in that one sentence, "Fund the public debt." Why, the charter of the Bank of England was granted in consideration of £1,200,000 sterling loaned to the government for twelve months by certain individuals near two centuries ago, and yet that £1,200,000 sterling, although due within twelve months, remains unpaid to this very hour. They, too, said they were not in favor of perpetuating the public debt. It was a bond due in twelve months, a short loan, but it has never been paid, and the immunities and privileges of the Bank of England are in return for the favors granted by the bondholding portion of that monarchy to the government itself. So of our national-banking system.

On the 9th day of June, 1877, Mr. Sherman sold for resumption purposes $75,496,550 of 4 per cent. bonds at par. April 11, 1878, ten months later, he sold $50,000,000 of four-and-a-half percents. Why did he do this? The four percents were at that very time above par in the market. This charge was distinctly made by the chairman of the Ways and Means Committee on the floor of the House, and no one has entered a denial. He further charges that they were sold to the syndicate for 2 per cent. less than they were then worth in the market, and refers to his authority; and still the friends of the Secretary utter not one word in reply.

Between 1864 and 1867 two hundred and thirty-four millions of 5-20 bonds were issued without authority of law. They were issued in exchange for 7.30 Treasury notes then in circulation as money. There was not a syllable of law in existence to authorize the funding of these 7.30 bonds into five-twenties. To prove this I submit the fol-

lowing from a speech of Secretary Sherman, to be found on page 247 of his published speeches:

In the fall of 1864 a security of new character was issued that I think was not authorized by law. I refer to the 7.30 bonds which were issued running three years, with the right on the part of the holder at the end of the three years to convert them into 5-20 bonds, payable principal and interest in gold. At the time I thought, and still think, that by a fair construction of the law as it then stood, there was no power in the Secretary of the Treasury to give the holders of these 7-30 bonds the right to fund them into 5-20 bonds. The amount of notes thus issued in the fall of 1864 was $234,000,000.

The managers of this scheme have bent their whole energy to increase our coin bonds, which are intended as the basis of a permanent national-banking system. The means made use of have been at once cunning, cruel, and diabolic.

How can we provide for the payment of these bonds at the end of the next twenty years unless we hoard? Every friend of this bill knows that it is impossible. The distinguished chairman of the committee [Mr. FERNANDO WOOD] knows that it is utterly out of the question. The bald design is to prevent payment and to render it impossible. Will the people be longer caught by this kind of chaff or tamely submit to such wholesale swindling? We have paid on this $490,000,000 item, since the present bonds were issued, simple interest, about $245,000,000. We paid on the five-twenties, for which these bonds were exchanged, $235,000,000—a grand total of $480,000,000 of simple interest on this one single item. If the bonds are refunded for twenty years, as provided for by this bill, you must add $343,000,000 more to the interest charge, swelling the grand total to $823,000,000 without liquidating one dollar of the principal. And if they run for forty years, as the bill provides they may, the interest all told on the $490,000,000 reaches, without compounding, the enormous sum of $1,166,000,000, exclusive of the expense incurred in placing the five-twenties, the present bonds, and those contemplated by this bill upon the market. How startling these facts to every lover of justice.

And, Mr. Speaker, when we further consider that these appalling and most truthful statements relate to but one-fourth of our public debt, that this dreadful blight and mildew upon the industries of this country must be multiplied fourfold; and when we add to this picture the further fact that during the long life of this debt, as fixed by this funding bill, these bonds are to be exempt from every species of taxation; are to shirk every burden of State, and be sheltered from every calamity incident to the investments of human toil, the revelation is almost enough to destroy hope and courage in the breasts of the poor, and to freeze over the currents of industrial ambition.

This item of $490,000,000 of bonds and all others issued under the funding act of 1870 were issued for the avowed purpose of defeating the will of the people and to prevent the tax-payers of the country from paying the bonds according to contract.

This is a serious charge to make, but I propose to prove it. I read from a report made by John Sherman, chairman of the Finance Committee of the Senate, December 17, 1867. The language quoted will be found on page 146 of a volume entitled "Speeches and Reports on Finance and Taxation, by John Sherman." After discussing the question whether the five-twenties could be lawfully paid in currency, and after demonstrating conclusively that they could be so paid, Mr. Sherman uses the following language in his report:

It has been proposed that Congress, by joint resolution, declare that the 5-20 bonds are redeemable only in gold. This, instead of settling the question, will only create divisions and parties, and the resolution when passed will be subject to agitation and repeal. This consideration induces your committee, without deciding the question, to propose the substitution of new bonds, clear and explicit in their terms, for the old bonds, as they become redeemable.

This was the origin of the funding scheme of 1870. What a picture have we here on the canvas of our history—an open avowal in the Congress of the Republic that the people's will must be circumvented and that they must not be allowed to pass laws or organize parties for relief. Thus you see the five-twenties were funded into the present bonds for the express purpose of defeating the will of the people and to place it beyond their power to remedy the evil. It would be very wrong for a free people to resist their oppressors; it would be very wrong to create new parties to resist the enslavement of the people by fastening upon them a perpetual debt. Their right to control their own affairs must be prevented by law. These men foresaw that their purpose would not meet with popular favor, and coolly planned and legislated to defeat the popular will. The pretext with which they went before the country was the reduction of the interest 1 per cent. But the new exactions made by the funding act were a thousand-fold more onerous than the additional 1 per cent. Why, Holland loaned us during the revolutionary war $2,000,000 at 4 per cent. before we had a government. France loaned us six millions at 5 per cent., and took all the risk growing out of our precarious struggle for independence, finally made two millions of that a gratuity, and when the war was over forgave us all the interest that had accrued between the date of the loan and the treaty of peace.

What a contrast! A foreign people separated from us by three thousand miles of ocean, with no interest in our struggle save the love of human freedom, and yet during our late struggle we paid to the speculators in our own country 7⅗ per cent. and 6 per cent. upon nearly the entire amount necessary to defray the expenses of the war; and if we consider what the purchasers really paid for our securities, we paid them 12 and 15 per cent. on every dollar they loaned us. At every step in the struggle we had to fight the legions of Wall street and their co-conspirators. The character of Thanardier, so graphically depicted by Victor Hugo, is saintly compared with the diabolic efforts of these men for pillage. Thanardier followed after the army and picked the pockets of the dead and dying; but these men coolly said to those who were supporting the flag and carrying it to the front, "You shall not have the means necessary to feed, clothe, and pay your Army unless you agree in advance to let us plunder the wounded nation to our hearts' content. Is this picture too strongly drawn? Let Secretary Fessenden, of Maine, who grappled with these conspirators, testify concerning this matter. I especially commend the following extract from the finance report for 1864–'65 to the consideration of the gentleman from Maine, [Mr. FRYE,] who claimed in his speech that the depreciation of our currency during the war was due to an overissue and lack of confidence:

The experience of the few past months cannot have failed to convince the most careless observer that, whatever may be the effect of a redundant circulation upon the price of coin, other causes have exercised a greater and more deleterious influence. In the course of a few days the price of this article rose from about $1.50 to $2.85 in paper for $1 in specie, and subsequently fell in as short a period to $1.87, and then again rose as rapidly to $2.50; and all without any assignable cause, traceable to an increase or decrease in the circulation of paper money, or an expansion or contraction of credit or other similar influence on the market tending to occasion a fluctuation so violent. It is quite apparent that the solution of the problem may be found in the unpatriotic and criminal efforts of speculators, and probably of secret enemies, to raise the price of coin, regardless of the injury upon the country or desiring to inflict it. All such attempts should be indignantly frowned upon by a patriotic community, and the efforts of all good citizens invoked to counteract such nefarious schemes. A law providing for the exemplary punishment of combinations for such a purpose might tend to vindicate, if it could not fully protect, the public rights in this regard.

Thaddeus Stevens said of the legal-tender bill after the Senate had placed its pernicious amendments upon it:

It now creates money, and by its very terms declares it a depreciated currency—one for banks and brokers, and another for the people. * * * A wail came up from the caverns of bullion brokers, and from the saloons of the associated banks. * * * They fell upon the bill in hot haste, and so disfigured and deformed it that its very father would not know it.—*Congressional Globe*, part 1, 1861–'62, page 900.

The gentleman from Maine [Mr. FRYE] says he does not differ much from Mr. WOOD, who has charge of this bill. He complains that the latter occasionally placed poison in his speech. Of course the distinguished leader of the bond and bank wing of the democracy in the House and the distinguished republican from Maine [Mr. FRYE] would not seriously differ upon this question of funding. Why should they? They differ only as to who shall be in power and carry out the schemes in which both are engaged and which they both approve. It is simply a contest between dynasties; it is the war of the red and the white roses over again. Richard, too, killed his brother Clarence, not because Clarence, should he become king, would oppress the people, but because he wished to ascend the throne himself. Macbeth killed Duncan and Banquo, not because he wished to save Scotland from a king, but because he wanted himself to reign over Scotland in Duncan's stead. This bill, says the gentleman from Maine, should pass, because it will furnish a "safe investment for idle capital." What business has Congress to be creating safe investments for idle capital? Idle capital should go to work and perform its legitimate function in the every-day transactions of human life. Money, like men, should be kept at work; and when it will not work, like human idlers it should bear its own burdens, and not be allowed to absorb the profits of the thrifty and the industrious. But instead of bending our energies to furnish profitable employment to industry the whole power of the Government is invoked to foster, at the expense of everybody else, the non-producers of wealth.

Take, for example, the national-banking system. The money-owners loan their cash to the Government at a high rate of interest, get their investment exempted from taxation, and then the Government, in the abundance of its generosity, returns to them in national-bank bills 90 per cent. of the face of their bonds—and this free of charge, save and except 1 per cent. to cover cost of printing. This is nothing more or less than a princely gift. These bank-notes go into the channels of trade as money. It is beyond refutation a mere gift to wealthy corporations. You can make nothing else of it. Mr. Speaker, if these bonds are made irredeemable for twenty years, it is the end to all hope of ever paying them. For, in the long sweep of history and the general expanse of national life, these debts when once funded into irredeemable bonds must inevitably increase. This is the history of every nation that has adopted the funding system. It is so in Great Britain, France, Germany, Italy, and Austria; and the operation of the system is nowhere so dangerous as in a republic. The usurers of the world understand what they are about. They hold out to the people the hope on the one hand of finally relieving themselves from the burden, while on the other the enormous interest charge and the ever-recurring contingencies of human affairs take from them all possibility of relief. The gentleman [Mr. FRYE] says the debt has steadily decreased since 1866. I grant you that the public debt as a whole has been reduced. With an enormous revenue daily emptied into the Treasury, how could it be otherwise. But how about that portion of the debt payable in coin? That has been more than doubled since the close of the war in 1865. And I assert here, without a fear of successful contradiction, that it takes more bushels of wheat, more bushels of corn, more bushels of potatoes, more tons of hay, more horses, more cattle, more hogs, more bales of cotton, more pounds of tobacco, to pay the interest upon the public debt to-day, notwithstanding your boasted reduction, than it did at the close of

the war, when the interest exceeded $150,000,000. It is beyond the power of any one to successfully deny this.

The gentleman [Mr. FRYE] speaks in glowing terms of the great prosperity which he says came upon the country through resumption. I utterly deny that any prosperity has come to us in consequence of resumption. Forced resumption and the contraction which preceded it brought calamity and only calamity upon the nation. It hurled us headlong from an era of universal prosperity into the vale of suffering, bankruptcy, and destitution.

The silver commission, composed equally of democrats and republicans, and presided over by a distinguished republican Senator, Mr. JONES, of Nevada, say concerning the effects of this contraction, on page 59 of their report:

> If all the debts in this country had been doubled by an act of legislation it would have been a far less calamity to the debtor and to the country than the increase in their real burden already caused by a contraction in the volume of money.
> * * * * * * *
> And infinitely more disastrous in every sense than an unjust increase in the burden of debt is the universal stagnation of industry and commerce resulting from the same cause.

On page 121 of the same report, they say:

> The true and only cause of the stagnation in industry and commerce now everywhere felt is the fact everywhere existing of falling prices caused by a shrinkage in the volume of money.

Secretary Sherman in the Senate on the 27th of January, 1869, predicted this very result in the following language:

> It is not possible to take this voyage without the sorest distress to every person except a capitalist out of debt or a salaried officer or an annuitant; it is a period of loss, danger, lassitude of trade, fall of wages, suspension of enterprise, bankruptcy, and disaster.

Our own good crops, coupled with the famine in Ireland and the short crops throughout Europe, gave us our little flush of prosperity. Gentlemen who make the argument that we owe our partial recovery to resumption do not believe it themselves. The gentleman from Maine says himself that he looks forward to a reverse; that the balance of trade is rapidly turning against us, and predicts that we cannot long continue to reduce the debt with the surplus revenues. Mr. Speaker, resumption is maintained to-day by the willful violation of two plain statutes of the United States, and not because of any prosperity, real or imaginary. Let us prove this. Section 5 of the act of February 25, 1862, expressly requires that duties on imported goods shall be paid in coin. Mr. Sherman has abrogated that law by an edict of his own; has instructed Treasury officials to receive greenbacks for customs duties.

This of course takes away the demand for gold and prevents a run upon the resumption fund. The second law violated is the act of February 28, 1878, declaring the silver dollar of 412½ grains a full legal tender for all debts public and private. The passage of that act was followed, it will be remembered, by the passage of the Stanley Matthews resolutions, expressly declaring the bonded debt to be payable in these silver dollars. The bankers and bondholders declared that if they were forced to take silver for their principal and interest on their bonds they would at once demand, under the resumption law, gold for the eighty or ninety millions of greenbacks which they held in their vaults. To prevent this, Mr. Sherman at once entered into a combination with the New York clearing-house whereby silver was discriminated against as lawful money. The Secretary further declared over his own signature, in a letter which I have here, dated January 8, 1879, and addressed to Thomas M. Nickol, secretary of the so-called honest money league of Chicago:

> I have a clear conviction that the forced payment of the silver dollar to the public creditors would tend to depreciate it and cause it at once to be sold in the market at less than par.
> * * * * * * *
> While it is the duty of the Government to coin different kinds of money, a public policy dictates it should be within the power of the citizen, at his option, to demand either form of lawful money.

Here you have a complete view of the great resumption team which, according to the gentleman from Maine, has pulled us out of the Slough of Despond on to the upland of general prosperity.

On the one hand, the Secretary has done in violation of law just what the greenbackers claim should be done according to law; and on the other, cowed and humiliated by a threat from the syndicates and money kings, he has stricken down and crucified the wise and merciful law making the silver dollar of our fathers a full legal tender. Thus by a twofold crime is resumption kept upon its feet. The gentleman from Maine [Mr. FRYE] says the greenback was issued by the republican party to save the nation's life, and would not have been issued for any other purpose. Yes, and the history of that transaction shows that the money-mongers consented then only upon condition that they might put the sting of death in the back of every bill that was issued.

He says the Government solemnly promised that the total amount of these notes should never exceed $400,000,000. They did this on the 3d day of June, 1864, and on the 30th day of the same month they passed the national-bank act. Both bills were pending before the House at the same time and were but parts of one organized plan. The promise to never issue more than four hundred millions of legal-tenders was a part of the national-bank scheme to give over into the hands of the corporations the sovereign authority to issue the money of the people and control its volume. Of course the pledge was solemn. These conspirators are always very solemn; any one of them would surpass a whole assembly of bishops for solemnity. Sir, that solemn promise was a part of the ruinous scheme whereby this nation bartered away its sacred and sovereign duty to furnish the people with an adequate circulating medium. It passed over this sacred duty into the hands of usurers and bondholders in violation of the warnings of the fathers and in subversion of the principles of free government. Let it be understood that there are two rag-babies in this country, the greenback dollar and the national-bank bill. The one born of Columbia in lawful wedlock, the rightful heir to sovereign control in the commerce of this nation. The other is an illegitimate, and this very bill makes provision to advance him ahead of the rightful heir. You intend to enthrone him as a prince, sustain him and his posterity in idleness, and exempt him by law from taxation and the anxieties of life.

Congress passed a solemn act on the 30th of May, 1878, to prevent the total destruction of the greenback under the resumption act. You had the lawful rag-baby condemned to death, and you were marching him under guard, with a black cap over his eyes, and his hands pinioned, to the execution block. You expected on the 1st of January, 1879, to shout and rejoice over his decapitation, but the greenback party spoiled your little game. They flew to the rescue, and by hue and cry compelled you to enact by law that the $346,000,000 should be kept in circulation, and when received into the Treasury should be paid out again. But you have not abandoned your malice, nor abated your zeal for the destruction of the people's money.

The National Bankers' Association, at Saratoga, in August of last year, inaugurated steps looking to the destruction of every greenback in existence. Mr. Coe, in an elaborate speech delivered before that association, declared that the greenback must go. Comptroller Knox, in violation of his official duty and at the bidding of the enemies of the greenback, declared at that meeting that they should no longer retain their legal-tender quality. Following this, the President, in utter defiance of public sentiment, recommended that the greenback should be taken out of circulation. And the Secretary of the Treasury, a prominent presidential candidate within the republican party, recommends in his official report that Congress shall by law deprive the greenback of its legal-tender functions.

Mr. BAYARD, who strangled the Warner silver bill in the Senate of the United States, and the leader in the Senate of the bond and bank wing of the democratic party, has introduced a joint resolution for the purpose of taking away from the people the legal-tender greenback, and has supported it with all his ability, power, and influence. Mr. LOUNSBERY and Mr. BALLOU have introduced similar bills into the House. Thus the whole power of the national-bank party and the machinery of Government are brought to bear for the destruction of the people's money. All the machinery of politics is to be harnessed and rendered subservient to this one end in the great struggle for political supremacy during the present year.

The millionaires of Boston, Philadelphia, New York, Chicago, have flooded Congress with petitions for the destruction of the greenbacks. One distinguished Senator presented a petition, bound in morocco like a fine family Bible, the words "honest money" in letters of gold across its back, signed by over fifteen hundred capitalists in New York, praying for the retirement of the greenbacks; signed by Governor Robinson and by ex-Secretary Bristow; signed by over two hundred names on Fifth avenue, who own in the aggregate more than $248,000,000, which pays not one cent of taxes, escapes all the burdens of the State. Now contrast this petition with another which I hold in my hand, tattered and soiled with the soot from the hand of the blacksmith, the sweat of the day-laborer, and the greasy hand of the mechanic. What does this petition ask for? It humbly prays this House to stand between the laborer and the grasping exactions of the money power, and prevent the destruction of the greenback which is at once their hope and their defense. The first petition comes into Congress with a flourish of trumpets, adorned with curiously wrought signatures and costly array, while the other bears the homely signature of the man of toil. The first petition represents those who live upon the labor of others. The last represents that class of our people who produce all the wealth of the country and bear all of its burdens. I challenge this House to disregard the petition of these humble people. Refuse their prayers if you dare! Thank God the ballot is still free, and by its instrumentality they will, like a Hercules, hurl you from the power and place which you have abused and disgraced. The right of petition, if the petitioners be rich and powerful, is not abridged here in this House, but if the prayer comes from the poor and the lowly it finds no response, except that of derision and contempt.

Talk about "good faith," "solemn promises," and "honest money." Why, Mr. Speaker, this silly cry deceives no one. It is an unmitigated fraud, so thinly disguised as to be known and read of all men. There is not a law nor a promise in the universe which these men respect. In 1870 they "solemnly" passed an act that the bondholder must have either 25.8 grains of gold or 412½ grains of silver for his bond. It was a highwayman's law, but the people concluded to abide by it. Now, under the hypocritical cry of "honest money," they demand gold only, or a gold dollar's worth of silver for every dollar marked down in their bonds. This would amount to an additional bonus of from 12 to 15 per cent. on the entire debt of the nation. It is the proposition of a set of men who respect neither law, equity, nor contract, and

who mock at the struggles of the poor and laugh at their pleadings for mercy.

Mr. Speaker, national banking and the funding system are counterparts of each other. The two must perish together, and perish quickly. They are twin monsters, brought hither to crush out liberty on this continent. Aware of the danger, the people have organized a party for self-defense. This party believes in the power of the Government to make all the money necessary for the use of the people, and in the right of the nation to pay off its debt whenever it has the money. No human power can stop the progress of this new movement. It is broad and national in its doctrines and purpose. It eschews sectionalism, and demands for the humblest individual in the land a free ballot, fair play, and equal rights before the law. The old factions will not allow us to succeed if by any means, fair or foul, they can defeat us. In California they strike down free speech with fine and imprisonment. In other sections they confront us with slander and misrepresentation. The bulldozers of one section join hands with the money kings of the other to crush the people's party, and to keep laboring-men from voting their untrammeled sentiments. But "your covenant with death shall be disannulled, and your agreement with hell shall not stand." You have all the chains forged necessary to rob industry of its reward. But you shall be disappointed. You would like to see the sun rise and set on a nation of slaves. But the people perceive your purpose and are awake to the danger.

May God in his infinite mercy help the tax-payers of this country to look into this question, and nerve them to rebuke their despoilers; may He send upon our people that high type of patriotism and courage that will crush all parties, and men, and laws that stand for the enslavement of the people!

Leaf-tobacco License.

SPEECH OF HON. ROBERT L. TAYLOR,

OF TENNESSEE,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, May 22, 1880,

On the bill (H. R. No. 6109) to amend the sixth subdivision of section 3244 of the Revised Statutes of the United States, in relation to licensing dealers in leaf-tobacco.

Mr. TAYLOR said:

Mr. SPEAKER: I beg the indulgence of the House to offer a few remarks suggested by the bill under consideration bearing upon the civil service as related to the existing internal-revenue laws, and the effect of these laws upon some of the important interests of the country.

As the immediate representatives of the people we are intrusted in great part with the guardianship of their interests. It is therefore incumbent on us to institute such a line of policy, enact such laws, and establish such regulations as will best promote the "general welfare" and maintain the rights of all the people.

Among our duties there is none I conceive to be more important than that of instituting a wise and just financial policy, and of so regulating our revenue system as to meet all the legitimate demands of the Treasury, and not thereby cripple or diminish our pecuniary resources, but strengthen and enlarge them.

The nation owes a vast bonded debt, aggregating more than $2,000,000,000, for the payment of which, and particularly of the interest, we *must provide;* for the necessary expenses of the Government and for its obligations to our soldiers and sailors *we must provide;* for the just and honorable and as yet unrecognized or unadjudicated claims of many citizens for property and services we *must provide.* To raise the money to satisfy these demands without undue friction at any point, without alarming capital or crippling trade and commerce, discouraging enterprise or repressing labor, and, above all, without wounding *agriculture,* is the grand problem which this Congress, in its patriotism and wisdom, is called upon to solve. If it succeed, it will merit and receive the approbation of a generous people; if it fail, it will justly incur their condemnation.

I may have little to say now, sir, in reference to *capital,* since capital is Argus-eyed, sleepless, vigilant, all-powerful, and always has commanded *brains* enough to take care of itself, even though it seldom gives evidence of possessing a soul or even a heart. Neither do I propose to discuss commerce, but if possible to demonstrate the injustice, the unconstitutionality and hurtful folly of some of the features of the existing revenue laws, and the crying necessity for their repeal or modification by this Congress. The privileges and immunities, the blessings and benefits of this Government belong alike to all its States and to all its citizens; and upon the same principle, universally acknowledged, the *burdens* must be equal upon all the States and all the citizens of the Republic. Any *restrictions,* therefore, of any of these blessings or benefits to any section of the country or any class of citizens would not be any more clearly unjust than would be the unequal distribution of the necessary *burdens* of the Government.

Thirty-eight individuals are mutually and equally interested in a joint-stock corporation for the prosecution of some business, and in the process of its operations a debt is incurred for the benefit and protection of the association. Would any intelligent court in Christendom decree that the debt should be collected out of the individual property of any member of the company, and not out of all the members equally? Undoubtedly not. And why not? Simply because such a decree would be a most gross and wicked injustice and an act of unpardonable oppression. Is it any less an outrageous injustice, is it any less a shameful act of oppression, if the Representatives of the thirty-eight States of this great body politic and corporate shall solemnly enact that the debt or any part of the debt of this nation shall be collected out of the products of the land and labor of a *part* only of the people and not equally out of all alike? No, sir! It would be unjust and partial and as severely oppressive in the one case as in the other.

And yet such is the meaning, intent, and effect of your revenue law in reference to that portion of our people engaged in the production of that important staple tobacco. It is oppressive, because it overburdens almost to prohibition the labor and land employed in its production. To show how partial is its operation, let me state from the reports of the Commissioner of Internal Revenue that for the six years preceeding June 30, 1878, Virginia alone has paid the sum of $42,561,843 *tax* on tobacco—an average annual sum of over $7,000,000. During the same six years the six New England States paid the sum of $9,756,384 as the whole of their internal-revenue tax, averaging the trifling amount of $1,292,730 per annum—about one-sixth of the internal-revenue tax on this single Virginia product; and yet the population of Virginia, according to the ninth census, is only 1,225,000, while that of New England aggregates 3,487,000. Thus a single product of the land and labor of 1,225,000 citizens of the single State of Virginia, which has two Senators and nine Representatives in Congress, is burdened with a tax of nearly six times the amount exacted from *all* the products of all the land and labor of 3,487,000 citizens of six States of New England, which have twelve Senators and twenty-seven Representatives in Congress. As tobacco tax alone every man, woman, and child in Virginia is made by this law to pay to the United States Treasury $5.71 *per capita,* while the population of New England is required by the same law to pay the sum of thirty-four cents each, and this on their entire revenue tax.

But, sir, I know it will be said by some that this tax does not fall upon the planter, but on the consumer; and that *therefore* it is not, cannot be oppressive. A moment's investigation, I think, will explode this flimsy and false objection. If, however, the proposition *were true,* it does not affect my argument, when it is remembered that the growers of tobacco are also largely *consumers,* and therefore *pay the tax;* and, further, that it can hardly be claimed that any man puts himself outside the protection of common justice and fundamental law only because he chews tobacco or takes snuff. But, sir, it is *not* true; for it is demonstrable that not the manufacturers, not the consumers, but the *growers* of tobacco suffer the burden and feel the crushing weight of the tax. Let us see. The tax, the price of manufacturing, and *cost* of the raw material are the three essentials, making in their sum the cost price of the manufactured article, the last of which, the *cost of the leaf,* alone is *variable,* while the other two elements are constant, or nearly so. The tax must be paid, the cost of manufacturing must be paid, and *these* are nearly invariable; but the cost of the leaf *may* yield to the pressure of *trade,* and, *still worse,* to the *will* of the manufacturer, whom the law has constituted a *monopolist,* whose margin of profit is to be secured alone in the price of the leaf, which is made dependent largely upon *his own volition.* Thus the manufacturer's investment of capital, by the operation of law, wrings its interests and profits out of the sacrifices extorted from the planter in the price of his toil-won product.

It is no wonder, sir, that such injustice and oppression, the result of unwise legislation, has brought upon this once profitable branch of agricultural industry decay and ruin. Once, before the tax, manufactories were in *almost every village* where tobacco-growing was a regular business. No capital was needed. Purchasers, the patrons of the farmer, were numberless. Competition was *active* and prices ran high. The planter's labor and land were richly *rewarded.* But the revenue laws have changed all this. *Now* before the manufacturer can *realize* he must put on the *stamps* and pay the cost of manufacturing. To make money largely he must do a business involving heavy expenditures of cash. Large capital is required under the present system even to start the business. None can manufacture, therefore, unless he is a capitalist. Legislation, sir, I repeat, has made the tobacco business (just as it has made the whisky business, the railroad business, the Indian business, and the election business, and every other business) under the manipulation of moneyed rings a gigantic monopoly in the hands of capital. It has driven all but its own favorites from the market; it has fostered and built up opulent combinations to put down and keep down the price of the raw material, and thus as usual laid reluctant labor on the altar of the money-god, a bleeding sacrifice to the greed of unpitying capital.

It is not a matter of astonishment, therefore, that in some sections there are many families once affluent and blessed with every comfort of life now actually suffering for its merest neccessaries as a result of such legislation. It is to be remembered that tobacco is a plant requiring for its profitable culture peculiarities of climate and soil

not found in every State, nor in every part of the same State. But in its natural *habitat* it is the *staple* of the farmer financially. Its free production supplies the meat and bread and clothing of the family, as well as the luxuries of refined and elegant social life. It gives education and culture to the children; furnishes alms to the poor; supplies liberal means for the purchase of tariffed goods, (thus bringing revenue to the Treasury,) for the erection of useful and charitable public works, for the payment of State, county, and municipal taxes, and thus tends directly to suppress agrarianism and the spirit of repudiation, and for the support of the Gospel at home and abroad. In short, it is the essential basis of financial prosperity and all the resultant benefits and blessings of such prosperity.

How, then, sir, *without injustice* and oppression, can we by legislation prostrate and ruin whole communities, I might almost say whole States? How can we justify ourselves in overburdening with taxes the labor of a few localities devoted to the production of a commodity specially adapted to them, and leaving untaxed and free the field labor of other localities? I ask now, sir, is the existing law in accord with the spirit or letter of the Constitution? I answer, first, the Constitution itself declares it was "ordained to establish justice." But I have already shown that this law establishes *injustice* and oppression; it is therefore at war with this clause of that instrument. In the second place, the Constitution, article 1, section 2, reads thus:

> Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers.

And again, in article 1, section 9, clause 4:

> No capitation, or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

Now, sir, to ascertain whether the law under consideration is in harmony with the letter and spirit of the Constitution only two questions need be answered: First, Is the tax on tobacco a "direct tax?" and secondly, Is the tax on tobacco "laid" and "apportioned among the several States" "according to their respective numbers" and "in proportion to the census or enumeration?"

The answer to the first question is an emphatic *yes;* incontrovertibly it is a direct tax upon the producer—so direct that the infraction of the law draws after it the most severe personal penalties, the most disastrous fines and humiliating imprisonment.

The reply to the second question is an equally emphatic *no!* Will any man dare declare that the law taxing tobacco and whisky takes any account whatever of "numbers" or "proportions" in imposing its enormous exactions? Why, sir, it is notorious that some half a dozen States, and comparatively small communities in those States, are almost the sole producers of this great agricultural staple; and yet, in the very teeth of the prohibition fixed in the face of the Constitution, in the plainest, most unmistakable language, you are extorting by a legislative fiat having not the shadow of warrant in that instrument forty millions of revenue yearly from a small number of citizens of these few States to pay the debts for which *all* alike are bound.

But, sir, this feature of the law is not only unjust and contrary to the Constitution, but it is a hurtful folly as well. If the revenue it yields must of necessity be derived from this commodity, would it not be the part of wisdom to get such revenue, if it can be done, without crippling or crushing the producer? And is it not consummate folly to wound an important industry almost unto death when your revenues can be better secured without hurting the producer? You have so constructed your tax law as effectually to prohibit any sale by the planter except to the manufacturer. As a result, combinations of manufacturers dictate the market of the raw material and effectually control it. Of course it is their interest to reduce and keep down the price of the "leaf" to the utmost minimum, because every fraction of a cent subtracted from the price of the raw product is a fraction added to the manufacturers' profits, and accordingly the prices have gone down lower and lower to the point where ruin and bankruptcy are devastating the fields and blighting the hopes of the planter, and all this without bringing to the revenue a single dollar more than could have been raised without any sensible damage to the interest of the planter or his industry.

Suppose you free the raw material in the hand of the planter from all embarrassment, and allow him to sell it as you allow the farmer to sell wheat, corn, beef, and pork anywhere, everywhere, and to whomsoever he can, and place all your tax on the manufactured article alone in the manufacturers' hands! What would be the result? Is it not clear you will have accomplished all you propose to do by the existing law? And is it not equally clear you will have by the same act restored competition, crushed out monopoly, and released the planter from the clutches of capital and increased the reward of his labor, and all this without diminishing the revenue by one dollar?

But, sir, I would not have you or the country to infer that the growers of tobacco are desirous of escaping their duty to the Government because they seek the modification of the partial and unjust features of the internal-revenue laws. On the contrary, they fully recognize and are perfectly willing to pay their just proportion of the national debt. They would scorn to shirk their proper share of the burdens of the Government. But they appeal to Congress in the name of justice and right to disburden their labor of inequitable and ruinous taxation because they fail to discover any sound argument of law or reason or policy to justify a discrimination so repugnant to right, so hostile to the spirit as well as the very letter of our fundamental law, and so disastrous to their interests.

One other matter germane to the subject in hand I desire to present while on the floor to the consideration of Congress. In some sections of the country people once in easy circumstances are so reduced that luxuries common even to the very poor have been long since banished from their home. Yet these people are the owners of money in the shape of property rotting before their eyes. True, their property might procure for them necessary comforts but for the law of fine and imprisonment forbidding them the use of their own property. Under such bloody restrictions property ceases to be property. Certainly it is *not their* property. They own orchards loaded with fruit, but their apples must turn to dust unused. They cannot sell them in market, because they live far away from the railroad, embosomed in rugged mountains. The cost of marketing would be more than the apples would bring. Why not make them into brandy? The revenue law intervenes; a bond is required—for a poor man an impossible bond—with solvent securities, and besides a revenue tax of ninety cents on the gallon. That bond and that ninety cents tax finish the job. It is impossible to him; and so his fruit yields him nothing but vexation and deeper poverty. His store debt drives the cow from his children, and the sheriff levies on his land for taxes he expected the brandy to pay. But the bond! What is it for anyhow? Simply to secure the Government against loss in case the poor fellow should steal a few of his own apples! Now, suppose he could give the bond, what will he profit in the end? Nothing, for notoriously the tax swallows up all the profits, the mammoth distilleries excepted, which turn out whole creeks and rivers of whisky and brandy.

Alas! what floods of temptation are let loose upon poor frail humanity by this legislation for rings and monster monopolies! Contemplate the unhappy victim of moonshining! Away out among the laurel and the ivy, in some obscure mountain gorge, shrouded in deepest shadows, he toils at his crooked art. His right to his land and his orchard has never been questioned. The fruit he thinks is his own, and on this belief he acts. The proceeds of that orchard have supplied the comforts of life to his wife and children for many a year. The memories of past enjoyments tempt him with resistless arguments, and he yields, for a bond is impossible and the tax would leave no pay for his fruit or labor. He is simply devoting what he always believed to be his own property to his own use. Unfortunate man! The hired minions of the revenue have spotted him. Their despicable subsidized decoys and detective informers, like the bloodhound, are on his track. Like Judas, they sell their victims and their souls for money; and, like Judas, betray them with a kiss. He is arrested! He is hurried away from wife and children and home—his property appropriated or destroyed before his eyes—away to trial and the penitentiary.

Sir, what apology can modern statesmanship, illumined as it is by the advanced moral ideas of the age, offer to an enlightened Christian people, to a great nation who glory in the truth emblazoned in the forefront of their Declaration of Independence that "all men are born free and equal" and with certain inalienable rights, conspicuous among which are "life and liberty" and the right to pursue happiness, for such mockery? Will you frown down the just indignation of American freemen by the stale and puerile assertion that the use of tobacco and the drinking of whisky and brandy are indecent and immoral and ought therefore to be taxed out of existence? Is that your apology for trampling under foot the birthrights of freemen? Sir, I blush to see our statesmanship driven to the futile pretexts and bald subterfuges of mediæval fanaticism to defend its assaults upon republican freedom and personal liberty! Manners are the manifestation of morals, as morals are the outgrowth of religion, and religion is enshrined in the secret sanctuary of the soul, within whose sacred precincts earthly courts and legislatures have no jurisdiction. Tyranny, instigated by fanaticism and ambition, dared for ages to invade that sanctuary, and to achieve its unholy ends invented the inquisition, the rack, the *auto da fé*, and in the name of the God-man immolated thousands of innocent victims upon its bloody altars—the same infernal spirit that kindled the fires of Smithfield, that made Saint Bartholomew infamously immortal, transformed the persecuted and exiled Puritans into persecutors and inspired the blue laws of New England that fulminate banishment or death to witches and Quakers.

I had hoped, sir, that we had outgrown these criminal absurdities; but when we enact a code of morals and dictate and define good manners, and establish rules of decency, in short, legislate into imprisonment and poverty thousands of small distillers and tens of thousands of industrious tobacco-growers, because the use of tobacco and whisky are indecent and immoral, we are evidently advancing crawfish fashion—backward toward the spirit and methods of mediæval church rule, or the still later policy and legislation of New England in her persecution of Quakers and witches. No, sir, this pretext is but a gauzy veil to hide from the public gaze the combinations of greedy capital which inspired the legislation that has built up hideous legalized whisky rings and tobacco monopolies all over the land on the ruins of two great industries and of thousands of good and true citizens.

How absurd and shameless the pretext of "indecency and immorality!" what a straining at gnats and swallowing of camels! Sir, the Constitution we swear to support requires us to "apportion direct taxes among the States according to their respective numbers." I have seen no decision of the Supreme Court construing this clause to

mean "according to the *indecency* or *immorality*, or according to the *tastes, appetites, education*, customs, or habits of the people." But if there exists such a judicial construction, and if the legislation complained of assumes to get its warrant there, how far have we conformed the statute to the decision? Have your tobacco and whisky taxes improved the morals, dignified the manners, purified the habits, refined the tastes of the people? Have they cleansed the people from the filthy use of the weed or closed a rum hell or wrought a solitary reform from drunkenness to sobriety, or lessened by a single drop the rivers of intoxicating drink that deluge the land; have they held back from the drunkard's death a single one of the sixty thousand unhappy victims that annually perish in this land from drink? Have they soothed the sorrow of a drunkard's widow or ministered bread or clothing or comfort to a single poor drunkard's orphan child? No, sir. You have only robbed labor of its wages and the land of its profits to glut the greed of lordly capital. You have cut down the little stills of a thousand poor mountaineers, destroyed their property, made them felons, dogged them to the jail, the penitentiary, and sometimes to murder and the gallows, and pauperized their families. Your law for establishing decency and promoting morals has created bands of hired spies, who prowl the mountains and valleys under assumed characters, tempting the unwary and ignorant to violate the law that they may earn from the Government wages of treachery as witnesses or prosecutors. You have dried up the *little* streams of whisky and brandy, or made them crooked and criminal for morality and decency, and yet you have flooded the land with mammoth steam hells, whose nostrils breathe forth foul fumes and flames, and from whose fiery bowels are ever gushing forth the liquid essence of damnation, deluging the nation with thefts, robberies, forgeries, arsons, perjuries, rapes, suicides, murders, every hideous and revolting wickedness known in the calendar of crime, and in its remorseless sweep ingulfing religion, domestic ties, social institutions, and millions of bleeding hearts. Sir, away with such shallow hypocrisy! Let the *truth* flash upon every intellect in the nation that this species of legislation is based on the idea that *capital* and not labor is entitled to legislative encouragement and protection; the idea that the money power ought to be, and of right is, supreme, and that therefore every department, office, and agency of the Government should be, *must* be, operated in *its* interest and for its aggrandizement.

Is this true? Let the act demonetizing silver and making gold the only metallic basis and lawful coin answer! Let all the legislation depreciating the values of land and labor products, and to the same extent appreciating money, answer! Let the fifty thousand business houses which have been crushed answer! Let the hundred thousand business men who have been hurled from opulence to penury, with blighted hopes and broken hearts, answer! Let all the financial legislation for the past fifteen years answer!

But, sir, I would not be understood as waging war wantonly upon capital as such, for as all capital is but the product of labor, and is or ought to be the reward of the laborer's toil, if I strike capital without qualification, the blow wounds the world's greatest benefactor, in the person of the laborer, *whom* to wound I would be but a treacherous Judas. I would pierce the vitals, if possible, of that conscienceless, soulless monster which, under the forms of law as well as without law, has through all time by fraud and violence grasped and appropriated to its own exchequer all the products of honest labor save only the miserable pittance that keeps soul and body together, and proposes here, even in this New World, hid for centuries by God himself from the Old World's rapacity as his last best boon and heritage to liberty and labor, to subjugate all labor to itself, its heirs and assigns, forever. It is against capital so acquired and wielded, and such capitalists who consolidate their ill-gotten riches out of the plundered earnings wrung from other men's honest toil, that I raise my voice and will ever cast my vote.

Let me say in conclusion, sir, labor is the creator of all values, as values are the measures of all wealth—material, intellectual, political, social—and agriculture is the creator of the blood, the bone, the muscle, the brain, and all the activities of labor. Agriculture is the great laboratory in which nature through the co-operation of divine law and human effort combines the elements which constitute the pabulum upon which all humanity subsists. In the proportion in which these elements are combined must be the enlargement or diminution of population, and in proportion to population will be the achievements of labor and the advance of civilization. Agriculture is the substratum upon which rests the whole fabric of our civilization. If agriculture prosper, a fresh vitality with electric velocity and power flashes through every nerve and muscle of humanity; civilization advances and develops on every line of thought and endeavor; trade flourishes, manufactures enlarge and multiply, commerce spreads her wings to every breeze and lands her rich argosies on every shore; earth yields her ingots of gold to the caresses of the grimy miner; science delves deeper into the cavernous labyrinths of nature, and plumes her pinions for loftier flights after knowledge among astral suns and nebulous systems; while art, with rekindled ardor, utilizes the discoveries of science and ministers the creations of inventive genius to the æsthetic as well as the natural want of the world; religion herself, replenished with all the material agencies and instrumentalities of her grand mission, with renewed energy presses forward her invincible armies preparing with song and shout to crown with imperishable and eternal glory "The Bozrah Conqueror."

But, sir, if agriculture falters, if drouths wither, if the frost king blight, if floods destroy, or if unwise and vicious legislation overburden the fruits of the fields, at once all progress stops, and, the propelling power reversed, rolls backward the entire machinery of civilization toward the yawning chasm of inevitable ruin. Trade languishes *first*, then dies; manufactures suddenly diminish, then cease; the navies of commerce rot at their crumbling wharves; thought feels the terrible paralysis; the gifted in art and science starve in constrained idleness, and every laudable form of human endeavor drops its implements and glides backward with the smitten millions to the shadowy realms of barbarism. Even religion, though heaven-born, yet so closely linked with materiality is she that she must sound the doleful signal of retreat, haul down the banner of the cross, must hang her harp upon the willow, weep over the world's relapse into moral night, and cry, "How long! oh, Lord, how long!"

I know, sir, that these truths are so axiomatic that their statement here might seem superfluous, but such and so many are the clashes and conflicts of minor interests involved in the movements of the complicated and interdependent parts of the machinery of our civilization that recurrence to first principles seems requisite to emphasize the supreme importance of maintaining and protecting this grandest of the arts, "the nourishing mother of all arts," untaxed, untrammeled, and free. Sir, if agricultural prosperity is the foundation as well as the mainspring of success in every department of enterprise and industry, as is self-evident, if the adequate reward of universal labor is a condition essential to general financial prosperity, and if general financial prosperity is the only guarantee against national bankruptcy and the only reliable security for the extinguishment of the national debt, it seems clear to me that the complete enfranchisement of agriculture by this Congress will be an infallible evidence of its statesmanship, a distinguished proof of its wisdom, and an enduring monument to its patriotism.

Past legislation has robbed numberless future citizens of their homes by donating hundreds of millions of acres of the people's land to opulent railroad corporations which are now exacting from the people millions of money yearly. *Justice* demands that we replenish the people's treasury with a liberal tax upon the *incomes* of these princely monopolies. Legislation having depreciated national bonds by expansion and after their sale appreciated them by contraction of the currency, and again having increased the value of the bonds by demonetizing silver, all in the interest of capital—in short, by these repeated "hocus-pocus" manipulations having legislated unnumbered money dealers and bond lords into millionaires at the expense of the masses of the people, justice now imperatively demands that this Congress legislate as far as possible the resulting burdens off of the shoulders of labor thus fraudulently depleted and impoverished and supply the deficit in revenue thus created by laying a tax, not upon bonds, since they are exempted by law, but upon the *incomes* derived from bonds and upon *all* incomes above a reasonable minimum, according to capital. Let us tax these wealthy corporations, those combinations of capital, and these royal monopolies which are a standing menace to liberty. Let us tax the millions of hoarded treasure wrung from the toil and sweat of unrequited labor by wicked legislation to enrich favorites and rings. From incomes alone in 1866, without overtaxing any that were not abundantly able to bear taxing, we derived nearly seventy-three millions of revenue, touching no income of less than $600. Let us lay again a just and fair income tax and dare to do justice though the heavens fall. Let inherited fortunes and growing wealth and princely incomes bear the burden of their own protection, and let the unfortunate poor and the toiling laborer go free. Let this Congress proclaim complete emancipation to the six millions of farmers of the nation now and forever.

The Supreme Danger—A Permanent Non-taxable Interest-bearing Debt.

SPEECH OF HON. E. H. GILLETTE,

OF IOWA,

IN THE HOUSE OF REPRESENTATIVES,

Monday, May 10, 1880.

The House having under consideration the bill (H. R. No. 4592) to facilitate the refunding of the national debt—

Mr. GILLETTE said:

Mr. SPEAKER: The Wood refunding bill is a bold proposition to increase the national debt $378,000,000 by the issue of that amount, in new coupons, which will mature before the principal. It authorizes $500,000,000 of bonds, irredeemable for twenty years, with coupons, $350,000,000 of which must be paid within that time. It provides for $200,000,000 more new bonds that under the terms of the bill cannot be paid until $28,000,000 of their coupons are liquidated. These coupons are as much a public debt as if each were a bond, are just as binding. Under the present law we can pay the debt with $700,000,000; under this proposed law it will require at least $1,078,000,000 to pay it, hence this bill, if passed, will absolutely increase the national debt

$378,000,000. In the recent sale of $740,000,000 thirty-year 4 per cent. bonds the public debt was increased $888,000,000. In the same way this bill proposes to add $378,000,000 to it. In return for this enormous increase the day of final settlement is postponed, but this instead of being an advantage can be regarded by reasonable men only as a calamity, an element of weakness to cripple us in every emergency that may arise. It is a sword hanging over us. I make the proposition boldly that the passage of this bill is a direct swindle of $378,000,000 upon the people, without any return; but this is not all, for the exemption of these bonds from taxation and the privilege of obtaining 90 per cent. of their face in currency to loan to the people make the direct loss of $378,000,000 small as compared with the indirect loss of interest paid to bankers and of taxes on personal property of all kinds.

The old motto, the greatest good to the greatest number, is repudiated by the advocates of this measure. For every bondholder there are three hundred bond-payers in the United States. If these bonds are a blessing to the one

THEY ARE AN UNMITIGATED CURSE

to the three hundred. Their effect is to create caste and classes in society, to produce a strong independent government, removed from the people and sustained by force. Every bond is a threat against republicanism. It is a more dangerous enemy to our liberties than foreign armies upon our shores could be. To think of postponing payment and adding millions to our debt by the passage of such a bill is as criminal as it would be to hesitate and parley while an enemy was sacking our homes.

If our lands be divided up among small holders they are improved and the nation is enriched thereby. If these bonds could be divided out in small amounts among the people in proportion to their respective contributions to the national Treasury they would at once become worthless, for in every case taking interest into one pocket would be simply drawing it out of the other, with the great cost of the Government machinery for managing the loans and collecting taxes added. It would be a losing game to all; hence these bonds are only valuable when held by the few, and although it is a losing game for three hundred out of every three hundred and one citizens, such is the influence of the one over the three hundred that he manages periodically to increase and perpetuate this debt through such bills as the one now under consideration.

Our fathers wisely provided in the Constitution that no titles should be granted. They dared not trust our institutions in the hands of barons, lords, and dukes. But titles, as an element of danger, a means of caste, would be as harmless as the babes in the wood compared ith this bonded debt, which creates hereditary distinctions and scepters on every hand. For example, William H. Vanderbilt

DRAWS FROM OUR TREASURY TWO MILLION DOLLARS

per annum, in quarterly installments, and swears when the assessor calls that he has not a dollar that can be taxed. This great untaxed wealth enables him to control Legislatures. It opens every avenue of influence, and makes him independent of the people. No famine, no storm, no shipwreck, no wreck of industries can reach him. The United States Army and Navy and countless Government officials are his agents to extort from trade its tribute, from industry its tax, to reward him.

What makes Mr. Vanderbilt so priceless a citizen that the people are freely bestowing upon him the surplus earnings of an army of 26,666 workingmen, (estimating that each could save twenty-five cents a day for three hundred days in the year?) What has he done to earn such a service? Our President receives a salary of $50,000, and there is a general feeling that this should be reduced one-half. It requires a great many votes to elect a President. He is chosen for a great service and a great honor, he devotes his whole time to the people, and has vast responsibilities, for which we pay him $50,000; but Mr. Vanderbilt has never even been nominated for any high office, has no duties to perform for the people, has never earned their gratitude, unless a railroad syndicate to extort high freights from western farmers deserves gratitude, and yet we pay this American baron $2,000,000 a year, or as much each year as we pay our Presidents in forty years. The office of President continues only four years. Our fathers feared a longer term would breed despotism, and at the end of the service the salary ends; but Mr. Vanderbilt's term and salary are to be perpetual if the refunders have their way, and his children will call upon ours for the same tribute, $2,000,000 a year! What has he done that he and his heirs should be pensioned off with the salary of forty Presidents? He has exchanged non-interest-bearing notes of the Government for interest-bearing notes of the same Government, that is all! We cannot blame him. It is not strange he did it. Congress offered to make the exchange, and he accepted. Oh! "Honesty," what frauds have been committed in thy name! Oh, Congressmen, how you love the "dear people!"

The printing-presses are once more to be set to work printing irredeemable, non-taxable bonds for our Vanderbilts. This bill proposes to offer another opportunity to those who have by any means whatsoever obtained non-interest-bearing United States notes to exchange them for interest-bearing notes, and thus become a tax upon our people for all time. We do not put

WORKINGMEN UPON THE AUCTION-BLOCK

as we did a few years ago, but we put up their labor in every market in the civilized world and sell it to the highest bidder, for these bonds represent the future labor of the country. We are a nation of gamblers to-day, gambling upon the labor of our children, which is sold in every conceivable form of stocks and bonds drawing interest. New York is the great center, and from her wires radiate like the arms of a spider in every direction to draw new victims into this gambling vortex. Women as well as men have caught the contagion, and even legislators in this Hall have found two telegraph offices in the lobby insufficient, and one has just been added devoted exclusively to stock gambling in New York, where between their votes members may run out to examine stock quotations and try their luck. This bill is to add more fuel to this poisonous flame.

In ancient times the Romans conquered the world and placed all nations under tribute. Deadly weapons have now become so perfect that we hesitate to take the chances of war in order to rob our neighbors, but have devised a scheme for robbing the next generation. They are unarmed, they have no orators to plead their cause, no representatives upon this floor, and we sell them into slavery with the indifference of Chinese pirates; but like most thieves we overreach ourselves, and though we may succeed in selling the labor of the next generation to task-masters we find ourselves bound by the same chains forged by the same masters. Give me the Roman civilization that conquered the world, then reveled in the glut of its plunder, in preference to that meaner and more cowardly civilization that puts the next generation on the auction-block in the name of liberty, that tries to visit upon the third and fourth generations the punishment for its own crimes.

Two centuries ago the fiercest wars were waged without the issue of a single bond. Bonds are a modern invention, only about a century old. The late war was seized as a pretext for the issue of our bonds. The pretense was that they drew upon the next generation for aid to prosecute the war. Nothing is more absurd. The next generation never yet furnished a gun or a box of hard-tack to aid in a war. Neither did these bonds draw aid from any other country. England preferred the securities of our enemies until the war was practically decided, and peace found nearly all our debts at home. We furnished the men and the material for our war, as much so as if no bonds were issued; but instead of drafting the money as we did the men, we gave bonds for it. It is true the refunders intend the next generation shall be cursed with these leeches, but not until we have thrice paid back every dollar received for them. They are to have the same privilege of paying, over and over again, a debt for which they are no more responsible than the east wind.

England has enslaved the laborers and farmers of Great Britain by means of her hopeless funded debt and its twin sister, landlordism. Taxation has become so intolerable that wholesale expatriation has followed, and

ARTIFICIAL FAMINE CALLS TO US ACROSS THE WATER

for bread. There is no tyranny more absolute than the tyranny of capital. There is no dependence more servile than the dependence for bread. We are copying England. This effort to perpetuate and increase our bonded debt is an effort to degrade and enslave labor still further, to pinch with famine the men that feed the world, to make an Ireland of the Northwest and South.

Wherever the British flag floats bonded debts enslave the people. Starving Ireland gives a perfect illustration of the inevitable results of this system, which speedily transfers all titles and all the fruits of the earth, and all the labor of the land into the hands of an aristocracy. If this bill is to become a law Ireland might with greatest propriety greet us with the ancient epitaph:

Oh look on this and think of me.
As I am now you soon shall be.

When England entered upon her bonded system no one proposed to make the debt perpetual. Taxes were even pledged to pay it, and it was partly paid, but new wars afforded the desired excuse for its increase and funding, as they probably will here. The history of England will be repeated with us unless we have the patriotism to protect ourselves and our children from our oppressors, as our fathers protected us from British tyranny, and then by superhuman efforts from bonded tyranny, and we shall become as Thomas Jefferson said the people of England were when their funded debt was only half what ours now is, "a nation of pikes and gudgeons, the latter bred merely as food for the former." A funded debt perpetuates the woes of war in time of peace by continuing to draw from the people the products of their industry, not to provide for an army in the field, but to feed insatiate avarice; thus the people who overcame by war one system of oppression only find themselves enslaved to another, the change being simply a change of masters.

Confiscation is resorted to as a punishment for public enemies in war, but bonds confiscate the earnings and property of the loyal, the true, in time of peace.

THE BRAVE SOLDIERS THAT SAVED OUR FLAG

at infinite sacrifice, half paid, now see their earnings appropriated to enrich our Vanderbilts, and are punished by the Government they saved in having the pittance they received extorted from them to feed bondholders. A funded debt is the badge of a cowardly government, that dares not tax the rich for its necessities, but dares sell in bondage to them, the loyal workingmen of the nation.

Secretary Chase feared two great powers: first, the rebels in arms; second, the bankers and capitalists of the North. His reports recom-

mending the national-bank act and the issue of bonds prove this. We overcame the rebels, but the bankers and capitalists overcame us on every battle-field, in every camp. Our shouts of victory over armed enemies were echoed back by their shouts of victory over us. The slaveholders were no sooner driven from the capital and robbed of the scepter than the bondholders took their places and seized the reins of government.

The gentleman from Maine [Mr. FRYE] and other republicans congratulate the country over the low rate of interest at which bonds can now be sold, as if low interest were a good excuse for permanent debt. They talk glibly of the public credit. Thomas Paine, in 1796, in a pamphlet on the English funding system, said: "Every stock-jobber and minister boasts of the credit of England." It is an old catch-word, used to flatter the people while the shackles of eternal debt are being fastened upon them. Let John Sherman tell how England strengthened her public credit and reduced her rate of interest to 3 per cent. In his speech on public debt and currency, in the United States Senate, January 27, 1869, he said, speaking of England:

When the war (with Napoleon) was over, measures were slowly adopted for its (the currency's) appreciation to the gold standard. These measures resulted in a reduction of the paper currency from $231,000,000 in 1815 to $152,000,000 in 1821. * * * The purchasing value of capital was increased 50 per cent. A thousand dollars in 1821 would buy more than $1,800 in 1815. Small traders, debtors, and laborers were reduced to the sorest distress. The loss to them was far greater than the actual depreciation of the currency, for all confidence and trust were lost. The only compensation to Great Britain was the rapid fall in the rate of interest, from the abundance of idle capital, which enabled her to reduce the interest on her public debt within a short time to 3 per cent.

In other words, England strengthened her credit and reduced her interest by a merciless war upon the producers and traders of that kingdom—a war more cruel than that of the sword. For the same purpose precisely the same has been done in this country with like results. The gentleman from New York, the author of this bill, [Mr. FERNANDO WOOD,] said in his speech in support of it, pages 22 and 23:

The recent large receipt of foreign gold, the enormous amount of values extinguished, the depreciation of all other securities, the losses by the failure of savings-banks, trust companies, and other institutions, the immense losses by bankruptcies and general depression, have produced a widespread distrust of every representative of value except the issues of the Government.

The very legislation that brought such woe to England was copied by the republican party in this country with the results Mr. WOOD so well describes, and yet that party

GLORIES OVER THE GREATEST CRIMES OF THE AGE,

because all signs of life were not extinct when it withdrew its hand from the throat of the nation.

In 1812 Napoleon led his grand army on a tour of conquest to Russia. His splendid battalions were at once the admiration and terror of the world; the horrors of that campaign to Moscow baffle description; what with battles, disease, and weather that froze soldiers around their camp-fires, the invincible army of half a million at last returned with forty thousand survivors, less than ten thousand of whom were Frenchmen, preceded by their great chieftain in disguise. This invasion conquered France instead of Russia. What would have been thought of Napoleon had he congratulated his people over this campaign of death and ruin, because there was some life left in France and it might yet recover from this disaster? The republican party has led our people through a more disastrous and longer campaign of spoliation, bankruptcy, and ruin; yet to-day their leaders have the sublime impudence to glory over their crimes because, forsooth, the nation shows some signs of life in spite of them.

Is the interest on the proposed bonds low? Three and a half per cent. is only a part and a small part of the interest really to be paid. The exemption from taxation is worth 2 per cent. and the privilege of obtaining 90 per cent. of the purchase-money back is worth whatever rate of interest the law allows in the various States, less 1 per cent. tax. Such interest as these bonds can draw directly and indirectly from the people make them many times as productive as land or labor. If the interest were 1 per cent., it would be no excuse for refunding, which would still be class legislation. It would still tax the many for the benefit of the few. The bonds would still be, as Jefferson named them, a moral canker. The gentleman from Maine [Mr. FRYE] thinks the interest on the public debt can be reduced to $65,000,000 a year. Suppose it can. What does that amount represent?

OUR COUNTRY IS OVERRUN WITH MONOPOLIES.

The price extorted from the Northwest for freight to the seaboard is determined by the avarice of railroad syndicates, responsible to nobody but stockholders, who meet after harvest a half dozen strong, more or less, and decide to put freights to the seaboard from Chicago up 10 per cent., and by that act rob the farmers of the Northwest of $30,000,000 upon that year's crops and take $500,000,000 from the value of their farms. The people are helpless in the hands of these nabobs after having in many cases built their roads by gifts of land. Is it not time for the Government to take some steps for their protection, in answer to thousands of petitioners? The evil can be cured by running a double-track steel freight railroad from New York City to Omaha, Nebraska. Such a road, owned and operated by the Government, with tolls to simply pay expenses, would be of greater value to our commerce than the Mississippi River. It could be built and equipped ready for business, with depots and all conveniences, for $65,000,000, or twelve months' interest on these bonds. But no; this tax must be paid, not to protect the people from the extortions of the Vanderbilts, but to increase their power over us, and render our condition more helpless, more hopeless.

The proposed Panama Ship Canal would be of vast service to our commerce. It would enable us to promptly reach any point upon our western coast with merchantmen or men-of-war. A little more than twenty-four months' tax for interest would cut this continent in twain and unite the Atlantic and Pacific; but this work must be left for foreigners, because, though we raise the money, we appropriate it to feed the drones in our hive, rather than to build ship-canals.

Hon. H. B. WRIGHT has introduced a bill, supplementary to the homestead act, to enable poor men to avail themselves of the benefits of that act by loaning them, at 3 per cent. interest, enough money to purchase a few necessary tools. No more beneficent measure was ever proposed. It would result, if adopted, as a similar measure once did in Italy, in

CONVERTING MILLIONS OF UNFORTUNATE PEOPLE

into useful and happy citizens, in augmenting our resources, and improving our country. Only twenty-three men could be found in the Forty-fifth Congress to vote for this measure, while we loan to capitalists $340,000,000 at 1 per cent. interest. Could we appropriate $65,000,000 to this object, we could each year start one hundred and thirty thousand families, or over half a million people, on the road to independence, until want should become unknown among us; but no! this money, though raised, cannot be used to lift the fallen, to help the weak and develop the country, but must go to fatten United States usurers.

Again, ignorance is dry-rot in a republic. Suffrage must be intelligent to be a safeguard of liberty. "If a nation expects to be ignorant and free in a state of civilization, it expects what never was and never will be. * * * Where the press is free and every man able to read all is safe." (Thomas Jefferson, volume 6, page 517.)

Our last census showed that four and a half millions of people could not read. What grander contribution to the safety and happiness of our people, and the establishment of a true republic, than to provide these benighted sons and daughters with school-houses and teachers. Ninety thousand of these furnished houses, or one for each fifty persons, could be provided for $36,000,000. Competent teachers five months a year could be had for $11,500,000 more; $7,000,000 more would clothe comfortably one-tenth of all these unfortunates. We still have $10,500,000 left with which to feed such as could not be cared for by parents. This grand scheme of internal improvement would only require one-half the amount after the first year, but education and civilization must wait while America taxes the people hundreds of millions of dollars, not to protect us from the extortion of monopolies, not to aid commerce, not to educate the ignorant, not to make the waste-places of our land bud and blossom as a rose, but to aggrandize the men whose

PRINCELY INCOMES SHOULD BE MADE TO PROMPTLY PAY

the whole debt.

Is it any wonder our fathers hated a public debt, and characterized it as a "swindle," a "moral canker," &c.? The messages of Presidents have been almost without exception light-houses of warning upon this subject. Washington said in his second annual message, December 8, 1790:

Allow me, moreover, to hope that it will be a favorite policy with you not merely to secure a payment of the interest of the debt funded, but as far and as fast as the growing resources of the country will permit to exonerate it of the principal itself, &c.

In his fourth annual message, November 6, 1792:

I entertain a strong hope that the state of the national finances is now sufficiently matured to enable you to enter upon a systematic and effectual arrangement for the regular redemption and discharge of the public debt according to the right which has been reserved to the Government. No measure can be more desirable, whether viewed with an eye to its intrinsic importance or to the general sentiment and wish of the nation.

In that day of poverty they retained the right to pay their debts, which now it is proposed to surrender. In his sixth annual message, 1794, he says:

Time has developed our pecuniary resources so as to open the way for a definitive plan for the redemption of the public debt. It is believed that the result is such as to encourage Congress to consummate this work without delay. We ought to prevent that progressive accumulation of debt which must ultimately endanger all governments.

In his seventh annual message, 1795:

Congress has demonstrated their sense to be, and it were superfluous to repeat mine, that whatsoever will tend to accelerate the honorable extinction of our public debt accords as much with the true interests of our country as with the general sense of our constituents.

In his eighth annual message, 1796:

It will afford a heartfelt satisfaction to concur in such further measures as will ascertain to our country the prospect of a speedy extinguishment of the debt. Posterity may have cause to regret it if from any motive intervals of tranquillity are left unimproved for accelerating this valuable end.

In his Farewell Address, 1796:

Avoid likewise the accumulation of debt, not only by shunning occasions of expense, but by vigorous exertions in times of peace to discharge the debts which unavoidable wars have occasioned, not ungenerously throwing upon posterity the burden which we ourselves ought to bear.

President Adams, in his first annual message, 1797:

The consequences arising from the continued accumulation of public debts in other countries ought to admonish us to be careful to prevent their growth in our own case, &c.

In Jefferson's second annual message, December, 1802, he says:

It is an encouragement that they have been able to make large and effectual payments toward the discharge of our public debt and the emancipation of our posterity from that moral canker.

Again he said:

The principle of spending money to be paid by posterity under the name of funding is but swindling futurity on a large scale.—*Jefferson's Works*, volume 6, page 608.

J. Q. Adams, in his third annual message, 1827, speaks of—

The deep solicitude felt by our citizens of all classes throughout the Union for the total discharge of the public debt.

President Jackson, in his seventh annual message, December, 1835:

Since my last annual communication all the remains of the public debt have been redeemed.

On January 8, 1835, a celebration was had in Washington over the payment of the public debt. President Jackson contributed this toast:

The payment of the public debt: Let us commemorate it as an event which gives us increased power as a nation and reflects luster on our Federal Union, of whose justice, fidelity, and wisdom it is a glorious illustration.

Nothing could be more evident than is the purpose of the bank parties to perpetuate the bonded debt. The law of self-preservation leads the banks to insist upon refunding. Secretary Chase suggested when he proposed the system in his report, December 4, 1862, that "the debt may be retained" so far as needed for these banks. A year ago Secretary Sherman applied to Congress for authority to issue 4 per cent. bonds to raise money to pay soldiers' pensions rather than to use any in the Treasury.

The gentleman from Maine [Mr. FRYE] in advocating twenty-forty bonds says, speaking of the republican party:

It never forgot the people nor was unmindful of the burdens they were bearing, and it commenced at the earliest possible moment the lightening of them.

Then he presents a table giving the reductions of internal-revenue taxes, showing that between January 13, 1866, and June 6, 1872, taxes were repealed to the amount of $262,000,000 per annum, or enough all told to pay our debt and $1,500,000,000 besides. It is true the republicans never forgot one class of the people, the bondholders, who, in spite of their exemptions, were reached by the income tax. They hurried to their relief and abolished that tax, and with it the payment of the debt practically ended. They have also abolished other internal direct taxes, largely in the interest of capital, but articles of universal use, like salt and sugar, still pay their tribute. The interest-bearing debt stood July 1, 1873, $1,710,000,000, and on July 1, 1879, the close of the last fiscal year, it stood $1,797,000,000, showing an increase in six years of $87,000,000. During this time the income of the Government has averaged $279,000,000 per annum.

In 1835 our country was out of debt and during the six preceding years our fathers paid nearly $10,000,000 per annum of the principal of the debt upon an average income of $27,600,000. Had we done as well in proportion to our receipts, we should have paid $98,000,000 each year, or $768,000,000 during the six years. Instead, we find our bonded debt increased in principal $87,000,000 during that time. It is true $35,000,000 of greenbacks were destroyed under the pretense of paying our debt, but, so far from reducing our burdens, this only increased them by making further payments more difficult, reducing the power of the people to pay taxes as much as if $35,000,000 of coin had been emptied by the Treasurer into the sea. It is further true that a great pile of coin has been locked up in a tomb in Wall street, but it might as well be locked in the quartz of the Rocky Mountains, so far as aiding or relieving the people goes. I am aware that unexpected receipts from duties upon unusual imports have, since the close of the fiscal year, compelled the payment of bonds. I am also aware that a great effort is making to further reduce taxation and thus prevent continued payments, precisely as has been done under similar circumstances before.

THESE BONDS ARE NON-TAXABLE.

Can it be that members of this House realize what they do when they issue more non-taxable bonds? They open a door by which nearly all personal property may, and a large portion of it actually does, escape taxation and throw the burdens of Government upon those whose property is in farms and other real estate. Many think church property should pay its share to support the Government that protects it; but what shall we say to this open door by which untold millions of the most productive property escapes taxation? So notorious has the practice become of transferring or pretending to transfer for the day personal property into Government bonds in order to swear off taxes that financial reports mention it. The assessors are doing their work in Chicago, and the Chicago Times has just reported that—

Government bonds were active, many of those who bought to evade taxation throwing their bonds back on the market. The dealings of one house exceeded $1,000,000.

They bought to "evade taxation."

At the last bankers' convention at Saratoga, on August 6, 1879, it was openly threatened by the secretary of the association that if Congress did not reduce the taxes on national banks the capital thus invested would be taken out and escape all taxation, in these words:

The capital now in national banks will be invested in some way where it will quite probably escape taxation altogether. Already there have been retired, from New York City alone, over $30,000,000 of banking capital and surplus. Probably not one-tenth of that capital is now subject to taxation.

The whole assessment of personal property in New York City, our great stock and bond and mortgage center, is only $175,900,000, much of which is stock of corporations that are compelled by law to report their stock. To show how personal property is slipping away from the tax lists I give the real estate and personal assessments in that city, commencing with 1872, (less than hundred thousands omitted:)

Years.	Real estate.	Personal.
1872	$797,100,000	$306,900,000
1873	836,600,000	292,500,000
1874	881,500,000	272,400,000
1875	883,600,000	217,300,000
1876	892,400,000	218,600,000
1877	895,900,000	206,000,000
1878	900,800,000	197,500,000
1879	918,100,000	175,900,000

It will be seen from the above list that notwithstanding the terrible fall in real estate in the last few years the estimated values were constantly crowded up to make up for the loss of personal property hid behind Government bonds. Mr. WOOD speaks of the "large surplus capital acquired within the past five years," which none will deny, as our money centers have been fairly gorged with bonds and mortgages of every description, thrown upon the market because of the distress of business; yet we see in New York constant reduction in the tax list at a rate which, if continued, will leave not a dollar of personal property on the list in nine years. This is one feature of the public-debt swindle which of itself should prevent a single member of this House voting for it. Four men among the thousands who in that city swear off all their taxes through this method own $195,000,000 of personal estate, more than all that appears in the assessment of that great center. It is a shameful imposition upon farmers, manufacturers, and business men, whose property cannot be hid by temporary exchange for Government bonds, to issue these nontaxable securities, and to-day it costs them indirectly in added taxes, I believe, vastly more than the whole interest on the public debt.

All that has been said of the evils of a funded debt should be emphasized fourfold to express its evils when

SURMOUNTED BY THE NATIONAL-BANK SYSTEM—

a scheme by which the people give to capitalists the use of their own credit, then borrow it back at ruinous rates of interest; a scheme which may be warranted to transfer the property of the many into the hands of the few in less time and with less noise than any other ever devised by man; a plan by which the control of our currency is farmed out to rich men and institutions whose every interest is exactly opposed to the interests of the people. They always struggle for high usury, which is the tax they levy upon industry. They may be depended upon in seasons of greatest financial distress to withdraw and reduce their credits and currency, and thus aggravate manifold the depreciation of property and bankruptcies, and in seasons of prosperity and importation of money to so increase their circulation and credits as to stimulate business and speculation unnaturally and dangerously under this system, thus always working against the people.

After the passage of the resumption act, January 14, 1875, the country, already in the throes of monetary panic, was plunged still deeper into an era of disaster and distress unprecedented for severity and duration in our history. That act steadily swept away the foundation of all our business, of our whole financial system—the legal-tender notes—until under its operation $35,318,984 had been destroyed; when, appalled in view of the ruin wrought, Congress on May 31, 1878, repealed so much of the act as required the cancellation of legal-tenders. During these three years succeeding the resumption act some conception of the withering, sickening work of this and other laws can be gained from Dun, Barlow & Co.'s list of business failures:

Years.	Number of failures.	Liabilities.	Percentage of failures.
1875	7,740	$201,060,000	1 in every 83
1876	9,090	191,117,000	1 in every 76
1877	8,872	190,669,000	1 in every 64
1878	10,478	234,383,132	.....

Receivers were appointed over one hundred and seven railroads, covering 12,619 miles of track, with a capital of $779,679,000. One hundred and thirty-two railroads were sold under foreclosure, covering 16,623 miles, about one-fifth our railroad mileage, having a capital of $728,463,000. In short, two hundred and eight railroads, operating 25,209 miles, were sold during these three years, or were still in the hands of a receiver, according to the Chicago Railway Age. No less striking was the failure of manufacturers and farmers. Factories and shops were often sold at one-sixth cost and farms seized for whatever mortgage was upon them by hundreds of thousands. Produce sold so low as to compel farmers to borrow money and mortgage their lands, until in many counties of the West almost the whole territory has been placed under incumbrance to eastern and foreign capi-

talists at high rates of interest, giving us a practical taste of the English landlord system. Labor everywhere suffered; families were severed, homes ruined, hearts broken, lives destroyed.

Under these staggering afflictions what did the national banks do for the people? Did they come to the rescue? Did they help to sustain our sinking industries? Did they seek to hold up prices and keep up courage? Did they fill up the void in our currency created by the destruction of over $35,000,000 greenbacks? Just the reverse. They helped to break prices. They tore down rather than to build up. The people reaped the whirlwind from these corporations in return for the almost countless millions they had given them. As soon as alarm was felt over the decreasing volume of currency they reduced their circulation as follows:

On January 14, 1875, they had outstanding	$351,861,450
On May 31, 1878, when contraction was arrested	321,232,099
Making a direct contraction of	30,629,351

Nor was this all; they curtailed their loans, withdrawing credit at this time, when its withdrawal made bankruptcy inevitable.

October 1, 1875, the national banks loaned	$984,700,000
October 2, 1876, the national banks loaned	931,300,000
October 1, 1877, the national banks loaned	891,900,000
October 1, 1878, the national banks loaned	834,000,000

(see Report of Comptroller of the Currency, 1879,) showing a contraction of over one hundred and fifty millions in their loans. In contrast with this even the Bank of England, in modern panics and crises, by the issue of its paper money quiets the storm, and on three separate occasions in the last thirty years has asked and obtained from government the privilege of issuing paper money without reserve, in order to relieve the business community and to protect credit. The Bank of France and other money institutions of that country in time of panic have even loaned to merchants, manufacturers, and mechanics as high as $36,000,000 in a single fortnight without other security than an honest name, where that was all that could be given, in order to keep alive the industries of the country and prevent suffering and loss. They realize that their own profits depend upon the profits of producers. Since the great failure of crops in Europe and the unprecedented demand for our cereals it is estimated that one hundred millions have come to the country which have thus far escaped our great national money prison, the Treasury, and been added to the circulation, whereupon as soon as it became probable that an increase of national-bank money might not be necessary to start our prostrate industries, the banks reversed their former policy and are now rapidly inflating their currency, having increased it nearly a million of dollars in a single week, (ending November 22, 1880.) They are also increasing their loans, which on February 21, 1880, reached $969,500,000, an increase of $135,500,000.

In old times bee men provided comfortable hives for their bees, raised flowers for their convenience, and after three or more years, when the hives were loaded with rich honey, smoked them out and appropriated their stores. The bankers took the hint, and have ever since treated the people as bees were once treated, by first offering money and credit to stimulate industry, and after the workers have accumulated enough to tempt their avarice the money and credit are withdrawn,

THE DUPES ARE SMOKED OUT,

and their treasures confiscated. The banks are now encouraging the workers preparatory to the smoking-out process as heretofore, whenever accumulations will justify. "Walk into my parlor said the spider to the fly," and the fly walked in. We farm out to these men the privilege of levying taxes upon the land, labor, and commerce of the country in defiance of every principle of justice. When Pennsylvania was a colony, she issued legal-tender paper money and loaned it for reasonable interest to the people, thus greatly stimulating the growth of the country. No man can deny that the interest she took was a tax as much as if obtained for licenses. The man who applied for a license to pursue a business did it just as voluntarily as the man who applied for money to enable him to pursue his business. Each had to make it out of his customers and pay it to the colony. The difference between that system and ours is, they loaned to the industrious and needy. We loan to the idle and wealthy. The interest or tax was gathered by the Government, regulated in amount by justice, and applied for the benefit of the whole people, while under the national-bank act the tax is gathered by individuals, is governed in amount by avarice, and applied to self-aggrandizement.

No republic can or could stand before such a system as our bonded debt and national-bank system. It is founded upon aristocracy. Its every principle demands a strong independent government. It has already demoralized the leaders of the party that established it, who on every stump and in every organ enunciate the doctrines of a pure despotism by teaching that the people are incompetent to be trusted with the control of their own financial affairs, but must be turned over to bond-holding and banking guardians. If this is true, our fathers were fools and the Revolution a blunder. An able English writer has said: "There are three powers that rule the world—money, mind, and authority." If a government surrenders the control of the first it surrenders the control of everything. If you prove that the people cannot be trusted with their finances, you prove all that king or emperor could desire.

Not only does the republican party insist that the people cannot be trusted to manage their financial concerns, but they regard them

UNWORTHY TO BE TRUSTED WITH THE BALLOT.

Two hundred thousand people in this District have been wholly disfranchised by them, and have no more control over their taxes, schools, and improvements than if under the Czar of Russia. Great mass-meetings have been held here to appeal to Congress for the simplest rights of American citizens. Bills have been introduced to restore to them the ballot, which have not even been read. Large classes of citizens have been disfranchised in leading republican States because of poverty, and for other reasons. In Massachusetts, as proved by General Butler in his recent argument before the Committee on Elections, two-fifths of the males over twenty-one years, or one hundred and thirty-six thousand men, have been disfranchised for extraordinary reasons, and in Rhode Island, with a population of three hundred thousand, from ten to fifteen thousand men are disfranchised because of their poverty solely, and because of restricted suffrage a minority govern that State. (See Wallace committee, testimony, page 125.) In other States laws have been enacted which are reducing the voting lists. So completely has the spirit of aristocracy developed itself under our present financial system that the man is blind who cannot see how the enemies of liberty have triumphed in this Republic and defeated popular franchise at every point, converting this Government into a bondholders' government. John Sherman said in the Senate, March 2, 1870, in a speech on the funding bill:

But, sir, the vote of the House shows the power of the national banks. It is so great, at least in the House, that in order to secure a funding bill we have been compelled to abandon all provisions in regard to the national banks.

That power has so intrenched itself here no member can deny its control, not only in this House but in the Treasury and in the White House. This House has just adopted rules for its government and that of future Congresses which practically defeat in anticipation all anti-bank legislation.

THE WHOLE WEST AND SOUTH ARE COUNTED OUT,

and can get no committee to report a bill interfering with these and other monopolies. The money centers of the East have triumphed through these autocratic rules. We have already spent whole days and many night hours in a fruitless fight against the despotism of these rules, and the very men who made this House a political bastile for all Representatives who will not bow to our feudal lords are now fighting the consequences of their own traitorous votes. Too late! Too late! The scepter has passed from the people's hands, and this body is not a House of Representatives.

Bonds and banks have created orders, and orders for their own protection have demanded an independent government, out of reach of the people. No despotism exists without orders. No republic can exist with them. The bonded banking system would be shivered if the people could get at it. It is only in an independent government that it can exist. Mr. Adams said two orders will render a nation miserable; creditor and debtor make the system of Spartans and Helots.

One of the students of history wrote soon after our Revolution:

Neither large standing armies, hereditary perpetuities, nor chartered currencies will answer for a republic.

Individuals die, their estates are divided; but these great corporations that control us never die, never let go. They are omnipresent with their tools and agents. They lobby in this House. They pack conventions and control nominations with money and influence. They are determined to rid this House of the "party of the center." No money will be spared to do it. Candidates will be chosen to run against them who can best deceive the people. All schemes and tricks and "bulldozing" will be used to defeat the men who are exposing them and demanding that the usurers, stock-jobbers, and refunders be cast out from this temple consecrated to liberty.

My substitute for the Wood refunding bill restores to the people the benefit of the circulating medium now granted as a bonus to national banks, and

DIVORCES THE POLITICAL AND MONEY POWER,

whose union Calhoun truly said (in the Senate September 18, 1837) is "more dangerous than that of church and state in any form or shape." It converts national-bank notes into legal-tender greenbacks, and thus enables us to pay at once $340,000,000 of our maturing bonds without one dollar of tax, without inflating the currency a mill, without injuring it, but rather improving it, and without injustice to any class, and I defy any man on this floor to refute this proposition or show why this should not be done.

These bonds, we all know, could be paid with new greenbacks, as they would be preferred to coin, and transform, as if by the touch of a magician's wand, this Pandora's box of ills into an elixir of life—a fountain of perpetual youth. This would be an emancipation proclamation to the people from the slavery of usury; but it would be as easy for a camel to go through the eye of a needle as for such a measure to go through this House; hence, as I desire a square issue upon increasing and perpetuating or paying these bonds, I have provided for no increase of the currency; but the continuation of this gratuity of $340,000,000 to the banks, when we need every dollar to pay our debts, would be as stupid as it would be criminal.

Secretary Chase said in his report, December 4, 1862:

The time has come when a circulation of United States notes in some form must be employed. The people demand uniformity in currency and claim at least part of the benefit of debt without interest, made into money, hitherto enjoyed exclusively by the banks. These demands are just and must be respected.

The time has come, Mr. Speaker, when the people *demand all* the benefit of debt without interest, made into money. Every argument in favor of their having a part is an argument proving they should have it all; and this Government should be alienated from the banks, which, as Jefferson says, are more dangerous than standing armies. (Volume 6, page 608.) I insist that our money will be improved by this change. The national-bank act acknowledges the superiority of greenbacks by requiring that bank-notes be redeemed in them. The greenback is a sign of the paternal love of the Government for the people—a sign of unity, of strength, of independence, of peace. On the contrary, the national-bank note is a sign of the absolute indifference of the Government toward the people. It is not a sign of union, but of discord. Every bill is a sign of slavery, not of freedom; of

MONOPOLY RUN MAD, OF BANKRUPTCY AND ROBBERY

for the many, palaces and luxury for the few. It is a menace of war. It is the greatest invention ever devised for fertilizing the rich man's field with the sweat of the poor man's brow, as Daniel Webster said of bank paper in his day.

Secretary Chase, in his report to Congress, December 1, 1861, said, speaking of $202,000,000 of State-bank circulation outstanding:

The whole of this circulation constitutes a loan without interest from the people to the banks, costing them nothing except the expense of issue and redemption and the interest on the specie kept on hand for the latter purpose; and it deserves consideration whether sound policy does not require that the advantages of this loan be transferred, in part at least, from the banks representing only the interests of stockholders to the Government representing the aggregate interests of the whole people.

This unanswerable argument applies to national-bank circulation with many times the force it then did to State-bank circulation. The amount in the hands of the banks is almost twice as large as then. The expense of redemption has been abolished and banks are not required to keep any reserve on hand in coin or greenbacks to redeem their notes, (see act June 20, 1874, sections 2 and 3,) but receive coin interest on their bond reserves held by Government. They pay 1 per cent. tax on their circulation, but it is provided at Government expense and is made receivable by the Government and its employés, thus giving it a partial legal-tender character and almost universal acceptability. Consequently the privilege is vastly greater now than it then was when bank money could only circulate near the bank and must constantly be redeemed. Moreover, the interest-bearing debts of the Government are now over eighteen hundred millions, whereas the debt on July 1, five months preceding this report, was only ninety-five millions. Hence if sound policy then required the advantages of that loan to be transferred to the people, how much more does sound policy demand the advantages of this more direct loan be promptly transferred to the whole people. These bank bills rest solely upon the credit of the United States and not upon any bank, as proved by the fact that they are as good and circulate as freely after the failure of the bank issuing them as before. The tax upon our credit is as great as if these notes were greenbacks, and greater because of the interest paid upon the bonds held as security which under my bill would be at once redeemed.

Have we the right to assume this circulation? Mr. Chase said in same report:

It is too clear to be reasonably disputed that Congress under its constitutional powers to levy taxes, to regulate commerce, and to regulate the value of coin possesses ample authority to control the credit circulation which enters so largely into the transactions of commerce and affects in so many ways the value of coin.

Again, in his report of December 5, 1862:

If Congress can prescribe the structure, equipment, and management of vessels to navigate rivers flowing between or through different States as a regulation of commerce, Congress may assuredly determine what currency shall be employed in the interchange of their commodities, which is the very essence of commerce. Statesmen who have agreed in little else have concurred in the opinion that the power to regulate coin is in substance and effect a power to regulate currency, and that the framers of the Constitution so intended.

Have we the right to deprive the banks of this loan?

The national banks are mere creatures of law. They hold their existence at the pleasure of Congress. We may to-morrow if it promote the public interests withdraw their authority. Their franchise has been valuable to them.—*J. Sherman's speech on the funding bill*, in United States Senate, February 28, 1870.

National bank act, June 30, 1864:

SEC. 64. *And be it further enacted*, That Congress may at any time amend, alter, or repeal this act.

My bill provides for collecting from those most benefited by Government.

A TAX UPON THEIR INCOMES.

This tax is just, and the House voted for it by a handsome majority during the extra session. Adam Smith says:

Taxation should be in proportion to the revenue enjoyed under the State.

Secretary Chase said in his report, December 9, 1861:

The existing provision for an income tax is just in its principle, inasmuch as it requires largest contribution from largest means.

It is the only tax by which we can reach that large class of rich men now exempt from taxation, for whose benefit the millions are taxed.

MY BILL APPROPRIATES THE IDLE MONEY IN THE TREASURY.

The theory of those who retain it is that it may be needed to redeem greenbacks—redeem greenbacks that have redeemed the country! Only on the theory that the coin in the Treasury is better money can there be any ground for retaining it a moment. Over $600,000,000 of bonds have been paid with them since the Secretary of the Treasury first received greenbacks at the custom-house because preferred. The demand at the Treasury has been for greenbacks in exchange for coin rather than the reverse. The gentleman from Maine [Mr. FRYE] says "they are at a premium in coin." The venerable Peter Cooper, in a letter to members of this House a few days since, said: "To my personal knowledge a president of one of the leading moneyed institutions of New York was recently offered 2½ per cent. premium for a million dollars of legal-tenders." They cannot be more valuable than coin, because they are redeemable in coin, for a stream cannot rise above its source. Coin cannot bestow greater value than it possesses. As soon as we honored greenbacks at the custom-house they took their place as the best money in the land—whereupon the bankers became alarmed lest the people should discover that they do not depend upon coin for their value, and compelled their agents, the President, Secretary of the Treasury, and Comptroller of the Currency, to appeal to Congress by message and report, urging that they be demonetized, realizing the truth of Chief-Justice Strong's opinion on the legal-tender cases, in which he says:

Making these notes legal-tenders gave them a new use, and it needs no argument to show that the value of things is in proportion to the uses to which they may be applied.

The bankers and stock-jobbers of New York also sent to the Senate a most elegantly printed and bound petition urging that they be demonetized. This Congress dare not demonetize them and go before the people, who begin to understand their rights, and will maintain them, and now demand that the useless coin in the Treasury shall pay off an equal amount of these maturing bonds and go out to bless the nation. What would be thought of the plow manufacturer who insisted upon keeping old-fashioned wooden mold-board plows with which to redeem each steel plow sold, lest the people should become dissatisfied and demand the plows of the fathers? What would you think of the merchant that kept on hand, against a run, an old-fashioned cradle for every McCormick reaper and self-binder sold, that can with one driver cut and bind twenty-five or thirty acres of grain in a day? Or what would be thought of the Pullman Palace Car Company if they should hoard an old-time stage-coach for every car sold, lest there should be a panic and railroad men should demand redemption at their hands in the coaches of the fathers? They would receive from all men and all parties ridicule and be set down as idiots, but they would be no more ridiculous, no more idiotic than the men who insist that this Government shall hoard the clumsy coin of the fathers with which to redeem the greenback. What would we say of any manufacturer who persisted in palming off articles so poor that he always expected their return to be exchanged for better goods? How long would he retain the respect and confidence of the community? Under our Constitution Congress is the only authority whose right and duty it is to manufacture money for this country. Without our action there can be no money, and what ought the people to think of us if we persist in palming off upon them money so poor that like national-bank notes it must be redeemed in better money? We are false to the people and dishonor our high trusts if we do not see to it that every dollar issued from the Treasury, of whatever material made, shall be a perfect dollar, as good for one manas for another, and capable of doing all that any money can do.

Greenbacks need redemption in the hardware of the fathers! Yes, they will when the Government demonetizes and repudiates them at its custom-houses and Treasury, or when the last United States soldier surrenders and the last starry flag trails in the dust. Until then all the people will ask is, that the coin of the fathers shall be redeemed in greenbacks.

The Wood bill, as advocated and originally introduced, was designed to create a practically perpetual bond drawing 3½ per cent. interest. In England, where interest is only 3 per cent., there have been already extorted from the people $12,872,000,000 for interest and $17,000,000,000 for principal. The payment of the debt is not thought of. It amounts to $3,888,000,000.

This bill represents the feudal, aristocratic, snobbish English retrospective, retroactive spirit of New York City. It looks across the water to the effete despotisms of the Old World. It represents the spirit so rapidly growing on our eastern seaboard that submits to a republican form of government, only waiting for opportunity to change it. It represents the spirit which all our fathers, especially Washington and Jefferson, warned us against. On the other hand, the bill which I present as a substitute characterizes

THE ADVANCE GUARD OF CIVILIZATION AND PROGRESS.

It looks forward, not backward. It comes from the West, not from the East. It is drawn in the interest of the millions on our great prairies that by their genius and labor are feeding both the New World and the Old. It is drawn in the interest of labor and true democracy. It would pay this $700,000,000 as follows: with legal tenders, issued in lieu of bank-notes retired, $340,000,000; with useless coin now hoarded in the Treasury, $150,000,000. The remaining $210,000,000 would be paid with surplus revenue from present sources and from income taxes in *two years* or less.

Eighteen hundred years ago the world was called upon to choose between a robber and a murderer, or a man who came to represent peace on earth and good-will to men. In their ignorance and prejudice they crucified their best friend and liberated the robber.

To-day this House is called upon to choose between a robber act

that will murder our industries and our institutions, and despoil our people, and an act which will protect our people and bring peace on earth and good-will among men, and I ask which will you have? Thomas Jefferson, the father of the Constitution, could hardly find words to express his disgust at bank issues and refunding schemes. He showed that the banks in his day had already obtained control of the Government. He said:

The country is abandoned to the avarice and jugglings of private individuals to regulate, according to their own interests, the quantum of circulating medium for the nation, to inflate by deluges of paper the nominal prices of property, and then to buy up that property at one shilling on the pound, having first withdrawn the floating medium which might endanger a competition in purchase.—Volume 7, page 147.

And again wrote Albert Gallatin, in 1815, volume 6, pages 498 and 499:

We are undone, sir, if the banking mania is not suppressed. * * * Put down the banks, and if this country could not be carried through the longest war against her most powerful enemy without ever knowing the want of a dollar, without dependence on the traitorous classes of her citizens, without bearing hard on the resources of the people or loading the public with an indefinite burden of debt, I know nothing of my countrymen. * * *

We are now without any common measure of the value of property, and private fortunes are up or down at the will of the worst of our citizens.

To Dr. J. B. Stuart, volume 7, page 64:

The bank mania is raising up a moneyed aristocracy in our country which has already set the Government at defiance.

Again he said: "The object of the latter (bank issues) is to enrich swindlers at the expense of the honest and industrious part of the nation." (Volume 6, page 246.) And again he speaks of "the dangers of a paper medium abandoned to the discretion of avarice and of swindlers." (Volume 6, page 384.) And again: "This dominion of the banks must be broken or it will break us." (Volume 6, page 409.) He said the idea that a public debt was a public blessing "was well adapted to the minds of believers in dreams;" but the art and mystery of banks is a wonderful improvement upon that. It is established upon the principle that "private debts are a public blessing. * * * If the debt which the banking companies owe be a blessing to anybody it is to themselves alone, who are realizing a solid interest of 8 or 10 per cent. on it." (Volume 6, pages 239 and 241.) "The circulating fund is the only one we can ever command with certainty. It is sufficient for all our wants, and the impossibility of ever defending the country without its aid as a borrowing fund renders it indispensable that the nation should take and keep it in their own hands as their exclusive resource." (Volume 6, pages 393, 1814.) Again: "Our Government, I say, has still been overawed from a contest with them, (the banks,) and has even countenanced and strengthened their influence by proposing new establishments with authority to swindle yet greater sums from our citizens. This is the British influence, to which I am an enemy, and which we must subject to our Government or it will subject us to that of Britain." (Volume 6, page 448.)

Albert Gallatin said:

Issuing a paper currency is not dealing in money, but making money. * * * The unrestricted right of coining gold or silver might be claimed with as much propriety as that of coining a paper money.—*Works of Albert Gallatin*, volume 3, page 431.

Thomas Jefferson demonstrated that a majority of each generation of voters passes away in nineteen years, and he took the bold ground that one generation has no more right to sell bonds not to be paid in nineteen years, that is, to sell bonds for a succeeding generation to pay, than it has to sell the next generation into slavery. He said:

There have existed nations, and civilized and learned nations, who have thought that a father had a right to sell his child as a slave in perpetuity, that he could alienate his body and industry conjointly, and *a fortiori* his industry separately, and consume its fruits himself. * * * But we, this age and this country especially, are advanced beyond those notions of natural law. We acknowledge that our children are born free. * * * We believe or act as if we believed that although an individual father cannot alienate the labor of his son, the aggregate body of fathers may alienate the labor of all their sons, of their posterity in the aggregate, and oblige them to pay for all the enterprises, just or unjust, profitable or ruinous, into which our vices or our passions may lead us; but I trust that this proposition needs only to be looked at by an American to be seen in its true point of view, and that we shall consider ourselves unauthorized to saddle posterity with our debts, and morally bound to pay them ourselves. * * * We must repay them ourselves, proscribing forever the English practice of perpetual funding.—*Thomas Jefferson's letter to Mr. Eppes*, 1813, volume 6, pages 196, 197.

The honorable chairman of the Committee on Ways and Means, who introduced this bill, shows in his able speech that refunding has proved a bonanza of wealth to syndicates and bankers; that the Secretary of the Treasury sold $50,000,000 of four-and-a-half percents on April 11, 1878, at less than the market price to a syndicate of the First National Bank of New York and others, ten months after having sold to the same parties $75,000,000 four percents at par. He further shows that these four percents had not depreciated, but were then at a premium, and that this sale by the extra ¼ per cent. interest made a net loss in the fourteen years the bonds had to run of about $3,000,000, and "that the conditions of popular subscriptions for thirty days, which had been required in the 4 per cent. syndicate contract, were omitted in the 4½ per cent. contract," so as to insure to them the full benefit of this gift.

He then shows that the First National Bank of New York, a small institution of "small and uncertain credit," with a capital stock of only a half million, owned by three men, into whose hands it passed "simultaneously with the incoming of the present Administration," had actually handled over $400,000,000 of four percents and become indebted to the United States $128,000,000 at a time. This bank, after carrying $1,000,000 to its surplus, showed a profit of $579,018.88.

He says there is no instance in the history of this or any other government where anything like this has occurred, and concludes his arraignment of the Secretary thus:

Andrew Johnson was impeached and came near being removed from the Presidency for alleged offenses not a tenth as great nor so detrimental to the public interests.

But instead of preferring articles of impeachment for these grave offenses he brings in a bill to issue $700,000,000 more bonds for him to manipulate. He cries "thief!" and then asks us to

PUT SEVEN HUNDRED MILLION DOLLARS INTO THE HANDS OF THE THIEF.

Again, he says, on page 4, after showing the magnitude of this interest burden, "it is our duty to relieve the people of such an enormous and unnecessary load at the earliest practicable moment," and then argues for a practically permanent bond, and declares on page 25 that—

I am not of opinion that this generation either can or should be made to liquidate the total public debt—

and provides in his bill that only $40,000,000 can be paid upon the short bonds in any year, notwithstanding he shows that without increased taxation $71,000,000 and probably more can be paid per annum, and gives as his reason, "the object of this restriction being to prevent any interference with the usual and natural condition of available funds for mercantile purposes." In other words, on account of "mercantile funds," we must lock up in the Treasury all excess of income over $40,000,000 a year out of reach of "mercantile purposes."

Under that provision $100,000,000 might be locked up in a single year. Nothing could be more transparent than this argument. It is how to make the people think there is a purpose to pay the debt and how not to do it; how to say enough by way of criticism of republican mismanagement and rascality, to make the people think there is a difference between the leaders of the old parties, and at the same time to out-Sherman Sherman in subserviency to the money power.

No man can show a single difference in the financial or any other policy between the republicans and hard-money democrats. It is six of one and half a dozen of the other. The republican party has carried the elections of late years by picturing kuklux outrages in the South, and now it appears the Government military school at West Point, under republican rule, has been converted into a kuklux establishment, where the chief amusement for years has been insulting negroes, and

MIDNIGHT MUTILATIONS ARE NOW THE ORDER,

followed by customary proof—"Nobody to blame," "The nigger did it," &c. Again, the people of this District, disfranchised by republicans, have appealed for their rights to this democratic Congress, and the Committee on the District have voted unanimously, with one exception, against enfranchising them. Again, the crimes of democratic State governments have been an interesting theme for republicans, who are now imprisoning men to prevent free speech and pardoning men "in the ring," before a day's imprisonment, who are convicted of the greatest crime known to our people and institutions—bribing legislators. That party will vote almost solid for this democratic bill. Secretary Sherman said in a speech the other day in Ohio the republican party is pledged to refunding. He might have added they are pledged to every scheme of the banks, opposed to free coinage of silver, to greenbacks, and in favor of bank-notes and bonds. I believe the members of that party on this floor count without their host; that the voters will soon teach them a lesson, and repudiate the men who here vote for this bill. As for the democratic party, I am thankful it cannot be made to follow New York leadership. The honorable representative of Wall street on this floor may say with all suavity to his party, "Walk into my parlor;" but the West and South will beg to be excused. I believe there are one hundred democrats on this floor who cannot be induced to vote for this bill; but if it becomes a law in spite of our protests and remonstrances, we shall appeal from this House to the people of the United States, and we pledge our sacred honor they shall know who prove false and who prove true in this crisis of our history.

If this House refuses to adopt my substitute, or some other which would promptly pay off all this debt without hardship to any class, and once more orders the issue of new bonds, with pledges to pay $378,000,000 more than is necessary to redeem and cancel those soon to mature, I insist that it is absolute proof that the national banks control and own this body; I insist that it will demonstrate to the world that the House of Representatives of the United States prefers to

TAX THE POOR FOR THE BENEFIT OF THE RICH,

rather than tax the rich for the benefit of the whole country. The passage of this refunding bill is a crime that cannot be excused or forgiven by the people. It will smell to Heaven, and be adjudged by the nation as a robber act. Already remonstrances against its passage, and petitions for the passage of a bill to pay this debt, have come from various States. Already we have heard warning notes from Maine, by Messrs. MURCH and LADD; from Texas, by Messrs. JONES and MILLS; from Alabama, by Mr. LOWE; from Georgia, by Dr. FELTON; from Missouri by Mr. FORD, and from other sections by eloquent members. Every Representative upon this floor who comes here to represent the people, and not the corporations of this country,

is ready to protest against this outrage. North, South, East, and West all join hands in this holy struggle.

The spirit of inquiry once set in motion cannot be stopped. It is, as has been said, like the rising tide, which, however it may seem to recede, gains ground with every wave. History tells us when the French revolution broke out there were but two classes, the privileged and the unprivileged. Let us take the hint.

Can it be that we lack the courage to bequeath to posterity the liberties unimpaired which we inherited? Is not the cup of this iniquity, this modern slavery, yet full? Have not enough victims been crushed under the wheels of this Juggernaut?

Away with these letters of marque against our own people. Away with these patents of nobility that poison the vital air of this Republic.

AWAY WITH THE MONSTROUS THEORY

that the mission of the Government is to collect taxes for the support and luxury of private citizens. Away with the cormorants now fastened upon our Treasury and drawing from it nearly $100,000,000 a year. Away with all drones from our hive, and let this Government use its strong arm to protect us from caste and aristocracy and all forms of oppression now fastened upon us by law. May our motto be, No bonds; no privileged class; no horded money; no untilled fields; no idle hands; no unschooled children; no extortions from monopolies; no untaxed minority; no thrice-taxed majority; no wealth by law without industry, but equal rights for all; millions for labor, but not a mill for usury.

The alcoholic liquor traffic—A question of cost and crime as well as of commerce—Official inquiry the duty of Congress.

SPEECH OF HON. J. T. UPDEGRAFF,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

Monday, May 10, 1880.

The House having met for debate, on the bill (H. R. No. 5386) providing for the appointment of a commission on the subject of the alcoholic liquor traffic—

Mr. UPDEGRAFF said:

Mr. SPEAKER: The Select Committee on Alcoholic Liquor Traffic appointed by order of this House on the 16th of May last has carefully considered the subject submitted to it. Hundreds of thousands, nay, even millions of petitioners are respectfully and most earnestly asking this, as they have asked former Congresses, for the appointment of a commission to examine and report upon this subject. These petitioners largely represent the best elements of American citizenship. They come not as partisans or sectarians. Coming from all classes and organizations, they largely belong to the most intelligent and valuable portions of society. Such petitioners, in so great numbers, with such commanding claims and in a cause so august and yet so practical, are entitled to respectful attention and full consideration.

For seven years past there have been, at each session of Congress, more than half a million of petitioners asking the Congress of the United States for such legislation as it might deem constitutional and wise in relation to the traffic in alcoholic liquors, but especially for the appointment of a commission to investigate the whole subject in its relations to commerce, to crime, to pauperism, to political economy, and public morals, and furnish to the National Legislature an authentic report. Since the beginning of the present Congress—on the 18th of March, 1879—petitions representing more than *seven hundred and sixty thousand citizens* have been presented to this House and referred to your committee.

NEGLECT OF PETITIONS.

During the Forty-second Congress these petitions, bearing several hundred thousand names, were referred to the Committee on Ways and Means, on the ground that they touched the questions of revenue and taxation. No report ever came from that committee on the subject. Since the opening of the Forty-third Congress these petitions have been referred to the Judiciary Committee. Early in March, 1874, more than six years ago, that committee reported to Congress in favor of the appointment of the commission asked for by the memorialists. The Forty-third Congress adjourned without indorsing or rejecting the measure. During the Forty-fourth and Forty-fifth Congresses the Judiciary Committee was the grave to which these petitions, *bearing more than a million names*, were consigned. That committee did accord to some earnest women the hollow courtesy of a hearing, but as a distinguished member of it [Mr. FRYE] declared on this floor, "the subject was never heard of afterward in the committee" and "received no consideration whatever, not even to the extent of one minute of time."

Twice during the Forty-fourth and Forty-fifth Congresses the Senate passed a bill providing for a commission to examine and report upon this subject, as now prayed for by your memorialists. They, too, were referred to the Judiciary Committee, and there they still lie buried, like pauper criminals, in that potter's field of wise and just legislative measures. Practically it has been an abrogation of the sacred right of petition to millions of American citizens. It was in reality worse than that. It mocked the memorialists with the false pretense of a respectful hearing, but in truth with utter neglect. It "kept the word of promise to the ear, but broke it to the hope."

WHAT IS THE "RIGHT OF PETITION?"

Whether the object sought and the means proposed by this vast number of petitioners are the wisest and the best, whether indeed any adequate relief is within the legitimate scope of congressional power, is not the most vital issue in this case. The spirit of the great American right of petition has been invaded and annulled as to these memorialists. This element of liberty is secured by the Constitution, and has become with us not only an index of public opinion or a reflection of moral power, *but an institution*. Wherever despotic power rules it is suppressed or granted only as an incident or an indulgence. In our *institutional* free system the will of the people, whether voiced by petition or ballot, is the supreme authority. Any denial of either right is an assault not only on the individuals, but upon self-government itself. In no instance, with a single exception, since the origin of our Government has this great and sacred right been so wantonly denied or so grossly outraged as in the case of this vast number of memorialists. Story, in his Commentaries on the Constitution, (volume 2, page 677,) says in speaking of the right of petition:

This would seem unnecessary to be expressly provided for in a republican government, *since it results from the very nature of its structure and institutions*. It is impossible that it could be practically denied until the spirit of liberty had wholly disappeared and the people had become so servile and debased as to be unfit to exercise any of the privileges of freemen.

APPOINTMENT OF THE COMMITTEE ON ALCOHOLIC LIQUOR TRAFFIC.

The present Congress, two months after the opening of the extra session, adopted, by a vote of 128 to 99, a resolution from the Committee on Rules providing for a Select Committee on Alcoholic Liquor Traffic. That resolution, as finally amended, is in these words:

Resolved, That a committee of nine members be appointed by the Speaker, to whom shall be referred all memorials, bills, and resolutions touching the alcoholic liquor traffic, *and a commission on the same*, whose duty it shall be to consider and report thereupon.

The duty of your committee and the legitimate scope of its work are sufficiently defined by the above resolution, which is the authority of its appointment and the instruction for its service. Since its organization petitions of hundreds of thousands of memorialists have been referred to it asking Congress for a law authorizing the appointment of a commission to investigate and report upon this subject. A single petition contained the names of no less than *thirty-four thousand citizens of one organization*. Distinguished men from distant parts of the country, representing various moral, philanthropic, and religious organizations, have come before the committee and urged action in this direction; numerous appeals by letter, bearing many of the most honored and illustrious names in our country, have earnestly appealed for the same object. Within the past five months I have had the honor of presenting to this House petitions signed by thousands of memorialists on this subject, and, among others, several signed by the authorized officers and representatives of no less than forty-three organizations, religious and secular, in the District of Columbia, all praying that Congress shall interpose some legislative check against the manifest evils of intemperance in this District.

ACTION OF THE COMMITTEE.

The special committee to which these petitions and this whole question was referred, after mature consideration, has, through a majority, reported the bill to this House which is now under discussion. A minority of the committee dissented from the objects of the bill and presented a report signed by three members. Before saying anything as to its merits or purposes I will ask the Clerk to read the bill.

The Clerk read as follows:

A bill providing for the appointment of a commission on the subject of the alcoholic liquor traffic.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be appointed by the President, by and with the advice and consent of the Senate, a commission of five persons, not all of whom shall be advocates of prohibitory liquor laws, and neither of whom shall be the holder of any office of profit or trust in the General Government or any State government. The said commissioners shall be selected solely with reference to personal fitness and capacity for an *honest, impartial, and thorough investigation*, and shall hold office until their duties shall be accomplished, but not to exceed two years. It shall be their duty to investigate the alcoholic, fermented, and vinous liquor traffic and manufacture with reference to revenue and taxation, and the effect of each class of such liquors in their economic, criminal, moral, and scientific aspects, in connection with pauperism, crime, social vice, the public health, and general welfare of the people; and also to inquire into the practical results of taxation and license, and of restrictive legislation for the prevention of intemperance in the several States, Territories, and District of Columbia.

SEC. 2. That the said commissioners shall further ascertain, as near as may be, the number of gallons of wine, beer, or distilled liquors annually consumed in different countries, more especially within the United States; the number of deaths annually from alcoholism, the number and character of crimes resulting from the use of alcoholic and malt liquors, and the diseases produced by the use thereof, mental as well as physical; the number of arrests for drunkenness; the amount of pauperism produced by the use of such liquors; the amount of revenue received by the Government from the liquor traffic and liquor-making; the amount of tax or revenue received from such manufacturing and traffic by State and municipal governments; the amount of food transformed into alcohol; the probable retail cost of alcoholic and malt liquors consumed; the cost of caring for the insane, idiotic, criminals, and paupers made such by the use of alcoholic and malt liquors; the capital employed in the manufacture of such liquors, and in the traffic thereof; the quantity of such liquors imported and exported; the number of persons employed in the manufacture and sale of such liquors.

SEC. 3. That the said commissioners shall serve without salary, but are hereby authorized to employ a secretary at a reasonable compensation, not to exceed $2,500 per annum, which, with the necessary expenses, incidental to such investigation, of the secretary and commissioners, shall be paid out of any money in the Treasury not otherwise appropriated upon vouchers signed by the president and countersigned by the secretary, and approved by the Secretary of the Treasury; and the sum of $10,000, or so much thereof as may be necessary, is hereby appropriated to pay such vouchers.

SEC. 4. Said commissioners shall, as soon after their appointment as is convenient, meet and organize by the election of one of their number as president of such board, and they shall also elect a secretary as hereinbefore provided, who shall take the usual oath of office, and give a bond to the Secretary of the Treasury of the United States in the penal sum of $3,000 for the faithful performance of the duties of his office, which bond and the sureties thereon shall be approved by such Secretary of the Treasury.

SEC. 5. It shall be the further duty of said commissioners to report the result of their investigation and the expenses attending the same to the President, to be by him transmitted to Congress.

THE SCOPE AND FAIRNESS OF THE BILL.

Mr. UPDEGRAFF, of Ohio. Mr. Speaker, this bill goes no further than to authorize the appointment of a commission to make an *"honest, impartial, and thorough investigation"* of this subject, and thus to give to Congress and the country full and authentic facts, statistics, and information which may enable the National Legislature to act intelligently and wisely in affording some relief as prayed for by so large a proportion of citizens, or in saying frankly to them that Congress is unwilling or indifferent or powerless to provide any remedy. It commits Congress to no plan of legislation; it champions no special theory; it seeks only, in the spirit of enlightened inquiry, to furnish reliable information in regard to a question which no member of this House will say is unimportant. The bill has so carefully guarded against biased evidence that it provides that the members of the commission shall "not all be advocates of prohibitory liquor laws;" but it charges them with the duty to investigate not only the liquor traffic and its manufacture in relation to commerce and taxation, the statistics of its cost and consequences in crime, disease, and pauperism, but its economic, scientific, and moral relations as it concerns the peace and safety of society and the general welfare of the people. Fortunately this inquiry is neither political nor sectional; it should not be, in any sense, partisan. It involves questions of supreme importance, and aims at the common good in issues of enlarged scope and universal interest.

IS THIS A LEGITIMATE SUBJECT OF CONGRESSIONAL INQUIRY?

This is pre-eminently an age of fearless inquiry in every domain of knowledge. Neither accepted truth nor ancient error is sheltered from the freest questioning. In science, in ethics, in morals, and in public polity, every theory, principle, or policy must accept the ordeal of rigorous investigation.

The whole theory of our free Government is based on the full knowledge and full acquiescence of the people. It is an unwarranted abuse of temporary or *accidental* power for any legislator to ignore or neglect the demand of any class of those whose agent or servant he is. Here is a subject which millions of American citizens, belonging largely to the most intelligent and moral classes, pray Congress to examine. For years they have urged this most reasonable request. In larger numbers than ever before they now come to this Congress with their modest, but urgent and hopeful appeal. By what precedent, nay, on what pretense, or under what subterfuge, will you refuse to grant this small measure of just compliance?

Heretofore Congress has seemed to emulate the eager spirit of inquiry which marks our era. With it investigating committees have recently become popular institutions. Since the dominent party in this House came into power only five years ago it has constituted eighty-five special investigating committees upon a vast range of subjects—great and small—mostly in search of political capital, which have cost of "the peoples' money" hundreds of thousands of dollars, and which have not largely added to the stock of human knowledge. Many of them, indeed, after months of portentous and long-heralded travail, have sought shelter from derision for their reports in oblivion, and the burial of *two* of them, at least in some regards, was wonderfully like that of Sir John Moore, when—

Few and short were the prayers they said,
And they spoke not a word of sorrow; (!)
But they steadfastly gazed on the face of the dead,
And they bitterly thought of the morrow.

Many more of these committees might have fully reported in ten words of the same dirge—

We carved not a line, we raised not a stone.

In the midst of our revived and teeming industries last fall a committee of this House, at public expense, became an itinerant by-word, traveling six thousand miles in search of what it was unable to find, and then contested for the honor of a funeral to be celebrated with music exclusively from the "celestial empire." The last chapter of the history of another of these numerous celebrities seems likely to be *the investigators investigated.*

These vast sums have been expended in partisan work not urged by any popular demand, or in the interest of any common benefit. Will this Congress refuse equal attention and a very small amount of appropriation to the examination of a great unpartisan public question, earnestly urged by millions of American citizens, and involving not only the waste of millions of money and the every-day increasing burdens from broken law, pauperism, and crime, but the public health, the good order, the peace, the welfare, and moral life of the commonwealth? The magnitude of the interests involved and the rights of the petitioners not only warrant but demand at least fair recognition and honest inquiry.

OBJECTIONS URGED.

But when a year ago the proposition to appoint this committee with the ultimate view of a commission was before Congress a motley crowd of objections came to the front, which may well claim the forbearance of courtesy. The distinguished and venerable gentleman from New York, [Mr. FERNANDO WOOD,] who thirty-nine years ago took a seat in this House, was alarmed at the *peril to the Constitution if this committee was appointed.* Only a few years ago it was he who pictured, not only without a word of rebuke, but with exultant words, the time "when disunion should become a fixed and certain fact." He now contemplates with horror any "law that might cut off the importation of all foreign liquors into this country, and thus deprive us of $10,000,000 a year derived from the duties on wines and spirituous liquors from abroad." He denies that Congress "can arrogate to itself jurisdiction over questions of a moral, religious, or purely municipal or local character." "No such powers," he says, "were ever delegated to the National Government by the States originally, and hence these powers have been reserved by the States."

Is this infernal heresy of "State rights" not only to curse us with treason and civil war, but is it to become the shelter of every other evil and crime? How is this great subject either a "religious" or a "local" question? If any man's creed compels him to worship this evil and at the same time to deny to his fellow-citizens their freedom of thought and speech, their right to petition against it, to investigate it, and to convict it, not by assertion, but by the most overwhelming demonstration of being the cause of a vast majority of crimes with their untold cost, attested by prison and scaffold; of pauperism, as seen in home poverty and public charity; the fountain of disease, idiocy, and a terrible mortality; of hereditary taints, which make life a curse to stunted and charity-fed populations; the source of domestic ruin and public burdens; of the most appalling waste alike of manhood and of money; of individual possibilities and of national resources, then this is *to that man* "a religious" question, and abridges his liberty of conscience.

How can it be "a local" question? It affects alike the interests of all the people. It involves subjects the benefits or evils of which are found in every sphere of the social structure, in every department of the national life, and in every section of our common country. The distinguished gentleman himself, almost in the same sentence, declares it is a question which affects the "revenues of the Government," and still further, that "so far as the Government has any power over moral questions it might be right to interpose our authority." Since the first hour of our national life this Government has claimed and exercised power over moral questions. Its laws are full of penalties for offenses against morals. Indeed, in this great fact lies much of the force of a distinctive national development and progress which has amazed the world. One of our most illustrious writers on legal ethics in his classification of "crimes" places first "*those prejudicial to morals.*" But it was Washington who declared the only safe foundation of a free Government are "intelligence and virtue."

The gentleman from Texas [Mr. REAGAN] was on the same line. He said:

> While I would do as much as I could to aid in securing that temperance which is so necessary to the healthful morals of the country, I do not propose to undertake to do it by violating the Constitution of the United States, the great bulwark of the liberties of our country. The most crying evil of these times is the disposition of Congress to ignore the existence of the Constitution and to take hold of and act upon every subject that comes up.
>
> We have just as much authority to prescribe rules in relation to the internal government of the States on other subjects as we have to prescribe what they shall make, what they shall produce, what they shall buy and sell, or eat and drink. * * * I would therefore remit a question of this kind to the local governments of a State, where the wishes of the people can be affirmed and expressed as well as here.

Certainly, "the great bulwark" has been too much ignored, but not in this special direction has come its greatest peril. The people of the whole country have great interests in common which States as such can neither compass nor control, and of which the Constitution is the conservator and over which the power of the General Government is the supreme authority. This is strikingly illustrated by the measure to regulate interstate commerce which the distinguished gentleman himself [Mr. REAGAN] has so ably urged before this Congress, and some of whose measures of relief are so much needed and so eagerly awaited by the people. But neither railroads, nor mail-routes, nor interstate commerce bind the people of this country together as do the ties of a common citizenship, a community of interests, and a oneness of national life.

But as this is a constitutional question, it was illuminated by the chairman of the Judiciary Committee, the distinguished gentleman from Kentucky, [Mr. KNOTT.] He opposed the appointment of the committee and the plan to constitute a commission. His objections to the appointment of a committee were twofold: First, because the subject had been for four years referred to his committee, which had never given it any consideration, from which he had "opposed a report," and which he declared had "no more jurisdiction over it than they would over a proposition to revise the Catholic missal or the Episcopal prayer-book;" second, because it was a matter for the Ways

and Means Committee, though the petitions had for four years been buried in his own committee, and with them this important information from the country.

The exhaustive legal argument in which the chairman of the law committee of this House demolished the proposition for a commission should not be mutilated, and shall be given in its logical and irrefutable entirety. He says:

First, because I considered the project proposed as not only unnecessary, but as setting a mischievous precedent in the Federal legislation of the country. It occurred to me that the establishment of such a commission would possibly be seized upon as a pretext for raising other commissions to inquire into other matters of a sumptuary or domestic character—a commission perhaps to ascertain whether it is not detrimental to public morals for a husband to kiss his wife on Sunday, and whether a barrel of beer should not be chastised for working upon the Lord's day.

Mr. Speaker, those well-worn jests have long done service, but probably never before to establish a great constitutional proposition. It is to be hoped that the millions of intelligent and patriotic memorialists will at once see the peril and absurdity of a commission, and for the peace of the beer-barrel and the safety of our institutions abandon the purpose.

THE USE OF COMMISSIONS.

But, Mr. Speaker, is there anything new in the appointment of commissions of inquiry into any subject of interest to the country? Last year more than half a million was appropriated to investigating and preventing if possible the ravages of yellow fever. There were some constitutional scruples about national authority early in the season, but as the fever approached and the peril grew the State-right scruples weakened, and nearly all concluded that the gentleman from Tennessee [Mr. YOUNG] had really acquired some valuable knowledge which he frankly announced to the House when he said he "had fought four years to find out if a State was stronger than a nation, *and found that it was not.*"

A commission was created a few years ago to observe the transit of Venus, December, 1874, in the interest of science. It cost the Government $125,000. The Arctic expedition cost $150,000. The subsequent commission to the North Pole cost $50,000. Large appropriations have been made since to the same object. Our great and humane life-saving service along the coast cost last year $502,000. It is a humane and beneficent agency. When instituted, only a few years ago, it was denounced as an extravagant and dangerous precedent, just as this measure of "life-saving" now is by the gentleman from Kentucky.

Thousands of dollars have been appropriated to "grasshopper commissions" and to "cotton-worm" investigations, and mainly in the interest of wise progress and national development. When a fatal malady was destroying our cattle, Congress promptly appointed a commission to inquire into the best means of arresting the epidemic and preventing its spread and ravages. Thus it has long been the custom of this Government to examine carefully by reliable agents of its own choosing subjects forced upon it by the exigency of the times or brought to its notice by appeals from the people. Such a commission, to investigate the question of the liquor traffic and the collateral questions which are interdependent, is in the safe line of our history. The importance and magnitude of the subjects warrant from Congress official inquiry, that it may at least be furnished with impartial, authentic, and comprehensive statistical information. If that investigation shall establish as a fact that intemperance is not the source of the large share of crime and misery, as well as of cost and pauperism, let us know the truth and set at rest the ignorant clamor against it. If it is proven, as indeed seems to be the unanimous verdict of the civilized world, of jail and alms-house, of asylums and scaffolds, that it is the destroyer of happiness, the burden of society, and the foe and curse of man, let enlightened and progressive legislation interpose as it does against other evils which afflict society and imperil its peace and well-being.

WHAT ARE "SUMPTUARY LAWS?"

The gentleman from Kentucky, [Mr. KNOTT,] as before quoted, alludes to any legislation which might have restraining force against intemperance as "sumptuary" laws. There is no argument in an epithet, and it is the weight of his position which gives it undue authority. But the mere dicta of the head of the Judiciary Committee comes to us almost like a decision of a court. Still this is an age of bold questioning, and even the Supreme Court has had, in this House, some very grotesque criticism. But this charge is one of definition and historic fact rather than of judicial opinion. Webster defines "sumptuary," "pertaining to, or regulating, *expense* or *expenses*." He says, "sumptuary laws are laws passed by a Government to *restrain the expenditure* of its subjects or citizens, either in apparel, food, or otherwise." The root of the word, *sumptus*, expense, *confines* it literally to that meaning. The law writers fully sustain this definition. Bouvier, in his Law Lexicon, defines them to be "laws relating to the expenses of the people, and made to restrain excess in apparel, food, and furniture," and "regulated the dress, and to some extent the diet, *according to rank*." He goes on to say, with great candor: "In modern times legislation is not resorted to in regard to this object; but the subject is sometimes discussed in connection with the laws for the prevention or punishment of intemperance, *which is so direct and fruitful a source of crime*."

It will be noticed that not only his definition but this statement absolutely excludes the assumption that "laws for the prevention or punishment of intemperance" can be called sumptuary laws; for he says, "modern legislation *is not resorted to in regard to this object*," (that is, for sumptuary restraint,) and in the same sentence recognizes the present existence of the restrictive laws against intemperance.

Blackstone makes a similar but stronger distinction. He defines them as "laws against luxury and extravagant expenses in diet, dress, and the like," and speaks of them as absurd relics of an earlier age. But laws against intemperance he distinctly declares to be of an entirely different nature and a legitimate exercise of civil power. He says, "but if a man makes his vices public, though they be such as seem principally to affect himself, as drunkenness and the like, *they then become*, by the bad example they set, *of pernicious effect to society, and therefore it is then the business of human laws to correct them*."

The profound and philosophic Montesquieu, in his "Spirit of Laws," discusses the subject of sumptuary laws at great length and with much learning, but evidently was not aware that laws against intemperance and the traffic, which is its twin, belonged to that class. He treats of sumptuary laws only in connection with luxury, extravagance, and rank. These three great law authors and publicists could have learned something if they had belonged to a properly organized judiciary committee.

CHINESE AND ROMAN SUMPTUARY LAWS.

Historical evidence confirms the same view. Sumptuary laws have been directed against luxury and extravagance, and not against intemperance. They undertook to enforce economy and frugality as well as industry. One of the sumptuary decrees of a Chinese emperor not only commanded frugality but enforced labor, adding, "if there is a man who does not work or a woman who is idle, somebody must suffer cold or hunger in the empire." Therefore he ordered the monasteries of Bonzes to be destroyed.

The sumptuary laws of the Romans prohibited luxury and extravagance. They regulated the dress of the women and the dowry of the brides. In the reign of Augustus, the Roman Senate, itself neither frugal or rigid, decreed frugality for the women. But the revocation of the Appian and Licinian sumptuary laws was caused by the hostility of the women, as it regulated their apparel and ornaments. The Roman Senate finally surrendered to the protests and petitions of the Roman women. Then, as now, the disfranchised were unequal before the law. And to be unequal is to be oppressed.

Under Tiberius sumptuary decrees were by him enforced against the quantity of gold and silver ornaments; against pictures and statues; against "wonders of art;" against "*dress above rank;*" against rich vestments and precious stones, "for the purchase of which our coin is carried into foreign or hostile nations." These and many other such laws were directed, not against the excesses of "intemperance" proper, but in opposition to the profuse extravagance and fabulous luxury which marked that whole century of Roman splendor from the battle of Actium to the revolution which gave the empire to Galba. The decay of that wondrous power might not have begun so soon had they recognized the domination of moral forces over material influences—whether of poverty or profusion—of luxury or rank. It is only Christian civilization which develops this progressive but invincible authority, and he is a wise legislator who recognizes its sway.

ENGLISH SUMPTUARY LAWS.

The English sumptuary laws are a series of absurd and arbitrary decrees against extravagance, mainly in dress and ornament; some few against great variety in eating, *but never against intemperance in the use of intoxicants*. They were largely based on rank, and were used as an agent to enforce frugality in the working classes, and thus keep down the price of labor. They were part of the crushing aristocratic machinery which sought not the benefit of the many but the law-guarded ascendency and prerogatives of the few. By a law of 23 Henry VI, 1444, the entire yearly allowance for clothing to an agricultural servant was 3*s.* 4*d.*; in a later law—3 Edward IV, 1463—it is declared that "the commons, as well men as women, have worn and daily do wear excessive and inordinate array and apparel, to the great displeasure of God, and impoverishing this realm of England, and to the enriching of other strange realms and countries, to the final destruction of the economical welfare of the said realm." This law decreed that "the clothing of laborers, artificers, and servants, and the wives of these, shall be of cloth, not passing the price of two shillings the broad yard." It also forbid to grooms and servants to eat meat more than once a day; their wives and daughters are forbidden to wear "veils of a higher price than twelve pence each." By a later law, "to knights, esquires, and gentlemen, their wives and daughters, *according to their rank*," it is to wear forbidden furs, velvets, and cloths of gold, "or silk of the color of purple." Only the wife of the lord mayor, or of a knight having a yearly income of £40 was permitted to wear ermine, sable, or a silver girdle. No one under the degree of lord could wear plain cloth of gold; no one under the rank of duke could wear "cloth of gold of tissue." Purple and gold were forbidden to all save the royal family. A clause in this law secures the only rational aristocratic prerogative—it prohibits all persons "*not of noble rank*" *from wearing "garments of indecent brevity."* It strangely omits to inform us at which end of the garment the "brevity" is interdicted, but offensive exposure was by law thus made a privilege of nobility. This was vastly more rational and more significant than many of the provisions of these absurd laws which were both in Rome and England part of a tyrannical system by which the useful classes were robbed

of rights, and the monstrous privileges of unnatural rank and a corrupt and profligate aristocracy were fortified by laws in the making of which "*the people*" had no voice, and to which they gave only a helpless and compelled consent.

SOPHISTRY OR IGNORANCE?

Mr. Speaker, such laws can have no place in our free system. The very name is offensive to our American sense of individual right and "chartered liberty." Hence when it is sought to bring into odium any law which shall restrain vice by setting bounds to individual license, or any system which shall check crimes of a certain class by civil power, the first resort is to say it is a "sumptuary law." Sometimes the result of ignorance, it is more often the trick of sophistry or the sneer of baffled wrong. Our system is based on checks as well as on guarantees. Just personal liberty can never be incompatible with the peace and good order of society or the general welfare. The profoundest writer of the age on political ethics wisely says:

If liberty consists in mutual guaranteeing of certain rights of actions and endeavors, it is clear that, correspondingly, it consists in mutual checking, which again cannot exist without corresponding mutual toleration.

After popular rights had made some advance in England, attempts were made by the cry of "liberties and rights" to incite prejudice in the public mind against the restraints of law. Smollet, writing of the year 1730, gives a striking illustration of this and the trick of a false epithet. He says:

England was at that period infested with robbers, assassins, and incendiaries, the natural consequence of degeneracy, profligacy, *and the want of police* in the government of the kingdom. This defect, in a great measure, arose from an absurd notion that laws necessary to prevent those acts of disorder, violence, and rapine *would be incompatible with the liberty of the British subject*—a notion that confounds all distinction between liberty and licentiousness, *as if that freedom was desirable in the enjoyment of which people find no security* for their lives or effects.

IS LEGISLATION RESTRICTIVE OF THE LIQUOR TRAFFIC AND OF INTEMPERANCE EITHER NEW OR UNWARRANTED?

The arguments used against restrictive legislation on these subjects are often as reckless of embarrassing facts as classing it with sumptuary laws. Since the existence of our Government it has claimed this right and exercised control over this parent vice as well as other moral evils which pollute and tax society. Both before and after the adoption of the Constitution both national and State laws are full of such measures.

Bancroft, in his History of the United States, tells us that in 1676 the new constitution of Virginia adopted in place of the tyrannical one of the aristocratic proprietary contained this clause, "The sale of wines and ardent spirits is absolutely prohibited (if not in Jamestown, yet otherwise) throughout the whole country." Virginia has retrograded in prohibition as well as Presidents. The evils of the traffic was recognized by the laws of many of the States. In 1877, the Continental Congress, of which Dr. Franklin and Dr. Rush were members, passed unanimously this resolution:

Resolved, That it be recommended to the several Legislatures in the United States immediately to pass laws the most effectual for putting an immediate stop to the pernicious practice of distilling grain, by which the most extensive evils are likely to be derived if not quickly prevented.

Well-meaning but unsophisticated fanatics! A little experience on a judiciary committee might have made them useful citizens, if not statesmen.

But our modern legislation is full of proof that this is one of the subjects constantly and necessarily controlled by our national authority. Our treaties with the Indian tribes evidence that it was well understood that intoxicating drinks were bad for the Indian at least. A statute enacted by Congress in 1832, still in force, is in these words:

No ardent spirits shall be introduced, under any pretense, into the Indian country. Every person * * * who sells, exchanges, gives, barters, or disposes of any spirituous liquors or wine to any Indian under * * * any Indian superintendent or agent, or introduces or attempts to introduce any spirituous liquor or wine into the Indian country, *shall be punishable by imprisonment for not more than two years, and by a fine of not more than* $300.—*Revised Statutes*, 2139.

By a statute of 1834, it is provided that—

Every person who shall, within the Indian country, set up or continue any distillery for manufacturing ardent spirits, *shall be liable to a penalty of* $1,000; and the superintendent of Indian affairs, Indian agent, or sub-agent, within the limits of whose agency any distillery * * * is set up or continued, *shall forthwith destroy and break up the same.—Revised Statutes*, 2141.

A later statute, of March 15, 1864, provides that on suspicion that any person "is about to introduce any spirituous liquor into the Indian country" the right of search, seizure, and destruction of the liquor is ordered.

By a statute of 1847, which has been in full force since that date, it is provided that—

No annuities, moneys, or goods shall be paid or distributed to Indians while they are under the influence of any description of intoxicating liquor, nor while there are good and sufficient reasons leading the officers or agents, whose duty it may be to make such payments or distribution, *to believe that there is any species of intoxicating liquor within convenient reach of the Indians, nor until the chiefs and headmen of the tribe shall have pledged themselves to use all their influence and to make all proper exertions to prevent the introduction and sale of such liquor in their country.—Revised Statutes*, 2087.

Our treaties with the Indians have rigid prohibitory stipulations. They have been so negotiated for more than half a century under all administrations. The tenth article of our treaty with the Delawares made in 1854, and which contains some suggestive wisdom not wholly applicable to the red man, has this provision:

The Delawares promise to renew their efforts to suppress the introduction and the use of ardent spirits in their country and among their people, and to encourage industry, integrity, and virtue, so that every one may become civilized and competent to manage their own business affairs; but should some of them continue to refuse to labor, and remain or become dissipated and worthless, it shall be discretionary with the President to give such direction to the portion of funds from time to time due to such persons as will prevent them from squandering the same and secure the benefit thereof to their families.

Our treaty with the Poncas, 1859, contains this proviso:

To aid in preventing the evils of intemperance it is hereby stipulated that if any of the Poncas shall drink, or procure for others intoxicating liquor, their proportion of tribal annuities shall be withheld from them for at least one year, * * * as the President shall direct.

Mr. Speaker, similar provisions exist in nearly all our treaties with the various tribes, and rigorous laws exclude intoxicating drinks and distilleries from their territory. Indeed, there seems to have existed no doubt that it is constitutional and wise in our national legislators to strictly prohibit all intoxicating drinks *to Indians*. Does the white man want all the whisky, or does he understand that its use is a curse to all, and still has only moral courage to deny it to somebody else? Why has the gentleman from New York, [Mr. FERNANDO WOOD,] who has been here many years, never raised his voice for the repeal of these laws which have been in force, and, as he now says of such laws, "arrogating jurisdiction over questions of a moral, a religious character?" The gentleman from Texas [Mr. REAGAN] was first in this House as far back as 1857, but I cannot find that he has said one word against thus "violating" "the great bulwark," as he declares such laws do.

Such laws have not been enacted by Congress only against the Indian. By the code which Congress framed for the government of the District of Columbia it is forbidden to any licensed vendor of intoxicating drinks "to sell, give, or administer *to any soldier or volunteer in the service of the United States, or any person wearing the uniform of a soldier or volunteer any spirituous liquor or intoxicating drink*," under a penalty of fine, imprisonment, and forfeiting his license. Now, what has a soldier done, that he, too, like the "poor Indian," cannot have a drink of whisky if it is necessary to others? Surely there should be no unequal discrimination made by law against a soldier. Why shall not he have the same privilege in this as a citizen of the District or a member of Congress? In this Hall we hear the legal profession appealed to on an average about twice a day, and will some lawyer tell us how it is that intoxicating drinks are bad for an Indian, forbidden and ruinous to a soldier, and good and necessary for a citizen, a Government officer, and a member of Congress? Reasoning from natural laws, Mr. Speaker, and common induction, in the absence of any direct evidence, we are driven to the conclusion that intoxicants would produce the same effect on one as on the other. Arguments or illustrations of this theory, even if germane, might be unparliamentary. But how can the distinguished gentleman from Kentucky, [Mr. KNOTT,] standing at the head of the law committee of this House, tolerate these odious "sumptuary laws?" For years he has been chairman of that committee, and not a word of protest and no repeal of these infamous statutes. Only the other evening, in the amended code for the District, the penalty for selling intoxicating liquors between midnight and four o'clock in the morning was increased to $100. Practically it need not be a great wrong, for if a man is "full" at midnight he might get on till four in the morning, but the principle is the same. Some more flagrant outrage will follow, for if it may be forbidden during these four hours, why may it not be for the next four, and the next?

'Twill be recorded for a precedent;
And many an error, by the same example,
Will rush into the state.

Mr. Speaker, who can say that the very things predicted by the gentleman himself may not come upon us—the blue laws and the beer-barrel jest? While it was only the Indian thus wronged, it might be tolerated; but now these intermeddling sumptuary laws are coming into this District and closing these one thousand grog-shops from midnight till four in the morning. The Judiciary Committee should take up the matter and have it limited to the Indians. But if such things are permitted here, we have the authority of all these distinguished gentlemen that the Constitution is in peril. "The great bulwark" will surely go by the board. No, that Constitution has stood the wild storm of civil war, and the mad waves of an awful strife beat against it in baffled impotence, and its peril does not now come from any laws which shall check crime or guard the public peace or exalt the national life.

HOW WARRANTED.

But is any restrictive legislation against the liquor traffic warranted by any public necessity? It is not claimed that Congress has jurisdiction over this matter in the States beyond that power over it which is by necessity involved in the control of revenue and commerce; but Congress has by the Constitution legislative authority over this District with its one hundred and sixty thousand inhabitants, and over Territories which aggregate an area greater than the whole continent of Europe.

DISTRICT OF COLUMBIA.

In this District, Mr. Speaker, a vast amount of the people's money is expended. The American people by nature and circumstances are alike generous and vigilant. They know that a very large part of the money expended in this District is a *bonus* to the vested interests of the liquor traffic. A thousand grog-shops here, paying a few thousand dollars for license, cost millions in courts and crimes, in police

and prison, in disease and pauperism. They cost ten times those millions in resources wasted, in homes ruined, in families scattered, in public morals polluted. What proof is there of this?

It is the unchallenged verdict of the civilized world that the majority of crimes and pauperism comes out of this source. As otherwhere so it is here. To-day I received a letter, in reply to certain inquiries, from Major Brock, the excellent superintendent of police here, a gentleman of high character, the material parts of which I will read:

The records of this department show that the number of arrests for intoxication during the year ending June 30, 1879, was 3,616. The number of arrests for same from June 30, 1879, to date (less than a year) is 3,836!

In my opinion, about *three-fourths of the crimes committed in this District are directly or indirectly caused by the use of intoxicants.* The above table shows that intoxication has somewhat increased in the current year.

Very respectfully,

WM. G. BROCK,
Major and Superintendent Metropolitan Police.

Major Morgan, the worthy predecessor of the present superintendent of police, in a letter of two years ago, states that *seven-tenths* of the crimes in this District during his term of office were due directly to this cause. But crime means cost and public burdens, though these neither measure nor compass its effects.

I find, Mr. Speaker, that a very large part of the expenditures in this District have grown out of this traffic and its crimes and consequences. The nation has indeed been munificent in its liberality, and, it may be, too forbearing in its scrutiny. Since the foundation, in 1802, of the Washington jail, that institution has cost the Government, up to 1876, $791,227. The District penitentiary, since 1826, has cost $605,706. From 1866 to 1878 the Reform School has cost $148,000. The Metropolitan police, from 1842 to 1880, inclusive, has cost $3,340,350. Since July 4, 1864, including this year, the Government has appropriated no less than $169,000 for the relief of destitute poor of this District, besides having appropriated, since 1848, $267,000 for the support of "transient paupers." Within the last four years the "support of convicts in this District" has burdened the patient labor and struggling industries of the country $49,304 of the people's money. And yet there is more apparent poverty here than in any city in the country, and more beggary, as was truly remarked yesterday by the gentleman from Georgia, [Mr. COOK.] During the past winter months I have been accosted by more beggars in a single week on the streets of Washington than I ever saw in Ohio in my life. Nearly a thousand licensed rum-shops suggest the question, "Who frameth mischief by law?"

Mr. Speaker, this is arithmetic. This is business. There is no "moral sentiment," no "fanaticism," in this black ledger of public spoliation. No Gradgrind could demand uglier or more impregnable facts. They multiply daily; they are on the increase. They are largely the awful tribute which timid power pays to the "vested wrongs" of a monopoly intrenched in custom, appetite, and interest, and often strong enough to shape both laws and judicial decision. The correction of this must come from the people. Public sentiment is, in a representative government, above courts or Congresses. The great War Secretary, Stanton, said, in speaking of another question:

The United States never redresses a wrong till the people demand it; *and when you reach the hearts of the people, these wrongs will end.*

WHAT REMEDY?

Of course there is a wide and honest difference of opinion as to what law can do to check and control, in a measure, these evils. There are many conflicting theories. Only the other day, during the discussion on the whisky tax, my friend from North Carolina [Mr. VANCE] advocated one of the most anomalous, to which I then replied. The gentleman wants every family to have the right to distill eighty gallons of liquor untaxed, for family use, in the interest of temperance. He is for free apple-jack and reform! [Laughter.] I wish my friend much success in his temperance work in the good old North State if he can get two barrels of untaxed peach brandy and apple-jack in every household for family use. It is constantly reiterated that all restrictive laws against this evil have failed. So, in a narrow sense, *all* laws have failed; nowhere have they brought perfect order and absolute security, but they do comparatively protect society. The present great premier of England, William E. Gladstone, just now so overwhelmingly returned to power, years ago, in speaking of this very subject, condensed the question into this maxim: *"It is the duty of government to make it as hard as possible for a man to go wrong, and as easy as possible for him to go right."* What statesman ever uttered a wiser or a grander conception of the just scope and true force of civil power? Legislation cannot safely forget that society as well as government has interests not only wider but more sacred than property rights or material success. Reverence for law is not only a sentiment but a molding influence in fixing the moral standard of a people. This is especially true where the laws are a fair index, as they should always be in free States, of the popular will. Both the friends and the enemies of legislation restrictive of the liquor traffic bear testimony to their greater or less efficiency.

In Maine there is no longer any controversy as to the effect of such laws. Hon. W. P. FRYE, in a public letter, says "the use of alcoholic liquors is not one-fourth what it was twenty years ago." The distinguished and popular statesman, Senator BLAINE, in a public letter to Neal Dow, 1872, says "the amount of alcoholic liquors used in that State is now immeasurably less." All impartial men there give the same testimony. Last year in traveling more than a thousand miles in that State and seeing hundreds of thousands of people I did not meet a drunken man. In a thrifty town in that State a lawyer told me that before the adoption of the present law he and another attorney of that place had always had plenty of business, as the cases growing out of the drinking of Saturday and Sunday always required the week to settle; but he said within two years after the Maine law was adopted they were out of clients, went into other business, and were both now independent. I trust the example may have as much encouragement as warning for the legal profession.

From the other side of the question comes evidence unanswerable that this effect is produced. When the brewers' association was held in Cincinnati, in 1875, Louis Schade, the special agent of the organization, in an address said:

Very severe is the injury which the brewers have suffered in the so-called temperance States. The local-option law in Pennsylvania reduced the breweries in that State from 500 in 1873 to 346 in 1874, thus destroying 154 breweries in one year. In Michigan it is even worse, for of 202 breweries in 1873 only 68 remained in 1874. In Ohio the crusaders destroyed 68 out of 296. In Indiana the Baxter law stopped 66 out of 158. In Maryland the breweries were reduced from 74 to 15, some of those stopped being situated in counties where they have a local-option law. There is no doubt that the temperance agitation and prohibitory laws are the chief causes of the decrease.

Thus it has been abundantly proved, wherever it has been tested, that restrictive laws, backed by moral forces, do restrain and control this evil. The city of Vineland, New Jersey, illustrates this truth. It has a population of 10,500, composed of Americans, Germans, French, English, Irish, and Scotch. They are manufacturers, traders, fruit-growers, mechanics, farmers, and laborers. The sale of liquor has been absolutely forbidden since its settlement. The police force is *one man*, who is also overseer of the poor, and who says that the poor fund needed was only $400 for the year 1874, and only one indictment during that year. They have no debt, with taxes less than 1 per cent., spent mostly in improvement. These and many other facts fully justify us at least in an impartial inquiry which shall give to Congress and the country authentic information and statistics to guide its action. It is a question which connects itself not only with our taxes and burdens but with the real liberty and safest progress of society. A quaint but profound writer of a past epoch has wisely said: "There are some things which cannot be liberated too much; and there are some things which devour all rational and enriching liberty if they are not effectually tied up." And the great Vattel says: "Let government banish from the state whatever is fitted only to corrupt the morals of the people."

THE AUTHORITY OF CONGRESS.

As has already been shown, Congress has since the origin of the Government been exercising control in various ways over this subject. The absolute necessity of such legislation is daily demonstrated, and the statute-books of America and England for more than two centuries bear witness to its exercise. This power, both in the States and the General Government, has been explicitly affirmed in a unanimous decision of the Supreme Court, (5 Howard, 504, 633.) Chief-Justice Taney says:

If any State deems the retail and internal traffic in ardent spirits injurious to its citizens and calculated to produce idleness, vice, and debauchery, I see nothing in the Constitution of the United States to prevent it from regulating and restraining the traffic, or from prohibiting it altogether.

In the same decision he affirms the authority of Congress over the whole question of "the importation and foreign commerce in distilled liquors, wine, and brandy," and the full supremacy of the national laws *in this regard* over State laws. But he carefully guards the authority of States in other respects over the subject, affirming that "the power of the General Government is not a prohibition to the exercise of any power over the same subject by the States," thus clearly affirming a co-operative jurisdiction over this subject-matter to the State and the nation. Justice McLean, in the same case, rendered an according opinion, saying:

Individuals in the enjoyment of their own rights must be careful not to injure the rights of others. * * * *These are acts of self-preservation.* * * * *In the progress of population, of wealth, and civilization, new and vicious indulgences spring up, which require restraints which can only be imposed by legislative power.*

I have heard it demonstrated several times in this Congress how very little that Supreme Court really knew about law. Indeed it has been asserted recently on this floor that the present Supreme Court "in its chariot of fire had rolled through the preamble and body of the Constitution." What this means, or where the court was going, or whether it will ever get back, I do not profess to understand.

But the people are coming to realize that we have an evil which costs yearly more than $700,000,000 in direct outlay, and multiplied millions in waste and crime; that it is a subject just as any other common evil for the restraint of civil law. They believe that "government is an institution to protect her people and cannot fail to do it without being guilty of dishonor." They have seen Congress enact strong restrictive laws in this matter to operate against Indians and soldiers, but not one which shall be of general and more needed application. In 1832 "liquor rations" were forbidden in the Army and Navy by order of General Cass, then Secretary of War. Dr. Lieber tells us that when in 1852 the British government sent an agent to the King of Dahomey, bearing presents and demanding of him to aban-

don the slave trade, he accepted the presents and sent this message in return:

The King of Dahomey presents his compliments to the Queen of England. The presents are acceptable *and good to his face.* From the slave trade he gets his principal revenue. He begs the Queen of England *to put a stop to the slave trade everywhere else and allow him to continue it.*

The frank selfism of the King of Dahomey has had some very close copying in less candid legislation by Congress.

THE BEST FORCE OF LAW.

As man progresses the objects of law become more comprehensive and more elevated. Government becomes not only an agent for protection, but an aid in development. Under a Christian civilization the sense of human brotherhood impels it to guard the weak against the strong. The intense pursuit of wealth, with its vast associated power necessary to great enterprises, constantly tends to leave labor at the mercy of capital without such wise protection as shall unite the interests of both, making them when thus in accord the one motive power of material progress. But to do these things wisely the law—that master science which rules the world—dare not forget that its best force is a moral power, and its highest sanction above mere coercion. Blackstone says: "All human laws derive their binding force solely from their divine original, and must command what is right and prohibit what is wrong, *for no laws are valid that are contrary to God's law.*"

When, the other day, the gentleman from Missouri [Mr. BUCKNER] said, in speaking of the whisky tax, "it interferes with the interests of the country for the sake of appeasing this miserable clamor about a moral sentiment," he struck a strange paradox. Mr. Speaker, the country has no higher "interest" than to recognize the "moral sentiment" of its truest and safest citizens, and to shape its legislation not too remotely after what Blackstone calls for laws "their divine original."

WHAT SHALL THE FUTURE BE?

It is impossible to look this great question of intemperance squarely in the face without foreboding. The rush of our multiform activities absorbs the best energies of the people. They take up the burdens that this evil fastens on them without stopping to trace the cause or seek the cure. And yet the progress of knowledge, the restless spirit of inquiry, and the awakened thought of the age, are not without hopeful promise. This vice is now in a great degree massed in cities. Rural populations, in the North at least, have made marked improvement. Twenty-five years ago it was counted a pretty poor town or village throughout the country which did not have an inn and a bar—the bar being largely the excuse for the inn. It is different now in a greater part of the country. The earnest work of associated action has not been without effect. Even the tyrant "fashion" cannot control the might of "moral sentiment." The example of purity and temperance that goes out from the nation's central home is not only a benefaction to the country, but an influence felt throughout the civilized world with the force of an authorized national custom.

In other countries this question is yearly gaining attention. The present premier of England is a strong advocate of legislative restriction against the liquor traffic. The measures he was advocating at the time of his overthrow would have been of greater benefit to England than all the dramatic and empty splendors of the brilliant but conscienceless and heartless fop who has held such an incomprehensible power over that people of honest impulses and sturdy sense. Only last month the supreme court of Canada decided that the Parliament of that Dominion had full power over this traffic, not only for regulation of its commerce but for prohibitory legislation. Sixteen thousand of the inhabitants of pagan Hindostan have petitioned England to keep the liquor traffic out of their country. The Queen of Madagascar has not only refused to accept a revenue for her government out of this trade, but has issued an edict against its sale within her realm, and wisely says, "I am not ashamed to make laws in my kingdom which shall do my people good." Here is a wise courage that might safely guide the law-makers of this or any other country.

In some quarters this whole great question, I know, is argued only by assertion and met with ridicule and contempt. This is easier than to either examine or refute. A very old authority says in very unparliamentary language, and speaking, of course, only of that day, "Fools make a mock at sin." But having been placed on the committee to which this subject was referred, I have assisted in maturing the bill which is now before the House, and have thus urged it with an earnest hope that the legislative power of this great nation is neither indifferent nor powerless to afford some degree of remedy against an evil of such vast influence and magnitude. It is the universal voice of history, past and present, attesting the truth of inspiration, "Righteousness exalteth a nation." Our foundations were laid in the old-fashioned faith that this was a *fact* and not an oriental metaphor, and while freedom is "part of God's smile" on this continent, may our country go on in her luminous career from strength to strength,

Whole within herself,
A nation yet, the rulers and the ruled,—
Some sense of duty, something of a faith,
Some reverence for the laws ourselves have made,
Some patient force to change them when we will.

Tax on Leaf-tobacco.

SPEECH OF HON. JONAS H. M'GOWAN,

OF MICHIGAN,

IN THE HOUSE OF REPRESENTATIVES,

Monday, May 10, 1880,

On the bill (H. R. No. 933) to repeal so much of the sixth clause of section 3244 of the Revised Statutes of the United States as prohibits farmers and planters from selling leaf-tobacco at retail directly to consumers without the payment of a special tax, and to allow farmers and planters to sell leaf-tobacco of their own production to other persons than manufacturers of tobacco without special tax.

Mr. MCGOWAN said:

Mr. SPEAKER: It is intended that the tobacco tax shall be paid by the consumers. The Government says to those who smoke and chew and snuff, "You must contribute to the burdens of the Government and the payment of the national debt." This is just. The consumers of tobacco are full-grown men. No one is compelled to use it, and whoever does makes a voluntary contribution to the common treasury. This is exactly as it should be. No tax is so equitable and fair except the whisky tax. It endangers no man's food or clothing, health or comfort. It interferes in no wise with any honest man's pursuit of life and happiness. It brings to the Treasury the net sum of forty millions a year. This forty millions we must have, every dollar of it. The revenues, taking one year with another, are but sufficient to meet the necessary expenditures of the Government and keep good the sinking fund. Take a dollar from the tobacco tax and it must be made up from the necessities of life, or we must further burden some wholesome industry with increased taxation.

In this light, this bill proposing to repeal and materially change the law taxing tobacco becomes very important. There are a large number of bills affecting the internal revenue now pending in this House. None of them are so important as this, save one. That one repeals the whole tobacco tax, and proposes at a single stroke to rob the Treasury of forty millions of annual income. This one, by its direct and indirect effects, would be nearly as disastrous. That one is straightforward, logical, and manly. This one conceals under an apparently plausible pretext such an assault upon the income as to make another tax law necessary within twelve months.

The statute, as it now stands, provides for a special tax on two classes of dealers in leaf-tobacco. The first class is designated merely as "dealers in leaf-tobacco." Upon the payment of $25 any person in this class may deal in leaf-tobacco, but is restricted to sell "only to other dealers who have paid a special tax as such, and to manufacturers of tobacco, snuff, or cigars, and to such persons as are known to be purchasers of leaf-tobacco for export."

The second class is designated "*retail* dealers in leaf-tobacco." They are required to pay a special tax of $500, and if their sales exceed $1,000, then they must pay fifty cents for every dollar of excess of sales over the $1,000. This class of dealers are not restricted in their sales, and may sell directly to consumers. It is from the burdens of this tax that the bill proposes to release all producers. It provides that they shall be allowed to sell to any one and every one all the tobacco they produce themselves, and all the tobacco paid them by tenants as rent for land on which the same was raised, without being compelled to pay a tax to the Government.

This proposition is so important, and to my mind so far-reaching in its effects, that I beg the indulgence of the House a moment while I briefly give the history of this statute and the reasons for its enactment.

The first law taxing tobacco was enacted during the progress of the late war, but this tax, which it is now sought to repeal—the special tax on leaf-tobacco—was incorporated into the law in 1872. During those ten years of experience the Bureau of Internal Revenue discovered there was something radically wrong with the then existing law. Large amounts of tobacco were known to be consumed in the country that paid no tax. An extensive traffic in the sale of leaf-tobacco directly to consumers had grown up, and thus the consumer was escaping taxation. Without a tax on the leaf this result was natural and inevitable. The Government was unable to keep trace of the tobacco raised, and illicit manufacture and sale were made easy. The legally manufactured article had to be sold in competition with that which paid no tax. The licensed dealers were forced to lose their profits or play dishonest with the Government. Naturally many of them chose the latter course. Besides, it is well known that when the leaf-tobacco is thoroughly cured it requires but very slight manipulation or manufacture to prepare it for ordinary consumption.

The dry leaf crushed in the hand or rubbed through the meshes of a sieve makes a very fair substitute for "fine-cut." A bundle of leaves with the stems drawn out and wrung into a hard "twist" is good enough "plug" for a very large class of chewers. Every boy with his bit of gummed paper can make his own cigarettes, and a lap-board, a shoe-knife, and a pot of paste are all that are necessary for the manufacture of cigars. From this it is not difficult to understand that tobacco-chewers and tobacco-smokers would soon learn to buy the leaf and put it in such shape as they desired for use rather than buy the manufactured article with the tax added to the price of the leaf.

But the object of the law was to reach the consumer and make him pay a tax. To allow the producer to sell the leaf without restraint or tax to any and all purchasers would work serious damage in three ways: It would materially lessen the revenue the Government should receive; second, would work a great wrong to the legal manufacturer; and, third, would lead to lawlessness and demoralization by encouraging illicit manufacturing. The Government is entitled to the tax, and the licensed dealer to the protection. These ends can only be accomplished by taxing the leaf.

In his report for the year 1871 the Commissioner of Internal Revenue called the attention of Congress to the subject in the following language:

SALE OF LEAF-TOBACCO TO CONSUMERS.

For the last three years this office has been in possession of information that a large and increasing amount of raw or leaf tobacco, in portions of the country, was being sold at retail directly to consumers without the payment of tax. Evidences of this traffic have, from time to time, been furnished by assessors and collectors, and more especially by supervisors, who, in taking transcripts from the books required by law to be kept by leaf-dealers, have reported that they find scores of pages of these books where entries were made of sales from one-half pound to four pounds each; and I am constantly in receipt of letters from manufacturers of tobacco, complaining of the injury to their business arising from such sales, and informing me that in some localities where they formerly received frequent and large orders for manufactured tobacco they now make no sales, the same parties who used to make these orders now ordering instead supplies of natural leaf from the wholesale leaf-dealers. Against this traffic, grown to such large proportions, so injurious to their business as manufacturers, and prejudicial to the interest of the Government revenue, they ask to be protected.

To this end I would recommend that section 59 of the act of July 20, 1868, *be so amended as to impose a special tax of five hundred dollars* on every person who shall make a business of selling raw or leaf tobacco *to persons other than those who have paid special tax as leaf-dealers, or as manufacturers of tobacco, snuff, or cigars, or who shall sell leaf-tobacco in quantities less than twenty-five pounds*, or *who shall sell such tobacco directly to consumers*, or *for consumption, without its being manufactured*. And if this is not deemed sufficient, I would further recommend such a tax on the sales of such dealers in excess of $5,000 annually as would be equivalent to the tax on the same amount and value of manufactured tobacco. Such a provision of law will not only give the required protection to the manufacturer who now pays a special tax for carrying on his business, in addition to a specific tax on all his products, but it will also, I am persuaded, tend largely to increase the Government revenue from this source.

In pursuance of that recommendation a bill was introduced and sent to the Committee on Ways and Means in this House, which committee finally unanimously reported the amendment, which was passed and became that portion of the law that is now sought to be repealed. The reasons for the amendment seem to have been so sufficient and satisfactory that no opposition whatever was made to it. In fact, I am informed that this very suggestion of the Commissioner was specially considered in the committee by an eminent member from Kentucky, now Senator from that State, and by the late Speaker Kerr, and by them put into the shape now found in the Revised Statutes.

Now, Mr. Speaker, I call attention to the immediate and continued effect of this law which it is proposed to repeal. It went into operation at the beginning of the fiscal year *ending* June 3, 1873. During the preceding year 95,209,319 pounds of tobacco reached taxation. During the first year that the law was in operation 114,789,208 pounds reached taxation. Here was an increase in one year of 19,579,889 pounds, which paid an additional revenue into the Treasury of $4,000,000. This increase was in manufactured tobacco alone. But the increase of receipts from tax on cigars was equally marked. The income from this source in 1872 was $7,566,156. In 1873 it was $8,940,391, being an increase over the preceding year of $1,374,234. Add this to the increase on manufactured tobacco, and we have a total excess of revenue from tobacco for the year 1873, which was the year of the panic, over the year 1872 of more than five and a quarter millions of dollars.

Further, Mr. Speaker, during the three years immediately preceding this law the average number of pounds of manufactured tobacco which reached taxation each year was 93,550,968, while for the six years immediately succeeding the law the average for each year was 111,229,036. This makes an average yearly increase for all these years over the former ones of 17,678,068 pounds, which yielded an annual income of $3,965,190. During these same years (from 1873 to 1878 inclusive) the average increase of receipts from cigars over the three years preceding 1873 was $3,766,561. Now, add these two amounts together, and it will be seen that for the first six years following the enactment of the law, which this bill seeks to repeal, the average annual increase of revenue from tobacco, in its various forms, was more than $7,700,000, or a total of $46,200,000.

Now, sir, this increase of revenue to the Treasury is due to the law of 1872, excepting only that resulting from the ordinary increased consumption. But the increase of consumption of tobacco simply keeps pace with the increase of population. A large crop and low prices or a short crop and high prices make little or no difference with the amount used. Men who smoke and chew and women who snuff continue to smoke and chew and snuff whether prices go up or down. This is the language of the statistics and the observation of all persons who have given the matter attention. It is perfectly apparent, then, that no increase in population, resulting in an increased number of consumers, can account for this astounding addition to the revenues from that source. It is due to the fact that, by reason of this law which it is now proposed to wipe from the statutes, the Government reaches the consumer and makes him pay.

I have shown that the repeal of this law would result in seriously cutting down the revenue. It would also bring disaster to one of the great industries of the country, built up under the protection of the present law. This is fully realized by those interested, and a large number of petitions protesting against the passage of this bill have been sent here. One of these, signed by the manufacturers of New York, Boston, and Philadelphia, represents parties who pay more than ten millions tobacco tax annually. It contains the names of reputable business men who are in position to know whereof they speak, and whose interest in this matter becomes the interest of the Government. These men tell us that the enactment of this free-leaf bill would be disastrous to all manufacturers of tobacco and cigars, and, in their opinion, would in the end "strike a vital blow to the production of this great staple in the tobacco-growing States by offering a great incentive for its growth in small quantities all over the country, so that consumers could be supplied without the payment of any tax, and thus destroy the demand for that heretofore produced in the tobacco districts." And this is only one of many petitions to the same import coming from all parts of the country.

Now, sir, the Government cannot in justice to these men who, under the operation of existing law, have invested their capital and built up these factories repeal this provision. Such action would at once offer a premium of sixteen cents per pound upon illicit manufacture. The amount of illicit distilling of spirits shows that human nature could not stand the pressure. Manufactured tobacco in all its varied forms would be sold to consumers at a lower price than could be afforded by the licensed dealer. The Commissioner of Internal Revenue, being no longer able to keep trace of the tobacco raised, would be unable to detect and punish the law-breakers. The result would be as set forth in these protests—the manufacturers would be ruined and the Government lose its income from that source. I predict that within two years the law would either have to be re-enacted, or, for very decency's sake, the whole tobacco tax abandoned.

What are the reasons offered for this dangerous proceeding? The law as it now stands says to the tobacco raiser, "You may sell your tobacco without paying any license or any tax to any person licensed to deal in leaf-tobacco, to any legitimate manufacturer of tobacco or snuff or cigars, or to any person known to be a purchaser for export. But if you want to sell directly to consumers you must pay a tax. We propose to reach the consumer, and if we cannot reach him through the manufacturer then we will reach him through you." The advocates of this bill say this is a great hardship; that no other production of the soil is taxed in the hands of the farmer. I answer that this is not taxed in the hands of the farmer unless he undertakes to sell indiscriminately. And further, that no other production of the soil can properly be compared with this. Tobacco in its crude or manufactured state is neither food, clothing, nor medicine. It is essentially and wholly a luxury, and hence, if we are to have *any* internal tax, a most proper and legitimate subject of taxation.

But it is claimed that limiting sales to licensed dealers is a burdensome restriction. Why? Are there not enough purchasers? Do tobacco raisers have any more difficulty in selling their crop than farmers have in selling their wheat or corn or pork? On the 1st of last June there were in the State of Tennessee 333 licensed dealers to whom the farmers could sell their tobacco, in North Carolina there were 400, Virginia 804, Kentucky 1,385, and in Pennsylvania 3,663. This would give an average in Tennessee of about 4 dealers to a county, in North Carolina 5, in Virginia 9, in Kentucky 12, and in Pennsylvania 55. Will gentlemen of the North and West tell us that wheat buyers, pork buyers, or cattle buyers are more plentiful in their States than licensed tobacco buyers in the tobacco-raising States? Neither will it do to say that sellers are embarrassed because these buyers are located in the larger cities and far from the localities where the crop is produced. The facts are that dealers in tobacco send their purchasing agents all through the tobacco districts and make their purchases in the same way as dealers in other commodities. Each licensed dealer is multiplied many times by his purchasing agents. This produces such competition that the former gets a fair, normal price for his crop, and should the licensed dealers be at all disposed to combine to force low prices upon the farmers they would be utterly unable to do so.

When I state that last year's tobacco crop aggregated over five hundred and twenty-two million pounds and that upward of three hundred and twenty-two million pounds were exported abroad, being three hogsheads out of every five raised, every business man will see how absurd it is to claim that buyers for home use could control the market price. The fact is that during the existence of the present law tobacco producers have found as convenient markets and enjoyed as high prices as the producers of other farm commodities.

No, Mr. Speaker, the reasons for the existence of this measure are not found in the supposed hardships of the small tobacco farmers. Gentlemen may talk that and possibly some of them believe it, but the underlying reasons are much more significant and far-reaching. This is one of a series of measures intended to break down the revenues of the country. The internal-revenue tax is a legacy of the late war. All war legislation must be wiped out—especially if it is supposed to be inconvenient to the South. The great apostle of the wiping process has already dipped his sponge not simply to sweep from the statutes the tax on leaf-tobacco, but, at one brush with his brawny arm, to carry away *all* the tax on tobacco and four-ninths of that on whisky. Thus "at one fell swoop" he would rob the Treasury of sixty-three millions annual income.

I find upon our files fifty-five bills, all seriously attacking the internal revenue. Every one was introduced by a democrat. Fifty-two of them were introduced by southern members—fourteen bills for the repeal or modification of this leaf-tobacco tax. Kentucky furnished seven of these, Tennessee three, Missouri two, Georgia one, and Illinois one. Eleven were sent to the Committee on Ways and Means, *where they belonged*, two to the Committee on Agriculture, where they did not belong, and one, introduced by the gentleman from Illinois, [Mr. TOWNSHEND,] went, of course, to the Committee on the Revision of the Laws. Seven bills exempt from tax brandy made from peaches and apples. To North Carolina must be given the paternity of two of these, to Tennessee one, Kentucky one, Virginia one, Georgia one, and South Carolina one. Arkansas and North Carolina each ask that the tax on domestic wines be repealed. The Commonwealth of Kentucky, through her most conspicuous Representative, proposes the repeal of all taxes on tobacco. The same State, through the same instrumentality, asks that whisky be taxed fifty cents instead of ninety. A bill comes from South Carolina to repay the cotton tax, and Missouri asks a release of the legacy and succession taxes.

There are eight bills to repeal the State-bank tax; North Carolina two, Georgia two, Missiouri one, Virginia one, Alabama one, Arkansas one. North Carolina, South Carolina, and Virginia each ask that the Secretary of the Treasury be directed to refund to persons living in the Southern States such land taxes as they have paid the Government; and last, and I think least in this roll of honor, comes our German friend from Milwaukee with two little bills to take the tax from weiss beer.

Mr. Speaker, on the 10th day of February there was reported from one of the committees of this House the following resolution:

Resolved, That the Secretary of the Treasury be requested to lay before this House all evidence on file in the Internal Revenue Office, and all papers, reports, letters, and other documentary evidence from official sources going to show the true state of affairs touching the enforcement of the internal-revenue laws in Northeast Georgia, and tending to explain the necessity for raiding expeditions of armed men at the instance of the Internal Revenue Bureau, and which may give information to the House of Representatives on this subject.

Now, sir, only the warm imagination of a sunny clime would have thought to extract from the hard husk of that plain resolve such magnificent figures of rhetoric and such startling figures of arithmetic as I find in the speech which followed its introduction. The gentleman from Georgia [Mr. SPEER] was the author of the resolution and the speech. He insists with great warmth that the people of his district are as "peaceful, law-abiding, law-loving, and harmless population" as there is upon the American continent. He ridicules the operations of the Internal Revenue Bureau in its efforts to collect the whisky tax and break up illicit distilling. He says of this famous home of the native moonshiner:

Sir, it may well be doubted whether any section of this highly favored land, from the shores of the great lakes to where the spray of the Gulf is dashed upon the golden fruitage of the orange and the snowy blossoms of the magnolia, can boast of so many and such varied advantages as that magnificent territory whose people I have the honor to represent. Sir, malarial diseases are there unknown. This Piedmont region is the refuge of those who dwell in malarial sections, where the summer's heat engenders the maladies of semi-tropical climates.

Sir, in natural scenery, to the lovers of the beautiful, the picturesque, and the grand, the mountains of Georgia afford rich and varied pleasures, which are unsurpassed even in this land of the grand, the picturesque, and the beautiful. There the mountains of "Tray" and "Yonah," and "Currahee," lift their towering summits toward the heavens. There the Falls of Tallulah, of wondrous yet terrible beauty, attract thousands to gaze with admiration and awe upon the fearful force with which the shining river is hurled into the abyss of the grand chasm. There the Tocoa—the Cherokee for beautiful—in its precipitous leap down the side of the mountain dashes its translucent wave to spray; and the legend-haunted falls of Amicalola—all add to inexhaustible natural charms.

That is grand, indeed; but listen to him as he dilates upon the gentle moonshiner himself:

Sir, the people of this country are not a lawless population, as they have been represented; they do not merit that aspersion. To make the charge is to do their future great injury. Principally employed in agricultural and pastoral pursuits, far removed from the temptations and vices of large cities, they are an honest, virtuous people. They pursue the even tenor of their way in their quiet homes on the slopes of the great Blue Ridge, and adown the fertile valleys of the Tugaloo and Chattooga, the Tenora and Turora, the Hiwassee, Tocoa, and Soquee, and where the bright waters of the Chattahoochee with rythmical murmuring winds away from fabled vale of sweet Nacoochee. The mountaineers of the Tyrol are not more ardently attached to their native land. The "Green Mountain boys of Vermont" were not more devoted than they to the Constitution of our common country.

Mr. Speaker, it requires a man with a hard heart to mar so beautiful a picture as that. From the trials and vicissitudes of this ungodly world one longs to flee away to Georgia and be at rest. The picture is beautiful. The lamb-like innocence of the gentleman's constituents is as clear to the inner thought as the "translucent" wave of his beautiful Chattahoochee is to the naked eye. Sir, in our friend's glowing eulogy you see reflected the pastoral beauty of the scene and the pastoral simplicity of the dwellers in this American Tyrol as clearly as the bright waters of the "Tenora" and "Turora" used to give back the sweet face of his Georgia sweetheart. Yet it is a melancholy thought, Mr. Speaker, that in this bad world there is no absolute perfection. Even in those grand mountains of "Tray" and "Yonah" that "lift their towering summits toward the heavens," I fear might be found dark gorges and bad places not at all unlikely to entrap a Georgian "pastoral" to an early grave. There are bees in the hollyhocks, and thorns under the roses. Even the tractable and child-like constituents of my good friend have their slight eccentricities. The gentleman to some degree, but with evident reluctance, recognizes this. He says:

I admit that they do not like the internal-revenue laws; I admit that they find it difficult to understand why a freeman (!) is not permitted to sell the leaf-tobacco of his own production without paying a tax which completely destroys his opportunities of profit.

That admission is timely. *They do not like the revenue laws.* Their slight aversion to these statutes and their enforcement is now in evidence.

Mr. Speaker, in the second Georgia district, where our friend resides, and where his honest and virtuous constituents "pursue the even tenor of their way in their quiet homes on the slopes of the great Blue Ridge and adown the fertile valleys of the Tugaloo and Chattooga, the Tenora and Turora," five revenue officers have been murdered and twelve wounded; five hundred stills have been seized and seventeen hundred and seventy-two persons arrested for unlawful stilling.

Now, sir, this is a slight indication that these people who are "principally employed in agricultural and pastoral pursuits, far removed from the temptations and vices of large cities," *do not like the revenue laws.*

Why, sir, in eight Southern States, from June 30, 1876, to February 1, 1880, three thousand and forty-three illicit stills were seized, six thousand one hundred and fifty-three persons arrested; and in the execution of these lawful duties twenty-five officers were killed and forty-nine wounded. And yet the gentleman who lives in the midst of this organized barbarism exclaims, "I utterly deny that there is any general resistance to the constituted authorities." I do not know what the gentleman may mean by the word "general," but had the arrests made in his revenue district been made in the congressional district of his colleague [Mr. BLOUNT] it would have taken more than half his voters as the same appear by the Congressional Directory. And had they been made in the district of his other colleague [Mr. COOK] it would have left him the magnificent constituency of eight hundred and fifty-six voters.

Seriously, Mr. Speaker, in the whole civilized world there has scarcely been such wholesale resistance to the "constituted authorities" and such barbarous and murderous resistance to the enforcement of the laws. In many places it has been organized rebellion—whole sections banded together, with their captains of tens, and captains of hundreds, armed and equipped for bloody deeds. And these mild-mannered gentlemen are not only defiant law-breakers, they are assassins and cut-throats. They murder the officers and their assistants and rob their dead bodies. In the dead of night they fire the buildings of witnesses and informers and, like cowardly bushwhackers as they are, lie in wait to shoot down the owner. The fact that our whole country has not been aroused and alarmed is a most striking comment on this whole business; it simply shows that we have come to expect that kind of thing from that section.

But, Mr. Speaker, what is much more serious than all this violence is the fact that these violent men make and sustain the ruling public sentiment. Newspapers, courts, judges and magistrates, sheriffs and local officers bow to the bushwhacker or actively join him. He finds his apologist and defender on this floor. It seems to be the fact that the voice of the conservative and law-abiding people of those sections is suppressed, and only the restless, aggressive, lawless element gets representation. Any one who attempts to perform the duties of decent citizenship and lends his aid to the officers of the law does so at the risk of his life and property. This is no exaggeration. The proofs are abundant. Every man in this House is aware of them. I refer to papers and reports, portions of which I will submit with my remarks. Yet the gentleman from Mississippi [Mr. HOOKER] demands that there shall be no appropriation to pay for "information and detection," and fifty of his democratic colleagues vote with him. He moves to take $25,000 from the appropriation "for detecting and bringing to trial and punishment persons guilty of violating the internal-revenue laws, or accessory to the same," and fifty democrats say "ay." Thus by cutting down appropriations, by reducing the salaries of necessary officers, taking the tax from fruit brandies and wooden stills, and finally by repealing the tax on leaf-tobacco, it is hoped to cripple the Department and open the door to still greater frauds.

I have called attention to the general hostility to all revenue laws. The bill before us is part of the scheme to break them down. If gentlemen are ready to vote away five or six millions of the national income and commence a course of legislation that will very soon break down all tax on whisky and tobacco, then they will support this bill.

It seems to be the policy of the democratic party to cut down the revenues and increase appropriations. The tax on imported goods is to be removed. The manufacturers of iron, salt, paper, and sugar, and the producers of wool and lumber, are to be left without protection, while the Treasury is left without the income from the tariff on these articles. The war debt and the United States marshals may go without payment, while untold millions are expended in clearing out petty streams of no consequence to general commerce, building wharves and docks where boats never land, and great public buildings where none are needed. The candle is being burned at both ends. The present prosperity will not continue always. When the balance of trade is against us, and the coin in the Treasury is called out to pay balances and foreign debt, the people will call a halt and demand a reckon-

ing with the party in power. With the tariff and the internal revenue substantially as now placed the business and financial interests of the country are safe. Now the burden of our great debt is but slightly felt by the mass of the people. Take away the protection from our manufacturing and producing industries and the laboring man has lost his employment and his market. Take the internal tax from the luxuries, whisky and tobacco, and it must be put on the necessities. This is the road the democratic party is traveling. We beg to be excused from going that way, as it leads to moral bankruptcy and commercial ruin.

APPENDIX.

Extracts from report of the Commissioner of Internal Revenue in response to the resolution of the House, dated February 10, 1880, *quoted above.*

From a letter to the Commissioner by Deputy Collector J. C. Hendrix, dated Dahlonega, Georgia, November 27, 1879:

We then went into another neighborhood in the same county on the river, where we had several stills located. We again divided in order to go to two places at the same time. One party of six men left and the other party advanced about a half mile, when we halted and arranged to leave our stock and take it on foot. While we were dismounting we heard some one in front calling, "Come on, boys." We supposed it was our guide, as he was not to be seen at that moment. The moon had gone down and it was very dark. Deputy Collector Pool suggested that he would ride down to the place where the party was calling. He left us and some of the party followed in a moment, or as soon as they could dismount. They moved a short distance forward when they met a large crowd of armed men. They came running back and notified us that a crowd was upon us. We got around the wagon in which we had the prisoners, and commanded them to halt. They *were pulling and pushing some one, and saying,* "*Push him up, damn him,*" which caused us to think they had Pool in the front. We called, "Pool," and hesitated to shoot for fear we would kill him. Just before reaching us they dodged out into the bushes and disappeared from sight. This was about 4.30 a. m. Soon our other party returned. We could hear them in the bushes, but could not see them. We soon went forward to clear the woods and see what had become of Pool. We found his horse, but could not find him. We then determined to wait until it was light enough to see, as it was near daybreak, and then find what had become of Pool, thinking they had captured him and would hold him and demand the discharge of the prisoners as a condition to releasing Pool.

Just at daylight we discovered a man staggering in the road in our front. I went toward the person and he advanced toward me. I thought it was a man blacked or a colored man. I spoke to him, saying "Hallo;" he answered, saying, "How are you?" I recognized his voice, though he had not recognized me. I then called out "Pool." He came up toward me, saying, "Do you see how they have beat me? I rode into fifteen or twenty of them, all with guns, standing on the bridge that crossed the river. They cocked their guns on me. I told them not to shoot. Some one struck me on the side of the head with a gun, which left me senseless. I came to myself a few moments since, found myself over in the field. They took me for dead and threw me over the fence. I got up and saw our party, but thought it was the party that had attacked me. I determined to go to some house. Supposed our party had been driven off." They robbed him of everything on his person—a pistol, about $23 in money, his cartridges, &c. We ascertained that they were congregating at a narrow pass of the mountains, in still larger force, about a mile in our front. We then turned and changed our direction and returned to Blairsville, where we got medical attention for Pool, and then left at one p. m. yesterday and reached here at twelve at night, bringing our prisoners with us. Pool is badly hurt, though I think he will recover. We will stay with him, or some of us will, until we can carry him home.

From a letter by deputy collector W. D. H. Shepard, dated Toccoa, Georgia, November 29, 1879:

Being now very tired from our long and fatiguing journey on foot, we returned to a point within seven miles of where we had left our horses, and as the night was a bitter cold one and we were wet and cold we concluded to build a fire and rest until daylight. As soon as our fire brightened up a shot was fired in close proximity to us, and deeming it unsafe to remain in the firelight we put it out and made ourselves as comfortable as possible "without a fire."

At daylight we resumed our journey, and while passing the mouth of Tiger Creek we were fired into by a body of men, secreted in the swamp on the opposite side of the little creek. One of my men, J. M. Daniell, was wounded in five places; one shot in the head, two wounds in the wrist, one in the calf of the leg, and one in the thigh. Another, J. L. Cobb, was wounded in three places, in the leg, thigh, and mouth. The shot in the mouth passed through his lip, lodging in the mouth. Another, P. W. Pitman, received two wounds; one in the wrist, and one in the leg. Cobb's and Daniell's wounds are very severe, but are not considered dangerous.

The wound in Daniell's head is quite severe. The slug passed through his hat and a thick fold of paper, laying bare his skull. The ball seems to have ranged downward, but its location has not yet been discovered by the physician.

Although so severely wounded, the men did not falter for a moment, but kept up a steady fire in the underbrush until the distillers were driven off.

We were not able to tell whether any of our shots took effect or not. The *bushwhackers* used shot-guns loaded with slugs.

Respectfully,

W. O. H. SHEPARD,
Deputy Collector.

From Andrew Clark, collector:

UNITED STATES INTERNAL REVENUE,
COLLECTOR'S OFFICE, SECOND DISTRICT OF GEORGIA,
Atlanta, December 19, 1879.

SIR: On the 16th instant five of my deputies, accompanied by four United States deputy marshals, went into Cherokee County to make seizures. They had seized two illicit distilleries and assisted the marshals in making the arrest of six men, two of whom were found in one of the distilleries seized, and had accomplished their work, undiscovered by any person until four o'clock a. m. on the 17th instant.

They had traveled about five miles on their return with the stills and prisoners in charge, and stopped to take some breakfast and feed horses, when a crowd numbering about fifteen armed men rode up, inquired for the guides, and began to make some very boisterous demonstrations. Meanwhile they tried to exact from the deputy marshals a promise that the prisoners should not be put in jail. They continued their demonstrations, making threats, &c., during the temporary halt of the officers, and when their preparations for continuing their journey were completed the mob formed in line across the public road in front of the officers, as if to resist their passage.

My deputies loaded their carbines and made preparations to fight, if necessary, and, as they approached the mobbers, drove quietly along. The outlaws, perceiving the determination of the officers, gave way and allowed them to pass, saying as they did so, "Give our respects to the parties who led you in here, and tell them never to be seen in this country again." They swore vengeance against our guides, and I am now advised they are guarding the roads so closely they cannot reach Atlanta to testify in the cases. I am also reliably informed they rode into Marietta and warned the keeper of the livery stable at that place that if he again hired stock to revenue officers they would make him suffer for it.

This formidable resistance in that section will necessitate the employment of strong force in future. I am determined to have warrants in the hands of the marshal for every one of these outlaws, charging them with conspiracy; and the outlook is that we shall convict not a few of them.

I am pressing the work vigorously and need to be strengthened in every way possible.

Very respectfully,

ANDREW CLARK, *Collector.*

Hon. GREEN B. RAUM,
Commissioner, Washington, D. C.

From the same:

UNITED STATES INTERNAL REVENUE,
COLLECTOR'S OFFICE, SECOND DISTRICT OF GEORGIA,
Atlanta, December 23, 1879.

SIR: Referring to the subject-matter of my letter of 19th instant, giving some account of armed resistance to my officers in Cherokee County on the 16th instant, I desire to submit the following information since received from strictly reliable sources.

It appears that after leaving Marietta, where they came to intimidate the livery-stable keeper, and to search for guides, whom they proposed to murder if found, the outlaws proceeded to the residences of the witnesses of whom they were in pursuit. Stationing a part of their force in the road, with instructions to fire upon any one approaching without halting them, the others proceeded to ransack the homes of the witnesses, with pistols cocked and uttering oaths and threats of violence against the men. They thrust their pistols, cocked, with finger upon trigger, into the breasts of quiet, peaceable citizens, men and women alike, demanding the production of the witnesses, whom they swore "should never reach Atlanta alive to testify for the G—d d—n revenue department."

Meanwhile the witnesses, aided by the darkness, eluded their would-be assassins and fled to a neighboring swamp, in which they are, at this writing, known to be concealed to save their lives. The outlaws are picketing the public roads and woods and watching every ferry to prevent the witnesses from obeying the summons of the United States court.

In the mean time, the law-breakers have sworn out civil warrants on some trumped-up charge against these witnesses in order to improve their chances for obtaining possession of them before they reach Atlanta.

From a letter by Andrew Clark, collector, dated Atlanta, Georgia, January 21, 1880:

En route from Toccoa City to Clayton, Deputy Shepard's force seized four illicit stills, one of them within four miles of the famous "Berrong" settlement, in Towns County. Owing to the guides' miscalculation as to distance to the last distillery seized the force was delayed twelve hours in reaching Clayton. They were out eighty-five hours without sleep, having worked all night on the 15th making seizures.

On the morning of the 16th, firing began on the party from the mountain sides and was kept up at intervals all day; but the long-range carbines carried by the revenue officers kept their assailants at such a distance that no one was hurt.

Soon after nightfall the party felt compelled to halt for the night, as the firing was so continuous that it was impossible to proceed without being placed at great disadvantage with their resisters, who could have approached in the darkness near enough to have made their weapons effectual.

The revenue officers took possession of an old stable in the valley in which to spend the night, but the owner soon informed them they could not occupy it. They then moved to an old outbuilding farther down the valley, and soon after they had taken possession of this the firing commenced on them from all sides.

The deputy then deployed his men around and at some distance from the quarters for the purpose of protecting his stock, and had his men to return fire wherever they saw the flash of a gun, and at once change position slightly, so as to deceive their antagonists as to their numbers.

This state of things continued during the entire night without intermission, the illicit distillers at times venturing to approach within close range and discharge their pieces at the spots where they supposed the revenue officers were concealed.

UNITED STATES INTERNAL REVENUE,
COLLECTOR'S OFFICE, SECOND DISTRICT OF GEORGIA,
Atlanta, Georgia, February 4, 1880.

SIR: I have the honor to report the following seizures during the month of January, 1880, viz:

Nineteen illicit distilleries, and about 20,000 gallons of mash and beer, (the latter destroyed for want of transportation;) 200 gallons of crooked whisky; 4 wagons; 8 head of horses and mules engaged in removing the illicit whisky.

One of these teams, one illicit distillery, and fifteen gallons of illicit whisky were seized by Deputy Collector John C. Hendrix, who was in charge of one of the detachments of the raiding force during the month of January. Deputy Hendrix reports that the distillers had been notified of his coming and pulled out their stills, which accounts for the small number of stills seized by his force.

Twelve of the nineteen stills were seized by Deputy Collector W. O. H. Shepard, who was in charge of the other detachment of the raiding force; and the seizures were made under very trying circumstances, the officers having met with armed resistance by the law-breakers, who ambushed them at every turn of the road during the entire trip, and only by the use of the long-range carbines were the officers enabled to police the country without the loss of life. It will be remembered that it was in this county (Rabun) only a few months ago that I had three revenue officers wounded on one trip, and the large force with superior arms prevented the re-occurrence of these outrages on revenue officers.

The other six of the nineteen distilleries, three wagons, six head of stock, and one hundred and eighty-five gallons of illicit whisky were seized by other officers, and at other times, during the month.

While the number of seizures for this month is smaller than for the same period of last year, the cost of seizure is somewhat greater, owing to the remote sections in which the stills were located, and the armed resistance of the distillers, who were confined to narrower limits, and had grouped their stills in mountain gorges in order to act in concert to resist revenue officers. This was particularly the case in Towns, Union, and Rabun Counties, where small numbers of officers were almost invariably fired upon, and in many instances driven out by superior numbers of illicit distillers.

While there have been fewer violations of law in some parts of my district, (in fact I have entirely put a stop to illicit distilling in large sections,) in other counties there is little, if any, improvement; the law-breakers resorting to not only armed resistance, but to assassinating men whom they suspect of giving information to revenue officers. I call to mind an instance where a stranger came to me for employment as informer, and was sent to locate stills, and return in fifteen days. He did not return, and about four weeks afterwards I noticed in a newspaper that an unknown man had been found in the woods with his head severed from the body and otherwise mutilated in a barbarous manner; a description was given of his dress, and the remark made in the paper that he was suspected of giving information to revenue officers against illicit distillers. The description of the man left no doubt upon my mind but that he was the man I sent out.

As another instance of the bad state of affairs in some sections, I would state that during the recent raid in Rabun County the house of John Coffer, a good citizen, (who was suspected of giving me information,) was attacked by a party of illicit distillers, or their friends, and considerable damage done to his property, and his life threatened. Mr. Coffer procured warrants from the State authorities for the arrest of the men, and offered as a witness John Welborn, a reliable citizen; but a man was introduced who swore he would not believe Welborn on oath, for the reason that he believed he had reported illicit distilleries. The witness further swore that he would not believe any one on oath who would give such information. The committing magistrates thought this sufficient testimony to impeach the witness and discharge the prisoners. I refer to this to show that while some good citizens are disposed to give information, they are in danger of personal assaults, and damage to property, without redress from the State courts. Hence it is that large bodies of men must be sent, in order to police the country infested by the law-breakers. It will be borne in mind that for three years I used my regular deputies to make seizures, but recently I found it impossible to send small numbers of men without having them fired upon and driven out. There has not been, so far as I am advised, a complaint of bad conduct on the part of my men, and while many good citizens sympathize with the Government and the rigid enforcement of the law, they dare not be known, except in rare instances.

The names of parties and officers making the seizures will appear on my form 131, for January, which will be forwarded as soon as possible.

Respectfully,

ANDREW CLARK,
Collector.

Hon. GREEN B. RAUM,
Commissioner Internal Revenue, Washington, D. C.

MURDER AND ROBBERY.

UNITED STATES INTERNAL REVENUE,
Atlanta, Georgia, February 13, 1877.

DEAR SIR: I have just returned from Gilmer County, where I have been operating for the past ten days. We have done some effective service in Gilmer County, and if it were not for the unfortunate occurrence which resulted in the death of Lieutenant McIntyre I would regard the raid as being a great success.

The detachment sent with me to Gilmer County have made seven seizures, destroyed twenty-five distilleries, and arrested forty illicit distillers.

I have also sworn out one hundred and thirty-one additional warrants.

The circumstances connected with the death of Lieutenant McIntyre are as follows:

On the night of the 10th instant our party visited the locality known as the Frog Mountains, and at two o'clock a. m. Lieutenant McIntyre, one soldier, and three deputy marshals entered the house of one Jones, for the purpose of arresting him; not finding him in the house, they took seats in front of the fire to warm themselves, while the balance of the detachment were in the mountain looking after an illicit distillery. The house which Lieutenant McIntyre and party occupied was surrounded by about thirty illicit distillers, part of their force entering the house and commenced firing on the troops and Government officers. The lieutenant was shot through the heart and fell dead instantly. Our men were then compelled to retreat to the mountains, leaving the body of Lieutenant McIntyre in possession of the attacking parties.

Both parties remained within hearing distance of each other until daybreak, when a messenger was sent to Captain Cook, commanding the troops at Ellijay, for re-enforcements.

The re-enforcements arrived at about two o'clock, when a sharp firing commenced between the troops and illicit distillers.

As soon as the illicit distillers withdrew from their position, we recovered the body of Lieutenant McIntyre; but found that he was robbed of his watch, pocket-book, and everything of value that he had about him. His body was then sent to the post at Ellijay, where a coroner's inquest was held, and the jury rendered a verdict that the deceased had come to his death by a bullet fired from a gun in the hands of an unknown person. The remains of the lieutenant were then forwarded to his family at Atlanta, Georgia.

I sent a telegram to the office at Centreville, notifying you of his death. I also reported the fact to Collector Clark and Revenue Agent Chamberlin.

I am now of the opinion that our force is not sufficient to suppress the illicit distilling in this district. I have but ten Government horses with my detachment, and they are worn out, and must have three or four days' rest before we commence operations again. I am taking the best possible care of the stock and my detachment, but in order to capture stills it requires prompt action, as many of them are removed just before we get to the distillery. If we had twice the number of horses our work would be much more effective.

I find that the illicit distillers receive most of their encouragement from the parties operating these small registered distilleries. They purchase all the blockade whisky they can get, and sell it as their own whisky from a package in their retail-room, which is filled up from time to time with illicit whisky.

I should like to have a personal interview with you in relation to the frauds in this district. I could better explain the existing troubles, and would no doubt be able to make some suggestions that would be of advantage to the service.

Revenue Agent Chamberlain has ordered his detachment to Gilmer County, and he will leave for Ellijay to-morrow morning.

Very respectfully,

THOS. J. GRIMESON,
Revenue Agent.

Hon. GREEN B. RAUM,
Commissioner of Internal Revenue, Washington, D. C.

THE EFFECT OF AMNESTY AND APPOINTMENT OF A DEMOCRATIC UNITED STATES MARSHAL.

Commissioner Raum says:

In March, 1877, through the efforts of prominent citizens of Georgia, who gave assurances that if executive clemency should be extended to persons complained of for illicit distillation they would thereafter desist from their illicit practices and obey and respect the revenue laws, President Grant granted amnesty for past offenses to all such illicit distillers in the judicial district of Georgia who should come into court and plead guilty to the offense charged. Under this act of executive indulgence seven hundred and ninety-two persons charged with illicit distilling and other violations of internal-revenue law were discharged by the court.

It soon became apparent that the evil was not remedied, and that stills were being operated illicitly throughout the district, notwithstanding the assurances given and the clemency extended by the Government. During the months of April, May and June, 1877, twenty-six stills were seized.

The resistance to the enforcement of the laws continued as before.

About this time I understand it was urged, I know it was hoped, that concession of the appointment of a democratic United States marshal would mitigate the opposition to the observance and the enforcement of the laws. Illicit distillers, however, when put to the test, resisted, bushwhacked, and shot democratic and republican officers with rigid impartiality. Their opposition to a whisky tax was too deep-seated, and had been encouraged by too much political discussion condemning this tax, to give way to the presence of a democratic marshal and his deputies.

The resistance to the marshal's force in Georgia has been quite as persistent since 1877 as before, and but recently, on the 20th instant, Deputy Marshal Bolton, in attempting to arrest an illicit distiller named Norton, in Milton County, was forcibly resisted by Norton and several of his companions, who fired upon the deputy marshal's party. A desperate fight ensued, and the arrest of Norton was not effected until one of the assailants was shot and Norton knocked down.

I give the following extracts from reports received at this office from the collector of the second district of Georgia of resistance to marshal's force during the term of office of the present marshal:

In Campbell County, in the latter part of January, 1877, the marshal's posse were assaulted in the public highway by illicit distillers, two horses were killed, and a guide badly wounded.

In February, 1878, a deputy marshal who had made some arrests in Pickens County was attacked in a house in which he had stopped over night and forced to release the prisoners who were then in his custody.

In September, 1878, Deputy Marshal Lumsden and posse, while attempting to arrest illicit distillers named Ennis, in Hancock County, were assaulted, one of the posse was killed, and another dangerously wounded.

In December, 1879, Deputy Marshal Robinson's posse was attacked by a body of armed illicit distillers in the High Tower Mountains, and were forced to release an illicit distiller named Berong whom he had arrested on a warrant.

The following correspondence will give information as to the operation of this bureau touching the enforcement of the internal-revenue laws since March, 1877, in said district.

MORE MOB VIOLENCE.

From Andrew Clarke, collector:

On entering the premises fire was opened on them from six or seven men that had taken position so as to prevent the deputies from entering the still-house, but they reached it and found two men, who tried to make their escape, but were prevented by the seizing officer, and kept while the distillery was being destroyed, which had the effect of stopping the firing, and when they left the premises they kept these two men until they were out of the neighborhood, when they released them.

Again:

The force of eight deputy collectors, with guides, which I sent out on the 11th ultimo to raid on the North Carolina line north of the Blue Ridge Mountains, were in one instance fired upon by about twenty men in ambush, who had waylaid the road for them. A brisk skirmish took place, and my deputies succeeded in driving them off without any one being hurt on either side, so far as is known.

On another occasion a considerable number of armed men assembled in a mountain pass for the purpose of resisting the passage of the deputies. The posse having seizures to make in different localities at the same time had been temporarily divided, and five of them encountered this force of about thirty men, well armed, securely lodged in a gorge of the mountain.

Satisfied of their inability to force a passage against such heavy odds, and as night was coming on and they had to meet guides and make seizures in other localities, they did not attempt it. The entire force would, however, have been insufficient to dislodge them had they made the attempt to do so.

Only twelve miles out from Atlanta:

UNITED STATES INTERNAL REVENUE,
COLLECTOR'S OFFICE, SECOND DISTRICT, GEORGIA,
Atlanta, January 22, 1878.

SIR: In my letter of the 21st instant I mentioned the fact that civil warrants had been taken out by illicit distillers for two guides, and an attempt made to serve them while the guides were in court as witnesses, and that being fully satisfied that the warrants were sworn out simply to get them into the hands of murderers I had the said witnesses sent to jail in default of bail in order to save their lives.

On the night of the 26th instant the deputy marshals wanted one of the men above referred to to accompany them as a guide to point out the men for whom warrants were issued.

They started, accompanied by the guide, on the night of the 26th instant, to make the arrests; and the result is, the guide badly wounded and two horses shot. The posse were ambushed and about twenty-five shots fired at them. The guide's horse was shot four times, and he, dismounted and wounded, was left, and told by the deputy marshals to make his way back to Atlanta, and they would find citizens to help them to make the arrests. But it appears, finally, that none of the citizens would have anything to do with the posse unless it was to waylay and kill them if possible.

I regret exceedingly that it is true that within twelve miles of this city such a neighborhood exists; but the facts above stated prove that my judgment was correct in opposing the use of the guides on the occasion referred to.

Very respectfully,

ANDREW CLARK,
Collector.

Hon. GREEN B. RAUM
Commissioner of Internal Revenue.

Again under date of January 20, 1879:

This party would have accomplished much more had not their principal guide failed to meet them at the place designated. When the deputies arrived at the place where they had arranged to meet their guide they found the people up and in arms, and were satisfied that the news of their approach had preceded them and that the guide had thus been prevented from meeting them. The whereabouts of the guide referred to is now unknown to me, and we fear he has been foully dealt with.

My deputies report that during their return through Pickens County the deputies encountered numerous squads of armed men at various points on the route, who were rude and boisterous, applying opprobrious epithets to the deputies as they passed, and expressing great dissatisfaction with the presence of revenue officers in their midst. On one occasion, while riding quietly along the public highway, the deputies were met by one of these armed squads of citizens which squarely confronted them. Deputy Hendrix was riding in advance of his party, and the citizens seized the reins of his horse and laid rough hands upon him, uttering meanwhile the vilest oaths and imprecations, accompanied by threats of violence. It was obvious they meant "fight," and the deputies began to prepare for defense. Seeing this, evidently to their surprise, it required no argument to convince them that the contest might not result favorably to them, and they abandoned their project. Amid all these trying scenes my little party of deputies passed; and while suffering insult and indignity at the hands of the citizens, gave no offense to any one, excepting that which may have been occasioned by their performance of duty and exercising self-protection.

Very respectfully,

ANDREW CLARK,
Collector.

Hon. GREEN B. RAUM,
Commissioner.

MORE MURDER.

UNITED STATES INTERNAL REVENUE,
COLLECTOR'S OFFICE, SECOND DISTRICT GEORGIA,
Atlanta, January 29, 1870.

SIR: In my letter of 20th instant I gave some account of operations in Cherokee, Pickens, and other counties, and referred to the resistance met with by revenue officers.

Deputy Collector George A. Fox reports the return of his raiding force from a four days' trip into Cherokee County, during which they found nothing but an abandoned still-house, owing to the failure of guide and the thorough organization of the lawless inhabitants. On their return, however, they received intelligence of a team conveying illicit spirits, and at once commenced the pursuit, which resulted in the capture of two mules, one two-horse wagon and harness, and about ninety gallons of whisky, all of which they brought safely to Marietta, where it is now stored. The driver of the team fled to the woods upon the approach of the officers and effected his escape.

On the night of the 24th instant, as the party were driving quietly along the road, all seated in a two-horse wagon, a volley was fired into them from the woods on the roadside. There were about six shots from guns loaded with buck-shot poured into them at close range, and most likely, but for the darkness rendering aim uncertain, and the fact that the would-be assassins fired from a bluff, every man of them would have been killed or wounded. The results of the volley were as follows: a white guide dangerously wounded in the head, skull fractured; another guide shot in hand, severely; the colored man who was driving the team was evidently badly wounded, as he jumped from the wagon and ran into the woods, shouting "I am a dead man." His coat was afterwards found with a bullet-hole through the collar, and as nothing is now known of him we fear he is dead. Others of the party had bullets to pass through their clothing and narrowly escaped death or severe injury. Those of the party who were able after the volley was fired dashed into the woods and discharged their revolvers after their assailants, who fled in the darkness.

I regret having to chronicle such acts of lawlessness and defiance among a civilized people, and I sincerely deplore the existence of such a state of public sentiment as renders the officers of the law liable to be assassinated at any turn of the road; but as matters of fact they are compelled to appear on record.

I wish to state, in conclusion, that, undaunted by resistance, however formidable, I will continue the most vigorous use of every means in my power and at my command for the suppression of all frauds on the revenue, and aided, as I am, by a corps of zealous, energetic, and efficient deputy collectors, I shall indulge the hope of being able to report good practical results; and I shall be earnest and assiduous in my efforts to discover the perpetrators of the act herein reported.

Very respectfully,

ANDREW CLARK,
Collector.

Hon. GREEN B. RAUM,
Commissioner.

UNITED STATES INTERNAL REVENUE,
COLLECTOR'S OFFICE, SECOND DISTRICT, GEORGIA,
Atlanta, March 12, 1879.

SIR: I am just informed by Deputy Collector Shepard that one of his guides in Rabun County has been shot by illicit distillers. Deputy Shepard reports that the guide only made the one trip with him, but that the brother of the guide had often been with him. The man was shot in the head, and is reported as dying. I will, at the earliest possible moment, send my deputies back into Rabun County, and leave nothing undone to capture the men who shot the guide and drive these law-breakers out of the county.

Very respectfully,

ANDREW CLARK,
Collector.

Hon. GREEN B. RAUM,
Commissioner of Internal Revenue.

A TERRIBLE RECORD OF CRIME.

UNITED STATES INTERNAL REVENUE,
COLLECTOR'S OFFICE, DISTRICT OF GEORGIA,
Atlanta, June 13, 1879.

SIR: In compliance with your letter of April 29, ultimo, requesting me to forward to your office a report of the number of persons killed and wounded in my district since July 1, 1876, while engaged in the work of suppressing illicit distillation, also a brief statement of all outrages known to have been committed by illicit distillers or their sympathizers against citizens for giving information in relation to the location or operation of illicit distilleries, I have the honor to submit the following partial report:

Killed.

1. Lieutenant McIntire, of the Second Infantry, United States Army, murdered on the night of February 9, 1877, at the residence of Ayres Jones, an illicit distiller in Fannin County, while aiding revenue officers in suppressing illicit distillation.

2. Berry Sorrels, (colored,) suspected of being an informer, was brutally murdered in presence of his family by a band of illicit distillers masked, March, 1879. He was really not an informer. (Walton County.)

3. Nathaniel Eason, a citizen of Campbell County, was called to his door on a night in February, 1878, and brutally assassinated in presence of his wife and children by a body of masked men. Mr. Eason had visited Atlanta a day or two previous to his assassination, and it was supposed he had been summoned to testify against the parties who had assaulted a deputy United States marshal's posse, killing two horses and wounding a guide, a short time previous.

4. Samuel Kenney, a citizen of Pickens County, residing near Talking Rock post-office, was shot and killed by illicit distillers who suspected him of giving information against them, (October 16, 1877.)

5. A colored man (name unknown) started in January, 1877, to locate an illicit distillery in Douglas County, operated by persons known as Tooker brothers. He was last seen in Campbell County and has not since been heard from. It is now conceded by the citizens that the generally received opinion at the time of his disappearance that he was murdered and thrown from a bridge into Sweetwater River was true, and that such was his fate.

6. Benton Whitecotton, a citizen of Hall County, disappeared in July, 1877, and recent developments prove that he was brutally murdered by a man named Bryant, who was a relation of an illicit distiller against whom Whitecotton had informed. Bryant confessed the murder on his death-bed and has since died. The remains of Whitecotton were found at the place indicated by the murderer and have been identified.

7. In the month of May a colored man, whose name cannot now be ascertained, left his home in Campbell County to come to Atlanta on business. Some illicit distillers, residing in the neighborhood, learning of his departure from home and supposing it was his purpose to inform against them, followed and attacked him with shot-guns. He ran in order to save his life, but in the effort was frightfully mangled with the buckshot fired after him. He made his way to Atlanta, where, I am informed, he died from the effect of his wounds.

8. In Fannin County, about the middle of August, 1877, Mr. W. F. M. Greenway, while gathering fruit in his orchard, was shot with buckshot and mortally wounded. It is known that Mr. Greenway rendered aid to revenue officers in their operations against illicit distillers, and for this threats had been made which were executed by his brutal assassination. The assassin concealed himself behind a large stump around which had sprung up undergrowth which afforded him seclusion, and when Mr. Greenway was reaching upward to gather the fruit he discharged the contents of his gun at Mr. Greenway. The shot struck him in the stomach and he expired in a few minutes.

Wounded.

1. James McMichael, deputy United States marshal, was dangerously stabbed by J. F. Greer, an illicit distiller in Butts County, December, 1878. Greer accused McMichael of having given information which led to the seizure of his (Greer's) illicit distillery.

2. John Moore, (colored,) while accompanying deputy marshals in Campbell County to point out the residence of illicit distillers for whom they had warrants, was fired upon by some men in ambush. His horse was killed by the volley, and he (Moore) severely wounded in the thigh. This guide has been a faithful servant of the Government for several years, and has frequently suffered arrest and imprisonment on merely trumped-up charges, which were only part of an organized plan to place him in the hands of his enemies, the illicit distillers, under circumstances which would give them a favorable opportunity to assassinate him; but the prompt interposition of revenue officers in his behalf has always been the means of saving his life at such times.

3. Mr. Clayton, of Campbell County, suspected of being an informer, was attacked in his own house in March, 1877, by a band of illicit distillers masked, who fired upon him several times with deadly intent. As they closed in upon him, he, though wounded, succeeded, after knocking two of his assailants down with an ax, in making his escape, leaving his wife and children at the mercy of the ruffians.

4. D. J. Wigley, an informer and guide, on the night of January 23, 1879, was dangerously wounded in the head.

5. N. L. Alexander, a guide, was at the same time severely wounded in the hand.

6. A colored man driving the team was wounded with shot at the same time.

These last three persons were in the raiding party into Cherokee County, and were fired upon by a party of illicit distillers ambushed at the roadside.

7. James P. Prater was wounded in the foot in an encounter with illicit distillers in Rabun County in the month of February, 1879. Prater was a guide.

8. Doc. Smith, of Habersham County, was shot and badly wounded by illicit distillers from Rabun County, in March, 1879. Five illicit distilleries had been broken up in Rabun County a short time previous, and Smith had aided his brothers in making up the information.

9. Miles McKinney, a colored man residing in Gwinnett County, was, in June, 1878, attacked on the road to his home from a neighboring village by five men, who, after charging him with giving information regarding the location of their illicit stills, beat him with clubs and heavy whips until he was almost dead, leaving him with the threat that "if they were arrested they would kill him."

STATEMENT OF OUTRAGES.

1. Middleton Neal, (colored,) informer, was seized on the highway in Franklin County, during the autumn of 1878, by a party of illicit distillers, who compelled him to accompany them nearly fourteen miles out of his way, with the avowed purpose of killing him. Occasionally, on the route, they stood the poor colored man up for a sort of target, and shot at him, merely to torment him by trying how close they could make their bullets go to his body without striking it. One of the balls, however, struck him on the shoulder. By the intervention of some good citizens the distillers finally released the old man from custody.

2. In June, 1878, a young man (name unknown) wandered into an illicit distillery in Habersham County, operated by Thomas Whitworth. Being suspected of obtaining information for revenue officers, he was taken off into the woods, knocked in the head with an ax, and left for dead. He recovered, after several hours and made his way to his friends; but his injuries came very near proving fatal.

3. In March, 1879, a party of illicit distillers made an assault upon an old gentleman named John Gilbert, living near Toccoa, Habersham County, who had given information of illicit operations. Mr. Gilbert's wife came to his aid, when both of them were knocked down and seriously injured.

4. About January 1, 1879, a party of disguised men attacked and nearly killed James Goddard, in Towns County. Goddard was an informer and guide. And shortly after the above occurrence his barn and contents were burned.

5. In Lumpkin County, July, 1878, a party of eight men, disguised, went at night and seized, bound, and shamefully whipped Joseph Bonner, an informer.

6. On the same night, and in the same county and neighborhood, a party of six masked men bound and whipped G. W. Hendricks, whom they accused of being an informer against them.

7. In Union County, during the month of August, 1878, the residence of William Woody was fired into by illicit distillers. Nine bullets were found to have penetrated the door and side of the house.

On the same night, seven of Mr. Woody's hogs were killed, it is supposed by the same men who fired into his dwelling.

8. Adolphus Simmons, of Lumpkin County, on account of his having aided revenue officers, has had burned, at different times during the past year, a large amount of fencing, an out-building used as a fruit distillery, and his barn with entire contents. He also had an ox killed by illicit distillers.

9. John B. Graham, of Lumpkin County, had his mill, cotton-gin, and wool-carder (all located in one building, and valued at $2,500) totally destroyed by fire. He had been openly accused of giving revenue officers information, and this was the revenge of the law-breakers upon him.

10. In September, 1878, a Mrs. Bivins, residing in Fannin County, accompanied by her son, was *en route* to Atlanta on business. Their conveyance was a country wagon. They were overhauled in the public road by a party of about ten men, disguised, who prevented them from pursuing their journey. Her son jumped from the wagon and fled into the woods, while their assailants discharged their guns after him. None of their shots struck him, however, and he made good his escape. His mother, being left at the mercy of the ruffians, was shamefully beaten. Her wagon was cut and broken to pieces, and she was obliged to make her way home as best she could. The assailants warned her that if she again attempted to leave her home for Atlanta she would be killed outright. Mrs. Bivins was accused of aiding revenue officers and giving information of illicit distillers.

11. In Murray County, during April, 1879, William Wilson, informer and witness against violators of revenue laws, while *en route* to Dalton to testify before the United States commissioner, was assaulted by a party of disguised men, who beat him with clubs and detained him long enough to prevent his reaching his destination in time to testify in the cases. Owing to this violent treatment and hinderance Mr. Wilson's testimony was not given, and the parties against whom he was an important witness were discharged from custody.

12. In April, 1878, near Shoal Creek, Habersham County, John Murray, a resident, was decoyed into a wood at night by one Tom Roberts, an illicit distiller, who suspected him of giving information, and knocked in the head with an ax. He was left for dead, but recovered and made his way to his home.

13. In 1877 Charles Garner, residing near Rockmart, Polk County, had his residence burned by parties who accused him of aiding and giving information to revenue officers.

14. William Strange, esq., deputy United States marshal, lost at different times during the months of May and June, 1878, a horse and three valuable mules, which he asserts were all poisoned by illicit distillers residing near him, whose business had been interrupted by his official presence. Mr. Strange then lived at his home in Walker County, but as open threats against his person and property were frequent, he removed his family to another county, where they could remain in comparative safety while he was absent in the discharge of his official duties.

Total killed, 8; total wounded, 9; other outrages, 14.

There have been numerous outrages perpetrated upon deputy United States mar-

shals, guides, witnesses, and others during the period embraced in this report, to obtain the facts in which will require much time and cause delay in your office.

Very respectfully,

ANDREW CLARK,
Collector.

Hon. GREEN B. RAUM,
Commissioner, Washington, D. C.

Further, as to the effect of amnesty, General Raum says:

I regret to say that the amnesty of President Grant to illicit distillers in the second district of Georgia failed to arouse in the minds of offenders a proper respect for the laws. The opposition to their enforcement has been organized, fierce, and malignant.

From June 30, 1877, to January 1, 1880, in this district 391 illicit distilleries have been seized, and 951 persons arrested for illicit distillation. Four officers and employés have been killed and twelve wounded while in the discharge of their duties. During the present winter illicit distillers have been specially active in their operations and vigorous in their opposition to our officers.

During the month of January and part of the month of February just passed forty-two illicit stills have been seized and fifty-four illicit distillers arrested, and in addition to the foregoing seizures during the past three years a great number of horses, mules, oxen, and wagons, employed in the transportation of illicit whisky, have also been seized, as will be shown by the preceding correspondence and reports.

The following extract from the Commissioner's Report shows the number of sentences suspended since March 1, 1877:

Since the 1st of March, 1877, sentences have been suspended in the various districts in criminal proceedings against persons who have pleaded guilty to the violation of the internal-revenue laws, principally illicit distilling, as follows:

Judicial district of Georgia	926
Western judicial district of North Carolina	370
Middle judicial district of Tennessee	426
Eastern judicial district of Tennessee	255
Western judicial district of Tennessee	37
Judicial district of South Carolina	378
Judicial district of Alabama	114
Total	2,506

Such wholesale jail deliveries cannot, of course, be continued from year to year. No system of statutes with heavy penal provision can long be maintained where all offenders are turned loose without punishment.

The State courts lend a hand. General Raum says:

It is a remarkable fact that, with the exception of the conviction of one man for the killing of Deputy Collector Cooper in East Tennessee, no one has been punished on account of the many murders and assaults to murder committed upon our officers.

Upon the other hand, innumerable prosecutions have been instituted in State courts against United States officers for alleged offenses perpetrated while in the performance of their official duties, mainly, as I believe, to obstruct the enforcement of the laws of the United States; and the transferring of cases to the Federal courts for trial has often been hindered and delayed, and the writ of *habeas corpus* issued by a United States court for such transfer has been disregarded or delayed.

Below I give the number of officers and employés of the Government against whom prosecutions have been instituted in State courts for acts committed while in the discharge of their official duties in enforcing the internal-revenue laws during the last three fiscal years:

District of Arkansas	12
Second district of Georgia	34
Third district of Georgia	12
Second district of Kentucky	5
Fifth district of Kentucky	4
Fourth district of North Carolina	1
Fifth district of North Carolina	15
Sixth district of North Carolina	20
District of South Carolina	18
Second district of Tennessee	14
Fifth district of Tennessee	22
Fifth district of Virginia	8
Total	165

In my last two annual reports I had the honor of calling your attention to this subject, and of expressing the opinion that the existing laws of the United States should be amended so as to afford better protection to the lives and persons of officers, by providing for the trial and punishment of persons who murder or assault to murder officers of the United States while engaged in enforcing the laws.

The following table shows the number of illicit stills seized, persons arrested for illicit distillation, officers and employés killed and wounded in the suppression of illicit distillation in the collection districts hereinbefore referred to, from June 30, 1876, to February 1, 1880:

District.	Stills seized.	Persons arrested.	Officers and employés killed and wounded.	
			Killed.	Wounded.
Arkansas	32	57	*1	
Second Alabama	224	778		
Second Georgia	500	1,772	5	12
Third Georgia	89	52	1	3
Second Kentucky	63	72		3
Fifth Kentucky	63	101	2	1
Eighth Kentucky	108	53		1
Ninth Kentucky	27	116		
Fourth North Carolina	122	158	1	2
Fifth North Carolina	295	125		2
Sixth North Carolina	618	771	1	4
South Carolina	254	284	5	10
Second Tennessee	206	663	5	3
Fifth Tennessee	265	832	2	4
Eighth Tennessee	18	11	1	
Fifth Virginia	119	287	1	3
First West Virginia	40	21		1
Total	3,042	6,153	25	49

* Deputy Collector Leatherwood, second district of Alabama, was killed by illicit distillers in June, 1875.

THE STORY OF THE BURNING OF STUART'S STORE AND BARN.

TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,
Washington, May 15, 1880.

DEAR SIR: As requested by you, I inclose extracts from recent report of Deputy Commissioner Rogers of affairs in Northeast Georgia.

Very respectfully,

GREEN B. RAUM.

Hon. J. H. MCGOWAN,
House of Representatives.

Mr. H. C. Rogers, deputy commissioner of internal revenue, was recently sent to Northeast Georgia to personally investigate alleged outrages by illicit distillers in Fannin and Rabun Counties. In his report, which is dated May 6, 1880, he speaks as follows of the burning of Deputy Collector Stuart's store and barn in Fannin County:

"I inclose herewith an affidavit of Deputy Collector Stuart setting forth the circumstances of the burning of his property. By conversation with himself, his family, and neighbors I was enabled to glean some additional facts which place the motives for the crime committed against this officer beyond reasonable question. On Friday, the 2d of April, Deputy Collector Stuart, with a force of special deputies, seized and destroyed an illicit distillery operated by a man known as 'Cub' Newberry, and found in the still-house one S. J. Simmons, whom he was compelled to release, not having with him a deputy marshal authorized to make arrests. He also seized and carried away to his residence a yoke of steers employed in transporting the illicit whisky made at this still. The oxen were identified as the property of Mr. Webb Findley, a prominent citizen of Fannin County. The distillery itself was currently reported to be owned by him, though operated by Newberry and Simmons. On the following Sunday Mr. Dillard, the preacher whose church Stuart attended, came to him with words of mysterious warning, stating that he was uneasy about him from the way Findley was talking. This was all he would say. On that very same day, however, Findley called on Stuart at his house and appeared as friendly as usual. Stuart now believes that the object of his visit was to take the bearings of his premises for the purposes of his contemplated attack. On the following Tuesday ex-Judge James Cutcher, of Morganton, repeated to Stuart in guarded phrase a warning similar to that given by Mr. Dillard. On Wednesday morning, the 7th of April, about one o'clock, Stuart's wife aroused, saying his store was on fire. He jumped out of bed, opened the door, and found that both his store and barn were in flames, and by the light of the fire he saw two bunches of men gathered, one on each side of the store, in the public road, partly sheltered by the fence, and a volley of bullets was fired at him as he made his appearance. He ran back to the bureau, grasped a navy revolver, and sheltering himself behind the door-post opened fire on the nearest crowd.

"In the mean time, his wife, who was in a delicate condition, had wandered out on the piazza, and a little boy, one of his numerous family, placed himself in the center of the doorway. Stuart had to wheel round and push his son back into the house and place his wife in safety before thinking of anything else, and thus lost the opportunity of making his shots effective. At the same time, his eldest son, John H. Stuart, twenty-one years of age, hearing the alarm of fire, opened another door at the further end of the piazza and received a volley from the other crowd of men from the side of the store next to Morganton, two of the shots striking him, one in the knee and the other in the groin. He also opened fire on his assailants, first with a navy revolver, and afterward, as they ran away, with a breech-loading carbine. Both bodies of men then retreated, crouching behind the fence for shelter as long as possible. One of the men was observed to lean heavily upon a companion as if wounded. The sheriff of the county, Mr. Leonard Higden, was staying at Stuart's house that night in an upstairs room. He was aroused by the firing, but by the time he got down stairs the last shot had been fired and the men were in full retreat. Stuart had plainly recognized, by the light of the fire, four of the assaulting party: Benjamin Tilley, a justice of the peace, living about eleven miles from his house on the road to Dahlonega; John D. Fricks, a lame man, a pensioner of the United States; 'Cub' Newberry, and S. J. Simmons, whose distillery he had seized the previous Friday night. As he wheeled round to push his little son out of the way he also heard one of the crowd say, in a voice which he recognized as Webb Findley's, (the reputed owner of the Newberry distillery,) "G—d d—n you, we have got you now." His son also recognized Tilley and Simmons. Mr. H. P. Hyde and other neighbors came to Stuart's assistance, and they succeeded in saving his stock, which were in the barn and stables. The building, however, as well as the store, was entirely consumed, the destruction of the latter being accelerated by the explosion of a small keg of gunpowder which was there for sale. Stuart had in his store a stock of goods valued at $2,000; the building itself cost $150; his barn, $200. He lost two hundred and fifty bushels of corn, forty bushels of wheat, all his accounts and private papers, including his books and papers as deputy collector of internal revenue, and he places his entire loss at not less than $3,500. Nineteen large bullet-holes are plainly visible in the wood-work of his house, beside numerous marks of small shot. The bullets appear all to have entered quartering, and Stuart is of opinion, and the facts seem to sustain him, that the guns of his assailants were deliberately trained on both doors with the calculation to shoot down any one who, alarmed by the fire, should make his appearance in either doorway.

"With the first streak of daylight Stuart and his friends, including the sheriff, started on the trail of the incendiaries. There had been a slight rain the previous evening, which had effaced all previous tracks and left the footprints of these men plainly visible. Before they started on the search Stuart told the sheriff and others that one of the tracks would show the right foot slightly turned in, (indicating the lame pensioner, Fricks.) This was found to be so. He also described to Mr. Hyde Tilley's appearance, (without naming him,) and before they reached Tilley's house expressed his belief that the tracks would be found to stop there. Hyde, who knew Tilley well, could scarcely believe that a justice of the peace would take part in any such lawless outrage; but when they reached Tilley's house, eleven miles from Stuart's, and found the track suddenly stop there, he was convinced that Stuart was right. As the party, including the sheriff, approached the house, Mrs. Tilley appeared on the piazza in a state of great excitement and ran rapidly from room to room. The sheriff and Stuart searched the house, but found nothing but four guns—two large army guns, a double-barreled shot-gun, and a rifle. The sheriff and Stuart hid themselves in the adjacent woods and watched for developments. In about a half an hour they saw Mrs. Tilley come out and cautiously approach an outbuilding some distance from Tilley's house, and between it and the river. Thence emerged first one man and then three others, the latter taking a canoe and crossing the river.

"Mr. Hyde meanwhile, from a different post of observation, had seen three other men partially concealed behind their horses on a bend across the river, and recognized one of them as Benjamin Tilley, and believes another to have been Webb Findley. Stuart signaled Hyde to join them, and together they charged down upon the river bank in search of the fourth man seen to emerge from Tilley's out-building, but who had not crossed the river. They found him in a hole in the ground under a log covered by a pile of brushwood, into which he had crept backward, and only with difficulty dislodged him, the sheriff having first to threaten to shoot him if he did not come out. He proved to be a man named John W. Vandergriff. After he had been taken prisoner he made a clean breast of it. He stated to Hyde and others that he was one of the crowd who had attacked Stuart's house; that there were two parties of them, one who had assembled at the house of Tilley, the justice of the peace, and another at a settlement called 'Fighting Town.' He gave the names of nine men associated with him in the attack, including Benjamin Tilley, Webb Findley and his son, James Findley, 'Cub' Newberry, S. J. Sim-

mons, and John Fricks, the lame pensioner, most of whom had previously been identified by Stuart among the attacking party. Vandergriff was lodged in the county jail at Morganton, and was still confined there at the time of our visit. Tilley and Webb Findley and his son were subsequently arrested by the sheriff and Stuart, but while Stuart was absent in Atlanta Tilley was turned loose on straw bail, and the Findleys were released on bond, without examination, although the offense with which they were charged is a capital crime under the laws of Georgia. The opinion is general in the community, as far as we could ascertain, that these men, unless arrested by United States process, will never be brought to trial. Stuart informs us that since Tilley had been locked up in jail with Vandergriff the latter had entirely changed his tone, and now professed to know nothing about the occurrence. We also learned from other sources while in Morganton that efforts were being made to secure Vandergriff's release on bail so as to get him out of the county."

The report concludes as follows:

"I consulted with our officers in accordance with your suggestion as to how far it was practicable to enlist the moral aid of State officers, judges, sheriffs, ordinaries, and responsible citizens generally on the side of the enforcement of the law. Deputy Collector Shepard met me with the following pointed statement, which he subsequently verified under oath: 'In the two years and a half since I took charge of my division I have seized two illicit stills from deacons of the church, one in Rabun County and one in Franklin County; two from justices of the peace, one in Franklin County and one in Rabun County. I seized a distillery belonging to an ex-judge of the county court of Rabun County and three distilleries belonging to a constable of Habersham County. I seized a distillery and twenty-five gallons of whisky said to belong to the sheriff of Rabun County, and I have no reason to doubt it. I am informed that the present postmaster at Burton, Rabun County, has sold illicit whisky behind the same counter over which he delivers the mails.' United States Attorney Farrow, in conversation with me, referring to recent sentences of illicit distillers to the penitentiary, said this severity had a tendency to induce offenders to band themselves together and swear each other out of any trouble they might get into by coming in conflict with the law, and he argued from this condition of things that it was preferable to pass upon illicit distillers only light sentences of imprisonment in the local jails, instead of in Albany penitentiary, so as not to offer the same incentives to wholesale and demoralizing perjury. My own observations impressed me with the conviction that a moral, intellectual, and industrial blight settles down upon a community where illicit distillation prevails comparatively unchecked and is sustained by public sentiment. It was painful to note the signs of poverty and neglect, the absence of humanizing influences and of the ordinary comforts of civilization which prevailed in Rabun and Fannin Counties, contrasting forcibly with the evidences of enterprise and progress manifested in neighboring counties formerly as badly infested with illicit distillers as they, but where the traffic had been to a great extent suppressed and public sentiment favored the maintenance of the laws. Advantage had been taken of the local-option law in both Fannin and Rabun Counties to prohibit the sale of intoxicating drinks, but this measure, instead of promoting sobriety, as would be expected in a well-ordered community, has rather the opposite effect, owing to the facilities afforded by the illicit stills for the surreptitious purchase of ardent spirits. In the language of a prominent citizen of Union County, 'they just buy it by the jug full and lay off and get drunk.' The churches and school-houses in these counties are mostly mere skeleton shanties open to the winds and the rain. No tax for public schools is levied in either county. The sole provision for educational purposes is a State allowance of about a dollar and a half *per capita* per annum for each child of educational age, which barely suffices to furnish a month and a half's indifferent schooling in a year. The houses are rudely built log huts or rough frame dwellings, without windows, families of ten or fifteen persons, including grown children, being often huddled together in two or three small rooms, though the hill-sides supply the finest timber in abundance and the mountain streams would furnish water-power to run a thousand saw-mills. The only manufacturing industry that came to my notice was a pottery devoted chiefly to the fabrication of whisky jugs. Agriculture is everywhere of the crudest description, the crops being chiefly confined to such cereals as are needed for bare subsistence and for conversion into whisky. The lands are adapted to the growth of the very finest quality of tobacco. No attempt is made at its cultivation.

"The hill-slopes would afford pasturage for innumerable sheep. No finer country for fruit culture exists anywhere. The poverty of the people is without necessity and without excuse. Their mountain fastnesses abound in rich bottom lands of almost unsurpassed fertility and beauty, and even their poor lands are rich with undeveloped mineral wealth. But in their determination to maintain the illicit manufacture of whisky and to prevent the enforcement of the internal-revenue law imposing a tax upon this product they close themselves in from the outside world by a Chinese wall, and drive capital and enterprise away. Every stranger who enters their country becomes an object of distrust and suspicion, and if he should happen to go searching for mineral indications he is liable at any moment to be shot at from behind a bush on the supposition that he is a revenue officer looking up illicit stills. Mr. A. J. Lane, one of the special revenue force, whose arrest I have spoken of, is an experienced miner. He discovered in Towns County, adjoining Rabun, indications of silver, the outcroppings of which he thought were as rich as those of the Comstock lode. While he was pursuing his investigations illicit distillers shot at him and drove him out of his claim, and forced him to enter the revenue service in self-defense. Mr. James A. Butts, a leading lawyer and business man and proprietor of the hotel at Blairsville, Union County, informed me that recently a New York capitalist who with others had invested in a mining property in Fannin County came to Georgia with a view of developing his property, bringing his family with him, but hearing of the outrage on Deputy Collector Stuart he at once decided to return North, saying he could not advise his associates to invest their money in a community where such deeds were tolerated. Revenue Agent Wagner mentioned to me the names of two other intending investors who were lately driven out of the country in like manner.

"Every interest of the public good, in my judgment, demands that the ascendency of the laws of the United States should be asserted and maintained in this section of country by vigorous and sustained efforts to put down the illicit manufacture and sale of spirits, and to arrest, convict, and severely punish those who persist in this pernicious pursuit until practical rebellion and forcible resistance to law shall have ceased. Even the poor excuse sometimes urged that the illicit still affords the mountaineer the only profitable and accessible market for his surplus corn is wanting in this instance, for the success of Fincannon's registered distillery shows that, if it is desired to do so, spirits can be profitably distilled even in the mountains of Northeast Georgia in full compliance with the requirements of law, and the establishment of such legal distilleries would give to the farmer an open market for his produce instead of his being compelled as now to sell secretly to the illicit distiller. The sympathy which has sometimes been bestowed upon these law-breakers is sadly misapplied. Instead of a peaceful and pastoral people pursuing the even tenor of their way in their quiet homes on the slopes of the great Blue Ridge and adown the fertile valleys of the Senora and Furora, the Hiawassee, Toccoa, and Soquee, the illicit distillers of Rabun and Fannin Counties have proved themselves to be cowardly incendiaries and murderous assassins, and the sooner they are brought to condign punishment the better it will be for the country they infest and for the community they disgrace.

"Very respectfully, your obedient servant,

"H. C. ROGERS,
"*Deputy Commissioner.*"

Customs Duties.

SPEECH OF HON. JOHN B. CLARK, JR.,

OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

Monday, May 31, 1880,

On the bill to regulate customs duties upon certain articles.

Mr. CLARK, of Missouri, said:

Mr. SPEAKER: The Tucker revenue bill proposes a modification of existing legislation upon the subject of the tariff, and is a measure contemplating an important reform in our revenue system so far as it affects the impost duties prescribed by the Government. It is a step in the right direction, and though it does not proceed as far as popular opinion requires, nor accomplish as much toward the equalization of taxation as is desirable, I shall nevertheless give it my hearty support. I shall support the bill in the interest of all classes of our citizens, but especially as the Representative of an agricultural constituency, a class constituting the bulk of American workers and voters. In the advocacy of the measure I desire to submit briefly some reflections on the general question suggested and involved.

The tariff laws belong to that important division of legislature characterized as industrial, looking directly and indirectly not only to the protection of the citizen by providing for the maintenance of government, but in an important sense to a development of the resources of the country. Our institutions are republican, not only in the particular that they are the outgrowth and expression of the will of the people, but because they specifically propose to conserve and advance the popular rights, the government being not only the creature of the citizen, but designed mainly and exclusively to execute the will of its creators. A cardinal and central quality of republican government is the recognition of equality of rights by the citizens who established it, and this ideal of a free government will not be realized by an abstract recognition of equal rights, but only when we have advanced in legislation and administration to that point when every citizen shall come into the practical possession and enjoyment of the privileges recognized and conferred by the laws. The material development of a country is not only important to the possession and multiplication of its comforts, but to the civilization and refinement of its people, and we as a rule may measure the advancement and influence of a nation by the variety and aggregate of its productions, its enlightenment and excellence being attractive and satisfactory in proportion to the fullness and diversity of its produced utilities. The primary condition of growth is the individual energy of the members of a great community, but legislation not only to the extent that good government is maintained but to the measure that personal rights are protected is an important and necessary auxiliary to national prosperity.

Among the recognized early economists three great fundamental conditions of production were recognized: land, labor, and capital; land the matrix, and labor and capital the energizing, quickening agencies that stimulate the birth of value. With the growth of the age transportation, formerly placed as a secondary condition in the work, has been elevated to the dignity of a primary force. The wheat grown in Wisconsin, when placed in the market of the great metropolis, New York, has a new and additional value attached to it, one as distinct to the consumer as that given by the soil that germinated it or the labor that tilled it or the capital that furnished the appliances by which it was gathered and garnered.

These great forces out of which spring the thousand utilities that multiply the comforts and conveniences and constitute the excellencies and ornaments of life would lie dormant, and contribute nothing to the world's advancement if they were not appropriated and utilized by man under the force of that constitutional quality of humanity that may be appropriately characterized as the possessory principle of human nature. We can conceive of no grand human achievement if the human forces were not put in motion by this inherent desire of acquisition. Yet this, like any other constitutional tendency, acquires force with its exercise, and seems peculiarly liable to excessive development, and is a subject for the restraints and limitations of law when thus developed. As naturally as the mercury attracts the free gold that passes over it and holds it and separates it from the sifting sand, so naturally does man, under the force of that constitutional function characterized as the possessory passion, grasp and seek to possess in exclusive control the great primary agencies that produce the values that underlie human prosperity.

The history of the world is a restless struggle by the individual to monopolize the most valuable gifts of the Creator, and in our own country at different periods of our history land, labor, and capital, and recently transportation, have been consolidated in the hands of the few and converted or sought to be converted to the almost exclusive use and benefit of the few favored possessors thereof. The very conditions of colonial settlement were large landed concession by the several crowns exercising jurisdiction over the new continent, and as an incident and sequence to monopoly in land monopoly in

labor followed. The existence of monopoly in these forms demanded large moneyed facilities which rendered necessary, to some extent, monopoly in capital, which subsequent causes from then till now have steadily increased. The same classes of influence in proportion as transportation added values to products, exercising determining influence on commerce and wealth, conspired to place the great lines of internal transit, the land and water ways, in the hands of a few.

Now, sir, conceding the force of public sentiment and the laws of trade and growth ultimately to counteract monopolistic tendencies in industrial development, we must nevertheless recognize the fact that legislation will contribute more than any other cause to check the unnatural development now under consideration. The land legislation, the homestead pre-emption and other legislation affecting the public domain, struck at the root of the land monopoly that was threatening the prosperity and peace of the country. These desirable results are about to be followed by action which will end in placing the great lines of transit that underlie the interstate trade and commerce of the country under the restriction of wise and just legislation, so that discrimination against communities and individuals which have existed as an effect of monopolistic management of these great commercial thoroughfares shall be no longer found.

Currently with the existence of the industrial conditions to which I have adverted, relative to land, labor, capital, and transportation, for more than a decade of years the American people have suffered from the inconveniences, burdens, and exactions of another form of monopoly, less fundamental in its character than those designated, but not less oppressive and hurtful to the industries and prosperity of the country. They have suffered from most distressful and offensive class legislation, the legislation that finds expression to-day in the existing tariff system.

I oppose the system because it is false in its philosophy. If the friends of existing legislation were called upon to indicate the purposes and character of our present impost laws, they would declare that they were revenue laws, the levy proposing to secure the moneys necessary for the support of Government, but laid so as to foster the industries of the country. If they were required to indicate the relative order and importance of these two purposes, they would state that protection was the purpose first in importance, and revenue an incident and secondary. They would be compelled to admit that the revenue might be sufficiently and efficiently raised without the protection, but that the public interest demanded that the protection should be as steadily kept in view as the revenue, and that the principal advantage of impost taxation would be lacking if the protective purpose was lost sight of. The advocates of this system are compelled to admit that the duties are onerous, and that the burdens imposed upon the people, especially of the agricultural classes, for the benefit of the manufacturing interest are heavy. But they vindicate the system by affirming that national independence and protection demand that certain great industries should be built up and matured; that the development thereof demanded cannot be secured without this protection against foreign competition. They affirm, further, that the burdens and hardships imposed for this purpose are temporary and will ultimately disappear, because when these great essential manufacturing industries are matured and rendered self-sustaining a healthy competition will ensue, under which the prices paid by the consumer for the articles of home production will be reduced to moderate and reasonable rates. As further compensation for present inconveniences imposed upon consumers in the interest of manufacturers, they affirm that these great manufacturing centers will constitute an important and reliable home market for the agricultural and farming classes of the country.

Now, Mr. Speaker, I concede that there are circumstances in which certain great manufacturing interests are necessary to the independence and even the security of a nation. Such would be the case in a period of war, when external commerce to some measure would be suspended. In this emergency hostilities would perform the functions of a prohibiting tariff, would by the suspension of foreign commerce put the people on their own resources, and more effectually and less expensively than the present tariff, build up the industries that this abnormal condition of things would render necessary. The advocates of a protective tariff would hardly advise a great foreign war as a condition and agency of building up home manufactures, and yet, sir, as extravagant as the alternative is, such a process of encouraging home industry would be more immediate in its results, less expensive, and hardly less disastrous to the consumers of the country than the present legalized system of spoliation established by our present tariff legislation. Or, to illustrate further, would not a proposition to lay a direct tax upon the public, for the amount that is now indirectly paid as a bounty to the monopolist, be considered an outrageous violation of the rights of the citizen, and from which the Legislature would shrink with abhorence. The result from this system would be equally a protective measure. The competition of the foreign manufacturer would be as completely excluded as if the tax was made collectable at the custom-house. Because if the manufacturer had received the bounty raised from a direct tax, he would be enabled to sell his production for much less than the foreign manufacturer. This system in effect would be the same we now use to exclude competition, with the difference, that the protection given by this system would be a donation by the whole community, and by the present system it is only given by the consumer, or a part of the community, from which it would appear that the system to lay a direct tax would be the more just as well as economical. But if this were adopted what an angry cry would come up from the multitude, when they come to contemplate the startling array of figures, amounting to many hundred millions, paid as a bounty to the few. The same amount is now paid but it is unobserved, as it is included in the price paid for the necessities of life. But whenever an article of merchandise is purchased, the inevitable tax of protection is charged up to the last cent, and is as much a levy as if it had been made by the customs officer. By either system you give the money to a favored class.

Further, I concede and admit the desirableness of building up in their order and place great and varied manufacturing industries in our great and wonderful country. I contemplate the time when the United States will be the greatest manufacturing center in the world. I shall rejoice when our country shall be the center of the most accomplished and thoroughly educated laborer, when machinery of the most perfect, delicate, and complicated character shall supplement the efforts of our workers. I shall welcome the period when we can compete, not only at home but abroad in every foreign market, in art and utility, with the grand nations of Europe. But, sir, I want this condition of things to be healthy that it may be permanent; I want it to grow up naturally, at the right time, in the right place, on its own merit, under just and equal laws, and to be grounded on and joined to the prosperity of every form of production and industry. I do not want or think it desirable to build up abnormal manufactures which require tribute from the whole country to sustain them, nor am I willing that the artisans of the country shall demand a bonus from other and equally meritorious workers as the condition of their progress and their success.

I have affirmed that the philosophy of the system was wrong. The vice in theory to which I advert is manifest when you look beneath this specious American system and discover that the so-called protection extends not to the masses, but to the few great mill-owners who enjoy these monopolistic privileges; that these privileged classes are not content to stand upon the same platform occupied by the average American citizen who pays taxes for the support of government contentedly, in consideration that the Government shall protect him in life, liberty, and property, but demand special privileges in addition to the ordinary protection that the Government owes to its citizens.

This, Mr. Speaker, is not a measure of revenue to the Government, but of bonus to the manufacturers; and it would be a braver, more candid, manly, and less offensive thing if this privileged class should drop all disguises and appeal to the country for direct aid, for subsidy and bonus to build up specific interests to the measure of fifty or a hundred millions annually, rather than by indirection and under disguise levy tribute by hundreds of millions upon their less fortunate citizens.

I oppose the system further because the practical administration of this false theory of revenue economy has been so viciously executed as to have worked evils and embarrassments not contemplated in the scheme itself. Nominally revenue is the object, protection the incident; practically revenue is not aimed at at all nor secured in many of the provisions of the law, but on the contrary the duties are so heavy as to become prohibitory, as to destroy importation, and by destroying importation destroy revenue. In maintenance and support of this position I call attention to the duty collected on blankets, an article of the most general use with all our people. We use at least $20,000,000 of this indispensable product every year. The duty on imported blankets, if valued at more than 40 cents a pound and not exceeding 60 cents, is 30 cents specific duty, and in addition thereon 35 per cent. *ad valorem*. A pair of five-pound blankets cost in England 9*s*. 2*d*., or in our money about $2.25. The duty is 30 cents a pound, say $1.50, and 35 per cent., or 78¾ cents, together making $2.28¾, or 101 per cent. On the other hand, a pair of American blankets weighing five pounds that are not all wool, but have a cotton warp, sell for $4.50 a pair, whereas the English $2.25 blanket is far superior.

The revenue on blankets of all kinds for the last two years was as follows:

1878, total imports of blankets	$2,352
1879, total imports of blankets	1,674

I estimate the consumption of common blankets in the United States at twenty million pounds, on which the people pay an extra price owing to the prohibitory duty of no less than 40 cents a pound. The account then would stand thus: In 1879 the Government got a revenue of about $1,700 and the blanket monopoly $8,000,000.

The same statement in a more or less degree may be made in regard to flannels, woolens generally, cotton manufactures, boots and shoes, iron in all its forms, and many other articles too numerous to mention. For further illustration I call attention to the case of Bessemer steel rails, and insert the following extract from the speech of JOHN RANDOLPH TUCKER, delivered in the House of Representatives May 8, 1878. He says:

In 1877 the imports were 3,756,602 pounds, or say 1,700 tons; revenue from duty at 1¾ per pound or $28 per ton, say $46,000. From the report of the Iron and Steel Association I find home product 879,629 tons; enhanced price, at rate of duty $28 per ton, would be $24,629,612. This would probably be too much, for in 1876 Mr. Wyman, as we have seen, makes the difference to be between $35 in gold for British rails and $60 in currency for the American rails, or a little over $20 difference, which would make the enhanced price only the *very moderate* bounty of say $17,000,000

per year! So that for every dollar paid by the consumer into the Treasury he will pay to the home producer of Bessemer steel rails about $350 as bounty to support this privileged monopoly. Thus by this heavy duty the freights upon transportation by railroad are taxed $17,000,000 per annum.

The present tariff legislation protects special industries by placing them in a position in which they can demand their own price for their products—the duties on the foreign manufacturer keeping him out of the American market. The home manufacturer thus left without a competitor exacts a price from the domestic consumers satisfactory and compensative to himself. This is practical discrimination in the imposition of the tax against one class of our citizens and in the interest of the other. It is an inequality in a distribution of the burdens deemed necessary to be borne by the people for the maintenance of Government that is foreign to the purposes of our institutions and violative of the spirit of free government.

With the customs dues adjusted for purposes of revenue, trade would be limited, competition between the producing centers of the world would spring up. The consumers of the country going into free markets, and unrestricted as to the points and places of purchase, could procure the things needed at fair and reasonable rates, in lieu of present extortionate prices, and in addition thereto the products of the soil would find readier and more remunerative sale. Present legislation is not only unjustly discriminative, especially against the agricultural consumers by forcing them to purchase at great disadvantage and inconvenience and at exorbitant prices the articles they need for current use, but the system places them under disabilities in the disposal of the farm and planting products in which they are interested. The American protective system is vicious, not only because it enhances to an exorbitant extent the price of certain favored productions, but at the same time, by narrowing and restricting the market and by hindering a free exchange of values, it places the productions of the unprotected classes, the farmer and the planter, under such disabilities as denies them equal advantages in the conduct of their business. It prevents a remunerative disposition and sale of their products. In other words, under the force of this legislation not only is the price of the protected articles unnaturally elevated, but the price of the products not protected is correspondingly depreciated.

As has already been remarked, it is admitted that the consumer pays all the tax for the benefit of protection. The impost duty is paid by the importer when the merchandise leaves the custom-house. This is added to the original cost, including the cost of transportation and such other expenses as are incident to importation. The importer then offers his merchandise for sale with such additional profit as he believes a fair remuneration for his investment. The retail merchant then adding his profit to this amount, takes the merchandise to the interior and sells it to the consumer, upon whom falls the customs tax, the importer's profit, the profit of the retail merchant, the transportation, and the incidental expenses. The same result occurs where the domestic manufacturer sells his productions to the merchant, and the merchant to the consumer, the amount of protection given by the tariff law, as in the case of imported merchandise, falling remorselessly on the last purchaser. So that it is apparent that the last purchaser, the consumer, pays not only the revenue necessary to defray the expenses of the Government, but also the bounty which an over-generous government has given to the manufacturer.

Let us inquire who compose this great army of consumers: "By the census of 1870, the total of persons engaged in all the industries in the United States was 12,505,923; in agriculture, 5,922,471, or 48 per cent.; in the professions or personal services, 2,648,793, or 21 per cent.; in trade and transportation 1,191,288, or 9 per cent.; in manufactures and mining 2,707,421, or 22 per cent. Of these last, 139,982 were engaged in iron and the manufactures thereof, 135,369 in cotton, 105,071 in woolens. We have therefore only 22 per cent. of our population engaged in the manufacturing industries of the country demanding a tribute from the 78 per cent. of the laboring population."

If this estimate be true, the great mass of consumers belong to the agricultural class or those dependent upon them. It is upon their shoulders the heavy burden of taxation falls, to pay a tribute to uphold, by compulsory bounties, a privileged class.

This class, Mr. Speaker, deserves the especial consideration of the political economist. It is their prosperity which breathes new life and energy into all industries, sending the gladsome song of peace and abundance into every part of the country. An abundant harvest means cheap bread and general comfort to all. The farmer is the foundation of our national wealth, and with his prosperity we have national content, while disaster and ruin follow in the wake of his decaying fortunes. Notwithstanding the importance of the agricultural class as the most essential factor to our national wealth, it is painfully clear to the student of the laws in regard to revenue that while monopolies have been sedulously encouraged with protective measures, this class of our citizens have been made the bearers of the burdens of national taxation, so that, notwithstanding the farmer has been blessed with a rich reward for his labors, the burdens which this system of protecting monopolies have imposed upon him are so exorbitant that he is amazed to find at the end of the year that he has no profit from his year's toil. We have in our glorious country the most fertile lands in the world, a climate the most genial and propitious to a luxurious vegetation—the gentle dews and refreshing showers always coming in season to aid the husbandman; but the price of his produce is regulated by the foreign demand. While he consults the tariff laws to ascertain the price of domestic manufactures, which he is forced by law to purchase, he must seek in a foreign price-current to find the worth of his harvest. He is suppliant to the foreign demand, and his produce fluctuates just as the foreign barometer indicates a short crop in Europe, a war between England and her dependencies, or the Bosporus blockaded by a hostile fleet. To supply this demand he must come into competition with free trade without the intervention of class legislation to assist him, while at home he is compelled to give a part of every bushel of wheat, corn, barley, or oats to maintain in splendid pauperism the domestic manufacturer.

If we wish commercial prosperity trade should be unfettered, to go where it pleases to find in exchange the productions of other countries. There has been an enormous increase in the wheat acreage and the surplus in the coming harvest will be larger than ever known. We cannot expect to receive cash for this surplus at its full value, and unless we cultivate mutuality, a reciprocity of exchange, it will be left to rot in our barns, worthless to the farmer and of great detriment to our commerce. It would seem that the American farmer should be allowed to exchange the product of the soil for salt, which is so necessary to his comfort and forms a large proportion of the expense necessary in the preservation of meats. The fishermen of our eastern coast are allowed the salt used in the curing of fish free of duty—a small industry compared with the pork and beef packing of the Western States, while the beef and pork packing industries are forced to pay a heavy per cent. to the few salt monopolies in the country. Missouri's renowned statesman, Senator Benton, regarded the tax on salt as an impious contrivance to frustrate the beneficence of God, as it was born of the sea and the sun. The same reasons may be urged in regard to the many articles which are given a fictitious value by protective laws. The farmer thus suffers directly by being required to pay tribute to the pet manufacturer, and subsequently and indirectly forced to suffer the further wrong in the reduced price received for his own products when deprived of the advantage of free exchange therefor. As illustrative of this position and the doubly deleterious effects of these unequal laws I call attention to statistics and conclusions submitted in a letter of Mr. Tyler, an eminent English economist, which lately appeared in the London Economist, but has been recently reprinted by G. P. Putnum & Sons, New York. He institutes a comparison of the prices of wheat, cotton, and oil for a period of years, the statistical exhibit showing that the effect of our tariff is not only to produce high prices for the protected articles, but to react disastrously upon the unprotected agricultural products of the country and to place them in the English market at depreciated and ruinous prices—prices lower than could have been obtained under a condition of free exchange. He says:

Wheat, which had averaged fifty-two shillings per quarter for eighteen years in the several markets of Great Britain in consequence of the American supply, has only averaged forty-eight shillings from 1874 to 1879, and yet these have been years of European scarcity. Merchants were surprised, for no one reckoned upon the effect of the American import duties (when limiting import from Europe) in depressing the price of their exports. They had calculated in the usual way, that, with an increased food demand of 80 per cent. from Europe, there should certainly be a great advance in price, instead of which a fall of 10 per cent. from the previous average price occurred after 1874.

Further he adds relative to cotton:

In 1860 and in 1861 the average consumption of cotton in Great Britain was 1,040,000,000 pounds, against 1,229,000,000 pounds in 1878. The price is slightly lower now than it was even in 1860-'61. When we consider the enormous competition for cotton, and the British plant provided for working up nearly 200,000,000 pounds per annum, nothing but the want of the American market for finished goods can have kept the price of cotton down to such a very low figure as that prevailing, almost lower than it ever touched before. One consequence of this is that the American cotton-grower has latterly got the minimum instead of the maximum price for his article.

He suggests that the same depressing influence is exercised upon the petroleum productions of the country, and adds:

We are at the same time indebted to the United States for their cheap grain, cotton, and petroleum, sold at the cost of production to us in consequence of this unjust tariff.

As a summary of the conclusions I reach in the consideration of the general question of our tariff legislation, I find the system created thereby vicious, because it is offensively monopolistic, made in the interest of a class, giving them not only the protection that every citizen may justly claim from the Government in consideration of his recognition and maintenance thereof, but special and exclusive advantages by levying the taxes for the support of Government so as to subserve and advance their business interest, to make them a preferred class of producers by giving them an exclusive market for their products. I find, further, that the system thus specifically wrong in principle, unrepublican, and un-American in character has been in its detail and administration most injurious to the interest of the country, and most oppressive to the great mass of the people thereof, carried into effect, resulting in the exaction of enormous bonuses, not for the benefit of the skilled artisan of the country, but for the profit of the favored few who own and control the great manufactories built up by this unjust system.

I find, further, that the schedules of duties have been so regulated in many instances and in relation to many important articles as to become prohibitory, striking down the very commerce intended to be fostered by law and necessary for the production of revenue for the support of government. Whatever effect this graduation of duties

may have upon the manufacturing industries in whose interest it was made, to characterize it as revenue legislation is a deceitful pretense and a sham. It is an attempt to pay a premium for the benefit of a class, which neither justice nor public interest authorizes, under the cover of raising moneys for the support of government.

Now, Mr. Speaker, public attention is becoming directed to the vices and abuses of our tariff legislation, and the people are no longer willing to build up a few select class interests at the cost of crippling other and equally important enterprises. Public opinion demands, and a healthy prosperity requires that all classes of the community shall receive equal, even benefits from our laws; that class legislation shall disappear from our statute; that the burdens of government shall be equally distributed; that the workers of the country shall ask and receive what they are respectively entitled to, and this without imposition of discriminating taxes on their fellows; that agriculture, manufactures, commerce, and all the diversified interests of the country shall receive equal and just consideration, and that no one of these divisions of interest shall be placed under contribution to advance the other; but hand in hand they shall grow, and each as auxiliary to the other contribute its quota to the sum of the common comfort and the aggregate of national growth and prosperity.

Legal-tender Currency.

SPEECH OF HON. G. F. ROTHWELL,

OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

Monday, May 10, 1880.

The House having under consideration the bill (H. R. No. 3029) to restore the legal-tender currency of the United States to the constitutional requirements—

Mr. ROTHWELL said:

Mr. SPEAKER: The measure now under consideration has a good title at least; it is well framed to catch the popular attention; it indicates friendship for the legal-tender currency and a design to improve its quality. To this certainly no friend of the people can object. To make this species of money a full legal tender between the Government and citizens as well as among private individuals in all cases in which it can be justly done cannot fail to command the approving judgment of enlightened statesmanship; for in the light of experience it is apparent that legislative discrimination against the legal-tender notes has been the principal cause of their depreciation in the past, while it is equally evident that the lessening of their volume has been attended by consequences for the time fatal to the business and happiness of the country. By this means has been placed at the command of administration the resources to build up favored interests and classes, to the injury of that commonwealth of benefit and universality of justice so peculiarly the glory of our American Republic. Time was when to be an American was to be under the protection of equal laws and impartial administration, a coequal sovereign in a brotherhood of empire.

In our own Declaration first breathed the national sentiment, till then unformulated, "All men are created equal;" and for the guarantee of this individual sovereignty in collective unity, the freedom, equality, and dignity of oneness in the plurality of power and glory, our Constitution was formed. In its sententious periods are bound with immortal harmony the rights of man and the powers of society, a nation of kings where superiority is obedience to law and grandeur and dignity are respect for the common weal. But too well we know that nothing is proof against decay.

The men who conceived the ideas of greatness without distinction, power without oppression, and who measured the heights of glory by their services to man, have passed away, and with them only too much of that heroic spirit that made their names and time immortal. Ambition, no longer pleased with life's untitled fame won by honest service to the state, or the quiet splendor of a solitary grave like that which shines eternal where the scattered fathers sleep, flaunts in the glare of mean distinction and thinks it glory to be stared at by the multitude. Avarice crowds the public thoroughfare; gold is honor; to be rich is to be great; poverty is degradation; simplicity is plebeian; patriotism is that that pays; equality is contemptible. The liberty that all enjoy is too common to be desirable; learning, genius, philosophy are at a discount, for these may be attained without wealth and enjoyed without luxury. They are not patrician. Money is title; wealth is aristocracy; for but few can attain to riches. Therefore our lords are millionaires; to work, to produce, to pay taxes is to be a peon, a serf, one of the common people.

Sir, principles bear fruit as well as trees. Hence, inspired by such degenerate sentiments, men seek the coveted distinction of wealth by any means. Conscience is murdered, law is for sale, the people are betrayed, office is sought, not for the opportunity it brings to serve mankind, but its profitable occasion. The lobby is an institution; corruption grows when money is the chief good. When money is pleasure, happiness, honor, distinction, glory, power, empire, it is no difficult matter to adopt that philosophy which teaches that the end justifies the means. Sir, consider for a moment the history of financial legislation in this country for the last fifteen years. In whose interest has it been? The people? The masses? The millions? By no means. They have scarcely been considered. If one is not a millionaire he is of little consequence. To be a bondholder is to be entitled to special favor; to be a pet of the Government. In vain we search through the tortuous records of financial legislation for any measure whose prime and leading object has been to lighten the burdens and sweeten the cares of the men of toil; yet they have not failed in duty to themselves or service to the state. At the call of their country they left the field of peaceful labor for the field of deathful glory. They carried the flag through the storm of war and planted it where its mystic folds will wave forever on the embattled heights where death and honor love to meet. At the return of peace, disbanded again to their homes, "all that was left of them," they answered promptly to the roll-call of uneventful toil, and there they have mustered through all these years of oppression, paying with muscle the taxes of that Government their arms had preserved; ay, not taxes only, but contributing by law the means of luxury to a despicable aristocracy of shoddy spawned upon the beautiful symmetry of the Republic by unnatural generation and preserved to its dishonor by the partiality of legislation.

The rich, the great, the powerful have had favors without measure. The public lands have been deeded to them by the million acres, all in the name of improvement and "for love and affection." They have been granted immense subsidies. Donations of public wealth and corporative power have been bestowed upon them with scarce a thought of popular rights thus outraged and private property thus transferred without compensation. The great energies and common beneficence of free society designed in our social compact to be held in undivided power for the equal enjoyment of all has been segregated into the hands of a few and the people divorced by monopoly from their ancient heritage of impartial opportunity in the pursuit of "life, liberty, and happiness." One is helped and another impeded by law, in violation of common right. Society is classified, and that upon meretricious distinctions least honorable to man; not upon the purity of blood or royalty of descent; not upon martial fame that follows the brave from the field of battle and crowns him with love and laurel; not upon civic worth that wins its way to bloodless glory in unbought service to mankind; not upon the quiet heroism of noble men and women that serenely waits the recompense which time can never give for social duty done and silent Christian work; but upon money, upon the spurious and pusillanimous aristocracy of wealth, that a miser may own without merit and a philosopher may want without discredit; upon bonds, upon bags of money, on which the noblest brother of mankind looked but as a means and for which Judas sold him as an end.

Sir, for honest wealth devoted to the uses of society, for the names that live in charity, and the hands that from their opportune abundance scatter blessings in the way of orphanage or beneficence among the poor who "are always here," I have only admiration, but do not desire to conceal my contempt of that species of sanctimonious scoundrelism which, through legal fiction that exempts from felony, plunders the people of their substance and scarcely quits when it is full. The earlier days of the Republic were happily spared this misfortune. This policy has been reserved for these years and to the public creditors. Their currency bonds, that cost them not exceeding fifty cents on the dollar, have been legislated into gold at their face value, and now, with untaxed millions thus surreptitiously and dishonestly got, they fold their arms in hypocritical reverence for their beloved country, thanking God they are not like other men, that have to work and pay taxes. With wealth untaxed and an auxiliary tariff transferring every day, with the silent energy of time and destiny of death, the surplus earnings of the producers of the country into their private pockets, their hearts are seared to the deep sympathies of American equality, and they have grown to think it but just to rob under protection of law and enjoy without responsibility to authority. The customs revenues of this Government for the fiscal year ending June 30, 1879, were $137,250,047, yet under pretext of this system it is estimated that more than $800,000,000 were in that single year wrung from the toilers in field and shop to support in invidious luxury the lords of the tariff, while the mechanic is not allowed even the poor privilege of free salt for his bread, and the farmer cannot sell a pound of his own raised tobacco without risk of honor and liberty, save to a governmental favorite licensed to rob by buying at the lowest price. Is it so with bonds? Who made the difference?

The internal revenues of the country in 1879 were $113,561,610.58. Of this amount, tobacco, whisky, and beer, the direct results of labor, the products of the soil, paid more than $103,000,000. The machinery of the revenue laws has been so constructed that wealth and capital bear but a light burden, while labor and production carry far more than their due share. Can any one doubt for a moment that these laws are partial, harsh, and unjust? To realize from customs dues the $137,250,047.70 the tariff schedule is so skillfully arranged and on such articles of popular consumption that the country is indirectly taxed from eight to ten dollars for every dollar that inures to the benefit of the Government. These extra millions go into private estates, to build up favored individuals and sections. Is this just? Is it right? Is it equal? Were the people dealt fairly by when these laws were framed? Can their perpetuation be justified except by that vio-

olent logic that justifies robbery? The internal-revenue laws are no less discriminating. As I have stated, the income from this source is $113,561,610.58. What argument but the argument of fraud and force can cast upon tobacco $40,135,003 of this amount, while at the same time the farmer who raises the tobacco is limited to sell to a licensed dealer? Pay he must, but sell to whom he pleases he shall not. Are the people the authors of such oppression to themselves? Who, then? The entire revenue thus raised in 1879 amounted to $273,827,184.46. There was paid as interest on the public debt $105,327,949; Army expenses, $41,645,772.28; expenses of the Navy, $15,296,156.84. Not more than one hundred millions found their way back to the people that paid it.

Under these combined influences is it any marvel that millions accumulate almost daily in princely private fortunes in the moneyed centers, while in the broad country thousands are possible only to a few, after years of unremitting toil and pinching economy, and the great majority quit life without a week's supply of bread for the bereaved widow and orphaned children? Indeed Providence is kind, but man is most cruel and unjust. Recalling these things one may be pardoned a sympathy with the chastened melancholy that pervades the indignation of Scotland's poet when contrasting the humble condition of his constrained life with the power and freedom of his liege lord, no better than he, but separated by the force of law:

If I'm designed yon lordling's slave
By nature's law designed,
Why was an independent wish
E'er planted in my mind?
If not, why am I subject to
His cruelty and scorn?
And why has man the power and will
To make his fellow mourn?

And yet the feudal despot was noble when compared with this spurious aristocracy, the hybrid progeny of civil war and the legislation of half-restored peace, mere *novi homines* without the sanctity of age or the argument of utility. He won his name amid the foremost rank of the wild foray or in desperate loyalty to his king. He bought his lands with the grace of genius and the grim terrors of war. He held his castle by the involuntary revenue that manhood yields to dauntless courage and woman gives to chivalry.

She loved me for the dangers I had passed,
And I loved her that she did pity them.

COMMERCE HONORABLE TO HUMANITY.

But in the centuries gone or ages yet to come who has or shall so far debase his noble manhood as yield a tribute to the crafty Shylock? Portia lives; the noble judge, learned in law, teaching still the lesson of exact justice. Antonio, honest to a fraction and submissive to the stern behests of legal exaction—Antonio wins our gentlest sympathies. How we long for the coming of his storm-tossed ships. There is nothing new. Tragedy recurs. Antonio is the people; noble Antonio, most honorable and most just, submissive to the forfeit nominated in the bond, even to the pound of flesh. Shylock is the public creditor. He has speculated in misfortune; he has profited by duplicity; he demands his bond, and his bond is tinctured with fraud. He received it in currency worth fifty cents on the dollar; he treacherously secured it to be paid in gold at the face value. He plowed with the people's heifer to obtain the fatal secret of their strength, then betrayed them. He robbed them in one day of a thousand millions of dollars, and now uses his stolen advantage to perpetuate the wrong. He even banks upon his guilt, and circulates as money the badges of his fraud; and by force of circumstances the people are compelled to receive and call it money. By means of his agents he smuggled through Congress an act demonetizing silver. For whose benefit? His own. At whose suggestion? His own. The people never sought the enactment of these injurious measures. They have passed through Congress without notice to the people or against their protest. The people are just. They love the Constitution. Silver is its money as well as gold.

The people respect the law and customs of the fathers, both written and unwritten. These are their only protection against fraud, wrong, oppression, and despotism; these are the palladium of their liberties. Apart from the declared principles of our social compact and the scarcely less powerful control of ancient custom, time-honored usage, immemorial observance, the people are wholly uncovered to any legislative or administrative enemy that may choose to prey upon them, whether from motives of peculation, cruelty, or ambition. Think of Washington, as he retired from his executive labors in 1797 to the peaceful glories of Mount Vernon, full of honor, satisfied with fame, loving his country more than himself, anxious to leave an example that should endure for all time the noblest test of republican ambition, an Executive in retirement. Think of him, admire him, love him, make pilgrimage to the sacred spot where he died. There is but one Mount Vernon. It will intensify devotion to his name and principles. It will sanctify our reverence for the best who ever lived and the noblest that ever died. Listen to the tolling of the passing ship-bell! How the world loves him! How mankind revere him—soldier, patriot, statesman! When he left the shores of the Potomac it was neither at the call of vain men, nor to go in the dubious ways of weak ambition, led by the glare of a false glory or ignoble avarice. He went to receive a crown where the good and great have a right to wear it. To the world he left Mount Vernon; to his countrymen the legacy of an example in trust, to be perpetuated forever, the noblest act of the noblest man, and the guarantee of liberty.

Now think of Washington demonetizing silver—that, too, secretly, surreptitiously, fraudulently, to enrich a few bondholders and stock-jobbers. Think of him by such despicable trickery robbing the people, whose nationality was the tribute to his genius and whose happiness was his heart's first love. Think of his compatriots and successors, Adams, Jefferson, Madison, Monroe, Jackson, Clay, Benton, Webster, Calhoun, taking counsel together to cheat the people, plotting to demonetize silver, to smuggle through Congress by the wicked use of a bad rule a law to destroy a constitutional money, a constitutional right. How times have changed. In the presence of greatness and goodness, how mean is the avarice that betrays the people, how poor the ambition that covets power or glory save that that follows in the pathway where the patriot statesman pursues the course of public duty. The ambition that oppresses, the avarice that defrauds, the duplicity that betrays, are not learned at the Hermitage, nor at Monticello, nor at Marshfield or Ashland. These are shrines of honesty, where the patriot may worship with increasing reverence for mankind and without a blush for his country. By philosophy, by persuasion and example, they enforced the American ideas of equal rights to all, exclusive privileges to none—equality of burdens and equality of opportunity.

Mr. Speaker, nothing more silently yet surely affects the business interests of the people than the quality and volume of the circulating medium. To business it is what air is to life or light to happiness. It is all-pervading, nourishing, and indispensable. No civilization ever did, none ever can, exist without money. The higher the ascent of man in the scale of culture, the more delicate and refined the social organism, the more multiplied his physical and spiritual necessities, the more important is the use and law of money. Commerce, at every turn of its tortuous course, demands its rapid and delicate aid. It is even forced, in the impulsive power of modern necessity, to invent still more delicate methods of transition. Drafts, bills, and checks indicate how light are the movements and how lightning-like the speed of transfer under the demands of this highly-cultivated and impatient age. Money even is slow. It is estimated that 98 per cent. of the business in our metropolitan centers is transacted by means of commercial paper. But money is everywhere essential. It should be as free from personal disturbance as is the air. It should be as compensating as the ocean waters, through which any one may pass but no private will control. It should be as mobile and self-adjustable as the electric fluid, which submissively obeys the use of all, but is the special dominion of none. Money is made necessary by society. It is the offspring of aggregated sovereignty. It is the exercise of national and irresistible dominion of the whole over its elements. As the measure of values it has a direct influence upon the power of debt; values respond to its volume as readily as does the thermometer to heat or the barometer to atmospheric pressure. Contraction diminishes and expansion increases the selling price or debt-paying power of property as surely as heat melts and cold freezes. To the debtor class the only difference between contraction and direct robbery exists but in name. The interest, therefore, that the people have in monetary conditions is direct and imperative.

Whatever is used as money should be as free from defect as the condition of society will permit, for all history teaches the lesson of protection to the weak and defense against the strong. The same Divine Spirit that shed tears of compassion over the people with scourgings drove the money-changers out of the temple. Hence, sir, the title to this bill attracted me. I believe that all money should be a legal tender, and should emanate directly from the sovereignty that authorizes its use and punishes for its counterfeit. Our legal-tender notes have not been perfect; they have been restricted in quality and subject to violent changes in volume. When I read the title to this bill I hailed it as a harbinger of improvement, but I was bitterly deceived. The substance of the bill does not justify the expectation inspired by its title. It is not an honest title. It is a false index. It is an innocent label to a deadly poison. The entire bill is as follows:

Be it enacted, &c., That section 3588 of the Revised Statutes making United States notes a legal tender in payment of all debts, public and private, except for duties on imports and interest on the public debt, be, and the same is hereby, repealed, and that hereafter gold and silver only shall be a tender in payment of debts.

Sir, could two things be more variant than the title and the body of this bill? Why thus unless to deceive? Sir, the ancients were more just when they constructed their Pandemonium. They placed a Cerberus at the gateway that while no wicked might escape no good should enter. Milton so paints his Hell that any fool might know its danger, and over the door of his Dante wrote the fearful warning, "Whoever enters here leaves hope behind." Sir, a more fitting title to this measure would be, "Contraction of the currency, enrichment of the bondholder, robbery of the people; another steal without punishment; bankruptcy, poverty, misery, and tramps; another blow to the Republic; one more jewel for the coming crown." For this is what contraction means, and this bill means contraction; not directly, I admit, but indirectly. How long would these notes survive the loss of their legal-tender quality? First depreciate, then damn, then destroy. This is the process, Mr. Speaker. Is contraction so desirable a thing that the gentle swell of prosperity just now reviving the hopes

of the country should be met and checked by it? Are the people to have no immunity from the plague of their financial torments? Is there no place this side of the "dim unknown where the wicked cease from troubling and the weary are at rest?" Since 1873 the people have gone through hell for the sake of the public creditor. Should we by one stroke of legislation in this Hall, that ought to be sacred to the rights of our long-suffering constituencies, blast, cruelly blast, the hope of better times just now dawning upon their tired vision?

Sir, the other day there was introduced into this House a bill establishing anew the courts of bankruptcy. It is well when you begin contraction to again open these courts. They are twin misfortunes—ruin the people and then give them a bankrupt's receipt to show to their children as a testimonial of their country's regard. I will here tabulate the cause and effect to make them more apparent. On the 30th day of June, 1866, and 30th day of June, 1873, there were nominally afloat in various forms of national paper and national-bank notes amounts as follows:

Denomination.	June 30, 1866.	June 30, 1873.
Demand notes	$272,162	$79,967
United States notes, (greenbacks)	400,619,206	356,000,000
Temporary loan	120,176,196	78,560
One and two year Treasury notes	3,459,230	142,105
Certificates of indebtedness	126,391,000	678,000
Postal currency	7,030,700	
Compound-interest Treasury notes	159,012,140	479,400
Fractional currency	20,040,176	44,799,365
7.30 Treasury notes	945,553,250	274,100
National-bank notes	292,671,753	348,347,679
Total	1,975,225,813	750,879,176
	750,879,176	
Contraction	1,224,346,637	

But the amount in actual circulation June 30, 1873, was much below $750,879,176, for I have taken no account in the estimate of loss nor hoarding during the period of panic nor of reserves. The amount actually in circulation at the latter date did not exceed $600,000,000. If objection be made to the 7.30 notes in the estimates, exclude them. Still there is a nominal contraction on this basis of $278,793,387, and practically in business over $430,000,000. What are the mathematical results. Note the failures before and after contraction began:

Before contraction:	
1862	$23,049,000
1863	7,899,000
1864	8,574,000
1865	17,625,000
Total	57,147,000
Annual average	14,000,000
After contraction:	
1866	58,783,000
1867	96,666,000
1868	63,674,000
1869	75,054,054
1870	88,242,000
1871	85,252,000
1872	121,056,000
1873	228,499,000
1874	155,239,000
1875	201,000,000
1876	191,117,000
1877	190,669,936
1878	234,383,132
Total	1,789,635,122
Annual average	130,000,000

And yet this is only a small part of the failures. It is only the revelations of the commercial agencies and the courts of bankruptcy, and does not show the disaster to the smaller business of the country and the farming interest. It merely shows where the heart of the cyclone passed, without disclosing the universal wreck that ensued outside of the storm-center. Business ceased, stagnation ensued, trade was paralyzed, labor went unemployed. No power of production, no effort of human industry, no pinching economy could keep pace with the depreciation in values. Contraction outran production, so that at the end of every year the people found themselves poorer, notwithstanding all their labor and pains. The truth remains that the sorrows that beclouded the land through the lengthened panic of 1873 is without a parallel in our history. It stands a monument of the cruelest avarice and the most unscrupulous betrayal of the people's rights recorded in American annals. The way is strewn with wrecked fortunes, desolated homes, crushed hopes, and broken hearts. The unfortunate, it is true, endured no violence save when driven to suicide. They suffered in silence. But were it possible to gather into one the untold agonies of that panic it would make a scene around which a nation might weep. Property is essential to the happiness of man. You cannot destroy the earnings of his life without causing him misery. The world has never ceased to give its sympathy to the mouse whose nest Burns plowed under and then immortalized in verse. Its troubles are our own. How many a pleasant home the cruel plowshare of that panic went through? But the gold board is cheerful. What the people suffered the bondholder enjoyed; what they lost he gained. This was the way to the gold standard and gold value.

Let me here tabulate a few of the results in dollars and cents. Wheat fell off in value eighty cents per bushel; corn, thirty cents; oats, thirty-three cents; barley, sixty cents; potatoes, seventy cents; tobacco, ten cents per pound; hay, $3.80 per ton. Apply this to the crop of 1878, and know what the labor of a single year lost:

Products.	Crop of 1878.	Decline.	Loss.
Wheat, bushels	420,122,000	$0 80	$336,097,800
Corn, bushels	1,388,218,000	0 30	416,465,400
Oats, bushels	413,000,000	0 33	136,290,000
Barley, bushels	42,000,000	0 60	25,200,000
Potatoes, bushels	124,000,000	0 70	86,800,000
Tobacco, pounds	393,000,000	0 10	39,300,000
Hay, tons	39,608,296	3 80	150,511,506
Total loss			1,190,664,706

Sir, this is a vast sum, but is it less than the real misfortune? How many days' labor does this vast sum represent? How much toil and exposure and suffering? How many cares and anxieties? And yet this is the loss on only seven articles of farm produce for a single year. But this loss has been repeated through a series of years. The loss sustained by the farming community for two years on these seven articles would have discharged the national debt. The loss on the single article of cotton would have paid the national debt in three years. And this is only a partial statement. The depreciation in the value of live stock was equally disastrous. Horses declined in price $30 per head; cattle, $20; sheep, $2; hogs, $4. I submit the following statement showing the loss on these four articles of property in the single year of 1878:

Live Stock.	Number.	Decline.	Value.
Horses	10,611,500	$30	$318,345,000
Cattle	31,852,300	20	637,046,000
Sheep	36,575,000	2	73,150,000
Hogs	32,262,400	4	129,049,600
Total loss			1,157,590,600

Here, again, is a loss to the farming interest on these four articles of an amount exceeding one-half of the national debt. I take no account of the land, which depreciated from one-half to two-thirds. In many instances it became almost worthless, sometimes even a burden by reason of accumulating taxes. Thousands of land-owners, especially the holders of town property, were utterly ruined by the sudden and great decline. Real estate ceased to be a security for money. Many a pleasant home passed from the unhappy family into the possession of the stranger for the mere pittance of a mortgage not one-fourth its value. Were it possible, I should like also to state the loss that fell upon the wage-laborers of the country, the miners, mechanics, artisans, weavers, carpenters, smiths, and day laborers. The amount reduced to dollars and cents is almost incalculable. At one time it was estimated that two millions of people were out of employment, causing a daily loss to them and the country of at least $1,000,000,000. There was absolutely no work for them to do, for there was no profit in business. Many lacked even the necessaries of life; few were able to provide its comforts. The cities were filled with paupers and the country swarmed with tramps. Wages sank below the cost of living.

Mr. Speaker, into what pit did all these values sink? What maelstrom drew into its fatal vortex the labor, earnings, and property of the country? What monster devoured the substance of the people? In whose interest was the nation sacrificed? Where did all these millions go? Amid this waste of life, this wreck of property, and ruin of business only the public creditor flourished. As the raven feeds on the slain of battle or the unburied horrors of the pestilence, so he fattened upon the unnatural miseries of the people. As values sank his securities rose. As the nation went down he went up. As the currency contracted his means expanded. Every day his stated wealth with its undiminishing interest drew to itself and swallowed into its fateful jaws the national prosperity and pecuniary power. Never did universal society so languish, never did individual wealth so flourish. Millionaires grew up in a night like mushrooms upon the lawn. Previous to 1860 there were but a few men in the United States whose individual wealth was estimated to be a million dollars. Now on one street in a single city may be found ten men whose aggregate wealth is $200,000,000. This is abnormal. While the business interests of the general public have been dwarfed by oppressive legislation these giants have been stimulated into unnatural growth by governmental favoritism.

But, Mr. Speaker, a favorable change is rapidly occurring. Contraction has ceased. A wholesome expansion of the circulating medium under the natural laws of commerce and production is taking

place. Importation has added to our monetary resources more than $75,000,000 since the 30th day of last June. The production of our own gold and silver mines in the last three years has yielded more than $225,000,000 that did not go abroad. The national banks, all the while protesting that the volume of our paper money is too large, have quietly expanded their circulation about $35,000,000. Our supply of money, including gold, silver, legal-tender notes, and national-bank notes used as money, now exceeds $1,100,000,000. Inflation, without artificial means, except as practiced by the national banks in sending out fresh supplies of their promises to pay, has taken place under the natural conditions of production and commerce. And the volume is daily increasing.

What is the effect? What results do we witness? It is like the spring-time when winter departs. It is like the buoyancy of hope when health returns. It is like the dawning of a cheerful day on a night of sorrow. Business revives, values increase, debts are more easily paid, the people have work to do, the wandering thousands who but a year ago traversed the land in hopeless and hungry search after work are returning again to mines reopened, to furnaces relighted, to manufactories, mills, and shops, filling with the glad noise of profitable industry the solitudes where contraction and bankruptcy reigned.

A brief editorial from the Saint Louis Republican of March 2 gives a picture of renewed prosperity in the West which I will read in this connection:

A WORD TO FARMERS.

Two years ago, when the prices of nearly all kinds of farm produce were so low as not to pay for the trouble and expense of raising them, a Randolph County farmer hauled a load of tobacco to market and was offered $2 a hundred for it, and no more, and rather than take it he tipped the load over into a ditch and drove back home. That day of low prices, fortunately, has gone by. It was a dismal time—a time of depressed spirits as well as of depressed trade—and Missouri farmers brooded discontentedly over their hard lot, which they feared would never change for the better. But it has changed. Low prices no longer prevail. All things produced in Missouri command good prices—grain, tobacco, cattle, mules, horses, hogs, lead, and iron; and the large amounts of money paid into the State for these products in the last six months have put a new face on things. Thousands of immigrants are coming into the State; the prices of lands are stiffening; farms that one year ago were unsalable and had only a nominal value are eagerly sought after; hay that would not pay for the cost of sending it to market is now in demand; everything raised on a farm can be disposed of at a good price; farming has once more become profitable, and farmers all over the State are busy, cheerful, and prosperous.

Now, Mr. Speaker, if such has been the lesson of enforced contraction, if such is the result of that natural expansion now occurring, shall we not be informed by facts? Is history worth nothing? Shall we despise nature and cast defiance in the face of Providence by repeating our folly and inviting a return of disaster? Shall we have no sympathy for the tax-ridden people whose agents we are? Nero fiddled and danced while Rome burned. Caligula made royal soup of molten gold while the populace howled through the streets for bread. Shall we blot American history with a worse example, sir? Parties can commit crimes; the people can punish parties. And the destiny of that party is sealed that shall in these Halls undertake now to violate the public faith by the demonetization of the greenbacks. Where would the wrecked fortunes of the people have been to-day were it not for the remnant of three hundred and forty-six millions of these notes and the remonetization of silver? Where would have been the public liberties? Merged into a nation of semi-slaves with the public creditor substituted for the slave-owner, and the tax-gatherer for the slave-driver. Popular rights were rescued by these measures from complete destruction. But the seeds of evil have been sown in our political economy that promises no friendly harvest. The sudden accumulation of riches has destroyed the national content. Favoritism has engendered suspicion. The great American idea of equality under law is much weakened.

Men are restive under the old condition of affairs. The rule of the majority is irksome since it no longer comports with the new ideas of exclusive right and aristocratic sentiment. This feeling of superiority engenders contempt for the multitude and the consequent desire to avoid the leveling force of the popular will. The ballot is less sacred. Its results are not received as final. Capital pools its resources to defeat that equality of justice and opportunity which universal suffrage brings to all. Great combinations are formed to forestall the public judgment or thwart it when rendered. And when force or fraud have failed, venality invades the legislative council to buy what right does not give. These things are the fruits of a principle, not merely the accidents of an occasion. Such is the growing disgust of wealth and greatness at the common participation of the body of the people in the powers and duties of government, it is scarcely considered a breach of etiquette to swindle them. Crime moves in a circle. Thieves perpetrate fraud, and fraud pardons and rewards thieves. Sir, our society is rapidly passing from that simple equilibrium and universality of condition which hitherto has been its chief excellence. It is the darkest spot in the horoscope of our future. When the spirit of equality is lost, equality must itself as fact fail. There is no place in our political economy for favoritism. It can but be fatal to our institutions.

If Americans are not equal participants in all the blessings of government, then America ceases as such and the vista opens upon an empire. Artificial divisions and injustice easily develop into classes. Classes assume or are given names. Names impart strength to divisions as they do to families. Conflicting interests among the factions breed hereditary hostility. The evil grows. At present we hear the designations labor and capital, tax-payer and non-tax-payer, debtor and creditor. These terms are not used idly, but as indicating causes that underlie and develop conditions; and when these conditions are settled adversely to one another the hostility will be proportionate to the vast interests at stake. Sir, this unhappy turn has been given to our national genius by just such methods as is developed in this bill. The country knows it has been robbed by statutory process, by disturbances of the monetary equilibrium, thus changing the relations between property and debt. By means of your tariff, your revenue laws, your donations of the public lands, your national banking system, your grant of monopolies, your favoritism of corporations, your exemption of wealth from taxation and burdening production, classes are made unavoidable by the forced enrichment of some and the impoverishment of others. Injustice is legalized, and the unfortunate, realizing the discrimination of Government, gravitate to communism as poverty increases. The fortunate, for the protection of their odious advantages, feel the importance of a stronger government.

The exclusiveness of their privileges demands permanency of condition and power of direction not found in our Constitution. One is temporarily supplied by monster combinations of the railroad system and the national debt; the other in the force of money to control the course of public events. Wall street dictates the financial policy of the country—not the people. You fixed a day for resumption, Wall street fixed its terms. You remonetized silver but not in Wall street. With the authority of a tribune it met and effectually vetoed the operation of your law. Sir, Philip of Macedon said, in bitter jest of the virtue of his time, that he would not sacrifice a soldier in the conquest of any city through whose walls he could make a breach large enough to send a pack-mule. Demosthenes, entering a plea of guilty for his countrymen, exclaimed, in the Athenian forum, "It is not Philip's soldiers I fear, but Philip's gold." Sir, the world does not change; only occasions differ. The face and superscription of Macedon's king have worn from the coin. Our eagle is there, and "In God we trust," but after all it is but a change in form. Ambition is just as unscrupulous and avarice as base as when the king sheathed his sword in a sack of gold and the orator bewailed the venality of the state. Violence is useless where methods can oppress. Not one dollar of silver is paid upon the public debt, either principal or interest.

A few months ago the Secretary of the Treasury, the reputed guardian of the public interest, went down to the city of New York to see about this business. Did he say to the gold board you must and shall obey the law? Did he enforce upon the public creditor the broad and wholesome doctrine of American equality? Did he declare to the syndicate that their wealth entitled them to no privileges that could not be shared equally by the humblest citizen of the land? Not at all; that was not his mission. He agreed with the clearing-house that the law should not be enforced against them, that the silver law should be nullified. By that act he most cruelly betrayed the people into the hands of the Philistines. He turned them over to the exactions of the Shylocks to cut their pound of flesh with no limitation on the flow of blood. He then returned into his office and required the employés of the Government and the representatives of the people to receive 10 per cent. of their salaries in silver. Why is this? How long shall the law be trampled upon? How long shall these odious monetary distinctions be perpetuated? How long shall American equality be despised? New York is not the country; a few wealthy men are not the people; the law was made for all alike, without partiality and without oppression. Gold for the nobles of Wall street! Silver for Congressmen and governmental employés! And now a still baser money it is proposed by this bill shall be manufactured for popular use.

Mr. Speaker, not by my consent, for the business and productive interests of this country, for the people whose welfare was once the chief good, whose will was law, in their name I protest against this contemplated wrong. You cannot justify this act by any constitutional qualm of conscience; you cannot repeat Henry VIII before the American people. The simulated virtue that frames the argument to impair the quality of these legal-tender notes but illy disguises the avaricious lust that seeks the divorcement of the people from returning prosperity for the sake of a legal concubinage with the public creditor. It is too late to question the constitutionality of the three hundred and forty-six million legal-tender notes now outstanding. Their constitutionality is as well settled as any other principle of constitutional law. It rests upon the very highest declaration of sovereign power, the interpretation of the Constitution by the Supreme Court. It has by authority declared that the ultimate power of the State was well exercised in complete harmony with its organic law when it issued these promises to pay impressed upon the attributes of money and compelled their circulation in payment of debt. The principle may not be palatable to some, but neither are many other decisions of this and other courts. Nevertheless they are the law and claim the conscience of the citizen until reversed.

But, sir, there are economic reasons that make it moral treason to interfere with these notes at this time. Demonetize them and at once all State, county, city, township, and railroad indebtedness, amounting to more than $3,500,000,000, with the annual interest thereon, become payable in coin equally with the national debt. Who can measure the possible misfortune of such a result? But, sir, you may

think the public creditor would not make the demand. Tell me the vulture is merciful when it hungers! Avarice heeds no law. Ambition is not bounded by proprieties. The spirit of domination introduced by scenes of suffering complacently tramples upon popular interest and grimly marches to power over ruined fortunes and crushed hopes. We might be incredulous to history had we not been informed by living facts. What benefits has the public creditor ever resigned? What advantages within his power has he not seized? When has he paid taxes that could be avoided or failed to exact them when they could be demanded, and that in the best money? Mr. Speaker, these legal-tender notes have been endeared to us by the grandest struggle and the deepest suffering that ever sanctified a people to the family of nations. At first a necessity, born in an hour of darkness and distress, time and habit have sanctioned their adoption, business has become adjusted to their quality and volume, and the highest tribunal has stamped upon them the seal of constitutional legitimacy. They paid for every drop of blood shed by the gallant soldiers of the Republic. They went to the front with the flag through the smoke of battle and the hail of death. They saved the Union. And—

> When war's wild wintry blast was blown,
> And gentle peace returning,
> With many a sweet babe fatherless,
> And many a widow mourning,

the same despised legal-tender notes, following the victorious armies of the North and the brave but defeated soldiers of the South to their long lost homes, with undistinguishing philanthropy shed their benedictions alike upon friend and foe. They quickly invited to commercial friendship, taught forgetfulness of war in fraternity of business, and until checked by contraction made peace prosperous as they had made war successful. Since that hour until now they have performed among the people all the monetary offices of commercial exchange. From the marriage-ring and birth-fee, in every exigency of life to the shroud and coffin, they have been the one ministering spirit that has brought comfort to labor and hope to employment. In the public hospital and in the private way where poverty and kindness meet unseen they have graced the benedictions of charity. They have been consecrated in the holy uses of the church. They have conducted all business, they have printed all books, they have paid all pensions, they have discharged all the debts of commerce, the promises of affection, and the obligations of war. What more could gold and silver have done?

Mr. Speaker, leave them to the people, not a dollar diminished or a quality impaired. Gold, silver, and greenbacks, equivalent money, impartial laws, equal rights.

Improvement of the Mississippi.

SPEECH OF HON. J. FLOYD KING,

OF LOUISIANA,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, June 1, 1880,

In support of the bill (H. R. No. 6326) making appropriations for the construction, repair, completion, and preservation of certain works on the Mississippi River.

Mr. KING said:

Mr. SPEAKER: Probably never before in the history of this country has Congress had before it so many important commercial questions. The bills and resolutions in which they are presented for our consideration reflect public sentiment, which is unusually alive to all that will enlarge our internal and foreign commerce, and thereby stimulate greater material development and business prosperity.

There are at present awaiting our action the report of the Mississippi River Commission, various bills relative to an interoceanic ship-canal, the report of the Army engineers relative to a ship-canal across Florida, several resolutions seeking new commercial treaties, resolutions aiming at the development of Spanish-American trade, a bill providing for the appointment of a commission to revise the tariff laws, several bills providing for an extension of our merchant marine, and many others which I might enumerate, of the same general nature. Some of these are so very important that a delay in their passage for even one session of Congress is a loss to the country of millions of dollars. Such is the character of the bill to which I wish briefly to invite your attention. I refer to the bill providing an appropriation to carry out the report of the Mississippi River Commission.

For many years past this great national work has been delayed by conflicting theories concerning the plan of improvement and the authority and policy of the General Government. The blockade has at last been raised by making the protection of alluvial lands incidental to the improvement of navigation, and by delegating to a commission of skilled and experienced engineers all rival plans. The commission have carefully considered them and reported to us their conclusion. All that now remains is to provide the necessary appropriation for putting it into execution. The country cannot afford delay in this matter, as may easily be demonstrated by facts and figures.

Our chief exports are invariably agricultural products. During the last four fiscal years agriculture contributed as follows to the sum total of shipments abroad: 1875–'76, 76 per cent.; 1876–'77, 72 per cent.; 1877–'78, 77 per cent.; 1878–'79, 77 per cent.

Now, if the chief portion of these products were supplied by the Mississippi Valley, it will readily be seen how important it is to the growth and success of the foreign commerce of the United States that the great water-ways which tap this valley be kept in good repair for the purpose of supplying cheap transportation to the seaboard.

What are the facts in this respect? A carefully prepared estimate of the products of the various States intersected by the Mississippi and tributaries was recently made by the Committee on Levees and Improvements of the Mississippi. It was for the year 1877, but the comparison will hold equally good for a series of years. It shows that those States supplied about three-fourths of the great staple products of the country, such as corn, 87 per cent.; wheat, 69 per cent.; rye, 72 per cent.; tobacco, 70 per cent.; cotton, 74 per cent.; and live hogs, 71 per cent. We can perhaps better appreciate the magnitude and value of this percentage by a glance at the sums total of these products raised in the whole country. They are officially stated as follows for the year 1878:

Products.	Bushels.	Value.
Corn	1,388,218,750	$441,153,405
Wheat	420,122,400	326,346,424
Oats	413,578,560	101,945,830
Barley	42,245,630	24,483,315
Rye	25,842,790	13,592,826
Buckwheat	12,246,820	6,454,120
Total	2,302,254,950	913,975,920
Cotton (bales)	5,216,603	193,854,641
Tobacco (pounds)	392,546,700	22,137,428
Live hogs (number)	34,766,100	110,613,044
Total value		1,240,581,033

The mathematical conclusion from the above is very apparent: a trifling overcharge in transportation on a bushel of grain, bale of cotton, hundred pounds of tobacco, and barrel of pork will amount to millions of dollars annually when applied to the large surplus of these products intended for export. Home consumption is insufficient to stimulate a thorough cultivation of the great grain-fields of the valley, for in 1870 not over 15 per cent. of its whole area was improved land. Foreign markets are also needed as an incentive to the producer. He can invariably find them open, and offering a profitable return for his product if the price is not swollen by excessive transportation rates. If they be exorbitant production and exports are at once checked, and the whole country suffers from the injury to its greatest industry.

The question now arises, can the Mississippi and tributaries regulate the price of grain and provisions? I venture to assert they can, and to a greater degree than any other highways of commerce upon the face of the earth. What transportation facilities do they possess? The report from which I have above quoted states that this system of rivers intersects eighteen States and two Territories, and has a mileage of present navigation as follows:

	Miles.		*Miles.*
Missouri	3,127	Green	200
Mississippi	2,166	Wisconsin	160
Ohio	1,021	Black, (Arkansas)	136
Red	820	Monongahela	110
Tennessee	759	Kanawha	94
Arkansas	668	Muskingum	94
Cumberland	653	Chippewa	90
White	460	Iowa	80
Washita	445	Saint Francis	80
Yellowstone	438	Saint Croix	65
Wabash	369	Rock	64
Alleghany	325	Kentucky	60
Minnesota	295	Black, (Louisiana)	54
Illinois	269	Big Horn	50
Yazoo	240	Clinch	50
Osage	237		
Sunflower	207	Total	14,086
Tallahatchie	200		

The mileage of the White River, as here stated, is wrong. It should be about seven hundred and sixty miles, an increase of three hundred. A few navigable tributaries have also been omitted, such as the Big Hatchie, Big Black, Little Red, Deer Creek, Bartholemew, Tensas, Macon, Beouf, and others which cannot now be recalled. With these additions the sum total of navigation is about sixteen thousand miles, with an inland coast, along the various States, of thirty-two thousand miles. The most fertile and productive agricultural valley in the world has, then, the most comprehensive and complete transportation system. New York State has spent over $64,000,000 to construct an artificial water-way to bring to her great sea-port the grain of the West, but it is insignificant in comparison with the natural outlets with which nature has blessed the Mississippi Valley.

Examine for a moment the commercial capacity of the Mississippi. A Cincinnati paper has published some striking statistics concerning

the transportation of coal down the river. They are, in substance, as follows: A tow-boat took to New Orleans thirty-two barges, containing six hundred thousand bushels of coal. The total freight charge amounted to but $18,000. To ship the same by rail would require one hundred trains of eighteen cars each, and cost $180,000, or ten times the river charge. The importance of this will be duly appreciated when we reflect that the chief coal and iron deposits of the country are intersected by this river system—those of Western Pennsylvania by the Ohio, those of Indiana by the Ohio and Wabash, and those of Illinois and Missouri by the Mississippi and tributary rivers.

A parallel statement relative to the capacity of the river for shipments of grain to the seaboard recently appeared in a Saint Louis paper. From it I find that the total barge capacity of the Saint Louis grain transportation companies is 2,250,000 bushels, that these barges can all be loaded about the same time by means of elevators, and can transport the whole quantity to New Orleans in a few days and at very low rates; that the same shipment by rail would require five thousand freight cars and a period of indefinite length for loading and unloading.

The river rates on grain have for several years past been steadily decreasing, until they are now in the summer season as low as five cents per bushel from Saint Louis to New Orleans. A proper improvement of the river channel will, it is confidently asserted, reduce the average rate to three cents or less per bushel. In the opinion of the distinguished engineer, Captain Eads, it can be reduced to two cents per bushel. Such a reduction would act like magic upon the agricultural development of our great prairies and more than double the annual yield of grain. The probable decrease in rates during the coming three years cannot well be estimated from the gradual decrease during the past three years, for the effect of the jetties did not fairly commence until a year ago, and it necessarily takes time to advertise the effect sufficiently to attract the attention of the mass of shippers. But I venture to assert the record of the present year, when complete, will show a very emphatic reduction in rates and an astonishing increase in the sum total of river shipments.

Not only are the jetties helping along the movement, but the new barge companies which are rapidly springing into existence for the transportation of grain down the river from Saint Louis, Kansas City, and other river towns, are competing with each other with the usual result—a falling off in rates. The only thing now needed to give a finishing touch to the whole movement is a deep and permanent channel all the way from Saint Paul to the Gulf. Such is the object of the bill now before us, based upon the report of world-renowned engineers, and sustained unanimously by the committee of this House having charge of questions relating to the Mississippi River.

The superficial observer, whose thoughts are apt to run in a sectional groove, may say this is all very well for the producer of the Mississippi Valley, but what interest has the East in the subject of river improvement? The answer is a very simple one, namely, that the consumer in the East gains equally by having the ability to secure cheap breadstuffs. This is not a sectional work, but as broad and national as are the great agricultural interests which have contributed more than all else combined to the development of the United States, until she now ranks as the chief granary of the world. The national importance of this industry will also be appreciated when we reflect that the value of one year's grain crop in the United States is equal to that of all the gold which the mines of California have yielded since their first discovery, in 1848, to the present hour.

In a country like ours, where commercial intercourse is unrestricted by State lines and interstate tariffs, where railways and telegraphs have bound the people together in one common business interest, it is idle to talk of section when seeking to promote great material interests. The proposed improvement is pre-eminently national when we consider the effect of cheap transportation upon the supply of foreign markets. While our great seaports are to-day furnishing Europe with grain the course of shipments is liable to be diverted through Canada. I will quote briefly on this impending danger from the admirable report recently submitted to us by the commission of Army engineers on the question of a ship-canal across Florida:

> By the enlargement of the Canadian canals, to be finished within a few years, British vessels can afford to carry grain from Chicago to Montreal for six cents per bushel, and Montreal is two hundred and fifty miles nearer than New York to the European market. The British and Canadian governments have nearly completed works which will cost over $30,000,000, in addition to earlier improvements on which $24,000,000 were expended, making a total of over $54,000,000 spent in order to control, as far as possible, the carrying trade of our grain-raising States. With the completion of this cheap foreign water-route, penetrating into the very heart of our agricultural region, the United States will possess no transportation line that can compete with it on equal terms unless the Mississippi River is improved, and all obstacles are removed that stand in the way of the most economical transportation to foreign and domestic markets of the surplus products of the Mississippi Valley.

Here is a commercial danger which we, as the representatives of a commercial people, should not neglect to provide against for even one session of Congress. Now is the proper time to avert it by putting into immediate execution the report of the river commission. Delay in this respect is national extravagance, and no pending partisan questions are, in my opinion, sufficiently important to stand in the way of this great work. That the Mississippi can successfully accomplish all that is here claimed, in competition with Canada for the supply of European markets, has been shown by the effect of the few improvements already made.

Since the completion of the jetties there sailed in one day in December last from the port of New Orleans as many as twelve vessels with full cargoes of grain, cotton, and provisions for Liverpool and other ports of Europe. There are now two regular lines of steamships, one of four steamships and the other of eighteen, between New Orleans and Liverpool. Also one line between New Orleans and Bremen. They are but the nucleus of a vast fleet of steamships which will find it profitable to engage in this new grain movement as soon as the river channel is unfettered, thereby permitting grain to be brought from the interior at the very low rates which are possible. Great Britain has more than enough of our carrying trade at present, and it will be a discredit to our business capacity to remain inactive until she has completed new transportation lines to tap the grain-fields of the Mississippi Valley and deflect the course of shipments away from our seaports.

There is another important consideration which should not be overlooked in this discussion. Throughout the country there is a demand for new foreign markets. In looking over the field I find a most astonishing and I may justly add disgraceful neglect of commerce with the neighboring American countries, at the south, toward whose doors the Mississippi is constantly flowing. Of the total trade of those nations and islands, *which now amounts to one thousand million dollars annually, the Mississippi Valley controls, directly, less than one per cent.* With a portion of them, namely, Hayti, San Domingo, Porto Rico, the French West Indies, the Dutch West Indies, the Danish West Indies, Argentine Republic, Chili, Peru, Bolivia, Ecuador, Paraguay, and Uruguay, she has *no* percentage of direct trade, at least the official records of the Bureau of Statistics fail to show any unless a trifling amount is included under the indefinite head "all other countries."

In this statement I am using New Orleans and the Mississippi Valley as interconvertible terms, for that city is the only seaport to represent the great region tapped by the Mississippi and tributaries. We cannot expect the Atlantic ports to make a specialty of this trade, for they are occupied chiefly with the commerce of Europe; nor can we expect the cities of the Pacific coast to neglect their own legitimate field—trade with China, Japan, and the Orient. Unless, then, the Mississippi Valley gives to American commerce special attention, it is unlikely to be adequately developed.

Why has it not already given that attention? Chiefly because the general tendency of railway transportation lines in the United States has been east and west, and the water-ways, which reach the seaboard at the Gulf, have been left in comparative neglect. A striking illustration of this tendency may be found in the last report on internal commerce. In treating of the tonnage shipped east across the Mississippi by rail, and south on the river at and between Saint Louis and Saint Paul during the year of 1878, the following estimate is given:

Moved east by rail	4,583,844 tons.
Moved south by river	608,555 tons.

Of course the river tonnage does not represent all the freights shipped south in this part of the valley, but what little addition goes south by rail cannot be sufficient to materially modify the above general assertion.

In further illustration of this tendency may be cited some statistics from the same authority on the customary purchases of general merchandise by the wholesale merchants of Saint Louis, Louisville, and Cincinnati. They are in substance as follows:

Staple and fancy groceries, three-fourths from the East and one-fourth from New Orleans.

Coffee, about 90 per cent. from eastern cities and 10 per cent. from New Orleans.

Drugs, chiefly from the East.

Boots and shoes almost entirely from the East.

Clothing from the East, North, and West—none from New Orleans.

Hats, caps, and fur goods, almost entirely from the East.

I would not seek to diminish the volume of East and West trade. On the contrary I would like to see it increase from year to year, as it surely will with the natural growth of business in this progressive country. But I would also like to see a greater North and South freight movement, and more intimate business relations between the upper and lower valley, and between the whole valley and Spanish America. There is abundant room for the development of commerce North and South, and East and West, without a clashing of interests.

In support of this opinion I will quote the remarks of a railway capitalist whose extensive lines run chiefly in an east and west direction and from whom we would naturally expect opposition, if indeed there was any sufficient ground for it. I refer to Mr. Jay Gould, who sees ample room for profitable co-operation between the river and his railroads in the West. He said last fall to the merchants of Saint Louis:

> We have about three thousand miles of railroad, all of which center here, and it is certainly to my interest to strive for the prosperity of this city. But, gentlemen, there is one great interest here which, it seems to me, you have neglected. I refer to the Mississippi River. You ought to utilize it more in your shipping trade. We expect to bring a great deal of grain to this point, and I do not believe you are in a condition to handle it. I believe Kansas alone will produce fifty million bushels of wheat next year and probably two hundred million bushels of corn. Most of this can be brought here by our roads, and we will also bring a great deal here from Nebraska. You ought to be able to send much of this grain down the river, but you do not now have the proper means of transportation, and I think you should immediately seek to make the needed improvements.

I commend these liberal and statesmanlike remarks to those mistaken individuals who imagine the growth of the Mississippi Valley will in some mysterious way be a detriment to the East. On the theory that what stimulates progress and prosperity in one section benefits all other sections of a common country, I would earnestly advocate a new commercial movement down the great river. When it is once fairly inaugurated it will grow to immense proportions, for it is the natural course of trade. Products of different climates were intended for interchange. The movement will not interfere with the existing commerce of New York, Boston, Philadelphia, and Baltimore on the one side, nor with that of San Francisco on the other, but will simply add new markets to the sum total of the country's commerce and wealth. With an unobstructed river it is possible for us to wrest from England, Germany, and France this enriching Spanish-American trade which they now monopolize. Each year's delay in our control of the same is a serious and unnecessary loss to the business of the whole country.

There are many other extravagant features about the delay in a systematic work of improvement of the Mississippi. Every year we appropriate large sums for the different sections of the river, and for many of its tributaries, in the river and harbor bill. As these rivers of the valley constitute one system, with intimate physical relations to each other, I fail to see either the wisdom or economy of making large appropriations for patch-work, much of which must be temporary in effect. A permanent and uniform plan of improvement is needed, and fortunately has been submitted in the report of the commission.

I might also show the great loss to the country from leaving the rich alluvial lands subject to periodical overflows, from the absence of immense crops of cotton, sugar, and rice which these lands would annually produce if protected. But these are incidental to the improvement of navigation, and I will therefore simply mention them. The direct damage to both internal and foreign commerce from imperfect navigation is sufficiently enormous to make it our imperative duty to hasten this great work of internal improvement.

Have we duly considered how enormous it may be; how far-reaching in its injurious effect upon domestic commerce is a high rate of transportation? I must confess that, notwithstanding a study of this river problem for years, I failed to fully appreciate its commercial importance until I recently attempted a contrast between it and our foreign trade. I find that the improvement of the Mississippi is many times more important to the United States in a pecuniary sense. It will affect an internal commerce some fifteen times greater in value than the total foreign commerce of the whole country.

I reach this startling conclusion by commencing with an estimate of our total internal commerce, contained in the first annual report on that subject by the Bureau of Statistics. It fixes the value of internal commerce on railroads alone at sixteen times that of our total foreign commerce, and the value of all internal commerce by rail, on the lakes, rivers, &c., at twenty-five times that of our foreign commerce. Next, I estimate the total internal commerce controlled by the Mississippi Valley to be at least three-fifths of that of the whole country. What I have already stated concerning the enormous annual products of the valley will, I think, fully support this opinion. Next, I find the value of our total foreign commerce, as officially reported for the last fiscal year, to be $1,157,415,168, and I multiply it by fifteen. The result is $17,361,227,520 as the annual internal commerce of the Mississippi Valley.

Suppose, for instance, the river, by means of its own cheap rates, or by competitive influence upon railway rates, should diminish the present transportation burdens resting upon this enormous commerce of the Valley, what would be the annual saving to the producer and consumer? A saving of one mill to every dollar of commerce would be $17,361,227, and of one cent to every dollar of commerce, $173,612,275.

What has Congress done in recognition of these great water-ways to which the country must look for cheap transportation of its food and commerce? It had up to the year 1876 appropriated but about $18,000,000 for their improvement, while the harbors and other rivers of the country had received about $43,000,000. The State of New York alone had received over $7,000,000 of the total $61,000,000 for the whole United States, and that being insufficient she had appropriated $64,000,000 on her own account to construct a system of canals.

I do not complain of these liberal appropriations for the East, for no doubt they were wisely made; but I assert that the time has now come when the great and growing valley which is producing food and wealth for the whole country and supporting the lucrative export trade of our eastern seaports must receive proper recognition. The producers of the West must never again be subjected to the necessity of burning grain because of exorbitant rates to the seaboard. Agriculture, which is our chief national industry, must be unfettered.

Our constituents are all producers or consumers, and the great majority are fed from the granary of the Mississippi Valley. We cannot serve them to better advantage than by hastening action upon this bill. I repeat that the country cannot afford delay for even one session of Congress.

In conclusion, I wish to explain briefly the object of the bill which I introduced this session providing for the appropriation of lands needed in the prosecution of the work. The bill was prepared in accordance with a recent decision of the United States Supreme Court, which recognizes the right of the General Government to thus order the condemnation of private property without the aid of State legislation or State courts. While opposed to the present tendency in this country toward centralization, I recognize the improvement of the Mississippi as a matter entirely national and beyond the jurisdiction of the local or State government. As the General Government alone has the power to perform this work, I trust it will act as speedily and liberally as the magnitude and importance of the subject require.

Tariff and Excise Laws.

SPEECH OF HON. JOHN F. PHILIPS,

OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, June 1, 1880,

On the bill (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880.

Mr. PHILIPS said:

Mr. SPEAKER: It is an ungracious office to find fault, and we are too often perhaps guilty of "the mischievous, foul sin of chiding sin;" yet I cannot refrain from animadverting upon what this deficiency bill suggests is a growing evil in the administration of the Government.

Laws are solemnly enacted in the interest of economy and to restrain official extravagance and profligacy. Congress provides each fiscal year what in its judgment is essential to conduct the Government. But session after session we are called upon to appropriate and appropriate to make up the deficits resulting too often from bold, palpable violations of the law—from wanton if not corrupt lavishment of public moneys; and instead of enforcing with an unsparing hand the law's penalty and withholding the supplies we condone the offense by providing for the excessive expenditure under the plea that the public service and credit must suffer if the money be not raised.

Congress in fact yielding to the clamor and false notion that the progress and growth of a people are marked by large revenues and their disbursement, seems to have settled itself down to the high function of greaser for the Federal machine. Statesmanship it would seem consists in devising ways and means to wring money out of the people and to get rid of it as fast as possible; and when it cannot be got rid of otherwise, the Secretary of the Treasury wants to take $100,000 to build a vault to hide it in.

The country expected, and every consideration of the public welfare demanded, that this Congress should, rather than deplete the Treasury with appropriations, afford some relief by a modification of the existing tariff and excise laws which hang over our industries like the ancient robber barons over the Rhine to plunder and oppress with their outrageous exactions. The responsibility for the non-action at this session must rest mainly with the republican party. On the test vote of 25th May, 1880, to take up the Tucker bill reported from the Committee on Ways and Means, the yeas were 107, nays 111. Of the yeas there are only 7 republicans, of the nays 12 are democrats, to wit: ATHERTON of Ohio, BACHMAN of Pennsylvania, BELTZHOOVER of Pennsylvania, BOUCK of Wisconsin, BRAGG of Wisconsin, CLYMER of Pennsylvania, COFFROTH of Pennsylvania, GIBSON of Louisiana, KLOTZ of Pennsylvania, MORSE of Massachusetts, WARNER of Ohio, WELLS of Missouri. So there were 100 democrats voting for the consideration of this question, and 99 republicans against it.

It is one of the noticeable features of this controversy that the party in this country which assumes to keep abreast, ay, in the forefront of all that is progressive in government and commerce, is the most tenacious of a system that is a relic of barbarism, and which found a footing in our statute-books on the plea of the weakness and minority of the Republic. The murmuring of the masses against the system for long years was hushed with promises that when the country grew out of its pupilage the burden would be removed. But instead of the promised withdrawal it is a striking illustration of the Arabian fable of the camel that appealed piteously to the Arab reclining in his tent for permission to insert only its head as a covert from the blazing sun. When he got his head in he squeezed in his shoulders, and by and by his hump, and finally he got in his whole body, and forced the occupant entirely out.

The protected interests have grown so rich and powerful that they control the National Legislature. There has not been a day for a quarter of a century when the great body of the American people not drunk with the excitement of civil strife and party passion has not been opposed to our protective tariff. But the minority has dominated because it represents capital, massed and organized for instant action. It holds the centers of commerce. It wields the metropolitan press. And there stand as vigilant as did ever faithful sentinel at advance post on dark night trained lobbyists to march as minutemen upon Congress the moment any movement is made against the tariff. Our desks are immediately showered with printed specious arguments in favor of a high tariff. And the diamond-brooched

chiefs of the protected manufactures are on hand with oily-tongued advocates in well rounded periods to talk the measure to death. Unselfish souls! they tell us it is not so much for Cæsar as for Rome they come to speak. They are simply patriots, whose hearts swell with sad emotions at the dread prospect of a falling off of public revenues if western agriculturists, southern planters, and laboring classes are to be permitted to buy a trace-chain, a woolen hat or shirt, or a pound of salt outside of an American factory. Despite the assurance of Holy Writ, the early rain and kindly sunshine, the earth will refuse to yield her increase, and seed-time and harvest will come no more if salt be free and knowledge untaxed.

Who constituted these men the mouth-piece or guardian of agriculture and labor? Who has a right on this floor to say that a high tariff is wise or beneficent, when the people have not been permitted to test the freedom of the seas or the policy of unrestricted exchange of domestic products for foreign commodities? Will not public sentiment ever again arouse itself in this country, as did a Samson of old, and tear away the pillars of impious temples and slay some Philistines?

Why has not the newspaper press ere this beat the long-roll of battle along its line from ocean to ocean as now? Have the nerves of patriotism no deeper root than the bottom of the editor's pockets? What the press to-day smarts under has for twenty years ground into dust millions of our people engaged in various industries. It might prove in the end a public blessing to prolong the wrong of which the press complains. Let the tourniquet be tightened, if it but swell the outcry against the whole protective iniquity. Yes, make their lives, as did the Egyptians the children of Israel, "bitter with hard bondage in mortar and in brick, and in all manner of service," if it but raise up some Moses who will slay an Egyptian. What is "pulp" compared with the fifteen hundred other dutiable articles in our tariff list, which has built up in a democratic republic a shoddy aristocracy, a vast army—the spawn of executive patronage; which makes hired spies a necessity, smuggling respectable, perjury common, and is filling the land with a plenteous harvest of pious prostitution and reverend rascality? The duty on paper, unsized, used exclusively for printing books and newspapers, is 20 per cent. *ad valorem*, while the average rate of duties on all imports is 40 per cent.

If, as has been said, a nation's consumption of paper be the measure of its civilization, ours is replete enough, for there are one thousand paper-mills in it, with a capacity for producing two thousand tons of paper per day. They certainly need no additional legislative stimulus.

Let our ports of entry be opened as free as our alleys to the ragman, and for wood-pulp, alum, caustics, soda, &c., for the newspaper men; and let us have some consideration for the millions of consumers who pay 29 per cent. on breadstuffs; 49 to 64 on sugar; 43 on fish; 47 on salt; 30 on clothing, hats, caps, shirts, drawers; 57 on trace chains; 35 on plow-lines, plows, saws, tools, axes, horse-shoe nails, needles, and knitting-needles; and worse duties on leather, buttons, medicines, combs, corsets, crinoline, hubs, wheels, flannels, blankets, pen-knives, and jack-knives, &c., articles that enter into the necessaries of every poor man's daily life and consume his wages.

Everywhere and anywhere in this broad, fat land of ours it requires no eye of fancy to see the picture of the miserable hovel where the specter of squalid misery sits day and night, like the devil hag in the window of Alloway Kirk, pointing the long, bony finger of derisive despair at the weary laborer returned from his day's toil, sitting supperless before his spent fire, with hungry children before him, and the half-clad mother with skeleton babe pressed to her desert bosom, because on the very rags that make up their dress, on their humble salt, the iron spoons, knives, and forks, the salt-cellar, the table-cloth—if he have one—the bread, the rustic table, the cook-stove, skillet and oven, hooks, shovel, and tongs, and the matches that light the fire, and even the medicines that save life, is a protective tariff tax. And yet because the tax has been taken off tea and coffee we hear of a "free breakfast table."

In looking over the list of dutiable articles one is struck almost with admiration at the devilish ingenuity of its minutiæ to catch everything. Statesmanship in our National Legislature seems to have exhausted itself almost in the study how to gather taxes and foster a tariff. It has been truly said:

> We are taxed for our clothing, our meat, and our bread;
> On our carpets and dishes, our table and bed;
> On our sugar and our bowl, our fuel and lights,
> And we are taxed so severely that we can't sleep o' nights;
> And the Star Spangled Banner in mourning doth wave
> O'er the wealth of the nation turned into the grave.
> We are taxed on our houses, our stores, and our shops,
> On our stoves, on our barrels, our brooms, and our mops;
> On our horses and cattle; and if we should die,
> We are taxed on our coffins in which we must lie.
> We are taxed on all goods by kind Providence given;
> We are taxed on the Bible that points us to Heaven;
> And when we ascend to the heavenly goal,
> They would, if they could, stick a stamp on our soul.

You cannot get up in the morning to comb your head or tie your cravat without being reminded of a custom-house, for there is a tax on your comb and looking-glass. If old age is creeping on you apace and your eye-sight is growing dim, you must look through spectacles with a 40 per cent. tax on them. If you want a rope to plow with or to hang a felon or yourself, you must pay a duty of 40 per cent. on it. Even the nursery maid as she adjusts the "diaper" and sings the lullaby of "by your baby by" is reminded of a 35 per cent. duty added to her already unpleasant duty. And when we come to foreign wines, no plebeian need apply even for a smell. These are so highly taxed as to reserve them for the delectation of the dainty palates of our patrician millionaires and shoddyites, the peculiar product of the protection to American industry. The golden glimmer of the Liebfraumilch, from the vintage of historic Worms, and the tantalizing mellow hue of the Johannisberger, from the beautiful chateau on the Rhine, find their way through our custom-houses to the tables alone of our princes, while the man of moderate means only reads of them in books and newspapers on which he pays an *ad valorem* tax.

The protection to this product is quite essential to the methods of modern American partyism, for it makes a harvest-field for the army of party agents, not only of custom officers, but internal-revenue officers, gaugers, and spies that infest the land as did the lice Egypt, the locusts our western farms, the English custom officers and tax-gatherers poor Ireland and the border Scotland, harassing, hunting, worrying the people, until often all that is docile and humane in them is smothered, and all that is wolfish and savage leaps wild into "hot and eager life" for revenge.

If our republican friends should give us for our next President the silent hero, who was last in war, least in peace, and never in the hearts of his countrymen, after his circumnavigation of the globe and quaffing wine at all the royal boards, like the Paladins at the table of Charlemagne, and especially in view of his sad and useful experience with the "Sylph dispatches" and the "whisky ring," the democracy, in justice to our imputed weakness for the "critter," ought to take some consolation at least in the hope that he would not veto a bill to put "liquors" on the free list.

Our boys are not allowed to have even a merry Christmas or a free "Fourth of July," for there is laid on them in every fire-cracker burst in the air a tax of 115 per cent. Nor can anything be allowed to run smooth and free in this country, for there is a duty on even grease. The very hairs of our heads are numbered in this tariff list. Hair in braids, curls, or ringlets, hog's hair, even raw hair and unclean hair, if it is not drawn, pay an *ad valorem* tax.

Our women have nearly all under the mild despotism of modern society been brought to the scratch; but they must patronize none but native American hair. This is to promote American industry! I suppose it is to encourage home hair culture. Under the auspices of the prospective republican administration, with the great fertilizer at the head, we are, I presume, to plant our girls possessed of promising tresses and gather annually the luxuriant crop like unto the wool-growers. If this branch of protective policy should make American hair a desideratum in market, it may encourage ultimately domestic hair-pulling to the disquietude of all married men.

THE FREE LIST.

Some of the enumerated articles under this head are suggestive. We find the "Balm of Gilead." They had taxed the Bible, the vestment of the priesthood and the sacrament, and knowing their sins they concluded to let us at least have grace and the balm in Gilead free. "Bitter apples" (Dead Sea fruit, I suppose) are let in free, as there could be no competition with them. As a bid for the German vote, Bologna sausage and sauerkraut pass the custom pickets unchallenged. Cochineal and cotton dyeings are admitted untolled, but this, like many similar articles on the free list, is a gratuity to the manufacturer.

But one is puzzled when he reads on the free list "asses' skins, raw" to understand why these should find free entry into a country to which this animal is almost indigenous, being in season and out of season braying in office or to get in. It is unaccountable on the protective theory that we must exclude what we produce. It may be that our American asses will not die fast enough, and our people have not learned the valuable lesson of slaying them for their hides.

"Saint John's beans" (whether *faba venegaris* I know not) pass without fee; but Jonah's gourd seems to have been overlooked by the member from Pennsylvania, [Mr. KELLEY.]

As a fitting symbol of the fact that the dutiable list has gotten all the *meat* out of our importations and the free list is a gratuity of dry bones, "skeletons and other preparations of anatomy" may be dumped upon our shores for the hauling. But even the "skins," dried, salted, or pickled, are first taxed 10 per cent.

The greatest display of liberality on the part of the tariff statesmen, the best illustration of the progress made by the free-traders, is found toward the foot of the list: it is "snails." This concession was made to the foreign snail with the assurance, which a knowledge of this specimen of the genus Helix gave, that it would never reach here in time to interfere with the monopolists of this age.

It is gratifying, however, to note that "spunk" is admitted without hinderance. It is to be hoped that enough of this touchsome article will get abroad in the land to fire the hearts of the people. We need in this tariff crisis some foreign spunk such as blazed forth from the smutched muse of the blacksmith, Ebenezer Elliott; such as roused the intrepidity of that sturdy yeoman, Richard Cobden; as touched with oratorical fire the rugged Saxon speech of John Bright; gave color to the palette and sweep to the pencil of word-painters like Daniel O'Connell; as glowed in Charles Villiers's logic and kindled the soul of Sir Robert Peel as they cried out against the mon-

strous iniquity of England's corn laws, that so long gnawed like a worm at the heart of her prosperity.

Why should we longer endure the miseries of our tariff exactions or parley with its advocates? They can no longer take refuge behind the plea of needed public revenues. The Secretary of the Treasury, Mr. Sherman, in his speech last month before the board of brokers of Philadelphia, stated:

> The Government has an overflowing Treasury; * * * that the public debt is reduced at the rate of $10,000,000 a month.

Is it just, then, to continue to lay your tribute duties on the shoulders of a people staggering to their feet from a recent panic? Last year they paid under the war tax into the public Treasury on three articles of prime necessity $65,656,996, namely: sugar and molasses, $40,275,483; wool and woolen goods, $18,805,240; cotton goods, $6,576,273. This year they will contribute at least $75,000,000.

The following official statement from the Bureau of Statistics, based on the census of 1870, on a few leading articles, illustrates the relative benefit annually resulting from our tariff to the manufacturer and the public Treasury. The coming census will present even a more glaring difference:

Statement showing the value of some of the principal manufactured articles subject to customs duties produced in the United States during the census year 1870, the amount imported and entered for consumption during the fiscal year ended June 30, 1870, the amount of duty collected on the same, with the average ad valorem rate of duty and the percentage of the amount imported.

Manufactured articles.	Amount produced in the census year 1870, according to census.	Amount imported during the fiscal year 1870, entered for consumption.	Amount of duty collected during the fiscal year 1870.	Rate of duty, (average.)	Percentage of imported.
				Per ct.	
Agricultural implements	$52,066,875	(*)	.....	.....	.....
Brass and manufactures of	10,459,735	$60,554	$19,052	31.46	.58
Brick and tiles	20,028,359	75,428	16,368	21.70	.37
Brooms and brushes	9,317,108	248,055	99,192	39.98	2.63
Carpets	22,766,900	4,208,261	2,771,145	65.85	15.60
Carriages and wagons	67,386,548	23,423	8,198	35.00	.03
Cars, railroad	31,070,734	(*)	.....	.....	.....
Clothing	161,560,836	4,058,142	1,887,015	46.49	2.45
Confectionery	15,922,643	17,673	9,996	55.81	.11
Copper	14,074,583	654,344	255,028	38.97	4.44
Cotton goods	177,903,687	21,900,898	9,188,622	41.96	11.09
Furniture	69,088,694	805,881	282,059	35.00	1.17
Gunpowder	4,011,639	27	14	51.85	.....
Hats	28,073,930	488,666	216,273	44.26	1.72
Iron and manufactures of:					
Iron, bars	128,062,627	3,028,213	1,590,050	52.51	2.21
Scales	2,823,816	(*)	.....	.....	.....
Screws	3,425,473	34,704	17,487	50.39	1.00
Sewing-machines	15,847,304	57	20	35.00	.....
Wire and wire-work	8,017,625	137,450	66,938	48.70	1.68
Machinery and other manufactures, not otherwise provided	140,003,698	20,710,323	9,822,972	47.43	13.13
Leather	157,237,597	6,141,487	1,768,653	28.96	3.76
Boots and shoes	181,644,090	(*)	.....	.....	.....
Saddlery and harness	32,709,081	61,189	21,416	35.00	.19
Marble, manufactures of	30,233,514	479,336	303,309	63.25	1.56
Musical instruments	13,905,908	704,593	211,378	30.00	4.91
Oils	26,971,047	1,470,693	433,277	29.45	5.17
Paper	48,676,935	1,761,099	431,719	24.51	3.64
Starch	5,994,422	17,642	8,937	50.66	.28
Lumber	303,545,452	8,315,162	1,693,940	20.37	2.66
Wool and manufacturers, and worsted goods	†163,388,527	37,975,203	23,408,198	61.64	17.98

* Not separately specified. † Not including carpets.

J. N. WHITNEY.
Acting Chief of Bureau.

Hon. JOHN F. PHILIPS,
House of Representatives.

This is an instructive exhibit. It shows what a frightful disparity exists between the bounties secured to the manufacturer and the benefit to the public Treasury. For instance, the profit paid to the manufacturer in one year on hats was $12,352,529.20, while the Government received only $216,273; on clothing, $74,317,984.56, and to the Government only $1,887,015; on iron-bars, $67,233,879.17, and to the Government only $1,590,050; on boots and shoes, $181,644,090; to the Government, not one cent.

An examination shows that on many of the articles enumerated in the bill now before the House, on which it is proposed to reduce the tariff, the present duty is almost prohibitory. The revenue on cut-nails and spikes is only $107.03; on wood-pulp, complained of by the newspaper men, only $152.80; on cast-iron butts and hinges only $44.13; on horse-shoe nails just $2; on hatter's-plush, composed of silk and cotton, $1.31; while millions go into the pockets of the manufacturers. Year after year these millions on millions to the manufacturer are wrung like drops of blood from an oppressed people by the inquisitorial process called protection. That its beneficiaries should defend it on this floor is but an evidence of human greed.

The boast that it creates a home market for the producer is a snare and delusion. Under the comparatively low tariff of 1860 10 per cent. of our wheat crop was exported, and ½ of 1 per cent. of our corn crop. Now 33 per cent. of the wheat and 2½ per cent. of the corn crops are exported.

In 1860 we were the greatest ship-building nation in the world. We built for Brazil, Spain, Portugal, Turkey, and Greece; and three-fourths of our exports and imports were carried in American bottoms. Proud indeed, then, was the American citizen when he went upon the high seas to witness our majestic ships riding everywhere; and his heart was perpetually made glad to see gaily floating from the mast-head of these transports out in the wide, wild ocean the Star Spangled Banner, "radiant with glorious memories and gleaming in every fold with the light of unbroken constellation." But during our unhappy war, when so many thousands of us were standing upon "the perilous edge of battle" in defense of that flag, our Pennsylvania iron-men and Maine lumber-men thought to snatch a fortune through legislation, and called it "protection." They have grown rich and insolent while our flag has almost disappeared from the seas, and our exports and imports are to-day carried in foreign bottoms.

The last quarterly report of the Bureau of Statistics presents the following exhibit, which tells its own story in the cold, irrefragable logic of figures:

	No.	Tons carried.
American vessels entered in 1879	9,093	3,350,853
Foreign vessels entered in 1879	24,301	13,949,164
American vessels cleared in 1879	8,909	3,354,439
Foreign vessels cleared in 1879	23,903	13,749,268

Estimating at a very low figure the annual product of our domestic manufactures at $3,000,000,000, protection puts a yearly tax upon the whole people of at least $600,000,000, not one cent of which goes into the public Treasury.

Nor can the proposition be any longer maintained that the incidental protection is necessary to nurture our infant factories against foreign competition, because the summary statement of the Bureau of Statistics for January, 1880, shows that our exports of domestic merchandise for the preceding seven months aggregated $483,397,692, against $421,406,447 for the corresponding period in 1879. Exports of foreign merchandise, dutiable, for the same period, aggregated $4,158,392.

It would be both curious and instructive to analyze this last list, if time permitted, in view of the clamor we so often hear in favor of protecting certain enterprises so as to keep them going.

In the city of Dublin, Ireland, I bought three years ago a lead pencil, manufactured in America, for two cents, for which we pay here five cents. Protection enables the protected to plunder at home and speculate abroad.

Take the item of extract of hemlock bark used for tanning leather. Our forests are almost cleared of this tree, the tanners using twelve hundred and fifty thousand cords of bark a year. Yet there is a duty of 20 per cent. on the extract, while the Government only realizes $5,042.60 out of the duty. The balance is for the few owners of this forest who hold for speculative prices. So of salt. The average cost of a sack of salt of two hundred pounds is thirty-two cents in Liverpool. The duty on it, twenty-four cents, is levied for the benefit of a few northern manufacturers. This is a crying injustice and an outrageous discrimination against the West and South. On all imported salt used in New England for preserving their principal product, fish, they get a drawback to the full amount of the duty. They have not much more to salt than their fish and stomachs. But on all the salt used in the vast region of the Northwest, Southwest, and West, on stock, alive and slaughtered, this immense bounty is paid. No wonder a distinguished Senator dubs it, "Free salt for Yankee fish; taxed salt for Texas cattle."

Mr. Speaker, no such bundle of anomalies as this review presents should stand a year longer on our statute-books. We can never reduce our taxes or lift the mailed hand of misgovernment from a discontented people until we change this policy. It fosters a dangerous element in the land. The pampered classes, enriched by such a policy, are always for extravagant government and heavy taxes. They consider high duties as bounties to them; and, therefore, they care not if the surplus revenues be thrown into the Potomac and the life-blood of labor be sucked up, for do they not ride on the whirlwind and laugh at the storm? They are always the favorites of the powers that be, for they beget the necessity that maintains a vast horde of Government employés that lounge and dally in the sunshine of executive patronage. They are the enemies in disguise of agricultural development, because the proffered bounties and gains to the manufacturer attract to this pursuit the capital and labor of the country. It took England two allotted lives to learn this, during which she waded through seas of bloody riots, and gazed on horrible pictures of famine, desolation, and despair, to which her recent tenant troubles and misery bear no parallel. Her free-trade experiment was followed for twenty-five years with unexampled prosperity. Her present troubles are not its fruits, as alleged by the advocates of protection. They lie primarily deep down in her miserable, rotten land-tenure system, in her laws of primogeniture and entail. She was caught latterly in the financial storm that swept the hemispheres. Superadded to this, from 1874 to 1879, there was failure of crops, with a deficiency of 130,000,000 bushels of wheat.

Free trade no more than protection, when the heavens are as brass and the earth is parched, can bring forth the green blade or fructify the barren stalk. Protection in America for seven long years, beginning in 1873, did not save this people from the wreck of fortunes and the accumulation of financial miseries as desolating as the Carnatic of Hyder Ali.

GERMANY.

The protectionists are just now exultant over the victory achieved by the protection party of the Reichstag in returning the imperial government of Germany to a moderate tariff. Cursed with wars, with a standing army of over four hundred thousand men, her landwehr establishment draining her revenues and devouring the yield of her neglected fields, in the culmination of poverty and distress inevitably following hard upon such conditions, it was natural for her great premier, and men like Von Kardriff and Grothe, who live in the blaze of military glory and pomp, to seek some other solution of the pressing problem of distress and discontent among the masses than the disbandment or reduction of her vast army, the reconstruction of her land system, the cultivation of the arts of peace, and the invigoration of her commerce dependent on a condition of peace. It will be time enough to make deductions from this latest phase of her despotic selfishness and seclusion when we see the fruit.

Any comparison instituted between the states of Europe and the United States of to-day touching their internal policy or external commercial relations is fallacious and misleading, because the conditions are wholly dissimilar. America is without a parallel. It is the granary of the world and the greatest stock-growing region known to civilization. Bounded only by the oceans, it presents in its diversity of lakes, rivers, railroads, valleys, plains, and mountains a panorama of productiveness and wealth that strikes fancy dumb and challenges computation. Who can rival it or set bounds to its development, or measure its capability of expansion? Of its three million square miles, with favoring climate and varying soil, with every adaptability, with her energy and inventive genius harnessing every appliance of mechanical power for its utilization, only about one-fourth of it is yet in cultivation. We have outgrown the limits of a home market, and our expanding energies and growth pant for the open sea and the markets of the world.

The science of political economy, intelligent husbandry, and applied mechanics laugh to scorn the folly of making manufacturers of a community that can make two dollars growing grain and cattle where they would only make one in becoming manufacturers. No legislation can make a land bear its hundred-fold that God has cursed with sterility. The high-tariff tinkers have ever, against the teachings of Holy Writ and the laws of nature, tried to gather grapes from thorns and figs from thistles and goat's hair from camels' backs. They would have England raise her own wheat at a cost of $1.50 a bushel and beeves at 16 cents a pound, when an American farmer can land at Liverpool wheat at $1.12 and beeves at 10 and 12 cents.

In commerce nation must lean on nation as man on man in society. The future of America invites to reciprocity. Freedom of exchange becomes more and more a necessity as the years unfold our resources.

Our exports last year were—

Wheat	$160,000,000
Corn	40,000,000
Butter	5,000,000
Lard	23,000,000
Ham and bacon	57,000,000
Cheese	12,000,000
Live stock for nine months	9,411,011
Leaf-tobacco for nine months	23,248,922

All Europe begins to look to us for supplies, and bids us come and barter and exchange with them our surplus for their products.

In our diplomatic and consular appropriation bills, session after session of Congress, we are appropriating the people's money, and are urged as often by the other side of this House to increase these appropriations, to establish and extend our commercial relations with all nations, "tribes and kindred;" and then this same party advocates and clings to a protective policy that would close our ports against the world. There is neither faith nor consistency in them, nor indeed, Mr. Speaker, is there any sequence to our boasted liberty without the right of free exchange and to buy where we can get the best and cheapest. A law like our present tariff, that practically denies this right, is tyrannical. It is confiscation and robbery, bold, bald, and unqualified. To compel me to buy of a New England factory a knife or hat at one dollar when I might buy elsewhere at fifty cents is to take, under disguise, my property against my will and give it to another. Our criminal codes put men in the penitentiary and shave their heads as felons for like appropriations. But Congress by law throws over associations of men the panoply of protection for extorting by indirection millions of money from all classes of our people, even to taking the crust from the hungry and rags from the beggar.

Democrats and republicans, who love justice more than power, and patriotism more than party, and you, men of "the center," on whose banner is emblazoned the word "Reform," why cannot we for once mass our forces, and, like Prince Rupert of Bavaria, burst on every flank of this haughty tyrant, bloated with the debauch and laden with the plunder of years of spoliation, and win a victory that will gladden the hearts of thirty millions of our people?

Refunding of the National Debt.

SPEECH OF HON. CYRUS D. PRESCOTT,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Friday, June 4, 1880,

On the bill (H. R. No. 4592) to facilitate the refunding of the national debt.

Mr. PRESCOTT said:

Mr. SPEAKER: In the consideration of this bill much valuable time of the House, with all its anxiety for an early adjournment, has been consumed in the detail of the cause and mode of creation of our national debt and in tracing some analogy in its existence and increase with that of other nations like sufferers.

The inevitable conclusion reached is that all national debts are the outgrowth of war. They have failed to suggest that had our war been waged like Napoleon's, for conquest, like his it might not have left such a result. From this stand-point it becomes a part of the fearful price paid to maintain our nation, and which, by the magnanimity of the loyal States, has become a self-imposed burden.

The amount of the debt was and continues so immense that we have no just comprehension of its amount. It was contracted in less than four and a half years, increasing at one stage of its creation at the rate of $2,000,000 a day, with hardly the knowledge of a people then only mindful for the result of the war. The public, after the roar of artillery had ceased and the smoke of battle had floated away, for a season thoughtlessly enjoyed the repose of its immediate results, but soon awoke to the fact of the existence of an incomprehensible load, still knowing but little of its terms or form, and it has continued largely an enigma used as the stock in trade of demagogues and adventurers, who by bold false assertions and adroit manipulation of figures claim to prove (irrespective of truth) such results, past, present, and future, as best suit their designs. This is evidenced by many of the speeches on this bill.

The gentleman from Maine [Mr. LADD] chose to charge its existence upon the republican party in these words:

> The republican orator, when he looks at the record of his party in the matter of a magnificent bonded debt, can well exclaim, "What a mighty achievement!" What country can present so vast a record in so short a time of the subjection of so great a nation to bonded wealth—extraordinary both for the power of those who could impose the burden and for those who have been educated so nobly to bear it. Truly, it is a development of a holy patriotism, born of the love of country at an epoch when that country was governed by equal laws, equal rights, and equal taxation.

It should be remembered that coupled with the charge comes a financial record to the nation of credit fully restored and a system of liquidation inaugurated that promises in the life-time of the present generation to fully remove the burden, and this under the management, policy, and direction of that party and to its glory.

Resumption has become a financial fact, hope inspires all industries, the near future promises ample revenue for early and full payment, the amount to be paid is fixed. Then why cavil that the nation when a doubtful debtor with credit at zero and below paid too high rates for imperative loans, and why quote page after page of the sayings of the fathers of the Republic to prove a debt—personal, State, or national—is an incubus to be removed in the most speedy manner consistent with safety and honor?

Whatever the history of the debt, however much we regret its cause or existence, it still remains to be met and provided for, and each class of the liabilities of the Government as they mature should be treated, in the honest words of the gentleman from Georgia, [Mr. FELTON:]

> We must meet these maturing bonds, and I think love of country and a due regard for the interest of the people require that we make arrangements to cancel them at the time their payment comes within the option of the Government or as soon thereafter as the surplus revenues of the country will permit.

In 1865 at its largest the national debt was $2,756,431,571.43. On the 1st of June, 1880, (including all legal-tender notes, certificates of deposit, fractional currency, and gold and silver certificates outstanding,) the debt less the cash in the Treasury was $1,952,386,719.85; making a decrease of $804,044,851.58, or over 29 per cent. of the original amount. Of the amount now outstanding $1,735,698,400 is the whole sum subject to or now paying interest. Of this sum the Government is now called upon to provide for the following maturing obligations redeemable in 1880 and 1881, as stated by the Secretary of the Treasury in his last annual report, namely:

	Interest.
Redeemable December, 1880	$18,415,000—6 per cent.
Redeemable May 1, 1881	508,440,350—5 per cent.
Redeemable June 30, 1881	254,392,550—6 per cent.
Redeemable July 1, 1881	823,800—6 per cent.
	782,071,700

This comprises the several classes of bonds which can be paid and the date when the Government can avail itself of the privilege of paying them off or stopping the payment of interest on them.

The question is not how, why, or when this indebtedness was created, but how shall it be provided for?

The bill now before the House proposes—

First. That the Secretary of the Treasury may issue bonds to the amount of $500,000,000, which shall bear interest at the rate of 3½ per cent. per annum, redeemable at the pleasure of the United States after twenty years, and payable forty years from date of issue.

Second. That he may also issue notes in the amount of $200,000,000, bearing interest at the rate of 3½ per cent. per annum, redeemable at the pleasure of the United States after two years, and payable in ten years from the date of issue; but not more than $40,000,000 of said notes shall be redeemable in any one fiscal year.

Third. That he may issue certificates of deposit to an amount not exceeding $50,000,000, fixing the rate of interest to be allowed thereon at 3½ per cent. per annum for one year, after which interest shall cease; and the said certificates shall be convertible at the option of the holder, when presented in sums of $50 or multiples thereof, into the coupon or registered bonds authorized by this act.

By these three provisions, the Secretary may issue bonds and certificates to the amount of seven hundred and fifty millions. The bonds, as already stated, maturing in 1880 and 1881 amount to $782,071,700, and for the conversion of which into securities bearing a lower rate of interest, this bill is now before us. The annual interest now paid upon the $782,071,700 is $41,839,898. The annual interest which these new bonds will call for will be $26,250,000. The annual interest which will be saved by the operation of this bill will be $15,589,898.

It assumes that the surplus revenues will meet the difference between the amount maturing, $782,071,700, and the amount so provided for, $750,000,000. This seems assured by the fact that during the past month there has been paid $15,928,033.87 of the debt.

The bill further provides for the right of the Government to pay each year $40,000,000 of the bonds therein provided to be issued; and the questions most prominently forcing themselves upon us are:

First. Is the interest provision of the bill the best and lowest that should be inserted for a home market?

Second. Should the Government reserve the right of earlier redemption?

Third. Shall the cash reserve in the Treasury, in whole or part, be directed paid out on maturing obligations?

Home financiers agree that the present surplus capital of the country will float the proposed loan at the rate offered—3½ per cent. This will reduce the present interest charge $15,589,897 per annum, without taking into account the continual decrease from yearly reduction of the debt, and would be a reduction of annual interest of $82,793,816 from the original charge.

Three and one-half per cent. in comparison with the rates but lately paid appears a large reduction, and may be as low as the Government should attempt an independent loan; but taking into consideration the provision of this bill that these bonds will be the only ones receivable as security for national-bank circulation, there seems no doubt that a 3 per cent. bond would be promptly taken for at least some $500,000,000, if designated solely for that purpose.

As to whether the Government should reserve the right of earlier redemption than that provided for by this bill, it is certain that nothing should now be done that will cripple or endanger our present prosperity, bring doubt upon the prospects of the future, or prevent the continued and prompt reduction of the debt. We have reached a period in the financial history of our country when it is no longer necessary to pass acts or resolutions of assurance that the nation's debt will be paid or to designate the funds for its payment to give assurance of value. Masters of the situation, we should not allow delusive prospects of present revenues or fears of future unexpected disasters to control our action. Remembering that the Government in the past fifteen years of recuperation from war, ruin, and general financial disaster has paid over 29 per cent. of the original debt; that the debt has been reduced in the past eleven months $74,820,536.52, and for the past month $15,928,033.87; that the interest charge has been largely reduced and is continually decreasing, there would appear abundant reason for reserving to the Government a right of yearly payment of more than $40,000,000 per year, and not less than $75,000,000.

Not believing with those who claim that duty or justice demand that the present generation should pay this debt, I would call attention to the fact that this was only a small part of the cost of the war, and that it recalls mutely but no less eloquently to this generation a larger though untold amount of treasure they sacrificed that the coming generation might be a nation. They can never know or adequately appreciate the cost of their heritage, and it is asking but a trifle of them that, with their rapidly increasing population, greater wealth, larger resources, increased revenues, more property and means, they should pay some part. What portion of the present cash balance in the Treasury (reported on the 31st of May, 1880, at $161,667,839.96) should be therein retained to insure resumption and the nation's credit is an open question. The Secretary of the Treasury, with his unexampled opportunity of observation and experience, insists that safety demands the reservation of this fund to at least 40 per cent. of the floating liability. In time of war every newspaper correspondent, with no personal knowledge of the entire situation, its perils and probable disasters, will, on paper, more ably order the battle than the best general in command. Men with no means of or claim to knowledge of finance are now the foremost in knowledge of the exact amount of reserve necessary to be kept, but until the Secretary of the Treasury proves inefficient or incompetent for the situation, (which is not now true,) he and he only should continue the judge of the necessity. The permanency of the present resumption should not be imperiled by an inflexible law, giving directions to the Secretary and compelling action without regard to results.

Our national debt is not one-half of either that of France or Great Britain and Ireland. They, with no prospect of increase of resources, have lost all hope of ability to pay a debt increasing instead of diminishing. Our nation, with over one billion acres unsurveyed and undeveloped lands; with an acreage twenty-nine and one-half times greater than that of Great Britain and seventeen and one-half times greater than that of France; which sold and settled a territory last year one-eighth as large as Great Britain and Ireland; with five times as many miles of railroad as Great Britain and Ireland, and six times that of France, can already calculate when the end may be. Last year our exports amounted to $710,439,441, giving us a balance of trade of $264,661,666 over all imports. We produced 420,122,400 bushels of wheat and 1,388,218,750 bushels of corn, not naming the almost unknown values of other products and vast sums in valuable metals. With a productive acreage unknown and but slightly developed; mountains of untold wealth; valleys stored with treasures sufficient for ages to come, unstinted in resources and with incalculable possibilities, there exists no doubt but that at an early day, (against the wishes of our national enemies and in the face of the prophetic croaking of its doubtful friends,) with less personal sacrifice than any nation of the world, we shall fully redeem every national pledge and celebrate the removal of its war burdens.

Free Trade in America Means Low Wages for the American Laborer.

SPEECH OF HON. MARK S. BREWER,

OF MICHIGAN,

IN THE HOUSE OF REPRESENTATIVES,

Wednesday, June 9, 1880,

On the bill (H. R. No. 6188) to regulate customs duties upon certain articles named therein.

Mr. BREWER said:

Mr. SPEAKER: For six long years the unemployed laborer of this land struggled for the necessaries of life. He roamed from town to town and from city to city, begging for employment and for bread, until he received the appellation of "tramp," a name until then unfamiliar to American ears. In 1879 our people were blessed with an abundant harvest, and the smoke from the burned-out furnace again darkened the sky; the loom and the spindle began to move and the wheels of American industry began to turn. The wandering laborer found employment at fair and remunerative wages, and it seemed as if the cheerless and icy hand of distress had been removed from the people, as if the frowns of adversity had been transformed into smiles of joy. The long-looked-for day, when all the money of the people should be of a uniform value, had arrived, and everything seemed to indicate that the nation had again started out on the desired mission of prosperity.

But, Mr. Speaker, education is not the only bane of the democratic party. Good times—the prosperity of the people—are equally as ruinous to the hopes of that party as intelligence. When prosperity reigns in the country the republican party stands forth in giant strength; but, on the contrary, when adversity and depression of business comes, then the democratic party glorifies itself in victory; hence, the bill in question which is to so depress our national industries is given birth by this democratic House. I thank God that I do not belong to a political organization whose increased strength is dependent upon the misfortunes of the people.

It is said that the bill under consideration is proposed to lessen the burdens of the people. How is this to be done? The friends of this measure tell us it will tend to furnish the products of labor to the consumer at a less price than the same can be furnished at the present time under existing laws. Conceding that to be true, yet it is equally true that if we, by our legislation, reduce the price of that which our home labor produces we correspondingly reduce the value of that labor itself. Who is it that is praying for the enactment of this measure? Is it the laboring-men of the country who fill our workshops and our manufactories? No one will claim that. Is it the farmer or the manufacturer himself? I have neither heard of nor seen any petitions asking for the passage of this bill from the people representing these two great interests. It is said that the agricultural interest of the country demands the enactment of this measure. Sir, a very large proportion of the people whom I have the honor of representing on this floor are engaged in agricultural pursuits, yet not one of them has solicited me to support this bill.

Gentlemen talk about legislating in the interests of the farmer, and yet, at the same time, urge the passage of this measure, which, should it become a law, would tend to ruin one of the most extensive interests of the agriculturists, that of raising wool, an interest more general and extended over the country than any other. The present tariff law relating to the duty on wool and woolens was enacted in 1867 and framed in the mutual interest of the wool-growers.

and the woolen manufacturers after the leading men engaged in these industrial pursuits had been consulted and heard by the Committee on Ways and Means. Under these wholesome tariff laws the wool product of the country has increased from 147,000,000 pounds in 1867 to 232,500,000 pounds in 1879, an increase of 85,500,000 pounds, and it is a remarkable fact that there was a less number of sheep in the United States in 1879 than in 1867, notwithstanding the large increase in the amount of wool grown. This has been brought about by the improvement in the stock of sheep, causing a greatly increased average weight of fleece. During the last twelve years there has been a large decrease in the number of sheep in the eastern and northern States, while the number has increased in Georgia, Tennessee, and Texas and in the Territories and Pacific States. The State of Texas, which but a few years ago had only a few sheep except of the native Mexican breed, now has about 5,000,000, and much of its wool product equals in quality that of Ohio. Notwithstanding the encouraging start which this industry has in Tennessee, Georgia, and Texas, the Representatives from those States on this floor are the most active advocates of this measure which must greatly depress that growing industry.

During the last decade the improvement in the quality of our wool has greatly exceeded the ratio of increase in quantity, until very much of the wool produced in our own country equals the finest of the Saxon wools. Breeders of sheep in Australia and South America are purchasing rams from American breeders to improve their own flocks, and but a few months ago I saw in this city the secretary of the National Wool Growers' Association as he was returning from Japan, where he had been with two hundred sheep from his own flock for the government of that country. In 1860 we produced but a small quantity of combing-wool, but purchased from Canada alone over three million pounds annually, while now we are producing about ten million pounds of that wool annually, which will equal in quality the best English wool. This great increase in the quantity and improvement in the quality of our wool has been reached under our present tariff laws, and the country has thereby been enriched in wealth by untold millions. Yet the so-called friends of agriculture and of the farmer are advocating the passage of this bill, which, should it become a law, will largely decrease the value of every pound of wool grown in this country. If the advocates of this bill are the friends of the farmer, well may the farmers of the country pray to be saved from their friends.

The table which I here present shows the value of wool and woolen fabrics imported from foreign countries for ten years preceding and twelve years succeeding the enactment of our present tariff laws:

Years.	Wool.	Carpets.	Worsted dress goods, &c.	All other manufactures of wool.	Total wool and woolens.	Total imports of merchandise.
1858	$4,022,635	$1,542,600	$10,780,379	$14,163,112	$30,598,726	$263,388,664
1859	4,444,954	2,200,164	17,407,213	14,026,339	38,078,670	366,166,311
1860	4,843,385	2,542,523	19,730,287	16,767,516	43,883,711	353,616,119
1861	4,746,494	1,756,267	15,573,893	11,796,556	33,873,410	289,310,542
1862	6,480,306	466,596	2,395,856	14,441,904	23,784,662	189,356,667
1863	12,353,298	1,016,562	1,744,639	18,267,973	33,382,472	243,335,815
1864	14,743,627	1,658,380	10,069,768	24,649,369	51,121,144	316,447,283
1865	6,726,059	474,061	8,241,238	12,177,758	27,718,516	238,745,580
1866	10,068,533	2,866,075	21,247,936	33,098,016	67,280,560	435,812,066
1867	6,681,094	3,851,126	19,397,252	21,509,425	51,438,897	395,763,100
Total	75,110,385	18,474,354	126,588,461	180,897,368	401,070,768	3,056,059,187
1868	4,079,894	3,387,600	24,732,033	1,809,355	34,008,882	357,426,440
1869	5,600,958	4,136,999	16,952,014	13,964,236	39,754,207	417,596,379
1870	6,743,350	3,940,707	15,447,960	14,660,403	40,792,420	435,958,408
1871	9,780,443	4,691,061	18,586,874	20,022,935	53,081,313	520,223,684
1872	27,438,284	5,727,183	20,439,481	25,351,403	78,956,351	626,595,077
1873	20,433,938	4,388,257	19,447,797	26,626,721	70,896,713	642,136,210
1874	8,250,306	3,649,863	21,162,635	21,565,581	54,628,385	567,406,432
1875	11,071,259	2,643,932	19,759,488	21,522,523	55,997,202	533,005,346
1876	8,247,617	1,521,092	14,216,221	16,800,901	40,785,831	460,741,190
1877	7,156,944	674,011	12,549,267	12,478,044	32,858,266	451,315,992
1878	8,363,015	398,389	12,055,806	12,775,959	33,593,169	437,051,532
1879	5,034,545	367,105	12,436,861	11,551,855	29,390,366	445,777,775

It will be seen from this statement that about seven and a half million dollars' worth of wool was imported annually for the ten years preceding the enactment of the present tariff laws, while over ten million dollars' worth was imported annually for the twelve years following. It will also be observed that there has been a gradual decrease in the value of the woolen goods imported for the last few years, and this is more clearly shown in the importation of carpets, for in 1872 we imported $5,727,183 worth of carpets, while in 1879 we imported only $369,105 worth. With our improved machinery our own labor has manufactured nearly all of our carpeting, and the quality of carpets manufactured in our country cannot be surpassed. For the last ten months this country has increased its importations to an extent never before known; yet, notwithstanding this fact, we are asked to reduce the duty on foreign products, which must largely increase our importations to the detriment of American labor.

I desire to present in this connection a—

Statement showing the quantities of raw wool imported into the United States from each foreign country from 1877 *to* 1879, *inclusive.*

Countries from which imported.	Year ended June 30—		
	1877.	1878.	1879.
	Pounds.	*Pounds.*	*Pounds.*
Argentine Republic	8,166,025	9,489,121	6,929,514
Belgium	93,108	244,699	29,494
Brazil	969,526	798,998	260,025
Chili	2,600,643	2,856,771	3,773,604
France	469,160	913,662	2,500,694
Germany	90,106	267,727	44,746
England	14,170,171	18,387,554	16,742,071
British North American provinces	2,343,079	2,502,207	2,546,070
British possessions in Africa	3,063,557	3,935,705	1,060,352
British possessions in Australia	2,936,892	2,085,869	399,518
Greece	657,648	282,200	.....
Italy	50	.....	.....
Mexico	1,405,983	835,487	819,784
Russia on the Black Sea	1,503,703	.....	1,786,893
Hawaiian Islands	950	207,820	125,530
Turkey in Asia	106,786	249,672	593,617
Uruguay	2,185,884	5,273,092	1,113,231
All other countries	1,407,921	118,495	279,812
Total	42,171,192	48,449,079	39,005,155

It will readily be seen from these statements that our tariff on wool and woolens has not been prohibitive, but only competitive. It is not for the wool producer alone that I speak to-day, but I wish to speak in behalf of the woolen manufacturer as well, and for every man who toils on the farm, at the forge, the anvil, the spindle, and the loom. Every person who has given the subject any attention must know that the success of wool-growing in this country depends upon the prosperity and growth of the woolen manufacturing interests. Our American wool cannot be exported, so as to come in competition with the South American and Australian wools. Our home market must then be our only market for our wool product. Under the present tariff laws, notwithstanding the depression in business, our woolen manufacturing interests have increased beyond the expectation of the most sanguine. In 1879 the production of woolen fabrics in the United States was estimated at $293,000,000, with an estimated capital invested of $200,000,000. This product of American industry was divided as follows:

New England States	$127,500,000
Central States	98,340,000
Western States	41,200,000
Southern States	8,830,000
Pacific States and Territories	7,250,000
Total	283,120,000

From this it will be seen that this industry extends, like that of wool-growing, over every section of our country.

Statement showing the amount of duties received from wool and woolens during the five fiscal years from 1875 *to* 1879, *inclusive.*

Articles.	1875.	1876.	1877.	1878.	1879.
Carpets of all kinds	$1,653,370	$1,001,627	$617,229	$363,691	$318,333
Dress goods	13,416,126	10,921,049	9,427,304	9,482,017	9,650,925
Balmorals	2,983	1,224	23,316	1,877	10
Blankets	8,451	5,034	5,781	695	1,234
Flannels	12,299	1,376	1,495	1,651	7,289
Hosiery	303,687	304,043	275,889	252,031	181,731
Manufactures, not otherwise specified	1,242,111	1,393,425	1,075,695	726,283	562,185
Shirts, drawers, and other knit goods	45,143	69,524	63,387	36,115	40,876
Manufactures of wool and worsted bunting	1,867	3,094	2,545	562	233
Cloth	7,162,119	5,980,212	3,940,356	3,983,087	3,995,432
Clothing, articles of wear, &c	391,335	453,902	294,631	379,449	353,038
Hats	12,534	8,726	7,354	5,822	4,480
Shawls	1,090,327	836,192	706,404	743,931	749,899
Yarns	283,990	323,056	308,301	432,294	469,726
All other wools and manufactures of	1,653,842	1,216,622	850,354	777,044	513,573
Total	27,282,178	22,519,106	17,600,041	17,176,549	16,839,064

This shows a continued decrease annually in the amount of revenue derived upon woolen goods simply from the fact that American labor has manufactured the goods for our own people instead of our keeping foreign labor employed for that purpose. We have raised our own wool, manufactured our own cloth, fed our own laborers, while thus employed, from the products of our own farms. The advocates of this bill would reverse this, and have South American and Australian ranchmen raise our wool, English operatives manufacture our cloth, and the American farmer transport his grain to England to feed the men who make our cloth. One system tends to the prosperity and happiness of our citizens, while the other depresses our industries and pauperizes the people. The assault upon our industries to-day comes from the representatives of the people in that portion of the country which most of all needs protective tariff laws. The

duty collected on foreign imports in 1879 would average only $2.70 to each individual of our population, and this sum, with the amount of internal revenue principally derived from the tax on tobacco and spirits, pays the running expenses of the Government, pensions our soldiers, improves our rivers and harbors, pays the interest on the public debt, and meets all our national obligations; and our tariff duties are so levied as not only to raise the required revenue, but very properly to aid in protecting our own labor.

There may be and undoubtedly are some articles named in the bill upon which the duty might be dispensed with without material injury to any particular home industry, but there are far more bad qualities in the bill than good ones, and it should meet the condemnation of the House as it will that of the country. It is well known that our manufacturing industries suffered largely from 1873 to 1879, and one result of such depression was to drive thousands of men from the furnace, the shop, and the factory to seek and build up a home in the far and undeveloped West, where upon their own soil they could raise the necessaries of life. Should we now by our legislation again depress our manufacturing industries, we must again drive the labor thus employed to the cultivation of the soil, and build up a nation whose one industry is that of agriculture, and create a country of producers. We will thus have destroyed our home market and be placed entirely at the mercy of the foreign manufacturer for all that which the farm will not produce. Our agricultural productions will then far exceed the demand for them, and their value will correspondingly decrease until the products of the farm will scarcely bring enough to pay for their shipment to the seaboard. Every farmer knows that there is much that he produces that will scarcely bear shipment to foreign markets, such as fruit, vegetables, and some of the coarser grains. If we strike down our manufacturing industries we shall thereby destroy our home market and there will be no available market for the products I have mentioned.

This is the feast the free-traders are inviting our farmers to. Speaking for the farmers of my district, I wish to say the invitation is courteously but promptly declined. It is not in the interest of the manufacturer to oppress the farmer or the farmer to depress the interest of the manufacturer. Each industry is dependent upon the other, and no nation can be prosperous that does not possess both. There is another important question which should be taken into consideration in considering this tariff question. This table shows the value of merchandise imported into and exported from the United States from 1863 to 1879 inclusive, and also shows the annual excess of imports and exports.

Fiscal year ended June 30—	Exports.	Imports.	Excess of exports over imports.	Excess of imports over exports.
1863	$203,964,447	$243,335,815		$39,371,368
1864	158,837,988	316,447,283		157,609,295
1865	166,029,303	238,745,580		72,716,277
1866	348,859,522	434,812,066		85,952,544
1867	294,506,141	395,761,096		101,254,955
1868	281,952,899	357,436,440		75,483,541
1869	286,117,697	417,506,379		131,388,682
1870	392,771,768	435,958,408		43,186,640
1871	442,820,178	520,223,684		77,403,506
1872	444,177,586	626,595,077		182,417,491
1873	522,479,922	642,136,210		119,656,288
1874	586,283,040	567,406,342	$18,876,698	
1875	513,442,711	533,005,436		19,562,725
1876.*	540,384,671	460,741,190	79,643,481	
1877	602,475,220	451,323,126	151,152,094	
1878	694,865,766	437,051,532	257,814,234	
1879	710,439,441	445,777,775	264,661,666	

From this table it will be seen that the balance of trade was largely against the United States from 1863 to 1876, and from 1876 to 1879, inclusive, the balance was largely in favor of the United States; yet the year 1880 will show a large decrease in such balance. The imports and exports of merchandise for the first ten months of the present fiscal year as compared with those of the first ten months of the last fiscal year may be stated as follows:

Merchandise.	For the month of April.	For the ten months ended April 30.
1880:		
Exports, domestic	$69,651,352	$688,462,429
Exports, foreign	886,890	9,359,875
Total	70,538,242	697,822,304
Imports	74,388,890	542,580,432
Excess of exports over imports		155,241,872
Excess of imports over exports	3,850,648	
1879:		
Exports, domestic	53,427,207	602,673,601
Exports, foreign	914,655	10,315,499
Total	54,341,862	612,989,100
Imports	42,136,101	371,511,278
Excess of exports over imports	12,205,761	241,477,822

It will be seen from this statement that the importation of foreign goods has been largely on the increase until, at the present time, we are importing more foreign goods than we are exporting of American products. Should the balance of trade again remain against us for any great length of time we feel assured it would endanger our resumed specie payments and tend again to destroy the fixed value of our currency, and give the people another season of speculation, to be followed by embarrassment, bankruptcy, and ruin. Is it wise for us to endanger our prosperity by so legislating as to increase the importation of commodities manufactured by foreign labor in foreign lands, and thereby rob our own labor of employment? Let me call your attention to the wonderful increase in the amount of imported wool and woolen goods for the first nine months of the fiscal year 1879–'80.

Imports of Wool and Woolen Goods.

Sheep's wool, and hair of the alpaca, goat, and other like animals, and manufactures of.	Month ended March 31—		Nine months ended March 31—	
	1880.	1879.	1880.	1879.
Unmanufactured (pounds)	20,402,082	1,788,636	87,490,466	22,178,601
Cloths and cassimeres				
Woolen rags, shoddy, mungo, waste, and flocks (pounds)	252,052	18,242	860,070	72,459
Shawls				
Blankets				
Carpets (square yards)	168,437	9,786	970,175	238,289
Dress goods (square yards)	8,093,536	7,497,428	53,189,804	42,109,413
Hosiery, shirts, and drawers				
Other manufactures of, not elsewhere specified				

It will be seen from this table that we imported over 65,000,000 pounds of wool during the first nine months of the present fiscal year more than we imported during the first nine months of the last fiscal year, yet our free-trade friends talk about helping the farmers by decreasing the duty on foreign wools and woolens and thereby increasing their importation.

Wool and woolens are now bearing a fair price as compared with the prices a few years ago. By the enactment of this bill we shall decrease the value of every pound of American wool from six to eight cents. Who demands this? Not the consumer, but the American importer and foreign manufacturer. The farmer, and the laborer in all branches of industry are desirous of receiving a fair price for their products, and they are willing to pay a fair price for the products of American labor. Every country is supposed to regulate its tariff laws in such a manner as will be for its own interest. Tariff laws that may be best for one country would be ruinous to another.

Free trade may be all right for England, with her small territory, great wealth, and great manufacturing industries; but it must be remembered that protected America, a debtor nation, with her immense territory, but young manufacturing industries, is voluntarily contributing food and money to feed and clothe the starving subjects of free-trade England. Had it not been for our tariff laws from 1873 to 1879, our manufacturing industries would have been entirely closed and our foreign indebtedness would have been increased millions upon millions of dollars. As a debtor nation it is all important that we do not buy more than we sell, or spend more than we earn; for a nation, like an individual, that does that is not on the road to prosperity. Mr. Speaker, the laborer in the United States is paid better wages and lives better than the laborer in any other part of the world. This is demonstrated, not only from the fact that hundreds of thousands of laboring men and women seek our shores annually from the cheap labor countries of the Old World, but is clearly shown by the tables here presented:

Statement showing the weekly rates of wages paid the following trades in Europe and the rates paid to similar trades in New York and in Chicago.

[Prepared by State Department.]

Occupations.	Germany.	England.	New York.	Chicago.
Building trades:				
Bricklayers	$3 45	$8 12	$12 00 to $15 00	$6 00 to $10 50
Masons	4 00	8 16	12 00 to 18 00	12 00 to 15 00
Carpenters and joiners	4 18	8 25	9 00 to 12 00	7 50 to 12 00
Gasfitters	3 95	7 25	10 00 to 14 00	10 00 to 12 00
Painters	4 60	7 25	10 00 to 16 00	6 00 to 12 00
Plasterers	4 35	8 10	10 00 to 15 00	9 00 to 15 00
Plumbers	3 90	7 75	12 00 to 18 00	12 00 to 21 00
Slaters	3 90	7 90	10 00 to 15 00	12 00 to 18 00
Blacksmiths	3 90	8 12	10 00 to 14 00	9 00 to 12 00
Bakers	3 90	6 50	5 00 to 8 00	8 00 to 12 00
Bookbinders	3 90	7 83	12 00 to 18 00	9 00 to 20 00
Shoemakers	4 32	7 35	12 00 to 18 00	9 00 to 18 00
Butchers	4 20	7 23	8 00 to 12 00	12 00 to 18 00
Cabinet-makers	4 95	7 70	9 00 to 13 00	7 00 to 15 00
Coopers	4 35	7 30	12 00 to 16 00	6 00 to 15 00
Coppersmiths	3 90	7 40	12 00 to 15 00	15 00 to 21 00
Cutlers	3 90	8 00	10 00 to 13 00	
Engravers	4 00	9 72	15 00 to 25 00	9 00 to 30 00
Horseshoers	3 50	7 20	12 00 to 18 00	15 00 to 21 00
Millwrights	4 95	7 50	10 00 to 15 00	12 00 to 21 00
Printers	3 90	7 75	8 00 to 18 00	12 00 to 18 00
Saddlers	3 90	6 80	12 00 to 15 00	6 00 to 12 00
Sailmakers	3 90	7 30	12 00 to 18 00	12 00 to 15 00
Tinsmiths	3 60	7 30	10 00 to 14 00	9 00 to 12 00
Tailors	4 30	$5 to 7 30	10 00 to 18 00	6 00 to 18 00
Brass-finishers	5 50	7 40	10 00 to 14 00	8 00 to 15 00
Laborers, porters, &c	2 60	5 00	6 00 to 9 00	5 50 to 9 00

The average weekly wages of the agricultural laborers of Germany are as follows:

Men, without board or lodging	$3 50
Men, with board and lodging	1 80
Women, without board or lodging	1 55
Women, with board and lodging	60

Weekly wages paid to agricultural laborers in Ireland, England, and Scotland.

Description.	Ireland.	England.	Scotland.
Men, without board or lodging	$3 40	$3 60	$4 25
Men, with board and lodging	1 30	2 60	$1 50 to 2 00
Women, without board or lodging	2 16	1 80	1 80 to 3 25
Women, with board and lodging	75	1 15	60 to 1 00
Women, house servants, per year	40 00	60 00	34 00 to 49 00

The weekly wages paid to agricultural laborers throughout France may be set down as follows:

Men, without board or lodging	$3 15
Men, with board and lodging	1 36
Women, without board or lodging	1 10

Statement showing the retail prices of the necessaries of life in England, Germany, and the United States.

Articles.	England.	Germany.	New York.	Chicago.
	Cents.	Cents.	Cents.	Cents.
Bread, per pound	3½ to 4½	3 to 7	4 to 4½	4 to 4½
Flour, per pound	3½ to 4½	5½	3 to 4½	2½ to 4½
Beef:				
For roasting, per pound	22	22	12 to 16	8 to 12½
For soup, per pound	15	14	6 to 8	5
Rump steak, per pound	26½	14	14 to 16	8 to 12½
Corned, per pound	18	13	8 to 12	4 to 7
Veal:				
Fore quarters, per pound	18	.....	9 to 10	6 to 10
Hind quarters, per pound	22½	.....	12 to 14	10 to 12
Cutlets, per pound	27	.....	14 to 16	12½ to 15
Mutton:				
Fore quarters, per pound	17	.....	9 to 10	5 to 12½
Hind quarters, per pound	22	.....	12 to 14	5 to 15
Chops, per pound	25	.....	14 to 16	10 to 15
Pork:				
Fresh, per pound	16½	17	8 to 10	4 to 8
Salted, per pound	15	17	8 to 10	6 to 12
Bacon, per pound	12 to 16	20	8 to 10	7 to 12
Ham, per pound	13½ to 23	20	8 to 12	7 to 15
Shoulder, per pound	12	19	8 to 10	4 to 10
Sausage, per pound	18	24	8 to 10	6 to 10
Lard, per pound	15 to 18	21	10 to 12	6 to 10
Codfish, dry, per pound	8	.....	6 to 7	5 to 9
Butter, per pound	29 to 38	.....	25 to 32	16 to 40
Cheese, per pound	15 to 21	.....	12 to 15	5 to 16
Potatoes, per bushel	112 to 200	.....	112 to 160	60 to 80
Rice, per pound	3½ to 8	.....	8 to 10	5 to 10
Beans, per quart	9	.....	7 to 10	5 to 9
Milk, per quart	6 to 9	.....	8 to 10	3 to 6
Eggs, per dozen	19 to 30	.....	25 to 30	10 to 24
Oatmeal, per pound	3½ to 4	.....	4 to 5	4 to 5
Tea, per pound	43 to 88	75	50 to 60	25 to 100
Coffee, per pound	28 to 42	35	20 to 30	15 to 40
Sugar, per pound	5½ to 9	11	8 to 10	7 to 11
Soap, per pound	5½ to 9	10	6 to 7	3 to 8
Starch, per pound	10 to 12	9	8 to 10	5 to 10
Coal, per ton	320 to 410	425	525	300 to 675

The fact that our laborers receive better wages and live better than the laborers of other countries is one great reason why many things which are the products of American labor cannot be supplied to consumers as cheaply as the same articles produced by cheap foreign labor. Kentucky for many years spoke through her great commoner in behalf of American labor and protective-tariff laws, but the voice of Henry Clay was stilled in death, and now Kentucky speaks by others for cheap whisky, cheap tobacco, cheap labor, and free trade, and as she shouts forth to the world these four cardinal principles of her steadfast democracy her younger sisters of the Republic are outstripping her in population, wealth, and enterprise. Cheap whisky and cheap tobacco may be essential to maintain a vigorous democratic party, but I can see no good reason why Kentucky with her waving fields of blue-grass, her mountains of iron, and inexhaustible fields of coal should contend for cheap labor and free trade. Mr. Speaker, free trade in America means low wages for the American laborer. Shall we by our legislation depress the wages of our own working people to the small pittance received by the laboring-man of Europe? The free-trader, or so-called revenue-reformer, says yes, but, so far as I am concerned, I insist that it is the duty of the American Congress to so legislate as to protect American labor and build up American industry.

It has been stated, and that statement not controverted, that those who have this bill in charge did not expect to have action taken upon it at this session when they reported the same to the House. What, then, could have been the motive for reporting the bill? Simply to gratify the clamorous desire of a large portion of the democratic party, and for this alone this measure is to hang like a pall over the industries of the country until next winter. I believe it to be for the interest of the country that early action should be had on the bill, feeling assured that its defeat is inevitable. There has been a general and continuous effort in Congress for the last six years to tinker with and change our revenue laws, and that with our efforts at financial legislation has kept the business interests of the country completely demoralized. I have opposed this system of legislation, and again enter my protest against it. If our revenue laws are to be changed I concur in the suggestion that it will be far better to have a commission appointed, composed of able men who are familiar with the various industries of the country, that we may have such a revision as will meet with the commendation of the people.

I wish here to present a comparison of the present rate of duty on wool with the proposed rate in the bill reported by the committee:

Statement.	Present rate of duty.	Proposed rate of duty under new bill.
CLASS I.		
Clothing wools:		
Value, 32 cents or less per pound	10 c. per lb. and 11 p. c.=58.41 p. c.	35 p. c. ad valorem.
Value, exceeding 32 cents per pound	12 c. per lb. and 10 p. c.=40.38 p. c.	35 p. c. ad valorem.
Washed:		
Value, 32 cents or less per pound, (before washing.)	20 c. per lb. and 22 p. c.=58.58 p. c.	35 p. c. ad valorem.
Value, over 32 cents per pound	24 c. per lb. and 20 p. c.=62.86 p. c.	35 p. c. ad valorem.
Scoured:		
Value, 32 cents or less per pound, (before scouring.)	30 c. per lb. and 33 p. c.=74.38 p. c.	35 p. c. ad valorem
CLASS II.		
Combing wools:		
Value, 32 cents or less per pound	10 c. per lb. and 11 p. c.=53.80 p. c.	35 p. c. ad valorem.
Value, exceeding 32 cents per pound	12 c. per lb. and 10 p. c.=40.91 p. c.	35 p. c. ad valorem.
Scoured:		
Value, 32 cents or less per pound, (before scouring.)	30 c. per lb. and 33 p. c.=90.24 p. c.	35 p. c. ad valorem.
Both classes—scoured wool	30 c. per lb. and 33 p. c.=87.58 p. c.	35 p. c. ad valorem.
CLASS III.		
Carpet wools:		
Value, 12 cents or less per pound	3 c. per lb.=26.54.	20 per cent.
Value, exceeding 12 cents per pound	6 c. per lb.=33.08.	20 per cent.

NOTE.—The equivalent *ad valorem* rate is computed from the imports of the year ended June 30, 1879.

JOSEPH NIMMO, Jr.,
Chief of Bureau.

TREASURY DEPARTMENT, BUREAU STATISTICS,
May 31, 1880.

For the information of the House and the country I here present a portion of a letter from Hon. John L. Hayes, the able secretary of the National Woolen Manufacturers' Association, to Hon. JAMES A. GARFIELD, of the Committee on Ways and Means, clearly showing the effect the enactment of this measure would have upon the price of wool:

THE WOOL-GROWING INTEREST.

In the bill proposed all the specific duties are taken off from wool, in direct opposition to the wishes of the wool-growers, and an *ad valorem* duty of 35 per cent. is placed upon the wools of the first and second class and a duty of 20 per cent. *ad valorem* on wools of the third class, or carpet wools. The lower duty placed on the latter wools, which are not produced in this country, is the only indication of intelligence in the provisions relating to wool and woolens.

The reduction of duty on wools of the first class (merino wools) from 10 cents specific and 11 per cent. *ad valorem* to 35 per cent. *ad valorem* is a radical change and one which will most seriously affect our own wool-growers.

The records of the discussions and reasonings which led to the enactment of the tariff of 1867 are preserved, and from them we learn that the wool-growers insisted upon the duty of 10 cents specific and 11 per cent. *ad valorem* on wools of the first class, principally that through this duty they might resist the ruinous competition from the merino wools, so abundantly and cheaply produced in the Argentine Republic, generally known as Mestiza wools. It was represented and sustained by incontrovertible figures that a duty of 5 cents per pound—that practically existing in 1866—was an inadequate protection against these particular wools, and that nothing less than the duty demanded would be sufficient. The duty demanded was conceded, and the large exclusion of those wools which followed has been reasonably claimed to be the most effectual measure for restoring prosperity to our merino sheep husbandry. It will be instructive to observe the operation of the proposed bill upon this class of wools. Mestiza wools, the cheapest merino wools grown in the world, have been sold in Buenos Ayres as low as 12 cents per pound. They will not exceed 15 cents. At the former price the *ad valorem* duty of 35 per cent. would give a duty of 4.20 cents against 11.32 cents, the present duty; at the price of 15 cents the duty would be 5.20 cents against 11.65 cents. Thus, these wools, the most dangerous competitors of American merino wools, will encounter a duty not exceeding 5 cents on the average, a rate which the united wool-growers of the country declared to be so low as to be destructive of American merino sheep husbandry.

I have before me certain statements showing from other points of view the operation of the proposed tariff upon the wool-growing interests, prepared by Mr. Henry F. Coe, treasurer of the Washington Mills in Massachusetts, a manufacturer of great practical knowledge of wool, and of unusual cautiousness in statement, whose figures as to shrinkage, &c., are derived from tabulated results in one of the largest

and most systematically conducted woolen mills in the country. I give the statements without any modification of my own:

No. 1.—WASHED WOOLS.

Statement showing effect of proposed tariff of 35 per cent. upon Ohio, Pennsylvania, and Michigan X and XX wools.

	Cents.
During past season wool has been purchased in Australia at 11¼*d.*, costing, laid down in Boston, about	40
At 35 per cent. duty the cost would be about	35½
This wool shrunk 54 per cent. in scouring, which would make the cost per scoured pound on 35 per cent. cost in the grease	77
Ohio and Pennsylvania X and XX wools of same grade, not being quite so high blooded, would not be worth clean, as compared with Australian wool, more than	75
As they shrink in scouring, say, about 50 per cent., they would have to be bought (all graded) in Boston at	37½
Deduct expense purchasing, freight, interest, and loss in grading up to standard, not less than	4
	33½

This shows that the farmer must sell his wool at 33½ cents to compete with past season's prices with the low duty of 35 per cent. This applies to the Ohio and Pennsylvania wools. Michigan wools average 52 per cent. shrink, and are lower blooded. The Michigan farmer must sell at 30 cents on same basis. But within two years these same Australian wools have there sold 2½*d.*, or 5 cents, less. This would bring their cost down to 61 cents clean, and, to compete, the Ohio and Pennsylvania farmer must sell at 26 cents, and the Michigan wools at 23 cents.

Senator from Louisiana.

SPEECH OF HON. WILKINSON CALL,

OF FLORIDA,

IN THE SENATE OF THE UNITED STATES,

Monday, June 7, 1880.

The Senate having under consideration the resolutions reported by the Committee on Privileges and Elections relative to the seat of WILLIAM PITT KELLOGG as Senator from Louisiana—

Mr. CALL said:

Mr. PRESIDENT: The resolution before the Senate presents questions compared to which the question whether the Senator from Louisiana [Mr. KELLOGG] shall continue in the place of a Senator sinks into absolute insignificance. The future of this Government, so grand in its origin, so successful in its life thus far, so bright and hopeful of a future career of beneficent power exerted for the relief and advancement of the toiling, suffering millions of mankind, depends to some extent upon the action of the Senate on this resolution.

I am persuaded that we to-day stand upon the dividing line between absolute government, unrestrained by the Constitution, on the one side and constitutional government on the other. Already the great co-ordinate department of the Government which was created for and vested only with the power of applying the law to cases of individual right or wrong has come to be regarded as the authoritative exponent of the nature and extent of the constitutional powers of the other co-ordinate departments of the Government. The familiar phrase is often heard in this high tribunal from us on whom the Constitution has imposed a solemn oath that we shall be a co-ordinate department of the Government, exercise all legislative power, and construe the Constitution for ourselves. The Supreme Court has decided that Congress has no power to make this or that law, although by the Constitution the Supreme Court can determine the right of individuals only, but has no power to limit or prescribe the exercise of the organic powers of the other co-ordinate departments of the Government. In this rapid march toward absolute power in every department of the Government the Supreme Court has made a law that the judges of every inferior court, both State and Federal, shall be criminally responsible to them for the manner in which they perform their judicial duty in a certain class of cases and for the judicial opinions which they pronounce. The distinguished Senator from Vermont, like Strafford of England, has conceived a system of absolute power far more thorough than Strafford's plan—a system which, like the fine point of the Italian stiletto, pierces the heart while scarcely leaving an evidence of the fatal wound. This plan of absolute government we have often heard him elaborate in the Senate with subtle genius and power and metaphysical accuracy. It rests on his two familiar propositions—executive power to arrest and imprison arbitrarily without process of law, and executive power to use civil and military force against the people of the United States without the consent of the States or Congress or the sanction of the courts.

Another advance in the direction of absolute power is to be found in the eloquent and impressive declarations in this Chamber on the pending resolution, that in all human government crime and wrong in its last resort is sacred and to be respected; that "vested wrong is as sacred as vested right;" that a tribunal of final power and last resort having once decided that "black was white," it is not only law but supreme, unchangeable law. To-day, and upon this question, the Senate will have to decide whether the Constitution is the paramount or the subordinate law of the land; whether it confers on co-ordinate departments the power of setting aside, abrogating, or nullifying its requirements; the question whether it results as a consequence of the conference of powers that the power may be abused and improperly exercised, and when once used and abused, that is *ultra vires;* it cannot be changed or corrected by any power, neither by the body or person in whom or in which the power is vested, or by any other. This is a consequence or result of the exercise of a power by the conferee or donee of the power resting on no other foundation than a necessity that every exercise of power should be final and unchangeable.

The Senator from Wisconsin has presented the argument in this concrete and abstract form which is its correct analysis. But even in this new and fascinating disguise, under this new plumage of fine and gay words, under its name of ancient precedent, of "*res adjudicata*," of "*stare decisis*," it is the same old, old story of absolute power, the siren song of the olden time, the "divinity which did *hedge* about a king," the *divine, imprescriptible right of absolute power.*

Mr. President, I know of no parallel or likeness, in all the realm of reason and argument, to this doctrine. The traditions of history tell of no country in which this proposition has found a permanent lodgment as law, except that dark country of endless woe whose horrors were revealed to the poet Dante, upon the portals of whose gates is fitly inscribed the words, "Those who enter here must leave all hope behind." The parallel, Mr. President, is not an unfit one. The future to which these propositions and arguments invite us is one where error is enthroned and respected and perpetuated, where the great struggle of the ages between right and wrong, between the powers of evil and good, has been fought, and wrong and falsehood and error are the acknowledged victors. Wrong has become "vested right." Precedent stands in the place of constitutional right, duty, and obligation.

Mr. President, the significance of this occasion is in the fact that these propositions are made and urged with eloquence and power in this place of supreme legislative power and of supreme constitutional obligation—propositions, I shall undertake to maintain, utterly without foundation in reason or authority, unsustained by precedent. What is the precise question presented for our consideration? I will endeavor to state it with exactness. In 1877 the Legislature and governor of the State of Louisiana elected by the people entered on the discharge of their legislative and executive duties. During a short period of three months a body of men without recognition either by the national or State authority, but claiming to be a governor and Legislature, assembled under the protection of the armed forces of the United States. Hence there was during the space of three months two bodies of men in the State of Louisiana claiming to be the governor and the Legislature of Louisiana. After the expiration of these three months the forces of the United States were withdrawn. The President of the United States and the Congress of the United States and the courts of the United States all recognized the Legislature and governor elected and chosen by the people and known as the Nicholls legislature to be the lawful Legislature of the State of Louisiana. All the departments of the national authority, including the Senate itself, have maintained and do still maintain and recognize the Nicholls legislature and government as the lawful Legislature and government of the State of Louisiana. Mr. President, none of these facts are controverted or denied neither by republicans or democrats. They are matters of history, and admitted to be true without a dissenting voice.

I propose briefly to consider and examine whether they are of any weight or importance in the consideration of this resolution; whether they can be lightly set aside; whether they do or do not impose obligations on the judgment and consciences of men; whether they have the force of *res adjudicata*, of *stare decisis*, of precedent, the sanction of unbroken usage by the Senate, and, above all, the sanction of absolute, express, undeniable constitutional obligations, commanding all men and all authorities in the United States to give heed and obedience to the conclusions which these admitted truths of necessity demand.

If it is true that the Nicholls legislature, deriving its authority from an election in 1876, has been recognized, admitted, "*adjudicated*," "*judged*" by both branches of the Congress of the United States, by the President of the United States, by the Supreme Court of the United States, to be the lawful government of the State of Louisiana, it of necessity follows that there could have been no other lawful Legislature or government of this State in 1877, for there cannot be two lawful governments of a State at the same time.

If there was no lawful State government in Louisiana in 1877 other than the Nicholls government, then a person not elected by the Nicholls legislature was not chosen by the Legislature of the State of Louisiana; and if the Senate has ever voted on the qualifications, returns, and election of a person not chosen by the Legislature of Louisiana, it has not acted on the election, qualifications, and returns of a person elected by the Legislature of a State, but on that of a person not having such an election; and if the Senate has decided that the Nicholls legislature was the true Legislature and the Packard legislature was not, as it certainly did when it admitted Mr. JONAS to his seat here, then the Senate itself has affirmed that when the Senate received and considered the credentials of Mr. KELLOGG, and decided that "on the merits" he was entitled to his seat, the Senate was deciding on the election as Senator of a person who *had not been chosen by the Legislature of a State to be a Senator.*

We are brought, then, to a consideration of the proposition of the Senator from Wisconsin and those who think with him, that the Sen-

ate having decided that a person not chosen by the Legislature of a State to be a Senator was yet entitled to be a Senator, and that this decision is *res adjudicata*, *stare decisis*, and by the precedents of the Senate binding on the conscience and judgment of all persons and on all departments of the Government; and the person holding his seat without credentials and without election has a right to exclude the person chosen and elected by the State and the State and the people thereof from representation in the National Government in the Senate, the Chamber of the States.

It is this proposition which is presented for our consideration, namely: That a resolution of the Senate declaring that "on the merits" a certain person was not elected or chosen to be a Senator by the Legislature of a State, but yet is entitled to be a Senator from the State which did not choose him. This is the effect and purport of the Kellogg resolution of 1878, as much so as if expressed in those words; for the Senate takes official notice of all the public law and acts of the Government and of the State. The Senator from Wisconsin and those who think with him (excepting the Senator from Ohio) tell us that the Senate having decided on the question once, and being a tribunal of last resort, this decision is final and irrevocable and cannot be considered again. He gives us neither reason nor authority for this conclusion except that it is necessary for human government that final power to decide should be vested somewhere, and that once exercised, whether right or wrong, it is necessary that it should be irrevocable. Why this necessity of unchangeableness, of irreversibility, of finality? What good end it would subserve to perpetuate wrong, what intendment of constitutional obligation or government will be promoted by perpetuating violations of the Constitution in its most *vital* respects, neither the Senator from Wisconsin nor others have told us or can tell us.

But if this were so, what shall we do with the decision of the Senate in admitting Mr. JONAS that the Nicholls government was the lawful government of Louisiana? Is this action of the Senate in affirming this fact less authoritative and conclusive in reason than the previous action of the Senate in seating KELLOGG? Is there nothing of precedent in this; and if so, why? The difference is all in favor of the precedent in admitting Mr. JONAS, because this precedent was sustained by the action of every other department, both State and national, and the precedent of the Kellogg resolution has been rejected and denied by every other department of the national and State governments. Whence, then, does the Kellogg precedent derive its superior validity over the Jonas precedent? It can only be on the proposition of the Senator from Wisconsin, that "a vested wrong" is as sacred as a vested right, and a vested constitutional wrong absolutely sacred and irreversible, a precedent for constitutional right to be less regarded than a precedent for constitutional wrong.

Let us look at this case full in the face and see what the Senate did and what it did not do. In 1877 the Senate of the United States admitted Mr. KELLOGG and decided that for the purpose of electing a Senator the Packard legislature was the Legislature of Louisiana, and that the Nicholls legislature was not. All the other departments of the National Government, the House of Representatives, the President, the Supreme Court of the United States, and the State of Louisiana decided otherwise. It cannot, therefore, be denied that except in the one respect of being represented in the Senate the Nicholls government was the government of Louisiana. Now it is claimed that because in a case of two contending State governments the Senate in admitting a member may and must decide which of the two is lawful, that therefore when there are not two contending governments it may still so judge and decide. And it is contended that for the purpose of making a Senator the Senate may for itself establish a different decision as to the fact of a State government from all the other departments of the Federal Government and from the State itself?

Can the Senate *rightfully* say that a State is not a State, a Legislature not a Legislature, when the people of the State and all the departments of the National Government declare it to be a State and a Legislature. *This* is the fact in this case, and this is the question to be decided.

What is it that the Senate has the power to judge in the admission of a Senator? *The election*, qualifications, and returns *of its members*. Who are the members of the Senate? The Constitution says they are persons chosen to a seat in the Senate by the Legislatures of the States. The Constitution then says the Senate shall udge of the election of such persons as shall be chosen to be Senators by the Legislature of a State. Does this mean that the Senate shall judge of the election of a person to the Senate who shall be *not chosen by the Legislature of a State*? Surely none will contend that the Senate has this power. None will say that the Senate, because a power is conferred upon it to judge or determine whether the Legislature of a State has elected a person to be a Senator, has also the authority because of this power to "*judge*" of the election of a person *not chosen by the Legislature of a State, and to "judge" such a person into the Senate as a Senator, and that such judgment must be respected and binding* and cannot be reversed.

The alleged ground of this proposition on which several Senators have founded their judgment and conclusion is that as the choosing of a Senator by a Legislature is a necessary fact to a membership in the Senate, therefore the determination of this fact whether a person is or is not chosen by a Legislature is involved in seating a Senator, and that when the Senate judges that a person chosen by the Legislature is not elected because of some non-compliance with the law or the prescribed forms of law it decides that he was not chosen by a Legislature, and that may be a decision of the question whether it was or was not a Legislature, and that the Senate has of necessity, therefore, by the Constitution plenary power to decide whether a Legislature is or is not a Legislature. I deny the proposition, and insist that it is entirely untenable and is denied by all our laws and by the history of the country.

The Constitution prescribes as a fundamental law what is a State and what is the Legislature of a State, and gives to neither House of Congress a discretionary right and power to decide separately and for itself whether a State is a State or a Legislature is the Legislature of a State. It is no compliment to the sagacious men, the great statesmen of the original thirteen States, to affirm that they left so great a defect in our great charter of Government which they framed for all future times. The States by the fundamental law were the original thirteen States, by whose ratification alone, by its own express terms, the Constitution became a living organism of power, and *such new States as "may be admitted by the Congress into the Union."* This is the language of section 3, article 4, of the Constitution; and further, to forbid and prevent the possibility of conflicting powers within a State, each claiming to be a State and the Legislature of a State, and to exclude any discretion or power on the part of Congress in determining the question of what is the Legislature of a State, the same article provides that—

> No new State shall be formed or erected within the jurisdiction of any other State without the consent of the Legislature of the State concerned, as well as Congress.

Hence it is clear that by the Constitution States are the original thirteen, and the *new States* admitted into the Union by *Congress*, not by the Senate or by the House or by the President, but by Congress. "Legislatures of States" are the bodies of men created by the States according to their own laws and constitutional methods, determined in all cases of doubt by themselves and in their own way, and with which the Senate can have no concern and is forbidden to interfere, except to decide when the credentials of a person claiming to have been chosen a Senator are presented that they are from the person required by law to sign them; and whether the body of men choosing a Senator made the choice in the manner and form required by law; and whether or not they are the body of men decided by the State authorities to be the Legislature and recognized by the people as such by submitting to and obeying their authority. Further, to prevent the exercise of an arbitrary authority by the Senate in constituting the Senate of Senators chosen by the Senate, by deciding that a State government is or is not a republican form of government, as well as to protect the people of the State against arbitrary and unrepublican forms of government, the Constitution provides that *Congress, not the Senate*, shall *guarantee*, not create, not give, not secure, but *guarantee* to each State "a republican form of government."

It is therefore plain and undeniable that by the express affirmation and the plain and undeniable intendments of the fundamental law there is no power given to the Senate to decide "what is the true Legislature of a State," from the exercise of which power the inference might be drawn that if they should decide, as in this case, that to be the Legislature which the State herself and all the other departments of the National Government and the Senate itself has decided was neither a Legislature of right or in fact, that the decision would be binding as *res adjudicata*, *stare decisis*, or precedent. By the fundamental law the power is given to the State and her people to decide whether a Legislature is or is not a Legislature; to submit to it or to set it aside in their own form and subject to the decision of her own tribunals alone. The Senate can only inquire whether the State Legislature is exercising the powers of government recognized as such and submitted to by her own tribunals and people.

Far less can the Senate in defiance of the State and of all the other departments of the National Government and of its own action in *all other* respects constitute a Senator for her by a simple alleged vote "on the merits," that a person not chosen by any Legislature was entitled to a seat in the Senate.

Such a proceeding is not only violative of the Constitution and of all precedents, but also of all the principles of all the decisions of the courts, and is in itself not only revolutionary, but actually subversive of our constitutional Government. I insist that on all men everywhere and at all times the supreme obligation of the Constitution rests. Is it not plain to all persons that *the Constitution cannot give a power to nullify its own organic provisions by conferring a power to execute and carry them into effect*? Our Constitution and every written constitution of government is an aggregation or creation of organic powers of government providing for their exercise by persons or bodies of men and prescribing the conditions and limitations for their exercise.

There are different means for providing against the abuse of powers. One and a chief method of our Constitution is by withholding the power; another is by prescribing a limitation or condition for its exercise; another is the distribution of power to separate and co-ordinate departments of the Government; another and the greatest of all is the perpetual right and power of the people and the States over the persons to whom they intrust the power of making and executing the laws. Now, the argument here is that, inasmuch as exclusive power is conferred upon certain departments of government, and

as they are absolute in respect to the exercise of such power, being tribunals of last resort and without appeal, therefore they may exercise this power in violation of the limitations and restrictions imposed by the Constitution, and that when so exercised it is binding, not only on all the other co-ordinate departments, *but also on themselves*, and cannot be changed by themselves or by any one else; and that to correct this exercise of power and make it conform to the conditions and limitations of the Constitution would be a violation of an established precedent, and dangerous to the stability of government.

That is to say, that this great charter of government of ours, destined to provide good government and to protect many millions of human beings in the enjoyment of personal liberty and freedom; destined, as we all hope, to last until the end of time, and to be rich with blessings to all mankind, carrying with it all the best and highest hopes of humanity, contains within itself the power to deny and abrogate all its great provisions by making the exercise of power by any of its several departments in express violation of the conditions and restrictions imposed upon its exercise, not only binding as law, but irreversible even by the department or body so exercising the power, and that any department vested with exclusive power may establish a precedent in violation of the Constitution, which shall be binding on the judgment and consciences of the men sworn to obey the Constitution as the supreme law and into whose custody it is committed as a sacred trust. Mr. President, I do not so understand this great charter of government. It was made the supreme law of the land in order that it might be binding on the consciences and judgment of all men, both those who made and those who obeyed the laws, those who interpreted the laws and those who executed them.

It was made co-ordinate in order that each department should be independent of the other in the exercise of its powers, and that this supreme obligation of the Constitution might not be impaired by the errors and mistakes of the others. It was made several and separate in the distribution of power, to the end that there should be no collision between its several departments in the performance of their respective duties, and that neither should engross the powers of the others; but over all men and everywhere, whether they made the laws or obeyed them, it imposed the obligation that *the Constitution and the laws made in pursuance* thereof shall be the *supreme law*. Can this mean, Mr. President, that in the Senate, in the admission of a Senator, the Constitution shall not be the supreme law of the land in the case where *a precedent has been established in violation of its express requirements, and in a point the most vital? Can there be a valid precedent in violation of the supreme law of the Constitution itself?* But, Mr. President, there is no such precedent, and there can never be such precedent; a precedent that a person *not* chosen by the Legislature of a State shall be a Senator; a precedent that the Senate may, by a vote on a resolution that a person is entitled on the "merits" to a seat in the Senate, deprive a State of a Senator and seat a person who was declared by the Senate itself *not to have been chosen by the Legislature of a State;* a precedent that the Senate may, as to the constitution of its members, recognize and declare a body of persons to be a Legislature which all the departments of the National Government have declared, and do still declare, not to be a Legislature, and *which the Senate itself, for all other purposes, declares was not a legislature.* Precedents there are, and very numerous precedents, in which the Senate has judged of the election of men chosen by Legislatures of States whom the Senate declared were or were not elected because of some failure on the part of the Legislature to comply with the law, either of the State or the National Government; but there is no precedent except this for seating a man in the Senate whose credentials are from a body of persons whom the Senate itself and all the departments of government, both State and national, *declared was not a Legislature.*

I am glad to say that this question has not assumed the dimensions nor the relations of a party question, for it is a question vital to the perpetuity of the Republic, vital to the great future of our country.

I say, Mr. President, that if the proposition which is maintained against the report of the committee on this subject, that the Senate having once decided that a Legislature was a Legislature, although every other department of the Government continuously has denied the fact, although the State herself and all her departments have denied it, I say that if that proposition be true, and it be adopted by the Senate, there is an end of this Government; and why? Because if it be true, to-day this Senate has the right and the constitutional right and power to perpetuate itself for life without any reference to what States may hereafter do, and we to-day and for all future time can close the doors of this body, constitutionally and rightfully, upon the argument that has been made, that Senators, however chosen by their States, may be ousted by a single vote of the Senate that they were not so chosen and that some other person was. The proposition is that if, perchance, in our pleasure we should see fit to admit some new man here, even he would be bound by that precedent and that vote and that decision.

I ask, would it be claimed, Mr. President, if to-day the Committee on Privileges and Elections were to present a resolution that the Senator from Vermont was "on the merits" not entitled to his seat in this Senate and that A B was entitled to a seat, and, having so voted, it should be claimed that precedent forbade that the outrage should be corrected? Surely none will contend here that if to-day the Senate were, by so gross an abuse of right and duty, to pass a resolution of that kind, it would not be the first duty of every Senator who should come here, although he had voted yesterday for this foul and outrageous allegation, to correct the wrong and perform his constitutional duty.

Yet, Mr. President, this latter case in all material points would be the same as the case now under consideration by the Senate. It might possibly be a question under some circumstances as to what was the Legislature of a State, and where there was such a question the Senate would have to decide it for itself, and such decision, made fairly and according to the usage of the Senate, ought certainly to be respected. But this is not such a case. *The Senate by a resolution cannot make a question where none exists.* A State Legislature cannot exist in theory alone, it must be both *de jure*, of right, and *de facto*.

Mr. Lincoln certainly ought to be conclusive authority with many of us upon this question; he certainly has a right to be of high respect and authority with all men, for he was a man of great intellect and of a remarkably correct analysis of subjects of thought. Mr. Lincoln said that every State Legislature must have practical relations with the Union; it must have actual recognition and authority both by the people of the State and by the National Government; how much and how far might be a question. But however this may be, it cannot be denied that there cannot be a State Legislature without authority and recognition either by the people or by the authorities of the State, or by the National Government; and that for the Senate of the United States to declare a body of persons to be a State Legislature which had no authority or recognition within the State, and no recognition by any department of the National Government, for the single purpose of making a Senator, would be a violation of the Constitution and a wrong on the State, and a violation of all reason, law, and precedent. All men will admit this to be absolutely true, and no one will deny that this is precisely the case of Louisiana, for the facts are all matters of history known and read of all men.

I say, then, Mr. President, with the greatest respect and kindest feeling for everybody, not desiring or intending to take any party attitude upon this question, that if it be true, as is admitted and incapable of denial of all men, that the Nicholls government of the State of Louisiana has been since the year 1877 by the judgment and adjudication and the practical relations which it has sustained to every department of the Federal Government—the only lawful government of the State of Louisiana; if the Packard legislature and government have had no place or existence in any of the departments of the Government except the Senate, then, in my judgment, this Senate should not still obstinately declare "we have the power, because we are the tribunal of last resort and action, and we will assert that to be a State and that to be a Legislature which is denied by the action of all the other departments of the Government." To so assert would be to declare a rule which must be entirely subversive of the Constitution and of our form of government, and which will enable us at any time to perpetuate ourselves for life. I deny that the argument can be answered that if we by a vote may decide that to be a fact which is not a fact in regard to the election of a Senator, the great fact of a State Legislature, and may assert that to be a Legislature which is not in practical relations with the government performing all its duties—I say if this Senate has the power to do that, and that judgment is binding on all Senators, we have the power and the constitutional power to declare ourselves Senators for life, and to exclude as long as we live and to the end of time anybody from ever coming into this Chamber except those whom we choose to associate with us.

Mr. President, all persons must admit this to be absolutely true; no one will deny that this is precisely the case which the argument makes. This is the case of Louisiana. These facts are all matters of history. It is matter of history that in 1877 the Government of the United States recognized the Nicholls government as the only and the lawful government of Louisiana; that the Supreme Court of the United States has so decided; that the President of the United States has so regarded it, and even now is in practical relations with Governor Nicholls and the Nicholls legislature; a continuous and unbroken line of action on the part of the Government of the United States. It is therefore a matter of history, and is the great potential and only fact which is necessary for this case. It matters not how the Nicholls government was established for the purposes of the argument. I do not mean by this to admit by any implication that it was not lawfully established, for it was, and there is no reasonable pretense to the contrary; but I say that for the argument's sake, however that government was established, it received the recognition and assent not only of the people of the State, but of every department of the National Government, and that by the fundamental law of the land it is committed to the people of the State themselves to decide what is and what is not their State government.

The very Senate which passed this resolution seating Mr. KELLOGG on the merits confirmed Mr. Packard, without resignation, as consul to Liverpool, and in so doing declared that he was not the governor of Louisiana and his legislature was not the Legislature of Louisiana; for, although the Senate might have confirmed Mr. Packard, being governor of Louisiana, as consul to Liverpool, and he might by accepting the office have vacated the office of governor of Louisiana, yet it is a part of the public history of the country and the Senate that Governor Nicholls was at that time recognized as governor of Louisiana by the Government of the United States, and that Governor Packard was neither governor nor claimed to be the governor of Louisiana, and that he was confirmed by the Senate with this

express knowledge and understanding. Why not treat this case, then, in the light of the facts? Why refine on nice distinctions which have no real foundation to eliminate the great solid facts of this contest?

I ask, Mr. President, in the light of reason and argument, can precedent ever take the place of constitutional power, duty, and obligation? We hear much said here of "*stare decisis*," of the "unbroken usage." I ask can precedent ever take the place of constitutional duty, obligation, and power? What is a precedent? It is a usage, a custom, a fact that the same or a like thing, act, or duty has been before done or performed in a particular way. To give it the force and effect of law, even in mere matters of private right, the body of laws from which we derive our laws required that it should be of great antiquity—unbroken and continuous from a time in which the memory of man runneth not to the contrary. A precedent of a few cases would not be sufficient to give a custom or precedent any force or effect.

But it is the fundamental law of our Constitution *that we shall not be governed by precedents*, but by a written constitution as the paramount law, and the laws made in pursuance thereof. All legislative power is committed to a Congress, which is required to meet every year, which is required to exercise supreme legislative power to make and unmake, to continue or discontinue all existing laws, and whose power and judgment can in no way and to no extent be bound or limited by the action or by the laws passed by or by the opinions of any preceding Congress, and upon whom the obligations of the fundamental law rests as an ever-present force.

How, then, can precedent stand in the place of constitutional obligation, and how can it have any force as opposed to the Constitution? Its persuasive force is certainly of weight when emanating from sources worthy of respect for their learning, disinterested zeal for the public good, and their virtue, but even then, when opposed by any great considerations of public good, when opposed by present convictions of constitutional obligation, precedent can have no proper or reasonable influence. Will Senators or anybody else say that if any succeeding Congress should be clearly of the opinion that a preceding Congress had violated the Constitution by any act or law the longer continuance of which depended on either their active or passive consent that they would not be obliged by the obligations of the paramount and fundamental law to withhold that consent and by affirmative action, if need be, execute and carry into effect the fundamental law which they are sworn to execute according to the limitations and conditions of the Constitution *and not according to precedents*? Why, Mr. President, this power and duty of perpetual supervision and revision of the acts of all preceding Congresses is a positive denial of the binding force and effect of precedent and is the great corner-stone of the Constitution, and the power which its wise architects created to guard it and protect it from violation or abuse. There can be no place for precedent or *res adjudicata* or *stare decisis* as opposed to the plain and fundamental provisions of our constitution of government with the supreme Legislature to whom the exercise of its great powers is confided.

I have heard with surprise the argument of Senators that a court deriving its power from the Constitution and laws may obtain a power not granted but prohibited by deciding that it has such power, and the argument insisted upon that this is a general principle of law and binding on the Senate as upon courts. Of what use is a written Constitution or statutes if the power which they prohibit can be exercised by a simple assertion of its existence by the persons to whom the exercise of the power is confided; if, under the theory that when a court decides a jurisdictional fact its judgment is quite as valid if it did *not* possess the constitutional or lawful power to make such decision as if it did? Why, there never could be such a principle, neither under a despotic nor a free government. In Voorhees *vs.* The Bank of the United States, 10 Peters, 474, the Supreme Court of the United States say: "If *not* warranted by the Constitution or law of the land, our most solemn proceedings can confer no right which is denied to any judicial act under color of law which can properly be deemed to have been done *coram non judice;" that is, by persons assuming the judicial function in the given case without lawful authority.* Again, on page 477, same case, the court say:

If there is a total want of jurisdiction the proceedings are void and a mere nullity, and confer no right and afford no justification, and may be rejected when collaterally drawn in question.

In Elliott *vs.* Russell, 1 Peters, 328:

If a court acts without authority its proceedings are not merely voidable but nullities, and constitute no justification.

This is the rule of the Constitution and the necessary rule of every government where the exercise of power is restrained by conditions and limitations imposed in the interest of freedom and personal rights.

I am not ignorant, Mr. President, that the judicial power has in late days made some very bold and rapid approaches toward a denial of these plain and self-evident truths by holding that although the courts of the United States act without power and in violation of the Constitution which creates them and forbids them from exercising certain powers, still their judgments are not nullities but merely voidable. Yet even they have not had the temerity altogether to deny the obligations of the Constitution.

But, however this may be, the reason for the rule that a court may not open a judgment after a case has become by the rules of law *res adjudicata* is stated in the very decisions cited by the Senator from Wisconsin, and the same decisions also state the reason why such a rule in the nature of reason itself cannot apply to the supreme legislative tribunal.

The reason of the rule that when the jurisdiction or judicial power provided by law for the determination of a given case of private right between individuals is exhausted the decision is final and, right or wrong, must stand and be *res adjudicata*, is that the law in that given case fails to provide for the further exercise of judicial power. The law-making power, the supreme legislative tribunal, has seen fit *not* to provide for any further exercise of judicial power in that given case. And as the courts are dependent on the exercise of legislative power either by the fundamental law or otherwise for the extent of their judicial power and the means for its exercise, *ex vi termini* their power is ended when there is no law for the further exercise of their judicial power. The Senator from Wisconsin has asked repeatedly if the reasons which have actuated legislative tribunals in establishing a public policy that there should be a period at which litigation should end, as stated in the maxim of law prevailing in all countries, "*interest reipublicæ ut sit finis litium*," are not quite as applicable to the determination of the contest as to title or right to a seat in the Senate, as to private rights. The question may be easily answered, and the answer is no, a thousand times no. In one respect alone there is a point of similarity. In the vital and important points of the two cases they are as wide apart as the poles and as different as the bright light of day and the blackest darkness of night. In a matter of private right there is no reason why some reasonable period should not be fixed for a termination of litigation. The injury of a wrong decision is confined to the parties, and does not concern the whole body of the State. As a precedent the decision is not binding, and collaterally, if made without power or jurisdiction, it is of no force or effect, but merely void. But to give validity and effect to the assumption and exercise of unconstitutional and forbidden powers by the great co-ordinate departments of the Government, by a rule or precedent terminate all inquiry into their validity and make every unlawful exercise of power *res adjudicata*, is plainly *to subvert the fundamental law*, and to provide a *lawful means for overthrowing the charter of Government itself* and all our liberties. This concerns not a a few private individuals, not a mere property right, but the rights of all the whole body of the people, the safety of the Republic itself. Mr. Lincoln has himself defined this distinction and the reason why the principle of *res adjudicata* cannot apply to the legislative department of the Government. I read the following from his inaugural address:

I do not forget the position assumed by some, that constitutional questions are to be decided by the Supreme Court; nor do I deny that such decisions must be binding in any case upon the parties to a suit, as to the object of that suit, while they are also entitled to very high respect and consideration in all parallel cases by all other departments of the Government. And while it is obviously possible that such decisions may be erroneous in any given case, still, the evil effect following it being limited to that particular case, with the chance that it may be overruled and never become a precedent for other cases, can better be borne than could the evils of a different practice. At the same time the candid citizen must confess that if the policy of the Government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court the instant they are made in ordinary litigation between parties in personal actions, the people will have ceased to be their own rulers, having to that extent practically resigned their Government into the hands of that eminent tribunal.

The supreme legislative power subject to the Constitution alone is inexhaustible; it is perpetual, ever present, and by the express provision of the organic law is required to be unrestrained by either *precedent* or the express provisions of positive law; but to amend, alter, abolish, change the law, excepting only the supreme law itself, as to the supreme Legislature shall from time to time seem to be best for the public good, subject alway to the condition that every exercise of power shall be in support and defense of the Constitution.

This great and wise charter of government has given to its authors an enduring fame. It has brought a new era of liberty and happiness to the people. It was thought by the people of both sections in the late war to be of such great value as to justify an internecine war and the devotion of more than a million of valuable lives to its preservation in its complete integrity as in their differing opinions they regarded it. The question remains for us: Shall we destroy it; shall we subvert it by the adoption of the fatal principle that every wrongful exercise of its powers shall become rightful and irreversible because when the wrong is consummated it will become a *res adjudicata* and have the sanction of precedent?

It seems to me this is a question far above all party questions. It seems to me that to adopt by a vote of the Senate the proposition that the Senate may, either for partisan purposes or for non-partisan purposes, from whatever motive, declare that to be a Legislature which all the departments of the National Government, the Supreme Court, the people of the State, all the tribunals of the State, the practical relations which it bears to the Government deny to be a Legislature—for this Senate to say, "We will absolutely refuse to recognize the action of every department of this Government, and will make a Senator for a State without reference to the choice of that State," is a proposition utterly destructive of the Government.

No Senator, either on this or the other side, will deny the fact that the State of Louisiana from 1877 to the present time has been under the control and dominion, by her own voluntary act, of the Nicholls government and the Nicholls legislature. No man will deny either in or out of this Chamber that the Government of the United

States has recognized and affirmed throughout the whole period of that time the practical relations of the State of Louisiana with the Government of the United States under the Nicholls government. I say, then, that in my judgment no Senator has the right to say, "I will deny what the people of Louisiana, what the Government of the United States, what the Senate for all other purposes has affirmed to be true, and I will affirm that for the purpose of making a Senator in this body the right of a State, the essential right of a State, to be recognized by the person chosen by her Legislature shall be disregarded, refused, denied, and trampled upon."

Mr. President, I affirm as the conclusion of the investigation which I have been able to make on this subject that—

First. There is no constitutional power in the Senate of the United States to deny to the State of Louisiana representation in the Senate by a person chosen by the Legislature of that State and eligible under the Constitution.

Second. Such a power if not conferred by the Constitution cannot be created by a resolution of the Senate declaring a person not chosen by the Legislature to be entitled "on the merits" to a seat in the Senate.

Third. If such a power is not conferred by the Constitution and is not created by the resolution of the Senate, its exercise cannot be binding on the Senate or valid for any purpose whatever.

Private Land Claims.

SPEECH OF HON. E. W. ROBERTSON,

OF LOUISIANA,

IN THE HOUSE OF REPRESENTATIVES,

Wednesday, June 9, 1880,

On the bill (H. R. No. 475) for the judicial investigation and adjustment of private land claims in the States of Louisiana, Arkansas, Missouri, Florida, and the States of Alabama and Mississippi south of the thirty-first degree of north latitude.

Mr. ROBERTSON said:

Mr. SPEAKER: The bill under consideration proposes substantially a revival of the act of June 22, 1860, entitled "An act for the final adjustment of private land claims in the States of Florida, Louisiana, and Missouri, and for other purposes." It also seeks to extend the jurisdiction of that act so as to include all the States and parts of States within the Louisiana purchase of 1803 and the Floridas of 1819, which contain Spanish and French private land grants. It provides but one mode of adjusting those claims, namely, the opening of the United States district courts to the claimants, and, as a matter of ample precaution, it requires an appeal to the United States Supreme Court for final decree. In this respect the bill is an improvement upon the act of 1860, which provided two modes of adjustment, for experience has shown that it is better to require all such claims to be finally reviewed by a judicial instead of political tribunal.

The proposition, then, is that Congress open its own United States courts to pass on the merits of the claims, to confirm those which are valid and reject those which are invalid.

Of the States embraced within the provisions of the bill, Missouri, Arkansas, Louisiana, Southern Mississippi, and Southern Alabama, are, says the Supreme Court, subdivisions of the extensive Louisiana territory which the United States purchased from France by the treaty of Paris in 1803, and which France acquired from Spain in 1800. The remaining State, Florida, comprises the cession from Spain to the United States by the treaty of 1819. Both in Florida and in the Louisiana territory many grants were made by the above-mentioned predecessors of the United States. It was the policy of Spain to populate and develop her possessions in America. This policy was necessary as affording greater protection against the neighboring Indian nations and the extension of territory and power of her European rivals, France and England. It was in behalf of her own interests and ambition that she was so liberal in rewarding the pioneers and settlers for their valuable services with grants of land. And usually the pioneers fully earned whatever reward they thus received. In many cases they had, in addition to hardships and exposure to danger in establishing settlements and trading-posts, expended large sums of their private funds in behalf of their government. And in the correspondence of the Spanish officials accompanying these grants may frequently be found compliments to the pioneers and a grateful recognition of their patriotism and services.

The rights of these pioneers and other grantees of land have not been sufficiently guarded, and good faith on the part of the United States requires further recognition and legislation. The treaties of 1803 and 1819 recognized the rights of private property, and it was the duty of Congress to support these international contracts. The language of the treaty of 1803 on this subject is as follows:

The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible according to the principles of the Federal Constitution to the enjoyment of all the rights, advantages, and immunities of citizens of the United States, and in the mean time they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess.

The language of the treaty of 1819 on the same subject is as follows, namely:

All of the grants of land made before the 24th of January, 1818, by His Catholic Majesty, or by his lawful authorities in the said territories ceded by his majesty to the United States, shall be ratified and confirmed to the person in possession of the lands to the same extent that the same grants would be valid if the territories had remained under the dominion of His Catholic Majesty.

The Supreme Court of the United States has construed the above quoted article of the treaty of 1803 as follows:

That the perfect inviolability and security of property is among these rights all will assert and maintain. The right of property, then, is protected and secured by the treaty, and no principle is better settled in this country than that an inchoate title to lands is property. Independent of treaty stipulations this right would be held sacred. The sovereign who acquires an inhabited territory acquires full dominion over it; but this dominion is never supposed to divest the vested rights of individuals to property. The language of the treaty ceding Louisiana excludes every idea of interfering with private property, of transferring lands which had been severed from the royal domain. The people change their sovereign; their right to property remains unaffected by this change.

The treaty is further construed by the Supreme Court as follows:

It was never doubted by this court that property of every description in Louisiana was protected by the law of nations, the terms of the treaty, and the acts of Congress, nor that in the term "property" was comprehended every species of title, inchoate and perfect, embracing those rights which lie in contracts—those which are executory as well as those which are executed. In this respect the relation of the inhabitants to their government is not changed. The new government takes the place of that which has passed away.

The parallel and above-quoted article of the treaty of 1819 has been construed by the Supreme Court as follows:

Our Constitution declares a treaty to be the law of the land. It is consequently to be regarded in courts of justice as equivalent to an act of the Legislature whenever it operates of itself without the aid of any legislative provision. But when the terms of the stipulation import a contract, when either of the parties engages to perform a particular act, the treaty addresses itself to the political, not the judicial, department, and the Legislature must execute the contract before it can become a rule for the court.

The duty of Congress to support these treaties by suitable legislation becomes still more apparent when it is considered that in nearly all cases the United States has disposed of the very lands which never belonged to her, and which under the treaties were to be secured and confirmed to the claimants. The United States has in a few instances and for very limited periods provided commissions or opened the United States courts to investigate the claims. But usually the claimants have been compelled to resort to Congress by petition for a recognition of their rights. Let us see what success has attended their efforts. In most instances where the claimants have come here for relief they have found unwilling listeners to their appeals. In July, 1876, several of the unconfirmed Spanish grants of Missouri came before this House as a Committee of the Whole, and they were met with the argument that they belonged to a judicial tribunal. The remarks of a member from Illinois, upon that occasion, illustrate the point I have just raised. He said:

It must occur to any mind on a moment's reflection that this is a question that ought to be determined judicially. It is impossible for the gentlemen here to settle this question and say whether the title passed from Spain to these claimants at that time. I think it is asking too much of a committee of this House, or of the other House, to sit judicially upon such a question as this and determine it. If the law of 1860 is not sufficient—by the way, so far as I know that law has not been quoted here to-day—if that is not sufficient then I think this House should require of these claimants that they come in here with a bill which will properly open the doors of the court and allow the court to say whether they are entitled to this land or not.

The act of 1860 was not sufficient, for the claims under consideration belonged to that class which had to be reviewed by the register and receiver, reported to the Commissioner of the General Land Office, and by him reported to Congress. These cases illustrate the desirability of having the act of 1860, when renewed, so framed as to require all classes of these claims to be presented to the courts.

Such being the almost invariable rebuff to claimants whenever they have presented petitions for confirmation to Congress, it remains to be seen what has been their fate under general legislation. I claim that there was no adequate legislation on this subject prior to 1860, notwithstanding many acts were passed.

The more important acts of Congress in regard to these titles are from the date of the treaty of Paris, in 1803 until 1860, as follows, namely:

Act March 26, 1804:

An act erecting Louisiana into two Territories, and providing for the temporary government thereof.

Act March 2, 1805:

An act for ascertaining and adjusting the titles and claims to land within the Territory of Orleans and the District of Louisiana.

This act provides for a commission to examine the claims.

Act May 8, 1822:

An act for ascertaining claims and titles to land within the Territory of Florida.

This act provides for a commission to investigate claims, excluding from its benefits all over one thousand acres.

Act May 26, 1824:

An act enabling the claimants to lands within the limits of the State of Missouri and Territory of Arkansas to institute proceedings to try the validity of their claims.

This act opened the United States district courts to these claims, except those over one league square.

Act July 9, 1832:

An act for the final adjustment of private land claims in Missouri.

This act provided for a board of commissioners to investigate and report on all claims.

Act February 6, 1835:

An act for the final adjustment of claims to lands in the State of Louisiana.

This act also provides for a board of commissioners to report claims to Congress.

Act June 17, 1844:

An act to provide for the adjustment of land claims within the States of Missouri, Arkansas, and Louisiana, and in those parts of the States of Mississippi and Alabama south of the thirty-first degree of north latitude and between the Mississippi and Perdido Rivers.

This act revives and extends the act of May 26, 1824, opening the United States courts to claims not over one league square.

Of these various acts it will be observed that the last one opening the courts was drafted in 1824, for the act of 1844 is but a revival of that defective act. It is safe to assert that in 1824 Congress did not have sufficient information on the subject of Spanish land laws and ordinances to prepare any but a defective act. In proof of that assertion, I quote from a decision of the United States Supreme Court rendered in 1836, in which it makes such an admission. The case was before the court in 1830, but the decision was withheld until 1836, for the following reason, as stated by the court:

The subject was a new one both to the court and the bar; the titles and tenures of land in Louisiana had never undergone a judicial investigation which could give the court such information as could lead them to any satisfactory conclusion. Hence, and notwithstanding the full argument in these cases, there seemed to be much matter for consideration in the developments to be made of the laws, usages, and customs of Spain in relation to grants of land in Louisiana. These cases were held under advisement.

A hasty and complete compilation of the Spanish laws and ordinances had been made in 1828 and 1829 by Joseph M. White, who had been appointed by President John Q. Adams special counsel for the Government in some of these land cases. The compilation was made for the United States at the request of the President and on the suggestion of William Wirt, then Attorney-General, who wrote:

Such a collection will be indispensable to a just decision of these claims by the Supreme Court.

About ten years later Mr. White completed a new compilation, and then for the first time (1839) was there a sufficient guide for the courts. Mr. White says in the preface of his work, as follows:

Whether it is to confirm just titles or reject defective ones, the United States as a just Government are more interested than individuals in the administration of justice, which separates private property from the public domain. The want of this information has caused a delay in the adjustment of titles which could under no other state of circumstances excuse any government.

From the date of that compilation until 1860 there was no further legislation opening the doors of the courts to the claimant, except the act of 1844 reviving the unjust and defective act of 1824 drafted before the compilation. There was some general legislation in 1832 in regard to the large number of unconfirmed claims in Missouri, but this simply provided for a board of commissioners to investigate the claims and report to Congress. At the time this board submitted its final report in 1835 they had examined four hundred and ninety-seven claims, reporting favorably on three hundred and forty-five and unfavorably on one hundred and fifty-two. On account of interruption by the prevalence of cholera in Saint Louis and for other reasons the board was unable to complete their duties as prescribed by that act of Congress; and they say in their report:

There yet remained to be acted on about seven hundred claims within the State of Missouri, and it is respectfully but earnestly recommended to Congress to continue the investigations until the business is finally completed. This, we think, is due to the interests of both the State and General Governments, as well as to that of the individuals immediately concerned.

But Congress never provided another board to complete the investigation of these claims, thereby compelling the claimants to go to the expense of looking after petitions before Congress, which were, of course, too formidable for those owning small claims. As a further illustration of the neglect by Congress of these rights may be mentioned the claims of parties in Louisiana. In 1832 Edward Livingston, Secretary of the United States, submitted for the consideration of this House the draught of a bill for their adjustment. He concluded his communication with the following comments:

All which is respectfully submitted, with the expression of a decided opinion that the eighth article of the treaty between the United States and Spain, if it did not confirm the grants and sales in question, at least created an express obligation upon the former power to confirm them; but this obligation has not been fulfilled, and that its performance ought no longer to be delayed. The scrupulous regard we have hitherto paid to our engagements with foreign powers has not only established our character for fidelity and honor, but is indispensable when we wish to enforce our claims upon other nations. To suffer it to be sullied by a reasonable doubt would be a serious injury at all times, and in the present instance would operate injuriously on the negotiations in which the Executive is now engaged to procure indemnity for injuries that have been inflicted on our commerce.

Not until 1860 did Congress furnish the necessary legislation in recognition of these sacred treaty obligations and the just rights of claimants. I allude to the act of June 22, 1860, "An act for the final adjustment of private land claims in the States of Florida, Louisiana, and Missouri, and for other purposes." The history of that act is as follows: In 1858 Judah P. Benjamin was chairman of the Senate Committee on Private Land Claims, and in that capacity had occasion to investigate and report on several of these Spanish grants. In addition to a review of those individual claims he made an elaborate report on the treaties, early acts of Congress, and Supreme Court decisions relating to this subject, and submitted a bill of a general nature to open the United States courts to claimants in Florida, Louisiana, and Missouri. This bill became a law in 1860. I quote as follows from the concluding portion of his report:

It thus appears that the memorialists, by the action of the Government, are left without even a chance of trying their title. Congress passes acts referring them to the judiciary. The judiciary decides that it cannot examine the merits of their claim because those merits depend on a political, not a judicial question. Bandied backward and forward, from one Department of the Government to the other, their rights have actually been sported with for fifty years. The violated faith of treaties calls aloud for redress. It is a scandal upon public justice that this state of things should endure a day longer.

I next assert that the act of 1860 and its revivals were not sufficiently available. They applied only to Florida, Louisiana, and Missouri. Hence the States of Arkansas, Southern Alabama, and Southern Mississippi have received none of the benefits of its provisions. The injustice of this exclusion must be very apparent when we consider that those States contain many large and important grants. Not even in Florida, Louisiana, and Missouri was the act of 1860 sufficiently available, for it was in force only during the war and expired by limitation in 1865. It was revived in 1867 for three years, but the time was not sufficient to enable the many heirs of the old grantees, scattered as they were in distant regions, to learn and avail themselves of the provisions of the act. And owing to the effects of the war the claimants in those States were oftentimes too poor to look after private rights of property of this nature, and which litigation would be accompanied with considerable expense. The revival in 1872 was also for three years, but the same causes existed as under the revival of 1867 for failure to learn of and look after their rights. The disturbed condition of politics and the unsettled condition of State governments and courts in one portion of the territory included within the provisions of the act were further obstacles to reaping the full benefits of its revival.

But now the political questions have been adjusted, the courts are all in successful operation, and individual claimants are both enabled, encouraged, and disposed to look after their rights of property. They are now in a condition to reap the full benefit of another revival of that just and necessary act of 1860.

What will be the effect of its revival? In most instances the tracts of land covered by the grants have been subdivided and disposed of by the United States and are now occupied by many individuals. It is not the purpose of this bill to disturb those parties in possession, but, on the contrary, its operation is to make them all the more secure in their titles. The act provides:

That whenever it shall appear that lands claimed, and the title to which may be confirmed, under the provisions of this act, have been sold, in whole or in part, by the United States prior to such confirmation, * * * the party in whose favor the title is confirmed shall have the right to enter upon any of the public lands of the United States a quantity of land equal in extent to that sold by the Government: *Provided*, That said entry be made only in lands subject to private entry at $1.25 per acre.

So, instead of interfering with the rights of those holding titles from the United States, it tends to quiet titles by inducing the claimants to waive any claim to the land itself. It is a settlement with citizens which ought to satisfy the United States if it does the claimants, for the United States cheaply atones for its own wrong in selling grants which never belonged to her, which are now very valuable, by the simple payment of an equal number of acres of land-scrip, worth nominally but $1.25 per acre and really but about $1.10 per acre.

Again, under a revival of this act the United States will have to settle with but a very few claimants, for most of the grants contain too few acres to make it an object to incur the expense and trouble of a suit in the United States district court and an appeal to the United States Supreme Court for the purpose of securing a few acres of land-scrip.

Congress itself will be greatly relieved by the passage of this bill. The large and increasing number of private bills is inflicting upon us a great amount of work which properly belongs to judicial tribunals. We are continually bored by these old and intricate land titles, not only the Spanish and French claims within the former Louisiana Territory and the Floridas, but by the Spanish and Mexican private land claims within the territory acquired from Mexico in 1848 under the treaty of Guadalupe Hidalgo. So great a bore are such claims before a legislative body that the bill might with propriety be called a bill for the relief of Congress.

Mr. Speaker, there is a fundamental principle of government involved of far greater importance to the country than the mere adjustment of the particular class of claims covered by the bill under consideration. It is the question of justice and honesty toward the citizen. In a Republic proverbially fond of "fair play" it seems strange that such a question can arise in this House, chosen directly by the people and to serve their interests. Yet it does arise; and year after year and session after session citizens appeal to us for the payment or adjustment of claims long due and unpaid. They come here at expense, remain here on expense, are looked upon as lobbyists, go home without even a trial, disappointed and dissatisfied. Why do they come here? Simply because they have no other forum, because we do not open the Federal courts, where they would prefer to

go. We should either act upon the thousands of private bills before us or say—what is a fact—that we are occupied with political questions and general legislation, and have neither the time nor disposition to try the intricate questions of law and fact involved in these numberless claims presented for our consideration; to even attempt it is, in my opinion, usurping the duties of the judicial branch of the Government. To refuse to open our own Federal courts by some carefully prepared general bill is a refusal of justice and a national scandal.'

The impropriety of attempting to superadd to our legislative duties the work of the judiciary may be seen from a statement of private claims referred to three committees only of this House during the present Congress. Nine hundred and sixty-two have been referred to the Committee on Claims, about twenty-five hundred to the Committee on Invalid Pensions, and over four thousand to the Committee on War Claims. In addition to these, twenty-five hundred more will be sent to the latter committee next session from the Treasury Department, making a total of about ten thousand private claims, all of which require investigation and decision. It is absolutely impossible for a legislative body to do justice to either the Government or claimant in business of this nature, which requires the machinery and safeguards of the courts.

Do not, Mr. Speaker, think I am advocating the payment of war claims, for I am not. I am speaking of claims generally and the general question of justice toward the citizen. What does the Federal court say upon this subject? A few years ago the Court of Claims of the United States had before it the suit of a citizen to recover a balance from the Government remaining unpaid and unsatisfied. I allude to the case of Brown *vs.* The United States, decided in 1870, and reported in volume 6 of the reports. The court said as follows:

> In the great arrogance of great ignorance our popular orators and writers have impressed upon the public mind the belief that in this Republic of ours private rights receive unequaled protection from the Government; and some have actually pointed to the establishment of this court as a sublime spectacle, to be seen nowhere else on earth. The action of a former Congress, however, in requiring that aliens should not maintain certain suits here unless their own governments accord a corresponding right to citizens of the United States, has revealed the fact that the legal redress given to a citizen of the United States against the United States is less than he can have against almost any government in Christendom. The laws of other nations have been produced and proved in this court, and the mortifying fact is judicially established that the Government of the United States holds itself, of nearly all governments, the least amenable to the law. * * * Of all the countries whose laws have been examined in this court, Spain only resembles the United States in fettering the judicial proceedings of her courts by restrictions, and leaving the execution of their decrees dependent upon the legislative will.

I know of no more unwise, unjust and dangerous policy for any government to pursue. It is an incentive to discontent, disrespect, and disloyalty on the part of the wronged and neglected citizens. It is repudiation in its worst form to refuse the payment of just claims to our own citizens. It is an immoral example and an incentive to dishonesty. We point with pride to our country's natural resources and wealth, and her financial credit abroad, it being equal to that of any nation on earth. Would it not be wise to establish an equal credit at home among our own citizens by a just recognition of private rights? Pride and patriotism, as well as self-interest and common honesty, require early action upon this important subject.

Cession of the Ute Reservation in Colorado.

SPEECH OF HON. JAMES B. BELFORD,

OF COLORADO,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, June 1, 1880,

On the bill (S. No. 1509) to accept and ratify the agreement submitted by the confederated bands of Ute Indians in Colorado for the sale of their reservation in said State, and for other purposes, and to make the necessary appropriations for carrying out the same.

Mr. BELFORD said:

Mr. CHAIRMAN: A writer of some note in this country states that since the establishment of our Government we have expended $720,000,000, in our attempt to control and civilize the Indians. Of this amount we have spent five hundred millions in protecting the frontiers, in building forts, maintaining garrisons, and supporting the soldiery, and two hundred and twenty millions in feeding, educating, and civilizing the native races. Each year we appropriated thousands of dollars to support the Indian Bureau, with its Commissioner and clerks, its agents and inspectors, to which we add five millions more to pay annuities and to furnish food and clothing to the wards of the nation.

The result of all these expenditures has been to create the most gigantic system of legalized pauperism the world has ever seen—a pauperism not founded on inability but on unwillingness to work. Few people stop to think that two hundred and seventy-five thousand Indians occupy 236,559 square miles of territory, a scope of country larger than Austria and Hungary, larger than England and Ireland, larger than the Republic of France, larger than Germany. The soil of Belgium supports nine hundred and fifty persons to the square mile, and the continent of Europe is peopled in a ratio of seventy inhabitants to each six hundred and forty acres of land.

Austria and Hungary contain 226,406 square miles and accommodate a population of more than thirty-five millions. France contains 201,900 square miles and supports a population of more than thirty-six millions. Germany contains 212,091 square miles and supports a population of upward of forty-two millions. England and Ireland contain 121,230 square miles and support a population of more than thirty-one millions.

In this country, under a mistaken system and an unwise policy, we accord to a mere handful of idle and thriftless savages a domain more imperial than that of England and Ireland, and in addition appropriate yearly millions of money to nurture and sustain them. Of this vast domain which we have assigned them, embracing more than one hundred and fifty-one millions of acres, they cultivate less than five hundred thousand. And if any gentleman from the West objects to this misappropriation of land and misapplication of money he is denounced by eastern philanthropists and eastern papers as a thief and a robber. In the States of Oregon, Colorado, Iowa, Kansas, Nebraska, Wisconsin, and Minnesota and the Territories of Washington and Dakota there are thirty-six reservations, containing over twenty-one millions of acres of land, under charge of twenty agents and their attendant corps of assistants.

Large as are these reservations the Indians refuse to remain on them, and a kind and parental government, inspired by cant and sentimentalism, declines to take any steps looking to an abridgment of the Indians' privilege to roam at will throughout the States and Territories.

Years ago the nation set apart a reservation west of the Mississippi River, known as the Indian Territory, which was designed to be the permanent home of the native races of this continent. This reservation equals in area the State of Indiana, and is occupied by seventy-one thousand Indians—a number not equal to the population of an important county in the East, and yet this handful of semi-civilized savages have absolute control over twenty millions of acres of land. God made this earth for those who are willing to cultivate it. I deny the wisdom or justice of that legislation which taxes me to support in idleness a man who is as capable of performing labor as I am myself. I deny the wisdom or justice of that legislation which carves out of the very heart of this Republic a territory as large as that occupied by the most important nations of Europe and declares that no white man shall carry into it that enterprise and industry which have filled this world with its ten thousand activities.

This policy, whether it rests on treaty or on statute, must be abandoned. No Chinese wall designed to fence Indians in and white men out of land can be maintained in this country. The reservation policy is wrong in principle and vicious in results, and must be abolished. The idea of recognizing an Indian nation with which you hold treaty relations within the limits of a State in this Union is a crime against the sovereignty of the State. If Indian tribes are to be treated as foreign nations, then I deny your right to support them as paupers.

OUR PAST POLICY.

When our forefathers threw off the yoke of Great Britain, the States claimed that they succeeded to all the sovereignty that England had exercised over the soil and over the Indians who occupied it. Virginia asserted her right to the fee of the soil within her borders and ignored the claim of the Indians to sell any part of it. New York, by solemn ordinance, declared no valid contract looking to a disposition of the land within her limits could be made with an Indian without its consent; and in 1778 the articles of confederation recognized this right of the States to deal directly and exclusively with the native tribes found within their boundaries.

When the conflicting claims of the several States to lands lying west of certain degrees of latitude were adjusted by a cession of these lands to the General Government, and the land lying north and west of the Ohio River became the common property of the people, the General Government assumed control of the Indians found within this area, and by the ordinance of 1787 declared that the utmost good faith should be kept with the Indians and that their lands should not be taken from them without their consent. This originated a policy which has filled our statute-books with over nine hundred treaties, wherein the second section always stamps the lie on the face of the first. For it is a singular fact, that the first section of every treaty reads: "Henceforth there shall be a firm and lasting peace between the United States and the tribe of Indians," and the second section reads: "That in consideration of said lasting peace the said tribe hereby surrenders the following-described tract of land."

With the adoption of the Federal Constitution the National Government, under that provision which gave to Congress the right to make treaties with Indian tribes and to regulate trade and intercourse with them, took charge of the Indians within the limits of the several States, and from that day to this it has asserted its right to control them.

THE PRECEDENTS.

The people of my State, Mr. Chairman, are following a long line of precedents when they urge and insist upon the removal of the Indians from Colorado. They know that the settled policy of this nation from the hour of its establishment has been to secure the removal of

the Indians from the land required for settlement by the whites. Under this policy we have not only built up a vast empire in the West, but have delivered many Eastern and Southern States from the presence of the native races. Under this policy we sent the Delawares from Pennsylvania to Indiana, and finally beyond the Mississippi. Under this policy the Pottawatomies, who at one time dominated the great councils of the Northwest, have been forced to move their tents nearer to the setting sun. Under this policy we compelled the southern tribes who once occupied Florida, Louisiana, Georgia, and Alabama to take up their abode in the Indian Territory. Under this policy, in 1872, Congress opened up to homestead settlement the reservations in Michigan assigned the Ottawas and Chippewas by treaty in 1855. Under this policy we moved the Modocs from Oregon to the Indian Territory, and the Nez Percés from their camp-fires in the West to their graves in the East. Under this policy we banished the Sioux from Eastern Dakota and opened up a new mining region to the industry of the white man. Under this policy we have reduced our frontier to a purely imaginary line which no man can fix; and this policy of ridding the States of the presence of the Indians is as old as the Government itself, and has received the approval of every administration from Washington down. It has been commended in many special messages sent to Congress and has been recognized in numerous laws found in our statute-book.

Looking to the deliverance of the States from the presence of this unfortunate race, General Knox during Washington's administration advocated the removal of the Indians to the West and their location on certain reservations to be selected by the Government. When we acquired the Louisiana Territory Mr. Jefferson believed that the time had come when the policy of General Knox could be safely carried out, but in certain quarters prejudice was strong against so radical a measure and its adoption was delayed. At the conclusion of the war of 1812, owing to the conduct of the Indians during that war, the colonization policy was again revived. Population was rapidly increasing; necessity existed for the occupation of lands then held by the Indians. It was claimed that the civilization of the native races could only be secured by locating them on a reservation where they would not be subject to contact with the white man. Mr. Monroe, in a special message sent to Congress, declared that in his judgment the happiness and welfare of the Indian could only be secured by retiring him beyond the limits of our States and Territories, and in his message of 1825 he stated that it was impossible to incorporate him into our system, and that his extermination could only be warded off by placing him on a reservation from which the whites should be forever excluded. The State of Georgia at that time was extremely anxious to rid herself of the Cherokees. These Indians refused to go. Georgia took the same ground then that Colorado takes to-day. She declared that their company was not desirable, that they retarded her growth and development, and she demanded of the General Government that they be removed.

Philanthropic men at that time, as now, opposed the plan of Indian removal; they declared that the land that they had theretofore relinquished was more than sufficient to accommodate any increase of population that could be anticipated, while others declared that it was dangerous to the peace of this nation to erect within our borders a distinct territory over which the Indians were to be regarded as sovereigns. President Adams declared, however, that they must go. Jackson urged the same policy in his message to Congress, and declared that the Indians "have neither the intelligence, the industry, the moral habits, nor the desire of improvement which are essential to any favorable change in their condition;" that they could only be saved from extermination by removal. Van Buren informed Congress "that the mixed occupancy of the same territory by the white and red man is incompatible with the happiness and safety of either, and is a question in respect to which there has long ceased to be sufficient room for a difference of opinion." Mr. Tyler, in his message of 1844, uses this language:

> The Executive has spared no effort in carrying into effect the well-established policy of the Government, which contemplates the removal of all the tribes residing within the limits of the several States beyond these limits.

The same policy was approved by Polk's administration. Well, Mr. Chairman, Congress enacted this policy into a law. It set apart the Indian Territory as the permanent home of the native races. It solemnly declared that "this home so established should never in all future time be interfered with by having extended around it the lines or placed over it the jurisdiction of a Territory or State." To this Territory the Government sent the Cherokees and Chickasaws, the Creeks and the Seminoles, and portions of other tribes; and now, sir, after the South and the East have unloaded their Indians on this Territory—after they have cut out of the heart of the nation over twenty million acres of land for the avowed purpose of making a home for all the Indians, and after having placed some seventy-one thousand Indians upon them, we are told that a change must be effected in our national policy, and that the States that have Indians within their boundaries must keep them there; and in the present bill you propose to enact that these Utes shall remain in the State of Colorado for the next quarter of a century; that they shall stand there as a breakwater against the swelling tide of civilization. You might with the same propriety declare that any strolling band of trappers and hunters should have marked out for them a game preserve of a million acres in the heart of the continent, and declare that this preserve thus marked out shall for a quarter of a century remain inviolable and inalienable.

Mr. Chairman, a quarter of a century is a long time in the busy life of a nation like ours. In the last ten years the population of Colorado has increased from thirty-nine thousand to two hundred and fifty thousand. From 1850 to 1880 the population of the United States has increased from twenty-three millions to the neighborhood of fifty millions. In the last twenty-five years we have organized in the West nine Territories and have admitted six States into the Union. During the past fourteen years we increased our telegraph lines from thirty-seven thousand to upward of eighty-two thousand miles. In the last ten years we have increased our lines of railroad from forty-four thousand to upward of eighty-one thousand miles. Less than twenty-five years ago we discovered the first silver mines in the United States; and since 1859 the West has produced from land wrested from the Indian silver bullion of the value of over $422,000,000, to which you might add over one thousand millions of gold which have been mined during the same time. During the past twenty-five years we have constructed a transcontinental railroad which has changed, in a large degree, the course of the world's commerce, and which has reduced the time of travel from the extreme points in the East to the extreme points in the West to less than seven days, thus bringing New York and San Francisco nearer together than Boston and Philadelphia were at the beginning of this century.

I have alluded to these things to show the danger we run in erecting a wall in the heart of this country through which the currents of trade cannot flow and beyond which the industry of our people must not pass.

Mr. Chairman, the policy inaugurated by Knox, approved by Jefferson and Monroe, sanctioned by Adams and Jackson, and wrought into law by different Congresses has not been a success if the civilization of the Indian was the object sought to be accomplished. It is stated by those familiar with the subject that we have as many Indians in the country to-day as existed at the adoption of the Federal Constitution. Out of two hundred and seventy-five thousand Indians we have after a vast expenditure of money succeeded in partially civilizing about fifty-six thousand. Out of thirty-three thousand children we are able to get ten thousand to go to school, and the Commissioner of Indian Affairs is forced to admit "that there is little hope of the civilization of the older wild Indian, and the only practical question is how to control and govern him so that his savage instincts shall be kept from violent outbreaks." This is a sad confession to come from the head of the Indian Bureau after we have spent upward of two hundred millions of dollars in the work of civilization.

Withdraw your teachers, and your schools will perish; withdraw your employés and amateur farmers, and not an acre will be broken. Disguise it as you may, the Indian lacks providence and the sense of accumulation. To him the future is nothing, the present everything. This is a radical defect and one that legislation can neither supply nor cure.

In 1871 the Government issued patents for lands on the Chippewa reservation in Michigan to seventeen hundred and thirty-five Indians, and since that time five-sixths of them have parted with their title for a mere nominal sum. One farm worth $4,000 was sold for $15. The Indians who parted with this land are citizens and voters and, in some instances, office-holders.

OUR POLICY A FAILURE.

From the organization of the Government until 1849 the Indians were under the control of the War Department. At this time the peace and Quaker policy became paramount in our national legislation. At that time we concluded to adopt the policy of Louis XIII of France, and make good Indians through the agency of baptism. Although the Indians were almost wholly located in the West, we turned them over to eastern theorists and philanthropists. They told us that if we would subject them to influences disconnected from the Army we would preserve peace and promote civilization. We accepted the statement, and what has been the result? From 1832 to 1880 we have had some twenty Indian wars.

In 1864 we had a war with the Cheyennes which cost us over $20,000,000. In 1866 we had a war with the Sioux which cost us millions more. In 1873 we had a war with the Modocs. In 1876 another war with the Sioux, and also a war with the Bannocks and Nez Percés, and in 1879 a war with the Utes, and to-day we are waging a war with Victoria's band in New Mexico.

I will not recount the wars we have had with the Apaches, in Arizona, nor the outrages that have been committed by the Comanches and Kiowas in Texas.

This is a sorry contrast with the Army administration.

If your policy has proved a failure, you cannot attribute it to the people of the West. We have had no participation in it. Your late Commissioner was from New York City. Your Board of Indian Commissioners, who exercise a supervisory control over the Indians, is made up, with a single exception, of eastern men.

THE RESPONSIBILITY OF CONGRESS.

But, Mr. Chairman, Congress is not without responsibility in this matter. It has recognized these Indian tribes as distinct nations with whom this Government might carry on treaty relations, and it has recognized them also as paupers who have an indefeasible lien on the

National Treasury. We have to-day over sixty-five independent nations within our borders, with whom we have entered into treaty relations as being sovereign people, and at the same time the white agent is sent to control them as wards of the nation.

You have accorded to these Indians an empire as large as England and Ireland, and you have subjected them to no law. You have year after year refused to establish a judicial system applicable to these tribes. There is no law for the punishment of one Indian for the commission of a crime against another. The Administration has in an ineffective or feeble way attempted to capture the Indians engaged in the massacre at White River, and yet when captured you cannot punish them in accordance with any law, civil or criminal, martial or otherwise. Douglas is held to-day at Fort Leavenworth in violation of the letter and spirit of our Constitution and laws. Any court in Kansas having jurisdiction would be compelled to release him on *habeas corpus*. The whole proceeding is a dreary and wicked farce.

Year after year the Interior Department has urged upon Congress the necessity of establishing a code of laws for the government of the native races, and year after year has Congress ignored the subject. Four sections would have cured this evil, but you would not enact them. Why should these Indians be amenable to no law? What objection was there to providing by statute years ago that the criminal laws of the United States, or of the State and the common laws, so far as they touch offenses, should be in force upon reservations? What objection was there to declaring the Indians amenable to the police laws of the State for any act committed within the limits of their reservation? Do you expect to civilize men by exempting them from the operations of all law?

Civilization without law is impossible. For the past five years the Interior Department has been overzealous in carrying forward prosecutions against citizens of the West for obtaining from the public domain timber to build their houses or to fence their farms. Has the Government done anything toward protecting our western forests from destruction occasioned by fires wantonly started by the Indians? Has the Government made a single effort to compel the wild Indians of the West to remain on their reservations? While wandering beyond the limits of their reservations they have destroyed thousands of dollars' worth of property belonging to our citizens, and Congress has denied them any redress.

Gentlemen, this system cannot last. Either the Government must confine the Indians within the limits assigned them or the people of the West will lead them with bloody hands to hospitable graves. Either the Government must protect the property of the citizens against the depredations of roving tribes, or in default of this compensate them for their losses, or the citizens subjected to these incursions will be forced to seek redress for their injuries in their own way. There is a point beyond which forbearance ceases to be a virtue, and that point has already been reached in the West.

Mr. Chairman, I have indulged in these general observations because I desired to bring to the attention of the House some of the objections taken by the people of the West to the policy that has obtained with reference to the Indians. It is admitted now that this policy must be abandoned, that these enormous reservations cannot be maintained. In 1871 we declared by statute that no more treaties should be made with these races, and to-day it is proposed to assign them land in severalty. I am in favor of this system for two reasons: first, it destroys the evil which has been an inseparable incident to large reservations; second, because it is an acknowledgment of that inexorable law which declares that no high degree of civilization can be attained without individual ownership of the soil. No progress can be made by any race until it learns the lessons of individual ownership of the soil and individual responsibility to the law. These are the fountains out of which spring the civilization and institutions which we enjoy, and there are no other sources to which any race can look for progress and improvement.

I would have more faith in this system if we could confer on the Indian a disposition to labor on and cultivate the soil we give him. It is not ownership alone that elevates and advances men, but land and labor joined together. His habits, customs, and traditions inspire in the Indian a contempt for work. For more than two hundred years he has had contact with the white man and learned little else of him than his vices. He has witnessed the growth of towns and cities, and yet has no longing for a house nor idea of the comforts of a permanent home. He has witnessed the uses to which the earth can be put, and yet shrinks from its cultivation with an almost unconquerable aversion. The Cherokees, whom we are pleased to call civilized, are hardly one step in advance of where our fathers found them a century ago. Is there, then, no hope for improvement? I answer, none under the existing system. We have tried it for half a century, and it has brought us nothing but constantly recurring wars and increased expenditures. We can make no progress so long as we recognize and allow the tribal relations to continue. We can make no progress as long as we maintain these vast reservations and allow the Indians to roam over them at will. They must not only be taught to work, but they must be compelled to work. The nation is growing weary of these annual appropriations of millions of dollars to support able-bodied paupers.

Mr. Chairman, the bill under consideration contains some good features and some that should not be enacted into a law. It is proposed to do for the Utes what in years gone by we have done for the Chippewas, the Shawnees, the Miamis, the Pottawatomies, and other Indians in Michigan, Kansas, and Nebraska—assign them lands in severalty. If we are to make farmers of them, I know of no better plan than the one suggested. I am sorry to say, however, I have but little faith in converting these children of the chase into agriculturists. The reports from the different agents to the Department are exceedingly discouraging. In his report of October 29, 1877, Mr. Wheeler, formerly agent at Los Pinos, states:

> The prejudice against the performance of manual labor which exists among Indians as a class is, perhaps, in no instance so strongly marked as in the Ute. He considers it a disgrace to labor, and ridicules the very idea of his ever doing anything of the kind.

Mr. Danforth, at one time agent at White River, writes, August 13, 1877, as follows:

> But very little advancement has been made during the year in the matter of getting the Indians to follow the pursuits and adopt the customs of civilized life.

On the 29th of July, 1878, Mr. Meeker reports:

> It is extremely doubtful whether the majority of adult Indians can ever be induced to labor.

And in his report made August 16, 1879, he confesses that the task of civilizing these Indians is hopeless, and on the 8th day of September, some twenty days before his murder, he informs the head of the Indian Bureau that the Utes "are a bad lot of Indians;" and yet it is proposed to continue this tribe in the heart of Colorado and make farmers of them, and to provide that for the next twenty-five years the million acres you give them shall be inalienable and inviolable.

In the patents issued by the Government to the Cherokees in 1838 we inserted a condition that they should hold the land granted therein only "so long as they occupied it;" when they abandoned it, it reverted to the Government. We make no such provision in this bill. Notwithstanding the fact that in the treaty made with the Cherokees in 1828 Congress solemnly agreed that the lands given them should be theirs forever, yet in 1870 you were compelled by force of circumstances to violate this provision and accord a right of way to certain railways through the Indian Territory. But independent of this question I object to that feature of the bill which gives to each Indian a quarter section and makes it inalienable for a quarter of a century. In the treaty made with the Chippewas in 1855 we assigned to each head of a family eighty acres of land, and provided it should not be alienable for five years after the issuing of the patent. By the treaty of 1867, made with the Chippewas located in Minnesota, we have provided that any Indian, either male or female, who shall have ten acres of land under cultivation shall be entitled to receive a certificate to forty acres, containing the ten acres, and for each additional ten acres he or she shall be entitled to receive forty acres more, the whole amount, however, not to exceed one hundred and sixty acres.

In the treaty made with the Pottowatomies of Kansas in 1864, after assigning them land in severalty, Congress inserted a provision that this land so assigned should be exempt from levy, taxation, or sale *until otherwise provided by law*. No man then dreamed of fixing a period of twenty-five years during which land so allotted should be inalienable. Congress reserved to itself the power to confer the right of sale at any time.

In 1855 we made a treaty with the Wyandots of Kansas, in which we assigned them lands in severalty. That treaty recognized two classes of Indians within that tribe, namely, those who were competent to manage and control their own affairs and those who were incompetent. To the first class the Government made an absolute and unconditional grant, but in the patent to the second class a condition was inserted that the lands granted should not be sold or alienated for the period of five years, and not then without the consent of the President of the United States.

Another section provided that the lands so granted to the Wyandots should not be taxed until five years after the organization of a State government over the Territory of Kansas. It is proposed, however, in this bill to depart from all these precedents and to fix arbitrarily the period of twenty-five years, during which time these Indians shall labor under absolute disability to sell or alienate in any manner the land granted. Why make Colorado an exception to the rule you have applied to other States? Why declare that for the next twenty-five years not one white man of the thousands who will go there shall be permitted to acquire one foot of the soil which it is proposed to grant to these Indians?

In his annual report for 1877, the Commissioner of Indian Affairs uses the following language:

> I recommend the removal of all the Indians in Colorado and Arizona to the Indian Territory. In Colorado gold and silver mines are scattered over a wide extent of country, and are to be found in every conceivable direction running into the Indian reservations. Hence the sojourn of Indians in this State will be sure to lead to strife, contention, and war, besides entailing an enormous expense to feed and provide for them. *Again, there is no hope of civilizing these Indians while they reside in Colorado, as all the arable land in that State is required for its white settlers. A mining population needs in its immediate vicinity abundant facilities for agriculture to feed it. The question of feeding the white population of the State is one of paramount importance and certainly forces itself on the attention of the Government.*

Can the House afford to ignore these counsels? Is it wise to inaugurate to-day a policy which you must abandon within the next few years?

At the proper time, Mr. Chairman, I will offer an amendment limiting the exemption of the land to the period of five years, because I think that is quite long enough.

There is another feature of the bill to which I desire to call the attention of the House. In the early part of the session I offered a joint resolution authorizing the Secretary of the Interior to pay to Mrs. Meeker and others certain sums of money out of the funds of the Indians as compensation for injuries suffered. The Senate bill allowed $600 per annum. The House committee, actuated by the spirit of retrenchment and reform, has cut these sums down to $500 per annum. This, in my opinion, should not be done.

In 1862 the Sioux Indians in Minnesota made war on the United States, and murdered a large number of men, women, and children in that State. The next year Congress passed an act declaring the treaty rights of these Indians forfeited, and appropriating $200,000 out of their annuities to compensate those who had suffered. It went further and passed another act, opening up the reservation of these Sioux to white settlement, and authorized the President to remove the Indians from beyond the limits of the State and assign them eighty acres each, to be found elsewhere.

Mr. Chairman, I do not know that any better measure than this is likely to be adopted by this Congress. While I regard it as faulty in many respects, and while I hope to see it amended, I shall still vote for it, rather than see it fail. Something must be done, or war is inevitable. The citizens of Colorado are already pressing on the borders of this reservation, and unless we allow them to enter it peaceably they will go forward without our consent.

It is fashionable to denounce the people of my State because they are anxious to remove the Indians from their midst. The desire is a natural one. It has the repeated sanctions of our past history. It is the same spirit which actuated the people of Ohio in 1842 to secure by treaty the removal of the Wyandot Indians from that State to the territory west of the Mississippi River. It is the same spirit which actuated the people of Ohio in 1832, when they removed the Senecas and Shawnees from their borders to a land nearer the setting sun. It is the same spirit which actuated the citizens of Florida in 1833 to seek a home for the Appalachicolas beyond the limits of their State. It is hardly up to the spirit of the people of Louisiana and Arkansas, who, in 1835, compelled the Caddo tribe of Indians to remove from the boundaries of the United States and agree never to return. It is a step in the same path that led the Cherokees out of Georgia and the Creeks and Seminoles from their homes in the East to a new abiding-place in the West. It is in the line of the same policy which induced the citizens of Indiana in 1819 to compel the Delawares to strike their lodges in that State and look for a home elsewhere. It is in the line of the policy adopted by the nation years ago, that the Indians should be removed beyond the limits of the several States. You may talk as did the gentleman from Mississippi, [Mr. HOOKER,] when the question was before the House in December, about the beautiful names given by the Indians to our rivers and States, but at last you must acknowledge that inexorable logic of events which forever breaks down the barriers which sentimentalism erects against the onward-sweeping tide of civilization. God has given the Indian but one alternative—civilization or extermination. Christian sentiment may deplore his fate, but nature is pitiless in her demands. No modern Canute, in Congress or out of it, can stay the tide which is sweeping from beneath the feet of the Indian the policy which has heretofore given him the right to own vast reservations without improving them.

Agreement with Ute Indians.

SPEECH OF HON. F. E. BELTZHOOVER,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

Wednesday, June 9, 1880,

On the bill (S. No. 1509) to accept and ratify the agreement submitted by the confederated bands of Ute Indians in Colorado for the sale of their reservation in said State, and for other purposes, and to make the necessary appropriations for carrying out the same.

Mr. BELTZHOOVER said:

Mr. SPEAKER: On the 6th day of March, 1880, the chiefs and headmen of the Ute Indians in Colorado entered into an agreement with the Indian agent of those tribes for the sale of their reservation in said State and for their settlement upon lands in severalty. This agreement was submitted to the Secretary of the Interior, and by him to the President, who has approved it and submitted it to Congress for its approval and action. The bill now under consideration is intended to provide for the acceptance and ratification of this agreement and to make the necessary appropriations for carrying out the same. It is estimated that the amount of money which will be required to consummate the matter will be about $4,000,000. In this respect the bill is one which should command careful consideration. It is further and still more important for the reason that it lays down and inaugurates a new departure on the subject of the Indian policy and administration of the nation.

I propose to discuss very briefly some of those phases of the subject which have been particularly called to my attention. These are, first, the granting of lands to the Indians in severalty; and second, the establishment of industrial schools for the education of their children.

The first section of this bill among other things proposes to amend the agreement as follows, namely:

By adding to the third express condition of said agreement, after the word "forever," the words following, to wit: "*Provided*, That the President may, in his discretion, appropriate an amount thereof not exceeding $10,000, for the education in schools established within or beyond the limits of the lands selected of such youths of both sexes as in his judgment may be best qualified to make proficiency in practical industries and pursuits necessary for their self-support.

This provision involves directly the whole subject of the importance, efficiency, and utility of Indian training schools. This, like almost any other fundamental factor in a question, necessitates the examination of the whole field of the discussion to properly and intelligently determine it. I have the honor to represent a district in which one of the largest and most flourishing of these schools is located, and from a careful and impartial observation of its operation and effects I have reached some conclusions which would not otherwise have occurred to me.

The second section of the bill provides for the appointment of five commissioners to appraise the improvements upon the lands to be surrendered by the Indians and to make an accurate census of the number of such Indians, separating them into, first, the Southern Utes; second, the Uncompahgre Utes; third, the White River Utes. These commissioners are also to select other lands and allot them in severalty to said Indians, and superintend their removal and location and settlement thereon. The commissioners shall also estimate the number of houses required, and the cost thereof; the number of schoolhouses, the number of teachers required, and the number of children of school age.

The third section provides specifically for the survey and allotment of these lands in severalty.

The fourth section provides that upon the completion of said allotments, and the location and settlement of the Indians thereon, they shall be subject to the civil-rights law and to the civil and criminal laws of the State or Territory in which they reside, with the right to sue and be sued; provided that neither their lands nor their personal property shall be subject to taxation or execution upon the judgment order or decree of any court for the period of twenty-five years.

The fifth section provides for a perpetual annuity to the Indians so located.

The sixth section provides for a reward of merit to the most worthy and industrious of these Indians.

The remaining four sections of the bill relate to matters of detail which do not affect the policy prescribed by the other sections, except that the lands so surrendered by the Indians are to become public lands and be subject to sale by the Government as all other public lands. An amendment will be proposed to this provision for the purpose of requiring the proceeds of all lands thus acquired from the Indians and sold to be paid to them or held in trust and the interest given to them.

There is no subject of governmental policy on which there has been so much experiment and so little improvement, so much discussion and so little conclusion, as on the question of the treatment of the Indians. The whole history of the subject is confused and uncertain and the whole past policy has but few redeeming characteristics. We treated with the Indians as separate, independent, and sovereign parties from the dawn of the Government down to 1871. Then in a moment of jealous quarrel between the House and the Senate over their respective prerogatives we solemnly resolved that we would never treat with the Indians any more. Without any cause on their part or any notice to them of our intention we denationalized a people with whom we had treated as sovereigns for years. In a period of legislative dissension we revolutionized and overturned a line of policy which had been settled and sanctioned by the practice and approval of many years.

In addition to this, during all the years before 1871 and since, we regarded all the solemn treaties which we had made as some of the ancient barbarians used to do—to be observed as long as our whims or interests dictated. We have time and again placed these poor people on lands and sealed their titles by the most solemn indentures, which were to endure forever. We have shifted, and driven, and changed them whenever a new mine was discovered, whenever a railroad was to be built, whenever the greedy and unscrupulous settler and frontiersman called for the rich lands of the Indian reservations. At all times our Indian administration has been inspired and controlled by a stern and unrelenting selfishness with a few honorable exceptions. We have pursued the policy which superior races have practiced toward inferior and savage ones in all ages of the world. It is the policy which has pushed the Indian aborigines slowly but surely from the Atlantic across a mighty continent to the shores of the Pacific. The mighty mountains, the boundless plains, and the vast, unpeopled and untrodden domain which intervene have stood as barriers in the way and have afforded them a temporary shelter and refuge against the relentless hosts of a selfish and conquering civilization. But the delay is only a question of time. The same policy will soon drive these children of the forest to the last Indian reservation in the bosom of the silent ocean where the setting sun will symbolize their farewell to the world

and their history will be written along with that of the countless peoples who have vanished in the past before the arms of superior power.

This is not the true policy of a Christian nation founded on the principles of peace and fraternity and intelligence. The policy which must solve the red-race problem must conform to the spirit of humanity and charity and culture, if it is to be expected to bear any beneficial and practical fruits. The Indian must be brought into contact with our institutions and be made obedient to our laws. The dead-line which for a century has separated him from all the people of the earth must be obliterated. He must be made to understand the customs of civil society, and as fast as he becomes fit be enfranchised with the great prerogatives of citizenship. We must take him out of the hereditary tutelage in which he has been held for a century. We must make him stand on his feet as a man. We must give him a fair chance in the mighty race of humanity. We have confined him to the woods and held him with iron fetters in unending servitude to savageness. We have environed him with agents and traders and sharpers and contractors and people of all kinds, whose contact has made him shudder at any wholesale doses of civilization if these are the foretastes of it. We have kept and fed him as a pauper, and insisted that he must stay so. We have not tried to make him self-supporting. No race of men on the face of the earth would improve in such perpetual ostracism and exile. We have shut the Indian out from the pale of society, and told him to go on with his ancient customs of cruelty and barbarism. We have allowed and encouraged him to practice all the cruelties of the inquisition in the punishment of his criminals. We stand by and see him shoot and torment the cattle given him for food. Against all these things humanity cries out, and we make no word of protest; we have tried no prevention.

There are three hundred thousand of these people still in this land, and this large number compels us to meet the question of their government without any maudlin sentiment or cruel selfishness. We must practice an intelligent and sagacious policy which is founded on and may profit by the experiences of the past. We have to contend with the natural disinclination of the Indian to physical labor, to reverse all the traditions from time immemorial common to the Indian mind, that labor is degrading. We must conquer the natural and universal opposition of the Indian to the introduction of civilized habits of life and thought. We must by patient effort and honest dealing regain his confidence in the good faith of the Government which many years of fraud, robbery, broken treaties, and disregard of plighted faith have nearly destroyed. We must teach him the stubborn fact, that no resource is left but to comply with the requirements and demands of civilization, to become self-supporting by agriculture and the industrious arts. We must convince him of the advantages of knowledge over ignorance, industry over indolence; inspire him with reverence for and obedience to law and government, induce him to abandon his superstitions, and inculcate principles of morality and virtue. We must imitate the policy of the Canadian Indian management. They have had no wars on their reservations there because the Indians trust the government and the government keeps its plighted faith in letter and spirit. We must make no more treaties nor negotiations of any kind with the Indians except such as the Government is able and determined to support. We must show the Indian that if he does right the law will protect him, and that it will unerringly punish him when he commits crime. We must use all fair and honorable means to break up his tribal and savage relations and their debasing government. This must be done if ever the Indian is to come to the full measure of citizenship. There can be no petty sovereignties in this Government. A very distinguished Senator has aptly and forcibly illustrated this point by referring to the treatment of the Highland chiefs of Scotland by the English government. After the great rebellion of 1745, the British government resolved there should be no more separate clans to stir up perpetual war and brigandage and strife in the Highlands. To this end, by the most unrelenting and unwavering policy, they compelled them all to be subject to the laws of the nation, from the highest to the lowest. After that policy was enforced and adhered to the country became quiet and peaceable, and has continued so ever since. The same course will, if carefully followed, produce the same results among the Indians in this nation. There is no reason why these tribal institutions and relations should not be gradually and effectually abolished. The Supreme Court of the United States has held that the Indians have the same rights as white men, and are to that extent citizens. By the distribution of the lands among these Indians in severalty and appealing to the essential and constitutional instincts which prompt humanity everywhere to accumulate property, you will have laid the foundation-stone of a new structure in Indian government. On this principle of accumulation and ownership depend the wealth and growth and power and all the real greatness and glory of civilized nations. It has been well said during the progress of this debate that the Indians are the remnant of a great and multitudinous people, whose hapless fortunes appeal to the sympathy and justice of men in every measure which may affect them.

The Indian is human, and, no matter what his traditions or his habits, if you will locate him and put him in contact with the forces of our civilization his rugged nature will respond, and the fruit of the endeavor will be his civilization and development. When it is no longer necessary for him to be a vagabond and a fugitive; when you have allowed him to see the lovable and attractive side of our civilization; when you have made the law apply to him as it does to others, so that the ministers of the law shall not only be the executors of its penalties but the administrators of its saving, shielding, protecting provisions, he will become trustful and reliable; and when he is placed in position in which not only to become an industrial force—to multiply his comforts and those of his people—but the honest, full sharer of the things he produces, savage life will lose its attractions and the hunter will become the herdsman, the herdsman in his turn the farmer, and the farmer the mechanic, and out of the industries and growth of the Indian homes will spring up commercial interests and men competent to foster and handle them.

There can be no honest doubt that this policy if conscientiously and rigidly pursued will be the primary and vital factor in the peaceable solution of the Indian problem. Having placed the Indian in a home, which is made absolutely inalienable during one generation, and surrounded him and his family with the comforts and conveniences of a civilized life, the bill next proposes to educate and encourage and improve the younger Indians "in practical industries and pursuits necessary for their support." This is to be done in such schools and by such education in the arts of industry as will best teach them to support themselves. In these schools are to be placed the best Indian boys and girls, and they are taught how to work, how to plow, how to sow, how to use the plane and the blacksmith's forge, and how to perform all the practical operations of peaceful industry. All the earnest, honest experiments that have ever been made in this way to civilize the Indians have been abundantly successful. The Cherokees and Creeks and Chickasaws, with whom this system has been tried, have been doing all in their power to advance in culture and peaceful prosperity, and to-day some of these tribes are living monuments of the wisdom and efficiency of this method of solving the great question. They are themselves expending more money *per capita* for education than is expended in most of the States under the control of white men. They are publishing newspapers, building churches and schoolhouses, improving the land, and advancing in all the methods of practical civil society and government. They are among the most obedient, honest, and industrious subjects of the Government.

There is therefore everything to encourage the promoters of this new departure in the science of civilizing these dark places of the earth. Without any predisposition in its favor or the slightest bias I have carefully watched and examined the operations of the Indian training school at Carlisle under the control of Captain R. H. Pratt, of the United States Army. He is most emphatically the right man in the right place. There is no more devoted and intelligent and conscientious pioneer in the great work in this country. In a letter addressed to Senator DAWES on April 7, 1880, he says:

> Education and industrial training for Indian youth, for all Indian youth, will in a very short period end all Indian wars, and in a not very long period end appropriations to feed and clothe them. I do not believe anything else will.

This, it must be borne in mind, is not the language of a theorist or speculator or sentimentalist. It is the language of an educated regular Army officer, who has spent many years among the Indians; has studied their life and customs and habits in all their phases; has seen Indian life in earnest; has earnestly and philanthropically investigated and studied the subject with a view to intelligently understanding it, and has vindicated his views by making the Indian training-school a grand success. A party of hostile Indians of the most fierce and intractable kind were captured five years ago and sent in irons under Captain Pratt to Saint Augustine, Florida. They were utterly desperate savages, one having killed himself rather than submit. Under the Christian treatment of Captain Pratt, says the report of the American Missionary Association, these savages laid aside their savage life and propensities and heartily embraced the principles of civilization.

These men have since grown up in the manners and customs of white people, and have become zealous to learn what they call the white man's road. With such results these Indian training schools must of necessity be great and efficient adjuncts of the Government in its management and administration of the Indian Department. The Indian commissioners, who are able and conscientious men, in their last report, after elaborately examining the question, say that—

> If all the Indian children could enjoy the privilege of such schools, a few years' training would solve the Indian problem. In this way a generation of Indians will be trained up who will be no longer a burden and a nuisance, but helpful and useful citizens of the State.

This very able and interesting report concludes with the following recommendations, most of which will be complied with by the adoption of the pending bill, namely:

1. Legislation to confer titles in severalty, with limitation as to alienation.
2. Legislation for protection of rights of Indians as between themselves and others.
3. Liberal appropriations for educational and industrial schools.
4. Appropriation for employing competent farmers and matrons, with adequate compensation, upon each reservation.
5. A stringent enforcement of the law prohibiting the sale of spirituous liquors to Indians.

In all these suggestions I most earnestly hope this House will concur, and by intelligent, earnest, careful, and sagacious legislation inaugurate and enforce an Indian policy which will be in harmony with the genius of a Christian civilization, and therefore command the respect and approval of mankind.

Public Building at Rochester, New York.

SPEECH OF HON. J. VAN VOORHIS,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Monday, June 7, 1880,

On the bill (H. R. No. 2531) to authorize the erection of a public building at Rochester, New York.

Mr. VAN VOORHIS said:

Mr. SPEAKER: The necessity for a Government building at the city of Rochester, in the State of New York, has long existed. The Federal business required such a building more than twenty-five years ago.

The population of Rochester is now estimated at one hundred thousand, and the estimate is not above the mark. It is the second city in size and importance of the State, excepting New York and Brooklyn. There are six Government buildings in the State outside of New York City, each at a place inferior to Rochester in point of population and in point of Federal business.

The port of Rochester has the best harbor of any port on the American side of Lake Ontario. The harbor is at the mouth of Genesee River, and extends four miles up the river, the water being very deep and the harbor completely land-locked.

The receipts of customs at the Rochester collector's office during the last year were $107,000. The opening of business this spring indicates that it will be largely increased this year; up to the present time the customs receipts are more than double what they were during the same period of last year. There are about twenty subordinates under the collector in this custom-house. The amount of rent paid for use of the office for the custom-house is $750 per year. It has been more. The office has to be shifted from one place to another, from year to year, as circumstances require. The accommodations are inadequate to the business of the office.

The internal-revenue collector's office at Rochester, New York, collected last year $827,000. This office occupies rooms which are rented from year to year, the annual rent now being $1,000. There are a large number of subordinates to the collector in this office and a large amount of valuable books and papers, property of the Government, in it, which ought to be kept securely.

The United States marshal's office for the northern district of New York is situated at Rochester, but it is kept in a private building and the marshal pays his own rent. There are a register in bankruptcy and two United States commissioners at Rochester who furnish themselves with offices. The United States district court is held at Rochester, but it is compelled to take such quarters in the county court-house as it can get. No rent is paid for its accommodation. If rooms were rented suitable for this court it would be quite expensive. Such rooms could not be rented for less than three or four thousand dollars a year.

The business of the State courts has grown so great that the county court-house is inadequate to furnish sufficient accommodations for it. There is no room in it which can properly be given up to the United States courts. The United States circuit court is now held thirty miles off from the main line of travel at Canandaigua, where the Government leases a small interest in a court-house, but ought to be held, and would be held, at Rochester if the United States had suitable accommodations there.

The post-office at Rochester is a large one. The revenue of the post-office the past year is $128,209. The money-orders paid and sold the past year amount to $616,456.15. The post-office pays now an annual rent of $3,500 for its accommodations. It is located in a wooden building, and in case of fire nothing could save the office or its contents. There are twenty clerks and twenty-five letter-carriers employed in this office. There needs to be kept constantly on hand a large sum of money to conduct the money-order department. The whole amount of revenue collected at Rochester at the custom-house, internal-revenue office, and post-office is $1,062,000—probably a million dollars a year net over and above all expenses for the last year. Less than one-third of this sum will purchase a site and construct a building ample for all the purposes required. Take one-third of what we pay in a single year and it will erect a permanent, substantial, and beautiful building, which shall be an ornament to the city of Rochester and an honor to the United States. The gross rents now paid are between $5,000 and $6,000. If the United States paid for all it occupies, and accepted the use of none of its quarters gratuitously, it would amount to $10,000 yearly.

Upon the merits, therefore, the United States ought to have a house in which to do its business at Rochester. This is a perpetual Union of indestructible States. There are two sovereignties—that of the nation and that of the States. That State would be considered very mean and poor indeed that did not furnish court-houses for its courts and other public buildings for the State business. If the United States is to maintain the Federal courts, it ought to have court-houses in which such courts may be held; if it is to continue to collect revenue, it must own accommodations for the revenue officers; if it is to maintain a postal service which is now superior to any other on the face of the globe, it must have in the large towns its own buildings for post-offices.

Nothing can contribute more to the respect in which our Government is held by the people than the erection at places where such buildings are needed of permanent, substantial, and indestructible buildings in which to conduct the business of the Government. And the Government is perfectly able to do it. It is economy to do it. The business of the United States is better done and its records better kept in its own buildings than elsewhere. The Committee of the House on Public Buildings and Grounds reported unanimously at an early day of this session in favor of the erection of a custom-house and post-office building at Rochester, New York.

The Secretary of the Treasury, in a letter addressed to the chairman of the committee, [Mr. COOK,] has indorsed that report and recommended the erection of the building. The letter is as follows:

TREASURY DEPARTMENT, *June* 1, 1880.

SIR: I have the honor to acknowledge the receipt of your letter of the 31st ultimo, inquiring whether the needs of the service require the construction of a public building at Rochester, New York, and, in reply, to inform you that full information on this subject is embodied in report No. 541, submitted by Hon. T. H. MURCH, of your committee, to accompany House bill No. 2531.

The amount of revenue collected from all sources by the Government at Rochester, rental paid for the present inconvenient and unsatisfactory public offices, and the fact that Rochester is one of the largest and most enterprising cities in the State of New York, is, in my opinion, sufficient evidence of the need of a Government building at that place for the accommodation of the United States courts and the customs, postal, and revenue service. I have therefore to recommend that the erection of a public building be authorized as reported by your committee.

I inclose herewith for your information a copy of a report relative to providing a public building for Rochester, made under date of April 20, 1876, by the then Supervising Architect of this Department.

I am, sir, yours, very respectfully,

JOHN SHERMAN,
Secretary of the Treasury.

Hon. PHILIP COOK,
Chairman Committee on Public Buildings and Grounds,
House of Representatives.

The report made by Hon. T. H. MURCH, referred to in the foregoing letter of the Secretary and indorsed by him, is as follows:

The committee to whom was referred House bill 2531, to provide for the erection of a building for the use of the Government of the United States, as a post-office, court-house, marshal's office, custom-house, and internal-revenue office, at Rochester, New York, beg leave to report that the city of Rochester, New York, contains one hundred thousand inhabitants. The amount of revenues received at this place the past year is over $1,062,000, and the said sum is a fair yearly average of receipts for revenues. The revenue of the post-office the past year is $128,209. The money-orders paid and sold the past year amount to $616,456.15. The post-office pays now an annual rent of $3,500 for its accommodations. It is located in a wooden building, and in case of fire nothing could save the office or its contents. There are twenty clerks and twenty-five letter-carriers employed in this office. There needs to be kept constantly on hand a large sum of money to conduct the money-order department.

The port of Rochester is the best on Lake Ontario. The amount of customs received there the past year is $107,000. There are about twenty subordinates under the collector in this custom-house. The amount of rent paid for use of office for custom-house is $750 per year. It has been more. The office has to be shifted from one place to another from year to year, as circumstances require. The accommodations are inadequate to the business of the office.

The collector of internal revenue pays $1,000 a year rent for the insufficient accommodations of the internal-revenue office. He collected the past year $827,000. He has a large number of subordinates under his control and has large numbers of valuable books and papers, property of the Government, which ought to be kept safely.

The United States marshal's office for the northern district of New York is situated at Rochester, but it is kept in a private building and the marshal pays his own rent.

There is a register in bankruptcy and two United States commissioners at Rochester, who furnish themselves with offices.

The United States district court is held at Rochester, but it is compelled to take such quarters in the county court-house as it can get. No rent is paid for its accommodation. If rooms were rented suitable for this court it would be quite expensive.

The United States circuit court is now held thirty miles off from the main line of travel, at Canandaigua, where the Government owns a small interest in a court-house, (about $16,000;) but ought to be held, and would be held, at Rochester if the United States had suitable accommodations there.

One-third of the revenues received at Rochester in a single year would purchase a site and erect a suitable building for conducting all the business of the Government at this place. Fifty thousand dollars will secure an ample site and $250,000 will construct a satisfactory building.

The rent paid for the use of the offices for the Government amounts to a little less than 1½ per cent. per annum; but in view of the urgent necessity of safe and suitable accommodations for the various offices of the United States at this place, your committee recommend the passage of H. R. No. 2531 with an amendment.

The letter of Supervising Architect William A. Potter, esq., dated April 20, 1876, referred to in the foregoing letter of the Secretary of the Treasury, is as follows:

TREASURY DEPARTMENT,
OFFICE OF THE SUPERVISING ARCHITECT,
April 20, 1876.

SIR: I have the honor to make the following report upon House bill No. 1046 "to provide for a building suitable for a custom-house, post-office, internal-revenue offices, United States courts, and marshal's office at Rochester, New York," referred to me by your indorsement, namely:

The necessity for a public building at Rochester for the accommodation of the offices hereinbefore specified was reported upon by the honorable Secretary of the Treasury under date of February 8, 1872, from which it appears that the accommodations for public offices in that city were represented to the Department to be insufficient and unsatisfactory, and as nothing has since been done to relieve the wants of said offices the necessity still exists.

The following sums are now paid annually for rent for the various public offices in Rochester, namely: Post-office, $2,000; custom-house, $1,200; internal-revenue offices, $524. The United States courts are now provided with accommodations

in the county court-house free of charge, but it is understood that the necessities of the county will compel them to discontinue this arrangement at no distant day.

The amount, however, intended to be appropriated by the bill above specified is totally inadequate for the purpose. The honorable Secretary of the Treasury, in his letter hereinbefore referred to, stated that a suitable building could not be erected at Rochester for a less sum than $300,000, exclusive of the cost of the site, and House bill No. 637 (Forty-second Congress) limited the cost of said building to the sum specified by the Secretary of the Treasury, but said bill failed to become a law.

Taking into consideration the decrease in the price of labor and materials, I am of the opinion that not less than $250,000 should be appropriated for the construction of the building alone. I am unable with the present information upon the subject to name the amount necessary to be appropriated for the purchase of a suitable site. Rochester is the third city in the State of New York, and is one of the most enterprising and among the largest of the manufacturing cities of the State, and should be provided with a public building at an early day. I have therefore to recommend that the necessary legislation for this purpose may be had during the present session of Congress.

Very respectfully,

WM. A. POTTER,
Supervising Architect.

Hon. B. H. BRISTOW,
Secretary of the Treasury.

There are now one hundred and ten cities of the United States in which the Government has erected public buildings. Of these only eleven have a population equal to that of Rochester, New York, and only sixteen of the number collect as much revenue as is collected at Rochester.

I have a tabulated statement concerning fifty of those cities, showing in the first column the population of the city, in the second the amount of revenue obtained in each city, and in the third column the cost of the public buildings erected in each city. This statement includes every place where a building has been erected at a cost of over $150,000.

Comparative table.

Cities.	Population.	Amount of yearly revenue collected.	Cost of public buildings.
New York	942, 292	$107, 633, 392	$10, 978, 172
Boston	250, 526	15, 791, 990	5, 994, 456
Philadelphia	674, 022	12, 244, 011	5, 623, 147
Cincinnati	216, 239	11, 693, 261	4, 473, 687
Chicago	298, 977	10, 847, 616	5, 744, 000
San Francisco	149, 473	7, 588, 877	1, 807, 425
Saint Louis	310, 864	5, 998, 735	5, 443, 053
Baltimore, Maryland	267, 354	4, 550, 424	1, 631, 733
Louisville, Kentucky	100, 753	3, 263, 673	372, 690
Covington, Kentucky	24, 505	2, 899, 127	258, 686
Milwaukee, Wisconsin	71, 440	2, 435, 203	243, 777
Richmond, Virginia	51, 038	2, 240, 551	307, 131
New Orleans	191, 418	2, 156, 841	4, 191, 810
Buffalo, New York	117, 714	1, 766, 128	331, 008
Detroit, Michigan	79, 577	1, 596, 161	233, 913
Pittsburgh, Pennsylvania	86, 076	1, 372, 692	444, 000
Raleigh, North Carolina	7, 790	955, 014	338, 000
Omaha, Nebraska	16, 083	924, 479	355, 021
Albany, New York	76, 216	803, 650	445, 000
Nashville, Tennessee	25, 865	765, 573	328, 000
Indianapolis, Indiana	43, 244	724, 287	401, 145
Portland, Maine	31, 413	398, 951	952, 277
Utica, New York	28, 804	376, 935	292, 085
New Haven, Connecticut	50, 840	337, 390	235, 287
Dubuque, Iowa	18, 434	329, 848	200, 000
Wheeling, West Virginia	19, 280	309, 252	138, 559
Saint Paul, Minnesota	20, 030	282, 520	436, 000
Atlanta, Georgia	21, 789	262, 673	211, 705
Evansville, Indiana	21, 830	224, 760	315, 000
Savannah, Georgia	28, 235	211, 990	200, 846
Memphis, Tennessee	40, 226	169, 761	216, 000
Madison, Wisconsin	9, 176	169, 274	353, 328
Grand Rapids, Michigan	16, 507	157, 301	182, 320
Little Rock, Arkansas	12, 380	134, 113	200, 000
Des Moines, Iowa	12, 035	133, 504	238, 000
Mobile, Alabama	32, 034	119, 621	449, 136
Knoxville, Tennessee	8, 682	119, 051	398, 840
Columbia, South Carolina	9, 298	117, 244	413, 000
Charleston, South Carolina	48, 956	109, 868	2, 944, 573
Portland, Oregon	8, 293	104, 915	385, 000
Hartford, Connecticut	37, 180	96, 595	675, 000
Port Huron, Michigan	3, 973	84, 011	246, 000
Norfolk, Virginia	19, 229	77, 076	266, 009
Harrisburgh, Pennsylvania	23, 104	57, 977	290, 000
Trenton, New Jersey	22, 874	36, 464	409, 613
Bangor, Maine	18, 289	29, 057	211, 012
Fall River, Massachusetts	26, 766	25, 659	440, 000
Lincoln, Nebraska	2, 441	23, 532	183, 508
Cairo, Illinois	6, 267	13, 975	281, 533
Parkersburgh, West Virginia	5, 546	9, 049	243, 000

In the State of New York, outside of New York City, are the following public buildings, and no others: A custom-house and post-office at Buffalo, erected in 1855, at a cost of $331,008.77; a custom-house at Ogdensburgh, constructed in 1857, at a cost of $237,138.09; a custom-house at Plattsburgh, New York, erected in 1856, at a cost of $79,323.39; a custom-house at Suspension Bridge, New York, erected in 1867, at a cost of $30,680.30; a court-house and post-office at Utica, New York, now in course of erection, at a cost of $325,000; a court-house at Albany, New York, now in process of erection, at a cost of $445,000; and a building at Oswego, cost, $125,000. Only one of these places has a population equal to Rochester.

The United States has a leasehold interest in a building at Canandaigua.

As my colleague, [Mr. LAPHAM,] who resides at Canandaigua, has seen fit to antagonize the bill for a public building at Rochester, and has this day defeated its consideration by objecting that a quorum is not present and voting, it is proper that I should state the facts relating to this Government building at Canandaigua. This opposition of my colleague seems unneighborly and is unexpected. If the Government has a post-office building at Canandaigua, a village of a little over four thousand inhabitants, it is difficult to see why that is an argument against one in the city of Rochester, which has one hundred thousand inhabitants. If Canandaigua is entitled to a court-room for the United States circuit court, which meets there once a year and sits only a week, it is difficult to perceive why that shows that Rochester should not have one for the United States district court which sits there. I do not believe the citizens of Canandaigua desire to oppose the erection of a building at Rochester.

If they should so desire, their wish would be disregarded by fair-minded men. That my colleague has any private grief or grievance, I know not. That any public consideration exists upon which he can predicate his opposition, I deny. As he has not opened his mouth to explain, but has confined himself to a sullen and technical demand for a quorum at a time when many members of the House are absent, we are left to conjecture as to his real motive. The facts in relation to the building at Canandaigua are these: In 1856, August 18, Congress appropriated $12,000 "to enable the Secretary of the Interior to procure a lease from the board of supervisors of Ontario County, New York, for a court-room and post-office at Canandaigua, New York, and to furnish the same." This provision was made a clause of the civil appropriation bill of that year. This money was no doubt used for the purpose intended, and a lease was executed when the building was finished in 1860. That lease is simply a perpetual lease of certain rooms in the county court-house at Canandaigua for a post-office and for the circuit court. I read the full text of that lease:

This indenture, made this 29th day of June, in the year 1860, between the *board of supervisors of the county of Ontario*, in the State of New York, of the first part, and the *United States of America* of the second part, witnesseth: That the said party of the first part, for and in consideration of the sum of $12,000, to the said party of the first part in hand paid by the said party of the second part, under and in pursuance of the provisions contained in the act entitled "An act making appropriations for certain civil expenses of the Government for the year ending the 30th of June, 1857," approved by the President August 18, 1856, by which the said sum of $12,000 was appropriated to enable the Secretary of the Interior to procure a lease from the board of supervisors of Ontario County, New York, for a court-room and post-office at Canandaigua, New York, and to furnish the same, and in accordance with the act of the Legislature of the State of New York, passed April 12, 1859, has bargained, sold, demised, and leased unto the said party of the second part, in perpetuity and free from all further rents and from all taxes and charges of any and every sort, kind, and description whatever, the following described rooms in the court-house of the county of Ontario, lately erected in the village of Canandaigua, in the county of Ontario and State of New York, and now belonging to the said party of the first part, for the use of the parties of the second part as a post-office and for the United States courts of the northern district of New York and the officers and members thereof, namely:

First. The room on the first floor of the said building, being the floor first above the cellar of said court-house building, and in the northeast corner of said building, and being about thirty-seven feet in length and twenty-seven feet in width, and fitted up and furnished and designed to be used, and which is now used, as a post-office at the village of Canandaigua.

Second. The room situate on the southwest corner of said building on the same floor, and intended for the use of the judges, clerks, United States attorney, and other officers of said courts of the United States, being about twenty-seven feet in length and seventeen feet in width, and having a fire-proof vault or safe in the corner thereof.

Third. The use in common with the county of Ontario of the room which shall be used by the said county as a grand jury room. A United States grand jury, which shall be in session at any time, shall have the preference in the use of said room to any other jury or juries, person or persons.

Fourth. The court-room in the north end of said building, in the second story, and the room adjoining on the east side of said court-room, which in the construction of said building were designed and fitted up for the United States court-room and petit jury room, the said court-room being about fifty-one feet in length by forty-two feet in width, and the said petit jury room about twenty-four feet in length and seventeen feet in width, a corner thereof being used for a staircase. Also the ordinary use in common with said party of the first part by the officers of the United States occupying the rooms described in this lease or holding or attending the courts held therein of the water-closets in the cellar of said court-house or which may be hereafter therein. Also the right of way in common, as aforesaid, to and from the said rooms and water-closets through the halls and passages and along the stairs of the said court-house building thereto, to be at all times free and open to the United States, their officers, agents, and servants and witnesses attending the said court. Also a suitable, convenient, and sufficient room, cellar, or vault under or in the basement of the said building or the sidewalks in front thereof, to be properly partitioned off, with a door, and furnished with a suitable lock and key thereto, for the use of the officers occupying the said rooms hereby leased, for the purpose of storing and keeping such wood, coal, and other fuel or other necessary matters of a similar description as they may desire to keep therein; also the furnace in said cellar and appurtenances thereof. Also the right to use the water and gas brought in the said rooms for the use of the party of the first part or its officers, the party of the second part allowing and paying for said gas a fair, just, and proper compensation; the use of the water-closets and water and room for fuel to be under the direction of the janitor of the court-house building, together with all and singular the rights, appurtenances, and privileges thereto belonging or in any wise appertaining, to have and to hold the same to the said party of the second part forever, free of all rents, taxes, charges, or assessments of any sort, kind, or description whatever.

And the said party of the first part hereby covenants and agrees that the said party of the first part shall and will, from time to time and at all times hereafter, bear and duly and promptly pay and discharge all taxes, charges, claims, and assessments, ordinary and extraordinary, which may hereafter during the continuance of this lease be imposed or charged on the said premises hereby leased, or on the building in which the same are situated, or on the ground on which the same stands, or on any part thereof, or on the said party of the second part, their officers or serv-

ants, or any person occupying said premises or any part thereof under said party of the second part for or in respect of the said premises, or any part thereof, and shall and will indemnify the said party of the second part, and the said officers and persons, of, from, and against all damages, costs, and charges which it or they may at any time sustain or be put to by reason of any neglect in the due and punctual payment and discharge of all the said taxes, charges, claims, and assessments. And the said party of the first part further covenants and agrees to and with the said party of the second part that in case the said United States shall be lawfully deprived of the use, occupation, and enjoyment thereof, without the fault of the United States or its officers, agents, or servants, the said party of the first part will refund to the party of the second part the said sum of $12,000.

In case of the destruction of the building or damage to the same by fire, the party of the first part shall replace said rooms or repair such damages within a reasonable and proper time or repay to the party of the second part the said sum of $12,000; and in case they should replace said rooms, then from the time said building shall be destroyed or injured until said rooms or new rooms shall be provided for the use of the United States, the party of the first part shall furnish as convenient rooms as may be had to hold such terms of the United States court as may be appointed for the county of Ontario.

And the party of the first part hereby further covenants that no other buildings or erection shall be constructed or maintained on the lot on which the said court-house is situated which shall materially obstruct the light or ventilation of the rooms hereby leased, and that no portion of the said building not included in this lease shall at any time be used for any purpose or in any manner which shall render the said rooms or any of them hereby leased unfit, uncomfortable, or improper for the use of the United States, their post-office, their courts, and their officers. And further, that in case the rooms hereby leased and demised shall at any time be found insufficient to accommodate the juries of the circuit and district courts of the United States sworn and impaneled in said courts, then and in that case the said United States shall have at all times during the session or terms of said courts or either of them sufficient and proper accommodation for such jurors.

And the party of the second part hereby covenants and agrees to and with the said party of the first part that the said party of the second part will not at any time assign this lease or any interest therein or sub-let or under-let the demised premises or any portion thereof to any person or persons, or permit the premises or any portion thereof to be used except for the accommodation of the United States courts, the post-office for the village of Canandaigua, and their officers and persons attending or having business with them or at said courts or at said post-office, or use the premises for other than those purposes contemplated in this lease, and if so assigned or sub-let the lease and assignment shall be null and void, and the party of the first part may re-enter upon and repossess and enjoy the premises so sub-let or under-let.

And further, the said party of the second part hereby covenants and agrees to use and occupy the said premises in a proper manner, and that they will not permit or suffer them to be so occupied or used as to render the residue of the building unfit, uncomfortable, or improper to be used as offices or court-rooms for the use of the officers and courts held in the said county of Ontario, and moreover that they will repair and amend the said rooms at their own expense when such repairs or amendments shall be rendered necessary by the negligence, fault, or misconduct of their officers, agents, or servants.

And it is hereby expressly stated and declared by the party of the first part that the execution of this lease and the receipt of the said sum of $12,000 by them shall not be an objection to the application for a further appropriation by the party of the first part, or the granting and payment thereof by the party of the second part for and on account of the use of the rooms and privileges hereby demised.

In witness whereof the said board of supervisors, the party of the first part, has executed and hereinto subscribe these presents, Evander Sly, the agent and attorney of said board, duly authorized thereto, and has caused the official seal of said board to be hereunto affixed the day and year first above written, in pursuance of a resolution of said board of supervisors, a copy of which is hereunto annexed.

THE BOARD OF SUPERVISORS OF ONTARIO COUNTY,
By EVANDER SLY, *Agent and Attorney.*

Signed, sealed, and delivered in presence of—
CHARLES E. EMERY.
HIRAM METCALF.

—

STATE OF NEW YORK,
County of Ontario, ss:

On this 23d day of July, in the year 1860, before me came Evander Sly, to me well known, who, being by me duly sworn, says that he resides in Canandaigua, in said county, and is the agent and attorney of the board of supervisors of said county mentioned in the above lease; that he knows the seal of said board, and that the seal affixed thereto is such official seal and was affixed thereto by the order of said board, and that he executed the said lease as the agent of said board by virtue of a like order.

And the said Evander, who is to me known to be the person described in and who executed said lease, also then acknowledged that he executed the same as such agent and attorney.

CHAS. E. EMERY,
Notary Public of said county.

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At the adjourned annual meeting of the board of supervisors of the county of Ontario, held on the 18th day of February, A. D. 1859,

On motion of Mr. Arnold,

Resolved, That Evander Sly be further authorized and directed, whenever the United States court-room and post-office shall be furnished according to the act of appropriation for said house, to notify the Secretary of the Interior or some other officer of the General Government that said rooms are completed and ready for use of the United States courts and post-office.

And that he be further authorized to execute a lease of said rooms to the United States Government and to procure and receive the appropriation of $12,000, and to apply said money when received toward paying for money borrowed for the erection of said court-house and for interest on said moneys.

—

STATE OF NEW YORK,
Ontario County, ss:

I do hereby certify that the above is a true copy of an original resolution from the records of said board, and that I have compared the same with the original; and that the same is a true copy thereof and of the whole of said original.

Witness my hand and the seal of said board, at Canandaigua, in said county, this 29th day of June, in the year 1860.

HIRAM METCALF,
Supervisors Clerk, Ontario County.

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DEPARTMENT OF INTERIOR.

The foregoing lease is accepted.
(Signed)

J. THOMPSON,
Secretary.

JULY 14, 1860.

Attached to this lease is the certificate of the Attorney-General, as follows:

ATTORNEY-GENERAL'S OFFICE,
March 17, 1860.

SIR: I have examined the title papers transmitted with your letter of January 23 in relation to the court-house at Canandaigua, New York. The supervisors of the county of Ontario have, in my opinion, a good title to the premises and full authority to lease rooms to the United States in the manner proposed.

Yours, very respectfully,

J. S. BLACK.

Hon. J. THOMPSON,
Secretary of the Interior.

This lease makes the United States merely the tenant of the county of Ontario of certain rooms in the county court-house owned by the county. It is idle to call this a Government building. The building which the United States leases for its post-office at Rochester might, with as much propriety, be called a Government building. But this lease is not even a lease in perpetuity, only in form. It is hampered with conditions; it provides for a continuous application to Congress for more money. Already the Government has paid Ontario County $30,000 for the use of these rooms now twenty years.

On January 24, 1874, Congress passed an act "That the Secretary of the Treasury is hereby authorized and required to pay to the county of Ontario, in the State of New York, in addition to the sum of $12,000 heretofore paid, the sum of $18,000 to the order of the treasurer of Ontario County, New York, for the perpetual use, repair, and care of half of their court-house and post-office building, of which the United States now hold a lease, out of any money in the Treasury not otherwise appropriated." No new lease was made. For the twenty years since this building has been occupied it has cost the Government $1,500 a year. That is not an unreasonable sum when we consider that the post-office is in constant use. The Government would have to hire a room for it somewhere, and this court-house is a convenient place. The circuit court meets in this building once a year and usually sits one week. There are no clerks of the circuit court, no marshals, no United States commissioners or judges, no register in bankruptcy at this place, so that for fifty-one weeks out of the fifty-two the United States court-room is closed, or if used at all, not by the United States. If the United States should at any time abandon this building no money would be lost. It has simply paid so far a moderate rent for the post-office, although it was paid in two lumps.

The Government, I repeat, has not the slightest interest in this building except as a tenant of Ontario County. Before a great while that county will call, without doubt, upon Congress for another appropriation. The United States having paid twice for the perpetual use of a fraction of this building, once $12,000 in 1856, and $18,000 in 1874, making $30,000 in all, will doubtless have the perpetual use of that fraction until another call is made for pay for its perpetual use.

The United States is a mere joint tenant with Ontario County. It paid one-half the cost of the building to begin with, and has since paid $18,000 more—probably it has paid as much as the whole building is worth—and has no title at all, only a right to use certain rooms for certain purposes. But what has this to do with Rochester? What argument does all this furnish against a Government building there? Does it follow that because the Government has a post-office at Canandaigua, a village of less than five thousand inhabitants, it ought not to have one in a large city with one hundred thousand people? Does it follow because the Government has a place in which to hold the court which convenes there that it ought not to have one for the courts that are held at Rochester? This seems strange logic, but it is the logic of my colleague's opposition. He fears that the circuit court which now meets once a year at Canandaigua may, in course of time, go elsewhere if it finds better accommodations, as he well knows that another place will much better suit the convenience of the court and those having business in it. There is no such question mooted in this bill. My colleague's constituents will have to thank him for directing public attention to the impropriety of compelling the people of the whole State who have to attend the June circuit court of the United States to go to this out-of-the-way place, and so make the public business subservient to the interest of individuals residing there. If in the course of events the circuit court which is now held once a year at Canandaigua shall be taken to Rochester, it will be solely because the demands of business require it. It will be in time to discuss that question when it arises.

That it is more convenient for people attending that court who come from all parts to go to Rochester than to Canandaigua cannot be denied by any fair-minded person. Indeed the people from Livingston County, one of the large counties of that congressional district, go to Canandaigua via Rochester as the most usually traveled route. They are compelled to go to Rochester and change cars to get to Canandaigua.

I regret that my colleague should deem it his duty to invade my district and attack an enterprise of such public importance and necessity as this, and one in which the citizens of Rochester take great interest. I regret it all the more because of the friendly relations that have heretofore existed between my colleague and my constituents, who have always been to his "virtues very kind," and to "his faults a little blind."

In the city of New York public buildings have been erected at a cost of about $10,000,000. This, however, has taken a good many

years. While the sum seems large we become reconciled to it when we consider that the receipts of the New York custom-house for a single month will pay the cost of every Government building ever erected in New York City.

The amount of customs revenue collected in all the States during the last fiscal year is $130,391,373.22. Of this sum the State of New York paid into the United States Treasury nearly one hundred millions, or to be exact the sum of $99,172,168.77, which is more than three times as much as all of the other States and the Territories. The whole amount of internal revenue collected in the United States during the same period is $113,205,759.65. Of this sum the State of New York paid $15,450,419.15.

The State of New York, it will be readily seen from these figures, pays a little less than half of all the revenues of the Government. The whole amount of customs and internal revenue is $243,597,132.87 for the last year, and of this New York furnishes $114,622,587.92. It follows that the State of New York pays pretty nearly one-half of the cost of every public building erected in the United States. The State of New York has, therefore, no more buildings than the amount of money she pays warrants, and will not when Rochester shall be furnished with a public building.

Tariff Commission.

REMARKS OF HON. A. H. BUCKNER,

OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, June 12, 1880,

On the bill (S. No. 900) to provide for the appointment of a commission to investigate the question of the tariff.

Mr. BUCKNER said:

Mr. SPEAKER: It is a grave question whether it is not the duty of this House to defeat the Senate proposition rather than have a commission appointed by the President to revise the present tariff laws. By the Constitution the power to originate revenue measures belongs exclusively to this House of Representatives, and the only justification for the Senate undertaking to initiate legislation on this subject is that the House has twice refused to consider the question of the tariff at the present session. If we were disposed to be captious, or to assert and maintain the prerogatives, the dignity, and rights of this body on all subjects affecting the raising of revenue, it might be a serious question whether this House should not enter its protest against the Senate sending this joint resolution to us.

That body, in my judgment, is acting outside of the spirit and intent of the Constitution in assuming jurisdiction in this indirect way of matters which are exclusively intrusted to the immediate Representatives of the people. But when they not only undertake thus to trespass upon the rights and prerogatives of this House, but absolutely exclude the House from all participation in the selection of those who are to advise us as to our duty and our action and empower the executive department of the Government to appoint the members of this proposed commission to revise the tariff, it becomes us at least to consider whether we ought not to assert our rights under the Constitution, and claim the power not only to originate all bills raising revenue, but to demand that this House have some participation in the appointment of those who are to advise us as to the bills that must be originated by this body. The facts to be gathered by this commission, the evidence taken, and the reports to be made will form the basis of the action of this House in the exercise of its power in the "raising of revenue."

Ought we to have no part or lot in laying the foundation on which our superstructure is to rest? Can we delegate to another department of the Government a duty that by implication at least has been imposed upon this House? What reason can be given that this House cannot from its own number select a majority of this commission, or even the whole of it? In England, where great and radical changes are rarely made in its legislation affecting financial, ecclesiastical, or economic interests without an investigation and report by a commission, the members are invariably appointed by Parliament, and not by the Crown. Their duties are in no sense executive. Like the committees in every parliamentary body, they are labor-saving devices, and resorted to for the purpose of examination and investigation, and there is no good reason why the two Houses should not make the selection of the members of this commission, and thus retain the control of those who are appointed for the special purpose of obtaining information to guide the deliberations and action of the two Houses in originating and passing revenue bills. Our experience in the organization of commissions as aids to wise and judicious legislation justifies Congress in resorting to them much more frequently than has been its custom. The value of the report of the silver commission in the solution of the silver question is universally conceded, and the commission on the improvement of the Mississippi River has rendered incalculable service to the country in recommending a plan of improvement of the great river that I doubt not will commend itself to the judgment of all intelligent men, and will ultimately be adopted by the Government.

Mr. Speaker, I desire to say a few words on the necessity of a modification of the present tariff laws. When the attempt was made in the last Congress to revise and modify our iniquitous and unjust tariff laws, the advocates of protection made strenuous objection, because the business of the country was in a state of unparalleled depression and labor in all parts of the country unremunerative and unemployed. Now, that the country throughout its entire extent has partially recuperated and prosperity has visited almost all branches of productive labor, the same determined opposition is manifested by the protected interests to being disturbed in their robbery of all other classes and interests.

Prior to 1860 we had a tariff for revenue with incidental protection, now we have a tariff for protection with incidental revenue. Notwithstanding our tariff laws impose duties upon nearly two hundred articles of foreign commerce, with duties exceeding 50 per cent. *ad valorem*, and a large portion of them ranging from 75 to 125 per cent. *ad valorem*, there is paid into the Treasury but little in excess of one hundred and thirty millions, while the internal taxes collected, chiefly from whisky, beer, and tobacco, realize to the Treasury about one hundred and twenty millions. It is estimated that we pay not less than $100,000,000 annually as freight on merchandise imported into this country in foreign bottoms, and owned by citizens of every other country than our own, and among the hundreds of magnificent steamers that month after month leave the ports of Boston, New York, Philadelphia, and Baltimore for foreign countries not one in a hundred of them is owned by American citizens or has an American register. We have fewer ships engaged in foreign commerce than we had four years after the war. Then this extraordinary diminution of our foreign tonnage was changed to the raids of rebel cruisers and the destruction of our commercial marine by the Alabama, the Shenandoah, and other vessels of the confederacy. With fifteen years of peace and development in external and internal commerce, increase of population and wealth, and production and advancement in manufacturing industry without a parallel among the nations of the earth, the duties that are imposed upon every article that enters into the construction of a ship have been far more distinctive to American bottoms than the cruisers sent out by English connivance sailing under confederate colors.

If the three great nations of the eastern continent should become involved in war, as they were in the early part of this century, and the merchant-ships of each be driven from the ocean by the naval armaments of the other, the six or seven hundred millions of agricultural productions annually exported by the United States to the nations of the earth would not be worth the cost of transportation to the seaboard. We have not ships of our own to transport to foreign markets the corn and wheat of a half dozen counties in the great West. The cotton-fields of the South and the corn and wheat fields of the North would be abandoned. The oil-wells of Pennsylvania would cease to flow, the tobacco-grower would be curtailed of his foreign market, and the trade in live animals, with its bright promise of future growth, would cease entirely. The manufacturer alone, to whom protection has surrendered the exclusive control of the home market and has built up a Chinese wall not only against foreign competition but against American competition in foreign markets—he alone can reap profits from this suicidal and self-destroying policy.

My time will not permit me to enter into many of the details of the gigantic wrongs and monstrous iniquities of the present tariff system. Let me call attention to a few of its enormities:

	Per cent.
Rice pays a duty of	85
Window-glass	59 to 78
Trace-chains	57
Anchors	67
Iron-wire	65
Steel-rails	104
Salt	65
Sugar	62 to 70
Carpet	50 to 100
Alpacas, &c	68 to 104
Flannels	64 to 95
Cotton manufactures	53 to 58
Other manufactures of wool	70 to 94
Hats (wool)	66
Clothing	60

And so on to the end of this long chapter of articles of merchandise on which duties are levied. Let me give a single example of the workings of this organized system of legislative robbery, which my friend from New York, [Mr. CHITTENDEN,] for the greater part of his life a large importing merchant, has furnished from an actual transaction. In his speech in this House, on the 24th of May, he said:

> Here is a statement of duties actually paid on three hundred pieces of tapestry Brussels carpetings, manufactured in Scotland, imported and sold in New York in October, 1879: First quality cost 47 cents, duties paid 37 cents, or 79 per cent.; second quality cost 38 cents, duties paid 34½ cents, or 90 per cent.; third quality cost 29 cents, duties paid 31 cents, or 108 per cent.; average duties, 92½ per cent.

By reference to page 346 of Senate Document No. 46, first session Forty-sixth Congress, it will be seen that for the fiscal year 1879 the

value of all the carpetings, &c., imported into the United States amounted to $14,565,000, and that the duties paid on the carpets imported exceeded $10,000,000, so that not only was every purchaser of carpets taxed more than 75 per cent. for every carpet of foreign manufacture, but the domestic product was enhanced in excess of that percentage on the carpet covering the floor of every house in the United States. And all this vast sum is taken from the pockets of every owner of a comfortable home for the benefit of a few carpet manufacturers in the East. A reduction of the duty to 40 or 50 per cent. *ad valorem* would greatly reduce the cost of such goods, double the revenues from this source, and at the same time give all the protection that ought to be given to these cormorant manufacturers. And by the same report it will be seen that the whole amount of merchandise paying duty for that year was valued at $297,083,409.48, the duty collected amounting to $127,015,185.39; being an average duty of 42¾ per cent. on from three to four hundred different articles of consumption.

A further examination will show that the duties on many of the enumerated dutiable articles are absolutely prohibitory, and that taxes levied professedly to raise revenue to pay the expenses of the Government and discharge its debt are, in fact, nothing but legislative bounties to the owners of factories and the overgrown capitalists engaged in manufactures. The revenue on bar-iron is only $1,590,000; that on hats is only $216,000; on boots and shoes not a farthing; on cut nails and spikes it is only $107.03, and on hatters' plush the insignificant sum of $1.31. I might go through the whole catalogue of dutiable merchandise and show that with the exception of sugar and molasses and a few other articles the present tariff laws have been constructed not to raise revenue, but to enrich a few special interests at the expense of the great mass of consumers. Having by legislative favoritism obtained exclusive control of the market of fifty millions of people and driven out all competition from abroad, these petted and spoiled favorites of congressional bounty, by unlawful combinations and agreements among themselves, never hesitate to shut down upon their operatives and discontinue the manufacture of all articles whenever, by an advance in prices, they find there is danger of foreign competition or they have manufactured more of a particular product than the demands of the market will justify. We can thus understand why it is that of the seven hundred millions of exports to foreign markets but about one-tenth in value of the export trade of the United States consists of manufactured merchandise. The remainder, or nine-tenths, is made up of wheat and flour, raw cotton, petroleum, the products of cattle and hogs, live animals, tobacco, &c., that must compete in the markets of the world and be sold as cheaply as can be sold by others. It is the protected manufacturer that is content with the tribute that unwise and unjust legislation enables him to exact from those whose labor swells our exports, and because of that protection is unable to enter into competition with the manufacturers of other nations.

The time allotted to me will not permit me to say more on this subject. I know of no one on this floor who does not profess a desire to have the present prohibitory tariff reformed and revised. Even the minority of the Committee on Ways and Means, in their report adverse to the Tucker bill, profess to be favorable to reforming its monstrous abuses and semi-barbarous restrictions. They propose a commission of experts, to be appointed by the President, to make report to Congress. I do not believe that the reforms recommended by a commission appointed by the head of the party that is responsible for our vicious tariff legislation would give satisfaction to the country, and I cannot give my vote for the joint resolution that has been sent to us from the Senate. A commission thus appointed, beside being beyond the control of this House, would delay action on this vital question for years to come, and recommended as it has been by the manufacturers of the country and their representatives on this floor, I confess that I distrust the sincerity of their professions. "*Timeo Danaos, et dona ferentes.*"

Public Lands for Education—Adulteration of Food and Drink.

SPEECH OF HON. R L. T. BEALE,

OF VIRGINIA,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, June 3, 1880,

On the bill (H. R. No. 334) to apply the proceeds of the sale of the public lands to the education of the people; and the bill (H. R. No. 4738) to regulate the manufacture and sale of articles of human food and drink.

Mr. BEALE said:

Mr. SPEAKER: After three efforts to secure a hearing for debate, rendered unavailing because of extreme anxiety of members to accomplish legislation which has not and will not come up for consideration, I avail myself of the privilege accorded to speak through the RECORD to the country.

Great questions of finance, affecting currency and the public debt; measures of revenue reform, bills looking to the regulation of the interstate commerce and subjection of railway transportation to the restraints of law, are all subjects of legitimate debate. Though entertaining strong convictions and decided opinions upon these questions, which constitute planks in party platforms, it is not my purpose to speak upon any of them.

Subjects far less exciting, yet not less interesting to the thoughtful statesman who would fain scan the future from the flickering ray which the past projects upon that hidden land, engage my thoughts and form the texts of my remarks. Two bills introduced early in the present session stand upon your Public Calendar. One by general consent was made the special order for the 14th of this month, but, antagonized upon a question of consideration, was found to command less favor than competing bills, and is left to sleep on. The other, the only offspring of one of your most venerable committees, found not even the poor favor of recognition upon any given day when nothing of greater interest was up. The bills to which I allude and to which I speak are, one from the Committee on Education and Labor, introduced by my colleague, [Mr. GOODE,] proposing to distribute the net proceeds of the public lands among the States for purposes of education, to be distributed for ten years, not in proportion to population, but in proportion to the illiteracy of population above the age of ten years; the other introduced by myself, as spokesman of the committee, to prevent the adulteration of human food and drink. Each is the attempt to legislate upon subjects vitally interesting to the people in every section of our country, and neither perhaps draws a line for political party distinction, invading no theory of the rights of the States as antagonistic to those of the General Government practically maintained in this day.

To aid the cause of education—the education of the masses; to throw some additional ray of light upon those recesses where the pall of ignorance is blackest, is the end and aim of this measure. "Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged" is the truism and its sequence embodied in the first organic acts establishing a government for the eastern division of the territory of the United States northwest of the Ohio. That ordnance came from the hands of a committee representing Massachusetts, New York, Virginia, and South Carolina, the leading spirit of which was R. H. Lee, a native of my own county, the ruins of whose home still mark the spot around which the affections of the great orator once centered. Fifteen years later, in April, 1802, came the act enabling the people of that territory to form a constitution and State government, the seventh section of which provided, first, that "the section 16, in every township, and where such section has been sold, granted, or disposed of, other lands equivalent thereto, and most contiguous to the same, shall be granted to the inhabitants of such township for the use of schools."

In these two provisions consist the foundations of that great system of education provided by the original thirteen States for the hardy pioneers who should reclaim the wilderness, people its wastes, and add star after star to the flag which should float only "over the land of the free and the home of the brave." Its fruits are around us; the delegation this day representing that same eastern division of the territory northwest of the Ohio, on either side of this Chamber and in either wing of this building, grown up under that system, vindicate the sagacity which planned it and are a part of the heritage of Virginia no less than of the great State from which they come. This beginning is not yet ended. For ninety years the same noble liberality has marked the action of those who, following, have occupied the seats once filled by Carrington and Lee, Kane, Smith, and Kean, until up to 1879 in lands alone seventy-seven million five hundred thousand acres, worth over $97,000,000, have been donated to schools, colleges, and asylums. All of this, save the shares of the old thirteen States in one grant of nine millions, has been appropriated to the new States formed out of the territory of the United States. This, so far from cause of murmur, is to me a source of proud satisfaction. The generous assistance lent to the embryo States in their days of weakness is the crown of glory of which no fortune can rob the older States. Now, though still in State chronology these States are beardless youths, they yet have all the strength of vigorous manhood, and emulating the example under which they grew with such wondrous rapidity, they in turn may afford to look with filial eyes upon the weakness of the older sisters.

There are in round numbers, including the last acquisition of territory from England, remaining to the United States one thousand nine hundred millions of acres of public lands. The net annual sales have averaged about $2,000,000. This bill proposes to distribute this fund annually under conditions for its proper application to the several States for educational purposes, and for ten years to make the distribution ratably in proportion to the illiteracy of the people of the several States.

The census of 1870 shows the number who cannot read to be in round numbers 4,500,000. Of this number 2,765,370 are colored. It further shows a total colored population in the States of 4,835,000, of which number 4,336,000 are crowded into thirteen States.

These same States are those whose whole industrial system was shattered by civil convulsions, their entire capital in everything save land destroyed, and that depreciated to one-half of its former value. They had not neglected the education of their people in the largest sense of that term. Differing in its features essentially from the sys-

tems adopted where free society prevailed, yet they had a system suited to the normal condition of their people. The white classes, however humble, had access to primary schools, the wealthy to high schools and colleges; the negroes, in large measure excluded from all knowledge of books, were nevertheless orally instructed in all that appertained to their situation as laborers in every description of employment. The rostrum, the forum, and pulpit were in larger sense than anywhere else schools in which jurists, statesmen, and divines were teachers and grown-up men and women were the pupils. Incongruous as it seemed, yet the fruits of this system were such as to impress a distinct character upon the civilization of its day. It has passed into history, and the picture will remain impressed upon the annals of our country, a study for the ages which follow.

It is certain, whatever its perfection or its defects may be, it contained no thread to extricate us from the perils which presented themselves to our view upon its violent death. To one who has studied the history of that race, which constitutes so large an element of the population of the South, the dangers which environ us seem to demand the coolest statesmanship. They are not sectional; more immediately affecting the States in which the negroes are, these dangers are nevertheless common to all. Unless all history be a myth, their presence is fraught with evils which it is difficult to overestimate. The mythical narrative of Herodotus, finding singular confirmation in the exhumed prehistoric paintings of Egypt, points the lesson which is repeated in every contact of the races down the cycle of ages. The Judean colony on the Mediterranean; Carthage with her warriors and slaves; Rome which conquered master and slave, and gave Virgil the original of the finest word painting ever penned—all demonstrate Gibbons's conclusion of natural intellectual inferiority. The Queen of the Antilles, that gem of natural beauty embellished by culture and art, under the blighting touch of Toussaint L'Ouverture's victories but added emphasis to the sad story, and Jamaica and Mexico utter their warning voices.

With every sentiment of my heart keenly alive to the well-being of the liberated slaves, I may not close my eyes to the teachings of the past nor conceal my anxiety as to the developments of the future. Under more favorable circumstances than ever before the boon of freedom is accorded to them, surrounded by a people attached by thousands of kindred associations growing up from their former connection. In contact with the white race, and encouraged by its example and led by its influence, the negro may work out a nobler record than he has yet achieved. That to enable him to do this every aid which education can impart is needed, is so manifest that argument to enforce it becomes bootless. The gift of citizenship, with the responsibilities which attend it, confers no natural endowments, brings no cultured training; it but adds, under our system, potential capacities for evil.

To an intelligent exercise of an elective franchise morality and knowledge are essential. And this Government will not meet the great responsibility resulting from its bestowment of the ballot upon eight hundred thousand uneducated colored voters in the refusal or neglect to contribute anything to the means of education which alone can render its exercise judicious and safe. If to make sure the foundations upon which superstructures of State constitutions and governments should rest, as the Caucasian worked out his fortunes on the prairies of the West, it was wisdom to expend for schools and colleges $100,000,000, is it not folly to withhold from the impoverished States of the South the pittance claimed in this bill to enable them to remedy the frightful misfortunes of the enforced extension of the foundations of their constitutions and governments over an illiteracy such as the African alone could present? Tax as they may, their resources are wholly inadequate to meet the expenditures which the situation imperatively demands. We come not pleading our former generosity, we come not to extenuate our own acts of omission or commission, we come pointing to the consequences of the action of this Government and asking the Representatives of the people of this whole Union, have you no duty in this appalling emergency to perform? Are your skirts free? Does a stolid apathy comport with the safety, the greatness, or the honor of the nation?

Mr. Speaker, our country truly is—

> Grand in her rivers and her rills,
> Grand in her woods and templed hills,
> Grand in the wealth her soil conceals,
> Grand in her grain and cotton fields,
> Grand in her mines, in commerce grand,
> In sunlit skies and fruitful land;
> Grand in her temples and her schools,
> Where knowledge dwells and virtue rules;
> Grand in her strength on land, on sea,
> And in religious liberty;
> Grand in her men, but grander far
> In Spartan mothers, as her women are;

and its contemplation fills the heart with pride and prompts the prayer that the same presiding genius which thus far through foreign wars and civil convulsions has led to greatness may guide to brighter fields, more glorious triumphs. I know no surer pathway to such a destiny than that our fathers trod, and in the spirit of their teaching I say, educate, educate, educate the people, and as one means of education make this bill a law.

I now pass from the intellectual to the corporeal, and ask consideration of the provisions of the bill to prevent the adulteration of human food and drink, which embodies a few very plain provisions which I shall briefly discuss.

The first four sections apply to the District of Columbia and the Territories, the remaining two sections to our foreign commerce and commerce between the States. Express grants of power contained in the Constitution and the continuous exercise of the same by Congress exclude all adverse conclusions as to the power of Congress to enact the provisions of the act affecting the District and the Territories. Doubt perhaps may arise in some minds as to the constitutionality of the two sections in so far as they apply to the importation or exportation of articles of food from or into two or more different States. The language of the Constitution is "to regulate commerce among the several States." Part of the same paragraph contains the power to do this with foreign nations and the Indian tribes, and necessarily the one is coextensive with the other. I shall attempt no argument to define the import and limit of the term "to regulate." The most skilled logicians have failed to fix it with the precision of mathematical demonstration. I may, however, safely risk the affirmation that the Government which possesses no adequate power to protect its citizens against the fraudulent introduction into its territory of such articles as contain the hidden seeds of disease and death is wanting in one of the most important functions of legislation. Resting upon this truism, I pass to consider the practical question of the evil which this bill is intended to remedy.

Every stage in the march of civilization is the development not less of the weakness than of the strength of human nature. The principles of good and evil amid all the changes of states and empires are changeless as the sources from which they spring. Every advance in science and art, enlarging the sphere of knowledge, adds to man's capacity, not only to elevate and bless, but also to degrade and harm mankind. It is from the victories won by intellect impelled by noble thirst for knowledge over the sealed books of nature that the evils come which this bill proposes to remedy. Wonderful progress marks the latter half of this nineteenth century. The analyst has reduced all known substances to their units; elemental principles are extracted, combined, and artificially blended, until the eye, the nose, or tongue can no longer distinguish the wooden nutmeg from the natural product of the Indies. In all these great achievements of the chemist, while the world's store of knowledge has increased and the sum of human comforts grown greater, the "*sacra auri fames*" finds augmented facilities and constantly recurring opportunities of unhallowed gratification.

The adulteration of costly articles of human consumption is not a modern device. As early as the second year of the reign of George I the English Parliament enacted the following act:

> That the dealer in tea or manufacturer or dyer thereof who shall counterfeit or adulterate tea, or shall alter, fabricate, or manufacture it with terra japonica or with any other drug or drugs whatsoever, or shall mix with tea any leaves other than leaves of tea or other ingredients whatsoever, shall forfeit the sum of £100.

From that time to 1878 the subject in England has demanded and received a vigilant supervision. As early as 1843 the enforcement of the laws against the adulteration of food which is thus intrusted to the officers of customs and excises was attended with a very considerable expenditure of money. Hassall, a leading English writer upon this subject, says:

> The cost of the customs and excises, (England,) to which bodies are intrusted the collection of the revenues and the prevention of the adulteration of excisable articles, amounted in 1843 to no less a sum than £4,034,633 16*s.* 7½*d.* Of this sum £1,886,250 1*d.* should be deducted for charges connected with the various taxes; this leaves a balance of £2,145,333 16*s.* 6½*d.*, namely: For customs, £1,302,730 12*s.* 3*d.*, and for excises £842,663 4*s.* 3½*d.*, a great part of which expense is incurred for the protection of the revenue against adulterations.—*Hassall, introduction*, page 31.

And under the provisions for the enforcement of the penal enactments adopted by Parliament in thirty-eighth and thirty-ninth of Victoria, the most recent laws upon this subject, a very expensive system is maintained.

In the preparation of this bill here offered to the House all those provisions which embody agencies other than such as apply to the penal code generally and which would involve increased expenditures have been purposely omitted, and the only sections which looked to a means for this more certain enforcement of its penalties failed to secure the indorsation of the committee to which it was referred.

Two methods or forms of adulteration of human food and drink are habitually adopted in every civilized country. The more common method is a simple addition to the volume of commercial commodities of substances either of no value or of less value than the commodity adulterated. Success in this form requires no special education. The illiterate miller, by mixing the flour of wheat and the meal of Indian corn, may impose upon the consumer. The dishonest merchant may sand the sugar, water the whisky or milk, and add chicory to coffee without possessing one idea of the chemical properties of the articles he barters. This method is simply a fraud, but no more justifiable than the act of obtaining money under false pretenses, involving equal moral turpitude, and should justly be visited by punishment as severe.

The other method is that whereby, through a thorough understanding of the chemical properties of the materials used, artificial commodities are made to resemble in taste, smell, and looks natural commodities, or flavor, color, smell are imparted to the natural products by admixtures of a foreign substance. In these processes very often something more than mere fraud is present. The careless, callous indifference to human suffering which marks a depraved nature in

the use of drugs for the purposes of adulteration adds to its criminality. In analyses of many articles of food and drink in common use may be found acetate of copper, carbonate of copper, chromate of lead, Prussian blue, sulphuric acid, generally in quantities so small as to be productive of no immediate serious injury when introduced into the stomach; yet, as a learned writer has said:

No doubt in many cases the effects produced by the daily introduction in minute quantities of certain powerful or poisonous substances are slow and insidious, and their action not easily traced out; but yet that the ultimate effects of these on the system are very great cannot for a moment be doubted. Thus it is impossible to conceive but that the introduction of picrotoxine into the stomach through the beer consumed, or of copper through the pickles and bottled fruits used, or of cayenne through the gin and rum drank, must be productive of injurious consequences. The effects of alcohol, when taken in large quantities or for a long time, are in themselves sufficiently injurious; but by the addition of cayenne to this it forms a combination the action of which no human stomach can long resist.

In this latter class of adulterations the manufacturers and wholesale dealers, as a general rule, are the exclusive active agents. They alone command the means requisite to employ the skill to make adulterations successful, and they only have transactions large enough to make adulterations profitable. This iniquitous prostitution of science to filch from honest toil the fruits of labor, and steal the flush of rosy health alike from childhood's cheek and robust manhood's brow, is a crime of hue so dark that honest men may well send up the prayer that it be at once placed under the ban of the law. The iniquity of this practice is enhanced from the consideration that those comparatively uneducated and helpless from their ignorance are made the victims. In localities where the crucible and retort of the chemist are at hand, especially in the cities where science may lend her ready aid to detect impostures and convict fraud, rarely are articles adulterated with poisonous drugs exposed to sale. For each example detected in the flood of light it is safe to assume twenty may be found in regions of twilight. The humble sons of toil and labor, ignorant of the devices of avarice, bear the burden. Many humble homes are yearly shrouded in sorrow and gloom from the explosion of lamps filled with oil which no refiner would dare to offer to place upon the market for city consumption.

The provisions of the bill are intended to meet these two several methods of adulteration, grading the penalty to the character of the offense, and imposing simply a fine for adulterations of the first class and adding to the first imprisonment for the graver offense of poisonous adulterations. It specifies no special subjects, goes into no details, and while boards of trade have offered handsome rewards for draughts of acts which shall restrain injurious adulterations without trenching upon the legitimate demands of commerce, the experience of England, at least, after more than a century of legislation upon the subject, with all the detailed examinations and analyses collected by Normandy, Mitchell, Chevalier, and Hassall, adopts in her law of 38 Victoria, passed in 1878, general provisions substantially the same as those contained in the pending bill. And surely to no people in any age of the world's history may we more safely refer for a code of laws wisely framed to guard, foster, and build up the commercial interests. It is in the interest of the foreign commerce of our own country that the necessity for this legislation rises to national importance.

False representations of the ingredients of any commercial article of food manufactured or grown in one State affect materially every State in every foreign land to which such articles may be shipped. Unchecked by restraining legislation, the dishonest merchant may bring discredit upon all, and while it is true such practices are certain to recoil in time, it is equally true that confidence in the commercial integrity of any nation once destroyed is most difficult to revive. Our most favored country is already the storehouse for supply to other nations, and destined certainly in many articles to become largely more so in the future. To build the rapidly growing commerce in food upon foundations of entire honesty is a work demanding the careful consideration of the sagacious statesman. The shipment of many millions of pounds of beef and some thousands of animals annually to England at once attracted attention to the diseases of cattle and made parties upon this floor clamorous for stringent legislation to check the possible spread of pleuro-pneumonia. Not more certainly would animals diseased when shipped check this new development of trade than will an adulterated or simulated article cripple and destroy the shipments of the genuine.

Honesty in its fullest import is the foundation upon which continuing commercial supremacy must rest; and legislation to foster and secure it is, in my opinion, of primary importance. While many of the Legislatures of the States have enacted laws relating to articles of food and drink, no one of them, so far as I have examined their codes, has gone beyond provision touching adulteration of a few specific articles. Very stringent enactments have been adopted in several of them to guard the purses of the citizens against fraudulent manipulations of manures manufactured to bring fertility to impoverished lands, and careful analysis and distinct labels required to be marked upon each package as prerequisite to recovery of the price; but none of them have attempted any legislation general in its character to guard the citizen either against the fraudulent sales of articles adulterated with substances of less value or such as are mixed with compounds injurious if not fatal to health and to life.

A class of manufactures simulating articles of general, perhaps universal, consumption, which the advanced processes of chemical analysis have within a few years past rendered practical, seems to have attracted far more attention than the older and much more reprehensible practices which this bill is designed to suppress. A beautiful sirup, which is as pellucid as honey, and of about equal consistency, is manufactured from the glucose contained in Indian corn, and retailed at about forty cents per gallon. Again, from the fat of beeves an article so nearly resembling the butter obtained from cream as to defy taste, look, and smell is patented and being largely manufactured. Quite ninety millions of pounds of this article, in the compounds of butter and cheese, are sold in the markets of the United States annually, and a much larger quantity in manufactured forms, oil, cheese, and butter, is exported to Europe. This article commercially is known as oleomargarine, though such designation, the manufacturers claim, was given by its enemies. It is, however, simply the extraction of two principles of fat—margarine and oleine, from the stearine and tissues—and in chemical nomenclature is rightly designated oleomargarine; these two principles, with glycerine, combined with a given proportion of milk, constituting the butter and cheese made by the patented processes.

The report accompanying the bill quotes from a writer of some repute in Boston, who speaks in terms of condemnation of oleomargarine. His statements applied to any products of beef-fat would not be sustained by analysis of eminent chemists, yet it is by no means certain that in all the manufactures of this article beef-fat alone is used; that of the hog may be in combination, and under 120° Fahrenheit the ova of parasites common in that animal would not be destroyed. However, other chemists who have analyzed this wonderful product of science and art declare it not only innoxious but in some respects superior to that obtained by the thrifty housewife in the old familiar way.

Whatever may be the final judgment of the practical public in the use of these new articles of food nothing in this bill affects the manufacture or sale of either one for domestic or foreign consumption when labeled with a statement of the articles actually used. More than this might damage commerce; less than this would afford no protection to the consumer or the manufacturer of a genuine glucose sirup or a pure sample of oleomargarine cheese or butter.

Onward, I trust, may be the step of American enterprise and skill along the pathway marked out by Bacon, when, turning his back upon the nonentities of metaphysical and polemical disquisition, he pointed intellect to the nobler work of observation. Every stage of progress upon this pathway is rich in fruits; and the brows of the sons of our own land wear many of the laurel crowns awarded by humanity for victories won in formulating natural processes. No brighter page in all that is told of man than that which records the multiplication of inventions in our own day to meet human wants and increase the sum of human comforts! Cheap food for the teeming millions by utilizing any natural product is an important factor in our social problem and one of the elements of commercial prosperity; and every legitimate manufacture tending to accomplish these results deserves the fostering protection of the governments of the States and the Union.

I make no war upon any such enterprises by methods direct or indirect, but only require that the consumer shall be informed what the article purchased really is, and that the article shall be that which it is represented to be. That this principle of honest dealing is habitually violated I have no doubt. The means of detecting and exposing this evil in England, France, and Germany are provided by the laws; in the United States it is a labor of love, performed by individuals, who, actuated solely by motives of philanthropy, choose to devote their time and knowledge to the investigation. No systematized work upon the subject, so far as I can ascertain, has ever been written in America; no man qualified by education and practice has been charged by enactment of any of the States with the duty of analyzing any articles of food or drink offered for sale. It results from this that no positive information can be given as to the extent to which adulteration is practiced in manufacturing raw materials into commercial commodities or manipulating them for market. The press of the country gives publicity to occasional instances of adulteration, detected by analysis; but no penalty is incurred, and the practice goes on.

These spasmodic notices always attract the attention of the parties whose interests are assailed, and unfortunately the acquisition of knowledge in chemistry, as in other departments of science or art, carries with it not necessarily a corresponding elevation of morals, and other analyses are speedily given to the public, demonstrating that the former was but the one-sided view of some rival who dreaded competition and was seeking to prejudice a pure and genuine article. Normandy and Hassall, from sources of official information collected under the English system, show adulterations in very many of the articles of daily consumption in almost every household. The few articles subjected to chemical tests in the laboratory at the Agricultural Bureau show that progress has been made and new modes of adulteration adopted. The old plan of mixing chicory with the ground coffee is improved upon. That process could not keep step to the music of the day, in which men, no longer content with the slow, small accumulations, of retail, grasp at the more rapid, grander results which follow wholesale villainy. Why deal in pounds, when cargoes, by the greater facilities offered by art and science, render the wholesale adulteration of more easy accomplishment? Why recast the tea-leaf after being once used, or resort to chemical dyes to improve the color of that which has not been used, when with Prussian blue and

chromate of lead the briar-leaf sprinkled with the dust of the tea-chest may be sold in open market as good gunpowder tea?

The report accompanying this bill shows that the coffee-berry by the bag and cargo is coated with chromate of lead and lampblack to face or improve its color; and I am informed that one result of this modern discovery has been to enhance the price of low-grade Rio coffees in the Brazilian markets from two to three cents a pound. In the report the fact also appears that samples of tea sold in the Washington market when subjected to analysis were found to contain less than one in one hundred parts of tea, ninety-nine parts being sticks, leaves of briar, Prussian blue, and chromate of lead. To the most experienced eye neither in the samples of coffee nor of tea was the slightest indication that they were not entirely natural and pure.

The ordinary means of enforcing the penal statute, it seems to me, are inadequate to secure the enforcement of the prohibition of adulterations. The offense in most cases may not be detected by the senses; and how strongly soever may be the suspicion, the evidence to convict can be obtained only by the aid of the microscope or by chemical analysis. To this end, while I do not advocate the expensive organization of a corps of chemists by the Government, to act in every judicial district of the United States, I do think some provision embodying such means as the ninth section of the bill rejected by the committee contains should be adopted. But whether the bill shall meet the approval of this body or not, I feel that in presenting it for your consideration I have met the wishes of the great body of honest merchants in every section of our country and sought to protect the people against dishonest practices which not only attack their pockets but generate disease which robs them of health.

For these are the days of advancing the works of the men of mind,
When who but a fool would have faith in a tradesman's wares or his word.
Is it peace or war? Civil war, as I think, and that of a kind
The vilest, as underhand, not openly, bearing the sword.

When the vitriol madness flashes up in the ruffian's head,
Till the filthy by-lane rings to the yells of the trampled wife,
While chalk and alum and plaster are sold to the poor for bread,
And the spirit of murder works in the very means of life.

When sleep must lie down arm'd, for the villianous centre-bits
Grind on the wakeful ear in the hush of the noiseless nights,
While another is cheating the sick of a few last gasps, as he sits
To pestle a poison'd poison behind his crimson lights.

United States Courts at Fort Wayne, Indiana.

SPEECH OF HON. W. G. COLERICK,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

Wednesday, June 9, 1880,

On the bill (H. R. No. 2384) amendatory of and supplementary to "An act to provide for the holding of terms of the district and circuit courts of the United States at Fort Wayne, Indiana," approved June 18, 1878.

Mr. COLERICK said:

Mr. SPEAKER: On the 18th day of June, 1878, an act was passed authorizing the holding of terms of the United States circuit and district courts for the district of Indiana at Fort Wayne. The bill now under consideration merely seeks to amend so much of the existing statute as relates to the territorial jurisdiction of these courts so held at Fort Wayne by providing that they shall have exclusive jurisdiction as to the counties named in the bill, and that their jurisdiction shall be confined to those counties. The purpose of the bill is to require all actions instituted in the Federal courts against citizens residing in said counties to be commenced at Fort Wayne, in lieu of leaving it optional, as now, for plaintiffs to commence their actions at any place in the State where such courts are held.

The Federal courts in the acquisition of additional jurisdiction have from time to time within a few years past made rapid and gigantic strides, until they now absorb to an alarming extent the litigation of the country. The people are justly complaining of the extensive jurisdiction given to and exercised by these courts, in civil actions, and bitterly protest against being required to leave their farms, workshops, and places of business to attend in the Federal courts, which are held at great distances from their homes, actions merely involving the collection of claims, which can be tried as impartially and more promptly in their county courts, thereby avoiding the enormous expense now incurred by litigants in prosecuting and defending actions in the Federal courts, which in many cases far exceeds the amount involved, and often, by reason of the inability of the parties to pay these extraordinary expenses, they are compelled, when suing, to dismiss their actions or submit to unreasonable and unjust compromises of them, and when sued are from like cause compelled either to pay under protest unjust claims, or submit to the rendition of judgments thereon by default, although complete defenses exist.

We all know that many meritorious actions instituted against foreign corporations in the judicial tribunals of the State are abandoned when certified to the Federal courts, by reason of the inability of the plaintiffs to bear and pay the increased expenses occasioned thereby, and these corporations, knowing this fact, avail themselves of their power to have such actions transferred to the Federal courts, so as to discourage litigation against them, and prevent and defeat the collection of just and honest claims, or compel their adjustment upon such terms as they may dictate. In this manner these opulent and powerful corporations, in the exercise of this power, may, and do, by and under the forms and sanction of law, unjustly oppress the poor who by reason of their poverty are unable to contend in those forums with their formidable adversaries, and are compelled to abandon or sacrifice their just and meritorious claims. These are burdens which the law ought not to impose, and wrongs which it should not sanction or tolerate.

If these courts are to retain and exercise the jurisdiction now vested in them, then it is the duty and ought to be the pleasure of Congress to lessen as far as possible the expenses of litigation in those courts by providing that they shall be held at convenient places in the State readily accessible to the people. It is for the purpose of mitigating this wrong that this bill, which has received the unanimous approval of the Judiciary Committee, has been presented to the House. It is a bill in which the people of Northern Indiana are deeply interested, and it is of the utmost importance to them that it should be promptly passed. By its passage no new officers will be created or additional expense incurred by the Government, as the business will be transacted by officers now existing. The city of Fort Wayne, where these courts are held, is the largest city in Northern Indiana, and the third, if not the second, largest city in Indiana; it contains a population of more than thirty thousand, and is conveniently accessible by railroads from every county named in the bill. The people residing in those counties sincerely desire and earnestly demand the passage of this bill as a measure of relief to them, and their interests should be consulted and their desire as expressed by their Representatives upon this floor should be gratified, as they alone will be affected by its passage.

As the bill is purely of local importance, and meets with the unqualified approval of all whom it will affect, and does not take one dollar from the public Treasury, I thought and hoped that no opposition would be made to its passage. But from whom does the opposition come, and what are the objections urged against the bill? It emanates from lawyers residing at Indianapolis, who, actuated and controlled by a spirit of selfishness characteristic of that city, seek to grasp and concentrate there all the patronage and emblems of power, both State and national, regardless of the interests, conveniences, and necessities of the people of other sections of the State. These lawyers desire to monopolize, as they now do, all the litigation in the Federal courts of Indiana, and compel litigants to employ them to prosecute and defend all actions instituted in those courts. In the consideration of this bill we should consult and protect alone the people whose rights and interests will be affected by its passage.

The farmers of Northern Indiana are especially interested in securing the passage of this bill. The Federal courts have jurisdiction in all actions for damages for alleged infringements of patent-rights regardless of the sum involved. The fact that such actions may be instituted at Indianapolis although the defendants reside in sections of the State far remote from that city, has been wrongfully and shamefully used as an instrument to oppress and plunder them. The owners of patent-rights permit men to roam all over the State vending agricultural implements and other patented articles to farmers, who purchase the same in good faith and for full value, and after the purchase-money has been paid and the articles innocently used in ignorance of the fact that the rights of patentees may have been infringed, another swarm of men, acting in the capacity of spies and informers, are sent forth in the interest of the patentees to pry into the barns of these farmers for the purpose of discovering the articles so purchased by them, and when the discovery is made these spies and informers demand damages from the unfortunate farmers who had been persuaded to purchase and use the articles, and they are threatened with suits in the Federal courts at Indianapolis unless the damages so demanded are at once paid, and the amount usually demanded is about equal to, or a little less than, the amount that it would cost the farmer to defend the suit at Indianapolis, and he, by reason of these threats, in order to avoid the trouble and expense of defending such an action in a court far distant from his home and among strangers, is compelled to pay the damages so unjustly demanded from him regardless of any defense that he may have to the action, knowing, however meritorious his defense, that the expenses that he would incur in defeating the action would exceed the amount of the damages demanded. In this manner hundreds of honest farmers in Indiana have been robbed of thousands of dollars. The passage of this bill will greatly relieve the farmers of Northern Indiana from these oppressions and terminate these infamous practices.

I have thus endeavored to state briefly some of the many reasons that exist for the passage of this bill.

What are the objections that have been urged against it? It has been said the bill vests the Federal courts at Fort Wayne with exclusive jurisdiction as to certain counties, while the Federal courts at other places in the State merely possess concurrent territorial jurisdiction. While this is true, we must remember that the people residing in the counties named in the bill, and who alone are affected thereby, desire that such jurisdiction shall be granted to the Federal courts at Fort Wayne, by reason of the close proximity of that city to their homes

and the excellent facilities that are afforded to them in conveniently reaching Fort Wayne by the many railways that center there, and which run through every county named in the bill. The people residing in those counties have expressed their earnest desire for the passage of this bill. No other person can with propriety object to its passage, as the territorial jurisdiction of the courts to be so held is limited to the counties named in the bill. The passage of the bill will not interfere with a division of the State hereafter into judicial districts. If such a division ever occurs and it is deemed proper in the equalization of the districts to detach from the territory embraced in this bill any of the counties of which it is constituted or add other counties to it, such change can then be made.

The only representatives from the State of Indiana who are not in favor of the passage of this bill are Messrs. DE LA MATYR and BROWNE, one of whom [Mr. DE LA MATYR] represents the district in which the city of Indianapolis is located, and which accounts for his hostility to the bill, and the other gentleman, [Mr. BROWNE,] who represents an adjoining district, practiced law for many years at Indianapolis, where the firm of which he was a member enjoyed a large and lucrative practice in the Federal courts, and is influenced in his opposition to the bill by his friendly feeling for his late law partners whose practice in the Federal courts at Indianapolis may be diminished, to some extent, by the passage of this bill.

As the motive that inspires this opposition is evident, and as the objections that have been urged are untenable, I trust that the bill will be passed without further delay, as an act of justice to the people who are so deeply interested in its passage.

The "Eight-Hour" Law.

The law ought to protect women and children against overwork, especially in factories, but competition and custom should regulate the hours of labor among men.

SPEECH OF HON. G. D. TILLMAN,

OF SOUTH CAROLINA,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, June 15, 1880,

On the joint resolution (H. R. No. 30) to construe the true intent and meaning of section 3738 of the Revised Statutes so as to declare that all laborers, workmen, and mechanics employed by or on behalf of the United States shall hereafter receive a full day's pay for eight hours' work.

Mr. TILLMAN said:

Mr. SPEAKER: To fully understand the purport of the resolution we are considering it will be necessary first to briefly trace the history of the action of the legislative, executive, and judicial departments of the Government in the matter of regulating labor before the "eight-hour" law was adopted. In the early days of the Republic everything connected with the hours of labor and the rate of daily wages in the public service was intrusted to the discretion of heads of Departments or the commandants of navy-yards, arsenals, &c. That discretion, too, was so wisely and honestly exercised by simply following the custom or practice of private establishments in the vicinity that during nearly the first half century after the Government went into operation no statute or presidential order was needed to regulate the hours of labor, either clerical or mechanical. But for the sake of having uniformity in the clerical labor of the administration, as well as perhaps to curb the arrogance or restrain the overzealous industry of the chief of some Department, it became necessary in 1836 for Congress to pass an act prescribing the number of hours that the Executive Departments at Washington should be kept open for the transaction of the public business. The act is in these words:

From the 1st day of October until the 1st day of April in each year all the bureaus and offices in the State, War, Treasury, Navy, and Post-Office Departments, and in the General Land Office, shall be open for the transaction of the public business at least eight hours in each day, and from the 1st day of April until the 1st day of October in each year at least ten hours in each day, except Sundays, and days declared public holidays by law.—*Section* 162 *Revised Statutes.*

This law continued of force for thirty-eight years, or until 1874, when the present act was passed that virtually restores the old law giving the heads of Departments and the heads of bureaus discretion as to the number of hours that the public offices shall be kept open. This discretion, as is well known, now prescribes all the year round only from nine o'clock a. m. till four p. m. for office hours, which, when reduced by an hour for lunch, leaves only six hours for a clerical day's work; and the six years' experience we have had of executive discretion in regulating office hours of the Departments demands that the act of 1836 shall be revived, first, to prevent the mechanical laborers of the Government from justly complaining of discrimination against them in favor of clerical employés; second, to get more service for the fat salaries the Government pays its clerical force; and, third, to enable members of Congress to have better opportunities for transacting the business of their constituents with the Departments.

Up to 1840 there had been no uniform rule defining the number of hours of labor which should constitute a mechanical day's work in the armories, navy-yards, &c.; but in that year (which, by the way, was a presidential-election year) President Van Buren issued a general order declaring that nine hours in winter and eleven hours in summer should constitute a day's work for the Government, to be reduced by one hour for recess at dinner. However, previous to 1840, during the winter—that is, between the autumnal and vernal equinoxes—it may be safely assumed as a fact that about eight hours' actual toil constituted a mechanical day's work in both public and private establishments, for the simple reason that there was then no gas or other means to afford sufficient light by which to perform good work longer than eight hours.

But, on the other hand, during the summer months, between the spring and fall equinoxes, it may be equally well presumed that the light of day, including dawn and twilight, permitted not only ten hours' labor, but during some of those months twelve, and even fourteen, yes, sixteen hours. Then, again, as the United States possessed a continent in longitude and about twenty-five degrees of latitude, with many mountainous regions, and consequent extremes of both climate and weather, with also every extreme of caprice and industry among the commandants of navy-yards, arsenals, &c., it would be no violent supposition that there were such irregularities and inequalities in the hours of mechanical labor for Government as to have created great dissatisfaction and clamor at the want of uniformity in the toil and wages of the public service. Doubtless it was from causes and considerations like these that President Van Buren was led to issue his general labor order of 1840. In any event that executive order seemed to have regulated the hours of mechanical labor in the public service down to 21st December, 1861, when Congress passed an act on the subject of labor in the navy-yards, which act was amended July 16, 1862, so as to read as follows:

That the hours of labor and the rate of wages of the employés in the navy-yards shall conform, as nearly as is consistent with the public interest, with those of private establishments in the immediate vicinity of the respective yards, to be determined by the commandants of the navy-yards, subject to the approval and revision of the Secretary of the Navy.—12 *Statutes at Large*, page 587.

This act has never been repealed, and is to-day the law of the land, although it cannot be found in the Revised Statutes; and this act also regulated the hours of labor as well as the rate of wages at the navy-yards until 25th June, 1868, when the "eight hour" law, as it is called, was adopted in this language:

Eight hours shall constitute a day's work for all laborers, workmen, and mechanics who may be employed by or on behalf of the Government of the United States.—*Revised Statutes*, section 3738.

It should be noted that the foregoing act applies to all laborers, workmen, and mechanics employed in every other Department as well as at the navy-yards. It should also be observed that the act neither prescribes the rate of wages to be paid for a day's labor, nor does it prohibit the laborer and the Government through its officer or agent from agreeing upon a longer time than eight hours for a day's work; nor yet, most remarkable of all, does it attach any penalty for violating the provisions of the law.

From all these causes it can easily be inferred that different constructions and interpretations were placed upon the law by almost every commandant of each separate post, or station, in every Department of the service. Hence the hours of labor as well as the rate of wages soon became not only unequal in different Departments, but they likewise varied with every change of commandants at the same post or station. This inequality and irregularity and consequent confusion and dissatisfaction went on for nearly a year, to wit, until the 19th of May, 1869, when President Grant issued his first labor proclamation declaring that—

Whereas the act of Congress approved June 25, 1868, constituted on and after that date eight hours a day's work for all laborers, workmen, and mechanics employed by and on behalf of the Government of the United States and repealed all acts and parts of acts inconsistent therewith:

Now, therefore, I, Ulysses S. Grant, President of the United States, do hereby direct that from and after this date no reduction shall be made in the wages paid by the Government by the day to such laborers, workmen, and mechanics on account of such reduction of the hours of labor.—16 *Statutes at Large*, page 1127.

Every one must infer that this "executive interpretation" of the law would speedily command not only universal acquiescence but strict obedience. It did not, however, for the proclamation and the law were both openly disregarded in many localities during the summer months. Hence, on the 11th day of May, 1872, the President issued his second labor proclamation, commanding all officers of the Executive Departments to obey the law, and stated that this second proclamation was issued because the first had not been obeyed. And as if to make such "executive interpretation" still more authoritative a pliant Congress just seven days afterward, to wit, on the 18th of May, 1872, followed up this second extraordinary proclamation by passing a second equally extraordinary "eight-hour" statute of the following purport:

That the proper accounting officers be, and hereby are, authorized and required, in the settlement of all accounts for the service of laborers, workingmen, and mechanics employed by or on behalf of the Government of the United States, between the 25th day of June, 1868, the date of the act constituting eight hours a day's work for all such laborers, workmen, and mechanics, and the 19th day of May, 1869, the date of the proclamation of the President concerning such pay, to settle and pay for the same, without reduction on account of reduction of hours of labor by said act, when it shall be made to appear that such was the sole cause of the reduction of wages; and a sufficient sum for said purpose is hereby appropriated out of any money in the Treasury not otherwise appropriated.—*Revised Statutes*, section 3689.

But this "legislative interpretation of the eight-hour law" was no more heeded, at certain stations and in certain branches of the pub-

lic service, than the "executive interpretation" had been, because, despite the two acts of Congress quoted and despite the two presidential proclamations cited, the law continued to be disregarded in many quarters until 1876, when the Supreme Court of the United States settled the vexed question of the proper meaning of the "eight-hour" act of 1868.

That court of last resort at October term, 1876, in the case of United States *vs.* Martin, 4 Otto, page 400, held that—

> The act only prescribed the length of time which should amount to a day's work when no special agreement was made upon the subject.

And this construction of the law has governed every department of the public service since the Martin decision was rendered. However, I am saying too much. That decision has not governed Congress since 1876 although it has controlled the Executive and the judiciary. At every session of the National Legislature since Martin's case was determined sundry bills or resolutions have been introduced into one or both branches of Congress, first, to place a different construction upon the law to that announced by the court, and second, to provide means for auditing claims against the Government in every case since the act was passed in 1868 where laborers' wages have been lessened for working only eight hours or not increased for working ten hours during the six summer months of each year.

In the Forty-fifth Congress the House adopted a resolution declaring the right construction of the law to be different from that placed upon it by the Supreme Court, but the Senate after elaborate discussion refused to concur. At the first extra session of the present Congress the House by a decided majority laid on the table a resolution similar to the one we are now considering. Yet the persistent friends of the eight-hour law are here again, more aggressive and clamorous than ever, urging this body to enact new legislation to grant Government employés ten hours' pay for eight hours' work during half the year in future, as well as to give ten hours' pay for every eight hours' work that have been done for the Government or for Government contractors since 1868.

I will now proceed to show, first, that the long and much disputed construction of the eight-hour law is *res adjudicata*. Second, that the resolution before us, instead of being a simple proposition to rightly construe an existing law, is a bold attempt to enact new legislation. Third, that said proposed new legislation if adopted will result in a raid upon the Treasury. And fourth, that it will perpetrate the monstrosity of class legislation which is so odious to every freeman.

A man by the name of Martin was employed by the Government to labor in the steam-heating and gas works of the Naval Academy at Annapolis, from 1867 till 1872. During these years he worked about a third of the time eight hours per day and the other two-thirds twelve hours per day. But the hours of labor and the rate of wages were expressly agreed upon. After his discharge he sued the Government for the extra labor over eight hours per day. The Court of Claims rendered a *pro forma* judgment in his favor, which the Supreme Court reversed on appeal.

Some of the representatives of labor unions who have been before the Committee on Education and Labor, and most of the members of the committee itself, contend that this Martin case before cited in 4 Otto went off on a side issue, and that the opinion of the court to the effect that "the act only prescribed the length of time which should amount to a day's work when no special agreement was made upon the subject" is a mere *obiter dictum*, as the lawyers call it; but every intelligent student of six months' standing at the bar who shall carefully read the case will know better.

An *obiter dictum* is the opinion of a court on issues not included in the pleadings, or, in other words, it is an opinion which only intimates by implication or suggestion that thus and so is the law without it being necessary to decide authoritatively on said law, in order to determine the merits of the particular case under consideration.

But there is nothing of this sort in the opinion delivered in the Martin case. In the syllabus of the published report of the case three of the four points considered as decided by the court relate directly and exclusively to the merits of Martin's case under the eight-hour law, and the fourth point gives merely a cumulative reason why Martin should not recover against the Government. The court, after stating what I have already quoted, that the eight-hour act of 1868 simply "prescribed the length of time which should amount to a day's work, when no special agreement was made upon the subject," goes on to say:

> There are several things which the act does not regulate which it may be worth while to notice.
>
> First. It does not establish the price to be paid for a day's work. Skilled labor necessarily commands a higher price than mere manual labor, and whether wages are high or low depends chiefly upon the inquiry whether those having labor to bestow are more numerous than those who desire the service of the laborer. Principals, so far as the law can give the power, are entitled to employ as many workmen and of whatever degree of skill and at whatever price they think fit, and except in some special cases, as of children or orphans, the hours of labor and the price to be paid are left to the determination of the parties interested. The statute of the United States does not interfere with this principle. It does not specify any sum which shall be paid for the labor of eight hours, nor that the price shall be more when the hours are greater, or less when the hours are fewer. It is silent as to everything except a direction to its officers that eight hours shall constitute a day's work for a laborer.

Does that sound like only an *obiter dictum*? But the court still proceeds:

> Second. The statute does not provide that the employer and the laborer may not agree with each other as to what time shall constitute a day's work. There are some branches of labor connected with furnaces, founderies, steam or gas works where the labor and the exposure of eight hours a day would soon exhaust the strength of a laborer and render him permanently an invalid. The Government officer is not prohibited from knowing these facts, nor from agreeing when it is proper that a less number of hours than eight shall be accepted as a day's work. Nor does the statute intend that where out-of-door labor in the long day's of summer be offered for twelve hours at a uniform price the officer may not so contract with a contracting laborer.
>
> We regard the statute chiefly as in the nature of a direction from a principal to his agent, that eight hours is deemed to be a proper length of time for a day's labor and that his contracts shall be based upon that theory. It is a matter between the principal and his agent in which a third party has no interest. The proclamation of the President and the act of 1872 are in harmony with this view of the statute.
>
> We are of the opinion, therefore, that contracts fixing or giving a different length of time as the day's work are legal and binding upon the parties making them.

If that be merely *obiter dictum*, I do not know what a judicial decision is, but I am frank to confess myself a poor lawyer. However, the best proof that Martin's case does judicially construe and decide the eight-hour law, so as to leave the hours of labor and the rate of wages subject to contract between the Government and its employés and so as to make eight hours a day's work only when no special agreement is had upon the subject, may be found in the fact that every Department of the Government has conformed to the opinion of the court in that case from the day it was delivered, more than three years ago. The heads of several of the Departments have so informed me, and they have furnished me with official copies of their circular orders to that effect.

But still another case was decided in 1877 by the Supreme Court—United States *vs.* Driscoll, 6 Otto, p. 421, which proves beyond cavil that the "eight-hour" law can be rendered a nullity by special agreement between a Government contractor and a laborer. The facts in Driscoll's case were these: The United States made a contract with Albert Ordway (any man of straw would suffice, as he needed no capital and incurred no risk) for him to furnish from the quarries near Richmond, Virginia, granite, to be delivered in Washington City for use on the outside wall of the new State, War, and Navy Department building. He was to be paid at specified prices. They contracted with him further for him to furnish all the labor, tools, and materials necessary to cut, dress, and box at the quarries all the granite in such manner as should be directed. The United States were to pay him the full cost of said labor, tools, and materials, and also the insurance on the granite increased by 15 per cent. on such cost. The larger the amount of the cost, the larger would be the amount to be paid Ordway. Hence the United States employed and paid a superintendent and clerk, who were to be present all the time to prevent frauds against the Government and to certify Ordway's accounts for his expenditures at the end of every month. This clerk kept the time-book, and also kept a ledger account and made out the pay-roll of the men, and the Government settled the amount with 15 per cent. added as compensation for Ordway's services in reality, but still he was called a contractor by the Government, while his men called him an agent of the Government. The hundreds of laborers employed generally worked from ten to eleven hours per day, and one of them, Driscoll, sued the Government for the extra labor above the eight hours average per day, alleging that the Government was the principal and Ordway only its agent in the transaction.

The Court of Claims decided in favor of Driscoll, but the Supreme Court reversed the decision, as in Martin's case. Hence, there are two decisions by the court of last resort, directly in point to the effect that either the Government or a contractor under it can set aside the "eight-hour" law by the small trouble of entering into an agreement with laborers. Yet in the teeth of both of these unequivocal decisions the friends of the eight-hour law are not content. I am too fast, however. They are content with asking the courts to construe the existing law, and are seeking to get Congress to pass a new law.

Having disposed of the question of *res adjudicata*, let us consider the next charge which I make against the resolution of the committee—that it proposes new legislation. The original "eight-hour" act of 1868 is simply a declaratory statute, directing that eight hours shall be regarded a day's work except by special agreement otherwise. That act, as I before stated, does not prohibit the laborer and the Government from contracting for a greater or less number of hours for a day's work. Nor does it say one word about a full day's pay for eight hours' work, as this resolution provides. I will not insult my colleagues of the committee by even intimating that they would designedly practice a fraud upon the House, yet I fearlessly assert without qualification that this resolution does not express on its face what it really means. The resolution now reads that—

> All laborers, workmen, and mechanics employed by or on behalf of the Government shall hereafter receive a full day's pay for eight hours' work.

But it really means and ought to read, "All laborers, workmen, and mechanics hereafter employed by or on behalf of the Government shall receive a full day's pay for eight hours' work between the 21st September and the 21st March, but between the 21st of March and the 21st of September they shall receive the same wages for eight hours' work that are paid for ten hours' work at private establishments in the immediate vicinity."

There is not now and has never been any dispute about applying the eight-hour law during the short days of the six winter months. All the trouble arises and has arisen from first to last in reference to the proper meaning and operation of the act during the long days of

the six summer months. For the last forty years, either under President Van Buren's labor order of 1840, or under the act of Congress passed in 1862, regulating labor in the navy-yards, or by the analogy of that act, a day's work for the Federal Government so as to command a full day's pay, has been eight hours in winter but full ten hours in summer. The only exception to this rule has been the trouble and confusion caused by the eight-hour act of 1868.

Without being exactly uniform, in nearly every private establishment of this country where similar work is done to that performed for the Government, eight hours in winter and ten hours in summer has constituted a day's work for more than a generation. More private establishments exceed ten hours for a day's work than fall short of it during the six summer months, and as all the departments of the Government pay the customary wages at private establishments in the vicinity, it can readily be seen that the resolution of the committee requiring "a full day's pay for eight hours' work" means the same thing as "ten hours' pay for eight hours' work at private establishments" in summer.

Government employés contend that they shall have a gratuity of two hours more pay (that is 25 per cent.) per day during six months of the year than is paid at private establishments, simply because the act of 1868 says eight hours shall constitute a day's work. That is the sole point involved in all the vexatious discussion about the interpretation of the eight-hour law. Such a proposition is so absurd that but for the serious pertinacity with which it is pressed here one would suppose it a joke.

The Constitution gives Congress the power to regulate weights and measures, and undoubtedly Congress can regulate the length of a day's labor where the employer and employé have made no contract as to what shall constitute a day's work. There is nothing to prohibit Congress from altering the present measure of an hour a week or a month, which would be binding on all parties to contracts in the United States, except by special agreement otherwise. Hence, the eight-hour act of 1868 simply establishes a new measure of time to regulate labor in Government employ where there is no express contract on the subject.

It is the exclusive function of the judiciary to decide a disputed construction or interpretation of a statute, and as our highest court has declared what the eight-hour statute means, and as the entire administration is enforcing that statute in accordance with the opinion of the court, there should be an end of agitation about the construction of the law.

At present every Department of the Administration contracts with its laborers, workmen, and mechanics on the basis of eight hours for a day's work during the whole year, and if the employé prefers to work only eight hours per day in the six summer months, he is permitted to do so, but at a reduction of wages for the two hours that he neglects to work. In other words the Departments are paying the same wages for the same hours of labor that obtain at private establishments in the vicinity. Is this not wise? Is it not just? What better rule can be followed? What more ought to be asked of Government? And when more is asked, is it not demanding new legislation?

Having shown that if this resolution shall become a law it will be new legislation, I shall next address myself to the charge that it will authorize a raid upon the Treasury in the future as well as in the past operations of the Government. Any one can perceive by a moment's reflection that it will cost untold sums hereafter, amounting perhaps to $2,000,000 per year in ordinary times, and to much more in the event of war or any extraordinary industrial activity on the part of the Government. Just at present the United States have entered upon a well-settled policy of expending at least six or eight millions a year in improving rivers and harbors and about half as much more in erecting court-houses, custom-houses, post-offices, and other public buildings. The chief item of expense in erecting a permanent public edifice is labor. Stone and clay are cheap, but quarrying, cutting, and transporting the stone or burning and transporting the brick is very costly. As a general rule, in improving rivers and harbors more money is spent for labor than for materials. Besides, in every Department of the Administration the Government has constantly to employ a great many laborers, workmen, and mechanics, especially in the Ordnance Bureau of the War Department and in the navy-yards.

Hence, if this resolution shall become a law, either one-fifth of all the wages paid out by the Treasury for labor during six months of the year will again become a simple donation or largess to Government employés or the public work will have to be let out by contract to the highest bidder to evade the law, in which latter case there will be ample opportunity for plundering the Treasury by collusion between the Government officials and private contractors, as was done during the whole of President Grant's administrations and during that of President Hayes also, as I believe, in the construction of public buildings. Moreover, much public work is now performed by machinery which has been provided by the Government at enormous expense. This machinery only needs constant attention and light labor from man—to hoist a gate, lower a lever, or touch a spring. Water, wind, steam, or electricity really does the work, not human muscle. Machinery never tires, yet it can run only so fast. Shall it be stopped after only eight hours' service every day? Again, if this machine-made work were let by contract either the Government machinery would also have to be let to the contractor upon his own terms or that machinery would have to lie idle and rust in decay. Over and above all consideration of the fact that such contract work would cost more remains the further fact that much and even most of the work in some of the Departments, if not in all, can be better and more cheaply done by the Government than by a contractor.

The present admirable Secretary of the Navy, who commands the respect and confidence of all parties and the whole country, in a letter dated 31st March last, replying to some interrogatories I had propounded relative to the eight-hour law, says:

> The eight-hour law has not, during my administration of the Department, had anything to do with causing work to be done by contract. It has been my purpose to avoid this as far as possible, as it is believed that better work can be done when directly under the care and inspection of public officers, especially when they are held to a strict measure of accountability.

On the other hand, strange to say, Secretary Sherman, of the Treasury, prefers the contract system, particularly in erecting public buildings, as he says in a letter to me dated 16th April last, after answering some inquiries about the operation of the eight-hour law in his Department, that he construes "the statutes as intending that the public works (buildings) shall be conducted, wherever practicable, under contracts."

Nearly all the public buildings of the United States are erected by the Treasury Department; and as this contract system has long prevailed in that Department, especially as regards large and costly edifices, it must be the true cause why such edifices for the last twelve years have cost and are still costing the Government more than double, and sometimes more than treble the original estimates. But I shall recur to this.

If the resolution we are considering shall become a law, the same reasons which will prompt Congress to pass it would also induce Congress to pass one or the other of the three several bills now pending before this House—introduced by Messrs. COX, of New York, MURCH, of Maine, or DAVIS, of Illinois—to adjudicate and pay for the excess over eight hours per day of all labor performed for the Government, or for any of its contractors, since the eight-hour law was adopted in 1868. If either of these bills shall become a law, from the best estimate I can make it will cost four or five millions on past contracts, although perhaps at least ten millions have already been squandered under the eight-hour law, either directly to employés or to contractors and their official partners.

Congress has never specifically appropriated any money to pay for the excess of labor over eight hours per day, except by the act of 18th of May, 1872, which directed "the proper accounting officer" to settle for all such labor that had been performed for the Government between the 25th day of June, 1868, the date of the passage of the eight-hour law, and the 19th of May, 1869, the date of President Grant's first proclamation in regard to said law. During these ten months and twenty-four days that all claims under the eight-hour law have been settled the Government has paid out $304,797.22, as I am informed by the Secretary of the Treasury, and it is probable that as much more will be required to square accounts for each of the eight years of President Grant's administration, if Congress shall order such claims paid. It is very doubtful whether a million a year will adjust such claims for the three years that have elapsed since the decision in Martin's case practically nullified the law.

While General Grant was President the law was irregularly enforced, either by not working the employés over eight hours, or by paying them for extra hours, except in the Ordnance Bureau of the War Department and in the Supervising Architect's office of the Treasury Department. Hence, while there are unsatisfied claims more or less existing in all the Departments, in the quartermaster's office of the Military Department of the Missouri alone there were presented to the Forty-fourth Congress claims amounting to over $300,000 under the eight-hour law up to only 1st October, 1872, upon which the House Committee on Claims of that Congress reported favorably, as may be seen by reference to report No. 11 of said committee at second session Forty-fourth Congress. From this specimen some idea may be formed of how many similar other claims will be forthcoming in case this resolution and its kindred measures shall pass.

In the event of their passage it is positively certain also that many millions of claims will be brought forward against the Government either for labor done on the small public buildings directly for the Government or for work done for contractors on the large and costly edifices. As a rule, while General Grant was Chief Executive all the small public buildings were erected directly under Government supervision by day labor, working eight or ten hours per day, and for such pay as the Government thought fit; but all the costly edifices in the large cities were let out to contractors, who employed laborers to work ten or more hours a day for only ten hours' pay, so as to evade the "eight-hour" law and divide enormous profits, or rather stealage, between the contractors and their Government partners.

I have already said that while Grant was President the eight-hour law was only enforced whenever, wherever, and however it suited high officials to do it. While the law was thus irregularly and arbitrarily enforced, laborers, workmen, and mechanics at private establishments in the neighborhood of Government jobs cheerfully worked ten or more hours per day for a full day's wages in summer. Yet while they would thus work for private individuals it was pretended they would not work for Government more than eight hours for a full day's wages. This was the justification offered for letting out

to contractors much of the work for erecting eight of the largest and costliest edifices that have ever been built by the Government, to wit, the State, War, and Navy building in Washington, the new court-house at Philadelphia, the new post-offices at New York and Boston, and the new custom-houses at Hartford, Chicago, Cincinnati, and Saint Louis.

Exclusive of the cost of the sites upon which they stand, these eight public buildings have cost the Government over $32,000,000 up to the present time, and perhaps $25,000,000 of it have been paid to contractors, including 15 per cent. commissions on the total cost as compensation for their services. The Government advanced all the money to defray all expenses whatever, and incurred all the risks; yet this arrangement was said to be very advantageous to the Government, because, as was alleged, it saved 5 per cent. of the cost of a building. The 15 per cent. commissions was allowed on the cost of the very granite and other building materials, as well as on the wages of the laborers, workmen, and mechanics under the anomalous conditions that the profit of the contractor would be greatest when the wages of the employés should be highest, the hours of labor shortest, and the work performed the least. Then, also, the 15 per cent. commissions to the contractor went on during the six winter months when the "eight-hour" law did not apply to the employés, even in theory, so as to increase the cost of labor.

It was thus that while the "eight-hour" law was construed (as the resolution we are considering proposes to construe it again) so as to command ten hours' pay for eight hours' work, the Government was swindled out of perhaps $10,000,000; but the laborers, workmen, and mechanics did not get much of it. Contractors and their official partners in high places shared most of it by "addition, division, and silence," under pretext of saving the Government 5 per cent. of the total expenditure, forgetting that even if the "eight-hour" law had granted ten hours' pay for eight hours' work there was no provision in it inhibiting the Government from letting its work to the lowest bidder without the 15 per cent. commissions. Worst of all, under President Grant's administrations these 15 per cent. contractors obtained their contracts by private negotiation, and not by open, fair competition in response to an advertisement for bids. Usually large jobs, involving hundreds of thousands if not millions of dollars, were thus awarded to favored contractors on private terms with 15 per cent. commissions added; whereas in most small jobs, or as I before remarked, whenever or wherever the Government desired to employ laborers, workmen, and mechanics for ten hours per day at only ten hours' pay it did so and laughed at the employé who demanded pay for the extra two hours.

This fact and most of the facts upon which I have based my charges against President Grant's execution of the eight-hour law are vouched by an accumulation of uncontradicted sworn testimony that may be partly found in House Report No. 58 of the Committee on the Post-Office and Post-Roads, second session Forty-first Congress. Before any member of this House shall vote to inaugurate another era of good stealing under the eight-hour law I earnestly recommend him to carefully peruse the report to which I have called attention. If that report could be republished by the hundred thousand copies and scattered broadcast over the land it would do a vast deal of good by unmasking an incredible amount of peculation, as well as of double-dealing and extortion, practiced by the republican party toward the laboring-men of the country.

This report, of only a hundred and fifty-one pages, when connected with President Grant's subsequent administration of the eight-hour law, is the saddest commentary upon his official honesty that I have ever seen. Although it was a report from a republican committee to a republican House, and made in the early part of the President general's first administration, and disclosed a startling amount of fraud and corruption under color of the "eight-hour" law, yet he never raised a finger to apply a remedy, but obliviously permitted the infamies to go on unchecked to the close of his second term. This report also contains testimony and information which, without rebuttal, will for all time to come smirch the reputation of a remarkable Massachusetts man of world-wide notoriety. I mean General Benjamin F. Butler, who, if what is alleged in the accompanying testimony to the report be true, must have surreptitiously obtained from the Government, through his connection with the "eight-hour" law and certain granite companies, especially "the Cape Ann," much of the money with which he built yon stone palace on the south boundary of the Capitol grounds.

To show with what contempt the officers and agents of the Government regarded the "eight-hour" law when it suited their purpose I will quote from page 15 of this report a single question and answer in the depositions of J. T. Smith, assistant superintendent of the New York post-office, while he was engaged in digging out the foundations of the building with laborers working ten hours a day for ten hours' pay:

Q. You do not recognize the eight-hour arrangement here?
A. No, sir. Nobody in New York would try that on. If they did we would simply pay them by the hour, and they would have to work ten hours any way. We could not afford to lose two hours every day.

By the methods I have indicated of applying the eight-hour law during General Grant's incumbency of the Presidency, a premium was offered to every contractor to make all public work cost as much as possible, and it was in this wise that the post-offices in New York and Boston have been made to cost much more than double the original estimates and what honest experts say upon oath they ought to have cost.

I know the defenders of General Grant's administrations have attempted to make A. B. Mullett, the then Supervising Architect of the Treasury Department, the scape-goat for all the frauds that were perpetrated under the "eight-hour" law, and they undertake to acquit both Grant and his heads of Departments of all blame. But the record is against them. Fortunately for Mullett, and unfortunately for Grant, Boutwell, Creswell, and other Secretaries, the former has left on file three several energetic remonstrances against the eight-hour law.

In his annual report dated 31st October, 1868, (which can be seen on page 177 of the Financial Report for that year) only four months and six days after the passage of the eight-hour law, and while Andrew Johnson was yet President, Mullett denounced the law in unmeasured terms and demanded its repeal. Again, during the first year of General Grant's second presidential term, Mullett, in the pamphlet copy of his annual report as Supervising Architect of the Treasury for 1873, at pages 20, 21, still more urgently recommended the repeal of the odious law. As neither of these reports obtained any consideration, in his next annual report for 1874 he a third time assailed the eight-hour law in the most scathing language, which may be read on page 11 of pamphlet copy of the report. As no heed whatever was given to any of these oft-repeated denunciations of the eight-hour law, let the responsibility for the continuance and abuses of the law rest where they properly belong—on Grant and his Cabinet, who took no steps to have the law either repealed or judicially interpreted until near the close of his second term, although more than one of his many Attorneys-General had advised him that the proper construction of the law was just what the Supreme Court afterwards decided it to be—when at last the statute was virtually declared a nullity by the Supreme Court holding that it could be evaded by a simple contract, the necessary proceedings to settle the vexed construction had to be instituted and prosecuted to a conclusion by a poor mechanic, Arthur Martin. True the Attorney-General did appeal Martin's case to the Supreme Court, but he was doubtless driven to it by public clamor as well as by the rigid economy of a democratic House of Representatives in the Forty-fourth Congress. The pressure must have come from these sources, else why had steps not been taken sooner to determine the meaning of the law? The frauds perpetrated under the statute as well against the Government as against the laborers and mechanics were denounced in the press and known of all men for eight long years, yet no sign was made by President Grant or any of his Cabinet to stop it.

Preparing, delivering, and setting the granite is generally the most costly item of a public edifice, and many of the granite contracts, increased by 15 per cent. commissions that were entered into during President Grant's first and second terms, have only recently been changed, although the present Supervising Architect, James G. Hill, went into office 1st of January, 1875. These contracts were continued by the present Architect for several years in the teeth of sections 3733 and 3437 and 3679 of the Revised Statutes, which require that the cost of any public building shall not exceed the original estimates for it, and that the plans and estimates for all public edifices shall be made by experts and approved by the Secretary of the Treasury, the Secretary of the Interior, and the Postmaster-General, and that—

No Department of the Government shall expend, in any one fiscal year, any sum in excess of appropriations made by Congress for that fiscal year, or involve the Government in any contract for the future payment of money in excess of such appropriations.

Again, whenever Congress passes an act authorizing the construction of a particular public building, it usually restricts the cost by prescribing a maximum of expenditure, but in the case of almost every building erected during the last twelve years the restraining law has been again and again disregarded, so as to make the building cost two or three times as much as the original limit.

Take for instance the small custom-house at Hartford. The original act authorizing its construction limited the cost to $300,000. After most of that had been spent other money was appropriated, and the cost limited to four hundred thousand, but nearly $700,000 have been used and it will require perhaps two hundred thousand more to complete it.

According to page 2 of the House Report No. 58 of the Committee on the Post-Office and Post-Roads, made at the second session of the Forty-first Congress, the first act of Congress authorizing the construction of the present post-office in New York contemplated a building which should cost about three and a half millions, including liberal allowances for contingencies, but the final cost has been nearly ten millions.

The cost of the new post-office at Boston was, by the first act providing for its construction, limited to one and a half million dollars, but over three times that amount has been expended, yet the structure has only reached "the top of the second story," and it will probably cost five times what the plans and estimates and first act authorizing its construction called for.

Nor are the three instances just cited exceptional. The Supervising Architect or his superior officer, the Secretary of the Treasury, has exercised discretion so as to double or treble the cost of most of the

forty public buildings he has constructed since the war or is now constructing.

Even in the purchase of *sites* for the buildings the law has been grossly violated in many cases so as to make the sites cost ultimately two or three times the limit laid down by Congress. In the case of the Boston post-office, Congress by act of 1868 limited the cost of the site to $500,000; yet it has cost the Government over $1,300,000; and there have been five different annual appropriations to purchase "additional land" for this costly site. The site alone of the new court-house at Philadelphia has cost within a fraction of one million and a half of dollars, which was the limit originally prescribed by Congress in 1872 for both the site and the building. The site of the custom-house at Chicago has cost over $1,259,000. Now, if any member on this floor sincerely believes that the site of either of the three buildings named ought to have cost even half the enormous sum paid for it by the Government, then I must be allowed to say I think his constituents ought to be seeking another representative.

I know full well that the purchase of sites for public buildings has nothing to do with the eight-hour law, but as the history of the purchase of those sites and of the administration of the eight-hour law disclose an equal amount of dishonesty, and as they are germane, I hope the House will bear with me while I make a short digression to discuss the practice and policy which prevail in the erection of our public buildings at this time.

Several members of the Appropriations Committee of this body a few weeks ago denounced the Post-Office Department as the only one in the Government that purposely disobeys the law in exceeding appropriations and contracting debts, but I make bold to assert that the Treasury Department in its single bureau of architectural construction, to say nothing of its illegal dealings with the First National Bank of New York and the syndicates, defies more law, exceeds more appropriations, and contracts more debts in *one month* than the Post-Office Department does in six. True, most if not all of the contracts on which 15 per cent. commission upon total cost was paid to the contractor ostensibly to evade the eight-hour law have either been executed or changed, but evidently they have not been changed much for the better, as far as the Government is concerned. It is openly charged, and I believe the charge is well founded, that most of the present building contracts on Government account have been entered into upon *private* terms, without fair competition, and that the rules for measuring and paying for work, as well as the methods of book-keeping, are arranged so as to deceive the public, rob the Treasury, and divide the spoils; all of which charges I firmly believe can be established beyond cavil if a thorough investigation of the architectural bureau could be had, and it is to be hoped that the resolution for that purpose offered by the gentleman from Maine [Mr. MURCH] will be adopted.

It is obvious also that new legislation is needed to regulate the Bureau of Architecture; and probably the best thing that could be done would be to abolish Secretary Sherman's favorite plan of working by contracts and to substitute therefor Secretary Thompson's practice of working only with day labor under the supervision of engineer officers of the War Department. True honor is a better security than the strongest bond of paper and ink, and the honor of most of our Army officers in the Engineer Corps, as well as in every other branch of the War Department, I am proud to say, is proverbial; so much so that it is ever ready to "find quarrel in a straw" to vindicate itself.

While the engineers of the War Department superintended the erection of Government buildings, as they did formerly, the work was usually completed within the estimates, and large surplus appropriations were frequently covered back into the Treasury. So, too, when the Indian Bureau was administered by the Army, the annual appropriation for it was but a few hundred thousand dollars, because the Indians received it all and they were fairly treated—were contented—and we had but few Indian outbreaks. But since the Interior Department and the Quakers have had charge of Indian affairs the expenditures have steadily increased until they amount to six or seven million a year, two-thirds of which, perhaps, never reach the savages, and they are so badly treated that one or more Indian wars are nearly always on our hands.

An Army officer holds his commission during good behavior and he is also in the regular line of promotion in his profession. He is therefore not dependent on either politicians or elections for his place. But the erection of public buildings by civil officers who can be removed any day, is only so much party patronage and that patronage will be prostituted to party and private ends whether the buildings be erected by contract or by day labor.

But to return from this digression, for indulging in which I beg pardon of the House, I allege that other methods for cheating, robbing, and wronging the people and Government of the United States, under color of the eight-hour law, have been practiced, besides those I have indicated, and I dare to assert that the law was never enacted or enforced in good faith, but that both of the statutes and both of the proclamations on the subject were put forth in fraud, with a deliberate purpose to dupe laborers, carry elections, plunder the South, and rob the National Treasury. Of course, sand-lot philosophers, like Dennis Kearney, and office-seeking demagogues, like many I could name, had something to do with enacting the eight-hour law, but all the facts and legitimate inferences go to show that a gigantic lobby conceived the law in sin and brought it forth in iniquity.

Was it merely a coincidence that the first eight-hour act was passed by Congress in 1868 when General Grant was first a candidate for President? Was it merely a coincidence that about the same time that Grant's first proclamation in regard to the eight-hour law was issued, the swindling contracts for granting 15 per cent. commissions on the total cost of the New York and Boston post-offices were entered into? Was it merely accidental that the second act of Congress in relation to the eight-hour law was passed in 1872 when General Grant was a candidate for President a second time? Was it only a coincidence that President Grant put out his second proclamation to enforce the eight-hour law in 1872, when he was running for re-election? Even charity cannot help suspecting that the republican Congress and the republican President when they sent forth those statutes and those proclamations were conspiring to dupe the voters of the labor unions throughout the United States. The laborers, workingmen, and mechanics belonging to those numerous unions had long been agitating to get Congress and the Legislature of every State to declare eight hours a day's work for which a full day's wages should be paid.

The debate on the eight-hour statute in the Senate, as well as the wording of the statute itself in connection with its method of execution, all justify the charge that President Grant and the republican leaders wished to be regarded as the best friends of hundreds of thousands of poor laboring-men, so as to get their votes to help "organize hell at the South," and plunder not only the prostrate Southern States, but also the triumphant Northern States by capturing the Federal Government through bribery of carpet-bag and negro Senators and Representatives.

It was in this way that the requisite majority was obtained in both Houses of Congress to enable a daring lobby to perpetrate the Credit Mobilier steals, donate most of the valuable public lands to railroads, grant subsidies to corporations, enact a prohibitory tariff of about 45 per cent. in favor of home manufactures while admitting the raw material of those manufactures free, change the war debt from lawful money to coin, then from coin to gold; next to demonetize silver, grant the national banks a monopoly of issuing paper money, and then contract the greenback currency so as to depress the price of property that the national lobby might buy it; and lastly to perpetrate all the other unconstitutional and infamous legislation which has been placed on the statute-book since and including 1868. Yes, I repeat, the republican party was enabled to do all these wrongs by securing the vote of most of the labor unions of the North through its affectation of party friendship to the eight-hour law. Was there no hidden purpose in the phraseology of the first eight-hour act passed by Congress in 1868? That distinguished son of Massachusetts, General Banks, himself a mechanic and the professed fast friend of mechanics, introduced the bill which became a law, and if he had intended in good faith to require the Government to pay a full day's wages for eight hours' work in summer why did he not frame the law so as to provide for it by inhibiting a contract for a longer time than eight hours for a day's work, by requiring a full day's wages to be paid for eight hours' labor, and by prescribing a punishment for officers who should disregard the law? If the Senators in 1868, who advocated and passed the law, had meant to enact it *bona fide*, why did they not properly amend the Banks bill, so as to keep the promise of a genuine eight-hour law to the hope and not disappoint it in every regard? Those Senators were masters of language and they discoursed eloquently in the debate on the bill about the great importance of putting the fine theories of the eight-hour philosophers to the test, by a practical experiment of the National Government. Yet they passed a mere *brutum fulmen* and missed the mark they professed to aim at farther than an honest sophomore ought to have done.

Again, was there no covert design in the second eight-hour statute of 1872, which only authorized payment for extra labor over eight hours per day during ten months and twenty-six days, the time between the 25th June, 1868, the date of the first eight-hour act, and the 19th May, 1869, the date of President Grant's first proclamation in regard to said law? Mr. DAWES, another distinguished son of Massachusetts, and doughty champion of laboring-men, drafted this second or subsidiary "eight-hour" act, and he ought to have corrected all the errors as well as supplied all the defects of the first law. He knew, or ought to have known—for every other intelligent man in the country knew it—that there were thousands of claims for excess of labor over eight hours per day for services performed between the date of President Grant's first eight-hour proclamation in 1869 and the 18th May, 1872, when the Dawes or second eight-hour act was passed. Now, if fair play had been intended, why did not this second eight-hour law provide permanently for the payment of all claims for excess of labor above eight hours per day? As it is, while providing for payment of such claims during only ten months and twenty six days, yet this second temporary act is included in the Revised Statutes among such appropriations as "shall be deemed permanent annual appropriations."

This was done by Mr. Boutwell, still another noted son of Massachusetts, who as the responsible editor of the Revised Statutes of the United States, knew that this was no permanent annual appropriation, yet he has classed it among such appropriations as if to deceive the unwary, while he has altogether excluded from the Revised Statutes the act of 1862 (still of force) that requires the hours of labor and the rate of wages in the navy-yards to conform to those of private establishments in the vicinity.

What but an unscrupulous purpose to conciliate and dupe the voters

of the labor unions could have prompted the Secretary of War, General Belknap, in 1872, to have a report, which can be found in Executive Document No. 309, second session Forty-second Congress, published, of pretended experiments alleged to have been made at the National Springfield Armory during the two or three previous years which went to show that the same man can do as much work in eight hours as in ten, or in other words, that the smaller equals the greater, that two are as many as three. This report gives some coloring to the paradox that a man can do as much work in eight hours as in ten, but the superintendent of the armory, apparently ashamed of the dirty work he was required to do, reported only a large minority of the total number of experiments as tending to sustain the absurd proposition while most of his facts clearly demonstrated the reverse to be true. No Secretary of War except one who could traffic in post traderships would have prostituted his high office to engage in the hocus-pocus of having a series of experiments cooked to deceive the trade unions and justify Congress in passing the second eight-hour law, nor could any armory except the one in Massachusetts, at Springfield, have had the brazen audacity to seriously report experiments to prove that a man can do as much work in eight hours as in ten. The Rock Island armory, when asked for such experiments, had none to report. But then it is meet that a place in Massachusetts should report such experiments—because Massachusetts men were the authors of both the eight-hour statutes and a Massachusetts Senator (Mr. Henry Wilson) was their most eloquent advocate, while Mr. Sumner, be it said to his credit, voted against them. Another Massachusetts man, Mr. Boutwell, as Secretary of the Treasury during President Grant's first term, negotiated most of the colossal frauds on the Treasury, known as the 15 per cent. contracts, out of which another Massachusetts man, through his connection with stone quarries, is said and believed to have made more money than anybody else.

Yet while Massachusetts statesmen could thus pass as the first friends of laboring-men, those same statesmen have been winking at the actual disfranchisement of enough poor ignorant laboring voters in their State to elect three members of Congress, because those voters could neither read nor write, nor pay a poll-tax, and because some of them had to accept a little public charity, as paupers, for a few days after the financial crisis of 1873. It is also consistent with the eternal fitness of things that while these Massachusetts statesmen have kept silent at the disfranchisement of white men at home they have been very clamorous for the enfranchisement of negroes at the South.

To finish what I have to say about past or future raids on the Treasury, under cover of the eight-hour law, let me ask, is it not enough that the Government has been swindled out of millions upon millions of dollars by the optional and rascally administration of the infamous law heretofore, without the doors of the Treasury having again to be thrown open to pay every laborer, workman, and mechanic who has been employed by the Government, or by any of its contractors, since the 19th of May, 1869, at the rate of ten hours' pay for eight hours' work in summer time. On every hand evidences exist that this resolution is an advance picket of an organized raid on the Treasury. The claim agents, who always gather here when Congress is in session, like vultures to a feast, have been haunting the corridors of the Capitol, as well as the private rooms of the people's Representatives, to urge the passage of this resolution. Men calling themselves delegates from labor unions in Boston, Marblehead, Chicago, Detroit, New York, and other cities have repeatedly been before the Committee on Education and Labor to press the resolution, and they have remained in attendance upon Congress during several whole sessions with as much assiduity as the members themselves. These delegates not only have to pay their expenses in this expensive city, but they have also to support their families and provide for the future. To this end they levy monthly contributions from the numerous labor organizations in various cities or at Government navy-yards, armories, &c. These delegates likewise send out from the national capital circular bulletins from time to time, giving an account of the status, progress, and prospects of their lobbying efforts to get a new eight-hour law passed, as well as another law to adjust claims under the existing statutes.

In this connection I will quote a passage from the testimony of A. B. Mullett, late Supervising Architect of the United States, given before the House Committee on Public Buildings and Grounds, in Report No. 390, first session Forty-third Congress, which was presented to the House 8th April, 1874. In that report, page 5, Mullett swears:

> I have been informed that parties have been organized in New York to get up this claim [that is, pay for two hours' work not performed for every day of the six summer months] and that for a long time they collected a dollar per month from every employé on that building [New York post-office] as he left the building at the end of his work, in order to compensate them for bringing these claims. These claims are not presented by the workingmen themselves. They are all put up. There is a claim agent in this city [Washington] who has made a good deal of money out of this legislation, giving 20 per cent. to the employés in the Navy Department. He has been perambulating through the country advising workingmen and collecting the names of employés on these different contracts under Government. He is getting powers-of-attorney from men and collecting these claims against the Government with the understanding that he is to have a certain percentage of the claim if it is recovered.

From what is going on in this House and from what has occurred in every House of Representatives since Mullett gave this testimony no one ought to doubt but that a well-organized raid in the name of the eight-hour law is vigorously prosecuting against the Treasury.

I will next discuss the charge against the resolution that it proposes class legislation in favor of an aristocracy of labor. Equality before the law is the corner-stone of American democratic polity, which means that Government must have but one weight and but one measure to confer rights, accord privileges, or redress wrongs. Every man should have full scope for the exercise of his free will as long as he does not trespass on the rights of others. There should be no such monopoly as working for Government fewer hours at higher wages than obtained in private establishments of the vicinage.

But there should everywhere be free trade in both hours of labor and rates of wages for men whether they work for Government or for individuals. The civil law ought to protect women and children against overwork, especially in factories, because those two classes have not only to submit to the tyranny of capital but also to the vice, avarice, poverty, or brutality of husband or father in many cases. Still, the law should not interfere to prevent any man from working more hours for more pay or less hours for less pay. The eight-hour law permits this free trade in Government employ only by special contract. It was passed seemingly at the earnest solicitation of the labor unions of the country, yet some of the doctrinaires of those unions are now dissatisfied with their own bantling, because forsooth the Government will not pay full wages for two hours' work per day that is not performed during half the year, and that the more pleasant half, when the weather is milder, the temperature more agreeable, and the light, as well as the other conditions, more favorable for labor.

All nature, both vegetable and animal, is more active, vigorous, and productive in summer than in winter, and why should the few thousand Government employés be constituted by law an exception to this rule, as a pampered class at the expense of the millions of hard-working poor who have to pay the taxes to support the Government?

If this resolution shall become a law, I do not see how those who vote for it can ever be able to face their constituents. At all events, if I were to help enact it into law, I could never hold my head up to justify it before those who sent me hither. As a rule, every laborer, workman, and mechanic in private establishments works the whole summer at least ten hours per day for less wages than the Government pays. The agriculturists of the country likewise labor steadily as a class for more than ten hours a day throughout the summer—usually from sun to sun, and hundreds of thousands of them from early dawn to late twilight; and as to factory operatives, except in the State of Massachusetts, where the ten-hour law prevails, even delicate women and tender-growing children toil on an average eleven and a half hours per day during the whole year, and ordinarily in a heated, dusty, greasy, suffocating atmosphere.

God forbid that ever I should cast a vote to tax these mechanics, these agriculturists, these operatives, and above all these overworked women and children, to sustain petted Government employés—the mere tools or favorites of politicians. Although Government employ is eagerly sought on every hand yet all know that the seeker who is without political "influence" can seldom obtain it. Ought we not to legislate so as to diminish the patronage of the Federal Government rather than to increase it? It is notorious that the average rate of wages is higher in public than in private employment, for the reason that the Government generally pays to all its employés the very highest wages that are paid by any employer in the vicinity. It is on this account that laborers always prefer public service to that of private individuals. But they prefer it from other causes. Even when the hours of labor and the rate of wages are the same they prefer Government employ, because it is more constant, because the pay is more certain and regular, and because the labor is usually lighter, from the fact that the overseeing officer or agent is not so vigilant in exacting service as a private employer.

Besides it cannot be denied, as our affairs are administered now, but that the laborer and mechanic when employed by the Government is often, if not generally, required not only to vote for the party that appointed him, but also to submit to an assessment on his wages for electioneering purposes. If this be true when the hours of labor and the rate of wages are nominally the same in both public and private establishments, how much more sternly would subserviency and pecuniary contributions be exacted by the party in power if its employés had two hours' full pay per day for doing nothing during half the year. Hence to pass this resolution would be virtually to make every common laborer, workman, and mechanic in the public service an officer—yea, a tool of the Government, because dependent on its patronage. The Federal Government now has over one hundred thousand officers. It has over two hundred thousand pensioners, soon to be increased to perhaps half a million. Shall these consolidation ranks be swelled by adding indefinite thousands of laborers and mechanics to the roll of dependents?

The only limit to the number of such dependents would be the amount of the appropriations which the party in power could apportion out to this navy-yard or that arsenal, to this river or that harbor, to this post-office or that custom-house, as party necessity might require to carry an election for Congress or President. Large appropriations were made for fortifications, for public buildings, for rivers and harbors, and for other purposes to employ labor in 1872, when the second eight-hour statute was adopted, when President Grant's second eight-hour proclamation was issued, when the eight-hour law was rigidly enforced for a few months professedly in the interest of laborers, and

lastly when President Grant was a candidate for re-election. Party spirit threatens to destroy the Republic now. Shall we develop it into hot-house growth by administering a perpetual eight-hour stimulant?

Deficiency Appropriations.

SPEECH OF HON. THOMAS R. COBB,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, March 16, 1880.

The House being in Committee of the Whole, and having under consideration the bill (H. R. No. 4924) making appropriation to supply certain deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1880, and for other purposes—

Mr. COBB said:

Mr. CHAIRMAN: The pending bill contains several provisions, but I intend to discuss but one or two of them. I do not propose to take up the time of the committee in discussing the provision in regard to the pay of United States marshals and their "general" deputies. That question was so fully discussed during the extra session that it does not require anything further from me. This bill appropriates for the purpose of paying the marshals and their "general" deputies the sum of $600,000.

The gentlemen on the other side who have spoken express dissatisfaction with this provision. It is not enough to satisfy them that the "general" deputy marshals are provided for. They want the "special" deputy marshals, who served at the election in California last fall, also provided for. They insist that these "special" deputy marshals, who were used at the polls for partisan purposes in the interest of the republican party, shall be paid out of the people's money; and they desire this provision of the bill amended so as to add the required amount to pay them and the restriction against paying them stricken out. But I insist that they were appointed without authority of law, there being no appropriation to pay them at the time of their appointment, and that therefore there is no liability on the part of the Government to pay them. Under the law the marshals had no right to appoint these special deputies unless there was an appropriation made by Congress to pay them. The law provides that no officer shall make any contract involving the payment of money unless an appropriation shall have first been made to pay the same. (See section 3679 of Revised Statutes.) Congress having refused at the extra session to make an appropriation for this purpose, these deputy marshals should not have been appointed. Believing as we do on this side of the House that these "special" deputy marshals were appointed and acted wholly in the interest of the republican party, and for purely partisan purposes, we do not feel willing to make the appropriation to pay them, unless there is some restriction by law thrown around their appointment in the future, so as to prevent this unjust partisanship. This bill ought to be so amended as to require these "special" deputy marshals to be appointed in equal numbers from each of the political parties. If we are to have these officers at elections, fairness and justice demand that they should be equally divided between the parties. This must be admitted by all men. For one, I am unwilling to appropriate the people's money to pay them unless the law is so changed as to require this to be done. Let us have no marshals at the polls unless it is in the interest of free and fair elections, and this cannot be so long as they are appointed alone from the republican party. I much prefer not to have any Federal officers at the polls. I believe their presence to be wrong and dangerous to the freedom and purity of elections. But if we must have them, in the name of justice and fairness let them, as I have said, be equally divided between the parties. Unless this is done the people will never be satisfied, and they will never cease agitating the question until they are abolished.

I was surprised to hear the gentleman from Illinois [Mr. CANNON] and other gentlemen on that side of the House talk as they have this morning in regard to democrats on this side, and especially democrats who represent southern constituents. They talk and act as though democrats are unworthy occupants of seats on this floor. If a stranger to the political harangues of gentlemen on the other side should enter this Hall and listen to them, he would be led to believe that they regard us all as traitors and unworthy to be here. And I am certain he would conclude that we are here merely by the sufferance and permission of our republican friends. Were it not for the fact that I know that these speeches are made for the country and not for the ear of this House I would be led myself to the conclusion that these gentlemen really believe that we are unworthy to be here. But I know that they do not believe what their language and actions seem to indicate. I am heartily tired of these assumptions of gentlemen on the other side. I was elected to my seat in this House by as honorable a constituency as any gentleman on the republican side, and I am the peer of any man who sits on that side. I am here trying to do my duty and serve my people as best I can, and I shall continue to do so notwithstanding the arrogance of gentlemen.

The question of tissue ballots has been thrust into this debate without any excuse or reason whatever by gentlemen on the other side. They charge that these ballots were used by democrats to carry elections in the Southern States. I tell gentlemen that this charge is untrue. The first time I ever heard of tissue ballots was when republican "carpet-baggers" used them in the South to cheat honest democrats out of their votes; they used them to assist in cheating the country out of its choice of a President. This was the first time the country heard of tissue ballots.

There is one thing further which I desire, too, to say to gentlemen who appear to think that democrats who represent a southern constituency are unworthy to occupy seats in this Hall and whose patriotism they are constantly assailing. It is this: When these democrats were elected a few years ago in the places of their republican "carpet-bag" opponents and took their seats in this Hall, whatever wrongs they may have committed or however little confidence the gentleman from Illinois and his political associates may have in their patriotism or integrity, yet it is a well-known fact that will not soon be forgotten by the people, and will never be by those who love honest government, that they joined with the northern democrats and banished from these Halls those who were guilty of giving as well as receiving bribes; and we have not heard of their return, and I trust we never shall. A corrupt and venal lobby, drawn here by the profligacy and corruption of the gentleman's political associates, and which preyed like a vulture upon the substance of the people, was driven away from our Capitol, and its loathing influence has not been since felt.

Yes, the democracy did more; we drove from the very portals of the Executive Mansion the corruption which was seething and simmering all around and about it. We did more; we banished corruption and extravagance from the various Departments of the Government and caused to be inaugurated a system of economy by which the expenses of the Government were reduced many millions annually, thereby lightening the burdens of the toiling people.

Southern democrats have voted with northern democrats to diminish the expenses of the Government, while the republicans, who claim all the honesty and patriotism, have with great unanimity recorded their votes in favor of high salaries and extravagant appropriations of the people's money.

It is asserted by republicans on this floor that democrats cling to the little offices which are in the gift of the Government with a tenacity which is unbecoming a great party, but that the republicans, generous, patriotic, and self-sacrificing, care nothing for office; that nothing but imperative duty can induce them to seek and hold office. This is the idea that republicans desire to go to the country; they declare it in their speeches on this floor and hope to make the people believe it.

When did republicans cease to hunger and thirst after office? It is a very recent thing if they have, and I had not heard of it until to-day. They clamor after every office in the country, both great and small. Do gentlemen remember the fact that but a few years ago their party elected a man Vice-President of the United States who afterward became President, and in the exercise of his high official trust he undertook to remove from office men whom he believed to be corrupt and unfit to remain in the public service and fill their places with others who were honest and capable, but whose political sentiments were not in exact accord with the republican party? In order to prevent this, do you not remember, my republican friends, that your party, then having a majority of more than two-thirds in both branches of Congress, passed over the veto of your President what is known as the "civil tenure act?" This is an extraordinary example of a party, in order to retain its partisan friends in office, exercising doubtful constitutional powers in attempting to tie the hands of the Executive in limiting his power to remove its political friends. Such an extraordinary case as this cannot be found in the history of free government. The country has not forgotten this, if gentlemen on the other side have. Can gentlemen point to any case where the democratic party has ever attempted to execute such extraordinary power in order to retain its political friends in office? I answer, no. I can point to other cases, more recent, where the republican party leaders have resorted to even revolutionary measures on this floor to retain their friends in office who were proven to be corrupt and profligate. A flagrant case of this kind occurred at the extra session of the present Congress. I might point to others, and will, if gentlemen desire me to do so.

Republicans assert in a sneering manner, on this floor, that they made gains at the elections last fall; that it was the result of the action of the democrats during the extra session and the principles which they advocated. The democratic party will stand or fall by the principles they then maintained. It will ever advocate free and fair elections by the people unawed by bayonets and republican deputy marshals. For one I do not believe that we lost any votes by adhering to these principles. The right to a free ballot was then advocated by democrats and opposed by republicans, and a hostile executive veto was interposed to prevent this right from being exercised. Republicans on this floor still resist this right. Democrats still tender the issue and will make it in the coming campaign, and I have no fears that a majority of the voters of the country will be on our side at the next election. The false clamor of the republican press and its public speakers may have caused the unwary to drift away from us for a

time; they may have believed the false assertion, that we were trying to "starve the Government to death," when in fact we were trying to preserve the purity of the ballot-box. But they have long since become satisfied that the charges thus made were false and have returned to the old democratic fold.

I know republicans claim to have great hope in beating the democratic party this year. I know they claim it is dead, and they fancy sometimes that they are preaching its funeral. They have feigned this for many years. But gentlemen had just as well make up their minds now that they have no ordinary task before them to beat this supposed corpse at the next election. The men we represent are active and determined as they ever were. They are prepared. We do not say this by way of threat. We are not like gentlemen on the other side; we make no boast of what we intend to do. But we feel that there is a high duty imposed upon us to succeed, and we intend like men to enter the field of political battle with unbroken columns, trusting in the justice of our cause and our honest efforts to give us victory, and I believe it will surely come.

What I have thus far said has been by way of meeting the assertions of gentlemen on the other side which were not pertinent to the pending bill, but which have been indulged in by them for political effect upon the country merely.

During the extra session much of our time was taken up in the discussion of the questions which have been unnecessarily thrust into the discussion upon this bill and I will not pursue them further.

Now I will call the attention of the House to some facts in regard to the Public Printer and his department, as we are called upon to make a large appropriation to supply a deficiency created during the fiscal year. I desire to say here, and I say it without any unkind spirit toward any one, that from the investigation which I have given this Printing department, considering the manner in which the books are kept, the manner in which the purchase and sale of property has been made, and the general management of the business, in my judgment there is no other department of the Government that is so carelessly and so loosely conducted. The books are not kept properly. They may be true so far as the entries in them are concerned. I do not intend to assume anything to be true which is not sustained by the facts. I will not assume that the Public Printer is dishonest, because I have not the proof of it. I will not say that he has defrauded the Government out of money which has been appropriated for the public printing, because I cannot prove it now. But I desire to state, so far as the sub-committee on appropriations is concerned, which has had this matter of deficiency in charge, that it is not an investigating committee. We were not authorized to call witnesses before us and examine them under oath in regard to the facts, and we could not do it. But the question was referred to us to ascertain and determine the fact as to whether a deficiency had occurred, and if so in what amount, and whether an appropriation should be made by Congress to supply that deficiency. That was the limit of the inquiry we were directed to make. In making this inquiry I have gained the information upon this subject of which I speak. We called the Public Printer before us and questioned him. We found that he could not give us much information concerning the business of the department. He is an old man of seventy years or more and in feeble health and could not give the business such attention as it seems to me it requires. He is compelled to intrust the business to his chiefs of bureaus, these and other subordinates, and therefore we could not get from him information of any particular value in regard to the management. We then called his chief clerk and got a statement from him. Afterward we visited the Printing Office and examined the books and the manner in which they were kept and we ascertained that it was impossible to arrive at the accurate condition of the business of the office.

In the first place, to illustrate, the Public Printer keeps a pay-roll. This pay-roll consists of the amount paid out to each of the employés for work done in the public printing and binding (except the CONGRESSIONAL RECORD) during the fiscal year. And the pay-roll for the fiscal year of 1879 will be found in the report of the Public Printer, commencing on page 49 and ending on page 67. This pay-roll it will be seen by an examination only shows the time each employé worked, (and it does not do that in all cases,) his or her name, and the amount of money paid. But this does not enable you to arrive at the cost of any particular piece of work done in the department. Take the Agricultural Reports, or any other particular piece of work, (except, as I have said, the CONGRESSIONAL RECORD,) and you cannot tell its cost from the pay-roll, for the labor done upon it is not kept separately from that which is done upon other pieces of work. Hence it does not aid you in coming to a correct conclusion as to the cost of any particular piece of work. The Public Printer settles with the Treasury Department by this pay-roll. He makes out his pay-roll and certifies that it is correct and files it and the amount of money which it shows he has paid out to the employés is placed to his credit and subject to his draft. The Public Printer's report shows that he had in his employ during the last fiscal year about twenty-seven hundred hands from first to last. But few of them, however, worked all the time. Eight hundred of them were paid less than $100 each; and two hundred and fifty others were paid less than $200 each. Fourteen worked full time, and twelve worked over their full time, counting three hundred and thirteen days in the year. Thus it will be seen that about one thousand and fifty of the twenty-seven hundred hands employed received upon an average about $100. The remainder, or seventeen hundred and fifty, worked on an average about half the time. These estimates approximate very nearly the truth as will be seen by an examination of the facts. Therefore, when we are told by the Public Printer, in order to account for the vast outlay of money in his department, that it grows out of the reason that there is such a large number of employés in his service, if we examine the facts we find that this reason is not a sufficient one. We have to look somewhere else. But in examining the facts you can find no justification, in my opinion, for this great outlay. But it is impossible for any one not perfectly familiar with the business of the department to make an accurate estimate of the cost of the public printing for any one year. I do not believe, indeed I am certain, that the Public Printer, nor any one in his employ, can tell what the public printing costs in any one year. He can tell the cost of the material purchased in any one year; but he cannot tell how much was used in the business of that year; for the reason that he always has a large amount of unfinished work on hand at the end of the fiscal year which is carried over and finished during the next year. And his pay-roll laps over from one fiscal year on the next. The books show this state of facts. It is therefore impossible, I undertake to say, for any one to tell what any particular piece of work costs, or what is expended in any one fiscal year by the Public Printer, either from his books or any other way. He is charged with the material purchased from time to time, and he keeps a labor account, and that is all there is of it.

I submit, Mr. Chairman, that this mode of book-keeping is not satisfactory. It affords great opportunity for extravagance and waste, if not fraud and corruption. But it is said that there is no opportunity for defrauding the Government under this rule of book-keeping. This I deny. Fraud may be committed. I ask, is it right to place so large a sum of the people's money under the control of a man who keeps his books in the way I have shown the Public Printer keeps his? If the Public Printer and all who are in his employ were perfectly honest and would always be so, it might do. But the slightest examination of the subject will prove to the mind that fraud can easily be committed. The time-keeper may report that the employés work more time than they actually do. More can be charged for the Department printing than it costs in labor and material, and no one can detect it. The Departments have no means of knowing the cost, and they have no power to control it if they did. Congress appropriates about $750,000 annually for the Department printing. The Public Printer does their printing and charges whatever he may see fit, and that is the end of it. And so it is in regard to all the public printing. The system of book-keeping, if a system it may be called, may be briefly summed up thus: Congress appropriates, say, $1,500,000 for the public printing. It is placed to the credit of the Printing department in the Treasury. The material is purchased, and the public printing is done. The Public Printer makes his charge for the same; presents his voucher for the amount so charged at the Treasury Department, and it is paid. You have no means of ascertaining the true cost of the work except through the Public Printer himself. His books, as I have said, not showing the amount expended in any one year, makes it impossible to ascertain from them the fact as to the amount expended. And the Public Printer does not pretend to give anything more than an approximate estimate of the expenditures of the department in his report for the last fiscal year. Because he says, on page 4 of his report, that "the amounts paid out for machinery, implements, coal, gas, paper, and material on hand, and illustrations going into unfinished work, have not been taken into the account, for the reason that they would not be legitimate charges." This shows, I repeat, that it is impossible for one not perfectly familiar with the cost of all the work done and the material used in such work to ascertain the cost, and even he cannot do so without a great expenditure of time and labor; and I very much doubt whether such a one could ascertain the cost with much accuracy. Hence it is seen that it is impossible for one not an expert in the business in all its details to give more than an approximate estimate of the cost for any one year; and in order to do this he would have to be governed by the cost of previous years and the amount of public printing done in those years, just as the committee has had to do.

I insist that the assertion that the Public Printer cannot keep a correct account of the cost of the work done by him so as to give the cost of each particular part of the work so done is a mistake; for I say that there is not a practical printer on this floor—and I understand that there are several—who will stake his reputation on the truth of that assertion. If the Public Printer will keep an account of the material which goes into a particular piece of work and the labor expended upon it, which I feel certain can be done, he can tell to a cent what it costs and his books ought to show it. Take the great job offices in the metropolitan cities of the country. I ask you if you go to get a piece of work done whether they can tell you how much it will cost? Certainly they can. If they could not you would have to guess at the cost and rely upon their honesty in making the final charge. The business of printing is not so intricate and mysterious as gentlemen seem to imagine. I say that the Public Printer ought to be able from his books to show to this House the cost of every piece of work done in his department. The law does not require him to do this; and however much I think he should, in justice to himself and the public service, keep his books in the way I have indicated,

yet I will not charge him with dishonesty for having failed to do so. The law is very defective in this particular, and should be so changed as to require a different system of bookkeeping in this department. Gentlemen on the other side of the House are more responsible than I am for this defect in the law; for the republican party was in power years ago, when this system was inaugurated, and they have suffered it to continue until now. I say the law should be changed, and I am ready and anxious to vote to change it. But as this bill should pass in some shape at once, therefore I do not feel that an amendment by way of a rider should be put upon it which in all probability would cause a long and excited debate and greatly prolong the time of its passage through the House and Senate, and the public service might suffer thereby.

There is another thing which I will speak of here. It has been already referred to by other gentlemen. I have with anxiety looked through the report of the Public Printer to see if I could learn how much property the Government owns which is vested in this printing establishment, but I must say that I looked in vain. There may be a million—or two million for all I know—of property in this vast department. I have learned, however, that there is no property account kept by the Public Printer. I am informed that he buys printing-presses, type, wagons, horses, binders' stitching-machines, &c., at his pleasure, and sells them in the same way and again buys new articles to replace the old. And yet we have no account kept anywhere of this matter further than we are told that when property is sold by the Public Printer he charges himself on the cash-book with the amount. And it is said that his predecessor carried the amount of these sales in his head a year or two before entering them on the books.

I must say it is a shame that the law does not require an account to be kept of this vast property of the Government. The Committee on Public Printing should bring in a well-digested bill upon this subject and press its passage through this House at an early day. We ought to know whether this property is in the possession of the Public Printer; if not, what has become of it. There is not only lands and buildings belonging to this Department, but printing presses, type, stitching-machines, paper, ink, &c., indeed, everything which is necessary to make it perfect and complete. But who in this House can tell me the amount or value, or even approximate it? I answer, no one. The Public Printer nowhere tells us in his report. No schedule of this vast property is anywhere to be found, so far as I have been able to ascertain. But I have said enough in regard to the manner in which the books of this department are kept.

I desire now to call the attention of the House to the deficiency in this department for the present fiscal year. The Public Printer estimates it at $490,000, and says that amount is necessary to carry on the business of the department until the end of the fiscal year. Now in view of the fact that the Public Printer made his own estimate of the amount which was necessary to do the public printing, and Congress appropriated the money, is it not extraordinary that before six months of the year has passed away he is here asking us to appropriate this large sum of money to make up a deficiency, and threatening us with stopping the work if it is not made? It strikes every one with alarm who feels an interest in the protection of the Treasury.

Mr. VALENTINE. Will the gentleman yield to me for a question?

Mr. COBB. Yes, sir; I yield, but only for a question.

Mr. VALENTINE. I wish to ask the gentleman whether it would be possible for the Public Printer to estimate the amount required for the extra session? When he made his estimate did he know of that extra session? Why did the gentleman not make a reservation on that point, instead of making a broad charge like that which he sends to the country?

Mr. COBB. Yes, sir; he could do it easily; any business man could do it; he has done it since, at least approximately; I do not say he has done it accurately.

Mr. VALENTINE. Had he any knowledge that there was to be an extra session?

Mr. COBB. He knew it during the existence of the extra session, and he did not then intimate that he would want any more money than we had given him in order to supply the demands of that session. The gentleman insists that the extra session was the cause of this deficiency, and that it could not therefore be anticipated. There is a very strong effort on the republican side to charge this deficiency to the extra session, and thereby put the responsibility on the democrats, and I fear that the Public Printer is in sympathy with that effort. The extra session did not cause this deficiency, for it is greatly in excess of the total cost of the printing for that session, as I will show. The Public Printer himself admits that the printing done for the extra session amounted to but $162,220.24, as shown by the following table:

Table showing amount and cost of printing, &c., ordered by first session Forty-sixth Congress.

Title, &c.	Date.	By what authority.	Number of pages.	Number of copies.	Cost.
Printing for Committee on Alleged Frauds, &c	Mar. 27	Senate	1,351	2,200	$4,053 00
Public act No. 98	April 9	Senate	10	6,000	60 00
Public act No. 98	Mar. 28	House	10	5,000	50 00
Senate bill No. 227	April 9	Senate	4	1,000	20 00
Printing for Committee on Treasury Accounts	April 10	Senate	232	1,925	696 00
Printing for Committee on Elections	April 15 / June 18	House		50	500 00
Printing in case of Spofford and Kellogg	April 16	Senate	1,600	2,000	4,800 00
Report on interoceanic ship-canal	April 23	Senate		200	100 00
Public law No. 90, third session Forty-fifth Congress	April 23	House	2	5,000	12 00
Report National Academy of Sciences	May 1	House	26	750	12 00
Report on Senate resolution No. 15	May 6	Senate	8	50	20 00
Report on Senate resolution No. 98	May 6	Senate	8	50	20 00
Printing for Committee on Freedman's Bank	May 16	Senate	262	2,000	786 00
Nicaragua claims	May 30	Senate	56	200	105 00
Report on diseases of domestic animals	June 17	Concurrent resolution	300	100,000	25,000 00
Binding Sailing Directions	June 19	Joint resolution			200 00
Fontaine's Hydraulic Engineering	June 19	Joint resolution	50	100	50 00
Final Reports of Centennial Commission	June 20	Joint resolution	6,000	5,000	30,000 00
Eulogies: J. E. Leonard	June 20	Concurrent resolution	100	8,000	1,000 00
Volume 2, Powell's Geological Series	June 20	Concurrent resolution	500	5,000	3,000 00
Volume 4, Powell's Geological Series	June 24	Concurrent resolution	350	2,000	2,500 00
Consular labor report	June 20	Law	426	15,000	4,000 00
Transit of Venus	June 21	Concurrent resolution		250	150 00
House Report No. 14, third session Forty-fifth Congress	June 23	Concurrent resolution	161	10,000	2,000 00
Paris Monetary Conference	June 24	Concurrent resolution	960	12,000	6,000 00
Binding Internal-Revenue Laws	June 27	Concurrent resolution		3,000	500 00
Morton's report on Chinese immigration	June 28	Senate	24	500	35 00
Testimony taken by Wallace committee	(Error.)	Senate	1,232	2,100	3,696 00
Senate Journal	Printed during the session.	Senate	868	3,220	3,000 00
Confidential matter		Senate	16	625	17 00
Calendar of Business		Senate	28	4,200	60 00
Bills and joint resolutions		Senate	3,624	849,200	7,307 72
Executive and miscellaneous documents and reports (97)		Senate	3,086	184,300	6,894 46
Bills and joint resolutions		House	4,418	1,036,675	8,793 89
House Journal		House	914	3,160	3,500 00
Executive and miscellaneous documents and reports (64)		House	8,101	121,600	18,170 56
Order of Business		House	126	5,600	303 00
Laws (in page form)		Law	144	105,520	1,481 40
Pamphlet laws		Law	110	26,932	3,691 12
			33,875	2,528,307	140,250 15
Add cost of engraving and lithographing not included in above					21,970 09
					162,220 24

These figures settle the question in regard to the extra session and refute the charge that this deficiency arises from it. Most of this sum of $162,220.24 was paid out of the appropriation for the last fiscal year; for it will be remembered that the extra session closed on the first day of the present fiscal year. The CONGRESSIONAL RECORD, which cost $59,000, and all the printing which is usually done during the sitting of Congress which was done during the extra session, was paid for out of last year's appropriation. The total amount of the public printing ordered by the extra session, including 15 per cent. for increase of price of material, is only $262,000, most of which, as I have

shown, was paid out of the appropriation of last year, and that which was not thus paid for would have been ordered during this session, and was anticipated, or should have been, in the estimate for this year. This is a sufficient answer to the charge that this deficiency grows out of the extra session.

But I was saying when the gentleman from Nebraska interrupted me that we were astonished when this deficiency was known; and we had reason to be, for if we examine the question we find that Congress appropriated for the public printing for the present fiscal year the sum of $1,504,000. Then there has been placed to the credit of this appropriation $29,089.17, making a total of $1,533,089.17. If we add to this the deficiency asked for by the Public Printer, we have an expenditure for this year of $2,023,089.17; an amount greatly in excess of any one of the last preceding five years. The amount in 1875 was $1,678,822.46; in 1876, $1,617,469.09; in 1877, $1,182,779.43; in 1878, $1,638,701.53; and in 1879, it was $1,716,012.09; making an average of but $1,566,796.92. And still there was a surplus in each of those as follows: In 1875, $39,049; in 1876, $121,731; in 1877, $132,118; in 1878, $128,245; and in 1879, $20,517. And if you add these together, and take the amount from the total expenditures for these five years, it will leave a net average annual expenditure of only $1,478,464.92, being $544,624.25 less than is asked for by the Public Printer for this fiscal year. This great expenditure cannot be accounted for upon any reasonable basis, I submit. The extra session will not account for it, as I have shown. But another fact in that connection. The Public Printer, when asked by the committee, admitted that $45,000 would complete the printing ordered by Congress during the extra session.

Mr. McMAHON. Will my colleague on the committee [Mr. COBB] permit me to make a little statement in this connection?

Mr. COBB. Certainly.

Mr. McMAHON. A large portion of the expense incurred by the extra session of Congress, over $100,000, I think, was actually paid out of the appropriations for the last fiscal year.

Mr. COBB. I have just stated that in substance.

Mr. HISCOCK. May I inquire of the gentleman from Ohio where he finds the account which exhibits that fact?

Mr. McMAHON. Yes, sir.

Mr. HISCOCK. I would like to see it.

Mr. COBB. I would prefer the gentleman would not interrupt me now.

Mr. HISCOCK. I would like to see the statement where that account is set forth.

Mr. COBB. I will speak to that point, and I desire to say that it is claimed that the publication of the CONGRESSIONAL RECORD for the extra session cost $90,000. Now, I say that, according to the answers given by the Public Printer, the most of that amount was paid out of the appropriation for the last fiscal year, for we know that the RECORD is laid on our tables every morning, and in a very short time it is stereotyped and the whole printing is completed, leaving nothing but the binding to go over, and much of that may be done during the session. I am willing the extra session should bear its share of the expenses; but it is unjust to undertake to load all this deficiency upon it. We had an extra session in 1877, commencing the middle of October, and Congress continued in session from that time until the 28th day of June, 1878, and the number of pages ordered to be printed were 114,110; the number of copies, 17,696,000, and the cost, $494,000. For the fiscal year ending 30th June, 1879, the number of pages was 110,749; the number of copies, 5,248,000, and the cost, $556,000. During the last extra session the whole amount of public printing ordered, including books, documents, bills, reports, &c., was only 35,000 pages, 2,530,000 copies, and the cost, including increase of price of material, for which we are not responsible, was only, as I have said, $262,000. Therefore I say that as the average cost per annum of the public printing for the past five years amounted to only $1,478,464.92, it is unjust to charge this deficiency to the extra session. It is an attempt to deceive the public and place the responsibility where it does not belong, in order to cover up what I may mildly term extravagance in the printing department. If but $1,716,012.09 was required to do the public printing the last fiscal year, including the extra session, and there was a surplus left of $20,517, I ask how it can be truthfully said that it requires $2,023,089.17 for the present fiscal year. This is claimed and even more. For the Public Printer says (and I desire to state it correctly) that the amount appropriated for the present fiscal year has all been expended except $75,000. Now, if the expenses of this department should be as great in proportion during the remaining four months as it has been during the eight months which have passed it will amount for the year to $2,223,243; $500,000 more than the average amount expended in any one year since 1874. And yet the Public Printer asks us to appropriate to supply this large deficiency claimed by him, and threatens that if we do not do it he will stop the public printing.

Mr. VAN VOORHIS. Is not that right? Would you expect him to pay for the work out of his own pocket?

Mr. COBB. Not at all. But I think that an officer who violates law in letter and spirit, whether he is guilty of fraud or not in doing so, ought not to come here with threats.

Now, let us see whether the action of the Public Printer is in violation of law. I will, to establish that it is, read from the remarks of the gentleman from New York, [Mr. HISCOCK.] In the discussion upon the star-service deficiency, a week or so ago, that gentleman quoted the following section from the Revised Statutes:

SEC. 3679. No Department of the Government shall expend, in any one fiscal year, any sum in excess of appropriations made by Congress for that fiscal year, or involve the Government in any contract for the future payment of money in excess of such appropriations.

After quoting this section he said:

Does the gentleman from California tell me that when the Post-Office Department exceeds the appropriation, signs a contract far in excess of the appropriation, simply reserving the power to itself to be relieved of that contract by forfeiture of a penalty, it does not involve the Government in excess of appropriations made by Congress? Will any lawyer on this floor tell me when a contract has been entered into which may exceed the appropriation and go beyond the amount of the appropriation a million or a hundred thousand dollars, that because there is reserved in the contract the power of the Government to forfeit on the contract on the payment of a penalty provided Congress does not make further appropriation, that Department has not involved the Government in a contract against the spirit and letter of the provision of law I have quoted? This is the square legal proposition which is presented on that section of the statute.

Now, I submit that the case of the Post-Office Department and the one before us are parallel. In the case of the Post-Office Department, of which the gentleman was then speaking, the Department had entered into contracts for carrying the mails, &c., in excess of appropriations made by Congress to such an extent as to require an additional appropriation or the mails must stop. In the case of the Public Printer, he has entered into contracts far in excess of the appropriations made by Congress, and tells us that he will be compelled to stop the Public Printing for the remainder of the fiscal year unless more money is appropriated. The same rule of law applies to him as well as the Postmaster-General; and I say that he has also violated the law in letter and spirit by making contracts far in excess of appropriations. Can any one say that if Congress appropriates money for any one department of the public service, for its maintenance for a whole fiscal year, and that department expends all of it the first six months, it would not be a violation of the section of the law quoted? Certainly not. And that is the case here. The Public Printer has made his contracts and has expended all the money in eight months which was intended to last his department the whole year. He has done more. Congress appropriated for the State, Treasury, War, Navy, and other Departments of the Government so much money, and the amount to each was specifically named, the total amount being $743,000, and he has used this money, a large portion of it, for other purposes, for he admits that he owes this fund $268,000. If he applies the entire amount of money which he has on hand to the payment of the amount due the Department fund there will still be due it the sum of $193,000. Now I ask the gentleman from New York if this is not a violation of the law? Can he show that it is not?

Mr. HISCOCK. I will answer the gentleman. I do not understand that the law so distinguishes between the printing for Congress and for the Departments that the Public Printer has committed any violation of law. If there has been any such violation, then I have this to say: That in the early days of January the Committee on Appropriations, of which the gentleman from Indiana is a member, understood the fact; and we have sat silently every day allowing him to print these RECORDS—to do this printing for us out of that appropriation, and have never raised our voices against it.

Mr. COBB. How long did the gentleman say we have been doing this; since the 1st of January?

Mr. HISCOCK. Since we came back here after the holidays we have understood precisely how the Public Printer was situated; we have understood precisely what money he was using; we have understood every fact in connection with it; and the question has been discussed in the sub-committee of the Committee on Appropriations.

Mr. VALENTINE. I understand from the colloquy between the gentleman from Indiana and the gentleman from New York that the Public Printer sent his estimate to the Committee on Appropriations on the 1st of January last. Is that correct?

Mr. COBB. I do not remember the exact time. But it was probably about that time.

Mr. VALENTINE. You have had information of the deficiency since that time.

Mr. HISCOCK. Since we reassembled after the holidays.

Mr. VALENTINE. I wish to know that fact. We know the employés of that department have been for several weeks without work. I want to know where the responsibility belongs.

Mr. COBB. We have been examining the question since, and the gentleman from New York who complains of it was a member of the sub-committee with the gentleman from Ohio [Mr. McMAHON] and myself, but I never heard him complain of any delay until to-day. If there was delay on the part of the sub-committee, he is as much to blame for it as any one.

Mr. HISCOCK. I am not especially finding fault with the gentleman's delay, but what I am finding fault with is that he should charge the Public Printer with having diverted these funds when he knew, the Appropriations Committee knew, and I knew precisely what he was doing.

Mr. COBB. The gentleman from New York has not answered my question as to whether the Public Printer has violated the law; but he and the gentleman from Nebraska have tried to evade it by charging that we have allowed the Public Printer to continue to violate the law after we knew he had done so. This is a very weak defense; and gentlemen are hard pressed when they have to resort to such

modes of defense. What power had the sub-committee or this House to stop the Public Printer from thus using the money in his hand? None whatever. Every one knows that Congress has no power to stop a public officer from exercising the functions of his office as soon as it may be known that he has done wrong or violated the law. This House may prefer articles of impeachment against a public official if his acts will warrant it, but that will not prevent him from exercising the functions of his office until he is tried and convicted or impeached, and I am surprised that gentlemen assume such a position.

Mr. VALENTINE. Would it not have been practical to have brought in this bill thirty or sixty days sooner?

Mr. COBB. No, sir; I assure the gentleman it would not have been practicable to do so. It was necessary that the sub-committee should examine the books and the business of the Public Printer carefully, and determine whether the large appropriation asked for by him is needed. This we have done as best we could. It has taken much time and labor to do so, and with the other duties we have had to perform we could not make the investigation sooner. It was necessary that our investigation should be such as to enable us to present the facts intelligently to the House, which we are attempting to do.

Mr. VALENTINE. Where are your facts? I have listened to you for nearly an hour, and you have not given us a single fact; you have admitted all the way along that you do not know anything about it.

Mr. COBB. That is very kind in the gentleman after I have yielded to him so often.

Mr. VALENTINE. But where are your facts?

Mr. COBB. If the gentleman is too stupid to appreciate the facts, I cannot help it; I am not responsible for his ignorance. [Laughter and applause.]

Mr. Chairman, I yielded to the gentleman from New York to answer the question whether the Public Printer had violated the law. My question has not been answered by him nor by the gentleman from Nebraska, but has been evaded by them by attempting to draw me into a discussion upon a matter foreign to the question. I have shown that the Public Printer has used a large portion of the money expressly appropriated by Congress for the Department printing, and says that he cannot replace it or do the Department printing without money for that purpose is appropriated by Congress. This I repeat is a violation of the law. There is one other matter in regard to the Department printing. Congress appropriates the money specifying the amount for each Department; it is placed to the credit of the printer's fund and the Public Printer draws on it. The Departments order their printing done. But they have no check or control over the Public Printer. He does the work ordered and charges his own price for it. I am told in some of the Departments that they are charged for some of this printing 50 per cent. more than should be charged, and if gentlemen will go to these Departments and make the inquiry they will receive the same information, I presume.

Mr. BRIGGS. Name the party.

Mr. COBB. I will not do that. I will not compromise any one who depends upon others for his meat and bread merely to gratify the curiosity of gentlemen when it will do no good.

Mr. BRIGGS. You ought not to have mentioned it, then.

Mr. COBB. Perhaps I ought not, but it occurred to me as being in the line of my argument. If the gentleman will go to the Departments and make the inquiry, I think he will learn the same facts.

The Public Printer has violated the law in another particular: the law prohibits him from purchasing more than fifty thousand dollars' worth of material in open market at any one time; and yet I understand this has been done repeatedly.

I desire to call attention to another fact. The Public Printer says, on page 10 of his report, that the aggregate value of the paper purchased by him during the last fiscal year amounted to $301,603.60, and at the beginning of the present fiscal year he says he had on hand paper of the value of $34,009.42 for the demands of the present year. How much has he bought since that time? He has purchased during the present fiscal year (1880) out of appropriations for this year, as shown by the books of the First Auditor, $323,751 worth; total on hand and purchased to February 1, 1880, $357,760.42; thus showing that his purchases, together with what he had on hand, amounted to greatly more for the first eight months of this fiscal year than his purchases for any one fiscal year for the past four. He purchased for the fiscal year ending June 30, 1876, $249,285; for the year 1877, $227,170; for the year 1878, $279,215; and for the fiscal year 1879, as I have already shown, $301,603. His paper for the first eight months of the present fiscal year has cost greatly more than the average cost of any one of these years. And if he continues to purchase at the same rate for the remainder of the year it will amount to over $477,000.

Mr. HISCOCK. May I inquire how these purchases of paper are made?

Mr. COBB. The paper is purchased of private individuals and companies.

Mr. HISCOCK. Under whose supervision?

Mr. COBB. It is purchased by the Public Printer I suppose.

Mr. HISCOCK. Does the gentleman not know that the Joint Committee on Printing has something to do with it?

Mr. McMAHON. Will my colleague allow me a moment?

Mr. BRIGGS. That was before the rise in the price of paper.

Mr. COBB. I yield to my colleague on the committee, [Mr. McMAHON.]

Mr. McMAHON. The bids for the paper are put out by the Committee on Printing and the contracts made under them are filed with the Treasury Department, and as the Public Printer needs paper these orders are made and he certifies that the paper has been delivered to him. On his certificate the Treasury warrant issues and the party furnishing the paper gets his pay in that way. Now, up to the 1st day of February, 1880, these warrants had been presented at the Treasury Department for the sum of $323,000 and charged against the appropriation for 1880, and the Printing Committee has nothing to do with it.

Mr. HISCOCK. The point I was trying to make clear was that these contracts are made under the supervision of the Committee on Printing, and I for one do not believe——

Mr. McMAHON. This subject is not under the Committee on Printing.

Mr. HISCOCK. I do not believe they have made purchases in excess of the quantity required.

Mr. COBB. Mr. Chairman, I was about to state how the paper was purchased by this department; but my colleague on the committee [Mr. McMAHON] has done so, for which I am obliged. I have already shown that the Department, with what it had on hand at the beginning of the present fiscal year, purchased more paper during the first eight months of the year than it had done in any one year for the last four.

Mr. HISCOCK. Will my colleague allow me to ask him a question?

Mr. COBB. I prefer that the gentleman wait until I get through.

Mr. HISCOCK. A single question.

Mr. COBB. I will gratify the gentleman in asking a single question.

Mr. HISCOCK. I desire to know whether he has discovered any evidence whatever that that paper has been misappropriated, and if the fact that so much paper has been used does not show that there has been an immense amount of printing ordered to be done—more than usual?

Mr. COBB. No, sir; it simply shows that that amount of p , er was purchased. It may all be on hand for anything that the gentleman knows. I think it very probable that much of it is still on hand.

Mr. VAN VOORHIS. The paper is on hand but the price has gone up.

Mr. COBB. I am not complaining of that. The point I am making is that the single article of paper has cost the Government more for the first eight months of the present fiscal year than it cost for the whole of the last fiscal year, which included the extra session of Congress about which we have heard so much said by republicans in regard to its being so expensive, and largely more than it cost in any one of the past four years. During the fiscal year ending June 30, 1878, the paper cost this department but $279,215, and yet Congress convened on the 15th day of October and continued in session until the 20th day of June following, more than eight months, and notwithstanding the paper for this department for that year cost less than it has cost for the first eight months of the present fiscal year by $78,536.58. So it will not do for the Public Printer and his friends to undertake to charge this deficiency to the last extra session of Congress. Political capital cannot be made in that way. We on this side of the House will not permit them to escape in that way. His political friends must present better reasons for this deficiency in his department than this. If he has a large amount of this paper on hand, why does he not say so. I suppose the reason is that he knows that this would show that he has violated the law, for that would prove that he had taken the money which was appropriated for other purposes and used it in buying paper, which is in violation of the statute.

Mr. HAWLEY. Will the gentleman allow me to make a suggestion?

Mr. COBB. Yes, sir.

Mr. HAWLEY. Is it not a great pity the Public Printer did not buy to the value of $200,000 or $300,000 more, for paper is 20 per cent. higher now than it was then?

Mr. COBB. I have no doubt that paper is higher now than it was a few months ago. But because the Public Printer may anticipate a rise in paper, is that a reason why he may buy a greater quantity than he is authorized to do by law? If so, he might have used the entire appropriation made by Congress for the present fiscal year, by investing it in paper, leaving nothing for printing and binding, and thereby compelled Congress to appropriate large sums of money to do the printing and binding or let the public printing cease. The law does not allow public officials to speculate in this way for the Government. The Government appropriates money for a particular purpose and the law requires that the appropriation shall be applied to that purpose only. But if he has paper enough on hand to run the Department for the year, he ought not to have an additional appropriation for that purpose. And his demand is for too great an amount.

The CHAIRMAN. The gentleman has eight minutes of his time remaining.

Mr. HISCOCK. May I inquire of the gentleman from Indiana if he alleges this purchase of paper by the Public Printer is illegal?

Mr. COBB. I did say so.

Mr. HISCOCK. Allow me to read from the statute:

SEC. 3767. The Joint Committee on Public Printing shall fix upon standards of paper for the different descriptions of public printing, and the Congressional

Printer shall, under their direction, advertise in two newspapers, published in each of the cities of Boston, New York, Philadelphia, Baltimore, Washington, and Cincinnati, for sealed proposals to furnish the Government with paper of the quality and in the quantity specified in the advertisement.

Mr. COBB. I understand that.

Mr. HISCOCK. Wait a moment. I wish to read something further:

SEC. 3772. No contract for furnishing paper shall be valid until it has been approved by the joint committee, if made under their direction, or by the Secretary of the Interior, if made under his direction, according to the provisions of section 3775.

Mr. COBB. I have already explained why the Public Printer has acted illegally, and my colleague on the committee has stated the practice adopted by the Public Printer in buying paper, and I shall not spend further time in discussing that question with the gentleman.

Mr. EINSTEIN. I desire to ask the gentleman from Indiana one question.

Mr. COBB. I yield to the gentleman from New York for a question.

Mr. EINSTEIN. My question is this: whether any paper has been bought by the Public Printer without following the requirements of this statute. Has the Public Printer bought any paper without the approval of the Joint Committee on Printing of the House and of the Senate as is required by the law?

Mr. COBB. I have made my statement in explanation of that matter.

Mr. EINSTEIN. I wish to inquire of the gentleman whether the Public Printer has not in every respect complied with the law? Has he complied with the law or not?

Mr. COBB. I do not think so, but——

Mr. EINSTEIN. That is what we on this side want to know. The gentleman from Indiana does not know whether the printer has done right or wrong. I ask, then, why the gentleman finds fault with the Public Printer if he does not know whether he has or has not obeyed the law?

Mr. COBB. I said "I did not think so," and was about to add, when the gentleman interrupted me, "I have made that matter as plain as I can." I have shown how he has violated the law.

Mr. EINSTEIN. Then I will ask the gentleman another question. In what particular has he violated the law?

Mr. COBB. He has violated law by purchasing $357,000 worth of paper with money appropriated for other purposes.

Mr. EINSTEIN. Have not the Joint Committee on Printing agreed to that purchase, approved it, and sanctioned it?

Mr. COBB. I do not know; I have not consulted with them. The gentleman can do so himself, if he likes.

Mr. EINSTEIN. Then how has he violated law?

Mr. COBB. I cannot make the gentleman understand it. I cannot put understanding in the minds of those who do not possess it.

But we are told that there is a great amount of public printing which was ordered by the extra session of Congress, as compared with former sessions. This is a mistake, as I will show. In the fiscal year ending June 30, 1876, the number of pages ordered to be printed by Congress was 102,000, and the cost for the session ending in August, 1876, was $530,000; for the year 1876-'77, this being the short session, the number of pages printed was 57,921, and the cost was $434,652; for the fiscal year ending June 30, 1878, (this is the fiscal year, be it remembered, that Congress met the 15th of October and sat until June 20, 1878,) the number of pages ordered to be printed was 114,110 and the number of copies 17,690,000, costing $494,000; for the fiscal year ending 1879 the number of pages was 110,749, number of copies 5,248,000, and the cost $556,000.

Congress only ordered during the extra session 35,000 pages and 2,530,000 copies, and the cost, including the increase in the price of paper, was only $252,031. Now, when gentlemen insist that this increase in the cost of the Government printing is due to the extra session, they are mistaken; it is due to the extravagance in the management of the business of the Public Printing Office.

The Public Printer has purchased what he is pleased to call improved machinery. In his report for 1878 he says that he has purchased "two large presses on which to print the CONGRESSIONAL RECORD and other work when not needed for that publication." More work, he says, "can be done on these presses than can be done on twelve Adams presses, and by the employment of one-third of the number of employés required by those presses."

Nine book-sewing machines have also been put in operation, by which books are sewed with wire instead of thread, and at greatly reduced cost. He says that a record was kept of the work done on each machine and contrasted with the cost of hand-sewing, which shows that in one year there was a saving of $21,632 over the old method should the machines be constantly at work. He says that the saving is still greater in sewing larger books, such as the CONGRESSIONAL RECORD and the Revised Statutes. The result, he says, on the last edition of the Revised Statutes, being fifteen thousand copies, is as follows:

If sewed by hand	$2,400
By the machines	300
At a saving of	2,100

When that report was made the Public Printer says that he had nine wire sewing-machines on hand, and I learn that he has since purchased four more, making thirteen.

Now, upon examination it will be seen that notwithstanding the purchase and use of these wonderful labor-saving printing presses and labor-saving machines that instead of his labor or pay-roll diminishing it has largely increased, as is shown by the following tables. During the fiscal year ending June 30, 1879, his monthly pay-roll was as follows:

Pay of employés:	
July	$61,291 54
August	55,979 41
September	56,677 40
October	49,523 47
November	54,539 05
December	49,868 24
January	67,328 47
February	66,294 03
March	58,812 98
April	61,052 67
May	51,105 54
June	55,683 97
Total	688,156 77

During the present fiscal year, up to and including the month of February, it was as follows:

July	$92,673 01
August	95,982 19
September	94,768 99
October	98,933 32
November	96,798 39
December	114,918 73
January	115,122 87
February	105,478 20
Total	814,675 70

Thus showing an extraordinary increase in the pay-roll of this department, which I am unable to account for. An increase in the pay-roll of 50 per cent. in one year, notwithstanding the use of these labor-saving machines, is, I must repeat, extraordinary.

Mr. Chairman, I have said all I intended to say upon this question. What I have said was with the view of giving the House the benefit of the facts in part which were in my possession. I think that it is clear that so large an appropriation as is provided for in this bill for the public printing should not be made. I believe that $300,000 is enough to enable the Public Printer to continue the public printing to the end of the present fiscal year, and I shall vote for an amendment to the section of the bill reducing it to that amount.

Political Assessments: Scraps from the history of Buchanan's administration.

SPEECH OF HON. EDWIN WILLITS,

OF MICHIGAN,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, June 15, 1880,

On the bill (H. R. No. 2266) to prohibit Federal officers, claimants, and contractors from making contributions for political purposes.

Mr. WILLITS said:

Mr. SPEAKER: I believe in reform. Not simply because political parties have promulgated it till it is one of the platitudes of platforms, but because I believe there can be a genuine improvement in any system, however sacred it may have become by usage or statute. I believe in civil-service reform, in spite of the jeers of the politicians or the wise disquisitions of the "Sage of Gramercy Park." Because truth has degenerated into cant, it is none the less truth. Embodied selfishness is not the best guardian of justice, and that partisanship which has as its extreme duty the distribution of patronage will soon have no patronage to dispense. Therefore any measure that shall eliminate from the civil service any element of greed and supplant it with the zest of duty, ought to commend itself to the consideration of statesmen and lovers of their country.

I am not one of those who believe that a party owes nothing to its adherents, nor do I believe that rotation in office is an unmixed evil. A permanent tenure in office may conduce to efficiency on the one hand, and on the other breed corruption and extravagance. A royal lineage is not necessarily the purest and the cheapest civil polity a nation may have. The accounts as balanced by history seem rather to indicate the contrary. The life-long official as a rule neither betters himself nor the service in which he is engaged. His blood becomes stagnant and his energies automatic. What we gain by him in certainty and uniformity we lose in power and improvement. It is no harm to the service to have it understood that within reasonable limits every office in the land is open to all comers. A healthy competition and a new deal will generally be disastrous to rings, whether organized in bureaus, Departments, or administrations. So, as I said before, rotation in office is not an unmixed evil. There should, however, be in every civil service sufficient permanence of tenure to secure competency, and sufficient uncertainty to promote

assiduity. Just what measures will best accomplish this purpose may well demand the best energies of the most thoughtful statesman. We had the right, therefore, to expect that the Committee on Reform in the Civil Service of the House of Representatives would have matured a bill that would have commended itself to the deliberate judgment of all men who think well of reform in the civil service; some measure that would have gone to the root of the evil inaugurated by Andrew Jackson, promulgated by Marcy in the well-known maxim of the democratic party in its palmiest days, and not by any means abandoned in its low estate, that "to the victors belong the spoils." To the democratic party the country owes the doctrine that the administrative offices of the nation are spoils; that a political victory is a revolution, after which seventy thousand heads must go into the basket, and a quarter of a million of men, women, and children thrown out of employment and livelihood and into other and untrodden avenues for support. Is it any wonder that they look with apprehension toward this unexpected but continually possible slaughter, and that, rather than incur its to them terrible consequences, they become the prey of politicians and willingly place their pittance upon the altar of party assessments? Remove the cause and all that there is wrong in this evil of political assessments will disappear.

But this bill is as false in principle as it is grossly unjust in application; it is an abortion. The giving of money for political purposes, when it is voluntary is as sacred a right as the right to give for religious or benevolent purposes. A man is not less a citizen because he is an office-holder. The evil is not in the giving, but it is in the compulsion, the levy of political blackmail, the threat, express or implied, that unless payment is made the "spoils" will go to the man who has furnished the sinews of the war. I will fight as long and as hard for the right to give my money for political purposes as I would to vote my political principles; and I would resist to the last any compulsion in either case. This bill is a travesty on the bill of rights, a burlesque on common sense, and I cannot give it my assent.

I will go as far as any fair-minded man can ask me in attempting to devise the measure that shall remove the motive which induces the involuntary payment of money for political purposes, but I am not in favor of this bill which punishes the man who is in for helping his party, but practically holds out a premium to the man who is out to help on the victory. The outsider, in spite of this bill, can claim the spoils; the man who is in must abandon them. Whichever way he turns he loses his place. If he pays his assessment, this bill cuts off his head; and if he refuses his party bounces him for the warrior who, in all the glories of war paint, claims the spoils of the victory he has been permitted by the terms of this bill to assist in winning.

I have looked for some measure that would relieve us all in our labors as members of Congress; that would in some way mitigate the evils of our position; that would control by some general principle or statute this great system of patronage which hangs like an incubus on official station; that in some way would stay the tide of office-seeking, or at any rate would relieve us of duties as office-brokers. I believe this patronage has killed statesmen and made politicians. It is a false notion that patronage helps a public man. In most instances it eventually kills him. He secures a lukewarm friend in the one appointed, for he has generally secured no more than his friend has fairly earned by his political services, and succeeds in gaining a dozen enemies in the unsuccessful applicants. Our worthy friends of the Committee on Civil Service Reform need not to be told of the distraction and worry of attempting to get the spoils for the victors. For one, I will only say that to me the whole subject has been extremely irksome; and while it is true, and I am glad to acknowledge it, my constituents have been considerate in their demands upon me in this regard, and have been generous toward me over my failure to serve them as fully as I could wish; still my utter inability to gratify their expectations, perfectly legitimate as they may be under the prevailing system, has led me to feel a hundred times, but for the disgrace of the thing, that congressional life would have been less irksome if Tilden had been counted in, "Cipher Alley" and all.

I believe I could do some square work but for this chasing for spoils. I believe the heads of Departments would be glad to see me occasionally if my "indorsements" were less frequent. I know I should respect them more if I did not have the assurance of those who claim to know what is going on that I am duped when I believe "there are no vacancies." I know I should have more respect for myself if, after my inglorious failure, I had not been told with all the sarcasm of disappointment, after what I supposed was a persistent raid on the Departments, that I had hardly left its sacred portals believing fully in the story that there was absolutely no vacancy before three women were appointed, one, who did not need it, on the recommendation of the Secretary or the General of the Army; another because she was a rebel as unreconstructed as those with whom Jeff Davis associates; and the third because—she was not exactly what she ought to be. Now, it matters but little that not one word of all this was true, and that you know that your informant has drawn on his imagination for his facts; still the consciousness of failure is so abiding and the sense of being ignored in the general shake up is so manifest that you are ready to believe anything so that it condones your want of success.

Now, Mr. Speaker, I need not enlarge on the grand field for reform that lay before our worthy Committee on Civil Service Reform. There are committed to its charge the great questions of the times, and we had reason to expect better things of it than after so much labor to bring forth such a miserable bantling as this bill. We had the right to expect that it would strike higher than the head of some poor clerk, who might willingly pay his little contribution toward the success of his party and his principles; or the post-route contractor, who cheerfully gives his dollar to help the boys "set 'em up" for the men and the measures of his heart; or the man who has the misfortune to have a claim against the Government, but manhood enough nevertheless to have political sentiments of his own and the courage to put his money into the cause. This bill cuts off the head of the poor clerk and forfeits the contract and the claim of the contractor or claimant for paying money, not to bribe the powers that execute the laws, but to further an honest cause in an honest way. Many of us have been subjected to the charge of intolerance because we believe that former rebels are and ought to be under some disabilities, and that they have forfeited some rights of action to which they would have been entitled but for their treason; and from the Potomac to the Rio Grande goes up the clamor that this is confiscation without due process of law. But between the lids of the Revised Statutes there is not a line of the so-called war legislation that is so recklessly wild or so despicably mean as this bill which forfeits a man his place, his contract, or his claim because he responds to his duty from his purse as well as by his vote. It is confiscation run to seed.

I am therefore surprised at the seeming unanimity with which the other side of this Chamber support this monstrous measure. But for one thing I would charge the promoters of this bill with dishonest motives, with a determination to tie the hands of the party in power, but give full license to the party out of power; to prevent contributions from office-holders, but rake them in from the uncounted and uncountable horde that hope for office—I would, I say, impugn improper motives to the promoters of this bill but for the undoubted honesty of motive of its author. The gentleman from Maryland [Mr. McLANE] claims its paternity. He is its most able exponent, as he ought to be, considering its paternity. During the extra session of this Congress, while discussing this bill, he used the following language as to the motives of this side of the House:

> I am persuaded that there is no other motive—that is the point—that there is no other motive but a corrupt political motive that deters honorable gentlemen on that side of the House from considering this bill.

Now, Mr. Speaker, no one but an honest man himself would have used that language of the whole body of his political opponents in this House. Therefore I am bound to believe that this bill was conceived honestly, but born with a deformity that, in my humble judgment, does not do justice to the author of its being. I was confirmed in this opinion when I learned of the education and the political experiences of the honorable advocate of its most singular provisions. By turning to the Congressional Directory I find that he belongs to the silurian period of American politics. He was sent, so the record runs, to West Point by Andrew Jackson; to China, Japan, Siam, and Cochin China by Franklin Pierce, and as minister plenipotentiary and envoy extraordinary to Mexico by James Buchanan. Thirty years ago, before the down had started on the cheeks of men known to most of us here, he had honored the American Congress with a seat in its deliberations. He was nursed in Andrew Jackson democracy, was fed on its political pap, and was a dignified spectator of, I will not say a participant in, the "ways that were dark and the tricks that were vain" of the democratic party in its halcyon days. He knows all about them, for he was there, and he comes down from a purer generation to tell us so wisely "how these things are done." He shakes his head with the air of experience of the reformed rake preaching virtue to his unsophisticated auditors. I listened with great interest and benefit to the words of wisdom which he had gathered at the feet of Gamaliel, but I noticed with pain that he dealt only in generalities, that there was a total lack of specifications, leaving us to our imaginations to fill out the picture he so graphically presented.

With becoming modesty I will attempt to present some of these specifications, and I only regret that I cannot give them with the clearness and force which so distinguishes all the gentleman has to say, and which he might have stated so much better.

During the Forty-fifth Congress I was a member of the Committee on Expenditures in the Interior Department, and on the sub-committee to examine the workings of the Patent Office. While engaged in those duties certain papers and documents came to my hands that so fully exhibited the system of political assessments and patronage under the last democratic administration that I had copies made for possible use in the future; and I now present them as pertinent to the measure under discussion.

James Buchanan had just been elected President. What means had been employed to secure to him the electoral vote of his own State I need not here stop to describe. The subsequent investigations made them matters of history. I present here only a page from the history of his administration. Before presenting these documents I will say that having become somewhat familiar with the developments of the Covode committee in the Thirty-sixth Congress, whereby it appeared that this same James Buchanan, as President, had not only participated in the distribution of patronage, but was the umpire in the division among the ravenous crew about him of a 43 per cent. steal in the printing of post-office blanks, I was, therefore,

not surprised to find a paper of which the following is a copy, with an indorsement by President Buchanan:

UNITED STATES PATENT OFFICE, *April* 29, 1857.

SIR: Some time before the first election in Pennsylvania last fall I was called upon to wait upon the examiners of this office to solicit contributions to be expended in behalf of the democratic party in that State, and the following is a true statement of facts connected with my interview with them:

L. D. GALE. I have no money. I never attended a political meeting in my life.

J. H. LANE. I stand on scientific principles. I am no politician.

H. BALDWIN. I will not give anything for such purposes.

G. C. Schaeffer refuses to give upon the ground that he takes no part in political affairs.

T. R. Peale refuses to give upon the ground that he takes no part in political affairs.

T. T. Everett has contributed $50 to New York club, and sent what money he could spare to doubtful districts in New York, and will give $50 (paid in my presence) to Pennsylvania club if wished by Pennsylvanians.

J. M. Henry refuses to give one cent.

A. Herbert refuses to give anything; is opposed to the principle.

DeWitt C. Lawrence, $50 contributed to Pennsylvania club, $50 to Pennsylvania campaign, $25 to Michigan club.

T. H. Dodge, out of city; paid $20 subsequently.

A. B. Little, out of city; paid $20 subsequently.

E. Foreman has given $25 to Maryland club and $10 to Pennsylvania.

D. Breed refuses to give anything for any electioneering purposes. He is a Quaker and stands on scientific principles.

C. B. Moss, for Pennsylvania club, $10; would give more if he had it to spare; subscribes purely as a democratic partisan.

J. Van Santvord refuses to give anything.

J. Tyssowski, $10 to Pennsylvania.

H. P. K. Peck, $10 to Pennsylvania; has contributed a small sum to Ohio club.

M. Bull has given $10 to Pennsylvania.

W. B. TAYLOR. Have subscribed $15 to Pennsylvania club.

WILLIAM READ. Have just subscribed $2.50 to Kentucky club for sending documents to that State, and am at present out of funds, or I would subscribe.

A. T. Jenks, $25 to Pennsylvania club, $10 for Pennsylvania at present, subsequently $20.

J. D. Toll, $25 to Michigan club and considerably otherwise, purchasing and sending off documents.

J. H. Adams has subscribed $10 to Pennsylvania.

S. E. Cowes, $25 to New Hampshire club.

E. Shaw, $10 to Pennsylvania.

—— French was not appointed on political principles.

Respectfully submitted.

S. D. MILLS.

[Indorsement.]

S. D. MILLS, OF THE PATENT OFFICE.

APRIL 29, 1857.

Before the first election in Pennsylvania last fall, he waited upon the examiners of the bureau to solicit subscriptions in behalf of the democratic party in that State, and gives a statement of his interview with each.

Out of the 26 but 14 subscribed, the others absolutely refusing, or giving some lame excuse. One of the subscribers gave $2.50!

Referred to the Secretary of the Interior.

J. B.

This paper explains itself; it was presented to the President of the United States, and was by him referred to the Secretary of the Interior, who took inquisition against the parties so derelict in party fealty. Specific charges were made in writing and are now on file, and the parties were called upon to deny or explain. Some of the charges and explanations I will give as illustrative of democratic civil service. The charges as found in the files have the following heading:

The following information relative to the employés in the Patent Office in this city is said to be correct:

Charge No. 1.

L. D. Gale, of New York, when called upon by the committee who were collecting funds during the late presidential campaign, refused to give anything; said he "had no money and never attended a political meeting in his life." This man is a black republican and know-nothing. During the canvass for mayor of Washington, when the contest was between Towers, know-nothing, and Maury, democrat, he wrote articles for the National Intelligencer against Maury and in defense of know-nothingism. He is now the trustee of a negro school-house in Washington under the charge of a Yankee school-mistress. He makes no effort to conceal his hostility to democracy.

Now let us digress a little to learn what was the true inwardness of the charge against Gale.

At that time, in the suburbs of the city of Washington, on the common just beyond where is now located the British legation, surrounded by a few modest negro cabins, stood a small frame building, in striking contrast with the elegant mansions that now adorn that aristocratic quarter. This was the negro school-house referred to in this specification, and of which this man Gale was the trustee. The school was presided over by a Miss Miner, one of those brave women of culture who have a mission, and who have now and then, in all ages, sacrificed home and comfort and the tender sympathies of their kind for the good of humanity. She went first from her northern home to the State of Mississippi. The chivalry of that State made it too hot for her. Finally her footsteps brought her to the city of Washington. Surely, here, in the capital of the nation, under the aegis of the Constitution, it could be no crime to teach the untutored savages that hung on the ragged edge of the much vaunted patriarchal system, with it but not of it—the free negroes. It was not a crime, but it was worse, it was obloquy. Undaunted, she gathered together a few scholars and began her life work. With the assistance of her northern friends she bought the little school-house and the lot on which it stood. I have not time to tell how she was insulted and jeered; how her scholars were pelted with stones; how she was scorned by the high-stepping dames who passed her by as only a scornful woman can; how she offended the chivalry, not only here but across the river; how one morning there appeared at her school-room door a young man, a scion of one of Virginia's noble families, with a whip in his hand, for the avowed purpose of horsewhipping her, and how, looking into his face, with her clear gray eyes, with a firmness born of her northern home, she told him he was no true son of Virginia's soil, as none such had as yet become so degenerate as to whip a woman; and how he slunk away from her presence and crossed over to his proper side of the river to consort with his equals. I cannot stop to tell how she went on teaching and gathering together the subtle influences that made her a name in the history of Washington, perpetuated in the Miner school building, a magnificent structure erected from the Miner school fund, and in Miner Hall of the university that overlooks the city. Suffice it to say, that this brave lady, whose fame is as enduring as brass, was the "Yankee school-mistress" set forth in this specification. Associating with this woman and co-operating with her in her noble work was a substantive charge against this man Gale, made under the direction of the Secretary of the Interior, on reference of the last democratic President of the United States.

Gale was an anti-slavery man, and a clerk in the Patent Office. He thought it no sin to be a trustee of a negro school-house. The little property had to be held by trustees, and he was associated with Dr. S. J. Bowen, of this city, in that capacity. Bowen was not a clerk, though he seems to have had the courage of his convictions, as under a former administration he had been discharged from the State Department for his anti-slavery views by this same James Buchanan, then Secretary of State.

It will be seen that the *gravamen* of the charge, after all, was the fact that he was a trustee of a negro school presided over by a Yankee school-mistress. In the files as proof of the charge is a newspaper slip, cut from the "Washington States," of the date of April 20, 1857, giving an account of Miss Miner's school and an effort that had been made recently in Boston, under the auspices of Rev. Mr. Beecher, to raise $20,000 to place the school on a more independent basis, and the article speaks of Gale as one of the trustees. Across the slip in pencil is written the word "abolitionism" with a mark at Gale's name.

To these charges Gale replied only to the one which was the most odious, and the following is a copy of his letter:

SIR: Having repeatedly seen my name used in the public newspapers of this city and otherwheres in connection with a certain school for the education of the free negroes of this city, and presuming that your attention may have been called to the same facts, I deemed it proper to say that I am not a member of the board of trustees of that association, nor have I any connection therewith.

My name was printed in the articles of the association, but was afterward withdrawn by resignation, it having been used contrary to my wishes. Fearing that political use might be made of these facts and an unfavorable impression made upon your mind, I have taken the liberty to address you, and more especially as I am occupied as examiner of patents in the bureau under your supervision.

I have the honor to be, respectfully,

L. D. GALE.

Hon. J. THOMPSON,
Secretary of the Interior.

Charge No. 2.

J. H. Lane, of Vermont, is a black republican, and has always been an enemy to democracy. When called on by the committee he refused to give and said he did not owe his position to his political opinions, was no politician, and stood alone on scientific principles.

For proof of this specification there were filed the letters of Hon. D. A. Smalley (on the fly-leaf of which is a memorandum made by Albert Smith) to the Secretary of the Interior, and a letter from one A. J. Cass to Mr. Smalley, copies of which I here give, as follows:

WILLARD'S HOTEL, *May* 16, 1857.

DEAR SIR: Before I leave the city, permit me to say a word about two clerks from Vermont in your Department. One is S. G. Heaton, in Pension Bureau. He is a sound and reliable democrat, and I sincerely hope will be retained, as Vermont, I think, has less than her quota of clerks. Mr. J. H. Lane is also an examiner appointed from Vermont, and I think he ought to be removed. The reasons therefor will be found in the inclosed note from Mr. Cass, written in reply to one I addressed him yesterday.

With high respect, yours, truly,

D. A. SMALLEY.

Hon. JACOB THOMPSON,
Secretary of Interior.

—

To the foregoing note of my friend Smalley, I desire to add that I have the best reasons for believing that about 50 per cent. of the clerks in the Land and the Patent Offices are anti-democratic under one ism or another. The only evidence which you should require of this fact is the refusal of any one to contribute toward the expenses of the past presidential election unless for the assigned cause of sheer poverty.

There are some in your own Department who not only refused to contribute but avowed the ground of their refusal to be that they were not democrats. Is it to be said that their places cannot be supplied? I trow not.

Faithfully and cordially, your friend,

ALBERT SMITH.

—

WASHINGTON, *May* 16, 1857.

DEAR SIR: The man J. H. Lane is an examiner in the Patent Office from your State. If he has not been here ever since the advent of Christ, he has certainly been here so long the "memory of man runneth not to the contrary." From reliable information I have ascertained that he has never been with us politically; hence, he has been against us. When we were at work like scalled fiends to avoid being driven to the wall by the horde of "black spirits and white" in Pennsylvania Mr. Lane refused to give us aid and comfort, stating that he "stood on scientific and not on political principles."

You may make such use of this letter as you deem proper, but, as I have some doubts as to the propriety of one clerk volunteering charges against another, I wish it distinctly understood that this statement is made at your request.

That will set me right, although when the interests of the democratic party are at stake I am not one of those who will stick at trifles.

I remain, yours, truly,

A. J. CASS.

Hon. D. A. SMALLEY.

Charge No. 3.

William M. McCauley was charged with being a know-nothing and with refusing to contribute to the democratic cause. His name was sent, with others, subject to the same charge, to Mr. Holt, the Commissioner of Patents, and with the names the following letters:

WASHINGTON, *October* 8, 1857.

SIR: I hereby unhesitatingly state that on the night which Mr. Wise was speaking at Brown's Hotel, in this city, Mr. William McCauley was there, and was one of the party who undertook to break up the meeting, and used insulting language to Mr. Wise, now governor of Virginia.

C. C. EDELIN.

To Mr. HOLT,
Commissioner.

WASHINGTON CITY, *October* 8, 1857.

SIR: The inclosed is a statement given to me by a gentleman who stands well in society in this city, and I hope that it will give the same satisfaction to you as it did with Mr. Guthrie, late Secretary of the Treasury; for as soon as he got the like in his hands, I assure you, that he said it was proof enough for him, and he let them go as soon as their names were handed in to him. Mr. Guthrie has not forgotten me; he knew me at the time of the election between himself and Mr. Graves in Louisville. I was found at that time battling against the opponents of the democracy, and I am yet bidding them defiance.

With great respect, I am, your obedient servant,

JOHN SERRA.

To Mr. HOLT,
Commissioner of Patents.

Charge No. 4.

T. T. Everett was charged as being a know-nothing though he had "paid $50 to a New York club, and sent what money he could spare to doubtful districts in New York and was willing to give $50 to a Pennsylvania club if wished by Pennsylvanians" as reported by Mills in April, and though he had paid the last mentioned $50 as appears by a subsequent memorandum; and notwithstanding this practical evidence of party fealty, Mills, the *deus machina* in all this dirty work, was not satisfied, as appears by the following letter:

UNITED STATES PATENT OFFICE,
September 14, 1857.

SIR: I have called at your office several times, but failed to see you, for the purpose of an explanation in regard to Dr. T. T. Everett of this office. He has acknowledged to have belonged to the K. N. order. I have been imposed upon by him, and therefore ask to withdraw all that I have said in his favor.

Your obedient servant,

S. D. MILLS.

Hon. JACOB THOMPSON.

Charge No. 5.

J. L. Henry, of Kentucky, is an undisguised enemy of the democratic party and freely expresses his opinion in opposition thereto. He has ridiculed Pierce's administration and frequently expressed his preference for Millard Fillmore. When this person was called upon to contribute he flatly refused to give one cent.

He writes a letter in which our friends in Michigan will be interested:

UNITED STATES PATENT OFFICE,
June 10, 1857.

SIR: I learn that my name is upon a list of "black republicans, know-nothings, &c.," before you.

If so, the one who was instrumental in placing it there deserves punishment for blind, if not malicious, falsehood. My entire family and relatives are (being slaveholders) cordial haters of that class of men. But as I did all in my power (by subscription, example, &c.,) to defeat them and to elect our President, I feel mortified at this step, unnecessary, I hope, to vindicate my self-respect.

I may add that Mr. Buchanan is my personal friend; procured my cadetship; has more than once kindly written me advice, &c.

I may further add that in 1850-'51 I was reprimanded, by order of the War Department, and violently journalized by opposing papers, for (as an officer) "interfering in elections" and causing my two companies of regulars to be marched to the polls, in Detroit, and defend themselves in voting for Mr. A. W. Buel, the opponent of E. T. Penniman. And, lastly, I have a letter from one of your warm, personal co-equals (if I may so speak) asking promotion for me, which I have not thought proper to present, being satisfied that you were troubled enough, and being, moreover, satisfied I might not deserve it in your opinion.

I have the honor to be, your obedient servant,

JAS. LAKE HENRY,
Examiner of Patents.

Hon. J. THOMPSON,
Secretary of the Interior.

P. S.—My name was at the head of a list prepared by the know-nothings for proscription before the election.

Charge No. 6.

The paper shows that a clerk by the name of Alfred Hunter was also included in the investigation, which fact led to the following letter from Brother Wilson to Secretary Thompson:

THIRD OF FOURTHMONTH, 1857.

BROTHER THOMPSON: This seems a case meet for thy interference if in thy judgment thee deemest it best. Thee had better see Brother Hunter righted in his grievance lest evil arise and a cry raised throughout the land of the slackness of the doings of the exalted ones of the chosen of Israel.

With esteem, thy friend,

JOHN H. WILSON.

Brother Wilson was right; there was a cry throughout the land of the slackness of the doings of the exalted ones of the chosen of Israel; and the people rose in their majesty and cast down the exalted one. The democratic party had waxed fat in sin, and the people drove it beyond the outer walls. It sustained slavery, persecuted women and men devoted to the amelioration and education of a hunted and benighted race. It put a padlock on the lips of its obsequious benchmen—a characteristic it has not forgotten to this day. It divided and quarreled over the spoils. It took political toll from the grist of every office-holder from the humblest tide-waiter up to the most exalted standing in the shadow of the throne itself.

Nay, the presiding genius over all this sin, over all this political corruption, over the incipient treason whose machinations led to destruction in the land, and left uncounted graves on its hill-tops and in its valleys; the master of ceremonies who marshaled that great horde of spoilsmen, the last of a dynasty that held its foot at the necks of millions of human beings, James Buchanan, the President of this glorious and free Republic, from his high place reached down with his scepter and marked the paltry contribution of $2.50 of a poor clerk with an exclamation point!

Think of President Hayes doing this contemptible thing! Twenty years stand between this and then. More than twenty degrees higher does this administration stand in the estimation of all good men. Twenty years ago and more the people set their seal of condemnation on the party that had prostituted its power in defense of slavery and the spoils. Perhaps with all this record behind it, with its present assumed desire for reform and loud professions of purity, the sovereign people will again trust to its leadership; perhaps the country will be deluded into the idea that the democratic party is the appropriate agent for reform of the civil service; but I do not believe it. This bill is evidence rather of what it would like to have done while the party is out of power. These few illustrations I have given are a sample of what may be expected if again intrusted with it.

Merchant Marine of the United States.

SPEECH OF HON. AMOS TOWNSEND,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, June 12, 1880,

On commerce, and restoring the carrying trade to the merchant marine of the United States.

Mr. TOWNSEND said:

Mr. SPEAKER: The practical thought of the country has been directed for several years past to the important subject of extending American commerce and of finding the most feasible and profitable way to restore our merchant marine, and to win back, if we can, the foreign carrying trade, which has passed almost wholly into the possession of the vessel-owners of other nations. There is no other question which at the present time should take precedence of this, or ought more seriously to attract the attention or deliberations of Congress. It is a matter which, in my judgment, occupies a place of importance in advance of any political or economic issue of the time.

At the close of the war, in 1865, the National Government was stronger than it had ever been since the day it was first organized. It had been subjected to a strain greater than it had before experienced, and to such a test as no other government on the earth had ever survived. But as a result of this long, destructive, and expensive war, several questions of grave importance, problems national in their character, were left for future legislation to solve.

First. The reconstruction and restoration of the States lately in rebellion to their rightful condition in the Union.

Second. The settlement and adjustment of unsettled claims against the Government, and the shaping of a permanent policy of internal revenue.

Third. The maturing of a financial policy that would strengthen the credit of the Government, and gradually appreciate all paper until it became equal in value with coin, and interchangeable, thus making all the outstanding obligations of the Government payable at maturity in gold, silver, or their equivalent.

Fourth. The funding of the national debt at a lower rate of interest.

Fifth. The maintaining of a judicious system of protection to the manufacturing industries of the country, and the stimulation of agricultural productions, thus affording ample employment for labor.

Sixth. The providing of pensions for crippled and disabled soldiers, their widows, and orphan children.

Seventh. The restoration to our merchant marine of the carrying trade of the nation, and the extension of our internal and foreign trade.

For more than fifteen years the legislation of Congress has been directed to these great questions, and how wisely and successfully let the present prosperous condition of the country bear testimony. It is enough for my purpose, at this time, to say that the States have been reconstructed and have taken their places in the Union, with the rights and powers guaranteed to them under the Constitution and by the General Government; that the enormous unsettled claims against the Government have been, with but trifling exceptions, adjudicated and satisfactorily settled; that the policy of internal revenue has been so modified as to leave but few articles subject to taxation, and those are oppressive to no class; that the financial policy of the Government has been rendered sound, stable, and satisfactory to nine-tenths of the people. Paper money has become equal in value to that of coin and convertible at the will of the holder; resumption is an accomplished fact, and the credit of our Government is so strong that our 4 per cent. bonds are at a premium in the moneyed centers of the world; that a large share of the national debt has been refunded at

4 per cent. interest, and the balance can no doubt be funded at the same or a lower rate of interest; that the great American policy of protection to our manufactures has been maintained and strengthened, agriculture has been stimulated, and the productions of the soil have been nearly doubled in the last decade; and that the patriotic and liberal policy of pensioning the soldiers has been carried out, and this deserving class of citizens are now enjoying their well-earned reward.

On all these questions the Government has not been unmindful of its duty, and has, in the main, legislated wisely. But the merchant marine and our carrying trade have been shamefully ignored or entirely neglected, and it is to this question that I desire to call the attention of the House for a few minutes. Of all the subjects demanding the thoughtful concern of the people and of their representatives, no one is more purely and completely national in character than this. It refers to the general welfare, and not to the advantage of one portion of the country at the expense of another. It has relation alike to the interests of the merchant, the manufacturer, and the farmer wherever located. It takes into account the work of the miner and the labor of the skilled artisan. There is hardly a great industry in the land that is not compassed in its consideration. What subject is there, then, that possesses a more far-reaching importance than this, or makes a stronger appeal to the statesmanship of the country?

Sir, we have witnessed during the last few years, and particularly in the last two, a growth and expansion of our commerce with other nations in the highest degree gratifying to our national pride, vastly rich in present benefits, and affording assurances for the future which warrant almost boundless anticipations of material progress in the years to come. We have seen the energy and enterprise of our people rewarded in the introduction of the products of our factories and workshops into markets where less than a decade ago no article of American manufacture had ever been seen, and we have found these products working their way steadily and surely to the front in popular esteem. Our cotton cloth has been sold in the stores of Manchester, and our cutlery in the shops of Sheffield. London buyers learned to prefer American cottons to those of domestic manufacture. In most of the principal markets of Germany tools of American manufacture are preferred to those of home or English production. From every progressive European country our consuls, more active now than ever before in ascertaining facts relating to commercial affairs, report a steady advance in the demand for American goods.

In ten years we have more than doubled the sales abroad of our agricultural implements. In the same period the exportations of the manufactures from copper and brass have quintupled in value. The products of our cotton-mills sent to other lands amounted in value in 1869 to $5,874,222, while in 1878 the value of the manufactures of cotton shipped abroad was $11,438,660, and in 1879 $10,853,950—the slight reduction in value noted in the latter year as compared with 1878 being due to the reduced price, and not to any diminution of the foreign inquiry for these goods.

The progress of our foreign trade in the manufactures of iron and steel has been even more gratifying, since it is in these commodities that we find the foreign competition most active and sharp. In 1868 we exported manufactures of iron and steel to the value of $5,491,306, while in 1878 the value of this class of goods marketed in other lands reached the generous amount of $13,784,007, and in 1879 amounted to $12,766,294. In every other branch of domestic production there is seen to have been during the past ten years a great and almost unvarying progress with respect to the foreign demand.

There is hardly a people in Europe that is not to-day consuming American provisions, our exports of which last year amounted in value to $116,858,650, exceeding by $86,422,008 the value of the exports of commodities under this head in 1868. There is no fact in our commercial history more interesting than the growth of our foreign trade in live stock, which increased from a paltry million dollars in value in 1870 to eleven and a half millions in 1879. The effect has been to completely revolutionize the cattle markets of Great Britain, and although the stock farmers of England have seriously suffered from the competition, the masses of the people have been greatly benefited in the prevalence of very much cheaper prices for meats, in no wise inferior to the average of that raised in England. Thousands of families throughout Great Britain which a few years ago were able to have a meat dinner not oftener than once a week, on the Sabbath day, may now enjoy this privilege, so important to those who perform hard and exhausting labor, two or three times a week; so that in this particular, at least, if in no other, American enterprise has been a positive boon and blessing to the masses of that country.

The progress of our trade in the products to which I have referred is peculiarly instructive and interesting as illustrating the enterprise of our people and their energy in conquering difficulties and combating the strongest competition. So far as relates to our manufactures, it is particularly valuable in determining the wisdom of a steady adherence to an American policy with respect to our industries. Without this policy we should not now have American cotton goods and cutlery and hardware in demand in the markets of Europe. That policy has enabled us to reach a stage of development that made such a result possible. It has given us better machinery, stimulated the inventive talent and native ingenuity of our people, given us a larger force of skilled workmen, and taught us the valuable lesson, as necessary to nations as to individuals, of self-reliance. But for this policy, which we have never abandoned without experiencing disastrous consequences, we should now be largely dependent upon our principal commercial rival, Great Britain, for nearly everything except the products of the soil, instead of being able to successfully compete with her, as we are doing in the leading markets of the world, and finding a sale for the products of our manufactories even in her home markets and under the very nose of her manufacturers.

The return to this policy as a necessary recourse for the increase of the national revenue was, after emancipation, perhaps the most important of the compensations of the war of the rebellion. Its maintenance was largely compelled by the necessities of our situation; but the wisdom of adhering to it has now been so fully attested by results that I have no hesitation in declaring my conviction that, were the American people called upon to render their verdict as between a moderate system of protection and a policy of free trade, the question of revenue being out of consideration, they would, by a very large majority, declare for the former. We are to-day exporting in large quantities provisions to nearly half the civilized world, so that our agricultural growth has kept pace with our manufacturing progress, demonstrating the capacity of this people to attain, under right conditions, a position of supremacy in both fields of industrial effort, and most thoroughly controverting the view that a system of protection would be necessarily fatal to agricultural development.

With a population of forty-five millions, which is steadily growing, and an almost certain foreign demand for the annual surplus yield of our breadstuffs, the incentive to agricultural pursuits in this country is never likely to diminish in force while there remains unoccupied any land capable of producing enough to repay the labor of its cultivation. The teeming and dissatisfied populations of the Old World and the overcrowded sections of our own country will continue in this and future generations to send to the fertile prairies and farm lands of the great West a hardy and industrious race that will in the course of nature make the millions of uncultivated acres bloom with the glory of ripened fields and send forth an augmenting stream to replenish the granaries of the world. Wherever such a population becomes settled and prosperous, the factory and workshop will follow, and thus the agriculturist and the mechanic, laboring shoulder to shoulder in the promotion of a mutual interest, will carry forward the work of national development and pour fresh streams into the widening and swelling channels of the nation's commerce.

The evidences are all about us, sir, that we have entered upon a new era of prosperity, which may remain longer and be productive of greater results than any that has preceded it. With the currency safely anchored to the solid rock of resumption; with the credit of the nation higher and stronger than ever before in our history; with business confidence restored, and with an ample supply of money to carry forward the established and projected enterprises that contribute to the growth and wealth of the country and the prosperity and happiness of the people, we have but to take wise advantage of the grand opportunity that is before us in order to carry this nation far onward toward the final commercial supremacy among the nations which it is certain to achieve. We can hasten or postpone, accordingly as we are wise and generous or unwise and ungenerous, this ultimate triumph over all rivals and competitors in the commercial world; but not this or any succeeding Congress can wholly defeat that consummation. The indomitable pluck and energy of the American people will surmount all obstacles in the future as in the past, even though impractical Congresses, caring more for politics than for the material welfare, should fail to perceive and provide what is needed for national progress.

We ought not, however, to be content with the assurance that the advance will be made whether we move or not. It is manifestly our duty to move. There is no obligation imposed upon Congress greater than that of promoting the material growth of the country, and the people expect, never more than in the present, its faithful performance. To battle for party principles and party success is a privilege which no one expects the congressional politician to forego; but there are periods when the people may fairly demand of their representatives that they put temporarily in abeyance their solicitude in behalf of party, and give their undivided attention to the solution of practical questions which have regard to the interests and welfare of the whole people, irrespective of political or sectional divisions. The present, I apprehend, is one of those periods.

The further development and extension of our foreign commerce requires as a first condition the restoration of our shipping interest, in order that we may regain the position in the foreign carrying trade which was lost during the war of the rebellion. The sacrifice of this interest was one of the most deplorable results of the great civil contest, and the fact that for fifteen years we have permitted foreign vessel-owners, and chiefly those of Great Britain, to enjoy almost unchallenged the advantage they then gained is one of the most remarkable, if not inexplicable, in our history. The Secretary of the Treasury, in his annual report, justly observes:

> It is neither to the advantage nor the honor of the country that so immense a proportion of its foreign carrying trade has passed to other nations.

A few attempts have indeed been made to win back a portion of this loss, but nothing adequate; and as a consequence of the failure resulting from our insufficient efforts, we have drifted from bad to

worse, and are still retrograding. While other nations, immeasurably less rich in resources than the United States, have been successful in enlarging their shipping interests and thereby extending their commercial relations with other countries until their flags are met on every sea, we have been steadily yielding our carrying trade with other nations to foreign ships, at a cost of many millions of dollars annually to our people, which go into the pockets of European vessel-owners, until the appearance of the American flag has become a rare sight in ports where twenty years ago it was as frequently seen as that of any other nation.

The comprehensive report of the Chief of the Bureau of Statistics supplies an elaborate array of facts and figures showing the decadence of our merchant marine engaged in foreign commerce which ought to receive the careful attention of every member of Congress and every intelligent citizen of the country. They tell the disagreeable story with a truthfulness which trustworthy figures always convey and with a force to which no language can add. They show that while in 1856 75 per cent. of the imports and exports of the country was carried in American vessels, in 1879 but 23 per cent. of this foreign commerce was transported in the vessels of the United States. The tonnage of American vessels entered at the sea-ports of the United States from foreign countries fell from 3,301,903 tons in 1860 to 3,049,743 tons in 1879, a decrease of 252,160 tons; whereas the tonnage of foreign vessels engaged in our foreign trade increased from 1,698,291 tons in 1860 to 10,718,394 tons in 1879. In other words, there was less American tonnage in 1879 than in 1860, while the foreign tonnage was six times as great in the latter as in the former year. The increase of American tonnage entered in 1879 over that of 1878 was only 1 per cent., while that of the foreign tonnage entered was nearly 26 per cent. The value of imports and exports carried in United States vessels in 1879 amounted to $272,015,697, as against $911,269,232 in foreign vessels.

To give an idea of the decadence of our shipping interests, compare the following proportionate values of foreign trade during the last three decades to and from all our ports:

In 1857, in foreign ships	$213,000,000
In 1857, in American ships	510,000,000
In 1867, in foreign ships	580,000,000
In 1867, in American ships	297,000,000
In 1879, in foreign ships	911,000,000
In 1879, in American ships	272,000,000

It will be observed from the above statement that in 1857 American ships carried more than double the value of merchandise carried in foreign ships; that in 1867 these figures were almost exactly reversed, and that in 1879 the value of commodities carried in foreign vessels had increased to more than three times that carried in American vessels. This showed a decrease in the value of commodities carried in American vessels in twenty-two years of 47 per cent., and an increase in the value of commodities carried in foreign vessels of 328 per cent.; a disastrous transfer of our foreign commerce from American to foreign lands.

In 1860 the United States Government paid for carrying the mail to foreign countries—

To foreign steamship companies	$147,085 34
To American steamship companies	280,712 53

In 1869, which is the latest period of which I have the statistics, the Government paid—

To foreign steamship companies	$336,163 24
To American steamship companies	82,178 54

These facts and figures, startling as they may seem, are collated from official sources, and are perfectly reliable.

It would be difficult to overstate the impressive character of these figures. They present a condition respecting the foreign carrying trade of the country which no American citizen can regard without a feeling akin to humiliation, and without a conviction that the time is at hand when some adequate means should be adopted to prevent the utter destruction of our merchant marine engaged in foreign commerce, even should it be found impracticable to restore it to the position it held twenty-five years ago. Manifestly we cannot long continue to hold what we have got if the policy of inaction practiced for the past fifteen years is adhered to.

While we delay, other maritime nations, and particularly Great Britain, are pushing forward to new conquests and greater achievements. They know the value, in such a contest, of bold action and ceaseless energy. Experience has taught them that in the competition for the trade of the world an aggressive policy is the best policy. That has been England's course in the past and it is the same to-day. The statesmanship of her public men has been in nothing more conspicuous than in the boldness and persistence with which they have always battled to maintain for her merchant marine the position of supremacy among the nations. With a wise liberality she has encouraged the efforts of her ship-builders and rewarded the enterprise of her ship-owners. Government aid has furnished the stimulus to private undertaking and sustained it until success was achieved. It was this policy that gave success to the Cunard line of steamers and enabled it to overcome the competition of the American Collins line and drive it from the foreign trade.

The present payment of $4,000,000 annually in subsidies attests the continued devotion of the English government to the important object of maintaining the maritime commerce of the country. No other nation has so generously and amply tested the worth of this policy, and her experience ought not to be without instruction for us, even were it not fortified by the fact that other nations have found profitable results in imitating England's example. France adopted the English policy and has pursued it with even greater liberality than England, her subsidies to ocean steamship lines in 1876 amounting to about $4,800,000; and, as I am informed, there has been no diminution in the amount since. Austria, Italy, and Holland followed in the same course, all paying liberally, in the form of mail contracts, to maintain steamship lines; and now it is said that even China, after a sleep of centuries, has adopted a like policy and subsidized a line of steamers to run to the Sandwich Islands, with the intention of speedily extending it to the United States.

What a contrast is here presented to the prevailing spirit in this country with respect to our merchant marine. The adoption and maintenance of this policy has been amply justified in the results. Of all England's interests the most prosperous to-day is her commercial marine. Her farmers and manufacturers have suffered from American competition, but her ship-owners have experienced no obstacle to their progress and prosperity so far as we are concerned. On the contrary, they have found this people the most prodigal customers, paying annually into their pockets from eighty to one hundred millions of dollars to be further employed, if need be, in continuing the work of crushing out the comparatively feeble American competition that still remains. It is estimated that during the past ten years there has been paid by the American people to foreign vessel-owners, in freights and passenger fares, the immense sum of $1,100,000,000. Is not this fact of itself a most impressive argument for rebuilding the commercial marine of the country? Does it not supply a most ample and conclusive reason for extending the fostering aid of the Government to this important interest, to the end that in its restoration these millions annually sent abroad shall be kept at home, to be employed by our own people in advancing the material development and prosperity of the country?

Not the least striking and instructive fact in connection with this subject is the anomalous position we occupy with respect to the South American trade. By every consideration of relative proximity, mutual interest and natural sympathy, the bulk of this trade should come to us, and it undoubtedly would do so were we in a position to compete with the steamer lines of other nations in the expeditious transportation of commodities. But as it is, fully three-fourths of this desirable and annually increasing commerce is controlled by England and France, with most important advantages to those countries. Here, again, the figures show our inferiority to a humiliating degree.. I refer to the exports of the three nations to the countries of South America—the commodities of home production sold to those countries—for in the amount of imports it is shown that the United States is a better customer than either England or France of some of the South American states, and in the aggregate of its purchases from those states loses nothing by comparison. Taking the figures of the trade of 1877, the latest full returns accessible, between the United States, Great Britain, France, and the South American states of Colombia, Venezuela, Brazil, Uruguay, the Argentine Republic, Chili, and Peru, and the following aggregates are obtained:

	Imports.	Exports.
United States	$63,335,634	$20,272,035
Great Britain	84,570,722	69,663,592
France	67,164,000	55,313,800

Thus it appears that we buy from the countries of South America more than three times as much in value as we sell to them, and that while our purchases from those countries are only about $20,000,000 less in value than those of Great Britain and four millions less than those of France, the value of our sales falls $49,000,000 below the former and $35,000,000 below the latter. Nor is this great disparity (to our disadvantage) all there is to be considered in connection with this matter of South American trade, for quite two-thirds of the commerce between the United States and the states of South America is carried on in foreign vessels, chiefly those of Great Britain. The position we occupy with respect to this commerce is not in consequence of any adverse natural conditions, for all these are favorable to us. It is due solely to our want of adequate facilities for supplying these South American countries with the commodities they must buy. England and France have acquired and enjoy their supremacy in this trade in great part by reason of their enterprise in establishing splendidly equipped lines of steamers to those countries, under the encouraging and sustaining aid of liberal subsidies from their respective governments.

The same condition of affairs exists respecting our commercial relations with the neighboring Republic of Mexico, with which, in the natural order of things, we ought to enjoy a most liberal trade intercourse. Within a year a large delegation of merchants and manufacturers visited that country in order to make personal investigation of its resources and commercial condition, and to ascertain

what might be done to enlarge the trade relations of the two countries. They found the Mexican merchants favorably disposed to cultivate a more extended and intimate business association, but they found also that other countries, which were getting this trade, possessed facilities for carrying it on with which we could not now compete; and, so far as I am aware, nothing has come of this project for extending our trade with Mexico. Twenty steamers of other nations enter the ports of Mexico to one that flies the flag of the United States, and yet our trade with that country during the last fiscal year amounted in value to twelve and a quarter millions of dollars, the greater part of which was, of course, carried in foreign vessels.

It has been no part of my purpose to present in detail a history of American commerce and navigation, nor to indicate with circumstantial sequence the various causes and influences which have contributed in greater or less degree to the decadence of our foreign carrying trade. Such a task could hardly be accomplished within the proper limits of a single speech. I have therefore been content with the statement of such general facts as were indispensable to a proper presentation of this subject, and necessary to sustain and enforce the proposition that some action, radical and decisive in its character, is demanded at once for the protection of our merchant marine against further disaster, and for regaining, if that be possible, our former position in the carrying trade of the world. The facts of the situation in most voluminous abundance are at our command. The records of the nation's commerce and navigation for ninety years are accessible to whoever may have the desire and patience to study them. The example and experience of other nations is also an open book which we may ponder upon at will. We do not, therefore, lack the material to suggest action, and to point the direction which such action should take.

The question, then, that confronts us, and which, I repeat, ought to have our immediate and most solicitous regard, is, what is the true policy to pursue in order to rebuild our shipping interest and restore our foreign carrying trade to its former proportions? There has been no scarcity of plans professedly having this object in view, for this is not a new subject. But unfortunately none of those most actively urged have been free from some concession favorable to the foreign ship-builder or ship-owner, and of necessity inimical to those interests in the United States. One of these plans was introduced here in the present session, providing for the practical annulment of a statute which for ninety years has constituted about the only help and protection accorded by the Government to our shipping interests. The wisdom of the founders of the Government led them to declare the policy that the coasting trade of the nation should be exclusively carried on in American vessels, and it has prevailed without change, modification, or interruption to this day. No American statesman, so far as I am aware, has ever assailed or sought to interfere with it. That policy has been the safeguard of our merchant marine, and it is as necesary now as at any period since its adoption.

The tonnage employed in the coastwise trade during the past year amounted to 2,598,183 tons, or 60 per cent. of the tonnage of the country. The fleet engaged in this trade comprises about twenty-two thousand vessels of various descriptions, employing between seventy thousand and eighty thousand men, and representing an investment of capital amounting to not less than $120,000,000.

This immense interest is now steadily growing, the increased tonnage last year being 101,013 tons, while in the foreign trade there was a decrease of tonnage of 137,843 tons. It is not improbable that the cupidity of English vessel-owners has led them to hope for and seek admission to this trade, but I venture to believe that no American Congress will ever consent to surrender the least part of that policy which preserves to American ships and American seamen the trade along our ocean seaboard, the courses of the great rivers, and through the vast water-way of those inland seas that extend three thousand miles along our northern frontier. It has, however, been seriously urged that we should repeal the navigation laws, and while such a policy finds supporters there will exist the danger that some plausible plan to effect the practical subversion of those laws may be insidiously worked through.

Sir, there is no possibility that we could derive any advantages from the repeal of the navigation laws, but there is every probability, nay, certainty, that we would speedily experience very great injury as the consequence of such a course. Is it not obvious that the vessel interests of the Mississippi Valley would suffer great loss if forced to compete with a swarm of foreign vessels entering the South Pass and plying up and down the great rivers, distributing their cargoes at the various ports of delivery, and bearing away the proceeds to other lands? The cities of Saint Louis, Cincinnati, and Louisville have secured probably two-thirds of the trade of the States south of the Ohio River and south of the State of Missouri. What would be the inevitable effect upon the trade of these great and growing marts of commerce if a fleet of foreign vessels were allowed to deliver by the aid of their own lighters and barges along the Mississippi River and its tributaries the goods now marketed at these centers of trade? Can any intelligent man doubt what the effect would be upon the shipping interests of the northern lakes if the foreign competition that would certainly follow the repeal of the navigation laws was forced upon them? Hundreds of steam craft and sailing vessels engaged in this internal commerce would be driven out of employment, and the shipbuilding industry, which on the lakes and Mississippi last year built shipping to the amount of nearly seventy-eight thousand tons, would be almost utterly destroyed.

Thus millions of invested capital that is now moderately profitable would be wiped out, and thousands of men who are employed in avocations with which they are familiar, and which supply them the means of comfortable living, would have to seek labor less profitable, because less adapted to their tastes and education. But serious as would be the injury inflicted upon this portion of the carrying trade of the country, it would be insignificant in comparison with what the shipping interests of the seaboards would suffer. In short, from every point of view, this proposition to repeal the navigation laws appears utterly indefensible, and it can only be necessary to state, in the most casual way, the objections that meet it at every point to insure its universal condemnation by the American people. No man of common intelligence will approve a policy that proposes to admit to the enjoyment of American business foreigners who pay no taxes to the American Government, and who, by virtue of that exemption, would be enabled to drive American tax-payers out of employment.

Objections hardly less strong and conclusive exist to the other plans of compromise and concession which have been from time to time proposed. One of these is to change the registry laws, so that foreign-built vessels may be admitted to American registry. The advocates of this policy do not show satisfactorily that it would be of any advantage. It would be no gain to ship-owners in the coasting trade, who now enjoy the exclusive privileges of that trade, and is it certain that American tonnage in the foreign trade would increase if Americans had the privilege of buying their ships in other lands and converting them into American ships by the simple process of registry in the United States? On the other hand, is it not certain that such a policy would strike a severe blow at our ship-building industry, and through that at numerous other industries connected with it? By purchasing ships in foreign countries we transfer not only all the labor necessary to construct them, but also all the business of furnishing the outfits and supplies for the voyage. We pay the wages of foreign mechanics and the profits of foreign ship-builders, and make an investment from which the dividend only would be returned to us. Such a policy could not advance, but must retard, industrial progress and prosperity in our own country, and it is not apparent in what way it could afford any relief to American navigation. I most fully concur in the sentiment expressed by a committee of the Forty-first Congress in a report upon this subject, that "every consideration, whether of interest or of national pride, impels us to build upon our own soil the ships which are to bear the flag of our country to all quarters of the globe."

A candid and careful study of the facts and arguments bearing upon this subject has led me to the conviction that the policy required is one that shall be thoroughly and uncompromisingly American in all its characteristic features. I do not believe the object sought can be attained through any temporizing or half-way measures. The immense advantages possessed by England, the result of a policy as purely and utterly selfish as was ever conceived and put into practice by any nation, must be met by a counter policy that shall possess all the discriminating and sustaining qualities in favor of American ships that has characterized English policy with respect to English ships. It may not be wholly agreeable to the American idea to acknowledge the necessity of following English example and precedent, but to my mind it is clear that there is no other left us which an intelligent apprehension of the situation will approve. We must protect our shipping and extend to it the helping aid of the Government, and we must do this thoroughly and effectively. In order to successfully compete with English vessel-owners for the commerce of the world we must establish well-equipped lines of steamers to every portion of the world where American merchants and manufacturers may see the promise of profitable trade. Experience has amply demonstrated that unaided private enterprise cannot accomplish this, for the reason that it must compete with foreign enterprise backed by liberal governmental support.

I am not an advocate of subsidies. I would go as far as the next man in opposition to any scheme for using the National Treasury to build up monopolies or sustain special interests. But, on the other hand, I do not belong to the list of those extremists who would refuse the aid of government to any and all enterprises employing private capital, regardless of the question whether their inauguration and maintenance would contribute to the general welfare. I do not, for example, believe that the liberal policy pursued toward the great railroad enterprises of the country in the past was either unwise or unprofitable. I believe it can be demonstrated that for every dollar of aid thus extended there have been a thousand added to the national wealth. There doubtless have been special cases in which such grants have yielded no public benefit, but I am talking of general results. We have the most extensive and perfect railroad system in the world, and the splendid results of this magnificent evidence of American genius and energy are the wonder of the nations. And it is infinitely to our honor that one of the greatest of these achievements, the Union Pacific Railroad, with its connecting link, the Central Pacific, which binds forever with rails of steel, in indissoluble bonds of mutual interest, the Atlantic, the Mississippi Valley, and the Pacific, is largely

due to the munificence of the Government, which represents the liberality of the whole people.

The claims of the merchant marine of the country to a like consideration are based upon the same general principles and supported by similar promises of advantage to the general welfare which governed in the extension of Government aid to the railroad enterprises of the country. All that is asked for or hoped for by the advocates of a policy of assistance to this interest is that the Government shall offer and continue to such lines of ocean steamships in the foreign trade, as private enterprise and capital may inaugurate, a liberal compensation for the transportation of the mails, that will aid them in competing upon terms of equality with the vessels of other nations thus favored. This is all that is demanded and all that is required in the form of Government aid.

Sir, such a policy cannot be amenable to the charge that it is in the interest of a monopoly. The shipping interests of the United States can never become a monopoly. Neither can it be fairly objected that it would be in behalf of a special interest, for there are as great a number and variety of industries connected with the shipping interests as with any other of the great national interests that employ the labor and capital of our people. The duty before us in this most important matter is imperative. I have endeavored to indicate the course it should take. Every consideration of sound policy dictates that we should no longer delay its performance.

The legislation necessary to effectually carry out such a policy must be national in scope, broad, liberal, and free from all considerations of party interest or advantage. It should afford no chance or pretext for aiding one line of ships or one locality at the expense or the exclusion of others. I would therefore pass a general law, similar in character to the law authorizing the transportation of the United States mails over the railroads, and fixing the compensation therefor, which should designate a limited number—say five or six—of the foreign nations to which American steamship lines could be established from ports in the United States, fixing the price to be paid by the Government for each nautical mile as compensation for the transportation of the mails weekly, semi-monthly, and monthly, between the United States and such countries.

The Postmaster-General should be authorized to enter into contracts with the first lines of American steamships, the product of American ship-yards, American material, and American mechanics, that would conform to the provisions of the law respecting the tonnage, speed, and safety to be required of such steamers and give satisfactory evidence of their ability to carry out the contract. Such a policy would give no special favors or privileges, but would invite the fullest and freest competition, leaving capitalists and ship-builders who might be disposed to embark in the foreign carrying trade free to select any route, among those designated, on which lines had not already been established. We should thus offer a stimulus to enterprise in this direction which I believe would immediately enlist an active movement of capital toward ship-building, giving us within the next five years lines of American steamers from our five principal sea-ports, Boston, New York, Philadelphia, Baltimore, and New Orleans, to the principal countries with which we have commercial intercourse, and within ten years the full number for which provision could be made by the law indicated.

With this result attained, the millions of money now annually paid by our people into the pockets of foreign ship-owners, to be disbursed among the ship-builders, mechanics, and seamen of other lands, would be paid to our own citizens and be employed in promoting the common prosperity of our people. A most important industry would be given new life and activity, with immense advantage to a host of industries intimately connected with it. An additional field will be afforded to American labor, both on land and sea. An enlarged sale of American manufactures abroad would inevitably follow, since our manufacturers would secure a friendly medium of intercourse that would necessarily bring them into more intimate relations with foreign buyers and induce them to more zealously cultivate such relations. The lost reputation and prestige of the United States, with respect to this great interest, would be regained. Surely every consideration that can have weight with a prosperous and enterprising people, having at command ample capital, material, and labor, points to the wisdom and expediency of adopting a sound policy of protection for American shipping in our foreign trade, and inviting enterprise into that field by the assurance of such liberal aid from the Government, in the manner I have indicated, as will enable American ship-owners to compete on terms of equality with the ship-owners of other countries. The time is ripe for the inauguration of such a policy, which would be welcomed in every quarter of the country where this subject is intelligently and rightly understood.

I believe that in the present condition of affairs it would be a waste of time to occupy the attention of the House in entering upon the details of any scheme for advancing the interests of our fallen merchant marine, but have deemed it sufficient at this time to present the salient features of the question as to the condition and wants of our shipping interest, with the view of presenting such an appeal to the patriotism and sense of self-interest of the people of the country as would awaken a public sentiment upon which we, their Representatives, could feel justified in formulating a provision of law for the upbuilding of this too long neglected interest.

The Debris Question in California.

SPEECH OF HON. C. P. BERRY,

OF CALIFORNIA,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, June 10, 1880,

On the bill (H. R. No. 5636) for the appointment of a commission to investigate the *débris* question in the State of California.

Mr. BERRY said:

Mr. SPEAKER: I wish to offer a few reasons why this bill should pass and this appropriation should be made. The mining interest is only second to that of agriculture in California. It is one of the two great interests of our State. Our mines have yielded not less than $1,500,000,000 from the discovery of gold to the present time, according to the best estimates that can be made. But, sir, I have no doubt that this estimate is far below the actual yield. Be that as it may, all know that the yield has been fabulous. The commerce of the world has felt its quickening influence, and in the dark days of our civil strife California gold did much to save the country from bankruptcy.

No doubt, sir, but the treasure from our mines has contributed in no small degree to the present revival of our business prosperity. Extensive as have been our mining operations in the past, and great as they are at the present, our State has not yet been prospected. Enough, however, has been done to develop the fact that our gold-beds are of almost unlimited extent and practically inexhaustible; and great as has been the yield of treasure in the past, it is not one tithe of what yet lies hidden in our mountains, awaiting to be brought to light to swell the streams of wealth, advance arts and sciences, push forward civilization, and add to the happiness of the world. So important is our mining, and so great the necessities of our Government, now staggering under a debt that taxes every resource of our country—a debt so enormous that its mere management is puzzling the ablest minds of our country and giving rise to all manner of financial theories, that we should not leave anything undone on our part to aid in developing this great industry.

But, sir, this life-blood of commerce and sinews of war lies imbedded in the bowels of the earth, and cannot be made to glitter in God's sunlight until vast quantities of earth are removed and by washing separate the gold from it. In mining operations, from the discovery of gold until the present time, untold millions of cubic yards of earth and gravel have been torn from its primitive foundations and washed into the mountain streams and their tributaries, and by the rush of waters from our winter rains and melting snows large quantities of this loosened earth is swept into our valleys, navigable rivers, and bays below; desolating our valleys and rapidly destroying navigation. That gentlemen may understand something of the conditions produced and the changes wrought by the washing away of earth, sand, and gravel, in mining operations, they must bear in mind that the great valley of the Sacramento is from twenty to sixty miles wide and about two hundred miles long, and almost level; it is more like a great plain. Through the center of this valley flows the Sacramento River, the longest river in our State. This river flows into the bay of Suisun, which is really the upper end of the bay of San Francisco. This great valley or plain, but a few feet above the ocean level, is bounded on the west by the Coast Range of mountains and on the east by the Sierra Nevadas.

These latter mountains rise to a great altitude. Some of their peaks are crowned with perpetual snow. Upon the western slopes of these latter mountains, at an elevation of from one to five thousand feet above this beautiful valley, is located the great gold belt of California; and, as you all well remember, when it became known that rich and extensive gold deposits existed in California people from all parts of the world flocked to that coast. The adventurous miner, with his pick, pan, and shovel, was to be found upon every hillside and in every cañon, ravine, and gulch diligently searching for the precious metals. Towns and cities sprang up as if by magic all through the gold regions, and thousands of busy men could be found digging in hillside and ravine for gold. But all who were attracted to that land by the discovery of gold did not embark in the business of mining. Upon their arrival thousands were attracted by the beauty, fertility, and genial climate of the broad, magnificent valleys, and at once sought and made homes for themselves in those valleys and upon the borders of the crystal and sparkling streams flowing down from the Sierras, fed by the everlasting snows upon their summits. These tributary streams, joining their waters with the Sacramento, roll steadily on to the ocean. Thousands upon thousands of farms were located and improved, orchards and vineyards were planted, beautiful cottages were erected, adorned, and beautified; the almond, the orange, and the fig tree flourished and brought forth fruit in their season; waving fields of golden grain yielded bread for millions; villages, towns, and cities have been built all over the valley; churches and school-houses were erected and dedicated to religion and education. Steamers navigate the Sacramento River for two hundred miles and transport the surplus products of this Egypt of America to the ocean.

But new conditions are arising and destructive changes are rapidly taking place. In the early history of California the principal mining was what is known as placer mining, and was confined generally to the streams, ravines, and flats where there was no great depth of soil and gravel above the bed-rock. In later years it was found that rich deposits of gold in many places existed underlying great depth of earth. The enterprising miner has gone to work and constructed canals and conducted water from the higher altitudes of the mountains down to these deep gravel mines, and through smaller canals carried it to the nearest elevation above each individual mining claim. From these elevations the water is conducted down to the mine in iron pipes and made to do the excavating that is done by machinery or manual labor in other mining. When water is made to do the excavating, as in this hydraulic process, it is used under a pressure of from one to five hundred feet, and so great is the force that whole mountains melt away before it. The same water carries the *detritus* from the claim to the nearest stream or river, where it is deposited. When the heavy floods of winter come this loosened earth is swept into the valleys, river beds, and bays below, filling and choking up the river channels and spreading over the country, covering up lands with an unproductive *débris* and destroying everything in its course. There have already been more than one hundred thousand acres of the finest alluvial lands in that State destroyed for agricultural purposes, upon which were hundreds of valuable farms, with valuable improvements—prosperous and happy homes, now abandoned. Millions of dollars have been expended raising embankments and constructing levees in the vain effort to resist the encroachments of this avalanche of *detritus*.

In addition to this large section of country already destroyed, much larger portions are in imminent danger and must soon become the same desolate waste if a remedy is not applied, because the mountains are yielding to the ponderous blows of the little giant and the monitors of the hydraulic mines, and are melting away like snow under the summer sun. The Yuba River, upon the headwaters of which is the principal hydraulic mining in California, has so filled up that at this time its bed is on a level or higher than the streets of the city of Marysville, when formerly it ran a beautiful clear stream in well-defined banks twenty-five feet below them. The city has been compelled to entirely surround herself with embankments to resist the encroachments of this mining *débris*, to save herself from being buried beneath a rolling stream of sand and mud; and to-day she stands there, a city of six thousand inhabitants, doomed, and like a convict awaiting the day of execution which must speedily come. The city of Sacramento, the capital of our State, with a population of more than twenty-five thousand, is no better off. She, too, has surrounded herself with embankments from twelve to twenty feet high, and in addition she has been compelled to raise throughout the business portion the buildings and streets twelve feet to make herself at all inhabitable. These efforts and great outlays of money give but temporary relief; the volume of *débris* still increases and steadily rolls down from the crumbling mountains, and is piling up in our valleys, streams, and bays, and around our cities, and all must soon be involved in one common ruin.

This is no new subject. The attention of the Government has been called to it for some years back by the United States engineers upon that coast. Colonel Mendall, in his report to the War Department in 1876, page 14, speaking of his examinations of Feather and Sacramento Rivers, says:

> It has been stated in a previous report that the pools in the Feather River have been filled, since the advent of the miners, twenty feet or more, so that now the bed of the river has been raised almost to the level of its banks. The mining operations not only continue to exist, but their magnitude grows under the application of new and tremendous appliances.
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> The rivers of the Upper Sierra are now incased and being incased in wrought-iron pipes, and are now discharged, with the velocity due to hundreds of feet pressure, against mountains of gravel.
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> The hills may almost be said to melt away under these enormous blows. Their elements are hurled from their altitudes by a resistless current, and are borne along to find resting-places in the drainage-lines of the country, on the adjacent plains, or in the tidal waters of San Francisco Bay. The natural erosive forces of streams are re-enforced largely by these artificial torrents.
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> It must be plain that under these circumstances the conservation of navigable channels becomes a problem of great magnitude and of special difficulty. It cannot be solved by building a wing-dam where a shoal makes this year or next. If it and kindred problems of carrying safely the flood-waters can be solved at all, they must be solved by first acquiring a thorough knowledge of all the physical facts and conditions, by a complete diagnosis. This done, the remedy, if one exists, may be discovered.
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> These considerations seem to require on the part of the State or of the United States an extended investigation into the physical condition of the Sacramento River, and, in a less degree, perhaps, of the San Joaquin, in connection with the extensive mining operations. These questions already begin to assume prominence in California in the shape of a conflict between its two most important interests, mining and agriculture.

This report was laid before Congress four years ago, and there has not been a year since that time but what the engineers of the War Department or of the Coast Survey have been calling the attention of Congress to the difficulties of preserving the navigation of the rivers draining the mining regions in California. Two years ago the Legislature of that State created a State engineering department, since which time the State engineer and a corps of first-class engineers have been in the field making a thorough examination of this whole subject, and much valuable information has been collected, such as the amount of material washed from the mines now in the Yuba and Bear Rivers, two of the tributaries of the Feather River, that has not yet reached the line of navigation, but which lies in the pathway of the floods and will with every freshet be moved further down in greater or less quantities until it reaches the navigable rivers. It is found that if mining were now to cease and no more were added there is enough *débris* in the mountain streams that will be washed down to do great and perhaps irreparable injury to the rivers and bays below. In United States Engineer Mendall's report, known as House Executive Document No. 69, now before Congress, pages 2 and 5, will be found these estimates and statements:

> The amount lying in the bed of the main Yuba and its branches, above the Yuba mill, is 49,263,200 cubic yards; the amount below the Yuba mill, as far as Marysville, 14,600 acres covered, average depth assumed to be 4 feet, is 94,288,664; total, 143,561,864.
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> On the Bear River the estimate is 148,248,000, of which 62,088,000 lies in the plains, and 86,160,000 cubic yards are in the bed of the stream above the foothills. This estimate makes the total amount in the two streams to be 291,799,864 cubic yards. It is not pretended that this estimate is accurate. It could not be so without boring the deposits in thousands of places. It is made from the best information available. Its use, in its imperfect accuracy, is to convey to those who have not the opportunity of seeing it some conception of the enormous dimensions of the phenomenon.
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> The Yuba having been filled 123 feet at Smartsville, and perhaps 15 feet at Marysville, the slope of the river between these points, a distance of 18 miles, has been increased 110 feet, which is about 6 feet per mile. This about doubles the original slope.
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> This tendency to increase the slope of this part of the river brings the gravel lower and lower. This is counteracted to some extent by the great breadth of the stream in the plains at high water. Small gravel is, however, found now in small quantities within three or four miles of Marysville. With the increase of slope under the influence of freshets we must expect this gravel to reach first the Feather, and in due time the Sacramento. Once in either of these streams in considerable quantities, it cannot be expected to move under the influence of the current, or if it did, the effect would be to transfer it to a more objectionable place. In the Feather the pools that formerly alternated with ripples have been filled. It is estimated by the State engineer department that there is a deposit in the Feather River of over forty million cubic yards, and in the Sacramento, below the mouth of the Feather, something like one hundred million cubic yards.
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> A survey of the river in front of the city of Sacramento for a distance of two miles, in 1854, by authority of the town council, shows, in comparison with our survey of 1878, a mean filling over this distance of 15.2 feet and a maximum filling of 25 feet. This comparison was made by the State engineer.
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> The State engineer finds the filling of the river at the mouth of the Feather to be three to four feet; at Marysville, on the Feather, to be thirteen to fifteen feet; at the Yuba Mill, on the Yuba River, near where it emerges from the foothills, in a part of the stream that never was navigable, sixty-eight feet; and at Smartsville, still further in the foothills, at the outfall of some larger mines, the filling is reported to be one hundred and twenty-five feet. The pools in the Feather have also been very much filled. The tendency of the river, under the great loads of material imposed upon it, is to take a grade which tends constantly to get steeper.
>
> Steamboat Slough, which was formerly the shortest and deepest of the two arms of the Sacramento, is reported, on good authority, to have been filled a good deal since the survey of 1878; so much so, that it has been abandoned as the usual route of river boats.
>
> The navigable condition of the lower river has also suffered very much, owing to the same cause, but not in proportion to the actual filling. The mean depth has been lessened in a much greater proportion than has the maximum depth.
>
> The filling in the beds of the Sacramento and Feather Rivers is mainly sand.

Let us examine the estimates a little, and see if we can present the magnitude of these operations to the mind in such a manner as to more clearly comprehend them. Amount of *débris* in the Sacramento River, 100,000,000 cubic yards; Feather River, 40,000,000 cubic yards; Yuba River, not down to the line of navigation, 150,000,000 cubic yards; Bear River, not down to the line of navigation, 150,000,000 cubic yards; total, 440,000,000 cubic yards. This amount, if evenly spread over a surface one foot deep, would cover more than four hundred square miles of territory, or about three hundred thousand acres of land, and ruin it for agricultural purposes. You will please bear in mind that these are the results of mining operations upon but a few of the many streams of our State that are constantly sweeping this mining *débris* into our valleys, rivers, and bays. There is no prospect of a cessation of these evils in the future, because the mines of California are practicably inexhaustible. It has been estimated that on what is known as the San Juan Ridge, a small district of but fourteen miles in length, there remains above seven hundred million cubic yards available for washing by the hydraulic process. This amount, using the same illustrations as before, would cover more than six hundred and fifty square miles of territory, or about four hundred thousand acres of land.

But the destruction of some of our farms, villages, towns, cities, and navagable rivers is not the most alarming feature of this case. Some time in January last I addressed a letter to Captain Patterson, Superintendent of the Coast Survey, making inquiry as to the effects of this *débris* upon the bays of Suisun, San Pablo, and San Francisco. I read from his reply:

> UNITED STATES COAST AND GEODETIC SURVEY OFFICE,
> *Washington, January 27, 1880.*
>
> SIR: Your letter containing inquiries in regard to the changes that have taken place in Suisun and San Pablo Bays, as shown by the earliest and latest surveys made under the direction of this office, and also requesting my opinion as to the effect on the bar off the entrance of San Francisco Bay which would be produced by the filling of Suisun and San Pablo Bays, has been duly received.
>
> In answer, I beg to state that a careful computation shows that between the surveys of the Suisun Bay of 1867 and 1878 the amount of material scoured out, effecting an increase of depth in various parts of the bay, was 19,000,000 cubic yards, and the amount of material deposited, causing decrease of depth, was 44,000,000 cubic yards, making a total increase of material deposited in the bay during eleven years of 25,000,000 cubic yards, say 2,250,000 cubic yards per year. Suisun Bay covers an area of twenty-seven square statute miles. Herewith I forward a tracing of Suisun Bay, showing by colors the parts where the depths have increased and decreased.

In San Pablo Bay no portion has been resurveyed except the channel between Mare Island and Pinola Point. The first survey was made in 1856 and the last in 1878. Between the dates of these surveys this channel has decreased in depth one and a half feet the total area of San Pablo Bay, one hundred and fourteen square statute miles. This bay will soon prove the only "catch basin" for the preservation of San Francisco Bay proper.

In answer to your inquiry respecting the effect on San Francisco Bar, of the filling of Suisun and San Pablo Bays, leaving only a channel for the discharge of river waters, I can do no better than to send you a copy of a letter addressed in 1875 to Hon. D. C. McRuer, one of the harbor commissioners of San Francisco, relative to the proposed sales of certain marsh lands. * * * You also refer to the results in the future. I can only say that the present condition of the bar off San Francisco Bay is the result of a certain equilibrium of forces; the inner main force being derived from the tidal area inside the heads of the entrance, and the outer main force being derived from the ocean waters. Any filling in of the tidal area, by decreasing the effect of tidal or inner main force, necessarily tends to destroy equilibrium now obtained. From a general discussion of the subject we have concluded that if the whole tidal area of all the bays inside the "Heads" were filled, and nothing left but the flow of the rivers and creeks, united in a common discharge, the bar would eventually form close in by the "Heads," and the channel over it would not exceed, say seven feet in depth at mean low water, and possibly not more than five feet. This is of course an impossible extreme to be reached, except in the most distant future, but it will show that any decrease of the tidal basin will tend to decrease depth over the outer bar and to change its present permanent condition—a matter of national importance.

Yours, respectfully,

C. P. PATTERSON,
Superintendent.

Hon. C. P. BERRY,
House of Representatives.

From the above statement we learn that during the past eleven years there have been deposited twenty-five million cubic yards of material in the bay of Suisun, and no doubt much larger quantities have passed on down through the Straits of Carquines into the San Pablo and San Francisco Bays and out into the ocean. To engineers and those acquainted with the conditions now existing upon that coast it is evident that with even the same extent of mining in the future that has existed in the past the filling in the bays will be much more rapid in the future than in the past, because all streams, large and small, have deep and shallow places. The Sacramento and Feather Rivers before the era of hydraulic mining had long reaches of deep water intervening between shoals, sometimes miles in extent, and some of them having a depth of thirty or forty feet; but now all of these deep reaches or pools have been filled, and those rivers, and in fact all mining streams, are as deep at one point as another, having established a uniform grade from the mines to the tide-water, and now all of the material torn loose in the mountains by mining operations that is movable by water at once starts upon its journey down this uniform grade to the bays below, with no catch-basin, deep pools, or other obstruction to intercept it until it comes to rest in the harbor of San Francisco.

In view of this fact, and in view of the wonderful improvements constantly being made by the ingenious miner in facilities and appliances in mining, it is hardly an extravagant figure of speech to say that the Sierra Nevada Mountains are literally moving down into our bays. It is safe to say that in the next ten or fifteen years the deposits reaching tide-water will be many hundred times greater in amount than they have been in the past. It is but a question of time, and with all due respect to Captain Patterson but a short time at that, when the tidal area inside the Golden Gate will be so diminished that the entrance to the bay of San Francisco will be seriously injured. In fact, sir, it is the best judgment of those who know most in regard to the matter that ultimate destruction is impending, and it is only the vast amount of capital invested in mining operations that has prevented the suppression of hydraulic mining operations. The destruction of that harbor, which is the finest in the world, and the only one of importance in a stretch of about one thousand miles of seacoast on our western border, means the destruction of the largest part of our commerce upon the Pacific Ocean—a destruction of our overland commerce and a fearful blow to the general commercial interest of our whole country, and an absolute destruction to every interest of California, and such a calamity as this Government is bound by every consideration to avert and can by no means permit.

I have heard the statement from gentlemen on this floor that it is a State matter, and that if our citizens fill up our rivers and bays we must bear the consequences. I would remind gentlemen who take such a short-sighted view of this question that from what I have already said it is pre-eminently a matter of national concern, and further that the Government constitutionally controls the navigable waters of our country, and that she controls commerce, imposing such regulations and making such restrictions as she deems best for the general interest; and to this end it has always been her policy to protect and improve her rivers and harbors in the interest of commerce.

A bill has this day been agreed to by both Houses of Congress appropriating nearly $9,000,000 for this very purpose. I would have gentlemen call to mind the large appropriations already made and the many millions in contemplation for the improvement of the Mississippi River. I approve the policy that seeks to open up, improve, and preserve these great national highways of commerce, especially in this day of combination of railroads and other corporations. I regard it as one of the means of protecting the people from extortion, robbery, and enslavement.

But gentlemen further say we must, then, prohibit these operations by which such injury is being done and likely to be inflicted upon the general interest of the country. I am ready to admit that such is the proper step to be taken if that is the only alternative to avert the impending destruction. But, sir, justice to the miner and the vital interest the whole country has in keeping the gold yield up to the greatest volume possible should be considered. While we must preserve our rivers and harbors at all hazards, we should hesitate before we take such action as will materially diminish the production of the precious metals.

Let us examine this point a moment as we pass along, and see what effect a decrease in the amount of the precious metals produced will have upon the business prosperity of any country, and especially a country so heavily in debt as ours, and I think it will be evident that it is of great interest to the United States that the volume of the precious metals in use as money should not be diminished.

The precious metals in circulation as money are the most important factors in fixing the price of all commodities. The prices of commodities generally will depreciate with the diminution of the amount of money in circulation, and will be advanced by the increase of money. Were a country entirely free from debt, public and private, the volume of its money, whether great or small, would be a matter of comparative indifference; but to a country with a vast volume of public and private indebtedness it is a question of the very first importance that the volume or amount of its circulating medium shall not be diminished. A diminution in the amount of its money would cause an appreciation of its value and a corresponding reduction in the prices of all commodities. The amount of the debts meanwhile remaining the same, it is clear that a larger share of the products of the country will be required to pay them. A bushel of wheat, for instance, when wheat is a dollar and a quarter a bushel, will go as far in paying a debt as a bushel and a quarter when it is only a dollar per bushel. All debtor countries have an interest in high prices for their products, and a depreciation in such prices below what they were at the time when the debts were contracted will inflict a hardship if not injustice on such countries. The United States is at the present time a debtor country on a colossal scale. The public debts are in excess of $3,000,000,000. The annual interest on these debts cannot be less than $150,000,000. The money to pay these vast sums, principal and interest, must be paid by taxation, and paid from the joint earnings of labor and capital. Suppose these debts have an average of twenty years to run: in that case, assuming the principal of the debts to be $3,000,000,000, the total sum which the country will have to pay is $6,000,000,000. In addition to the above, the quasi-public corporations of the country, such as the railroads, owe other thousands of millions, to say nothing of the purely private indebtedness of citizens. Justice demands that the debtor should be protected as far as practicable from the hardship of being required to pay his debts in a more valuable money than that in which he contracted them.

I shall not dwell upon the extent of the hardships that would fall on the debtor class of citizens should the Government pursue a course which would result in a material diminution of the gold available for money. I shall content myself with showing how even a slight appreciation in the value of money with which we are bound to pay all public debts, resulting from a diminution in its supply, would be adding to the burden of the debt and practically add millions and millions to its amount. I have assumed that the aggregate of our public debts is $3,000,000,000; that our annual interest account is $150,000,000; and that the debts have an average of twenty years to run. This gives a total of $6,000,000,000 which the people of the United States must pay from their earnings, the joint products of their labor and capital. Now, if through diminished production of gold the volume used by the nations of Europe and America should become so impaired as to raise its value, say an average of 5 per cent. during the period in which we pay off our public debt, there would be practically added to the debt $300,000,000; and if the value of gold should be raised by an average of 2 per cent., the practical addition to the debt would be $120,000,000.

Now, is it possible or conceivable that there should be through the diminished production of gold such an appreciation in the value of our money? Why not? Owing to the abundant production of silver from the mines of Mexico and Peru corn rose in Europe, from 1570 to 1640, from about two ounces silver per quarter to six or eight ounces. Adam Smith, remarking on this phenomenon, says:

> The discovery of the abundant mines of America seems to have been the sole cause of this diminution in the value of silver in proportion to that of corn. It is accounted for accordingly in the same manner by everybody, and there never has been any dispute about the fact or about the cause of it.

Hume remarks on the occurrence:

> By the most exact computations that have been found all over Europe, after making allowance for the alterations in the value or the denomination, it is found that the prices of all things have uprisen three or at most four times since the discovery of the West Indies.

Mr. Jacob estimates the increase in the prices to have been as from 100 to 470.

Thus does it appear by the concurrent testimony of all these economists and statisticians that the increased productions of silver from the mines of Mexico and Peru caused an increase in the price of all commodities in Europe of from 300 to 400 per cent. Professor Jevons estimates that the value of gold fell between 1789 and 1809 46 per cent.; that from 1809 to 1849, from diminished products, it rose 45 per cent.; and between 1849 and 1874 fell again at least 20 per cent.

These estimates are probably more or less close approximations to the truth; but still they indicate with sufficient certainty that in the past the value of the precious metals has appreciated with a diminution in their production and depreciated with an increase in their production. California is now one of the chief gold-producing countries of the world, and the yield of the hydraulic mines is almost two-thirds of the whole yield of the State; and hence to prohibit mining by the hydraulic process would destroy a very large yield of gold, because but few of the mines now operated by the hydraulic process can be worked profitably in any other way.

It would certainly be unwise to resort to this extreme measure when competent engineers have said, after thorough examination, that measures can be adopted by which these mining operations may be continued without inflicting this injury now attending them. The State engineering department of California, which has, as before stated, during the past two years thoroughly investigated this subject, and was aided in the investigation by the United States engineers upon that coast, after careful investigation has determined that it is feasible and within reasonable cost to impound the *débris* in the mountains, streams, and cañons adjacent the mines by placing riprap dams across them, thereby creating reservoirs of sufficient capacity to retain not only the vast quantities of loosened material now in the streams and on its way down to lower levels, but to restrain and store up the *débris* from future mining. The sites of a number of the proposed dams have been selected, and carefully approximated estimates have been made of the cost and capacity of each; in fact, everything has been done except the construction of the works.

The State of California at the last session of its Legislature passed a law authorizing the construction of these dams, and has levied a tax upon the property in the State sufficient to raise about $400,000 per annum to prosecute the works, thereby seeking the protection of the agricultural interest, the towns and cities of the valleys, the property of her citizens. Now, as these works are of great cost, and if successful will preserve the rivers and bays, the property of the United States, it is but just and the bounden duty of the United States to aid in the protection of her interests, especially when these interests are of such vast magnitude and the entire people of the United States to be the beneficiaries. I hear some gentlemen say it is but an experiment. I grant it. What new engineering proposition is not to some extent an experiment? The Eads jetty upon the Mississippi was an experiment. The Suez Canal was an experiment; the proposed interoceanic canal and Eads ship railroad across the Isthmus of Darien may be said to be experiments. In fact it is an age of experiments; they are the glory of the times, and without experiments progress must cease. But, sir, because some gentlemen are perfectly satisfied with their own judgment upon a subject they never investigated, notwithstanding their judgment is diametrically opposed to the unanimous judgment of skilled men in engineering who have fully examined the question, are we to withhold action in a matter so vitally important and pressing to thousands of people, to millions of capital, and so deeply affecting the commerce not only of the United States but of the whole world? I think not. I am led to believe that broader and more statesmanlike views will prevail, and we will at least try the experiment of impounding the *débris* in the mountains' cañons when we can do so at such a small cost to the General Government, and thus determine the fact of the feasibility of this remedy.

I cannot close my remarks without calling the attention of Congress again to the fact that, because of the great destruction of property in the valleys and the prospective destruction of much larger quantities, much feeling has been aroused between the residents and property-holders of the valleys and the miners. Expensive litigation has been going on for years and is now pending in our courts, the agriculturist seeking to enjoin the miner, and thus save his property; and unless there is some adjustment of the difficulty a collision is not at all impossible. The miner feels that it would be an act of gross injustice to forbid him to work his mine in the customary manner, or that he should be molested in the use and enjoyment of his property, after he has spent years in hardships and privations prospecting and made large outlays and expenditures, building reservoirs, digging canals, running tunnels, opening up his mine; and just as he has commenced to reap the fruits of his long years of toil, to render his property worthless by an injuction is more than he should be compelled to submit to by a just Government. Especially would it be a hardship when we remember that it has been the policy of this Government to reserve the mineral lands free to all for prospecting and development, and that Congress has invited the miner to go upon these lands and search for the precious metals, and permitted him to make his own local laws and regulations under which to conduct his business, and the Government recognizing those laws and enforcing them. After having used the rivers and their tributaries for thirty years as easements and waste-ways, and after having bought his land and paid the Government a high price for it, and after the Government having sold it to him for mining purposes, and it is absolutely worthless to him for anything else, he cannot feel that he should be molested in the common use of his property so long enjoyed, or held responsible for injury to property from forty to two hundred miles away, although caused by his operations.

On the other hand the farmer and the valley resident, like the miner, bought his land from the Government, the Government selling it to him for agricultural purposes, taking his money for it. And after having spent the prime of his life in building up, improving, and beautifying his home, planting his orchards and vineyards, and gathering around him a competence for old age, he cannot understand why his property should be destroyed, his land buried out of sight, and the accumulations of his life swept away as a sacrifice to a business ephemeral in its nature and of far less importance to the country, and he and his family driven forth beggars, compelled to begin life anew at an age when he is no longer able to successfully battle with the reverses of fortune common to all; and no just government can permit such gross wrong to any of her citizens, much less to the agriculturist, who is the base, support, and reliance of all society. With these feelings animating both the miners and farmers, and the magnitude of the interests involved, I repeat what I said before, unless there is some adjustment a collision is not an impossible thing. The question has assumed one of great and grave importance in our State.

In closing, to present the facts clearly, permit me to briefly summarize. The facts are that great impairment and injury have been done to the navigation of Feather and Sacramento Rivers; that large sections of the finest agricultural lands, in a high state of cultivation, together with houses, orchards, and vineyards, have been destroyed; that still larger portions of the great valley of the Sacramento, with cities, towns, and villages, are jeopardized, and unless soon protected will be overtaken by destruction; that river channels have been obliterated; that large quantities of *detritus* have already accumulated in the mountains, cañons, and gorges from mining operations, that will be swept into the valleys and rivers at every freshet; that the complete destruction of the Feather and Sacramento Rivers is in the near future; that extensive deposits are rapidly accumulating in Suisun, San Pablo, and San Francisco Bays; that the tidal area of these bays is rapidly diminishing, which will soon reduce the depth of water upon the bar at the entrance of the Golden Gate, thus destroying the finest harbor in the world, and the only one of importance upon our western seaboard, of more than one thousand miles in extent; that these deposits will be more rapid in future than in the past; because of a uniform grade having been established from the mines to tide-water, less will be deposited on the way down; that there is no hope of the cessation of the evil, but that it must increase and intensify, because the mines are practically inexhaustible; new and improved appliances are being brought into requisition, and increased facilities are being added by which mining operations will be conducted on a more magnificent scale in future than the past; that engineers say that it can be impounded in the mountains at a cost not out of proportion to the benefits attained and the evils averted; in a word, that it is the duty of the General Government to apply the remedy and thus save our commerce, save our bays, save our cities, save our valleys, save our farms, save our homes, save our gold productions, save our credit, and save our property. This bill only appropriates the small sum of $250,000, but little more than half the amount appropriated by the State, to be expended under the direction of the War Department in carrying out these remedial measures.

And now, once for all, let gentlemen understand that our fair State is not to be sacrificed in yielding the shining ducats; the goose that lays the golden eggs is not to be slaughtered; and that this system of storage or the cessation of hydraulic mining are the alternatives presented. In my judgment you will not have performed the full measures of your duty as Representatives of a great and progressive Government unless you grant this appropriation.

A plea for the improvement of Flint River, in Georgia.

REMARKS OF HON. W. E. SMITH,

OF GEORGIA,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, June 5, 1880,

On the bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes.

Mr. SMITH, of Georgia, said:

Mr. CHAIRMAN: I do not propose to discuss the policy which obtains of late of improving rivers and harbors in the several States by the General Government. It is sufficient for my purpose to know that appropriations have been made and will continue to be made for these objects so long as this Government stands. The question to be met is not one of constitutional law or propriety, but of amount in dollars and cents.

In the distribution of Federal aid to commerce and freight transportation, by improving rivers and harbors, the State of Georgia, though sparingly treated heretofore, should receive from this Congress a liberal amount in aid of her water highways. While I am as much interested in the appropriations for the Savannah River, the harbor of the port of Savannah, the Oconee River, the Ockmulgee River, the Coosa River, and the ports of Brunswick and Darien, as any of my colleagues, still I desire to press on the attention of the Com-

mittee on Commerce and this House specially the necessity of a further appropriation for the Chattahoochee and Flint Rivers.

The Chattahoochee from Columbus, Georgia, to the junction is in fair boating order, and several large steamers are annually engaged in the carrying trade, a business which is constantly increasing. By the report of the engineer in charge for the year 1877 it will be seen that there was transported on this river, "cotton, bales, 31,730; value of merchandise, $5,796,800."

Obstructions to navigation have been removed, and all that is necessary now is for a sufficient annual appropriation to keep the river in good condition. The Flint, although a magnificent river, and capable of being permanently improved, has received but little attention either from State or Federal governments. Some time during the period from 1843 to 1848 the State of Georgia appropriated $1,000 to improve its navigation. This amount was expended under the direction of Dr. L. B. Mercer, of Lee County, who succeeded in improving the condition of one or two shoals and demonstrated beyond controversy that the river was capable of being permanently improved at a small cost. The State did not follow up this appropriation, and the river was neglected until 1872, when a small sum was appropriated by Congress for a survey from Albany to the junction. This was obtained by Hon. R. H. Whitely. The river was surveyed and the estimate for all improvements was fixed at $118,105. In 1873 and 1874 no appropriation was made. In 1874 and 1875 the sum of $25,000 was appropriated jointly to the two rivers, Chattahoochee and Flint. The engineer in charge, in his discretion, did no work on the Flint, but expended the sum of $13,417.38 on the Chattahoochee.

In 1875-'76 the further sum of $25,000 was appropriated by Congress for the improvement of both rivers. Except to remove "all snags, logs, and overhanging trees interfering with navigation from the junction to Bainbridge," no work was done on this river. The sum of $8,979.56 was expended, and the Chattahoochee got the greater share.

In 1876-'77, in August of 1876, the further sum of $20,000 was appropriated to both rivers. No work was done on the Flint, but the sum of $22,037.97 was expended on the Chattahoochee.

In 1877-'78, during this fiscal year, the working party "began at the wharf at Bainbridge and worked down to Lambert's Island, seven hundred and sixty-three cubic yards of rock and one hundred, and sixty-eight sunken logs were removed. The sum of $21,647.57 was expended, and the Chattahoochee received the lion's share. Seeing that the Flint was neglected, I introduced a bill asking for a special appropriation. This received the sanction of the Committee on Commerce, and an appropriation of $10,000 was made, June 18, 1878, for the Flint alone.

In 1878-'79 work was prosecuted at Lambert's Island, Broadaxe, Bryant's Rocks, Cross Chute, and Red Bluff to completion.

The amount credited to Flint River was—

On hand	$11,958 76
Appropriated March 3, 1879	7,000 00
Total	18,958 76
Amount expended	8,088 27
Amount available	10,870 49

In 1879 and 1880 the working party commenced at the Fodder-stack shoals, and was prosecuting the work up the river, but working with but little progress. The amount appropriated this year (1880) is $10,000 for the river from Albany to the junction; and $10,000 from Albany, Georgia, to Montezuma. It will be seen that the Chattahoochee River up to 1878 received nearly $70,000, while the Flint received but little, and since June 18, 1878, the Flint has received $27,000. From this amount a deduction is to be made of expenditures for the fiscal years 1877 and 1878, of $8,088.27. This is an official history of the improvements on Flint River.

Before the construction to Albany of the Southwestern, Atlantic and Gulf, and Brunswick and Albany Railroads, Flint River was our main reliance for the transportation of the products of our soil to market. The roads soon monopolized the carrying trade, and our river was abandoned. These corporations, instead of competing with each other in a fair business manner for freight and passengers, soon entered into a "pooling contract," by the terms of which one road transports almost the entire freight to and from our section and receives for it an agreed share of the "pool." The other roads, though carrying a light freight, participate also in the "pool." This practice prevents fair business competition, and encourages the roads to dictate at will their own tariff of rates. Thus, when we had a free water outlet to the Gulf coast we shipped our cotton at a rate of from 20 to 25 cents per hundred pounds. But recently, under the "pooling system," we had to pay the railroads from 65 to 90 cents per hundred pounds. This extortion demanded relief at once, and our people again turned their attention to the river, and to legislation. With a navigable river we hope at least to hold these "pooling" railroads to moderate rates of freight.

The counties contiguous to the river, as far as surveyed, to wit, Baker, Calhoun, Colquitt, Decatur, Dooly, Dougherty, Lee, Miller, Mitchell, Sumter, Taylor, Terrell, Thomas, Worth, and Macon have 959,845 acres of improved land and 1,548,319 acres yet to be improved. These counties, by the census of 1870, produced 89,363 bales of cotton, 116,451 pounds of wool, 343,101 bushels of sweet-potatoes, 226,349 bushels of corn, besides pease, sirup, &c., and since then there has been a general increase of these productions. The report of the engineer in charge, of 1878, contains a statement of the trade on the Chattahoochee and the Flint, the latter being only navigable to Bainbridge:

Articles.	Quantity.	Value.	Freight.
Cotton, bales	32,850	$1,971,000	$32,850 00
Oranges, boxes	5,317	47,853	1,592 10
Sirup, barrels	3,115	62,300	2,800 00
Flour, barrels	43,000	387,000	12,900 00
Corn, sacks	31,304	46,956	6,260 80
Bacon, pounds	600,000	48,000	18,000 00
Meal, sacks	43,000	64,800	8,640 00
Assorted freight, packages	51,000	2,963,000	16,940 00
Total		5,590,909	99,982 90

From these statistics we can gather the present trade on these rivers, and a very satisfactory idea of what it will be when the Flint becomes navigable from Montezuma to the junction; from Montezuma to the Gulf. When our population shall have increased, and with its increase our productions shall swell twice as great, with communication to the Atlantic coast by rail and water communication with New Orleans and the great West, we may expect to realize that prosperous condition of our section to which our climate, soil, productions, and advantages entitle us.

We may safely conclude, first, that there is a necessity for the improvement of Flint River; and, secondly, that it is susceptible of being made a first-class navigable stream at a small cost.

Democratic attacks on the National Election Laws.

SPEECH OF HON. J. A. ANDERSON,

OF KANSAS,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, June 15, 1880,

On the Senate concurrent resolution in relation to the joint rule for counting the votes of electors for President and Vice-President.

Mr. ANDERSON said:

Mr. SPEAKER: I desire to present some considerations bearing upon the general designs of the democratic party respecting the election laws rather than upon the particular bill under consideration.

There are certain truths born with and inseparable from the very existence of this Forty-sixth Congress which no power can change, no sophistry contort, and no cunning conceal from the American people.

THE SOLID SOUTH IN COMMAND.

The first is that the solid South, after an interregnum of eighteen years, on March 4, 1879, under the name of the democratic party, practically regained the absolute control of both branches of the legislative department of that Government from which it attempted to secede in 1861, and against which until 1865 it waged the most desperate and colossal war of the century. I am neither seeking for an explanation of the causes which produced an event without parallel in history, nor commenting upon the generosity which made it possible, but am simply stating the astounding fact that the South, which surrendered to the United States in 1865 at Appomattox, governs the United States in 1880 at Washington.

FIGURES WHICH SHOW IT.

That such is the case is clearly shown by the official records. The Senate is composed of 76 Senators, representing thirty-eight States, 39 votes being a majority. Of these Senators 42 are democrats, 33 are republicans, and the one independent seeks shelter from presidential lightning under a solitary tree in the democratic meadow. Of the democratic Senators 20 are from the eleven States which seceded, and 10 more from Southern States which sympathized with secession, giving 30 of the 42 democratic Senators from the old slave States. Twenty-three of these Senators were officers in the army or government of the confederacy, and compose a majority of the democratic caucus which governs the party that rules the Senate of the United States.

The House is composed of 293 members, 147 votes being a majority. Classified politically, 147 are democrats, 130 republicans, and 16 greenbackers, the majority of whom are democrats, and so vote on all important questions. Classified sectionally, 68 members are from the seceding States, and 30 more from sympathizing States, making 101 from the old slave States. In the democratic caucus, where 74 votes constitute a majority, the solid South has 99 Representatives, 67 of whom were in the confederate army or government; and that caucus rules the party which rules the House.

In a joint caucus of the democrats of the two Houses there are 189

votes, 95 being a majority. Of these 128 are from the old slave States and 61 from the free States. And an examination of the various committees of the two bodies will show the same proportions and preponderance.

THE DOG WAGS THE TAIL.

With respect to the internal affairs of the democratic household an outsider cannot so confidently speak; yet when the family airs itself in public it is easy to see that the old story of human nature has repeated itself, and that the northern converts have outrun the southern saints in zeal. It is an open secret that as a rule the former are the most radical and the latter the most conservative, even when measured by the Calhoun standards of democracy.

But were this not the case the South would rule the democratic party for the same reason that a dog wags his tail, namely, because the tail cannot wag the dog. And whatever else may be denied or forgotten the fact looms up as a mountain peak above the plain that in each House of this Congress the solid South, which but fourteen years ago was fighting the flag and shattering the Constitution, today rules the nation and clucks as fussily over the "unconstitutionality" of election laws as does an old hen over one chicken.

THE IMMEDIATE OBJECT OF THE DEMOCRATIC PARTY.

A second fact, as irrepressible as the first, one which follows logically and necessarily from the first, is the object which the democratic party deliberately and avowedly set itself to accomplish in this Forty-sixth Congress, namely, the instant repeal of all statutes which its leaders chose to designate as "war measures," or as measures "born of passions incident to the war."

It is not surprising that the gentlemen from the solid South should entertain such a desire, and should seek to accomplish precisely this object. It would be very surprising if they did not. Because the people of that section were born into the belief that slave-holding was a divine right, just as Bostonians are born with the belief that "culture" is strength. The perpetuity of slavery was the back-bone of their political system. They intensely believed that the first election of Lincoln imperatively necessitated a war by them in defense of their social and commercial existence; and with a unanimity rarely paralleled they gave satisfactory proof of their sincerity upon many a bloody battle-field, and by a patient endurance of privations as a people of which the North had but slight conception. The verdict of the war was accepted from necessity and not from choice. And the supposition that their representatives, upon regaining the control of Congress, would be satisfied with the political results of the war, runs athwart all the experience of human nature. The North should have expected precisely what it now knows, namely, that they would seek with all the tenacity and dash of the rebellion to set aside anything and everything which is not in accord with the State-rights theories of Calhoun. Any other expectation must rest upon one of two erroneous suppositions: either that they were not sincere in their war convictions, or that their humanity is of a different type from ours.

"THE ELECTION LAWS MUST BE REPEALED."

Hence, the line of attack chosen by the democratic leaders was precisely the one which might have been anticipated by every student of human nature, namely, the repeal of the laws regulating national elections; because the destruction of these laws subverts the national power and subordinates it to the power of the States. As we look back at the measures vigorously pressed by the democratic party in this Congress it is easy to see that, apart from routine business, the only thing which it has honestly tried to do was to repeal, or hamper, or nullify four groups of existing statutes:

First. Those which empower the United States Government to detect and prevent the registration of illegal voters at its elections.

Second. Those which empower the Government to prevent intimidation and to maintain peace at its polls by the exercise of its civil power in the person of its marshals and the *posse comitatus*.

Third. Those which empower the Government to prevent intimidation and preserve the peace at its polls by the exercise of the military power of the nation, as organized in its Army, Navy, or militia.

Fourth. Those which empower the Government to detect and punish crimes against its election laws.

These various statutes are not "war measures." Many of them were enacted in the days of Washington; others were passed at an early day to meet threatened insurrections; others were necessitated by the wonderful increase of our population from three millions to forty-five millions and by the consequent massing of criminal classes in large cities. All of these statutes tend to secure freedom of elections, purity of ballot, and honesty of returns. Their whole form and moving are in those directions; and they stand as an army between peaceable citizens and cheating ruffians. Their repeal would be in the interest of rascality and rioting. Wipe them from the statute-book and you make the practice of fraud easier, its detection more difficult, and its punishment impracticable.

But to effect these repeals has been the absorbing purpose of the democratic party in the Forty-sixth Congress. It has assaulted each and every safeguard against the intimidation of voters, against illegal voters, against ballot-box stuffing, against false counting, against thugs, white-liners, and ku-klux at the nation's elections. It has lost no opportunity, spared no effort, and used every means to destroy these safeguards.

WHY THE DEMOCRATS WANT THE ELECTION LAWS REPEALED.

And the reasons for these efforts are patent and twofold.

First. The theory that a State has the right to secede having been negatived by the war, there is only one remaining mode of subordinating the power of the nation to the power of the States, and that is by destroying the purity and freedom of national elections.

Second. It is only by such subordination that a small minority can hope to maintain its rule over a large majority.

Whether the first of these reasons operates in the minds of many persons, is a question which every man can decide for himself. But that the second reason is sufficiently powerful and operative in many localities to influence large masses of men there can be no question. In many districts represented on this floor the colored voters are an overwhelming majority. When permitted to do so they have repeatedly chosen men of their own race as representatives; and the fact that they do not now follow this rule of human nature is strong evidence that they are not permitted to cast a free ballot and have an honest count. I could name eleven members of this body, casting eleven votes in the House and fifteen or twenty votes in its committees, while I cast but one, and yet the 51,110 votes polled at my election outnumber the total of all the votes polled in all of these districts put together. The number of votes polled in the three Kansas districts is greater than the whole number polled in twenty southern districts.

It is wholly immaterial what explanation may be given of these facts; you cannot explain the fact away. It remains all the same as an undeniable fact after you are done, and it proves this much at least: that some force, be it one thing or be it another, which is not operative in the North is operative and powerfully effective in the South. Be the cause what it may, the result is that a small minority in the Southern States casts more votes in this House and in its committees than are cast by a much greater majority in the North and West.

No gentlemen better understand the worth of this advantage to the democratic party than do its leaders, and no section more thoroughly realizes the vital importance of retaining this advantage than does the democratic South; and these patent facts afford a satisfactory explanation to the country for the extraordinary zeal shown by that party, and the revolutionary means sought to be used by it in attempting to repeal the national election laws.

DIFFERENCE BETWEEN NORTHERN AND SOUTHERN VIEWS.

I desire to give full credit to gentlemen on the other side. When they declare, as they have repeatedly done, that the doctrine of secession was irrevocably decided by the war, that the South will hereafter be as loyal to the flag as will the North, that in case of a foreign war the men in gray would stand shoulder to shoulder with the boys in blue, and that this Union is one and indivisible, both now and forever, I accept their declarations as genuine and true.

But the difference between us, as I understand it, is this: At the close of the war the North somehow jumped into the belief that the real issue in trial was not simply the question whether a State had the right to secede, this was only the pretext; nor chiefly the matter of slavery, that was only an incident; but that the main and real question was the whole doctrine of Calhoun State rights, as contradistinguished from the Websterian doctrine of nationality. We regarded secession as merely a sample of the cargo of claims, and that when the South surrendered the sample it surrendered the cargo. In other words, we supposed that the whole Calhoun theory was on trial in the right of secession, and that the overruling of that alleged right was a final settlement of the entire theory.

You, on the other hand, now claim that the only question at issue was the single item of secession, and that all other items of the Calhoun doctrine are yet in dispute. I can readily see how this position is consistent with your declarations of loyalty to the Union. But I fancy that the American people will decide the remaining counts quite as effectively by ballot as the heresy of secession was decided by the bullet. In any event, it is well that the present issue shall be clearly defined and precisely understood by all parties.

THE TRUE ISSUE BETWEEN THE REPUBLICAN AND DEMOCRATIC PARTIES.

And that issue is simply the question whether "the Constitution as it was," or "the Constitution as it is," forms the organic law of these United States; and whether, in the interpretation of that instrument, we are to follow the teachings of Washington, Jackson, Webster, and Lincoln, or those of Calhoun and Jefferson Davis. Is this a nation or is it a confederacy of States? Is the Constitution a mere agreement of copartnership, or is it a constitution, a something which makes the States "stand together," which binds them into one, as motherly love binds the children into one family and makes them forever to stand together as one family in the eyes of man and God? Are the laws passed by Congress in pursuance of the provisions of that Constitution equal in force to those of a State? Do they reach over every valley, mountain, and acre, or are they estopped and bounded back by State lines? Are the people, the whole people, whether living in one State or another or in no State, the full and final source of power, the complete sovereign; or are the States the sovereign?

All of these questions are in issue, and they are all embraced in the one question whether we have the constitution of Jackson or of Calhoun, that of Lincoln or that of Jefferson Davis? I risk nothing in

averring that the differences which have existed between the two parties on a hundred bills before this House arose from exactly this source and from no other. And just this great question is the real difference to-day, and for years will be, between the democratic and republican parties. The former is governed by the principles of Calhoun, the latter by the principles of Webster; and it is for the people to decide between them at the ballot-box.

REVOLUTIONARY ATTEMPTS OF THE DEMOCRATIC PARTY.

There is a third fact, inseparable from the very existence of this Congress, namely, the unconstitutional and revolutionary methods by which the democratic party has sought to repeal the election laws.

In the closing hours of the Forty-fifth Congress a democratic House said to a republican Senate, you must either consent to the repeal of these laws, as effected by the riders on the appropriation bills, or the whole machinery of the Government shall stop for want of money. Under the Constitution the consent of the House, the consent of the Senate, and the consent of the President are each and all necessary to the enactment of a law. But the House alone consented to this repeal; the Senate dissented; and the alternative which the democratic party thus presented was precisely the alternative which a highwayman presents at the mouth of a revolver, "Your money or your life!" The Senate promptly rejected a method alike unconstitutional and outrageous; the House passionately refused appropriations; and by so doing compelled the President either to call an extra session or consent to the destruction of the Government—a question which he very promptly decided.

And thus it was that this democratic Congress, having control of both Houses, prematurely forced itself into existence by the extra democratic session, which proved to be extra-democratic folly, and therefore utterly useless, as the regular quantity and quality of that article are amply sufficient.

In that extra session the only two arguments advanced for the repeal of the election laws were:

First. That they were unconstitutional; a point which has since been ruled upon by the United States Supreme Court affirming their constitutionality.

Second. The argument of the brigand, no longer addressed to the Senate by the House, but addressed by both House and Senate to the President.

For months these walls rang with passionate declarations of democratic orators that not a dollar should be given till their demands were granted. Like the leap of the lion was the reply, "You failed to shoot the Government to death, and now starve it to death if you dare!" And the lion heart which uttered those words will wield the veto power for four years to come. The issue was squarely made with President Hayes, "sign or starve!" He did neither! He vetoed; vetoed with the regularity and dispatch of a trip-hammer; pounded some glimmerings of common sense into the democratic head; and the people pounded the king of the democratic caucus out of the Senate and JAMES A. GARFIELD into it.

Then came the regular session; and the only tangible thing which the democratic party has done has been to pass the appropriation which it had vociferously protested it would not pass, and then adjourn! It wanted "to go home!" The election laws remain unrepealed, and the democratic party will remain at home.

Public Building at Rochester, New York.

SPEECH OF HON. E. G. LAPHAM,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, June 12, 1880,

On the bill (H. R. No. 2531) authorizing the erection of a public building at Rochester, New York.

Mr. LAPHAM said:

Mr. SPEAKER: It may seem to members of this House unacquainted with the facts a discourtesy on my part to antagonize the wishes of my colleague [Mr. VAN VOORHIS] in making any opposition to the bill now under consideration. He so characterizes my action. The first knowledge I had in respect to the design of the bill so far as it seeks to affect the interests of my district was the receipt of the report on the subject, from which I make the following extract:

The United States district court is held at Rochester, but it is compelled to take such quarters in the county court-house as it can get. No rent is paid for its accommodation. If rooms were rented suitable for this court it would be quite expensive.

The United States circuit court is now held thirty miles off from the main line of travel at Canandaigua, where the Government owns a small interest in a court-house, (about $16,000;) but ought to be held and would be held at Rochester if the United States had suitable accommodations there.

On reading this report I at once called upon the chairman of the Committee on Public Buildings and Grounds for an explanation as to the origin of these most extraordinary statements. I was by him referred to the gentleman from Maine, [Mr. MURCH,] who drew the report, and was informed by him that all the committee had as a basis for its action was a letter from my colleague [Mr. VAN VOORHIS] which I would find on file with the Clerk. I obtained the letter, and from it I quote the following:

The United States district court is held at Rochester, but it is compelled to take such quarters in the county court-house as it can get. No rent is paid because none is charged. It begs its accommodations. If rooms were hired suitable for this court it would cost a considerable sum of money.

The circuit courts are not held there, *but ought to be, and would be if the United States had a court-house there. This court is now held thirty miles off from the main line of travel*, because the United States has a *small interest* in a court-house at Canandaigua, about $16,000 I am informed. It is annoying and expensive to hold this court *in an out-of-the-way place*. Rochester is the central point, but it has no accommodations for this court.

The report is almost an exact transcript.

On reading this extraordinary and most deceptive statement I at once prepared and filed with the committee my own statement, as follows:

The June term of the circuit court for the northern district of New York was appointed in 1838, and the court has been held at Canandaigua since that time. It was removed from Albany to Canandaigua. The court was held in the county court-house until about the year 1856. In 1852 it was proposed to build a new court-house, and by an arrangement with the General Government, assented to and ratified by the Legislature of New York and by Congress, a complete set of rooms for the United States, including court and jurors' rooms, clerk's and marshal's offices, a fire-proof vault, and a post-office, were built under the same roof with the court rooms and clerk's and surrogate's offices for the county. The sum of $28,000 has been contributed by the Government toward the expense, and the county is bound by a covenant in the grant to the United States to keep the rooms in repair, to rebuild in case of fire, and to maintain and furnish said rooms without expense to the United States. They are as convenient and commodious as any in the State.

These are all matters of record in the Treasury Department, in the division of public buildings and grounds. Except some lock-boxes recently furnished to the postmaster the Government has been subjected to no expense since the building was erected.

In 1838 the only line of railroad which passed through the State of New York was that which runs through Canandaigua nearly upon the line of the old stage-route from Albany to Buffalo. That was not then fully completed. The Rochester and Syracuse road, which runs through the Montezuma marshes, called the direct road, was not built for many years afterward. At this time there is more travel over the old road, so called, from Rochester to Syracuse, than upon any other line in the State excepting the through travel from east to west.

The Northern Central Railroad runs from this city directly to Canandaigua, and all the southern part of the State can reach Canandaigua by that route more easily than Rochester. The people of Syracuse and from the northern district and State north and east of Syracuse can get to Canandaigua as quick and cheap as to Rochester. So from the city of Auburn and the villages around the Cayuga and Seneca Lakes. The gentleman who furnished the letter from which the report of the committee was drawn, of which the report is almost an exact transcript, comes to and returns from this city to his home by way of Canandaigua, or else he gets off the main line in coming and returning. He may call it wandering "off the main line," still he is on the "right track."

One or more efforts were made some years since to remove the court to Rochester, but the judges, including Judge Smith Thompson, Judge Conkling, Judge Nelson, and Judge Hull, all opposed the change. I am not aware that any such effort has been attempted until now since the Government quarters were furnished, as I have stated.

E. G. LAPHAM.

I also procured and filed with said committee a copy of the grant to the United States and the letter of Attorney-General Black as to the title, which are printed in the remarks of my colleague. With that I also filed the letters of the Secretary of the Treasury and the opinion of the Attorney-General of the United States, which I will read:

TREASURY DEPARTMENT, *April* 30, 1860.

SIR: In reply to your letter of the 28th instant, asking for a statement of what the records of this Department show as to the rights of the United States in the premises occupied for United States court purposes at Canandaigua, New York, I have the honor to inclose herewith for your information a certified copy of a lease in perpetuity from the supervisors of the county of Ontario, State of New York, to the United States of a portion of the county court-house in the city of Canandaigua, which was executed in accordance with an act of the Legislature of the State of New York, passed April 12, 1859.

I also inclose copy of a letter dated March 17, 1860, from the then United States Attorney-General, Hon. J. S. Black, certifying to the validity of the above specified property in the supervisors of the county of Ontario.

The consideration specified in the lease, $12,000, which has been paid, was appropriated by act of August 18, 1856, making appropriation for certain civil expenses of the Government for the year ending June 30, 1857. (U. S. Stats., vol. 2, page 84.) Subsequently Congress appropriated by act approved January 24, 1873, (U. S. Stats., vol. 17, page 419,) the sum of $18,000 for the perpetual use, repair, and care of the rooms in question, which amount was paid in February, 1873.

I am, sir, yours, very respectfully,

JOHN SHERMAN,
Secretary of the Treasury.

Hon. E. G. LAPHAM,
House of Representatives, Washington, D. C.

TREASURY DEPARTMENT, *May* 5, 1880.

SIR: In reply to your favor of the 1st instant, I have the honor to inclose herewith for your information copy of a letter addressed on the 10th of January, 1879, by this Department to the honorable Attorney-General, inquiring whether, in his opinion, that portion of the county court house building in the city of Canandaigua, county of Ontario, State of New York, which has been granted to the United States by a perpetual lease, can be construed, by virtue of the existence of said lease, as being a Government building, under the control of the Treasury Department, together with a copy of the Attorney-General's reply thereto, in which he states that "there is no practical difference between a perpetual lease and a title in fee; that a perpetual lease of a building must properly be treated as conferring an ownership upon the United States."

The Canandaigua court-house and post-office is therefore, under the opinion above cited, considered Government property, and has been entered on the list of public buildings.

Yours, very respectfully,

JOHN SHERMAN,
Secretary of the Treasury.

Hon. E. G. LAPHAM,
House of Representatives.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., January 10, 1879.

SIR: I have the honor to inclose herewith copy of a lease from the supervisors of the county of Ontario, State of New York, to the United States, of a portion of the county court-house in the city of Canandaigua, for court and post-office purposes, to which your attention is respectfully invited, especially that portion of the instrument which states that in accordance with the act of the Legislature of the State of New York passed April 12, 1859, the board of supervisors of the county of Ontario has bargained, sold, demised, and leased to the United States, in perpetuity, the property herein referred to. The consideration specified in the lease, $12,000, which has been paid, was appropriated by act of August 18, 1856, making appropriation for certain civil expenses of the Government for the year ending June 30, 1857. (See United States Statutes, volume 2, page 84.) Subsequently there was appropriated, by act approved January 24, 1873, (see United States Statutes, volume 17, page 419,) the sum of $18,000, for the perpetual use, repair, and care of the rooms in question, which amount was paid in the month of February, 1873. As application has been made for the supply of lock-boxes for the post-office in that building, I have the honor to request your opinion as to whether this property can be construed, by virtue of the existence of a perpetual lease therefor, as being a Government building under the control of this Department, in order that it may be ascertained whether the expenditure for the lock-boxes desired is one which is proper for this Department to make. I also inclose for your information, as bearing upon this subject, a copy of a letter from this office addressed to the Solicitor of the Treasury, (marked A,) a copy of that officer's reply, (marked B,) and (attached to the lease) a copy of letter dated March 17, 1860, from Attorney-General J. S. Black, in relation to the title to the premises.

Very respectfully,

JOHN SHERMAN,
Secretary.

Hon. CHARLES DEVENS,
Attorney-General.

DEPARTMENT OF JUSTICE,
Washington, January 18, 1879.

SIR: Your letter of the 10th instant incloses to me a copy of a lease from the supervisors of the county of Ontario, made in accordance with and by authority of an act of the Legislature of New York of April 12, 1859, which granted a certain portion of the county court-house in the city of Canandaigua by perpetual lease to the United States.

The inquiry is, "whether this property can be construed, by virtue of the existence of a perpetual lease therefor, as being a Government building under the control of this Department, in order that it may be ascertained whether the expenditure for the lock-boxes desired is one which is proper for this Department to make?"

It would appear from your letter that a portion of the rooms thus perpetually leased to the United States are in occupation of the Post-Office Department. In regard to the perpetual lease I think the law applicable to the case is that which applies to property owned by the United States and that a perpetual lease of a building must properly be treated as conferring an ownership upon the United States.

There is no practical difference between a perpetual lease and a title in fee. Your inquiry, however, assumes that, if the building be one thus owned by the United States, it is for the Secretary of the Treasury to determine whether or not lock-boxes should be provided for the post-office held therein. I would respectfully suggest that as an expenditure that seems to me, if proper to be made, to be one which should be made under the Post-Office Department, and by virtue of its direction by section 4051 of the Revised Statutes, all the postal revenue, including box-rents, is to be accounted for to the Postmaster-General. By section 4052 it is provided that postmasters may allow box-holders who desire to do so to provide lock-boxes or drawers at their own expense, which, upon their erection, become the property of the United States and are subject to the control of the Post-Office Department, and are to pay a rental at least equal to that of other boxes in the said office

The Post-Office Department has an annual appropriation for office furniture of the sum of $20,000. That amount has been appropriated for several years past. It would seem that under this appropriation the Postmaster-General might properly provide letter-boxes or lock-boxes as he might see fit in any post-office of the United States.

The regulations of the Post-Office Department provide, (Regulations of 1873, chapter 12, section 194:) "The Post-Office Department neither owns, erects, nor repairs letter-boxes in post-offices, except when the building is owned by the United States." This regulation contemplates evidently that the expenditure for letter-boxes of all classes, if proper to be made at all, is to be made under the direction of the Post-Office Department. It seems to me that the regulation is proper, and that the appropriation made annually for office furniture would cover an expenditure for letter-boxes if made by direction of the Post-Office Department. I would therefore respectfully suggest that, while the building is one in legal contemplation owned by the United States, the expenditure to which you refer, if made at all, should be made by authority of the Post-Office Department, and is properly chargeable to its appropriation.

Very respectfully, your obedient servant,

CHARLES DEVENS,
Attorney-General.

Hon. JOHN SHERMAN,
Secretary of the Treasury.

This decision of the Attorney-General was obtained on my application at its date, as I was not able to find any record of the building except a brief entry in the books of the Department of Justice, and the grant was filed in the Treasury as a voucher for the money paid by the Government. I did not anticipate at that time that an occasion would so soon arise in which the nature of the right granted to the United States would become so important a subject of inquiry as my colleague has chosen to make it. With this grant before him and the letter of the Secretary, and a copy of the opinion of the Attorney-General in his hands, he is prompted to say:

> This lease makes the United States merely the tenant of certain rooms in the county court-house owned by the county. It is idle to call this a Government building. The United States is a mere joint tenant with Ontario County. It paid one-half the cost of the building to begin with, and has since paid $18,000 more; probably it has paid as much as the whole building is worth, and has no title at all.

These extraordinary statements, as well as the personalities in which my colleague has chosen to indulge, will surprise no one acquainted with his methods. Whoever has the temerity to differ with him or to oppose the accomplishment of his purposes must incur his criticism if not his displeasure. There are many witnesses of this already on this floor. There is in his whole advocacy of this measure a recklessness of assertion which is remarkable for its folly. The Attorney-General says the Government has title. Upon the faith of this the building is registered as a Government building in the Treasury Department. Yet the gentleman says "it is idle to call it a Government building. It has no title at all." What does he care for the opinion of the Attorney-General of the United States? It is in his way. It must be brushed away as so much rubbish and dross. He says the Government has paid as much as the building (at Canandaigua) is worth, $30,000, and yet in his bill it is proposed to expend $300,000, and in his letter to the committee he states:

> Fifty thousand dollars will secure an ample site now, and $250,000 will construct a satisfactory building complete. The bill is limited to $300,000. It will be economy to purchase the site as soon as possible. A year's delay may double its cost. Large and eligible sites can now be obtained for the sum above mentioned.

Whose speculation is this? Thirty thousand dollars for a double court-house and post-office at Canandaigua, and $300,000 for a single one at Rochester. It costs so little to build in this "out-of-the-way place" that the district court which now "begs its accommodation" at Rochester and "takes such quarters as it can get," had better remove to Canandaigua, where ample rooms for its accommodation are owned by the Government.

My colleague stigmatizes Canandaigua as an "out-of-the-way place with a population of a little over four thousand." He is only about half right on this question of population. Fifty per cent. would be a high estimate to put upon all his statements relative to Canandaigua and the rights of the Government there. He says my opposition "seems unneighborly and is unexpected." But for the statements I have challenged in his letter and in the report, I should have made no opposition other than that which all prudent legislators are invited to make to a scheme of which the extravagances of statement to which I have referred seem to be a part. There are about one hundred proposals for public buildings before this Congress. Forty-odd have been reported favorably. None, I believe, have been reported unfavorably. At an average of $150,000 each, a probably fair estimate, the aggregate cost would be $15,000,000. Ten per cent. upon this, to cover interest, repairs, insurance, &c., would amount to one and a half millions. Yet a report from the Committee on Public Buildings just made shows that the entire rental now paid aggregates a much less sum. Ten per cent. upon the amount proposed to be expended at Rochester equals all the Government has paid for a perpetual right (better than a title in fee for it, saves insurance and repairs) to ample buildings at Canandaigua. The gentleman produces a letter from the Secretary of the Treasury which seems on its face to adopt the suggestions of the report which I have been considering. Yet such is not the fact, as will appear by a letter I have just received, as follows:

TREASURY DEPARTMENT, *June* 11, 1880.

SIR: In reply to your inquiry as to whether Department letter of the 1st instant to the chairman of the Committee on Public Buildings and Grounds of the House of Representatives in regard to the need of a public building at Rochester, New York, was intended to be an indorsement of the statement contained in report No. 541, of Hon. Mr. MURCH, of the sub-committee, relative to the location of the courts at Rochester instead of Canandaigua, I have the honor to advise you that it was not the intention of the Department to express any opinion upon this subject, it being a matter pertaining solely to another Department.

With reference to your inquiry regarding the rights of the United States in the court-house at Canandaigua, you are informed that the honorable Attorney-General in reply to a communication of the 10th of January, 1879, asking his opinion in this matter, states that there is no practical difference between a perpetual lease and a title in fee; that a perpetual lease of a building must properly be treated as conferring ownership upon the United States.

Very respectfully,

JOHN SHERMAN,
Secretary.

Hon. E. G. LAPHAM,
House of Representatives, Washington, D. C.

The House will remember that after my colleague had been permitted to print his speech in the RECORD, by unanimous consent, he refused his assent to allow me the same privilege. I leave the question of courtesy to the decision of others.

My opposition to the bill, as will be obvious to all, was prompted by what is said in the letter of my colleague and in the report. I was weak enough to suppose the statement that "the circuit court ought to be held and would be held at Rochester if the Government had a building there," meant something.

> My offense hath this extent, no more.

I am not envious or jealous of the ambitious desires of the growing and neighboring city of Rochester. Yet I do not forget, and cannot and ought not to overlook the fact that the first court held in the State of New York, west of Utica, was at Canandaigua; nor should I forget that Monroe, Livingston, Yates, and Wayne have all been taken from the county of Ontario. This court has been held at Canandaigua for the last forty-two years. All efforts to remove it have thus far failed. While I would by no means disparage the character and intelligence of the people of Rochester and of Monroe County, I still claim what has always been conceded by the judges and officers of this court: that causes are disposed of more to their satisfaction by the determination of jurors in Ontario County than at any other point in the district. The right the Government has purchased and now enjoys and the claims of the county for expending for the use of the circuit court and the post-office more money than it has received in return are not to be snuffed out by a sneer about this "out-of-the-way place," as my colleague so kindly designates it. Nor am I, Mr. Speaker, open to the criticism of having made inexcusable opposition to the pend-

ing bill. The constituency I have the honor to represent would not have tolerated my silence in such an emergency.

My colleague has assented to a proposal I have made to add to his bill the following proviso:

Provided, That the June term of the circuit court of the United States for the northern district of New York shall continue to be held in the court-rooms owned by the United States in the village of Canandaigua, where the same is now appointed by law to be held.

With this proviso or some similar qualification the inference naturally to be drawn from the letter and report will be destroyed and the main ground on which I have opposed the bill will be obviated.

Political Assessments.

SPEECH OF HON. A. J. HOSTETLER,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, June 15, 1880,

On the bill (H. R. No. 2266) to prohibit Federal officers, claimants, and contractors from making contributions for political purposes.

Mr. HOSTETLER said:

Mr. SPEAKER: The bill under consideration has been most persistently opposed by gentlemen of the other side of the House. A person not acquainted with the provisions of the bill, and judging from the determined effort to prevent its consideration and from the speeches made denouncing it in unmeasured terms, would conclude that there was a premeditated attempt on the part of the majority to deprive the people of this great Republic of one of the dearest rights known to the American people, and that they were only saved from this great calamity by the vigilance of the republican party, who it would have them believe are ever true to their rights in the interest of fair elections and the purity of the ballot-box. How strange it will appear to them when they learn that this bill, instead of being the monster that it has been represented to be, is on the contrary a bill to prohibit political assessments to be made or contributions to be levied on clerks and employés of the Government.

This bill assumes that it is not in the interest of fair and honest elections to require these contributions and assessments; that the clerks and employés are in the Government service, and paid at the public expense, and as such cannot and ought not to be considered as a mere perquisite to the party who may happen to be in power, nor should they be expected to aid them to perpetuate their power. If, sir, they are to be considered as mere perquisites, then it is expected that they will contribute of their salary to create a large fund for political purposes; and a failure on their part to pay their assessments or to make contributions would be and is looked upon as an act of ingratitude, for which they may and do expect to be politely informed that their resignations would be accepted, which means to get down and out and give room for one that will pay all demands that may be made on him for political purposes.

And further it is a standing invitation to employés who may desire promotion to contribute largely and others to pay assessments to retain their places, and to that extent it becomes a bribe to retain their places or to gain promotion. And in neither event is the interest of the Government service considered, and instead of honesty, capacity, and fidelity, and a desire to serve the best interest of the Government honestly and faithfully, they are, on the contrary, expected to throw their whole influence and give of their money freely for partisan purposes, whether they approve of the policy or not, and thus they become the mere slaves of party. And the party thus becomes morally bound to protect them by paying large and many times extravagant salaries that they may be able to pay assessments or make contributions to whatever extent the party necessities may require. And further, if they are to be viewed as mere perquisites for partisan purposes, then and in that view of the case it is in the interest of the party in power to increase the number of employés, and thus increase the partisan machinery to obtain money and influence to carry elections.

This is the legitimate result of the position taken by the opponents of this bill. And from this stand-point we can readily see why the numbers of these employés have been doubled in the past few years. Thus it can be seen that this policy leads to corrupt legislation in order to gain partisan advantage, and is in no way in the interest of fair and honest elections.

By reference to the sworn testimony of Mr. Gorham, it will be seen that he, as the secretary of the republican national committee, did collect off of this class of employés during the canvass of 1878 about $80,000, as the following extract from that gentleman's testimony will show. Here follows his own statement made under oath:

By Mr. BAILEY:

Q. I understand that altogether the subscriptions to your fund amounted to about $106,000?

A. Yes, sir; as near as I can get it.

Q. Of which $93,000 came from the officers?

A. From Senators, Representatives, and others.

Q. How much of that came from Senators and Representatives?

A. I cannot state it now. I think that their subscription was pretty general. There were, as we know, thirty-nine republican Senators, and they gave, as a general rule, $100 apiece. There may have been some exceptions; I do not remember. The republican members of the House gave us $50 apiece.

Q. All of them or only a portion?

A. The great body of them. The intention of all was to do it. There may have been a case here and there where it was not convenient.

Q. All the remainder of the $93,000 came from those in the civil service of the Government?

A. Yes; I think so.

Q. And from all the republican party outside of those who were employed you received but $13,000?

A. That is all. I am sorry to say that was all we got from them.

Q. Then your treasury—I mean the treasury of the committee—was recruited chiefly from the employés of the Government?

A. It would appear so from my last answer.

Q. And they bore the expenses of the republican campaign chiefly, with the exception you have named?

A. That would be the inference from the last question and answer.

Q. Were these circulars addressed alike to democrats and republicans who were in the service of the Government?

A. We made no distinction.

This large sum it appears was collected mostly from the clerks and employés in the Departments here in Washington on being presented with a subscription paper, and the following extract shows in part how it was distributed:

Maine, $5,000. New Hampshire, $1,750. Vermont, third district, $500. Connecticut, third district, $1,000. New Jersey, first district, $1,500; second district, $500; fifth district, $500. Pennsylvania, seventeenth district, $1,500. Maryland, sixth district, $1,250. West Virginia, second district, $350; third district, $500. Virginia, second district, $1,000; fourth district, $1,300. North Carolina, to three districts, $1,300. South Carolina, first district, $1,000; fifth district, $600; State at large, $200. Florida, first district, $500; second district, $1,000. Alabama, fourth district, $500. Tennessee, first district, $500; second district, $500. Missouri, second district, $500; third district, $500; seventh district, $100; tenth district, $1,000. Ohio, to nine districts, $9,300. Indiana, to State central committee, with recommendation that it be distributed as follows: First district, $2,000; fourth district, $1,000; sixth district, $1,000; eighth district, $500; tenth district, $500; cannot say whether or not the distribution was made as recommended. Illinois, eighteenth district, $250. Michigan, $5,000. Iowa, $5,000. Wisconsin, $1,500. Oregon, $2,000. Colorado, $1,000. Total, $53,900.

Think of it. This large sum of money was virtually voted out of the public Treasury to aid the republican party to carry the congressional elections of that year. It will readily be seen that the money of the whole people is voted out of the public Treasury indirectly, or a system of black-mailing is resorted to to obtain large sums of money for partisan purposes to perpetuate or continue the party in power. And much larger sums would be assessed or contributions asked for whenever it is deemed that party exigencies demand it, as the following circular letter will show, this being a presidential election:

HEADQUARTERS OF THE REPUBLICAN CONGRESSIONAL COMMITTEE,
1317 F STREET, NORTHWEST,
Washington, D. C., April 19, 1880.

SIR: This committee is organized for the protection of the interests of the republican party in each of the congressional districts of the Union. In order that it may prepare, print, and circulate suitable documents illustrating the issues which distinguish the republican party from every other, and may meet all proper expenses incident to the campaign, the committee feel authorized to apply to all citizens whose interests or principles are involved in the struggle. Under the circumstances in which the country finds itself placed, the committee believes that you will esteem it both a privilege and a pleasure to make to its fund a contribution, which, it is hoped, may not be less than $20. The committee is authorized to state that such voluntary contribution from persons employed in the service of the United States will not be objected to in any official quarter.

The labors of this committee will affect the result of the presidential as well as the congressional struggle, and it may therefore reasonably hope to have the sympathy and assistance of all who look with dread upon the possibility of the restoration of the democratic party to the control of the Government.

Please make prompt and favorable response to this letter by bank check, or draft, or postal money-order, payable to the order of George Frs. Dawson, treasurer, post-office lock-box 723, Washington, District of Columbia.

By order of the committee.

EDWARD MCPHERSON,
Secretary.

Now, sir, there are about one hundred thousand Federal office-holders, and the rate asked for in this letter, which is issued from republican headquarters, would make the net sum of $2,000,000. But it may be claimed that not near all would pay that amount and that some would pay none; but all know that many of this number would pay four or five times that amount. And in most of these places—and, in fact, I may say in all offices of importance—the clerks and employés understand that this demand must be paid or take the risk of having to retire under the guise of bad health caused by an unhealthy atmosphere.

Now, sir, I do not think any gentleman on this floor will pretend that these large sums of money are necessary to secure fair and honest elections; but, on the contrary, I assume that it is in the interest of dishonest and unfair elections, and cannot be considered in any other light than a corruption fund, and is intended to be used for corrupt purposes wherever it is necessary to secure votes, and is not distributed broadcast throughout the United States to each State, county, and voting district, but, on the contrary, it is placed where it will do the most good.

Mr. Speaker, I have a list of twenty-six members of this House whose average majorities or pluralities are less than 350 votes, and in a partisan sense it is just as important to the party to carry its own weak districts as to carry those of the opposite party; hence the money is thrown into the weak districts, as Gorham did, with a view of carrying all.

Now, sir, this money is not used to enlighten the understanding of

the voter but for the more corrupt purpose of colonizing, paying their transportation from points where they are not needed to points where they are needed, and to pay them in whole or in part for their time, that they may vote for the party who gave them employment, and as often as they can or as often as party necessity may require. Or it may be used as an appeal to the voter's appetite, or, if possible, as a more corrupt appeal to his avarice, by placing a ticket in one hand and a greenback in the other as an equivalent for his vote.

Now, sir, take this large sum and distribute it among these close congressional districts or close States; or, sir, if you take half this sum and divide it into twenty-six parts you will have over $38,000 to each district. No person can doubt the result, and all would say that every one of them would be carried for the party using such corrupt funds, and would not only carry all these districts, but several of the close States in which they might be situated, and this alone would be sufficient to change the majority of this House from the democratic party to the republican if used by the latter. And the strong probabilities are it would carry enough close States to secure the Presidency to the party using such large sum.

Now, sir, in order to use this corruption fund it is necessary to find corrupt persons who can successfully distribute it, and they at once become important factors to the party in whose interest they are doing this corrupt work; and this places the party under obligation to the most corrupt and unscrupulous persons in their ranks, and they suddenly become fit persons for whisky gaugers or storekeepers to distilleries, or secret agents and detectives; and in whatever place they may be put you could not expect them to perform their duties honestly and faithfully; but, on the contrary, such persons are fit subjects to become a party to defraud the Government. Nor need we think strange that they should enter into a conspiracy for that purpose, as was done a few years ago on an extensive scale. And I assert that the party that resorts to the use of large sums of money and the services of such corrupt persons has to give them places when demanded or its equivalent, and thus the public service is filled with a number of these corrupt knaves, whose only qualification is the amount of dirty and dishonorable partisan work they have done.

Mr. Speaker, I wish to pay my respects to the remarks of my colleague on the committee, [Mr. HAYES, of Illinois.] In his speech on the 11th of March on this bill he arraigned the democratic party for committing the most heinous crimes, which in my judgment was an unjustifiable attack. He says:

> The history of the democratic campaign of 1876 in the South is but the history of one of the most gigantic schemes of intimidation, fraud, and murder that was ever undertaken by any party.

And on this account he assumes that the honest voter was driven from the polls, and that a fair election would have given the republican party Louisiana, Arkansas, Alabama, Mississippi, both the Carolinas and Florida.

I suppose this arraignment is made in justification of the means resorted to by the republican party of that year to capture the Presidency. Now, sir, does it not occur to that gentleman that in Louisiana they had the governor who made all the appointments of officers of registration and officers charged with holding the elections, and that they had the appointing of deputy marshals without limitation of numbers, together with the power to call to their aid the Army and Navy of the United States, and at the same time claiming to have a large majority of all the voters on their side. With all these facts before us the charge is simply absurd and ridiculous, and in my opinion could only be made in justification of the utter disregard of all law or sense of justice of the acts of the republican party in that State.

The truth is they were beaten by the honest voters of the State by a majority of nearly ten thousand votes, notwithstanding all this machinery in their hands, consisting of all the officers of elections appointed from their own party, including deputy marshals to whatever numbers they might think necessary, and supported by the Army and Navy of the United States.

Sir, I could account for a minority who had to encounter this organized force all on the side of the majority should they set up the claim of intimidation and fraud; but, sir, I am at a loss to know how the so-claimed majority, with this formidable array in their favor, could in any manner set up such claim. He seems horror stricken at what he assumes to have been fraud and intimidation, and forgets that his party in 1876 had the returning board of Louisiana, who disregarded all law and were backed by the Army and encouraged by northern statesmen under promise of reward if they would stand firm in their fraudulent acts, as the following letter to John Sherman will show:

> NEW ORLEANS, *November* 20, 1876.
>
> SIR: We have carefully considered the arguments advanced by you in our interview. Your assurance that we shall be taken care of is scarcely specific enough. In case we pursue the course suggested by you we would be obliged to leave the State. Will you, therefore, state in writing who we shall look to for the fulfillment of those promises.
>
> Respectfully,
>
> D. A. WEBER.
> JAMES E. ANDERSON.
>
> HON. JOHN SHERMAN.

To this letter the following was received by Anderson and Weber in reply:

> NEW ORLEANS, *November* 20, 1876.
>
> GENTLEMEN: Your note of even date has just been received. Neither Mr. Hayes, myself, the gentlemen who accompany me, or the country at large can ever forget the obligation under which you will have placed us should you stand firm in the position you have taken. From a long and intimate acquaintance with Governor Hayes I am justified in assuming the responsibility for promises made, and will guarantee that you shall be provided for as soon after the 4th of March as may be practicable, and in such manner as will enable you both to leave Louisiana should you deem it necessary.
>
> JOHN SHERMAN.
>
> Messrs. D. A. WEBER and J. E. ANDERSON.

Mr. Speaker, I know this letter is called in question and that Mr. Sherman says he does not recollect writing such a letter. Now, sir, with this denial on Mr. Sherman's part, and his former standing as compared with that of Weber and Anderson, who were utterly destitute of moral standing for truth and veracity in society, the inference would be that Sherman did not write the above letter or that he had made these fellows the promise they claim that he had made.

Now let us see if the statements of Weber and Anderson are corroborated by any circumstances of fact that have occurred since Hayes's inauguration as President. I assume that the proof is conclusive and that the very demands made by these gentlemen were fully complied with, as set forth in the Sherman letter, and more than complied with, for all of the returning board except Casanave, together with nearly all their kinsfolk, have been rewarded with office for their fraud and perjury, as the following summary which I have taken from the Cincinnati Enquirer will show, which I adopt as part of my speech:

> Florida, which voted for Tilden, was counted for Hayes. M. L. Stearns was governor of Florida, a candidate for re-election, and beaten in 1876, when the Hayes electors were also defeated, and by nearly the same vote. Stearns gave the certificates to the beaten Hayes electors, and was presently made one of the Hot Springs commissioners at $10 per diem. Samuel B. McLin was one of the State canvassers in Florida that threw out enough democratic votes to give the State to Hayes. He was made one of the justices of the supreme court of New Mexico. Among the visiting statesmen in Florida were Noyes, of Ohio, and Lew Wallace, of Indiana. Noyes was made minister to France; salary, $17,500 per annum. General Lew Wallace was appointed governor of New Mexico. John A. Kasson, another visiting statesman in Florida, was made minister to Austria; salary, $12,000 per annum. The "scene-shifters and candle-snuffers of the play," as Mr. HOUSE humorously styles them, were not forgotten. J. W. Howell was employed in the office of the clerk of Baker County, whence a set of false returns were counted for Hayes. He is collector of the port at Fernandina, Florida. Richard H. Black was inspector of elections, and Thomas H. Vance was clerk in Alachua County, both gentlemen of color. They added two hundred and nineteen fictitious names and the same number of republican votes to the poll list after the election. Vance is in the Sixth Auditor's Office on a salary of $1,600 a year and has an equal salary in the Philadelphia custom-house. L. G. Dennis was chairman of the republican committee of the same county and the instigator of the frauds perpetrated by Vance and Black. He was given a position in the Treasury Department. Joseph Barnes was inspector of election in Leon County, and smuggled seventy-three "little joker" republican ballots into the box. He is drawing a salary of $1,000 a year in the Treasury Department. James Bell was an inspector of election in Jefferson County. He stole a package of tickets, put another in its place, thus "stuffing" the box to the extent of 100 republican votes. He is in the Interior Department; $1,200 a year. These are a few of the President's applications of civil-service reform in Florida.
>
> Let us look at Louisiana. Mr. Tilden had a majority of nearly 10,000 votes in that State. The returning board counted the State for Hayes. J. Madison Wells, president of that returning board, was made surveyor of the port of New Orleans; salary $3,500 per annum. His son, Alex. Wells, was made special deputy surveyor; salary $2,500 per annum. Another son was made inspector at New Orleans. Thomas C. Anderson was another member of the returning board. He was made special deputy collector at New Orleans, with a salary of $3,000 per annum. His son has a clerkship at $1,400 a year. Benjamin Bloomfield, father-in-law of Anderson's son, was made clerk and auditor at $2,500 a year, and a brother-in-law of Anderson's son has a clerkship at $1,200 per annum. Louis M. Kenner, colored member of that returning board, is deputy naval officer at New Orleans, on a salary of $2,500 per annum. Alex. Kenner's brother has a clerkship at $1,600 a year, and another brother receives $900 a year. These three members of the returning board, with their families, are drawing about $21,000 a year, or the interest on more than half a million of dollars in 4 per cent. bonds, as the reward for their services and to illustrate the beauties of civil-service reform. G. Casanave is the name of another member of that returning board. His brother is United States storekeeper at New Orleans. Casanave himself holds no office. The members of the returning board were indicted in Louisiana. They employed counsel at a stipulated fee of $5,000. Only $1,875 of this sum had been paid when the judgment was obtained, and execution was issued and levied on Casanave's property for the remainder. Casanave went to Washington, talked to the President and John Sherman, and to Shellabarger and Wilson, their attorneys, at first with little success. Then Casanave told Shellabarger that he would tell the truth about Louisiana if he was not helped, and straightway the President gave him $1,000 and John Sherman gave him $750, with which he was enabled to stay the sacrifice of his property.

With all this array of facts which the foregoing extract taken from the record gives, can any honest man divested of partisan bias longer doubt that this was the most stupendous fraud ever perpetrated upon a free and intelligent people? Nor can there scarcely be a doubt that Sherman was a party to it.

But, sir, there is still further evidence to establish this fact. Casanave, it appears, got into trouble over this matter, and a judgment rested against his property to the amount of about $5,000, and not having the money, and as he says that he held no office nor received any pecuniary benefit from the part he took in the matter, he appealed to John Sherman and the President in person for aid. Here is what he has to say:

> I waited and called on Mr. Sherman on his return, who received me very cordially; I stated my case to him and showed him the sheriff's writ. He answered that he knew nothing about it, and that he did not see why Anderson didn't settle this matter; but that the money ought to be raised, and that he would give me $100, which he attempted to take from his pocket, remarking at the same time, "You go and see some of the leading republicans and collect something from them." My reply to him was: "I have been to see the President and yourself, and I know no other leading republicans; is that the best you can do for me, Mr. Secretary?" He answered: "That is all I can do; I am only here on a salary and I can't pay everything." I then took my hat, as I did so, saying: "I thank you, sir; that amount would not pay my traveling expenses to Washington." Then I left his office, disappointed and depressed at the thought that I was going to be sacrificed and ruined while others were being enriched in high offices into which they had

climbed on the ladder I helped to set up. I again sought the advice of Mr. Shellabarger. In my excited feelings I said I would expose the whole matter of the returning-board proceedings and go home and pocket the loss. He advised me not to "throw the handle after the pot," but write a letter, setting forth the facts in the case, and await results in the case.

It appears that Shellabarger was his counselor while here, and, meeting with disappointment, he threatened to expose the whole returning-board fraud; but Shellabarger persuaded him to write a letter and await the result, which he did, and is as follows:

WASHINGTON, D. C., *August* 7, 1879.

MR. PRESIDENT: I have the honor to invite your attention to the following facts, upon which I respectfully solicit such relief as you may be able to offer me: In 1872 I was elected by the State senate of Louisiana a member of the returning board of that State. I did not desire or solicit the office, and I accepted it with great reluctance. In 1876 the grave and responsible duty of determining the result of the election for President of the United States devolved upon that board. Its deliberations were watched with profound solicitude by the whole country, while the leaders of two great political parties hovered around it, awaiting the result of its deliberations with that intense anxiety only known to expectants of the spoils of public office. The board found for the republicans, and the democrats, disappointed and chagrined, at once commenced criminal proceedings against its members. Counsel were employed to defend at a stipulated fee of $5,000, which Mr. T. C. Anderson assured me would be paid out of funds to be sent from Washington. At the conclusion of the prosecution counsel demanded their fee, which not being paid, they instituted suit, and after a hearing in court, obtained judgment against all the members of the board. A writ of *fieri facias* (copy herewith inclosed) was issued, directing the sheriff to seize and sell sufficient property of the defendants to satisfy the judgment of $5,000, less $1,875. The sheriff finding no property belonging to Anderson, Wells, and Kenner, seized my property, and now holds the same subject to sale under his writ.

If my property is sacrificed under that execution it will render me bankrupt. I am a poor man and unable to sustain such a loss. I have always assumed a full share of the responsibility attaching to the official acts of the returning board, although I have never enjoyed any of the fruits resulting from its findings; and in this connection I respectfully remind you that I hold no office under your administration and have derived no pecuniary benefits whatsoever therefrom, but, on the contrary, I have sustained considerable loss in my business on account of my identity with the board. Messrs. Anderson, Wells, and Kenner, the other three members, and their numerous family connections are enjoying lucrative positions in the employ of the Government.

I protest against being mulcted for the cost of the criminal proceedings against the returning board while others enjoy the honor and emoluments resulting from its decision. It is neither just nor honorable to impose this heavy burden upon me. It would be more becoming the beneficiaries of our acts to discharge these debts.

Upon my arrival in Washington two weeks ago I was assured, upon the promise of Assistant Secretary Hawley, that the amount required to satisfy the judgment would be raised as soon as the Secretary returned.

I called upon Mr. Sherman yesterday and he proffered me a contribution of $100 as the only relief he could offer me, which I was compelled to decline out of respect for the great finance minister of our Government. I expect to take my departure for Louisiana in a few days, and if any arrangements can be made of this matter to offer me relief, to which, under these circumstances, I believe I am justly and honorably entitled, I will be under obligations to those through whose influence it may be accomplished.

I am, very respectfully,

G. CASANAVE.

WASHINGTON, D. C., *August* 7, 1879.

DEAR SIR: I herewith inclose you a copy of an unofficial letter addressed to the President.

Very respectfully,

G. CASANAVE.

Hon. JOHN SHERMAN,
Secretary of the Treasury.

After writing this letter it appears that it was but a few hours until Sherman paid Shellabarger $500, to be forwarded to New Orleans to be applied on the Casanave judgment, as appears from the following note:

MY DEAR SECRETARY: The $500 you sent to me I have sent to Badger. I still hold the $1,000 sent me by the President. He reports collusion and fraud. What shall I do?

SAML. SHELLABARGER.

It will be seen that the President paid $1,000 to Shellabarger for Casanave, and that afterward he claimed there was fraud; but Casanave saw him again, and the matter was settled, and Shellabarger again called on Sherman and received $250 more, making in all $1,750—$750 of which was given by Sherman and $1,000 by Hayes. By this act of Hayes and Sherman it is clearly shown that they recognized the fact that it was better to pay this amount than allow Casanave to go home and expose the whole returning-board fraud. This caps the climax. All the members of the returning board have been taken care of, as has been shown.

My colleague of the committee, [Mr. BUTTERWORTH,] in response to Judge HOUSE'S criticism of Hayes's civil service, said:

You might as well shoot poisoned arrows at the moon to affect its pure light as to attempt to assail the pure character of President Hayes. *His* character is known and read of all men.

We will not disagree with him after an examination that we have made of the awards of office he has given to all that have been connected with these frauds, even to paying $1,000 cash to help Casanave out, who appears to be the last on the list to receive his reward.

During the discussion of this bill by Judge HOUSE, of Tennessee, in March last, he paid his respects to John Sherman's connection with the Louisiana frauds in such a manner as to bring Governor YOUNG, of Ohio, to the defense of his favorite candidate for the Presidency; in fact, he appeared exceedingly anxious for a few moments to refute the charges, and time was given him, and finally his time was extended. He makes the following quotation from Sherman's speech in the Senate as part of the defense:

The honor of the country, the good faith of the nation, the interest of the laborer, of the rich and the poor, and of all classes demand that we should resume specie payment as early as possible and place all the obligations of the Government upon a solid basis of gold and silver coin.

Here follows his culminating argument in his defense:

Mr. Sherman has persisted in this belief and has accomplished resumption fully and completely, standing a Gibraltar of financial strength, against which the waves of rebellion and unsound currency have dashed with almost resistless fury.

I cannot see what connection or relevancy Sherman's financial policy had with the part he took in the great frauds of Louisiana; perhaps the distinguished gentleman from Ohio can.

Mr. Speaker, I had not intended to have alluded to these great frauds, nor would I have done so had it not been provoked; and, sir, let me here say to the gentlemen of the other side of the House it illy becomes them to talk of democratic frauds in view of the foregoing facts, and in addition to which we may refer to the great whisky frauds, in which Babcock, private secretary of the President, entered into a conspiracy with other Government officers and manufacturers of whisky and defrauded the Government out of about $50,000,000 that should have gone into the Treasury.

Again, take the Crédit Mobilier frauds, in which the evidence shows that the then Vice-President and numbers of members of Congress were implicated, by which the Government was swindled out of about $65,000,000 by change of bonds from first to second mortgage; also, the black Friday transaction, in which some of the near relatives of the then President, and even those closest in his confidence, were implicated. This is so familiar to all that I need do nothing more than to refer to it.

Then there is Belknap and his scandalous transactions in the post-traderships; also, Minister Schenck and his Emma Mine transaction, by which he brought the Government into disgrace in the eyes of all civilized nations; also, Boss Shepherd and his District transactions and questionable management, by which the District was plunged into an indebtedness of about $20,000,000.

Also take the Navy Department under U. S. Grant's administration, and you find parties selling their influence with the Secretary and receiving 4 to 5 per cent. on all sales to the Government for clothing and supplies and timbers and making large sums of money, and that without capital other than their influence or supposed influence with Government officials.

And we find one contractor who bought this influence making sales to the Government of over $3,000,000, and large numbers of the naval officers become his debtors.

Sir, I might pursue this subject further and show up circumstantial evidence, if not direct, not at all creditable to Government officials, and whose acts were greatly disadvantageous to the Government.

Yet with these facts fresh in the minds of the people, and many others alike disreputable to Government officials, showing fraudulent transactions by which the Government lost large sums of money, yet with all these facts we find General Grant the most formidable candidate for the Presidency before the Chicago convention, and that his defeat was only accomplished by a combination of all the opposing factions. And had he been the nominee, we would have found the whole republican party to-day shouting and singing hosannas throughout the Union for his re-election, which would have been a reinauguration of his last administration.

The Indian Problem.

SPEECH OF HON. N. C. DEERING,

OF IOWA,

IN THE HOUSE OF REPRESENTATIVES,

Monday, June 7, 1880.

The House having under consideration the bill (S. No. 1509) to accept and ratify the agreement submitted by the confederated bands of Ute Indians in Colorado, for the sale of their reservation in said State, and for other purposes, and to make the necessary appropriations for carrying out the same—

Mr. DEERING said:

Mr. SPEAKER: There is one proposition concerning which the members of this House will not differ, and that is, that we should at once agree upon some system for the permanent settlement and management of the Indians.

Up to this hour, sir, we have never had in this country an established Indian policy that was creditable to our advanced civilization. And now, after trifling with this ill-fated race for nearly three centuries, it seems to me important that we should wake up to a sense of duty and inaugurate a sensible and manly system for their better management and control.

The early discoverers and settlers of this country found the Indians in a state of barbarism, and to-day, after the lapse of centuries, most of them are barbarians still. Is there not something wrong about this? Have we done wisely in shutting them out from all contact or communication with civilizing influences, and in then expecting them to become civilized and to accept our ways? Has it been wise to drive them far out beyond the settlements, to scatter them over

half the continent, make enemies of them, and then attempt to control them by the military power? Would it not have been far better for them and for us had we kept them on smaller reservations and built up walls of civilization about them?

Almost from the first, sir, there has been mutual bitterness, hatred, and determined hostility between the two races. The whites began by stealing and selling the Indians into slavery, and the Indians by murdering the settlers and torturing their captives according to the custom of all barbarians. When a permanent government was organized it brought no change for the better. Mutual treachery, hatred, and bad faith continued, and a succession of brutal wars has kept the whole country under excitement from that day to this.

Sir, there has never been an hour when our border settlers have not been exposed to the ferocity and cruelty of these savages; never an hour when they have not lived in continual terror of the torch, the tomahawk, and the scalping-knife. Is this creditable to a great and powerful nation like ours? Is it creditable to the Government that for a century and more no method has been devised for giving to the frontier protection and to our brave pioneer settlers a feeling of security? Is it not high time to call a halt? Instead of driving the Indians away from their homes and from advancing settlements, should we not throw around them civilizing influences, and compel them to work for a living as we do—throw over them the protection of our laws and compel them to respect and obey those laws?

It is to be admitted and regretted that wrongs thus far have not been confined to the Indians alone. Wrongs have been mutual and pretty evenly balanced between wild Indians on one side and the whites on the other, and the historian in making up his faithful record will not hold even the Government guiltless.

So little progress have we made, sir, that in the Senate recently nearly a whole day (April 7) was spent in the effort to decide whether or not a State or the United States could try and punish an Indian for the crime of murder or rape when committed on a reservation; whether or not a tribe of Indians must be treated as a little nation and outside the laws of the country. "What can you do with the murderous Utes if you capture them?" was asked during the debate, but not fully answered. Is not that a rather humiliating commentary on the whole management of the Indian question? Should we not now, after the follies and failures of centuries, begin taking a broad and national view of this perplexing question and endeavor to inaugurate a policy that would be creditable to the Government and advantageous to this unfortunate race?

Gentlemen have spoken of a change of policy, but I deny, sir, that we have ever had either system or policy in the management of the Indian tribes. We find no page of history that shows anything that is worthy to be dignified by that name until Secretary Schurz took control of the Interior Department and suggested substantially the same method for all the Indians as has been embodied in this arrangement with the Utes.

We have seen the frontier families flying in terror and dismay from their burning dwellings. We have had pillage, outrage, and murder all along the border by marauding bands of lawless savages. We have permitted this and all the atrocities of which the wild Indian is capable. And then, on the other hand, we have been accustomed to make solemn treaties only to be broken or disregarded on our part. In all we have concluded not less than three hundred treaties, and have broken nearly all of them. We have promised them annuities, and then Congress has either refused or neglected, in many instances, to appropriate money to fulfill the engagement. We have given them lands and under solemn treaty stipulations have promised that no white man should ever molest or disturb them in their possessions; but a little while after it has always so happened that we have found an excuse for either stealing or cheating them out of these lands.

Sir, my friend from Colorado used the following language on this floor in December last:

> I crossed five great States in reaching the capital of our country, and I announce it to be the truth, which no man can gainsay, that every acre of land in every one of those States was stolen from the Indians; and now gentlemen stand here in the name of God and humanity and say, while our fathers robbed and plundered the Indians, we want you to belong to the goody-goody class of people in the West.

And I am sorry to say that his manner indicated that he regarded these exploits with approval and as furnishing an argument in favor of continuing this wholesale larceny. Now, sir, for one, I am not in favor of this practice. If this has been our Indian policy in the past, then I am opposed to perpetuating it. I am not in favor of stealing under any circumstances. We do not treat it as a virtue in the Indians, and I can see no good reason for expecting from the wild Indians anything better than we would practice ourselves. How would it do to test with the Indians the virtue of justice and honesty for a while?

But, sir, this Government should never have made treaties with the Indians. It was the duty of our Government to assume absolute control and guidance of these savages years ago. But having failed in this duty, and having negotiated treaties as we would do with a foreign nation, let us now deal squarely and honestly, and when we want their lands let us allow for them a just and fair consideration. We have driven them to the mountains, away beyond the confines of civilization, and have then asked them to become civilized at once, to become good farmers and to adopt the habits and practices of white people. When dissatisfied, we have endeavored to conciliate them with trifling presents, and failing in this, to pursue and punish them in their far-off mountain fastnesses.

Sir, it is no wonder that the settlers have been at the mercy of savage barbarity. No wonder that the Government has been involved in a succession of brutal and disgraceful Indian wars. The Indians should have been limited from the first to smaller tracts of land and kept within easy reach; kept stationary where the rapidly extending settlements could overtake and surround them, and where, if necessary, forces could be sent to guard and control them. We should have thrown about them elevating and Christianizing influences, and should have induced them long since to abandon their roaming habits and to live from the soil by work, as other persons do. In Maine, Massachusetts, New York, Michigan, and other States we find small tribes living in the midst of white communities, living as white persons live, with churches and school-houses. And who ever hears of trouble from these Indians? Had they been driven away from their homes and from humanitarian influences, who doubts that they would now be like other barbarians in the solitudes of the far-off mountains and plains? Cruel and costly wars have been the natural consequence of allowing to the Indians millions of acres over which to scatter and hide far out on the plains and mountain ranges. This should be stopped at once everywhere and forever.

Mr. Speaker, we have been accustomed to send out little handfuls of soldiers to hunt down and chastise marauding and murderous bands. We have called these expeditions Indian wars, and how have they resulted? Have we not suffered the mortification over and over again of seeing the whole United States put to flight by a little worthless band of half-starved Indians? Think of the cost in money and valuable lives, to say nothing of the sacrifice in self-respect and the respect of other nations!

For nearly seven years, sir, we fought the Seminoles, a third of a century ago, against a force numbering little more than one thousand Indians, losing in lives fifteen hundred and fifty-five regulars and as many volunteers. The cost of that war in money exceeded $40,000,000. During the year 1865 we expended upward of $19,000,000 in suppressing Indian hostilities, nearly four times the amount appropriated the same year for the support of the Indian service and all our Indian tribes. Of this amount $13,470,957 was in the military district of the plains, $2,415,168 in the Northwest Territory, and $1,553,816 in California and Oregon. In 1877 we had the Sioux and Nez Percé wars, which cost the Government $2,825,640. Out of these grew the Custer horror; and who does not shudder and blush with shame and indignation at the mere mention of that needless and merciless slaughter? Custer himself has left to us the truthful story in his Life on the Plains. Read this thrilling narrative, and you will see illustrated the absurdity of our entire war policy with the Indians. The fate of Colonel Fetterman, with his ninety-two brave comrades, at Pino Creek; of Kidder, with his more than Spartan band, at Beaver Creek; of Colonel Forsyth and fifty-one brave soldiers sent against one thousand warriors far off in the interior; and scores of similar expeditions, slender and insufficient forces, sent to their doom—sent away to the interior in pursuit of barbarians, into their mountain fastnesses, and into the very jaws of certain destruction and death.

Lastly, sir, came that crowning farce or blunder with the Utes. A conflict that, in my opinion, was utterly uncalled for and unwarranted, and I have studied the question very carefully. But if it was called for, if those Indians were to be punished, why did not the authorities send out such force as would command respect, command obedience, or, failing in this, crush them under the heel of superior power? With a suitable force there would have been no collision. But Captain Jack was allowed to come down for a talk with our commander. He was an ignorant savage, it was said, but he knew enough to count a little army of seventy-five or a hundred men, and could very soon decide whether or not he could afford to fight them. Does any sane man suppose that Jack would have risked a conflict with five hundred soldiers? Why this practice of sending against the Indians a force that is so insignificant as to excite ridicule and invite contempt and annihilation? Sir, if we are to fight the Indians let us in the name of heaven and humanity go at them like the great nation that we are—send a decent force that will overmatch and overwhelm. It would save collision and bloodshed, and command both respect and submission.

But, Mr. Speaker, I believe there is a better way; that there is soon to be inaugurated a rational policy for the management of this hapless race, one that will improve the condition of the Indians and put them on the way to civilized life, one that in time will put an end to rancor, hatred, and war between them and the whites. This can only be accomplished by limiting them to smaller tracts of land, and by inducing them to abandon their roving habits and to make their living as white persons do. They must be brought under better influences and be so located that the Government can reach and control them. Indian wars, with all their desolating and disastrous consequences, will continue so long as we allow them millions of acres over which to roam, and over which they know our forces must pursue them in times of war. We must put an end to this in all cases and for all time, not by stealing their lands, but by a fair arrangement and honest deal. We should have them understand that a permanent and final settlement is to be made, and they must submit to the change that is demanded by the order of events—an increasing population and the rapid advance of settlements. For those portions of their

vast reservations not required by them for actual use and occupancy a reasonable sum should be allowed, or they should be sold for their benefit and the money should be invested in Government securities, the interest to be applied for schooling their children and their general improvement and civilization.

Mr. Speaker, we have at this time about two hundred and fifty-three thousand Indians, and they are holding one hundred and eighty-two million acres of land, seven hundred and twenty-five acres to each man, woman, and child. The various Sioux tribes, numbering thirty-five thousand, hold, under the treaty of 1868, more than thirty millions of acres in Nebraska, Dakota, Wyoming and Montana, (eight hundred and sixty acres each.)

Has not the time come, sir, when these vast bodies of the public domain should be devoted to higher and nobler purposes? To-day they are the play-grounds for barbarians, given up to the wild chase and pastime of savages. Border settlers are kept in constant excitement and alarm, and extensive mineral resources are locked up and cannot be developed. This must not be. Our entire country must be opened up to the teeming millions who are coming in from the Old World, and to the enterprise of our own people.

Of the immediate success of the proposition to allot lands in severalty I am less sanguine than some and more hopeful than many, but am anxious to give to the experiment a fair and patient trial. To apply the same rule to all, and to expect that all will succeed alike, would be unreasonable. With those who are in the lowest and wildest condition there can be no well-grounded hope of immediate success; from the more intelligent and enlightened we may indulge higher expectations.

My own idea would be to set apart for most of the inferior tribes a limited portion of their present reservations—the portion best adapted to agricultural and grazing purposes; a parcel or tract of suitable size for their accommodation in case they should accept civilization and become farmers—and make an absolute but inalienable title, which title should vest in the tribe, with a stipulation that each male Indian should in time have allotted to him a stated number of acres whenever he should manifest a disposition to make improvements and to make a living from the soil. But in adopting a policy that looks to making the Indians agriculturists we must see to it that they are not located on sterile lands, where success by farming would be impossible.

I realize that under this system they could not live by hunting, but I also realize, as I believe all intelligent Indians do, that they cannot much longer continue the old habits and ways of barbarians. It will prove cheaper and more humane for us to feed (until they can learn to feed themselves) than to hunt and fight them on remote mountains and plains.

Sir, this country can no longer be kept for hunting-grounds. Indians must adopt habits of industry; must go to work and abandon their traditional notions and methods. Lawlessness and idleness will make fiends of any class of human beings on earth. Those feelings, habits, and superstitions that are the growth of centuries cannot be overcome and changed in a day, and we must not expect it. Savages cannot be at once transformed into good citizens or good farmers. These of mature age never can be. But my own hope and expectation is that by careful attention and persistent efforts by education and training their children can be led into the ways and customs of our people and to habits of industry and usefulness. My views and hopes in this direction were greatly strengthened recently by a visit to the school for Indian children at Carlisle Barracks. We all know that progess is being made in this respect on many of the reservations. The Commissioner of Indian Affairs, in his last report, page 10, says:

> The number of children attending school in the uncivilized tribes was 6,229 last year; this year it is 7,193. In the five civilized tribes in the Indian Territory it was last year 5,993, and 6,250 this year.

Sir, we have abundant proof that Indians can and do succeed as agriculturists and in other vocations peculiar to civilization. There are now one hundred and fifty-seven thousand acres under cultivation by Indians on their reservations. They succeed as drivers and carriers, as will be seen by the following from the Report of the Commissioner of Indian Affairs for 1879:

> The Indians invariably carry their freight through intact. They have become expert drivers of four-pony teams, and now manage them with the skill of an experienced stage-driver. (Sioux in 1878.)
>
> The result of the experiment with the Sioux Indians has led to the purchase of enough transportation material to enable all our Indians, except the tribes in Colorado, New Mexico, and Arizona, to haul their own supplies. One thousand three hundred and sixty-nine wagons and two thousand five hundred sets of double harness are now employed in the service with excellent results in all cases.
>
> The influence of this industry upon the tribes in which it has been introduced has been marvelous. In the past all drudgery and much of the real work devolved upon the Indian women, while they laughed at and ridiculed any man who was disposed to labor. Now, however, the women are glad to have the men do the hauling, and even other work, and go so far as to ride in the wagons with their husbands on the journeys between the agencies and the base of supplies. The prosecution of this industry compels the men to wear citizens' clothing, and in that particular rapid advance in civilization has been made. Another advantage, and perhaps the greatest one, is the opportunity thus afforded Indians to earn money honestly, and by constant application, in considerable amounts. Hauling is far more profitable than hunting ever was, even when game was abundant. Then the traders, in the purchase of peltries, for which they made payment in tokens, took the lion's share of all the Indians could earn; now their wages are paid in cash, and the Indians are rapidly learning to make a good use of their money. What is not expended for necessaries and comforts is given to the women to keep for future wants.

They also succeed as a police force for keeping order and arresting offenders, as will be seen from the report of the Secretary of the Interior in 1879:

> THE INDIAN POLICE.
>
> The organization of a police force consisting entirely of Indians, begun on a large scale two years ago, has been extended to almost all the agencies, and it has proved very salutary and effective in the maintenance of order and the protection of property. The police has throughout shown great fidelity to duty and zeal in executing the directions given by the officers of the Government. It is essential that for this force young men be selected of intelligence, good habits, and respectable standing in their respective tribes, and this rule has been invariably observed. Considerable difficulty in making such selections is found in the circumstance that the pay of $5 per month provided by Congress for these policemen is entirely inadequate, for the reason that the class of men needed by the Government for this service would, if not so employed, earn a much greater amount by work done for their own benefit. I earnestly concur, therefore, in the recommendation made by the Commissioner of Indian Affairs, that the pay of the policemen be sufficiently increased to enable them to devote their services to the Government without loss to themselves. Only thus can we hope to keep the proper class of men in this branch of the service.

Mr. Speaker, the Indians, like our own people, have strong attachments for localities and homes. They are bound by affection and superstition to the graves of their ancestors, and I regard the practice of driving them from place to place, from one State or Territory to another, as unjust and unwarranted. This practice should be discontinued. After once adopting a permanent system and the Indians shall be properly located it should be the policy of the Government to regard the settlement as final, and they should be allowed to feel that they will be removed from their homes no more except in punishment of crimes. They are certainly entitled to an abiding place somewhere and to be protected in their rights. The part of wisdom is to allow settlements to overtake and to surround them, and in this way to give them the benefit of our superior advantages and intelligence.

In conclusion, Mr. Speaker, I wish only to say that I favor the immediate passage of the bill now under consideration. It looks to an early and honorable settlement of serious differences and difficulties between these Indians and the whites. It looks to peace and goodwill instead of threatened war and bloodshed. It is an advance movement in the direction of ultimate education, elevation, and civilization of all the Indian tribes in all portions of our country.

Mr. DUNNELL. I should like to ask the gentleman from Iowa a question, whether the bill now under consideration inaugurates a new policy and one which he thinks ought to be inaugurated at this time by the Government in regard to the Indians?

Mr. DEERING. I am very glad the gentleman has asked that question, as it enables me to say that I do understand this bill as inaugurating a new policy or system, which, if carried out, will result in an entire change of method in management of the Indian tribes. It is a proposition to break up their roaming habits and to settle wild Indians permanently on smaller tracts of land, which are to be allotted to them in severalty. It also provides for the education of their children and for the general improvement of all in the arts of civilization.

Funding bill—Freedman's Bank.

SPEECH OF HON. W. H. KITCHIN,

OF NORTH CAROLINA,

IN THE HOUSE OF REPRESENTATIVES,

Monday, June 7, 1880,

On Wood's funding bill and the bill for the relief of the colored depositors in the Freedman's Bank.

Mr. KITCHIN said:

Mr. SPEAKER: If this bill made the bonds to be exchanged for the old bonds payable at the pleasure of the Government, or payable in some reasonable time, I should give the measure my most cordial support. But since its author has seen fit to fix the time of maturity so far in the future, I feel it to be my duty to the country to enter my earnest protest against its passage. I have in my own mind many reasons why it should not receive the sanction and authority of law, but will give one or two only.

Whether the father of this measure fully comprehended the scope and extent of its influence upon the wealth-producing and laboring classes of the American people or not, will not in any manner lessen that influence. Should it become a law, it will be the firmest granite foundation and pillar yet placed under the national-bank edifice, and will do much to fasten that odious and detestable system upon the country as a continuing institution of unmeasured power and corruption, which will be used for the oppression and degradation of the laboring people. Yes, sir, if this bill becomes the law of the land, the national bank becomes at once a permanent institution, which will, in conjunction with its natural allies, control this Government with a rod of iron, without justice, and without mercy.

If we postpone the payment of these bonds for the period of forty years it will furnish a plausible argument and a false pretext for the advocates of that most damnable of all systems of taxation, protec-

tive tariff, or in other words for legalized robbery; for protection is the taking of the poor man's labor or its value and giving it to the rich without compensation; for in truth the Government receives no revenue from protection, but on the contrary it drives from our shores the commerce of the civilized world and enables our own manufacturers to dictate prices to the consumers of their goods, thus defeating the natural and just laws of supply and demand by wickedly cutting off the supply.

What prudent, wise business man would defer or postpone the payment of his private debts indefinitely when he was fully able to pay them off in one, two, five, or seven years? Does not every intelligent man know that in forty years he would pay his debt twice in interest and once in principal? The Government is fully able to pay its liabilities, and why not pay as fast as the bonds mature? Why keep $250,000,000 in round numbers in the Treasury idle? Why not pay that amount on the maturing bonds? And if the Secretary is not practicing a fraud on the country we can in two years pay every dollar now proposed to be funded, thereby saving $40,000,000 annually in interest.

Sir, the reason the moneyed interest of the country is opposed to paying the national debt and in favor of funding it on long time, is because its payment would emancipate the people and set them free from the banks and bondholders, instead of being their slaves and dependents as they now are. These bonds are in substance and in law a first mortgage on the bone, sinew, and muscle of all the laboring millions of souls in all the departments of industry in this broad and fertile land of ours. And they are not only a first mortgage on the labor and sweat of the farmer, mechanic, clerk, and blacksmith, but they are exempt from taxation and all the burdens of government. And more than this, they are so hedged in and walled around with law and statutory shields that it is impossible to compel them to shed one drop of blood in their own defense, while they can with impunity command the Army and Navy of the country for their protection.

Command your Secretary to apply what money we have now in the Treasury and you at once save $15,000,000 interest annually, and the people ought to know why so much money is kept idle or loaned without interest to the national banks while their bonds are outstanding drawing interest and they taxed to pay the interest on the funds of the national banks; and some man who is wise above what is written ought to explain to the people why the Government pays the national banks $20,000,000 in round numbers annually out of the people's money to issue national-bank notes to be guaranteed by the Government when the Government could issue the same amount of legal-tender Treasury notes for less than one-twentieth of that amount. Why should the Government do indirectly through the banks at a cost of $20,000,000 what it can do directly with its own machinery and its own officers and employés?

Sir, the Secretary's monthly reports show, if they be true, as they appear on their face, that the public debt ought to be over half liquidated, yet we find it about $2,000,000,000 in 1870 and about the same now. There has been collected from the people since 1864 about $5,000,000,000. What has become of that enormous amount of the people's money? Who will give a satisfactory answer? Mr. Speaker, pass this bill and we become not only slaves to the national banks and bondholders, but we transmit it as an inheritance and burden to our posterity. If the present rate of tariff remains and the people are robbed in the future as they have been in the past, (under cover of law, I admit,) we ought to pay the public debt within twelve years. Sir, at the expiration of forty years, should we adopt the policy of funding, we will still owe the present debt, and will have paid over $4,000,000,000 in the shape of interest to the bondholders. We are told that by funding under this bill we will save $15,000,000 interest annually. We could save that amount of interest yearly by paying the surplus funds to the bondholders in the Treasury; but put our national debt in forty-year obligations, interest payable annually or semi-annually, and you save never a dollar, but will squander the millions upon millions of money yearly upon public buildings, harbors and rivers, and various public improvements simply because the bondholders do not want this money. And who blames them? Where could they get so good security, such long investments as they have in these bonds, and a mortgage upon all the real and personal property, and all the blood and flesh of this country now, henceforth, and forever?

Mr. Speaker, this is a square fight between the people and the bondholders and their allies. The issue is plain. Must we submit to be burdened beyond endurance during this generation, and then hand it down an increasing burden to those who shall come after us, or shall we emancipate ourselves from this yoke, too heavy to be borne, and bequeath to our children that inheritance transmitted to us by our fathers? Shall the Government protect the capitalists at the expense of the poverty of the country? Shall the poor laborer be trampled in the dust that the rich, aristocratic bondholder, banker, or railroad king may ride in his gilded chariot? Shall the people be compelled to mortgage themselves and all they shall ever have to the bondholder that he may have a safe and permanent investment for his accumulated millions? I say, No! and had I a hundred voices I would cry at the top of each, No, never!

Let us pay the debt according to the contract, and not act upon the principle that a public debt is a public blessing, for a debt is not a blessing, but a curse, never designed by God to be placed on the shoulders of any but the unfaithful and disobedient. The course to be pursued by us in behalf of those whom we are authorized to represent is so plain, the road which leads to victory for the people and final emancipation from the consolidated and combined moneyed power and influences now crushing the vitals out of the forty million of people who live by the sweat of the brow is so distinctly marked and blazed by signboards and beacons, that a "wayfaring man, though a fool, need not err therein." Reduce the tariff $200,000,000, take that amount of burden from the shoulders of the consumers and laborers of the country. But if you are determined to keep this incubus on the people, crushing out their energies, trampling them in the mud and mire of poverty and want, fund no more bonds on long time, contract no more debts, but apply that amount to the payment of the bonds as fast as they fall due, so that the next generation may be released from the burdens now upon us.

While I have an opportunity I desire to advert to one other subject now pending before this Congress.

After our loved land had been crimsoned with the blood of one common people, born of the same parents, reared on the same soil and under the same banner of liberty, the day of emancipation came, and to-day not a menial slave treads American soil, and every citizen south of Mason and Dixon's line, though it was in violation of both the letter and spirit of the Constitution and the traditions of the fathers, have long since acquiesced in the fact and recognized the freedom of all men and their equality under the Constitution and the laws; and the kindest and best of feelings exist between the new citizen and the old master, and but for the fire-brand cast in our midst by the enemy of both races, and especially the enemy of the black man, no alienations or bitter feelings would ever have been engendered between the two races; for no one holds the colored man responsible for the results of the war, or condemns him entirely for his course since; but upon the contrary all give him credit for his faithful obedience and unshaken fidelity to his old master, and to our helpless and defenseless ones during the terrible struggle which, of necessity, resulted in his emancipation from his former owners to become the pliant tools, the servants and political slaves of the self-styled champions and apostles of his freedom. Unequipped for the battles of life, unprepared to contend with the giant schemers for these spoils and trophies of victory, he was an unconscious victim to the intriguers. Trusting and confiding with child-like simplicity in those who claimed to be his deliverers from the chains of slavery, he was easily induced by designing scoundrels to distrust his former master and friend and cast his lot and destiny with his pretended deliverers and newly selected masters.

Among all the nations and peoples of the earth who have been under the yoke of menial and political bondage as the result of war, or by inheritance, or by the constitutions and laws of their country, and afterward set free, none have been so badly treated, so outraged, and so imposed upon as the colored people of the South by those who professed to be their guardians, friends, and deliverers, and who educated them to believe that the whites of the South, and especially the democrats of the whole country, were their deadly enemies, and would, if possible, re-enslave them. The colored man was prepared by his former condition and relations in life, and by his knowledge of the war and the earnestness and desperation with which it was waged, to believe these false accusations, and did believe them in the sincerity of his heart, and allied himself with a class of people whose only object and purpose was to fleece, rob, and plunder him and the whites of the South. He was not taught, as he ought to have been, that the existence of the Union was the true cause of the war, and that the colored man never entered into the contest; that the North fought for the Union and not for the negro; that he was neither indebted to the North nor the South for his emancipation, as such, but to the inexhaustible resources of the Union both in men and money; to the tenacity of the South and her invincible courage, and to an overruling Providence that leads men in paths not anticipated and to results neither sought nor desired.

But, however that may be, he was made to denounce his warmest, truest, and best friend, and joined hands and fortune with those who have long since demonstrated to the country that they were his worst enemies. Confiding and trusting the voluntary professions of these pretended friends, they at once yielded themselves bodily and all they had into the custody and keeping of these hypocrites and thieves, who soon devoured them as wolves devour lambs. The Freedmen's Bureau was organized with three objects in view: one, laudable in itself, to render assistance to indigent freedmen and refugees from the South; the other to capture and hold for the future uses of the republican party all the colored people; and the other was to create an institution novel in its organization, with no other safeguards than the discretion of its head, as a kind of second United States Treasury, connected indirectly thereto, to deposit or receive the funds arising from confiscated property and other legalized stealing and robbery, then going on in both sections of the country, and as a kind of a feeler or forerunner or twin sister, born out of season, to what was afterward created and known as the Freedman's Savings Bank and Trust Company.

The first was placed under the control of one O. O. Howard, who squandered, gave indirectly to his friends and associates, used himself, and misapplied millions of dollars. The other, known as the

Freedman's Bank, was placed in the hands, it appears, of a band of organized thieves, the avowed friends and guardians of the colored people, the apostles of the republican party, the heralds of light and liberty, the embassadors of happiness and prosperity to the newly emancipated freedman. Soon a large amount of money was deposited in this devil's trap by various parties, but mostly by colored people, from their hard earnings. Then these wolves in sheep's clothing pounced down upon their prey, and began the most stupendous scheme of organized plunder and robbery in our history, and upon a class of the most unsuspecting and confiding victims, a class, too, the least able of all others to sustain the loss, and of all men the least prepared to guard against or ward off danger or to protect themselves from such plunder, spoliation, and robbery. It seems utterly impossible for so many dirty scoundrels to have been gotten together in one institution, without the most laborious painstaking and search for such material. In fact, wonderful skill, ingenuity, and knowledge of human nature were manifested in the selection of so many educated, trained, and accomplished robbers without one mistake or blunder on the part of the designer. It could not have been done at any other time, under any other circumstances, in any other country, or by any other party.

By this organized band of spoliators and conspirators against man generally and the colored man specially was put on foot a systematic plan, the most infamous and nefarious in its procedure and results, to rob and plunder the colored man, within a stone's throw of the "head and summit of the human race," and under the shadow of this Capitol, and that, too, with the legislative, judicial, and executive branches of the Government all in the hands of the avowed deliverers and guardians of the colored man and under complete control of the republican party. In fact, the Freedman's Bank was created by the republican party, organized and put in operation by that party, controlled and supervised and finally gobbled up and swallowed down by members of that party. And all this is in full keeping and harmony with the recognized precedents and antecedents of that party since its advent to power. How these bold outrages and black crimes could have been perpetrated in daylight, in sight of Congress, the President, and the Supreme Court of the United States, against the most helpless and defenseless class of our people, who were claimed as the special wards of the Government, is hard to conceive or understand; nor can it be reasonably accounted for on any other hypothesis than a total indifference to the material welfare and future prosperity of the colored man, or a deep-laid plot by the republican leaders, born of the devil and nurtured by his angels, to rob and plunder, regardless of consequences, those who had neither the intelligence nor ability to defend themselves against the wicked assaults of such a band of abandoned thieves and robbers.

No such crimes and wrongs against honesty and civilization were ever committed in this country, or any other that I can remember, without an effort to visit upon the perpetrators the severest penalties of the law. And while these great wrongs were being committed by these republican pets against the colored people the whole machinery of the Government was in the hands of and run by the republican leaders, with Grant at its head.

The republican party ought to restore every dollar of the $1,500,000 lost in this bank, and if they will not do this out of their private funds nor out of their campaign or corruption fund, they ought to vote for the bill as the next best thing to do toward making restitution for stolen goods. They may twist and squirm, talk rebellion and treason, and shake the faded rags of the bloody shirt, but the smell of fire is on their garments. The white man knows, the colored man knows, and everybody knows that members of that political organization, under the cloak of friendship and charity, robbed and plundered the colored man of more than $1,000,000 of his hard earnings.

If he had not been in slavery, shrouded in ignorance and blind superstition, for near two hundred years; if he had been educated and skilled in the tricks of men; if he had not been wooed, flattered, and cajoled, there might have been some sort of galvanized excuse for such infidelity to principle, such a departure from the rules of honesty and business principles. The colored man has been devoured in his own household, sold out by his pretended friends, and the honest toil and sweat of his brow put into the pockets of a band of thieves and conspirators. And such is life, when spent at the shrine of American republicanism, under the light and teachings of its apostles, under the drippings of its altars. Half of the black crimes and infamous doings of this devilish scheme of plunder and spoliation will never come to light. Many of its fraudulent transactions and dark deeds, concocted and perpetrated against the innocent and helpless colored men, will remain locked in the hearts of the wrong-doers through all time, unless some guilty wretch could be induced to squeal.

Mr. Speaker, here are four millions of people just ushered into the light of day; just born into the kingdom of freedom. They were delivered, it would seem, out of due season into the kingdom of light and liberty before the scales had fallen from their eyes, and there was no Ananias to touch and open, but as the weary footman winds around the mountain, as he gradually ascends to the summit, so must this people, by slow degrees, step by step, advance in the field of knowledge and information, and gather around them the safeguards and shields of defense which our race now possess by the accumulated wisdom and experience of over two thousand years. Having already attained the heights of intellectual and moral grandeur and of wealth and opulence, standing as we do, as a race, upon that high and lofty eminence of advanced civilization, ought we not to reach down below in the valley of darkness, poverty, and immorality and lend a helping hand to this poverty-stricken, unlettered, degraded people, robbed by their pretented and self-constituted guardians and deserted by their false and heartless friends? Let justice be meted out to this people in the golden scales of honesty and virtue. Of all the people on any civilized portion of this earth of which we have any record, the condition of this people is the most deplorable; without homes, without property, without business qualifications, education or knowledge of any of the different branches of the sciences, with no reputation as a people, no record as a race, no history of their own, and no grounds upon which to rest any hopes of a prosperous, bright, and glorious future separate and apart from the Anglo-Saxon race.

Inured from the cradle to implicit obedience and submission to their superiors, they are the most tractable, docile, and pliant people on record, yielding and surrendering their own volition and opinions to most any one in whom they have confidence and trust; at the same time most confiding and unsuspecting in their nature, rendering them the most fit subjects of duplicity, liable to be cheated, defrauded, and gulled by their more dexterous, crafty, ingenious, sugar-lipped, and silver-tongued neighbors and *quasi* friends, as the sequel of the Freedman's Bank has demonstrated beyond all doubt, as I shall now proceed to show: Bruce's report shows the Seneca Sandstone Company steal, $75,785; the J. C. Kennedy steal, $18,000; the Vanderburg steal, $77,000; the Evans Lyon steal, $25,000; the R. I. Fleming steal, $35,000; the Juan Boyle steal, $31,000. These items show how the colored people were fleeced by their friends; but it is only a straw showing which way the wind blows, only a drop going toward making the grand sum total of all the outrages, infamous in their character, committed by the republican organization and its members against the black man of the South.

Sir, that party to-day stands arraigned before the bar of the country and in the eye of God, charged with high crimes and misdemeanors against the American people, against the laws and Constitution, against the inalienable rights and constitutions of the States, against individual rights, and against the colored men of the South. Yea, more; it stands convicted out of its own mouth, through its own confessions, of the most outrageous and heinous offenses ever perpetrated against a civilized and Christian people. Under its administration the people have been taxed and robbed of more money than it took to run the whole Government for the eighty previous years. More taxes and revenues have been levied and collected by this party since its advent to power than during the whole life of the Government, including the revolutionary war, the war of 1812, and the Mexican and all the Indian wars up to 1860.

But of all the many crimes it has committed, which tower in the eyes of honest men mountain high, the most inexcusable and unpardonable ones are those perpetrated in daylight, in open defiance of both man and Heaven, upon the colored people through the Freedmen's Bureau and the Freedman's Bank—twin sisters, begotten of the devil and brought forth in corruption.

And now I call upon every republican upon this floor to come forward, when an opportunity is offered, in sackcloth and ashes, with their faces covered, with penitent heart and contrite spirits, and vote for the relief of these unfortunate people. Come, make amends for the wrongs you have committed or permitted to be committed against this people, the outrages you have perpetrated or allowed to be perpetrated upon them, or forever in the future hold your peace and cease to slander the South and her noble, gallant, honest sons!

The republican party, who for the last fifteen years have been so lavish in their declarations and professions of deep interest and cordial love for the colored man, and who have made it convenient and profitable on all occasions to slander and denounce the whites of the South as hostile to the colored man and his interest, may now have a splendid opportunity to give a tangible, visible proof to that people of their sincerity and fidelity. Should you do this, you will somewhat atone for the many wrongs committed and allowed against this unfortunate class of our people. So long as you could rob him under the cover of law and use him at the polls as so many sheep driven to the shambles to promote your cause and lift you in office over his head, just so long you howled from Maine to the Gulf for the black man; but as soon as he ceased to be a willing tool and demanded even-handed justice and an equal division of the spoils and plunder of office, he is deserted and left out in the cold. How many colored men have you sent to Congress from the Northern States? Not one; and yet you have intelligent colored people in every congressional district. If the colored man relies on other recognition than political servitude by the republican party he has something yet to learn of his white brethren; he has lived as a freedman fifteen years to no purpose.

Mr. Speaker, I can say for myself and my people whom I endeavor to represent here that we are in favor of the most liberal and lenient policy toward our emancipated slaves consistent with and not repugnant to our reputation and standing as a people and to the future advancement, prosperity, glory, and happiness of all classes and both races. We are now near the summit of the Chimborazo of human wisdom, knowledge, attainments, and experience, and we invite and encourage them to follow our foot-prints in the beaten ways marked and blazed with sign-boards and beacon-lights pointing with unер-

ring certainty to the same sublime and lofty eminence in the field of human achievements and grandeur. We will not about face and march down from our high position, attained through toil and blood, into the clouded valley below, but will aid them all in our power to pass from this region of darkness and heathenism through the storms and over the hills to the heights fixed as the goal of man's achievements in this life. While we would not tarnish the world-wide fame, nor dim the luminous glory and magnificent splendor of the wonderful achievements of our own tongue and blood, yet we will shed all the light, render all the aid, and give all the encouragement possible to this people, that they may travel the same road and seek and obtain the same great ends in life, if it be the will of God to so direct and so prosper them in their efforts as to accomplish so great and noble results.

In conclusion, I must be allowed to say, in justice to the colored people, for whom I have the deepest sympathy, that of all people the colored are the most accommodating, yielding, and grateful in their nature, the kindest, most generous and sympathetic in their feelings, and the most tractable and easily managed by their superiors when kindly treated; and, unfortunately for both the colored people and the whites, they are fearful, doubting, and ignorant, which lead them into blind superstition, idolatry, and fatalism. But for these marks and traits in their character they would make most excellent citizens, and these are gradually disappearing before the star of civilization, the light of Christianity, and their rapid advancement in learning and general information; and as they have, by the results of the late struggle and an overruling Providence, become an all-important factor in the politics of the country, this improvement and elevation in the scale of intelligence is the more gratifying to the whites of the South, and we hope this spirit of advancement and accumulation will continue to inspire them to new efforts and lead them on to final and complete success in all the departments of science and learning and to their general elevation and good standing among men.

And that this people may become intelligent, useful citizens, wise and able defenders of their rights and the inalienable rights of the States and the General Government of which we are all members, I am convinced that the wisest and most economical policy the Federal Government can pursue toward the poor and ignorant citizens of the States is to distribute the proceeds of all its public lands for educational purposes among the several States according to ignorance and population upon some judicious and equitable plan. And I shall, with my limited ability, strongly advocate this policy when the plan shall have been matured and brought before the House, as I am informed it soon will be, believing as I do that the funds arising from the sale of these lands could not be dedicated to a nobler, more beneficent, useful, and glorious purpose.

Human Life versus Gold!

SPEECH OF HON. JAMES B. WEAVER,

OF IOWA.

IN THE HOUSE OF REPRESENTATIVES,

Monday, May 10, 1880,

On the bill (H. R. No. 2480) for the relief of the soldiers and sailors who served in the Army and Navy of the United States in the late war for the suppression of the rebellion, and to restore to them equal rights with the holders of Government bonds.

Mr. WEAVER said:

Mr. SPEAKER: The bill under consideration is designed to restore those who served in the Union Army during the late war for the suppression of the rebellion, their widows and orphans, to an equal footing with other Government creditors, by paying to them the difference between the depreciated currency which they were compelled to receive and the standard coin of the United States in which they should have been paid, under their contract with the Government. It is estimated by the clerk of the Military Committee that more than six hundred thousand citizens of the United States, most of whom are ex-Union soldiers, have petitioned Congress for the passage of this bill. They believe the measure to be just and demand that it shall become a law. They think that their claim is at least as meritorious as that of any other class of public creditors. By the act of 1854 the American soldier's pay was fixed at $11 per month with certain extra allowances of clothing and rations. On the 6th day of August, 1861, Congress provided that the pay should be $13 per month. It was claimed that $13, with clothes and rations, was about equal to what the average laborer could earn at that date on the farm or in the shop. The law did not, of course, take into consideration the dangers of the camp and the field. It was the stern duty of the soldier to take that risk without a murmur. We all remember how heroically the brave men flew to the defense of the flag. The patriotic heart felt the power of Emerson's lines:

'Tis man's perdition to be safe,
When for the truth he ought to die.

When the act of August 6, 1861, was passed to pay the soldier $13 per month, thirteen coin dollars were clearly contemplated. This will not be seriously controverted by any one, for we had no greenbacks or other United States notes then in circulation. The soldier enlisted, then, with the understanding that he was to incur the risks of war, and that he, and those dependent upon him at home, should have thirteen good dollars each month with which to provide for their daily wants, until the hazards of war should determine whether or not the soldier should ever return to the walks of peaceful life. Now, as is the case in all such circumstances, at the commencement of the war coin began to disappear. Gold is a coward, and silver is another. They are generally held by men who, if not cowards, are, as a class, possessed of excessive caution in military matters. So when Sumter was fired upon gold and silver considered themselves fired upon also. The patriotic citizen regarded the assault as a summons to the front, and he marched to the post of danger as the post of honor. The owners of the precious metals treated the sound of the cannon as a summons to the rear, and so retired; and, like guerrillas, they ever after, as we shall show, kept up a constant raid for pillage and plunder throughout the entire period of the war. They depredated both upon the soldier in the field and his family at home.

Now, as gold had disappeared, what was to be done? We could not borrow from foreign nations, and our own Treasury was absolutely empty. There was but one alternative. We were forced to fall back upon the sovereign power of the people, and to exercise that attribute of sovereignty inherent in all nations, namely, the power of making our own money. The Army was actually unpaid. Soldiers who read this will remember the pay-days that passed without seeing the paymaster or his strong-box. About this time the venerable commander-in-chief of our Army in the field issued the following general order:

General Orders No. 16.] HEADQUARTERS OF THE ARMY,
Washington, September 3, 1861.

The General-in-Chief is happy to announce that the Treasury Department, to meet the payment of the troops, is about to supply, besides coin, as heretofore, Treasury notes in fives, tens, and twenties, as good as gold at all banks and Government offices throughout the United States and most convenient for transmission by mail from officers and men to their families at home. Good husbands, fathers, sons, and brothers serving under the Stars and Stripes will thus soon have a ready and safe means of relieving an immense amount of suffering which could not be reached with coin. In making up such packages, every officer may be relied upon, no doubt, for such assistance as may be needed by his men.

By command of Lieutenant-General Scott:

E. D. TOWNSEND,
Assistant Adjutant-General.

This was the promise of the Government to the Army in the field and to all who should thereafter enlist for the defense of the Union, General Scott being the instrument of its promulgation. How vividly we recall the day when that general order was read on dress parade along the Union lines. Many of us had left young families at home solely dependent upon our wages for their subsistence and shelter. The demand notes came; $60,000,000 were issued; and, true to the promise of the venerable general, they were "as good as gold," and so remained as long as they were in circulation. They were made receivable for customs duties, and then made a full legal tender without any exception whatsoever. There was no coin with which to pay them. Both the Government and the banks had suspended specie payments. But that made not the slightest difference in the value of these notes. They were sent out, backed by the declaration of the nation that they should be received at par for customs duties, and were soon declared a full legal tender. That at once made them equal to gold. Both the Army and the people at home received them gladly. The notes drew no interest; they bore our burdens, and so the nation rejoiced. But while the great mass of the people stood by the Government and upheld the currency there were some exceptions to this. A certain class of men, the owners of bullion, were greatly displeased at the policy of issuing money that did not draw interest, and which the law stamped as legal tender, and they cried out that it must be stopped. Sixty millions of demand notes was but a drop in the bucket.

It was apparent to everybody that we must have more money. We had an immense army in the field. Expenses were daily increasing at an enormous rate. This called imperatively for another issue of money, and so what has been since known as the greenback was next contemplated. When this act first passed the House of Representatives it provided that the notes should be a full legal tender for all purposes whatsoever. It did not pass, however, without a severe struggle. Patriotism at that hour was in the ascendant in that body, and so the legal-tender feature prevailed. Every patriotic soul in the nation rejoiced and hailed this second triumph of patriotism over the sordid machinations of the money-changers as an earnest of the final triumph of the cause of the Union. Fort Donelson had just been captured through the intrepidity of our brave volunteers, and our victorious Army was moving upon Bowling Green and Nashville. This new victory in the House of Representatives over unpatriotic financial schemers was scarcely less significant than the brilliant victory of our Army in the field. The future looked hopeful. But the enemies of the country, the gamblers and speculators upon the misfortunes of the nation, rallied and concentrated their forces in those mysterious places, known as the lobbies and cloak-rooms, which sur-

round the Senate Chamber. They induced the Senate to amend the House bill, which made greenbacks a full legal tender for all purposes, by adding:

Except for duties on imports and interest upon bonds and notes.

This was the first attempt to destroy and degrade the greenback. The bill was returned to the House in which it originated, when the final struggle ensued. Shall the Senate amendment be concurred in? was the great question. The money-brokers were present in force. Their object was well understood. The hour had arrived which was to decide whether the spirit of patriotism or the spirit of plunder was to take control of the nation; whether God and the flag were to be served or Mammon worshiped. The struggle was a fierce one. The most conspicuous figure that entered the arena on that occasion as the champion of the people and the soldier was Thaddeus Stevens, of Pennsylvania. He was a man of marvelous powers, both of body and mind. At that time he had reached almost the outer limit of human life, having passed three score and ten; yet, like Moses, it could be said of him that "his eye was undimmed and his natural strength unabated." The indignation of the grand Old Commoner knew no bounds. It burst forth like a volcano. Then in turn he grew melancholy, as he looked into the future and saw the ruin destined to come upon all the industrial and patriotic classes of our country. He said in his address to the House concerning the Senate amendment:

I approach the subject with more depression of spirits than I ever approached any question. * * * I have a melancholy foreboding that we are about to consummate a cunningly devised scheme which will carry great injury and great loss to all classes of people throughout the Union, except one. No act of legislation of this Government was ever hailed with so much delight throughout the whole length and breadth of this Union, by every class of people without exception, as the bill we passed and sent to the Senate. Congratulations from all classes, merchants, traders, manufacturers, mechanics, and laborers, poured in upon us from all quarters. * * * It is true there was a doleful sound came up from the caverns of bullion brokers and from the saloons of the associated banks. Their cashiers and agents were soon on the ground, and persuaded the Senate, with but little deliberation, to mangle and destroy what it cost the House months to digest, consider, and pass. They fell upon the bill in hot haste and so disfigured and deformed it that its very father would not know it. Instead of being a beneficial and invigorating measure it is now positively mischievous. It now creates money and by its very terms declares it a depreciated currency. It makes two classes of money. One for banks and brokers, and another for the people. It discriminates between the different classes of creditors, allowing the rich capitalist to demand gold and compelling the ordinary lender of money on individual security to receive notes which the Government had purposely discredited.—*Congressional Globe*, part 1, 1861-'62, page 900.

When it became apparent that the House would concur in the Senate amendment making interest upon bonds and notes payable in coin, Mr. Stevens offered the following as an amendment to the Senate amendment:

And payments to be made to the officers, soldiers, and sailors in the Army and Navy of the United States, and for all supplies purchased for the said Government.

There were sixty-seven votes for the amendment and seventy-two against it. In support of this Mr. Stevens said:

My amendment is to exempt from the operations of the legal-tender clause the officers and soldiers of the Army and Navy and those who supply them with provisions, and thus to put them upon the same footing with the Government creditors who hold their bonds. I hope they may not be thought less meritorious than the money-changers. I trust it will be adopted as an amendment to the Senate amendment, so that if this pernicious system is to be adopted, if the beauty of the original bill is to be entirely impaired, those who are fighting our battles and the widows and children of those who are lying in their graves in every part of the country, killed in defense of the Government, may be placed upon no worse footing than those who held the bonds of the Government and the coin of the country.—*bid.*

This pathetic appeal, made in behalf of our gallant Army, one wing of which had just thrilled the world with its heroic and successful charge upon and capture of Fort Donelson, failed to elicit a patriotic response from the majority of the House, and so it was rejected by a vote of 67 to 72. It was a close fight. Only a majority of five votes. But the interests of the money-lender were held to be more sacred than the lives and blood of those who were defending the flag in the field. Congress was determined to issue a depreciated currency, and bent on compelling the soldier to receive it. Mr. PENDLETON, of Ohio, offered a similar amendment, but which applied solely to the officers, soldiers, and sailors engaged in the military service of the United States, and in support of his proposition said:

I am not in favor of any discrimination, but am in favor of paying the officers and soldiers in the military and naval service of the Government in the legal coin of the country.

Mr. PENDLETON'S proposition was also rejected. The hour in which these Senate amendments were incorporated into the bill, and that witnessed the rejection of Mr. Stevens's and Mr. PENDLETON'S propositions, was a dark one for the country and the soldier. From that day the latter experienced a steady decline in the value of his wages, while the expenses of his family at home were correspondingly increased. Unfortunately for the soldier, his wages were fixed by law. He had been promised coin when he enlisted, and when coin skulked away from danger he patriotically relied upon the good faith and promise made in behalf of the Government by General Scott, and now both had failed him. He could not desert his post without losing honor and life and endangering the life of the nation. The contract under which he enlisted had been violated by the Government in the most dastardly manner. Congress at the bidding of the money-changers and public plunderers had enacted that thereafter he should be paid in the currency "which," to use the language of Mr. Stevens, "the Government had purposely discredited." There was no alternative left him but to go on and save the Union, and then trust the nation to reinstate the soldier, his widow and orphans, to an equal footing with the other creditors of the country. His less patriotic neighbor who stayed at home fared sumptuously, and was kept whole by the increase in the price of everything he had to sell, including the price of labor. In other words, this money which Congress had "purposely discredited" could buy no more than it was worth in the market, except at the paymaster's table. There, and only there, was it at par. Congress had said that to the bondholder this money should not be as good as gold. By the same law it said to the soldier, "You shall be compelled to receive it, notwithstanding we agreed to pay you in coin," or in "Treasury notes as good as gold." They declared that the rich capitalist might be permitted to discount it to his heart's content, but that the soldier should receive it at par. What an immense premium was here placed upon the spirit of plunder, lack of patriotism, and shirking of duty.

It was by law made both profitable and safe to withhold both money and personal service from the defense of the nation's life. A more dastardly piece of legislation cannot be found in the annals of civilized legislation than is contained in the Senate amendments to the legal-tender bill. It is absolutely without a parallel. Of course the consequences so clearly predicted by Mr. Stevens and others speedily followed. There was an immense difference between the value of the wages promised when the soldier entered the service—an immense difference between the paper promised by General Scott, which was to be "as good as gold," and the depreciated paper currency which he was actually compelled to receive. Much of the time during the term of service the paper was worth less than fifty cents on the dollar. The loss fell upon the soldier. Who gained it? Manifestly the speculator and gold gambler. The following table is from official sources, and will exhibit the soldier's loss in a most startling manner. The table covers the whole period from 1862 to 1865, both years inclusive.

GOLD VALUE OF CURRENCY.

Table showing the value in gold of one hundred dollars in currency in the New York market, by months, quarter year, half year, calendar year, and fiscal year from January 1, 1862, to December 31, 1865, both inclusive.

[Prepared by E. B. Elliott, United States Treasury.]

Periods.	1862.	1863.	1864.	1865.
January	97.6	68.9	64.3	46.3
February	96.6	62.3	63.1	48.7
March	98.2	64.7	61.4	57.5
April	98.5	66	57.9	67.3
May	96.8	67.2	56.7	73.7
June	93.9	69.2	47.5	71.4
July	86.6	76.6	38.7	70.4
August	87.3	79.5	39.4	69.7
September	84.4	74.5	44.9	66.5
October	77.8	67.7	48.3	68.7
November	76.3	67.6	42.8	68
December	75.6	66.2	44	68.4
First quarter year	97.5	65.2	62.9	50.4
Second quarter year	96.3	67.4	53.6	70.7
Third quarter year	86.1	76.8	40.8	69.8
Fourth quarter year	76.6	67.2	44.9	68.4
First half year	96.9	66.3	57.9	58.9
Second half year	81	71.6	42.8	69.1
Calendar year	88.3	68.9	49.2	63.6
Fiscal year ended June 30	------	72.9	64	49.5

From this exhibit it will be seen that the pay of the soldier from June 30, 1862, to June 30, 1863, was worth $72.90 on the hundred; from June 30, 1863, to June 30, 1864, $64; and from June 30, 1864, to June 30, 1865, $49.50. This will enable us to see clearly the difference between the money the Government promised the soldier and the dollar which Congress "purposely depreciated" and then compelled the soldier to take. Now that loss came out of the soldier's earnings; it came out of the pittance set apart for the maintenance of his wife and little ones while he was hazarding all for the flag. Where did it go? It went into the pockets of the speculators—into the pockets of the men who would neither defend the flag nor let the Government have the money to pay the soldier for doing so, except upon the condition that he might be allowed to plunder the soldier and the wounded nation to his heart's content. If this was a deliberate wrong heaped upon the defenders of our homes it should be remedied now that the matter has been brought to light. If it be contended that it was an unavoidable hardship at the time, then we submit, now that the country is abundantly able to make compensation, there should be no hesitancy in doing so. How has the Government dealt with its employés in the civil branches of its service in respect to this matter?

During this period of the depreciation of the currency the Government advanced the wages of its employés in various Departments

from 20 to 50 per cent. In 1863 the Secretary of the Treasury directed the collector at San Francisco to advance the salaries of the custom-house employés 25 per cent., so as to make their pay equal to coin, while the collector for the Puget Sound district was directed to pay the light-house keepers and assistants in gold. (See Executive Documents, volume 6, pages 130, 131.) These employés were not suffering the deprivations nor incurring the dangers incident to a soldier's life. They were leading lives of comparative ease and comfort, surrounded by the pleasures of home, and yet it was thought just that their wages should be kept equal to coin. They had entered the service of the Government when their services were estimated and paid for in coin, and it was but good faith and common honesty that the contract should be observed faithfully. The owners of property everywhere advanced prices. Every branch of business saw the necessity of enhancing the prices of everything that they sold in order to make good the losses occasioned by the depreciation of the currency. But the soldier could have nothing to say. There was no remedy for him except in the sense of justice which might be felt by the lawmakers of the country, upon whose will he was absolutely dependent.

On the 28th of July, 1866, Congress by law increased the salaries of its members from $3,000 to $5,000, being an increase of 66⅔ per cent. By this act every Senator and Representative drew $2,800 more than he was entitled to when he took the oath of office. The law was passed near the close of the term for which the members had been elected, and by its express terms was made retroactive so as to cover the entire period of two years. These Representatives and Senators had been elected and had taken the oath of office with full knowledge that their salaries were to be but $3,000 per annum. And yet they deliberately set aside that contract and increased their wages 66⅔ per cent. The argument urged in support of this action was the depreciation in the currency and consequent increase in the cost of living. But it will be observed that this increase of salary occurred one year after the war was over and when the value of the greenback was rapidly appreciating. The valor of our Army had saved our Union, our money, and everything we had in the world. But Congress was not satisfied with this, and on the 3d day of March, 1873, the very last day of their term, they again increased the salary of the members from $5,000 to $7,500, and again made the law retroactive, urging as before the greatly enhanced cost of living and the depreciation of the currency. Every other branch of public service, it will be seen, has been looked after and provided for. Armies of employés who knew nothing of the diseases, the dangers, and hardships incident to a soldier's life, who never heard the sound of a shotted gun, and who lived in luxury and perfect safety during the terrific struggles for the nation's life; whose very homes were made safe because the soldier was standing between them and war's desolation, have had their losses fully made up to them. The soldier only has been neglected. The citizen who staid at home, whether he was a laborer or speculator, reaped all the advantages growing out of an inflation of prices. And what vast fortunes were accumulated during this period! The soldier, however, was compelled to see his neighbor advance from poverty to affluence without any hope of such rewards following his life of devotion to the country. When he received his letters upon the picket-line he could read that his neighbor who was receiving $13 per month for his labor upon the farm when he left home was now receiving $40 per month. He saw that somebody had placed a premium upon the refusal to serve the country, and placed patriotism under heavy discount. But they fondly hoped, to use the language of an address to the revolutionary soldiers—

> That as the clouds of adversity scattered, and as the sunshine of peace and better fortunes should break in upon us, the coldness and severity of the Government would relax, and that more than justice, that gratitude, would blaze forth upon those hands which had upheld her in the darkest stages of her passage from impending servitude to acknowledged glory.

By the act of June 20, 1864, Congress increased the pay of the soldier to $16 per month. This was near the close of the war, and many thousands of men had served their full term of three years and been discharged, or had re-enlisted for the war. The measure was not retroactive, and only related to future pay. When this bill was pending before the House Mr. COX endeavored to make the pay $18, Messrs. Holman and Dawson $20, but they were denied the floor for that purpose. While the proposition was pending in the Senate, Mr. Richardson, of Illinois, offered the following, which was rejected—yeas 6, nays 23:

> From and after the 1st day of May, 1864, the officers, non-commissioned officers, musicians, and privates in the regular Army and volunteers and drafted forces, in the service of the United States, shall be paid in gold: *Provided*, That said officers, non-commissioned officers, musicians, and privates may be paid in Treasury notes or paper money, when the Government cannot pay in gold. If not paid in gold, they shall be paid in paper an amount equal to the value of gold at the time of payment.

Prominent among those voting for this amendment were Mr. Hendricks and Henry S. Lane, of Indiana.

During the whole of the fiscal year following the passage of the law giving the soldier $16 per month, from June 30, 1864, to June 30, 1865, as will be seen by the above table, the currency paid to the Army was only worth forty-nine and one-half cents on the dollar; so that even during that period the soldier got but $7.42½ instead of $16, which had been promised him.

CONTRAST—GENEROSITY OF THE GOVERNMENT TOWARD OTHER CLASSES OF PUBLIC CREDITORS.

Now, Mr. Speaker, how has the Government dealt with other classes of public creditors—the bondholding, money-lending classes? Behold the contrast! Soldiers, read, and then avenge yourselves and families at the ballot-box.

First. When the soldier was absent in the field, when he could not be present in Congress to protect himself and family, the money interest, bankers, and brokers, as conclusively appears from Mr. Stevens's remarks above quoted, were permitted to put the sting of death in the back of every greenback bill issued, for the very purpose of depreciating it and rendering it less valuable than gold, and on purpose to make a market for their gold coin.

Second. They were then permitted to buy in the greenbacks at an enormous discount, and in turn to convert them into 5.20 bonds, drawing 6 per cent. interest in coin.

Third. They procured their bond investments to be exempted from every species of taxation, national, State, and municipal.

Fourth. Congress then passed an act whereby the bondholder had his interests paid quarterly.

Fifth. He was allowed by joint resolution of Congress approved March 17, 1864, to draw his coin interest in advance for a period not to exceed one year, with or without rebate, in the discretion of the Secretary of the Treasury, and from 1864 to 1869, when gold was at its highest premium, he was permitted by that law to draw his gold interest in advance without rebate, as appears from an official letter now in my possession signed by H. F. French, acting Secretary of the Treasury, and dated April, 1880. Under this law the owner of a Government bond for $1,000,000 could draw $60,000 in gold interest in advance; he could then turn around and buy with his $60,000 $150,000 in greenbacks, and then again invest his greenbacks at their face value in 5.20 bonds.

Sixth. After the money-changer had invested his last dollar in bonds and drawn all the interest possible in advance, and invested that also in Government bonds, he was generously permitted by the national-bank act to deposit his securities with the Treasury and draw 90 per cent. of their value in national-bank notes, which he could use as money, charging him therefor but 1 per cent. to cover cost of printing.

Seventh. The 5-20 bonds were payable in the same kind of money that bought them, namely, greenbacks. To prevent this, as will be seen by the following, in John Sherman's report to the Senate in 1867, the "credit-strengthening act" of 1869 and the funding bill of 1870 were passed. After showing by an unanswerable argument that the 5-20 bonds would be paid in currency, Mr. Sherman, in his report, says:

> It has been proposed that Congress, by joint resolution, declare that the 5-20 bonds are redeemable only in gold. This, instead of settling the question, will only create divisions and parties, and the resolution when passed will be subject to agitation and repeal. This consideration induces your committee, without deciding the question, to propose the substitution of new bonds, clear and explicit in their terms, for the old bonds, as they become redeemable.

This added at least, as a mere gift, six hundred millions to the value of the bondholders' investment.

Eighth. By a clause of the funding bill of 1870 the interest on bonds was also exempted from every species of tax—national, State, or municipal.

Ninth. In 1873, when the country was suffering from the blight of panic, when the farms of this country went under mortgage, and the bankrupt courts were filled with suitors, the money-changers, to prevent their investment from being interfered with by payment, procured the demonetization of silver, thus making their bonds payable in gold only.

Tenth. In furtherance of their scheme, through their pliant tool, the present Secretary of the Treasury, they now, in defiance of law, refuse to pay out the silver coined under the act of 1878, and keep it hoarded in the Treasury, and are constantly belaboring Congress for new appropriations to build vaults in which to store it.

Eleventh. They passed the resumption act in 1875, whereby it was provided that every greenback in existence should be taken out of circulation and converted into interest-bearing bonds. They were only prevented from the consummation of this diabolical purpose by the force of public sentiment, which compelled Congress to pass the act of May 30, 1878, forbidding further destruction of the legal tenders.

Twelfth. Notwithstanding the passage of the act last referred to, the National Bankers' Association, the capitalists in Boston, New York, Philadelphia, Baltimore, Milwaukee, and Chicago, have petitioned Congress to destroy the legal tenders.

In obedience to their behest, and utterly regardless of the interests of the industrial classes of the country, the President of the United States, the Secretary of the Treasury, and the Comptroller of the Currency have all sent in to Congress their official communications recommending that the greenback shall be taken out of circulation. Mr. BAYARD in the Senate and Mr. LOUNSBERY and Mr. BALLOU in the House have introduced bills and joint resolutions to carry out these recommendations.

Thirteenth. They now propose by Mr. FERNANDO WOOD'S and GARFIELD'S bills, pending before Congress, to refund seven hundred million of these non-taxable bonds and to make them irredeemable for the twenty years.

Fourteenth. Since their return from the war the soldiers, being among the most active and industrious members of society, have been working through sunshine and storm to pay their own and the bondholders' taxes and the interest on the public debt. Wherever a discretion has been lodged with the Secretary of the Treasury or any other Department, it has invariably been exercised in the interest of the bondholder and against the soldier and the common people.

The propriety of this measure, it will be seen, is most fully justified both by the contract and the circumstances which surrounded the soldier during our late war for the preservation of the Union. It is also most amply justified by the precedent established by our revolutionary fathers.

ONE MORE CONTRAST—THE FATHERS OF THE REPUBLIC VERSUS MODERN STATESMEN.

Now, Mr. Speaker, for the purpose of showing the melancholy departure of the spirit of our revolutionary fathers from the councils of our nation, and its replacement by the mercenary spirit which now has control of the Government I wish to draw a parallel between the manner in which the revolutionary soldier was appreciated by the framers of our Government and the treatment bestowed on those who saved the flag that waves over fifty millions of people.

The officers of the army of the Revolution, in December, 1782, from their encampment on the Hudson River, headed by Major-General Knox, petitioned Congress to make good to the Army the losses occasioned by the depreciation of the currency in which they were paid. These petitioners say:

The address and petition of the officers of the Army of the United States humbly showeth that we, the officers of the Army of the United States, in behalf of ourselves and our brethren, the soldiers, beg leave, with all proper deference and respect, freely to state to Congress, the supreme power of the United States, the gross injustice under which we labor. * * * In this exigence we apply to Congress for relief as our head and sovereign. * * * We complain that shadows have been offered to us while the substance has been gleaned by others. Our situation compels us to search for the cause of our extreme poverty. The citizens murmur at the greatness of their taxes, and are astonished that no part reaches the Army. The numerous demands which are between the first collector and the soldiers swallow up the whole.

* * * * * * *

We therefore most sincerely beg that a supply of money may be forwarded as soon as possible.

* * * * * * *

We regard the act of Congress respecting half pay (for life) as an honorable and just recompense for several years of service in which the health and fortunes of the officers have been worn down and exhausted. We hope for the honor of human nature that there are none so hardened by the sin of ingratitude as to deny the justice of the reward. We have reason to believe that the objection generally is against the mode only. To prevent, therefore, any altercations or dissensions which may tend to injure that harmony which we ardently desire may reign throughout the community, we are willing to commute the half pay for life for a pledge of full pay for a certain number of years or for a sum in gross, as shall be agreed to by the committee sent with this address. And in this we pray that the disabled officers and soldiers, the widows and orphans of those who have expended or may expend their lives in the service of their country, may be fully comprehended.

* * * * * * *

We therefore entreat with Congress to convince the Army and the world that the independence of America shall not be placed on the ruin of any particular class of our fellow-citizens, and will point out a mode for immediate redress.—*Journals of Congress*, volume 4, pages 206, 207, 208.

This petition was warmly supported by General Washington, who, in a letter directed to Congress in behalf of the Army, said:

At the commencement of the dispute, in the first effusion of their zeal, and looking upon the service to be only temporary, they entered into it with no regard to pecuniary or selfish considerations; but finding its duration to be much longer than they first expected, and instead of deriving any advantage from the hardships and dangers to which they were exposed they on the contrary were losers by their patriotism, and fell far short even of a competency to supply their wants. It is not indeed consistent with reason and justice to expect that one set of men, who make a sacrifice of property and domestic comforts, encountered the rigors of the field and the pitiless necessities of war to obtain this blessing which their fellow-citizens were enjoying in common with them, without some adequate compensation. It must also be a comfortless reflection that, after he may have contributed to secure the rights of his country at the risk of his life and the ruin of his fortune, there would be no provision made to prevent himself and family from sinking into indigence and wretchedness.

* * * * * * *

For if, besides the small payment of their wages, a further compensation is not due the sufferings and sacrifices of the officers, then have I been mistaken indeed. If the Army have not merited whatever a grateful people may bestow, then have I been beguiled by prejudice and built opinion on the basis of error. If this country should not in the event perform everything which has been requested in the late memorial to Congress, then will my belief become vain, and the hope that has been excited void of foundation. And if, as has been suggested for the purpose of inflaming their passions, the officers of the Army are to be the only sufferers by this revolution; if, repairing from the field, they are to go without any power, artless and content; if they are to wade through the vile mire of dependency, and to owe the miserable remnant of that life to charity which has hitherto been spent in honor, then shall I have learned what ingratitude is; then shall I have realized a tale which will embitter every moment of my future life.—*Journals of Congress*, pages 211, 212, and 213, volume 4.

On the 10th of April, 1780, the following was passed by the Continental Congress:

Resolved, That when Congress shall be furnished with proper documents to liquidate the depreciation of the Continental bills of credit we will as soon thereafter as the state of the public finances will admit make good to the line of the Army and the independent corps thereof the deficiency of their original pay occasioned by such depreciation.—*Journals of Congress*, volume 3, page 447.

Between that date and 1783, Congress, by sundry resolutions, granted half pay for life to the officers of the revolutionary army. These acts of Congress met with serious opposition in the various States, more particularly, however, on account of the mode of payment. Noah Webster, of Connecticut, then only twenty-five years of age, entered the arena in defense of these measures, and by his great learning, logic, and eloquence was successful in greatly convincing the public mind of their justice. And on the 22d of March, 1783, Congress, in deference to public sentiment and in justice to the Army, passed the following resolution:

Resolved, That such officers as are now in service, and shall continue therein to the end of the war, shall be entitled to receive the amount of five years' full pay, in money or securities, and interest at 6 per cent. per annum, as Congress shall find most convenient, instead of the half pay promised for life by the resolution of the 21st of October, 1780, the said securities to be such as shall be given to other creditors of the United States: *Provided*, It be at the option of the lines of the respective States and not of officers individually in those lines to accept or refuse the name: *And provided also*, That their election shall be signified to Congress through the commander-in-chief from the lines under his immediate command within two months, and through the commanding officer of the southern army from those under his command within six months from the date of this resolution.

* * * * * * *

That all officers belonging to the hospital department who are entitled to half pay by the resolution of the 17th of January, 1781, may collectively agree to accept or refuse the aforesaid commutation, signifying the same through the commander-in-chief within six months from this time, and that such officers as have retired at different periods, entitled to half pay for life, may collectively, in each State of which they are inhabitants, accept or refuse the same. Their acceptance or refusal to be signified by agents authorized for that purpose, * * * and as soon as their acceptance shall be signified the Superintendent of Finance be, and he is hereby, directed to take measures for the settlement of their accounts accordingly, and to issue to them certificates bearing interest at 6 per cent.—*Journals of Congress*, volume 4, pages 178 and 179.

Under the provisions of these resolutions of the Continental Congress many of the officers and soldiers accepted half pay for life, others full pay for five years, while a great many of them were recipients of the munificent grants of lands lying in the Northwest Territory. There are more than fifty acts of Congress, reaching from 1780, under the Continental Congress, down to the year 1832, under the present Constitution, relating to the compensation of revolutionary soldiers, growing out of the depreciation of the money in which they had been paid. It is impossible here to refer to all of them. A few must suffice. On the 20th of February, 1782, (Journals of Congress, volume 3, page 720,) Congress ordered a settlement for the depreciation in the pay of certain classes of soldiers, and referred the matter to the proper officer of the Government for action, with directions to determine what the depreciations of the money had been, and what was really the loss which the soldiers had sustained.

By the act of September 13, 1783, (Journals of Congress, volume 4, page 265,) Congress took into consideration the cession by Virginia to the United States of her vast area of territory west of the Ohio River, principally to pay the debt due the soldiers of the Revolution. The certificates held by these soldiers, if not otherwise paid by Congress, were to be taken for these, the best lands of the world, at one dollar per acre. This grant of land by Virginia was made to pay off the debts of the war for Independence, and especially that due the soldier. This was most creditable to the Commonwealth.

On the 22d of October, 1787, (Journals of Congress, volume 4, page 801,) Congress resolved that a million acres of land in the Northwest Territory be set aside for sale, and that another tract named therein be reserved and set apart for the purpose of satisfying all military bounties until they were all fully satisfied.

The very last acts of the Continental Congress, passed just prior to the time when the present Constitution went into force, were designed to secure, beyond peradventure, the rights of the men who had secured our independence by their valor. The revolutionary congress was not willing to yield up the Government without doing for the soldier all that could possibly be accomplished by legislation. During the war many French Canadians had come to the United States and taken part in our struggle, and on the 29th day of August, 1788, Congress provided that four hundred acres of land should be assigned to each one of these persons, so as to give them homes in the country which they had aided in making free.

The first act of Congress passed under the new Constitution, which was on the 5th of August, 1789, made provision for the payment of revolutionary soldiers. The State of Virginia having assumed to pay the soldiers serving in the revolutionary army from that State half pay for life, in accordance with the recommendation of Congress, was on one occasion sued in the courts, and judgment was recovered against the Commonwealth for $39,543, by persons who had served in the revolutionary war and had accepted the promise of Virginia in liquidation of their claims for services. The Congress of the United States by the act of July 5, 1832, (see Statutes, volume 4, page 562,) provided for repayment to Virginia of $241,345 on account of judgments which that State had paid to soldiers serving in the Revolution, who had brought suit and recovered judgment under the peculiar statutes then in force. The State had refused to pay until judgment was obtained in the court below and in the Supreme Court of the United States.

These debts were contracted by Virginia in 1779, wherein they promised half pay for life to certain soldiers of the Revolution. They were paid in 1832. Among the champions of the soldier in the revolutionary period was Pelatiah Webster. This eminent gentleman, on the 2d day of June, 1790, after the present Constitution was adopted,

published a "Plea for the poor soldier, or an essay to demonstrate that the soldiers and other public creditors, who really and actually supported the burden of the late war, have not been paid, ought to be paid, can be paid, and must be paid." In this essay Mr. Webster demonstrates conclusively that although the soldier accepted the continental money in discharge of his claims against the Government, it still remained true that he had not been paid—adequately paid—for his services. It would afford me great pleasure to publish it in full, but it is of too great length for these pages. I respectfully refer the reader to Pelatiah Webster's Essays during the American War and until the year 1791, published in one volume.

Indeed, no person at that grand period of devotion to patriotism and liberty ever dreamed of claiming that the soldier of the Revolution should be regarded in any other light than as a public creditor of the Government he had served. I wish to make a single quotation from Mr. Webster. It will be found on page 317 of the volume referred to. The author supposes the army to be all assembled in some room, with George Washington at their head, when an orator, similar to those who are now crying out against the provisions of the soldiers' bill pending before this House, says:

Gentlemen, I address you as most respectable citizens. Your conduct has been noble, your merits are known to the world and acknowledged by all the States. Your earnest, persevering acts have saved our country. What a pity it is, then, that after so much worthy action and so much triumphant virtue you should be inadvertently betrayed into such improper conduct as to petition for your pay. Inadvertently betrayed, I say, for I do not attribute your present application to any evil design, but to your having somehow imbibed very improper sentiments. I must be so free, gentlemen, as to tell you, you have been paid, fully paid, already.

Here the soldiers interrupt him. "Paid already," "fully paid" "with certificates worth but two shillings and sixpence in the pound?" The orator resumes:

Have patience, my friends, do not interrupt me. I will tell the sense of your country.

Soldiers: Is it the sense of our country that a debt of twenty shillings can be paid, fully paid, with a certificate, or anything else, which is worth but two shillings and sixpence?

Orator: I again beg your patience a little, my dear friends. It is true your certificates, when you received them, were somewhat low and dull, but you ought to consider this is no fault of the certificates. They were written on as good paper and with as good ink as need be, and twenty shillings were written on them as plain as could be wished, and not only so, but the public faith of the States, the sacred honor of your country was annexed to that twenty shillings, and solemnly pledged to make it good. What could you wish more. Certainly, gentlemen, you cannot have the assurance to think the public faith, the sacred honor of your country, could be worth two shillings and sixpence in the pound.

Soldiers: We do not wish to enter into any conversation about public faith and honor. It seems to us that this subject is not proper for us to talk of at this time. The least said is soonest forgot. We know and feel that we could get no more than two shillings and sixpence in the pound for our certificates, and our necessities obliged us to part with them for what we could get. You will please consider, sir, it is no small thing for people in our circumstances to be deprived of seven years' earnings carved out of the prime of life, and to be left with nothing to begin the world with, or even to keep ourselves and our families from starving.

And so the colloquy goes on, much to the discomfiture of the orator and the satisfaction of the soldiers. The argument used by this orator in 1790 against paying the revolutionary soldier is exactly on a par with the argument used in 1880 against paying the soldiers who saved the Union that which justly belongs to them under their contract with the Government. Albert Gallatin, who was Secretary of the Treasury for the first dozen years under the Constitution, in a work entitled A Sketch of the Finances of the United States, published in 1796, says, on pages 88 and 89:

In the case, however, of the pay of the Army, the several States, on the recommendation of Congress, made up the difference to the officers and soldiers according to a certain scale of depreciation.

This depreciation, (of the currency,) therefore, whether actually paid by the States, or, as was mostly the case, discharged only by creating a stock bearing interest, was among the advances made by several States. The whole of the paper, for whatever purpose issued, was finally redeemed, either by taxes or by loans. * * * But, however redeemed, the depreciation of the paper from the time of its issuing to its final redemption operated as a tax upon the people and defrayed a part of the expenses of the war. * * * Where it was redeemed by loans Congress declared the Union to be indebted, not for the nominal amount, but for the real value of the paper at the time it was lent to the public; which value was fixed also by a scale of depreciation, and rather in favor of the creditor, as the paper in no case was valued at less than 40 to 1. A part of the paper remained unredeemed at the close of the war and has been funded at the rate of 100 to 1 under the present Government.

Thus it will be seen that our revolutionary fathers made good to the revolutionary soldiers dollar for dollar their losses occasioned by the depreciation of the currency, and paid the bondholder not the nominal value of his securities, but that which he had actually paid for them, together with lawful interest. The matter has been exactly reversed in our day. The soldier has been paid but fifty cents on the dollar, while the bondholder and the speculator upon the misfortunes of the Government has been paid $2.50 with interest, where he should have been paid but one. These facts exhibit in the most startling manner the progress of the money power on this continent, and the wonderful strides it has made in crushing out the genuine spirit of liberty and patriotism which have been the life of the country.

While I have been denied a hearing during the present session, denied the right to speak in behalf of six hundred thousand Union veterans, yet if I am spared by Providence until December next I shall renew my efforts for the passage of this bill. More than one million of brave hearts are watching the progress of this measure. The adjournment of this session, without giving them relief, will meet their merited condemnation. Fifteen years have passed since the close of the war and still thousands of soldiers have never been able to obtain a settlement with the Government that owes its very existence to their valor; bounties and back pay in thousands of instances are due and unpaid. Congress steadily refuses the equalization of bounties. The Pension Department has well-nigh closed its doors to all applicants. Thousands of cases have remained in that office unexamined or undetermined for five and six years. During all this period since the close of the war Congress has thrown the wealth of the country, with a most lavish hand, into the laps of the opulent and powerful. On a par with the neglect of the soldiers of the late war is the refusal of Congress to pension the survivors of the Mexican war. They have steadily petitioned for relief, and the Government has just as steadily refused. What we most need in this country to-day, is an old-fashioned revival of patriotism, that will take into account the rights of the common people, that will relegate to back seats the ringmasters and caucus barnacles who are controlling this nation solely in the interest of capitalists and wealthy corporations. Let the soldier and the industrial classes strike for equal rights or the ballot-box. The thorough regeneration of the country is within your grasp. May the year 1880 be ever memorable as the period when this Government was wrenched from the hands of designing tricksters and restored to its rightful rulers, the people.

Deficiency Appropriations.

SPEECH OF HON. JOHN D. C. ATKINS,

OF TENNESSEE,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, June 15, 1880,

On the conference report on the bill (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and for prior years.

Mr. ATKINS said:

Mr. SPEAKER: I shall not attempt other than a brief review of the appropriations made during this session of Congress. I cannot do less without disappointing the expectations of the people. Besides, it is not without its beneficial influence both upon Congress and the country, because it presents these subjects in a convenient form for the information of the people. In what I shall say I shall endeavor to be fair and accurate.

The Book of Estimates, as all know, is made up of estimates from the various Departments of the Government and is sent to the Secretary of the Treasury for his revisal and approval, which is then presented by him to Congress at the beginning of each regular session, and purports to contain the estimates for appropriations necessary to defray the current expenses of the Government for the incoming fiscal year.

This House and the country will understand that Congress makes the appropriations while the Administration is responsible for the expenditures. It is chiefly to the appropriations that I shall invite the attention of the House and of the country, the Congress not being responsible for expenditures. It is a constant occurrence at the end of each fiscal year to bring in long lists of deficiencies where the expenditures have exceeded the sums granted by Congress.

The estimates in the Book of Estimates for the fiscal year ending June 30, 1881, amount to $184,559,042.17, in addition to which supplemental estimates were at various times sent to the Committee on Appropriations amounting in round numbers to $8,500,000, aggregating $193,059,042.17. To this sum should be added the further sum of $11,000,000, consisting of supplemental estimates sent in by the War Department at various times in manuscript form to the Committee on Commerce, thus swelling the grand total to $204,059,042.17. This sum does not embrace miscellaneous appropriations originating in either House of Congress, amounting to about $2,000,000.

I pause just here to remark that these supplemental estimates, many of them, are more or less irregular and unsatisfactory, and frequently are presented hurriedly, not affording due time for their consideration. I trust, for the good of the service and for the proper protection of the Treasury, that section 3660 of the Revised Statutes will be more faithfully and strictly observed hereafter.

The fourteen great appropriation bills, including the District of Columbia bill which for the first time appears in a separate form, including various deficiency bills, as reported to the House amount in the aggregate to $180,633,264.37, or less than the estimates by $23,425,755.63. These bills, on being passed through the House of Representatives, were increased to the sum of $181,840,549.02, being an increase over the sum of the bills as reported from the committee of $1,207,284.65. In the Senate the sum of these bills was still further added to, making the total as they passed the Senate amount to

$185,672,961.23. I give below a table prepared by the clerks of the Committee on Appropriations of the House of Representatives, which furnishes an accurate and detailed history of each bill from the time it left the hands of the committee until it became a law, including the one now under consideration, which will no doubt be adopted and approved as is now agreed upon in the conference report before us.

History of the thirteen regular appropriation bills, &c., 1880–'81.

Title.	Estimates.	Date.	Amount as reported.	Date.	Amount as passed the House.	Date.	Amount as passed the Senate committee.	Date.	Amount as passed the Senate.	Date.	Amount by the law.
		1879.		1879.		1879.		1879.		1880.	
Pension	$32,404,000 00	Dec. 11	$32,404,000 00	Dec. 12	$32,404,000 00	Dec. 17	$32,404,000 00	Dec. 18	$32,404,000 00	Jan. 13	$32,404,000 00
						1880.		1880.			
Military Academy	398,132 66	Dec. 16	304,919 00	Dec. 17	314,919 00	Jan. 8	327,852 12	Jan. 12	327,852 12	June 1	316,234 28
Fortifications	1,000,000 00	Dec. 11	375,000 00	Dec. 12	375,000 00	Jan. 29	600,000 00	Mar. 12	600,000 00	May 4	550,000 00
				1880.							
Consular and diplomatic	1,185,135 00	Dec. 17	1,141,535 00	Mar. 30	1,141,535 00	Apr. 7	1,149,435 00	Apr. 14	1,171,535 00	May 14	1,184,135 00
		1880.									
Navy	14,509,147 95	Apr. 6	14,385,797 70	Apr. 22	14,405,797 70	Apr. 27	14,405,797 70	Apr. 30	14,405,797 70	May 3	14,405,797 70
Post-Office	39,921,900 00	May 1	38,676,420 00	May 7	38,768,420 00	May 12	39,268,420 00	May 17	39,268,420 00	.....	39,093,420 00
Indian	4,992,845 86	Feb. 2	4,493,645 86	Apr. 17	4,562,314 20	Apr. 26	4,735,662 72	Apr. 29	4,748,407 10	May 11	4,656,314 20
Army	29,027,475 50	Mar. 23	26,425,800 00	Apr. 13	26,425,800 00	Apr. 19	26,425,800 00	Apr. 22	26,425,800 00	May 4	26,425,800 00
Legislative, &c	16,627,714 59	May 10	16,120,931 91	May 14	16,167,461 91	May 20	16,285,293 59	May 21	16,295,523 59	.....	16,274,223 59
Sundry civil	23,746,989 49	May 21	20,729,987 00	May 31	21,556,631 36	June 7	22,890,935 60	June 10	23,297,395 60	.....	*22,523,821 60
District of Columbia	†1,717,990 35	Apr. 20	†1,711,848 68	Apr. 27	1,711,868 67	May 3	1,707,468 67	May 6	1,711,997 35	June 4	1,714,498 67
River and harbor	5,015,000 00	May 3	8,482,500 00	May 17	8,482,500 00	May 28	8,636,500 00	June 2	8,952,500 00	.....	8,929,500 00
Regular deficiency	1,912,799 55	May 27	4,334,580 00	June 3	4,463,001 96	June 11	4,664,756 28	June 12	4,706,021 55	.....	4,577,002 04
Deficiency, House of Representatives.	24,012 00	Jan. 13	4,000 00	Jan. 13	4,000 00	Jan. 29	24,012 00	Feb. 2	24,012 00	Feb. 11	24,012 00
Marshal's bill	.....	Jan. 21	§600,000 00	.....	.....	.....	.....	.....	.....	.....	.....
Indian deficiency	135,000 00	Feb. 12	135,000 00	Feb. 13	135,000 00	.....	135,000 00	.....	135,000 00	Mar. 10	135,000 00
Post-Office deficiency	2,000,000 00	Feb. 24	1,070,000 00	Feb. 26	1,070,000 00	Mar. 3	1,070,000 00	Mar. 17	1,250,000 00	Apr. 7	‖1,250,000 00
Special deficiency	.....	Mar. 5	665,530 50	Mar. 19	**8,308,130 50	Mar. 29	8,554,254 72	Apr. 1	8,606,387 82	May 4	Vetoed.
Printing deficiency	450,000 00	Mar. 19	350,000 00	Mar. 19	350,000 00	Mar. 22	350,000 00	Apr. 23	350,000 00	Mar. —	350,000 00
Senate contingency	15,000 00	Apr. 30	15,000 00	Mar. 30	15,000 00	.....	15,000 00	.....	15,000 00	May 14	15,000 00
Pension deficiency	9,249,299 22	May 18	9,249,299 22	May 18	9,249,299 22	May 24	9,302,999 22	.....	9,322,999 22	May 31	9,322,999 22
Agricultural	226,600 00	May 14	213,000 00	May 19	238,000 00	May 25	260,700 00	May 27	260,700 00	.....	†253,200 00
Miscellaneous estimated	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	††2,000,000 00
Total regular estimates	184,559,042 17										
Special estimates	8,500,000 00										
Totals	193,059,042 17	.....	180,633,264 37	.....	181,840,549 02	.....	184,659,632 90	.....	185,672,961 23	.....	186,405,058 32

* Public buildings, additional: Danville, Virginia, $70,000; Baltimore, Maryland, $550,000; Charleston, West Virginia, $75,000; Paducah, Kentucky, $100,000; Cleveland, Ohio, $150,000; Memphis, Tennessee, $50,000; military sites, $200,000.
† One-half.
‡ Reported for the first time as a separate bill.
§ Transferred to immediate deficiency bill by amendment in the House.
‖ Fifty thousand dollars of this sum for public printing, &c.
** Pension deficiency added.
†† This and preceding totals do not include "marshal's bill" or the deficiency bill, which was vetoed.

These fourteen general appropriation bills, together with the several special deficiency bills, all of which are embraced in the foregoing table, aggregate, as passed into laws, $184,405,058.30, to which should be added miscellaneous appropriations amounting in round numbers to $2,000,000, making a grand total of the appropriations at this session of the Forty-sixth Congress of $186,405,058.30. The Senate increased the appropriations over the sums agreed upon by the House by $3,832,412.21. From this grand total of $186,405,058.30 it is proper to remark that the sum of at least $18,000,000 should be deducted, because this sum is appropriated for exceptional or unusual objects not annually provided for. Such, for instance, is the item of $14,000,000 for arrears of pensions, which is partly a deficiency, amounting to $9,400,000, and for the next fiscal year $4,600,000, the latter sum being embraced in the regular pension act for 1881. To this should be added the sum of $218,000 for the payment of the additional clerical force which the arrears of pensions act renders necessary to its execution. The appropriations for the fiscal year ending June 30, 1880, including the usual deficiency, amounts to, in round numbers, $192,000,000. Of this sum, $26,826,000 was for the payment of the arrears of pensions alone. This large sum, which swells the appropriations for the year 1880, and the $14,000,000 appropriated at this session of Congress in the pension and deficiency appropriation bills, are justly chargeable to every fiscal year since the conclusion of the war, as they are in payment for arrears of pension due the soldiers from that time until now; hence these sums should be distributed in equal proportions and charged up to each year, not being ordinary expenditures, but extraordinary. Before the arrears of pensions are all paid, it is more than probable the further sum of $100,000,000 will be required, but it will be distributed over several years in its payment. The next most important item which properly comes under the classification of "extraordinary or unusual" appropriations is the amount providing for defraying the expenses incident to the taking of the Federal census, being $2,960,000. An advance of $300,000 was made to the Cherokee Indians. Several hundred thousand for monuments, military posts, and other extraordinary objects make up the $18,000,000, which taken from the grand total of $186,405,058 leaves $168,405,058 as the sum of the net ordinary appropriations for the next fiscal year.

If the sum of one-half million, which is in excess of the usual appropriations for new public buildings, and of $3,000,000, which is in excess of the average amount appropriated for rivers and harbors in the Forty-third and other Congresses, should be added to the $18,000,000 of extraordinary appropriations, we would then have $21,500,000 of unusual appropriations, which deducted from the grand total would leave less than $165,000,000 as the true net ordinary appropriations for the next fiscal year. In this sum of $165,000,000 more than liberal allowances are made for public buildings, national cemeteries, Life-saving Service, light houses, and Federal courts. The net ordinary appropriations for the first year of the Forty-third Congress, the last term that the distinguished gentleman from Ohio, now the republican nominee for President, served as chairman of the Committee on Appropriations in this House, were $184,304,789.08. The appropriations ordinary and extraordinary amount to $186,405,058, from which deduct, for reasons just given, $21,500,000, and there remains $164,905,058, or nearly $20,000,000 less for the net ordinary appropriations for 1881 than were appropriated for 1875.

It is proper to place in the same category of "unusual or extraordinary" the item of $1,200,000 of deficiency for star service, so called, but which was a bonus to the postal mail contractors which would have brought down the appropriations for net ordinary expenditures, including those less abnormal and vastly more legitimate, to $163,705.58. In making these appropriations due and scrupulous regard has been paid to the proper and legitimate demands of the public service. No estimate has escaped our notice and scrutiny, and without partisan or other prejudice every consideration has been given to the facts in each case, and such appropriations have been made as the needs of the public service in every branch of it seemed to require. Large increases were made in the Pension, Adjutant-General's, Surgeon-General's, and Second Auditor's offices each, on account of the disposition of Congress to facilitate those bureaus in expediting the adjustment and settlement of the claims of soldiers for pensions and bounties. Some additions were made to the force in the Patent Office to facilitate the work in that bureau in perfecting and issuing patents to the inventors of our country, who seem to excel the citizens of all other countries in their inventive genius and skill. In the Post-Office Department a heavy increase of force has been made, owing to the immense growth and expansion of that most important branch of the public service; the growth being now about 14 per cent. as against a year or two back, when it was about 7 per cent. Considerable increase has been made in the appropriations for the Internal Revenue Bureau on account of its growth and its constantly augmenting incomes. So in other branches some increase has been made, but in no instance has more been granted by the House than has been asked by the Government; where the force has been wanted to facilitate the settlement of pension claims all demands of the Departments have been fully met by Congress.

It is not infrequently the case that the charge is made by republicans in Congress and by the republican press that the democracy are not disposed to make liberal appropriations for the Army and Navy and for the pensions of soldiers. As facts and figures are more convincing

than argument and expostulation, I submit the following table carefully prepared from the statutes:

Appropriations on account of the Army, Navy, and pensions for the ten years commencing 1871 *and ending* 1880.

Years.	Army.	Navy.	Pensions.	Total each year.
1871	$29,321,367 22	$19,250,290 29	$30,000,000 00	$78,571,657 51
1872	27,719,580 00	19,832,317 25	29,050,000 00	76,601,897 25
1873	28,683,615 32	18,296,733 95	30,480,000 00	77,460,349 27
1874	31,796,008 81	22,276,257 65	30,480,000 00	84,552,266 46
1875	27,788,500 00	20,813,946 20	29,980,000 00	78,582,446 20
1876	27,933,830 00	17,001,006 40	30,000,000 00	74,934,836 40
1877	25,987,167 90	12,742,155 40	29,533,500 00	68,262,823 30
1878	25,612,500 00	13,541,024 40	28,533,000 00	67,686,524 40
1879	25,593,486 01	14,152,603 70	29,371,574 00	69,117,663 71
1880	26,788,300 00	14,029,968 95	56,233,200 00	97,051,468 95
Deficiencies	15,675,447 00	7,630,160 00	9,930,000 00	33,235,607 00
Grand totals	292,899,802 26	179,566,464 19	333,591,274 00	806,057,540 45

Estimating the average population of the country for the past ten years at 44,807,000, a liberal estimate, the *per capita* cost of the Army during that period has been $6.53, of the Navy $4.01, and of pensions $7.44, or $17.98 for the three combined, which is equal to a per annum cost *per capita* of $1.79.

There is not as much clerical force, taken as a whole, in departmental service at this time nor are the appropriations and expenditures of the Government so great now as they were in 1876, notwithstanding the very large per cent. of growth of the service since that time.

Perhaps the growth in the Post-Office Department will furnish a more accurate basis of comparison than any other Department of the Government of the growth and expansion of this great country.

I will here append a table prepared in the Post-Office Department, the study of which will be instructive in this that it gives the postal service—star, steamboat, and railroad—for the years 1875 and 1876, as compared with the same service for 1878 and 1879, the aggregate of transportation and the cost of the same for each period:

Comparative statement of cost and amount of mail service for the years 1875 *and* 1876.

Denomination of service.	Cost for 1875.	Cost for 1876.	Per centum of increase or decrease.		Transportation for 1875.	Transportation for 1876.	Per centum of increase or decrease.	
			Increase.	*Decrease.*	*Miles.*	*Miles.*	*Increase.*	*Decrease.*
Star	$5,452,721	$5,051,541		7.35	54,708,454	54,824,003	0.21	
Steamboat	684,130	606,465		11.35	3,958,852	3,704,533		6.42
Railroad	9,116,518	9,543,134	3.54		75,154,910	77,741,172	3.44	

Comparative statement of cost and amount of mail service for the years 1878 *and* 1879.

Denomination of service.	Cost for 1878.	Cost for 1879.	Per centum of increase or decrease.		Transportation for 1878.	Transportation for 1879.	Per centum of increase or decrease.	
			Increase.	*Decrease.*	*Miles.*	*Miles.*	*Increase.*	*Decrease.*
Star	$5,714,943	$6,401,830	12.01		61,435,082	69,248,339	12.71	
Steamboat	752,483	754,388	0.25		4,629,298	5,091,474	9.98	
Railroad	9,566,595	9,567,590	0.01		92,120,395	93,092,992	1.05	

Statement of aggregate cost and amount of mail service for the years 1875 *and* 1876, *as compared with the aggregate cost and amount of mail-service for the years* 1878 *and* 1879.

Denomination of service.	Aggregate cost for 1875 and 1876.	Aggregate cost for 1878 and 1879.	Per centum of increase or decrease.		Aggregate transportation for 1875 and 1876.	Aggregate transportation for 1878 and 1879.	Per centum of increase or decrease.	
			Increase.	*Decrease.*	*Miles.*	*Miles.*	*Increase.*	*Decrease.*
Star	$10,504,262	$12,116,773	15.35		109,532,457	130,684,021	19.31	
Steamboat	1,290,595	1,506,871	16.75		7,663,385	9,720,772	26.84	
Railroad	18,759,652	19,134,185	*1.99		152,896,082	185,213,387	21.13	

*The smallness of this percentage is attributable to the reduction made under acts of July 12, 1876, and June 17, 1878.

This table shows that in 1875 and 1876 the postal star service transportation was 109,532,457 miles; steamboat transportation, 7,663,385 miles; and railroad transportation, 132,896,082 miles. For the years 1878 and 1879 the star transportation was 130,684,021 miles; steamboat transportation, 9,720,772 miles; and railroad transportation, 185,213,387 miles, being an increase for 1878 and 1879 of 19.31 per cent. on the star, of 26.84 per cent. on the steamboat, and of 21.13 per cent. on railroad service over the years 1875 and 1876. Now mark the difference in the cost. In the star service the increase for 1878 and 1879 is only 15.35 per cent., on the steamboat 16.75 per cent., and on railroad 1.99 per cent., much less proportionately than the per cent. of increase in transportation for those years. If this inquiry or comparison were pushed any further in reference to the cost of the entire postal service for 1875 and 1876, compared with the cost of the postal service for 1878 and 1879, it will appear from the tables I have exhibited that the postal service, although largely increased in post-offices and in transportation, cost, for 1878 and 1879, $6,440,510 less than it cost in the years 1875 and 1876. If the increased number of post-offices and the increased transportation be taken into the account, this difference in the cost of these two periods would swell to several millions more.

The number of post-offices on the 1st of July, 1880, will not fall far below forty-five thousand, and is increasing now between fifteen hundred and two thousand per annum. The domestic money-order offices will amount to over five thousand on the 1st of July next, having increased in their financial business or transactions $6,812,276.15 over the amount of business done the previous fiscal year, which reached to $87,427,000. The money-order offices doing an international business number twenty-five hundred. Take a survey of these additional facts in connection with the deductions drawn from the analysis of the preceding tables, and the comparison will afford a very fair basis for the estimated growth of the country, and the necessity, therefore, for increased appropriations for the present time, more than were necessary but not more than they had even no further back than in 1875–'76—the last year that the republicans had a majority in this House.

In the three years of 1874, 1875, and 1876, the last three years of republican rule in the House of Representatives, the grand sum of $17,964,417.50 was appropriated for the improvement of the rivers and harbors of this country. In my judgment money thus appropriated is of more benefit to the masses of the people in rendering them independent of railroad monopolies, in transporting cheaply the products of the farm, the shop, and the mine to market, than any other purposes to which Congress can apply it. It is of more permanent and real benefit to the great mass of the people than any other expenditure. In the years 1879, 1880, and 1881 for like purposes there was appropriated $27,884,494.61, or $16,120,077.11 more than was appropriated in the years just previously mentioned. But for this large sum of $16,000,000 thus applied to such a worthy and valuable purpose, that of enabling the people to obtain cheap freights for the products of their industry, the aggregate of reduction in expenditures would have been that much greater; that is, $16,000,000 more money was appropriated for the years 1879, 1880, and 1881 to enable the people to avoid the railroad monopolies in freights than was appropriated in the years 1874, 1875, and 1876, when the republicans had undisputed charge of appropriations and expenditures.

The House of Representatives consists of two hundred and ninety-three members. Of that number the democrats have one hundred and forty-seven, the republicans have one hundred and thirty-three, and the greenback party has thirteen, of which one or two are doubt

ful; so that the democrats cannot be said to have a majority of more than one of the whole number. The democracy, however, having control of the organization of the House, is responsible for its legislation in a political sense. But while as a party it is collectively responsible, each member, whether democratic, resublican, or greenback or independent, is responsible, individually, for his votes and record; and one member's vote weighs as much as another's. Now, it is fair to say that the entire democratic strength of the House is not always united in support of measures of economy, and while the entire republican strength is not always united in opposition to practical economy, yet it is true, as every member of Congress and the observing public well know, that much the larger portion of the democracy vote for the retrenchment of expenditures, while much the larger portion of the republican members vote for the increase of expenditures. A careful analysis of the CONGRESSIONAL RECORD will fully verify that statement. Indeed, no one would be bold enough to deny it who has any regard for truth or honesty.

But were I asked if I believed that the appropriations either during the time the republicans had control of the House or now are not greater than are really necessary for the economical and prudent administration of the Government in its various branches of the public service, I should most unqualifiedly and unhesitatingly declare, after having had some opportunity to discover data upon which to base the opinion, that in my poor judgment the expenditures ought to be largely diminished without in the slightest manner crippling or retarding the efficiency of the service. But just where to enter upon this reform, the precise point at which the retrenchment should begin, it is not within the legislative province or power to intelligently and prudently undertake. That needed reform can only be wisely carried out by a Congress in perfect accord with an administration brought into power by a burdened and tax-ridden people determined upon retrenchment. The internal workings of the great civil-service machine must be well understood by a competent and honest expert whose purpose is to benefit the service and at the same time curtail all useless expenditures and abolish all sinecure offices.

With an administration hostile in politics to Congress, in vain may members of the Appropriations Committee or members of committees on expenditures in the various Departments endeavor to ascertain the real status. If there be extravagance or failure to comply with the demands of duty or of law how easy a matter it is to close the doors and avenues of information to a committee and thus leave them entirely in the dark. No! No matter which political party shall succeed the public service demands an overhauling and a clearing out of the barnacles so that a faithful, fair, just, and clear observation may be made of the exact situation. With an Executive, and Cabinet ministers, and heads of bureaus, chiefs of divisions, and chief clerks all inspired by the same sentiment of reform which now animates the breasts of the great masses of the voters of either of the political parties, a new administration might perform a service to the American people in the purification of the civil service the effects of which would be felt for generations to come, and in the absence of such retrenchment and purification it will only continue to grow more and more burdensome, loathsome, and corrupt as the years and generations roll on.

Statement showing the cost of employés and for folding of the House of Representatives for the Forty-second, Forty-third, Forty-fourth, and Forty-fifth Congresses; the first two were republican and the last two were democratic.

	Forty-second Congress.	Forty-third Congress.	Forty-fourth Congress.	Forty-fifth Congress.
Salaries of employés, committee clerks, pages, one-half of the Capitol police, and reporting the debates	$584,918 62	$557,873 20	$542,725	$581,799 98
Folding documents	237,000 00	97,150 49	44,250	62,800 00
Total each Congress	821,918 62	655,023 69	586,975	644,599 98

I may add that during the Forty-fourth and forty-fifth Congresses the democrats ordered many investigations, and the expenses of committees and witnesses of course had to be incurred. The difference in the matter of folding documents between the first two and last two Congresses is marked.

The following table shows the amount of *appropriations* for the fiscal years ending June 30, 1873, '74, '75, '76, '77, '78, '79, and '80:

Statement showing the appropriations for the years 1873 *to* 1880, *both inclusive, and the aggregate totals for each four years.*

Titles.	1873.	1874.	1875.	1876.	1877.	1878.	1879.	1880.
Legislative, &c	$18,671,785 74	$17,120,496 60	$20,783,900 80	$18,902,236 99*	$15,417,933 33	$15,450,345 30	$15,430,781 30	$16,287,457 73
Military Academy	326,101 32	344,317 56	339,835 00	364,740 00	290,065 00	286,604 00	282,805 00	319,547 33
Army	28,683,615 32	31,796,008 81	27,788,500 00	27,933,830 00	25,987,167 90	25,612,500 00	25,583,186 01	26,797,300 00
Navy	18,296,733 95	22,276,257 65	20,813,946 20	17,001,003 40	12,742,155 40	13,541,024 40	14,152,603 70	14,029,968 95
Indian	6,349,462 04	5,541,418 90	5,680,651 96	5,360,554 55	4,572,762 01	4,829,865 69	4,721,275 70	4,713,478 58
Pensions	30,480,000 00	30,480,000 00	29,980,000 00	30,000,000 00	29,533,500 00	28,533,000 00	29,371,574 00	29,366,000 00
Post-office	28,519,341 84	32,529,167 00	35,756,091 00	37,524,985 00	34,585,701 00	33,584,143 00	33,256,373 00	36,121,400 00
Consular and diplomatic	1,219,659 00	1,311,359 00	3,404,804 00	1,374,985 00	1,187,197 50	1,138,374 50	1,070,135 00	1,087,835 00
Sundry civil	20,148,413 90	32,186,129 09	27,009,744 81	26,644,350 09	16,351,474 58	17,133,750 06	24,750,100 00	18,394,766 51
Fortification	2,037,000 00	1,899,000 00	904,000 00	850,000 00	315,000 00	275,000 00	275,000 00	275,000 00
Deficiencies	12,978,418 60	4,083,914 26	4,703,699 18	2,908,177 09	2,745,480 97	11,962,013 02	4,633,000 00	
Rivers and harbors	5,588,000 00	6,102,900 00	5,218,000 00	6,643,517 50	5,015,000 00		8,307,000 00	9,577,494 61
Miscellaneous	8,383,743 23	3,354,824 17	1,921,614 13	1,862,929 19	5,647,505 84	1,262,061 31	1,572,659 00	4,389,788 46
Totals each year	181,682,274 94	189,025,793 04	184,304,787 08	177,370,687 81	154,390,943 53	153,608,681 28	163,496,493 27	*161,360,037 17
Totals each four years	$732,383,542 87				$632,766,153 25			

* This total does not include $26,826,000 for arrears of pension.

The aggregate of the appropriations for the first-named four years amounts to $732,383,542.87; and the aggregate of the last-named four years amounts to $632,766,153.25, or $99,617,389.62 less than the four years preceding, when the republican party had unbroken control of every department of the Government. This needs no comment.

In view of the natural growth of the Government, as illustrated by the growth of the Post-Office Department, already referred to in detail, and in other branches of the public service, and as is further made most manifest by the wonderful increase, I may say marvelous increase, in the value of the exports of merchandise from the United States in 1870, being then $392,771,768; and having swelled to $710,439,441 in the year 1879, being an increase of 80 per cent., is it not fair to argue that if the appropriations are now ample to meet the necessary demands of the service thus expanded, that they were then out of all proportion too large, extravagantly so, for the last four years of republican ascendency in this House?

Statistics will further enforce the soundness of the view already expressed that there is necessity for a full and harmonious co-operation between the executive and the legislative departments of the Government before the work of intelligent and necessary retrenchment can be wisely begun and thoroughly accomplished.

Lest that mode of comparison may not be deemed a reliable or fair basis for deduction, I desire to invite the attention of the House to another table which I have had prepared from the finance report for 1879 and from the records of the Treasury Department. This table relates to expenditures, while the other relates to appropriations:

Per capita expenditures of the Government for the fiscal years 1874, 1875, *and* 1876, *being the years last appropriated for by a republican House of Representatives.*

Years.	Estimated population.	Total net ordinary expenditures.	Per capita expenditure.
1874	42,856,000	$194,118,985 00	$4 52
1875	44,060,000	171,529,848 27	3 89
1876	45,316,000	164,857,813 36	3 63

NOTE.—Average *per capita* expenditure per annum for the three years, $4.01.

Per capita expenditures of the Government for the fiscal years 1877, 1878, *and* 1879, *being the years for which appropriations were made by a democratic House of Representatives.*

Years.	Estimated population.	Total net ordinary expenditures.	Per capita expenditure.
1877	46,624,000	$141,535,497 35	$3 03
1878	47,983,000	134,463,452 15	2 80
1879	49,395,000	161,619,934 53	3 27

NOTE.—Average *per capita* expenditure per annum for the three years, $3.03.

Per capita expenditures of the Government for the fiscal years 1858, 1859, *and* 1860, *under President Buchanan's administration.*

Years.	Estimated population.	Total net ordinary expenditures.	Per capita expenditures.
1858	29,793,032	$72,330,437 17	$2 46
1859	30,618,176	66,355,950 07	2 16
1860	31,443,321	60,056,754 71	1 91

NOTE.—Average *per capita* expenditure per annum for the three years, $2.17. The expenditures are taken from the finance report, and the population from the record of the Treasury Department, except for 1860, which is taken from the census.

Thus it will be seen that tried by the *per capita* cost of administration the three years preceding the war the average *per capita* expenditure per annum was $2.17, while for the years 1874, 1875, and 1876 it was $4.01, and for 1877, 1878, and 1879 it was reduced to $3.03. The last year of Mr. Buchanan's administration the expenditures fell to $1.91 *per capita* per annum. I make these comparisons and analogies with the view of showing what has been done, and expressing the opinion that with proper economy and study of the service the same low rate of expenditure *per capita* can be maintained in the future. That desirable end can be reached only by an Executive coming fresh from the bosom of the people with the fiat of their instructions deeply inlaid upon the tablet of his conscience, and determined to be true to his trusts. In no other way is it feasible or practicable to accomplish this much-needed retrenchment. Of course it will be impossible for an Executive to work out these important reforms unless he is sustained in this House and in the Senate by majorities that can be relied upon—not merely campaign economists when the suffrages of the people are to be sought, but real economists, who will practice in Congress what they preach before the people.

It has become fashionable for Departments and bureaus to bring in at the close of the year long lists of deficiencies; even little commissions such as the Rocky Mountain locust and cotton-worm commission, and I mention it only to show how small the commission may be, seem compelled to transcend in their expenditures the limits which Congress fixes upon them. This open violation of the law should be summarily arrested by Congress.

In the appropriations of 1879 we paid off over $7,000,000 of deficiencies brought over and inherited from the fiscal years before the democrats obtained control of the House; and having then cleared the decks we trusted that the evil would be cured, but it seems to be rather on the increase. For one I shall at the next session of Congress scrutinize with more than usual care and inspection every claim which any Department, bureau, commission, or anybody else shall make for deficiency allowances.

For several years the subject of modifying sections 3687, 3688, and 3689 of the Revised Statutes of the United States which provide for certain permanent or indefinite appropriations, so as to place some of them under the annual control and supervision of Congress, has received more or less attention at the hands of the Committees on Appropriations of both Houses.

At this time there lies upon your desk, sir, a bill which has passed the Senate, and which I have asked to be made a special order for the second Monday in January next, to be then considered by this House, which will, if passed, transfer from eight to ten millions of dollars of permanent or indefinite appropriations to the annual budget. I cannot say what economy there will be in the transfer, but very likely a considerable sum will be thereby annually saved.

I do not pretend to assert that the collection of revenue from customs is extravagant and should be reduced, as I am not sufficiently familiar with the working of the machinery to know where and how the reduction can be made without injury to the public service; but a comparison of the total collections and the cost of collecting revenue at different ports in the United States through customs duties and through internal-revenue taxes show the former to be much the more costly, not to say extravagant, mode of collection. And I have no doubt that the internal-revenue plan could be considerably improved.

Statement showing the total collections and the cost of collecting revenue from customs and internal-revenue taxes in sundry collection districts for the fiscal year ending June 30, 1879.

Customs or internal revenue.	Station and district.	Compensation to collector.	Compensation to chief deputy.	Total expenses, including pay to storekeepers and gaugers.	Total collections.	Percentage of cost of collections.	Average number of persons employed.
Internal revenue	Chicago, first Illinois	$4,500 00	*$1,900 2,000	$103,731 17	$8,270,947 97	1½	79
Customs	*Chicago, first Illinois*	4,500 00	1 at 2,800 2 at 2,000	80,075 42	1,521,390 02	5¼	49
Internal revenue	Saint Louis, first Missouri	4,500 00	*1,900 2,000	70,435 40	4,374,813 84	*1⅜	47
Customs	*Saint Louis, first Missouri*	5,000 00	1 at 2,800 2 at 2,000	41,048 64	1,346,418 15	3⅜	24
Internal revenue	Cincinnati, first Ohio	4,500 00	*1,900 2,000	127,867 85	10,832,458 61	1 8/10	94
Customs	*Cincinnati, first Ohio*	5,000 00	1 at 2,000	27,839 83	427,621 57	6½	16
Internal revenue	New Orleans, Louisiana	4,125 00	*1,500 1,600	36,737 22	588,595 99	6¼	27
Customs	*New Orleans, Louisiana*	7,000 00	2 at 3,000	254,423 95	1,433,205 91	17	164
Internal revenue	Savannah, Georgia	3,000 00	1,500	26,730 00	108,056 25	24 7/10	23
Customs	*Savannah, Georgia*	3,851 50	1 at 2,200	23,447 02	77,592 53	30	20
Internal revenue	Baltimore, first Maryland	4,500 00	2,800	72,639 00	2,163,034 34	3⅜	60
Customs	*Baltimore, first Maryland*	7,000 00	2 at 3,000	273,699 71	2,095,986 48	13	204
Internal revenue	Portland and Bangor, Maine	1 at 2,375 00	*1,350 1,500	8,975 00	75,531 22	11¾	6
Customs	*Portland and Bangor, Maine*	1 at 6,000 00 1 at 1,452 09	2 at 3,000 1 at 1,600	78,867 85	298,034 91	27	56
Internal revenue	Providence, Rhode Island	3,000 00	*1,350 1,400	9,550 94	230,583 17	4 3/10	7
Customs	*Providence, Rhode Island*	4,205 72	2 at 2,000	22,736 24	145,226 79	15	15
Internal revenue	Milwaukee, Wisconsin	4,500 00	*1,400 1,500	35,227 45	2,200,128 58	1⅓	26
Customs	*Milwaukee, Wisconsin*	2,597 10	1 at 1,800	9,442 50	93,916 70	10	8
Internal revenue	Detroit, Michigan	4,500 00	*1,800 1,900	19,077 91	1,219,698 67	1½	11
Customs	*Detroit, Michigan*	4,303 47	1 at 2,000	54,633 70	208,570 42	26	59
Internal revenue	Cleveland, eighteenth Ohio	4,250 00	*1,800 1,900	30,902 28	773,324 27	4	24
Customs	*Cleveland, eighteenth Ohio*	2,500 00	1 at 1,800	19,062 22	79,133 34	24	15
Internal revenue	Erie, nineteenth Pennsylvania	2,500 00	1,300	6,843 74	101,391 50	6 7/10	6
Customs	*Erie, nineteenth Pennsylvania*	1,813 97	1 at 1,600	4,393 07	9,039 23	48	3
Internal revenue	Louisville, fifth Kentucky	4,500 00	1,900	129,070 80	3,069,691 06	4⅛	121
Customs	*Louisville, fifth Kentucky*	2,646 85	1 at 1,600	9,643 68	41,888 04	23	7
Internal revenue	Mobile, first Alabama	2,500 00	*1,400 1,500	11,680 58	50,084 72	23 3/10	8
Customs	*Mobile, first Alabama*	3,731 46	1 at 1,600	20,645 60	40,819 10	50	18
Internal revenue	Galveston, first Texas	3,000 00	1,500	17,469 63	104,650 46	16 7/10	11
Customs	*Galveston, first Texas*	3,169 61	1 at 2,000 1 at 1,700	37,872 05	75,807.56	49	27
Internal revenue	San Francisco, first California	4,500 00	*1,900 2,000	61,479 47	1,911,383 48	3⅛	42
Customs	*San Francisco, first California*	7,000 00	2 at 3,625	341,893 17	6,354,723 11	5 3/10	204

*Compensation for the present fiscal year.

This table was prepared by the Internal Revenue Bureau. Thus it will be seen at Chicago the collection by customs involves a cost of 5⅛ per cent. of the total collections, while the internal-revenue plan costs only 1⅛ per cent. with nearly twice as many employed in the latter than in the former service. By examination of the table it will be observed that similar inequalities in the cost of collecting revenue by the two modes exist at various other places. I shall not say that the annual supervision that Congress necessarily gives to the mode of collection by the Internal Revenue Bureau when the appropriations are granted annually brings about this favorable showing in favor of the latter over the former mode; but as in the latter mode no harm follows by requiring the appropriations to be annual, I think it fair to conclude that annual appropriations for the collection of customs would work no injury and might be the means of lessening the cost of collection.

The total estimates of revenue for the fiscal year 1881 amount to $288,000,000, while the estimated expenditures, including permanent annual appropriations, interest on the public debt, $88,877,410; sinking fund, $39,828,225.72; refunding customs, internal revenue, lands, &c., $5,778,600; collection of the customs, $5,500,000; miscellaneous, $1,766,000, amount in the aggregate to $278,097,364.39, or an estimated surplus of $9,902,635.61. For several years past the revenues have fallen so low that the amount due the sinking fund has not been thus set apart as the acts of February 25, 1862, and July 14, 1870, require. The economy which Congress has for those years endeavored to observe having reduced the ordinary expenditures about $100,000,000 in four years, contributed in a large measure to the relief of the Treasury during that period of depressed revenues. But under the blessings of Divine Providence, with good crops and returning confidence in the business affairs of the country and of the commercial world, what is saved by continued economy in the future after defraying the ordinary expenditures and satisfying the sinking-fund will swell the receipts and resources of the Government in the liquidation and extinguishment of the public debt. Hence there is still need for economy and retrenchment while the Government owes a dollar of public debt. Should it be, however, the policy of Congress to fund the public debt, then Congress should promptly reduce the rate of taxation.

The Tariff.

SPEECH OF HON. J. R. TUCKER,

OF VIRGINIA.

IN THE HOUSE OF REPRESENTATIVES,

Wednesday, June 16, 1880,

On the tariff bills reported from the Committee on Ways and Means.

Mr. TUCKER said:

Mr. SPEAKER: About two years ago the principles which should regulate our tariff system were discussed so fully by me that it would be improper now to trespass upon the House with a repetition of the views then presented. But it will not be out of place for me to state succinctly the points then made and the conclusions reached in the argument, as it is now my purpose to deal with the practical application of principles rather than to discuss them.

I belong to that school of political thought which believes that the freedom of the individual from all taxes and burdens not necessary to the support of Government is essential to his independence and prosperity; and that to build up favored classes by taxation of others for their benefit is to establish privilege at the expense of liberty; that the expenses of Government should be limited to those which are needed to conduct the public administration, including no bounties to special interests or schemes of local value, leaving them to individual energy and enterprise, or, if done by Government at all, to State and municipal support; and that all bounties by direct payment from the Treasury, or by the insidious and indirect system of customs duties, are against common right, in violation of the spirit of free institutions, without any warrant in the Federal Constitution, dangerous to the peace of the country by engendering the inevitable social jealousies which spring from class legislation, and tending to make the inequalities of wealth greater than ever before in the creation of one class of luxurious affluence and another of pinched or starving pauperism.

The epitome of the doctrine of free institutions I may thus express: "Grant to government the *minimum of power* and to the citizen the *maximum of liberty* consistently with the order and safety of society." Let each man be left to work out his own destiny without help or hinderance from government, and let the government no further intervene in the affairs of the citizens of the country than may be needed to protect the right of each in his own work from the intrusion and violence of all others. This is true freedom, and this would secure the happiness of a people of independent and self-reliant freemen.

The fiscal action of all governments (by which I mean its taxing and expending powers) must necessarily be unequal. The citizens may be divided into three classes under its operation: First, those who pay more in taxes than they receive back in expenditure; second, those who pay less than they receive; and third, those who pay and receive the same. The last class is, if any, certainly very small; the second more numerous, representing the office-holding and bounty-receiving classes; and the first class is the most numerous, representing the mass of men who toil with brain and muscle and nerve to support themselves and to fill the treasury which others are to empty. It follows that this *inequality* in the fiscal action of the government is increased with the increase of taxes and expenses, and a wise and equal Government will sedulously labor to keep down expenses in order to diminish taxes. Taxation is necessary, but should be strictly limited to the needful operations of government. To that extent the tax-payer finds his compensation in the order and security he enjoys under its protecting care. But taxation may be tyranny when it passes beyond this limit into the domain of building up special interests, creating monopolies, and granting peculiar privileges to some by imposing heavy burdens on others. This is contrary to right and liberty and real progress.

The distinguished gentleman from Ohio [Mr. GARFIELD] some time ago said substantially that the Committee on Ways and Means and the Committee on Appropriations stood in this relation to each other: The former asked the latter how much money was needed for the governmental expenses and, when told, then raised the revenue to meet them. This is a fancy sketch. It is our misfortune, resulting from the perversion of our Constitution and from the exclusive use of the indirect forms of taxation, that Federal revenue and expenditure are less under the practical control of the people than in the several States or in Great Britain.

This point is so important I will pause to explain it more fully.

In the statistical abstract No. 2 of the Bureau of Statistics, page 5, I find the net ordinary expenditures of this Government for the year ending June 30, 1879, to be $161,619,934.53; and the interest on public debt (page 6) $83,773,778.50, in all an annual charge of $245,393,713.03. The population of the United States in 1879 (page 7) is estimated at 49,395,000. The charge *per capita*, therefore, for ordinary expenditure is $3.27, and for interest on public debt $1.69, or an annual charge for all expenditure upon every human being in the United States of $5.96, or computing each family as five persons, an average annual charge on every family of $29.80.

Compare this with the same class of statistics in the two States of Massachusetts and Virginia. Massachusetts raises by taxation only about $1,000,000. Her population is 1,651,912. Thus her people are annually taxed for the State government sixty cents per head, or a family of five persons $3, being only one-tenth of Federal taxes her people pay.

Virginia raises by taxation about $2,500,000. Her population was in 1870 1,225,163. Thus her people are annually taxed for the State government $2.04 per head, or $10.20 per family, being only one-third of the amount of Federal taxes her people pay.

It is notorious that any increase of *State* expenses, thus creating a need for increased taxation, is sensitively felt by the people. But I may safely appeal to universal experience whether the citizen has any such sensitiveness about Federal expenses and taxation.

Why is this? The reason is to be found in the fact that State taxation is mainly direct and Federal taxation is mainly indirect. In the one case the tax-gatherer gets the tax from each and all the citizens who are assessed with it; in the other, he collects from the importer the duty or from the distiller or tobacco manufacturer the tax, which the importer, distiller, and manufacturer take care, of course, to add to the price of the article they sell, and thus recover back the duty and tax, *directly* paid by them, from the buyer or consumer, who thus *indirectly* and unconsciously pays the tax or duty. He may grumble at the price charged by the merchant or manufacturer, but it is concealed from his consciousness that the merchant and manufacturer are in reality tax-gatherers for the Government, and that the burden he bears is imposed by it. It is true there is a class of economists, to whom I will hereafter refer, who assure the people that the duty on the imported article cheapens it to the consumer; and thus the Government, by a happy device, would raise taxes without any burden upon the people, which would be an important discovery in finance if it were only true.

It is obvious that this system makes a people unconscious of the burdens they bear and diminishes the responsibility of their representatives for increased expense and excessive taxation. The results we see every day in reckless extravagance in expenditure, which breeds corruption in public administration. But this is the more insidious because our tax laws are not annual or even limited at all as to time, but permanent.

Bills for raising revenue must, under our Constitution, originate in the House of Representatives. Yet I have been a member of this House for three terms; and no bill has ever passed this House since I have been here changing a tax or duty, except the law for reduction of the tobacco tax. All the checks provided by the Constitution to prevent the doing of a thing are interposed to prevent its undoing. The taxes and duties imposed by a former generation of our people are inherited by us, and cannot be changed by the will of

the people expressed in this House, (where the people are numerically represented, where the hand that pays the tax, and should be allowed to lay it, is represented,) unless the Senate and the President agree to do so. And thus a tax, which the Constitution says cannot be laid but by the first consenting of the people through this House, is, because this House imposed it twenty years ago, continued by the will of the Senate, representing the co-equal States and not the tax-paying people, or by the will of the President.

It will be said, I know, that to change our tax laws every year would be an evil and disturb business. I answer it would disturb it beneficially if we reduced taxes, and the evil result comes from their increase and from their continuance when too high.

In Great Britain, where the House of Commons originates revenue bills, the case is practically different; for while in form its bill reducing taxes requires the assent of the Lords and Crown, yet that assent is never refused to a revenue bill, and could not be without a dissolution of the ministry, the real executive of the kingdom. So that in England the absolute control of taxation by the Commons makes any system of taxation repealable at their will.

When gentlemen still reply that this House does not desire to change the tariff laws, my answer will bring into view the other cause for lavish taxation and extravagant expenditure under our Government. That cause is, that the power to lay and collect taxes and duties has been perverted from a revenue power to one for controlling the commerce and business of the country, and duties are not laid to be paid into the Treasury, but in order to exclude the import, which is the subject of the tax, and to enhance the price of the article, so as to give a bounty to the home producer of it, to be paid to him by the mass of the people as tribute. And hence, when you ask to take off a duty because producing no revenue, and thus a burden to the mass without any benefit to the Government, you will be met by the sturdy advocate of the privileged classes with the declaration that the burden must be perpetuated in order to keep up to a profitable point the production at home of what the people could buy abroad for half price. "Here's the respect that makes calamity of such long life!"

And this fixed and unchangeable system of taxation has an evil influence upon expenditure. In hard times, when production of articles subject to the excise tax is checked and imports from abroad fall off, revenues are diminished and limited appropriations are a necessity. But when prosperity revives, the same rate of tax enormously increases the revenue. Thus, in the year ending June 30, 1879, the imports of merchandise, exclusive of coin, amounted to $445,777,775, upon which we raised a revenue of $137,250,047.70, or an *average* duty of 30 per cent. upon all imports dutiable or free. Our imports for the year ending June 30, 1880, of merchandise, exclusive of coin, will exceed $600,000,000, which, at an average duty of 30 per cent., will yield a revenue of over $180,000,000, or more than $40,000,000 over the revenue from customs last year. On the present imports of $600,000,000, an average duty of 23 per cent. would raise the present revenue, and thus by reducing the average rate from 30 to 23 per cent., we would raise the same revenue as now. In truth, we would raise more, as will hereafter be shown. An average duty of 20 per cent. would give us our present revenue from customs, which is ample.

And yet such is the insidious nature of this indirect system of taxation that the people are not aware of the fact that they are paying nearly one dollar more taxes into the Treasury per head, or five dollars more per family, than last year. In truth, as will appear hereafter, it is no increase of *burden*, though an increase of *tax*, for the additional *tax* they pay this year to the *Government* they paid last year as *tribute* to the *privileged classes;* the article they bought from the home producer last year being imported this year at a rate of specific duty, which in the equivalent *ad valorem* duty is proportionately less than last year. In other words, a duty on Bessemer steel rails of $28 per ton, when worth $25 per ton in Liverpool, is 110 per cent., but when they are worth $40 in Liverpool $28 duty is only 70 per cent.; and while the duty at the former price prevented importations, it admits them at the latter price; and the purchaser of rails last year who bought them from the home producer paid the increased price to him, while this year he pays the duty on the foreign rails into the Treasury. The burden last year was a tribute to privilege; this year a tax to support the Government. The *burden* is not increased, but in the one case it is tribute, in the other it is tax.

While it is not expedient (and I do not advocate but oppose the policy) to abandon the system of raising revenue from duties on imports, the views already presented show the necessity of a clear comprehension of the fact that this system is not only one of as real taxation and burden as if gathered by direct methods from the citizen, but that when it is used for the purpose of bounty to privileged classes it is more oppressive than any other system, for it realizes but little revenue to the Government, while transferring an enormous amount from the mass of the people into the coffers of these parasites upon the Government for special and peculiar benefits.

I am an advocate of a tariff to be laid for the purpose of raising the revenue required for the economical administration of the Government, and for carrying into efficient execution the powers delegated to the United States by the Constitution, and for no higher tax or duty on any article than is necessary to raise the requisite revenue from that article; and as far as possible to equalize the burdens upon the consuming classes of all articles imported, so that the necessary support of Government shall be fairly distributed. At the same time, I think, a just system of taxation may well discriminate in making the burden heavier on luxuries than on the necessaries of life, and imposing thus a higher duty on the former than on the latter.

I beg leave on this point to repeat what I said on a former occasion:

In all the modes of taxation which may be adopted upon all articles of consumption, the quantum of revenue raised is the result of two factors: the rate of tax and the amount of consumption. The amount of consumption may be regarded for practical purposes as the proper factor, for under a tariff the consumption will regulate the import, and in excises the consumption will limit the production. So that in every tariff the revenue derived from each article will be the result of the duty multiplied by the amount of import and in every excise the tax multiplied by the quantum of product.

In the case of the tariff system, it follows that as the rate of duty increases the amount of consumption on importation will decrease. When the duty is nothing the revenue will be nothing, however great the importation. When the importation is nothing the revenue will be nothing, however great the duty. And as the importation falls off with the increase of the rate of duty, until the duty becomes prohibitory, by so increasing the price of the import as to prevent any consumption, it follows that between the point of no duty and the prohibitory rate there will be an ascending scale of revenue to a maximum point of revenue and a descending scale of revenue from that maximum point to the point of prohibition. So that on either side of that duty, which raises the maximum revenue on any article, there will be a lower and higher duty which will raise the same amount of revenue.

Therefore, as no higher duty ought to be laid than is needed to raise the requisite revenue on any particular article, it follows that the true revenue duty is the lowest duty which will bring the required revenue. To lay the higher duty to obtain the required revenue instead of the lower, which will achieve the same result, is an oppressive violation of right, in making the burden heavier than the needs of the Government require for its support. Such higher duty is not a revenue measure, but is a needless limitation upon consumption, oppressive to the citizen, and an improper restriction upon freedom of commerce. In other words, the lowest rates of duty which will secure the required revenue may be termed a revenue tariff; the highest rates securing the same will be a protective tariff. The former enlarges consumption, the latter diminishes it, and both bring the same amount of revenue. The one decreases the comforts of the people by decreasing ability to consume; the other increases their comforts by enlarging their capacity of consumption.

That is my idea of a revenue tariff: the lowest rate of duty on every article which will produce the required amount of revenue from that article. To lay the higher rate of duty which is on the other side of the maximum revenue point is to make a protective tariff, and is to lay heavier burdens on the people than the needs of the Government require.

In view of what I have said these rules may be laid down as within the spirit of the Constitution: first, no duty should be laid higher than the maximum revenue point; second, that under that maximum revenue point luxuries may be made to pay a higher rate of duty than necessaries; third, that it is more just to have an *ad valorem* duty, and, where that is impracticable because of danger to revenue from frauds in invoices, that the specific duty should be so laid upon the article by classification as to make it as nearly as possible equivalent to an *ad valorem* duty; and, fourth, that, unless necessary for revenue, raw material may be admitted free of duty in the interest of the manufacturer as well as of the consumer of the products from such materials.

And I will now add fifth, that as far as possible the implements of industry should bear as light a burden as possible, so that labor may work with untaxed tools and machinery.

Algebraically you may formulate the problem of your revenue thus: Revenue equals duty multiplied by import, or $R=D\times I$. Duty and import are variable, and import is a variable dependent upon duty; that is, decreasing with its increase and *vice versa*. There is no law applicable to all articles as to what rate of duty is the maximum revenue point. In the case of each article it depends upon the difference of price between the home and foreign product. When that is small a smaller duty will be prohibitory than when it is large. Thus a duty of 30 per cent. on blankets would realize a large revenue, while the same duty on wheat would be prohibitory. It follows, therefore, that you cannot make a revenue tariff by laying a horizontal rate of duty upon all articles. Such a duty would bring great revenue on some articles and none on others. We must determine by the relative cost of production abroad and at home of each article, what duty will produce the highest revenue by making the product $D\times I$ the maximum. One thing may be relied on: where by a decrease of duty you find the revenue increase, you may be assured the former duty was beyond the maximum revenue point; for it is obvious from what has been said that all reduction of duty laid below that point must decrease revenue. It ought to be a very rare case in which the duty on any article should rise as high as the maximum revenue point. In time of war or great public need it might be justified, but to go beyond that point and burden the citizen more than the *revenue* demands is unjust and oppressive, and especially when done for the purpose of exacting tribute from one class to pay bounties to another.

Having thus determined what is a revenue tariff, let me present another question. All taxation presses ultimately upon the income of the citizen. What he makes annually from his land or from his factory, or by labor of muscle or brain, is the fund for support of himself and family, and out of which the tax must be paid. A tax on property, as land, horses, &c., cannot be paid out of the *corpus*, but must be paid out of the money product of his property; and so as to all other subjects. A tax on consumption must be paid in like manner out of his money earnings. Before the man consumes the product he buys, he must have income with which to purchase it. The *outgo* of expenditure must be preceded by the *income* of revenue. It matters not to him, therefore, whether you tax him on his income or his outgo. If you tax his income 50 per cent., and not the things he buys in the hands of the seller or producer, it is all the same as your not taxing his income at all, but taxing the things he buys 50 per cent. in the hands of those he buys from.

In all the laws for income tax in this country or Great Britain, (and I suppose everywhere,) a minimum of income is fixed, below which no tax is laid. This is because all of such income is presumed to be used in buying the necessaries of life; and hence taxation on so much would trench on human need. But what does your tariff system do? With remorseless greed it taxes by large duties the prime necessaries of life. It taxes meat and bread, salt and sugar, clothing and shelter, the implements of trade, of labor, and of husbandry. It taxes these sometimes 30, sometimes 50, sometimes more than 100 per cent., as I shall presently show. In the name of protecting the American laborer, it taxes his blanket 100 per cent.; his sledge, his spade, his tools of trade, his plow, &c., with a third at least of their value.

Take a laboring-man whose income is $500. What would be thought of taxing it 50 per cent.? The great millionaires denounce a tax on their millions of income because it demands 2 or 5 per cent. of them. But what would they think were their incomes taxed 50 per cent.? And why should the poor be pinched for life and comforts of wife and children by such an exaction? If the wealthy put gifts out of their abundance into the Treasury of the country, is there good reason for taking by force the mite of the widow, even all her living?

The answer to these questions must be in the negative. But what difference is there when you withhold your tax from the man's income but impose your 50 per cent. tax on the things he buys with his income? If you take 50 per cent. of his income it leaves him $250 free to buy untaxed necessaries. But with untaxed income, if he comes to buy these necessaries, the price of which you have raised 50 per cent. by your tax on them, he can buy no more in the one case than in the other. Your tax on the articles he consumes is a tax on the income he earns, and under the plea of protecting him in his earning of adequate wages you crush him by taxing him on those very wages, in the enhanced price of what he buys with them; enhanced (God save the mark!) by your duty laid, as you pretend, for his protection.

But gentlemen have said, and will say again, duties do not enhance the price of the domestic article consumed. My colleague on the Committee on Ways and Means, the distinguished gentleman from Pennsylvania, [Mr. KELLEY,] in a speech delivered April 21, 1880, in this House, expressed himself on this point, and a colloquy between us occurred from which I quote:

Mr. KELLEY. Why, in view of such facts, will the gentleman assume that duties are added to the cost of domestic productions? It is *never true*, and we were selling in the time of the depression steel rails as low as they could be bought in England. We sold steel rails during the time of the depression as low as they could have been bought in England.

Mr. TUCKER. I understand the gentleman to say that steel rails were sold as low as they could be bought in England.

Mr. KELLEY. Yes, sir.

Mr. TUCKER. What time was that?

Mr. KELLEY. At the period of greatest depression.

Mr. TUCKER. Fix the date; when was it?

Mr. KELLEY. Well, I will say the date of the extremest depression, when the importation of foreign and the production of American rails had both ceased.

Never true that duties are added to the cost of domestic productions! Let us see:

In the Bulletin for the Iron and Steel Association for March 24, 1880, English Bessemer steel rails are quoted at £9.5 to £10, or say $50 per ton. At same date American Bessemer steel rails are quoted at $80 to $82.50. The difference of price is $30 to $32.50, and is greater than the duty, which is $28, or the price of the home product is enhanced more than the duty.

In January, 1880, the same paper quotes as follows:

Welsh rails, (iron,) £7.10 to £8.5, equal, say	$41 25
American rails, (iron,) $65 to $70, sales at, say	02 50
Difference of price	21 25
Duty 70 cents per cwt. equals, say	15 00

In March, 1880:	
Steel English rails, £10, equal	$50 00
Steel American rails	85 00
Difference	35 00
Duty	28 00

At same date:		
Iron English rails	$48 00	
Iron American rails	67 00 to	$70 00
Difference	19 00	
Duty	15 00	

The American Iron and Steel Association Report for 1879, (pages 19, 20,) says that *iron* rails fell in this country in October, 1877, to $32.50, which was the lowest ever reached here, and Bessemer *steel* rails fell to $40 here, which is the lowest they ever reached.

The Bulletin for January 21, 1880, states that English steel rails had been at $30 in October, 1879, and rose to $40 in December, 1879, and says: "The price of steel rails advanced steadily from $20 a ton last summer to $40 a ton at the close of the year."

Now, if the American steel rail never got below $40 per ton, how could it have sold as low as the English rail, which was down to $20, and reached $40 on a *rising* market in December, 1879, which was the *lowest* they had ever reached in America.

In the report of the same association for 1880, I find the following quotations for past years, (page 65:)

1876, Bessemer steel rails (English) at works, £7 2*s.* 4*d.* to £8 7*s.* 6*d.*; average, £7 15*s.*=$38.50.

1877, Bessemer steel rails (English) at works, £6 7*s.* 6*d.* to £6 15*s.*; average, £6 11*s.* 3*d.*=$33.

1878, Bessemer steel rails (English) at works, £5 7*s.* 6*d.* to £5 18*s.*; average, £5 12*s.* 9*d.*=$28.

It is further said they went as low as £4 18*s.*, or $24.50.

In 1880, the highest price the English steel rail reached was $55; the highest the American reached was $85 to $90.

In May, 1880, English steel rails are quoted in the same report, (page 55,) $37.50.

In May, 1880, American steel rails are quoted in the same report, (page 55,) $65.

Difference, $27.50; duty, $28.

I have been thus particular in getting the facts as to steel and iron rails, and from the authority and reports of the protectionist party, in order to show that the statement of the gentleman from Pennsylvania [Mr. KELLEY] is not accurate. In truth, though American steel rails in the period of depression were quoted as low as $40, and British steel rails at $20 to $24.50, the difference not being then equal to the duty, on account of the depression of business, yet since the revival of business the facts show that the home producer of this article has taken in enhanced price the whole amount of the duty—the full "pound of flesh" from the consumer.

I will now proceed to show the same result in other cases.

The following table is made up from the materials furnished by the report for 1880 of the American Iron and Steel Association, and is believed to be accurate. The page of report is given:

Article.	Product, 1879.	American price.	British price.	Duty.	Imports, 1879.	Revenue.	Bounty.	
Pig-iron	3,070,875 tons, (page 21.)	1879, average, $21.50; Dec., $30; 1880, Jan. 14, $40; May 15, $25, (page 27.)	1879, $8, $10, $13, (page 61;) 1879, Scotch, $10 to $17.50; 1880, Jan. 14, $22.50; May 15, $12.25 to $14.25, (page 64.)	$7 per ton	90,054 tons	$632,972 38	$7 per ton, equal to difference of price, makes	$21,496,125
Rolled iron, including bar and nails.	1,627,324 tons, (page 21.)	1880, Jan., 3.6 cents; Feb., 4 cents; May, 2½ cents, (page 33.)	1880, Jan., 2½ cents, (pages 62, 63.) This is highest of all kinds.	1¼ cts. per lb	7,326,627 lbs.	91,600 66	1¼ cents, equal to difference of price, makes.	45,565,072
Bessemer rails.	683,964 tons.	1879, average price, $48.25; 1880, March, $85; May 15, $65, (page 31.*)	1879, $32.50; 1880, March, $55; May, $37.50, (page 63.)	1¼ cts. per lb	5,811,947 lbs.	72,689 34	Allowing only an average of enhanced price of $15 per ton, makes.	10,000,000
Iron and all other rails.	420,160 tons.	1879, $41.25: 1880, March, $68; May, $50.	1879, $27.50, (page 69;) 1880, March, $45; May, $30.	70 cts. per cwt.	None		Allowing only $12 per ton as enhanced price, makes	5,000,000
Cut nails	5,011,021 lbs. (page 33.)	No data.	No data.	1¼ cts. per lb	$7,135	107 03	Allowing ¾ of a cent for enhanced price, makes	4,000,000
All other iron	1,135,416 tons, (page 31.)	1879, $40 to $70; average, $51.85; 1880, Jan., $80.64; May, $56, (page 56.)	1879, $25 to $45; 1880, no data.	Average duty, 36 per cent.		†2,800,000 00	Allowing 20 per cent. only for difference, makes	25,000,000
All other steel.	1,047,506 tons, (page 38.)	No data.	No data.					
Total						3,597,329 41		111,061,197

* Prices for seven years, (pages 55 and 63.)

† Approximate.

This table shows that for $3,597,329.41 of revenue from duties on iron and steel there is paid in bounty to the producers of domestic iron and steel, at the lowest estimate, $111,061,197, or for every dollar which goes into the Treasury, $33 is paid in tribute to these privileged classes.

I will illustrate this subject by one other class—the case of woolen goods.

The great house of A. T. Stewart & Co., of New York, wrote to Mr. J. S. Moore of that city, a gentleman well versed in statistics and well known as an able and pungent writer on these subjects, the following letter, which, though it has been printed, I am fully authorized to use by the gentleman to whom it was written.

I have made an additional column of duty on the articles named, to show how the difference of prices stand related to the duty on the imported article.

NEW YORK, *October* 2, 1879.

J. S. MOORE, Esq.

SIR: Agreeably to your wishes we herewith hand you statement showing relative values of certain goods made in Europe with similar goods made in the United States. In all cases manufacturers' prices only are stated:

Europe.	Cost of similar goods of American manufacture.	DUTY.
BLACK ALPACAS.		
Cost in England, fall of 1879.	*Per yard.*	
27-inch, 4*d.* = 8⅓ c. per yard	20 cents.	6 c. + 35 per cent. = 8.8 c. = over 100 per cent. *ad valorem.*
4½*d.* = 9½ c. per yard	22½ cents.	6 c. + 35 per cent. = 9.1 c. = 100 per cent *ad valorem.*
5*d.* = 10½ c. per yard	25 cents.	6 c. + 35 per cent. = 9.50 c. = 95 per cent. *ad valorem.*
5½*d.* = 11½ c. per yard	35 cents.	6 c. + 35 per cent. = 9.9 c. = 90 per cent. *ad valorem.*
6*d.* = 12½ c. per yard	37½ cents.	6 c. + 35 per cent. = 10 c. = 83 per cent. *ad valorem.*
7*d.* = 14½ c. per yard	40 cents.	6 c. + 35 per cent. = 11 c. = 79 per cent. *ad valorem.*
8*d.* = 16⅔ c. per yard	42½ cents.	6 c. + 35 per cent. = 11.6 c. = 72 per cent. *ad valorem.*
9*d.* = 18¾ c. per yard	45 cents.	6 c. + 35 per cent. = 12.3 c. = 68 per cent *ad valorem.*
BLACK CLOTHS.		
Cost in Germany, fall of 1879.		
54-inch, marks 5 = $1.22 per yard	$2 50	50 c. + 35 per cent. = 92.7 c. = 75 per cent. *ad valorem.*
FANCY SUITINGS.		
Cost in England, fall of 1879.		
6-4, 5*s.* 10*d.* = $1.40 per yard	$2 30	30 c. + 35 per cent. = 69 c. = 50 per cent. *ad valorem.*
BLACK WORSTED COATINGS.		
Cost in France, fall of 1879.		
56-inch, 9.25 francs = $1.80 per yard	$3 25	30 c. + 35 per cent. = 83 c. = 46 per cent. *ad valorem.*
MERINO HALF-HOSE.		
Cost in England, fall of 1879.	*Per doz.*	
1 lb. 12 oz. per dozen, 9*s.* 10*d.* = $2.40	$4 50	50 c. per lb. + 35 per cent. = 84 + 87 c. = $1.71 = 68 per cent. *ad valorem.*
MERINO VESTS.		
Cost in England, fall of 1879.		
Men's, 10 lbs. per doz, 43*s.* 1*d.* = $10.55.		
11 lbs. per dozen	$20 00	50 c. per lb. + 35 per cent. = $8.50 = 85 per cent. *ad valorem.*
Ladies', 8 lbs. per doz, 42*s.* 7*d.* = $10.42.		
9 lbs. per dozen	$22 50	50 c. per lb. + 35 per cent. = $7.30 = 73 per cent. *ad valorem.*

We have on hand samples of all goods represented by the above statement. In many instances it can readily be seen that the imported articles are much superior, notwithstanding the great difference in prices.

There are two noticeable facts from the above table:

First. The enhanced price of the home product always exceeds the duty.

Second. A fact I shall hereafter specially call attention to, that the lower the price of the articles in the same list the higher the equivalent *ad valorem* duty. In other words, the goods consumed by the poor are taxed higher in proportion than those consumed by the rich.

One other case under this head I must mention, and that is the article of blankets. In the report of the committee of the New York wool trade for 1874 I find an estimated product for 1870 of 2,000,439 pairs of blankets, or, at five pounds to the pair, 10,000,000 pounds of blankets produced in 1870. The amount produced in 1880 must be much larger. The value of blankets *imported* in 1878 was only $2,357; in 1879, $1,674! So that the home producer has the monopoly of the market by reason of the prohibitory duty on it.

Mr. J. S. Moore states the cost of a pair of five-pound blankets in England to be 9*s.* 2*d.*, or $2.25; of a pair of American blankets of like character he states the cost to be $4.50. The difference of price is $2.25. Now what is the duty? It is 30 cents per pound, or $1.50 per pair, plus 35 per cent., or in all, $2.28⅜; so that the *enhanced price* to the *consumer* of the *domestic blanket* is *nearly equal to the duty*, and is fully 100 per cent! It is therefore obvious that upon woolens the enhanced price charged by the domestic manufacturer is nearly equal to the duty—in many cases fully so.

Let me, then, sum up on the woolen question. I have examined the various reports of the wool associations, and think that the woolen products of this country is not short of $280,000,000. Mr. Blodget, of Philadelphia, in a speech at the meeting of the Wool Association this year, makes it $283,000,000.

The matter then would be tabulated thus:

	Woolens.	Blankets alone.
Domestic product	$250, 000, 000 00	$15, 000, 000 00
Imports	$25, 037, 109 44	$1, 453 72
Duty	Av. 67. 30 p. c.	69 to 104, or av. 86 p. c.
Revenue	$16, 839, 066 28	$1, 236 33
Bounty	*$100, 000, 000 00	$7, 500, 000 00

*If enhanced by full amount of duty; $66,000,000 if only two-thirds.

Thus for every dollar paid into the Treasury as a duty on blankets $6,000 is paid in bounty to the manufacturer by the consumer!

The same course of investigation would show like results in other products; and I feel satisfied that the estimate made by me two years ago is not excessive, when I state that not less than $500,000,000 is extracted from the consumers of this country to support the privileged classes sustained under the so-called protective policy.

Having shown the operation of the present tariff upon the consuming classes, I proceed now to show that it is unfavorable to revenue.

There are hundreds of articles which should be on the free list, because no revenue is derived from them; and others on which the duty is nearly prohibitory and should be reduced in order to revenue. It would lead to too much detail to go fully into this subject; one illustration will suffice. The revenue from blankets, flannels, knit goods of wool, and hats of wool, is only a little over $50,000! Thus the revenue is sacrificed in order to force tribute from the consumers of these articles as bounty to the producers of them.

In 1870 10 per cent. was taken off of the duty on many articles imported. It is curious to see how the revenue sprang forward in most cases under this reduction, as may be seen by reference to the book on imports and duties from 1867 to 1868, by Mr. Charles H. Evans, and printed for the use of Congress. This fact shows by the law already stated that the former duty had been beyond the maximum revenue point.

In 1875, the reduction of 10 per cent. was abrogated and the old duty was restored. The immediate effect was to reduce the revenue from those articles, thus showing how a less tax may increase, while a greater tax may decrease revenue. A most remarkable illustration of this is in the late reduction of the tax on tobacco. On snuff the reduction was one-half; on other tobacco (except cigars) one-third. The first year of the reduced tax shows an increase of revenue at the one-third reduction of tax, and nearly the same revenue on the one-half reduction on snuff. I concede that this result must be qualified by the fact that, in anticipation of a reduced tax, the manufacturer held back his goods from the higher tax, and then rushed into the market with it under the reduced tax, thus decreasing the quantity taxed under the last year of high tax, and increasing it in the first year of low tax. But allowing for this qualification, the revenue increased, thus manifesting an increased production and consumption, the two elements of prosperity. Cheapen production by lifting taxes from it, and consumption will increase and stimulate a larger production. Taxation is a burden on both.

But I now take other grounds.

The present tariff lays its burdens more heavily, in proportion to the value of the article consumed, on those consumed by the poor than on those consumed by the rich. This is due largely to the specific form of the duty. A tax of $1 on every horse is a specific tax. It is obvious this would be but 1 per cent. upon the farm horse worth $100, but would be only one-hundredth of 1 per cent. on a racer. So when the same specific duty is laid on a yard of cloth it is proportionately heavier on the cheaper than on the more expensive cloth. Let me call attention to some of these.

Plain bleached cotton valued at less than 20 cents pays a duty whose equivalent *ad valorem* is 45 per cent. The same article worth over 20 cents pays 35 per cent.

This is conspicuously the case in the articles of woolens:

Carpets valued at $2.42 pay 50 per cent.

Druggets, bockings, &c., valued at 36 cents pay an equivalent *ad valorem* duty of 103 per cent.

The cheapest dress goods pay 70 per cent., the dearest only 65 per cent.

The cheapest blanket pays 104 per cent., the dearest only 75 per cent.

The cheapest flannel pays 95 per cent., the dearest only 64 per cent.

The cheapest hosiery pays 85 per cent., the dearest only 55 per cent.

The cheapest shirts, drawers, &c., pay 86 per cent., the dearest only 60 per cent.

The cheapest hats pay 84 to 92 per cent., the dearest only 63 per cent.

The cheapest other manufactures of wool pay 94 per cent., the dearest only 70 per cent.

This inequality demands redress at the hands of Congress, for it is unjust and oppressive to make the poor man pay a larger proportion of tax on the article he owns or consumes than the rich man.

But this tariff taxes the implements of the laborer, the farmer, and the ship-owner excessively. Note the following table:

Chains, trace-chains, halter-chains, and fence-chains, 55 to 57 per cent.
Anvils, 40 per cent.
Anchors, 67 per cent.
Iron chains and cable-chains, 52 per cent.
Needles for sewing and knitting machines, 45 per cent.
Files, 43 to 57 per cent.
Hand-saws, 37½ to 42 per cent.
Plows, spades, shovels, picks, &c., 45 per cent.

Now I hold it to be as clearly against policy as against common right to tax so heavily the very tools of trade and implements of husbandry, by which the laborer and farmer make their daily bread.

One other thing is clearly oppressive, not upon the railroads but upon the freighters by railroads. To cheapen the cost of these is to cheapen the cost of transportation. And yet by this tariff a duty of $28 per ton is laid on steel rails and about $15 on iron rails, or counting one hundred tons to the mile, the producers of the country are taxed to the extent of nearly $3,000 per mile of every railroad to support the manufacture of these rails in this country.

It seemed, therefore, to the Committee on Ways and Means that we should if possible strike at some of the most palpable enormities of the present tariff and reform its most flagrant abuses without proposing a general revision of the entire system. We did not propose to bring down the duties so rapidly as to endanger enterprises brought into being under their influence. Nor were the members of the committee agreed upon the mere details as to rates of duty, though the majority agreed upon the scheme as outlined in the bills reported, being entirely ready with candor to change them where exact adjustment of rates had not been attained. This is stated by me in justice to myself and others who concurred with me in reporting these bills.

I propose now to consider one of these bills in some detail, and to vindicate it from the criticism of the minority report, which was not presented until after the majority reports with the bills had been placed before the House. The sugar bill is worthy of a separate discussion, and I am content to leave the reasons for reporting it to the report accompanying it, especially as the minority have made no report. It is perhaps proper, however, to say that the tariff on sugar is a revenue tariff. A decrease of duty will decrease revenue and an increase of duty will increase revenue. By the law already stated this shows the maximum revenue point is not reached. If it is urged that the duties are protective, I answer that the duty on sugar alone realizes about $37,000,000 and gives bounty to the home producer of only about $5,000,000 in enhanced price. Compare this with iron. It gives revenue of less than $4,000,000 and bounty of $111,000,000. So that while the sugar duty gives the Government $7 for every $1 it gives in bounty, the iron duty gives $1 to the Government and $33 in bounty. If you reduce the duty on sugar you decrease revenue; reduce duty on iron and you will increase revenue.

The bill in respect to band, hoop, and scroll iron needs no longer to be considered, as a joint resolution has passed and been approved by the President doing all that was contemplated by the committee. I dismiss it with one remark. Under the higher rate which the Secretary of the Treasury by interpretation exacts for "cut hoops," no revenue is obtained. Under 35 per cent. *ad valorem*, a lower rate, over $500,000 will be collected.

I shall therefore confine myself to the bill (H. R. No. 6188) to "regulate customs duties on certain articles named therein."

The minority report plants its signers upon the proposition "that a given duty being placed upon the raw material, a higher duty should be placed on all manufactured articles into which said raw material enters, and the farther any article of manufacture is advanced, the higher rate of duty it shall bear." Nor are we left in doubt as to the *reason* for this rule, for later in the report the minority say:

The American manufacturer pays a duty of 7 cents per pound on the steel from which nine-tenths of the files are made, and 11 cents per pound upon that which enters into the best class of goods. He is, however, enabled to compete successfully with his foreign rival under the existing law, which levies a duty equivalent to about 51 per cent. *ad valorem* on the finished product. The bill of the committee will compel him to pay an average of 43 per cent. *ad valorem* on steel, while it reduces the duty of his finished product to 35 per cent. *ad valorem*, thus again making a heavy discrimination against our own people.

This view is in striking contrast with the remarks of the gentleman from Pennsylvania [Mr. KELLEY] already quoted, that the duty does not enhance the price of the domestic product. For if it does enhance the price of the raw material on which a duty is laid, as the minority maintain, why does it not produce a like result on the finished product? The minority, of whom he is one, condemn the dogma of the gentleman from Pennsylvania [Mr. KELLEY] by declaring that the duty on the raw material enhances and does not cheapen that material to the manufacturer who consumes it, and they cannot logically avoid the conclusion that the duty on the finished product does not cheapen but increases its price to its consumer.

In the application of the rule laid down by the minority, the writer of it, the distinguished leader of the republican party in the approaching presidential election, [General GARFIELD,] assails the putting of books on the free list.

I confess my surprise that the gentleman from Ohio [General GARFIELD] should object to this. For, in the first place, it cannot enable any foreign publisher to invade the copyright of an American author. That is clear law.

But the minority say we tax the raw material of the foreign book. I can only say the majority did not desire to tax wood-pulp, out of which the paper of the book was to be made, or even the paper itself. The minority may have stood by these duties, but it cannot be made a criticism on those who desired to make all free that they desired to tax the raw material and leave the book free.

But is not the suggestion that the paper, type, and ink are the raw materials of a book an unworthy one? I do not mean in any improper sense. The raw material of a book is the brain which conceived it. From the mine of its uncoined wealth the thoughts which make the book were dug. Take away its ideas, and what are the paper, ink, and type of the book worth? Nothing but to be cast out and trodden under foot of men.

And why should we tax the reader of a foreign book 25 per cent. on its cost abroad to enable a publisher here to pirate the copyright of the foreign author and sell it to us at a price enhanced by the duty?

Free books! Free trade in thought! Untaxed knowledge! These should be prime principles of our free system of government, based, as it must ever be, on the intelligence and integrity of the people.

I will not go into the other reasons urged by numerous petitioners from schools, colleges, universities, and others, in favor of this important provision of the bill. An American author, whose book is meritorious, would scorn to ask protection against his foreign rival. In the field of literature and science and philosophy the lists are open to all men, of every clime and race and condition. In the conflict of ideas money cannot be arbiter, and truth must decide the issue. As Lord Camden splendidly said of John Milton:

He did not refuse £5 for his Paradise Lost, and commit it to the flames. He knew that the price of his work was immortality, and that posterity would pay it.

This criticism was merely intended, however, to open the way for an assault upon those parts of the bill which touched the money interest of the greedy feeders upon bounties wrung from the masses, who are made to pay tribute to privilege.

The majority of the committee put cut-nails and spikes and cast-irons butts and hinges on the free list. I confess that this seems to conflict with the general principle, which in a modified form I support, that has been asserted by the minority of the committee. I would have preferred to lessen the duty, rather than remove it entirely, on those articles of manufacture where the raw material is burdened with a duty. But the rule has its exceptions.

The Committee on Ways and Means had, through the gentleman from Maine, [Mr. FRYE,] just reported a bill (H. R. No. 5989) by which all articles of foreign growth or production used in the construction, equipment, and repair of vessels to be employed in the foreign trade, &c., are to be admitted free of duty. By existing law manufactures of brass and copper, sheathing metal, *nails, bar-iron, wrought hinges, broad nails, spikes, rivets, wire rope*, manufactures not otherwise specified, and various articles of wood, are admitted free of duty for the *ship-builder*.

Does not this militate against the rule laid down by the minority? Are not the manufactures above enumerated free of duty, when the raw material out of which they are made is subject to duty? Are not nails and wrought hinges and spikes and rivets and wire rope made free to the ship-builder?

And who is this ship-builder? He is one whose ship has a monopoly of the coastwise trade, and is protected by duty in the foreign trade against foreign ships.

Now, in whose interest do we propose to make "cut nails and spikes and cast-iron butts and hinges" free? I answer, in the interest of the *home-builder*, of the man whose shelter in the wilderness frontier, or in the quiet hamlet, or on the farm is taxed 43 per cent. for the nails and spikes to build it, while the builder of a ship, made a monopoly by law, gets them free of duty.

If the minority can see good reason for violating the tariff canon they have laid down in the case of the monopolist builder of ships, which will cheapen to him the instrument for transportation, while he increases its cost to the producer, who is by a duty or by prohibition debarred from the use of any other, I ask, may not we violate the rule in favor of the pioneer, the laborer, and the farmer, who asks to build an *untaxed home* for his wife and children?

While admitting, therefore, that the proposition of the present bill, as of those just referred to, are departures from the rule propounded by the minority, I can see strong reason for the policy which would untax the raw material for our own ships, but especially for our own homes.

The fish-packer of New England has free salt. Why not the pork-packer? Why not every home in the land? If one gets it free, why not all? *Is special privilege the policy of a country which boasts of equal laws for equal men?*

We must remember that every manufactured article is a raw material to some further use for man's comfort, and it is always a proper

question whether the higher use does not demand the freedom of the lower article from duty.

The minority press this rule into service in their criticism upon the bill in lowering the duty on chains, trace and other, cables, plows, spades, &c.

The reply is the same as that before given. The sailor, the farmer, the laborer, the carpenter, the blacksmith, the sewing woman—these all work with the tools and implements of their calling; shall they be taxed for the benefit of the makers of these tools, when nothing is done in the form of protective duty for the product of their industry in the use of these tools and implements? In taxing these tools, and not laying a higher duty on the articles produced with them, you violate the rule laid down by the minority, and yet no one of them seems to have been affected by this consequence.

But I come now to criticise the statements of the minority report.

I find that the average price of imported nails and spikes last year was 3.4 cents per pound. We exported $264,192 last year, or 9,476,471 pounds at 2.8 cents per pound. That is, we sold these nails to a foreign market cheaper than the foreigner sold them to us. Does not this show we are no longer dependent on duty to compete in the foreign market? And, if so, why tax the consumer at home, producing a revenue of only $107.03, (clearly prohibitory,) and make him pay more than the foreigner pays for the same home nails?

Cast-iron butts and hinges: the minority say these are probably the most advanced form of cast-iron. The duty is 2½ cents per pound; the average price of the import for five years is 13 cents. The duty is therefore only 19 per cent. *ad valorem*. Yet this is prohibitory, for the revenue from the duty is only $44.13, and we exported $225,746 worth of these articles.

Now, the minority say, as pig-iron has a duty of $7 per ton, which is about 30 per cent., these cast-iron butts and hinges ought to have a higher rate of duty. And yet a duty of 19 per cent. is prohibitory, and our manufacturers go without the aid of duty to the foreign market with these goods. The proposition of the minority is disproved by the facts.

But I take other grounds. The duty on cut nails is 1½ cents per pound. It is an advanced manufacture. The minority report admits it. The price in May, 1880, here was 3.25. They have been as high as 5.25, and as low as 1.85, (American Steel and Iron Report, page 5.) The average price abroad was last year 3.4. Now, if 1½ cents per pound be a sufficient duty for them, why should cable-chains pay 2½ cents, or trace-chains pay 2½ and 3 cents? And while the farmer's trace-chain pays 54 per cent., equivalent *ad valorem* to 2½ cents per pound, why should a more expensive chain used by others pay but 35 per cent. Our bill only seeks to put these implements of labor on a level with others, in whose case a lower duty is admitted to be sufficient.

The minority make a further objection as to hammers, sledges, files, &c., being reduced to 25 per cent. *ad valorem*. This is very slight reduction on hammers and sledges. But they say the manufacturer pays 7 cents a pound on the steel used in the manufacture of files. This is a mistake—I might say a blunder—for a statistical critic to make where accuracy in respect of facts is essential. The duty on steel is 2½, 3, and 3½ cents, plus 10 per cent. on the last. The duty on a file costing 21 cents abroad, at 25 per cent., is 5.25 cents, and on a file costing abroad 72 cents it would be 18 cents. I take these prices of files from the official statements. So that while the raw steel pays 2½ and 3 and about 5 cents duty, the files under the bill we report would pay 5.25 and 18 cents duty, which is an advanced rate on the raw material.

Many other illustrations might be furnished in the details to show that the duty on the perfected article need not be much more than on the raw material; sometimes not as much as on the chief raw material where it is mixed with others. The question depends on how much the element of the cost of labor enters into the cost of the perfected material—a question I shall hereafter consider.

But the criticism upon our bill is, when turned upon the present tariff, very powerful. Common needles have now a duty of 25 per cent. Why not files and saws and needles for sewing and knitting? With the raw material the same, why should one of these perfected articles bear 25 per cent. only and others not? Where is the difference? Five classes of steel wire and wire rope, &c., which are more advanced than steel bars, have duties of 2½, 3, 3½ cents + 10 per cent., 2½ cents + 20 per cent., and 3 cents + 20 per cent.; and wire rope and chain, coppered, galvanized, &c., have same duties. And the equivalent *ad valorem* on all these goes as low as 22 per cent. and not above 45 per cent., and the revenue from them all is so small as to show the duty is well-nigh prohibitory. If a duty as low as 22 per cent. is sufficient on steel wire, &c., why is not 25 per cent. enough for the farmer's plow and trace-chain and the laborer's ax and saw and spade?

I think these facts will satisfy every candid mind that the committee were justified in reducing the duties on this large class to 25 per cent. But if this is found to be too low (with respect to the duty on the raw material) I should myself be willing to concede a slight advance of rate. The present rates on these tools and implements range from an equivalent *ad valorem* of 35 to 57 per cent. The burden on these is proportionably greater than on other articles of higher value.

I now call attention to the real proposition of the minority that in the adjustment of the duties, in order to a fair competition with the foreign product, (which for the argument's sake I am now conceding,) such a duty must be laid as will compensate for the duty on the raw material and will realize to labor its higher wages here over that in Europe.

If now we take the cost of the perfected product to be equal to cost of raw material plus cost of labor, it is obvious that the same duty on the perfected product that is laid on the raw material will compensate for the duty on the latter and give the same duty as a bonus to home labor.

To illustrate. In Executive Document, first session of Thirty-first Congress, (1849, 1850,) Document 4, page 803, it appears by the facts developed on an investigation by Secretary Meredith (a distinguished Pennsylvania protectionist) that the proportion of cost of labor to raw material, &c., in a ton of Welsh coke pig-iron was 9 per cent.; in one of anthracite pig, 13 per cent.

Now if you lay a duty on the foreign ore of 20 per cent., and then the same duty on the pig metal, you compensate the manufacturer for the enhanced price he pays for the ore, and leave 20 per cent. on the element of labor which enters into the pig metal. And if you increase the duty on the pig metal to 25 per cent., then as the additional 5 per cent. is in excess of what compensates for the cost of the ore, it being on the whole article, it will concentrate as an additional duty to the 25 per cent. in favor of the labor element. In other words, suppose raw material costs 80 per cent. and labor 20 per cent: 20 per. cent would compensate for the duty on the raw material and leave 20 per cent. for labor; but adding 5 per cent. on the whole would be 25 per cent. in all to be added to the 20 per cent for labor, or would give it a bonus of 45 per cent.

This a most important principle, and not often taken into the account, but was pressed some years ago with force by my friend and former colleague on the committee, Mr. Burchard, of Illinois, now Director of the Mint.

I propose now to apply this principle to a few of the principal subjects of the bill under consideration.

Take cottons. From a number of authorities I am satisfied that $1 of cotton cloth has about 80 cents of material and 20 cents of labor. Mr. Atkinson, in a pamphlet on cotton and cotton manufactures, (a gentleman of ability and practical experience,) page 37, states the case thus:

Assuming the bale to weigh 500 pounds, at 10 cents a pound, we have the following comparative cost:

LOWELL.		
Cost of cotton in Texas, 500 pounds at 10 cents, including all local charges	$50 00	
Freight to Lowell in a covered locked car, in which the cotton is protected from rain, mud, and other causes of waste, at 70 cents per 100.	3 50	
Total	53 50	$10 70
LANCASHIRE.		
Five hundred pounds at 10 cents, including all local charges	50 00	
Freight from Texas to Liverpool, at $1.10 per 100 pounds	5 50	
Insurance at ¾ per cent. on $56	21	
Transshipment in Liverpool, and freight to Lancashire, ¼ cent	1 25	
Total	56 96	11 39
Advantage of Lowell over Lancashire		69

In other words, Lowell has in the raw material about 6½ per cent. advantage of the Englishman, which on 80 cents is 5.2 cents. The labor being 20 cents in the price of the article, it is obvious that a duty of 30 per cent., which is 30 cents with the 5.2 cents advantage, making 35.2 cents on 20 cents of labor, would be an enormous bounty to the laborer or to the capitalist; and when the wages and profit are settled between them we may be sure the latter will not suffer.

In the bill reported 30 per cent. *ad valorem* is allowed on all cottons. That was the duty under the tariff of 1842, except that it was on some articles only 25 per cent. The latter rate would be ample. It is to be hoped this will satisfy the matured cotton industry, as it is more than it claimed in its infancy under the high tariff of 1842.

In the statement of Mr. Wharton, of Philadelphia before the committee on the subject of steel rails the following state of facts was developed as to their manufacture: Take a ton of pig metal at $18 per ton, add 20 per cent. to it for waste, making $21.60; take some spegelusin amounting to, say, $2.40, and the raw material in a ton of Bessemer steel rails will be $24. Mr. Wharton then allowed from $10 to $20 for labor and interest on capital, &c., say, $15, which would make the total cost $39. He says the English can make the rail for $25 at the same time. Then $14 duty would enable the two fairly to compete, and yet the duty is $28, leaving $14 in excess for the capitalist. By our bill we allow $22.40.

We come now to woolens. If the sheep-grower would consent to free wool the duty on woolens could be largely diminished. But I concede while the duty on wool is retained there must be an adjustment of the duty on woolens so as to compensate for that on wool. The duties on wools are very unequal and in some cases are exorbitant. On raw wools of merino type it amounted to 58 per cent. last year; on Cotswold, &c., only 40 per cent.; on scoured wools it amounted to 90 per cent., and on carpet wools, which are not grown in this country, as well as I can learn, it is 40 to 90 per cent.

That the shepherd—the laborer, I mean—should have to pay 50 per cent. more than the value of the fleece on the back of the sheep he is tending before he can get it to a factory, and then pay 100 per cent. before he can get his blanket, upon its cost, is rather strange to one who does not know the devices by which the consumers of the land are taxed to support the privileged classes.

The heavy duty on foreign wools, which are essential for admixture with the domestic wools in order to the making of certain woolen fabrics has been a great drawback upon the woolen manufacturers in this country and have diminished the demand for domestic wools. And while the duty tends to keep up the price of the domestic wool the duty on foreign wools depresses the trade and thus tends to lessen the price of the domestic wools. And enlightened men have held that the wool-grower would not be injured by admitting wool free.

But the exorbitant tariff on woolens made it a most important matter to lessen the duty on wool in order to lowering it on woolens. Accordingly the committee have reported a bill for an *ad valorem* duty of 35 per cent. on all wools, except carpet wools, on which the duty is reduced to 20 per cent., as these last are not produced in this country. This is higher than the duty under the high tariff of 1842. Now let us see the effect on the duty on carpets. We reduce these from duties varying from 40 to 103 per cent. down to one duty of 30 per cent.

I quote from a speech of my republican friend from New York, [Mr. CHITTENDEN] delivered in this House on the 24th of May last:

> Here is a statement of duties actually paid on three hundred pieces of tapestry Brussels carpetings, manufactured in Scotland, imported and sold in New York in October, 1879: First quality cost 47 cents, duties paid 37 cents, or 79 per cent; second quality cost 38 cents, duties paid 34½ cents, or 90 per cent.; third quality cost 29 cents, duties paid 31 cents, or 108 per cent.; average duties 92⅓ per cent.

Thus we see the poorer goods paying a heavier percentage of tax than the better goods, a policy as unvarying under this tariff as it is offensive to every just principle.

Mr. Hayes, whose letter is filed with the report of the minority, and is so disrespectful in tone to the majority of the committee that I wonder it was placed on file, undertakes to show how destructive this bill will be to the carpet manufacturer. I will examine his statement: In the bulletin of the National Association of Wool Manufacturers, 1870-'71, the average per cent. of cost for labor in the Washington Mills, Boston, was 21.80, and the wages of laborers in woolens was $8 per week in the United States, $5.69 in Great Britain, or about 41 per cent. higher here than there. In the report of 1849-'50, already cited, the element of labor in making broadcloth was found to be 18 per cent. Mr. Hayes says on an English carpet costing $1, the duties on raw materials would be 22.35 cents, to which he adds 10 per cent. for carrying the duties and commissions, or 2.03, making in all 24.38. This would leave 5.62 of the 30 cents protective duty on the carpet. Now the labor factor in a carpet is, say, 20 per cent., or 20 cents, and labor gets 5.62 cents, which is 28 per cent. But taking it free from the 10 per cent. of Mr. Hayes, and the protection would be 38 per cent. for labor.

The duty we propose on carpets is what was imposed in the high tariff of 1842 upon a large class of carpets.

But I am satisfied the element of labor in all these products is diminishing. Mr. Hayes, in his report to the association whose secretary he is, says fifty-two yards of Brussels carpet per day may be woven by a girl, when in 1860 she could only weave fourteen; and the evidence in all departments is that the hand is being replaced by the machine, and labor, as an element of cost, is continually decreasing.

In blankets: take an English one at $2.25 per pair; say there is 80 per cent. of raw material, or $1.80. Thirty-five per cent. duty on the wool of which the blanket is made is 63 cents; 20 per cent. of labor is 45 cents; give 50 per cent. protection to that, and you add 22½ cents to the 63 cents, making 85½, which is 38 per cent. on $2.25, the cost of the blankets. This bill gives 40 per cent. The present tariff imposes nearly 100 per cent! The high tariff of 1842 only imposed on a large class of blankets 25 per cent., and yet the manufacturer asks for three times as much duty as then!

Finally, take cloths. In this we have 18 per cent. for labor and 82 per cent. for material; 35 per cent. on raw material, 28.70; 50 per cent. allowed to protect labor, 9, which makes on a dollar cloth, 37.70 per cent. Our bill allows 45 per cent. And I may add that on all the class of woolens the duties are as high as under the tariff of 1842! The period of maturity demands as much the foster care of the nursery as when the industry was in its infancy.

Upon every ground, then, the protected classes have no reason to complain of our bill. We have pruned the exorbitant duties on these products, but not put the ax to the root of the trees.

And I am satisfied this reduction of burdens will be without material loss of revenue. The loss of revenue by the free list of this bill will not exceed $500,000, and the revenues from cottons and woolens will not be decreased, and on all other subjects will be increased. In fact, if every article in the metal classes of our bill were put on the free list, the loss of revenue would hardly exceed a million of dollars. As it is, the reduction of duty will increase the revenue.

Mr. Speaker, I do not claim that this bill should not be amended. On the contrary, I wish myself to amend it in material respects, to which I need not here refer. But I have spoken to vindicate our action; to show that we have struck at abuses in the burdens on labor and husbandry; and appeal to the House and the country to reform our tariff policy, until, under a tariff strictly for revenue, we shall have the liberty of labor by all, without privilege or bounty to any. That done, I shall expect a future of prosperity for our common country. Let peace and harmony and a generous emulation prevail among us to do our several parts in the promotion of the public good, and the progress of all, with the freedom and happiness of the people in every section, will be secured and, I trust, perpetuated in blessings to those who shall come after us.

Deficiency Appropriations.

SPEECH OF HON. JOHN H. BAKER,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

Monday, June 14, 1880,

On the bill (H. R. No. 6325) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1880, and for prior years, and for those certified as due by the accounting officers of the Treasury in accordance with section 4 of the act of June 14, 1878, heretofore paid from permanent appropriations, and for other purposes.

Mr. BAKER said:

Mr. SPEAKER: The close of the second session of the Forty-sixth Congress presents a fitting occasion for a brief review of the management of the material interests of the country by the democratic party. That party came into power in this House at the election held in the fall of 1874. It had arraigned the republican party before the country upon two material and vital issues, namely: first, that the expenditures for the support of the Government were much beyond the needs of an economical administration; and, second, that the internal revenues and customs duties laid unequal and excessive burdens on the people. The first it promised to retrench and the second to reform. In the presidential campaign of 1876 it again went before the country on a platform pledging retrenchment and reform. It presented to the country two names as living embodiments of these issues. While that party failed to elect its presidential ticket, it succeeded in retaining control of the House and securing control of the Senate.

In both particulars it has violated its plightful faith. It has demonstrated its utter lack of capacity either to retrench expenditures or to effect any reform in the revenue or tariff laws. A brief contrast of what was accomplished by the republican party during the period of five years ending June 30, 1876, (that being the date to which the appropriations made by the Forty-third Congress extended,) with what has been accomplished by the democratic party since, will establish the falsity of their pretended retrenchment. And it must be borne in mind that during the five years of republican control there were larger and more numerous claims and obligations growing out of the war which had to be provided for than have existed since the democracy gained control of the House. I have a carefully prepared official statement which exhibits the net ordinary expenditures of the Government from the year 1856 to the present time. I will incorporate it at the close of my remarks.

It is shown by this statement that during the last five years of republican ascendency the expenditures of the Government were as follows: For the fiscal year ending June 30, 1871, $292,177,188.25; for the fiscal year ending June 30, 1872, $277,517,962.67; for the fiscal year ending June 30, 1873, $290,345,245.33; for the fiscal year ending June 30, 1874, $287,133,873.17; for the fiscal year ending June 30, 1875, $274,623,392.84; for the fiscal year ending June 30, 1876, $258,459,797.33. Thus the republican party in the course of five years made a reduction in the expenditures, of $33,717,390.92. If they had retained control during the last five years it is safe to say they would have made a reduction in the annual expenditures equally as great. Thus for the fiscal year ending June 30, 1881, the expenditures under republican rule would have reached only to the sum of $224,742,406.41, instead of the sum of $297,847,900.90. Taking the annual expenditures since the democratic party got control of the House we find the following exhibit: For the fiscal year ending June 30, 1877, $238,660,008.93; for the fiscal year ending June 30, 1878, $236,964,326.80; for the fiscal year ending June 30, 1879, $266,947,883.53; for the fiscal year ending June 30, 1880, the amount appropriated is $297,860,237.17; for the fiscal year ending June 30, 1881, the amount appropriated is $291,423,888.90. The sum of $6,424,012 was appropriated for deficiencies for the present fiscal year; a like sum, and perhaps greater, will have to be appropriated next winter to cover deficiencies for the fiscal year ending June 30, 1881. This sum for deficiencies must be added to the amounts already appropriated to enable us to get a true statement of the expenditures during the fifth year of democratic ascendency. It will amount to the sum of $297,847,900.90.

Thus so-called democratic economy has at the end of five years reached the expenditure of $39,388,103.57 beyond the amount expended during the last year the republican party had control of the House. During the first two years of democratic ascendency there was an apparent saving in expenditures of about $20,000,000. But it was an economy for which every honorable and patriotic man should feel humiliated. It was principally accomplished by a ruthless cutting down of the meager salaries of nearly every employé of the Government except their own, and by refusing to appropriate money to meet the just and necessary wants and obligations of the Government. The rapid increase in expenditures during the last three years is a matter which should give pause to patriotic thought and lead candid men to inquire whether prudence and self-interest do not demand a change in those who control the purse.

The House has been in the undisputed control of the democracy for five years, and their management here exhibits their pretended economy in its true light. The last year during which the republicans had control of the House the number of employés and the amount expended is shown by the following statement taken from the appropriation laws:

Permanent annual employés of the House of Representatives, 125; amount of salaries paid said employés, $194,190.70; for official reporters of debates, $25,000; for two stenographers, $8,400; per diem clerks, $22,500; making a total expenditure of $250,190.70. The present Congress has increased the permanent annual employés to 173, costing annually $207,798; for five official reporters, $25,000; for two stenographers, $10,000; for thirty-two per diem clerks, $23,040; making a total expenditure of $265,838.

Thus we see that the democrats have increased the permanent House employés forty-eight, or about 40 per cent., and have increased the annual expenditures $15,747.30. We are told by the democracy that there are now one hundred thousand men in the civil service of the Government. If that party had control of the Executive and made as liberal an increase in other departments of the public service as they have about the House, we should speedily have forty thousand more men in the civil service than we have under republican control; and there can be but little doubt if that hungry party ever get control of all departments of the Government that we shall see an increase proportionally as great as has been made in the employés of the House.

We will now turn our attention for a few moments to contrasting what the republican party accomplished during the last five years of its ascendency in tariff and revenue reform with what the democracy have accomplished in the five years they have been in power. I will incorporate with my remarks a statement carefully prepared at my request by the Treasury Department, showing the articles and amount of duty taken from each during the years from June 30, 1870, to June 30, 1879, inclusive. From that table it will be seen that during five years the republicans removed or reduced the duty on one hundred and sixty-six articles of prime necessity, effecting an annual reduction of taxation to the amount of $31,106,129. During the last five years the democratic party has placed the sulphate and other salts of quinine on the free list, effecting an annual reduction of taxation to the amount of $32,657. This is the full measure of their tariff reform. It shows that the democratic party has proven utterly untrue to its pledge of tariff reform; and no one better knows than they do how hollow and insincere are all their promises of such reform.

I have before me a statement carefully prepared at my request by the Treasury Department showing the reductions made by the republican party in five years in the internal revenues, and also the reductions made by the democratic party in the same period of time since. The statement is an instructive one, and will repay careful study. I can only refer to its aggregates. The republican party, as this statement shows, reduced the annual burden of internal-revenue taxes $89,151,000. This reduction was made upon objects which entered into every industry. The democratic party in the same period of time has reduced internal-revenue taxes $9,000,000 on tobacco, cigars, and snuff. During the present session a change has been carried through which it is estimated will reduce the tax on whisky about $2,000,000. While republican legislation effected an annual reduction of taxes, internal and for customs dues, of $120,000,000, reaching nearly every object and industry, the democrats in the same period of time have reduced the taxes, internal and for customs, about $11,000,000, and have confined their reforms to quinine, tobacco, and whisky. These statements show how utterly the democratic party fails in capacity to legislate for the great business and material interests of the country. They show that its record in these regards when placed beside that of the republican party is simply humiliating. The record of this party touching the purity of elections, the rights of citizenship, and an honest financial system has also been invariably wrong. In every respect the record of that party has been constantly vicious and oftentimes threatening and dangerous. It is a party which has proved an impediment in the path of progress and a menace to our business and material interests.

This brief review, however, would be incomplete without calling attention to the investigating committees raised by the democratic majority of the House. I am enabled to give a statement of these committees and their cost in detail for the first four years of democratic control, carefully prepared by the Treasury Department. This statement shows that between March 4, 1875, and June 30, 1879, the democratic majority in the House raised thirty-eight investigating committees, and that the sum of $263,157.35 was spent in prosecuting their so-called investigations. Since June 30, 1879, something like a half dozen more investigating committees have been raised, which will increase the total expenditure for investigations down to the present time to more than $300,000. These investigating committees have been bitterly partisan, organized to convict, and yet in fishing for republicans they have usually caught a shoal of democratic statesmen. The well known Potter committee was organized to impeach the title of President Hayes, and it came near landing the fraud of "Cipher Alley" in the penitentiary for attempting to secure the Presidency by the purchase of electoral votes.

This brief and imperfect review needs no embellishment of language to add to its impressive significance. The material interests of the country demand a change from such methods. With the nomination of Garfield and Arthur we shall achieve a victory this fall which will give us a republican Executive, and at the same time will redeem the House from the control of a party fatally bent on mischief. Such a victory will be hailed by good men wherever our flag floats as the beginning of a better era than we have seen since the war of the rebellion was begun.

APPENDIX.

Recapitulation of net ordinary expenditures by fiscal years.

Year.	Civil and miscellaneous.		War Department.	Navy Department.	Indians.	Pensions.	Interest on public debt.	Net ordinary expenditures.
	Premium on loans and purchase of bonds, &c.	Other civil and miscellaneous items.						
1856	$385,372 90	$32,124,214 07	$16,948,196 89	$14,091,781 06	$2,769,429 55	$1,298,208 95	$1,953,822 37	$69,571,825 79
1857	363,572 39	23,164,532 97	19,261,774 16	12,747,976 83	4,267,543 07	1,312,043 01	1,678,265 23	67,795,707 66
1858	574,443 08	26,429,609 57	25,485,383 60	13,984,551 09	4,926,738 91	1,217,488 47	1,567,055 67	74,185,270 39
1859		23,700,295 14	23,243,822 38	14,642,989 73	3,625,027 24	1,220,378 29	2,638,463 96	69,070,976 74
1860		27,976,434 22	16,409,767 10	11,514,964 96	2,949,191 34	1,102,926 15	3,177,314 62	63,130,598 39
1861		23,267,010 46	22,981,150 44	12,420,887 89	2,841,353 28	1,036,064 06	4,000,173 76	66,546,644 89
1862		21,408,491 16	394,368,407 36	42,668,277 09	2,273,223 45	853,095 40	13,190,324 45	474,761,818 91
1863		22,256,965 39	599,298,600 83	63,221,963 64	3,154,357 11	1,078,991 59	24,729,846 61	714,740,725 17
1864		27,505,599 46	680,791,842 97	85,725,994 67	2,629,858 77	4,983,924 41	53,685,421 69	865,322,641 97
1865	1,717,900 11	43,047,658 01	1,031,323,260 79	122,612,945 29	5,116,837 08	16,338,811 13	77,397,712 00	1,297,555,224 41
1866	58,476 51	41,056,961 54	284,449,701 82	43,324,118 52	3,247,064 56	15,605,552 35	133,067,741 69	520,809,416 99
1867	10,813,349 38	51,110,223 72	95,224,415 63	31,034,011 04	4,642,531 77	20,936,551 71	143,781,591 91	357,542,675 16
1868	7,001,151 04	53,009,867 67	123,246,648 62	25,775,502 72	4,100,682 32	23,782,386 78	140,424,045 71	377,340,284 86
1869	1,674,080 05	56,474,061 53	78,501,990 61	20,000,757 97	7,042,923 06	28,476,621 78	130,694,242 80	322,865,278 80
1870	15,996,555 60	53,237,461 56	57,655,675 40	21,780,229 87	3,407,938 15	28,340,202 17	129,235,498 00	309,653,560 75
1871	9,016,794 74	60,481,916 23	35,799,991 82	19,431,027 21	7,426,997 44	34,443,894 88	125,576,565 93	292,177,188 25
1872	6,958,266 76	60,984,757 42	35,372,157 20	21,249,809 99	7,061,728 82	28,533,402 76	117,357,839 72	277,517,962 67
1873	5,105,919 99	73,328,110 06	46,323,138 31	23,526,256 79	7,951,704 88	29,359,426 86	104,759,688 44	290,345,245 36
1874	1,395,073 05	69,641,593 02	42,313,927 22	30,932,587 42	6,692,462 09	29,038,414 66	107,119,815 21	287,133,873 17
1875		71,070,702 98	41,120,645 98	21,437,626 27	8,384,656 82	29,456,216 22	103,093,544 57	274,623,392 84
1876		66,958,373 78	38,070,888 64	18,963,309 82	5,966,558 17	28,257,395 69	100,243,271 23	258,459,797 33
1877		56,252,066 60	37,082,735 90	14,959,935 36	5,277,007 22	27,963,752 27	97,124,511 58	238,660,008 93
1878		53,177,703 57	32,154,147 85	17,365,301 37	4,629,280 28	27,137,019 08	102,500,874 65	236,964,326 80
1879		65,741,555 49	40,425,660 73	15,125,126 84	5,206,109 08	35,121,482 39	105,327,949 00	266,947,883 53

Amounts appropriated for the support of the Government for the fiscal year ending June 30, 1880, excluding interest on the public debt	$192,860,237 17
Interest on the public debt	105,000,000 00
Making total expenditure for the fiscal year ending June 30, 1880	297,860,237 17
Amounts appropriated for the support of the Government for the fiscal year 1881, excluding interest on the public debt	$186,423,888 90
Interest on public debt estimated	105,000,000 00
Making total expenditure for the fiscal year ending June 30, 1881	291,423,888 90
There will be deficiencies for the fiscal year ending June 30, 1881, to be appropriated for next winter, as large as for the present year, namely	6,424,012 00
Which would make the total amount of expenditures for the year ending June 30, 1881	297,847,900 90
For compensation of the officers, clerks, messengers, and others receiving an annual salary in the House of Representatives for the fiscal year ended June 30, 1876, (125 in number)	$194,190 70
Official reporters of debates	25,000 00
Two stenographers	8,400 00
	227,590 70
Per diem committee clerks	22,500 00
	250,090 70
For compensation of the officers, clerks, messengers, and others receiving an annual salary in the House of Representatives for the fiscal year ending June 30, 1881, (173 in number)	$207,798 00
Five official reporters	25,000 00
Two stenographers	10,000 00
	242,798 00
Thirty-two per diem committee clerks	23,040 00
	265,838 00

TREASURY DEPARTMENT, *June* 9, 1880.

SIR: In reply to your inquiry as to the amount of reduction in customs duties and internal-revenue taxes for the last ten years, showing amount of the first five and last five years separately, the articles on which reduction has been made, and the amount per annum of reduction on each article, I have the honor to inclose herewith statements showing in detail, as far as practicable at present, such reductions from June 30, 1870, to June 30, 1879.

It was found impracticable to give the dates of the several acts under which the reductions in the customs tariff had been made; but it will be noted that on all the articles mentioned the reductions occurred previous to March 4, 1875, with the exception of that on sulphate and other salts of quinine, amounting to $32,657 per annum.

From these statements it appears that the reductions in the customs and internal-revenue taxes levied upon the large number of articles stated from June 30, 1870, to March 4, 1875, amounted to $120,224,272 per annum; while the reductions from March 4, 1875, to June 30, 1879, have been made upon tobacco, cigars, snuff, and quinine, amounting in all to $9,032,657 per annum.

I would also state in this connection that there has been an annual reduction in receipts arising from a reduction of internal-revenue taxes previous to 1879, as follows:

By act of July 13, 1866	$65,000,000
By act of March 2, 1867	40,000,000
By act of February 3, 1868	23,000,000
By act of March 31, 1868, and July 20, 1868	45,000,000

By the recent act of May 28, 1880, there has been an estimated annual reduction on distilled spirits of $2,250,000.

Very respectfully,

J. K. UPTON,
Assistant Secretary.

HON. J. H. BAKER, *House of Representatives.*

Statement showing the reduction of the customs tariff from June 30, 1870, to June 30, 1879, and the amount per annum of such reduction, calculated upon the basis of the importation of 1868.

Articles.	Rate of duty July 1, 1869.	Rate of duty July 1, 1879.	Importation of 1868. Quantity.	Importation of 1868. Value.	Reduction per annum.
			Pounds.		
Albumen	25 p. c.	Free		$142,499	$35,624
Asbestos	25 p. c.	Free		7	1
Birds, stuffed	20 p. c	Free		661	132
Chemicals, dyes, drugs, and medicines:					
Acetates of—					
Ammonia	70 c. p. lb.	25 c. p. lb.	48		21
Baryta	40 c. p. lb.	25 c. p. lb.			
Lead	20 c. p. lb.	5 c. p. lb.	1,304		195
Potassa	75 c. p. lb.	25 c. p. lb.	6		3
Soda	50 c. p. lb.	25 c. p. lb.	25		6
Strontia	50 c. p. lb.	25 c. p. lb.			
Zinc	50 c. p. lb.	25 c. p. lb.			
Acids:					
Acetic, heavy	80 c. p. lb.	30 c. p. lb.	73		36
Acetic, light	25 c. p. lb.	5 c. p. lb.	2,505		501
Boracic	5 c. p. lb.	Free	255,971		12,798
Gallic	$1.50 p. lb.	$1 p. lb.	112		56
Muriatic	10 p. c.	Free		292	29
Nitric	10 p. c.	Free		112	11
Oxalic	4 c. p. lb.	Free	217,681		8,707
Sulphuric	1 c. p. lb.	Free	515		5
Tannic	$2 p. lb.	$1 p. lb.	36		36
Tartaric	20 c. p. lb.	15 c. p. lb.	287,372		14,368
Aloes	6 c. p. lb.	Free	129,415		7,764
Ammonia, sal	20 p. c.	10 p. c.		139,571	13,957
Annatto seed and extract.	20 p. c.	Free		549	109

Statement showing the reduction of the customs tariff, &c.—Continued.

Articles.	Rate of duty July 1, 1869.	Rate of duty July 1, 1879.	Importation of 1868. Quantity.	Importation of 1868. Value.	Reduction per annum.
Chemicals—*Continued.*			*Pounds.*		
Argols	6 c. p. lb.	Free	1,822,498		$91,129
Arsenic	20 p. c.	Free		$19,538	3,907
Balsams:					
Copaiva	20 c. p. lb.	Free	93,661		18,732
Peruvian	50 c. p. lb.	Free	5,493		2,746
Tolu	30 c. p. lb.	Free	11,194		3,358
Barks:					
Calisaya, cinchona, Lima, and Peruvian.	20 p. c.	Free		375,272	75,054
Quilla	20 p. c.	Free		1,670	334
Bitter apples, (colocynth.)	10 c. p. lb.	Free	13,715		1,371
Borate of lime	5 c. p. lb.	Free	12,462		623
Borax, crude	5 c. p. lb.	Free	2,748		137
Buchu leaves	10 c. p. lb.	Free	25,622		2,562
Camphor, crude	30 c. p. lb.	Free	2,005		601
Camphor, refined	40 c. p. lb.	5 c. p. lb.	30,417		10,645
Cantharides	50 c. p. lb.	Free	15,065		7,532
Chloride of lime	30 c. p. lb.	Free	*226,249		67,874
Coculus indicus	10 c. p. lb.	Free	6,227		622
Cubebs	10 c. p. lb.	Free	28,557		2,855
Cuttle-fish bone	5 c. p. lb.	Free	18,170		1,817
Dragon's blood	10 c. p. lb.	Free	3,038		303
Ergot	20 c. p. lb.	Free	9,281		1,856
Flowers, leaves, &c., medicinal, not specified.	20 p. c.	Free		119,752	23,950
Iodine, crude	50 c. p. lb.	Free	22,946		11,473
Ipecac	50 c. p. lb.	Free	14,379		7,189
Jalap	50 c. p. lb.	Free	27,802		13,901
Lac	10 c. p. lb.	Free	5,876		587
Licorice root	2 c. p. lb.	Free	2,183,376		43,667
Madder	10 p. c.	Free		842,571	84,257
Manna	25 c. p. lb.	Free	7,187		1,796
Morphia and its salts	$2.50 p. oz.	$1 p. oz.	†62		93
Opium	$2.50 p. lb.	$1 p. lb.	183,263		244,894
Potash, chlorate of	6 c. p. lb.	3 c. p. lb.	235,553		7,066
Rhubarb	50 c. p. lb.	Free	56,249		28,124
Rose leaves	50 c. p. lb.	Free	2,596		1,298
Safflower	10 p. c.	Free		22,788	2,278
Saltpeter	2½ c. p. lb.	1 c. p. lb.	3,823,944		57,359
Santonine	$5 p. lb.	$3 p. lb.	2,340		4,680
Sarsaparilla	20 p. c.	Free		59,770	11,954
Soda, ash	½ c. p. lb.	¼ c. p. lb.	105,629,246		264,073
Soda, sal	½ c. p. lb.	¼ c. p. lb.	22,985,749		57,464
Strychnia	$1.50 p. oz.	$1 p. oz.	†126		63
Sulphate of copper	5 c. p. lb.	4 c. p. lb.	519,042		5,190
Sulphate and other salts of quinine.	45 p. c.	Free		72,573	32,657
Sulphur, crude	$6 p. ton	Free	‡2,108		12,648
Chicory root	4 c. p. lb.	Free	258		10
Chocolate	7 c. p. lb.	5 c. p. lb.	10,605		212
Cocoa or cacao, ground	9 c. p. lb.	2 c. p. lb.	9,354		654
Cocoa or cacao, not ground.	3 c. p. lb.	Free	3,189,913		95,697
Cocoa or cacao, shells and leaves.	2 c. p. lb.	Free	2,104		42
Coffee	5 c. p. lb.	Free	248,983,900		12,449,195
Cork, manufacturers of	50 p. c.	30 p. c.		208,863	41,772
Cork, wood	30 p. c.	Free		193,970	58,191
Cotton, raw	3 c. p. lb.	Free	505,131		15,153
Diamonds, glaziers'	10 p. c.	Free		806	80
Feathers, for beds	30 p. c.	Free		13,846	4,153
Fruits:					
Bananas	20 p. c.	10 p. c.		125,496	12,549
Oranges, lemons, and Limes	25 p. c.	20 p. c. / 10 p. c.		1,546,019	128,834
Pineapples / Plantains	25 p. c.	20 p. c. / 10 p. c.		112,967	1,129
Plums / Prunes	5 c. p. lb.	2½ c. p. lb / 1 c. p. lb.	12,980,466		411,052
Dates	2 c. p. lb.	1 c. p. lb.	1,932,442		19,324
Currants	5 c. p. lb.	1 c. p. lb.	7,036,486		281,459
Figs	5 c. p. lb.	2½ c. p. lb.	5,549,909		138,747
Raisins	5 c. p. lb.	2½ c. p. lb.	22,257,403		556,435
Furs, not dressed	10 p. c.	Free		617,577	61,757
Ginger, ground	8 c. p. lb.	3 c. p. lb.	34,777		1,738
Ginger, preserved	50 c. p. lb.	35 p. c.		26,893	4,033
Ginger, root	5 c. p. lb.	Free	1,053,977		52,698
Gums:					
Arabic, Jeddo, myrrh, Senegal, tragacanth, amber, and copal.	20 p. c.	Free		634,644	126,928
Benzoin	10 c. p. lb.	Free	250		25
Damar					
Gamboge	10 c. p. lb.	Free	3,568,289		356,828
Gutta-percha, crude	10 p. c.	Free		12,355	1,235
Mastic	50 c. p lb.	Free	588		294
Sandarac					
Shellac	10 c. p. lb.	Free	548,227		54,822
Hemp, coir yarn	1½ c. p. lb.	Free	979,172		14,687
Hemp, Russia	$40 p. ton	$25 p. ton	‡2,652		39,780
Hides, raw	10 p. c.	Free		10,103,642	1,010,364
India rubber	10 p. c.	Free		2,180,336	218,033
Iron in pigs	$9 p. ton	$7 p. ton	‡112,133		224,266
Istle or Tampico fiber	1 c. p. lb.	Free	1,185,641		11,856
Ivory, nuts	10 p. c.	Free		9,086	908
Ivory, unmanufactured	10 p. c.	Free		363,308	36,330
Mineral waters in bottles	3 c. p. qt. and 25 p. c.	Free	§ 290,053	21,883	14,172
Molasses	8 c. p. gall.	6½ c. p. gall	‖ 56,408,45		987,147
Mosses and grass for beds	20 p. c.	Free		19,168	3,833

Statement showing the reduction of the customs tariff, &c.—Continued.

Articles.	Rate of duty July 1, 1869.	Rate of duty July 1, 1879.	Importation of 1868. Quantity.	Importation of 1868. Value.	Reduction per annum.
Oils, fixed or expressed:			*Pounds.*		
Almond	10 c. p. lb.	Free	18,884		$1,888
Cocoanut and palm	10 p. c.	Free		$446,226	44,622
Mace	50 c. p. lb.	Free	51		25
Oils, essential:					
Almond	$1.50 p. lb.	Free	1,127		1,690
Amber, crude	10 c. p. lb.	Free	1,048		104
Amber, rectified	20 c. p. lb.	Free	1,277		255
Anise	50 c. p. lb.	Free	13,275		6,637
Bergamot	$1 p. lb.	Free	25,381		25,381
Cajeput	25 c. p. lb.	Free	1,593		308
Caraway	50 c. p. lb.	Free	3,774		1,887
Cassia	$1 p. lb.	Free	15,985		15,985
Cinnamon	$2 p. lb.	Free	57		114
Citronella	50 c. p. lb.	Free	16,516		8,258
Fennel	50 c. p. lb.	Free	195		97
Juniper	25 c. p. lb.	Free	4,106		1,026
Roses, ottar of	$1.50 p. oz.	Free	†5,916		8,874
Rum and bay rum oil	$2 p. oz.	50 c. p. oz.	†1,015		1,522
Thyme, red	25 c. p. lb.	Free	18,267		4,566
Thyme, white	30 c. p. lb.	Free	1,715		514
Valerian	$1.50 p. lb.	Free	93		139
Olives in casks	30 p. c.	Free		14,243	4,272
Pepper of all kinds:					
Pepper, ground	18 c. p. lb.	10 c. p. lb.	682		54
Pepper, unground	15 c. p. lb.	5 c. p. lb.	3,563,371		356,337
Pimento, ground	18 c. p. lb.	10 c. p. lb.	624		49
Pimento, unground	15 c. p. lb.	5 c. p. lb.	830,680		83,068
Potatoes	25 c. p. bu.	15 c. p. bu.	¶209,555		20,955
Quicksilver	15 p. c.	Free		5,444	822
Salt in bags	24 c. p. cwt.	12 c. p. cwt.	*3,272,119		392,659
Salt in bulk	18 c. p. cwt.	8 c. p. cwt.	*2,962,897		296,284
Seeds:					
Anise	5 c. p. lb.	Free	69,591		3,479
Anise, star	10 c. p. lb.	Free	2,627		262
Canary	$1 p. bu.	Free	¶24,729		24,729
Caraway	3 c. p. lb.	Free	300,777		9,023
Cardamon	50 c. p. lb.	Free	25,980		12,990
Coriander	3 c. p. lb.	Free	121,220		3,636
Cummin	5 c. p. lb.	Free	7,195		359
Fennel	2 c. p. lb.	Free	34,494		689
Fenugreek	2 c. p. lb.	Free	84,258		1,685
Flower, Garden, Horticultural	30 p. c.	20 p. c.		232,415	23,241
Mustard	3 c. p. lb.	Free	985,539		29,566
Rape-seed	1 c. p. lb.	½ c. p. lb.	72,073		360
Spices:					
Cassia	20 c. p. lb.	10 c. p. lb	754,795		75,479
Cassia, gr'd and buds	25 c. p. lb.	20 c. p. lb.	22,712		1,135
Cinnamon	20 c. p. lb.	5 c. p. lb.	1,353,359		203,303
Cloves, stems	10 c. p. lb.	3 c. p. lb.	200,421		14,029
Mace	40 c. p. lb.	25 c. p. lb.	50,161		7,519
Mustard in bulk	12 c. p. lb.	10 c. p. lb.	37,292		745
Mustard in glass or tin	16 c. p. lb.	14 c. p. lb.	197,640		3,952
Nutmegs	50 c. p. lb.	20 c. p. lb.	562,936		168,880
Spirits, first proof:			*Pounds.*		
Brandy	$3 p. gal.	$2 p. gal.	‖379,369		$379,369
All other	$2.50 p. gal.	$2 p. gal.	‖757,167		378,583
Tapioca	20 p. c.	Free		$48,876	9,775
Tea	25 c. p. lb.	Free	37,843,612		9,460,903
Tins in blocks, bars, or pigs.	15 p. c.	Free		1,632,194	244,829
Vanilla beans	$3 p. lb.	Free	16,841		50,523
Wood, fire	20 p. c.	Free		203,183	40,636
Yams	10 p. c.	Free		380,736	38,073
Total reduction per annum					31,106,129

*cwt. †oz. ‡tons. §qt. ‖gall. ¶bu.

The reductions on all the above-enumerated articles, with the exception of sulphate and other salts of quinine, amounting to $32,657 per annum, were made prior to March 4, 1875.

Statement showing estimated reduction in internal-revenue receipts arising from reduction in taxes from June 30, 1870, to June 30, 1879. (See monthly report Bureau of Statistics May, 1870, and statement Commissioner of Internal Revenue to Senate Committee on Finance of May 31, 1872, and acts referred to below.)

Act of July 14, 1870:		
All special taxes, including licenses for apothecaries, architects, auctioneers, brokers, conveyancers, butchers, claim agents, hotels, steamers and other vessels, insurance agents, lawyers, livery-stable keepers, manufacturers, peddlers, physicians, theaters, museums, &c.		$10,674,000
Gross receipts, including taxes on bridges, canals, express companies, ferries, insurance companies, railroads, ships, barges, &c., stage-coaches, steamboats, telegraph companies, theaters, operas, museums, &c		6,784,000
Sales, including sales of apothecaries, auctioneers, butchers, brokers, confectionery dealers, manufacturers not otherwise taxed, plumbers and gas-fitters		8,804,000
Income, including salaries reduced to 2½ per cent., and also including total repeal of the tax December 31, 1871		36,988,000
Legacies		1,619,000
Successions		1,364,000
Articles in Schedule A, including tax on billiard tables, carriages, gold and silver plate and watches		892,000
Passports		25,000
Stamps on promissory notes, &c., *		1,350,000
		68,500,000
Act June 6, 1872:		
Tobacco, establishing a uniform rate	$6,773,000	
Gas, tax repealed	2,800,000	
Stamps, all taxes, except on bank checks, drafts, or orders.	10,253,000	
Savings-banks, increasing exemption from $500 to $2,000 †	825,000	
		20,651,000
Act March 1, 1879:		
Tobacco, cigars, and snuff, reduction of taxes on ‡		9,000,000

* Based on receipts of 1870. ‡ Based on receipts of 1878.
† Based on receipts of 1871.

Expenses of investigating committees appointed by the House of Representatives from March 4, 1875, to June 30, 1879.

Committee.	1875–1876.	1876–1877.	1877–1878.	1878–1879.	Total.
Committee on Public Expenditures			$1,732 59	$2,910 20	$4,642 79
Committee on Expenditures on Public Buildings	$589 90	$405 30	51 60		1,046 80
Committee on Expenditures in the Treasury Department	2,219 37	1,829 27	5,745 15	6,039 80	15,833 59
Committee on Expenditures in the War Department	9,346 21	467 41	486 61	1,553 17	11,853 40
Committee on Expenditures in the Post-Office Department	1,659 20	607 60	1,384 98	1,673 30	5,325 08
Committee on Expenditures in the Interior Department	4,856 78	2,883 24	551 00	2,080 32	10,371 34
Committee on Expenditures in the Navy Department	1,250 93	557 93	1,709 24	2,179 62	5,697 72
Committee on Expenditures in the State Department	600 31	414 75	3,116 01	7,809 16	11,940 23
Committee on Expenditures in the Department of Justice	3,008 09	2,314 00	1,484 72	1,570 39	8,377 20
Committee to devise a plan for counting the electoral votes, &c		4,511 75	185 35	16 46	4,713 56
Committee (select) to investigate Federal officials, &c., at New Orleans	9,000 00	816 00			9,816 00
Committee board of impeachment managers	771 90	474 00			1,245 90
Committee (select) investigating late presidential elections		7,432 30	10,122 99	20,916 19	38,471 48
Committee (select) on counting electoral vote for President and Vice-President			1,124 05	738 00	1,862 05
Committee (select) on use of troops in Southern States		1,141 30			1,141 30
Committee (select) on South Carolina election		2,372 00			2,372 00
Committee on the Louisiana Election	25 00	12,860 47		3 00	12,888 47
Committee on the Florida Election		2,908 15		715 60	3,623 75
Committee on elections in New York and Philadelphia		286 78	675 00		961 78
Committee on Post-Offices and Post-Roads	2,303 51	1,151 10	4,521 40	27 00	8,003 01
Committee on Reform in Civil Service	2,032 59	826 20	6,042 73	512 42	9,413 94
Committee on Naval Affairs	5,831 69	5,177 70	2,277 12	763 80	14,050 31
Committee on Indian Affairs	5,710 05	874 25	73 50		6,657 80
Committee on Foreign Affairs	2,062 97	1,981 14	2,455 10		6,499 21
Committee on Printing	883 14	553 50			1,436 64
Committee on Banking and Currency			2,769 98	54 00	2,823 98
Committee on Military Affairs	290 10	683 30	374 50	34 50	1,382 40
Committee on Ways and Means	619 90	186 41	91 16	183 50	1,080 97
Committee on the Judiciary	4,506 66	1,271 21		6,782 25	12,560 12
Committee on the Texas frontier Troubles	1,410 72	18 00	290 70		1,719 42
Committee on the District of Columbia	1,507 68	1,257 50	6 00	8 00	2,779 18
Committee on the Saint Louis Whisky Frauds	3,004 94	1,871 75			4,876 69
Committee on the Freedman's Savings and Trust Company	2,265 24	1,148 29			3,413 53
Committee on the real-estate pool and Jay Cooke indebtedness	1,895 54	2,790 84		69 00	4,755 38
Committee on the causes of depression in business and labor				4,728 50	4,728 50
Committee (select) on the Soldier's Home		1,248 47			1,248 47
Committee (select) to investigate Chinese emigration		3,537 35			3,537 35
Miscellaneous	2,433 47	13,461 94	3,580 65	529 95	20,006 01
Total	70,085 89	80,321 20	50,852 13	61,898 13	263 157 35

History of the thirteen regular appropriation bills, &c., 1880–'81.

Title.	Estimates.	Date.	Amount as reported.	Date.	Amount as passed the House.	Date.	Amount as passed the Senate committee.	Date.	Amount as passed the Senate.	Date.	Amount by the law.
		1879.		1879.		1879.		1879.		1880.	
Pension	$32,404,000 00	Dec. 11	$32,404,000 00	Dec. 12	$32,404,000 00	Dec. 17	$32,404,000 00	Dec. 18	$32,404,000 00	Jan. 13	$32,404,000 00
						1880.		1880.			
Military Academy	398,132 66	Dec. 16	304,919 00	Dec. 17	314,919 00	Jan. 8	327,852 12	Jan. 12	327,852 12	June 1	316,234 28
Fortifications	1,000,000 00	Dec. 11	375,000 00	Dec. 12	375,000 00	Jan. 29	600,000 00	Mar. 12	600,000 00	May 4	550,000 00
				1880.							
Consular and diplomatic	1,185,135 00	Dec. 17	1,141,535 00	Mar. 30	1,141,535 00	Apr. 7	1,149,435 00	Apr. 14	1,171,535 00	May 14	1,184,135 00
		1880.									
Navy	14,509,147 95	Apr. 6	14,385,797 70	Apr. 22	14,405,797 70	Apr. 27	14,405,797 70	Apr. 30	14,405,797 70	May 3	14,405,797 70
Post-Office	39,921,900 00	May 1	38,676,420 00	May 7	38,768,420 00	May 12	39,268,420 00	May 17	39,268,420 00	.....	39,093,420 00
Indian	4,992,845 86	Feb. 2	4,493,645 86	Apr. 17	4,562,314 20	Apr. 26	4,735,662 72	Apr. 29	4,748,407 10	May 11	4,656,314 20
Army	29,027,475 50	Mar. 23	26,425,800 00	Apr. 13	26,425,800 00	Apr. 19	26,425,800 00	Apr. 22	26,425,800 00	May 4	26,425,800 00
Legislative, &c	16,627,714 59	May 10	16,120,931 91	May 14	16,167,461 91	May 20	16,285,293 59	May 21	16,295,523 59	.....	16,274,223 59
Sundry civil	23,746,989 49	May 21	20,729,987 00	May 31	21,556,631 36	June 7	22,890,935 60	June 10	23,297,395 60	.....	*22,523,821 60
District of Columbia	†1,717,990 35	Apr. 20	‡1,711,848 68	Apr. 27	1,711,868 67	May 3	1,707,468 67	May 6	1,711,997 35	June 4	1,714,498 67
River and harbor	5,015,000 00	May 3	8,482,500 00	May 17	8,482,500 00	May 28	8,636,500 00	June 2	8,952,500 00	.....	8,929,500 00
Regular deficiency	1,912,799 55	May 27	4,334,580 00	June 3	4,463,001 96	June 11	4,664,756 28	June 12	4,706,021 55	.....	4,577,002 04
Deficiency, House of Representatives.	24,012 00	Jan. 13	4,000 00	Jan. 13	4,000 00	Jan. 29	24,012 00	Feb. 2	24,012 00	Feb. 11	24,012 00
Marshal's bill	.....	Jan. 21	§600,000 00	.....	.....	.....	.....	.....	.....	.....	.....
Indian deficiency	135,000 00	Feb. 12	135,000 00	Feb. 13	135,000 00	.....	135,000 00	.....	135,000 00	Mar. 10	135,000 00
Post-Office deficiency	2,000,000 00	Feb. 24	1,070,000 00	Feb. 26	1,070,000 00	Mar. 3	1,070,000 00	Mar. 17	1,250,000 00	Apr. 7	‖1,250,000 00
Special deficiency	.....	Mar. 5	665,530 50	Mar. 19	**8,308,130 50	Mar. 29	8,554,254 72	Apr. 1	8,606,387 82	May 4	Vetoed.
Printing deficiency	450,000 00	Mar. 19	350,000 00	Mar. 19	350,000 00	Mar. 22	350,000 00	Apr. 22	350,000 00	Mar. —	350,000 00
Senate contingency	15,000 00	Apr. 30	15,000 00	Mar. 30	15,000 00	.....	15,000 00	.....	15,000 00	May 14	15,000 00
Pension deficiency	9,249,299 22	May 18	9,249,299 22	May 18	9,249,299 22	May 24	9,302,999 22	.....	9,322,999 22	May 31	9,322,999 22
Agricultural	226,600 00	May 14	‡213,000 00	May 19	238,000 00	May 25	260,700 00	May 27	260,700 00	.....	‡253,300 00
Miscellaneous estimated	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	3,000,000 00
Total regular estimates	184,559,042 17										
Special estimates	8,500,000 00										
Totals	193,059,042 17	.....	180,633,264 37	.....	181,840,549 02	.....	184,659,632 90	.....	185,672,961 23	.....	186,405,058 32

* Public buildings, additional: Danville, Virginia, $70,000; Baltimore, Maryland, $550,000; Charleston, West Virginia, $75,000; Paducah, Kentucky, $100,000; Cleveland, Ohio, $150,000; Pittsburgh, Pennsylvania, $50,000; Memphis, Tennessee, $50,000; military sites, $200,000; site United States Naval Observatory, $75,000; Yorktown monument, $120,000; Herkimer monument, $4,100; Henry statue, $15,000; act of March 16, clerks to settle pension cases, $98,700; act June 8, Library Committee, $5,000; War Claims, $262,000; United States and French Claims Commission, $100,000; Ute treaty, ——; Gettysburg battle-field, $50,000.

† One-half; Toledo, Ohio, $75,000.

‡ Reported for the first time as a separate bill.

§ Transferred to immediate deficiency bill by amendment in the House.

‖ Fifty thousand dollars of this sum for public printing, &c.

** Pension deficiency added.

Duty on Salt.

REMARKS OF HON. F. HISCOCK,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, June 15, 1880,

On the proposition to repeal the duty on salt.

Mr. HISCOCK said:

Mr. SPEAKER: The majority upon the democratic side are professed free-traders, and except for the Pennsylvania element and now and then a member from the South or Southwest, whose people have seen of late wealth melted from their mountains by the furnaces, and seeing, have begun to distrust the senseless clamor of petty demagogues, this Congress would have destroyed American industry, destroyed hundreds of millions of wealth, and destroyed the sources of support for millions of people. Years of prosperity have made it unnecessary to discuss the different revenue systems of the country, except as supported by obvious facts. The hum of a factory, the light of a furnace, the noise of a rolling-mill, are each more powerful in logic in any town in the land and more convincing to the people than the noisy fellow on the hustings that rants free trade. The din of a shop will outreason the most powerful disciple of Adam Smith on the other side of the House. American cloths, iron, pottery, glass, machinery, fabrics, and products to supply the wants and luxuries of her people have made it impossible for those who never learn anything to wreck the country at one effort by any of the mad projects they put forth, and therefore they seek to disintegrate the strength of the protectionists by sallies against points in their line supposed to be weakest, or Ku Klux attacks upon an isolated or separate interest or industry, and since the holidays those in and out of Congress clamoring for a reduction—they style it a reform—of the customs duties upon imported merchandise, and that portion of the press of the country that aids or abets the movement, have singled out salt as the most vulnerable to their attack, and have concentrated all their power against the very slight protection which it has.

"The little dogs and all" have united to hunt down this industry. Because salt is one of the necessities of life, demagogues and the importers have sought to prejudice its just claim to protection by arousing a popular sentiment against it with the false charge that as furnished for use it was—like air, light, and water—the bounty of the Creator, and to tax the poor man's salt was as unjust as to tax for his use the air he breathes, the sunlight that surrounds him, or the water that quenches his thirst.

Political empirics abound in appeals to passion and prejudice and never in facts and reasons, and are most unsafe leaders in the formation of a revenue system for a great country, and are sure, if permitted, to wreck our industries and especially to bring distress and poverty to the laboring classes.

In this Congress the assault upon our manufacturing and mechanical industries and interest, the attempt to destroy the capital which affords employment to a million of artisans and support to their families, has been led by the war-cry of "free salt," "take the tax off the poor man's salt."

Representing as I do the congressional district that has within its limits the saline springs of the State of New York, I shall as briefly as possible discuss the question, and will be able, I believe, to establish conclusively that the present customs duty on salt does not add to its cost to the consumer, but on the contrary lessens it by maintaining a competitive American production and market as between the American manufacturers and as against importation, and that to let foreign salt into our market free of duty would certainly have the effect of destroying the American production and placing the American consumer at the mercy, as respects price, of the importers of foreign salt.

I shall demonstrate before I close that the manufacture of salt in this country will be suspended if unprotected by the present very low duty. One of the important facts bearing upon the statement I have made, and I invite earnest attention to it, is that brine and crystallized salt are supplied by nature in the United States, for manufacture into the form and quality of salt now in use, so abundantly that, as compared with the present or prospective consumption of the country, they are free as air, and the brine or deposit exist in half the States and Territories of the Union in their native form without limit as to quantity; and such existence is not sectionalized in the North, South, East, or West.

Salt springs are found in New York, Ohio, Michigan, Illinois, Indiana, West Virginia, Virginia, Kansas, Nebraska, California, Louisiana, Oregon, Texas, New Mexico, Utah, and Arizona; and salt in deposit in Louisiana, Texas, New Mexico, Kansas, California, Virginia, Montana, Arizona, Idaho, and Utah. I doubt not the formation is in still other States in abundance, but my attention is not now directed to these points.

The known capacity for the production of salt for use in the States of New York, Ohio, Michigan, and West Virginia is eight times its consumption by the people of the United States at this time. With our salt mines and springs largely undeveloped, with none worked to their full capacity, we annually import thirteen and one-half million bushels—one-fourth of our annual consumption; and in this conection I ask you to remember the Government readily borrows money at less than four cents per annum on each dollar, and in the State of New York alone, the proper statistics show, the 1st day of January

last, at least $300,000,000 were loaned to private individuals or corporations at four cents on a dollar per annum or less, establishing beyond controversy that the manufacture of salt in this country does not yield large profits, but, on the contrary, a meager rate of interest to capital. The immense volume of capital I have mentioned would not remain invested at 4 per cent. if the development of our salt springs and deposits promised for it a larger profit.

There is no country in the world that furnishes brine of greater strength or purity than ours or finer salt deposits than ours; and it is also true that some of the most valuable of both are not developed to any considerable extent, and for the reason such development does not promise for capital any profit above the low rate of interest I have indicated.

And I assert it to be the fact that the saline springs in New York could not command capital for their operations at this time, nor could they at any time during the last six years if they had been undeveloped. During three-quarters of a century, wells have been sunk at Syracuse and the necessary plant for the manufacture been erected, and the business will therefore be prosecuted as long as it will pay for the necessary labor and fuel and the maintenance of the works; but if the plant and wells were not there capital would not now erect the one or dig the other. This is made manifest by the fact that the springs at Syracuse will yield brine for the annual manufacture of twelve million bushels of salt; and yet in the past year the total inspection was only about eight million bushels. One-fourth of our capacity to produce was not utilized, for the only reason the price salt commanded would not pay for the necessary labor and fuel, and 25 per cent. of our manufacturing capacity was therefore unemployed. I am informed the same condition of things existed at the other salt-yielding points in the United States.

The market value of salt in bulk, as pure as any in the American market, whether imported or domestic, has been as low as twelve cents a bushel at Syracuse in the past salt year: I do not refer to the fine brands manufactured there for special uses from the bulk salt, but no purer, and which of course have added to the twelve cents the additional cost of their manufacture: and the cost to the consumer was therefore twelve cents each bushel of fifty-six pounds, with the cost of transportation to his home added. All salt marketed west of Syracuse must to the consumer bear an equal burden of transportation, whether American or foreign, if entered at any Atlantic seaport. This price upon a commodity, to so great an extent the result of labor, hardly justifies the outcry that is made.

I have said salt in the United States, as furnished by nature, is furnished plentifully, and in its natural state is valueless. This is certainly the case wherever it is manufactured in any considerable quantities; more than this cannot be said of it in other countries. It therefore, whether domestic or imported, should not cost to the consumer above the value of the labor, fuel, and interest upon capital employed in its manufacture, and the large item is labor, and if foreign salt can be sold here cheaper than ours, it is because labor is less valuable where it is produced than here; and the question is squarely presented to the laboring-man whether he is willing Congress should remove the protection in the interest of the low wages of foreign countries, from which he has very likely fled, if he favors a policy that will reduce the value of labor here to a level with that of Europe? If we cannot sell American salt at as low a price as English or other brands, it is because the labor expended upon them costs less there. And this is true of all manufactured merchandise which is imported here; and the policy of non-protection is simply to debase labor in this country to its "pauper value" in Europe. On an average less than three cents on a bushel represents interest on the capital invested in the business, and the balance of the price is made up of labor applied in some form to its production, and of fuel. The Syracuse works employ about three thousand people annually to produce eight million bushels, I suppose this country annually produces about twenty-five million bushels, and, measured by the Syracuse works, gives employment to seventy-five hundred people, and support to them and their families; and it is upon these people this assault is made, led on by the cry, "It is the poor man's salt you tax." This cry is literally true; it is his salt; he made it; he digged the wells from which it is pumped; he erected the buildings, the pump-houses, the mills necessary to prepare it for market; he manufactures it, with the exception of three cents on each fifty-six pounds; it represents the product of his flesh, sinews, and bones, his labor; it surely is his; nature gave him the brine and gave him strength and he made it; and when you refuse it protection, when you take off the duty, you either destroy his property entirely, or make a law that the laboring-man's only wealth, his strength and health that God gave him, shall be cheapened, that he shall work for poorer pay; you make a law to degrade him to the same rate of compensation for labor that the pauper classes of Europe receive.

The democratic free-traders on the other side, that in and out of season have been urging the non-protection of salt, have failed to call attention to the extent the present duty thereon burdens the people; and I freely admit that the use of the article is the most common and equally necessary to all classes of people, rich and poor. Like water or air, each individual requires a given quantity, and about the same quantity. It is not used to any considerable extent, except for domestic purposes, with food or in the production or preservation of food, and then its distribution is such that the cost is equally distributed to the rich and poor alike. If salt is used for agricultural purposes it goes into the cost of the productions of the farm, the butter, cheese, meat, and grain, as much as the expense of labor, and regulates the price; if into a meat-packing establishment the same is true, and in the end is paid for by the consumer; and the result is that not to exceed fifty pounds of salt is paid for by any one person for one year, and about that amount by each. This is very accurately arrived at by the ascertainment of the amount of both the production of and importation into the country, and the quantity I have given is a liberal allowance for each individual's consumption. The highest duty is twelve cents each hundred pounds, the lowest eight cents each hundred pounds; and therefore grant the price is advanced the amount of the tariff and the cost to an individual is six cents a year, this is the burden imposed upon the poor man and the rich man alike; this is the so-called injustice that the free-trade democratic demagogue has during this session howled himself hoarse about, consuming our time and obstructing the public business.

We have had occasionally petitions here from butter-makers, prompted (possibly manufactured) by the agent of some importer or foreign manufacturer. If one of those petitioners will call to mind the amount of salt he uses—I believe about an ounce of salt to a pound of butter—he will find the duty or tax on the salt used on sixteen hundred pounds of butter is six cents. The meat-packer pays three cents on each barrel of meat. This is upon the assumption that the cost of salt is advanced the amount of the duty, which I deny, and will prove before I am through. I call attention of all classes of people to these facts, that they may know and appreciate there is no merit in the attack. The war which is made is not on salt, but on the present revenue system; and if the farmer, manufacturer, or capitalist will examine into the question he will discover there is not a protected industry in the land, from wool or the agricultural productions that might be sent here from Canada or elsewhere, to the products of our looms and forges, that is less protected, or the protection less burdensome on the consumer, than that on salt.

But does the duty on salt increase its price? I have shown capital gains not to exceed three cents on each bushel from this business, less than the lowest duty of eight cents on each hundred pounds of bulk salt. Remove that duty and the capital is withdrawn. I have shown at the present low rate of interest capital does not develop our operated resources to an eighth of their capacity. Take off the bounty and the result is you terminate the production of twenty-five million bushels of American salt annually that competes with the importation, regulates its price, and holds it down. I will in this connection call attention to the fact that it was when salt came in free, or nearly so, that Michigan gave ten cents on each bushel of her production as a bounty to develop her springs. Capital would not go there without it and thus was protection against the prices of this important article sought by that State.

The salt deposit in Louisiana is unsurpassed in the world for purity and quantity and the cheapness of cost of placing it in the market, and is hardly worked at all, because it will not pay. In other States the production might be ample for the use of their people at the cost of the present price of the labor necessary for the manufacture, but the present market will not pay that. All these facts prove conclusively the lowest possible duty is now imposed that will guarantee any home production, and that to remove that duty will prevent American production and leave the American consumer at the mercy of the foreign manufacturer and importer.

We are not left to speculation as to the effect of free trade in salt upon its price. In 1860, when there was comparatively no protection, only about 12,000,000 bushels were produced here, the price was, per bushel—

Cleveland	40 cents.
Toledo	40 cents.
Detroit	41 cents.
Chicago	42 cents.
Boston	25 cents.

A protective policy for the next twelve years stimulated home production, and as a result, in 1870, when the duty was more than double the present, at the same points salt sold at, per bushel—

Cleveland	30 cents.
Toledo	29 cents.
Detroit	33 cents.
Chicago	31 cents.
Boston	23 cents.

The price of Syracuse packing salt in Chicago for five years, 1856–'60, was $1.75 per barrel; in 1871, with the highest protection it has had, it averaged, in gold, $1.41 per barrel. Whoever is interested in this question, by comparison of the price of salt in his own market in the years 1857, 1858, 1859, 1860, when I believe the average duty was about 1¼ cent each bushel, with the prices in the same market for the last four years under the present tariff, can ascertain for himself the present protection given the cheaper salt.

We have now, as I have said, the least protection that will give us home production. It does not keep out foreign salt; on the contrary

the importation increases gradually. The last fiscal year it was about sixteen million bushels, about one-third of our annual consumption, and comes in direct competition with American salt and keeps down the price and prevents unwholesome combinations here, and gives the consumer a competitive market of the foreign and home producers. Remove the tariff and you brush out of existence American production and competition, and the price advances. It may be said that would again bring into market American salt; not so, for what capitalist would venture into the business when the importer could reduce prices in his market, ruin him, and again put up the price? This has been done in the past; it can be done again. There is no doubt foreign salt can be put into our market at a lower price than we can afford it, because of the cheaper labor employed, and it is equally true the price of all the importations to this country can be so far controlled as to force a higher price than the present if there is no competition with the American manufacturer. I in this connection call attention to the fact that at all points South and Southwest where salt is not manufactured, and where cost of transportation keeps Virginia, New York, Ohio, and Michigan salt out of the market, and therefore the importers encounter no competition with it, the price is advanced beyond that made within the markets of the production of those States.

Importers and foreign capitalists are not understood to be men of angelic disinterestedness; being sole possessors and lords of the markets, it is inconceivable that they will not accept all the advantages of the situation.

I have not discussed the question with reference to receipt of revenue to the Government. It will not be claimed that the present duty keeps out importation or reduces the revenues. On the contrary, the statistics show that under a tariff prior to 1873 of eighteen and twenty-four cents per hundred pounds (it is now eight and twelve) the customs receipts were in excess of what they are at the present time. I have addressed myself to the questions of the effect upon labor and upon the price to the consumer if the present duty is removed. The results that will follow such removal are certain.

One word to gentlemen here whose constituencies are interested in other industries which the present tariff protects.

I, for one, have no apology to make for being opposed, at this time, to any interference with our revenue laws. It is likely they might be improved in some respects, but I am not in favor of trusting the work of improvement to the enemies of protection. It should only be committed to its friends. There is scarcely an industry or class in the country that will not be affected; farmer, mechanic, manufacturer, capitalist, and scholar alike are interested. For the past eighteen years a reasonable protection has shielded all against foreign interference; all our products, both of water and land, and the wealth hidden in our mountains have shared in the benefits. The appeal is often made to the agricultural class that it receives no advantages from protection. Their intelligence and education have long been proof against so false a statement. Free trade with Canada long ago helped to dispel that delusion. The whole fabric of northern prosperity is interwoven, woof and warp, and the destruction of one industry imperils all. Danger to one is danger to all. We have grown rich, all have grown rich as compared with the five years preceding 1861, and the accumulated wealth has been distributed to all classes. Our savings-banks are filled with the money of the laboring-men. Our villages and cities have increased in population; all can find work at fair prices. When you weaken the manufacturing industries you prostrate the agricultural class. With work for all, at fair prices, the farmer finds a ready market for the results of his farm and labor, and with the demand for labor there has been the wonderful results of the past eighteen years in labor-saving machinery, that on the farm and in the shop the cost of production has been cheapened. And as we have grown rich in goods we have advanced in education and intelligence, and progress has been made in all that gives happiness and knowledge. One class has not been built up at the expense of another. It is true in some instances large fortunes have been accumulated by individuals, but neither country nor town show a line that divides the people politically or socially, or drawn between those of one calling and of another; but all classes, all callings, blend together into a harmonious homogeneous people. We who believe in the present system must stand firm, suffer no disintegration of our strength, and we shall repel the attacks that are so constantly made upon the country's prosperity by wreckers.

We are upon the eve of adjournment and the election of another Congress is approaching, and we are told the West does not share in the benefits of a protective tariff. Has the West no mines to open, internal resources to develop, or salt springs to utilize? She is as rich in internal resources as the North or East. She has all the facilities for manufacture of the North or East, and she has a fast-increasing population. Home production of all her people want to eat, wear, and use is what that people want—a production uncharged by the cost of transportation from the East or North—and her true policy is to guarantee capital safety in the development of her resources and in the establishment of factories and manufacturing industries in her towns and cities, and they will come to her almost in a day.

We upon the republican side of the House have a clear duty to perform—to go hence to the people and see that the fall elections return a republican Congress with no doubtful purpose in respect to protecting American industries.

Revenue Reform.

SPEECH OF HON. G. C. CABELL,

OF VIRGINIA,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, June 3, 1880,

On the subject of reduction of taxes.

Mr. CABELL said:

Mr. SPEAKER: The people of this country are of the belief that Congress has some other mission than the mere levying of taxes, registering the decrees, and responding to the demands of the Administration in power; and they are right. The American citizen has and should have a higher destiny than that of a mere "hewer of wood and drawer of water" for those in place, and he expects of his representatives that they will see to it that the functions of the Government are not exhausted in the laying of impositions and the lavish expenditure of vast sums of money for selfish ends or party purposes.

For a number of years after the late war grievous burdens were borne without complaint, because it was known that heavy expenditures had been incurred during that direful period which had to be met; but now the people are of opinion, indeed they have long been of the opinion, that sufficient time has elapsed in which all these obligations should have been discharged.

Hardly any people were ever taxed as ours have been. When the war ended the public debt amounted to about $2,777,000,000, an immense sum to be sure, the very contemplation of which is enough to discourage an ordinary mind; nevertheless, since that time we have paid almost double that sum into the public Treasury.

If economy and honesty had prevailed in the administration of the Government the public debt would have been altogether or nearly extinguished, but it has not been, and, notwithstanding the vast sums extorted through the operations of the most onerous and discriminating system of taxation ever invented or endured during a time of peace, the debt to-day exceeds $2,159,000,000.

When we consider the fact that the Government has exacted of the people since July 1, 1866, less than fourteen years, almost double as much money as had been required of them during the seventy-seven preceding years, including the periods of the war of 1812, the Indian and Mexican wars, and the late civil war, we are astonished at the extravagance, corruption, and venality which must have existed during the years just gone by.

Let us see what were the receipts into the Treasury during the periods I have named:

Receipts from July, 1866, to July, 1879	$4,384,856,911 34
Estimates from July, 1879, to July, 1880	310,000,000 00
	4,694,856,911 34
Receipts from 4th March, 1789, to July, 1866	3,049,034,567 15
Excess in 14 years over 77 preceding years	1,645,822,344 19

These figures are taken from the best official data, and make up a curious and alarming record. Here we have more money by the sum of $1,645,822,344.19 collected in about fourteen years than had been for seventy-seven years before. No satisfactory account of the disposition of millions of this money has ever been or will ever be rendered as long as the republican party remains in power. The public debt is nearly as large as ever, and the conclusion is irresistible that there has been a vast amount of wastefulness, extravagance, and corruption in the republican administration of the country. A check, it is true, has been put upon a great deal of this maladministration since the advent of the democratic party to power in the two Houses of Congress, but the knife has not yet been applied to the root of the disease with that heroic hand which the nature of the case demands. It takes no great wisdom to determine that the great need of the country is reform in the civil service of the Government, retrenchment of expenditures, and lightening of burdens of taxation upon the people. Formerly, in the grand old Government of our fathers, the people scarcely knew that they were ruled, except by the blessings which the Government showered upon them. Now, in many sections of the country they know the Government only through its exactions. It is with us tax and pay, pay and tax all the time.

It is true that since 1865 taxation has been reduced upon several subjects and removed altogether from many; but unfortunately in most cases the relief has been in behalf of those subjects and people most able to bear the weight of governmental impositions. The Constitution provides that taxation shall be equal and uniform throughout the country; yet under our present excise system there is neither equality nor uniformity observed in the method of levy or collection. The products of certain States and sections are taxed without mercy, those of others escape without burden. The great bonded wealth of the country renders no tribute in the way of taxation; the property of the tradesman and mechanic, the product of the tiller of the soil, yea, his very bone and muscle, are taxed to the utmost. In addition

to the excise laws we are to-day laboring under the most oppressive tariff system that perhaps ever afflicted a people. No better description of the system can be given in a short way than that contained in the democratic platform adopted at Saint Louis in 1876, wherein it is said:

We denounce the present tariff levied upon nearly four thousand articles as a masterpiece of injustice, inequality, and false pretense. It yields a dwindling, not a yearly rising revenue. It has impoverished many industries to subsidize a few. It prohibits imports that might purchase the products of American labor. It has degraded American commerce from the first to an inferior rank on the high seas. It has cut down the sales of American manufactures at home and abroad, and depleted the returns of American agriculture, an industry followed by half our people. It costs the people five times more than it produces to the Treasury, obstructs the processes of production, and wastes the fruits of labor. It promotes fraud, fosters smuggling, enriches dishonest officials, and bankrupts honest merchants. We demaand that all custom-house taxation shall be only for revenue.

I believe in every word contained in that arraignment. Had the democratic party adhered to with tenacity and pushed that doctrine with a spirit of aggressiveness born of a determination to win good results, the country would now be better off. I confess that we have not stood up to the faith as we should have done. We have not dispensed with these republican tax laws, as we should; but there is time even now to regain much of what has been lost by the prompt passage of the measures of tariff reform lately presented from the Ways and Means Committee by my colleague, [Mr. TUCKER.]

Nor should we stop there, Mr. Speaker. Great reform is needed, yea, imperatively demanded, in the excise or internal-revenue laws of the country. I know that it is said by some gentlemen, whenever a change or modification of that system is demanded, that an assault upon the Government and its revenues is intended. I know that there are those who are ready to attribute to any gentleman who suggests what experience has taught would be an improvement that he is still animated by a "spirit of rebellion." Nevertheless I declare here that these taxes and the method of their collection bear too heavily and unjustly upon the people; they ought to be reduced, if not abolished. Common justice as well as common sense demands such a course.

The main taxation rests now upon spirits and tobacco. Let us look at the question calmly as business men and deduce wisdom from experience. In regard to one of the subjects named we have acted wisely. Let us see as to the other. The tax rate upon spirits is too high; it is beyond the true revenue point, and reacts injuriously upon the people, as also upon the Government. If the tax was reduced to fifty cents per gallon on whisky and twenty-five cents upon spirits distilled from fruits, the people would be greatly relieved, while the Government's revenue would be increased.

I know it may be said that the Government derives a large sum from this tax; then why alter the law? The plain answer is, that if the Government can get as much revenue by reduction, thereby relieving the people, it is our duty to change the law. I contend that if the Government gets much now it will get more by a reduction, and for the best of all reasons, that thousands of poor men in the fruit-growing regions of the country, unfettered by miserable restrictions and unrestrained by the weight of the tax, would go legitimately into business and make large returns, while at the same time thousands of gallons of spirits would pass under the ganger's rod which pay no sort of tribute now. The law as it exists is in the interest of monopolists, and presents a bar to all others who would engage in distillation unless they are willing to violate its mandates or assume great hazards. A change would benefit the Government. Experience has shown upon this very subject that whenever the tax has been reduced the revenues have been increased, whenever increased the revenues have fallen away.

These facts are not new; I have stated them before in this House, and any gentleman can verify them by reference to the reports of the several Commissioners of Internal Revenue since 1862. A few examples will serve my purpose here. The tax rate has been changed six times. Prior to 1868, when the tax was highest, the average annual receipts were about $19,000,000. In July, 1868, the tax was lowered to fifty cents per gallon, and the very first year thereafter the receipts rose to $45,000,000, and the next year to about $56,000,000—more by several millions than had ever before been collected, although the tax had ranged as high as $2 per gallon. In 1872 the tax was raised from fifty to seventy cents, and at once there was a decrease in revenue; and so in 1875, when the tax was raised to ninety cents, the present rate. It may be and is true that for the last year or two more revenue has been raised from the spirit tax than ever before. That, however, is no answer to my argument, for as time goes by the spirit made in former years is brought under taxation; besides, since 1865, the country has increased four or five millions in population and greatly grown in all trade and commercial relations. What the real increase would have been if the tax had been prudently reduced is a matter of conjecture, but reasoning from experience it would have been very great.

The law as it now stands, and the manner of its execution in many sections constitute an outrage upon the people and a reproach to the Government. The restrictions thrown around the manufacture and sale of spirits are so many, so stringent, and of such annoying character that good men can scarcely engage in the business with hope of pecuniary success or prospect of escaping embarrassing entanglements. The high tax is favored by the large distillers of the country; they do not want it reduced. Of course not; for in the proportion that the Government maintains a high rate in that same proportion are these men converted into monopolists and protected at the expense of the general public; and of course, too, are men of small means deterred from the business, being unable to compete with the protected capitalist on the one hand and the fraud superinduced by the weight of the tax on the other. It may be and doubtless is true that many persons in different parts of the country engage fraudulently in the manufacture and sale of liquor, but it is none the less true that many of those who engage in such bad practices feel themselves in some measure justified in the violation of laws which do not extend to them that protection which they give to others. This is all wrong; but such feelings will rise in the breasts of men who fancy that it is useless to undertake burdens which they cannot carry while hedged about by needless restraints.

My own district has been as free from serious trouble as almost any other, but great complaint is frequently heard of the manner in which the revenue laws are executed. One great trouble has arisen from the fact that men are arrested for trivial violations of the law and carried long distances for preliminary examination before commissioners instead of being examined or tried in the county where the offense is charged to have been committed. The law in this regard is plain enough, but I endeavored some time ago when the "Carlisle revenue bill" was under consideration to make it plainer if possible by an amendment which commanded the officer making the arrest to carry the offender before an official of the county wherein arrested in every instance, but the amendment failed, the present law being deemed sufficient. To show that I was not asking a needless thing in view of the way the law is executed, I will read an extract from the Martinsville Herald, the only republican newspaper published in my district, and to that extract I call attention:

Doubtless many may think this an unwarranted exaggeration of facts, but no citizen of Henry, or Patrick, or Floyd, and many of the mountain counties of Virginia will gainsay or doubt the truth of what we have said. All of us are cognizant of the true condition of affairs. The violations of the law are not condoned. The offenders ought to be arrested, tried, and convicted. But the long trains of poorly clad, half-starved men who pass through Martinsville *en route* to Danville, under the conduct of guards and deputy marshals, and in that city to be discharged, as most of them are, excite the commiseration of every one. That they should be snatched from their families, whom they leave in gloomy expectancy, and hurried off to Danville, because the officers wish to secure the mileage, is a cruel mockery of justice, and meets, as it should, the condemnation of all law-abiding citizens. They should be tried at home. Every sense of justice, economy, and propriety demand it.

Taking a political view of this subject, it may be stated, without fear of contradiction, that this miserable administration of law (with all of its attendant facts) has done more to establish in the minds of our citizens a disregard of the fundamental ideas of patriotism; has done more to bring the Government into odium; done more to obliterate that love of country which should find a hospitable home, a warm welcome in the heart of every citizen, than any other agency. Do the authorities at Washington know how the laws are enforced in the counties that we have named? Have they the remotest idea of the needless expense incurred by its officers? Cannot the appeals of the poor, unfortunate families of the accused find that sympathy which the dictates of common justice and common sense entitle them to?

We have endeavored to give the subject-matter the importance that the grievances demand. Humanity appeals to the authorities for a change. The interests of the Government require that there should be a radical reform at once in our midst.

The paper just read exhibits a bad state of affairs; not worse, however, I fear, than really exists. It shows, moreover, that there are two sides to this question, as to most others, and that the stories of wrong and outrage are not altogether on the side of the so-called "blockader" or "moonshiner." The fact is, that a great deal more noise is made about this "moonshine" business by the Commissioner of Internal Revenue and his henchmen than is necessary. Many of the alleged violations of the law, in my opinion, never occur, or, if they do, they are induced or provoked by the mock heroes whose achievements in capturing "moonshiners" and destroying "mash-tubs" are triumphantly flashed over the wires to their chief in Washington. You hear but little of the great distillers in the North and West who defraud the Government of thousands; but let a few deluded men South cheat the law of the tax upon a few gallons each, and at once the whole country must be aroused over it. The rule has been to follow the little cheat with "fire and faggot," but to allow the great fraud to condone his offense with the very "pence robbed from the Government's till."

I would not reflect upon all revenue officials by any means. Some of them are worthy men. There are some who operate in my own district who are kind and humane, but there are others, scattered all through the country, who are by no means as deserving as they should be, and whose farcical stories unfortunately are believed by many good people, beside many others who are always ready to believe any shocking tale, if told in reference to southern people. But suppose that all of these unsavory things charged as having taken place in the South are true, as alleged. What a sad picture does it present! What a commentary upon the revenue law and its administration in our country! What other country than this—what other country on earth boasting of the mildness of its laws and the freedom of its institutions ever sent bands of armed men raiding through its territory, in a time of profound peace, to hunt down its citizens, not for insurrection or rebellion, not for murder, treason, or any other felony, but for alleged violations of the law which the civil tribunals of the country

are empowered to repress, and which they would repress if these quasi-military operations were stopped.

It is natural for men to repel force by force, and the presence of these armed bands in a community engenders a spirit of opposition and antagonism in the hearts of law-abiding citizens which perhaps too frequently displays itself in the conflicts which we hear of between citizens and Government officers.

A milder course, I submit, would be productive of better results. Indeed, I am told that the "amnesty" granted some months since to a large number of men who were arrested in some of the States for violations of the revenue laws has been productive of the happiest results. Men, even violators of the law, will respond more readily to kindness than to force. Let us, then, try more "moral suasion" and less force. There should be no more large appropriations to sustain the ill-judged war upon the people of many communities, nor to sustain the corps of spies and informers sent out under Government protection to enforce a system of espionage upon the business and conduct of the citizens of the country.

I am no advocate of law-breaking or law-breakers; I would be glad to see these revenue laws, as bad as they are, implicitly obeyed by the people, and I believe they will be if the proper course is pursued.

The ordinary methods of bringing offenders to trial through the courts, grand juries, sheriffs and marshals armed with civil process only, are amply sufficient, when properly employed, to secure the vindication of every just and wholesome law. Other methods, and such as are frequently resorted to, fail of their object and produce trouble. While people should understand that they are expected to and must obey the laws of the land they should be at the same time made to feel that they are to be sustained in their rights and protected in their persons and property from insult and wrong.

Let the poor men of the mountain regions of the South, where it is charged that violations of the revenue laws most frequently occur, be made to understand that they are as much the objects of governmental care and protection as men with their thousands, and you will soon see a gratifying change in the conduct of such men, who will then feel that they are citizens, and not outlaws.

All this good, in my judgment, can be accomplished by a reduction of the spirit tax with a corresponding relaxation of annoying restrictions. The same good results will follow as were secured by the reduction of the tobacco tax.

Every one will remember, for it was a time of great excitement, when the project for the reduction of the tobacco tax was under consideration with what tenacity, not to say bitterness, that reform was fought. The Commissioner of Internal Revenue asserted that the contemplated change would involve a loss of nine or ten million dollars to the Government; the Secretary of the Treasury addressed a letter to Congress protesting against the change. Republicans of great ability in both the Senate and the House took up the refrain, predicted ruin to the revenue system, and charged, in effect, that this democratic measure was a blow aimed at the prosperity of the country. One representative, I remember, regretted that he did not have "a spare earthquake or two to throw them in to defeat the bill." Two or three leading Senators, arguing from supposed facts, fancy, and figures, pictured in somber colors the dreadful losses to the Government in case the measure prevailed. In the face of such opposition inside and outside of Congress, against the power and patronage of the Revenue Bureau, the lobbyist, and the monopolist, the advocates of reduction conducted their fight for weary months. But the triumph finally came, and the results have proved as gratifying to the people as beneficial to the Government.

The planting interest whose great staple was so fearfully burdened has received benefit from the reduction in the increased price received for the product, the manufacturing interest was helped and promoted by the settlement reached, the unshackling of capital, and the revival of trade, and the Government has reaped a rich reward from the increase of revenue consequent upon an act of beneficent legislation. As soon as the tax was reduced the price of leaf-tobacco rose in the market. In my own section there has been an average increase in price of between two and three dollars per hundred pounds, and the same good effects I understand have been felt throughout the entire tobacco-growing sections of the country.

The States of Virginia and North Carolina alone, I am satisfied, received benefits from the reduction of the tax worth to each more than a million dollars annually, and notwithstanding the croakings and direful predictions of the Treasury Department, Senators, Representatives, and others, the gain in dollars and cents to the Government has been immense.

I shall ever feel gratified at the humble part I bore in the successful effort to reduce in some degree the people's burdens. More than once upon the floor of this House, in discussing the question, I contended that the tax reduction would work gain to the Government, and gave facts and figures to sustain my view. Many gentlemen thought that I was wrong, but time has shown. Even so late as May 13 last, when I asserted in discussion here that the tax at sixteen cents had brought more revenue to the Government than the old rate of twenty-four cents, the gentleman from Pennsylvania [Mr. KELLEY] took issue with me and endeavored to show that I was mistaken. I had not then the figures, but I now present them as furnished by the Commissioner of Internal Revenue, and to his statement I invite the attention of the House and the country. They speak for themselves in stronger language than any I can use. Here are the Commissioner's figures:

Tobacco.	Receipts from—		Increase.	Decrease.
	May 1, 1878, to April 30, 1879.	May 1, 1879, to April 30, 1880.		
Cigars, cheroots, and cigarettes	$12,359,594 19	$14,522,135 82	$2,162,541 63	
Manufacturers of cigars	152,262 11	152,060 02		$202 09
Snuff	882,000 06	756,730 11		125,269 95
Tobacco of all descriptions	22,304,673 20	24,561,277 47	2,256,604 27	
Stamps for tobacco or snuff intended for export	7,600 20	6,877 80		722 40
Dealers in leaf-tobacco	94,399 07	88,952 31		5,446 76
Retail dealers in leaf-tobacco	4,168 43	2,178 29		1,990 14
Dealers in manufactured tobacco	1,697,387 53	1,827,491 66	130,104 13	
Manufacturers of tobacco	10,938 55	10,265 30		673 25
Peddlers of tobacco	32,270 40	31,001 39		1,269 01
Total	37,545,293 74	41,958,970 17	4,413,676 43	

These figures show that instead of losing nine or ten million dollars, as was predicted, the collections from chewing and smoking tobacco and snuff, upon which the tax was reduced, were greater the present fiscal year by $2,131,334.32, with tax at sixteen cents, than they were the year before with tax at twenty-four cents, and that the receipts from tobacco from all sources were greater the present than the last year by $4,413,676.43. The results are surprising, but none the less true, and leave no doubt as to the cause which produced them.

The opponents of reduction cannot argue that the agitation of the tax question dwarfed receipts the year before last; for you may push the inquiry back one, two, three years if you choose, and you will find that the revenue under the reduced tax exceeds that collected in any other year. Neither will it do to say that the last tax-year was an exceptionally good crop year; it was really no better than the average except as it was made better by the spirit, enterprise, and thrift engendered by the lightening of a grievous burden.

The whole truth may be summed up in a few sentences. When the weight of taxation was in some degree lifted, farmers obtained better prices for their product, and they were encouraged to work harder and make more tobacco. Manufacturers believed that the tax rate was fixed for a time at least, less money was required in the conduct of the business, and more persons engaged in it; the consumer bought for something less, therefore purchased more, and more of them purchased; and, above all, thousands of pounds of tobacco were brought under taxation at the lower which would never have paid taxes at the higher rate.

The advocates of reduction and the democratic party in Congress have reason to congratulate themselves and the country upon the lowering of the tobacco tax. A great work was done when this, the only measure of genuine relief passed by Congress for years, was accomplished. The results obtained should go far to induce Congress to go on with the good work and reduce taxes still further. If the spirit tax was reduced the results, I am sure, would prove as satisfactory as those attained from the tobacco reduction. But even should they not, why should we not lower taxes and relieve the people? Is that sound policy or wise legislation which extorts from the general public the largest amount of revenue possible; or does wisdom teach that Congress should require of the country the least sum with which the wants of the Government can be supplied? This very year the receipts into the Treasury will exceed by forty or fifty million dollars the most extravagant estimates of our best financiers. What better can be done with this money than to direct it toward the people's relief? The Government is rich, the people are poor; we have the means, let us do something, and do it without delay.

Many portions of this country would be greatly relieved by the passage of a law reducing the spirit tax in the manner I have indicated. Especially should there be a reduction of tax upon liquors distilled from fruits. The whole amount of tax last year from this source was only about $1,050,000, I am informed. In those sections of the country where the greatest quantity and best fruits are grown, the extent of the tax and the annoying incidents of the present law have almost broken up anything like profitable distillation.

It is a serious question. Does the revenue obtained from this source compensate the Government for the cost and trouble attending its collection, to say nothing of the annoyances to which it subjects the people?

Reduce the tax to a proper extent and legitimate manufacture, and traffic will be encouraged, fraud will be broken up, the incentive to it being taken away, and the best results will flow to both people and Government.

Electoral Count.

SPEECH OF HON. E. G. LAPHAM,

OF NEW YORK.

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, June 15, 1880,

On the Senate resolution providing for a twenty-second joint rule for counting the electoral vote for President and Vice-President.

Mr. LAPHAM said:

Mr. SPEAKER: The proposed joint rule is an attempt to arrogate to the two Houses of Congress the entire control of the counting of the electoral returns, and is, in my judgment, a plain and palpable departure from the injunctions of the Constitution of the United States.

When the bill providing for the electoral commission to participate in the count of the vote for President and Vice-President in the last presidential contest was under consideration in this House I opposed the enactment of the law on the ground it was a violation of the constitutional provisions on the subject, as well as on the ground of its inexpediency as a measure of practical legislation. The operation of that law, casting, as it was attempted to do, a cloud upon the title of the present occupant of the Executive chair to that high office, as well as my subsequent examination and reflection, have only served to confirm the views I then entertained. The proposed joint rule is a still further departure from right, inasmuch as it proposes to dispense entirely with the concurrence of the executive department in the enactment to be made, but in a not improbable contingency to vest in one House alone the power to control the presidential election, and that, too, in defiance of the will of the people expressed in the mode provided in the Constitution.

I will recapitulate in substance what I then said on the subject of the constitutional provision for counting and declaring the votes of electors for President and Vice-President.

As adopted by the convention the provision of the Constitution read:

The President of the Senate shall open all the certificates and the votes shall then and there be counted *in the presence of* the Senate and House of Representatives.

In the engrossment of that instrument the Committee on Style, as I suppose, so transposed the sentence that it reads:

The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted.

It is very clear that the language as adopted by the convention in most apt words described the Senate and House as mere witnesses to the act of counting by some one else. The words "the votes shall then and there be counted *in the presence of the Senate and House of Representatives*" will admit of no other interpretation. I do not consider that the transposition of the words in any material sense changes the meaning. To show such was not the intention or the understanding of the framers of the Constitution, a very brief reference to the practice and precedent of the framers of the Constitution is all that will be necessary.

On the 17th of September, 1787, the delegates in convention having adopted the Constitution and provided for its submission to conventions of delegates chosen by the people of each State for ratification, passed the following resolution:

Resolved, That it is the opinion of this convention that as soon as the conventions of nine States shall have ratified this Constitution the United States, in Congress assembled, should fix a day on which electors should be appointed by the States which shall have ratified the same, and a day on which electors should assemble to vote for President, and the time and place for commencing proceedings under this Constitution; that after such publication the electors should be appointed and the Senators and Representatives elected; that the electors should meet on the day fixed for the election of the President and should transmit their votes certified, signed, sealed, and directed, as the Constitution requires, to the secretary of the United States in Congress assembled; that the Senators and Representatives should convene at the time and place assigned; that the Senators should appoint a President of the Senate *for the sole purpose of receiving, opening, and counting the votes for President*; and that, after he shall be chosen, the Congress, together with the President, should without delay proceed to execute this Constitution.

By the unanimous order of the convention.

GEORGE WASHINGTON, *President.*
WM. JACKSON, *Secretary.*

Twelve States united in adopting this resolution in the person of their delegates who framed the Constitution. A circular letter signed by General Washington was also addressed to the President of the Congress of the Confederation. On the 28th September, 1787, the Congress, having received said report, passed the following resolution:

Resolved unanimously, That the said report, with the resolutions and letter accompanying the same, be transmitted to the several Legislatures (of the States) in order to be submitted to a convention of delegates chosen in each State, by the people thereof, in conformity to the resolves of the convention made and provided in that case.

Having been so submitted and ratified by all the States but two prior to that date, on the 13th September, 1788, the Congress of the Confederation adopted the following:

Resolved, That the first Wednesday in January next be the day for appointing electors in the several States, which before the said day shall have ratified the Constitution; that the first Wednesday in February next be the day for the electors to assemble in their respective States and vote for a President; and (the first Wednesday in March next be the time and the present seat of Congress (New York) the place for commencing proceedings under the said Constitution.

The first Wednesday in March was that year the fourth day of the month, but a quorum of the House did not reach New York until the 1st of April, and of the Senate until the 6th of April, on which day the Senate "proceeded by ballot to the choice of a President *for the sole purpose of opening* and counting the votes for President of the United States." So the record recites. The President of the Senate so chosen did, with the aid of tellers, open the certificates and count the votes in the presence of the two Houses, and made and signed his certificate declaring that fact and announcing the result.

These proceedings are so familiar and have been so often quoted that it is not necessary to read them in full. They form a most perfect precedent and are so illustrative of the interpretation placed upon the Constitution by its framers that no argument or amplification can add to their significance.

In the second election of General Washington the same precedent was followed, and upon the election of John Adams he, as President of the Senate, in the same manner opened the certificates and declared *himself* elected to the office of President. In the year 1801 the two Houses of Congress attempted legislation on the subject of the count of electoral votes, but failing to agree nothing was accomplished. The attention of the whole country was thus directed to the subject, and yet in the twelfth amendment of the Constitution, adopted in the year 1804, and after all the discussion had on the subject, the clause in question as to opening the certificates and counting the votes was adopted without change.

In 1805, when all the events and the discussion to which I have referred were fresh in the minds of the people, and upon the second election of Mr. Jefferson to the office of President, (his first election having given rise to such a discussion,) the House of Representatives resolved:

That this House will attend in the Chamber of the Senate this day, at twelve o'clock noon, *for the purpose of being present at the opening and counting of the votes for President and Vice-President of the United States.*

On the receipt of the resolution in the Senate its Secretary was directed to notify the House that "the Senate are now ready to meet them in the Senate Chamber for the purpose of *being present at the opening and counting the votes for President and Vice-President.*"

In that case, as before, the President of the Senate certifies that he did "in the presence of the two Houses open all the certificates and count all the votes," &c.

Mr. Speaker, it is useless to follow these precedents further down the pathway of our history or to inquire whether at later periods there have been any departures from the precedents thus set for our guidance. In all the debates in the early attempt at legislation to which I have referred the sentiment that the two Houses of Congress should in no event have control of the electoral count was more outspoken than any other. To give it to the Senate, it was held, would make the Executive dependent upon its will and destroy the independence of a co-ordinate department of the Government. To give it to the House of Representatives would enable it to declare there had been no choice by the electors, to clothe itself with jurisdiction to choose a President, and thus to defeat and overturn the will of the people as expressed at the ballot-box. The two precedents found show that the House of Representatives can only proceed to such election after the President of the Senate has officially declared that no person has received a majority of all the votes cast for the office. In 1825, the last case of a failure to choose a President by the electors, the President of the Senate did officially declare that "John C. Calhoun was duly elected Vice-President, and that no person having received a majority of the votes given for President, the remaining duties in the choice of a President devolved upon the House of Representatives."

In the proposed rule under consideration it is provided that in case where there is but one certificate from a State the two Houses may, acting separately, reject the vote of such State, and in cases where there is more than one certificate from a State either House, acting separately, may reject the electoral vote of such State. They are not required to determine which is the true and genuine certificate and which the spurious one; but a political majority of either House may spew the duplicate returns out of their mouths and declare there was no choice for President and Vice-President in such State.

Mr. Speaker, if there be any force whatever in the claim that the two Houses are participants in any respect in the electoral count, which I deny, and which is contrary to the precedents to which I have referred, as well as to the language of the Constitution, what warrant is to be found for clothing either House of Congress separately with this tremendous and arbitrary power? To show its danger I need but refer to events fresh in our recollection.

After the election in 1876, a committee of this House, of which I had the honor to be a member, was commissioned to go to the State of South Carolina and investigate the question of the presidential election in that State. We devoted ten weeks to diligent examination and inquiry, and the committee were unanimous in the opinion that the Hayes and Wheeler electors had received an undoubted majority of votes. Notwithstanding this, the political majority in this House and the political minority in the electoral commission voted to exclude the vote of South Carolina. And for what? The constitution of that State provided for a uniform registry law. None had been enacted by the Legislature, and the elections for several years had been held without such law and the registration of voters. The election was all well enough to make Mr. HAMPTON governor,

and Mr. BUTLER Senator of the United States, and to secure the offices to the democratic candidates for State officers, but for political purposes, and those only, the majority here and the minority in the electoral commission, acting under a special oath as members of that body, would have rejected the vote of the State in the presidential count. And, strange to say, one of the electoral commission disposed to accomplish that result was a member of the committee who reported that the Hayes and Wheeler electors were chosen in South Carolina.

I might refer to other votes during the electoral count where, upon slighter pretexts than this, the ominous "eight to seven" were recorded in the chamber of the Supreme Court, and the political majority here was recorded in the same way, with a view to exclude the electoral votes of States as undoubtedly republican as Vermont. But it is needless to pursue the subject further. To give to the two Houses as now constituted and thus disposed the control proposed by the joint rule under consideration would be equivalent to an abandonment of the election of President by the people and to a surrender of that power to political majorities here, majorities irresponsible to any other power, unimpeachable for their acts, and liable to be swayed, as every contested-election case demonstrates, by the blindness of partisanship in all their actions.

The determination of the electoral commission has settled beyond question, as a judicial determination, that there can be but one electoral return from a State. There may be none so authenticated as to be admissible under the provision of the Constitution, but there cannot be two which are entitled to consideration as duplicate or conflicting returns from the same State. To determine whether a single return is so in accord with the Constitution, and which of two, in case two or more are transmitted from a State, may be safely left to the determination of the high official to whose custody, care, and decision the Constitution has in terms confided it. No practical evil or alleged malpractice has yet been found in such mode of determining the result of a presidential election, and the presiding officer of the Senate in 1877 would have been compelled to decide precisely as he did in declaring the result without following the determination of the electoral commission.

Mr. Speaker, this effort of a party majority in the two Houses to arrogate to themselves the control of a presidential count, will not succeed. The good sense of the country will revolt at the spectacle and stand appalled in view of the boldness and effrontery of the attempt. The coming contest under the banner of our chosen standard-bearers, will be so decisive and significant in its results as to clothe with shame and put to confusion the men who are thus intent upon trampling the Constitution under their feet and debauching the electoral count for the base uses of a great political party.

Persecution of the Jews—Necessity of Intervention.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.—*Article I, Amendments to Constitution of the United States.*

And I will shake all the nations, and the desire of all the nations shall come; and I will fill this house with glory, saith Jehovah, the Lord of Hosts.—*Haggai's Prophecies.*

SPEECH OF HON. SAMUEL S. COX,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Friday, May 21, 1880,

On the following resolutions:

Resolved, 1. That the President of the United States be requested to inform the Senate and House of Representatives, if the same can be done without detriment to the public service, whether he is in possession of any information showing that any American citizen or citizens professing the Israelitish religion have been expelled, by any order issued by the government of His Imperial Majesty the Czar of Russia, from the city of St. Petersburg, by reason of any decree expelling foreign and alien Jews from said city.

2. That, if it be not incompatible with the public service, the President be requested to communicate to this House all correspondence in reference to the proscription of Jews by the Russian government.

Mr. COX said:

Mr. SPEAKER: In the RECORD on page 3626 will be found certain resolutions, above quoted, passed by this House on their presentation by myself.

It is my privilege to explain these resolutions. Before the response was made I sought and obtained the privilege of perusing the correspondence in the State Department as to the condition of the Jews, not only in Russia but in Roumania and Morocco. Thanking the eminent head of the State Department for this courtesy, may I not also commend the interest which has been taken by the Secretary in the amelioration of the condition of this still and ever persecuted race.

The recent census will show over twenty thousand Jews resident in my congressional district. As a faithful Representative, is it not dutiful to be, in every sense, an exponent, especially of a people who have selected me even against one of their own race? May I not follow their best thought and dearest wishes to every land where their stricken brethren lift up the voice of complaint?

ROUMANIAN JEWS.

There is not much correspondence on file as to the Roumanian Jews. Among other evidences of the anxiety of the American Hebrew for his brethren over the world is the letter of Mr. Isaacs, president of the Board of American Municipal Congregations. It is dated October 7, 1879. It had reference to new conditions, which I trust may be fulfilled, in the Berlin treaty; to the independence of Roumania, and the bettering of the condition of the Hebrews, so long harried in that country. It seemed from the correspondence that only one thousand Hebrews (having made application) were entitled to enfranchisement out of two hundred and fifty thousand, the great mass of whom were natives. Now that the United States has its representative at Bucharest, it lies within his power to protest with vigor, and provided he does not surrender to Russian interests and policies—as it is feared he may—it is to be hoped that the standing complaint of the Jews against Roumanian intolerance may be alleviated, if not silenced, by American remonstrance and diplomacy.

JEWS OF MOROCCO.

In examining the state archives I found that the American Israelite had not forgotten his brother in Morocco. This is a characteristic trait of the American Israelite. While he does not neglect home hospitalities he has the large and generous reach of his faith and experience to find where his unhappy brethren are; and the spirit to rescue.

The Board of Trade of American Israelites (243 Broadway) sent a letter to Felix A. Matthews, United States consul to Tangier, stating that his predecessor, Mr. McMath, had interceded for the Israelite population suffering under the weight of Morocco persecution, and that he had interceded effectually. It also asked the good offices of the present consul, and not in vain.

I found also a memorandum from the editor of the Jewish World, 1877, detailing some of the persecutions which the laws of Morocco and its rulers imposed upon the Jews. These persecutions have made it necessary that they should seek protection from Europe for property, liberty, and even life. Recent conventions to effectuate this object are noticeable in our telegrams from Spain and the Old World.

Cases are given as to the cruel treatment of the Jews in the towns of Morocco. Let me instance: Jewish butchers are flogged, each one receiving from one thousand to three thousand lashes. Why? Because they reduced the price of their meats. A Jew is flogged because he would not confess a crime which he did not commit, and so on, and so on, and so on.

This correspondence shows that it is impossible for a native of Morocco, who is a Jew or a Christian, to abide there for commercial purposes. He can only ply his calling by proxy.

In Mr. Matthews's letter of March 8, 1880, the withdrawal of protection from certain trades and professions of the Hebrews is commented upon. When this protection was withdrawn the merchants and others suffered. An elderly man named Isaac A. Marr is seized by the Morocco authorities. A false accusation is raised against him; he is loaded with irons and imprisoned. They confiscate his property. But for the influence of our American consul, connected with a Jewish delegation who happened to be at Algiers, and who at once proceeded to Casablanca, where the prisoner was confined, he would have suffered extreme penalties. It also happened that several Jewish delegations were at Tangier. They were instructed by their Ministers to be present at the trial of this man. Our consular agent was also instructed to watch the proceedings. After these proceedings harsh orders were given against all Jews by the authorities, and among them an order that all the Jewish houses in Ghetto having a second story from which the Kashbah (Basha's residence) could be seen should be demolished at once. Some six hundred and fifty-six Hebrews remonstrated against this order. They were flogged and imprisoned, though subsequently released on the payment of a fine.

I have had the extreme satisfaction and pride to read the translation of an Arabic letter, addressed by F. A. Matthews, consul, to the Emperor of Morocco, remonstrating against these enormities. At Mazagan these Moorish brutes beat an old Jew to death in the streets. At Taza they shot eight Jews. They cut the throats of others. At Fez an elderly Jew, seventy years of age, was buried alive in the streets! It is not an uncommon pleasantry for the authorities to compel the Jews to walk barefoot in many of the Morocco towns in order that they may excite the contempt and ridicule of the Moslem bigots and fiends.

In the remonstrance of Mr. Matthews he recounts the facts, that in eastern nations the Jews are found in large numbers, and that they take the highest interest in the management of affairs. They bring commerce and wealth. They never shed blood. "They live and die the same as Mohammedans," he plaintively reminds the Emperor of Morocco! "Why, then," he asks, "should they be ill-treated and partially dealt with in law? The Almighty makes them equal to all other men." That the evil may not happen again he asks for the banishment of the men who outraged humanity in the person of the persecuted Hebrews.

The reply of the Secretary of State, of April 22, 1880, approves with no uncertain sound the humane sentiments and vigorous protest of

this consular letter. For this let us commend our State Department, only let it be followed up, under, through, and around!

In Jenk's History of the Jews the treatment of the Jews in Morocco is pictured only too truthfully. He says, on page 397:

One of the most diabolical means of oppression which is brought to bear on this condemned race, but of which fortunately the instances are comparatively few, arises primarily from the contempt with which they are regarded; their evidence being esteemed utterly worthless before the tribunal of a cadi against a Moslem, while the evidence of two Moslem witnesses (though often false) is sufficient to convict a Jew and subject him to the penalty of the grossest crimes. It will easily be perceived how this unlimited power can be applied to the purposes of avarice, sensuality, and religious bigotry, when taken in connection with the fact that nothing more is required to make a Jew or Christian a Mohammedan by their law than the deposition of two witnesses to the simple circumstance of their having pronounced the words, "There is no God but God, and Mohammed is the apostle of God." Against this testimony the protestations of the Jews are vain, and the penalty of recantation is burning at the stake.

And this, Mr. Speaker, is a custom of the nineteenth century! Why should we not protest in vigorous language? Would that I could use the grand tongue of Isaiah or Jeremiah to pronounce a fit malediction upon such recreants to humanity and civilization. The author continues:

I have alluded more particularly in this imperfect sketch to the Jews of Morocco because they are essentially the most ill-used and because—although I have had opportunities of seeing much of this people in that country, as well as in Turkey, Syria, Palestine, India, and Arabia—I consider them physically and intellectually as the finest type of the race; and their apparent moral degradation is chiefly superficial, the consequence of the state of oppression which has been weighing on them for nearly two thousand years.

Is it not, indeed, surprising, that after the ordeal they have undergone, they should still retain either moral worth or physical identity; yet notwithstanding this, which would have utterly annihilated any race not equally under the care of Providence, there are still among them men of latent talent and capability for the highest purposes, and which only require directing into the right channels to produce the most brilliant results. They possess in an eminent degree the virtues of fortitude and perseverance, without which, indeed, they could scarcely have existed individually or be held together as a nation. Their aspirations after better things have been quelled, their spirits bowed to the very dust, and their every feeling imbittered under the thralldom of Mohammedan despotism, the persecution of the powers of Christendom, and the insults of the world at large! But relieved from these fetters, the intrinsic nobility of their nature would be drawn forth, and springing with their characteristic buoyancy from the sufferings of ages, they would reach and maintain a high rank among the nations of the earth.

From this splendid eulogy upon the Hebrews of Morocco we may learn what the teachings of a spiritual religion may effect when associated with a reverence for the grandest thoughts of our human nature.

RUSSIAN HEBREWS.

Another incident of my researches in the State Department is a letter sent by Senator PENDLETON, of Ohio, to the Department of State, from Mr. Wise, of Cincinnati. He incloses a letter from Mr. H. Rosenstrauss, of Charcald, Russia, an optician, engaged also as an agent of the Singer sewing-machine. It states the fact that alien Jews are not allowed to hold real estate, unless British Jews.

Considerable correspondence appears in reference to this subject between Mr. Consul Hoffman, Mr. Minister Stoughton, and others. The result appears to be this, that no rights are enjoyed by American Jews, except what the Jews of Russia enjoy. It further appears that the English Jews have a decided advantage in this respect. In the resolution which this House passed at the extra session, reported by me as chairman of the Foreign Affairs Committee, I endeavored to remove this discrimination by a joint resolution, asking diplomatic aid to remedy the wrong. This was passed. What has been done under it I know not.

AMERICAN CITIZENSHIP A RUSSIAN FELONY.

But we may well imagine what is done or left undone when I picture what is the blackest blotch on the civilization of our century, namely, that if a Russian subject goes to another country and becomes naturalized he is by such an act a felon at home, and is punishable by exile or death. Owing to the ignorance that pervades the world as to this Russian system, this matter is never understood or denounced until some Russian naturalized citizen of America, like a citizen of Detroit, who writes to me of his grievance, returns to his Russian home and finds the iron clamp fixed upon his limbs and his estates confiscated.

It further appears that in the Polish provinces Catholics alike with Jews are forbidden to hold land. It is the same in Finland. Under the Russian code foreign Jews are not allowed to settle in Russia. As late as April 14, 1880, there is on file a letter from the Secretary of State to Mr. Foster, our minister, in which it is held that, while it is not admissible for the Government of the United States to reproach the government of Russia for its laws and regulations, still there is this manly and generous exception, that so far as such laws and regulations affect the citizens of the United States, in violation of natural rights, treaty stipulations, or the provisions of international law, our right to intervene is absolute. It is above discussion.

Under such a policy, why should it not continue to be a felony to migrate here and become a citizen of the United States?

Upon this basis of irrefragable national justice is predicated the resolution I offered. It is a remonstrance from this American Congress—representing fifty millions of people—as mosaic in its composition as it is liberal and progressive in its tendencies and principles. It cannot be disregarded in this age of locomotion and progress. It must bear its moral force to every land where the human mind seeks to be untrammeled and free.

TESTIMONY ALIUNDE.

Mr. Speaker, I do not rely on the meager correspondence which I have examined in the Department of State for the inquiry and relief proposed by my resolution. There is not an impartial traveler into Russia, whose book I have read, but has recorded and emphasized his observation of these atrocities upon this race.

It is one of the many marvels of this wonderful Jewish people that, scattered as they have been, they have preserved their ancient customs, language, and sacred writings. Their race is growing. They now count millions; and more by reason of intellect. Of the two and a half million in Russia but few are in the heart of the empire, there being not more than two thousand in St. Petersburg; the rest are sprinkled over the provinces, even as far as Siberia and the Caucasus. Like other inhabitants they engage in all trades, from that of watchmaker, jeweler, tailor, &c., to the business of banking, manufacturing, and healing. It is in evidence (Wahl's Land of the Czar, page 100) "that there are among them many highly educated, exalted men, whose charitable munificence is extended with equal liberality to people of all faiths."

In Poland the Jews are one-eighth of the whole population. Warsaw has forty-two thousand out of a population of one hundred and sixty-one thousand souls. Odessa gives them great chances for trade which they embrace. Wherever they are found, however, this is said of them, that their distinctive traits of character are modesty, purity of morals, love of work, and sobriety. Their society includes no lazy characters, beggars, or criminals. Their word is implicitly believed by everybody. (*Ibid.*, p. 101.) Yet, sir, this is the race selected for special persecution by this Russian Empire. In the language of the Jewish litany, they are the victims of "sling-stones and destructive weapons as they went forth from Jerusalem." Now and then there is some mitigation even in Russia of these grievances.

Prior to the promulgation of the famous ukase of 1835, which defined their rights more precisely, none could have told what was their exact position.

It is said by Mr. Brenner, in his "Excursions" into Russia in 1839, that they could study at the universities, take degrees, &c.; but he adds that even with all these high-sounding liberalities the indulgence of the Russian government to the Jews is not by any means of that generous nature which many suppose. Should we call it toleration were the government to say to the Jews, "Get out from among us; we give you a certain portion of country in the bleakest and most uncultivated corner of the empire; go thither and render it fertile by your industry; pay your taxes, multiply your race, and get rich if you can; but not one of you shall we allow to live in the capital, or even in some of the counties, on the same footing with Christians?" The same author adds:

It is notorious that though in some districts—those which the government is anxious to colonize and can get nobody else to go to—they enjoy the immunities above alluded to; yet in certain provinces—Bialystock, for instance, where there are many Jews—they are treated as a degraded race, and are expressly prohibited by law from leaving their villages, or to settle in any town of the district; and it is equally well known that no Jews, except a few of great wealth, are allowed to settle in Saint Petersburg and some other cities of the empire.

It might also be asked, whether there be much toleration in compelling the Jews to serve in the army—nay, in the navy, too—driving them like wild beasts, with chains on their limbs and the whip at their shoulders, to enter professions to which, as is well known, they have never been accustomed, and which they mortally abhor.

The testimony of another author, Edward P. Thompson, (Life in Russia, on page 295,) is not less explicit. He says:

Jews are barely tolerated in Russia, and they are loaded with many insults and hardships, while the Musselman is protected and privileged. In this very prison we found, in a little secluded cell, which they had appropriated, a whole Jewish family, the father of whom was under sentence to Siberia for an alleged charge of smuggling; but for two years he had contrived, probably by bribes, to get his term delayed, in the hopes of obtaining pardon. He was a noble-looking old man, bowed down by care and distress; and as he came forth, removing his little fur cap, with his family hanging around him, begging us, by the God we worshiped in common, to have pity on him and to intercede for him, the graphic scenes of Scott rushed vividly to my recollection, and I could fancy I saw before me the prototype of Isaac of York in the tale of Ivanhoe. Poor man! his case wrung my soul; for what could I as a stranger do? And it was mercy to tell him so. As he retreated with a hopeless sigh to his cell, I thought of Sterne's captive: "I beheld his body half wasted away with long expectation and confinement, and felt what kind of sickness of heart it is which arises from hope deferred."

In Julian Allen's "Autocracy in Poland and Russia," page 14, this is recorded of the Russian Hebrews:

They are more ill-treated in Russia (and Poland now is Russia) than in any other part; they fare even worse than the serfs, and are emphatically the white slaves of Russia. They are not permitted to own either houses or land, except in some cities, where, by dint of concealment, they have amassed sufficient means to purchase, and by the same cautious method have become property owners. After thus much is accomplished they become useful as tax-payers, and in various ways can be made to subserve the interests of government; therefore, if they act discreetly, they are likely to remain unmolested.

The taxes levied upon the Jews are beyond the conception of a free and Christian people. First, there is a head tax; then a tax upon every door and window in their houses; also a tax upon every description of food they eat, and, in short, upon everything that supports existence, with the exception of air and water, and with regard to these, their labor is so contrived that they obtain but a scanty supply. In order to meet these taxes, they are often subjected to dreadful hardships, and the miserable creatures will have recourse to any plan to satisfy the demand.

Twice in the year an order is sent forth by the Emperor, for impressment to the army; and by night the Jews' houses are forcibly entered, and all male children between the ages of thirteen and fifteen years, are torn from their agonized parents, that they may be prepared to serve as Russian soldiers.

If anything more were wanting to supplement the statements of such observers, Mr. Milman, in his History of the Jews, volume 3, page 398, furnishes the whole story in a few paragraphs, wherein he shows the

hospitality of Poland toward the Jews, and its opposite in "Russia proper," from the earliest days. What a picture is this, from his pen, of the treatment of these exiled children of Israel!

These were set on horses, with their faces to the tails, their garments turned inside out, and with horned caps, like the paintings of the devil, and crowns of straw, with a writing thereon, "Behold the host of Satan." They were thus paraded through the streets; the rabble spat upon them, and jeered them, "Lo, the enemies of Jesus Christ."

This treatment was moderate and mild compared with that of recent times; treatment which made assassination common and Nihilism possible!

TOUCHING APPEAL TO AMERICAN ISRAELITES.

Is it then to be wondered that appeals come to us freighted with woe and tears from these Hebrew sufferers in the Empire of the Czar? Can we as a humane people disregard their agonizing cry for relief?

Since my resolution was offered the most touching appeal ever made to a nation, or to human nature, has come to us. It is from the Israelites of Russia. Never, unless when in the wilderness, journeying through years of famine and thirst, toward the promise of the Great Jehovah, was there such an appeal for relief. Never, unless when the Hebrews were in captivity at Babylon, and took down their harps from the willows to sing of their exile, has a sadder song been sung than that almost lyric appeal to the Israelites of America, and through them to the American people, for relief for their suffering co-religionists of Russia. There is matter enough here for the justification of my resolution. Read this appeal:

BRETHREN: In this hour of all but hopeless misery, groaning under the yoke of cruel and heartless despotism, driven from our homes and fire sides, persecuted by every conceivable iniquitous cruelty, our property and our means of livelihood ruthlessly torn from our grasp, our hard-toiling hands; with hearts torn with anguish, abject in soul, our manhood crushed within us, desperate and forlorn, we turn to thee, we turn to the West, to you in your happy, free homes, and we ask you, we pray, we implore, we beseech you to come to our rescue; to take us out of our bondage, out of our misery; to give us a chance in your great and glorious land of liberty, whose broad and trackless acres offer an asylum and a place for weary hearts and courageous souls willing to toil and by the sweat of the brow earn their daily bread. Come, brothers of Israel in America, come to our help!

Give us the means to migrate to your shores. Let us touch with our feet the sacred soil of Washington, and with our freedom we shall become new-created for the struggle of life.

We do not fear work. We ask you but to land us on your free territory and send us to your western lands, and we will answer for the rest.

That the great God of Israel will move your hearts toward us and grant our prayers, we are, your suffering but faithful brethren.

The signatures to this remarkable document are withheld, but only because their names would be the signal for persecution, exile, and death. The laws of Russia make a residence in that country for the Jews a prolonged agony; a life in death, a death in life.

There are 2,500,000 Israelites in Russia. The body of them are in the southern and western portions of that country. The accounts which come to us of their compulsory expatriation, as well as their persecution in Roumania and Morocco, are not exaggerated. Whether this ostracism comes from Russian hate, born of the old spite and tradition, or from local trade jealousies which has followed them into Roumania, or from the inveterate diabolism of the Moslem, illustrated in the worst of the Barbary States, it is certain that the Jews are still the victims of an almost insane religious vindictiveness. They are the objects of excessive, unrelenting, and cruel persecution.

Count Mikoff's circular of June 11, 1879, to certain governors of Russian provinces excepted certain professions, artisans, workmen, and apprentices, but it is still certain that under the Russian law the most atrocious outrages have been committed against the disciples of Judaism.

Two years ago, as I have hinted, I introduced a resolution, which passed this House, against any discrimination in favor of English Jews, resident in Russia, who were permitted to hold real estate and against American Jews who were deprived of that privilege. The treaty between the United States and Russia discriminates against the Jews in this: that the American citizens of the Jewish faith have no other rights than those of the same faith resident in Russia, which are no rights at all. The treaties between Russia and England are more liberal and especially ignore the odious clause. Why should not our diplomacy reach out its hand to do its work of amelioration?

HOW FAR MAY WE INTERVENE?

How far the United States may intervene to demand fair treatment of this remarkable and chosen people may be well considered. No one proposes to intervene in any domestic or municipal regulation of Russia. We cannot question any ukase of the Czar, except morally? We know that we are powerless against despotic excesses. Still there is a moral power which should be exercised and exalted. It is in the interest of liberty and civilization. When robbery of property and expulsion of person become the order of the day against any people—or, I may say, against this abused and unhappy people, with whom so many of our own citizens are associated by blood and religion—is it not ours to assert our common human nature? Is it not time that the liberal thought of America should be expressed through its diplomacy and its best representative assemblage?

It is not for me now to give in detail the acts of persecution upon which my resolution was founded. The Israelites of the most important commercial towns in Russia, such as Orel, Borisogletsk, and Haritzige, and merchants from Germany, traveling on business, are as liable to insult, robbery, and death as if they were visiting Morocco. No sanction is given to their safeguards and passports. They are Jews; and the cry is: "Down with them!"

True, that matter as to German merchants is for Germany to consider. All such considerations must resolve themselves into projects for the amelioration of the stricken and ostracised people. It is very easy for a minister of war in Russia to interdict, on a mere pretext, the business of the Jews. Any one can find a pretext when he desires to persecute. The Spanish maxim "When you want to kill a dog say he has been eating iron" has much meaning in the treatment of the Jew by the Russian government. No one in this land of ours would realize the utter wretchedness which prevails among this ancient people of God in Russia. It matters not whether they are residents of Western or Southern Russia, or whether they belong to a population where there is more or less of liberty allowed, or whether they are persecuted in Roumania under Russian auspices, the cry comes up from them to us of America: "Give us the means to migrate to your peaceful and prolific shores; give us a chance to enjoy and work the soil of America; give us the liberty for ourselves and our children to labor, before the sharp winter comes again to blight and kill!"

This voice should not be unheeded. It comes not merely from homes nearly blasted; but it comes from men, women, and children upon the highways and the open fields, stricken with famine, clotheless and shelterless.

A MONEYED OBSTACLE.

There is one little impediment to this wholesale persecution. Russia, to carry on her great warfare against humanity, desires money. She must make loans. These depend on German bankers. They depend on the Rothschilds. "No part or parcel," said Baron Alfonse de Rothschild, "will I have in Russian bonds unless the order expelling the Jews shall be revoked."

OLD PREJUDICES AND PERSECUTIONS.

There is much prejudice in America against the Hebrews. We know from whence it comes. It is as narrow and illiberal as the old ostracism of the dark ages. It but pursues the course adopted by all persecutors from the earliest ages; but it cannot live long in our free atmosphere.

INTELLIGENCE OF RUSSIAN HEBREWS.

This persecution of the Hebrew is not because he is ignorant, communistic, or nihilistic. The most intelligent people in Russia to-day, and the best educated, as the official report of the higher consuls of the Empire will show, are the Hebrews. They are advanced; they stand upon a higher plane.

JEWISH NIHILISTS.

But it is said that they are Nihilists; and no doubt many Hebrews have been found among the Nihilists. In the northern part of Russia, where Jews as a rule are not permitted to reside, few have been confounded with nihilism. But nihilism does not belong to one sect; nihilism seems to be the asylum of despair, and despair is the result of despotism, tempered only with assassination.

Of the Nihilists of Russia 26½ per cent. are ranked as gentlemen; 19 per cent. sons of priests; 13 per cent. as peasants; 9 per cent. as shop-keepers; 7 per cent. as Jews; 3 per cent. merchant class; 1 per cent. soldiers; 22 per cent. unaccounted for. But the reason why so many Jews who have never, in all their history, been much disposed to insurrection, are found among the Nihilists is owing to the startling facts which I have enumerated. The Jew was driven in utter despair to conspire to save himself and his own from exile and death. Active, thoughtful, far in advance of the men who surrounded him, well educated, speaking several languages, he comes by virtue of his persecution, if there be virtue in it, more or less revolutionary. Failing to obtain that relief which should come from a generous government, he makes his appeal at last—*at last*—to America.

The Foreign Affairs Committee of the House of Representatives, representing many relations abroad, have deemed it proper to make inquiry into this new phase of barbarism. That committee but reflects the principle of natural justice when it protests against the persecution of this race, alike in Russia, Roumania, and Morocco.

By the same right of intervention which Gladstone invoked against the King of Naples in 1851 when there was imprisoned upon the isles of the beautiful bay the manhood and patriotism of southern Italy; by the same right which England exerted when she protested against the slave trade and against slavery in Brazil and Cuba; by the same right with which civilized powers intervened against the desecration and outrage of human liberty in Greece by Turkey, we should heed the appeal which comes to us from the Old World on behalf of the many active, intelligent, and generous people who seem to be ordained of God, through manifold sorrows, to suffer for the advancement of mankind!

HISTORY OF PERSECUTIONS.

Is it not strange that we should be called upon, in this afternoon of the nineteenth century, to vindicate religious liberty? Is it not humiliating to make this exhibit in this Congress, for the instruction of mankind and the betterment of its condition? Are we, indeed, in the midst of the fifteenth century, when, with one stroke, one nation of Europe sacrificed six hundred thousand Jews, the flower of science and devotees of literature, skilled in art and enthusiastic in poetry; men apt in all enterprise and industry, and with a commerce which

whitened every sea with its sails—honest, social, hospitable? Are we repeating this detestable history, when these hundred thousand of the prime race of our planet were expelled from homes amid terrible cruelty and suffering?

The greatest event of modern civilization was illustrated in the American Constitution. Instinct with the tenets of Lord Baltimore in Maryland and Roger Williams in Rhode Island, the one a Protestant and the other a Catholic, rivaling each other in generosity toward all religions, it made by its code, in two golden words, *soul liberty*. It made them not only possible but actual. By every teaching of the past and every progressive thought of the present let us in America sound the tocsin of *soul liberty*.

The record which I have presented will show that the race from the little country on the southeast shore of the classic and sacred sea, the wonderful land of Palestine, which gave us our marvelous Bible, has not been altogether neglected by our Department of State or by their coreligionists here. It is impossible to neglect such a race. The force which started from Jerusalem has permeated even the remotest wildernesses of our world. It is destined to rescue even Russia from the clutch of usurpation. Persecution of every type must give way before its regenerating and vivifying civilization. Think, sir, what a potential agency is Judaism! Almost every other name on our roll, and in our census, is of Hebraic origin. They are a protest against this unexampled persecution of those who bear their own nomenclature, their kith and kin.

WONDERFUL RESULTS FROM JUDÆA.

No fabled myth or legend has ever thrown its mist over the holy fields of Palestine, whence came this peculiar people. Its valleys and mountains, where prophets and apostles walked and talked, give to us the glorious influences which through the ages have made God's law the guide to duty and the inspirations of immortality. And yet, strange as it may seem, these splendid truths born out of Palestine have occasioned more relentless persecution than all the errors of the ages. At last, it was left for America to counteract the influences of religious bigotry, to settle for all time the question of "soul liberty."

The history of persecution is the history of the Roman Empire before it was redeemed to Christianity. It was ever forbidden by the codes of the Greek and Roman to worship other than the ancestral gods. Penalties of death were inflicted on those that worshiped other than the patriotic god by other than the old rites. Even Cicero, liberal and intelligent, urged that no one should have separately any gods to worship privately. Divine worship was compelled in the old form, and a Roman emperor was commended that in passing by Judæa he would not pay his devotion at Jerusalem. The Roman senators could not take their seats in council until they offered frankincense upon the altar of that god in whose temple they met. Civil magistracy, through two thousand years, was a persecution of religionists whose religion differed from that of the State. The persecutions of Nero and the long line of Roman emperors illustrate this system of proscription.

Persecution is no new thing in Jewish history. The Jews were, perhaps, in the earliest days, according to a passage in the book of Judith, the first victims of religious persecution. In the land of Chaldea "they worshiped the God of heaven, the God whom they knew." They were cast out from Chaldea; and flying into Mesopotamia, they sojourned—such is the story—so that Abraham began his career under the auspices of Nimrod in the land of Ur as a victim of zealous bigotry. The tradition is still kept up that Nimrod threw Abraham into a furnace of fire because Abraham would not worship his idol. But the fire had no power to burn.

Antiochus, as we learn in the history of the Maccabees, put forth an edict of death against the Jews who stood by their faith. He compelled some, by tortures, to abjure it. The Grecian gods, like Mercury, who protected thieves, and Jupiter, who was very loose in his habits, were his model deities. Unto them only sacrifices were to be made.

When even the best princes of the ancient world authorized persecution for religious belief, what can we expect of a nation whose demoralized Czar is in daily fear of death from enthusiasts, who, in their desperate straits and revenges, care little for their own life, if by losing it they can punish their despotic rulers.

No two religions were allowed in Arabia. To bow in a wrong posture toward Mecca was at one time to be sentenced to death. I have seen in the Grecian Archipelago, while the steamer was boxing the compass around the isles, the most ludicrous attempts of the Moslem passengers to pray toward Mecca. The deck of the shifting vessel was not more whimsical than the caprices of men who have persecuted their fellows for opinion's sake. Religious differences were dependent even on the pressure of steam or the chance turn of the helm! How many more intelligent religionists have quarreled unto death as to the forms of faith. Disputes about Easter, about the coeternal and consubstantial relation of the Son to the Father, and a thousand and one frivolities of form, have made countless millions mourn. Is it not time such illiberalities died out with the dawn of our better day?

Classical history tells us of the persecution of Socrates among the Greeks. The same system obtained among the Egyptians because they did not worship the same god, even though that god were a dog or a fish. Mohammedanism displayed the same spirit of hate. All through the progress of mankind toward a better day and among all religions we find persecution. It reached its acme when Laud drove the Puritans from England into a new world. Perhaps the most significant illustration of thus molesting liberty was applied by those of our own country who were his victims and who had fled from the persecutions of the Old World. Not to speak of Baptists, Catholics, or non-conformists of all creeds and classes who were persecuted here, the most crude and cruel laws against religionists were those which permitted and ordained that magistrates and ministers might inflict indignities, even to death, upon the simplest people on our planet, the Quakers.

In 1656 a law was passed at Boston prohibiting ships from bringing Quakers into port. When this law was proclaimed one Nicholas Upshal, an "Independent" himself, warned them not to fight against God. He was fined £23 for his contumacy, imprisoned for not going to church, and banished from the jurisdiction. Still the Quakers came. In 1658 a more rigorous law was passed, and £100 penalty was put upon any one who should induce a Quaker to come hither! Imprisonment was added. For the first offense one ear was cut off and imprisonment; for the second, the other ear and imprisonment. If a woman happened to be the victim she was to be severely whipped. For the third offense her tongue was bored through with a hot iron. And yet the men who made these penalties had themselves fled from the persecution of prelacy. I can give the names of those who were committed in Boston, imprisoned without food for five days, and after that receiving twenty blows each with a three-cord whip. Ears were cut off by the hangman, and our "Independent" persecutors rivaled the worst ages of pagan Rome in this hellish work of religious persecution.

I give these unpleasant incidents in the history of persecution in this land to mark the signs of advancement. These incidents have come down to our own times as lessons. These excesses of our Puritan ancestors leave it upon us, as an impressive duty, to atone for them by practicing the liberalities of our better time. They furnish a lesson, which we should especially apply, to relieve the chosen children of God in other lands. Until modern Europe is exempt from the intolerant horrors we have shown to exist in Russia, Roumania, and Morocco, our expiation for our own persecutions of Quakers, Baptists, and Catholics will not be complete.

The laws of England amply show from time to time the cruelty of these persecutions. It is only within a few days that the English Parliament has been discussing the question of a test oath as to religious belief as a prerequisite for statesmanship! It would take whole volumes to record the distresses of the Hebrews in England alone, not to speak of other nations, from the time they were scattered through Spain, France, and Germany. In spite, oftentimes, of the protests of such popes as Gregory II, the dire persecution went on. Few liberalities were granted to the Jews, either by the supporters of any form of government. The prosperity of this remarkable people was, perhaps, one cause of their persecution. Their money was a perpetual provocation to the cupidity of rulers in those dark ages. True, in France we find here and there a greater determination to protect the lives and property of the Jews, and to prohibit annoyances, but yet even there the sentiment hardly permitted a Jew to reside in contentment. The Europe of the Middle Ages is the Russia of to-day! The Spain of the fourteenth century is the Morocco of to-day.

Against all these excesses history and philosophy protest. The genius of America, in its traditions, history, and Constitution, protests. All exiles and creeds which here find their asylum protest. This protest must be heeded. The injustice of these early days has its commentary now, and the injustice of to-day finds its commentary then. Even Cromwell was disposed to allow the Jews to re-enter England, but he was opposed by the narrow sentiment of the English nation, who desired to monopolize commerce; and yet, sir, we have seen a descendant of the persecuted Portuguese Jew making the laws and enlarging the empire of England and giving treaties unto Europe and Asia. Within a half century the cries of "*Hep! hep! hep!*" or, "Down with the Jews," were revived in Germany. Notwithstanding the learning of her rabbis, notwithstanding the generosity of their character, notwithstanding the liberal and inspiring thoughts taught in their Bible and chanted in their synagogues, the time came in Germany, ay, and in France, Spain, and England, when these indignities and cruelties were as common as in Russia now. But we have moved onward, and even for the Jew the language of Isaiah is now applicable: "They draw water out of the wells of salvation!"

Russia, Roumania, and Morocco stand out as monuments of that early barbarism which is the reproach of mankind. The advance in every other country, except that of Russia, Roumania, and certain parts of Asia and Africa, where Mohammedanism prevails, is owing to the fact that the children of Israel have partaken of the general advancement. In Spain, France, England, and Germany its blood has furnished orators, statesmen, editors, artisans, financiers, musicians, players, and ministers. Everywhere, except in Russia, Roumania, and Morocco, its genius and intellect rise above force and distances bigotry.

JEWISH RESTORATION.

Perhaps the most curious object around Jerusalem is the "wailing place" of the Jews. It is at the base of the wall of the temple. For many centuries the Jews have met there, bowed in the dust, to weep, undisturbed, for the fallen glory of their race. They there

bedew with their tears the soil, through so many generations moistened with their blood. It is an old custom. With trembling lips and tearful eyes they chant from their Scriptures, "How long, O Lord, how long; how long wilt thou be angry with us forever!" And the word comes back to them, in their doleful wailing, from the outer world—a world regenerated with the new and strange forces of steam and electricity; a new civilization born of progress and enlightenment, and dashing by their ancient haunts with a chariot more fleet and fiery than that in which their prophet ascended—"Not long, not long, ye wandering ones of Israel. Your day of enfranchisement is nigh."

If not in a physical, yet in a spiritual sense, comes back the hymn, which new voices are raising the world over and around:

Rise, royal city; Zion, rise!
Thy king's approach to hail!
Long has thy night of mourning been
In sorrow's gloomy vale.

Whether it shall ever come to pass that this remarkable race shall repossess the land of their ancestors; whether the temple shall again arise within the walls of Zion; whether the teachings of their religion and all the elevated thoughts of their poets, prophets, and priests shall be sung even "within thy gates, O Jerusalem," one thing is to be conceded, that in America, under our free institutions, they are permitted unmolested to worship the Jehovah of their fathers! Here at least they have a highway out of Egypt into the promised land! Wherever may be their local habitation, from the summit of Mount Sinai still radiates the eternal lesson cut in stone; from the calcined soil and the sacred mountains of Judæa goes forth an effluence to civilize, cheer, and bless.

No one can be so darkened in his understanding as not to see the wonderful power of that little land through which the Jordan flows, with a population not larger than one of our own counties, which for two thousand years and more has held the world in thrall by its teachings and by its worship of the invisible Jehovah. Its people have carried the ark of their covenant into many lands and climes; and though bigotry may still be pleased to think that their dispersion as a people is a curse, still from their migrations humanity has been beautified, justice purified, and liberty glorified! Out of their rigid and austere code there springs and flows forever an influence as gentle as the dews that fell upon Hermon and as potential as the quaking of Sinai, out of whose throes came the great moral law of mankind!

Presidential term—Meeting of the Congress—"Riders on appropriation bills."

SPEECH OF HON. E. G. LAPHAM,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

Saturday, February 14, 1880.

The House being in Committee of the Whole on the state of the Union—

Mr. LAPHAM said:

Mr. CHAIRMAN: I propose at this time to offer some remarks in support of two proposed amendments to the Constitution submitted by me at this session and a bill I have introduced fixing the time for the meeting of the annual session of Congress.

The first proposed amendment is to the effect that the term of the office of President shall hereafter commence on the first Monday in May instead of the 4th of March, and that the President shall hold office until his successor has been declared elected and has qualified.

By the Constitution it is provided in article 2, section 1, that the President "shall hold his office during the term of four years." No time is fixed for the commencement of the term. The constitutional convention which framed the instrument recommended to the Congress of the Confederation that it should "fix the day for the appointment of electors and the time and place for commencing proceedings under this Con stitution." The Congress, in pursuance of this recommendation, on the 13th of September, 1788, named the first Wednesday in January, 1789, for the choice of electors; the first Wednesday in February of the same year for the electors to cast their votes; and the first Wednesday in March of the same year and the city of New York as the time and place for commencing proceedings under the Constitution. I do not quote the exact words, but give the provisions in substance. The first Wednesday in March was the 4th day of the month in that year, and no other authority than the resolution of the Continental Congress has fixed that as the day for the commencement of the presidential office. On the 4th of March, 1789, there was no quorum of either House in attendance. A quorum of the House reached New York on the 1st of April, on which day the House elected a Speaker and Clerk. A quorum of the Senate in like manner assembled on the 6th day of April, on which day the Senate made choice of a President for the sole purpose of opening the certificates and counting the votes, who declared George Washington duly elected President and John Adams Vice-President. General Washington was not inaugurated until the 30th day of April, 1779.

It would seem naturally to follow that his office commenced with his inaug uration by taking the oath of office prescribed in the Constitution, but by custom and in deference to the recommendation of the constitutional convention and the resolution of Congress, the 4th of March was and has since been recognized as the commencement of the term of the presidential office. So it will be seen that while the Constitution makes the term one "during four years," General Washington's first term was only three years and a few days over ten months. To be precise, three years, ten months, and four days, as his second inauguration took place March 4, 1793, and the 4th of March has since been recognized as "inauguration day," and as the commencement of the presidential office. The provision "he shall hold his office during the term of four years" has universally been held equivalent to a provision he shall hold only four years or for four years and no longer. So that on each occasion since, when the 4th of March has fallen on Sunday and the inauguration was delayed until Monday, there has been an interregnum of one day. While we have thus been one day deprived of a President without any practical evil resulting therefrom, yet it may be well in view of the present posture of our affairs to guard not only against a recurrence of this event, but to provide also that a President in office shall hold until his successor shall have been inaugurated. Such is the almost universal rule and tenure of office under the constitutions of the various States. Such is the dictate of wisdom and prudence. If the Constitution had so provided, all the anxiety and strife about the electoral count in the last presidential contest would have been avoided.

Mr. Chairman, my proposed amendment also fixes the first Monday of May as the beginning of the presidential term. The 4th of March is usually a very inclement season and a period when travel is liable to be impeded by storms. As I have shown, it was over a month after that before a quorum of the two Houses from the "old thirteen States" were able to reach New York to start the ship of state on its eventful voyage. It would be better to fix the first Monday of January, when I suggest in the bill to which I shall soon refer the Congress shall meet, than to have the term to commence on the 4th of March as at present.

Mr. Chairman, my second proposed amendment is the provision, which has become very familiar from the fact it is embodied in the constitutions of most of the States, to authorize the Executive, while giving his assent generally to bills appropriating money, to be at liberty at the same time to disapprove of as many separate clauses or provisions in such bills as fail to meet his sanction. The practice which has of late so disturbed our deliberations and so attempted to menace the President in the discharge of his duties would be rooted out and broken up, and the power of the President to check hasty and ill-advised legislation and amendments adopted without consideration, as well as "riders" upon such bills, would be preserved. In my own State the exercise of this power by each governor since the present constitution was adopted has given general satisfaction. (I take the liberty to note that Governor Cornell, of New York, has just disapproved of items amounting to over $1,200,000 in the annual supply bill for the current year, and thus saved the people to tha extent from taxation.)

If we would only look at this question as patriots and statesmen instead of politicians and partisans, it seems to me all would unite in a recommendation for this constitutional amendment, the wisdom and propriety of which no one can seriously doubt.

Mr. Chairman, the bill to which I refer fixes the time for the annual meeting of Congress the first Monday of January instead of December. Five years' service in the House has convinced me that the month of December is practically a waste of time and expense to the people. Interrupted as the session always has been and will continue to be by a holiday recess, of whatever duration, the legitimate work of Congress is rarely entered upon until the reassembling after such recess. The second session, thus interrupted and ending the 3d March, gives only two months for practical work. With the amendment I have proposed as to the constitutional term, the first session, as now, could be carried as late into the summer season as necessary, while the second session would be for continuous work from January to May, a period of four months, or nearly double the time now employed. The constitutional provision that "the Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day," gives full power to regulate the subject.

It will be remembered that the First Congress under the Constitution began its session in theory on the 4th of March, 1789, but in fact on the 6th of April, 1789, and continued in session until the 29th of September, 1789, a period of two hundred and ten days. The second session began on the 4th of January, 1790, and the third session on the 6th of December, 1790; so that the first two sessions of the First Congress began in the early part of the year, as I propose. If this shall be done, there is still another change which would be desirable, and that is to provide for the election of members of this House in the November preceding the commencement of their terms instead of a year in advance of that term, or in the middle of the term of a member, as at present. By such change each member would have the benefit of having served through both terms of the Congress for which he had been chosen before his re-election or the choice of his

successor, and each congressional election would depend upon the issues before the people at the time of the election, and to be considered by the Congress when assembled. At present a candidate for Congress is to be elected in each district in November next, but the persons so elected, unless in extraordinary session, do not enter upon the discharge of their duties until a year from the month of December following such election. It is said that the members of this House, unlike the Senators at the other end of the Capitol, "come fresh from the people." The suggestion I have made would make them such; for, between November, 1880, and December, 1881, a great change in events and in the topics for congressional action may take place.

I have thus, Mr. Chairman, thrown together a few thoughts upon subjects quite familiar to the reader of our history, not with the idea of novelty or in the hope of adding anything new to the subject, but with a design to call attention anew to subjects which seem to me to demand the attention of the two Houses of Congress in the present posture of national affairs.

Our Trade with Canada.

ARGUMENT OF HON. S. Z. BOWMAN,

OF MASSACHUSETTS,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, June 1, 1880,

On the joint resolution (H. R. No. 149) for the appointment of commissioners to ascertain and report a basis for a reciprocity treaty between the United States and the British Provinces, (report No. 1127.)

Mr. BOWMAN said:

Mr. SPEAKER: The questions underlying this resolution and seeking an investigation and a solution are of vast magnitude, and directly or indirectly have had, and will have, a great effect upon the interests of the people and the various branches of industry of our country. Our commercial or trade interests are the mainspring of our prosperity. To protect and foster these interests, in view of our enormously increased and increasing productions, to preserve for our commerce all the foreign markets which it has had, to open up and extend those markets to the greatest possible extent, to make our powers of sale advance at an equal pace with our powers of production, these questions merit and will receive the earnest consideration of Congress.

However members may differ as to the expediency of the proposed resolution, I am confident that they will agree as to its importance and as to its being worthy of full investigation.

To show the importance and extent of our commercial relations with the Dominion of Canada, to demonstrate the necessity of their careful investigation with a view to their protection and further growth, is the object of this argument; and if I am obliged to treat of the subject somewhat at length, I am sure that members will pardon it, if thereby I am enabled to throw any light upon these long-discussed questions, which in one way or another at different times have threatened the mutual prosperity and even the peace of the two countries.

I shall present what I have to say upon this question according to the following

ABSTRACT OF ARGUMENT.

1. Resolution is for information only.
2. Reciprocity does not mean free trade.
   - A. Present idea of reciprocity is not of free trade.
   - B. Old reciprocity treaty did not mean free trade.
   - C. This movement does not mean the old reciprocity treaty.
3. Is Canada worth treating with?
   Importance of Dominion as to—
   - A. Location;
   - B. Area;
   - C. Population;
   - D. Shipping and transportation;
   - E. General commerce;
   - F. Special commerce with the United States.
4. Did the former treaty benefit us?
   - A. What that treaty was.
   - B. History of former treaty and of repeal.
   - C. Effect of former treaty.
   - D. Effect of its repeal.
   - E. Immateriality of the question here.
5. Is the condition of affairs at the present time such as to make an inquiry advisable?
   - A. The new Canadian tariff.
   - B. Comparison of new and old tariff.
   - C. Results of new tariff.
   - D. Critical importance of question at present time.
6. Is there any need of extending or enlarging our markets?
   Extent of our productions.
7. Is this the best way to meet these questions?
   - A. Magnitude of the question.
   - B. Why commission is necessary.
     1. To collect facts.
     2. To ascertain law.
8. Is there any general demand for this?
   - A. In Canada.
   - B. In the United States.
   - C. Immateriality of this question.
9. Injustice and discrimination in refusing this investigation.
   Investigation for commercial interests.
10. Are there any objections to the resolution?
    - A. Feeling of hostility to Canada.
    - B. Desire to force annexation.
    - C. Feeling as to fishery questions.
    - D. Objections to former reciprocity treaty not pertinent here.
    - E. That it is impossible to agree.
11. "Fishery" question.
    - A. A question of money, not of feeling.
    - B. Desirability of a commission to settle this question.
12. Are there any legal objections to the proposed resolutions?
    - A. Only a resolution for information.
    - B. Treaty-making or tariff powers of different branches of Government.
    - C. "Favored-nations" clauses in treaties.

I.—RESOLUTION FOR INFORMATION ONLY.

I desire to call the attention of the House particularly to the words of the resolution now under consideration. It reads as follows:

Joint resolution for the appointment of commissioners to ascertain and report a basis for a reciprocity treaty between the United States and the British Provinces.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and hereby is, requested to appoint three commissioners, by and with the advice and consent of the Senate, to confer with other commissioners to be appointed by the government of Great Britain, whenever it shall be the wish of that government to appoint commissioners on its part; such commissioners on the part of this Government to ascertain and report on what basis reciprocal trade, for the mutual benefit of the people of the United States and the said provinces, can be established.

This is simply and solely a resolution of inquiry. No powers whatever are given to the commissioners, except to investigate the questions referred to in the resolution and to report the facts and their conclusions thereon to Congress for its action. Neither directly nor by implication can Congress be regarded as in any way adopting a policy or giving a pledge by the adoption of this resolution. It can thereby neither declare for or against reciprocity with the Dominion of Canada, or in any way express an opinion in regard to tariff or free trade with Canada or with other countries. By the adoption of this resolution Congress will leave itself entirely free to act in the future as its judgment shall dictate, and simply says to the commercial world and to all others interested in the important questions referred to by the resolution that it in no way prejudices the case, but before deciding it or in any way expressing any opinion upon it desires to obtain the fullest possible information.

For my own part, I desire it to be distinctly understood that I do not pledge myself to the support of a system of reciprocity like the former one between this country and the British provinces, or beforehand to any system of reciprocal trade which may be advised by the commission. I simply say that the subject is of great importance, should be thoroughly and systematically investigated by a commission of competent experts, and that upon their report, either as to accepting, rejecting, or modifying it, I should act (if I had any opportunity to act upon it at all) as my judgment as to what is best for the interests of our own country should dictate. Selfish considerations should and must govern nations. The first duty of a nation is to itself. In regard to this and similar questions the only thing to be discussed is whether the proposed action will be a benefit to the people of this country. If the building up of a Chinese wall to cut off all commercial intercourse between this country and Canada would be of benefit to our merchants, manufacturers, laborers, and farmers, and to our people generally, I should feel it to be my duty to do what I could to build up such a wall, whether composed of prohibitory tariffs or any other material. Self-protection is a nation's first law, and in regard to questions of our commercial policy with other countries it is inadmissible to discuss what the effect on the other countries will be until we have thoroughly considered and disposed of the question as to what the effect on our own country will be.

In regard to the great questions of tariff in their broadest aspect, the only question which carries weight in my mind is, as to whether our people are to be most benefited by tariffs which shall protect our industries and keep the wheels of business in active motion, or by free trade, which shall open up our markets to the competition of the world. I would therefore treat this question of reciprocity as a practical business question, to be considered and decided only as it affects our own interests. It is simply a dollar-and-cent, or what the Germans call a bread-and-butter question. These fine-spun and pleasant theories of the fraternity of nations can well be considered and have a place, when we are called upon by the cry to which our people always nobly respond, for us to stretch out the hand of charity and of loving sympathy to the poor and distressed of other countries; but when the questions recur to us, as legislators for the country, of making laws and adopting policies of trade or other intercourse with foreign peoples, it is necessary for us to remember the vast interests intrusted to our charge and the multitudes of citizens who look to their law-makers for protection. Where material interests are con-

cerned, and in the fierce struggle for existence, as strong between nations as individuals, and while the doctrine of "survival of the fittest" prevails, the old Ishmaelitish doctrine must govern a nation, and for the protection of its people its hand must be against every other man's hand, and every other man's hand against it.

If a reciprocal trade with the British provinces can be in such a manner established that it will be for the benefit of our people as a whole, then it is our duty to favor any such scheme of reciprocal trade; but if it would injure our country, it will be our duty to oppose any such scheme. Our Canadian neighbors might as well thoroughly understand that we shall approach this question (just as they will consider it) in a business way, and only for the purpose of benefiting our country. It is not a question of feeling, of sentimentality, or of brotherly love or hatred between the two countries, but simply a question of material benefits. Let it be demonstrated that such trade will be of benefit to this country, and we certainly shall favor it by all proper legislation; let it be demonstrated that such trade will not be a benefit to this country, and we certainly will destroy it by all proper legislation. That is the only question in this case, and that is the question that we desire to have investigated in the most thorough and complete manner by this commission. I may say here that, the question being as I have stated, it is no argument whatever against it to reply, as many have done, that a reciprocal trade will be of more advantage to Canada than to this country; for while that might be true, it might also still be true that such reciprocal trade would still be of advantage to this country. If Ireland was starving and we sold her corn, it would be of more advantage to her to get the corn and relieve her sufferings and save her population than to us to sell it; but thence no argument could be drawn that it was not an advantage to us to have that trade. The question is, whether such trade would benefit us in fact, and not whether it would benefit any one more than us. It cannot be laid down as an axiom of political economy that a trade between two countries which benefits one more than it does the other is an injury to the country which is benefited the least.

I do not by any means admit that either history or reason teach us that a reciprocal trade between the provinces and the United States would be of more advantage to the former than to the latter, and I think that the converse of that proposition can be shown to be true, or that it can be shown that no system of reciprocal trade can be devised which will not be of less advantage to us than to them. But still I submit that it is no argument against a reciprocal trade, even if you admit it to be true. I have seen a boy "get mad" and refuse to take any because he could not have the biggest part of the apple; it would be singular to see a nation refuse to take any of the trade because it could not have the biggest part. The boy should have recognized the political axiom that because he could not have the whole apple it was injurious to him to take any. This is the argument which has constantly been pressed forward by those who believe that the idea of a trade with Canada is so delusive that it is not even worth investigating, when they say with triumphant iteration that a trade with the provinces will do them more good than it can accomplish for us. The conclusive reply to this is to enter a demurrer to the proposition. One of the chief-justices of England once said that a demurrer meant "what of it?"

This, then, is the question to be investigated: Can any system of reciprocal trade be devised between the United States and the Dominion of Canada which will be an advantage to our country? All that the advocates of this resolution say is that they want this question fully investigated, in order that Congress and the people may have all the facts before them to enable them to judge intelligently in so important a matter. All that the opponents of this resolution can say is that they desire that no light shall be thrown upon this question; that Congress and the people shall not obtain the facts, but shall be kept in the dark and away from any authentic information; and that, so far as they are concerned, they will refuse to allow any information, instruction, or investigation as to the merits of this case. Upon what ground they can possibly stand in maintaining so extraordinary a proposition I am unable to conceive.

I am informed that a distinguished member of Congress, a most bitter opponent of all ideas of reciprocal trade with Canada, replied when asked about this resolution, "Why, of course we can't oppose a resolution for information and inquiry only!" And it seems to me that all members will come to the same conclusion who will only carefully read and consider the effect of the resolution under discussion.

Will gentlemen state what there is in the resolution that is objectionable; what parts of it are open to criticism? It may be divided into two parts; in the first place, that which provides for a commission to consult with a similar commission to be appointed by Great Britain; and, in the second place, that part which provides for the object of the commission, namely, to consider whether any reciprocal trade between the United States and the British provinces can be negotiated. Which of these two parts is objectionable? Will any one say that, if the question of the possibility of the establishment of reciprocal trade is worth discussion, it is improper that it should be considered by a joint commission of the kind proposed by the resolution? If the object of the resolution is to examine the subject, and it is desirable to have any trade at all with Canada, it is impossible that the objectionable part of the resolution can consist of the subjects being considered by a commission of experts who may gather the fullest information possible and thus help to educate Congress and the people. It cannot be this part of the resolution that can be considered objectionable by any member. What, then, of the other part of the resolution which provides for obtaining information as to whether any reciprocal trade can be negotiated with Canada? Will any gentleman present say that he is opposed to this doctrine of mutual trade on principle, and from its foundation, and so much opposed that he does not wish even to consider the question? Will any gentleman present say that he is under any and all circumstances opposed to any reciprocal trade with Canada, and that he believes all commercial intercourse should be cut off between the two nations? Will any gentleman present say that he believes that by years of retaliatory tariffs all the great trade which has heretofore existed between these two countries shall be absolutely destroyed, and the mercantile, manufacturing, and producing industries of our country shall be injured, to which this reciprocal trade has been heretofore an advantage? If gentlemen present take this broad ground, then they are perfectly consistent in their opposition, and can legitimately face such opposition upon the ground that the second part of the resolution is objectionable in that it provides for an investigation of the question whether there can be such reciprocal trade, whereas they are opposed to having any reciprocal trade at all, or under any possible circumstances which the commission or any one else can devise. These are the only two answers that can be made to the proposition under discussion, and if there are any members here who logically, consistently, and reasonably can occupy either of these two positions I should like to hear from them.

Our opponents may allege, however, that the subject is not of sufficient importance, and the chances of benefit under the resolution or in consequence of reciprocal trade with Canada great enough to justify us in going to the trouble and expense of the appointment of this commission. This is, to a certain extent, a legitimate argument, and I shall consider these two allegations hereafter more in detail; but in reference to them let it be remembered that all we have to do is to show what is called in legal phraseology "probable cause." When they allege that the subject is not of sufficient importance, or the chances of benefit sufficiently great to even justify an inquiry, we are only obliged to show that the probabilities of benefit from an investigation are sufficiently great, and not to go beyond this and demonstrate to an actual certainty that the desired results would follow. If the latter were the case, and we could demonstrate to such certainty that a reciprocal trade could and should be established, and by what means, there would be no need of a commission at all, as this is the very subject that a commission is called upon to investigate. If we can make out the "probable cause;" if we can show by the past history of the commercial intercourse of the two countries and by the present condition of affairs and by the probabilities of the future that there is reason to believe there is a chance that a reciprocal trade in some way or other can be established which may be of benefit to this country, then it is our duty to have an investigation made, and not to set aside and lose even a possible chance of great benefits being secured for our country. In a word, we need not discuss the question itself, but the probabilities of the question. But I think I shall succeed in convincing all unprejudiced minds, open to conviction and to argument, that at any rate this subject has sufficient importance and sufficient probability of some success to render it unpatriotic, unwise, and absurd to reject this resolution.

II.—RECIPROCITY DOES NOT MEAN FREE TRADE.

Nearly all the arguments against the resolution or the idea of reciprocity which I have heard have been based upon the assumption that reciprocity means free trade, whereas this is by no means true. The opponents of any trade with Canada assume that free trade is meant, and then proceed to argue against it. They build up by ingenious devices and at great pains and trouble and with great skill a man of straw, entirely a creature of their imagination and of their prejudices; and then they proceed to attack him with great vigor and with ingenious arguments and with statistics, and to tear him to pieces. They construct from the fertile soils of their fears an imaginary treaty, such a treaty as they think might be open to objection, and with all kinds of articles in it which may be made legitimate subjects of criticism; and then they pick this imaginary treaty to pieces, tearing it limb from limb, with cries of rejoicing, and shout out to Congress and their constituents that they have destroyed all the ideas of reciprocity. They assume that the human mind is incapable of evolving a new system which shall not be in all respects free trade, and that it is beyond the mental powers of a mercantile community to devise any system whatever of sending goods to and fro across the border which shall not consist in wiping out on both sides all duties on those goods.

The present idea of reciprocity is not one of free trade. Advocates of this resolution are not free traders. I am free to say that I do not believe, at this stage of progress in this country, in free trade. It may come when we can manufacture our goods and produce the crops of this country so low as to defy the competition of the whole world. And when we arrive at that point at which England arrived many years ago, when it seemed to be proved that her labor and material were so low that no other country could carry them down to a lower point, then free trade may turn out to be an advantage to us as it was an advantage to England in many respects. We cannot now compete in all directions with the labor and supplies of other countries. Our great manufacturing and producing industries are the life-blood of the nation. If these are injured and trodden down, not only are all

capitalists of the country injured, (in which term I include not only those popularly known as capitalists, but the widows and orphans and poor men with capital invested in the savings-banks and all those who otherwise have money invested in these manufacturing enterprises,) but also the laboring-men who are employed in all parts of the country almost wholly in work which is only carried on and can only be carried on by means of the money furnished by the capitalists of the country.

It is foolish in this country to talk about the contest of capital against labor. The stocks of our large mills are to a great extent held by poor people—widows, children, and poor men, who have laid up a little for a rainy day and invested it in stocks, and by many people in general, to whom the loss of the dividend means a loss of the comforts and necessities of life. Our labor and our materials, the cost of which depends on the cost of labor, have not dropped to the low point to which they have sunk in foreign countries. When our laboring-men, our workers in the mills, our toilers on the farms, and our workmen on the railroads can live as those live in England—eat meat only once a week, and not be sure of that; live in dirty and nasty hovels, have no education, and have neither rest nor recreation, mental or otherwise, will toil early and late, and give up all eight-hour ideas and other ideas of comfort or of benefit to themselves, then they can afford to work at the same wages paid to the English workmen, and in that time we can compete in the markets of the world with the English manufacturers. None of us want to see that day come. The people of this country, in my opinion, will prefer, as a whole, to pay a few cents more for the articles which they eat or otherwise consume than to see our whole laboring population leveled downward to the condition of those in European countries. Our laborers themselves, who complain, perhaps, the most of the tariff, if they will consider this question and reason about it will see that by the removal of the tariff they themselves will suffer more than any other class, because the removal of the tariff would make one of two things necessary: either the giving up of all our manufacturing industries or the reduction of wages to a point which will enable us to compete with the English, Belgian, French, and other manufacturers.

A modification of the tariff is necessary; its wiping out is unwise and suicidal. But let me tell the high-tariff men and those who believe in the protection of American industries that it is wise and in the interests of both producers and consumers that some wise, systematic, scientific, and well-considered modification of the tariff should be made. Aside from the propriety of this measure at the present time and the good results which it will have upon the country, an equitable modification will save the tariff; stubbornness and stupidity in objection to all reductions of the tariff may destroy it utterly. By damming back all the waters of the rushing stream they will rise against the barrier, fret and chafe and whirl around within their narrow boundaries, constantly re-enforced by fresh currents rushing down from above, until finally the force of the angry waters becomes so great that it sweeps away utterly all the dams and barriers which kept them back. If those who are interested in the protection by a proper tariff of our American industries absolutely refuse to treat with those who look toward free trade, refuse to consult with them concerning any reduction at all, and insist on maintaining the tariff at the highest figures, they will dam back the force of public opinion, which will gather and grow and increase in force and in angry vehemence until it will rise to a point when it may sweep away all the barriers and utterly destroy the tariff. I would suggest to those who are inclined to oppose this resolution that this doctrine may apply to them, and that it will be well for them to consider whether it is not best now to have a commission to consider these questions fairly, impartially, and patiently, rather than to run a risk at some future time of some reciprocal trade with Canada, which may be a scheme of free trade, rushed through by hot-headed impulses and by crude and unconsidered laws.

PRESENT IDEA OF RECIPROCITY IS NOT OF FREE TRADE.

What we mean by reciprocity is simply this: that there is at the least a chance that a reciprocal trade may be established with Canada which shall benefit both countries, while it may protect by its proper tariff any peculiar industries of either country which shall need protection. There are some things that Canada wants to sell and that we want to buy, and there are other things that we want to sell and Canada wants to buy; and the question is, whether matters may not be so arranged between the two countries that those goods may be in some way transferred which both countries desire to have transferred. For example, both countries will agree on this proposition: that it is for the interest of our country that we should have the right of fishing in Canadian waters, and it is for the interest of the Canadians that they should be allowed to sell their fish in our markets, and that their vessels should be allowed to have what they can get of our carrying trade. The question in regard to this subject to be investigated is whether it is possible to meet the wishes of both countries. It may be impossible, but certainly it is worth while to make the trial and find out whether it is not within the powers of the human mind to make some satisfactory mutual arrangement. I only use this as an illustration at the present time, as I shall refer to this fishery question hereafter.

There are some things proposed which cannot be agreed upon between the two countries, but those things we can leave out. The question will be, is there not some common ground upon which the two countries can stand, some common trade upon which the two countries can agree, and which shall be for their mutual benefit? Is not full protection of our interests compatible with some trade with Canada? And, if so, with what branches of trade? Here is a part of the vast question which this commission will settle: to look over the whole ground, to look to the fishery interest, the lumber interest, the manufacturing, the iron, and the agricultural interests of our country, to keep their eyes on the East and West and South, to consider Maine, Massachusetts, and Michigan, and, having looked over this vast field, to see if in concert with the Canadian commissioners it cannot pick out something which can be agreed upon, and at least some of these great interests which will be benefited by a commercial union of some kind with Canada—this is the duty of the commission. The commercial interests between these countries have been of vast extent. Can anything be done to help them, or shall we abandon them in despair and proceed to cut each other's throats in all political and tariff ways? Here is the question which confronts us, and it is of special importance at the present time, as I shall show hereafter. Let one thing be fully understood in all discussions of this kind, that the interests of our country are to be fully protected, no matter what the sacrifice shall be to Canada, and that the first object we have in this resolution is to endeavor to benefit the manufacturing and producing industries of this country.

THE FORMER RECIPROCITY TREATY WAS NOT FOR FREE TRADE.

I shall describe more particularly hereafter what the provisions of the former reciprocity treaty were. The opponents of all ideas of reciprocal trade constantly argue that the proposed resolution looks toward a treaty identical with the former treaty, and then proceed to argue that the former treaty was for free trade, and therefore opposed to all our ideas of a tariff for either revenue or protection. It is sufficient to say under this heading of my argument that only certain specified articles were admitted under that treaty free of duty, and these may be broadly described as mostly natural articles, and generally in a crude or unwrought state. They were mostly productions of the soil or animal productions. In regard to the most of these the United States could compete with Canada on equal grounds, as the results of the treaty and the statistics of the time it was in operation prove. The manufacturing industries, the coal and oil interests, and various other mercantile interests of the country were not affected either in one way or the other, and in fact the treaty had no operation whatever upon any articles or branches of trade, except those expressly specified, which were comparatively very few in number. So that the operations of the treaty were exceedingly limited in extent. The framers of that treaty only picked out certain articles of trade which they thought might be made free; all others were untouched. On the consideration of the treaty hereafter it will therefore be seen that the argument against this resolution as tending toward a free-trade treaty is entirely fallacious and falls to the ground.

THIS RESOLUTION IS NOT ONE FOR THE OLD RECIPROCITY TREATY.

Here again the arguments of the opponents of this resolution utterly fail. They proceed to argue at great length against the old reciprocity treaty; they assume that the new treaty, if any is to be made, must be the same as the former treaty, whereas there is no connection whatever between this subject and the old treaty. Even if they prove that the old treaty was an injury to this country, which I am prepared to deny, their argument is utterly worthless in this discussion. They have no right to assume that the new treaty will be the same as the old treaty, or that it will even be founded upon the old treaty as a basis. Some of the evil effects of the old treaty have been recognized, and it is incredible that they will be restored in the new treaty. This question is now taken up as an entirely new one, and the subject is to be investigated by this commission as a new subject, with all the light thrown upon it during all the years elapsing since the expiration of the former treaty, and by the operations of the former treaty. The difficulties of the old treaty are to be considered by the commission, the evils of it avoided, and out of all the materials made ready for their hand by the experience of so many years they are to try to find something with which they can build up a new and unobjectionable treaty.

It is useless to argue now whether such a reciprocal treaty has been or can be of benefit to the country, or to argue for or against the results of the appointment of this commission. There is no possibility of foretelling the results of a commission. For all that we know, it may turn out to be an anti-treaty commission, and may demonstrate that no reciprocal treaty of any kind can be made between the two countries. The opponents of this resolution might in fact favor it on their own assumptions, and on those assumptions their only logical position would be to so favor it. Why do not they reason in this way, and crystallize such reasons into votes: that they desire a commission to be appointed, because it is absolutely certain that there can be no reciprocal treaty between these countries, and that a commission will be sure to so report; and, therefore, they wish to use the influence of the report of this commission to finally and thoroughly crush out all ideas of a reciprocal treaty with this country. For all that this resolution now shows, it may be in point of fact regarded upon the arguments of the anti-treaty men as an anti-treaty resolution. Therefore upon any doctrine it seems impossible that any one can offer any opposition to the adoption of this resolution.

III.—IS CANADA WORTH TREATING WITH?

This is a legitimate inquiry in regard to the resolution. Our opponents may say that Canada is not worth treating with under any

circumstances; that she is of very small importance, almost worthless; that her exports exceed her imports, so that she has not any trade worth anything to supply; that the same may be true of her special trade with the United States, so that under no circumstances shall we find a market in that country, while she will find a market in this country. If all this is true and is demonstrated as a fact, there may be no need of a commission. It is undeniable that it is not worth while investigating a worthless subject, and if our opponents can show to us in the commencement of this investigation that the question of a commercial treaty with Canada is a worthless subject, that there is no trade there to seek, that there is no importance there either in a commercial or other view to be found, that Canada is a frozen country of the North without any goods to sell that can benefit us, and without any money to buy which can go into the pockets of our merchants, manufacturers, and farmers, then the question is ended, and we need not trouble ourselves with the delay and expense and trouble of a commission. Our opponents will not be so foolish as to formulate such ideas in such a way, and yet such an argument would be almost their only one against the resolution, and is in substance used. Canada is of great importance in a commercial point of view, either as regards her location, area, population, shipping, transportation, general commerce of the world, or the special commerce of the United States, and I ask the attention of the House to a consideration of the question of her importance in these respects, for I am sure it is not understood or appreciated, except by those who have made a special investigation of the subject.

LOCATION OF THE DOMINION OF CANADA.

The location of Canada in reference to the United States is worth being considered in regard to this question of whether we could or should have any trade with her. Here is a great country stretching across the continent from the Atlantic to the Pacific Ocean, separated from us mostly by imaginary boundaries, with the most intimate relations between the two countries, with a border which it is impossible to have thoroughly guarded, and with peoples who are neighbors in language, sentiments, and to a great extent in commercial interests. The boundary between the Eastern States and the Dominion consists of small rivers and mostly of imaginary lines. Then come the boundaries between the Dominion and this country of the Saint Lawrence and the great lakes, and beyond the lakes the only boundary is the imaginary one of the forty-ninth parallel. Nearly, if not quite, one-half the whole boundary-line between the countries is an imaginary one existing only on the maps. The railroad connections between the two countries are most intimate. Many of our great railroads connect with the West by Canadian connections. Their railroad systems mostly connect with foreign countries, and with the ocean by roads within our boundaries. The water communications by canal and lake are similarly intimate. All the vast commerce of our great lakes only reaches without transshipment the ocean through the Canadian territory. With a country thus situated, contiguous to ours, with intimate connection of rail, of canal, and all other water communications, we should have friendly commercial relations if possible. A constant commercial war between the two countries, the endeavor to see which country can injure the other the most, this constant smuggling across the border and trying on the part of either country to break up the commercial relations of the other, is to be avoided by all means compatible with the true interests of this country. The countries touch each other at every point. Our railroads reach out into her all along the line. We can supply her more cheaply than any other nation if we have an opportunity. England must send her goods across a wide ocean to Canada, paying the charges on freight, while we can, within twenty-four hours, and, in cases where there is direct connection between commercial centers, within twelve hours, place our goods in Canada ready for delivery and use. The mere difference in ocean freightage would give us the markets of Canada in preference to foreign countries, provided the Canadian markets can be thrown open to us on just and equal terms, and such as foreign countries enjoy. Especially at the present time is our connection with Canada of importance in securing her trade if possible. The Dominion formerly extended only to the eastern end of the great lakes; now it is pushing itself forward across the continent. It is building up just across the border from us its territories, which are becoming settled throughout those sections of the country. It is opening up settlements, and before fifty years we may, perhaps, see the southern borders of Canada nearly as thickly settled as the adjacent northern borders of our country. This question, then, looking at it from the point of view of location alone, of hostile or harmonious, of reciprocal or adverse trade, of helping each other or fighting each other, is a question of great importance and cannot well be exaggerated. In the case of a country like France, which has also been desirous of reciprocal trade, these considerations will be wholly eliminated. Either as to the "favored-nations" clause in treaties or otherwise, the position of Canada is utterly different from what that of any other country can be. No other country has, or can possibly have, the same comparative value to us in regard to this question of reciprocal trade, and any basis upon which reciprocal trade with Canada will be established must be on the ground of its peculiar connection with and relations to us, and entirely independent of reasons which might apply to any other country.

AREA OF THE DOMINION.

The Dominion of Canada comprises the entire region embraced between the northern boundary-line of the United States and the Arctic Ocean, with the exceptions of Alaska and the islands of Greenland and Newfoundland. It includes the territories formerly, and in some instances at present, known as Upper and Lower Canada, Nova Scotia, Cape Breton, Prince Edward Island, New Brunswick, Manitoba, British Columbia, Vancouver's Island, and the Northwest Territories. The area is estimated at 3,580,310 square miles.

The following table shows the area in square miles of provinces in British North America:

Ontario	107,780	Prince Edward Island	2,100
Quebec	193,355	Newfoundland	42,000
Nova Scotia	21,731	Manitoba	14,000
New Brunswick	27,322	British Columbia	356,000

The following tabular statement, compiled from the census of 1871, shows the quantity of land owned, occupied, and improved in each of the provinces named therein:

Provinces.	Owned.	Occupied.	Improved.
	Acres.	*Acres.*	*Acres.*
Ontario	19,605,019	16,161,676	8,833,626
Quebec	17,701,589	11,025,786	5,703,944
New Brunswick	5,453,962	3,827,731	1,171,157
Nova Scotia	6,607,459	5,031,217	1,627,091
Total	49,368,029	36,046,410	17,335,818

POPULATION OF THE DOMINION.

The following table, showing the population of the United States and British North America for the years therein named, may be found interesting, as showing not only the comparative population of the two countries, but also their comparative growth since the first decade before the beginning of the present century. It will be seen that, starting from the population of 1790 as a standard, the population of the Dominion has increased in about an equal ratio with that of the United States, and that, in other words, as to the United States, the population of the Dominion was about as large proportionally in 1871 as in 1791:

United States.		British North America.	
Year.	Population.	Year.	Population.
1790	3,926,214	1791	279,000
1800	5,308,483	1801	342,000
1810	7,239,881	1811	479,000
1820	9,633,822	1821	700,000
1830	12,866,020	1831	1,200,000
1840	17,069,453	1841	1,656,700
1850	23,191,876	1851	2,487,855
1860	31,443,321	1861	3,294,654
1870	38,558,371	1871	3,730,774

Including Indians, British North America contained 3,833,132 persons in 1871. The following table shows the population of the provinces named therein for 1851, 1861, and 1871:

Provinces.	Population.		
	1851.	1861.	1871.
Ontario	952,004	1,396,091	1,607,873
Quebec	890,261	1,111,566	1,184,528
Nova Scotia	276,854	330,857	386,134
New Brunswick	193,800	252,047	284,191
Prince Edward Island	62,678	80,857	93,698
Newfoundland	102,600	122,250	146,536
Manitoba	.....	.....	12,228
British Columbia	.....	.....	10,586

Thus, whether you look at the great area of the Dominion, the inhabited and cultivated and productive portions of which are increasing from year to year, or at her population, which keeps equal pace in its increase with that of our own country, it will be found difficult for the opponents of this resolution, as against these facts alone, to shuffle this question aside with the sneer that Canada does not "amount to anything"—that her trade cannot benefit us in any way, and that we do not want, commercially or otherwise, to have anything to do with her.

SHIPPING AND TRANSPORTATION OF THE DOMINION.

Statement showing the number and tonnage of vessels built; also the total number and tonnage of sailing-vessels, canal-boats, and barges owned by the United States and Canada in the years therein given.

	1874.	1875.	1876.	1877.
United States:				
Number of vessels built	2,147	1,301	1,112	1,029
Tonnage	432,725	297,638	203,585	176,591
Total number of vessels owned	.....	.....	25,934	25,386
Total tonnage owned	.....	.....	4,279,458	4,242,599
Dominion of Canada:				
Number of vessels built	496	480	420	432
Tonnage	190,756	151,012	130,901	127,297
Total number of vessels owned	6,930	6,952	7,192	7,362
Total tonnage owned	1,158,363	1,205,565	1,260,893	1,310,468

Of the provinces, Nova Scotia owned 541,579 tons; New Brunswick, 329,457; Quebec, 248,399; Ontario, 131,761; Prince Edward Island, 55,547; British Columbia and Manitoba, 3,725 tons.

When compared with the leading maritime nations of Europe, these comparatively young countries occupy an important position in regard to merchant shipping, as the following statistics show:

In 1877 the tonnage of Great Britain, including her colonies, was 7,677,024; Norway, 1,391,877; Italy, 1,360,425; Germany, 1,053,229; and France, 870,225 tons. These figures do not include the inland tonnage of the sailing-vessels of these nations, or of steamers under one hundred tons register, or barges.

The United States take rank as the second; and we feel safe in placing Canada as fifth among the ship-owning countries of the world.

In the provinces, the first railway opened was in Canada proper, in 1847. In 1861 British North America had 2,102 miles constructed; and in 1876 the aggregate number of miles of railroad owned by the Dominion of Canada was 5,494, exclusive of double track.—*The United States and the Dominion of Canada*, by Alexander Munro, esq.; Saint John, New Brunswick, 1879.

As was stated by J. C. Bates, esq., of the Boston Board of Trade, in a very valuable argument on this subject before the Committee on Foreign Affairs of the House—

To-day in the matter of tonnage Canada has one-sixth of the tonnage of the British Empire. In 1877 the Canadian tonnage was 1,310,468 tons; the tonnage of the British Empire 7,667,024, and that of the United States, exclusive of the lakes and rivers, 2,564,980 tons.

As an indication of its transport trade in one direction alone, the tonnage passing the Welland Canal in 1877 was 1,216,659 tons, and the Saint Lawrence canals 1,341,156 tons.

GENERAL COMMERCE OF THE DOMINION OF CANADA WITH OTHER COUNTRIES.

This question is especially pertinent in this discussion, for the reasons which I have stated. If Canada has a great general commerce it certainly is useful to us to consider how we may obtain a fair share of that commerce in competition for it with other nations of the world. But if such commerce of Canada is insignificant, we need not pay any attention to the question of how to obtain a share of it. Any one who will consider the facts and figures in relation to this branch of the subject cannot fail to come to the conclusion that the commerce of Canada is large and growing, and that we cannot afford to set it aside as insignificant and allow it to be monopolized by other nations to our exclusion if by any means compatible with our interest a fair share at least of it may be obtained for this country. I think any man unfamiliar with the subject and investigating it in an unprejudiced way, and with a desire for information, will be surprised at the importance not only of the general commerce of Canada with other countries, but of the special commerce of Canada with the United States. Her commerce is large and growing. It will increase as her territory fills up, and it is as hard to tell what the Dominion will be fifty years from now as to prophesy what the United States will be as to its extent of cultivated land, its industries, and its population. Let it always be remembered in the present discussion of this question that the only point is whether this subject is of sufficient importance to investigate. We maintain that we have made out our case if we show that the commercial importance of Canada is of so great extent as to justify us in the appointment of a commission to consider it and its bearing upon the interests of our country. The following table gives some indication of the commerce of the Dominion of Canada from 1872 to 1878, and of its importance:

Table of imports and exports of the Dominion of Canada.

Year ending June 30—	Exports.	Imports.	Excess of imports over exports.
1872	$82, 639, 663	$111, 430, 527	$28, 790, 864
1873	89, 789, 922	128, 011, 281	38, 221, 359
1874	89, 351, 928	128, 213, 562	38, 861, 659
1875	77, 886, 979	123, 070, 283	45, 183, 304
1876	80, 966, 435	93, 210, 346	12, 243, 911
1877	75, 875, 393	99, 327, 962	23, 452, 569
1878	79, 323, 667	93, 081, 787	13, 758, 120
Total			200, 511, 786

It will be seen by this table that the annual aggregates of the exports and imports of the Dominion are very large, and that every year the imports into Canada were very largely in excess of the exports. Canada has always bought more than she has sold. She has been a purchaser to a much larger extent than she has been a seller, and thus she comes into the markets of the world, not upon the whole as a seller, trying to take away from other countries their markets and to compete with them, but as a buyer, with money in her pockets to spend for the purchase of goods for the use of her people. I believe that even on a small scale the traders are much more anxious to make the acquaintance of buyers who come to them to spend money for goods than that of those who desire to sell, and it is a question with us whether we cannot afford to make some terms with Canada as a buyer every year of a very large amount of articles principally for domestic use. For every year in the preceding table there is shown a large excess of imports over exports. The largest excess was in 1875, and amounted to the sum of $45,183,304; and the smallest excess was in 1876, and amounted to $12,243,911; and the total excess of imports over exports for the seven years from 1872 to 1878 amounted to the enormous sum of $200,511,786. Canada, then, is certainly to be regarded as a purchaser—and a very large purchaser—in the markets of the world.

As was stated by Munro in the book hereinbefore quoted, referring to the last table, "it will be noticed that the Dominion imports are comparatively large according to population, being one-fifth that of the United States, while her exports are only about one-ninth of the latter country. Hence, what is called the balance of trade is largely against the Dominion. In the three years named in the table the excess of imports amounted to $69,000,000." Canada, then, has to annually buy, according to the average, goods to the value of somewhere from $93,000,000 to $128,000,000, a large part of which are manufactured articles. The question is, where shall she buy them and how much of that trade can we get? Shall we set it all aside as not worth striving for and allow it to go to England, France, or other nations, or endeavor by all proper means to secure a fair portion of it for our country? The natural market of supply for Canada is clearly in the United States. The disadvantages of trade with England are the delay in obtaining goods and the consequent uncertainty of the state of the Canadian markets when the goods shall arrive, the impossibility of personal inspection of those goods before purchase, the increased cost by reason of insurance, and the cost of ocean freightage; all these disadvantages give to the United States the power of controlling to a large extent the purchasing trade of Canada, provided we can have equal terms, or terms not so unequal as to balance the increase of cost of obtaining goods from foreign countries. Here is this great country with this great purchasing power, just across our borders, connected with us by most intimate connections of rail or water all along the line. Is it not true that the question of obtaining our share of this great trade lying at our very doors is worth careful and full consideration? Is a purchaser of goods to the value of $200,511,786 over and above what she sells in seven years worth trying to secure by honorable and fair means? I put this question on the practical ground of commercial expediency. England has been called a nation of shopkeepers and is said to look out for the almighty dollar.

It may be of advantage to us to consider ourselves a nation of shopkeepers, and to treat these questions from the point of view of commercial usefulness and financial gain, rather than from the point of view of mere political expediency or of hatred or prejudice against our Canadian neighbors. Shall we have intercourse with that country, or allow a thick barrier to be built up between the two nations, shutting us out from her great trade and shutting her out from ours?

SPECIAL COMMERCE BETWEEN THE DOMINION AND THE UNITED STATES.

I have shown the great general commerce of Canada with foreign countries, and the above question of her special importance, as trading with the United States, is worth careful consideration. If history and figures and statistics are to be believed and are productive of information, the magnitude of this special question can hardly be appreciated and is little understood. The following table shows the extent of this special commerce during the years therein stated:

Commerce of the United States with Dominion of Canada and other British North American possessions.

For fiscal year ended June 30—	Exports.			Imports.	Total imports and exports.
	Domestic.	Foreign.	Total.		
1851	$9, 060, 387	$2, 954, 536	$12, 014, 923	$6, 693, 122	
1852	6, 655, 097	3, 853, 919	10, 509, 016	6, 110, 299	
1853	7, 404, 087	5, 736, 555	13, 140, 642	7, 550, 718	
1854	15, 204, 144	9, 302, 716	24, 566, 860	8, 927, 560	
1855	15, 836, 642	11, 999, 378	27, 806, 020	15, 136, 734	
1856	22, 714, 697	6, 314, 652	29, 029, 349	21, 310, 421	
1857	19, 936, 113	4, 326, 369	24, 262, 482	22, 124, 296	
1858	19, 638, 959	4, 012, 768	23, 651, 727	15, 806, 519	
1859	21, 769, 627	6, 384, 547	28, 154, 174	19, 727, 551	$47, 881, 725
1860	18, 667, 429	4, 038, 899	22, 706, 328	23, 851, 381	46, 557, 709
1861	18, 883, 715	3, 861, 898	22, 745, 613	23, 062, 933	45, 808, 546
1862	18, 652, 012	2, 427, 103	21, 079, 115	19, 299, 995	40, 379, 110
1863	28, 629, 110	2, 651, 920	31, 281, 030	24, 021, 264	55, 302, 294
1864	26, 567, 221	2, 419, 926	28, 987, 147	38, 922, 015	67, 909, 162
1865	30, 032, 283	1, 809, 862	31, 842, 145	37, 308, 468	69, 150, 613
1866	26, 874, 888	2, 481, 684	29, 356, 572	54, 704, 959	84, 061, 531
1867	20, 548, 704	3, 774, 465	24, 323, 169	33, 604, 178	57, 927, 347
1868	23, 600, 717	2, 661, 555	26, 262, 272	30, 362, 221	56, 624, 493
1869	20, 891, 786	3, 305, 446	24, 197, 232	32, 090, 314	56, 287, 546
1870	22, 570, 439	4, 278, 885	26, 849, 324	41, 089, 801	67, 939, 125
1871	29, 790, 894	4, 711, 832	34, 502, 726	37, 424, 351	71, 927, 077
1872	27, 774, 091	4, 984, 989	32, 759, 080	40, 961, 432	73, 720, 512
1873	34, 368, 811	4, 203, 745	38, 572, 556	43, 809, 070	82, 381, 626
1874	42, 505, 914	4, 589, 243	47, 095, 157	38, 158, 004	85, 253, 161
1875	34, 309, 761	3, 986, 770	38, 296, 531	32, 763, 870	71, 060, 401
1876	33, 583, 231	3, 477, 716	37, 060, 947	30, 930, 607	67, 991, 554
1877	38, 131, 708	2, 698, 020	40, 829, 728	26, 046, 090	66, 875, 818
1878	35, 740, 494	3, 355, 349	39, 095, 843	27, 971, 191	67, 067, 034

For the term of twenty years, from 1859 to 1878, the total imports and exports between the United States and the Dominion of Canada amounted to $1,282,106,384, the total exports being $625,996,689 and the total imports $656,109,695. I call the attention of the House to the fact that these figures only apply to the special trade between the United States and the Dominion of Canada. The following table

shows the excess of exports over imports, and the reverse, from 1851 to 1878:

Year.	Excess of exports from the United States to Canada over imports.	Excess of imports into the United States from Canada over exports.
1851	$5,321,801	
1852	4,398,717	
1853	5,589,924	
1854	15,639,300	
1855	12,669,286	
1856	7,718,928	
1857	2,138,186	
1858	7,845,208	
1859	8,429,693	
1860		$1,145,053
1861		317,320
1862	1,779,130	
1863	7,259,766	
1864		9,934,868
1865		5,466,323
1866		25,348,387
1867		9,231,009
1868		4,099,949
1869		7,893,082
1870		14,240,477
1871		2,921,645
1872		8,205,352
1873		5,236,514
1874	8,937,153	
1875	5,532,661	
1876	6,130,340	
1877	14,783,638	
1878	11,124,652	
Total	125,308,303	94,189,979

It will be seen from the above table that during the years when there was an excess the excess of imports into the United States from Canada over exports amounted to the sum of $94,189,979, while the excess of exports from the United States to Canada over the imports for the years stated amounted to $125,308,303; so that the balance in favor of the United States during this term of twenty-eight years as an exporter of goods rather than an importer amounted to $31,118,324. The great magnitude of this question becomes at once apparent on a study of these tables, and demonstrates that it is not to be decided superficially, hastily, or on account of prejudice, but only after the most careful investigation. It is apparent that the normal condition of trade between the United States and Canada is that Canada should be a buyer rather than a seller and that the balance of trade should always be against her. Under natural conditions this is always the case, and it is only when unnatural conditions come in to disturb that balance that it turns against us and in favor of Canada. From 1851 to 1859 the balance of trade was largely and invariably against Canada; then in 1860 and 1861 she had a comparatively small balance in her favor, while in 1862 and 1863 the balance came again in our favor. From 1864 to 1873 the balance (and in some years to a very large extent) turned in favor of Canada, while since 1873 the balance has been very largely in our favor, amounting in 1877 to the sum of $14,783,638.

I say that the normal condition of trade makes a balance in our favor, and a balance against us may be directly traced to unusual conditions of trade. The regular balance against us commenced in 1864, and the reason is easy to understand. A great rise in the price of goods and of labor, the immense consumption of articles in this country, the enormous inflation of prices, the turning of hundreds of thousands of men into consumers instead of producers, the great waste of material, and all the usual results of war, combined to carry up our goods to a price at which Canada could not afford to purchase. Canada remained in a state of peace; her wages were not much increased; her commerce was not interfered with, and she could afford to manufacture goods and create natural productions at a price which would give her a great profit by selling to the United States. The natural condition of affairs could not have been otherwise, and the proof is shown from the tables. When our affairs began to return to their normal condition, and the communities had settled down to the natural works and industries of peace, and the gold premium had disappeared, and business began once more to be on a firm and stable specie basis, then trade began to flow into its old and natural channels, and the balance of trade with Canada began to run steadily in our favor.

A further proof that the natural condition of trade with Canada is a balance in our favor is the conclusive argument that Canada must buy somewhere more than she sells; that somewhere or somehow she must buy every seven years, according to the average from 1872 to 1878, goods amounting in value to $200,511,786 more than she sells. And it is a further self-evident proposition, which needs only to be verified by an inspection of the maps, that this is her natural market to buy in. In other words, there must always be a great trade in our favor, except under unusual circumstances, provided we can have a fair chance. I have shown that there is, then, a natural and great general trade to be obtained by us from Canada, and I desire for a few moments to refer only to the special products of that trade and the special articles which we have heretofore sold to Canada in large amounts.

Munro, in his said book, page 111, writes as follows in regard to the coal trade:

In 1877 the proprietors of coal-mines in Nova Scotia petitioned Parliament to impose a duty on coal imported into the Dominion. The amount Canada imported from the United States in that year was 789,696 tons, including 415,869 tons of anthracite and 20,032 tons of coke. The whole was valued at $3,176,154; while the exports of coal to the United States only amounted to 178,772 tons, worth $689,663. So far as known there is no anthracite coal in the lower provinces, hence the importations of this class of coal into the Dominion are very large. Even Nova Scotia and New Brunswick imported anthracite coal from the United States to the value of $137,383 in 1877. Of the importations Ontario imported coal from the United States amounting to 623,187 tons, valued at $2,506,244, and Quebec 126,067 tons, worth $510,559.

I quote also the following from Munro's book:

The United States coal-fields are immense; much larger, it is said, than those of all the world put together. A well-informed writer says: "There are two hundred thousand square miles of coal-lands in the country, ten times as much as in all the remaining world." Between the Atlantic and the Rocky Mountains her coal-fields are scattered here and there in all directions; and near the Pacific coast she has abundance of coal.

And the means of transit by rivers, lakes, canals, and railroads are so widespread that both the States and the Dominion can be readily supplied.

Ontario has to depend upon the Union for all her coal; and the Cleveland and Erie Railroads have brought Montreal and other parts of Canada into near connection with the anthracite coal-fields of the United States.

And again, as follows, as to the trade in breadstuffs:

But there is another side to the subject. Ontario has flour to sell, and the lower provinces of the Dominion are purchasers of breadstuffs from the United States to the value of $1,876,146.

Hence, if Ontario has to pay a duty on coal, it would only be fair play to protect her breadstuffs by imposing a duty on importations from the States, which duty the maritime provinces would have to pay into the Canadian treasury.

In 1877 the Dominion imported wheat, flour, corn, and meal of all kinds to the value of $13,200,384; of this the value of $12,953,945 was from the United States. Of this large amount the wheat imported was valued at $3,992,793, and Indian corn at $3,236,864. In the three years previous to 1878 the Dominion imported wheat, wheat flour, corn, and corn-meal to the value of $36,018,727, or an average of twelve millions of dollars' worth per annum, and exported of breadstuffs to the value of $34,322,404, or eleven and a half million dollars' worth per annum. But a large part of the Canadian exports consisted of barley, oats, pease, and beans, valued at $7,428,762. In this year Ontario exported of these and other coarse grains to the value of $5,429,774. Of barley alone she exported 6,042,632 bushels, and imported of breadstuffs from the States to the value of $2,228,565 more than she exported.

The year previous to the Dominion tariff of 1874 we exported to Canada 1,034,945 gallons of petroleum according to the Canadian returns of imports. As stated by Mr. Bates, in his argument before referred to, "our exports to Canada up to the time the tariff went into operation, in breadstuffs alone, were some ten to twelve million dollars per annum; in sugars, some four millions, and in coal, some three millions of dollars." A few other articles or items of our trade with Canada may be referred to, taken from the statement of trade for 1879. In that year we sold to Canada agricultural implements worth $127,447 only, according to the imperfect returns made to the Treasury Department, but of the value of $227,745, as more correctly given by the trade accounts of the Dominion customs. We made also the following sales, namely: 335,210 tons of anthracite and 165,542 tons of bituminous coal to Canada, according to our Treasury statement, but 468,827 tons and 390,653 tons, respectively, according to the Canadian returns; $21,243 in brooms and brushes; $103,579 in carriages, carts, &c.; 1,381,833 pounds of cordage; $138,652 in drugs, &c.; $146,295 in fancy articles; $3,338,777 in iron and iron articles, more than one-fourth of our whole sales, Canada being our best customer; $158,851 in India rubber, &c.; $142,982 in leather, and $299,043 in manufactures of leather; over 9,000,000 pounds of unmanufactured cotton; 4,700,000 bushels of breadstuffs; 355,975 barrels of wheat flour; 7,293,275 bushels of Indian corn; 2,219,315 bushels of oats; 3,500,000 pounds of bacon and hams; 12,750,000 pounds of pork; 12,408 bushels of onions, and 8,500,000 pounds of tobacco. These are a few of the articles in which we have a special trade with Canada. Next to our trade with Great Britain is that of Canada, and Canada trades more with us than with any other country.

As was stated by Mr. Bates in his argument, "of the imports in 1877 $37,000,000 came from Great Britain, $48,000,000 from the United States, and $8,300,000 from all other countries. It will thus be seen that much the larger amounts of the imports made by Canada were from the United States, and that the importance and magnitude of this question cannot well be exaggerated. Of all the exports of Canada in 1877, for example, $45,500,000 went to Great Britain, while only $25,000,000 went to the United States, and $9,000,000 to all the other countries."

According to the Report on Commerce and Navigation for the year ending June 30, 1879, our trade with the Dominion of Canada ranks as the fifth in the list, and amounted to $30,843,702 in exports and $26,133,544 in imports, making a total commerce with Canada for the year of $56,977,256, or 4.92 per cent. of the whole foreign commerce of the United States. The value of the commerce with Canada was only inferior to that with Great Britain, France, West Indies, and Germany, and exceeded that with Brazil, China, Italy, Russia, British East Indies, Japan, Turkey, or Mexico, and was very greatly in excess of most of them.

Let it also be remembered that correct tables would make the aggregates of exports from the United States to Canada much larger than the above amounts, and would materially, and in some years perhaps wholly, change the apparent balances against us to our favor. The Canadian accounts show much larger aggregates of our exports

to Canada than do our accounts. The reason is easy to understand. Our authorities do not keep accurate accounts of goods sent across the border, as it is of no pecuniary interest to them to do so. It is not the exports but the imports that we get a revenue upon. Hence men may, so far as we are concerned, take goods across the border without any reference to entries or custom-houses.

Here, for example, is an account taken from the Commerce and Navigation Report of the United States for 1879, showing the difference between the accounts of the United States and Canada as to the exports from this country into the provinces of Quebec, Ontario, and Manitoba for year ended June 30, 1879:

Exports into said provinces, as per Canadian accounts	$37,925,922
Exports into said provinces, as per United States accounts	24,768,418

Here in one year is a difference of $13,157,504 between the accounts of Canada and the United States.

I take the following from the United States Commerce and Navigation Report for 1876:

TRADE WITH CANADA.

During the year ended June 30, 1876, the total value of domestic merchandise and produce exported to Canada, and which was omitted in the returns of the United States customs officers on the Canadian border, as appears from the official statements furnished by the commissioner of customs of the Dominion, amounted to $10,507,563, as against $15,596,524 in the preceding year, and $11,424,566 in 1874.

The following statement shows the character of the articles exported to the provinces of Ontario and Quebec during the last fiscal year, of which no returns were made to this bureau from the United States collectors of customs on our northern border:

Statement, according to Canadian accounts, showing the imports into Canada from the United States in excess of the domestic exports from the United States to Canada, as returned to the Bureau of Statistics by United States collectors of customs, during the fiscal year ended June 30, 1876.

Blacking	$11,394
Books, pamphlets, maps, and other publications	325,854
Brass and copper, manufactures of	258,500
Bricks	14,853
Brooms and brushes of all kinds	86,913
Carriages, carts, and parts of	102,128
Cars, railroad, passenger and freight	21,598
Clocks, and parts of, (including watches)	151,456
Coal	538,508
Cordage, rope, and twine of all kinds	22,538
Cotton, manufactures of	1,593,285
Drugs, chemicals, and medicines	60,904
Dye-stuffs	85,768
Fancy articles	208,320
Fruits	60,264
Furs and fur-skins	31,275
Gas-fixtures and chandeliers	42,791
Jewelry and other manufactures of gold and silver	63,008
Hair, and manufactures of	30,976
Hats, caps, and bonnets	246,869
Hides and skins, other than fur	728,695
India-rubber and gutta-percha manufactures	82,969
Iron and steel, and manufactures of	2,223,947
Leather, and manufactures of	158,153
Boots and shoes	110,466
Musical instruments:	
Organs, melodeons, &c	81,448
Piano-fortes, and all other	225,626
Naval stores	11,943
Oils:	
Mineral	34,733
Whale and other fish	84,959
Linseed	11,186
Ordnance stores, gunpowder	28,187
Paints and painters' colors	63,777
Paintings and engravings	45,729
Paper and stationery	279,832
Printing-presses and type	87,959
Provisions:	
Fish, including oysters	410,688
Potatoes and other vegetables	72,108
Rags	71,282
Seeds, clover, timothy, garden, and all other	10,208
Sewing-machines, and parts of	41,966
Spirits of turpentine	24,217
Tobacco, and manufactures of:	
Leaf	75,519
Cigars	17,179
Snuff, and other manufactures of	19,434
Varnish	28,096
Wine	16,498
Wool, raw and fleece	189,512
Wool, manufactures of	349,439
All articles not enumerated:	
All other manufactured articles	541,139
All other unmanufactured articles	363,467
Total	10,507,563

It will be observed that the greater portion in value of these articles exported to Canada, of which no official returns are made to this bureau, consists of manufactures of cotton, wool, iron, copper, &c., which require in their production the employment of no inconsiderable amount of capital and skilled labor. Where such important interests are involved it is highly desirable that our accounts of exports shall show as completely as is possible the amount and character of the surplus produce and manufactures sent out of the country and the exact amounts taken by each country. Especially is it important that in all legislation affecting our friendly business intercourse with Canada our accounts of commercial exchanges with that country shall be of such a character as to furnish a safe guide to wise legislation, instead of being liable to mislead, as they now may by reason of their incompleteness.

In the reports for the fiscal years 1874 and 1875 attention was directed to this subject and the defective legislation, which rendered it almost if not quite impossible to obtain full and accurate statements of our exports to Canada, pointed out. As no legislation has since taken place providing a remedy for this defect, the undersigned again respectfully but earnestly requests that the facts already submitted be brought to the attention of Congress at the ensuing session, and that legislation be asked for extending to railroad cars and other land vehicles passing from the United States into adjacent foreign territory requirements in regard to the filing of lists or manifests of their lading similar to those now provided by section 337 of the Revised Statutes with respect to vessels clearing for foreign countries.

Will it be argued that the subject is not of sufficient importance for investigation?

IV.—DID THE FORMER TREATY BENEFIT US?

In regard to this resolution the favorite argument *contra* is that the former treaty was an injury to us, and therefore we do not wish to hear anything further of a commercial treaty with Canada. This argument is not pertinent here and has not the slightest weight or relevancy, as no one has ever expected or claimed that the new treaty should be the same as the old one. It, however, is pushed with so much persistency that it is worth our while to inquire into the statement and see if there is any foundation for it.

WHAT THE FORMER TREATY WAS.

The old reciprocity treaty, so called, was made between the United States and the government of Great Britain June 5, 1854, and was terminated March 17, 1866, under notice given by the United States March 17, 1865, pursuant to article 5 of the treaty. The principal object and result of the treaty was the settlement of the fishery question, which unfortunately, however, proved to be no settlement of it at all. It gave to the fishermen of the United States liberty to fish on the sea-coast and shores and in the bays, harbors, and creeks of the Dominion, with permission to land for the purpose of drying nets and curing fish. The principal part of the treaty had reference to fishery questions, but article 3 is as follows:

ARTICLE III.

It is agreed that the articles enumerated in the schedule hereunto annexed, being the growth and produce of the aforesaid British colonies or of the United States, shall be admitted into each country respectively free of duty:

Schedule.—Grain, flour, and breadstuffs, of all kinds; animals of all kinds; fresh, smoked, and salted meats; cotton, wool, seeds, and vegetables; undried fruits, dried fruits; fish of all kinds; products of fish and of all other creatures living in the water; poultry, eggs, hides, furs, skins, or tails, undressed; stone or marble, in its crude or unwrought state; slate, butter, cheese, tallow, lard, horns, manures; ores of metals, of all kinds; coal; pitch, tar, turpentine, ashes; timber and lumber, of all kinds, round, hewed, and sawed, unmanufactured in whole or in part; firewood; plants, shrubs, and trees; pelts, wool; fish-oil; rice, broom-corn, and bark; gypsum, ground or unground; hewn or wrought or unwrought burr or grind stones; dye-stuffs; flax, hemp, and tow, unmanufactured; unmanufactured tobacco; rags.

It has been said in the argument against this resolution that the object of this treaty was to force the annexation of Canada or to lead up to annexation. The immediate object of the treaty, on the contrary, was the settlement of the interminable questions of the fishery disputes. The preamble of the treaty was as follows:

The Government of the United States being equally desirous with Her Majesty the Queen of Great Britain to avoid further misunderstanding between their respective citizens and subjects in regard to the extent of the right of fishing on the coasts of British North America, secured to each by article 1 of a convention between the United States and Great Britain, signed at London on the 20th day of October, 1818; and being also desirous to regulate the commerce and navigation between their respective territories and people, and more especially between Her Majesty's possessions in North America and the United States, in such manner as to render the same reciprocally beneficial and satisfactory, have respectively named plenipotentiaries to confer and agree thereupon—that is to say.

On account of the commercial relations between the two countries and the desire of our fishermen to fish in British waters, and of Canadians to sell fish in our country free of duty, and in order to foster and build up a trade between the two countries, and to promote amicable relations between them, this treaty was made. It was made purely for commercial purposes and because the mercantile interests of the country demanded it. The treaty, by its provisions, was to remain in force for ten years from the date on which it was to go into operation, and afterward either of the high contracting parties could terminate it by a notice of twelve months to the other of its wish to terminate the same. Taking advantage of this clause, the treaty was terminated as hereinbefore stated. The question will be asked why, if the treaty worked well and it was desirable to have commercial relations with Canada, there should have been any termination of it? Various causes contributed to its repeal. One reason was, as stated by Hon. Elijah Ward, member of Congress from New York, in a speech delivered in the House of Representatives in May, 1876, when he said that it (the treaty) "was for several years mutually satisfactory, but, under the pressure of debt and the need of increased revenue, the Canadians raised the duties on manufactured goods to such an extent as to destroy its natural effects in promoting the many branches of industry of our people."

The treaty only applied to natural productions, and the raising of a tariff on manufactured goods, thus excluding them to a considerable extent from Canadian markets, was a great cause of the discontent of our people. Still, the principal moving cause of the repeal of that treaty was undoubtedly our feeling of hatred against Canada. The attitude of Canada toward our people during the civil war cannot be either apologized for or satisfactorily explained. As a nation, their feelings were against us and with our enemies, and where we had expected the brotherly sympathy of our neighbors across the border we found only hostility and harsh criticism. On account of their attitude and actions a just feeling of indignation grew up among our people, which culminated finally in the abolition of the treaty as one means of cutting off communication with them and of punishing them, as was desired, for their action.

I take the following extract from the said speech of J. C. Bates, esq.:

Its commercial bearings were not recognized at all. It was shown conclusively that the balance of trade and the balance of advantage in the workings of the

treaty were not against the United States. It is enough to say that they produced no impression upon the minds of those who sought the abrogation of the treaty. One of the considerations which manifested itself at almost every stage of the proceedings had reference to the conduct of the Canadian authorities and Canadian people during our civil war.

Two extracts from the Congressional Globe will illustrate what I mean. On the 11th of December, 1864, the day following that on which the vote adverse to the treaty was taken in the House of Representatives, a member who had been absent rose and asked for permission to record his vote, when the following conversation took place:

"Mr. STEVENS, of Pennsylvania. I would like to inquire whether it is true that the Canadian authorities have discharged all the rebels whose cases have been under investigation?

"Mr. WASHBURNE, of Illinois. It is so stated in a dispatch from Toronto.

"Mr. STEVENS. Then I hope that all gentlemen who vote against the bill will change their votes, and make the passage of the bill unanimous."

When the resolution was reported back to the Senate by the Committee on Foreign Relations, Mr. Hale, of New Hampshire, spoke against it, as follows:

"This is a step that the Senate ought not to take, and particularly ought they not to take it under an excited state of feeling which exists now in consequence of what we conceive to be a great wrong inflicted on us by the authorities of some of those provinces that are particularly affected by this treaty. I know that when this treaty was negotiated, when the reciprocity principle was established, it was looked upon by the enlightened statesmen of this country and of England as an advance in the social progress of society, and as a step in the onward march which should undo the shackles of commerce and give greater liberty and greater progress to commercial intercourse between this country and those provinces. * * * The nation is about to retrace its well-considered steps from a position which it took so long ago; and at whose instance? Not at the instance of the Committee on Commerce, although the commercial interests are those that are to be most vastly affected by it. Not at the suggestion of the Committee on Finance, from which it should have been appropriately advised, if the real reason for the measure was the one that was hinted at by the honorable Senator [Mr. Sumner]—that the treaty ought to be abrogated at a time like this, when we are looking about us to find subjects of taxation to replenish and to aid our exhausted Treasury.

"If that was the ground on which this resolution was placed, I would not say a word against it. If it had originated from a purpose and a desire to aid the national Treasury in this hour of the country's peril, to supply men or money for the gigantic effort which we are now making for national existence and national honor, I never would have said one word or one syllable against it. But that is not the ground. The Committee on Commerce have not been heard from; the Committee on Finance have not been heard from. It comes from the Committee on Foreign Relations, and therefore I think it may be considered as coming, not from the commercial nor from the financial interests, nor from those who represent those interests. * * * If you abrogate this treaty, it will be looked upon in Canada, it will be looked upon by Great Britain, and it will be looked upon in this country by some certainly, as a measure of retaliation springing out of a resentment which, I grant you, is just, for some wrongs we have suffered at the hands of these colonies."

Another reason of the repeal was the desire to force annexation. It was thought that if we cut off reciprocal trade with Canada, and thereby injured her trade and took away from her the business which she could not afford to lose, the people of the dominion would become anxious for annexation with the United States as a remedy for all their woes. As an indication of this feeling, the presiding officer of the commercial convention which met at Detroit in 1865 to consider our treaty and commercial relations with these provinces received a telegram from Washington, from one formerly in high official position at the capital: "Establish reciprocity, and you will permanently establish a monarchy in British North America; defeat it, and you will insure the triumph of republicanism over this continent." Our then consul-general for Canada went to Detroit and exerted himself in every way to prevent action for the renewal or modification of the treaty.

I shall not under this heading consider the question of whether it is wise to have annexation, even if we could, of which I have very grave doubts, or whether the means proposed were useful to that end. I only say here that the repeal of the treaty was not a commercial, but a political measure. Many commercial interests of the country desired a modification of the treaty, and the British government desired to have it modified rather than repealed, and, so far as I know, none of the commercial organizations or interests of the country ever asked for the absolute repeal of that treaty. The repeal grew entirely out of the feelings and passions engendered by the war, rather than out of any fancied mercantile demand for it.

THE EFFECT OF THE FORMER TREATY.

This treaty continued from June 5, 1854, to March 17, 1876. I claim, and I think that it will be amply proved, that that treaty, with all its imperfections, was not a disadvantage to the United States. The opponents of all ideas of reciprocal trade with Canada assume as a self-evident proposition that the former treaty was injurious to this country and of more advantage to Canada than it was to us. They assume this as a fact, and then proceed to found long arguments upon it, whereas I think that this House by a study of the question will be convinced that the exact opposite is the fact. Even the delusive standard of the balance of trade shows this to be the case. I call the attention of the House to the table which I have before referred to, showing the excess of imports from the United States to Canada over exports, and *vice versa*, from the year 1851 to 1878. From 1854 to 1859, both inclusive, the balance of trade was very largely in our favor. In 1860 and in 1861 it turned against us by a small amount, while in 1862 and 1863 it was again in our favor. From 1864 to 1873 it was against us, and from 1874 to 1878 it has again been largely in our favor. The treaty continued substantially for twelve years. Of this twelve years, eight years showed a large balance in our favor, while during only four years was there a balance against us. According to the tables, the balance in our favor for the eight years amounted to the sum of $63,479,417, while the balance against us during the four years amounted to the sum of $16,863,564, showing as a difference in our favor between these two balances the sum of $46,615,853. The Canadian accounts of importations and exportations differ somewhat from those of the United States, for reasons which it is not now necessary to detain the House by explaining, and hence these figures may vary to a limited extent; but in whatever way the calculations are made a very large balance of trade in our favor and against Canada always appears during the years of the treaty. The foregoing figures I have taken from different reports or official statistics.

Mr. Bates, in his argument hereinbefore referred to, sums up the results of the old treaty as follows:

Under its operations the aggregate interchange of commodities rose from an annual average of $14,230,763 in the previous eight years to $33,492,754, gold currency, in the first year of the treaty; to $42,942,754, gold, in the second; to $50,339,770, gold, in the third; and to no less than $84,070,955, at war prices, in the thirteenth and final year. The civil war, during a considerable portion of the existence of the treaty, greatly increased the volume and value of imports from the provinces, (and the exports to the provinces as naturally reduced,) and yet the balance of trade for the entire period of thirteen years was largely in favor of the United States. In that time the provinces purchased from the United States $346,180,264, and the United States purchased from the provinces $325,726,520, leaving a balance in favor of the United States of $20,454,246. But the real balance is probably larger than these figures from the United States returns, as the first ten years of the treaty showed a clear balance of $62,013,545. That balance appears by our Government returns to have been reduced by the operations of the three following years to the sum before stated, namely, $20,454,246. Due allowance, however, should be made for inflated war-price values of importations. The returns of British provinces make the balance $95,796,969 in favor of the United States.

Such, then, were the results from the old treaty. Let us glance one moment at the character of the traffic:

Total purchases by the provinces, of the United States, domestic and foreign, articles in bond.

Animals and their products	$35,433,213
Breadstuffs	112,058,473
Other farm products	3,242,982
Timber	8,511,488
Manufactures	88,649,855
Miscellaneous	24,044,977
Total home productions	271,940,988
Foreign commodities bought in bond from merchants in United States and imported into Canada	62,379,718
Total	334,320,706

Showing not less than $151,029,573 of manufactured goods purchased by Canadians from the United States under the treaty. These figures are taken from the United States official returns, as quoted in proposals for treaty submitted by Great Britain in 1874, to which reference will be made further on.

The tables show a rise in the balance of trade in our favor from $5,559,924 in 1853, the year before the treaty, to $15,639,300 in 1854 and $12,669,286 in 1855, and the rise in the value of our exports to Canada from $13,140,642 in 1853 to $24,566,860 in 1854, and $27,806,020 in 1855, and $29,529,349 in 1856, which certainly must be regarded as a very extraordinary increase and can only be attributed to the effect of the treaty.

I take the following from Munro's book, heretofore referred to:

During the operation of that treaty, when international commerce was allowed to follow its natural bent at least in a measure, the domestic trade between these two countries rose from $20,691,360 in 1853, the year before the treaty, to $33,491,420 in the following year.

In 1865, when the treaty was abrogated, the total imports from and exports to the Union amounted to $71,374,816; and in 1866, believing the treaty would be renewed, the trade between the two countries rose to $84,070,955. But in 1868, when all hope of a new treaty of reciprocity failed, the trade fell to $56,287,546, showing a decline of twenty-eight millions in two years.

The total trade between these countries in the eleven years previous to 1855 was $163,593,435, while in the following eleven years, when the effects of the treaty were felt, their total trade rose to $554,631,910. And the ratio of increase was greater in the last than in the first years of the treaty.

The limited compass and slow growth of their trade previous to 1854, its unprecedented expansion from that period to the close of 1866, when the effects of the treaty had reached their maximum and the sudden decrease which followed the abrogation of the treaty, are significant results, and cannot fail to impress the inhabitants of both countries with the importance of closer free-trade relations.

And the trade between the Dominion of Canada and the United States did not exceed the value of $78,003,492 in 1876, and one million less than this sum in 1877.

During the operation of the treaty the chief part of the trade between the provinces and Great Britain became gradually transferred to the United States. And now, without the advantages which that treaty afforded, the trade between the provinces and the States, even in the face of an almost prohibitory tariff, is comparatively large.

The following is from the speech of Mr. Ward, in Congress, May 18, 1864:

The treaty was dated June 5, 1854, and its salutary effects were partially experienced during that year. Our exports to the provinces during the seven preceding years have been multiplied nearly threefold in the seven years which have elapsed since the treaty, having been $69,686,107 in the former and $171,628,779 in the latter period; while our imports from the same regions have increased more than fourfold, having been $34,815,885 in the former period against $145,183,096 in the seven years since the treaty went fully into effect.

It was said by the honorable member—he repeated the remark several times—that the balance of our trade with the provinces is against us. The statement appears slightly modified in his remarks as printed in the Globe; but is substantially retained there. Did he mean during the last year of which we have official information? It was then nearly two millions in our favor. Did he mean during the whole time since the treaty went into operation?

In that time it was more than twenty-six millions in our favor. There is nothing vague about this. There is no mystery in the figures. There is no need of passion or declamation. The solution is as easy as that of any school-boy sum in arithmetic, or of any ordinary settlement of accounts between individuals.

I find my data on the sixth page of the letter from the Secretary of the Treasury, in answer to the resolution of this House on the 17th day of last December, asking for information as to the operations of this treaty. We asked him for information, and it is furnished to us. Shall we ignore it, and substitute for it such conclusions as our several fancies may suggest? We may in this way point a paragraph or lend some illusory brilliancy to a speech; but that is not statesmanship. It does not accord with our duty to the nation. The balance of gold on which so much stress has been laid was not paid by us to the provinces, but by them to us. It amounted to $26,445,692. This is the state of affairs as to which the honorable

member says he "would, if necessary, use force to put an end to an alliance so injurious."

Meeting upon their own ground the theorists who regard "a balance of trade in our favor" as the chief test of the benefits of commercial exchanges with any single country, I find that, according to the reports of the Secretary of the Treasury, there appears to have been during the thirteen years, when a treaty for the reciprocal exchange of grain, lumber, and many other natural productions existed, a balance in our favor amounting to some $83,000,000 and that ever since the termination of the treaty until 1874, when the pressure on our affairs tended to force sales at low prices, there has been a balance against the United States in the trade with the Dominion.

So much for the present exclusive policy in comparison with the more liberal but incomplete system under the treaty, judging them from the ordinary standpoint of many protectionists.

Regarding the balance of trade as a test of the benefit or disadvantage of the commerce with our country, it was in our favor, but the balance of trade is by no means a conclusive test; and if it could be made to appear that such balance is against us, it would not prove that the treaty was a disadvantage to the United States. The argument of the balance of trade being against a country is always a favorite argument with those who desire to prove that such a trade is of no advantage, but it is in the highest degree delusive. Suppose, for example, that the balance of trade in cereal products was against our country and in favor of Canada, it by no means follows that that trade was injurious to us, but the natural assumption would be that it might be a benefit, for if we did not need those cereals from Canada for our own consumption we could either sell them to foreign countries, and thus increase our foreign trade, or they would release to the same extent the cereal products of our own country to be sent abroad. It will need no argument to prove that if any portion of our productions are replaced by foreign importations just so much of our productions may be released to be sent to foreign countries. So a balance of trade against us might still result in a benefit to this country, irrespective of the question of our merchants, shippers, and handlers of freight having these goods pass through their hands and through our commercial ports.

It is always to be remembered that the trade between that country and the United States is to a considerable extent one of transit or carrying to other countries, and thus what is called "a balance" against us, which is really an advantage, may exist, because it may merely represent what we have bought from one country to sell at a profit to others.

If our merchants buy the bulky productions of Canada to the extent of many millions and carry them through our own country to our sea-ports, they give employment to our laborers, create a demand for the products of our farmers, and cause the expenditure and employment of vast sums of money among our traders and capitalists, while the articles thus carried and exported stand to our credit and profitably swell the balance in our favor in other countries, being at least as valuable in our exchanges with the rest of the world as if they were gold and silver.—*Hon. E. Ward's speech in House of Representatives*, May 18, 1876.

I therefore claim that even by the test of the balance of trade or otherwise the treaty was a benefit to us. If it is to be argued that the fact of the balance of trade being against us is an absolute injury to the country, and any trade should be shut off and destroyed which shows a balance against us, why does not Congress endeavor to pass some law actually forbidding all trade whatever with Canada or France or any other country in regard to which the balance may be against us? If we purchase goods, and thus produce a balance against us, it is because as a people we want to purchase those goods—because we need them, because we think it will be a benefit to us as a people; and hence a country may be benefited if it purchases goods from another and sells to that other country no goods whatever. The argument travels around in a circle, because it is to be supposed that if it was of no benefit to our people and our merchants to purchase such goods they would not purchase them.

EFFECT OF ITS REPEAL.

After the repeal the balance of trade was steadily against us until 1874, at which time it again turned in our favor, when, on account of the prostration of business and the low value of material and labor, our goods began to be manufactured at so low a cost and our other articles to be produced so cheaply that we could sell to the Canadians at lower rates than they could sell to us. Whatever the reason, the fact is, as shown by the figures, that after the termination of the treaty the balance of trade with Canada turned and remained against us until recently. Mr. Ward, in his speech of May, 1876, said:

Since the termination of the treaty the proportion of the trade of Canada with this country, in comparison with the whole foreign trade, has been reduced from 55 to 35 per cent., until the necessities of our people compelled them to part with the products of their labor at reduced prices.

As was said at the hearing before the committee:

I propose now, Mr. Chairman, to show the results following the repeal of the treaty. Customs duties were, of course, imposed on nearly all articles imported from the provinces. The provincial tariff was but little changed, and a large preponderance of articles from the United States were still admitted free. The use of the Canadian canals and the navigation of the Saint Lawrence were still left open to American shipping. Under influence of the peremptory notice given by United States in 1865 of a termination of the treaty the confederation of the British provinces was hastened, and became an accomplished fact within fifteen months after such termination. The intercolonial railway connecting the maritime provinces with the province of Quebec was undertaken at a cost of over $20,000,000. Commissioners were dispatched to the British and other West India Islands and to South America to promote and extend trade. The subsidizing of ocean and river steamships, the promotion of the great ship-building and fishery interests, all these received fresh and energetic advancement.

The export trade of the provinces with other countries largely increased. Being shut out from our markets, they were compelled to find other outlets for their products. Their business with the West Indies increased, and so increased, too, in the very merchandise shut out from our markets by the operations of our tariff. It enabled them, to a large extent, to shut out our people from that trade because they could supply their products so much cheaper.

In other words, they built up a West India business with the very merchandise we had excluded and which, but for this, our merchants might have received and distributed profitably in those very markets where their Canadian competitors were now forced to undersell them. Not only this, but Canadian vessels secured a large share of the carrying trade, the bulk of arrivals of sugar and molasses at Boston (I should say fully three-fourths) being brought in British bottoms. This has been the situation for several years.—*Argument of J. C. Bates, esq.*

The repeal of the treaty was not only of effect in turning the balance of trade against us, but in inducing Canada to enter upon a career of self-production and of fostering her own industries and manufactures, which effect will be briefly discussed hereafter. When our opponents claim, then, that the old treaty was of no benefit and that its repeal can be demonstrated to have worked benefit to our country, and that therefore there is no use in considering this subject at all, I deny both their statements and their conclusions.

THE QUESTION OF THE EFFECT OF THE FORMER TREATY OR OF ITS REPEAL IMMATERIAL.

But, after all, this question is wholly immaterial, although our opponents lay so much stress upon it. I beg to remind the House again, because our opponents by their arguments persist in refusing to accept it as a conclusive statement, that this is only a resolution for information and that these complicated and vexed questions of the effect of old or of new possible treaties is one of the very questions which we want a commission to investigate and thoroughly examine. It is entirely irrelevant when we ask for information on a subject for gentlemen to argue that the facts are as they state, because it is this very question of fact which we want the commission to investigate.

V.—IS THE CONDITION OF AFFAIRS SUCH AT THE PRESENT TIME AS TO MAKE AN INQUIRY ADVISABLE?

A permanent policy in regard to our trade with Canada should now be adopted, and if possible the long-standing controversy between the two countries ended. It is for the interests of each country that it should now know what to expect in the future, and should avoid doubtful and shifting legislation. A nation, like an individual, can adapt itself to a policy, even if a bad one, if it knows it is to be permanent. If an exclusive one of non-intercourse between the two countries is to be adopted, Canada will go to work and build up manufactures and other industries and put herself under pledges to her manufacturers to protect them. If this policy is adopted it cannot well be changed in the future, because when Canada has allowed her citizens to expend large sums of money in building up manufacturing industries under the influence of a prohibitory tariff against this country, and a protective tariff for her own citizens, she cannot afterward abandon them and leave them to the mercy of open and free competition with other countries. At the present time she is under no such pledges or obligations, but the people of Canada desire to purchase their goods in the cheapest market. In one year, five years, or ten years, under a non-intercourse policy, she may be under such pledges and cannot, without a gross breach of faith, treat with the United States for reciprocal trade. This seems to be, as it were, an interregnum between dead policies of the past and policies of the future of the two countries as to the respective questions of interest. These questions remain in abeyance awaiting a settlement.

The question now vexing the Canadian authorities is as to what tariff policy they shall adopt, whether of protection, or of retaliation, or of free trade. All these questions of commercial intercourse between the two countries are now in an unsettled state, and there never was a time when the people were so anxious to have them taken up and settled and when they could be treated with such freedom from outside complications of law or otherwise. The new tariff of Canada went into effect March 15, 1879. This tariff was intended by the Canadian authorities for two purposes: first, to foster the industries of their own country; and second, to punish the United States. By the same law they hoped to keep out United States productions from their country, and under the influence of their strong prohibitory and retaliatory tariff to build up manufactures and to increase productions in Canada. It is at the same time a prohibitory, retaliatory, protective, and revenue tariff, and the object is boldly announced to be to shut off American trade unless mutual arrangements can be made, and to cut our goods out of the Canadian markets. Now, if their tariff was permanent, even though harsh against us, our merchants could anticipate and make their calculations concerning it; but under their peculiar mode of tariff legislation they can change it at almost any time, and whenever they see a new trade is growing up between the United States and Canada they can almost instantly crush it out.

The long delays in enacting our tariff laws and the careful consideration which such laws receive in our Congress or in committee do not prevail in the Dominion. The mode of legislation in the Canadian Parliament differs widely from that followed in the United States. In Canada the finance minister exercises the duties of our Committee on Ways and Means, prepares and submits a tariff to the council, and after an approval it is submitted to the House of Commons by the finance minister as a government measure. All the ministers are members by election or *ex officio*, and the government having a majority in the house (or they cannot obtain power) are able at once to secure the passage of the bill. To illustrate: The customs-tariff act of 1879 was submitted on the afternoon of March 14 by the finance minister, Sir Leonard Tilley, when he made his budget speech. He was replied to by his predecessor, agreeably to custom. Other speeches were made by ministers and ex-ministers, and at about five o'clock on the next morning the resolutions affirming the expediency of many of the provisions embodied in the bill were passed. The new tariff went into force on the opening of the custom-house on the 15th.

If Canada chooses to carry on this tariff war, are we to meet her in warfare of that sort? Canada can harm us, it is true, but we can do them infinitely more damage than they can possibly inflict on us. A comparison of the new and old Canadian tariffs is worth considering, as showing the object of the new tariff and its possible results. It is impossible to give here a full list, but below is a table of the articles principally affected:

Dominion of Canada.—The new tariff and the old.

Articles.	New tariff.	Old tariff.
Agricultural implements	25 per cent.	17½ per cent.
Artificial flowers	30 per cent.	17½ per cent.
Bookbinders' tools and implements	15 per cent.	Free.
Barley-beans	15 c. per bush.	Free.
Wheat	10 c. per bush.	Free.
Oats, pease, and rye	10 c. per bush.	Free.
Buckwheat	10 c. per bush.	Free.
Indian corn	7½ c. per bush.	Free.
Oatmeal	½ c. per lb.	Free.
Wheat flour	50 c. per bbl.	Free.
Rye flour	50 c. per bbl.	Free.
Corn-meal	40 c. per bbl.	Free.
Brass, in bars or sheets	10 per cent.	Free.
Brass tubing	10 per cent.	17½ per cent.
Brooms and brushes	25 per cent.	17½ per cent.
Carriages, wagons, sleighs	25 per cent.	17½ per cent.
Cement, raw	$1 per ton.	Free.
Cement, burnt	7½ c. per 100 lbs.	Free.
Water-lime	40 c. per bbl.	17½ per cent.
Clocks, or parts of	35 per cent.	17½ per cent.
Coal, anthracite	50 c. per ton.	Free.
Coal, bituminous	50 c. per ton.	Free.
Copper—pig, scrap, bar, bolt, ingot, and sheet.	10 per cent.	Free.
Copper tubing and wire	10 per cent.	Free.
Copper rivets and bars	30 per cent.	Free.
Copper, manufactures of	30 per cent.	17½ per cent.
Cordage, if for ships' purposes	15 per cent.	5 per cent.
Drain and sewer pipes and tiles	20 per cent.	Free.
Brown, earthen, and stone ware	25 per cent.	17½ per cent.
White granite or ironstone ware	30 per cent.	17½ per cent.
Electroplated ware	30 per cent.	17½ per cent.
Fish, except those free by treaty of Washington.	1 c. per lb.	Free.
Apples	40 c. per bbl.	10 per cent.
Peaches	40 c. per bush.	10 per cent.
Plums, quinces, and cranberries	30 c. per bush.	10 per cent.
Oranges and lemons	20 per cent.	10 per cent.
Furniture	35 per cent.	17½ per cent.
Gas or kerosene fixtures	30 per cent.	17½ per cent.
Gutta-percha, manufactures of	25 per cent.	17½ per cent.
Boots, shoes, and leather manufactures	25 per cent.	17½ per cent.
Iron, pig	$2 per ton.	Free.
Iron, old and scrap	$2 per ton.	Free.
Iron—slabs, blooms, and billets	12½ per cent.	Free.
Iron—bars, band, hoop, sheet, galvanized, boiler, and Canada plate.	17½ per cent.	5 per cent.
Iron and steel wire, up to No. 18	25 per cent.	5 per cent.
Iron car-wheels	25 per cent.	17½ per cent.
Locomotive engines	25 per cent.	17½ per cent.
Iron machinery	25 per cent.	10 and 17½ p. c.
Hardware—builders', cabinet-makers', saddlers', carriage-makers', upholsterers'.	30 per cent.	17½ per cent.
Lead—pig, block, bar, sheet, old scrap	10 per cent.	Free.
Leather, upper, also sole and belting, tanned but not waxed.	15 per cent.	10 per cent.
Oil, linseed or flax	25 c. per gall.	17½ per cent.
Organs, specific and *ad valorem*	$10 to $30.	17½ per cent.
Paper-hangings	30 per cent.	17½ per cent.
Envelopes	25 per cent.	17½ per cent.
Whisky, (on imported gallon)	$1.33½ per gall.	$1.20 per gall.
Brandy, (on imported gallon)	$1.45 per gall.	$1.20 per gall.
Steel—ingots, bars, sheets	10 per cent.	Free.
Steel—edge-tools, farmers' implements, spades, shovels, axes, saws, scythes, mechanics' tools, and skates.	30 per cent.	17½ per cent.
Sugar, above No. 14 Dutch standard	1 c. per lb. and 35 p.c.	1 c. per lb. and 25 p. c.
Sugar, No. 9 to No. 14	¾ c. per lb. and 30 p.c.	¾ c. per lb. and 25 p. c.
Sugar, below No. 9	½ c. per lb. and 30 p.c.	½ c. per lb. and 25 p. c.
Molasses not for refinery, if imported direct.	15 per cent.	25 per cent.
Tin—blocks, pigs, and bars	10 per cent.	Free.
Type, printing	20 per cent.	17½ per cent.
Type-metal	10 per cent.	Free.
Glass—bottles, jars, phials, lamp-chimneys, and colored window.	30 per cent.	17½ per cent.
Cottons—sheetings, drill, duck, Canton flannel, uncolored.	15 per cent.	17½ per cent.
Cottons—jeans, denims, ginghams, drill, &c., if colored.	2 c. per sq. yd. and 15 p. c.	17½ per cent.
Cottons, not bleached, colored	2 c. per sq. yd. and 15 p. c.	10 per cent.
Cottons, bleached or dyed or colored	3 c. per sq. yd. and 15 p. c.	.....
Cotton shirts, drawers, hosiery, and clothing.	30 per cent.	.....
Cotton thread, in hanks	12½ per cent.	10 per cent.
Cotton thread, on spools	20 per cent.	17½ per cent.
Woolens—shawls, blankets, flannels, tweeds, coatings, cloths, felt, yarn, knitted shirts, drawers, and hosiery.	7½ c. per lb. and 30 p. c.	15 per cent.
Ready-made clothing, wholly or mostly wool, except knitted.	10 c. per lb. and 25 p. c.	17½ per cent.
Carpets, ingrain, three and two ply	10 c. per sq. yd. and 20 p. c.	.....

They are still changing the tariff from time to time as they think it may help them and hurt us. For example, on March 10, 1880, they increased the tariff on billiard tables, organs, and piano-fortes from 10 to 15 per cent.; on blank books, &c., 30 per cent.; bituminous coal from fifty to sixty cents per ton; china from 20 to 25 per cent.; ruled paper 25 per cent.; and removed gunny cloth and bags from the free list, and made many other changes. Let us consider for a moment a few of the results of the new tariff, which results it is entirely impossible in an argument of this nature to consider in detail. Coal, formerly free, pays a duty of fifty cents per ton, and as our exports reach 870,682 tons, the question is one of no mean importance. Flour, formerly free, now pays a duty of fifty cents a barrel. The imports from the United States into Canada of petroleum amounted to 1,004,954 gallons, and this is now practically shut out from the Canadian markets. The duty on cotton and cotton manufactures has been carried up from about 17½ per cent. to from 15 to 20 per cent., besides a specific duty (in general) of two cents per yard; and on woolen manufactures from 17½ to 20 per cent. The duties on sugar are practically prohibitory, and sugar refineries are commenced or in contemplation in different parts of the Dominion. The result of this policy, if persevered in, will be the stimulation of Canadian industries and of manufactures, the building of mills, and the rendering of Canada to a certain extent independent of us.

It may be claimed that this is just what Canada wants under any circumstances, and that we cannot prevent it. But nothing is more certain than that Canada or the people of Canada do not desire this unless forced into it. Canada does not desire a protective tariff, and will throw it off, unless it is forced upon her by our conduct. They understand well that such a protective tarff, even if it does build up their manufactures, would be of no advantage to the consumers. They cannot compete with us, with our great resources, in manufacturing. Their manufactories cannot turn out goods as cheap as we can sell goods to them, and already there are deep and loud mutterings of complaint by the people against the new Canadian tariff system. A protective tariff cannot be devised there which is satisfactory to the different sections of their great Dominion. If coal is protected, Western Canada complains because she cannot buy her coal at cheap rates from the United States; and if wheat is protected for the benefit of Western Canada, then the eastern provinces complain of it as a discrimination against them. It is no advantage to them to build up a great manufacturing power at the cost of suffering to the people, and it is certainly no advantage to us to have such a competing power grow up just across our border. As an example of this growing discontent I shall, under the next heading of this argument, quote a few extracts from newspapers and books published in Canada.

CRITICAL IMPORTANCE OF THE SUBJECT AT THE PRESENT TIME.

If the present policy just inaugurated of non-intercourse is persisted in, Canada must eventually build up competing interests against ours, whether it will be for her present interest or not, and will be obliged to stand by them for the reasons which I have before stated and which are also shown in the following quotations:

Encouraged by the government, as in the States, capitalists would invest large amounts in certain industries which could not fail to build up a powerful interest in opposition to reciprocity as it has done in the Union.

Men who have incurred vast expense on the faith of protective legislation will justly claim that the government has no right to sacrifice their interests by a sudden change of policy.—*Munro*, page 116.

The tendency of the new Canadian tariff, if continued for a few years, is to build up interests which the government cannot afterward abandon without a violation of justice.

There will never be a period when a reciprocity treaty can be negotiated on a basis so favorable to the United States as at present, while as yet the new Canadian tariff has not caused large investments of capital in manufactures which the government of the Dominion will be compelled in justice to foster after having called them into existence by its own action.

We call the attention of President Hayes and Secretary Evarts to the fact that a new reciprocity treaty could be negotiated this year without encountering a tithe of the opposition it would have to meet after the new Canadian tariff shall have produced its natural effect of creating interests which the government of the Dominion cannot honorably abandon.

"There is a tide in the affairs of men," and Secretary Evarts will miss a great opportunity if he does not take advantage of the present situation to obtain for our producers free access to the markets of Canada.—*New York Herald*, March 19, 1879.

While we have now in Canada a most valuable and increasing market for our manufactures, it is quite certain that its continuance depends on the duties levied by the Canadian tariff. A large proportion of the manufactures we export so extensively to the Dominion, conspicuously those of iron, copper, brass, lead, cotton, &c., are admitted free of duty or at almost nominal rates of 5 or 10 per cent., and those charged at higher rates than 17½ per cent. are few in number and insignificant in quantity. The Canadians have it in their power, and it could be no just cause of complaint to us, to adopt our own scale of duties. The effect of such a step could not fail to inflict serious injury on our manufactures, many of whose products would soon be excluded from the Canadian markets, which it is for our interest to open yet more widely.—*Speech of Hon. E. Ward in House*, May 18, 1866.

I have said that this protective system of a high tariff, and consequent increased cost of goods to consumers, is one that cannot be adopted as a permanent system by the Dominion, unless it shall be forced to it by our refusal to have any commercial intercourse with Canada. The people are restive under it and indisposed to accept it, even as a necessity or a temporary measure—or at least a very large portion of the people are opposed to it; and as the evils shall be more and more felt, the opposition will increase, and the people will ultimately compel the Government to agree upon any fair system of trade, and under such a system to remove, as against the United States, their

prohibitory tariffs. The following quotations are some indication of the state of feeling:

The imposition of a duty on anthracite coal of fifty cents per ton by the Government has taken everybody by surprise. In the mean time I think it is the duty of every citizen of Toronto and Hamilton, and of the other cities, towns, and villages in Ontario to petition their representatives in Parliament to oppose such an oppressive tax, as it is a tax that will bear heavily on only a section of the people chiefly in cities, towns, &c., and is not fairly distributed over all classes in the Dominion.—*Toronto Globe.*

Two days after the national policy came into force coal was advanced in price fifty cents a ton; the dollar which could have purchased ten pounds of sugar on Friday was only worth nine pounds on Monday; the poor man's sirup found a tax against it of 35 per cent.; his tea was made to contribute heavily to the revenue; the cheap British woolen fabrics which he was able to purchase for clothing were practically excluded from the country; the meal for his porridge or mush became liable to taxation; his buckwheat pancakes were made more expensive; his furniture, his cutlery, his cotton overalls, his dinner pail and tin cup, the very salt with which he seasons his fare; his spade, shovel, ax, drawing-knife, plane and tools of all kinds, and in fact all the necessaries of his life were enhanced in price to an amount considerable on each article, but at present not exactly determinable. The poor souls who looked to the national policy with intense faith in its power to relieve their distresses can now appreciate the iniquity of the men who never scrupled to deceive them with false promises. They hailed the advent of Sir John to power with the enthusiastic conviction that he would prove their material savior; they have patiently waited through five months of unexampled depression for the time when he should be ready to mature his plans for their benefit, and now that the scheme has been made public they feel with sinking hearts that they are to be made the contributors to a number of fortunes to be presented to as many already prosperous manufacturers.—*Toronto Globe*, March 20, 1879.

We have now deliberately dared the Americans to increase their duties till they exceed our new duties by as much as our new duties exceed their existing rate. Not further duties upon our manufactures, which would not injure us at all, but a stinging blow in the shape of such an increase in our lumber duties as would give Michigan the control of the markets of Chicago, the Eastern States, and the seaboard; total exclusion of our lumber from its best market; total shutting out of our barley, poultry, eggs, hides, wool, sheep, pease, potatoes, and other agricultural products which we now sell to them in vast quantities, and perhaps even a refusal to allow our products to pass through American territory inland. Nothing but the most reckless phase of lunacy could have induced our Government to wantonly invite the United States to inflict upon us the blow which they have power to deal us. Their policy is bad in every one of its essential features. In its bearing upon our relations with the United States it is a blunder so vast as to amount to a crime.—*Toronto Globe*, March 21, 1879.

Although the date of the national policy was announced, he steadily pursued the policy of discharging his workmen, and altogether up to last Saturday no less than seventy of his employés have been dismissed, and it is probable that more will follow in a few days; others have been working a week on and a week off. Where, then, is the era of prosperity promised to be inaugurated even before the national policy was introduced? Sir John A. Macdonald, at the amphitheater, wept tears over the condition of Mr. Hay's unfortunate workmen because they were threatened with lack of employment, and yet this prince of hypocrites coolly increases the price of their tools by 12½ per cent. The poor girls and seamstresses who are trying to obtain an honest livelihood have also been the victims of the government's oppressive legislation. While the manufacturer or capitalist can import his machinery for woolen and cotton mills free, the poor seamstress or tailor has to pay $2 on each machine, or part of machine, and 20 per cent. *ad valorem* additional. A large number of these deserving people have in the past purchased American machines; and should they break any portion of a machine, no matter how large or how small, and send to the makers for a new part, $2 duty will be charged. Legislation more tyrannical or grinding on the poor than this can scarcely be cited. Mr. Somerville, Toronto, was on this deputation. Mr. Millschamp, Toronto, show-case and mirror manufacturer, is here also. He protests against the imposition of the increased duties on the raw material. He says if the new tariff is maintained it will close his business. Mr. McFarlane, Montreal, manufacturer of machine belting and cards, complains that the tariff will, unless modified, close his business. His raw material, wire, &c., has been largely increased in cost by the tariff, and unless a modification is made he will have to suspend operations and remove elsewhere. An additional duty of 2½ per cent. has been placed on the porcelain, china, and glass which the rich purchase, while 12½ per cent. increase has been put on the crockery purchased by the poor. Truly this is the rich man's tariff.—*Monetary Times*, Toronto, 1879.

It has been proposed in the Canadian Parliament to adopt a "national policy," or in other words a reciprocity of tariffs, as a means of compelling the United States to adopt a reciprocity of trade with Canada. There may be good policy in retaliations when two powers are about equally balanced in regard to extent and variety of available resources; but as regards the Dominion, such a policy could hardly fail to be ruinous to her own interests. Her sectional interests are so conflicting that she cannot adopt a system of protection which would be equally just to all the provinces.—*Munro*, page 116.

Similar extracts might be multiplied to an indefinite extent to show the state of feeling in Canada in regard to their new tariff system.

Another reason why the present is especially a favorable time for entering upon the consideration of this question with Canada is that it seems to be to a certain extent a crucial time in regard to our own tariff. A modification of our tariff is probable. Probably a commission will be appointed by resolution of Congress to take the whole question of the tariff into consideration, and to report a systematic, well-considered, and it is to be hoped a permanent and scientific plan for a tariff. After our tariff is permanently established under any new code it will be difficult to change it, and if reductions are to be made in it we cannot use those reductions "after the fact" to obtain concessions from other countries. If we expect in any event to make concessions or reductions of the tariff, we could use at the present time those concessions to obtain other concessions from Canada, and if Canada refuses we might make our tariff with entire disregard of her wishes. For example, there is a great pressure by certain American interests for free trade in ships, or free registration of foreign-built ships, and in behalf of many shipping interests of the country it is claimed that this is the one thing necessary for the restoration of American commerce. This free trade in ships is just what Canada desires. If our people from American interest bring about free trade in ships, we gain nothing from Canada by the concession, but Canada would undoubtedly be willing to make a very considerable concession in some way for the purpose of securing from us that free trade. So in regard to salt and some other matters. The following statement was made in a recent argument by J. C. Bates, esq., before the Committee on Foreign Affairs:

2. Again, you have not failed to note the signs of the times. The enemies of the present tariff are gathering preparing to attack it. Whether they will be successful or not is another thing. But everywhere the feeling exists that such a struggle is near at hand. Probably this country will not see any higher tariff than its present one. Now, therefore, is the time to take the initiative in arranging her trade relations with other countries. Said Lord Beaconsfield recently, when waited upon by a deputation urging him to take measures to compel other countries to adopt reciprocal trade with Great Britain, "To insist on reciprocity with other countries would be impossible now that we have parted with our import duties." Again, last spring a motion was submitted in the House of Lords that in all future commercial negotiations with other countries to advocate a policy of reciprocity between all inter-trading nations; also inquiring into the best means of counteracting the injurious effects of the excessive tariffs levied by foreign nations against the produce and manufactures of Great Britain. This resolution was negatived. In that debate Lord Beaconsfield made still plainer the reasons why Great Britain could not enter upon the proposed policy. He said: "Thirty years ago we had a large number of articles on which there were import duties. There were no such materials for reciprocal trade now. The opportunity had been lost, the means were no longer available, and it was idle to talk of reciprocity as a cure for existing evils."

Will this nation allow its opportunity to be lost? Here is an interest clamoring to have salt put on the free list, another for the registration of foreign-built ships. Both of these, if they are to be complied with, might be used to advantage to the nation in any negotiations with Great Britain.

For these and other reasons, which I will not detain the House by explaining, I believe that the present is the time when it is important that we should move in this matter and that delays will be dangerous. I submit in regard to the subject concerning which I have presented these arguments that I have demonstrated that, in the first place, the general commerce of Canada is of importance to this or other countries, and, in the second place, that the special commerce of Canada with the United States is of value, and, in the third place, that a reciprocity treaty or a reciprocal trade with Canada has been useful to the United States. I deny that the trade or the treaty has been more for the benefit of Canada than of our country, and I refer for proof of it to the figures and statistics. I further claim that even if the latter statement is not correct, and it is a fact that Canada has received more benefit from the treaty and reciprocal trade than the United States, it does not follow that the United States was not benefited by the trade and the treaty. It is a complete *non sequitur* to say that because Canada was more benefited therefore the United States was not benefited, and is as complete as the famous one in the play of Box and Cox:

BOX. Have you a strawberry mark on your left arm?
COX. No.
BOX. Then you are my long-lost brother.

VI.—IS THERE ANY NEED OF EXTENDING OR ENLARGING OUR MARKETS?

It would seem to be a self-evident proposition in the political economy of nations that, other things being equal, the larger the markets of a nation the greater its commercial prosperity; and in view of the amazing productions of all climates in our country the asking of such a question seems absurd. The hearer might reply, as did a distinguished judge to a counsel, instructing him in certain rudiments of the law, that "the court must be presumed to know something." Yet, when gentlemen complacently argue that we do not care for commercial intercourse with a country which in importance stands fifth in our list of foreign countries, it may be useful for them to contemplate the facts for a moment and to consider the above question. As the almost overwhelming tide of emigration rolls in upon our country and our population increases our productions increase, even faster proportionally than the population. Arms and fingers and muscles of steel perform the former work of man and help on the vast totals of production.

For the year 1878 our exports from agriculture alone reached the enormous sum of	$536,038,951
While our entire exports from all sources, including agriculture, for 1878, amounted to	695,749,930
Total exports, less agriculture	159,710,979

The total cereal products of the United States in 1878 were 2,302,254,950 bushels, of the value of $913,975,920.

In 1878 our exports of living animals amounted to $5,844,653; of animals and their products, to $3,422,554; of provisions, to $117,953,481; of bread and breadstuffs, to $181,777,841; of textiles, to $180,143,052.

Total value of our farm products in 1876 was $1,542,194,000; and production of coal in 1878 was 18,275,000 tons.

In 1877 production of rolled iron amounted to 1,476,759 tons, and of steel to 637,342 tons.

The value of cotton exported in 1879 was $10,853,950.

The exports of manufactured commodities for the year 1879 amounted to $89,921,443.

The above are only a few of the statistics which might be cited.

The distinguished chairman of the Committee on Foreign Affairs, in his recent very interesting and instructive work, ("Free Land and Free Trade: The Lessons of the English Corn Laws applied to the United States; by Hon. S. S. Cox, 1880,") thus refers to our great productions and need of enlarged markets:

The thesis of this book is the necessity of enlarged foreign markets for the surplus of production from farm and factory in the United States.

We are rapidly outgrowing the notion that a monopoly of the home market is all we need, and that it would be as well for us if our borders were surrounded by oceans of fire. The fatness of the land is forcing us to broader views; our amaz-

ing natural wealth is compelling us to the alternatives of yielding the policy of selfishness or being choked with our own abundance. * * * Our energy and skill harness every appliance of mechanical force to plant, gather, and garner the amazing result; and it is no exaggeration to say that the value of the direct product aggregates $2,500,000,000 per year. * * * Here is the question: When our land really shows its splendid opulence; when our acreage is increased both for cattle and grain, is the inevitable surplus over the home and foreign demand to remain with us to glut the market?

I say nothing now of our manufactures. These have risen from $44 *per capita* in 1850 to $111 *per capita* in 1870, and there can be no doubt that the want of an outlet for the heavy surplus was one of the leading causes of the industrial distress which began in 1873. With scarcely any increase in the plant, the mills of the country might turn out double and triple their present product. What will be the end of this amazing development of our native riches? Will our surplus go to other nations, carrying benefits and bringing benefits in return, or for lack of those mutual conditions which make trade possible is the flood of good things to be dammed in its passage and flung back upon us to destroy and be destroyed? These are questions which vehemently press for answer.

Every farmer from the Red River of the North to the Teche is interested in them, and not less, if he realizes the true relations of his trade, every manufacturer who has not the fortune to possess a monopoly.

VII.—IS THIS THE BEST WAY TO MEET THESE QUESTIONS?

But even if all the above statements are proved and the importance of the commerce of Canada to the United States is recognized the opponents of this resolution may argue that the appointment of a commission is not the best way to meet this question. But I submit that for many reasons these vexed questions of the commercial intercourse of the two countries, which have so long been disturbing elements between them, can be in no way satisfactorily or permanently settled except by mutual consultation of the two countries through properly appointed and empowered delegates.

MAGNITUDE OF THE QUESTION.

The magnitude of this question has been referred to in the preceding part of my argument and cannot well be exaggerated. The question is so large, and the field is so great, and the interests are so diverse, there are so many different kinds of productions and of manufactures which may be vitally affected in one way or another by the results of legislation on this subject, that it is impossible that the question can be properly considered by a committee of Congress. A committee of Congress has other things to attend to, and is entirely unable to devote all its time to the consideration of great questions so involved and so important as are these. To properly consider and report upon this question of reciprocal trade with Canada will take the most patient and skillful investigation, and will employ months at least of the time of the most industrious experts. It is a task of no small importance and responsibility to look over the whole vast field of the United States, and with due consideration of all the diverse interests of the different States to endeavor to frame a tariff which shall keep in our possession the trade of Canada, while, at the same time, it shall not be injurious to any of the great interests of our own country. It requires no argument to show that if this question is worth a proper investigation, it can only be investigated by a commission especially appointed for the purpose. This commission is necessary for two things: in the first place, to collect facts and statistics and to report opinions, and, in the second place, to ascertain the law which has a bearing upon the subject-matter of this resolution. And a report can only be so satisfactorily made as to give any assurance of its results being permanent by a body of men skilled in the law and experts in regard to mercantile affairs, who shall thoroughly examine all the points, both of law and of fact, relating to this great question.

VIII.—IS THERE ANY GENERAL DEMAND FOR THIS?

If there is no general demand for this, and the people on both sides of the line do not wish for it, it might well be argued that we should not take any steps in this direction in advance of public opinion. But such a ground cannot be maintained.

IN CANADA.

The old reciprocity treaty was repealed in opposition to the desires of the British and Canadian governments, who at the time of the proposed repeal expressed themselves as ready to consult with the representatives of the United States, with a view to the satisfactory modification of the treaty. Nevertheless, the United States, without any such attempt at remedying such evils as existed in the treaty, insisted, for the reasons which have been stated, on its absolute repeal. From that time to the present the Dominion has always been ready and desirous to treat with the United States for a renewal of the treaty in some form. They have always, so far as we can judge of their motives, been desirous to at least amicably consult with the representatives of the United States with a view to the devising of some scheme of mercantile intercourse which shall be satisfactory and advantageous to both countries.

In 1873 the Dominion Board of Trade presented a memorial to Earl Dufferin, governor-general of Canada, expressing a "sincere and cordial desire" for the appointment of a commission to confer with the representatives of the United States for the purpose of negotiating such a treaty of reciprocal trade as would be for the mutual advantage and benefit of the trade and commerce of the Dominion and the United States. The Canadian minister of customs, the privy council, and the governor-general fully concurred in these views. From time to time the Dominion Board of Trade at its meetings has expressed the general sentiments of those who were present, and it is believed by the board that the feelings of the merchants and the people of Canada are represented in a declaration that it is desirable that a treaty of reciprocity and trade on a comprehensive, liberal, and fair basis should be made. It also stated that "it is of opinion that the initiatory steps thereto ought to come from the Government of the United States, seeing that it was by their action that the old treaty was abrogated." So far as is known the people and the representatives of the merchants of the Dominion have not only been willing, but anxious, that some scheme should be devised for bringing into closer commercial contact the two countries.

IN THE UNITED STATES.

In regard to the desire for this in the United States, the words of the report of the committee, which I now quote, can be verified by the most ample documentary evidence and other testimony. It says:

At one time or another the most of the commercial organizations of the country have requested that action be taken in this matter by their boards of trade and other organizations. The merchants of New York, Baltimore, Portland, Buffalo, Milwaukee, Boston, and all other cities have requested that Congress would do to the business interests of the country the justice of at least investigating in a thorough and proper manner whether anything can be done by legislation, and, if so, what arrangements should be made between the two countries. The National Board of Trade has frequently urged action in this matter, and, so far as known, no commercial or representative organization of any kind has ever said a word or presented a remonstrance against it. Indeed it is difficult to conceive how any society or individual could remonstrate against a resolution simply for obtaining knowledge and information upon a subject of the importance of this.

I could make evidence on this point cumulative to almost any extent by quoting resolutions of commercial organizations or letters from distinguished men who have investigated these questions and have an interest in them. I think it is no exaggeration to say that by means of resolutions and in other ways it can be shown that the mercantile interests of the country, either through their organizations or otherwise, never desired an absolute repeal of the old treaty and are in favor of a full investigation of the question whether in some way new commercial relations cannot be organized with the Dominion of Canada. The merchant understands better than any one else that it is a foundation principle of the political economy of nations that one country should find all the markets it can in other countries, and no merchant can be so foolish as to object to the obtaining of information upon this question by the Government of the United States.

THIS QUESTION IMMATERIAL.

This question of the demand by the people for this is, however, really immaterial. If members of Congress are of opinion that the subject is of importance, and that it is for the business interests of the country that this investigation should take place, it is their duty to order the investigation upon their own judgment and not wait to be pushed up to it by the force of public opinion. This is one of those great things in which Congress can afford to lead on instead of being driven by the people and in which it is our duty to act and vote according to our consciences and convictions.

IX.—INJUSTICE AND DISCRIMINATION IN REFUSING THIS INVESTIGATION.

Here are large bodies of most responsible and prominent men who ask Congress—for what? For a treaty? No. For a reciprocal trade with Canada? No. For free trade with Canada? No. For a tariff to be framed with Canada? No. For any law or legislation whatever? No. Merely for information and that Congress will authorize a commission to gather facts, statistics, and knowledge concerning a question of great importance. That is all they ask for, and every thing that can be found in or rooted out of the resolution.

It is simply an investigation in behalf of the commercial interests of the country. How can Congress refuse such an investigation? Investigations in behalf of commercial interests have been very few; and it will be difficult for members to recall or name them. Committees have been appointed to inquire into almost every other interest under the sun. Great expeditions have been organized at immense cost to find out the solution of the apparently useless question of the existence of the North Pole. Many years ago an expedition or commission was appointed, and a large and very costly book published about it, to explore the river Jordan and the Dead Sea. To give a statement of the investigating committees and commissions and of what they proposed to accomplish for the last twenty-five years would require a book in itself. Upon what possible plea can Congress refuse this very modest request of the merchants of the country for information, when time after time and on occasion after occasion, however frivolous, they have been willing to appoint committees (perhaps to travel over the country at great expense) for investigating merely political questions?

The history of political investigations would make a long chapter. The history of commercial investigations by committees or commissions would make a very short one. I repeat, therefore, that to refuse this investigation would be an injustice and a discrimination which could not well be apologized for or excused. It will require very little expense to pay the salaries of this commission and other incidental expenses, but if it required a very large expense the appointment of a commission would still be justified.

X.—ARE THERE ANY OBJECTIONS TO THE RESOLUTION?

Let us consider very briefly a few of the principal objections, mostly sentimental, which have been urged against this resolution. It will be found on an analysis of these objections that hardly any of them are objections of fact, and that most of them are of feeling and sentiment. Now, I submit that this is not a question for sentiment. It is simply a plain, practical dollar-and-cent question of what is for

the financial and commercial interests of this country, without any regard to our sentiments of friendship or hostility concerning Canada.

FEELING OF HOSTILITY TO CANADA.

It is claimed by some that we should not show any humility or weakness, as they are pleased to call it, concerning Canada, and that it shows a disposition to "back down" for us now to consider the question of treating in any way with the Dominion. It is true that some of the relations of Canada to the United States have been most unsatisfactory. Bitterness of feeling grew up in this country against the Dominion of Canada during the civil war, which feeling has never wholly died out. The fisheries question has always been an open and disputed one between the two countries, and has lately imbittered still more, and for the most just reasons on our part, the two countries against each other. I shall briefly refer to that question in a few moments. The two countries now, commercially speaking, stand in a hostile attitude to each other. All the treaties are abolished or are probably to be abolished in regard to commercial matters. The two nations occupy a position somewhat similar to that of two boys standing opposite to each other, with their fists doubled up, scowling at one another, refusing to speak, and each with a chip on his shoulder which he requests the other to knock off. The question is, who will speak first, and the feeling seems to be that the one who speaks first shall be regarded as a coward. Now this is all very well between boys, or even men, but two great nations cannot afford to maintain this undignified attitude, and it cannot be maintained for any length of time, because, sooner or later, these vexed questions must be in some way settled, and will be settled.

It is true we have been sadly disappointed with the results of some commissions and pleased with the results of others, but when two nations occupy the present attitude of Canada and the United States the only way to do, and the way which must sooner or later be taken, is for them, by a commission or otherwise, to mutually consult and see if these grievances cannot be adjusted. Dumbness on either side will not do any good. Canada is not foolish enough to think for a moment that we approach such a discussion from feelings of weakness or fear. If there is to be a war of tariffs, we can whip Canada in every respect, to put the truth in the plainest language. Canada understands that, with our vast extent of territory and our vast foreign commerce and the great number of countries we have to supply, she is not in the slightest degree a necessity to us, though she may be an advantage; and she also fully understands that, peculiarly situated as she is, the United States are to her, as it were, a mercantile necessity, and that if the United States are shut off by barriers from her great suffering must result to her people. If Canada insists on a contest we can give it to her to her heart's content. Her writers and her speakers, her government and her press, understand this thoroughly, and some of them have ridiculed in stronger terms than we could use the idea of Canada's fighting with the United States. At present we can afford to treat Canada with that good humor with which a great power treats a small one, and if she pushes her hostility to us to the point at which it becomes too troublesome, then Canada will be made to understand that we can injure her to a far greater extent than she possibly can injure us, and that what means only injury to us would very likely mean financial ruin and disaster to her. The contest is not an equal one, and we can afford, as the leading power, to make overtures to Canada to secure amicable trade relations if possible.

For instance, it is of great importance to the Dominion to retain her carrying trade on the ocean, and she has a large trade of this kind employed in bringing sugar to American ports. Suppose Congress should reduce the duties on all sugars brought to our ports, provided they were not brought in Canadian vessels. Or suppose it should reduce duties even to a small extent (which would make no great difference in the revenues or protection) on other articles brought to us by American vessels, which proceeding would at the same time hurt Canadian vessels and benefit us by fostering our shipping interests. Suppose the contest as to the fishery question goes on, and we put prohibitory duties on fish; or that in numerous other ways which can be pointed out, and will suggest themselves, we enter upon a tariff or commercial war with Canada; can any Canadian doubt that we can push her to the wall? Our Canadian brothers might as well recognize the fact first as last that we do not propose to be dictated to, but that we are amiable enough and, to tell the truth, have enough self-interest to desire friendly commercial relations; yet, if the necessity arises, we can destroy those relations and still be a prosperous country. It will be unwise in us, and I think that we all recognize the fact, unless forced into it by Canada, to allow any feelings of hatred or feelings of dislike for our Canadian brethren to stand in the way of an attempt, at least, to have harmonious commercial relations between the two countries.

DESIRE TO FORCE ANNEXATION.

I have heard prominent gentlemen, who have investigated this question to some extent, say that they were opposed to having commercial relations with Canada, because if those relations were entirely destroyed and Canada thereby put into a position where she must suffer greatly, if not meet financial ruin, she would therefore be ready for annexation, and the territory of the United States might be extended northward, so that its boundaries would be three oceans. I do not believe that this argument would have any weight as against the resolution. I do not believe that the people of this country have yet arrived at the point where they are prepared to say that they desire annexation. I am doubtful whether Canada has yet arrived at the condition of prosperity in which she will not become to us more of a burden than of a benefit. Her debt has been and is increasing out of all proportion to her population. Her debt in 1867 was $75,728,641, while in 1877 it was $133,208,694, and it is estimated that in 1881 her debt will amount to $170,000,000, in 1891 to $250,000,000, and 1901 to $300,000,000. The total debt, including what is due on existing contracts, is about $200,000,000. Her financial showing is not a favorable one. While the balance of trade since the union of the provinces in 1867 has been against the Dominion to the amount of $229,696,336, during the same time her public debt has been doubled and the taxes on account of the general government rose from $13,486,092 to $24,488,372. The interest on the public debt is about $7,000,000 per annum, and the state of the finances is such that additional taxes will have to be imposed in a short time.

So, I submit, in the first place, we are not prepared to say that we want annexation, and that question is one of grave importance, requiring careful consideration; and, in the second place, there is no evidence as yet that Canada is prepared for or desires annexation; and, in the third place, it would seem that a desire for annexation would be fostered more by building up commercial relations and friendly feeling and brotherly love between the two countries than by turning them into bitter enemies. It is certainly a new axiom of human conduct as well as of political economy that to make two men friends and brothers the best way is to cause them to hate each other as much as possible.

FEELING AS TO THE FISHERY QUESTIONS.

As to these questions I shall speak briefly hereafter. Suffice it to say that there is neither logic nor reason in taking the ground that because we have been wronged therefore we will not speak to Canada nor have any consultation with her whatever in order to see if these commercial difficulties, as well as others, cannot be settled.

OBJECTIONS TO THE FORMER RECIPROCITY TREATY.

As I have said, these objections are not pertinent here and are not entitled to the slightest weight. I only refer to it again under this heading because this argument against the former reciprocity treaty is constantly pushed forward with wearisome iteration as the stock argument against this resolution.

ARGUMENT THAT IT IS IMPOSSIBLE TO AGREE.

Another objection that is raised is the weak and despairing suggestion that there is no use in trying this thing, because nothing can be accomplished and it is impossible to agree. The advocates of this doctrine are afraid to attack the question and propose to lie quietly down and give it all up, let the commerce of the two countries drift on wherever it may, and trust to fate. They propose to follow the Turkish plan of crossing their arms and rolling up their eyes and saying, "It is fate." Perhaps it is impossible to agree; but it certainly is worth the while to make the attempt. If all great questions before Congress are to be laid helplessly aside with the reflection that it is impossible to do so great a work we might as well give up all attempts at legislation or at the management of the interests of the country. We do not know that something cannot be done until the attempt has been made; and there is every reason to hope that something at least can be accomplished in the direction of reciprocal trade.

Between a complete arrangement for reciprocal trade in all articles and the present condition of trade there are many intermediate steps, and it may be that if we can only take one of these steps to bring around trade in only one article it may be an advantage to our country as well as to Canada. Mr. Ward, in his argument in the House of Representatives, May, 1876, spoke as follows:

> It ought not to be difficult to agree upon the basis of a common tariff on all articles, such as silks, laces, brandies, wines, jewelry, &c., the importation of which is taxed only for revenue and in regard to which no irreconcilable differences of politico-economical theory arise, or to determine the terms of an equitable division of the revenue collected from them in common. If this only were done the most extensive smuggling, from which the revenue of the United States suffers, would be stopped and our public Treasury would be the gainer by many millions. Some, at least, of the manufactures and raw products of each country could be admitted to free exchange with those of the other.

It is hoped, and it is reasonable to suppose that by a full examination by the representatives of the two governments, some common ground, at least as to some articles of commerce, might be found.

XI.—THE FISHERY QUESTION.

The argument is made against this resolution from prominent quarters that it ought not to be passed while the fishery question is in abeyance, but I submit that this is one of the very reasons why it ought to be passed. Ever since the formation of the two governments this has been the great question in dispute between the two countries, and several treaties have been made concerning it. The Washington treaty of May 26, 1871, for twelve years, expires in 1883. I need not refer to the present position of the fishery question. It is not worth the time to discuss the past difficulties. The question which confronts us is, how to meet and get rid of the present difficulties. The substance of the Washington treaty was this: that United States fishermen should have the right to shore-fishing in the provinces, while fish-oil and fish of all kinds should be admitted into each country free of duty.

The considerations urged were our having the right to fish and their

having the right to sell fish to the United States free. Our rights have been infringed, and the people of the United States naturally feel indignant, not only at the exorbitant price they have been compelled to pay under the decision of the commission, but at the invasion and denial of their rights, as shown by the Fortune Bay outrages. Every man, at least on the American side of the line, believes that a commission which obliged us to pay $5,500,000 for the right to fish in those waters committed an outrage. It seems apparent, even on the most superficial view of the question, that we ought not to have paid anything, and that the Dominion in regard to this fishery question has received from us much more benefit than it ever gave. It seems to be demonstrated as clearly as statistics, mathematics, and reason can demonstrate it that a balance of the benefits from the fishery trade and from the intercourse between the two countries on account of the fishery was very largely in favor of the Dominion, and if any money, equitably or honestly, ought to have been paid, it should have been paid to the United States. I think that we are justified in feeling that we have not had fair treatment, and if the unwritten as well as the written history of that commission is to be believed, that in regard to the formation of the commission and to its proceedings and its mode of estimating damages and the way in which it figured up those damages and afterward changed the figures and arrived at its final results, and in fact in all its doings, we were, to put it very mildly, overreached; a vigorous use of language would allow us to say that we were swindled.

It certainly has the appearance of being what in border phrase would be called a "put-up job." I believe that at the earliest possible moment compatible with our national honor, which is bound to the observance of treaties according to the terms thereof and law applicable thereto, retaliation should be made by means of duties on fish brought into our market. If the treaty was unfair, and we have been wronged by being obliged to pay a large amount of money, which we ought not to have paid, and now (besides paying the money) are prevented from fishing freely where the treaty gives us the right to fish, we ought, having those disadvantages, to secure for ourselves benefits by abolishing the treaty and retaliating upon the Canadians. Where, then, do we now stand? The two nations stand facing each other with this fishery question undetermined, the right to fish in Canadian waters taken from us and the right to sell fish in our markets taken from them, or that is the position the two nations will occupy if the present propositions are carried out. In other words, the two countries stand entirely independent of each other, with all the work of agreeing upon propositions of trade to be done over again and with the necessity of making, if possible, some arrangement. This is purely a question of money and not of feeling.

If it can be demonstrated that this fishery question should not be settled, but should remain permanently in its present condition, and that the two countries as to fish and fishing-grounds can stand entirely independent of each other, and each leave the other to enjoy merely its own independent rights, then no other negotiation is necessary; but I assume that this is not the case, and that it is desirable in the interest, perhaps even of peace, and certainly in the interests of commerce, that this question should be determined. How shall it be determined? Certainly it cannot be determined by the two nations facing each other and abusing each other. Certainly it cannot be determined by the two nations standing up and calling each other by hard names, and shaking their fists at each other. Certainly it cannot be determined by the two nations turning sulky and absolutely refusing to consider any propositions or to make any approaches. The only way in which it can be determined is by another attempt through representatives of the two countries to agree on some common basis of commercial trade.

A new government has come into power in England, and one which, it is believed, will meet this question in an open and manly way; and this fishery question, in my opinion, offers one of the strongest reasons for the desirability of a commission. How else can you settle it except by an investigation and by a commission? Both governments have not the power of talking and consulting as governments except through commissions or through other mouth-pieces. The officials of the governments can themselves only investigate through commissions or other officials. Sooner or later this plan must be adopted; and is it not better to move in this direction at the present time, and to now endeavor in this critical position of affairs to obtain some thorough, well-digested, and, it is hoped, some permanent scheme for enabling the two countries, as to their fishery and other commercial questions, to live together in harmony?

XII.—ARE THERE ANY LEGAL OBJECTIONS TO THE PROPOSED RESOLUTION?

I shall refer very briefly to the objections of this nature which have been urged against the resolution under discussion. In the first place, the complete answer to all such objections is that this is only a resolution for information and inquiry, and if any lawyers in this House can show in the Constitution or the statutes any reason why it is improper or illegal to obtain knowledge or information I should like to be informed of that statute and that article in the Constitution. One of the very objects of this commission is to ascertain if there are any such legal objections, and to examine thoroughly into all the aspects of the case. This consideration, I submit, disposes entirely and at once of all legal objections to the proposed resolution, but I desire to refer briefly to the principal objections of that nature which have been made. It has been claimed that a reciprocity treaty with Canada cannot be made, because a treaty can only be made by the President and the Senate, whereas all revenue matters or matters affecting tariff are exclusively within the jurisdiction of Congress. The treaty-making power consists of the President and Senate, the law-making power consists of the Senate and House and President, the latter having only the power of signing or vetoing bills. To the treaty-making power belongs exclusively the power to make treaties, and to the law-making power the power to make tariff laws. Hence it is argued that the treaty-making power cannot affect trade by means of any tariff provisions. This question may be, under some circumstances, of great importance; and as you approach it, it expands to such an extent that to properly treat of it, historically, legally, and otherwise, would require a book of itself. The distinguished gentleman from New Jersey, [Mr. ROBESON,] who is a member of the committee reporting this resolution, suggested at a hearing before the committee that these questions might well be treated under the following heads:

1. Is the treaty-making power of the President and Senate exclusive?
2. Is the revenue power of Congress of such a nature as to give it exclusive power over this subject?
3. Is a reciprocal arrangement necessarily under the treaty-making power?
4. If the treaty-making power is not exclusive, is it restrained by the necessity of action by Congress upon any subject which affects the revenue?
5. Are these two points co-existing? That is to say, may the treaty-making power act, and are all treaties referring to subjects in the power of Congress, however complete in themselves, subject to the subsequent action of Congress?
6. Is the action of Congress subject to the treaty-making power?

It will be seen that a full discussion of this question in all its bearings would expand this argument to an extent incompatible with the ordinary limits of a speech in this body, and would require much investigation to consider in a satisfactory manner. It seems to me, however, that there can be no doubt upon this question; that the treaty-making power cannot directly or indirectly infringe upon or interfere with the law-making power. The treaty-making power has certain specified rights and the law-making power other specified rights, and each is independent of the other. The treaty-making power cannot do indirectly what it cannot do directly, and if the right to impose a tariff on certain articles belongs exclusively to the law-making power, it is clear that the President and Senate cannot by any mode change or affect the tariff on those articles. If the converse of the proposition is true, it leads to most absurd results.

If by means of a reciprocity treaty or any treaty with a foreign country the treaty-making power can provide that a tariff shall be of a certain amount on certain articles, it can thus provide a tariff for all articles. All our tariffs come from trade with foreign countries, and the President and Senate, by means of treaties with these foreign countries, could thus fix the tariff on all possible articles coming into this country and make up an entire tariff schedule. Nay, more, if the treaty-making power could do this, why could it not, whenever it might be done by means of a treaty, establish what the amount of our bonds should be or how they should be issued or what percentage of interest they should pay; make navigation laws for our country; enact in treaties emigration laws, at the request and by the consent of foreign governments interested in these questions, (because emigration is coming to our shores by hundreds of thousands,) or provide as to the mode of the settlement of our public accounts, and in fact act as a law-making power, and include in its own powers almost the whole field of legislation? Without going at further length into this question, I do not believe that the treaty-making power exclusively can affect the tariff and, by means of the tariff, the trade with foreign countries.

I submit, however, that this question is of not the slightest importance here. It has never been proposed in the discussion of this resolution to have the treaty-making power exclusively take charge of this question, otherwise this resolution would not be pending in the House of Representatives. The question does not arise in any way in this discussion. Suppose a scheme of reciprocal trade can be devised between the United States and Canada; you may entitle it reciprocal trade or a reciprocal treaty or a reciprocal tariff, using whatever words you choose to describe the scheme or the means of carrying it out. If it shall be framed as a reciprocal treaty, it has never been desired that such a treaty should be carried out and made law by the treaty-making power, without the consent of the House, and certainly it cannot be claimed that if the House and Senate concoct this tariff scheme and formulate it into the shape of a treaty or other law such a treaty or scheme may not be made by the consent of the Senate, the House, and the President. The law or treaty would then be made by both the treaty-making and the law-making powers. This would at once remove all questions, and this is all that is intended, and the House *ab initio* in this resolution becomes a party to the proceedings. But, again, no question need arise, because this necessarily need not be a treaty.

Suppose that this commission reports a certain tariff scheme of reciprocal trade, and that that scheme is formulated into a bill and presented to Congress for its action. Congress by the consent of the President passes this as a tariff or trade bill, and it contains a section or proviso that it shall go into force or effect only when a similar bill, which formulates the same scheme, shall be passed by the British Parliament or the Dominion of Canada, and shall continue in force only according to the terms of the same joint scheme. This bill

would have the consent of all the three departments of this Government, and would embrace both the treaty-making and the law-making powers. No one can contend for a moment that such a scheme would not be perfectly lawful. In fact this whole objection is the merest criticism on words. It would be applicable and applicable only if it was intended to try to get from the Senate and the President a reciprocal treaty without the concurrence of the House; but the converse of the proposition being true, the argument is utterly worthless and falls to the ground. If, however, this question shall become of importance, it is one of those great questions which we desire the commission to investigate and report upon. They will report upon the question how, if they can agree on any mutual system of trade, it shall be formulated into law. They may find it necessary to fully investigate and report upon these legal questions, but as objections at this stage of the case they have no weight or force.

"FAVORED-NATIONS" CLAUSES IN TREATIES.

The only objection remaining which I wish to consider, and to which I shall very briefly refer, is the above. It has been claimed that it is impossible for us to make any system of reciprocal trade with Canada, because under the "favored-nations" clauses in treaties we should be obliged to give the same advantages to other countries as to the Dominion of Canada. It may be said in reference to this proposition that the position of Canada is an exceptional one, and, giving the strongest construction to this clause in treaties, the utmost that can be claimed is that any nation shall have precisely the same privileges as any other nation. Now, suppose that we make a treaty of reciprocal trade with Canada on account of her peculiar position, her peculiar relations of commerce and of transportation, or otherwise, or on account of the returns which she can make to us in regard to her fisheries, &c., and these peculiarities of condition and of compensation and of intercourse are the cause of the treaty. Certainly no other government can claim an equal privilege unless she can show the same conditions and offer the same privileges that Canada does. For example, because we want from Canada the right of fishing, and for this as well as for other purposes make the treaty, France and England cannot claim the same tariff on their articles, unless they give to us the same consideration, namely, the right of fishing and such right under the same circumstances and on the same fishing-grounds, or unless they can show they are contiguous to our border, with the same mutual advantages of railroads, water communication, and the same need of each other, and the same dependence on each other. This treaty will not depend on the mere question of the tariff, but on all questions of intercourse between the two countries. I do not beg the question, as I might by saying that these treaties have heretofore been made, and that it has never been claimed that treaties made from peculiar circumstances, or for reasons particular and individual to countries, can be shared as to their advantages with all other countries. For example, we made the duty on fish free to the Canadians because as a consideration we received the right of fishing in Canadian waters. Can France, England, Germany, Italy, or the Hawaiian Islands come in under the "favored-nations" clause and say that we are therefore bound to make the duty on fish free for them? Such an argument cannot be maintained for a moment, and if urged we can reply to those countries that they are perhaps entitled to the same rights as other countries and are under the same obligations as other countries, and that when they can do for us just exactly what Canada does in consideration of a treaty; when they can give us the important rights of fishing, of trade, the same intercourse, the same communications, and, in a word, can be to us what Canada is and can give to us the same compensation that Canada can, then each will have made out her right under the "favored-nations" clause. Therefore, I submit that in theory, law, reason, and in practice this doctrine does not stand in the way of some scheme of reciprocal trade with Canada. It may be said in addition, as I have before stated under another heading, that this scheme is not intended to be necessarily formulated into a treaty. It may be formulated merely as a tariff law, passed by Congress, in return for a similar tariff law passed by the Dominion of Canada, and thus this question might be avoided. But I am willing to place it on the broadest ground, that under the strictest construction of the above clause in treaties such a scheme of reciprocal trade with Canada as contemplated by the resolution may be carried out. In any event, here is another of the complicated questions which we desire to have examined and thoroughly discussed, and which can be so examined and discussed by a commission.

The importance of this subject is my apology for discussing it so much at length. These questions, affecting the commercial interests and the friendly relations of two great countries, are of no trifling importance. They are worthy of the careful, patient, and unprejudiced consideration of the people and of Congress. Few questions of more importance and having a more direct bearing upon the interests of all classes of our citizens, whether producers or consumers, whether farmers, merchants, manufacturers, or laborers, have been presented for the action of the present Congress. This question demands from us a decision upon its merits, and that we, regardless of prejudices or local interests, shall decide it according to the best of our judgment as to what the interests of the country and of the people, as a whole, demand. Such full and impartial consideration I hope this subject will receive from this House, and, receiving it, I believe the resolution under consideration will be adopted.

Refunding of the Public Debt.

SPEECH OF HON. H. B. WRIGHT,

OF PENNSYLVANIA.

IN THE HOUSE OF REPRESENTATIVES,

Monday, June 7, 1880,

On the bill (H. R. No. 4592) to facilitate the refunding of the public debt.

Mr. WRIGHT said:

Mr. SPEAKER: I cannot agree with my distinguished friend from New York, [Mr. FERNANDO WOOD,] chairman of the Committee on Ways and Means, in his conclusions upon the funding bill, which he has reported to this House. But, sir, while I differ from him as to the policy of the measure, I will not withhold from him honesty of purpose, and I award to him full credit for the *exposé* he has made in his remarks upon this floor, in which private interests have subordinated the public welfare. He has shown the pitiful and abject condition of our Government in the presence of the Rothschilds, the Morgans, and Seligmans, of the London Exchange. The cost to our national Treasury by allowing these satellites of imperialism to control and manipulate our financial affairs, with the consent and approval of the Cabinet at Washington, is well calculated to create alarm, and arouse the angry spirit of the nation. So far as the honorable gentleman's remarks lay open this vicious line of State policy, and expose foreign influence in our domestic affairs, I tender him my thanks in the name of our common country.

But let him not indulge in the delusion that we have reached the great desideratum of specie resumption. It is absolutely idle and preposterous to suppose that resumption has become a fixed fact. As the word implies, its meaning is to be accepted in the ordinary way in which the term indicates. Resumption of what? Resumption of legal-tenders? That covers but half the ground. It may be said that so far as legal-tenders are concerned, it is partial resumption. So far as the bank issues are concerned, it is absolutely nothing. There is no provision by law which compels the banks to redeem their paper over their counters, when presented, in gold or silver coin. Legal-tenders in circulation amount to some three hundred and fifty millions of dollars; the bank issues some four hundred millions. The specie-resumption law applies only to legal-tenders, not to bank circulation.

That we may understand this matter fully, I read the statute, that there may be no mistake. If there is any candid man who will conclude that this statute means general resumption, in the common sense in which we all understand that term, then I surrender the argument. But here it is; look at it; examine it. By the act of January 14, 1875, it is provided—

That on and after the 1st day of January, A. D. 1879, the Secretary of the Treasury shall redeem, in coin, the United States legal-tender notes then outstanding on their presentation for redemption at the office of the assistant treasurer of the United States, in the city of New York, in sums of not less than $50.

And this is that famous specie-resumption law which is claimed to be the panacea for all our financial troubles; the promise of hope to the industries of the country; the sure and certain remedy that was to re-establish languishing commerce, start from their long silence the revolving wheels of the manufactories, give good wages and constant employment to the laboring-man, afford the prospective means to pay personal, municipal, and national debts, give new life and impart new energy to all our people. Such were the promises made in behalf of this celebrated myth, this misnamed and miserable abortion, that was ushered into the world, nursed on false promises, and clothed in the flimsy political robes of the Secretary of the Treasury. "What is it?" The twin brother of the other half which the "great showman" once had in his museum of natural curiosities. The merchant of San Francisco may transmit $50 of legal-tender notes to the assistant treasurer at New York and have them exchanged for coin. The holder of $49.99 has not reserved to him that good fortune! And all of that immense number of smaller dealers, laborers, and mechanics, who may never have $50, are without the benefit of this beneficial law. What of the four hundred millions of bank currency? What we used to understand by specie resumption in the good old days of the past was a compulsory process on the banks to make them pay coin over their counter on the presentation of their notes. This law relieves the bank and puts the great privilege of changing legal-tenders into coin in the hands of capitalists.

But resumption had become a law, and it became the duty of the Secretary to make the necessary arrangement to carry it out. The law providing for resumption was passed January 14, 1875, to take effect on the 1st of January, 1879. The Secretary commenced at once the redemption of greenbacks, though he had four years before it was necessary to have the coin in the Treasury. My learned friend says that it cost the Government $13,408,744 to redeem $6,000,000 of legal-tenders. This, of course, takes into account the interest lost on the coin received from them which lay dormant in the Treasury for the four years before the resumption, and lies there now. In this transaction there was a premium virtually paid, in coin, of $7,408,744 to get out of the way $6,000,000 of legal-tenders.

The next movement upon the part of the Secretary was the employ-

ment of English agents in New York who represented the Rothschilds, Morgans, and Seligmans to negotiate United States bonds to raise money preparatory to resumption, and this nearly two years in advance of the 1st of January, 1879, and for which service he paid these gentlemen a commission of $602,155. The object of the Secretary seems to have been, and is now, to see how much gold and silver he can accumulate in the Treasury as dead capital and how much legal-tender currency he can destroy. But a few days ago he had the assurance to ask Congress to let him have a hundred thousand dollars to erect vaults to contain it. He has now hoarded up some two hundred millions of gold and silver. Would it not be the part of wisdom in some way to get this out of the Treasury and call in a like amount of bonds? Would this not lighten the heavy hearts of the industrious people of this land who are now crushed to the earth with the burden of taxation? The time is close at hand when all this will be necessary for such a purpose. But in the eyes of the Secretary the legal-tender note and the silver dollar are more terrific than the ghost of Banquo to the eyes of Macbeth. The creditor with whom the Secretary has occasion to deal tells him that although the silver dollar is a legal-tender for his debt, it is cumbersome to carry, and he would not prefer to take it. So the honest, kind, and indulgent official permits him to have things his own way. He will erect more vaults and bury the coin. How it would delight the Secretary to bury up in vaults so deep that resurrection could never reach them all the greenbacks of the country; and how his Wall street companions would rejoice in the achievement!

But let me refer to the other feature of the grand resumption scheme. There is a small institution in the city of New York known as the First National Bank of that city. It has a capital of $500,000. Here is where the Secretary keeps his accounts. It is his financial agent in the sale of bonds. Its sales amount to $400,449,050. It has received large commissions. According to the sworn statement of the cashier of this highly favored institution on the 20th of June, 1879, among its "resources" were United States bonds in the sum of $129,152,740. This may probably be bonds on hand for sale. But what demands our attention in this statement is the fact that there is due the Treasurer of the United States "one hundred and twenty-eight millions one hundred and nine thousand and seventy-one dollars and four cents." What a comfortable balance to do business upon! What profits to divide! It is said that this little, obscure bank, with a capital of half a million, came into the hands of the present owners with the advent of the present Administration. And who are the owners?

But let us pursue the cashier's statement: "Surplus, $1,000,000; profits, $579,018.88." Add to this the dividend of the year, $125 a a share, or $25 more than the par value of the stock. "Discounts, $2,081,959; specie, $1,382,434.41." The cashier, in his report to the stockholders, may well say "that it is with much satisfaction we hand you herewith the statement," &c.

This small, pet establishment of the Secretary is a wonder to the world. What a "foster mother" he has been to it! Where in the history of nations has been found a parallel? Over a hundred and twenty-eight millions of the Government money placed in an irresponsible banking-house with a capital of half a million. Profits $79,000 in excess of its capital. And who were the recipients of these immense sums? The stockholders, of course. And who are they? Such exposures as these are enough to make the country sick at heart. More bonds is the cry. It is the story of the horse-leech over again: "Give! give!"

Is the idea to be entertained for a moment that all this favoritism is voluntary; that there is no strong motive moving? Can the subject stand the favorable criticism of a nation of intelligent men? Shade of Hamilton! If the spirits of the dead are permitted to return to earth, would the spirits of those departed who have stood guard over the nation's treasure dare to raise the veil? Would the lord of the English treasury defy the British nation in making a few small men, and smaller means, the custodians of the British treasure? Have we no laws to curb the will and restrain the purpose of those in power who permit mendicants to become the recipients of the nation's property, and thus defeat the welfare of the aggregate masses—those who do the labor and produce the substance that preserves the nation's life? Is it the policy of the country that the road to office must necessarily be the road to riches—that office and wealth are synonomous? It is the fall of Rome over again.

Like causes produce like results. Are our people blind? Do they not see? Will they not give heed to the strange things which every day obtrude their disgusting features upon them? Are they not aware that every appliance of power, every means of strategy that can result from the practice of "ways that are dark and tricks that are vain" are used as weapons to obliterate and destroy the best currency that any country ever had—done not in the hope or wish to benefit the industries of the country but to enable the broker, the banker, and the bondholder to amass fortunes at the sacrifice of the best men of the nation? What petition came up to Congress asking it to be the executioner of the legal-tender currency? Who, outside of Wall street, suggested to the ear of the Secretary that the legal-tenders must be destroyed; that the silver dollar was a fraud? For whose benefit is it that the great office he holds should be administered? Is it Wall street's, or the whole American people's? There is no official act emanating from the Treasury touching the currency of the country that is not directly opposed to the industries of the country and for the benefit of a moneyed monopoly. Call you this equality?

And this system of unrelenting war upon the currency of the country has reduced its volume from some eighteen hundred millions to three hundred and fifty millions. The bludgeon is now in the hands of the Secretary and his Wall street satellites to brain the legal-tenders that have survived the crusade and lock up and conceal from sight the silver coin of the country. And unless the people, the hard-working people—the mechanic, the artisan, the manufacturer, the producers—unite with spirit and determination to oppose this wild scheme, two years will not pass around before every greenback dollar will be converted into an interest-bearing bond. This is the policy of this Administration. It is not concealed. It is proclaimed from the Executive Mansion, it is echoed back from the Treasury, and re-echoed from the shops of the Rothschilds, Morgans, and Seligmans in Wall street. The cry is, the greenback must be destroyed. It has the doom of Carthage, unless the good sense of the people shall stay the ebbing tide.

Mr. Hayes, in his message to Congress on its assembling in December last, recommended the withdrawal of the legal-tenders from circulation. But what party henchman of his had the courage, in the Senate or the House, to indorse the doctrine? They were afraid to consummate the obnoxious scheme which would substitute three hundred and fifty millions of interest-bearing bonds in the place of a like amount of legal-tender notes that bear no interest. The serried wall of forty millions of people was between their fears and their wishes. Like the cat in the adage, they would but they dare not. And so that message, like all feeble offspring, lies in its swathing bands on the Speaker's table of the House of Representatives. What objection, pray, had Mr. Hayes to the legal-tender dollar? Who communicated to him the great and profound conception that a bond bearing interest was to be preferred to a legal-tender note that did not?

Our people have become attached to the greenback currency. They know that it is good; for, in the language of the late Secretary Chase, it is "a small slice of the nation's credit." And why, in the name of Heaven, is it that this continual war of extermination must be waged against it? Ask the agents of your Rothschilds; ask the banker; ask the stock-jobber; ask the bondholder, and you may learn the reason. They can inform you. And is it the policy of our Government to permit the opinions of these money-changers to be the guiding star in the financial firmament? And when will this war cease upon the part of the Government to destroy a currency that the people worship? How long will the crocodile monster continue to destroy its own young? When will it cease? When such men as occupy the White House and the Treasury building cease to become tenants; when men come into power who will listen to the business men of the country; when the power of money shall cease to be the political power of the State; when monopoly shall be compelled to stand in the background, awed by the faces of indignant men; when equality shall assert its rights and the tiller of the soil shall be acknowledged to be the peer of the bond-holder, then will the legal-tender be at ease and the people happy in its enjoyment. But for this continual tirade and the destruction of our currency by the million, funding bills would not have been necessary. The State would have flourished; but as a consequence the banker and the bondholder would have made less money. Taxation would have been less, and prosperity greater.

But, sir, with all our disasters through bad management, to give it an apologetic name, can we not get along without the issue of another bond? Cramped as the nation is—borne down with its heavy loads—there certainly is no necessity now, nor need there be with wise legislation in the future, any cause to increase our bonded debt. Let us see. The funding bill presented by the Committee on Ways and Means proposes to meet so much of the bonded debt maturing in this and the succeeding year as may not be canceled in the mean time by the issue of new bonds bearing an interest of 3½ per cent. This is a measure of the last resort. When a debtor has not the means to comply with his contract, his only alternative is to crave an extension of time. It is a sure indication of inability to comply with his engagement, for if he had the means available he would not require further time.

Has the Government no available means in the Treasury to meet the maturing bonds? Has Congress the power to provide by legislation the way out of the dilemma? These two propositions I will discuss.

On the 1st day of December next there will fall due $18,415,000. There need be no funding to get rid of this sum. The Secretary has in his vaults more than three times this amount in solid silver dollars, made legal tender for all debts the Government owes.

On the 1st of May, 1881, there will fall due	$508,440,350
On the 30th of June, 1881	254,392,550
On the 1st of July, 1881	823,800
Total	763,656,700

This is exclusive of the amount due on the 1st of next December, namely, $18,415,000. With the surplus of coin in the Treasury, which is over $200,000,000, at least one hundred million of this may be applied to the payment of maturing bonds. Of the three hundred millions

of revenue which will flow into the Treasury during the fiscal year, at least one hundred million of this may be applied to the payment of bonds. So much for the cash in the Treasury and which will be derived from revenue by the time of the June demands.

What, then, can Congress do to bridge over as to the remainder? I quote from the language of my honorable friend the chairman of the Committee on Ways and Means, [Mr. FERNANDO WOOD,] which will explain fully how Congress can if it will put a stop to the necessity of issuing bonds. He and I may, however, differ widely as to the question of the expediency of withdrawing the bank-note issues and the substitution of legal-tenders in their place. The country is ready for this, and could the measure be submitted to a popular vote it would be about as decisive as the vote of California on Chinese immigration—154,000 to 800. Mr. WOOD says:

> The national banks require now as security for circulation about $370,000,000, and this source of investments for Government bonds is constantly increasing as business increases. The rate of increase in banking circulation is about $2,000,000 a month, so that it may be fairly estimated that the total on deposit for that purpose alone will be about $400,000,000 by the commencement of 1881, which, with those held as security for deposits and as investments, will need from present indications about $100,000,000 more. The reasonable probability is that they will avail themselves of the opportunity to sell all the United States bonds on hand at the premium offered, and replace them with the new three-and-a-half percents to be obtained at par. This will sink full three-fifths of the whole amount of the three-and-a-half bonds to be issued, leaving but a comparatively small amount for other investments.

If the statement made is correct, and there is no reason to question its reliability, then we have an amount of money that may be made available of more than half of the bonded debt of the nation maturing in the present and succeeding year. Are the bank issues of currency a better kind of money than the legal-tenders, or greenbacks, as they are most commonly known? It is hardly to be supposed that any one will have the assurance to assert this, unless he is a bank shareholder. Why should this Government pay a bonus of some twenty millions to the banks? I dissent entirely from the gentleman's ideas when he speaks of the holders of bonds left with the Treasury exchanging them for three-and-one-half percents. Let them take legal-tenders in exchange for their bonds and surrender their own issues. In this way, if the statement of the honorable chairman be correct, there would be five hundred millions available to meet the bonded liability maturing in June and July, 1881.

I am aware that with the large number of bank presidents and bank share-holders in Congress it will be a desperate battle before they will surrender. But, sir, this will not discourage me in the effort to carry out this measure of reform, because I am thoroughly convinced that a vast majority of the business men and producing classes demand it. And, sir, what voice should govern and direct the members of this Chamber but that of the constituency? What have bankers, brokers, and bondholders to do with the action of this body? Why are they more potent than the farmer, the manufacturer, or the day laborer? Who clothed them with dictatorial power? I certainly would exclude no class of men from the equal privilege of being heard, but I would not give the millionaire one particle more of influence in congressional halls than the plain farmer who spends his days in the cultivation of the soil. And yet, when you compare the respective influence of these two men, one is almost a blank, while the other forms opinions for the guidance of Senators and Representatives. Are such things right? When, therefore, we come to meet this great question of money rule, money stands in the way; and money always has the victory.

The propriety of the adoption of a uniform currency and the law establishing the stubborn fact that the Government alone shall issue it, is fast becoming a matter of settled conviction with the people. Their power may be postponed, but numbers in future will prevail. If it be not so, the funding principles will swamp the country deeper and deeper in debt, till, like the English government, the question will be, how is the interest to be provided for? The principal there is not anticipated to be paid; and this is a national blessing! When curses can be called blessings, the axiom may be true. The system of exchanging bonds, even at a lower rate of interest, is vicious. There is no statesmanship in it.

Aladdin drove a good business in the exchange of new lamps for old ones. The Secretary of the Treasury has been somewhat in that line, and the policy of the measure adopted by the two gentlemen being similar, the Secretary in the end will come to about the same end as Aladdin—a matter of the imagination only, with no foundation at the bottom.

The merchant, the manufacturer, or the farmer would sink in his reputation as a skillful manager who would exchange the new note for the old one because the rate of interest was less when he had the money in his till to pay it. Or if he had not the whole of the cash in hand to meet the obligation, but before maturity, in the proper management of his business, he could safely calculate on making up the deficiency.

It is no part of wisdom for this Government to exchange new bonds for old ones, at any reduced rate of interest. It is much better suited to the lamp trade than the bond trade. No man of common sense, and who is duly impressed with the honesty and popular sentiment of his countrymen, will for a moment stop to consider that the faith of the nation can be set aside when fairly pledged in the fulfillment of all its contracts. The contracts are sacred. It must be fulfilled to the letter. And while it is a sacred duty to pay the bond, this does not preclude the mode and manner of raising the means by wise and judicious legislation to pay the bond. It certainly cannot be paid by this system of funding or exchange. That only postpones. Our vast resources do not require strategy. Like men let us meet the demand, but like men let us devise such measures of legislation as may accomplish it with as little addition to the popular burden as sound judgment and wise and deliberate legislation may suggest. It is not merely an act of injustice but of cruelty to the tax-payers of the country to deprive them of relief when it is within the power of Congress to grant it. It is not long since, sir, that an act of Congress was passed permitting the holders of millions of our debt to make the bonds payable in coin, when the original contract contained no such clause, only in character with the grants and subsidies which have been bestowed upon capital. Was that law changing the bond from its payment in legal-tenders to coin just? Was it constitutional? Had Congress the power to trifle with the men in this way who alone must pay principal and interest finally?

These questions are for further inquiry and solution. By this do not think I would repudiate. I would hold the parties to the original contract. I would let the Rothschilds, Morgans, Seligmans, and the three principal shareholders of Mr. Secretary Sherman's little pet bank of New York, with its capital of half a million and its Government deposits of over a hundred and twenty-eight millions, know that the original contract with the Government in the purchase of these bonds must needs be sacred. That we will pay in the mode and manner we agreed to pay. Then supplemental legislation will be a matter for judicial opinion and decision; or better, for the opinion of such a Congress as will shape its actions from the instruction of a wise, reflecting, and unbiased constituency; a Congress that Wall street will not coerce, nor the sophistries of cabinets control. What a monstrous wrong it was that day when Congress yielded to so gross an imposition. We shall see whether the law will stand the test of judicial opinion and future congressional enactment.

There is another mode of raising money to meet the maturing public bonded debt, and that is a tax on incomes. This principle placed upon the statute-book would throw nearly a hundred million annually into the face and teeth of the funding system. A more just measure cannot be adopted. Who has the temerity to deny that the moneyed wealth of the State ought not to contribute its fair proportion toward paying the debt of the State? The bondholder may receive $50,000 yearly interest, and upon which he is not charged a dime in the way of tax. Oh, but the bond is free of tax! Is the income arising from the bond free of tax? It is now, and for the reason that Congress will not do that which more than nine-tenths of the entire voting population of the country demand. Have we not had such a law? It was limited. Time cut off its operation. And herein was concealed the strategy and craft which was at the bottom of the enactment. There is no limitation to the tax on land; it matters not whether mildew or drought or untimely frost destroys the crop, land must respond to the demands of the tax-gatherer in his annual round.

There is no limitation to the tax on the products of the farm. The herds of cattle and swine, the flocks of sheep, and the products of the earth, are all taxed; no limitation here. So is the machinery of the manufacturer, it matters not whether the trip-hammer or the spindle is in motion; so is the occupation of the mechanic, and in some States the day-laborer for hire. It matters not whether there is employment or not, the tax must be enforced. It is said that in several of the Western States the schedule of the assessor contains even the poultry in the yard, and the tin plate and iron knife and fork used by the sun-burned husbandman at his frugal meal. In fact, in most of the States there is disposition to search out every species of property with a view of the imposition of tax. And to all this there is no limitation. The immense income of the capitalist was upon a time subject to tax. That time was limited, and that limitation has long since expired. Tell me if it be just and right that the man with no estate but his income of fifty thousand a year shall go scot-free, and the small farmer, mechanic, or laborer, with whom it is a constant strife to procure the absolute wants of life, shall be compelled to meet the demands of the tax-gatherer. It is a burden imposed upon poverty for the benefit of the man of fortune. There is no equality in this; it is rather oppression.

The true system of taxation is an equal apportionment upon all the individual resources of the State; and why it is that the product of the field, the mine, the mill, the shop, and even labor, should be taxed and the product of the bond, the speculator, the banker, the broker, should escape? Strange as this may be, it is nevertheless true.

And has not the time come for reform in this particular, when the Government is about to pay its debt in the exchange of new bonds for old ones? The money in the Treasury, and the money that may be put in the Treasury if Congress will only carry out the known and expressed will of the country, presents no occasion for the funding of a single dollar. But that secret, unseen, but powerful influence, which comes up from the great money center of the country, will not permit it—a lion in the path that leads to the Capitol.

And who, pray, doubts for a moment but that the great majority of our producers are favorable to a tax on income? If governments are instituted for the benefit of the governed, and if we, the people, demand equality in taxation, we have a remedy certain and sure, if we do but adopt it. Put men in power who will obey us and not bend the knee to the golden calf. Grants of hundreds of millions of acres

and subsidies of hundreds of millions of dollars to incorporated wealth, and as a sequence to this wanton and corrupt legislation, now comes in the cry of the exchange of new bonds for old bonds. Crœsus has had the largesses, Lazarus the rags.

The days of simplicity, integrity, and frugality of our fathers are, I fear, clean gone forever. It is doubtful that if Benjamin Franklin were to-day alive, and habited in his homespun coat and his domestic woolen stockings and coarse leather shoes, he would be treated with ordinary respect on Wall street. If he were a friend of legal-tenders, he certainly would not be. The French court endured his presence; but then he bottled up the lightning. Would that some of that same lightning might be unbottled, if it would clear up the muddy, mistified heads of some of those whose policy is a continual drain upon the producing classes of our people.

Mr. Speaker, the fact is undeniable that most, if not nearly all, of the financial issues introduced into this Chamber are the offspring of that class of men in this country who are the chief owners of its wealth. It is they who govern the legislative mind; it is their influence which pervades the Cabinet councils. We are therefore subjected to the opinion of money; money against the interests as well as the opinions of the masses. In fact, this dominion has become so potent, and its success so frequent, that it should create alarm. This same influence governs at every election precinct, and those who are the subjects of its power are unconscious, while fighting under the golden flag, that they are abridging their own political and social rights.

We can never come down to a healthy standard of national legislation till the popular element rules at the Capitol. The moment the question is raised which concerns the bondholder there comes up the cry of alarm from Wall street, and it is unceasing till it has achieved its object. We are totally unaware of the immense political power this class of men possess, and yet when one reads the statutes during the last two decades enacted by Congress and contemplates the official acts of the men who hold the high places of the Government he will see the power they have wielded in letters in bold relief. The management and control of the Government is in their keeping. That is, what they please to decree is submissively adopted. It is they who want more bonds; it is they who inform the Secretary of the Treasury that the coin of the country must be buried in vaults; it is they who must have immense commissions for the sale of the public bonds, when the humblest clerk in the Treasury Department could perform the same duty; it is they who condemn the legal-tender and demand its withdrawal from circulation; it is they who put the discredit upon the silver dollar; it is they who cry prosperity when they make "a corner" upon it, as they would on stocks, on national sureties, on gold, on corn, and would on air, light, and water did they but possess the power. The prosperity of the country cannot be made dependent upon the whims and caprices of the men on 'change. If the State shall flourish, nay, shall live, it is the great producing classes, the men engaged in the industries of the country, whose voice must rule the Cabinet and the Legislature. They do not now. Will they? That man, and we have him, who adds a half dollar at the beat of every pulse to his untold fortune could have more influence in the affairs of this Government, if he chose to exercise it, than all the farmers of Iowa, the coal-miners of Pennsylvania, and the spinners and weavers of New England. And why? Because the nation is becoming educated to the idea that a man without money is a man without brains.

The capitalist says exchange new bonds for old ones. The Secretary says exchange new bonds for old ones, and presently, if the people do not intervene their power and prevent it, Congress will exchange new bonds for old ones, and thus will be established a binding precedent in our Government to pay all debts in the future by new loans. It will be a very clever thing for the commission man and the little pet national bank in New York, but a hard blow upon the people. The fable over again of the boys and the frogs: "It may be sport for you, but it is death to us."

Now, sir, while I am a member of this body I will not cast my vote for this funding bill or any other funding bill. I care not what may be the reduction of interest in the exchange; I will be governed by a principle. I would force the National Legislature to pass such laws, and just ones too; laws demanded by the national constituency as will provide ample means to cancel every dollar of the public debt as it becomes due. The idle money in the Treasury, the withdrawal of bank-notes and substituting legal-tender notes in their place, and a tax on incomes, together with an increase of revenue, will accomplish all this. The intelligent people of this country, knowing this fact, should send representatives to Congress who will carry out their wishes.

There is no repudiation in this; and let no man charge it upon me. I will go as far as any man to cancel every farthing of debt, but I will not put my foot upon a prostrate people for the benefit of the moneyed monopoly of this land. Because men have wealth I think none the less of them; but I think quite as much of the man who behaves himself well with the pick or shovel in his hands as he who holds the highest social position that the aristocracy of money may place him in. I know no difference between the two, and the one is entitled to the same voice in the State as the other. The policy pursued by the capitalists of this country, including the bad counsel they have furnished our high officials, has been attended by a series of bad results which it will take half a century to overcome. By the sudden and vast contraction of the currency, they have deprived the entire South and the great Northwest of the necessary volume of currency required by their industries. Thousands thereby have become bankrupts, while thousands of others have been brought to the very crest of the volcano. Their business has been paralyzed, their estates encumbered with mortgages. They have been the indirect cause of driving our commerce from the seas, because by contracting the currency to enable them to make a corner on it they have deprived our mechanics and builders of the means of prosecuting their business.

This sordid policy upon the part of capital, and which was adopted at Washington, in the contraction of the volume of currency brought about the crash of 1873; such a disaster to the country and its industries as had never before transpired in our history. The evil consequences it produced cannot be estimated. Trade and commerce, manufactures and business of all kinds fell prostrate before the baneful influence. Two millions of laboring-men were thrown out of employment, and industries of all kinds were almost totally destroyed. This was the result of contraction. This was the result of the power of capital.

It is now seeking to pay debts by new promises. Its professions are couched in honest terms. Its breath is the sirocco; it withers and it destroys. It has the devouring blight of the upas. If it makes its point now it will be its second victory over the best interests of the great industrial classes. What has been left as the remnant of the last disaster will be swept away by this new current.

Congress will adjourn in a few days. I appeal to the people of the whole country to impress their representatives to oppose the idea of issuing new interest-bearing bonds, and thus postponing the payment of a maturing debt that we have the ability to meet. If they fail to do this, then the fault is with them, for they have the power in their own hands. Silence upon their part is a crime, and there is no excuse for indifference. It is a day of trial, and like men they should meet the emergency of the occasion.

The Mississippi River.

This accession of territory strengthens forever the power of the United States, and I have just given to England a maritime rival that will sooner or later humble her pride.—*Napoleon:* Treaty of Paris, April 30, 1803.

SPEECH OF HON. R. L. GIBSON,

OF LOUISIANA,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, June 3, 1880,

On the bill (H. R. No. 6326) making appropriations for the construction, repair, completion, and preservation of certain works on the Mississippi River.

Mr. GIBSON said:

Mr. SPEAKER: I propose simply to ask a question and to submit to the House data for its answer: Are you willing to give to the people of the Mississippi Valley an unobstructed Mississippi River? Are you willing to do for the Father of Waters what you have done with a lavish hand for all its numberless tributaries and for our ocean and lake fronts?

Session after session and Congress after Congress we have witnessed the passage of river and harbor bills, expending five, six, seven, eight, and nine millions of dollars to give facilities to commerce and trade, not only on the seaboard and the lakes, but on every small river and highway throughout the length and breadth of the country. The river and harbor bill of this year appropriates $8,952,500, of which the Mississippi River below Cairo receives only $195,000. But what have you done for the Mississippi River? What has been done to remove the bars, the great sand-bars, and to secure deep water in that vast inland sea between Cairo and the passes, and to give ease and safety to its commerce and trade, and to protect its shipping and the people from its disastrous floods—a coast line more than two thousand miles long?

Take up the last river and harbor bill, or any river and harbor bill, and you will find hardly a dollar appropriated for this purpose. The trade and commerce upon this central trunk-line exceed our entire foreign commerce, and yet for more than three months out of every year there is not more than four feet of water at many places between Cairo and Vicksburgh, and as little as eight feet as far down as Bayou Sara. Why has not something been done to improve the Mississippi River? The answer is that there has been no systematic plan submitted, no surveys and estimates, no information such as would justify Congress in making appropriations for this purpose. This objection has at length been removed. On June 28, 1879, an act was approved entitled "An act to provide for the appointment of a Mississippi River commission for the improvement of said river from the head of the passes near its mouth to its headwaters," a copy of which is hereto annexed, marked "A."

This commission, composed of the ablest engineers of the country, made careful surveys and have presented to Congress a report with

recommendations, plans, specifications, and estimates, a copy of which will be found at the conclusion of these remarks, marked "B."

Nay, more than this, a committee of this House, acting under its instructions, have visited the Mississippi River and submitted also a report of their observations and recommendations, a copy of which is also appended, and marked "C."

Finally, in accordance with these recommendations, plans, and estimates, a bill was adopted by the Committee on Levees and Improvements of the Mississippi River, which, under the instructions of said committee, Mr. GIBSON reported to this House on May 28, 1880, bill H. R. No. 6326, and which was committed to the Whole House on the state of the Union, a copy of which is also appended, marked "D."

I beg also to call your attention to the report of the board of engineers, dated January 25, 1879, which I will also append to these remarks, marked "E."

It is true that hitherto partial surveys of particular points on the Mississippi River have been made, but experience demonstrated that all attempts to overcome the obstacles in the way of the improvement of this river by piecemeal efforts were expensive and useless. Now for the first time we have presented to the country a well-digested, scientific investigation of the phenomena of the Mississippi River. The theory upon which the report of the governmental commission rests is, in a word, that of contraction as against the outlet system. This theory has long been held to be the true one by the early settlers of the Mississippi Valley and by all men who had practical knowledge and experience derived from their occupations on the river itself.

The report of the commission shows that it is not only correct as a scientific proposition, but that it is also practicable, and that it may be executed at small expense in comparison with the vast interests involved. They insist that at the points indicated by the application of jetties and wing-dams they will be enabled to scour away the bars and deepen the shallow places by the operation of the current itself. There are two classes of phenomena to be dealt with. At certain seasons of the year, when the river is low, there is not sufficient depth of water for the carrying trade. This does not arise from a deficiency of water, but from the fact that when the river is at its flood height it spreads over its banks for a great distance and destroys the channel through which it would flow if confined. In low water, therefore, it becomes a shallow waste. By narrowing the channel in its low stages by jetties and wing-dams the difficulty might in a measure be overcome, but the only perfect remedy is to prevent its overflow in its high stages, thus compelling the current to deepen its bed. The instruments to accomplish this desirable purpose are levees or dikes. These levees would not only confine the water to its channel even in its highest stages, but the scouring process would deepen it so that even at its lowest stages there would remain a sufficient depth for all the purposes of transportation.

But it must not be forgotten that deep water is not alone essential to the interest of commerce. The expenditures of the Government are not made simply for the purpose of securing deep water; they are made to give "ease and safety" to the vehicles of commerce, *to protect life and property;* they are made to facilitate exchanges and the intercourse of the people with one another. Our sheltering harbors and water-gaps and light-houses and beacons and buoys are not intended to supply deep water, but to give shelter and protection, "ease and safety." No man can travel down the Mississippi River without witnessing at every stage of his voyage how essential these levees are for the benefit of commerce; how they are in fact sheltering harbors at night and in storms; how they are in fact the very instruments over which the boats receive and discharge their cargoes.

But it is said that these levees afford protection to the vast alluvial region through which the Mississippi flows to the sea, and that therefore the riparian States should build them, and not the Federal Government. It is true that they do afford protection to the people against overflows, but if it be demonstrated, as has been done time and time again, that they are indispensable as commercial appliances, that they do facilitate commerce and trade and improve the navigation of the river, I submit that it would be unfair and unjust to insist that the people living along the river, from Cairo to its mouth, should bear the burden of building or maintaining them. The States have no jurisdiction over the river; it is a national highway; they cannot tax its tonnage; it was made free by the treaty with France at the time of its purchase, and the acts under which these States were admitted into the Union prohibited them from taxing tonnage upon its waters.

To afford protection at all the levees must be continuous throughout their whole length. If the State of Louisiana should build a perfect system of levees from the Arkansas line to the Gulf, and the State of Arkansas should fail to continue the line, one season of high-water pouring in the gap above the Louisiana line in rear of her levees would sweep them away and destroy works that had cost vast sums of money. And yet Louisiana and Arkansas are prohibited by the Constitution from entering into any agreement for the purpose of making a continuous line of levees along their fronts. But the engineers of the country have declared that these levees were commercial instruments, and it seems to me that even if there was a doubt in the minds of any gentlemen they should be willing when they come to exercise the power to regulate commerce to construe it liberally in this respect. From the foundation of the Government we have exercised the revenue power, the power to lay taxes for the purpose of supporting the Government and paying the public debt, so as to protect and foster the manufacturing industries of the country. The power to raise revenue is so administered as to give incidental protection to manufactures.

Why should we not, when we come to exercise the power to regulate commerce, so administer it as to give incidental protection to our agricultural industries. Agriculture is the basis of our wealth. It must ever be as it is now, the largest and most permanent occupation of our people. Why should we not, therefore, be willing to exercise the commercial power so as to develop by incidental protection the vast agricultural resources of the greatest valley in the world. We do exercise the commercial power by discriminating in favor of our own ships. Look at our navigation acts! An additional 10 per cent. is levied on all importations that come to our ports upon foreign bottoms, and the entire coast trade from one end of the Union to the other is confined also to American bottoms. And yet, in the face of this immense bonus to the American ship-owners, will it be held that nothing can be done to foster even incidentally the producing interests of the valley of the Mississippi River?

It is shown from the report of the commission that these works would not be expensive, and that they would contribute largely to the commercial interests of the Mississippi River. Not only do the leading engineers of the country concur in this opinion, but we have already had a practical and striking illustration in the jetties themselves.

What theory, what plan, has given us deep water at the mouth of the Mississippi River? It has been accomplished simply by narrowing the channel in South Pass, and the current of the river itself has washed out the deposit there and has carried it away into the deep waters of the Gulf and not a trace of it remains either in its old bed or at any point beyond. But we are not without other examples of the truth of this theory of protection. The River Rhine has already undergone the very treatment that it is now proposed by this bill to give to the Mississippi River. I beg leave to call your attention to a brief extract from a discourse on the Rhine before and after the regulations of its course from the French Bavarian frontier to Germersheim, by Henry Grebenau, royal inspector of public buildings at Germersheim, September 11, 1869.

This distinguished engineer, in commenting upon the work of the Rhine commission, a body similar to our Mississippi River commission, says:

Extract from a discourse on the Rhine before and after the regulations of its course from the French-Bavarian frontier to Germersheim, by Henry Grebenau, royal Bavarian inspector of public buildings at Germersheim, September 11, 1869.

If one observes a river for a long time the following phenomena may present themselves:

First. Falling and rising of the river, to be observed two or three times a day on the water-marks at different stations, and the laws to be derived from such observations during a certain number of years.

Second. The different breadth and depth at different stations.

Third. The fall and its gradual decrease from the mountains where the river rises to the sea.

Fourth. The velocity of the water resulting therefrom, not only in the so-called valley road, but also on the other parts of the crosscut, and the law of the distribution of this velocity over the whole crosscut.

Fifth. The amount and kind of deposit, and the law of the movement of the rubble, (gravel and sand-masses which the river carries on its bed.)

6. The carrying of mud or the quantity of those dissolved or suspended earthy parts carried by the river during inundations or high water, and which form fertile deposits on both sides of its banks.

7. The temperature of the water at different seasons and in proportion to the temperature of the air.

8. The formation of ice obstructions and their bad results, the more so if, at the same time, inundations set in.

To deduce from these observations the rules for the correction of river courses is the province of the hydrologist.

Almost every river takes its origin from a former lake basin. River valleys are bordered by parallel mountain chains but for certain distances; all at once the river breaks through across the mountains. For instance, the Danube, after running for a good while through low lands, breaks near Weltenberg, above Ratisbonne, through a small jurassic spur, and between Passau and Linz mostly through gneiss; the same between Linz and Vienna, and near Theben and Gran again through the mountains. All these breakings through correspond with as many flowings off from former lake basins. The same with the Rhine; and quite similar circumstances have lately been pointed out on the Mississippi by the American engineer officers, Humphreys and Abbot. In close connection with the history of the former Rhine basin, is the formation of the so-called Rhine high banks, between Lauterburg and Mannheim, on both sides of the river. (See map, table 1.) This high bank belonging to the diluvial period is, almost at all points, of the same height, or upon an average thirty feet over the so-called low ground of the Rhine, and consists entirely of extremely fertile clay soil mixed with sand, while the low ground of the Rhine, that is to say, the former Rhine bed, belongs to the alluvial period, and is generally covered with a fertile clay stratum of but from six to eight feet high; under this fertile couch to a depth of fifty feet and more it consists entirely over the whole breadth of gravel. This high bank or diluvial terrace shows quite peculiar contours, which at the first glance greatly surprise the hydrologist, and which remind him of events which happen on rivers left to themselves to this day in carrying rubble. The contour of this diluvial terrace forms a repeated crossing of circular curves, showing at some places quite distinctly, and which cannot be accidental, but which on account of their constant repetition are to be attributed to a constantly acting cause. (See map, table 1.)

The immense masses of gravel on the bottom of the Rhine basin between the now existing diluvial terraces must be looked at as the principal cause of transforming the last rest of the lake into a serpentine and gravel-carrying river. In observing the further law of the movement of water in rivers carrying gravel, viz: that in one and the same crosscut the greater velocity corresponds with the greater depth, and *vice versa*, it becomes evident that when a mountain projecting from the right bank obstructed the river, causing it to turn to the left, the signal was given to the serpentine formation in the old lake basin; and that, further, where the water-masses were collected together, thereby producing a greater depth, also was caused a greater velocity on the bottom of the river, or, in other words, the formation of a

serpentine river channel. The low lands owe their fertility to the inundations of the Rhine before its regulation. The mean annual flowing-through quantity of the Rhine at Germersheim is about 37,162,000 cubic meters, or about one-fifteenth of that of the Mississippi.

From 1817 to 1825 six contractions were executed between the French frontier and Germersheim. They resulted in a shortening of two and five-eighths hours of the river course, and in 1828 an exceedingly salutary sinking of the water-surface was observed to the amount of five feet. The normal breadth between both the banks was fixed at two hundred and forty meters. In 1868 eighteen contractions in all were accomplished. The principal results of these works were the following: The river has been canalized, partly in straight lines, partly in soft windings, between parallel and stone-paved banks two hundred and forty meters from each other. The former length of thirty-one hours from Lauterburg to Worms was reduced to eighteen, or shortened thirteen, this being a great gain for navigation. The fall of the water-surface having formerly been *echelon*, like in the serpentine river, and alternately greater or less, so that the vessels to be drawn up the river wanted sometimes one and sometimes five horses, is now quite uniform, decreasing from four-tenths per millimeter at Lauterburg to one-tenth per millimeter at Worms. This requires but one and the same drawing force for the whole way. The fall of the water-surface of the Rhine amounts to two and twenty-five hundreths meters, and all the spots exposed to inundations before 1817 continue now to remain dry. Ninety-two hundred and twenty-five acres of land were thus gained and adapted to culture. Finally, the profitableness of the correction of the Rhine consists in the quicker carrying off of the high water, and the rarer happening of ice obstructions on account of the straight course, and also it reanimated navigation, and consequently contributed to the prosperity of the inhabitants.

Twenty years ago, in an era of strict construction, it was held that the Federal Government might contribute to the building of these works, but it had not been ascertained as it has now that they improved the navigation of the river. The only object then contemplated was to protect this vast region from overflow, and a commission was established which was at work for ten years to consider the question as to the best method for reclaiming the Delta of the Mississippi by levees. (See report of Humphreys and Abbot.) The States themselves were rich, but notwithstanding this fact the Federal Government maintained a Mississippi River commission for ten years investigating the question of protection to the overflowed region. The Federal Government donated the public lands for this purpose, and a complete system of levees was constructed in part out of the proceeds arising from the sale of these lands. They were then regarded and treated as public works. The whole system of levees was overthrown during the civil war and the people have been impoverished since. They have been unable to rebuild them and to maintain them. It may be held that the destruction of the levees was one of the penalties inflicted by the war itself, but this seems to be a harsh construction of the laws of war.

When the recent war broke out between Russia and Turkey the attention of the Russian government was called to the works on the Danube in the interest of commerce and trade—of civilization. Prince Gortschakoff, the prime minister, quickly gave assurances to the great powers that if it became necessary in the progress of the war to destroy these works the Russian government would undertake to guarantee that they should be rebuilt even better than they were before. The Government of the United States, I am glad to say, took a similar view of the works upon the Mississippi River, and I beg to call your attention in this connection to the letter of Hon. Edwin M. Stanton, Secretary of War, and the report of General Humphreys, which I append, marked F, directing that the levees which had been destroyed by the war should be rebuilt. It was not done. Other gentlemen have set forth in their remarks the magnitude of the interest of the Mississippi Valley, how vast and growing its population, its productions, and how startling are its possibilities.

The British government has expended over $500,000,000 dollars in India to facilitate communication and the transportation of the commodities of that country. The Welland Canal, reaching out toward the Valley of the Mississippi, will soon be opened at a cost of $40,000,000. Our Government has paid over $90,000,000 to the Pacific Railroad, besides having granted a domain larger than a half a dozen of our States. At an expense of less than $4,000,000 we have sufficient depth at the mouth of the Mississippi River for the Great Eastern herself. Why should we not adopt the comprehensive and scientific recommendations of the Mississippi River commission and thus secure deep water from Saint Louis to Port Eads? This is no subsidy. There are no members of any corporation here to speak in favor of this bill. There are no class or special interests to be advanced by it. It is a bill in the interest of the laboring people of the Mississippi Valley, and I trust before the next meeting of this Congress their voices will be heard and respected.

APPENDIX.

A.

[Public—No. 34.]

An act to provide for the appointment of a "Mississippi River commission" for the improvement of said river from the head of the passes near its mouth to its headwaters.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a commission is hereby created, to be called "The Mississippi River commission," to consist of seven members.

SEC. 2. The President of the United States shall, by and with the advice and consent of the Senate, appoint seven commissioners, three of whom shall be selected from the Engineer Corps of the Army, one from the Coast and Geodetic Survey, and three from civil life, two of whom shall be civil engineers. And any vacancy which may occur in the commission shall in like manner be filled by the President of the United States; and he shall designate one of the commissioners appointed from the Engineer Corps of the Army to be president of the commission. The commissioners appointed from the Engineer Corps of the Army and the Coast and Geodetic Survey shall receive no other pay or compensation than is now allowed them by law, and the other three commissioners shall receive as pay and compensation for their services each the sum of $3,000 per annum; and the commissioners appointed under this act shall remain in office subject to removal by the President of the United States.

SEC. 3. It shall be the duty of said commission to direct and complete such surveys of said river, between the head of the passes near its mouth to its headwaters, as may now be in progress, and to make such additional surveys, examinations, and investigations, topographical, hydrographical, and hydrometrical, of said river and its tributaries as may be deemed necessary by said commission to carry out the objects of this act. And to enable said commission to complete such surveys, examinations, and investigations, the Secretary of War shall, when requested by said commission, detail from the Engineer Corps of the Army such officers and men as may be necessary, and shall place in the charge and for the use of said commission such vessel or vessels and such machinery and instruments as may be under his control and may be deemed necessary. And the Secretary of the Treasury shall, when requested by said commission, in like manner detail from the Coast and Geodetic Survey such officers and men as may be necessary, and shall place in the charge and for the use of said commission such vessel or vessels and such machinery and instruments as may be under his control and may be deemed necessary. And the said commission may, with the approval of the Secretary of War, employ such additional force and assistants and provide, by purchase or otherwise, such vessels or boats and such instruments and means as may be deemed necessary.

SEC. 4. It shall be the duty of said commission to take into consideration and mature such plan or plans and estimates as will correct, permanently locate, and deepen the channel and protect the banks of the Mississippi River; improve and give safety and ease to the navigation thereof; prevent destructive floods; promote and facilitate commerce, trade, and the postal service; and when so prepared and matured, to submit to the Secretary of War a full and detailed report of their proceedings and actions, and of such plans, with estimates of the cost thereof, for the purposes aforesaid, to be by him transmitted to Congress: *Provided*, That the commission shall report in full upon the practicability, feasibility, and probable cost of the various plans known as the jetty system, the levee system, and the outlet system, as well as upon such others as they deem necessary.

SEC. 5. The said commission may, prior to the completion of all the surveys and examinations contemplated by this act, prepare and submit to the Secretary of War plans, specifications, and estimates of costs for such immediate works as, in the judgment of said commission, may constitute a part of the general system of works herein contemplated, to be by him transmitted to Congress.

SEC. 6. The Secretary of War may detail from the Engineer Corps of the Army of the United States an officer to act as secretary of said commission.

SEC. 7. The Secretary of War is hereby authorized to expend the sum of $175,000, or so much thereof as may be necessary, for the payment of the salaries herein provided for, and of the necessary expenses incurred in the completion of such surveys as may now be in progress, and of such additional surveys, examinations, and investigations as may be deemed necessary, reporting the plans and estimates, and the plans, specifications, and estimates contemplated by this act, as herein provided for; and said sum is hereby appropriated for said purposes out of any money in the Treasury not otherwise appropriated.

Approved June 28, 1879.

B.

REPORT OF MISSISSIPPI RIVER COMMISSION.

Letter from the Secretary of War, transmitting the preliminary report of the Mississippi River commission.

March 10, 1880, referred to the Committee on Commerce and ordered to be printed.

WAR DEPARTMENT,
Washington City, March 10, 1880.

The Secretary of War has the honor to transmit to Congress, in compliance with the provisions of the act approved June 28, 1879, (chapter 43, Pamphlet Laws, page 38,) a preliminary or partial report of the Mississippi River commission, with the papers accompanying the same; also a minority report of two members of the commission.

Respectfully submitted.

ALEX. RAMSEY,
Secretary of War.

The SPEAKER
of the House of Representatives.

THE MISSISSIPPI RIVER COMMISSION,
PRESIDENT'S OFFICE, ARMY BUILDING,
33 WEST HOUSTON STREET,
New York, March 6, 1880.

SIR: I have the honor to transmit herewith a preliminary or partial report of the Mississippi River commission. It is expected that the two members of the commission—General Comstock and Mr. Harrison—who have withheld their signatures from the report will submit separate statements, embodying individual dissenting opinions, upon the several subjects discussed therein. When these are received they will be forwarded without delay, in order that they may take their appropriate place as appendices to the report.

The following papers are hereunto appended, namely:

1. A financial statement made by Lieutenant Smith S. Leach, Corps of Engineers, the disbursing officer of the commission, showing the disbursements made and liabilities incurred to February 16, 1880. It will be seen from the statement that the whole amount appropriated will be expended by the close of the current fiscal year in making the surveys and examinations deemed requisite by the commission.

2. A Coast Survey chart of the "Mississippi River from the passes to Grand Prairie, Louisiana."

It is understood from the Superintendent of the Coast and Geodetic Survey that the engraved plate of this chart will be placed at the disposal of the Public Printer, so that its reproduction will be unnecessary.

Very respectfully, your obedient servant,

Q. A. GILLMORE,
Lieutenant-Colonel of Engineers,
Brevet Major-General United States Army,
President Mississippi River Commission.

Hon. ALEXANDER RAMSEY,
Secretary of War, Washington, D. C.

[Indorsement.]

OFFICE CHIEF OF ENGINEERS, UNITED STATES ARMY,
March 8, 1880.

Respectfully forwarded to the honorable the Secretary of War.

H. G. WRIGHT,
Chief of Engineers, Brigadier and Brevet Major-General.

REPORT.

WASHINGTON, D. C., *February* 17, 1880.

SIR: The Mississippi River commission, constituted under an act of Congress approved June 28, 1879, respectfully submit the following partial report:

The work assigned to the commission was—

First. To direct and complete such surveys of the Mississippi River between the

head of the passes, near its mouth, and its headwaters as were then in progress, and to make such additional surveys and examinations of said river and its tributaries as might by it be deemed necessary.

Second. To take into consideration and mature such plan or plans as will correct, permanently locate, and deepen the channel, and protect the banks of the Mississippi River; improve and give safety and ease to the navigation thereof; prevent destructive floods and promote and facilitate commerce and the postal service; and with such plans to prepare and submit estimates of the cost of executing the work.

Third. To report specifically upon the practicability, feasibility, and probable cost of the plans known as the jetty system, the levee system, and the outlet system.

By section 5 of the act authority was given to the commission, prior to the completion of all the surveys and examinations, to prepare and submit plans and estimates of cost for such immediate works as in the judgment of the commission may constitute a part of the general system of works contemplated.

The commission met for organization in the city of Washington on the 19th day of August, all the members being present, and immediately upon its organization took into consideration the surveys of the river already "in progress," and "such additional surveys, examinations, and investigations, topographical, hydrographical, and hydrometrical," as seemed necessary to carry out the objects of the act of Congress establishing the commission.

It was found that the portion of the river lying above the mouth of the Ohio had been essentially covered by the several shore-line surveys already completed, or drawing to a close, so that the attention of the commission was directed more especially to the lower river between Cairo and the head of the passes. This portion of the river, measuring about eleven hundred miles along the channel, had been the scene of numerous detached surveys, the data from which will be available notwithstanding the intervals of time that they cover; and in providing for the connection and extension of these the commission decided to so arrange the work of the present fiscal year that the information immediately required should be obtained by systematic methods, useful not only to the proximate ends in view, but in connection with the wider range of inquiry that must ultimately be necessary.

It was considered important that the triangulation, so essential in locating the river, however limited the field of practical operations of immediate improvement might be, should be so executed and permanently marked that it would furnish the basis of future surveys.

It was therefore decided that a line of secondary triangulation should be run, its triangles closing within six seconds.

For the present, however, it was deemed desirable to execute no detailed or widely extended topography, but to develop as rapidly as possible the shore lines and the forms of the river bed.

It was furthermore decided that physical inquiries extending to all the recognized phenomena likely to have a bearing upon problems of improvement should be instituted at once, and that they should be based upon the experience of predecessors who had already made much progress in these studies.

Provision was made for running lines of precise levels along the river bank and for maintaining and increasing the number of the stations at which the elevations of the river are recorded, so as to trace in future the progress of floods and the larger features of the river slopes, without, it is hoped, any further interruption.

Provision was also made for physical examinations of selected reaches of the river, distant from each other, but presenting locally and relatively the most widely contrasted elements of width, depth, and curvature; that the conditions most favorable and those most inimical to navigation might thus be traced back to their causes inductively.

At these early meetings resolutions were adopted embodying the sense of the commission as to the extent and character of the surveys required, and the committee composed of a majority of the members was appointed to carry out the views thus recorded.

Inquiries were made of the Secretary of War and of the Secretary of the Treasury as to the aid they could render in these surveys, free of expense to this commission, and the committee on surveys was authorized, after the receipt of replies to the above inquiries, to direct the secretary of the commission to employ the necessary persons, and make all purchases of instruments, materials, and outfit needed to carry out the provisions of the resolutions already adopted as to surveys, &c., to be made at once.

The surveys thus instituted are being executed under direction of this commission in part by its employés and in part by parties and vessels of the Coast and Geodetic Survey, detailed under section 3 of the act; the former moving from Cairo southward, the latter working in the lower part of the river.

The continual prevalence of yellow fever at several points on the lower river until late in the fall prevented these parties from beginning their work as soon as was expected.

The following estimates of the extent of river completed or likely to be covered during the present season are based upon the rate of progress furnished in the schedule drawn up by the secretary of the commission, and in the report of the Superintendent of the Coast and Geodetic Survey:

Gauges.—The gauges along the river between Cairo and New Orleans were increased in number to twenty, and more recently others have been added between Cairo and Saint Louis, so that the elevations of the river surface are now recorded daily at intervals of about fifty miles.

The zeroes of these gauges are to be referred to a common plane of reference by the lines of precise levels to be described hereafter in the order of progress.

Triangulation.—Of the eleven hundred miles of river lying between Cairo and the head of the passes the triangulation of past years, executed by the Government, amounted in all to about four hundred and seven miles, comprising the progress work of the Coast and Geodetic Survey, as well as the surveys made by the United States Corps of Engineers.

Of the employés of the commission, three double parties now in the field are engaged upon triangulation. This work, inclusive of about eighteen miles previously executed, has already reached Memphis; and, as below this point about eighty-five miles of work previously executed will be met with, it is anticipated that the parties will reach the mouth of White River, four hundred and twenty miles below Cairo, by the 1st of April.

The trigonometrical points established by these parties are to be referred to permanent marks beyond the erosions of the river by the topographical party following them.

Four single triangulation parties have been placed on the river, under this commission, by the Superintendent of the Coast and Geodetic Survey, Mr. C. P. Patterson; and these have been located by the board with a view to connect the isolated fields of work which now rest upon separate bases.

Mr. Patterson expects, with the appropriation made by Congress for the work under his superintendence, together with an allotment from the funds of this commission, to execute three hundred miles of triangulation during the present fiscal year, and make the chain of geographical positions complete from the Gulf of Mexico to Providence, about five hundred miles.

As these parties were not to be immediately followed by topographical surveyors, it was deemed advisable to require of them the establishment of reference marks, which has rendered their progress slower than it otherwise would have been.

At the request of the commission, the Superintendent of the Coast and Geodetic Survey has measured a base line in the vicinity of Cottonwood Point, one hundred and twenty miles below Cairo, to be used in connection with the triangulation executed by the employés of the board.

Topography and hydrography.—These have been combined in the operations of one party, having three divisions, composed of employés of the commission. One of these divisions develops the shore line of the actual river with its banks, tow-heads, chutes, islands, &c., as well as levees when not more than a half mile back from the water; another follows with levels, giving the elevations of banks, water-surfaces, cross-sections of levees, &c.; while the third division sounds out the bed of the stream in connection with the levelings, so as to complete the normal cross-sections of the river and its approaches about every half mile. All this work rests upon the preceding triangulation, and the topographers, as they pass the triangulation stations, are required to refer them to permanent marks already mentioned. These marks are placed about three miles apart, measured along the general course of the river, and in pairs on either side, the one nearest the river bank being so placed as to be sure to remain undisturbed for at least twenty years.

The present work will not furnish a detailed map showing the character and elevation of the swamp and bottom lands lying far back from the actual lines of the river, but the necessity of more elaborate maps as anticipated, and these marks are to secure the full advantage of all triangulation executed this season as the basis of future topographical work wherever the trigonometrical points shall have been obliterated by the caving of the banks. This combined party, traversing short lines, measuring elevations, and sounding out cross-sections, has advanced one hundred and sixty miles and made connection with the work of examination party in the vicinity of Plum Point. It is anticipated that it will carry its work to Memphis during the present season; beyond this, for a distance of forty miles, complete maps exist from the survey made by General Comstock before the commission was created.

At the time the commission was organized charts had been published by the Coast and Geodetic Survey of the portion of the river lying between Point Houma, (about seventy-two miles above New Orleans and the Gulf,) showing depths of water, with marginal topography; so that there remained for this commission to execute, in the river below Cairo, about nine hundred miles of surveys of the skeleton form above indicated.

Precise levels.—From employés of the commission two parties were assigned to run a line of precise levels, in duplicate, and in opposite directions, with permament bench-marks every three miles, so located and marked that they may be relied upon for at least twenty years. The most accurate instruments known to engineers were placed in the hands of these parties, and they were instructed that the discrepancy in duplicate lines of levels should not exceed five millimeters × the square root of the distance in kilometers.

They began their work at Columbus, twenty miles below Cairo, at the termination of a series of levels previously executed by General Comstock, and have advanced to Cottonwood Point, one hundred and twenty miles below Cairo. They will probably reach Memphis by the middle of April, should no interruption from floods occur. Here they will connect again with a series of levels executed by General Comstock, which extends about eighty-three miles below.

It is proposed to put another leveling party into the field as soon as proper instruments are obtained; and if this additional party can pursue its work until the 1st of May the precise levels will be brought nearly to the mouth of White River, where the triangulation of this season will probably terminate, as above stated.

In the lower portion of the river two parties of the Coast and Geodetic Survey are running similar lines of precise levels between Carrollton and Greenville, and the superintendent expects to be able to keep this work in progress during the entire season and close this space of five hundred miles by the end of the fiscal year.

Examinations.—Three localities have been selected at which surveys are repeated frequently to ascertain the varying relations of the river and its bed; these are Plum Point and its approaches, Lake Providence and its neighborhood, and Carrollton, the last named being selected because it was the site of similar inquiries during the surveys of Humphreys and Abbot in 1858.

The observations at these places comprise the changes in the figure of the river bed at different stages of the water, the kind of material forming or moving along the bed, the figure and movements of sand-waves, the slope of water surface, the discharge, and the transverse curves of velocity.

The parties engaged in these physical surveys are employés of the commission, many of whom had previously been engaged in similar studies. They commenced work in the low-river season, and it is hoped that the funds available will enable them to continue until the spring floods have subsided.

Borings.—A boring party has been organized to determine the depth of the alluvial deposits and the character of underlying strata in portions of the river requiring improvement. These borings have been finished in the vicinity of Memphis and Helena, and others are to be made at Choctaw Bend and other points.

SURVEYS AND EXPENSES OF COMMISSION.

It is necessary that the surveys and examinations which have been undertaken by the commission and are now in progress below Cairo, under the authority conferred in section 3 of the act, should be continued, and that surveys should be commenced above Cairo, so far as they may be considered necessary for the advantageous progress of works of improvement. For these purposes and for salaries, mileage, traveling and office expenses of the commission, there will be required during the coming fiscal year the sum of $200,000.

In view of the prospect of an extreme flood on the Lower Mississippi, which would afford an unusual opportunity for observations upon the operations of floods, the importance of an early appropriation of the amount estimated for surveys under the commission is earnestly represented, in order that the system of observations already inaugurated may be made continuous through the flood season.

SYSTEMS OF IMPROVEMENT.

This commission is not prepared, nor is it deemed necessary at the present time, to submit a full and detailed report, with estimates of final cost, upon any general system of river improvement. It seems proper, however, that all the several methods and plans embraced by the comprehensive and distinctive language used in the act, so far as they apply to or have direct bearing upon any of the objects contemplated therein, should be defined, and that the general principles which have been kept in view in adopting a plan which will concentrate rather than disperse the waters of the river, as the principal agent in securing the needed improvement in its navigation, should be briefly stated.

Whatever seems needful to be said upon the "outlet system," which, being one of diffusion and waste and not of concentration, does not commend itself to the judgment of the commission, will be embodied in this report.

The Mississippi River, aside from its great length and other elements of wonderful and impressive magnitude, and the energy with which it maintains its tortuous and ever-changing route to the sea, ranging over a broad alluvial region of its own creation, does not appear to be characterized by any phenomena peculiar to itself, or by any physical features not found in greater or less degree in other turbid streams flowing through alluvial deposits. Its waters within the limits of the alluvial district constantly carry large, although very variable, quantities of sedimentary matter. This sediment, or silt, derived from tributary streams, from caving banks, and from its own bed by erosion and scour, is borne along by the current in such manner that a large part of it is held in more or less constant suspension in the water, while a portion is rolled or swept along upon the bottom.

An exact relation between the quantity of silt transported or moved along by a stream and the longitudinal velocity of its current has not been discovered. Longitudinal velocity, however, is always accompanied by motion in other directions. Without upward motion of the water there can be no continued suspension of sedimentary matter in it.

When, on any given reach of the same stream, the velocity, as usually measured by meters or floats, is increased, the vertical motion, and therefore the silt sustaining and transporting power of the stream, is also increased. It does not follow from this, however, that in different silt-bearing streams, or in different reaches of the same stream, or even in the same reach through varying stages of water or different seasons of the year, the same velocity of current invariably sustains and transports the same amount or proportion of sedimentary matter. No fixed relation has been discovered between a volume of water and the amount of sediment in it for any given observed velocity. The supply of earthy matter is very irregular, varying greatly, irrespective of changes of velocity, with fluctuations in the stage of river, the relative discharge of different tributaries, the seasons of the year, the conditions governing rainfall, alternations of freezing and thawing, the kind of crops cultivated in the vicinity, and other causes.

Any reduction of velocity by lessening the sustaining and transporting power of the water, and by arresting some of the heavier particles which the diminished current is unable to move along upon the bottom, will tend to cause a deposit of solid earthy matter and raise the bed of the stream. The direct effect of raising the bed is to raise the surface slope. The surface slope may also be increased by reduction of the river's length by cut-offs and other causes.

Conversely, if the velocity be increased from any cause, a greater amount of silt will be thrown into suspension, which will be supplied by erosion. A lowering of both the bed of the stream and the surface slope will therefore ensue.

These general principles may be briefly and comprehensively stated as follows, namely: If the normal volume of water in a silt-bearing stream flowing in an alluvial bed of its own formation be permanently increased there will result an increase of velocity, and consequently of erosion and silt-bearing power, an increase in area of average cross-section, and an ultimate lowering of the surface slope; and, conversely, if the normal flow be decreased in volume, there will ensue a decrease of velocity, silt-transporting power, and mean sectional area, and an ultimate raising of the surface slope.

THE OUTLET SYSTEM.

It has been supposed by many persons that, because the immediate effect of a crevasse during a flood is the reduction of the height of the river's surface in the vicinity of the crevasse and below it, lateral outlets, either natural or artificial, by which the flood-waters of the river are drawn off and conveyed through a shorter route to the sea, tend to prevent the recurrence of destructive floods by supplying additional avenues for their escape. This method would undoubtedly be effective if the flood-waters of the Mississippi were not highly charged with sedimentary matters, which are held in suspension in the water by the current. To support this immense mass of earth and sand in suspension, and thus insure its transportation to the Gulf, the velocity of the current must be sustained. Without stopping to determine, or even discuss, the character of the relation which exists between the various velocities of current and the proportionate quantities of sediment which such velocities are capable of carrying in suspension, the fact seems to be established that when the current is checked in its natural flow during floods a deposit of sediment will occur. Shoals are found in the river immediately below crevasses, which it is difficult to refer to any other cause than the loss of current velocity which takes place below the crevasse. As a portion of the volume of the river is drawn off by the crevasse when it is first made, it is impossible that the current below the crevasse can then be as rapid as it was before its occurrence. Being less rapid, it is unable to sustain the whole quantity of matter held in suspension by the more rapid current above the outlet, and consequently its surplus sediment falls to the bottom below the crevasse. This deposition continues until the size of the river below the crevasse has been so reduced by the shoaling that the current is again restored through the short distance in which the bottom of the river has been thus raised and the channel diminished. If the crevasse remained open, however, for several years, it is evident that the shoal will continue to extend down the stream, for the reduced velocity will still exist in the river below the shoal. If the crevasse be kept open indefinitely, the shoaling will continue to extend down the stream until certain other injurious effects are produced, which will be presently referred to.

It is a well-established law of hydraulics that the ratio of frictional resistance per unit of volume increases if the sectional area be diminished. Thus, if the volume of the river were suddenly divided by an island into two channels, the water flowing in them would encounter more frictional resistance than it met with while flowing in a single channel. Hence the currents through these channels would be more sluggish. As the water is charged with sediment the sluggish current would cause a deposit in the channels which would first begin at their upper ends, and would continue until the bottoms of the two channels would be so steepened that the current would attain a velocity capable of carrying the suspended sediment through them without further deposit. If the two channels were of nearly equal length and size, they would probably remain permanent, and the slope of the river's surface in flood-time would be found to be steeper through them than above and below, where the volume flows in a single channel. If one of the two channels were materially longer than the other, the effort of the river to increase the steepness of the longer channel would be abortive, because its slope would be controlled by the shorter one. A shoal in the upper end of the long channel would, however, be built up to such height by the depositing action of the sluggish water in it as finally to shut it off altogether from any connection with the river, while the still water at the lower end of such channel would promote the deposition of sediment at that end to such an extent as to build it up also, and thus completely separate the long channel from the main body of the river; in the mean time the shorter channel would have enlarged so as to accommodate the entire river. The longer channel would, in this event, constitute a lake, like one of the many lakes which are seen on a map of the alluvial basin of the river. Being removed from the influence of overflows, these lakes remain deep and clear for many centuries. The phenomenon just described invariably accompanies the formation of a cut-off. When one of these occurs, the volume of the river is at first divided into two channels of unequal length, an island being left between them.

In the case of a crevasse an island is also formed, having the main body of the river on the one side of it and the crevasse channel on the other side. As the volume flowing in the main channel below a crevasse has been decreased by the amount drawn off through it, a steeper slope in the main river, if the crevasse be kept permanently open, becomes inevitable; because the shoal below the outlet, as it grows in length down stream from the deposition of successive floods, gradually increases the frictional resistance of the volume flowing through that diminished channel, and this tends to check the current of the river above the crevasse, and thus the shoaling of the river bed and the raising of the flood line above the site of the outlet ensue as a secondary and permanent effect.

It is in this way that silt-bearing streams flowing through alluvial deposits have the ability to increase or steepen their surface slopes, and thus recover the velocity of their currents and adjust them to the work of transporting the sedimentary matter with which the flood-waters are charged, so that this matter may be carried without loss or gain. In proof of the correctness of these views, and of their full accordance with well-established hydraulic laws, we have the evidence of this relation between slope and volume presented in the phenomena of silt-bearing streams all over the world. Wherever such streams flow through alluvial deposits, other conditions being the same, the slope is least where the volume is greatest; and, conversely, the slope is found to be invariably increased as the volume is diminished. The Mississippi throughout its alluvial basin, not only in its main trunk but in all of its outlets, presents no exception to this peculiar feature. Among numerous illustrations of this law the following examples may be cited:

The fall of the Atchafalaya is about six inches per mile from its head to the Gulf level, while the fall of the Mississippi from the same point is less than two inches per mile. The volume of the Atchafalaya is only about one-twelfth as great as that of the Mississippi where they separate. The fall of the South Pass is three inches per mile, while that of the Southwest Pass is but two inches per mile. The volume of the South Pass is only about one-quarter as large as that of the Southwest Pass.

As water selects the line of least resistance in flowing from a higher to a lower level, it follows that, inasmuch as that portion of the Mississippi floods which enters the Atchafalaya seeks the Gulf level through a route not half so long as that which follows the main river, and as it has a descent threefold greater than the portion that flows in the main river, the resistance in the shorter and steeper route of the Atchafalaya must be so much greater that these elements which tend to increase the current are so far neutralized as to produce in both routes to the sea that rate of current which is capable of transporting the sediment without loss or gain to the Gulf level, and thus a condition of equilibrium is established between these two routes to the sea. It seems unnecessary to state that the ratio of frictional resistance to volume of water resulting from the smaller size of the Atchafalaya is so much greater than that in the main river that this condition of equilibrium or regimen of the two channels is the result. Anything which will tend to increase the flow permanently through either route would, if unchecked, have a tendency to cause the entire river to find its way ultimately through that route to the sea by lessening in it, as it enlarged, the ratio of frictional resistance to volume of water flowing in it. The sub-delta building ability of the smaller passes by which they prolong their length and thus flatten their slopes will invariably tend to cause their extinction by results similar to those hereinafter referred to at Cubitt's Gap, The Jump, and the extinct outlets below them. This cause has tended to the extinction of many well-known bayous below the Atchafalaya. That the Atchafalaya remained so long unaltered, and is now evidently enlarging, is owing to important changes in the bed of the Mississippi near it, by which a large portion of the floods of Red River have been recently discharged through it.

This explanation of the relation between slope and volume is, of course, applicable to the other existing outlets referred to in this connection. For this reason the commission believes that no surer method of ultimately raising the flood-surface of the river can be adopted than by making lateral outlets for the escape of its flood-waters. The raising of the flood-surface necessitates an increase in the height of the levees and leaves shallower channels for navigation.

As the system of improvement proposed by the commission is based upon a conservation of the flood-waters of the river, and their concentration into one channel of an approximately uniform width, it would seem scarcely necessary further to consider a system based upon theories and arguments so diametrically opposed to it as the outlet system is thus shown to be.

Allusion has only been made so far to phenomena attending long established or permanent outlets. A proposition to "provide for improving the navigation of the Mississippi River and for the reclamation of the low lands of the States bordering thereon" having been presented to the consideration of Congress in House bill 5413, Forty-fifth Congress, third session, it is the duty of the commission to report upon the merits of the system as set forth in the bill. The first feature of the plan consists in opening an outlet, about ten miles below New Orleans, from the river into Lake Borgne. The idea of making an outlet into this lake was suggested by Mr. Charles Ellet, jr., civil engineer, in 1852, (see Ex. Doc. 20, Thirty-second Congress, first session,) in an elaborate report to the Secretary of War on the inundation of the Mississippi River.

The proposition was subsequently discussed at considerable length in the report of Humphreys and Abbot, and rejected by them as impracticable. It was again taken up and examined into by the levee commission in 1875, and was by it likewise rejected.

In considering the proposed outlet at Lake Borgne, it is necessary to refer to phenomena attending a class of outlets which cannot be considered as *permanent* ones, and which are similar in their characteristics to those which would attend the proposed one at Lake Borgne, for the reason that the river immediately after their occurrence, whether from artificial or natural causes, commences a process of sub-delta formation which in the course of a few years effects their complete closure.

On examination of the appended United States Coast Survey map, showing that part of the delta embracing the passes and about forty miles from the main river, several remarkable systems of extinct channels will be found on each side of the three great passes. The vermiculated appearance of these old outlets is particularly noticeable on the west side of the Southeast Pass and on the west side of the Southwest Pass. The process by which the river closed them up and shut them off is clearly illustrated by a similar process now occurring about three miles above the head of the passes. At this point on the map referred to will be seen the largest and most recent outlet or mouth of the Mississippi. It occurred during a flood seventeen years ago, and is known as Cubitt's Gap. It was caused by a small canal between the river and the Gulf, used by fishermen in visiting the oyster banks in the vicinity.

The river and the Gulf at this point were then separated by a narrow margin less than one thousand feet wide. The difference in the surface height of the river and the mean level of the Gulf at the time was a little over three feet. The surface slope or fall through the gap was therefore at first at the rate of about fifteen feet per mile. The rapidity of the escaping water with this enormous fall made the crevasse over two thousand feet wide in a few years, with depths of one hundred feet and over in the gap where the river bank had formerly stood.

As soon as the water passed through the gap its velocity was gradually lost, and the immense volume of sediment with which it was charged was thrown down with a fan-shaped area embracing probably twenty or thirty square miles. The earlier maps of the Coast Survey show no islands outside of the gap, but the more recent ones show, by the incipient islands and shoals which now surround it, how rapid has been its sub-delta formation. These islands are subdividing the single volume of the river water issuing from it into innumerable bayous and little channels, none of them having at this time a greater depth than seven feet. Each flood serves to build up these islands higher and extend their area further into the Gulf. And as this island-building process continues out gulfward, these small channels become more distinctly outlined from the depositing action which goes on most rapidly in the more sluggish water along their shore-lines.

Every overflow serves to build up the banks of these channels and to extend them out into the Gulf, but in their prolongation is to be found the cause which finally cuts off and separates them, perhaps forever, from the main river. The difference of level between the river and the Gulf remains the same that it was at the time of the crevasse, but the enormous slope through the gap, at first equal to about fifteen feet per mile, and which must have created an exceedingly rapid current during the first few days after the gap was made, now no longer exists. Every addition to the length of the separate channels which are now forming through the sub-delta flattens their slope and consequently reduces the current through them. Ultimately these currents will become too sluggish to transport the sediment contained in the water, and it will be dropped at the upper or river ends of these channels, and they will be finally shut off entirely from all connection with the main river, just as those were which are seen on the map on the west side of Southwest and Southeast Passes.

Each successive overflow of the river bank will tend to increase the distance

between the river and these extinct outlets, and the wound made in the side of the river by Cubitt's Crevasse will then have been completely healed by a natural process.

Twenty-one miles above the head of the passes a gap similar to Cubitt's occurred about forty years ago, called "The Jump." An immense sub-delta was formed there in consequence, and upon it there are now several rice plantations and extensive forests, many of the trees being over twelve inches in diameter.

Innumerable bayous permeate this sub-delta and lead to the sea, each having at its mouth a miniature bar like those at the mouths of the great passes, none of them having more than two feet of depth at low water.

At the river entrance to The Jump the depth is but three or four feet, and in a few years more it will be fully closed by the river deposits.

The same effort which the river is successfully making to close up The Jump and Cubitt's Crevasse (both of which are high and low water outlets) it is making at the celebrated Bonnet Carré Crevasse, which, being through an artificial embankment or levee, only discharges at high water. The immense deposits which it has carried out and spread over the land near it have served greatly to reduce the volume of water discharged by the crevasse.

Should an outlet be made to connect the river with Lake Borgne results precisely similar to those which have occurred at Cubitt's Gap and The Jump must be confidently anticipated. Below Cubitt's Gap it is an undisputed fact that the former depth of the river has been largely reduced since the gap occurred. Below The Jump it is not so definitely known what the shoaling has been, as charts of previous soundings are not now available if any exist, but the Light-House Board has placed two buoys a short distance below The Jump, to warn vessels away from the shoals which exist there. It is not possible to make the proposed outlet into Lake Borgne without creating a shoal in the river below it, and it is not possible to keep it permanently open except at great cost in dredging away the sub-delta that would be formed by it. Nor could it be kept permanently open without the slope of the river being ultimately increased from the head of the passes to the outlet, after which it would raise the flood surface of the river above the outlet.

With reference to that part of the plan set forth in House bill No. 5413, relating to the Atchafalaya outlet, the commission suggest that, as Major Benyaurd, of the United States Corps of Engineers, in charge of the Government works upon this portion of the Mississippi, has now under consideration the question of the permanent improvement of the mouth of the Red River, with the intention, as expressed in his last annual report, of making a special report thereon at the earliest possible moment, it is not deemed advisable that any work at this locality, except what may be required to check the enlargement of the Atchafalaya, should be recommended by this commission in anticipation of the matured views and opinions of that officer. This can be done in such locality and in such manner as will not interfere with the navigation of the Red and Atchafalaya Rivers, and at a cost not exceeding $10,000.

That part of the plan which involves turning the Red River into the Calcasieu, from a point above Alexandria, is entirely impracticable, it having been ascertained by a line of levels run across from Alexandria, under Major Benyaurd's direction, that the bed of the Calcasieu River is sixty-three feet higher than the water surface of Red River in time of ordinary flood, while its ordinary flood-level is seventy-three feet above that of Red River. The distance between the two rivers, on the line of levels, which is the shortest line that can be run from Alexandria, is 23.86 miles.

It is proposed to avoid this difficulty by making the connection with the Calcasieu at a point sufficiently near its mouth to secure the requisite descent in the cut, not only would the expense be so enormous as to be practically prohibitory, but there would still remain the danger, unless the dimensions of both the cut and the lower Calcasieu be made immoderately large, of widespread destruction by floods during every high-river stage through the region traversed by the outlet.

Although other equally novel propositions are set forth for consideration by Congress in House bill No. 5413, as part of this extensive outlet system, which in the language of the bill is designed to effect the "deepening of the channel of the Mississippi River, reducing the mud flow therein, and filling up the swamps and low places by the deposit, and diminishing the volume of water by absorption and evaporation," the commission deems it unnecessary to report upon them in detail after this exposition of the Lake Borgne and Calcasieu outlets, inasmuch as the latter constitute the chief features of the entire scheme, and the former are, like them, quite impracticable.

Before dismissing this subject, however, it is pertinent to say that the statements which have been published to support this scheme, regarding the effect produced by the Bonnet Carré outlet, in lowering the flood-line above and below it, have been greatly exaggerated.

The Board of Engineers for the improvement of the low-water navigation of the Mississippi River below Cairo, to whom House bill No. 5413 was referred, say in their report of January 28, 1879, with reference to the effect of the proposed outlet:

"The probable immediate effect of this outlet upon the flood-level of the Mississippi will next be considered. The best basis for a safe estimate is the measured effect of the Great Bell crevasse, which occurred just above New Orleans on the right bank in 1858. Its maximum discharge occurred August 1-17, and was 80,000 cubic feet per second, or about 1-12 of the total discharge of the river at that date.

"This lowered the water surface 1.5 feet at its site and produced no sensible effect at Baton Rouge, 124 miles above. One fundamental error of the engineering project on which this bill is based lies in overestimating the distance to which the influence of an outlet extends above its site, and it will be well to elaborate this point.

"The influence of the Gulf upon the river at high stages is hardly felt above the mouth of Red River. The high-water and the low-water slopes of the water surface above this point are sensibly the same for long distances. Nothing can be done toward modifying the water level below which will exert any marked effect at any considerable distance above. That this is so was proved by the Red River and Raccourci Cut-offs, which shortened the Mississippi 39 miles near the mouth of Red River and lowered the high-water mark there 4.6 feet in the flood of 1851. This beneficial effect diminished rapidly at points higher up the river and was not felt at all at a distance of 100 miles.

"The same system of hydraulics which is fundamental, and which logically results from the small function of the slope entering all discharge formulæ, is also illustrated by accurate tidal measurements upon the Mississippi. Thus for spring tides the oscillations are—

"At the Gulf in flood stages of river, 1.7 feet; in low stages of river, 1.7 feet.

"At the Forts (36 miles) in flood stages of the river, 0.6 foot; in low stages of river, 1.4 feet.

"At Carrollton (120 miles) in flood stages of the river, 0.3 foot; in low stages of river, 1.1 feet.

"At Donaldsonville (192 miles) in flood stages of the river, 0.0; but in low stages of river, 0.9 foot.

"At Baton Rouge (244 miles) in flood stages of the river, 0.0 foot; in low stages of river, 0.4 foot.

"At Red River (315 miles) in flood stages of the river, 0.0 foot; in low stages of river, 0.0 foot.

"It is true that the temporary duration of the tidal rise at the river mouth diminishes its effect on the upper river, but nevertheless the facts given for the tides illustrate the general fact that the effect of lowering the river surface at a given point dies out rapidly in ascending."

THE LEVEE SYSTEM.

Levees have never been erected upon the banks of the Mississippi River except for the special purpose of protecting the alluvial lands from overflow. They have, therefore, always had sole reference to the high-water stage, and the degree to which levees might be prudently relied upon "to improve and give safety to navigation," "promote and facilitate commerce, trade, and the postal service," has not hitherto entered into the question of the construction and maintenance of a levee system.

There is no doubt that the levees exert a direct action in deepening the channel and enlarging the bed of the river during those periods of "rise" or "flood" when by preventing the dispersion of the flood-waters over the adjacent low-lands, either over the river banks or through bayous and other openings, they actually cause the water to rise to a higher level within the river-bed than it would attain if not thus restrained.

It would seem to follow, from the law that the volume of water flowing in the bed determines the size, that prior to the construction of levees the area of the mean cross-section of bed of the Mississippi River must have been less than it was after the levees had reached their most efficient condition, assuming, what is believed to be true, that the average rainfall in the Mississippi Valley has not materially changed within the last hundred years.

There is some evidence in a comparison of the results of Young, Poussin, and Tuttle's examination of 1821, with later surveys, that the width of the river has increased since that date.

As silt-bearing streams in alluvial districts have a tendency to assume in the straight reaches cross-sections which are arcs of circles, and in the bends curves of deeper forms, it follows that any general widening of the river resulting from concentration or increase of volume, which may have taken place, would as a rule be accompanied by a general and corresponding deepening as the result of such general enlargement, although local shoalings, temporarily injurious to navigation, might occur.

There is reason to believe that during the period when levees were in their most perfect condition, from 1850 to 1858, the channel of the river was better generally for purposes of navigation than it has been since that time.

It is known that during the last twenty years the levee system has been continuously interrupted by a great number of crevasses between Cairo and Red River.

Before the levees were built, a large portion of the flood-waters spread out over the banks of the river in a thin sheet, of which the average depth at the margin of the stream, where it escaped, did not probably exceed a few inches, or, at most, a foot. The immediate effect of the levees would be to increase the volume and height and accelerate the velocity of the flood-waters between them, resulting in an erosion and deepening of the river-bed, and ultimately in a corresponding lowering of the flood slope in accordance with the general law already quoted, that an increase in the normal volume of discharge in a sedimentary stream, flowing through alluvial deposits, results ultimately in a lowering of the flood surface. It would seem, therefore, that a closure of the crevasses might be expected to accelerate the removal of those shoals which have been produced by them, and if their closure be accompanied by the requisite contraction of the channel to a more nearly uniform high-water width, a lowering of the flood-level may be expected to such extent as will ultimately render the maintenance of the levees as an aid to navigation practically needless above Red River, and greatly lessen the necessity of their permanent maintenance for that purpose below Red River, even at a reduced height.

While it is not claimed that levees in themselves are necessary as a means of securing ultimately a deep channel for navigation, it is believed that the repair and maintenance of the extensive lines already existing will hasten the work of channel improvement through the increased scour and depth of river-bed which they would produce during the highest river stages. They are regarded as a desirable, though not a necessary, adjunct in the general system of improvement submitted.

It is obvious that levees are, upon a large portion of the river, essential to prevent destruction to life and property by overflow. They give safety and ease to navigation and promote and facilitate commerce and trade by establishing banks or landing places above the reach of floods, upon which produce can be placed while awaiting shipment, and where steamboats and other river craft can land in times of high water.

In a restricted sense as auxiliary to a plan of channel improvement only the construction and maintenance of a levee system is not demanded. But in a larger sense, as embracing not only beneficial effects upon the channel, but as a protection against destructive floods, a levee system is essential; and such system also promotes and facilitates commerce, trade, and the postal service.

A levee system aids and facilitates the postal service by protecting from injury and destruction by freshets and floods the various common roads and railways upon which that service is conducted to and from the river bank, and generally within that portion of the alluvial region subject to overflow. Moreover, the permanent maintenance below Cairo of a connected levee system, a system of sufficient strength to inspire confidence in its efficiency, or the demonstration, by the achieved results of an improved river, that overflow need no longer be seriously apprehended, would act as a prompt and powerful stimulant in rapidly developing a largely increased trade and commerce in all the products of agricultural industry indigenous to that region, and in those branches of manufacturing enterprise related thereto.

The foregoing is submitted as the opinions of this commission with regard to the attributes and functions of levees, and their general utility and value. The views of the several members, however, are not in entire accord with respect to the degree of importance which should attach to the concentration of flood-waters by levees, as a factor in the plan of improvement of low-water navigation, which has received the unanimous preference of the commission.

The breaks in the levees were estimated in January, 1875, by the commission for the reclamation of the alluvial basin of the Mississippi River, to amount to 8,065,700 cubic yards. It is believed that the repairs done in Louisiana and Mississippi since that time will fully equal the enlargement of the openings in Arkansas and Missouri. The estimate of the cost of closing the breaks in the existing system of levees to the former height is based upon this hypothesis.

The want of completed surveys and the limited supply of labor would render difficult the construction of more than one-half of this amount of work in any one year.

Estimate of cost.

For closing to their former height the gaps in the existing levees between Cairo and New Orleans, 8,065,700 cubic yards of earthwork, at 23 cents per yard	$1,855,111
Add for contingencies	164,889
Total for repairs of existing levees	2,020,000

This does not include the cost of maintenance, for which no reliable estimate can be made in the absence of data giving the required dimensions of the levees and their positions relative to caving banks. For the absolute prevention of destructive floods the former height of the levees would have to be increased, but no exact estimate of the cost of these higher levees can be made at present for want of the necessary data.

PLAN OF IMPROVEMENT RECOMMENDED.

The bad navigation of the river is produced by the caving and erosion of its

banks, and the excessive widths and the bars and shoals resulting directly therefrom.

It has been observed in the Mississippi River, and is indeed true of all silt-bearing streams flowing through alluvial deposits, that the more nearly the high river width, or width between the banks, approaches to uniformity, the more nearly uniform will be the channel depth, the less will be the variations of velocity, and the less the rate of caving to be expected in concave bends. This would seem to be so in the very nature of things, because uniformity of width secured by contraction will produce increased velocity, and therefore increased erosion of bed at the shoal places, accompanied by a corresponding deposit of silt at the deep places, and consequently greater uniformity of depth.

Uniform depth joined to uniform width, that is to say, uniformity of effective cross-section, implies uniform velocity, and this means that there will be no violent eddies and cross-currents, and no great and sudden fluctuations in the silt-transporting power of the current. There will therefore be less erosion from oblique currents and eddies, and no formations of shoals and bars produced by silt taken up from one part of the channel and dropped in another. As the friction of the bed retards the flow of the water, any diminution of the friction will promote the discharge of floods. The frictional surface is greater in proportion to volume of discharge where the river is wide and shoal than where it is narrow and deep. It follows, therefore, that after the wide shoal places are suitably narrowed, and the normal sectional area is restored by deepening the channel, the friction will be less than it was before. This will result in a more easy and rapid discharge of the flowing water, and consequently in a lowering of the flood-surface. It would seem, therefore, that the plan of improvement must comprise, as its essential features, the contraction of the water-way of the river to a comparatively uniform width, and the protection of caving banks, and this is presumed to be the plan referred to in the act as the "jetty system." It is known, from observation of the river below Cairo, not only that shoals and bars, producing insufficient depth and bad navigation, are always accompanied by a low-water width exceeding three thousand feet, but that wherever the river does not exceed that width there is a good channel. In other words, bad navigation invariably accompanies a wide low-river water-way, and good navigation a narrow one.

The work to be done, therefore, is to scour out and maintain a channel through the shoals and bars existing in those portions of the river where the width is excessive, and to build up new banks and develop new shore lines, so as to establish, as far as practicable, the requisite conditions of uniform velocity for all stages of the river.

It is believed that this improvement can be accomplished below Cairo by contracting the low-water channel-way to an approximately uniform width of about three thousand feet, for the purpose of scouring out a channel through the shoals and bars, and by causing, through the action of appropriate works constructed at suitable localities, the deposition of sand and other earthy materials transported by the water upon the dry bars and other portions of the present bed not embraced within the limits of the proposed low-water channel. The ultimate effect sought to be produced by such deposits is a comparative uniformity in the width of the high-water channel of the river.

It is believed that the works estimated for in this report will create and establish a depth of at least ten feet at extreme low stages of the river over all the bars below Cairo, where they are located.

It is the opinion of this commission that, as a general rule, the channel should be fixed and maintained in its present location, and that no attempt should be made to straighten the river or to shorten it by cut-offs.

The borings which were made in 1879 at New Madrid and Plum Point by direction of the board of engineers for the improvement of the low-water navigation of the Mississippi River below Cairo, and those of more recent date at Memphis and Helena, made under the orders of this commission, as well as those near Lake Borgne, reported by the levee commission of 1875, and others made along the proposed line of the Fort Saint Philip Canal, and the artesian well sunk at New Orleans, all furnish concurrent evidence of the yielding character of the strata forming the river bed. This evidence, taken in connection with the fact that deep water is found in all the bends of the river where the width is not excessive, and that these bends have, by their shiftings at one time or another, probably occupied and covered nearly every part of the belt from ten to twenty miles in width, from Cairo to the Gulf, point to the conclusion, if it does not indeed justify it, that there is no extensive stratum of material capable of resisting erosion and preventing the river from deepening its own bed. In exceptional localities, where the material is too tough or the gravel too heavy for removal by scour, dredging may have to be resorted to as an auxiliary, the depth secured by this means being maintained by the works erected for narrowing the stream.

Experience, as well in this country as in Europe, justifies the belief that the requisite correction and equalization of the transverse profile of the stream, by developing new shore-lines and building up new banks, may be made chiefly through the instrumentalities of light, flexible, and comparatively inexpensive constructions of poles and brush and materials of like character. These constructions will commonly be open or permeable to such degree that, without too violently arresting the flow of water, thereby unduly increasing the head and causing dangerous underscour, they will sufficiently check the current to induce a deposit of silt in selected localities.

The works which have been used in similar improvements are of various forms and devices, such as the hurdle, composed of a line of stakes or light piles, with brush interlaced; the open dike, formed of stakes with waling strips on both sides filled in loosely with brush; the continuous brush mattress, built or woven on fixed or floating ways and launched as fast as completed, as a revetment to a caving bank, the mattress used as a vertical or inclined curtain, placed in the stream to check the current, the same laid on the bottom as the foundation for such a curtain or as an anchorage for other brush devices; curtains of wire or brush netting, placed vertically or inclined in the stream; and various other forms of permeable brush dikes, jetties, or revetments. Some of these methods of construction have been used on the Mississippi and Missouri Rivers with increasing satisfaction and success, although they cannot yet be regarded as entirely beyond the experimental stage. In some, perhaps in many, localities works of a much more solid character than those above indicated may be necessary.

The closure of deep channels or low-water chutes, with a view of confining the flow to a single passage, may require substantial dams of brush and riprap stone or gravel, but it is believed the lighter and less costly works will generally suffice.

By a permeable dike located upon the new shore-line to be developed, connected with the old bank at suitable intervals by cross-lines of like character, or by jetties of hurdles or other permeable works projecting from the bank with their channel ends terminating on the margin of the proposed water-way, or by any other equivalent works, the area to be reclaimed and raised will be converted into a series of silting basins, from which the water, flowing through the barriers with diminished velocity, will, after depositing its heavier material, pass off and give place to a new supply. In this manner the accretion will go on continuously through the high-water season, or through two or more seasons if necessary, the works being renewed on the higher level as occasion requires.

Wherever necessary, the new bank must be protected by a mattress, revetment, or some equivalent device.

That these methods of improvement are practicable is shown by the works already executed on the Mississippi and Missouri Rivers.

The plan submitted by the board of engineers for the improvement of the low-water navigation of the river below Cairo, in their report dated January 25, 1879, (see House Ex. Doc. No. 41, Forty-fifth Congress, third session,) in which it is recommended that $600,000 be asked for the improvement of the Plum Point Reach, and "that the improvement be effected by narrowing the shoal and wide portions of the low-water river to about thirty-five hundred feet, and by protecting caving banks where necessary," is substantially adopted for the initial works submitted for construction in this report.

An accurate estimate of the cost of properly improving the entire river below Cairo cannot be made until after the completion of the surveys now in progress. Moreover, estimates based upon the latest data from those surveys will doubtless require modification in some particulars to meet subsequent changes in the river, and will perhaps be considerably reduced in the aggregate amount by improved methods of construction developed during the progress of the work.

INITIAL WORKS.

Under the authority conferred in section 5 of the act estimates of cost of certain initial works, constituting a component part of the general system of works contemplated, are submitted.

Those works of channel contraction and bank protection which in the judgment of this commission may be advantageously undertaken during the coming fiscal year, or as soon as Congress supplies the means, are confined to an aggregate length of nearly two hundred miles of the shoalest water below Cairo, embracing the following localities, viz: New Madrid, Plum Point, Memphis, Helena, Choctaw Bend, and Lake Providence.

The estimates are intended to cover the cost of works for contracting the channel and for securing and protecting the banks; for the necessary outfit of boats, tugs, tools, &c., to carry on the work for local surveys, the salaries of engineers, superintendents, and inspectors, and the necessary office expenses. Further appropriations will be needed to complete the works, secure their permanence, and develop the full benefit of the system.

As regards the final cost, the novelty of the devices to be employed and the absence of experience with respect to the rapidity and degree of their results forbid any exact estimate; but it is believed that such additional works as will ultimately be required to complete and render permanent the improvement contemplated in this system at the localities specified will not exceed the amount hereinbelow stated as needed for initial works.

It is considered necessary that a contingent sum, which is inserted in the estimates for initial work, be appropriated for use in any emergency that may arise for securing or protecting the works at any point after the specific appropriation may have been exhausted.

Estimates.

New Madrid Reach, forty miles long:	
Works for contracting the channel and protecting the banks	$776,000
For outfit, superintendence, inspection, office expenses, and local surveys	147,000
Total for New Madrid Reach	923,000
Plum Point Reach, thirty-eight miles long:	
Works for contracting the channel and protecting the banks	599,000
For outfit, superintendence, inspection, office expenses, and local surveys	137,000
Total for Plum Point Reach	736,000
Memphis Reach, sixteen miles long:	
Works for contracting the channel and protecting the banks	282,000
For outfit, superintendence, inspection, office expenses, and local surveys	100,000
Total for Memphis Reach	382,000
Helena Reach, thirty miles long:	
Works for contracting the channel and protecting the banks	515,000
For outfit, superintendence, inspection, office expenses, and local surveys	112,000
Total for Helena Reach	627,000
Choctaw Bend, thirty-five miles long:	
Works for contracting the channel and protecting the banks	464,000
For outfit, superintendence, inspection, office expenses, and surveys	112,000
Total for Choctaw Bend	576,000
Lake Providence Reach, twenty-five miles long:	
Works for contracting the channel and protecting the banks	507,000
For outfit, superintendence, inspection, office expenses, and local surveys	112,000
Total for Providence Reach	619,000
Contingencies	250,000

Should it be determined not to appropriate the amounts estimated for all the initial works, it is considered important that the reduction should be made rather in the number of places at which work is proposed than by reducing the estimates for any one place.

Estimates for works of improvement for the first fiscal year.

Initial works for channel contraction and bank protection	$4,113,000
Closing gaps in levees	1,010,000
Checking enlargement of Atchafalaya	10,000

Estimates for surveys and for expenses of commission for fiscal year ending June 30, 1881.

For surveys and examinations above and below Cairo, and the necessary salaries and other expenses of the Mississippi River commission	$200,000

If Congress shall authorize any extensive works of improvement on the Mississippi, we would respectfully suggest that provision be made by law for the appropriation of such land and materials as may be needed in the work when the same cannot be obtained upon equitable terms by purchase from the owner. We do not contemplate that a resort to such proceedings would often be necessary; but in the absence of any such provision of law, individual owners of the property required might greatly and unjustly enhance the cost of the work.

Authority to file in the proper court of the United States an article of appropriation describing the property to be taken, and to have an assessment by competent appraisers of its value, would tend to prevent extortion, and at the same time secure to the individual a just recompense for the property taken.

We venture to suggest further that in case the commission should be continued in existence and the works recommended by it be in whole or in part authorized by Congress the execution of the work and the expenditure of the appropriations therefor shall not be made part of the duty of the commission. We think the duties of the commission should be limited to the preparation of plans, their modification when necessary, the advisory supervision of the work, and the completion of the surveys and observations. This would secure unity of plan, greater

efficiency in the work, and a better system of checks upon the expenditures than we could hope to secure if the entire work of devising, executing, and disbursing were cast upon the commission.

All of which is respectfully submitted.

Q. A. GILLMORE,
Lieutenant-Colonel of Engineers, Bvt. Maj. Gen., President Mississippi River Commission.
CHAS. R. SUTER,
Major of Engineers, U. S. A.,
HENRY MITCHELL,
Coast and Geodetic Survey.
JAS. B. EADS.
B. M. HARROD.

Hon. ALEXANDER RAMSEY,
Secretary of War, Washington, D. C.

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APPENDIX 1.

WASHINGTON, D. C., *February* 16, 1880.

Financial statement.

Amount appropriated for expenses of the Mississippi River commission, by act approved June 28, 1879		$175,000 00
Amount expended to February 16, 1880, including outstanding liabilities:		
For surveys and observations	$65,691 21	
For salaries of commissioners	5,024 99	
For mileage and inspection	8,167 88	
For reduction of maps	1,920 70	
For office expenses	4,195 22	
Balance which it is estimated will be required during remainder of the fiscal year ending June 30, 1880	90,000 00	
		175,000 00

SMITH S. LEACH,
First Lieutenant of Engineers, U. S. A., Secretary Mississippi River Commission.

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THE MISSISSIPPI RIVER COMMISSION,
PRESIDENT'S OFFICE, ARMY BUILDING,
33 WEST HOUSTON STREET,
New York, March 8, 1880.

SIR: I have the honor to transmit herewith the minority report of General Comstock and Mr. Harrison, to be attached to the report of the Mississippi River commission forwarded with my letter of the 6th instant.

Very respectfully, your obedient servant,

Q. A. GILLMORE,
Lieutenant-Colonel of Engineers, Brevet Major-General, U. S. A., President Mississippi River Commission.

Hon. ALEXANDER RAMSEY,
Secretary of War, Washington, D. C.

[Indorsement.]

OFFICE CHIEF OF ENGINEERS, U. S. ARMY,
March 9, 1880.

Respectfully forwarded to the honorable the Secretary of War, to accompany report of Mississippi River commission transmitted on the 8th instant.

H. G. WRIGHT,
Chief of Engineers, Brigadier and Brevet Major-General.

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MINORITY REPORT.

While of the opinion that an ample depth of water for navigation on the Mississippi River below Cairo can be obtained by contraction of the low-water width at shoal places to about 3,000 feet, erosion being aided by dredging, if necessary; and while of the opinion that levees are essential to prevent injury to alluvial lands by destructive floods, and that outlets should not in general be used, there are some less important points on which we do not concur in the views of the majority of the commission.

1. We cannot concur in the unqualified form of expression of certain theoretical views, believing them to have too many exceptions to furnish safe bases for practical conclusions. One such statement is:

"If the normal volume of water in a silt-bearing stream, flowing in an alluvial bed of its own formation, be permanently increased, there will result * * * ultimately a lowering of the surface slope."

While this statement and its converse are usually true, they yet omit some factors which influence the relation between discharge and slope. One is the coarseness and quantity of the sediment which the increase of volume brings; another is the ratio of flood to low-water discharge, and another the varying coarseness of the material forming the bed of the river at the same place at different times or at different places.

When the increase of volume brings with it much coarse sediment, the slope may be increased instead of diminished by increase of volume. This effect has been frequently observed below the mouths of tributaries.

Again, if the ratio of flood to low-water discharge could be made to approach unity, the annual discharge remaining unchanged, it is probable that the middle Mississippi would have a smaller slope than at present, approaching that of the river below New Orleans, where the flood rise is small. In that case the annual discharge might be diminished without increasing the slope beyond its present value.

2. We do not concur with the majority of the commission in their estimate of the value of the closure of gaps in existing levees as a factor in the improvement of low-water navigation; this estimate being derived in part from the theoretical views already referred to.

Existing evidence seems to show that during low-water stages the bars below Cairo are usually cut out by the river, and that when the period of low river in the following season approaches these low-water channels are found filled up, the low-water bed of the river in these shoal places have risen, to be again cut out by the low river. (See Major Suter's report in Report of Chief Engineers, 1875.)

At the Horse-Tail Bar, below Saint Louis, the bed of the river has been observed to rise eight or ten feet above low-water in the interval between two low-river periods. (See General Simpson's report in Chief of Engineer's Report, 1876.)

If, then, the final effect of a flood which rises from thirty to fifty feet above low-water is to raise the low-water bed of the river at shoal places, may it not be possible that if the height of this flood be somewhat increased by levees the bed may rise still further, instead of being depressed, thus injuring instead of improving navigation?

But even if a rise or fall of a foot or two in the bed of the river were produced by levees, it is difficult to see how this would sensibly affect the low-water width of the river. Bad navigation arises from excessive low-water width at certain places, and is to be cured by contracting that low-water width to about three thousand feet. This contraction must be effected by works in the bed of the river, and not by levees on top of its banks, out of contact with the low-water river.

For these reasons we are of the opinion that levees are of very little value in improving the low-water navigation of the river. Of their necessity in protecting alluvial lands against destructive floods there can be no doubt, and to obtain such protection the first step would be the closure of gaps in existing levees. The regulation of the low-water river, including the fixation of the river banks, would be of the greatest aid to the levees, since it would secure them from destruction by caving.

The majority report anticipates as a result of the proposed works a lowering of the flood-level to such an extent "as will ultimately render the maintenance of the levees as an aid to navigation practically needless above Red River."

As to the larger question, whether the proposed works will make levees unnecessary to prevent destructive floods on this part of the river, there are in our opinion no sufficient data for drawing reliable conclusions; theoretically they should in some degree lower the bed.

A reduction of the flood-level is very desirable, but where on other rivers this has been effected cut-offs have usually played an essential part. For this reason we are not prepared to absolutely reject their use, after the banks of the river have been thoroughly protected for considerable distances above and below the sites where they are about to occur.

From the lack of sufficient experience, either in this country or abroad, in the improvement of rivers by the means recommended in the report, the estimates of cost can only be considered as rough approximations, since the strength needed for the works will have to be determined by trial. For this reason we think it in the interest of economy that works should not in the first year be undertaken at more than one or two of the points for which estimates are submitted.

C. B. COMSTOCK,
Major of Engineers and Brevet Brigadier-General.
BENJAMIN HARRISON.

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C.

Forty-sixth Congress, second session—House of Representatives, Report No. 1575.

LEVEES AND IMPROVEMENT OF THE MISSISSIPPI RIVER.

May 26, 1880, recommitted to the Committee on Levees and Improvements of the Mississippi River, and ordered to be printed.

Mr. DUNN, from the Committee on Levees and Improvements of the Mississippi River, submitted the following report:

The sub-committee of the Committee on Levees and Improvements of the Mississippi River, to whom was referred the report of the Mississippi River commission, and who, by the resolutions of the House of Representatives and of the Committee on Levees and Improvements of the Mississippi River, were directed "to proceed down the Mississippi River to its mouth, at such time as the committee may determine, for the purpose of acquiring a knowledge of its peculiar conditions and wants and to gather information relative to the best methods for its improvement," &c., submit the following report:

In obedience to said resolutions your sub-committee left Washington City on the 2d day of May, 1880, and proceeded direct to Saint Louis, Missouri, by railroad, arriving at said city on the evening of the 4th, from which point they proceeded to the mouth of the river.

On the 6th passage was taken on the steamer James Howard, from Saint Louis to New Orleans. This vessel has a beam of 55 feet, a length of 322 feet, and a registered tonnage of 2,321 tons. Her carrying capacity is about 3,000 tons on a draught of 11 feet. The displacement is about 1 foot for 450 tons. Her cargo aggregated about 3,100 tons in weight, and was composed as follows:

Cargo, May 5, 1880:

	Average weight.
3,781 barrels flour	216
2,422 barrels meal	220
937 barrels pork	330
53 barrels whisky	375
50 barrels tallow	400
66 barrels oil	400
7,490 sacks corn	165
6,593 sacks oats	165
708 sacks bran	180
1,007 bales hay	300
854 bales cotton	500
250 pieces bagging	100
2,061 packages sundries.	

This cargo was carried unbroken to Vicksburgh. Below that point it was distributed at about seventy landings, including towns, country stores, plantations, and farms. The trade seems to be direct between the producer and customer, and thus yields the largest benefit to both.

On starting, the river at Saint Louis was about half stage, or midway between high and low water. This condition indicated a depth of about sixteen feet more than the low-water channel, which may be assumed at four feet, (that prevails, disturbing navigation three or four months annually.) A channel of about twenty feet depth might, therefore, have been expected, affording unobstructed navigation even for the very large vessel on which we had embarked. But, in fact, frequent soundings were found necessary, which in many places showed a depth not exceeding twelve or fourteen feet.

Owing to the incessant shifting or changing of the channel it was found necessary to tie up at night on the upper part of the river. This phenomenal condition is characteristic of parts of the stream where the width is excessive, or where it is divided into separate channels or chutes by bars or islands, and is explained by the principles enunciated and the processes described in the report of the Mississippi River commission.

Approaching Cairo, navigation was found better, on account of the back-water from the Ohio. The high water prevailing on this stream filled the Mississippi nearly to danger-line from Cairo down. There was abundant evidence, however, that earlier in the season few, if any, points had escaped the general and disastrous overflow. Examinations of the river should be made during a great flood, and also at extreme low water. These conditions exhibit most clearly, and from different points of view, the necessity of "correcting, permanently locating and deepening the channel, and protecting the banks of the Mississippi River, improving and giving safety and ease to the navigation thereof, preventing destructive floods, and promoting and facilitating trade, commerce, and postal service."

A study of these conditions is therefore necessary for the proper consideration of and maturing a plan for accomplishment of these great objects.

Although your committee did not enjoy the advantages of observation afforded by either of these extreme conditions, they returned fully impressed with the importance and necessity of the proposed improvements, and with defined opinions concerning the character of the methods required for its attainment.

A sub-committee should visit the river during that part of the autumn when the lowest water may be expected, provided with sufficient appropriations to travel to such points and remain such time as a more thorough investigation may require.

The constant association of characteristic phenomena, wherever the navigation is very good or very bad, indicates clearly the relation of the cause and effect existing, and suggests the appropriate means of improvement.

Wherever the width of the river is unusully great, or where it is divided into separate channels, serious obstructions occur. Through a narrow and undivided bed deep water is always found. Inequalities of width are caused by the caving of the banks. As bars and islands are formed by this process they serve to intensify the original cause.

No natural cessation of the agencies now at work—destructive to navigation—can be anticipated.

We are of opinion that a process that will arrest the caving of the banks and will develop the bars outside the width of channel assumed as necessary into new shore-lines, conserving and strengthening the scouring power of the current, instead of retarding, diverting, and dissipating it, as they do in their present condition, is eminently necessary not only for restoring the measure of navigation already lost, but to arrest the progress of deterioration which is steadily going on.

Your sub-committee have found that the parts of the levee system remaining range from about four to twenty feet high, comprising dikes attaining the height of thirty-five feet over bayous and sloughs. Where such dimensions are reached their maintenance is important in preventing the depletion of the river and the resulting injury to navigation through the outlets which their destruction would cause.

The present provision by the States in which these works are located for their preservation or restoration is inadequate and uncertain. It is also doubtful whether these States should be solely charged with these works, which, while they were built by them exclusively for protection from overflow, serve a national purpose in preventing destructive floods and in maintaining and improving by the removal of sand-bars the navigation of our inland waters.

In referring to this connection of levees with the navigation of the river we quote from a board of engineers:

"The next obstacle to the improvement of the low-water navigation and to maintaining a levee system in one and the same for both, namely, the instability of the river from the caving of its banks. When this can be overcome by means not inordinately expensive (on which subject we have treated more fully in our preliminary report on the low-water navigation of the river) we may expect a deepened channel, a lowered high-water surface, and a stable river, the margins of which shall be securely cultivated to the enormous development of the wealth and population of the region."

From a careful comparison of our observations with the report of the Mississippi River commission, we are of opinion that the description and explanation contained therein of the natural operations now progressing to the detriment of the navigation of the Mississippi River are apparently correct; and also that the methods therein recommended for the treatment of the Mississippi River appear to be correct, and should be tested.

This is demanded both by the steady increase of the evils to be abated and by the trade of the Great Mississippi Valley seeking distribution and outlet.

Your committee forbear to enter upon any elaborate statement of facts showing the vast interests involved, preferring rather to confine themselves to the best means for benefiting and improving the navigation of the river in the interest of production, commerce, trade, and the general welfare.

All are familiar with the great resources of this mighty valley, embracing an area of about 2,000,000,000 square miles, with a population of near 30,000,000, and in 1879 producing 87 per cent. of the entire corn crop, 69 per cent. of wheat, 72 per cent. of the rye, 75 per cent. of the tobacco, 74 per cent. of the cotton, 71 per cent. of the hog crop, and almost the total sugar crop of the country, which, less the cost of transporting, represents the immense productive powers of the valley. Carefully gathered statistics also show that the manufacturing and mining interests and capabilities of this region will soon equal, if they do not surpass, the older communities in other parts of the country.

It has been well said that "manufacturers run along the lines of least resistance;" and, with the abundant supply of raw material, with food and land cheap and plentiful, the Mississippi Valley is destined to develop upon as grand a scale in this direction as it has already done in the line of agriculture.

The foregoing statements give some conception of the territory, population, products, commerce, and manufactures affected, in a local sense, by the proposed improvements. But we may here repeat, with emphasis, what was said by a member of the House when the subject of this river and valley was before it:

"The magnitude of the interests involved may properly be held to concern the whole country, and if the 'general welfare' clause of the Constitution can be invoked at all, surely it would apply here. Indeed, we may go further and, adopting the language of the memorial of the late Quincy improvement convention addressed to Congress, fairly say 'that the subject presented for your consideration is, in its full bearing, not confined to the interesting region for the needs of which we speak, nor yet to the whole country, which you represent. It is lifted to a higher plane; becomes international in its character; and is, in a large degree, of interest to the whole civilized world.'"

Permanent resuscitation and maintenance of all commercial and business industries must come from the soil. The question for solution is not how much can we produce, but how much can we sell?

The vital point of the whole matter is found in the proposition that the interest and value of this immense product and commerce are dependent upon the methods by which the markets of consumption can be most cheaply reached:

"At the foundation of this inquiry [say the memorialists above referred to] lie three propositions, so clear that they may be regarded as commercial axioms.

"These are—

"First. The price obtained for the surplus fixes the value of the whole production—as the home market generally rules at the prices of the foreign—less the cost of transfer. Thus the saving to the people of the valley who till the soil of one cent per bushel on wheat and corn for the year 1879 would, according to the figures of production, aggregate a sum total of nearly $15,000,000."

It is not unreasonable to estimate that the deepening of the channel of the Mississippi River will lessen the freight, carriage, and insurance rates of the cereals alone to the seaboard at least five cents per bushel, which gives in round numbers $75,000,000 per annum on the present yield.

"Second. The rate by river determines the rate by rail. But we are confronted here by the difficulty that there is a limit to railway capacity. * * * The improvement of the water-ways is as necessary to bear away our enormous and constantly increasing surplus of production as it is to regulate the rates at which products shall be moved.

'Third. The deeper the channel, the larger the vessel employed; the greater the capacity of the vessel, the less the cost of carriage, is the law of water-freights. Thus cheap transportation is the basal strength of all that can be planned or accomplished. It is the vital and paramount, as it is, throughout the country, the all-absorbing and overshadowing question."

In conclusion, adopting the eloquent language of a distinguished member of this House, your committee asks, the whole country asks:

"Why should you not improve the Mississippi River? It belongs to no State; it cannot be monopolized; it is beyond the reach of corporations; it is the nation's free highway; it is the national outlet of a mighty valley, fifteen hundred miles wide and two thousand miles long; the richest and largest in the world, penetrated by fifty thousand miles of boatable streams; it affords the cheapest navigation known, furnishing itself propelling power. A single steam-tug with barges will bring down more wheat than can be moved on fifteen hundred freight cars, and at half the cost."

We are spending between three and four millions of dollars per year, wisely as we think, to improve the tributaries of the Mississippi River, and should improve the Father of Waters itself, this great trunk-line, this central highway of commerce, so that it shall not remain blocked up or be permitted to convert itself into a shallow waste, useless and dangerous.

P. DUNN,
W. R. MYERS,
B. W. HARRIS,
C. D. PRESCOTT,
H. L. HUMPHREY,
Committee.

D.

Forty-sixth Congress, second session—H. R. 6326.

In the House of Representatives, May 28, 1880. Read twice, committed to the Committee of the Whole House on the state of the Union, and ordered to be printed.

Mr. GIBSON, from the Committee on Levees and Improvement of the Mississippi River, reported the following bill as a substitute for H. R. 6317:

A bill making appropriations for the construction, repair, completion, and preservation of certain works on the Mississippi River.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums of money be, and they are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, to be expended by and under the direction of the Secretary of War, in accordance with the recommendations, plans, estimates, and specifications, and under the advisory supervision of the Mississippi River commission, for the construction, repair, completion, and preservation of the public works hereinafter named, as follows:

Improving New Madrid Reach, forty miles long: Works for contracting the channel and protecting the banks, $776,000; for outfit, superintendence, inspection, office expenses, and local surveys, $147,000; total for New Madrid Reach, $923,000.

Improving Plum Point Reach, thirty-eight miles long: Works for contracting the channel and protecting the banks, $599,000; for outfit, superintendence, inspection, office expenses, and local surveys, $137,000; total for Plum Point Reach, $736,000.

Improving Memphis Reach, sixteen miles long: Works for contracting the channel and protecting the banks, $282,000; for outfit, superintendence, inspection, office expenses, and local surveys, $100,000; total for Memphis Reach, $382,000.

Improving Helena Reach, thirty miles long: Works for contracting the channel and protecting the banks, $515,000; for outfit, superintendence, inspection, office expenses, and local surveys, $112,000; total for Helena Reach, $627,000.

Improving Choctaw Bend, thirty-five miles long: Works for contracting the channel and protecting the banks, $464,000; for outfit, superintendence, inspection, office expenses, and surveys, $112,000; total for Choctaw Bend, $576,000.

Improving Lake Providence Reach, twenty-five miles long: Works for contracting the channel and protecting the banks, $507,000; for outfit, superintendence, inspection, office expenses, and local surveys, $112,000; total for Providence Reach, $619,000; contingencies, $250,000.

For closing to their former height the gaps in the existing levees between the head of the passes and Cairo, 8,065,700 cubic yards of earthwork, at twenty-three cents per yard, $1,855,111; add for contingencies, $164,889; total for repairs of existing levees, $2,020,000.

For contracting the channel and restoring deep water in front of the city of Vicksburgh, Mississippi, $250,000.

For contracting the channel and restoring deep water in front of the city of Natchez, Mississippi, $250,000.

For checking enlargement of Atchafalaya, $10,000: *Provided*, That the money herein appropriated shall not be available until the right of way and jurisdiction over all of the said public works shall be ceded to the United States.

E.

Forty-fifth Congress, third session.—House of Representatives, Executive Document No. 37.

IMPROVEMENT OF THE NAVIGATION OF THE LOWER MISSISSIPPI RIVER.

Letter from the Secretary of War, transmitting report of the board of engineers upon the improvement of the low-water navigation of the Mississippi River below Cairo, Illinois.

January 28, 1879, referred to the Committee on Commerce, and ordered to be printed.

WAR DEPARTMENT,
Washington City, January 27, 1879.

The Secretary of War has the honor to transmit to the House of Representatives, for the information of the Committee on Commerce, a letter from the Chief of Engineers dated the 27th instant, and copy of report of the board of engineers on the improvement of the low-water navigation of the Mississippi River below Cairo, Illinois.

GEO. W. McCRARY,
Secretary of War.

The SPEAKER *of the House of Representatives.*

OFFICE OF THE CHIEF OF ENGINEERS,
Washington, D. C., January 27, 1879.

SIR: I have the honor to submit the inclosed copy of the report of the board of engineers on the improvement of the low-water navigation of the Mississippi River below Cairo, Illinois, upon the "effect of a permanent levee system throughout the length of the river below the mouth of the Ohio, not only upon its low-water navigation, but also of the benefits it would confer in affording protection and giving needed facilities to shipping, commerce, and navigation in the high stages of the river;" and beg leave to invite attention thereto.

I concur in the views and conclusions of the board, and, in view of the importance of the subject, respectfully suggest that the report be sent to the Speaker of the House of Representatives for the information of the Committee on Commerce.

Very respectfully, your obedient servant,

A. A. HUMPHREYS,
Brigadier-General and Chief of Engineers.

Hon. GEORGE W. McCRARY,
Secretary of War.

EFFECT OF A PERMANENT LEVEE SYSTEM ON THE MISSISSIPPI BELOW THE MOUTH OF THE OHIO RIVER.

ARMY BUILDING, *New York, January 25, 1879.*

GENERAL: In reply to your letter of November 13, 1878, which invites "the attention of the board of engineers for the improvement of the low-water navigation of the Mississippi River to the consideration of the effect of a permanent levee system throughout the length of the river below the mouth of the Ohio, not only upon its low-water navigation, but also of the benefits it would confer in affording

protection and giving needed facilities to shipping, commerce, and navigation in the high stages of the river," the board have the honor to report their views as follows:

The letter presents the matter of the effects of a levee system in two aspects—

1. Its effects on low-water navigation.

2. The benefits it would confer in affording protection and giving needed facilities to shipping, commerce, and navigation in the high stages of the river.

In both these points of view it is referred to by Hon. R. L. GIBSON, member of Congress from Louisiana, in his published letter to the president of the board, a copy of which is appended, marked A; but while asserting strongly the benefits to be conferred by a complete levee system on low-water navigation, he is especially strenuous and elaborate in his expressions concerning the benefits to be realized at high-water stages, for which stages, indeed, the levees, as hitherto designed, have exclusive reference. But this exclusive reference has been to protection of the lands from overflow. As "affording protection and giving needed facilities for shipping, commerce, and navigation" the levees have not been hitherto constructed, demanded, or projected.

To deal with the question whether there is any connection between levees and "facilities for shipping, commerce, and navigation" at high stages we refer to the actual condition of things. We find that throughout all the extension of the Mississippi along which the levee system is practically efficient, and where the marginal lands are generally cleared and cultivated the levees have been an important aid to commerce. Below the mouth of the Arkansas and as far down as the forts below New Orleans the levees have been long enough in existence to give evidence of their effects, direct and indirect. Immediately behind them are the cultivated lands, the plantations, whence come sugar, cotton, and other valuable staples. To each one of these plantations not only is the levee the protecting agent which renders their cultivation practicable, but it is, during floods, the landing place of the steamers, barges, or flat-boats which bring their supplies and carry their productions away.

The levees thus become aids to commerce with the cultivated regions directly along the margins of the river; moreover, they allow the maintenance, which would otherwise to some extent be impracticable, of the numerous common roads leading back to, and bringing in the productions of, regions considerably removed. Railroads, of which there are several, which, to cross the Mississippi or to reach its marginal cities, pass through the extensive swamp regions bordering the river, can only secure an unimpeded traffic during floods by raising their track above the level of the great floods or by the protection of levees.

Our information does not justify us in maintaining that levees would have so important an influence as claimed in promoting flat-boat navigation, though, doubtless, were the channel of the river regulated to a nearly uniform width, high-water outlets closed, and bank-overflow prevented, flat-boat as well as all other kinds of navigation (flat-boat more particularly) would be rendered easier, more rapid, and safer, but such a channel regulation involves, as will be shown, something more than levees. Flat-boat navigation was formerly more important than now, and when levees above the mouth of the Arkansas were not in existence.

This kind of navigation has yielded to the superior facilities offered by the barge system and by the introduction of large freight-carrying steamers. Most of the flat-boats now seen on the river come out of the Ohio and its tributaries, and are most numerous at about the time of the fall rise, a rise which never amounts to a "flood;" hence, at a stage in which the natural banks bound and furnish visible margins to the navigation channel.

In the lower river, through the regions where the margins are under cultivation, the levees are generally laid close to these margins, and afford, as has already been stated, useful facilities to commerce in making practicable the coming alongside of steamers and the receiving the products of the plantations and discharging freights for the use of the same, or for the back country. In ordinary rises the natural banks are not overflowed, but when that happens in "flood" years they serve a purpose in still defining the channel.

Above Vicksburgh the caving of the banks and the general instability of the river are greater. To escape the inroads of bank-caving, and sometimes to cut off very elongated bends, the levees are often at considerable distance from the banks. In such cases they may not be seen at all from the river, or, if visible, would serve no useful purpose in defining the channel. They have not yet indeed throughout the upper portions of this section been long enough and permanently enough maintained in existence to inspire confidence and give rise to a systematic cultivation of the marginal lands.

To sum up: The levees, where they have been permanently established, do to a certain extent afford protection and give needed facilities to commerce and navigation, and were they permanently established throughout the river they would doubtless develop a large additional commerce and afford the kind of facilities just mentioned for its transaction.

2. THE EFFECTS OF LEVEES ON LOW-WATER NAVIGATION.

Levees have no direct action except when the water is high. Nevertheless a connected levee system begins to act *before* the stage of actual bank overflow of the Mississippi is reached. The numerous creeks, or bayous, which partially drain the great swamp basins of the Saint Francis, Yazoo, and Tensas furnish inlets through which the water of the river begins to flood the swamps, even when several feet below the elevation of its natural banks. The levee system would therefore come into useful action before the natural banks were overtopped. And this would be the more usual extent of its action; for the "flood" years are on average but one out of four or five.

That the confining of this usually escaping water in one channel, in ordinary as well as in flood years, would in a general way tend to deepen the bed, we do not doubt. But where the low-water navigation is bad it is not because there has been a lack of water at high stages. It is because of inordinate width at those places, over which the river sweeps with no well-defined channel, or with channels shifting with different stages of the river and with different years.

From whatever cause this widening has had its origin, the result is the same—a shoal, or "bar," or bad low-water navigation. In most cases this inordinate widening seems obviously due to rapid caving away of the concave banks in the bends; in some cases great width is found between straight banks, suggesting (possibly) in the locality an unusually tough and unyielding bottom material. In general, however, the bottom material of these bars or places of bad low-water navigation is shifting sand or gravel. For more particular description of bar formation, growth, and movement we refer to Major Suter's report "upon the improvement of the navigation of the Mississippi River between the mouth of the Ohio and New Orleans," (Executive Document 19, part 7, Senate, Forty-third Congress, second session,) made in response to the call of the Senate Select Committee on Transportation Routes. In this report there are enumerated forty-three localities where less than ten feet low-water channel depth may be found, and thirteen where there may at times occur less than five feet. Elsewhere the navigation was good. Hence the improving of the low-water navigation of the Mississippi below Cairo consists mainly in the removal of these bars, or the excavation and the maintaining through them of the channels of adequate depth and width.

A glance at the sketches of the localities accompanying Major Suter's report, and especially of those of worst low-water navigation, as for instance the Plum Point Bars, is sufficient to show that levees, in the ordinary sense of the word, even if they come into action every high-water stage instead of only every "flood," would have little or no influence on the low-water navigation. They would leave to the river its inordinately great width and area of shifting sands, and exert little or no influence on channel formation. This would be the fact even if they everywhere followed closely the natural banks or margins of the ordinary high-water flow. But, as has already been remarked, the present system of levees, as actually built up to and above the mouth of the Ohio, though now in very ruinous condition, in its upper portions, deviates not infrequently from the immediate banks to cut across bends or avoid the invasion of caving banks. In the more elaborate levee system designed by the commission of 1874 the great levees are laid, for the upper portions of the river, at greater or less distance from the intermediate margins; and though an auxiliary system more closely following the banks is contemplated, the latter, like the present levees, must depart from the banks at many localities to avoid early destruction from caving.

On the other hand, closely adhering levees, which in all high stages, whether of ordinary rises or "floods," shall confine the water which now escapes into the swamps, would, by an increased current action, accelerate the caving of bank in the bends and enhance the instability of bed which now not only makes the work of navigation improvement so difficult, but is one of the formidable foes to a permanent levee system. To the caving of banks is also due the *snags*, which form such serious obstructions to the navigation of the river.

The great obstacle to the improvement of the low-water navigation and to maintaining a levee system is one and the same for both, namely, the instability of the river from the caving of its banks. When this can be overcome by means not inordinately expensive (on which point we have treated more fully in our preliminary report on the subject of low-water navigation of the river) we may expect a deepened channel, a lowered high-water surface, and a stable river, the margins of which shall be securely cultivated to the enormous development of the wealth and population of the region. We believe, therefore, that the levee system, if undertaken, should be matured and developed in connection with the navigation improvement.

Other and imperative duties of individual members have made impossible an earlier convention of the board for the consideration of this subject.

Respectfully submitted.

J. G. BARNARD,
Colonel of Engineers and Brevet Major-General, U. S. A.
Z. B. TOWER,
Colonel of Engineers and Brevet Major-General, U. S. A.
H. G. WRIGHT,
Lieutenant-Colonel of Engineers and Brevet Major-General, U. S. A.
C. B. COMSTOCK,
Major of Engineers and Brevet Brigadier-General, U. S. A.
CHAS. R. SUTER,
Major of Engineers.

Brigadier General A. A. HUMPHREYS,
Chief of Engineers, U. S. A.

A.

"WASHINGTON, *November* 17, 1878.

"SIR: The supplemental instructions of General Humphreys, the Chief of Engineers, issued on the 13th instant to the board of engineers for the improvement of the Mississippi River, invite you 'to the consideration of the effect of a permanent levee system throughout the length of the river below the mouth of the Ohio, not only upon its low-water navigation, but also of the benefits it would confer in affording protection and giving needed facilities to shipping, commerce, and navigation in the high stages of the river.' The Constitution provides (article 1, section 8) that 'Congress shall have the power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes.' That the grant of power over commerce is complete and absolute should not excite surprise, when we reflect that it was mainly the object which led to the formation of the Federal Constitution. The first step was taken by Virginia on January 21, 1786, when she submitted to her sister States a formal proposition for the appointment of commissioners by each 'to take into consideration the trade of the United States.' And within one month after the Federal Government went into operation under the Constitution, the First Congress passed 'An act for the establishment and support of light-houses, beacons, buoys, and public piers,' the object being, as recited in it, 'to render navigation easy and safe.'

"At the outset there was some dispute among public men as to whether this power might be applied to internal improvements generally, but there never has been a doubt as to the unlimited jurisdiction of the Federal Government over commerce, and of its power to legislate for its benefit. For half a century there has been a decided concurrence of the views of the ablest American statesmen on this subject, and the Government has expended large sums with the best possible results. Mr. Webster says 'Over whatever interests of the country this Government may diffuse its benefits and its blessings, it will always be true as matter of historical fact that it had its origin in the necessities of commerce, and for its immediate object the relief of those necessities by removing their causes, and by establishing a uniform and steady system.' Mr. Calhoun says, 'These provisions furnish conclusive proof that the object of the power was the increased safety and facility of commerce.' President Jackson says, 'The practice of defraying out of the Treasury the expenses incurred by the establishment and support of light-houses, beacons, buoys, and public piers, within the bays, inlets, and harbors and ports of the United States, to render the navigation thereof safe and easy, is coeval with the adoption of the Constitution, and has been continued without interruption or dispute.'

"It may now be regarded as the fixed policy of the Government, sanctioned by our ablest statesmen and made operative upon a large scale at every session of Congress, to protect and aid and facilitate commerce in every possible manner. The methods by which this may be done upon our ocean and lake fronts, and even upon the rivers in the uplands, have caused but little difference of opinion. Estimates and surveys have been made with regularity, and Congress has appropriated fabulous sums for their prompt and complete execution. Fortunately, there has been a happy concurrence between the engineers of the Government and the law-making power. Nearly $9,000,000, authorized to be expended under the direction of the War Department for the benefit of our commerce, for the improvement of our rivers and harbors, was voted at the last session of the present Congress. It is proposed now to expend nearly $2,000,000 upon Harlem or East River, lying wholly within the State of New York, in addition to the large amount appropriated for the harbor of that great metropolis. But while the Government is making these large expenditures with unstinted liberality for the commerce and trade on our ocean fronts and lakes and rivers in the uplands, not a dollar, in comparison, has been devoted to giving 'ease or safety' or needed facilities to the commerce and trade upon that great inland sea from Cairo to the head of the passes—the highway fed by fifteen thousand miles of navigable streams, and bearing upon its bosom the commodities of eighteen States and twenty million of people—the natural artery and outlet for the empire alike of the great Northwest. Why is this? It is simply because the Government has failed to appreciate the necessities of this river and of the valley of the Mississippi. The moment the engineers agree as to the usefulness of levees, Congress, I believe, will vote the sums necessary for its improvement.

"The question, therefore, submitted to your board to determine, for the time being at least, is whether anything can be done in the direction indicated. You will observe that you are not requested to make any surveys or estimates. Many

surveys and estimates for levees have already been made by distinguished engineers. What is needed now is your opinion as to whether levees will not subserve the commerce and trade upon the Mississippi River—are not, in fact, the proper and essential appliances to make its navigation 'easy and safe,' and will not render 'needed facilities for shipping, commerce, and navigation in the high stages of the river.' They would unquestionably prevent overflows. It is agreed by all engineers that overflows destroy the channel, or rather change it, so that when the water subsides it is difficult to ascertain the outline of the new channel; sand-bars are formed and snags are deposited, so that the liability to accident and the dangers of navigation are greatly increased. An enormous tax is imposed upon the carriers of commodities in the higher rates of insurance, and in the necessities for more powerful machinery and boats, and in their frequent loss. It is estimated that the extra insurance alone amounts to not less than $10,000,000 annually, a sum sufficient to make all the needed improvements.

"The levees confine the water to its channel, and indicate, better than lighthouses or beacons or buoys, precisely where it is. But it must be borne in mind that much of the commerce and trade upon this river might be carried without the expense of steam. Before the destruction of the levees a vast business was done in flats and barges, for the current furnishes itself the propelling power. The people living upon the banks purchased their supplies, from silk dresses and pianos to plows and wagons, their clothing, their groceries, their farming utensils and household goods, from the trading-boats, and fleets of these boats were seen in all the bayous and at every village and city. Of the single article of coal, millions of dollars' worth is shipped from Pittsburgh alone. Now, when the river is thirty or forty or fifty miles wide, an ocean torrent sweeping everything to destruction, what protection is there for this the very commerce for which that great river should afford facilities, a commerce without any expensive vehicles between the producer and consumer direct? The great West is seeking the markets of the world for her grain, but while producing fabulous crops the profits are so cut down or off by the cost of transportation that the people of that favored section, in the midst of an abounding land, are crying out for relief. Afford proper security for levees to the shipping, and barges and flats would carry their products half way to the European markets without loss, and at one-half the cost now exacted. In a very few years one hundred million bushels of western wheat will seek this route to the sea. It may be transported now at eight or nine cents per bushel, but with proper facilities the cost might be reduced to three or four cents, a saving of itself sufficient to bring comfort and wealth to the producers.

"The proposition I desire to submit is this: Levees establish the proper instruments to protect commerce and trade on the Mississippi River; they are continuous harbors or sheltering-piers; they are adapted to give the protection and facilities needed; they are the very 'counters' along which the producers of the West and the people on the banks of the river make their exchanges. We do not ask for millions of dollars for the harbors at Memphis, Vicksburgh, Natchez, Baton Rouge, and New Orleans; such expenditure is not needed as upon the lakes and sea-coast. We do not ask for an appropriation of millions to dredge out or blast out the channel, or to build dams or canals around rapids, as in the uplands. The Lower Mississippi requires different treatment. But that is no reason why it should receive none at all. The cost of these works, in proportion to the commerce and trade to be benefited, is insignificant. A tax of less than 1 per cent. upon the tonnage on the river would complete them in a short time. The river itself furnishes the propelling power to every keel launched upon it. Not a single man-of-war, not a sailor or soldier is required to protect the flag, as upon the ocean, from its headwaters to its mouth. The vast trade and commerce of the Mississippi Valley would be our reliance in war as it is in peace, beyond the reach of an enemy, and taxing the people of the country not a dollar for a navy to protect it.

"It has been suggested that the States should agree among themselves, and devise a uniform and general system for the improvement of the river. It is evident that there should be uniformity, for if the levees were erected along the entire front of Louisiana, and Arkansas should not co-operate, they would be swept away in a single season of high water. Yet there can be no agreement among the States, for the Constitution declares, 'No State shall, without the consent of Congress, lay any duty on tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State.' Anything short of a uniform and general system would be incomplete and useless. It is clear that unless the General Government undertakes the work it cannot be accomplished. It is for the Board of Engineers to decide the question. The Federal Government has full jurisdiction over the river; it was acquired by treaty and it is owned by the Government. The fact that the levees would confine the water to its channel, and thus prevent the overflow of its banks and the destruction and depopulation of the Delta, strange as it may seem, is urged rather as a reason why the Federal Government should do nothing for the protection of the commerce and trade on the river. It is true that the levees would afford security to the people of the valley against the invasions of the river, and that an area of territory greater in extent than some of the States of this Union, surpassing any portion of our country in fertility and in the capacity to produce the great staples of corn, cotton, sugar, and rice, would be brought into cultivation and afford occupations and homes to millions of inhabitants.

"General Abbot, United States Engineers, says: 'The total area of the bottom-lands is about thirty-two thousand square miles, of which a mere narrow strip along the main stream and its principal tributaries and bayous has been heretofore open to cultivation. Protected against the river and properly drained, this would render available at least two million five hundred thousand acres of sugar-land, or more than double the amount heretofore planted; about seven million acres of the best cotton land in the world, capable of yielding a bale to the acre, and not less than one million acres of corn land of unsurpassed and inexhaustible fertility. The magnitude of the interests involved may be held to concern the whole country, and if the "general-welfare clause" of the Constitution can be invoked at all, surely it would apply here. Yet it cannot be that these considerations can have weight against the proper claims of trade and shipping and navigation. On the contrary, it may be urged with justice that the Federal Government, claiming and exercising control over the river, as a great national highway, should regulate it so as not to injure the people living upon its banks—a people powerless, individually or as States, to exercise any jurisdiction over the river. All jurisdiction is forbidden to the States. The very means which the adjacent States might employ in order to establish a uniform and complete system of levees are denied to them by the Federal Constitution. They can neither co-operate nor exercise their power over the subject when co-operation and joint jurisdiction are absolutely indispensable. The river is the property of the National Government, held for the benefit of the whole country. The ownership is unquestioned, complete, and absolute. The doctrine that the owners of property should so use it as not to injure that of others is of universal application. *Sic utere tuo ut non alienum lædas* is a legal maxim familiar to all jurists and publicists, and held to be binding upon governments as well as individuals.

"'It is clearly within the constitutional power and duty of the Government, as well as promotive of the interest of the people of the whole country, that these vast regions should be protected from the devastations of the river by a uniform system of levees. We have bought vasts tracts of country and conquered others in expensive wars. Why may we not bring the Delta of the Mississippi within occupancy and settlement? It is true that a system of levees would not only give security against inundations that are destructive alike to the channel and navigation and trade upon the river, and to the industrious people cultivating the soil in the valley, but that it would form the most effective barrier against disease—epidemics equally fatal to the health of the country. But these views are foreign to the purpose of this communication. I desire now to speak altogether in the interest of commerce and trade, the navigation and shipping upon the river, and the means for benefiting and improving them.'

"I have forborne to weary you with any statements of facts showing the vast interests involved. You are familiar with the resources of the mighty valley. Nor have I ventured to urge upon you any theory for the treatment of the river. I beg, however, in conclusion, to invite your attention to the following extract from a report made by those distinguished statesmen, James Gadsden and James Guthrie, after a full investigation of the whole subject in 1845, and submitted to Congress, with his approval, by John C. Calhoun: 'Intimately connected with this subject is the improvement of the navigation of the Mississippi. The science of the engineer has been bewildered on the subject of the improvement of rivers. Those free from rock, and which, like the Mississippi, course through alluvial formations, inundating its banks, depositing and making the very soil through which they cut, are uncontrollable and most difficult of improvement. A great engineer in England, when substituting a canal for a river, is known to have exclaimed in explanation, that "rivers were made to feed canals." The expenditures on the Mississippi thus far, if reports are to be credited, have produced no results corresponding to the vast sums appropriated. When the channel has been straightened at one point, it has been lengthened at another, and obstructions or deposits in one bend have only been transferred in their removal to another. "Sawyers" and "planters" have in one season been reduced in number, to be replaced by the succeeding one. The only fact clearly established—and it is one to which attention should be particularly directed, as bearing with peculiar influence on the proposition submitted—is that where the banks of the Mississippi have been leveed, and prevented from inundating the swamps, the spring rises are scarcely perceptible, and the surplus waters are discharged by deepening the bed; its current no longer able to rise and expand over a wider surface, they have to deepen the bed to furnish vent for the waters to be discharged. The reclaiming, therefore, the swamps, and confining the river to its bed, will deepen it, and do more to preserve unimpaired the navigation of the Mississippi than all the projects which have hitherto been devised or acted on for its improvement. The suggestion, however, is worthy of examination, and it is the stronger recommended, as it may accomplish a great object at comparatively little cost. The swamps of the Mississippi, now worthless, and made so by the inundations of that river, may be made, by their own reclamation, the instruments of improving the navigation of that stream.' I have laid these views before you on account of the urgency of the case, and with the hope that you might be induced to take immediate action and give the country the benefit of your opinions without delay.

"R. L. GIBSON,
"*Member of Congress from Louisiana.*

"General J. G. BARNARD,
"*Corps of Engineers,*
"*New York City.*"

F.

WAR DEPARTMENT,
Washington City, December 11, 1865.

GENERAL: It has been represented to this Department that the levees on the Mississippi River require the immediate attention of the Government for the purpose of repairing them at certain places and placing them in a condition to protect the country from inundations that might occasion great injury to the agricultural interests of that region, as well as to commerce. This Department has therefore determined that a competent officer of the Army be detailed to proceed with all dispatch to the Mississippi River, to make examination as to what extent temporary repairs are required to be made, and to take measures to make such repairs as immediate exigencies require. You are hereby designated for that duty and authorized to employ such engineers and others as may be necessary to make the examinations. You will proceed at once down the Mississippi or by sea to New Orleans, as you may find to be most expedient, and make an inspection of the levees along the Mississippi River and ascertain what points require immediate repair, make estimates of the cost and expenditure of such repairs, and report to Major-General Canby, commanding the Department of Louisiana. He and Major-General Wood, commanding the Department of Mississippi, will be instructed to afford you necessary aid, which will be supplied upon your requisition. You will cause detailed and specific accounts to be kept of all expenditures incurred in this service. Before entering upon the work you will submit a plan of your proposed operations to Major-General Canby, and upon its approval by him you will carry it into effect with such modifications as he may suggest. Requisitions will be made upon him or upon this Department for necessary funds, for transportation, for materials, and quartermaster, commissary, and other supplies. You will apply from time to time by mail or telegraph for any more specific or fuller directions from this Department, that may be required to enable you to perform the responsible duty intrusted to your charge. One or more engineer officers to aid you if needed will be detailed by the Chief of Engineers.

Your obedient servant,

EDWIN M. STANTON,
Secretary of War.

Major-General A. A. HUMPHREYS, *&c., &c.*

NEW ORLEANS, LOUISIANA, *January* 30, 1866.

SIR: I had reserved making a report to you of the result of my examination into the condition of the levees until the work of repair was in full operation, especially as the labor of setting it on foot occupied me very closely.

I expected to make the report during this week, and your telegraphic communication hastens it only a few days.

I reached Memphis on the 23d of December; saw Mr. Merriweather, the former chief engineer for the levees of the State of Mississippi, and from him and others obtained such information concerning the levees of Mississippi and their condition as I desired; hired a small steamboat to make the examination as far down as Vicksburgh, and left Memphis on the 27th of December, accompanied by Colonel Abbot and Captain Mackenzie, having sent Major Wheeler to New Orleans to obtain preliminary information respecting the levees of Louisiana.

I completed the examinations as far as Vicksburgh, and reached New Orleans on the 4th of January; and on the evening of that day submitted a report and project to Major-General Canby, a copy of which is annexed, marked "A."

This project included the repair of the levees at—

1. The Yazoo Pass, Coahoma County, Mississippi.
2. Lewis Swamp, Coahoma County, Mississippi.
3. Bolivar Bend and vicinity, Bolivar County, Mississippi.
4. Ashton Landing, near the boundary line between Arkansas and Louisiana, Carroll Parish, Louisiana.
5. Bass Plantation, four miles below Providence, Carroll Parish, Louisiana.

It called for fifty-five hundred men with tools, implements, and materials, and contemplated the completion of the work by the 15th of March, as the river reaches its highest stage about the 1st of April, according to the results of long-continued observation upon it.

It was highly desirable that existing organizations should be used upon the work

as the delay that would arise in collecting a large number of laborers might prove fatal to its timely execution.

An estimate of the cost of the repairs was likewise made, in which, however, the enhanced cost connected with the risk of loss by the river flood was not taken into account.

The sum estimated for was $342,000.

Respecting the repair of the Yazoo Pass Levee, I would remark that although it was probable that the attempt at this season would not prove successful, yet, in view of its importance, I was of opinion that it ought to be attempted. General Canby, however, did not concur with me in that opinion.

Upon a conference with the engineers of the State of Louisiana engaged upon the repair of the levees of that State, and with the levee commissioners, together with the information collected by Major Wheeler, I was enabled at once by my personal familiarity with the Mississippi below the mouth of Red River to determine upon the chief points requiring repair below Red River, and acquainted General Canby with them.

He was not able until the 8th of January to inform me what means in men or money would be available for the work of repair. On that day he informed me that he would have some three thousand troops available for the repair of the levees in Louisiana, and funds sufficient to pay for the repair of levees as contemplated in my report of the 4th instant, excluding the Yazoo Pass Levee, which he thought should not be undertaken, and including the Ashton Landing Levee.

As the funds were not immediately available, it was best that the repairs should be made by contract, which had besides other advantages.

Accordingly I prepared an advertisement inviting proposals for the repair of the levees indicated, which was published in the New Orleans, Saint Louis, Memphis, and Vicksburgh papers. A copy of it is inclosed herewith, marked B.

At the same time I submitted a project (on the 9th January) for the distribution of twenty-two hundred of the three thousand men available for the Louisiana levees, a copy of which is inclosed, marked C, and on the 10th instant left New Orleans for an examination of the levees between New Orleans and Vicksburgh.

The examination being completed, I returned to New Orleans on the 19th, and submitted my report of that date inclosed herewith, marked D.

Those two reports (of the 9th and 19th January) required the three thousand men to be distributed on the repair of—

1. The Robertson and Chinn Levee, below the mouth of Red River.
2. The Morganzia Levee, below the mouth of Red River.
3. The Bass Levee, above the mouth of Red River.

These are the three great breaks in the Louisiana levees, the crevasse water through which is of enormous volume and floods an immense area of cultivated land.

Should any force additional to the three thousand men be found available, I recommended that twelve hundred men should be placed upon the Bass Levee instead of eight hundred, and that five hundred men should be placed upon each of the following breaks in the order named:

4. At Scott's plantation, four miles above Bayou Sara.
5. At Buckner's plantation, Point Pleasant, above mouth of Red River.
6. Brown and Johnson's plantation, six miles below Vicksburgh.

The repair of the remaining large breaks in the Louisiana levees by the State engineers between Vicksburgh and the Bass Levee was so well advanced that it was unnecessary to consider them.

The means required for the repair of the levees in addition to the means estimated for in my report of January 4 (in which the Bass Levee was included) are, therefore, four thousand enlisted men, with tools, implements, and materials, or $284,000.

The full project I have submitted for the repair of the levees of the Mississippi, holding in view your instructions, contemplates the repair of—

1. The Yazoo Pass Levee;
2. The Lewis Swamp Levee;
3. The Bolivar Bend and adjacent levees;
4. The Ashton Landing Levee;
5. The Bass Levee;
6. The Brown and Johnson Levee;
7. The Buckner Levee;
8. The Morganzia Levee;
9. The Scott Levee;
10. The Robertson and Chinn Levee;

And calls for ninety-five hundred enlisted men, with tools, implements, and materials as estimated for, or the laborers being hired, or the work being done by contract for the sum of $626,000.

The repair of all the levees in the State of Mississippi would require the embankment of some two million five hundred thousand cubic yards, the cost of which may be estimated at nearly one million.

The repair of all the levees in the State of Louisiana would require the embankment of some three million cubic yards, the cost of which may be estimated at $1,200,000.

Total of both States, five million five hundred thousand cubic yards, at a cost of $2,200,000.

Of the tools, implements, and materials required for the repair of the levees there was an ample supply in the Department of Louisiana, excepting the important item of wheelbarrows, none of which were on hand.

General Canby at once telegraphed to Saint Louis and elsewhere, ordering the number asked for, but as yet they have not been received, though they are expected daily.

I have requested that the troops may be sent to the points assigned them several days in advance of the arrival of the wheelbarrows, so as to establish themselves comfortably before commencing work.

But few proposals for the repair of the levees were received in answer to the published invitation.

The contracts have just been awarded to skillful and responsible men. All action, however, is suspended until further instructions are received by General Canby from you.

I had every reason to believe that the effort to repair the levees in time to prevent a general inundation at the high water of this year would be successful.

I have assigned Brevet Colonel H. L. Abbot, Corps of Engineers, to the charge of the work between Memphis and Vicksburgh, excepting the Bass Levee, and Brevet Major J. B. Wheeler, Corps of Engineers, to the charge of the work between Vicksburgh and New Orleans and the Bass Levee.

The repair of the breaks in the levees below New Orleans does not come under the rule prescribed in your instructions, nor, in my opinion, does that of the breaks in the levees of the Saint Francis Bottom, owing to the peculiar topographical features of that district.

At any rate, the vastly greater importance of the levees of the Mississippi and Louisiana and the brief time for examination and repair are sufficient reasons under the present circumstances for giving exclusive attention at this time to the levees of those two States.

I append a diagram indicating the points of repair.

Very respectfully, your obedient servant,

A. A. HUMPHREYS,
Major-General Volunteers.

Hon. EDWIN M. STANTON,
Secretary of War.

The Immortals.

ARGUMENT OF HON. S. W. DOWNEY,

OF WYOMING,

IN THE HOUSE OF REPRESENTATIVES,

Tuesday, April 13, 1880,

On the bill providing for certain paintings on the walls of the National Capitol.

Mr. DOWNEY said:

Mr. SPEAKER: On the 12th day of April, A. D. 1880, I introduced the following bill, namely:

A bill providing for certain paintings on the walls of the National Capitol.

Whereas the people of the United States are a Christian people and firmly believe in God the Father Almighty, Maker of heaven and earth; and in Jesus Christ His only Son our Lord; who was conceived by the Holy Ghost, born of the Virgin Mary; suffered under Pontius Pilate, was crucified, dead and buried; He descended into hell, the third day He rose from the dead: He ascended into heaven, and sitteth on the right hand of God the Father Almighty; from thence He shall come to judge the quick and the dead; and believe in the Holy Ghost, the holy catholic church, the communion of saints, the forgiveness of sins, the resurrection of the body, and the life everlasting. Amen: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of $500,000, or so much thereof as may be necessary, be, and the same is hereby, appropriated, out of any funds in the Treasury not otherwise appropriated, to be expended under the direction of the Architect of the Capitol, to commemorate in suitable paintings by the great living artists of this century upon the walls of the National Capitol the birth, life, death and resurrection of our Saviour Jesus Christ, as told in the four gospels of Matthew, Mark, Luke, and John.

In support of its provisions I have the honor to offer the following argument, entitled,

THE IMMORTALS:

Dedicated to the Congress of the United States.

"For, go back to the beginning of ages, examine all nations, read the history of kingdoms and empires, listen to those who return from the most distant isles, the immortality of the soul has always been, and still is, the belief of every people on the face of the earth. The knowledge of one God may have been obliterated; His glory, power, and immensity may have been effaced, as I may say, from the hearts and minds of men; obstinate and savage nations may still live without worship, religion, or God in this world; but they all look forward to a future state. Nothing has ever been able to eradicate the opinion of the immortality of the soul; they all figure to themselves a region which our souls shall inhabit after death; and, in forgetting God, they have never discarded the idea of that provision for themselves."—*John-Baptist Massillon.*

Ah! me, what strange wild fancies crowd the brain
Of mortal man, who, wearied with the toil
And ceaseless combat of the rolling years,
Seeks rest in slumber deep and undisturbed.
His mind, transformed, becomes a temple filled
With forms intangible, immortal sprites,
From chaos rising, back to chaos borne.
Unnumbered throngs pass by, nor leave behind
A foot-print on the plains of memory.
But myriads, eager, clamor to be heard;
And though the brain o'erwearied close the gate
And portals of the inner consciousness
To bar the phantoms out into the night,
Bolts cannot bar nor iron chain them down.
Returning swift, with strength increased, they knock
And thunder at the doorways of the soul
To gain admission, till they batter down
All barriers and rush triumphant in,
Bearing the captive Will in fetters bound.
The mind, unable longer to resist
Or strive for mastery o'er the spells they weave,
Follows submissive where their pleasure leads.
Lo! one of radiant form and face divine
There stood whose hands the Holy Bible clasped.
Her brow, like fair Columbia's, broad and full,
'Neath which her brown eyes looked in wistful and
Intensely earnest tenderness, was bound
With fadeless wreaths of shining *immortelles*;—
Not beauty, grandeur, and sublimity
Alone illumined and adorned her face;
But mercy, purity, and perfect peace,
With deathless love harmoniously blent:—
As erst upon Mount Hermon, glory-crowned,
Our Lord and Saviour Christ was round enwrapp'd
With shimmering mantle of supernal light,
Transfiguring His form and robes, until
His gleaming garments glittered white as snow,
And on His face the glow of lightning fixed,
While by Him Moses and Elijah stood:
So she in aureole of glory shone.
Oh! with what soul-ingulfing ecstasy
Rolled forth the story of her pilgrimage.

PHANTASMAGORIA.

Methought I stood within the court of Jove,
On high Olympus, where th' assembled gods
Extraordinary council held; for Jove,
Supreme upon his golden throne, had sent
His mandate by swift-winged Hermes forth
That all the gods within th' ambrosial vales
Of many-ridged Olympus should attend
To hear the Cloud-compeller's will declared.
His sister-wife beside him, white-armed Queen
Of Argos, Juno, sat; near by them sat
Their son, ferocious Mars, with wrinkled brows;
Pallas Minerva, blue-eyed goddess, shield
Of warriors, frowning on grim-visaged Mars,
Her sandals beautiful, ambrosial, bound
With golden bands unto her silver feet,
Beside earth-shaking Neptune proudly sat;
There Thetis, silver-footed queen, who sailed
Like swift-winged falcon from Olympus' heights,
"Charged with the glitt'ring arms by Vulcan wrought,"
For swift Achilles, Peleus' godlike son;
There Rhadamanthus, with the golden hair,
From far Elysian fields, stood near the gods;
Apollo, leaning on his silver bow,
Beside the laughter-loving Venus stood;
Here, hunchbacked Vulcan, skilled artificer;
There chaste Diana, hearth-stone guardian;
There Hebe, with innumerable nymphs
And lesser deities, all listening, wait.

Th' Olympian Temple, where the council sat,
Bore on its walls the trophies of renown
From ancient martial fields of gods and men:
Huge sabers, gleaming swords with golden hilts;
The massive, ponderous spear of Hercules
No human power could wield; th' elaborate shield
Which Vulcan wrought for Peleus' godlike son,
Upon whose golden disk were deftly graved
The scenes of peace and war; mysterious art!
A forge-wrought mirror of th' ethereal dome—
Metallic picture of terrestrial life—
Invulnerable armor 'gainst the foe—
The gleaming harbinger of Trojan doom.
When by the arrow sped from Paris' bow,
Upon the threshold of Apollo's fane,
Prostrate the chieftain, great Achilles, lay,
Ulysses strove with Ajax for the shield,
And won the prize: for though less strong of arm,
Yet wilier in council, he o'ercame
The craft of Ajax and bore off the shield.
Thence, burning with chagrin at his defeat,
Ajax rushed headlong into Hades' gloom.
Whereat the gods, enraged, a messenger
From high Olympus swift dispatched, to wrest
From mortal hands the golden armor wrought
By hands immortal. Thus the wondrous shield,
Whose stars the blood of noble Hector stained,
Was borne up to the temple of the gods.
Near by Achilles' armor hung the blade
Of King Leonidas, immortalized
By blood it drank at famed Thermopylæ.
Upon its hilt the *square and compass* flashed
In fiery light of costly diamonds set.
The brazen buckler called Ancile, dropped
By Mars, Rome's guardian deity, into
The hands of Numa as a shield against
The pestilence, and through the king's decree
Elev'n times copied by Mamurius,
Was here restored from Rome's decline and fall.
The shadow of the Twelve remains on earth,
In Numa's circle of revolving months.
Upon the left of Jove's imperial throne,
In sculpture wrought, I saw Laocoön
Writhe in the scaly serpent's hideous folds,
And in like torturing grasp, on either side,
His sons; their forms cramp'd by the tight'ning gripe,
Their visages transfixed with agony.
Above them, borne upon gigantic limbs,
High as the pillars of the Ephesian Dome,
The mammoth steed, by Pallas' art contrived,
In length and breadth like some vast oak-ribb'd ship
That o'er the billows of th' Atlantic rides,
Stood tow'ring like a frowning deity.
Immortal artists had adorned the walls
With speaking pictures of immortal powers.
Above the throne of Jove, by Vulcan wrought
In gold and silver, brass and glittering steel,
Emblems of Jupiter's almighty power,
Hung in relief, the execution of
Prometheus' sentence to Caucasian heights;
Immortal power brooked not that he should add
To mortal power of man the fire of art,
The pelf of forethought from Olympus filched.
And higher, reaching to the vaulted dome,
Great Saturn's overthrow, by which the gods
Won their immortal power through vanquishing
Their ancestor, offspring-devouring Time.
Great Alexander, on the eastern wall
In picture grasped a gleaming thunderbolt.
Upon the western wall Diana came
Returning laden from the prosp'rous chase;
While fronting Jove appeared historic scenes
Of combat on the plains of Illium,
And sage Ulysses' after wanderings.

The Cloud-compeller, from his golden throne,
In awe-imposing majesty uprose;
His golden breast-plate blazing like the sun,
A marvel to behold; in his right hand
The forked lightnings for a scepter grasped:
His glitt'ring throne creaked with his massive weight,
And underneath the golden pavement shook
As if reverberating thunder sound:
Then the assembled gods he thus addressed:
"From that far distant, nameless orb, whence rolls
The great Jehovah's everlasting power,—
His who, alone, controls the destinies
Of all the gods that on Olympus dwell,
And sons of men that toil upon the earth—
Thence having just arrived, swift Iris, borne
Upon the wings of lightning, brings report
Of gath'ring hosts from all the circling worlds
That swing their cycles round Jehovah's throne.
Let all the gods in swiftest flight repair
Unto that nameless and far-distant orb
And glean whate'er we may of destinies,
Foretold unto the swiftly gath'ring hosts
Now thither speeding from a myriad worlds.
Make ready all save Vulcan, who alone
On Ida's topmost heights will keep strict ward
And watch o'er all th' Olympian boundaries.
But ere ye pass the portals of the Hours
Let all the gods allegiant vows renew
And, quaffing cups of sparkling nectar, pledge
Eternal fealty to immortal Jove."

CHORUS.

"Draw closer in th' Olympian ring—
Swear by the stars and by their King,
Swear by the dark infernal river
To keep thy plighted vow forever."

The waiting nymphs of Hebe bore to each
A golden cup with sweetest nectar brimm'd;
Then, drinking each to Saturn's mighty son,
Thus swore they all allegiance anew:
"We swear to father Jove eternal love—
His mandate be our guide, his will our law."
The oath was sworn, and then the gods rushed each
A sky-traversing chariot to prepare.

First Pallas, child of ægis-bearing Jove,
Within her father's threshold drew her veil
Of airy texture, work of her own hands,
Across her brow, which towered above her eyes
Like rounded, snow-crowned mountain hanging o'er
Two deep-blue flashing lakes in vales beneath.
Her golden sandals, rich, ambrosial, spurned
The threshold; o'er her snow-white shoulders flung,
Her streaming mantle like a comet blazed;
And thus accoutered for her upward flight
Her fiery car she mounted; in her hand
A talisman caught from a thunderbolt
Hurled by her angry, cloud-compelling sire.
With equal swiftness all the gods prepared.

The temple where th' Immortals sat in state,
The wonted clouds obscure from mortal gaze,
And when in thicker, darker folds are piled
The low'ring volumes on Olympus' heights,
Earth-plodding mortals fear Jove's wrath, swift to
Descend in lightning, tempest and in rain.
The grounds that from the temple's base extend
In gentle slopes far down the mountain's brow
Were interlaced with many chariot drives,
'Twixt which grew stately trees whose branches reached
The azure of the arching dome, and on
Their leaves the stars like dew-drops twinkling played.
Grotesque, gigantic plants bloomed here and there,
Blood-sprinkled by Minerva till their deep

Carnation dyes mocked sunset's flaming hues;
And from th' ambrosial nectar on them poured
By Hebe and her nymphs, their perfume breathed
Sweeter than odors from Hesperides.
Here, in the scarlet hyacinth, the blood
Of Ajax bloomed; and there, black roses from
Old Charon's garden on the murky Styx.
The birds of Paradise the verdure swept
With trailing plumage, sipping nectar from
These flowers of wondrous and unfading hues.
Among the bloom, white-armèd Juno's birds,
The gaudy peacocks, spread their brilliant plumes.
Swift-footed antelopes were bounding o'er
The lawns, and all the air was resonant
With warblings of the singing birds. I gazed
And listened in this garden of the gods,
While all their gorgeous chariots drew without
The portals guarded by the Hours; and then
I stood expectant and irresolute
Alone upon Olympus' airy heights,
In admiration gazing on the train.
As when some golden serpent, measureless,
Just breaking from the fetters of long sleep,
Unwinding its gigantic coils, its length
Majestic drawing out in swaying curves,
Marks out a trailing line of splendor by
Its aureate scales illumined by the sun;
So from th' Olympian gates the speeding gods,
In golden chariots through the azure wheeled
By their immortal coursers fleetly drawn,
Sailed in a train of splendor through the sky;
Great Jove the last, behind whose chariot streamed
A trailing quiver of white thunderbolts.

Scarce had he passed the portals of the Hours
When by my side a shining angel fell,
Who bidding me, Arise and conquer, said:
"Phantasmagoria, daughter of the West:
I come from those eternal palaces,
Where are assembled princes, potentates,
And dynasties from every earthly realm;
And whether now they live in history—
In this revolving temple of the living—
Or lie deep buried in oblivion,
Yet, far beyond yon gleaming sentinels
That stand as watch-fires in the lower skies
They hold accustomed espionage upon
Those realms where glittered erst their coronets.
When God in His eternal council sat,
On man's creation pondering, He called
Three ministers that wait about His throne
Responsive to his call, and to His will
Obedient—Justice, Truth, and Mercy; them
He thus addressed: 'Shall man created be?'
And Justice answered, 'Make him not, O God,
For he will trample on thy holy laws.'
Truth answered, 'Make him not, O God, for he
Thy hallowed sanctuaries shall pollute.'
But Mercy, dropping on her knees, exclaimed,
While looking upward through her falling tears,
'Make him, O God, and I will watch o'er him
With constant care, through all the darksome paths
That he may have to tread.' Then God made man
And said to him, 'O man, thou art the child
Of Mercy; go and be thou merciful.'
Behold in me the angel Mercy, sent
To thee by Him whose love doth follow man
Round and around the earth, as ocean tides
Roll round careening to th' inconstant moon.
I come to tell thee that thou art ordained
To make a journey long and perilous;
That many deadly dangers shall obstruct
Thy way, and strange sights shall thine eyes behold.
Firm be thy faith and confidence in God,
And he will crown thy flight with victory.
I cannot be companion of thy course;
For I must keep my watch upon the earth,
While thou must seek the orb that far beyond
This mortal world the universe of spheres
Concentric by its tensile radii holds.
As thou proceedest on thy way thou shalt
Be guided by the light of other days.
The seers of ages past shall bear the torch
Of wisdom to illuminate the dark
Mysterious pathways of thy pilgrimage.
With faith in Christ, who died for men, be not
Afraid to conquer in Jehovah's name."
Then I, as one that seeks for strength wherewith
To triumph over every danger, fell
Prostrate upon the earth, and cried aloud,
"O Son of God, whose smile divine doth flood
With holy light the starry worlds that shine
And sparkle from afar, be Thou the guide
To light my footsteps from this earthly sphere
To shining realms of far celestial day.
Let golden showers at thy command,
Sparks flung from great Jehovah's hand,
Make luminous the blue ethereal dome,
And circling spheres around the Great White Throne."

Lo! a thick shining cloud upon me fell,
Born of Mnemosyne, from heights and vales
Of Helicon borne by swift-speeding winds,
Its magic heavy-laden depths with fleet
Returning memories teemed, with fragrant flowers
Of poetry, of choral dance, and song,
Of fertile fancies, eloquence and love.
But native to the heights and flow'ry vales
Of sunny Helicon, when to the high,
Cold, thinner air of Mount Olympus borne,
The magic mist was suddenly condensed;—
Its elements became articulate;—
The driving wind became twelve magic steeds;—
The fertile fancies rolled four silv'ry wheels
Soft as the summer moonshine in the west;—
The flow'ry garlands to a chariot turned
Which bore me onward in the train of gods;
While for the viewless memories which ride
On rolling fancies of the laboring mind,
The Virgin Nine within the chariot rode,—
Great Jove's fair daughters by Mnemosyne:
Calliope, Muse of the classic brow;
Then Clio, of the past, famed chronicler;
Euterpe, sweet-voiced maid, with sounding shell;
Melpomene, Muse of the tragic stage;
Terpsichore, gay muse of twinkling feet;
The love-lorn Erato, whose tender notes
E'er thrill with rapture earth-born maidens' breasts,
Who lit the torch of Hero to illume
The waves dark-rolling in the Hellespont,
When from Abydos bold Leander swam
To Sestos nightly, guided by her torch
Held o'er the deep, to woo him to her arms;
Polymnia, sacred Muse, whose lofty strains
Roll praises toward the sky-enthroned stars,
Where the far-seeing Muse Urania
Marks out their orbits through the trackless void;
Last came Thalia, mirth-provoking Muse,
With quips and cranks, and laughter-wreathing wiles,
Who caught the reins of fancy in her hands
To drive the fairy steeds upon the course
Marked out by wise Urania through the sky.
The winged steeds, swift as the flight of thought,
O'ertook Jove's thunder-trailing chariot
And joined th' immortal sky-traversing train.

Now, ere the rolling chariot wheels had passed
Th' Olympian portals, Juno, white-arm'd queen,
Did challenge Pallas, blue-eyed goddess, to
A trial of their flying coursers' speed;
And that her own immortal steeds should first,
On bounding hoofs, the distant orb attain,
A cluster of her golden apples, from
The famed Hesperides, for wager laid
Against Minerva's dazzling sash, wov'n by
Th' adroitness of her own immortal hands
From out the golden fleece of Colchis, gemm'd
And broidered o'er with golden olives fair,
With massive clasp of gold, inlaid with pearl.
This wager blue-eyed Pallas did accept,
And called on all the gods to witness the
Immortal race 'twixt Juno and herself.

Entrancing scene! No mortal tongue could tell
The dazzling wonders which our flight revealed.
Far off I saw, with its Elysian bowers,
The famous garden of Hesperides,
Where crystal streams and flowing fountains spring;
Where loaded vineyards, orchards, beauteous vales,
And bounteous Terra's golden apple-trees.
A temple built of wine-tinged amethyst
To Bacchus 'mid the teeming vineyards rose.
The lofty walls were bathed in mellow hues
That, blending, merged in softest harmony.
From open windows magic music flowed
And hung entrancing in the fragrant air—
A siren voice in lays melodious sang
Of endless rest, of idleness, and ease.
Cool shades and grottoes, 'mid exotic bloom,
Exhaling Lethean odors on the air.

Delightful walk, sequestered nook, with rich,
Luxurious couch to tempt the weary limbs,
In lavish affluence 'round the temple lay.
Within the temple Bacchus reigns in state,
Where, 'mid unceasing revelry, his priests
On devotees and willing victims pour
Profuse libations of the ruby wine
In sacrificial worship of their god.
A statue of pure gold, to Mammon raised,
Stood central 'mid the golden apple-trees,
Colossal as the Sphynx of Egypt. In
The statue's hand a gleaming two-edged sword,
As mighty as the brand Excalibar
King Arthur wrested from the haunted mere.
They who would pluck the golden apples must
Submissive bow before the flashing sword.

Far upward, boundless, endless, and sublime,
The Milky Way stretched misty through the sky—
That thoroughfare where anciently the gods
Rode in their thundering chariots through the heavens;
Th' immortal coursers bounded on their way
Like long imprisoned warriors set free.
Inertia's viewless bands which bind unto
The ceaseless motion of the rolling earth,
The air, the clouds, and the swift-winged birds,
No longer held us in their ancient toils.
Earth's surface like a panorama passed
Beneath us, fast receding as it sped;
And in the curv'd arch of the azure east
Sank forests, mountains, lakes, and flowing streams.
The temples of the gods, half veiled in clouds,
On viewless chords suspended from on high
Midway betwixt Olympus and the stars,
In long majestic curves vibrating swung,
As if in doubt whether to follow earth
Or like their tenants cleave unto the sky.
The temples, towers, and lofty monuments,
By man's ambitious genius upreared,
Approaching the blue arch, seemed prostrate laid,
And, quiv'ring for a moment on the brink,
Sank headlong in the depths: while in the west,
From forth the curve that joined the earth and sky,
New forests, mountains, lakes, and flowing streams,
New cities, temples, towers, and domes uprose,
To pass like marshaled hosts in swift review.
Distance, soon o'er the fast-receding globe
A rainbow-colored mantle drew; then in
A shroud of cloud the land and sea were lost.

As through the crystal heights we sped, in that
Immortal race to reach the central orb,
In fragmentary song the Virgin Nine
Thus breathed the spirit of their favorite themes:

CALLIOPE.

As the moon sheds the light of the sun in the night,
When rosy Eve covers him under the wave,
So the epic songs flame with the light of the fame
Of heroes that sleep in the gloom of the grave.

CLIO.

While we ride through the æther liquescent
Let us sing, by the light of the stars,
Of the heroes whose fame efflorescent
Shines forth through their manifold scars.

EUTERPE.

Our chariot is rolling along o'er the strings
To the lyre of the universe strung;
And the thrilling vibrations drop down from the wings
Of the zephyrs in fragments of song.

TERPSICHORE.

The twinkling stars are dancing to the time
Of harmonies now throbbing on our ears;
In rhyming orbits swinging to the chime
Of symphonies vibrating through the spheres.

MELPOMENE.

The clouds before us like a curtain rise;
The actors gather on the stage beyond;
The play shall be the nations' destinies;
The hero, he who wields the conqueror's wand.

ERATO.

See how beautiful the moon's soft splendor
On that tow'ring mount of low'ring cloud:
So shall tender love with soft touch render
Bright the heart erst lone and darkly proud.

POLYMNIA.

Earth-born passion, like the flash on
Starry night by meteor hurled,
Cannot light the darkling world
Through the gloom when doom shall crash on
Crumbling spheres in chaos whirled.
Heavenly love, like fixed stars ever
Blazing with unfading light—
In the darkness waning never—
Can alone illume the river
Roaring to the realms of night.

URANIA.

The dome is like a charted scroll;
I trace upon its face
The paths of myriad worlds that roll
Through universal space.

THALIA.

My sisters sing in strains profound
Of all the universe around.
Their favorite themes they all prolong
Until I weary of the song;
While flying from the cloudy earth,
Ring merry glees and songs of mirth.

PHANTASMAGORIA.

From these fragmentary shadows
Of the green and fertile meadows
Where the feet of memory stray
And untrammeled fancies play,
Which the muses from their singing
On the ambient air were flinging
Something of their inspiration,
Breathing of our destination,
Dawned upon my wakening soul.
Then the mists of doubt that bound me,
In their breath dissolving 'round me,
Cleared our pathway to the shining goal.

We swept far up the Milky Way, and saw
Great constellations and abysmal worlds;
And stalking on their confines, phantoms gray,
Like mortal sentries to immortal ghouls
Transformed, doomed to eternal vigilance
Upon the ramparts of the rolling spheres.
Far as our gaze extended we beheld,
In number countless as the glitt'ring stars,
Swift-flying chariots speeding onward toward
The nameless and far distant orb, as if
The myriad worlds were sending heralds forth
T' attend the council ecumenical
Called by Supreme Omnipotence to sit
Within that distant central orb. Far up
Above us, traversing the azure sky,
A flaming chariot rolled, drawn by twelve steeds
Of fire, on golden plumage swiftly borne,
Whose eyes, though full of woman's tenderness,
Yet with the valor of the lion flamed;
Their shining manes streamed aft like flowing gold;
Their hoofs of silver bounding on their way
Bright as the gleaming moons of Jupiter
In clangor echoed through the boundless air,
As echoed erst the dark-gray charger's hoofs
When, riderless from slain Mamilius,

"Through many a startled hamlet
Thundered his flying feet."

Bearing dismay to wounded Tusculum.
With nostrils wide distended, flashing eyes,
And speed of Jove's far-darting thunderbolts,
They marked a trail of splendor through the sky,
And from the chariot's circling wheels flashed showers
Of glimmering sparks, like falling stars dethroned.
Th' avenger of Mount Carmel rode within
Th' empyrean car, and, sitting by his side,
A *chieftain loved.*
His deeds—his worthy deeds alone—
Have rendered him immortal—
Eternal as the rolling sun,
That shines a thousand worlds upon,
And when the day of life is done
Illuminates Death's portal.
Resplendent round their forms
Played lambent flames, while twelve angels of light
Were hov'ring o'er the bounding fiery steeds,
And bands of cherubim and seraphim
On gorgeous floating clouds were marshaled by
The Archangel Azraël, attending hosts,
Upon the flaming chariot.

As erst
"The chariot of paternal Deity
Flashing thick flames," whereon the son of God,
"In sapphire throned," rolled on and headlong drove,
At great Jehovah's awful mandate, o'er
The crystal walls of heaven the angels who
Upreared the standard of rebellion, so
The radiant chariot of Elijah flew
Far through the crystalline empyrean.

Behind us far Achilles' radiant car
Came thund'ring, with the invulnerable chief,
And by his side the famed Patroclus rode.
Xanthus and Balius, the immortal steeds,
That erst, in mortal strife, thrice round the walls
Of Troy had dragged the fated Hector slain,
On bounding hoofs of hard cerulean steel,
Were swiftly clamb'ring up the ambient sky.
A princely pair behind the chariot rode,
The great Twin Brethren, who the Roman hosts
Led at the battle of Regillus Lake.

"So like they were, no mortal
Might one from other know:
White as snow their armour was;
Their steeds were white as snow.

"Never on earthly anvil
Did such rare armour gleam;
And never did such gallant steeds
Drink of an earthly stream."

Above us far the racing chariots
Of Juno and Minerva onward swept
In swiftest flight, by fleet steeds side by side
Drawn near and nearer to the distant goal.
Juno with whip of scorpions lashed her steeds
To pass blue-eyed Minerva's flying car;
And Pallas plied the talisman, caught from
Jove's thunderbolt, her flying coursers' speed
To urge, Queen Juno's golden fruit to win.
While yet we watched their flight in matchless race,
Upon the way o'er which their chariots rolled,
The wandering Pleiad, lost from out the train,
Came swiftly rushing through the trackless void.
As when a blazing comet in its course
Doth threaten swift destruction to the orbs
Whose revolutions swing them in its path,
So did the wand'ring Pleiad menace now
The racing chariots of th' immortal gods.
The queen of Argos, stag-eyed Juno, quailed
Before the threat'ning orb, and fled the track
To let it pass. Not so Minerva, shield
Of warriors. On she sped and meanwhile prayed
"O Father Jove, thy doubly daughter aid."
The Cloud-compeller heard Tritonia's cries,
And, hurling forward a swift thunderbolt,
Struck midway on its front the wand'ring orb,
Which, cleft in twain, let bold Minerva drive
Her flying steeds straight onward toward the goal.
The sky grew dark as with a gath'ring storm,
When, from its gloomy caverns, thunder-riv'n,
The orbless star sent forth with whirlwind sound
Legions of winged fiends, and giant birds,
Whose arrow-pointed plumage sped like darts,
Whose piercing howls, surpassing deep Hell's shrieks,
Thrilled through the darkened air to terrify
With horrid din the goddess in her flight;
But scathless, nothing daunted, boldly rode
Minerva, whom nor thunderbolts, nor fiends
Thrice armed and winged with Terror's darts, could bruise.
Like some dark cyclone which at midnight sweeps
Destruction o'er a land or city doomed,
So did the breath of Pallas, blue-eyed queen,
Resistless as Niagara's strong flood,
All-grasping as Charybdis' howling whirl,
Send into Hades' gloomy depths the host
Infernal by Jove's thunderbolt released.
One vampire of colossal stature, huge
As Mars when prostrate by Minerva laid
On Ilium's plains, sev'n acres covering,
Clung to her golden chariot with his claws,
And at the irate goddess taunting gibed.
She seized the hideous fiend, and poising him
High in the air, him headlong hurled against
The thunder-riven Pleiad's jagged rocks,
Whence, swift rebounding, torn and mangled, down
He sunk into the gaping jaws of Hell.
Then Pallas, cheering her immortal steeds,
While from her scathless brow white thunderbolts
Glanced harmless, blazing round her awful form,
With gleaming splendor lumining the gorge,
Triumphant onward through the cleft orb swept;
Then waved her golden sash above her head
To tantalize Queen Juno's envious eyes.
She, following far behind, in fury lashed
Her bounding steeds, (as once in wrath she scourged
Diana, fair Latona's daughter, in
The battle of the gods, and made her flee
In terror to her father, Jupiter,
Upon th' Olympian Heights,) now all on fire
To come ere Pallas to the orb which lay
Beyond the dancing meteors of the night.

Like fleecy cloudlet driv'n before the blast,
Swift flying yonder sped the floating Isle
Of Delos, covered o'er with golden flowers,
Where first Apollo sprang to light of day,
And chaste Diana, Jove-begot, was born.
Saint Ursula there crowned with garlands fair
Of fadeless amaranth, fair Eden's bloom,
With virgin band eleven thousand strong,
All chanted praises in that hymn sublime,
"O all ye works of His, bless ye the Lord;
Praise Him and magnify Him evermore,
Ye angels of the Lord; bless ye the Lord;
Praise Him and magnify Him evermore."
That floating isle, where once Olympian gods
Reigned magnates in their undisputed sway,
Jove saw and sighed, as 'twere a picture of
The world wherein mythology had been
Subverted by the conquering faith in Christ.
Upon the coast rode Ursula's triremes,
Whose streaming pennons bore the Blood Red Cross;
Whose mariners divine commission bore
To sail the azure depths at will, alone
Subjected to Saint Ursula's behest.

Next far Alcyone, that distant orb
Which Maedler for the rolling universe
Fixed as the pivot, central, ultimate,
Round which all planetary spheres revolve,
Our gaze attracted. Nearer grown, and like
A blazing sun in volume now it seemed.
Great Jupiter beheld, and "Lo," he said,
"Yon sunbright sphere toward which our pathway tends!
Can that be Iris' distant central orb
Where reigns Jehovah on his awful throne,
And whither now from all the universe
The rolling chariots bear th' assembling throng?"
And as he spoke my eyes glanced searching o'er
The boundless plains and avennes of space,
Till in the shoreless sea of azure, sight
Was lost where finite joins the infinite.
E'en as I gazed Alcyone was passed,
And fast receding, dwindled to a star
Far in the traversed realms of space behind;
So rapid now our swift increasing flight.
Still Jove seemed many things revolving in
His mind, and murmured of the Magi led
To Bethlehem when they had "seen His star."
Then turning he exclaimed, "Shall not that star
Which lit Jehovah's incarnation be
The scene for revelation of His great
Designs?"

A sudden zone of darkness crossed
Our path, embracing races strange and worlds
Unknown. Here, reining up our flying steeds,
We paused. Below us far the glancing lights
Of ghostly cities twinkled. Giant shades
Colossal as the Cyclops walked the streets—
While yet we paused, the chariots of the Hours
Drawn by their rainbow-winged steeds swept by
Us like a whirlwind: Demogorgon sat
In one; Promethens in another rode.

"In each there stood a wild-eyed charioteer
Urging the rainbow-winged coursers' speed;
Their bright locks, streaming on ethereal gales,
Trailed like a rushing comet's yellow hair."

Behind them, seated on his pale horse, Death
Rode from the darkened zone, in swift pursuit
After the rainbow-winged steeds that drew
The chariot of the Hours; and henceforth like
A ghost his shadow hovered by our side.
Strange horrors seized me, waking fears appalled,
As multitudes of spirits 'round me thronged;
Like withered leaves whirled by the autumn blast
Their drifting forms in rustling robes rushed by
Driv'n by the viewless breath of Destiny,
Their voices echoing in the gloomy air:
Unearthly apparitions came and went;

Ill-visaged, mocking demons shocked my sight,
And foul, insatiate harpies flapped their wings,
And with their blood-shot eyes, their horrid beaks
And crooked talons, menaced me. Teeth gnashed,
Flesh quivered, howling voices shrieked, until
I shrunk in terror from these hellish shades;
"Then what is life?" I cried in agony.
From out the darkness which around us rolled,
We heard the everlasting spirits cry.

FIRST SPIRIT.

The earth rolls ever 'mid the clouds;
  Upon its face men grope in gloom;
After spring garlands, snowy shrouds,
  After the bloom of youth, the tomb.

SECOND SPIRIT.

Life has two natures; one that *seems*,
  Transient, like images ideal
Borne on the fertile plains of dreams;
  And one that *is*, unfading, real.
The life that *is*, springing from forth
  The radiance of light supernal,
Casts only on the cloudy earth
  A shadow of its form eternal.

THIRD SPIRIT.

Worlds unnumbered roll forever
  Through immeasurable space:
Though their axes shake and quiver,
Clashing in their orbits never.
  What the unchanging, viewless trace,
Doth their swinging cycles render
Swerveless in their gleaming splendor?

FOURTH SPIRIT.

The chords of great Jehovah's love extend
  From His imperishable throne afar,
And to their everlasting orbits bend
  All worlds,—sun, satellite, and glittering star.
What beings people the remotest world,
  Bask in Jehovah's smile, pale at his frown,
And, when his wrathful banner is unfurled,
  Like withered leaves into the dust go down.

FIFTH SPIRIT.

Every planet has its angels
  Bearing to the wounded balm;
After battle their evangels
  Whisper of the crown and palm.
Golden be their joys and treasures,
  Sunshine brighten every home,
Starlight gild each evening's pleasures,
  While these orbs through ether roam;
For shall come a peal of wondrous
  Clangor, crashing on the ears,
When Azrael sounds his thund'rous
  Summons to the crumbling spheres.
In their orbits palsied, darkling,
  Universal worlds shall stand;
Quenched their gleaming and their sparkling
  By Jehovah's awful hand.

When over the desolate fields of the dead
Death's angels their hovering pinions shall spread,
The stars shall be wrapp'd like a corse in their shrouds,
And the universe sleep in its mantle of clouds.

SIXTH SPIRIT.

After darkness the reflection
  Of returning dawn upsprings;
After death, the resurrection,
  Flying on triumphant wings.

Lo! the blast of Gabriel pealing
Through Death's universe, unsealing
Bonds and fetters of th' unnumbered
Hosts that long in dust have slumbered.
Then the substance of Life's shadow,
Rising from each moor and meadow,
From beneath each bubbling fountain,
From the bleak and barren mountain,
From the once thronged busy highway,
From each dark and lurking by-way,
From the forest and the lea,
From the desert and the sea,
Shall go forth, arrayed in vernal
Bloom and grace of life eternal.

Then over the fields of the waking dead
In triumph the feet of immortals shall tread;
And the stars all rekindled with immortal fire
Shall sweep in their course to a destiny higher.

SEVENTH SPIRIT.

The Earth rolls ransomed from its clouds;
  Upon its fields of shining green
Men, walking in transfigured shrouds,
  Reborn immaculate, are seen.
No dying groan, no widow's moan;
  No clash of hostile spear or sword;
The King of Kings is on His throne—
  Our Saviour, Christ, the sov'reign Lord.

PHANTASMAGORIA.

Weary of the seen ideal—
Burning for the unseen real—
Yearning for the light to render
Visible the paths of splendor,
  Where the feet of Wisdom tread—
I will fly to yon bright mountain;
I will drink of Faith's pure fountain;
  By its inspiration led.
Through this glamour and delusion—
From this clamorous confusion
Let me gain the shining portals
To the realms of the immortals.

Worlds, cities, apparitions vanished all
Like wreaths of cloud merged in the darkened zone,
On depths below our vision fell, and in
The blackening profound, great Dante's Hell
Yawned low'rmost in the bottomless abyss.
Nine times around the murky vortex rolled
The sluggish Styx, while countless affluents
Branched through the measureless profound below.
Gray-bearded Charon in his ferry-boat
Upon the pitchy waves was ferrying
Innumerable throngs of lost and damn'd
From many worlds to Pluto's shady realms.
Upon the sombre portal's arch I saw
The immortal lines by Dante's genius carved:

> "Through me you pass into the city of woe;
> Through me you pass into eternal pain;
> Through me among the people lost for ay.
> Justice, the founder of my fabric, moved:
> To rear me was the task of power divine.
> Supremest wisdom, and primeval love.
> Before me things create were none, save things
> Eternal, and eternal I endure,
> All hope abandon ye who enter here."

Close on the verge of Hell's confines, behold
"A fiery globe of angels on full sail
Of wing;" the band that came and ministered
Unto our Saviour after Satan fled
From vainly tempting him upon the mount:
And now at Christ's command, around Hell's verge
They do forever wing their way, ablaze
With glory, in celestial harmonies
Praising the Father, Son, and Holy Ghost,
That Satan, hearing, may remember what
Is writ, "Thou shalt not tempt the Lord thy God."
The Cloud-compeller, gazing down the abyss,
Sought Satan, lord of Hell, upon his throne,
Which wrapt in densest smoke was hidden from
The immortal gaze of Jove's far-seeing eyes;
As if the arch-fiend some wily deep laid scheme
'Gainst mortal man and the immortal gods
Were plotting in the impenetrable gloom.
The brow of Jove then gathered in a frown,
And from his flaming red right hand he hurled
A thunderbolt down crashing through the depths
Of Satan's dark dominions, driving hence
The veil of cloud obscuring Satan's wiles,
And on his black throne laying bare to view
The reigning monarch of Hell's lurid realm.
The bolt crashed midway on the ebon throne
And lighted all the hollow of the vast
Recess, by its ten thousand fragments strewn.
Reclining like a huge leviathan
The thunderbolt disclosed the reigning fiend:
But startled by the sudden crash, he rose
And 'bove the apostate angels darkly towered
As Belus towered above the waters of
The Euphrates, or Gibraltar's fortress rock
Above the narrow sea that laves its base.
His fiendish legions by Beëlzebub
And Moloch marshaled, trembled as in dread
Before the flashing thunderbolt of Jove,
As trembled Pluto when the Ocean-god,
Earth-shaking Neptune, shook the boundless earth
And ocean wide.
Like dwellers in that orb most distant from

The sun—the fabled Apollonia—
Who far surpassed all children of the earth
In godlike beauty, godlike intellect,
In science, and in cultivated art;
Yet on their faces, ever fixed, the glare
Of painful, rayless, measureless despair.
From Lucifer's black throne
Hell's flaunting banners waved, emblazoned with
The scene of many a conquest on their folds,
Won by the legions of Beëlzebub.
Triumphant on Hell's central banner glared
The loss of Paradise, where beauteous Eve,
In pristine loveliness, fresh from the mould
Of perfectness of feature and of form,
Reached forth to pluck and eat forbidden fruit;
The tempting serpent near with forked tongue,
With fixed, unwandering eyes, and ceaseless hiss,
Incarnate fiend, swung like a pendulum,
To sway and vibrate on the tree, and time
Man's fall—Death's introduction in the world.
As when the conflagration, that walks forth
In southeless, raging fury to despoil
The doomed, devoted city, wraps his long,
Red, flame-fringed arms about the crackling walls,
The roofs, the lofty steeples and the domes,
In hot, fierce, eager, passionate embrace,
And to his blazing bosom madly holds
His yielding victim; gathering strength anew
From out the very whirlwind of his rage,
E'en Lucifer, convulsed with rage supreme
And horrid to behold, did wrathful grasp
The fractured thunderbolt down hurled by Jove,
And high above his triple-head, the fiend
Round and around the vivid lightning swung,
Until it glowed like Saturn's blazing rings,
Then hurled it back at cloud-compelling Jove,
Who, predivining Lucifer's intent,
Down simultaneous hurled a second bolt.
These meeting midway in the dark abyss,
Like mines exploded, lighting all the depths;
As when from old Vesuvius belching flames
Illumed Pompeii's doom-night on the plains.
About the shield of Dis the lightning broke,
And all the plains of Hell made visible.

Behold, at intervals oäses fair,
And cooling springs, where fragrant flowers bloomed;
These were the footsteps of the crucified
Redeemer who "descended into Hell,"
Attended by th' archangels Raphaël
And Michael, who, at His divine command,
In aftertime, returning to Hell's depths,
Bore from the fiery flood the terrified
And weeping Margaret, while following
The tracks of Mephistopheles, through all
The howling and the clattering of Hell,
In search of oath-bound Faust, eternal doomed
To wander ever in eternal woes.
Redeeming Love omnipotent forbade
That her hell-luring, deathless love, bereft
Of guardian angels and their care, should fix
Her doom in everlasting floods of flame.
The blazing eyes of lost, infernal hosts,
Like Tantalus, gazed longing on the bloom
Celestial springing from Plutonian plains
Wherever Christ and His archangels trod.
The cooling springs perpetual mocked their cracked
And parched throats, and forced infernal shrieks,
As they raged to and fro with madd'ning leaps
To break the fetters binding them to pain
Of fiery woe and quenchless thirst, in sight
Of cooling springs and fragrant vernal bloom.

Dis' brazen shield, round as the full-orbed moon,
Of massive weight and vast circumference,
Upon each field a Gorgon head engraved,
Colossal as the Sphynx and horrid to
Behold, encircled round by hellish charms,
Flashed in the thunder white, as flashed of old
God-like Achilles' shield when long-haired Greek
Rejoiced, and fated sons of Troy bewailed
Brave Hector, chief Priamides, laid low;
For Dis, in dread of Jove's white thunderbolts,
Had grasped his ample shield to guard against
The wrathful Cloud-compeller's direful shafts.
From out th' abyss these echoes floated up,
Borne on the pinions of the Hell-born wind:
"What to me are the evangels
Of the white-winged singing angels
On our revels shadows casting
From their pinions everlasting?
What care I for the harmonic
Grandeurs rolling in the tonic
Chords of music round the Throne?"

Thence leaving Satan 'mid th' infernal imps,
We onward sped to gain the distant orb,
Enveloped by impenetrable clouds,
Which Jove about us like a mantle threw.
Past suns and stars, through ether blue; past zones
Of brilliant asteroids, empurpled clouds,
Whereon great bands of angels rode and sung
The wondrous mysteries of the triune God;
Past dancing meteors flashing through the night;
Past sparkling planets with their silvery moons;
Past blazing comets trailing crystal skies,
Until we reached an all-controlling sphere,
Where life wore beauty passingly sublime,
The one great center, energizing soul,
Inspiring, moving all created worlds.

O orb supernal, where eternal dwell
Angels of light, make eloquent my tongue,
Thy glorious marvels worthily to tell.

Methought the very pinnacle was reached
Of all existence, whence all radiate lines
From that one universal center shot
Downward far through illimitable space,
Ethereal center of translucent sphere;
That sphere the universe; and standing there
We gazed adown the radii, and saw,
In intertwining orbits circling round,
Millions of worlds harmoniously roll:
The sun hung in the doorways of the west
Pale as the moon. His borrowed radiance shed
No luster on that native fount of light.

Juno and Pallas, with their panting steeds
And smoking chariots, waited our approach.
The golden apples which the goddess Earth
From her famed garden in Hesperides
Bestowed on Juno when she wedded Jove
Adorned the breast-plate of Minerva's belt;
For she had triumphed in th' immortal race.
Here all the gods reined in their steeds, which, loosed,
They bade upon ambrosial forage graze
Within celestial gardens fresh and green.
Then Jove, in glowing admiration o'er
The landscape gazing, said, this is, indeed,
Jehovah's golden "STAR of BETHLEHEM."

We trod upon a pavement of bright gold,
And mingled with a mighty throng that moved
With cadenced step along the golden street—
Adducent to a shining temple, far
Surpassing in its grand magnificence
All other temples, towers, and lofty domes.
Upon the temple's lofty walls was carved
In Hebrew character, embossed with fire,

"Lift up thy head and be thou strong in trust;
For that which hither from the mortal world
Arriveth must be ripened in our beam."

Our onward march soon brought us to its doors.
I stood within its alabaster walls:
With fearful, trembling ecstasy I gazed
Around that mighty amphitheater.
My narrow vision scarce could grasp the maze
Of aisles and far-receding corridors.
The walls were lined with burnished diamond plates,
And on their face, in panoramic scenes,
Rolled pantomimic history of worlds.
A mellow luster, native to the air,
Illumed the hollow of the vast recess,
And with imponderable touches lit
The alcoves, niches, and the arching dome.
The vaulted roof, sustained by golden piers,
Receding like the far-off canopy,
Was fretted o'er by scintillating gems,
Condensed and wrought from light original,
Whose glitt'ring shamed the stars that hang o'er earth,
As daylight doth a sickly taper's glare.
A massive chain, hung from the loftiest point,
Suspended an immense chronometer—
Timekeeper of eternity! 'Twas called
THE WATCH OF AGES! On its dial plate,
In characters of light unchangeable,

I read the seconds, minutes, hours, months, years,
And centuries, which far adown the dim
And shadowy vista of the past have rolled;
The hollow spiral chain, link after link,
Showed Rome, Greece, Carthage and Assyria.
My utmost stretch of vision Eden reached:
What lay beyond a cloudy veil obscured.
Its mighty hands *remarked* the flight of time;
Its pendulum with ceaseless motion swung,
As if hung up to time and regulate
The mighty enginery that animates
And wheels the planetary orbs throughout
The boundless realms of universal space.

Millions of people were assembled there,
In costumes common to all lands and climes;
Fair ladies sat beside gay cavaliers,
Displaying fashions of each century
Since first the myriad worlds began their march.
I heard all tongues that Babel's tower confused,
Yet comprehensible as household words;
All seemed to hear and understand them well,
And I, whatever were the words addressed,
Heard and responded in the self-same tongue.
My vision here ranged o'er th' unnumbered throng
Now gathered in the amphitheater.
There stood the Carthaginian Hannibal;
He leaned upon that blood-stained sword which waved
His legions o'er untraversed Alpine heights
Before Mount Calvary drank atoning blood;
There Alexander, who had wept because
No other worlds remained to be subdued;
And Khaled, merciless, whose Moslem blade
Converted full two hundred thousand souls.
Napoleon, the terror of the world,
Whose prison walls, while captive on the earth,
Did bound the arching canopy and lose
Themselves beyond the far horizon, stood
Encircled by his marshals and Old Guard.
Lycurgus, who was taught by Plato, and
Isocrates,—he who ordained the laws
Which gave to Sparta her immortal fame;
Pythagoras, who first the music of
The spheres proclaimed; Bozzaris with his band
Of Suliote warriors; Spartacus, the chief
Of gladiators; La Fayette, the friend
Of Freedom's temple risen in the West.
Cromwell was there, surrounded by a host
Of "Roundhead" followers; and Wellington,
Who conquered on the plains of Waterloo.
Moses, before whose rod the Red Sea waves
Were piled, as if in adamantine walls,
To let the sons of Israel pass through,
Ere refluent, ingulfing Pharoah's hosts.
David, the Hebrew shepherd, bard, and king;
Samson the strong, who on his shoulders bore
Alone the mighty gates of Gaza off;
And Solomon, the wisest king of eld,
Who reared the temple which the Son of God
Chose as the symbol of the corporate shrine
Of his incorporate Divinity.
There Sir John Franklin, who with reckless prow
Dashed 'mid the crystal, frozen, floating bergs
To find what flaming torches still relume
Th' Aurora Borealis in the North;
Confucius, Nathan, Solon, Socrates,
Justinian, Blackstone, Chitty, Story, Coke,
Prophets and seers of old-forgotten days,
With monarchs, heroes, warriors, and wise
Philosophers, and sages of all time,
Each by his satellites encircled round,
Sat watchful in that amphitheater.
Near by, with faces placid and serene,
Such as the brave and righteous ever wear,
The Signers of the Declaration stood;
And in their center, high enthroned in state,
Sat our immortal chieftain Washington!
Leonidas, the Spartan patriot king,
With band of heroes, who the Persian hosts
Of Xerxes fought at famed Thermopylæ.

They fell devoted but undying;
The very gale their names seemed sighing;
The waters murmured of their name;
The woods were peopled with their fame;
The silent pillar, lone and grey,
Claimed kindred with their sacred clay;
Their spirits wrapp'd the dusky mountain;
Their memory sparkled o'er the fountain;
The meanest rill, the mightiest river
Rolled mingling with their fame forever.

Beside the Spartan band, and with them one
In fellowship of glory, stood the band
Whose blood made Balaklava holy ground.

Stormed at with shot and shell
Boldly they rode and well;
Into the jaws of death,
Into the mouth of hell
Rode the six hundred.

In light of newer advent, but immersed
With them in baptism of fraternal death,—
Kindred with them in forlorn valor, stood
The martyred few who with brave Custer fell.
Near by in light of ancient splendor stood
Godlike Achilles with his Myrmidons,
And glorious Hector, patriot chief of Troy,
And by his side the fair Andromache;
There Argive Helen, by her primal lord,
The valiant Menelaüs stood redeemed;
I turned to where great Dante stood, and asked
What meant this host assembled from all climes?
Was this the temple of the gathered dead?
Did high and low, the evil and the good,
Here mingle in eternal blessedness?
It cannot be the universe of Hell;
For but e'en now, in flight with all the gods
Upon the Muses' flowery chariot borne
From high Olympus, I beheld far down
Below the Milky Way on which did bound
Th' immortal steeds, the murky orb on fire.
It cannot be thy Purgatory, for
Nowhere do I behold the Trinal steps,
With rock of flashing diamond bright, whereon
God's angel stood to guard the port which led
Unto the Rocky Way. It cannot be
Thy Paradise, for lo, thy Muse hath sung

None ever hath ascended to that realm,
Who hath not a believer been in Christ,
Either before or after the blest limbs
Were nailed upon the wood.

And some, I know,
Assembled here own not Messiah's name.
Then Dante in a voice of love replied:
"I seek a mount called Faith, whose summit shines
In the clear atmosphere of truth above
The clouds perpetually rolled in dark
Obscuring volumes of high-colored wiles
About its base, where wrestling mortals strive
In Life's fierce battle on the dusky plains.
Born in the region of diviner light
Than gleams from pageantry of throned kings;
Loyal alone to the imperial sway
Of Progress in the Right, monarch august.
Before the thunder of whose conquering tread
The ancient realms of darkness, crumbling fall.
Eager to speed his onward march, and ban
The rolling volumes of delusive wiles
That hide the mount of Faith, I stand and gaze
Upon the mirrored life of centuries;
And while I gaze, from out the wreck-strewn depths
I hear the voices of the ages speak:
'In every empire of the world, the gems
Clasped in the gold of royal diadems—
Set there by stolid craft of Prejudice,
Designed in Error's gloomy studio,
And cut in light of Passion's lurid glow—
Are tarnished with the blood of Sacrifice.'"

Then I to Dante said: "O bard sublime! how may I arise and conquer? What shall the armor be?" And he, answering: "What shall the armor be? *Truth;* truth in thought, in speech, in action; truth to duty, to your fellows, yourself, and your God. The more nearly you approach to absolute truth the more nearly you will approach to absolute perfection. The end of learning is knowledge of truth, and the use of knowledge is excellence of action.

"'If I were a voice, an immortal voice,
That could travel the wide world through,
I would fly on the wings of the morning light
And speak to men with a gentle might
And tell them to be true.'

"If truth in man is a gem of great price, truth in woman is a gem above all price and the chief jewel of her crown."

Then Dante Alighieri led me forth
That I might view the wondrous works of art
Which all the temple's alcoves did adorn.
I joined the sapient train and onward moved
Through countless myriads congregated there
Until we reached the vast and glittering throne
Whereon immortal Shakspeare ever reigns.

Half hid in shining clouds Melpomene
Above the monarch hovered, scattering flowers
Whose perfume fell in torrents round his head.
Upon the panels of the eight-sided base
Whereon the throne was reared, Pygmalion
With his life-giving chisel had engraved
The living forms of Hamlet and King Lear,
Othello, Desdemona, and Macbeth,
Coriolanus, Shylock, Richard Third,
The Merry Wives of Windsor, Cymbeline,
The Royal Henrys, Falstaff, and King John,
Great Julius Cæsar, Brutus, Antony,
Midsummer Night's Dream's phantasies grotesque,
And Romeo, by the viewless cords of love,
Set with the seal of Death, to Juliet bound,
By the divine afflatus all relumed
With life and beauty, sentience, and strength,
They seemed, like sentries incorruptible
Standing upon the ramparts of his realm
To hold the ages to allegiance.

Proud monarch of the drama! In thy verse
Hath every phase of human passion found
A voice and eloquence of utterance.

There stood Cervantes, with the laurel crowned,
Token of his victorious crusade
Against the wind-mill giant—"Chivalry."
The youthful, austere Chatterton beside
Him reveled in the marvels of antique
Creations in the theater displayed,
Which neither high-born Walpole's cold distrust
Nor unrelenting poverty could blast;
Only immortal genius like his own
Such grand immortal harmony could grasp.
Goldsmith and Gray were talking of the scenes
That won from each the thrilling voice of song;
In the "Deserted Village" one breathed out
A tender reminiscence of the past.
From vacant rooms the tenants had gone forth,
And only left a shadow of their forms,
Only a lingering echo of their tread
To prompt the poet's singing memories;
But in their graves they found a deathless fame
In the sweet-flowing "Elegy" of Gray.
Racine and Corneille, of dramatic fame,
Were listening to some strangely wrought conceit
Of Goethe's wild imagination born.
Poe stood with melancholy face alone,
As if from off the bust of Pallas still
He heard the black-plumed raven's "Nevermore."
The sweet-voiced Moore almost with envy heard
The wandering Exile's footsteps on the beach;
For Campbell's reaching Fancy had plucked forth
From Erin's Isle the choicest fruits of song.
Clay, Sumner, Webster, Thomas, and Calhoun
Round Stonewall Jackson and McPherson stood,
Discussing all Ambition's burning thirst,
Which only draughts of crimson blood can quench.
While Hawthorne listened to the bards' discourse,
Over against the Temple's eastern front
Through the dissolving mist, Benevolence
Beamed suddenly from forth the "GREAT STONE FACE!"
Beholding, all grew still,—inly convinced
That though they had the gift of prophecy,
And though they had all knowledge and all faith,
So that they could remove the mountains hence,
And had not charity, then they were nought.

As from his throne the monarch Shakspeare gazed
Upon the kindred bards that crowned him king,
Bending to listen to their speech, anon
Enriching by some aptly spoken word
Th' elaboration of their varied themes,
The Hebrew shepherd, bard and king approached.
Instinctively the reverent throng apart
Divided, that the Psalmist might pass through.
In Shakspeare's hand he placed the palm and crowned
Him with the laurel wreath. Then they conversed
Of Hebrew art, philosophy and song,
And of the myriad bards unknown to fame
(Since rose the Temple of Jerusalem)
Whose "Footprints on the sands of time" have left
The impress of the spirit of their age.
A wistful look of earnest interest
Upon the old King's royal visage beamed,
While Shakspeare thus the train of thought pursued:
"As by the fossil fauna late exhumed,
Or imprint of the palm or fern upon
Th' enduring rock, the skilled expert discerns
The climate and the kindred products of
Their sev'ral eras; so may we discern
From the still living fragments of old song
The spirit and the temper of the times
When they were breathed, though millenary dust
Obscure the name and fame of them that breathed.
Thus shall the 'Song of Hiawatha' show
To future ages the primeval race,
Though then extinct, which erst untutored roamed
Through pathless wildernesses in the west;
So shall the desolating tread of caste
On 'Aylmer's Field,' when progress shall have poured
Its Lethean billows on the pride of birth,
Raise from the dust the moldering skeleton
Of pompous rank by feudal bondage won.
The golden fancies and the pure, chaste style
That mark their verse, illumined by the fire
Of noble impulse blazing in its flow,
Have won for Longfellow and Tennyson,
Within the realm of the immortal bards,
A crown of honor and a robe of light
Which, for their advent, with a welcome wait."
As Shakspeare closed, the bards approving all,
Near by them Paganini woke the soul
Of melody in the sweet "Song of Gold."

In company with the sapient train
I onward mov'd enraptured by the scenes.
We passed by Aristotle, Socrates;
By Romulus and Remus, the twin-sons
Of Rhea Sylvia, by Mars begot;
By Alcibiades, Herodotus,
Demosthenes, Mazzini and Plutarch;
By Plato, Æsop, old philosophers,
Ancient historians and orators;
And the more modern sages, Audubon,
Agassiz, Franklin; and a thousand kings
And potentates whose fame the bards have sung.
Here Socrates and Plato held converse
Upon the wondrous beauty, majesty,
And fadeless scenes upon the burnished walls
Within the Theater of the Universe;
Then of that changeless law which holds its seat
In great Jehovah's bosom, and whose voice
Rings in the harmony that moves the world.
Here solitary walked great Constantine,
Th' imperial monarch, whose ambition gave
First legal basis to the Church of Rome;
There, Henry, son of Richmond, panoplied
In vestments of Pontific dignity
Usurped, stood as a monument of strength
Unbridled, and of passion unsubdued,—
Founder of English Catholicity:
Elizabeth, his daughter both by blood
And native character, beside him stood;
Near by, the cultured, beautiful, serene,
But fated Lady Jane, nine days a queen;
The giant Luther, great iconoclast,
By birth a rustic, but in strength a king
Of dauntless valor and unbending will:
Ægisthus and false Clytemnestra, pale
And haggard, wandered still pursued
And haunted by Tisiphone, the blood
Avenger of King Agamemnon's death.
We reached the Temple of Fame, a monument
To Pope who wrought into a golden tongue
Great Homer's Iliad and Odyssey.
"The Eastern front was glorious to behold
With diamond flaming and barbaric gold."
Here Homer paused before these tributes, mute,
Paid by a modern bard to ancient song.
Clear flashed those scenes before the poet's gaze
By whom rehearsed long centuries ago:
As when to Dido's halls Æneas came
A wandering fugitive from vanquished Troy,
Tossed on tempestuous seas by hostile winds,
And in her picture galleries beheld
Himself and comrades reproduced, and saw
Again the walls of Troy o'erturned, himself
Escaping, Hector slain, Creusa lost,
By Libyan artist vividly portrayed.

Within the Temple of Fame, assembled throngs,
In rapt attention, gazed upon a stage
Where Kean, Macready, and the elder Booth,
And many celebrated actors from
All ages and all climes, portrayed
The tragedy of Maximilian's fate.
I saw Europia's kings, from many of
Whose veins the blood of Maximilian flowed,

Intently gazing on the tragedy.
I heard the player in the Emperor's rôle
Soliloquize upon the omens thus:
"The lurid sky glowers ominous above,
As if the sun in anger frowned upon
The throne where erst his worshipers alone
Held sway: ere Cortez, with his armored few,
Forced with the sword, upon the Aztec realm,
The first faint glimm'rings of the source whence springs
The light which Montezuma worshiped in
The sun, nor knew of other source beyond.
Along the snowy Cordilleras' heights,
I see the fires of revolution glow:
Juarez with his Aztecs offers up
Oblations on their altars to the sun.
O thou eternal God, great source of light,
Who didst th' anointed anciently endow
With grace, with wisdom, and with sovereign power,
Endow me with the wisdom to reign o'er
This wasted realm, by anarchy distraught;
Or if the royal blood of Europe be
Not meet for the redemption of the state,
Grant that its sacrificial flow appease
The rage and desolation of revolt,
And bring the land of my adoption peace."

The next scene brought the melancholy rôle
Of the depressed Carlotta, seeing with
Prophetic vision harbingers of woe;
I heard the player of the rôle thus speak:
"I cannot of its fears my mind divest,
Nor penetrate the gloom that gathers round.
Last night as I in slumber dreaming lay
I saw the body of the Emperor
Encoffined; and I heard the people shout—
Oh! HOW *they shouted!* 'He is murdered'—
Oh! coward heart, be still thy throbbing—*hark!*
What sound is that which breaks upon the night,
As if the very air were cracked and crumbling?
Strange horrors now appall me, and I know
Not what to do or whither I must fly.
If there be fluids, as we know there are,
Which, conscious of the dreadful coming storm,
In their glass arteries shrink up, and strive
To hide themselves, may not the blood as well
Be conscious of the thirsty, unseen hand
That comes to let it flow, and in that hour
With icy coldness, back recede, and knock
For entrance at the doorways of the heart?
'There is a tide in the affairs of men
Which, taken at the flood, leads on to fortune,'
So Marcus Brutus said upon that night
Wherein his evil spirit did appear.
The flood of which he spake bore him unto
But bitter fortune on the bloody plains
Of Philippi. Perhaps the flooding tide
Whereon *he* is afloat may sweep *him* to
'That bourne from which no traveler returns.'
Hark! pealing, dirge-like, o'er the dark blue wave
The midnight bells are tolling for the brave:
Oh! God, 'tis done, my aching heart knows well,
Too well, the doom these throbbing pæans tell:
Black billows of despair upon me roll—
Affrighted reason quits my frantic soul."

* * * * *

A sudden peal rang on the startled ear—
THE WATCH OF AGES tolled a nation's knell.
Then Dante Alighieri gazing in
The mist of ages gone, like one who sees
As in a vision, suffering and sin,
Thus painted Desolation's cruel reign:
"The powers of earth are subject to decay;
They have their birth, their growth, their life and death.
As forest oaks are nourished by the mold
Of trees ancestral, perished and decayed,
So from the dust of crumbling empires spring
New empires, flourishing in strength of youth
Until imperial glory's noon is reached;
Then, at the heart corrupt, unseen decline
Begins, and gnaws with silent teeth, until,
Outspreading, but a hollow shell remains;
When, as the oak whose days are numbered, rent
From its foundation by the tempest's breath,
Down, crashing 'mid the tender saplings, reels,
And scathes or crushes many in its fall,
So falls decaying empire's hollow shell;
And growing States, its shadow underneath,
Are startled at the sound. While some are bruised,
And some are crushed beneath the cumbrous weight,
Yet others send forth roots to pierce the mold,
And thrive upon the fallen State's decay.
Thus life is ever feeding upon death.
The length of days allotted to the tree
Of liberty is as the strength with which
Its roots are fixed within the people's hearts,
And as corruption's gnawing fangs are banned
From its own heart; as it is pruned
Of cumbrous branches and of surplus growth;
As cultured by untiring industry;
As warmed by sunbeams of intelligence,
And watered from the springs of charity.
Valor and Love should wed; their offspring, Faith
And Virtue, should be crowned with knowledge, and
Endowed as guardians of Liberty.
Until the dawning of millennial morn;
While sin and passion throng the human heart;
While greedy av'rice feeds on poverty;
While mad ambition drives his brazen car,
Without remorse, o'er meek humility;
While lust, in conquest, honest love outspeeds;
While truth is fiction, falsehood current coin;
While might makes right, and wrong in law is mailed;
While folly lures, and wisdom drives away;
While a great name is the ideal god,
And the Great God but an ideal name,
Shall mortal be the Tree of Liberty."
The voice of Dante died upon the ear
As dies an ocean of rich melody,
When waves of sound receding in the mist
Are further—further borne away, till naught
But echoes answering from the distant hills
Vibrate declining in the eager ears;
Yet when the waves of sound have ceased, within
The chambers of the soul, their sweetness still,
Like some fond ling'ring spirit, waits to sing.

Now turning from the Temple we passed on
To where famed Æschylus and Shelley 'tranced
Th' Olympian gods with passages and scenes
From the "Unbound Prometheus," while we paused
To gaze upon the scene, the glance of Jove
Standing supreme among th' Olympian gods,
On Homer fell; "Behold," he said, "the scribe
Whose record teems with our immortal fame—
His own imperishable monument.
Though to his sightless eyes Aurora brought
No radiance upspringing in the East,
Yet through the open windows of his soul
Calliope flew with her flaming torch
To guide the flight of his immortal song.
Green be th' ambrosial fields where walk his feet—
Fadeless the aureola round his brow."
Then fairer forms and faces gazed we on,
Where Joan of Arc and Sappho, the Tenth Muse,
Clothed in celestial robes conversing walked.
The Maid of Orleans, from her wings of flame,
On which she flew to immortality,
Drew forth a fiery plume which Sappho took
To write in burning words the infamy
Of Warwick and Beauvais. Matrons and maids
Whose names shine forth like stars in history
Around them thronged; Evangeline, the fair
Acadian maid, whose wandering feet pursued
Lost Gabriel no more; fond Josephine,
The haughty monarch's loving bride cast off
At *his* resistless ruler's rude behest—
Volting Ambition's voice; Roman Lucrece;
Virginia; the beauteous Capulet,
Whose heart o'erleaped hereditary hate,
Obedient to the thrilling voice of Love;
Fair Isabella, queen of proud Castile,
Who sacrificed her royal jewels on
The altar of Spanish marine research.
And Beatrice, Dante's youthful bride,
Wearing a crown immortal.

Passing thence,
Vast multitudes in endless trains moved on,
As if illimitable ages gone
Were passing in review their heritors.
I saw Lorenzo, the magnificent;
And Tycho Brahe with Galileo
In converse on the rolling of the spheres.
The author of the "Christmas Carols" walked
With Burns, the Highlanders' beloved bard;
Firdousa, famed bard of the Orient;
Josephus, who transcribed his people's woes
In pay and interest of their conquerors;
Albert, Victoria's well-beloved prince,

With Nelson, Perry, Farragut, and Foote;
The daring Cushing, bravest of the brave;
Mahomet, founder of the Moslem faith,
With Bunyan, Sophocles, and Rabelais
The doctrines of the Koran canvassing;
Cassandra, too, with burning eloquence,
Portrayed to Lope de Vega the chagrin,
The pain, the sorrow of the fatal gift
Of prophecy unhonored, and of fate
Revealed, but unbelieved. She cried aloud:
"Alas! they little knew the scenes of woe
That oft had made a fountain of mine eyes.
Their ears had never drunk the piercing shrieks
That to my ears forever had untuned
The melody of hearthstone rhapsodies.
Their dreams had never pictured agonies
Which I had seen, and heard, and felt, and known.
The murderers of Agamemnon oft
Stand round me with their gibing taunts, as, when
Before the altar I became his bride,
I saw him seated at the banquet board
Amid his guests, and standing o'er them their
Assassins, ready for his victim each.
With fiendish malice, ever and anon,
They stop and glare, with horrid mien, at me.
Great God! I see them now; their red eyes glow,
Like meteors in the canopy of Hell;
Their breath is colder than boreal gales
Which sweep at midnight from the Arctic zone."
As died the accents of the Prophetess,
Behold, two stately and majestic forms
Walked arm in arm in earnest converse rapt.
One had unfolded a new world to view,
Sailing against a superstitious tide
Of ignorance into the unknown west.
The guerdon his ungrateful sovereign gave
Was ward and fetters in the dungeon's gloom.
The other in the might and majesty
Of sterling manhood on the New World's soil
The tree of Liberty had planted and
Matured against the pride, the opulence
And valor of Europia's chivalry:
Though born a slave, yet monarch in the sway
He bore o'er passion, prejudice and caste,
He won the richest province owned by France
From wasting anarchy and foreign foes,
And held it for th' imperial sovereign.
That sovereign's guerdon was starvation in
A dungeon.
O Columbia, hide thy face
While the inventor and the savior of
Thy verdant sister in the sunny seas
Pass in their glory by.
When Ferdinand
And great Napoleon by the Lethean waves
Of Time and Progress shall be overwhelmed,
Their fame declining into infamy,
The names of Christopher Columbus and
Of Toussaint L'Ouverture shall live enshrined
Within the hearts of Freedom's champions.

While yet I stood with soul absorbed in all
I saw, great Dante cried, "Look thou upon
The holy scenes that flash in splendor o'er
Yon glitt'ring walls; there do the oracles
Of God reveal what man is fain to know."

Like quivering moonbeams on a glassy sea,
Or like the vivid lightning through rent clouds,
Before the dreadful thunder's crash and roll,
Immortal pictures flashed out on the scene.
Had I the wealth of Dante's great conceit,
Far-reaching to the bounds of mortal ken;
Or tongue or pen whose eloquence surpassed
Immortal Homer's rhapsodies, yet could
I neither worthily conceive the scenes,
Nor aptly utter or portray the gleams
Historic and prophetic playing o'er,
And flashing from the burnished diamond plates.

Here belched a thund'rous battle of the gods;
There, fleeing phantoms, sped the wand'ring Jew;
Where desolation swept the checkered scene
Wept Zion's daughter o'er Jerusalem.
Here bending o'er her first-born, mother-love
With face irradiate, mantled o'er by flush
Of joy, or settling in serene content;
There meek-eyed Charity withdrew the veil,
Disclosing Christ and her whom none condemned,
Bade by her Saviour "Go and sin no more;"
Here Jupiter with roses crowned, from high
Olympus, drove the railing Momus forth;
There Æsop through the shadowy forest roamed,
In converse with all nature animate;
The prophet Daniel, glory-crowned, whose faith
Stamped calm serenity upon his brow,
Whose godlike gaze, and heart with strings of steel
O'erawed the raging lions in their den,
And paralyzed their fanged but pulseless jaws;
There the Madonna Di Foligno, wrought
By Raphael of Urbino;—not the thin
And unsubstantial canvas, deftly swept
By mortal touch, with fading earthly hues,
And only shadowy semblance of relief,
As borne upon the walls of Vatican;
For earth-bound art vouchsafed to Raphaël
But murky reflex of conceptions grand
Of his immortal genius begot;
But in the walls of this theatric hall,
Where execution might keep pace with thought,
Th' untrammeled hand of Raphael had eclipsed
Conception with the grace, the life, the breath,
The wondrous mingling of Divinity
With virgin purity and mother-love,
Transfiguring Madonna perfected;
Here the Archangel Michael vanquishing
The Lord of Hell; there Ananias led
To death with false Sapphira; Moloch drunk
Upon the plains of Tophet with the blood
Of Innocents by Herod's harsh decree
Destroyed; the deluge overwhelming all
The world, through Heaven's opened windows down
By wrathful hand of great Jehovah poured:
Swift following came Leonardo's grand
Depiction of a Saviour's sacrifice;
Christ on the verge of death, surrounded by
His followers who ate and drank his blood
And body; fixed amazement sat upon
Their visages, while on his face serene
Calm resignation settled like a dove.
Wondrous twin pictures of Divinity!
Wrathful Jehovah drowning sin from earth,
And merciful Messiah saving man
From everlasting penalty of sin.
Then came the garden of Gethsemane:
The blood-red moon hung in the angry sky,
Betokening the morrow's bloody deeds.
To lurid heavens the Saviour raised his eyes
In agony of prayer. Great drops of blood
Oozed from his pallid face, while bending low
Beseeching that the cup of bitterness
Might pass, yet bowing to the Father's will.
Near by, Jerusalem with spires of gold,
The Fortress of Antonio upon
The rock beside the temple stood; within
Was Pontius Pilate's judgment hall.
Upon Mount Zion, on the other side,
The palace of the Tetrarch Herod stood;
And thither, 'mid a clamoring multitude,
Was Jesus borne for Herod to pronounce
Upon His guilt or innocence; then crowned
With thorns, and clothed in purple robes, with jeers
And mockings and revilings, He was led
Back to the court of Pilate for decree,
And Pilate wrote in Hebrew, Latin, Greek,
This accusation for the crucifix,—

"IESVS NAZARENVS REX IVDÆORVM."

That vision passed, and lo! a sad-voiced train
Of singing pilgrims, breathing forth in strains,
As 'twere a well-tuned harp of sweet accord
Struck by the hand of grief, and quivering
Responsive to the spirit of the touch.
I listened with intensest eagerness,
And "*Miserere mei Deus*" heard
With strangely sweet, though sad, vibrations rise
Funebrious on the sympathetic air.

* * * *

As faded into air the lingering strains,
The crucifixion came swift-following,
And sudden darkness settled like a pall;—
As if the Holy Ghost, God's Robe of Light
Ineffable, in rayless, spotless folds
Lay waiting to enshroud him for the tomb.
Terrific earthquakes shook the blackened night;
The cleft rocks groaned with harshly grating sound;

Graves yawned, and from their hollow depths the dead
Walked forth in phosphorescent garments clad;
Horrific apparitions! man in form—
In substance only shining, spectral shades.
Thick gloom, despair, and blackest darkness reigned.
Then came the rent tomb, whence emergent walked
A risen and immortal God, in light
Unspeakable, and full of glory bathed.

The changing scenes brought next before our view
That grand and terribly magnificent
Portrayal of the final Judgment Day
By Michael Angelo, translated and
Transfigured. On the Great White Throne Christ sat
And judged the world, by angels round engirt.
The seven angels with sev'n trumpets stood,
There on the left the fallen and the lost
Inheritors of deep damnation and
Of untried woes: Grief, terror, and despair
Froze on each visage like the ice of death.
Here were the rent rocks, there the opening graves,
And Minos passing sentence on the damned.

O! genius, that grasped the rainbow tints
And framed them into great Jehovah's praise.
Swift-coming pictures, countless as the stars
Of heaven, played upon the burnished walls.
Celestial visions! how ye fled my grasp
Of touch and sight, as flitting sunbeams pass,
And only left a sparkle and a glint
Of your supernal glory darkling in
The lonely chambers of my memory!

Amazed, bewildered, and perplexed by all
I saw and heard, I turned once more and sought
From Dante inspirations crowning light.
"Behold," he said, "The Play of Destiny!"
Methought that Handel's grand Messiah rose,
And, like an ocean of rich melody,
In swelling billows of sweet concord rolled
Throughout the amphitheater's vast nave.
The curtain rose, and on the stage a choir
Of myriad white-winged angels stood.
A waving veil of shining vapor hung
Beyond the choir, translucent, liquid, through
Whose folds supernal light unceasing streamed,
And trenchant seraphim unrippling passed,
Careening in the light, the vap'rous veil
Exhaled harmonious hues responsive to
The concord of the oratorio
And pealing from ten thousand choristers,
Enrapturing alike the eye and ear,
As all the angels and archangels sang:

"Lift up your heads, O ye gates; and be ye lifted up, ye everlasting doors; and the King of Glory shall come in.
Who is this King of Glory?
The Lord strong and mighty, the Lord mighty in battle.
Lift up your heads, O ye gates; even lift them up, ye everlasting doors; and the King of Glory shall come in.
Who is this King of Glory?
The Lord of hosts; He is the King of Glory."

Chorus.

"Hallelujah! for the Lord God Omnipotent reigneth.
The kingdom of this world has become the kingdom of our Lord, and of His Christ; and He shall reign forever and ever;
King of kings, and Lord of lords; Hallelujah!"

As past in softest melody the last
Expiring note of that triumphal hymn,
The waving vap'rous veil dissolved, and lo!
A city of surpassing splendor lay
Before us, with its spires and pinnacles
All specked with gold; and flashing in the beams
Of supernatural light, uplifted high,
Shone many a cross of gold, that spoke
Of temples dedicated there to God.
The Rock of Ages in the city stood;
Upon the Rock of Ages founded, rose
A temple vast, transparent, strong, secure—
TEMPLE OF TRUTH, 'twas called—old as the cross
On Calvary's heights.
Diana's Temple built
At Ephesus, a tribute from the hearths
And homes, the willing hearts and ready hands
Devoted to the goddess chaste, whose ward
Preserved home altars 'gainst marauding lust;
Ionic columns, Parian marble jets,
Green jasper walls, cut and embellished by
Etruscan, Doric, and Romanic art,
Where Mongols, Greeks, and Romans sacrificed
In worship of their favorite deity;
Saint Peter's Church at Rome, most ancient and
Magnificent cathedral, reared above
The hallowed ground where, moldering, repose
The sacred ashes of the martyred saint.
Four score and ten years from the Saviour's birth
The Bishop Anacletus memorized
The spot of his great predecessor's tomb
By building up an oratory there.
Two centuries more and sixteen years passed by
And Constantine, the Roman Emperor,
Built a basilica above the tomb.
When other gliding centuries had lapsed,
The modern masters of Italian art
Upreared and wondrously adorned the grand
Cathedral, now the glory, peerless pride,
The matchless structure of the modern world.
Not Dian's twice-built dome at Ephesus,
Whose very site Time's blinding dust hath hid;
Not Rome's cathedral, heavenward pillared high,
Like arch of glory raised above the tomb
Of saint low slumbering in the earth beneath;
Not these combined with all the trophies won
By earthly art could with Truth's Temple vie
In length or breadth, in loftiness or depth,
In beauty, grandeur, or sublimity.
Twelve lofty towers 'bove reach of mortal skill
Gleamed in th' eternal beams white as the snow;
Seven fronts wide as a mountain ranged,
Whose pointed gables tapered 'mid the stars,
In arabesque wrought by immortal touch;
Rich pillared balconies of purest gold
Environed all the Temple's vast extent.
The holy Temple bore upon each front
In blood-red letters the divine command,
By John the Baptist preached, saying "Repent
Ye for Heaven's kingdom is at hand."
Sev'n avenues into the Temple led
Symbolic of sev'n ages of mankind;
And branching from these avenues, like roots
Of giant trees, were many thoroughfares,
By countless bands of advent pilgrims thronged,
From many sep'rate kingdoms of the earth.
The Arch of Triumph crowned my entrance-way;
And there an angel stood with holy book,
In which each advent must record his name,
From whence he came, and whither bound, belief,
And what he seeks to do and what to know.
Therein my name, "Phantasmagoria,"
I wrote; and whence I came, the "Mortal World;"
And whither bound, the Great White Throne of God;
My creed, that "God the Father made the world,
And me; that God the Son did me redeem
And all mankind; that God the Holy Ghost
Me sanctified and all the people of God;"
"ARISE AND CONQUER," what I sought to do,
And what I sought to know, "should I, by Grace
Divine, inherit life eternal?"
Then
The angel pointing toward the Temple, said:
"Go ask and unto thee it shall be giv'n;
Go seek and thou shalt find; knock, and it shall
Be opened unto thee. The Temple now
Approach with trust in God and faith supreme."

Within the Temple's courts were crystal streams
That wound meandering over silv'ry beds;
And sparkling fountains cast their spray aloft,
To float in air like beauteous showers of pearl.
Seven angels at seven golden gateways sat,
Each on a massive throne, from blood-stone carved,
To warn the people of seven "mortal sins,"
And terrors of the Hall of Eblis, in
Whose dark saloons and gloomy corridors
Forever wander with their hearts of fire
Sin's shallow devotees.
The archway o'er
The entrance to the inner courts was called
The "ARCH OF ECCE HOMO," from the dark,
Grim masonry at Pontius Pilate's gates,
'Neath which our Saviour, crowned with thorns, and clad
In purple mockery of royal garb,
Was led by Pilate to the raging crowd,
To whom he "Ecce homo" cried, "Behold
The man," and thus to death delivered him.
Engraved upon the curving arch appeared
The new commandments, by our Saviour given

Unto the lawyer of the Pharisees,
Who, seeking to entrap or tempt Him, asked,
"Which is the great commandment in the law?"
And Jesus answ'ring said unto him, "Thou
Shalt love the Lord thy God with all thy heart
And all thy mind, and all thy soul: this is
The first and great commandment in the law:
The next is like unto it; thou shalt love
Thy neighbor as thyself. Upon these two
Commandments all the law and prophets hang."
Uprising in the temple's very walls
This arch stood forth as a remembrancer,
That they must pass beneath the yoke of scorn,
And tread the vale of deep humility,
And bear the cross, who would at length, like Christ,
ARISE AND CONQUER with the sword of Truth.

Within that temple, Lo! I saw reared up,
In color like to sun-illumined gold,
A ladder stretching to high Heaven from earth,
With countless rounds that flashed like bars of gold.
It from the Rock of Ages glittering sprang;
And nearest Heaven the ten golden rounds
Did symbolize the Ten Commandments given
By God to man from Sinai's sacred top.
Above each round the cross of Calvary shone,
On which, in figure fadeless and revered,
The blood-traced letters I H S appeared.
From the first round a voice spake forth these words:
"I am the Lord thy God, and thou shalt have
No other Gods but me." Each one of those
Ten rounds spake forth accordant with its rôle.
Above the fifth, commanding every man
"Honor thy father and thy mother, that
Thy days may be long in the land," stood, with
A flaming two-edged sword, the angel Death.
I saw the ladder flooded with a light
Ineffable, and countless seraphim,
In radiant armor and apparel clad,
Ascend and descend on the shining rounds,
And bid the poor in spirit and the pure
In heart, the meek, the lowly and reviled,
ARISE AND CONQUER in the Saviour's name.
For has he not to all his people said,
"Lo! unto him that *overcometh* will
I give to eat the Tree of Life? which is
The middest of the Paradise of God."
Above the topmost round Sandalphon stood—
Angel of prayer—petitions to receive
From contrite hearts, and bear them up unto
The Great White Throne and Him that sat on it.
I heard the dying with a loud voice cry,
As through the dark and shadowy vale of death
They passed, "O Lord, have mercy upon us."
These dying prayers I saw Sandalphon catch.
His hands transformed them to immortal bloom,
And bore their fragrance of devotion up
In viewless volumes to the Throne of God,
At whose decree the meek petitioners
Were set as stars within His firmament.

They who approach Truth's Temple doors, and would
The shining stairway climb within, must cull
Some typic armor out and put it on;
For otherwise they might not dare attempt
To tread the upward-leading golden steps.
The armors in that temple's vestibules,
With quaint designs, rare workmanship ornate,
Bore each its own exponent and intent,
And chief among them hung the BLOOD-RED CROSS.
There was the armor which Bohemian Huss
Wore, when around him rolled the fires of Hell;
He who, while dying at the stake, exclaimed,
"The fire which you are kindling up this day
Will light all Europe!" God! whose smile divine
All Paradise with glory floods, whose frown
Like a thick pall of darkness lowers above
The overarching canopy of Hell,
Thy spirit did sink deep down in his heart,
Kindling a quenchless fire, which yet shall burn
Throughout the generations yet to come.
There, too, the blood-stained armor hung which proved
A shield and buckler to the mighty heart
Of Christian striving with Apollyon.
Like unto Christian's, but with clearer light,
Shone forth the robe of deep humility
Which wrapped the thief upon the cross, and bore
Him, that day, into Paradise with Christ.

God grant that, when the Judgment day shall come,
I may in armor of humility,
Like Christian, or the dying thief, upon
The golden stairs, ARISE AND CONQUER, too.
The sons of earth thronged in vast multitudes
Around the Rock of Ages, pressing on
To gain admittance through the vestibules,
And climb the shining ladder to the skies;
Many bowed down in supplicating prayer
Invoked the blood of Christ, the Son of God;
And thousands marching onward, glorified
Jesus in that impassioned hymn of faith
Whose harmony celestial ever rolls:

Rock of Ages, cleft for me,
Let me hide myself in Thee;
Let the water and the blood,
From Thy side, a healing flood,
Be of sin the double cure,
Save from wrath and make me pure.

Should my tears forever flow
Should my zeal no languor know,
This for sin could not atone;
Thou must save, and Thou alone;
In my hand no price I bring,
Simply to Thy cross I cling.

While I draw this fleeting breath,
When mine eyelids close in death,
When I rise to worlds unknown
And behold Thee on Thy throne,
Rock of Ages, cleft for me,
Let me hide myself in Thee.

* * * * *

Within the temple many courts appeared
With ornature of every land, but each
Transparent as fine glass, and each did lead
Unto the sacred way, bathed with the light
Of Paradise. Within each court I saw
The armor of the Blood-Red Cross, wherein
The sons and daughters of the earth might RISE
AND CONQUER at the judgment-day.
Upon
The margin of each court, a liquid wall,
As 'twere a polished mirror rose, whose depths
Were set with scenes imperishably wrought
From marble or from ivory, by some
Immortal sculptor in his studio
Celestial, by whose art omnipotent
The flame of life flashed from the eyes, blushed on
The cheeks, and quivered in the lips of stone.
The forms seemed sentient and the fields of green,
The golden streets, and gorgeous palaces,
With domes of silver, pinnacles of light,
Beneath a diamond-studded canopy,
All shimmering in light ineffable,
Mocked vivid nature by the semblance of
More vivid life in animated stone.
Yet in those mirrors by th' eternal fixed,
Eternal, changeless, ineffaceable,
These scenes reflected on the bordered courts
Their own conceptions of eternal life,
The essence and the grounds of faith, the rites
To be performed to gain the central court
Whence springs the golden ladder to the skies.
Here, bending from the sky Madonna reached
Her mediate hand to lead her orators;
While bands of virgin devotees, and priests
In gold and purple robes, perpetuate
Upon their sacred altars taper lights
First by the ancient fathers kindled on
Their altars in the Roman Catacombs;
There, flowed a type of Jordan on whose banks
A multitude of worshipers attend,
While in the current stands a penitent
Led by the priest to wash his guilt away;
Here, in a forest, 'neath the canvas spread,
By glimmering torch-light, thousands worshiping,
While from the mirror's tell-tale depths is heard
An echo of resounding jubilee;
There, staid and void of ceremony, stand
Unkneeling, unimpulsive, worshipers
As if fulfilling their immutable,
Eternal destiny, eternal fixed;
Here, saints bowed down before the Great White Throne,
In endless anthems chant Jehovah's praise;
Here, mid celestial mansions seraphs walk
On golden pavements, shining in the light
And glory of the Son and Holy Ghost;
There, sailing on their gorgeous wings, come bands
Of singing angels with their golden harps.

Within an ancient court whose avenue
Led to the Temple of Jerusalem,
I saw a gleaming light whose radiant shafts
Rose luminous around the letter



On the Mosaic pavement of that court
Whoever walked, bore on his face the light
Of knowledge unrevealed save in what beams
Of light that mystic symbol is enshrined.
I turned from this mysterious court and gazed
Again upon the Ladder of Light which from
The Rock of Ages sprang, and lo! I saw
Three shining rounds 'bove all I saw before,
Rising in order, FAITH, HOPE, CHARITY.
One court still higher in antiquity
Appeared. Within its mirrored walls arose
The fragrant incense of burnt offerings,
The flaming bush, and Sinai's thunderings.
But they who walked the pavements of this court
Had shut the entrance to the Central Court
And barred it with the cross. Irresolute
Their hosts were strewn 'mid all the avenues—
A nation without country, scattered wide—
A principality without a prince.
A mirrored wall, its own distinctive scenes
Reflects upon the multitudes that throng
Each court, all trending toward the central court.

Amid th' approaches leading up to these
Now gazing, I beheld thronged avenues
Extending far in tortuous windings, sprung
From chaos and in chaos vanishing,
Approaching near, but entering never in
The central court whence rose the golden steps.
Where'er they crossed the pathway to the straight
And narrow courts, the pavement stones were marked
With crimson stains and blanching skeletons.
Upon the mirrored walls that rose along
These avenues, I saw distinctive scenes
Which marked the faith, the hopes and destinies
Of the innumerable hosts that to
And fro were marching on the broad highways.
Here, rolled the car of Juggernaut, and there,
Flamed up the Hindoo widow's funeral pyre.

The mirrored walls about the central court
No gorgeous insignia bore: simply
A cross,—token of sorrow, sacrifice
And death, price of redeeming love: above
A manger shone the Star of Bethlehem,—
Heaven's signal heralding a Saviour's birth;
Jehovah out of chaos forming worlds,
And all illumined by the Holy Ghost:
Creative Majesty, Redeeming Love,
And Sanctifying Spirit, Trinal Beams
Merged in one God omnipotent.
Within,
The Holy of Holies, the common source
And end, the central court and throbbing heart
Whence life and action thrilled the branching courts,
Was circled by celestial seraphim.
"Faces had they of flame and wings of gold."
Lo! from the empyrean fell a shining cloud,
And hovered like a coronal above
The surging masses in the vales below.
As in the summer night, above the vale
Of Chamouni, a silver-fringed cloud
Oft hides the moon whose argent glory still
The fickle cloud reflects, then breaks, and 'twixt
The rifted edges shines the full, round moon
In mellow splendor on the beauteous vale;
So broke the shining coronal of cloud
Above the Rock of Ages hovering,
And through the rift a radiant angel's face
Shone on the thronging multitude beneath.
Whence came down-floating on the heav'n-born breeze
Seraphic symphonies, whose blending strains
Recalled lost Eden's primal melodies.

Each rapturously sweet refrain with prayers
And praises of th' assembled angels teemed.
Oh! with what soul-ingulfing ecstasy
Rolled forth the notes of that triumphal hymn—

O, realms of the faded
Past, glimm'ring and shaded,
That roll in the mists of the vanishing eld;
The temples ye cherished
Are crumbled and perished
By Time's surging billows that over them swelled.

Before the dark river
Submerges forever
The jewels and gems that embellished your youth,
From out your deep azure
Yield up ev'ry treasure
To glow in the sanctified Temple of Truth.

Here martyrdoms olden,
That witnessed the golden
Faith binding the sacrificed saints to their pyres,
Shall glitter hereafter
In every bright rafter,
And ring in the anthems of seraphic choirs.

Here corridors ample,
Where myriads trample
On pavements of crystal, of jasper, and gold,
Are bright with the garlands
And trophies from far lands,
Which tell of the heroes and conquests of old.

Here idols and sages
From realms of all ages
Pass under the test of Truth's wonderful rays,
Like glittering treasure
Disclosing its measure
Of gold and of dross in the furnace's blaze.

The splendors adorning
The first rosy morning,
When infant worlds sprang out of chaos and night,
Here blend with the shining
Of time's last declining,
In many-hued glittering haloes of light.

Lo! here is the portal
Which leads to immortal
Bliss, after life's seeming cold shadows of love;
The TRUTH is the burden
And price of the guerdon
Of entrance and flight to the regions above.

Let all the high arches
Resound to the marches
Of ages and spheres that are rolling along;
Ring out, ye loud pæans,
From æons to æons
Till shakes the high dome with the thunder of song.

Through the bright drapery environing
The crystal gates of Heaven flashed the New
Jerusalem, by angels circled round,
Bathed in supremest fulgency, the sole,
First, last, and utmost fount of radiance,
Whence all the gleaming glories hitherward
Passed through, were only borrowed glimmerings—
The source and end of all eternity.
The city of the New Jerusalem,
Of equal length and breadth and height, prepared
By God for his redeemed of every age,
Adorned, as for her husband, a young bride,
Was like fine gold, transparent as pure glass.
The walls of jasper clear as crystal shone.
In each of the four walls three sev'ral gates,
Each gate one pearl, white gleaming as the snow.
An angel stood at each of the twelve gates,
On each of which appeared inscribed the name
Of each of the twelve tribes of Israel.
The walls had twelve foundations, and in them
The names of twelve Apostles of the Lamb;
And the foundation stones were garnished o'er
With sparkling gems, and every precious stone;
The first foundation was a jasper stone;
The second sapphire; chalcedony, third;
The fourth a single pale-green emerald;
The fifth, sardonyx; sardius, the sixth;
The seventh, chrysolite; beryl, the eighth;
A topaz, ninth; and chrysoprasus tenth;

Th' eleventh was a jacinth, and the twelfth
An amethyst, red as the sparkling wine.

I saw no builded temple there reared up,
For the Lord God Almighty and the Lamb
Were there the temple. And the city had
No need of sun or moon to shine in it;
God's glory and the Lamb were light thereof.
The gates of it shall not be shut at all
By day: and there shall be no night therein.
Proceeding from the throne of God and of
The Lamb a river of pure water flowed,
Life-giving, crystal clear; and in the midst,
And upon either side, the tree of life,
Which bare twelve fruits, and yielded every month:
For healing of the nations were the leaves.
There no more curse shall be; but throne of God
And of the Lamb, whose servants shall serve Him;
And they shall see His face and bear His name.

A massive, snow-white cloud, in volume rolled,
Transfused with unimaginable light,
To adamantine hardness crystallized,
Rose midway in the golden avenue:
The radiate scintillations, flashing back
From floods of light upon the crystal pile,
In intertwining and unnumbered threads,
Seemed, as it were, a woven drapery,
That like a shining mist eternal hung
In shimmering folds about the gleaming mound.
The everlasting throne its summit crowned,
Whence waves the scepter of the universe.
The throne gleamed whiter, brighter, tenfold than
Its base of crystal cloud; and He that sat
On it was clothed with MAJESTY and LIGHT:
Monarch supreme on His eternal throne!

With Him incorp'rate and inseparate
His garments, Light and Majesty appeared.
His ROBE of LIGHT, surpassingly intense,
Pervading, flooding boundless space, around,
Beneath, with beams of glory matchless and
Ineffable, whereof th' immortal souls
Of men are but as sparks ephemeral,—
The source eternal of eternal light,—
With shining undulations, first illumed
The Great White Throne upon the crystal cloud,—
Thence shone throughout the New Jerusalem,—
Whence radiant, all the universe reflects
The fineless, matchless, and perpetual glow.

The HOLY GHOST wrapp'd great Jehovah on
His throne, for He had put HIS SPIRIT as
A garment on.
His ROBE of MAJESTY
Was power creative, through whose exercise
Jehovah is, and all created things;—
FATHER almighty, and supreme, whose breath
Is tempest, whirlwind, motion, life, and death:
Creator, mover and preserver of
The countless orbs that roll in boundless space,
Christ said, when on earth, "I have not yet
Put on my Father," prophesying that
Returned unto the throne imperial
Within the New Jerusalem, He would
Resume the ROBE OF MAJESTY supreme.
Now on the central Great White Throne high raised,
Clothed with supernal light,—the Holy Ghost,—
Invested with primeval Majesty,—
Oh! holy, blessed, glorious Trinity,
Three Persons and one God! to whom, in mute,
Involuntary adoration bow
All things create, in Heaven and on earth.

The colors of the rainbow, blending, played
In ever-changing pictures through the air;
Elysian fields the far horizon swept
'Twixt summits mingling with the ether dim;
The lofty domes and towers on either hand,
High as the mountain pinnacles of earth,
Seemed piled in grandeur by the Hand, that in
Their orbits rolls the everlasting spheres.
Through crystal windows I beheld bright eyes
Of angels winged and draperied for flight;
Then through the open casements saw them flit,
Light as the thistle-down on Summer's breeze;
Sweet odors from celestial gardens breathed,
And strains seraphic filled the mellow air.

Behold upon the golden avenue,
Two cherubim came leading like a child
A fallen chieftain tow'rd the Great White Throne.

Pure was thy life; its bloody close
Hath placed thee with the sons of light,
Among the noble host of those
Who perished in the cause of right.

Emerging from the struggling multitude
Around the Rock of Ages pressing on
To gain admittance through the vestibules.
Lo! one of mien extraordinary came,
His eye and brow the counterpart of Jove.
He moved through waves of sempiternal light
Which from the Rock of Ages rolled in floods
A prince of men! His every action seemed
To lift him up, as if above the clouds
His normal and congenial theater lay.
I saw him enter at the vestibule,
And upward mount in blazing armor cased.
Upon the ample folds that wrapp'd him round
Was many a gorgeous device enwrought
From music, painting, sculpture, poesy;
But chiefly from dramatic eloquence.
The colors blending gave a beauty, strength,
And almost a divinity, as if
From personating kings on earth below.
Triumphant now he would ascend on high
To bear Jehovah's semblance in the sky.
His gleaming armor seemed invulnerate;
But nowhere could I see the Blood Red Cross.
In place of it I saw a human heart
On which the startling emblem, "TEKEL," glared.
He grasps the Heaven-reaching ladder now,
Imparadised with angels' breath, and mounts
The golden rounds that lift him toward the skies.
Far upward now, where all discordant sounds
Of earth are lost or blent in harmony.
Celestial music bursts upon his ear
From hosts seraphic, round the Great White Throne.
No barrier meets him as he soars aloft
Until he nears the round on which gleams out
That changeless mandate from th' eternal God—
"THOU SHALT NOT KILL!"
No hand that hath been stained
By brother's blood, may grasp that holy bar.
His palsied hand springs backward as he strives—
Pale horror on his Jove-like features spreads—
He turns in terror from his God's command;
And, falling headlong from the dizzy height,
Like Phaëton, son of Phœbus, when struck off
The Sun god's golden chariot by the bolt
Shot from the hand of thunder-hurling Jove,
Is lost beneath the murky clouds below.

* * * * *

Then through all Paradise resounding rose
Entrancing strains of melody; first low,
Then higher, with increasing swell, until
From New Jerusalem, with mighty waves
Of music thrilled, a glorious volume rolled
To mingle with the music of the spheres.
Then following, as when a prelude ends,
Unto th' immortal harmony attuned,
A myriad angels and archangels raised
With cherubim and seraphim, in full
Accord, the Te Deum Laudamus.
"We praise thee, O God; we acknowledge thee to be the Lord.
All the earth doth worship thee, the Father everlasting."
Oh! grandest of all anthems! passing sweet!
The very winds seemed thrilled and resonant
With air and words harmoniously blent;
Now rising like the billowy ocean's swell,
And then receding like its ebbing tide;
Expelling from the chambers of the soul
All lurking ghosts of Hell-begot desires;
Subduing all the passions of the man;
Rebuking the perturbed spirit with
Assuaging grace of præternatural peace,
The mind ennobling, making strong the heart,
Till each, who heard the soul-entrancing strains,
Resolved "I will ARISE AND CONQUER too."

* * * * *

O'er all the scene a mighty curtain fell,
This curtain measureless in breadth and height,
Trailing the shores of immortality,
Athwart the boundless universe of space
Depends betwixt eternity and time.
High-arched upon its shining field appeared

An azure dome, studded with stars, where shone
The glorious sun in golden splendor, and
In argent softness the reflecting moon.
The golden sun, the moon, and twinkling stars
Were only scintillations flashing from
The Great White Throne whereon Jehovah reigns.

VALEDICTORY.

Phantasmagoria, daughter of the West,
Thou virgin child of fair Columbia! lured
By holy passion for the Spirit of Good
That woo'd thee willing on the dusky plains,
Thou didst conceive, in spite of low'ring clouds,
The grand design of making straight the paths
Leading from darkness of Delusion's wiles
To the immortal light of Faith and Truth.
By Mercy guided toward thy destiny,
Thy feet have trod upon the shining way,
And with the princes and immortal gods
Of ancient ages thou hast walked beyond
The confines of mortality, amid
The streets and temples of eternity.

True to thy birthright, 'mid the dazzling gleam
Of more than royal splendor, thou hast ne'er
Forgot thy mission—to illume the paths
By which we may ARISE AND CONQUER.
The germinating rays of wondrous light
In which thy pilgrimage has been baptized
Have giv'n to thy divine conception birth.
The clouds lift from the Mount of Faith, and through
The rifted veil glimmers the light of Truth.
From high Olympus to the Golden Star
I followed thine ærial journeyings,
And from beyond the shining portals flashed
Some glimmerings of wisdom on my soul.
Upon the fields of duty where I march,
May some effulgent droppings ever fall,
Kindling a flame of that ethereal fire
Which burns in moral heroism and warms
The heart to charity and quenchless zeal
In all that elevates humanity.
Phantasmagoria, farewell: I leave
Thee now to nurse thy offspring in the beams
That never fade, and warmth that never chills.

AMEN.

7 1915